

Infringement Risks to Identifiable Personality Rights in Digital Resurrection: Challenges and Regulatory Responses

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Abstract

The iteration of generative artificial intelligence and deep synthesis has given birth to digital resurrection, a new digital personality practice. Drawing on the digital traces left by individuals during their lifetime, it enables individuals to maintain a form of continuous digital presence by digital extraction, algorithm modeling and dynamic generation of personality elements, which essentially reshapes the existence form, rights boundaries and control structure of identifiable personality rights. Meanwhile, new infringement risks arise. Although China has built a protection framework with the *Civil Code* and the *Personal Information Protection Law* as the core, the existing norms are mostly based on the design of traditional linear information processing behaviors, which makes it challenging to accurately regulate unique digital resurrection activities such as model training and cross-scenario calling. Significant uncertainty also remains regarding the legal relationship between the personality interests of the deceased and the enforcement rights of their close relatives. In addition to sorting out the technical mechanism and application scenarios of digital resurrection, this paper analyzes its infringement forms on portrait, voice, reputation and personal information rights and interests, and proposes a comprehensive regulatory framework from the legislative, technical and judicial dimensions, so as to realize the dynamic balance between technological innovation and personality rights protection.

Keywords

Digital Resurrection; Identifiable Personality Rights; Artificial Intelligence.

1. Problem Statement

In recent years, technologies such as generative artificial intelligence, deep synthesis, speech cloning and three-dimensional modeling have developed rapidly. The traditional personality manifestation relying on the body of a natural person and real scenarios has become a digital resource that can be collected, trained, generated and disseminated. As personal digital footprints continue to expand, based on the emotional needs of the close relatives to the deceased, the phenomenon of “digital resurrection” has emerged. Lin Weiyu proposes that the digital “resurrection” of the deceased is to allow the deceased or specific subjects to create a persistent sense of digital “presence” in the digital space with the support of algorithm training and content generation technology [1]. Wang Qi pointed out that the key is to transcend the traditional boundaries of media use and further turn personality elements into objects that can be recombined, called and reproduced [2]. Thus, digital resurrection has reshaped the existence mode, boundary and control structure of identifiable personality rights, and also given birth to a new infringement risk, which has been an urgent issue for legal research.

This technology raises significant regulatory concerns, and the core lies in that it can constantly output identifiable expressions attributed to a specific deceased by the public without the

participation of the right holder. Cheng Xiao insists that in the digital age, the protection of personality rights should pay more attention to personality identifiers that have strong recognition and arouse personality belonging and social association [3]. This is the essence of protecting identifiable personality rights and the main infringement risk of digital resurrection. China's *Civil Code* and *Personal Information Protection Law* have formed the basic framework of personal interests and personal information protection (*Civil Code*, Articles 109-110, Part 4, Rights of Personality) (Article 2 of the *Personal Information Protection Law*). Meanwhile, the *Provisions on the Administration of Deep Synthesis of Internet-based Information Services* and the *Interim Measures for the Administration of Generative Artificial Intelligence Services* put forward principled requirements for related technologies (*Provisions on the Administration of Deep Synthesis of Internet-based Information Services*, Cyberspace Administration of China, Ministry of Industry and Information Technology of the People's Republic of China, Ministry of Public Security of the People's Republic of China [2022] No. 12.) (*Interim Measures for the Administration of Generative Artificial Intelligence Services*, Cyberspace Administration of China, National Development and Reform Commission of the People's Republic of China, Ministry of Education of the People's Republic of China [2023] No. 15). However, these regulations are mostly designed around traditional information processing behaviors, which lack a detailed and direct response to new utilization methods such as algorithm modeling, continuous generation and cross-scenario calling of identifiable personality rights.

Concerning the digital resurrection of the deceased, the current law has more prominent shortcomings. Although academia has made it clear that the personality interests and personal information of the deceased still need legal protection [4] [7], its protection is related to the dignity of the deceased, the interests of close relatives and social ethics [5] [6]. On this basis, the research of Peng Chengxin, Li Jiatong and Lan Nan provides crucial theoretical support for understanding the protection of personality interests in digital resurrection [8] [9]. However, in terms of how to establish a clear connection between the deceased's identifiable personality interests, personal information and close relatives' right to claim protection, and how to accurately regulate the infringement of identifiable personality rights in digital resurrection, there is still much room for improvement in the current regulations.

