PROGRAM MATERIALS
Program #35173
October 24, 2025

Truth or Tech - Navigating AI-Generated Evidence in the Courtroom

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Truth or Tech – Navigating AI-Generated Evidence in the Courtroom

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About Tom Plunkett

- MS Information Systems, 2002
- Certified Information Systems Security Professional (CISSP), 2007
- EnCase Certified Forensic Examiner (EnCE), 2008

- Adjunct Professor, MS Cyber Security Leadership, University of San Diego
- Former Information Security Officer, County of Riverside, CA
- Former Cyber Counterintelligence Officer, Los Alamos National Lab
- Former CH46-E Helicopter Crew Chief, USMC

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Digital Forensics & eDiscovery experts serving attorneys in all 50 states

- Cellphones
- Computers & Tablets
- External Hard Drives
- Smart Devices
- Emails & SMS
- Social Media Accounts
- Cloud Data
- Electronic Medical Records

Business Litigation

Employment Law

Schools and Higher-Ed

Medical Malpractice

IP Theft

Bankruptcy

AI – The Next Big Problem

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AI vs. Generative AI

Traditional AI:

- Trained to accomplish specific tasks, such as identifying images. Primary used to analyze data

Generative AI:

- Focused on creating new content. This is the type that we have been seeing in the news.

Generative AI

Gemini

perplexity

ChatGPT

Copilot

ChatGPT

November 2022: Version 3.5

- Took the bar exam and failed. Finished in the 10th Percentile

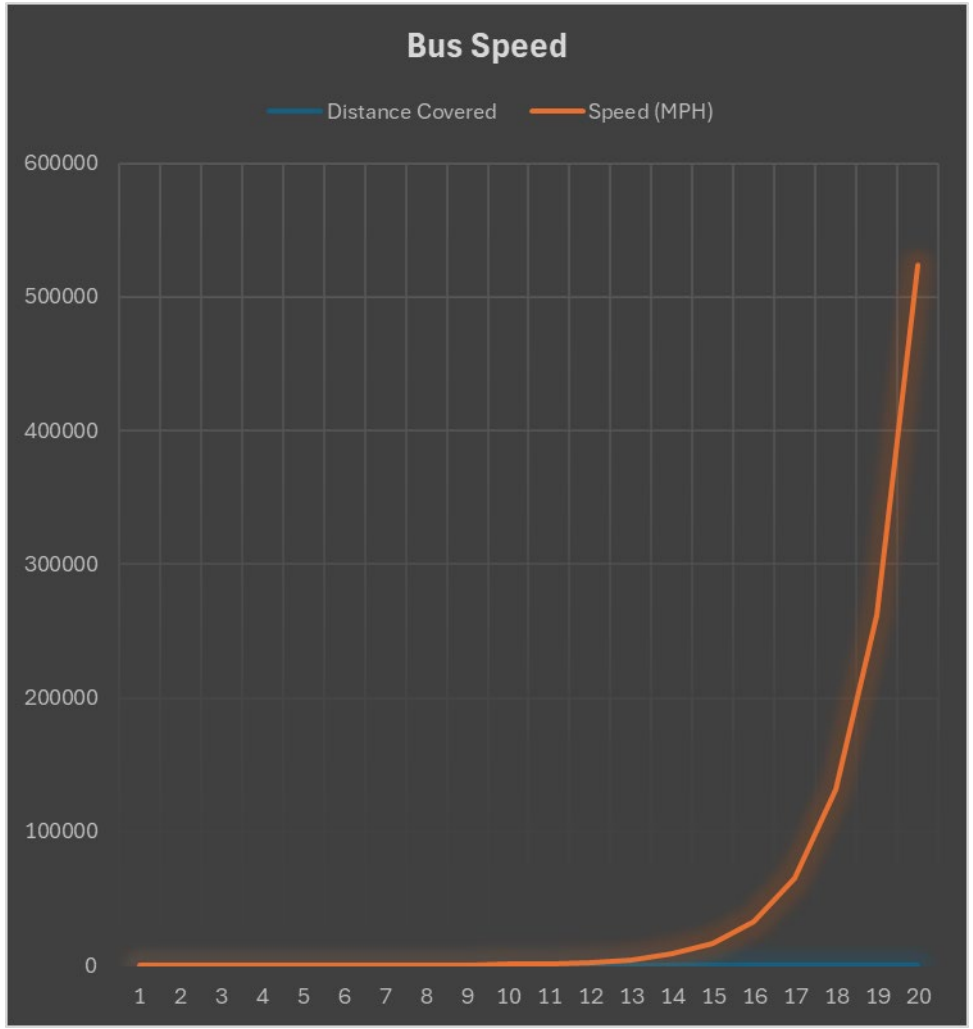
March 2023: Version 4.0

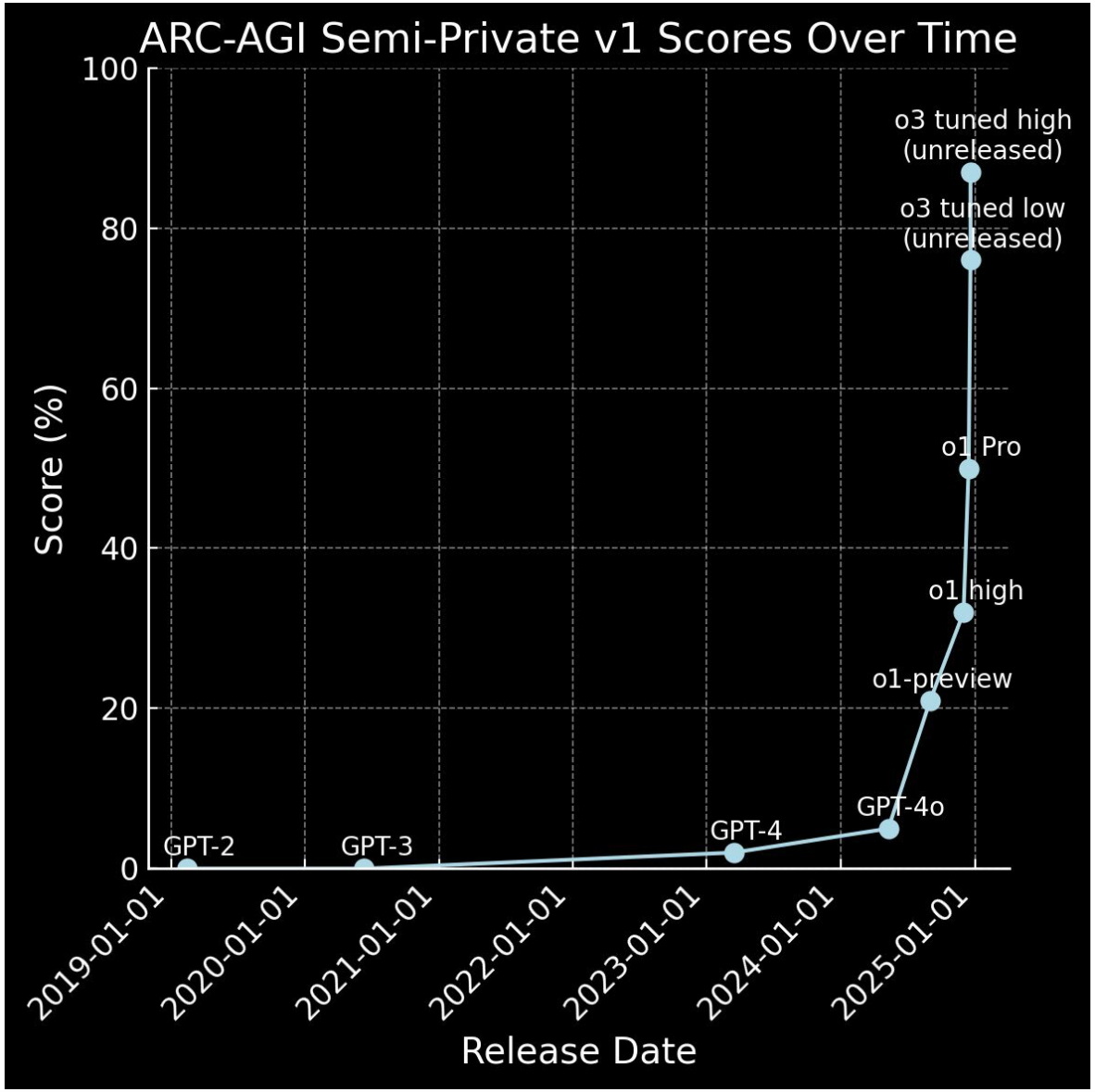
- Took the bar exam and passed. Finished in the 90th Percentile

