



Recent Activities of the U.S. Copyright Office on Copyright and Artificial Intelligence

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International Affairs at the U.S. Copyright Office

Generative AI and Copyright

Silicon Flatirons Center for Law, Technology and Entrepreneurship

Boulder, Colorado on October 6, 2023

STATUTORY DUTIES: ADMINISTERING THE COPYRIGHT ACT



17 U.S.C. § 701(a): All administrative functions and duties under this title, except as otherwise specified, are the **responsibility** of the Register of Copyrights as director of the Copyright Office of the Library of Congress. ...

- Register claims
- Record transfers, terminations, and other documents pertaining to copyright
- Manage statutory licenses (cable, satellite, certain music)
- Maintain records of deposits, registrations, recordations, and other actions
- Establish regulations
- Set fees





17 U.S.C. § 701(b):

- **Advise** Congress on issues relating to copyright (both domestic and international)
- **Provide** information and assistance to Federal departments and agencies and the Judiciary on issues relating to copyright
- **Conduct** studies and programs
- **Participate** in international intergovernmental organizations and meetings with foreign government officials relating to copyright
- **Perform other functions** Congress may direct or in furtherance of functions and duties set forth



copyright.gov/ai

- Copyright Registration Guidance for Works Containing AI-Generated Materials (*March 2023*)
- Four Public Listening Sessions (*April-May 2023*)
- Two Public Educational Webinars (*June-July 2023*)
- Registration Program and Review Board Decisions (*ongoing*)
- Notice of Inquiry Requesting Public Comments (*issued August 30, 2023*)

A RECENT ENTRANCE TO PARADISE



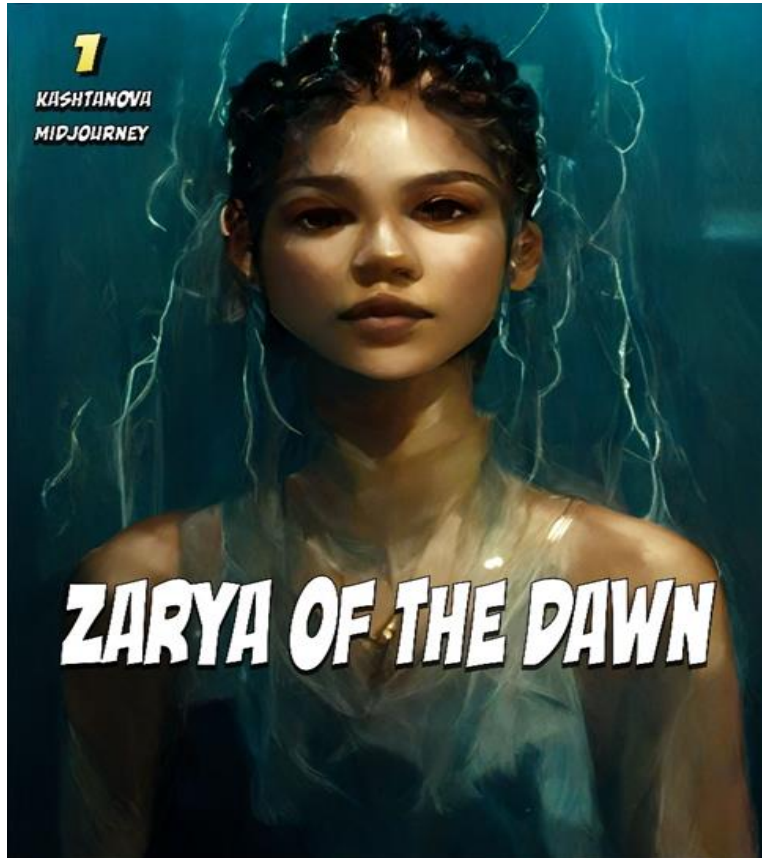
Copyright Office
Review Board Decision
(February 14, 2022) at
<https://copyright.gov/rulings-filings/review-board/docs/a-recent-entrance-to-paradise.pdf>

Mem. Op., Thaler v. Perlmutter,
No. 22–cv– 1564, ECF No. 24
(D.D.C. August 18, 2023) at
<https://copyright.gov/ai/docs/district-court-decision-affirming-refusal-of-registration.pdf>

Copyright claimant: Dr. Stephen Thaler

Author: The “Creativity Machine”

ZARYA OF THE DAWN



Images generated by Midjourney



Examples of images and text in the graphic novel submitted for registration



UNITED STATES COPYRIGHT OFFICE

Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence

PUBLISHED ON THURSDAY, MARCH 16, 2023

16190 FEDERAL REGISTER, VOL. 88, NO. 51

RULES AND REGULATIONS

37 CFR PART 202

ACTION: Statement of policy

SUMMARY: The Copyright Office issues this statement of policy to clarify its practices for examining and registering works that contain material generated by the use of artificial intelligence technology.

