

the  
iSchool  
Institute

# Copyright and Generative AI: Where are we going?

Friday, May 30, 2025

12:00pm – 1:00pm



**Dr. Jean Dryden**

Adjunct Professor  
Faculty of Information

FACULTY OF  
INFORMATION

UNIVERSITY  
OF TORONTO



the  
iSchool  
Institute

# Copyright and Generative AI:

## Where are we going?

*Jean Dryden, MLS, LLM (IP), PhD*  
*Faculty of Information*  
*University of Toronto*  
*j.dryden@utoronto.ca*

**FACULTY OF  
INFORMATION** **UNIVERSITY  
OF TORONTO**



# The Hon. Evan Solomon, Minister of Artificial Intelligence and Digital Innovation

CPAC, 13 May 2025



“Canadians are being ushered into a new era of AI-powered productivity, creativity and communication. But they are forging ahead without the digital literacy needed to navigate AI technologies and their impacts effectively, safely and critically.”

<https://theconversation.com/two-thirds-of-canadians-have-experimented-with-generative-ai-but-most-dont-understand-its-impacts-254351>

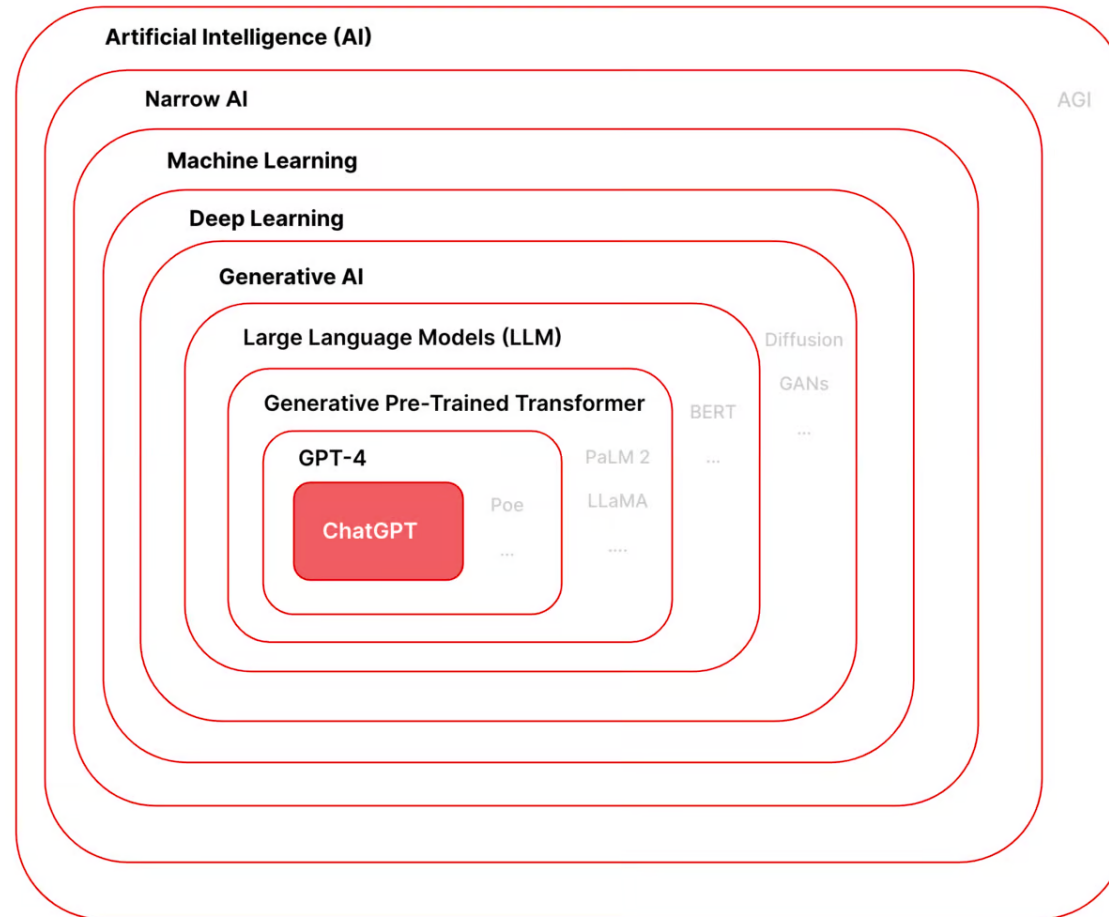
Gruzd, Anatoliy; Mai, Philip; Clements Haines, Anthony (2025). The State of Generative AI Use in Canada 2025: Exploring Public Attitudes and Adoption Trends. Social Media Lab, Toronto Metropolitan University. DOI: <https://doi.org/10.6084/m9.figshare.28664780>

- Canadians are being **thrust** into a new era of AI-powered productivity, creativity and communication. But they are forging ahead without the digital literacy **and the legislative and regulatory frameworks** needed to navigate AI technologies and their impacts effectively, safely and critically.

