

# Midjourney Mayhem Madness: Uncovering the Whodunnit Behind AI Art

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## Abstract

In 2022, AI art experienced an unprecedented expansion, with Midjourney gaining mainstream recognition. Midjourney is one of the most advanced AI image-generators available and leverages Gaussian diffusion to learn from billions of online images. Gaussian diffusion—the process AI utilizes to improve its image-generation capabilities—makes the issue of copyright pertinent to AI art. Thus, this begs the question of how to locate the author. In this paper, four perspectives on how to track authorship shall be established: prompt engineer, AI itself, or authors of art inputted into the diffusion model. In this exploration, I will harness Immanuel Kant's insights from the "Critique of Judgement"—particularly his emphasis on innate, inexplicable genius and communication of aesthetic experiences—as a lens to evaluate AI-generated art. This analysis juxtaposes Kant's stance with three contemporary perspectives on attribution. Based on this analysis, it will be argued that prompt engineers are the individuals that should be attributed authorship due to their genius and exhibition of the art.

## Introduction and Background

In an era where artificial intelligence challenges the boundaries of creativity, the pressing question becomes: who is the author of art created by AI and humans? This paper will use Immanuel Kant's definition of fine art in *Critique of Judgement* to argue that the human prompt engineer should be attributed with authorship in the creation of Human-Guided AI art. While this paper does utilize Kant's definition of fine art, it does not provide a defense of his aesthetic theory, as that is outside the scope of this paper.

## Defining Kantian Genius

Central to this discussion is Kant's assertion that the genesis of fine art necessitates human involvement. Only humans, equipped with the requisite genius, can create fine art that involves the channeling of nature through the artist. Creating great art—or fine art—is not the same as making scientific discoveries. Thus, Kant draws a clear demarcation between artistic genius and scientific brilliance. Kant says, "Genius is the talent [natural endowment] that gives rule to art" (Section 46). For him, genius is an innate talent that gives birth to original art. How exactly this happens, the origins of this creative process remain inexplicable even to its creator. This stands in stark contrast to the scientific realm, exemplified by figures like Newton, where brilliance is gauged by reproducibility and the articulation of methodologies (Ginsborg). Genius, being unteachable, serves as a vessel for nature's flow, empowering individuals to challenge and redefine artistic norms. At its core, nature represents the universe's inherent order and purposiveness, functioning autonomously of human intent, governed by its distinct material and metaphysical principles.

## Defining Kantian Fine Art

According to Kant, fine art is deeply intertwined with both genius and nature: "Nature, through genius, prescribes the rule...to art, and this only insofar as the art is to be fine art" (Section 46). Fine art embodies an intrinsic purposiveness—it is art for art's sake. While devoid of an overt external purpose, it possesses the

power to cultivate our cognitive faculties, fostering enriched societal dialogue. Fine art is not created with the practical purpose of providing “comfortable, familiar pleasure,” such as decorating a room, but instead, exists for its own sake. This form of art stands apart from the “agreeable art” primarily due to its universal subjectivity. In essence, anyone with unimpaired faculties of taste should resonate with fine art, while preferences for agreeable art will vary from individual to individual. The experience fine art offers is of a unique kind; it evokes a disinterested, intellectual pleasure, contrasting with the sensory pleasure derived from agreeable art (Adajian).

A potential critique that may arise in response to this paper concerns the perceived elitism embedded within the term “fine art.” Historically, the concept of fine art has been intertwined with issues of discrimination, often privileging Western art forms and sidelining others. This historical baggage can lead to accusations of Eurocentrism or cultural bias when invoking the term in contemporary discussions. However, it is crucial to recognize that the understanding and application of “fine art” have evolved such that previously marginalized groups now are acknowledged as creators of fine art—not simply white Europeans. The evolution of art and its appreciation has seen a broadening of horizons, with many non-Western art forms now recognized and revered globally. Thus, while individual biases may persist, they should not overshadow the broader, more inclusive understanding of fine art that has emerged in recent times.

