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AI Style Imitators: AI's Implications on Artistic Identity

How much art in a museum do you think is fake? Museums are, undoubtedly, exceptionally good at differentiating fakes from real art, almost never acquiring forgeries. Only if a scholar is 99% sure of a piece's authenticity will it then be listed as "by" a certain artist (Charney). Any amount of uncertainty will lead to the piece being listed as "in the style of" or "attributed to" or being stored for research and special exhibitions (Charney). However, no matter how good a museum is at differentiating fakes, a couple will certainly get through the cracks of even the most notable scholars. The Metropolitan Museum of Art (MET) was housing a small limestone head depicting King David, where the piece was discovered to trace back to a French dealer named Georges Demotte. He had had sold the fake piece to the MET in 1930's, where he became famous in his own right as "the world's greatest faker," his fakes even bought by the Louvre in the same decade (Charney). While his imitations were not identified as fakes in the 1930's, the evolution of modern technology has made it easier to test the authenticity and discover the heads' true origins. However, now modern technology is currently evolving at a faster rate than ever, with an even newer form of imitations emerging - AI generated art. With AI evolving so quickly from text prompts to detailed images, it has become the driving force of forgery in the art community. AI's convenient accessibility and its popularity on platforms like Instagram, TikTok and X makes it harder for the naked eye to discern AI art from human art. Unlike the MET's collection, there are no scholars verifying the authenticity of these images to

be shown to the public. This leads these AI programs being used to imitate many popular artists. The use of AI image creation with copyrighted work infringes on an artists' rights. Its use as an imitator of style further undervalues an artists' work and comes at the cost of their livelihood.

An Overview of AI

Artificial intelligence (AI) is a machine learning program that imitates human function through learning and problem solving (Piloto). Machine learning (ML) is the process of extrapolating a huge amount of data and applying it to tasks the machine is not programmed to do (Piloto). AI platforms use ML to go through one style of learning called supervised learning. In supervised learning, the AI is fed vast amounts of different images labeled with their content - such as a set of images of a balloon labeled *balloon*. The AI will then adjust its algorithm, which acts as a set of rules to the AI, to produce an output with the correct label when prompted (Gillotte). The AI then differentiates each image by distinct variables, such as a balloon being identified by its shininess or its roundness. Each variable to the computer is comparable to a neuron in the human brain - in what is called a neural network. Neural networks, such as the Convolutional Neural Network (CNN) by Yann LeCun, require 10,000 to a million images to train the model (Gillotte). Newer models, however, like the Generative Adversarial Network (GAN) created by Ian Goodfellow, are a set of two neural networks that attempt to create images indistinguishable from real images (Gillette). By having a second learning model attempt to distinguish the fake image it generates from the real image, GAN continues to learn from its mistakes until it makes an image indistinguishable from the real one (Campbell). GAN does not need to be fed as many images as CNN, as it learns from its mistakes- yet both neural networks still need to learn and create from an input of images.

Because of GAN's capabilities, this ML technique is used to create AI generated artworks which have been published online and found its way into art galleries. In 2016, a group of Dutch artists created an imitation painting using the work of Rembrandt van Rijin- a Dutch artist who died four centuries ago. By feeding his work into a GAN algorithm, they were able to 3D print a painting titled "*The Next Rembrandt*", indistinguishable from Rembrandts original works (Dutch Digital Design). Rembrandts' work is not protected by copyright anymore. However, consider a situation now where a neural network is trained using copyrighted works without the consent of the artist. Would the production of a piece of work imitating the original artist, then, be considered fair use?

Copyright law related to AI.

