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[NEWS](#)

## Nvidia Slapped With Class Action by YouTube Creators for Using Content to Train AI Software

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August 16, 2024 at 10:37 AM

Litigation

**Kat Black**The original version of this story was published on [The Recorder](#)

### What You Need to Know

- Nvidia was hit by a class action claim brought by Bursor & Fisher alleging it illegally uses YouTube content creators' videos to train its AI software.
- Two other class actions against Alphabet and OpenAI were filed by the same plaintiff earlier in the month.
- AI law experts say that this type of litigation will spur legislators and regulators to work toward establishing policies on AI and copyright infringement.

Computer chip titan Nvidia has become the latest Big Tech target of a series of class actions filed by the same plaintiff, a YouTube creator alleging that his content was illegally scraped to train artificial intelligence models.

The [complaint](#), *Millette v. Nvidia*, filed Wednesday, follows on the heels of two others filed against Google parent [Alphabet](#) and ChatGPT maker [OpenAI](#) on Aug. 2. All three claims were brought by Bursor & Fisher counsel, who did not immediately respond to requests for comment, in the Northern District of California.

This complaint was surfaced by [Law.com Radar](#).

According to the suit, Santa Clara-based Nvidia, which designs the graphics processing units that power AI, illegally used “millions” of YouTube videos as training models for its “Cosmos” AI software, a deep-learning program that was designed to support such other Nvidia products as image generation and automated driving.

Notably, the claim accuses Nvidia of instructing its employees to use tools “like [an] open-source YouTube video downloader” to escape detection on YouTube. In an April interview with [Bloomberg](#), YouTube CEO Neal Mohan said that using YouTube videos to train AI models would be a “clear violation” of YouTube’s terms of use.

Geoffrey Lottenberg, lead of Berger Singerman’s Intellectual Property Group in Fort Lauderdale, said that this particular allegation, if true, may help win a favorable ruling for the plaintiff. That said, he added, it’s “interesting” that the complaint alleges unjust enrichment and restitution and a violation of California’s unfair competition law but doesn’t include any copyright claims—likely because many of the class members have not registered copyright for their videos.

“It remains to be seen if there’s going to be a defense ... everything they’re complaining about is a copyright claim,” he said. “And copyright law preempts these state law claims, this common-law unjust enrichment and this California unfair competition law. So there are some defenses here. It’ll be interesting to see what happens.”

James Cooper, a professor at California Western School of Law in San Diego whose work focuses on emerging technologies, said that this will be a transformative year for addressing the thorny issue of copyright infringement in the AI industry.

“I honestly believe that 2024 is the year the courts are going to have to figure this out,” he said. “It’s unfortunate that the courts are the ones that have to figure this out, as it’s probably best that our legislators do the work instead, or the regulatory agencies like the Copyright Office. We’re still waiting to get some direction.” He expects “a whole lot more” related litigation in the future.

Lottenberg said that he believes litigation will ultimately spur regulatory and legislative action on the intellectual property complications presented by AI.

“I think the continued filing of these types of cases is going to motivate the courts, and potentially Congress at the behest of the Copyright Office, to get some clarity on whether training is infringement or some other cause of action,” he said. “It’s going to motivate a decision and speed up the time frame to get a ruling on that, in my view.”

The U.S. Copyright Office is currently producing a [report](#) on copyright and AI, the first part of which was published on July 31, as part of an initiative it launched last year to evaluate “copyright law and policy issues raised by AI, including the scope of copyright in AI-generated works and the use of copyrighted materials in AI training.”

“We respect the rights of all content creators and are confident that we are working in full compliance with the letter and spirit of the law,” said a Nvidia spokesperson. “Anyone is free to learn facts and ideas from publicly available sources. Creating new and transformative works is not only fair and just, but exactly what our legal system encourages.”

*This action was surfaced by Law.com Radar, which delivers artificial intelligence-enhanced case summaries and daily case reports from more than 2,200 state and federal courts. [Click here to get started and be among the first to act on opportunities in your region, practice area or client sector.](#)*

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