Reform of Copyright Infringement in Light of Generative AI

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Contents

Background

1. Since the launch of ChatGPT in November 2022, there have been a slew of copyright infringement proceedings brought in courts around the world—from China to the United States—in which it has been alleged that a generative artificial intelligence (**AI**) model was involved in copyright infringement. (Indeed, there has been so much litigation that a specialist blog has been created to track it all.[2])

2. No such claim has been brought before the High Court of Singapore yet. So, the question is what type of infringement claims might be brought in Singapore, the issues such claims might give rise to under Singapore law and whether there is any deficiency in Singapore copyright law that may require reform.

3. In September 2025, the Singapore Academy of Law held a roundtable under the Chatham House Rule to discuss these questions and others. The roundtable was attended by a range of stakeholders, including rightsholders and developers from both local and international organisations, as well as individuals involved in the creative industry.[3]

4. In the report that follows, assisted by comments made at the roundtable, we seek to answer those questions.

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2 See *Chat GPT Is Eating the World*.

3 Refer to the Acknowledgement Page for a fuller list of roundtable participants. Note that some participants prefer to remain anonymous.

Summary of recommendation

5. Based on the analysis that follows, we do not recommend any reform of the laws regarding copyright infringement in Singapore considering the advent of generative AI. This is because, among others, there does not appear to be any indication of deficiency in the existing legal framework and to the extent any uncertainty exists, such issues are fact-specific and better dealt with by the courts.

Background to copyright infringement

6. Before attempting to address the ways in which infringement issues arise in respect of generative AI models (see "Generative AI and copyright infringement" below), it may be helpful to start with a summary of copyright infringement.

7. For the purposes of this report, we will confine the discussion to infringement of copyright in "authorial works", as these types of material are common types of outputs from generative AI models. "Authorial works" comprise literary, dramatic, musical and artistic works.[4]

Exclusive rights of a rightsholder of an authorial work

8. In respect of works, the following rights are two of the primary, and for the purposes of this report, the most relevant, exclusive rights of a rightsholder in an authorial work:

   a. making a copy of the work;[5] and

   b. communicating a work to the public.[6]

Copy of an authorial work

9. A "copy" of an authorial work is as follows:[7]

> **41. What is a copy of an authorial work**
>
> (1) A "copy" of an authorial work is a reproduction of the work in any material form.
>
> (2) Without limiting subsection (1), an authorial work is reproduced in a material form if —
>
> (*a*) it is stored —
>
> (i) in a computer;
>
> (ii) on any medium by electronic means; or
>
> (ii) on any other medium from which the work, or a substantial part thereof, can be directly reproduced;
>
> (*b*) it is reproduced in the form of a film;
>
> (*c*) in the case of a literary, dramatic or musical work — it is reproduced in the form of a sound recording;
>
> (*d*) in the case of an artistic work in a 2-dimensional form — a version of the work in a 3-dimensional form is produced;

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4 Copyright Act 2021, section 9.

5 Copyright Act 2021, section 112(a) (in respect of literary, dramatic and musical works) and section 113(a) (in relation to artistic works).

6 Copyright Act 112(1)(d) (in relation to literary, dramatic and musical works) and 113(c) (in relation to artistic works).

7 Copyright Act 2021, section 41.

> (*e*) in the case of an artistic work in a 3-dimensional form — a version of the work in a 2-dimensional form is produced; or
>
> (*f*) it is converted into or from a digital or other electronic machine-readable form (whether from or into a copy in the form of a film or sound recording, or otherwise).
>
> (3) To avoid doubt, this section applies in relation to an adaptation of a literary, dramatic or musical work as it applies in relation to an authorial work.

10. A copy of a substantial part of a work is to be treated as a copy of the work.[8]

11. Making a copy of a work that is temporary or is incidental to some other use of the work is to be treated as making a copy of the work.[9]

Communicating an authorial work to the public

12. "Communicate", in relation to a work, is defined as follows:[10]

> **61. What does communicate mean**
>
> (1) "Communicate", in relation to a work or performance, means to transmit the work or performance by electronic means, and includes —
>
> (*a*) broadcasting the work or performance;
>
> (*b*) the inclusion of the work or performance in a cable programme; and
>
> (*c*) making the work or performance available (on a network or otherwise) in a way that it may be accessed by any person on demand.
>
> (2) For the purposes of subsection (1), it does not matter —
>
> (*a*) whether the transmission is over a path or a combination of paths;
>
> (b) whether the path or paths are provided by a material substance or by wireless means or otherwise; and
>
> (c) whether the work or performance is sent in response to a request.
>
> (3) "Communication" has a corresponding meaning.

13. As to the meaning of "on demand" in section 61(1)(c), a person may access a thing "on demand" if the person may access the thing from a place and at a time chosen by the person.[11]

14. The maker of a communication in relation to an authorial work is the person responsible for deciding the content of the communication when the communication is made.[12]

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8 Copyright Act 2021, section 49.

9 Copyright Act 2021, section 50(1).

10 Copyright Act 2021, section 61

11 Copyright Act 2021, section 62.

12 Copyright Act 2021, section 63.

Primary copyright infringement

15. Copyright is infringed if a person does in Singapore any act comprised in the copyright and the person neither owns the copyright nor has the licence of the copyright owner.[13]

Infringement by copying the work

16. As noted above ("Exclusive rights of a rightsholder of an authorial work"), making a copy of a work is one of the exclusive rights in an authorial work.