Focusing on the infringement risk of identifiable personality rights in digital resurrection, this paper sorts out the infringement performance in technology application, combines the existing norms and theoretical research, and explores the path of identifiable personality rights protection adapted to the digital age, so as to fill the gap in legal regulation and balance the relationship between technology development and personality rights protection.

2. Application Status and Mechanism Explanation of Digital Resurrection

2.1. Technical Connotation and Operation Mechanism of Digital Resurrection

Digital resurrection is not the mechanical preservation and repeated playback of existing photos, audio or video materials. Instead, it refers to the reorganization, fitting and dynamic output of a natural person's personality manifestation by adopting technical means such as data processing, algorithm learning and content generation. Wang Liming argues that the legal problems caused by generative artificial intelligence are not the expansion of traditional infringement objects, but the changes of infringement objects, infringement means and liability chain [10]. In the digital resurrection scenario, the above changes are more apparent. Specifically, external personality features such as facial features and voice features of natural persons become technical resources that can be identified, extracted, modeled and called, which also lays hidden dangers for the infringement of identifiable personality rights.

Regarding the specific operation process, digital resurrection relies on a series of data processing chains to work. The process generally consists of four stages: data collection, feature

extraction, model training, and content generation: firstly, it is required to collect the subject's photos, videos, audio recordings and written materials as the training basis. Secondly, through the algorithm analysis, the main features such as appearance, voiceprint and behavioral tendency are extracted, and then encoded into model parameters that can be called by the system. Then, new audio-visual and interactive content is automatically generated according to predetermined scripts or realistic requirements. Finally, the results of correlation generation enter the real communication scenarios through digital human platforms, video synthesis systems, etc., thus producing a highly simulated digital form. Thus, the core change of digital resurrection lies in reconstructing the generative logic of the personality manifestation of specific subjects, rather than simply reusing existing data.

This is essentially the application of personal information processing rules. Cheng Xiao holds that the personal information processing rules control continuous processing behaviors such as collection, storage, processing, transmission, provision and disclosure [11]. Digital resurrection is built on this continuous processing chain. After the raw data enters the system, it is further processed into model parameters and generation capabilities. In addition, digital resurrection will reshape the construction logic of the subject's external identity. Lu Qing proposes that identity in the digital age is constantly confirmed and reproduced in the information flow and social identification [13]. Digital resurrection is not merely to reproduce the image of the deceased but to reconstruct public cognition through continuous content output. Its legal risk lies in the legality of data use and the improper construction of others' personality image, which is the core inducement of identifiable personality rights infringement. Digital resurrection has four apparent technical characteristics. (1) High fidelity. It depends on technical support such as deep learning and three-dimensional modeling. The external characteristics of the target subject are all-round imitated, and the boundary between authenticity and falsehood is blurred. (2) Strong generativity. It overcomes the limitation of original material, and produces new speech, image, action and interactive content with the repeated appearance of a certain subject. (3) Diffusivity. Once the content is published into the ecosystem of the platform, it will be disseminated rapidly through forwarding, editing and recreation. (4) Platform dependency. Content generation and dissemination rely on platform rules, so its risks are amplified simultaneously with the enhancement of platform dissemination. From the perspective of the development trend, digital resurrection has shifted from specialization to popularization. With the continuous promotion of generative models, deep synthesis tools and commercial digital human services, ordinary users can generate voice cloning, face replacement and anthropomorphic dialogue at a lower cost. After lowering the technical threshold, on the one hand, the application of digital resurrection will be expanded; on the other hand, it will simplify the copying and reconstruction of others' personality manifestations without permission. Thus, the understanding of digital resurrection should be based on the comprehensive framework of personality law, personal information protection and platform governance, with emphasis on the threats of personality rights infringement.

2.2. Application Status of Digital Resurrection

As for the actual operation, digital resurrection covers various aspects, including private remembrance, commercial development, cultural communication, platform content production, etc.

