

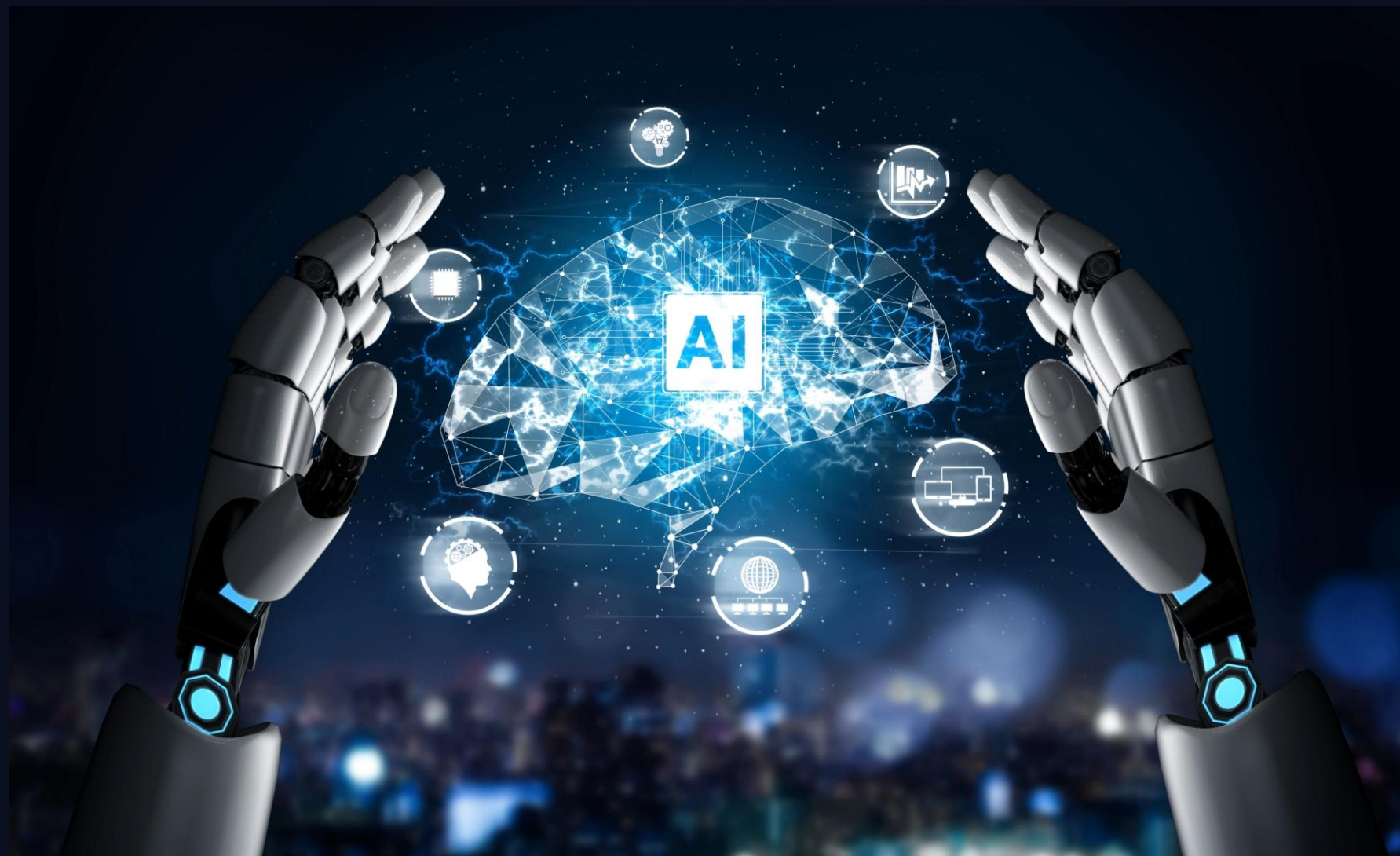


TEXAS A&M UNIVERSITY  
SCHOOL OF LAW

# ARTIFICIAL INTELLIGENCE: A UNITED STATES COPYRIGHT PERSPECTIVE

**ASEAN IP Association Annual Conference**  
**27-28 March 2026**

Prof. Dr. Irene Calboli, Texas A&M University School of Law



# The Two Sides of the Debate

## Output

### Can AI-generated output be copyrighted?

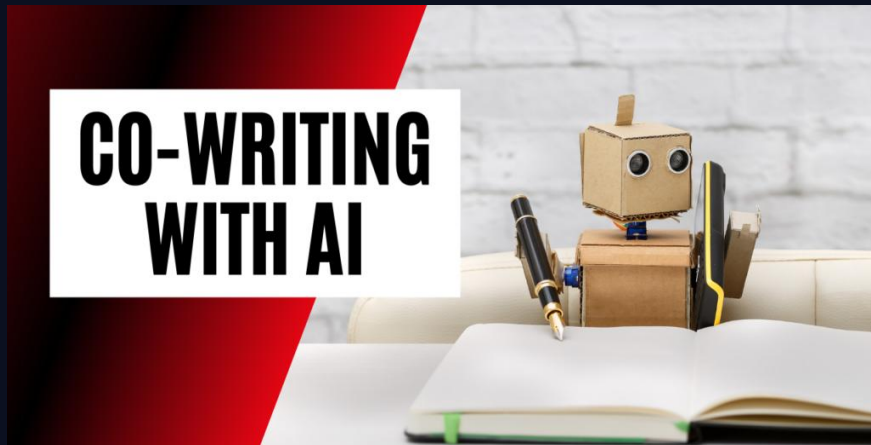
- Not if the output is generated without human authorship.
- Human use of AI can still support copyright in human-authored selection, arrangement, editing, or other expressive contributions.

## Input

### When does training create infringement risk?

- This is where the law is rapidly developing:
  - fair use, piracy, market substitution, and output similarity.
- Data provenance matters to courts applying fair use
- Training is most exposed where AI outputs plausibly replace licensed markets

