International Federation of Reproduction Rights Organisations

AI, Copyright and the Publishing Industry

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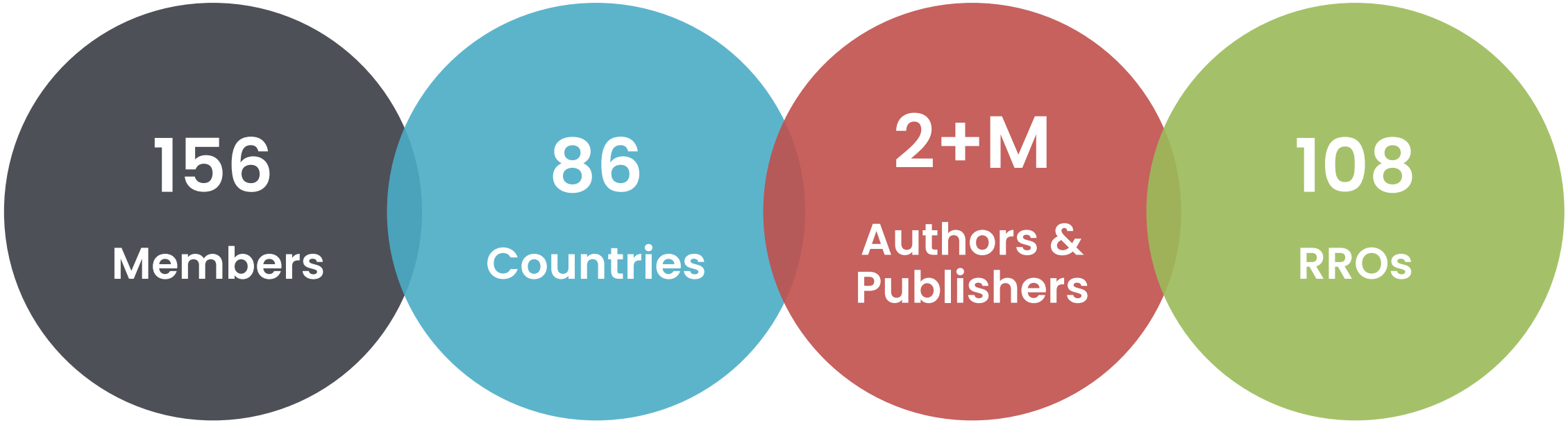
IFRRO Overview



48 Creator and Publisher Associations

IFRRO in the Asia Pacific

- Asia Pacific Committee
  - comprised of all IFRRO members with interests in the region
  - currently 17 organisation members drawn from 13 countries
  - standing advisory body to the IFRRO Board, plays an important role in discussing issues of regional significance.
- ASEAN Mentoring
  - Currently 5 RROs in ASEAN – Indonesia, Malaysia, Philippines, Singapore, Vietnam
  - IFRRO offers targeted mentorship to 4 ASEAN RROs, aimed at supporting the establishment of a viable TI collective copyright licensing system in Vietnam, Malaysia, Indonesia, and Philippines
  - RRO participants meet regularly online and in-person annually to discuss RRO best practice and progress against tailored business plans.
- National support
  - IFRRO also offers member support on areas of national interest, including advocacy and RRO best practice.

Why does collective management matter?

RROs exist to offer efficient and comprehensive licensing solutions that facilitate fair and remunerated access to quality materials, benefiting both uses and creators alike.

- In 2023 Copyright Agency (Australia) allocated $142 million to more than 36,000 rightsholders
- Between 2017-2022, CLASS (Singapore) distributed over SGD 20 million to rightsholders,
- These funds also indirectly benefit many others involved in the creative industries such as in-house writers and illustrators
- A study carried out in the UK found that 25% of authors receive more than 60% of their income from secondary uses.
    - a 20% reduction of the secondary licensing income would result in a 29% decline in creative works the equivalent of 2,870 fewer new works being created annually.

Creative Industries and IP Frameworks

The economic implications of healthy creative ecosystems are substantial

- 2021 Report for the OECD Culture Working Group: 'cultural and creative sectors are a significant source of jobs and income, and also generate important spillovers to the wider economy. They are a driver of innovation, a source of creative skills that act as a magnet to help drive growth in other sectors such as tourism and export'.
- 2022 UNESCO Study: showed that the creative industries contribute significantly to national GDP, with publishing the single most important sector in most countries.
- IP-intensive industries accounts **for an extraordinary 32.7% of Hong Kong's GDP and 29.1% of total employment in Hong Kong**

The importance of IP protections and robust IP frameworks in fostering innovation and the development of sustainable, IP intensive creative ecosystems must not be understated.

