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COMMERCIALISATION OF DIGITAL REPLICAS OF INDIVIDUALS

Primer on the Intellectual Property and Personal Data Protection Laws in Singapore

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This article provides a legal primer on the commercialisation of digital replicas of individuals, focusing on intellectual property and personal data protection laws in Singapore. It highlights emerging legal challenges posed by unauthorised use of a person's likeness or voice for commercial purposes. While Singapore currently does not have explicit legislation protecting against unauthorised creation and use of digital replicas for commercial purposes or statutory personality rights, protection may be sought by relying on various potential causes of action under intellectual property laws or the Personal Data Protection Act 2012. This evolving legal landscape reflects challenges seen internationally, with ongoing debates on balancing artificial intelligence sector growth and individual rights.

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I. Introduction

1 With the advent of artificial intelligence ("AI"), creating convincing synthetic or fake images, videos and audio recordings of persons, alive or dead, has become more sophisticated and accessible. Synthetic media[2] – referred to as "digital replicas" in the US,[3] "deep synthetic content" in China,[4] or, when created without authority, "deepfakes"[5] – can lead to both exciting opportunities and significant challenges across various sectors, including entertainment, politics, and commerce.

2 Like all technology, such uses of AI have both beneficial and concerning applications. Legitimate uses could include AI avatars for video games and other forms of entertainment, customer service chatbots, as well as collaborations with celebrities for the creation of AI avatars designed for marketing outreach.[6] In China, AI-generated replicas of real streamers have become a booming industry for online sales.[7] One striking

2 Synthetic media refers to artificial intelligence ("AI")-generated content, including video, text, images, and voice. See Emily Carter, "Synthetic Media Explained: Types, Examples, and the Future of AI-Generated Content", *Unscript* (10 March 2025) <https://www.unscript.ai/blog/synthetic-media> (accessed 6 December 2025).

3 Jane C Ginsburg & Graeme W Austin, "Deepfakes in Domestic and International Perspective" (2025) 48 *Columbia Journal of Law & the Arts* (forthcoming); United States Copyright Office, *Copyright and Artificial Intelligence (Part 1: Digital Replicas)* (July 2024) <https://copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-1-Digital-Replicas-Report.pdf> (accessed 6 December 2025).

4 "China Deep Synthesis Regulation 2025: Essential Guide", *Choi & Huang* (9 July 2025) <https://www.chinalegalexperts.com/news/china-deep-synthesis-regulation> (accessed 6 December 2025).

5 Kinza Yasar, Nick Barney & Ivy Wigmore, "What Is Deepfake Technology?", *TechTarget* (22 May 2025) <https://www.techtarget.com/whatis/definition/deepfake#:~:text=Deepfakes%20uses%20two%20algorithms%20%2D%2D,version%20of%20the%20content%20is.> (accessed 6 December 2025).

6 As an example, idoLive is a Singapore-based company launched in 2024 that offers AI digital celebrity and human solutions for marketing and celebrity endorsements: "AI Digital Celebrity And Human Solution" <https://www.idolive.ai/product> (accessed 6 December 2025). The service features local celebrities such as Gurmit Singh and Li Nanxing: Lokesh Choudhary, "Singaporean Celebs Test Out New Startup's AI Avatars", *Tech in Asia* (28 March 2024) <https://www.techinasia.com/singaporean-celebs-test-out-new-startups-ai-avatars> (accessed 6 December 2025).

7 Zeyi Yang, "Deepfakes of Chinese Influencers Are Livestreaming 24/7?", *MIT Technology Review* (19 September 2023) <https://www.technologyreview.

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positive example of synthetic media occurred in 2019 when a UK health charity named "Malaria Must Die" collaborated with David Beckham and an AI company, Synthesia AI, to create a multilingual campaign video advocating for global malaria eradication. In the video, Beckham appears to seamlessly speak in nine different languages, leveraging AI to expand his message's reach.[8]

3 However, such synthetic media technology can also be used to commercialise a famous person's voice, likeness or other indicia of identification without authorisation, *eg*, creating sound recordings for product endorsements. Such unauthorised digital replicas have already made headlines and some of the more well-known examples include:

(a) April 2023: A viral song featuring the AI-generated voices of Drake and The Weeknd was circulated widely on social media and streaming platforms without the artists' knowledge or consent.[9]

(b) May 2023: Closer to home, AI-generated covers of songs mimicking the distinct voice of Singaporean singer Stefanie Sun flooded the Chinese video platform Bilibili.[10]

(c) November 2024: Hollywood actress Scarlett Johansson pursued legal action against AI app Lisa AI: 90's Yearbook & Avatar which used her name, likeness,

com/2023/09/19/1079832/chinese-ecommerce-deepfakes-livestream-influencers-ai/> (accessed 6 December 2025).

