

**GEN AI CON.**

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# A 2 Live SCOTUS Crew

**How 2 Live Crew Is Important to Generative AI Legal Issues**

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President, Chief Engineer, Oapsie Inc.

January 24, 2024



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# Summary



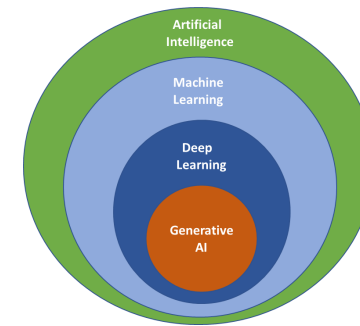
- Summary
- Image Salad
- Introduction
- Author's Biography
- History of Patent Law and Intellectual Property
- The Fair Use Doctrine
- An Introduction To Generative Artificial Intelligence
- The Sample: 2 Live Crew Samples Roy Orbison and does not provide Credit
- Applicability To Generative AI
- Future of Fair Use in Generative AI
- A New Financial Reward System
- References
- Conclusion



# Image Salad



- In the US, the Patent Act of 1952, further strengthened the patent system by introducing "non-obviousness" of procedure or product as a requirement for obtaining a patent.
- Signing of the European Patent Convention in 1978.
- Signing of the Patent Cooperation Treaty in 1978.
- In UK, the Patents Act of 1977 emerged.
- The Trade-Related Aspects of Intellectual Property (TRIPS) was formed in 1994



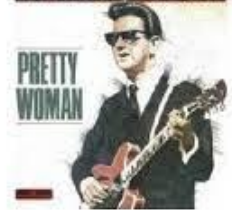
### 9 Problems with Generative AI

Generative AI tools are demonstrating massive potential. But right now, many of them are also demonstrating potential for harm.

- Quality Control & Data Accuracy**: Generative AI tools reproduce content based on the data they were trained on.
- Ethical & Legal Considerations**: Generative AI tools can produce and unrecognizable, they create hallucinations that may require human oversight.
- Complexity & Technical Challenges**: Ex-CEO of OpenAI, Sam Altman, confirmed GPT-4 cost more than \$100 million to train.
- Blas in, Bias out**: Generative AI tools reproduce content based on the data they were trained on.
- Expensive**: Ex-CEO of OpenAI, Sam Altman, confirmed GPT-4 cost more than \$100 million to train.
- Power hungry**: OpenAI's data centers are estimated to cost the equivalent of powering 10,000 US households.
- Malicious parodying**: Generative AI tools can be used to create realistic audio and video of celebrities, which can be used for malicious purposes.
- Alignment with human values**: Generative AI tools can be used to create realistic audio and video of celebrities, which can be used for malicious purposes.
- Copyright & IP infringement**: Several Gen AI models reproduce copyrighted material and rehash content without proper attribution or credit, or compensation.
- Static**: Generative AI models cannot learn from new data, which may require retraining.

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# GEN AI CON.



## OAPSIE Inc.

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### Campbell v. Acuff-Rose Music

Hip Hop Musicians vs. Music Publishers

Written by Kyle K. Courtney & Sarah W. Searle, additional writing & illustrations by Jackie Roche

Roy Orbison, performing "Oh, Pretty Woman" on American Bandstand, 1966.



### AYA

IS AI ART FAIR USE?

FUTURE TECH



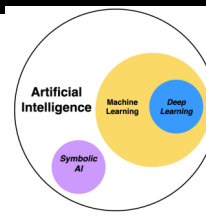
### Former Copyright Office GC Warns Against Blanket Assertions That AI Ingestion of Copyrighted Works 'is Fair Use'

### INTELLECTUAL PROPERTY AND THE DAWN OF GENERATIVE AI

HARVARD LAW SCHOOL RAPPAPORT FORUM

October 30, 2023

Guest Speakers: Justin Hughes, Pamela Samuelson, Ruth Okediji



### Manage Security and Privacy Risks for Generative AI

Determining acceptable use is the first step in managing the risks of generative AI. But by determining which data sets are used for training, you can also determine which data sets are used for inference.

