



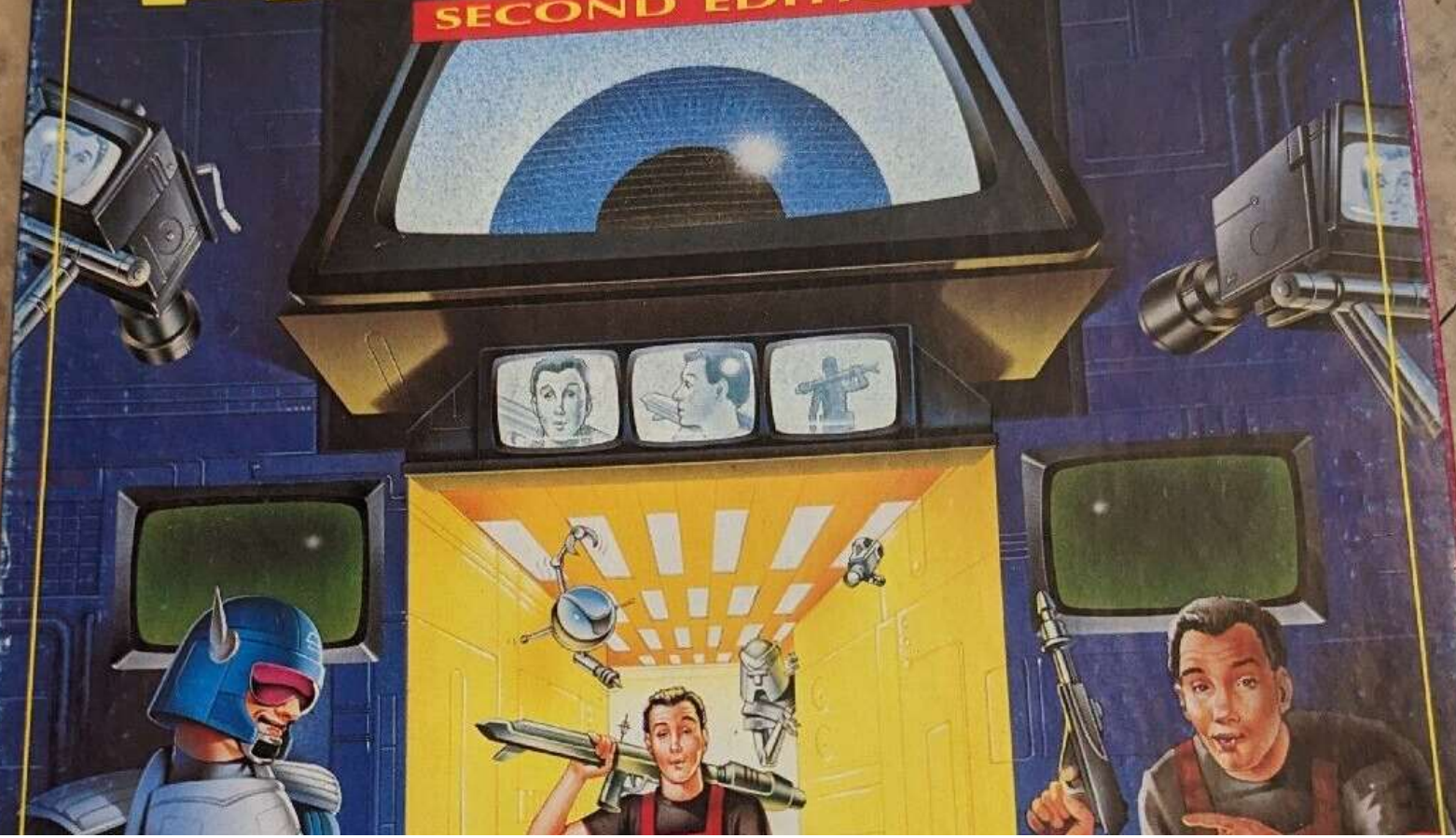
OPEN MINDS, OPEN SOURCE

Arnoud Engelfriet

THE ROLEPLAYING GAME OF A DARKLY HUMOROUS FUTURE

PARANOIA PARANOIA

SECOND EDITION



LAW AND TECHNOLOGY

“Lawyers will ask computer scientists questions about how to determine the Colour of bits (like “How can Friend Computer prevent the Commie Mutant Traitors from making illegal copies of files, while still allowing loyal Troubleshooters to use disk-copying equipment?”), and computer scientists will find it difficult to say anything in response that the lawyers can comprehend - because a big part of computer science is about understanding that Colour does not exist.”