AI & the Creative Industries

The unprecedented promise of AI:

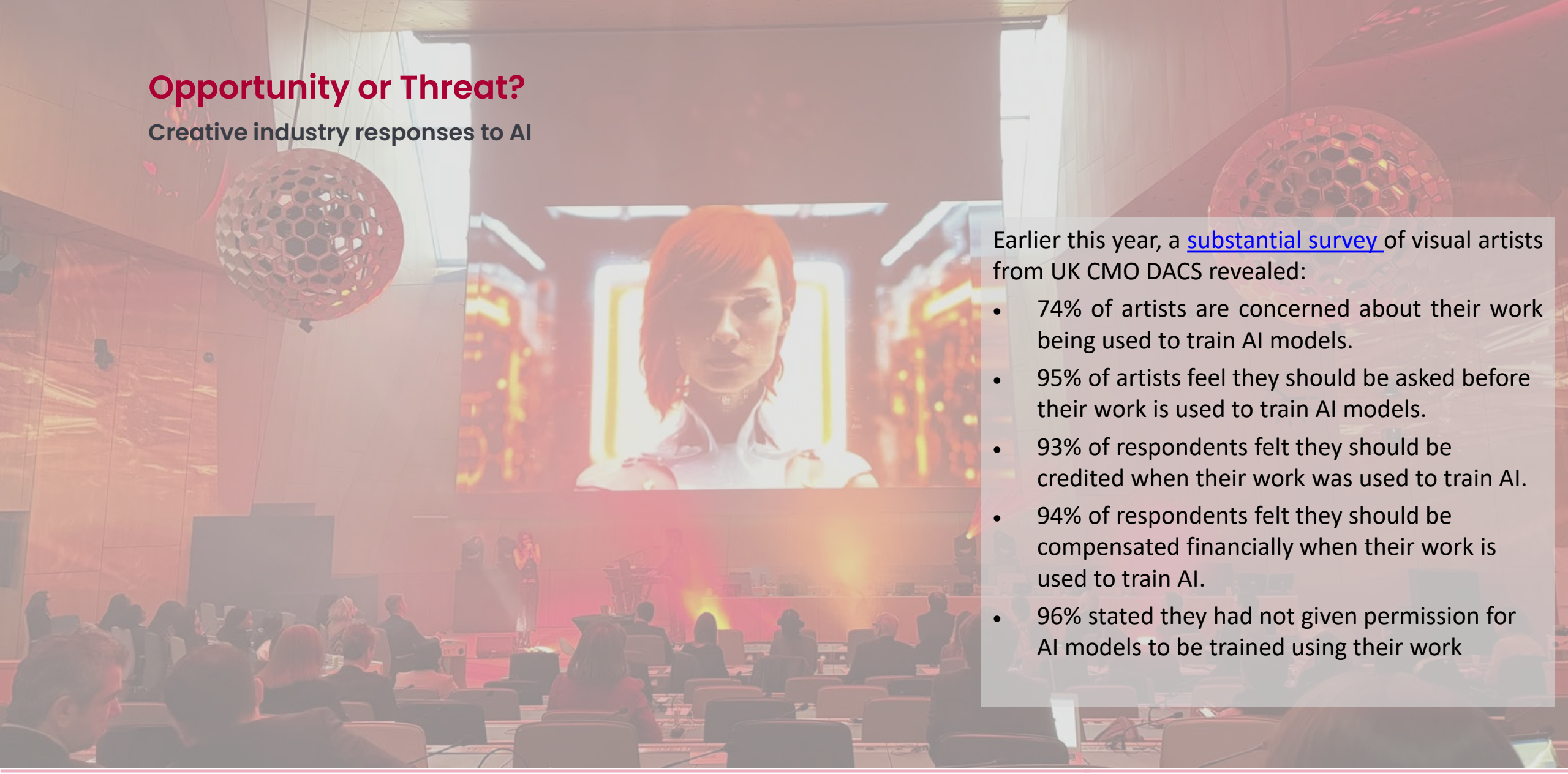
- PWC Global Intelligence Study shows that AI could contribute up to $15.7 trillion1 to the global economy in 2030, more than the current output of China and India combined. Of this, $6.6 trillion is likely to come from increased productivity and $9.1 trillion is likely to come from consumption-side effects.
- The greatest economic gains from AI will be in **China** (26% boost to GDP in 2030) and **North America** (14.5% boost), **equivalent to a total of $10.7 trillion** and accounting for almost **70% of the global economic impact**.
- According to OpenAI, ChatGPT acquired **1 million** users just **5 days** after launching in November 2022. By comparison, it took Instagram approximately **2.5 months** to reach 1 million downloads and Netflix took around **3.5 years** to reach 1 million users.
- Statistics from WIPO indicate that digital technology patent applications have grown 170 percent faster than average over the past five years – AI growth is over **700 percent**. Generative AI now accounts for over 1/5 of AI-related patents.

