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## Intellectual Property Rights 2024-25 Negative

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# NEGATIVE EVIDENCE FILE INTRO

## INTELLECTUAL PROPERTY RIGHTS 2024-2025

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Watermark Sample

## TOPIC NEGATIVE STRATEGIES

### On the importance of a well-thought out 1NC

Negative strategy is not simply considered from flow-to-flow, but the entire artifact of the 1NC. Consider how different arguments interact with each other to optimize your offense and the strength of your arguments. For example, running T-Significant may be a way to prove link magnitude of your DA, even if you never intend to carry T-Significant into the 2NR. In a 1-off Kritik 1NC, solvency takeouts may justify why their legalist framework is always doomed to failure. And, a CP is only as good as its net-benefit. Though some debaters are not afraid of performative contradictions, this is becoming increasingly frowned-upon by the debate community. It would be rare to find a judge today who is not open to cross-applying cards or arguments made on one flow to another. With this in mind, here are off-case arguments debaters can commonly expect on this topic:

### Counterplans:

International Cooperation CP. Given the expressly domestic nature of this topic, negative teams can take solace in international actor advocacies as core negative ground. The history of international IPR agreements is long, highly effective history. The USPTO briefly describes 10 of these treaties that a negative team could model counterplans off of. An international counterplan would be well-paired with domestic DAs as the net-benefit, namely a legislative politics DA. A negative team seeking to run an international actor CP should anticipate the permutation debate, especially ones such as “perm do the plan then the counterplan,” as this could be argued to be normal means of implementation. The DA should be levied as a reason to not prefer the permutation.

PICs. There are hundreds of plan-inclusive counterplans (PICs) that negative teams can dream up based on outliers to the affirmative advantage’s offense. This would be paired with a specific DA scenario, for example, the Knowledge Sharing DA described below. By exemplifying how IPR protections can be net-harmful in just one scenario, the negative can advocate for the remainder of the affirmative. Teams running PICs should be ready to justify PICs theoretically in debate, explaining their utility and real-world basis in legislation.

States CP. Existing literature and precedent suggests that patent law must originate at the federal level, with slight implementation differences are the state level. However, novel scholarship by Taorui Guan (2024) suggests that this *status quo* may be suboptimal, and that state implementation of IPR protections is at least theoretically feasible. Trademarks exemplify this best, as they operate at both a state and federal level. Savvy States CP/Federalism DA teams could work out a file on this topic, though it lacks the strong empirical evidence that past domestic topics have offered.

**Disadvantages:**

China/IP Theft DA. U.S. political discourse surrounding IP in the past decade almost always prompts discussion of Chinese IP theft, and potential American responses to such transgressions. Negative teams can argue that although IP theft is happening now, the plan creates another IP barrier that will inevitably be transgressed, causing tension between the two great powers that causes a trade/hot war.

Small Creators/Businesses DA. IP law almost always advantages large corporations with savvy legal teams. Applying for IPR protections is also a lengthy, convoluted, and expensive process. This can harm innovation by disincentivizing newcomers in various industries from technology to pharmaceuticals. This DA would likely function as turns-case offense for the negative, by arguing the protections offered by the case ultimately constricts the industries they intend to promote.

Knowledge Sharing DA. Negative teams can argue that the ever-privatization of intellectual property is net-harmful to the innovation that is required to solve global problems. A primary example would be in the fight against climate change. In a world where green technologists are perpetually constricted by NDAs and patent laws, global collaboration against climate change becomes harder and harder to effectively execute. This DA would argue that without international collaboration, we exceed climate tipping points, causing inevitable human extinction.

Politics DA. A quick Google search will prove that most IP law tends to be bipartisan and popular. This welcomes classic 'winners-lose,' 'winners-win,' and 'rider' DAs, that will evolve depending on popular legislation that peeks its head up throughout the season. This topic likely disadvantages 'political capital' politics scenarios. To give an example of how this DA may look, take the TikTok ban. The link chain may argue that TikTok gets banned now, but that kills steam (winners lose) for the ban. That causes data breaches, which kills American business confidence, and causes economic wars. Politics DAs almost always suffer from spurious link chains, and rely on the negative team simply being better researched on the scenario than the affirmative team.

Elections DA. It is an election year, so elections DAs for both the president and congress will be an inevitable staple of the early season. An example of how this argument looks could be "Biden wins now" -> "plan is popular" -> "popular legislation in a Republican congress causes Trump to win" -> "Trump win causes a laundry list of crisis scenarios." Negative debaters on this topic can reference nearly a decade of Trumpian impact scenarios to turn case and outweigh the plan; affirmatives can similarly find nearly a decade of answers to these scenarios.

**Kritiks:**

Kritikal debaters of all pedagogies have a lot of creative liberties (no pun intended) in this topic. This topic is legally-technical, and entrenched in everything endemic to U.S. structuralism: capitalism, corporatism, government, old money, and so on. Examples of IPR criticism vary greatly, including:

Capitalism/Neoliberalism. The concept of 'own[ing] intangible properties' is antithetical to the concept of public property. IPR protections mostly privilege large corporations with savvy legal teams, contracting wage laborers to innovate on their behalf, only to extract surplus value (profit). The entire concept of the 'work for hire doctrine' (explained in the topic breakdown) under a Marxist interpretation is definitionally alienation from the fruits of those creative workers' labor. Maurizio Borghi (2023) among other scholars argues there is no revolutionary potential under IP law, as the entire canon defines 'public domain' under corporate (private property) standards. The Capitalism K is core negative ground on this topic.

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Afro-pessimism. Debaters familiar with anti-Black cooption and consumption can easily deduce how IPR as a legal structure and metaphorical concept can be criticized for its anti-Black legacy. K.J. Greene (2008) offers a historical analysis of structural IPR discrimination in the context of Black women in the Blues, and aptly states that “while individual black artists without question have benefited from the IP system, the economic effects of IP deprivation on the black community have been devastating” (p. 5) by commodifying elements of Black culture as private property, siphoning collective and communal efforts outside of Black communities into the pockets of a select business-savvy few. More broadly, IP rights are monopolized in what Anjali Vats (2020) describes as white supremacist, masculinized concepts of ‘intelligibility.’ Put another way, creative works are considered sources of inspirations when originating from Black and/or feminine peoples: they are considered intellectual property once reworked in a way that is valued by white supremacist structures, usually to the benefit of white executives with white consumers in mind.

While the above examples imply a criticism of copyright law, patent law also has grim histories of anti-Blackness. Consider the medical field, which almost always tests on HeLa cells to ‘invent’ and patent novel cures. ‘HeLa’ cells are infinitely regenerating cells of Henrietta Lacks, a Black woman who passed from a rare cervical cancer (hence these cells’ rapidly reproducing nature) in 1951. Henrietta was treated in a segregated ward of Johns Hopkins, and her cells were cultivated without her or her family’s knowledge. While medical researchers, companies, and professionals made billions of dollars from her cells, her family didn’t see a dime of these profits until AUGUST 2023. Despite her social death in life as a poor rural Black woman and sharecropper, she was made ‘immortal’ posthumously based on the profitability of her flesh by the white supremacist medical complex. These histories warrant unflinching paradigmatic analysis, and perhaps an entirely new approach outside of our hegemonic notions of ownership as described by the topic.

Settler-colonialism. Fundamentally, we as Americans live on stolen land, made habitable by settlers through indigenous knowledge which has strayed further and further from the cosmologies they were originally birthed from. The idea of creating complex, Western legal structures to own (patent) these ways of interacting the with land, or even *owning nature* through plant patents, is a squarely settler-colonial worldview. In 1995, the Nanook Nation famously declared its opposition to patenting genetic material in conjunction with nearly 20 other indigenous organizations. This hasn’t stopped biopharma companies from patenting thousands of ‘discovered’ (a la Christopher Columbus) genes. Though many indigenous scholars and the World Intellectual Property Organization (WIPO) argue the existing IPR system can be used to marginally protect indigenous culture, practices, and knowledge, this avenue can be exceedingly bleak, opening this topic to criticism.

**T: Domestic**

**Interpretation: “Domestic” policy is by and for the betterment of the domestic population.**

Ranil **Dissanayake**, senior fellow in the Sustainable Development Finance and Europe programmes at CGD and DPhil in Public Policy from University of Oxford, October 12, **2021**.

“The Roots of Policy Incoherence: Domestic Policy, Global Public Goods, and International Development,” Center for Global Development, <https://www.cgdev.org/publication/roots-policy-incoherence-domestic-policy-global-public-goods-and-international> (accessed 3/16/2024)

A simplified conceptualisation of a government’s set of policy concerns is necessary before we can make judgements over how different policy concerns should interact. In its simplest form, we can argue that there are three kinds of policy. First, there are those that are primarily self-interested, aimed at the betterment of the domestic population (now and in the future). I call these “domestic policy concerns,” aimed at influencing domestic outcomes. Second, there are those that are primarily about improving welfare in other countries. These policies may have second order benefits to the country implementing them, but the primary objective is the betterment of people in other countries. These are grouped under “development policy concerns,” aimed at improving international development outcomes. Third, there are policies that benefit the implementing countries, with positive externalities that accrue to other countries. These are classed as “global public good policy concerns,” aimed at improving outcomes with respect to shared global challenges.

**Violation: the affirmative (is enacted outside of the U.S./has international enforcement)**

**Prefer our interpretation:**

- 1) Limits: IPR laws change drastically country-to-country and whether or not that law is intended domestically or internationally. Multiply the world’s 195 countries by each permutation of how many at a time could work with the U.S. on an IPR agreement: that’s how much larger the topic becomes under their interpretation. That explodes negative research burden and skirts core topic education.**
- 2) Ground: on a domestic topic, the negative should be able to access international CPs such as treaties, the World Bank, and consultation, and run domestic DAs. Their interpretation squanders both, killing clash and fairness.**
- 3) Topic education: We should be discussing the depth of the United States’ IPR law; their interpretation only briefly references it. They could easily read their case on the negative which solves any of their education claims.**

**4) Clarity: permitting unlimited IPR debates destroys the focus of our discussion.  
The topic's choice of topic areas already implies a squarely domestic discussion.**

Gary L. Deel, J.D. and business law professor, 7/13/2023.

"What Is Intellectual Property Law? And Why Does it Matter?," Security and Global Studies Blog,  
<https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/what-is-intellectual-property-law/> (accessed 3/16/2024)

What Is Intellectual Property?

Intellectual property (IP) is a category of property that includes intangible creations of the human intellect. **There are many types of intellectual property, and the laws of different countries recognize and protect different kinds of intellectual property in different ways.**

**For the sake of clarity, this discussion will focus only on American laws related to this topic, i.e., intellectual property recognized under United States law includes patents, copyrights, trademarks, and trade secrets.**

The Importance of Intellectual Property Rights

Diving deeper into the concept of intellectual property, it's clear that the power of intellectual property law goes beyond just the protection of ideas. **The intellectual property law, in essence, bestows exclusive rights to the creators or inventors, giving them the power to reap benefits from their inventions or creative works.** Intellectual property rights foster an environment that encourages innovation and creativity.

When exploring intellectual property laws passed in the United States, we find that laws protect four primary forms of intellectual property: patents, copyrights, trademarks, and trade secrets.



**T: IPR is a legal process**

**Interpretation: “Intellectual Property Rights” legally protect content creators’ ideas.**

**Stanford Encyclopedia of Philosophy**, substantially revised August 18, 2022.

“Intellectual Property,” <https://plato.stanford.edu/entries/intellectual-property/> (accessed 3/17/2024)

Intellectual property is generally characterized as non-physical property that is the product of original thought. Typically, rights do not surround the abstract non-physical entity; rather, intellectual property rights surround the control of physical manifestations or expressions of ideas. Intellectual property law protects a content-creator’s interest in their ideas by assigning and enforcing legal rights to produce and control physical instantiations of those ideas.