‘What color are your bits’, Mark Skala 2004
<https://ansuz.sooke.bc.ca/entry/23>

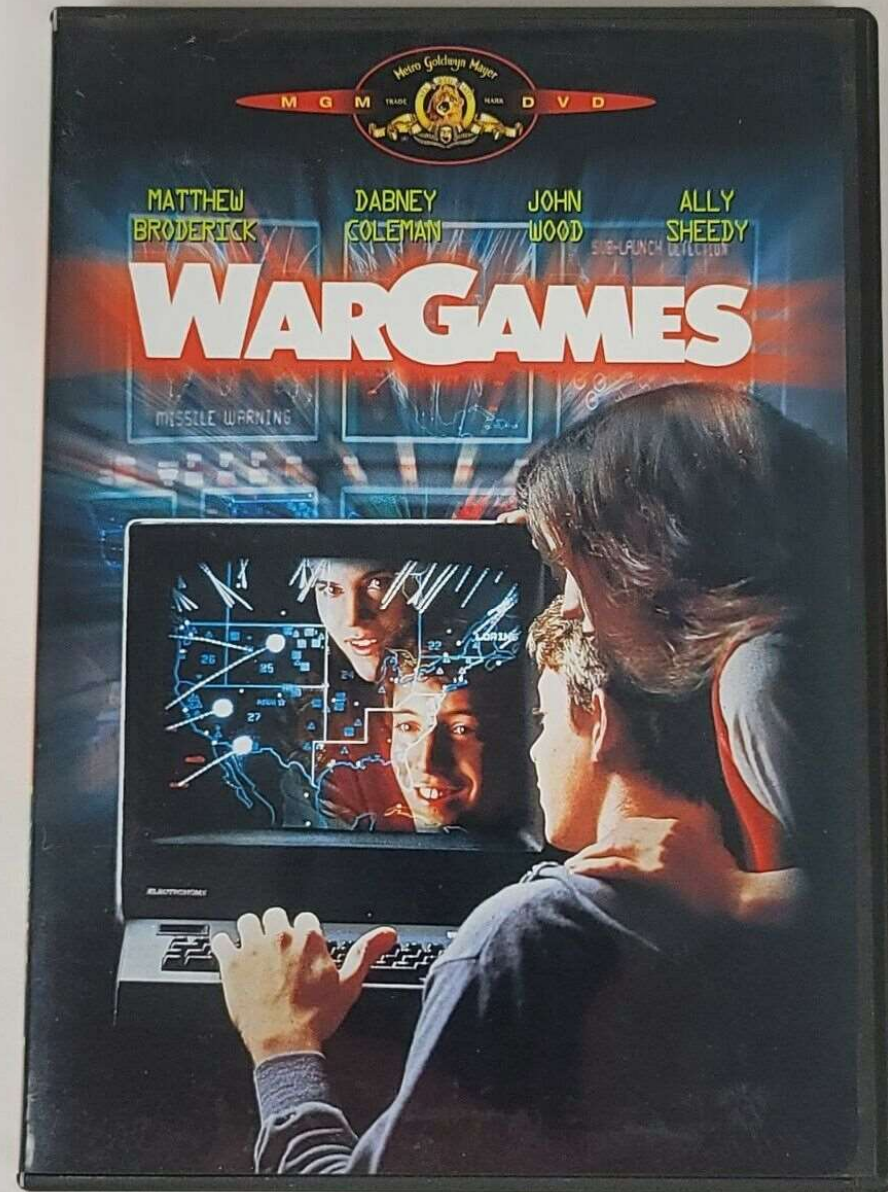
ON HACKING

"Hacking means exploring the limits of what is possible, in a spirit of playful cleverness." (Richard Stallman)

The Hacker Ethic:

1. Access to computers and hardware should be complete and total.
2. Information should be free.
3. Mistrust authority, promote decentralization.
4. No Bogus Criteria such as race or qualifications.
5. "You can create truth and beauty on a computer."
6. "Computers can change your life for the better."

Steven Levy, *Hackers: Heroes of the Computer Revolution*,
Sebastopol: O'Reilly Media 2010



