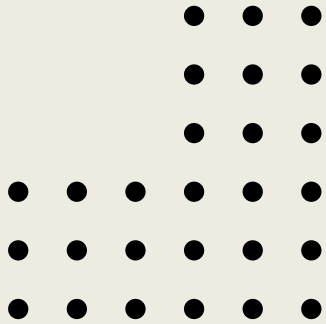
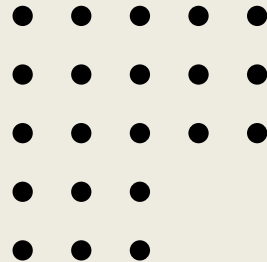
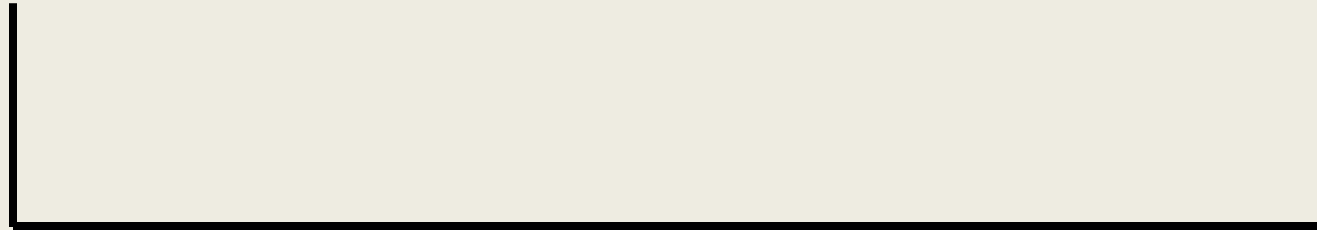




MORAL RIGHTS AND AI:

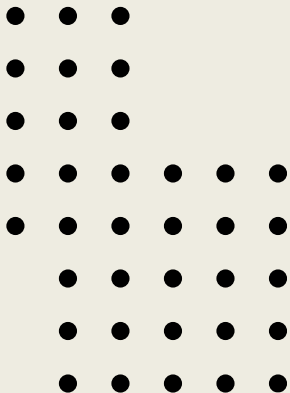
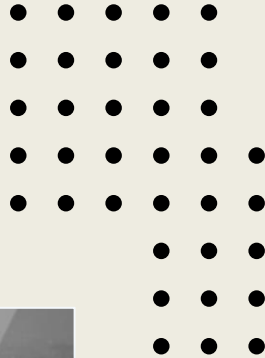
What about image rights?

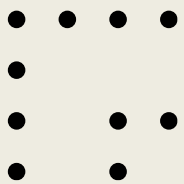
A Brazilian perspective...



Hi, I am Fernanda Galera

Lawyer, Lecturer, and Researcher focused on
Intellectual Property, Entertainment Law, Digital
Law and Media.





Bill n° 2.338/2023

“Section IV – Copyright and Related Rights

Article 62. AI developers who utilise content protected by copyright and related rights must disclose the protected materials used in the development of AI systems. This disclosure shall be made through the publication of a summary on an easily accessible website, subject to commercial and industrial confidentiality, in accordance with specific regulations.

Sole Paragraph. For the purposes of this Chapter, development includes the stages of data mining, training, retraining, testing, validation, and deployment of AI systems.

Article 63. The automated use of protected content in text and data mining processes for research and development of AI systems by scientific, research, and educational institutions, museums, public archives, and libraries shall not constitute an infringement of copyright or related rights, provided the following conditions are met:

I – Access to the content has been obtained lawfully;

II – The use is non-commercial in nature;

III – The use of protected content is limited to what is strictly necessary to achieve the intended objective, without prejudice to the economic interests of rights holders or interference with the normal exploitation of the protected works.

§1 Copies of protected content used in AI systems must be securely stored and retained only for the period necessary to carry out the relevant activity or to verify results.

