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**Assessing the Impact of Trump AI Policy Framework on Intellectual Property**

by

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**I. Introduction and Summary**

On March 20 the Trump White House released “[A National Policy Framework for Artificial Intelligence](#)” (AI). Protection of intellectual property (IP) rights is one of the pressing AI-related subjects addressed in the document. The Framework provides an overall commendable pro-IP outlook and recommends sensible legislative measures regarding IP rights – but with an important catch. The Trump Framework’s stated view that using copyrighted content without permission as inputs to train AI models is “fair use” misstates the law. However, the Framework rightly concludes that AI-generated outputs that are identical or substantially similar to protected works violate copyright law. And the Administration concedes it is up to the courts to decide whether or when AI services infringe copyrights.

Congress should treat the Framework as a useful catalyst for legislative action to secure Americans’ IP rights. Congress should adopt a uniform federal standard protecting individuals from unauthorized AI-generated replicas and develop legislation that would promote voluntary market-based licensing frameworks for copyrighted works used in AI training. Properly designed, such measures can protect IP rights while enabling economically robust AI markets.

But Congress should stand firm regarding protecting copyrights against infringement, grounding its views in established law rather than the Trump Framework's overly broad views on fair use.

The Framework states that "Congress should consider establishing a federal framework protecting individuals from the unauthorized distribution or commercial use of AI-generated digital replicas of their voice, likeness, or other identifiable attributes." This is a sensible recommendation. Digitally created "Deepfake" songs based on recording artists' voices can unfairly damage the artists' economic livelihoods. And Internet postings of AI-generated "deepfake" explicit images and videos can cause victims severe emotional distress. State law protections against those types of unauthorized digital replicas are uneven and apparently absent entirely in some jurisdictions where the persons harmed do not commercialize their likenesses.

An example of the type of legislation called for in the Framework is the [NO FAKES Act](#). Under the Act, Americans would have a federally-recognized digital replication property right in their personas. The bill would subject to civil liability anyone who knowingly publishes or distributes a digital replica of another person without consent. Consistent with the Framework, the NO FAKES Act includes safeguards for constitutionally-protected speech and expression using generative AI tech. The Act also contains provisions to facilitate digital replica licensing.

Indeed, the Trump Framework's other key recommendation is that "Congress should consider enabling licensing frameworks or collective rights systems for rights holders to collectively negotiate compensation from AI providers, without incurring antitrust liability." Congress can readily draw on its own history facilitating licensing and establish systems suitable for AI.

Under the [Music Modernization Act of 2018](#), Congress created a collective licensing system allowing songwriters and publishers to license reproduction and distribution rights to digital streaming services like Spotify and Apple Music through the Mechanical Licensing Collective (MLC). Rather than negotiating with millions of rightsholders, services obtain a single blanket license that encompasses myriad creative works belonging to a large group of copyright owners, with the MLC collecting and distributing royalties at mass scale and with drastically reduced costs. That framework, and others similar to it, reflect a congressional policy that coordinated licensing reduces transaction costs, expands access, and enables new markets.

The Framework appears to recommend a voluntary approach for licensing copyrighted content for generative AI services, stating that "[a]ny such legislation... should not address when or whether such licensing is required." A consent-based approach is consistent with a property rights view of copyrights yet still capable of promoting market growth opportunities.

The Trump Framework makes no legislative recommendations regarding alleged infringements of copyrights by AI services. However, the Trump Framework rightly posits that "American creators, publishers, and innovators should be protected from AI-generated outputs that infringe their protected content, without undermining lawful innovation and free expression." This position is solidly backed by existing law. Copyright owners' exclusive rights under Section 106 of the Copyright Act to reproduce and distribute their works are infringed by AI-generated outputs that are verbatim copies or closely resemble protected expressions in creative works.

Output-side infringements are the subject of major ongoing litigation. One such case is [\*Concord Music Group, Inc. v. Anthropic PBC\*](#). Music publisher plaintiffs in the *Anthropic* case allege that Anthropic's Claude AI model was trained on and can reproduce copyrighted song lyrics without authorization from the musical composition's owner. Additionally, two major music-generator cases involving output-side infringement theories are [\*UMG Recordings, Inc. v. Suno, Inc.\*](#) and [\*UMG Recordings, Inc. v. Uncharted Labs, Inc.\*](#) Plaintiff recording companies allege that AI models for Suno and Udio.com were trained on copyrighted sound recordings and designed to generate music outputs that closely resemble protected elements of those recordings, thereby creating potential commercial competition with those outputs.