**Output copyrightability is relatively stable; infringement and fair-use risk remain high and very fact dependent.**



# Art Made With A.I. Won a State Fair Last Year. Now, the Rules Are Changing

Artists who submit to the competition will need to disclose whether they used A.I. tools like Midjourney



Sarah Kuta - Daily Correspondent

September 8, 2023



Get our newsletter!



*Théâtre D'opéra Spatial* by Jason Allen Jason Allen via Discord

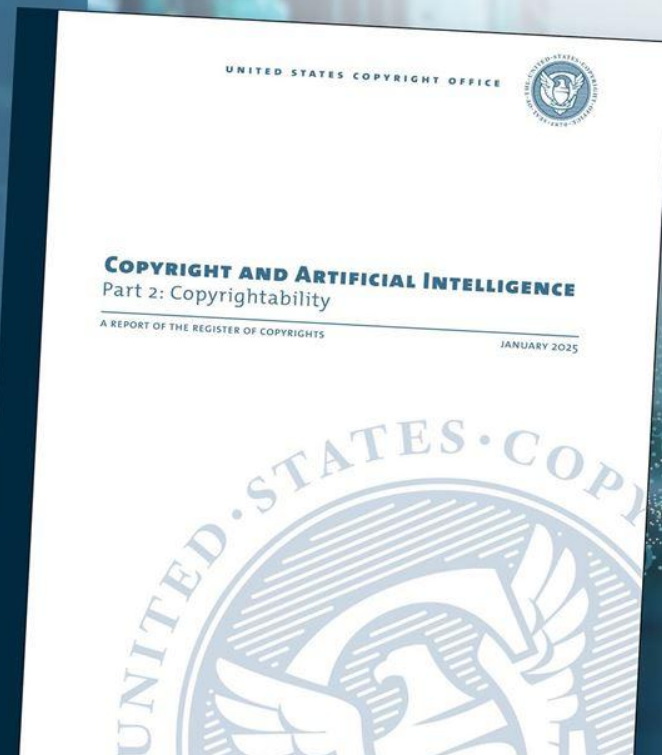
One year ago, the Colorado State Fair [made headlines](#) for unknowingly awarding first place to an artwork created with help from artificial intelligence. Now, officials with the 151-year-old fair have amended the contest's rules: Artists must disclose whether they used A.I. to make their submissions, reports the [Denver Post's](#) John Wenzel.