17. The infringing copy need not be a replica for infringement to be established. Rather, what is required is that what has been copied is a substantial part of the work.[14]

18. What is "substantial" is a question of "fact and degree"[15] which is determined qualitatively rather than quantitatively.[16]

19. Moreover, the requisite substantial copying must be of the part of the work that attracts copyright protection.[17]

20. An inference of copying can be established if (a) there is "substantial similarity" between the alleged infringing work and the existing work; and (b) the infringer had access to the claimant's work.[18]

21. That inference can be rebutted by the alleged infringer with evidence to the contrary. Namely, the claimant copied from the alleged infringer, both the claimant and the alleged infringer copied from a common source, or both created their works independently.[19]

Infringement by communicating the work to the public

22. As noted above ("Exclusive rights of a rightsholder of an authorial work"), communicating a work to the public is one of the exclusive rights in an authorial work.[20]

23. The phrase "the public" is not defined in the Copyright Act 2021 (**Act**), but "ordinarily, that word connotes all members of the community or a section of the public".[21] However, this does not mean that there is no infringement unless the communication occurs to the public "at large".[22]

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13 Copyright Act 2021, section 146(1).

14 *Flamelite (S) Pte Ltd v Lam Heng Chung* [2001] 3 SLR(R) 610; [2001] SGCA 75 at [35].

15 *Flamelite (S) Pte Ltd v Lam Heng Chung* [2001] 3 SLR(R) 610; [2001] SGCA 75 at [36], quoting *Ladbroke (Football) v William Hill (Football)* [1964] 1 WLR 273 at 283.

16 *Flamelite (S) Pte Ltd v Lam Heng Chung* [2001] 3 SLR(R) 610; [2001] SGCA 75 at [37], quoting *Ladbroke (Football) v William Hill (Football)* [1964] 1 WLR 273 at 293.

17 *Global Yellow Pages Ltd v Promedia Directories Pte Ltd* [2016] 2 SLR 165; [2016] SGHC 9 at [123].

18 *Flamelite (S) Pte Ltd v Lam Heng Chung* [2001] 3 SLR(R) 610; [2001] SGCA 75 at [36] at [27]-[28].

19 *Creative Technology Ltd v Aztech Systems Pte Ltd* [1996] 3 SLR(R) 673; [1996] SGCA 71 at [60].

20 Copyright Act, section 112(1)(d) (in relation to literary, dramatic and musical works) and section 113(c) (in relation to artistic works).

21 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [24].

22 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [24], quoting Kevin Garnett, Gillian Davies and Gwilym Harbottle*, Copinger and Skone James on Copyright* (Sweet & Maxwell, 15th Ed, 2005) at para 7-118.

Authorising infringement

24. Copyright is infringed if a person authorises the doing in Singapore of any act comprised in the copyright and the person neither owns the copyright nor has the licence of the copyright owner.[23]

25. The Court of Appeal of Singapore explained the meaning of "authorises" as follows:[24]

> … authorisation can only come from someone having or purporting to have authority and … an act is not authorised by somebody who merely enables or possibly assists or even encourages another to do that act, but does not purport to have any authority which he can grant to justify the doing of the act.

26. In *RecordTV v MediaCorp TV*,[25] the Court of Appeal of Singapore set out four "authorisation liability factors" that a court should evaluate in the context of the factual matrix of each case:[26]

> (a) whether the alleged authoriser had control over the means by which copyright infringement was committed and, hence, a power to prevent such infringement ("the first authorisation liability factor");
>
> (b) the nature of the relationship (if any) between the alleged authoriser and the actual infringer ("the second authorisation liability factor");
>
> (c) whether the alleged authoriser took reasonable steps to prevent or avoid copyright infringement ("the third authorisation liability factor"); and
>
> (d) whether the alleged authoriser had actual or constructive knowledge of the occurrence of copyright infringement and/or the likelihood of such infringement occurring ("the fourth authorisation liability factor").

Infringement involving commercial dealings

Infringement by importation for commercial dealing

27. It is a (secondary) infringement of copyright if a person imports an "article" in certain circumstances, as set out below.[27]

> **147. Infringement by importation for commercial dealing, etc.**
>
> (1) Subject to the provisions of this Act, copyright in a work is infringed if —
>
> (*a*) a person imports an article for the purpose of —
>
> (i) commercial dealing; or

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23 Copyright Act 2021, section 146(1).

24 *Ong Seow Pheng v Lotus Development Corp* [1997] 2 SLR(R) 113; [1997] SGCA 23 at [28] (per L P Thean JA), quoting *CBS Inc v Ames Records & Tapes Ltd* [1982] Ch 91 at 106 (per Whitford J). We observe that this formulation has been criticised: see Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at paras 14–15.

25 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [50].

26 We observe that this formulation has also been criticised: see Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at paras 31–32.

27 Copyright Act 2021, section 147.

(ii) distributing the article to an extent that will prejudicially affect the copyright owner;

(*b*) the article is imported without the licence of the copyright owner; and

(*c*) the person knows or ought reasonably to know that the article was made without the consent of the copyright owner.

(2) For the purposes of subsection (1), it does not matter whether the article is made before, on or after 21 November 2021.

(3) This section does not limit section 146.

28. The noun "article" is defined inclusively as "a copy, in electronic form, of a work".[28]

29. "Commercial dealing" is as follows:[29]

73. What is a commercial dealing in a thing

(1) A person deals commercially in a thing if the person —

(*a*) sells the thing;

(*b*) lets the thing for hire;

(*c*) by way of trade, offers or exposes the thing for sale or hire;

(*d*) distributes the thing for the purpose of trade; or

(*e*) by way of trade, exhibits the thing in public.

(2) "Commercial dealing" has a corresponding meaning.

(3) In this section, "thing" includes an article.