Any artist is entitled to copyright protection, yet current copyright law does not protect artists from their work being used in AI generators. Copyright is granted to the author of any original work fixed in a "tangible medium of expression" under 17 U.S.C § 102 (Cornell Law School). This means that any work created which can be perceived directly or with the use of a machine or device, like a camera or computer screen, is protected under copyright law. Copyright lasts throughout the life of an author and an additional 70 years (Cornell Law School). This means that copyright is granted to the creator of anything fixed, like a painting, writing, music or even a drawing you made in first grade. However, it gets complicated when you add AI into the equation. AI generators can be fed copyrighted material to create arguably transformative versions of the images. However, I argue that AI's use of copyrighted art in its ML process will lead to AI illegally imitating these works. Under 17 U. S. C. § 106, the author of any fixed work owns the exclusive rights to the work, including the right to reproduce, sell, or prepare derivative works based on the original (Cornell Law School). By using artists work the

ML process, artists are unwillingly having their copyrighted work prepared as a "derivative work" without their consent. AI image generators go against 17 U.S.C. § 102 and 106, yet because AI is so new, there is still a widespread debate about its infringement on fair use laws. U.S. law currently does not have any laws pertaining to the creation and use of AI generated artwork, but previous rulings in cases such as *Andy Warhol Foundation for the Visual Arts, inc. v. Goldsmith et al.* offers insight into where AI art imitating real artists' works fall under copyright law.

Andy Warhol was hired by Vanity Fair to create an illustration based on Goldsmiths' photograph of Prince. Goldsmith granted that her photograph be used as inspiration for an art piece for Vanity Fair, where her name was credited as the original source material. Warhol then used her photograph to create an orange silk screen portrait, then inspiring the creation of, "13 silkscreen prints and 2 colored pencil drawings" based on the original image without her consent or credit (*Andy Warhol Foundation for the Visual Arts, inc. v. Goldsmith et al.).* Andy Warhol Foundation for the Visual Arts (AWF) asserted copyright for these illustrations, titled *The Prince Series*, and authorized its use to be published by Condé Nast on the front of their special edition magazine. The AWF was paid $10,000 for the license- in which Goldsmith received "neither a fee nor source credit" (*Andy Warhol Foundation for the Visual Arts, inc. v. Goldsmith et al.).*

When Goldsmith realized her photograph was being used for monetization, the AWF sued her under fair usage laws. The AWF claimed that The Prince Series was deemed as a "transformative" work of art. Initially, the AWF won the lawsuit. However, recently the court appeals reversed the ruling, where they stated that "transformative purpose and character must, at bare minimum, comprise something more than the imposition of another artist's style on the primary work" (*Andy Warhol Foundation for the Visual Arts, inc. v. Goldsmith et al.).* The Prince

Series did not follow this guideline, where the piece of art was only *seen* as a derivative because it was extremely recognizable as Warhol's' work. However, the "transformative" work was merely a derivative of Goldsmiths' original, copyrighted photograph.

Warhol's orange silkscreen portrait of Prince
superimposed on Goldsmith's portrait photograph.

In the case of Andy Warhol Foundation for the Visual Arts v. Goldsmith, it was determined by the court of appeals that the production of *The Prince Series* was not considered fair use. If someone were to use an AI generator that is trained on Goldsmiths photographs to create a piece of artwork in the style of another famous artist, there would be no reason for the ruling to change. Goldsmiths' photographs are copyrighted, and these derivative images would not be considered fair use. In the case of AI image generation, feeding images of an artist into an AI image generator to create look-alikes would infringe on an artist's work - similar to how Goldsmith's photographs were taken and used with no

compensation or credit. For example, a piece created by AI trained on the work of Jan Brueghel. One is the original, and one is an AI generated copy based off the original. They look almost undiscernible, meaning that the image is not transformative in any way.

Jan Brueghel, *Flowers in a Wooden Vessel, 1603* Stable Diffusion

As previously stated in the case of *AWF v. Goldsmith*, an artworks' "transformative purpose and character must, at bare minimum, comprise of something more than the imposition of another artist's style on the primary work" (*Andy Warhol Foundation for the Visual Arts, inc. v. Goldsmith et al.).* It was deemed unfair that Goldsmith had not been properly compensated for the use of her work. Applying this knowledge to Breughel's and AI's imitation, the AI's work is just an imposition of Breughel's style. The imitation of Brueghel created by AI is clearly in violation of copyright law, so why should the artist not receive proper compensation or credit for the AI generated work? Despite the similarities in the case of *AWF v. Goldsmith*, AI art continues to be used with no consequences.