# Copyright and Artificial Intelligence

## Part 2: Copyrightability

January 2025

**Copyright**



**U.S. Copyright Office  
says AI generated  
content can be  
copyrighted — if a human  
contributes to or edits it**

# AI helps restore Rembrandt's Night Watch masterpiece

24 June 2021

Share



Rembrandt's reconstructed masterpiece is now back on display at Amsterdam's Rijksmuseum

**For the first time in more than 300 years, Rembrandt's masterpiece The Night Watch can again be seen in its entirety in the Netherlands.**

***“The Copyright Act of 1976 requires all eligible work to be authored in the first instance by a human being.”***

**Thaler v. Perlmutter, 130 F.4th 1039, 1040 (D.C. Cir. 2025),  
cert. denied, No. 25-449, 2026 WL 568327 (U.S. Mar. 2, 2026)**

**Purely AI-generated output is not copyrightable under current U.S. law.**

## Human Authorship after *Thaler*

### *Allen v. Perlmutter*

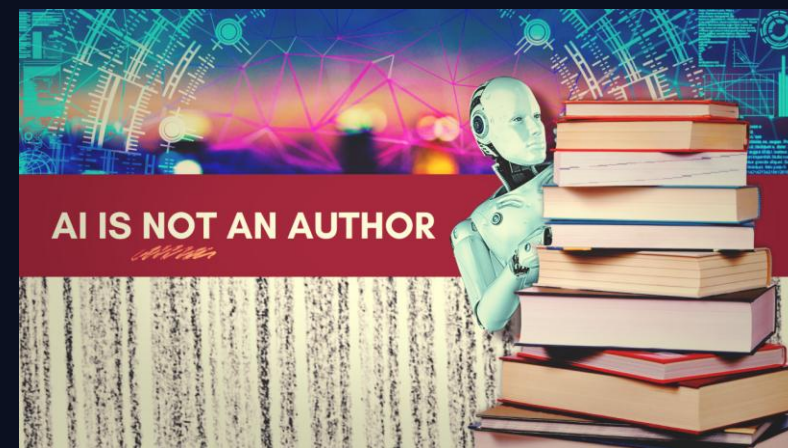
D. Colo. pending

- The next important test:
  - Whether detailed prompting plus post-generation edits can cross the line into human authorship.
- For now, the Office continues to say prompting alone does not.

### U.S. Copyright Office, Part 2 Report

January 2025

- Prompts generally do not control expressive elements strongly enough to make the user the author.
- Human-authored inputs, arrangement, and edits may still be protected.



Protect the human-authored contribution, not the machine-generated remainder.



AI-GENERATED ILLUSTRATION BY DAN SAELINGER



## Addressing Copyright Infringement and Challenges in AI Training



**DOES THE USE OF  
COPYRIGHTED WORKS  
TO TRAIN AI QUALIFY  
AS A FAIR USE?**

# Copyright Suits v. AI Cos.

## ND California

- Bartz v. Anthropic**  
Judge Alsup (class settled)  
Judge Martínez-Olguín
- Entrepreneur Media v. Meta**
- Kadrey v. Meta; Chabon v. Meta**  
Huckabee v. Meta; Farnsworth  
Judge Chhabria
- Nazemian, Dubus v. NVIDIA Corp.**  
Judge Tigar
- In re Mosaic LLM (O'Nan; Makkai)**  
Judge Breyer
- Hendrix v. Apple** Martínez-Conde  
Gonzalez Rogers Alexander v. Apple
- In re OpenAI ChatGPT Litigation**  
(Tremblay, Silverman, Chabon)  
Judge Martínez-Olguín
- Tanzer, Alexander v. Salesforce**  
Judge Breyer
- James v. Cerebras Systems**  
Judge Martínez-Olguín
- James v. Together Computer**  
Judge Lin
- Concord Music v. Anthropic I**  
Judge Lee
- Concord Music v. Anthropic II**  
Magistrate Judge van Keulen
- In re Google Gen. AI Ltgn.**  
(Zhang, Leovy)  
Judge Lee
- Strike 3 Holdings v. Meta**  
Judge Lee
- Getty Images v. Stability AI**  
Judge Thompson
- Brave Software v. News Corp.**  
Judge Breyer (vol. dismissed)
- Sarah Andersen v. Stability AI,**  
Deviant Art, Midjourney, Runway AI  
Judge Orrick
- Ted Entm't v. NVIDIA**  
Judge Davila
- Ted Entm't v. Meta**  
Judge Tigar

