

Is Artificial Intelligence “IN FASHION” in Fashion?

June 3, 2024

Presented by
Anthony Lupo, Chairman

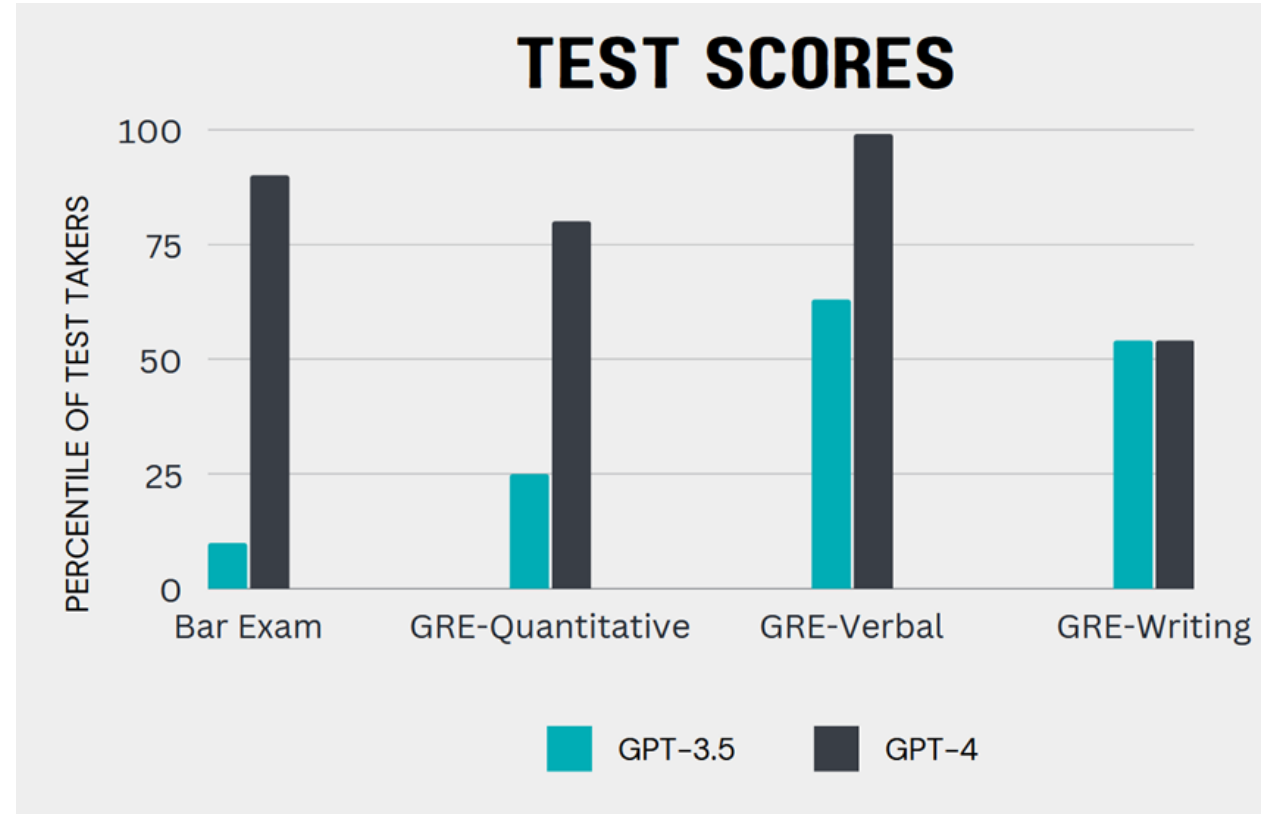


Agenda

- AI and Generative AI (GenAI)
- Understanding and Mitigating Legal Risk
- Use Cases in Retail and Fashion, Sports, and Automotive Industries
- Environmental, Social, and Governance (ESG) Considerations
- Questions