In terms of potential economic growth and consumer uptake, the opportunity is enormous.

However, the rapid development of AI technology has created **a hugely unpredictable environment for creative industries**…

Opportunity or Threat?

Creative industry responses to AI



Earlier this year, a substantial survey of visual artists from UK CMO DACS revealed:

- 74% of artists are concerned about their work being used to train AI models.
- 95% of artists feel they should be asked before their work is used to train AI models.
- 93% of respondents felt they should be credited when their work was used to train AI.
- 94% of respondents felt they should be compensated financially when their work is used to train AI.
- 96% stated they had not given permission for AI models to be trained using their work

AI & the Creative Industries

The concerns are not unfounded, and can be understood from a number of perspectives:

[Un] Fairness in training -

- Large scale, openly accessible generative AI tools, such as Stable Diffusion, DALL-E and Midjourney, have been trained on millions and millions of copyrighted works without permission or payment to the rightsholders
- In exposing the 'Books3 database' in a *series of articles for The Atlantic* throughout 2023, journalist Alex Reisner highlighted the rampant and unfettered use of unauthorised copyright materials in training generative AI models, all done without consent, acknowledgement, or remuneration to the creators.

Lack of transparency on outputs -

- Generative AI tools are increasingly able to produce outputs (images) that can look like photographs, illustrations and other artworks made by a human, creating significant transparency issues for consumers and rightsholders alike
- Moreover, generative AI tools persistently produce exact replicas in copyright content - such as the one on the next slide as highlighted in the *South Korean Generative AI and Copyright Guide*

Lack of reliability

- Today's AI tools still have grave shortcomings. Crucially, and as noted in the WIPO AI Policy Toolkit AI programs 'have no notion *TRUTH*, of *SOCIAL NORMS* or of *ETHICAL BEHAVIOUR* and need substantial post-processing of their output to adhere to such norms'.

[For reference] These images were generated by inputting prompts such as "Winnie–the–Pooh" and "Snoopy." The outputs show the features of the original characters sufficiently enough to be able to recognize them.[18)]

Source: *A Guide on Generative AI and Copyright*
Republic of Korea Ministry of Culture, Sports and Tourism
Korea Copyright Commission

Policy Responses

- Claims of mass copyright infringement have led to numerous lawsuits filed against technology companies who own or control generative AI models
- Governments are increasingly alert to the potential risks of AI being used *'to disrupt democratic processes, turbocharge fraud, or lead to dramatic job losses, among other harms[1]'* and are looking to regulatory efforts at international, regional, and national levels to ensure ethical development of AI that promotes the wellbeing and safety of citizens.
- Efforts from international bodies include
    - UN – AI Advisory Body
    - WIPO – AI Policy Toolkit
    - OECD – Artificial Intelligence Papers

Source: https://www.reuters.com/technology/cybersecurity/un-adopts-first-global-artificial-intelligence-resolution-2024-03-21/

Policy Responses

EU AI Act

- At a regional level, the EU has been the absolute frontrunner in terms of legislative developments, with the EU AI Act being passed by members of the European Parliament in May this year.
- Notable in its 'risk based' approach which sets requirements around
    - restricting certain 'high risk activities' such as biometric surveillance
    - obliging AI developers to provide transparency over what has been used to train AI models
- The text of the AI Act has largely been welcomed by the creative community [*including CEPIC and some IFRRO members – see position statement here*] as it goes some way towards addressing rightsholder concerns **BUT** the big question remains as to whether these rules will be implemented in a **meaningful and effective way**.
- **It is essential that AI providers required to provide a sufficient level of information to enable the effective exercise and enforcement of copyright.**