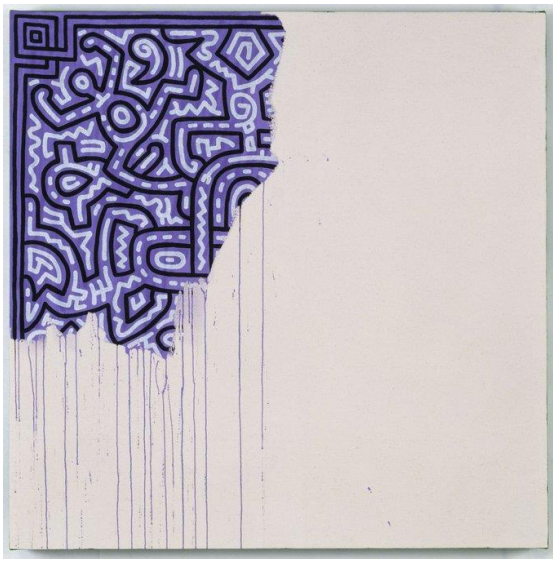
When faced with the issue of modern technology emerging that complicates copyright, the Supreme Court must be in favor of artists' rights over technology to follow copyright law's

basic purpose of protecting creators. In *Twentieth Century Music Corp. v. Aiken*, the U.S. Supreme Court stated that "[w]hen technological change has rendered its literal terms ambiguous, the Copyright Act must be construed in light of [its] basic purpose." This basic purpose is defined under the patent and copyright clause which grants U.S. congress the power "[t]o promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries″ under Article I section 8. It is up to the Supreme Court to follow copyright's basic purpose to protect the arts. To promote the progress of "science and useful arts", Supreme Court must rule against the use of copyrighted work in AI generators because it uses images that are the "exclusive right" to their creators. If the Supreme Court were to fail to be in favor of the creators over AI, it would undermine the basic purpose of copyright law.

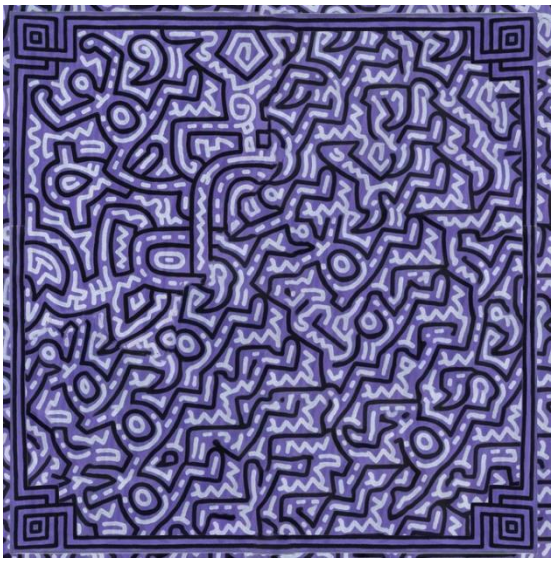
AI's Effect on an Artist Livelihood

Open source AI has been integrated with a new feature where an individual can create free to use models that mimic an artist's pieces, undervaluing the original artists' life's work. The models are fed 15-20 images of the creators choosing. Giving the generator a text prompt will produce a piece of art in the style the model was trained on. Any user can then make the model public and free to use, which in turn creates a bigger problem of individuals making generative models without an artist's knowledge. Bobby Chiu, an artist and Emmy award winner, says that "AI's ability to copy my style is like I spent all this effort to climb a mountain - and once I get to the top, everyone just appears up at the top… [inside] you know that if you didn't climb the mountain, then none of the others could have either" (Yes, I'm a Designer). Drawing is a learned skill that takes practice, like learning how to ride a bike, play an instrument, or sing. It takes years of climbing the mountain, i.e., learning from books, videos, and the biggest struggle of all -

