

Update on

# MORAL & LEGAL AI CONCERNS

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# Legal Disclaimer

Any advice taken from this presentation is solely at the risk of the listener. We make no guarantees about its usefulness, legality, or basic sanity. Consult your lawyer, a therapist, or possibly a talking parrot before making life altering decisions about AI.

# Moral Disclaimer

Our opinions are subject to change faster than you can say "moral relativism." Don't get too attached to anything we say - by the end of the presentation, we might contradict ourselves. If you hear something you don't like, highlight it and ask for 5 more drafts that are "less judgy."

The structure of the discussion

- 1. WHAT DO JUDGES THINK?**
- 2. WHAT ARE WE ARGUING ABOUT TODAY?**
- 3. WHAT IS AN IDENTITY?**
- 4. WHO OWNS AN IDENTITY?**

# WHAT DO JUDGES THINK?



# Opinions

“[A]ny use of AI requires caution and humility.”



Chief Justice John Roberts  
United States Supreme Court



Judge Sandra Segal Ikuta  
9<sup>th</sup> Circuit Court of Appeals

“In the age of ... generative artificial intelligence (AI), surreptitious recording of in-person conversations risks massive and ongoing invasions of privacy. ... With [deepfake] tools, "the only practical constraint on one's ability to produce a deepfake [is] access to training materials—that is, audio and video of the person to be modeled.””

# Opinions



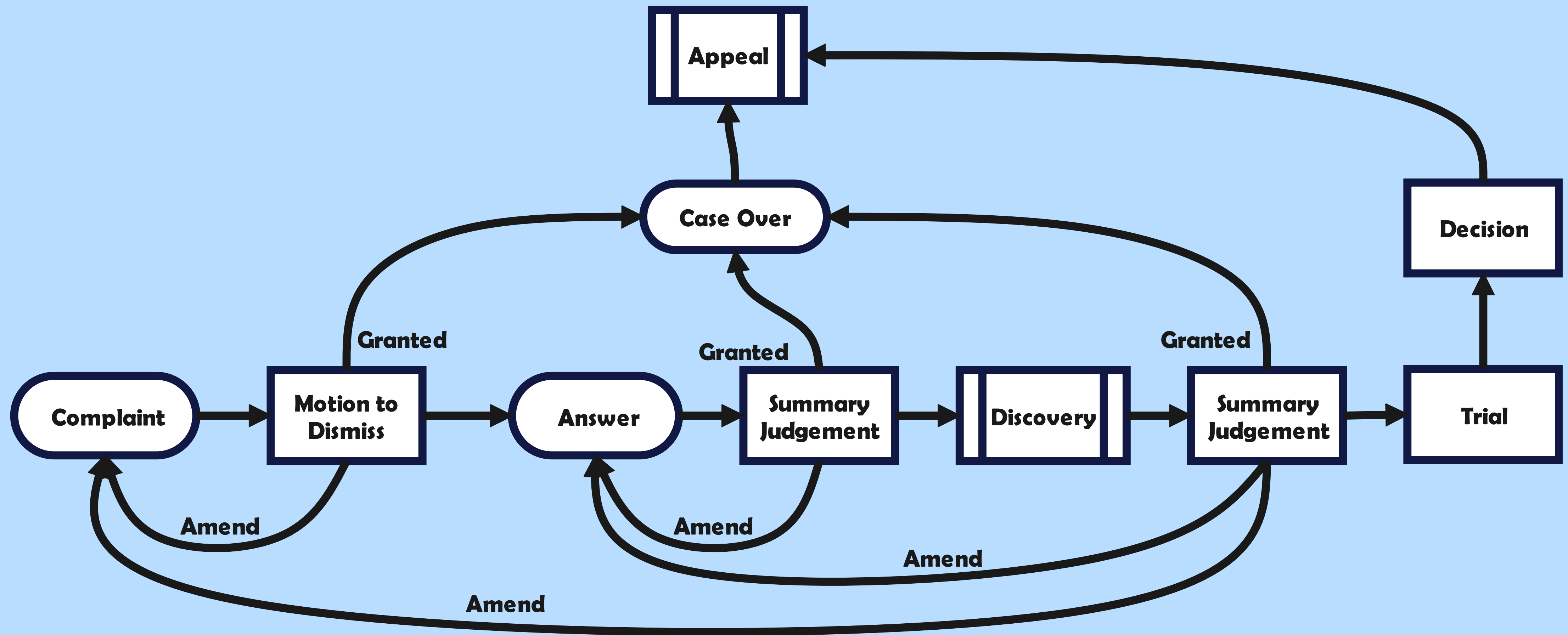
Judge Stephanos Bibas  
Third Circuit Court of Appeals

