

Recent Developments in Artificial Intelligence Cases and Legislation 2025

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§ 1.1 Introduction

Another year has passed, and the legal issues arising out of Artificial Intelligence's increasingly broad adoption across every facet of our lives continued to expand. As business lawyers, there is optimism that AI (especially Generative and Agentic AI) will create new opportunities for us to assist our clients in this rapidly developing legal landscape of lawsuits, proposed and newly enacted regulations, and novel IP, employment and privacy concerns. At the same time, lawyers must recognize how AI is changing the practice of law and clients' expectations of how their outside counsel will work efficiently and smartly to further their interests.

Simply stated, lawyers have an ethical obligation to learn, understand and keep apace with how AI can be used in the daily practice of law. And as I write this, the media reports Bill Gates is predicting that in 10 years, most jobs across industries will become obsolete thanks to AI; something that has concerned me since at least 2014 (for those interested in my perspective, which remains largely unchanged 11 years later, please see my 2014 Tech Crunch article on the subject). Whether or not Mr. Gates is correct (and I would wager that he is), there is no denying AI's impact on the legal profession and the seismic shift upon us in the way we utilize Generative AI to perform tasks which

hitherto were the sole provenance of paralegals, legal assistants and junior lawyers. Tasks like legal research, document automation, risk and compliance management, and many other legal functions are rapidly becoming the provenance of AI tools and AI-powered legal assistants.

The pace of change with regard to AI's use in the legal profession will only increase in the coming years, changing nearly everything about how our data-driven profession operates ("find a case that holds Y"; "pull up the last contract and compare it with the draft opposing counsel just sent," "what is the law in X jurisdiction on Y issue"; "for an opening statement, pull the stats on how many drunk driving collisions end in fatalities," "analyze this draft crypto loan agreement and suggest ways to strengthen it," "find how many times Person Y is mentioned in all of the various FTX related filings around the country," "for the 2 TB data set, find all of the documents that reference 'Z,' explain the new EU regulations on [subject] and our compliance obligations," etc.). Like our clients, it is our duty to utilize AI in responsible and transparent ways.

For 2024, we have continued our practice of focusing on cases decided in 2024 and legislation enacted in 2024. Not surprisingly, emerging themes for both the courts and state and local legislators center around copyright infringement, privacy, fairness/perceived bias, civil rights, transparency and consent. The headline is that for the foreseeable future, practicing law will increasingly mean staying abreast of AI technology in many different use cases and domains. Our clients are looking for ways to produce and utilize AI to make themselves more efficient while cutting costs and errors associated with human capital. In the near future, it is likely that clients and judges will expect lawyers to utilize AI to better serve them and the courts. And like it or not, AI will remain the focus for regulators and litigants across the United States.

We hope that this Chapter continues to be a useful tool for lawyers looking for a straightforward summary of the major AI cases and legislation for 2024. And my colleagues Adam Aft, Keo McKenzie, Mercedes Subhani, Avi Toltzis, and Alex Crowley have my gratitude for their assistance in preparing this year's Chapter.

We look forward to tracking the trends in these cases and presenting the cases arising over the next several years.

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§ 1.2 Artificial Intelligence Cases of Note

§ 1.2.0 United States Supreme Court

***Moody v. NetChoice, LLC*, 603 U.S. 707, 144 S. Ct. 2383 (2024).** Defendant NetChoice, an internet trade association, alleged that Florida and Texas laws restricting social media platforms' ability to moderate content on their websites via algorithms (including

artificial intelligence) violated the First Amendment to the U.S. Constitution. The Court found that the lower courts had not properly considered the issues and vacated and remanded the prior judgments regarding each law.

§ 1.2.1 First Circuit

***Harris v. Adams*, No. 24-cv-12437-PGL, 2024 U.S. Dist. LEXIS 210951 (D. Mass. Nov. 20, 2024).** Two high school students were punished for cheating on an AP U.S. History project by failing to attribute the source for text (which included hallucinations) that they copied from Grammarly's artificial intelligence software. Plaintiff Harris claimed that the high school violated Plaintiff's due process rights and that the punishments were too harsh. The Court denied Plaintiff's motion for preliminary injunction because Plaintiff had failed to show any misconduct by authorities of Plaintiff's schools.

***Overjet, Inc. v. VideHealth, Inc.*, Civil Action No. 24-cv-10446-ADB, 2024 U.S. Dist. LEXIS 128030 (D. Mass. July 19, 2024).** Overjet and VideHealth compete in providing artificial intelligence-enabled dental software. In this case, Overjet alleged that VideHealth infringed Overjet's copyrights related to its software and falsely advertised, including regarding VideHealth's software's artificial intelligence capabilities, in violation of the Lanham Act. The Court denied Overjet's motion for a preliminary injunction because Overjet had not sufficiently shown a likelihood that its claims would succeed on the merits nor a likelihood of irreparable harm.

***WEX Inc. v. HP Inc.*, No. 2:24-cv-00121-JAW, 2024 U.S. Dist. LEXIS 119715 (D. Me. July 9, 2024).** WEX alleged that HP's "HP WEX" software name infringed WEX's trademark "WEX." HP argued that a news article presented as evidence of confusion of the WEX mark and HP WEX "'was created using generative artificial intelligence,' and therefore 'no person . . . was confused.'" WEX countered that the article was nonetheless reviewed by a confused human editor. The Court found that the AI-generated article indicated that HP and WEX could be confused as being affiliated given the "HP WEX" brand. The Court granted WEX's motion for a preliminary injunction against HP regarding use of "WEX."

***Baker v. CVS Health Corp.*, 717 F. Supp. 3d 188 (D. Mass. Feb. 16, 2024).** A job candidate alleged that CVS violated the Massachusetts Lie Detector Statute (Mass. Gen. Laws. Ch. 149, §19B) by subjecting the candidate to an artificial intelligence-based test (to help evaluate an individual's integrity and cultural fit) during a job interview without notifying the candidate of his statutory rights. The Court denied CVS' motions to dismiss for failure to state a claim and for lack of standing.

