



Copyright and AI in the United States

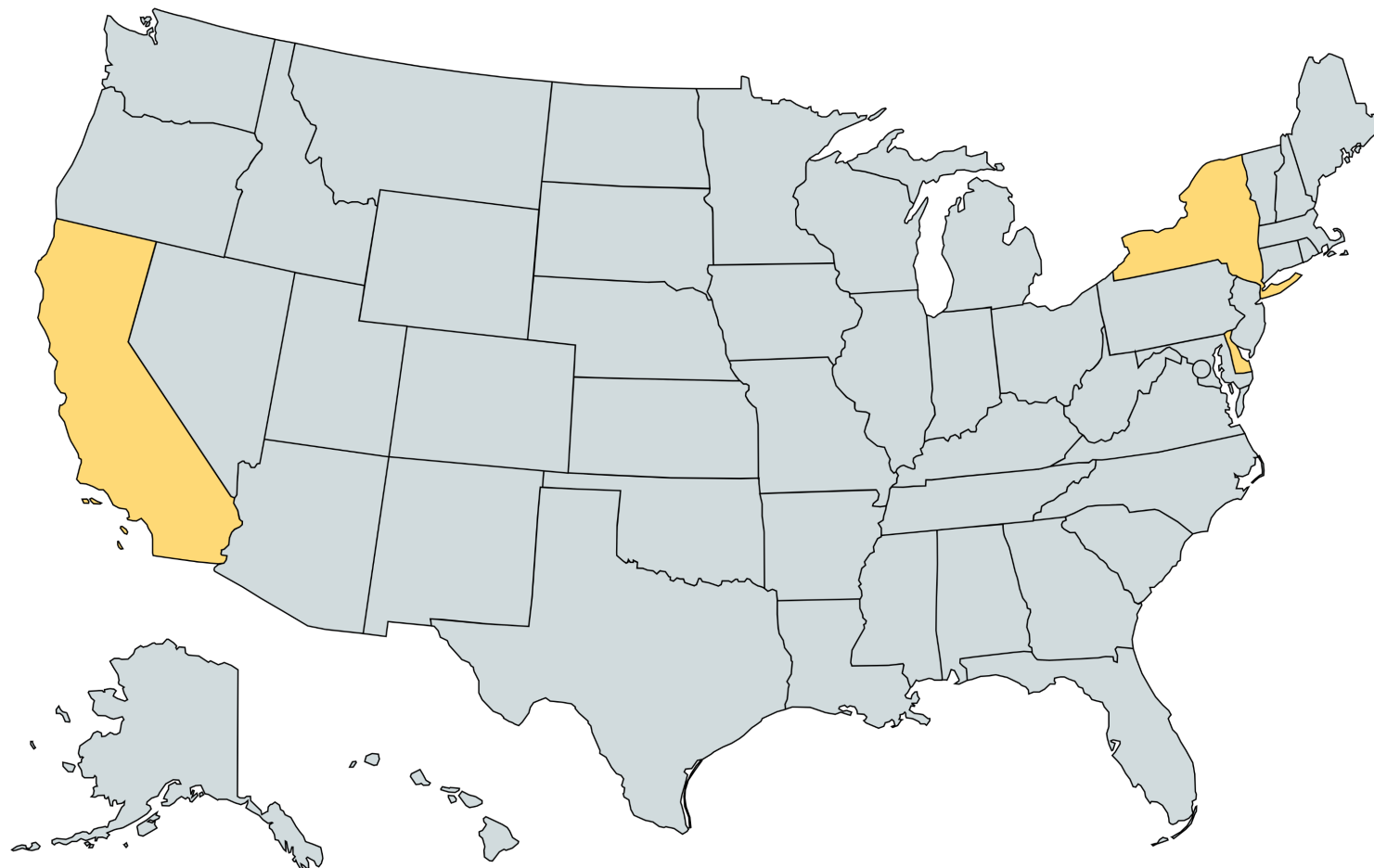
*IFFRO Legal Issues Forum
29 October 2025*

