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The Missing “A” in ELSI: Why Artificial Intelligence Requires an Aesthetic Dimension

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Abstract

Artificial intelligence has intensified ethical, legal, and social inquiry, but generative systems expose a domain-specific limit in the conventional ELSI framework. This article argues that when AI operates as a cultural producer or perceptual mediator, aesthetics constitutes an analytically distinct dimension. AI-generated art provides the critical test case: legal permissibility, ethical acceptability, social consequence, and aesthetic originality can diverge, while computational similarity does not by itself establish imitation, derivation, transformation, or plagiarism. The article develops two linked claims. First, an independence test shows that questions of form, style, creativity, interpretation, and transformation remain after principal ethical, legal, and social objections are hypothetically resolved. Second, a mediation thesis explains how aesthetic judgment translates measurable resemblance into culturally meaningful relations before or alongside ethical and legal evaluation. On this basis, the article proposes ELSA—Ethical, Legal, Social, and Aesthetic analysis—not as an enlarged checklist but as a relational, domain-sensitive framework. The framework is especially relevant where AI generates cultural artifacts or organizes perceptual visibility. It preserves disciplinary distinctions while clarifying their interaction and offers a more adequate basis for research and governance of culturally operative AI.

Keywords: artificial intelligence; ELSI; ELSA; aesthetics; generative AI; AI-generated art; aesthetic judgment; creativity; originality; plagiarism; copyright; perceptual mediation.

1. Introduction: From ELSI to ELSA

Artificial intelligence has become one of the most consequential technological developments of the twenty-first century, not only because of its capacity to automate computational tasks but also because of its expanding role in cognition, communication, representation, and cultural production. Contemporary AI systems classify information, predict behavior, recommend cultural

products, generate linguistic and visual representations, compose music, and synthesize moving images. Their significance therefore cannot be assessed solely in terms of computational efficiency or predictive accuracy. As AI becomes embedded in social and cultural practices, it increasingly affects the conditions under which human judgment, communication, and cultural experience

are organized. These developments have generated extensive scholarship concerning the ethical, legal, and social consequences of AI, including algorithmic discrimination, privacy, transparency, accountability, intellectual property, labor displacement, misinformation, and democratic governance. Many of these concerns can be situated within ELSI: Ethical, Legal, and Social Implications.[1] Although ELSI was not originally conceived as a comprehensive theory of technological governance, it established an important methodological principle: technological innovation should be evaluated not only according to how effectively it functions but also according to the normative and societal consequences accompanying its development and use.

Questions concerning whether an image is original or derivative, whether its relationship to previous works constitutes influence, imitation, appropriation, or transformation, whether stylistic dependence diminishes artistic significance, and whether human selection among machine-generated alternatives constitutes a meaningful creative act require another conceptual vocabulary. Similarly, whether computational novelty amounts to artistic originality cannot be determined simply from an artifact's legal status, the ethics of its production, or its measurable social consequences.[6] These questions concern how perceptible forms are interpreted, compared, and valued and are therefore properly aesthetic. The distinction matters because the four evaluative domains need not produce identical judgments. An AI-generated image may be legally non-infringing yet aesthetically derivative because its formal or stylistic organization remains strongly dependent upon recognizable precedents. Conversely, an artifact may be aesthetically transformative while remaining ethically controversial because of the manner in which training materials were acquired or used. Legal permissibility, ethical acceptability, social consequence, and aesthetic significance are therefore interacting but analytically distinct dimensions. Aesthetics, as employed here, does not refer narrowly to beauty or subjective taste. It concerns the analysis of perceptual form, artistic experience, interpretation, representation, creativity, originality, style, and aesthetic value. Research on computational creativity has already demonstrated the difficulty of determining whether computational novelty constitutes creativity or whether an artificial system can properly be regarded as an artistic creator.[7] More recent philosophical research similarly asks whether AI can satisfy conditions traditionally associated with artistic creativity, including originality, value, and creative agency.[8] Such problems cannot be resolved exclusively within ethical, legal, or sociological vocabularies.

The central thesis of this article is therefore deliberately limited. Traditional ELSI remains a coherent and indispensable framework, but it encounters a domain-specific explanatory limit when AI functions as a producer or mediator of perceptual and culturally meaningful forms. Under these conditions, aesthetics constitutes a distinct analytical dimension that cannot be fully reduced to ethical, legal, or social categories. This argument does not imply that every application of AI requires aesthetic analysis. Rather, such analysis becomes necessary when AI directly implicates perceptual form, cultural production, creativity, representation, style, interpretation, or aesthetic judgment. On this basis, the article proposes ELSA: Ethical, Legal, Social, and Aesthetic analysis as an expanded framework for generative and culturally operative AI. The addition of aesthetics is not merely terminological. Its justification lies in the capacity of aesthetic analysis to identify relations and evaluative distinctions inadequately captured by

ELSI's existing dimensions. More specifically, aesthetics may perform a mediating function between computational description and normative evaluation, translating measurable relations such as statistical similarity or pattern recurrence into culturally meaningful categories such as imitation, stylistic dependence, transformation, originality, and creative significance. The question guiding the analysis is consequently not simply whether aesthetics is relevant to artificial intelligence, but what aesthetic analysis makes intelligible about generative and culturally operative AI that ethical, legal, and social analysis cannot adequately explain by themselves. Answering this question provides the theoretical basis for determining when and why ELSI should be expanded into ELSA.

2. The Explanatory Boundary of ELSI

This structural feature of ELSI is particularly important for the argument developed in this article. Once ELSI is understood as a framework whose analytical value depends upon maintaining distinctions among non-identical modes of evaluation, the possibility of an additional dimension cannot be rejected merely because its subject matter intersects with ethics, law, or society. The relevant question is instead whether the proposed dimension identifies properties and judgments that cannot be adequately represented by the existing categories. If ethical judgment cannot simply be reduced to legal judgment, and social analysis cannot be treated as an extension of either ethics or law, there is likewise no a priori reason to assume that aesthetic judgment is conceptually exhausted by E, L, or S. Whether aesthetics warrants a distinct analytical position must therefore be determined functionally: by asking whether it explains something about technologically produced cultural objects that the existing ELSI dimensions leave insufficiently specified. This criterion also prevents the indiscriminate expansion of ELSI. The argument is not that every relevant consequence of technology deserves an additional letter. A new analytical dimension is justified only where it possesses a sufficiently distinctive object, conceptual vocabulary, and mode of evaluation. The case for aesthetics must accordingly demonstrate that concepts such as originality, imitation, style, transformation, representation, aesthetic value, and artistic creativity are not merely alternative descriptions of ethical, legal, or social problems but perform explanatory work that those categories cannot perform independently. The proposed expansion from ELSI to ELSA therefore begins from the internal logic of ELSI itself: a multidimensional framework should remain open to an additional dimension when a technological transformation produces a class of phenomena that its established categories cannot adequately differentiate.

