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WILSON SONSINI

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ARTIFICIAL INTELLIGENCE
AND MACHINE LEARNING

ALL EYES ON AI: REGULATORY, LITIGATION, AND TRANSACTIONAL DEVELOPMENTS

In This Issue

Biden Executive Order on AI Expected in Late October

President Biden is expected to issue his Executive Order (EO) on Artificial Intelligence (AI) later this month. While the White House has declined to comment on specific provisions of the order, it will reportedly leverage the National Institute of Standards and Technology's (NIST's) expertise to tighten industry guidelines on testing and evaluating AI systems. The EO is also expected to require cloud computing companies to monitor and track users who might be developing powerful AI systems, and to contain provisions related to the recruitment and retention of AI talent both domestically and abroad.

Bipartisan Senators Propose Bill Prohibiting Unauthorized AI-Generated Replicas

Sens. Coons (D-DE), Tillis (R-NC), Blackburn (R-TN), and Klobuchar (D-MN) released a discussion draft of proposed bipartisan legislation regulating the use of digital replicas.

The bill, titled the "Nurture Originals, Foster Art, and Keep Entertainment Safe Act," or NO FAKES Act, would prevent a person from producing or distributing an unauthorized AI-generated replica of an individual to perform in an audiovisual or sound recording without the consent of the individual being replicated. It would permit individuals to sue both the maker of the unauthorized replica as well as anyone who knowingly hosts that content (such as digital platforms). The bill includes exceptions for news broadcasts, documentaries, criticism, satire, and parody.

District Court Affirms Human Authorship Required for Copyright Protection

On August 18, 2023, the District Court for the District of Columbia released its decision in *Thaler v. Perlmutter*, in which the court unambiguously reaffirmed the human authorship requirement for copyright: "Human authorship is a bedrock requirement of copyright." The central issue in the case was whether AI-generated works are eligible for copyright protection. The plaintiff argued that he should be able to register the work generated by his software AI system for a copyright, explaining that his computer system generated the artwork and that the copyright should transfer to him as the owner of the machine. In its decision on the parties' cross motions for summary judgment, the court noted that this assignment argument was premature and that the critical question was whether the artwork generated by the AI system was even eligible for copyright protection.

In ruling that the artwork was not eligible for copyright protection, the court observed that the plaintiff had described the work in the registration application as "'[c]reated autonomously by machine' and that his claim to the copyright was only based on his '[o]wnership of the machine.'" The court acknowledged that "[t]he increased attenuation of human creativity from the actual generation of the final work will prompt challenging questions regarding how much human input is necessary to qualify the user of an AI system as an 'author' of a generated work, the scope of the protection obtained over the resultant image, how to assess the originality of AI-generated works where the systems may have been trained on unknown pre-existing works, how copyright might best be used to incentivize creative works involving AI, and more." However, it observed that the plaintiff failed to argue in his copyright application that he had been involved in the creation of the work (such as by providing instructions and guidance to the AI) and therefore the only issue for the court's consideration was whether a work generated entirely by AI is eligible for copyright. The court's ruling upholds the notion that human authorship is an essential element of a valid copyright claim.

The plaintiff has filed its notice of appeal to the D.C. Circuit.

AI Is an Increasingly a Hot Topic in the EU, as Regulators Prepare for the Passage of the AI Act

The EU AI Act, which is in the final stages of the legislative process, is expected to pass into law within the next few months. On October 24, 2023, the fourth round of negotiations between the EU Commission, EU Council, and EU Parliament ("trilogues") will start. This round of negotiations will focus on the classification and testing of high-risk AI systems. Once the law is adopted and enters into force, companies will likely have at least two years to comply with its wide-ranging obligations, which primarily fall on high-risk applications of AI. It is also likely that some requirements will be imposed on

foundational models, general purpose AI, and generative AI. In preparation, EU countries are appointing regulators to monitor compliance with the Act. In late August, Spain was the first EU member state to establish a regulatory agency exclusively focused on AI: the Spanish Agency for the Supervision of Artificial Intelligence. The EU institutions are also taking steps to

AI Is an Increasingly a Hot Topic in the EU . . . *(Continued from page 2)*

ensure a smooth implementation of the AI Act. The EU Commission has recently published model contractual clauses for public organizations wishing to procure AI systems developed by an external supplier.