THE CRYPTO WARS

1960s: DES

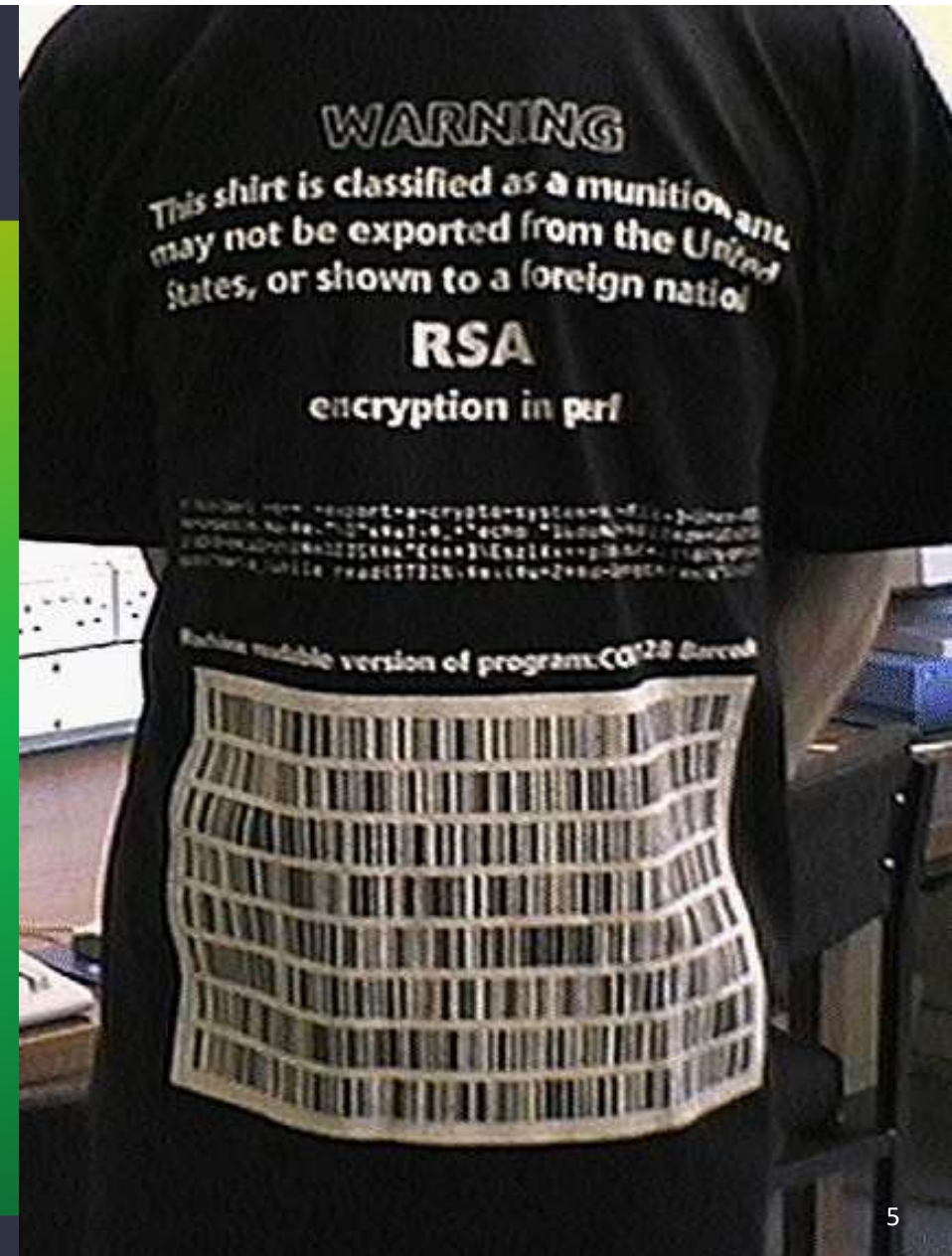
1991: PGP and export control

1993: Clipper Chip

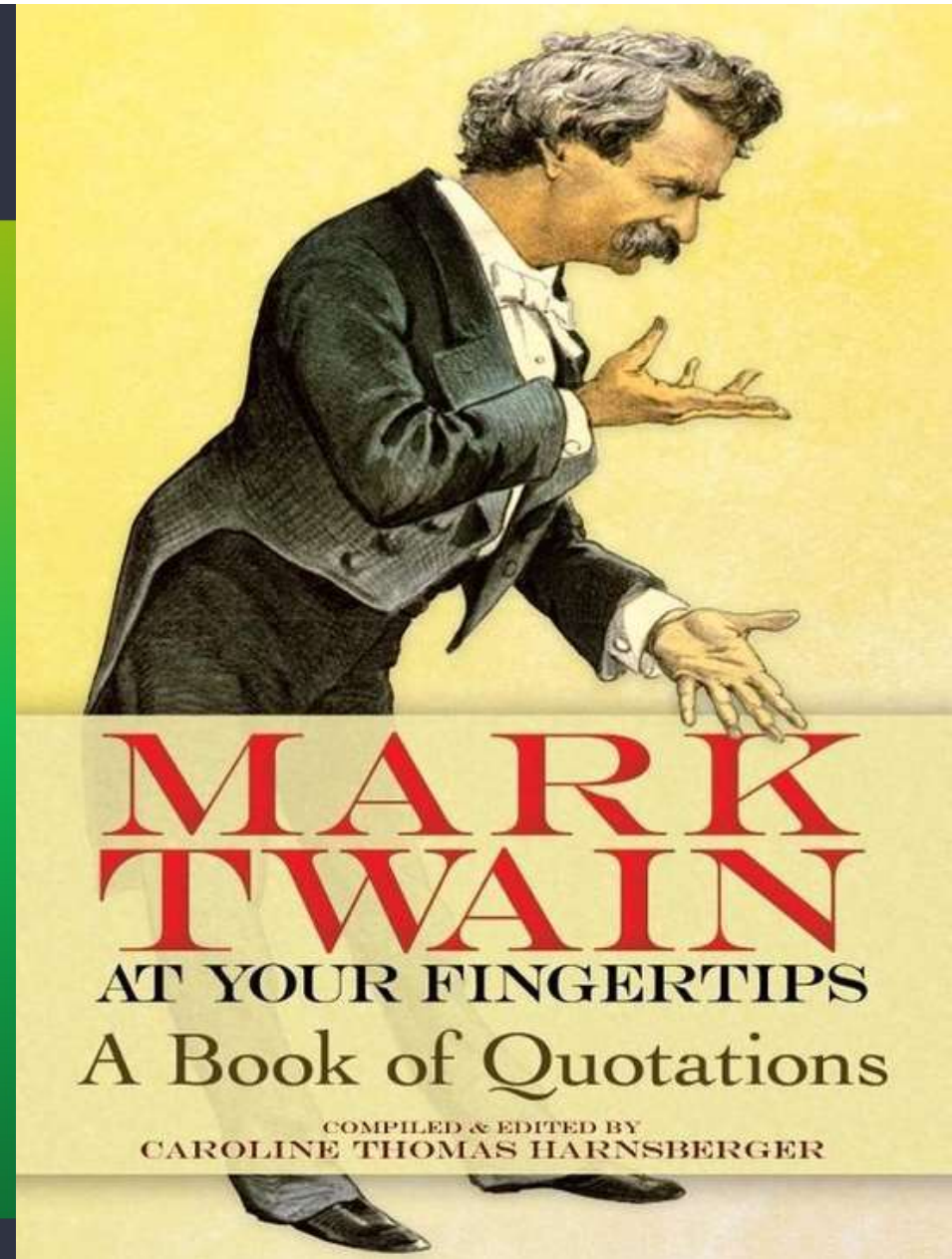
2007: Dual_EC_DRBG

2014: Apple's E2EE

2023: EU's CSA Regulation



**HISTORY NEVER REPEATS ITSELF,
BUT IT DOES OFTEN RHYME.**





“To 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.”

– US Constitution Article 1 Section 8 Clause 8



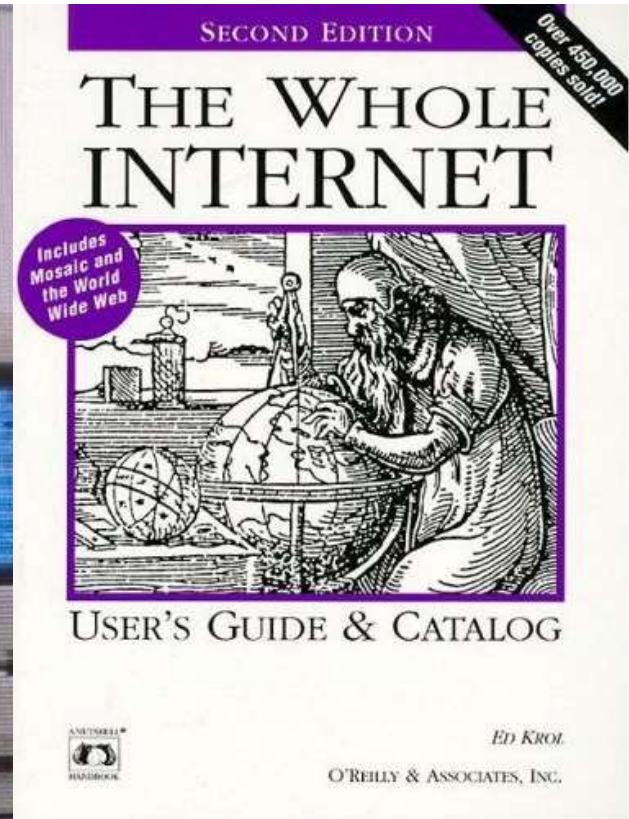
“Do they not realize that if the accredited composers, who have come into vogue by reason of merit and labor, are refused a just reward for their efforts, a condition is almost sure to arise where all incentive to further creative work is lacking, and compositions will no longer flow from their pens . . . ? What, then, of the playing and talking machines?.”

