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# **YOUR LIKENESS IN THE AGE OF AI**

*Deepfakes, digital replicas, and the fast-moving  
law of synthetic identity*

**BRANDON LEOPOLDUS, ESQ.**

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**YOUR IDENTITY IS  
STILL YOURS,  
EVEN WHEN A  
MACHINE CAN  
FAKE IT.**

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**BRANDON LEOPOLDUS, ESQ.**

*Founder, Leopoldus Law, APC. Former professional baseball umpire.*

# A SNAPSHOT OF A MOVING TARGET. CONFIRM THE CURRENT LAW BEFORE YOU ACT.

Artificial intelligence can now manufacture a convincing version of you out of nothing: your face saying words you never said, your voice endorsing a product you never touched, your likeness placed in a scene you were never in. For an athlete whose identity is a valuable asset, this is both a new threat and, handled right, a set of new protections.

The technology has outrun the law, and the law is now racing to catch up. This guide explains why the older right-of-publicity law still applies but no longer covers the whole problem, the new wave of digital-replica laws written specifically for this moment, and what to do now, both in your contracts and in response when your likeness is misused.

**One idea holds through all the change. Your identity is still yours, even when a machine can fake it; the tools to protect it are new and evolving, but the underlying right is not.**

## BRANDON LEOPOLDUS, ESQ.

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*Current as of mid-2026. This area is changing faster than any other in this series; confirm the current law before you rely on anything here. This guide is educational and is not legal advice.*

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**THE MACHINE CAN  
FAKE YOU. IT  
CANNOT  
OWN YOU UNLESS  
YOU LET IT.**

YOUR LIKENESS IN THE AGE OF AI

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Followed by a note about the author, endnotes, and how to reach us.

# 1

CHAPTER ONE

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## WHAT SYNTHETIC MEDIA ACTUALLY DOES

*The threat in plain terms, and why fidelity and scale change everything*

# A CONVINCING VERSION OF YOU, OUT OF NOTHING

## UNDERSTANDING THE THREAT IS THE FIRST DEFENSE

Generative AI can now produce a "digital replica," a realistic, computer-generated version of your voice, your face, or your whole likeness, convincing enough to fool an ordinary viewer. It can make you appear to say things, do things, endorse things, and be places, all fabricated, and it can do this at scale, cheaply, and fast, from nothing more than the public images and recordings of you that already exist.

The harm comes in several shapes: a synthetic version of you sold as an endorsement, used to defame or humiliate, used to defraud your fans, or simply flooding the world with fake versions of you that dilute your real identity. What makes it different from the older misuse problems is that there is no real photograph and no real recording to point to. The older law assumed using your image meant using something real that captured you. Synthetic media manufactures you from scratch, and that break is exactly the gap the new laws are being written to fill.



### DID YOU KNOW?

A private person may be hard to fake for lack of source material. A well-known athlete, with years of broadcast footage and interviews, is not. The visibility that makes you marketable is the visibility that makes you easy to synthesize.

# FIDELITY AND SCALE CHANGE EVERYTHING

## TWO FEATURES MAKE THIS NEW IN KIND, NOT JUST IN VOLUME

Two features of the technology make the threat qualitatively different from anything that came before. The first is fidelity: modern replicas can be convincing enough that an ordinary person, and sometimes even people who know you, cannot tell the fake from the real. That erases the old comfort that an imitation was obviously an imitation. The second is scale: where a fake once took a skilled forger real effort, a tool can now generate unlimited variations of you in minutes, from a laptop, for free.

Fidelity means each fake does more damage; scale means there can be endless fakes. Together they overwhelm a legal system built for discrete, identifiable, effortful misuses, and they explain why simply applying the old rules, while necessary, is not sufficient. The problem is new in kind and new in volume, and both dimensions matter to how you protect yourself.

