

American National Standards Institute
Legal Issues Forum 2026

AI Copyright Litigation Update

Jorge L. Contreras
University of Utah, Salt Lake City, USA

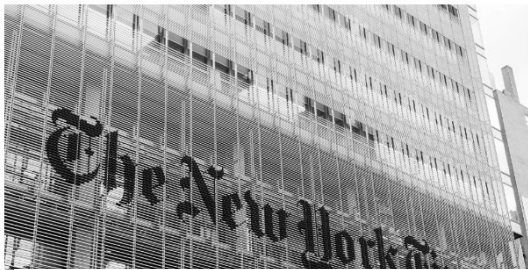
July 30, 2026

AI © Litigation

The Times Sues OpenAI and Microsoft Over A.I. Use of Copyrighted Work

Millions of articles from The New York Times were used to train chatbots that now compete with it, the lawsuit said.

Share full article



BBC

World's biggest music labels sue over AI copyright

25 June 2024

Share Save

Natalie Sherman
BBC News



KATE KNIBBS BUSINESS AUG 26, 2025 3:31 PM

Anthropic Settles High-Profile AI Copyright Lawsuit Brought by Book Authors

Anthropic faced the prospect of more than \$1 trillion in damages, a sum that could have threatened the company's survival if the case went to trial.



FINANCIAL TIMES

US COMPANIES TECH MARKETS CLIMATE OPINION LEX WORK & CAREERS LIFE & ARTS HTSI

Artificial intelligence + Add to myFT

Disney, Universal and Warner launch copyright lawsuit against Chinese AI company

Disney, Universal and Warner Bros Discovery claim MiniMax engaged in 'wilful and brazen' violations



Studios allege MiniMax advertised its app using images of characters such as Universal's Minions

Reuters

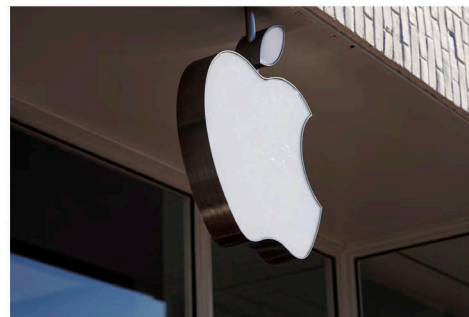
World Business Markets Sustainability Legal Commentary Technology Investigations More

Apple sued over use of copyrighted books to train Apple Intelligence

By Blake Brittain

October 10, 2025 12:14 PM MDT - Updated October 10, 2025

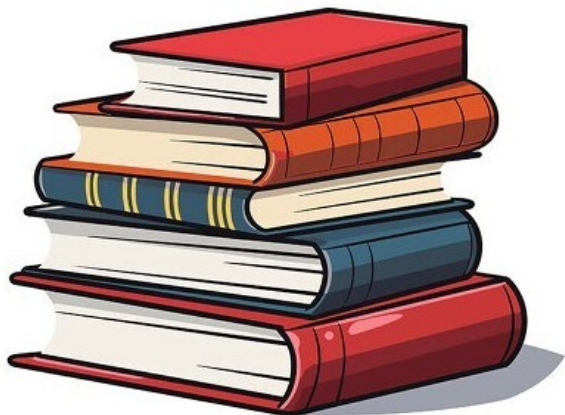
Print Aa Share



Logo of an Apple store is seen as Apple Inc. reports fourth quarter earnings in Washington, U.S., January 27, 2022. REUTERS/Joshua Roberts/File Photo [Purchase Licensing Rights](#)

