

AI REPORTER

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AI UPDATE



Steven M. Selna
Partner

The use of AI in the justice system and dispute resolution has become a significant topic of conversation. This suggests the first real legal limits on the technology may come from the courts instead of legislation. In one instance, a Washington state court barred the use of AI-enhanced cellphone video as evidence in a murder trial. Similarly, New York State formed a panel to study how AI could improve access to justice while also exploring ways to avoid any potential risks associated with its use.

Elsewhere, JAMS made history by becoming the first alternative dispute resolution organization to implement rules for AI-centered disputes. This move is a significant step toward ensuring that AI is integrated into the dispute resolution process in a fair, transparent and equitable way. It also highlights the growing need for clear guidelines and frameworks for AI's use in resolving disputes.

In the entertainment industry, more than 200 musicians, including Billie Eilish and Stevie Wonder, sent an open letter to AI companies urging them to stop using the technology to infringe upon and devalue human artists. Hollywood also had something to say regarding the technology as a number of unions, including the Writer's Guild and Director's Guild, expressed support for proposed federal legislation that would require AI firms to disclose the use of copyrighted works in AI training.

In response to the scrutiny from both the public and private sectors, AI companies are taking steps to become more transparent. Meta will tag a wider range of content on its social media platforms with its "Made with AI" label. OpenAI will also include citations to original sources in ChatGPT responses. The moves suggest that the industry may look to methods of self-regulation in order to avoid unduly restrictive regulation.

Following are this month's highlights.



Sydney E. Allen
Associate

AI IN BUSINESS

ChatGPT responses to include source citations

ChatGPT responses will now include links to the sources used, allowing users to access additional information and verify the accuracy of the content. By citing sources, OpenAI hopes to address the growing concerns regarding the reliability and accuracy of AI-generated content.

SOURCE: Innovation Village

Miranda Lambert, Billie Eilish, Nicki Minaj submit letter to AI developers to honor artists' rights

The Artist Rights Alliance, an artist-led non-profit, sent an open [letter](#) to AI companies, developers and platforms, urging them to stop using the technology to “infringe upon and devalue the rights of human artists.” The letter acknowledges the creative possibilities of new AI technology but notes that using preexisting works to train AI models threatens human artistry by attempting to replace artists and therefore “substantially dilute the royalty pools that are paid out to artists.” The letter goes on to state “[w]e must protect against the predatory use of AI to steal professional artists’ voices and likeness, violate creators’ rights, and destroy the music ecosystem.”

SOURCE: Associated Press

Tech giants cut corners in quest for AI data: NY Times

Tech companies such as OpenAI, Google and Meta ignored their own corporate policies and even considered bending the law to secure data to train their AI models, claims the New York Times in a new report. Among other things, it is alleged the companies transcribed YouTube videos to harvest text and changed the terms and conditions of their platforms to allow for the scraping of documents and other online material for AI training.

SOURCE: The New York Times (sub. req.)

Meta broadens labeling policy for AI-generated content, altered media

The social media giant plans to tighten its policies around AI-generated content by labeling a wider range of content on Facebook, Instagram and Threads with “Made with AI” when it detects industry-standard AI image indicators, or when posters disclose they have uploaded AI-generated content. Digitally created or altered images, video or audio that could deceive the public on a matter of importance may be given a more prominent label, with more information and context.

SOURCE: Forbes (sub. req.)

Hollywood labor unions support AI transparency bill

A number of Hollywood unions, including the Writers Guild of America, the Directors Guild of America and the International Alliance of Theatrical Stage Employees, are supporting proposed federal legislation that would require firms to disclose copyrighted works used to train generative AI systems. The bill would require entities to submit to regulators a detailed summary of any copyrighted works used in AI training within 30 days of the product’s offering to the public. The U.S. Copyright Office will use the information to create a database. Failure to comply could result in a fine of \$5,000. While Hollywood views it as a good starting point, the bill likely faces significant resistance from AI companies, as well as lawmakers who are still unsure whether AI’s use of copyrighted works is a violation of IP laws.