Privacy regulators in the EU are also increasing their general activity related to AI. On September 21, 2023, the French privacy regulator published an extensive set of resources, including guidance and self-assessment factsheets, designed to help AI companies to comply with the General Data Protection Regulation (GDPR). The following month, the French body also released how-to sheets

on creating datasets for the development of AI systems. Both initiatives seek to reconcile innovation with respect to people's right to privacy. Meanwhile in the Netherlands, the country's privacy regulator is leading active cross-sector collaboration for monitoring and enforcing laws in relation to AI. On July 17, 2023, the Dutch Algorithms Coordination Directorate (which was established in January) published its first algorithmic risk report, which presents the key risks and management challenges associated with algorithms. The report calls for companies to increase staffing and financial resources

behind managing AI risks and cautions companies against launching AI systems without adequate risk management processes in place.

Privacy regulators are also opening investigations into applications of generative AI and their compliance with GDPR. In particular, on September 22, 2023, the Polish privacy regulator announced that it is investigating a complaint from an individual concerning transparency of processing and exercising rights under the GDPR in relation to a generative AI application.

SEC Proposes Rules Related to Predictive Data Technologies

The U.S. Securities and Exchange Commission (SEC) proposed broad new rules (the proposed rules) to address the potential conflicts of interest that may accompany the use of predictive data analytics and similar technologies. The proposed rules require broker-dealers and investment advisers to evaluate any covered technology used in any investor interaction for conflicts of interest. If a conflict of interest exists, the proposed rules would require broker-dealers and investment advisers to eliminate or neutralize certain of those conflicts of interest. The proposed rules also require that investment advisers and broker-

dealers adopt and maintain policies and procedures reasonably designed to prevent violations of the proposed rules and maintain books and records relating to their compliance.

Under the proposed rules, "covered technology" is expansively defined and includes a firm's use of analytical, technological, or computational functions, algorithms, models, correlation matrices, or similar methods or processes that optimize for, predict, guide, forecast, or direct investment-related behaviors or outcomes of an investor. While the proposed rules are

intended to be technology-neutral, the proposal specifies examples of predictive data analytic-like technologies, which include AI and machine learning. It is worth noting, however, that the definition of a "covered technology" is quite broad and would capture many other technologies used in asset management.

Notably, the proposed rules are meant to capture a wide range of actions beyond recommendations. Among the investor interactions the proposed rules are meant to encompass are digital engagement practices such as a firm's use of design elements, features, or communications that nudge, prompt, cue, solicit, or influence investment-related behavior. Additionally, under the proposed rules, disclosure of conflicts of interest involving covered technologies is not sufficient—instead, firms must go so far as to eliminate or neutralize the conflict of interest.

Microsoft Announces Copyright Indemnification for Copilot Users

On September 7, 2023, Microsoft announced that it will defend its customers from copyright infringement claims arising from customers' use of Microsoft's Copilot services. Copilot is a suite of Microsoft services that integrate generative AI capabilities, including by leveraging the technology of Microsoft's partner, OpenAI. Microsoft said the new indemnification commitment, which it calls its "Copilot Copyright Commitment," is meant to allow customers to use generative AI technologies "to work and innovate with confidence," and the commitment comes in the midst of uncertainty about the legal risk surrounding the use of the outputs of generative AI systems. The Copilot Copyright Commitment is part of a larger set of "AI Customer Commitments" that Microsoft has announced in recent months.

Microsoft's announcement follows the lead of Adobe, which recently announced a similar commitment to users of Adobe Firefly. IBM also recently announced that it will indemnify users of its enterprise AI model, watsonx, against intellectual property infringement claims.

California Privacy Protection Agency Releases Discussion Drafts on Regulations Related to AI

On August 29, 2023, the California Privacy Protection Agency (CPPA) posted discussion drafts of some of its forthcoming regulations related to AI, which are expected to eventually become part of California's comprehensive consumer privacy law.

The draft regulations provide expansive definitions of both AI and automated decision-making technology. Read broadly, these definitions could encompass a sweeping number of technologies.

Businesses that use automated decision-making technology in a way that triggers a yet to be determined opt-out requirement under the CCPA would have to include additional elements in the risk assessments required under the law. Businesses that use personal information to train AI and automated decision-making technology would also be subject to additional requirements, including documenting how they will ensure other persons using that technology are using it for appropriate purposes.

