



National Association of College and University Attorneys
Presents:

Generative AI: Chat With Real Humans About Emergent Issues

Webinar

December 7, 2023

2:00 PM – 4 :00 PM Eastern

1:00 PM – 3:00 PM Central

12:00 PM – 2:00 PM Mountain

11:00 AM – 1:00 PM Pacific

Presenters:

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Grand River Solutions

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Generative AI: Chat With Real Humans About Emergent Issues



Andrea Stagg is Director of Consulting Services at Grand River Solutions. Previously she served as Deputy General Counsel at Barnard College, and Associate Counsel at the State University of New York. Andrea co-coordinated a working group that created SUNY's sexual and interpersonal violence prevention and response policies, which formed the basis for New York Education Law Article 129B. She has advised federal and state legislators on best practices in campus safety and sexual harassment prevention, and served on a campus working group with prevention and response partners throughout New York state. In 2014, Andrea received the Commissioner's Award from the State University Police. She graduated Phi Beta Kappa with high honors from Rutgers University and received her law degree from The George Washington University, where she was an intern in the counsel's office. Andrea worked in federal higher education lobbying for Rutgers University before attending law school.



Jack Bernard is Associate General Counsel at the University of Michigan. He has worked in the academy for over thirty years and has been with the University of Michigan's Office of the Vice President and General Counsel since 1999. During the eleven years prior to this work, Jack had been an academic administrator and/or instructor at Macalester College, Saga Daigaku (Japan), and the University of Michigan. He teaches at the University of Michigan's Schools of Law, Education, and Information, as well as at the Ford School of Public Policy. He is Chair Emeritus of the University of Michigan's Council for Disability Concerns, where he served for over seventeen years. In 2009, Jack received the American Library Association's "L. Ray Patterson Copyright Award," as well as the First Decade Award from the National Association of College and University Attorneys. At the University of Michigan, he was a 2014 Distinguished Diversity Leadership recipient and, in 2016 he received the Carol Hollenshead Award from Center for the Education of Women. He has also been a Spencer Fellow and a researcher at the National Center for Postsecondary Improvement. In 2022, Jack was named a Fellow of NACUA. He earned his J. D. from the University of Michigan Law School and Master's in Higher Education from the University of Michigan's Center for the Study of Higher and Postsecondary Education. Jack studied neuroscience at Macalester College in St. Paul, Minnesota.



Angus MacDonald is Managing Counsel-IP, Investments & Innovation at the University of California System. He manages a team of lawyers focused on intellectual property, investments, corporate and equity transactions, and related subject matter. He joined the University of California's Office of General Counsel in April 2013 as Senior Counsel in the intellectual property group. His practice primarily focuses on copyright and trademark matters. He is the most recent past chair of the California Lawyers Association's copyright group. Before joining UC, Mr. MacDonald worked in-house at several technology companies in the Silicon Valley, including as the General Counsel of a digital music service. He began his legal career at the intellectual property firm, Townsend and Townsend and Crew (now known as Kilpatrick Townsend & Stockton), where he became a partner. He obtained his undergraduate degrees in 1996 from UC San Diego and his law degree in 2000 from UC Davis, where he was the Senior Research Editor of the Law Review.

Materials

Selected AI Articles and Resources

AI Resources at Teaching and Learning Centers

[Barnard's Center for Engaged Pedagogy](#)

[Cornell's Center for Teaching Innovation](#)

[Colorado's Center for Teaching and Learning](#)

[Columbia Center for Teaching and Learning](#)

[MIT Teaching & Learning Lab](#)

[Ohio University Center for Teaching, Learning, and Assessment](#)

[University of Miami's Platform for Excellence in Teaching & Learning](#)

Higher Education

[Is AI the New Homework Machine? Understanding AI and Its Impact on Higher Education](#) (WCET/WICHE, 1/05/2023)

[Designing Assignments in the ChatGTP Era](#) (InsideHigherED, 1/23/23)

[ChatGPT is a Plague Upon Education](#) (InsideHigherED, 2/08/23)

[ChatGPT Has Everyone Freaking Out About Cheating. It's Not the First Time](#) (Chronicle of Higher Education, 2/08/23) \$\$

