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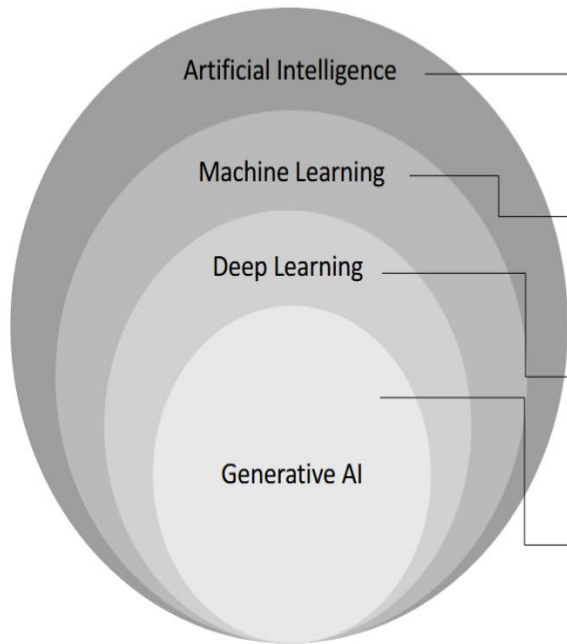


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Attorneys & Counselors

- AI is good
- Consume AI
- Invest in AI*

*Legal Disclaimer: It's all academic until you get sued. AI hallucinates and is biased. You cannot own GenAI output. You get no indemnification from AI vendors. Your insurance probably has an AI exclusion. You cannot get patents on inventions made by an AI. You cannot register a copyright in AI-generated content and thus cannot stop someone from stealing and using it for free. You cannot make warranties of title or accuracy as to AI outputs. Anything you enter into a prompt loses trade secret status and likely violates an NDA. When you scrape web content to train an LLM you are committing copyright infringement. Your GenAI output probably violates somebody's trademark, copyright or right of publicity. There's more if you want to call me.

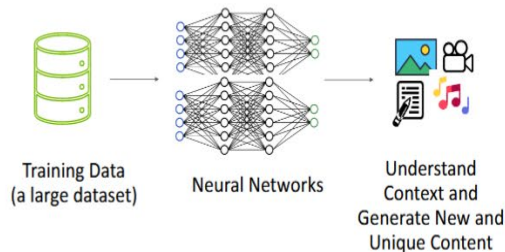
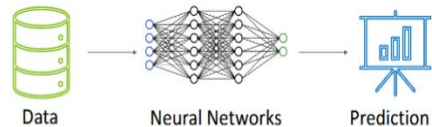
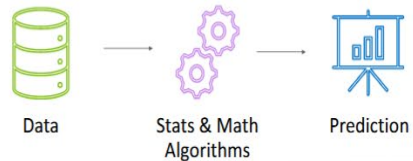
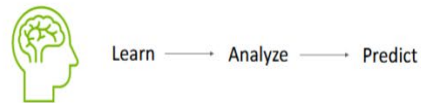


Solves a task by making computers to mimic human behavior

Trains a machine to solve a specific AI problem

Uses neural networks to solve an AI problem

Learns patterns and trends from the training data using neural networks, understand the context to create new content that mimics human generated content





20 AI Tools for Students 🎓

- perplexity.ai → Research Assistant
 - hissab.io → Calculate Anything
 - otter.ai → Automate Notes
 - stepwisemath.ai → Math Tutor
 - scholarcy.com → Article Summariz
 - cactus.ai → Study Tool
 - bookai.chat → Chat with Books
 - chatdoc.com → Chat with Documents
 - textero.ai → Essay Generator 77.0K
 - jenni.ai → Write Papers
 - tome.app → Generate Presentation
 - plaito.ai → Personal Tutor 236
 - heyscience.ai → Research Assistant
 - wisdolia.com → Flashcard Generator
 - duolingo.com → Learn a Language 72.7K
 - knowji.com → Learn Vocabulary
 - quillbot.com → Grammar Checker 15.0K
 - consensus.app → Extract Answers
 - knewton.com → Adaptive Learning
 - grammarly.com → Plagiarism Check
- 20 AI Tools All Students Should Know: perplexity... more
- aitoolz.ai

Copyright Law Context

- “Copyright” is a noun, not a verb.
- 17 USC Section 106
- Scraping

First: the Potential

- Increased productivity
- Magnification of human senses and abilities, e.g., medical diagnosis
- Freedom for humans to explore, invent, create, grow while the computers do the work
- Perception of increased revenues

Second: The Pitfalls

- It's hard to legally own and “sell” GenAI output.
- We do not know where and how the LLM was trained.
- It's hard to lawfully train an LLM.
- Much legal uncertainty.

