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Fair Use Vs. Ai Training: Redefining Copyright Law in the Age of Generative Models

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Abstract: This article analyzes the interaction between generative AI and copyright law, particularly focusing on the application of the fair use doctrine to AI model training. It explores how AI technologies, such as large language models and image generators, challenge traditional intellectual property frameworks by training on copyrighted content. The study reviews legal precedents and regulatory approaches in the United States, European Union, and the United Kingdom, emphasizing transformative use as a crucial criterion. It also evaluates the current copyright and personal data protection laws in Uzbekistan, highlighting gaps and proposing potential reforms to balance innovation with creators' rights. The author further discusses the necessity of international cooperation to address the cross-border nature of AI and copyright issues.

Keywords: Fair Use, Generative AI, Transformative Use, Copyright Law, Intellectual Property, AI Training, AI Regulation, Uzbekistan Law, U.S. Fair Use Doctrine, EU Text and Data Mining, UK Copyright Law, International Cooperation, AI and Privacy.

Introduction

The rapid rise of generative artificial intelligence (AI) has challenged traditional copyright principles worldwide. AI models like large language models and image generators are trained on massive datasets that often include copyrighted works, raising the question of whether using protected content for training is lawful. In particular, the **fair use** doctrine – a flexible U.S. legal concept allowing certain unlicensed uses of copyrighted material – is being tested against AI training practices. Countries without a broad fair use exception, such as the Republic of Uzbekistan, face pressure to adapt existing copyright laws to balance innovation with authors' rights. This article examines fair use and **transformative use** in the AI context, analyzes copyright infringement risks in generative model training and outputs, compares regulatory approaches in the U.S., EU, and UK, and evaluates Uzbekistan's national framework in light of international trends. We also explore international cooperation efforts and propose directions for a balanced legal system in Uzbekistan that fosters AI innovation while respecting copyright.

Fair Use and Its Applicability to AI Training

Fair use is a legal doctrine, most prominently in U.S. law, that permits limited use of copyrighted works without permission under certain conditions. It is codified in §107 of the U.S. Copyright Act, which provides a four-factor test to assess if a particular use is "fair," considering: (1) the purpose and character of the use (including whether it is transformative and commercial or nonprofit educational), (2) the nature of the copyrighted work, (3) the amount and substantiality of the portion used, and (4) the effect on the potential market or value of the original (Is Generative AI Fair Use of Copyright Works? NYT v. OpenAI - Kluwer Copyright Blog). Unlike specific exceptions in many countries' laws, fair use is open-ended and flexible, which allows it to accommodate new technologies. This flexibility is why fair use is being invoked to justify AI training on existing works. For example, OpenAI (creator of ChatGPT) has argued that **training AI models on publicly available internet materials is fair use**, citing "long-standing and widely accepted precedents" (Training Generative AI Models on Copyrighted Works Is Fair Use — Association of Research Libraries). Many academics and libraries agree that using copyrighted works for machine learning is an essential, socially beneficial use that fair use can protect.

In principle, training an AI involves copying works (at least temporarily) into the training dataset and memory. Under a strict reading of copyright law, such reproduction without consent would infringe the author's exclusive rights unless an exception applies. Fair use has been put forward as that exception in the U.S., on the rationale that **using works to teach an AI is fundamentally different from simply republishing those works**. The goal of AI training is not to disseminate the original expressions, but to **analyze and "learn" from them to create something new**. This reasoning parallels earlier cases where courts found socially valuable, non-expressive uses of works to be fair. Notably, in the Google Books case, Google had scanned millions of books without permission to enable text search and snippet previews; the Second Circuit ultimately held this to be a fair use because the purpose was highly **transformative** – providing a new information tool that did not substitute for reading the books. The Google Books precedent suggests that large-scale copying for data analysis or indexing can be fair use when it **adds new value and does not harm the market** for the originals. By analogy, proponents argue AI training is a productive, transformative use that **"reworks" existing material to generate new insights or outputs** rather than exploiting the works for their original purpose (Is Generative AI Fair Use of Copyright Works? NYT v. OpenAI - Kluwer Copyright Blog).

However, fair use is fact-specific, and its applicability to AI is not automatic. Each of the four factors must be weighed. **Purpose and character**: Training an AI could qualify as a non-commercial research activity (favoring fair use) or as a commercial enterprise (weighing against fair use) depending on who does it. The key question under this factor is whether the use is **"transformative"**, meaning it "adds something new, with a further purpose or different character, altering the [original] with new expression, meaning, or message" rather than just superseding the original use. If AI training is deemed transformative (e.g. turning expressive works into a functional AI model), that strongly supports fair use. **Nature of the work**: Using factual or published works is more favored than using highly creative, unpublished material. Given that AI datasets often scrape the public internet, much of the content is published, though creative works (art, music, literature) are also included. **Amount used**: AI training typically copies entire works to extract patterns. Copying an entire work weighs against fair use, but courts have allowed it in some cases when necessary for the transformative purpose (as in Google Books, where full books were scanned to enable search). **Market effect**: Perhaps the most crucial factor is whether the AI's use of the works harms the market for the original or for derivative/licensed uses. If an AI model's use of the training data does not substitute for the original (for instance, nobody would use the AI model *instead of* buying the author's work), and may even enhance exposure of originals, the market harm is minimal (Is Generative AI Fair Use of Copyright Works? NYT v. OpenAI - Kluwer Copyright Blog). On the other hand, if AI outputs serve as replacements for original works (e.g. generating text or art that directly competes with authors and artists), rights

holders could lose licensing opportunities, weighing against fair use. In summary, fair use could legally cover AI training in the U.S. when the use is transformative, non-expressive, and does not usurp the market for the originals – but this is a case-by-case determination.

