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Copyright and Generative AI: Where are we going?

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Copyright and Generative AI:

Where are we going?

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

CPAC, 13 May 2025



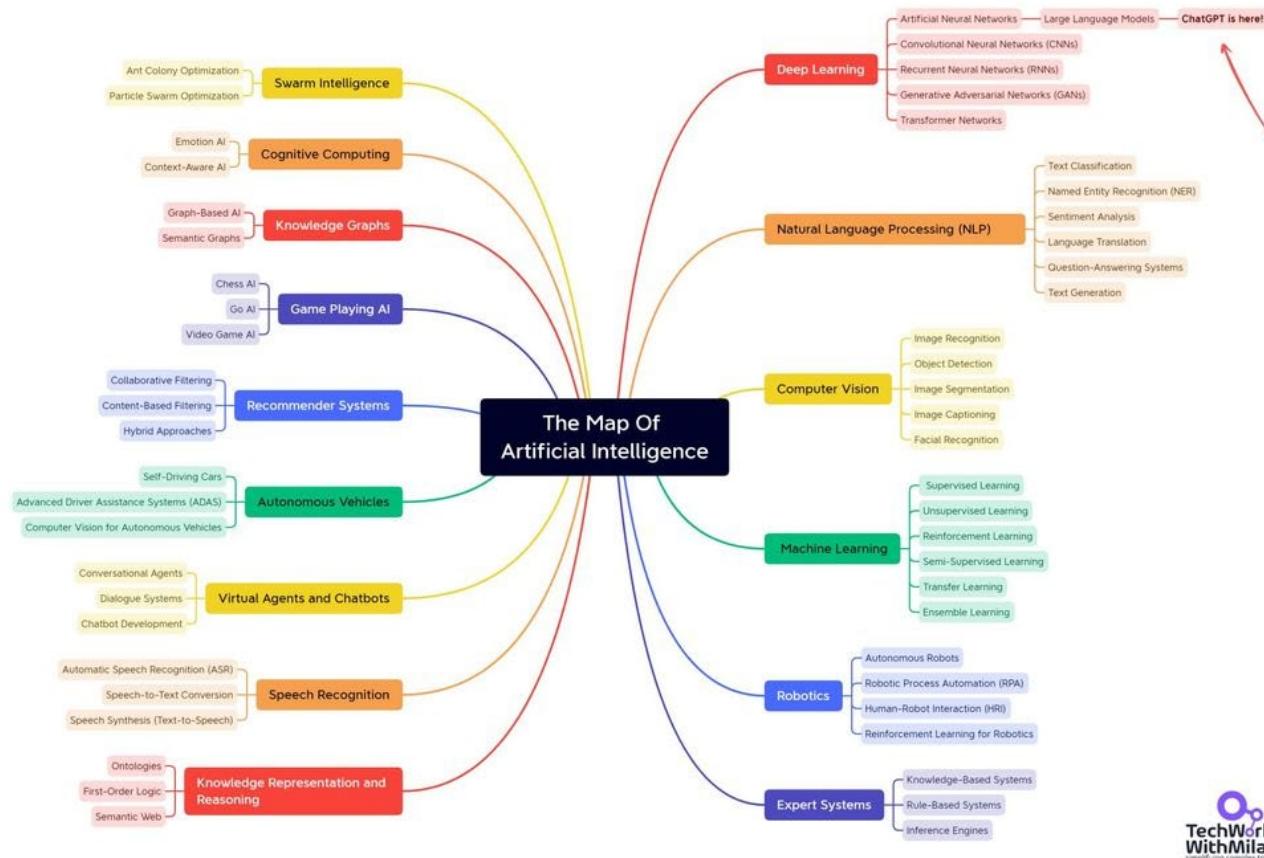
“Canadians are being ushered into a new era of AI-powered productivity, creativity and communication. But they are forging ahead without the digital literacy needed to navigate AI technologies and their impacts effectively, safely and critically.”

