Complaint filed on 10/18/2023)

Concord Music Group, Inc., Universal Music Publishing Group and ABKCO Music, Inc. (Plaintiffs) sued Anthropic PBC (Defendant) for “direct and secondary copyright infringement and DMCA § 1202 (b) violations;” (?) plaintiffs claimed that Anthropic created and used lyrics to train its GenAI product Claude without permission **and** showed those lyrics in Claude’s outputs without their “copyright management information (CMI)” (?) plaintiffs also filed a motion for a “preliminary injunction” that would require Anthropic to implement “effective guardrails” in its Claude models to prevent outputs that infringe on the plantiffs’ copyright and “preclude” Anthropic from creating or using unauthorized copies of those lyrics in the training of future AI models.

Waiting for the court’s rulings on Anthropic’s “motion to dismiss” (filed on 11/22/2023) and on the remaining portions of plaintiffs’ motion for “preliminary injunction.” (filed on 11/16/2023)

**Timeline of suit**

* 10/18/2023
  + Plaintiffs file complaint which alleges the following:
    1. direct copyright infringement - plaintiffs claim that Anthropic scrapes the copyrighted lyrics from multiple websites and converts them from text to “tokens” to train its Claude AI models; based on its training, Claude creates outputs with identical or “substantially similar” copies of the lyrics without permission in response to “generic” prompts (Count 1)
    2. Contributory copyright infringement - Anthropic promotes Claude AI models to end users who in turn directly infringe on copyright by asking Claude prompts that result in output that directly infringes as described in (i) (Count 2)
    3. Vicarious copyright infringement - Anthropic did not supervise and control copyright infringing user actions; for example, they could have fine-tuned their models or limited access to users infringing on copyright as described in (ii) (Count 3)
    4. DMCA § 1202 (b) violations - change or removal of song title and author information from copyrighted lyrics (i. e. not listing song credits) (Count 4)
* 11/16/2023
  + Plaintiffs file motion for a “preliminary injunction”
    1. would require Anthropic to implement preventative guardrails in its Claude AI models to prevent outputs that infringe on copyrighted lyrics and prevent Anthropic from creating or using unauthorized copies of those lyrics in future models
  + Plaintiffs claim that they are likely to succeed on the grounds of their direct copyright infringement claim; they argued that the infringement was not fair use because:
    1. Anthropic’s use was “non-transformative” and “commercial”
       - Plaintiffs claim that AI outputs use their copyrighted lyrics for the same purpose that they do (provide lyrics’ original interpretation and expression on demand)
       - Plaintiffs also argued that using the lyrics as data for training Claude AI models was also non-transformative because such copying wasn't explained, justified or informed by a need to comment on, criticize or provide information on the original lyrics.
    2. The lyrics are creative works that are “within the core of copyright protection”
    3. Either all or almost all of the copyrighted lyrics are used in the training of Claude AI models to create infringing outputs (including the “most recognizable elements”)
    4. Anthropic's unrestrained use would create a substitute for access to the original and derivative works and as a result harm the “licensing markets” for those lyrics.
  + Plaintiffs also argued that the injunction is justified based on the “balance of equities” due to how Anthropic’s infringement can cause irreparable damage to their core business and ties with songwriters and licenses whereas a limited injunction would not noticeably damage Anthropic because it had no rights to the copyrighted lyrics to begin with.
  + Plaintiffs finally argue that a preliminary injunction would also protect copyright owners’ “marketable exclusive rights” in their copyrighted works, which would serve the public interest
* 11/22/2023
  + Anthropic filed motion to dismiss the plaintiffs’ complaint for lack of personal jurisdiction and “improper venue”
    1. Anthropic called the lawsuit a “negotiation tactic” to “extract a lucrative licensing agreement disguised as a federal court complaint”
       - It argues that they it's neither subject to general nor specific personal jurisdiction in the Middle District of Tennessee because it's not “at home” in Tennessee as a Delaware corporation with its main place of business in San Francisco, stopping the court’s exercise of general jurisdiction
       - Anthropic further claimed that it didn't have enough “minimum contacts” with Tennessee for the court to exercise specifications jurisdiction
         * Anthropic’s Claude AI models were created, trained and developed in San Francisco and did not target Tennessee for any of its business in spite of Claude AI models being available nationwide through its website and API

