




Akin™

Akin Intelligence



December 2023

[Subscribe](#) | [Share this](#)   

Welcome to the December edition of Akin Intelligence. Since our November newsletter, the European Union (EU) came to a political agreement on the Artificial Intelligence (AI) Act, a first-of-its-kind AI regulation with global reach. On this side of the pond, federal agencies and states continued to tackle specific issues. Meanwhile, AI products continue to develop rapidly, including the recent releases of Anthropic's Claude 2.1 update and Google's multimodal model, Gemini.

To ensure continued receipt, please subscribe to future issues [here](#) if you have not already done so. For past issues and other AI content, check out Akin's [AI & ML Insights](#).

In This Issue

- [Akin Spotlight](#)
- [Federal Action](#)
- [Congressional Action](#)
- [Health Care](#)
- [Judicial Action & Administrative Proceedings](#)
- [State Action](#)
- [Industry Action](#)
- [EU and U.K. Updates](#)
- [China Updates](#)
- [On Air with Akin](#)
- [Akin Thought Leadership](#)

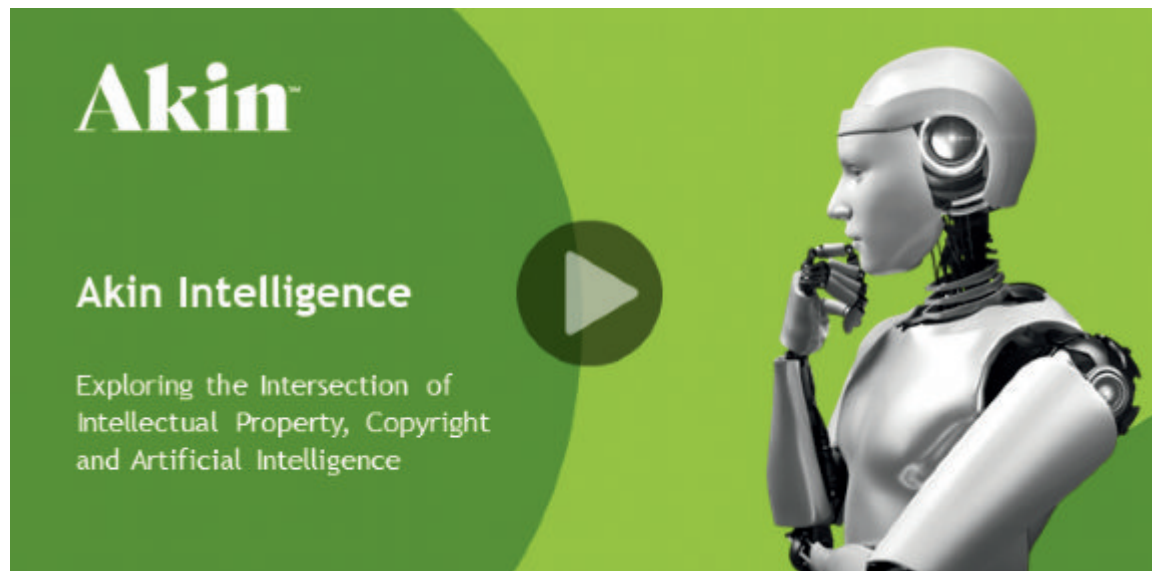
Akin Spotlight



Listen Now: Exploring the Intersection of Intellectual Property, Copyright and Artificial Intelligence

In this episode of *OnAir with Akin*, lobbying and public policy partner [Hans Rickhoff](#) and senior counsel [Reggie Babin](#) lead a discussion with intellectual property partner [David Vondle](#) on intellectual property, copyright, and how that intersects with both the courts and with federal policy.

You can listen to this episode wherever you consume podcasts. Subscribe and listen to OnAir with Akin via [iTunes](#), [SoundCloud](#), [YouTube](#), [Spotify](#) or [Google](#) podcasts.



Federal Action

US DHS and UK National Cyber Security Centre Release Co-Authored AI Guidelines

On November 26, 2023, the U.S. Department of Homeland Security's (DHS) Cybersecurity and Infrastructure Security Agency (CISA) and U.K.'s National Cyber Security Centre (NCSC) [announced](#) co-authored [Guidelines for Secure AI System Development](#), aimed at helping developers make informed cybersecurity decisions that will help build safe AI systems.

The 20-page regulation is structured to cover four key areas:

- **Secure design:** Guidelines for designing AI systems to address risks and threat models.
- **Secure development:** Guidelines for development including supply chain security, documentation, and asset and technical debt management.
- **Secure deployment:** Guidelines for deployment with a focus on protecting infrastructure and models, developing incident management processes and responsible release practices.
- **Secure operation and maintenance:** Guidelines for secure operation and maintenance of AI, such as logging and monitoring, update management and collaborative information sharing to develop best practices.

DHS Secretary Alejandro N. Mayorkas described the guidelines as a “commonsense path to designing, developing, deploying, and operating AI with cybersecurity at its core.” Twenty-one other international partners assisted in the publishing of the guidelines, including the Canadian Centre for Cyber Security and Germany’s Federal Office for Information Security. Several private-sector organizations also contributed, including Amazon, Anthropic, Google, IBM, Microsoft and OpenAI.