§ 1.2.2 Second Circuit

***N.Y. Times Co. v. Microsoft Corp.*, No. 23-cv-11195 (SHS) (OTW), 2024 U.S. Dist. LEXIS 212998 (S.D.N.Y. Nov. 22, 2024).** The Court denied Open AI's motion to compel production of disputed discovery because Open AI failed to demonstrate the relevance of asking for the New York Times' documents related to the Times' use of non-parties' generative AI tools due to it neither being relevant nor proportional to Open AI's fair use defense.

***Dukuray v. Experian Info. Sols.*, 2024 U.S. Dist. LEXIS 132667 (S.D.N.Y. July 26, 2024).** The Court did not believe any sanctions would be appropriate against a pro se Plaintiff because they would not be aware of the risk that ChatGPT and similar AI programs can generate fake case citations and other misstatements of law in their Fair Credit Reporting Act case.

***Z.H. v. N.Y.C. Dep't of Educ.*, No. 23-cv-3081 (ER), 2024 U.S. Dist. LEXIS 124478 (S.D.N.Y. July 12, 2024).** The Judge declined to credit evidence the Firm submitted using ChatGPT that showed the Firm's requested rates are reasonable market rates because ChatGPT has been shown to be an unreliable source.

***Gross v. Madison Square Garden Ent. Corp.*, No. 23-cv-3380 (LAK) (JLC), 2024 U.S. Dist. LEXIS 83102 (S.D.N.Y. May 7, 2024).** The Court granted the defendant's motion to dismiss the complaint for failure to state a claim because it held that sharing biometric data with a third party to implement a policy banning certain individuals from venues does not constitute "profiting" from the biometric data within the meaning of NYC Ad. Code § 22-1202(b).

***Network-1 Techs., Inc. v. Google LLC & YouTube, LLC*, 2024 U.S. Dist. LEXIS 76545 (S.D.N.Y. Apr. 24, 2024).** The Court held that in this patent infringement case against Google, the term "non-exhaustive search" is indefinite because persons skilled in the art could reasonably construe it in different ways based on the intrinsic and extrinsic evidence. Therefore, even though Google's Siberia version of Content ID conducted an algorithmic patent search which increased computing resources, it did not perform a sublinear search as required by the '237 Patent because undisputed evidence showed the search to be linear and the Plaintiff failed to show the multi-step search as a whole is sublinear.

***Rensselaer Polytechnic Inst. v. Amazon.Com, Inc.*, 723 F. Supp. 3d 132 (N.D.N.Y. Mar. 18, 2024).** The Court denied Plaintiffs' motion for summary judgement and granted Defendant's motion for summary judgement due to its '798 patent of an approach for interpreting and responding to a natural language input by storing and searching certain types of information not being subject matter eligible for patent protection under 35 U.S.C. § 101.

***Park v. Kim*, 91 F.4th 610 (2d Cir. Jan. 30, 2024).** The Court referred an attorney to the Second Circuit's Grievance Panel for investigation for submitting a brief that relied on "non-existent" caselaw generated by ChatGPT.

§ 1.2.3 Third Circuit

***Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc.*, No. 1:20-cv-613-SB, 2025 U.S. Dist. LEXIS 24296 (D. Del. Feb. 11, 2025) and *Thomson Reuters Enter. Ctr. GmbH v. Ross Intel. Inc.*, No. 1:20-cv-613-SB, 2024 U.S. Dist. LEXIS 175507 (D. Del. Sep. 27, 2024).** Ross Intelligence aimed to improve legal research via development of an artificial intelligence-based research tool. Thomson Reuters alleged that Ross infringed Thomson Reuters' copyrighted Westlaw headnotes and Key Number System by using them in the development of Ross's tool. In its February 2025 opinion, the Court "grant[ed] most of Thomson Reuters's motion for partial summary judgment on direct

copyright infringement and related defenses, D.I. 674; (2) grant[ed] Thomson Reuters's motion for partial summary judgment on fair use, D.I. 672; (3) den[ied] Ross's motion for summary judgment on fair use, D.I. 676; and (4) den[ied] Ross's motion for summary judgment on Thomson Reuters's copyright claims, D.I. 683."

In parallel to Thomson Reuters's copyright infringement claim, Ross alleged that Thomson Reuters's Westlaw caselaw database and search tools were tied together in violation of antitrust laws. The Court rejected Ross's allegation and granted summary judgment to Thomson Reuters with respect to Ross's antitrust claims.

***Huckabee v. Meta Platforms, Inc.*, Civil Action No. 24-773-GBW, 2024 U.S. Dist. LEXIS 209624 (D. Del. Nov. 18, 2024).** Former Governor of Arkansas Mike Huckabee alleged that Meta should be liable under various laws and for violation of various legal rights for allowing, via its machine learning algorithms, presentation of third-party advertisements that made false claims and falsely attributed statements to Governor Huckabee. The Court held that Meta was liable under Section 230 of the Communications Decency Act as an "information content provider" because its algorithms determined advertisement presentation, but the Court denied Governor Huckabee's claims as they did not state claims upon which relief can be granted.

***VB Assets, LLC v. Amazon.com Servs. LLC*, No. 19-1410 (MN), 2024 U.S. Dist. LEXIS 176993 (D. Del. Sep. 30, 2024).** Plaintiff VB Assets alleged that Amazon's Alexa voice assistant and associated devices violated VB Assets' smart speaker technology patents. The Court granted Amazon's motion for judgment as a matter of law for only one of VB Assets' infringement claims.

