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Legal Challenges of Deepfake Technology on Online Streaming, Film and Television Law

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Abstract

Deepfake technology, a product of Artificial Intelligence (AI) programming, is a mostly unregulated frontier which requires some examination, considering the near omnipresence of AI in all spheres of life. This paper examines the Online Streaming, Film and Television Industry ('OSFTI') and looks at what kind of challenges deepfake technology poses to the industry, especially to actors and visual effects artists. This paper further goes on to examine publicity rights and how the jurisdictions of India, the USA, the UK and Australia have dealt with this avenue of intellectual property law, tying it with the proliferation of deepfake technology. Lastly, this paper posits some reforms and regulations that can be implemented with regard to deepfake technology to enable the co-existence of such technology without affecting the rights of stakeholders in OSFTI.

Keywords: *Actors, AI, Deepfake, Film and Television, Media Law, Publicity Rights, VFX*

1.0 Introduction

There has been a palpable apprehension among writers that Artificial Intelligence (AI) may soon be used not just as research tools, but to write content like movies, television shows, web-series and all other digital media that is consumed by viewers. Their concerns did not appear misplaced; on December 17, 2022, the movie 'Safe Zone' was released, touted to be the first-ever movie written and directed by an AI.

After ChatGPT was released on November 30, 2022 (Stringer & Wiggers, 2023), the focus of tech blogs and experts has shifted from the Metaverse to the possibilities of AI and how it might affect everyone. One of the offshoots of AI is deepfake, which uses deep machine learning technology to replicate and manipulate images and videos of persons to such an extent that viewers cannot differentiate between what is real and what is fake. Deepfake is a growing concern since they can be easily manipulated for misuse, like causing political instability, financial fraud or even sexual harassment. On the other hand, this technology might also have useful applications in the Online Streaming, Film and Television Industries (OSFTI), for instance, use in post-production work and reshoots, where studios are targeting specific release dates and the actor(s) required for the reshoots are not available. Unfortunately, the use of deepfakes by movie studios to replace actors and deny payment to them was one of the major reasons for the SAG-AFTRA and WGA strikes. This chapter seeks to examine the applications of deepfakes in OSFTI, the consequences from such use that can arise for actors and Visual Effects (VFX) artists and posit reform proposals to regulate the operation of deepfakes.

In this chapter, part I being the introduction, in part II we examine what is deepfake and its origins, in part III we examine how deepfake might affect actors, looking at a few jurisdictions like India, the United States of America (USA), the United Kingdom (UK) and Australia, in part IV we examine how deepfake might affect VFX artists,

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again looking at India, USA, UK and Australia, in part V, having examined the issues with deepfake, we posit reforms that can be implemented to address such issues, to assuage growing concerns; reforms like (i) regulating deepfake as an industry, (ii) formulating deepfake use guidelines, (iii) using AI to detect deepfake, and a few other reforms, and in part VI we conclude the chapter by musing on how it is important to co-exist with deepfake technology and regulate it, instead of resisting it.

2.0 What Is Deepfake and its Origins

2.1 Insidious Origins

The term 'deepfake' refers to the AI-based technique that synthesises media, and by processing an immense amount of data regarding a person's appearance, voice and demeanour, can create a near lifelike simulation of that person (Lalla *et al.*, 2022), essentially a digital doppelganger. When actor Val Kilmer lost his voice to throat cancer, the deepfake technology developed by a startup company, Sonantic, processed Val Kilmer's voice recordings and provided him with speech through a voice box (Sharf 2022).

Deepfakes had insidious origins when a Reddit user, also called 'deepfake', uploaded doctored pornographic videos of female celebrities with their faces swapped with those of the performers (Sample, 2020). After the initial backlash, deepfakes gradually began to gain acceptance, especially when amateur programmers began creating benign, humorous video clips of celebrities performing innocuous, everyday tasks (Foley, 2025). In view of the growing influence of deepfakes, a part of this chapter needs to examine how deepfakes work.