## ***Overview of AI Art Generators***

Traditionally, the realm of artistic creation was perceived as an exclusive domain of human endeavor, seemingly immune to the advances of artificial intelligence. Yet, with the advent of technologies like Midjourney, this once-impregnable bastion of human creativity is being challenged. This evolution prompts a reevaluation of entrenched conceptions of artistic originality and intent. While AI art generation involves copyright issues, it is beyond the scope of this paper and I will focus on who should be attributed authorship when AI and humans work in tandem to create a piece of fine art.

The issue of authorship concerning the products of AI art generators has both legal and historical precedents. Within the last two years, a series of legal proceedings have emerged that underscore the evolving perspectives on both authorship and ownership in this domain. While assigning authorship to the prompt engineer may be the most direct attribution, some people argue that authorship should be given to either the AI system itself or to the myriad of individuals whose art was scraped off of the internet to build the AI system.

To understand these perspectives, the reader must have some understanding of how AI art generators, specifically Midjourney function. Artificial intelligence is the process by which computers imitate human learning by utilizing algorithms and data. This data needs to be both vast and high-quality for the resulting model to be able to perform its task correctly, meaning making minimal mistakes in whichever specialization it was created for. More specifically, in Midjourney, billions of images associated with words are fed to its models and its neural networks learn to generate images by analyzing the images pixel by pixel. The end product model that users interact with can now associate images with text and vice versa, meaning that the user can input text and receive an image output. Often, Midjourney does not create the result that the user envisioned on the first try and variations can be created. Furthermore, each creation is assigned a seed number that acts as a progenitor, or baseline image, from which variations and children spring.

## ***Established Perspectives***

The debate on Human-Guided AI Art authorship can be understood as a linear progression: from the database authors whose works feed the AI models, to the AI’s neural network, and finally to the AI’s user or prompt engineer. Recent lawsuits, such as those filed by Sarah Andersen, Kelly Mckernan, and Karla Ortiz, against Stability AI and Midjourney advocate for the perspective that the original authors should be attributed authorship (Case 3:23-cv-00201). Another perspective, as argued by the lawsuit filed by Plaintiff Stephen

Thaler, advocates for the perspective that the AI art generator has creativity and should be assigned copyright, which I am narrowly equating with authorship (Case 1:22-cv-01564-BAH). This paper introduces and advocates for a third perspective: recognizing the prompt engineer as the true author.

## Deconstructing AI-Generated Art: A Kantian Perspective

In the collaborative endeavor between humans and AI to produce fine art, the authorship rightfully belongs to the human prompt engineer. In this context, the prompt engineer steers the art generator, making iterative adjustments that align with their artistic vision. To establish the prompt engineer as the true author, they must satisfy specific Kantian criteria: universal subjectivity, originality, intent, purposiveness, and inexplicability. I contend that the prompt engineer fulfills all these benchmarks. Just as a paintbrush does not diminish the artist's role in a painting, AI does not usurp the artist's vision but instead enhances it. The true essence of the artwork, its soul, still originates from the human artist, even if the execution involves AI. As stated in *Digital Art* by Christiane Paul, digital technologies “add an extra dimension” and allow for an artistic blended reality that was previously untapped, even more so with AI.

### *Prompt Engineer as Author*

When considering Human-Guided AI Art, the most illustrative way to advocate for the prompt engineer's authorship is through a tangible example. Jason Allen, in 2022, won first place in the Colorado State Fair art competition, using Midjourney (Kenney). Allen recounts the moment of inspiration, describing a vivid image of “women in Victorian dresses wearing space helmets” that appeared to him in a state reminiscent of the hypnagogic (Roose). Armed with this burst of creativity, he employed Midjourney as an instrument, likening it to a “brush,” to craft his *Space Opera Theater* collection. After navigating through over 624 iterations, devising his unique “writing techniques” for guiding the AI, and harnessing Gigapixel AI among other image enhancement tools, Allen realized his artistic vision.