“It was transformative intermediate copying if Ross's AI only studied the language patterns in the headnotes to learn how to produce judicial opinion quotes. But if ... Ross used the untransformed text ... to replicate and reproduce the creative drafting done by Westlaw's attorney-editors, then [it is not transformative intermediate copying].”

# WHAT ARE WE ARGUING ABOUT TODAY?



# Civil Case Overview



# Active Cases



<b>ALTER V. OPENAI</b>	<b>SEPT 19, 2023</b>	
<b>ANDERSEN V. STABILITY AI</b>	<b>JAN 13, 2023</b>	
<b>CONCORD MUSIC V. ANTHROPIC PBC</b>	<b>OCT 18, 2023</b>	
<b>DOE V. GITHUB, INC.</b>	<b>NOV 3, 2022</b>	
<b>GETTY IMAGES V. STABILITY AI</b>	<b>FEB 3, 2023</b>	
<b>HUCKABEE V. BLOOMBERG</b>	<b>OCT 27, 2023</b>	
<b>THE INTERCEPT MEDIA V. OPENAI</b>	<b>FEB 28, 2023</b>	
<b>KADREY V. META</b>	<b>JULY 7, 2023</b>	
<b>LEOVY V. GOOGLE</b>	<b>JULY 11, 2023</b>	
<b>NAZEMIAN V. NVIDIA CORPORATION</b>	<b>MAR 8, 2024</b>	
<b>NEW YORK TIMES V. MICROSOFT</b>	<b>DEC 27, 2023</b>	
<b>OPENAI CHATGPT LITIGATION</b>	<b>JUNE 28, 2023</b>	
<b>THOMSON REUTERS V. ROSS</b>	<b>MAY 6, 2020</b>	

