

Generative Artificial Intelligence and the Creative Economy Staff Report: Perspectives and Takeaways

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Introduction

Generative AI is a revolutionary technology with vast implications for how people live, work, and communicate around the world. There is little doubt that it will be highly disruptive to markets, businesses, and the public.¹ As noted in President Biden’s Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence, “Harnessing AI for good and realizing its myriad benefits requires mitigating its substantial risks...,” demanding “a society-wide effort that includes government, the private sector, academia, and civil society.”² The FTC has a role to play in that broader effort. The FTC is an independent federal agency charged with promoting fair competition and protecting consumers, workers, and businesses from unfair or deceptive trade practices. The development and deployment of AI-based technologies may be proceeding swiftly, but the FTC has decades of experience monitoring and adapting to novel technologies in new and rapidly changing markets.

Given the FTC’s interest in the AI space and recent emphasis on soliciting input from individuals who are typically underrepresented in policymaking discussions, FTC staff recently held a public event for creative professionals entitled, “Creative Economy and Generative AI.” FTC staff releases this report to summarize the information provided to the FTC in that roundtable. Some of the issues surfaced at the event implicate the FTC’s enforcement and policy authority, though some certainly go beyond or outside the FTC’s jurisdiction.

This report begins by briefly summarizing the technological developments in AI and generative AI that make this roundtable and report timely. Next, it explains the FTC’s jurisdictional interest in AI. Finally, it summarizes and memorializes the information provided by roundtable participants. This staff report is intended as a useful resource for the legal, policy, and academic communities who are considering the implications of generative AI.

¹ See, e.g., Lina M. Khan, We Must Regulate A.I. Here’s How, N.Y. Times (May 6, 2023), <https://www.nytimes.com/2023/05/03/opinion/ai-lina-khan-ftc-technology.html>.²

<https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>

² <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>

Generative AI and Recent Technological Developments

The past year has seen the emergence of tools powered by artificial intelligence that can generate outputs like text, images, and audio on command. These tools are commonly referred to as “generative AI.” To output different kinds of content, these models must be built using vast amounts of existing work.³ For example, large language models such as PaLM 2⁴ and Llama 2⁵ rely on large datasets of text that have been “tokenized” – divided into smaller chunks of words or even parts of words – which are then analyzed for patterns that can be reproduced.⁶ Image generators like Stable Diffusion are reliant on images, paired with their captions, to fuel their models.⁷ The ways these tools are built and the content the tools output have garnered attention and concern, particularly from those whose work is being used and potentially replaced.

³ See, e.g., <https://developers.google.com/machine-learning/data-prep/construct/collect/data-size-quality>

⁴ See Google, *PaLM 2 Technical Report* <https://ai.google/static/documents/palm2techreport.pdf>

⁵ See Hugo Touvron et al., *Llama 2: Open Foundation and Fine-Tuned Chat Models*, arXiv (July 19, 2023), <https://arxiv.org/pdf/2307.09288.pdf>.

⁶ See Madhumita Murgia et al., *Generative AI exists because of the transformer*, Financial Times (Sep. 12, 2023), <https://ig.ft.com/generative-ai/>.

⁷ See Kashmir Hill, *This Tool Could Protect Artists From A.I.-Generated Art That Steals Their Style*, The New York Times (Feb. 13, 2023), <https://www.nytimes.com/2023/02/13/technology/ai-art-generator-lensa-stable-diffusion.html>.

FTC's Interest and Role in AI

The FTC's economy-wide mission has, over its century long history, adapted to the development and deployment of new technologies, many of which pose novel and important challenges to the consumers, workers, and honest businesses who depend on markets being free and fair. AI is the latest of such challenges.

The Commission's enforcement authority derives primarily from Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices and unfair methods of competition. The Executive Order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence encourages the FTC to consider whether to exercise its existing authorities, as appropriate, to ensure competition in the AI marketplace and to protect the public from harms that may be enabled by AI.⁸

From an enforcement perspective, the FTC has been using its existing legal authorities to take action against illegal practices involving AI. For instance, the FTC alleged that Amazon and Ring used highly private data—voice recordings collected by Amazon's Alexa voice assistant and videos collected by Ring's internet-connected home security cameras—to train their algorithms while violating customers' privacy.⁹ The Alexa matter, in particular, underscored that the Children's Online Privacy Protection Act Rule's prohibition on the indefinite retention of children's data and similar legal rules are not superseded by claims from businesses that data must be indefinitely retained to improve machine learning algorithms.¹⁰ In recent months, the FTC secured a temporary restraining order against a business-opportunity seller that claimed to use AI to make clients profitable and successful.¹¹ The FTC has also made clear that a business that relies on algorithmic decision-making must ensure that the algorithm is not resulting in

⁸ EO at 5.3 (a), <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/10/30/executive-order-on-the-safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence/>

⁹ Press Release, Fed. Trade Comm'n, *FTC and DOJ Charge Amazon with Violating Children's Privacy Law by Keeping Kids' Alexa Voice Recordings Forever and Undermining Parents' Deletion Requests* (May 31, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-doj-charge-amazon-violating-childrens-privacy-law-keeping-kids-alexa-voice-recordings-forever>; Press Release, Fed. Trade Comm'n, *FTC Says Ring Employees Illegally Surveilled Customers, Failed to Stop Hackers from Taking Control of Users' Cameras* (May 31, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/05/ftc-says-ring-employees-illegally-surveilled-customers-failed-stop-hackers-taking-control-users>.

¹⁰ See Statement of Commissioner Alvaro M. Bedoya, Joined by Chair Lina M. Khan and Commissioner Rebecca Kelly Slaughter, In the Matter of Amazon Alexa (*United States v. Amazon.com, Inc.*), at 1 (May 31, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/Bedoya-Statement-on-Alexa-Joined-by-LK-and-RKS-Final-1233pm.pdf

¹¹ Press Release, Fed. Trade Comm'n, *FTC Action Stops Business Opportunity Scheme That Promised Its AI-Boosted Tools Would Power High Earnings Through Online Stores* (Aug. 22, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/08/ftc-action-stops-business-opportunity-scheme-promised-its-ai-boosted-tools-would-power-high-earnings>.

unlawful bias.¹² Furthermore, the FTC charged WealthPress with using deceptive claims to sell consumers investment-advising services—often claiming that the services’ recommendations were based on an algorithm created by a purported expert.¹³

The rapid development and deployment of AI also poses potential risks to competition. The rising importance of AI to the economy may further lock in the market dominance of large incumbent technology firms.¹⁴ These powerful, vertically integrated incumbents control many of the inputs necessary for the effective development and deployment of AI tools, including cloud-based or local computing power¹⁵ and access to large stores of training data. These dominant technology companies may have the incentive to use their control over these inputs to unlawfully entrench their market positions in AI and related markets, including digital content markets. In addition, AI tools can be used to facilitate collusive behavior that unfairly inflates prices, precisely target price discrimination, or otherwise manipulate outputs.¹⁶ The FTC is empowered under Section 5 of the FTC Act to protect the public against unfair methods of competition, including when powerful firms unfairly use AI technologies in a manner that tends to harm competitive conditions.¹⁷

With respect to the creative industries, the development and use of AI technology raises a host of potential competition and consumer protection issues. Although many people partake in different forms of creative expression as hobbyists or amateurs, millions of Americans pursue creative work as a profession and many of these artists are self-

¹² Press Release, Fed. Trade Comm’n, *FTC Chair Khan and Officials from DOJ, CFPB and EEOC Release Joint Statement on AI* (Apr. 25, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/04/ftc-chair-khan-officials-doj-cfpb-eeoc-release-joint-statement-ai>.

¹³ Press Release, Fed. Trade Comm’n, *FTC Suit Requires Investment Advice Company WealthPress to Pay \$1.7 Million for Deceiving Consumers* (Jan. 13, 2023), <https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-suit-requires-investment-advice-company-wealthpress-pay-17-million-deceiving-consumers>.

¹⁴ See Staff in the Bureau of Competition & Office of Technology, *Generative AI Raises Competition Concerns*, Fed. Trade Comm’n (June 29, 2023), <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2023/06/generative-ai-raises-competition-concerns>.

¹⁵ The FTC has taken enforcement action to protect competition and innovation in markets for computer processors with potential AI applications. See Complaint, *In the Matter of Nvidia/Arm*, Docket No. 9404, Comm’n File No. 2110015 (Dec. 2, 2021), https://www.ftc.gov/system/files/documents/cases/do9404_part_3_complaint_public_version.pdf.

¹⁶ See, e.g., Khan, *supra*, note 1 (discussing algorithmic price collusion and price discrimination); see also *Huskey v. State Farm Fire & Cas. Co.*, No. 22 C 7014, 2023 WL 5848164, at *9 (N.D. Ill. Sept. 11, 2023) (discussing discriminatory insurance claim processing algorithm).

¹⁷ See Fed. Trade Comm’n, Policy Statement Regarding the Scope of Unfair Methods of Competition Under Section 5 of the Federal Trade Commission Act, Comm’n File No. P221202 (Nov. 10, 2022), https://www.ftc.gov/system/files/ftc_gov/pdf/P221202Section5PolicyStatement.pdf.

employed.¹⁸ Research has explored generative AI's early economic impacts on professional illustrators,¹⁹ but artists in other creative fields, such as acting or screenwriting, have also expressed concerns over the ways that generative AI might affect their livelihoods.²⁰ Uncompensated and unauthorized appropriation of creators' content may also diminish incentives to invest and produce content, affecting quality over the long term.

Various competition and consumer protection concerns may arise when AI is deployed in the creative professions. Conduct—such as training an AI tool on protected expression without the creator's consent or selling output generated from such an AI tool, including by mimicking the creator's writing style, vocal or instrumental performance, or likeness—may constitute an unfair method of competition or an unfair or deceptive practice. That is especially true when the conduct deceives consumers, exploits a creator's reputation or diminishes the value of her existing or future works, reveals private information, or otherwise causes substantial injury to consumers. In addition, conduct that may be consistent with other bodies of law nevertheless may violate Section 5.²¹

¹⁸ See Office of Research & Analysis, *Artists in the Workforce: Selected Demographic Characteristics Prior to COVID-19*, National Endowment for the Arts (July 2022), .

