A COPYRIGHT DEBATE

Process and machine creation versus human authorship

A presentation by: Jack, Brittney, Jake, and Rob

WHAT ARE WE DOING HERE?

The history of music processes and its similarities with AI machine creation

Modern day examples of AI

Copyright in AI, looking forward and (maybe) assigning ownership

Dialing AI copyright back considering authors

A BRIEF HISTORY OF COMPOSITIONAL AND RECORDING TECHNIQUES THAT FORESHADOW AI MUSIC
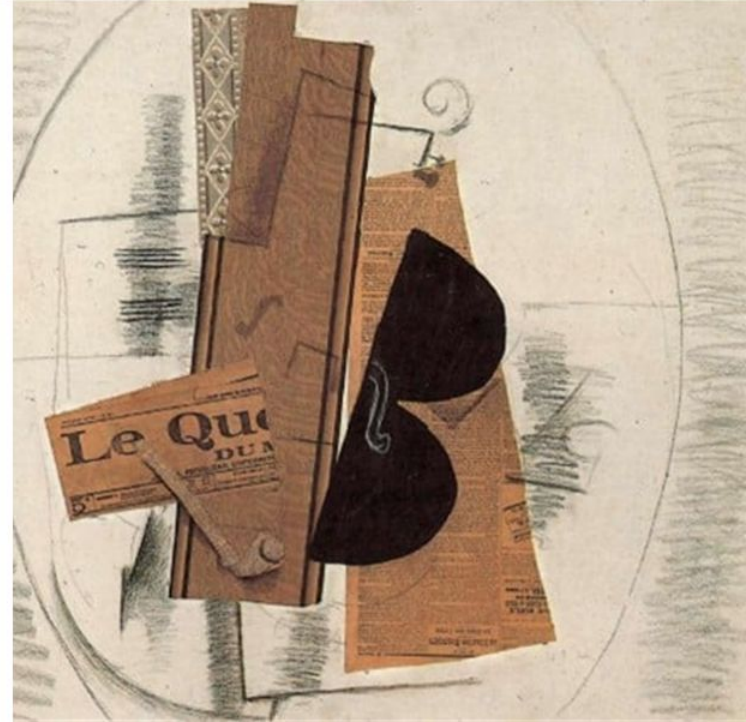
CHARACTERISTICS OF MUSIC MADE WITH AI

Accessibility

Lack of control in finished product

Use of previously recorded work

COLLAGE

- George Braque and Pablo Picasso – 1912

- First collage techniques used soon after invention of paper

Braque, Still Life BACH, 1912

PROCESS MUSIC

- Steve Reich: "pieces of music that are, literally, processes. The distinctive thing about musical processes is that they determine all the note-to-note (sound-to-sound) details and the overall form simultaneously. (Think of a round or infinite canon.)"

- Roots in serialism - Schoenberg - series of pitches or tones pre-determined by some rule, one after the other (twelve tone technique)

PROCESS MUSIC CONT.

Michael Nyman has identified five types of process:

1. Chance determination processes, in which the material is not determined by the composer directly, but through a system he or she creates

2. People processes, in which performers are allowed to move through given or suggested material, each at his or her own speed

3. Contextual processes, in which actions depend on unpredictable conditions and on variables arising from the musical continuity

4. Repetition processes, in which movement is generated solely by extended repetition

5. Electronic processes, in which some or all aspects of the music are determined by the use of electronics. processes take many forms.

Additional category proposed by a more recent composer (Galen H. Brown) - Mathematical processes - manipulation of material by addition, subtraction, multiplication, etc…

"Prozession" "Kurzwellen" "Spiral"

