

Anderson Kill Webinar

How AI is Changing Sports, Media & Entertainment

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Marshall Gilinsky is a shareholder in Anderson Kill's Boston office and practices in the firm's Insurance Recovery and Commercial Litigation groups. During his nearly 30-year career representing policyholders, Marshall has recovered hundreds of millions of dollars for his clients, successfully litigating disputed property claims, and resolving many more without the need for litigation.

Marshall has represented clients on numerous high-stakes, complex insurance claims arising out of prominent losses such as 9/11, Hurricane Katrina, Superstorm Sandy, the "Big Dig" in Boston and COVID-related business interruption losses.

Marshall frequently writes and lectures on a variety of topics of interest to professionals and practitioners in the insurance arena, and is frequently quoted in the press, including appearances in the The New York Times, The Wall Street Journal, National Law Review, CNN and Business Insurance, among others.



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Jay Taylor is a shareholder at Anderson Kill in New York and serves as chair of the firm's Corporate & Finance Group. His practice focuses on corporate and financial structuring, capital markets, swaps and derivatives, exempt securities offerings, private investment funds, and complex business transactions. He also specializes in emerging technologies such as blockchain solutions and AI and represents clients in the entertainment sector.

Jay's legal expertise includes legal risk management, helping clients reduce risk across a range of industries by identifying potential legal issues and implementing protections. With a strong background in investment banking, he has extensive experience in financial hedging, capital market documentation, and risk reduction strategies for businesses involved in commodities, fixed income, and equity derivatives.

He has represented a diverse client base, including large energy companies, hedge funds, investment banks, and corporate entities. Jay has also worked as vice president and legal officer at global investment banks such as Deutsche Bank, Barclays Capital, BNP Paribas, and Bear Stearns, advising on structured deals and credit terms. He is committed to providing expert legal counsel to both large companies and smaller start-ups, believing that all businesses deserve the same level of attention and strategic guidance.



Kevin Greene

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Kevin J. Greene is a professor at Southwestern Law School, where he teaches Contracts and Copyright Law. He is a nationally recognized expert in entertainment and intellectual property (IP) law and serves as an expert witness and consultant in copyright, trademark, publicity rights, and entertainment contract disputes.

Before joining Southwestern, Professor Greene was a tenured professor at Thomas Jefferson School of Law and has also taught at the University of San Diego School of Law. His academic work spans a wide range of IP-related topics, including Music Law, Entertainment Law, and International IP Law. He has also practiced law at the prestigious Cravath, Swaine & Moore in New York, where he represented clients like Time Warner and HBO.

Professor Greene's scholarship is widely recognized, particularly his pioneering work on African-American music and inequality in copyright law. His research has been cited in numerous legal publications and Congressional hearings, and he frequently presents at major conferences, including those organized by the American Bar Association and the International Trademark Association.

In addition to his academic and scholarly work, Greene has served as an expert witness in high-profile IP cases, including a \$9.5 million right of publicity case in California. He has received several prestigious awards, such as the Vanguard Award from the Intellectual Property Institute of the State Bar of California and recognition as a Top 100 attorney by the National Bar Association.



A close-up, low-angle shot of a white, articulated robotic hand holding a pair of black metal scales of justice. The hand is positioned at the top left, with its fingers gripping the central beam of the scales. The scales hang down, with two pans visible. The background is a deep blue with bright, out-of-focus light rays or beams of light coming from the upper right corner, creating a dramatic, high-tech atmosphere. The overall composition suggests a balance between technology and law.

The Infringement of Name, Image, and Likeness (NIL) Through Artificial Intelligence: Challenges and Solutions

Navigating NIL rights in the age of AI

TODAY'S AGENDA



- **Introduction to NIL and Artificial Intelligence**
- **Forms of NIL Infringement Through AI**
- **Legal and Ethical Implications**
- **Technological Safeguards and Solutions**
- **Future Directions and Recommendations**

SECTION # /

Introduction to NIL and Artificial Intelligence

Definition and Significance of NIL

- **Protection of Identity**

- NIL rights safeguard individuals against unauthorized commercial use of their identity, ensuring their likeness is not exploited without consent.

- **Monetization Opportunities**

- These rights are crucial for athletes and artists, allowing them to monetize their likeness and create revenue streams.

- **Maintaining Integrity**

- NIL rights help public figures maintain their personal and professional integrity by controlling how their identity is used.



What does NIL mean? What is the Right of Publicity?

- Name, image and likeness (NIL) are the three elements that make up a personal “right of publicity.”
- The right of publicity allows celebrities, athletes and others, to benefit financially from the use of their names, images, and likenesses for commercial purposes such as product endorsements

The Value of Publicity Rights In NIL Is Significant With Technology Capable Of Replicating Us Digitally

- **Case Study:**

- Rapper, T.I. Harris and his wife, singer-songwriter Tameka “Tiny” Harris, on September 23, 2024, were awarded \$71 million in their lawsuit against toy company MGA Entertainment by a California federal jury. [MGA Entertainment Inc. \(MGA\) v. Clifford T.I. Harris](#) et al, No. 2:2020cv11548 - Document 777 (C.D. Cal. 2023)
- The case was in connection with MGA’s line of dolls. T.I. and Tiny alleged that several MGA’s dolls misappropriated the name and likeness of a teen pop group Tiny helped create in 2009 called the “OMG Girlz.” The court found that it ultimately did.

