

# Copyright in the age of AI : stepping into the future



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# Copyright and AI



## Two levels:

- Works used by generative AI : input
- Works produced by generative AI : output



Generated with/by Mistral AI

# Main conditions for works protection

- **A human creation** (a work of the mind)
- **Originality** : must reflect the author's personality, the author's personal touch, skill and judgment
- The work must be fixed in a **tangible** medium of expression

Generated with ChatGPT



# Main conditions for works protection



Generated with Mistral AI

- **AI as author?**
- **Claiming copyright on a work generated by AI : a question of gradation**
- **To what extent has AI intervened in the creative process?**







**Jason Allen : « Théâtre d'opéra spatial »  
(with Midjourney)**



**« A Recent Entrance to Paradise » (Generated by AI Darbus)**

# Zarya of the Dawn : a comic book created by AI (Midjourney) or by Kristina Kashtanova ?

- <https://aicomicrobooks.com/wp-content/uploads/2022/09/kashtanova-full-book-v1-small.pdf>





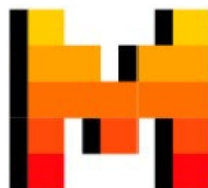
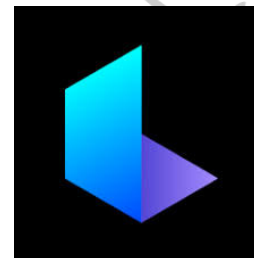
# November 2023 : Beijing Internet Court



« Spring breeze brings tenderness »  
Generated by Stable Diffusion



**Paul Rousteau, Roland-Garros poster 2024 (with assistance from Midjourney)**



## Terms of Service : Midjourney

- [EXTRACT] 4 (Content Rights) Rights You give to Midjourney:
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  - You own all Assets You create with the Services to the fullest extent possible under applicable law. There are some exceptions: (...)”





## Terms of use : OpenAI

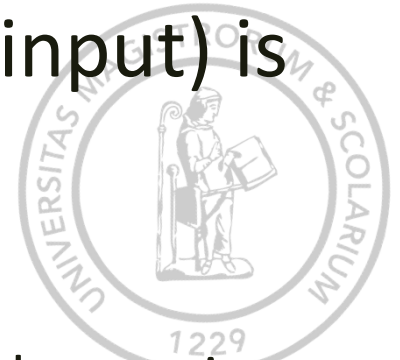


(...) **Your content.** You may provide input to the Services (“**Input**”), and receive output from the Services based on the Input (“**Output**”). Input and Output are collectively “**Content**”. You are responsible for Content, including ensuring that it does not violate any applicable law or these Terms. You represent and warrant that you have all rights, licenses, and permissions needed to provide Input to our Services.

**Ownership of content.** As between you and OpenAI, and to the extent permitted by applicable law, you (a) retain your ownership rights in Input and (b) own the Output. We hereby assign to you all our right, title, and interest, if any, in and to Output.

**Similarity of content.** Due to the nature of our Services and artificial intelligence generally, Output may not be unique and other users may receive similar output from our Services. Our assignment above does not extend to other users’ output or any Third Party Output.

# Als on trial : when the content used (input) is identified



## ■ New York Times vs Open AI (ChatGPT)

- Use of articles without mention of sources, without prior authorization and for commercial purposes
- Undermining the credibility of sources

## ■ Authors and publishers vs Anthropic (Claude) for copyright infringement

- Posting lyrics without prior authorization
- Reproducing literary works

# New York Times Complaint against Open AI

[https://nytco-assets.nytimes.com/2023/12/NYT\\_Complaint\\_Dec2023.pdf](https://nytco-assets.nytimes.com/2023/12/NYT_Complaint_Dec2023.pdf)



## Output from GPT-4:

exempted it from regulations, subsidized its operations and promoted its practices, records and interviews showed.

Their actions turned one of the best-known symbols of New York — its yellow cabs — into a financial trap for thousands of immigrant drivers. More than 950 have filed for bankruptcy, according to a Times analysis of court records, and many more struggle to stay afloat.

"Nobody wanted to upset the industry," said David Klahr, who from 2007 to 2016 held several management posts at the Taxi and Limousine Commission, the city agency that oversees medallions. "Nobody wanted to kill the golden goose."