The Perils: It's hard to “sell” GenAI output

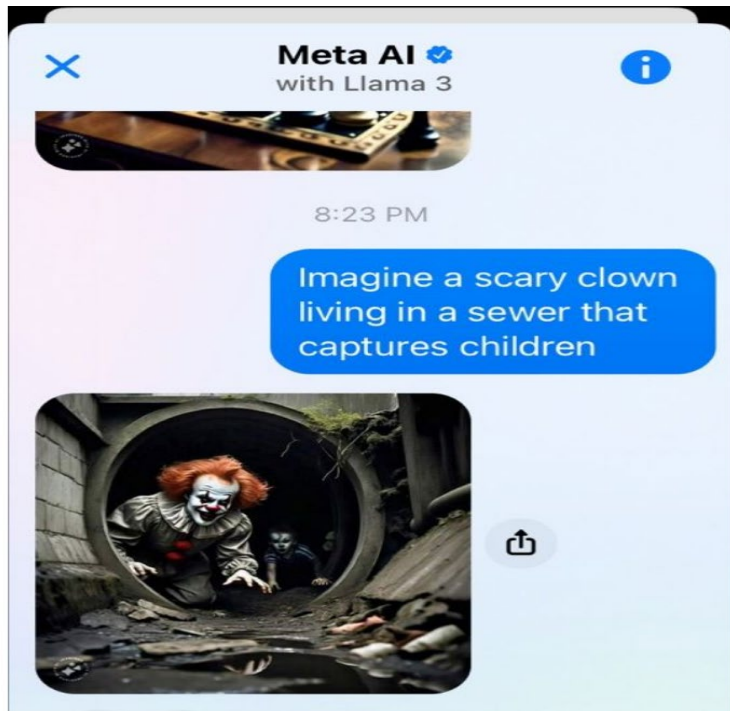
You cannot lawfully own or monetize the output of an AI. The output is not your work of authorship under copyright law. See Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 88 Fed. Reg. 16190 (March 16, 2023); *Thaler v. Perlmutter*, 1:22-cv-01564 BAH (D.D.C. August 18, 2023). See, e.g., Watson Code Assistant.

The Perils (cont'd):

- You cannot patent inventions thought of by an AI unless my prompt somehow rises to the strict level of inventorship. See *Thaler v. Vidal*, No. 21-2347 (Fed. Cir. 2022); cert denied, April 24, 2023.
- You cannot register copyrights in content authored by an AI because I am not the author, and the AI cannot register its own copyrights because it lacks personhood. See *Thaler v. Perlmutter, supra*; *Fourth Estate Public Benefit Corp. v. Wall-Street.com*, 586 U.S. ___ (2019).

The Perils (cont'd)

1. The output may infringe someone else's copyrights or trademarks or patents and you will get sued and have no indemnification (OpenAI and Microsoft and Anthropic do not indemnify you). *Silverman, Baldacci, NYT, Carlin, et al.*



IndieWire

Read Next: Armie Hammer Calls Cannibal Claims 'Hilarious' and 'Bizarre,' Reveal...

'It' Review: Stephen King's Killer Clown Faithfully Comes to Life, But Don't Expect Any Surprises

King's novel comes to sprawling life with plenty of scary moments to spare. The story, however, is anything but fresh.

BY ERIC KOHN

SEPTEMBER 6, 2017 2:00 AM

The Perils (cont'd)

1. You cannot warrant the accuracy (defamation?) or noninfringement of the output of an AI.
2. If I sell my company or seek an investment round, I cannot assert or warrant during due diligence or in the final contracts that I own any IP created by an AI.
3. You similarly cannot make any warranties of title if you license the output to a third-party. You are thus immediately in breach of contract if you are or become a party to such agreements. E.g., Amazon and KDP self-pub “AI Books.”

