



# Americas Investigations Review

2026

**US enforcement agencies intensify  
scrutiny of AI washing**

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# US enforcement agencies intensify scrutiny of AI washing

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## Summary

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## IN SUMMARY

The use of artificial intelligence (AI) is expanding rapidly in the United States and around the world. As this new technology becomes increasingly embedded in our businesses and industries, US regulators have raced to keep up and to prevent companies from making fraudulent claims about the use or capabilities of AI. This article analyses new and emerging federal priorities, as well as guidance and expectations related to the corporate use of AI. Specifically, we discuss the US federal government's application of criminal and civil enforcement tools to curb false or misleading statements by companies regarding their use of AI (AI washing), recent developments in AI washing cases, and areas of consideration for companies that make public- or investor-facing claims about the use of AI in their business or their proprietary AI products.

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## DISCUSSION POINTS

- In 2024, the Department of Justice (DOJ) began pursuing criminal charges against corporations and individual executives over misstatements about AI technology and its operational capabilities.
  - Around the same time, the Securities and Exchange Commission (SEC) started pursuing civil enforcement remedies concerning similar statements under the anti-fraud provisions of the securities laws.
  - The Federal Trade Commission (FTC) also has pursued civil enforcement remedies for unfair or deceptive business practices whereby companies misrepresent their use of AI or the capabilities of AI products that they offer to customers.
  - Initially, the enforcement actions pursued by these three agencies primarily concerned companies that claimed to offer or rely on AI products or software but, in reality, did not.
  - More recent cases indicate each agency is becoming more familiar with AI and is increasingly willing to pursue enforcement over any misstatements or omissions that mislead investors or consumers about AI and carry a negative impact.
  - Overall, the DOJ and other agencies are not utilising new regulations or laws to prosecute or punish AI washing but, instead, are using existing anti-fraud rules, regulations and statutes to encompass the increasingly expansive AI industry.
  - Companies should consult with experienced counsel when making representations about their AI capabilities to the marketplace and, if faced with scrutiny from law enforcement or regulatory agencies, should retain experienced counsel who can advocate effectively on their behalf and achieve the best possible outcome.
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## REFERENCED IN THIS ARTICLE

- *Fed. Trade Comm'n v Automators LLC et al*, Case No. 23-cv-14444-BAS-KSC, Document No. 1 (S.D. Cal. 8 August 2023).
- Fed. Trade Comm'n, *In the Matter of DONOTPAY, Inc.*, 232-3042 Complaint (24 September 2024)

- *Fed. Trade Comm'n v Ascend Ecom*, Case No. 24-cv-7660 (C.D. Cal. 25 September 2024); *In the Matter of Rytr LLC*, 232-3052 Complaint (25 September 2024).
- *Fed. Trade Comm'n v Evolv Tech. Holdings, Inc.*, Case No. 24-cv-12940, Document No. 1 (D. Mass. 26 November 2024).
- Sec. Exch. Comm'n, *In the Matter of Delphia (USA) Inc.*, File No. 3-21894 at 2 (18 March 2024).
- Sec. Exch. Comm'n, *In the Matter of Presto Automation Inc.*, File No. 3-22413 at 5-8 (14 January 2025).
- *United States v Raz*, Case No. 24-cr-00004-AKH, Document No. 3 (S.D.N.Y. 5 June 2024).
- *United States v Saniger*, Case No. 25-cr-157, Document No. 1 (S.D.N.Y. 9 April 2025).

Over the past two decades, the value of technology companies has exploded, in part because of their increased reliance on the promise of machine learning, whereby a computer learns what to do without explicit instruction from a human being.<sup>[1]</sup> AI, a form of machine learning that involves the simulation of human intelligence in machines,<sup>[2]</sup> already has ushered in transformative changes across multiple sectors of the American and global economies. Because value is associated with the ability to use machine learning or AI, there is an incentive for companies to promote their capabilities to the marketplace, which in turn has correlated with a rise in 'AI washing' – that is, the practice of companies allegedly exaggerating or falsely claiming the use of AI in their business, services, or products in order to enhance their market position.

