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Office of General Counsel

Artificial Intelligence and Intellectual Property

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Next Month's Presentation November 14, 2024

Contracts: Facility Use Agreements

- Presented by Assistant General Counsel Mary Al Balber

For a complete listing of the Fall Second Thursday topics, please visit the Office of General Counsel's website at
https://minnstate.edu/system/ogc/index.html

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General Information on IP and AI

What Generative AI is

- Software that gathers data from the internet (a process called "scraping").

- Using the data, its algorithm, called a "large language model" can produce content.

- This content can be anything from summaries of popular books to images synthesized from existing image databases.

What Generative AI is not

- Perfect. It will sometimes "hallucinate," making up information out of thin air.

- Truly "artificial intelligence." It is algorithmic, not sentient.

System Office Guidelines

- Uploaded in the chat.
- Watch the System Office website for updated versions – this is a living document.

What is "IP?"

- Intellectual Property is a set of rights protecting valuable products of the human intellect (Copyrights, Patents, Trademarks, and Trade Secrets).

- Issues involved Generative AI will typically involve copyright rather than other categories of intellectual property protection.

What is a Copyright?

- Property rights in an original work of authorship fixed on a permanent medium.
- Bundle of rights includes reproduction, creating derivative works, first distribution, public performance/display, actions against infringers.
- Examples:
  - Literary works (e.g. poems, novels, articles, some software)
  - Musical works (e.g. recordings, compositions)
  - Dramatic works (e.g. plays, musicals)
  - Pantomimes and choreographies
  - Pictorials, graphics, sculptures
  - Film and video
  - Sound recordings
  - Architectural blueprints

What is Copyrightable?

- An original idea or concept affixed in a permanent format.

- "Original idea or concept" or "work of authorship" does not include generalized information (e.g. recipes), lists of facts, definitions, etc.

- It also does not include items in the "public domain" such as works created before January 1, 1928, most government public data, or software created using "open source" code.

Artificial Intelligence Inputs

Approved Products vs. Other Products

- Just like any software product, Minnesota State enters into contracts to use AI products.

- Examples include Microsoft Co-Pilot and Turnitin.

- If you want to use a certain AI product, go through your campus' standard purchasing process. This is true for "free" products as well, especially if they integrate with D2L.

Private Data

- Generally, we must avoid inputting private data into an AI service, <u>unless the campus has a contract with the service</u>.

- Such contracts should have terms and conditions <u>that govern how the service provider manages our private data</u>.

Public Data

- Public data can be inputted into AI services.

- However, even though certain documents are public, there might still be copyright implications.

- If you are unsure about whether what you are inputting is protected by copyright, check before you input.

Student Copyrightable Works

- Students own the rights to student-created works in the Minnesota State system.

- If student works are inputted into an AI service the campus must:

  - Have contract with the service provider detailing how it will manage private student data;

  - Input only what is needed to legitimate business purposes.

Faculty Copyrightable Works

- Faculty own the rights to copyrightable works in the Minnesota State system.

- Even so, <u>caution is warranted</u> when inputting even your own copyrightable works into an AI service.

Third Party Copyrightable Works

- Do not input third party (<u>not affiliated with Minnesota State</u>) copyrightable works into an AI services unless:
    - You have permission from the author or;
    - The work is in the public domain.

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Artificial Intelligence Outputs

Copyright Office Guidance on AI

- The United States Copyright Office has issued guidance stating that works without a human author are not eligible for copyright protection.

- However, they have also commissioned a study on AI, from which they may have additional guidance.

- Part One of the Study, Entitled "Digital Replicas" is now available.

Copyrightable Outputs Examples

- Taking only a piece of an AI generated image and incorporating it into an original image.

- Filling in an AI generated template or outline.

- Using AI generated writing prompts to create something original.

Non-Copyrightable Outputs Examples

- An AI generated work of fiction

- An AI generated image

- An AI generated voiceover

The Future of AI

NYT vs. Open AI

- In December, the New York Times sued OpenAI and Microsoft in federal court.

- NYT claims that the companies used its copyrighted works to "train" ChatGPT without its permission.

- This case is just getting started and litigation takes a long time.

AI and "Garbage"

- Low quality, AI-generated works.

- Social media networks are filled with this content, but it has spread to academic journals as well.

- I advise everyone to be wary of AI generated garbage content.

AI, Spam, and Scams

- Scammers and other bad actors have used AI to create more effective phishing emails and spam content.

- Sometimes scammers will "fake" images or voices of famous persons.

In Summary

- AI can be a useful tool when used thoughtfully.

- However, it also has drawbacks.

- Copyright rules do not change due to this new technology.

Please Take Our Survey

A link to our survey is provided in the chat. We appreciate your feedback and are always looking for ideas for future webinars and ways to improve.

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Questions & Answers

- Please Chat in your questions to the host or the panelists.

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