

AI REPORTER

A Publication of Benesch's AI Commission

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AI Update



Steven M. Selna
Partner

In the entertainment industry, Sony Music asserted that AI companies don't have permission to use its recording artists' works for AI training. In response to the industry's concerns over the use of AI, members of Congress may soon introduce a new act called the NO FAKES Act to protect artists against unauthorized digital replicas. In the U.K., lawmakers called for regulations that would require AI-generated music to be labeled and would protect creators from deepfakes, misappropriation, and false endorsement.

On the litigation front, OpenAI is facing a lawsuit from actress Scarlett Johansson alleging the AI giant used a voice similar to hers without permission for the Sky version of ChatGPT. OpenAI is also facing another copyright lawsuit, as newspaper publisher Alden Global Capital alleges the developer used its articles without authorization to train its AI. Google is facing its own copyright lawsuit, as a group of photographers and illustrators allege the company used significant amounts of copyrighted works to train its text-to-image tool.

In the EU, tech giants are pushing back against the AI Act, which they believe will hinder innovation. Nonetheless, lawmakers are proceeding with the proposed regulations, despite criticism from Meta and Amazon. While smart regulation has been known to incentivize innovation in other industries, it remains to be seen how protective measures in the U.S. will unfold considering the rapid advancement of the technology.

Finally, as a sign of a positive development between developers and media, OpenAI signed a licensing deal with the *Financial Times* for permission to use the publication's content to train its AI. It is likely other AI developers will follow suit as controversy surrounding the use of copyrighted content to train AI grows.

Following are this month's highlights and developments.



Sydney E. Allen
Associate

AI in Business

[Tech CEOs join tech leaders on federal AI safety panel](#)

The 22-member AI Safety and Security Board was formed in response to President Biden's 2023 executive order calling for a cross-industry body to make "recommendations for improving security, resilience and incident response related to AI usage in critical infrastructure." The panel includes major tech CEOs from some of the largest companies in the world, including Google, Microsoft, OpenAI, IBM, Cisco and Amazon Web Services. The panel will also include civil rights groups, academic leaders, and federal, state and local government officials. The panel will make recommendations to a variety of industries, like telecommunications, electric utilities and pipelines, on how they can use AI responsibly.

Source: CNN

[OpenAI granted permission to train ChatGPT on Financial Times content](#)

The Financial Times struck a deal with OpenAI that allows OpenAI to use its content to train the artificial intelligence system. Users of ChatGPT will receive summaries and quotes from FT journalism, as well as links to articles, in responses to prompts, where appropriate. This comes as the New York Times is suing OpenAI and Microsoft for allegedly using its content to train large language models (LLMs) without consent.

Source: The Guardian

[Microsoft says police cannot use its AI for facial recognition](#)

Microsoft reaffirmed its ban on U.S. police departments using generative AI for facial recognition through Azure OpenAI Service. Language added to Azure OpenAI Service's

Code of Conduct specifically prohibited integrations with Azure OpenAI Service from being used "for facial recognition purposes by or for a police department in the United States; or... for any real-time facial recognition technology on mobile cameras used by any law enforcement globally to attempt to identify individual in uncontrolled, "in the wild" environments, which includes (without limitation) police officers on patrol using body-worn or dash-mounted cameras using facial recognition technology to attempt to identify individuals present in a database of suspects or prior inmates." While it is unclear whether there is any correlation, the policy change comes after Axon, a maker of tech and weapons products for military and law enforcement, said its new product would use OpenAI's GPT-4 generative text model to summarize audio from body cameras. Critics quickly noted potential pitfalls, like hallucinations (where generative AI models invent facts) and racial biases introduced from the training data.

Source: Yahoo! / Tech Crunch

[International Olympic Committee to implement AI system to protect athletes and officials from abusive social media posts prior to 2024 Olympic games](#)

The AI system will monitor thousands of accounts on major social media platforms in more than 35 languages in real-time. Any threats identified by the system will be flagged so they can be handled by their respective social media platforms, hopefully before the athlete or official sees it. The system will be able to cover over 15,000 athletes and 2,000 officials across the Olympic Games. The Paris 2024 games will mark the first time that AI will be used to provide a safe online space for athletes.

