

MIDWINTER MEETING 2024

JANUARY 26-28, 2024

Detailed Agenda – Session 4

Text and Technology: How International Licensing Structures Apply to Text, and How They May Predict Options for Generative AI

January 28, 2024 | 9:00 AM – 10:00 AM PST

While we all know that text has long been covered by copyright, you might not know as much about the innovative ways we've used and licensed works like news, fiction, and scientific journals in our ever changing technological world. Learn how we've licensed these types of works here and abroad, the current AI litigation landscape swirling around text, variations between different types of textual works and in comparison, to licensing and uses of other creative works, and potential paths forward.

Speakers:

- Jay Kerr-Wilson
Partner | Fasken Martineau DuMoulin LLP
- Eleanor M. Lackman
Partner | Mitchell Silberberg & Knupp
- Regan A. Smith
Senior Vice President & General Counsel | News Media Alliance
- Catherine Zaller Rowland
Vice President, General Counsel | Copyright Clearance Center

Introduction: The moderator **Eleanor M. Lackman** (Mitchell Silberberg & Knupp) will introduce the panelists and help to set the stage of the discussion (*4 minutes*)

Catherine Zaller Rowland will speak about the history of text copying and licensing solutions that have been developed and are currently in use with today's technologies (*12 minutes*)

- **Supporting written materials:**
 - World IP Organization, *Collective Management of Text and Image-Based Works* (2005), available at <https://www.wipo.int/edocs/pubdocs/en/wipo-pub-924-2023-en-collective-management-of-text-and-image-based-works.pdf>
 - L. Wasoff, M. Seeley, R. B. Rich, *Creating Solutions Together: Lessons to Inform the Future of Collective Licensing*, Copyright Clearance Center (2020), available at

https://www.copyright.com/wp-content/uploads/2021/01/CCC_CreatingSolutionsTogether_Ebook_2020.pdf

Regan A. Smith will speak about potential licensing solutions pertaining to digital news media and the use of text for machine learning/generative AI (12 minutes)

- **Supporting written material:**
 - News/Media Alliance, *White Paper: How the pervasive copying of expressive works to train and fuel generative artificial intelligence systems is copyright infringement and not a fair use* (Oct. 2023), available at <https://www.newsmediaalliance.org/wp-content/uploads/2023/10/AI-White-Paper-with-Technical-Analysis.pdf>

Jay Kerr-Wilson will speak about considerations from the licensee perspective, challenges to collective licensing historically, and whether neither collective nor compulsory licensing should apply to AI (12 minutes)

- **Supporting written material:**
 - D. Hansen, *Authors Alliance Response Regarding Policy Study on Artificial Intelligence*, Dkt. No. 2023-6 (Oct. 30, 2023), available at <https://www.regulations.gov/comment/COLC-2023-0006-8976>

Conclusion: The whole panel will respond to other panelists' positions, to the extent not already addressed, and give concluding remarks and takeaways (10 minutes)

Questions from the audience (10 minutes)