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Akin Intelligence - June 2025

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In This Issue

Akin Spotlight

District Court Rules AI Training Can Be Fair Use in Bartz v. Anthropic

On June 23, 2025, Senior US District Judge William Alsup for the Northern District of California issued an order in Bartz v. Anthropic, granting partial summary judgment in favor of Anthropic. The opinion addresses the legal doctrine of fair use, which permits unlicensed use of copyrighted material for certain purposes, for three scenarios:

1. Training large language models (LLMs) with copyrighted material;
2. Creating digital copies of purchased, printed copyrighted material, before destroying the printed material; and

3. Downloading unauthorized copies of copyrighted material that would later be used for fair use.

Plaintiffs alleged that Anthropic infringed their copyrights by downloading pirated copies of their books and scanning purchased copies to build a centralized "research library" that would be used to train its LLM, Claude.

The court held that using copyrighted material to train LLM models was "exceedingly transformative" and thus was fair use, granting summary judgment to Anthropic on this issue. The court emphasized that the training process used works to generate new text and did not result in distributing copies to the public. Further, the court likened the training process to how people read copyrighted material to learn and improve their own writing—which has long been held as outside of the Copyright Act.

Notably, the court distinguished the facts in *Thomson Reuters v. Ross* Intelligence. In that case, there was no fair use because the AI tool was a competing system for finding existing legal opinions and "not generative AI." Here, LLMs create "fresh" writing extending beyond "anything that any copyright owner rightly could expect to control."

Next, the court held that Anthropic's practice of destructively scanning legally purchased print books to create digital, searchable replacements was fair use and similarly granted summary judgment in Anthropic's favor. The court noted that established caselaw views such processes as transformative—the format change eased storage and searchability without creating additional copies or distributing them externally.

However, the court found that Anthropic's downloading of over seven million pirated books for its permanent internal library was not fair use. The court emphasized that there is no workaround in the Copyright Act that allows AI companies to avoid paying for material that they could lawfully obtain, even if the works were later used for a transformative use such as training an LLM. This issue remains live and may proceed to trial.

Federal Action

New COPPA Obligations for AI Technologies Collecting Data from Children

On June 23, 2025, a Final Rule from the Federal Trade Commission (FTC) updating the Children's Online Privacy Protection Act (COPPA) went into effect, with implications for artificial intelligence (AI). The FTC's commentary on the Rule states that disclosures of a child's personal information to train or otherwise develop artificial intelligence technologies are not integral to a website or online service and would require separate, verifiable parental consent. The Rule also expands the definition of "personal information" to include biometric identifiers like voiceprints and facial templates, prohibits the indefinite retention of children's data, and mandates that operators establish and maintain a written data retention policy addressing personal information

collected from children.

With certain exceptions, regulated entities have until April 22, 2026, to comply.

Second District Court Rules AI Training Can Be Fair Use

On June 25, 2025, Judge Vince Chhabria in the Northern District of California issued ***an order*** in Kadrey v. Meta Platforms, granting partial summary judgment to Meta on fair use as a defense to the plaintiffs' claims that training was copyright infringement. This decision follows a recent, similar finding in *Bartz v. Anthropic* that AI training on copyrighted works can be fair use, although the two decisions focus on different aspects of the fair use analysis.

Plaintiffs alleged that Meta's use of pirated copies of their books to train its large language model (LLM), Llama, constituted copyright infringement. While the court clarified that its ruling does not stand for the proposition that any use of copyrighted materials to train its LLMs is lawful, it found that the plaintiffs failed to rebut Meta's fair use defense or present evidence in support of plaintiffs' arguments. The court evaluated the four fair use factors as follows:

1. **Purpose and Character.** This factor favored Meta, because training LLMs that "can be used to generate diverse text and perform a wide range of functions" is highly transformative. Because Meta's ultimate use was transformative, the court found that Meta's downloading of the books from "shadow libraries" was also transformative.
2. **Nature of Work.** This factor favored plaintiffs, because their books—mostly novels, memoirs, and plays—are highly expressive works. The court rejected Meta's argument that the training process only wanted to access the "functional elements" of the works, finding that statistical relationships are the product of creative expression.
3. **Amount Used.** This factor favored Meta, because its LLMs do not output any meaningful amount of the plaintiff's books. The court noted that "the amount copied doesn't seem especially relevant in this case" because whether a whole or partial work was copied, Llama does not provide the copyrighted material to the public. The court also found that copying full texts was reasonable given the needs of LLM training and that the amount made available to the public was minimal.
4. **Market Impact.** This factor also favored Meta. The court identified three potential theories of harm raised by the parties, attributing the first two to the plaintiffs' complaint and the third to Meta's expert: (1) harm from the model regurgitating the works; (2) harm to the market for licensing the works for AI training; and (3) harm based on competition from similar works generated by the model. For all of these, the court found plaintiffs' argument "half-hearted" and that the plaintiffs "fail[ed] to present meaningful evidence." The court found that the first theory fails because Llama does not allow users to generate any substantial portion of the books. The second fails because the market for licensing for AI training is not one the plaintiffs are legally entitled to monopolize. The court found that the third theory—which was not raised by plaintiffs—failed because of the lack of concrete evidence of market substitution or dilution. Because Meta offered at least some evidence that its copying has not caused market harm, the court concluded that this factor favored Meta.