The Exponential Bus

The Exponential Bus

Distance Covered	Elapsed Time (sec)	Distance	Speed (MPH)	Seconds to impact
1	0.68	1000	1	681.8
2	1.02	999	2	340.6
3	1.19	998	4	170.1
4	1.28	997	8	85.0
5	1.32	996	16	42.4
6	1.34	995	32	21.2
7	1.35	994	64	10.6
8	1.36	993	128	5.3
9	1.36	992	256	2.6
10	1.36	991	512	1.3
11	1.36	990	1024	0.7
12	1.36	989	2048	0.3
13	1.36	988	4096	0.2
14	1.36	987	8192	0.1
15	1.36	986	16384	0.0
16	1.36	985	32768	0.0
17	1.36	984	65536	0.0
18	1.36	983	131072	0.0
19	1.36	982	262144	0.0
20	1.36	981	524288	0.0

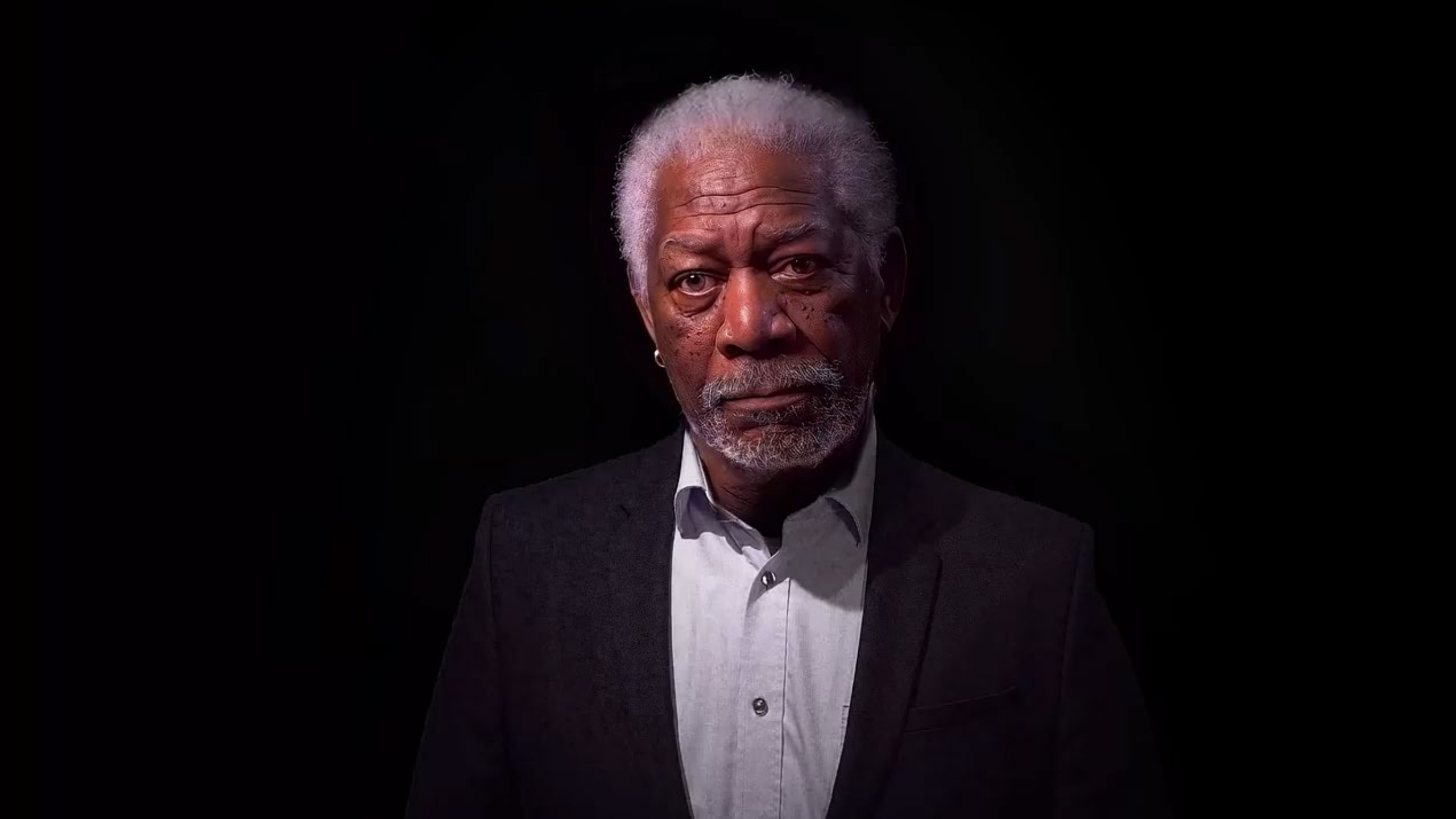



ARC-AGI Semi-Private v1 Scores Over Time
Score (%)
100
80
60
40
20
0
o3 tuned high
(unreleased)
o3 tuned low
(unreleased)
o1 Pro
o1 high
o1-preview
GPT-4o
GPT-4
GPT-3
GPT-2
2019-01-01
2020-01-01
2021-01-01
2022-01-01
2023-01-01
2024-01-01
2025-01-01
Release Date

Legal Sector Generative AI Tools

Ethical Duties

Competence	Lawyers must have a reasonable understanding of the capabilities and limitations of the specific generative AI technology that the lawyer might use.
Confidentiality	Must be careful about using tools that could result in disclosing client data
Meritorious Claims	Must make sure the AI tools product real results, and not create fake cases
Supervisory Responsibilities	Must supervise the tools and the use of the tools by other staff



So What Do We Do?

- "I'm not sure this is the crisis that it's been painted as, and I'm not sure that Judges don't have the tools already to deal with this." – U.S. 2nd Circuit Court of Appeals Judge

- "I think we have adequate tools at the moment, but this may change as things develop." – U.S. District Court Judge

US Evidence Committee

- **Committee Chair: Panels agrees litigants concerns that rules, as written, do not work for challenging deep fakes.**

- **Judge Grimm Proposal:**
- **Proposed New Rule 901(c) to address "Deepfakes"**
  - 901(c): Potentially Fabricated or Altered Electronic Evidence. If a party challenging the authenticity of computer-generated or other electronic evidence demonstrates to the court that it is more likely than not either fabricated, or altered in whole or in part, the evidence is admissible only if the proponent demonstrates that its probative value outweighs its prejudicial effect on the party challenging the evidence.