**A SKILLED FORGER ONCE NEEDED  
REAL EFFORT.  
A TOOL NOW NEEDS A LAPTOP  
AND MINUTES.**

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CHAPTER TWO

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## THE OLD LAW, AND WHERE IT RUNS OUT

*Publicity and voice-appropriation still apply; the gaps the new laws fill*

# YOUR EXISTING RIGHTS STILL WORK

## THE PROVEN TOOLS WORK TODAY, BEFORE ANY NEW STATUTE

Your right of publicity still governs the commercial use of your identity, and it does not require a real photograph. In California the statute reaches the unauthorized use of your name, voice, or likeness to advertise or sell, and carries a damages floor and attorney's fees.<sup>1</sup> A synthetic version of you used in an advertisement is still a commercial use of your identity, and the statute can reach it.

The voice cases matter enormously here, because they were, in effect, the first synthetic-identity cases. Decades before modern AI, a court held that deliberately imitating a distinctive, widely known professional voice to sell a product was an appropriation of identity, even though the voice was a human sound-alike rather than the real person.<sup>2</sup> That principle translates directly to a machine-generated imitation. Where the synthetic use implies you endorse a product, a federal false-endorsement claim may also apply.<sup>3</sup>

There is a strategic reason to reach for the old law first. It is well developed, widely understood by courts, and, in California, backed by fee-shifting that makes a demand letter bite. A new digital-replica statute may be untested. In many cases the fastest, most reliable path to stopping a commercial fake is the established right you have always held, with a newer statute as reinforcement.

# WHERE THE OLD LAW RUNS OUT

## THE GAP ATHLETES MOST WANT CLOSED, AND THE LAW STRUGGLES MOST WITH

The older right of publicity was built around commercial use, using your identity to sell. That framing leaves real gaps exactly where athletes are most exposed.

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### THE NON-COMMERCIAL DEEFAKE

A fabricated video that humiliates or defames you but sells nothing can fall outside publicity law, pushing you onto defamation and its demanding public-figure standard.

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### THE "NO REAL IMAGE" PROBLEM

Older doctrines were built around real photographs and recordings; a purely synthetic creation raises questions the old framework never anticipated.

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### SCALE AND SPEED

The old remedies assume a discrete misuse you can pursue one at a time. Synthetic media can generate endless variations instantly.

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### THE PLATFORM AND THE TOOL

The old law aimed at the person who used your identity. Synthetic misuse implicates the platform and the tool, and reaching those requires new legal hooks.

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Because publicity law is built around commercial use, a fabricated video that damages you without advertising a product can fall outside it, pushing you back onto defamation, where as a public figure you must prove a knowing or reckless falsehood, and where the fabricator may be anonymous or judgment-proof. This is precisely the gap the new digital-replica laws aim at.

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CHAPTER THREE

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## **THE NEW LAW: STATES FIRST, FEDERAL NEXT**

*California, the ELVIS Act, the patchwork, and the NO FAKES Act*

# THE NEW STATE DIGITAL-REPLICA LAWS

## STATES MOVED FIRST AND FASTEST; TREAT SPECIFICS AS A SNAPSHOT

A growing patchwork of digital-replica laws now exists. Two states illustrate the shape of it.

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### **CALIFORNIA: REPLICAS OF THE LIVING AND THE DEAD**

One law bars the unauthorized creation of a digital replica of a deceased personality's voice or likeness without the estate's consent.<sup>4</sup> Another voids a contract clause letting a company create and use a digital replica of a performer in place of work, where the use is not specifically described and the performer lacked counsel or a union.<sup>5</sup> Together they protect the dead against digital resurrection and the living against signing their synthetic selves away.

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### **TENNESSEE: THE ELVIS ACT AND THE PROTECTED VOICE**

Tennessee added the voice itself to protected identity rights, expressly including simulations, and created liability for making available a tool whose primary purpose is producing an unauthorized replica.<sup>6</sup> Reaching the tool, not just the misuser, is where this body of law is heading.