SOURCE: The Hollywood Reporter

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AI IN BUSINESS

EPIC joins coalition urging tech platforms to protect elections from AI disinformation

The coalition, which includes more than 200 civil society organizations, urged social media platforms to bolster their efforts to safeguard elections from AI interference. EPIC highlighted six interventions that the platforms must pursue:

1. Reinstating previous election-integrity policies, and supporting them by staffing up platform integrity and moderation teams;
2. Increasing enforcement against false or deceptive political advertising;
3. Adding stronger safeguards against AI-generated content, such as required disclosures for AI-generated political content, prohibiting political deepfakes and finetuning algorithmic amplification toward factual election information;
4. Actively reducing the visibility and spread of election disinformation;
5. Holding influencers, political candidates and other public figures to the same content moderation standards as everyone else; and
6. Improving transparency of content moderation to enable civil-society oversight.

SOURCE: EPIC

Financial institutions exploring AI tools to replace entry-level analysts: Report

Global banks and investment firms are exploring plans to replace entry-level financial analyst positions with AI, according to a N.Y. Times report. Major institutions, including Goldman Sachs and Morgan Stanley, are quietly testing tools that could compile and interpret reports that normally take junior analysts hours to complete in a matter of seconds. These tools would eliminate the need for firms to hire thousands of college graduates and could potentially impact more than 300 million workers.

SOURCE: CIO

Mphasis partners with AWS on AI-powered financial services platform

Mphasis will utilize AWS to power its Gen AI Foundry, which will serve as a dynamic platform for modeling industry use cases and developing proof of concepts for the financial services industry. Gen AI Foundry will also aid in accelerating efficiencies and fostering business transformation, as well as enhance customer engagement through contact center transformation.

Source: Mphasis

Big tech dominates AI patent acquisitions in 2023, IBM tops list

A Harry Patent Analytics [report](#) showed IBM obtained 1,211 AI utility patents in 2023, more than 300 ahead of Google, which came in second with 870 patents. Samsung (750), Amazon (541) and Microsoft (527) rounded out the top five. IBM also topped the list of total AI patents acquired with nearly 7,000, followed by Google (5,000), Microsoft (4,400), Samsung (3,400) and Amazon (3,200).

SOURCE: Law 360 (sub. req.)

Google DeepMind publishes study on ethics of advanced AI assistants

The [study](#) explored the moral issues raised by the development of advanced AI assistants. Researchers found these virtual assistants could provide a number of benefits, like enhanced agency, natural language interaction and personalization. However, there were potential risks associated with the more advanced AI assistants because they enabled more high-impact forms of abuse, such as spreading misinformation or engaging in cyber attacks. To counter these risks, the study urged legislative and technical changes to ensure constructive collaboration and fair results.

SOURCE: Google DeepMind



Carlo Lipson
Associate

AI LITIGATION & ENFORCEMENT

LITIGATION

Washington court bars use of AI-enhanced video evidence in landmark ruling

In a first-of-its-kind ruling, a Washington state judge presiding over a triple murder case has barred the use of cellphone video enhanced by AI as evidence. According to the court, admission of this kind of evidence would lead to confusion of issues and the muddling of eye-witness testimony. Further, the court noted that the introduction of such evidence could lead to a time-consuming “trial-within-a-trial” because the process used by the AI model cannot be peer-reviewed.

SOURCE: NBC News

Nvidia copied trademark for AI framework, lawsuit alleges

Modulus Financial Engineering filed a lawsuit against the tech giant, alleging it illegally used a registered trademark in connection with its open-source AI software. The complaint alleges that for more than two decades, Nvidia has been using the “Modulus” and “Modulus AI” marks for its proprietary enterprise software, which includes deep learning and AI computing. Modulus has filed an application on a use-basis and an intent-to-use basis with no opposition filed, and it is expecting a registration to be forthcoming. Plaintiff is seeking punitive and treble damages, as well as an award equal to Nvidia’s profits stemming from the unlawful conduct.

SOURCE: Law 360 (sub. req.)

Microsoft, OpenAI request dismissal of The Intercept DMCA lawsuit

Microsoft and OpenAI are requesting a New York district court dismiss a complaint filed by The Intercept, which alleges that the companies removed author and copyright information from material used to train ChatGPT. The companies argued that The Intercept failed to allege a single instance in which ChatGPT actually regurgitated or mimicked copyrighted material, let alone did so with its own works. Unlike other lawsuits filed by content creators, The Intercept isn’t alleging copyright infringement and only alleges violations of the Digital Millennium Copyright Act.