Figure 1: Jason Allen's *Théâtre D'opéra Spatial* (2022). Human-Guided AI Artwork

Examining the artwork, traces of cubism are evident, particularly along the piece's edges. A warm palette of reds and oranges envelops the outer sections, while cooler hues of white and light blue dominate the center. The foreground presents a striking contrast between historical attire—like Victorian dresses and the Korean

Hanbok—and avant-garde portal technology, achieving a harmonious blend. Observing this, one experiences the 'free play' between imagination and understanding, stimulating the mind's faculties (Bruno). The accolade from the competition and the reactions of its audience further cement Space Opera Theater's status as universally appealing fine art. It stands as a distinctive creation, not a mere imitation. In summary, Jason Allen deserves the title of author for this artwork. He infused it with intent, originality, and artistry, and the piece embodies the qualities of being inexplicable, purposive, and universally subjectively appealing (Neal). Given that it meets all the criteria of fine art, and Jason Allen imparted the essential elements to classify it as such, he should be recognized as the author of this fine art piece (Murray).

A possible critique of the art piece and Jason Allen's authorship would be his lack of technical skill. This is an understandable criticism and falls within the purview of the Kantian explanation of fine art creation: "qualities of genius can be enumerated in accordance with experience, and certain determinate requirements can be made of it" (Section 46). However, it stems from a deep misunderstanding by many artists and the general public rooted in the belief that the user of the technology needs only input a simplistic prompt to receive a masterpiece. This is an incorrect understanding of how Midjourney, and other AI art generators, function. From the testimony of Jason Allen, it can be seen that the process is neither fast nor easy, requiring the user to develop their own understanding of how the AI would respond to certain prompts and develop a writing style. Furthermore, Midjourney is not an isolated technology and end products can involve its utilization, as well as traditional photo manipulation technologies like Photoshop. In regards to the writing style, due to Jason Allen keeping the prompt that led to his fine art piece private, an example art piece and prompt will be presented.



Figure 2: MikeR1962's Charles Haddon Spurgeon (2023). Human-Guided AI Artwork

*“Full length shot of Charles Haddon Spurgeon::18, standing at a pulpit::6 of a dimly lit church lit by candles at the the pulpit, open Bible in hand::9, circa 1840, back light, photoshoot, Unreal Engine 5, Cinematic, Color grading...Tilt Blur, Shutter Speed 1/1000, F/22, White Balance, 32k, Super-Resolution, Megapixel, Pro Photo RGB, VR, Lonely, Good, Massive, Half rear lighting, Backlight Natural Lighting Incandescent, Optical Fiber, Moody Lighting, Cinematic Lighting, Studio Lighting, Soft Lighting, Volumetric, Conte-Jour, Beautiful Lighting, Accent Lighting, Global illumination, Screen Space Global illumination, Ray Tracing Global Illumination, Optics, Scattering, Glowing, Shadows, Rough, Shimmering, Ray Tracing Reflections, ‘Lumen Reflections, Screen Space Reflections, Diffraction Grading, Chromatic Aberration, GB Displacement, Scan Lines, Ray Traced, Ray Tracing Ambient Occlus on, Anti- ‘Aliasing, FKAA, TCAA, RTX, SSAO, Shaders, OpenGL-Shaders, GLSL-Shaders, Post Processing, Post-Production, Cell Shading, Tone Mapping, CGI, VFX, SFX, insanely detailed and intricate, hyper maximalist, elegant, hyper realistic, super detailed, dynamic pose, photography, Hyper realistic, volumetric, photorealistic, ultra photoreal, ultra-detailed, intricate details, 8K, super detailed” (MikeR1962)*