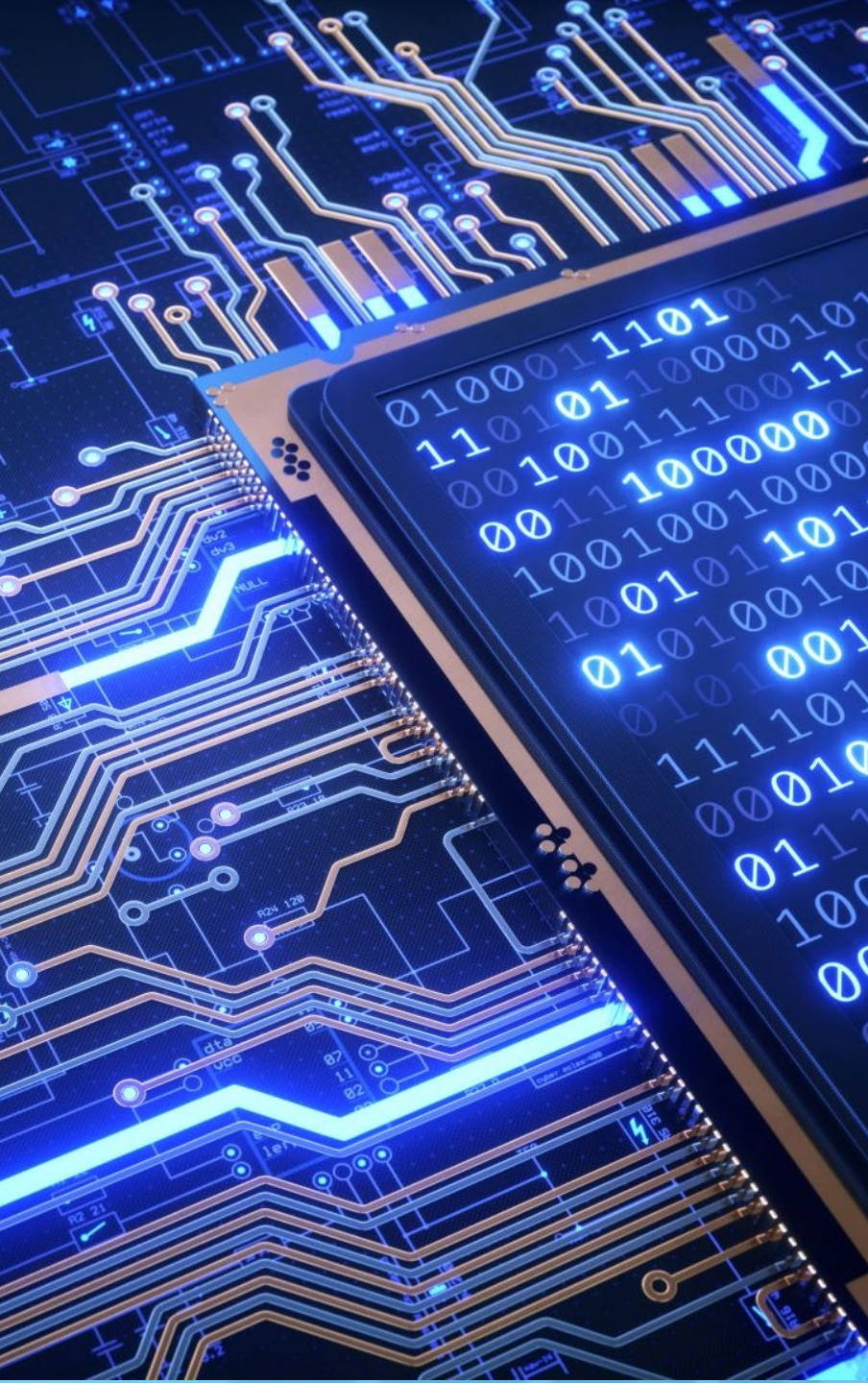
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Pending US AI Cases