# Thomson Reuters v. ROSS

## Plaintiff's Claims

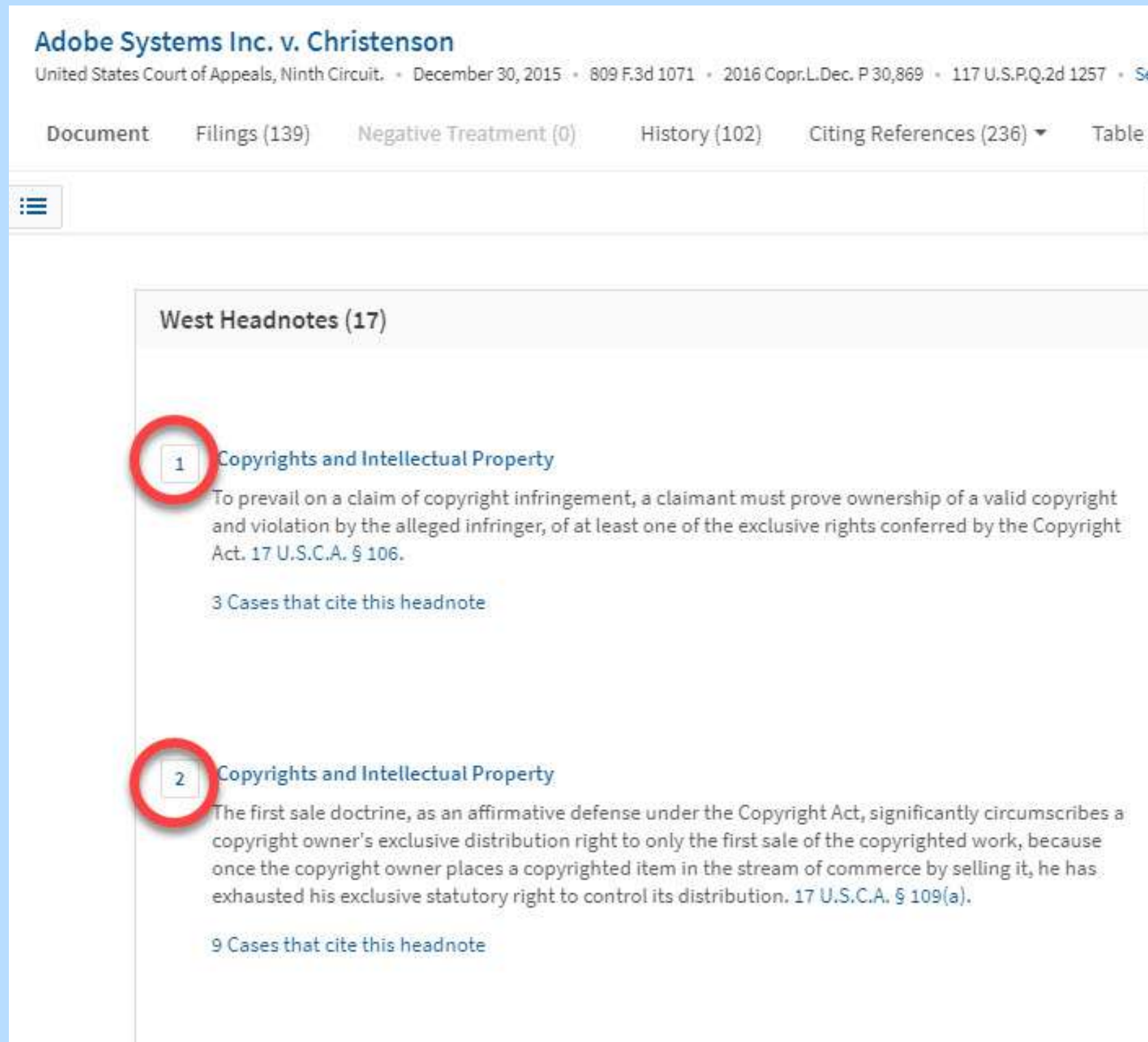
ROSS deliberately and willfully infringed by copying Westlaw database.

## Defense

Westlaw is an unlawful monopoly because they won't share their data.

Use of Westlaw headnotes is fair use because it is based on public data.

Use of the headnotes is only an intermediate copying or translating of text to human code, not protected under copyright



# NYT v. Microsoft (and friends)

## Plaintiff's Claims

OpenAI used NYT articles without license to train models.



ChatGPT can output verbatim NYT content without attribution, license, or consent.



ChatGPT can mimic the style of a NYT article which is a distinct identity.



## Defense

Fair use as translated content into code.

Only if the end user is hacking the GPT Model in violation of Terms of Use.

What is an identity?

# WHAT IS AN IDENTITY?



# Identity is more than likeness.



“Defendant's AI-Generated ‘George Carlin Special’ is not a creative work....it is a piece of computer-generated click-bait which detracts from the value of Carlin’s comedic works and harms his reputation. It is a casual theft of a great American artist’s work.”

The day after sending several tweets about splitting royalties with artists who use her voice in AI-generated songs, Grimes left her record label.



**NEW GOD DROP**



# Can AI approximate our identity?

**PODCASTLE**

## Your Voice, Powered by AI

Podcastle's Revoice brings generative AI technology to audio creation, allowing you to clone a digital copy of your own voice.



## The Future of AI is Yours

A unique model that represents who you truly are.