EEOC Settles First AI-Based Hiring Discrimination Case

The Equal Employment Opportunity Commission (EEOC) recently settled its first AI-based hiring discrimination case against iTutorGroup, consisting of three integrated companies providing English-language tutoring services to students in China. According to the EEOC, the defendants violated the Age Discrimination in Employment Act by programming its hiring software to automatically reject certain applicants on the basis of their age. iTutorGroup will pay $365,000 (in addition to providing other relief) to settle the lawsuit.

FTC Focuses on Generative AI; Solicits Research for PrivacyCon 2024

On October 4, 2023, the Federal Trade Commission (FTC) hosted a virtual roundtable on generative AI's impact on the creative economy. The speaker list included creators and representatives from creative industry organizations and unions; representatives of the AI industry were not in attendance at the event. The overarching takeaway was that creators are concerned about their work, data, or likenesses being input into generative AI models without their consent, attribution, or compensation, which they believe leads to unfair competition. Many different solutions were proposed to address these concerns, including requiring opt-in consent to use creators' work, likeness, or data in generative AI models; requiring fair compensation for the use of this data to train models; requiring transparency around the data used to train generative AI models; and imposing algorithmic disgorgement as a remedy

in enforcement actions involving these issues.

This roundtable comes just a handful of weeks after the FTC issued new guidance on generative AI and digital rights. As part of that guidance, the FTC encouraged companies to tell people whether they are buying a digital item or just purchasing the rights to it; not suggest that AI-generated creations were made by a human; and inform customers

of AI-generated products whether and to what extent the training data includes copyrighted or otherwise protected material.

Continuing this focus on AI, the FTC recently announced PrivacyCon 2024 and is soliciting research for the event, which the press release notes will be particularly focused on automated systems and AI (among other topics).

Generative AI Takes Center Stage at DEF CON 2023

Thanks in part to the efforts of the White House, DEF CON 2023's AI Village featured the generative AI models of some of the leading AI companies. Conference participants were challenged

to try to outsmart top AI models from some of the leading companies in the field by tricking the models into providing responses that they should not give. Participants who successfully

completed the challenge then submitted their results to the relevant company who can use the data to patch the model.

Reintroduction of the Algorithmic Accountability Act

On September 21, 2023, Senators Ron Wyden (D-OR) and Cory Booker (D-NJ) and Representative Yvette Clarke (D-NY) reintroduced the Algorithmic Accountability Act (the Act). If enacted, the Act instructs the FTC to establish regulations requiring companies

to perform impact assessments on automated decision systems that are used in critical decision-making. The Act outlines a series of factors that must be considered as part of these impact assessments, including risks and potential adverse effects on consumers. The Act

would require companies to conduct privacy assessments in accordance with NIST standards, and document their data collection methods, among other requirements. An identical version of the Act was previously introduced in 2022.

UK Develops Innovation-Centered Approach to AI

On September 18, 2023, the UK Competition Markets Authority published an initial report on its review of AI foundation models, which focused on the competition and consumer protection concerns raised by the development of these models. The report concluded with seven proposed principles to guide the development and deployment of foundation models: accountability, access, diversity, choice, flexibility, fair dealing, and transparency. The principles are among the first proposed as part of the UK's principles-based approach to regulating AI (which was outlined in a white paper on AI regulation in March). The principles are open to stakeholder consultation and are expected to be updated in early 2024.

Meanwhile, to support AI innovators navigating increasingly complex cross-sector regulatory requirements, the UK Government has also announced a multi-agency pilot scheme designed to provide tailored support and advice for businesses in their compliance efforts. The scheme is expected to commence in the first half of 2024 and will last approximately one year.

Competitors Sue Each Other over Patent Infringement of AI Input Efficiency Tool

On July 28, 2023, FriendliAI sued Hugging Face for patent infringement. FriendliAI alleges that Hugging Face used FriendliAI's patented technique for batching input requests made to large language AI models in Hugging Face's competitive product. Specifically, FriendliAI's allegedly patented solution (U.S. Patent No. 11,442,775) sold as "PeriFlow" or "Orca," uses dynamic or continuous batching, or batching with iteration-level scheduling, to improve efficiency of processing inputs into an AI model by allowing new inputs to be sent to the AI model prior to it completing each request in the most-recent batch of inputs. FriendliAI alleges that Hugging Face's "Text Generation Inference" tool for AI models infringes FriendliAI's patent by using continuous batching. Hugging Face has answered FriendliAI's complaint and is bringing its own counterclaims for declaratory judgment of noninfringement and patent invalidity.

