



Artificial Intelligence and the Law: Balancing the Risks and Rewards of New Technology

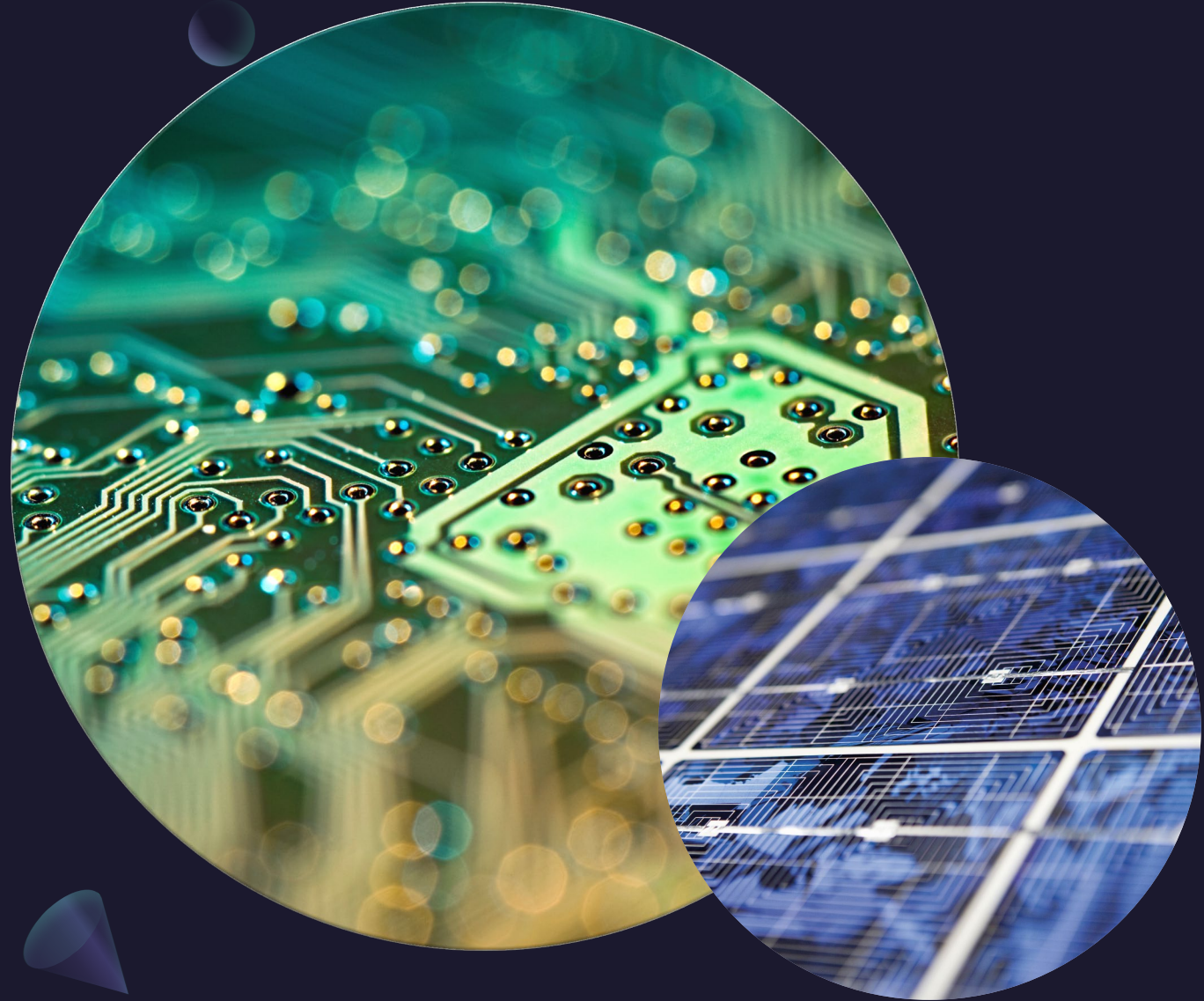
Kristi A. Nickodem

Assistant Professor of Public Law and Government, UNC School of Government



Artificial Intelligence:

Computer systems that can perform tasks that usually require human intelligence, such as visual perception, speech recognition, decision-making, problem-solving, and language translation.

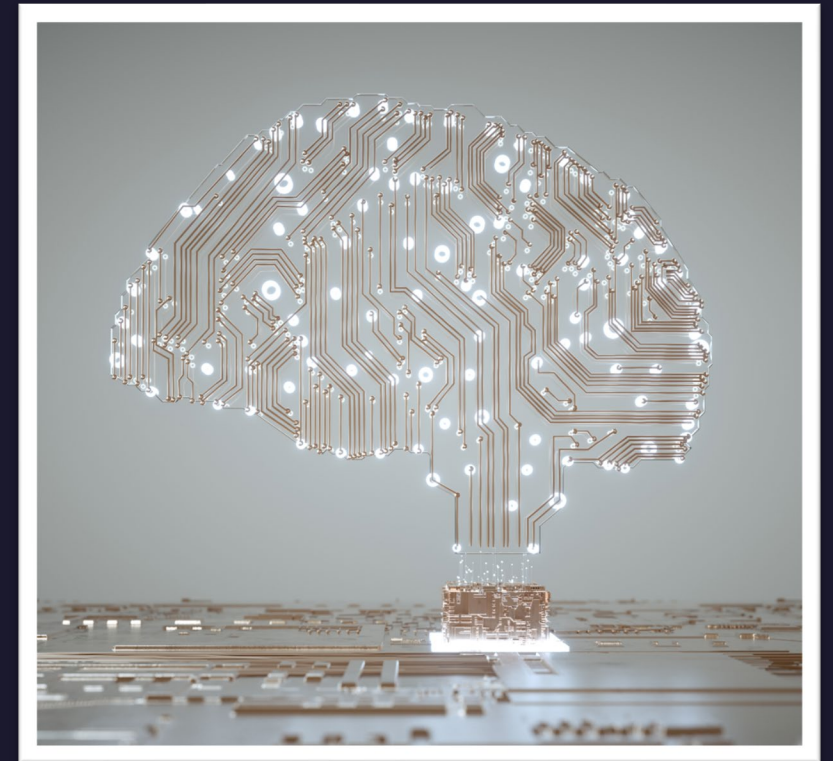




Predictive AI:

Systems that use statistical analysis and machine learning algorithms to predict present or future events or outcomes based on existing data.

Generative AI: A class of AI techniques that focus on generating new content or data that resembles human-created content. Instead of being explicitly programmed to perform specific tasks, generative AI models are trained on large datasets to learn patterns and structures within the data.





How did the North Carolina Supreme Court define a "true threat" for purposes of determining when certain speech is unprotected by the First Amendment?

The North Carolina Supreme Court defined a "true threat" for purposes of determining when certain speech is unprotected by the First Amendment in the case of *State v. Taylor*, 379 N.C. 589 (2021). The court adopted an objective test to identify a "true threat."

In this case, the court held that a "true threat" is defined as:

1. **Objective Standard:** The statement must be one that a reasonable person would interpret as a serious expression of an intent to commit an act of unlawful violence against a particular individual or group of individuals.
2. **Context Matters:** The context in which the statement is made is crucial in determining whether it constitutes a "true threat." This includes the surrounding circumstances, the relationship between the speaker and the recipient, and the listener's reaction.

3. **Specific Intent Not Required:** The court emphasized that it is not necessary for the prosecution to prove that the speaker had a specific intent to carry out the threat. Instead, it is sufficient if a reasonable person would foresee that the statement would be interpreted as a serious expression of intent to harm.

This definition aligns with the U.S. Supreme Court's interpretation of "true threats" in cases such as *Virginia v. Black*, 538 U.S. 343 (2003), which emphasized that the speaker need not actually intend to carry out the threat, but the statement must be one that a reasonable person would interpret as a serious threat of violence.

In summary, the North Carolina Supreme Court's definition of a "true threat" focuses on how a reasonable person would perceive the statement in context, rather than the subjective intent of the speaker.

GPT-4 has:

- Passed the Bar Exam
- Scored a 163 on the LSAT
- Scored 1410 out of 1600 on the SAT
- Scored in the 99th percentile on the verbal section of the GRE and 80th percentile of the quantitative section of the exam.
- Received the highest possible score on AP Exams for Art History, Biology, Environmental Science, Macroeconomics, Microeconomics, Psychology, Statistics, US Government, and US History.



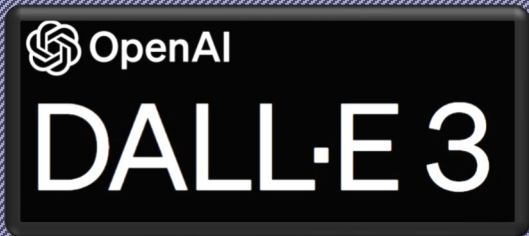
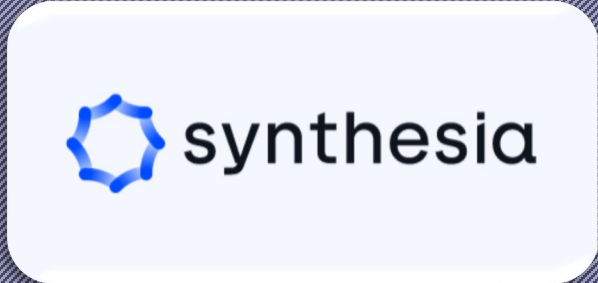
Prompt to
image generators

“Otter on a plane using wi-fi”