Transformative Use as a Key Factor in AI Training

The notion of **transformative use** has emerged as a linchpin in analyzing the legality of AI training. A transformative use is one that employs a copyrighted work for a new purpose, resulting in a new expression or utility, rather than simply duplicating the original. U.S. courts have increasingly centered their fair use analysis on whether the defendant's use **"adds something new"** or alters the original work's meaning or function (Is Generative AI Fair Use of Copyright Works? NYT v. OpenAI - Kluwer Copyright Blog). In the context of AI, using existing works to extract data and train a model arguably transforms the works **from expressive content into inputs for a learning algorithm**, creating a new form of value. The AI model *abstracts* patterns from the originals and uses them to generate novel outputs, rather than conveying the original expression to the public. In this sense, AI training can be viewed as a **non-expressive or intermediate use** of the works. As long as the original author's expression is not directly revealed to a new audience, the use leans toward fair use. Indeed, scholars note that courts have previously blessed such intermediate, non-expressive uses – for example, making temporary copies of software to reverse-engineer a program (as in **Sony v. Connectix**) or scanning texts to enable keyword search (as in **Authors Guild v. HathiTrust** and **Authors Guild v. Google**) – because the original expression was being used as data for analysis, not as entertainment or art for consumers (Copyright Safety for Generative AI | Published in Houston Law Review).

Transformative use was central to the Google Books decision: the court found Google's searchable database transformative since it **"did not merely copy the books; it made use of them to create a new and valuable product"** that didn't compete with the books (Is Generative AI Fair Use of Copyright Works? NYT v. OpenAI - Kluwer Copyright Blog). By analogy, an AI trained on books or images is creating a new AI model that serves a different purpose (such as answering questions or generating images) rather than selling the books or images themselves. This argument was highlighted in a recent copyright dispute: the New York Times sued OpenAI, alleging infringement for using Times content in training data, and OpenAI responded that its generative AI's **"capacity to 'transform' the works used in training into a new form"** means the training was fair use (Is Generative AI Fair Use of Copyright Works? NYT v. OpenAI). In essence, OpenAI contends that the generative output is so different in purpose and expression from the input material that the training should be deemed a transformative fair use.

That said, **transformative use has its limits**. The U.S. Supreme Court's 2023 decision in *Warhol v. Goldsmith* cautioned that even a creative recontextualization can fail fair use if it encroaches on the original's licensing market. Applying this insight, if an AI's use of artwork is to generate very similar images that substitute for the artist's work or style in the market, the use might not be seen as transformative enough to outweigh the harm. A recent U.S. case, **Thomson Reuters v. ROSS Intelligence**, is instructive. ROSS used content from Westlaw's legal database (headnotes summarizing court cases) to train an AI legal research tool after Westlaw's owner refused a license. A federal court found this was *not* fair use because ROSS's use was **commercial and not sufficiently transformative**, and it directly competed with Westlaw's own product (Court Rules AI Training on Copyrighted Works Is Not Fair Use — What It Means for Generative AI - Davis+Gilbert LLP). The AI did "the same type of job" (legal search answers) that Westlaw's copyrighted content was created for, effectively supplanting Westlaw in the market. The court emphasized that factor one (purpose/transformative character) and factor four (market effect) weighed against ROSS, noting that if the use had been transformative, the outcome *might* have differed. This illustrates that merely using AI does not automatically confer a transformative character; it depends on whether the AI is performing a new function or just a replacement.

In summary, transformative use is a crucial lens for evaluating AI training under fair use. When AI training **absorbs expressive works to generate something fundamentally new and non-substitutable**, it aligns with transformative fair use (as proponents argue in the U.S.). But if the AI's use of the work isn't sufficiently distinct or harms the original market, courts may find the use infringing despite the technology involved (Court Rules AI Training on Copyrighted Works Is Not Fair Use — What It Means for Generative AI - Davis+Gilbert LLP). This balance between encouraging transformative innovation and protecting markets is at the heart of the debate.

Copyright Infringement Issues in Generative AI Models

Beyond the training phase, generative AI raises several **copyright infringement risks** both during the creation of models and in their outputs. Key issues include:

