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**AI Infringement Case Against Google Tests Limits of Platform Service Terms**

by

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On June 30, independent musicians filed a pleading in opposition to a dismissal motion in *Kogon v. Google LLC*. The case is a major class-action lawsuit by independent musicians involving alleged unauthorized use of copyrighted music managed through YouTube's Content ID system to train Google's generative AI music systems. Unlike other generative AI copyright cases, *Kogon* does not proceed solely on allegations of unlicensed use but instead turns on Google's reliance on existing YouTube Terms of Service as the source of its claimed permission.

In significant part, this litigation raises questions regarding the protection of copyrights in the age of AI. Its resolution will have important implications regarding the ability of artists, including musicians, to reap the benefits of their labors that inhere in their property rights.

Although the allegations made in *Kogon* requires substantiation, there are substantial reasons to doubt that YouTube's Terms of Service bestowed on Google permission to use works submitted by music artists for purposes of monetization and infringement protection into inputs for training Google's generative AI systems to produce competing music tracks. What could be decisive in *Kogon* is a distinction between using works within a platform's rights-management and distribution functions and using them as inputs to generate outputs that compete against the same

musicians for the same licensing and commercial opportunities. Depending on how a court perceives that distinction, Google could either be liable for hundreds of millions in damages for mass infringement or retain a windfall through the legally-sanctioned mass appropriation of value from the creative works of music artists.

The complaint in *Kogon* maps out the development of Google's powerful integrated digital music ecosystem, including its DeepMind AI lab and its Lyria 3 and ProducerAI generative AI music services. Both music services, available in free and subscription options to end-user consumers through the Gemini app and to developers through APIs, can generate realistic-sounding music outputs that include vocal tracks, lyrics, and accompanying instrumentation. Lyria 3 is designed for short-form music outputs, such as those used in brief radio spots, podcasts, or other content creator media. ProducerAI is designed to generate longer-form music compositions equivalent to music tracks uploaded to YouTube or available on AM/FM radio or streaming music services.

Plaintiff independent musicians and copyright owners allege that Google, without permission, trained its music generation AI models Lyria 3 and ProducerAI by making untold millions of copies of clips from music files uploaded by music copyright owners to YouTube's Content ID rights management system. YouTube's Content ID system purportedly contains tens of millions of reference files, including full-length recordings and associated metadata provided by copyright owners for purposes of rights management and monetization. Indeed, the most explosive allegation in the complaint is that Google leveraged this Content ID library and associated metadata to train AI models that produce outputs competing against those who rely on YouTube to commercialize and protect their music. If the allegation can be substantiated, it would constitute a stunning betrayal of copyright owners who entrusted YouTube and its Content ID system.

Plaintiffs further allege circumstantial evidence supporting an inference that Google knowingly engaged in large-scale copying of copyrighted works for training purposes. The complaint points to the release timeline of Lyria and subsequent departures of four key contributors from Google's DeepMind AI lab who went on to help form Udio.com, which has itself been the subject of copyright litigation involving major record labels. According to Plaintiffs, Google has publicly represented access to large-scale music and audio reference materials for use in training its MuLan (a music and audio representation learning model), MusicLM (a text-to-music generative model), and Lyria product line systems. Plaintiffs further allege that Google has not identified any licensing arrangements or authorization framework that would account for the scale of those reported training inputs. Plaintiffs contend that this combination of large-scale access and absence of disclosed licensing supports an inference that Content ID-derived materials were incorporated into the training corpus.

Google's June 9 motion seeks to dismiss the direct infringement claims principally for procedural reasons under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Google argues that Plaintiffs have not plausibly alleged unauthorized copying or any actual infringing outputs of any of the Plaintiffs musical works in connection with Lyria 3 and ProducerAI. Plaintiffs' direct infringement claims regarding unauthorized use of copyrighted music to train Lyria 3 and ProducerAI systems might not be so vulnerable on procedural grounds. But Plaintiffs opted

against amending their complaint and instead signaled their intent to proceed with the litigation. On June 30, Plaintiffs filed their memorandum in opposition to Google’s motion to dismiss.

Google also relies heavily on YouTube’s Terms of Service, arguing that Plaintiffs granted YouTube and its affiliates a broad license to use uploaded content. Thus, a crucial issue in *Kogon* is likely the interpretation of YouTube’s Terms of Service. Particularly important is Section 6(C), which provides that users grant YouTube a license to “use, reproduce, distribute, prepare derivative works of, display, and perform the User Submissions in connection with the YouTube Website and YouTube’s (and its successors’ and affiliates’) business, including without limitation for promoting and redistributing part or all of the YouTube Website.”

A potentially monumental interpretive question is whether this language extends to the “use” of copyrighted music for training generative AI systems such as Lyria 3 and ProducerAI, or whether it is limited to YouTube-related functions. On its face, terms such as “use” and “prepare derivative works” are broad. Also, Google’s strongest argument regarding the Terms of Service may be that the license extends to YouTube and its “affiliates,” and therefore includes Google and its related AI entities.

However, “use” and “prepare derivative works” must be read in light of the limiting phrase “in connection with the YouTube Website and YouTube’s business.” And business use may be shaped by the overall structure of the Terms of Service, which seems to be primarily directed to YouTube-based functions such as streaming, viewing, recommendations, and engagement, rather than reuse of content outside the YouTube platform. Furthermore, affiliate status resolves only the identity of the licensee, not the scope of the authorized use.

Even if the foregoing interpretative questions about scope or meaning of “use,” “in connection with YouTube’s business,” and “affiliates” are close calls, that may be enough for Plaintiffs to prevail. Under basic principles of contract interpretation, ambiguities are construed against the drafter. The relevant Terms of Service is a form contract drafted by YouTube, and any terms found to be ambiguous would be construed in favor of the Plaintiffs.

The analysis also ought to be informed by the presence of the Content ID rights-management system designed to identify copyrighted works, enforce ownership claims, and facilitate monetization or blocking decisions by copyright owners. It seems highly unlikely that copyright owners who submit music files and metadata to YouTube for those purposes reasonably contemplated that they were also authorizing repurposing of their content into datasets for generative AI systems that produce competing expressive music outputs.

Emergence of licensing deals involving AI training and generative outputs also ought to be a relevant consideration. The growing numbers of such arrangements between copyright owners and generative AI services could reasonably support judicial recognition that such uses of copyrighted works are treated in the market as a distinct category of activities or rights requiring express authorization rather than as implied throw-ins for general platform licenses.

The principal doctrinal development regarding copyright infringement and AI model training will likely emerge from other pending generative AI cases. *Kogon v. Google LLC*, however,

remains noteworthy because it raises an important question regarding whether the Terms of Service governing a digital content platform authorize the use of copyrighted works to train generative AI models. The case is also noteworthy because it involves disputed but striking allegations that a major digital content platform and rights-management ecosystem, entrusted by copyright owners to monetize and help protect their works, instead repurposed those very works to train AI models capable of generating outputs that compete with those same copyright owners.

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### **Further Readings**

Randolph J. May and Seth L. Cooper, “[World IP Day 2026 and America’s 250th Birthday: Follow the Declaration’s Principles for Securing Intellectual Property Rights](#),” *Perspectives from FSF Scholars*, Vol. 21, No. 19 (April 24, 2026).

Seth L. Cooper, “[Assessing the Impact of Trump AI Policy Framework on Intellectual Property](#),” *Perspectives from FSF Scholars*, Vol. 21, No. 17 (April 15, 2025).

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).