FCC Announces NOI Regarding Robocalls

On November 15, 2023, the Federal Communications Commission (FCC) adopted a new Notice of Inquiry (NOI) seeking comments on AI’s ability to halt the increase of unwanted and illegal robocalls and robotexts. As part of its efforts to protect consumers from unwanted calls under the Telephone Consumer Protection Act (TCPA), the FCC seeks feedback on how AI could, among other things, be used to:

- Protect consumers through more precise automated messages from legitimate callers.
- Analyze and block scam and other unwanted calls.
- Detect unwanted or fraudulent traffic before it reaches consumers.
- Assist callers with ensuring compliance.
- Improve accessibility of calls for persons with disabilities.

The NOI also seeks feedback on AI risks, such as its use in illegal, fraudulent or otherwise unwanted calls, and whether AI could make consumers more susceptible to fraudulent calls. Beyond information gathering, the NOI further requests comments on steps that the FCC should take on AI, with particular focus on voice cloning and whether consumers should be notified when interacting with AI.

The NOI was adopted on November 15, 2023. Comments are due December 18, 2023, and reply comments are due by January 16, 2024. Following the NOI, the FCC may issue a Notice of Proposed Rulemaking (NPR) or conclude the NOI.

DHS Publishes First AI Roadmap

On November 14, 2023, DHS’s CISA published its first Roadmap for Artificial Intelligence. The roadmap’s release comes a month after President Biden’s AI Executive Order called on the DHS to increase its responsibility in leading global efforts on AI safety standards. CISA’s Director Jen Easterly states that the roadmap is an overlap of AI, cyber defense and critical infrastructure, which will advance the agency’s goal of promoting “the beneficial uses of AI to enhance cybersecurity capabilities; ensure AI systems are protected from cyber-based threats; and deter the malicious use of AI capabilities to threaten the critical infrastructure Americans rely on every day.”

The AI roadmap contains five lines of effort for CISA, including:

- Using AI-enabled software tools to responsibly support its mission.
- Assuring AI systems are secure by design, develop best practices and promote adoption across the government and private sector.
- Protecting critical infrastructure from malicious use of AI by assessing threats and recommending mitigation strategies, in part by establishing a Joint Cyber Defense Collaborative (JCDC) website focused on AI threats, vulnerabilities and mitigation.

- Contributing to key interagency, international and public AI efforts such as developing policy.
- Educating and recruiting to ensure AI expertise within CISA's workforce.

FTC Announces Voice Cloning Challenge

On November 16, 2023, the Federal Trade Commission (FTC) announced it will host a Voice Cloning Challenge, pursuant to the America Competes Act, to help develop protections against AI voice cloning. Voice cloning is increasingly used by scammers to deceive consumers and the FTC is continuing its efforts to protect people against malicious misuse of the technology. The challenge is designed, like previous challenges, to encourage the development of tools that support the FTC's mission to protect consumers. Submissions must be targeted to at least one of three intervention points:

- **Prevention or authentication:** ways to limit the unauthorized use of voice cloning software.
- **Real-time detection or monitoring:** ways to detect cloned voices.
- **Post-use evaluation:** ways to check if a audio clip contains cloned voices.

Submissions must contain an abstract and a detailed explanation, with an optional video submission. Participants can access the submission portal from January 2 to 12, 2024, and the winner will receive \$25,000. Further information can be found on the challenge website.

FTC Announces Mandatory Process for Investigations of AI Products and Services

On November 21, 2023, the FTC approved an omnibus resolution allowing the use of "compulsory process" in nonpublic investigations of AI products and services. This resolution will allow FTC staff to issue civil investigative demands (CIDs) in AI investigations, which would allow the agency to receive any relevant documents, information, and testimony similar to written discovery. Pursuant to the FTC's mandates, CIDs are used to investigate competition issues and consumer harms like fraud, deception, privacy violations, and other unfair practices. The resolution will be in effect for 10 years.

Department of Defense Releases AI Toolkit

On November 14, 2023, the Department of Defense's (DOD) Chief Digital and Artificial Intelligence Office (CDAO) announced its Responsible Artificial Intelligence (RAI) Toolkit, which implements the DOD's AI Ethical Principles. The Toolkit is part of the DOD's Strategy & Implementation Pathway, which was announced last year, and was created by the RAI Division, the DOD Responsible AI Working Council and experts from academia, industry and government.

The RAI Toolkit provides assessments, tools, and examples to help align AI projects with the DOD's best practices for RAI and AI Ethical Principles. The core of the Toolkit is the SHIELD assessment, consisting of six sequential steps:

- Set foundations
- Hone operationalizations
- Improve and innovate
- Evaluate status

- Log for traceability
- Detect via continuous monitoring

Department of Defense Launches Digital On-Demand Initiative

On November 16, 2023, the CDAO [launched](#) its “Digital On-Demand” initiative, which provides access to the Massachusetts Institute of Technology (MIT) Horizon’s library of AI resources. The platform is available to all military and civilian workforce in the DOD, with a goal of developing a basic understanding of emerging technologies, and how they can be applied throughout the department. The platform contains short-form educational content focused on entry-level knowledge on AI and other technologies. The program is available through Digital University, a joint venture between the U.S. Air Force and U.S. Space Force for delivering on-demand training materials.

DOD employees can access the platform by visiting Digital University’s [website](#), registering an account using their .mil email address, and searching “MIT Horizon.”

Congressional Action

Lawmakers Advance AI Provisions in Must-Pass Defense Bill

On December 7, 2023, House and Senate Armed Services committee leaders unveiled their [conference report](#) for the fiscal year (FY) 2024 defense authorization bill. The must-pass bill includes several provisions regarding AI, including policy oversight, a competition for developing technology to detect the use of generative AI and programs to investigate and adopt AI for specific needs.