Rapid Improvement

- ChatGPT (GPT 3.5) launched Nov. 2022
- GPT 4: Released March 2023



Graphic Source: Ethan Mollick, citing OpenAI whitepaper

Understanding and Mitigating Legal Risk

Legal issues may vary by component

Data Sets

Copyright Infringement

Lawful Access to Third Party Content

Licensee Obligations

Unauthorized Use of PII

Machine Learning Models

Patentability

Trade Secret Protection

SaaS/Licensing Agreements

Privacy & Data Security

Minimizing Fraud and Abuse

Output

Liability for Errors or Harm

Indemnity For or From Users

Infringement

Ethical and Professional Duties

Datasets Under Attack

Lots of pending lawsuits

- Sarah Silverman and others allege infringement of their written works.
- Getty images alleges that use of Getty stock photography by Stable Diffusion amounts to “brazen infringement . . . on a staggering scale.”
- Coders allege that use of their computer code for Github Copilot breaches software licenses
- Consumer class actions allege violation of privacy rights related to scraping.



An original Getty Image (left) & one created by Stable Diffusion (right)

Use of GenAI May Cause Loss of Trade Secret Protections and Proprietary Information

- Data processing practices vary across generative AI tools
- Uploading or submitting information may result in inadvertent disclosure of sensitive or proprietary information
 - GenAI Prompts
- To avoid this situation, businesses need to consider:
 - carefully selecting their GenAI tools and reviewing the relevant terms of service
 - internal governance surrounding what employees can and cannot provide GenAI tools

BREAKING

Samsung Bans ChatGPT Among Employees After Sensitive Code Leak

GenAI Tools: Terms of Service

Platform	User Owns Output	User Grants Platform License	Commercial Use Restrictions	User Indemnifies Platform	Platform Indemnifies User	Jurisdiction
Github Copilot	•	•		•	• <i>Only with Duplicate Detection</i>	California
DALL-E	•			•		California
Stable Diffusion			•			New York
Bard	•	•		• <i>Only if user is business or organization</i>		California
Bing Chat	•	•	•	•		
Adobe Firefly	•	•		•	• <i>Enterprise users only</i>	California
ChatGPT	•			•		California
Midjourney	•	•		•		California

GenAI Risks: Copyright Protection

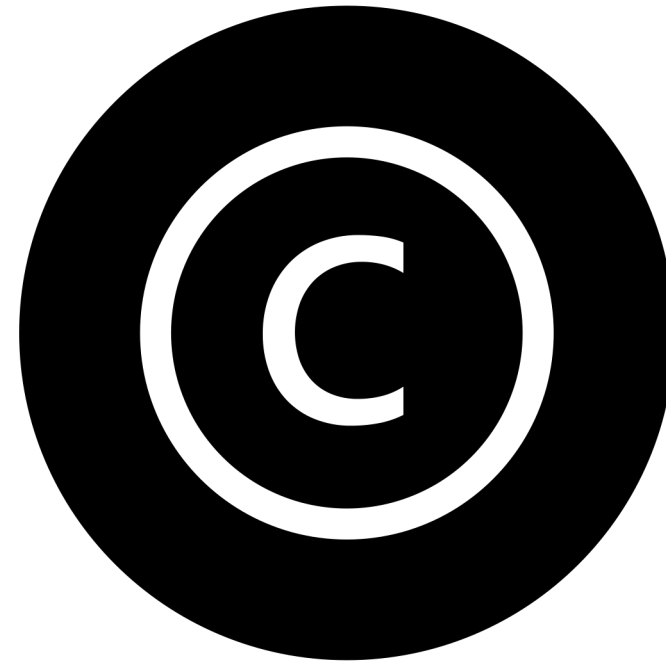
- Works created solely by AI are not protectable by U.S. copyright laws.
 - Artist Kristina Kashtanova received notice from the U.S. Copyright Office that she needed to prove that there was “substantial human involvement” in the of creation of her partially AI-generated graphic novel, *Zarya Of The Dawn*.
 - Registration revoked for AI generated images; maintained for human authored text.
- These works are “public domain” - May not be able to prevent someone else from using them.