First, emotional companionship and private remembrance are currently the most prone to blurring legal boundaries. In reality, the platform and technical service providers will use the audio, video, voice and other identifiable materials of the deceased to create AI digital avatars with specific faces, voices and dialogue styles, which is also used to promote the main functions such as emotional comfort, memory continuation and psychological companionship. Such applications meet the emotional need of relatives for the "continuous presence" of the deceased.

However, once the digital image has the ability to respond continuously, it is challenging to distinguish whether its expression is a continuation of the will of the deceased or a probabilistic simulation made by algorithms based on historical data. According to Lu Qing's research on the "consent" rule, legal information processing does not depend on whether the data can be obtained, but on whether the purpose, method and scope of processing have a clear, true and attributable authorization basis [14]. Thus, in the context of digital resurrection, the information provided by close relatives for remembrance fails to presume the per se legitimacy of all generative acts thereafter.

Secondly, with regard to commercial development and traffic monetization, commercial digital resurrection more directly presents the trend of instrumentalizing and resourcing personality identifiers. Digital resurrection makes the portraits, voices and behaviors of the deceased subjects or specific characters re-enter the market activities in scenarios such as advertising endorsement, film and television restoration, virtual concerts and live marketing. Bian Qi proposes that when personality manifestations such as portraits and voices are continuously used in market communication and commercial operations, their legal protection should shift to a comprehensive examination of recognition, attribution and utilization boundaries [15]. The most apparent feature of these scenarios is that relevant subjects prioritize traffic effects, commercial gains and market returns, and ignore human dignity, true will and rights control boundaries. Thus, the personality infringement risk of commercial digital resurrection is the most concentrated.

Thirdly, when it comes to cultural communication and public commemoration, digital resurrection generally undertakes public welfare or public functions such as "paying tribute to history" and "strengthening experience" in cultural exhibitions and history education. Digital human technology is adopted to reproduce historical figures and imitate the speech of scientists and cultural celebrities, so as to intensify the public sense of participation and immersion. Most of these applications have public interest attributes, so it is easier to receive public recognition from social evaluation. However, the public welfare of purpose cannot exclude personality risk. As long as the digital image can enable the public to recognize a specific subject and re-attribute its personality and position in a new scenario, then there will be legal problems such as authorization basis, boundary use and authenticity control. As a result, the legitimacy of digital resurrection in the public cultural field is still restricted by personality rights and personal information protection rules.

Fourthly, in terms of platform content production and network dissemination, due to the widespread application of generative artificial intelligence, more content of digital resurrection emerges through amateur creation and dissemination. With tools such as face replacement, voice cloning, video synthesis and dialogue generation, users can "resurrect" a public figure, Internet celebrity or deceased relative at a low cost, and publish relevant content on short video platforms, social media or forum communities. In this scenario, the dissemination speed is fast with low replication cost, and the governance is difficult. Once the platform algorithm constantly recommends relevant content according to the popularity, stay duration or interactive data, it is easy to trigger the viral impact spread of identifiable personality rights infringement. Thus, digital resurrection has surpassed the personal freedom of expression and become a new governance issue related to platform governance, information authenticity and social trust order.

Generally, digital resurrection has penetrated into all aspects of society, such as private life, market activities and public communication in the spread of technology and platform participation. Although application scenarios vary in purpose, influence scope and interest structure, the commonality is that they all use technical means to shape, call and put the personality identifier of a subject. Digital resurrection has been an institutional practice in the social operation. If it is separated from the multiple examinations of personality rights

protection, personal information regulation and platform governance, it tends to ignore its potential risks to identifiable personality rights and social order, which makes it challenging to effectively prevent the infringement.

3. Risk of Identifiable Personality Rights Infringement in Digital Resurrection

3.1. Concept and Characteristics of Identifiable Personality Rights

An identifiable personality right refers to the exclusive interest that a natural person enjoys in external personality identifiers that possess a high degree of recognizability, which can represent their identity and cause stable personality association in social interaction. Object generally refers to the personality characteristics of recognizable identity, such as name, portrait, voice, etc. Wang Liming insists that after the independent composition of personality rights, the modern protection of personality interests cannot rely on the scattered adjustment of traditional tort liability rules, and the independent value and systematic status of personality rights should be recognized [16]. This judgment is particularly essential in the digital resurrection because it impacts not a single property or information interest, but the overall domination and control of the subject's personality manifestation.