## CD California

- Carreyrou v. Anthropic**  
Judge Pitts
- Carreyrou v. OpenAI**  
Judge Thompson
- Doe 1 v. Github, Microsoft, OpenAI**  
Judge Tigar, **appeal 9th Cir.**
- Google v. SerpApi**  
Judge Gonzalez Rogers
- Greene v. Google**  
Judge Breyer
- Lyon v. Adobe**  
Judge Scott Corley
- Kleiner v. Adobe**  
Judge Lin
- Denial v. OpenAI**  
Judge Chen
- Alcon Ent. v. Tesla**  
Judge Wu
- Disney, Warner Bros v. Midjourney**  
Judge Kronstadt
- Disney v. MiniMax**  
Judge Blumenfeld Jr.
- Ted Entm't v. Snap**  
Judge Birotte Jr.
- Gardner v. Runway AI**  
Judge Gee
- Chmura v. Snap**  
Judge Blumenfeld, Jr.

## D. Col.

- Pierce v. Photobucket**  
Judge Brimmer

## D. Mont.

- James v. Snowflake**  
Chief Judge Morris

## D. Mass.

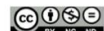
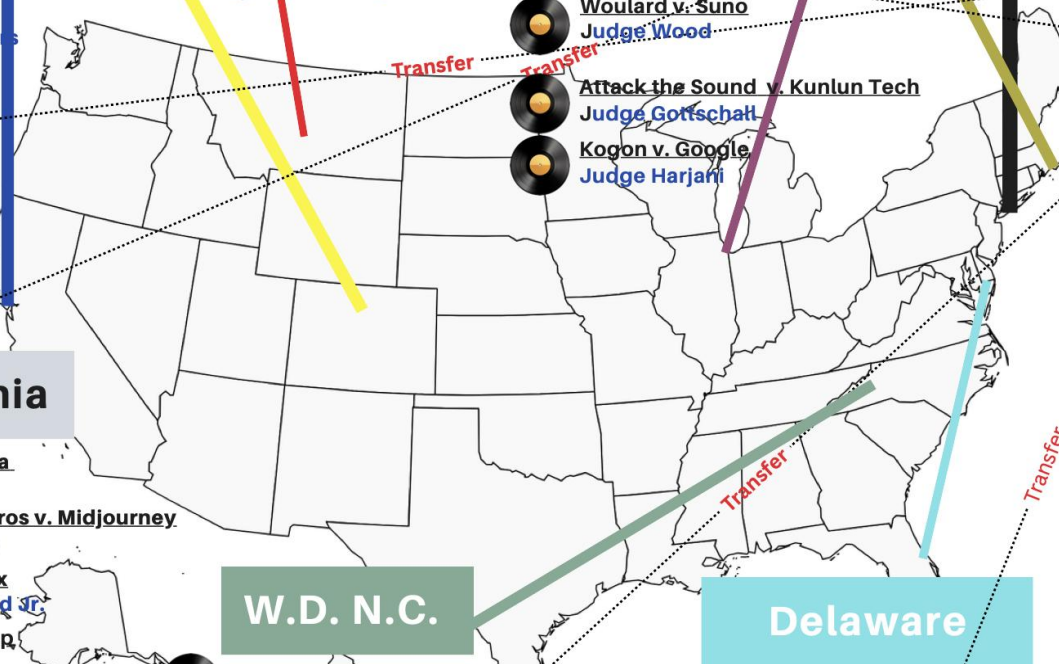
- UMG Recordings v. Suno**  
Judge Saylor IV (1/3 settled)
- Justice v. Suno**  
Judge Saylor IV