State of Washington v. Puloka

- **Defense wanted to introduce AI-Enhanced video**
- **State retained a forensics expert**
- **Expert testified about how the AI program altered the video, including:**
  - Increasing pixels 16x
  - Added information not in the original file
  - Altered shapes and colors in the video
- **Judge excluded the use of the video**

Images

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Deepfakes

Real or Fake?

Deepfakes

Real or Fake?

Authentication

- FRE 901: To satisfy the requirement of authenticating or identifying an item of evidence, the proponent must produce evidence sufficient to support a finding that the item is what the proponent claims it is.

- Typical Question: Does the photograph fairly and accurately depict “X”?

- Judge must determine if a reasonable juror could find the item is what the proponent claims it is.


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AQUARIUS
PRINTER
INTELLIVISION FLASHBACK
60 BUILT-IN GAMES
microvision


10:54
Circle, brush, or tap to select
Cancel
Save copy


10:54
Circle, brush, or tap to select
Cancel
Save copy

ht?

Image to Video

The problems

- Editing photos is easier than ever
- Detecting AI-generated pictures is difficult
- Many AI tools do not have safeguards
- Our standard authentication rules do not work anymore

Where is the line?

AI Enhancement?

Digital Zoom?

Computational Photography?

Voice

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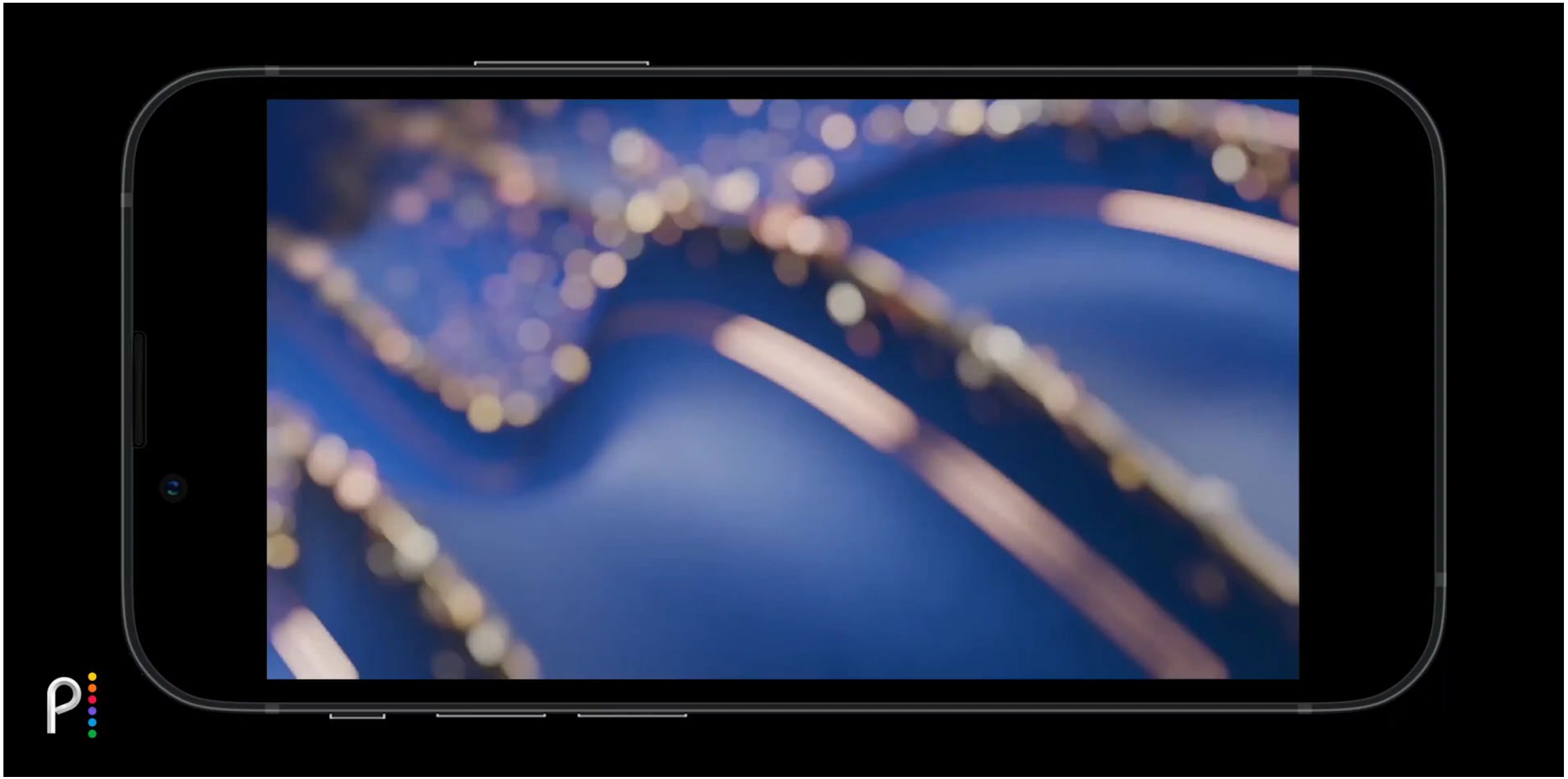
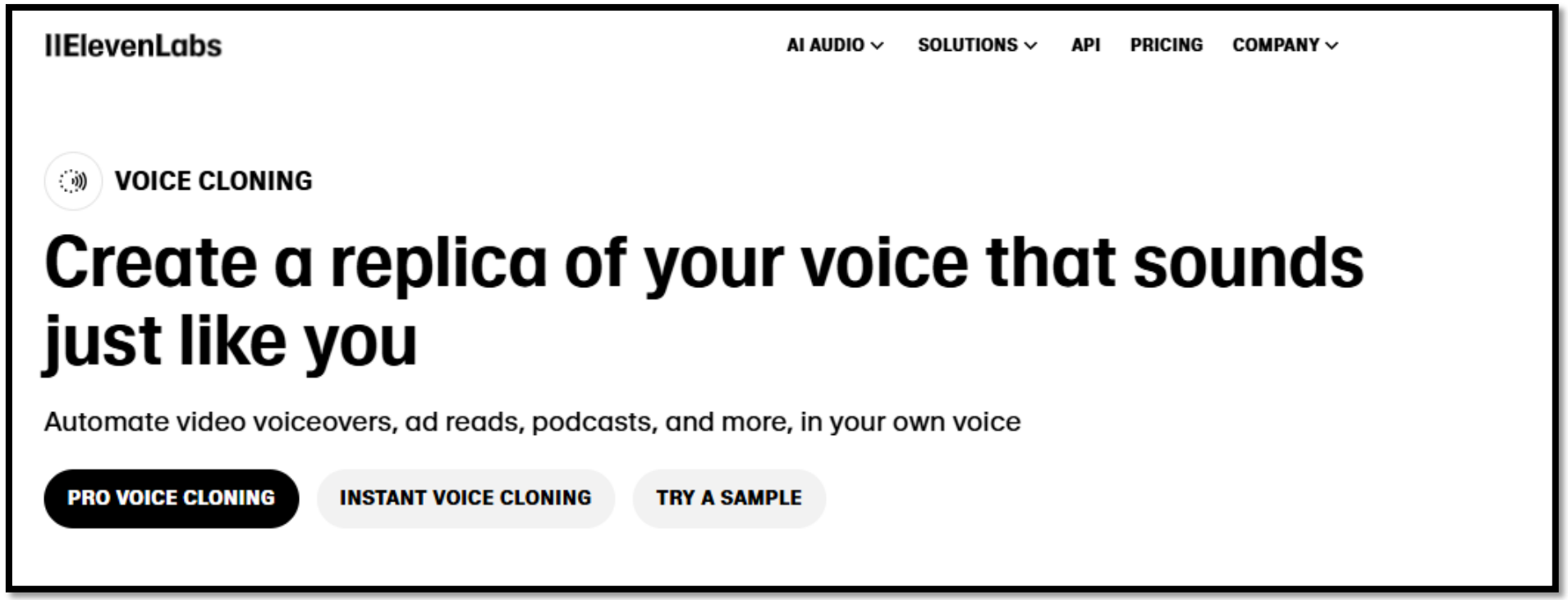
FRE 901(b)(5)

