Dear copyright enthusiast,

We are very delighted that you want to find out more about the

Next Generation Event 2026!

In this letter we will provide you with further information on:
- the event;
- the programme;
- the moderators;
- the application procedure; and
- the sub-topics that will be discussed in each think tank.

The event

All early career copyright scholars and practitioners (within five years after obtaining a PhD or final admission to a legal profession), as well as Master students, are welcome to participate in this half-day event, which will revolve around two cutting-edge topics at the intersection of copyright and freedom of expression. After a joint opening of the session, two think tanks will be formed by participants with a special interest in one of the following topics:

I. Human Creativity vs. Generative AI: A Balancing Test
II. Copyright and Derivative Creativity: How Much Room for Freedom of Expression?

Each think tanks will consist of two "types" of participants:

1. Around seven selected participants, who will be chosen by the organizing committee based on their expertise in the topic. These participants will deliver a short (3-4 min) pitch in which they concisely present their view on the subject matter *and* will be offered the opportunity to co-author a collective contribution to the ALAI congress proceedings, capturing the insights and outcomes of their think tank session. The latter is non-compulsory. Those interested in this role can apply for the think tank of their preference by submitting a short motivation letter, explaining how their profile aligns with the topic of the think tank for which they are applying, supported by CV, including relevant publications where applicable.
2. Around seven additional attendees with a special interest in the topic of their preference. Those interested in this role can register by sending us an e-mail expressing their interest (stating role and think tank of their preference) and will be admitted based on a first come, first serve-base.

Each think tank will be led by a prominent copyright specialist who will deliver a keynote speech about the topic of their think tank. This keynote speech together with the participants' pitches will be the starting point for the discussion.

Programme
13:00 – Doors open (coffee and tea)
13:15 – Joint welcome and overview of the afternoon
13:30 – Groups split
13:45 – Keynote speech about the topic by the moderator of each group
14:00 – Three to four minute pitch by the selected participants on their take on the problem
14:30 – Think tank session lead by the moderator (part I)
15:30 – Break
15:45 – Think tank session lead by the moderator (part II)
16:30 – Joint closing of the day
17:00 – Time to check-in to hotel
Welcome reception ALAI Conference (see conference website)

The moderators
Think tank I will be led by Dr. Carys J. Craig, Professor of Intellectual Property Law at Osgoode Hall Law School (York University, Toronto).

Think tank II will be led by Dr. Peter Teunisssen, Assistant Professor of Private and Intellectual Property Law at Radboud University (Nijmegen).

Both moderators will also speak at the main ALAI event. Through them the insights and outcomes of each think tank will be integrated in the main event.

The application procedure
Applications for the role of selected participant and registration as an additional attendee can be submitted to nextgeneration@alai2026.nl. The application deadline is **15 February 2026**. All applicants and subscribers will be notified mid-March 2026.

Participation in the Next Generation Event is exclusively reserved for attendees of the main ALAI congress and comes at no additional charge. Please note that separate registration for the main ALAI event is required. All participants are expected to cover their own travel and accommodation expenses, but will qualify for the student fee of the main conference. Therefore please report your application/registration for the Next Generation Event on your registration form for the main event. Invoicing will then be postponed until after the selection and registration process.

Sub-topics for each think tank

Please find below an indication of the questions and sub-topics that will be discussed in each think tank. These questions/statements are still subject to change. Should you have suggestions for sub-topics, please include them with your application or registration and we will happily take them into consideration.

Think tank I: Human Creativity vs. Generative AI: A Balancing Test

Base reading:

[Nicola Lucchi, "Generative AI and Copyright – Training, Creation, Regulation"](#) (Study for the European Parliament, 9 July 2025),

Possible Starting Points for Discussion

Part I) Mining and training – the freedom of expression dimension

1. In the 2025 study report *Generative AI and Copyright* Lucchi writes: "*The proper response is not to make copyright law fit AI, but to ensure that AI development respects the core legal and policy principles of EU copyright, including authorship, originality, and fair remuneration.*" Though, by declaring the text-and-data mining (TDM) exception applicable to AI training in the AI-Act, the EU legislator hints that copyright must give way to AI. Case law in the United States alternately points in different directions as to the question whether training (Gen)AI with copyrighted works is fair use.[1] Exceptions in copyright law can be an effective mechanism to safeguard fundamental rights. However, this does require that fundamental rights are actually at stake.

