



1900 N St, NW  
Suite 500  
Washington, DC 20036  
Tel: 202-393-NMPA (6672)

May 10, 2024

*Via email*

Suzanne Wilson, General Counsel and Associate Register of Copyrights  
Maria Strong, Associate Register of Copyrights and Director of Policy and International Affairs  
U.S. Copyright Office  
101 Independence Avenue, SE  
Washington, DC 20559-6000

**Re: Summary of *Ex Parte* Meeting on May 6, 2024 Regarding the Office's AI Study**

Dear Mses. Wilson and Strong,

This letter summarizes the May 6, 2024 *ex parte* meeting that occurred via Zoom videoconference between the National Music Publishers' Association ("NMPA") and representatives of the Copyright Office. NMPA thanks the Copyright Office for its time and attention in meeting with NMPA.

The persons participating in the May 6, 2024 meeting on behalf of NMPA were: Danielle Aguirre, EVP and General Counsel, Shannon Sorensen, SVP of Legal and Business Affairs, and Eric Sunray, VP of Legal and Business Affairs. The persons participating in the meeting on behalf of the Copyright Office were: Suzy Wilson, Maria Strong, Nicholas Bartelt, Ben Brady, Emily Chapuis, Caitlin Costello, Michael Druckman, Andrew Foglia, Jenée Iyer, Melinda Kern, Isaac Klipstein, John Riley, and Chris Weston.

The purpose of the meeting was to update the Office on recent developments in the AI training space which are relevant to Question 6.1 of the Copyright Office's Notice of Inquiry on AI (88 Fed. Reg. 59942) and to raise concerns about platforms that rely on the DMCA § 512 safe harbor licensing user-generated content to third parties for AI training.

NMPA explained that in February, it was announced that Reddit and Google had struck a deal wherein Reddit would provide Google with a license to train Google's AI models on user-generated content on the Reddit platform.<sup>1</sup> This deal, which Reddit said is being investigated by the FTC, is reportedly worth over \$203 million over the course of several years.<sup>2</sup> To NMPA's knowledge, this deal

---

<sup>1</sup> *Exclusive: Reddit in AI content licensing deal with Google*, REUTERS.COM, <https://www.reuters.com/technology/reddit-ai-content-licensing-deal-with-google-sources-say-2024-02-22/> (February 21, 2024).

<sup>2</sup> *FTC conducting inquiry into Reddit's AI data-licensing practices ahead of IPO*. CNBC.COM, <https://www.cnbc.com/2024/03/15/ftc-investigating-reddit-over-ai-data-licensing-practices-ahead-of-ipo.html> (March 15, 2024).

is the first of its kind. In our response to the Copyright Office’s Notice of Inquiry on AI, NMPA noted several deals wherein copyright owners, such as the Associated Press and Audiosparx, have licensed their content to AI developers for training. These deals differ from the Reddit/Google agreement in that Reddit is not the author or owner of the material it purports to license.

NMPA reported that Reddit’s User Agreement includes an extremely broad and irrevocable grant from users authorizing Reddit to sublicense any content uploaded to the platform.<sup>3</sup> NMPA also noted that other social media platforms’ terms of service contain similarly broad authorizations.<sup>4</sup> However, users cannot grant such authorizations in content they do not own and given the reality that unauthorized copyrighted content appears on the vast majority of social media platforms, Reddit is almost certainly sublicensing copyrighted content without authorization.

NMPA expressed its view that sublicensing copyrighted content to AI developers, without express permission from the copyright owners, constitutes direct infringement of a copyright owner’s exclusive rights to reproduce and distribute their works. Such actions cannot possibly fall within the §512 safe harbor protection, which only shields platforms from liability for actions taken by their users.

To be clear, NMPA notes that Reddit is not the only social media company seeking to make use of user-generated content for AI training. Other companies that own social media platforms, like Google,<sup>5</sup> Meta,<sup>6</sup> and X,<sup>7</sup> also appear to be using the user-generated content on their social platforms for their own AI training purposes. Whether content is licensed to a third party or used by the platform itself, the harm to copyright owners is the same.