# The Map of Artificial Intelligence



# Artificial Intelligence Taxonomy



# Government initiatives

- 2017: Launched the Pan-Canadian Artificial Intelligence Strategy
- 2022: Introduced the *Artificial Intelligence and Data Act (AIDA)*
  - Goal: to establish a comprehensive regulatory framework for AI systems across Canada
  - Controversial
  - Died when Parliament was prorogued
- 2023: Introduced “Voluntary Code of Conduct on the Responsible Development and Management of Advanced Generative AI Systems”



# Consultations with stakeholders

- Consultation on a Modern Copyright Framework for Artificial Intelligence and the Internet of Things (2021)
  - Broader than GenAI
  - Premature to comment
- Consultation on Copyright in the Age of Generative Artificial Intelligence (Oct. 2023-Jan. 2024)
  - Use of copyright-protected works in the training of AI systems (TDM)
  - Authorship and ownership rights related to AI-generated content
  - Infringement and liability regarding AI

# 1. Consultation on Copyright & GenAI: Training materials (TDM)

Use of copyright-protected works in the training of AI systems

- Should the copyright owners of those works be compensated?  
If so, how?

• Does fair dealing apply?	• Rights holders want to be paid through licensing
• New exception permitting use of works in TDM?	• Moral rights issues (attribution)

## 2. Consultation on Copyright & GenAI: Authorship/Ownership

- Authorship and ownership rights related to AI-generated content
  - Are AI generated/assisted works even protected by copyright?
  - If so, who is the author of an AI generated work?
  - Must the author be human or can it be a machine?
  - What level of human input is sufficient to merit copyright protection?

## 2. Consultation on Copyright & GenAI: Authorship/Ownership (2)

Offered 3 options

1. Clarify that copyright protection applies only to works created by humans
2. Attribute authorship of AI-generated works to the person who arranged for the work to be created
3. Create a new set of rights for AI-generated works

### 3. Consultation on Copyright & GenAI: Liability

Who is liable when AI-generated works infringe copyright-protected works?

- Do the inputs infringe?
- The outputs?
- The apps?

Well-established test for infringement

- infringing party had access to the original copyrighted work
- original work was the source of the copy
- all or a substantial portion of the work was reproduced
- difficult to apply without transparency

# Results of the 2023 Consultation

- What We Heard Report: Consultation on Copyright in the Age of Generative Artificial Intelligence (Feb. 2025)
- 11 “Observations”

<https://ised-isde.canada.ca/site/strategic-policy-sector/sites/default/files/documents/copyright-consultation-report-en.pdf>

# 1. What we heard: Training materials (TDM)

## **Should TDM require rights holder consent and compensation?**

- Creators oppose use of their content without consent and compensation
- Want to be paid via licensing scheme
  - voluntary (prefer opt-in) or compulsory

## **Should Canada introduce a copyright exception for TDM?**

- Tech industries and scholars/researchers want clarification that TDM doesn't infringe
  - Fair dealing?
  - New exception? (possibly limited to public interest, research)
- Creators oppose an exception
- No contract override

## **Greater Transparency**

- General support for greater transparency (record-keeping/disclosure) about the inputs
- Documenting inputs very resource intensive for developers

# Disclaimer

No content in this presentation was generated by an artificial intelligence language model.