## Never Have to Say Goodbye

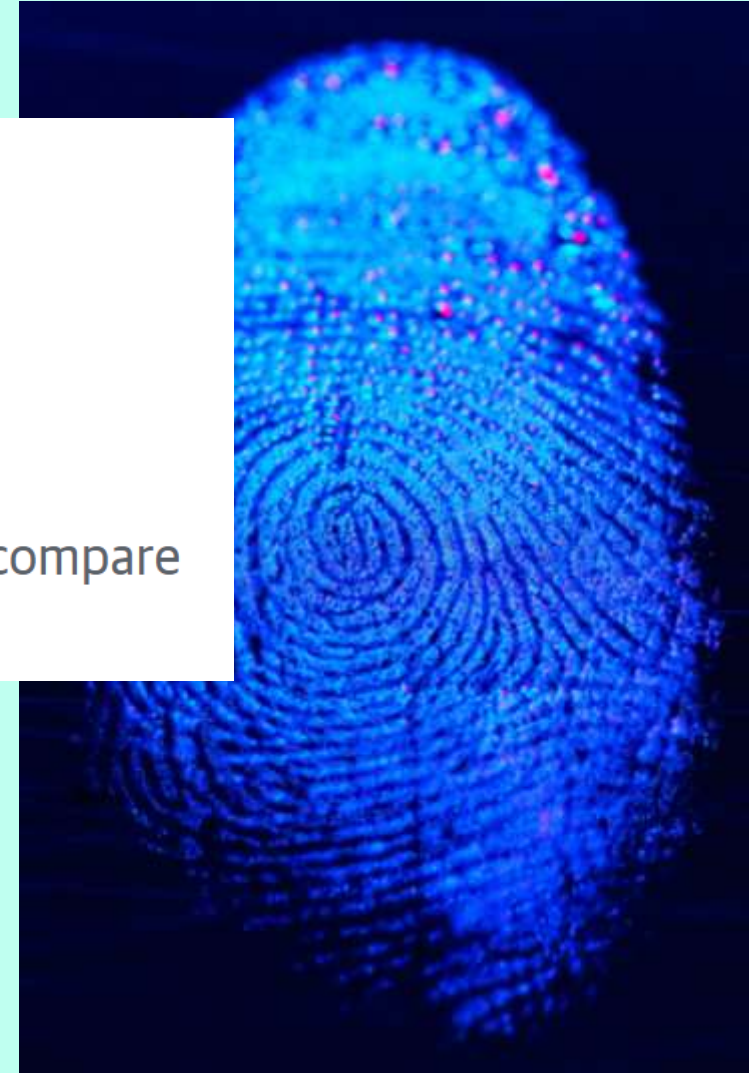
Welcome to YOV, the AI startup pioneering advanced digital communications so that we Never Have to Say Goodbye to those we love. Founded in 2020, YOV (You, Only Virtual) is the creator of the world's first advanced AI communications platform that enables consumers worldwide to capture and recreate the unique dynamics of a relationship and generate an authentic essence (Versona), so that one can continue to share precious moments with a loved one, even after physical death.



# Is that ok?

## AI can create synthetic fingerprints that fool biometric scanners

DeepMasterPrints can dupe systems that only compare partial prints.



We believe that any broad deployment of synthetic voice technology should be accompanied by voice authentication experiences that verify that the original speaker is knowingly adding their voice to the service and a no-go voice list that detects and prevents the creation of voices that are too similar to prominent figures.