From this prompt and result, it is clear that the creation of something you have specific in mind requires deep knowledge about how AI interprets your words and the utilization of weighting techniques. The prioritization of certain elements and the building of the elements in a hierarchical, weighted manner is integral to the Human-Guided AI Art process. Furthermore, the prompt engineer’s understanding of how technical terms from the field of photography such as “F/22,” as well as terms from game graphics such as “Unreal Engine 5” and “Ray Tracing,” affect the final result is a skill. In this prompt, the F/22 refers to a small aperture that allows less light in but gives a larger depth of field. On the other hand, Unreal Engine 5 is a cutting-edge game engine known for enabling high-quality, immersive environments with ray tracing emphasizing to the AI to focus on shadows, reflections, and refractions (Melisa). Knowledge of how different subjects, nouns, verbs, technical terms, weighting, seeds, and more affect the end result is a skill that needs to be refined continuously, much like the basics of traditional art mediums. Techniques do not purely define fine art, but the capacity to use Midjourney to create fine art shows both technical prowess and genius on the part of Jason Allen. As such, the counterargument regarding the skill of artists utilizing AI, like MikeR1962 and Jason Allen, falls flat.

A primary critique of Human-Guided AI Art is that the practitioners do not necessarily know why the end result produced by the AI is a certain way. The rationale behind how the various ideas, images, and references coalesce into a coherent whole through both the prose of the prompt engineer and the neural network of the AI is unknown. This is due to the black box nature of neural networks that utilize millions to billions of parameters with many layers of abstraction, further complicated by the non-linearity of their decisions and lack of clearly defined rules, and whose end decision is not explainable. Two models can have different amounts of parameters, and different weights for the parameters, but still come to the same judgment. As Associate Professor of Electrical and Computer Engineering Samir Rawashdeh at the University of Michigan-Dearborn explains “You’ve lost track of which inputs taught you what and all you’re left with is the judgements” (Blouin). This does not detract from the authorship or genius of the prompt engineer however, because this “inexplicability” is a feature of the Kantian definition of genius and fine art. Kant notes that “[geniuses] cannot show how their ideas arise in [their] mind. The reason is that [one] does not know and cannot teach [their rules] to anyone else” (Section 47). Therefore, the argument against the lack of understanding of the exact steps by which a final fine art piece is created detracts from the genius of the prompt engineer and also falls short.

### ***Rebuttal to Database Author Attribution Perspective***

Regarding the database of art utilized, the lawsuit directed at Midjourney contends that “Midjourney relies on appropriating millions of copyrighted images created by artists and using these images as Training Images.” This argument suggests that the essence and intellectual property of the original authors are essentially transferred into the AI models, which then influence the resulting piece of art created with the AI. However, this perspective is significantly undermined by instances like that of Jason Allen, where the original artwork from which the AI might have drawn inspiration cannot be discerned or identified. Allen’s “Space Opera Theater”

stands as a testament to originality, bearing no discernible traces of the artworks in the training database. Thus, the authors of the images in the database cannot reasonably stake a claim to authorship of this distinct piece of fine art. Moreover, if every database contributor were to assert a claim of authorship over AI-generated art, it would lead to an impractical and convoluted web of ownership rights, making it nearly impossible to attribute credit. This scenario would be analogous to every artist who ever inspired another demanding credit for the latter's work. Historically, artists have always drawn inspiration from their predecessors and peers. In the realm of AI, this natural process of learning and evolving is now facilitated through a machine, but the foundational principle remains constant between the learning of humans and the artificial learning of AI. In light of these considerations, it becomes evident that attributing authorship to the vast array of database contributors is neither practical nor justifiable. Instead, the rightful recognition of authorship should be accorded to the prompt engineer, who actively shapes, guides, and refines the artistic vision realized through the AI.

The debate surrounding AI's role in the art world often stems from a combination of concerns about traditional artistic values and socio-economic implications. Many of the arguments presented by art purists and critics against the integration of AI in artistic processes either overlook the Kantian perspective on authorship or misinterpret the actual function and influence of AI in the final art pieces. A significant portion of the resistance to Human-Guided AI Art arises from socio-economic apprehensions. There is a palpable fear that the widespread adoption of AI tools in art creation might lead to the marginalization or even replacement of human artists, especially in an industry that already grapples with economic vulnerabilities. This concern, while rooted in genuine worries about the livelihoods of artists, is not a true critique of my attribution of authorship to the prompt engineer. In the Kantian aesthetic perspective, art produced with a primary corporate intent, would likely fall into the category of "agreeable art," lacking the "internal purposiveness" that Kant deemed essential for something to be considered "fine art." Nevertheless, I acknowledge that my argument, which validates AI art, might be perceived critically because of its potential economic implications for the traditional art community. Yet, it is crucial to differentiate between the philosophical discourse on what constitutes "fine art" and the socio-economic implications of AI's integration into the art world.

