

CASE COMMENT:

Bartz v. Anthropic PBC, 787 F. Supp. 3d 1007 (N.D. Cal. 2025)

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The rapid development of large language models (LLMs) since late 2022 has created unprecedented legal uncertainty at the intersection of copyright law and artificial intelligence.¹ LLMs trained on the copyrighted works of artists, authors, and musicians are capable of producing results that mimic and imitate those creators' styles and expressions. As a result, creators have turned to copyright law for relief, arguing that artificial machines may not, without rights holders' consent, be trained on or regurgitate artists' works.²

In *Bartz v. Anthropic PBC*, 787 F. Supp. 3d 1007 (N.D. Cal. 2025) Judge Alsup issued a landmark decision resolving, for the first time, whether the use of copyrighted books to train large language models (LLMs) is fair use. Particularly significant in the four-factor fair use analysis was the conclusion that training LLMs on copyrighted content was “quintessentially transformative.”³ Many argue that this was the correct legal decision,⁴ while others criticize it for failing to weigh

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¹ See, e.g., Claudia Bazter, *AI Art: The End of Creativity or the Start of a New Movement?*, BBC (Oct. 18, 2024), <https://www.bbc.com/future/article/20241018-ai-art-the-end-of-creativity-or-a-new-movement> (last visited Nov. 6, 2025); Pearl Lam, *The Impact Of Artificial Intelligence On The Art World*, Forbes (Feb. 2, 2024), <https://www.forbes.com/councils/forbesbusinesscouncil/2024/02/02/the-impact-of-artificial-intelligence-on-the-art-world/> (last visited Nov. 6, 2025); Sachin Waiker, *When AI-Generated Art Enters the Market, Consumers Win—and Artists Lose*, Stan. Graduate Sch. of Bus. (2024), <https://www.gsb.stanford.edu/insights/when-ai-generated-art-enters-market-consumers-win-artists-lose> (Nov. 6, 2025).

² See, e.g., *Andersen v. Stability AI Ltd.*, No. 3:23-cv-00201-WHO (N.D. Cal. Jan. 13, 2023); *Concord Music Grp., Inc. v. Anthropic PBC*, No. 5:24-cv-03811-EKL (N.D. Cal. June 26, 2024); *In re OpenAI, Inc. Copyright Infringement Litig.*, MDL No. 3143 (S.D.N.Y. Apr. 3, 2025).

³ *Bartz*, 787 F. Supp. 3d at 1022.

⁴ See, e.g., Edward Lee, *Copyright Dilution Under Constitutional Scrutiny*, in AFTER FAIR USE: AI & COPYRIGHT (Found. for Am. Innovation Symposium, Sept. 12, 2025); Michael D. Murray, *Generative AI, Copyright Infringement, and Fair Use*, in AFTER FAIR USE: AI & COPYRIGHT (Found. for Am. Innovation Symposium, Sept. 12, 2025).

Anthropic’s commerciality and the potential market harm to authors.⁵ The decision, however, should be interpreted as supportive of future plaintiffs’ copyright claims for three reasons. First, although *Bartz* held training general-purpose LLMs on copyrighted materials was transformative, the court made no finding relating to specific-purpose models. Second, *Bartz* held that training LLMs on pirated materials was unequivocally not fair use. Thirdly, and critically, the court was not asked to consider whether Claude’s outputs infringed plaintiffs’ copyrighted works, creating a distinct pathway for future litigation.⁶

I

Anthropic is one of the world’s premier artificial intelligence software companies, responsible for creating the LLM “Claude.” Claude is touted as one of—if not the most—ethical LLM on the market.⁷ For example, it is “governed” by Constitutional AI and based in part on the Universal Declaration of Human Rights.⁸ To train Claude, Anthropic downloaded over seven million books from pirated sites⁹ and stored them in a digital repository. Anthropic then purchased hundreds of thousands of print copies of books, all of which it destroyed and scanned into a digital repository.¹⁰ Anthropic intended to keep both the pirated books and the scanned books in this digital repository “forever,”¹¹ with the purpose of creating ease of searchability.¹² From this digital repository of scanned books, Anthropic continued to train Claude.¹³ At some point, it did, however, cease to train Claude on the pirated books.¹⁴

⁵ *Analysis in Bartz v. Anthropic AI Case Marred by Fatal Flaws*, Copyright Alliance (Aug. 2025), <https://copyrightalliance.org/bartz-anthropic-ai-case-flaws/> (last visited Nov. 6, 2025).

