

Directors Guild of America, Inc.



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June 4, 2024
Via e-mail

Suzanne Wilson
General Counsel and Associate Register of Copyrights
United States Copyright Office
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Washington, D.C. 20559-6003
svwilson@copyright.gov

Re: Summary of Ex Parte Meetings Regarding Docket No. 2023-6,
Artificial Intelligence and Copyright

Dear Ms. Wilson:

We write to summarize the May 22 and May 29, 2024 ex parte Zoom meetings between the Directors Guild of America (DGA) and the United States Copyright Office (USCO) regarding the above-referenced matter.

On May 22, the DGA attendees were National Executive Director Russell Hollander, General Counsel David Dreyfus, and lobbyist Alec French of Thorsen French. The USCO attendees were Suzanne Wilson, Andrew Foglia, Gabi Rojas-Luna, Danielle Johnson, Caitlin Costello, Brandy Karl, and Heather Walters.

The DGA's presentation was focused on issues related to digital replicas that were not addressed in the Guild's filings with the USCO. Two bills on that issue were released after the DGA filed its comments" the NO FAKES Act and the No AI FRAUD Act. Those bills are directed, in part, at protecting a performer's voice, image, and likeness. The DGA noted those bills do not protect against harm to a Director's reputation when his/her creative work is altered without their involvement and when their name is falsely attributed to, or deleted from, a creative work.

The DGA stressed that Directors are, and have been for decades, concerned about third parties manipulating their creative works to alter the meaning and intent of the work in such a way that it harms their reputation. This

concern is only heightened with the advent of generative artificial intelligence large language models.

The DGA has long fought vigorously against the mutilation of its members' creative works, including the battle against colorization and editing of motion pictures for ancillary exhibition. Such unauthorized changes damage the reputation that the Director has worked in some cases for many years to cultivate. The harm to a Director's standing in the industry as a result is as damaging as the degradation of a performer's rights to protect their voice, image, and likeness. Any legislative recommendations aimed at protecting the reputations of the creative community should be broad enough to provide Directors with rights of integrity and attribution.

The DGA noted the current patchwork of federal and state laws, including Section 1125(a) of the Lanham Act and state right of publicity laws, are insufficient to protect Directors' rights of attribution and integrity in their creative works. A broader federal law than what is currently proposed is needed to provide Directors with reputational rights on par with those protecting the voice, image, and likeness of a performer.

The speed with which generative artificial intelligence models and technology is advancing heightens the need to bolster the protection of a Director's rights of attribution and integrity, especially in light of the ease with which GAI models can manipulate and disseminate creative works.

On May 29, the DGA attendees were National Executive Director Russell Hollander, General Counsel David Dreyfus, and lobbyist Alec French of Thorsen French. The USCO attendees were Suzanne Wilson, Emily Chapuis, Andrew Foglia, Jalyce Magnum, Jenee Iyer, Ben Brady, Jason Solar, Chris Weston, Emily Lanza, Nicholas Bartelt, Caitlin Costello, Michael Druckman, Isaac Klipstein, Brandy Karl, and Heather Walters.

The DGA focused its remarks on two issues: 1) the fair use exception, and 2) whether outputs generated by generative artificial intelligence (GAI) models are protected by the copyright laws.

The DGA explained that Directors have long embraced technology and utilized cutting-edge tools in motion picture production. GAI models are a tool to be used in production when appropriate safeguards are in place to protect intellectual property and other rights. There are and will continue

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Suzanne Wilson

June 4, 2024

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to be circumstances where a GAI model is used as a tool to produce an element or portion of a motion picture. In those instances, the entire creative work should still be protected by the copyright laws. At the same time, the DGA's position is that content primarily or principally generated by a machine (i.e., a GAI model) is not entitled to copyright protection.

The fair use exception should foster creativity and be applied in a manner that benefits the greater good. The DGA urged the USCO to take a strong stance that the fair use exception should not be applied to the ingestion of copyrighted material by GAI models nor the outputs of those models. If the fair use exception is used by tech companies to continue to train their large language models with all "publicly available" content (whether that content was made available legally or not), this will turn into a classic case where the exception swallows the rule. This would also stifle the creativity enjoyed by Directors if their creative works can be used to train the GAI models without fair compensation to the Director and copyright holder. This is especially true if the outputs from those models start to compete with the motion pictures directed by DGA members.

The DGA thanks the USCO for its attention to these important issues and looks forward to continuing to work with you on these matters.

Very truly yours,



David B. Dreyfus
General Counsel