DATES: This statement of policy is effective March 16, 2023.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at meft@copyright.gov or telephone at 202-707-8350.

SUPPLEMENTARY INFORMATION

I. Background

The Copyright Office (the "Office") is the Federal agency tasked with administering the copyright registration system, as well as advising Congress, other agencies, and the Federal judiciary on copyright and related matters.¹ Because the Office has overseen copyright registration since its origins in 1870, it has developed substantial experience and expertise regarding "the distinction between copyrightable and noncopyrightable works."² The Office is empowered by the Copyright Act to establish the application used by applicants seeking registration of their copyrighted works.³ While the Act identifies certain minimum requirements, the Register may determine that additional information is necessary for the Office to evaluate the "existence, ownership, or duration of the copyright."⁴ Because the Office receives roughly half a million applications for registration each year, it sees new trends in registration activity that may require modifying or expanding the information required to be disclosed on an application.

One such recent development is the use of sophisticated artificial intelligence ("AI") technologies capable of producing expressive material.⁵ These technologies "train" on vast quantities of preexisting human-authored works and use inferences from that training to generate new content. Some systems operate in response to a user's textual instruction,

Copyright Registration Guidance:
Works Containing Materials Generated
by Artificial Intelligence, 88 FR 16190
(March 16, 2023)


also at

https://copyright.gov/ai/ai_policy_guidance.pdf

DISCLAIMING AI-GENERATED MATERIAL



- Would the AI-generated material standing on its own be sufficient to satisfy the copyrightable if it had been created by a human author?
- If yes, then a brief statement disclosing that material should be included in the application for registration.



The image shows a gold seal with a blue ribbon, which is the seal of the Copyright Office. The seal features an eagle with wings spread, perched on a shield, surrounded by the text "THE UNITED STATES COPYRIGHT OFFICE". The ribbon is blue and is tied in a knot.

the Copyright
and States Code,
for the work
this certificate has
no records.
/

Registration Number
PAu X-XXX-XXX
Effective Date of Registration:
January 1, XXXX

ights and Director

Title of Work: Sample Title

Completion/Publication _____
Year of Completion: XXXX

Author _____
Author: Sample Name
Author Created: music, lyrics, musical arrangement
Citizen of: United States
Domiciled in: United States
Year Born: XXXX

Copyright Claimant _____
Copyright Claimant: Sample Name
XXXX Street, City, State, XXXXX, United States

Rights and Permissions _____
Organization Name: Sample Organization Name
Name: Sample Name
Email: sample email address
Telephone: (XXX) XXX-XXXX
Alt. Telephone: (XXX) XXX-XXXX
Address: XXXX Street
City, State, XXXXXX, United States

Certification _____
Name: Sample Name
Date: January 1, XXXX

Registration

THÉÂTRE D'OPÉRA SPATIAL



Image generated by Midjourney



Image submitted for copyright registration

Copyright Office Review Board Decision (September 5, 2023) at <https://copyright.gov/rulings-filings/review-board/docs/Theatre-Dopera-Spatial.pdf>



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Artificial Intelligence Study

[Comment Submission](#)

The U.S. Copyright Office is conducting a study regarding the copyright issues raised by generative artificial intelligence (AI). This study will collect factual information and policy views relevant to copyright law and policy. The Office will use this information to analyze the current state of the law, identify unresolved issues, and evaluate potential areas for congressional action.

<https://copyright.gov/policy/artificial-intelligence/>

The Office has identified a wide range of copyright policy issues arising from the development and use of AI, including:

- (1) the use of copyrighted works to train AI models;
- (2) the copyrightability of material generated using AI systems;
- (3) potential liability for infringing works generated using AI systems; and
- (4) the treatment of generative AI outputs that imitate the identity or style of human artists.

The Office seeks public comments on these and related issues.