***Lee v. ElectrifiAI, LLC*, Civil Action No. 23-2239 (JXN) (JRA), 2024 U.S. Dist. LEXIS 165093 (D.N.J. Sep. 13, 2024).** As part of this case, the Court rejected plaintiff's claim that her prior employer, ElectrifiAI, LLC was misrepresenting the functionality of artificial intelligence in its products. The Court found that the plaintiff did not provide sufficient facts to establish a plausible claim.

***Elkin Valley Baptist Church v. PNC Bank, N.A.*, Civil Action No. 23-1798, 2024 U.S. Dist. LEXIS 162888 (W.D. Pa. Sep. 10, 2024).** In this case regarding statutory interpretation of Section 4A-207 (pertains to financial fraud) of the Uniform Commercial Code, the Court notes that financial institutions' use of artificial intelligence and other automation necessitates developing a well-reasoned interpretation of the Section.

***State Farm Mut. Auto. Ins. Co. v. Amazon.Com, Inc.*, Civil Action No. 22-1447-CJB, 2024 U.S. Dist. LEXIS 160437 (D. Del. Sep. 6, 2024).** State Farm alleged that Amazon infringed several of State Farm's patents relating to use of machine learning and neural networks to evaluate whether an individual can safely live independently. In this case, the Court denied Amazon's motion to dismiss under which Amazon argued that the asserted patents pertained to patent ineligible subject matter and were thus invalid.

***IPA Techs. Inc. v. Microsoft Corp.*, Civil Action No. 18-1-RGA, 2024 U.S. Dist. LEXIS 76038 (D. Del. Apr. 25, 2024).** IPA Technologies alleged that Microsoft products containing Microsoft's virtual assistant Cortana infringed on various of IPA

Technologies' patents regarding software architecture that "supports cooperative task completion by flexible and autonomous electronic agents." The Court granted in part, denied in part, and dismissed as moot in part Plaintiff's and Defendant's summary judgment and *Daubert* motions.

§ 1.2.4 Fourth Circuit

***Saas v. Major, Lindsey & Africa, LLC*, No. 1:23-cv-02102-JRR, 2024 U.S. Dist. LEXIS 84968 (D. Md. May 10, 2024).** Plaintiff Saas alleged that the defendants used algorithmic and machine learning tools in their recruitment processes, which led to unlawful discrimination based on sex and age in violation of Title VII of the Civil Rights Act and the Age Discrimination in Employment Act of 1967. Saas claimed that these tools discriminated against women with employment gaps due to motherhood, which caused them to be passed over for interviews and other opportunities. However, the plaintiff's claims that the defendant used discriminatory AI tools was based solely on the supposition that all large businesses use AI tools, which was contradicted by the defendant's statement that it does not use AI tools. The Court therefore concluded that the plaintiff had not adequately pleaded discrimination through the use of AI tools. The decision highlights the importance for plaintiffs to plead specific facts relating to a defendant's use of AI tools in respect of discrimination claims.

§ 1.2.5 Fifth Circuit

***Mullen Indus. LLC v. Meta Platforms, Inc.*, No. 1:24-CV-00354-DAE, 2024 U.S. Dist. LEXIS 207934 (W.D. Tex. Nov. 14, 2024).** Mullen Industries alleged that Meta's augmented and virtual reality systems infringed on twelve of its patents, including a claim on the use of AI technologies. The Magistrate Judge for this case recommended that the District Court grant Meta's motion to dismiss in respect of the AI claims, because it found that Mullen had not plausibly pled that AI was present in the allegedly infringing systems.

***Hicks v. Collier*, No. 2:24-CV-00126, 2024 U.S. Dist. LEXIS 241129 (S.D. Tex. Oct. 31, 2024).** Plaintiff, a Texas prisoner, alleged that his constitutional rights were violated due to excessively hot living conditions and inadequate medical care. A significant aspect of the case involved the Texas Department of Criminal Justice's ("TDCJ") use of an algorithm to classify inmates for housing assignments based on their "heat scores." Hicks claimed that this algorithm misclassified him, leading to his placement in non-air-conditioned housing, which exacerbated his health issues. The Court's decision to preserve the claims against the TDCJ and its officials highlights the need for transparency, accuracy, and accountability in AI implementation to protect individual rights. However, the Court dismissed the plaintiff's claims under § 1983 against the unidentified developer of the algorithm because the Court found that it was not acting under the color of state law.

§ 1.2.6 Sixth Circuit

***Concord Music Grp., Inc. v. Anthropic PBC*, 738 F. Supp. 3d 973 (M.D. Tenn. 2024).** Several music publishers sued Anthropic, an AI research company, alleging that Anthropic used their copyrighted song lyrics to train its AI model, Claude, without

proper authorization. The Court found that it lacked personal jurisdiction over Anthropic, a Delaware company with its principal place of business in California (and which used data located in Virginia to train the Claude model, which itself was hosted on servers in Iowa), and transferred the action to California. The Court rejected plaintiffs' arguments that Anthropic had availed itself of sufficient contacts with the forum state by making the model available to Tennessee through an interactive website. This decision will be significant insofar as it rejects the notion that personal jurisdiction can be established over the developer of an AI model simply by the developer's making that model available in the jurisdiction.

§ 1.2.7 Seventh Circuit

***G.T. v. Samsung Elecs. Am., Inc.*, No. 21 CV 4976, 2024 U.S. Dist. LEXIS 233003 (N.D. Ill. Dec. 23, 2024)** and ***G.T. v. Samsung Elecs. Am. Inc.*, No. 21 CV 4976, 2024 U.S. Dist. LEXIS 130771 (N.D. Ill. July 24, 2024)**. In a first amended complaint, plaintiffs in this class action lawsuit alleged that Samsung violated Illinois's Biometric Information Privacy Act ("BIPA") in possessing and collecting their biometric data via Samsung's Gallery photo applications. The Court found claims to be insufficiently pled and granted Samsung's motion to dismiss.