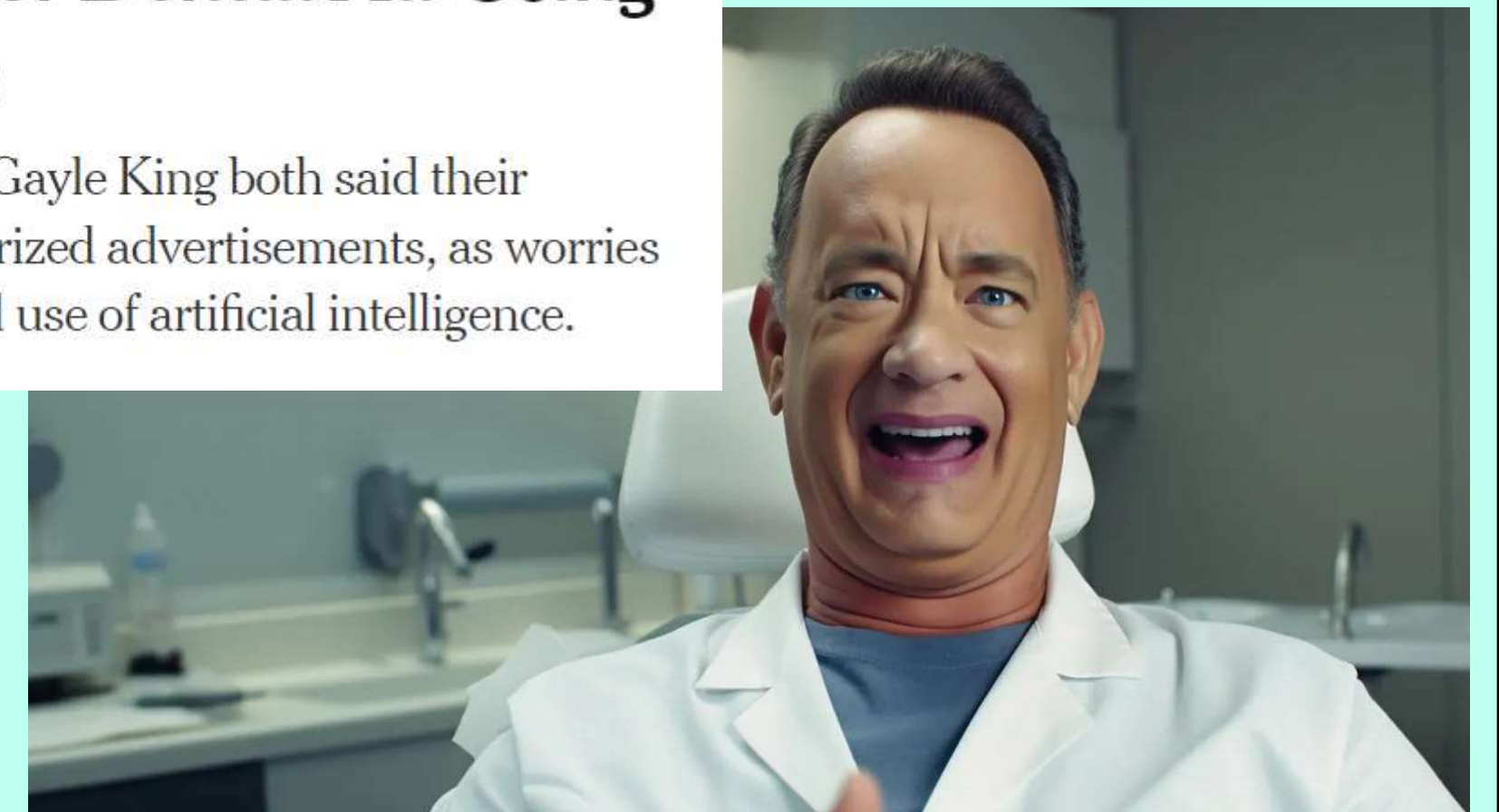
## Taylor Swift AI images prompt US bill to tackle nonconsensual, sexual deepfakes

Bipartisan measure introduced in US Senate will allow victims in 'digital forgeries' to seek civil penalty against perpetrators



## Tom Hanks Warns of Dental Ad Using A.I. Version of Him

Mr. Hanks and the CBS anchor Gayle King both said their likenesses were used in unauthorized advertisements, as worries have grown over the unregulated use of artificial intelligence.