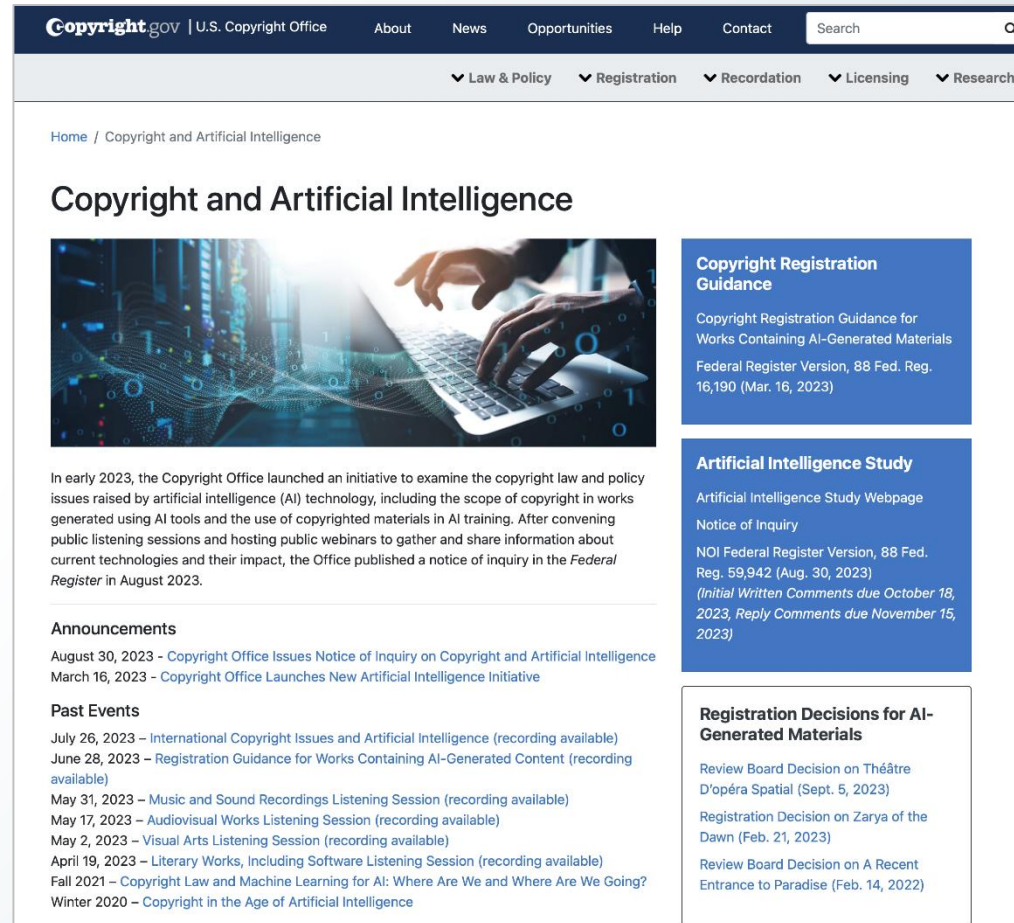
MORE ACTIVITIES ELSEWHERE ...



- Other U.S. Agencies
- Other Nations
- Regional Initiatives
- Multilateral Activities

Photos (L to R): Maria Strong, National Park Service

Visit our AI Initiative
webpage
copyright.gov/ai



The screenshot shows the Copyright.gov website with the following content:

- Header:** Copyright.gov | U.S. Copyright Office. Navigation links: About, News, Opportunities, Help, Contact. Search bar.
- Secondary Navigation:** Law & Policy, Registration, Recordation, Licensing, Research.
- Breadcrumbs:** Home / Copyright and Artificial Intelligence.
- Section Header:** Copyright and Artificial Intelligence.
- Image:** Hands typing on a laptop with digital data overlays.
- Main Text:** In early 2023, the Copyright Office launched an initiative to examine the copyright law and policy issues raised by artificial intelligence (AI) technology, including the scope of copyright in works generated using AI tools and the use of copyrighted materials in AI training. After convening public listening sessions and hosting public webinars to gather and share information about current technologies and their impact, the Office published a notice of inquiry in the *Federal Register* in August 2023.
- Announcements:**
 - August 30, 2023 - Copyright Office Issues Notice of Inquiry on Copyright and Artificial Intelligence
 - March 16, 2023 - Copyright Office Launches New Artificial Intelligence Initiative
- Past Events:**
 - July 26, 2023 - International Copyright Issues and Artificial Intelligence (recording available)
 - June 28, 2023 - Registration Guidance for Works Containing AI-Generated Content (recording available)
 - May 31, 2023 - Music and Sound Recordings Listening Session (recording available)
 - May 17, 2023 - Audiovisual Works Listening Session (recording available)
 - May 2, 2023 - Visual Arts Listening Session (recording available)
 - April 19, 2023 - Literary Works, Including Software Listening Session (recording available)
 - Fall 2021 - Copyright Law and Machine Learning for AI: Where Are We and Where Are We Going?
 - Winter 2020 - Copyright in the Age of Artificial Intelligence
- Right Column (Blue Boxes):**
 - Copyright Registration Guidance:** Copyright Registration Guidance for Works Containing AI-Generated Materials. Federal Register Version, 88 Fed. Reg. 16,190 (Mar. 16, 2023).
 - Artificial Intelligence Study:** Artificial Intelligence Study Webpage. Notice of Inquiry. NOI Federal Register Version, 88 Fed. Reg. 59,942 (Aug. 30, 2023). (Initial Written Comments due October 18, 2023, Reply Comments due November 15, 2023).
 - Registration Decisions for AI-Generated Materials:**
 - Review Board Decision on Théâtre D'opéra Spatial (Sept. 5, 2023)
 - Registration Decision on Zarya of the Dawn (Feb. 21, 2023)
 - Review Board Decision on A Recent Entrance to Paradise (Feb. 14, 2022)

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