¹⁹ See Harry H. Jiang et al, *AI Art and its Impact on Artists*, AIES '23: Proceedings of the 2023 AAAI/ACM Conference on AI, Ethics, and Society, at 363-374 (Aug. 29, 2023), <https://dl.acm.org/doi/10.1145/3600211.3604681>.

²⁰ See Simone Shah, *The Writers Strike is Taking a Stand of AI*, TIME (May 4, 2023), <https://time.com/6277158/writers-strike-ai-wga-screenwriting/>.

²¹ See *FTC v. Real Prods. Corp.*, 90 F.2d 617, 619 (2d Cir. 1937) (“A copyright is not a license to engage in unfair competition.”).

Event Summary

In October 2023, the FTC held a virtual roundtable discussion to better understand the concerns about generative AI and specifically its impact on creative fields.²² Chair Khan, Commissioner Slaughter, and Commissioner Bedoya provided remarks. The moderated discussion, which was public, consisted of twelve participants who represented a wide variety of creative professions, including visual artists, screenwriters, actors, programmers, editors, musicians, and models.

Each participant gave brief remarks about the changes their field was experiencing with the advent of generative AI, and how they were responding to those changes. These remarks were followed by a brief Q&A. A recording of the event²³ along with a transcript²⁴ are available on the FTC event web page.

During the event, participants acknowledged the potential benefits of generative AI tools, and many had a long history of incorporating new technologies in their practices. Participants also described concerns about the ways generative AI could be an avenue for their own exploitation.

Though participants came from different fields, a few consistent themes emerged:

- Concerns about how their work was being collected and used to train generative AI models;
- The impact that generative AI outputs are already having on their industry and livelihoods;
- Issues associated with solutions being proposed by AI companies to address creators' concerns; and
- Alternative approaches that creators are pursuing to protect themselves and their industry, including by enshrining their right to choose whether they want to use AI in their work through union contracts.²⁵

The next section of this report expands on each of the four themes.

²² See <https://www.ftc.gov/news-events/events/2023/10/creative-economy-generative-ai>

²³ See <https://www.ftc.gov/media/creative-economy-generative-ai-discussion-october-4-2023>

²⁴ See https://www.ftc.gov/system/files/ftc_gov/pdf/creative-economy-and-generative-ai-transcript-october-4-2023.pdf

²⁵ See Writers Guild of America, *Summary of the 2023 WGA MBA* <https://www.wgacontract2023.org/the-campaign/summary-of-the-2023-wga-mba>.

Themes

How did participants say data is being obtained or collected?

Participants said that their work was being used to train and finetune generative AI models without their consent. Throughout the event, participants touched on different ways their work was being collected, either because it was publicly posted online by themselves or others, or because expansive interpretations of prior contractual agreements led others to make their art available to train AI. In addition, artists often produce work for hire and do not own the copyright on those creative works, further limiting their ability to control how their work is used. Participants said the nature of their work often leaves them without legal protection, and that the lack of transparency around data collection practices made it difficult for them to know when their works were being taken.

Participants said that human-created work, including their own, was necessary for generative AI tools to function. As Duncan Crabtree-Ireland, the National Executive Director and Chief Negotiator for SAG-AFTRA, said during the event, “No AI algorithm is able to make something out of nothing.”

These claims are in line with research and reporting on generative AI. Many factors impact an AI model’s performance, but one key factor is the quality of the data used to train it. Recent research has found that not only is it necessary to carefully curate the data sets used to train a generative AI model,²⁶ but removing low-quality content and even up-sampling higher-quality sources can result in performance improvements.²⁷ The AI research community generally agrees that it is critical that the content used should be diverse²⁸ and that generally means it must be created by an actual person.

Generative AI models, said Douglas Preston, an author and participant of the event, “would be lame and useless without our books. Just imagine what it would be like if it was only trained on text scraped from web blogs, opinion screeds, cat stories, pornography and the like.”

In addition to the quality of the data used to train AI models, research suggests another key factor is the quantity. Popular large language models, for instance, were built using billions, even trillions, of tokens,²⁹ which in turn necessitates similarly massive amounts of content. Reporting suggests that this content mostly comes from scraping from the Internet.³⁰

Participants said that their work was being taken from the Internet and is being used to train or finetune generative AI models without their awareness or consent. John August, a screenwriter and member of the Writers Guild of America West, said that large language models “have scraped massive volumes of data, including our words and our unique perspectives.”

For many creative professionals, publicly posting to the Internet is a necessary part of the job. Steven Zapata, a concept artist and illustrator speaking on behalf of the Concept Art Association, said that, “to advertise our work, most of us put our art online, on social media and our personal websites. This leaves it exposed to unethical scraping practices.”

These “unethical scraping practices” have been questioned within academia,³¹ and AI researchers have clearly stated that using training data that has been obtained from public sources does not inherently mean that “authorial consent” has been obtained.³²

In addition to the scraping of work belonging to creative professionals, Bradley Kuhn, a policy fellow at the Software Freedom Conservancy, pointed out that depending on the platforms they use, creative professionals “may have already agreed for their own creative works to become part of the company’s machine learning data sets” because of what is said in those platforms’ terms of service agreements. Several tech companies made the news over the summer after they updated their terms of service to include references to building AI with user data,³³ eliciting backlash from artists in at least one instance.³⁴

In some cases, participants said they weren’t even the ones to post their works online in the first place. Tim Friedlander, president and founder of the National Association of Voice Actors, pointed out that, “it’s incredibly easy to use AI to capture the voice of an

²⁶ See Jordan Hoffman et. al, *Training Compute-Optimal Large Language Models*, arXiv (Mar. 29, 2022), <https://arxiv.org/pdf/2203.15556.pdf>

²⁷ See Touvron et al, *supra* note 5.

²⁸ See Ilia Shumailov et al., *The Curse of Recursion: Training on Generated Data Makes Models Forget*, arXiv (May 31, 2023), <https://arxiv.org/abs/2305.17493>.

²⁹ See, e.g., Wayne Xin Zhao et. al, *A Survey of Large Language Models*, arXiv (Nov. 24, 2023), <https://arxiv.org/pdf/2303.18223.pdf>.

³⁰ See Kevin Schaul et al., *Inside the secret list of websites that make AI like ChatGPT sound smart*, The Washington Post (Apr 19, 2023), <https://www.washingtonpost.com/technology/interactive/2023/ai-chatbot-learning/>.

³¹ See e.g., Signe Ravn et. al, *What Is “Publicly Available Data”? Exploring Blurred Public–Private Boundaries and Ethical Practices Through a Case Study on Instagram*, *Journal of Empirical Research on Human Research Ethics*, Volume 15 Issue 1-2, at 40-45 (May 19, 2019)

<https://journals.sagepub.com/doi/full/10.1177/1556264619850736>; See also Antony K. Cooper et. al, *On the Ethics of Using Publicly-Available Data*, *Responsible Design, Implementation and Use of Information and Communication Technology*, at 159-171 (Mar 10, 2020)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7134274/>.

³² See Leo Gao, et. al, *The Pile: An 800GB Dataset of Diverse Text for Language Modeling*, arXiv, at Section 6.5 (Dec. 31, 2020), <https://arxiv.org/abs/2101.00027>.

³³ See Matt G. Southern, *Google Updates Privacy Policy To Collect Public Data For AI Training*, *Search Engine Journal* (Jul. 3, 2023) <https://searchenginejournal.com/google-updates-privacy-policy-to-collect-public-data-for-ai-training/490715/>; See also Brian Merchant, *Column: These apps and websites use your data to train AI. You’re probably using one right now.*, *Los Angeles Times* (Aug. 16, 2023) <https://www.latimes.com/business/technology/story/2023-08-16/column-its-not-just-zoom-how-websites-and-apps-harvest-your-data-to-build-ai>.

³⁴ See Michael Kan, *Artists Drop Twitter Over Elon Musk’s Plan to Train His AI Project on Tweets*, *PCMag* (Aug. 1, 2023), <https://www.pcmag.com/news/artists-drop-twitter-over-elon-musks-plan-to-train-his-ai-project-on-tweets>

actor from content available on the internet, and to use that sample to create whole works for sale or non-commercial distribution.”³⁵ Several participants referenced a dataset called Books3, which The Atlantic reported was built from a library of pirated books.³⁶ Preston, for instance, said that the dataset had, “all my books, all 40 of them on it, including many different editions.” Another participant, Clarkesworld magazine founder and editor Neil Clarke, said that anthologies he had edited and published could also be found in the dataset.

Participants said the nature of most paid creative work means that artists often have little control over how their creations are later used. Participants explained that many creative professionals do work for hire, meaning the rights to their creative works belong to the client or company that hired them. “WGA writers do not hold copyright to most of the scripts we write; those are works made for hire, so studios— our employers— hold the copyright,” August said. This means that creative professionals don’t always have control over how their works are used in the future.

Steven Zapata, a concept artist and illustrator speaking on behalf of the Concept Art Association, said that with work-for-hire agreements, a visual artist could spend decades of their life working for a studio and that studio “can take all your work, train a model on it, and then have a free and tireless replica of you to use in perpetuity.”

Friedlander said that voice actors were experiencing that now: “Contracts we signed years ago are now being used to justify the inclusion of our audio in synthetic voice models.”

Some creative professionals have even less insight into what they’ve been forced to give up. Sara Ziff of the Model Alliance noted that many fashion models do not actually see the terms that their management companies have agreed to with clients, so many do not actually know what happens to the digital body scans that some clients are starting to require.

These uncertainties are exacerbated by the fact that AI developers do not publicly disclose what works are included in their training data, according to participants.

Preston said that, “[AI companies] refuse to answer any questions from the Author’s Guild about what data sets they’re using, where they’re getting their books, and how they’re being used. There’s no transparency at all. It’s an absolute black hole.”

³⁵ Music artists have suffered similar problems with generative AI. See Sharon Adarlo, *Nicki Minaj enraged by deepfake video*, *Futurism* (Jul. 12, 2023) <https://futurism.com/the-byte/nicki-minaj-deepfake-video>; see also Noah A. McGee, *Heard the Fake Clip of Drake Rapping ‘Munch’? Here’s Why It’s Causing Concern for Major Labels*, *The Root* (Apr. 14, 2023) <https://www.theroot.com/heard-the-clip-of-drake-rapping-munch-here-s-why-it-1850336887>.