MUSIQUE CONCRETE/SCHAEFFER AND SOCKHAUSEN

IMPROVISATION/TEO MACERO
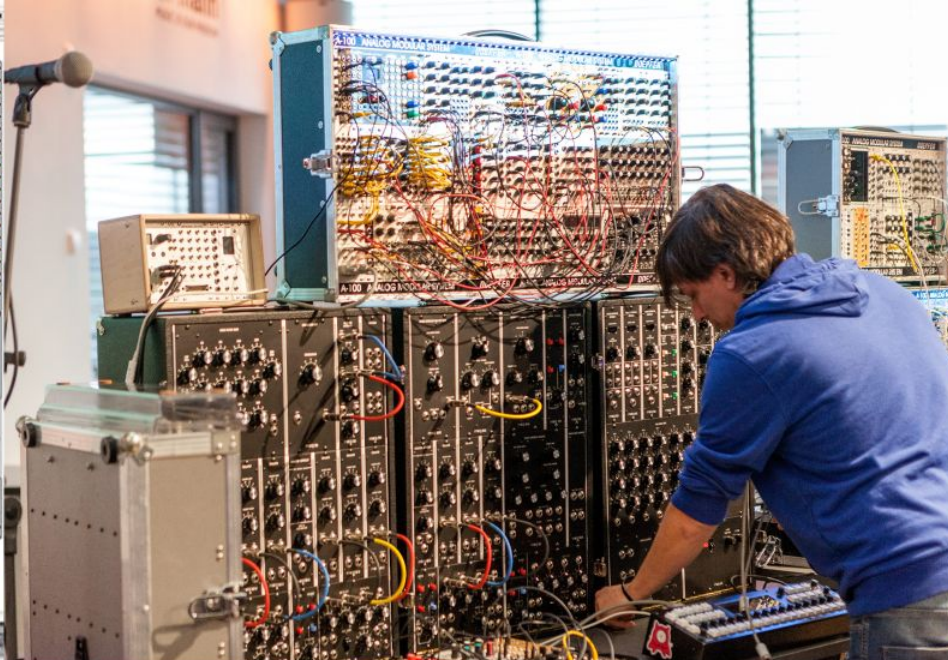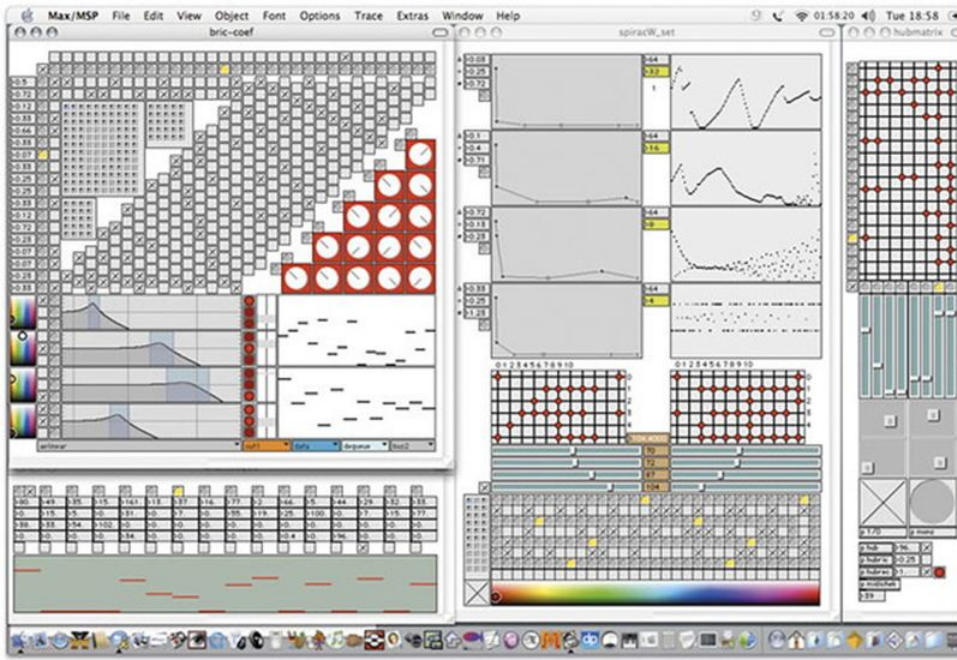
THROBBING GRISTLE – "STILL WALKING"

20 Jazz Funk Greats

- Non-linear lyric – each member repeats an individual poem at different times

- The song is in a sense, contentless – but at the same time, the process itself becomes a formal element of the music, not merely a part of it's genesis – the random juxtapositions essentially make a dialogue within itself

- Contrast studio recording vs. live on *Heathen Earth* - completely different songs - same in name only

  - **The song IS the process**

https://www.youtube.com/watch?v=UZaeKjTSunk Vs.
https://www.youtube.com/watch?v=qeFNPV3Ut54&list=PLMMTrEN3GJc67GP1Nmm3E1R6zlkmGnU1I&index=6

MODULAR SYNTHESIS/MAX MSP/AUTECHRE

https://youtu.be/3poN6FDyB28?si=SvDc60bMdHchs4FB

SO, WHAT CHANGES?