Identifiable personality rights have at least the following characteristics:

First of all, identifiable personality rights are highly recognizable. According to Fang Shaokun and Cao Xiangjian, the core of identifiable personality rights is that personality identifiers feature clear subject orientation and social recognition, and the problem of personality belonging will arise when they are separated from subject control and used externally [17]. Once a digitally generated representation can be recognized by the public as referring to a specific individual, it falls within the scope of identifiable personality rights. Secondly, it has personality specificity. Although the identifiable personality right is the externally perceptible personality manifestation, in fact, it still serves the natural person's personality dignity, freedom and autonomous decision-making right. Yang Lixin argues that the core of protecting the personality interests of the deceased is the carried personality peace, dignity and ethical order [18]. This view is also applicable to the identifiable personality right, and its value lies in ensuring the subject's independent decision on the production, use and presentation context of his own personality manifestation.

Secondly, identifiable personality rights have compound interests. In the post-Civil Code era, the commercial utilization of personality identifiers is increasingly institutionalized. Yu Xiao and Li Yadong insist that natural persons can control the commercial utilization boundary of personality identifiers in this scenario [19], which means that the identifiable right will overflow property interests such as traffic in specific applications. If the digital resurrection reproduces and uses personality identifiers in a market-oriented manner, it may lead to the misappropriation of personality value and the unauthorized exploitation of commercial interests.

Thirdly, identifiable personality right features technological sensitivity and spreadability. Zhu Xiaofeng proposes that when new technological activities go beyond the coverage of specific rights clauses, it is necessary to protect personal dignity and freedom with the help of general interpretation of personality rights. Digital resurrection disassembles natural persons' faces and voices into data, parameters and models. After the models are formed, they can be repeatedly called and go viral on the network platform, which easily results in continuous and large-scale infringement of identifiable personality rights.

Finally, identifiable personality rights are characterized by the subject's continuing interests throughout the information-processing process. Gao Fuping argues that the core of personal

information protection is to protect the rights of the subject in information processing and prevent individuals from losing control over their identity, behavior and social image. This view is also applicable to the identifiable personality right. The core infringement risk of digital resurrection is the gradual detachment of the subject personality identity from its control during the collection, modeling, generation and spread.

Therefore, the impact of digital resurrection on the system of personality rights is not just to add new infringement means, but to change the fundamental way in which personality manifestation is controlled and used. In the past, the personality characteristics of personality attributes such as portraits and voices existed primarily in static forms in real scenes, but in the digital resurrection, they became dynamic resources that can be trained, called and generated. Right holders are no longer faced with “others using my photos” or “disseminating my recordings”, but with continuously generating new digital images based on their personality identifiers. The transformation from use to generation and from reproduction to substitution is fundamental to the infringement risk of identifiable personality rights in digital resurrection.

3.2. Specific Manifestations of the Infringement of Identifiable Personality Rights in Digital Resurrection

Digital resurrection is a composite technology based on deep synthesis, generative artificial intelligence, speech cloning, and three-dimensional modeling, which features high fidelity, strong generativity, low-cost spreadability, apparent platform dependence and scene embeddability [10]. These technical characteristics give rise to the generated risks that are not single and isolated but have a compound nature of technical risk, ethical risk, social risk and legal risk. These risks are reflected in the continuous infringement of the identifiable rights in law, which are embodied in the following aspects:

1. Reconstructive Impact on Portrait Rights

Traditional infringement of portrait rights is mostly manifested by taking, using or making public other people's photos and videos without permission. The protection of a natural person's portrait interests in the Civil Code is basically based on the linear behavior structure of making, using and publicizing. (Article 1018-1020 of the *Civil Code*.) However, digital resurrection has no need to call the original photos or images, and relies on algorithm training to transform the facial features, expression habits and appearance styles of natural people into new models that can be generated continuously. Wang Liming believes that the remarkable feature of generative AI infringement is that the infringement is no longer just a direct copy of the existing object. Instead, new content highly related to the original subject is generated by the model [10]. In the digital resurrection scenario, this means that the portrait is reshaped into new expressions that can be constantly produced by new scenarios.

