

# AI's Remix: AI-Generated Music's Impact on Copyright Laws<sup>1</sup>

## By Mikayla Howard

Earlier this year, a one-minute snippet of a new single by Canadian artists Drake and The Weeknd took the social media platform TikTok by storm and, subsequently, the rest of the internet. The two minute and 16 second song,<sup>2</sup> “Heart on My Sleeve,” had fans buzzing as the duo had not collaborated since The Weeknd’s 2013 song “Live For”.<sup>3</sup> It seemed as though Drake and The Weeknd, a dynamic duo, had another hit on their hands, and this was sure to be the song of the summer. Only the song was not created by either artist or the producer Metro Boomin, whose infamous tagline is present within the first few seconds of the song.<sup>4</sup> The song was created using Artificial Intelligence (AI) by an anonymous user who goes by the moniker “Ghostwriter977.” The song was uploaded to major streaming services such as Apple Music, Spotify, and Tidal, as well as YouTube,<sup>5</sup> shortly before being uploaded to TikTok.<sup>6</sup>

Two weeks after being uploaded to TikTok and gaining an abundance of traction, the song was removed from streaming services, TikTok, and YouTube by music publisher Universal Music Group (UMG).<sup>7</sup> UMG’s senior vice president of communications said that streaming platforms have a “legal and ethical responsibility to prevent the use of their services in ways that harm artists.”<sup>8</sup> However, under Section 230 of the Communication Decency Act, which gives internet providers a bit of immunity from their users’ uploaded content, streaming platforms legally do not have an obligation to monitor and block AI-created songs.<sup>9</sup> UMG has publicly said that training AI models on artists’ music, specifically artists of UMG, is a breach of their agreements and a violation of copyright law. UMG went even further and said the increase of AI-generated music “begs the question as to which side of history all stakeholders in the music ecosystem want to be on: the side of artists, fans and human creative expression, or on the side of deep fakes, fraud and denying artists their due compensation.”<sup>10</sup>

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<sup>1</sup> The author of this article was having a difficult time coming up with a title for this article, so they asked ChatGPT for assistance.

<sup>2</sup> Chris Willman, *AI-Generated Fake ‘Drake’/‘Weeknd’ Collaboration, ‘Heart on My Sleeve,’ Delights Fans and Sets Off Industry Alarm Bells*, VARIETY (Apr. 17, 2023, 11:02 AM), [https://variety.com/2023/music/news/fake-ai-generated-drake-weeknd-collaboration-heart-on-my-sleeve-1235585451/?sub\\_action=logged\\_in](https://variety.com/2023/music/news/fake-ai-generated-drake-weeknd-collaboration-heart-on-my-sleeve-1235585451/?sub_action=logged_in).

<sup>3</sup> THE WEEKND, *LIVE FOR* (Republic Records 2013).

<sup>4</sup> Larisha Paul & Ethan Millman, *Viral Drake and The Weeknd AI Collaboration Pulled From Apple, Spotify*, ROLLING STONE (Apr. 17, 2023), [https://www.rollingstone.com/music/music-news/viral-drake-and-the-weeknd-collaboration-is-completely-ai-generated-1234716154/?sub\\_action=logged\\_in](https://www.rollingstone.com/music/music-news/viral-drake-and-the-weeknd-collaboration-is-completely-ai-generated-1234716154/?sub_action=logged_in).

<sup>5</sup> Daysia Tolentino, *Viral AI-powered Drake and The Weeknd song is removed from streaming services*, NBC NEWS (Apr. 18, 2023, 3:04 PM), <https://www.nbcnews.com/pop-culture/viral-ai-powered-drake-weeknd-song-removed-streaming-services-rcna80098>.

<sup>6</sup> Paul & Millman, *supra* note 4.

<sup>7</sup> Mia Sato & Richard Lawler, *What’s really going on with ‘Ghostwriter’ and the AI Drake song?*, THE VERGE (Apr. 19, 2023, 3:08 PM), <https://www.theverge.com/2023/4/18/23688141/ai-drake-song-ghostwriter-copyright-umg-the-weeknd>.

<sup>8</sup> Nichola Rutherford, *Drake and The Weeknd AI song pulled from Spotify and Apple*, BBC NEWS (Apr. 18, 2023), <https://www.bbc.com/news/entertainment-arts-65309313>.

