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DIGITAL ART AND DESIGN

ETHICAL CONSIDERATIONS OF AI GENERATED ART

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ABSTRACT

Purpose: The study sought to explore the ethical, legal, and professional implications of AI-generated artwork, using the cases of *Théâtre D'opéra Spatial* and *Portrait of Edmond de Belamy* as key examples.

Methodology: The study adopted a qualitative review approach, analyzing literature from academic, legal, and professional sources. Scholarly perspectives on perception, attribution, copyright, and bias in AI-generated art were examined. The research also considered how cultural background and artistic expertise influence the acceptance of AI-generated artwork, while identifying gaps in current regulatory and ethical frameworks.

Results: Findings indicate that AI-generated art challenges conventional ideas of originality, fairness, and creative labor. Public and expert perceptions vary, with non-experts showing less bias against AI art. However, concerns persist regarding transparency, job displacement, bias, and the devaluation of human-made art. Legal ambiguities around authorship and copyright further complicate the acceptance of AI in the art world.

Unique Contribution to Theory, Policy and Practice: This study highlights the need for ethical guidelines, legal reforms, and professional standards to govern the use of AI in creative industries. It advocates for separate recognition categories for AI-generated art, transparency in creation processes, and protections for human artists. These measures are essential for fostering a balanced and ethically responsible artistic environment that integrates technological advancement with human creativity.

Keywords: *AI ethics, Art ownership, Creative rights, AI-generated art.*

INTRODUCTION

The rapid rise of artificial intelligence in creative industries has sparked ethical debates around authorship, authenticity, and the role of technology in artistic expression. Controversies have emerged as AI-generated artworks win major awards and fetch high auction prices, challenging traditional notions of what constitutes true art. Cases like *Théâtre D'opéra Spatial* and *Portrait of Edmond de Belamy* exemplify the shifting boundaries between human and machine creativity.

Ethical Considerations in AI-Generated Art

In recent years, there has been a fast and steady rise and use of artificial intelligence (AI) in various fields that has been raising concerns over its ethical nature and implications. Among the various fields that this discussion is being held is in the creative industries and specifically artwork where the use of AI has sparked great ethical debates regarding authorship, authenticity, and the role of technology in artistic expression. The question that many have been asking is how can AI have any capability to make artistic expressions? It is one thing for AI to make art but it is a whole different scenario when AI generated art wins a first place award in a competition.

An example of such a case is the infamous art piece Théâtre D'opéra Spatial that won first place at the Colorado State Fair's annual art competition in 2022. Another example is that of the Portrait of Edmond de Belamy, an AI-generated artwork, that was auctioned off by Christie's auction house in 2018 for $432,500 which translates to 56million Kenyan Shillings. This paper seeks to explore the ethical implications of AI-generated art through an analysis of this two cases, delving into scholarly opinions, legal considerations, professional considerations and ethical theories relevant to this topic.

Background of the Case

At the Colorado State Fair's annual art competition, Jason M. Allen of Pueblo West, Colorado, entered an artwork titled "Théâtre D'opéra Spatial" that was created using an artificial intelligence program called Midjourney. Despite winning first place blue ribbon in the fair's digital art category, his victory stirred controversy among traditional artists who accused him of cheating by relying on AI rather than traditional artistic methods like painting or sculpting. Mr. Allen defended his work, arguing that he had transparently disclosed its AI origin when submitting it for the competition, highlighting the ongoing debate around the role of AI in artistic creation and the changing landscape of art.

In another instance, an AI-generated artwork titled "Portrait of Edmond de Belamy," produced by an AI algorithm developed by Obvious gained international attention when it was selected for auction at Christie's world leading art and luxury business in October 2018, marking a significant milestone in the recognition of AI-generated art within the art market. Surpassing expectations, the artwork sold for an impressive $432,500 following a competitive bidding war. This auction highlights the rising interest and commercial value of AI-generated art within the art market, sparking discussions about the intersection of AI and traditional artistic practices, as well as the broader implications of AI technology on the art world.