³⁶ See Alex Reisner, *These 183,000 Books Are Fueling the Biggest Fight in Publishing and Tech*, *The Atlantic* (Sep. 25, 2023), <https://www.theatlantic.com/technology/archive/2023/09/books3-database-generative-ai-training-copyright-infringement/675363/>.

Researchers have found that some AI developers have become less open over time about what can be found in their models' training data.³⁷

When asked about how participants found out about the inclusion of their work in the training of these models, Umair Kazi stated that “There is a lack of transparency from AI developers about training data sets, which makes it very difficult to ascertain which works were actually used to train the models and how.”

What harms did participants say they were currently facing?

Participants' concerns were limited not just to how their own work was being used. Throughout the event, participants discussed a wide range of harms they associated with the outputs of generative AI tools. These harms included the ways that generative AI could be used make it more difficult to find human-made work, mimic creative professionals' unique styles causing market confusion and reputational damage, and lead to loss of opportunity and income.

Participants said that generative AI outputs are starting to appear in the venues where creative professionals compete for work, making it more difficult for consumers and potential publishers to find human-made work.

Kazi, the Authors Guild director of public policy and outreach, said that his group was already seeing AI being used to generate low-quality eBooks that displace human-authored books in major online book retailers. In one instance earlier this year, he said, AI-generated books began dominating the young adult romance bestseller list of a popular online bookseller.³⁸

Neil Clarke, the editor and founder of the sci-fi short story magazine *Clarkesworld*, described being inundated with hundreds of submissions that appeared to be AI-generated, leading him to temporarily close submissions.³⁹ Clarke said the magazine had a standing “no-AI” policy even prior to the influx of submissions, and said his workload has “easily doubled” as he sorts through a stream of suspicious submissions.

Participants expressed concerns about generative AI tools being used to mimic their own unique styles, brands, voice and likenesses, which could allow strangers and former clients to create knockoffs of their work.

³⁷ See David Gray Widder et. al, *Open (For Business): Big Tech, Concentrated Power, and the Political Economy of Open AI*, SSRN Electronic Journal (Aug. 18 2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4543807.

³⁸ See Jules Roscoe, *AI-Generated Books of Nonsense Are All Over Amazon's Bestseller Lists*, VICE (Jun 28, 2023), <https://www.vice.com/en/article/v7b774/ai-generated-books-of-nonsense-are-all-over-amazons-bestseller-lists>.

³⁹ See Mia Sato, *AI-generated fiction is flooding literary magazines — but not fooling anyone*, The Verge (Feb. 25, 2023), <https://www.theverge.com/2023/2/25/23613752/ai-generated-short-stories-literary-magazines-clarkesworld-science-fiction>.

Ortiz, a concept artist and illustrator, said that text-to-image generators can let anyone produce work “in the style of” a named artist, and that her own name has been referenced thousands of times by people prompting generative AI systems to produce work that looked like her own. Similarly, Kazi of the Authors Guild alleged that generative AI was being used to create unauthorized derivative works in the style of popular authors, and described one person’s attempts to write the concluding books of George R.R. Martin’s popular “A Song of Ice and Fire” series.

AI generated knock-offs have found their way onto online book publishing platforms, said John August of the Writers’ Guild of America West, where they are being sold to customers who might confuse them with authors’ actual works.⁴⁰ In addition to creating and selling their own work, now authors have to fend off AI-fueled fraudsters: “They’re having to fight to get those fakes taken down, and protect their brands,” said August.

Participants said that the threat of AI fakes can also come from former clients. Friedlander, the NAVA president, gave the example of a New York voice actor who was let go after working for a company for several years. According to Friedlander, the company told the voice actor that it finally had enough of the actor’s audio, and the company was now planning on creating a synthetic version of their voice.

Participants said that when consumers mistake AI-generated work made in the likeness or style of a particular artist as the actual work of that artist, it could jeopardize the actual artist’s reputation and ability to earn income.

Zapata, the illustrator speaking on behalf of the Concept Art Association, said AI-generated work can end up online with the artist’s name attached, even though they didn’t make the work and have no control over the content or the quality of the piece.

“The negative market implications of a potential client encountering a freely downloadable AI copycat of us when searching our names online could be devastating to individual careers and our industry as a whole,” he said.

Participants said that they have also seen generative AI tools being used to harass creative professionals and confuse consumers. Friedlander referenced an incident from February, in which anonymous trolls made synthetic versions of multiple voice actors, and tweeted false audio clips of them divulging their actual home addresses and saying homophobic and racist slurs.⁴¹ Jen Jacobsen, the executive director of the Artist Rights

⁴⁰ Books allegedly written using generative AI have been published using authors’ actual names. See Ella Creamer, *Amazon removes books ‘generated by AI’ for sale under author’s name*, The Guardian (Aug. 9, 2023), <https://www.theguardian.com/books/2023/aug/09/amazon-removes-books-generated-by-ai-for-sale-under-authors-name>.

⁴¹ See Joseph Cox, *Video Game Voice Actors Doxed and Harassed in Targeted AI Voice Attack*, VICE (Feb. 13, 2023), <https://www.vice.com/en/article/93axnd/voice-actors-doxed-with-ai-voices-on-twitter>.

Alliance said that generative AI tools have been used to create false depictions of artists selling products that the artists never endorsed.⁴²

“It's not only confusing to fans, but humiliating to the artists themselves and undermines their public image,” said Jacobsen.

Participants were concerned that creative professionals are already losing work because of generative AI. Friedlander described a recent incident where a voice actor in Washington state lost out on an audiobook job when the company told them it “decided to take the job in-house.” Friedlander said that around the same time, the company published a press release stating that they would be using a synthetic voice startup for all their audiobook productions. He said this move was “effectively replacing all of those human narrators with synthetic voices.”

Kazi of the Authors Guild said that freelance journalists and professional writers of web and marketing content were reportedly losing work “at an alarming rate.” He described the plight of an unnamed Guild member, who works as a marketing and web content writer and reportedly lost three-quarters of their work because their clients switched to using AI instead.

Ziff, the Model Alliance founder, said that earlier this year a major clothing company announced that they were creating AI-generated models to increase the number and diversity of their models.⁴³ “In an industry that has historically been discriminatory, creating digital representations of models of various ages, ethnicities, and body types rather than hiring and paying a diversity of real models is concerning,” she said.

Ziff pointed out that the use of AI fashion models would not just impact human models. She said that fashion workers of all kinds—including photographers, stylists, and hair and makeup artists—were concerned about their use, because it could impact all their livelihoods.

How did participants view proposed consent defaults?

Some AI developers have started offering people, including creative professionals, the choice to “opt-out” of their work being used to train future models, through methods

⁴² See e.g. Carson Blackwelder et al., *Tom Hanks warns fans about fake ad featuring fabricated image of his likeness*, ABC News (Oct. 2, 2023), <https://abcnews.go.com/GMA/Culture/tom-hanks-warns-fans-fake-ad-featuring-fabricated/story?id=103658615>.

⁴³ See Jess Weatherbed, *Levi's will test AI-generated clothing models to 'increase diversity'*, The Verge (Mar. 27, 2023), <https://www.theverge.com/2023/3/27/23658385/levis-ai-generated-clothing-model-diversity-denim>.

such as direct opt-out forms,⁴⁴ voluntarily complying with third-party lists,⁴⁵ and public commitments to respect the [Robots Exclusion Protocol](#).⁴⁶ Participants raised multiple concerns about these kinds of opt-out frameworks, ranging from the practical, like not knowing whether their data was used and, thus, whether opt-out is even needed, to more fundamental issues with the approach, like shifting the burden from companies to creators. Participants also discussed the need for solutions that would not only limit the harm moving forward but also address the harm that has already occurred.

Participants said that opt-outs put the burden on creators to police a rapidly changing marketplace, where new companies and AI models are emerging every day. Jacobsen likened these to “a new form of uncompensated labor” that AI developers are requiring people to perform if they want to avoid being exploited.

“Such burden shifting is not only unfair, it is morally wrong and antithetical to basic principles of artistic integrity,” said Jacobsen.

August echoed that sentiment, “There are so many companies out there developing and training AI models, to be forced to continually track all of them down to opt out is an enormous administrative burden on individual artists.”

Ortiz pointed out that these frameworks require a certain level of technical and legal expertise about a fast-moving industry, and that raises questions about whether the choices these frameworks offer are truly accessible to all creators:

Does that mean we have to opt out on each and every one of them? That's a full-time job. What about if those models update? What about if they don't publicize and they use third parties? What if those models in the opt-out forms are not an artist's native language? What about artists who never spend time online or don't even know this is happening?

Participants wanted AI developers to take an opt-in approach instead. Clarke said that opt-out frameworks, in contrast to a framework that seeks explicit consent prior to usage, “is what you get when the fox designs the chicken coop.”

Participants also emphasized that because of the lack of transparency about what is being used as training data, it was unclear which work they would need to request to have removed, or even if their work was included at all. Kazi said the fact that writers and editors were able to check whether their books could be found in the Books3 dataset was “an anomaly” and not the norm. Because that

⁴⁴ See Kyle Wiggers, *OpenAI unveils DALL-E 3, allows artists to opt out of training*, TechCrunch (Sep. 20, 2023), <https://techcrunch.com/2023/09/20/openai-unveils-dall-e-3-allows-artists-to-opt-out-of-training/>.

⁴⁵ See Kyle Wiggers, *Spawning lays out plans for letting creators opt out of generative AI training*, TechCrunch (May 3, 2023), <https://techcrunch.com/2023/05/03/spawning-lays-out-its-plans-for-letting-creators-opt-out-of-generative-ai-training/>.

⁴⁶ See e.g., Ben Welsh, *Who blocks OpenAI, Google AI and Common Crawl?* <https://palewi.re/docs/news-homepages/openai-gptbot-robotstxt.html>

dataset was publicly available, anyone could inspect and audit it, and build tools to make examining the dataset accessible to the public.⁴⁷ Researchers have found that this is not the case for all datasets used to train AI models,⁴⁸ and participants noted that as well.

“There is a lack of transparency from AI developers about training data sets, which makes it very difficult to ascertain which works were actually used to train the models and how,” said Kazi.

Ortiz said that lack of transparency makes it difficult for individuals even to know which works they should request be removed, “Existing opt-out procedures often ask users to list works used to train the model they own, but as we just mentioned, that training data is secret, so it's an impossible task.”