2.2 How Deepfakes Work

In deepfakes, thousands of features like faces and voice patterns of two people are passed through an AI algorithm called an encoder, which finds and learns the common shared elements of such features and compresses them. A second AI algorithm, called a decoder, is then taught to recover such features from the encoder. In fact, two decoders are used, one that recovers the features of the first face and the other that recovers the features of the second face. Then the feeds of images in each decoder are interchanged, thereby causing the swap. Another way of creating deepfakes is through a generative adversarial network that pits two AI algorithms against each other to produce realistic artificial faces.

While there are concerns that deepfakes could be misused for criminal activities, political interference, and personal revenge, such concerns require a separate examination and are not within the scope of this chapter. This chapter chiefly examines the effects of deepfakes in the OSFTI and potential reforms that can alleviate such effects. The nascent benefits of deepfakes could be immense for the OSFTI, but long-term use of the technology can cause other upheavals, which shall be discussed in this chapter.

3.0 How Deepfakes Can Affect Actors

With rapid advances in AI, the quality of deepfakes is also getting better. In 2022, it was easy to identify a deepfake video of Ukrainian President Volodymyr Zelenskyy telling soldiers to lay down arms and surrender to Russia (Allyn, 2022). In comparison, on July 22, 2023, Oscar-winning filmmaker Daniel Kwan shared a deepfake video on his Instagram story that featured journalist Tucker Carlson complaining about the video game Call of Duty, where the deepfake quality is much superior. Screenshots from the story are set out below:

India, being no exception, often faces similar issues with the misuse of deepfakes. Prominent personalities, including Alia Bhatt, Katrina Kaif, Rashmika Mandanna





(Sebastian, 2023) and Sachin Tendulkar, (Henry, 2024), have been persecuted and victimised by the misuse of deepfake technology. Bollywood actor Anil Kapoor filed a lawsuit against the unauthorised use of his likeness and voice in deepfake content, resulting in an injunction to protect his persona from such misuse. In another case, the voice and picture of well-known Bollywood star Mr. Amitabh Bachchan were utilised for commercial reasons without his permission. A major risk posed by deepfakes is the exponential rise in the production of non-consensual pornography, which mostly targets women. Recently, a deepfake video featuring an Indian actress, Rashmika Mandanna's face superimposed onto another woman's body, went viral on social media, and it caused significant public outcry and prompted calls for legal action against such content. The Delhi Police arrested the creator of the deepfake video and have been investigating the spread of such content online. Legal actions were taken under various sections of the Bharatiya Nyaya Sanhita, 2023, and the Information Technology Act, 2000, reflecting the severity of the offence and its implications for personal privacy and reputation (Goyal & Ajaz, 2024).

Therefore, certain concerns regarding deepfakes are not unfounded, and which is discussed in the subsequent paragraphs.

3.1 No regulation on Deepfakes

The chief issue troubling the use of deepfakes is the absence of regulations governing it, either at a legislative level or at an OSFTI industry level. Deepfakes can be misused by anyone skilled in it, and often for dishonourable purposes, without statutory limitations regulating such use.

3.2 Who Owns Publicity Rights

Publicity rights, also interchangeably known as personality rights, have evolved for actors and celebrities as rights that not only allow them to protect themselves from misuse of their likeness, but also to profit from it. Publicity rights are a bundle of rights that are not yet statutorily recognised in any jurisdiction but have evolved from jurisprudence to protect the goodwill and reputation associated with an actor's name. An examination of publicity rights across a few jurisdictions, like India, the USA, the UK and Australia, will clarify the global status of such rights.

3.2.1 India

In India, publicity rights have evolved through jurisprudence and do not enjoy statutory protection. In the Delhi High Court case of *ICC Development (International) Ltd v Arvee Enterprises*, it was held that the right to publicity evolves from the right to privacy and can only exist in an individual or in an individual's personality, like name, signature or voice. In late 2022, upholding such rights, the Delhi High Court passed an interim injunction order in favour of actor Amitabh Bachchan in the case of *Amitabh Bachchan v. Rajat Nagi & Ors*., restraining the defendants from infringing the personality and publicity rights of the actor. Additionally, the *Indian Trade Marks Act, 1999,* protects names as things that can be trademarked, and many celebrities have used the provisions of the Act to protect their names.