⁶ *Id.* at 2021 (Judge Alsup noted that: “Here, if the outputs seen by users had been infringing, Authors would have a different case. And, if the outputs were ever to become infringing, Authors could bring such a case. But that is not this case.”)

⁷ *See, e.g.*, Ivan Belcic & Cole Stryker, *What Is Claude AI?*, IBM Think (May 2024), <https://www.ibm.com/think/topics/claude-ai> (last visited Nov. 6, 2025).

⁸ *Claude’s Constitution*, Anthropic (May 9, 2023), <https://www.anthropic.com/news/claude-constitution> (“Constitutional AI” provides answer to questions such as Why does an LLM encourage some actions but not others? What “values” might a language model have? Claude’s Constitution gives LLMs “explicit values determined by a constitution, rather than values determined implicitly via large-scale human feedback”).

⁹ *Bartz*, 787 F. Supp. 3d at 1014.

¹⁰ *Id.* at 1016.

¹¹ *Id.* at 1016.

¹² *Id.* at 1016.

¹³ *Id.* at 1016–17.

¹⁴ *Id.* at 1025.

The plaintiffs in *Bartz* were fiction and non-fiction authors.¹⁵ At least two works from each author were illegally downloaded to train Claude,¹⁶ and more of the plaintiffs' books were then later purchased by Anthropic for scanning and storage.¹⁷ The plaintiffs' works were specifically chosen by Anthropic as training materials due to the "creative expressions they contained."¹⁸

On August 19, 2024, the plaintiffs filed suit in the Northern District of California, alleging that the training and retention of the pirated and purchased books by Anthropic infringed their copyright.¹⁹ By March 27, 2025, Anthropic responded with a motion for summary judgment, asking the simple question: is Anthropic's use of the plaintiffs' books to train its LLMs, as well as its continued storage of the books in a digital repository, protected as fair use under section 107 of the *Copyright Act*?²⁰

II

The judgment largely favored Anthropic, with the court finding that the training of Claude using copyrighted content was transformative—"exceedingly transformative"²¹—under factor one, "purpose and use," of the fair-use doctrine.²² The court rejected all three of the plaintiffs' arguments, which were that: (i) using their works to train Claude was like teaching a person to read and write;²³ (ii) Claude's training was intended to memorize their works' creative elements, which are protectable under copyright law;²⁴ and (iii) AI should not be able to do what people do.²⁵

First, the court likened the plaintiffs' arguments to those of a child learning to read and write using the plaintiffs' books, concluding that preventing someone from learning from copyrighted works is not a protectable cause of action under copyright law.²⁶ Second, the court made clear that none of Anthropic's LLMs

¹⁵ *Id.* at 1015; the plaintiffs also represented a certified class of authors, whose works totalled approximately 482,460 infringed works (*Bartz v. Anthropic PBC*, No. 3:24-cv-05417-WHA (N.D. Cal. Oct. 17, 2025) (order granting preliminary approval of class action settlement).

¹⁶ *Id.* at 1015.

¹⁷ *Id.* at 1023.

¹⁸ *Id.* at 1017.

¹⁹ *Bartz v. Anthropic PBC*, No. 3:24-cv-05417-WHA (N.D. Cal. Aug. 19, 2024) (complaint).

²⁰ Def.'s Mot. For Summ. J. at 1, *Bartz v. Anthropic PBC*, No. 3:24-cv-05417-WHA, Dkt. No. 122 (N.D. Cal. filed Apr. 25, 2025).

²¹ *Bartz*, 787 F. Supp. 3d at 1019.

²² *Id.* at 1020–23.

²³ *Id.* at 1019.

²⁴ *Id.* at 1021–22.

