

AI as a Creative

By Tara Jacobi

Introduction

Today, writers are asking whether Artificial Intelligence (AI) will replace them. Understanding whether AI will be the writer of future literature requires unpacking what it means to be a writer and the essence of literature itself. An in-depth understanding entails knowing all vital aspects of being a professional writer, which includes the business or legal aspects of a working writer and the creative aspects which focuses on the essence of producing superlative literature. Both are completely different spheres of influence but each requires the writer's attention. Only after examining these aspects might we come to understand AI as a creative.

The first part of this article will debrief the legalities of how rights are established in written work. This includes looking at establishing a copyright or legal ownership. Once copyright is established, the next task is the ability to enter into contracts with a publisher to be able to publish work. After this analysis we will see where AI currently stands in its ability to engage in the writing business.

The second part of this article will examine the nature of literature. What is literature? In particular, what is great literature? And why? We know AI can be trained to produce literature, but the focus here will be on whether AI can produce works of great significance and why. After providing a framework for what makes for exceptional literature from iconic authors, publishers of literary fiction and classic works we will have a better understanding of AI's abilities and limitations.

After considering both these aspects of being a creative writer, we will have a more complete view of what it means to be a professional writer. Through this

perspective, we can effectively answer whether AI alone can be a professional writer or not. The next set of logical questions which follow are addressed in the third part of this article where we will dive into whether it is ethical for writers to use AI in publishing literature. And if so, how? Here, we will explore how some writers are currently using AI as a tool and writers' perspectives about AI. This will allow us to see the benefits and limitations available for a writer using AI in their work. At this point, we can gain further insight into what might be an ethical or unethical use of AI and areas where future research is needed.

Legal Ownership of Literature Copyright

Producing written work establishes a copyright or exclusive legal right to the writing. It also creates responsibilities and denotes control over the writing.

In drafting the United States Constitution, the founding fathers explicitly gave Congress the power as stated within, "to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."¹ In other words, by writing the document establishing our government, the framers took the time to establish "exclusive rights," for authors in the writing they produce. These "exclusive rights," in the literary world are otherwise known as a copyright. Copyright was codified in the Copyright Act of 1790 found in Title 17 of the US Code. This established modern copyright law which still held true to the spirit of the US Constitution and protected an author's exclusive right in their literary work.

After an author creates a literary work, they have not only established an exclusive right, but this exclusive right equals a number of distinct rights bundled together for a certain period of time. As my publishing professors explained, this bundle of exclusive rights outlined in the statute includes: the right to reproduce or copy the work; the right to make other derivative works based upon the original work; the right to distribute the work by giving, lending, or selling it; and the right to perform or display the work publicly. These exclusive rights in the work exist for the duration of the creator's life plus seventy years.² With these exclusive rights come responsibilities. These responsibilities include exercising control over the work and determining just how the work will or will not be used.

Copyright law initially required an author to adhere to certain formalities

1 The United States Constitution, Article I, Section 8 (8).

2 Yale Library: Copyright Guidance: Copyright for Authors and Creators, <https://guides.library.yale.edu/copyrightguidance/CopyrightForAuthors#>

by registering a claim over their work with the US Copyright Office as well as placing a notice on all copies of the work listing certain information. However, in 1988 the United States joined the Berne Copyright Convention, an international treaty that establishes a framework for copyright protection. As a condition of its membership, the United States was forced to abandon the requirements of registration it previously required. Therefore, copyright registration is now voluntary, not mandatory.³ Yet, who or what can actually register a claim or exclusive right to written work is telling. Further clarification to both the US Constitution and federal copyright law's definition of an author is provided by the US Copyright Office. The office's guidance is essential to who can actually hold a copyright and be the lawful owner of writing produced.