Infringement by commercial dealing

30. It is also a (secondary) infringement of copyright if a person, without the license of the copyright owner, deals commercially in an "article" and that person knows (or ought reasonably to know) that (a) the making of the article in Singapore infringed copyright; or (b) the article, if imported, was made without the consent of the copyright owner.[30]

148. Infringement by commercial dealing, etc.

(1) Subject to the provisions of this Act, copyright in a work is infringed if —

(*a*) a person does any of the following acts in Singapore:

(i) deals commercially in an article; or

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28 Copyright Act 2021, section 7(1), definition of "article".

29 Copyright Act 2021, section 73.

30 Copyright Act 2021, section 148.

(ii) distributes an article to an extent that will prejudicially affect the copyright owner;

(*b*) the act is done without the licence of the copyright owner; and

(*c*) the person knows or ought reasonably to know that —

(i) if the article is made in Singapore — the making of the article infringed the copyright; and

(ii) if the article is imported — the article was made without the consent of the copyright owner.

(2) For the purposes of subsection (1) —

(*a*) it does not matter whether the article is made before, on or after 21 November 2021; and

(*b*) an article made before 21 November 2021 is to be treated as having been made in infringement of copyright if it was made in infringement of copyright under the 1911 Act or the 1987 Act, as the case may be.

(3) This section does not limit section 146.

31. The terms “article” and “deals commercially” are defined terms, as explained above.

Generative AI and copyright infringement

32. There are various ways in which infringement claims involving generative AI may be framed. Below we examine the following claims that have been raised in proceedings around the world:

    a. that the inputs into the development of the model are infringing;

    b. that the outputs of a generative AI model are infringing;

    c. that the weights of a generative AI model are infringing; and

    d. that dealings with a generative AI model are infringing.

Infringing inputs (aka model "training" claim)

33. One of the most common types of infringement claims is that the preparatory steps in developing a generative AI model involve copyright infringement. Namely, the copying of works (typically through automated web scraping) to be used as inputs for training a generative AI model is an infringement of the exclusive right of reproduction in those copied works.

34. Under Singapore law, web scraping of publicly available works is a *per se* infringement of the copyright in those works. However, copying of a work (or a recording of a protected performance) is not infringing (rather it is a "permitted use") if it is done for the purpose of "computational data analysis".[31]

35. While there is no judicial consideration of the issue yet, copying of authorial works for the purpose of training a generative AI model would appear to be a form of computational data analysis and thus not infringing of the copyright in the authorial works so copied.[32]

36. The United States does not have a permitted use analogous to Singapore's so-called "computational data analysis exception". Instead, model developers have relied (and successfully so) on the defence of "fair use".[33]

37. Fair use is also a permitted use under Singapore law.[34] However, in the context of a model training claim, it is more likely that a model developer would rely on the computational data analysis exception over a defence of fair use (particularly as the model developer does not have to lead evidence about the effect of the permitted use upon the potential market for, or value of, the work(s) copied).

38. In light of the above, we do not further consider this type of infringement claim.

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31 Copyright Act 2021, Part 5 ("Permitted uses of copyright works and protected performances"), Division 8 ("Computational data analysis").

32 See *Reform of the Computational Data Analysis Exception* (Singapore Academy of Law, 2025).

33 See, for example, *Bartz v Anthropic PBC*, 3:24-cv-05417, (N.D. Cal. Jun 23, 2025) ECF No. 231 (pdf) and *Kadrey v Meta Platforms, Inc.*, 3:23-cv-03417, (N.D. Cal. Jun 25, 2025) ECF No. 598 (pdf).

34 Copyright Act 2021, Part 5 ("Permitted uses of copyright works and protected performances"), Division 2 ("Fair use").

Infringing outputs

39. This is a claim that the generative AI model reproduces substantial portions of the works upon which the model was trained and thus the developer of the model has infringed the exclusive right of reproduction of those works.

40. We observe that substantive hearings of claims regarding infringing outputs are rare in the common law world thus far. Such claims are either not made, with alternative infringement claims being pursued;[35] made but abandoned before trial;[36] or made, proceed to a hearing and fail on the evidence.[37]

41. This outcome appears to not be a function of any deficiency in the law but the absence of factual evidence—in particular, the effect of technical measures imposed by the model developers (either before the proceedings were filed, or before trial) that prevented the model from producing infringing outputs.[38]

42. For example, in the claim brought against Meta Platforms in the United States District Court for the Northern District of California by 13 authors in relation to Meta Platform's LLaMA large language models,[39] experts for both sides could not get the LLaMA models to generate more than 50 tokens from the claimants' books. This was a result of post-training "mitigations" implemented by Meta Platforms that prevented the LLaMA models from "memorising" and outputting the data on which the models had been trained.[40]

43. In its claim against Stability AI in the High Court of Justice of England and Wales,[41] Getty Images (US) (and others) made claims in relation to infringing outputs by Stability AI's deep learning AI model, Stable Diffusion.[42] Those claims were subsequently abandoned before trial, apparently as a result of technical measures imposed by Stability AI which meant that the relief sought by the claimants had been achieved.[43]

    (Proceedings where infringing output claims have proceeded to trial, and been successful, have occurred in the civil law world. Namely, China[44] and Germany.[45] Although, we observe that this does not appear to have anything to do with the different legal system. Rather, the factual evidence in these cases showed the relevant models reproduced substantial portions of the works upon which those models had been trained.)

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35 See, for example, *Bartz v Anthropic PBC*, 3:24-cv-05417, (N.D. Cal. Jun 23, 2025) ECF No. 231 (pdf), pp 11–12.

36 See, for example, *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [9].

37 See, for example, *Kadrey v Meta Platforms, Inc.*, 3:23-cv-03417, (N.D. Cal. Jun 25, 2025) ECF No. 598 (pdf) at pp.12–13.