For more information and an overview of key provisions, see Akin’s coverage [here](#).

“Group of Four” Convene AI Forums with Focus on IP, Doomsday Scenarios and National Security

Majority Leader Chuck Schumer (D-NY) and Sens. Martin Heinrich (D-NM), Todd Young (R-IN) and Mike Rounds (R-SD) continue to lead the way on Congress’s push to AI legislation. The lawmakers convened three additional forums over the past few weeks:

Seventh Forum: *Transparency/IP Protections (November 29, 2023)*: The seventh forum was centered around transparency in AI and the intellectual property (IP) protections that creative fields should be afforded. Regarding IP rights for creative fields, lead entertainment associations such as SAG-AFTRA and the Motion Picture Association (MPA) debated how the government should approach regulations for digital image, voice and likeness rights, and leading journalism associations warned forum attendees about large-language models (LLMs) being a catalyst of misinformation and disinformation. Regarding transparency in AI, Duke Professor Cynthia Rudin advocated promoting the development of interpretable machine learning (ML) models and preventing black-box models from being used in high-risk use cases. Leader Schumer concluded the forum by echoing the calls of attendees to protect American companies’ IP, enforce transparency in the training data of AI systems, and expand the Biden administration’s executive order (EO) to address disclosure requirements. The full list of speakers, and their statements, is available [here](#).

Eighth Forum: *Doomsday Scenarios (December 6, 2023)*: The eighth forum focused on

“doomsday scenarios,” discussing all risks associated with the development and deployment of AI. Leader Schumer focused his questions on artificial general intelligence; whether it was achievable and whether that should be the biggest concern in the case of doomsday scenarios. In addition to the “Group of Four,” Sens. Tammy Baldwin (D-WI) and Alex Padilla (D-CA) both attended the forum. The full list of speakers, and their statements, is available [here](#).

Ninth Forum: *National Security (December 6, 2023)*: The ninth and final forum encompassed AI’s intersection with national security, and how AI can be maximized to bolster America’s military capabilities. Leader Schumer emphasized the importance of leading in competition with respect to China, as well as utilizing AI systems for defense capabilities. Participants also discussed the need to establish an AI-literate workforce, maintain the talent pipeline, enhance the clearance process and create new pathways for digital workers. The full list of speakers, and their statements, is available [here](#).

House E&C Committee Passes Legislation to Establish AI Pilot Program

On December 6, 2023, the House Energy and Commerce (E&C) Committee unanimously approved the Consumer Safety Technology Act ([H.R. 4814](#)), which would establish a pilot project at the Consumer Product Safety Commission (CPSC) “exploring the use of artificial intelligence to track injury trends, identify hazards, monitor recalls, or identify products not meeting importation requirements.”

The bill is sponsored by Reps. Darren Soto (D-FL), Michael Burgess (R-TX), Lori Trahan (D-MA) and Brett Guthrie (R-KY).

House and Senate Forge Ahead on AI Hearings

AI Leadership/Innovation: On December 13, 2023, the House E&C Committee held its first AI [hearing](#) at the Full Committee level following its Subcommittee series, featuring testimony from the [U.S. Department of Energy \(DOE\)](#), [U.S. Department of Health and Human Services \(HHS\)](#) and the [Commerce Department](#). During the hearing, Chair Cathy McMorris Rodgers (R-WA) and Ranking Member Frank Pallone (D-NJ) emphasized the need for the White House and Congress to work together to enact a national privacy standard to set the stage for AI regulation. Members echoing the need for a federal standard include Reps. Gus Bilirakis (R-FL), Kathy Castor (D-FL), Bill Johnson (R-OH), Darren Soto (D-FL), Yvette Clarke (D-NY) and Lori Trahan (D-MA).

Agriculture: On November 14, 2023, the Senate Agriculture Committee held a [hearing](#) titled, “Innovation In American Agriculture: Leveraging Technology And Artificial Intelligence.” During the hearing, Chair Debbie Stabenow (D-MI) underscored the need to pass a Farm Bill that leverages technology and AI and invests in related research.

Ageing: The Senate Aging Committee recently held a [hearing](#) titled, “Modern Scams: How Scammers Are Using Artificial Intelligence & How We Can Fight Back.” During the hearing, Chair Bob Casey (D-PA) announced the release of the Committee’s [Fraud Book](#), which notes the role AI and social media play in how scammers target older Americans, specifically highlighting the rise of deepfakes and voice cloning technologies that mimic family members.

Foreign Relations: On November 15, 2023, the Senate Foreign Relations Committee held a [hearing](#) titled, “U.S. Leadership On Artificial Intelligence In An Era Of Strategic Competition.” During the hearing, witnesses acknowledged the importance of maintaining global leadership in AI innovation and engaging with allied partners on research and development (R&D) investment, harmonized standards and interoperability. Chair Ben Cardin (D-MD) called on the State Department to take the lead on harnessing the power of AI technologies, and Ranking

Member Jim Risch (R-ID) discussed the importance of integrating AI and data into diplomacy and policy-making approaches.

Health: On November 29, 2023, the House E&C Committee’s Health Subcommittee held a hearing to examine how AI is changing health care. During the hearing, lawmakers on both sides of the aisle recognized that AI would help physicians avoid burnout, navigate workforce shortages in the industry and increase the efficiency of the health care system. Ranking Member Frank Pallone (D-NJ) echoed the call for information and privacy protections, especially around medical data.

