AI AGENDA

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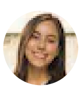
Why Midjourney and Runway Are Suddenly on Shaky Ground; Nvidia's Upcoming Blowout



By
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A recent court ruling may put rocket-ship AI startups like **Midjourney** and **Runway** on shaky ground.

United States District Court Judge **Beryl A. Howell** ruled on Friday that art completely generated by artificial intelligence cannot be copyrighted, the latest update in a string of controversies surrounding the technology's usage in art. The ruling affects works that are entirely generated by AI, but leaves wiggle room for art made by both humans and AI models.

Judge Howell admits that copyright law has historically flexed to take into account technological advancements but she also **says** that the law has never "stretched so far" to protect works created "absent any guiding human hand." She adds, "Human authorship is a bedrock requirement of copyright."

The ruling came in response to a lawsuit from AI developer **Stephen Thaler** after the U.S. Copyright Office refused to copyright an AI-generated image he made using his algorithm, "Creativity Machine."

The ruling didn't provide guidance on artwork created by humans and AI in tandem, such as a graphic novel "Zarya of the Dawn" by **Kristina Kashtanova**, a senior creative evangelist at **Adobe**. Made using Midjourney, Kashtanova ran into problems when she attempted to copyright it. Because much of the work was made using an AI art tool, the U.S. Copyright Office would only **allow** her to copyright the book's arrangement of its images and its storyline, and not the actual images themselves.

Under existing U.S. Copyright Office rulings, only the human-created portion of work containing AI-generated material can be copyrighted, **Scott Hervey**, an IP lawyer at **Weintraub Tobin**, told me. Kashtanova's copyright decision came down to the lack of control artists have over AI tools, where artists can instruct AI art generators to make changes but don't know exactly how they'll turn out versus other tools like Photoshop, Hervey said.

The question of what constitutes art in the age of AI has starkly divided the industry. Some artists have embraced the technology, using tools from startups like Runway to create **movie trailers** and **short films**. Others have not been so enthusiastic. Earlier this month, **backlash from authors** brought down a six-year-old publishing dataset that they feared would be used as AI model training fodder. Meanwhile, high-profile celebrities like comedian **Sarah Silverman** have taken to suing companies like **OpenAI** for using their work to train models.

Neither Runway nor Midjourney offer much guidance when it comes to calming creators' worries around copyright. Though Runway says in its usage rights policy that users have complete commercial rights to all content generated or edited with its software, the company doesn't provide much advice around how users can then go and copyright that content.

Similarly, Midjourney cautions users in its terms of service to consult a lawyer if they want more information about copyright law in their jurisdiction. I emailed a Runway spokesperson and they didn't have much to add. I also tried Midjourney but they didn't get back to me.

Adobe, in a **blog post** authored by the company's senior director of IP and advertising law, **J. Scott Evans**, has previously advised creators using its generative AI product **Firefly** to specify to the U.S. Copyright Office which portions of a piece of art were generated by AI versus humans. That can help prove the level of human involvement in creating a work of art.

How usage of Runway, Midjourney, Adobe Firefly and other AI art tools will be affected by the ongoing copyright debate may have to be hashed out in lawsuits in the upcoming months. Hervey's advice for AI artists in the meantime? Tread carefully.

If you're planning on making one-off artwork or instructional videos for internal company usage, AI software may be a safe bet, he said. Otherwise, it may be best to stick to the tried-and-true method of human-only creation, unless you're willing to take your chances in the courts.

Here's what else is going on...

Nvidia's Big Number

If you've been keeping up with **Nvidia**, the world's most important chipmaker, you may have seen **this report** from the **Financial Times** last week, claiming the company this year plans to ship about 550,000 of its H100 chips, its state-of-the-art hardware for powering AI software. The report triggered plenty of **armchair analysis** of Nvidia's forthcoming blowout earnings.

But the FT's report may be way off, significantly underestimating Nvidia's position, given what some smart Wall Street analysts are estimating. **Brett Simpson**, partner and cofounder at **Arete Research**, told me his firm is projecting the chipmaker will ship about 1.2 million H100s and 420,000 A100s this year. At $20,000 and $10,000 a pop for H100s and A100s, respectively, plus upselling for networking and other services, Simpson is estimating Nvidia to book over $35 billion in datacenter sales this year, up over 130% from $15 billion in 2022. Next year, he expects that number to jump to over $60 billion.