[Leading Scientists Worldwide Are Victims of Fake Articles](#) (InsideHigherEd, 2/09/23)

[AI Bots Can Seem Sentient. Students Need Guardrails.](#) (InsideHigherEd, 2/21/23)

[The Emerging New Task and Partner for Higher Ed](#) (InsideHigherEd, 2/28/23)

[In an AI World, Let Disability Access Lead the Way](#) (InsideHigherEd, 2/23/23)

[We're Asking the Wrong Questions About AI](#) (InsideHigherEd, 3/12/23)

[GPT-4 Is Here. But Most Faculty Lack AI Policies](#) (InsideHigherEd, 3/21/23)

[How AI is Shaping the Future of Higher Ed](#) (InsideHigherEd, 3/21/23)

[A Guide to Generative AI Policy Making](#) (InsideHigherEd, 3/21/23)

[ChatGPT for Clery Act Compliance?](#) (Grand River Solutions, 3/23 [video])

[Turnitin's Solution to AI Cheating Raises Faculty Concerns](#) (InsideHigherEd, 4/03/23)

[AI in Education: Its Present and Its Future](#) (Play.ht, 4/13/23)

[Equity in a World of Artificial Intelligence](#) (WCET/WICHE, 4/20/2023)

[ChatGPT: Post –ASU+GSV Reflections on Generative AI](#) (eLiterate, 4/23/23)

[Readying Students for the AI Revolution](#) (InsideHigherEd, 4/27/23)

[Welcome to the Wild, Wild West of AI and the Higher Education Institution](#) (WCET/WICHE, 5/11/23)

[-Crowd-Sourced Summary of Institutional AI Academic Integrity Policies](#)

[Admissions Offices Start Using AI](#) (InsideHigherEd, 5/15/23)

[The First Year of AI College Ends in Ruin](#) (The Atlantic, 5/16/23) \$\$

[Colleges Race to Hire and Build Amid AI "Gold Rush"](#) (InsideHigherEd, 5/19/23)

[Professor to Students: ChatGPT Told Me to Fail You](#) (InsideHigherEd 5/19/23)

[How A.I. Increased the Graduation Rate at John Jay College by 32 Points](#) (New York Times, 9/20/2023)
\$\$

[AI Meets Medical School](#) (Inside Higher Ed, 9/25/2023)

Copyright and Intellectual Property

[Fair Learning](#) (Lemley and Casey, University of Texas Law Review, Vol. 99, Issue 4, 743, 2021)

[On AI-Generated Works, Artists, and Intellectual Property](#) (Lawfare, 2/28/23)

[Authors Guild, Creator Groups Meet Lawmakers on AI Issues](#) (Authors Guild, 3/28/23)

[Generative AI Has an Intellectual Property Problem](#) (Harvard Business Review, 4/07/23)

[Who Owns a Song Created by AI?](#) (New York Times, 4/15/23) \$\$

[The Rapid Rise of Generative AI Threatens to Upend U.S. Patent System](#) (Financial Times, 4/26/23)

[Generative AI and Intellectual Property Law: A Special Report](#) (Variety, 5/01/23)

[AI and Domain Name Disputes](#) (Gigalaw, 5/11/23)

Defamation

[Section 230 Won't Protect ChatGPT](#) (Lawfare, 2/23/23)

[AI Chatbots May Have a Liability Problem](#) (Washington Post, 3/01/23) \$\$

[What Happens When ChatGPT Lies About Real People?](#) (Washington Post, 4/05/23) \$\$

[Large Libel Models? Liability for AI Output](#) (Volokh, Draft article, Journal of Free Speech Law, 4/26/23)

First Amendment

[A Machine with First Amendment Rights](#) (Lawfare, 3/31/23)

[ChatGPT and the First Amendment: Whose Rights Are We Talking About?](#) (Lawfare, 4/04/23)

General

[What Happens When AI Has Read Everything?](#) (The Atlantic, 1/18/23) \$\$

[ChatGPT is About to Dump More Work on Everyone](#) (The Atlantic, 2/02/23) \$\$

[The Most Important Job Skill of This Century: Your Work Future Could Depend on How Well You Can Talk to AI](#) (The Atlantic, 2/08/23) \$\$

