

# Fair Use or Foul Play? The Anthropic and Meta Cases That Could Reshape AI Development

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Two recent federal district court decisions shed light on a key question underlying the development of the models used by the generative artificial intelligence (AI) platforms that are transforming the way businesses work across a wide variety of industries. The decisions address a central question: what acts in the training of generative AI models constitute fair use of copyrighted works under Section 107 of the U.S. Copyright Act (the Copyright Act). Fair use is a very fact-intensive analysis, and these decisions provide useful guideposts for what will be permitted, and not permitted, in training AI models.

## THE ALSUP ORDER

Judge William Alsup, of the U.S. District Court of the Northern District of California, issued an order (the Alsup Order) regarding the use of copyrighted works to train generative AI models, finding that the use of properly obtained works to train AI models constitutes fair use, specifically commanding the technology's transformative use, but that the use of improperly obtained or "pirated" works in building a centralized library for AI training is not covered by the fair use doctrine.

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The defendant in the case, Anthropic PPBC (Anthropic), is a Silicon Valley technology company offering the AI software service known as "Claude."

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To train Claude, Anthropic collected copyrighted books into a digital, centralized library in an effort to create a "library of all the books in the world" that it could use to train its AI models and other future uses. The centralized library contains books that Anthropic purchased in hard copy form and then scanned into digitized form, as well as books Anthropic knowingly acquired from pirate websites.

The plaintiffs in the case, Andrea Bartz, Charles Graeber, and Kirk Wallace Johnson (collectively, the Authors), are authors of books included in that library and used in AI model training without the Authors' permission.

Anthropic moved for summary judgment on the grounds that these activities qualified as fair use under the Copyright Act.

There are four "fair use" factors:

- The purpose and character of use;
- The nature of the copyrighted work;
- The amount and substantiality of the copyrighted work used; and
- The effect of use on the market or value of the copyrighted work.

In the Alsup Order, Judge Alsup analyzed how these factors applied to Anthropic's use of the copyrighted works (i) to train AI models, and (ii) to build a centralized library. The Alsup Order concluded the following:

1. With respect to Anthropic's use of copyrighted works for training its AI model Claude, such use was justified as a fair use. Notably, Judge Alsup applauded the transformative nature of AI technology, stating that it is "among the most

transformative many of us will see in our lifetimes.” The Authors argued that using copyrighted works to train AI models is like using such content to train any person to read and write, and hence such use should not be permitted. However, Judge Alsup emphasized that each person reads texts and generates new texts, and to make them pay for such use each time would be “unthinkable” – this is not what the Copyright Act was made to protect, as the Copyright Act does not extend to the “method[s] of operation, concept[s], [or] principle[s]” “illustrated[] or embodied in [a] work.”<sup>1</sup> Judge Alsup noted that no evidence exists suggesting that the Authors’ works were ever directly shown to the public (including any users of Claude), and stated that “[l]ike 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.”

2. With respect to Anthropic’s use of copyrighted works for building a centralized digital library, Judge Alsup decided on the use of the purchased hard copies and the use of the pirated copies separately:
  - a. The conversion of purchased hard copies into digital format for inclusion in Anthropic’s library was determined to be justified as a fair use. Judge Alsup stated that merely converting the works into “more convenient space-saving and searchable digital copies” was transformative, especially considering that no new copies were added, no new works were created and no existing copies were distributed, as they were subsequently destroyed.
  - b. The acquisition of copies from pirate websites and used in the digital library was determined to not be a fair use. Judge Alsup emphasized that such pirated copies would be retained “forever” for “general purpose” even if Anthropic decided against using them for AI model training, and “[s]uch piracy of otherwise available copies is inherently, irredeemably infringing even if the pirated copies are immediately used for the transformative

use and immediately discarded.” A trial will ensue with respect to Anthropic’s use of the pirated copies in its centralized library.

## THE CHHABRIA ORDER

Just two days later, on June 25, 2025, Judge Vince Chhabria, also of the U.S. District Court of the Northern District of California, granted summary judgment in favor of Meta Platforms, Inc. (Meta) on the use of copyrighted works in training its AI model was a fair use (the Chhabria Order). The case was brought by a group of 13 best-selling authors who claimed that Meta’s use of their copyrighted works, which Meta downloaded from “shadow libraries” (including Library Genesis, Z-Library, and others), in training its AI model “LLaMA” without their permission constituted copyright infringement.