Participants said that transparency around training data and what works were used to build them was greatly needed. “Divulging your dataset should be compulsory,” said Zapata.

Participants took issue with the fact that most opt-out frameworks were about *future* models, and often did nothing to address past usage.

Throughout the event, many of the participants called for consent and compensation because they said AI models were trained without them. Participants' consent was not sought during the development of these AI models, and they did not have an opportunity to negotiate for fair compensation for the works used.

Zapata said that mainstream AI developers' opt-outs only apply to the future developments. Even if someone chooses to follow a developer's opt-out instructions, Zapata said, “it's already too late to get out of the most current model.”

This may be, as Zapata noted, due to technical limitations. Developing methods of effective machine “un”-learning is currently a research topic of academic and corporate interest.⁴⁹

Many of participants' concerns surrounded past actions, which are not fully addressed by giving a choice about future use. Said August, “The advent of AI doesn't change fundamental ways that the world is supposed to work, and that world works in permission first.”

⁴⁷ Reisner, *supra* note 38.

⁴⁸ See Rishi Bommasani et. al, *The Foundation Model Transparency Index*, arXiv (Oct. 19, 2023), <https://arxiv.org/abs/2310.12941>.

⁴⁹ See, e.g., NeurIPS 2023 Machine Unlearning Challenge <https://unlearning-challenge.github.io/>

What are participants doing to understand and address generative AI?

Throughout the event, participants described the approaches that they are using to address and understand the ways that generative AI is reshaping their respective lines of work. Participants said they have been conducting research to better understand generative AI. They have engaged in labor strikes of near historic lengths as they negotiate for protections against AI in their collective bargaining agreements. They have backed legislative efforts on both the state and federal level. They have joined class-action lawsuits, and they have attempted to engage with AI developers directly.

Participants described research efforts they were undertaking to understand the emerging generative AI landscape. Clarke said that after he experienced an influx of what he suspected were AI-generated submissions, he spoke with fraud detection experts and AI researchers to better understand how to combat false submissions to his magazine. He spent time evaluating many of the public and commercial AI detection tools, because he was uncertain about their accuracy claims and whether they would be suitable to use.

Kazi described the ways the Authors Guild has probed generative AI chatbots to better understand what might have been included in their training data, since the developers do not disclose what they contain.

Ziff said the Model Alliance is partnering with the Worker Institute at Cornell University to develop a research study that would better help them understand the impact of generative AI on fashion workers, with a particular focus on workers of color.

Union representatives who participated said they have been bargaining over AI or are planning to when their current agreements are up. August, the screenwriter and member of the Writers Guild of America West's Negotiating Committee, said the Guild's recently ratified agreement could offer helpful guidance when thinking about future public policy on AI, and laid out the new guardrails the Guild has set in its agreement:

Our agreement defines that AI is not a writer and the material it generates is not equivalent to human writing for purposes of our contract. That means that AI cannot rewrite us, nor can it compete with a human writer for credit and the associated financial benefit of that credit. Further, the studios now have to tell us if they are providing us with material generated by AI and then it cannot require us to use AI tools.

August emphasized that the Guild was able to win these protections because they are a strong union that successfully carried off a nearly five-month strike—one of the longest

in the Guild’s history, according to Entertainment Weekly.⁵⁰ August reminded the audience that most writers and artists don’t have unions to protect them. That fact was echoed by participants who represented worker advocacy groups like the National Association of Voice Actors and the Model Alliance. These kinds of groups can advocate for and support their members, they but cannot collectively bargain agreements with companies.

John K Painting of the American Federation of Musicians, another union that was represented during the event, said that in addition to collective bargaining agreements, legislative lobbying was an important mechanism for AFM to win protections for its members. This approach was not just limited to the organized labor groups represented at the event.

Throughout the event, participants mentioned specific pieces of legislation they supported and hoped would help creative professionals and add guardrails for how generative AI is built and used. On the state level, Ziff of the Model Alliance said her organization supported the Fashion Workers Act in New York,⁵¹ which would establish basic labor protections for models and content creators in the state’s fashion industry. Ziff said the bill would help address the lack of transparency around how models’ body scans are being used.

On the federal level, NAVA’s Friedlander said the organization recently endorsed the AI Labeling Act of 2023,⁵² which would require generative AI developers to include “a clear and conspicuous disclosure identifying AI-generated content and AI chatbots,” according to a press release from U.S. Senator Brian Schatz (D-Hawai’i), who introduced the bill.⁵³

Jacobsen of the Artist Rights Alliance also referenced the Protect Working Musicians Act of 2023,⁵⁴ which Jacobsen said would give small and independent musicians an antitrust exemption to negotiate collectively with AI developers and streaming platforms.

Additionally, at least one participant mentioned the idea of a federal right of publicity. State-level laws have been passed in places like New York⁵⁵ and California,⁵⁶ but not

⁵⁰ See Lester Fabian Braithwaite, *Writers Guild officially ratifies new contract after months-long strike*, Entertainment Weekly (Oct. 9, 2023), <https://ew.com/tv/writers-guild-ratifies-new-contract-after-months-long-strike/>.

⁵¹ N.Y. Legis. S. 2477A. Reg. Sess. 2023-2024 (2023).
<https://www.nysenate.gov/legislation/bills/2023/S2477/amendment/A>

⁵² AI Labeling Act of 2023, S. 2691, 118th Cong. (2023).

⁵³ Press Release, U.S. Senator Brian Schatz, *Schatz, Kennedy Introduce Bipartisan Legislation To Provide More Transparency On AI-Generated Content* (Oct. 24, 2023), <https://www.schatz.senate.gov/news/press-releases/schatz-kennedy-introduce-bipartisan-legislation-to-provide-more-transparency-on-ai-generated-content>.

⁵⁴ Protect Working Musicians Act of 2023, H.R. 5576, 118th Cong. (2023).

⁵⁵ NY CLS Civ R § 51 (2021)

⁵⁶ Cal Civ Code § 3344

every state has its own version. Right of publicity laws generally protect a person's likeness from being misused for commercial purposes without their consent and could potentially give creative professionals greater control over how things like their voices or personal styles are being used. Since the event took place, a bipartisan group of senators released a discussion draft of the No Fakes Act of 2023,⁵⁷ which would create such federal protections specifically addressing misuse of generative AI.

A few participants said they were engaged in ongoing class-action lawsuits that they hoped would help address some of the harms they said were caused by generative AI developers. One such participant was Doug Preston, a fiction author, who said he and his co-plaintiffs were seeking damages for the unauthorized use of their copyrighted work. Preston said that moving forward, he and his co-plaintiffs wanted AI developers get permission from authors, properly license their books, and compensate them fairly for that use.

At least one participant mentioned proactively working with an AI developer on a project. Friedlander, the NAVA president, said that he was working on developing a synthetic version of his voice that would allow him to perform work he would not otherwise be able to do, like read a newspaper cover-to-cover every morning. Friedlander emphasized that not only was this being done with his consent, control, and compensation, but more generally that generative AI tools should enhance and not replace the work of creative professionals.

⁵⁷ Press Release, U.S. Senator Chris Coons, *Senators Coons, Blackburn, Klobuchar, Tillis announce draft of bill to protect voice and likeness of actors, singers, performers, and individuals from AI-generated replicas* (Oct. 12, 2023), https://www.coons.senate.gov/imo/media/doc/no_fakes_act_draft_text.pdf.

Potential Areas of Further Inquiry

The event outlined the diverse palette of issues and experiences that creative professionals face across the industry. Further research is required to help scholars, law enforcement agencies, and other civil society organizations understand how generative AI can impact communities and how those harms can be mitigated. Participants highlighted a multitude of questions and open areas for further research.

Ortiz, for instance, raised several questions during the event about how opt-out frameworks are being effectively communicated to people whose work has been included in training sets, highlighting issues such as barriers of language and technical expertise. Ortiz's questions prompt other questions, such as: What other barriers do existing opt-out frameworks present? How are the accessibility and usage rates of options presented by these frameworks being measured?

Zapata noted another major barrier is a lack of disclosure around what is currently included in training sets. Kazi and Clarke's discussion of the Books3 dataset also raises questions about what is needed beyond simply publishing a dataset. Books3 was always public but not easily interpretable by the public prior to investigative reporting on the topic. What efforts are being made to disclose the contents of training sets? What practices are being developed to ensure that transparency is meaningful and furthers understanding for a public beyond those with technical expertise in machine learning?

Another open question that Zapata touched on was how AI developers can effectively comply with opt-out requests for existing models. What is the current state of machine "unlearning" research? What is needed to effectively remove the contributions from work no longer desired in a model, and how can that be verified? What measures of efficacy are being developed as this research evolves?

Participants discussed many stages of model development and deployment where issues may arise, starting from the collection and inclusion of work in training data without the affirmative consent of its creators, to downstream misuse of these models and other unintended effects. Friedlander, for instance, highlighted a new problem that voice actors are now facing—proving the provenance of their own work to clients. Said Friedlander, "an extra burden has now been placed on voice actors to prove that the audio they're delivering is not AI-generated." For this example, and others, what is the scope of the de facto burden placed on artists in the aggregate, to what extent is it unremunerated, and is the allocation of such costs justifiable and efficient?

Beyond the individual effect that generative AI has on any given creator, how might the practices of AI developers affect these markets over the long term? For example, would the uncompensated and unauthorized use of creators' content dissuade individuals and firms from investing in high-quality content in the first instance?

Conclusion

The creative professionals at the roundtable discussion raised a number of concerns regarding the impact that AI is having on them and on consumers. Although many of the concerns raised at the roundtable lay beyond the scope of the Commission’s jurisdiction, targeted enforcement under the FTC’s existing authority in AI-related markets can help to foster fair competition and protect people in creative industries and beyond from unfair or deceptive practices.

For decades, the FTC has used its authorities to address deceptive or unfair acts or practices and unfair methods of competition as it relates to new and transformative technologies. There is no “AI exemption” from the laws on the books. The FTC will continue to vigorously use the full range of its authorities to protect Americans from deceptive and unfair conduct and maintain open, fair, and competitive markets.

The FTC continues to listen and learn about the latest trends—and recognizes that the topics covered above are by no means exhaustive. The FTC will continue to closely monitor and scan the developments of these products, services, and tools. As the generative AI industry continues to develop, the FTC will remain vigilant and ready to use the full panoply of its law enforcement and policy tools to foster fair competition, protect consumers, and help ensure that the public benefits from this transformative technology.