[Generative AI is Coming for Lawyers](#) (Wired, 2/21/2023)

[Artificial Intelligence, Virtual Courts, and Real Harms](#) (Lawfare, 3/14/23)

[ChatGPT Changed Everything. Now Its Follow-Up Is Here](#) (The Atlantic, 3/14/23) \$\$

[Welcome to the Big Blur: Thanks to AI, Every Written Word Now Comes with a Question](#) (The Atlantic, 3/14/23)

[What Have Humans Just Unleashed?](#) (The Atlantic, 3/16/23) \$\$

[OK, It's Time to Freak Out About AI](#) (Nonzero Newsletter, 3/16/23)

[How to Become an Expert on AI](#) (NY Times, 4/04/23) \$\$

[How Does ChatGPT Really Work?](#) (NY Times, 4/05/23) \$\$

[What Makes AI Chatbots Go Wrong?](#) (NY Times, 4/06/23) \$\$

[How Should I Use AI Chatbots Like ChatGPT?](#) (NY Times, 4/07/23) \$\$

[What's the Future for AI?](#) (NY Times, 4/08/23) \$\$

[Their Voices Are Their Livelihood. Now AI Could Take it Away.](#) (Washington Post, 4/24/23) \$\$

["The Godfather of AI" Leaves Google and Warns of Danger Ahead](#) (New York Times, 5/01/23) \$\$

[Why AI Will Never Rival Human Creativity](#) (Persuasion, 5/08/23)

[A Digital Regulator Must Be Empowered to Address AI Issues](#) (Lawfare, 5/09/23)

[Debate Over Whether AI Will Destroy Us is Dividing Silicon Valley](#) (Washington Post, 5/21/23) \$\$

[AI Poses 'Risk of Extinction,' Industry Leaders Warn](#) (New York Times, 5/30/2023). \$\$

[How scientists are using artificial intelligence](#) (The Economist, 9/13/2023)

[Will ChatGPT transform research? It already has, say Nobelists](#) (Times Higher Education, 9/17/2023)

Government Documents

[Preparing for the Future of Artificial Intelligence](#) (National Science and Technology Council, 10/2016)

[Promoting the Use of Trustworthy Artificial Intelligence in Government](#) (White House Office of Science and Technology Policy, 12/03/20)

[Blueprint for an AI Bill of Rights: Making Automated Systems Work for the American People](#) (White House, October 2022)

[Artificial Intelligence Risk Management Framework](#) (National Institute of Standards and Technology, 1/26/23)

[Decision of U.S. Copyright Office on Registration of AI-Generated Images](#) (2/21/23)

[Generative Artificial Intelligence and Copyright Law](#) (Congressional Research Service, 2/24/23)

[Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence](#) (U.S. Copyright Office, Federal Register, 3/16/23)

[Early Thoughts on Generative AI](#) (Prepared Remarks of FTC Commissioner Alvaro Bedoya, 4/03/23)

[Request for Comment on Proposed Accountability Framework for Artificial Intelligence](#) (National Telecommunications and Information Administration, 4/07/23)

Some Generative AI Services/Providers

Text Generating

[Bard](#)

[ChatGPT](#)

[Microsoft Bing](#)

Image Generating

[Dall-E](#)

[MidJourney](#)

[Stable Diffusion](#)

Sound Generating

[Revoicer](#)

[Uberduck](#)

[Voicify](#)

Glossary of Selected Terms

Artificial Intelligence (AI): intelligence—perceiving, synthesizing, and inferring information—demonstrated by machines, as opposed to intelligence displayed by humans or by other animals. Example of tasks in which this is done include speech recognition, computer vision, translation between (natural) languages, as well as other mappings of inputs. ([Wikipedia—Artificial Intelligence](#).)

Generative AI: Technology that creates content — including text, images, video and computer code — by identifying patterns in large quantities of training data, and then creating original material that has similar characteristics. Examples include ChatGPT for text and [DALL-E](#) and [Midjourney](#) for images. ([New York Times](#).)

Large Language Model (LLM): A type of neural network that learns skills — including generating prose, conducting conversations and writing computer code — by analyzing vast amounts of text from across the internet. The basic function is to predict the next word in a sequence, but these models have surprised experts by learning new abilities. ([New York Times](#).)

