

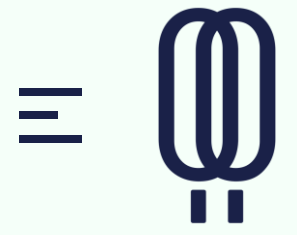
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“Deepfakes”, “digital replicas” and performers’ rights

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“Deepfakes”, “digital replicas” and performers’ rights

The *best* and *worst* framework for the protection of performers in the age of AI

02. Starting point



From policy to

governance

- Law still treats deepfakes as crime & abuse
- Early harms: non-consensual sexual content targeting women/minors
- But same tech powers legitimate innovation

Terminology: Deepfakes = abuse // Digital replicas = creative, commercial use



02. The digital replica landscape

02. The digital replica landscape

+ Film & TV *Actors*

2019
[Josh Brolin as Thanos](#)

[Synthetic Media has been used in visual arts for years, including de-ageing, character creation, or face replacement.](#)
[More recent examples](#) include [HERE](#) and [INDIANA JONES](#).



+ Gaming *Actors*

²⁰²⁰
[Cyberpunk 2077](#)

[Reeves reprised his role in 'Cyberpunk 2077: Phantom Liberty', and the success of his involvement paved the way for Idris Elba to take on the role of Solomon Reed in the expansion.](#)



+ Live *Musicians*

2022-Present
[ABBA](#)
[Voyage](#)

[A groundbreaking live experience in London featuring digital “ABBAatars” of the band performing via motion capture and real-time rendering, supported by an entirely virtual stage show.](#)



+ Advertising *Models* *Influencers*

2025
[H&M](#)

[The global fashion brand used AI-generated models in online marketing campaigns, raising industry-wide questions around disclosure, likeness rights, and the future of digital labour.](#)



“She’s like me,
without the jetlag”

- Mathilda

New York

+ Heritage

Public figures

Survivors

Dali Museum,
Florida

Several museums have experimented with recreating the likeness and performances of historic figures, survivors and witnesses. This is a still image of the Salvador Dali's digital replica in the Dali Museum in Florida.