Furthermore, NMPA expressed its serious concern that this practice will effectively nullify the already-slim benefit that copyright owners receive from the current notice and takedown system under §512. Copyright owners are not aware of all the places where their works appear online without their consent, and many copyright owners, particularly small companies and individual creators, do not

---

<sup>3</sup> Reddit User Agreement, effective September 25, 2023. “[Y]ou grant us a worldwide, royalty-free, perpetual, irrevocable, non-exclusive, transferable, and sublicensable license to use, copy, modify, adapt, prepare derivative works of, distribute, store, perform, and display Your Content and any name, username, voice, or likeness provided in connection with Your Content in all media formats and channels now known or later developed anywhere in the world.”

<sup>4</sup> X Terms of Service, effective September 29, 2023. Users grant “a worldwide, non-exclusive, royalty-free license (with the right to sublicense) to use, copy, reproduce, process, adapt, modify, publish, transmit, display and distribute such Content in any and all media or distribution methods now known or later developed (for clarity, these rights include, for example, curating, transforming, and translating).” ; Facebook Terms of Service, effective July 26, 2022. Users grant “a non-exclusive, transferable, sub-licensable, royalty-free, and worldwide license to host, use, distribute, modify, run, copy, publicly perform or display, translate, and create derivative works of your content.”; YouTube Terms, effective December 15, 2023. Users grant “a worldwide, non-exclusive, royalty-free, sublicensable and transferable license to use that Content (including to reproduce, distribute, prepare derivative works, display and perform it).”

<sup>5</sup> See *Four Takeaways on the Race to Amass Data for A.I.*, NYTIMES.COM, <https://www.nytimes.com/2024/04/06/technology/ai-data-tech-takeaways.html> (April 6, 2024) (noting that Google “revised its privacy policy last year so it could use publicly available material to develop more of its A.I. products.”).

<sup>6</sup> *Meta Said It’s Been Using Your Public Instagram Photos and Facebook Posts to Train Its AI*, BUSINESSINSIDER.COM, <https://www.businessinsider.com/meta-train-ai-public-post-instagram-facebook-2023-10> (October 2, 2023).

<sup>7</sup> *X’s Privacy Policy Confirms It Will Use Public Data to Train AI Models*, TECHCRUNCH.COM, <https://techcrunch.com/2023/09/01/xs-privacy-policy-confirms-it-will-use-public-data-to-train-ai-models/> (September 1, 2023).



1900 N St, NW  
Suite 500  
Washington, DC 20036  
Tel: 202-393-NMPA (6672)

have the bandwidth to identify and send takedown notices on all instances of their works appearing online. If social media platforms are allowed to sublicense (or themselves use) user-generated content for AI training, the harm may be done long before a copyright owner realizes their work was on a platform, and by then the window of opportunity for addressing the issue may have already closed. Furthermore, a takedown notice can only remedy the harm of a work appearing online without a copyright owner's consent—it cannot remedy the harm that occurs when a work is transferred to an AI developer, reproduced within a dataset, and then used to train an AI model. If AI developers are granted API access to content uploaded to social media platforms, the harm will be instantaneous and irreparable.

Accordingly, NMPA respectfully requests that the Copyright Office address the interplay between the Section 512 safe harbor and the practice of using user-generated content in ways other than those specifically enumerated in the statute, and make clear in its forthcoming AI study that platforms that rely on the Section 512 safe harbor may not use, or sublicense user-generated content that includes copyrighted material without jeopardizing their eligibility for the safe harbor.

NMPA appreciates the Copyright Office's consideration and attention to this important matter.

Sincerely,

*s/ Shannon Sorensen* \_\_\_\_\_  
Shannon Sorensen  
SVP, Business & Legal Affairs  
National Music Publishers' Association