Generative AI changes the structure of the problem. Its characteristic output may itself be an artifact: an image, poem, musical composition, design, film sequence, synthetic performance, or other perceptible form. Such an artifact can certainly generate conventional ELSI questions. Its production may involve contested training data, copyright interests, labor displacement, discriminatory representation, unequal access, or concentrated platform power. Yet the artifact also possesses properties that become significant through perception, interpretation, comparison, and evaluation. It may resemble previous works without reproducing legally protected expression; it may imitate a recognizable style while introducing novel formal relations; it may be technically unprecedented yet aesthetically conventional; or it may transform existing visual or musical

conventions in ways that cannot be described adequately through the language of risk, rights, or social consequences alone. This difference is theoretically significant because an artifact is not exhausted by the causal conditions of its production or the consequences of its circulation. It is also encountered as an object capable of interpretation and judgment. The question of what an artifact does socially is therefore distinguishable from the question of what the artifact is aesthetically, even though the two may interact. Similarly, determining whether an output is legally permissible does not determine whether it is original, derivative, imitative, transformative, aesthetically significant, or artistically trivial. These latter judgments depend upon relations among form, style, precedent, perception, interpretation, and cultural convention.

3. Why the “A” Is Irreducible

3.1 Aesthetics Beyond Beauty and Taste

A major conceptual obstacle to recognizing an aesthetic dimension in the analysis of artificial intelligence is the persistent tendency to equate aesthetics with beauty, taste, or subjective preference. Under this restricted understanding, aesthetics can appear secondary to the more immediately consequential concerns addressed by ethics, law, and social analysis. If aesthetic inquiry were concerned only with whether an AI-generated image is beautiful, pleasing, or attractive, there would be little reason to regard it as an independent dimension of technological analysis. Such judgments might reasonably be treated as matters of individual preference or cultural reception rather than as components of a systematic analytical framework. This restricted conception, however, does not adequately represent aesthetics as it has developed within philosophy and art theory. From its historical concern with aisthesis, or sensory perception, aesthetic inquiry has expanded to encompass the character of perceptual experience, representation, judgment, artistic form, expression, interpretation, creativity, imagination, style, and aesthetic value. Modern aesthetics therefore investigates not only whether an object is beautiful but also how perceptible forms acquire significance, how artifacts are interpreted and evaluated, what distinguishes artistic from non-artistic production, and under what conditions originality, expression, or creativity may properly be attributed to an artifact or its producer.[12] Aesthetic analysis, in this broader sense, constitutes a mode of inquiry into the relations among perception, form, interpretation, cultural convention, and evaluative judgment.

This broader conception becomes especially important in relation to generative AI because the relevant outputs are not simply technical results. An image-generation system produces a computational output, but once that output enters a cultural environment it can be encountered as a representation, compared with previous images, interpreted in relation to artistic conventions, attributed to a style, evaluated for originality or derivativeness, and potentially treated as an artwork. The transition from computational output to culturally interpreted artifact therefore introduces categories that cannot be derived directly from the technical properties of the generating system. Statistical novelty, for example, does not by itself establish aesthetic originality, just as measurable similarity does not by itself determine whether an artifact should be interpreted as influence, imitation, quotation, appropriation, or transformation. Recent scholarship has begun to identify precisely this interpretive dimension. Hullman, Holtzman,

and Gelman argue that encounters with generative-AI outputs are mediated by forms of aesthetic judgment developed historically through practices of interpretation and criticism.[13] Their analysis is significant because it challenges the assumption that generated media can be adequately understood as neutral outputs whose properties are exhausted by computational description. Human reception introduces interpretive categories through which artifacts are situated in relation to conventions, expectations, precedents, and other works. What a generative model statistically produces and what a human observer aesthetically encounters are therefore related but non-identical objects of analysis.

3.2 The Independence Test

The irreducibility of the aesthetic dimension can be examined more systematically through what this article calls the independence test. The purpose of this test is not to demonstrate that aesthetic considerations are more important than ethical, legal, or social considerations. Rather, it asks whether a meaningful class of evaluative questions remains after the principal ELSI concerns have, hypothetically, been resolved. If such questions remain and require concepts not supplied by E, L, or S, aesthetics possesses an independent analytical object. Consider, therefore, an AI-generated image produced under conditions designed to eliminate the principal objections ordinarily examined within ELSI. Assume that its production violates no copyright or other identifiable legal right, involves no privacy violation, reproduces no discriminatory representation, creates no demonstrable material harm, complies with applicable transparency and accountability requirements, and occurs under socially acceptable labor conditions. Assume further that relevant training practices satisfy the ethical and regulatory standards applicable to the system. The hypothetical case is intentionally demanding: it removes, as far as analytically possible, the most obvious ethical, legal, and social objections to the artifact and its production. The elimination of these objections does not, however, complete the analysis. It remains meaningful to ask whether the image is original or derivative; whether it merely reproduces an established visual formula or transforms its sources; whether its formal organization is coherent; whether recognizable stylistic dependence should be interpreted as influence, imitation, appropriation, or transformation; and whether the resulting artifact possesses aesthetic significance beyond the technical novelty of its generation. These questions remain intelligible even when no ethical wrongdoing, legal violation, or demonstrable social harm has been identified.

The distinction between legal originality and aesthetic originality provides a particularly revealing example. Copyright law necessarily constructs originality according to institutional purposes and doctrinal thresholds. Whether an artifact satisfies those thresholds does not determine whether critics or viewers will regard it as aesthetically original. Conversely, an artifact may achieve substantial aesthetic transformation while raising unresolved legal questions concerning the material or works from which it was generated. The difference is not simply terminological. The two judgments respond to different purposes, criteria, and objects of evaluation. Treating aesthetic originality as equivalent to copyright originality would therefore collapse a critical and interpretive judgment into a juridical classification. The independence test can consequently be stated in more general terms. If (1) the principal ethical, legal, and social objections to a generative-AI artifact can hypothetically be satisfied, (2) meaningful questions concerning its form, originality, style,

interpretation, creativity, and transformation nevertheless remain, and (3) answering those questions requires concepts that cannot be translated without explanatory loss into ethical, legal, or social predicates, then aesthetic analysis possesses an analytically independent function. This does not establish the independence of aesthetics in an absolute metaphysical sense. It establishes the more modest proposition required by the present framework: aesthetics is sufficiently non-reducible to warrant explicit representation within the multidimensional analysis of culturally operative AI.