The US Copyright Office issued a summary of the US Copyright Office's practices. In doing so, the Compendium III of US Copyright Office Practice, explained the following:

The US Copyright Office will register an original work of authorship, provided that the work was created by a human being. (Copyright law) only protects 'the fruits of intellectual labor' that 'are founded in the creative powers of the mind.' Because copyright law is limited to 'original intellectual conceptions of the author,' the Office will refuse to register a claim if it determines that a human being did not create the work.⁴

The US Copyright Office provides us with an even more detailed definition of an author than given to us by the US Constitution or federal copyright law. This definition, however, is grounded in both the US Constitution and federal copyright law. In explaining the US Copyright Office's practice of granting a copyright to an author, we learn the holder of a copyright must be a human. In other words, writing produced by a human is required to obtain a copyright.

The US Copyright Office has been analyzing the legal ramifications of AI in relation to copyright law. Since AI has been on the horizon, the US Copyright Office has issued several reports about the legal ramifications of AI, which are beyond the scope of this article to discuss, but essential to mention here. What is important to remember here is that it has not changed its stance

3 Edward Samuels, *The Illustrated Story of Copyright* (Thomas Dune Books, 2000).

4 U.S. Copyright Office, Compendium of U.S. Copyright Office Practices Sec. 306 (3rd ed 2017).

as articulated above.

The Authors Guild issued Comments In the Matter of Impact of Artificial Intelligence (“AI”) Technologies on Copyright, making the following statement:

...although the Constitution does not define authors and inventors as human beings or natural persons, it is clear from the context and the usage of their words at the time that the framers meant humans—not animals or paranormal or artificial beings. A century of Supreme Court jurisprudence further validates the view that authorship is necessarily a product of *human* intellect.⁵

AI cannot apply or obtain copyright protection in whatever writing it produces. It has no legal basis to exercise control over what it creates or produces. AI cannot obtain exclusive rights or take control over its work. Only humans can. This is not to say AI cannot produce written work or literature. It can. However, in discussions it is important to note we are sometimes working with different definitions of what it means to be a writer or author or creator of literature. The first definition being the producer of a literary work, but no more. Another definition of an author is one being, not only the producer of the work but also the one with legal rights to the work. According to the US Copyright Office, AI cannot be a recognized author. Therefore, AI holds no foundational legal basis for moving forward to engage in the business of being a writer or creative.

Contracts

When authors or creatives exercise their rights and control over their writing, they do so for the sake of publishing their work. In providing their work for publication, it is necessary for writers to enter into agreements or contracts with publishers. Publishing contracts are entered into whether work is produced in traditional print or digital format or whether it be in journals, magazines, or in book form. In the simplest form these agreements or contracts are promises. Cornell’s Legal Information Institute informs us:

A contract is an agreement between parties, creating mutual obligations that are enforceable by law. The basic elements required for the agreement to be a legally enforceable contract are:

5 Comments of the Authors Guild, Inc., *In the Matter of Impact of Artificial Intelligence (“AI”) Technologies on Copyright* (Docket Number: 2019-23638).

mutual assent, expressed by a valid offer and acceptance; adequate consideration; capacity; and legality.⁶

To give assent or to approve of something independently is not a task AI can lawfully conduct or do without human involvement. It may be able to produce literary work, but AI cannot exercise control over what it may produce. AI cannot agree to do something with the writing it produces, such as, enter into a contract with a publisher to publish it. AI alone cannot enter into publishing contracts. It cannot take responsibility for its work or decide how to use it. This demands and requires the involvement of a human.

For example, a human could command AI to produce a children's book and self-publish it on Amazon. However, it is the human, not AI contracting or doing business with Amazon and the human managing the business of the book. While AI might be the writer, editor, and illustrator of the book, it is not the lawful owner of its content having a legal right to engage in the publishing business to make use of it and obtain royalties. Neither is the human the lawful owner of the AI generated content because content that is primarily AI generated content is not copyrightable. In reality, a human may be profiting off an AI generated product in this example, but there is no copyright or legal ownership of the writing because it was not created by a human.