College And High School Athletes Have The Right To Earn Revenue On Nil

- The National Collegiate Athletic Association (NCAA) formerly prohibited athletes from entering into Financial agreements to exploit NIL rights.
- It changed its rules in 2021 permitting exploitation.
- In 2024, the NCAA agreed to further changes. It also agreed to pay damages of nearly \$2.8 billion to current and former athletes who had lost out financially as a result of previous rules, going as far back as 2016.
- A motion for final approval of the settlement was filed in U.S. District Court on March 4, 2025, with a ruling expected in April.

The Copyright Conundrum

- **Copyright law protects original works of authorship while NIL involve an athlete's likeness. Which controls?**
 1. **Photographs and Videos:** Here, copyright typically resides with the creator of the content, while the athlete holds NIL rights to their likeness.
 2. **Digital and Artistic Representations:** As technology advances, digital representations and AI-generated artworks featuring athletes become more prevalent. The question then arises: Who holds the copyright?
 3. **Merchandising and Branding:** Merchandise features copyrighted logos or designs in conjunction with the athlete's likeness. The interplay between NIL rights and the copyright is a conundrum.

Potential Resolutions and Best practices

The conundrum underscores the need for clear agreements and understanding between athletes, content creators, and commercial entities.

- **Best Practices**

1. Clear Contracts:
2. Fair Use Considerations:
3. Collaborative Approaches:
4. Educational Efforts:

Protection of NIL Rights

- NIL is protected primarily by state laws but this creates a patchwork of remedies.
- There are federal statutory protections such as Section 43A of the Lanham Act. 43A provides a remedy to stop unauthorized use in certain commercial situations. An examination of federal case-law reveals a requirement that plaintiff have some level of fame or notoriety to succeed on a section 43A NIL claim.

Top Earning High School Athletes via NIL Deals

1. Bryce James \$1,200,000
2. Dylan Raiola \$894,000
3. Cooper Flagg \$858,000
4. Julian Sayin \$779,000
5. Air Noland \$617,000

6. Dylan Harper \$579,000
7. DJ Lagway \$554,000
8. Ace Bailey \$539,000
9. Tre Johnson \$537,000
10. Flory Bidunga \$531,000



Top Earning NCAA Athletes via Nil Deals

1.	<u>Shedeur Sanders</u>	Colorado/Football	\$5.1 Million
2.	<u>Livvy Dunne</u>	LSU/Gymnastics	\$4.1 Million
3.	<u>Travis Hunter</u>	Colorado/Football	\$3.1 Million
4.	<u>Arch Manning</u>	Texas/Football	\$3.1 Million
5.	<u>Quinn Ewers</u>	Texas/Football	\$2.2 Million
6.	<u>Jalen Milroe</u>	Alabama/football	\$2.2 Million
7.	<u>Jaxson Dart</u>	Ole Miss/football	\$1.6 Million
8.	<u>Cam Ward,</u>	Miami/football	\$1.7 Million
9.	<u>Carson Beck,</u>	Georgia/Football	\$1.9 Million
10.	<u>Nico Iamaleava</u>	Tennessee/Football	\$1.4 Million

Top Earning High School Athletes via NIL Deals

Player	School	Sport/Position	NIL Valuation (Estimated)
Arch Manning	Texas	Football - Quarterback	\$6.5 million
Cooper Flagg	Duke	Basketball - Forward	\$4.8 million
Carson Beck	Miami	Football - Quarterback	\$4.3 million
Livvy Dunne	LSU	Gymnastics	\$4.1 million
Jeremiah Smith	Ohio State	Football - Wide Receiver	\$4 million
AJ Dybantsa	BYU	Basketball - Forward	\$3.8 million
DJ Lagway	Florida	Football - Quarterback	\$3.8 million
LaNorris Sellers	South Carolina	Football - Quarterback	\$3.7 million
Garrett Nussmeier	LSU	Football - Quarterback	\$3.6 million
Cade Klubnik	Clemson	Football - Quarterback	\$3.3 million

Intersection of NIL and AI

- **Legal Challenges**

- The advancement of AI technology raises significant legal challenges concerning the rights to an individual's likeness and identity.

- **Unauthorized Use Risks**

- Increased sophistication in AI may lead to unauthorized use of individuals' images, prompting concerns over privacy and consent.

- **Examination of Regulations**

- There is a pressing need to examine and adapt existing legal frameworks to protect individuals from potential abuses by AI technologies.

SECTION # /

Forms of NIL Infringement Through AI



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Deepfake Technology and Its Impact

- **Definition of Deepfake Technology**

- Deepfake technology leverages artificial intelligence to create realistic but fabricated media, blurring the line between reality and deception.

- **Risks to Individuals**

- Individuals face significant risks from deepfakes, as their likeness can be manipulated without consent, causing harm to their reputation.

- **Impact on Society**

- The rise of deepfake technology poses challenges for trust in media and communication, impacting how information is perceived and shared.

