Getty Images v. Stability AI: Image Copyright and A.I. Models

By Thomas A. Guerriero, PhD

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Case: *Getty Images (US) Inc v Stability AI Ltd* [2025] EWHC 2863 (Ch), Case No. IL-2023-000007 (High Court of Justice of England and Wales, Business and Property Courts, Intellectual Property List (ChD), judgment handed down 4 November 2025) (Joanna Smith J).

Background

This commentary concerns the judgment of the High Court of England and Wales in London, handed down on 4 November 2025 by Mrs Justice Joanna Smith DBE after a trial in June 2025. It addresses only that United Kingdom judgment and the court's later decision on permission to appeal; it does not describe any proceedings between the parties in other jurisdictions.

Getty Images, a group that licenses photographs, video and illustrations, sued Stability AI Limited, which the judgment describes as an open-source generative artificial intelligence company, over its image-generation model, Stable Diffusion. The claims as pleaded included primary and secondary copyright infringement, database right infringement, trade mark infringement and passing off. *Getty Images* at [1], [17].

At the heart of the pleaded case was the allegation that Stability scraped millions of Getty Images' photographs from its websites without consent and used them to train Stable Diffusion. *Id.* at [8]. By the end of the trial, however, much of that case had gone. Getty Images acknowledged that there was no evidence that training and development took place in the United Kingdom, and abandoned its training claim. It also abandoned its claim about infringing outputs, because Stability had blocked the prompts said to generate them, and its database right claim could no longer be advanced. *Id.* at [2], [9]. The judge emphasised that the court could determine only the issues on the diminished case that remained. *Id.* at [13].

What remained were two main claims. The first alleged that Stable Diffusion generated synthetic images bearing Getty Images' and iStock's watermarks, infringing their trade marks. The second alleged secondary copyright infringement: that Stability had imported into the United Kingdom, possessed or dealt with an article, Stable Diffusion, which was an infringing copy of Getty Images' copyright works. *Id.* at [10]. Getty Images did not claim that Stable Diffusion was itself a copy of, or stored copies of, its works. Its case was that the model was an infringing copy because making its model weights would have infringed copyright had it been done in the United Kingdom. *Id.* at [11].

Holding

The court dismissed the secondary infringement claim. It held that although an "article" may be intangible for the purposes of the Copyright, Designs and Patents Act 1988, an AI model such as Stable Diffusion that does not store or reproduce any copyright works, and has never done so, is not an "infringing copy." *Id.* at [758].

On trade marks, Getty Images succeeded in part. The court found infringement in relation to particular example watermarks generated by certain earlier model versions accessed through Stability's own services, and dismissed other parts of the trade mark claim. The judge described her findings as "both historic and extremely limited in scope." *Id.* at [757]–[758]. She declined to address passing off and found no basis for additional damages. *Id.* at [756], [758].

Reasoning

The model as an article

Secondary infringement under sections 22 and 23 of the 1988 Act concerns downstream dealings in an article that is an infringing copy, rather than acts that originate reproductions of works. *Id.* at [543], [595]. Stability argued that an article must be tangible. The court rejected that argument. It found that the statute's reference to storing works in any medium by electronic means covers modern intangible storage, applying the principle that a statute is "always speaking," and it held that an article can be intangible. *Id.* at [580], [584]–[586], [758].

That conclusion helped Getty Images on the facts. In findings made in case its legal analysis was wrong, the court accepted that downloads of Stable Diffusion onto computers in the United Kingdom amounted to importation and that there would have been many such downloads. It found, by contrast, that access through Stability's hosted DreamStudio service involved no importation, because the model ran on servers outside the United Kingdom. *Id.* at [603]–[604].

The model is not an infringing copy

The decisive question was whether an article that is made using infringing copies, but never contains or stores them, can itself be an infringing copy. *Id.* at [599]. The court's answer was no.

The judge reasoned that the phrase "infringing copy" takes its meaning from the statute's concept of copying, and that "an infringing copy must be a copy." *Id.* at [596]–[597]. Drawing on earlier authority concerning a RAM chip that was an infringing copy only while it held a copy, she said: "I cannot see how an article can be an infringing copy if it has never consisted of/stored/contained a copy." *Id.* at [597].

