

AI, Voice, and Right to Image: A New Legal Frontier in Hollywood

In recent months, two major cinema figures, Matthew McConaughey and Michael Caine, have become protagonists of a legal and technological transformation that may redefine personality rights protection in the artificial intelligence era. Both signed agreements with the North American company ElevenLabs, specialized in AI voice cloning, authorizing the use of their voices in licensed and controlled versions for commercial and communication purposes.

McConaughey's step goes even further and is, from a legal perspective, particularly interesting: the actor registered his voice, his image, and even the iconic expression "*alright, alright, alright*" from the film *Dazed and Confused* as registered trademarks with the United States Patent and Trademark Office. The strategy presented constitutes one of the first relevant attempts to use trademark law - which normally identifies and protects products and services - to prevent unauthorized appropriation by AI systems. This approach seems to reflect a paradigm shift: voice and image cease to be merely expressions of personality rights, also becoming treated as industrial property assets, strategically managed and monetized.

This approach aims to address a very concrete dual risk: on one hand, the reputational threat caused by *deepfakes* and unauthorized clones; on the other, the loss of licensing opportunities resulting from third-party economic exploitation of media identities. In a context where AI models are trained from massive datasets - often containing protected material - celebrities and creators appear to seek new legal instruments that reinforce the pillars of consent, attribution, and compensation, shifting the question from "AI yes or no" to "AI under what conditions, what contracts, and what control and remuneration guarantees."

The partnership with ElevenLabs and the creation of an "Iconic Voices Marketplace" for licensing public figures' voices make this divide particularly evident: the difference between authorized use and abusive exploitation. AI does not emerge here as a dehumanizing substitute, but as technology that can be integrated into contractual and licensing models, provided there is a clear framework of control, remuneration, and respect for personality rights.

What's at Stake in Europe?

This reality raises new questions for legal systems, including Portuguese and European ones. On one hand, the right to image and voice is traditionally framed as a personality right (with constitutional and civil protection); on the other, part of the doctrine is beginning to emerge with the idea that it becomes necessary to recognize, more explicitly, the patrimonial and trademark dimension of these elements, especially given the proliferation of *deepfakes* and vocal clones. The North American experience may thus serve, at least comparatively, as a laboratory for future legislative and jurisprudential developments, particularly around the use of trademarks and figures close to publicity rights to protect famous persons' "digital identity." More than a media episode, McConaughey's strategy may become a relevant precedent in the discussion about boundaries between technological innovation, personality rights, and intellectual property. In an ecosystem where AI challenges classic concepts of authorship, ownership, and economic exploitation, actors and creators are beginning to claim not only their "right to image," but a true "right to the legal architecture" of their own identity.

In the European context, a three-layered response is observed: horizontal AI regulation, transparency rules for artificial content, and national reforms in personality rights matters. The EU's AI Act establishes specific transparency obligations for *deepfakes*, requiring that audio, video, or image content generated or manipulated by AI be clearly labeled as such, but leaves substantive protection of voice and image to national law (personality rights, copyright, trademarks, unfair competition).

Meanwhile, some Member States are going further, combining civil, criminal, and regulatory instruments to protect digital identity, particularly through the repression of non-consensual *deepfakes* of voice and image. These movements *seem* to reveal a trend toward strengthening the core protection of the person against algorithmic synthesis and manipulation of their appearance and voice.

European Challenges for a "McConaughey Model"

The "McConaughey model" (that is, the strategic use of trademarks and contracts to create an economic perimeter around one's own identity) faces, in Europe, at least three major challenges:

- i) Normative fragmentation: each Member State experiments with its own solutions, complicating uniform application to cross-border AI services.
- ii) Personal trademarks: doubts persist regarding the admissibility and scope of trademarks constituted by voice, image, and *catchphrases* of individuals, in tension with freedom of expression, journalistic, artistic or satirical use, and the essential function of the trademark as an indication of origin.
- iii) Digital replica right: gaining relevance, particularly comparatively and in North American legislative proposals (like the NO FAKES Act), is the idea of an eventual *digital replica right*, commonly understood as a technological concretization of the traditional *right of publicity*. In theoretical terms, the proposal involves granting any person - not just public figures - an autonomous right to authorize or prohibit the creation and use of digital replicas of their identity - name, image, voice, and visual appearance - generated by AI, as well as to participate in the economic value of such uses.

Conclusion: The European challenge

Ultimately, the McConaughey case forces European space to answer an uncomfortable but inevitable question: to what extent are national systems and the EU framework prepared to recognize digital identity - voice, image, distinctive features - as a legal asset with its own patrimonial dimension, without sacrificing freedom of expression and the circulation of cultural works?

Between the temptation to explore paths like those proposed in the US - with projects like the NO FAKES Act that aim for a digital replica right - and the European tradition of anchoring everything in personality rights, the true challenge will be to build a response that does not

arrive too late given the speed of AI, nor too early to the point of crystallizing solutions that inhibit creative and technological experimentation.

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