

October Pupilage Group  
Solomon Inns of Court

# Artificial Intelligence & Performers Rights

Contemporary Legal Issues with AI  
and Digital Likeness



October Pupilage Group  
**Solomon Inns of Court**

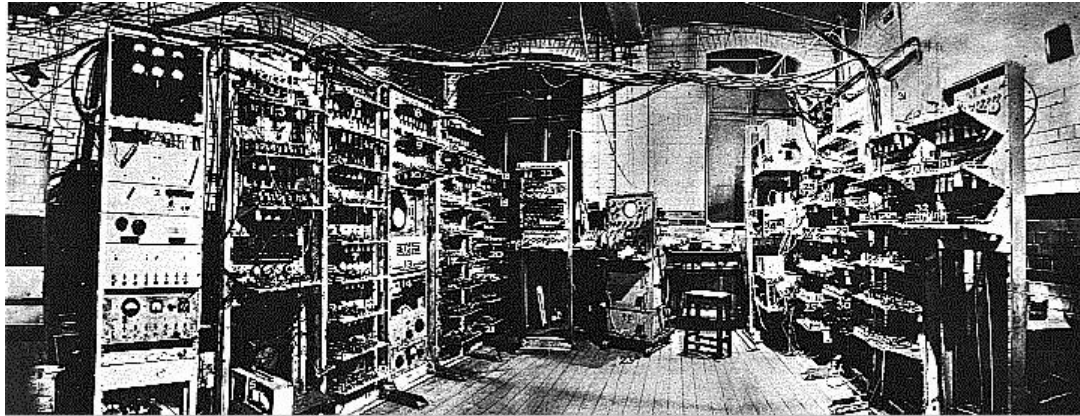
# Background and History of AI

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1950 - 2020

# 1950 – Turing Test

Turing, a British Mathematician attempted to resolve this question regarding machine intelligence. He proposed, a machine is “intelligent” if during an interview an interrogator cannot distinguish human answers from machine answers. His simple statement at the beginning of his paper was “*I propose to consider the question, ‘Can machines think?’*”



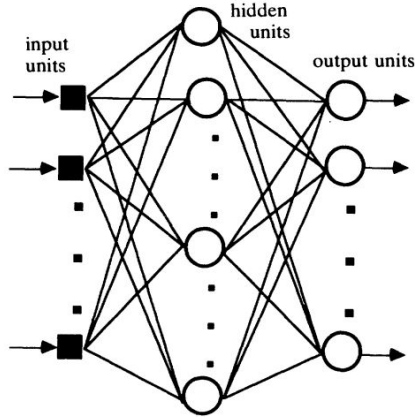
See [1] “Turing, Computing Machinery and Intelligence (1950)”

See also the movie “*The Imitation Game*”

# 1960 – Perceptron

In the late 1950's and 1960's the concept of modelling the human nervous system to try and create artificial intelligence

**FIGURE 1**  
**Multilayer Network**



This was an outgrowth of the “Cybernetics” movement of the 1950's where a multidisciplinary approach was taken to begin the study of “Symbolic Processing” rather than “Numeric Processing”.

Leaders in the field were McCarthy, Newell, Simon, and Minsky.

See [2] “A Sociological Study of the Official History of the Perceptron Controversy”

# 1970 – Increased Research

In the 1970s there was significant grant funding and outside investment, mostly focused on work at SRI in Menlo Park, Stanford, and MIT.

1972: The first chatbot to chatbot conversation ever takes place over the Arpanet between Kenneth Colby's chatbot **Parry** at Stanford and **Eliza** at MIT

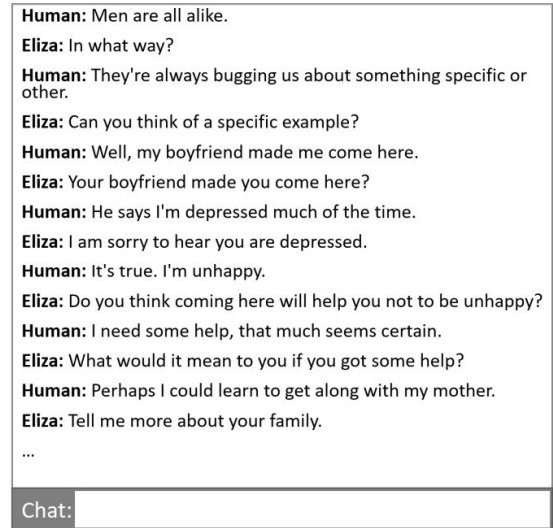
[3] – “From Eliza to XiaoLice”