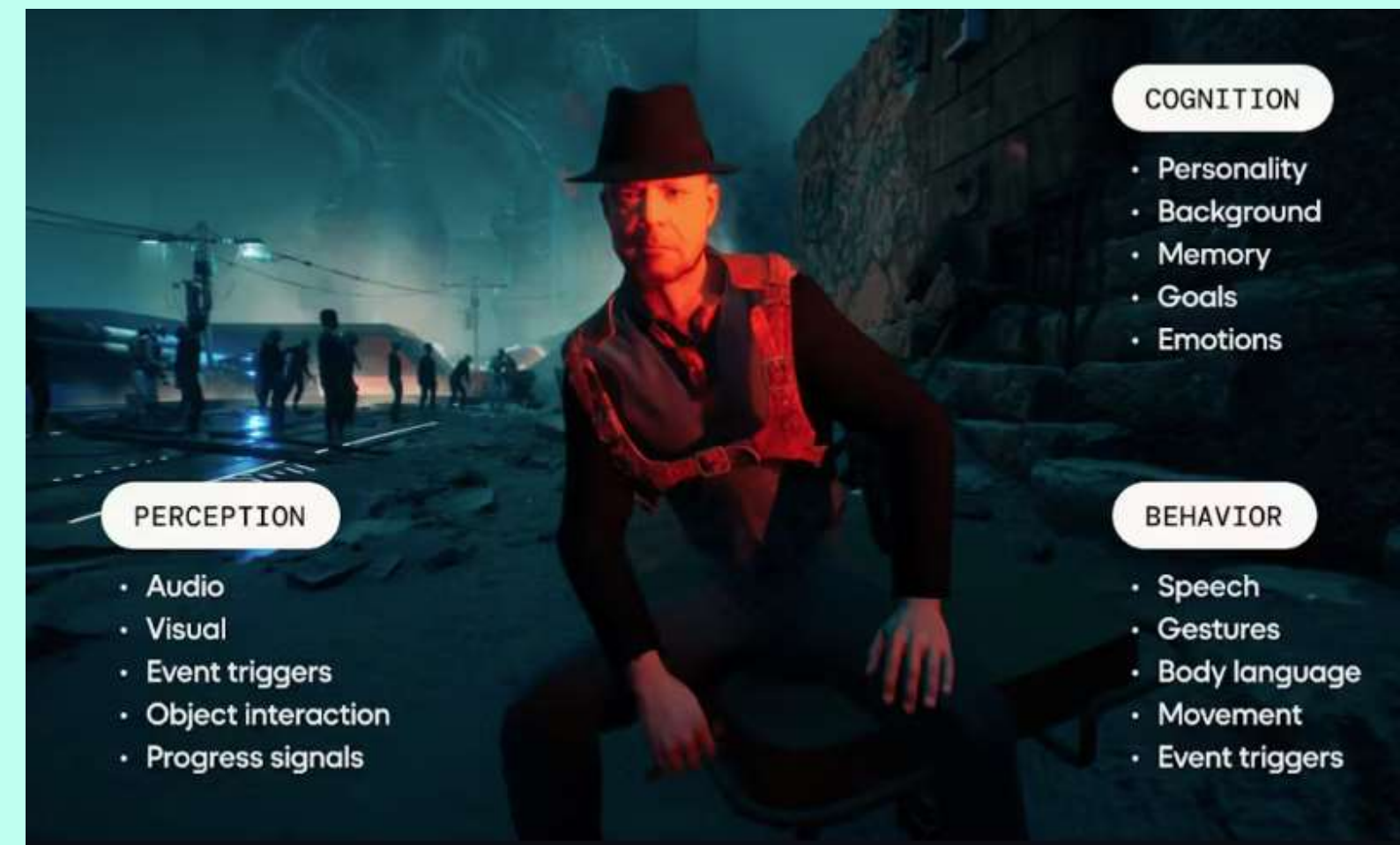


# Can AI create a new identity?

soul machines™



inworld





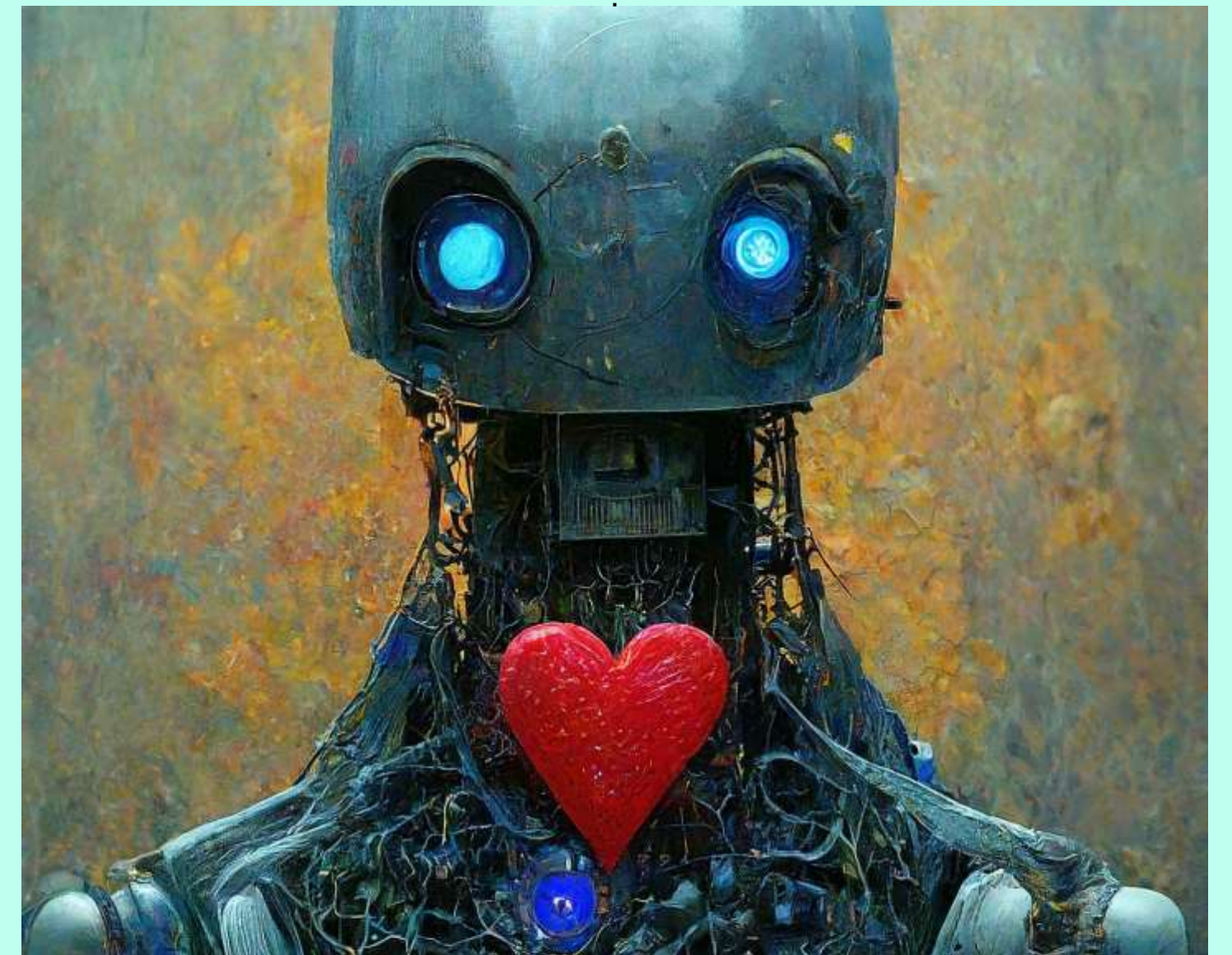
# Is THAT ok?

## Disney Gets Roasted for 'Creepy' AI Extras in Disney+ Movie Prom Pact



**Google apologizes for 'missing the mark' after Gemini generated racially diverse Nazis** / Generative AI has a history of amplifying