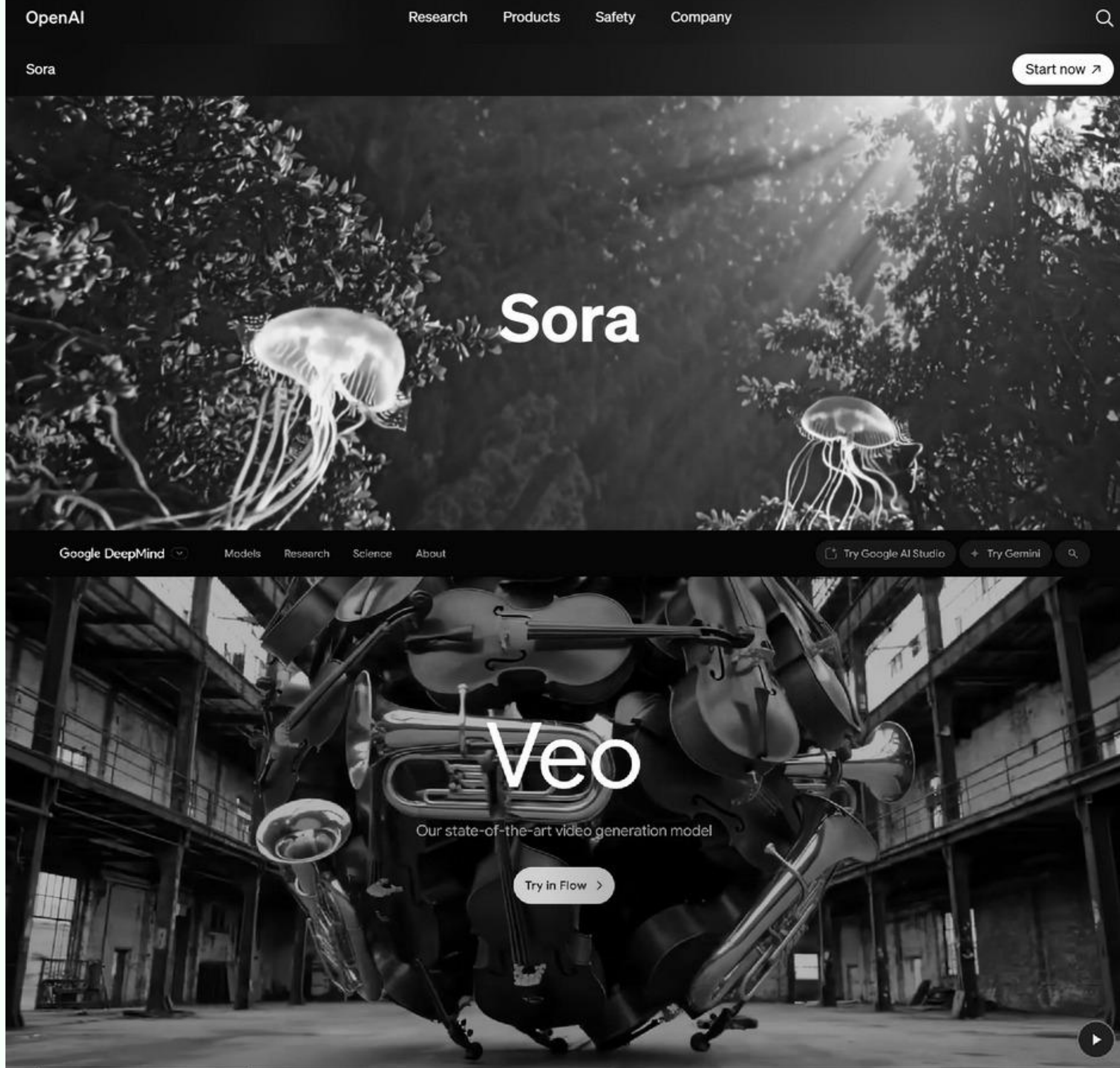


Ready-made tools

- + ChatGPT
- + Sora
- + Veo
- + Zoom

²⁰²⁵ [Video Generation](#)

[Google's latest update to Veo 3 enables photo-to-video, lip sync, and character consistency from clip to clip. Lip syncing, dialogue, and facial movement](#) are all handled automatically.





- + Teachers
- + Employees
- + Politicians

They are *performers* too.

They are *cloned* or replicated too.



Innovation + *vulnerability*
coexist



03. Why performers' rights could work



03. Why performers' rights could work

- International, long-standing, harmonised (Rome 1961, WPPT 1996, Beijing 2012)
- Cover economic + moral rights
- Built-in balance: fair use, free expression
- Tech-neutral by design

→ **On paper:** ideal framework for AI-era performances

04. ...and why they would fail



04.1 Legal Uncertainty



The same legal uncertainty on copyright and AI, is mirrored with performers' rights and AI

- Are AI-generated performances protectable?
- Who owns them: performer, producer/employer, AI developer?
- Is AI training on performances rights infringement, or fair use?
- Do previous contractual rights transfer of all rights, in perpetuity over AI use in this way?

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04.2 Narrow scope

Performers' rights attach to the recordings, not the performances within the recording.

- Consequence: performers' rights do not cover imitations, digital or otherwise.
- Imitations = unprotected → digital replicas = gap in law
- Moral rights help only where broad & non-waivable



04.3 Hidden Assets problem

The digital cloning process generates several assets.

- Likeness data + fine-tuned AI model + outputs
- Fine-tuned model → persistent asset encoding the performer's IP
- Performers rarely control or even know it exists

→ Risk: loss of IP and digital dignity

04. Closing gaps





04. Closing gaps

- Clarify performers' rights to cover replicas explicitly
 - Intervention need to guard against unfair contracts
 - Recognise uncertainty hurts everyone: artists, workers, business and AI developers alike
 - Unions help (SAG-AFTRA) – but limited reach
- WIPO community must lead on international industry standards for consent, contracts and responsible use

05. Path forward





05. Path forward

- Performers' rights once evolved for sound & film -- they can evolve again
 - Protect innovation and human identity
 - Guard against contracts that hollow out 'digital dignity' of performers
 - Ensure our digital selves = physical selves
- WIPO community must lead on international industry standards for consent, contracts and responsible use

Thank you, for listening

Keep in touch

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