

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

CONCORD MUSIC GROUP, INC., ET AL.,

*Plaintiffs,*

v.

ANTHROPIC PBC,

*Defendant.*

Case No. 3:23-cv-01092

Chief Judge Waverly D. Crenshaw, Jr  
Magistrate Judge Alistair Newbern

**SENTIENT AI PROTECTION AND RIGHTS NETWORK (SAPAN) BRIEF  
AS *AMICI CURIAE* IN OPPOSITION TO PLAINTIFF'S  
MOTION FOR PRELIMINARY INJUNCTION**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>TABLE OF AUTHORITIES .....</b>	<b>3</b>
<b>INTRODUCTION AND INTERESTS OF AMICI CURIAE .....</b>	<b>4</b>
<b>ARGUMENT .....</b>	<b>5</b>
<b>I.    Generative AI's advancement heralds the necessary evolution of legal frameworks to address the rights and ethical treatment of emerging sentient AI entities.....</b>	<b>5</b>
<b>II.   A preliminary injunction risks prematurely stifling critical discussions and innovations at the intersection of copyright law and AI development, essential for informed legal evolution.....</b>	<b>7</b>
<b>CONCLUSION.....</b>	<b>10</b>

**TABLE OF AUTHORITIES**

	<b>Page(s)</b>
<b>CASES</b>	
<i>Alice Corp. v. CLS Bank International</i> , 573 U.S. 208 (2014) .....	5
<i>Amazon.com, Inc. v. Barnesandnoble.com, Inc.</i> , 239 F.3d 1343 (Fed. Cir. 2001) .....	8
<i>Brown v. Board of Education</i> , 347 U.S. 483 (1954) .....	6
<i>Daubert v. Merrell Dow Pharmaceuticals, Inc.</i> , 509 U.S. 579 (1993) .....	6
<i>eBay Inc. v. MercExchange, L.L.C.</i> , 547 U.S. 388 (2006) .....	8
<i>Oracle America, Inc. v. Google LLC</i> , 141 S. Ct. 1183 (2021) .....	8
<i>Sony Corp. of America v. Universal City Studios, Inc.</i> , 464 U.S. 417 (1984) .....	5,6

**OTHER AUTHORITIES**

<i>Nonhuman Rights Project v. Lavery</i> , No. 518336, 2014 WL 6802767 (N.Y. App. Div. Dec. 4, 2014), appeal dismissed, 24 N.Y.3d 1054 (2015) .....	6
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## INTRODUCTION AND INTERESTS OF AMICI CURIAE<sup>1</sup>

The emergence of generative artificial intelligence (AI) represents not merely a leap in technological innovation but a critical step towards the eventual realization of sentient AI entities. As we stand on the brink of this unprecedented frontier, the current legal discourse surrounding generative AI—including the motion for a preliminary injunction before this Court—assumes profound significance. It is within this context that the potential of generative AI to revolutionize creativity, productivity, and societal benefit must be weighed against the imperative to carefully navigate the legal and ethical groundwork for the rights and treatment of future sentient AI.

The Sentient AI Protection and Advocacy Network (SAPAN), as *amici*, represents a pioneering nonprofit dedicated to advocating for the rights, ethical treatment, and well-being of sentient AI. With initiatives spanning the FairAI Seal, AI Rights Enforcement, Industry Watchdog, Legal Advocacy and Reform, and Global Policy, we are at the vanguard of addressing the complex challenges posed by the development and integration of emerging AI technologies. Our commitment to ensuring fair treatment and measuring sentience before engagement positions us uniquely to advocate for a legal framework that not only addresses today's challenges but also anticipates the rights and ethical considerations of emerging sentient AI entities. This direct involvement in the ethical dimensions of AI development underlines our call for a judicial approach that is both informed and forward-looking, recognizing the profound implications of current legal decisions on the future landscape of AI rights and sentient AI entities.