In India, the recently implemented Digital Personal Data Protection Act, 2023, governs the collection/ use of personal data (images, voices, biometrics) in AI workflows for content creation, marketing, and recommendations by studios/OTT platforms. Under the Act, any use of personal data for AI, such as face or voice cloning, or personalisation must comply with the provisions of this statute.

3.2.2 USA

In the USA, the *Lanham Act, 1946,* which governs trademark laws, protects celebrities' publicity rights by preventing misrepresentation and deception when it comes to endorsing products. In the case of *Waits v. Frito-Lay, Inc.*, singer Tom Waits successfully argued that the Defendant had used a parody of his song without his consent.

3.2.3 UK

The UK does not recognise publicity rights, but the *Trade Marks Law of 1994* allows names to be protected as trademarks. A search of the Intellectual Property Office website of the UK reveals that certain celebrities have registered their names as trademarks. Such registrations may be useful in instances of litigation to establish an individual's publicity rights.

Further, the tort remedy of passing off is an available relief. In the case of *Irvine v. Talksport Ltd.*, relief for passing off was provided to the Plaintiff on the basis that the Defendant had indeed doctored the Plaintiff's earlier

picture, which the Plaintiff had approved for promotional use, to add one of the Defendant's trademarks, thereby misrepresenting the Plaintiff's endorsement of the Defendant's product. In *Robyn Rihanna Fenty v Arcadia Group Brands Ltd.,* it was held that even though the image of the Plaintiff being used by the Defendant to sell t-shirts had been licensed by the Defendant from an independent photographer, the Defendant had not licensed the image from the Plaintiff herself. Therefore, consumers could be misled to believe the appearance of the Plaintiff's images on the Defendant's t-shirts was an endorsement by the Plaintiff of the Defendant's products, effectively causing passing off and allowing the Defendant to profit at the Plaintiff's expense. The *UK Copyrights, Designs and Patent Act of 1988* (UKCDP) also allows individuals to protect their likenesses when it comes to a photograph or film, but only if such work was commissioned by the individual.

3.2.4 Australia

Like the UK, Australia does not recognise publicity rights. There are no case laws or statutes that recognise publicity rights, which could immediately act as a deterrent. However, Australia does allow for the protection of publicity rights under the torts of passing off or defamation (Zapparoni, 2004), and such measures are post facto reliefs. When someone comes to know that their personality or image has been misused in respect of a product, advertisement or merchandise that they don't endorse, they have the option to approach courts for the tortious remedy of passing off; that their personality was being falsely passed off as associated with such product, advertisement or merchandise, and the false association has defamed them. In the case of *Buttrose v. Senior's Choice (Australia) Pty Ltd.*, Ita Buttrose had provided a copy of her biography and photograph to the Defendant magazine for a television commercial, but the materials were also used on the Defendant's website without Ms Buttrose's consent. She brought a successful action of passing off against the Defendant and was awarded damages. In addition to the above, the *Trade Marks Act 1995* provides for the protection of names as trademarks in Australia.

Considering that publicity rights have not yet been statutorily codified, the question arises as to who would own a deepfake creation. Would it be the actors themselves, would it be the programmers who created the technology to produce the deepfake, or would it be part of the public domain, since a large portion of the images and features of such actors and celebrities used to create the deepfake might be taken from publicly available sources?