3.3 The Irreducibility Thesis

The result may therefore be formulated as the central irreducibility thesis of this article: aesthetic predicates such as original, derivative, expressive, stylistically dependent, formally coherent, and transformative cannot be translated without remainder into predicates such as lawful, fair, harmful, accountable, or socially beneficial. The distinction does not deny interaction among the four domains; it explains why their interaction requires that they first remain analytically distinguishable. The conceptual remainder revealed by the independence test is, in this precise sense, the missing “A” in ELSI.

Table 1. Analytical Independence of ELSA Dimensions

Dimension	Characteristic question	Illustrative predicates
Ethical	Is the practice normatively acceptable?	fair, harmful, responsible, exploitative
Legal	What rights, duties, permissions, or liabilities apply?	lawful, infringing, protected, liable
Social	How are institutions, practices, power, and participation affected?	inclusive, disruptive, concentrating, beneficial
Aesthetic	How is the artifact perceptually and culturally interpreted and valued?	original, derivative, expressive, transformative

(The table summarizes analytical functions rather than isolated ontological domains. ELSA requires differentiation at the level of judgment and integration at the level of explanation.)

4. AI-Generated Art as the Critical Test

4.1 Distributed Creative Agency

AI-generated art provides a particularly revealing test case for the proposed expansion from ELSI to ELSA because generative systems destabilize the conventional relationship among creator, creative process, and artifact. In traditional accounts of artistic production, these elements are ordinarily connected through an identifiable human agent who conceives, executes, revises, and ultimately assumes responsibility for a work. Generative AI complicates this structure. A human user may formulate an intention and provide textual or visual instructions, while a computational model determines numerous features of the resulting image that the user neither specifies individually nor directly executes. The user may subsequently select, reject, regenerate, modify, combine, or curate the outputs. Creative production thus

becomes distributed across a sequence of heterogeneous operations rather than concentrated in a single act of human fabrication. This redistribution of creative functions makes a simple opposition between human and machine creativity analytically inadequate. Hertzmann's account of computer-generated art provides an important starting point. He argues that computer-generated artworks have historically remained embedded within human creative practices and that computers have functioned primarily as artistic tools rather than as socially recognized authors. His argument rests not merely on the technical capacities of computers but on a conception of artistic creation as a social activity in which authorship is attributed to agents participating in human cultural practices.[18] On this view, increasing computational autonomy in producing formal features does not automatically transform the computer into an artist. Technical generation and artistic authorship remain conceptually distinct.

The evidence instead suggests that generative AI reconfigures the distribution of creative labor. Human and computational contributions occur at different stages and perform different functions. A human agent may formulate an initial intention, conceptualize a subject or problem, specify or iteratively refine prompts, introduce reference materials, evaluate generated alternatives, reject unsuitable results, select among outputs, modify selected images, and situate the final artifact within a cultural or artistic context. The generative system, meanwhile, performs computational operations through which formal and representational possibilities are produced from learned statistical relations. Public interpretation then constitutes a further stage at which the artifact is attributed meaning, value, originality, and potentially artistic status. This distributed account also clarifies why the legal determination of authorship cannot by itself resolve the aesthetic question of creative agency. Copyright law must determine whether a legally cognizable human contribution exists and which expressive elements, if any, qualify for protection. Aesthetic analysis asks a different question: which interventions are significant to the artifact as an artistic and perceptual form, and why? A human act may be insufficient to satisfy a particular legal standard of authorship yet remain aesthetically consequential to the process by which an artifact is conceived, selected, or contextualized. Conversely, an intervention sufficient to establish copyrightability—for example, a protectable arrangement of generated elements—does not necessarily establish substantial artistic originality or aesthetic value. The distinction between legal and aesthetic analysis becomes still clearer when AI-generated art is examined through contemporary copyright doctrine. Copyright law necessarily addresses questions of originality and authorship, but it does so for a specific institutional purpose: determining whether, and to what extent, an artifact qualifies for legal protection. The legal concept of originality should therefore not be assumed to exhaust the broader aesthetic meaning of originality.

4.2 Legal and Aesthetic Originality

The U.S. Copyright Office's 2025 report, Copyright and Artificial Intelligence, Part 2: Copyrightability, illustrates this distinction. The Office reaffirmed the requirement of human authorship and concluded that generative-AI outputs may receive copyright protection where a human author has determined sufficient expressive elements. Protectable human contribution may arise, for example, where human-authored expression remains perceptible in an AI output or where a person creatively selects, coordinates, arranges, or modifies AI-generated material. By contrast, the

Office concluded that, given the operation of currently available generative systems, the mere provision of prompts does not ordinarily provide sufficient human control over the expressive elements of the resulting output to constitute authorship of those elements.[20] This position answers an important but institutionally delimited question: under what conditions does human participation in AI-assisted production generate copyrightable authorship? It does not determine whether the resulting artifact is aesthetically original, derivative, imitative, transformative, expressive, or artistically significant. Copyright doctrine and aesthetic judgment may employ overlapping terminology—most obviously “originality”—while assigning that terminology different functions and thresholds. Legal originality operates as a criterion of protectability within an institutional system of rights. Aesthetic originality operates as an interpretive and evaluative judgment concerning an artifact's relation to precedent, convention, style, and creative transformation.

The same divergence appears within copyrightability itself. A human creator may arrange, modify, or combine AI-generated elements in a manner sufficient to produce protectable human-authored expression. Yet satisfaction of this legal threshold does not establish that the arrangement is aesthetically innovative, significant, or even particularly distinctive. Copyrightability is not a legal certification of artistic merit. Conversely, an AI-assisted artifact may be regarded by viewers or critics as highly innovative because of its formal organization, conceptual structure, or transformation of established visual conventions while remaining difficult to protect if the relevant expressive features cannot be attributed to legally sufficient human authorship. The two forms of originality consequently answer different questions. For analytical purposes, copyright and aesthetics can therefore be understood as operating along independent but intersecting axes. The legal axis concerns such classifications as infringing or non-infringing, copyrightable or uncopyrightable, and human-authored or insufficiently human-authored. The aesthetic axis concerns relations such as imitation, derivation, stylistic dependence, transformation, and originality. These axes may correlate in particular cases, but there is no necessary correspondence between positions on them. A movement toward legal permissibility does not necessarily constitute movement toward aesthetic originality, just as increased aesthetic transformation does not necessarily eliminate legal controversy.