Thus, the infringement of portrait rights by digital resurrection has changed from “using existing portraits without permission” to “generating new portrait expressions without permission”. Even if the relevant subject does not directly use the original photo, it will generate a picture that is enough to be recognized by the public as a new face, new action and new scene of a natural person through model training. Bian Qi proposes that the protection of portrait rights should not only focus on the specific image carrier, but also heed the corresponding personality belonging and control interests behind the recognition representation [15]. Digital resurrection illustrates precisely this point, that is, technology can make a person reappear without participation, consent, or even knowledge. What is infringed is no longer a static photograph, but the natural person's autonomous right to decide how their overall image is presented.

The impact of digital resurrection on portrait rights is sustainable and irreversible. Once a high-fidelity facial model or 3D digital image flows into cyberspace, even if a specific video is deleted, it cannot prevent other subjects from continuing to call, copy and redistribute. Thus, the risk

associated with portrait rights has shifted from the original, one-time use infringement to the possession and control of "portrait generation ability". Portraits are no longer just objects to be displayed, but digital interfaces for sustainable invocation, which causes new problems to the existing logic of portrait rights protection.

2. Misappropriation of Voice Rights and Interests

Portrait rights primarily concern visual identification, and voice is more directly related to the identity recognition and personality expression of the subject. Moreover, voice enables individuals to identify the speaker, which often carries emotions, attitudes and value judgments. It is another crucial way to externalize the personality of a natural person. The Civil Code includes voice in the protection of personality rights, which proves that the law has recognized voice as an object with independent personality interests (Article 1023 (2) of the *Civil Code*).

The voice risk in the digital resurrection is far greater than the recording being copied or edited. Using voiceprint recognition and speech synthesis technology, the platform and users can quickly train highly similar synthetic sounds with a small number of samples, and constantly produce new content in new contexts. Cheng Xiao proposes that although the personal information of the deceased varies from that of the living in terms of subject qualification, the highly recognizable and personality-related parts still have independent interest value [4]. Wang Yegang insists that biometric information such as voiceprint is highly sensitive with strong personality correlation. Once it leaves the original scene and enters a new processing chain, it may cause dual harm to personal dignity and the interests of close relatives [5]. Based on these highly recognizable elements, digital resurrection separates the natural person's vocal mode from the ontology, transforming it into a substitute medium of expression.

Therefore, the infringement of voice rights and interests by digital resurrection is an alternative infringement. Instead of simply playing a recording, the algorithm speaks for the rights holder in a new scenario. It is easy for audiences to mistake the relevant synthetic voice expression for the right holder's true meaning representation rather than the technical result of model generation. In other words, the core of this infringement is not only "using other people's voices", but also "who has the authority to continue speaking through that voice". Once this expression is in commercial advertisement, emotional interaction or public communication, the personality meaning carried by voice rights and interests will be further amplified, and the infringement consequences will be far greater than those of traditional recording use.

3. Concealed Infringement of the Right to Reputation

Unlike the traditional insult and slander infringement, the infringement of the reputation right by digital resurrection is not through apparent insult or false statement, but rather a more confusing expression of attribution error. Digital humans produced by digital resurrection express opinions, participate in activities, take actions in new scenes, and even exhibit behavior patterns different from the position and personality characteristics of real people in their lifetime. The essential element of infringement is to make the public misunderstand that the speech and the act are committed by this person.

Zhu Xiaofeng proposes that when the damage to personality interests caused by new technological activities cannot be fully covered by specific personality rights clauses, it should be understood by returning to the personal dignity and social evaluation order protected by general personality rights clauses [19]. The threat of digital resurrection to the right to reputation falls into this category. It does not necessarily rely on explicitly damaging a person's social reputation with explicitly defamatory language. Instead, through highly realistic appearance, familiar voices, and natural behavior, it leads the public to unwittingly believe that the right holder indeed makes some expression. Bian Qi holds that when a personality manifestation is placed in a new context to form a new social belonging, it harms the single information interest and the overall cognitive structure of the public [15].