U.S. Agencies Issue Cybersecurity Information Sheet on AI-Generated Threats

In a Cybersecurity Information Sheet published on September 12, 2023, the National Security Agency, the Federal Bureau of Investigation, and the Cybersecurity and Infrastructure Security Agency warned that threats from "deepfakes" signal a rapidly growing threat across technologies.

The joint advisory defines deepfakes as "multimedia files that have been created (i.e., fully synthetic) or edited (i.e., partially synthetic) using some form of AI technology." These deep learning-based algorithms create an opportunity for users to alter multimedia to generate highly realistic replicas using AI. For example, images surfaced on social media of former President Donald Trump hugging and kissing Dr. Anthony Fauci, his ex-chief medical advisor. These images were identified as AI-generated deepfakes in a campaign attack ad against Donald Trump.

No federal legislation currently exists to specifically address the threats of deepfake technology within the United States and there are few options for legal recourse. Nine states, however, have passed legislation that seek to limit the harm of deepfakes and there several

6

U.S. Agencies Issue Cybersecurity Information Sheet . . . *(Continued from page 6)*

other state legislatures that currently have such bills under review. Currently, the legislation generally bans the use of nonconsensual deepfakes that are used to exploit people and to spread political misinformation. The states' laws vary in scope and the remedies they impose. Hawaii, Virginia, Texas, and Wyoming have criminalized the creation of obscene deepfakes, while California and Texas have passed legislation allowing civil actions against the creators of obscene deepfakes. For example, Hawaii's law makes it a crime to create, disclose, or threaten to disclose a nonconsensual deepfake. A defendant must act with the "intent to substantially harm the depicted person with respect to that

person's health, safety, business, calling, career, education, financial condition, reputation, or personal relationships, or as an act of revenge or retribution." In Michigan, House Bills 5141 through 5145 could regulate and punish the deceptive use and creation of AI-generated material in political campaign advertisements. The legislation would require AI-created videos and audio segments to provide a three-second disclosure at the beginning or end. If a candidate feels they've been hurt or are likely to be hurt by one of these AI-generated ads, they or the state attorney general could file in circuit court to have the ad taken down. Although these state laws are gaining traction, lawmakers are

still grappling with a myriad of thorny legal issues ranging from free speech concerns, which party to sue, and how to best define "deepfake."

The Cybersecurity Information Sheet encourages organizations to establish best practices that they can employ in preparation for and response to deepfakes. Such practices include implementing real-time verification capabilities and procedures, putting safeguards in place such as hashing both the original and the copy to verify the genuine copy, and above all, to always check the source of the media before drawing conclusions.

FTC Takes Action Against AI-Backed Business Opportunity Scheme

On September 8, 2023, the FTC entered into a stipulated preliminary injunction with Automators LLC, which it alleges deceived customers into purchasing ecommerce business opportunities. The defendants' initial business model allegedly involved convincing consumers to invest as a "silent partner" in the defendants' business, which purportedly used AI" to manage automated online

stores. The defendants allegedly advertised that purchasers were likely to make monthly profits of 8-20 percent of their investment due to the business's use of AI to maximize revenues. After selling the original company, the defendants then launched a new business, which claimed to teach consumers how to leverage AI to become successful ecommerce sellers.

As part of the stipulated preliminary injunction, the defendants cannot make earnings claims unless they are not misleading and are supported by written substantiation. Notably, the stipulated preliminary injunction also prohibits defendants from misrepresenting, expressly or by implication, that their products will use AI to maximize revenues.

This latest action signals the FTC's continued focus on unsubstantiated earnings claims related to AI. In January 2023, the FTC brought an action against investment advice company WealthPress, Inc., for making allegedly misleading claims that the company used an algorithm developed by experts to maximize participant earnings. In light of these actions, AI companies should be extra mindful of making claims that they use AI technology unless they actually use such technology and can substantiate such use.

Federal Reserve Highlights AI Concerns in New Report

In August 2023, the Federal Reserve Board of Governors published its annual Cybersecurity and Financial System Resilience Report to Congress, which describes measures the Board has undertaken to strengthen cybersecurity within the financial services sector and identifies cyber threats that may pose risk to financial system resilience.