- **Unauthorized Reproduction in Training:** The act of copying thousands or millions of works into a training dataset is, from a legal standpoint, a reproduction of each work. If done without permission, this infringes the copyright owner's exclusive reproduction right unless an exception like fair use (in the U.S.) or a text-and-data mining exception (in some other jurisdictions) applies. This is the crux of lawsuits such as **Getty Images v. Stability AI**, where Getty claims the AI company copied millions of Getty's licensed photos to train the Stable Diffusion image generator without consent (Copyright Safety for Generative AI | Published in Houston Law Review). Getty argues that *each* unlicensed copying for training is unlawful, and moreover that the AI sometimes produces output images derivative of Getty's photos, compounding the infringement. These cases force courts to examine if training an AI on copyrighted content can be excused under existing law or if it constitutes wholesale piracy in a new form. In jurisdictions with no fair use doctrine (or an analogous exemption), the unpermitted copying of entire works for AI training likely violates the law, as there is no provision that squarely covers "learning" uses.
- **Transformative vs. Derivative Outputs:** Generative models create new content (text, images, music, etc.) based on patterns learned from training data. Ideally, these outputs are **transformative and original** enough not to infringe any particular source work. However, there is a risk of **"memorization"** – the model might reproduce passages or images from its training set, especially if prompted in certain ways (Copyright Safety for Generative AI | Published in Houston Law Review). If an AI outputs a text passage verbatim from a copyrighted book, or an image nearly identical to a specific photograph it was trained on, that output is essentially an unlicensed copy or derivative work of the original, which infringes the author's rights. This concern is not just theoretical: analysis of some AI models has found that they can regurgitate training data when asked (for example, code generation AI repeating chunks of code from a training database, or image generators producing a close replica of a training image when given a similar prompt). Courts will likely treat such outputs as infringements by whoever distributes them. In the Getty v. Stability case, Getty highlighted instances where Stable Diffusion's output was **"highly similar to and derivative of"** Getty's original images (Copyright Safety for Generative AI | Published in Houston Law Review). While Stable Diffusion's developers counter that the outputs are usually *new* and only **loosely inspired** by the training data, the boundary between inspiration and copying will be tested legally. A related question is **who is liable** for infringing outputs: the AI developer, the user who prompted the output, or the model itself (which currently has no legal personality). Most likely, liability would fall on human actors (users or providers) under existing law, since the AI is a tool.
- **Style and Trademark Imitation:** Even when outputs are not identical to any single training item, they might mimic the **style** of certain artists or authors. Generally, copyright law does not protect an artist's style or genre (only the specific expression), so generating a new image "in the style of Van Gogh" or a story in the style of J.K. Rowling is not direct copyright

infringement of any one work. However, this raises moral and economic concerns for creators – if AI can produce unlimited pastiche of a living artist's style, it could flood the market and diminish the commercial value of that artist's labor. Some have argued this should be seen as unfair competition or a new species of derivative harm, though legally it's not straightforward. Additionally, if the AI training set included trademarked material or personal likenesses, other laws (trademark law, right of publicity/privacy) can come into play. For instance, using an image of a trademark in training and generating similar images might risk trademark dilution; using photos of individuals raises **personal data and privacy issues**.

- **Personal Data and Privacy:** The training data for AI models may include not only copyrighted works but also **personal data** (e.g., personal photos, social media posts, biographies). The inclusion of personal information triggers privacy and data protection laws. In Uzbekistan, the Law "On Personal Data" (No. ZRU-547 dated 02.07.2019, effective Oct 2019) requires that processing of personal data (collection, use, etc.) generally be done with the consent of the individual or under a clear legal basis. Scraping the internet for training data could violate such laws if it collects individuals' data without consent. For example, training a chatbot on public social media posts might capture names, contacts, or sensitive data of private persons. Data protection regulations (like Uzbekistan's law and the EU's GDPR) usually mandate that personal data must be processed lawfully, for specific purposes, and with adequate security. If an AI model is trained on personal data without meeting these requirements, the operators could face sanctions for privacy violations in addition to copyright infringement. This was exemplified internationally when Italy's regulator temporarily blocked ChatGPT in 2023 over GDPR concerns, citing the lack of a legal basis for using personal data in training and failure to inform users ([PDF] WIPO Conversation - Generative AI). AI developers are thus being urged to **anonymize or filter personal data** in training sets and to establish a legal basis (consent, legitimate interest, etc.) for any personal data use. In Uzbekistan, adherence to the personal data law would likely require either anonymizing personal information in training data or obtaining consent from data subjects, which is impractical at scale. This intersection of copyright and privacy means AI companies must navigate both sets of laws when assembling training corpora.

In summary, the creation and use of generative AI implicate copyright at multiple stages: initial dataset building (reproduction of works), the model's learned internal representations (which some argue are a kind of copy, though not directly human-readable), and the final outputs (which might infringe if too close to originals). These challenges expose gaps in current law – existing copyright law was not designed with AI's capabilities in mind, leading to uncertainty and calls for clearer regulations or new exceptions.

Comparative Regulatory Approaches (US, EU, UK) to AI Training

Different jurisdictions are approaching the issue of AI training and copyright with varying strategies, reflecting their legal traditions.

United States: Fair Use and Emerging Case Law

The United States relies on its broad fair use doctrine to address AI training, rather than any AI-specific exemption. As discussed, U.S. law's flexibility potentially covers uses like text and data mining for machine learning if they are sufficiently transformative and do not unduly harm markets. There is as yet no statute explicitly mentioning AI or text/data mining for training AI. Instead, stakeholders are watching how courts apply fair use in pending AI lawsuits. The Authors Guild (representing writers) and individual artists have filed lawsuits against AI developers (e.g., OpenAI, Stability AI) alleging that training on their works is infringement. In defense, companies invoke fair use, paralleling earlier cases like Google Books.

One of the first major court rulings came in **Thomson Reuters v. ROSS Intelligence (2023)**, concerning an AI trained on a proprietary legal database. As noted above, the court there *rejected* the fair use defense, highlighting that ROSS's use was commercial, non-transformative, and a direct market substitute (Court Rules AI Training on Copyrighted Works Is Not Fair Use — What It Means for Generative AI - Davis+Gilbert LLP). This decision is seen as a potential bellwether for AI cases, although its facts were somewhat narrow (the AI was essentially duplicating a product for the same market). Other cases are still winding through the courts, such as **authors and artists vs. OpenAI/Stability AI**, which will more directly address whether training a large language model or image generator on millions of diverse works is fair use. It may be years before appellate courts provide definitive answers, meaning U.S. law in this area is in flux.