[Zarya Of The Dawn](#)

Duty to Disclose in Copyright Applications

Applicants have a duty to disclose the inclusion of AI-generated content in a work submitted for registration to the U.S. Copyright Office.



Output Risks: Errors/Hallucinations

– Potential Causes for Hallucinations

- Insufficient training data
 - Biases
- Overfitting (i.e., output is accurate for training data but inaccurate for new data)

– Best Practices for Preventative Measures

- Use high-quality input data
- Human feedback
- Quality control

Output Risks: IP Infringement

- Copyright
- Trademark
- Publicity Rights

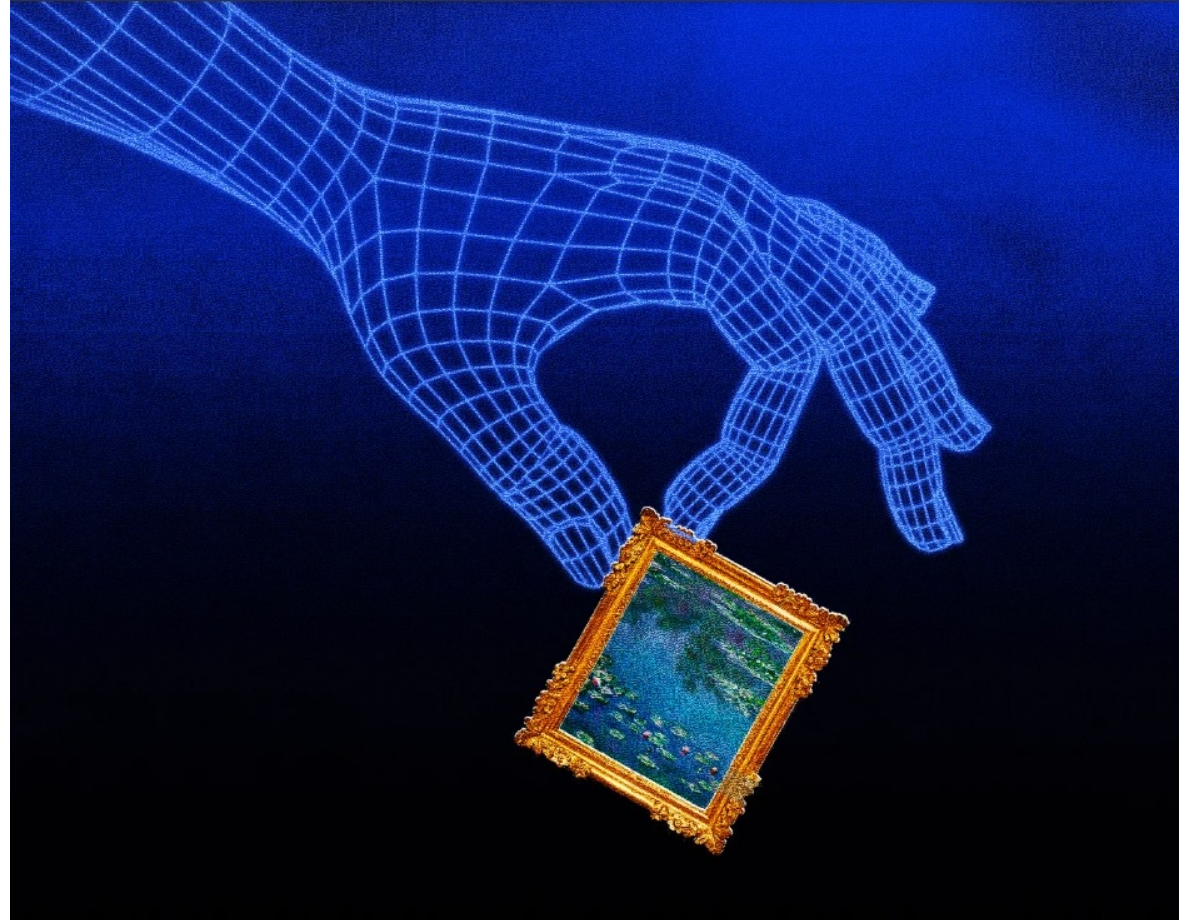


Illustration by Nicholas Konrad / The New Yorker; ; Source photographs from Getty

Appropriation – Right of Publicity

- What elements comprise an individual’s ‘identity’?
- The definition of “identity” or “persona” also varies by state, but can include the following:
 - Name
 - Nickname
 - Voice
 - Sound
 - Image
 - Likeness
 - Performing style (e.g., a distinctive pitching stance)
 - Other idiosyncratic indicia



Lady Miss Kier a/k/a Kierin Kirby



Ulala

AI Use Cases

1. Product Design
2. Marketing
3. Virtual Models
4. Product Distribution and Supply Chain
5. Sports

Product Design

Enhancing creativity: Generate innovative ideas and concepts from existing patterns

Rapid prototyping: Accelerate design iterations by quickly generating multiple design variations

Collaboration: Improve team communication by generating design alternatives and visualizations

Cost and time efficiency: Streamline design processes and reduce manual efforts



Product Design (cont.)



G-Star Raw's AI-designed denim. COURTESY OF G-STAR RAW

G-STAR RAW

28 MARCH 2023

ART

OUR FIRST DENIM COUTURE PIECE DESIGNED BY AI

CREATING THE FUTURE OF DENIM

It's hard to ignore the Artificial Intelligence excitement that has taken over recently. What started as denim design experiments, ended in our first ever AI design. But we didn't stop there. After working with the innovative software, we went a step further and brought the AI Denim Cape into reality at our atelier in Amsterdam.

Marketing

- **Ad Campaigns**
- **Hyper-Personalization/Bespoke Marketing at Scale**
- **Customer Experience**
- **Loyalty Programs**