Appendix

Appendix I: Participant Bios

John August is a screenwriter and member of the Negotiating Committee for Writers Guild of America West (WGA), a labor union representing thousands of members who write content for motion pictures, television, news and online media. He is a Negotiating Committee Member at WGA West and was a former board member of WGA. John is a screenwriter whose credits include *Big Fish*, *Aladdin*, *Corpse Bride* and *Charlie's Angels*. He also wrote the Broadway musical *Big Fish*, and the Arlo Finch novel trilogy. He lives in Los Angeles.

Neil Clarke is the multi-award-winning editor of *Clarkesworld Magazine*, a science fiction and fantasy magazine, and over a dozen anthologies, including the Best Science Fiction of the Year series. An eleven-time finalist and the 2022 winner of the Hugo Award for Best Editor Short Form, he is also the three-time winner of the Chesley Award for Best Art Director. In 2019, Clarke received the SFWA Kate Wilhelm Solstice Award for distinguished contributions to the science fiction and fantasy community.

Duncan Crabtree-Ireland is the National Executive Director and Chief Negotiator at SAG-AFTRA, the most distinguished entertainment and media union in the world. In this capacity, he oversees the world's largest and most influential entertainment union, comprised of more than 160,000 members worldwide who work in film, television, broadcast news, commercials, music, video games and more. Crabtree-Ireland has played a critical role in many of SAG-AFTRA's signature achievements over the past two decades, both in his current role and prior to that as longtime chief operating officer and general counsel. Crabtree-Ireland is a strategic and creative lead negotiator, and has personally led or overseen negotiations for SAG-AFTRA's Netflix Agreement and its Videogames, Commercials, Music and Network Television contracts, among others. Crabtree-Ireland leads the union's technology and innovation team. He is also the co-host of the SAG-AFTRA Podcast and the SAG-AFTRA Podcast en Español.

Tim Friedlander is President and Founder at National Association of Voice Actors (NAVA), a non-profit association created to advocate and promote the advancement of the voice acting industry through action, education, inclusion and benefits. Tim is a Los Angeles based voice actor, studio owner, advocate, and educator. He is the voice of the PBR Summer Series (Professional Bull Riders) on CBS and the English voice of Ares in the Netflix show *Record of Ragnarok*. As owner of the soundBOX: Group, a voice over centric studio group with 3 locations, Tim has consistently provided safe space for voice actors to train, learn, and work. Tim is co-founder and President of The National Association of Voice Actors and in 2023, helped found United Voice Artists, an 18 nation, 36 member Federation of global voice over associations.

Jen Jacobsen is Executive Director of the Artist Rights Alliance, an artist-led organization advocating for musicians to receive fair treatment and compensation in the digital marketplace. She was previously the Executive Director of Kid Pan Alley (KPA), an arts non-profit that teaches songwriting in schools. A 25-year music industry veteran, Jen served as Vice President, Industry and Government Relations, for Sony Music Entertainment and Vice President, Global Public Policy for Time Warner, Inc. Jen received her B.A. in History from Yale University, and her J.D. from the University of Virginia School of Law. She is a graduate of the Nashville-based Leadership Music program and a lifelong musician.

Umair Kazi is the Director of Policy & Advocacy at the Authors Guild, the oldest and largest professional writers' organization in the United States, where he develops and advances initiatives supporting writers' interests. His work encompasses copyright, AI, labor, antitrust, and free expression issues. Umair previously served as the Guild's Staff Attorney, counseling members on professional legal matters. Umair is also a writer and a translator from Urdu. He holds a J.D. from the University of Iowa College of Law and an MFA in creative writing from Columbia University.

Bradley M. Kuhn is the Policy Fellow at Software Freedom Conservancy, a nonprofit organization centered around ethical technology. Kuhn began work in the software freedom movement as a volunteer in 1992 — as an early adopter of Linux-based systems, and contributor to various Free and Open Source (FOSS) Software projects, including Perl. Kuhn has industry experience as a computer systems administrator, a software developer, and a high school Computer Science teacher. Kuhn has been lauded with multiple awards for his lifelong work in enforcement and compliance of copyleft FOSS licenses (such as the GPL). Kuhn holds an M.S. and summa-cum-laude B.S. in Computer Science.

Karla Ortiz is a Puerto Rican, internationally recognized, award-winning artist. With her exceptional design sense, realistic renders, and character-driven narratives, Karla has contributed to many high profile film and TV productions, including Jurassic World, World of Warcraft, Rogue One: A Star Wars Story, Thor: Ragnarok, Black Panther, Avengers: Infinity War, The Eternals, Loki, HBO's The Nevers and most notably, her design of Doctor Strange for Marvel Studios' Doctor Strange. Karla's work is also recognized in the fine art world, showcasing her figurative and mysterious art in notable galleries, such as Spoke Art and Hashimoto Contemporary in San Francisco, Nucleus Gallery, Thinkspace and Maxwell Alexander Gallery in LA, and Galerie Arludik in Paris. She currently lives in San Francisco with her cat, Bady.

John K. Painting is the Director of the Electronic Media Services Division and Assistant to the President for the American Federation of Musicians of the United States and Canada (AFM), the largest union of musicians in the world. Painting has worked in Electronic Media since he began his career at AFM Local 802 (New York City) in 2011. In May 2019, Painting was hired by the Federation as EMSD Assistant Director, working under former EMSD Director Pat Varriale. During that time, Painting was

responsible for the administration of the National Public Television Agreement as well as a wide variety of special projects, most notably contracts pertaining to the rapidly shifting world of Internet streaming since the start of the COVID-19 pandemic. Both at the Local and Federation level, Painting has been regularly involved on the bargaining team for EMSD contract negotiations over the last decade. He also sits on the AFM's Education Committee and has worked to create new and updated educational content to better explain Electronic Media Services agreements to both musicians and employers.

Douglas Preston is the author of 38 books, of which 32 have been New York Times bestsellers, some reaching the #1 position. Two of his novels, co-written with Lincoln Child, were chosen in a National Public Radio poll of 17,000 readers as being among the one hundred greatest thrillers ever written. His recent nonfiction book, *The Monster of Florence*, is being made into a television series. Preston worked as an editor at the American Museum of Natural History and taught nonfiction writing at Princeton University. He served as president of the Authors Guild from 2019 to 2023.

Steven Zapata is an American artist with 12 years of experience in commercial design, illustration, and art education. He has contributed to video games and movies such as *The Elder Scrolls Online* and Disney's *Noelle*. Steven has also designed theme parks and experiences both domestically and abroad including the USA Pavilion for World Expo 2020, Warner Bros. World in Abu Dhabi, and the Harry Potter Studio Tour in London. He has also taught design and storytelling at Art Center College of Design in Los Angeles, and has a YouTube channel where he shares his love of drawing with students from across the globe.

Sara Ziff is the founder and executive director of the Model Alliance, a nonprofit research, policy and advocacy organization for people who work in the fashion industry. At the Model Alliance, she established the first industry-specific support line for fashion workers and played a leading role assisting survivors during the #MeToo movement. Sara has successfully championed legislation to advance workers' rights and protections, and she is currently working to pass the Fashion Workers Act in New York State. She received her B.A. from Columbia University and her M.P.A. from Harvard Kennedy School of Government.

Appendix II: Roundtable Quote Book

This quote book is a compilation of direct quotes from the participants in the FTC's October 2023 Creative Economy & Generative AI roundtable aggregated into some common themes. This summary aims to be a resource that shares the specific perspectives and lived experiences of the participants of the event on the impact of generative AI on their industries and is by no means a complete representation of every perspective on this topic.

- “AI and its algorithms must be here to serve us, not the other way around.” - Duncan Crabtree-Ireland
- “We publish stories not only from established writers, but also new voices from all over the world. These people represent the future of my field, and it is essential to maintain the avenues through which they can be discovered.” - Neil Clarke
- “The problem is not quality at the moment, but rather the sheer speed and volume at which these works can be produced.” - Neil Clarke
- “The best way to describe them is to call them spam, but it's spam at a level we've never seen before.” - Neil Clarke
- “Pulitzer Prize winning author and Authors Guild councilmember Min Jin Lee has likened the experience of having her work used by AI to identity theft. ‘AI company stole my work, time, and creativity,’ she recently wrote on X/Twitter. “They stole my stories. They stole a part of me.” It's not just well-known and bestselling authors that are suffering.” - Umair Kazi
- “ChatGPT would be lame and useless without our books. Just imagine what it would be like if it was only trained on text scraped from web blogs, opinion screeds, cat stories, pornography and the like.” - Douglas Preston
- “But supporting creativity by stealing from creators is like claiming you're supporting the candy store by shoplifting.” - Douglas Preston
- “This is our life's work. We pour our hearts and our souls into our books. They aren't just products, they're a part of us.” - Douglas Preston
- “The founders of our country wrote copyright protection into the very first clause of the Constitution—it was that important to them. They believed that their scrappy little country one day would become the creative engine of the world, and that's what we've become, and we can't allow AI developers to ignore copyright protection and injure the entire literary community of our country in their mad rush to succeed. They can succeed and they can also partner with America's authors in a mutually beneficial relationship.” - Douglas Preston
- “Not all voice actors are celebrities or well-known voices. Most are blue collar, working class voice actors who are working 40 plus hours a week. Over 60% of

the voice actors are located outside of LA and New York. We're not anti-tech or anti-AI, as many have said before.” - Tim Friedlander

- “Musical expression transcends culture and time. It will always be a part of our society, but that doesn't guarantee it as a viable career. The end game must be the protection of the profession.” - John Painting
- “This is what you get when the fox designs the chicken coop. The wrong people are making the decisions when you have something like this happening. And there's no standard, there's no consequence for them ignoring these things at the moment either. So we really need to have them seeking consent, explicit consent, to include these works.” - Neil Clarke
- “Two months ago or a few months ago, he received a phone call from somebody claiming to have kidnapped his daughter, was demanding ransom, played a recording or a voice of his daughter screaming, ‘Papa, help me. Help me. Papa, save me.’ He said, ‘I knew deep in my bones, that was my daughter's voice.’ His daughter was safe. It was a scam, it was a fake. But he said ‘The voice that I heard on that line was my daughter's voice. It was the same voice I heard when I dropped her off at school. And it was the same voice that I heard when I picked her up when I found out she was safe.’ The danger to consumers is real. It is tangible. And it is here now.” - Tim Friedlander

“We're not anti technology.”