finding a style with which you are comfortable. Many artists struggle with defining their own style, even making it their life work, because having a unique style means creating something that is new. Many people have seen hyper-realistic portraits, where creating hyperrealism is easily recognizable due to the point of reference being real-life. We see real faces every day, so creating a portrait of a face in a unique way is more likely to make someone interested in learning about the piece. These unique ways of drawing are called styles and can be influenced by a persons' inspirations and life experiences. When artists can create a piece of artwork in a style an audience has never seen before, people are more likely to pay attention to it. This phenomenon is apparent in many famous artists, such as Van Gough, Picasso, Keith Haring, and Jean-Michel Basquiat, who are all well known for their distinctive styles shaped by their personal experiences in life. Styles are more than just a way of drawing; they are a way of expressing an artist's message to the world. For example, Keith Haring, a popular New York artist and activist, created art that was shaped by his personal experience in New York and social messages that resonated with him. He used art for public service, activism, charity, and, during the last years of his life, funding AIDS organizations and children's programs (The Keith Haring Foundation). He created a piece titled *Unfinished Painting,* which was unfinished after his death due to AIDS complications. More than half of the piece was intentionally left blank to represent the amount of life lost to the HIV epidemic (Binsawnger). The piece of work, intended to be left unfinished, was finished by an X user replicating his style using AI.



Keith Haring, *Unfinished Painting*, 1989.



Haring's *Unfinished Painting* finished with AI.

The use of AI to complete Keith Harings painting disregards the social message attached to his work. By finishing the piece the meaning of the painting is dismissed and the tribute to the lives lost during the HIV epidemic is figuratively and literally painted over by AI. Haring used his status as an artist to sell his art for the sole purpose of donating that money to charity. When his art is easily replicated and sold at a lower price point from different vendors, his art will not be able to serve the same purpose as it used too. If we continue to allow AI generated work to flourish freely, people will continue to use AI generators to create imitations of artists' work with no weight of human intention behind them. Without restriction, artists will continue to be demeaned for nothing more than imitations of their work. This undermines the life of an artist and their contributions to society, their life's work of forming a style becomes nothing more than something to make a profit from.

Since these images are generated so easily with a disconnect to the artist, their monetary value decreases at the cost of an artist's livelihood. Keith Haring was a more prominent figure in the art field, whose work is distinctly recognizable. Anyone can create a Keith Haring painting

with AI art now, and it is much cheaper than buying a real Keith Haring painting. With no laws in place currently to prevent it, free AI generators can replicate his style and vendors can sell the piece for less than $10. If someone wanted a Keith Haring painting in their house, it would be easier to buy it for $10 than $6,000,000. Entrepreneurs may see an AI generated painting based off a certain artist making a profit, which results in even more imitations being created to generate profits. The same logic applies if you are generating pieces imitating artists whose work is not widely known. Since these artists aren't widely recognized, making a profit off their work directly harms their source of income. Many people would be less willing to buy an unknown artist's work and it would be more cost effective to generate a piece imitating their work than pay them directly for it. Sam Yang, a popular artist who goes by the alias SamDoesArts on YouTube, explains "When AI generations are made to look like an artist's work, this has the potential for reputation damage, for forgery, for fraud, for identity theft" (Yes, I'm a Designer). Vendors online can use these AI style imitators to sell artwork for much cheaper price than the original artist can. The card company *Wizards of the Coast*, from the same developers of games such as *Dungeons and Dragons,* claim to be ignorant of the use of AI generated artwork in their advertisements, using art from vendors who claim to be real artists (Gault). Similarly with Wacom, a company that sells drawing tablets to artists, claim on X that they were uninformed their vendor was using AI for their Chinese New Year promotional material. These companies generate millions of dollars in profits, yet they cut corners by outsourcing to cheap AI artists instead of hiring real ones. There are even books illustrated by AI such as "how to draw" books filled with AI illustrations and a children's book titled *Alice and Sparke* (Yes, I'm a Designer). When people are led to unknowingly purchase these AI generated products or are influenced by these AI

generated ads, they are inadvertently hurting real artists who work for similar companies. That money supports AI art rather than real art, decreasing the value of a real artist's work.