8 Guy Davies, "David Beckham 'Speaks' 9 Languages for New Campaign to End Malaria", *ABC News* (10 April 2019) <https://abcnews.go.com/International/david-beckham-speaks-languages-campaign-end-malaria/story?id=62270227> (accessed 6 December 2025).

9 "AI-Generated Song Imitating Drake and the Weeknd Yanked From Streaming Services", *The Straits Times* (19 April 2023) <https://www.straitstimes.com/life/entertainment/ai-generated-song-imitating-drake-and-the-weeknd-yanked-from-streaming-services> (accessed 6 December 2025).

10 Jan Lee, "'How Do I Fight With That?': Stefanie Sun Issues Gloomy Response to Popularity of 'AI Stefanie Sun'", *The Straits Times* (23 May 2023) <https://www.straitstimes.com/life/entertainment/how-do-i-fight-with-that-stefanie-sun-issues-gloomy-response-to-popularity-of-ai-stefanie-sun> (accessed 6 December 2025).

and real footage to generate a fake image and dialogue in an online advertisement – without her permission.[11]

4 These incidents raise important legal questions. Is it legal to create a digital replica of a person without permission? What remedies does Singapore law provide for individuals whose voice or likeness is commercialised through such unauthorised digital replicas? These issues traverse different laws, and this article explores the legal landscape surrounding these issues from the perspectives of the intellectual property ("IP") and personal data protection regimes.

5 Although of importance, this article does not explore the issues of deepfakes in the context of online criminal harms. In brief, it is noted that the Government has strengthened its ability to act in egregious situations through a series of new statutory levers, *eg*, the Online Criminal Harms Act 2023.[12] At the time of writing this article, the Government has also introduced the Online Safety (Relief and Accountability) Bill[13] that will establish a statutory reporting mechanism and new statutory torts in respect of specified online harms such as doxxing and intimate image abuse (which could cover an image generated by any means). It is also anticipated that abuse of inauthentic material (*ie*, deepfakes), which is likely to cause the victim harassment, alarm, distress or humiliation, will be specifically covered in due course.[14] Consumer protection laws could also apply where

11 "Scarlett Johansson Takes Legal Action Against AI App That Used Her Likeness Without Permission", *The Straits Times* (2 November 2023) <https://www.straitstimes.com/world/united-states/scarlett-johansson-takes-legal-action-against-ai-app-that-used-her-likeness-without-permission> (accessed 6 December 2025).

12 Act 24 of 2023.

13 Bill No 18/2025 which was passed by Parliament on 5 November 2025.

14 See Online Safety (Relief and Accountability) Bill (Bill No 18/2025) s 16. See also *Public Consultation Paper on Enhancing Online Safety: Empowering Singaporeans to Seek Relief From Harmful Online Content and Conduct, and Hold Responsible Parties Accountable* <https://isomer-user-content.by.gov.sg/27/4ab5e313-5c65-464c-9cb8-64277d91dcb9/online-harmPublic%20Consultation%20Paper%20on%20Enhancing%20Online%20Safety:%20Empowering%20Singaporeans%20to%20Seek%20Relief%20from%20Harmful%20Online%20Content%20and%20Conduct,%20and%20Hold%20Responsible%20Parties%20Accountable-full-public-consultation-paper.pdf> (accessed 6 December 2025).

businesses use deepfakes to promote their goods or services, *eg*, consumers could have a right against the supplier under the Consumer Protection (Fair Trading) Act 2003[15] for unfair trade practices. However, unauthorised creation or use of digital replicas would not, in and of itself, give rise to an action under such laws. Further, it would typically be the consumer who would have the right of action, rather than the individual whose voice or likeness is commercialised.[16]

II. Intellectual property laws

6 In general, traditional forms of IP law may not accord protection to unauthorised use or replication of forms of identification of persons. The voice of a person, a style of singing, or the physical likeness of a person are not copyright-protected subject matter, and the scope of protection of a sound recording only extends to making a copy of the recording and does not extend to preventing the creation of a sound-alike recording.[17] While it may be possible to register signature poses,[18] voices, and even faces[19] as trademarks, the scope of protection is generally limited only to the registered class(es) of goods and services and the representation of the mark. Hence, claims may need to

15 2020 Rev Ed.