ASEAN Guide on AI Governance and Ethics

- Light-touch approach which sets out seven guiding principles aimed to help to ensure trust in AI and the design, development, and deployment of ethical AI systems. The principles include: *Transparency and explainability, Fairness and equity, Security and safety, Human-centricity, Privacy and data governance, Accountability and integrity, Robustness and Reliability*

Policy Responses

National

- Public consultations initiated or carried out in many jurisdictions including the **United Kingdom, Canada, Australia, NZ, South Korea, Vietnam** to name just a few
- High levels of activity with varying approaches
- While some countries are considering following the EU approach, others – notably the UK – have taken a softer approach to regulation, urging players from across the industries to work towards a code of practice on copyright and AI.
- TDM exceptions under scrutiny
    - EU – clear parameters, opt out mechanism
    - UK – 2023 rejection ofUK legislators opted not to introduce a very broad copyright exception for TDM after an impact assessment on the implications of the proposed changes to the TDM regime for the creative industries found that the UK Intellectual Property Office's proposed changes "*take insufficient account of the potential harm to the creative industries*" and that whilst developing AI is important, "*it should not be pursued at all costs*".
    - Other countries, notably Japan and Singapore, have taken steps to clarify existing TDM exceptions in response to the proliferation of AI technologies potentially relying on them as a defence to copyright infringement claims. Hong Kong government has recently announced a similar consultation focused on TDM exceptions.

Governance Considerations

- Stanford University AI Index Report 2024
    - Robust and standardized evaluations for LLM responsibility are seriously lacking

      New research from the AI Index reveals a significant lack of standardization in responsible AI reporting. Leading developers, including OpenAI, Google, and Anthropic, primarily test their models against different responsible AI benchmarks. This practice complicates efforts to systematically compare the risks and limitations of top AI models.

- AI technology is currently in very concentrated hands, raising concerns about abuse of market power, homogeneity, and perpetuation/ embedding of biases
    - a recent MIT Review article indicates that '*With vanishingly few exceptions, every startup, new entrant, and even AI research lab is dependent on these firms. All rely on the computing infrastructure of Microsoft, Amazon, and Google to train their systems, and on those same firms' vast consumer market reach to deploy and sell their AI products*.'

IFRRO's perspective on AI

→ IFRRO advocates for responsibly and fairly-trained LLMs that use authoritative, trusted content and respect copyright laws and copyright owners, which will produce better outcomes for everyone.

- **Copies are** undoubtedly **made in the LLM training process**, and **copyright laws must apply to the copying of protected works**.
- **Licensing** is the most efficient approach to bringing AI technologies and copyright together.
- **Lawsuits and legislation will take time**, but licensing can help now by enabling copyright owners and users to agree on how to responsibly use copyrighted works.
- This includes **both direct licenses and collective licenses**, which together can provide a solid foundation for AI systems to continue to innovate.
- AI models should only be trained on **legally obtained data sources**, which are transparently reported, and **rightsholder opt-outs/ins must be fully supported, implemented and respected in all jurisdictions**.

CMOs in the text and image-based sector

Evolving Landscape

- The **landscape** of text and image-based content is rapidly evolving
- With the **proliferation of digital platforms**, the ease of sharing and disseminating content has increased exponentially
- The need for **efficient and transparent** collective management mechanisms has become more pronounced

Challenges and Opportunities

- **Digital Transformation**: CMOs must adapt to digital distribution channels and address issues like online piracy
- **Transparency and Accountability**: Ensuring transparency in royalty distribution remains critical
- **Global Collaboration**: International cooperation among CMOs is essential for efficient cross-border licensing

Technical Solutions

WIPO Connect:

WIPO and IFRRO have collaborated to develop software solutions for managing text and image-based works.

Copyright infrastructure: Metadata, standards and identifiers (e.g. ISNI, ISCC)

IFRRO-IPA Report: here

commentary in snack-sized mouthfuls

"I want AI to do my laundry and dishes so that I can do art and writing, not for AI to do my art and writing so that I can do my laundry and dishes."

Author and videogame enthusiast **Joanna Maciejewska** nails it (although bathroom cleaning goes ahead of laundry and dishes)

'm sure I deserve
lot of critici

Thank you

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