Implementation and Procurement: On December 6, 2023, the House Oversight and Accountability Committee’s Cybersecurity, Information Technology and Government Innovation Subcommittee held a hearing to examine White House policy on AI. During this hearing, Subcommittee Chair Nancy Mace (R-SC) discussed the Office of Management and Budget’s (OMB) draft guidance on government use of AI, expressing skepticism that federal agencies will keep to the timetable of actions outlined in both the EO and OMB guidance. Subcommittee Ranking Member Gerry Connolly (D-VA) reflected on the need for the U.S. to maintain its competitive edge in AI over China.

Telecommunications: On November 14, 2023, the House E&C Committee’s Communications and Technology Subcommittee held a hearing titled, “Leveraging AI To Enhance American Communications.” During the hearing, Subcommittee Chair Bob Latta (R-OH), Chair McMorris Rodgers and Ranking Member Pallone echoed the call to establish a national data privacy standard. Subcommittee Ranking Member Doris Matsui (D-CA) applauded the Biden administration’s efforts to issue the AI EO, whereas Chair Rodgers criticized the EO for not taking a “market-driven approach.”

Homeland Security: On December 12, 2023, the House Homeland Security Committee’s Cybersecurity Subcommittee held hearing titled, “Considering DHS’ and CISA’s Role in Securing Artificial Intelligence.” During the hearing, witnesses discussed how to build off of recent federal policy efforts such as President Biden’s AI EO, including engaging with international standards setting bodies, reaffirming the U.S.’s commitment to digital trade standards and ensuring CISA is adequately funded.

Lawmakers Introduce Standalone AI Bills

- On November 15, 2023, Sen. John Thune (R-SD) unveiled his long-awaited AI certification bill—the Artificial Intelligence Research, Innovation and Accountability Act (S. 3312; one-pager available here). The legislation outlines content provenance and detection standards to be developed by the National Institute of Standards and Technology (NIST). NIST is also tasked with developing recommendations for federal agencies on guardrails for “high-risk” AI systems and provides new definitions of “generative,” “high-impact” and “critical impact” systems, with distinctions made between developers and deployers. The bill requires companies deploying “critical-impact AI” to conduct risk assessments and submit transparency reports to the Commerce Department. The bill is co-sponsored by Sens. Amy Klobuchar (D-MN), Roger Wicker (R-MS), John Hickenlooper (D-CO), Shelley Moore Capito (R-WV) and Ben Ray Lujan (D-NM).
- Rep. Tom Kean (R-NJ) has introduced the AI Labeling Act of 2023 (H.R. 6466), which would direct NIST to form a working group to identify AI-generated content and establish a framework on AI labeling; require generative AI developers to clearly identify AI-generated content; ensure that developers are taking responsible steps to prevent content publication without disclosures; and establish a working group between government and industry to identify best practices for distinguishing AI-generated content.

- Rep. Mike Gallagher (R-WI) has introduced a [bill](#) directing DOD to establish a working group to develop and coordinate an AI initiative among the Five Eyes countries.
- On November 14, 2023, Sen. Maggie Hassan (D-NH) introduced the Upskilling and Retraining Assistance Act ([S. 3296](#)), which would update the tax code by expanding the tax exclusion from \$5,250 to \$12,000 for the next two years and include the cost of education-related tools and technology, with the goal of attracting and retaining a workforce skilled in AI and other emerging technologies.

House and Senate AI Caucus Members Participate in AI Summit

On December 5, 2023, The Messenger held a [summit](#) titled, “AI: Balancing Innovation and Regulation.” The forum featured remarks from Reps. Jay Obernolte (R-CA) and Don Beyer (D-VA), the Vice Chairs of the Congressional AI Caucus. Rep. Obernolte spoke about challenging the AI Learning Curve, and Rep. Beyer discussed the next steps to AI legislation. The summit also featured remarks from Sen. Todd Young (R-IN), who reflected on AI’s impact on U.S. competitiveness, along with Defense Advanced Research Projects Agency (DARPA) Director Kathleen Fisher, U.S. Securities and Exchange Commission (SEC) Chair Gary Gensler, and NIST Director Laurie Locascio, alongside major industry partners.

Health Care

FDA Requests Input on Use of AI for Diabetes Detection

The Food and Drug Administration’s (FDA) Center for Devices and Radiological Health (CDRH) [issued a Request for Information \(RFI\)](#) seeking information on how AI/ML may help with early detection of risk factors for type 2 diabetes, prediabetes and undiagnosed diabetes. The RFI includes several questions targeting identifying ongoing efforts to advance early detection of diabetes, including how technologies capture biomarkers and how they can be used to ensure health equity. The public comment period will end on January 31, 2024.

Judicial Action & Administrative Proceedings

Amended Complaints Filed in Copyright Cases

After the order by U.S. District Judge William Orrick (N. D. Cal.) dismissing many copyright claims against AI image generators in *Andersen v. Stability AI*, the plaintiffs [filed an amended complaint](#) on November 29. As discussed last month, Judge Orrick allowed plaintiffs to amend the complaint to address some issues, such as specifying which copyrighted images are involved and providing more definite allegations of whether the generated images are “substantially similar” to the original works and should be considered derivatives of those works. The new complaint includes some “visually similar” examples of specific works, but largely reiterates similar claims as the previous complaint. Beyond the issues identified by Judge Orrick, the amended complaint adds additional plaintiffs and a new defendant.