16 The Competition and Consumer Commission of Singapore has taken action against organisations that posted AI-generated fake customer reviews (albeit not digital replicas of individuals). See, *eg*, Competition and Consumer Commission of Singapore, "Action Taken Against Lambency Detailing for AI-Generated Fake Reviews on Sgcarmart.com", media release (3 July 2025) <https://www.ccs.gov.sg/media-and-events/newsroom/announcements-and-media-releases/action-taken-against-lambency-detailing-for-ai-generated-fake-reviews-on-sgcarmart-com/> (accessed 6 December 2025).

17 Copyright Act 2021 (2020 Rev Ed) s 121(*a*)(i).

18 Usain Bolt's lightning bolt pose and Michael Jordan's jump shot are well-known examples.

19 Dutch model Maartje Verhoef is the first person to successfully register her face as a trade mark with the European Union Intellectual Property Office (EUIPO) in April 2020. However, the logo registered was a simple black and white outline of Verhoef's face. See Eleonora Rosati, "Can Someone's Face Be a Trade Mark?", *The IPKat* (29 December 2022) <https://ipkitten.blogspot.com/2022/12/can-someones-face-be-trade-mark.html>(accessed 6 December 2025).

be made based on associated areas of law such as the tort of passing off.

7 The common law tort of passing off occurs when someone misrepresents their goods or services as those belonging to another party. This misrepresentation often damages the goodwill of a person or business, causing financial or reputational damage. The classic formulation of passing off was set out in *Reckitt & Colman Products Ltd v Borden Inc*.[20] To succeed in a passing off claim, the plaintiff must establish the following three elements:

(a) goodwill or reputation in the "get-up" of the goods or services in the relevant marketplace that distinguishes such goods or services from competitors;

(b) misrepresentation to the public by the defendant, so that the public are likely to believe that the defendant's goods or services are endorsed by the plaintiff; and

(c) damage suffered by the plaintiff. Established heads of damage include damage to goodwill by blurring or by tarnishment (*eg*, from negative publicity) or restriction on expansion into related fields of activities.[21]

A. Would an individual's image or voice form part of the "get-up" to establish goodwill?

8 "Get-up" refers to the distinctive visual appearance or presentation of goods or services. This includes elements like packaging, logos, colour schemes, shapes, and overall design that consumers associate with a particular good or service. Although the tort of passing off does not recognise a proprietary interest in a name, image or other indicia of identity, the courts have recognised that personal attributes – like a celebrity's image – can also be part of the get-up if they are used to endorse or promote goods or services.[22]

20 [1990] 1 WLR 491.
21 Ng-Loy Wee Loon, *Law of Intellectual Property of Singapore* (Sweet & Maxwell, 2nd Ed, 2014) chs 19.2–19.4.
22 David Tan, "The Celebrity Halo Effect and Passing Off", *Singapore Law Gazette* (2017).

9 In the UK and Australia, the courts have increasingly recognised that it is prevalent commercial practice for businesses to gain a competitive advantage by associating well-known personalities with their goods or services, making them more appealing to consumers. Judicial decisions have been passed in favour of passing off claims by celebrities. In the UK, the Court of Appeal case of *Irvine v Talksport Ltd*[23] is widely regarded as the seminal UK case on passing off in the context of false celebrity endorsement. Eddie Irvine, a famous Formula One driver, brought a successful claim against Talksport for using a digitally altered photograph of him in a promotional brochure implying that he endorsed their radio station. The Court of Appeal confirmed that a celebrity's goodwill in their image can be protected under passing off. This case then paved the way for the later case of *Rihanna v Topshop*[24] where pop music icon Rihanna successfully sued Topshop for using her photograph on a range of clothing.[25] Although these cases concerned the use of a celebrity's image, it may be possible to bring a passing off claim in respect of the imitation of a celebrity's voice, provided it can be shown that the celebrity's voice is sufficiently associated with their reputation or goodwill.