Recognising the potential for consumer deception and other risks, US regulatory agencies and law enforcement have ramped up efforts to investigate and prosecute cases involving AI washing. Numerous criminal actions brought by the DOJ, as well as several enforcement actions brought by the SEC implicating potential violations of the securities laws, have targeted companies or executives alleged to have made misleading or misrepresentative public statements regarding the automation of their products or services when, in reality, these products or services either did not exist or required a significant degree of human involvement, sometimes referred to as 'humans in the loop'. The FTC also has pursued enforcement actions where such conduct has been employed as an unfair or deceptive trade practice, duping consumers. This article explores these recent cases, their implications for companies regarding statements about AI, and potential areas of future focus for US enforcement agencies regarding AI washing.

## UNDERSTANDING AI AND AI WASHING RISKS

The advent of AI has spurred companies to utilise both generative and non-generative AI systems to maximise productivity and rebrand their capabilities to customers and investors. A generative AI system makes new data, rather than making predictions based on a specific dataset; it learns to generate objects that look like the data on which it was trained.<sup>[3]</sup> On the other hand, non-generative AI systems perform computations based solely on input data.<sup>[4]</sup> According to one report, 92 per cent of all companies plan to invest in generative AI over the next three years,<sup>[5]</sup> while non-generative AI models have been deployed rapidly across the financial and manufacturing industries.<sup>[6]</sup> Many companies are now incorporating both types of AI in their decision-making processes by applying generative AI to an array of unstructured

data – like media sources, social media posts or satellite images – to produce analysis about trends and pairing it with non-generative AI algorithms that analyse structured data such as earnings growth, profitability and debt levels.<sup>[7]</sup>

The widespread implementation of this new and potentially transformative technology has collided quickly with laws and regulations that govern private markets and business conduct. The full panoply of the US securities laws applies to the dozens of AI-associated companies that have completed IPOs, the AI companies that are now public through mergers with special purpose acquisition companies, and private companies raising capital in ways that separately implicate the anti-fraud provisions of the US securities laws.<sup>[8]</sup> And for companies or businesses that are not covered by the US securities laws, federal criminal and civil statutes and regulations that proscribe making fraudulent or misleading statements apply to corporate statements about the use of AI or proprietary AI products.

US federal agencies have been utilising criminal and civil enforcement statutes and regulations to target this form of AI washing by companies. The term ‘AI washing’ has no precise definition yet but refers to the marketing practice whereby companies misrepresent the existence, extent or efficacy of their AI capabilities.<sup>[9]</sup> For companies covered by the US securities laws, false or misleading claims about the role of AI in a company’s business may violate rules requiring ‘full, fair, and truthful’ disclosures or the anti-fraud provisions of the US Exchange Act and related statutes.<sup>[10]</sup> For any other company, federal criminal and civil statutes proscribe making false or misleading statements, including about the use or capabilities of AI technology, in order to obtain money or property.<sup>[11]</sup>

## INVESTIGATING AND PROSECUTING AI WASHING

The federal agencies in the United States with jurisdiction over deceptive business practices have become increasingly vigilant in addressing AI washing.

### DOJ

In 2024, the DOJ began implementing formal positions and policies in response to the AI boom. In February 2024, then-Attorney General Merrick Garland announced the designation of the DOJ’s first chief AI officer,<sup>[12]</sup> and then-Deputy Attorney General Lisa Monaco announced the creation of ‘Justice AI’, an initiative to prepare for risks presented by the rapidly expanding industry.<sup>[13]</sup> In September of the same year, the DOJ announced it had updated guidance to prosecutors on how to evaluate the effectiveness of a corporation’s compliance programme with new references to emerging technologies such as AI.<sup>[14]</sup> The revised guidance encouraged companies to ‘assess the potential impact of new technologies, such as artificial intelligence (AI), on [the company’s] ability to comply with criminal laws’, including by implementing controls to monitor and ensure the AI’s trustworthiness and reliability and training employees on the use of the technology.<sup>[15]</sup>

As it updated guidance and policies to address increased use of AI, the DOJ initiated its first criminal proceeding concerning AI washing. In *United States v Raz*,<sup>[16]</sup> prosecutors in the Southern District of New York charged a founder and former CEO of Joonko Diversity, Inc, a company that ‘purported to offer an artificial intelligence-based product designed to help prospective employers identify and hire job candidates from diverse backgrounds’,<sup>[17]</sup> with securities fraud and wire fraud for defrauding investors and misleading them about core aspects of the company she founded. According to the DOJ, in promoting the product to clients, Raz allegedly made false claims regarding the central aspects of Joonko’s business, including ‘falsely representing how many customers Joonko had’ and making

‘false representations about Joonko’s actual and anticipated revenues’.<sup>[18]</sup> Raz is charged with one count of securities fraud and one count of wire fraud, each of which carries a maximum sentence of 20 years’ imprisonment. Raz, a citizen of Israel, has not yet been arraigned.