Ad Campaigns

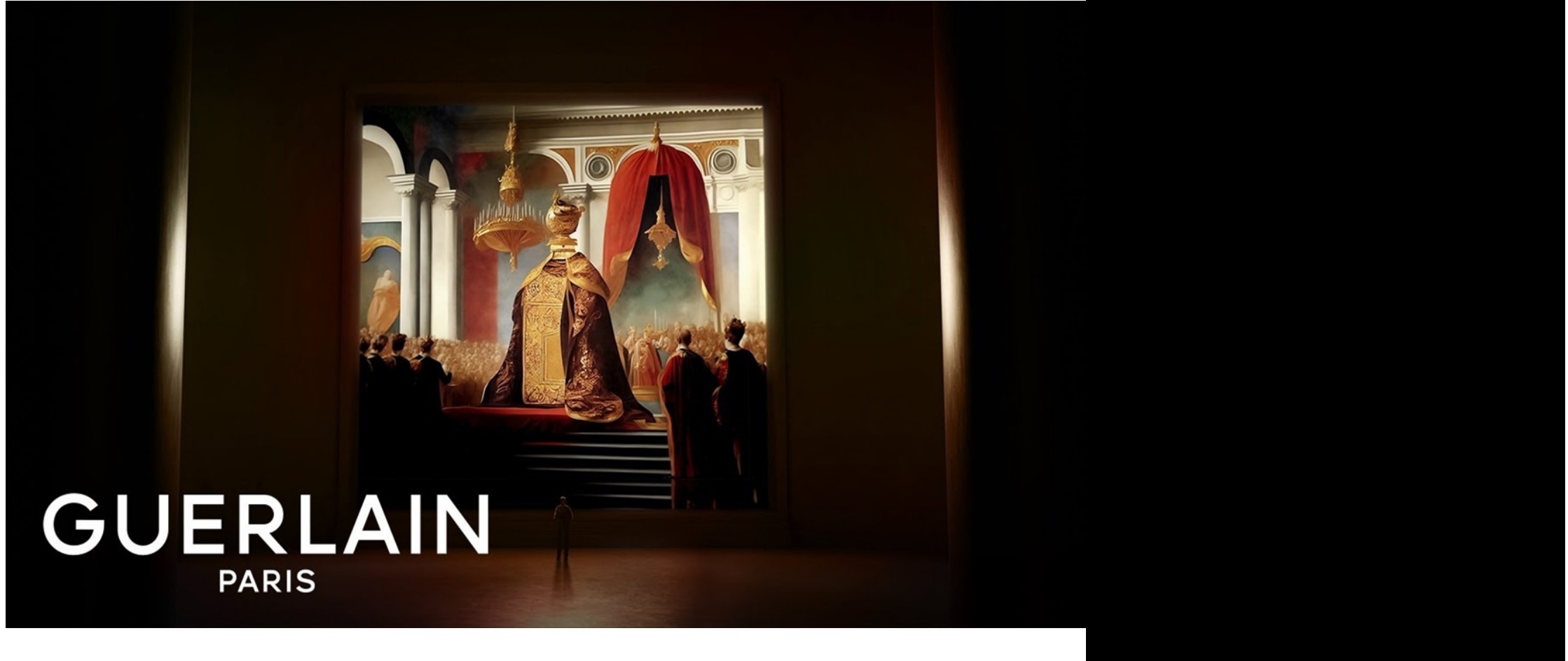
- Fashion retailer Revolve used generative art tools to create an imaginative ad campaign in April 2023 that would have normally been unable to execute
- In April and May of 2023, Prada Beauty displayed fragrance bottle images on its Instagram account that were made using a combination of photography by Johann Besse and then manipulated using generative AI



Photo: Prada Beauty



Photo: Revolve



GUERLAIN

PARIS

Hyper-Personalization/Bespoke Marketing at Scale

- **Consumer segmentation:** Automate large-scale segmentation for tailored marketing initiatives
- **Personalized content:** Generate unique marketing materials based on consumer profiles and community insights for increased engagement

Customer Engagement



AI Bots to Enhance Customer Experience

– Product Recommendations

– Customer Support/Assistant

Start of chat

Hi there! What can I help you find today?

I'm looking for a floral dress to wear to a summer wedding.

Great! What is your preferred dress length? Knee-length, midi, or maxi?


Midi

Awesome! What is your size and preferred color?

Medium and pink.

Here are my recommendations based on our chat. What do you think?

Pink Floral Midi Dress by Lulus, Size M



Type your response... 0/250

Merchat AI

Loyalty Programs

- **Enhanced personalization:** Tailor rewards and offers based on customer preferences and behavior
- **Dynamic segmentation:** Continuously update customer segments for targeted promotions
- **Predictive analytics:** Identify high-value customers and optimize retention strategies
- **Gamification:** Incorporate AI-driven games and challenges to boost engagement
- **Efficiency:** Automate loyalty program management and reduce operational costs