Given that the digital resurrection has a strong “authentic appearance” in the content, its infringement is more concealed. Compared with ordinary text rumors and picture tampering, digital resurrection integrates facial expressions, voices, actions, interactive logic, etc., so it is easier for people to believe what they see. Once the relevant content is quickly disseminated through the platform, even if it is clarified later, it cannot completely eliminate the sustained impact on social evaluation. Thus, the infringement of the right to reputation by digital resurrection is not the upgrading of traditional libel technology, but a new form of personality infringement caused by the combination of personality simulation, context misplacement and platform communication.

4. Protection Path of Identifiable Personality Rights in Digital Resurrection

4.1. Standard Updates and Improvement of Authorization Rules for Digital Resurrection

For the new infringement caused by digital resurrection, a normative response is required. In other words, using other people’s portraits, voices, names, text materials, personality identifiers, etc. to train models and generate digital images is a new form of use that should be addressed by personality-rights protection rules. The *Civil Code* has laid the foundation for the protection of rights such as portrait rights, reputation rights, privacy rights, personal information and personality interests of the deceased (Articles 109-110 of the *Civil Code*, and Chapter 1 of the Personality Rights.). Meanwhile, the *Personal Information Protection Law* has established the legal basis, the principle of necessity and the requirement of individual consent for personal information processing (Articles 5-6, 13-17, 19, 23, 25, 29, and 39 of the *Personal Information Protection Law*). But these rules are primarily designed around the traditional behavioral logic of collection, use and disclosure. Wang Liming insists that the real challenge brought by generative AI infringement to the existing law is that personality manifestation has shifted from a static carrier to a generative resource that can be called repeatedly, so the infringement object, infringement subject and liability form have all changed as a whole ^[10]. In this case, if “whether to use the original material directly” is still the center of judgment, it is challenging to include new behaviors such as model training, regeneration and dynamic interaction.

Thus, it is necessary to bring “model training”, “deep synthesis”, “digital reconstruction” and “continuous generation” into the personality rights regulation through legislative interpretation, norm refinement or subsequent special rules. In other words, the digital resurrection using another person’s identity without permission cannot be excluded from the infringement evaluation, because there is no direct copy of existing photos, recordings or texts. According to *Provisions on Several Issues Concerning the Application of Laws in the Trial of Civil Cases Related to the Processing of Personal Information Using and Facial Recognition Technology* put forward by Supreme People’s Court of the People’s Republic of China, the judiciary no longer only focuses on whether the original face information is directly leaked, but includes the behavior of “processing face information generated based on facial recognition technology” into the regulation [20]. This normative thinking provides direct enlightenment to digital resurrection. As long as the relevant technical processing can reconstruct and use a person’s specific personality identifier, it should be included in the examination of personality rights and personal information protection, instead of being automatically exempted from liability because “the generated content is not the original”.

The legal basis for authorization in digital resurrection should also be clarified. For the living, the principle of explicit consent from the individual themselves is applied. For the deceased, priority is given to the wishes they expressed during their lifetime. If there is no clear

expression of consent, the close relatives will make limited decisions based on legitimate interests. Shi Jiayou and Liu Siqi insist that personality information processing in facial recognition technology cannot stop at general authorization, but strengthen access restriction and dynamic control based on the legality, legitimacy and necessity [21]. This view can also be adopted to explain digital resurrection. Because the authorization in the digital resurrection does not target the use of one-time data, but the ability to continuously train personality identification and call it in multiple scenarios. Thus, the content of the authorization should be more specific, that is, the scope of use, the period of use, whether it can be commercialized, whether it is allowed to be retrained or disseminated to third parties and other specific matters should be clarified, so as to prevent the authorization from being extended indefinitely.