4.3 From Similarity to Plagiarism: The Mediation Thesis

This point is methodologically significant because similarity is often treated as though it already constituted an evaluative conclusion. In computational analysis, similarity ordinarily refers to a measurable relation between representational features. Depending upon the method employed, two images may be judged similar because they share visual embeddings, compositional patterns, object configurations, color distributions, or other detectable features. Such measurements can provide important evidence, particularly where large numbers of images must be compared. Yet the resulting similarity score does not determine whether the relationship should be understood aesthetically as influence, quotation, imitation, stylistic dependence, appropriation, derivation, or transformation. These categories are interpretive rather than purely metric. The converse problem is equally important. Two artifacts may exhibit comparatively low pixel-level or object-level similarity while nevertheless displaying a strong relationship at the level of style, compositional logic, visual

rhetoric, or artistic strategy. A generated image may reproduce no individual figure or arrangement from an existing artwork and still appear deeply dependent upon an identifiable artist's formal vocabulary. Conversely, two images may display substantial visual resemblance because they belong to the same genre, depict the same conventional subject matter, or employ widely shared stylistic devices without one plausibly being regarded as a derivative appropriation of the other. Technical resemblance and aesthetic dependence therefore cannot be treated as interchangeable variables.

The difference arises because aesthetic judgment situates similarity within context. A perceptual resemblance acquires significance only when considered in relation to such factors as artistic convention, historical precedent, genre, technique, stylistic distinctiveness, intentional transformation, and the distribution of similar features across a wider body of works. The same formal feature may be highly significant when it functions as the recognizable signature of a particular artistic practice but comparatively insignificant when it belongs to a common visual convention. Aesthetic analysis consequently asks not merely whether two artifacts resemble one another, but what kind of relation the resemblance constitutes within a relevant artistic field. This distinction is particularly important for plagiarism analysis. Plagiarism is not ordinarily established by similarity alone. A plausible judgment of plagiarism requires some account of dependence, appropriation, insufficient transformation, or misrepresentation of creative contribution. Similarity is therefore evidentiary rather than dispositive. It may provide the empirical basis for further inquiry, but the transition from resemblance to plagiarism requires interpretation of the relation between the artifacts and of the significance of the borrowed or reproduced features. The analytical process can thus be reconstructed more precisely as a sequence of progressively interpretive operations. At the first level, computational resemblance identifies measurable correspondences between artifacts. At the second, perceptual similarity concerns the features that become salient to human observers. At the third, these similarities are situated within a stylistic, formal, or historical relationship. Aesthetic analysis then asks whether that relationship is better understood as influence, dependence, imitation, appropriation, or transformation. Only after this interpretive work has been undertaken can ethical and legal analysis more adequately assess whether the relevant dependence is unfair, deceptive, exploitative, infringing, or otherwise normatively objectionable.

The mediation thesis therefore requires a distinction between evidence, interpretation, and classification. Computational similarity measures primarily generate evidence. Aesthetic analysis interprets the culturally meaningful relation expressed by that evidence. Ethical, legal, and social analysis then classify the implications of that relation according to their respective normative and institutional criteria. These stages are analytically distinguishable even when, in practice, they influence one another recursively. This recursive model avoids two opposite forms of reductionism. The first is technical reductionism, in which measurable similarity is treated as sufficient evidence of imitation, plagiarism, or derivation. The second is normative reductionism, in which legal or ethical classifications are imposed without adequately interpreting the artistic relationship from which those classifications arise. ELSA resists both by inserting aesthetic analysis as a distinct interpretive layer between technological evidence and normative judgment. The result is a more precise

account of what the proposed “A” contributes to ELSA. Aesthetics is not merely one more field in which AI produces consequences. It can function as the interpretive interface through which technically described relations become normatively intelligible. This is especially apparent in plagiarism disputes, where similarity must be interpreted before it can plausibly support claims of unfair appropriation or legal infringement.

5. ELSA: A Relational and Domain-Sensitive Framework

5.1 Autonomy within Interdependence

The analytical structure of ELSA can consequently be described as one of autonomy within interdependence. Each dimension possesses a characteristic vocabulary and evaluative function, but none operates in complete isolation from the others. Ethical inquiry evaluates conduct through concepts such as fairness, responsibility, autonomy, exploitation, and harm. Legal inquiry determines rights, duties, permissions, prohibitions, liability, and legally recognized forms of authorship and infringement. Social inquiry examines institutional transformation, professional practices, inequality, collective behavior, and distributions of power. Aesthetic inquiry addresses the perceptual and interpretive properties through which artifacts are understood as original, derivative, expressive, imitative, transformative, or otherwise aesthetically significant. The concepts employed in these domains may influence one another, but they are not thereby rendered interchangeable. This relational structure is particularly appropriate to generative AI because the technological object itself occupies several domains simultaneously. A generative model is a computational system, but it may also function as a commercial service, a means of cultural production, an instrument affecting artistic labor, a source of intellectual-property disputes, and a mechanism through which perceptible forms are generated and circulated. Its outputs likewise possess multiple forms of significance. An image may have a particular technical provenance, legal status, ethical history of production, social effect, and aesthetic character. A framework that examines only one of these aspects cannot provide a sufficiently comprehensive explanation, while a framework that fails to distinguish them risks attributing the conclusion of one mode of evaluation to another.

5.2 Objections and Scope Conditions

More importantly, interpretive contestability is not unique to aesthetics. Existing ELSI categories already rely upon concepts whose meaning and operationalization are disputed. The contemporary literature on algorithmic fairness, for example, contains numerous competing definitions that formalize different normative assumptions and may generate incompatible evaluations of the same system.[24] The problem is not that fairness is analytically useless because more than one conception exists. Rather, responsible analysis requires the researcher to specify which conception is being employed, why it is appropriate to the case, and what assumptions follow from its selection. Historical and cultural context must likewise be specified. The aesthetic significance of repetition or appropriation cannot be evaluated independently of the artistic practices within which those operations occur. Repetition may indicate unimaginative dependence in one context while functioning as deliberate quotation, parody, conceptual strategy, or critical appropriation in another. As Danto's well-known analysis of perceptually

indistinguishable objects demonstrates, perceptual identity or resemblance need not entail identity of artistic meaning.[25] Aesthetic judgment therefore requires contextual interpretation rather than the mere detection of visual difference. The methodological requirements can therefore be incorporated into discursive analysis through six interrelated considerations. The researcher must define the aesthetic object or relation being evaluated; establish an appropriate comparison set; identify the formal, stylistic, representational, or interpretive criteria relevant to the judgment; situate those criteria historically and culturally; clarify whose evaluations are being relied upon and why; and state the degree of confidence or uncertainty attached to the resulting conclusion. These requirements transform aesthetic analysis from an unstructured assertion of taste into an explicit process of reasoned interpretation.