Notably, partial settlements obtained in October and November 2025 in the Suno and Udio.com cases include licensing deals. Those settlements should spur Congress to pursue more broadly coordinated licensing frameworks for AI. Such settlements undercut the notion that American innovation and economic opportunity in AI would be doomed if the law were to hold generative AI services accountable for copyright infringements.

But the Framework's overly permissive view of using copyrighted content as inputs to train AI models deserves criticism. The Framework states: "Although the Administration believes that training of AI models on copyrighted material does not violate copyright laws, it acknowledges arguments to the contrary exist and therefore supports allowing the Courts to resolve this issue." Despite its evenhanded tone, the Framework's stated position on training AI models with infringing content misstates the law of copyrights and overstretches the fair use doctrine.

Fair use is an affirmative defense that negates liability for infringement and requires courts under Section 107 to consider four non-exclusive factors, including purpose and character of use, nature of the work, amount used, and market effect. As the Supreme Court has emphasized, in cases like *Google LLC v. Oracle America, Inc.* (2021) and in *Campbell v. Acuff-Rose Music, Inc.* (1994), fair use is a "context-sensitive" inquiry that "requires case-by-case analysis rather than bright-line rules." Categorical statements about AI training are untenable because the activity encompasses varied practices that directly affect the statutory factors and confirms that fair use is inherently context-specific and not reducible to a general rule.

Reinforcing the point are early-stage lower court decisions from 2025 addressing input-side infringement claims involving AI training. Those decisions have reached mixed, fact-dependent results. In a ruling in *Bartz v. Anthropic PBC*, the court distinguished between lawfully acquired and pirated works, granting fair use in part while indicating that use of pirated materials was not protected. In *Kadrey v. Meta Platforms, Inc.*, the court granted summary judgment on fair use grounds but cautioned that its decision did not establish that AI training is categorically lawful and that different evidentiary showings could lead to different outcomes. By contrast, in *Thomson Reuters v. ROSS Intelligence Inc.* the court rejected a broad fair use defense altogether and found infringement. These decisions, taken together with the statutory text and Supreme Court precedent, demonstrate that the Framework's categorical statement about using unauthorized copyrighted inputs misses the fact-intensive nature of fair use and suggests a hastily overgeneralized conclusion about the legality of AI training practices.

Congress should take up the Framework’s call to protect Americans against unauthorized digital replicas of their personas and promote licensing of copyrighted works for use in training AI models. Careful drafting will prevent harm to First Amendment free speech rights. Although the Framework gets the law of infringement by AI services right on unauthorized outputs, it gets the law wrong on unauthorized inputs. Congress should not be misled by the Administration’s incorrect view of fair use, but Congress can agree to court resolution of infringement questions.

## **II. Background**

Release of the “National Policy Framework for AI” was in fulfillment of [Executive Order 14365](#), “Ensuring a National Policy Framework for Artificial Intelligence.” Signed by President Trump on December 11, 2025, the order stated that “My Administration must act with the Congress to ensure that there is a minimally burdensome national standard—not 50 discordant State ones” for AI. The order directed the Special Advisor for AI and Crypto and the Assistant to the President for Science and Technology to “prepare a legislative recommendation establishing a uniform Federal policy framework for AI that preempts State AI laws that conflict with the policy set forth in this order.” Additionally, the order stated that the framework should ensure that “copyrights are respected.” In implementing the order, the Framework presents the Trump Administration’s outlook and legislative recommendations on AI-related topics that have gained significant public attention, ranging from protecting children from online exploitation, safeguarding First Amendment free speech from censorship, protecting energy ratepayers from demands of data centers, and preempting sector-specific state laws regulating AI services. This *Perspectives from FSF Scholars* paper focuses on the Framework’s recommendations and outlook on protection of IP rights.

## **III. Protecting Americans’ Personas From Commercial and Malicious Harm**

The Framework states that “Congress should consider establishing a federal framework protecting individuals from the unauthorized distribution or commercial use of AI-generated digital replicas of their voice, likeness, or other identifiable attributes.” This is a sensible recommendation that Congress ought to follow. Public displays and dissemination of AI-generated replica images, videos, and music files of non-consenting individuals can inflict significant harm. Digitally created “Deepfake” songs based on recording artists’ voices can unfairly damage the artists’ economic livelihoods and reduce market values of their works. Also, Internet posting and sharing AI-generated “deepfake” explicit images and videos of non-consenting individuals constitute especially egregious and malicious acts that can cause victims severe emotional distress and damage to their personal reputations.