On December 11, the plaintiffs in *Kadrey v. Meta* [also filed an amended complaint](#) following U.S. District Judge Vince Chhabria’s (N. D. Cal.) order dismissing all claims, except for unauthorized copying (i.e., direct infringement). The amended complaint focuses on the remaining direct infringement claims and adds additional allegations around the use of the Pile

and Books3 data sets. In a case with a nearly identical original complaint, *Silverman v. OpenAI*, U.S. District Judge Araceli Martínez-Olguín (N. D. Cal.) heard argument over whether to dismiss claims and indicated that she may follow Judge Chhabria’s lead.

Copyright Office Denies Copyright to Photograph Stylized Using AI

On December 11, the Review Board of the United States Copyright Office affirmed its refusal to register artwork created by using AI to create an image from a photograph in the style of Vincent van Gogh’s *The Starry Night* in response to a second request for reconsideration. The work was created by providing an AI with an image taken by the user and an image of van Gogh’s painting, then selecting a value for the strength of style the user wanted transferred. The input images and output are depicted below.



The Board’s response to the first request for reconsideration, decided last year, determined that the work, a digital adaptation of a photograph, was a “classic example of derivative authorship.” Analyzing the output as a derivative work, the Board concluded that the new aspects of the work did “not contain enough original human authorship” because they were generated by AI.

In this ruling, the Board did not change its position that the work is a derivative of the original photo. The Board focused on authorship and described user’s selection of a single variable “as the kind of *de minimis* authorship not protected by copyright,” likening it to digital edits—which are ineligible for protection unless they add substantial new authorship. Ultimately, the Board determined that the user did not exert sufficient creative control over the output to meet the human authorship requirement and the user’s choices “only constitute an unprotectable idea” rather than an expression of that idea.

State Action

California

On November 27, the California Privacy Protection Agency (CPPA) revealed its first draft on automated decision-making technology (ADMT) regulations in an effort to create new protections for employees and consumers. The draft ADMT regulations would govern businesses and their usage of decision-making technology, aiming to establish protections against consumer profiling (including employees) and the use of AI. Employers would be required to notify applicants and employees that an employment decision was based on ADMT. Employees and applicants would also have a right to access information about the way in which ADMT was used. At the CPPA board meeting on December 8, 2023, the board determined that the

proposed regulations were not ready for formal rulemaking and will return to subcommittee in order to incorporate feedback from board members. The board indicated that it may take several drafts before the regulations are ready for formal rulemaking.

New Jersey

On November 17, 2023, New Jersey Governor Phil Murphy released [a new policy](#) for state employees who use generative AI. The new policy instructs state employees to experiment with several prompts and fact-check the output that is generated. The policy also requires that state employees should disclose the use of generative AI and refrain from prompting AI models with sensitive or confidential information.

South Carolina

On November 13, 2023, the South Carolina House Speaker Murrell Smith [announced](#) the formation of a new House Committee led by Representative Jeff Bradley. The committee will study AI, cybercrime and cybersecurity in the state. The committee is intended to become the first standing committee to address the “good and bad associated with quick moving advancements in AI technology.” The panel consists of nineteen total members.

Industry Action



Industry Submits Feedback on OMB Draft Guidance on Agency Use of AI

On December 5, 2023, the deadline closed for public comments on the OMB’s draft memorandum titled, “Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence (AI).” Among the submissions is a [request](#) for a 60-day extension in the public comment period from coalition of industry groups. Additional submissions from industry groups are below (all comments available [here](#)).

BSA-The Software Alliance: In its [comments](#), BSA, at a high level, calls on OMB to (1) ensure uniform application of the definitions of rights-impacting and safety-impacting AI across federal agencies; (2) better leverage the NIST AI Risk Management Framework (RMF); (3) refine the agency’s minimum risk management practices; and (4) revise the memo’s procurement recommendations, among other things.

U.S. Chamber: In its [comments](#), the U.S. Chamber outlined the need for OMB to seek feedback on aligning the guidance with existing Federal Acquisition Regulations (FAR), refine its definition of “rights-impacting,” align regulatory terms to industry-specific AI definitions and terminology, and add language so waivers can be issued to protect organizations’ exposure to sensitive or other protected information, among other things.

TechNet: In its [comments](#), TechNet outlined the need for agencies to utilize existing legal requirements when considering AI management practices and seek to build upon legal precedent and ensure that any “opt-out” requirements for AI systems are narrowly tailored to avoid undermining effective AI research and deployment.

OpenAI Restructures Board

On November 29, OpenAI [announced](#) a new board of directors. The new board consists of Bret Taylor as chair, who previously worked for Google, Facebook, Twitter and Salesforce; Larry Summers, former United States Secretary of the Treasury; and Adam D’Angelo, CEO of Quora. In addition to the change in membership, Microsoft now holds a non-voting observer position

on the board. According to [messages from CEO Sam Altman and Bret Taylor](#), the new board's first tasks will include building out a larger board of individuals with diverse perspectives and improving the company's governance structure.

Research Indicates AI Benefits Legal Analysis

On November 9, law professors released a paper detailing the results of the first [randomized controlled trial](#) studying the effect of AI assistance on legal analysis. Comparing students with or without AI assistance across a set of legal tasks, the research found that AI consistently increased speed and, to varying extents, improved the quality of work. An [earlier paper](#) by the group found that AI performed around the level of a C+ student on law school exams.