**Violation: The affirmative doesn’t increase legal protections of content creator’s ideas.**

**Prefer our interpretation:**

- 1) **Limits: The legal process is a specific system that the negative expects to stake ground on through DA and K links as well as competing agent CPs. By averting the legal system altogether, the affirmative suggests that any possible channel of ‘protecting creator’s ideas’ can be topical.**
- 2) **Precision: “Intellectual Property Rights” is a term of art with a specific meaning. Prefer precision for the clarity necessary to have real, meaningful clash.**
- 3) **Topic education: Even for those disinterested in the law writ-large, IPR topic education informs real-world practices for anyone with creative or innovative ideas. Knowing how to avoid exploitation by those who understand convoluted but very real legal fields like IPR is a net-good regardless of one’s opinion on those laws.**
- 4) **Switch-side solves: IPR is inherently legal, so negate legality when you’re negative: solves all of their education claims while retaining our education and limits claims.**

**ARTIFICIAL INTELLIGENCE NEGATIVE**

Watermark Sample

**A2: Case**

Watermark Sample

## A2: Agency /Intentionality

### AI lacks the consciousness for agency and intentionality. At best, AI can aid in human creative endeavors

Cyril Chibuzo **Ezeani**, Department of Philosophy Nnamdi Azikiwe University, **2024**, "ARTIFICIAL INTELLIGENCE AND CREATIVITY: IS AI REALLY CREATIVE?," Nigerian Journal of Arts and Humanities (NJAHA), Volume 4 Number 1, <https://www.nigerianjournalsonline.com/index.php/NJAH/article/viewFile/4765/4629>, Accessed May 9, 2024

**There is no doubt that the agential presupposition and purposefulness of creativity is lacking in computational creativity unless one speaks in terms of the human agency behind the making of artificial intelligence.** The preceding sub-section has been able to highlight that **agency, intentionality are essential parts of creativity**, the reason why **serendipity is not considered true creativity. To create is an intentional act and this presupposes an agent, a conscious being which the artificial intelligent system is not.** Sometimes the impression is given that AI for instance can design, create, and write. This of course leaves people with the false impression that AI has agency and so can be conscious and intentional instead of being automated. **AI is not a conscious entity but it is simply human beings using machine learning systems to do what they intend the machine to do. To say that** for instance, the **AI is writing, thinking, etc. masks the human agency behind certain processes while anthropomizing AI systems.** This contributes to what Deborah G. Johnson and Mario Verdicchio refer to as sociotechnical-blindness, namely, "blindness to all of the human actors involved and all of the decisions necessary to make AI systems..." For Johnson and Verdicchio, AI systems should be thought of as a sociotechnical ensemble which is a combination of artifacts, human behavior, social arrangements, and meaning. **Agency has been ascribed to AI due to what has been referred to as a black box which explains that sometimes due to complexities of mechanisms, it is hard to explain how a result emerged. Such opacity has been adduced to signify creative independence from the human creators.**<sup>59</sup> Marks notes that he has written computer programs that have element of surprise in them. According to him, sometimes he looks at what they do, and he is surprised that he could exclaim, "Wow, look at what it's doing," but he notes that looking at the program he could say it was one of the solutions that he considered. He draws attention to the point that one of the ideas that is found in computer search is to lay out thousands be millions or billions of potential different solutions but one does not know what the effect of those solutions would be. In this case, **Artificial Intelligence, lacking the fundamentals of creativity such as agential autonomy and intentionality simply augments and optimizes existing human creativity.**

## A2: AI creativity

### AI creations should not get patents because they are incapable of creativity

Patrick **Zurth**, LL.M. (Stanford). Postdoctoral Fellow at the Chair for Private Law and Intellectual Property Law with Information- and IT-Law (GRUR-chair) at Ludwig Maximilian University of Munich, Spring, **2021**, "ARTIFICIAL CREATIVITY? A CASE AGAINST COPYRIGHT PROTECTION FOR AI-GENERATED WORKS," 25 UCLA J. L. & Tech. UCLA Journal of Law & Technology, [https://www.kiip.re.kr/webzine/2203/file/KIIP43\\_file3.pdf](https://www.kiip.re.kr/webzine/2203/file/KIIP43_file3.pdf), Accessed May 9, 2024

Therefore, **natural and artificial intelligences should not** (yet) **be equated**.<sup>82</sup> It follows that, **due to its lack of creativity, AI's work does not qualify for copyright protection. Some authors contend that "the creativity the AI displays flows either from the algorithm used to design and train it, or from the instructions provided by the users operating it,"<sup>83</sup> but this blurs the line between computer-generated and computer-assisted works.**<sup>84</sup> While AI software is learning and, thus, improving, the person creating it is moving so far into the background that the products cannot be attributed to that person anymore.<sup>85</sup> **Given the ever-increasing amount of computing power available and the immense resources being directed to the development of artificial intelligence, an artificial form of creativity might be achieved in the future.**<sup>86</sup> **However, for the foreseeable future, it is inappropriate to extend copyright protections to works created by algorithms.**

### AI is not capable of creativity. That requires human cognition and experience

Patrick **Zurth**, LL.M. (Stanford). Postdoctoral Fellow at the Chair for Private Law and Intellectual Property Law with Information- and IT-Law (GRUR-chair) at Ludwig Maximilian University of Munich, Spring, **2021**, "ARTIFICIAL CREATIVITY? A CASE AGAINST COPYRIGHT PROTECTION FOR AI-GENERATED WORKS," 25 UCLA J. L. & Tech. UCLA Journal of Law & Technology, [https://www.kiip.re.kr/webzine/2203/file/KIIP43\\_file3.pdf](https://www.kiip.re.kr/webzine/2203/file/KIIP43_file3.pdf), Accessed May 9, 2024

**One could be forgiven for inferring, based on the rapidly increasing sophistication of AIs, that AI is capable of creativity.** That is because algorithms have amazing capabilities that--in biological organisms--require complex cognitive processes that have only been observed in humans. For example, algorithms can see items, understand languages, and draw conclusions.<sup>66</sup> In 2016, the \*11 AI program AlphaGo even beat the best human player<sup>67</sup> of the board game Go. Go is arguably the most complex board game and is a game that cannot be played solely by computing possible moves.<sup>68</sup> These achievements could be viewed as steps towards the comprehensive superiority of machines. However, **these spectacular achievements conceal AI's shortcomings relative to other areas of human cognition. For instance, algorithms cannot plan and take initiative well.**<sup>69</sup> For the time being, **machines depend on human instructions and leadership.**<sup>70</sup> But most notably, **they lack internal understanding and awareness of what they are doing.**<sup>71</sup> **Machines do not reflect the zeitgeist, do not process social and societal impressions, and do not get inspired on subconscious levels.**<sup>72</sup> Yet, according to the U.S. Supreme Court, this is a crucial factor for copyright protection.<sup>73</sup> **The mere fact that AI technology has the ability to surprise us and even those who programmed and trained it does not necessarily amount to creativity and deserve authorship.**<sup>74</sup>

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## A2: Intelligence

### **“Intelligence” in AI is a misnomer. AI can only perform tasks based on human programming**

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, “Creations of artificial intelligence: In search of the legal protection regime,” 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19), Accessed May 9, 2024

There are many definitions of AI that explain its nature and features. **The most important aspect in understanding AI is that the term “intelligence” in this case means the ability of a computer to perform certain operations inherent in the human brain while AI as such is not a brain. It is a software that can, for a given set of human-defined objectives, generate outputs** such as content, predictions, recommendations, or decisions influencing the environments they interact with (Art. 3(1) of the EU Proposal for AI Regulation).<sup>6</sup> **It is a computer programme capable of performing specific tasks according to a built-in algorithm** by processing information, analysing it, and giving definite results.<sup>7</sup> **AI works with a huge amount of data that the human brain is not able to keep in memory**, performs operations with this data that are inaccessible to humans without the use of technical means,<sup>8</sup> and in general, can process and structure information much better than one person or team do. **However, AI cannot think and generate new ideas. It is completely dependent on the functions programmed into it; it cannot go beyond its built-in algorithm and perform tasks not provided for in its codes. Moreover, AI “does not have the freedom to decide about its tasks and utilization by humans; it cannot define its own norms and goals.”**<sup>9</sup> Therefore, when we say that AI is able to autonomously generate certain objects, it is not an absolute concept but rather a relative category.

## A2: Autonomous

### Autonomous development is a misnomer. AI is only “autonomous” in terms of analysis or synthesis

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, “Creations of artificial intelligence: In search of the legal protection regime,” 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxyY2F0aW9uIiwicGFnZSI6InB1YmxyY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxyY2F0aW9uIiwicGFnZSI6InB1YmxyY2F0aW9uIn19), Accessed May 9, 2024

The main characteristics of autonomy can be considered “the ability to make independent decisions or draw conclusions”<sup>10</sup> while AI is able to make only those decisions that are provided by its codes. If AI is designed to write texts, it cannot decide to write music because its algorithm is not meant for this. It has only a certain technical autonomy, which means its ability to execute programmed commands without the need for constant human guidance and control, the ability “of producing outputs with minimal user input.”<sup>11</sup> A person configures the AI, loads certain data into it, and gives a command to start the process of data analysis or synthesis of information based on the analysis, but a person does not control every step that the computer needs to take in the process of analysis or synthesis. AI performs this activity independently and this is where its autonomy is displayed.

**A2: Solvency**

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## No Solvency – Legal deficits

### Allowing AI to own patents risks both being too broad and meaningless and too restrictive to deny quality innovation

Jaci **McDole**, JD and a former senior policy analyst covering intellectual property (IP) and innovation policy at the Information Technology and Innovation Foundation (ITIF), July 22, **2022**, “Defining a “Person”: Analyzing the Legal IP Issues of AI Inventorship and Creatorship,” Information Technology and Innovation Institute, <https://itif.org/publications/2022/07/22/defining-a-person-analyzing-the-legal-ip-issues-of-ai-inventorship-and-creatorship/>, Accessed May 12, 2024

**Why not allow non-legal entities as inventors and creators? For the same reason rocks and dogs are not listed; a line must be drawn somewhere, and terms must be adequately and accurately defined to prevent abuse.**

Furthermore, the issue of whether a non-human creator can own IP was litigated in *Naruto v. Slater* in 2018, wherein the court held that monkeys are not allowed to claim copyright ownership over selfies they took with a photographer’s camera. These Celebes crested macaques—or black apes—are far more sentient than AI systems, yet neither are afforded the same rights as humans because if they are given legal rights, then they can also violate legal rights. **If an ape were to kill a human, it might be killed to protect other humans or moved to a new location. But it would not be assigned a public defender, deposed by legal counselors, and given a trial of its peers. If found guilty it could not pay damages. AI systems are no different. What about AI-specific reform such as Congress making it legal for robots to own patents? Such reform tends to be limited and lacking foresight, which could cause potential issues as technology progresses into the future. It could also lead to IP protection becoming too broad (enabling poor quality patents) or further narrowed (denying quality innovations of patent protection).**

## Just expanding the current system will fail. Patent regimes are not equipped to account for AI because personhood is a pre-cursor

Ernest **Fok**, JD, Santa Clara University School of Law, **2021**, "CHALLENGING THE INTERNATIONAL TREND: THE CASE FOR ARTIFICIAL INTELLIGENCE INVENTORSHIP IN THE UNITED STATES," Santa Clara Journal of International Law, <https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1241&context=scujil>, Accessed May 10, 2024

As reported in a recently commissioned 2019 study by the EPO broadly discussing AI inventorship across prominent patent regimes, **none of the major patent jurisdictions** (U.S., China, Japan, Republic of Korea, European Union) **allow for AI systems to be inventors**.<sup>62</sup> Notably, each jurisdiction differed in its terminology and tests to define an inventor but maintained an overall uniform objective: "to identify the person that was responsible, wholly or partially, for what may be described as the intelligent and creative conception of the invention."<sup>63</sup> Delving further, the study detailed the EPO's "strict definition of inventorship limited to humans" and why this policy is "suitable for the legal and technological landscape both at present and in the near future."<sup>64</sup> The study emphasizes three main rationales for the EPO's approach and generalizes them to explain why

