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CHATGPT'S COPYRIGHT SHIELD: IS THIS THE END OF COPYRIGHT PROTECTION FOR HUMAN MADE WORKS?

Last week, OpenAI, the Company behind every student's favourite generative AI tool, ChatGPT, made several exciting announcements, the most notable of which is Copyright Shield. The Company's CEO, Sam Altman is quoted as saying, "we will now step in and defend our customers and pay the costs incurred if you face legal claims around copyright infringement".

What legal consequences could this have on human authors and creators? Is there still room for original human works? To what extent does this Copyright Shield protect the creators of AI assisted works? All this and more in today's segment of Tech Tuesdays.

Background

On the 6th of November 2023, OpenAI held its much anticipated and first ever developer conference; Dev Day. During this event, Sam Altman and his team unveiled numerous new features designed for both developers and everyday users of their company's generative AI tool, ChatGPT. Among the exciting additions is the introduction of custom AI chatbots referred to simply as GPTs. This feature empowers individuals to create personalized AI chatbots for various tasks without requiring coding or programming skills. Building a GPT is as straightforward as using simple, basic English.

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In his presentation, Sam provided a hands-on demonstration of the GPT building process. The process is quite simple; start by furnishing ChatGPT with instructions detailing the desired characteristics of your GPT. Followed by an interactive exchange to clarify and refine the concept with the bot. Next, you upload a file—whether it's a PDF, video, or any other format—to imbue the chatbot with customized knowledge. Upon completion, you're presented with the option to either share your GPT with the world, keep it private, or subscribe to ChatGPT Enterprise and use it for your business.

Legal Concerns

Perhaps the most controversial part of this feature is OpenAI's intention to establish a marketplace where users can share their chatbots globally. OpenAI promises to share its revenue from the most commonly used GPTs with the creators thereof. While this presents an exciting opportunity for developers and creators to generate passive income, it also raises notable legal

considerations that simply cannot be overlooked.

Suppose I build a personalized GPT called "Chat with Lerumo Mogobe" and upload transcripts from his YouTube videos, podcasts, and excerpts from his upcoming book to enhance my chatbot's knowledge. Now, let's assume that my GPT becomes hugely popular, resulting in significant revenue. Would Mogobe's legal team be successful in a copyright infringement lawsuit against me? Alternatively, does he have legal avenues to compel me to share the revenue generated from the chatbot with him? After all, I would have leveraged decades of his knowledge and expertise to make profits for myself.

It is probably with this imperative in mind that Open AI introduced its new initiative, Copyright Shield.

Copyright Shield

Copyright Shield is a new initiative that extends copyright protection to enterprise users of ChatGPT, with the software giant pledging to actively defend the user by covering any incurred legal costs

from copyright infringement claims.

Sam Altman, the CEO of OpenAI said, “we will now step in and defend our customers and pay the costs incurred if you face legal claims around copyright infringement”.

This move is a massive step for content creators and businesses using AI, allowing them to push the boundaries of innovation with that safety net in place. It is important to note, however, that this protection does not extend to all OpenAI products, such as the free and Plus tiers of ChatGPT. Instead, it exclusively applies to users of the business-tier ChatGPT Enterprise and the developer platform.

OpenAI is not the first to make such a bold stand. Major tech players such as Microsoft, Amazon, Google and even stock image providers; Adobe and Shutterstock have also made similar declarations.

The motivation behind implementing such a shield likely originates from OpenAI's own legal

struggles, as it is currently a defendant in multiple copyright lawsuits, most notably, the one spearheaded by the Authors Guild. Several authors, including prominent figures like George R.R. Martin, the renowned author of the widely acclaimed fantasy novels "Game of Thrones," are suing ChatGPT for alleged copyright infringement.

These authors argue that their books were used to train AI models without their permission, mirroring the situation described earlier with Lerumo Mogobe. Are the authors genuinely concerned about the potential misuse of their work by AI, or is their legal action more of a defensive stance in response to the looming possibility of being supplanted by AI and facing obsolescence?

Conclusion

This scenario highlights a clash between human creativity and innovation. Should we prioritize innovation even if it comes at the expense of the hard work and dedication of human creators? Is it justified to stifle innovation in the interest of safeguarding original

works? As AI continues to advance, redefining the realm of possibilities, the courts are faced with challenging yet intriguing questions that need resolution.

If you have interest in an in-depth discussion on this subject matter or any technology law and

intellectual property related issues, feel free to contact us at info@gobhozalegalpractice.co.bw

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