**Raz** illustrates how, in investigations related to AI products, conduct may result in criminal liability even if the conduct does not directly concern statements about the AI product in question. In **Raz**, since Joonko’s AI product allegedly was not as widely used as its CEO purported it to be, the CEO allegedly falsified purchase orders, made false claims about customer lists, and forged signatures on documents sent to prospective investors in order to convince them the AI product **was** valuable. It was this conduct – not false statements about the underlying AI technology in question – that is charged by the DOJ, underscoring that the DOJ and other law enforcement agencies are not using novel legal theories or statutes in AI washing cases, instead applying bread-and-butter fraud statutes to the now-expansive AI industry. While none of the charged conduct in **Raz** concerned misleading statements about the AI technology itself, the DOJ alleges it was a criminally fraudulent effort to promote an AI product that was never as popular or valuable as its CEO claimed. **Raz** signalled that the DOJ will examine ancillary statements that relate to AI products, like revenue projections, customer lists or other business information, in criminal investigations of companies that promote or sell AI products.

**Raz** was the only US federal criminal AI washing case brought in 2024. When the Trump administration assumed office in January 2025, it made advancement of the American AI industry a centerpiece of its technology policy by issuing executive orders and policy directives intended to facilitate the industry’s growth. For example, Executive Order No. 14179 directed federal agencies to maximise their use of American AI products.<sup>[19]</sup> The same order directed the creation of an action plan to ‘sustain and enhance America’s global AI dominance’.<sup>[20]</sup> The current DOJ has not rescinded AI initiatives started under the Biden administration. Indeed, it brought a new criminal case involving AI washing in April 2025, suggesting AI washing will continue to represent an enforcement priority under the Trump administration.

In **United States v Saniger**,<sup>[21]</sup> the DOJ charged Alberto Saniger, the CEO of Nate, Inc, with wire fraud in connection with an alleged scheme to defraud investors and prospective investors by making false and misleading statements about his company’s use of proprietary AI technology and its operational capabilities. According to the indictment, Saniger founded an e-commerce company that offered a software application that served as a universal online shopping cart.<sup>[22]</sup> Saniger is alleged to have told investors that the company’s software was unique because it had the ability to intelligently and quickly complete retail transactions across all e-commerce sites by using AI technology and could autonomously complete online purchases on behalf of users.<sup>[23]</sup> According to the DOJ, the company had purchased AI technology from a third party and hired a team of data scientists to develop it but failed to achieve the ability to consistently complete e-commerce purchases. Instead, the company relied on humans in the loop to ensure its technology could function, mainly through human workers located overseas who manually processed transactions in secret. Specifically, Saniger is alleged to have relied on hundreds of contractors in a call centre in the Philippines to complete purchases manually over the app. At the same time, Saniger solicited investments from venture-capital firms, touting the company’s use of AI, and repeatedly told investors and the public that the company’s app was reliant on proprietary AI technology.

*Saniger* was investigated mostly under the Biden administration. However, the current DOJ made the final decision to proceed with indictment, signalling there will be a continued enforcement focus on AI washing at the DOJ over the next few years. The charged conduct in *Saniger* also represents an incremental development of AI washing enforcement. In *Raz*, the charges involved false statements and documents related to collateral business conduct that could have been charged at any business but happened to occur at an AI company. In *Saniger*, the false statements that served as the basis for the fraud charge concerned the AI product itself. The development – along with cases increasingly brought by the SEC, discussed below – suggests that federal agencies are becoming more comfortable with the notion that corporate misstatements about the capabilities and function of AI products are material to investors or customers and can amount to criminal fraud.

It remains to be seen whether the DOJ will continue incrementally developing AI washing enforcement by pursuing charges where misstatements about an AI product are narrower or less extreme. For example, in *Saniger*, the DOJ cited the fact that the defendant claimed his AI software had a success rate ranging from 93 per cent to 97 per cent, while its actual efficacy allegedly was almost non-existent. As prosecutors become more familiar with AI products and bring more enforcement actions concerning AI washing, it is possible they will pursue less egregious misstatements that they view as being material to investors or customers (ie, claiming an efficacy rate of 95 per cent when an AI product's actual efficacy is 65 per cent).