In exploring how AI might progressively assist humans with negotiating and entering contracts, Eliza Mik concludes in a book chapter, "Once we realize how AI is deployed in practice and acknowledge that many of our commercial decisions are based on the automation of cognitive tasks, we may adopt a less sensationalistic perspective regarding the role of AI in the contracting process." Yet, Mik also states the following:

Contracting is thus inextricably associated with decision-making. It is here, where we see the deployment of AI in the process or negotiating or, more broadly, entering into contracts. Many factors are involved in making commercial and legal decisions— and AI can assist only with *some* of them. Computer programs can analyze numbers and evaluate probabilities, but they cannot reason about

6 Cornell Law School: Legal Information Institute: Contract <https://www.law.cornell.edu/wex/contract#>

mental states of the other party or draft clauses that allocate the risks resulting from breach.

The broader point is that, technically, the AI can be involved in the first three stages of information acquisition, analysis and action selection with the human ‘only’ implementing the decision that was recommended by the AI.

What bears repeating is that computers do not make their ‘own’ decisions or form their ‘own’ intention but execute earlier human decisions or manifest human decision in pursuance of human goals.⁷

AI continues to evolve at a rapid pace in assisting humans with contracting, but AI will not likely be able to enter into contracts by itself without the involvement of human decision making. While we are increasingly seeing AI assist, AI is not entering into agreements or contracts alone. AI cannot give mutual assent. AI cannot agree to the terms of a contract because AI does not have its own intentions. AI’s intentions are that of the humans’ intentions programming it. AI in assisting people with contract formation is carrying out the intentions of the human parties themselves, not its own. Only humans can manifest assent or agreement or intent to contract.

In conclusion, while AI can produce written work it does not possess a copyright in the literary work; it cannot exercise control over the written work and it cannot enter into agreements or contracts with a publisher. Therefore, AI as a creative with a legal right to its work is currently nonexistent.

The Nature of Literature

What is literature? Oxford Languages defines literature as, “written works, especially those considered of superior or lasting artistic merit.” The more challenging question, however, is: What is great literature? This is akin to asking: What is great art? And whatever answer provided will be highly subjective. Yet, there are some aspects of great literature that can be agreed upon and known.

We know the art of storytelling is the art of showing the human experience. It is the observation of human emotions throughout the emotional experience be it happiness, sadness, fear or anger. In its most authentic and powerful form, the story grabs hold of its readers and universally causes them to feel powerful

7 Eliza Mik, *AI in Negotiating & Entering into Contracts*, chapter in a forthcoming book edited by Larry DiMatteo, *AI & Private Law* (July 8, 2021).

emotions when it is not the readers' own life experience. The reason why a story can do this is because humans, and only humans, are living within the circumstances of the human condition wherein they will suffer. Humans do not live without some degree of suffering. Although the level of suffering is relative. The human as a creator first suffers or stands witness to suffering be it an injustice, discrimination, a physical or mental injury, a lost love or maybe the death of a child. The list of circumstances causing suffering is long. The human writer uses the suffering endured to produce great art. Only humans are capable of these strong emotions produced from suffering, which essentially makes them poised to produce the most authentic and moving literature.

Talented and famous authors understand the power of storytelling. Many have commented on it giving us lasting insights found in their quotes about storytelling. Author Joan Didion said, "We tell ourselves stories in order to live." Maybe Didion was imparting here that stories instruct us about our humanity and inform us about how to live and enhance our lives. Author Sue Monk Kidd said, "Stories have to be told or they die, and when they die, we can't remember who we are or why we're here." Kidd seems to be getting at the value of keeping a record, of engaging in the task of writing down events as they happen, creating a historical account allowing for understanding. Again, potentially allowing humans to learn if they are listening. Author Maya Angelou said, "There is no greater agony than bearing an untold story inside you." Angelou takes it a step further to inform us the act of writing might lead to some form of healing or, at least, some form of a release from what has happened.