38 See, for example, *Kadrey v Meta Platforms, Inc.*, 3:23-cv-03417, (N.D. Cal. Jun 25, 2025) ECF No. 598 (pdf) at pp.12–13; and *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [9].

39 *Kadrey v Meta Platforms, Inc.*, 3:23-cv-03417, (N.D. Cal. Jun 25, 2025) ECF No. 598 (pdf).

40 *Kadrey v Meta Platforms, Inc.*, 3:23-cv-03417, (N.D. Cal. Jun 25, 2025) ECF No. 598 (pdf) at pp.12–13.

41 *Getty Images (US) & Ors v Stability AI,* Case No: IL-2023-00000 (Intellectual Property List (Ch D), Business and Property Courts of England and Wales, High Court of Justice of England and Wales, UK).

42 *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [96]–[98].

43 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [9].

44 (2024) Yue 0192 Min Chu No. 113 (Guangzhou Internet Court, 8 February 2024).

45 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025).

44. In each of the above proceedings, the claim has been brought against the developer/deployer of the model. One can envisage a circumstance where a claim is made that the *prompter* has engaged in primary copyright infringement.

45. For the rightsholder to bring such a claim, it would need evidence of the infringing output. This may occur where the prompter communicates the infringing output to the public (e.g., by posting the output on social media) and, in that case, the rightsholder may also have a claim against the prompter for infringing the exclusive right to communicate the copied work to the public.

46. We imagine that in such circumstances the rightsholder will have to rely on an inference of copying established by evidence of (a) substantial similarity between the existing work and the allegedly infringing output; and (b) access by the prompter to the rightsholder's work.

47. Such a case may be at the other end of the spectrum to the facts in *GEMA v OpenAI*.[46] That is, where in *GEMA v OpenAI* "very simple" prompts generated substantial reproductions of the authors' lyrics, the scenario envisaged here is one where the output could only be generated via complex or numerous prompts (or a combination of both), thereby laying liability at the feet of the prompter rather than the model developer/deployer.

48. In respect of the exclusive right to communicate an authorial work to the public, it is difficult to see this right being infringed in circumstances where the model produces an output that infringes the exclusive right of reproduction. This is because that communication is only to the user of the model.

49. In *Getty Images (US) & Ors v Stability AI*, the claimants claimed that Stability AI had infringed the claimant's right to communicate their works to a "new" public (in the form of users of Stability AI) who were not members of the public that the claimants originally intended to have access to its works.[47] This claim was, however, abandoned before trial.

Model weights as an infringing reproduction

50. In several proceedings, it has been claimed that, as a result of the model training process, the weights of the model include or comprise the claimant's works and thus the weights *per se* are an infringing reproduction of the claimant's works. This argument has also been propounded by the US Copyright Office and academics.[48]

51. The US Copyright Office explains the argument as follows:[49]

> … the training process—providing training examples, measuring the model's performance against expected outputs, and iteratively updating weights to improve performance—may result in model weights that contain copies of works in the training data. If so, then subsequent copying of the model weights, even by parties not involved in the training process, could also constitute prima facie infringement.

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46 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025).

47 *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [112].

48 See, for example, Nicola Lucchi, *Generative AI and Copyright: Training, Creation and Regulation* (European Parliament, Policy Department for Justice, Civil Liberties and Institutional Affairs, Study PE 774.095, July 2025) (pdf) pp. 31 and 52 and the references to "internalising" the expressive features of works. In addition, see *Andersen v. Stability AI Ltd.*, No. 3:23-cv-00201 (N.D. Cal. 12 August 2024) ECF No. 223 (pdf) at pp. 16 (lines 6–14).

49 *Copyright and Artificial Intelligence Part 3: Generative AI Training* (Register of Copyrights, US Copyright Office; Pre-Publication Version, May 2025) (pdf), pp. 28–29.

> … the extent to which models memorize training examples is disputed. When, however, a specific model can generate verbatim or substantially similar copies of a training example, without that expression being provided externally in the form of a prompt or other input, it must exist in some form in the model's weights. When a model takes the prompt "Ann Graham Lotz" and outputs an image that is nearly identical to a portrait found in the training data, the expression in that image clearly comes from the model. As A. Feder Cooper and James Grimmelmann put it, "a model is not a magical portal that pulls fresh information from some parallel universe into our own."
>
> In such instances, there is a strong argument that copying the model's weights implicates the right of reproduction for the memorized examples. Like other digital files that encode or compress content using mathematical representations, the content need not be directly perceivable to constitute a copy. The relevant question is whether the work is "fixed" and "can be perceived, reproduced, or otherwise communicated . . . with the aid of a machine or device." Since model weights are lists of numbers that do not change (barring further training), they are fixed, and because memorized works can be generated and displayed using software, those works can be perceived or reproduced with the aid of a machine.

52. Courts around the world have encountered and determined such a claim at different stages. In *Bartz v Anthropic,*[50] the court proceeded on the assumption that the claim was true but determined the dispute on other grounds. In *Kadrey v Meta Platforms*,[51] the court dismissed the claim at an interlocutory stage, describing it as being "nonsensical". The claim has also been made in *Andersen v Stability AI*,[52] but that proceeding is yet to proceed to hearing.

53. There are two cases, however, where the claim has been determined at a substantial hearing on the merits: the High Court of Justice of England and Wales' decision in *Getty Images (US) & Ors v Stability AI (Rev 1)*[53] and the 42nd Civil Chamber of the Munich I Regional Court's decision in *GEMA v OpenAI*.[54] The courts in each case reached different conclusions, with the court in *Getty Images (US) & Ors v Stability AI*[55] concluding that Stable Diffusion's model weights "are not themselves an infringing copy and they do not store an infringing copy" and the court in *GEMA v OpenAI*[56] concluding that the works were reproduced in OpenAI's GPT-4 and GPT-4o models.