Beyond litigation, U.S. policymakers are studying the issue. The U.S. Copyright Office launched a study on AI and copyright in 2023, seeking public input on how to handle AI training and AI-generated works, and is expected to issue a report with recommendations. This could prompt Congress to consider legislative tweaks, though historically the U.S. has been reluctant to narrow fair use or add highly specific exceptions. Instead, the likely approach is to rely on fair use and let courts gradually clarify its application – unless the courts start ruling that AI training is *not* fair use across the board, which could spur a legislative response. For now, **fair use remains the key U.S. mechanism**, with a generally permissive stance emerging: for example, the Association of Research Libraries argues that based on precedent, "ingestion of copyrighted works to create large language models or other AI training databases **generally is a fair use**" under U.S. law (Training Generative AI Models on Copyrighted Works Is Fair Use — Association of Research Libraries).

It's worth noting that U.S. copyright law must still adhere to international norms like the Berne Convention's "three-step test," which requires exceptions to be confined to certain special cases that don't conflict with the normal exploitation of works. Fair use, while broad, has been deemed compliant with Berne, but if AI training were to eviscerate content markets, opponents could argue it fails the third step (unreasonable prejudice to authors). This has not been resolved and is part of the policy debate.

European Union: Text-and-Data Mining Exceptions

The European Union does not have a general fair use provision; instead, it enacts specific **exceptions and limitations** to copyright through directives, which member states implement in national laws. Recognizing the importance of data analytics and AI, the EU in 2019 introduced new exceptions tailored to **text and data mining (TDM)** in the Directive (EU) 2019/790 on Copyright in the Digital Single Market (CDSM Directive). These were designed explicitly to facilitate uses like AI training across the EU. The directive provides two key exceptions: **Article 3** allows TDM **for the purposes of scientific research** by research organizations and cultural heritage institutions, covering even copyrighted content (provided the researchers have lawful access to the materials) without needing permission (text and data mining opt-out in Article 4(3) CDSMD - Oxford Academic). This exception is mandatory for all member states and importantly **cannot be overridden by rightsholders** (they can't opt out for research uses). **Article 4** creates a second TDM exception for any other purpose (including commercial uses, e.g., a tech company mining data for AI), but unlike Article 3, it allows rights owners to **opt out** – for instance, by indicating in a machine-readable way (like robots.txt or metadata) that their content is not to be mined (Generative AI and copyright: Convergence of opt-outs?). Article 4's exception is also mandatory to implement, but rightsholders maintain more control: they can reserve their rights and deny TDM by outsiders if they wish (often by contract or placing content behind technical protections). Both exceptions require that the miner have lawful access (e.g., not hacking or accessing pirated copies). These provisions came into force across the EU by mid-2021 (To Scrape or Not to Scrape? First Court Decision on the EU Copyright Exception for Text and Data Mining in Germany).

What this means practically is that in the EU, **AI developers have a clear legal pathway to use copyrighted data for training, subject to conditions**. If the developer is a university or engaged in pure research, Article 3 lets them mine any text or images they can lawfully access (like web content or databases they have subscriptions to) without permission, as long as it's for research and they secure the data appropriately. For commercial entities, Article 4 lets them mine as well, but they must check if the source has opted out. Many content websites can include an opt-out in their terms of use or metadata, which would legally prohibit mining under national laws implementing Article 4. If no opt-out is present, the AI developer can proceed to mine the data without infringing copyright. This EU approach tries to balance innovation with rights holders' control: creators can choose to allow or refuse mining of their works (especially for commercial uses).

A recent German court case highlighted these new rules. In **KG Berlin (Photographer v. LAION, 2024)**, a photographer sued the LAION research organization for scraping his photos from a stock site to include in a large dataset for AI training. The court found that LAION, a non-profit, could invoke Germany's implementation of the EU research TDM exception (which corresponds to Article 3 of the directive) to lawfully use the images for non-commercial research. The photographer's claim was dismissed because the use fell under a statutory TDM exemption for research. The court noted, however, that if the use had been for commercial purposes, the analysis might differ – in an **obiter dictum**, it expressed doubt that LAION could rely on the commercial TDM exception if the photographer had an effective opt-out in the website's terms, suggesting that such an opt-out might be honored by courts. This case is significant as the first EU decision applying the new TDM exceptions in the context of AI training, confirming that **non-commercial mining for AI is protected in the EU** (To Scrape or Not to Scrape? First Court Decision on the EU Copyright Exception for Text and Data Mining in Germany). It also indicates that commercial AI mining in the EU will likely require checking for opt-outs and possibly respecting them, or otherwise obtaining a license.

Beyond the TDM exceptions, EU copyright law still applies to AI outputs. If a generative AI reproduces parts of a copyrighted work, that output would infringe just as it would if a human had copied it. The TDM exceptions cover the **acts of mining (copying) for analysis**, but not any subsequent publication of the copyrighted content. They also require that any copies made for mining are stored securely and, for Article 3, deleted after use to prevent misuse. So an AI company in the EU must handle training data carefully and cannot just redistribute the raw training copies.