- ***Opinion About a Voice.*** An opinion identifying a person's voice — whether heard firsthand or through mechanical or electronic transmission or recording — based on hearing the voice at any time under circumstances that connect it with the alleged speaker.





Starter

$5/mo

For hobbyists creating projects with AI audio.

Subscribe

- 30,000 credits per month (~30 min audio)

Everything in free, plus

- Clone your voice with as little as 1 minute of audio
- Access to the Dubbing Studio for more control over translation & timing
- License to use ElevenLabs for commercial use

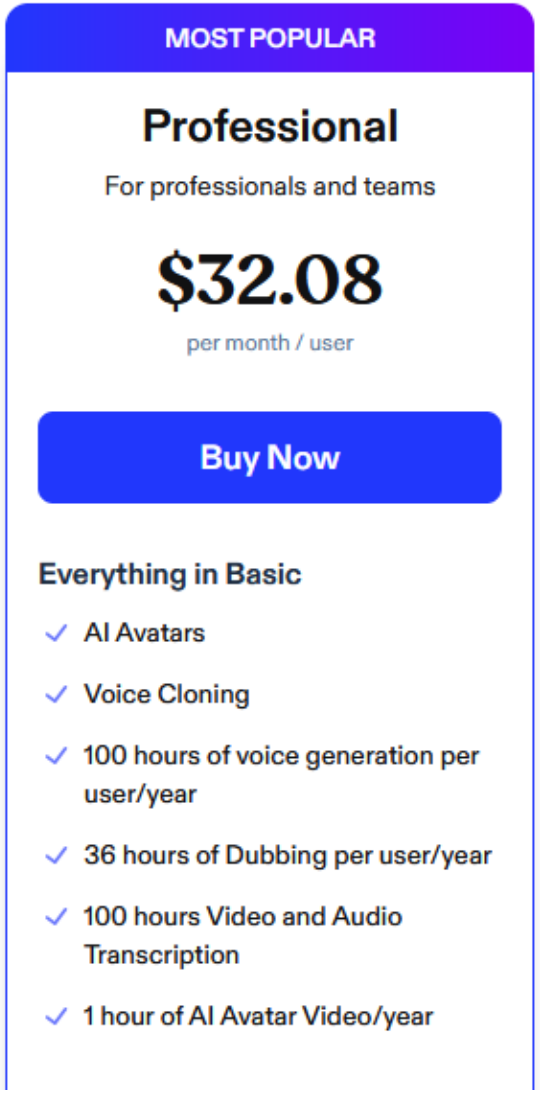
Speechify

How Voice Cloning Works

Speak. Record. Done.

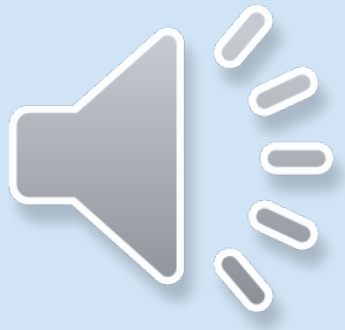
Voice cloning with Speechify simplifies complex speech synthesis. Simply speak into your laptop for 30 seconds, press record, and that's it!

Try it. Create Your AI Voice for Free

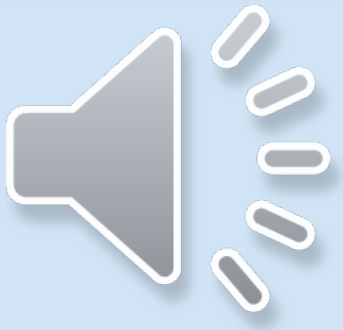


Real or AI?