In dicta, Judge Chhabria contemplated AI training cases where plaintiffs have better-developed records on the market effects that could rebut a fair use defense. In pure hypothetical, the opinion stated that: “it’s hard to imagine that it can be fair use to use copyrighted books to develop a tool to make billions or trillions of dollars while enabling the creation of a potentially endless stream of competing works that could significantly harm the market for those books.” The court also contemplated cases that might present an even stronger case for fair use, such as using copyrighted books to train an LLM for nonprofit purposes or where plaintiff’s works are unlikely to face meaningful competition from AI-generated ones.

Ultimately, because Meta’s use was highly transformative, the court found that plaintiffs needed to win decisively on the fourth factor to win on fair use. Absent evidence of market dilution, the court found that Meta was entitled to summary judgment on its fair use defense to the claim that copying plaintiffs’ books for use as LLM training data was copyright infringement. Similar to the Bartz case, plaintiffs’ claims regarding the distribution of copies via torrenting remain at issue.

Congressional Action

U.S. Lawmakers Introduce No Adversarial AI Act

On June 25, 2025, Sen. Rick Scott (R-FL) and Sen. Gary Peters (D-MI), along with a bipartisan group of members of the House Select Committee on the Chinese Communist Party (CCP), announced the introduction of the No Adversarial AI Act. The bill seeks to prohibit federal agencies from using artificial intelligence (AI) technologies controlled by foreign adversaries, which currently includes North Korea, China, Russia, and Iran. The No Adversarial AI Act would:

- Direct the Federal Acquisition Security Council to develop, publish, and regularly update a list containing any AI that is produced or developed by a foreign adversary; and
- Restrict federal agencies from using AI developed by foreign adversarial entities, with exceptions for research, testing, counterterrorism or counterintelligence activities, or mission-critical functions upon written notice to the Office of Management and Budget (OMB) and Congress.

State Action

California Civil Rights Council Approves Employment Regulations Regarding Automated-Decision Systems

On June 30, 2025, the California Civil Rights Council announced final approval for regulations to protect against potential employment discrimination as a result of the use of automated-decision systems, including artificial intelligence (AI). The regulations aim to:

- Make it clear that the use of an automated-decision system may violate California law if it harms applicants or employees based on protected characteristics, such as gender, race, or disability.
- Ensure employers and covered entities maintain employment records, including automated-decision data, for a minimum of four years.
- Affirm that automated-decision system assessments, including tests, questions, or puzzle games that elicit information about a disability, may constitute an unlawful medical inquiry.
- Add definitions for key terms used in the regulations, such as “automated-decision system,” “agent,” and “proxy.”

The regulations were approved on June 27, 2025, and they go into effect on October 1, 2025. The full text of the regulations is available here.

Texas Enacts a Pair of AI Governance Laws, HB 149 and SB 1188

In late June 2025, Texas enacted a pair of laws that create a new framework for AI governance, focusing on the public sector and healthcare. They include the Texas Responsible Artificial Intelligence Governance Act (TRAIGA), or HB 149, and its companion bill, SB 1188.

Key provisions of TRAIGA (HB 149) include:

- Healthcare Disclosure Mandate: Healthcare providers who use an AI system in relation to health care service or treatment of a patient must disclose such use.
- Manipulation Prohibition: A person may not develop or deploy an AI system in a manner than intentionally aims to incite or encourage a person to commit physical self-harm, harm another person, or engage in criminal activity.
- Government Use Prohibitions: The law bars state agencies from using AI to assign a "social score" to individuals or to perform biometric identification using publicly available data without consent, where such use results in unjustified or disproportionate treatment or would infringe on constitutional or legal rights.
- Discrimination Prohibition: TRAIGA prohibits the development or deployment of an AI system with the specific intent to unlawfully discriminate against a protected class. The law states that “a disparate impact is not sufficient by itself to demonstrate” such intent.
- Sexually Explicit Content Prohibitions: The law prohibits a person from developing or distributing an AI system with the sole intent of producing or distributing child pornography or sexually explicit deepfake videos or images, or an AI system that engages in text-based conversations that simulate or describe sexual content while impersonating or imitating a child younger than 18 years of age.

Key provisions of SB 1188, which focuses on healthcare:

- Human Oversight of Medical Decisions: The law states that a health care practitioner may use AI for diagnostic purposes, including the use of AI for recommendations on a diagnosis or course of treatment, if: the practitioner is acting within the scope of the practitioner's license or other authorization; the particular use is not otherwise prohibited by state or federal law; and the practitioner reviews all AI-generated records in a manner consistent with medical records standards developed by the Texas Medical Board. A practitioner that uses AI for such purposes must disclose the use of that technology to the patient.
- Electronic Health Record Storage: SB 1188 requires covered entities to ensure that electronic health records are physically maintained in the United States or a territory of the United States, including records stored by third-party or subcontracted computing facility or an entity that provides cloud computing services.

HB 149 is effective on January 1, 2026, and SB 1188 is effective on September 1, 2025.

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