(c) Jorge L. Contreras, University of Utah

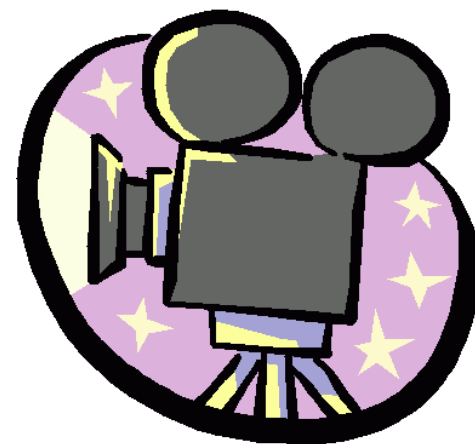
Content at Issue



Books



Images



Video



News

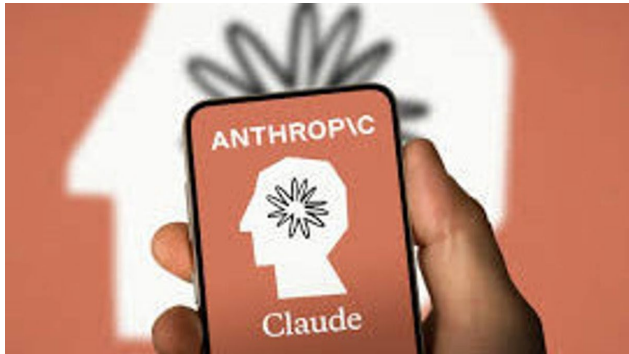


Music

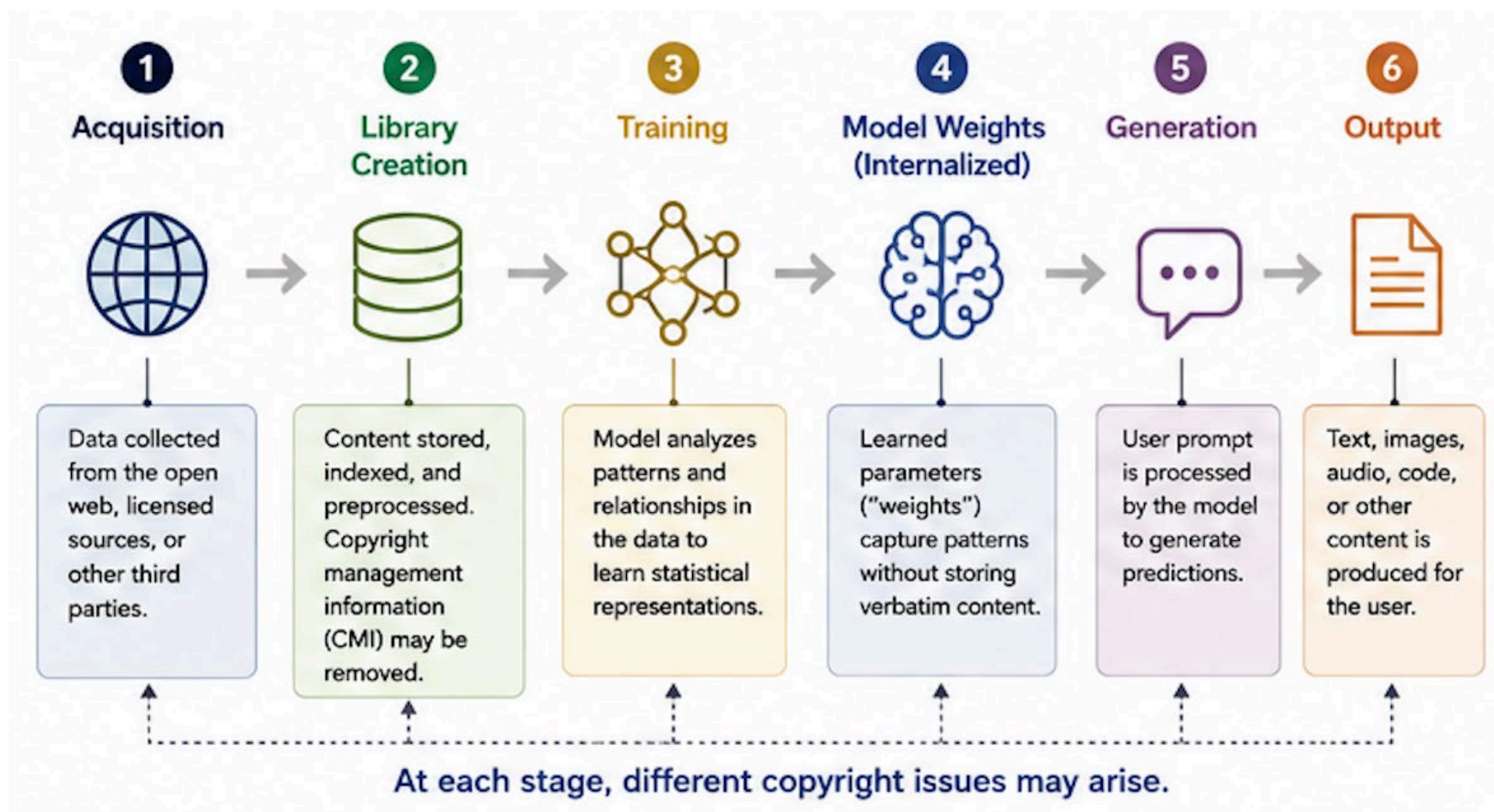


Software code

Who are the defendants?



How LLMs Use Copyrighted Content



Emerging Case Law

1. DMCA (17 U.S.C. § 1202(b))

(c) “**copyright management information**” means the title and other information identifying a work, including as set forth in a copyright notice, the name of the author or copyright owner, and terms and conditions for use

(b) No person shall, without the authority of the copyright owner or the law—

(1) intentionally remove or alter any **copyright management information**,

(3) distribute, import for distribution, or publicly perform works ... knowing that **copyright management information** has been removed or altered ...

knowing, or ... having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any right under this title.



AI and CMI

Doe 1 v. GitHub (N.D. Cal. Jan. 22, 2024)

- Open source developers claim that
 - To train Copilot, GitHub removed CMI from software stored on GitHub
 - When Copilot generates code based on training data, no CMI is present
- District court
