

Copyright Law's Nuances Pose Challenges To AI Music Suits

By **Ivan Moreno**

Law360 (May 19, 2025, 5:52 PM EDT) -- The rise of music created by artificial intelligence is introducing new challenges to copyright law, especially when AI-generated songs can sound strikingly similar to the works the technology is trained on.

Systems that produce new songs with just a few prompts are drawing legal scrutiny from major record labels that launched a pair of separate federal lawsuits against AI-music developers, accusing them of ripping off their song catalogs to train their models.

Last year, Sony Music Entertainment, Capitol Records, UMG Recordings and other labels sued Suno Inc. and Uncharted Labs in Massachusetts and New York respectively, making them the first and only suits so far against AI-music generating platforms. While no major rulings have been issued in the cases yet, they highlight prickly questions for courts and litigants about music rights in the age of AI.

For example, while the wholesale copying and distribution of a particular book is barred by copyright law, recording a cover of a song is permitted under a compulsory licensing regime for music. Music also often involves more rights holders than books, paintings and other creative works because there are separate copyrights for a sound recording and underlying musical composition.

"Music is probably the weirdest and most unique of all the forms of the creative arts that we protect by copyright," said Benjamin Siders, intellectual property practice group leader at Lewis Rice LLC.

Johnny B. Goode?

The core claim in the record companies' complaints is that Suno and Uncharted Labs — which does business as Udio — copied an untold number of songs to train their music-generating platforms. The plaintiffs say both platforms can create music that closely resembles well-known copyrighted songs, which they argue supports their contention that their content was copied for training.

In an example from the Suno complaint, the plaintiffs used the prompt, "1950s rock and roll, rhythm & blues, 12 bar blues, rockabilly, energetic male vocalist, singer guitarist" and the lyrics to singer Chuck Berry's "Johnny B. Goode." The platform created a **song** that closely matched the original's distinctive rhythm and melodic shape, with the similarities illustrated through side-by-side transcriptions of the musical scores, according to the suit.

Suno and Udio both argue that the record labels have not claimed that any outputs from their platforms have actually produced an identical version of one of their songs, and they say that will ultimately doom the complaints.

"Plaintiffs explicitly disavow any contention that any output ever generated by Suno has ever infringed any right that they own," they say in a nearly identical paragraph in their answers to the suits. The companies are not related but share some of the same attorneys, who did not respond to requests for comment Monday.

"While the complaint includes a variety of examples of outputs that allegedly resemble certain pre-existing songs, it goes out of its way to say that the complaint is not alleging that those outputs constitute actionable copyright infringement," the companies argued in their answers.

Counsel for the plaintiffs referred Law360 to a spokesperson at the Recording Industry Association of America.

"After months of evading and misleading, defendants have finally admitted their massive unlicensed copying of artists' recordings," said the RIAA statement, issued last year in response to the defendants' answers in August. "It's a major concession of facts they spent months trying to hide and acknowledged only when forced by a lawsuit."

Suno, however, said in its answer that there are countless other recorded versions of "Johnny B. Goode" because they are based on the musical composition owned by BMG Rights Management LLC and Music Services Inc., neither of which is a plaintiff in the case.

Udio makes the same point about "My Way" by Frank Sinatra, which is used as an example of an infringing copy in the complaint against it, saying none of the plaintiffs own the rights of the musical composition.

Suno and Udio's assertions underline a couple of the hurdles plaintiffs will face in challenging AI-music platforms.

A 'Limited' Vocabulary

Copyright registrations for musical works often involve multiple parties, with publishing companies typically owning the musical composition and record labels owning the sound recordings.

"Music is different from written content because of the type of expression that it is, and it brings together so many different aspects — the musical instruments, the composition and the lyrics all together," said Shani Rivaux, a partner at Pillsbury Winthrop Shaw Pittman LLP. "So it really is hitting a lot of different revenue streams in the music industry."

While UMG owns the copyright for Berry's recording of "Johnny B. Goode," there are hundreds of other versions because the rights to a particular sound recording cover only that specific recording, not other recordings that imitate it. That provision in the Copyright Act is what allowed Taylor Swift to re-record her old albums even though the original recordings are owned by someone else.