**recognizing AI inventorship is unnecessary** for other patent regimes. First, extending inventorship beyond natural persons would have largely negative consequences.<sup>65</sup> For instance, the European Patent Convention's ("EPC") framework safeguards the inventor's right of entitlement and right of attribution under EPC Article 60.<sup>66</sup> These rights are valued by human inventors, but would be meaningless when applied to an AI system.<sup>67</sup> These rights provide value to human inventors. The two main functions relate to personhood interests: (1) creating a pecuniary incentive to invent and (2) increasing reputational gain.<sup>68</sup> **Granting such rights would entail granting personhood to the inventing-AI, but the ensuing legal hurdles make these solutions a mere gesture at best and very impractical at worst.**<sup>69</sup> For example, concepts of ownership and employment cannot be successfully applied to AI systems under the EPO's legal framework since AI systems cannot own property nor can they be a party to employment relationship.<sup>70</sup> Thus, there are no "convincing rationales" to apply the EPC rules on attribution and entitlement to an AI system.<sup>71</sup> **In applying this to the present legal landscape, other major patent regimes are "not equipped to facilitate a definition of inventorship that includes AI systems" because inventorship involves concepts of ownership, employment, and entitlement that are meaningless to AI systems.**<sup>72</sup>

## No Solvency – Special protection regime key

### The plan fails without a special autonomous AI protections regime

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, “Creations of artificial intelligence: In search of the legal protection regime,” 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19), Accessed May 9, 2024

In studies of this issue, conclusions have been repeatedly made about the need for legal protection of objects generated by AI without human intervention, but today **there is no convincing evidence that this is really necessary. Although scholars from different parts of the world have proposed a number of arguments in favour of the introduction of such protection, each of them raises reasonable doubts** presented in this study. This article also briefly describes the essence of autonomous computer creations and considers possible regimes of their potential legal protection. As a result of the study, it is argued that **if objects generated by AI without human intervention deserve legal protection, this requires the development of a special regime. However, the existing concepts of this special regime are still debatable and cannot yet serve as a basis for the adoption of legislation in this area.**

## No Solvency - Circumvention

### The plan won't solve circumvention. Humans can and will just claim authorship for AI creations and get the benefits

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, "Creations of artificial intelligence: In search of the legal protection regime," 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmtpY2F0aW9uIiwicGFnZSI6InB1YmtpY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmtpY2F0aW9uIiwicGFnZSI6InB1YmtpY2F0aW9uIn19), Accessed May 9, 2024

An additional argument for the introduction of the legal protection is that its absence may encourage abuse. **Human authors who have created works using AI technologies can hide the AI's involvement in the creation of the work because it "would make the resulting works unprotectable."**<sup>34</sup> **Investors may start claiming authorship of objects created by AI and get copyright protection on things they did not create**<sup>35</sup> **while the true origin of such objects will be deliberately concealed.**<sup>36</sup> **This is quite realistic if the object has commercial potential for use similar to the use of the work, and there is no mechanism for its protection.** Taking into account the presumption of authorship according to which, until proven otherwise, the person whose name appears on work is considered the author, and the AI will not be able to prove that the creation of this object is the result of the autonomous operation of a computer. **On the other hand, the availability of the legal protection for AI-generated objects will not necessarily avoid abuse. If the duration of such protection is relatively short, certain investors may assign authorship to computer creations because long-term copyright protection will be more profitable for them. Accordingly, the goal of avoiding theoretically possible abuses does not seem sufficient to explain the expediency of legal protection of AI-generated objects.**

## There is no need for protections. Human inventors can still get patents

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, “Creations of artificial intelligence: In search of the legal protection regime,” 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0Ijp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0Ijp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19), Accessed May 9, 2024

Thus, the purpose of investment protection is not yet supported by any data that would indicate the need to guarantee such protection. I am inclined to believe that the interests of investors can serve as a basis for providing them with legal means of influencing the use of objects generated by AI and the possibility of obtaining economic benefits from it. Nevertheless, there is currently no evidence that this is really necessary for investors. Taking into account that legal protection provides not only benefits but also imposes certain obligations on the right holder, including liability for possible violations committed in the course of AI functioning, investors may not wish to receive such protection at all.<sup>32</sup>

## Even investors aren't seeking patentability for AI creations

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, “Creations of artificial intelligence: In search of the legal protection regime,” 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0Ijp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0Ijp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19), Accessed May 9, 2024

Third, investors have not yet taken the initiative to obtain rights to AI-generated objects. It is fair to say that “whoever intends to establish a monopoly through an exclusive right has to prove its economic efficiency and necessity”;<sup>29</sup> this is the approach that has been historically developed in the field of intellectual property. In particular, in the 15th century, after the invention of the printing press, publishers secured privileges that protected their investments and limited competition with other publishers. At the end of the 17th century, there was a powerful movement to protect the interests of authors which culminated in the adoption in 1710 of Queen Anne’s Statute, the first copyright law.<sup>30</sup> Similarly, in due time, producers of phonograms and broadcasting organizations proved that they need protection from the use of their phonograms and broadcasts by third parties; this resulted in the adoption of the Rome Convention in 1961 which established legal protection of related rights.<sup>31</sup> As for AI investors, there have been no such initiatives from their side so far. It is paradoxical that this issue is actively discussed by scientists, while it is not known whether investors themselves seek legal protection for autonomous creations of their ward computers.

**A2: Advantage 1 – Cyber Attacks**

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## Rhetoric turns

### **Their “Cybersecurity” rhetoric conflates all forms of digital threats, which contributes to the militarization of private lives, while failing to resolve threats to democracy**

Victoria **Bernal**, PhD, Professor of cultural anthropologist at UCal-Irvine, Fall **2021**, “The Cultural Construction of Cybersecurity: Digital Threats and Dangerous Rhetoric,” *Anthropological Quarterly*, Volume 94, pp. 611-638, <https://muse.jhu.edu/article/845671>, Accessed 5/13/2024

Over the past decade, cybersecurity has gone from being an obscure focus of technologists and security experts to an issue of public concern. This article explores the contemporary construction of public culture around cybersecurity in the United States. To theorize cybersecurity in contemporary American public culture, I draw together the anthropology of security and digital media studies. I approach the rise of cybersecurity from a securitization perspective that asks how threats are constructed and who or what is to be protected. Jasanoff’s (2015) concept of “sociotechnical imaginaries” also informs the interpretive frame which foregrounds cultural construction and the intertwining of the social and the technological. I use discourse analysis to critically examine the rise of militaristic rhetoric around digital threats in news reports and public statements by government officials and corporate experts. The article analyzes how **public culture around “cybersecurity” is being discursively constructed by authoritative sources, and advances theorizations of digital media and politics.** I argue that **cybersecurity is being articulated in ways that blur key distinctions among digital privacy, data security, personal security, corporate interests, and national security.** I set the rise of cybersecurity in the context of two concurrent societal processes—the development of post-9/11 security culture and the growing reliance on digital connectivity in daily life. **Given the pervasive role of digital media in Americans’ lives, I contend that discourses that represent cybersecurity in terms of national security, equating hacking with cyberwar and cyberterrorism, contribute to the militarization of private civil and social life while failing to address wider vulnerabilities and threats to democracy associated with digital media.**

## Impact Answers

### No impact to cyber-attacks and low risk – it's just a decades long cycle of hype

James Andrew **Lewis**, Senior vice president and director of the Strategic Technologies Program at the Center for Strategic and International Studies; August 17, **2020**, "Dismissing Cyber Catastrophe," <https://www.csis.org/analysis/dismissing-cyber-catastrophe>, Accessed May12, 2024

More importantly, **there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions.** We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods **apply equally to cyberattacks.** The conclusions we can draw from this are:

**Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals** (mostly Russian speaking) **who might have the necessary skills.** One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

### Nuclear capabilities deter massive cyber attacks. Even Russia wouldn't try it

James Andrew **Lewis**, Senior vice president and director of the Strategic Technologies Program at the Center for Strategic and International Studies, February **2022**, "Russia and the Threat of Massive Cyberattack," Center for Strategic and International Studies, <https://www.csis.org/analysis/russia-and-threat-massive-cyberattack>, Accessed 5-12-2024

**Any Russian action against the United States would occur under the shadow of nuclear weapons. The risk of nuclear war virtually eliminates the likelihood of a massive cyberattack on the critical infrastructure of another nuclear power** in any but the most extreme circumstances. **Nuclear states, no matter how bellicose their rhetoric, have been careful to avoid cyber actions against each other that could be considered equivalent to the use of force** (e.g., physical damage or casualties), **rather than espionage or crime. A major attack on U.S. critical infrastructure would create an unacceptable risk of retaliation,** would be impossible for the international community to ignore, and would not support Russian goals to present action in Ukraine as a fait accompli. **Russia gains nothing from a cyberattack** on the United States that it would not get from actions limited to Ukrainian targets. **Russia does not intend to start a third world war, and it is likely only to take actions that advance its goals for Ukraine while avoiding the risk of greater conflict. As part of this, cyberattacks against Ukraine are highly likely, but very unlikely against the United States or NATO. Russia has the capability to carry out such attacks and has done the necessary reconnaissance of U.S. critical infrastructure targets, but it is unlikely to undertake a cyberattack against elements like the power grid unless in a major conflict with the United States and NATO.**

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**A2: Advantage 2 - Tech Leadership**

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## A2: Innovation

### **Lack of legal protections does not suppress AI innovation and investment. Protections aren't justified because that absence does not have a negative economic impact**

Anna **Shtefan**, Intellectual Property Scientific Research Institute, June **2023**, "Creations of artificial intelligence: In search of the legal protection regime," 14 J. Intell. Prop. Info. Tech. & Elec. Com. L. 95 (2023),

[https://www.researchgate.net/publication/371255964\\_Creations\\_of\\_artificial\\_intelligence\\_In\\_search\\_of\\_the\\_legal\\_protection\\_regime/link/647ae06479a722376509caae/download?\\_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19](https://www.researchgate.net/publication/371255964_Creations_of_artificial_intelligence_In_search_of_the_legal_protection_regime/link/647ae06479a722376509caae/download?_tp=eyJjb250ZXh0ljp7ImZpcnNOUGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19), Accessed May 9, 2024

First, **the lack of legal protection does not have a negative impact on the development of AI; on the contrary, the scope of investment in this area is constantly increasing. Only in the USA, funding for AI companies has increased from a little under 300 million U.S. dollars in 2011 to around 16.5 billion in 2019;**<sup>26</sup> the global AI software market is forecast to reach around 126 billion U.S. dollars by 2025.<sup>27</sup> Second, belonging of AI-generated objects to the public domain does not create obstacles to their participation in the market circulation and does not limit the possibility of their sale in comparison with protected works. So far, there are no known negative market phenomena caused by the lack of legal protection of AI-generated objects. In this context, **the opinion was expressed that recognition of rights to AI-generated objects "would be justified only if solid empirical economic analysis were to reveal that the absence of legal exclusivity negatively affects overall economic welfare."**<sup>28</sup> **That is, there must be a certain market failure that could be overcome by introducing legal protection of the results of autonomous operation of the computer but there is no data on such market failure yet.**

### **The plan is a double-edged sword for innovation**

Jaci **McDole**, JD and a former senior policy analyst covering intellectual property (IP) and innovation policy at the Information Technology and Innovation Foundation (ITIF), July 22, **2022**, "Defining a "Person": Analyzing the Legal IP Issues of AI Inventorship and Creatorship," Information Technology and Innovation Institute, <https://itif.org/publications/2022/07/22/defining-a-person-analyzing-the-legal-ip-issues-of-ai-inventorship-and-creatorship/>, Accessed May 12, 2024

As previously noted, **the AI-inventor or creator saga is not limited to patents. Thaler applied for copyright registration on an artwork** called "A Recent Entrance to Paradise," listing "the Creativity Machine" as author of the work and Thaler as the owner. The registration was identified as a "work-for-hire." **The U.S Copyright Office reviewed the application twice before denying it on the grounds that the AI system "lacks the human authorship necessary to support a copyright claim"** and Thaler "was not entitled to apply for copyright registration for the work." On June 2, 2022, Thaler filed suit against the U.S. Copyright Office in the U.S. District Court for the District of Washington, D.C. Again, why does any of this matter? Because **IP exists to enable innovation and creation; if innovators can't reap the rewards of their labors, innovation is stifled. Likewise, if IP protection is broadly applied, poor quality patents and copyrights might enter the system, also stifling innovation.** Why not just leave the inventor or creator line blank? Because someone must hold the rights to IP, and these rights stem from the inventor or creator.