State law protections against unauthorized digital replicas of individuals’ likenesses and voices are uneven and apparently absent in some jurisdictions where the person harmed does not use their persona for commercial purposes. Legislation recommended by the Framework would provide Americans a uniform and consistent legal baseline of civil protections against economic and personal harm. ([The Take It Down Act](#), signed into law by President Trump in May 2025, provides federal criminal law penalties for nonconsensual publication of intimate images – including AI-generated deepfakes – and requires online platforms to remove unlawful content within 48 hours of notice. But no civil protections currently exist in federal law.)

An example of the type of legislation called for in the Trump Framework is a bill introduced in the Senate and House known as the NO FAKES Act. The bill is the focus of my August 2024 *Perspectives from FSF Scholars* paper, “[The ‘NO FAKES Act’ Would Protect Americans’ Rights Against Harmful Digital Replicas.](#)” Under the Act, Americans would have a federally-recognized digital replication property right in their personas. The bill would subject to civil liability anyone who knowingly publishes, reproduces, displays, distributes, or makes publicly available a digital replica of another person embodied in an image, sound recording, audiovisual work, or transmission without the consent of the other person or applicable right holder. Individuals who are harmed would have a right under the Act to seek statutory or actual damages, recovery of costs and attorneys’ fees, and injunctive relief.

Notably, the Framework specifies that federal legislation protecting against unauthorized digital replicas should include “clear exceptions for parody, satire, news reporting, and other expressive works protected by the First Amendment” and “prevent persons from abusing such a framework to stifle free speech online.” Consistent with the Framework, the NO FAKES Act includes safeguards for constitutionally-protected speech and expression using generative AI tech. Recognizing the potential benefits of digital replicas, the Act also contains provisions to facilitate the licensing of individuals’ personas for digital replication by third parties.

#### **IV. Promoting Voluntary Coordinated Licensing of Content for AI Services**

One of the Trump Framework’s key recommendations is directed to legislation to promote – but not compel – licensing of copyrighted content to train AI models. According to the Framework, “Congress should consider enabling licensing frameworks or collective rights systems for rights holders to collectively negotiate compensation from AI providers, without incurring antitrust liability.” At present, there are no bills introduced in Congress focused directly on promoting licensing copyrighted content as inputs for training AI models. However, Congress can readily draw on its own history of facilitating licensing of copyrighted works and establish workable systems suitable for AI services.

Under the [Music Modernization Act of 2018](#), Congress created a collective licensing system allowing songwriters and publishers to license reproduction and distribution rights to digital streaming services like Spotify and Apple Music through the Mechanical Licensing Collective (MLC). Rather than negotiating with millions of rightsholders, services obtain a single blanket license that encompasses myriad creative works belonging to a large group of copyright owners, with the MLC collecting and distributing royalties at mass scale and with drastically reduced costs. Similarly, under the Digital Performance Right in Sound Recordings Act of 1995, as expanded by the Digital Millennium Copyright Act, Congress established a collective licensing system administered by SoundExchange for digital public performance of sound recordings. This allows services like Pandora and SiriusXM to rely on a statutory license with centralized royalties, avoiding individual negotiations and supporting digital radio and streaming. These frameworks reflect a congressional policy that coordinated licensing – though potentially anticompetitive in some circumstances – is justified where it reduces transaction costs, expands access to copyrighted works, and enables new markets to grow.

Supreme Court and lower court precedents recognize the legitimacy of such licensing initiatives. Most notably, in *Broadcast Music, Inc. v. CBS* (1979), the Court upheld ASCAP’s and BMI’s collective licensing of public performance rights in musical compositions to users such as broadcast radio and television networks. The Court emphasized that this model was justified because “a middleman with a blanket license was an obvious necessity” where “thousands of individual negotiations” would be a “virtual impossibility,” and that the blanket license itself was “a new product” enabling efficient, large-scale use of music.

For AI, Congress can follow a similar course, provided that any licensing frameworks for copyright holders to aggregate and license their works efficiently to generative AI service providers is voluntary and not compulsory. The Framework appears to recommend a voluntary approach, stating that “[a]ny such legislation... should not address when or whether such licensing is required.” Importantly, a consent-based approach to prospective collective licensing frameworks for AI is consistent with a property rights view of copyrights yet still capable of unlocking procompetitive benefits, including lower costs, wider access to copyrighted works, and scalable markets for AI services.

## **V. Recognizing Output-Side Infringements of Copyrights**

The Trump Framework makes no legislative recommendations regarding alleged infringements of copyrights by AI services, instead deferring to the courts to address such questions under existing law. As a general matter, this seems to be a reasonable position, as all sides can await the development of jurisprudence on copyright and AI questions. Notwithstanding the Framework’s concession to the courts, the Framework offers its own overarching views on infringements that call for closer scrutiny.

