



The Implications of AI-Generated Media on Copyright Policy



Andrew Vu, Dr. Stephen McDowell

College of Communication & Information
Florida State University

Abstract

Visual art that has been generated by Artificial Intelligence has become a topic of significant controversy within US copyright law. Despite current attempts to modify copyright law in order to address the constantly increasing surge of disputes with AI art, a lack of historical precedence has clouded the issue with much uncertainty. The purpose of this research paper is to examine the legal responses of recently established copyright policy on visual art that has been generated by artificial intelligence (AI) and its subsequent implications. Through the analysis of recent developments made in AI copyright policy within both US and international law, it can be found that the legal responses made by legislators have sided against artists who use AI generated works along with those whose original works they are derived from. This was done through the review of both legal and sociological literature. Furthermore, the implications of these policies vary due to conflicts of culture seen within US and EU copyright proceedings. The research that is being showcased within this paper will not only explore the legal and ethical implications of new AI copyright policies, but also how the advancement of AI technologies are affecting societies concepts of art and originality. From this research, an outline of a policy recommendation with the aim of finding a solution to the found implications will be created and justified.

Background

Within the United States, legal experts have characterised the current landscape of US copyright law as uncertain due to the rise in media generated by Artificial Intelligence. Concerns have been raised within courts regarding fair use disputes, specifically in regards to the sources programmers use in order to train their AI machines. Additionally, lawsuits where illustrators and artists seek to settle disputes with AI companies have become more and more prominent. Evidently, there is a lack of clarity and subsequently, protection within current legislation used to govern AI generated art. Due to the novelty of copyright issues surrounding AI art, there are few studies regarding the implications of current copyright policies. This has created the current struggle in adopting copyright policies within the United States that can effectively address said issues. Questions arise regarding the consequences currently relaxed restrictions have on the livelihoods and artistic integrity of artists. As a result, it is unclear in regards to how the law can attribute authorship and fairly distribute benefits stemming from these AI generated works.

Methodology

Literature Review

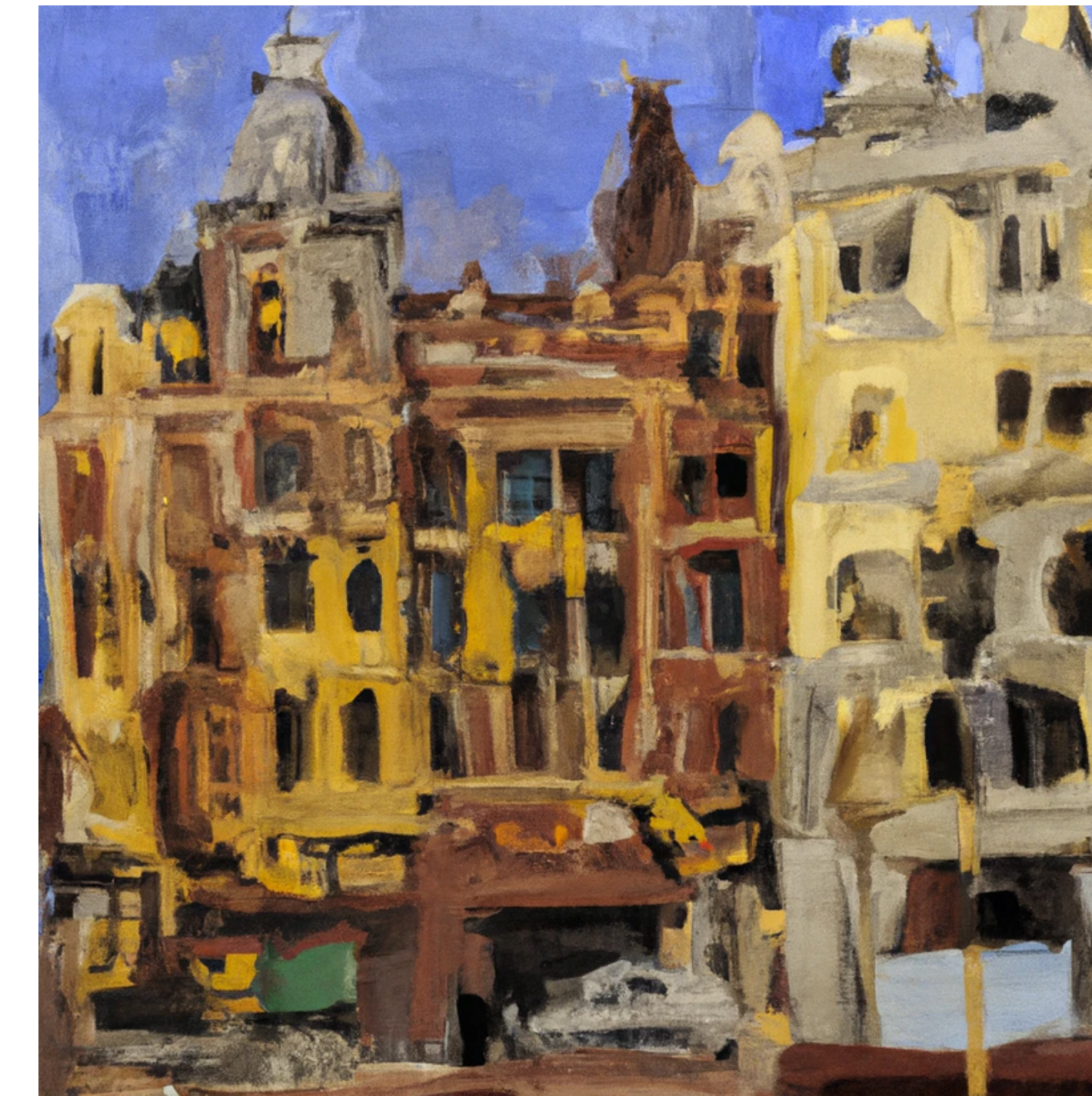
Sources derived from: law journals, academic journals focused around artificial intelligence and AI-generated media and the Federal Registry. These sources detailed current issues and events surrounding copyright law was undertaken. Sources were additionally compiled into an annotated bibliography.