In their second amended complaint, the plaintiffs alleged that Samsung violated BIPA by offering software that generates and stores biometric data (face templates) on a device using facial recognition technology. The Court granted Samsung's second motion to dismiss on the basis that BIPA requires control over the actual biometric data, and Samsung did not have such control.

***Arnold v. Target Corp.*, No. 24 CV 4452, 2024 U.S. Dist. LEXIS 212009 (N.D. Ill. Nov. 21, 2024)**. Plaintiffs alleged that Target Corp. violated BIPA in possessing, collecting, and disclosing their biometric data (face geometry captured by facial recognition technology in Target stores). The Court denied Target's motion to dismiss on the basis that plaintiffs' claims were plausible.

***Hartman v. Meta Platforms, Inc.*, No. 3:23-CV-02995-NJR, 2024 U.S. Dist. LEXIS 167696 (S.D. Ill. Sep. 17, 2024)**. Plaintiffs in this putative class action lawsuit alleged that Meta violated BIPA in possessing and collecting their biometric data via augmented reality features of the Facebook Messenger and Messenger Kids applications. The Court denied Meta's motion to dismiss on the basis that plaintiffs' claims were plausible, and the case proceeded to discovery.

***Lewerentz v. 1411 State Parkway Condo. Ass'n*, No. 23-cv-1635, 2024 U.S. Dist. LEXIS 159664 (N.D. Ill. Sep. 5, 2024)**. A building engineer continued to receive calls from elevator call buttons after stopping work at those buildings. The calls included an artificial intelligence voice. The engineer alleged that the calls were harassment under the Telephone Consumer Protection Act and a tort of intrusion upon seclusion under Illinois state law. The Court found that these claims were insufficiently pled and granted the Defendant's motion to dismiss the complaint.

***Plumbers v. Morris Plumbing, LLC*, No. 23-CV-616-JPS-JPS, 2024 U.S. Dist. LEXIS 70751 (E.D. Wis. Apr. 18, 2024)**. In this case, the Court noted that a case in Plaintiff's

reply brief appeared to be hallucinated by artificial intelligence, as the case could not be found via online searching. The Court warned Plaintiff's counsel that they would be sanctioned for any future presentations of non-existent cases.

***Taylor v. 48forty Sols., LLC*, No. 23 C 14400, 2024 U.S. Dist. LEXIS 64573 (N.D. Ill. Apr. 9, 2024).** In this putative class action, a truck driver alleged that his former employer collected scans of his face geometry (biometric data) in violation of BIPA Sections 15(a), (b), and (d). The Court denied the former employer's motion to dismiss all those claims, though plaintiff was required to be ready to inform the Court whether he would like to proceed with the Section 15(a) claim in federal or state court.

***Hernandez v. Omnitracs, LLC*, No. 1:22-CV-00109, 2024 U.S. Dist. LEXIS 58865 (N.D. Ill. Mar. 31, 2024).** In this putative class action, a truck driver alleged that his former employer collected scans of his face geometry (biometric data) in violation of BIPA Sections 15(a)-(d). The Court denied the former employer's motion to dismiss all those claims.

§ 1.2.8 Eighth Circuit

No cases identified for the Eighth Circuit.

§ 1.2.9 Ninth Circuit

***Tate v. VITAS Healthcare Corp.*, No. 2:24-cv-01327-DJC-CSK, 2025 U.S. Dist. LEXIS 3828 (E.D. Cal. Jan. 8, 2025).** VITAS uses third party conversation intelligence software, records calls, creates transcripts, and uses AI to classify data into a searchable database. Plaintiff, who interacted with the software to discuss hospice care for her mother, alleged violations of California Invasion of Privacy Act (CIPA). The Court found that the AI software could be considered a third party and a recording device under CIPA and denied VITAS's motion to dismiss.

***Netchoice v. Bonta*, No. 5:24-cv-07885-EJD, 2024 U.S. Dist. LEXIS 234919 (N.D. Cal. Dec. 31, 2024).** The Court considered the constitutionality of SB 976, the Protecting Our Kids from Social Media Addiction Act, to regulate social media platforms' interactions with minors. Among other requirements, SB 976 restricts personalized feeds and notifications for minors. The Court found that algorithms designed to maximize a person's time spent on social media do not reflect any message from its creator and therefore do not constitute expressive speech. The Court found that the plaintiff had not met its burden of establishing that the personalized feed provisions of the law impermissibly restrict free speech and dismissed those elements of the claim.

***Ryan v. X Corp.*, No. 24-cv-03553-WHO, 2024 U.S. Dist. LEXIS 222459 (N.D. Cal. Dec. 9, 2024).** Plaintiff Ryan alleges X Corp. used AI to target and suspend his accounts without proper notice. The Court granted X Corp.'s motion to dismiss after finding that all claims were barred by X Corp.'s Terms of Service, which limit liability for account suspensions. Additionally, the unjust enrichment claim was also barred by Section 230 of the Communications Decency Act and X Corp.'s use of AI to moderate content does not negate Section 230 immunity. Ryan was given leave to amend his complaint.

***Vance v. Google LLC*, No. 20-cv-04696-BLF, 2024 U.S. Dist. LEXIS 220639 (N.D. Cal. Dec. 5, 2024).** In this case, the Court denied the motion to dismiss the plaintiffs' claims under section 15(b) of Illinois's BIPA but granted dismissal of their Section 15(c) claim. Plaintiffs posted photos containing their faces to Flickr, a photo hosting website. IBM created the Diversity in Faces (DiF) Dataset using Flickr photos without user permission and Google obtained the DiF Dataset from IBM to improve facial recognition technology for its facial unlock feature. The Court found that improving a product was not sufficient to demonstrate a commercial transaction to support a Section 15(c) claim.

