

The Art (and Legality) of Imitation: Navigating the Murky Waters of Fair Use in AI Training

July 15, 2025

As generative AI technology advances, the legal battles over the use of copyrighted materials for training these models are heating up. In the first wave of lawsuits the courts have diverged in their approach to fair use as a defense to claims of copyright infringement. Other legal theories of protection—including the right of publicity and unfair competition under state and federal law—remain largely untested.

Fair use is a legal doctrine that allows limited use of copyrighted material without requiring permission from the rights holder. 17 U.S.C § 107. Courts consider four main factors to determine whether a use qualifies as fair use: (1) purpose and character of the use (commercial or noncommercial); (2) nature of the copyrighted work (factual or creative); (3) amount and substantiality of the portion used; and (4) effect of the use on the market.

In May of 2025, the Copyright Office released a third (pre-publication) report that provided ample support for both sides on whether training AI with copyrighted works constitutes copyright infringement or fair use.

So far in 2025 four cases have directly analyzed the applicability of the fair use defense to AI model training. For the most part, each case put its own spin on the issue, confirming that the debate over AI and intellectual property is just beginning.

Lehrman v. Lovo, Inc., No. 1:24-cv-03770 (S.D.N.Y. July 10, 2025)

A class action filed in May 2024 by two voice actors in the Southern District of New York was one of the first to raise the issue [3]. The plaintiffs claim that Lovo, Inc., used AI-generated replicas of their voices without permission. Their 313-paragraph amended complaint brings 17 counts ranging from violations of New York statutes protecting the right of publicity to copyright infringement and various unfair competition and false advertising claims under the Lanham Act. Lovo moved to dismiss, arguing that the plaintiffs failed to state any actionable claim against it, including because the use of AI-generated voices is not copyright infringement and is not covered by relevant state laws. The court held that the claims for copyright infringement and violation of state laws were sufficiently stated, but dismissed the claims based on the Lanham Act. The court also permitted the actors to amend their claim that Lovo's AI training infringed their copyrights. Most critically for the plaintiffs, the class action claims in *Lovo* remain alive.

Bartz v. Anthropic PBC, No. 24-cv-05417 (N.D. Cal. June 23, 2025)

Anthropic used millions of digital books to train its AI model, Claude. It scanned many printed books, but also downloaded others from pirate libraries. A group of authors sued Anthropic for copyright infringement, claiming that copying the books and using them to train Claude is unlawful. Anthropic has argued that its actions are fair use and asked for an early summary judgment ruling. The judge looked at three main activities separately and decided whether each was fair use:

- **Training:** The judge held that training an AI model on lawfully obtained, copyrighted books constituted fair use, finding the use exceedingly transformative.

Continued

- **Library copies:** The judge also agreed that buying and digitizing books is transformative because “every purchased print copy was copied in order to save storage space and to enable searchability as a digital copy.” But the judge denied summary judgment on “copies made from central library copies but not used for training.”
- **Pirated library copies:** The judge denied summary judgment because while the use of these books for training was transformative, the creation and maintenance of a permanent, general-purpose digital library of pirated works was not protected by fair use.

Kadrey v. Meta Platforms, Inc., No. 23-cv-03417 (N.D. Cal. June 25, 2025)

A few days later, a different Northern District of California judge granted Meta a significant victory in a copyright lawsuit brought by 13 authors who alleged that their books were improperly used to train Meta’s Llama AI model. The judge ruled that the use of the plaintiffs’ works in training the AI model qualified as fair use under copyright law—particularly because the training was found to be highly transformative, serving purposes like summarization and content generation that differ fundamentally from the original works. The judge added that the plaintiffs had not provided sufficient evidence of harm. The judge, however, emphasized that the court’s decision was narrowly decided—focused on the plaintiffs’ inadequate arguments—and does not establish a blanket legality for AI training practices. He cautioned that more compelling evidence in future cases could lead to different outcomes and that evidence of infringement or economic damage could succeed.

Thomson Reuters Enter. Ctr. GMBH v. Ross Intel. Inc., 765 F. Supp. 3d 382 (D. Del. 2025) (on appeal before the 3rd Circuit)

Contrary to the preceding cases is *Thomson Reuters Enter. Ctr. GMBH v. Ross Intel. Inc.*, where the District of Delaware held that fair use was an inapplicable defense when training AI models. Thomson Reuters alleged that Ross infringed its copyrights when Ross used Thomson Reuters’s Westlaw headnotes to train Ross’ new AI legal-research search engine. The court granted partial summary judgment for Thomson Reuters on its claims of direct infringement, while denying Ross’ defenses, including fair use. When evaluating Ross’ fair use defense, the court found that Ross use did not qualify as fair use in part because the use was “commercial” and not “transformative.” The decision is currently being appealed by Ross.

So What Now?

The legal landscape for artificial intelligence is still developing, and no outcome can yet be predicted with any sort of accuracy. While some courts appear poised to accept AI model training as transformative, other courts do not. As AI technology continues to advance, the legal system must adapt to address the unique challenges it presents. Meanwhile, businesses and creators navigating this uncertain terrain should stay informed about legal developments and consider proactive measures to mitigate risks. As we await further rulings and potential legislative action, one thing is clear: the conversation around AI and existing intellectual property protection is just beginning.

If you have questions about how statutes, regulations, or court rulings surrounding generative AI impact you or your business, contact your Miller Canfield attorney or one of the authors of this alert.