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## US-China conflict over AI inevitable

### US-China geopolitical rivalry will only intensify with new AI developments. A US-China war would escalate rapidly and compound cyber-security threats

Eric **Schmidt** is the former CEO and chair of Alphabet **And** Robert O. **Work** served as the 32nd U.S. deputy secretary of defense, December 5, **2022**, "How to Stop the Next World War," The Atlantic, <https://www.theatlantic.com/ideas/archive/2022/12/us-china-military-rivalry-great-power-war/672345/>, Accessed 12-22-2022

These changes are just the beginning. As emerging technologies mature, particularly artificial intelligence, and as the geopolitical rivalry between the United States and China intensifies, changes in warfare will only accelerate. The next great-power war—should we be so unfortunate as to experience one—will be unlike any in history. One key change is that militaries will have great difficulty hiding from or surprising one another. Sensors will be ubiquitous, and once-impenetrable intelligence will be vulnerable to quantum advances in decryption. Highly adaptable and mobile weapons systems—including drones, loitering munitions, and hypersonic missiles—will largely inhibit militaries from amassing forces to invade (though these systems may also enable surprise attacks of their own). This development might sound stabilizing, but it is more likely to be the opposite. When one side knows what the other is about to do, it will be more inclined to attack preemptively, or risk significant losses. Similarly, the other side will feel an ever more urgent need to attack first. Such a dynamic encourages rapid escalation, especially in the space and cyber domains, where technological advances happen quickly and where international norms and red lines are largely lacking.

CPs

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## Human IPR CP Solvency

### AI inventions should be protected, but the owner of the AI should get the property rights

Ryan **Abbott**, PhD. Candidate, **2020**, "The Reasonable Robot: Artificial Intelligence and the Law," Submitted for the Degree of Doctor of Philosophy School of Law Faculty of Arts and Social Sciences University of Surrey, [https://s3.eu-central-1.amazonaws.com/eu-st01.ext.exlibrisgroup.com/44SUR\\_INST/storage/alma/9E/76/B7/0B/28/D5/FE/29/F7/98/18/79/76/4D/11/62/Abbott\\_Thesis.pdf?response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Date=20240506T030032Z&X-Amz-SignedHeaders=host&X-Amz-Expires=119&X-Amz-Credential=AKIAJN6NPMNGJALPPWAQ%2F20240506%2Feu-central-1%2Fs3%2Faws4\\_request&X-Amz-Signature=e82985315eaa6c4c3e7457dfcb25be5ae8cf1b620f6ad7ee776d74eb34678ef7](https://s3.eu-central-1.amazonaws.com/eu-st01.ext.exlibrisgroup.com/44SUR_INST/storage/alma/9E/76/B7/0B/28/D5/FE/29/F7/98/18/79/76/4D/11/62/Abbott_Thesis.pdf?response-content-type=application%2Fpdf&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Date=20240506T030032Z&X-Amz-SignedHeaders=host&X-Amz-Expires=119&X-Amz-Credential=AKIAJN6NPMNGJALPPWAQ%2F20240506%2Feu-central-1%2Fs3%2Faws4_request&X-Amz-Signature=e82985315eaa6c4c3e7457dfcb25be5ae8cf1b620f6ad7ee776d74eb34678ef7), Accessed May 5, 2024

I am concerned with how the law should regulate human-like activity by AI, and how the phenomenon of AI behaving like a person should change how people are regulated. My thesis is that **the law should tend not to discriminate between AI and human behavior**. That is because the law should focus on conventionalist or utilitarian outcomes, and it may not matter whether an actor is human or machine with respect to the social impact of activities. I argue that **more equal treatment of AI and human behavior will tend to help the law to achieve its underlying goals**. As sub-questions to my broader research question, **in intellectual property, I am concerned with AI autonomously engaging in creative and inventive activity and stepping into the shoes of human authors and inventors**. My thesis is that **creative and inventive works autonomously made by AI should be accorded protection, that AI should be listed as an author or inventor when it otherwise meets criteria for authorship and inventorship, and that the AI's owner should own any resultant intellectual property rights**. Also, that as AI increasingly augments and eventually automates researchers, that this should raise the bar to inventive step and require the nonobviousness inquiry to focus more on economic than cognitive factors. In tax law, I am concerned with how similar work done by a person vs an AI are subject to different tax regimes, and how this will affect tax revenue. My thesis is that work by an AI is favored over work by a person, and also that automation will tend to decrease government tax revenue. I argue the solution is to reduce or eliminate labor taxes while at the same time increasing other forms of taxation to ensure revenue. In tort law, I am concerned with people and AI both engaging in activities with a risk of harm, and whether current liability standards promote or discourage automation. My thesis is that AI activity is subject to stricter liability standards which will tend to discourage automation even when it would promote safety. Also, that people should be held to the standard of AI once automation is practicable, and that this will further promote safety. In criminal law, I am concerned with AI engaging in criminal sorts of behavior in ways that does not reduce to criminal conduct by individuals. My thesis is that direct criminal liability for AI would be inappropriate, but that there will likely be a need to expand civil and possibly criminal liability for individuals involved in the development and use of AI. Further, that direct criminal punishment of AI is broadly consistent with the conceptual and theoretical limitations of the criminal law, and that this provides support for punishment of anti-social behavior even without the same level of reliance on moral fault.

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## USPTO CP - Solvency

### We don't need Congress. The USPTO alone can do the plan

David V. **Sanker**, Ph.D., J.D., Reg. No 56,242, March 12, **2020**, "Response to Question #12," USPTO, [https://www.uspto.gov/sites/default/files/documents/David-Sanker\\_RFC-84-FR-44889.pdf](https://www.uspto.gov/sites/default/files/documents/David-Sanker_RFC-84-FR-44889.pdf), Accessed May 3, 2024

We reviewed the existing patent landscape in multiple jurisdictions, and their respective take on patenting of Artificial Intelligence. **China, Japan, and South Korea do now allow for an AI system to be considered an inventor.** In the United Kingdom, the Patent Act of 1977 defines the inventor as "the actual deviser of the invention" and **the existing patent law regime does not allow for an AI system to be considered as an inventor.** **There are multiple practical questions still left unanswered that focus on the role of AI as an inventor,** such as how the inventor's moral and substantive rights can be safeguarded in the patent granting process or at what stage of a given invention's process should the inventor be included. **None of the other patent laws or policies of other patent offices provide helpful guidance on how to address AI inventors, so the USPTO is essentially on its own to navigate this new territory.**

AI DAs

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Legal Personhood DA

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## 1NC

**A. A.I. personhood requires drastic re-definitions of personhood and line drawing that can be easily applied to other entities**

Dalton **Powell** Duke University School of Law, J.D and LL.M. in Law & Entrepreneurship, **2020**, "Autonomous Systems as Legal Agents: Directly by the Recognition of Personhood or Indirectly by the Alchemy of Algorithmic Entities, 18 *Duke Law & Technology Review*, 306-331 (2020), <https://scholarship.law.duke.edu/dltr/vol18/iss1/22/>, Accessed 5-12-2024

**The recognition of the direct personhood of autonomous systems requires a fundamental shift in the Restatement's definition of personhood.** The shift would be from the sole focus on rights and obligations to a more holistic determination that autonomous judgment should determine the ability to be a principal and agent. This normative theoretical shift within the definition is appropriate as the internal tensions of the traditional analysis are heightened with the rapid development of new technology. Fortunately, this fundamental shift will not require the common law to write on a blank slate; the philosophical analysis of agency can guide the law here.

Indirect personhood for autonomous systems occurs by attaching them to previously recognized legal entities that fit into the traditional definitional analysis. In traditional doctrine, the Restatement's definition of person attempts to distinguish legally recognized persons from purely organizational entities and mere instrumentalities. At present, the Restatement views computer programs as mere instrumentalities of the using person and thus not a separate person capable of being a principal or agent. The traditional doctrine also focuses almost exclusively on the ability to be the object of liabilities and the holder of rights. Thus, the presence of the recognized legal entity will allow the autonomous systems to attain indirect personhood. But the reliance of indirect personhood on organizational law that is easily amendable by the legislature necessitates analysis of direct personhood for autonomous systems.

Ultimately, autonomous systems should be recognized as legal persons for the purposes of agency law. This acceptance has the potential for significant knock-on pragmatic benefits, with one such example being improved corporate decision-making.

**There are several downstream implications that are ripe for future research if autonomous systems are directly or indirectly recognized as persons. The most critical determination will be deciding what level of autonomous judgment is enough for personhood.** While this Note clearly accepts that autonomous systems, as defined in Part I, are on the right side of the line of autonomous judgment, **the line must be drawn somewhere.** For computer-related systems, the appropriate line might be between autonomous and automated systems.<sup>132</sup> **Overall, this line-drawing will "highlight how difficult it is to identify machine consciousness or personhood [and] how uncertain we are about the boundaries of our own [consciousness and personhood]."**<sup>133</sup> Other areas of study include reacting to the **inherent risks posed by recognizing the direct personhood of non-humans or so easily allowing the satisfaction of personhood** by indirect personhood.

## B. The Supreme Court avoids the issue now

Nate **Raymond**, Staff Writer, October 12, **2022**, "U.S. Supreme Court rebuffs fetal personhood appeal," Reuters, <https://www.reuters.com/legal/us-supreme-court-rebuffs-fetal-personhood-appeal-2022-10-11/>

**The U.S. Supreme Court on Tuesday declined to decide whether fetuses are entitled to constitutional rights in light of its June ruling overturning the 1973 Roe v. Wade decision that had legalized abortion nationwide, steering clear for now of another front in America's culture wars. The justices turned away an appeal by a Catholic group and two women of a lower court's ruling against their challenge to a 2019 Rhode Island law that codified the right to abortion** in line with the Roe precedent. The two women, pregnant at the time when the case was filed, sued on behalf of their fetuses and later gave birth. The Rhode Island Supreme Court decided that fetuses lacked the proper legal standing to bring the suit. Rhode Island Governor Daniel McKee, a Democrat, welcomed Tuesday's action by the justices. "We're satisfied that **the Supreme Court declined to hear this frivolous appeal**. Governor McKee believes that we should be expanding access to reproductive healthcare for women," spokesperson Matt Sheaff said in a statement, adding that the governor "is committed to using his veto pen to block any legislation that would take our state backwards." Lawyers representing the plaintiffs did not respond to requests for comment. Conservative Justice Samuel **Alito wrote in June's ruling overturning the abortion rights precedent that in the decision the court took no position on "if and when prenatal life is entitled to any of the rights enjoyed after birth."**

## C. Fetal personhood is limited now, but it's the next frontier for anti-abortion zealots

Madeleine, **Carlisle** reporter for TIME, June 28, **2022**, "Fetal Personhood Laws Are a New Frontier in the Battle Over Reproductive Rights," TIME Magazine, <https://time.com/6191886/fetal-personhood-laws-roe-abortion/>

