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Protected works, unprotected meaning?

Art, AI, and the limits of copyright: Bartók's source ethics in the age of AI

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ABSTRACT

The rise of generative artificial intelligence (AI) has intensified fundamental questions at the intersection of art, new technologies, and copyright. While copyright remains indispensable for protecting works, authorship, and certain economic interests, it does not fully address the broader cultural and normative concerns raised by AI systems trained on, and operating through, vast bodies of artistic and cultural material. This article argues that contemporary copyright debates should be situated within a wider inquiry into legitimacy, responsibility, and cultural governance. Drawing on Walter Benjamin's reflections on aura and Béla Bartók's ethos of the pure source, it suggests that the central challenge of the AI age lies not only in protecting works, but also in safeguarding contextual meaning, communal significance, and the integrity of the relation between cultural materials and their sources. Its distinctive contribution is a source-ethics framework that connects provenance, contextual integrity, participation, traceability, and fair benefit-sharing as practical complements to copyright.

Key words: AI and copyright, cultural governance, source ethics, Béla Bartók, Walter Benjamin, digital-cultural sovereignty.

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From agreement to the question of limits

Copyright remains one of the central instruments through which modern societies protect works, authorship, and important economic interests. Any serious reflection on art and artificial intelligence (AI) must begin from that recognition. The present argument begins not in disagreement with copyright, but at the point where its indispensability also reveals its limits. In the age of generative AI, not everything that matters culturally appears in the form of a clearly protected work. Nor does every cultural loss take the form of recognizable copying. We are increasingly confronted with forms of value that are harder to isolate juridically, yet no less real for that reason: style, contextual meaning, cultural memory, communal significance, and the integrity of interpretive environments. These are not marginal concerns. They belong to the conditions under which culture is lived, transmitted, interpreted, and renewed.

The central claim, then, is that copyright remains necessary, but it is no longer sufficient on its own.

What copyright still does well

This is not because copyright has failed. It is because the technological environment has changed. Generative AI systems do not merely reproduce or distribute artistic and cultural material. They increasingly participate in the production, transformation, circulation, and mediation of meaning itself. They affect not only works, but also the environments within which works are encountered, understood, recomposed, and valued. Once this happens, the question is no longer only legal. It becomes at once cultural, hermeneutic, and normative.

Copyright still does important work. It protects identifiable works, authorship, and certain economic rights. It preserves at

least part of the link between creative labor and legal recognition. In a world where AI systems are trained on, and operate through, immense bodies of cultural material, this function remains essential. Indeed, copyright may still be one of the last legal bulwarks against the total dissolution of artistic creation into a mineable reservoir of patterns.

This is especially important because AI blurs distinctions on which older legal frameworks depended: the distinction between original work and derivative use, between creation and reproduction, between inspiration and extraction, and between tool and authorial agency. Copyright remains indispensable precisely because the line between creation and reuse is becoming harder to see.

The gap: protected works, unprotected meaning

Yet the legal framework remains structurally stronger in relation to what can be identified as a work than in relation to what culture often experiences as its deeper substance. A style may be central to an artistic tradition without being straightforwardly protected as such. A local narrative may carry dense communal meaning without fitting neatly into standard categories of individual authorship. A ritual, a place-based interpretation, or a historically sedimented mode of seeing may matter immensely without appearing as a clearly appropriable object of copyright.

That is the first difficulty.

The second is that what culture loses under AI conditions may not appear as an act of obvious copying at all. It may appear instead as flattening, decontextualization, stylistic dilution, the quiet replacement of interpretive struggle by algorithmic fluency, or the transformation of a tradition into searchable fragments and a place into a set of usable motifs. What the law may not always recognize as infringement, culture may still experience as erosion.

This is the gap named in the title itself: protected works, unprotected meaning. Law may ask whether a protected expression has been copied. Culture must also ask whether meaning has been thinned out, whether context has been detached from source, whether symbolic density has been reduced to usable surface, and whether the relation to tradition has become merely extractive. At that point, copyright alone no longer gives us a sufficient vocabulary.

This distinction can be specified by bringing legal and cultural-governance literatures into the same frame. Boyle (1996) shows that information law does not merely protect pre-existing objects; it also helps construct which interests become legible as property and which remain outside its categories. Nissenbaum's (2010) account of contextual integrity sharpens the point: the acceptability of an information flow depends not only on the content transferred, but also on the actors, purposes, and context-relative norms governing that transfer. The 2003 UNESCO Convention likewise treats intangible cultural heritage not simply as an object or product, but as living practices, representations, knowledge, and skills that communities recognize and continually recreate (UNESCO, 2003). *Unprotected meaning* therefore does not name a new proprietary right. It names a field of contextual and relational interests that copyright may leave only partially visible and that complementary cultural governance must address.

