Articles + Publications | October 20, 2025

AI in Marketing and Creative: Ownership, Risk, and What Still Belongs to You

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You're a marketing director — likely overcaffeinated, surely behind schedule, and your team is staring down a parade of deadlines for something — let's call it "content," a word that now covers every act of human (or semi-human) communication. You also have a dozen new vendors bringing the promises of AI to you in different ways — fast, easy, less expensive. But as Paul Virilio warned us: "When you invent the ship, you also invent the shipwreck." You need to know the trade-offs.

The Ownership Mirage. In the old world (think 2023), creative ownership was typically a contractual thing. You paid a designer or writer, they signed, and the brand owned the output. AI changes the equation because AI isn't an employee, contractor, or even a "who." It's a "what." And as U.S. copyright law continues to shape up, "whats" cannot own or transfer anything.

Which leads to the weird, slightly vertigo-inducing possibility that your new campaign — your company's proud, innovative, algorithmically birthed masterpiece — may be unownable. No copyright. No exclusive rights. Anyone could take it, remix it, ridicule it, or claim it. It's not just a legal quirk — it's a philosophical one. We're using tools designed to imitate creation itself, then discovering that imitation doesn't fit cleanly inside the box we built for art, property, and credit.

The Broader Mess Ownership is just the headline. Beneath it is a web of other problems that feel both obvious and impossible to solve. AI doesn't "create" so much as it remixes. It's a collage machine, built on billions of data fragments — snippets of writing, artwork, code — some of which are copyrighted, some private, some scraped from places where consent was more implied than given. When you prompt it to make a "fresh, modern take on your brand identity," it's doing so atop a landfill of borrowed fragments. The legal question is whether you've built your castle on someone else's sand.

Then there's the issue of confidentiality. Feed your brand brief into a public AI system and you may have effectively handed your strategy to the digital ether. Models "learn" from inputs; your proprietary concept might quietly become someone else's "inspiration."

And bias — because of course the machine reflects us. Every blind spot and aesthetic preference, scaled up to the size of a global marketing campaign. It's the kind of feedback loop that looks neutral until you really think about who gets to define "professional," "beautiful," or "trustworthy" in the dataset.

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The Trade-off. AI gives you something. It also takes something intangible — the human friction that made creative work feel like risk and reward instead of automation. We used to control our creative process through deadlines, drafts, meetings, and arguments. Now, the process controls us: one click, and the image or slogan exists before we've even decided what we wanted to say.

A Few Things (Still) in Your Power. If you're leading a creative team, here's what still belongs to you:

1. Intentionality. Decide why you're using AI before you do. "Because it's faster and cheaper" isn't a strategy.
2. Human fingerprints. The more your team edits, refines, and shapes the work, the more legally protectable it becomes.
3. Contracts that catch up to reality. Update your creative service agreements. Define what "AI-generated" means. Decide who's responsible if something goes wrong.
4. Data hygiene. Treat AI prompts the way you treat public statements — assume the internet is listening.
5. Critical distance. Ask not only what AI can make, but what it's making of you, your team, and the "content." The technology will likely impact your hiring practices and team management more than you currently anticipate.

A Final Note. The legal issues arising from AI hit clients almost every day right now, and here is what we're finding: AI, in trying to imitate human creativity, has forced us to define what creativity actually is. The legal parameters will catch up eventually, as they always do — but in the meantime, every marketing director, copywriter, and designer is operating in the gray space between authorship and automation.

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