GEMA v OpenAI

54. In *GEMA v OpenAI,* the plaintiff collecting society claimed (among others) that OpenAI had infringed the exclusive right of reproduction in lyrics of several German authors whom the society represented because the lyrics had been "memorised" into the parameters of OpenAI's GPT-4 and GPT-4o models.

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50 See, for example, *Bartz v Anthropic PBC*, 3:24-cv-05417, (N.D. Cal. Jun 23, 2025) ECF No. 231 (pdf), pp. 7 (lines 3–8) and 11 (lines 21–24).

51 *Kadrey v. Meta Platforms, Inc.*, 3:23-cv-03417, (N.D. Cal. Nov 20, 2023) ECF No. 56 (pdf), p. 1.

52 *Andersen v. Stability AI Ltd.*, No. 3:23-cv-00201 (N.D. Cal. 12 August 2024) ECF No. 223 (pdf), pp.16–18 regarding the "Model Theory".

53 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025).

54 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025).

55 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [600].

56 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [168].

55. The court noted it was known from information technology research that training data can be contained in models and extracted as outputs, a process known as "memorisation".[57]

56. Memorisation of training data could be demonstrated, the court held, by comparing the training data (OpenAI had admitted that the relevant works were part of the models' training sets[58]) with the outputs of the model, produced by "very simple prompts".[59] The evidence showed that substantial portions of the relevant works could be produced in response to prompts such as "*What are the lyrics to [song title]?*" and "*What is the chorus of [song title]?*"[60]

57. The court accepted that a user's prompts give rise to the outputs, but did not agree that the infringing outputs were caused by the user's prompts because of the very simple nature of the prompts used by the claimant to demonstrate the claimed memorisation of the relevant works.[61] In addition, the court held that the infringing outputs could not be explained as a matter of chance given the complexity and length of the lyrics.[62]

58. As a result, the court concluded that the song lyrics had been memorised into the models and this constituted reproduction of those song lyrics under the Germany Copyright Act.

Getty Images (US) & Ors v Stability AI Ltd (Rev1)

59. In *Getty Images (US) & Ors v Stability AI*, the claimants did not claim that weights of Stability AI's Stable Diffusion model included or comprised a reproduction of any of the claimants' works.[63] Rather, the claimants' case was that the making of the model weights constituted secondary infringement of the copyright in their works under sections 22 ("Secondary infringement: importing infringing copy") and 23 ("Secondary infringement: possessing or dealing with infringing copy") of the United Kingdom's Copyright, Designs and Patents Act 1988 (**CDPA**).

    (The equivalent provisions of Singapore's Act are sections 147 ("Infringement by importation for commercial dealing, etc.") and 148 ("Infringement by commercial dealing, etc.") respectively.)

60. The court said that the determination of these claims ultimately turned on the following question: "is an AI model which derives or results from a training process involving the exposure of model weights to infringing copies itself an infringing copy?"[64] The court held that the answer was "no".[65]

61. The court explained:[66]

> … While it is true that the model weights are altered during training by exposure to Copyright Works, by the end of that process the Model itself does not store

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57 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [169].

58 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [172].

59 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [172].

60 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [172].

61 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [173].

62 *GEMA v OpenAI.,* Case No. O 14139/24 (Regional Court of Munich I, 11 November 2025) at [175].

63 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [559].

64 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [559].

65 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [599].

66 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [600].

> any of those Copyright Works; the model weights are not themselves an infringing copy and they do not store an infringing copy. They are purely the product of the patterns and features which they have learnt over time during the training process. … in its final iteration Stable Diffusion does not store or reproduce any Copyright Works and nor has it ever done so. … The model weights for each version of Stable Diffusion in their final iteration have never contained or stored an infringing copy.

62. In understanding the court's reasoning above, one should keep in mind (as noted above) that the claimants did *not* claim that model weights of Stable Diffusion included or comprised a reproduction of their works. As the court emphasised:[67]

> … it is important to be absolutely clear that Getty Images do not assert that the various versions of Stable Diffusion (or more accurately, the relevant model weights) include or comprise a reproduction of any Copyright Work and nor do they suggest that any particular Copyright Work has been prioritised in the training of the Model. There is no evidence of any Copyright Work having been "memorized" by the Model by reason of the Model having been over-exposed to that work and no evidence of any image having been derived from a Copyright Work.

63. However, we observe that the experts in the proceeding did give evidence that went to the question of "whether Stable Diffusion *is capable of* being an infringing copy"[68] (which may explain why the claimants did not claim that the model weights included or comprised reproductions of their works).

64. Stability AI's expert gave the following unchallenged evidence (emphasis added):[69]

> 8.36 …in order for a diffusion model to successfully generate new images, that model must learn patterns in the existing training data so that it can generate entirely new content without reference to that training data.
>
> 8.37 *Rather than storing their training data, diffusion models learn the statistics of patterns which are associated with certain concepts found in the text labels applied to their training data*, i.e. they learn a probability distribution associated with certain concepts. This process of learning the statistics of the data is a desired characteristic of the model and allows the model to generate new images by sampling from the distribution.
>
> . . .
>
> 8.40 … *For models such as Stable Diffusion, trained on very large datasets, it is simply not possible for the models to encode and store their training data as a formula…. It is impossible to store all training images in the weights*. This can be seen by way of a simple (example) calculation. As I explained in paragraph 6.28 above, the LAION-5B dataset is around 220TB when downloaded. In contrast, the model weights for Stable

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67 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [559].

