SmartAI IP

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Your global update, every two months on AI & IP Developments for Africa | November issue

Two Minute Read:

UK: in the much-anticipated high profile AI IP case, the UK High Court largely rejected Getty Images' claims against Stability AI based on copyright and trade mark infringement. There is no copyright in model weights. The models did not contain a copy of any works, and therefore could not constitute an infringing model weights copy, and it was only a narrow trade mark win for watermarked outputs. This is seen as another win for AI over IP rights holders for inputs. **RSA:** The IODSA released its KING V governance code on 31 October which places technology and information governance including AI under board oversight elevating the need to have proper IP governance in place and integrated reporting on it. **US:** Authors' claims against OpenAI survived dismissal, pushing risk management to output controls. **US:** Anthropic's US$1.5bn settlement (cash plus deletion) set a remediation template for pirated datasets. **EU:** GPAI duties require training-data summaries and copyright-opt-out handling as factsheets are becoming standard. **Music:** Universal Music settled with Udio and launched a licensed AI platform, trading litigation for structured licensing. For in-house teams, rights-holders, and educators/researchers, the theme is provenance, transparency, and output governance across the AI lifecycle.

Have you checked out our SmartAI IP portal and completed our AI IP Readiness test?
You can do it here.

Further information: links and take-outs

Getty Images v Stability AI: UK court rejects core copyright, finds narrow trade mark infringement - [Judgment + Reports, 4 Nov 2025]

Summary: Model weights aren't 'infringing copies'; limited trade mark liability where watermark appears in outputs.

Mrs Justice Joanna Smith DBE issued a detailed ruling in 200+ pages. Getty's primary copyright claims were abandoned; the remaining secondary copyright claim failed as model weights are numerical parameters, not copies. The model weights "are purely the product of the patterns and features which they have learnt over time during the training process". Stability AI works by learning patterns in the training data, and encoding those patterns numerically in what are known as model weights. Narrow trade mark infringement was found where watermarks surfaced in generated images because it is likely to lead to confusion that the output was associated with the trade mark rights holder. Importantly, the court held that Stability AI has responsibility for such infringements because no user had prompted watermarks to occur in outputs.

Why this matters:

- **In-house teams:** Outputs should be cleared for use to avoid trade mark infringements and policies should be clear that prompts should not ask for trade marks in outputs, including the use of any watermark/logo.
- **Rights-holders:** register watermarks as trade marks and have watching services against infringing uses (including in outputs used commercially); conditions for use of images should be made clear by right-holders as the courts will not automatically come to your assistance if copyrighted works are used in inputs, based on copyright infringement.
- **Educators/researchers:** seminal analysis of "model weights" vs copies; this case is core reading for AI/IP modules as it also advocates that models can be liable for infringement in outputs.

Link: Judgment (PDF): https://www.judiciary.uk/wp-content/uploads/2025/11/Getty-Images-v-Stability-AI.pdf

Reuters: https://www.reuters.com/sustainability/boards-policy-regulation/getty-images-largely-loses-landmark-uk-lawsuit-over-ai-image-generator-2025-11-04/

AP: https://apnews.com/article/getty-stability-ai-image-copyright-trademark-fa2c561a33c7b6714a7657255a3fbdf1

Getty statement: https://newsroom.gettyimages.com/en/getty-images/getty-images-issues-statement-on-ruling-in-stability-ai-uk-litigation

Authors' copyright claims against OpenAI survive key dismissal bid - [Reuters, 28 Oct 2025]

Summary: Court keeps authors' claims alive as compliance pressure shifts to output guardrails. Even if AI models can show that inputs used for training are not infringed under fair use principles, outputs generated by the models are still at risk of infringing rights in inputs.

Here, the New York court refused an early request by OpenAI to dismiss core claims that ChatGPT outputs (text) unlawfully reproduce protected elements (an author's copyright in inputs). The decision focuses risk on model behaviour and guardrails rather than training alone. In South Africa, we do not have fair use exceptions and the responsibility on locally developed AI models is considered greater for both training and outputs.

