

THE AM LAW LITIGATION DAILY

Litigators of the Week: Meta Scores Key Fair Use Win in Early AI Copyright Case

By Ross Todd

June 27, 2025

This week, U.S. District Judge Vince Chhabria in San Francisco held that Meta Platforms' use of copyrighted works by a group of 13 prominent authors to train its Llama artificial intelligence models was "highly transformative" and the authors hadn't shown harm to the market for their works.

Although the ruling marked an early and important fair use win for Meta, it wasn't exactly a knockout blow to the sorts of copyright claims AI developers are currently facing.

"This ruling does not stand for the proposition that Meta's use of copyrighted materials to train its language models is lawful," Chhabria wrote. "It stands only for the proposition that these plaintiffs made the wrong arguments and failed to develop a record in support of the right one."

Our Litigators of the Week are Meta's lawyers: **Kannon Shanmugam** of **Paul, Weiss, Rifkind, Wharton & Garrison**, who argued the summary judgment motion for the company; **Bobby Ghajar** of **Cooley**, whose team previously took home Litigator of the Week honors in late 2023 for winning an important ruling dismissing a large chunk of the case; and **Angela Dunning** of **Cleary Gottlieb Steen & Hamilton**.



Courtesy photos

L-R: Kannon K. Shanmugam of Paul Weiss, Bobby Ghajar of Cooley, and Angela Dunning of Cleary Gottlieb.

Lit Daily: What was at stake here for Meta?

Bobby Ghajar: At stake was the ability to continue developing and releasing open-source AI models like Llama, which rely on extraordinarily large, diverse datasets. Fair uses of copyrighted material, like the uses Meta made of the plaintiffs' books, are essential for fostering technological advancement and creativity. As we argued in Meta's motion, the purposes of copyright and the public interest would be badly disserved by preventing Meta from making transformative use of copyrighted text to build cutting-edge AI technology that does not substitute for plaintiffs' books. In our view, no court has ever declined

to find fair use in such circumstances. We are grateful that remains the case today.

How did this matter come to you and your firms?

Ghajar: Cooley's attorneys have had the pleasure of representing Meta for decades in various IP litigation matters—defending Facebook in its very first patent infringement suit in 2007 and later in its first-ever federal jury trial. Cooley's history of advising innovators like Meta on cutting-edge legal issues, particularly generative AI, made the partnership a natural fit and we were honored when Meta retained us to defend this case when it was filed in July 2023. And after Angela Dunning, one of the Cooley partners on the team, moved to Cleary Gottlieb in late 2023, we continued working with her seamlessly, without skipping a beat. And it was equally seamless when, later in the case, Meta brought in Paul Weiss to provide additional assistance, which gave us an opportunity to work with Kannon and his great team.

Who all was involved in putting together your summary judgment argument and how did you divide the work?

Kannon Shanmugam: In these situations, lawyers always say it was a team effort, but this was a team effort and then some. While Angela and Bobby led the briefing team and I presented the oral argument, lawyers from all three firms—Cleary, Cooley and Paul Weiss—worked interchangeably on every aspect of the case. In preparation for the oral argument, I did my usual two moot courts, but we also had countless meetings about the case at Cooley's Palo Alto office—so many that my wife joked we should buy a second home out there.

Kannon, Judge Chhabria, as he often does, put out a list of meaty questions for the parties to consider for oral argument the day before the hearing. How did you and the team deal with those questions?

Shanmugam: At 2 p.m. the day before the hearing! It was a bit complicated, because my colleague **Anna Stapleton**, one of the brains of our operation, had

just presented arguments in the Fifth Circuit and was flying back from New Orleans. But the team—including Anna from 30,000 feet—went to work immediately and pulled together a document with all the potential responses to those questions. Because I was still on East Coast time, I woke up at 4 a.m. the day of the hearing and put together my own thoughts ahead of the 10 a.m. hearing. The short notice aside, I wish more courts would use this practice; it makes for better-prepared advocates.

With this decision now in hand, are there any moments from that argument that stand out to you?

Shanmugam: I hope I'm not saying this just because we won, but Judge Chhabria is one of the finest judges in the country, and he conducted the argument like a Supreme Court argument, with rapid-fire questions, on the law and the facts, both for me and for **David [Boies]**, who argued for the plaintiffs]. The argument went for three hours, and I was both very tired and very hungry by the end of it. After the argument, I went and had the largest cheeseburger I could find.

What's important in this decision to Meta and other defendants in cases involving these sorts of copyright claims aimed at AI developers?

Angela Dunning: First and foremost, the decision finds that training an LLM on the vast repositories of text necessary to understand language and generate outputs is a highly transformative use. LLMs serve a fundamentally different purpose from the books, articles and other materials on which they were trained, enabling the creation of new expression and promoting the progress of science and technological advancement. The decision also provides answers and useful guidance on a number of other key questions, such as the relevance of a so-called AI licensing market to factor four, and the relevance of allegations of "bad faith" on the resolution of fair use. The decision also holds that, to overcome a finding of fair use, an author whose work was used for training would need evidence to show not only that the model

produces works that substitute for their own, but also causation—that it would not be able to do this absent that training. This is a particularized inquiry that should not be amenable to resolution on a class-wide basis.

Do you expect other plaintiffs to come forward to make the sort of case about potential harms to the market for their copyrighted works that Judge Chhabria outlines in his opinion?

Dunning: It is difficult to predict what other potential litigants may or may not do, especially given the particularized showing of market harm articulated by the court in its decision, as well as real hurdles to class certification. There was no evidence to support such market harm—for the 13 plaintiffs or any others. The court also acknowledged the public benefit that Llama provides to the many who have used and built on it, which also weighs in favor of fair use on factor four. So we'll just have to wait and see what happens next.

What's left of this case? Neither you nor the plaintiffs moved for summary judgment on their claims that Meta distributed their works via the file-sharing method used to download them, right?

Ghajar: Correct. Plaintiffs also brought a DMCA claim against Meta for removing copyright management information from their books, allegedly in order to conceal infringement. In the court's order this week, it said it would issue a separate order granting summary judgment to Meta on that claim. That leaves plaintiffs' claim that Meta distributed their works during the file-sharing process used to download training data. The court has scheduled a case management conference for July 11 to discuss

the parties' thoughts on how to proceed with respect to that claim.

What will you remember about getting this result?

Shanmugam: As I get older, I look back not so much on the substance of the cases I've won as on the people I've had the chance to work with. There are no better lawyers or people than Bobby, Angela and the others on our team. It has been a complete joy to work with them on such an important and novel case. And it was a privilege to argue against David Boies—remarkably, the first time we had ever been on opposite sides of a case.

Ghajar: This outcome is the result of an amazing collaboration across practice groups and between multiple law firms. Very few copyright cases present such an opportunity, and it was especially rewarding to be able to leverage the strengths of different Cooley practice groups and among our peers at different firms. I'll remember the exceptional work from so many talented people; triple-tracked depositions; several re-openings of discovery; and the gratification of playing a role in achieving a landmark result.

Dunning: I've been practicing copyright law for 25 years, and never has a decision seemed so foundational, so monumentally important for the future of an industry and our capabilities as a people. Fair use is critical to the exercise of our First Amendment rights, to our ability to build on and expand human knowledge and understanding, and to the enrichment of our culture. And Llama is a huge step forward in realizing those goals. I am deeply honored and grateful to have been part of the amazing team who developed and presented these critical fair use arguments to the court.