These authors were masters at the craft of storytelling. From the timeless literature they produced, they showed us memorable literature makes us feel powerful emotions and is how we learn, remember, heal, and grow. We learn about other humans' life experiences, struggles, and suffering, which we might never even become aware of unless we've engaged in reading literature. Literature gives us the ability to travel, experience different cultures, walk in another's shoes, and understand the alternative realities of other human beings. Literature, at its highest level, is art and art is one of our greatest accomplishments.

To Kill A Mockingbird is Harper Lee's 1961 Pulitzer Prize winning novel that sold over 40 million copies according to an article in *Time* magazine.⁸ The book is about a young white girl, Scout Finch, growing up in the Great Depression era in Alabama without a mother and a father who is a local

8 Melissa Fray Greene, "The Story Behind *To Kill A Mockingbird*," *Time* (February 20, 2016) <https://time.com/3947242/life-intro-go-set-a-watchman/>.

country lawyer. Her father, Atticus Finch, makes the choice to defend a black man Tom Robinson, accused of raping a white woman, Mayella Ewell. Tom is innocent but found guilty. After the verdict, Tom tries to escape from jail but is shot and killed. While this is happening, Mayella's father, Bob Ewell, assaults Atticus' son, Jem. The town's mysterious character, Boo Bradley, ends up saving Jem and likely killing Bob Ewell. Atticus and Sheriff Tate wonder whether Jem or Boo killed Bob Ewell, but Sheriff Tate decides to report the incident as Bob falling on the knife during the struggle.

Harper Lee's witness to the injustices of the legal system through her closeness with her father, who was also a country lawyer in the south like Atticus, spawned this tale of human suffering. Lee's life experiences, relationships, and environment allowed her to weave an iconic work of literature unique to her vantage point. Whether AI could produce this kind of story in the future is what we are all wondering. It seems some form of human intervention feeding AI the details or promoting the parameters of the story including a framework for experiences, relationships, and environment is required to produce the work. Living the realities of the justice system through her father as well as her experiences growing up in the south provided the foundation for this book. Without this, a similar work would not be as compelling, enduring, or informative about Black American History.

The Diary of a Young Girl by Anne Frank is arguably one of, if not the most, widely read diaries. It details the life of a young girl and her Jewish family who hid during the Nazi occupation of the Netherlands, showing an exceptionally dark time in human history through the eyes of an innocent. If AI existed in a similar situation such as the Holocaust in our future, could it alone produce a similar work as Anne Frank? I can't answer with certainty whether it can or not, but I believe if it tried, whatever is produced will be missing something salient and authentic.

Sadako and the Thousand Paper Cranes by Eleanor Coerr is based upon the true story of Sadako Sasaki, a victim of the atomic bomb dropped on Hiroshima, Japan, during World War II, who sets out to create a thousand paper cranes while dying of leukemia as a result of the radiation from the atomic bomb. Sadako, according to *Wikipedia*, died at age 12. Might AI tell her story as well as the Canadian author Eleanor Coerr?

We learned in the first section only humans can claim a copyright to their written work. But what other, if any, requirements are there for the writing itself to be worthy of copyright protection?

According to the federal statute on copyright law, the "Two essential elements—original work and tangible object—must merge through fixation in

order to produce subject matter copyrightable under the statute.”⁹

Copyright protection requires both original authorship and the work being fixed in any tangible medium of expression, for writing fixation is easy to understand as writing is fixed, whether in digital or print form. Yet, what does it mean to have an “original work”? Samuels in his book about the history of copyright explains:

By contrast, under the originality standard of copyright, an author gets a copyright in an independently created work even if the work is similar to a preexisting one, so long as the author did not in fact copy the preexisting work.

Originality does require, however, at least some minimal level of creativity.¹⁰

Originality is not only a requirement to obtain a copyright, it is also a component of exceptional literature. AI has shown us in the marketplace that it can copy literary styles and produce work appearing to be written in the style of a particular author. Regardless of whether an author cares about obtaining copyright protection for their work or not, an author or creative in the business of writing literature does not put copied writing into the marketplace. Originality or “minimal level of creativity,” in the work is expected, otherwise an author can be found to be infringing upon another’s work and liable for copyright infringement. Copying is not an option.