Plaintiffs’ claims also did not come from contacts that Anthropic *did* have in Tennessee

* + 1. Plaintiffs alternatively sought to transfer the case to the Northern District of California
* 1/16/2024
  + Anthropic filed opposition to plaintiffs’ motion for preliminary injunction
    1. Anthropic argued that there was no basis for the injunction on the grounds of its dismissal of the plaintiffs’ complaint and because the plaintiffs couldn't show that the injunction would be likely to succeed based on their copyright infringement claims
       - With respect to the plaintiffs’ claim that Claude’s outputs infringed on their copyrighted lyrics, Anthropic argued that their request for an injunction requiring effective guardrails to prevent Claude from generating infringing outputs was moot because those guardrails have always been in place and their past failures were bugs and not features of Claude.
         * Anthropic noted that the plaintiffs used “attack” prompts to purposefully get Claude to generate their lyrics and pointed out that this is the only evidence of Claude generating infringing outputs

Anthropic further argued that submission of these “attack” prompts was engagement in the “requisite volitional conduct” for a direct infringement claims by the plaintiffs

* + - * With respect to the plaintiffs’ claim that Claude was improperly trained on their copyrighted lyrics, Anthropic argued that any of this infringement was fair use
        + Anthropic argued that its use of the plaintiffs’ lyrics was transformative because it served a different purpose than the plaintiffs’ use of the original lyrics, claiming that its training was creating a dataset to teach a neural network (the AI) how human language works which outweighs the commercial nature of this use

Anthropic further explains that the lyrics are “literally transformed” from text into tokens

* + - * + Anthropic further argued that its use of the copyrighted lyrics was “practically necessary” to train Claude
        + It also argued that its copying did not have any substantial negative impact on a “legitimate market” for the plaintiffs’ lyrics

Anthropic urges the court to find that the “burgeoning market” for lyrics as AI training data doesn't exist yet and isn't likely to be developed in the future because if licenses were required to train LLMs on copyrighted content, then today's general purpose AI tools wouldn't exist.

* + - * + Anthropic finally argued that the plaintiffs can't establish irreparable harm because any lost licensing fees could be monetarily compensated and that the plaintiffs’ requested injunction would hamper access to Claude and go against the public interest
* 1/22/2024
  + Plaintiffs filed opposition to Anthropic’s motion to dismiss
    1. Plaintiffs argued that Anthropic is incorrect in arguing that it's only subject to jurisdiction in its “Silicon Valley backyard” because of the nationwide scope of its business
       - Specifically, they argue that Anthropic has established sufficient contacts with Tennessee and that their copyright infringement claims relate to these contacts, which they claim is enough to confer the Middle District of Tennessee personal jurisdiction over Anthropic
    2. They also argued that Anthropic infringed their copyrighted lyrics by offering Claude to Tennessee users through its website and that operating this site, which the plaintiffs noted was highly interactive, is more than enough to establish personal jurisdiction under controlling law
       - The plaintiffs added that Anthropic has other deep ties to Tennessee, which include:
         * keeping key employees there
         * entering into long term contracts to give Claude Pro to Tennessee businesses
         * licensing Claude to individual subscribers who live in Tennessee
    3. As for Anthropic’s improper venue argument, the plaintiffs responded that the venue was in fact proper because Anthropic's agents live in the Middle District of Tennessee and Anthropic is subject to personal jurisdiction there
    4. The plaintiffs finally argued that transferring the case to the Northern District of California was not required by the forum-selection clause in Anthropic's terms of service, which “doesn't encompass” their copyright claims
       - The plaintiffs also claimed that the transfer would:
         * “unfairly shift the burden of distant litigation” to the plaintiffs
         * “Needlessly inconvenience” non-party witnesses
         * Deny plaintiffs their “reasonable choice of forum”
         * Undermine the local interest in deciding the lawsuit
         * Question: what does “forum” refer to here?
* 2/14/2024
  + The plaintiffs filed reply in support of their motion for preliminary injunction
    1. They argued that they were likely to succeed on the grounds of their copyright infringement claims because Anthropic’s three defenses failed
       - They challenged Anthropic’s claim that its new guardrails invalidated the motion for a preliminary injunction because the new guardrails are “porous” like the old ones and allow “all forms of infringing outputs”
         * Even if they were effective, Anthropic could still abandon its new guardrails once the motion is resolved