SOURCE: Law 360 (sub. req.)

ENFORCEMENT

Treasury report warns of AI danger facing financial sector

The [report](#) revealed a lack of data sharing on fraud prevention, hindering the ability of smaller financial institutions to develop effective AI fraud defenses, while larger institutions can leverage massive troves of data to train their models. The Treasury recommends streamlining regulatory oversight to prevent fragmentation as different financial regulators address AI challenges. The report also urges the need to address “black box” systems by enhancing the explainability of complex AI, especially for the rapidly developing field of generative AI.

SOURCE: PYMNTS

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AI LITIGATION & ENFORCEMENT

[U.S. House bans staff use of MS Copilot](#)

The Office of Cybersecurity deemed the application a risk to users due to the threat of leaking House data to non-House-approved cloud services. The ban follows the House restricting staffers' use of ChatGPT nearly a year ago and marks the government's latest attempt to simultaneously navigate and regulate its internal use of AI. In response, Microsoft has revealed plans to roll out a suite of government-oriented tools later this year that will address Congress' concerns.

SOURCE: Axios

[U.S., U.K. partner on AI risk testing program](#)

The agreement will see the U.S. Artificial Intelligence Safety Institute collaborate with the U.K.'s AI Safety Institute to share the testing of advanced AI models. The move comes amidst concerns in the U.K. about the potential risk the technology can cause to global financial stability. Both institutes plan to perform at least one joint testing exercise on a publicly accessible model, share information, and exchange expert staff.

SOURCE: Law 360 (sub. req.)

[U.K. competition watchdog concern over Big Tech's influence on AI sector](#)

The Competition and Markets Authority (CMA) expressed concerns over Big Tech's "interconnected web" of investment and partnerships in the AI sector. According to the regulator, Big Tech firms, such as Google, Microsoft and Apple, have too great an influence on the state of AI, allowing them to significantly impact how AI models are developed and deployed. The CMA plans to keep a close watch on the future state of AI partnerships, warning that such an influence could lead Big Tech to shape AI to its own interests.

SOURCE: Bloomberg (Sub. req.)

[N.Y. forms panel to study AI risks, rewards in justice system](#)

The statewide advisory panel will study how the potential implementation of AI could improve justice in the state, as well as explore ways to avoid ethical risks posed by the technology. The committee will focus on:

- Assessing potential new tools for use by judges, attorneys, litigants and court staff;
- Establishing and providing training for judicial officers, attorneys and staff; and
- Identifying best practices to move forward on AI integration.

Additionally, the panel will study the potential need to update work standards to acknowledge AI tools, identify opportunities where AI could increase access to justice and examine how questions of AI authenticity could be handled through guidelines, rules or legislation.

SOURCE: Law 360 (sub. req.)

[JAMS establishes rules for AI-focused disputes](#)

The rules will address matters such as liability, algorithmic transparency and ethical consideration, as well as the appointment of a chairperson, the notice of claims, preliminary conferences and information exchanges in arbitration procedures. They will also include procedures for cases involving AI systems, such as filing, service of the request for arbitration, commencement of the arbitration and service of the request for arbitration. The rules make JAMS the first alternative dispute resolution organization to establish an AI-tailored framework.

SOURCE: Law 360 (sub. req.)

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AI INSIGHTS

Government-Wide Policy Provides Federal Agencies Governance Structure and Standards for Use of Artificial Intelligence

Marking the first effort to establish an artificial intelligence (“AI”) governance structure for the federal government, the AI Memorandum contains requirements and recommendations for federal agencies’ AI use that private-sector companies should pay attention to in implementing their own AI risk management and acceptable use policies.



Kris Chandler
Senior Managing Associate

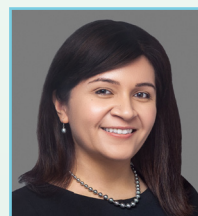


Megan Parker
Associate

SOURCE: Benesch

Advancing AI Transparency: The Rise and Challenges of Watermarking Technology for Identifying AI-Generated Content

With the rising use of artificial intelligence-written text, demand for ways to identify whether content is human-written or AI-generated is likewise increasing. One such tool embeds patterns of words interwoven into AI-generated text called watermarks. Recent studies give reason to suggest that A.I. watermarking may not be as effective as initially thought. One such study showed that watermarks can be removed or stolen, which could potentially trick people into mistaking AI-generated text as human-written text, and vice versa. Ultimately, the journey toward fully reliable AI transparency tools like watermarking is proving to be as dynamic as the technology itself.