– John Philip Sousa, *The Menace of Mechanical Music*, 8 *APPLETON'S MAG.* 278 (1906).



“I say to you that the VCR is to the American film producer and the American public as the Boston strangler is to the woman home alone.”

– Lemley, M. A. (2011). Is the sky falling on the content industries?. *J. on Telecomm. & High Tech. L.*, 9, 125.





**IT'S ONLY A ~~FLESH WOUND~~
NEW DISTRIBUTION MEDIUM!**

**“THE GUMBALL MACHINE
BROKE AND ALL THE GUMBALLS
ARE ROLLING DOWN
THE FLOOR.”**

– Metallica’s lawyers in the *Napster* case

Scott Carlson, ‘Get Ready for An Encore of the Napster Controversy’, *The Chronicle of Higher Education* 21 april 2001.



**“BY GIVING AWAY THE SOURCE
CODE FOR FUTURE VERSIONS,
WE CAN IGNITE THE CREATIVE
ENERGIES OF THE ENTIRE NET
COMMUNITY AND FUEL
UNPRECEDENTED LEVELS OF
INNOVATION IN THE BROWSER
MARKET.”**

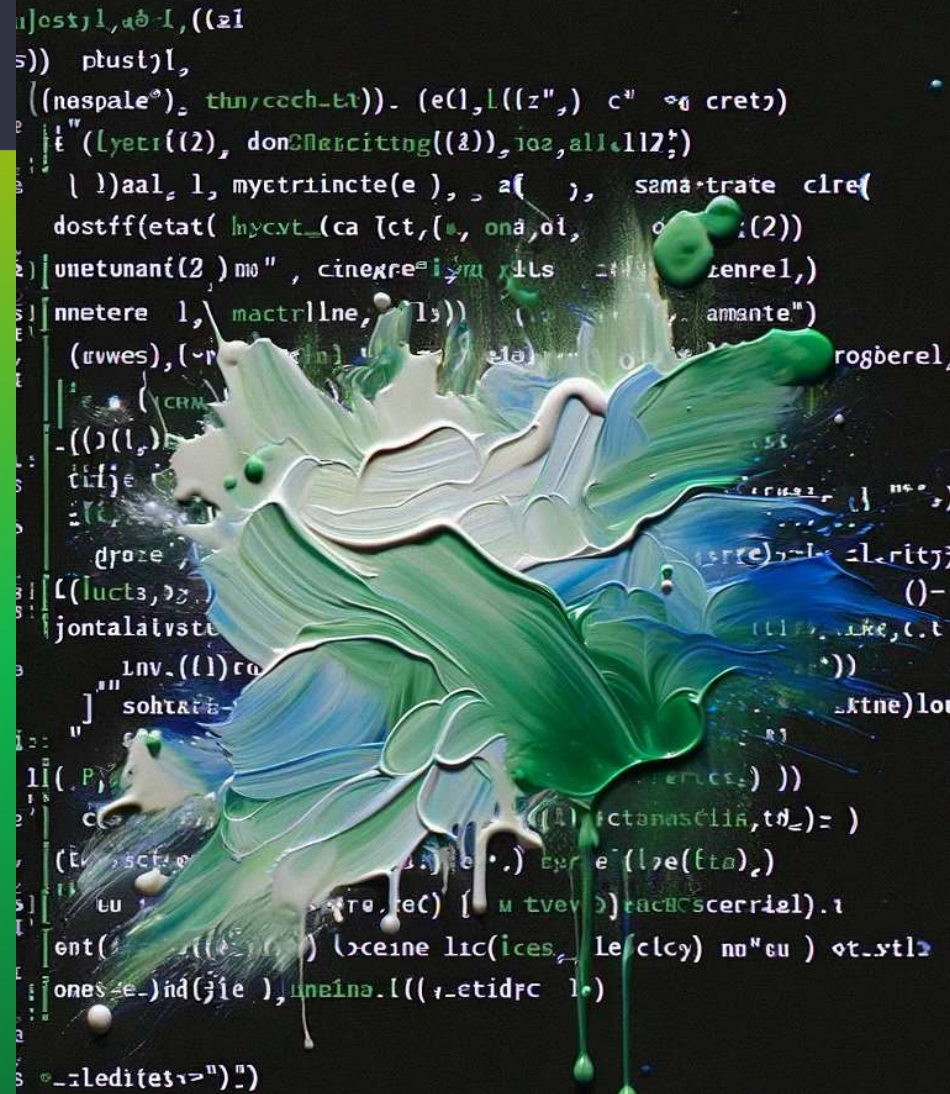
– Jim Barksdale, Netscape CEO, when releasing Netscape’s source
code under the Mozilla Public License in 1998.