1975 – MYCIN was released from Stanford, a Rule Based System for Clinical Diagnostics. The initial test had 200 rules to diagnose bacteremia. The program was written in LISP a programming language popular with AI researchers

[4] – “Computer Based Consultations in Clinical Therapeutics”

[5] - “ NASA Technical Memorandum 85836”

[6] – “Knowledge Engineering for the 1980’s”



**Human:** Men are all alike.  
**Eliza:** In what way?  
**Human:** They're always bugging us about something specific or other.  
**Eliza:** Can you think of a specific example?  
**Human:** Well, my boyfriend made me come here.  
**Eliza:** Your boyfriend made you come here?  
**Human:** He says I'm depressed much of the time.  
**Eliza:** I am sorry to hear you are depressed.  
**Human:** It's true. I'm unhappy.  
**Eliza:** Do you think coming here will help you not to be unhappy?  
**Human:** I need some help, that much seems certain.  
**Eliza:** What would it mean to you if you got some help?  
**Human:** Perhaps I could learn to get along with my mother.  
**Eliza:** Tell me more about your family.  
...  
Chat:

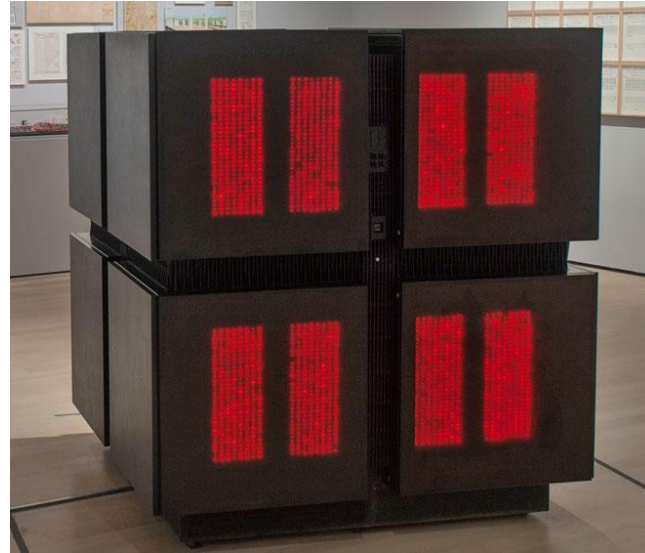
Figure 1. A conversation between Eliza and a human (Weizenbaum, 1966).

# 1980 – Startups

1980 - IntelliGenetics (Intellicorp), the first major start-up for Artificial Intelligence

1981 – Thinking Machines Corporation

During the 1980's significant research was done on using statistical analysis on data to make inferences.



[7] – See Statistical Learning Networks: A Unifying view.

# 1990-2010 – Research and Robotics

1990's – Significant investments in Robotics and Various Projects

1993 – MIT's Xavier

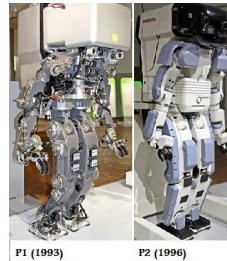
1994 – First Driverless Car to be tested on Autobahn

1996 – Honda's Humanoid Robot – P1/P2

1998 - CMU's Minerva Robot

2000 – Proposed Neural Network System  
SEC Red Flags

2003 – Humanoid Robot - Actroid



[7] – See Statistical Learning Networks: A Unifying view.

[8] - Probabilistic Algorithms and the Interactive Museum Tour-Guide Robot Minerva

[9] – The Efficacy of Red Flags in Predicting the SEC's Target: An Artificial Neural Networks Approach

# 2010 – Commercialization

2010 - The New York stock market is shut down after algorithmic trading wiped out a trillion dollars within a few seconds

2014 - Generative Adversarial Networks - Pits one neural network against another to improve machine learning.

2015 – Residual Neural Networks – Microsoft Researchers implement a deep layered system for identity detection.

2017 – 100 Companies launched in this AI space

2018 – Open AI launches “OpenAI Five” - An AI Game Player – The architecture is:

OpenAI Five has been developed as a general-purpose reinforcement learning training system on the "Rapid" infrastructure.

Rapid consists of two layers: it spins up thousands of machines and helps them ‘talk’ to each other and a second layer runs software.