That exception raises a possible complication to the record labels' infringement claims, attorneys said.

"Wouldn't the AI-generated work — if it's that similar [to a copyrighted recording] — wouldn't it be akin to a cover of the original work?" wondered Eric Lane, founder of Green Patent Law who also plays the saxophone and flute in a jazz band. "If it's analogous to a cover song, if that's right, then it would be subject to that compulsory license regime where you don't need permission to record a cover song."

What Lane is referring to is a compulsory mechanical license, which was established in the Copyright Act of 1909 and applies if the new recording does not fundamentally alter the basic melody or character of a song. The AI-music companies argue that means their platforms' outputs "are per se lawful."

Lane said perhaps that's why he has not seen any lawsuits alleging that an AI-generated song infringed the recording of an original.

"Maybe that's why we haven't seen it, and I don't know if we will see it," he said.

Courts have long said that common musical elements, such as basic chord progressions and rhythms, are considered unprotectable building blocks. In a recent case that reinforced that, the Second Circuit concluded last year that Ed Sheeran's hit "Thinking Out Loud" did not rip off Marvin Gaye's Motown classic "Let's Get It On" for that reason. The ruling is being appealed to the U.S. Supreme Court by the company that brought the suit, Structured Asset Sales, which buys royalty interests from copyright holders and sells them as securities.

"Deciding what part of music is infringing versus just the sort of necessary scaffolding in order to write a song in a genre, it is not always straightforward or simple," said Siders.

Siders, who plays guitar and the trumpet and is a heavy metal aficionado, contrasts the expressive vocabulary of words — with an infinite number of ways to describe a scene, for example — to that of music, which can be more constrained, saying there are only so many pitches the human ear can handle or find pleasing. He said genre conventions can be further limiting.

"It's a really, really limited vocabulary of expression," he said. "So when you get into infringement and assessing these things, it's going to make a big difference."

The Doors vs. Robot Music

Suno and Udio are raising fair use as a defense to copying the plaintiffs' copyrighted song recordings to train their systems, just like other AI developers that are facing infringement claims from writers. The AI companies argue that copying recordings for training must be fair because it is an "intermediate" step to creating a new, noninfringing product and say the copied work is never visible to the public.

Courts have historically said intermediate copying is fair use, and the Supreme Court reached that holding in *Google v. Oracle* in 2021. The justices held there that Google did not infringe Oracle's copyrights when it used parts of the company's Java software language to build the Android platform.

In the AI-music complaints, the defendants emphasize that the copying they engaged in was done so their systems could study the building blocks of music to create songs that have never been heard before.

The record companies say the music created on the AI platforms threatens to substitute genuine human artistry and devalue existing works, arguing in both complaints that the "synthetic musical outputs"

could overrun the market with songs that "compete with, cheapen, and ultimately drown out the genuine sound recordings on which the service is built."

Suno and Udio say its customers use their platforms to make songs for more personal reasons, citing as examples someone who made a song for a marriage proposal, and a rapper with damaged vocal cords who recreated his old voice to make new music.

William Frankel, partner at Crowell & Moring LLP, said the record labels' argument that AI music will compete with their songs "seems a bit farfetched."

"I just don't think that's very plausible. People are still going to want the original soundtrack of the Doors or Steely Dan or the Beatles or whatever they listen to," he said. "I don't think they're going to take these fancily created songs and substitute for the original works."

Avery Williams, a principal at McKool Smith PC, said he believes the plaintiffs do have a strong argument for market harm, which courts have said is the most important of the fair use factors, noting that streaming platforms already include many AI-generated songs.

"If people start listening to AI music instead of whatever pop artist [the platforms] were trained on, you have real harm," he said, adding that he believes artists should be compensated if their works were used to develop the music-generating systems.

"It would be a shame if creative people got pushed to the wayside because their creativity was used to train robots that we choose to listen to instead," Williams said.

--Editing by Adam LoBelia.