Rightly, the Trump Framework posits that “American creators, publishers, and innovators should be protected from AI-generated outputs that infringe their protected content, without undermining lawful innovation and free expression.” This position is solidly backed by existing copyright law. Copyright owners’ exclusive rights under Section 106 of the Copyright Act to reproduce, distribute, display, and publicly perform their works are infringed when AI services generate outputs that are either verbatim reproductions of protected works or substantially similar to protected expressions in creative works.

Verily, output-side infringements are the subject of major ongoing litigation, including *Concord Music Group, Inc. v. Anthropic PBC* in the Northern District of California. An earlier stage of that litigation was the subject of my November 2024 *Perspectives from FSF Scholars* paper, “[AI-Generated Copies of Creative Works Can Infringe Copyrights](#).” Music publisher plaintiffs in the case allege that Anthropic’s Claude AI model was trained on and can reproduce copyrighted song lyrics without authorization from the musical composition’s owner. Another significant ongoing case is *The New York Times Company v. Microsoft Corp. et al.* in the Southern District of New York, involving alleged reproduction or close paraphrase of the paper’s articles and other journalistic content. *Getty Images (US), Inc. v. Stability AI, Ltd.*, in the Northern District of California, involves AI-generated outputs that allegedly infringe Getty’s photographs.

Additionally, the two partially settled but ongoing major music-generator cases include output-side infringement theories; namely, *UMG Recordings, Inc. v. Suno, Inc.* in the District of Massachusetts and *UMG Recordings, Inc. et al. v. Uncharted Labs, Inc.* in the Southern District of New York. As described in my July 2024 *Perspectives from FSF Scholars* paper, [“It Sounds Like Generative AI Music Services Are Infringing Copyrights.”](#) Plaintiff recording companies allege that the two services Suno and Udio.com were trained on copyrighted sound recordings and designed to generate music outputs that closely resemble protected elements of those protected recordings, thereby creating potential commercial competition with those outputs. Although the litigation is ongoing, some of the parties have reached settlement agreements. UMG settled with Udio in October 2025, and Warner Music Group settled with Suno and Udio in November 2025. Notably, those settlements included licensing-related arrangements.

Partial settlements obtained thus far in the Suno and Udio.com cases demonstrate that consent-based collective licensing of protected works is a realistic option in emergent generative AI service markets. They should spur Congress to pursue coordinated licensing frameworks for AI. Also, such settlements undercut the notion that American innovation and economic opportunity in AI would be doomed if the law were to hold generative AI services accountable for copyright infringements.

## **VI. Failure in Not Recognizing Input-Side Infringements of Copyrights**

However, the Framework’s overly permissive view of using copyrighted content as inputs to train AI models deserves some respectful criticism. The Framework states:

Although the Administration believes that training of AI models on copyrighted material does not violate copyright laws, it acknowledges arguments to the contrary exist and therefore supports allowing the Courts to resolve this issue. Similarly, Congress should not take any actions that would impact the judiciary’s resolution of whether training on copyrighted material constitutes fair use.

Despite its evenhanded tone, the Framework’s stated position on training AI models with infringing content misstates the law of copyrights. It overstretches the fair use doctrine.

Fair use is an affirmative defense that negates liability for infringement because the defendant’s conduct falls outside the scope of a copyright owner’s exclusive rights. When a fair use defense is raised, Section 107 requires courts to consider four non-exclusive factors, namely: (1) the purpose and character of the use; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used; and (4) the effect of the use upon the potential market for or value of the copyrighted work.

As the Supreme Court has repeatedly emphasized, the fair use inquiry is inherently case-specific and not amenable to categorical rules. In *Campbell v. Acuff-Rose Music, Inc.* (1994), the Court explained that fair use “requires case-by-case analysis rather than bright-line rules,” and in *Google LLC v. Oracle America, Inc.* (2021), the Court reaffirmed that fair use is a “context-sensitive” inquiry. This inherently case-specific approach predates the statutory codification of fair use, as Justice Story articulated the doctrine in proto form in *Folsom v. Marsh* (1841) by

observing that “it is not easy to define with precision the extent... in which the use... shall be deemed a fair use,” and that “every case must, in some measure, be decided upon its own circumstances.”

The difficulty with any categorical statement about AI training is that the activity itself encompasses a wide range of materially different practices. AI models vary in architecture and training processes. Additionally, the data used for training can differ widely, including copies of entire works or only snippets, either expressive or non-expressive content, and with the rights in protected data differing, whether in the expressions of ideas or the arrangements of ideas. The ways that AI model training uses copyrighted data also may vary, as data may be mined for purposes of extracting statistical relationships, and the underlying works may or may not be internally retained. These vast and potentially innumerable variables bear directly on the statutory factors. In so doing, they confirm that whether training an AI model constitutes fair use is inherently context-specific and not capable of being reduced to a general rule.