Why this matters:

- **In-house teams:** policies for AI models should adopt anti-regurgitation filters and be able to track output to determine if there is any leakage; contracts with AI models for use by organisations should contain appropriate undertakings, warranties and indemnities and use of AI models should be strictly controlled.
- **Rights-holders:** there is now more leverage for output-based enforcement and discovery.
- **Educators/researchers:** timely case study on "substantial part/similarity/reproduction/adaptation" in LLM outputs for purposes of determining infringement.

Link: Reuters: https://www.reuters.com/legal/government/openai-loses-bid-dismiss-part-us-authors-copyright-lawsuit-2025-10-28/

Anthropic's US$1.5bn settlement sets deletion-plus-payment template - [Associated Press, 25 Sep 2025]

Summary: First mega-settlement for pirated datasets combines compensation for the pirated inputs with deletion obligations on the AI model in respect of those inputs.

Anthropic agreed to pay about US$3,000 per book (+-500,000 works) and delete illicit files used in training. This settlement sends a message that AI models need to source material for inputs in a lawful manner and as a result one can now expect provenance warranties in contracts with AI models and for deletion undertakings to become standard.

Why this matters:

- **In-house teams:** obtain provenance warranties and deletion commitments from AI models and have clearance policies in place for use of inputs for own AI model development as well as inventory logging.
- **Rights-holders:** stronger anchor for licensing negotiations in text, images and music. Create and maintain unregistered rights registers for all works that could be used as inputs and put in place watching services in relation to outputs.
- **Educators/researchers:** this is a practical example of accountable AI data governance.

Link: AP: https://apnews.com/article/9643064e847a5e88ef6ee8b620b3a44c

EU AI Act: GPAI transparency and copyright duties now in force - [Herbert Smith Freehills Kramer, 30 Sep 2025]

Summary: Providers of general purpose AI (GPAI) models must publish training-data summaries and respect text data mining (TDM) opt-outs by rights holders and the publication of training data factsheets is now expected. They are also required to mitigate against the risk of copyright infringement.

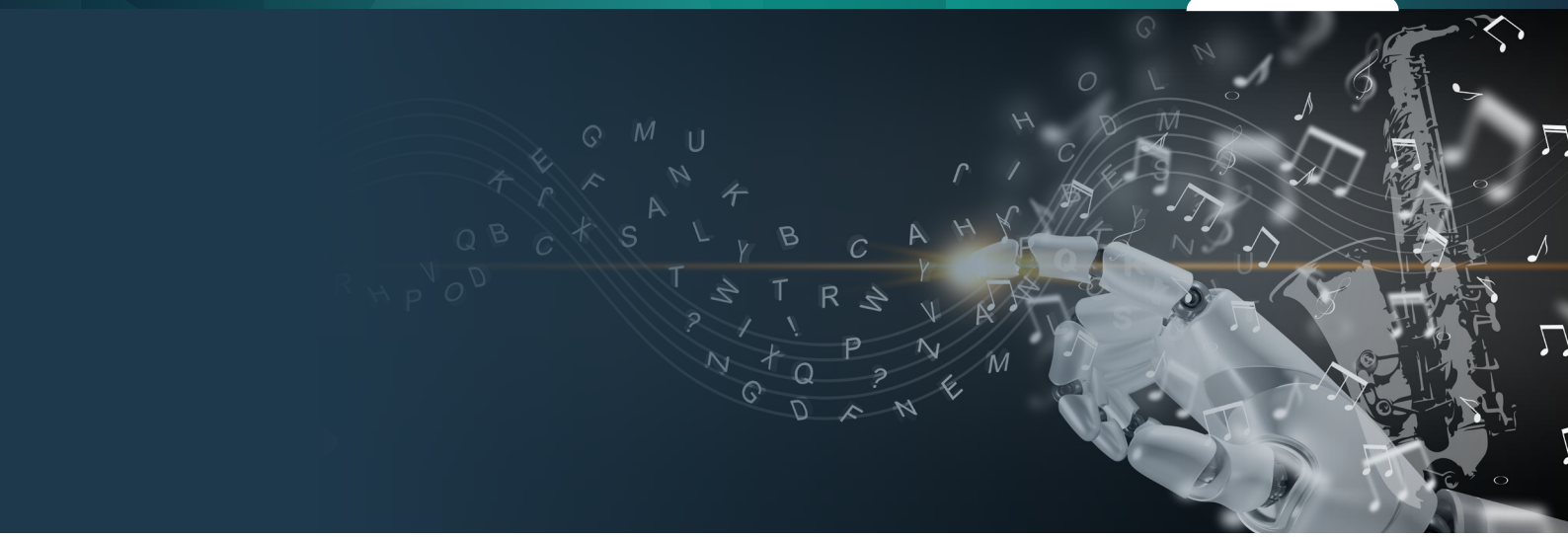
Article53 obligations and the Code of Practice have prompted EU-style disclosures globally, with diligence duties flowing to deployers of the GPAI model. This would include organisations using MS Copilot or ChatGPT for their business use and requiring them to ensure that the GPAI meets its obligations.

