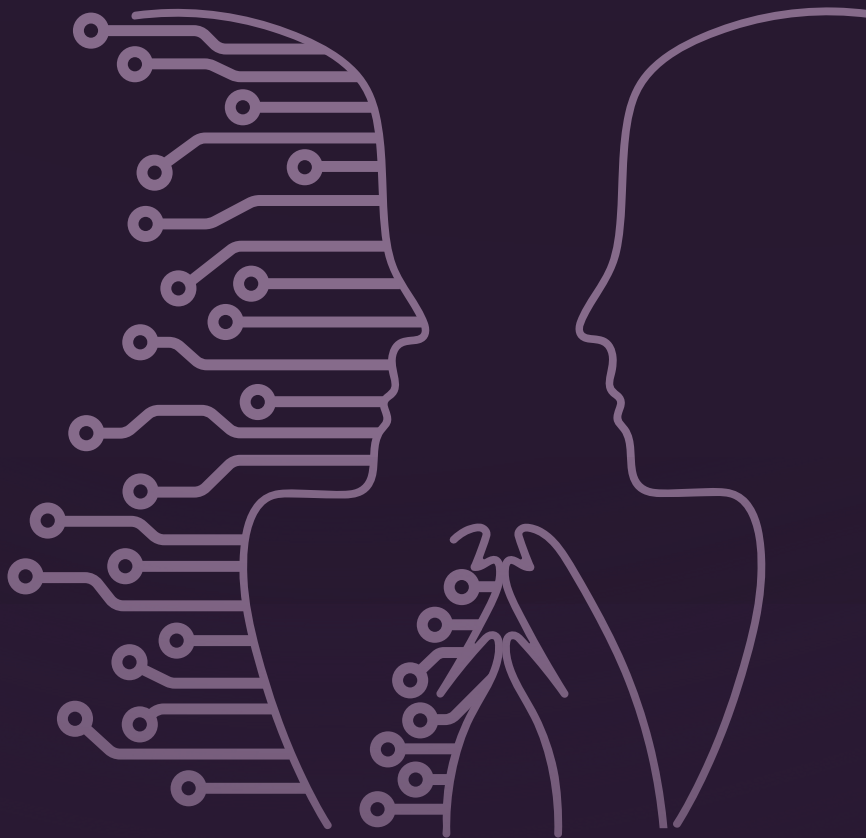


THE SECURITY of LIKENESS in the AGE OF AI

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ABSTRACT



The rapid evolution of generative AI has made it increasingly easy to replicate human likeness, voices, images, and behaviors, with alarmingly close realism. As these technologies have transformative creative potential, they also pose a serious risk of fraud, defamation, and false endorsement. The current legal frameworks, including the **Lanham Act** and state publicity statutes, fail to properly address the unauthorized use of use of AI to generate a person's likeness. This memo highlights the urgent need for legislation specifically tailored to regulating AI-generated content in the context of fraud. It proposes the creation of a federal law, the **Digital Likeness and False Endorsement Act (DLFEA)** to modernize the protections against synthetic identity exploitation. By closing this policy gap while preserving free expression, this legislative framework would ensure that individuals retain control over their digital identities and restore the public trust in an increasingly AI-driven world.

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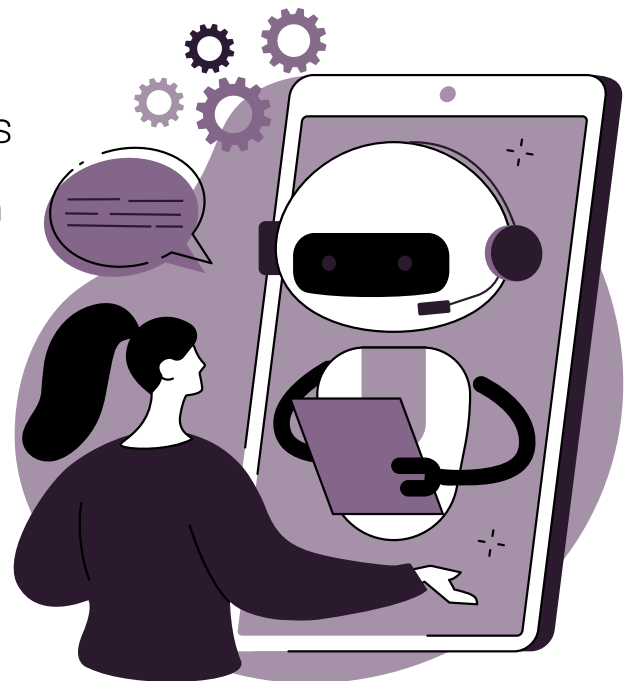


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INTRODUCTION

The emergence of generative AI systems capable of replicating human likeness (**images, voices, and behaviors**) poses a growing threat in the world of criminal misuse. These technological advancements, while groundbreaking for creative potential, allow for the forging of identities for either profit or harm, such as false endorsements, identity theft, and defamation. With only a little more than a photograph or voice sample, AI can forge highly convincing digital replicas of real people, copying and manipulating their likeness however one chooses.