 - The code snippets output by Copilot are not identical to (i.e., a “copy” of) the OSS programs
→ No violation of § 1202(b)
- On interlocutory appeal to Ninth Circuit



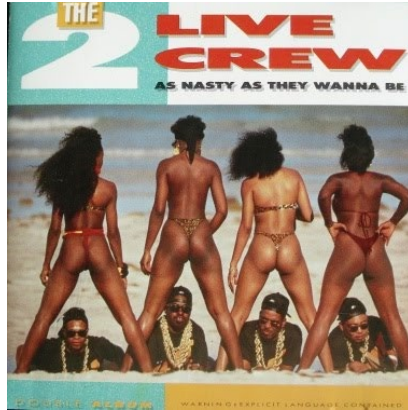
2. Fair Use (17 U.S.C. § 107)

... the fair use of a copyrighted work ... for purposes such as criticism, comment, news reporting, teaching ..., scholarship, or research, is **not an infringement** of copyright.

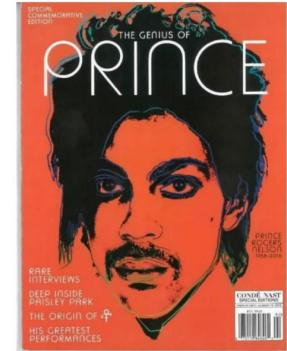
In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include

- (1) the **purpose and character** of the use, including whether such use is of a **commercial** nature or is for nonprofit **educational** purposes;
- (2) the **nature of the copyrighted work**;
- (3) the **amount and substantiality of the portion used** in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the **potential market** for or value of the copyrighted work.

Fair Use Factor 1: *Transformation*



Campbell v. Acuff-Rose Music (U.S. 1994)



Warhol v. Goldsmith (U.S. 2023)



Google v. Oracle (U.S. 2021)



Sony v. Universal
(U.S. 1984)

Fair Use and LLM Training

Fair Use and LLM Training - Timeline

Feb. 2025

**Thomson Reuters
v. ROSS**
(D. Del.)



Non-generative legal research AI. Use of Westlaw headnotes held not transformative.