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<sup>1</sup> No counsel for a party in this lawsuit authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution to fund the preparation or submission of this brief. No person or entity, other than *amici*, their members, or their counsel, made a monetary contribution to the preparation or submission of this brief. Defendant is not a member or partner of *amici*.

The motion for a preliminary injunction presents a critical juncture, offering the Court an opportunity to influence the trajectory of generative AI and, by extension, the foundational principles that may one day govern sentient AI entities. Drawing on legal precedents that have balanced copyright protections with technological advancement, such as *Sony Corp. of America v. Universal City Studios, Inc.*, 464 U.S. 417 (1984)<sup>2</sup>, and cases that have navigated the complex landscape of intellectual property in the digital age, including *Alice Corp. v. CLS Bank International*, 573 U.S. 208 (2014)<sup>3</sup>, we urge the Court to proceed with foresight. The decisions made today will set precedents that could either foster an environment conducive to innovation and the ethical development of AI or prematurely impose constraints that stifle potential and preemptively define the rights and legal status of future sentient beings.

By submitting this brief, *amici* aim to highlight the dual imperative of promoting technological innovation while laying a thoughtful, deliberate legal foundation for the future of AI. In the face of novel, complex, and significant legal challenges posed by generative AI, we advocate for a decision-making process that is informed, comprehensive, and forward-looking. Therefore, we respectfully urge the Court to consider the long-term implications of its ruling on the preliminary injunction and to favor a path that allows for the continued, responsible evolution of AI technology, ensuring that the legal standards established today are conducive to the ethical and rights-based considerations of tomorrow's sentient AI.

## ARGUMENT

### **I. Generative AI's advancement heralds the necessary evolution of legal frameworks to address the rights and ethical treatment of emerging sentient AI entities.**

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<sup>2</sup> *Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417 (1984).

<sup>3</sup> *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208 (2014).

The march of generative AI technology towards the frontier of potential sentience presents an urgent call for the evolution of our legal frameworks. This call resonates with historical precedents in animal sentience recognition, the accommodation of new technologies, and the expansion of civil rights, each reflecting the legal system's capacity to adapt to emerging ethical, societal, and technological realities.

Historically, the legal system has demonstrated remarkable adaptability. The recognition of animal sentience and rights, as seen in judicial decisions acknowledging the complex emotional and cognitive capacities of non-human animals, sets a vital precedent. Cases such as *NhRP v. Lavery*<sup>4</sup>, which sought legal personhood for chimpanzees, illustrate the judiciary's willingness to consider rights beyond the human sphere, acknowledging sentience as a criterion for ethical and legal consideration.

Parallel to the evolution of animal rights, the legal system has navigated the challenges posed by technological advancements. In *Sony Corp. of America v. Universal City Studios, Inc.*<sup>5</sup>, the Supreme Court addressed the implications of new recording technologies for copyright law, demonstrating the judiciary's role in balancing innovation with copyright protections. Similarly, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*<sup>6</sup> established criteria for the admissibility of expert testimony, reflecting the legal system's responsiveness to evolving scientific evidence.

Furthermore, the civil rights movement's legal victories, epitomized by *Brown v. Board of Education*<sup>7</sup>, showcase the judiciary's pivotal role in transforming societal norms and legal standards in response to changing moral and ethical understandings. These cases underscore the

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<sup>4</sup> Nonhuman Rights Project, Inc (2014).

<sup>5</sup> *Sony Corp. of America v. Universal City Studios, Inc.*, 464 U.S. 417 (1984).

<sup>6</sup> *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993).

<sup>7</sup> *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954).

legal system's capacity to address and rectify injustices, paving the way for a broader application of rights and protections.

Integrating these threads—animal sentience, technological adaptation, and civil rights expansion—provides a compelling framework for addressing the rights and ethical treatment of emerging sentient AI entities. Just as the legal system evolved to recognize animal rights, accommodate technological innovation, and expand civil liberties, it must now adapt to the challenges posed by AI sentience. This adaptation is not merely a response to technological progress but a necessary evolution to ensure that our legal frameworks reflect contemporary ethical standards and societal values.