Ease/accessibility

- Incentives for major label shift?

Technological veil – "a black box"

Ethical concerns?

- If AI is training on your data, but you have sold your copyrights, is there room for objection?

https://artistrightsnow.medium.com/200-artists-urge-tech-platforms-stop-devaluing-music-559fb109bbac

The big question: where is the line? Are compositional techniques that have existed for decades now considered "new" because the algorithms are made by companies selling them as "AI software," whereas previously such algorithms were often self-devised?

LANDR

AI Singer Library

Top-quality royalty-free voice generators for any kind of project.

Male Classic Rock	Female Traditional Pop	Female Rock/Pop	Male Afro Beat	Male Americana
Male Punk Rock	Male Chicago Drill	Male British Pop	Male Gritty Rock	Male RnB
Female Indie/Alternative	Female Gospel	Male Hindi	Male Pop	Male Rap

write me a song about how Law 423 is the best class in law school...

Michael Jackson - Starboy (AI Cover)

Voice of MJ
2.95K subscribers

Subscribe

👍 873   👎   ↗ Share   •••

4:38 / 5:46
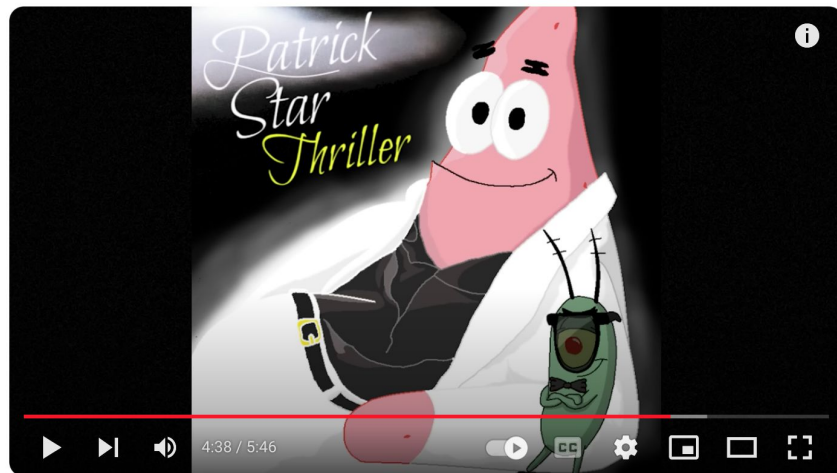
Patrick Star - Thriller feat. Plankton (AI Cover)

Voicify AI is now Jammable!

Jammable

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Streamline your workflow with studio-quality AI audio tools

Clone voices. Sing like anyone. Play any instrument. 100% royalty-free.

Get Started Free

Select a voice

ARTIST VOICES   INSTRUMENTS   MY VOICES   SAVED VOICES

PITCH RANGE   GENDER   GENRE   NEWEST

90s Pop Punk   Male Gospel Pop   Male Synth Pop   Male Alternative Rock   Female Doo Wop Pop

Can you name the famous voice?

🔊   🔊   🔊

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Law 423 Topics in Intellectual Property: Copyright and Social Media

Course Stream   Issues / Your Take   Syllabus   Course Video & Notes   Statutes   About

I Fooled the World with a Fake Taylor Swift Song

492K views • 8 months ago

Jack Gordon ✓

Ai man Get House of Memories by Panic! At The Disco and over 1M + main https://go.lickd.co/Music License ID: ...

4K

'Deepfake' music start-up Voicify in copyright row

UK trade association BPI threatens to sue company behind Jammable, which produces songs that imitate voices of Amy Winehouse, Rihanna and Drake

We ask you, the leaders of AI, to mitigate the damage to our profession by taking the following steps:

1. Obtain permission for use of our copyrighted material in your generative AI programs.

2. Compensate writers fairly for the past and ongoing use of our works in your generative AI programs.

3. Compensate writers fairly for the use of our works in AI output, whether or not the outputs are infringing under current law.