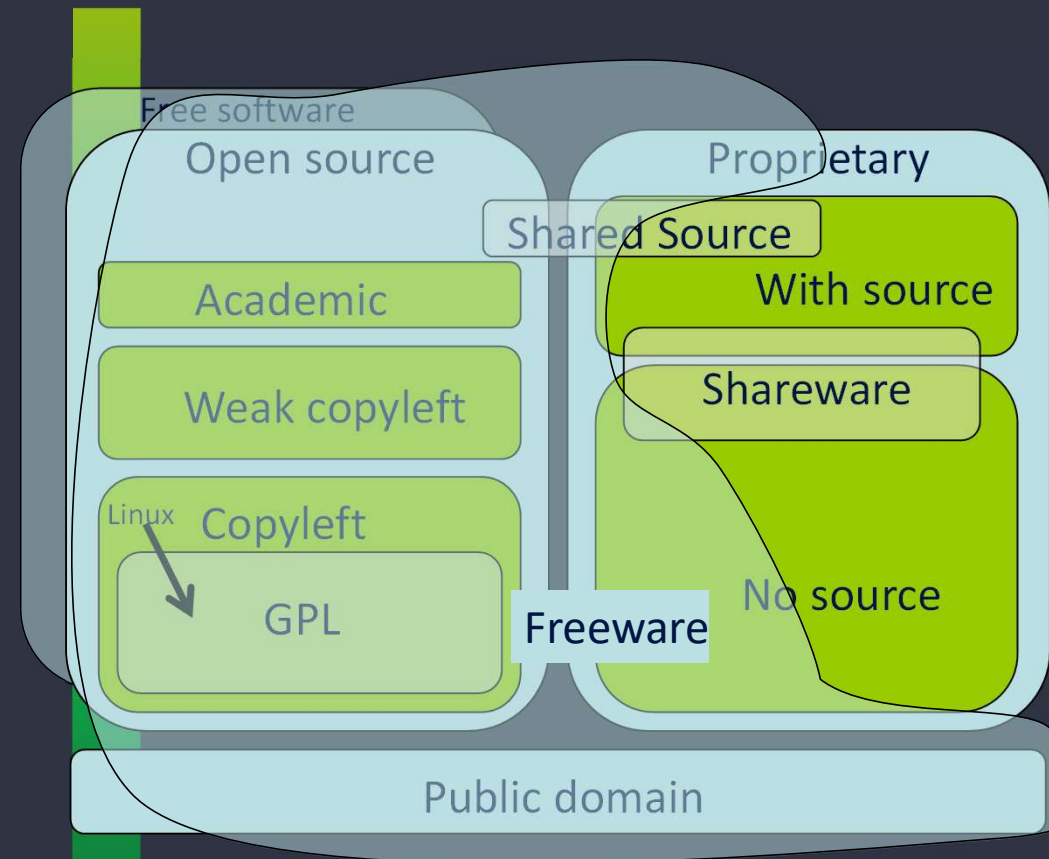
**"LINUX IS A CANCER THAT
ATTACHES ITSELF IN AN
INTELLECTUAL PROPERTY SENSE
TO EVERYTHING IT TOUCHES."**

– Steve Ballmer, Microsoft CEO in 2001 on the GNU GPL



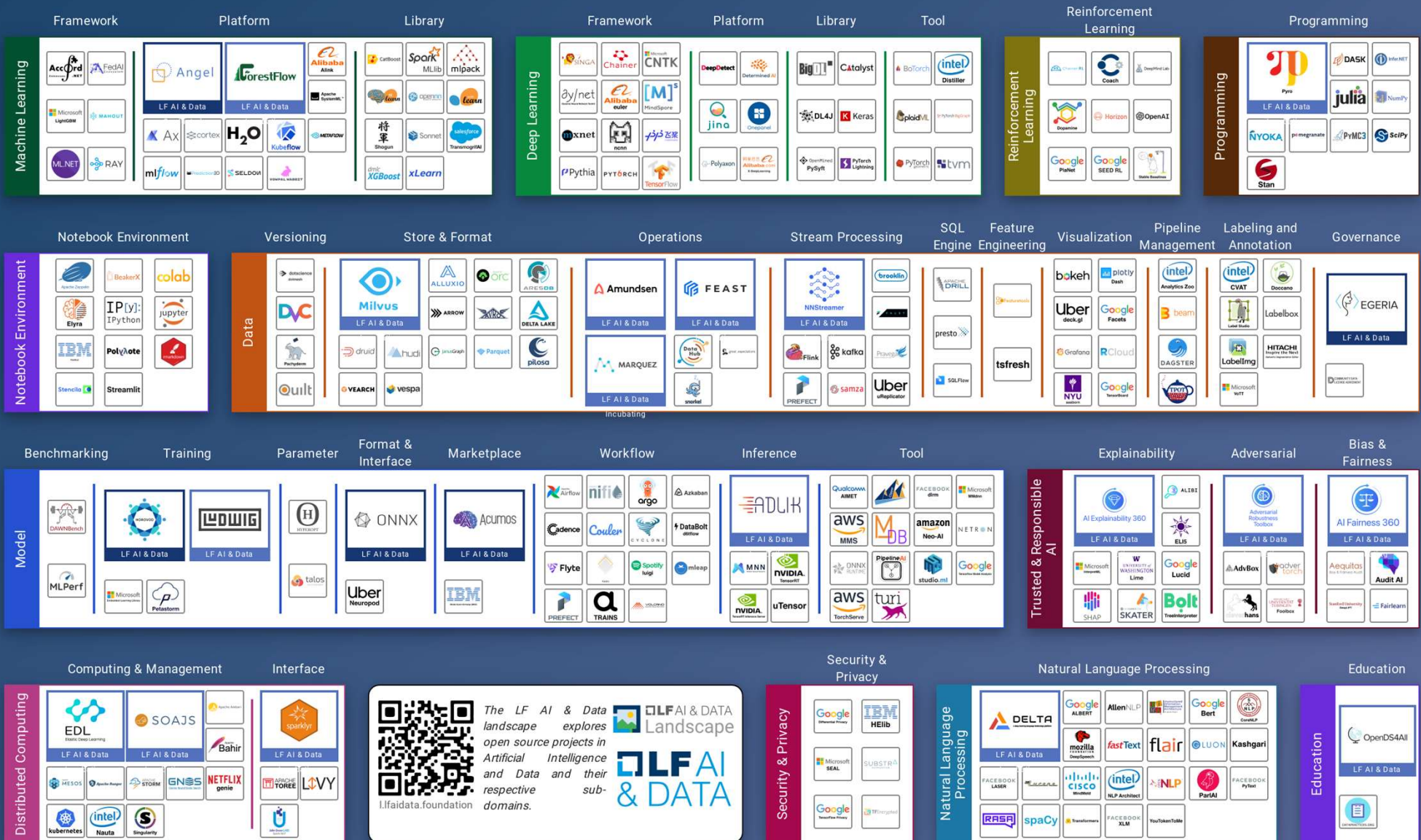
“The General Public License is a copying license which basically says that you have the freedoms we want you to have and that you can't take these freedoms away from anyone else. (The actual document consists of several pages of rather complicated legalbol that our lawyer said we needed.)”