IBM and Meta Announce Formation of AI Alliance

On December 5, IBM and Meta [launched](#) the AI Alliance, a group formed to support open innovation and science in AI while prioritizing responsible practices, safety, diversity, economic opportunity and benefit to all. The Alliance plans to form working groups across major AI areas and to partner with public and non-profit AI initiatives. Other partners and collaborators include, among others, AMD, CERN, Cornell University, Dell, Hugging Face, Imperial College London, Intel, NASA, NYU, Sony, Stability AI and the University of Tokyo.

Google Launches Long-Awaited Gemini Foundation Model

On December 6, Google [unveiled](#) Gemini, its next-generation multimodal model developed by Google DeepMind. As a multimodal model, Gemini works with more than just text and can function across images, video, audio and code. Google released several videos [demonstrating](#) Gemini's ability to assist in a variety of tasks in fields ranging from science to fashion. There are three versions of Gemini, scaled to different uses ranging from an efficient model for on-device use to the largest model for complex tasks. Gemini Pro is available now through [Google Bard](#) and through several [developer tools](#), with the other versions of Gemini coming later.

Apple Releases Machine Learning Framework

On December 6, Apple [released](#) MLX, a framework for running models on Apple hardware, and MLX Data, a deep learning model library. MLX is not, by itself, an AI product, but is a tool for developers to build with. With these tools, developers may be able to create and train AI models on supported hardware.

Amazon Unveils Amazon Q

On November 28, 2023, Amazon [unveiled](#) its enterprise chatbot, Amazon Q. According to the company, Amazon Q aims to assist employees with tasks like summarizing documents and answering basic consumer questions about company policies.

Mistral Delivers Open-Source AI Model

On December 8, 2023, Mistral AI posted a torrent link to download its most recent open-source model, Mixtral 8x7B. Following this no-fanfare release, Mistral AI published [information](#) about the release. Like many prominent models, Mixtral uses a "mixture-of-experts" architecture composed of 8 sets of parameters (i.e., "experts") that process requests. Benchmarks indicate that Mixtral performs favorably compared to similar models.

Microsoft Forms Tech-Labor Partnership on AI

On December 11, 2023, Microsoft and the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) announced a first-of-its-kind partnership between a labor

organization and a technology company. The partnership will focus on the relationship between AI and the needs of workers, in order to include their voices. To achieve this, the partnership set three goals:

- AI education, including in-depth information on AI technology.
- Incorporating labor leader and worker input in AI development.
- Helping shape public policy that supports workers and skill development.

In addition to these goals, the partnership includes an agreement providing a neutrality framework for worker organizing by affiliated unions.

Cloud Security Alliance Launches AI Safety Initiative

On December 12, 2023, the Cloud Security Alliance (CSA) announced the launch of the AI Safety Initiative in partnership with Amazon, Anthropic, Google, Microsoft and OpenAI. The group is joined by a coalition of experts from CISA, other governments and academia.

OpenAI Forms Partnership with Journalism Publishing House

On December 13, OpenAI and Axel Springer— a digital publisher that owns *Politico*, *Business Insider* and other well-known journalism brands—announced a global partnership to strengthen independent journalism. The partnership will enhance ChatGPT with summaries of recent news and content, while including attribution and links to the source material. Axel Springer's content will be used to train OpenAI's advanced models and OpenAI will help Axel Springer build on its technology.

EU and U.K. Updates



EU Agrees on AI Act Following Marathon Trilogue Negotiations

On December 8, 2023, EU officials reached an agreement on the AI Act, the world's first comprehensive legislation regulating AI. The trilogue (discussions between the European Parliament, Commission and Council) resulted in a political agreement following marathon negotiations that began on December 6 and culminated in a deal late on December 8. Although lawmakers reached an agreement, the final draft is not yet available because the provisions and technical details still need to be drafted and finalized.

The EU Parliament's overview of the agreement indicates that several sticking points were resolved and the Act will include:

- Bans on systems imposing unacceptable risk, such as social scoring, user manipulation, untargeted scraping of facial images from the internet or CCTV footage and certain emotion recognition systems.
- Strict obligations for high-risk systems, classified as high-risk due to their significant potential harm to health, safety, fundamental rights, environment, democracy and the rule of law, including a right for citizens to receive explanations about decisions based on high-risk AI systems that impact their rights.
- New obligations, including on transparency, on general purpose AI, in line with a two-tiered approach, with more stringent obligations on high-impact models with systemic risk.

- Limits on law enforcement use of biometrics with narrow exceptions.
- Support for innovation, such as regulatory “sandboxes” and “real-world-testing.”
- Fines up to 7% of global turnover for non-compliance.

We anticipate the final draft will be available in early 2024, with a vote on the Act likely held in the spring before EU Parliamentary elections in June 2024. Akin’s preliminary coverage is available [here](#).

United States, UK and Australia to Test AI Systems to Track Chinese Submarines

On December 2, 2023, the United States, U.K. and Australia [announced](#) that they would begin testing AI algorithms to track Chinese submarines in the Pacific Ocean with more speed and accuracy, as part of the trilateral Australian-U.K.-U.S. (AUKUS) technology-sharing agreement. Using sonar data gathered by U.S., UK and Australian sonobuoys, the AI system will rapidly process that data to better understand where Chinese submarines are moving undersea, “allow[ing] for timely high-volume data exploitation,” according to a joint statement of the three countries’ defense chiefs.

