



Lowenstein AI: A-I Didn't Know That Video 3 – Tarnishing One's Reputation: The Perplexity AI Case

By [Bryan Sterba](#) and [Matthew Hintz](#)

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Bryan Sterba:

Hi, I'm Bryan Sterba, and welcome to another installment of "[A-I Didn't Know That](#)." I'm joined today by my partner, Matthew Hintz, a specialist in trademarks and brand legal issues.

Today, we'll be discussing an interesting case brought recently by the parent companies of *The Wall Street Journal* and *New York Post* against Perplexity AI: Perplexity AI offers users of its platform an AI powered search engine that provides real-time answers to end user questions and includes citations to articles available on the internet with the answers it provides.

But like other generative AI platforms, Perplexity AI users have seen issues providing erroneous content, or "hallucinations". In addition to raising claims of copyright infringement, the plaintiffs in this case allege that Perplexity AI's platform provides inaccurate information and cites the plaintiffs' newspapers as sources for that inaccurate information. This tarnishes the brands and their trademarks.

Matthew, would you be able to tell us a little bit about tarnished claims and false designation of origin and just what the plaintiffs would need to prove to meet their burden in this case?

Matthew Hintz:

Well Bryan, "tarnishment" is actually a form of trademark dilution where a famous trademark is being associated with inferior or unsavory products or services. This harms the value of the trademark.

When asserting a claim like this, the trademark owner will need to show that the relevant trademark is widely recognized by the public (in other words: a household name); it is used by the defendant without authorization; that usage creates or is likely to create a negative association by the public with the trademark or brand; and that negative association is likely to harm the plaintiff's business.

The false designation claim is related. That involves use of a trademark—not by the trademark owner—in a manner that is likely to cause consumers to be confused or mistaken as to the source of products or services.

Bryan Sterba: Does it seem like a plausible claim for the plaintiffs to be making, at least based on the facts that they've cited?

Matthew Hintz: It certainly could be. *The Wall Street Journal* and the *New York Post's* trademarks are at least well known, and could meet that high bar of being famous for trademark dilution purposes.

And, of course, the attribution of inaccurate information to articles from *The Wall Street Journal* and the *New York Post* may cause consumers to have a negative association to those marks if the output from Perplexity AI is inaccurate.

In other words, if *The Wall Street Journal* and the *New York Post* are viewed as unreliable sources for accurate information, that could be detrimental to the value of their trademarks. So, if the publishers are able to show empirical evidence of this through surveys or other means, they could make a strong case.

Bryan Sterba: What else did you find interesting about this case?

Matthew Hintz: We've really been focusing on these cases from a copyright perspective. But in a world where a fair use defense becomes accepted for model training and development, some have now suggested that the new frontier for IP protection with respect to AI generated works will be in the rights of publicity and trademark. This gives some insight into how that may play out. I'm certainly interested to see where this case goes.

Bryan Sterba: Thank you for all those insights, Matthew. And thank you all for watching. Join us next time on Lowenstein AI's "[A-I Didn't Know That.](#)"