No fair use.

Appeal granted by 3d Cir.; argued June 11, 2026; decision pending.

Jun. 23, 2025

Bartz v. Anthropic
(N.D. Cal.)



Training on lawfully acquired books is likely fair use.

Pirated books are infringement.

Extensive discussion of transformation, purposes of copyright, and fair use factors.

Some claims dismissed.

Jun. 25, 2025

Kadrey v. Meta
(N.D. Cal.)



Training on lawfully acquired books held likely fair use.

Market harm remains the central question (not resolved).

Summary judgment for Meta on training fair use.

Case continues on other infringement theories.

Sept. 2025

Anthropic Settlement
(N.D. Cal.)



~\$1.5B settlement approved to resolve copyright claims regarding pirated books.

Court confirmed lawful training is not enjoined.

Settlement final as of July 2026.

2026 and Beyond

Appeals and Further Development



- 3d Cir. decision in ROSS expected in 2026.
- Ongoing litigation in *NYT v. OpenAI*, *Disney v. Midjourney*, *Getty v. Stability AI*, *Suno/Udio* cases, and others.
- Potential Supreme Court review in future.

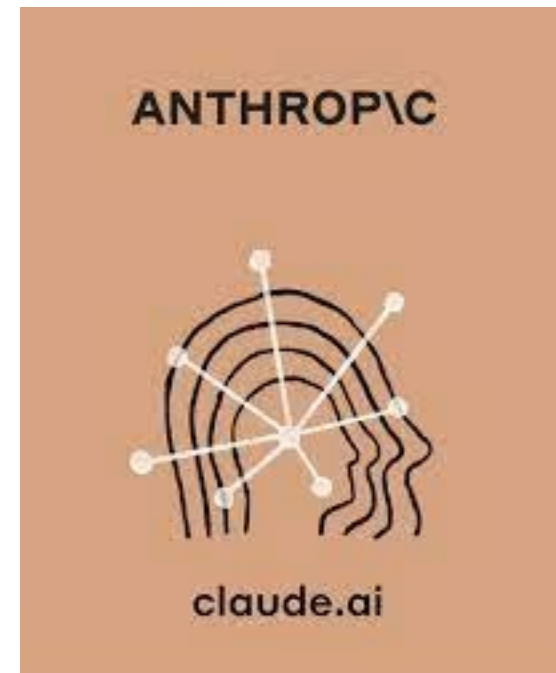
Thomson Reuters v. ROSS Intelligence (D. Del., 2025) (Bibas, J.)

- Ross's consultant created 25,000 memoranda of legal Q&A using Westlaw headnotes
- Ross used memos to train its legal AI
- Trial court
 - Ross infringed 2,243 headnotes
 - Use is not transformative (i.e., both for legal research)
 - Copying was not necessary for innovation (unlike *Sony* and *Google v. Oracle*)
 - **No fair use**
- Appeal pending in Third Circuit



Bartz v. Anthropic (N.D. Cal., Jun. 23, 2025) (Alsup, J.)

- Anthropic assembled an internal “library” to train Claude
 - Included purchased/scanned books + books from online pirate libraries (5.2M)
- SJ Motion on Fair use:
 - **Training LLMs** on digital books
 - “Quintessentially transformative” - **Fair use**
 - **Creation of Library**
 - Purchased/Scanned books: digital scanning was transformative (Fair Use)
 - **Pirated** digital books:
 - Not transformative
 - Displaces licensing market for LLM training
- **No fair use** (SJ motion denied)
- Sep. 5, 2025 - case settled for \$1.5B



Kadrey v. Meta (N.D. Cal., Jun. 25, 2025) (Chhabria, J.)