Microsoft to Invest \$3.2 Billion in the UK AI Industry

On November 30, 2023, Microsoft and the U.K. [announced](#) a three-year investment into the U.K.’s AI industry, totaling \$3.2 billion. Characterized as the “single largest investment in its 40-year history in the country,” the bulk of Microsoft’s spending will focus on growing its U.K. data center footprint and “training more than one million people for the AI economy.” The company also plans to “support[] the UK’s growing AI safety and research efforts through partnerships with the government and leading universities.”

In the announcement, U.K. Prime Minister Rishi Sunak made a reference to the [AI Safety Summit](#) and said, the “UK started the global conversation on AI earlier this month, and Microsoft’s historic investment is further evidence of the leading role we continue to play in expanding the frontiers of AI to harness it’s economic and scientific benefits.”

United States, UK, and others Unveil International Agreement on Keeping AI “Secure by Design”

On November 27, 2023, the United States, the U.K. and 16 other countries [unveiled](#) what one U.S. official described as the “first detailed international agreement” on keeping AI safe from rogue actors. The [agreement](#) is nonbinding and includes general recommendations for designing, developing and deploying AI with security in mind, with recommendations including maintaining an “awareness of relevant security threats and failure modes,” developing “incident management procedures,” assessing the “appropriateness of your AI-specific design choices” and more.

On the release of the guidelines, director of CISA Jen Easterly said, “This is the first time that we have seen an affirmation that these capabilities should not just be about cool features and how quickly we can get them to market or how we can compete to drive down costs . . . [the guidelines are] an agreement that the most important thing that needs to be done at the design phase is security.”

UK’s Cybersecurity Centre says AI Poses a ‘Significant Area of Risk’ to UK Elections

On November 14, 2023, the UK's National Cyber Security Centre published its [Annual Review](#), which warned that AI poses a number of risks to the U.K.'s upcoming election, which will be held, at the latest, by January 2025. In particular, the Centre warned that “large language models will almost certainly be used to generate fabricated content, AI-created hyper-realistic bots will make the spread of disinformation easier and the manipulation of media for use in deepfake campaigns will likely become more advanced.”

China Updates



White Paper on Innovative Application of Large Models in the AI Industry in Beijing

On November 29, 2023, the Beijing Municipal Science and Technology Commission and Zhongguancun Science and Technology Park Management Committee issued a [White Paper](#) at the Artificial Intelligence Creative Community (AICC) 2023 Artificial Intelligence Computing Conference. The White Paper sorts large-scale model application cases in Beijing into six industry fields including government affairs, finance, medical care, traditional industry empowerment, cultural tourism and smart cities. The White Paper also conducts a detailed analysis of user needs, solutions and project results. Based on case analysis, the White Paper further points out the challenges currently faced by the implementation of large model applications, such as short supply of computing resources.

National Security Challenges Raised by Artificial Intelligence

On November 16, 2023, the Ministry of National Security published an [article](#) titled, “How to Resolve the National Security Challenges Brought by Artificial Intelligence,” which pointed out that while artificial intelligence technology is widely used, the potential risks and challenges it contains cannot be ignored. The article notes that AI is likely to profoundly change the national security landscape in the near future—including data theft risks, cyber-attack risks, economic security risks, military security risks and other risks. The article further proposes that a solid national security barrier can be built to deal with these risks by improving laws and regulations, promoting global governance, and continuously promoting the modernization of national security systems and capabilities.

Measures in Shanghai to Promote the Innovative Development of Large-Scale AI Models

On November 7, 2023, the Shanghai Municipal Economic and Information Technology Commission, the Shanghai Municipal Development and Reform Commission and three other local bureaus jointly issued [measures](#) to promote the development of large-scale AI models in Shanghai. The Shanghai local government will support the introduction of relevant high-tech enterprises into Shanghai, support Shanghai enterprises to develop large models that are internationally competitive, and encourage the formation of a data flywheel to accelerate model iteration.

Shanghai will provide special rewards to those who achieve major results in the large-scale AI model field. It also plans to build a national large model testing, verification, and collaborative innovation center, as well as encourage large model innovation enterprises to rely on the center to carry out relevant testing and evaluation projects. In addition, the measures support development of AI hardware, software, and the application of large-scale AI models in various industries (e.g., biotech, fintech, autonomous vehicles and robotics).

Court Recognizes Copyright in AI-Generated Work

On November 23, 2023, the Beijing Internet Court [ruled in favor](#) of a plaintiff who claimed copyright in an image generated by AI. In its [first copyright decision](#) concerning AI-generated content, decided in 2019, the Court held that generated content is not a protectable work because works must be created by a natural person and that the content at issue—automatically generated reports and analytics—is not an original expression of a person’s thoughts.

In this case, the Court determined that a generated image qualified as a work based on the plaintiff’s selection of prompts and parameters to arrive at the final image. These steps were enough to reflect the plaintiff’s original intellectual investment and personal judgment, thereby qualifying as a work protected by copyright. Such determinations remain a case-by-case basis and depend on the nature of how the content is generated.