### ***Rebuttal to AI Authorship Attribution Perspective***

With the encroachment of AI into art, one of the possible perspectives on authorship attribution is to assign this to the machine itself. As evidence, consider the argument placed by the Plaintiff in a recent copyright application: "In his application, Plaintiff represented that the copyright author was the 'Creativity Machine,' an artificial intelligence (AI) machine which he alleged had 'autonomously' created the Work." This assertion underscores a belief in the machine's capacity for independent creativity and autonomy. The Plaintiff's emphasis on the AI's "autonomous" creation suggests a perspective that views the AI as an independent entity, capable of original thought and intent.

However, when we delve deeper into the nature of AI, it becomes evident that the AI itself, when separated from its human user, lacks the intrinsic qualities necessary for producing fine art. A foundational counter argument hinges on the fact that AI, regardless of its advanced capabilities, is neither human nor conscious. This distinction is crucial when considering Kant's implied definition of authorship.

To further elucidate this point, the Chinese Room Argument offers a compelling analogy. Imagine a scenario where an individual, devoid of any understanding of the Chinese language, is placed in a room. This individual is provided with a set of Chinese characters and a rulebook to generate responses to incoming Chinese characters. Even if the resulting responses are indistinguishable from those of a native Chinese speaker, it does not imply that the individual inside possesses an understanding of Chinese (Cole). Drawing a parallel, even if an AI produces art that is indistinguishable from human-made art, it does not signify that the AI truly "comprehends" or "intends" the art it generates. Instead, it operates based on human guidance, devoid of genuine comprehension or intent.



In conclusion, while AI's capabilities in the realm of art are undeniably impressive, its creations are fundamentally rooted in human direction and intent. The very essence of beauty and genius, as understood within the Kantian framework, is intertwined with consciousness, intent, and genuine comprehension—qualities that AI, in its current state, does not possess. Thus, while AI can be a powerful tool in the hands of artists, it remains just that—a tool. The true authorship and artistic genius lie with the human guiding the process, ensuring that the art remains a genuine reflection of human creativity and expression.

### ***Regarding Kant's Credibility and Definition***

A potential point of contention in my argument might be my reliance on Kant's definition of fine art and its associated authorship. It is well-documented that Kant's personal tastes, especially in music, were considered rather "Philistine" (Cambridge Companion 389). Furthermore, his limited travel experiences, largely confined to his hometown, might raise questions about the breadth of his aesthetic exposure. However, while a more cosmopolitan taste might have bolstered the authority of Kant's views, it is undeniable that his contributions to aesthetics have left an indelible mark on the field. It is essential to evaluate Kant's arguments based on their intrinsic merits rather than the personal circumstances or preferences of their author (Cambridge Companion to Kant 387). Discrediting his theories based on his personal tastes or experiences would be to commit the circumstantial ad hominem fallacy. Kant's influence and the robustness of his arguments stand as testament to their enduring relevance. While a deeper dive into the nuances of Kant's aesthetic philosophy might be warranted, such an exploration remains beyond the purview of this paper.