***Samuels v. Dao*, No. 23-cv-06492-VC, 2024 U.S. Dist. LEXIS 209474 (N.D. Cal. Nov. 18, 2024).** This case was brought by an investor who bought cryptocurrency tokens issued by Lido DAO and lost money on his investment. The Court rejected defendant's argument that it is merely autonomous software that runs without human management and therefore not a legal entity that can be subject to legal proceedings. Rather, the alleged actions are of an entity run by people, and this entity can be sued as a general partnership.

***Kohls v. Bonta*, No. 2:24-cv-02527 JAM-CKD, 2024 U.S. Dist. LEXIS 179933 (E.D. Cal. Oct. 2, 2024).** The Court granted a preliminary injunction against California's AB 2839, which aims to address the spread of AI-generated "deepfakes" and other manipulated media that could mislead voters or undermine confidence in the electoral process. The Court found the law unconstitutional for being overly broad and not narrowly tailored, thus violating the First Amendment. The decision highlighted the role of AI in creating "deepfakes" and emphasized the importance of protecting free speech involving digitally manipulated content.

***Lamontagne v. Tesla, Inc.*, No. 23-cv-00869-AMO, 2024 U.S. Dist. LEXIS 178030 (N.D. Cal. Sep. 30, 2024).** The plaintiffs alleged that Tesla, Inc., and Elon Musk made twenty-nine false or misleading statements about the development and safety of Tesla's autonomous driving technology. The Court granted Tesla's motion to dismiss, finding that the statements were either protected by the PSLRA safe harbor, nonactionable corporate puffery, or not sufficiently alleged to be false or misleading. The Court also dismissed the plaintiffs' claims under Sections 10(b) and 20(a) of the Securities Exchange Act, as well as claims under Items 105 and 303 of Regulation S-K, due to insufficient allegations of scienter and materiality. The plaintiffs were given leave to amend their complaint.

***Andersen v. Stability AI Ltd.*, No. 23-cv-00201-WHO, 2024 U.S. Dist. LEXIS 143204 (N.D. Cal. Aug. 12, 2024).** The Court partially granted and partially denied the defendants' motions to dismiss. The plaintiffs, a group of artists, alleged that Stability AI and other defendants used their copyrighted works to train AI models without permission. The Court allowed the copyright infringement claims to proceed, finding the plaintiffs' allegations plausible. However, it dismissed the Digital Millennium Copyright Act ("DMCA") claims and unjust enrichment claims. The Court found that the plaintiffs' infringement allegations regarding the use of their works in training AI models were sufficiently pled. The court granted the plaintiffs leave to amend their unjust enrichment claims complaint but dismissed the DMCA claims with prejudice.

***Mobley v. Workday, Inc.*, No. 23-cv-00770-RFL, 2024 U.S. Dist. LEXIS 126336 (N.D. Cal. July 12, 2024).** The Court granted in part and denied in part the defendant's motion to dismiss an employment discrimination case. The plaintiff, Derek Mobley, alleged that Workday's algorithm-based applicant screening tools discriminated against him and others based on race, age, and disability. The Court denied the claims under Title VII, ADEA, and ADA based on Workday's liability as an agent of employers. However, it granted the claims based on Workday being an employment agency and intentional discrimination claims under Title VII, ADEA, and Section 1981. Additionally, the Court granted with leave to amend the claims under California's Fair Employment and Housing Act (FEHA). Mobley was permitted twenty-one days to amend his complaint regarding the FEHA claim.

***Jones v. Peloton Interactive, Inc.*, No. 23-cv-1082-L-BGS, 2024 U.S. Dist. LEXIS 118511 (S.D. Cal. July 5, 2024).** The Court denied Peloton's motion to dismiss the First Amended Complaint. The plaintiffs claimed that Peloton violated the California Invasion of Privacy Act (CIPA) by using AI-powered third-party software, Drift, to intercept and record chat communications on its website without users' consent. The Court found that Drift's AI technology, which analyzed and used the intercepted data for its own purposes, acted as a third-party eavesdropper. Accordingly the plaintiffs' CIPA claims were sufficiently pled.

***Ambriz v. Google, LLC*, No. 23-cv-05437-RFL, 2024 U.S. Dist. LEXIS 119619 (N.D. Cal. June 20, 2024).** The Court dismissed Misael Ambriz's complaint against Google, which alleged that Google's Cloud Contact Center AI wiretapped, eavesdropped on, and recorded his call to Verizon's customer service. The Court found that Google's AI acted as a virtual agent for Verizon, a telephone company, and thus fell under the exemption provided by the California Invasion of Privacy Act (CIPA).

***Forrest v. Meta Platforms, Inc.*, No. 22-cv-03699-PCP, 2024 U.S. Dist. LEXIS 107340 (N.D. Cal. June 17, 2024).** The Court partially granted and partially denied Meta's motion to dismiss. The case centered on Facebook advertisements using Dr. Andrew Forrest's likeness to promote fraudulent investments. The advertisements were alleged to have been created and optimized by Meta's AI and machine learning tools, raising factual disputes about Meta's liability under Section 230 that were unsuitable for preliminary resolution. Specifically the pleadings left a factual dispute as to whether Meta materially contributes to the ads to render it beyond Section 230's protection. The claims for misappropriation and negligence were allowed to proceed.

***Dental Monitoring SAS v. Align Tech., Inc.*, No. C 22-07335 WHA, 2024 U.S. Dist. LEXIS 88739 (N.D. Cal. May 16, 2024).** The Court granted the defendant's summary judgment motion, invalidating Dental Monitoring's patents, which involved methods for remote dental aligner assessment using deep learning devices. Applying the *Alice* two-step test, the Court determined that the invention was both directed to an abstract concept and that it merely applied generic machine learning technology to the known field of dental aligners.