On Air with Akin



You can listen to this episode and previous episodes wherever you consume podcasts. Subscribe and listen to OnAir with Akin via [iTunes](#), [SoundCloud](#), [YouTube](#), [Spotify](#), or [Google](#) podcasts:

[Artificial Intelligence \(AI\) Executive Order | Akin Intelligence](#) (November 22, 2023)

Akin Thought Leadership



[Political Deal on the EU AI Act: A Milestone but the Journey Continues](#) (December 12, 2023)

[Lawmakers Advance Artificial Intelligence Provisions in Must-Pass Defense Bill](#) (December 7, 2023)

[President Biden’s AI EO: Key Takeaways for Cybersecurity & Data Privacy](#) (December 1, 2023)

[Digital Lords Committee Hears Evidence From Artificial Intelligence \(AI\) Firms and Regulators](#) (November 22, 2023)

[Timeline: Executive Order on the Safe, Secure and Trustworthy Development and Use of Artificial Intelligence](#) (November 13, 2023)

[President Biden's AI EO: Key Takeaways for Health Care & Life Sciences](#) (November 9, 2023)

[Exploring government action on AI: State attorneys general define priorities](#) (November 9, 2023)

[President Biden Issues Long-Awaited Artificial Intelligence Executive Order](#) (October 30, 2023)

[Akin IP Lawyers Author Article on Safeguarding Fund Data and IP When Using AI](#) (October 23, 2023)

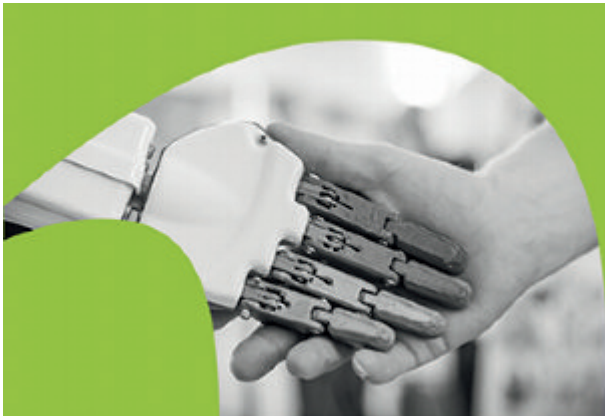
[Rising AI Use Paired With Layoffs Invites Age Bias Litigation](#) (October 17, 2023) (Paywall)

[Embracing AI in Private Funds: Emerging AI Technology and Valuable Legal- and Compliance-Related Applications](#) (October 16, 2023)

[Firms Taking Cautious Approach To AI-Assisted Lobbying](#) (October 16, 2023) (Paywall)

[Newsom on GenAI: Executive Order Mandates Ethical Innovation in View of Risk](#) (October 5, 2023)

[AI Concerns of WGA and SAG-AFTRA: What Is Allowed?](#) (October 2, 2023)



Learn more about Akin's Artificial Intelligence & Machine Learning practice.

[Learn More >](#)

Questions?

If you have any questions, please contact:



Shiva Aminian
[Email](#)
Los Angeles, CA
+1 310.552.6476



Nathan A. Brown
[Email](#)
Washington, D.C.
+1 202.887.4245



Desiree E. Busching
[Email](#)
New York, NY
+1 212.872.1061



Cono A. Carrano
[Email](#)
Washington, D.C.
+1 202.887.4136



Davina Garrod
[Email](#)
London
+44 20.7661.5480



Jingli Jiang
[Email](#)
Washington, D.C.
+86 10.8567.2229



Jaelyn Edwards Judelson
[Email](#)
Los Angeles, CA
+1 310.552.6477



Michael P. Kahn
[Email](#)
New York, NY
+1 212.872.1082

Natasha G. Kohne
[Email](#)

Lauren Leyden
[Email](#)



San Francisco, CA
+1 415.765.9505



New York, NY
+1 212.872.8172



Ed Pagano
[Email](#)
Washington, D.C.
+1 202.887.4255



Michelle A. Reed
[Email](#)
Dallas, TX
+1 214.969.2713



Hans C. Rickhoff
[Email](#)
Washington, D.C.
+1 202.887.4145



Corey W. Roush
[Email](#)
Washington, D.C.
+1 202.887.4115



David C. Vondle
[Email](#)
Washington, D.C.
+1 202.887.4184



Lamar Smith
[Email](#)
Washington, D.C.
+1 202.716.9622



Reggie Babin
[Email](#)
Washington, D.C.
+1 202.887.4140



Jenny Arlington
[Email](#)
London
+44 20.7012.9631



Alan M. Hayes
[Email](#)
Washington, DC
+1 202.887.4272



Brooke Davies
[Email](#)
Geneva
+41 22.888.2041



Ryan Dowell
[Email](#)
New York, NY
+1 212.872.1028



Megan R. Mahoney
[Email](#)
New York, NY
+1 212.872.8143



Jaylia Yan
[Email](#)
Washington, D.C.
+1 202.887.4226



Jan Walter
[Email](#)
Geneva
+44 22.888.2042



Taylor Daly
[Email](#)
Washington, DC
+1 202.416.5541



Joseph Hold
[Email](#)
Washington, D.C.
+1 202.887.4007

Receipt of this information does not create an attorney-client relationship. Do not act upon this information without seeking professional counsel. All content is presented by Akin and cannot be copied or rebroadcasted without express written consent. Akin is the practicing name of Akin Gump LLP, a New York limited liability partnership authorized and regulated by the Solicitors Regulation Authority under number 267321. A list of the partners is available for inspection at Eighth Floor, Ten Bishops Square, London E1 6EG. For more information about Akin Gump LLP, Akin Gump Strauss Hauer & Feld LLP and other associated entities under which the Akin network operates worldwide, please see our [Legal Notices](#) page.

[Update Your Preferences](#) | [Subscribe](#) | [Unsubscribe](#) | [Forward to a Friend](#) | [Legal Notices](#) | [Privacy Policy](#)

This email was sent by: 2001 K Street, N.W., Washington, DC 20006-1037