- Transformation (*Factor 1*) doesn't inoculate from infringement
- Consider effect on market for copyrighted works (*Factor 4*)
 - Copying protected works, however transformative, involves the **creation** of a product with the ability to **flood the market with similar works**
 - severely undermines the **incentive** for human beings to create.
- “In most cases,” training LLMs on copyrighted is likely infringing → not fair use
 - But the record here was not so developed, so SJ for Meta on **fair use**



AI Training: Fair Use decision summary

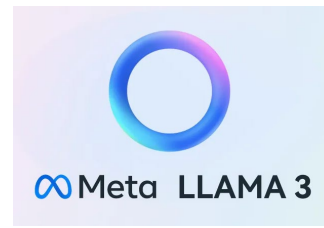
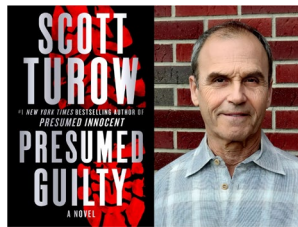
Case	Fair Use Holding(s)	Status
<i>Thomson Reuters v. ROSS</i> (D. Del.)	Not fair use	Appeal argued Jun. 11, 2026 (3d Cir.)
<i>Bartz v. Anthropic</i> (N.D. Cal.)	Training LLM - fair use Creation of general purpose library w/ pirated books: not fair use	Settled
<i>Kadrey v. Meta</i> (N.D. Cal.)	Training LLM - usually not fair use, but due to poor lawyering, fair use found for Meta on SJ	No interlocutory appeal of fair use ruling Trial scheduled on other issues

AI Copyright Scorecard

Legal Question	Current Leading Authority (2026)	Current Status	Key Takeaway
 Training on lawfully acquired works	<i>Bartz v. Anthropic</i> , 2025 (N.D. Cal.); <i>Kadrey v. Meta</i> , 2025 (N.D. Cal.)	Favorable to AI	Training of LLMs on lawfully obtained works is likely fair use.
 Use of pirated works in training	<i>Bartz v. Anthropic</i> , 2025 (N.D. Cal.)	Likely Infringement	Downloading and retaining pirated books is infringement.
 Market harm / licensing market	<i>Kadrey v. Meta</i> , 2025 (N.D. Cal.)	Unresolved	Transformative use not end of inquiry; market harm remains the key issue.
 Memorization of protected expression	<i>No definitive ruling</i>	Unresolved	When (and if) memorization constitutes reproduction remains open.
 Output that copies protected content	<i>Various cases (early stages)</i>	Mostly Unresolved	Liability for outputs that reproduce or closely resemble protected works is unsettled.
 Removal of CMI (DMCA §1202)	<i>Doe 1 v. GitHub</i> (district court), 2025 (N.D. Cal.)	Favorable to AI (for now) <i>Ninth Circuit appeal pending</i>	Whether removal of CMI in training pipelines violates §1202(b) is rejected, for now.
 Market dilution / substitution	<i>Emerging theory in multiple cases</i>	Emerging / Open	Claims that AI harms markets for originals remain in early stages.

Now Pending: publisher suits

The New York Times Co. v. OpenAI & Microsoft (S.D.N.Y., MDL)	Publishers & Authors v. Meta Platforms (N.D. Cal.)	Publishers & Authors v. Google LLC (N.D. Cal.)
Filed: Dec. 2023 (now part of MDL No. 3143)	Filed: May 2026	Filed: July 2026
<i>New York Times</i> , <i>Daily News</i> , Ctr. for Investigative Reporting, <i>The Intercept</i> , Ziff Davis, others	Cengage, Elsevier, Hachette, Scott Turow, Macmillan, McGraw Hill	Cengage, Elsevier, Hachette, Scott Turow
Focus: Training on news articles, verbatim outputs, attribution, and market substitution	Focus: Llama training on books allegedly obtained from shadow libraries	Focus: Gemini training on copyrighted books; includes DMCA § 1202 allegations



Thank you!



Jorge L. Contreras

University of Utah

Salt Lake City, UT

jorge.contreras@law.utah.edu

SSRN page: <http://ssrn.com/author=1335192>