Unauthorized Use of Personal Data

- **AI and Personal Data**

- AI technologies can analyze personal data without proper consent, raising significant ethical concerns regarding privacy rights.

- **Violations of NIL Rights**

- The unauthorized use of personal data can lead to violations of Natural Individual Law (NIL) rights, impacting individuals' privacy.

Unauthorized Use of Personal Data (cont.)

- **Targeted Advertisements**

- Unauthorized data use often results in targeted advertisements, which can feel intrusive and manipulative to users.

- **Digital Impersonation**

- Unauthorized access to personal data can lead to impersonation in digital media, causing harm to individuals' reputations.

Impersonation and Misrepresentation

- **AI-Generated Content**

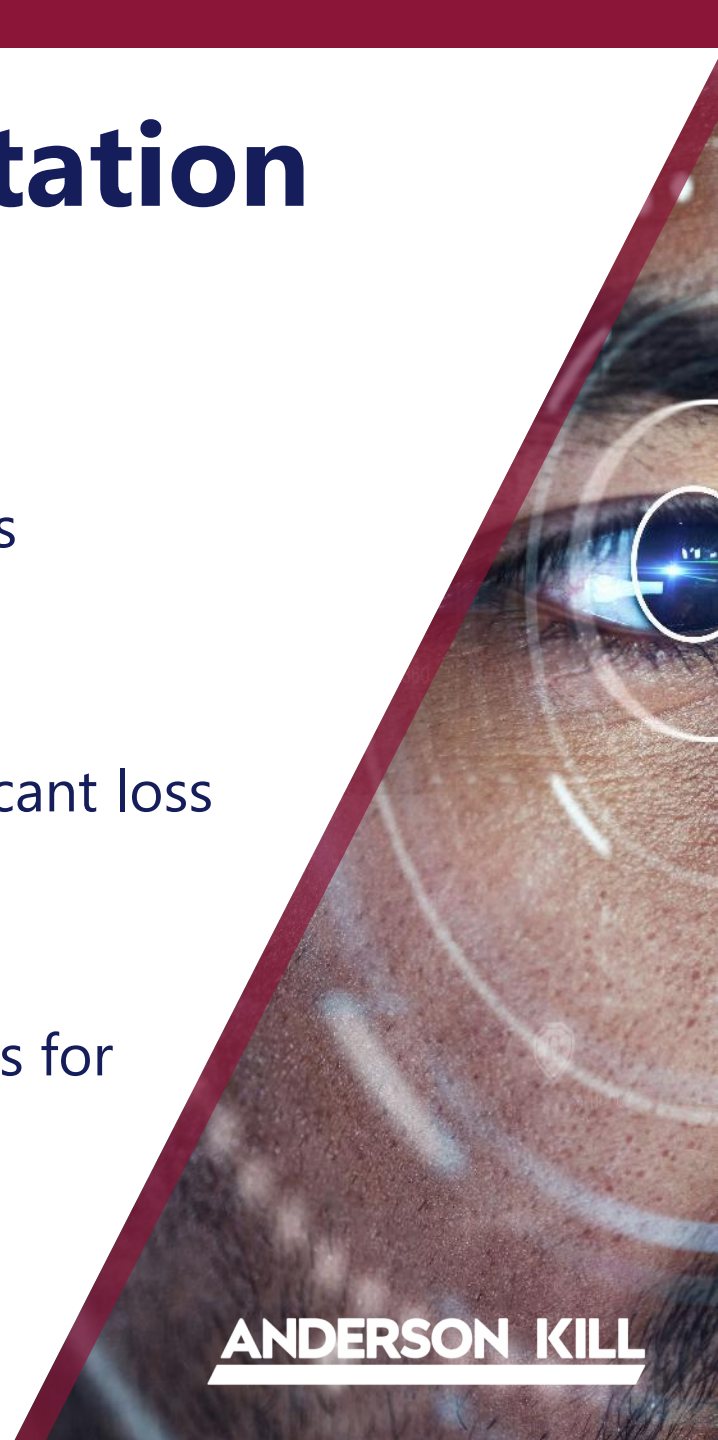
- AI technologies can create realistic content that misrepresents individuals, making it difficult to discern authenticity.

- **Loss of Credibility**

- Impersonation through AI can lead to confusion and a significant loss of credibility for individuals involved.

- **Financial Harm**

- Misrepresentation can result in serious financial consequences for individuals who are impersonated or misrepresented.



SECTION # /

Technological Safeguards and Solutions

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AI-Based Detection and Prevention Tools

- **Unauthorized Use Detection**

- AI tools can effectively identify and flag unauthorized uses of individuals' likenesses, helping to mitigate potential infringements.

- **NIL Rights Protection**

- These technologies play a crucial role in protecting Name, Image, and Likeness (NIL) rights, ensuring individuals' likenesses are used appropriately.

- **Accountability for Infringement**

- AI detection tools ensure accountability in cases of infringement, fostering responsible use of individuals' likenesses.

Best Practices for Protecting NIL

- **Education on NIL Rights**

- Educating individuals about their NIL rights is essential for effective protection and empowerment in decision-making.