The EU is also addressing AI through other laws (like the proposed AI Act) but that focuses on safety and ethics, not IP. For copyright specifically, the EU's stance is relatively forward-looking by providing explicit permissions for data mining, while safeguarding rightholders' ability to opt out if they fear harm. It contrasts with the U.S. in that it's more clear-cut statutorily, though less flexible (no general fair use catch-all). A potential downside is fragmentation: content owners must implement opt-outs to enforce their rights, which they may not all know to do, and AI developers must track varied implementations of opt-outs across sources. Over time, we may see standardized mechanisms (like a flag in robots.txt) to streamline this.

United Kingdom: From Fair Dealing to Reforms and Reversals

The United Kingdom's copyright law, historically based on **fair dealing** exceptions, has also grappled with AI and data mining. Fair dealing in the UK is more limited than U.S. fair use – it applies only for certain purposes (such as research, criticism, news reporting, parody, etc.) and is not a broad flexible doctrine. For example, UK law (Copyright, Designs and Patents Act 1988) allows copying for non-commercial research or private study, and since 2014 includes a specific exception (Section 29A) for **text and data mining for non-commercial research** (UK's short-lived dream for a code of practice on genAI and copyright law - Kluwer Copyright Blog). This

was an early move (even before the EU's 2019 directive) to permit researchers to data-mine content they have legal access to, without copyright liability. However, until recently, there was no exception for commercial text and data mining in the UK (since the UK had left the EU by the time the DSM directive was implemented, it was not bound to adopt Articles 3 and 4).

In 2021-2022, the UK government undertook a public consultation on "copyright and AI" to consider expanding these exceptions. The initial proposal was bold: the government considered introducing a **broad TDM exception for any use, including commercial**, that would be **unwaivable by rightholders** (meaning rights owners could not opt out or contractually forbid it). This approach, essentially more liberal than even the EU's Article 4, aimed to make the UK a friendly environment for AI development, ensuring that **any text or data could be mined for AI as long as it was lawfully accessed**, without needing individual licenses. However, this plan met with **heavy backlash from publishers, media, and creative industries** who feared losing control and licensing revenue. In response, the government reversed course in 2023: it **withdrew the proposal for an expansive TDM exception** and instead pursued a stakeholder-led **"code of practice"** approach. The idea was to bring AI developers and content industries together to formulate voluntary guidelines on AI training uses, rather than force a legal change. By early 2024, however, even this code-of-practice initiative was dropped, as consensus proved difficult.

As it stands now, the UK has retreated to a more cautious position. The **status quo** is that **text and data mining is lawful in the UK only for non-commercial research** (and even that requires the researcher to have lawful access to the material, e.g., a subscription or purchase). Commercial AI developers in the UK currently must seek licenses to use copyrighted databases or web content for training, or risk infringement. The UK government has launched yet another consultation (in late 2024) to revisit AI and copyright issues, indicating the policy is still evolving (UK Government proposes copyright and AI reform mirroring EU ...). Policymakers are effectively trying to find a middle ground after the failed attempt at a blanket exception. Some options include a narrower exception (perhaps like the EU's opt-out model), or sector-specific solutions, or encouraging private licensing schemes.

It's also worth noting the UK's approach to AI-generated outputs: UK law is unusual in that it explicitly provides copyright for **computer-generated works** (CGWs) with no human author (Section 9(3) CDPA grants authorship to the person who made the arrangements for the computer to create the work). This is a distinct issue from training, but it shows the UK had some foresight on AI. However, that provision is now controversial and might be reconsidered, as many argue AI-generated content without human creativity shouldn't get copyright.

In summary, the UK's journey on AI training reflects caution and industry influence. After considering a revolutionary open door for AI mining, the UK pulled back due to rights-holder objections. For now, anyone training AI in the UK must navigate under the old rules (limited fair dealing exceptions or get licenses). How the UK eventually resolves this – whether through a new exception, voluntary codes, or case law – will significantly impact its AI industry and authors.

National Approach of Uzbekistan

Copyright Law and Exceptions in Uzbekistan

The Republic of Uzbekistan's copyright regime is codified primarily in the Law "On Copyright and Related Rights" (No. ЗРУ-42, enacted 20 July 2006, as amended). This law, like those of many civil law countries, does not contain a broad fair use doctrine akin to the U.S. model. Instead, it provides specific **"free use" exceptions** under certain conditions. Articles 25 through 32 of the law enumerate the situations where a copyrighted work may be used without the author's consent and without payment of royalties (ЗРУ-42-сон 20.07.2006. Об авторском праве и смежных правах). These include, for example: **reproduction of a work for personal purposes** (Article 25); **quotation from a published work for scientific, research, polemical, or**

informational purposes in an amount justified by the purpose (Article 26); **use of works as illustrations for teaching** (Article 26); **reproduction of newspaper or magazine articles on current events** or broadcast works for news reporting (Article 26) (unless expressly reserved by the author); **public speeches and reports can be reproduced for news purposes** (Article 26); **incidental inclusion of works in news footage** (Article 26); **reprographic reproduction by libraries or archives for replacement or research** (Article 27); **public performance of music in official ceremonies** (Article 29); **use for judicial or administrative proceedings** (Article 30); and **temporary recordings by broadcasters** (Article 31). These exceptions generally align with international norms (and the *Berne Convention*'s three-step test) by limiting free uses to certain special cases that don't conflict with normal exploitation of works (. Notably, Uzbekistan's law requires that free uses be accompanied by attribution (credit to the author and source) where feasible, and that they be non-commercial in many instances (e.g. personal use cannot be for profit).