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### **THE PATCHWORK PROBLEM**

Other states have their own versions, with different definitions, protections, durations, and remedies. For an athlete whose likeness travels everywhere the internet does, that patchwork is genuinely hard to navigate, and it is the main argument for a single federal standard.

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# THE FEDERAL PICTURE: A LAW STILL BEING WRITTEN

## DO NOT WAIT FOR IT, BUT KNOW WHERE IT IS HEADING

The leading federal effort is the NO FAKES Act, a bill to create a nationwide right against unauthorized digital replicas of a person's voice and likeness, with a takedown mechanism modeled on copyright practice and carve-outs for news, parody, and criticism.<sup>7</sup> As of mid-2026 it is a pending bill, advanced from committee toward the full Senate but not enacted — a status that will have changed by the time you read this, in either direction.

The tension shaping any final law is between protecting people from synthetic misuse and protecting free expression; critics warn a broad new right could chill satire, commentary, and documentary work if the carve-outs are not carefully drawn. The likely outcome: a federal right in some form, balanced against expression, protecting you reliably against clear misuses (commercial fakes, fraud, deceptive replicas) and less reliably against uses that are genuinely expressive. That is the same commercial-versus-expressive line that runs through all of image law, carried into the synthetic age.

**YOU ARE NOT DEFENSELESS  
WHILE A FEDERAL STATUTE IS  
PENDING. USE WHAT EXISTS NOW.**



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CHAPTER FOUR

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# THE CONTRACT FRONT

*Do not sign away your synthetic self, and the traps to watch for*

# THE RISK YOU CAN ELIMINATE WITH A PEN

## A SIGNATURE IS MORE BINDING THAN A FRAUD

The most immediate and controllable risk is not a rogue deepfake; it is a contract you sign. As synthetic media becomes routine, deals will increasingly ask for the right to create and use a digital replica of you, and a broadly drafted clause can hand a company the power to generate you, forever, for uses you never imagined.

The rogue deepfake feels scarier, dramatic, out of your hands. But it is often addressable after the fact through the tools this guide describes. The digital-replica right you signed away is, by contrast, authorized: you gave permission, and having given it, you may have little recourse when the company uses it in ways you never pictured. That asymmetry is why the contract front, unglamorous next to the specter of a criminal fake, is where an athlete is most likely to actually lose control of their synthetic self — and why reading every deal for AI-likeness language is the highest-value habit in this entire guide.



### THE STANDARD

California voids a digital-replica clause when the permitted uses are not specifically described and the performer lacked professional representation.<sup>5</sup> Read that as a drafting standard wherever you are: specific uses, nothing open-ended, limited time and scope, and your own counsel before you agree.

# THE TRAPS TO WATCH FOR IN AN AI-LIKENESS CLAUSE

## FIVE PATTERNS THAT RECUR IN DRAFTS THAT SEEK TOO MUCH

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**"Any medium now known or hereafter developed."** Means uses that do not yet exist.

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**A right that runs "in perpetuity" or survives the term.** The company can keep generating you after the deal ends.

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**Use "for any purpose."** Converts a defined use into a blank check to make you say or do anything.

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**No approval right over the output.** The synthetic you speaks without your sign-off.

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**Buried in a broader IP or "work product" section.** The right to your digital self smuggled in among boilerplate.

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Each is negotiable, and the remedy is always the same: specific, limited, time-bound, approval-retained, and separately priced. The principle running through every deal in this series applies directly to your digital self: define the scope, reserve everything not granted, and never let open-ended language hand away a valuable right.

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CHAPTER FIVE

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## WHAT TO DO NOW, AND WHEN IT HAPPENS

*The proactive posture, and the response playbook for a live fake*

# THE PROACTIVE POSTURE

THE SAME DISCIPLINE THAT PROTECTS YOUR IMAGE, SHARPENED FOR A FASTER THREAT

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## **CONTROL YOUR CONTRACTS**

Never sign away broad rights to your digital likeness. This is the risk you can eliminate with a pen.