But what is it editors look for when reviewing submissions of articles for publication in literary magazines? *The Sun* magazine reports, “We publish personal essays, short stories, and poems by established and emerging writers from all over the world. We encourage submissions from writers whose perspectives are underrepresented in or missing from *The Sun*.” This publisher of literature wants what is “missing” from the marketplace of literature, not what is copied. *Iowa Review* states it publishes, “with the intent to help new and emerging writers develop an audience.” Again, another publisher declaring they too are seeking the “new,” or previously unheard voice. *Tin House* details what their editors are looking for, “*Tin House* expands the boundaries of what great literature can do. Publisher of award-winning books of literary fiction, nonfiction, and poetry; home to a renowned workshop and seminar series;

9 Mary LaFrance, *Copyright Law in a Nutshell* (West Academic Publishing, 2008).

10 Edward Samuels, *The Illustrated Story of Copyright* (Thomas Dune Books, 2000).

and partner of a critically acclaimed podcast, *Tin House* champions writing that is artful, dynamic and original.” Again, “original,” is used to describe what will be considered worthy of publishing in the literary landscape. These sample descriptions from publishers explaining what they are looking to publish assist in defining worthy literature. All have in common one key ingredient clarifying what it takes to write for a literary magazine—originality.

After we experience suffering of a kind, find the originality or uniqueness in the circumstances writers conclude by showing how they triumphed. Bronwyn Fryer from the *Harvard Business Review* explored what screenwriters know to be a true and powerful motivator, which CEOs looking to market their product or services might not know. Fryer interviewed Robert McKee, a screenwriter lecturer who preaches the best and most effective way to motivate or persuade people, is by telling a compelling story arousing listeners’ emotions. However, he cautions them to not paint a rosy picture telling a positive story but to tell a story of struggle, which embraces the darker side of life but shows how a person overcomes these struggles or life circumstances. Ultimately, this story is true to life and produces a positive energy.

McKee explains:

I can teach the formal principles of stories, but not to a person who hasn’t really lived.

The art of storytelling takes intelligence, but it also demands a life experience that I’ve noted in gifted film directors: the pain of childhood. Childhood trauma forces you into a kind of mild schizophrenia that makes you see life simultaneously in two ways: First, its direct, real-time experience, but at the same moment, your brain records it as material—out of which you will create business ideas, science or art.¹¹

AI as a creative cannot experience struggle, suffering, or trauma, allowing it to produce the depths of a story largely limiting its ability as a creative and to ever potentially produce great literature. AI will never experience suffering. AI will never experience emotion. AI will never know empathy. AI will always lack the human life experience that births gifted storytellers. Hence, AI as a creative will always be limited because of this fact.

11 Fryer, Bronwyn, “Storytelling That Moves People,” *Harvard Business Review* (June 2003).

Ethical Use of AI in Literature

Jonathan Malesic from *The Atlantic*, in his article entitled, “What ChatGPT Can’t Teach My Writing Students,” explains why writing is more than learning how to reason. He states the following:

Just as important, learning to write trains your imagination to construct the person who will read your words. Writing, then, is an ethical act. It puts you in relation to someone you may not know, someone who may, in fact, not yet exist. When you write, you learn to exercise your responsibility to that person, to meet their needs in a context you cannot fully know. That might sound like a lofty goal for a paper about, for instance, the major causes of the American Revolution. But even that bog-standard assignment can get students to anticipate what another person knows and expects. You wouldn’t write the same essay to a veteran’s group as you would to new immigrants. Writing is never simply self-expression. It’s an expression to a specific audience for a specific purpose. In some cases, like a love letter, a writer knows their audience intimately. In others, the audience is every bit a work of the imagination as a novel’s characters are.