The Perils (cont'd)

1. **FTC disclaimers and other disclosures coming? False advertising?**
2. **Prompt violates patent one-year on-sale bar? Foreign implications (no grace period)?**
3. **Are your contractors using ChatGPT? Of course they are.**
4. **Prompt violates an NDA?**
5. **Prompt violates privacy laws (PII, PHI, HIPAA, BAA)?**
6. **Insurance exclusions for AI?**
7. **Breach of loan docs and undersecured creditors?**
8. **Fraud?**

The Perils (cont'd)

1. The act of training the LLM is unlicensed copying of pre-existing third-party content. Section 106; *Silverman* and *NYT, et al.*
2. **Bias** introduced by coders of neural nets and “feeders” of data sets.
3. Hallucinations (add glue to pizza sauce meme)
4. Unlicensed use of third-party content can also result in **right of publicity, misappropriation of trade secret, trademark infringement and other lawsuits** (like ScarJo's case)



(Some) AI Litigation to Watch

- 1. Doe 1 et al. v. Github, et al (Nov. 13, 2022)**
- 2. Andersen v. Stability AI Ltd. (Jan. 13, 2023)**
- 3. Getty Images (US) Inc. v. Stability AI, Inc. (Feb. 3, 2023)**
- 4. In re OpenAI ChatGPT Litigation (June 28, 2023)**
- 5. Kadrey and Silverman et al. v. Meta Platforms, Inc. (July 7, 2023)**
- 6. J.L. v. Alphabet, Inc. (July 11, 2023)**
- 7. Thaler v. Perlmutter (Aug. 18, 2023)**
- 8. Authors Consolidated OpenAI Litigation (S.D.N.Y)**
- 9. Huckabee et al v. Meta Platforms, Inc. et al (Oct. 17, 2023)**
- 10. Concord Music Group, Inc. et al v. Anthropic PBC (Oct. 18, 2023)**
- 11. New York Times Co. v. Microsoft Corp. et al (Dec. 27, 2023)**
- 12. The Intercept Media, Inc. v. OpenAI, Inc. et al (Feb. 28, 2024)**
- 13. Raw Story Media, Inc. et al v. OpenAI Inc. et al (Feb. 28, 2024)**
- 14. Nazemian et al v. NVIDIA Corp. (Mar. 8, 2024)**
- 15. Zhang et al v. Google LLC et al (Apr. 26, 2024)**
- 16. Daily News LP et al v. Microsoft Corp. et al (Apr. 30, 2024)**
- 17. Dubus et al v. NVIDIA Corp. (May 2, 2024)**
- 18. Makkai et al v. Databricks, Inc. et al (May 2, 2024)**

Idaho Legislation

- HB 575 (Now IC 18-6606) prohibits the disclosure of explicit synthetic media. This one is more aimed towards protecting adults.
<https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2024/legislation/H0575.pdf>. Effective July 1.
- HB 664 (IC 67-6628A) creates limitations on deep fake type material as it relates political candidates around election time.
<https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2024/legislation/H0664.pdf>. Effective March 25.
- HB 465 (IC 18-1507) adds AI generate explicit images of children to the definition of “Sexually Exploitative material,” which allows for prosecution of possession alone of such images alone. <https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2024/legislation/H0465.pdf>. Effective July 1.

Best Practices for Using AI

1. Use robots.txt and anti-scraping clause in your website TOS and register copyrights promptly.
2. Take licenses to content used to train LLM and/or use fair content
3. AI Usage and Bias Policy for Employees and Contractors
4. Fix NDAs, IP Assignments and Independent Contractor Agreements
5. Review outbound licenses for warranties of title
6. Review insurance policies and exclusions for AI
7. Be extra careful in due diligence, as buyer/seller/investor
8. Review inbound contracts for indemnification (Copilot; Anthropic; Bard)
9. Make sure all websites are DMCA compliant
10. Follow legislation and cases





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