The report has identified AI, among other machine learning tools, as a threat, albeit an emerging one, to financial system resilience. While the report acknowledges that machine learning tools can drive improvements in information security, it cautions that such capabilities can also be used by bad actors to automate cyberattacks. Use of generative AI by bad actors was also identified as an emerging threat due to its ability to generate content that can be used in enhancing social engineering attacks, including email and text message based phishing attacks.

New Regime Regulates Outbound Investment in AI

On August 9, 2023, President Biden issued an Executive Order (EO) restricting certain types of outbound investments into certain entities related to China, Hong Kong, and Macau. The EO calls out AI as one of three key technology sectors within which the U.S. Department of Treasury should focus its efforts (with the other two being the semiconductor/microelectronics and quantum computer industries). As such, Treasury has proposed a new screening program that would prohibit certain investments into AI companies that are based in China or otherwise owned or controlled by Chinese parties, and would require that investors in certain other China-related AI companies notify the government about the investment. The primary goal of this new outbound screening program would be to stop U.S. investors from contributing to AI technology development that may benefit the Chinese military, intelligence services, or other China-based actors viewed as adversarial to U.S. interests.

In tandem with the EO, Treasury issued an Advance Notice of Proposed Rulemaking (ANPRM) to outline the screening program and seek additional stakeholder input on key aspects of the program's implementation, such as notification requirements, definitions, and penalties. Interested parties were asked to submit written comments to Treasury about the outbound screening program by September 28, 2023. Wilson Sonsini's National Security group worked alongside the National Venture Capital Association (NVCA), an organization made up of venture capital firms and corporate venture capital groups across the U.S., in drafting comments to the ANPRM to advocate for a final implementation of the proposed rules that addresses national security concerns while minimizing disruption to the vibrant and vital venture capital community in the U.S. The NVCA comments address the potentially significant additional diligence burden for U.S. investors and a lack of clarity in the proposed definitions published in the ANPRM, especially those related to AI. NVCA also noted the potential concerns associated with the extraterritorial restriction of investments into, e.g., AI companies based in the U.S. and other nations that are founded or invested in by Chinese nationals, even if those companies are not otherwise connected to China.

New Regime Regulates Outbound Investment in AI . . . *(Continued from page 8)*

Not all AI-related investments to China would be prohibited by the proposed rules, even if the definitions set forth in the ANPRM are adopted without further changes. The ANPRM tentatively proposes a regime in which only AI technologies that are "exclusively" used for military, intelligence, or mass surveillance purposes are prohibited from receiving investment. A broader array of investments into Chinese companies building AI products may require a filing with Treasury *after* the investment is made. Currently, however, the ANPRM defines "artificial intelligence system" very broadly as

any "engineered or machine-based system that can, for a given set of objectives, generate outputs such as predictions, recommendations, or decisions influencing real or virtual environments"; this definition might ultimately sweep in a wide variety of software, so the purpose-based requirements for filing will carry a lot of weight in determining the score of the regime. Unless those aforementioned purposes are clearly defined, investments into, e.g., a commercial chatbot AI that collects information on users of ecommerce sites may be called into question.

Though the final regulations are still forthcoming, we advise that companies and investors pay close attention to the use of AI in developing technology products if there are China-linked persons among the founders or on the cap tables. Treasury has suggested that it may publish a set of actual proposed rules in the coming months, subject to further notice and public comment, so parties will likely get a second chance to review those further refined rules before a final set of rules takes effect.

AI Hearings Dominated September Congressional Schedule

Six separate congressional committees held hearings in September 2023 to discuss the use of AI in the U.S. and internationally:

- The Senate Committee on the Judiciary held a subcommittee hearing on AI legislation. At the hearing, Senators Richard Blumenthal (D-CO) and Josh Hawley (R-MO) spoke about the principles they incorporated into their now-released AI framework. Senator Blumenthal also announced his aim to introduce legislation regulating

various aspects of AI development by the end of the year.

- The House Committee on Oversight held a subcommittee hearing on the use of AI by federal agencies. In general, the members and witnesses seemed to agree that, if harnessed correctly, AI creates an opportunity for federal agencies to better achieve their mission.

- The Senate Committee on Energy and Natural Resources' hearing discussed the Department of Energy's

role in ensuring the U.S. remains both secure and competitive in the emerging technology space.

- The Senate Select Committee on Intelligence's hearing focused on the role of AI in national security, and discussed how the intelligence community can adapt to use and respond to AI technologies.