- “But to be clear, we at SAG-AFTRA are not opposed to new technologies and we're not opposed to the existence or even the use of AI. AI in particular is an essential tool that is going to be widely used in the decades to come and it can have a variety of creative and innovative uses in the entertainment industry, and the implementation of AI we are looking to achieve would result in the technology augmenting human creativity rather than replacing it.”
- Duncan Crabtree-Ireland
- “The ability to record audio on our computer at home was game changing. I'm a child of the 80s. I still remember the time that I died of dysentery on the Oregon Trail for the first time. We are not anti-tech or anti-AI. We are pro voice actor.” - Tim Friedlander
- “As many others have said, we're not anti-technology. We're anti-exploitation. And we believe this round table is an important step toward ensuring our creative community is afforded the protections we need and deserve.” - Sara Ziff
- “Musicians are not against AI. We don't want AI to be banned. In fact, musicians have been using AI-driven tools for years to auto tune vocals, generate beats, assist with studio production, and in other parts of the creative process as well.” - Jen Jacobson

“Our members are keenly aware that their works are being used by AI systems.”

- “Shouldn't the individuals whose intellectual property was used to train the AI algorithm be at least equally protected? An actor's brand is their voice, as is their likeness and their unique persona, and no company should be able to appropriate that and use it however they wish without permission.” - Duncan Crabtree-Ireland
- “Large language models like the one that underpins ChatGPT have scraped massive volumes of data, including our words and our unique perspectives. This is theft, not fair use.” - John August
- “Our works— protected by copyright and our own contractual rights—are being used entirely without our authorization, without any attribution or compensation. Right now, you could ask ChatGPT to write something “in the style of” a particular writer, and they would try to do that—appropriate the unique voice of a writer without that writer's consent.” - John August
- “Meanwhile, Big Tech has launched a campaign to manufacture consent about these systems. Big Tech claims that the rules, licensing, and legislation that is applied to creative works since the 1800s in the United States are suddenly moot simply because machine learning is, in their view, too important to be bogged down by the licensing choices of human creators of works.” - Bradley Kuhn
- “These companies describe their stolen training material as publicly available data or openly licensed content to disguise their extensive reliance of unauthorized use of copyrighted and private data. These companies even break their own promises not to sell users information.” - Karla Ortiz
- “To advertise our work, most of us put our art online, on social media and our personal websites. This leaves it exposed to unethical scraping practices, which can result in AI models being created that can mimic the signature styles of particular artists.” - Steven Zapata
- “Our members are keenly aware that their works are being used by AI systems. We get reports. Our members try out different prompts and AI systems and chat box reveal details about their works. And of course, several of our members have also reported finding their books in Books3, which is a data set of containing 200,000 books that's downloaded from a pirate source, which was used to train Meta's LLaMA, Bloomberg's GPT, and others.” - Umair Kazi
- “Today's reckless, careless rush to launch new generative AI products, we are seeing what is euphemistically referred to as AI training or learning, but which is in fact illegal copying of artistic works on a massive scale without consent or compensation and often without the artist even knowing.” - Jen Jacobsen

Platforms using user-generated content for training

- “We knew these models were trained without permission on the copyrighted works of others, and it didn't sit right with us.” - Neil Clarke
- “Zoom is among the many Big Tech companies that have sought to cajole users into consent for use of their user data as training input for machine learning systems.” - Bradley Kuhn
- “For example, data laundering, where a company outsources its data collection to a third party under the pretext of research to then immediately use that for commercial purposes. An example of this is LAION. Specifically, it's more popular LAOIN-5B, a dataset that contains 5.8 billion text and image pairs, which again includes the entirety of my work and the work of almost everyone I know.” - Karla Ortiz
- “The massive datasets that text-to-image models are trained off of contain the copyrighted works of artists, whether it be work done for ourselves or work done for companies in a work-for-hire capacity.” - Steven Zapata
- “Unfortunately, in today's reckless, careless rush to launch new generative AI products, we are seeing what is euphemistically referred to as AI training or learning, but which is in fact illegal copying of artistic works on a massive scale without consent or compensation and often without the artist even knowing.” - Jen Jacobson

Contracts

- “Contracts we signed years ago are now being used to justify the inclusion of our audio in synthetic voice models. And every time that happens without the consent, control, and compensation of the voice actor involved, the value of that voice actor's product, their voice and the sound of their voice, is diluted and unfairly diminished. We consider this to be a form of theft. We agree to license our voice to clients. The client is buying the exclusive rights to that recording, that performance, but also the sound of our voice. We could potentially now be in conflict with a clone of our own voice, which causes harm to both the voice actor and the company. Pepsi and Coke can't have the same voice providing their commercials. Chevy and Ford can't have the same voice. Currently the only protections that we have from voice actors having their audio uploaded to these sites are the terms of service that people agree to.” - Tim Friedlander
- “When a model signs a management agreement, she typically hands over a power of attorney, and thus rarely, if ever, sees her own contracts with the brands. As a result, models have little transparency into their own business dealings.” - Sara Ziff

- “Also, the nature of the typical work-for-hire contract has put us in a bad bind. Almost every commercial artist today works under all-encompassing work-for-hire contracts that surrender all rights to a company.” - Steven Zapata
- “Models have very little insight into how their work or likeness is being used in general, let alone in the context of generative AI. Normally they don't see their contracts with the brands and often don't know how their image will be used, whether how much they'll be paid. So generative AI introduces the potential for further exploitation in an already exploitative work environment.” - Sara Ziff

Body “Scans”

- “Increasingly, companies are asking models to undergo scans that generate a 3D model of their body or face. In our poll, nearly 18% of models who responded had been asked to undergo a scan by a brand or a management company.” - Sara Ziff

“Losing work”

- “Once they start employing bots to submit these words, what we currently receive in a month may arrive in hours. Quantity and the lack of reliable detection tools will eventually break our ability to do our job.” - Neil Clarke
- “In one instance earlier this year, AI-generated books started dominating Amazon's bestseller list in the young adult romance category. We have seen AI-generated books pop up for sale on closely related or very similar topics as those authors have listed for pre-orders, a growth in the number of unauthorized summaries of books, and fake books using names of renowned authors.” - Umair Kazi
- “Freelance journalists and professional writers of web and marketing content are reporting losing work at an alarming rate. An Authors Guild member who writes marketing and web content reported losing 75% of their work as a result of clients switching to AI.” - Umair Kazi
- “A content writer featured in a piece about ChatGPT's impact in the Washington Post stated that he had lost a half of his annual income. There's a widespread and real concern among writers that AI will decimate the profession. In our recent survey, 69% of authors said that generative AI threatens their careers, and an overwhelming 90% said that authors should be compensated if their works are used in training. These concerns are born out of the experience of enduring longterm precarity.” - Umair Kazi
- “A voice actor in New York worked for a company for three years, and year four, they were let go because they were told the company had enough of their audio, and they were going to now create a synthetic version of their voice.” - Tim Friedlander

- “And most recently, a voice actor in Washington state lost an audiobook job when they decided to take the job in-house. Around that same time, the audiobook company made a press announcement that they were now using ElevenLabs for all of their audiobook productions, effectively replacing all of those human narrators with synthetic voices.” - Tim Friedlander
- “Fashion workers are worried about the threat of these AI models replacing jobs – not only for models, but also photographers, stylists, and hair and makeup artists among others.” - Sara Ziff, Model Alliance
- “Perhaps most harmfully, these exploitative products compete directly with artists and are already replacing us. That may be the most disturbing harms of generative AI. Not vast murdering sci-fi nonsense, but one built on works taken without credit, consent, compensation and transparency, and marketed and used as a replacement for the creators of those works at a fraction of the cost. The whole process is rotten.” - Karla Ortiz
- “Compared to previous technological shifts, the job losses here could be steep: recording and scoring of all types can be wholesale replaced if composers and songwriters can replace the output of live performing instrumentalists with an AI-generated facsimile. Producers may replace the composers and songwriters themselves. Live touring across all genres would be impacted if bands and artists could tour with AI-generated backing musicians, holographic orchestras, AI backing tracks.” - John Painting

Impacts on opportunities

- “Members in our community have expressed particular concern about companies using AI-generated models as part of their diversity and inclusion initiatives. For example, Shudu, a digital model who was created through AI in 2017 by the world's first all-digital modeling agency, has appeared as a face of high-end brands such as BMW and Louis Vuitton. Critics have called this a form of “digital blackface” since Shudu is a Black woman, and the creator who profits off her image is a White man.” - Sara Ziff
- “And earlier this year, Levi's announced that they are creating AI-generated models to increase the number and diversity of their models. In an industry that has historically been discriminatory, creating digital representations of models of various ages, ethnicities, and body types rather than hiring and paying a diversity of real models is concerning.” - Sara Ziff
- “When used ethically and in a manner that recognizes intellectual property rights, AI can help people in their careers and can further opportunities. It can create access to employment for people with disabilities and those who would otherwise be prevented from pursuing work in the entertainment industry.” - Duncan Crabtree-Ireland

“Time spent”

- “Unfortunately, we still have to review each of these suspicious submissions manually, but for now, we've been able to stay open. Between the time spent reviewing submissions and maintaining the software to control them, my workload has easily doubled. It's been exhausting, and this is only the early days.” - Neil Clarke
- “Additionally, an extra burden has now been placed on the voice actors to prove that the audio they're delivering is not AI-generated. Many voice actors have reached out to NAVA asking for some way to prove that they delivered human-generated audio.” - Tim Friedlander
- “Does that mean we have to opt out on each and every one of them? That's a full-time job. What about if those models update? What about if they don't publicize and they use third parties? What if those models in the opt-out forms are not an artist's native language? What about artists who never spend time online or don't even know this is happening?” - Karla Ortiz

Loss of money and/or compensation

- “My own name, Karla Ortiz, has also been used thousands of times. I never gave consent. I never got credit. I never got compensation.” - Karla Ortiz
- “A machine-generated creation which utilizes a performer's voice, face, or in our case instrumental sound without the actual participation of that performer in the creation is tantamount to replacing the performer entirely. It removes the human from the creative process and the performing process. When that happens, the work is gone, the wages are gone, the secondary residuals are gone.” - John Painting
- “For musicians, like all the other creators represented here today, the unethical use of AI poses an existential threat to our livelihood.” - Jen Jacobson