- **Implementing Consent Mechanisms**

- Implementing clear consent mechanisms helps individuals control their NIL rights and ensures informed decisions.

- **Utilizing Legal Protections**

- Effectively utilizing existing legal protections enhances the safeguarding of NIL rights for individuals.

Role of Policy and Regulation

- **Importance of Policymakers**

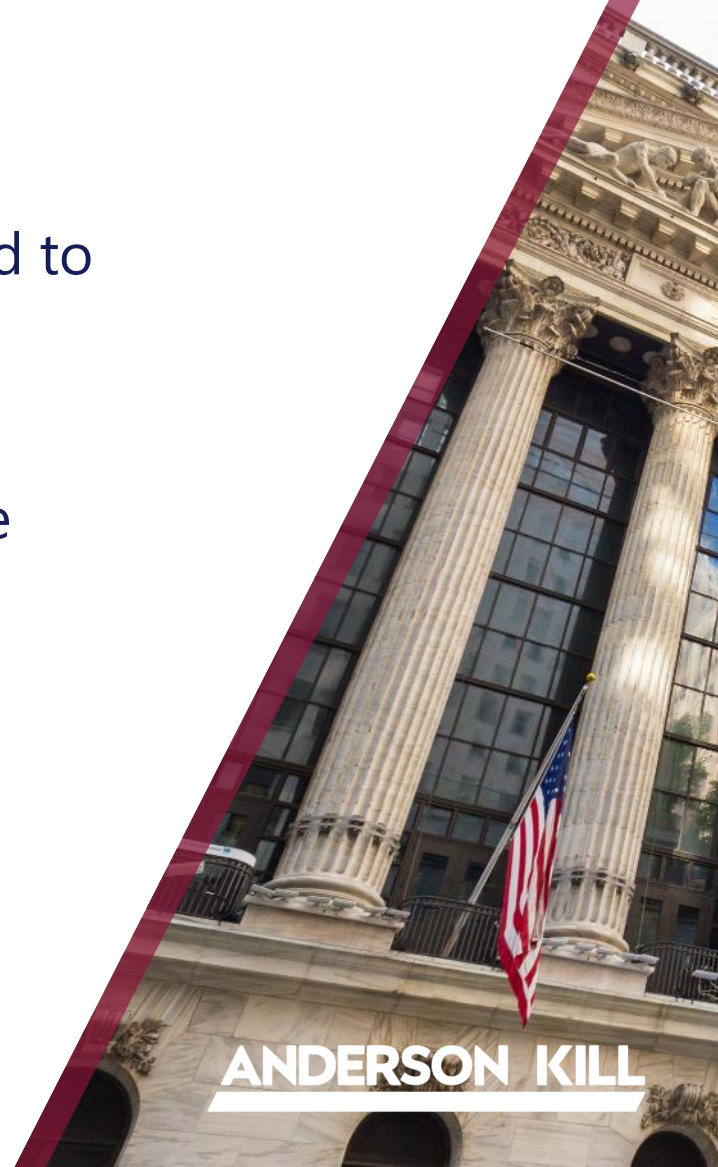
- Policymakers are essential in shaping regulations that respond to the evolving challenges of artificial intelligence in society.

- **Creating Comprehensive Policies**

- Comprehensive policies ensure that regulations are adaptable and effective in addressing the complexities introduced by AI technologies.

- **Protecting NIL Rights**

- Clear guidelines are necessary to protect non-intellectual rights in the digital landscape, ensuring fair use and respect for individual rights.



SECTION # /

Future Directions and Recommendations

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Advancements in AI Technology

- **Importance of Monitoring AI**

- Monitoring AI technology advancements is essential for understanding its impact on various sectors, including NIL rights. Monitor advancement in AI recognition programs and software. We will have to become better at policing the internet.

- **Adapting to Changes**

- Stakeholders must adapt to the rapid changes in AI technology by staying informed and prepared for its implications. Understanding the implications of AI advancements on NIL rights is crucial for protecting individual rights and interests.

Strengthening Legal Protections

- **Importance of Legal Protections**

- Legal protections for NIL rights are essential to safeguard individuals against the misuse of AI technologies. Celebrities and athletes must remain engaged and be vocal in opposition to AI when it threatens IP. There will be a constant push towards using content, including NIL for LLM and argument will be to seek and maintain competitive advantages globally. A difficult sell where the U.S. has a tremendous sports and entertainment resources, athletes and opportunities.

Strengthening Legal Protections (cont.)

- **Advocacy for Legislative Reforms**

- Advocating for legislative reforms can create a more robust framework, ensuring effective protection of NIL rights. A more consistently applied framework for enforcement will be crucial moving forward as AI acts without the artificial borders humans create and recognize.

- **Framework for Protection**

- A strong legal framework can help address the challenges posed by AI technologies and protect individual rights. The legal industry needs to remain engaged in the process and protect our clients' IP from all sorts of infringement using whatever tools available.

Strengthening Legal Protections

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Collaborative Efforts Towards Ethical AI Use

- **Importance of Collaboration**

- Collaboration among technologists, legal experts, and ethicists is vital for promoting ethical AI practices.