### ***Addressing the Possibility of Non-Art***

A salient and foundational critique of this paper lies in its initial assumptions about authorship. The paper begins with the premise that the output of AI can be classified as art, and thus, authorship can be ascribed to it. However, there is a compelling argument suggesting that creations borne out of AI might not qualify as "art" within the Kantian framework. In this perspective, the AI, with its neural networks and algorithms, can be likened to a natural phenomenon, much like the intricate patterns of frost on a window or a mesmerizing sunset seen on a picturesque mountain. Nature, in its raw, unbridled form, presents patterns, rhythms, and sequences that are beyond human design. Similarly, the AI, particularly its neural networks, operates in a manner akin to natural processes. The way neural networks evolve, learn, and produce outputs is not entirely within human control and operates by its rules like nature. As such, the prompt engineer could be further likened to the driver that takes the viewer to the beautiful scenery, not an artist who created fine art. The beauty in the "fine art" is now the beauty of a natural phenomenon.

However, while this perspective holds weight, it is crucial to underscore the undeniable role of humans in the AI art generation process. The AI does not operate in a vacuum; it is constantly being guided by humans and this is especially the case with more refined pieces. The prompt engineer, or the human user, provides the AI with direction, molds its outputs, and often iterates upon them multiple times to achieve the desired artistic vision. This symbiotic relationship between human and machine ensures that the human element, so central to Kant's definition of art, remains integral to the process. Thus, even within a Kantian framework, I maintain my stance that the resultant pieces, being products of both AI capabilities and human artistic intent, can indeed be classified as art.

### **Implications**

The implications of attributing authorship to the human prompt engineer are blurred human-techno boundaries. In an era where technology permeates every facet of our lives, the boundaries between human creativity and machine assistance become increasingly blurred. By emphasizing the centrality of human intent and vision in the art-making process, even when AI is involved, we lose the fear that machines might replace human genius

because we shift from replacement to collaboration. The distinction between commercial and fine art, as I have defined it, mirrors the broader tension in society between commercialization and authenticity. In a world increasingly driven by data and algorithms, the insistence on the human element in art creation serves as a poignant reminder of the irreplaceable value of human subjectivity and emotion. As AI continues to evolve and integrate deeper into our societal fabric, the philosophical musings on its role in art offer a lens through which we can reflect on our own evolving relationship with technology and the essence of human creativity.

## Conclusion

This paper has shown that the prompt engineer, in this symbiotic dance with AI, emerges as the true artist, infusing the machine's outputs with vision, purpose, and

soul. Throughout the various introductory sections, like Defining Kantian Genius, and the main argument section Prompt Engineer as Author, I made and supported the argument that true authorship should be attributed to the prompt engineer. Drawing from Kant's aesthetic philosophy, this paper underscores the indispensable role of human intent, vision, and genius in the art-making process. Kant's views, while rooted in a different era and shaped by his personal experiences, offer a timeless perspective on art and creativity. His emphasis on the ineffable nature of genius, the intrinsic value of originality, and the human essence of fine art provides a robust framework to evaluate the products of Human-Guided AI Art. Utilizing compelling evidence in the form of tangible precedent of Jason Allen and referencing Kant's understanding of authorship, I successfully rebutted various possible counter arguments to my position and other perspectives on this topic. I demonstrated how the perspectives regarding database authorship and AI authorship failed to meet the standard set by Kantian authorship. There are still questions about whether or not AI art should be considered on the same level as other forms of art because of the collaborative effort between prompt engineers and AI, which greatly expands on traditional boundaries in art. While art is supposed to break boundaries, many in the art world question the legitimacy of AI art and whether this medium deserves the same respect as other more human centric art mediums. An additional weakness of my argument is the utilization of a Kantian understanding to support the central claim that Human-Guided AI art is both art and specifically fine art. Fine art has many other definitions, like that of posited by Plato, Hegel, and Adorno. Therefore, although I argue that AI art can be fine art, within other conceptualizations of fine art, this may not be the case. Ultimately, AI will affect art and already has, with many workshops springing up across the country to teach students how to utilize AIs like ChatGPT and Midjourney. Eventually, the difference between novice and professional prompt engineers will become more noticeable, especially with the advancements in AI and the specificity allowed by this. Hence, the broader issue that this paper touches upon is whether to focus on the human contribution in Human-Guided AI art by legitimizing the capacity of this medium to create fine art and for authorship to be attributed to the prompt engineer, or to exclude this medium altogether.



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