- Currently over 50 pending AI cases
- Mostly class actions
- Common claims
 - Direct, vicarious, and contributory copyright infringement
 - DMCA §1202 (CMI)
 - Copyrightability
- Non-copyright claims including privacy, trademark, and antitrust





Bartz v. Anthropic

- **June 2025** – Summary judgement ruling that using books without permission to train AI was fair use; **BUT** use of pirated copies of copyrighted materials to build a training library is not fair use
 - Not outputs involved
- **Sept. 2025** – Judge Alsup preliminarily approves \$1.5 billion settlement covering 500,000 Books (approx. \$3,000/title after fees and expenses)
 - “Books” are any work possessing an ISBN or ASIN that was registered with the United States Copyright Office (USCO) within five years of the work’s publication, and which was registered with the (USCO) before being downloaded by Anthropic, or within three months of publication.
- Other cases now amending their complaints to align with ruling over pirated content

Kadrey v. Meta

- **June 2025** — same District as *Bartz*, just a couple of days later
- The court strongly and repeatedly stated that training is likely to **NOT** be fair use in many cases, but that the plaintiffs in the specific case in front of the court simply did not provide sufficient factual evidence to support a different finding
- Strongly endorsed the “dilution” theory under the fourth factor



Thomson Reuters v. Ross

- **October 2020** – Case filed in U.S. District Court of Delaware
- Various motions and decisions (motion to dismiss copyright claims denied)
- **February 2025** – Court grants summary judgment motion in favor of Thomson Reuters re: fair use
 - Focus on competition and substitution
- **April 2025** – Motion for interlocutory appeal granted; currently pending in Third Circuit Court of Appeals



Other Litigation Developments

- New © lawsuits from:
 - Major studios: *Disney v. Midjourney*; *Disney v. Minimax*; *Warner Bros. v. Midjourney*
 - Focused more on generated outputs and derivative works
 - Musicians: *Justice v. Uncharted Labs*; *Justice v. Suno*
 - Authors: *Denial v. OpenAI* (nonbook); *Bird v. OpenAI*; *Hendrix v. Apple* (1st lawsuit against Apple); *Martinez-Conde v. Apple* (2nd lawsuit against Apple)
 - Publishers: *Encyclopaedia Britannica v. Perplexity AI*
 - Reddit: Suing Perplexity and Anthropic
- Antitrust claims
 - *Penske v. Google*
 - *Chegg v. Google* (Feb. 2025)
- Cases on appeal (in addition to *Ross*):
 - *Doe v. Github*: DMCA CMI claims
 - *Raw Story v. Open AI*: DMCA CMI claims and Article III standing



Human Authorship Requirement

- *Thaler v. Perlmutter*: Court of Appeals for the District of Columbia Circuit affirmed need for human authorship; Thaler has filed a petition for certiorari with the Supreme Court
- The U.S. Copyright Office has registered at least some works involving AI generation. *A Single Piece of American Cheese* was registered – it consisted of AI generated “inpainting”



Legislative and Policy Developments

- U.S. Copyright Office Report: Part III
 - Focus on using copyright protected works for training
 - Found many uses would be fair use and many would not be fair use
 - Stated that using works from pirate sites weighs against fair use
 - Embraced dilution theory of market harm
- AI Action Plan
- Possible U.S. Patent and Trademark Office report
- Other agencies also looking into AI issues (OSTP)



Legislative and Policy Developments

- Many bills introduced at both the federal and state level; focus on transparency, privacy, safety, and specific high-risk sectors.
- Copyright related proposed federal legislation:
 - Nurtured Originals, Foster Art, and Keep Entertainment Safe (“NO FAKES”) Act
 - Content Origin Protection and Integrity from Edited and Deepfaked Media (“COPIED”) Act
 - Transparency and Responsibility for Article Intelligence Networks (“TRAIN”) Act
 - Generative AI Copyright Disclosure Act
 - AI Accountability and Personal Data Protection Act