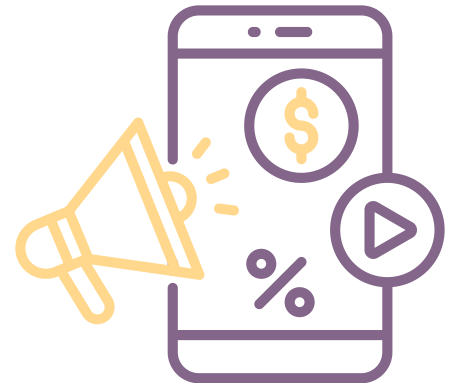
Existing laws fail to account for situations where the content in question is completely artificial yet indistinguishable from the real thing. **“Digital Likeness”** refers to a person’s image, voice, or other identifiable traits when represented either online or through some other form of technology (Hendrickson, 2025). With modern AI technology, likeness can be easily duplicated within seconds without consent, creating fraudulent representations of individuals.



DEFINING THE ISSUE

The most pressing issue concerning the legal implications of AI is the evolving definition of **misappropriation of likeness** and the potential resulting claims of **false endorsement**.

- Under Section 43(a) of the **Lanham Act**, individuals are protected against “false endorsement,” which occurs when their name, image, or other identifying traits are used without permission in a way that suggests they sponsor or are affiliated with a product or service
- AI tools can generate hyper-realistic **deepfakes** or synthetic media that depict individuals in scenarios they never agreed to, effectively misleading the public to believe **false endorsements**
- Traditional defamation requires a false statement “of and concerning” the plaintiff, published to a third party, and made with some level of fault. But when the defamatory content is produced by an AI model rather than a human, questions arise about **who is legally responsible**: the developer, the platform hosting it, or the user who prompted it?



SIGNIFICANCE

Deepfake and AI technology have been used to insert celebrity likenesses into advertisements without consent, confusing consumers and damaging reputations, as well as misrepresenting political actors in the public eye. Here are a few cases that highlight the growing legal stakes of AI:

- In early October, President Donald Trump posted an AI-altered video depicting Minority Leader Hakeem Jeffries in a sombrero and mustache, satirizing his support for immigration.
- Popular content creator MrBeast (known as Jimmy Donaldson) publicly condemned AI-generated deepfake ads promoting a cryptocurrency scam using his likeness, which is clear misappropriation intended to deceive consumers.
- Senator J.D. Vance recently faced the use of AI-generated images depicting him in disturbing contexts, illuminating the question of AI content's impact on public political opinion.



While The Lanham Act offers some recourse, the speed and sophistication of AI-generated content complicate enforcement and call for updated, specific legal protections to address the unique challenges of digital likeness theft.

SOLUTION

Establish AI-specific federal protections against unauthorized or deceptive digital likeness use.

Key Provisions:

- Define “**digital likeness**” – includes face, voice, image, or other identifiable characteristics
- Draws from NO FAKES Act (2025) and Tennessee’s ELVIS Act for baseline definitions
- Create **civil cause of action** for unauthorized AI-generated likeness use or false endorsement
- Modeled on Lanham Act §43(a): victims may seek statutory damages and attorney’s fees
- Implement a notice-and-takedown system for good-faith safe harbor and platform accountability
- Require **AI-ad transparency** in paid or incentivized digital content
- Align federal law with state statutes (e.g., California AB 602, Texas SB 751) for cohesive nationwide standards.

The Digital Likeness and False Endorsement Act (DLFEA) would modernize outdated laws to address deepfakes, unclear accountability, and digital identity misuse in the AI era. It provides individuals with a fast, reliable process to remove deceptive content while protecting legitimate creative and expressive uses. By balancing free speech with accountability, the DLFEA strengthens trust and safety in digital spaces without restricting innovation.

& ANALYSIS



CONCLUSION

The rapid advancement of AI technology has made it possible to forge human likeness with an alarming amount of precision, allowing for those with malicious intentions to profit off of individuals without their consent. Generative AI has outpaced the law, and as we have seen throughout this memo, current legislative frameworks fail to address the real threat that this poses.

The need for action is now, especially as deepfake technology becomes more accessible, and the potential for harm grows more day after day. Federal lawmakers must act now and establish a clear and enforceable legal framework, one that will safeguard personal likeness and prevent the abuse of generative AI. Protecting the public's trust in the digital world is vital and requires not only recognition of this problem but decisive and precise policy intervention. Only then can citizens feel secure knowing that their likeness and identity will be protected in the digital age.

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