## ND Illinois

- Woulard v. Unch. Labs**  
Judge Ellis
- Woulard v. Suno**  
Judge Wood
- Attack the Sound v. Kunlun Tech**  
Judge Gottschalk
- Kogon v. Google**  
Judge Harjani

## SDNY

- In re: OpenAI Copyright Infringe. Ltgn.**  
Judge Stein
- Authors Guild v. OpenAI,**  
Alter, Basbanes Denial
- New York Times v. OpenAI**  
**Daily News v. Microsoft**
- Center for Inv. Rep. v OpenAI**
- In re OpenAI ChatGPT Litigation**  
(Tremblay, Silverman, Chabon)
- Raw Story v. OpenAI, appeal 2d Cir.**
- Intercept v. OpenAI**
- Carreyrou v. OpenAI [TBA by order]**
- Millette v. OpenAI**
- Ziff Davis v. OpenAI**
- U.S. News & World Rep. v. OpenAI**
- Cal. Newspapers Ptn. v. Microsoft**
- Gracenote Media v. OpenAI**
- Encyclopaedia Brit. v. OpenAI**
- Bird v. Microsoft**  
Judge Stein
- Huckabee v. Bloomberg**  
Judge Garnett
- Chic. Tribune v. Perplexity AI**
- New York Times v. Perplexity AI**
- Dow Jones v. Perplexity AI**  
Judge Polk Failla
- Encyclopaedia Brit. v. Perplexity AI**  
Judge Rochon
- Reddit v. SerpAPI, Perplexity**  
Judge Engelmayer
- Advance Loc. Media v. Cohere**  
Judge McMahon
- UMG Recordings v. Unch. Labs**  
Judge Hellerstein (2/3 settled)
- Justice v. Uncharted Labs**  
Judge Garnett
- Atlantic Recording v. Anna's Archive**  
Judge Rakoff
- Apress v. Anna's Archive**  
TBA
- Ace Cam v. Runway AI**
- Businessing v. Runway AI**  
Judge Kaplan
- Lehrman v. Lovo**  
Judge Oetken



# Copyright Suits v. AI Cos.

## ND California

- Bartz v. Anthropic**  
Judge Alsup (class settled)  
Judge Martínez-Olguín
- Entrepreneur Media v. Meta**  
**Kadrey v. Meta; Chabon v. Meta**  
**Huckabee v. Meta; Farnsworth**  
Judge Chhabria
- Nazemian, Dubus v. NVIDIA Corp.**  
Judge Tigar
- In re Mosaic LLM (O'Nan; Makkai)**  
Judge Breyer
- Hendrix v. Apple** **Martinez-Conde**  
**Gonzalez Rogers** **Alexander v. Apple**
- In re OpenAI ChatGPT Lit.**  
(Tremblay, Silverman, O'Nan)  
Judge Martínez-Olguín
- Tanzer, Alexander v. Sale**  
Judge Breyer
- James v. Cerebras System**  
Judge Martínez-Olguín
- James v. Together Computer**  
Judge Lin
- Concord Music v. Anthropic I**  
Judge Lee
- Concord Music v. Anthropic II**  
Magistrate Judge van Keulen
- In re Google Gen. AI Ltgn.**  
(Zhang, Leovy)  
Judge Lee
- Strike 3 Holdings v. Meta**  
Judge Lee
- Getty Images v. Stability AI**  
Judge Thompson
- Brave Software v. News Corp.**  
Judge Breyer (vol. dismissed)
- Sarah Andersen v. Stability AI,**  
**Deviant Art, Midjourney, Runway AI**  
Judge Orrick
- Ted Entm't v. NVIDIA**  
Judge Davila
- Ted Entm't v. Meta**  
Judge Tigar