In addition, the system determination of the connection relationship between the personality interests of the deceased, the personal information of the deceased and the right of protection of close relatives should be strengthened. Zhang Shanbin proposes that the design of the protection system of the personality interests of the deceased should take into account the balance between the dignity of the deceased, the interests of close relatives and social public interests. The protection boundary cannot be perceived only from the formal question of whether the subject qualification exists^[24]. This is particularly critical in the digital resurrection, because its consequences will affect not only the personal interests of the deceased, but also the dignity of the deceased, the feelings of kinship and the order of social evaluation. In the future, the rule design should put more emphasis on system coordination. There should be no normative gap between the personality interests of the deceased, personal information protection and platform governance.

4.2. Mechanism Guarantee and Technical Collaboration of the Whole Process Based on Model Operation

The risks posed by digital resurrection are highly dependent on technical processes. Thus, it is difficult to achieve effective governance by only investigating tort liability after the event. A more feasible path is to incorporate personality-rights safeguards at the front end of the technological process and embed them in the technical chain of digital resurrection, and continuously restrict them at various stages such as data collection, model training, content generation and online dissemination. According to *Provisions on the Administration of Deep Synthesis of Internet-based Information Services*, providers of deep synthesis services must undertake the obligations of real identity authentication, prominent identifiers and security assessment (Provision on the Administration of Deep Synthesis of Internet-based Information Services, Cyberspace Administration of China, Ministry of Industry and Information Technology of the People's Republic of China, Ministry of Public Security of the People's Republic of China [2022] No. 12). *Interim Measures for the Administration of Generative Artificial Intelligence Services* also stipulate that generative AI services should follow the principles of legality, legitimacy and necessity, and shall not infringe on the legitimate rights and interests of others (*Interim Measures for the Administration of Generative Artificial Intelligence Services*, Cyberspace Administration of China, National Development and Reform Commission of the People's Republic of China, Ministry of Education of the People's Republic of China [2023] No. 15). It can be seen that the governance of digital resurrection cannot only be debated in theory, but should be implemented in specific business links and platform responsibilities.

In the data collection, a more rigorous review of the data source is needed, and more effort should be paid to authorization audit and sensitive information identification. When the platform or technical service provider processes materials such as photos, voiceprints, videos, chat records, etc., it cannot be taken for granted that these contents can be used for model training and personality reconstruction just because they are publicly visible. Lu Bingbin holds that the consent rule in personal information protection is not a simple click confirmation, but

should evaluate information autonomy and personal dignity, and determine stricter consent requirements according to the impact of different processing behaviors on the core interests of the subject [22]. Digital resurrection indicates that the digital data originally formed for commemoration, recording and social sharing cannot naturally be further transformed into a digital personality model. Especially when the related data involves the deceased or other subjects without the ability to express themselves realistically, the standards of review should be raised.

During model training, mechanisms such as training data ledger, version trace and call record should be built to trace the model formation process. Cheng Xiao proposes that the focus of personal information processing rules is on the dynamic regulation of the whole processing, rather than just considering the results [11]. In the case of digital resurrection, once personality manifestations are abstracted into sustainably generated model parameters, the control of the original entitlement holder is greatly reduced. Thus, technical governance cannot only focus on whether the results infringe, but also on how the model is formed, where the training data comes from, and whether the generation ability can be limited. In the discussion of artificial intelligence standards and a legal collaborative governance system, Yan Chi mentions that artificial intelligence risks with high complexity and high opacity cannot be dealt with by abstract legal rules, and must rely on standard governance, a compliance system and a technical trace mechanism to support legal governance [23]. This judgment has practical significance for digital resurrection.

When content is generated and presented, the clear labeling obligations of high-fidelity digital resurrection content should be strengthened. Because the deep synthesis management regulations particularly emphasize the requirements of logos, realistic content is easily misrecognized by the public [6]. Digital resurrection poses even greater risks, targeting highly identifiable and specific individuals that the public will assume to be true or mistake for thinking that the content reflects the actual views of the individual concerned. Thus, whether it is digital human video, synthetic voice, interactive dialogue, or display content with apparent personality restoration effect, clear prompts should be made in the presentation interface, the playback process or the platform description. In addition, the public should not wrongly attribute the algorithm output to a certain person.