Crucially, Uzbekistan's law **does not currently have an exception specifically for text and data mining or AI training**. The concept of using works to extract information (without directly utilizing their expressive content) is not explicitly addressed. The general free use clauses like quotation or personal use are too limited to cover the typical AI training scenario. For instance, the personal use exception (Article 25) allows an individual to make a copy of a published work for their own private purposes (, but this wouldn't cover a company mass-copying thousands of works to train an AI for a commercial service. The scientific research exception in Article 26 permits use of excerpts for research or study, but it emphasizes *quotation* in justified amounts – copying entire works into a dataset likely exceeds what is "justified by the purpose," even for research. There is no Uzbek analog of a flexible fair use factor analysis that could, for example, deem AI training a transformative use. Thus, under the letter of current Uzbek law, an AI developer who reproduces protected works without permission for training is at risk of infringement. The absence of an AI/TDM exception means **each work used would technically require the rightholder's consent**, unless it's in the public domain or falls under an existing narrow exception. This presents a significant legal hurdle for AI development domestically, as obtaining licenses at the scale of tens of thousands of works is often impractical. It may push Uzbek researchers and companies to rely only on public domain or open-licensed data, potentially limiting the scope and representativeness of training data (a concern echoed by scholars who note that restricting AI to public domain content omits large swaths of contemporary culture) (Training Generative AI Models on Copyrighted Works Is Fair Use — Association of Research Libraries).

Uzbekistan is a member of international copyright treaties (it joined the Berne Convention in 2005 and later the WIPO Copyright Treaty), so its law adheres to the three-step test for exceptions. Any future introduction of a broad exception for AI training would have to meet that test – i.e., be a special case, not conflict with normal exploitation, and not unreasonably prejudice authors. Policymakers would weigh the impact on authors' potential licensing markets (for instance, image libraries like Getty, text publishers, etc.) against the public benefit of AI innovation. Given that many other countries are now carving out TDM exceptions, Uzbekistan could consider a similar path to remain competitive in AI development.

Personal Data Protection and AI

In Uzbekistan, any use of personal data in AI training must contend with the Law "On Personal Data" (No. ЗРУ-547 of 2 July 2019). This law defines personal data broadly and establishes principles for its processing. Key requirements include obtaining consent from individuals for collecting and processing their personal data, unless another legal ground is provided (such as a law enforcement need or the data being made public by the individual). For AI developers, this means that scraping Uzbek websites or databases that contain personal information (names, photos of individuals, social media profiles, etc.) could violate privacy law if done without

consent or proper anonymization. The law also likely requires data localization for certain sensitive personal data and imposes security standards.

When training generative models, it is often impossible to get consent from every individual whose data might be in an internet crawl. Thus, to comply, developers should **anonymize data** (removing names and identifiable details) so it no longer falls under "personal data." The interplay between copyright and personal data is complex: a single piece of content (like a photograph) might be protected by copyright and also contain personal data (the image of a person). In such a case, both laws apply – using it needs permission from the photographer (or an exception) and also consent of the person in the photo (or satisfying a lawful basis under data law). For example, facial images used in an AI face-generation model would be subject to personal data law, likely requiring explicit consent of the depicted persons, which is rarely obtained in practice. Failure to comply could result in penalties from data protection authorities. Uzbekistan's law has been enforced, for instance, in cases requiring social media companies to store data locally, showing the government's intent to protect citizens' data rights.

Therefore, any national framework for AI and copyright in Uzbekistan should coordinate with personal data protection rules – possibly by mandating that AI training datasets exclude personal data unless proper consent is in place, or are sufficiently anonymized. Additionally, transparency to users about what data is used in AI and how (a principle found in many AI ethics guidelines) can help align with privacy laws that require informing data subjects.

Other Relevant Uzbek Laws and Initiatives

Apart from copyright and data protection, Uzbekistan's broader legal and policy environment is beginning to account for AI. In October 2024, the President of Uzbekistan approved the **"Strategy for the Development of Artificial Intelligence Technologies until 2030"** (Resolution of the President of the Republic of Uzbekistan "About approval of the Strategy of development for technologies of artificial intelligence till 2030"). This national AI Strategy outlines goals to boost AI innovation, build infrastructure, and join leading AI nations. Notably, it calls for **forming a regulatory framework aimed at the development of AI technologies and strengthening international cooperation in this field**. The strategy's action plan (2024–2026) likely includes reviewing and updating laws that affect AI, which presumably would cover intellectual property laws. The emphasis on international cooperation suggests Uzbekistan is looking at how other countries and international bodies (like WIPO) are addressing AI and IP, intending to harmonize or at least not lag behind global standards. This is a promising sign that the government is aware of legal gaps such as the lack of a TDM exception in the copyright law.

Additionally, Uzbekistan's commitments under international agreements will guide its approach. As a member of the Eurasian Economic Union (observer) or potential WTO accession, it might align with standards that emerge in those contexts. Also, Uzbek courts and legal scholars may increasingly reference foreign case law and writings on AI and IP as these issues arise. Already, local legal commentators are discussing AI in the context of IP. For instance, some have introduced the concept of "добросовестное использование" (analogue to fair use) in explaining how AI training might be treated in the U.S. and suggesting how Uzbek law could evolve (Искусственный Интеллект: вопросы авторского права & его регулирование|BSC|Юридическая фирма в Узбекистане, Ташкент). There is also discussion about whether AI-generated works can be protected, given that current law requires a human author (Uzbek law's definition of authorship implies a natural person, similar to many jurisdictions, meaning purely AI-created works likely fall in the public domain under current rules). While that pertains to output rather than training, it's part of the broader IP-AI puzzle being considered.