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## **OWN AND REGISTER WHAT YOU CAN**

Trademarks in your name, your handles and domains, and a library of images and recordings you own.

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## **MONITOR FOR FAKES**

You cannot fight what you cannot see. Catch misuse early, while a takedown still matters.

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## **HAVE A RAPID-RESPONSE PLAN**

Decide in advance who documents, who takes down, who assesses claims, who manages reputation.

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## **STAY CURRENT**

A protection posture built on last year's law can miss a new right that would have helped.

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A subtler move: the more control you keep over the authorized images and recordings of you, the better your position against unauthorized synthesis, both practically and legally. Control of the real is part of the defense against the fake.

# WHEN IT HAPPENS: SPEED IS THE WHOLE GAME

## A MISUSE CAUGHT IN A DAY CAN BE CONTAINED

- 1** Document and preserve it immediately, before it is taken down or altered.
- 2** Assess the use: commercial, defamatory, fraudulent, or a mix, because the classification points to which tools apply.
- 3** Send takedowns to the platforms hosting it, using their processes, to contain the spread fast.
- 4** Get counsel to evaluate the claims under current law: publicity, digital-replica statutes, defamation, and any federal right in force.
- 5** Manage the reputational side in parallel; with fakes, the public narrative can matter as much as the legal remedy.

Preservation is the step most often skipped in the panic of the moment and the one most often regretted later. Synthetic content is ephemeral: it can be deleted or altered the instant the poster senses trouble, and once it is gone your ability to prove what happened goes with it. Capture the evidence completely before you send a takedown or make it public.

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CHAPTER SIX

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## TARGETS, FRAUD, AND THE UPSIDE

*Why athletes are targeted, protecting your fans, and licensing on purpose*

# WHY ATHLETES ARE PARTICULAR TARGETS

## VISIBILITY, TRUST, AND MONEY IN THE IDENTITY

Years of broadcast footage and interviews give a cloning tool everything it needs. Fans trust athletes, and a fake endorsement of a betting scheme or crypto scheme converts that trust into someone else's con, with the fraud landing on your name. And because your identity has genuine commercial value, a fake endorsement free to synthesize drives commercial deepfakes directly at recognizable, marketable athletes.

Sports betting, cryptocurrency, and speculative investing are advertised heavily around sports audiences, which makes a fake athlete endorsement of exactly those products both plausible to fans and lucrative to scammers. This is why fan fraud deserves its own attention: your fans lose money and trust, defrauded by something they reasonably believed came from you, and your reputation takes the hit even though you did nothing wrong. Warn your audience clearly and repeatedly how you do and do not communicate, so fakes are easier to spot, and respond fast and publicly when a scam appears.

**PROTECTING YOUR FANS FROM  
FRAUD IN YOUR NAME  
IS, INCREASINGLY, PART OF  
PROTECTING YOUR IMAGE.**

# THE UPSIDE: LICENSING YOUR DIGITAL SELF ON PURPOSE

## THE TECHNOLOGY IS NEUTRAL; CONTROL DECIDES WHO IT BENEFITS

Authorized digital-replica deals are already appearing: a company licenses an AI version of an athlete for content impractical to film, in multiple languages, at scale, or after playing days. Done right, this can extend marketability and create income a purely physical presence never could.

Grant only specifically described uses. Limit the term, media, and scope, and reserve everything not granted. Above all, retain approval over how the digital version of you is used — a synthetic you saying the wrong thing is still you to the audience. A narrow grant with no approval right can still put words in your mouth; a narrow grant with a real approval right keeps your synthetic self accountable to you. Price it as the significant asset it is, and hold the rights in a structure coordinated with your image, entity, and estate planning.



### THINK OF IT LIKE A CATALOG

A real asset that produces income when licensed carefully and loses value when licensed carelessly. Planned into your estate, it can keep working long after your playing career.