Sample 1

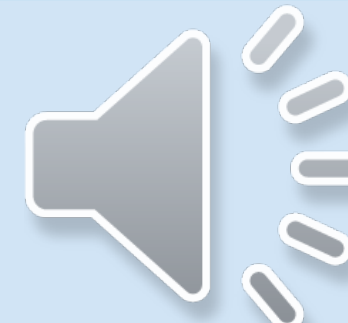


Sample 2



Sample 3

Sample 4



Handwriting

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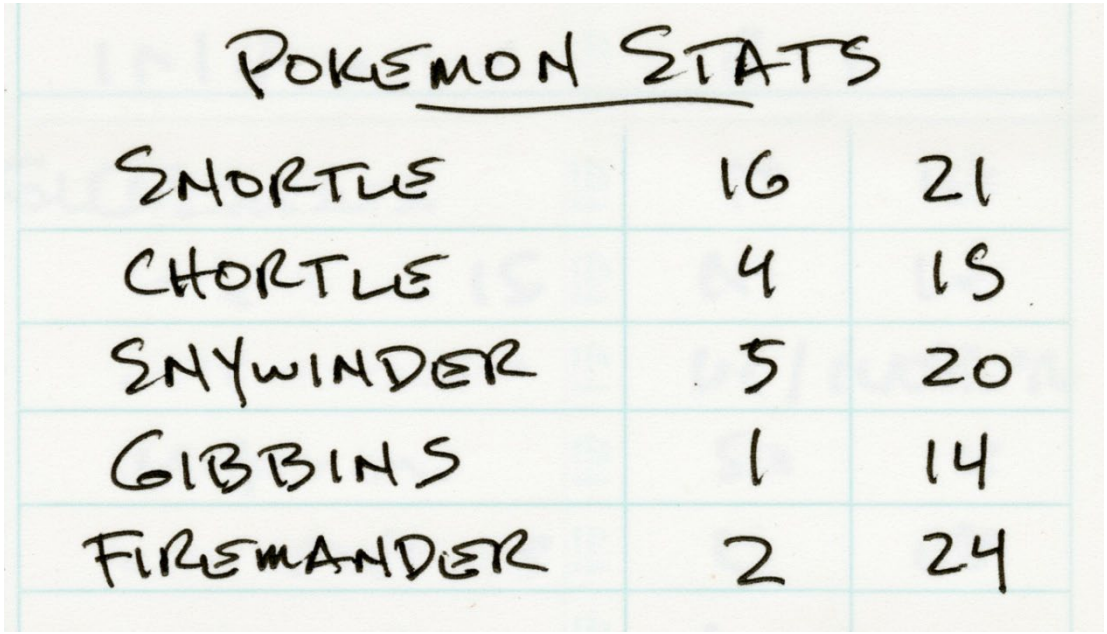
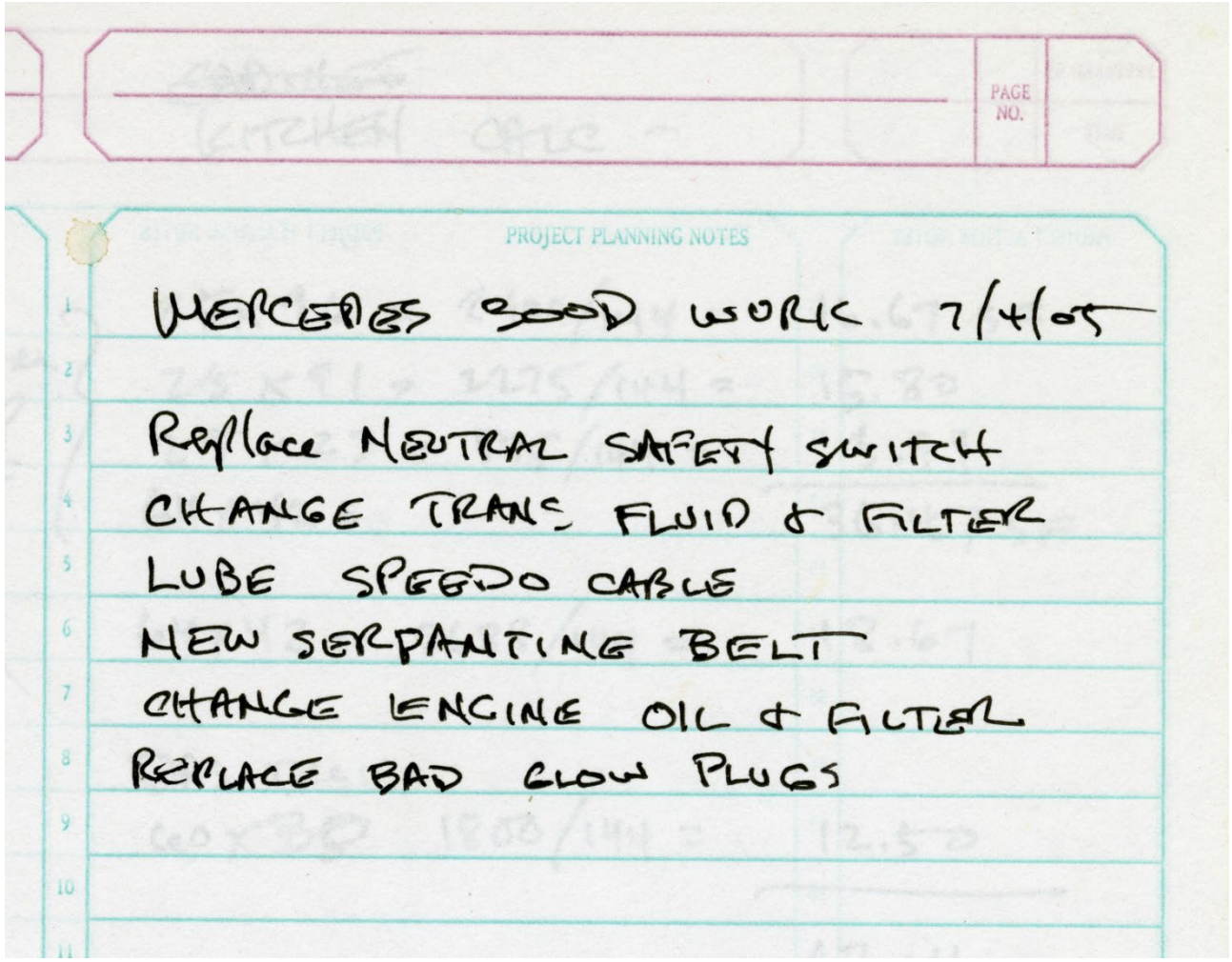
FRE 901(b)(2)

Nonexpert Opinion About Handwriting.

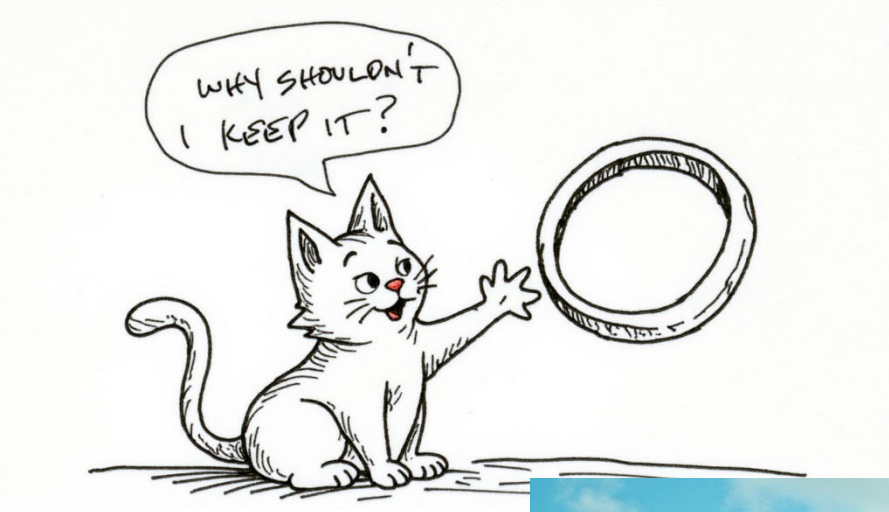
- A nonexpert's opinion that handwriting is genuine, based on a familiarity with it that was not acquired for the current litigation.