RISK MITIGATION ESSENTIALS: Upholding Responsible AI Principles, AI Security Policy, Generative AI Risk Map, Data Security Improvement Plan.

Public AI System vs. Private AI System.



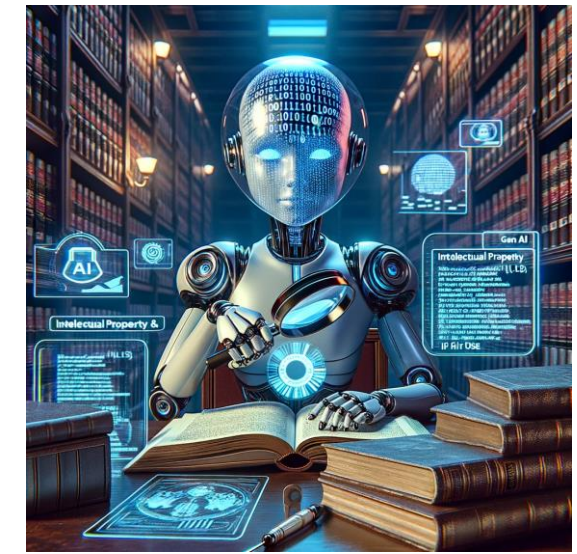
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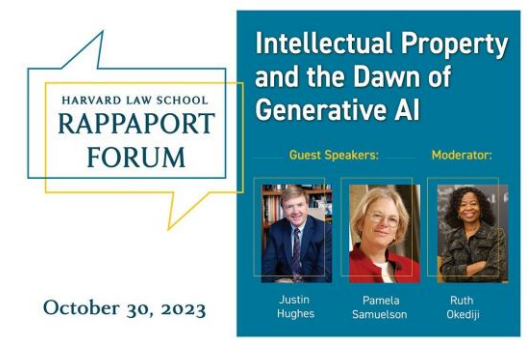
# An Introduction: Gen AI, Intellectual Property & Fair Use

## History

- Artificial Intelligence technology has been around since the 1950s
- Machine Learning came around later, and has taken off in the last 20 years with the coincidence of Moore's Law, and processing power
- The result is Generative AI models, which are computer programs that produce new things, but have been trained on other people's works, generally speaking.
- The training data set for the machine learning behind Generative AI is in question.
- How to properly compensate training data set property holders?



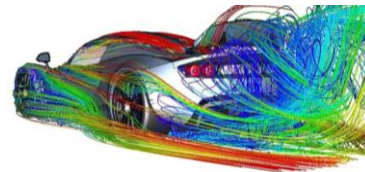
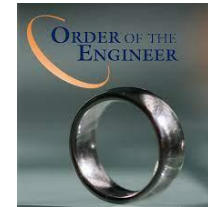
How are artists going to be compensated for new works produced by Generative AI based on a training dataset that contains their work, and others?



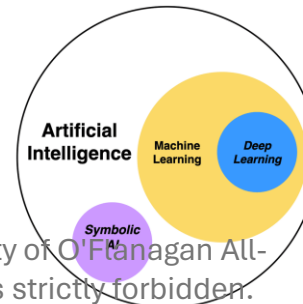


# Jim's Biography

- Computational Mechanics Expert



- FEA, CFD, Rigid Body Animation, Numerical Methods

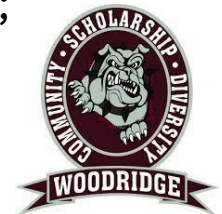


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- Case & John Carroll (football) for BS, Akron U. for MS.