- **Stakeholder Engagement**

- Engaging various stakeholders ensures diverse perspectives in developing strategies for ethical AI use.

- **Safeguarding Rights**

- Developing effective strategies is necessary to safeguard NIL rights in the context of AI applications.

KEY TAKEAWAYS

- **NIL Rights Challenges**

- The infringement of NIL rights through AI creates various legal and ethical challenges that need careful consideration.

- **Thoughtful Solutions Needed**

- Addressing these challenges requires innovative and thoughtful solutions to navigate the intersection of technology and rights.

- **Responsible AI Use**

- Fostering responsible AI use is essential for protecting individuals' rights while leveraging AI advancements.

The Potential Effects of AI on Copyright: Challenges and Opportunities

Exploring the interplay
between AI and copyright law

TODAY'S AGENDA



- **Understanding Copyright Law**
- **AI Technologies and Their Capabilities**
- **Copyright Challenges Posed by AI**
- **Opportunities for Copyright Advancement**
- **Future Directions and Policy Recommendations**

SECTION # /

Understanding Copyright Law



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What is Copyright Law?

- Copyright Law is a body of laws concerning intellectual property that **protects original works of authorship**. Copyright law gives creators of original material the exclusive legal right to reproduce, publish, sell, or distribute the matter and form of something for a given amount of time.

How Long Does a Copyright Last?

- Generally, for works created after January 1, 1978, copyright protection lasts for the life of the author plus an additional 70 years. For an anonymous work, a pseudonymous work, or a work made for hire, the copyright endures for a term of 95 years from the year of its first publication or a term of 120 years from the year of its creation, whichever expires first. For works first published prior to 1978, the term will vary depending on several factors.
- U.S. Copyright Office

Basic Principles and Objectives of Copyright

- **Exclusive Rights for Creators**

- Copyright grants exclusive rights to creators, empowering them to control the use of their works.

- **Encouraging Creativity**

- Copyright encourages innovation by allowing creators to benefit financially from their works and stimulate creative output.

- **Economic Benefits**

- It ensures that creators can reap the economic benefits from their works, promoting a sustainable creative industry.

Historical Evolution of Copyright Laws

- **Early Print Laws**

- The earliest copyright laws were established to protect printed works, ensuring creators had rights over their publications.

- **Technological Adaptation**

- Copyright laws have adapted to technological advancements, ensuring that new forms of media and distribution are also protected.

- **Digital Rights Management**

- Contemporary copyright laws address digital rights management, balancing the rights of creators with public access to content.

Current Copyright Regulations

- **Influence of International Treaties**

- International treaties play a significant role in shaping copyright regulations across different countries, impacting global enforcement.

- **National Laws and Regulations**

- Each country has its own copyright laws that can vary significantly, affecting how works are protected and enforced.

- **AI-Generated Works**

- The rise of AI-generated works raises new questions about copyright applicability, ownership, and rights under current regulations.

SECTION # /

AI Technologies and Their Capabilities

Ai Chatbot

Command Prompt :|

```
user: Hi, I'm a new user. Can you help me get started?  
ai: Hello! Welcome to the platform. I'd be happy to assist you. What would you like to know?  
user: I want to know more about the features.  
ai: Sure! We have a variety of features designed to help you manage your tasks efficiently. Would you like to see a list of them?  
user: Yes, please.  
ai: Here's a list of our key features:  
- Task Management: Create, assign, and track tasks.  
- Collaboration: Work together on projects with your team.  
- Reporting: Generate reports on your team's performance.  
- Integration: Connect with other tools you use.  
user: That sounds great. Can you show me how to use the Task Management feature?  
ai: Of course! I can walk you through the steps. First, you'll need to create a new task. Then, you can assign it to a team member and set a due date. Would you like to try it now?
```

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What is Generative AI

- **Generative AI** is artificial intelligence that “generates” new, original content such as text, images, and other media.
- It uses advanced machine learning models like **large language models (LLMs)**, **generative adversarial networks (GANs)**, and **transformers**.
- These models are trained on large datasets to recognize patterns and generate coherent and contextually relevant outputs.

Overview of Generative AI and Machine Learning

- **Understanding AI Technologies**

- Artificial Intelligence includes various technologies that allow machines to perform tasks that traditionally require human intelligence.

- **Role of Machine Learning**

- Machine learning is a crucial subset of AI that focuses on the ability of machines to learn and adapt based on data inputs. Machine learning is a powerful mechanism which extracts meaningful patterns, trends, and insights from a vast pool of data,

- **Impact on Information Processing**

- Machine learning significantly influences how complex information is processed and generated. The goal is to improving decision-making capabilities.

AI in Creative Processes

- **AI-Generated Art**

- AI technologies can create stunning visual artworks, challenging traditional notions of artistic creation and authorship.

- **Music Composition by AI**

- AI systems are now capable of composing music, raising questions about originality and the essence of musical creativity.

- **Literature and AI**

- Artificial intelligence can also generate poetry and prose, prompting discussions about the future of storytelling and human authorship.

AI-Generated Content

- **Copyright Challenges**

- AI-generated content raises complex copyright challenges that need to be addressed as technology evolves.