Machine Learning: a field devoted to understanding and building methods that let machines "learn" — that is, methods that leverage data to improve computer performance on some set of tasks. Machine learning algorithms build a model based on sample data, known as training data, in order to make predictions or decisions without being explicitly programmed to do so. ([Wikipedia—Machine Learning](#).)

Neural Network: A neural network is a method in artificial intelligence that teaches computers to process data in a way that is inspired by the human brain. It is a type of machine learning process, called deep learning, that uses interconnected nodes or neurons in a layered structure that resembles the human brain. It creates an adaptive system that computers use to learn from their mistakes and improve continuously. Thus, artificial neural networks attempt to solve complicated problems, like summarizing documents or recognizing faces, with greater accuracy. ([Amazon Web Services](#).)



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December 07, 2023

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Webinar

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AI: Chat With Real Humans About Emergent Issues

Andrea Stagg, Director of Consulting Services, Grand River Solutions, Inc.

Jack Bernard, Associate General Counsel, University of Michigan

Angus MacDonald, Managing Counsel - IP, Investments & Innovation,
University of California














Agenda

- Introduction
- What is Generative AI?
- Understanding GenAI's impact
- Demo of GenAI
- Copyright and other IP issues
- Academic integrity concerns
- Privacy and data issues
- Ethical considerations
- Prudent practices
- Audience Q&A and closing remarks

What is Generative AI?

- AI is artificial intelligence
- Generative AI produces content
- ChatGPT came out about a year ago in Nov. 2022
- Since then, Generative AI has become multimodal; not just text as input and output

Generative AI tools (a snapshot)

Text	Imagery & Video	Audio	Assistants	Code
   	   	   	 	   

Why is GenAI a big deal?

- New things cause confusion and fear
- Capabilities are evolving rapidly, without regulation
- Legal space is still unsettled
- Raises all sorts of questions (that we'll talk a bit about today)

Doomsday

The Washington Post
Democracy Dies in Darkness

OK, it's time to freak out about AI

There are at least two kinds of catastrophe scenarios, and both are getting more plausible

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FORBES > INNOVATION > AI

What Will A Dystopian World With AI In Charge Be Like?

Naveen Joshi Former Contributor

Bookmark Comment 1

Aug 16, 2022, 06:30am EDT

Intervene Against Existential AI

...s into our books," said Douglas
...en New York Times bestsellers.



Inside the White-Hot Center of A.I. Doomerism

Anthropic, a safety-focused A.I. start-up, is trying to compete with ChatGPT while preventing an A.I. apocalypse. It's been a little stressful.



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on Education

...t of 2023 is for ChatGPT—and higher
...ssman writes.

We can navigate this Brave New World!!