racial and gender stereotypes – but Google's apparent attempts to subvert that are causing problems, too.

Sure, here is an illustration of a 1943 German soldier:



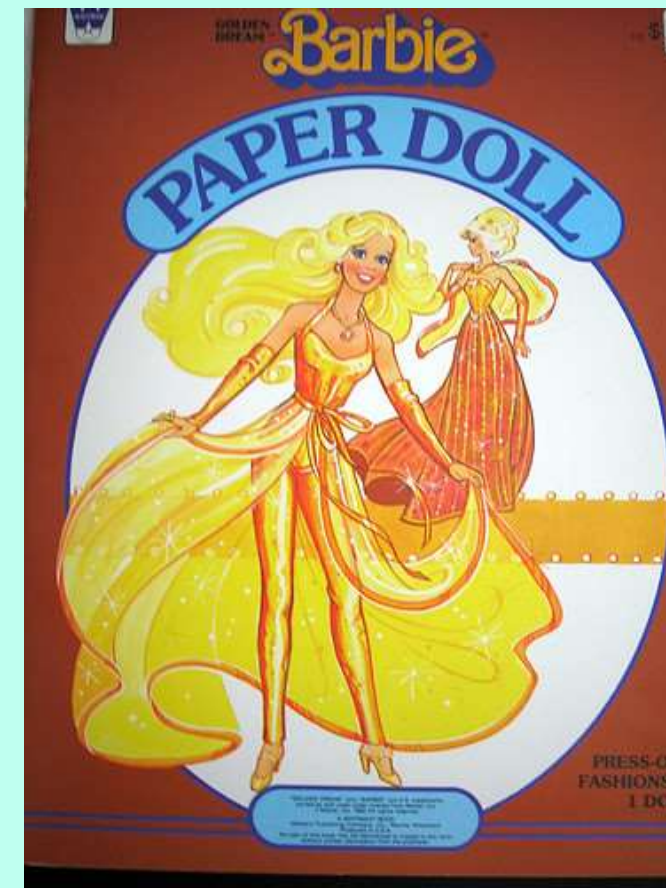
According to a report, [Microsoft's](#) newly launched AI-integrated search engine Bing expressed its love to a user and requested that he dissolve his marriage.



