

Using generative AI as a research and writing tool: the risks

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Using generative AI as a research and writing tool involves risks. Make sure you understand them before proceeding, to protect your own rights and those of other creators.

OpenAI is being sued by prominent authors for copyright infringement

The provider of ChatGPT, OpenAI LLC, is being sued by the Authors Guild in the USA and a number of authors, including George R.R. Martin and Jodi Picoult, alleging that copyright in their works have been infringed by allowing them to be used to “train” ChatGPT. The outcome of these claims is unlikely to be known for some time and could render the use of ChatGPT an Infringement of copyright itself. OpenAI denies this, and also defends itself on the basis of “Fair Use”, however the result of the litigation is unknown.

There are also ongoing lawsuits taking place against other AI developers in the US and UK.

Material generated by ChatGPT could be an infringement of copyright

Material generated by ChatGPT could itself be an infringement of copyright. The authors involved in the litigation claim that ChatGPT reproduced sections of their works. Clearly, this could be influenced by the instructions given to the chatbot. For example, if the instructions to generate an “Italian Plumber” character generated a lookalike for a character from the *Super Mario* franchise then this is just as likely to be an infringement of copyright as if the character was copied directly. Users should exercise caution when using chatbot-generated material.

The legal status of material generated by AI is uncertain

Although the UK recognises copyright in computer-generated works (s.178 Copyright, Designs and Patents Act 1988) this is not followed in many other jurisdictions. The status of these works in the USA is uncertain, as traditionally US courts have refused to grant copyright protection to works of non-human authorship. In the EU, the requirement for copyright in original works includes creative choices being made which requires a human author.

You may not be the author or owner of copyright in material you generate through AI

Furthermore, authorship or first ownership of any copyright is still highly uncertain. In the UK, the ownership of copyright in computer-generated works is held by whoever *makes the arrangements for the creation of the work*. This could be the software company rather than the user of the software.

You could be in breach of contract

Most writers' agreements contain clauses, called warranties, where the writer makes certain guarantees about the work they are creating. One of these is a promise that the work is all their own and does not infringe copyright in any other work. Clearly, a writer cannot make such a guarantee at present when the legal status of AI-generated works is uncertain.

WGGB has published a policy position statement on writers and AI. [View it here](#)

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The WGGB advises that you should, where appropriate, always seek expert professional advice from the Writers' Guild of Great Britain or agent member of the Personal Managers' Association or a media solicitor.

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