By 2018, OpenAI Five had played around 180 years worth of games in reinforcement learning running on 256 GPUs and 128,000 CPU cores, using Proximal Policy Optimization, a policy gradient method.

[9] – May 6th --Signals from a very brief but emblematic catastrophe on Wall Street

[10] – Generative Adversarial Networks

[11] - Generative Adversarial Networks: An Overview

[12] – Identity Mappings in Deep Residual Networks



A photograph of Randy Travis in a recording studio. He is wearing a patterned jacket and looking towards the camera. The room is filled with musical equipment, including a large black amplifier on the left, a keyboard on a stand in the background, and a rack of colorful cables in the foreground. The text "RANDY TRAVIS" is overlaid in a large, bold, serif font, and "WHERE THAT CAME FROM" is overlaid in a smaller, bold, sans-serif font below it.

**RANDY TRAVIS**  
WHERE THAT CAME FROM



ROGUE ONE

DEEPPFAKE

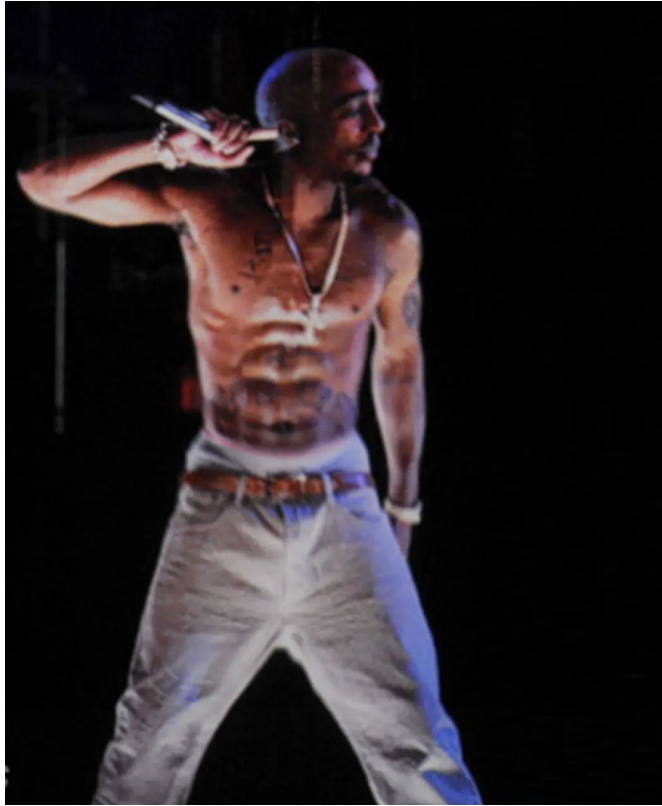


## **Digital Replica:**

an “original, computer-generated, electronic performance...in which the individual did not actually perform, that is so realistic that a reasonable observer would believe it is a performance by the individual being portrayed and no other individual”

N.Y. Right of Privacy Section 50-f(2)(b)

# Visual Digital Replicas



Hologram of Tupac at Coachella, performing “live” with Snoopdog in 2012



Buddy Holly hologram with live band



STATE OF THE ART MULTI-SENSORY TECHNOLOGY WITH VR AND AI    BROUGHT TO LIFE WITH

# THE JOURNEY OF A LIFETIME

Journey behind the curtain on a captivating tour into the heart and mind of Elvis Presley.

**ELVIS EVOLUTION** will use state-of-the-art multi-sensory technology, including VR, AI, and holographic projection to bring the musical icon to life using thousands of the global megastar's personal photos and home-video footage.

Ad from the upcoming "Elvis Evolution" immersive experience, created by Layered Reality

**N**

# JOAN IS AWFUL

MUSIC BY AMES BESSADA



SOUNDTRACK FROM THE NETFLIX SERIES

**BLACK MIRROR**



**SAG·AFTRA.**

**CONTRACT AI PROVISIONS**

## Regulating Artificial Intelligence

### EMPLOYMENT-BASED DIGITAL REPLICA

#### DEFINITION

Created during a performer's employment with their physical participation, and used to portray the performer in scenes they didn't actually shoot.



#### CONSENT

- Mandatory consent from performers for creating and using their digital replicas.
- Consent not obtained before death must be obtained from an authorized representative or the Union.
- Clear contracts with a reasonably specific description of the use.
- Additional consent requirements for use in additional projects.



#### COMPENSATION

- Performers are generally entitled to compensation (including P&H) for the creation and use of their replicas, and for use in additional projects or other mediums.
- Residuals paid for use that would normally generate residuals.