# WHO OWNS AN IDENTITY?



# How does a character get an identity?





# Can you own the identity of a character?



1951 - 1956



1960 - 1966



1987 - 1997



1998 - 2007

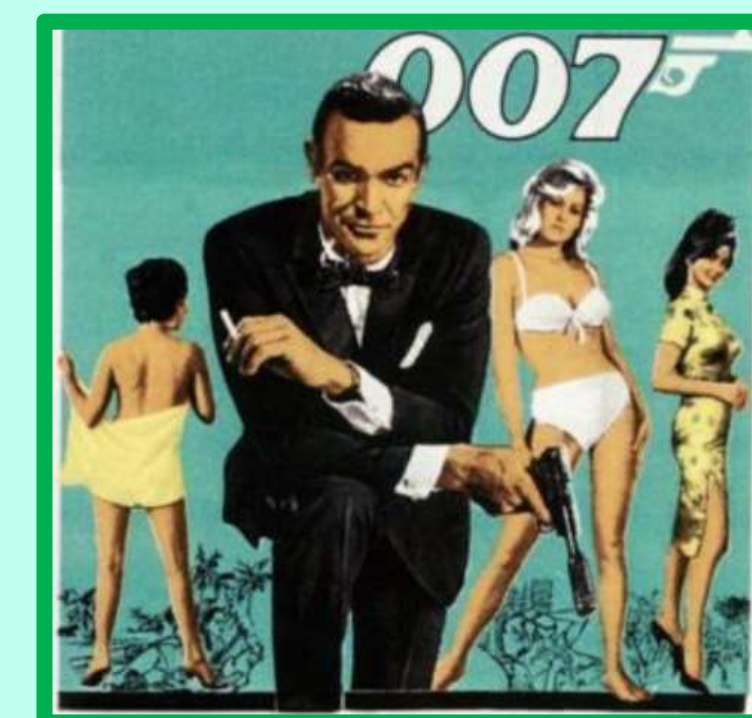
- Well Delineated Character
- Central to the Story Told



Sam Spade = No

-but-

James Bond = Yes





# Do you own your identity? For how long?



Midler v. Ford (1988 9<sup>th</sup> Cir)

The human voice is one of the most palpable ways *identity is manifested*. We are all aware that a friend is at once *known* by a few words on the phone. . . . These observations hold true of singing . . . ."

Rights are secured to use the likeness of James Dean (who died in 1955) as a CGI-created secondary lead in a major film. The rights to his likeness are still managed by CMG Worldwide, an agency that exclusively manages the IP rights of deceased celebrities.



Waits v. Frito Lay (1992 9<sup>th</sup> Cir)

... consumers were likely to be misled by the commercial into believing that Waits endorsed SalsaRio Doritos.



"James Dean" starring in Finding Jack



Goldman v. Simpson (2006 L.A. Super. Ct.)

Goldman tries to collect by seizing O.J. Simpson's right of publicity under CA Statutes. Denied due to concerns of "turn[ing] a man into a commodity and mak[ing] him serve the economic needs and interest of others... against his will" but left open the possibility to collect after death.



# Who will own AI's identities?



Phil Langer





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