- Degrees in computer, mechanical, and management engineering

- Born in Akron, Ohio; Raised in Boston Heights;



- Graduated from Woodridge High School in 1998, my wife following in 1999

- Wife is Becca; kids Azra & Elijah; dogs Buffy & Bones



- 22 years engineering experience in biotech, oil & gas, tires, automotive, nuclear, national defense, shipping, and rail.





# History of Patent Law & Intellectual Property



## Slide 4: History of Patent Law and Intellectual Property

Evolution from early patent law to modern copyright law

Establishing the context for current intellectual property challenges

**In the US, the Patent Act of 1952, further strengthened the patent system by introducing "non-obviousness" of procedure or product as a requirement for obtaining a patent.**

**Signing of the European Patent Convention in 1978.**

**Signing of the Patent Cooperation Treaty in 1978.**

**In UK, the Patents Act of 1977 emerged.**

**The Trade-Related Aspects of Intellectual Property (TRIPS) was formed in 1994**

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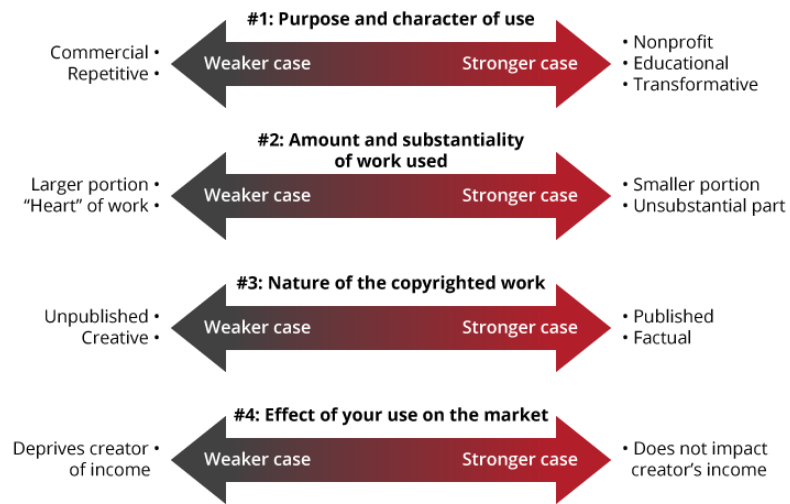
# Fair Use Doctrine

## Slide 5: Fair Use Doctrine

Definition and criteria of the fair use doctrine

Its role in balancing copyright and innovation

Fair Use is the list of acceptable re-uses of an art piece or intellectual property



### Fair Use Myths & Facts

Many myths persist about fair use, an essential right that allows the use of copyrighted material without permission from the copyright holder under certain circumstances. We debunk some of the most common fair use myths here.

**Myth:** Fair use is a defense, or minor exception, not a right.  
**Fact:** Fair use is a right that accommodates the First Amendment.

**Myth:** Where a specific limitation or exception exists under copyright law, fair use does not apply.  
**Fact:** Fair use is a right that exists in addition to specific exceptions.

**Myth:** Copyright's primary purpose is rewarding authors and not promoting the public benefit.  
**Fact:** The US Constitution clearly states that the purpose of the intellectual property system is to "promote the progress of science and the useful arts."

**Myth:** There is no guidance on fair use.  
**Fact:** The statute, numerous court decisions, and best practices provide ample guidance.