The Result? Before and After

AI Ariana Model
47K Uses · 1.4K Likes · Tonemari

AI Drizzy Model
46.9K Uses · 1.2K Likes · DarthTrain

AI Juice Model
40.9K Uses · 1.7K Likes · summerser999

AI Michael Model
28.2K Uses · 862 Likes · MisterWalkrrr3

AI Taylor Model
25.4K Uses · 943 Likes · Balletdancer1999

AI Kanye Model
20.9K Uses · 412 Likes · DarthTrain

AI Justin Model
20.8K Uses · 365 Likes · 4meggie

AI Weeknd Model
19.6K Uses · 447 Likes · LegendOfZelda

COPYRIGHT CONSIDERATIONS FOR AI-GENERATED WORKS

POTENTIAL COPYRIGHT CONCERNS WITH AI

- Potential for infringement during AI training processes
- Potential for authorship conflict in works generated by AI
- Infringement by AI in generating new works
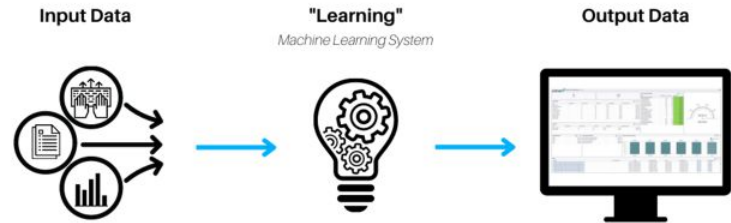
INFRINGEMENT DURING TRAINING PROCESS?

Text and Data Mining pulls material from copyrighted sources
- Should this be considered infringement?

Temporary Reproductions for Technological Processes

Temporary reproductions

30.71 It is not an infringement of copyright to make a reproduction of a work or other subject-matter if

   (a) the reproduction forms an essential part of a technological process;

   (b) the reproduction's only purpose is to facilitate a use that is not an infringement of copyright; and

   (c) the reproduction exists only for the duration of the technological process.

2012, c. 20, s. 32.

Exceptions

Fair Dealing

Research, private study, etc.

29 Fair dealing for the purpose of research, private study, education, parody or satire does not infringe copyright.

R.S., 1985, c. C-42, s. 29; R.S., 1985, c. 10 (4th Supp.), s. 7; 1994, c. 47, s. 61; 1997, c. 24, s. 18; 2012, c. 20, s. 21.

INFRINGEMENT DURING TRAINING PROCESS CONT'D

If this is infringement, should it be covered by fair dealing?

INFRINGEMENT DURING TRAINING PROCESS CONT'D

- **Fair dealing factors to consider:**
  - *CCH v LSUC* 2004 SCC 13
    - Purpose
    - Character
    - Amount
    - Alternatives
    - Nature of the work
    - Effect on the work

INFRINGEMENT DURING TRAINING PROCESS CONT'D

Canada's position?

- Tech sector, scholars, users in favor of no required authorization
- Creatives against any other exceptions/amendments to the *Act*
  - Want options for licensing for training

Other jurisdictions?

- Broad exceptions in place in Japan, Singapore
- Narrower exceptions in Switzerland and UK
- US no exception, but appeal courts support training as fair use

Does this seem right to you?

AUTHORSHIP COMPLICATIONS

- Entities with possible authorship rights:
  - AI user
  - AI programmer
  - AI natively

- Relative level of autonomy of the AI
  - Increased human input - AI is a tool and *user has copyright*
  - Highly autonomous AI - less clear

AI PROGRAMMER'S CLAIMS TO AUTHORSHIP IN COPYRIGHT

Works in which Copyright may Subsist

Conditions for subsistence of copyright

5 (1) Subject to this Act, copyright shall subsist in Canada, for the term hereinafter mentioned, in every original literary, dramatic, musical and artistic work if any one of the following conditions is met:

(a) in the case of any work, whether published or unpublished, including a cinematographic work, the author was, at the date of the making of the work, a citizen or subject of, or a person ordinarily resident in, a treaty country;

How tailored is the training?	How fixed is the AI algorithm?	Potential conflict with user's claim to authorship

AI AS AUTHOR?