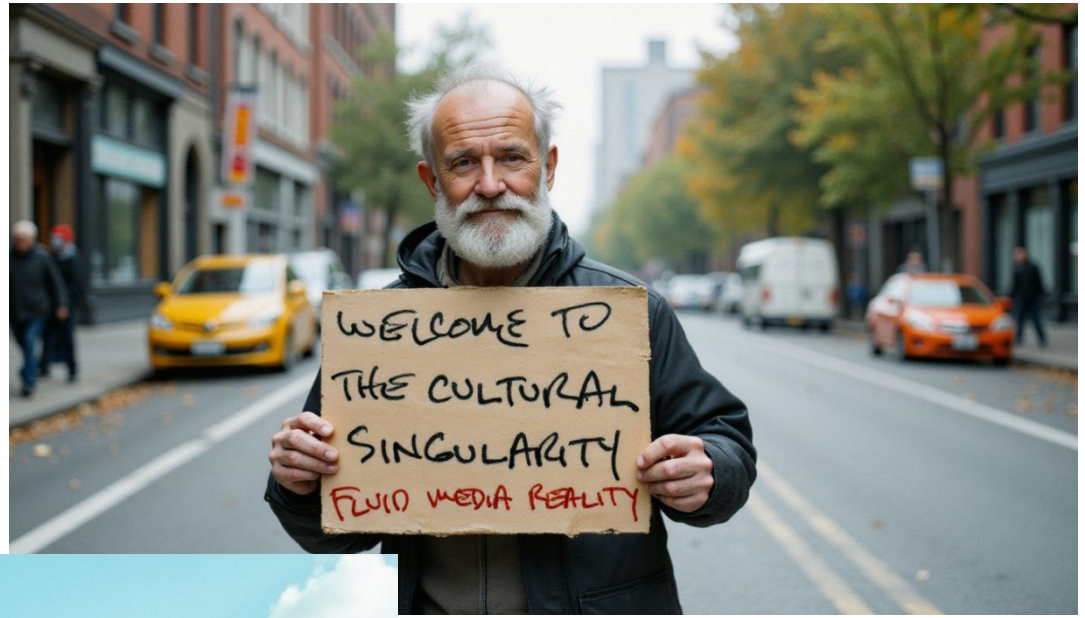
Flux – AI Generated Handwriting





Take it a step further





The Future

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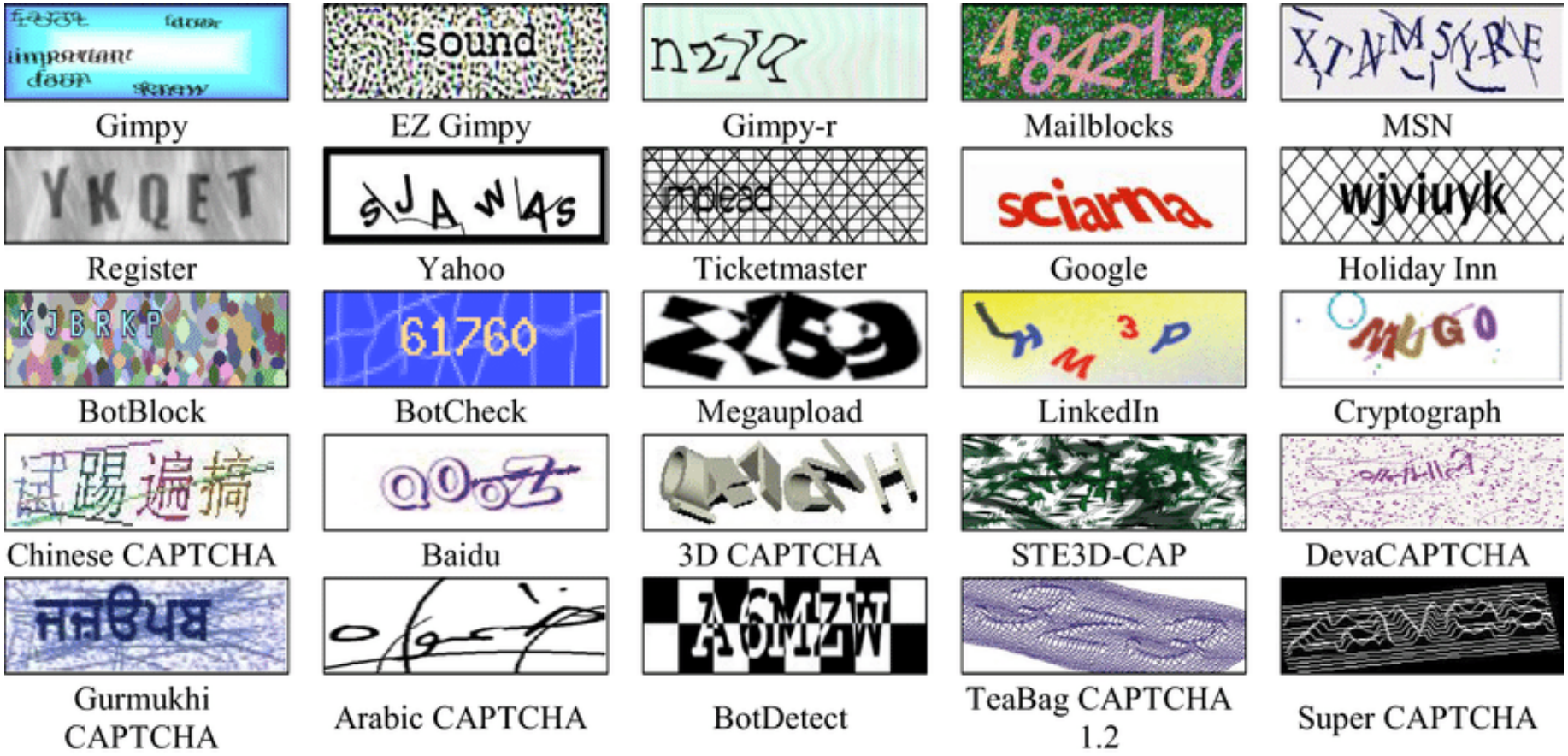
Are you an AI?


Gimpy
EZ Gimpy
Gimpy-r
Mailblocks
MSN
Register
Yahoo
Ticketmaster
Google
Holiday Inn
BotBlock
BotCheck
Megaupload
LinkedIn
Cryptograph
Chinese CAPTCHA
Baidu
3D CAPTCHA
STE3D-CAP
DevaCAPTCHA
Gurmukhi CAPTCHA
Arabic CAPTCHA
BotDetect
TeaBag CAPTCHA 1.2
Super CAPTCHA

Ethical Duties?

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Model Rule 3.3

(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;
- (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (3) **offer evidence that the lawyer knows to be false.** If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

Detection

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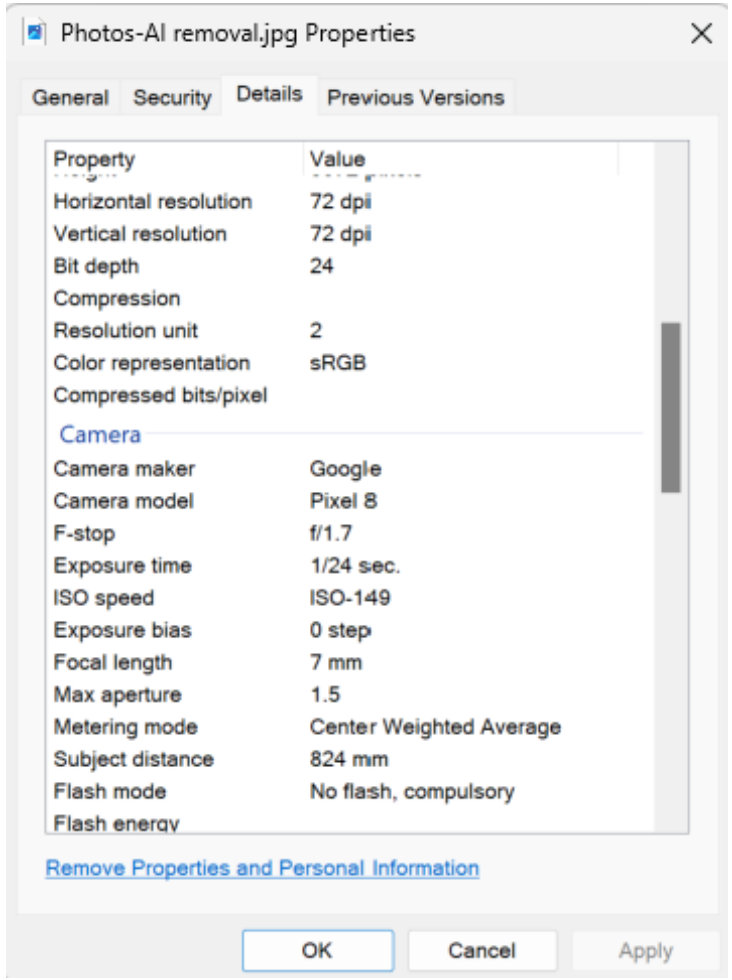
	---- ExifIFD ----
ExposureTime	1/24
FNumber	1.7
ExposureProgram	Program AE
ISO	149
ExifVersion	0232
DateTimeOriginal	2024:09:08 13:43:20
CreateDate	2024:09:08 13:43:20
OffsetTime	-07:00
OffsetTimeOriginal	-07:00
OffsetTimeDigitized	-07:00
ComponentsConfiguration	Y, Cb, Cr, -
ShutterSpeedValue	1/24
ApertureValue	1.7
BrightnessValue	0.51
ExposureCompensation	0
MaxApertureValue	1.7
SubjectDistance	0.824 m
MeteringMode	Center-weighted average
Flash	Off, Did not fire
FocalLength	6.9 mm
SubSecTime	549
SubSecTimeOriginal	549
SubSecTimeDigitized	549
FlashpixVersion	0100