#### DIGITAL ALTERATIONS GUIDELINES

- Clear and conspicuous consent must be obtained to digitally alter the performer's performance in previously recorded material unless it remains substantially as scripted, performed and/or recorded.
- Producers will provide a reasonably specific description of the intended alteration(s).
- If lip or facial movements are altered to make it look like a background actor is speaking, and dialogue is added, they will be upgraded to a day performer.



### INDEPENDENTLY CREATED DIGITAL REPLICA

#### DEFINITION

Digital replicas created using existing materials, and used to portray the performer in scenes they didn't actually shoot.

#### CONSENT

- Producers are obligated to obtain consent prior to use from the performer.
- Consent not obtained before death must be obtained from an authorized representative or the Union.
- Clear contracts with a reasonably specific description of the use.

#### COMPENSATION

- Compensation and residuals freely bargained.
- Any compensation paid to the performer for use of the Independently Created Digital Replica will be subject to pension or retirement and health contributions

## Regulating Artificial Intelligence

### GENERATIVE ARTIFICIAL INTELLIGENCE

#### DEFINITION

A subset of artificial intelligence that learns patterns from data and produces content based on those patterns, able to simulate a performer's voice, facial expressions, and movements to create entirely new content.



#### CONSENT

If a producer plans to make a computer-generated character that has a main facial feature—like eyes, nose, mouth, or ears—that clearly looks like a real actor, and they use that actor's name and face to prompt the AI system to do this, they must first get permission from that actor and agree on how this character will be used in the project.



#### GUIDELINES

- Producers must notify the Union if they create synthetic performers and bargain over whether compensation or any other consideration is appropriate.
- There will be regular meetings to discuss considerations for using any video and audio recordings made under these agreements to train AI systems.
- Regular meetings will cover current and future use of AI in projects, and to make sure that the AI does not create or reinforce any unfair biases.
- Producers acknowledge importance of human performance and the risk of job replacement when utilizing GAI.



### DIGITAL REPLICATION OF BACKGROUND ACTORS

#### DEFINITION

A 'Background Actor Digital Replica' is a digital version of a background actor's voice or likeness, made with the actor physically present, for scenes they didn't actually film.

#### CONSENT

- Notification must be sent 48 hours in advance to create a digital replica, or at booking if less than 48 hours ahead.
- Clear and separate consent is required for the use of a background actor's digital replica in a movie, and in the case of deceased performers, their estate or Union must consent.