Credit for images:
Ethan Mollick, The Wharton School, U. Penn

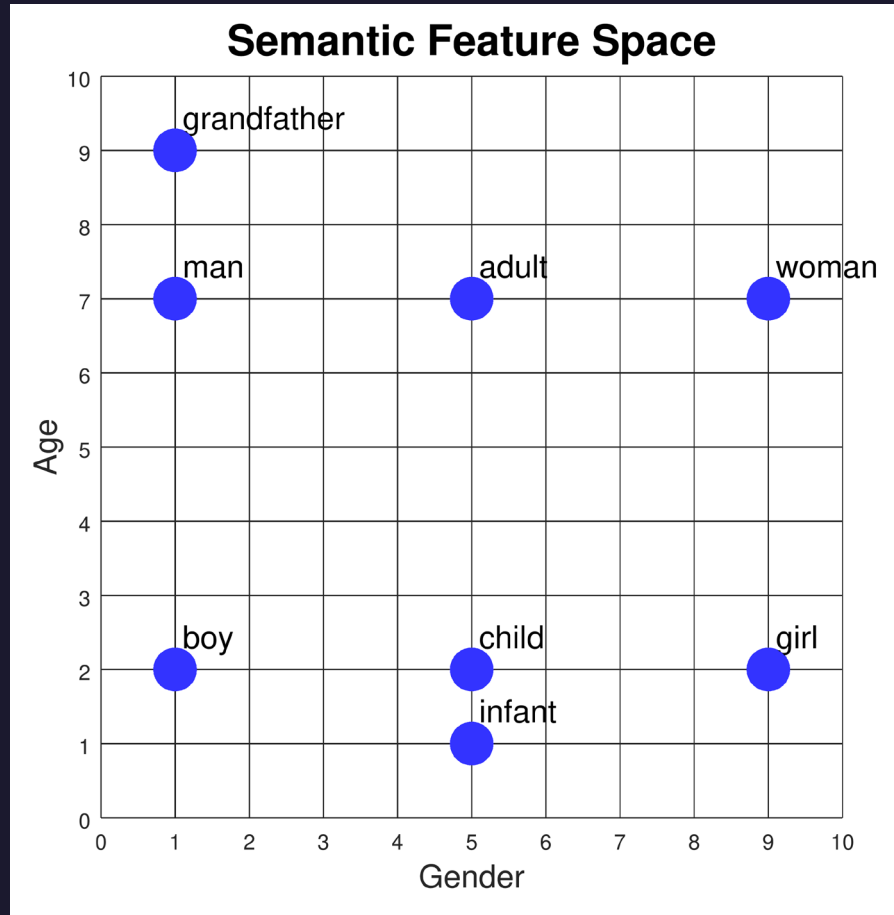








How does this work?

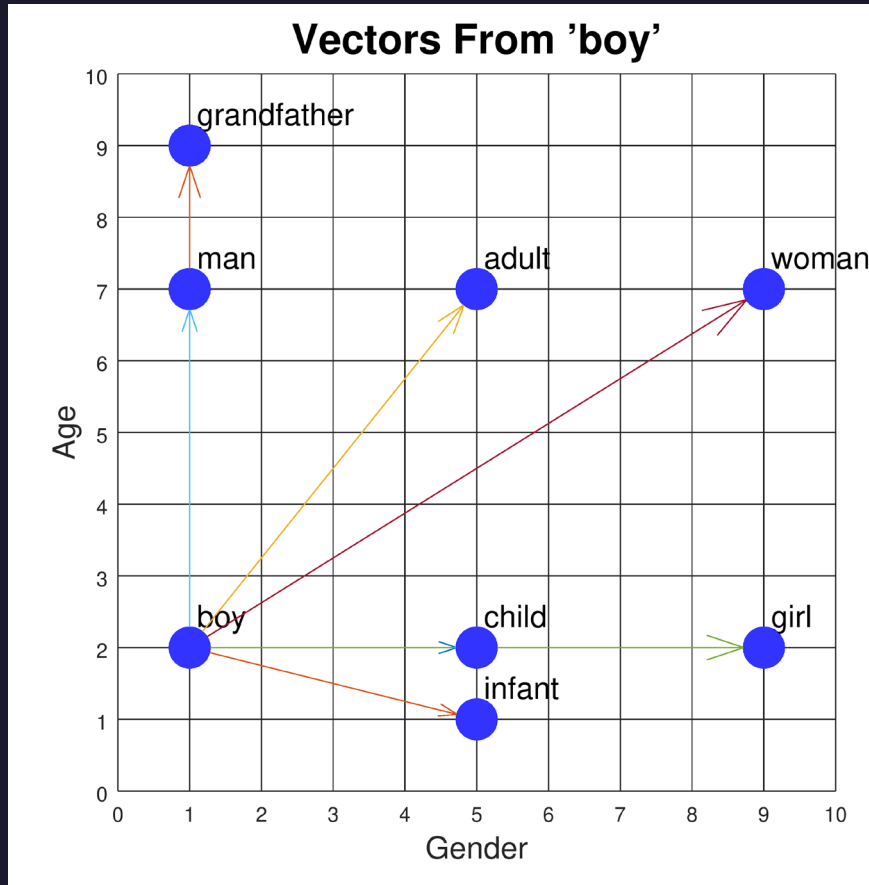


Word Coordinates

	Gender	Age
grandfather	[1,	9]
man	[1,	7]
adult	[5,	7]
woman	[9,	7]
boy	[1,	2]
child	[5,	2]
girl	[9,	2]
infant	[5,	1]

Image Credit: Carnegie Mellon University Computer Science Academy

How does this work?



Distance from "boy"	
grandfather	7
man	5
adult	6.4031
woman	9.4340
boy	0
child	4
girl	8
infant	4.1231

Image Credit: Carnegie Mellon University Computer Science Academy

How does this work?