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Is your intended use a Fair Use? <b>no</b>	Is there a © exemption or exception for your use? <b>yes</b>	
Seek permission.	Is there a Library subscription for your use? <b>yes</b>	
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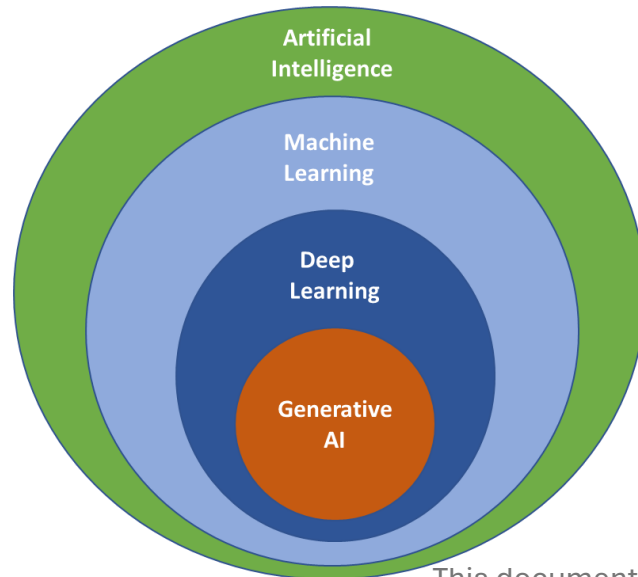


# An Introduction To Generative Artificial Intelligence (Gen/AI)

## Slide 7: Generative AI – An Introduction

Definition and capabilities of generative AI

The transformative potential of AI in creative processes



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**9 Problems with Generative AI**

Generative AI tools are demonstrating massive potential. But right now, many of them are also demonstrating potential for harm.

Themes: Quality Control & Data Accuracy, Ethical & Legal Considerations, Complexity & Technical Challenges

- 1. Bias in, bias out**  
Generative AI tools reproduce content as biased as the data they were trained on.
- 2. Black box**  
Generative AI decisions are opaque and unexplainable. They hinder accountability, trust and potentially lead to unjust outcomes.
- 3. Expensive**  
Ex-CEO of OpenAI, Sam Altman, confirmed GPT-4 cost more than \$100 million to train.
- 4. Mindless parrot**  
Generative AI's output is tightly bound to the caliber and volume of its training data. Its output can only be as good as its training input.
- 5. Alignment with human values**  
Generative AI lacks the capacity to model the consequences or ethical implications of its decisions.
- 6. Power hungry**  
ChatGPT's daily queries are estimated to cost the equivalent of powering 33,000 US households.
- 7. Hallucinations**  
Generative AI has the tendency to confidently spew inaccurate information or simply make up facts.
- 8. Copyright & IP infringement**  
Several Gen AI models appropriated copyrighted material and intellectual property with no consent, credit, or compensation.
- 9. Static**  
Generative AI models cannot update their knowledge in real-time or generate new ideas which may lead to misinformation.

Sources: 1. Bloomberg, 2. cpa360, 3. Wired, 4. Lingpin, 5. Roostai, 6. University of Washington, 7. Forbes, 8. PR Newswire, 9. PC Mag  
Themes sourced from Profutur

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# The Sample: 2 Live Crew Samples Roy Orbison and does not provide Credit