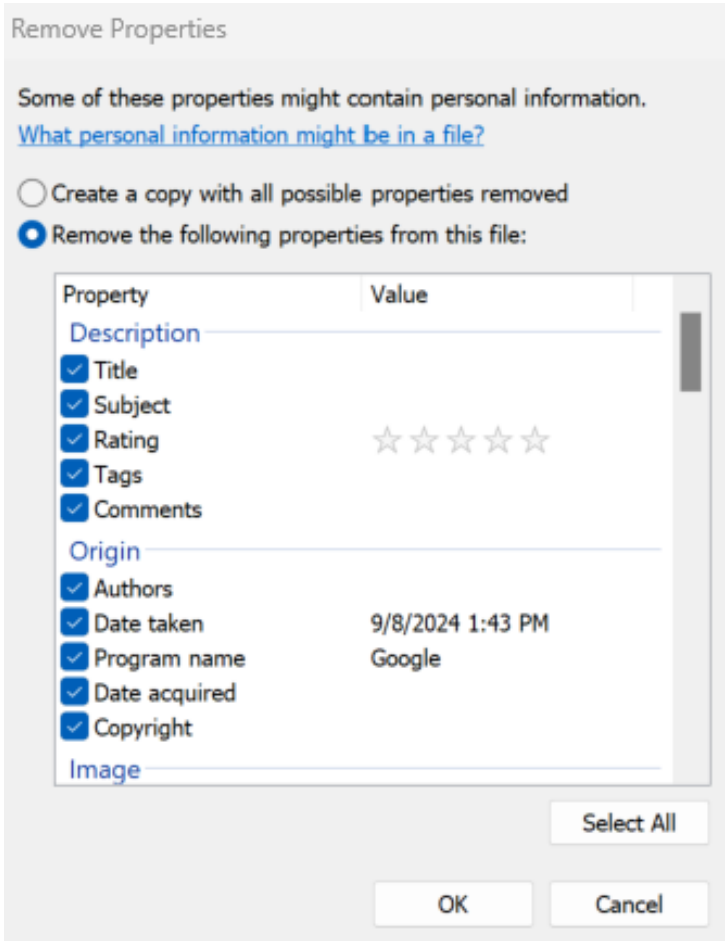
	---- ExifIFD ----
LensModel	Pixel 8 back camera 6.9mm f/1.68
LensMake	Google
ISO	149
ExposureProgram	Program AE
CompositeImage	Composite Image Captured While Sh
FNumber	1.7
ExposureTime	1/24
SensingMethod	One-chip color area
SubSecTimeDigitized	549
OffsetTimeDigitized	-07:00
SubSecTimeOriginal	549
OffsetTimeOriginal	-07:00
SubSecTime	549
OffsetTime	-07:00
SubjectDistanceRange	Macro
Sharpness	Normal
FocalLength	6.9 mm
Flash	Off, Did not fire
Saturation	Normal
Contrast	Normal
MeteringMode	Center-weighted average
SceneCaptureType	Standard
SubjectDistance	0.824 m
FocalLengthIn35mmForma	49 mm

	---- IFD0 ----
Make	Google
Model	Pixel 8
Orientation	Horizontal (normal)
XResolution	72
YResolution	72
ResolutionUnit	inches
Software	HDR+ 1.0.641377693zd
ModifyDate	2024:09:08 13:43:20
YCbCrPositioning	Centered

	---- IFD0 ----
ImageWidth	4080
ImageHeight	3072
ResolutionUnit	inches
Make	Google
Model	Pixel 8
Software	Google
ModifyDate	2024:09:08 13:51:21
Orientation	Horizontal (normal)
YCbCrPositioning	Centered
XResolution	72
YResolution	72

Another Problem...





	EXIF
Make	-
Model	-
LensModel	Pixel 8 back camera 6.9mm f/1.68
ExposureTime	1/24
FNumber	1.7
ISO	-
FocalLength	6.9 mm
Flash#	-
Orientation#	Horizontal (normal)
DateTimeOriginal	-
CreateDate	-
Artist*	-
Copyright	-
Software	-
Geotagged?	*NO*

AI Detection Tools

- Expensive and requires experts
- Currently about 65% accurate
- Many are just a “black box” and have not been tested

Cellphone Forensics

Name:	VoicesAI_Squarepants_Oh_no_I_forgot_the_K_09 2913_10092024.mp3
Type:	Audio
Size (bytes):	30929
Path:	iPhone/mobile/Containers/Data/Application/ com.leonfiedler.voiceai/Documents/ VoicesAI_Squarepants_Oh_no_I_forgot_the_K_09 2913_10092024.mp3
Created:	9/10/2024 9:29:01 AM(UTC-7)
Accessed:	9/10/2024 9:29:01 AM(UTC-7)
Modified:	9/10/2024 9:29:01 AM(UTC-7)

Cellphone Forensics

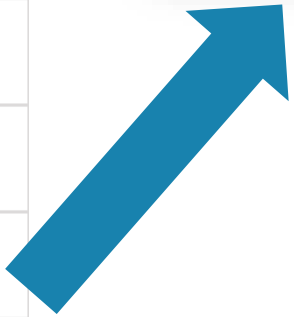
Name:	VoicesAI_Squarepants_Oh_no_I_forgot_the_K_09 2913_10092024.mp3
Type:	Audio
Size (bytes):	30929
Path:	iPhone/mobile/Containers/Data/Application/ com.leonfiedler.voiceai/Documents/ VoicesAI_Squarepants_Oh_no_I_forgot_the_K_09
Created:	9/10/2024 9:29:01 AM(UTC-7)
Accessed:	9/10/2024 9:29:01 AM(UTC-7)
Modified:	9/10/2024 9:29:01 AM(UTC-7)

Cellphone Forensics

Last Visited	Title
9/10/2024 9:09:18 AM(UTC-7)	ChatGPT
9/10/2024 9:10:28 AM(UTC-7)	ChatGPT
9/10/2024 9:10:28 AM(UTC-7)	ChatGPT
9/10/2024 9:11:01 AM(UTC-7)	ChatGPT
9/10/2024 9:11:06 AM(UTC-7)	ElevenLabs: Free Text to Speech & AI Voice...
9/10/2024 9:11:07 AM(UTC-7)	ElevenLabs: Free Text to Speech & AI Voice...
9/10/2024 9:11:07 AM(UTC-7)	ElevenLabs: Free Text to Speech & AI Voice...