## CD California

- Alcon Ent. v. Tesla**  
Judge Wu
- Disney, Warner Bros v. Midjourney**  
Judge Kronstadt
- Disney v. MiniMax**  
Judge Blumenfeld Jr.
- Ted Entm't v. Snap**  
Judge Birotte Jr.
- Gardner v. Runway AI**  
Judge Gee
- Chmura v. Snap**  
Judge Blumenfeld, Jr.
- Barkley & Assocs. v. Quizlet**  
Judge Hsu
- Youngblood v. Meta**  
[v. NVIDIA (vol. dismissed)]  
Judge Donato
- Ted Entm't v. Bytedance**  
Judge Scott Corley
- Millette v. OpenAI**  
**Millette v. Google** (vol. dismissed)  
**Millette v. NVIDIA** (vol. dismissed)  
Judge Davila

## D. Col.

- Pierce v. Photobucket**  
Judge Brimmer

## D. Mont.

- James v. Snowflake**  
Chief Judge Morris

## D. Mass.

- UMG Recordings v. Suno**  
Judge Saylor IV (1/3 settled)
- Justice v. Suno**  
Judge Saylor IV

## ND Illinois

- Woulard v. Unch. Labs**  
Judge Ellis
- Woulard v. Suno**  
Judge Wood
- Attack the Sound v. Kunlun Tech**

## SDNY

- In re: OpenAI Copyright Infringe. Ltgn.**  
Judge Stein
- Authors Guild v. OpenAI,**  
**Alter, Basbanes** Denial
- New York Times v. OpenAI**  
**Daily News v. Microsoft**
- Center for Inv. Rep. v OpenAI**
- In re OpenAI ChatGPT Litigation**  
(Tremblay, Silverman, Chabon)
- Raw Story v. OpenAI, appeal 2d Cir.**
- Intercept v. OpenAI**
- Carreyrou v. OpenAI** [TBA by order]
- Millette v. OpenAI**
- Ziff Davis v. OpenAI**
- U.S. News & World Rep. v. OpenAI**
- Cal. Newspapers Ptn. v. Microsoft**
- Gracenote Media v. OpenAI**
- Encyclopaedia Brit. v. OpenAI**
- Bird v. Microsoft**  
Judge Stein
- Huckabee v. Bloomberg**  
Judge Garnett
- Chic. Tribune v. Perplexity AI**
- New York Times v. Perplexity AI**
- Dow Jones v. Perplexity AI**  
Judge Polk Failia
- Encyclopaedia Brit. v. Perplexity AI**  
Judge Rochon
- Reddit v. SerpAPI, Perplexity**  
Judge Engelmayer
- Advance Loc. Media v. Cohere**  
Judge McMahon
- UMG Recordings v. Unch. Labs**  
Judge Hellerstein (2/3 settled)
- Justice v. Uncharted Labs**  
Judge Garnett
- Atlantic Recording v. Anna's Archive**  
Judge Rakoff
- Apress v. Anna's Archive**  
TBA
- Ace Cam v. Runway AI**
- Businessing v. Runway AI**  
Judge Kaplan
- Lehrman v. Lovv**  
Judge Oetken

Latest US Map of Copyright Suits v. AI cos. Total = 91 (Mar. 15, 2026)



## *Thomson Reuters v. Ross Intelligence*

→ **The first major U.S. decision rejecting an AI training fair-use defense.**

- Ross used Westlaw-derived headnotes through “bulk memos” to train an AI to be a competing legal research tool.
- The court held the copied editorial material was protected and that fair use failed.

*Thomson Reuters Enter. v. Ross Intel. Inc.*, 765 F. Supp. 3d 382, 397–398 (D. Del. 2025).

***“Ross’s use is not transformative because it does not have a ‘further purpose or different character.’”***

- The court stressed Ross was not generative AI.
- The product directly competed with Westlaw, which weighed heavily in the market-harm factor.

## *The 2025 Book Cases*

### **Bartz v. Anthropic**

787 F. Supp. 3d 1007 (N.D. Cal. 2025)

- Training Claude on lawfully acquired books was held fair use because the use was highly transformative.
- But Anthropic's separate storage of pirated books was not insulated.
- The court split the case into three different uses, each treated separately under fair use: training copies, purchased print-to-digital library copies, and pirated "central library" copies.