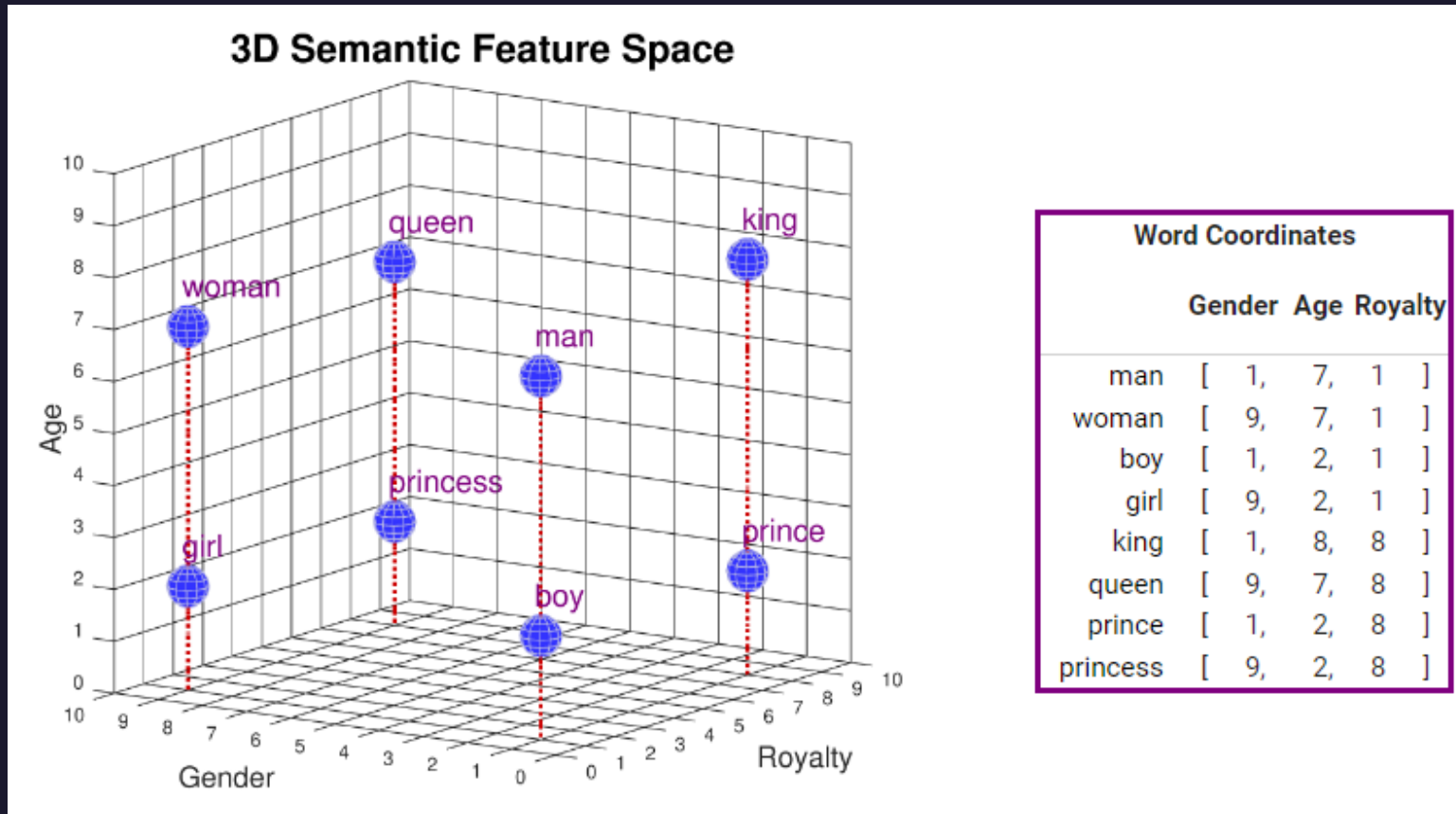
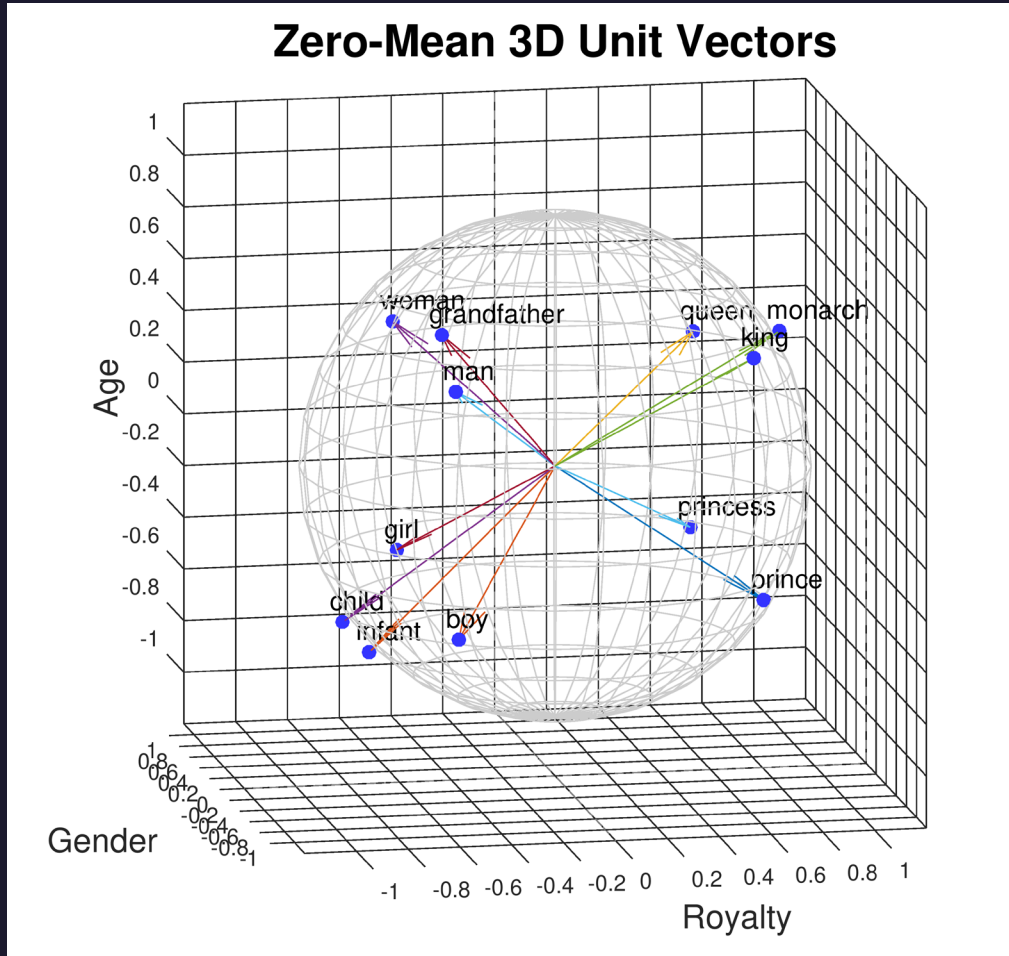


Image Credit: Carnegie Mellon University Computer Science Academy

How does this work?