The boundary of ELSA should therefore be drawn functionally rather than technologically. The relevant question is not whether a system belongs to a particular technical category called “generative AI,” but whether its operation materially engages the kinds of phenomena for which aesthetic analysis performs independent explanatory work. A generative system used exclusively to produce non-perceptual intermediate data might require little aesthetic analysis, whereas a recommendation system that generates nothing itself may nevertheless warrant such analysis if it substantially structures cultural visibility and perceptual exposure. The decisive factor is the function performed in relation to cultural and perceptual experience, not the technical label assigned to the system. The relevant issue is therefore not whether other fields can contribute valuable information but whether the particular expansion under consideration responds to a systematic limitation revealed by the technological domain being analyzed. In generative and culturally operative AI, aesthetics satisfies that requirement because perceptual form and cultural interpretation are not merely external effects. They are among the objects that the technology produces and organizes. The addition of A thus corresponds to a transformation in the technological object itself. The objection “Why stop at A?” therefore cannot be answered by claiming that aesthetics possesses some universal priority over economics, politics, psychology, or ecology. It does not. The justification is more modest and more defensible: for AI systems whose operation is materially constituted by the generation, transformation, selection, or mediation of perceptible cultural forms, aesthetic analysis identifies a recurrent class of phenomena that cannot be adequately reconstructed through E, L, and S alone. In other technological domains, different supplementary forms of inquiry may be required.

6. AI as Perceptual Mediator and the Governance Implication

6.1 From Production to Perceptual Mediation

The argument for an aesthetic dimension in the analysis of artificial intelligence extends beyond the relatively narrow domain of AI-generated artworks. Generative systems provide a particularly clear test case because their outputs are directly encountered as images, texts, music, video, and other perceptible forms. Yet the broader significance of artificial intelligence lies not only in its capacity to produce cultural artifacts. AI increasingly participates in determining which objects, representations, and informational forms become perceptually available to human users in the first place. In this respect, its role is not exhausted by production. It also

encompasses selection, ordering, filtration, prioritization, and mediation. Recommendation systems illustrate this broader function. They do not merely retrieve cultural materials that users have independently chosen to encounter. By ranking films, music, images, news, books, or other materials according to algorithmically inferred relevance, they influence which cultural objects acquire visibility and which remain comparatively obscure. Search systems perform a related function by ordering information and thereby structuring the practical field from which users form judgments. Personalization systems further differentiate this perceptual environment by determining which representations, advertisements, cultural materials, or recommendations are presented to particular individuals. Generative systems add another layer by constructing representations rather than merely ranking those that already exist.

This distinction marks an important development in the historical role attributed to artificial intelligence. Earlier conceptions of AI emphasized computational calculation and problem solving. Subsequent applications increasingly involved decision support, classification, prediction, and automated decision-making. Contemporary generative and recommender systems extend this trajectory further by participating in cultural production and in the organization of perceptual experience. The transition should not be understood as a sequence in which each later function replaces the earlier ones. Contemporary AI systems frequently combine them. A single platform may simultaneously classify content, predict user preferences, recommend materials, generate representations, and modify future recommendations in response to behavioral feedback. What has changed is therefore not simply the technical function of AI, but the range of human activities and experiences within which computational systems participate. The distinction can be clarified by separating decision mediation from perceptual mediation. Decision mediation occurs when AI supplies information, predictions, rankings, or recommendations that directly influence a subsequent judgment or action. Perceptual mediation occurs at an earlier and more constitutive level: AI affects what appears within the user's field of attention and the form in which it appears. The former concerns the technological influence upon a choice among alternatives; the latter concerns the prior organization of the alternatives, representations, and signals through which choice itself becomes possible.

The implications are significant. If AI increasingly participates in determining which representations are produced, which are selected for visibility, which recur, and which become familiar, then the technology contributes indirectly to the formation of the standards through which subsequent representations are evaluated. Aesthetic judgment cannot therefore be treated solely as an external human response applied after technological production has concluded. In algorithmically mediated environments, judgment and technological selection may develop recursively. Users evaluate what they are shown, platforms learn from those evaluations, and subsequent systems reorganize future visibility according to accumulated patterns of response. The transition from AI as calculator or decision-support mechanism to AI as cultural producer and perceptual mediator should therefore be understood as an expansion in the object of technological governance. Earlier concerns centered largely on what systems calculate, predict, recommend, or decide. Contemporary generative and algorithmic systems increasingly require attention to what they make perceptible, how they arrange representation, and how they distribute visibility. The normative problem consequently shifts

from the governance of decisions alone toward the governance of the environments within which perception and judgment occur.

This distinction suggests that governance frameworks based primarily on identifiable harms may sometimes miss the significance of gradual perceptual effects. No single recommendation, synthetic image, or ranking decision may produce a measurable injury. Yet repeated exposure and systematic selection can alter patterns of visibility and representation over time. The relevant unit of analysis may therefore need to shift from isolated outputs toward systems, distributions, and cumulative perceptual environments. The concept of conditions of perception is therefore preferable to any stronger idea of regulating perception itself. It directs attention toward infrastructures, interfaces, recommender systems, generative architectures, labeling practices, provenance mechanisms, and patterns of algorithmic amplification. These are institutional and technological objects susceptible to governance without requiring the state to prescribe aesthetic or perceptual outcomes. This does not amount to abandoning the governance of conduct. Instead, it reveals that conduct and perception are analytically connected. Decisions occur within environments of salience; responsibility is exercised in relation to available representations; autonomy depends partly upon meaningful informational and perceptual alternatives; and democratic judgment presupposes some degree of trust in the representational environment. To govern AI responsibly may therefore require examining not only decisions and outcomes but the conditions under which those decisions and outcomes become imaginable and interpretable. Aesthetics within ELSA should thus not be understood narrowly as the study of AI-generated art. AI art remains an especially revealing test case because it makes questions of creativity, originality, style, and transformation unusually explicit. The broader theoretical object, however, is AI's expanding participation in the production, selection, organization, and mediation of the sensible and representational world.