A portrait of Brandon Leopoldus, Esq., a man with short brown hair and a slight smile, wearing a dark blue button-down shirt. He is positioned in front of a blurred background that appears to be a computer monitor displaying a website with blue and white text.

— ABOUT THE AUTHOR

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*Founder, Leopoldus Law, APC*

**Brandon Leopoldus umpired in professional baseball before he ever practiced law.** Five leagues. Seven playoff series. Two All-Star games. One championship series. One infamous appearance on SportsCenter. That path, through the minor leagues and an Olympic family, is the lens he brings to every matter at Leopoldus Law, APC.

Leopoldus Law is a sports and entertainment boutique in Culver City, California. Brandon helps athletes and entertainers protect their name, image, likeness, and voice against unauthorized use, including the fast-emerging problem of AI-generated digital replicas, negotiates the AI-likeness terms in modern deals, and coordinates that protection with clients' image, entity, and estate structures. He sits on the board of the Sports Lawyers Association and teaches Sports Law at Loyola Law School.

**The firm works with athletes, entertainers, and the people who advise them. Sports clients only. No exceptions.**

# SOURCES & DISCLOSURES

## A NOTE ON HOW TO USE THIS GUIDE

This guide is educational and current as of mid-2026, and this subject in particular is changing faster than any other in this series. Digital-replica and AI-likeness law is being enacted, amended, and litigated constantly at the state and federal level; the status of proposed federal legislation may have changed, and specifics stated here may already be outdated or may not fit a particular situation or jurisdiction. It is not legal advice, and reading it does not make Leopoldus Law your lawyer. Confirm the current law and have counsel review your situation before you act.

## ENDNOTES

1. Cal. Civ. Code § 3344 (statutory right of publicity; liability for the knowing use of another's name, voice, signature, photograph, or likeness for advertising or selling without consent, with a minimum statutory-damages floor and attorney's fees). This pre-AI foundation still applies to synthetic uses.
2. *Bette Midler v. Ford Motor Co.*, 849 F.2d 460 (9th Cir. 1988) (deliberate commercial imitation of a widely known, distinctive professional singer's voice is a tortious appropriation of identity under California common law).
3. Lanham Act § 43(a), 15 U.S.C. § 1125(a); *Tom Waits v. Frito-Lay, Inc.*, 978 F.2d 1093 (9th Cir. 1992) (false-endorsement claims premised on unauthorized imitation of a distinctive attribute of identity are cognizable).
4. California AB 1836 (2024) (amending the post-mortem right of publicity to bar the unauthorized production or use of a digital replica of a deceased personality's voice or likeness in expressive works without consent of the estate; effective January 1, 2025). Confirm the current statute.
5. California AB 2602 (2024) (rendering unenforceable a contract provision allowing the creation and use of a digital replica of an individual's voice or likeness in place of work they would otherwise have performed, where the use is not specifically described and the individual was not represented by counsel or a union; effective January 1, 2025). Confirm the current statute.
6. Tennessee ELVIS Act, Tenn. Code Ann. § 47-25-1101 et seq. (adding "voice" to the property rights protected against unauthorized use, including simulations, and creating liability for making available an algorithm or service whose primary purpose is producing an unauthorized replica; effective July 1, 2024). Confirm the current statute.
7. NO FAKES Act (Nurture Originals, Foster Art, and Keep Entertainment Safe Act), S. 4591, 119th Cong. (2025-2026) (a proposed federal digital-replication right in an individual's voice and likeness, with a takedown mechanism and First Amendment carve-outs). As of mid-2026 this is a pending bill; confirm its current status before relying on it.

## DISCLOSURES

This guide has been prepared by Leopoldus Law, APC for educational purposes. It is current as of mid-2026 in one of the fastest-moving areas of image law; confirm current statutes before relying on anything here. It is not legal advice, and reading it does not make Leopoldus Law your lawyer.

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