Both *Raz* and *Saniger* suggest that one consideration moving forward may be how significantly the AI washing harmed investors or customers. In both cases, the DOJ noted that the allegedly misleading statements caused investors to commit millions of dollars to companies whose products were not as valuable as the investors were led to believe. Going forward, if prosecutors have evidence that even a narrow misstatement about an AI product's capabilities caused an investor to invest in that product instead of a market competitor, it may provide fodder to an assertion of clear harm caused to the investor and support a determination that the misstatement amounts to criminal fraud.

## SEC

Given the significant impact that AI-related announcements can have on stock prices, the SEC was one of the earliest federal agencies to announce it would scrutinise statements related to AI products made by companies. In late 2023, then-SEC Chairman Gary Gensler publicly discouraged companies and individuals from making misleading statements about the use of AI or its capabilities in connection with their businesses, referring to such statements as 'AI washing'.<sup>[24]</sup> Gensler compared making misstatements about AI to 'greenwashing', a practice whereby companies make misleading or false statements in an effort to benefit from public interest in sustainable and environmentally friendly business practices.<sup>[25]</sup>

In Gensler's view, statements misleading investors about AI are governed by the same set of basic laws and the same basic concepts as other statements that mislead the public in other industries. He thus encouraged any company governed by the securities laws to 'fairly and accurately describe the material risks'.<sup>[26]</sup> Accordingly, companies that make false or misleading statements about their AI capabilities have faced SEC investigations and sanctions for securities fraud in recent years, underscoring the agency's commitment to ensuring transparency and accuracy in AI-related disclosures.

On the heels of Gensler's public comments, the *Wall Street Journal* reported that the SEC was probing investment advisers' use of AI.<sup>[27]</sup> The SEC's examinations division sent requests on AI-related topics to investment advisers, including requests for details about AI-related marketing documents, algorithmic models used to manage client portfolios, third-party providers, compliance training and other issues. Months later, in March 2024, the SEC announced its first AI washing case. The Commission settled charges against two investment advisers for making false and misleading statements about their 'purported use of artificial intelligence'.<sup>[28]</sup> Specifically, the SEC's order alleged that one investment adviser claimed it 'put collective data to work to make our artificial intelligence smarter so it can predict which companies and trends are about to make it big and invest in them before everyone else'. The firm claimed to apply AI and machine learning to clients' spending and social-media data to inform investment advice when no such data was being used in its investment process.<sup>[29]</sup> According to the SEC, the firm did not have the AI and machine-learning capabilities that it claimed. The SEC's order found that the AI washing conduct constituted a fraud or deceit upon a client, dissemination of untrue statements or material facts and controls violations, and the investment adviser paid a civil penalty of US\$225,000.<sup>[30]</sup>

The SEC alleged the other firm similarly misled customers through its website, social media and client emails, which falsely described it as the 'first regulated AI financial advisor'.<sup>[31]</sup> While it promised to use AI-driven forecasts to recommend investments, the SEC alleged the investment adviser did not employ AI as part of its investment strategy.<sup>[32]</sup> As part of its settlement, the second investment adviser agreed to retain a compliance consultant to review marketing and training materials.<sup>[33]</sup>

In June 2024, the SEC followed the investment-adviser case with a parallel enforcement action against Ilit Raz, the same defendant charged in the DOJ's first criminal AI washing case.<sup>[34]</sup> While the SEC's action turned on largely the same facts, notably, it further alleged that Raz 'misrepresented the technological capabilities and the effectiveness of the platform',<sup>[35]</sup> an allegation not included in the DOJ's indictment. The SEC took specific issue with Raz's alleged claim that the technology was based on 'seven different AI algorithms' that 'use[] natural language processing and computer vision to scan public data'.<sup>[36]</sup> The SEC alleged that, in fact, the app did not actually use any of these processes and that, since Raz oversaw the build out of the platform, she knew or recklessly disregarded that the platform did not work as she described. Because '[i]nvestors . . . considered the state of Joonko's technology important in deciding whether to invest', the misstatements were material for purposes of the anti-fraud provisions of the securities laws.<sup>[37]</sup> The SEC's case against Raz demonstrates that, months before the DOJ brought its first AI washing case concerning statements about the technology, the SEC was prepared to advance a theory that misstatements about AI technology are material to investors and violate the anti-fraud provisions of the securities laws.