Applying that reasoning, the court found that although the model weights were altered during training by exposure to copyright works, by the end of that process the model did not store any of those works. The weights were "purely the product of the patterns and features which they have learnt over time during the training process." Getty Images' central submission that, as soon as it is made, the AI model is an infringing copy was, in the judge's words, "entirely misconceived." The fact that development involved reproducing copyright works, by storing images and exposing the weights to them, was "of no relevance" to whether the finished model was an infringing copy. *Id.* at [600].

The court also rejected a purposive argument that the provisions should cover models trained abroad and then imported, to prevent circumvention of copyright protection. Where an AI model is not itself an infringing copy, the judge concluded, Parliament cannot have intended it to fall within the definition. *Id.* at [602].

Trade marks

The trade mark findings turned on specific examples. The court found infringement under section 10(1) of the Trade Marks Act 1994 in relation to iStock watermarks generated by earlier version 1 models, and under section 10(2) in relation to iStock watermarks from those models and a Getty Images watermark from a

version 2 model, in each case based on particular example images. It noted that it was impossible to know how many such watermarks had been generated in real life. Claims relating to later models and under section 10(3) were dismissed. *Id.* at [758].

Significance

The judgment is significant less for what it decided about training than for what it did not decide. Because Getty Images abandoned its training and output claims, the court did not rule on whether training an AI model on copyright works, or generating outputs from it, infringes copyright under United Kingdom law. *Id.* at [9], [13]. The case therefore offers no answer to the question many observers expected it to address.

What it did decide is still important. It held that intangible digital articles can fall within the secondary infringement provisions, a point with implications for software generally. And it held that a model which never stores or reproduces the works on which it was trained is not an infringing copy, even if its creation involved copying. On this reasoning, rights holders seeking to challenge the importation or distribution of models trained abroad face a substantial obstacle.

The decision is not final. On 16 December 2025 the judge granted Getty Images permission to appeal the dismissal of the secondary infringement claim, describing the point as one of statutory construction on which reasonable lawyers may differ, and as novel and important, with potentially far-reaching ramifications for AI models and intangible articles such as software. She refused Stability permission to appeal the trade mark findings. Permission Judgment, [2025] EWHC 3343 (Ch) at [8]–[12]. This commentary asserts no outcome of any appeal.

Practical Takeaways

The following are general governance observations drawn from the decision, not legal advice about any particular use of data.

- **Location of training matters.** The training claim was abandoned for lack of evidence that training took place in the United Kingdom.
- **Pleadings shape results.** The court decided only the narrowed case before it; what is abandoned is not decided.
- **What a model stores is central.** The secondary infringement analysis turned on whether the model contained copies of the works.
- **Outputs carry trade mark risk.** Generated watermarks led to limited findings of trade mark infringement.
- **Watch the appeal.** Permission to appeal was granted on the infringing copy question, so the first-instance reasoning may change.

These observations draw on paragraphs [2], [9]–[13], [595]–[604] and [756]–[758] of the judgment and the permission decision cited above. They are offered to support careful data governance and informed discussion with qualified counsel.

Open Questions

The judgment leaves the main questions about AI and copyright in the United Kingdom unanswered. It does not decide whether training on copyright works in the United Kingdom infringes, or when outputs infringe.

It does not address a model that does store or reproduce training works, since Getty Images did not allege that Stable Diffusion did so. *Getty Images* at [11], [600]. And its conclusion on infringing copies is subject to the permitted appeal.

For creators, licensors and organisations using generative tools, the practical lesson of *Getty Images* is that the answer to an AI copyright dispute may depend as much on where acts took place, and on what the claimant chooses to argue, as on the technology itself.

References

- High Court of Justice of England and Wales, Business and Property Courts, Intellectual Property List (ChD), *Getty Images (US) Inc v Stability AI Ltd* [2025] EWHC 2863 (Ch), approved judgment (4 November 2025), published by The National Archives (Find Case Law): https://caselaw.nationalarchives.gov.uk/ewhc/ch/2025/2863/data.pdf
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