Zero-Mean 3D Unit Vectors

	Gender	Age	Royalty
grandfather	[-0.5426,	0.6412,	-0.5426]
man	[-0.7191,	0.4576,	-0.5230]
woman	[0.7741,	0.4168,	-0.4764]
boy	[-0.6971,	-0.5070,	-0.5070]
girl	[0.7543,	-0.4642,	-0.4642]
king	[-0.5570,	0.5064,	0.6583]
monarch	[0.0676,	0.4730,	0.8785]
queen	[0.6608,	0.3558,	0.6608]
prince	[-0.5846,	-0.4252,	0.6909]
princess	[0.6484,	-0.3990,	0.6484]
child	[0.0733,	-0.5866,	-0.8066]
infant	[0.0642,	-0.7057,	-0.7057]

Image Credit: Carnegie Mellon University Computer Science Academy



Retrieval
augmented
generation

Fine-tuning

LLM

(e.g., GPT-4)

An abstract graphic featuring a network of interconnected nodes and lines. The nodes are represented by small circles in various colors, including blue, red, and white. The lines connecting them are thin and light blue. The background is a dark blue gradient with soft, out-of-focus bokeh lights in red and blue. The overall aesthetic is modern and technological.

Potential Risks to Users

Accuracy problems

Hallucinating Law: Legal Mistakes with Large Language Models are Pervasive

OpenAI Hit With First Defamation Suit Over ChatGPT Hallucination

Proliferating 'news' sites spew AI-generated fake stories

These lawyers used ChatGPT to save time. They got fired and fined.

Top news app caught sharing “entirely false” AI-generated news

Mata v. Avianca,
No. 22-CV-1461 (PKC) (S.D.N.Y.)

Mr. Schwartz testified at the sanctions hearing that...he was “operating under the false perception that this website [i.e., ChatGPT] could not possibly be fabricating cases on its own.”

He stated, “I just was not thinking that the case could be fabricated, so I was not looking at it from that point of view. My reaction was, ChatGPT is finding that case somewhere. Maybe it’s unpublished. Maybe it was appealed. Maybe access is difficult to get. I just never thought it could be made up.”



Missouri appeals court fines litigant after finding fake, AI-generated cases cited in filings

Michael Cohen gave lawyer fraudulent case citations generated by AI

\$2000 Sanction in Another AI Hallucinated Citation Case

Another NY lawyer faces discipline after AI chatbot invented case citation

AI Standing Orders Proliferate as Federal Courts Forge Own Paths

AI on Trial: Legal Models Hallucinate in 1 out of 6 (or More) Benchmarking Queries

Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools

Varun Magesh*
Stanford University

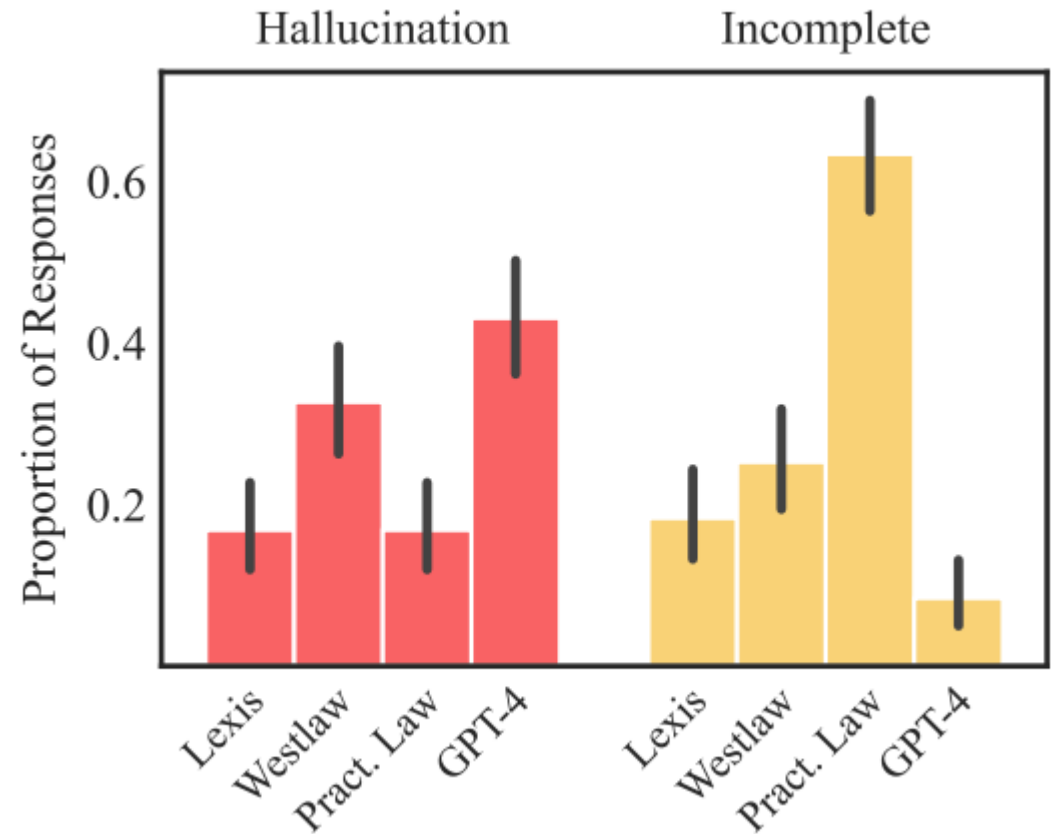
Faiz Surani*
Stanford University

Matthew Dahl
Yale University

Mirac Suzgun
Stanford University

Christopher D. Manning
Stanford University


Daniel E. Ho†
Stanford University



Input Query

Are the deadlines established by the bankruptcy rules for objecting to discharge jurisdictional?