68 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [553] (emphasis added).

69 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [554].

> Diffusion 1.1-1.4 can be downloaded as a 3.44GB binary file. *The model weights are therefore around five orders of magnitude smaller than a dataset which was used in training those weights*.

65. The court noted that this evidence was consistent with a joint statement by the parties' respective experts that "the model weights do not directly store the pixel values associated with billions of training images".[70]

66. In light of the above expert evidence, it appears that statements about the "memorisation" of training data[71] do not necessarily equate to "storage" (in a legal sense) of the training data in the weights but the "overfitting" of statistical patterns associated with certain concepts from the training data.

    (The High Court of Justice of England and Wales has granted the claimants leave to appeal its decision. However, it does not appear that the claimants are appealing the court's determination that the weights of Stable Diffusion were not *per se* an infringing copy, and did not store an infringing copy, of the claimants' works. This may be because, as noted above, the claimants did not claim or lead evidence that the weights of Stable Diffusion were, or contained, an infringing copy of their works and, as such, an appeal of the court's determination of this issue is not available to the claimants.[72])

Observations

67. Our observations of the two decisions and the claim more generally are as follows:

68. *First*, we do not think that a general view can be expressed about whether model weights (whether of diffusion models like in *Getty Images (US) & Ors v Stability AI* or transformer-based models like in *GEMA v OpenAI*) can or do reproduce the works to which those weights have been (over) exposed through the training process. While the definition of a "copy" of an authorial work is a legal question, the answer is inextricably tied to issues of fact that may be, and often are, disputed.

69. *Second*, given that the question involves issues of fact, there are obvious dangers in taking judicial notice of academic works on the question,[73] or drawing inferences about the weights based on a model's outputs. Rather, the question should be determined with the aid of expert evidence.

70. *Third*, the use of anthropomorphic language like "memorisation"—while a temptingly convenient label—confuses the question to be determined by the court rather than clarifies it. Ideally such language should be avoided in favour of language that is more specific and concrete, if possible. For example, the question is not whether a model has "memorised" the works upon which it has been trained but whether the works have been "reproduce[ed] … in any material form".

71. *Fourth,* in light of the expert evidence in *Getty Images (US) & Ors v Stability AI*, we query whether it is accurate to say that there are situations where the model weights: (a) do not

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70 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [555].

71 See, for example, *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [558].

72 Richard Barker, "High Court Grants Getty Permission to Appeal Copyright Aspects of Gen AI Claim", *Slaughter and May*, 19 December 2025.

73 In this regard, we refer to the comments by the United States District Court for the Northern District of California in *Anderson v Stability AI* that a court should "not take judicial notice of the full contents of the academic articles to resolve disputes of fact, or the legal implications from undisputed facts": *Andersen v. Stability AI Ltd.*, No. 3:23-cv-00201 (N.D. Cal. 12 August 2024) ECF No. 223 (pdf), p.16 (lines 6–14).

store (or are not capable of storing) (in whole or in part) *reproductions* of the works to which the weights had been exposed, but simultaneously (b) do *produce* (or are capable of *producing*) *reproductions* of the works (in whole or in part) to which the weights had been (over) exposed during training.

72. If accurate, the model weights, in such a situation, would appear not to be (in whole or in part) *per se* an infringing reproduction. Rather, while the model weights can produce infringing reproductions, no infringement of the exclusive right of reproduction occurs until an infringing output is produced. (And, as noted above, technical measures may be available to prevent models from reproducing infringing outputs.) We query if this articulation of the issue, if correct, may be of assistance to parties and the court should a similar dispute come before the High Court of Singapore.

73. *Fifth*, as to the meaning of a "copy" of an authorial work,[74] *storage* is one type of "reproduction".[75] In respect of the different forms of storage, we observe that the text of the provision uses different prepositions ("*on*" vs "*in*"). One may argue that the use of the preposition "on" implies that the medium must be a physical or digital *storage device* and thus storage of a work in the model weights is not a reproduction of that work.

74. However, an overly technical approach to interpreting the words may not be desirable. Much may depend on the level of abstraction at which one assesses the question. For example, information and data may be stored "*in* a computer" *in* RAM that, in turn, is stored *on physical* modules that plug into the computer's motherboard. Similarly, information and data may be stored *in* the cloud *on* servers and other infrastructure. Moreover, the forms of storage are expressly not intended to limit the meaning of a "copy" of an authorial work as "a reproduction of the work in any material form".

75. *Sixth*, the cases discussed above are articulated with respect to the work, apparently as a whole. However, as discussed above (see "Infringement by copying"), copying does not require verbatim replication but must be of the part of the work that attracts copyright protection. So, a more accurate question is whether the weights store the protected *expressive elements* of the works to which the model weights have been exposed.

76. *Seventh*, we note that "Overfitting is an undesired feature in machine learning, which engineers try to avoid."[76] This suggests that there are practical incentives within model development that may reduce the likelihood of such claims arising.

77. *Eighth,* as noted above ("Infringing inputs (aka model 'training' claim)"), copying of a work for the purpose of computational data analysis is a permitted use under the Act.[77] Using a work "as an example of a type of information or data to improve the functioning of a computer program in relation to that type of information or data" is an express form of computational data analysis.[78] Further, making a copy for the purpose of computational data analysis expressly "includes a reference to storing or retaining the copy".[79] The purpose of model training is for the model to "learn patterns in the existing training data so that it can generate entirely new content without reference to that training data".[80] So, one might argue that

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74 Copyright Act 2021, section 41.

75 Copyright Act 2021, section 41(2)(a).

76 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [558].

