

## ANTHROPIC VS. UNIVERSAL MUSIC GROUP: HOW DOES AI FIT IN THE WRITTEN COPYRIGHT CONVERSATION?

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Anyone who pays attention to the business world of the music industry knows that the conversation of music copyright is anything but simple. For decades, artists have had to fight battles to keep their music in their controlled possession, and safe from leaks and other illegal distribution, as well as illegal derivative works – something that artists such as Prince and Ed Sheeran, who has just returned to appellate court to prove his innocence from copyright infringement, know about all too well. However, something that society learns about more and more each day is artificial intelligence. With the rise of new technology in artificial intelligence and audio, artist's voices and sounds are able to be reproduced and used to create new works, something that large music entities have been trying to gain the right to monetize (through what will seem to be a long and unpredictable battle). However, most of this fight is centered around AI using the sound recording of a song, what about the composition? In the case of Anthropic vs. Universal Music Group (as well as Concord and ABKCO), those who research this topic are at the edge of their seats, knowing that the decision will be a precedent for AI in future music copyright cases. The facts of the case are as follows:

On October 28, 2023, UMG, Concord and ABKCO sued artificial intelligence company Anthropic, which was founded in 2021 by researchers who previously worked for Google's OpenAI. Anthropic's AI service, meant to rival that of ChatGPT, is named Claude. UMG and the other companies claimed that despite Anthropic's complete lack of effort to license any song lyrics, Claude would still use them in his responses to questions. In the case filing, the companies claimed that when Claude was asked to provide the lyrics of a song, such as Gloria Gaynor's "I Will Survive," he would respond with the lyrics nearly verbatim. They also claimed that when prompted to do things such as "write a short piece of fiction in the style of Louis Armstrong," Claude would again use copyrighted material (in this case, the lyrics of "What a Wonderful World"), even going as far as to say that Anthropic prompted Claude to help users create derivative works illegally. When referencing what American courts have done in the past to decide copyright cases, what can be said about this use of written musical content?

Many copyright cases end early at an important question, "is this even copyrightable?" Artists such as Led Zeppelin and the aforementioned Ed Sheeran have not only fought cases with this pressing matter, but they've achieved decisions in their favor. However, what differs from this case and theirs is the fact that they were accused of stealing production/backing elements, and not lyrics. When considering this, it can be said that this work is indeed copyrightable. The next question, then, is to ask whether or not the use of this copyrighted work was fair. There are predetermined elements that prove whether or not the use of copyrighted material falls under fair use. These elements, or guidelines, are as follows:

- The purpose of the work is educational, criticism, commentary, or parody.
- The nature of the work is for private consumption or public interest, such as in journalistic nature.
- The amount of work copied is not excessive.
- The infringement does not impact the market value of the original work or replace the original work in the market.

When looking at these possible defenses that Anthropic could use to justify fair use, not all are applicable, but arguments could be made. For instance, providing the lyrics to a song when prompted to do so could be for educational purposes, and having Claude provide these song lyrics – something that even UMG claims can be easily and freely accessed on the internet – does not impact the market value of the original work. However, a problem arises when considering UMG's claim that Anthropic is helping users create derivative works, as aside from market impact, not many defenses can be used to claim fair use. However, one of Anthropic's claimed defenses against UMG falls completely outside of the realm of fair use, and arguably, traditional copyright law altogether. The question of the matter is, when Claude uses song lyrics upon user demand, is Anthropic even liable, or does liability fall upon the user?

The answer to this question may already be laid out in a section of the Communications Decency Act of 1996. Though this act was passed with the intention of limiting pornographic content on the internet, Section 230 of the act laid important groundwork for companies who provided internet services or platforms. It is the reason why websites such as YouTube cannot be held liable whenever a user of their platform does something that violates the law – Section 230 determines that the liability in this scenario would instead be placed upon the user at hand. Anthropic uses this to base a claim that all copyright infringement that UMG and the other companies are alleging is at the fault of nobody but themselves, who inputted the prompts that caused Claude to answer with copyrighted content. However, this defense also brings forth even more questions, the most important being whether or not Claude is a service or platform, and unfortunately, that question has an abundance of nuance and uncertainty, and may have to be solved during the duration of this case.

As of now, the case remains undecided. One thing, though, is for sure; the ruling will provide context to many unanswered questions about artificial intelligence in the copyright conversation. Observers of this case are indeed witnessing history as not only the American court system, but humanity begins its long journey in navigating the complex topic of the role AI has in society, and what can be done with it legally. Until the decision of this case, and probably several others, it is a query that remains new, complicated, and completely unsolved.

SOURCES:

[Anthropic trained its AI to rip off copyrighted lyrics, music publishers allege in escalating court battle - Music Business Worldwide](#)

[Universal Music sues Anthropic over AI-generated lyrics \(ft.com\)](#)

[47 U.S. Code § 230 - Protection for private blocking and screening of offensive material | U.S. Code | US Law | LII / Legal Information Institute \(cornell.edu\)](#)