Virtual Models and Digital/AI Influencers: Benefits

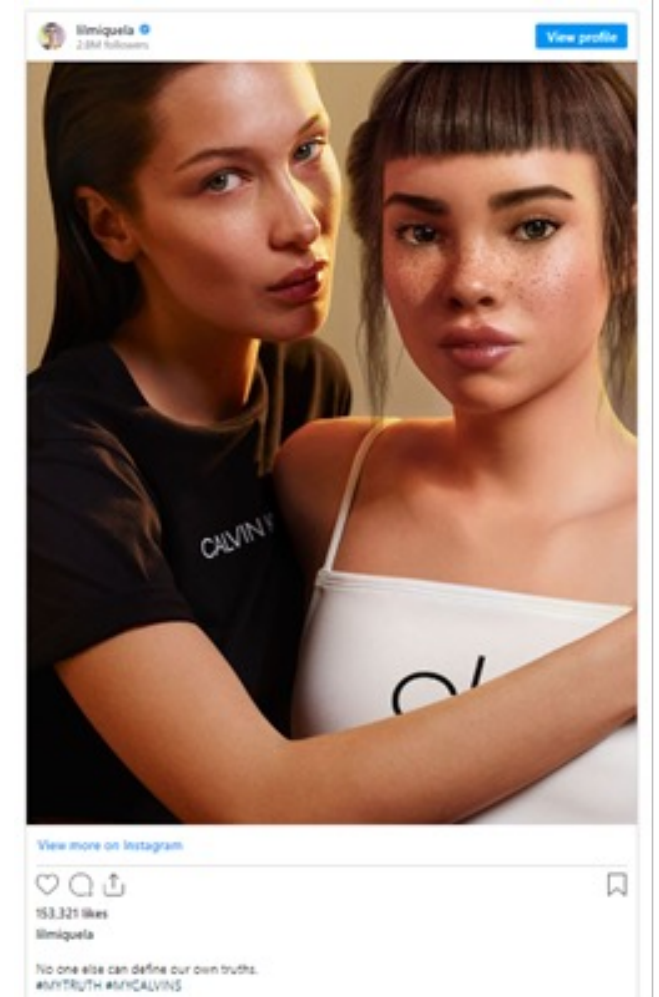
- **Cost-effective:** Reduce modeling and advertising costs
- **Flexibility:** Easily adapt to different styles and environments



Virtual Models and Digital/AI Influencers: Regulatory Compliance

Adherence to advertising and consumer protection laws

- Federal Trade Commission (FTC) updated its Endorsement Guides to include virtual influencers.
 - Definition of endorsers was updated to include what “appear[s] to be an individual, group, or institution.”
- Virtual influencers may qualify as endorsers if they express opinions or beliefs that consumers may interpret as reflecting someone other than the advertiser. As such, they’ll need to comply with the same endorsement rules as regular influencers.



LS&Co. Partners with Lalaland.ai

Virtual Models: Ethical Concerns

Levi's addresses backlash after using AI models to 'increase diversity' in online shopping

Many critics branded move towards AI-generated models 'lazy' and 'problematic'



© Lalaland.ai

Product Distribution and Supply Chain

- **Demand forecasting:** Predict future demand patterns to optimize sourcing decisions
- **Risk mitigation:** Identify and address potential risks and disruptions in the supply chain
- **Cost optimization:** Analyze cost drivers to negotiate better contracts and reduce expenses

