

Artists file class action against Stability AI, Midjourney and DeviantArt

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case

AI Image Generator - Copyright Litigation

ABOUT THE CASE

"AI" image generation products such as Stable Diffusion, DreamStudio, DreamUp, and Midjourney have become a viral internet sensation. While this new technology is enticing, these products infringe on the rights of thousands of artists and creators. Indeed, their ripple effects are already being felt. Artists have already begun to experience the financial burden these products can have on their livelihoods. Art students are wondering whether they should continue to pursue their passions. While it is common for technology to replace humans, in this instance humans have not been replaced; their contributions are simply hidden, and they are left uncompensated.

We are pursuing a case that will ensure artists' rights can no longer be ignored by the creators of these products.

HOW DO AI IMAGE-GENERATING PRODUCTS WORK?

Stable Diffusion and other image-generating AI products could not exist without the work of painters, illustrators, photographers, sculptors, and other artists. Stable Diffusion was trained on the LAION-5B dataset. LAION-5B contains 5.85 billion image-text pairs. Most of the images contained in the dataset are copyrighted, and LAION claims no ownership in them. As it notes, "The images are under their copyright."

As a result of these products' ability to respond to prompts for images "in the style of" any creator whose works were contained in the vast LAION dataset, many popular artists have seen the Internet flooded with images that look like their work but which they did not create.

DreamStudio and other image-generation products charge users per "generation," but none of that revenue goes to the artists who created the works those generations are based on. Even if the prompt is "Dragon in the style of Artist Doe," Artist Doe is not compensated, nor are they even consulted or told before these products are built on their work.

The creators of these image generators violated the rights of at least thousands of artists when they created their various products. While proponents of AI-generated images have claimed the creation and use of these products is perfectly legal, no court has yet addressed the question.

CASE STATUS

On January 13, 2023, the Saveri Law Firm, LLP filed a complaint in the U.S. District Court for the Northern District of California on behalf of Sarah Andersen, Kelly McKernan, Karla Ortiz, and a class of other artists and stakeholders against Stability AI Ltd.; Stability AI, Inc.; DeviantArt, Inc.; and Midjourney, Inc. This suit alleges copyright infringement, DMCA violations, right of publicity violations, breach of the DeviantArt Terms of Service, unfair competition, and unjust enrichment. It likewise seeks damages and injunctive relief to compensate the class for harms already incurred and to prevent future harms.

On July 12, 2023, the Senate Judiciary Committee's Subcommittee on Intellectual Property conducted a hearing — Artificial Intelligence and Intellectual Property-Part II: The Copyright — on the copyright issues intimately connected with this case. Plaintiff Karla Ortiz testified on behalf of artists whose creative work has been appropriated by image-generating AI products without permission or compensation. (Testimony occurs at 31:24, 59:54, 1:03:59, and 1:31:20.)

On August 12, 2024, the Court granted in part and denied in part defendants' motions to dismiss plaintiffs' first

amended complaint. The Court concluded that plaintiffs' copyright claims were sufficient at the motion to dismiss stage as to Stability AI, Runway, DeviantArt, and Midjourney to plausibly allege a claim for relief. In particular, the Court noted "both the model theory and the distribution theory of direct infringement depend on whether plaintiffs' protected works are contained, in some manner, in Stable Diffusion as distributed and operated. That these works may be contained in Stable Diffusion as algorithmic or mathematical representations – and are therefore fixed in a different medium than they may have originally been produced in – is not an impediment to the claim at this juncture."

Plaintiffs consider the Court's August 12 order a significant step forward for the case. The Court allowed plaintiffs' core copyright-infringement claims against all four defendants to proceed. Specifically, the Court found plaintiffs' theory that image-diffusion models like Stable Diffusion contain compressed copies of their datasets to be plausible. The Court also found it plausible that training, distributing, and copying such models constitute acts of copyright infringement. The Court allowed the Lanham Act claims against Midjourney to proceed, for commercial misuse of plaintiffs' names and artistic styles. Though the Court dismissed certain supplementary claims, plaintiffs' central claims will now proceed to discovery and trial.

Please contact the firm if you have knowledge to share regarding this matter or if you would like to request a copy of the complaint. Any information you provide will be kept strictly confidential as provided by law unless and until you agree to publicly disclose the information.

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