   - **Discuss Lucchi's statement and the apparent position of the EU legislator.**
   - **Should we make copyright law fit AI or the other way around? Consider whether and how the possibly affected fundamental rights (not limited to freedom of expression) justify the availability of an exception for the use of copyrighted works to train AI.**

2. One of the key findings of the 2025 study is that:
   "*The current EU text-and-data mining (TDM) exception was not designed to accommodate the expressive and synthetic nature of generative AI training, and its application to such systems risks distorting the purpose and limits of EU copyright exceptions.*"

   In 2024 Dornis and Stober came to similar conclusions in their extensive research published under the name 'Copyright Law and Generative AI

---

[1] E.g. *Bartz et al. v. Anthropic PBC, Kadrey et al. v. Meta Platforms, Inc., Thomson Reuters Enterprise Centre GmbH et al v. ROSS Intelligence Inc.*

Training – Technological and Legal Foundations'.[2] They argue that:
"*There is no suitable copyright exception or limitation to justify the massive infringements occurring during the training of generative AI. This concerns the copying of protected works during data collection, the full or partial replication inside the AI model, and the reproduction of works from the training data initiated by the end-users of AI systems like ChatGPT.*"

- **If, in light of these arguments, the European legislator were to formulate a separate exception for the use of copyrighted works to train AI, what would the three-step-test require of an exception that enables the use of copyrighted works for GenAI training?**

Part II) AI Generated Content – the impact on work status, human creators and equitable remuneration

3. As Lucchi points out under 3.1.1, human authorship still functions as a cornerstone for copyright protection. He raises the question whether copyright protection should remain exclusively tied to human intellectual input in a world where machines may soon exhibit behaviours that, to all appearances, mirror creativity. According to Lucchi, continuing to exclude all non-human outputs from copyright may create a growing mismatch between legal norms and social or economic practices.

    - **Discuss whether protection of AI generated works (meaning: non-human outputs) is generally desirable,**
        - **If so, discuss whether it is desirable to protect these under copyright law or to set up a separate legal framework for such purposes (if so, elaborate on what such a legal framework should look like).**
        - **Involve Lucchi's normative and policy concerns as expressed on p. 97.[3] Apart from the anthropocentric approach under copyright laws, does the fundamental/human rights nature of IP-rights, and therefore copyright, even leave room for protection of AI generated works under copyright law?**

4. It is beyond dispute that (Gen)AI would not be able to do what it does, without the use of high quality works as training material. The basic principles of copyright demand compensation for such use. Not surprisingly, many authors have defended the necessity of a compensation mechanism for the use of copyrighted works to train AI. In the 2025 report Lucchi proposes

---

[2] T. Dornis & S. Stober, *Copyright Law and Generative AI Training - Technological and Legal Foundations* (*Urheberrecht und Training generativer KI-Modelle - Technologische und juristische Grundlagen*), Digitization and the Law (Recht und Digitalisierung), Nomos 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4946214. For the English executive summary see: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4946214.

[3] Market distortion and incentive gaps, public domain saturation, authorship attribution and legal ambiguity, ownership and liability in autonomous systems.

a remuneration mechanism in the form of an unwaivable right to equitable remuneration as part of a new statutory exception.[4] In an earlier stage Lucchi proposed revenue sharing arrangements or royalty structures, linking the financial gains generated by AI systems and the use of copyrighted works.[5] Sentfleben argues that a legislative approach that focuses on the output/substitution dimension and seeks to introduce a lump-sum AI levy system is more promising than taking input and training activities as a reference point for remuneration.[6] Geiger and Iaia have defended a fundamental rights-based approach, proposing a statutory license for machine learning purposes.[7]

- **Discuss the pro's and con's of the possible remunerations mechanisms.**
- **Which mechanism seems most fit to compensate the use of copyrighted works to train AI?**

In short:
- Would a broad interpretation of the TDM-exception suffice for the purpose of accommodating reuses of protected works for AI training? Would an AI-specific exception be more suitable for this purpose? Discuss the two positions and the impact of the three-step-test on both the formulation and interpretation of a hypothetical AI-specific exception in EU copyright law.
- Discuss whether protection of AI generated works (meaning: non-human outputs) is generally desirable, and if so, whether it is desirable to protect these under copyright law or to set up a separate legal framework for such purposes (if so, elaborate on what such a legal framework should look like).
- In the academia various proposals for a remuneration scheme have been formulated, ranging from revenue sharing arrangements or royalty structures to an unwaivable right to equitable remuneration under a statutory exception (Lucchi), including a statutory license for machine learning (Geiger and Iaia) and a lump-sum AI levy system (Senftleben). Discuss and adequately substantiate your view on the matter.

---

[4] Paragraph 4.3.

[5] N. Lucchi, 'ChatGPT: A Case Study on Copyright Challenges for Generative Artificial Intelligence Systems', European Journal of Risk Regulation, par. VII.