- The Senate Committee on Banking, Housing, and Urban Affairs hearing focused on the role of AI in the financial services sector. During the hearing, Chairman Sherrod Brown (D-OH) communicated his goal of prioritizing the use of AI to empower consumers interacting with financial institutions.

- The Senate Committee on Science, Commerce, and Transportation held a hearing on AI transparency and risk mitigation. Testimony provided by the witnesses gave an overview of ways in which technology companies are being proactive to appraise and account for the possible negative impacts of widespread AI adoption.

DHS Policies Take Aim at Ensuring Principled Approach to AI and Facial Recognition

The Department of Homeland Security (DHS) has announced two new policies (Policy Statement 139-06 and Directive 026-11) designed to ensure the responsible use of AI by the DHS and address the possible disparate impact posed by the use of facial recognition technology. The policies, which are the first policies developed by the DHS Artificial Intelligence Task Force, build on commitments from the Biden Administration to manage the risk of AI while working to harness its benefits.

Policy Statement 139-06 (Acquisition and Use of Artificial Intelligence and Machine Learning by DHS Components):

- establishes principles for the foundation for DHS's use of AI;

- mandates that DHS will only acquire and use AI in a manner that is consistent with the Constitution and all other applicable laws and policies; and

- prescribes that DHS will not collect, use, or disseminate data used in AI activities, or establish AI-enabled systems that make or support decisions, based on the inappropriate consideration of race, ethnicity, gender, national origin, religion, gender, sexual orientation, gender identity, age, nationality, medical condition, or disability.

Directive 026-11 (Use of Face Recognition and Face Capture Technologies):

- dictates thorough testing of all Departmental uses of face recognition and face capture technologies in an effort to ensure there is no unintended bias or disparate impact;

- requires U.S. citizens to be afforded the right to opt-out of face recognition for specific, non-law enforcement uses and prohibits face recognition from being used as the sole basis of any law or civil enforcement related action; and

- establishes a review process for any new Departmental uses of facial

recognition technology, including review by the Privacy Office, the Office for Civil Rights and Civil Liberties, and the Office of the Chief Information Officer.

The DHS also announced the appointment of Chief Information Officer Eric Hysen as the DHS's first Chief AI Officer. In this role, Hysen will promote AI innovation and safety within the DHS, along with advising Secretary Mayorkas and DHS leadership on AI issues. Hysen currently co-chairs the DHS Artificial Intelligence Task Force, created in April 2023.

Majority Leader Schumer Hosts Closed-Door Discussion Between Senators and AI Thought Leaders

On September 13, 2023, Senate Majority Leader Chuck Schumer (D-NY) hosted a closed forum for senators to hear from thought leaders in the AI space. The invited speakers each had three minutes to outline their respective views. The closed-door forum included technology advocates, civil rights groups, labor leaders, and tech executives, including Meta's Mark Zuckerberg and X, Tesla's Elon Musk, and former Microsoft CEO Bill Gates. While media representatives were not invited to attend the forum,

some participants reportedly raised existential risks posed by AI.

Majority Leader Schumer co-led the forum with Senator Mike Rounds (R-SD) with the hope that such events will provide senators with helpful context and direction for what a regulatory regime addressing AI would look like. Some senators, including Senator Josh Hawley (R-MO), criticized the closed nature of the forum.

While Senators seem to agree that it is urgent to address the rapidly evolving technology and its applications, Republican members of Congress have expressed a general concern of overregulation. Some Republican senators have pointed to the regulatory undertaking in the European Union as a damaging approach to a burgeoning industry and want to avoid the implementation of a similar framework in the United States.

Recent Deals Highlights

Wilson Sonsini Advises Anthropic in Connection with Amazon Partnership

On September 25, 2023, Amazon announced it is investing up to $4 billion into the AI start-up Anthropic. As part of the deal, AWS will become the "primary" cloud provider for Anthropic, with the AI company using Amazon's cloud platform to do "the majority" of its AI model development and research into AI safety, the companies said. That will include using Amazon's suite of in-house AI chips and collaborating on the development of future AI chips. Anthropic made a "long-term commitment" to offer its AI models to AWS customers, Amazon said, and promised to give AWS users early access to features such as the ability to adapt Anthropic models for specific use cases.