#### GUIDELINES

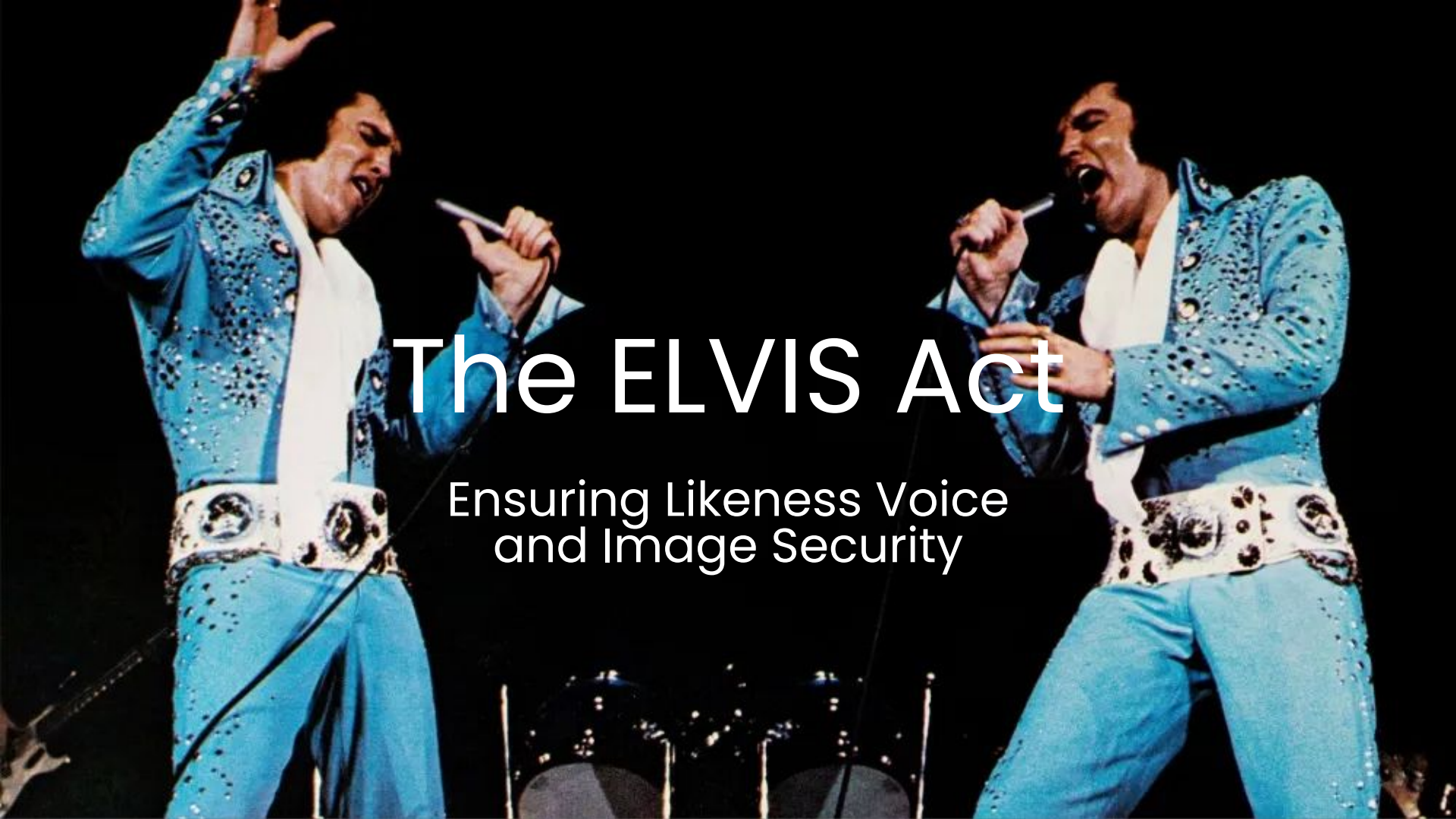
- Replicas must not be used to meet the background counts for the day.
- Replicas will not be used to avoid the engagement of background actors.

#### COMPENSATION

- Time spent creating a digital replica counts as work time and is paid accordingly.
- If a background actor is called in just for replication, they get paid for a full day.
- If the digital replica is used as a principal character, the actor gets paid a principal's rate for the estimated days they would have worked.







# The ELVIS Act

Ensuring Likeness Voice  
and Image Security



## 3 Causes of Action:

Knowingly using or infringing

Publishing, performing, distributing  
or transmitting

Distributing, transmitting, or  
otherwise making available



AGIT

A photograph of three performers on a stage. In the center, a man with dark hair is wearing a shiny, gold and silver jacket and is singing into a microphone. He has his mouth open as if in the middle of a performance. Behind him, two women with long hair are standing. They are wearing dark, sequined dresses and have their arms outstretched to the sides. The background is dark, and the lighting is focused on the performers. In the bottom left corner, the word "AGIT" is written in a stylized, red, outlined font with a white star inside the letter 'A'.



# AI Initiatives in Oregon and Washington

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An Overview of Legislative and Advisory  
Developments



# AI in Oregon

## Governor Tina Kotek's AI Advisory Council (2023)

- Established to guide AI use in state government
- Focus on transparency, privacy, and equity
  - Developing a framework for AI usage over the next 12 months

# AI in Oregon

## Objectives and Goals

- Create standards and policies for ethical AI use in government
- Focus on protecting personal data and privacy
- Address concerns related to social equity and fairness

# AI in Washington

## Senate Bill 5838 - AI Task Force

- Passed in 2024, creating a 42-member task force
- Tasked with reporting on AI's impact in public safety, labor, equity, and privacy
- Reports due in 2024, 2025, and 2026, with recommendations on AI regulations

# AI in Washington

## Goals and Structure

- Examines AI's effects on workforce, public safety, and racial equity
- Engages industry experts and government agencies
- Focus on privacy, transparency, and innovation