Still developing this ability to connect with others through the imagination is central to ethical life. The philosopher Mark Johnson argues in his 1993 book, *Moral Imagination*, that ethics is not primarily about applying universal rules to specific situations but about ‘the ongoing imaginative exploration of possibilities for dealing with our problems, enhancing the quality of our communal relations, and forming significant personal attachments that grow.’ Empathy plays a central role in this model of ethics. We cannot act responsibly towards others unless we ‘go out towards people to inhabit their worlds, not just by relational calculations, but also in imagination, feeling, and expression.’

It seems inevitable that large-language models of AI will allow us to offload some of the writing tasks that students learn in school. But we can’t allow ourselves to lose the capacity to empathize with

distant strangers at just the moment when we're more able than ever to communicate with them.¹²

Malesic emphasizes his writing students must learn for themselves how to anticipate the characteristics and values of the audience for the writing being produced, how to connect with the readership of the writing, and ultimately how to produce empathy from readers. This is something a writer does. Is this something AI can effectively be trained to do? As Malesic said, writing is an ethical act because the writer has a responsibility to their readership.

Not all authors see AI as a threat. For example, science-fiction author Tim Boucher reported in *Business Insider* he created almost one hundred books in nine-months using AI as a tool for brainstorming. He is also quoted in *Newsweek* as saying, "AI has proven to be a remarkable catalyst for my creative work. It has enabled me to increase my output while maintaining consistent quality and has allowed me to delve into intricate world-building with an efficiency I could never have achieved otherwise."¹³

Brainstorming is a different function than authoring. Using AI to assist in enhancing a description of a particular setting in time or historical time period, or about a certain type of character is arguably an invaluable and ethical use of AI for writers. This can be viewed as a resource akin to using a dictionary, thesaurus, or style guide when writing. A human author is still going to put together the story, draft, redraft, edit, and polish until the work is of publishable quality. It is what writers do. It is the ethical thing to do. I can't believe a professional writer would believe it is acceptable and ethical to direct AI to write, rewrite, edit, rewrite, illustrate, design and produce a book by itself without significant intervention and direction given by the writer and simply call it their own. This is an unethical use of AI. Moreover, if the writer did use AI in this manner to do every task that goes into writing a book without much oversight by a human, the result is not intellectual property the human writer can legally call its own as we've seen in the first part of this article discussing the US Copyright Office's practice and guidance.

The publishing industry is determining where AI will stand as a creative. It's figuring out what an ethical use of AI looks like. *Literary Hub* explored the positive aspects of collaborating with AI in Debbie Urbanski's article. She explains, "In a way, when we talk with GPT-4, we're talking to ourselves. At the

12 Jonathan Malesic, "What ChatGPT Can't Teach My Writing Students," *The Atlantic* (Feb 2023).

13 Nolan, Beatrice, "Sci-fi author says he wrote 97 books in 9 months using AI tools, including ChatGPT and Midjourney," *Business Insider* (May 22, 2023).

same time, we're talking to our past, to words we've already written or typed or said. At the same time, we are talking with our future, portions of which are unimaginable. As a writer, I find that the most exciting of all."¹⁴ Her perspective is seeing AI as a collaboration, each human and computer feeding off each other, but not AI or the machine acting alone.

Authors A.I. is a Florida based company reporting it was created in 2020 by over one hundred bestselling authors wishing to create its own version of AI as an assistant to writers providing feedback about plot, character, voice, and more. Feedback also seems to fall in line with brainstorming and collaboration as discussed in the previous paragraphs making for examples of ethical uses of AI. But, for some, the lines still seem blurry.

The Authors Guild gives writers or creatives the clearest guidance. In an article entitled, "AI Best Practices for Authors," it explains ethical use and best practices:

Do not use AI to write for you. Use it only as a tool—a paintbrush for writing. It is your writing, thinking, and voice that make you the writer that you are. AI-generated text is not your authorship and not your voice. Even if trained on your own work, AI-generated text is simply a regurgitation of what it is trained on and adds nothing new or original to the world. By definition, it is neither original or art. When you use AI to generate text that you include in a work, you are not writing you are—prompting.¹⁵

Greg Bensinger in writing for *Thomson Reuters* reports:

There were over 200 e-books in Amazon's Kindle store as of mid-February listing ChatGPT as an author or co-author, including 'How to Write and Create Content Using ChatGPT,' 'The Power of Homework' and a poetry collection 'Echoes of the Universe.' And the number is rising daily. There is even a new-subgenre on Amazon: Books about using ChatGPT, written entirely by ChatGPT.

