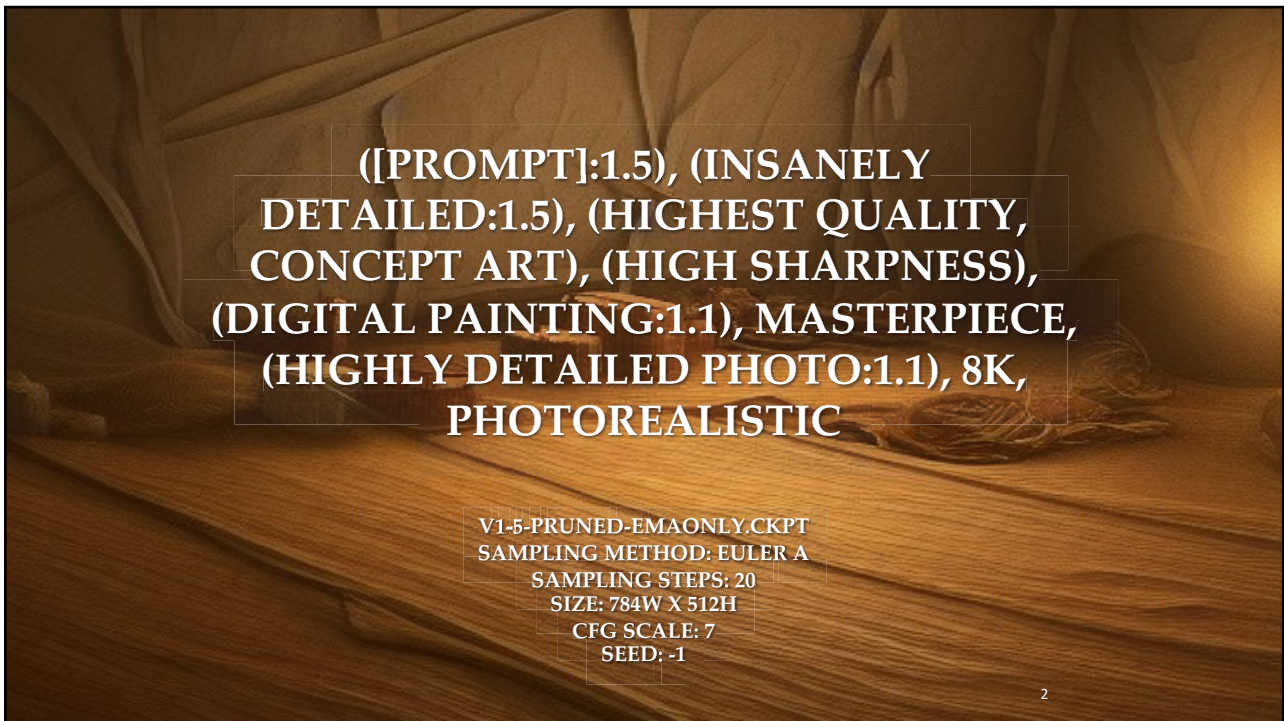




# TERMS OF SERVICE: A LITIGATOR'S PERSPECTIVE

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([PROMPT]:1.5), (INSANELY  
DETAILED:1.5), (HIGHEST QUALITY,  
CONCEPT ART), (HIGH SHARPNESS),  
(DIGITAL PAINTING:1.1), MASTERPIECE,  
(HIGHLY DETAILED PHOTO:1.1), 8K,  
PHOTOREALISTIC

V1-5-PRUNED-EMAONLY.CKPT  
SAMPLING METHOD: EULER A  
SAMPLING STEPS: 20  
SIZE: 784W X 512H  
CFG SCALE: 7  
SEED: -1

2



3

<p><b>CFAA</b></p> <p>“Whoever ... intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains ... information from any protected computer ... shall be punished”</p> <p>18 U.S.C. § 1030(a)(2)(C)</p>	A close-up profile of a dark, metallic robot head. The robot has a glowing red eye and is looking towards the left. It is sitting at a computer workstation, with a keyboard visible in the foreground. The background is a blurred server room with blue lighting. A small number "4" is visible in the bottom right corner of the image.
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4



## CFAA

“[T]he term ‘exceeds authorized access’ means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accesser is not entitled so to obtain or alter.”

18 U.S.C. § 1030(a)(2)(C)

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## *Van Buren* (2021)

“*Van Buren*’s account of subsection (a)(2) makes sense of the statutory structure because it treats the ‘without authorization’ and ‘exceeds authorized access’ clauses consistently. ... [L]iability under both clauses stems from a gates-up-or-down inquiry—one either can or cannot access a computer system, and one either can or cannot access certain areas within the system.”

*Van Buren v. US*, 141 S.Ct. 1648 (2021)



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36<sup>th</sup> Annual Technology Law Conference session

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