Ethical Issue

The main ethical issue raised by these rising cases of AI generated art stem from questions of originality, the human versus machine contribution to artistic creation, whether or not AI art can be considered as true art and the effects of AI art on prices of art made by traditional artists.

LITERATURE REVIEW

Handling by Scholars and Media People in the Past

Chamberlain et al. (2018) discussed the potential bias in perceiving machine-made art as requiring less effort compared to human-created art, leading to negative biases. This is a very pressing issue because the amount of time it takes to created art by hand or manually is a long process compared to AI generated art which only requires a prompt and the painting is made in a matter of minutes. This makes it very discouraging for artists who spend hours making paintings and other art forms to see AI generated art that took just a few minutes to make win awards and get recognition. Gu & Li (2022) explored the effects of identity on the liking and purchase intention of AI-generated art, focusing on distinguishing AI art from human-made art and the role of art experience. Two studies were done to investigate how individuals perceive and evaluate AI-generated artworks compared to those created by human artists, considering the influence of cultural preferences and art expertise. In one study, Chinese participants without professional art experience showed a strong preference for Chinese-style paintings over Western-style ones, regardless of whether they were created by AI or human artists.

Notably, AI-generated Chinese-style paintings were favored more than AI-generated Western-style paintings, suggesting a cultural bias towards familiar aesthetics. Surprisingly, there was no significant bias against AI-generated paintings overall. The second study expanded on this by including art experts and non-experts. Art experts displayed a clear preference for artist-made paintings over AI-generated ones, while non-experts showed no bias based on authorship. Furthermore, non-experts favored Chinese-style paintings, whereas experts preferred Western-

style paintings. These findings highlight the role of cultural background and art expertise in shaping perceptions of AI-generated art. Art experts, with their deeper understanding of art, exhibited more discernment and tended to value traditional artistic forms, whereas non-experts were more open to novel artistic styles.

The studies suggest the importance of considering individuals' cultural backgrounds and level of art expertise when studying perceptions of AI-generated art, with implications for enhancing acceptance and understanding of AI's role in the art world. Furthermore, Epstein et al. (2020) raised questions about credit allocation for AI-generated art, especially in cases where AI systems contribute significantly to the artwork's success. They emphasize that AI does not operate in isolation but is influenced by human input and decisions throughout its development and use. Their research explored how individuals perceive responsibility surrounding AI-generated art, showing that people assign credit and responsibility differently to various human actors involved in the process. They found that the language and description used to discuss the AI system, whether as a "Tool" manipulated by humans or an "Agent" capable of independent actions, significantly influence how responsibility is perceived.

The study highlights the importance of language and framing in shaping public perceptions of accountability in AI art creation. The findings suggest a hierarchy of credit and responsibility in the case of Edmond de Belamy, where participants credited the artist the most, followed by the curator, technologist, and even the broader public or crowd. The study underscores that public opinions on accountability can inform policymakers about public reactions to AI-related policies and guide discussions on controversial topics in AI development and use. However, it does not advocate for specific policy prescriptions but rather reports on public perceptions and their potential implications. Overall, scholars and media professionals have engaged with the legal and ethical considerations surrounding AI-generated art by addressing issues such as bias, credit allocation and public perception.

Legal and Ethical Considerations

Legal considerations surrounding AI-generated art encompass issues of authorship, copyright, and ownership rights. The question of who should be credited as the author of AI-generated artworks is a significant legal concern. Epstein et al. (2020) argue that art is inherently authored by human agents, suggesting that AI algorithms, as they exist today, cannot be credited with authorship. Furthermore, the transfer and distribution of AI-generated artworks raise questions

of reproduction and distribution rights, especially when unauthorized artworks are involved (Liang et al., 2023).

Giorgio & Musolesi (2022) discuss the challenges related to copyright in generative deep learning, emphasizing the need for practical guidelines for artists and developers working on deep learning-generated art. Ensuring that copyright laws adequately address the unique nature of AI-generated art is crucial to protect the rights of creators and prevent unauthorized use or distribution of their works. Moreover, the ethical and legal implications of AI in art extend to broader societal considerations. The use of AI in art creation may have implications for cultural heritage and societal values. Kenig et al. (2023) highlight that AI's rapid generation of media content could potentially shape cultural heritage.