B. How would the use of digital replicas give rise to misrepresentation?

10 It is accepted law that it is not necessary to show that the defendant had the intention to deceive or mislead the public. What is material is whether there is confusion or likelihood of confusion amongst the public and this is a fact-based inquiry. UK courts have also considered the evolving needs of modern commerce and permitted claims in passing off without requiring a common field of activity, including cases involving product

23 [2003] 2 All ER 881.

24 [2013] EWHC 2310 (Ch), affirmed in *Fenty v Arcadia Group Brands Ltd* [2015] EWCA Civ 3.

25 In Australia, this application of passing off for false celebrity endorsement was established in the Crocodile Dundee litigation cases involving the star Paul Hogan: *Crocodile Dundee* (1989) 25 FCR 553; *Koala Dundee* (1988) 20 FCR 314.

endorsements by public personalities.[26] In Singapore, the courts have likewise held that the lack of a common field of business activity does not preclude confusion arising for the purposes of a claim in passing off.[27]

11 Whether a passing off action will assist a well-known personality against traders who use their name, voice or likeness in AI-generated audio-visual collaterals or as an AI-powered avatar is likely to turn on whether the person is able to demonstrate to the courts that there is a misrepresentation by the trader that misleads the public into thinking that the goods or services in question are in some way associated with or endorsed by the person.[28] In the Irvine's case, the Court of Appeal considered whether the overall presentation of the promotional brochure, including the doctored image of Eddie Irvine, conveyed a false message of endorsement, regardless of any clarifying context.[29]

12 Establishing misrepresentation would be harder when the content explicitly states that it is AI-generated content or when a disclaimer is included. For instance, in the Scarlett Johansson case,[30] there was fine print under the advertisement which read: "Images produced by Lisa AI. It has nothing to do with this person."[31] Could the courts still find misrepresentation if the likeness is highly realistic and the overall presentation implies endorsement?

13 In Singapore, there have been no instances where notable individuals have filed claims of passing off. In two cases involving the unauthorised use of photographs – one of politician Chiam See Tong by a restaurant, and the other of fashion model Hanis

26 *Irvine v Talksport Ltd* [2002] 1 WLR 2355 at [38].
27 *CDL Hotels International Ltd v Pontiac Marina Pte Ltd* [1998] 1 SLR 975; *Novelty Pte Ltd v Amanresorts Ltd* [2009] 3 ALR(R) 216.
28 Ng-Loy Wee Loon, *Law of Intellectual Property of Singapore* (Sweet & Maxwell, 2nd Ed, 2014) chs 18.4.3.
29 *Irvine (Damages)* [2003] 2 All ER 881 at [44]-[45].
30 See para 3(c) above.
31 "Scarlett Johansson Takes Legal Action Against AI App That Used Her Likeness Without Permission", *The Straits Times* (2 November 2023) <https://www.straitstimes.com/world/united-states/scarlett-johansson-takes-legal-action-against-ai-app-that-used-her-likeness-without-permission> (accessed 6 December 2025).

Hussey by an escort agency – the claims were successfully pursued under defamation rather than passing off.[32] It is possible that a claim in defamation could also be made in the use of unauthorised AI replicas depending on the context of such use.

14 In summary, for cases where identifiable individual traits have been digitally replicated without consent for commercial purposes, the tort of passing off could potentially apply but only for well-known individuals who are able to assert some form of goodwill in their name, voice or likeness. Otherwise, the individual would need to turn to other types of laws in Singapore that may protect the unauthorised use of a person's identity.

III. Personal Data Protection Act 2012

15 We now turn to examine the position under the Singapore Personal Data Protection Act 2012[33] ("PDPA").

16 Very simply put, the creation of digital replicas would involve the input of the target individual's data (such as images, audio recordings and videos of the individual) into the AI model. In general, this could occur at the following phases:

(a) Training phase: In the development and training of a foundational or deep learning model, algorithms could be trained on images, audio recordings and videos of the target individual (*ie*, training data).[34] Large amounts of such data would better enable the synthesis of new, yet highly realistic, digital replicas that accurately replicate the characteristics of target groups (Chinese women, Indian boys, Japanese men, *etc*).