§2 The public display or dissemination of protected works and content used in the development of AI systems is prohibited.

§3 This article does not apply to institutions affiliated with, controlled by, or linked to for-profit entities that provide AI systems or share equity interests.

§4 The provisions of this Article shall also apply to data mining conducted by public or private entities in the context of AI systems aimed at combating civil and criminal offences involving copyright and related rights violations.”

Bill nº 2.338/2023

“Article 64. Holders of copyright and related rights may prohibit the use of their content in the development of AI systems in cases not covered by Article 63 of this Law.

Sole Paragraph. Prohibiting the use of protected works in an AI system's dataset after the training process does not exempt the AI agent from liability for moral or material damages, in accordance with applicable legislation.

Article 65. AI agents that make use of content protected by copyright or related rights during data mining, training, or system development must compensate the rights holders for such use. The following safeguards must be ensured:

I – Rights holders must have effective means to negotiate collectively under Title VI of Law No. 9,610 of 19 February 1998 (Copyright Law), or to negotiate directly for the use of their content, whether free of charge or remunerated;

II – The calculation of such remuneration must respect the principles of reasonableness and proportionality and take into account relevant factors, such as the scale of the AI agent and the competitive impact of the AI-generated results on the original works;

III – Free negotiation of the use of protected content must be encouraged, in a manner that fosters a research and innovation environment and upholds contractual freedom between the parties, as provided in Articles 156, 157, 421, 422, 478, and 479 of Law No. 10,406 of 10 January 2002 (Civil Code), and Article 4 of Law No. 9,610 of 19 February 1998.

§1 Remuneration is only due:

I – To national or foreign rights holders domiciled in Brazil;

II – To individuals domiciled in a country that provides reciprocal protection for Brazilian copyright and related rights under terms equivalent to those set out in this Article, pursuant to Article 2 (sole paragraph) and Article 97 (§4) of Law No. 9,610 of 19 February 1998.

No remuneration shall be due where reciprocity is not assured.

§2 Rights holders opting for direct negotiation and authorisation under item I of the main provision may do so without the need for further regulation.”

Overview and Summary of Articles 62-65

- Art. 62 – AI developers must **publish a summary disclosing the copyrighted works** used during AI system development;
- Art. 63 – Exception/limitation for the use of copyrighted content in AI training when conducted by scientific, research, or educational institutions, under specific conditions;
- Art. 64 – Copyright and related **rights holders may prohibit the use of their content** in AI development;
- Art. 65 – AI agents that use copyrighted works must **provide remuneration to rights holders**.

Copyright and Related Rights Law

“24. The moral rights of the author are understood to be the right:

I. to claim authorship of the work at any time;

II. to cause his name, pseudonym or conventional sign to appear or be announced as that of the author when the work is used;

III. to keep the work unpublished;

IV. to ensure the integrity of the work by objecting to any modification or any act liable in any way to have an adverse affect on the work or to be prejudicial to his reputation or honor as author;

V. to amend the work either before or after it has been used;

VI. to withdraw the work from circulation or to suspend any kind of use that has already been authorized where the circulation or the use of the work are liable to have an adverse affect on the reputation or image of the author;

VII. to have access to the sole or a rare copy of the work that is lawfully in a third party's possession with a view to preserving the memory thereof by means of a photographic or similar or an audiovisual process, in such a way that the least possible inconvenience is caused to its possessor who shall in any event be indemnified for any damage or prejudice suffered.

(1) On the author's death, the rights referred to under I to IV shall be transferred to his successors.

(2) The State shall be under the obligation to defend the integrity and authorship of a work that has passed into the public domain.

(3) In the cases referred to in subparagraphs V and VI, third parties shall be granted prior indemnification where appropriate.”

Overview and Summary of Article 24 – Copyright Law

- Art. 24, I + II – Right of Attribution;
- Art. 24, III – Right of Disclosure;
- Art. 24, IV + V – Right of Integrity;
- Art. 24, VI – Right of Withdrawal;
- Art. 24, VII – Right of Access (sole or a rare copy of the work).

