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Use of Generative AI is starting to become the rule rather than the exception in business operations. What are legal risks associated with GenAI, particularly for copyrighted content?

The Quiet Risk of Corporate Veil-Piercing

A corporation or limited liability company serve as liability shields to protect the assets of those that control them. When can that shield be broken?

Firm Welcomes New IP Attorney, Paige Hulse

Attorney Paige Hulse joins the Firm practicing primarily in the field of intellectual property.

DID YOU KNOW?

You can be held liable for what you *should have known*. In civil law, people are often judged not just on what they knew, but what a "reasonable person" in their shoes should have known. Ignorance is often not a defense.

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Can Your ChatGPT Logs Become Evidence in a Lawsuit?

By: Attorney Paige Hulse

Generative AI, like ChatGPT, has quickly become part of everyday business operations, providing a competitive business advantage. Courts are now grappling with how AI fits within existing legal frameworks, but one point is clear: ChatGPT prompts and outputs may be discoverable and may also create copyright exposure.

A recent ruling has illuminated the murky waters of AI legality. In late 2025, a federal magistrate judge in the S.D. New York ordered OpenAI to produce ~20M anonymized ChatGPT chat logs to The New York Times and other publisher-plaintiffs. The plaintiffs alleged OpenAI's models were trained on copyrighted news articles without authorization. The Court rejected OpenAI's argument that user privacy concerns should limit discovery because anonymization sufficiently addressed those concerns and that the logs were relevant to determining whether copyrighted material was reproduced, paraphrased, or otherwise relied upon by the model. OpenAI appealed the order, but the message was unmistakable: AI chat logs can be discoverable electronic evidence. This ruling has broader implications for businesses using AI. Courts are beginning to treat AI prompts and outputs as electronically stored information (ESI), which may be subject to preservation obligations and production in discovery. In some instances, courts have even required AI providers to preserve logs that would otherwise be deleted once litigation is reasonably anticipated.

Beyond discoverability, how AI is used matters, especially when prompts involve copyrighted material. Directly pasting another person's protected work into a prompt, or instructing AI to "rewrite" or "mirror" a specific author's or competitor's content can create evidence of access and intent in a copyright infringement claim. While many debate whether or not the creativity behind inputs or ChatGPT training models constitute the legal defense of "fair use," courts have not been favorable in such findings. Fair use is a fact-specific analysis, weighing factors such as purpose, transformation, amount used, and market impact. In short, AI-assisted use may still infringe if it closely tracks the original work, substitutes for it, or affects its market - particularly in commercial settings.

When used for business purposes, your ChatGPT interactions should be treated like business records with no assumption of privacy. Prompts that reference third-party works, proprietary content, or creative materials may later be scrutinized to determine whether infringement occurred or whether fair use applies. Best practices for use of AI in business should include refraining from pasting copyrighted or proprietary third-party content directly into AI prompts (or "inputs") for a commercial purpose unless you have a license to do so. Additionally, operate under the assumption that AI logs may need to be preserved and produced in litigation even if deleted from your "chat history."

AI is transformative regarding how creative and business work is performed, yet Court guidance accentuates that efficiency does not nullify copyright laws or discovery obligations. We encourage consulting with counsel before incorporating AI into sensitive or proprietary work. For trusted strategic guidance on navigating this developing area of law, contact Paige Hulse of the firm at 918-494-6868.



The Quiet Risk of Corporate Veil-Piercing

By: Attorney Zander Chonka

The law provides asset protections to business owners through their corporate structure (minimizing personal liability is a chief purpose of forming a corporation or LLC). Business litigation can be frustrating and anxiety-inducing, but there is some relief knowing that one's personal assets are out of reach. But when are they not protected?



An aggrieved party who sues your business might attempt to get its hands on your personal assets to satisfy a judgment against your business. That option is available to a judgment-creditor who successfully “pierces the corporate veil.” Courts can disregard the legal entity and hold those who control the business personally liable for a judgment in this circumstance. The good news is that many of the risk factors are entirely avoidable. Some of the most frequent issues we see include:

- Commingling personal and business funds or assets, such as using one bank account for both;
- Failing to keep adequate corporate records documenting major decisions, including loan, distributions, or ownership changes;
- Undercapitalization (when a business lacks sufficient funds to satisfy creditors); or,
- Ignoring governing documents, such as the operating agreement or bylaws.

The presence of any of these factors alone does not necessarily guaranty veil-piercing, but the court will weigh the factors in the aggregate. *The time to address these risks is before a lawsuit arises*, and savvy business owners take a preventative approach. By keeping strict, well-documented separation between your business and personal assets, you are taking the first steps to ensure your corporate entity will shield your personal assets. Additionally, if you expect a court to take your governing documents seriously, you need to take your governing documents seriously. If the operating agreement or bylaws require regular meetings of members, directors, or owners, then regular meetings should be held and documented. 2026 is the year to get up to date on honoring your corporate formalities by reviewing your governing documents to see where you are and are not in compliance.

Reviewing your business for veil-piercing risks is a prudent way to ensure the long-term wellbeing of your business and personal assets. Contact the attorneys at Winters & King at 918-494-6868 to help review and identify your business's risks.

Firm Welcomes New IP Attorney, Paige Hulse

Winters & King, Inc. is excited to announce that Paige Hulse Law has merged with the Firm, effective in Q4 of 2025. Attorney Hulse joined Winters & King as an attorney with particular expertise in the intellectual property area, especially in matters of trademarks, copyrights, and other general counsel-related services for the Firm's corporate clients. Her addition to the Winters & King team supports the Firm's continued growth and commitment to offering high-quality, full-service counsel to businesses throughout the country.



Attorney Hulse received her Juris Doctor from the University of Tulsa College of Law and began her legal career as a litigator in the energy sector before transitioning into private practice. Before joining Winters & King, she gained over a decade of experience advising business owners, entrepreneurs, and organizations on intellectual property strategy and a wide range of business matters. As an entrepreneur herself, Attorney Hulse believes strongly in advocating for entrepreneurs, and has guided hundreds of clients in building legally sound companies designed for long-term growth.

When not practicing law, Attorney Hulse can be found at Fairway Stables®, riding horses, spending time with her husband, Matt, and further expanding her businesses.

To schedule a meeting to discuss your business's intellectual property or other corporate needs, Attorney Paige Hulse can be contacted at 918-494-6868