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Scarlett Johansson vs OpenAI: What are personality rights and how are they protected?

Legal cases have been brought against OpenAI earlier over its use of copyrighted creative works. It also raises the question of infringing upon celebrities' exclusive personality rights.

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OpenAI CEO Sam Altman (left) and actress Scarlett Johansson. (Via Wikimedia Commons and REUTERS/Yara Nardi/File Photo)

Hollywood actor Scarlett Johansson has expressed “shock” and “anger” over hearing the voice for GPT-4o, OpenAI’s latest AI model, which she has said sounds “eerily similar” to her own voice.

In a statement issued this week, she accused OpenAI, the artificial intelligence company behind ChatGPT, of using her voice despite her earlier declining licensing requests from company CEO Sam Altman.

Johansson has joined the list of several individuals and organisations who have accused OpenAI of using their copyrighted creative works without permission.

Johansson and ‘Sky’

OpenAI unveiled its latest AI model called GPT-4o last week, saying it would improve on the existing features of ChatGPT. One such feature, named Voice Mode,

lets users have voice conversations with the AI chatbot, and lets them choose from five kinds of voices.

Johansson said one of these voices, named 'Sky', was allegedly copying her voice.

"In a time when we are all grappling with deepfakes and the protection of our likeness, our own work, our own identities, I believe these are questions that deserve absolute clarity," Johansson said in her statement.

OpenAI later said it was pausing the availability of Sky. It added in a statement that Sky was not Johansson's voice but another voice actor's, and was "never intended to resemble hers". "We are sorry to Ms Johansson that we didn't communicate better," it said.

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Other complaints

Johansson is not the first to bring up issues of copyright in relation to AI.

Newspapers, including The New York Times, have earlier sued for copyright infringement.

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Large language models (LLMs) are fed huge amounts of data, which helps them to analyse patterns and train themselves on language, visual data, computation, etc. But entities like The NYT have argued that this amounts to "unauthorised" use of

their already published work. It also leads to a situation where chatbots compete with news publications as sources of reliable information, they have said.

The Authors Guild of America filed a similar lawsuit on behalf of writers such as George R R Martin and John Grisham, alleging illegal use of the authors' copyrighted works by OpenAI.

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A few months ago, unions of Hollywood actors agreed to end workers' strikes, where a key issue was how film studios could use AI in the future. Actors believed that their faces and voices could be used to create new films or shows without their consent, or without paying them. Ultimately, the studios assured actors that consent would be sought.

Explained | Why The New York Times is suing OpenAI and Microsoft, what it could mean for AI and copyright

Personality rights in India

In India, actors such as [Rajinikanth](#), Anil Kapoor and Jackie Shroff have approached the courts over "personality rights".

Personality rights or publicity rights are a subset of "celebrity rights" claimed by celebrities. The name, voice, signature, images, or any other feature easily identified by the public as markers of a celebrity's personality lie at the heart of personality rights. These could include poses, mannerisms, or any other distinct aspect of their public persona.

Celebrities sometimes register aspects of their personalities as trademarks to use them commercially. Footballer Gareth Bale has trademarked the heart sign he makes with his hands while celebrating a goal. The idea behind such rights is that only the creator or owner of the unique features can gain commercial benefit from them.

On May 15, the Delhi High Court protected the personality and publicity rights of Jackie Shroff while restraining various e-commerce stores, AI chatbots, etc. from misusing the actor's name, image, voice, and likeness without his consent.

The court observed that attributes “over which the plaintiff exercises exclusive control constitute his ‘personality rights’ and ‘publicity rights’. The unauthorised use of these characteristics for commercial purposes not only infringes upon rights but also dilutes the brand equity painstakingly built by the plaintiff over years”.

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The court relied on the Delhi HC’s 2010 ruling in *D.M. Entertainment Pvt. Ltd. v. Baby Gift House*, where Justice S Ravindra Bhat acted on a petition filed by a company to which singer Daler Mehndi had assigned his personality rights.

Read | Delhi HC protects Anil Kapoor’s personality rights: What they are, how have courts ruled

The company alleged that certain gift shops were selling dolls that were “cheap imitations of, and identical to the likeness” of Mehndi and even sang a few of his songs. It contended that this was a blatant infringement of Mehndi’s right to control the commercial exploitation of his persona.

Allowing relief to the singer, the court said that the commercial use of his identity was intended to increase sales by fusing his identity with the products, thereby encashing on his goodwill and persona.

Personality rights or their protection are not defined in Indian law, and are usually seen under the rights to privacy and property.

Concepts in intellectual property rights cases, such as ‘passing off’ and ‘deception’, are usually applied in such cases while ascertaining if protection is warranted.

In a case involving Anil Kapoor, the Delhi HC granted an *ex parte*, omnibus injunction restraining 16 entities from using the actor’s name, likeness, and image using technological tools like AI, face morphing, and GIFs for commercial purposes.

An omnibus injunction is granted against any unauthorised use, including against persons not mentioned in the plea.

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