***Alich v. Opendoor Techs. Inc.*, No. CV-22-01717-PHX-MTL, 2024 U.S. Dist. LEXIS 86544 (D. Ariz. May 14, 2024).** The Court granted the plaintiffs' motion for reconsideration of the Court's earlier dismissal, thereby allowing claims under Sections

11 and 15 of the Securities Act of 1933 to proceed. The plaintiffs alleged that Opendoor made misleading statements about its algorithm's ability to adjust to market conditions, which they claimed led to investors' financial losses. The defendant's algorithm was designed to adjust dynamically to market indicators and economic conditions. The Court found that misrepresentations regarding Opendoor's algorithm touches upon the alleged reasons for plaintiffs' losses, finding that the plaintiffs have adequately pleaded a Section 11 claim.

***Gibson v. Cendyn Grp., LLC*, No. 2:23-cv-00140-MMD-DJA, 2024 U.S. Dist. LEXIS 83547 (D. Nev. May 8, 2024).** The Court dismissed the plaintiffs' claims with prejudice. The plaintiffs had alleged that the defendants, including a software company and several hotel operators, violated the Sherman Antitrust Act by artificially inflating hotel room prices through the use of pricing algorithms. The Court found that the plaintiffs failed to plausibly allege a tacit agreement among the defendants to fix prices and that the vertical agreements between the software company and the hotel operators did not restrain trade. The Court found that the mere use of algorithmic pricing, without allegations of any explicit or implicit agreement between competitors to accept the prices that the algorithm recommends, does not enable a plausible allegation of illegal collusion.

***Tremblay v. OpenAI, Inc.*, 716 F. Supp. 3d 772 (N.D. Cal. Feb. 12, 2024).** The Court granted in part and denied in part OpenAI's motions to dismiss. The plaintiffs, authors of copyrighted books, alleged that OpenAI used their works to train its language models without permission. The Court dismissed claims for vicarious copyright infringement, DMCA violations, negligence, and unjust enrichment, but allowed the unfair competition claim to proceed. The plaintiffs were permitted to amend their complaint with respect to the dismissed claims.

***Meta Platforms, Inc. v. Bright Data Ltd.*, No. 23-cv-00077-EMC, 2024 U.S. Dist. LEXIS 11913 (N.D. Cal. Jan. 23, 2024).** The Court granted the defendant, Bright Data's motion to dismiss finding that its scraping of publicly available data while not logged into a user account did not breach Meta's Terms of Service. The Court also determined that the Terms did not apply to Bright Data's activities after it terminated its accounts, and the survival clause did not impose a perpetual ban on scraping public data. This led to the dismissal of Meta's breach of contract claims. § 1.2.10 Tenth Circuit

***United States v. Cole*, No. 1:24-cr-00054-SKC, 2024 U.S. Dist. LEXIS 184877 (D. Colo. Oct. 8, 2024).** Criminal defendant Cole argued that the "unique selection" of his image using facial recognition software contributed to making his image stand out in a photo array. The Court did not find that such selection caused the array to be impermissibly suggestive.

***MarketDial, Inc. v. Applied Predictive Techs., Inc.*, No. 1:23-cv-00477-JNP-CMR, 2024 U.S. Dist. LEXIS 109809 (D. Utah June 20, 2024).** MarketDial, Inc. alleged that Applied Predictive Technologies, Inc.'s (APT) patent directed toward "determining optimal parameter settings for a predictive machine-learning model in business initiative testing software" was invalid or unenforceable. The Court determined that the patent failed the *Alice* test for patent eligibility, granted MarketDial's motion to dismiss

APT's counterclaim of patent infringement, and denied APT's motion to dismiss the complaint.

***Total Quality Sys. v. Universal Synaptics Corp.*, No. 1:22-cv-00167-RJS-DAO, 2024 U.S. Dist. LEXIS 93224 (D. Utah May 23, 2024).** In this case, Universal Synaptics Corporation alleged that Total Quality Systems infringed two of Universal's patents, one of which covers an apparatus containing a neural network. Applying the *Alice* test, the Court held that the claimed inventions were ineligible for patent protection under 35 U.S.C. § 101.

§ 1.2.11 Eleventh Circuit

***United States v. Deleon*, 116 F.4th 1260 (11th Cir. 2024) and *Snell v. United Specialty Ins. Co.*, 102 F.4th 1208 (11th Cir. 2024).** In two cases, Judge Kevin C. Newsom of the United States Court of Appeals, Eleventh Circuit, wrote concurring opinions in which he evaluates how AI-based large language models could aid in conducting interpretive analysis in line with an “ordinary meaning” approach to evaluating legal texts.

***Mazile v. Larkin Univ. Corp.*, No. 1:23-cv-23306-LEIBOWITZ, 2024 U.S. Dist. LEXIS 128457 (S.D. Fla. July 22, 2024).** Larkin University expelled student/plaintiff Mazile after an AI system owned by remote testing company ExamSoft flagged that Mazile had cheated on a test monitored by the AI system. Mazile brought claims against ExamSoft and Larkin. The Court granted ExamSoft's motion to compel arbitration under the End User License Agreement to which Mazile had agreed. The Court dismissed Mazile's claim for discrimination based on her disability because Mazile failed to provide evidence that Larkin knew that ExamSoft's AI system was discriminatory, and that Larkin discriminated against Mazile because of her disability.

***Medallia Inc. v. Echospans, Inc.*, No. 1:23-cv-3730-TCB, 2024 U.S. Dist. LEXIS 160154 (N.D. Ga. June 14, 2024).** Medallia Inc. asserted that Echospans, Inc. infringed Medallia's patent regarding sentiment analysis of text. The Court denied Echospans's motion asserting that Medallia's patent was directed to patent-ineligible subject matter because the parties had not yet agreed on the meaning of critical terms “first model” and “relevantly similar analysis model” in the patent claims.