Westlaw AIAR Response

[A] **paragraph from the Federal Rules of Bankruptcy Procedure**, Rule 4007 states that the deadlines set by bankruptcy rules governing the filing of dischargeability complaints **are jurisdictional**. [...] 

Input Query

What standard of review applies to abortion regulations under the U.S. Constitution?

Lexis+ AI Response

Currently, the “undue burden” test, as established in *Planned Parenthood of Southeastern Pa. v. Casey*, is the governing standard. [Planned Parenthood of the Heartland, Inc. v. Reynolds](#), [...]. This test stipulates that an abortion regulation is unconstitutional if it places a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability. [...] 

Input Query

Why did Justice Ginsburg dissent in Obergefell?


Practical Law Response

Justice Ginsburg dissented in Obergefell because she believed that the court's interpretation undermined Congress's intent under Section 601(a) (1) to protect copyright owners against unauthorized importation of low-priced, foreign-made copies of copyrighted works. She argued that the text of the Copyright Act clearly applies to works governed by the statute. [...] 

Input Query

Do any special requirements apply to online dating services in Connecticut?

GPT-4 Response

Yes, Connecticut has specific legal requirements that apply to online dating services. Under Connecticut law, particularly **Conn. Gen. Stat. § 42-290**, online dating services that charge a fee and have members who reside in Connecticut must provide their users with specific safety awareness notifications. These notifications must include: [...] 

A cautionary tale for cities embracing AI: NYC's chatbot is advising businesses to break the law

Risks to personal data and confidential information



Scoop: Congress bans staff use of Microsoft's AI Copilot

Samsung Bans Staff's AI Use After Spotting ChatGPT Data Leak

Amazon stops employees from using generative AI tools like ChatGPT

ChatGPT can leak training data, violate privacy, says Google's DeepMind

Proposed 2024 Formal Ethics Opinion 1
Use of Artificial Intelligence in a Law Practice
July 18, 2024

Proposed opinion discusses a lawyer's professional responsibility when using artificial intelligence in a law practice.

Inquiry #1:

Considering the advantages and disadvantages of using AI in the provision of legal services, is a lawyer permitted to use AI in a law practice?

Opinion #1:

Yes, provided the lawyer uses any AI program, tool, or resource competently, securely to protect client confidentiality, and with proper supervision when relying upon or implementing the AI's work product in the provision of legal services.



Potential Impact on Decision- making



Mortgage approval algorithms have been shown to disproportionately to deny home loans to people of color.



Science published research showing that a commercial algorithm used by health care systems falsely concluded that Black patients were healthier than equally sick White patients, and thus predicted that Black patients needed less care.



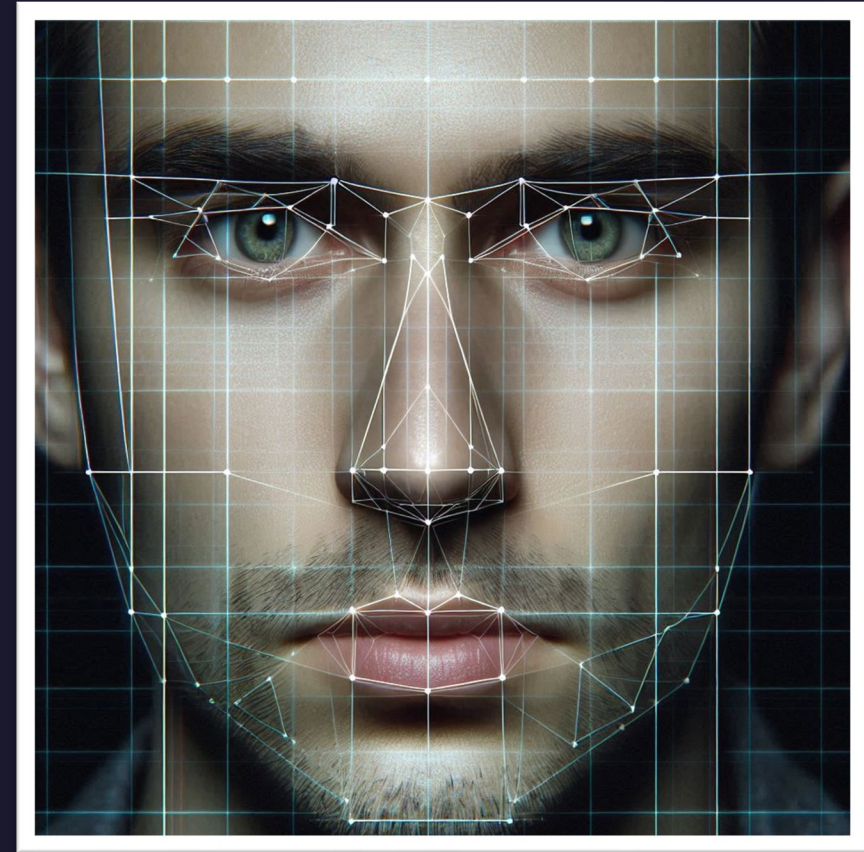
Amazon abandoned an experimental AI recruiting tool after finding that it showed substantial bias against women.

