

Artificial Intelligence: The Terms & Conditions

AI legal landscape since we last spoke...

Fragmentation, with a few important signals

- Federal and state efforts to limit broad AI regulation
- Increased AI regulation and litigation in focus areas (cyber, children, safety, provenance)
- Iteration of state digital likeness laws (e.g., NY)

Authenticity in an Era of Integrated, Ubiquitous AI

- 2025... most people interacted with AI through standalone chatbots or similar interfaces.
- 2026... AI is increasingly integrated into productivity tools.

Therefore...

Authenticity in an Era of Integrated, Ubiquitous AI

...the focus is shifting from:

“Was AI used?”

to

“How much human creativity was involved?”

Authenticity in an Era of Integrated, Ubiquitous AI

Manage this risk through:

- **Due diligence** your creators
- **Fact check** work product
- **AI use disclosures** tied to contractual reps
- **AI policy** for creators working with you

Overarching goal: Demonstrate **sufficient human involvement**

The Producer Catch-22: Indemnity vs. Ownership

If you use outputs with no human edits . . .

- You (may) get **indemnity** from AI developer
- You lose **copyright protection** b/c no human involvement

If you have human input . . .

- You (may) get **copyright protection**
- You lose **indemnity** from AI developer

Goldmines and Landmines in Downstream Use of AI

- AI creates new commercialization opportunities for licensed content
- Opportunities come with new risks
 - Ownership and approval rights
 - Capabilities and safety
 - Liability for unacceptable content

Goldmines and Landmines in Downstream Use of AI

Manage this risk through:

- **Indemnities** for non-dischargeable legal obligations
- **Diligence** AI vendors
 - How do they provide the service?
 - How do they ensure it works as intended?
- **Contractual Reps** to protect your brand

Key point: More than just IP, downstream AI misuse can impact goodwill



Scripted vs. Unscripted/Documentary

- **In scripted...** Audiences expect creative illusion and manipulation
- **In unscripted/documentary...** Audiences expect authenticity and truth

What do producers need to disclose – from a legal standpoint *and* to maintain the audience's trust?

[2026] Top 10 Questions Producers Should Ask When Utilizing AI

1. What exactly are we using AI for – *is it worth the legal, creative, and reputational risk?*
2. Do we own the outputs?
3. What rights does the vendor claim in our content and will they use it for their training?
4. How are we demonstrating substantial human contribution (to the overall project)?
5. Can we distinguish human and AI elements in a copyright application?
6. Is there an indemnity for outputs and should we use it (given the ownership Catch-22)?
7. Where are performers (or estates) and how will we get consent for digital likenesses?
8. What are our rights and obligations for digital likenesses (for content, for ads)?
9. Would the public feel misled by our use of AI or a digital likeness?
10. What are our remedies if creators, AI providers, or licensors violate their obligations?

Thank you for joining us!