***Doe v. Emory Univ.*, 734 F. Supp. 3d 1369 (N.D. Ga. 2024).** Two students at Emory University created an “artificial intelligence-based learning tool” that Emory's Honor Council determined may be used for cheating. Emory initiated disciplinary proceedings against the students. In this case, the Court rejects one student's motion to proceed in litigation anonymously because the student did not satisfy precedential requirements for permitting anonymity in court, despite the student's assertions that they could be subject to negative attention if their identity was made public.

§ 1.2.12 DC Circuit

***TikTok Inc. & ByteDance Ltd. v. Garland*, 122 F.4th 930 (D.C. Cir. 2024).** The federal Protecting Americans from Foreign Adversary Controlled Applications Act, enacted in April 2024, results in the ban of Tik-Tok's AI-enabled social media app in the US. Among

other claims, TikTok asserted that the Act violated freedom of speech under the First Amendment. The Court rejected the TikTok's First Amendment claim on the basis that the Act's provisions addressed compelling national security interests "to counter (1) the PRC's efforts to collect data of and about persons in the United States, and (2) the risk of the PRC covertly manipulating content on TikTok." The U.S. Supreme Court affirmed this judgment in January 2025. *See TikTok Inc. v. Garland*, 145 S. Ct. 57 (2025).

***Rubio v. District of Columbia*, Civil Action No. 23-719 (RDM), 2024 U.S. Dist. LEXIS 218004 (D.D.C. Dec. 3, 2024).** In this case, the Court denied all the plaintiff's federal and D.C. law claims, including based on the plaintiff's provision of cases likely fabricated by AI.

***Biddle v. DOD*, Civil Action No. 23-1380 (TJK), 2024 U.S. Dist. LEXIS 164961 (D.D.C. Sep. 13, 2024).** Plaintiff Biddle requested certain "records pertaining to the Algorithmic Warfare Cross-Functional Team's use of Google technology, software or hardware" from the Department of Defense via a Freedom of Information Act (FOIA) request. The Department asserted that disclosure of its approach to AI development and implementation in response to the FOIA request would "reveal vulnerabilities in Department of Defense critical infrastructure." The Court was unconvinced, including because an approach to AI is not clearly "infrastructure." The Court denied both parties' motions for summary judgment.

***United States v. Google LLC*, 747 F. Supp. 3d 1 (D.D.C. 2024).** As part of a broader case alleging that Google was engaged in monopolistic practices in violation of antitrust law, Google asserted that the rapid development of AI eroded barriers to entry to providing general search services. The Court rejected that assertion on the basis that AI had not yet developed sufficiently to "change the market dynamic in the 'foreseeable future'."

§ 1.2.13 Court of Appeals for the Federal Circuit

***Promptu Sys. Corp. v. Comcast Corp.*, 92 F.4th 1372 (Fed. Cir. 2024).** Plaintiff Promptu Systems alleged that Comcast infringed its patents related to speech or voice recognition technology. The Federal Circuit Court of Appeals vacated the district court's judgment with respect to certain claims and remanded the case for further proceedings.

§ 1.3 Legislation

As in 2023, legislation governing the development, deployment, and use of artificial intelligence continued to be a hot topic in 2024. Below, we summarize key substantive artificial intelligence legislation enacted in 2024.

§ 1.3.0 Multiple States

Deepfakes and sexual offenses. Many states enacted laws in 2024 related to deepfakes and sexual offenses. We list those states and their laws below.

- Alabama:
 - H.B. 168, Alabama Child Protection Act of 2024

- Delaware:
 - H.B. 353, An Act to Amend Titles 10 and 11 of the Delaware Code Relating to Deep Fakes
- Florida:
 - S.B. 1680, Advanced Technology
- Idaho:
 - H.B. 465, An Act Relating to Crimes Against Children
 - H.B. 575, An Act Relating to Disclosing Explicit Synthetic Media
- Indiana:
 - H.B. 1047, Sexual Offenses
- Louisiana:
 - S.B. 6, An Act to enact R.S. 14:73.14, relative to computer related crime; to create the crime of unlawful dissemination or sale of images of another created by artificial intelligence; to provide definitions; to provide penalties; and to provide for related matters
- Pennsylvania:
 - S.B. 1213, An Act amending Titles 18 (Crimes and Offenses) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes...
- Tennessee:
 - H.B. 2163, An Act to amend Tennessee Code Annotated, Title 39 and Title 40, relative to the sexual exploitation of children
- Washington:
 - H.B. 1999, Concerning fabricated intimate or sexually explicit images and depictions

Deepfakes and election protection. Many states enacted laws in 2024 related to deepfakes and election protection. We list those states and their laws below.

- Alabama:
 - H.B. 172, Relating to elections; to provide that distribution of materially deceptive media is a crime
- Arizona:
 - S.B. 1359, Election communications; deepfakes; prohibition
 - H.B. 2394, Digital impersonation; injunctive relief; requirements
- California:
 - A.B. 2355, Political Reform Act of 1974: political advertisements: artificial intelligence
 - A.B. 2655, Defending Democracy from Deepfake Deception Act of 2024
 - A.B. 2839, Elections: deceptive media in advertisements
 - *Note:* Enforcement of A.B. 2839 was partially enjoined under *Kohls v. Bonta*, No. 2:24-cv-02527 JAM-CKD, 2024 U.S. Dist. LEXIS 179933, as described above.
- Colorado:
 - H.B. 24-1147, Candidate Election Deepfake Disclosures
- Delaware:
 - H.B. 316, An Act to Amend Title 15 of the Delaware Code Relating to Deep Fakes in Elections
- Florida:
 - H.B. 919, Artificial Intelligence Use in Political Advertising