Cellphone Forensics

Last Visited	Title
9/10/2024 9:09:18 AM(UTC-7)	ChatGPT
9/10/2024 9:10:28 AM(UTC-7)	ChatGPT
9/10/2024 9:10:28 AM(UTC-7)	ChatGPT
9/10/2024 9:11:01 AM(UTC-7)	ChatGPT
9/10/2024 9:11:06 AM(UTC-7)	ElevenLabs: Free Text to Speech & AI Voice...
9/10/2024 9:11:07 AM(UTC-7)	ElevenLabs: Free Text to Speech & AI Voice...
9/10/2024 9:11:07 AM(UTC-7)	ElevenLabs: Free Text to Speech & AI Voice...



» Web History Go to

Title:	ElevenLabs: Free Text to Speech & AI Voice Generator | ElevenLabs
Last Visited:	9/10/2024 9:11:07 AM(UTC-7)
URL:	https://elevenlabs.io/
Visits:	2

Cellphone Forensics – Installed Apps

» Installed Application

Name:	ChatGPT
Version:	
Operation Mode:	Foreground
Description:	
Identifier:	com.openai.chat
Application ID:	9A82F1A0-8B06-410E-BA04-A82DA26901B8

» Installed Application

Name:	VoiceAI
Version:	
Operation Mode:	Foreground
Description:	
Identifier:	com.neutronlabs.voiceai.VoiceAI
Application ID:	A97EE769-DE1A-452E-9079-BFFB73E02DCE

» Installed Application

Name:	AI Voice Clone
Version:	
Operation Mode:	Foreground
Description:	
Identifier:	com.bloodhound.Eleven-Labs
Application ID:	093EE2A9-E051-4B6E-8AAA-DDE640C8C27E

» Installed Application

Name:	Character.AI
Version:	
Operation Mode:	Foreground
Description:	
Identifier:	ai.character.app
Application ID:	50F9FB02-AF5F-4827-A9D2-4DEBFB9961FA

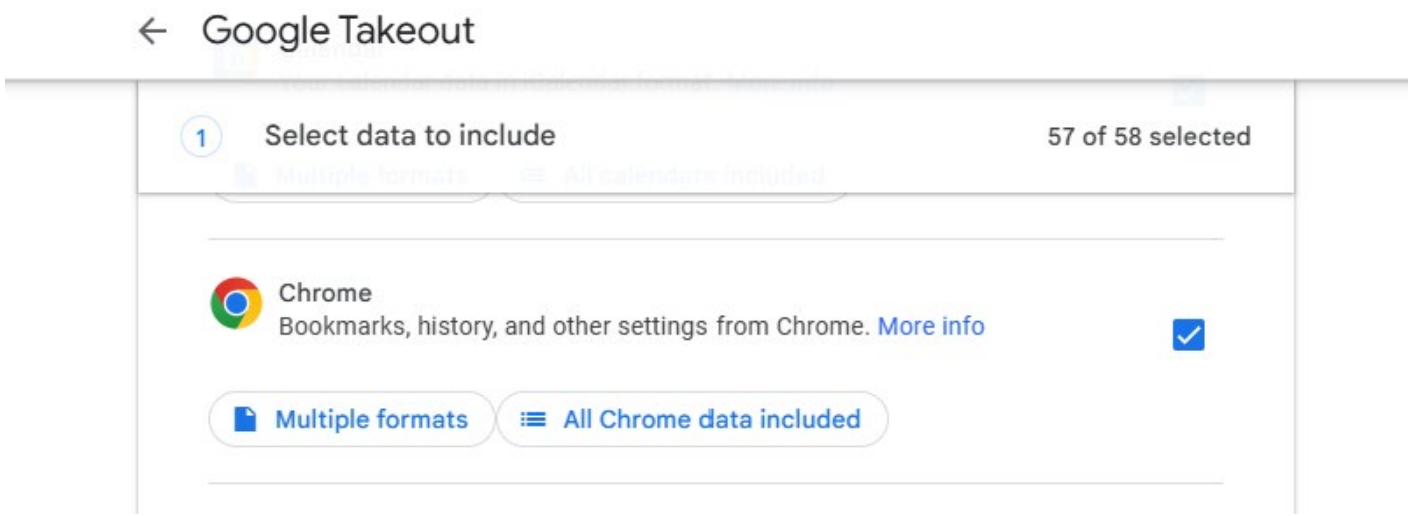
» Installed Application

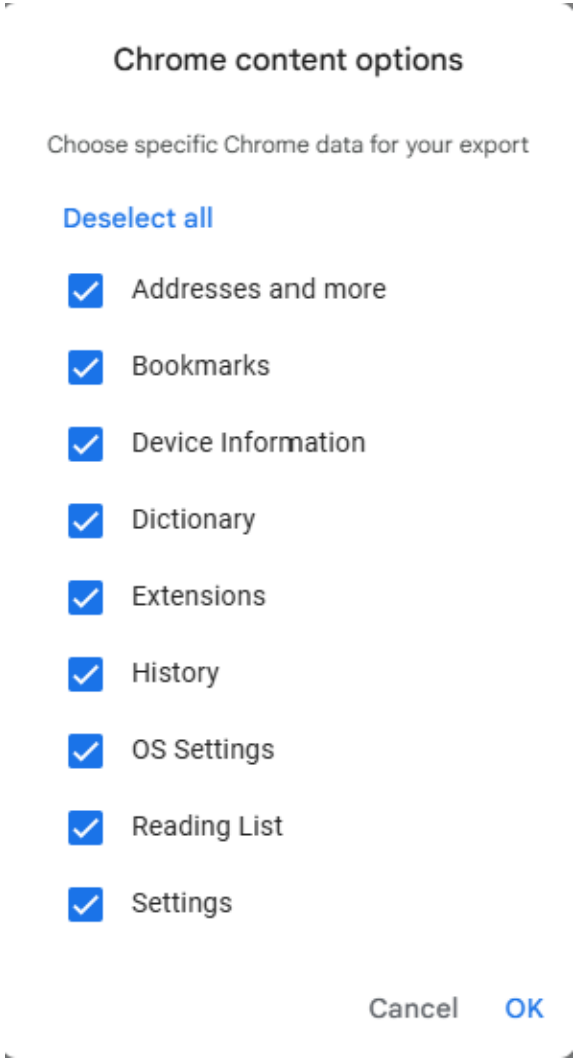
Go to

Name:	AI Chat
Version:	
Operation Mode:	Foreground
Description:	
Identifier:	com.tappz.aichat
Application ID:	579D9153-96C3-4EA6-93B6-9B4B22ECB861

Other Sources

- Google Takeout: Chrome browser history





Hope On the Horizon

- Google's SynthID:

> SynthID watermarks and identifies AI-generated content by embedding digital watermarks directly into AI-generated images, audio, text or video.

- However, only available to Vertex AI customers
- And only Google products use this watermarking

Detection – Best Tips

- **Get the native with metadata**
- **Look at browser history**
- **Get an expert**
  - Digital forensics expert to analyze cellphones/computers/tablets
  - Media expert to analyze pictures, videos, and audio
  - Some forensic software available that can help but requires an expert

We’d love to hear from you!

Thomas Plunkett, EnCE, CISSP
Managing Director
Digital Forensics & eDiscovery

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(855) 839-9084

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