Then, in early February 2025, the SEC announced another settled matter involving AI washing, with more complicated facts. The February 2025 case concerned a restaurant technology company, Presto Automation Inc, which claimed to have developed an innovative AI product capable of automating drive-through order-taking at fast food restaurants. According to the settlement, the SEC found that Presto misled investors by failing to disclose that its voice AI technology was developed, owned and operated by a third party and by exaggerating its own in-house technology's capabilities by downplaying the level of required human intervention in the order-taking process.<sup>[38]</sup> The order found that Presto violated the

anti-fraud provisions of the securities laws, but on a negligent – not intentional – basis. The accompanying press release noted that the SEC ‘did not impose a civil penalty’ against Presto ‘based on the company’s cooperation during the staff’s investigation and remedial efforts’.<sup>[39]</sup> The remedial efforts included multiple meetings between the company and the SEC staff, provision of presentations and factual summaries related to the matters at issue and remedial disclosures in public filings.<sup>[40]</sup>

The *Presto* case was notable for several reasons. It marked the first federal enforcement action concerning AI washing by a company that did employ AI technology, but its technology was not as sophisticated or effective as it represented. The case demonstrates that federal agencies will not limit AI washing charges to only the most egregious cases, where a company claims to use AI but in actuality does not, and will bring enforcement actions when a company makes material misstatements about the capabilities of existing AI products. The case also presented a roadmap for companies to follow in order to avoid harsh financial penalties or intentional fraud charges by the SEC for AI washing, including:

- interfacing with SEC staff;
- providing factual and legal presentations in response to requests and questions about AI products or services that utilise AI;
- cooperating with the SEC’s requests for documents and information; and
- making remedial disclosures to rectify any public or investor misunderstanding regarding an AI product or issue in question.

The SEC’s latest AI washing case was the parallel action it brought in *Saniger*. The SEC’s complaint largely mirrored the DOJ’s: the SEC alleged that Saniger lied to investors about the use of AI by the software application his company promoted, telling some that its ‘automation rate’ was above 90 per cent when in fact ‘all orders entered on the app at that time had to be placed manually’.<sup>[41]</sup> Notably, the facts in *Saniger* closely resemble the *Presto* case involving the restaurant technology company, yet they resulted in significantly different outcomes.

Saniger was charged both criminally (by the DOJ) and civilly (by the SEC), but Presto only was charged civilly by the SEC. Further, the SEC claims against Saniger allege he knowingly or recklessly violated the anti-fraud provisions of the securities laws, while the order involving Presto only alleged they were negligently violated. Finally, the SEC is seeking disgorgement from Saniger and a civil monetary penalty, while Presto avoided any disgorgement or monetary penalty as part of its settlement. The distinctions between the cases signal the importance of hiring counsel who can effectively interface with SEC staff, provide legal counsel and advocacy regarding AI washing, guide cooperation with SEC investigations and assist with any necessary remedial disclosures.

## FTC

Under section 5(a) of the FTC Act,<sup>[42]</sup> the US FTC has a mandate to pursue enforcement actions to prevent unfair or deceptive business practices. The FTC has repeatedly warned that it views AI washing as a form of deceptive marketing and, since August 2023, has filed civil cases and announced settled charges over allegations that companies or individuals made false claims about AI-powered systems. The earliest case involving AI washing concerned a business that promoted to customers opportunities and coaching programmes purportedly based on AI and that generated substantial revenues.<sup>[43]</sup> The FTC alleged the

business was a scam and that the company did not lead to revenues resulting from AI programmes or applications.<sup>[44]</sup> In February 2024, a court entered a permanent injunction and monetary judgment to resolve the dispute.<sup>[45]</sup>

Over the course of 2024, the FTC settled or charged several cases involving corporate AI washing. The first case involved a company that claimed to offer an AI service billed as ‘the world’s first robot lawyer’ but was substantially limited in the services it could provide.<sup>[46]</sup> The FTC charged the company with violating section 5(a) of the FTC Act, alleging that the product could not substitute for the expertise of a human lawyer and that the advertisements constituted a deceptive business practice.<sup>[47]</sup> In the settlement, the company agreed to pay US\$193,000 and provide a notice to consumers warning them about the limitations of law-related features of the service.<sup>[48]</sup> The order also prohibited the company from making claims about substituting professional services with technology unless there was evidence to support those claims.<sup>[49]</sup>

