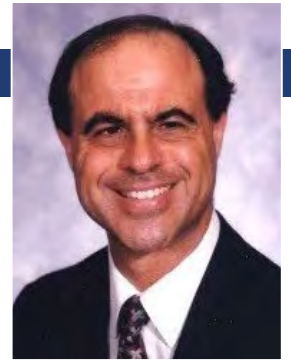


## Court Rules that an Artificial Intelligence Company's use of copyrighted works may be considered a Fair Use

By David Roy Ellis



In June 2025, a Federal judge in the Northern District of California issued a significant ruling in a copyright infringement lawsuit brought by several copyright holders against a generative artificial intelligence company called *Anthropic PBC*. *Bartz v. Anthropic PBC*, 3:24-cv-05417, 2025 WL 1741691 (N.D. Cal., June 23, 2025).

The plaintiffs were authors whose books were used to train Anthropic's popular Claude LLMs AI system. Generative AI technologies "train" on vast quantities of preexisting human-authored works and use inferences from that training to generate new content. Some of these systems operate in response to a user's textual instruction, called a "prompt." The resulting output may be textual, visual, or audio, and is determined by the AI system based on its design and the materials on which it has been trained.

The plaintiffs claimed that Anthropic had infringed their copyrights by using its Large Language Models (LLMs) AI programs to train on their works without their permission, and Anthropic countered by arguing that its training techniques were a "fair use" as defined by the Copyright Act and judicial interpretations.

The fair use doctrine provides that the use of a copyrighted work for purposes such as criticism, comment, news reporting, teaching, scholarship or research may not be an infringement in certain instances, and sets out a number of factors for courts to consider in making a determination.

These factors include the purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes; the nature of the copyrighted work; the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and the effect of the use upon the potential market for or value of the copyrighted work. 17 U.S.C. §107.

In *Bartz*, the court drew a sharp distinction between two issues: whether using copyrighted books to train a generative AI system constituted fair use, and the legality of how those books were obtained and stored. On the fair use question, the judge granted summary judgment for Anthropic, finding that its training on copyrighted books was permissible under Section 107. However, regarding Anthropic's practice of acquiring and retaining a large, centralized internal library of pirated books, the judge ruled for the plaintiffs.

### Training AI Programs on Books Is Protected by Fair Use

As to Anthropic's use of books to train its LLMs, the judge found that this qualified as fair use. His analysis focused primarily on the first and fourth statutory fair use factors: the purpose and character of the use, and the effect on the market for the original works.

When evaluating the first factor—the purposes and character of the use—courts often look to whether the accused use is "transformative." On this point, the judge wrote that the "purpose and character of using works to train LLMs was transformative—"spectacularly so" he said. In another passage, the judge described the training process as "quintessentially transformative." "Like any reader aspiring to be a writer, Anthropic's LLMs trained upon works not to race ahead and replicate or supplant them—but to turn a hard corner and create something different." The judge noted that Anthropic's system does not output full books or lengthy excerpts, which might have resulted in a different outcome.

As to the fourth factor—market harm—the Court rejected Anthropic's argument that training Claude on plaintiffs' books displaced a licensing market of copyrighted materials being used for AI training. This is so even though there is a market for the licensing of copyrighted materials for purposes of training LLMs. The judge noted, however, that "such a market for that use is not one the Copyright Act entitles authors to exploit."



For the purposes of the motion, the judge assumed that Anthropic’s system “memorized” parts of the books it trained on but held that this did not, in itself, negate fair use. He also distinguished between the training process and specific outputs, making clear that his decision did not address whether in some cases, the output might infringe the content.

## Retaining Pirated Works Was Not Protected by Fair Use


While the judge indicated that copying for training purposes could be a fair use, he rejected Anthropic’s defense of its acquisition and long-term storage of over seven million pirated books. These books were downloaded from shadow library sites like Pirate Library Mirror and Library Genesis and stored in a central repository that Anthropic employees could access for model training and internal research.

The Court held that retaining those pirated works was not a fair use. He emphasized that the books were not merely downloaded temporarily for specific training runs, but were kept long-term, indexed, and made broadly available within the company. He noted that prior case law demonstrates “why Anthropic is wrong to suppose that so long as you create an exciting end product, every ‘back-end step, invisible to the public,’ is excused.” He also distinguished a ruling involving Google Books on the grounds that the books that were scanned by Google in that case were lawfully acquired.

This part of the decision indicates that a fair use determination must include not just how copyrighted works are used, but also how they are acquired and handled internally. So, even though an AI company’s end use of copyrighted material may be transformative and noncommercial, if it acquires copyrighted works through illicit means and stores them in an internal library for future reference, its fair use defense may be rejected, making it liable for infringement under the Copyright Act.


Note: In a separate case decided only two days later in the same federal district court, a different judge ruled that another AI company’s copying of several authors’ books to train its AI system was highly transformative and thus could be considered a fair use of the copyrighted material. *Kadrey v. Meta Platforms Inc.*, 23-cv-03417-VC, 2025 WL 1752484 (N.D. Cal., June 25, 2025). We can expect to see more of these cases as the use of AI becomes increasingly widespread in our society.

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