Comparative Analysis

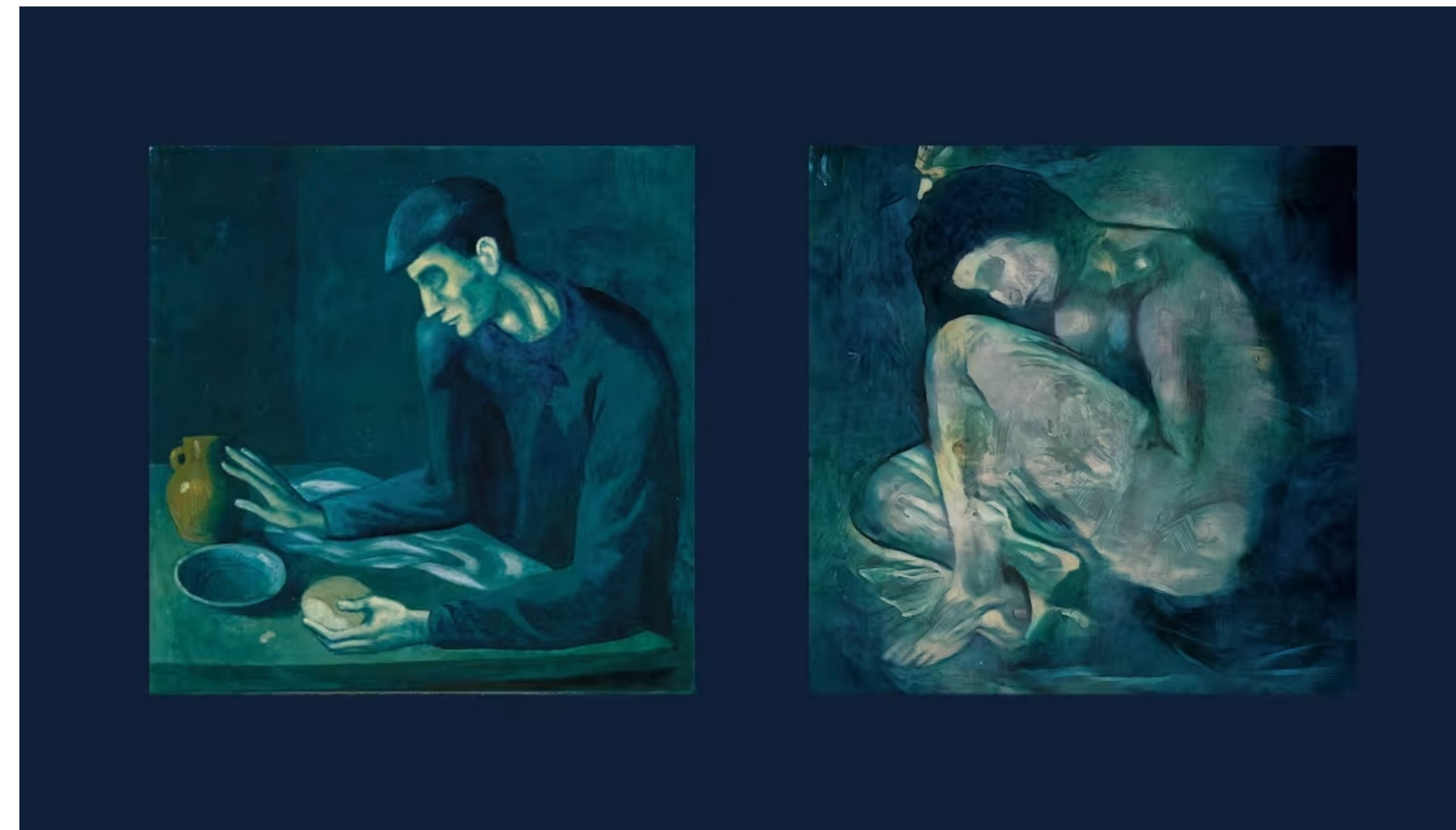
Analysing and Comparing US copyright policies with that of several Western Nations