## Slide 6: The 2 Live Crew Case

Background of the case

Legal arguments and the Supreme Court's decision

Impact on the interpretation of fair use



Roy Orbison

2 Live Crew

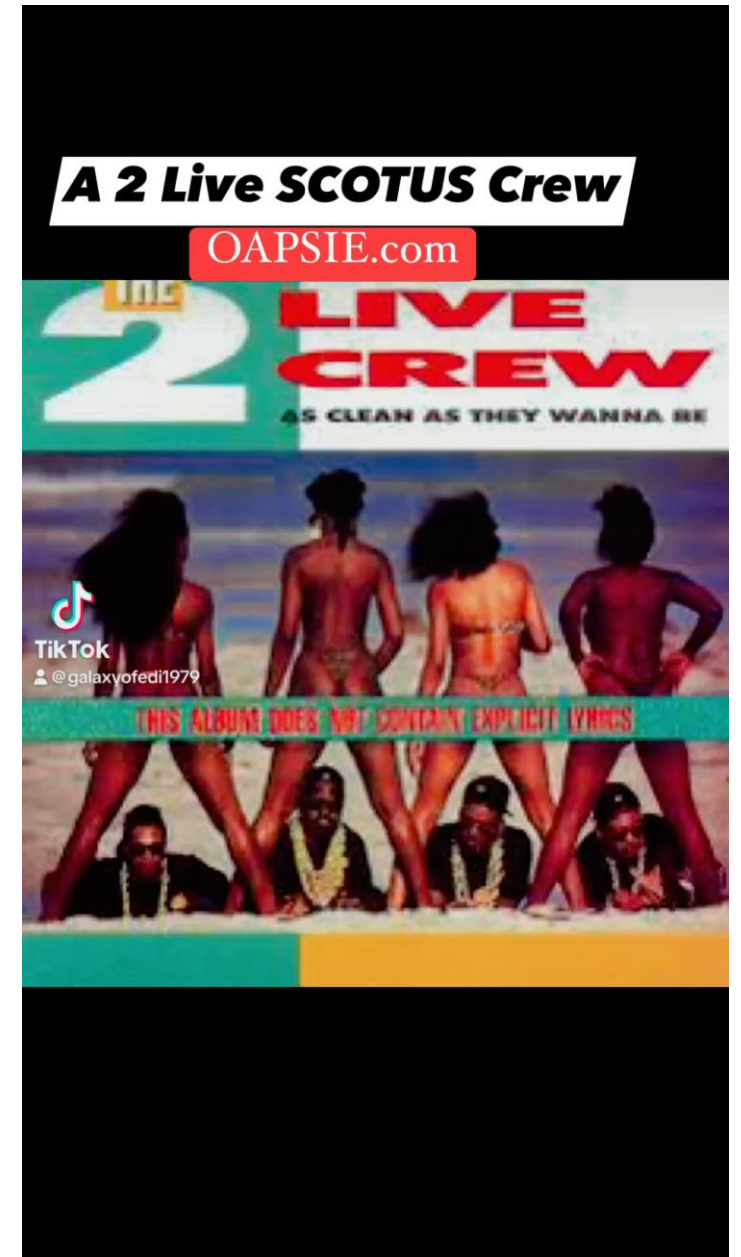
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# Song & Sample in Question

- Video Sample,
- Plus a music sample from the track(s) in question from Roy Orbison, and 2 Live Crew





# The SCOTUS Case - Applicability To Generative AI

## Slide 8: Applicability to Generative AI

Parallels between the 2 Live Crew case and generative AI

How fair use doctrine might apply to AI-generated content

### Campbell v. Acuff-Rose Music, Inc. (1994)



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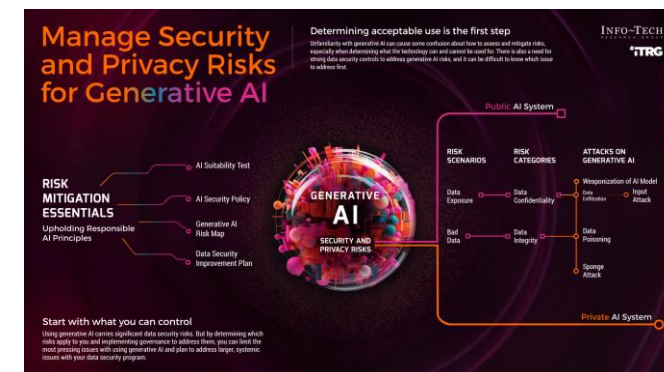
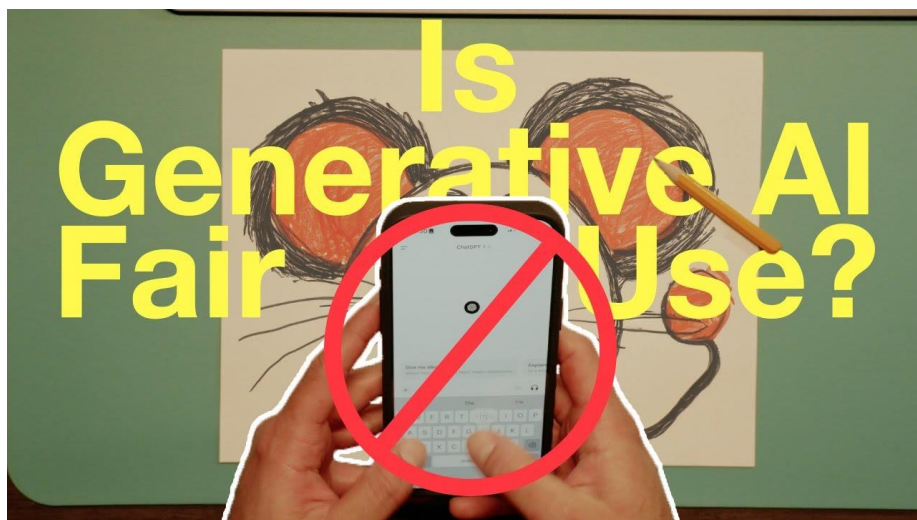


