



July 11, 2023

The Honorable Chris Coons
Chair
United States Senate Judiciary Committee, Subcommittee on Intellectual Property
224 Dirksen Senate Office Building
United States Senate
Washington, DC 20510

Dear Senator Coons,

Artists Rights Society (ARS) represents the rights of a worldwide collective of 122,000 visual artists in the United States. For over 30 years, we have defended these artists from infringements to their intellectual property, and we are proud to be part of a global effort to protect and promote artist's rights.

With the rise of generative artificial intelligence (AI), ARS sees both exciting possibilities and concerning issues. While some ARS members now implement generative AI into their creative practices in innovative ways, the vast majority of use-cases of AI and art have been AI companies blatantly infringing artist's copyrights by copying their works without permission to train their models. While some argue that generative AI creates unique, creative work like a human being and should have its own copyright protection, this is not the case for two main reasons: (1) AI does not possess human creativity, instead, it mimics human creativity by copying and "learning" certain behaviors and patterns, but it lacks the conscious experience necessary for creative thought; and (2) the U.S. Copyright Office is clear in its position that copyright only protects human artists and inventors, not machines. Generative AI does not promote the "Progress of Arts and Sciences" which serves as the foundation of copyright law under the Constitution.

While various issues surrounding the rights of generative AI are fought in lengthy court battles, the work of hundreds of thousands, perhaps millions, of artists and creators are being unfairly copied and used to train models without compensation, credit or consent.

With that in mind, ARS is working alongside a coalition of groups to protect the work of artists and other creators from the threat of generative AI. ARS proposes several innovations to adequately tackle this issue:

- 1) The creation of Extended Collective Licensing (ECL) agreements to facilitate standard requirements, like credit and payment to creators for the use of their copyrighted works
 - a. ECLs are the most efficient means of providing for the lawful development of generative AI systems while also ensuring that artists are compensated and credited for the use of their work
 - b. ECLs could be structured with an "opt out" requirement so that artists not wishing to participate could exclude themselves
- 2) Credit for artists when their art is used to generate an AI model's output



- 3) Consent from artists for their work to be used to train generative AI systems
- 4) The inclusion of a diverse array of artists and creators in the discussions on AI regulation

As Congress crafts a legal framework to address these novel issues, it is our sincere hope that Congress listens to artists and creators, and their advocates, like ARS, and acts to respect the livelihoods of artists against the threat of AI.

Sincerely,

Theodore H. Feder
President