4.3. Judicial Application and Relief Reconstruction of Personality Infringement

After the digital revival infringement occurs, judicial relief is still the last barrier to protect the identifiable personality right. However, compared with the traditional cases based on personality rights, digital resurrection cases feature stronger technicality, complexity and dissemination. Thus, judicial approaches therefore need to be adjusted. First of all, in the determination of infringement, judicial judgment should not only focus on whether the original photograph, recording or text is directly used, but also consider whether the relevant behavior substantially reconstructs the personality identity of a subject, thus giving rise to misrecognition of attribution. Zhu Xiaofeng proposes that when specific personality rights clauses fail to contain new forms of personality infringement, they can be supplemented and explained in combination with the personal dignity value of general personality rights clauses [19]. Therefore, as long as the digital resurrection can allow the general public to recognize a subject and attribute the expression result to this subject, it should be regarded as the evaluation object of personality infringement.

Secondly, in terms of responsibility, it should be distinguished according to the position, control and fault size of each subject in the digital resurrection chain. Data providers, model developers, content producers and publishers, and platform operators have various positions in the technical process, and their responsibilities vary. Wang Liming holds that the liability determination of generative artificial intelligence infringement should stem from three aspects:

“who controls the risk”, “who decides to use” and “who receives benefits”, and the traditional single-actor liability model cannot be blindly applied [10]. Thus, in the judiciary, more attention should be paid to the identification of the behavioral nature of each participant, that is, who collects personality data, who leads the model training, who decides the published content, and who spreads it regardless of the infringement risk, etc. These should all become a vital basis for responsibility allocation.

Furthermore, emphasis should be laid on the application of personality right prohibition, behavior preservation and evidence preservation in relief methods. Digital resurrection features fast spread, abundant copies and rapid modification, etc. If only relying on post-event damage compensation, the expansion of damage cannot be prevented in time. For content that lacks an authorization basis with a highly realistic effect and is spreading rapidly, the court may require it to cease generation and dissemination, remove links, and disable access interfaces and take necessary evidence-preservation measures to prevent relevant digital models or background records from rapid deletion. The judicial interpretation of the Supreme People’s Court on the handling of personal information cases by facial recognition technology has reflected stricter judicial protection for highly sensitive biometric information [20]. This insight can also provide references for the protection of personality identifiers in digital resurrection.

The determination of the amount of damages should also overcome the restriction of the mechanical comparison of traditional personality tort cases. Digital resurrection infringement generally brings mental damage, damage to social evaluation, misappropriation of commercial value, etc. Gao Fuping insists that the key to personal information protection and personality rights protection lies in fully recognizing the compound damage caused by uncontrolled information and identity [12]. When determining the compensation standard, it is necessary to consider the personality damage of the right holder, the influence of the transmission of infringing content, the technical simulation, commercial profit and social cognitive order. Only by forming a judgment mindset compatible with the infringement characteristics of digital resurrection can judicial relief play the role of normative guidance and risk containment.

5. Conclusions

The application of digital resurrection is not a simple technical iteration, but a systematic impact on the traditional legal order of personality rights. By transcending traditional legal frameworks, this technology transforms the identifiable personality elements of natural persons from a static form attached to a specific carrier into dynamic data resources that can be repeatedly called by algorithms and generated on an ongoing basis, so that the risk of personality rights infringement shifts from a single and one-time infringement to a continuous and systemic erosion of identifiable personality rights.

Chinese law currently takes a static carrier as the core regulatory object, which struggles to accommodate new behaviors such as model training and digital personality reconstruction. The traditional case-by-case relief mode cannot curb the spread of infringement damage at the root. In this regard, it is necessary to build a integrated governance framework with legislative, technical and judicial coordination. Legislation clarifies the regulatory attributes of personality rights and refines the authorization rules of subjects. Technically, we should protect rights and interests throughout the process, and implement the obligation of traceability and mandatory identification. Judicially, it is required to reconstruct the standards for infringement determination, reasonably allocate responsibilities among multiple subjects, and strengthen the application of personality rights injunctions. By delimiting the boundary between technology ethics and rights, technological development and personality protection can be balanced to protect personal dignity and social trust in the digital age.

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