Overview and Summary of Article 24 – Copyright Law

Copyright Law =

- Art. 24, I + II – Right of Attribution;
- Art. 24, III – Right of Disclosure;
- Art. 24, IV + V – Right of Integrity;
- Art. 24, VI – Right of Withdrawal;
- Art. 24, VII – Right of Access.



AI Bill =

Publish the summary of the works
+ remuneration
+ prohibition

Overview and Summary of Article 24 – Copyright Law

Copyright Law =

- Art. 24, I + II – Right of Attribution;
- Art. 24, III – Right of Disclosure;
- Art. 24, IV + V – Right of Integrity;
- Art. 24, VI – Right of Withdrawal;
- Art. 24, VII – Right of Access.

AI Bill =

Publish the summary of the works
+ remuneration
+ prohibition



IS THAT ENOUGH?

Image Rights

Bill 2338/2023.

Article 66. The use by AI systems of image, audio, voice, or video content that portrays or identifies natural persons must respect personality rights, as established under Law No. 10,406 of 10 January 2002 (Civil Code), and other applicable legislation.

Brazil Civil Code - Image rights are personality rights

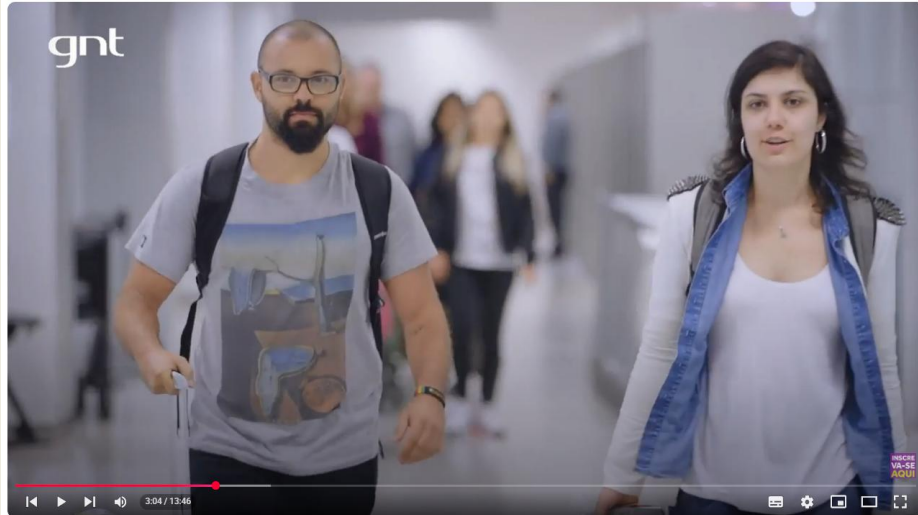
Art. 20. Unless authorized, or if necessary for the administration of justice or the maintenance of public order, the disclosure of writings, the transmission of the word, or the publication, display or use of a person's image may be prohibited, at your request and without prejudice to the indemnity that may apply, if you achieve honor, good fame or respectability, or if they are intended for commercial purposes.

Single paragraph. In the case of a dead or absent person, the spouse, the ascendants or the descendants are entitled to claim this protection.

