



ai and copyright law: takeaways from the june 2023 u.s. copyright office public webinar

June 28, 2023

On June 28, 2023, the U.S. Copyright Office hosted a public webinar focused on the current guidance related to copyright registrations for creative works containing components generated by AI. The following key takeaways emerged:

- The Office took the position that AI-generated material contained within a work should be disclaimed in a copyright registration if the specific material created by AI would be copyrightable if created by a human. In determining whether this is the case, the Office pointed to the seminal US Supreme Court decision *Feist Pubs., Inc. v. Rural Tel. Svc. Co., Inc.*, 499 U.S. 340 (1991), which set forth that material will not be copyrightable if it is not sufficiently original. While this is a case-by-case determination, there is significant guidance on what type of material meets this standard.
- If AI-generated material is sufficiently original, a brief disclaimer should be included in the application. This is as simple as checking a box or adding a statement that the work includes AI-generated text, images, code, and so forth.
- The presentation described how to fill out a hypothetical application in several scenarios involving works containing varying degrees of AI-created content. These examples are detailed and illuminating, and will be posted by the Office in the coming weeks.
- While the Office may ask for further information when evaluating an application, it was made clear in the presentation that Claimants are **not** required to detail extensively the AI-generated material included in their work they are seeking to register.
- Overall this is not new, nor is it a departure from how the Office treats other "unclaimable materials" contained in works submitted to the office (such as, for example, public domain material or copyrighted material owned by someone else).

practice areas

Artificial Intelligence (AI)
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- The Office is ultimately taking the position that disclaimers are a “flag” on registration, and that it is up to the court, the public, and the registrant to decide what to do with that. This is no different from the Office's policy on disclaimers of other unclaimable material—though given the strong opinions on AI, it is possible that the presence of an AI disclaimer in a copyright registration could add fuel to potential disputes.