

The New Art Forgers

*Katrina Geddes**

The Ohio State University Moritz College of Law

AI models are exceptionally good at generating new works in the style of their training data. As a result, the internet is now flooded with AI-generated “dupes”: model outputs masquerading as authentic works by well-known artists. Human creators have discovered AI-generated works for sale under their names on a variety of digital marketplaces. Without property rights over the AI-generated content (most of which is not “substantially similar” to their prior works), creators who find themselves in this position have no remedy under existing law. How is this possible? This Article describes the gaps in existing law that enable this pernicious form of consumer deception, including the uncopyrightability of style and the absence of robust attribution rights.

As artists watch their distinctive styles proliferate across AI-generated works, they have two distinct attribution interests: first, they want to disclaim authorship of AI art generated in their distinctive style (“misattribution of authorship”) and second, they want to receive credit for the use of their work as training data (“non-attribution of source”). Consumers also have a strong interest in distinguishing authentic works by their favorite artists from AI-generated “dupes”. Given the U.S.’s longstanding hostility towards moral rights, this Article suggests that trademark law may offer a convenient way to protect artists from the misattribution of low-quality or offensive AI-generated works. Designations of authorship serve the same social functions as traditional marks by incentivizing the production of high-quality works and reducing consumer confusion. In the face of AI’s extraordinary imitation capabilities, artists need robust attribution rights to continue creating valuable expressive works. This Article argues that Congress should restore the capacity of copyright owners to bring claims for false designation of origin under section 43(a) of the Lanham Act.

*Assistant Professor, The Ohio State University, Moritz College of Law; Affiliated Fellow, Yale Law School, Information Society Project. I am grateful to James Grimmelman, Kathy Strandburg, Jeanne Fromer, Oren Bracha, Bryan Choi, Jess Miers, Jessica Silbey, Daniel Susser, Christopher Yoo, Bob Brauneis, Julie Cohen, Barton Beebe, Matthew Sag, Christopher Buccafusco, Jacob Noti-Victor, Guy Rub, Andres Sawicki, Deven Desai, Xiyin Tang, Victoria Schwarz, Michael Goodyear, Ben Sobel, Nikola Datzov, Mark Verstraete, David Stein, and the participants at the Cornell Law Faculty Workshop, the 2025 AALS Conference, the 2025 WIPIP Conference, the 2025 Emory Law AI Conference, the Cornell AI and Human Values Workshop, the Tenth Copyright Scholarship Roundtable, the Temple IP Colloquium, and the Information Law Institute Fellows at NYU Law for their helpful feedback.