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Legal Challenges Raised by Generative AI such as ChatGPT and Solutions

I. Introduction

Generative Artificial Intelligence (AI), referring to a class of AI models that are designed to create new data rather than simply classifying or predicting existing data, such as ChatGPT, are remarkable technologies that can autonomously generate content in various forms, including text, images, and other media, based on the vast amount of data they have been trained on. However, as with any transformative technology, the emergence of generative AI also raises various legal challenges that must be addressed.

II. Copyright Infringement

One of the most pressing legal challenges posed by generative AI is the potential for copyright infringement. The autonomous generation of content by these AI models may result in copyright infringement, as they learned from and are trained on a vast amount of data that might contain unauthorised works under the protection of copyright law, or works that are not even in the public domain. The AI model may generate a piece of text that is similar to an existing copyrighted work, thereby infringing on the owner's copyright.

To address this issue, it is necessary to train generative AI systems using non-copyrighted or licensed content. Furthermore, content filters can be implemented that detects copyrighted material and prevent the AI system from generating similar content. This is important not only for compliance with copyright law, but also to protect the reputation and financial interests of content creators. Revolutionary technologies should encourage innovation, instead of free-riding them and stifling them.

III. Data Privacy Breaches

Generative AI systems require extensive datasets to learn from, which may include personal information that is protected under data privacy laws. This raises the issue of data privacy breaches, as the AI system may generate content that contains personal information such as names or addresses. This is particularly concerning in jurisdictions such as the European Union, where data privacy laws

such as the General Data Protection Regulation (GDPR) provide substantial fines in cases of non-compliance.

To address this issue, it is essential to train generative AI systems using anonymised data. This ensures that the AI system does not generate content that contains personal information. Additionally, data filters can be implemented that detect and remove personal information from the data used by the AI system. Users of such AI models should also take care not to enter sensitive data (including data under the protection of privacy laws, and trade secrets) into the model, which will form part of the training data that the AI model will be learning from.

IV. Liability for AI-generated Content

Another significant legal challenge raised by generative AI is the liability for any harm caused by the content generated by it. Since generative AI produces content autonomously based on data updated up to 2021, it raises the issue that the AI system might generate content that is outdated, false, misleading, or even defamatory. It could lead to legal action against the AI system's creator, owner, or user. Therefore, there is the legal issue of who should be held liable for any harm caused by the content generated automatically.

To address this issue, it may be necessary to hold the AI system's creator, owner, or user liable for any harm caused by the content generated by the AI system. To protect themselves and mitigate the risk of liability, service providers of such AI models could implement measures such as incorporating disclaimers or terms of use agreements (regarding limitation of legal responsibilities) to the generated content. Additionally, content filters can be implemented that detect and remove potentially harmful content generated by the AI system. This not only helps to protect individuals from harm caused by AI-generated content, but also provides clarity on the legal responsibilities of creators, owners, or users of generative AI.

V. Ownership of Intellectual Property Rights

Another question would be whether the creations of generative AI like ChatGPT are under the protection of copyright laws. As argued by some, the generation of content involves innovative methods that may be subject to intellectual property protection. Currently, there is a debate as to whether the works of AI should be protected by copyright. Generally, copyright law protects original works of authorship fixed in any tangible medium of expression. The issue arises when considering whether the output of a generative AI system constitutes an original work of authorship.

One potential solution is to obtain copyright protection for the output of generative AI systems, provided that the output is deemed to be an original work of authorship with a sufficient degree of user input. However, it is generally considered that only humans with conscienceless can be the subject of any copyright, and machine learning models do not possess the legal position to hold such legal rights even if they have generated novel content with novel workmanship of technology.

VI. Conclusion

In conclusion, generative AI systems such as ChatGPT raise various legal challenges that must be addressed. These challenges include copyright infringement, data privacy breaches, liability for AI-generated content, and the ownership of intellectual property rights.

To mitigate these challenges, it is essential to train generative AI systems using non-copyrighted or licensed content, anonymised data, and implement content filters. Additionally, creators, owners, or users of generative AI systems should take appropriate steps to protect their innovations through intellectual property protection. Lastly, legislators should also implement updated legislations and legal supervision to address the challenging issues raised by the cutting-edge technology.

By addressing these challenges, we can ensure that the benefits of generative AI systems are better realised and enjoyed while minimising the potential for legal compliance issues and risks.

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