



Public Knowledge

on AI and Personality Rights

AI-enabled synthetic digital replicas are creating serious questions about how existing personality rights can and should be protected. When thinking about the intersection between AI and this class of right and legal claims, here is what you should know:

What are personality rights?

Personality rights are a category of legal claims that give an individual control over the exploitation or use of their identity. This includes the “right of publicity” (RoP) as well as “name, image, and likeness” (NIL) protections.

- **Commercially focused.** Personality rights frameworks are designed to protect features (such as visual likenesses or voices) when they are both commercially valuable and indicative of someone’s identity.
- **Notability matters.** Most individuals’ likenesses are not commercially valuable, and personality rights claims are not designed to protect them. In addition, features which are not notable parts of the individual’s identity (e.g. a fashion model’s voice) are generally not protectable.
- **Protected by the States.** Unlike trademark and copyright law, which are federal intellectual property regimes, personality rights claims are only available in state courts, and only in certain states.
- **Statutes and common law.** Some states have statutes, and others protect these claims through common law developed through lawsuits. That means that what (and who) these rights protect varies considerably by state.

AI creates new versions of old problems.

AI tools that can replicate voices, create realistic and identifiable synthetic images, and modify and edit existing video all present new technological opportunities for the misuse or misappropriation of a person’s identity.

- **Existing rights protect against AI.** Personality rights claims are good for solving some of these problems already because they tend to be technologically neutral and flexible.
- **A federal regime would be better.** There are many differences and gaps in who is protected between the states. Congress should create an easy-to-understand, federally peremptory regime for personality rights.

Personality rights are just one tool.

Personality rights cannot solve every issue with AI, and not even every issue with digital replicas. Problems like disinformation, non-consensual intimate imagery (NCII), harassment, and economic displacement, require **different solutions**.