### **Kadrey v. Meta**

788 F.Supp.3d 1026 (N.D. Cal. 2025)

- Meta won summary judgment on the record presented.
  - Training was treated as transformative and fair use.
- The opinion still flagged market substitution and piracy as the harder facts.
- Meta won because the court found its use "highly transformative," with the books used to train Llama rather than to be read as books.

**These cases favored defendants where the training use looked transformative and the plaintiffs' market-harm was weak.**

Then ...

## \$1.5 billion settlement

The first headline U.S. AI copyright settlement after the court split the issues.

- Training is transformative on lawfully acquired books, but not for pirated copies.
- Provenance of training data matters, especially where piracy evidence exists.
- For counsel, compliance now includes data sourcing, retention, and deletion.

**The U.S. market may get practical rules from settlements before doctrine.**

## **Anthropic Agrees to Pay Authors at Least \$1.5 Billion in AI Copyright Settlement**

Anthropic will pay at least \$3,000 for each copyrighted work that it pirated. The company downloaded unauthorized copies of books in early efforts to gather training data for its AI tools.



## ***Anthropic Agrees to Pay \$1.5 Billion to Settle Lawsuit With Book Authors***

The settlement is the largest payout in the history of U.S. copyright cases and could lead more A.I. companies to pay rights holders for use of their works.

# US Copyright Office Releases “Pre-Publication Version” of Report on Copyright Issues in Generative AI Training



**Shira Perlmutter**

Register of Copyrights and  
Director of the U.S.  
Copyright Office

## Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.



## THE PUBLISHER CASE TO WATCH

### *In re: OpenAI, Inc.*

→ **Multidistrict litigation combining twelve cases alleging copyright infringement**

- Publishers included The New York Times, Chicago Tribune, The Center for Investigative Reporting, The Intercept, Orlando Sentinel, etc.
- By the time of transfer, the parties had already produced petabytes of training-set discovery.

#### **Current position**

- In April 2025, Judge Stein let core claims proceed in the Times, Daily News, and CIR actions, including contributory infringement and older direct-infringement theories.
- In October 2025, Stein refused to dismiss the consolidated authors' claim that ChatGPT outputs themselves can infringe copyrighted books.
- Magistrate Judge Wang ordered OpenAI to produce 20 million anonymized ChatGPT logs.
  - OpenAI fought the order on privacy grounds and lost.

