

Muscles from Munich? How German Courts Might Stop US Companies from Violating Copyright through AI Training



Yesterday, the Regional Court of Munich (*Landgericht München I*) held a highly interesting oral hearing in a dispute brought by *GEMA*, a German collecting society representing composers, and *Suno*, a generative music AI company based in Cambridge, MA. The hearing was noteworthy, first, because it gave the public an opportunity to listen to numerous international hits, from Alphaville's *Forever Young* to Lou Bega's *Mambo No. 5* (and their alleged copies created by *Suno*) in a courtroom; and secondly, because the dispute raises some interesting questions of private international law.

After *GEMA* had already scored a famous victory against *OpenAI* in November 2025, when the same chamber of the Munich Court had held that the company had been violating the copyrights of several artists and composers by reproducing their song texts, the present proceedings differed not just in scope (focusing on the musical arrangement rather than texts) but also in its international dimension. For the first time, the claimant explicitly included the use of the protected works for training that had happened (according to both parties) exclusively in the US.

As far as those claims are concerned, the main obstacle to overcome for the claimant is the German court's jurisdiction. As Germany has no (codified) law on international jurisdiction over non-EU defendants, international jurisdiction is established by extending the rules on local jurisdiction (venue) to international jurisdiction (so-called 'double functionality'; see Lutzi/Wilke, in Lutzi/Piovesani/Zgrabljic Rotar (eds), *Jurisdiction over Non-EU Defendants* (Hart 2024), 111 et seq). In the present case, this appears to provide an opportunity for the claimant to rely on a little-known norm of the German *Verwertungsgesellschaftsgesetz* (VGG; own translation and emphasis):

§ 131 Exclusive Jurisdiction

(1) *For legal disputes concerning claims by a collecting society for infringement of a right of use or right of consent administered by it, the court of the district in which the **infringing act was committed** or in which the infringer has their **general place of jurisdiction** shall have **exclusive jurisdiction**. (...)*

(2) *If, pursuant to paragraph 1, sentence 1, **different courts** have jurisdiction for multiple legal disputes against the same infringer, **the collecting society may bring all claims before any one of these courts**.*

While the provision is clearly aimed at allocating local jurisdiction within Germany, nothing in its wording seems to exclude an international understanding, similar to other norms on local jurisdiction. While this would create a clearly exorbitant *forum actoris* for German collecting societies in cases falling under paragraph 2, this might be justified by the peculiar nature of collecting societies, which are heavily regulated in German law and are required, for instance, to enter into licensing agreements under ‘appropriate’ conditions (§ 34 VGG). Indeed, the Munich court appeared rather amenable to the proposition of applying § 131 VGG internationally.

In the present case, this would raise further interesting questions.

For once, does paragraph 1, according to which the courts of the place of infringing and the courts of the defendant’s seat are competent, lead to ‘different courts’ being competent in the sense of paragraph 2? Traditionally, the provision was supposed to solve the problem of traveling showmen performing committing similar infringements in numerous places. As far as the training of AI is concerned, there might only be a single place of infringement, though. Then again, paragraph 2 only requires multiple competent courts for proceedings ‘against the same infringer’, which should allow other infringements, such as the streaming of allegedly copyright-violating output in Germany to be taken into account.

Assuming that the court would not consider this sufficient to trigger the *forum actoris* of paragraph 2, it would need to answer another question, namely if paragraph 1 as a rule of exclusive jurisdiction would also prevent the claimant from (subsidiarily) relying on § 23 of the Civil Procedure Code (ZPO), which

creates jurisdiction at the location of the defendant's property. In other contexts, authors have argued that provisions of exclusive *local* jurisdiction should not be understood as provisions of exclusive *international* jurisdiction so as not to render the recognition and enforcement of decisions from other fora impossible.

If the Munich court accepted its international jurisdiction on either of those bases, the applicable law would, of course, still be US copyright law (including its relatively far-reaching exceptions for 'fair use', which the defendants argue should apply here) pursuant to Article 8 Rome II. Thus, if the decision - which has been scheduled for **12 June** - includes a positive decision on international jurisdiction regarding the US-based training, it might not yet include a decision on the substance in this regard, but could instead include an order for expert evidence on foreign law (§ 293 ZPO).

The claimants would understandably still consider this as a win, though, as it would provide a basis for future claims by German collecting societies against AI companies. In this sense, it would fit neatly into what *Linda Kuschel* and *Darius Rostam* have described, in reaction to the previous decision against OpenAI, as '*the current popular narrative of a tightly regulating EU that protects rightsholders and a US that favors AI-friendly market solutions.*' While the Munich judges said rather little about their own preferred interpretation of the law at yesterday's hearing, especially with regard to international jurisdiction, they also made no effort to dispel this narrative.