[6] M. Sentfleben, 'Generative AI and Author Remuneration', IIC (2023) 54, p. 1537. "Instead of requiring the payment of remuneration at training level, a levy could be imposed on the final AI system capable of producing literary and artistic output. This AI levy could then be used to offer financial support, training opportunities and new literary and artistic projects for flesh-and-blood authors.10 Providers of AI systems with the potential to serve as a substitute for human creations could be obliged to pay remuneration to collecting societies, which would then use the revenue to support human authors and their creative work.11 At the same time, the levy could make the use of generative AI systems more expensive. By adding remuneration as an additional cost factor, a levy system could contribute to reducing the price advantage following from the fact that AI systems do not need to pay honoraria or salaries for creative labour".

[7] C. Geiger and V. Iaia, 'The Forgotten Creator: Towards a Statutory Remuneration Right for Machine Learning of Generative AI', *Computer Law & Security Review,* vol 52, 2024, 1-9, par. 3.

Think tank II: Copyright and Derivative Creativity: How Much Room for Freedom of Expression?

Base reading:

[CJEU, Opinion of Advocate General Emiliou in *Pelham II*](), C-590/23, 17 June 2025, EU:C:2025:452

Possible Starting Points for Discussion

1. Conceptual Foundations of Freedom of the Arts
- Discuss whether freedom of the arts is a standalone fundamental right or a species of freedom of expression, and what legal consequences flow from either construction.
- Map the normative content of freedom of the arts across international (UDHR, ICCPR/ICESCR) and regional human rights instruments (e.g., ECHR, EU Charter, African Charter on Human and People' Rights), focusing on differences in scope, positive obligations, and margin of appreciation.
- Indicate the criteria for identifying "artistic" expression for rights-based analysis: autonomy, aesthetic purpose, communicative intent, or societal impact.

2. Internal Role of Artistic Freedom in Copyright Interpretation
- How can artistic freedom principles (e.g., artistic autonomy, creative experimentation, cultural pluralism) guide the interpretation of existing copyright exceptions and limitations?
- Specific pressure points: shaping the meaning and scope of quotation, parody, caricature, and pastiche exceptions beyond purely textual or historical interpretation.
- Determine whether, and to what extent, human or fundamental rights may justify a more permissive reading of copyright's three-step test, and/or whether linking freedom-of-expression-friendly exceptions to an obligation to pay fair remuneration to rightholders, can achieve the desired result.

3. External Role of Artistic Freedom as a Potential Defence
- Assess the doctrinal space for artistic freedom to operate outside the closed catalogue of exceptions – i.e., as an independent, rights-based defence against infringement.
- Critically evaluate the CJEU's 2019 *Pelham/Funke Medien/Spiegel Online* trilogy: did the Court have the mandate to restrict external fundamental-rights balancing, and is that restriction consistent with the EU Charter and the ECHR.
- What are the practical and normative considerations for re-opening external balancing? E.g. effects on legal certainty, enforcement, and alignment with human rights jurisprudence.

4. Adequacy of the Current EU Exceptions and Limitations System
- Analyse whether the EU's predominantly enumerated and optional exceptions regime can effectively safeguard the expressive interests of transformative, derivative, and digital creators.

- Discuss the following prospects for enhancing artistic freedom within copyright:
  - **Judicial pathway:** purposive interpretation, proportionality tests, and functional analysis.
  - **Legislative pathway:** expansion or mandatory harmonisation of exceptions; recalibration of exclusive rights.
  - **Rights-based pathway:** direct reliance on freedom of expression where statutory exceptions fall short.
- Examine whether a function-based understanding of exclusive rights – especially reproduction and communication to the public – can reduce unnecessary interference with creative reuse.

5. Function-Based Interpretation of Exclusive Rights and Related Rights
- Exploration of a shift towards analysing what exclusive rights *do* (their function) rather than what they *technically cover*, and how this reframing could limit overbreadth in related rights (e.g., phonogram, broadcaster, press publishers).
- What are the consequences for derivative creativity? Could a more purposive and teleological rights analysis create structural space for freedom of the arts without expanding exceptions?
- Discuss the relationship between functional interpretation and the proportionality principle in human/fundamental rights law.

6. The Dual Dimension of Freedom of the Arts
- Analyse whether freedom of the arts protects not only users/secondary creators but also authors/rightsholders in safeguarding creative integrity and economic conditions enabling artistic production.
- Discuss the doctrinal implications of recognizing dual protection: potential recalibration of balancing tests where both sides claim artistic freedom.
- Involve the risks of over-expansion: ensure that invoking artistic freedom for rightsholders does not suppress the very creative diversity the right aims to promote.

Thanks for showing interest in the very first ALAI Next Generation Event.

We look forward to welcoming you in The Hague on 17 June 2026!

Warm regards,

The organizing committee
Roma Leuyerink (board member Dutch Copyright Society, Phd-candidate and lecturer IP, Radboud University, The Netherlands), Elena Izyumenko (Assistant Professor, Institute for Information Law, The Netherlands), Camilla Signoretta (post-doc, European University Institute, Italy)