But nearly 50 years later, **Roe was overturned**, and Justice Samuel Alito declared in the Supreme Court's majority opinion in *Dobbs v. Jackson Women's Health Organization* on Friday that Roe was "egregiously wrong from the start." **Now, laws that establish fetal personhood—meaning they extend the legal rights of people to a fetus or embryo before viability—could be the next frontier in the legal battle over reproductive rights in the United States. Not all abortion bans establish fetal personhood. But all pre-viability fetal personhood laws ban abortion—and could have even broader implications for reproductive healthcare access and the potential criminalization of pregnancy.** "Abortion laws regulate a procedure," says Rebecca Kluchin, a professor at California State University, Sacramento, who recently wrote a piece for the Washington Post criticizing such policies. **"Fetal personhood laws allow the state to regulate pregnant women."** While 13 states had already enacted "trigger laws" designed to ban all or nearly all abortions once Roe was overturned, **at least six states have also introduced legislation to ban abortion by establishing fetal personhood,** according to the Guttmacher Institute, a research group that supports abortion rights. **Litigation over such laws has already begun.** Last year, Arizona's Republican Governor Doug Ducey enacted an abortion ban that gave "an unborn child at every stage of development all rights, privileges, and immunities available to other persons, citizens, and residents." Cathi Herrod, the president of the conservative Christian advocacy group Center for Arizona Policy (CAP), says CAP supported Arizona's law because they "stand for the belief that human life begins at the moment of conception, that life is a human right, and unborn children deserve protection." The ACLU of Arizona and the Center for Reproductive Rights sued, and on Saturday filed an emergency motion asking a judge to block the implementation of the law in the wake of the fall of Roe, arguing the law's "vagueness" violates the right to due process and could put abortion providers and pregnant people at risk of criminal prosecution. The judge has yet to rule on the motion and a hearing will be held in July. (Brittini Thomason, spokesperson for the Arizona attorney general's office, says they "anticipate filing a legal brief" on the matter "next week.") **The Supreme Court declined to weigh in on fetal personhood in *Dobbs*: "Our opinion is not based on any view about if and when prenatal life is entitled to any of the rights enjoyed after birth," Alito wrote. It remains to be seen how fetal personhood will hold up in court** in Arizona and elsewhere. "I think the challenge for many of us is that we will be living in a legal gray area for a long time," says Dana Sussman, the deputy executive director at the National Advocates for Pregnant Women, which provides legal defense for pregnant people, including women who have had abortions. **"Case law will have to be developed,** or statutes will have to be clarified, because the scope of [Roe's fall] is just so monumental, I don't know that anyone truly has an answer to how this will all play out."

## D. Fetal personhood crushes US biotech leadership- spurs brain drain and chilling effect

Kira **Peikoff**, Columbia University bioethics MSC, May 25, **2022**, "Personhood vs. stem cell research," Atlanta Journal Constitution, <https://www.ajc.com/news/opinion/personhood-stem-cell-research/6LWIWd6jSNNZeMI162zJZI/>, Accessed 5-11-2024

The state of Georgia may be about to get a lot more populous. Recently, it was announced that Republican voters will have the opportunity to vote on a ballot question in the July 31 primary to declare that a "pre-born" child — consisting of as few as one cell — should be entitled to all the legal rights of a human being. While the Personhood USA movement works to galvanize legislators in about 30 states, the crux of the public debate is over abortion rights, but a related issue deserves a hearing: the effects on human embryonic stem cell research. Bruce **Olwin**, a stem cell researcher at the University of Colorado Boulder, foresees two consequences of legislation that could criminalize legitimate research: **Scientists might** flee to states that view their work more favorably — or **leave the country altogether.** **Alienating** an entire contingent of **researchers would have dire consequences on America's ability to compete globally in the field.** "Because of the overarching intrusion of religion and politics on science," Olwin said, "I think it's going to drive the United States into a Third World science country. **We will not be anywhere near the leaders.**" Bernard Siegel, the founder and director of the Genetics Policy Institute, agrees that the **Personhood movement represents a potentially major setback.** **"Microscopic cells in a lab dish, that by a couple's decision will never be implanted in a womb, should not be defined as 'people,'"** Siegel said. **"Any state aspiring to become a center for biomedical research and biotechnology should not touch a personhood bill with a 10-foot pole."** Another ripple effect of the Personhood legislation would be an assault on an infertile couple's ability to have a child, according to Dr. Jonathan Van Berklo, an expert on IVF at the University of Colorado Boulder. **The very act of creating embryos in a lab would be laced with criminal liability.** "If an embryo dies in a lab accident or the culture medium is not quite right, and an embryo doesn't develop, these aspects of IVF — where things do and can go wrong — would become a criminal act," Van Berklo said. "So some IVF practitioners would stop practicing. **People would say, 'I'm just going to go back to doing OB-GYN' so they won't be picketed.**" If Keith Mason, the leader of Personhood USA, has his way, doctors and researchers will do exactly that: retreat. He calls embryonic stem cell research "largely unsuccessful" and "horrendous." Perhaps he should talk to Sue Freeman, whose macular degeneration improved enough to allow her to go grocery shopping alone after her participation in a groundbreaking clinical trial at UCLA last year using human embryonic stem cells. At such an exciting time for the field, the Personhood movement's robust expansion is sobering. "Any state passing a **personhood measure would surely send the wrong message to the world,**" Siegel warned. "Do we prefer the Dark Ages or the promise of 21st century biomedical research?" The clock is ticking. We're about to find out.

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## E. This impact is Extinction

Toby **Ord**, research fellow at the Future of Humanity Institute at Oxford University, March 20, **2020**, "Why we need worst-case thinking to prevent pandemics," The Guardian, <https://www.theguardian.com/science/2020/mar/06/worst-case-thinking-prevent-pandemics-coronavirus-existential-risk>, Accessed May 11, 2024

We have seen the indirect ways that our actions aid and abet the origination and spread of pandemics. But what about cases where we have a much more direct hand in the process – where we deliberately use, improve or create the pathogens? Our understanding and control of pathogens is very recent. Just 200 years ago, we didn't even understand the basic cause of pandemics – a leading theory in the west claimed that disease was produced by a kind of gas. In just two centuries, we discovered it was caused by a diverse variety of microscopic agents and we worked out how to grow them in the lab, to breed them for different traits, to sequence their genomes, to implant new genes and to create entire functional viruses from their written code. This progress is continuing at a rapid pace. The past 10 years have seen major qualitative breakthroughs, such as the use of the gene editing tool Crispr to efficiently insert new genetic sequences into a genome, and the use of gene drives to efficiently replace populations of natural organisms in the wild with genetically modified versions. This progress in biotechnology seems unlikely to fizzle out anytime soon: there are no insurmountable challenges looming; no fundamental laws blocking further developments. But it would be optimistic to assume that this uncharted new terrain holds only familiar dangers. To start with, let's set aside the risks from malicious intent, and consider only the risks that can arise from well-intentioned research. Most scientific and medical research poses a negligible risk of harms at the scale we are considering. But there is a small fraction that uses live pathogens of kinds that are known to threaten global harm. These include the agents that cause the Spanish flu, smallpox, Sars and H5N1 or avian flu. And a small part of this research involves making strains of these pathogens that pose even more danger than the natural types, increasing their transmissibility, lethality or resistance to vaccination or treatment. In 2012, a Dutch virologist, Ron Fouchier, published details of an experiment on the recent H5N1 strain of bird flu. This strain was extremely deadly, killing an estimated 60% of humans it infected – far beyond even the Spanish flu. Yet its inability to pass from human to human had so far prevented a pandemic. Fouchier wanted to find out whether (and how) H5N1 could naturally develop this ability. He passed the disease through a series of 10 ferrets, which are commonly used as a model for how influenza affects humans. By the time it passed to the final ferret, his strain of H5N1 had become directly transmissible between mammals. The work caused fierce controversy. Much of this was focused on the information contained in his work. The US National Science Advisory Board for Biosecurity ruled that his paper had to be stripped of some of its technical details before publication, to limit the ability of bad actors to cause a pandemic. And the Dutch government claimed that the research broke EU law on exporting information useful for bioweapons. But it is not the possibility of misuse that concerns me here. Fouchier's research provides a clear example of well-intentioned scientists enhancing the destructive capabilities of pathogens known to threaten global catastrophe. Of course, such experiments are done in secure labs, with stringent safety standards. It is highly unlikely that in any particular case the enhanced pathogens would escape into the wild. But just how unlikely? Unfortunately, we don't have good data, due to a lack of transparency about incident and escape rates. This prevents society from making well-informed decisions balancing the risks and benefits of this research, and it limits the ability of labs to learn from each other's incidents. Security for highly dangerous pathogens has been deeply flawed, and remains insufficient. In 2001, Britain was struck by a devastating outbreak of foot-and-mouth disease in livestock. Six million animals were killed in an attempt to halt its spread, and the economic damages totalled £8bn. Then, in 2007, there was another outbreak, which was traced to a lab working on the disease. Foot-and-mouth was considered a highest-category pathogen, and required the highest level of biosecurity. Yet the virus escaped from a badly maintained pipe, leaking into the groundwater at the facility. After an investigation, the lab's licence was renewed – only for another leak to occur two weeks later. In my view, this track record of escapes shows that even the highest biosafety level (BSL-4) is insufficient for working on pathogens that pose a risk of global pandemics on the scale of the Spanish flu or worse. Thirteen years since the last publicly acknowledged outbreak from a BSL-4 facility is not good enough. It doesn't matter whether this is from insufficient standards, inspections, operations or penalties. What matters is the poor track record in the field, made worse by a lack of transparency and accountability. With current BSL-4 labs, an escape of a pandemic pathogen is only a matter of time. One of the most exciting trends in biotechnology is its rapid democratisation – the speed at which cutting-edge techniques can be adopted by students and amateurs. When a new breakthrough is achieved, the pool of people with the talent, training, resources and patience to reproduce it rapidly expands: from a handful of the world's top biologists, to people with PhDs in the field, to millions of people with undergraduate-level biology. The Human Genome Project was the largest ever scientific collaboration in biology. It took 13 years and \$500m to produce the full DNA sequence of the human genome. Just 15 years later, a genome can be sequenced for under \$1,000, and within a single hour. The reverse process has become much easier, too: online DNA synthesis services allow anyone to upload a DNA sequence of their choice then have it constructed and shipped to their address. While still expensive, the price of synthesis has fallen by a factor of 1,000 in the past two decades, and continues to drop. The first ever uses of Crispr and gene drives were the biotechnology achievements of the decade. But within just two years, each of these technologies were used successfully by bright students participating in science competitions. Such democratisation promises to fuel a boom of entrepreneurial biotechnology. But since biotechnology can be misused to lethal effect, democratisation also means proliferation. As the pool of people with access to a technique grows, so does the chance it contains someone with malign intent. People with the motivation to wreak global destruction are mercifully rare. But they exist. Perhaps the best example is the Aum Shinrikyo cult in Japan, active between 1984 and 1995, which sought to bring about the destruction of humanity. It attracted several thousand members, including people with advanced skills in chemistry and biology. And it demonstrated that it was not mere misanthropic ideation. It launched multiple lethal attacks using VX gas and sarin gas, killing more than 20 people and injuring thousands. It attempted to weaponise anthrax, but did not succeed. What happens when the circle of people able to create a global pandemic becomes wide enough to include members of such a group? Or members of a terrorist organisation or rogue state that could try to build an omnicidal weapon for the purposes of extortion or deterrence? The main candidate for biological existential risk in the coming ***We're a small non-profit. Please don't share this file with those who have not paid including via dropbox, google drive, the web, printed copies, email, etc. Visit us at www.wcdebate.com***

decades thus stems from technology – particularly the risk of misuse by states or small groups. But this is not a case in which the world is blissfully unaware of the risks. Bertrand Russell wrote of the danger of extinction from biowarfare to Einstein in 1955. And, in 1969, the possibility was raised by the American Nobel laureate for medicine, Joshua Lederberg: “As a scientist I am profoundly concerned about the continued involvement of the United States and other nations in the development of biological warfare. This process puts the very future of human life on earth in serious peril.”

