Munich AI ruling could reshape EU interpretation of copyright

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05 November 2025

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Europe is home to the world's first lawsuit by a collecting society against a generative AI provider.

In November 2024, Germany's leading music rights association, **GEMA, filed a lawsuit against OpenAI**, the tech giant behind ChatGPT, before the Munich Regional Court I.

GEMA claims that OpenAI used protected works without permission or compensation. It is seeking **€600,000 in damages**, which may seem modest compared to OpenAI's multibillion-dollar revenues. The relatively low value results from GEMA asserting only the copyrights and personality rights of a small number of lyricists. **GEMA's main goal** is "to establish a licence model on the market in which the training of the systems, the generation of output and the further use of the output are licensed".

The preliminary opinion reportedly found OpenAI's arguments, claiming lawful AI training and no copyright violations by its AI program, unconvincing. The court is set to issue its final decision on 11 November 2025.

Whatever the outcome is, the decision is likely to be appealed, ultimately reaching the CJEU.

Regardless of the outcome, November's ruling is expected to influence how copyrighted content is handled in all creative sectors across Europe. It could also set boundaries between AI innovation and creative rights.

Reproduction or generation?

Generative AI systems are trained on vast datasets, and their performance depends on how much and how varied that data is. Simply reading and analysing material during training does not necessarily violate copyright, provided that the AI developer had lawful access to the content. However, if the training process involved copying and storing copies of protected works, this may constitute infringement of the reproduction right under Article 2 of the EU Copyright Directive (2001/29/EC).

Likewise, copyright issues could emerge if OpenAI's model recreated exact or nearly exact versions of the protected material it was trained on. Such output could infringe the reproduction right (Article 2) and the right of communication to the public (Article 3) of the EU Copyright Directive.

Such generated outputs would make available protected works, effectively undermining the right of communication to the public, allowing any user to obtain the controverted versions. In that case, infringement can be argued based on Articles 2 and 3 of the EU Copyright Directive. Even if the outputs were not identical, it may still amount to copyright infringement if it reproduces elements reflecting the author's creative choices. This refers to the expression of the author's own intellectual creation as recognised by the CJEU in *Infopaq International A/S v Danske Dagblades Forening* (**Case C-5/08**, para 48), and further clarified in *EvaMaria Painer v Standard VerlagsGmbH and Others* (**Case C-145/10**, para 89).

In the case at hand, GEMA pointed out that ChatGPT reproduced the lyrics of several well-known German songs. Easy prompts asking for the lyrics, chorus and verses allegedly led to ChatGPT delivering the exact text of the song. This occurred, GEMA clarified, despite the **web search function being disabled**.

According to GEMA, this proves that OpenAI's model stores copies of protected works, amounting to unlawful reproduction.

GEMA also claimed that ChatGPT's ability to reproduce song lyrics word-by-word shows that copies of the works must have been stored somewhere within the model's network. From GEMA's perspective, ChatGPT was responsible not only for processing, but also for making unauthorised alterations. This, it believes, constituted a **violation of moral rights** of integrity and attribution under Sections 12-14 of the German Copyright Act.

OpenAI's defence offered a different explanation of what happens inside its AI model. According to the company, **ChatGPT does not store or retrieve lyrics**, but instead predicts

words based on patterns learned during training. From this perspective, training involves analysing rather than copying data.

OpenAI further claimed that this process is covered by the EU text and data mining (TDM) exception under Articles 2 and 3 of the EU Copyright in the Digital Single Market (DSM) Directive (2019/790). It also stated that any infringing outputs are the results of user prompts, not the system's design.

By contrast, GEMA considers it "**highly controversial**" whether AI model training is permissible on this basis alone. Moreover, authors have the option to exercise an opt-out (Article 4(3) of the DSM Directive), allowing them to declare that their works may be used in AI training only under licence. GEMA claims that it has exercised this opt-out on behalf of its members.

To address this gap, GEMA proposes its **own licensing framework for AI developers**. Such a licence includes a two-part system, whereby AI companies would pay 30% of their models' net income and a minimum royalty based on output volume. Furthermore, authors would receive extra compensation for any subsequent use of AI-generated musical content.

The Munich court's preliminary opinion reportedly found **OpenAI's arguments unpersuasive**, suggesting that the company's training and output processes could meet the legal elements of copyright infringement.

Munich: a thoughtful choice

GEMA's choice of forum seems strategic.

European copyright law differs substantially from that of the US. In the US, the fair use doctrine permits reuse of copyrighted material under certain circumstances. On the other hand, the EU law relies on narrowly defined exceptions where authors keep control over their creations.

Munich Regional Court I has developed a strong reputation for expertise in IP disputes. Its 42nd Civil Chamber, established in 2020, is specialised in copyright cases and is widely regarded as one of Europe's most sophisticated IP divisions.

The bigger picture

Beyond the immediate parties, *GEMA v OpenAI* raises broader policy and economic questions. **GEMA's chief legal officer** recently acknowledged they do not know whether copyright laws cover what happens inside large language models.

If the court finds in GEMA's favour, the business case of AI development could change significantly. The global generative **AI market, valued at $3.7 billion in 2023**, is expected to expand rapidly, with the AI music sector alone expected to reach more than $3 billion by 2028. If licensing is required, those projections would likely change.

At the same time, for many artists, the case represents an opportunity to secure fair recognition and compensation. **Surveys** indicate that 71% of music creators worry that AI could make it harder for them to make a living from their work. Some forecasts suggest up to 27% of music creators' income could be at risk by 2028, representing about €2.7 billion in losses for artists in Germany and France alone.

Most AI companies appear to have built their business by training models on protected works available on the internet without obtaining permission or providing compensation.

In the meantime, **most artists seem to agree on three main points**. First, AI companies should disclose their use of protected content for training purposes, which is currently required by the EU AI Act. Second, artists should be consulted before their works are used in AI training. Third, artists should receive fair financial compensation.

The upcoming decision by the Munich Regional Court I comes at a time when **global investment in generative AI reached $33.9 billion in 2024**, showing how central this technology has become. Yet it also highlights the urgent need for a clear legal framework that balances innovation with respect for creative ownership.

Whatever the outcome, *GEMA v OpenAI* will likely shape how European courts interpret copyright in the age of machine learning. It may establish the first binding precedent on whether the internal operations of generative models constitute reproduction or represent a new category of data use requiring its own legal regime.

The views expressed in this article are those of the authors and do not necessarily reflect the views of 4iP Council or Ericsson. The authors wish to express their gratitude to Dr Claudia Tapia for her valuable insights and contributions.

This article was first published on World Trademark Review on 5 November 2025 www.WorldTrademarkReview.com

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