²⁵ *Id.* at 1022.

²⁶ *Id.* at 1021–22.

reproduced any outputs to the public that included “one author’s identifiable expressive style.”²⁷ The court instead summarized that copyright does not extend to methods of operation, concepts, or principles, which are illustrated or embodied in a work.²⁸

As to the plaintiffs’ third argument, which was simply that computers should not be allowed to do what humans do, the court again found in Anthropic’s favor. The court likened Claude to *White v. W. Pub. Corp.*, 29 F. Supp. 3d 396, 400 (S.D.N.Y. 2014), a case concerning whether an AI legal tool that was trained on legal materials, and whether producing new legal writing qualified as fair use. In *White*, the training was found to be fair use.²⁹

The development of a digital repository comprising scanned copies of the plaintiffs’ books was also considered transformative.³⁰ The court reasoned that Anthropic had validly purchased the books and scanned them for the *purposes* of storage and searchability.³¹ Key to the court’s reasoning was, first, that storage and searchability are not creative properties of the original works that receive copyright protection,³² and second, that Anthropic did not *copy* the physical books but rather *replaced* them.³³

The analysis of the three other fair use factors for the training of the LLMs and the digital repository closely mirrored each other.³⁴ As to factor two, both the court and Anthropic agreed that the plaintiffs’ books possessed a high degree of creativity and expression, thereby endowing them with the highest protection under copyright.³⁵

However, factor three—being the extent of the use—favored Anthropic, as the court held that both the training and storage of the books in their entirety were reasonably necessary for the transformative use.³⁶ Although the plaintiffs argued that Anthropic could have trained Claude on other books or no books at all, the

²⁷ *Id.* at 1021.

²⁸ *Id.* at 1021–22 (citing 17 U.S.C. § 102(b)). See also *Nichols v. Universal Pictures Corp.*, 45 F.2d 119, 120–22 (2d Cir. 1930) (Learned Hand, J.) (stage properties and storytelling elements); *Apple Comput., Inc. v. Microsoft Corp.*, 35 F.3d 1435, 1445 (9th Cir. 1994) (“user-friendly” design principles and elements); *Swirsky v. Carey*, 376 F.3d 841, 848 (9th Cir. 2004) (music theory principles and chord progressions).

²⁹ *White v. W. Pub. Corp.*, 29 F. Supp. 3d 396, 400 (S.D.N.Y. 2014) (Rakoff, J.)

³⁰ *Bartz*, 787 F. Supp. 3d at 1023–25.

³¹ *Id.* at 1025.

³² *Id.*

³³ *Id.* (finding that such entitlement to “dispose” of validly purchased works was Anthropic’s right under the *Copyright Act*, 17 U.S.C. § 109(a)).

³⁴ *Bartz*, 787 F. Supp. 3d at 1029–32.

³⁵ *Id.* at 1029.

³⁶ *Id.* at 1029–30.

court disagreed, noting that this argument raised the threshold from reasonably necessary to strictly necessary.³⁷

The court found that factor four—the effect of the use upon the market for or value of the copyrighted work—favored neither party.³⁸ The plaintiffs’ arguments against the training of Claude on their books were twofold: first, Claude could create an explosion of works that could compete with the authors’ works.³⁹ However, the court declined to provide copyright protection to the plaintiffs based on a theoretical market, comparing the plaintiffs’ arguments to the notion that teaching children to write would also “result in an explosion of competing works.”⁴⁰ Providing protection to the authors under this logic would be protecting them against competition, which is not what the Copyright Act requires.⁴¹

Second, the plaintiffs argued that training LLMs on their copyrighted works would displace an emerging market wherein the plaintiffs can license their works for the very purpose of training LLMs.⁴² The court dismissed this argument, concluding that a potential licensing market “is not one the Copyright Act entitles Authors to exploit.”⁴³