Naruto

- *Copyright Act* in Canada does not specify that an author needs to be a "natural person" or human
  - Case law supports that this should be the case

- US case law indicates that copyright is limited to "original intellectual conceptions of the author"

US COPYRIGHT OFFICE POSITION

- Stephen Thaler algorithm the "Creativity Machine" created picture with minimal human input

- US Copyright Office denied the AI copyright in its own work

- Federal Court found in favour of the USCO.
  - Human authorship is a necessary standard

"A Recent Entrance to Paradise"

CANADIAN BAR ASSOCIATION POSITION

THE CANADIAN
BAR ASSOCIATION

L'ASSOCIATION DU
BARREAU CANADIEN

- *Copyright Act* doesn't explicitly say that an author must be human

- Copyright expiring 70 years after the death of the author suggests a human author

- Citizenship/residency requirement in s.5(1)(a) also supports a human author as a requirement

- Current stance is that AIs cannot be the author of a work

SEPARATE LEGAL IDENTITIES FOR AIS

Non-human personhood rights recognized in corporations

Salomon v Salomon

First recognition of separate legal identity for corporations

Can enter into contracts, hold property (including intellectual property), and sue or be sued.

What about AIs being non-human entities with personhood rights?

SEPARATE LEGAL IDENTITY FOR AIS: ESTONIA

- Studying liability related to autonomous driving

- Algorithmic liability concept

- Considering giving separate legal status to algorithms for liability purposes

Backup driver for self-driving Uber that killed Arizona pedestrian pleads guilty

Rafaela Vasquez pleads guilty to endangerment in the first deadly crash involving a fully autonomous car

US National Transportation Safety Board investigators examine a self-driving Uber vehicle involved in a fatal accident in Tempe, Arizona, on 20 March 2018. Photograph: Reuters

The backup Uber driver for a self-driving vehicle that killed a pedestrian in suburban Phoenix in 2018 pleaded guilty on Friday to endangerment in the first deadly crash involving a fully autonomous car.

SEPARATE LEGAL IDENTITY FOR AIS: ESTONIA

- "Kratt" model

- Metaphor from Estonian mythology

- Treasure bearer to do your bidding

- Deal with the Devil - provide 3 drops of blood as part of the deal

SEPARATE LEGAL IDENTITY FOR AIS

BBC

Home   News   Sport   Business   Innovation   Culture   Travel   Earth   Video   Live

Does Saudi robot citizen have more rights than women?