# Lawsuits re Training materials

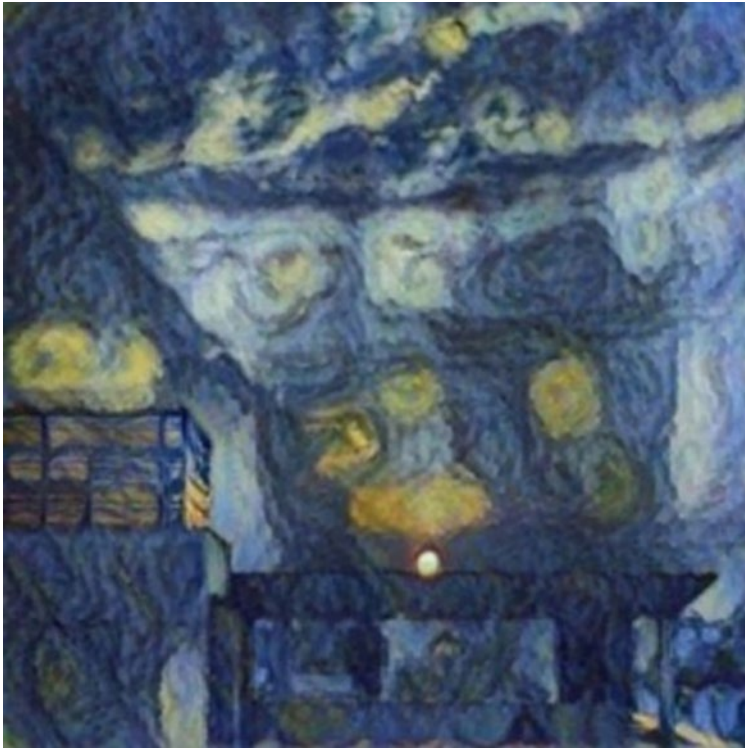
- Prof Pam Samuelson (UC Berkeley) “Will copyright derail generative AI technologies?”
  - Analyzed 38 US lawsuits and their chances of success
  - Resolution may take 5-7 years
  - <https://srinstitute.utoronto.ca/videos-seminar-series-2024-25>
- 2 lawsuits in Canada launched (November 2024)
  - Canadian nonprofit legal database sued an AI company for the unauthorized scraping of its online content
  - Canadian media publishers sued an AI company for the unauthorized use of their works in the development of AI models
    - Weak evidence

## 2. What we heard: Authorship/Ownership

- General agreement on centrality of human authorship to merit copyright protection
  - limited support for protection of AI-generated content without sufficient human input
- What level of human input is sufficient?
  - Authors must be allowed to use AI to create copyright protected works
- Some support for limited protection of AI outputs (author would be person who made arrangements)
- Little consideration of sui generis regime for AI

# Canada's First AI-Co-Authored Copyright Registration

*Suryast*, RAGHAV & A. Sahni, 2021



*Starry Nights*, van Gogh, 1889



### 3. What we heard: Liability

- Who is liable when AI-generated works infringe copyright-protected works?
  - No consensus on whether it's developers, owners, or users of AI systems
  - No agreement on whether existing legal tests are adequate
  - Strong support for greater transparency requirements to make it easier to determine whether infringement has occurred and who is liable

# What we heard: Other concerns

- Use of indigenous works
- Use of performers' likenesses in deepfakes
- Negative Impacts on job security and unfair competition
- Misuses of AI that fall outside copyright, e.g., privacy violations, misinformation, propaganda, terrorism, certain criminal offences

# What We Heard: Mistrust of AI industry

- Negative sentiments towards AI companies and the technology industries
- Skepticism regarding the fairness and ethical standards of businesses operating within the AI sector.
- More penalties and more corporate accountability to prevent potential harms and unethical AI uses.
- Echoed by TMU report, whose findings show overwhelming support for regulatory guardrails. Canadians want clear rules for companies that develop, use or provide GenAI-powered tools and services.

# Some concluding thoughts

- Robust regulatory framework top priority
- Need an exception for TDM
- Compensation through tailor-made licensing schemes

# Some concluding thoughts (2)

## Thorny issues:

- Transparency
- What level of human input is sufficient?



# What can we do?

- Engage with the government
- Educate ourselves about Generative AI

# Stay Connected with the iSchool Institute

**Enjoyed the event? Don't miss what's next!**

Sign up for our newsletter and be the first to hear about:

- Upcoming events & workshops
- Special offers for our community



<http://eepurl.com/i2J-FA>

# Social Agentics: the challenges and opportunities of agentic AI

Virtual Event

Friday, Sept. 19, 2025

12:00pm – 1:00pm

**FACULTY OF  
INFORMATION** **UNIVERSITY  
OF TORONTO**



the  
iSchool  
Institute



**Dr. Matt Ratto**

Professor, Associate Dean, Research  
Faculty of Information