<sup>9</sup> Tolentino, *supra* note 5.

<sup>10</sup> Rutherford, *supra* note 8.

Prior to its removal and takedown by UMG, the song garnered 275,000 views on YouTube, 600,000 streams on Spotify, and 15 million views on TikTok.<sup>11</sup> It is estimated that over a thousand TikTok videos have utilized the song, and the song generated \$1,888 on Spotify and approximately \$9,400 on all streaming platforms combined.<sup>12</sup><sup>13</sup> Amazingly, “Heart on My Sleeve” garnered enough listens and views that it was on track to become a charting song for that week.<sup>14</sup>

“Heart on My Sleeve” made headlines again in September 2023 when it was submitted for a Grammy. The Recording Academy Chief came forward to reassure the music industry that, while the song was written by a human, it is not eligible for a Grammy due to not meeting the general distribution criteria.<sup>15</sup> The Grammys recently updated their rules to reflect the increased use of AI in creating music. Any recordings that use one of the multiple types of AI technology will be eligible for nomination; however, any lyrics or melodies written by generative AI models, such as ChatGPT, will be ineligible.<sup>16</sup> As the capabilities of AI increase and more and more believable AI songs pop up on the internet, musicians are concerned about what this may mean for them regarding copyright law.

The biggest issue with AI-generated music is that it is trained on preexisting songs, most often without the original artist’s consent, which begs the question of whether this violates the original owner’s copyright protection.<sup>17</sup> The foundational basis of copyright law is to incentivize and protect human creators, as well as allow creators to choose how others use their work. Creators are considered the masterminds behind the work and have created something “entirely from [their] own original mental conception.”<sup>18</sup> The U.S. Copyright Office will only offer copyright protection for works a human has created. The issue that needs to be solved is whether AI, since it is not human, could have copyright protection and to whom that protection would apply. Essentially, the issue surrounding copyright law and AI-generated music is twofold. The first issue is what copyright protections AI-generated material has, and the second issue is what rights others, specifically the original creators of the content that the AI model is trained on, can assert against the AI-generated material.<sup>19</sup>

Litigation around this issue is still in its infancy, and entertainment lawyers are still waiting on a landmark court decision that will help those in the music industry determine if

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<sup>11</sup> Laura Snapes, *AI song featuring fake Drake and Weeknd vocals pulled from streaming services*, THE GUARDIAN (Apr. 18, 2023, 5:37 AM), <https://www.theguardian.com/music/2023/apr/18/ai-song-featuring-fake-drake-and-weeknd-vocals-pulled-from-streaming-services>.

<sup>12</sup> Rutherford, *supra* note 8.

<sup>13</sup> Colin Stutz, *The Fake Drake AI Song Earned Millions of Streams – But Will Anyone Get Paid?*, BILLBOARD (Apr. 19, 2023), <https://www.billboard.com/pro/fake-drake-ai-song-earned-millions-streams-get-paid/>.

<sup>14</sup> Willman, *supra* note 2.

<sup>15</sup> Jem Aswad, *AI-Generated Drake and Weeknd Song ‘Heart on My Sleeve’ Is Not Eligible for a Grammy, Recording Academy Chief Clarifies*, VARIETY (Sept. 8, 2023, 8:40 AM), [https://variety.com/2023/music/news/drake-weeknd-heart-on-my-sleeve-not-eligible-for-grammy-1235717602/?sub\\_action=logged\\_in](https://variety.com/2023/music/news/drake-weeknd-heart-on-my-sleeve-not-eligible-for-grammy-1235717602/?sub_action=logged_in).

<sup>16</sup> *Id.*

<sup>17</sup> Marco Castrovilli, *How can the synergy of AI and blockchain disrupt the music industry?*, COINTELEGRAPH (Aug. 26, 2023), <https://cointelegraph.com/news/how-can-synergy-ai-blockchain-disrupt-music-industry>.

<sup>18</sup> Zvi Rosen, *AI ‘Authorship’ Muddies the Waters of Copyright Law Claims*, BLOOMBERG LAW (Aug. 3, 2023, 4:00 AM), [https://www.bloomberglaw.com/bloomberglawnews/us-law-week/XDIUS35S000000?bna\\_news\\_filter=us-law-week](https://www.bloomberglaw.com/bloomberglawnews/us-law-week/XDIUS35S000000?bna_news_filter=us-law-week).