- **Authorship Determination**

- Determining the authorship of AI-generated works is essential for establishing ownership rights and accountability.

- **Ownership Exploration**

- Exploring ownership rights of AI-generated content is crucial for creators, companies, and legal frameworks.

Authorship and Ownership Issues

- **Copyright Challenges**

- Determining copyright ownership for AI-generated works presents unique challenges that challenge existing legal frameworks.

- **Authorship Redefined**

- The rise of AI complicates traditional notions of authorship, requiring a re-evaluation of creative ownership.

- **Legal Implications**

- The complexities surrounding AI-generated content highlight the need for updated copyright laws and regulations.

Infringement and Plagiarism Concerns

- **AI and Copyright Infringement**

- AI's capability to analyze and mimic existing works raises concerns about copyright infringement and how it is defined.

- **Plagiarism Risks**

- The potential for AI to produce work that closely resembles existing content can lead to unintended plagiarism issues.

- **Reevaluating Infringement**

- There is a need to reassess how infringement is defined in the context of AI-generated content and intellectual property.

Legal Precedents and Case Studies

- **Understanding Legal Precedents**

- Legal precedents provide valuable insights into how courts interpret laws related to AI and copyright issues.

- **Analyzing Case Studies**

- Case studies highlight real-world applications and challenges faced in AI copyright cases, influencing future legal outcomes.

- **Impact on Policy-Making**

- Understanding these legal developments is essential for shaping future policies regarding AI and copyright.

TODAY'S AGENDA



- **Background on AI and Copyright Issues**
- ***Naruto v Slater*: Animal Rights and Copyright**
- ***Thaler v Pearlmutter*: AI as the Author**
- ***Tremblay V. OpenAI, Inc.*: Copyright Infringement by AI**
- ***Getty Images (U.S.), Inc. V Stability AI, Inc.*: AI and Image Rights**
- **Comparative Analysis and Future Implications**

Agenda Items

- Background on AI and Copyright Issues
- Naruto v Slater: Animal Rights and Copyright
- Thaler v Pearlmuter: AI as the Author
- Tremblay V. OpenAI, Inc.: Copyright Infringement by AI
- Getty Images (U.S.), Inc. V Stability AI, Inc.: AI and Image Rights
- Comparative Analysis and Future Implications



Background on AI and Copyright Issues

Understanding AI and Its Applications

- **AI Technologies Overview**

- Artificial intelligence includes technologies like machine learning, image recognition, and natural language processing that mimic human capabilities.

- **Impact on Creative Fields**

- AI applications are transforming creative industries by enabling automation in design, music, and content creation.

- **Legal Questions in AI**

- The rise of AI also raises significant legal questions about ownership, authorship, and ethical implications in content creation.

Overview of Copyright Law

- **Copyright Protection**

- Copyright law safeguards original works of authorship, giving creators control over their creations and how they are used.

- **Fundamental Principles**

- Understanding eligibility, rights, and protection duration is crucial for navigating copyright law, especially regarding AI-generated content.

- **AI-Generated Content**

- As technology advances, copyright law must address how it applies to works created by artificial intelligence systems.

Intersection of AI and Copyright

- **Ownership of AI Creations**

- One major issue is determining who owns the works created by AI, raising questions about authorship and rights.

- **AI as an Author**

- Another key question is whether AI can be classified as an author within existing copyright frameworks and laws.

- **Legal Framework Challenges**

- The current copyright laws are not fully equipped to handle the unique challenges posed by AI-generated works.



Case 1/

Naruto v Slater:
**Animal Rights
and Copyright**

Legal Arguments and Court Decision

- **Copyright for Non-Humans**

- The core legal argument involved the question of whether copyright can be granted to non-human entities, such as animals.

- **Court's Ruling**

- The court ruled that animals cannot hold copyright, emphasizing the importance of human authorship in copyright law.

- **Human Authorship**

- This ruling reaffirms that human authorship is a central tenet of copyright law, protecting creative works created by people.

Implications for AI-Generated Works

- **AI as a Creator**

- The case raises critical questions about whether AI can be recognized as a creator under existing laws, impacting future content generation.

- **Legal Framework Challenges**

- Current legal frameworks may need to evolve to address the unique nature of AI-generated works and their implications for authorship.

- **Future of Copyright**

- The implications of AI-generated content necessitate a reevaluation of copyright laws to protect original works created by AI.

Case 2/

Thaler v Pearlmutter: **AI as the Author**

Case Summary and Background

- **Overview of the Case**

- The 'Thaler v Pearlmutter' case examines the registration of inventions attributed to a non-human entity, DABUS.

- **Questions on Authorship**

- The case raises important questions regarding the definition of authorship under current copyright law in relation to non-human agents.

- **Impact on Copyright Law**

- This case could have significant implications for copyright law, particularly concerning how inventions by AI are treated legally.

Legal Arguments and Court Decision

- **Definition of Authorship**

- The core debate focused on what constitutes authorship in the context of copyright law, specifically regarding human versus AI creation.

- **Court's Emphasis on Human Authors**

- The court's ruling highlighted the necessity of a human author for copyright protection, reaffirming traditional views on creativity.

