

RESPONSE TO CHAIRMAN DARRELL ISSA'S FINAL QUESTION FOR THE WITNESSES

HJC HEARING ON GENERATIVE A.I. - May 17, 2023

The hypothetical premise posed by Chairman Issa assumes an extreme situation that I'm sure we all hope never eventuates. However, as we move into uncharted territory when trying to project the potential ramifications of generative A.I. to music creators, we acknowledge that any protections that can be put in place should be implemented as soon as possible, as over-regulation - i.e. erring on the side of caution - is preferable to the alternative. Regulations like consent decrees, can and always should have sunset provisions built in to safeguard against stifling an otherwise free market of ideas and economics.

Currently, the United States Copyright Office (USCO) has deemed that non-human works created by generative A.I. will not be eligible for copyright registration or protection, and while this is a good initial step, it relies on those filing for registration will honestly divulge the source of their work's creation - human or otherwise - with the hybrid still a grey area as to what qualifies as human input on an A.I. generated work.

Simply put, if A.I. works can't be registered as copyrights, there can be no enforcement. As for infringement of existing copyrighted works, access to those works must be proven in actuality, not theoretically. But for the sake of the exercise, let's assume Chairman Issa's scenario does eventually come to fruition and billions of works are being pumped out by the minute. Here are a few of the things that could happen:

1. The market is flooded with uncopyrightable works. This could drive the value of non-famous copyrighted works down, while having the opposite effect on legacy catalogues of "real" popular music. Could this be why the major labels and publishers are actively acquiring these types of catalogues at seemingly exorbitant prices? The Universal Music Group has already announced that it has entered a third-party agreement with an A.I. company to create "science-backed soundscapes" using the individual instrument stems from the iconic Miles Davis album, "Kind of Blue".
2. Professional music creators find there is no longer a way to monetize their works, and therefore decide to pursue other activities. However, as I explained in my live testimony, artists of all persuasions have and always will create. It's innate to their being. But unfortunately, because of this passion, they have been exploited since time immemorial and I see the introduction of the generative A.I. technology just another example in a long line of abuse.
3. Consumers may become so accustomed to "artificial music" that over time, they cannot tell the difference, nor do they care. We have seen this happen with the quality audio that the general public is prepared to accept. Mp3s are significantly inferior in sound than many other formats, yet their convenience is favored over a higher resolution output. This is particularly disturbing on a social level because as we evolve as a species, so do our senses become more acute. Unfortunately, the regressive nature of the generative A.I. has the potential to impact our lives over time, in ways we cannot yet anticipate.

Is it possible to regulate human creativity? Probably not. But are there guard rails than can be implemented to foster it, and de-incentivize those who would choose to exploit it for their own gain, without regard for the very foundational elements on which their enterprise exists? That's the challenge, and the sooner accommodation can be made that allows equitable remuneration for all parties, the better. I believe this can only be reached by government intervention and oversight.