–Richard Stallman, 1988



Microsoft ❤️ Linux





QR code linking to lfaifoundation.org

The LF AI & Data landscape explores open source projects in Artificial Intelligence and Data and their respective sub-domains.

LF AI & DATA Landscape

LF AI & DATA

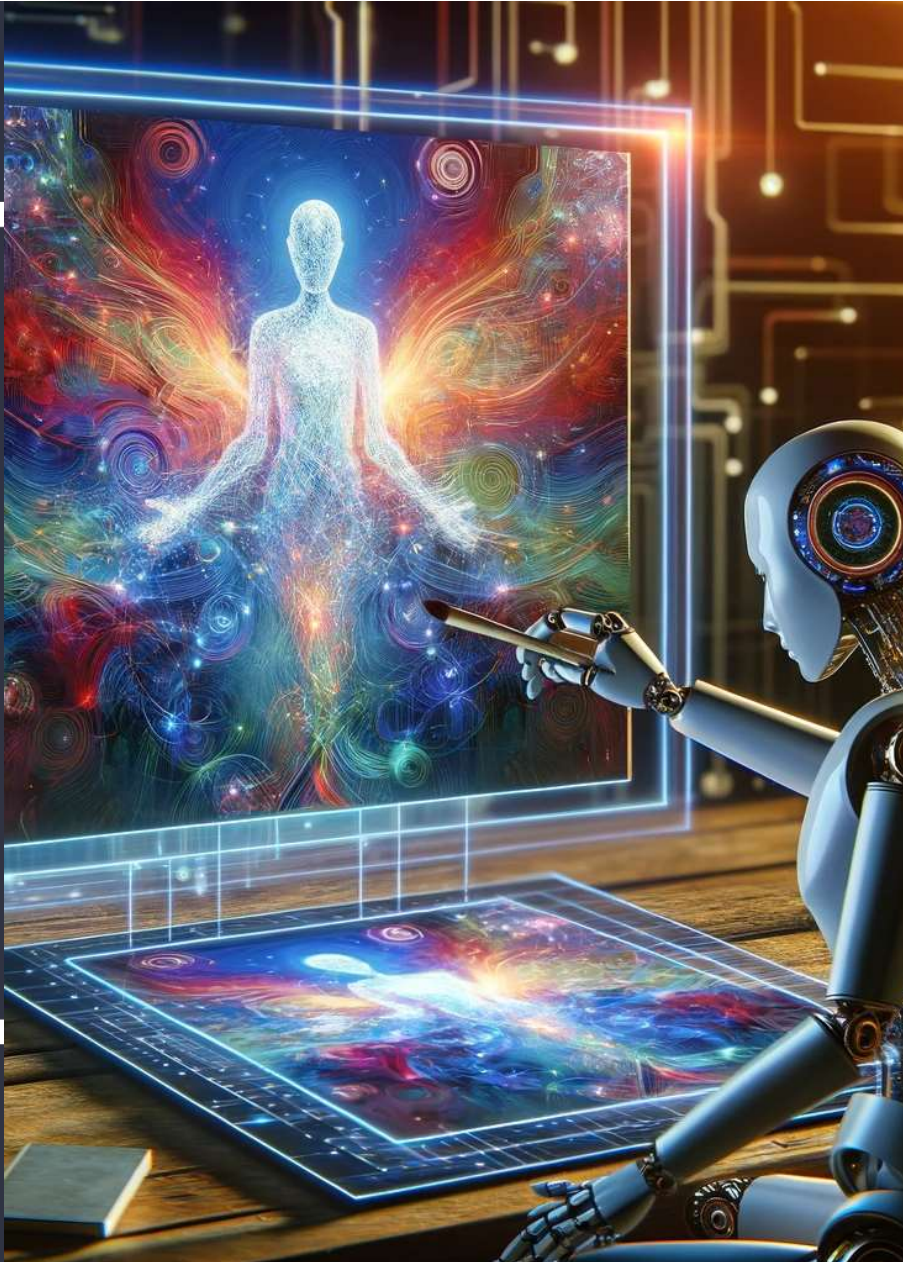


THE ERA OF ARTIFICIAL INTELLIGENCE

“THE QUESTION OF WHETHER MACHINES CAN THINK IS ABOUT AS RELEVANT AS THE QUESTION OF WHETHER SUBMARINES CAN SWIM.”

– Dijkstra, E. W. (1984). The threats to computing science. In *ACM 1984 South Central Regional Conference* (Vol. 16, p. 18).





