

MIDWINTER MEETING 2024

JANUARY 26-28, 2024

Detailed Agenda – Session 1

Generative AI and Music: A Creative Collaboration or the New Threat to the Music Industry?

January 27, 2024 | 9:00 AM – 10:00 AM PST

As generative AI has taken the world by storm, the music industry has been one of the focal points. What does generative AI mean for the ways in which music is created and protected, and what threats does AI pose to rising and established songwriters, artists, and music enterprises? This panel on artificial intelligence and music will discuss a wide array of pivotal issues, including music creation and distribution, the legal and ethical implications of AI-generated music, the future of copyright in the age of AI, the right of publicity (both domestically and internationally), and pending litigation involving artificial intelligence and music.

Speakers:

- Suzana Carlos
Head of Music Policy | YouTube
- Joe Fishman
Professor of Law, Robert S. and Theresa L. Reder Faculty Fellow | Vanderbilt Law School
- Nyasha Foy
Vice President and Assistant General Counsel, NFTs | Sotheby's
- Scott McDowell
Partner | King Holmes Paterno & Soriano
- Blake Robin
Songwriter and Producer

Introduction

- **Joseph Fishman** (moderator) will introduce the speakers and provide an overview of the impact of generative AI on the music industry, followed by an introduction to the discussion: Is the use of artificial intelligence a creative collaboration or a new threat to the music industry? (5 mins)
 - **Supporting written material:** What's copyrightable? *Copyright Office Registration Guidance on AI-assisted works:*

<https://www.federalregister.gov/documents/2023/03/16/2023-05321/copyright-registration-guidance-works-containing-material-generated-by-artificial-intelligence>

- Ginsburg & Budiardjo, Authors & Machines https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3327&context=faculty_scholarship
- **Blake Robin** will speak about the intricate balance between protecting music creation as an artist and embracing artificial intelligence as a catalyst to foster creativity in the music industry. Drawing from his experience as a musician and public musicologist, Robin will explore the transformative potential of AI tools in enhancing musical expression and breaking new ground in composition and production. He will discuss the opportunities that AI presents for artists to redefine their craft, as well as the challenges in ensuring that the use of these powerful tools does not undermine the rights and revenues of creators. His insights will reflect on the broader implications of AI in music, considering how it can be harnessed responsibly to enrich the arts while preserving the essence of individual creativity and artistic integrity. (12 mins)
 - **Supporting visual material:** Luxxury – Cocteau Twins vs. Madonna - <https://www.instagram.com/p/CzpR5Dnvpk5/>
- **Nyasha Foy** will speak about the implications of artificial intelligence on the global music landscape. With a rich background in international intellectual property law and a deep understanding of diverse cultural perspectives on music creation, Foy will offer insights into how different regions are adapting to and regulating the rise of AI-generated music. Her discussion will encompass the varied legal responses to AI's challenges to traditional copyright norms, the right of publicity across borders, and how international collaboration and conflict might shape the future of music in the digital age. Foy's expertise will illuminate the complexities of harmonizing AI innovation with the protection of artists' rights worldwide, providing a nuanced view of what AI means for the future of music creation and distribution on a global scale. (12 mins)
 - **Supporting written material:** AI Music Outputs: Challenges to the Copyright Legal Framework – Part I
 - Oleksandr Bulayenko (Institute for Information Law (IViR) and Centre for International Property Studies (CEIPI)), Joao Pedro Quintais, Joost Poort (Institute for Information Law (IViR)), and Daniel Gervais (Vanderbilt University Law School) - <https://copyrightblog.kluweriplaw.com/2022/04/22/ai-music-outputs-challenges-to-the-copyright-legal-framework-part-i/>
- **Scott McDowell** will speak about the intersection of generative AI and the music industry from a legal and transactional standpoint. Leveraging his extensive experience as a transactional

attorney with a deep focus on the music industry, McDowell will offer a seasoned perspective on how AI is reshaping music publishing, recording, and distribution agreements. Drawing on his tenure as Executive Vice President and Head of Legal & Business Affairs at Warner Chappell Music Inc., he will analyze current and future legal challenges posed by AI in music. His insights will delve into the core of how AI impacts the legal framework surrounding music creation and protection, addressing both the opportunities and threats it presents to artists and enterprises. (12 mins)

- **Supporting written material:** Is training an LLM using copyrighted works fair use? *Authors Guild v. Google*, 721 F.3d 132 (2nd Cir. 2015), *AV v. iParadigms*, 562 F.3d 630 (4th Cir. 2009)
 - Materials from ongoing case *Concord Music v. Anthropic*, 23-cv-01092 (M.D. Tenn.). There's a motion for PI pending, though the response won't be filed until Jan. 16.
- **Suzana Carlos** will speak about the implications of generative AI on content creation platforms, focusing on the balance between innovation and regulation. She will delve into how platforms like YouTube are navigating the emerging landscape of AI-generated content, the challenges in moderating and protecting such content, and the broader policy considerations that come with it. Drawing on her experience with policy and government affairs, Carlos will address the ways in which YouTube and similar platforms are working with lawmakers, artists, and the tech community to shape policies that foster creative expression while protecting the rights of all stakeholders in the music industry. Her insights will provide a window into the future of music distribution and the role of policy in ensuring a fair and equitable digital ecosystem in the age of AI. (12 mins)
 - **Supporting written material:** *YouTube adapts its policies for the coming surge of AI Videos* - <https://techcrunch.com/2023/11/14/youtube-adapts-its-policies-for-the-coming-surge-of-ai-videos/>
- Throughout the panel discussion each panelist will highlight key themes and provide concluding thoughts and takeaways
- Questions from the audience (7 minutes)