In the autumn of 2024, the FTC announced Operation AI Comply, a new law enforcement sweep intended to hold companies accountable for using false claims about AI to ‘supercharge deceptive or unfair conduct that harms consumers’.<sup>[50]</sup> Over the course of autumn, the FTC brought a number of AI washing cases, including against a company that offered an AI ‘writing assistant’ that could generate an unlimited number of detailed consumer reviews with false information and another company that charged customers thousands of dollars to start online stores on e-commerce platforms and fraudulently offered them proprietary AI software to maximise their success.<sup>[51]</sup>

The FTC also filed a case against a company over its claims that a technology product could detect weapons at crowded venues, such as schools.<sup>[52]</sup> According to the FTC, the product was far less effective than the company had promoted: the technology failed to detect weapons in schools while flagging ‘harmless personal items’ or, alternatively, triggered a 50 per cent false-alarm rate when increased sensitivity settings were activated.<sup>[53]</sup> In a settlement, the company agreed to give customers an option to cancel their contracts.

Since the Trump administration has assumed office, there have not been any new AI-related cases brought by the FTC; however, companies should remain vigilant. The FTC has authority to prevent deceptive or unfair trade practices and pursue civil remedies for AI washing in federal court.

## CONCLUSION: THE FUTURE OF AI WASHING ENFORCEMENT

It has not yet been two full years since the phrase ‘AI washing’ was introduced by then-SEC Chairman Gary Gensler, but the DOJ, SEC and FTC already have pursued a number of criminal and civil enforcement actions against companies for engaging in deceptive practices regarding the capabilities, use or application of AI products. Moreover, the facts underlying these cases suggest that all three agencies are willing to pursue enforcement beyond extreme cases, such as where a company claims to use AI but, in reality, does not employ any machine learning at all. Each of these agencies now has pursued enforcement where a company’s claims about its use of AI or its AI product generally were accurate but overstated or misrepresented.

As the AI industry continues to grow and prosecutors and agency attorneys become more familiar with AI-related products, it is likely these agencies will investigate and take seriously any material misstatements about AI if those misstatements were relied on by investors or customers and caused harm. Companies that make public or investor-facing claims about AI

should remain attentive to these developments. And they should keep in mind that engaging legal counsel who can knowledgeably interface with investigating agencies, effectively deliver presentations about AI products or practices, advise on corporate cooperation with investigators and assist with any necessary remedial disclosures is an important step toward obtaining a positive outcome.

*Any views expressed in this publication are strictly those of the authors and should not be attributed in any way to White & Case LLP.*

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## Endnotes

- 1 Dr Dakota Thomas and Caroline Wills, *The Advent of AI*, Capitol Ideas Magazine (8 March 2023) available at <https://www.csg.org/2023/03/08/the-advent-of-ai/>. <sup>^</sup> [Back to section](#)
- 2 *id.* <sup>^</sup> [Back to section](#)
- 3 Adam Zewe, *Explained: Generative AI*, MIT News (9 November 2023) available <https://news.mit.edu/2023/explained-generative-ai-1109>. <sup>^</sup> [Back to section](#)
- 4 Aleksandr Sheremeta, *Generative and Non-generative AI – Use Cases for Foundation Models*, DataForest (29 August 2024) available <https://dataforest.ai/blog/generative-and-non-generative-ai-the-strengths-of-both-approaches> <sup>^</sup> [Back to section](#)
- 5 Hannah Mayer, Lareina Yee, Michael Chui and Roger Roberts, *Superagency in the workplace: Empowering people to unlock AI's full potential*, McKinsey Digital (28 January 2025) available <https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/superagency-in-the-workplace-empowering-people-to-unlock-ais-full-potential-at-work>. <sup>^</sup> [Back to section](#)
- 6 Comm. Futures Trading Cmm'n, *Responsible Artificial Intelligence in Financial Markets: Opportunities, Risks & Recommendations*, p. 15 (2 May 2024) available . <sup>^</sup> [Back to section](#)
- 7 Sheremeta *supra* No. 4. <sup>^</sup> [Back to section](#)
- 8 Kevin LaCroix, AI, Risk, and Public Company Disclosures, The D&O Diary (2 May 2024) available <https://www.dandodiary.com/2024/05/articles/artificial-intelligence/ai-risk-and-public-company-disclosures/>. <sup>^</sup> [Back to section](#)
- 9 Hailey Konnath, *SEC Chair Warns Businesses Against AI Washing: 'Don't Do It'*, Law360 (5 December 2023) available <https://www.law360.com/securities/articles/1773759/sec-chair-warns-businesses-against-ai-washing-don-t-do-it>. <sup>^</sup> [Back to section](#)
- 10 *id.* <sup>^</sup> [Back to section](#)