3.3 No Protection from the Use of Deepfakes

The lack of regulation of deepfakes extends to a lack of protection from the use of such technology as well. While the OSFTI has evolved over the years to create guidelines on how the industry should operate and how members are to be paid and treated respectfully through provisions such as fair work acts, anti-discrimination acts, agreements on payment of residuals, safety guidelines, intimacy guidelines, codes of practice and diversity guidelines, no guidelines have yet been formulated on how deepfake use can be regulated. There is a high probability that, taking advantage of this void in legislation, powerful elements like studios in the OSFTI ecosystem may try to get actors to sign away their publicity rights for a pittance while studios profit immensely from perpetual use of such rights in their new or old content. Such a scenario would allow studios to hire impersonators, who can mimic the movements and nuances of actors, at a fraction of the cost required to hire the actual persons and employ deepfakes to evoke near-lifelike performances. The studios would also be saved from hiring new actors for legacy characters like Superman, James Bond or Flash Gordon, and they would be able to continue using the deepfake material of the last hired actor for such roles. A deepfake Will Smith could still be chasing down criminals in Bad Boys 7 in 2035. Peter Jackson could decide to explore the events of Middle-earth post Return of the King, and could use deepfake Viggo Mortensen, Sir Ian McKellen, Orlando Bloom, Elijah Wood, Sean Astin, Dominic Monaghan, Billy Boyd, and the other actors from the original trilogy in his new movies.

Agreements with actors in OSFTI presently do not have provisions that account for the use of deepfakes. Therefore, on a technicality, studios would not be prevented from using deepfakes for touch-ups during post-production work without the actors' consent. Further, any potential litigation for unauthorised deepfake use would be draining on the actors' resources. Some actors may not even have the resources to litigate.

4.0 How Deepfakes Can Affect Visual Effects (VFX) Artists

4.1 Publicity Rights Versus Copyright

If VFX artists do decide to employ deepfakes in their creations, the question arises as to who would own the deepfake material. Would the artists be able to exercise any copyright in their creations, considering that the deepfake created was that of an individual? Would publicity rights trump copyright? The exploration of the jurisprudence in a few jurisdictions may guide us.

4.1.1 India

The *Indian Copyright Act, 1957,* allows for any person who causes any literary, dramatic, musical or artistic work which is computer-generated to be created, to be recognised as an author of the work. However, no protection is granted to computer-generated films or videos, like deepfake content. Further, under Indian law, as explored in the case of *ICC Development (International) Ltd v Arvee Enterprises,* the right to publicity evolves from the right to privacy, and the right to privacy is an inalienable fundamental right available to all citizens under Article 21 of the *Constitution of India*. Therefore, a deepfake artist will never be able to exercise any right superseding an individual's publicity rights.

4.1.2 USA

The copyright law in the USA protects original works created by individuals, but the keyword here is originality. In the case of *Feist Publications Inc. v. Rural Telephone Service Company,* the US Supreme Court held that the most important factor in copyright is originality, and originality is a constitutional requirement. Therefore, even though the technology used to develop a deepfake may be an original programming code, the end product does not have any originality, being a replication of an already existing individual. In any case, the US Copyright Office refuses to grant copyright protection to works not created by humans and explicitly states in its Compendium of US Copyright Office Practices that works made through a purely mechanical process or with an automated selection and arrangement are not eligible for copyright protection. Hence, deepfake artists will not be able to exercise any right on their creation in the USA, and publicity rights would trump copyright.

4.1.3 UK

The protection for computer-generated works under the UKCDP is limited to literary, dramatic, musical or artistic work and does not extend to sound recordings, films, broadcasts or typographical arrangement of published editions. Further, Section 178 of the UKCDP states that the term 'computer-generated' in relation to a work, 'means that the work is generated by computer in circumstances such that there is no human author of the work'. Therefore, AI-generated deepfakes that would qualify as films will not be protected in the UK and VFX artists will not be able to exercise copyright in deepfake content. Hence, even though the UK does not recognise publicity rights, considering (i) the statutory deterrent that does not allow AI-generated films to be protected as copyright, and (ii) that plaintiffs can avail of the tort remedy of passing off in case their publicity rights have been misappropriated, publicity rights would supersede copyright in the UK.

