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Litigation against AI platforms: Where it's been and where it's headed

While federal copyright disputes have drawn the most attention, they are only the beginning; practitioners should anticipate a broad range of novel AI litigation waiting in the wings.

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This overview provides practitioners with an overview of important artificial intelligence litigation and anticipates what may be on the horizon. While federal copyright disputes have garnered the most attention, all sorts of novel litigation is waiting in the wings.

I. AI copyright litigation

The most significant challenges to AI development have been lawsuits alleging that AI companies engaged in mass copyright infringement in developing their products. Modern generative AI is developed through "training" large language models (LLMs) by feeding them with vast amounts of data, which the models study and attempt to mimic.

The rightsholders of creative works that were fed into these LLMs for training—among them authors, publishers, visual artists and musicians—have alleged in multiple lawsuits that the AI companies' use of their works as training data infringed their exclusive copyrights. In 2023, book authors sued Meta and Anthropic in the Northern District of California, claiming that their works were illegally pirated and used as training data for these companies' LLMs. *See Bartz v. Anthropic PBC*, 24-CV-05417 (N.D. Cal); *Kadrey v. Meta Platforms, Inc.*, 23-CV-03417 (N.D. Cal). Similar liti-

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gation followed shortly thereafter: The New York Times and other news media companies sued Microsoft and OpenAI in the Southern District of New York, alleging similar training-data copyright infringement. *See The New York Times Company v. Microsoft Corp., et al*, 23-CV-11195 (S.D.N.Y.) Disney, Universal and Warner Brothers have sued AI image and video-creation companies for using their copyrighted works for training

data and for image/video outputs that infringe their copyrights. And record labels and publishers have sued AI music creation companies with similar claims.

Most of these cases are being actively litigated in the trial courts without significant decisions on the merits regarding whether the defendants engaged in copyright infringement. The notable exceptions are the orders granting summary

judgment in favor of Anthropic and Meta in the Northern District of California, where Judges Alsup and Chhabria heldthat these companies' use of copyrighted books as training data was largely protected by the affirmative defense of fair use. In those cases, despite evidence that Meta and Anthropic knowingly pirated copies of thousands of books from the internet to train their models, Judge Chhabria in *Kadrey* and

Judge Alsup in *Bartz* largely granted the defendants' summary judgment motions because the use of these copyrighted books as training data created a transformative output that did not act as a substitute for the original works. However, Judge Alsup denied a portion of Anthropic's summary judgment motion pertaining to thousands of works that were illegally pirated and stored on Anthropic's servers indefinitely without planned future use as LLM training data. The parties settled the plaintiffs' surviving claims for $1.5 billion. While the plaintiffs in the *Kadrey* case suffered a total defeat on summary judgment, Judge Chhabria signaled to similarly situated plaintiffs that "plaintiffs will often win" these cases and that it is "illegal" in most situations to "feed copyright-protected materials into" LLMs.

While these two district court opinions constitute the vanguard of legal analysis on the use of copyrighted material for LLM training, they will not be the final word. Both opinions were focused narrowly on the facts of those cases, and Judge Chhabria's opinion differed sharply from Judge Alsup's regarding the proper fair use analysis. Other trial court judges in other jurisdictions will undoubtedly provide distinct analyses based on the facts in other cases, as will the courts of appeal and ultimately the Supreme Court. The application of the fair use defense to LLM training will remain a hotly contested legal issue for years to come.

II. The next wave of AI litigation
There are no federal laws or regulations targeting AI development or use in the United States. Instead, there is a patchwork of state laws that regulate AI use in a variety of contexts such as marketing, healthcare and pricing. California is a leader in AI regulation and has passed over 30 new laws that regulate AI usage and development, many of which went into effect on Jan. 1, 2026. While the reach of these laws will be determined in the courts, many of these laws will undoubtedly have an impact on litigation against AI platforms operating in California.

For example, the newly enacted Cal. Civil Code § 1714.46 prohibits a defendant who developed, modified or used artificial intelligence from asserting a defense that the artificial intelligence autonomously caused the harm to the plaintiff. Amendments to Cal. Civil Code § 3344.1 create a new private right of action against creators of unlicensed AI-generated videos or sound recordings that contain the voice, image or likeness of a deceased public figure. The statute provides for damages of the greater of $10,000 or the actual damages suffered by a person controlling the relevant rights, plus attorney's fees. And the new Bus. & Prof. Code § 22601 et seq. creates a private right of action if an operator of a realistic companion chatbot platform does not adhere to various notice requirements, including issuing a clear and conspicuous notification indicating that a companion chatbot is artificially generated and not human. The statute provides for damages of the greater of actual damages or $1,000 per violation, plus attorney's fees.

While time will tell exactly how these new laws will be enforced, the constantly evolving AI landscape will provide fertile ground for new lawsuits. The facts developed in the AI-training copyright litigation indicate that these companies are focused on rapid development and competition over compliance, safety, and potential violations of law (i.e., the notorious "move fast and break things" culture).

For example, AI-video creation tools like ByteDance's new application, SeeDance, or OpenAI's Sora2 allow users to create hyper-realistic videos with simple prompts. Almost immediately upon release in late 2025, users of Sora2 began generating videos that included the likeness of public figures both alive and deceased, sometimes in videos that were crude or otherwise inconsistent with the wishes of the public figures or their families. This spawned instant backlash against Sora by public figures or their estates whose likenesses were being used without permission. OpenAI quickly revamped its policies to prohibit the creation of videos that included the likeness of public figures unless the individuals or their estates affirmatively opt-in. But other AI platforms trying to gain an edge on Open-AI may continue to allow users to create videos depicting the likeness of public figures. The dissemination of such videos may expose both the platform and the creator of the video to liability under Cal. Civil Code §§ 3344 & 3344.1 governing the use of public figures' name, image and likeness, as well as other state-law privacy torts.

Further, there have been tragic reports and already some lawsuits alleging wrongful death and a variety of product liability and consumer protection claims against Open-AI in connection with suicides by chatbot users. *See, e.g., Matthew Raine et al vs. OpenAI, Inc.; Shamblin v. OpenAI Inc., et al.* In these cases, the families of young adults and minors that committed suicide detail chilling conversations their loved ones had with bots leading up to the suicides where the bots are isolating the individuals and clearly encouraging and/or providing advice on the method of suicide. There have been no major decisions on the merits regarding the scope of AI platform liability for the chatbots' output and failure to intervene in these scenarios.

While AI is a transformative technology, it is important to ensure that big tech companies developing AI products do so fairly and without endangering users or trampling on the rights of artists, authors and public figures. Lawyers play an important role in ensuring that AI is developed and used safely and within legal bounds, and that individuals are compensated fairly when these companies violate their rights.

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