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

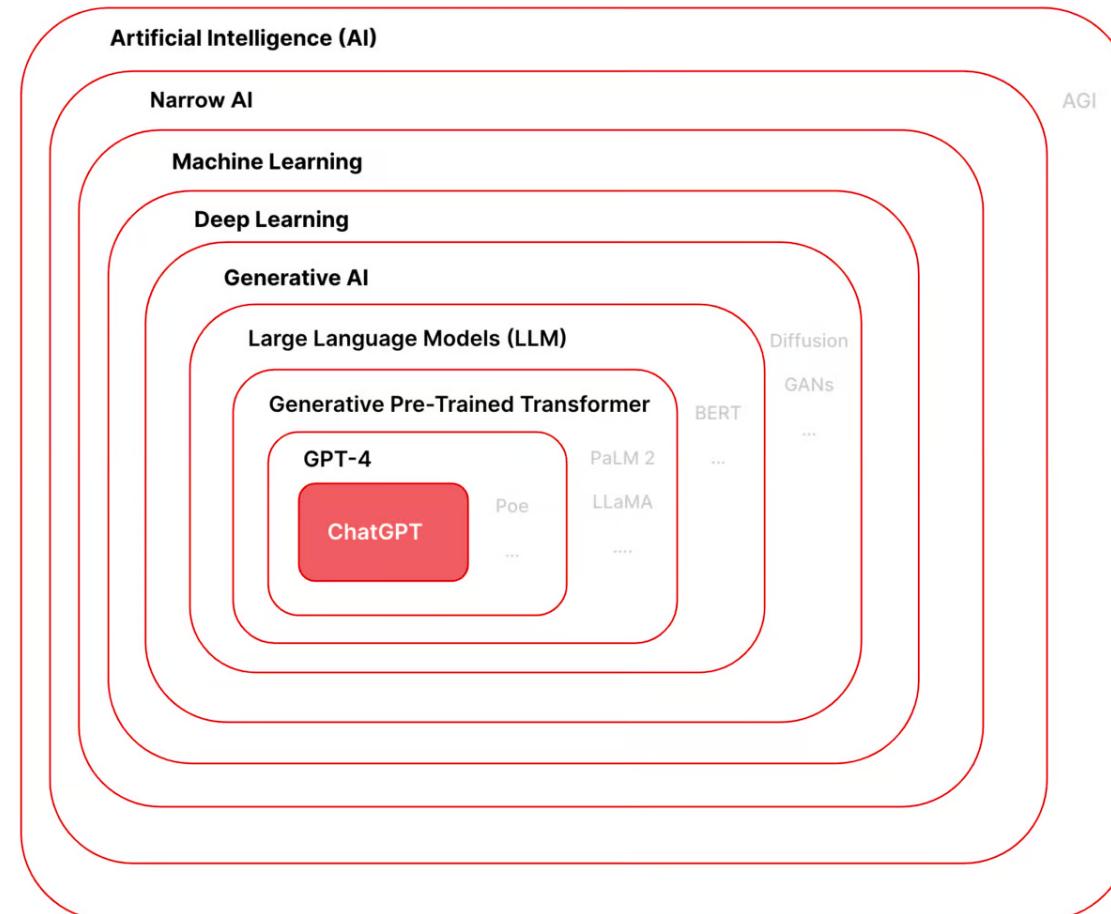
The Map of Artificial Intelligence



Artificial Intelligence Taxonomy

WEEKLY AI USE CASES FOR ANALYTICS

AI FOR BI
ROCKS



<https://www.gptechblog.com/5-diagrams-to-help-you-understand-generative-ai/>
Copyright Jean Dryden 2025

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?

<ul style="list-style-type: none">• Does fair dealing apply?	<ul style="list-style-type: none">• Rights holders want to be paid through licensing
<ul style="list-style-type: none">• New exception permitting use of works in TDM?	<ul style="list-style-type: none">• 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

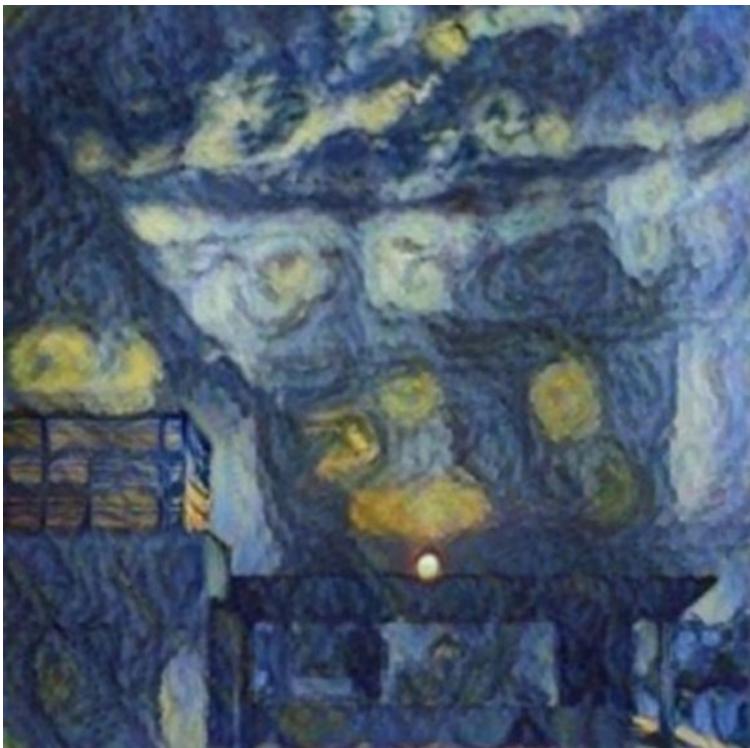
- Prof Pam Samuelson (UC Berkeley) “Will copyright derail generative AI technologies?”
 - Analyzed 38 US lawsuits and their chances of success
 - Resolution may take 5-7 years
 - <https://srinstitute.utoronto.ca/videos-seminar-series-2024-25>
- 2 lawsuits in Canada launched (November 2024)
 - Canadian 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

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Social Agentics: the challenges and opportunities of agentic AI

Virtual Event

Friday, Sept. 19, 2025
12:00pm – 1:00pm

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Dr. Matt Ratto

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