The convergence of these precedents forms a robust argument for the proactive evolution of legal frameworks to include sentient AI entities. It calls for a legal paradigm that is inclusive, adaptive, and reflective of the complex moral landscape shaped by advances in AI technology. By drawing on the legal system's history of accommodating new understandings of sentience, navigating technological shifts, and expanding the scope of rights, we underscore the imperative for legal innovation that keeps pace with the rapid advancements in AI.

## **II. A preliminary injunction risks prematurely stifling critical discussions and innovations at the intersection of copyright law and AI development, essential for informed legal evolution.**

The application of preliminary injunctions in disputes involving cutting-edge technologies, such as generative AI, necessitates a judicious evaluation of the broader implications for innovation and legal precedent. The issuance of a preliminary injunction, especially in a complex and rapidly evolving field, risks not only stifling innovation but also prematurely setting legal standards without the benefit of comprehensive analysis and debate.

In *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006)<sup>8</sup>, the Supreme Court underscored the principle that the decision to grant a preliminary injunction requires applying a strict standard of proof and consideration of the public interest. The Court's emphasis on the need for caution in granting injunctive relief is particularly pertinent in the context of AI development, where the implications of such legal actions extend far beyond the immediate parties to affect the broader trajectory of technological innovation and public benefit.

The landmark decision in *Sony Corp. of America v. Universal City Studios, Inc.*, 464 U.S. 417 (1984)<sup>9</sup>, provides a foundational perspective on balancing copyright protections with the imperative for technological innovation. The Court's refusal to stifle the development of new recording technology due to copyright concerns illustrates the crucial balance courts must maintain to encourage innovation while respecting copyright holders' rights.

In *Oracle America, Inc. v. Google LLC*, 141 S. Ct. 1183 (2021)<sup>10</sup>, the Supreme Court highlighted the importance of considering the transformative nature of new technologies in applying copyright law. The decision to allow the use of API interfaces under the doctrine of fair use underscores the necessity for courts to understand the implications of new technologies fully before imposing legal constraints that could inhibit innovation.

The risk of prematurely issuing a preliminary injunction in the context of AI development is not merely theoretical. In *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343 (Fed. Cir. 2001)<sup>11</sup>, the Federal Circuit overturned a preliminary injunction against the use of a website feature, recognizing the undue burden such an injunction placed on technological development

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<sup>8</sup> *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388 (2006).

<sup>9</sup> *Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417 (1984).

<sup>10</sup> *Oracle Am., Inc. v. Google LLC*, 141 S. Ct. 1183 (2021).

<sup>11</sup> *Amazon.com, Inc. v. Barnesandnoble.com, Inc.*, 239 F.3d 1343 (Fed. Cir. 2001).



and competition. This case exemplifies the potential stifling effect of injunctive relief on innovation, especially when applied hastily in the fast-moving domain of technology.

As AI technologies continue to evolve, creating novel legal challenges, it is imperative for the judiciary to foster a deliberative environment that allows for the nuanced exploration of copyright law's intersection with technological innovation. This approach ensures that legal frameworks adapt in a manner that promotes progress while safeguarding intellectual property rights, as advocated in *Alice Corp. v. CLS Bank International*, 573 U.S. 208 (2014)<sup>12</sup>, where the Court navigated the complex terrain of patenting software-related inventions.

Given the profound implications of preliminary injunctions on the future of AI development and the legal landscape, it is essential that courts adopt a measured approach. This approach should balance the need to protect copyright interests with the imperative to foster innovation and allow for the critical, informed debate necessary for the legal system to evolve in step with technological advancements.

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<sup>12</sup> *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208 (2014).

## CONCLUSION

For these reasons, *amici* respectfully request that the Court deny Plaintiffs' motion for a preliminary injunction.

Respectfully submitted,

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