

THE NEW YORK TIMES SUES FOR COPYRIGHT INFRINGEMENT OVER CHATGPT

On Dec. 27, 2023, the New York Times [filed a lawsuit](#) against Microsoft and OpenAI for copyright infringement by OpenAI's ChatGPT and other large language models (LLMs). In the complaint, the New York Times alleges that Microsoft and OpenAI used millions of articles from the New York Times website to train their LLMs and to improve ChatGPT's ability to communicate. The New York Times claims that OpenAI did not get permission to use these articles. The New York Times further alleges that these infringements are worth billions of dollars in damages under U.S. copyright law.

ChatGPT is a generative artificial intelligence tool that uses trained LLMs to communicate with users. LLMs are trained with cultivated training sets that may contain millions to billions of documents and examples of communications and other writings. In many cases, the LLMs are trained to sound like a human. These LLMs may also be trained to mimic a style of language. For example, an LLM could provide a response in the style of Edgar Allen Poe.

In its complaint, the New York Times alleges that ChatGPT stores copies of copyrighted articles for later use. In the complaint, they illustrate examples of where ChatGPT and Microsoft's Bing Chat (now CoPilot) repeat published New York Times articles verbatim or with only minor changes. This includes providing copies of articles that are behind the New York Times' paywall. The New York Times alleges that its articles are the third-most-used proprietary source in training ChatGPT, behind Wikipedia and Google's patent database.

This lawsuit is the next step in negotiations between the New York Times, Microsoft and OpenAI over the use of New York Times articles in the training of OpenAI's LLMs. The New York Times opened negotiations in April of 2023, but has not reached an agreement. OpenAI has paid agreements in place with several other document sources.

This case provides just one example of how the development and use of generative AI can impact your intellectual property rights and the rights of others. Armstrong Teasdale lawyers are well versed in the protection and enforcement of IP rights and can help guide you through IP issues raised by

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