(b) Inference phase: The end user of the AI model may submit the name and other information in respect of the target individual as prompts, as well as provide

32 *Chiam See Tong v Xin Zhang Jiang Restaurant* [1995] 1 SLR(R) 856; *Hanis Hussey v Integrated Information* [1998] SGHC 219.

33 2020 Rev Ed.

34 While as a general matter, personal data could be processed into non-personal data in the course of training the model, an in-depth discussion is beyond the scope of this article.

> additional data of the target individual (*eg*, photographs) as grounding for the prompts. The AI model may then generate digital replicas (*eg*, synthetic images and videos) of the individual (*ie*, the output).[35]

17 It would be highlighted that the generation and commercialisation of digital replicas could arise in a myriad of contexts, with different possible business relationships and arrangements amongst various organisations and other parties (*eg*, providers or sellers of training data, foundational model developers or providers, model deployers, and end users). This article does not purport to discuss the allocation of responsibilities amongst the various parties that could be involved (*eg*, which party may be the data controller or organisation responsible for compliance with the PDPA), which would have to be separately assessed based on the specific context, facts and circumstances.

A. Would an individual's image and voice constitute personal data?

18 The PDPA defines "personal data" as "data, whether true or not, about an individual who can be identified (*a*) from that data; or (*b*) from that data and other information to which the organisation has or is likely to have access".[36]

19 The PDPA does not prescribe an express list of items that would constitute personal data. Nevertheless, useful guidance can be drawn from the Personal Data Protection Commission's *Advisory Guidelines on Key Concepts in the Personal Data Protection Act*:[37]

> Certain types of data, by their nature or use, are more likely to identify an individual. This includes data that has been assigned exclusively to an individual for the purposes of identifying the individual (e.g. NRIC or passport number of an individual), *or*

35 It is recognised that multi-modal models may implement technical measures (*eg*, prompt filtering) to reduce the risk of the creation of digital replicas (especially of well-known personalities) or insert a digital watermark to facilitate identification of AI-generated content.

36 Personal Data Protection Act 2012 (2020 Rev Ed) s 2.

37 Revised 16 May 2022.

> *data of a biological nature (e.g. DNA, facial image, fingerprint, iris prints)*. [emphasis added]

20 It is noted that each individual's voice is similarly distinct, or at least, likely to be as unique as a fingerprint.[38]

21 Accordingly, an individual's image and voice would generally be considered personal data, especially in the context of photographs and video recordings, as the individual would be identifiable from these data elements.

B. Would "digital replica" still constitute personal data?

22 Notably, the definition of "personal data" in the PDPA expressly makes clear that it is irrelevant whether the data is "true or not". As such, a digital replica (*ie*, the output generated) could constitute personal data. Even in cases where there is a digital watermark (*eg*, where watermarks are embedded in songs to identify them as AI-generated),[39] this would not change the position in so far as an individual is identifiable from such digital replica.[40]

23 Given that digital replicas mimic a particular individual, it is submitted that the target individual generally would not have difficulty asserting that his personal data has been processed, at least by the end user. Given that personal data is being processed,

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38 Carolyn McGettigan, Nadine Lavan & The Conversation Global, "Human Voices Are Unique but We're Not That Good at Recognizing Them", *Scientific American* (19 June 2017) <https://www.scientificamerican.com/article/human-voices-are-unique-but-were-not-that-good-at-recognizing-them/> (accessed 6 December 2025).

39 Sarah Kuta, "YouTube's New A.I. Music Generation Tool Mimics the Voices of Popular Singers", *Smithsonian Magazine* (20 November 2023) <https://www.smithsonianmag.com/smart-news/youtubes-new-ai-powered-music-generation-tool-mimics-the-voices-of-popular-artists-180983289/#:~:text=YouTube%20is%20rolling%20out%20an%20experimental%20new%20tool,using%20artificial%20intelligence-generated%20voice%20clones%20of%20popular%20musicians.> (accessed 6 December 2025).