Source: International Olympic Committee

AI in Business

[OpenAI allows creators to opt out of having their content train AI products](#)

Following several government investigations and lawsuits accusing the company of unlawfully using copyrighted content to train its AI models, OpenAI added privacy settings allowing regular users to remove their content so that it won't be used to train ChatGPT. Moving forward, OpenAI plans to roll out a new tool called Media Manager that allows creators to opt out of training ChatGPT and other models that power OpenAI products. The tool should be available in 2025.

Source: Microsoft Start

[TikTok automatically labels AI-generated content](#)

In a push to increase accurate content, TikTok became the first video-sharing platform to implement Content Credentials technology, an open technical standard providing publishers, creators and consumers the ability to trace the origin of different types of media. The tech provides details on the content including where it was taken, who made it and the edits that were made. TikTok will also start attaching Content Credentials to content, which will remain on the content when downloaded allowing other platforms to read the metadata.

Source: ABC News

[Sony Music Group opts out of AI training for signed artists](#)

Sony Music Group (SMG) and its affiliates Sony Music Publishing (SMP) and Sony Music Entertainment (SME) went on record, saying AI companies are not allowed to use the works of their recording artists for any purposes, including but not limited to, training, developing or commercializing any AI systems, without specific and explicit authorization. In its statement, SMG expressed its support for artists and songwriters embracing new technologies in support of their art, but also highlighted the need to respect artists' rights, including copyrights. Popular artists and songwriters currently signed to SMG include Celine Dion, Doja Cat, Tyla, Future, 21 Savage, Bryson Tiller, Kameron Marlowe and Billy Joel.

Source: Sony Music

[Leading AI companies pledge to safely develop AI](#)

During a mini summit on AI, Google, Meta and OpenAI, among others, promised accountable governance, public transparency and even to stop developing or deploying their AI if they're unable to rein in the most extreme and severe risks. The pledge includes publishing safety frameworks setting out how they will measure the risks of these models.

Source: The Globe and Mail



Carlo Lipson
Associate

AI Litigation & Regulation

LITIGATION

[Google facing copyright claims in AI image use class action](#)

The proposed class action alleges Google used significant amounts of copyrighted works without authorization to train Imagen, its text-to-image AI tool. The suit was filed by photographer Jinga Zhang and illustrators Sarah Andersen, Hope Larson and Jessica Fink, who seek to represent a nationwide class of persons or entities that own a copyright in any work used as a training image for the Imagen tool.

Source: Law 360 (sub. req.)

[OpenAI, Microsoft accused of unlawfully using Alden Global Capital newspapers content to train AI models](#)

Eight newspapers owned by Alden Global Capital allege that OpenAI and Microsoft used millions of their articles without permission to develop generative AI products. The plaintiffs also contend the AI startup and the tech giant's systems produce content that is identical to-or marginally modified versions of-the newspapers' content, in addition to falsely attributing inaccurate reporting to the newspapers, tarnishing their reputations. This comes on the heels of the New York Times' December suit over similar claims.

Source: The Hill

[Nvidia, Databrick accused of unlawfully training AI models on authors' work](#)

DiCello Levitt and a collection of authors filed class actions against Nvidia and Databrick, alleging they suffered as a result of the defendants allegedly using their copyright-protected work in datasets used to train AI models. Neither of the two new class actions mentions which specific works were used by the datasets, but the authors claim the

software produced protected expression from the unlawfully obtained texts. Both complaints are seeking the destruction of all AI-generated materials made in violation of the plaintiffs' exclusive rights.

Source: Law360 (sub. req.)

[Lovo facing lawsuit over allegations it stole actors' voices for AI tech](#)

The proposed class action alleges that the AI startup is using actors' voices for its AI-driven voice-over software. According to the complaint, Lovo tells customers that it has the legal right to market the voices used in its technology, despite allegedly not securing permission for their use nor adequately compensating individuals. One of the plaintiffs alleged that she was hired for an online freelance marketplace to produce test scripts for radio ads and was told by Lovo's co-founder that recordings would not be used outside the company and, therefore, would not need rights of any kind. The suit is claiming violations of New York's Civil Rights Law and Deceptive Practices Act, as well as false affiliation under the Lanham Act. Plaintiffs are seeking \$5 million in damages, civil penalties, restitution and disgorgement, injunctive relief, attorneys fees and litigation costs.

Source: Law 360 (sub. req.)