4.1.4 Australia

Under Australian Copyright Law, the moment an idea or creative concept is documented on paper or electronically, it is automatically protected under the *Copyright Act 1968*. For a work to be copyrightable, there must be originality to the form of expression, and not mere application of skill and labour. In *Telstra Corp Ltd v. Phone Directories Co Pty Ltd,* the Federal Court established that human involvement, skill and labour were essential elements for a work to be considered copyrightable. In *IceTV Pty Limited v. Nine Network Australia Pty Limited*, the High Court held that originality of work, no matter how low the threshold, was essential for a work to be recognised as copyrightable. However, when it comes to cinematograph films, originality is not a prerequisite, as set out in Section 90 of the Act, as well as in the case of *Telmak Teleproducts Australia Pty v. Limited Bond International Pty Limited*. These three case laws present an interesting conundrum, as there is no clarity on whether deepfake content as film will be copyrightable.

It seems that even though Australia does not recognise publicity rights statutorily, as discussed in part III of this chapter, the tortious remedy of passing off is provided to plaintiffs. Therefore, in the event an individual's personality rights are infringed by a deepfake artist exploiting his likeness or claiming copyright in it,

the individual will have to take the initiative to approach a court for tortious relief.

4.2 Making Certain Skill Sets Obsolete

Proliferation of deepfakes might make certain VFX skill sets obsolete, such as de-ageing and subtitling. If it is possible to create near near-lifelike simulation of an actor by using an AI-based deepfake that could get cheaper with increasing research and development, studios would not be inclined to spend money on CGI that is used for de-ageing, and as a result, the VFX artists working on such rendering would be out of jobs.

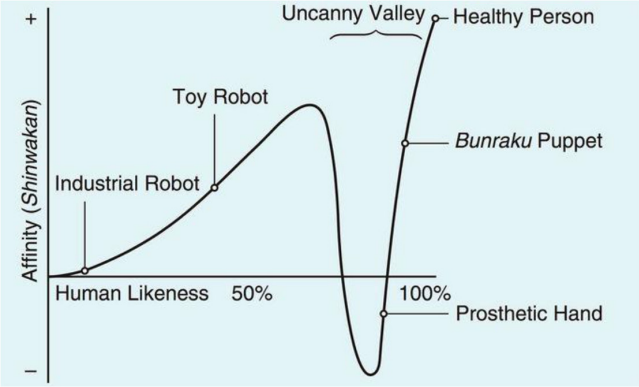
For viewers who do not like to read subtitles, deepfakes could potentially alter the movement of the actors' mouths in a subtitled film, television show or web series, so that they speak in a language familiar to the viewer. Software companies like TrueSync are already exploring such options (Miller, 2022), which would essentially be an advanced and sophisticated version of dubbing, and the proliferation of such specific deepfake technology could render subtitle artists out of jobs, in addition to underwhelming the experience of watching content in its original language.

4.3 Outsourcing Can Cause Revenue Loss

Many independent VFX artists looking to make a mark might undertake deepfake work at a lower cost than established VFX companies. Such artists could disrupt the market by lowering wages for everyone and eventually cause loss of revenue to the VFX companies, which could even lead to bankruptcy.

5.0 Reforms

From our observations of deepfake content, we believe that deepfake and other AI-generated content will never be able to replicate humans completely, but they can come very close. We believe that it would be difficult for such content to cross the 'uncanny valley' successfully; a term coined in 1970 by Masahiro Mori of the Tokyo Institute of Technology, that described his observation that as robots and artificial intelligence become more human-like, they become more appealing, but only up to a certain point and upon crossing the uncanny valley our familiarity turns into discomfort and unease (Mori 20212). The phenomenon is graphically represented below:



An element of artificiality in deepfakes will always be there. Even in AI-generated podcasts, it is difficult to replicate inherently human characteristics like vocal tics and breathing patterns, and that sets apart AI-generated content from that by humans. However, such artificiality will not prevent deepfakes from being developed further, especially now that studios seem to have understood their potential to reduce costs and maximise profits. What can be done is to introduce certain reforms so that the growth of deepfakes happens in conjunction with the protection of the interests of affected parties in OSFTI.