# Future of Fair Use in Generative AI

## Slide 9: Future of Fair Use in AI

Challenges and opportunities in the era of advanced AI

The Supreme Court of the United States will have to weigh in on this

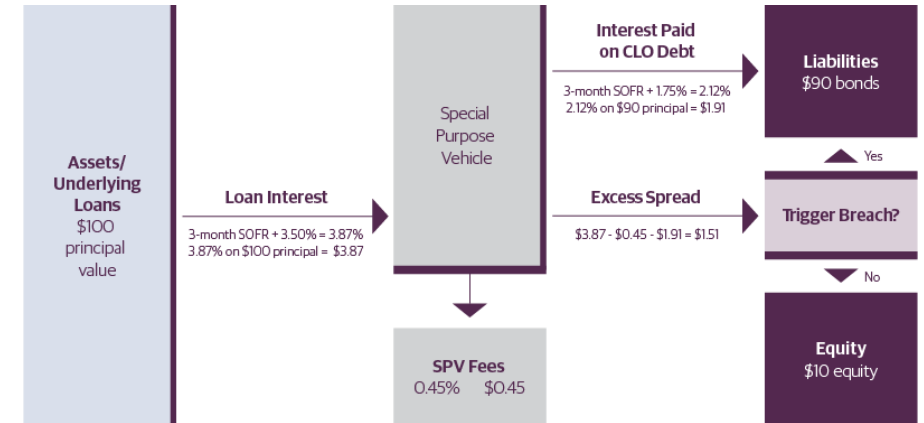
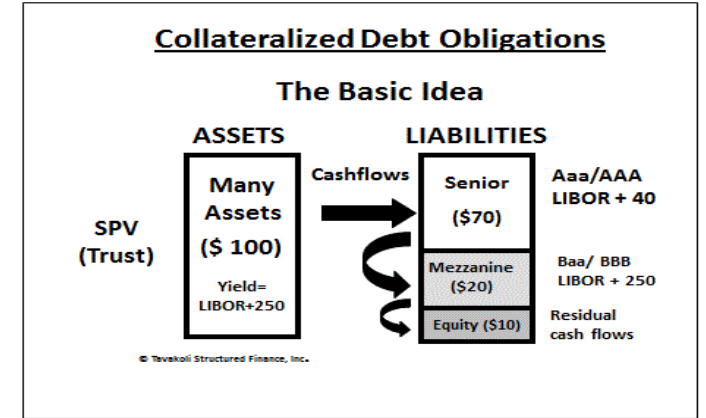






# A New Financial Reward System

- Collateralized Debt Obligations (CDO's) or Asset Backed Securities are great tools to use as an example.
- The Asset in this case is the derivative slice of IP that a person owns in each training dataset.
- This derivative slice may change over time to account for new data that the model is trained one;
- This includes user session data, and user uploaded data, if they are used to further train the model.
- The tracking of the derivatives can be implemented thru NFT's or some other third-party tokenization, to ensure proper accounting.





# References

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