Walter Benjamin and the technologization of aura

Walter Benjamin remains a powerful guide here. In *The Work of Art in the Age of Mechanical Reproduction* (Benjamin, 1969), he argued that modern technologies of reproduction transform the status of the artwork itself. When a work can be endlessly reproduced and detached from its original time, place, and setting, something of its singular presence is weakened. Benjamin called this its aura: the unique here-and-now of the work, its situatedness, its authority as something encountered in singular existence rather than endlessly duplicated.

What mattered in Benjamin's argument was not only that copies multiply. It was that reproduction changes the mode of presence of the work. The artwork becomes portable, repeatable, detachable, transferable across contexts. In that shift, something happens to authenticity, authority, and the experience of encounter itself. Benjamin's question was therefore never merely technical. It was already a question of mediation, historical presence, and altered conditions of perception.

Benjamin still gives us a powerful conceptual bridge. But our question today is no longer only Benjamin's question, because AI and digital systems do more than reproduce. They recontextualize, tokenize, reconstruct, simulate authenticity, and redistribute authority. They generate derivatives that may appear new while drawing symbolic force from prior cultural forms. They can surround the copy, the token, the reconstruction, or the AI-generated derivative with a newly manufactured aura of uniqueness, novelty, scarcity, immediacy, or technological prestige.

The issue today is therefore not only the loss of aura, but also its technologization. In some cases, we have moved from the fading of aura to its digital fabrication. The problem is no longer only that uniqueness is weakened. It is also that new symbolic charge is artificially produced around the surrogate, the token, the reconstruction, or the generated image. The issue, then, is no longer only ownership of the work, but the governance of its digital afterlife.

This matters especially in relation to NFTs, 3D reconstructions, AI-generated visual derivatives, and platform-mediated circulation. In each case, the question is not simply whether something has been copied, but how authority, authenticity, and perceived value are being rearranged. What exactly is being authenticated: the original, the token, the file, the experience, the trace of the source, or merely a technologically enhanced claim to attention?

New media and blockchain scholarship helps delimit this claim. Manovich (2001) describes digital media through principles such as modularity and variability, while Franceschet et al. (2021), Whitaker (2019), and Whitaker and Burnett Abrams (2023) show how blockchain and NFTs reorganize attribution, ownership, scarcity, exchange, and democratic participation around digital art. Whitaker and Burnett Abrams's primer is useful here because it places NFTs within the intertwined histories of artists, technology, and the institutions that assign value and visibility. Recent work on algorithmic authenticity further emphasizes that what appears authentic online is produced through sociotechnical systems of iteration, selection, and circulation (Burton et al., 2023). I use *technologization of aura* not to suggest that AI literally recreates Benjaminian aura, but to describe the procedures by which platforms, interfaces, metadata, markets, and models attach scarcity, provenance claims, ranked visibility, immediacy, and prestige to reproducible outputs. The

term is thus both an interpretive extension of Benjamin and a governance claim: aura-like effects can now be engineered around a digital surrogate rather than inherited from the singular history of an original.

Béla Bartók and the ethics of the source

If Benjamin helps diagnose what reproduction and digital remediation do to the status of the work, Béla Bartók helps us ask a different question: how should we relate to the source before reproduction, recomposition, or transformation begin?

Bartók matters here not simply as a composer, nor only as a figure of Hungarian cultural memory, but as a methodological and ethical guide. His famous principle — often rendered as *only from a pure source* — should not be misunderstood as nostalgia, as a rejection of mediation, or certainly as a rejection of technology. Bartók used the recording technology of his time. The phonograph was, in a very real sense, one of the advanced media technologies of his age. What matters here is therefore not a rigid temporal sequence in which analogue activity must always precede digital activity. *Analogue first* names an ontological asymmetry: the embodied, situated, and relational source is not one input among others, but the reality that gives later representations their intelligibility. Digital mediation is secondary not because it is inferior, but because it derives its meaning from a world that it cannot exhaust. This may be described as Bartók's source ethics (Bartók, 1976): not an anti-technological doctrine, but a discipline of recognizing what every technology presupposes and cannot replace.