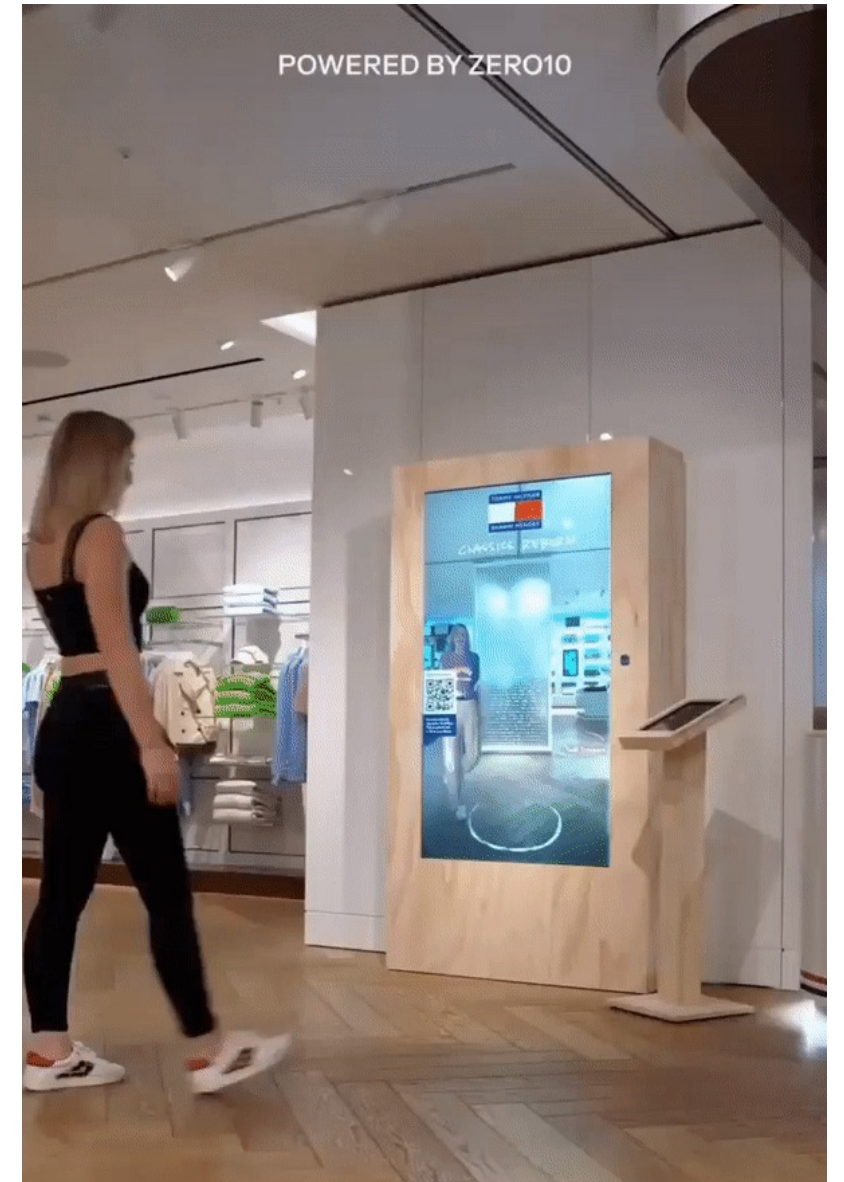
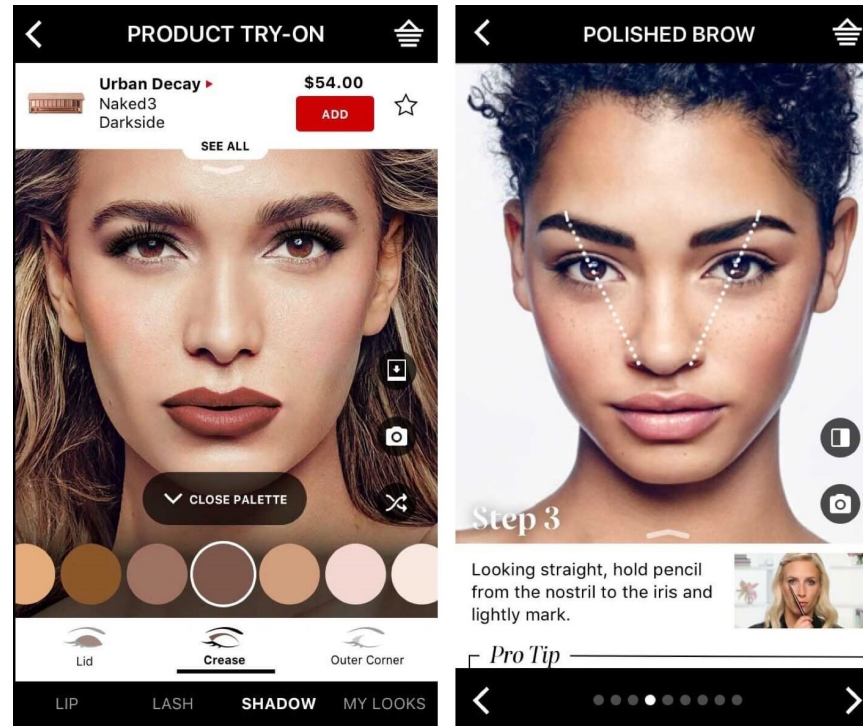
Environmental, Social, and Governance (ESG) Considerations

AI APPS VIRTUAL MIRRORS



What is a virtual fitting room?