14 Urbanski, Debbie, "Why Novelists Should Embrace Artificial Intelligence," *Literary Hub* (December 8, 2023).

15 Authors Guild, "AI Best Practices for Authors," [authorsguild.com](https://authorsguild.org/resource/ai-best-practices-for-authors/) (April 9, 2024) <https://authorsguild.org/resource/ai-best-practices-for-authors/>.

But due to the nature of ChatGPT and many author's failure to disclose, it is nearly impossible to get a full accounting of how many e-books may be written by AI.

Now ChatGPT appears ready to upend the staid book industry as would-be novelists and self-help gurus looking to make a quick buck are turning to software to help create bot-made e-books and publish them through Amazon's Kindle Direct Publishing arm. Illustrated children's books are a favorite for such first-time authors. On YouTube, TikTok and Reddit hundreds of tutorials have sprung up, demonstrating how to make a book in a few hours.¹⁶

The humans behind these 200 or more e-books are not involved much at all. The article talks about an individual who dreamed about being a published writer and how he created an illustrated children's book in a matter of hours, which he offered for sale with Amazon's self-publishing unit. His wish was granted. AI allows him to call himself a children's author. This being the complete opposite end of the spectrum of using AI, and an unethical use. Still, this author had to determine the message of the children's book even if AI was responsible for writing, editing, illustrating, and producing it.

Just because AI can produce a literary work at a human author's command, we must ask: Do we want to delegate this task to AI at any point in our future? Do we see value in literature almost entirely produced by a machine? The marketplace has already provided a response to these questions in terms of showing what sells. It appears the market is currently saturated with low-quality AI content on Amazon. I don't believe any book to date entirely generated by AI has graced *The New York Times* bestseller list of books. This does not render AI as a creative successful.

Conclusion

Only human authors have rights and control over their literary work in the form of copyrights and can make decisions on how to use their work. Only human authors may enter into contracts allowing them to publish their work. Only human authors can engage in the business of being a writer. AI cannot. While AI can create some, it cannot produce work born of enduring human

16 Bensinger, Greg, "ChatGPT launches in AI-written e-books on Amazon," *Thomson Reuters* (February 21, 2023).

circumstances, overcoming hardships, and suffering. Hence, whatever AI will produce as a creative is going to be limited because AI will never live the human experience.

AI can and is being used as a tool. Some writers embrace it, while some do not. Passing off AI produced work as one's own is clearly unethical, but from there, how ethical a collaboration with AI is can get a little fuzzy. Research akin to using Google as a research tool and brainstorming are ethical uses, but future research in determining best practices might be warranted.

In our excitement of initially discovering all AI can do, the marketplace has spoken to some extent. Reading great literature, maybe some of what is deemed classic or award winning literature, no matter if it is a story which is found to be exceptional, is likely so because it forces us to first feel profound emotions and teaches us something outside our own life experience.

Learning through storytelling creates empathy in the readers themselves. It is part of the reason why the writer writes. AI cannot write with originality born of human suffering. Its newly produced prompting of color is void of authenticity. The art of storytelling is the art of showing the human experience. In its greatest form and purpose, human authored literature plays a role in creating better humans. The status of AI as a creative has largely been answered by the US Copyright Office and the marketplace which is currently showing us AI's work cannot compete with Stephen King.

However, if this should ever shift, and it seems we have delegated or recognized AI as a creative, we may run the risk of only partially living because we are no longer fully learning, as Didion explained, not remembering who we are, or why we're here, as Kidd informed, and we certainly won't be telling all the stories that need to be told, as Angelou imparted. Instead, we will be leaving the legacy of our most authentic stories—untold.