Why this matters:

- **In-house teams:** should pay careful attention to the disclosures of GPAI models prior to their use and integrate vendor factsheets into master service agreements as well as change logs as the use of the GPAI model develops over time. This reduces regulatory risk and increased accountability.
- **Rights-holders:** visibility into model inputs supports targeted licensing and enforcement. This provides a potential new revenue stream for rights holders who do not opt-out but active monitoring is required by rights holders as model inputs are not often not detailed sufficiently.
- **Educators/researchers:** primary material for AI compliance courses.

Link: HSF Kramer: https://www.hsfkramer.com/notes/ip/2025-09/ai-regulation-hasnt-taken-a-summer-break-transparency- requirements-re-training-data-and-compliance-with-copyright-law-come-into-force

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Universal Music settles with Udio and launches a licensed AI-music platform - [Reuters, 30 Oct 2025]

Summary: In 2024, record labels Sony Music, Universal Music Group and Warner Records had sued AI firms Udio and Suno in the United States accusing them of committing "mass copyright infringement" by using recordings to train music-generating AI systems. It is now reported that Universal Music Group has now settled their dispute with Udio and that the two firms will launch a rights cleared creation service. This is seen as an exportable template for other creative sectors.

Why this matters:

- **In house teams:** to ensure that all use of AI models require transparency over dataset access, and have output restrictions, attribution and audit rights.
- **Rights holders:** there is now a commercial template to monetise AI features while keeping control. This decision will provide leverage to rights holders.
- **Educators/researchers:** here is a concrete case of negotiated governance in generative media.

Link: Reuters: https://www.reuters.com/business/media-telecom/universal-music-settles-copyright-dispute-with-ai-firm-udio-2025-10-30/

AFRICAN AI GOVERNANCE NOTE

South Africa's King V (31 Oct 2025, IoDSA) places technology and information governance including AI under board oversight elevating the need to have proper IP governance in place and integrated reporting on it. Kenya furthered implementation of its National AI Strategy (Cyber Week Africa 2025 highlighted cross-border AI/cyber collaboration).

References:

https://www.iodsa.co.za/page/iodsa-kingv

https://cdn.ymaws.com/www.iodsa.co.za/resource/collection/927F0970-C1E9-4F30-803C-D74BF386A2B6/King_V_Background_Objectives_and_Key_Changes.pdf

https://www.afroip.blogspot.com/2025/11/king-v-and-future-of-intellectual.html

https://techafricanews.com/2025/10/29/kenya-opens-cyberweek-africa-2025-to-strengthen-continental-cybersecurity-and-ai-collaboration/

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