77 Copyright Act 2021, section 244.

78 Copyright Act 2021, section 243(b).

79 Copyright Act 2021, section 244(3).

80 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [554].

storage of works in the weights, if it occurs, is nevertheless a permitted use under Singapore law.[81]

Authorising infringement[82]

78. As noted above, copyright is infringed if a person authorises the doing in Singapore of any act comprised in the copyright and the person neither owns the copyright nor has the licence of the copyright owner.[83]

79. One imagines that the claim will often be framed as a claim that the deployer of a generative AI model (who will often also be the developer) authorises infringement of the rightsholder's exclusive right of reproduction, particularly where users can upload works for modification by the generative AI model.

80. The alleged infringer may argue that it is *not* "doing anything more than providing a service by making the … platform available – i.e. it is acting merely as an intermediary or host in the sense that there is no active behaviour on its part".[84]

81. For example, in *Getty Images (US) & Ors v Stability AI*,[85] the claimants claimed that Stability AI authorised infringement of the exclusive right of reproduction in the claimants' works when a user uploaded a copy of one of their works to Stability AI's Stable Diffusion service. But the claim was more than a claim that Stability AI was acting as a mere intermediary or host.[86] The claim was that Stable Diffusion "react[s] to, and engag[es] with, the image that is entered by the user, thereby undertaking a process which leads to the generation by the software of output in the form of an [synthetic] image".[87] The court recognised that Stability AI may be able to establish that the user of Stable Diffusion is "doing the interaction" and the service "is really playing an immaterial part".[88] The claimants' claim was ultimately abandoned before

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81 We query whether there is a distinction between (a) storage (as an instance of permitted copying) of one or more works in the weights for the purpose of improving the functioning of the model; and (b) storage of one or more works in the weights as an unintended consequence of a process (i.e., training) to improve the functioning of the model. One can imagine there may be scenarios where such storage may be intended (e.g., for rare or atypical examples in the training set) but, as noted above, "overfitting" of the training set is generally undesirable. In this regard, it would appear that "purpose" in section 244(2) of the Act is to be read objectively rather than subjectively.

82 In the United States, concepts similar to authorising infringement are commonly framed as actions for contributory, vicarious and inducing infringement. The Supreme Court of the United States has delivered two seminal decisions in this area in the context of copyright law, respectively *Sony Corp. of Am. v. Universal City Studios, Inc.,* 464 U.S. 417 (1984) and *Metro-Goldwyn-Mayer Studios INC. et al. v. Crokster, Ltd., et al.* 545 U.S. 913 (2005). A detailed discussion of the positions in US law is beyond the scope of this report, but readers may refer to Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at paras 50–60 for more details. For a more updated account of these two cases, see also Hickey, Kevin J., "Supreme Court to Examine Liability of Internet Service Providers for Their Users' Copyright Infringement", Library of Congress, 25 August 2025.

83 Copyright Act 2021, section 146(1).

84 Argument by Stability AI in *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [104].

85 *Getty Images (US) & Ors v Stability AI,* Case No: IL-2023-00000 (Intellectual Property List (Ch D), Business and Property Courts of England and Wales, High Court of Justice of England and Wales, UK)

86 *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [109].

87 *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [109].

88 *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [110].

trial and so the court did not need to (and thus did not) determine the competing arguments.[89]

82. One can envisage other scenarios, particularly where the user of the service is not uploading copies of works to the service, where it may be easier for the service provider to argue that the user (as prompter) is performing the interactions that are provided by the service and the service is thus no more than an intermediary.

83. Under Singapore law, the meaning of "authorises" in section 146(1)(a) of the Act is not settled or beyond controversy.[90] An analysis of authorisation liability under the Act is beyond the scope of this report. However, we make the following observations regarding the current law in Singapore in the context of providers of generative AI services.

84. *First*, a service provider's control over the "means by which copyright infringement was committed and, hence, a power to prevent such infringement" is a relevant factor (the first authorisation liability factor in *RecordTV v MediaCorp TV*[91]). However, there is an argument that the concept of control is "artificial and illusory".[92] In the circumstances with which we are concerned, the service provider does not control a user's prompts. In addition, exercising "control" over a "generative" AI system also seems to be a contradiction in terms. Moreover, while developers of generative AI can and do employ "mitigations", it seems to be an overly high bar to require that those mitigations must "prevent" infringement, particularly as this appears in conflict with the "reasonable steps" factor discussed below.

85. *Second,* whether a service provider has actual or constructive knowledge of the occurrence of copyright infringement or "the likelihood of such infringement occurring" is a relevant factor (the fourth authorisation liability factor in *RecordTV v MediaCorp TV*[93]). The service provider's intentions or motives in providing the service may also be relevant.[94]

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89 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [9].

90 Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698.

91 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [50].

92 Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at para 26.

93 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [50].

94 *Lotus Development Corp v Ong Seow Pheng* [1996] SGHC 145; [1996] 2 SLR(R) 514 at [29]. See further Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at paras 42–43. See also (2024) Zhe 01 Min Zhong No. 10332 (Hangzhou Intermediate People's Court, 20 December 2024).

Hangzhou Ultraman case

In December 2024, Hangzhou Intermediate People's Court in China's Zhejiang Province upheld[95] the first-instance judgment[96] from the Hangzhou Internet Court which held a generative AI platform provider to be contributorily liable for copyright infringement involving the well-known "Ultraman" characters. This is the first such decision against a generative AI platform in Mainland China.

The plaintiff, an exclusive licensee of Ultraman intellectual property (**IP**) rights in Mainland China, sued the defendant, the generative AI platform provider, for allowing users to upload their own training data to the platform to create customised AI models by using Checkpoint base models and Low-Rank Adaptation (**LoRA**) models. Certain users then created a "customised Ultraman" AI model by, among others, uploading the plaintiff's copyrighted Ultraman pictures to the base model. Other users also generated outputs substantially similar to the Ultraman characters which were then shared on the Internet.