6.2 From Decision Governance to Conditions of Perception

The extension of ELSI into ELSA has implications not only for theoretical analysis but also for governance. Aesthetic governance, however, is not governance of taste: public authorities and platforms should not determine which artworks are beautiful, original, important, or artistically successful. Such intervention would threaten artistic freedom and cultural pluralism. The relevant object of governance is instead the technological conditions under which cultural forms are produced, circulated, encountered, and evaluated. Generative and algorithmic systems can alter originality, stylistic diversity, perceptual variety, cultural visibility, and the distribution of creative agency even where no conventional material harm is readily measurable.

A first implication concerns stylistic reproduction at scale. Influence, imitation, quotation, apprenticeship, and transformation have always belonged to cultural production; generative AI changes their scale, speed, accessibility, and automation. An artist may be unable to identify a particular copyrighted work that has been reproduced, while large volumes of outputs nevertheless remain recognizably dependent upon that artist's visual vocabulary. The resulting effects on attribution, professional identity, market differentiation, or cultural distinctiveness are partly economic and social, but determining what has been reproduced and why the relation matters requires aesthetic analysis. A second implication concerns synthetic abundance and creative agency. Generative

systems reduce the time and technical effort needed to produce culturally legible artifacts and may democratize creative participation. At the same time, human contribution may shift from manual execution toward ideation, prompting, iterative direction, selection, modification, arrangement, and curation. ELSA therefore asks which interventions are aesthetically significant without assuming that legal authorship and aesthetic creativity are identical.

A third implication concerns algorithmic visibility and aesthetic diversity. Recommendation, ranking, search, and interface systems influence which cultural materials users actually encounter. Availability is therefore not equivalent to visibility: a platform may contain extensive cultural diversity while directing attention toward a comparatively narrow range of forms. Governance concerned with cultural plurality should accordingly examine not only what content exists but how technological systems distribute attention among alternatives. Generative models raise a related question of representational diversity. Because they learn statistical patterns from existing cultural materials, they may reproduce dominant visual and narrative conventions. Conventional ELSI properly examines stereotyping, discrimination, and representational harm; ELSA adds the question of whether generative systems systematically narrow the formal possibilities through which persons, places, events, and concepts are represented.

These concerns do not justify prescribing correct representations or mandatory stylistic diversity. A more defensible approach focuses on procedural and infrastructural conditions: transparency concerning generative and recommendation systems, meaningful opportunities for users to vary outputs and recommendation criteria, independent research access, and methods for detecting systematic cultural homogenization without dictating the content of individual works. Zhou and Lee's large-scale study is instructive in this respect: adoption of text-to-image AI increased creative productivity and favorable audience response, but novelty effects were mixed, with peak content novelty increasing while average content novelty and visual novelty declined.[28] Increased production, popularity, and aesthetic diversity therefore should not be treated as equivalent outcomes.

ELSA may consequently inform impact assessment of culturally operative AI. Assessment may additionally ask whether a system produces persistent stylistic convergence, alters the visibility of aesthetically diverse material, redistributes creative agency, or narrows representational possibilities. Yet these inquiries require safeguards against governmental and corporate paternalism. Originality should not become a regulatory requirement, nor should conventional or popular forms be disadvantaged merely because they are repetitive. The aim is plurality of aesthetic possibility, not enforcement of aesthetic excellence. ELSA remains first an analytical framework: whether an identified aesthetic consequence warrants legal intervention is a separate question requiring proportionality, institutional competence, expressive freedom, empirical evidence, and attention to unintended consequences. Its governance contribution is therefore to expand what counts as a relevant question. Responsible governance of culturally operative AI must consider not only what systems permit, prohibit, distribute, or harm, but also what they make visible, repeatable, imaginable, and culturally salient.

7. A Focused ELSA Research Agenda

A focused ELSA research agenda should test the framework across two initial domains. Philosophical inquiry should clarify creativity, originality, style, transformation, authorship, and aesthetic value, including when computational novelty becomes aesthetically meaningful and how prompting, selection, modification, and curation contribute to creative agency. Empirical aesthetic analysis should combine computational similarity measures with historically and culturally informed interpretation to distinguish resemblance from stylistic dependence, imitation, appropriation, or transformation. This approach can operationalize the mediation thesis while preserving the difference between measurable evidence and aesthetic classification.[30][31]

Further research should connect law, ethics, governance, and cultural mediation. Studies of AI-generated plagiarism and copyright should distinguish legal from aesthetic originality and examine how aesthetic interpretation informs, without determining, judgments of infringement, attribution, exploitation, and fairness.[32][33][34] Recommender and generative systems should also be studied for effects on visibility, stylistic convergence, representational diversity, and creative opportunity.[35] The program should combine computational evidence, critical interpretation, empirical research, and legal analysis while keeping their standards explicit.

8. Conclusion: The Missing “A”

ELSI remains an indispensable framework for the analysis of emerging technologies. Its historical achievement was to establish that scientific and technological innovation should be examined not only in terms of technical performance but also through ethical, legal, and social inquiry. That methodological commitment continues to provide a productive basis for the governance of artificial intelligence, particularly in relation to questions of fairness, accountability, privacy, discrimination, regulation, labor, and institutional transformation. Generative artificial intelligence, however, changes the object of technological analysis in an important respect. AI no longer functions only as a system for calculation, prediction, classification, recommendation, or automated decision-making. It increasingly writes, depicts, composes, imitates, transforms, selects, and generates. At the same time, algorithmic systems participate in determining which representations become visible, which cultural forms acquire prominence, and which perceptual possibilities are presented to particular users. Artificial intelligence therefore increasingly intervenes not only in human conduct but also in the conditions under which human beings perceive, interpret, create, and evaluate cultural forms. Under these conditions, ethical, legal, and social analysis remains necessary but does not exhaust the relevant questions. An AI-generated artifact may be legally permissible while remaining aesthetically derivative; an aesthetically innovative artifact may be produced under ethically troubling conditions; and a socially beneficial application may nevertheless leave unresolved questions concerning artistic authorship, originality, or the distribution of creative agency. Likewise, computational similarity does not by itself establish imitation or plagiarism, while significant aesthetic dependence may be recognizable even where conventional technical metrics reveal no straightforward copying. Such divergences demonstrate that aesthetic predicates cannot be translated without remainder into ethical, legal, or social predicates.

