

Don't Always Believe What You See: Shallowfake and Deepfake Media Has Altered the Perception of Reality

How do shallowfake and deepfake media impact the perception of reality, and what are the legal challenges and remedies associated with their misuse?

This article by Samuel Hodge, published in Hofstra Law Review, explores the rising phenomenon of shallowfake and deepfake media—digitally manipulated content created through manual editing or artificial intelligence—that challenges the authenticity of visual and audio evidence.

Shallowfakes involve manual alterations to existing media, such as selective editing or altering speed to mislead viewers, while deepfakes use AI-driven deep learning techniques to create highly realistic fabricated videos and audio. The author highlights the prevalence of such media and their potential misuse to spread misinformation, defame individuals, manipulate political discourse, and create nonconsensual pornography.

The article discusses difficulties in detecting these fakes, the risks to societal trust and privacy, and psychological effects like “reality apathy” where people become indifferent to video evidence. It examines existing legal frameworks and challenges in holding creators accountable, including civil liability theories like defamation, false light, and emotional distress, as well as criminal statutes addressing stalking, harassment, and revenge porn. Federal and state legislative initiatives aim to combat deepfakes but face obstacles from First Amendment protections and platform immunities.

Despite challenges, the author emphasizes the need for stronger legal and technological measures, including federal funding for detection research and laws criminalizing malicious use. The article concludes by urging legislative action to address this growing threat while balancing constitutional rights.

MAJOR TAKEAWAYS:

- Shallowfakes and deepfakes pose significant threats to authenticity and public trust in visual media.
- Legal remedies exist but face challenges from First Amendment protections and platform immunities.
- Legislative and technological advancements are critical to address the growing risks of manipulated media.

WHO NEEDS TO KNOW:

- Legal Professionals
- Media Specialists
- Cybersecurity Experts

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- Don't Always Believe What You See: Shallowfake and Deepfake Media Has Altered the Perception of Reality
- Journal: Hofstra Law Review
- Article Link:
<https://scholarlycommons.law.hofstra.edu/hlr/vol50/iss1/4>