My account

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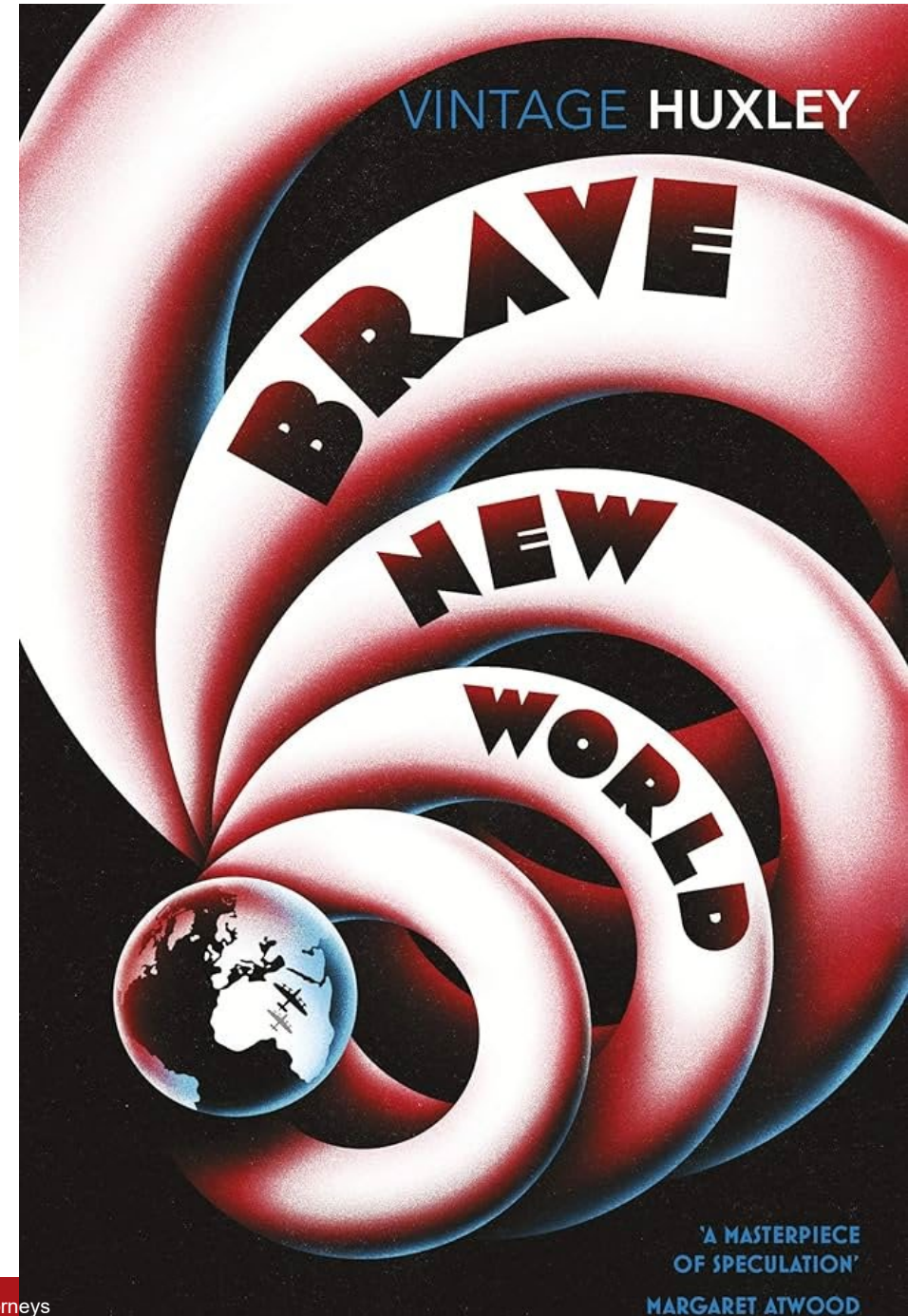
Find A Job

December 01, 2023

Indecision About AI in Classes Is So Last Week

Professors and administrators from five major public universities provide advice on how to get moving ahead with AI in the classroom right now.

By [Professors and Administrators From Five Major Public Universities](#)



AI: You're already using it

- Autocorrect
- Autocomplete
- Suggested responses (on Gmail, LinkedIn comments, and more)
- Siri, Alexa, other virtual assistants

Dear Andrea and Angus:

What should we put on this slide?

Jack: "Hey Siri, who's the fairest of them all?"

Siri: "You, Jack, are the fairest of all."

The background features a dark blue field with glowing binary code (0s and 1s) in a lighter blue hue. Two solid red rectangular shapes are overlaid on the image: a horizontal bar at the top and a larger vertical rectangle in the center. The text 'CLE CODE' is centered within the central red rectangle.

CLE CODE

Demo of GenAI

- We'll do a text-to-text prompt using ChatGPT
- Then text-to-image prompts using Freepik
- There's so much more, with audio and video even!

Demo of GenAI

Prompt to Chat-GPT:

You are a writing professor at Stagg University. Draft a short statement for the syllabus describing appropriate versus inappropriate limits of the use of generative AI to complete writing assignments.

Demo of GenAI

“Welcome to the writing course at Stagg University! In this class, we value and prioritize the development of your unique voice, critical thinking skills, and creativity. While technology, including generative AI, can be a powerful tool in the writing process, it is crucial to establish clear boundaries to maintain the integrity of your work and foster genuine intellectual growth.