The proposed transition from ELSI to ELSA—Ethical, Legal, Social, and Aesthetic analysis—should therefore not be understood as a simple expansion of an acronym. Its theoretical justification lies in the recognition that, when AI operates as a cultural producer or perceptual mediator, aesthetic judgment performs an analytically distinct function. Concepts such as style, originality, imitation, transformation, representation, and aesthetic significance identify relations that are not adequately captured by judgments concerning legality, fairness, harm, accountability, or social consequence alone. The argument developed in this article further suggests that the aesthetic dimension is important not only because it adds another evaluative category, but also because it may perform a mediating function. Computational analysis can identify relations such as statistical resemblance, feature similarity, or pattern recurrence, but those relations do not acquire cultural meaning automatically. Aesthetic interpretation helps determine whether a technically observable relation should be understood as influence, imitation, stylistic dependence, appropriation, transformation, or originality. Ethical, legal, and social analysis can then evaluate the normative and institutional implications of a relation that has already been more adequately specified. ELSA is therefore better understood as a relational framework than as a static taxonomy. Its four dimensions remain analytically distinguishable while interacting continuously. Ethical concerns can affect the interpretation of artistic appropriation; legal institutions can shape practices of authorship and ownership; social transformations can alter the conditions under which aesthetic value is recognized; and aesthetic innovation can expose deficiencies in existing ethical or legal categories. The value of the framework lies precisely in preserving these distinctions while explaining their interaction.

This relational perspective also clarifies why ELSA should remain domain-sensitive rather than universal. The aesthetic dimension need not be added to every analysis of artificial intelligence. Its inclusion becomes necessary where AI generates, transforms, selects, or mediates perceptible and culturally meaningful forms and where concepts such as creativity, representation, style, originality, or transformation perform indispensable explanatory work. In such contexts, conventional ELSI remains foundational but becomes explanatorily incomplete. The broader implication concerns the changing object of AI governance. As artificial intelligence increasingly participates in the production and organization of perceptual environments, responsible governance cannot be concerned only with what systems are permitted to do, what harms they cause, or how risks and rights should be distributed. It must also consider how technological systems shape the conditions under which cultural forms become visible, interpretable, repeatable, and valuable. This does not authorize governments or platforms to determine aesthetic merit. Rather, it requires attention to the technological infrastructures through which aesthetic plurality, representational diversity, and human creative agency are increasingly organized. The central question of responsible artificial intelligence can therefore no longer be limited to whether AI is ethical, lawful, and socially acceptable. When artificial intelligence participates directly in the construction of perceptual and cultural experience, a further question becomes unavoidable: what kinds of perceptual, representational, and aesthetic worlds are these systems helping to produce, and under what conditions should those worlds be evaluated? It is in this sense—not as an ornamental addition to ELSI, but as an irreducible and mediating dimension of analysis—that aesthetics constitutes the missing “A.”

Footnotes

1. National Human Genome Research Institute (NHGRI), “Ethical, Legal and Social Implications Research Program,” National Institutes of Health; see also NHGRI, “ELSI Planning and Evaluation History.”
2. National Human Genome Research Institute, “Human Genome Project Timeline”; National Human Genome Research Institute, Review of the Ethical, Legal and Social Implications Research Program and Related Activities (1990–1995) (1996).
3. National Human Genome Research Institute, “ELSI Planning and Evaluation History”; NHGRI, Review of the Ethical, Legal and Social Implications Research Program and Related Activities (1990–1995).
4. Elvira Lazić et al., “Ethical, Legal, and Social Considerations of AI-Based Medical Decision-Support Tools: A Scoping Review,” *International Journal of Medical Informatics* 161 (2022): 104738.
5. Hiromi M. Yokoyama et al., “Segmentation of Ethics, Legal, and Social Issues (ELSI) Related to AI in Japan, the United States, and Germany,” *AI and Ethics* 3 (2023): 843–855.
6. Aaron Hertzmann, “Can Computers Create Art?,” *Arts* 7, no. 2 (2018): 18.
7. Margaret A. Boden, *The Creative Mind: Myths and Mechanisms*, 2nd ed. (London: Routledge, 2004); Hertzmann, “Can Computers Create Art?”
8. Alice C. Helliwell, “Can AI Create with Flair? Artistic Creativity and Artificial Intelligence,” *British Journal of Aesthetics* 66, no. 3 (2026): 595–611.
9. Hiromi M. Yokoyama et al., “Segmentation of Ethics, Legal, and Social Issues (ELSI) Related to AI in Japan, the United States, and Germany,” *AI and Ethics* 3 (2023): 843–855.
10. Elvira Lazić et al., “Ethical, Legal, and Social Considerations of AI-Based Medical Decision-Support Tools: A Scoping Review,” *International Journal of Medical Informatics* 161 (2022): 104738.
11. National Human Genome Research Institute (NHGRI), “Ethical, Legal and Social Implications Research Program,” National Institutes of Health; see also NHGRI, “ELSI Planning and Evaluation History” and Review of the Ethical, Legal and Social Implications Research Program and Related Activities (1990–1995) (1996).
12. See, generally, Jerrold Levinson, ed., *The Oxford Handbook of Aesthetics* (Oxford: Oxford University Press, 2003), especially the discussions of aesthetic experience, aesthetic properties, interpretation, artistic value, and definitions of art; Noël Carroll, *Philosophy of Art: A Contemporary Introduction* (London: Routledge, 1999), 155–192.
13. Jessica Hullman, Ari Holtzman, and Andrew Gelman, “Generative AI and the Future of Aesthetic Judgment,” arXiv preprint (2024). Their argument is especially relevant to the distinction between computational generation and the historically conditioned practices through which generated artifacts are interpreted and evaluated.
14. Aaron Hertzmann, “Can Computers Create Art?,” *Arts* 7, no. 2 (2018): 18, especially secs. 4–6. Hertzmann