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## Link extension

### **Legal personhood is a pre-requisite to IPR protections for AI, but those protections can be limited below natural human status.**

Briana **Hopes**, J.D., Tulane University Law School and Senior Managing Editor, **2021**, "Rights for Robots? U.S. Courts and Patent Offices Must Consider Recognizing Artificial Intelligence Systems as Patent Inventors," Vol. 23, Tulane Journal of Technology and Intellectual Property, <https://journals.tulane.edu/TIP/article/view/3652/3434>, Accessed May 10, 2024

**The first step in expanding our patent law to allow AI inventorship would likely require AI systems to be granted legal personhood status. As discussed, there are many objections and concerns to the idea of AI personhood, but these objections can be addressed and solved by limiting the scope of an AI system's legal personhood. The rights and protections of an AI system should be limited and in no way allow the system to possess all rights and protections of a natural, human person. The best place to start** in developing AI personhood **would be** to look at **non-human entities that currently possess legal personhood status, such as corporations.** Based on the rights, protections, and liabilities of other "artificial entities," the rights for an AI system can be altered to what is best suited for an artificial intelligence system. Ultimately, the objective is to allow artificial intelligence the same rights and protections allowed to "individuals" under the U.S. patent laws that could expand even further to other intellectual property rights.

## AI personhood innovations will spill over

Dafni **Lima** Ph.D. Candidate in Criminal Law at the Aristotle University of Thessaloniki (Greece) and Fulbright Foundation Doctoral Dissertation Visiting Research Student at the Harvard University Initiative on Law and Philosophy (United State), **2018**, "Could AI Agents Be Held Criminally Liable? Artificial Intelligence and the Challenges for Criminal Law," 69 S.C. L. Rev. 677, Spring 2018, WestLaw

**Artificial intelligence and its development in the next years will undoubtedly pose great challenges for criminal law**, which go beyond the question of criminal liability. **With new technology** and a far more widespread use of AI agents than is currently conceivable, new opportunities for crime will arise. For instance, if autonomous vehicles become commonplace on our streets, we will sooner or later need to think about new types of crimes that could be committed by hackers and how to prevent the commission of terrorism offenses that could be perpetrated by using the extended capabilities of smart cars.<sup>51</sup> Furthermore, **new legal rules will have to be devised** to regulate safe driving and relevant crimes;<sup>52</sup> the relationship between an autonomous vehicle, its driver and passengers, and third parties (other drivers, \*695 passengers, or pedestrians); insurance and tort claims;<sup>53</sup> and privacy with regard to autonomous vehicles.<sup>54</sup> Finally, law enforcement will have to be equipped with new powers and duties in order to address the new situation; for example, we will need to think about under which circumstances a law enforcement officer might be allowed to pull over an autonomous vehicle, and how.<sup>55</sup> However, **the very first wave of vibrations that will be felt in criminal law will undoubtedly include issues that revolve around criminal liability**. In this context, **legal professionals will be invited to revisit, enrich, and reshape fundamental concepts, as discussed above. Lawmakers and common law judges will have to come up with models that adequately address allocation and imposition of criminal liability, practitioners and adjudicators will have to understand how to best apply them in practice, and research by legal scholars will have to shift focus in order to inform this debate. The results might be as groundbreaking as AI technology itself; these reforms might even one day lead us to reconsider the very foundations of criminal liability, wrongful acts, and blame.**



## Copyright protections would be preceded by legal personhood for AI

Rafael Dean **Brown**, Centre for Law and Development, Qatar University College of Law, **2021**, "Property ownership and the legal personhood of artificial intelligence," Information & Communications Technology Law, 30:2, 208-234, <https://www.tandfonline.com/doi/pdf/10.1080/13600834.2020.1861714>, Accessed May 10, 2024

**That the law does not grant legal personhood to AI creates legal obstacles that lead to uncertainties.**<sup>37</sup> **This is especially so as AI becomes more autonomous,** making the application of legal rules involving AI more challenging.<sup>38</sup> For example, **concerns have been raised concerning the allocation of liability,**<sup>39</sup> **copyright ownership in works independently created by AI,**<sup>40</sup> digital clones,<sup>41</sup> and contracting with artificial agents,<sup>42</sup> among others. Because a discussion of all the various legal uncertainties created by AI without having legal personhood is beyond the scope of this paper, it will only focus on the more prevalent issue of contracting involving AI. **Uncertainties created with contracts involving AI have raised the issue of the need to grant legal personhood to AI.**<sup>43</sup> Bidding sites like eBay, for example, allow a user to rely on 'shopbots' or 'pricebots' to automatically bid on items sold on the website.<sup>44</sup> Legal doctrinal challenges to the contract arise on whether the parties were aware of the terms and whether the artificial agent has the intent to enter into the contract.<sup>45</sup> **Nuanced difficulties from the same legal obstacle to contracting could later arise with AI agents that have increased autonomy and could speak, write, or even act like a human.**

**Personhood outside of abortion spills into fetal rights. Limited intent is irrelevant.**

Jonathan Will, Professor of Law at U-Mississippi 2013, "Beyond Abortion: Why the Personhood Movement Implicates Reproductive Choice," American Journal of Law and Medicine, 39.4, <https://www.cambridge.org/core/journals/american-journal-of-law-and-medicine/article/beyond-abortion-why-the-personhood-movement-implicates-reproductive-choice/5768BACC7DAF3207D9275E679F268791>, Accessed 5-7-2024

This **lack of clarity regarding how a personhood framework might impact reproductive choice outside the abortion context has contributed to the failure of personhood measures in multiple states, and could be the reason why the federal Sanctity of Human Life Act, which was co-sponsored by Congressman and former vice-presidential candidate Paul Ryan, did not make it out of congressional committee** when first proposed in 2011.<sup>17</sup> While it may not have been surprising that personhood initiatives would be soundly defeated in a state such as Colorado, <sup>18</sup> the late 2011 failure of a proposed personhood amendment to the Mississippi Constitution sparked drastic changes to the language utilized within the Personhood Movement.<sup>19</sup> The revised language targets questions raised by previous iterations, but it does not dispel the most pressing concerns regarding reproductive choice. And while no state has adopted a personhood framework yet, at least nine states can expect to see personhood measures in coming years.<sup>20</sup> As of March 2013, the North Dakota Senate and House approved an initiative (which will now appear on the November 2014 ballot) to amend the state constitution to protect "the inalienable right to life of every human being at any stage of development."<sup>21</sup> **How we define "person," or at what point rights attach to human life, will directly impact all things surrounding the reproductive process, regardless of the intent with which that process begins. It is true that such answers will affect the choices available to women once pregnant, but they will also inevitably impact such things as the availability of certain birth control options, and the permissiveness of various forms of** assisted reproductive technologies (ART).

## Fetal personhood advocates will use the justifications for the plan's personhood to give the state a compelling reason to protect fetal life

Jonathan Will, Professor of Law at U-Mississippi 2013, "Beyond Abortion: Why the Personhood Movement Implicates Reproductive Choice," American Journal of Law and Medicine, 39.4, <https://www.cambridge.org/core/journals/american-journal-of-law-and-medicine/article/beyond-abortion-why-the-personhood-movement-implicates-reproductive-choice/5768BACC7DAF3207D9275E679F268791>, Accessed 5-7-2024

This approach stands in contrast to other ways in which we might define legal or moral personhood. For instance, one might agree with the human species concept, yet maintain that membership does not occur until a later time in development, such as the appearance of the primitive streak around fourteen days after fertilization,<sup>52</sup> or when other evidence of "life" is present like a detectable heartbeat (five to six weeks)<sup>53</sup> or electrical activity in the early brain (eight weeks).<sup>54</sup> One could also assign legal or moral personhood to a pre-embryo<sup>55</sup> not because of its current state, but because it has the potential to develop into a born human being.<sup>56</sup> Yet another approach rejects the significance of membership in the Homo sapiens species, and instead would attach legal or moral personhood at the point when the developing organism attains certain capacities, such as the capacity to experience pain<sup>57</sup> or for rational thought or self-consciousness.<sup>58</sup> Interestingly, one could try to identify fetal viability as the person-defining criterion using any of these approaches. For instance, membership in the species could be deemed to begin at viability; or a fetus might be considered to have sufficient potential of becoming a born human at the point of viability such that it is then worthy of legal protection; or, as the Supreme Court noted in Roe, one could say that at viability the fetus has the capacity for "meaningful life outside the mother's womb,"<sup>59</sup> so as to make the State's interest in protecting fetal life compelling at that point.

## Uniqueness extension

### Legal personhood is clearly limited to humans or human proxies.

Richard L. **Cupp Jr.**, 2021,. Wade Professor of Law, Pepperdine University School of Law, “Considering the Private Animal and Damages,” 98 *Wash. U. L. Rev.* 1313 (2021), Available Online at: [https://openscholarship.wustl.edu/law\\_lawreview/vol98/iss4/11](https://openscholarship.wustl.edu/law_lawreview/vol98/iss4/11), Accessed 5-7-2024

**The Naruto court at least implied that a legal person is a human or a human proxy, such as a corporation.** For example, Judge Smith’s concurrence noted that “the Federal Rules only authorize next friend suits on behalf of “a minor or an incompetent person.” Per the text, **this can only apply to human persons**, not any “minor” or “incompetent” corporations or animals. Importantly, the historical background of [the next friend statute] limits the use of next friends to only human persons.<sup>153</sup>

**Of course, corporations are also legal persons, but the court recognized that they are merely proxies for humans: “[C]orporations and unincorporated associations are formed and owned by humans; they are not formed or owned by animals.”<sup>154</sup> Naruto’s apparent nod to the exclusively human foundation of legal personhood impliedly precludes the treatment of animals as legal persons** in private law damages actions. The Nonhuman Rights Project, Inc., an organization focused on expanding legal personhood to at least some animals, acknowledged and complained about Naruto’s implicit limitation of personhood—contending, of course, that the court was wrong.<sup>155</sup> But despite complaints from animal rights activists, **this aspect of Naruto adds to a growing body of cases that point out the centrality of humanity to legal personhood in response to efforts to name animals as plaintiffs.**<sup>156</sup>

## Impact Extension

### Pharmaceutical innovations are key to solve diseases, bioterror threats, and ABR

Sonja **Marjanovic**, directs RAND Europe's portfolio of research And Carolina **Feijao**, PhD from the Department of Biochemistry, University of Cambridge, March **2020**, "Pharmaceutical Innovation for Infectious Disease Management" RAND Corporation, <https://www.rand.org/pubs/perspectives/PEA407-1.html>, Accessed 5-7-2024

**As key actors in the healthcare innovation landscape, pharmaceutical and life sciences companies have been called on to develop medicines, vaccines and diagnostics for pressing public health challenges.** The COVID-19 crisis is one such challenge, but there are many others. For example, MERS, SARS, Ebola, Zika and avian and swine flu are also **infectious diseases that represent public health threats. Infectious agents such as anthrax, smallpox and tularemia could present threats in a bioterrorism context.**<sup>1</sup> **The general threat to public health that is posed by antimicrobial resistance is also well-recognised as an area in need of pharmaceutical innovation.** Innovating in response to these challenges does not always align well with pharmaceutical industry commercial models, shareholder expectations and competition within the industry. However, the **expertise, networks and infrastructure that industry has within its reach, as well as public expectations and the moral imperative, make pharmaceutical companies and the wider life sciences sector an indispensable partner in the search for solutions that save lives.**