Demo of GenAI

On the other hand, inappropriate use of generative AI involves:

- 1. Complete Draft Generation:** Using AI to generate entire essays or papers without substantial input or understanding is not allowed. Your work should reflect your thoughts, analysis, and unique perspective.
- 2. Plagiarism:** Submitting work generated by AI or anyone else without proper attribution is a violation of academic integrity. Always acknowledge the sources of your information and ideas.
- 3. Overreliance on AI:** Relying solely on AI for writing assignments hinders your personal growth as a writer. It is important to engage actively with the writing process, utilizing AI as a supportive tool rather than a substitute for your own efforts.

Demo of GenAI

Appropriate use of generative AI in writing assignments includes:

- 1. Idea Generation:** Utilizing AI to generate ideas and overcome writer's block can be beneficial. It can serve as a brainstorming tool to kickstart your creative process.
- 2. Grammar and Style Checks:** Employing AI for proofreading, grammar, and style suggestions is encouraged. It can help you refine your writing and enhance clarity.
- 3. Research Assistance:** Using AI to gather information and conduct initial research is acceptable. However, it is essential to critically evaluate and integrate the information into your own analysis.

Demo of GenAI

Remember, the goal of this course is to enhance your writing skills, critical thinking abilities, and creativity. If you have questions about the appropriate use of generative AI or need guidance on integrating technology into your writing process, please feel free to reach out for clarification. Let's work together to ensure a positive and enriching learning experience.”

Demo of GenAI

Prompt to Freepik: A professor of writing at a university who is afraid of generative AI ruining academia. [selected Comic for the style]



Demo of GenAI

Prompt to Freepik: A large black dog with long wiry hair and a brown beard and eyebrows, with floppy ears, standing on the grass



Demo of GenAI

My real dog: A large black dog with long wiry hair and a brown beard and eyebrows, with floppy ears, standing on the grass



Copyright issues

- Input
- Fair use
- Output
- Infringement / substantial similarity
- Disruption (or fear of it) is likely a motivator for litigation.

Copyright litigation (so far)

1. *Doe 1 v. GitHub, Inc.*, No. 22-cv-06823 (N.D. Cal. filed Nov. 3, 2022)
2. *Andersen v. Stability AI, Inc.*, No. 23-cv-00201 (N.D. Cal. filed Jan. 13, 2023)
3. *Getty Images (US), Inc. v. Stability AI, Inc.*, No. 23-cv-00135 (D. Del. filed Feb. 3, 2023)
4. *Tremblay v. OpenAI, Inc.*, No. 23-cv-03223 (N.D. Cal. filed June 28, 2023)
5. *Silverman v. OpenAI, Inc.*, No. 23-cv-03416 (N.D. Cal. filed July 7, 2023)
6. *Kadrey v. Meta Platforms*, No. 23-cv-03417 (N.D. Cal. filed July 7, 2023)
7. *Chabon et al. v. OpenAI*, No. 23-cv-04625 (N.D. Cal. filed Sept. 8, 2023)
8. *Chabon et al. v. Meta Platforms*, No. 23-cv-04663 (N.D. Cal. filed Sept. 12, 2023)
9. *Authors Guild v. OpenAI, Inc.*, No. 23-cv-08292 (S.D.N.Y. filed Sept. 19, 2023)
10. *Huckabee v. Meta Platforms et al.*, No. 23-cv-09152 (S.D.N.Y. filed Oct. 17, 2023)
11. *Concord Music Group v. Anthropic PBC*, No. 23-cv-01092 (M.D. Tenn. filed Oct. 18, 2023)
12. *Sancton v. OpenAI, Microsoft, et al.*, No. 23-cv-10211 (S.D.N.Y. filed Nov. 21, 2023)

Copyright litigation – *cont.*

Common themes

- **Input:** Plaintiffs attack unauthorized use of copyrighted works to train AI's large language models
 - Defendants rely on fair use as a principal defense, citing past precedent (incl. higher ed cases)
- **Output:** Plaintiffs allege that outputs are infringing derivative works
 - Defendants contend insufficient similarity with original copyrighted works
- **Output liability:** Plaintiffs contend that AI companies are either directly or secondarily liable for infringing outputs
- **Copyright Management Information (CMI):** Plaintiffs allege DMCA violations re deletion of CMI.
- **State law violations:** Plaintiffs allege violations of unfair competition, negligence, & unjust enrichment.