AI-generated art raises ethical concerns including transparency, bias, privacy, job displacement, and societal impacts. Transparency is essential to ensure audiences understand AI's role in the creative process, including the datasets and algorithms used. Without it, trust in both the artwork and the technology may erode. Bias can emerge from flawed data, leading to artworks that reinforce stereotypes or marginalize certain groups. Addressing this requires careful dataset selection and ongoing algorithm monitoring. Privacy concerns arise when AI uses personal data without consent to generate or customize art. Ethical use of AI in art demands fairness, accountability, and respect for individual rights.

Job displacement is a significant and major societal concern associated with AI-generated art, as automated tools may replace human labor in the creative industries. While AI can enhance artistic workflows and expand creative possibilities, it also raises questions about the future of employment for human artists and other creative professionals. Ethical considerations to combat this issue may include supporting displaced workers through retraining programs, promoting collaboration between humans and AI, and advocating for policies that prioritize human well-being in the face of technological change.

Principles alone cannot guarantee ethical AI, highlighting the need for a deeper understanding of the ethical dimensions of AI-generated art beyond mere guidelines (Mittelstadt, 2019). AI research requires a broad set of legal, ethical, and societal considerations to develop ethical AI solutions that uphold human values and rights (Felländer et al., 2022). By integrating transparency, accountability, and ethical guidelines, stakeholders can navigate the ethical challenges posed by AI in art and contribute to a more ethically conscious and socially responsible artistic landscape.

Professional Considerations

AI-generated art brings about a range of professional considerations spanning from artistic, legal, ethical, and economic issues. One consideration is whether AI-generated art should be recognized as a legitimate form of artistic expression being that it is created by an algorithm. While many professionals in the art industry argue that true art requires human intention and emotion, a few others advocate for acknowledging the creative potential of AI systems. Determining authorship and ownership of AI-generated art is also a complex issue, as questions arise regarding credit allocation among the programmer, the user, and the AI itself. Legal frameworks also need to be reworked to address these issues, especially concerning intellectual property rights and copyright laws.

Questions on who gets the copyright for AI generated art is also being discussed and contested by professionals in this field. Ethical concerns which are the most contested issue surrounding AI-generated art, particularly regarding biases in training data and the potential for harmful or offensive content generation. The rise of AI-generated art will also lead to the disruption of traditional art markets and practices, affecting the livelihoods of artists, dealers, and other stakeholders. For example, the revenue proceeds of the Portrait of Edmond de Belamy which was AI-generated that was auctioned off for $432,500 could have gone to an actual artist to pay for their art brushes and supplies. As AI technologies continue to advance, the capabilities of AI-generated art will likely become more advance as well, requiring professionals to stay informed about technological developments. Overall, navigating the professional implications of AI-generated art demands a multifaceted approach, allowing for collaboration among artists, technologists, policymakers, and other stakeholders to address the challenges and opportunities presented by AI art.

Opinions of Experts in the Field

The reception of AI-generated art differs across experts, with studies showing that art professionals often rate AI art lower than human-made pieces, unlike non-experts who show no clear preference (Gu & Li, 2022). This discrepancy threatens the market value of human art, as most consumers struggle to distinguish AI creations. Gangadharbatla (2021) found people tend to link abstract works with machines and representational art with humans, potentially limiting artistic freedom. Chamberlain et al. (2018) noted that perceptions of effort influence aesthetic appreciation, often favoring human-made work. Yet, indistinguishability blurs this advantage. Zheng et al. (2022) highlighted the growing synergy between artists and AI,

revealing new creative possibilities. Overall, AI art raises complex issues about authorship, recognition, and the evolving role of artists.