**The court may decide fair use or what proof AI defendants must preserve, produce, and explain**

## Future Cases ...

### **Andersen v. Stability AI** **N.D. Cal. pending**

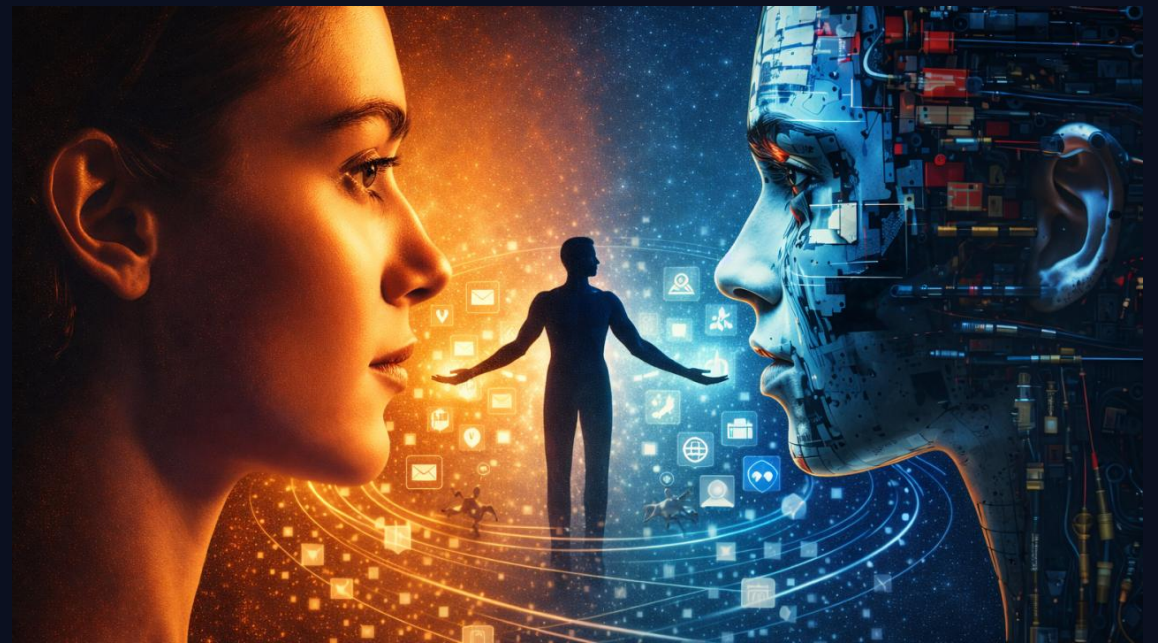
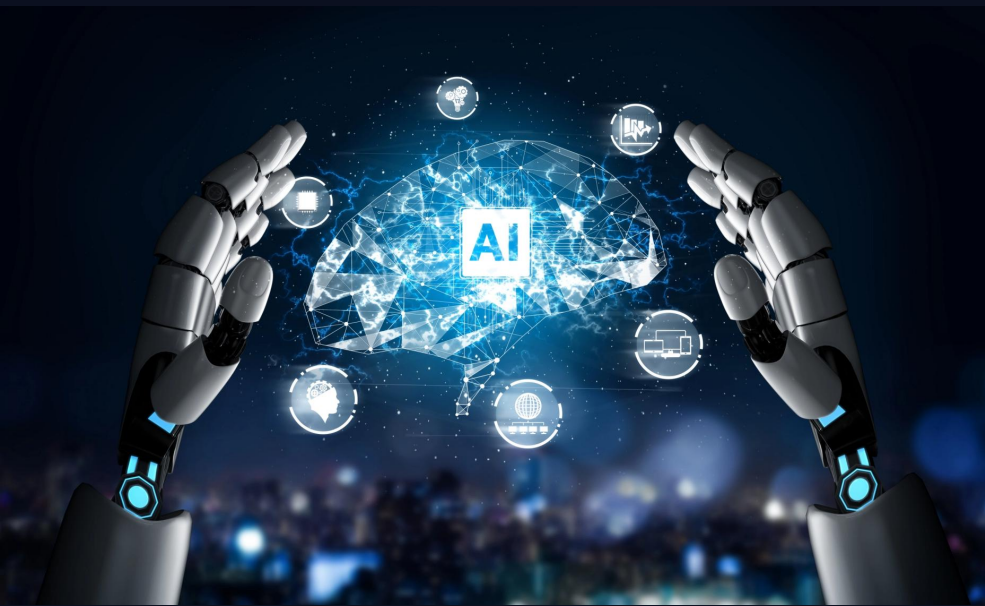
- A visual-artists case challenging image-model training and outputs.
- Stable Diffusion allegedly used billions of scraped images and may contain “compressed copies” capable of reconstructing training images.
- Direct infringement theories survived at the pleading stage.
- The court let Lanham Act claims proceed even while dismissing the DMCA claims with prejudice.

### **Getty Images v. Stability AI** **U.S. action filed 2025**

- A paid stock-photo business alleging mass copying of a licensed catalog to build a rival image product.
- U.S. complaint alleges copying on a massive scale.
  - More than 12 million Getty photos, plus captions and metadata.
- Getty can point to an established, functioning licensing market and concrete metadata-rich assets.

### **Music publishers v. Anthropic** **N.D. Cal. ongoing**

- Lyrics cases pressure both training and verbatim output reproduction.
- In October 2025, when the court let publishers pursue claims that Anthropic knowingly enabled and profited from lyric reproductions.
- In January 2026, the same publisher group filed a second suit alleging piracy of more than 20,000 songs.



# Thank You

Prof. Dr. Irene Calboli

*Professor, Texas A&M University School of Law*

*Academic Fellow, School of Law, University of Geneva*

*Senior Fellow, Melbourne Law School*



**TEXAS A&M UNIVERSITY  
SCHOOL OF LAW**



@Ire\_Calboli



Irene Calboli



Irene.Calboli@gmail.com