

**Is Copyright Law Up To The Challenge?
DG Tang Keynote, 5 March 2024
As Delivered**

Excellencies,

Ladies and Gentlemen,

Good morning and thank you to the Federal ministry of Justice for inviting me to address this conference.

In 1976, the American academic Professor William Z. Nasri declared a “crisis in copyright”, in fact this was the title of his book. In the 1980s, the English jurist Stephen Stewart said that the “whole copyright system is approaching a crisis”. And throughout the 90s, with the arrival of the internet, birth of e-commerce and file-swapping, it was not uncommon to hear views that copyright was in deep trouble.

So, it may be something of a time-honored tradition to declare a crisis in copyright, something which I see a lot less in other types of IP.

Why is this so?

I think that’s because of two factors, both of which have a huge bearing on the topic before us today.

First, of all the different types of IP rights – and as the DG of WIPO I am fully aware of the need to give my love equally to all types of IP – the copyright system has a much more intimate presence to us in our daily lives. Copyright is closely connected to music, arts, dance, films and content. Copyright touches on elements which are part of our stories, our culture, and which makes our day-to-day existence a bit more magical and our lives more transcendental.

Second, while relentless waves of technologies have impacted on content and creators for the past 40 years, the creation of digital and online technologies have accelerated these changes and brought technology closer to our hearts.

In particular, it has given the tools and platforms for anyone to be a creator. Today, there are over 200 million content creators worldwide, and 120,000 new tracks are uploaded to streaming platforms daily. In 2005, less than twenty years ago – the first video was uploaded onto YouTube, and now 3.7 million videos are uploaded each day. We create

and consume more each day than ever in the history of humankind, and generative AI will accelerate this trend.

All these can seem overwhelming, and there has been immense pressure on regulators and policy-makers to react – and indeed some have, with the recently passed EU AI act one example. Even in the United States, traditionally a bastion of the free market approach, around 25 States passed AI related legislation in 2023, although more in the employment and bias context, rather than connected to IP. At the global level, the UN SG has convened a High-Level Advisory Board to advise him on AI issues, and the issue is being discussed through the Global Digital Compact initiative. IP offices have also released guidelines in dealing with IP issues.

With so many trends pulling in multiple directions, there has been a sense of confusion and uncertainty. So in the midst of this, it is important that we take a deep breath, zoom out a bit and go back to the fundamentals.

First, technology has always been used by creators to express themselves in new ways. Therefore, we should look at generative AI, or for that matter other technologies, not as threats but as opportunities to enhance, augment and stimulate new forms of expression. Already musicians are playing with the possibilities offered by AI – the Beatles released a new single “Now and Then”, which was made using AI, and the artiste Grimes has encouraged others to use AI to create new songs based on her catalog, on the condition that they are approved by her before release and that she gets a share of the royalties. Recently in South Korea, an entire film was made using AI, “AI Suro’s Wife”.

Second, while adjustments may be needed, and we need to engage about which adjustments, the fundamental basis of copyright law is not under threat. In fact, the copyright system has shown itself to be fully capable, since the 1970s of adjustments to technological changes so as to address each wave of tech-driven disruption, including in the WCT and WPPT in 1996, as well as a slew of domestic legislation, including the DMCA and EU CD in the 2000s, that laid the foundation for digitalization of content. I am confident that this process will continue.

Third, as long as the copyright system continues to place the creator and the act of creative expression – which is so fundamental to human nature and spirit – at the center, this system will continue to be relevant, valued and useful.

As of now, generative AI – while powerful – is merely an extremely skillful replicator and not capable of the leaps of imagination and creativity that have driven our art and creative expression. Generative AI can produce millions of Monet-like paintings, but it will not be able to move from Impressionism to Cubism.

But even in the area of highly automated and increasingly sophisticated replication, we must be careful not to inadvertently allow AI generated content to undermine the human creator to the extent that we lose the vibrancy of human creativity.

Let us therefore support efforts to find a skillful balancing of the interests of content creators and the tech platforms and tools, so that AI empowers our creators and contributes to the overall long-term sustainability of the creative ecosystem.

Lastly, in this fast-moving space, it is welcome that we find occasions like this to come together, share ideas and try to find some common ground on complex and difficult topics.

At WIPO, we are likewise working hard to be a global forum for IP and AI issues, drawing on our ability to be a global convenor where these topics are discussed in a professional, neutral and open setting. I am pleased that just next week, we will be holding our 9th IP and Frontier Tech conversation, which will focus on training of models and the copyright issues it raises. I believe today's conversations with such a wide range of stakeholders will contribute to the larger discussions at WIPO.

I am also pleased to share with you that WIPO has just released a toolkit to guide IP offices on how to approach IP and AI issues, against the backdrop of increasing demand for IP offices to provide some form of guidance or regulations in this area.

In conclusion, generative AI is a powerful tool for us to enhance and empower our creators. Let us therefore work together to deliver on its promise and manage its perils. WIPO stands ready to work with you and all stakeholders in making this happen.

Thank you.