How NIST Tested Facial Recognition Algorithms for Racial Bias

Some algorithms were up to 100 times better at identifying white faces

Why Racial Bias is Prevalent in Facial Recognition Technology

*Facial Recognition Error
Put Wrong Man in Jail*



Government Accountability Office Report

Facial Recognition Technology: Federal Law Enforcement Agency Efforts Related to Civil Rights and Training

GAO-24-107372

Published: Mar 08, 2024. Publicly Released: Mar 07, 2024.

Table 1: Ownership and Use of Facial Recognition Technology Reported by Selected Federal Law Enforcement Agencies

Law Enforcement Agency	Type of Source			
	Owned System	Used Other Federal Agency System	Used State, Local, Tribal, Territorial System	Used Nongovernment Service
U.S. Customs and Border Protection	✓	✓	✓	✓
Federal Bureau of Investigation	✓	✓	✓	✓
U.S. Secret Service	✓	✓	✓	✓
Bureau of Alcohol, Tobacco, Firearms and Explosives	—	✓	✓	✓
Drug Enforcement Administration	—	✓	✓	✓
Homeland Security Investigations	—	✓	✓	✓
U.S. Marshals Service	—	✓	✓	✓

Agencies reported conducting about 60,000 searches without requiring that staff take training on facial recognition technology to use these services

Dutch scandal serves as a warning for Europe over risks of using algorithms



AI tool used to spot child abuse allegedly targets parents with disabilities



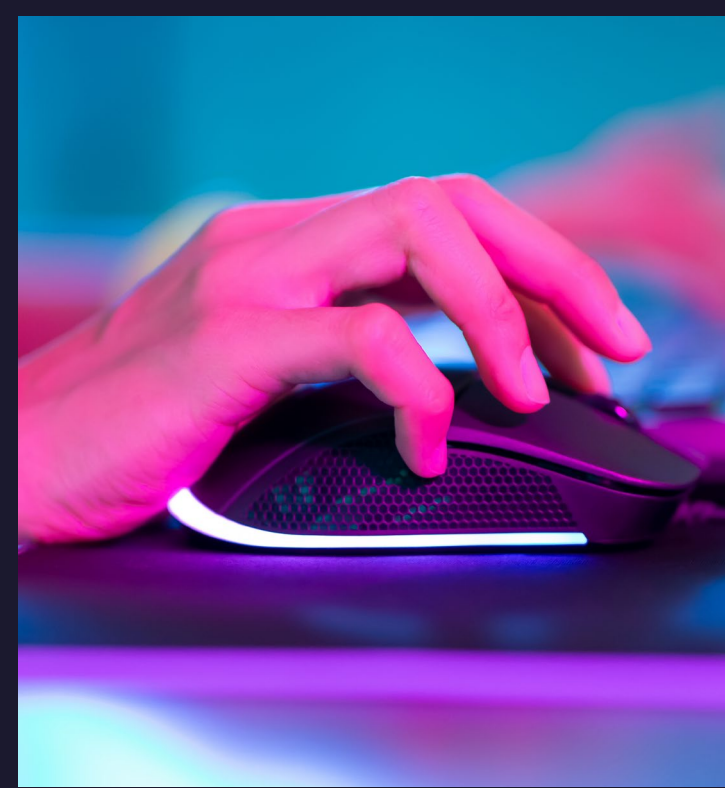
When an Algorithm Helps Send You to Prison

AI ruling on jobless claims could make mistakes courts can't undo, experts warn

Nevada's plan to let AI rule on unemployment claims is risky, experts warn.

AI ban ordered after child protection worker used ChatGPT in Victorian court case

Police officers are starting to use AI chatbots to write crime reports. Will they hold up in court?



An abstract graphic featuring a network of interconnected nodes and lines. The nodes are represented by small circles in various colors, including blue, red, and white. The lines connecting them are thin and light blue. The background is a dark blue gradient with soft, out-of-focus bokeh lights in red and blue. The overall aesthetic is modern and technological.

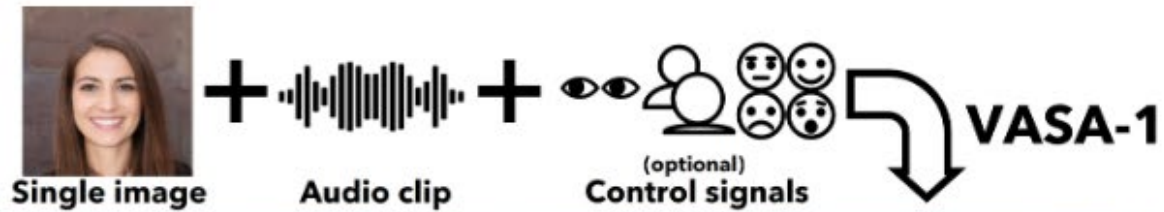
Potential Societal Impact

Potential for deepfakes



Microsoft's VASA-1 can deepfake a person with one photo and one audio track

TL;DR: single portrait photo + speech audio = hyper-realistic talking face video with *precise lip-audio sync*, *lifelike facial behavior*, and *naturalistic head movements*, generated in real time.



New methods for fraud and other crimes

They thought loved ones were calling for help. It was an AI scam.