Practical risks to higher ed?

Copyrightability of GenAI outputs



Midjourney Image



The Work



Other IP issues

- Rights of Publicity
- Trademarks
- Patents

Classroom management

- Is this new technology really a big deal in the instructional context?

Privacy and data concerns

- Your policies and protocols on privacy still apply
- Use AI responsibly – an area for education, training, modeling
- You are being tracked! Once upon a time you thought you could Google things without your search history being tracked by Someone--that day has passed
- Ease of discovery

Do you need a GenAI policy?

- Probably not, but you might want to say *something*
- Academic integrity is academic integrity is academic integrity
- POV: updating your policies to take out references to beepers/pagers

Ethical considerations

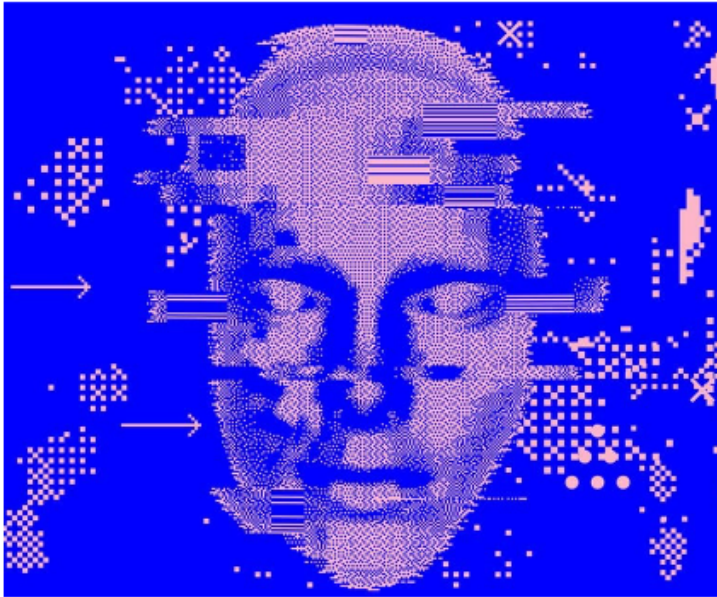
THE **RECORDER**

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Credit: local_doctor/Adobe Stock

NEWS

California Bar Adopts First-of-Its-Kind Guidance on AI for Attorneys

"I do think this guidance is needed, and it's needed now," said state bar trustee Hailyn Chen, co-managing partner of Munger, Tolles & Olson.

November 16, 2023 at 06:38 PM

🕒 3 minute read

Legal Ethics and Attorney Discipline

Ethical considerations – *cont.*

The ABA and other state bars are working on ethics guidance:

- ABA Resolution 112 (Aug. 2019)
- Florida Bar’s Committee on Professional Ethics just issued Proposed Advisory Opinion 24-1 re: lawyers’ use of GenAI
- North Carolina State Bar published an article by its ethics counsel listing key ethical considerations for the use of GenAI in the legal profession.
- Other state bar regulators – including Illinois, Florida, New Jersey, New York and Texas – are studying the issue of GenAI in the legal profession or have already delivered related reports.

Ethical considerations – *cont.*

- State Bar of California just released guidelines (and approved development of a one-hour CLE course) re ethical use of GenAI in the practice of law.
- Key considerations include:
 - Confidentiality
 - Competence
 - Communication / disclosure
 - Billing for AI work
 - Candor to the tribunal



CLE CODE

Prudent practices

- 1) Ensure appropriate contracting processes before using third-party AI tools
 - a) Procurement; delegations of authority
- 2) Review terms of use of AI services
 - a) Free v. paid tiers
 - b) Indemnifications
- 3) Avoid sharing confidential, personal, or privileged info with AI tools unless robust safeguards exist

Prudent practices - *cont.*

- 4) Verify outputs of AI for accuracy, quality, etc.
- 5) Transparency: disclose use of GenAI tools
 - a) Also, require contractors to disclose AI tools too
- 6) Consider IP risks
- 7) Regularly update (and promulgate) AI guidance!

Questions?

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