5.1 Regulating Deepfakes as an Industry

At present, the domain of deepfakes is a lawless land where the technology has a high probability of being misused. An efficient way to counter such lawlessness would be to regulate deepfakes as an industry with its employees having clearly defined roles, work hours and benefits. The deepfake artist Shamook was hired by Lucasfilm's VFX team, Industrial Light and Magic (ILM), after demonstrating his skills in creating a better Luke Skywalker than ILM itself for the television show 'The Mandalorian' (Kain, 2019). This demonstrates that there is scope for regulation of the deepfake industry, and its existence with the OSFTI does not have to be confrontational. Regulating the deepfake industry would be a good way to end the conflict between the OSFTI and deepfakes, as well as prevent their broad misuse to create political instability and revenge erotica.

5.2 Formulate Deepfake Guidelines

Much like specific guidelines that have been established in OSFTI about safety, intimacy, diversity and standard payments, guidelines can be established either by legislators

or by OSFTI professionals themselves about the use of deepfakes by studios in their content, such as,

(i) prior intimation being provided to actors whose deepfakes are to be used,
(ii) destroying or handing over deepfake content to the actors once the content creation is complete,
(iii) if the actors request to sit in during the deepfake content creation session, then studios making such arrangements,
(iv) Deepfakes are never used for producing intimate scenes,
(v) deepfake use is forbidden for actors aged under 18 years and
(vi) heavy penalisation for violation of any of the guidelines, including, but not limited to, blacklisting from OSFTI and incarceration.

5.3 Make a Distinction Between Deepfake and CGI

By creating a separate industry for deepfake artists, there can be a clear distinction between them and CGI artists, without the fear of one encroaching upon the other's territory. Deepfake is reliant on an existing database of images and voices to create something near lifelike. It cannot create something original and inventive by itself. To render the fantastical images and vistas as seen in James Cameron's Avatar movies, CGI artists will still need to be employed. In fact, the competition from deepfake artists will lead to a better quality of work, better VFX software developments and an overall improvement in content available to viewers. This would also, to an extent, solve the publicity rights versus copyright conundrum. The deepfake artists would be working with the knowledge that they have no rights over the material they produce because it is the replication of images and characteristics of an existing person. They would simply be remunerated for the effort and time spent in creating the material itself. On the other hand, CGI artists will be able to copyright their original material.

5.4 Create A Pool of Dedicated Deepfake Actors

Individuals with impeccable mimicry skills can be employed as dedicated deepfake actors. In early 2021, a Belgian digital AI artist worked with a Tom Cruise impersonator to generate realistic videos of Tom Cruise performing quirky activities under the TikTok account @ deeptomcruise (Lalla *et al.*, 2022).



Similar to such a performer, there are many others out there who are great mimics and employing them as deepfake actors will not only improve the quality of deepfakes but also provide a regular income to such individuals. The OSFTI is already filled with performers excelling in extensive VFX makeup roles like Doug Jones, playing Abe Sapien in the Hellboy movies. Deepfake actors would be a variant of such actors. They could also have their own dedicated awards ceremonies celebrating their work and the devotion with which they bring their deepfake performances to life.

5.5 Using AI to Detect Deepfakes

Researchers are creating counter-algorithms to detect synthetic content like deepfakes. In November of 2022, Intel Inc. announced its Real-Time Deepfake Detector, a platform that detects deepfakes with up to 96% accuracy Intel. (n.d.). Researchers at the University of California, Santa Barbara, and the University of Florida are also working on deepfake detection tools (Hutson, 2023). Regulating the deepfake industry would allow more research to take place in the domain of deepfake detection, and any misuse of the technology can be eliminated, not just in the context of the OSFTI but broadly to remove politically destabilising content and criminal activities like fraud.

5.6 Amending Actor Agreements

Agreements with actors can be amended to include a clause that the studios will only employ deepfakes after explicit consent of the actors, especially in situations where the actors are unavailable for production work and the studios are looking for a specific holiday release date, like Diwali. For the protection of studios, the clause can also have a provision that, in case an actor fails to respond within a certain date of being notified of the use of a deepfake, the

studio can go ahead and still use it, since due intimation had been provided, and the actor will waive their right to take legal action. The actors would also be paid for such deepfake use, depending on the studios and the actors' negotiations as to how much time it would have taken to complete the production work had the actor been actually available. Moreover, once the deepfake use has been completed, the studios will turn over all deepfake material to the actors and shall seek their consent in case of future edits to remaster movies, like George Lucas's remastered Star Wars original trilogy (Allan, 2022) or Ridley Scott's seven different versions of Blade Runner (Allan, 2021).