- 11 See, eg, 18 USC. § 1341 (mail fraud); 18 USC. § 1343 (wire fraud); 15 USC. § 45 (unfair or deceptive trade practices). <sup>^</sup> [Back to section](#)
  
- 12 Dep't of Justice, *Attorney General Merrick B. Garland Designates Jonathan Mayer to Serve as the Justice Department's First Chief Science and Technology Advisor and Chief AI Officer* (22 February 2024) available <https://www.justice.gov/archives/opa/pr/attorney-general-merrick-b-garland-designates-jonathan-mayer-serve-justice-departments-first>. <sup>^</sup> [Back to section](#)
  
- 13 Dep't of Justice, *Deputy Attorney General Lisa O. Monaco Delivers Remarks at the Univ of Oxford on the Promise and Peril of AI* (14 February 2024) available <https://www.justice.gov/archives/opa/speech/deputy-attorney-general-lisa-o-monaco-delivers-remarks-university-oxford-promise-and>. <sup>^</sup> [Back to section](#)
  
- 14 Dep't of Justice, *Evaluation of Corporate Compliance Programs* (updated September 2024). <sup>^</sup> [Back to section](#)
  
- 15 *id.* at 4. <sup>^</sup> [Back to section](#)
  
- 16 Case No. 24-cr-00004-AKH, Document No. 3 (S.D.N.Y. 5 June 2024). <sup>^</sup> [Back to section](#)
  
- 17 Dep't of Justice, *Founder and Former CEO of Artificial Intelligence Company Charged With Securities Fraud* (11 June 2024) available <https://www.justice.gov/usao-sdny/pr/founder-and-former-ceo-artificial-intelligence-company-charged-securities-fraud>. <sup>^</sup> [Back to section](#)
  
- 18 *id.* <sup>^</sup> [Back to section](#)
  
- 19 White House, Executive Order No. 14179 'Removing Barriers to American Leadership in Artificial Intelligence' (23 January 2025) available <https://www.whitehouse.gov/presidential-actions/2025/01/removing-barriers-to-american-leadership-in-artificial-intelligence/>. <sup>^</sup> [Back to section](#)
  
- 20 *id.* <sup>^</sup> [Back to section](#)
  
- 21 *United States v Saniger*, Case No. 25-cr-157, Document No. 1 (S.D.N.Y. 9 April 2025). <sup>^</sup> [Back to section](#)
  
- 22 Dep't of Justice, *Tech CEO Charged in Artificial Intelligence Investment Fraud Scheme* (9 April 2025) available <https://www.justice.gov/usao-sdny/pr/tech-ceo-charged-artificial-intelligence-investment-fraud-scheme>. <sup>^</sup> [Back to section](#)
  
- 23 *id.* <sup>^</sup> [Back to section](#)