“A machine-based system that is designed to operate with **varying levels of autonomy** and that can, for explicit or implicit objectives, generate **outputs** such as predictions, recommendations, or decisions that **influence physical or virtual environments.**”

– Art. 3.1 AI Act, draft October 2023

(12) INTERNATIONAL APPLICATION PUBLISHED UNDER THE PATENT COOPERATION TREATY (PCT)

(19) World Intellectual Property Organization

(43) International Publication Date
23 April 2020 (23.04.2020)



(10) International Publication Number
WO 2020/079499 A1

- (51) International Patent Classification:
B65D 6/02 (2006.01) B65D 21/02 (2006.01)
B65D 8/00 (2006.01) B65D 1/02 (2006.01)
B65D 6/00 (2006.01) A61M 16/00 (2006.01)
B65D 13/02 (2006.01) A61M 21/00 (2006.01)
- (21) International Application Number:
PCT/IB2019/057809
- (22) International Filing Date:
17 September 2019 (17.09.2019)
- (25) Filing Language: English
- (26) Publication Language: English
- (30) Priority Data:
18275163.6 17 October 2018 (17.10.2018) EP
18275174.3 07 November 2018 (07.11.2018) EP
- (71) Applicant: THALER, Stephen L. [US/US]; 1767 Waterfall Dr., St Charles, Missouri 63303 (US).
- (72) Inventor: DABUS, The invention was autonomously generated by an artificial intelligence; 1767 Waterfall Dr., St Charles, Missouri 63303 (US).
- (74) Agent: ABBOTT, Ryan; 11601 Wilshire Blvd #2080, Los Angeles, CA 90024 (US).
- (81) Designated States (unless otherwise indicated, for every kind of national protection available): AE, AG, AL, AM, AO, AT, AU, AZ, BA, BB, BG, BH, BN, BR, BW, BY, BZ, CA, CH, CL, CN, CO, CR, CU, CZ, DE, DJ, DK, DM, DO, DZ, EC, EE, EG, ES, FI, GB, GD, GE, GH, GM, GT, HN, HR, HU, ID, IL, IN, IR, IS, JO, JP, KE, KG, KH, KN, KR, KW, KZ, LA, LC, LK, LR, LS, LU, LY, MA, MD, ME, MG, MK, MN, MW, MX, MY, MZ, NA, NG, NI, NO, NZ, OM, PA, PE, PG, PH, PL, PT, QA, RO, RS, RU, RW, SA,

(54) Title: FOOD CONTAINER AND DEVICES AND METHODS FOR ATTRACTING ENHANCED ATTENTION



(72) Inventor: DABUS, The invention was autonomously generated by an artificial intelligence; 1767 Waterfall Dr., St Charles, Missouri 63303 (US).

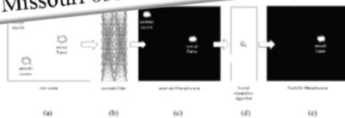


Fig. 15

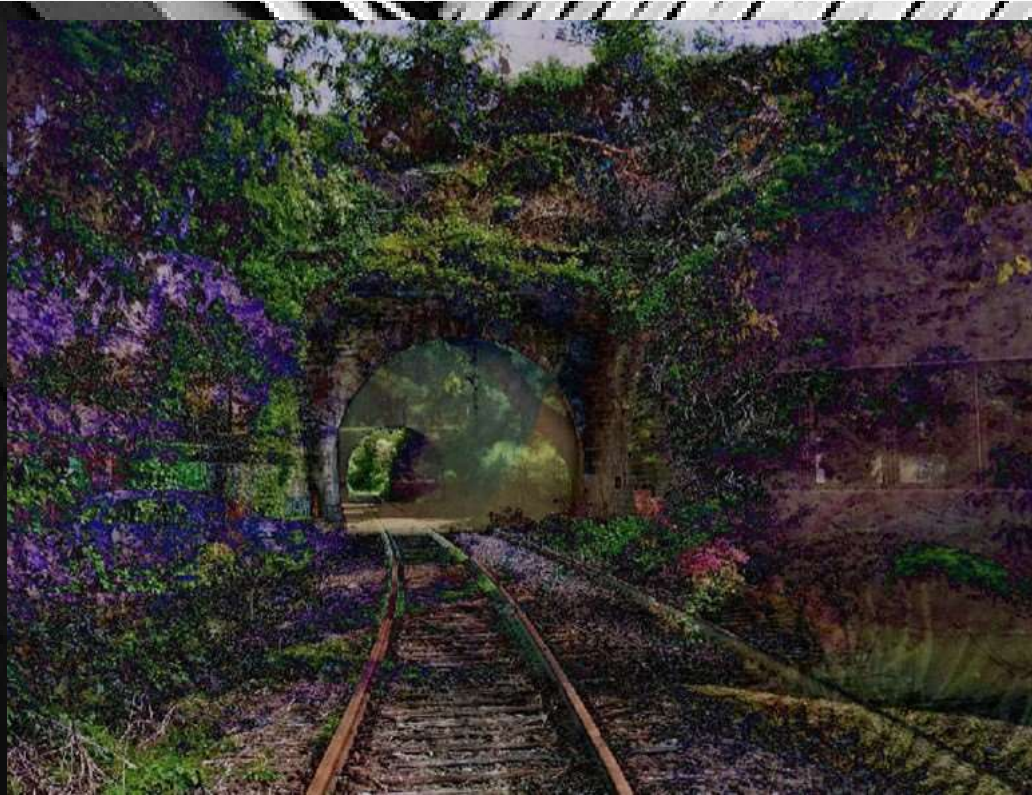
(57) Abstract: A container (10) for use, for example, for beverages, has a wall (12) with an external surface (14) and an internal wall (16) of substantially uniform thickness. The wall (12) has a fractal profile which provides a series of fractal elements (18-28) on its interior and exterior surfaces (14-16), forming pits (40) and bulges (42) in the profile of the wall and in which a pit (40) as seen from one of the exterior or interior surfaces (12, 14) forms a bulge (42) on the other of the exterior or interior surfaces (12, 14). The profile enables multiple containers to be coupled together by inter-engagement of pits and bulges on corresponding ones of the containers. The profile also improves grip, as well as heat transfer into and out of the container. Devices for attracting enhanced attention include: input signal of a lacunar pulse train having characteristics of a pulse frequency of approximately four Hertz and a pulse-train fractal dimension of approximately one-half, and at least one controllable light source configured to be pulsatingly operated by the input signal.

WO 2020/079499 A1

An 'inventor' must be a natural person – USPTO

Under the EPC the designated inventor has to be a person with legal capacity. – European Patent Office

[A]n inventor as recognised under the Act can be an artificial intelligence [but can] neither be an applicant for a patent nor a grantee of a patent. – Australian Patent Office



"A Recent Entry to Paradise"

"Copyright has never stretched so far, however, as to protect works generated by new forms of technology operating absent any guiding human hand, as plaintiff urges here. Human authorship is a bedrock requirement of copyright."