40 The watermarking of generated content is discussed in greater depth in Zee Kin Yeong, "Accessing and Using Data for AI Systems" (Paper presented at the 4th Judicial Roundtable, 23–26 April 2024, at Durham Law School, 25 June 2024) at pp 32–33.

we turn to explore the possible legal bases under the PDPA that organisations could rely on to lawfully process such data.[41]

C. Consent as primary legal basis for processing of personal data

24 The collection, use and disclosure of personal data by an organisation in the process of generating and exploitation of digital replicas would accordingly have to comply with the data protection obligations of the PDPA. (It is worth noting that end users acting in a personal or domestic capacity would not be governed by the PDPA.)[42]

25 In particular, pursuant to s 13 of the PDPA, consent would have to be obtained from the individual before collecting, using, or disclosing their personal data for any purpose, unless otherwise authorised or required under the PDPA or other written law.

26 From a legal risk perspective, it would certainly be prudent to obtain consent from the individuals for the creation of their digital replicas (*eg*, collaborations with celebrities for creation of AI avatars designed for marketing outreach).[43] That said, the organisation would have to bear in mind that consent can be withdrawn at any time pursuant to the PDPA.[44] Conversely, the individual should bear in mind that the withdrawal of consent

41 This is in contrast to the evidential difficulty that arises in copyright claims, where it would be necessary for the rights holders to prove either direct copying of their works or that a particular model output is substantially similar to a specific copyrighted work. A helpful synopsis of the issues that arise in the copyright context is set out in Zee Kin Yeong, "Accessing and Using Data for AI Systems" (Paper presented at the 4th Judicial Roundtable, 23–26 April 2024, at Durham Law School, 25 June 2024) at pp 15–16.

42 The Personal Data Protection Act 2012 (2020 Rev Ed) ("PDPA") does not apply to any individual acting in a personal or domestic capacity: Personal Data Protection Act 2012 (2020 Rev Ed) s 4.

43 In certain other jurisdictions, voice or image data may be considered sensitive data for which separate or express consent would have to be obtained from the individual. See, *eg*, "AI Chatbot Lee Luda Popular for Sounding Natural, Until Users Realized It Used Data From Private Chats", *Korea JoongAng Daily* (17 July 2025) <https://koreajoongangdaily.joins.com/news/2025-07-17/national/socialAffairs/AI-chatbot-Lee-Luda-popular-for-sounding-natural-until-users-realized-it-used-data-from-private-chats/2353227> (accessed 6 December 2025).

44 Personal Data Protection Act 2012 (2020 Rev Ed) s 16.

does not affect any legal consequences arising from such withdrawal. The contractual clauses between the organisation and individual should therefore account for the possibility and consequences of a withdrawal of consent (apart from ensuring that the withdrawal of consent can be given effect from a technical or operational perspective).[45]

D. Are there applicable exceptions to consent?

27 The PDPA provides exceptions to consent for various circumstances and purposes set out in the First and Second Schedules. At first blush, the following two exceptions appear particularly relevant:

> (a) "[t]he collection, use or disclosure (as the case may be) of personal data about an individual that is publicly available"[46] ("publicly available exception"); and
>
> (b) "[t]he collection, use or disclosure (as the case may be) of personal data about an individual is solely for artistic or literary purposes"[47] ("artistic or literary exception").

28 In particular, the publicly available exception may appear applicable in creating digital replicas of celebrities and public figures. However, a question that arises is whether the digital replicas, which are generated, remain as "personal data that is publicly available". It is submitted that in many instances, the digital replicas (*eg*, video recordings ascribing actions and words to the individual) do not constitute personal data that is publicly available. Even if publicly available data could be collected for training the algorithms, this exception arguably cannot be relied on for the use and disclosure of the digital replicas.

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45 Where more than one organisation is involved in the commercialisation of digital replicas, it would also be relevant to consider whether each party is a data controller or data intermediary, which would result in different sets of obligations being imposed directly by the PDPA and may necessitate different practical steps to ensure compliance.

46 Personal Data Protection Act 2012 (2020 Rev Ed), First Schedule, Part 2 at para 1.

47 Personal Data Protection Act 2012 (2020 Rev Ed), First Schedule, Part 2 at para 3.

29 As for the artistic or literary exception, this could potentially extend to the use and disclosure of the digital replicas. Nevertheless, the organisation would have to demonstrate that the collection, use or disclosure is *solely* for artistic or literary purposes. As a general matter, reliance on this exception by organisations for their processing of personal data has been limited. In many instances where the digital replicas are exploited by organisations, it is unlikely the organisation can make such an assertion that they are processing personal data solely for artistic purposes (*eg*, when used for online advertising of the organisation's products or nefarious purposes). However, this exception could be relied on where the digital replica appears to be valued simply for the satisfaction just from watching and listening to it and has no other functional purpose.[48] For example, we would not be able to rule out that in certain instances, AI-generated songs mimicking the singers' voices and images or the use of digital replicas in films could be solely for artistic purposes.