As to the effect on the market for the digital repository, the plaintiffs raised two other arguments. First, they argued that the existence of the digital repository prevented Anthropic from purchasing new digital copies directly from the authors. This argument was rejected by the court because the digital repository was merely a “format change” that provided no remedies to the plaintiffs under the *Copyright Act*. The plaintiffs also failed to provide evidence in support of their second argument, which was that Anthropic might be able to transmit unauthorized digital copies of their works to third parties, thus hindering the plaintiffs’ ability to sell their own books. The court ultimately held that this factor of fair use was neutral.⁴⁴

III

Although the analysis of fair use favored Anthropic’s use of copyrighted materials to train Claude and the development of a digital repository of the validly acquired books, *Bartz* overwhelmingly favored the plaintiffs on the question of whether the use and storage of pirated books was fair use.⁴⁵ The court doubted “that

³⁷ *Id.* at 1030.

³⁸ *Id.* at 1031; *see also* 17 U.S.C. § 107(4).

³⁹ *Id.* at 1031–32.

⁴⁰ *Id.* at 1032.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 1033.

any accused infringer could ever meet its burden of explaining why downloading source copies from pirate sites *that it could have purchased or otherwise accessed lawfully* was itself reasonably necessary to any subsequent fair use.”⁴⁶ This summary of bad faith did not, however, equate with a finding against fair use. Rather, the court embarked on an objective analysis of Anthropic’s behavior in holding the books to create a central, general-purpose library, concluding that this constituted not fair use.⁴⁷

IV

Bartz was the first judgment to resolve the question of whether training AI on copyrighted materials can be transformative and fair use. The affirmative answer offered a win for Anthropic and many AI companies alike. However, the judgment should not be taken to unequivocally stand for the proposition that *all* LLM training is transformative and fair use. Rather, an analysis of the judgment, taken in conjunction with the judgment in *Kadrey v. Meta Platforms, Inc.*, 788 F. Supp. 3d 1026 (N.D. Cal. 2025), provides a more nuanced interpretation whereby future plaintiffs may argue that *specific* training of a *specific* LLM may *not* be transformative.

The first step of the analysis is to acknowledge that *Bartz* was doctrinally correct in light of the arguments and materials before the Court.⁴⁸ Transformativeness in copyright begs the question of “whether the new work merely ‘supersedes the objects’ of the original creation, or instead adds something new, with a further purpose or different character, altering the first with the new expression, meaning or message...”⁴⁹ In *Bartz*, the court was asked to analyze whether a general-purpose LLM (i.e., Claude) was itself transformative of the training data and inputs it received. The court came to a reasonable conclusion based on the technology put before it, summarizing that “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.”⁵⁰ Applying the level of transformativeness as required by the court in *Andy Warhol Found. for the Visual Arts, Inc. v.*

⁴⁶ *Id.* at 1025.

⁴⁷ See *Andy Warhol Found. for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508, 544–45, 143 S. Ct. 1258 (2023).

⁴⁸ There is, however, commentary that the discovery process was rushed and incomplete at the time of Anthropic’s motion for summary judgment. See, e.g., *Mixed Decision in Anthropic AI Case: Authors Guild Responds to Summary Judgment in Bartz v. Anthropic*, Authors Guild (June 25, 2025), <https://authorsguild.org/news/mixed-decision-in-anthropic-ai-case/> (last visited Nov. 6, 2025).

⁴⁹ *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 579 (1994).

⁵⁰ *Bartz*, 787 F. Supp. 3d at 1022.

Goldsmith, 598 U.S. 508 (2023), Claude, in its most basic function, has a “further purpose or different character” which alters the plaintiffs’ creative works with “new expression, meaning or message.”⁵¹ Therefore, the legal conclusion that a general-purpose model of an LLM like Claude is *fundamentally transformative* of its input training data is doctrinally sound.⁵²

It must be acknowledged, however, that *Bartz* largely failed to acknowledge the market harm (or potential of market harm) that the plaintiffs alleged.⁵³ In *Warhol*, the Court emphasized that commercial use “tends to weigh against a finding of fair use,”⁵⁴ as copying “is less justified than non-commercial copying.”⁵⁵ In *Bartz*, the court seemingly brushed aside the commercial analysis, making little reference to Anthropic’s status as a commercial entity that makes millions of dollars.⁵⁶ Rather, the court acknowledged that commercialism “tends to be less important when the secondary use is highly transformative.”⁵⁷ Thus, in *Bartz*, the weight of Anthropic’s commercial success became less relevant in light of the exceedingly transformative use of training Claude.