Source ethics should therefore be read as a normative reconstruction, not as a declaration that Bartók's historical practice was ethically unproblematic. Frigyesi (1998) situates his work within the tensions of Hungarian modernism, nationalism, and turn-of-the-century cultural formation. Ethnomusicological reflection on fieldwork also makes clear that every encounter is relational and shaped by choices about access, recording, classification, translation, and authority (Barz and Cooley, 2008). The act of collecting can preserve a source while also reframing it; the collector's ability to name and circulate that source is not identical to the source community's authority to govern its meaning. The individual creator must remain visible within this relational field. T. S. Eliot's notion of *individual talent* is useful here, not as a return to the myth of the isolated genius, but as a reminder that inherited forms become art through an artist's situated attention, judgment, and transformative act (Eliot, 1919). Bartók's example is useful precisely when it is demythologized: it offers an ontological discipline of attention, while leaving open the questions of power, reciprocity, authorship, and appropriation.

Extraction, flattening, and cultural legitimacy

This distinction is highly relevant in the age of AI, because many AI systems risk reversing not a fixed workflow but a hierarchy of attention and dependence. Extraction can precede understanding; pattern can take precedence over presence; recombination can outrun responsibility. Material becomes available first, and only later — if at all — do we ask about context, the creator's intention, the source community, or meaning. We move very quickly from access to transformation, from ingestion to output, from source to system. But the fact that something can

be processed does not yet tell us how it ought to be approached, or whose creative agency has been carried into the result.

This is where the difference between legal availability and cultural legitimacy becomes decisive. Platforms can now extract culturally dense materials — folksongs, motifs, costume forms, even traditional knowledge — and convert them into reusable pattern material. They can also obscure the individual labor through which a creator has interpreted, transformed, and re-situated inherited forms. Others may then draw on the outputs at several removes from both the source and the artist. What is preserved, at least superficially, may be the form. But what is often weakened in the process is context: the chain of transmission, the relation to place, the communal world of meaning, the discipline of interpretation, and the trace of individual judgment. The problem is therefore not only copying, but also flattening. Not only reuse, but decontextualization. Not only access, but extraction.

El Cóndor Pasa and living traditions

An older case illuminates this structure. *El Cóndor Pasa* entered global circulation for many listeners as if it were anonymous folk material simply available for reuse. Yet the history was more layered, involving composition, tradition, mediation, and misunderstanding about source. The legal dispute matters, of course, but so does the deeper lesson: source is not always exhausted by the categories through which it later circulates (Hafstein, 2018; Peru Info, 2020).

This becomes even clearer in the case of living cultural traditions. Much of what matters may lie not only in a discrete work, but in communal significance, transmission, gesture, performance context, voice, rhythm, memory, and relation. Once again, law is not irrelevant. But law alone does not exhaust the field.

In such cases, ordinary copyright categories are often too narrow. What is needed is a broader ethic of authorization and stewardship — something closer to FPIC+, or fair-share and digital-cultural sovereignty (FSDCS): not only permission in a formal sense, but meaningful accountability to source communities in how cultural material is accessed, transformed, and recirculated (United Nations, 2007; WIPO, 2023).

FPIC has a specific status in relation to the rights of Indigenous Peoples under the United Nations Declaration on the Rights of Indigenous Peoples; it should not be diluted into a generic label for every form of consultation. I use FPIC+ here as an explicitly proposed extension for AI-mediated cultural work. The plus sign indicates that one-time consent is insufficient where models, datasets, and outputs remain revisable and recirculable. It adds continuing participation, provenance, the ability to review and correct representations, limits on future uses, and the possibility of withdrawal or renegotiation when conditions change (Kukutai and Taylor, 2016; Kwaymullina and Kwaymullina, 2010; Kwaymullina, 2016; Carroll *et al.*, 2020). Kwaymullina and Kwaymullina's account is especially pertinent because it insists that law be read within an Indigenous reality rather than treated as a context-free instrument.

FSDCS is likewise a synthetic term rather than an established legal doctrine. Fair-share requires material or non-material benefits from reuse to return to those who sustain the source; digital-cultural sovereignty requires meaningful authority over representation, access, correction, and downstream circulation. These principles resonate with Indigenous data sovereignty, the CARE principles of Collective Benefit, Authority to Control, Responsibility, and Ethics, and legal arguments for taking collective

cultural interests seriously (Carpenter *et al.*, 2009; Carroll *et al.*, 2020). Operationally, the framework asks who may authorize use, what contextual information must travel with the material, who can contest an interpretation, how transformations are logged, and how benefits and risks are shared.