In summary, Uzbekistan's national law at present does not explicitly accommodate AI training under copyright exceptions, and the use of copyrighted content for that purpose would likely require permission or fall in a gray area. The personal data law adds another layer of restrictions to using data that involves individuals. Recognizing these challenges, Uzbekistan's policymakers are charting a course to modernize the legal framework (through the AI Strategy and possibly IP law reform). The direction is toward enabling AI development (as evidenced by ambitious economic targets for AI in the strategy) while ensuring compliance with both copyright and privacy norms. Achieving this will require carefully crafted provisions or guidelines that might draw from the experiences of the U.S., EU, UK, and others.

International Cooperation in Adapting Copyright to AI

AI and its training data are inherently cross-border – models trained in one country often ingest content from around the world and are used globally. This creates a strong need for **international cooperation and harmonization** in adapting copyright law to AI. Disparities in national laws (as seen above) can lead to uncertainty and conflicts. For example, an AI training activity might be legal "fair use" in the U.S. but infringe in an EU country if an opted-out work is included, or infringe in Uzbekistan due to lack of an exception. Content and AI models flow across jurisdictions, so a patchwork of rules can both inhibit innovation and leave rightsholders without consistent protection.

International organizations are thus actively examining the intersection of AI and intellectual property. The **World Intellectual Property Organization (WIPO)** has been leading conversations on AI and IP policy. Since 2019, WIPO has hosted a global **"WIPO Conversation on IP and AI"**, bringing together member states and stakeholders to discuss emerging issues and potential policy responses (Artificial Intelligence and Intellectual Property Policy). Through these sessions, WIPO has identified key questions, such as how existing copyright exceptions (like text/data mining) might evolve and whether new international norms are needed. While no new treaty has been concluded yet, WIPO's work helps countries share perspectives and could eventually lead to soft law recommendations or model laws. International cooperation is also visible in forums like UNESCO, which in its 2021 Recommendation on the Ethics of AI touched on IP considerations, and in bilateral discussions (e.g., the EU and U.S. in their Trade and Technology Council have discussed aligning approaches on AI governance, which may include IP aspects).

One concrete area for cooperation is establishing **standards for data mining opt-outs or licensing**. If major content-producing countries agree on how an opt-out should be signaled (for instance, a standard metadata schema), it would ease compliance for AI developers globally. Similarly, collective licensing solutions might be explored internationally – for instance, a mechanism where AI firms can pay into a fund that compensates creators for use of their works in training, possibly administered by collecting societies. This idea of a compensation system has been suggested by scholars as a compromise when outright consent for each work is impractical (Consent and Compensation: Resolving Generative AI's Copyright ...). International frameworks could facilitate such systems by setting guidelines on remuneration and rights.

Moreover, treaties like the **Berne Convention** and **TRIPS Agreement** set outer limits on copyright exceptions. Currently, they do not explicitly mention AI or data mining, but they allow exceptions that meet the three-step test. Countries adapting their laws for AI (like those adding TDM exceptions) are effectively testing the flexibility of those treaties. So far, exceptions like the EU's have not been challenged as violating Berne/TRIPS, indicating that the international IP regime can accommodate these new uses. If down the line some country adopted a very broad exception (e.g., a blanket fair use claim for all AI training), there might be debates in WIPO or WTO about compliance. To preempt conflict, international consensus on the legitimacy of TDM and AI-related exceptions would be valuable. WIPO could issue guiding interpretations or even

consider a joint recommendation that using works for AI training, when appropriately limited, is consistent with three-step test criteria – similar to how WIPO issued the 1971 Appendix for developing countries or the 2013 Marrakesh Treaty for accessibility, adapting copyright to new needs.

For Uzbekistan, participating in these international discussions is important. Being relatively new to modernizing IP (with its 2006 law and subsequent updates) and with ambitions in AI, Uzbekistan can both learn from and contribute to global norms. Strengthening cooperation with organizations and partners means Uzbekistan can align its laws with best practices and ensure reciprocal treatment abroad. For example, if Uzbekistan were to introduce a TDM exception, ensuring it meshes with EU's regime (perhaps by recognizing opt-outs similarly) would facilitate data sharing and AI projects with European partners. International cooperation also extends to **enforcement against infringement**: dealing with AI companies operating across borders may require cross-border legal assistance or agreements on jurisdiction.

In essence, the adaptation of copyright law to AI is a worldwide endeavor. No country alone can solve it, given the global nature of both creative content and AI technology. International dialogue is pointing toward a balanced solution that allows reasonable use of works for AI training (to foster innovation and research) while safeguarding the core markets for authors. Uzbekistan's commitment to international cooperation in its AI Strategy is a positive sign that it will be part of forming this global consensus.