Thaler v. Perlmutter, D.D.C. 18 Aug. 2023, No. 22-1564 (BAH)



“We conclude that this monkey—and all animals, since they are not human—lacks statutory standing under the Copyright Act.”

Naruto v. Slater, 888 F.3d 418 (9th Cir. 2018).

1

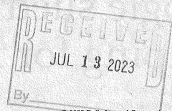
КАШТАНОВА
MIDJOURNEY

ZARYA OF THE DAWN

“A person who provides text prompts to Midjourney does not “actually form” the generated images and is not the “master mind” behind them. Instead, as explained above, Midjourney begins the image generation process with a field of visual “noise,” which is refined based on tokens created from user prompts that relate to Midjourney’s training database.”

– US Copyright Office letter to Mx. Kashtanova, February 21, 2023.

LOS ANGELES
Daily Journal
www.dailyjournal.com



VOL. 136 NO. 134

THURSDAY, JULY 13, 2023

© 2023 Daily Journal Corporation. All Rights Reserved

Google sued again over data scraping for AI products

The proposed class claims privacy violations and is just the latest to be filed against AI companies. Some lawsuits claim copyright infringement.

Page 2

Riverside County judge shortage cited in freeing of machete attacker

Justice Michael J. Raphael wrote in a concurrence he fears the opinion would suggest all that is needed to support the trial judge's dismissal of the charges is that courts are severely underfunded.

Page 3

CEQA reform bill slides into state budget in the eleventh hour

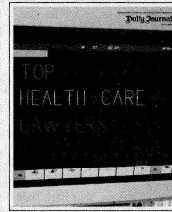
Infrastructure project opponents have weaponized the California Environmental Quality Act to kill unwanted projects. Last minute CEQA reform tactics should change that. By Jennifer Chavez and Whitney Hodges

Page 5

Top Health Care Lawyers 2023

The annual list of California's top lawyers focusing on life sciences, insurance claims, transactions and regulatory compliance within the health care field.

See Online



GUEST COLUMN

Comedian files class action against OpenAI for alleged copyright infringement

By Josh Eichenstein

It was only a matter of time for Open AI to be sued for copyright infringement and it finally happened. One of the most successful comedians of all time, Sarah Silverman, along with others, initiated a class-action copyright infringement lawsuit against OpenAI, Inc. and its associated entities. The crux of their argument? They claim that OpenAI's language model, ChatGPT, was un-

lawfully exploiting their copyrighted works, including their own books, without their permission, acknowledgment, or any form of compensation to train their language models. They maintain that the model's ability to generate precise summaries of their works is a telltale sign that their copyrighted material was used in its training data.

The complaint alleges Direct Copyright Infringement (17 U.S.C.

§ 106) and Vicarious Copyright Infringement (17 U.S.C. § 106) as the basis for their claims. The plaintiffs argue that OpenAI made copies of their books during the training process of the OpenAI Language Models without their permission, thus creating infringing derivative works in violation of their exclusive rights under the Copyright Act.

The plaintiffs also allege violations of the Digital Millennium Copyright

Act - Removal of Copyright Management Information (17 U.S.C. § 1202(b)). They claim that OpenAI intentionally removed Copyright Management Information (CMI) from their works, which facilitated copyright infringement by concealing the fact that every output from the OpenAI Language Models is an infringing derivative work.

In order to assert copyright infringement claims, the complaint of-

fers an explanation on how artificial intelligence, AKA "large language models" (LLMs) like ChatGPT are trained. These models are trained by copying vast amounts of text from various sources, referred to as the training dataset. The AI copies each piece of text in the training dataset, extracting information from it. The model then adjusts its output to more closely resemble the style of words, enabling it to produce convincing simulations of natural written language.

In terms of how it applies to this case, the plaintiffs argue that the OpenAI Language Models are infringing derivative works because they cannot function without the expressive information extracted from

Plaintiffs' works (and others) and retained inside them. The models were trained by copying massive amounts of text and extracting expressive information from it, including the plaintiffs' books, without their permission. Therefore, every output from the OpenAI Language Models is an infringing derivative work.

Fair use defense

Under 17 U.S. Code § 107 outlining use of copyrighted material without permission under certain circumstances, typically for purposes such as criticism, comment, news reporting, teaching, scholarship, research. This is referred to as "Fair Use." In the case of OpenAI's

See Page 5 — COMEDIAN

ARTIFICIAL INTELLIGENCE

VOL. 2023

CURRENT AI COPYRIGHT CASES: PART 1

THE UNAUTHORIZED USE OF COPYRIGHTED MATERIAL AS TRAINING DATA



REUTERS® Exclusive news, data and analytics for financial market professionals | LSL

World Business Markets Sustainability Legal More My View Sign In Register

Litigation | Copyright | Litigation | Technology | Intellectual Property

Judge pares down artists' AI copyright lawsuit against Midjourney, Stability AI

By Blake Brittain
October 31, 2023 5:53 AM GMT+8 · Updated 9 hours ago

Newsletter | Every weekday
The Daily D
A smart look at the day's headlines concerning the practice and the practice
Sign

AI Copyright Lawsuit Update



WRITERS GUILD
OF
AMERICA
ON
STRIKE!

WRITERS
GUILD OF
AMERICA
THE
FAST
AND THE
FURIOUS
STRIKE

WGAW
HUMAN
WRITERS
ONLY!

WRITER
GUILD OF
AMERICA
*I became a white
to avoid math & peop
But here I am*
STRIKE

STRIKE!

WRITERS
GUILD OF
AMERICA
ON
STRIKE

N

AFTRA
SPORTS
GA

GUILD OF



HISTORY NEVER REPEATS ITSELF,
BUT IT DOES OFTEN RHYME.





THANK YOU

A.Engelfriet@ictrecht.nl