- **AI as Independent Creator Argument**

- The court's decision effectively sidelined the argument proposing that AI could be recognized as an independent creator in copyright matters.

Analysis of AI Authorship and Copyright

- **Redefining Authorship**

- The rise of AI challenges traditional definitions of authorship, requiring a new understanding of creative ownership.

- **Copyright Law Reforms**

- Existing copyright laws may need reforms to accommodate AI-generated content and its implications on creativity.

- **AI-Driven Creativity**

- AI's capabilities in generating creative works pose significant questions about originality and intellectual property.

Case 3/

***Tremblay V. OpenAI,
Inc.*: Copyright
Infringement by AI**

Case Summary and Background

- **Case Overview**

- The case involves allegations that OpenAI's AI-generated content infringed on existing copyright works, raising legal concerns.

- **Issues of Accountability**

- This case highlights critical issues surrounding accountability and liability for actions taken by AI systems.

Legal Arguments and Court Decision

- **AI and Copyright Infringement**

- The court investigated whether the outputs generated by AI systems could be classified as copyright infringement under current laws.

- **Determining Liability**

- The decision emphasized the complexities involved in assigning liability when creative tools, like AI, are used in the creation process.



Implications for AI-Generated Content and Copyright

- **Precedents for Copyright Law**

- This case could establish important legal precedents dictating how copyright law treats AI-generated works.

- **Corporate Responsibility**

- Companies utilizing AI in creative processes may face new responsibilities regarding the ownership of generated content.

- **Impact on Creativity**

- The outcome may influence how creativity is defined and protected in the age of AI technology.

Case 4/

***Getty Images (U.S.),
Inc. V Stability AI, Inc.:***
AI and Image Rights

Case Summary and Background

- **Getty Images Lawsuit**

- Getty Images initiated legal action against Stability AI for using its images without permission to train AI models.

- **Copyright and AI**

- The case exemplifies the ongoing struggle between enforcing copyright laws and the rapid advancements in technology and AI.

- **Impact on the Industry**

- This case could set important precedents for the future of image rights and AI training practices in the creative industry.

Legal Arguments and Court Decision

- **Copyright and Fair Use**

- The core legal argument revolves around the concept of fair use, particularly regarding the use of copyrighted images for AI training.

- **Impact on AI in Creativity**

- The court's decision will significantly influence how AI can be used within creative industries, affecting artists and developers alike.

- **Future Implications**

- The ruling will set a precedent for future cases involving AI, copyright, and fair use in various contexts.

Impact on the Use of AI in Image Creation

- **AI and Copyright**

- The ruling affects how AI companies engage with copyrighted materials in their image creation processes.

- **Innovation vs Protection**

- This case emphasizes the delicate balance between fostering innovation in AI and protecting intellectual property rights.

- **Future of AI Operations**

- The outcome will influence future operational practices of AI companies regarding image creation and intellectual property.

Comparative Analysis and Future Implications

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Comparison of Case Outcomes

- **Legal Reasoning Analysis**

- We will analyze the legal reasoning in various cases to draw meaningful parallels between outcomes.

- **Evolving Copyright Law**

- Understanding the differences in case outcomes helps us appreciate the evolving landscape of copyright law in relation to AI.

- **Case Outcome Parallels**

- Identifying similarities and differences in case outcomes provides insights into legal trends and shifts.

Current Trends in AI and Copyright Law

- **Need for Legal Frameworks**

- The rapid advancements in AI technology highlight the necessity for updated legal frameworks to address emerging challenges.

- **Copyright Law Challenges**

- Copyright law faces challenges regarding the creation, ownership, and protection of AI-generated content.

- **Response to AI Technologies**

- We will explore the responses of copyright law to the unique challenges posed by AI technologies and innovations.



Future Challenges and Potential Solutions

- **Copyright Law Challenges**

- The evolution of AI raises questions about authorship and ownership, complicating existing copyright laws.

- **Authorship Issues**

- Determining who is the author of AI-generated content complicates copyright protections and raises legal questions.

- **Potential Reforms**

- Exploring potential reforms in copyright law may help adapt to the new challenges presented by AI technology.



SECTION # /

Opportunities for Copyright Advancement

Enhanced Content Protection Through AI

- **Monitoring Copyrighted Content**

- AI technologies can automate the monitoring of copyrighted content across various platforms, identifying unauthorized use effectively.

- **Protection of Creative Works**

- AI assists creators in safeguarding their original works, providing alerts for any unauthorized usage or distribution.

- **Empowering Creators**

- By leveraging AI, creators can focus on their work while technology handles the enforcement of their rights.

Automated Copyright Management

- **Efficiency through AI**

- AI can streamline copyright management processes, making them faster and more efficient for rights holders.

- **Tracking Usage Rights**

- Automated systems can track and monitor usage rights, helping to prevent copyright infringement effectively.

- **Compliance Assurance**

- Automated copyright management ensures compliance with licensing agreements, reducing legal risks for creators.

Innovation in Licensing Models

- **AI-Powered Licensing**

- AI can streamline the licensing process, providing efficient solutions for creators to manage their works and rights.

- **Monetization for Creators**

- Innovative licensing models help creators monetize their content effectively, ensuring fair compensation for their works.