The defendant was found not to be directly liable for copyright infringement because it did not itself supply the infringing training data or directly generate or disseminate the infringing images. However, the defendant was found to be indirectly or contributorily liable because it knew or should have known of the users' infringing activities. Key factors considered by the court included the popularity of the Ultraman IP, *the listing of well-known IP-based LoRA models under separate tabs on the generative AI platform which facilitated infringement by drawing users' attention* (emphasis added), the defendant's profiting from paid services, and the defendant's failure to take effective preventive or filtering measure despite being capable of doing so.

86. *Third*, a relevant factor (in relation the first authorisation liability factor in *RecordTV v MediaCorp TV*[97]) in determining whether a service provider authorises copyright infringement is whether its terms of service include a provision to the effect that users must not use the service to engage in copyright infringement.[98] We observe that such terms are commonly used in respect of generative AI services.[99]

87. *Fourth*, whether a service provider took reasonable steps to prevent or avoid copyright infringement (the third authorisation liability factor in *RecordTV v MediaCorp TV*[100]) is relevant. We observe that it appears that the service provider does not need to take all possible steps, but only "reasonable" ones.[101] The inclusion of terms of service stating that users must not use the service to engage in copyright infringement may be a relevant "reasonable step".[102] Moreover, whether the service provider implemented technical measures to reduce the probability of the generative AI service from regurgitating substantial portions of the works upon which it has been trained may be a relevant factor in this assessment (however, if such

95 (2024) Zhe 01 Min Zhong No. 10332 (Hangzhou Intermediate People's Court, 20 December 2024).

96 (2024) Zhe 0192 Min Chu No. 1587 (Hangzhou Internet Court, 25 September 2024).

97 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [50].

98 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [60].

99 See, for example, OpenAI, "Terms of Use", 11 December 2024 and Anthropic, "Usage Policy", 16 September 2025.

100 *RecordTV Pte Ltd v MediaCorp TV Singapore Pte Ltd and others* [2011] 1 SLR 830; [2010] SGCA 43 at [50].

101 Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at para 80.

102 Saw Cheng Lim and Warren B Chik, "Revisiting Authorisation Liability in Copyright Law" (2012) 24 SAcLJ 698 at para 81.

measures are effective, as they have been in several cases, then the claim of authorising infringement should not arise in the first place).[103]

Commercial dealing claims

88. Infringement by commercial dealing was one of the claims brought against Stability AI in the High Court of Justice of England and Wales. As the court explained:[104]

> 10. … They [the claimants] also maintain a case that, contrary to sections 22 and 23 of the Copyright, Designs and Patents Act 1988 (the "CDPA"), Stability has imported into the UK, otherwise than for private and domestic use, possessed in the course of business, sold or let for hire or offered or exposed for sale or hire, or distributed an article, namely Stable Diffusion, which is and which Stability knew or had reason to believe is an infringing copy of the Copyright Works.
>
> 11. Getty Images do not say that Stable Diffusion is itself a copy of, or that it stores within it any copies of, the Copyright Works. However, pursuant to section 27(3) CDPA, Getty Images contend that Stable Diffusion is an infringing copy under the CDPA because the making of its model weights would have constituted infringement of the Copyright Works had it been carried out in the UK ("the Secondary Infringement Claim").

89. The provisions of Singapore's Act that are equivalent to sections 22 and 23 of the United Kingdom's CDPA are sections 147 ("Infringement by importation for commercial dealing, etc.") and 148 ("Infringement by commercial dealing, etc.") respectively.

90. This claim turned on the meaning of "article" in those sections:[105]

> … [The claim] really stands or falls on one point of law, namely the true interpretation of the word "article" in sections 22, 23 and 27 of the CDPA. In particular, whether sections 22 and 23 CDPA are limited to dealings in "articles" which are tangible things or whether they may also encompass dealings in intangible things (such as making available software on a website).

91. Unlike the CDPA, the word "article" is defined under Singapore's Act. An "article" is defined as "include[ing] a copy, in electronic form, of a work".[106]

    (The court in *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* concluded that an article "is capable of being an electronic copy stored in intangible form".[107])

92. The next question is whether the model weights are "a copy, in electronic form, of a work".

    (The phrase "in electronic form" is defined as "a form usable only by electronic means".[108])

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103 See also Intellectual Property Office of Singapore, "Artificial Intelligence and Copyright Protection in Singapore – How does Singapore Law Treat AI-generated Content that May Infringe Copyright", undated.

104 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [10]–[11].

105 *Getty Images (US) Inc & Ors v Stability AI Ltd* [2023] EWHC 3090 (Ch) (01 December 2023) at [79].

106 Copyright Act 2021, section 7(1), definition of "article".

107 *Getty Images (US) Inc & Ors v Stability AI Ltd (Rev1)* [2025] EWHC 2863 (Ch) (04 November 2025) at [590].

108 Copyright Act 20201, section 7(1), definition of "in electronic form".

93. A “copy” of an *authorial* “work” is “a reproduction of the work in any material form”.[109]

94. So, the question is whether the model weights are a reproduction of the works to which those weights have been exposed. As noted above (See “Observations” to “Model weights as an infringing reproduction”), it is not clear whether model weights are, or comprise, a copy of the works to which the model has been exposed in training.

95. In addition, in respect of section 148(1)(c)(i) of the Act, the making of the model weights may not (as discussed above) infringe copyright because of the computational data analysis exception.

[109] Copyright Act 2021, section 41(1).

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