<sup>19</sup> Rachel Reed, *AI created a song mimicking the work of Drake and The Weeknd. What does that mean for copyright law?*, HARV. L. TODAY (May 2, 2023), <https://hls.harvard.edu/today/ai-created-a-song-mimicking-the-work-of-drake-and-the-weeknd-what-does-that-mean-for-copyright-law/>.

training generative AI models on artists' music is "OK or not OK."<sup>20</sup> The Supreme Court could go one of two ways. The Court could decide it's not copyright infringement because it's transformative, or the Court could decide that it is copyright infringement because taking someone else's songs to create one that sounds like it would trample on musicians' rights.<sup>21</sup>

For now, entertainment lawyers will have to rely on the updated guidance released from the U.S. Copyright Office on registering literary, musical, and artistic works made with AI.<sup>22</sup> On a case-by-case basis, the Copyright Office will consider whether the AI contributions are the result of "mechanical reproduction or an author's own original mental conception to which the author gave visible form."<sup>23</sup> It also appears that AI-generated material may be afforded copyright protection if there is sufficient human authorship.<sup>24</sup>

One technical solution to dealing with AI-generated songs involves using blockchain technology to ensure that transparency and ethical standards are maintained within the industry.<sup>25</sup> Blockchain technology can track the origins of music content, such as that which AI is trained on, and ensure copyrights are protected, and artists whose music is used as training materials are fairly compensated.<sup>26</sup>

Other than this technical solution, music groups and streaming services seem to be dealing with AI by embracing it on their own terms. Google and Universal Music are working together to figure out how to license the voices and melodies of artists for AI songs. While the talks are still early, this deal is expected to include the potential development of a tool for people to create their own AI-generated songs while properly compensating copyright owners.<sup>27</sup> YouTube recently partnered with UMG to develop an AI framework to protect music artists. The three main principles driving this collaboration are to responsibly embrace AI with music partners, offer up the appropriate protections for those who decide to participate in the creation of AI-generated music, and scale up the originally established content policies in order to meet the challenges of AI.<sup>28</sup> Specifically, YouTube plans on upgrading its Content ID technology, a digital fingerprinting system for identifying and managing copyrighted content, to track and identify voices and melodies within AI-generated music as a form of "takedown or attributing rights."<sup>29</sup>

AI is here to stay, whether we like it or not. There are still many unknowns when it comes to copyright law and AI music. These unknowns will most likely be heavily litigated in the upcoming years. While the increase in AI-generated music may initially seem alarming, it is worth noting that human expression is complicated to replicate. Therefore, there will still be a

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<sup>20</sup> Tolentino, *supra* note 5.

<sup>21</sup> *Id.*

<sup>22</sup> Vanessa Yurkevich, *Universal Music Group calls AI music a 'fraud,' wants it banned from streaming platforms. Experts say it's not that easy*, CNN BUS. (Apr. 18, 2023, 7:42 AM), <https://www.cnn.com/2023/04/18/tech/universal-music-group-artificial-intelligence/index.html>.

<sup>23</sup> *Id.*

<sup>24</sup> Reed, *supra* note 19.

<sup>25</sup> Castrovilli, *supra* note 17.

<sup>26</sup> *Id.*

<sup>27</sup> Hibaq Farah, *Google and Universal Music working on licensing voices for AI-generated songs*, THE GUARDIAN (Aug. 9, 2023, 8:30 AM), <https://www.theguardian.com/technology/2023/aug/09/google-and-universal-music-working-on-licensing-voices-for-ai-generated-songs>.

<sup>28</sup> Neal Mohan, *Our principles for partnering with the music industry on AI technology*, YOUTUBE: OFFICIAL BLOG (Aug 21, 2023), <https://blog.youtube/inside-youtube/partnering-with-the-music-industry-on-ai/>.

<sup>29</sup> Paul DelSignore, *YouTube Forges AI Music Alliance*, MEDIUM (Aug. 28, 2023), <https://medium.com/the-generator/youtube-forges-ai-music-alliance-f41a792face8>.

demand for music created by an actual person, not a robot. It is also important to remember that AI in music should be done responsibly with respect to human creators. If that balance is struck, then AI can prove to be beneficial.