Construction of Policy Memo

A policy memo was created with the intent of addressing pertinent issues currently surrounding AI generated media and copyright law.



A demonstration of derivative media (right) created by AI. Artist Robert Matheson after submitting his original painting (left) into DALL-E.



Picasso painted over the image seen on the right to create, 'The Blind Man's Meal,' (left). AI generators in the UK were able to recreate the "lost painting" and were met with significant controversy from both the public and the Picasso estate.

References

- Boucher, Philip, et al. How Blockchain Technology Could Change Our Lives. Feb. 2017, [www.europarl.europa.eu/RegData/etudes/IDAN/2017/581948/EPRS_IDA\(2017\)581948_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2017/581948/EPRS_IDA(2017)581948_EN.pdf).
- Da Silva, Chantal. "From a Hidden Picasso Nude to an Unfinished Beethoven, AI Uncovers Lost Art — and New Challenges." NBC News, 30 Oct. 2021, www.nbcnews.com/news/world/lost-picasso-unfinished-beethoven-ai-uncovers-lost-art-new-challenges-rcna2905.
- Darby, Helen Catherine. "AI-Created Art and the Moral Rights of Authors." Columbia Journal of Transnational Law, 23 Nov. 2021, www.jtl.columbia.edu/bulletin-blog/ai-created-art-and-the-moral-rights-of-authors.
- Matheson, Robert. "Derivative Ai Art from IRL Paintings." Www.fxhash.xyz, 7 Sept. 2022, www.fxhash.xyz/article/derivative-ai-art-from-irl-paintings.

Results

Due to the novelty of the issue at hand, there are currently an abundance of issues within copyright law that have stemmed from the rise of AI generated media. Based on the gathered research, the following policy recommendation was able to be created with the intention of serving as a potential solution to these issues:

Establishing authorship in the new age:

Establish legal guidelines that explicitly define authorship for AI-generated content, distinguishing between works generated under human direction and those autonomously created by AI. This clarity can help in determining copyright eligibility. The U.S. The Copyright Office has stated that works produced by AI without human authorship regardless of actual input are not eligible for copyright. However, there is much more nuance required to address current disputes between the courts and AI artists. This policy would address ambiguities in authorship and ownership, ensuring creators using AI as a tool are protected.

Transparency in AI Training Datasets:

Mandate transparency regarding the composition of AI training datasets, including the disclosure of any copyrighted styles or works used. This will allow for greater oversight and ensure that artists are aware of how AI models are using their work.

Opt-In Requirement for Data Collection:

For the sake of practicality and to prevent hindrance of future AI development, there should be a mandatory opt-out framework requiring companies to provide artists with the option to opt-out and prevent their published work to be used to train AI models. This will allow for artists to have greater control over their work whilst also still allowing for AI models to be trained without significant difficulties.

The Implementation of Moral Rights:

Expanding moral rights legislation to address AI-generated art can better protect the work of artists and prevent their exploitation. The recognition of moral rights in jurisdictions like the EU, where artists have the right to object to derogatory treatments of their works, serves as evidence that such rights can help maintain the integrity and reputation of artists in the digital age.

The Utilisation of Blockchains:

Although yet to be used officially for copyright policy, the use of blockchains as a means of verifying authenticity and uniqueness of data has been very prevalent in the recent past. Studies have shown that the usage of blockchains has shown significant promise within the realm of copyright. AI developers could potentially be required to program their machines to filter media that contains data associated with specific blockchains and prevent their collection. This could be used as a means of ensuring the protection of artists and their work.