30 Nevertheless, s 18(*a*) of the PDPA imposes an overarching obligation that requires organisations to collect, use and disclose personal data only for purposes that a reasonable person would consider appropriate in the circumstances ("Purpose Limitation Obligation").[49] Regardless whether an organisation is relying on consent or an exception to consent as the legal basis for processing personal data, the Purpose Limitation Obligation must separately be complied with. It remains to be seen as to the extent to which this Purpose Limitation Obligation (as interpreted by the Personal Data Protection Commission ("PDPC") and/or the courts) could limit the unauthorised commercial exploitation of digital replicas:

48 The scope and interpretation of the "artistic or literary exception" (including whether the definitions of "artistic work" and "literary work" in the Copyright Act 2021 (2020 Rev Ed) should be adopted) is discussed in greater depth in Chen Su-Anne, "For Art's Sake: The 'Artistic or Literary Purposes' Exception in the Personal Data Protection Act 2012" [2019] PDP Digest 277.

49 Personal Data Protection Act 2012 (2020 Rev Ed) s 18.

(a) Where publicly available data is scraped and used for the training phase of an AI model and there is no intention that the model be used to create and exploit digital replicas *per se*, the Purpose Limitation Obligation arguably would not be contravened without more (and in such cases, it would be prudent to put in place measures to prevent regurgitation of the personal data or creation of deepfakes based on such data). However, if the terms of use of the website (from which the data was scrapped) prohibited the copying and commercial use of its contents, this could arguably give rise to a contravention of the Purpose Limitation Obligation.

(b) In the context of the inference stage, the end-user may provide specific prompts and input images of the individual that the digital replica is to mimic. These images could be publicly available information (*eg*, taken from the publicly available Internet) and therefore the individual's consent need not be obtained. Nevertheless, the Purpose Limitation Obligation requires that the collection and use of such input data must be for purposes that are objectively reasonable. If the end user's purpose was ultimately to create digital replicas for malicious purposes or otherwise cause harm to the target individual, the collection and use of the input data could arguably be a contravention of the Purpose Limitation Obligation.

(c) The issue of whether the Purpose Limitation Obligation is complied with also arises in respect of the output. For example, where AI-generated songs mimic the singers' voices and images without authorisation and to the (economic or other) detriment of the individuals being mimicked, this could be relevant in determining whether there is a contravention of the Purpose Limitation Obligation (although it is submitted that art having a commercial element should not in and of itself be the sole determining factor).

E. Remedies under the Personal Data Protection Act 2012

31 Related to the above, while the PDPA does not expressly restrict the commercialisation of (or profiting from) personal data,[50] such commercialisation would almost inevitably comprise a disclosure. Therefore, there must be a valid legal basis under the PDPA for such disclosure of personal data and a failure to do so could lead to enforcement by the PDPC.[51]

32 A parallel is drawn to cases where the PDPC has taken a hard stance against the unauthorised sale of personal data (*ie*, there was no valid legal basis for the disclosure). This was made clear in the case of *Sharon Assya Qadriyah Tang*[52] at [30], and reiterated in *Amicus Solutions Pte Ltd*[53] at [54]:

> The Commissioner likewise takes a serious view of such breaches under the PDPA. There are strong policy reasons for taking a hard stance against the unauthorised sale of personal data. Amongst these policy reasons are the need to protect the interests of the individual and safeguard against any harm to the individual, such as identity theft or nuisance calls. Additionally, there is a need to prevent abuse by organisations in profiting from the sale of the individual's personal data at the individual's expense. It is indeed such cases of potential misuse or abuse by organisations of the individual's personal data which the PDPA seeks to safeguard against. In this regard, the Commissioner is prepared to take such stern action against organisations for the unauthorised sale of personal data.