Cristina Almendarez
Senior Managing Associate

SOURCE: Benesch

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AI INSIGHTS

The AI Strategy Summit: IP, Data and Compliance

June 6, 2024 | New York, NY

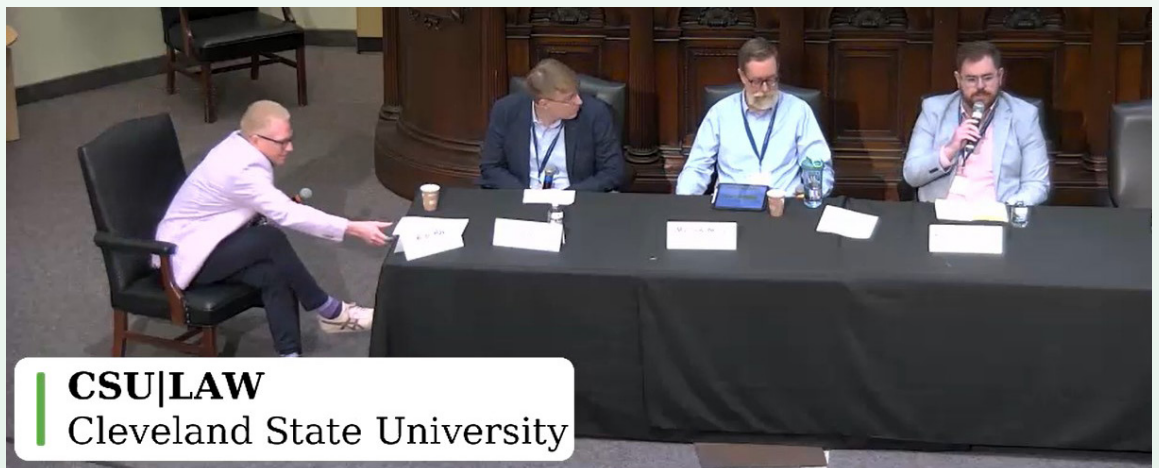


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Benesch Partner and AI Commission member Aslam Rawoof will speak at the upcoming [AI Strategy Summit](#) in New York, bringing together leaders and innovators from various industries to tackle the intricate dynamics of artificial intelligence in its intersection with intellectual property. His panel, “Developing a Comprehensive Corporate AI Policy: Legal, Ethical, and Compliance Considerations,” will cover how to balance innovation, IP protection and compliance when crafting AI policies, as well as the importance of incorporating ethical AI principles into such policies while navigating data privacy laws in AI deployments.

Interested in attending with a complimentary pass? [Contact us](#) for details.



Benesch AI Commission Chair Kris Chandler recently participated in the CSU College of Law [2024 Cybersecurity & Privacy Protection Conference](#), speaking on the “AI Regulation and Assessment” panel. He discussed AI-related laws and their implications, the risks posed by AI systems and the challenges organizations face in developing AI governance.

Watch the full recording of the two-day conference, divided by sessions, [at this link](#).

BENESCH SAN FRANCISCO:

AI CORNER



Ziyong "Sean" Li
Partner

Rethinking Copyright Law: The Case for Protecting AI-Generated Content and Rewarding Those Who Truly Know What They Want

As artificial intelligence increasingly brings to life our unspoken desires through advances in language and image generation, a critical debate is brewing about the protection of AI-generated content and the prompts that create them. Should the creators of these detailed prompts, who translate complex desires into specific instructions for AI, receive copyright protection? Or should the AI-generated content itself be protected, with an "open-use" policy for prompts, akin to the patent system's trade-off between protection and disclosure?

Benesch Partner Sean Li explores this complex issue, as well as the challenges in enforcing such rights due to the private nature of prompt use and the variability of AI outputs. Sean contrasts the current legal reluctance to protect AI-generated content, arguing for a reassessment of what constitutes "human authorship" and suggesting that prompt writers, like commissioned artists, might rightfully claim authorship over the AI-produced works.

SOURCE: Benesch

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