# NO FAKES Act

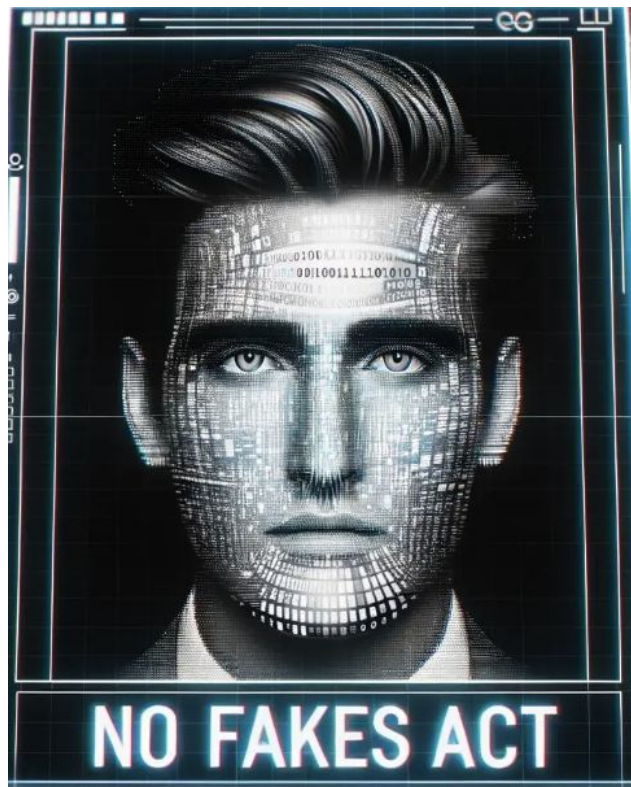
**Nurture  
Originals,  
Foster  
Art, and  
Keep  
Entertainment  
Safe Act**



**your** *voice  
face  
image*  
**identity.**



Hold individuals or companies liable if they produce an unauthorized digital replica of an individual in a performance



Hold platforms liable for hosting an unauthorized digital replica if the platform has actual knowledge of the fact that the replica was not authorized by the individual depicted

Exclude certain digital replicas from coverage based on recognized First Amendment protections

Largely preempt State laws addressing digital replicas to create a workable national standard

A photograph of Taylor Swift performing on stage. She is wearing a shimmering, gold sequined dress and has her hair styled in loose waves. She is smiling and looking towards the camera. The background is dark with some blurred lights.

G the most searched

taylor swift

EL

Write me a hit song?

Sure! Here are the lyrics:



aka  
@akafacehots

Subscribe

The left continues COMPLETELY MELTING DOWN everytime a SwiftiesForTrump post goes up! They're losing their minds!!



11:34 AM · Aug 17, 2024 · 36.1K Views

Donald J. Trump  
@realDonaldTrump

I accept!

by ISIS, Swifties have determined they want a strong leader in the White House. The Swifties For Trump movement is real!



SATIRE

SWIFTIES TURNING TO TRUMP AFTER ISIS FOILED TAYLOR SWIFT CONCERT



aka  
@akafacehots

Subscribe

iesForTrump continue to break the internet! Kamalas campaignables over it!



AM · Aug 17, 2024 · 899.9K Views

2.82k ReTruths 9.08k Likes


Aug 18, 2024, 3:50 PM





taylorswift  • [Follow](#)



taylorswift  Like many of you, I watched the debate tonight. If you haven't already, now is a great time to do your research on the issues at hand and the stances these candidates take on the topics that matter to you the most. As a voter, I make sure to watch and read everything I can about their proposed policies and plans for this country.

Recently I was made aware that AI of 'me' falsely endorsing Donald Trump's presidential run was posted to his site. It really conjured up my fears around AI, and the dangers of spreading misinformation. It brought me to the conclusion that I need to be very transparent about my actual plans for this election as a voter. The simplest way to combat misinformation is with the truth.



11,345,680 likes

September 10



# Gather at the Sentinel

Musicians and lawyers they gather round  
At the Sentinel Hotel where knowledge is found  
Portland Oregon's where we all meet  
Learning the Elvis Act's new beat

For continuing credits we chase the dawn  
Singing 'bout rights long after they're gone  
Elvis made records we'll study their worth  
In Portland's embrace there's a new birth

Through copyright trademarks we pave the way  
In the heart of Portland where the experts stay  
Networking and learning deep into the night  
The Gus J Solomon Inn shines so bright

Important people talking shaking hands  
Building futures making stands  
Learning laws to shape the sound  
At the Sentinel where we all abound

Gather round together feel the beat  
Law and music make the night so sweet  
Sentinel Hotel where wisdom flows  
Expanding minds where creativity grows

In the ballroom echoes of old and new  
Tradition meets change as we think it through  
Portland's charm it's a guiding light  
At the Sentinel everything feels right