[Student creator of AI study tool suing Emory University over cheating suspension](#)

The student creator of the AI-powered study tool Eightball is suing Emory University for suspending him over his use of the tool. According to the complaint, Emory awarded the student \$10,000 for helping to create Eightball during a 2023 university competition. However, six months later, the school ordered the student's suspension after concluding that the tool could be used for cheating because it pulls information from search engines to generate flashcards and study guides. Plaintiff argues the

continued on next page

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suspension was unfair because he never cheated, nor did the university allege that he did so. Further, the complaint alleges that Emory has conceded that there is currently no evidence that anyone has used Eightball to cheat. Plaintiff is seeking damages, attorneys fees and costs, as well as a permanent injunction requiring the university to vacate its finding that he violated the honor code.

Source: Law 360 (sub. req.)

[Scarlett Johansson accuses OpenAI of building chatbot using voice similar to hers without permission](#)

Actress Scarlett Johansson hired entertainment attorney John V. Berlinski to assist in her accusations that the AI startup used a voice similar to hers for the Sky version of ChatGPT, despite having declined OpenAI's inquiry months prior to release. Johansson claims that OpenAI CEO, Sam Altman, asked her to reconsider two days before the chatbot was released, but the tech began using a voice nearly indistinct from her own before the parties connected.

Source: Law360 (sub. req.)

REGULATION

[Department of Commerce to implement further actions to AI Executive Order](#)

The department's National Institute of Standards and Technology (NIST) released four draft publications intended to help improve the safety, security and trustworthiness of AI systems, along with a challenge series that will support the development of methods to identify AI-created content. Additionally, the US Patent and Trademark Office is seeking feedback on how AI could affect evaluations of how the level of ordinary skills in the arts is made to determine if an invention is patentable.

Source: NIST

[Advocacy group files complaint against OpenAI, alleging GDPR violations](#)

Austrian advocacy group NYOB alleges that OpenAI's failure to address ChatGPT's propensity to provide incorrect information may violate the EU's General Data Protection Regulation (GDPR). According to NOYB, ChatGPT was prone to providing incorrect information, rather than informing users that it lacks the necessary data. Further, the group said that OpenAI refused requests to rectify or erase the data, reasoning it wasn't possible to correct the data.

Source: Reuters

[U.K. lawmakers demand AI use in music be regulated](#)

Amid mounting concerns about the impact of AI-generated music on the industry, an All-Party Parliamentary Group (APPG) is demanding legislation to ensure the public isn't duped by deepfake or AI-generated music. This comes as 83% of the British public wants action on deepfakes of artists-like Dua Lipa and Taylor Swift, among others-and 77% believe AI-generated music that fails to acknowledge the creator of the original music amounts to theft. Thus, the APPG is demanding the government, among other things:

- Introduce a U.K. AI Act;
- Ensure all AI-generated copy is clearly labeled;
- Introduce a specific personality right to protect creators and artists from deepfakes, misappropriation and false endorsement; and
- Lead the creation of a pro-creative industries international taskforce on AI.

Source: UK Music

AI Litigation & Regulation

[SEC subpoenas FinTech lender regarding AI disclosures](#)

Upstart Holdings is complying with the Nov. 17, 2023 request to provide information on its use of AI for underwriting, following its disclosure that 90% of its unsecured loans were fully automated. Wall Street's main regulator is one of several agencies scrutinizing such use of AI as potentially containing biases or otherwise faulty criteria that could lead to bad outcomes.

Source: Bloomberg

[U.S. lawmakers propose bill controlling AI models' exports](#)

A bipartisan group of lawmakers proposed a bill that would give the Commerce Department express authority to impose exports controls on AI models and bar Americans from working with foreigners to develop AI systems that pose risks to U.S. national security. The legislation, which aims to safeguard U.S. technology against foreign bad actors and bulletproof future AI export regulations from legal challenges, comes amid mounting worries that U.S. adversaries could use the models to wage aggressive cyber-attacks or even create potent biological weapons.

Source: Reuters (reg. req.)