This seemingly broad-brush conclusion was also supported by Judge Chhabria in *Kadrey v Meta Platforms, Inc.*,⁵⁸ delivered two days after *Bartz*, also in the Northern District of California. The plaintiffs in *Kadrey* were similarly a group of authors who alleged that Meta had breached their copyright by training its LLM, “LlaMa,” on their copyrighted works.⁵⁹ The court considered the same question that the court in *Bartz* considered, also on summary judgment.⁶⁰ In arriving at the same conclusion of transformativeness as *Bartz*, the *Kadrey* court held that “[t]here is no serious question” that Meta’s use of the authors’ books to train

⁵¹ *Warhol*, 598 U.S. at 528.

⁵² This conclusion was also supported by the immediately succeeding judgment of Judge Chhabria in *Kadrey v. Meta Platforms, Inc.*, 788 F. Supp. 3d 1026 (N.D. Cal. 2025) (Chhabria, J.); see generally U.S. Copyright Office, *Copyright and Artificial Intelligence, Part 3: Generative AI Training*, 45–48 (May 2025) (concluding that general purpose LLMs are transformative).

⁵³ See, e.g., *Mixed Decision in Anthropic AI Case: Authors Guild Responds to Summary Judgment in Bartz v. Anthropic*, Authors Guild (June 25, 2025), <https://authorsguild.org/news/mixed-decision-in-anthropic-ai-case/> (last visited Nov. 6, 2025).

⁵⁴ *Warhol*, 598 U.S. at 537 & n.13 (quoting *Harper & Row, Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 562 (1985)).

⁵⁵ *Kadrey v. Meta Platforms, Inc.*, 788 F. Supp. 3d 1026, 1046 (N.D. Cal. 2025).

⁵⁶ Cf. *Kadrey*, 788 F. Supp. 3d at 1035 (stating that “Judge Alsup focused heavily on the transformative nature of generative AI while brushing aside concerns about the harm it can inflict on the market for the works it gets trained on.”).

⁵⁷ *Id.* at 1046; see also *Google LLC v. Oracle Am., Inc.*, 593 U.S. 1, 32 (2021).

⁵⁸ *Kadrey*, 788 F. Supp. 3d 1026.

⁵⁹ *Id.* at 1036.

⁶⁰ *Id.* at 1036–37.

LlaMa was a “further purpose” with a “different character.”⁶¹ However, *Kadrey*⁶² acknowledged that “Meta stands to gain from its development of a product trained on the plaintiffs’ works.”⁶³ Despite this, *Kadrey* followed *Bartz*, concluding that the commercial use “does not tilt the first factor in the plaintiffs’ favor.”⁶⁴

V

Despite prevailing commentary that *Bartz* delivered a heavy blow to the plaintiffs and artists alike, this is not the reality for several reasons. First, the conclusion that training LLMs on pirated materials and then storing those pirated works in a digital repository is not fair use is a significant win for artists. In *Bartz*, the parties agreed to—and the court preliminarily approved—a settlement sum of \$1.5 billion to compensate authors for Anthropic’s piracy.⁶⁵ This is notably the largest amount ever awarded in a copyright infringement case.⁶⁶

Second, *Bartz* should be interpreted to stand for the proposition that a general-purpose LLM like Claude trained on copyrighted works is transformative. It should not be taken to stand for the proposition that *all* LLMs trained on copyrighted works are transformative. Claude is a general-purpose LLM that has *many* uses other than creating literary or written works that can mimic or displace authors. These uses include providing cooking recipes, helping users with language translation, or assisting with creating cover letters. Claude was trained on the plaintiffs’ works so that it can understand language and can ultimately respond to prompts covering a wide variety of uses. While it is true that what Claude can *also* do is create works which mimic the plaintiffs’ works (if prompted to do so), this argument was not alleged by the plaintiffs in *Bartz*.⁶⁷ Therefore, an LLM or image generator that is trained on copyrighted materials *for the purpose of regurgitating mimics of those*

⁶¹ *Id.* at 1044.

