

AI Copyright Ethics Explored: A Rhetorical Analysis

In computer science, AIs like Midjourney, Dall-e, and Stable Diffusion can surpass individual human artists when creating digital art. The ethical implication of AI art has become a hot topic because it raises questions about how existing intellectual property laws should be applied when human and machine authorship is blurred. In both news and general discourse, the ethical problems of AI art are portrayed in many conflicting ways. This analysis will investigate how the ethical issues of AI art are portrayed by analyzing the rhetorical appeals within two recently published artifacts. One piece of media discussing this problem is a *Wired* article posted online called “Why This Award-Winning Piece of AI Art Can’t Be Copyrighted” by Kate Knibbs. Using an AI picture created by Matthew Allen, the article explains the requirements of human authorship for US copyright (Knibbs). While it appears informative, the author attempts to persuade the readers to believe AI art should be copyrightable solely to the artist and omit AI as a factor that goes against current criteria. The second piece is the video “AI Art Copyright Law EXPLAINED (Midjourney + SD),” wherein the creator of this video also believes that the authorship put into AI art is valuable; however, he suggests to the audience that artists should meet the current specifications for their art to be copyrightable (Vowles). The two distinct perspectives on AI art ethics underscore the dynamic discourse of the ethical implications associated with creating AI-generated artworks. In the *Wired* article, Kate Knibbs employs pathos to convince readers that AI-generated art should be copyrightable, while Samson Vowles uses ethos and logos in his video to educate viewers on how to work within current copyright laws while advocating for updated criteria that take new technologies into account.

Specifically, the *Wired* article, “Why This Award-Winning Piece of AI Art Can’t Be Copyrighted,” written by Knibbs on September 6, 2023, focuses on a piece of digital art created by Matthew Allen called *Théâtre D’opéra Spatial*. The article begins by showing the AI-created

art that won an award at a state fair. It is an impressive and visually appealing piece of art. The footnote indicates that Knibbs is posting the image in the article because lawmakers decided it could not be copyrighted. Therefore, it is considered public domain art available for anyone to use without restrictions. It reports on how the art was denied copyright on the basis of being AI-generated, using Matthew's own words along with examples of the work done by Matthew.

The video titled "AI Art Copyright Law EXPLAINED (Midjourney + SD)" by Samson Vowles takes a more informative approach. It explains the new developments in AI copyright law through recent cases such as the AI-generated comic book, "Zarya of the Dawn," where the court dictated that the art itself cannot be copyrighted, but the composition of the pieces of art within the story could be copyrighted as a whole, as they had human authorship. Therefore, the work was copyrighted as a completed comic book with AI-generated art, but the pictures individually were not protected. While the article is written for the average reader, not specifically artists, the video caters to an audience already involved in the professional industry of digital art who are using AI as a tool for creative expression.

Whether AI art should be copyrightable is already a complicated topic, and with the recent extreme advancements in AI, a new level of complexity has been added. As Vowles says in his video, "For me, there is a huge spectrum, from one end, a completely generated computer piece, and the other, something that was perhaps molded out of clay by a human's bare hands, and we're going to have to put a very arbitrary line somewhere on this spectrum defining at what point it becomes computer generated, and at what point it becomes human-generated" (Vowles 5:20). Determining where to draw that line will be ever-changing as technologies continue to advance. This newly evolving technology makes it difficult for laws to be effective and realistically contemporary while clinging to traditional copyright principles. The deciding factor

continues to be based on the question of how much of the final product is the work of the human compared to the amount of work from the machine.

Additionally, there is an ethical factor that must be considered. Both artifacts speak of recent controversies within the AI art community. Many questions remain unanswered, such as, can AI create an original piece of art in the same way a human can? If the answer is no, then should AI be treated as a tool like Photoshop? If the answer is yes, they can create original work, should the AI be recognized as a collaborator in a copyrightable piece of art? As a collaborator, would that include the AI's creator as well? No one fully understands the moral implications of this dilemma, as AI is only beginning to show its potential and will undoubtedly advance exponentially in the future.