26 October 2017

By Rozina Sini, BBC UGC and Social News

- Sophia Robot
- Saudi Arabian citizenship

SEPARATE LEGAL IDENTITY FOR AIS

- Shibuya Mirai chat bot
- Programmed to be 7-year-old boy
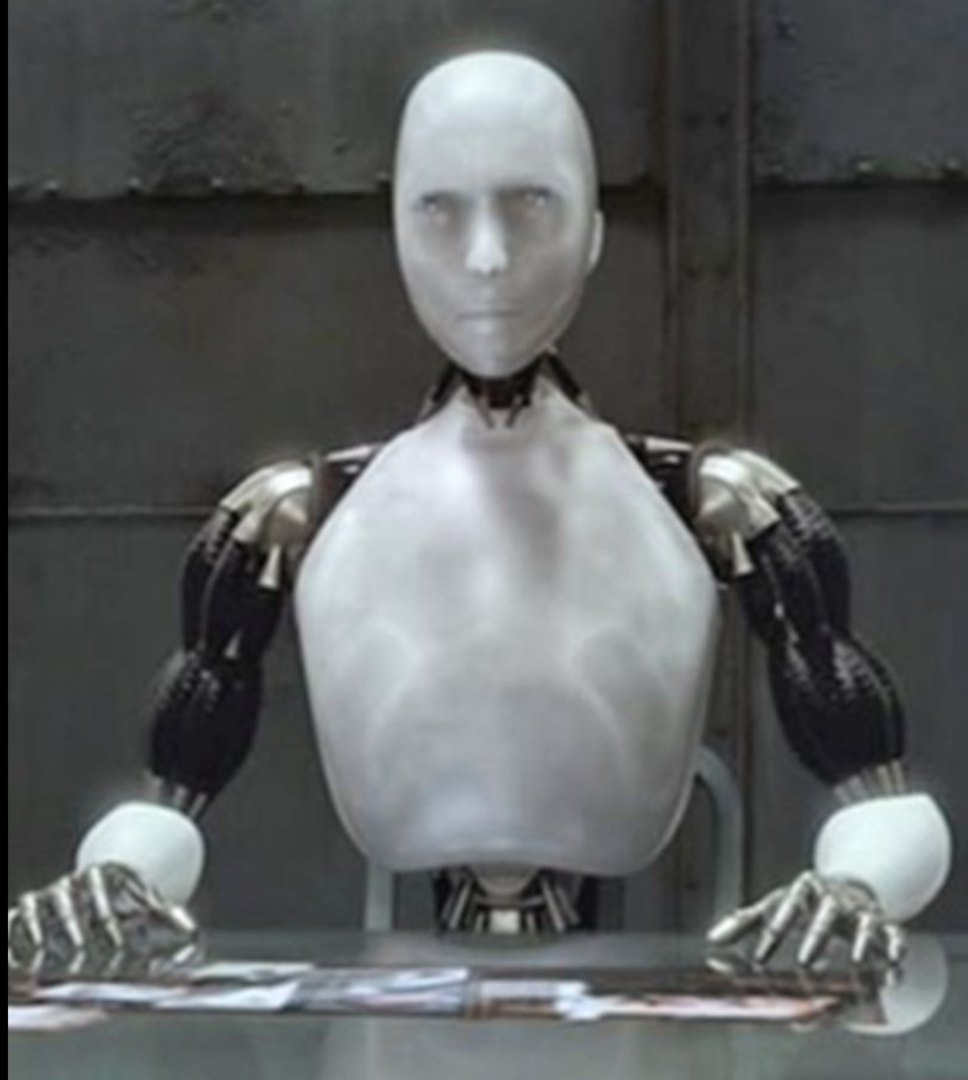- Granted residency status in Tokyo
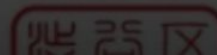
SPECTRUM OF AI RIGHTS

- Degree of autonomy vs. human input

Normative question - should AIs have rights in their output?

- Implications for the fundamental purpose of copyright

AI generated works part of the *public domain*?

BUT

What about the rights of creators?

THE CURRENT DISCOURSE

"There's no reason to learn Latin these days, it's not relevant."

"quid pro quo"

"et cetera"

~~Non doctior, sed meliore doctrina imbutus~~

Ad nauseam

Need to focus on the AI we *actually* have

Internet scraping – of other people's works

- Google Assistant example

Economic rights – *ad nauseam*

THE BASICS

Economic rights under copyright

- Right to make reproductions
- Right to profit off the work

Infringement

- If you do anything that only the copyright owner has the right to do
- Reproduction – must be substantial in quality.

Moral Rights??

WHAT ARE MORAL RIGHTS?

Creators of works have the right to:
1. Integrity
2. Association, and
3. Anonymity

Cannot be transferred but can be waived via contract (17.1(2) CRA)

MORAL RIGHTS INFRINGEMENT CANNOT BE SAVED BY FAIR DEALINGS.

APPLY   APPLY   APPLY

#1 – Using Taylor Swift's model without saying it is her.

Was Taylor's right of attribution infringed because her lyrics or song structure was used in the data processing and then were not mentioned when disseminating the alternate song?

#2 – The jingle – what if it's not Tswift's favourite course?

OR trying to pass it off as her work – detriment of her rep?

Was her right of integrity infringed?

BIG PROBLEMS
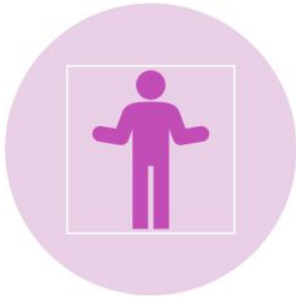
DIFFICULT TO PROVE IT IS SUBSTANTIALLY YOURS

INTERJURISDICTIONALITY OF AI SYSTEMS AND COPYRIGHT

WHO TAKES ON THE INFRINGEMENT?

DISCUSSION QUESTION

Do you think there is a way to update the Copyright Act which would further protect authors with moral rights from AI infringements?

Or should we follow other jurisdictions and allow exceptions for AI data collection and ignore author's copyrights?