A contemporary test case: Ting Song

This is why debates at the intersection of art, AI, and copyright should be situated within a broader inquiry into legitimacy, responsibility, and cultural governance. The question is not only what the law permits. The question is also what kind of human-machine relation to art and cultural source material should be considered legitimate.

A contemporary example helps sharpen the point. Consider the work of Ting Song, a Chinese AI and blockchain artist whose practice moves across generative jewelry, NFT-based digital works, AI film, and reinterpretations of classical and traditional cultural material. This is genuinely interesting work. It shows that AI is not simply hostile to tradition; it can also become a medium through which inherited forms are re-entered, reimagined, and re-circulated. But it also sharpens the question. Legally, one may ask about authorship, originality, derivative use, exploitation, and the status of source material. Yet culturally another question appears immediately: does the technology deepen the relation to source, or does it mainly repackage source into novelty, circulation, and symbolic prestige? The value of the example lies precisely in the fact that it does not yield a simple answer. It shows that the real issue is not technology versus tradition, but the quality of mediation between them (NVIDIA, 2022; Li, 2022).

The case becomes more concrete in Peony Dream: Falling in Love, inspired by the sixteenth-century play *The Peony Pavilion*. Public documentation describes an AI-human collaborative work combining StyleGAN-generated peonies, cryptographic hashing, NVIDIA's Omniverse Kaolin tools, AI-generated poetry, an immersive virtual gallery, and physical glass prisms. Another documented work begins from a sketch of an Attendant Bodhisattva in the Mogao Grottoes and animates it through augmented reality. Peony Dream was also sold through China Guardian, making the work part of an institutional and market transition between traditional art worlds and blockchain circulation (NVIDIA, 2022; Li, 2022).

These details sharpen rather than settle the argument. The public record documents tools, inspiration, circulation, and auction history, but it does not establish whether relevant heritage bearers or custodial institutions participated in decisions about datasets, authorization, attribution, interpretive framing, or benefit-sharing. That absence from public documentation is not proof of misuse. It marks the analytical limit itself: visible outputs allow questions of authorship and originality to be posed, whereas the legitimacy of mediation depends on relational facts that conventional provenance records rarely show. Ting Song therefore serves here as a test case for questions that artists, platforms, and institutions should be prepared to answer, not as the object of a negative verdict.

What copyright does not fully capture

It is now possible to identify more precisely what copyright does not fully capture, but what AI makes impossible to ignore.

First, style. Style is not simply decoration. It is often the trace

of formation, tradition, discipline, and artistic identity. Yet style is difficult to protect straightforwardly as such.

Second, contextual meaning. Cultural materials do not live in isolation. Their significance depends on relation — to time, place, institution, memory, and audience. AI systems often extract at scale from contexts they do not preserve.

Third, communal significance. A cultural form may matter deeply to a community without fitting neatly into the model of individual authorship on which much copyright law depends.

Fourth, interpretive environment. This is perhaps the most overlooked category. AI does not only produce outputs. It reshapes the background conditions under which interpretation happens. It changes expectations, speed, and what feels plausible, sufficient, or complete. It may not simply copy culture; it may reorganize the very rhythm through which culture is encountered, including the space in which an individual creator forms and exercises judgment.

The anthropological question

This brings us to a deeper anthropological point. The challenge of AI in culture is not only that systems generate new images, texts, or aesthetic combinations. It is also that they risk displacing the slow inner work of interpretation. If everything arrives already smoothed, summarized, and recombined into fluent plausibility, then the human effort of attention, hesitation, judgment, and contextual understanding begins quietly to erode. Access without interpretation is not yet understanding. Convenience without resistance is not yet culture.

This is a design-contingent risk, not a universal causal claim about every use of AI. Heidegger's account of enframing identifies the danger that the world appears primarily as a standing reserve; Stiegler's analysis of technics and memory shows how technical supports can reorganize attention, temporality, and transmission (Heidegger, 1977; Stiegler, 1998). Turkle (2011) describes how mediated convenience may alter the texture of human relation, while critical algorithm studies emphasize that ranking, prediction, and data extraction shape the conditions of perception and action rather than merely delivering neutral results (Bucher, 2018; Couldry and Mejias, 2019). Applied to generative AI, the mechanism is not the mere presence of a tool, but an interface logic optimized for speed, fluent completion, and frictionless acceptance. Systems can also support reflection; the question is whether they preserve room for hesitation, contestation, correction, and independent judgment. *Displacement* therefore names a governance and design risk, not an inevitable outcome.