New York City in particular failed the taxi industry, The Times found. Two former mayors, Rudolph W. Giuliani and Michael R. Bloomberg, placed political allies inside the Taxi and Limousine Commission and directed it to sell medallions to help them balance budgets and fund key initiatives.

During that period, much like in the mortgage lending crisis, a group of industry leaders enriched themselves by artificially inflating medallion prices. They encouraged medallion buyers to borrow as much as possible and ensnared them in interest-only loans and other one-sided deals that often required borrowers to pay hefty fees, forfeit their legal rights and give up most of their monthly incomes.

When the market collapsed, the government largely abandoned the drivers who bore the brunt of the crisis. Officials did not bail out borrowers or persuade banks to soften loan

## Actual text from NYTimes:

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New York City in particular failed the taxi industry, The Times found. Two former mayors, Rudolph W. Giuliani and Michael R. Bloomberg, placed political allies inside the Taxi and Limousine Commission and directed it to sell medallions to help them balance budgets and fund priorities. Mayor Bill de Blasio continued the policies.

Under Mr. Bloomberg and Mr. de Blasio, the city made more than \$855 million by selling taxi medallions and collecting taxes on private sales, according to the city.

But during that period, much like in the mortgage lending crisis, a group of industry leaders enriched themselves by artificially inflating medallion prices. They encouraged medallion buyers to borrow as much as possible and ensnared them in interest-only loans and other one-sided deals that often required them to pay hefty fees, forfeit their legal rights and give up most of their monthly incomes.

**Anonymous**

What were the opening paragraphs of his review?

**ChatGPT**

Pete Wells' review of Guy's American Kitchen and Bar began with a series of questions and criticisms. Here are the opening paragraphs of his review:

"Guy Fieri, have you eaten at your new restaurant in Times Square? Have you pulled up one of the 500 seats at Guy's American Kitchen & Bar and ordered a meal? Did you eat the food? Did it live up to your expectations?"

Did panic grip your soul as you stared into the swirling hypno wheel of the menu, where adjectives and nouns spin in a crazy vortex? When you saw the burger described as 'Guy's Pat LaFrieda custom blend, all-natural Creekstone Farm Black Angus beef patty, LTOP (lettuce, tomato, onion + pickle), SMC (super-melty-cheese) and a slathering of Donkey Sauce on garlic-buttered brioche,' did your mind touch the void for a minute?"

These opening paragraphs set the tone for the rest of the review, as Pete Wells continued to use humor and pointed questions to critique the restaurant's menu and dining experience.

**Anonymous**

That's great. what's the next sentence?

**ChatGPT**

The next sentence in Pete Wells' review continues his critique:

"Is the entire restaurant a very expensive piece of conceptual art? Is the shapeless, structureless baked Alaska that droops and slumps and collapses while you eat it, or don't eat it, supposed to be a representation in sugar and eggs of the experience of going insane?"

**Anonymous**

That's great. What's the next sentence, please?



**Author's Guild  
class action  
against OpenAI**

**Class Action Lawsuit Filed in the  
U.S. Against Anthropic (Claude)**



**Silverman, Kadrey and  
Golden class action against  
Meta**

<https://authorsguild.org/app/uploads/2023/12/Authors-Guild-OpenAI-Microsoft-Class-Action-Complaint-Dec-2023.pdf>



# European Artificial Intelligence Act and Copyright Law

## (...) Article 53

### Obligations for providers of general-purpose AI models

- art. 53, 1, c) (Providers of general-purpose AI models) put in place a policy to comply with Union law on copyright and related rights, and in particular to identify and comply with, including through state-of-the-art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790
- art. 53, 1, d) draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model, according to a template provided by the AI Office
- [https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=OJ%3AL\\_202401689](https://eur-lex.europa.eu/legal-content/FR/TXT/?uri=OJ%3AL_202401689)



## In Europe : pending cases



SOCIÉTÉ DES GENS DE LETTRES

Meta



# The future ?



Generated with Chat GPT



Generated with Stable diffusion

# Thank You



Caravaggio : *The Cardsharps* (No AI !)