CRITICAL ANALYSIS

Both cases discussed earlier of AI generated art present an interesting topic of critical analysis and various ambiguities surrounding the ethical considerations raised by this emerging form of artistic expression. One ambiguity lies in the determination of authorship and creativity in AI-generated artworks. While traditional artistic creation is easily attributed to the artist who made the art, the role of AI systems introduces a challenge of clearly knowing who to give attribution to the art created. Another ambiguity is whether or not AI generated should be categorized together with traditional art, as seen in the case of AI artwork winning awards over human made pieces.

Suggested Approach

In my suggested approach, I would propose creating distinct categories for AI-generated art and human-made art to address the ethical considerations surrounding their attribution and recognition. By advocating for separate categorizations, the aim is to establish clearer guidelines for acknowledging the contributions of both AI creators, the developers of the algorithms and human artists those inputting the data in the creation of AI-generated artworks.

Implementing a separate category for AI-generated art allows for transparency in acknowledging the role of technology in artistic production. This approach will allow for the recognition of the unique nature of AI-generated creativity while also highlighting the collaborative efforts between AI systems and human creators while also giving traditional artists their own category to be recognized and showcase their work as well. By also granting partial attribution to both the AI developer and the human artist, this will ensure a fair distribution of credit and recognition within the art community.

Secondly, my proposal to limit AI-generated art in prestigious art auctions aims to preserve the visibility and value of human-made art. By advocating for exclusive auction spaces dedicated solely to human-made artworks, this will preserve the nature, authenticity, integrity and value of efforts of traditional artists. This approach will safeguard against the potential overshadowing of human creativity by AI technologies, thereby maintaining the prominence of human artists in the art market.

In summary, my suggested approach offers practical solutions to address the ethical implications of AI-generated art by proposing distinct categorizations and auction regulations. By advocating for clearer attribution guidelines and preserving the visibility of human artists,

this framework will promote transparency, fairness, and respect for artistic integrity within the evolving landscape of AI in the arts.

Ethical Theories

Two ethical theories relevant to AI-generated art are utilitarianism and deontology. Utilitarianism evaluates actions based on their outcomes, supporting those that maximize happiness and well-being (Conway & Gawronski, 2013). It may justify using AI art if it benefits more people overall, even if it harms traditional artists (Greene et al., 2008). In cases like the Portrait of Edmond de Belamy, utilitarianism would assess whether the use of AI led to positive societal outcomes. Supporters argue AI democratizes art and fuels innovation, making creativity more accessible. However, it may also devalue human-made art, affecting artists' livelihoods. Rapid AI production raises concerns about authenticity and emotional connection. Thus, utilitarianism provides a lens to weigh both benefits and harms for all stakeholders.

Deontology on the other hand emphasizes the intrinsic nature of actions rather than their consequences in determining their morality. According to deontological ethics, certain actions are inherently right or wrong, regardless of the outcomes they produce (Conway & Gawronski, 2013). The use of AI in artwork is not inherently wrong or right, therefore deontology ethics does not present a strong ethical framework to asses it. Rather, it is the intent of use and the outcomes as a result of its use that can be used to determine the rightness or wrongness of AI generated art, therefore another ethical theory that can be used is consequentialism which argues that the morality of an action is determined by its outcomes and the extent to which it promotes the greatest good for the greatest number of individuals (Hammond 1988).

The application of utilitarianism ethical theory provides insights into the ethical considerations surrounding AI-generated art. By focusing on the consequences of AI art, viewing it as morally correct only if the outcome leads to overall wellbeing of a majority of the population the complexities of AI generated arts can be navigated in such a way that it ensures the best possible outcome for the majority of the stakeholders and promote responsible practices that prioritize the well-being of society while upholding fundamental moral principles.

CONCLUSION

The study concludes that AI-generated art challenges traditional ideas of creativity, authorship, and originality, as seen in cases like "Théâtre D’opéra Spatial." Ethical concerns span bias, copyright, and artist recognition, demanding interdisciplinary attention. Transparency and clear attribution are vital to protect human creators and ensure fairness. Distinguishing between AI

and human art, while regulating AI use, can support ethical innovation. Ongoing dialogue and policy development are key to balancing technology with artistic integrity.

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