- **Legal Access for Users**

- New licensing models promote legal access to content for users while respecting copyright and intellectual property rights.





SECTION # /

Future Directions and Policy Recommendations

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Potential Reforms in Copyright Law

- **Adapting to AI Creations**

- Copyright law must evolve to address the unique challenges posed by AI-generated works and their implications.

- **Defining Authorship**

- Determining authorship in the context of AI is challenging and requires new legal frameworks and definitions.

- **Ownership Issues**

- Policymakers need to address ownership rights for AI-generated works to protect creators and users in a digital environment.

Balancing Innovation and Protection

- **Innovation in AI Technologies**

- Encouraging innovation in AI technologies can lead to significant advancements and improvements in various industries.

- **Rights of Creators**

- Protecting the rights of creators is crucial to ensure that innovation does not undermine intellectual property and creative contributions.

- **Stakeholder Dialogue**

- Thoughtful dialogue among stakeholders is essential for achieving a balance between innovation and protection in the AI landscape.



International Perspectives on AI and Copyright

- **Global AI Regulations**

- Different countries are developing various regulations regarding AI and copyright, influencing global standards.

- **Importance of Collaboration**

- International collaboration is essential to create effective copyright policies that address AI challenges.

- **Cultural Perspectives on Copyright**

- Understanding cultural differences in copyright perspectives can enhance international discussions and solutions.





Crime

Copyright Trademark

Data Privacy

RIGHT OF PUBLICITY

Product Liability

D&O

Discrimination

E&O

Product Liability

Libel/Slander

- AI has already generated claims across most lines of business

What Could Go Wrong? A Look Back

- **Colossus**

- Draws on data to estimate awards / payments based on nature and extent of injuries
- Produced a range of suggested claim resolution amounts
- Designed so insurance companies could “tune” the range up or down



What Could Go Wrong? A Look Back (cont.)

- **Colossus – McKinsey and Allstate**

- Credit to David Berardinelli – “From Good Hands to Boxing Gloves”
- Consumer Federation of America – “The ‘Good Hands’ Company or a Leader in Anti-Consumer Practices” July 18, 2007
- Treated claims & insurance company performance as a “zero-sum game”
- Tuned Colossus down by 20%
- 90% of policyholders took a quick low-ball payment (“good hands”)
- Other 10% subjected to hard ball tactics and litigation (“boxing gloves”)
- Profits soared

What Could Go Wrong? A Look Ahead

- If this is how computers were used with conscious humans at the controls, what might a similarly designed AI tool do?
- AI claims handling tools already under development



What Could Go Wrong? A Look

- **Medicaid advantage problems**

- Whistleblowers, Investigations, and Litigation
- Algorithm used to assess extent of healthcare
- Humans were a check, but seemingly an inadequate
- STAT News Report – “How UnitedHealth’s Medicare Advantage algorithm sparked i denied care” July 11, 2023,
<https://www.statnews.com/2023/07/11/algorithm-navihealth-unitedhealth-ir>



What The Law and Good Faith Require

- Adjusting that exhibits decency and humanity.
- *Egan v. Mutual of Omaha*, 24 Cal. 3d 814, 820 (Cal. 1979) (emphasis added):
 - “[A]s a supplier of a public service rather than a manufactured product, the obligations of insurers go beyond meeting reasonable expectations of coverage. The obligations of good faith and fair dealing encompass **qualities of decency and humanity** inherent in the responsibilities of a fiduciary. Insurers hold themselves out as fiduciaries, and with the public's trust must go private responsibility consonant with that trust.”

NAIC Model Bulletin (12-4-23)

- **Recognition of Risk:** “AI systems can present unique risks to consumers, including the potential for inaccuracy, unfair discrimination, data vulnerability, and **lack of transparency and explainability.**”
- **NAIC Principles of Artificial Intelligence (2020):** “Those principles emphasize the important of the fairness and ethical use of AI; **accountability**; compliance with state laws and regulations; transparency; and a safe, secure, fair, and robust system.”
- **“Actions taken by insurers . . . must not violate the UTPA or the UCSPA,** regardless of the methods in insurer used to determine or support its actions.”

NAIC Model Bulletin (12-4-23)

- **Regulatory Guidance and Expectations:**

- “[A]ll Insurers authorized to do business in this state are expected to develop, implement, and maintain a written program (an “AIS Program”) for the responsible use of AI Systems”;
- “The controls and processes that an Insurer adopts and implements as part of its AIS Program should . . . consider[]: (i) the nature of the decisions being made, informed, or supported using the AI System; (ii) the type and Degree of Potential Harm to Consumers resulting from the use of AI Systems; (iii) the extent to which humans are involved in the final decision-making process; (iv) **the transparency and explainability of outcomes to the impacted consumer;**”

NAIC Model Bulletin (12-4-23)

- **AIS Program Guidelines:**

- “Controls and procedures should be focused on the mitigation of Adverse Consumer Outcomes”;
- “The AIS Program should include processes and procedures providing **notice to impacted consumers that AI Systems are in use** and provide access to appropriate levels of information”

Questions & Answers

THANK YOU

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