Accuracy and Fairness

- “To make matters worse, I observed that foreign authors were far more likely to be incorrectly flagged as AI and an experienced eye remains the only reliable method of detection.” - Neil Clarke
- “And earlier this year, Levi's announced that they are creating AI-generated models to increase the number and diversity of their models. In an industry that has historically been discriminatory, creating digital representations of models of various ages, ethnicities, and body types rather than hiring and paying a diversity of real models is concerning.” - Sara Ziff, Model Alliance

- “With that in mind, there's a real risk that AI may be used to deceive investors and consumers into believing that a company engages in fair and equitable hiring practices and is diverse and inclusive, when they are not.” - Sara Ziff

Diminished value of work

- “It is using stolen goods to undercut the price of a seller and create market confusion, and it's not a hypothetical.” - John August
- “While it is likely that there are many positive uses for this technology, I don't believe that authors, artists, translators, narrators, and others should be required to sacrifice their work to improve or build these models. Progress can still be made responsibly without stepping on creatives.” - Neil Clarke
- “There's a serious risk of market dilution from machine generated books and other works that can be cheaply mass-produced, and which will inevitably lower the economic and artistic value of human created works.” - Umair Kazi
- “These pieces have subject matters and qualities that we have no control over. And the negative market implications of a potential client encountering a freely downloadable AI copycat of us when searching our names online could be devastating to individual careers and our industry as a whole.” - Steven Zapata

Loss of ability to compete

- “Without guardrails, AI poses a profound threat to writers and the integrity of our creative work. AI and its use raises major questions of intellectual property, transparency of competition, all of which require careful oversight to protect the creative economy.” - John August
- “It's difficult enough to compete against other humans. Now mom and pop voice actors across the country have to compete against digital clones of themselves and against multimillion and billion dollar tech companies. It's incredibly easy to use AI to capture the voice of an actor from content available on the internet, and to use that sample to create whole works for sale or non-commercial distribution.” - Tim Friedlander
- “Musicians’ work is being stolen from them and then used to create AI-generated tracks that directly compete with them. For example, we might see dominant streaming platforms packing playlists with AI music that they obtain free of charge or at a massive discount, which then lowers their own royalty obligations and diminishes artists wages.” - Jen Jacobsen
- “This conduct may violate “right of publicity” laws in several states, but it needs to be recognized universally as a misappropriation that causes real harm not only to the artists, but to the entire market by confusing consumers and creating unfair competition.” - Jen Jacobsen

- “The increasing scale of machine-generated music dilutes the market and makes it more difficult for consumers to find the artists they want to hear. It makes it harder for artists to connect with their fans, and it devalues human creativity.” - Jen Jacobsen
- “Without transparency, we can't even know the extent of how much of these companies have taken. They took our work and data to train for-profit technologies that then directly compete against us in our own markets using generative media that is meant to mimic us.” - Karla Ortiz
- “Meanwhile, Big Tech has launched a campaign to manufacture consent about these systems. Big Tech claims that the rules, licensing, and legislation that is applied to creative works since the 1800s in the United States are suddenly moot simply because machine learning is, in their view, too important to be bogged down by the licensing choices of human creators of works.” - Bradley Kuhn

Reputational damage

- “In February, Twitter doxxing: Voice actors such as Michael Schwalbe and Abbey Veffler had their voices cloned and had Twitter accounts made that gave out their personal addresses in their own voice and said racist and homophobic things.” - Tim Friedlander
- “It's hard to imagine anything more personal to an artist or to anyone than being depicted as doing or saying things that they would never do or say. It's not only confusing to fans, but humiliating to the artists themselves and undermines their public image.” - Jen Jacobson
- “Right now, authors are finding AI generated knock-offs of their work published on Amazon. They're having to fight to get those fakes taken down, and protect their brands.” - John August

Deepfakes, Impersonations, and/or Fan confusion

- “It is using stolen goods to undercut the price of a seller and create market confusion, and it's not a hypothetical. Right now, authors are finding AI generated knock-offs of their work published on Amazon. They're having to fight to get those fakes taken down, and protect their brands.” - John August
- “From electronics to organic eggs, consumers expect to be told the origin of a product and its authenticity. Consumers make choices based on that information. The same will likely be true with AI.” - John August
- “We traced the source of much of this activity to YouTube, TikTok, and blog content hosted by side hustle con artists that would waive a stack of cash and make false claims about earning riches from ChatGPT. Their intent was to earn advertising revenue or sell classes to those that tried and failed. They knew these tactics would not get people published. We happened to be on a list of a hundred

or so magazines that were used as part of these schemes. Over the months that followed, copycats would refine their approach.” - Neil Clarke

- “We are already seeing that AI is being used to generate low quality eBooks, impersonating authors, and displacing human authored books in the marketplaces like Amazon.” - Umair Kazi
- “Generative AI is being used to create unauthorized derivative works such as a developer using ChatGPT to write the concluding books in George R. R. Martin's, “A Song of Ice and Fire” Series and chatbots like the Dan Brown Chatbot.” - Umair Kazi
- “And at the same time, many authors were discovering that ChatGPT-3 knew everything about their books as well. And some realized it was even being used to create works that imitated their own. My friend George R.R. Martin, who was already mentioned, was very disturbed when AI was used to write the last book in his Game of Thrones series using his characters, his plot lines, his settings—even his voice.” - Douglas Preston
- “Thousands of synthetic voices are currently online on websites from video games all over the internet. Fan dubs are being created and turned into adult content, and then sharing those fan dubs on YouTube using the voices of those voice actors.” - Tim Friedlander
- “Those who had been scanned described not being given information about how their scans would be used, unknowingly handing away rights to their image, and not being fairly compensated. For people whose livelihoods are their image, this is particularly troubling in light of the rise in deepfake technology, specifically deepfake pornography.” - Sara Ziff
- “The companies offering these models often encourage users to request work in the styles of particular artists by name, and many of these generations end up online with our names attached to these pieces that we didn't make.” - Steven Zapata
- “And perhaps even more disturbingly, AI models are now using artists’ faces, voices, and performances without permission to make digital impersonations that not only create consumer confusion, but also cause serious harm to both fans and artists. These deep fakes have depicted a band canceling a concert that wasn't actually canceled. They've shown artists selling products that the artists never endorsed. We've seen false depictions of musicians badmouthing their own fans. This isn't a hypothetical harm. This type of consumer deception and fraud are happening right now.” - Jen Jacobson
- “The ability to create a synthetic voice from anyone who has recorded audio is easy and simple and dangerous. Currently now it only takes three seconds of source audio to create a realistic voice clone. And this synthetic content can be used to deceive consumers into believing that a trusted voice is communicating

with them. This can lead to relying on false and misleading information and potentially even implicate the human whose voice has been used to harm people.”
- Tim Friedlander

Consent, Permission, and/or Opt-out vs. opt-in

- “If consumers take anything away from my comments today, I hope they remember to carefully read the terms and conditions of all software platforms they use, as they may have already agreed for their own creative works to become part of the company's machine learning data sets. I admit it may take you a week to read all of those terms, but it's sadly the only way you'll know what rights you've inadvertently given away to Big Tech.” - Bradley Kuhn
- “AI developers have copied millions of copyrighted works without permission. These works are not only copied many times in the course of compiling training data sets and ingestion, but are embedded in the very fabric of the language models.” - Umair Kazi
- “And at one point, I asked it to write a poem in heroic couplets about one of my characters. And I was floored at the level of detail it knew when it generated this poem, and that's when I realized it must've ingested many of my books.” - Douglas Preston
- “OpenAI illegally ingested our books to create a product that is currently valued at tens of billions of dollars, and they did this without our consent or compensation. And as Umair mentioned, the average full-time author in America makes only \$20,000 a year. This is a classic case of Robin Hood in reverse, stealing from the poor to give to the already obscenely rich.” - Douglas Preston
- “In their race to be first, AI developers are swallowing everything they can get their hands on without regard to copyright ownership, intellectual property rights, or moral rights. And they're doing this without the slightest consideration given to supporting the livelihood of America's creative class.” - Douglas Preston
- “I personally am working on a synthetic voice that I have consent, compensation, and control for. There are some things that humans can't physically do, such as narrate the New York Times cover-to-cover every morning, or provide a realistic voice for someone who is nonverbal. But this tech should enhance and not replace voice actors.” - Tim Friedlander
- “So we need regulation, intervention, and oversight. We as creators should have complete control over how our work is used, but we need help. Some of the potential actions and remedies that we hope to see include, first and foremost, ensuring that all commercial AI models utilize only public domain content or legally licensed datasets acquired in an opt-in capacity. Opt-out is completely insufficient here. This could mean current companies shifting to the public

domain and possibly destroying their current models in the process so that opt-in becomes the standard.” - Steven Zapata

- “Mainstream models like DALL-E 3 don't reveal their training data and don't let you search it, but they do offer an inefficient one by one opt-out system that you can use if you think maybe your art is in there.” - Steven Zapata
- “What's new today, though, are the expansive AI models that ingest massive amounts of musical works and mimic artists voices without obtaining creators consent or compensating them.” - Jen Jacobson
- “The final point I want to make is about the importance of choice. Many AI companies who have illegally vacuumed up hundreds of thousands of musical works and recordings now say that artists can simply contact the company and “opt out.” This is essentially proposing a new form of uncompensated labor that musicians and composers have to perform if they want to avoid exploitation.” - Jen Jacobson
- “Opt-out is completely insufficient here. This could mean current companies shifting to the public domain and possibly destroying their current models in the process so that opt-in becomes the standard.” - Steven Zapata
- “Basically, tech companies must respect artists ownership rights. Those seeking to profit from others works should have the burden of obtaining permission. Explicit opt-in is the only way forward. It's really how we ensure generative AI models exclude unauthorized works from the beginning.” - Karla Ortiz

Machine unlearning

- “But because these AI systems can't unlearn, this will only remove the images from future training datasets used by this one company and it's already too late to get out of the most current model.” - Steven Zapata
- “Yeah, so opt-out is an ineffective and inappropriate standard for commercial use of copyrighted works including a generative AI. Once a model is trained on data, it cannot be deleted unless the whole model is retrained from scratch. By the time a model is made public, it's already too late to opt out.” - Karla Ortiz