33 Further, the PDPC, in calculating the appropriate financial penalty to be imposed on the organisation, may take into account the amount that the organisation profited from the sale of the personal data. The PDPC stated in *Amicus Solutions Pte Ltd*[54] at [55]:

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50 For a comparison of the PDPA and the right of publicity, see Gilbert Leong, Foo Maw Jiun & Kenneth Fok, "Protecting the Right of Publicity Under the Personal Data Protection Act" [2017] PDP Digest 293.

51 A right of private action for relief in civil proceedings in a court may also be available to a person who suffers from loss or damage directly as a result of a contravention of the data protection obligations in the PDPA: Personal Data Protection Act 2012 (2020 Rev Ed) s 480.

52 [2018] SGPDPC 1.

53 [2019] SGPDPC 33.

54 [2019] SGPDPC 33.

> The profiting from sale of personal data by organisations without consent of individuals is the kind of activity which the PDPA seeks to curb and will be dealt with severely. In order to prevent abuse by organisations profiting from the sale of personal data at the individual's expense, the Commission may take into account any profits from the unauthorised sale of personal data in calculating the appropriate financial penalty to be imposed.

34 Where the commercialisation or exploitation of digital replicas involves the processing of personal data without a valid legal basis under the PDPA, and this results in a monetary gain to the organisation, this could similarly be taken into account in determining the appropriate financial penalty. For example, at the training phase, this may be where an organisation sells personal data, as training data to the AI model developer, without consent or other valid basis under the PDPA for such sharing of the personal data. In the context of the output, this could be where the end user profits from the generation and commercialisation of a synthesised music video of a popular singer without a valid legal basis.

35 It would be noted that a person also has a right of action in civil proceedings if the person suffers loss or damage directly as a result of an organisation's contravention of ss 13 or 18 of the PDPA (among other obligations). The court may grant to the claimant relief by way of injunction or declaration, damages or any other relief as the court thinks fit.

IV. Conclusion

36 In conclusion, Singapore does not have a codified legislation that explicitly protects against the creation and use of unauthorised digital replicas for commercial purposes. There is also no statutory recognition of personality rights or what is sometimes interchangeably referred to as "right of publicity". Instead, individuals seeking to protect their likeness may rely on various potential causes of action, each of which addresses various specific mischiefs or policy objectives. The obligations in the PDPA could also act as guardrails in the use of personal data to generate the digital replica and against the commercial exploitation of the digital replica itself. As shown above, these

laws offer varying levels of protection and it remains to be seen how the competent authority or courts will apply these laws to the AI arena.

37 This issue is becoming increasingly significant in jurisdictions with robust creative industries, including the US, UK, European Union, China and India. The UK government has, for instance, asked in its Artificial Intelligence and Copyright consultation, launched in December 2024, whether individuals have sufficient control over their likeness given the increasing prevalence of digital replicas.[55] Overall, any legislative interventions would certainly have to be carefully weighed against competing interests and national priorities, including growth of the AI sector.

38 Notably, organisations are proactively adopting business or technical solutions to manage their legal risks and reflect ethical and responsible AI deployment. Several providers of leading generative AI platforms have terms of service or usage policies[56] alongside technical measures that go towards prohibiting the misuse of deepfakes.[57] The issue of deepfakes has evolved beyond just catching bad actors; it is also about safeguarding public trust in a world where visual authenticity is increasingly questionable.

55 The consultation ended on 25 February 2025 and the UK government has yet to issue a response to the feedback received. The consultation with its proposals and questions can be viewed at "Closed Consultation: Copyright and Artificial Intelligence" (17 December 2024) <https://www.gov.uk/government/consultations/copyright-and-artificial-intelligence> (accessed 6 December 2025).

56 For example, as at the time of writing, Google's Generative AI Prohibited Use Policy prohibits "misinformation, misrepresentation, or misleading activities" including "[i]mpersonating an individual (living or dead) without explicit disclosure, in order to deceive" and "misrepresenting the provenance of generated content by claiming it was created solely by a human, in order to deceive"; Anthropic's Usage Policy prohibits "[impersonating] a human by presenting results as human-generated, or using results in a manner intended to convince a natural person that they are communicating with a natural person when they are not"; and Meta's Community Standards prohibit the impersonation of another person by "[u]sing their image(s), name or likeness with the aim of deceiving others" or "[s]peaking in the voice of another person or entity for whom the user is not authorised to do so (e.g. by creating a Page or profile)", among others.

57 See also fn 35 above.