In Anthropic's press release, it said that Amazon developers and engineers will be able to build on top of Anthropic's models to incorporate generative AI capabilities into their work. Anthropic further emphasized that Amazon's minority stake would not change its corporate governance structure nor its commitments to developing AI responsibly, and that Anthropic and Amazon would work together to ensure responsible use of Anthropic's products.

Wilson Sonsini Goodrich & Rosati represented Anthropic in the commercial aspects of the transaction.

Wilson Sonsini Advises Plenful in $9 Million Seed Round

On October 3, 2023, Plenful, a workflow automation platform streamlining pharmacy and healthcare operations, announced $9 million in funding led by Bessemer Venture Partners and more than 20 enterprise customers across health systems and pharmacies.

Plenful combines the power of AI-based workflow automations with human oversight. Its customers are using the platform to automate document data entry for onboarding and referral orders, 340B auditing and savings identification, pharmacy revenue cycle, and other use-cases. Plenful serves more than 20 enterprise customers including Tampa General Hospital, Renown Health, Medication Management Partners, and other organizations in the healthcare value chain including health systems, long term care pharmacies, specialty pharmacies, compounding pharmacies, manufacturers, and other healthcare organizations. Funding from the round will be used for product development, engineering, sales, and internal customer operations.

Wilson Sonsini Goodrich & Rosati advised Plenful on the transaction.

Wilson Sonsini Advises AI App Learn. xyz on $3 Million Seed Funding

On September 14, 2023, Learn.xyz, a generative AI learning start-up based in San Francisco, announced the launch of its fully AI-powered social learning app on iOS and Android on the heels of closing a $3 million seed financing round. The app allows users to learn about any topic, in almost any language. Learn.xyz's app is like a mixture of Duolingo and Wikipedia, powered by AI, creating bite-sized "Curiosities" which feature slides and a quiz, in mere seconds just from taking in a user's question. The company launched into closed beta in March, and its early adopters have created more than 60,000 Curiosities to date. These Curiosities cover every imaginable topic, from history to physics to biology to sports.

Wilson Sonsini Goodrich & Rosati advised Learn.xyz on the transaction.

Wilson Sonsini Advises d-Matrix on $110 Million Series B

On September 6, 2023, d-Matrix, a leader in high-efficiency generative AI compute for data centers, closed $110 million in a Series-B funding round led by Singapore-based global investment firm Temasek. The fundraise will enable d-Matrix to begin commercializing Corsair, the world's first Digital-In Memory Compute (DIMC), a chiplet-based inference compute platform, after the successful launches of its prior three chiplets.

Wilson Sonsini Goodrich & Rosati advised d-Matrix on the transaction.

Wilson Sonsini Advises Humu on Acquisition by Perceptyx

On August 2, 2023, Perceptyx, the leading employee listening and manager effectiveness platform, announced it has acquired Humu, a technology company that uses science-based 'nudges' to influence positive behavior change and improve business performance.

Perceptyx will integrate Humu's extensive library of behavior nudges in its People Insights Platform, allowing organizations to deliver personalized nudges to both leaders and employees, customized to the behavior each individual or team wants to improve. Perceptyx will be the first company to enable a "nudge" process that engages the entire workforce to take action and make work better. Wilson Sonsini Goodrich & Rosati advised Humu on the transaction.

Wilson Sonsini AI Advisory Practice Highlights

On September 5, 2023, Barath Chari participated in a panel with Adam Cheyer (co-founder of Siri and founding member of change.org) and Guru Chahal (partner at Lightspeed) where they discussed the future of AI and its impact on our society.

On September 6, 2023, Scott McKinney joined a virtual panel of experts to discuss AI considerations for startups and how AI can impact various areas of the law—including IP, government regulation, product liability, and more.

On September 8, 2023, Jess Cheng moderated a continuing legal education program on the use of AI in the payments industry at the ABA Business Law Section Fall Meeting.

On October 5-6, 2023, Barath Chari and Scott McKinney moderated roundtables at the TechGC Legal AI Conference. TechGC is an invitation-only network for general counsels at leading high-growth technology companies and venture capital funds.

On October 5, 2023, Seth Flaum participated in a panel at the BioFuture Conference, where he discussed the use of AI in clinical trials.

On October 9, 2023, Maneesha Mithal spoke on a panel on privacy and security in AI, as part of the ABA AI & Robotics Institute meeting in Santa Clara, California.

On October 13, 2023, David Wang spoke on a panel at the Berkeley Law AI Institute, where he discussed what AI means for legal teams.

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