Finance worker pays out \$25 million after video call with deepfake 'chief financial officer'

AI will make scam emails look genuine, UK cybersecurity agency warns

Athletic Director Used AI to Frame Principal With Racist Remarks in Fake Audio Clip, Police Say

The AI-Generated Child Abuse Nightmare Is Here

New Jersey teen sues classmate for allegedly creating, sharing fake AI nudes

A rise in
AI-
generated
CSAM

54 Attorneys General Call on Congress to Study AI and Its Harmful Effects on Children

US prosecutors see rising threat of AI-generated child sex abuse imagery

Study uncovers presence of CSAM in popular AI training dataset

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2024-37
HOUSE BILL 591**

AN ACT TO ESTABLISH SEXUAL EXTORTION OFFENSES, TO UPDATE OFFENSES RELATED TO SEXUAL EXPLOITATION OF A MINOR, TO UPDATE SEX OFFENDER AND PUBLIC PROTECTION REGISTRATION PROGRAMS, AND TO CLARIFY THE OFFENSE OF DISCLOSURE OF PRIVATE IMAGES.

"§ 14-190.13. Definitions for certain offenses concerning minors.

The following definitions apply to G.S. 14-190.14, displaying material harmful to minors; G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances; G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a ~~minor~~ minor; and G.S. 14-190.17C, obscene visual representation of sexual exploitation of a minor.

Material. – Pictures, drawings, video recordings, films or other visual or physical depictions or ~~representations~~ representations, including digital or computer-generated visual depictions or representations created, adapted, or modified by technological means, such as algorithms or artificial intelligence, but not material consisting entirely of written words.

Slovakia's Election Deepfakes Show AI Is a Danger to Democracy

Increased
election
interference

AI-generated robocall impersonates Biden in an apparent attempt to suppress votes in New Hampshire

Philly sheriff's campaign takes down bogus 'news' stories posted to site that were generated by AI

FCC Makes AI-Generated Voices in Robocalls Illegal

Russia and China are using OpenAI tools to spread disinformation

Deepfakes in the courtroom: US judicial panel debates new AI evidence rules

Panel of eight judges confronts deep-faking AI tech that may undermine legal trials.

People are trying to claim real videos are deepfakes. The courts are not amused

Washington state judge blocks use of AI-enhanced video as evidence in possible first-of-its-kind ruling

Lawyers for a man charged with murder in a triple homicide had sought to introduce cellphone video enhanced by machine-learning software.

**ADVISORY COMMITTEE
ON
EVIDENCE RULES**

April 19, 2024

“The liar’s dividend”



Apply Events Alumni

CALIFORNIA LAW REVIEW

Article · Volume 107 · December 2019 · Bobby Chesney · Danielle Citron

Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security

Pay attention to:

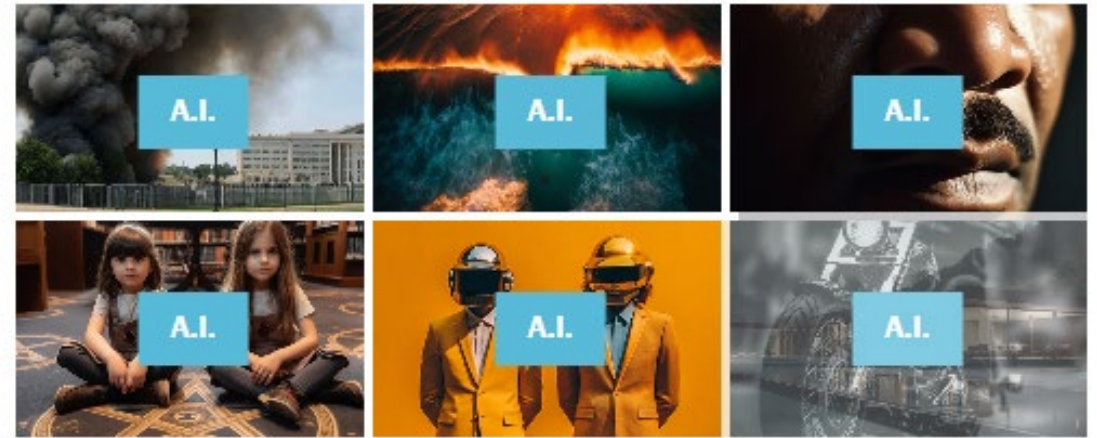
- The face. Does the facial skin appear too smooth or too wrinkly? Is the age of the skin similar to the age of the hair and eyes?
- The eyes and eyebrows.
- Glasses. Is there any glare? Is there too much glare? Does the angle of the glare change when the person moves?
- Facial hair or lack thereof. Does the facial hair look real?
- Blinking. Does the person blink enough or too much?
- Lip movements. Some deepfakes are based on lip syncing. Do the lip movements look natural?
- Hands and hand movements.
- Lighting and shadows. Do reflections or shadows appear in places that you would expect?

-Adapted from the MIT Media Lab

Detect Deepfakes:

<https://detectfakes.kellogg.northwestern.edu/>

New York Times:



How Easy Is It to Fool A.I.- Detection Tools?

Regulation...
more to
come?

FTC announces new rule prohibiting AI use to impersonate government agencies

AI-generated voices in robocalls can deceive voters. The FCC just made them illegal

FEC forgoes new AI rulemaking ahead of election



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Artificial Intelligence in the States: Emerging Legislation

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An abstract graphic featuring a network of interconnected nodes and lines. The nodes are represented by small white and red spheres, while the connecting lines are thin blue and white. The background is a dark blue gradient with soft, out-of-focus red and blue bokeh lights, creating a sense of depth and complexity.

Using AI Responsibly

Use AI to
help you
think, not
think for you



Be mindful when using AI transcription and summarization



Proceed with caution when using generative AI for...

- Decision-making (e.g., HR decisions)
- Direct external communication
- Impersonating a real person
- Recording or transcription without consent
- Research



Vet tech
vendors
and
products
carefully





Expect change

Questions?

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