- distinguishes computational generation from artistic agency and argues that computers are not, under current social understandings of art, autonomous artists.
15. Margaret A. Boden, *The Creative Mind: Myths and Mechanisms*, 2nd ed. (London: Routledge, 2004), 3–6, 233–239. Boden distinguishes major forms of creativity and provides a basis for separating novelty from richer conceptions of creativity.
 16. Alice C. Helliwell, “Can AI Create with Flair? Artistic Creativity and Artificial Intelligence,” *British Journal of Aesthetics* 66, no. 3 (2026): 595–611. Helliwell develops the question of AI artistic creativity in relation to Berys Gaut’s account of creativity and the concept of creative “flair.”
 17. On the readymade as a precedent for artistic selection and authorship, see Thierry de Duve, *Kant after Duchamp* (Cambridge, MA: MIT Press, 1996), 89–143; on the artist’s role in fixing work-relevant features through sanction, see Sherri Irvin, “The Artist’s Sanction in Contemporary Art,” *Journal of Aesthetics and Art Criticism* 63, no. 4 (2005): 315–326.
 18. Aaron Hertzmann, “Can Computers Create Art?,” *Arts* 7, no. 2 (2018): 18. Hertzmann argues that existing computer-generated art remains attributable to human artists and conceptualizes artistic creation principally as a social activity rather than as the mere technical production of novel artifacts.
 19. Eric Zhou and Dokyun Lee, “Generative Artificial Intelligence, Human Creativity, and Art,” *PNAS Nexus* 3, no. 3 (2024): pgae052. Using more than four million artworks from over 50,000 users, the authors report that text-to-image AI adoption increased creative productivity by approximately 25% and their measure of value—favorites per view—by approximately 50%. Their novelty measures, however, moved in different directions: peak content novelty increased, average content novelty declined, and both peak and average visual novelty decreased.
 20. U.S. Copyright Office, *Copyright and Artificial Intelligence, Part 2: Copyrightability* (Washington, DC: U.S. Copyright Office, January 2025), especially Executive Summary and pt. II. The Office concludes that copyright protection remains available for human-authored expression embodied in AI-assisted works, including qualifying human selection, coordination, arrangement, or modification, while mere prompting with currently available systems does not by itself provide sufficient control over expressive elements to establish authorship of the resulting output.
 21. See Don Ihde, *Technology and the Lifeworld: From Garden to Earth* (Bloomington: Indiana University Press, 1990), 72–85, for the phenomenology of human–technology relations; Peter-Paul Verbeek, *Moralizing Technology* (Chicago: University of Chicago Press, 2011), 41–48, for technological mediation in relation to moral agency.
 22. See Pierre Bourdieu, *The Field of Cultural Production: Essays on Art and Literature*, ed. Randal Johnson (New York: Columbia University Press, 1993), 29–44, on the relational structure of the field of cultural production; Howard S. Becker, *Art Worlds* (Berkeley: University of California Press, 1982), 1–13, on artistic production as collective activity.
 23. See “The Concept of the Aesthetic,” *Stanford Encyclopedia of Philosophy*, substantive revision August 24, 2026. The entry surveys longstanding debates concerning aesthetic judgment, experience, value, and the possibility of giving reasons for judgments grounded partly in perception.
 24. Shira Mitchell et al., “Algorithmic Fairness: Choices, Assumptions, and Definitions,” *Annual Review of Statistics and Its Application* 8 (2021): 141–163. The authors document the multiplicity of formal fairness definitions and emphasize that their use depends upon substantive choices and assumptions, illustrating that conceptual contestability does not by itself eliminate analytical utility.
 25. Arthur C. Danto, *The Transfiguration of the Commonplace: A Philosophy of Art* (Cambridge, MA: Harvard University Press, 1981), 1–15. Danto’s opening cases of perceptually indistinguishable objects with different artistic identities are especially relevant to the claim that perceptual similarity does not by itself determine artistic meaning.
 26. Jessica Hullman, Ari Holtzman, and Andrew Gelman, “Generative AI and the Future of Aesthetic Judgment” (2024). Their discussion is relevant here insofar as it emphasizes that the evaluation of generative outputs depends upon historically and culturally developed practices of interpretation rather than upon computational properties alone.
 27. See Don Ihde, *Technology and the Lifeworld: From Garden to Earth* (Bloomington: Indiana University Press, 1990), 72–85; Peter-Paul Verbeek, *What Things Do: Philosophical Reflections on Technology, Agency, and Design*, trans. Robert P. Crease (University Park: Pennsylvania State University Press, 2005), 114–121. These passages frame technology as mediating human–world relations rather than mechanically determining them.
 28. Eric Zhou and Dokyun Lee, “Generative Artificial Intelligence, Human Creativity, and Art,” *PNAS Nexus* 3, no. 3 (2024): pgae052. The study analyzes more than four million artworks from over 50,000 users and reports an approximately 25 percent increase in productivity and 50 percent increase in favorites per view following adoption of text-to-image AI. The effects on novelty were heterogeneous: peak content novelty increased, average content novelty decreased, and both peak and average visual novelty declined. These results are particularly relevant to the distinction between increased creative production and increased aesthetic diversity.
 29. See National Institute of Standards and Technology, *Artificial Intelligence Risk Management Framework (AI RMF 1.0)*, NIST AI 100-1 (Gaithersburg, MD: NIST, January 2023), 12–18, 20–23, on trustworthy-AI characteristics and the Govern function; European Parliament and Council, *Regulation (EU) 2024/1689 of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)*, *Official Journal of the European Union*, L, 2024/1689, 12 July 2024. These frameworks illustrate the institutionalization of risk- and rights-oriented AI governance.

30. Margaret A. Boden, *The Creative Mind: Myths and Mechanisms*, 2nd ed. (London: Routledge, 2004), 3–6, 233–239. Boden’s distinctions among forms of creativity are useful for separating computational novelty from stronger claims about creativity.
31. Aaron Hertzmann, “Can Computers Create Art?,” *Arts* 7, no. 2 (2018): 18. Hertzmann argues that artistic creation involves social agency and that computers are more adequately understood, under existing artistic practices, as tools used by human artists rather than independently recognized artists.
32. For the readymade and the historical problem of artistic nomination/selection, see Thierry de Duve, *Kant after Duchamp* (Cambridge, MA: MIT Press, 1996), 89–143; for the artist’s sanction as a way of fixing artistically relevant features, see Sherri Irvin, “The Artist’s Sanction in Contemporary Art,” *Journal of Aesthetics and Art Criticism* 63, no. 4 (2005): 315–326.
33. See *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340, 345–51 (1991); *Bleistein v. Donaldson Lithographing Co.*, 188 U.S. 239, 251–52 (1903). Together, these decisions illustrate both the doctrinal specificity of copyright originality and the longstanding reluctance of copyright law to condition protection upon judgments of artistic merit.
34. U.S. Copyright Office, *Copyright and Artificial Intelligence, Part 2: Copyrightability* (Washington, DC: U.S. Copyright Office, January 2025), especially the Executive Summary and discussion of prompts, human-authored inputs, modification, selection, coordination, and arrangement.
35. Nick Seaver, *Computing Taste: Algorithms and the Makers of Music Recommendation* (Chicago: University of Chicago Press, 2022). Seaver’s ethnographic analysis is especially useful for understanding recommendation technologies as participants in the construction and organization of taste rather than as neutral mechanisms for retrieving preexisting preferences.