AI: WHAT ASSOCIATIONS NEED TO KNOW NOW

MARCH 7, 2024

LEGAL BEST PRACTICES

✓ **REVIEW FOR AI OUTPUT FOR ACCURACY**

✓ **AVOID COPYRIGHT ISSUES**

✓ **PROTECT PERSONAL AND CONFIDENTIAL DATA**

✓ **ADOPT AN AI POLICY**

✓ **EDUCATE MEMBERS**

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ALWAYS REVIEW AI OUTPUT FOR ACCURACY

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AI OUTPUTS MAY NOT BE ACCURATE

FALSE OUTPUTS MAY BE CAUSED BY:

- INACCURATE OR DATED TRAINING CONTENT

- TRAINING METHODS OR DATA INTRODUCING BIAS

- UNCLEAR USER PROMPTS

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BEST PRACTICES TO MITIGATE THE RISK OF FALSE OUTPUTS

1

ALWAYS FACT CHECK AI OUTPUT

2

EDUCATE EMPLOYEES ABOUT RISKS OF FALSE OUTPUTS

3

ADDRESS RISK IN VENDOR CONTRACTS VIA INDEMNIFICATION AND WARRANTIES CLAUSES

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AVOID COPYRIGHT ISSUES

COPYRIGHT PROTECTS:

ORIGINAL WORKS OF **AUTHORSHIP** FIXED IN A TANGIBLE FORM OF EXPRESSION.

OVER 100 YEARS OF CASE LAW HAS REQUIRED **HUMAN AUTHORSHIP** FOR COPYRIGHT PROTECTION.

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Insert image here

BURROWS-GILES LITHOGRAPHIC CO. V. SARONY
111 U.S. 53 (1884)

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In each case, what matters is the extent to which the human had creative control over the work's expression and "actually formed" the traditional elements of authorship.

COPYRIGHT REGISTRATION GUIDANCE: WORKS CONTAINING MATERIAL GENERATED BY ARTIFICIAL INTELLIGENCE

U.S. COPYRIGHT OFFICE

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OTHER COPYRIGHT ISSUES

✓ **INFRINGEMENT LIABILITY**

✓ **OUTPUT OWNERSHIP**

✓ **TRAINING DATA**

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BEST PRACTICES TO MITIGATE COPYRIGHT RISKS

1

DON'T USE AI TO CREATE CONTENT YOU WANT TO PROTECT.

2

ADOPT BEST PRACTICES FOR USE OF THIRD-PARTY WORKS: GET PERMISSION IN WRITING & SAVE IT.

3

DESCRIBE HOW AI MAY BE USED IN VENDOR CONTRACTS.

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PROTECT PERSONAL AND CONFIDENTIAL DATA

CYBERSECURITY AND AI

USER PROMPTS BECOME TRAINING MATERIAL FOR THE AI TOOL.

USER PROMPTS INCLUDING CONFIDENTIAL INFORMATION COULD BE USED TO TRAIN THE AI TOOL, AND THE AI TOOL COULD ULTIMATELY GENERATE CONTENT THAT DISCLOSES THE CONFIDENTIAL INFORMATION.

AI TOOLS ARE SUBJECT TO CYBERSECURITY VULNERABILITIES JUST LIKE ANY OTHER WEBSITE OR APP.

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BEST PRACTICES TO MITIGATE DATA PRIVACY AND CYBERSECURITY RISKS

1

DO NOT INPUT PERSONAL & CONFIDENTIAL DATA INTO AI TOOLS.

2

COMPLY WITH DATA PRIVACY LAWS.

3

REVIEW AI PRIVACY POLICIES & OPT OUT OF TRAINING DATA, IF POSSIBLE.

4

ADDRESS USE OF AI IN VENDOR CONTRACTS VIA CONFIDENTIALITY CLAUSES.

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ADOPT AN AI POLICY

WHAT TO INCLUDE IN A POLICY ADDRESSING USE OF AI IN THE WORKPLACE

- ✓ EXPLAIN THE RISKS OF AI

- ✓ IDENTIFY THE AI TOOLS THAT MAY BE USED

- ✓ DESCRIBE HOW AI MAY BE USED

- ✓ CLEARLY LIST ANY PROHIBITIONS

- ✓ REQUIRE REVIEW OF ALL AI OUTPUTS

- ✓ PROVIDE TRAINING ON USE OF AI TOOLS

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EDUCATE MEMBERS

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EDUCATE MEMBERS ABOUT THE RISKS OF AI

1. OBLIGATIONS UNDER THE REALTOR® CODE OF ETHICS

2. FALSE OUTPUTS; COPYRIGHT PROTECTION; DATA PRIVACY & CYBERSECURITY

3. AI AND FAIR HOUSING

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AI RESOURCES

- Window to the Law: Legal Tips to Use AI in Your Business

- REALTOR® Magazine: AI Use in Real Estate Comes With Copyright Concerns.

- Washington Report: President Biden Signs Executive Order on Artificial Intelligence

- 2023 PopTech Forecast: Generative AI

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