Even where the Supreme Court has held particular conduct to be fair use as a matter of law, it has done so only based on specific factual records. For example, in *Sony Corp. of America v. Universal City Studios, Inc.* (1984), the Court held that private, noncommercial time-shifting constituted fair use on the record before it. Likewise, in *Google LLC v. Oracle America, Inc.*, the Court concluded that the copying at issue there was fair use as a matter of law. But in neither instance did the Court express those holdings as categorical rules for analogous tech.

Lower courts are in the beginning stages in addressing input-side infringement claims involving AI training. Yet the results to date do not align with a categorical characterization. In *Bartz v. Anthropic PBC*, a case in the Northern District of California involving allegations that Anthropic used copyrighted books to train its AI model, the court released a summary judgment order in June 2025 granting in part and denying in part fair use defense claims. The Court ruled that training on lawfully acquired works could constitute fair use because of the transformative nature of the training process, while simultaneously indicating that the use of pirated works was not protected. This parsing shows that the lawfulness of AI model training turns on factual specifics, including data provenance.

Similarly, in *Kadrey v. Meta Platforms, Inc.*, also in the Northern District of California, the court granted summary judgment on fair use grounds in a June 2025 order but cautioned that the decision did not establish that AI training is categorically lawful. At issue in the case are claims that Meta trained its models on copyrighted books. In its order, the court suggested that different evidentiary showings, especially regarding market harm, could result in different outcomes.

Also, in *Thomson Reuters v. ROSS Intelligence Inc.*, a case in the District of Delaware involving use of copyrighted legal materials to train an AI research tool, the court rejected a broad fair use defense and found infringement. In a February 2025 order, the court declined to extend intermediate copying precedents from software cases and emphasized the expressive nature of the works and the potential market impact. This result is also at odds with the idea of a uniform fair use rule on AI training.

A full analysis of fair use in the AI training context is beyond the scope of this paper. But the above observations regarding the text of Section 107, Supreme Court jurisprudence, and early-stage lower court decisions grappling with fair use defenses in infringement cases involving AI model training sufficiently demonstrate that the Trump Framework’s assertion misstates the law. The Framework’s categorical statement about using unauthorized copyrighted inputs to train AI models misses the fact-intensive nature of the doctrine and suggests a hastily overgeneralized conclusion about the legality of AI training practices. Understandably, a policy framework may prioritize brevity over doctrinal precision. But given the Framework’s purpose to guide legislation and shape views regarding the frequently misunderstood doctrine of fair use, correction is warranted.

## VII. Conclusion

Congress should take up the Trump Framework’s call for legislation to establish a federal standard to protect Americans against having their individual names, images, and likenesses misappropriated by AI-generated digital replicas. Similarly, Congress ought to follow the Framework’s recommendation that it consider legislation to promote licensing of copyrighted works for use in training AI models, thereby unlocking innovative economic opportunities in the AI services market while giving copyright owners their due. In advancing such legislation, Congress can and should take seriously the Framework’s call to prevent misuse of copyright-protective measures in ways that could undermine First Amendment free speech rights. Although the Framework gets the law of infringement by AI services right on unauthorized outputs, it gets the law wrong regarding unauthorized inputs. Congress should not be taken in by the Administration’s incorrect view of fair use. However, Congress can still reasonably agree that those infringement questions ought to be resolved by the courts.

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### Further Readings

Seth L. Cooper, “[No Need for Supreme Court Review in Case Rejecting Copyright for Autonomous AI](#),” *Perspectives from FSF Scholars*, Vol. 21, No. 10 (February 24, 2026).

Seth L. Cooper, “[Use of Copyrighted Content to Train AI Models Requires Owners’ Consent](#),” *Perspectives from FSF Scholars*, Vol. 20, No. 24 (June 3, 2025).

Seth L. Cooper, “[Copyright Office Report Confirms Copyrightability of AI-Generated Works](#),” *Perspectives from FSF Scholars*, Vol. 20, No. 9 (February 19, 2025).

Seth L. Cooper, “[AI-Generated Copies of Creative Works Can Infringe Copyrights](#),” *Perspectives from FSF Scholars*, Vol. 19, No. 42 (November 22, 2024).

Seth L. Cooper, “[It Sounds Like Generative AI Music Services Are Infringing Copyrights](#),” *Perspectives from FSF Scholars*, Vol. 19, No. 24 (July 22, 2024).