Nvidia's fiscal 2024 performance has been skewed by **supply bottlenecks**, making it difficult for Nvidia to meet mounting demand from cloud providers and AI startups, he said. That makes fiscal 2025, which starts next February, more important as a guide to how the company is benefiting from demand for its chips. Commentary from executives at Nvidia's second quarter earnings call on Wednesday should be instructive in that regard. Analysts will be listening closely to the company's projections for when the supply of H100 servers will match the explosion in demand.

The problem for Nvidia is that supply depends on several other companies: **Taiwan Semiconductor Manufacturing Co.**, which produces the chip wafers; **Foxconn**, which then takes those chips and turns them into GPU modules; and server providers such as **Super Micro**, which installs them on motherboards before they can be shipped to cloud providers and other customers. Some of these companies have created bottlenecks in the supply chain; TSMC, for instance, has struggled to increase its production of chip-on-wafer-on-substrate, the advanced packaging required for Nvidia's GPUs. (Read more about Nvidia's bottlenecks in **SemiAnalysis** here.)

There's another, less-discussed question worth asking about Nvidia. Following the release of high-quality open-source models like **Meta's Llama 2,** fewer startups may need to train their own models from scratch, which is where Nvidia's H100 chips are particularly useful. Instead, more companies may be using ready-made AI models to power their apps, known as inference. Though Nvidia released its new GH200 chips, which are designed for inference, earlier this month, the industry's potential shift from AI training to inference could represent a chance for Nvidia competitors like **Amazon Web Services**, which creates its own chips specifically for AI inference, to catch up.

Deals and Debuts

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Genesis Therapeutics, which uses AI to help design small-molecule drug compounds, announced a $200 million series B round led by **Andreessen Horowitz** and an unnamed

"U.S.-based life-sciences-focused investor," with participation from **Fidelity Management & Research Company**, **BlackRock**, **Nvidia's** venture capital arm **NVentures**, **T. Rowe Price**, **Rock Springs Capital**, **Radical Ventures** and **Menlo Ventures**.

Sizzle AI, a AI edtech startup founded by former vice president of AI at **Meta Jerome Pesenti**, launched this morning with $7.5 million in seed funding, led by **Owl Ventures** and with participation from **8VC.**

Cerby, a security startup that plans to use large-language models in threat detection, announced a $17 million Series A round led by **Two Sigma Ventures**, with participation from **Outpost Ventures**, **Ridge Ventures**, **Founders Fund**, **Bowery Capital**, **AV8**, **Salesforce Ventures**, **Tau Ventures**, **Okta Ventures**, **Incubate Fund** and **Ben Johnson**, co-founder of **Obsidian Security** and **Carbon Black**.

Dipp, which builds AI collaboration tools for marketing and design teams, announced $1.5 million in seed funding from investors including **SparkLabs Taiwan**, **Palm Drive Capital** and **Tezign**.

What We're Reading

- How Nvidia Built a Competitive Moat Around A.I. Chips (**The New York Times**)
- How Frank Sinatra and Yo Gotti Are Influencing the Future of Music on YouTube (**The Wall Street Journal**)
- The Right to Not Have Your Mind Read (**The Atlantic**)

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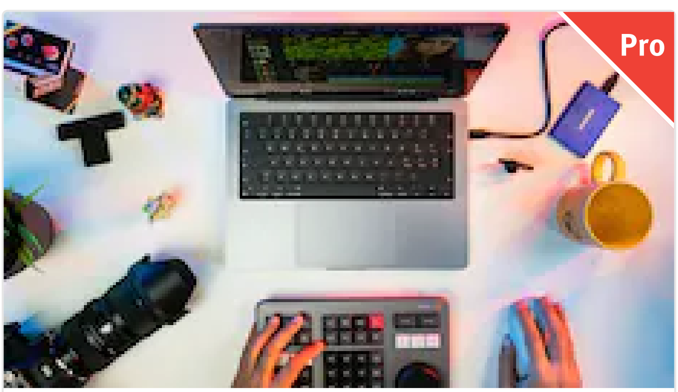

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