Transparency and disclosure

- “We also need transparency on datasets, and divulging your dataset should be compulsory.” - Steven Zapata
- “Existing opt-out procedures often ask users to list works used to train the model they own, but as we just mentioned, that training data is secret, so it's an impossible task. And four, there are hundreds of AI models already in the market and more.” - Karla Ortiz

- “But as far as how we know our books are being used in AI training, we have absolutely no idea. It's a black hole. OpenAI is training ChatGPT 5 right now, is building it. They refuse to answer any questions from the Author's Guild about what data sets they're using, where they're getting their books, and how they're being used. There's no transparency at all. It's an absolute black hole.” - Douglas Preston

Changing terms of service

- “Companies can change their terms of service, and currently it's easy as checking a box that says, "I have the right to upload this audio." We've seen damages this year very clearly.” - Tim Friedlander

Policy and legislative efforts

- “The fight for protection over our craft and livelihoods doesn't stop at the bargaining table. While we have been able to achieve groundbreaking protection for writers, we need public policy solutions, too.” - John August, WGA West
- “The Guild’s new agreement offers helpful guidance in thinking about future public policy on AI. Our agreement defines that AI is not a writer and the material it generates is not equivalent to human writing for purposes of our contract. That means that AI cannot rewrite us, nor can it compete with a human writer for credit and the associated financial benefit of that credit.” - John August
- “And as such, NAVA recently endorsed the [US Senators] Schatz and Kennedy’s AI Labeling Act of 2023, which is Senate Bill 2691 that we are fully endorsing.” - Tim Friedlander
- “To address these concerns, we first aim to pass the Fashion Workers Act, our signature bill, which would establish basic labor protections for models and content creators working in New York's fashion industry. This would help address the lack of transparency that leaves models in the dark about how their digital image is being used, and establish a necessary foundation for regulation around generative AI in the fashion industry.” - Sara Ziff
- “Second is artists need to have enough power to negotiate fair license terms with these gigantic AI developers. There's actually a bill in Congress sponsored by representative Deborah Ross that would give small and independent musicians an antitrust exemption so they can come together and negotiate collectively, both with AI developers and streaming platforms, which is something they do not have the leverage to do currently.” - Jen Jacobson

Lawsuits

- “I'm also the plaintiff in a class action lawsuit against OpenAI, along with 15 other authors and the Guild itself. And we're asking for damages for unauthorized

use of our copyrighted work and training and building ChatGPT.” - Douglas Preston

- “And that's why we joined together, the 17 of us authors, in a class action lawsuit on behalf of all professional novelists against OpenAI. There's nothing complicated about this lawsuit.” - Douglas Preston
- “As a side note, due to all of this, I am also a plaintiff in a class action against generative AI image companies as well.” - Karla Ortiz

Self-initiated research and investigations

- “I evaluated many of the public and commercial detection tools and found their claims significantly overstated. The number of false positives and false negatives made them unusable.” - Neil Clarke
- “So we at the Authors Guild investigated, and here are some of the facts we uncovered. ChatGPT3 used more than 150,000 copyrighted books to feed into its AI system, which led us to the next question. "Where did OpenAI get our books?" They're not just sitting out there on the web unprotected. Well, the Authors Guild found that OpenAI got many, if not most, of these books from pirate websites such as LibGen run out of Russia.” - Douglas Preston
- “We're also developing a research study in partnership with the Worker Institute at Cornell University to better understand the impact of generative AI on fashion workers, particularly workers of color, and develop policy recommendations.” - Sara Ziff

Collective bargaining

- “We won these protections because we're a strong union that successfully carried off a nearly five month strike. But we need to remember that most writers and most artists in this country don't have unions to protect them.” - John August
- “We stand in solidarity with our fellow creative industry artists who are in unions. But unlike them, 80% of the voiceover industry is non-union, meaning we lack the protections and contract that organize workers enjoy.” - Tim Friedlander
- “Models are typically hired as independent contractors through management companies which, unlike talent agencies, are held to very few legal standards. So when we talk about how generative AI is impacting workers, we need to consider the context of an industry that is truly like the Wild West— where workers have few protections at baseline and also cannot collectively bargain here in the US.” - Sara Ziff
- “At The Model Alliance, we believe now is a critical time for solidarity between workers across creative fields who contribute heavily to our culture and economy. Unfortunately, it's not enough to win protections through collective bargaining agreements. There are many workers, including members of our community, who

cannot engage in collective bargaining, and so we have to ensure that they are included.” - Sara Ziff

- “And unfortunately, visual artists don't have strong union representation to push back on this. As it stands, you can work hard for a company like Disney for 25 years and they can take all your work, train a model on it, and then have a free and tireless replica of you to use in perpetuity.” - Steven Zapata
- “The solutions sought have been traditionally approached in two ways: collective bargaining with industry and legislative lobbying. Both paths tend to seek secondary income to those performers whose work has been diminished by advancing technology.” - John Painting

Regulation

- “We need oversight.” - Steven Zapata
- “Regulation of this industry is needed sooner than later, and each moment they are allowed to continue their current practices only causes more harm. Their actions to date demonstrate that they cannot be trusted to do it themselves.” - Neil Clarke
- “Generative AI poses a serious threat to the writing profession, and we believe that guardrails around its development and use are urgently needed.” - Umair Kazi
- “No copyright for AI-generated outputs. We oppose efforts to deem AI-generated content protectable under copyright law or through creation of even a limited suite generous right”
- Umair Kazi
- “We're here today because a future with unregulated AI will hurt concept artists and all other sorts of artists across many fields. We need regulation, intervention, and oversight.” - Steven Zapata
- “If the FTC is not able to do this through rulemaking, we would request the FTC's support for federal legislation to establish that right. Transparency of ingested content on which these foundational models are trained in order to know if our voice is present. Protections prior to the generation of any AI-created content that might include voices of professionals that have not provided consent and are not being compensated. Protection of our voices' biometric data for privacy and commercial purposes. An independent third party to verify that audio files are ethically sourced. And finally, clear labeling of any AI-generated content to ensure the consumers are fairly informed.” - Tim Friedlander
- “Regulatory agencies should act now to protect artists, consumers, and other Americans from this unconscionable exploitation. Regulatory agencies should

demand full transparency from generative AI companies and opt-in only practices.” - Karla Ortiz

- “Lastly, regulatory agencies should strongly consider seeking algorithmic disgorgement on products built on data acquired without consent, credit, or compensation, regardless whether that company is transparent or not. Urgent measures like these will be needed to avoid, in my opinion, the diminishing or outright destruction of most, if not all creative professional livelihoods and the protections of all of our rights.” - Karla Ortiz
- “In my opinion, there's no reason that big tech shouldn't be regulated to make these systems transparent, completely end to end.” - Bradley Kuhn

Consent

- “Consent and compensation. Require all generative AI companies to seek permission for the use of creative works and to fairly compensate creators.” - Umair Kazi
- “And going forward, we're asking that OpenAI and other AI developers get permission from authors, properly license our books, and compensate us fairly for that use.” - Douglas Preston
- “We also think authors and artists should have the right to say that they don't want their identities, works, voice or style used in outputs.” - Umair Kazi
- “That's why we think it's critical that we require artists have affirmative consent before the work can be used to train generative AI models and that they have to be compensated fairly when they do so. The same should be true for all artists, including artists like us who do work for hire and don't hold the copyright on our work.” - John August

“A system that is opt-in. Not opt-out.”

- “And this system needs to be opt-in and not opt-out. As Jen just said, there are so many companies out there developing and training AI models, to be forced to continually track all of them down to opt out is an enormous administrative burden on individual artists. It's not practical. It has to be opt-in rather than opt-out.” - John August

Credit and Transparency

- “Credit and transparency. Create obligations for all AI companies to disclose what data sets and works they use to train the systems.” - Umair Kazi
- “Labeling AI-generated content.” - Umair Kazi
- “As far as what we want, we want AI companies to be required to fully disclose the complete lists of copyrighted works, books in particular is the medium that we deal with most often, that are in the training data sets or provide specific links

to where the data sets were obtained from. And anyone compiling a training dataset should be similarly obligated to disclose the sources. And in the case of copyrighted works, a complete list of works that have been included in the dataset.” - Umair Kazi

- “And we believe that there should be a requirement to conspicuously label fully or substantially AI generated words in online marketplaces.” - Umair Kazi
- “In my view, the public should have access to the input set, have access to the source code of the software that does the training and generation, and most importantly, access to the source code that does these forms of backend generation exclusion, the latter of which I think would expose the duplicity of big tech's policies here.” - Bradley Kuhn
- “At a minimum the consumers should know when AI is used to generate voices and receive a warning that the information they're going to receive may not be accurate.” - Tim Friedlander
- “We need compulsory transparency and tools to verify compliance.” - Steven Zapata

Compensation

- “Permission and payment for use in outputs. Require all AI companies to seek permission and pay compensation when creative works are used in outputs or when names or identities or titles of works are used in prompts.” - Umair Kazi
- “We should also have AI companies pay a fine for their past practices and pay all affected artists a fee per generation. This is to compensate artists for utilizing their works and names without permission, should be retroactive for as long as the company has been for-profit. We must close research to-commercial loopholes, interpreted or actual, that allow for-profit companies to monetize the results of non-commercial research.” - Steven Zapata

Licensing

- “And the third thing I would say is there is not a one-size-fits-all licensing system that will work for all creators or even for all musicians. Assuming there is a level playing field for negotiating, we think the best way for musicians to license their work is in the free market, which may look different for every use, every artist and every company.” - Jen Jacobson
- “Without a doubt, licensing will be essential in the future, but we must accomplish that through an opt-in system, otherwise there would be no real negotiating leverage for creators. And the focus of licensing, I think should go towards new opt-in foundation models, not the fine tuning of existing unethical models. As to when companies hold the rights to work done for hire and want to license or train off of that, we need regulation.” - Steven Zapata

- “I mean, visual artists, for example, lack the union representation to push back against contracts that claim all ownership. And without regulation, I think predatory contracts will just run rampant in this sector. And collective licensing is also troubling. The early experiments we are seeing with "contributor funds" from companies like Shutterstock are paying out less than pennies. I mean actual fractions of a penny per used image. That's all they want to pay a creator for their life's work and to create a tool that will directly compete against them forever.” - Steven Zapata