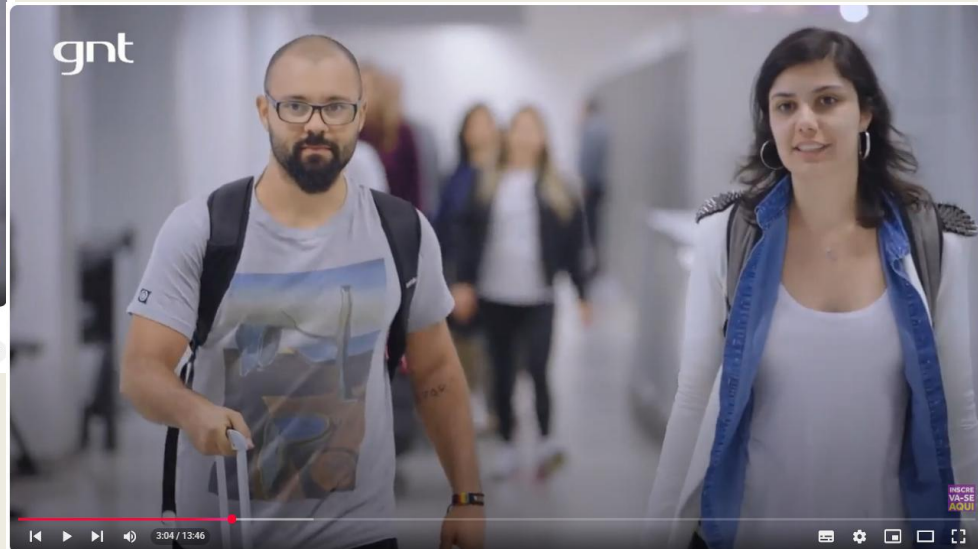
Art. 21. The private life of the natural person is inviolable, and the judge, at the request of the interested party, will adopt the necessary measures to prevent or terminate an act contrary to this norm.







Pedido de casamento, reencontros e despedidas emocionantes de família | Chegadas e Partidas



Pedido de casamento, reencontros e despedidas emocionantes de família | Chegadas e Partidas



Canal GNT - **Pedido de casamento, reencontros e despedidas emocionantes de família | Chegadas e Partidas – 16/04/2020**

https://www.youtube.com/watch?v=yzEqTf3mwr0&list=PLvvfh7mIR8VZIJlUGkXteYMreifd_O0Zp&index=48

Overview and Summary of Image Rights

Copyright Law =

- Moral Rights - Attribution, Disclosure, Integrity, Withdrawal, and Access.

Civil Code =

- Personality Rights – image, voice, likeness/appearance, mannerisms, etc. – may be prohibited for commercial use



AI Bill =

Publish the summary of the works
+ remuneration
+ prohibition

Overview and Summary of Image Rights

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AI Bill =

Publish the summary of the works
+ remuneration
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IS THAT ENOUGH?

Overview and Summary of Image Rights

Copyright Law =

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Civil Code =

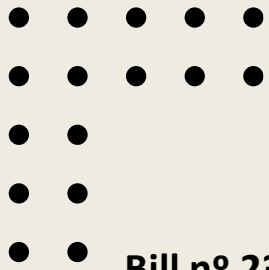
- Personality Rights – image, voice, likeness/appearance, mannerisms, etc. – may be prohibited for commercial use

AI Bill =

Publish the summary of the works
+ remuneration
+ prohibition



IS THAT ENOUGH?
+ Privacy; Data Protection;
Right (De)-Indexing; Right
to be Forgotten...



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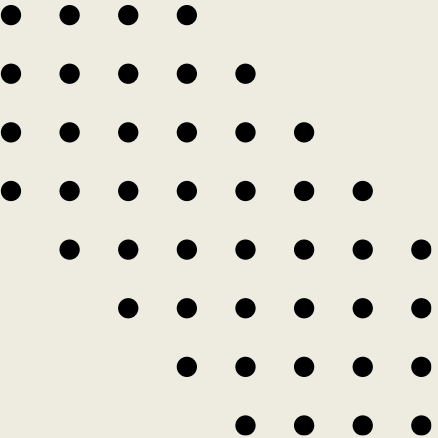
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<https://www.wipo.int/wipolex/en/legislation/details/514>

Brazilian Civil Code - Lei nº 10.406/2002 –

https://www.planalto.gov.br/ccivil_03/leis/2002/l10406compilada.htm

(Unofficial translation - <https://webfiles-sc1.blackbaud.com/files/support/helpfiles/npoconnect-ga/content/resources/attachments/brazil-law-civil-code-13.777-2018.pdf>)



Thank you!



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