This perspective argues for the need to establish more sustainable and scalable ways of incentivising pharmaceutical innovation in response to infectious disease threats to public health. It considers both past and current examples of efforts to mobilise pharmaceutical innovation in high commercial risk areas, including in the context of current efforts to respond to the COVID-19 pandemic. In global pandemic crises like COVID-19, the urgency and scale of the crisis – as well as the spotlight placed on pharmaceutical companies – mean that contributing to **the search for effective medicines, vaccines or diagnostics is essential** for socially responsible companies in the sector.<sup>2</sup> It is therefore unsurprising that we are seeing industry-wide efforts unfold at unprecedented scale and pace. Whereas there is always scope for more activity, industry is currently contributing in a variety of ways. Examples include pharmaceutical companies donating existing compounds to assess their utility in the fight against COVID-19; screening existing compound libraries in-house or with partners to see if they can be repurposed; accelerating trials for potentially effective medicine or vaccine candidates; and in some cases rapidly accelerating in-house research and development to discover new treatments or vaccine agents and develop diagnostics tests.<sup>3,4</sup> Pharmaceutical companies are collaborating with each other in some of these efforts and participating in global R&D partnerships (such as the Innovative Medicines Initiative effort to accelerate the development of potential therapies for COVID-19) and supporting national efforts to expand diagnosis and testing capacity and ensure affordable and ready access to potential solutions.<sup>3,5,6</sup> The primary purpose of such innovation is to benefit patients and wider population health. Although there are also reputational benefits from involvement that can be realised across the industry, there are likely to be relatively few companies that are 'commercial' winners. Those who might gain substantial revenues will be under pressure not to be seen as profiting from the pandemic. In the United Kingdom for example, GSK has stated that it does not expect to profit from its COVID-19 related activities and that any gains will be invested in supporting research and long-term pandemic preparedness, as well as in developing products that would be affordable in the world's poorest countries.<sup>7</sup> Similarly, in the United States AbbVie has waived intellectual property rights for an existing combination product that is being tested for therapeutic potential against COVID-19, which would support affordability and allow for a supply of generics.<sup>8,9</sup> Johnson & Johnson has stated that its potential vaccine – which is expected to begin trials – will be available on a not-for-profit basis during the pandemic.<sup>10</sup> Pharma is mobilising substantial efforts to rise to the COVID-19 challenge at hand. However, we need to consider how pharmaceutical innovation for responding to emerging infectious diseases can best be enabled beyond the current crisis. **Many public health threats (including those associated with other infectious diseases, bioterrorism agents and antimicrobial resistance) are urgently in need of pharmaceutical innovation,** even if their impacts are not as visible to society as COVID-19 is in the immediate term. The pharmaceutical industry has responded to previous public health emergencies associated with infectious disease in recent times – for example those associated with Ebola and Zika outbreaks.<sup>11</sup> However, it has done so to a lesser scale than for COVID-19 and with contributions from fewer companies. Similarly, levels of activity in response to the threat of antimicrobial resistance are still low.<sup>12</sup> **There are important policy questions as to whether – and how – industry could engage with such public health threats** to an even greater extent under improved innovation conditions.

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Politics DA

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## Biden flip flop link

### The plan would be a flip-flop for Biden

Stephen **Ezell** is vice president for global innovation policy at the Information Technology and Innovation Foundation (ITIF) and director of ITIF's Center for Life Sciences Innovation, June 12, **2023**, "Losing the Lead: Why the United States Must Reassert Itself as a Global Champion for Robust IP Rights," Information Technology and Innovation Institute, <https://itif.org/publications/2023/06/12/losing-the-lead-why-united-states-must-reassert-itself-as-global-champion-for-robust-ip-rights/>, Accessed May 12, 2024

In part because of the sympathies toward a redistributionist domestic and international policy, in part informed by dependency theory, **the Biden administration has done little to advance IP in trade policy—and in several cases, has acted to weaken it. Indeed, the administration's current trade negotiations do not include any substantive IP discussions or provisions. With this, the United States signals to the world its intent to abdicate IP policy leadership.**

CREATIVE ARTS NEG

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## Investor Confidence Disadvantage – 1NC page 1 of 2

**A. Investors see huge potential for GenAI now**

Todd **Striber**, financial reporter for Bloomberg News, March 27, **2024**

"Artificial Intelligence Captivating Hearts & Minds on Multiple Fronts," ETF Education Channel, <https://www.etftrends.com/etf-education-channel/artificial-intelligence-captivating-hearts-minds-multiple-fronts/> (accessed 4/9/24)

Enthusiasm for artificial intelligence (AI) is widespread, with epicenters of that ebullience including the investment community and corporate America. Obviously, there are clear links between the two, and those ties carry implications for ETFs such as the Invesco QQQ Trust (QQQ) and the Invesco NASDAQ 100 ETF (QQQM) — both of which are heavy on companies that are AI enablers and adopters. While generative AI — the most readily accessible and deployed form of this disruptive technology — is still in its early innings, returns by QQQ and QQQM suggest business and investor confidence in the technology is high. Over the past 24 months, the Invesco ETFs are higher by 26.4%, an advantage of 710 basis points over the S&P 500.

**B. Fair use is key to investment—data proves this**

Matt **Schruers**, President & CEO of the Computer & Communications Industry Association, June 3, **2013**

"Further Research Showing How Copyright Regulations Drive Investment," <https://www.project-disco.org/intellectual-property/060313-further-research-showing-how-copyright-regulations-drive-investment/> (accessed 4/11/24)

By contrast, European judicial decisions – which were more hostile to cloud computing – produced a corresponding decrease in investment. In fact this 2011 survey of investors by Booz & Co. showed exactly the same conclusion: early-stage investors indicated that they would be substantially less likely to invest in industries when the relevant regulatory structure presented a higher risk of liability. As Dan mentioned on Friday, fair use is another example of IP policy encouraging investment. We know that copyright law, and fair use in particular, has had a differential impact of different nations' search industries, and this anecdotal evidence is confirmed by the empirical data. The flexibility of the legal system can encourage new services. There was a time when it was questionable whether copyright law permitted constructing a database to provide answers to users about the database content. This proved to be an obstacle to numerous online innovations, and in a variety of cases over time – including disputes involving image search and plagiarism detection – courts confirmed that when the application of the database was transformative, the copying of the individual elements was considered fair use.

## Investor Confidence Disadvantage – 1NC page 2 of 2

## C. Dips in investor confidence in tech sector cause market crashes

C. Theodore **Hicks**, founder & CEO of wealth management company, May 1, **2023**

"How the Failure of First Republic Impacts the Financial System," Hicks and Associates, <https://hicks-associates.com/blog/how-the-failure-of-first-republic-impacts-the-financial-system> (accessed 4/11/24)

During the height of these market manias, investment returns feel easy to come by, leading to overconfidence and a fear of missing out. While this may be prudent at first, successes and gains motivate investors to take on more and more leverage until it becomes unsustainable (think the dot-com and housing bubbles). This ends when there is a "Minsky Moment" whereby some events shake investor confidence, causing it to all come crashing down. While the details naturally differ between episodes, this is what has occurred since mid-2020. More recently, this has ended with the failure of crypto companies, layoffs at large tech companies, and more.

## A. Economic decline causes war and environmental collapse

Matthew **Maavak**, researcher at Kazimieras Simonavicius University, Lithuania, **2021**

"Horizon 2030: Will Emerging Risks Unravel Our Global Systems?" Salus Journal, <https://search.informit.org/doi/epdf/10.3316/informit.673954589035546> (accessed 4/11/24)

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation: The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering \$3 trillion. Moreover, a recent report suggests the world's 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, "vulnerable" or unpaid jobs. Shouldn't this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US\$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated. Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity. Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021). Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the "world's most polluted river" began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications. On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabria-based 'Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008). The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section. Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological maniacs or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade. The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar bogeymen to reappear in societies roiling with impoverishment and ideological clefts.

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## Investor Confidence: Uniqueness Extensions

### Investment opportunities around AI are high now

Todd **Shriber**, financial reporter for Bloomberg News, March 27, **2024**

"Artificial Intelligence Captivating Hearts & Minds on Multiple Fronts," ETF Education Channel, <https://www.etftrends.com/etf-education-channel/artificial-intelligence-captivating-hearts-minds-multiple-fronts/> (accessed 4/9/24)

He adds that the AI opportunity set is expansive and includes things such as algorithm construction and edge computing. Both of those could boost long-term demand for hardware and software. And that could be a plus for QQQ and QQQM. That's because the ETFs feature substantial exposure to hardware and software providers. "Investing in these companies allows investors to capitalize on niche markets and tech advancements that may not be fully captured by industry giants like Nvidia," observed Green. "Furthermore, investors should consider opportunities in AI-enabled industries beyond technology."

### Inflection funding proves strength of AI portfolios

Mark **Beccue**, investment analyst, July 20, **2023**

"Generative AI Investment Accelerating: \$1.3 Billion for LLM Inflection," Futurum Group, <https://futurumgroup.com/insights/generative-ai-investment-accelerating-1-3-billion-for-llm-inflection/> (accessed 4/11/24)

Inflection announced on June 29 they have raised a new round of funding to the tune of \$1.3 billion. Inflection is a large language model (LLM) founded by the co-founder of DeepMind, Mustafa Suleyman and LinkedIn co-founder Reed Hoffman. The company, launched approximately 1 year ago, is now valued at \$4 billion. Investors include Microsoft, NVIDIA, Bill Gates, and former Google CEO Eric Schmidt. Forbes reports that Inflection will install the largest GPU cluster for AI apps in the world – 23,000 NVIDIA H100s. Inflection's chatbot is called "Pi", and the company's ambition is to create a more personal, emotional interface/LLM. Read the full Press Release about the investment round on Inflection's website. Analyst Take: The \$10 billion investment by Microsoft in Open AI aside (note: that's a bit misleading, since it is not all cash to OpenAI, and a big chunk of the "investment" is providing Azure compute), the Inflection funding marks a significant milestone in the generative AI landscape.

### LLMs spur secondary investment

Mark **Beccue**, investment analyst, July 20, **2023**

"Generative AI Investment Accelerating: \$1.3 Billion for LLM Inflection," Futurum Group, <https://futurumgroup.com/insights/generative-ai-investment-accelerating-1-3-billion-for-llm-inflection/> (accessed 4/11/24)

LLMs and other foundational models (diffusion, etc.) are proving to be a bit messy and not necessarily standalone, plug-and-play platforms. Consequently, a range of ancillary services has emerged for generative AI model management and LLM management, such as Trustwise, Whylabs, Galileo AI, OctoML, and Anyscale. These companies help enterprises scale AI compute, tune models, and help tackle hallucination, among other functions. Investment in these companies will grow significantly in the short term. Generative AI has sparked a renewed interest by enterprises in leveraging proprietary data. As such, data management is even more critical (See Databrick's MosaicML Acquisition, LakehouseIQ Launch, Data + AI Summit Show Gen AI Savvy). Investments in companies like Databricks, Snowflake, MongoDB, SingleStore, and narrower data management specialists like LlamaIndex and Datasaur will grow significantly in the short term.

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## Investor Confidence: Link Extensions

### Restrictions on creative use massively decreases investment

Matt **Schruers**, President & CEO of the Computer & Communications Industry Association, June 3, **2013**

"Further Research Showing How Copyright Regulations Drive Investment," <https://www.project-disco.org/intellectual-property/060313-further-research-showing-how-copyright-regulations-drive-investment/> (accessed 4/11/24)

The paper released today by the Analysis Group, commissioned by CCIA, looks at the impact of a 2007 legal change on investment in the webcasting industry. Given what we already know about how poorly U.S. copyright policy has served Internet radio, the paper provides a somewhat unsurprising conclusion: when the Copyright Royalty Board dramatically increased the royalty rates paid by webcasters for the period 2006-2010, venture capitalists perceived that as a negative change to the landscape, and accordingly reduced their investment in the industry. When analyzed relative to European investment over the same period, the result was approximately \$100 million in lost U.S. venture capital investment over the following years. This is consistent with what we've previously heard about the viability of new ventures in this sector. When testifying before Congress on music licensing last year, venture capitalist David Pakman said: "...the failure rate of digital music companies is among the highest of any industry we have evaluated. This is solely due to the over-burdensome royalty requirements imposed upon digital music licensees by record companies under both voluntary and compulsory rate structures. The compulsory royalty rates imposed upon internet radio companies render them non-investible businesses from the perspective of many VCs."