⁶² *Id.* at 1035. The analysis in *Kadrey* heavily weighed the market effects of the fair use, noting that “[u]nder the fair use doctrine, harm to the market for the copyrighted work is more important than the purpose for which the copies are made.” *Id.*

⁶³ *Id.* at 1046.

⁶⁴ *Id.*

⁶⁵ Copyright Alliance, *What to Know About the \$1.5 Billion Bartz v. Anthropic Settlement* (Oct. 28, 2025), <https://copyrightalliance.org/participating-bartz-v-anthropic-settlement/> (last visited Nov. 6, 2025).

⁶⁶ *Id.*

⁶⁷ *Id.* at 2021 (Alsup, J.) (“Here, if the outputs seen by users had been infringing, Authors would have a different case. And, if the outputs were ever to become infringing, Authors could bring such a case. But that is not this case.”).

copyrighted materials is, arguably, not bound by this “transformative” judgment.⁶⁸ For example, in *Disney Enters. Inc. v. Midjourney Inc.*, No. 2:25-cv-05275 (C.D. Cal. filed June 11, 2025),⁶⁹ the plaintiffs specifically allege that the training of defendant Midjourney’s image generator on characters like Homer Simpson and Yoda had the *specific purpose* of producing images that are near-exact copies of those characters.⁷⁰ From this view, the transformative argument is still left open if future plaintiffs can point to an LLM that has a more defined purpose than Claude.

Third, and importantly, *Bartz* does leave open the opportunity for the *Bartz* plaintiffs and others to bring a claim for copyright based on Anthropic’s *outputs*.⁷¹ Indeed, the court expressly stated that Plaintiffs may do so: “... if the outputs were ever to become infringing, Authors could bring such a case.”⁷² Importantly, this analysis is bolstered by *Kadrey*. In *Kadrey*, Judge Chhabria expressed much greater sympathy for the plaintiffs and considered that the answer to the question of whether training materials on copyrighted material is illegal is likely yes.⁷³ *Kadrey* makes clear 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.”⁷⁴ Thus, *Kadrey* left the door open for plaintiffs in the future, and indeed told them their argument: a “plaintiff might argue that, even if the model can’t regurgitate their own works or generate substantially similar ones, it can generate works that are similar enough (in subject matter or genre) that they will compete with the originals and thereby indirectly substitute for them.”⁷⁵ Future plaintiffs may therefore have more success bringing copyright claims against AI companies based on infringing outputs.

VI

Bartz represents a pivotal moment in copyright law’s confrontation with AI. The court’s recognition that training general-purpose models like Claude on

⁶⁸ *Id.* at 2021 (Alsup, J.) (“Here, if the outputs seen by users had been infringing, Authors would have a different case. And, if the outputs were ever to become infringing, Authors could bring such a case. But that is not this case.”).

⁶⁹ Complaint at 1–6, 55–58, 67, *Disney Enters. Inc. v. Midjourney Inc.*, No. 2:25-cv-05275 (C.D. Cal. filed June 11, 2025).

⁷⁰ *Id.* at 24, 30–32.

⁷¹ *Bartz*, 787 F. Supp. 3d at 1021.

⁷² *Id.*

⁷³ *Kadrey*, 788 F. Supp. 3d at 1034.

⁷⁴ *Id.* at 1035.

⁷⁵ *Id.* at 1051. The *Kadrey* plaintiffs did not emphasize this argument, nor did they develop an evidentiary record that supports their claim.

copyrighted works can be transformative establishes a clear doctrinal baseline while also affirming that the use of pirated materials remains categorically outside the bounds of fair use. Although the decision favors AI developers when the training data was allegedly lawfully acquired, what remains to be litigated—and what *Bartz* and *Kadrey* left open—is whether AI outputs themselves can constitute infringement. As LLMs continue to develop capabilities of replacing specific authors’ voices and styles on demand, that question may prove the most consequential in future copyright disputes.