With the emergence of AI as a new competitor to these artists, artists will then have to compete with the new prices that AI can offer. AI image generators are getting increasingly affordable, with Midjourney's basic plan only 10$ a month. Fine and craft artists earn an annual wage of $52,910 according to the U.S. Bureau of Labor Statistics. Yet, on average, an individual needs an annual wage of $96,500 to sustainably live in any major city according to a budget of 50% towards needs, 30% towards entertainment, and 20% towards saving (DeJohn). The lowest salary needed is $75,088 in Houston, Texas, which is $22,178 higher than the annual wage of an artist (DeJohn). With Midjourney's basic plan being $10 a month, it is easy for these AI programs to be more cost effective than paying an artist an annual salary of $52,910. If these companies learn about the effectiveness of these AI productions in cutting costs, they would be more likely to shift their focus to AI art rather than human art. Since the AI artist can mass produce their images in a short amount of time, AI art seems more desirable than hiring an artist who would take much longer to create a single piece. Eventually, there will be a shift in focus to AIs capabilities to create quick and cheap illustrations. The expectation will then be for artists to match these quicker and easier AI generated pieces. The need to compete with AI may leave artists with lower wages, as competing for less opportunities will make artists attempt to stand out with a lower asking price. This may also result in artists leaving the field altogether, as they may become hopeless finding a job in an industry that undervalues their contributions. It takes a lot of time and patience to create good quality pieces, and companies should not expect artists to be comparable to AI image generators.

AI art can be used as a tool when artists use it as a source of reference rather than for finished pieces. You may have looked up inspiration for many projects, such as re-decorating your kitchen or inspiration for an outfit. When an artist looks for inspiration, it can come from nature, books, images, and in an architect's case: a building. Architecture is a field of study that is intersected with art, and researchers predict that architectural fields will work with heavily integrated AI technology (Enjellina, Beyan, Rossy). AI technology will soon become integrated into the synthesis stage in the work process, where architects look for their initial ideas to inspire their design (Enjellina, Beyan, Rossy). Professional and educational levels use social media such as Pinterest to work on design projects. By incorporating AI image generation into the creative process, it will allow an architect to synthesize an idea for their buildings much quicker. Asking AI to recreate a certain style, texture, and color as a building will allow a designer to use the image as a reference to revise their concepts quickly. Since the architect still needs to evaluate design schematics, structure, environmental factors of these buildings, they are only using AI as inspiration for the final piece. In the final piece, they will consider design elements they want to add and adjust the factors that the AI did not consider. Using it only as a visualizer is useful to artists because they are simply using it as a guide for making their own work. This process is true for artists as well, where using AI to visualize a concept is much faster than scrolling on Pinterest for just the right reference to use. I find myself struggling to find the right picture for a piece I want to create. Sometimes, a photo I find is not at the right angle or the model is not exactly the right pose I want. I have used sources such as free 3D models or physical posing figurines to try and re-create what I need, but this method takes lot of the time that could have been spent working on the actual piece. In the end, the models may not even be helpful, and I would find myself going back to the internet to search for more pictures. To save time, using AI as a tool for

creating references will allow artists to work quicker and more efficiently. I would not use the AI to create work I pass off as my own. Rather, I would solely use AI artwork to help me synthesize an idea for my own original work. I wouldn't be stealing another artist's work because I'm not using AI generated artwork in my piece. AI art is a tool only when these artists create to inspire original work as a product instead of using AI as the final product.

Conclusion

AI image generators that use copyrighted works infringe on an artist's work. Using it as an imitator of their work undervalues an artist, costing them their livelihood. AI programs depend on pre-existing work to exist, which challenges existing copyright laws on an artist's work. As we continue to go towards an increasingly digital age, we should prioritize the rights of artists as modern technology continues to progress. If we continue to disregard an artist's rights over AI it can harm an artist's message, source of income, name, and contributions to society. An artist depends on their creative work to live, and the uncontrolled use of AI programs using their art makes it harder for artists to make a living. From the time I was in fifth grade, art has always been a creative outlet for me. However, as an aspiring illustrator, AI makes me wonder if I have any chance of being successful in the future. While I believe AI can be a useful tool, I also believe that its uncontrolled use will damage the future of aspiring artists as well as current artists careers. AI will eventually come at the cost of many talented artists, obscuring their works to become recognizable only to an AI algorithm.

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