For that reason, the future of art and AI cannot be framed only as a question of ownership, infringement, or exploitation. It must also be framed as a question of stewardship.

Stewardship, governance, and institutions

Stewardship means that cultural material is not treated merely as raw input or monetizable output, but as something entrusted to institutions, communities, creators, and publics under conditions of responsibility. Stewardship asks not only who may use, but how one ought to receive, transform, and pass on. It is a vocabulary that law alone cannot provide fully, but which law needs to be complemented by.

In this sense, cultural governance becomes essential. If the legal framework cannot by itself bear the whole burden, then mu-

seums, archives, universities, heritage institutions, and cultural policy must become more active in defining the terms of legitimacy. Here ideas such as provenance, consent, contextual integrity, and traceability become important — not because they replace copyright, but because they help address what copyright leaves less visible (United Nations, 2007; WIPO, 2023).

This also explains why cultural institutions matter so much in the AI age. They are not merely repositories of content. They are curators of reliability. They preserve context. They maintain distinctions. They help hold together meaning against flattening. In an AI-saturated environment, this role may become more important, not less.

Operationally, stewardship entails lifecycle duties: documented provenance and context; appropriate consent or authorization; participation by creators and source communities in decisions about data and model use; traceable records of transformation; rights to review, correct, limit, or withdraw uses where appropriate; equitable benefit-sharing; and records that preserve unresolved disagreement rather than collapsing it into a single synthetic account. These measures translate contextual integrity and the CARE principles into institutional practice (Nissenbaum, 2010; Carroll et al., 2020). Museums, archives, universities, and platforms should treat them not as a final compliance check, but as responsibilities extending from acquisition and digitization through model development, interface design, publication, correction, and reuse.

Three final images

Three final images may help gather the argument into a concluding frame.

First, culture must remain a compass. Law can protect, prohibit, allocate, and recognize, but it cannot by itself tell us what kind of cultural futures we are making more likely. Culture must therefore remain a compass — helping us distinguish enrichment from diminishment, interpretation from simplification, and responsibility from drift.

The metaphor does not imply that culture speaks with one voice, nor that a ministry, museum, company, or community representative can interpret it alone. Culture functions as a compass through an accountable process of orientation. Source communities and creators must have standing to interpret their own materials; cultural institutions must convene, document, and preserve context; scholars and affected publics must be able to question claims; and technical systems must expose provenance, uncertainty, and competing readings. The operative questions are therefore: whose culture is being invoked, who is authorized to speak, who may be excluded, and how disagreement can remain visible and, where appropriate, resolved. Culture provides a compass not by supplying one fixed answer, but by structuring whose knowledge counts, what purposes guide mediation, and how decisions remain open to correction.

Second, AI should function as prosthesis, not surrogate. A good prosthesis extends human capability without displacing human purpose. In the arts and in cultural interpretation, AI may assist, expand, connect, and support. But when it begins to replace judgment, interpretation, and inward formation, it becomes not an aid but a substitute.

Third, AI should become a bridge, not a shortcut. A bridge connects lived encounter and digital mediation without collapsing the interval between them. A shortcut bypasses that interval. Bartók's source ethics helps us think this bridge not as a rigid tem-

poral sequence, but as an ontological asymmetry: the source and the embodied encounter remain prior in the order of meaning, even when digital systems mediate, extend, or transform them.

Conclusions: further research and policy directions

Further research should develop this argument in at least three directions. First, comparative studies should examine how source, individual authorship, community interests, and institutional responsibility are negotiated across different artistic practices and human-AI collaborations. Second, policy research should translate source ethics into practical instruments: provenance and source-disclosure standards, creator consent and compensation, cultural-impact assessments, correction and revocation mechanisms, and auditable records of transformation. Third, universities, museums, archives, and cultural organizations should become laboratories for governance in the making, developing artist-community-institution sandboxes, professional protocols, and educational programs that test these principles across the AI lifecycle. These institutions are therefore not only custodians of the past, but sites in which the future conditions of cultural and creative agency can be designed and contested.

The aim is neither to freeze culture before technology nor to dissolve the artist into community, but to design forms of AI mediation that recognize source, creator, and relation as co-constitutive conditions of meaningful creation. That, perhaps, is where Bartók still speaks most clearly.

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