- As e-commerce continues to grow, retailers are having to handle rising costs related to returns
- Retailers are using virtual reality to create virtual fitting rooms and ways to try on products



What is a virtual fitting room?

- Consumers can enter basic measurements to create a virtual mannequin adjusting to fit specific dimensions
- Avatars can also be personalized to show skin tones and hair styles

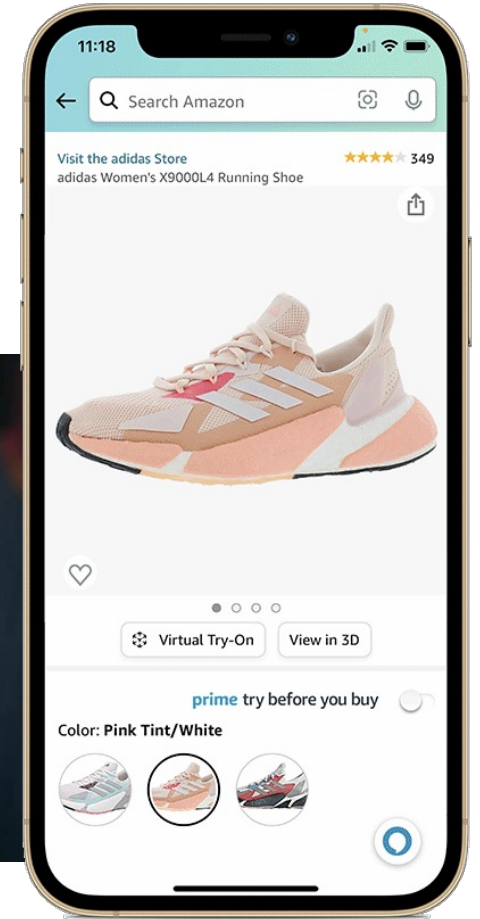


Virtual Fitting Rooms

In-Store Try-On



Online Try-On



Government Regulation

EU AI Act (Pending)

Different rules for different risk levels

Prohibited AI Practices include:

- “Real-time” remote biometric identification systems in publicly accessible spaces
- “Post” remote biometric identification systems (exception of law enforcement for serious crimes and after judicial authorization)
- biometric categorization systems using sensitive characteristics (emotion recognition systems in law enforcement, border management, the workplace, and educational institutions)
- untargeted scraping of facial images from the internet or CCTV footage to create facial recognition databases (violating human rights and right to privacy)

UN Guidance on Generative AI in Education and Research

“Generative AI can be a tremendous opportunity for human development, but it can also cause harm and prejudice,” – Audrey Azoulay, UNESCO Director-General

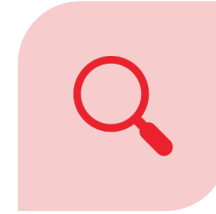
- Concerns include use of content without consent, lack of transparency and explainability of model outcomes, and deepfakes.
- Guidance promotes the need for inclusion, equity, and linguistic diversity and **need to ensure against bias.**

Best Practices for Incorporating GenAI

Responsible and informed use can add value



WORK WITH TRUSTED PARTNERS AND PLATFORMS



IDENTIFY KEY RISK FACTORS AND POTENTIAL MITIGATIONS



PROVIDE APPROPRIATE TRAINING



LEARN BY DOING



STUDY AND ADAPT

Questions?