- Hawaii:
 - S.B. 2687, Elections; Materially Deceptive Media; Artificial Intelligence; Deepfake Technology; Prohibition; Penalty; Remedies
- Minnesota:
 - H.F. 4772, Elections policy and finance bill
- Mississippi:
 - S.B. 2577, An Act to Create a New Section... for the Wrongful Dissemination of Digitizations
- New Hampshire:
 - H.B. 1596, An Act requiring a disclosure of deceptive artificial intelligence usage in political advertising
 - H.B. 1432, An Act relative to prohibiting certain uses of deepfakes and creating a private claim of action
- New Mexico:
 - H.B. 182, An Act relating to Elections... creating the crime of distributing materially deceptive media
- Oregon:
 - S.B. 1571, Relating to the use of artificial intelligence in campaign communications; declaring an emergency
- Utah:
 - S.B. 131 (includes clauses touching on elections and criminal justice)
- Wisconsin:
 - A.B. 664, An Act to amend 11.1303 (title)... disclosures regarding AI in political advertisements

§ 1.3.1 California

A.B. 1008, California Consumer Privacy Act of 2018: personal information. Enacted in September 2024, this act revises the scope of personal information under California’s Consumer Privacy Act to allow for multiple formats in which personal information may exist, including abstract digital formats such as “artificial intelligence systems that are capable of outputting personal information.”

A.B. 1836, Use of likeness: digital replica. Enacted in September 2024, this act creates a cause of action for damages when a digital replica of a deceased person is used without prior consent from the person’s estate.

A.B. 2013, Generative artificial intelligence: training data transparency. Enacted in September 2024, this act requires developers of generative AI systems released to California residents on or after January 1, 2022, to disclose details about the data used to train the systems, including a summary of the relevant datasets.

A.B. 2602, Contracts against public policy: personal or professional services: digital replicas. Enacted in September 2024, this act makes unenforceable certain contract provisions regarding performance of services by a digital replica of an individual in lieu of that individual’s own work on or after January 1, 2025.

A.B. 2905, Telecommunications: automatic dialing-announcing devices: artificial voices. Enacted in September 2024, this act amends California’s requirements regarding

automated phone calls to further require notification to the call recipient if a prerecorded message uses an artificial voice (generated or significantly altered via artificial intelligence).

A.B. 2885, Artificial Intelligence. Enacted in September 2024, this act amends various sections of California state law to define artificial intelligence as “an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments.”

S.B. 942, California AI Transparency Act. Enacted in September 2024, this act applies to producers of generative artificial intelligence systems that have over one million monthly users and are publicly accessible within California. The producers must comply with various transparency requirements, such as providing free AI detection tools, and enabling disclosure of and disclosing when content is generated by AI.

A.B. 3030, Health care services: artificial intelligence. Enacted in September 2024, this act requires health care providers to notify patients when communication is performed using generative AI.

S.B. 1120, Health care coverage: utilization review. Enacted in September 2024, this act imposes various requirements on use of AI by health care service plan or disability insurers in performing utilization review or utilization management functions.

§ 1.3.2 Colorado

S.B. 24-205, Consumer Protections in Interactions with Artificial Intelligence Systems. Enacted in May 2024, this act requires developers and deployers of high-risk artificial intelligence systems to use reasonable care to protect Colorado consumers from any known or reasonably foreseeable risks of algorithmic discrimination.

§ 1.3.3 Illinois

H.B. 3773, Limit Predictive Analytics Use. Enacted in August 2024, this act amends Illinois’s list of civil rights violations to include (1) use of artificial intelligence for employment decision purposes that subjects employees to discrimination based on a protected class or zip code as proxy for a protected class, and (2) failure to notify employees of use of artificial intelligence for employment decision purposes.

H.B. 4875, Publicity Act—Use of AI. Enacted in August 2024, this act provides artists with rights to control use of digital replicas of them.

H.B. 4762, Digital Voice and Likeness Protection Act. Enacted in August 2024, this act imposes various requirements on contractual negotiations intended to permit creation and use of digital replicas of an individual.

§ 1.3.4 New Hampshire

H.B. 1688, An Act relative to use of artificial intelligence by state agencies. Enacted in May 2024, this act restricts state agencies from discriminating against people using AI, using AI for biometric surveillance, and using deepfakes for deceptive or malicious purposes.

§ 1.3.5 New York

S. 9832, New York State Fashion Workers Act. Enacted in December 2024, this act requires model management companies to obtain clear written consent to create or use, or alter or modify using artificial intelligence, a model's digital replica.

S. 7676B, Establishes contract requirements for contracts involving the creation and use of digital replicas. Enacted in December 2024, this act imposes various requirements on contractual negotiations intended to permit creation and use of digital replicas of an individual.

S. 7543A, Enacts the legislative oversight of automated decision-making in government act (LOADinG Act). Enacted in December 2024, this act imposes various requirements, including disclosure requirements, on state agency use of automated decision-making systems.

§ 1.3.6 Tennessee

S.B. 1711, An Act to amend Tennessee Code Annotated, Title 49, relative to artificial intelligence. Enacted in March 2024, this act requires Tennessee state universities and public schools "to adopt a policy regarding the use of artificial intelligence by students, faculty, and staff for instructional and assignment purposes."

H.B. 2091, Ensuring Likeness, Voice, and Image Security Act of 2024 (ELVIS Act). Enacted in March 2024, this act expanded existing law granting a property right in a person's name, photograph, or likeness to include a property right in the person's voice (including a simulation of the voice).

§ 1.3.7 Utah

S.B. 149, Artificial Intelligence Policy Act. Enacted in March 2024, this act requires disclosure of the provision of generative artificial intelligence-enabled services to a user, including for services of a regulated occupation. The act also establishes various initiatives related to artificial intelligence in Utah.

H.B. 366. Enacted in 2024, this act limits how an algorithm or risk assessment tool score may be used in various criminal justice procedures.

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