5.7 Payment for Every Use of Deepfake

As mentioned in part I of this chapter, the AMPTP is proposing to scan the likenesses and attributes of actors for use in projects. If the deepfake industry is regulated considering the reforms discussed above, it would be easier for actors to ask for payment for each use of such deepfake features, at standard industry rates that would have been payable if the actors had themselves been shooting, especially for background actors who may not have as much influence to ask studios to hand over all deepfake material after completion of shoots. Regular payment for deepfake use would create a continuous revenue stream for such actors, akin to payment of royalties to authors for every purchase of books. It would also free up such actors to take jobs outside OSFTI to supplement their incomes.

5.8 Amending Copyright Laws

Another important step would be to amend existing copyright laws when it comes to (i) protecting the publicity rights of actors and (ii) copyright in material created using deepfakes.

5.8.1 Protecting Publicity Rights

Publicity rights should be codified in existing copyright laws as well as in the deepfake guidelines to clearly set out who would have ownership of the deepfake material. We posit that ownership of deepfakes should lie with the persons whose deepfakes are being created, for the following reasons;

(i) Deepfakes are extensions of the persons, and are being used for purposes that could have been carried out by the persons themselves.
(ii) the persons can commercially gain from the use of the deepfakes,
(iii) courts have statutorily upheld publicity rights on several occasions in favour of the persons whose likenesses were misused,
(iv) deepfakes are artificial simulations of pre-existing persons and do not qualify as original works. Therefore, deepfakes should not be copyrightable.

Hence, the ownership rights in deepfakes should lie with the persons on whom they are modelled, to the exclusion of everyone else.

5.8.2 Copyright in Material Created Using Deepfake

The programmer using the technology to create the deepfake material shall have no right over the ultimate product created; just copyright protection on the deepfake programming code itself. The copyright ownership in the deepfake should vest in the person on whom the deepfake is being modelled. The programmer could be paid either a one-time fee or a salary and would not be able to monetise the deepfake material in any manner. In case the actor declines to acquire the deepfake material, it shall be immediately destroyed, and the programmer shall have no right or ownership over such material.

6.0 Conclusion

Whenever a new and exciting technology arrives, especially one that can be capitalised to make profits, it is hard to pin it down or crush it because it will keep popping up at the most unexpected of places. The way to ensure that deepfakes can be harnessed for good and used properly is twofold: (i) co-existence, and (ii) regulation.

6.1 Co-existence

Instead of actively opposing the development of deepfakes, if we accept and embrace it, and learn to co-exist with it, we will be able to minimise its misuse in harmful ways, such as the attempts to cause political instability, exploiting former relationship partners out of spite, or making short-term, quick profits at the expense of art.

6.2 Regulation

If the use of deepfakes is regulated through statutory means, it will implement a check on its uncontrolled

and undesirable use, as well as provide a remedy to those who may have been adversely affected by the use of such technology. Deepfakes will no longer be an incomprehensible phantom, but something tangible, with deepfake regulations clearly setting out clarifications as to what is and is not allowed, along with the remedies available to the aggrieved as well, in case the lines drawn by such clarifications are crossed.

Introducing necessary reforms in deepfake, especially regarding OSFTI, is a way for us to stay ahead of the curve. Now that research into the Metaverse as the next big thing in tech has nearly been abandoned in favour of generative AI (Switch, 2023), especially because of how easy it can make our lives, AI-associated technologies like deepfakes are not going away anytime soon. Instead of fearing the technology and fiercely opposing it, our goal should be to co-exist in a symbiotic manner that benefits everyone, especially members of OSFTI.

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