### Fair use is key—innovation is very burdensome without it

Daniel **O'Connor**, vice president of Computer and Communications Industry Association, May 31, **2013**

"Milan Should Be More Like San Francisco: Uber's Latest Obstacle Points to Needed Italian Economic Reform," Disruptive Competition Project, <https://www.project-disco.org/competition/053113-milan-should-be-more-like-san-francisco-ubers-latest-obstacle-points-to-needed-italian-economic-reform/> (accessed 4/11/24)

One obvious place to look to is the Internet economy. An area that is already under the spotlight is outdated IP laws. Fair use provisions in U.S. copyright law allowed Internet companies to thrive in America. (Furthermore, the lack of a "fair use" provision in Japan meant that early Japanese search engines had to ask each and every website permission to index them for searching purposes, which hobbled the Japanese search industry before it got off the ground.)

## Investor Confidence: Impact Extensions

### Economic decline causes multiple scenarios for war

Eric **Mann**, Principal of Intelligence Enterprise Engineering at MITRE corporation, **2014**

“Austerity, Economic Decline, and Financial Weapons of War,” Johns Hopkins Libraries,

<https://jscholarship.library.jhu.edu/items/29bf0c37-71ea-4726-a9be-65a083e8b680> (accessed 4/11/24)

The conclusions reached in this thesis demonstrate how economic considerations within states can figure prominently into the calculus for future conflicts. The findings also suggest that security issues with economic or financial underpinnings will transcend classical determinants of war and conflict, and change the manner by which rival states engage in hostile acts toward one another. The research shows that security concerns emanating from economic uncertainty and the inherent vulnerabilities within global financial markets will present new challenges for national security, and provide developing states new asymmetric options for balancing against stronger states. The security areas, identified in the proceeding chapters, are likely to mature into global security threats in the immediate future. As the case study on South Korea suggest, the overlapping security issues associated with economic decline and reduced military spending by the United States will affect allied confidence in America’s security guarantees. The study shows that this outcome could cause regional instability or realignments of strategic partnerships in the Asia-pacific region with ramifications for U.S. national security. Rival states and non-state groups may also become emboldened to challenge America’s status in the unipolar international system. The potential risks associated with stolen or loose WMD, resulting from poor security, can also pose a threat to U.S. national security. The case study on Pakistan, Syria and North Korea show how financial constraints affect weapons security making weapons vulnerable to theft, and how financial factors can influence WMD proliferation by contributing to the motivating factors behind a trusted insider’s decision to sell weapons technology. The inherent vulnerabilities within the global financial markets will provide terrorists’ organizations and other non-state groups, who object to the current international system or distribution of power, with opportunities to disrupt global finance and perhaps weaken America’s status. A more ominous threat originates from states intent on increasing diversification of foreign currency holdings, establishing alternatives to the dollar for international trade, or engaging financial warfare against the United States.

## Investor Confidence: Impact Extensions

## Economic decline creates social chaos leading to multiple scenarios for war

Matthew **Maavak**, researcher at Kazimieras Simonavicius University, Lithuania, **2021**

“Horizon 2030: Will Emerging Risks Unravel Our Global Systems?” *Salus Journal*,

<https://search.informit.org/doi/epdf/10.3316/informit.673954589035546> (accessed 4/11/24)

An EEGST sectional breakdown was adopted to illustrate a sampling of extreme risks facing the world for the 2020-2030 decade. The transcendental quality of emerging risks, as outlined on Figure 1, below, was primarily informed by the following pillars of systems thinking (Rickards, 2020): • Diminishing diversity (or increasing homogeneity) of actors in the global system (Boli & Thomas, 1997; Meyer, 2000; Young et al, 2006); • Interconnections in the global system (Homer-Dixon et al, 2015; Lee & Preston, 2012); • Interactions of actors, events and components in the global system (Buldyrev et al, 2010; Bashan et al, 2013; Homer-Dixon et al, 2015); and • Adaptive qualities in particular systems (Bodin & Norberg, 2005; Scheffer et al, 2012). Since scholastic material on this topic remains somewhat inchoate, this paper buttresses many of its contentions through secondary (i.e. news/institutional) sources. According to Professor Stanislaw Drozd (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid-2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity. The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed \$255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering \$2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak. The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented \$10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth \$88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020). As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007). Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit. According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019): “You can hardly trust even the closest allies after the Munich Agreement... I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author). President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period. A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective \$1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016). In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a).

## Public Interest Research Disadvantage—1NC page 1 of 2

## A. Ending fair use for genAI training goes against legal precedent and destroys nonprofit and public interest research

Katherine **Klosek**, Director of Information Policy and Federal Relations at Association of Research Libraries, **and** Marjory S. **Blumenthal**, Senior Policy Fellow at American Library Association, January 23, **2024** "Training Generative AI Models on Copyrighted Works Is Fair Use," Association of Research Libraries, <https://www.arl.org/blog/training-generative-ai-models-on-copyrighted-works-is-fair-use/> (accessed 4/7/24) On the question of whether ingesting copyrighted works to train LLMs is fair use, LCA points to the history of courts applying the US Copyright Act to AI. For instance, under the precedent established in Authors Guild v. HathiTrust and upheld in Authors Guild v. Google, the US Court of Appeals for the Second Circuit held that mass digitization of a large volume of in-copyright books in order to distill and reveal new information about the books was a fair use. While these cases did not concern generative AI, they did involve machine learning. The courts now hearing the pending challenges to ingestion for training generative AI models are perfectly capable of applying these precedents to the cases before them. Why are scholars and librarians so invested in protecting the precedent that training AI LLMs on copyright-protected works is a transformative fair use? Rachael G. Samberg, Timothy Vollmer, and Samantha Teremi (of UC Berkeley Library) recently wrote that maintaining the continued treatment of training AI models as fair use is "essential to protecting research," including non-generative, nonprofit educational research methodologies like text and data mining (TDM). If fair use rights were overridden and licenses restricted researchers to training AI on public domain works, scholars would be limited in the scope of inquiries that can be made using AI tools. Works in the public domain are not representative of the full scope of culture, and training AI on public domain works would omit studies of contemporary history, culture, and society from the scholarly record, as Authors Alliance and LCA described in a recent petition to the US Copyright Office. Hampering researchers' ability to interrogate modern in-copyright materials through a licensing regime would mean that research is less relevant and useful to the concerns of the day.

## B. Public research is key to stopping tech abuse, achieving social change and preserving democracy—private companies won't do it

**CITR**, October 12, **2022**

"Manifesto: The Coalition for Independent Technology Research," Coalition for Independent Technology Research, <https://independenttechresearch.org/manifesto-the-coalition-for-independent-technology-research/> (accessed 4/15/24) Society needs trustworthy, independent research to relieve the harms of digital technologies and advance the common good. Research can help us understand ourselves more clearly, identify problems, hold power accountable, imagine the world we want, and test ideas for change. In a democracy, this knowledge comes from academics, journalists, civil society, and community scientists, among others. Because independent research on digital technologies is a powerful force for the common good, it also faces powerful opposition. Tech companies have developed unprecedented power to observe and intervene in people's everyday lives. While people benefit greatly from digital communication, these private companies have demonstrated that they cannot be expected to work in the public interest. Society needs independent research to hold companies accountable and continue the search for effective ways to improve human life. So far, tech companies have obstructed and undermined research necessary for the public to understand the ways in which their platforms are shaping society. Companies often forbid access to researchers who try to work independently. When researchers try to collaborate with companies, those arrangements rise and fall on the whims of corporate leaders, who often renege on their promises to cooperate. Meanwhile companies have amassed large teams of talented researchers, but their findings are typically not shared with the public and are aimed at supporting the corporate rather than the public interest.

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### C. Public interest research is key to resisting disinformation, propaganda, and unethical use of bots

**CITR**, April 3, 2023

"Twitter's New API Plans Will Devastate Public Interest Research," Coalition for Independent Technology Research, <https://independenttechresearch.org/letter-twitters-new-api-plans-will-devastate-public-interest-research/> (accessed 4/15/24)

Over the past decade, researchers across the world have relied on Twitter's API to study the impact of social media on democracy, the role of social media in strengthening public health, how social media has been used to amplify marginalized voices, and much more. With free API access, researchers could systematically and reliably collect public tweets posted by public figures, gather information about network dynamics, investigate bots and other inauthentic activity, or analyze conversations around specific topics. The knowledge from this research has been shared with journalists, policymakers, and the public, enhancing understanding of issues vital to society.

### D. Disinformation is the biggest threat to global economy--a massive case turn--on the brink now

Larry **Elliott**, Guardian economics editor, January 10, 2024

"AI-driven misinformation 'biggest short-term threat to global economy'," The Guardian, <https://www.theguardian.com/business/2024/jan/10/ai-driven-misinformation-biggest-short-term-threat-to-global-economy> (accessed 4/15/24)

A wave of artificial intelligence-driven misinformation and disinformation that could influence key looming elections poses the biggest short-term threat to the global economy, the World Economic Forum (WEF) has said. In a deeply gloomy assessment, the body that convenes its annual meeting in Davos next week expressed concern that politics could be disrupted by the spread of false information, potentially leading to riots, strikes and crackdowns on dissent from governments. The WEF's annual risks report – which canvasses the opinion of 1,400 experts – found 30% of respondents thought there was a high risk of a global catastrophe over the next two years, with two-thirds fearful of a disastrous event within the next decade. The WEF said concerns over the persistent cost of living crisis and the intertwined risks of disinformation and polarised societies dominated the outlook for 2024. Elections are taking place this year in countries that represent 60% of global GDP, including Britain, the US, the EU and India, and the WEF said the nexus between falsified information and societal unrest would take centre stage during campaigns.



Joint Authorship Counterplan-- 1NC page 1 of 2

Counterplan: The United States Federal Government should give joint authorship to generative AI and require labeling of all content co-generated by human and AI.

Competition: affirmative is a ban on inclusion of AI while the counterplan grants it participant status and solves the root cause of the aff

Michael Jay **Polonsky**, professor of Marketing at Deakin University, **and** Jeffrey D. **Rotman**, lecturer in Marketing at Deakin University, **2023**

"Should Artificial Intelligent Agents be Your Co-author? Arguments in Favour, Informed by ChatGPT," Australasian Marketing Journal, <https://journals.sagepub.com/doi/pdf/10.1177/14413582231167882> (accessed 3/25/24)

We argue that it is important to consider authorship standards in relation to AI in advance and to set out some guidelines, rather than simply blanketly banning it. It is an imperative that needs to be addressed given that AI will only become more sophisticated and powerful and its contributions to science will become impossible to ignore. For those who believe that AI has not crossed the threshold for authorship yet, with technological advances it is likely to do so very soon (Intellectual Property Office, 2022). If AI authorship is therefore not addressed within the scientific discipline now, it will need to be very soon.

This is key to artist buy-in on copyright, vital to public confidence and innovation in the creative arts and anchors the success of GenAI

Harnoorvir Singh **Josan**, member of Digital Policy Hub, **2023**

"AI and Deepfake Voice Cloning: Innovation, Copyright and Artists' Rights," Center for International Governance Innovation, <https://www.cigionline.org/static/documents/DPH-paper-Josan.pdf> (accessed 3/22/24)

In the end, AI systems are not something that the public needs to worry about if proper safeguards are put in place. Deepfake voice cloning may sound like something that can be used to portray celebrities and artists in a bad light or steal credit by producing songs using their identity. However, if the users of AI and artists work together synchronously, and some changes are made to the copyright framework, a fair use model of AI can be ensured. The most important step is to ensure that the input data used is approved by the original author, performer or the artist. All the voice cloning systems should be required to input the training data only from a bank of stock recordings that are provided by the artists themselves. Once the model is trained and the final output is ready with the voice replica, it should be tagged as AI-generated so the general public can recognize it as such. To ensure all the involved actors get recognition and a fair share, ownership should be distributed jointly among programmers, users, artists and the AI. The current copyright framework in the United States and Canada does not grant authorship to non-human actors. Altering the copyright frameworks to allow for joint authorship of human actors and AI will allow the artists to be fairly compensated without hindering the development of AI technology. The laws to regulate the collaboration of humans with AI need to be implemented because AI systems, if used fairly, can foster creative intelligence, expand our knowledge and improve access to content.