- 24 Hailey Konnath, *SEC Chair Warns Businesses Against AI Washing: 'Don't Do It'*, Law360 (5 December 2023) available <https://www.law360.com/securities/articles/1773759/sec-chair-warns-businesses-against-ai-washing-don-t-do-it->. <sup>^</sup> [Back to section](#)
- 25 *id.* <sup>^</sup> [Back to section](#)
- 26 *id.* <sup>^</sup> [Back to section](#)
- 27 Richard Vanderford, *SEC Probes Investment Advisers' Use of AI*, Wall St. J. (10 December 2023) available <https://www.wsj.com/articles/sec-probes-investment-advisers-use-of-ai-48485279>. <sup>^</sup> [Back to section](#)
- 28 Sec. Exch. Comm'n, *SEC Charges Two Investment Advisers with Making False and Misleading Statements About Their Use of Artificial Intelligence* (18 March 2024) available <https://www.sec.gov/newsroom/press-releases/2024-36> <sup>^</sup> [Back to section](#)
- 29 Sec. Exch. Comm'n, *In the Matter of Delphia (USA) Inc.*, File No. 3-21894 at 2 (18 March 2024). <sup>^</sup> [Back to section](#)
- 30 *id.* at 5. <sup>^</sup> [Back to section](#)
- 31 Sec. Exch. Comm'n, *SEC Charges Two Investment Advisers with Making False and Misleading Statements About Their Use of Artificial Intelligence* (18 March 2024) available <https://www.sec.gov/newsroom/press-releases/2024-36>. <sup>^</sup> [Back to section](#)
- 32 *id.* <sup>^</sup> [Back to section](#)
- 33 *id.* <sup>^</sup> [Back to section](#)
- 34 *Sec. Exch. Comm'n v Raz*, Case No. 24-cv-4466, Document No. 1 (S.D.N.Y. 11 June 2024). <sup>^</sup> [Back to section](#)
- 35 *id.* at 7. <sup>^</sup> [Back to section](#)
- 36 *id.* at 14. <sup>^</sup> [Back to section](#)
- 37 *id.* <sup>^</sup> [Back to section](#)
- 38 Sec. Exch. Comm'n, *In the Matter of Presto Automation Inc.*, File No. 3-22413 at 5-8 (14 January 2025). (White & Case and the authors of this alert represented Presto Automation Inc in this matter). <sup>^</sup> [Back to section](#)

- 39 Sec. Exch. Comm'n, *SEC Charges Restaurant Technology Company Presto Automation for Misleading Statements About AI Product* (14 January 2025) available <https://www.sec.gov/enforcement-litigation/administrative-proceedings/33-11352-s>. ^ [Back to section](#)
- 40 Sec. Exch. Comm'n, *In the Matter of Presto Automation Inc.*, File No. 3-22413 at 11. ^ [Back to section](#)
- 41 *Sec. Exch. Comm'n v Saniger*, Case No. 25-cv-2937, Document No. 1 (S.D.N.Y. 9 April 2025). ^ [Back to section](#)
- 42 15 USC. § 45(a). ^ [Back to section](#)
- 43 *Fed. Trade Comm'n v Automators LLC et al*, Case No. 23-cv-14444-BAS-KSC, Document No. 1 (S.D. Cal. 8 August 2023). ^ [Back to section](#)
- 44 *id.* at 21. ^ [Back to section](#)
- 45 *Fed. Trade Comm'n v Automators LLC et al*, Case No. 23-cv-14444-BAS-KSC, Document No. 98 (S.D. Cal. 26 February 2024). ^ [Back to section](#)
- 46 Fed. Trade Comm'n, *In the Matter of DONOTPAY, Inc.*, 232-3042 Decision and Order (24 September 2024). ^ [Back to section](#)
- 47 Fed. Trade Comm'n, *In the Matter of DONOTPAY, Inc.*, 232-3042 Complaint (24 September 2024). ^ [Back to section](#)
- 48 Fed. Trade Comm'n, *In the Matter of DONOTPAY, Inc.*, 232-3042 Decision and Order (24 September 2024). ^ [Back to section](#)
- 49 *id.* ^ [Back to section](#)
- 50 Fed. Trade Comm'n, *FTC Announces Crackdown on Deceptive AI Claims and Schemes* (25 September 2024) available <https://www.ftc.gov/news-events/news/press-releases/2024/09/ftc-announces-crackdown-deceptive-ai-claims-schemes>. ^ [Back to section](#)
- 51 See, eg, *Fed. Trade Comm'n v Ascend Ecom*, Case No. 24-cv-7660 (C.D. Cal. 25 September 2024); *In the Matter of Rytr LLC*, 232-3052 Complaint (25 September 2024).- ^ [Back to section](#)
- 52 *Fed. Trade Comm'n v Evolv Tech. Holdings, Inc.*, Case No. 24-cv-12940, Document No. 1 (D. Mass. 26 November 2024). ^ [Back to section](#)

- 53** Fed. Trade Comm'n, *FTC Takes Action Against Evolv Technologies for Deceiving Users About its AI-Powered Security Screening Systems* (26 November 2024) available <https://www.ftc.gov/news-events/news/press-releases/2024/11/ftc-takes-action-against-evolv-technologies-deceiving-users-about-its-ai-powered-security-screening>. ^ [Back to section](#)

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