[Council of Europe adopts first-ever international treaty to ensure respect of human rights, law, democracy legal standards in AI use](#)

The first-of-its-kind treaty, which is also open to non-European countries, offers parties the option to either opt to be directly obliged by the relevant convention provisions or take other measures to comply with the treaty's provisions

while respecting their international obligations regarding human rights, democracy and the rule of law. Countries must also ensure that AI systems respect equality and privacy rights, while also maintaining accountability and responsibility for potential adverse impacts. Moreover, parties must ensure the availability of legal remedies for victims of human rights violations related to AI and procedural safeguards, including notifying any persons that they're interacting with AI systems.

Source: Council of Europe

[U.K. regulator won't investigate Microsoft, Mistral AI partnership](#)

One month after requesting industry feedback on a partnership between the tech giant and the French AI company, the Competition and Markets Authority stated that the tie-up doesn't qualify for investigation under U.K. merger rules. Thus, the watchdog confirmed that the structure of the partnership doesn't grant sufficient influence on Microsoft.

Source: Associated Press

[Silicon Valley in uproar over California AI safety bill](#)

California lawmakers are proposing new regulations that would require AI firms to install a "kill switch" in their systems. While this initiative aims to prevent AI from causing significant harm, AI companies are pushing back, with some threatening to leave Silicon Valley and other critics arguing this would stifle innovation. The legislation would force tech companies to comply with AI regulations, create a new state agency to oversee developers and provide best practices, combat AI discrimination and more.

Source: NY Post

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Colorado jumps to head of the Line, enacts first comprehensive state AI consumer protection law

Marking a significant step toward state-level AI regulation in the absence of federal laws, Colorado has enacted the first comprehensive state AI consumer protection law, effective February 1, 2026. Known as the Colorado AI Act, this law mandates that developers and deployers of high-risk AI systems, which make consequential decisions, use reasonable care to prevent algorithmic discrimination. The Act requires detailed documentation, disclosure and compliance measures, with enforcement by the Colorado State Attorney General, who can impose penalties for violations.



Megan Parker
Associate



Kris Chandler
Senior Managing Associate

SOURCE: Benesch

Utah Generative AI Disclosure Law takes effect as part of consumer protection legislation

Businesses interacting with Utah residents should act quickly to ensure compliance with new obligations requiring certain disclosures regarding use of generative AI tools, as Utah joins the growing list of states specifically regulating AI systems. Aiming to enhance consumer protection in the state, Utah's Generative AI Disclosure Law, effective May 1, 2024, mandates businesses interacting with Utah residents to disclose the use of generative AI. The law requires proactive disclosure in regulated occupations and upon request in consumer interactions. Non-compliance can result in fines and legal actions. Additionally, the law establishes the AI Learning Laboratory Program and the Office of Artificial Intelligence to oversee AI regulations and support innovation.



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SOURCE: Benesch

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[Key Takeaways from the AI Strategy Summit: Developing a Comprehensive Corporate AI Policy](#)

At the recent AI Strategy Summit in New York, Benesch Partner Aslam Rawoof joined a distinguished panel to discuss the legal, ethical and compliance considerations surrounding corporate AI policy. Alongside panelists including Exos General Counsel Marc Mandel and Verizon Managing Associate GC Josh Dubin, Aslam contributed to a rich dialogue on the evolving landscape of AI governance. Check out the key takeaways from their discussion at the link above.

Benesch San Francisco:

AI Corner



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[The Potential Applicability of Section 230 of the Communications Decency Act in Search Engines in the AI Age](#)

In the ever-evolving landscape of artificial intelligence (AI), the integration of AI into search engines has marked a significant shift. Recent announcements from major tech events such as Apple's WWDC 2024 and Google I/O 2024 have highlighted this trend. Both companies have introduced features that utilize AI to summarize search results. This seems to reflect a broader industry movement that includes Microsoft's Bing Chat, which has offered similar functionality for some time. This trend has sparked increasing discussion about the potential applicability of Section 230 of the Communications Decency Act in the AI search engine age.

As people might anticipate, this is a very complicated topic.

The potential implications of AI search summaries on Section 230 protections are significant and could lead to a re-evaluation of the legal framework. The ambiguity surrounding AI's role in content creation might prompt legislative updates to Section 230. Policymakers may need to consider whether the current protections are adequate or if new regulations are required to address the nuances introduced by AI technologies. Moreover, as AI technology continues to evolve and integrate deeper into search functionalities, it is likely that courts will need to address these new challenges. The distinction between hosting third-party content and generating AI-based summaries will be a critical factor in future legal battles.

SOURCE: Benesch

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