Toward a Balanced Legal System in Uzbekistan for the AI Era

As Uzbekistan develops its digital economy and AI capabilities, creating a balanced legal framework for copyright in the age of generative models is crucial. "Balanced" in this context means a system that **protects the rights and incentives of authors and creators**, while also **enabling technological innovation, research, and access to information**. Based on the analysis above, several steps and considerations can guide Uzbekistan toward such a balance:

- **Introduce Clear Exceptions for AI Training (TDM Exception):** Uzbekistan could amend its copyright law to include a specific exception for **text and data mining** for purposes of machine learning and AI development. This could be modeled on the EU approach – for example, allowing **non-commercial research organizations** to mine any lawfully accessed content (no opt-out, to spur scientific progress), and allowing **commercial entities** to mine by default but giving rightholders an **opt-out right**. An alternative approach is to adopt a more flexible fair use-style clause limited to transformative, non-expressive uses like data analysis. Any such provision should incorporate safeguards (respecting the three-step test) – e.g., requirement of lawful access (so it doesn't legitimize using pirated content), and measures to ensure the original works are not exploited beyond the AI training purpose (like requiring deletion of datasets after model training, similar to EU law, and prohibiting redistributing the training copies). By codifying an AI training exception, Uzbekistan would give researchers and companies the legal certainty to innovate, much as other jurisdictions have started to do.
- **Ensure Adequate Protection for Rights Holders:** Alongside new exceptions, the law should reinforce that **verbatim or closely similar outputs** that amount to reproductions of protected works are not tolerated. For instance, if an AI output reproduces large chunks of a novel or an image traceable to a single source, that should clearly infringe under the law. This clarity will incentivize AI developers to build in protections (such as filters to avoid large verbatim outputs or "memorized" images). Furthermore, Uzbekistan might consider mechanisms for creators to be compensated or have a say in use of their works. While direct licensing for each work is unrealistic, collective licensing or a government-run compulsory license system could be explored. For example, a provision could allow AI training on any published work but require AI developers to pay a levy that is distributed to registered rights holders (somewhat

analogous to how some countries handle private copying levies). This would acknowledge creators' contributions while not stifling the new technology. Such systems are complex and would need administrative infrastructure, so a near-term solution might be softer: encouraging open licensing or collaboration between content industries and tech firms on data sharing agreements.

- **Integrate Personal Data and Privacy Considerations:** A balanced approach means not just copyright but also privacy is respected. Uzbekistan should provide guidance (perhaps through regulations or an explanatory note to the AI exception) on handling personal data in training sets. This might include requiring anonymization of personal data in datasets (so that AI doesn't learn to regurgitate someone's personal info) and aligning with the Law on Personal Data's consent requirements. The law could mandate that if personal data is used, it must be with consent or from public sources that individuals have themselves made public (and even then, perhaps exclude sensitive data). This integration will both protect individuals and reduce the risk of AI systems infringing on rights beyond copyright (like producing invasive outputs about private citizens).
- **Drawing from International Best Practices:** In crafting its approach, Uzbekistan can draw on the experiences of the U.S., EU, UK, and other jurisdictions. For instance, **Japan** and **Singapore** have adopted broad exceptions for data analysis and mining, essentially allowing any data use for machine learning as long as it doesn't conflict with normal exploitation of the work. These countries reasoned that such uses are transformative and beneficial to society. South Korea introduced a fair use clause in 2011 and scholars note it could apply to AI training as well (Искусственный Интеллект: вопросы авторского права & его регулирование|BSC|Юридическая фирма в Узбекистане, Ташкент). By studying these models, Uzbekistan can tailor an exception that fits its legal culture. If adopting a fair use-like approach, training should explicitly be mentioned as a paradigm case of transformative use to give courts direction. If following the civil law enumerated path, then a dedicated TDM article with conditions is ideal.
- **Education and Awareness:** A legal change alone is not enough; users and enforcers need to understand it. Educational literature and guidelines should be developed for AI practitioners in Uzbekistan, explaining what is allowed and what is not. For example, an AI developer guide could clarify: "You may scrape text and images from online sources for machine learning under the following conditions… (list conditions such as non-commercial use or respecting opt-outs or paying a license)". At the same time, content creators should be informed about how they can protect their works (e.g., using robots.txt to opt-out if that becomes part of law, or registering with any compensation schemes). Building this mutual awareness will help balance interests without resorting to litigation.
- **Enforcement and Oversight:** To maintain balance, there should be measures to address abuses. If an entity blatantly ignores even the balanced rules (for instance, uses data outside the allowed scope, or an AI model is found to be systematically outputting pirated content), authorities should enforce copyright and data protection laws. Conversely, if rightsholders try to misuse things like opt-outs (for example, a dominant publisher opting out simply to demand exorbitant fees from AI firms), there may need to be competition law oversight or government mediation to ensure that the exception's purpose isn't undermined. An oversight mechanism, perhaps under the purview of Uzbekistan's IP agency or a new digital authority, could monitor AI training practices and mediate disputes.

In conclusion, Uzbekistan stands at a crossroads where it can update its legal framework to both join the AI revolution and uphold the rights of authors and citizens. By learning from global developments and engaging in international cooperation, Uzbekistan can formulate a nuanced approach: one that explicitly permits **good-faith, transformative uses** of works for AI training

(thereby encouraging tech progress and research) while **preventing misuse** of creative works (ensuring authors are not unfairly deprived of income and moral rights). The creation of a balanced system is an ongoing process – as AI technology evolves, the laws may need further refinement. But the fundamental goal remains the same: to **redefine copyright law in the AI era** such that it continues to fulfill its purpose of promoting creativity and knowledge for the public good, in a way that is equitable for both human creators and innovators in artificial intelligence.

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