While Judge Chhabria reached the same ultimate conclusion as Judge Alsup, that Meta’s use of such copyrighted works constitutes fair use, the Chhabria Order takes a different, and more cautionary, analytical path. Here, while Judge Chhabria agreed with Judge Alsup that such use is “highly transformative,” Judge Chhabria’s decision puts an emphasis on the potential adverse impact to the market, which factor of fair use he identifies as “brush[ed] aside” by Judge Alsup. Judge Chhabria decided that the plaintiffs only presented “speculations” and failed to present factual evidence that could effectively prove that Meta’s use of their works would dilute the market for their own works. As such, Judge Chhabria limited the applicability of his ruling, stating that “[t]his ruling does not stand for the proposition that Meta’s use of copyrighted materials to train its language models is lawful.”

Judge Chhabria cautioned against the expansion of AI in the creative marketplace, noting that “by training generative AI models with copyrighted works, companies are creating something that often will dramatically undermine the market for those works, and thus dramatically undermine the incentive for human beings to create things the old-fashioned way.”

Further, unlike the approach taken by Judge Alsup in his decision, Judge Chhabria did not treat Meta’s use of pirated copies in AI model training as a stand-alone issue in his ruling, though the plaintiffs’ copyright infringement claim against Meta’s downloading of pirated copies through peer-to-peer networks is still pending.

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## DISTINCT ROAD MAPS

While these two rulings came to the same conclusion—that the use of properly obtained copyrighted works to train AI models is fair use—the distinct road maps which they each took to reach this conclusion highlight a divide in the potential ramifications for AI companies and creators of original works, as well as the future of AI and copyright law:

3. For AI companies, both rulings offer reassurance that using properly obtained copyrighted works in AI model training can be fair use if deemed transformative and no market harm is proven, which reduces immediate legal risks for AI development. Some may even see Judge Alsup's decision as an indicator of the relaxation of copyright law as a means towards incentivizing technological advancement. With respect to data sourcing for AI model training, Judge Alsup's decision underscores the risks and potential liabilities of using pirated materials. AI companies may need to ensure that their training data is legally obtained. With respect to the pressure of licensing materials for AI training, on the one hand, Judge Alsup's decision allows the use of purchased copies of original works without the need for a license specific to use in AI model training. AI models are as useful as the extent of their training allows; more input into model training equates to a more informed output from these AI models. Considering the sheer amount of data needed to train AI models, Judge Alsup's ruling may help AI companies avoid exorbitant licensing costs by applying the fair use doctrine to these copyrighted works, hence limiting a hurdle in the advancement of AI technology – a win for AI companies, especially the smaller companies for whom the cost of obtaining licenses may form a barrier to entry. On the other hand, however, Judge Chhabria's decision suggests that AI companies may face new legal and judicial headwinds, as additional litigation regarding the use of copyrighted content for AI model training is brought and decided, which could increase the costs and legal barriers associated with AI development, including model training. Judge Chhabria contends that “[i]f using copyrighted works to train the models is as necessary as the companies say,

they will figure out a way to compensate copyright holders for it.”

4. For creators of original works, while the authors in both cases lost on the issue of fair use, Judge Chhabria's statement that “the consequence of this ruling is limited [...] to the rights of these thirteen authors” provides hope for future claims with stronger evidence, particularly regarding market harm. Creators of original works may need to focus on demonstrating how AI outputs compete with or devalue their original works in the marketplace.
5. For future rulings, the differing judicial approaches in the two decisions show that the application of the fair use principles in AI training remains unsettled. The Anthropic ruling could bolster AI companies' fair use claims, while the *Meta* case's narrow scope limits its applicability. Outcomes will likely depend on case-specific facts, as Judge Chhabria emphasized in his opinion. There is a long road ahead in these cases and other similar pending cases, so the application of the fair use principles as applied to AI model training will continue to be refined and modified by courts over time.

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6. Other important issues concerning the use and development of generative AI platforms remain as well. Other pending cases address a variety of claims, including whether the output created by generative AI would constitute copyright infringement, and claims based on other causes of action like breach of online terms. More case law is expected to be developed with several pending cases by various entertainment and news publishing companies against AI companies, such as the federal lawsuit filed on June 11, 2025, by Disney and NBCUniversal against Midjourney for copyright infringement with respect to the images generated by its AI.

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## CONCLUSION

The two rulings epitomize the push and pull between the need to incentivize human creativity and that to promote technological advancements. Where Judge Chhabria is concerned about the expansion or stifling of natural creativity originated by humans, which the Copyright Act seeks

to protect, Judge Alsup focuses on the development of technology which can ultimately be used to aid humans. While these cases are the first of their kind, they undoubtedly will not be the last.

### Note

1. 17 U.S.C. § 102(b).

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