With this uncertainty in mind, the *Wired* article relies on pathos as it tries to humanize the artist and make the audience empathize with how much work he put into the art piece, which he is not allowed to own. The author further attempts to elicit concern from the reader by discussing the obstacles and unfairness of going through a time-consuming process of using imagination and intelligence to create all the correct inputs and multiple trials to get the desired outcome. As AI technology becomes more and more user-friendly, many more people will be drawn to its accessibility. The article highlights the impact of AI copyright issues and focuses on how it can negatively impact artistic freedom as well as an artist's financial livelihood. The author further attempts to motivate action against lawmakers who are denying copyright approvals. Conversely, the YouTube video implements ethos as the speaker relies on many different sources for his explanations. He also uses logos as he explains what implications the court's decisions may have on current and future artists who utilize AI.

Moreover, the *Wired* article is written somewhat formally and uses language that paints the artist as a victim of the court's decision by saying things such as, "Allen was dogged in his

attempt to register his work” (Knibbs). The use of the word dogged creates an impression that the artist faced an onslaught of challenges and obstacles that he had to overcome to protect his intellectual creation. The video, on the other hand, is presented factually. It attempts to help people avoid complicated copyright issues. Vowles takes an informative approach by laying out the current laws and how the courts interpret them. He then goes further in-depth by explaining how artists can use the court rulings and current laws to hopefully benefit them in their attempt to copyright their own AI art.

Furthermore, both artifacts are very straightforward with their information. There is little nuance, and both articles’ messages are explicit. Knibbs’ article developed her argument by creating an emotional buildup that leaves the reader feeling that artistic rights are being stripped from artists. The video, however, starts and ends as an informational approach and an “it is what it is” mentality with advice on overcoming the hurdles of AI copyright laws. The video artifact is very engaging to its audience because it comes across as unbiased while also trying to help artists navigate the specific challenges of AI copyright.

Whereas the written article merely displays the image of the artwork, the video contains visuals that help convey the message throughout. The video goes even further by showing images of the references that Vowles quotes. It shows an example of an AI art piece being customized by the artist’s inputs, as well as a piece of AI art being edited in Photoshop (Vowles). The video is decidedly more effective than the written article because it uses nonbiased, credible, and factual sources while maintaining an informal tone. The effect of watching the video created a more immersive experience that allowed the audience to contemplate and accept what was being stated. While shorter and more easily consumed, the emotional component of the written article would be a red flag for any intelligent reader aware of the media’s tactics to elicit an

emotional response. The article also did not give much attention to the other side of the argument.

Overall, each artifact successfully achieves the goal of audience engagement. Both artifacts clearly expressed that current technologies have advanced beyond fitting into the current standard of laws regarding intellectual property. There is a substantial spectrum regarding the contribution of artists versus machines when considering copyright ownership. While addressing the ethical and moral issues raised by AI advancements, legislators will be tasked with modifying the current copyright regulations to take into account the unique qualities of AI creativity. Finding a balanced and fair solution will require careful consideration of the artist's interest as well as the people's right to public domain. The broader implication will be whether active laws can foresee upcoming issues or forever stay a step behind trying to catch up with ever-evolving technologies. Analyzing these artifacts gave insight into how different rhetorical strategies are successfully used to shape public opinion regarding the ethical aspects of AI-generated art copyright laws.

Work Cited:

- Knibbs, Kate. "Why This Award-Winning Piece of Ai Art Can't Be Copyrighted." *Wired*, Conde Nast, 6 Sept. 2023, www.wired.com/story/ai-art-copyright-matthew-allen/.
- Vowles, Samson. "AI Art Copyright Law Explained (Midjourney + SD)." *YouTube*, YouTube, 7 June 2023, www.youtube.com/watch?v=uyZXxLO7rSI.