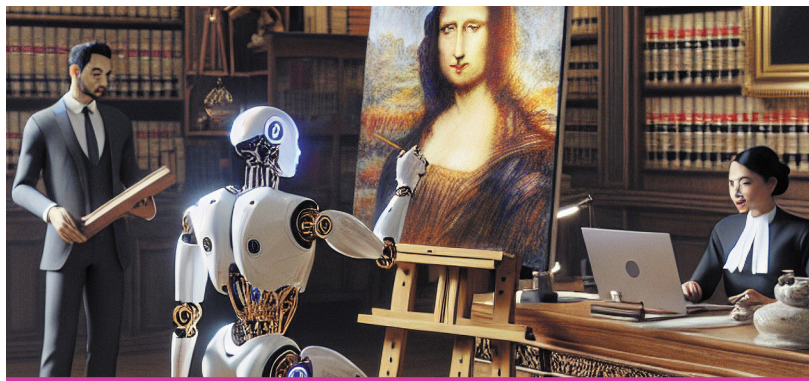


# Daily Journal

JULY 24, 2024



## TOP ARTIFICIAL INTELLIGENCE LAWYERS 2024

### Joseph R. Saveri

**K**nown for successfully bringing class actions for plaintiffs ranging from electronics manufacturers to cheerleaders' families, Joseph Saveri has long believed in pushing the law into new areas. "There's some value in advancing the law in ways where there haven't been cases or where the law isn't particularly well developed," he said.

In the last two years, he and the eponymous firm he founded in 2012 have been pushing the law to find value in the works of creators that artificial intelligence companies are using to train their large language models. Beginning in November 2022, he has brought copyright and other class actions against seven generative AI companies on behalf of writers, visual artists and software developers.

"All the cases share a basic premise, which is that these companies ... in order to produce those [AI] products, used or took training data that was owned by others," Saveri said. "They acquired them sometimes through means that aren't really clear and are probably not legal."

"Our claim at least is that the copying of that material, which was protected by our client's copyrights, is illegal, violates the Copyright Act and violates perhaps other statutes."

"We've had a lot of copycats following our same theory, including companies like the *New York Times*," he added.

Saveri filed his first AI class action on behalf of computer programmers against a product that produces computer code. That case does not raise copyright claims, but "that means that the defendants don't have a fair use defense," he said. *Doe 1 v. GitHub Inc.*, 4:22-cv-06823 (N.D. Cal., filed Nov. 3, 2022).

The judge recently dismissed the plaintiffs' claims under the Digital Millennium Copyright Act, but Saveri is considering appealing.

"Our theories when we started are broad and untested. ... It's fair to say that we've had some successes, and all of our cases are proceeding into discovery," he said. "But we've also lost some of the motions to dismiss. And the courts have found ... some of our theories to be good and others not so good."

The case with the largest potential impact is against the creator of ChatGPT, OpenAI. *Tremblay v. OpenAI Inc.*, 3:23-cv-03223 (N.D. Cal., filed June 28, 2023).

District Judge Araceli Martínez-Olguin has kept the case moving and in February dismissed a number of claims. But now, Saveri said, his team is deep into discovery. "We find that the evidence we've seen so far really provides a lot of support for ... the detailed allegations of the complaint," he said. "So we think the case is shaping up."



Joseph Saveri Law Firm,  
LLP

**SAN FRANCISCO**

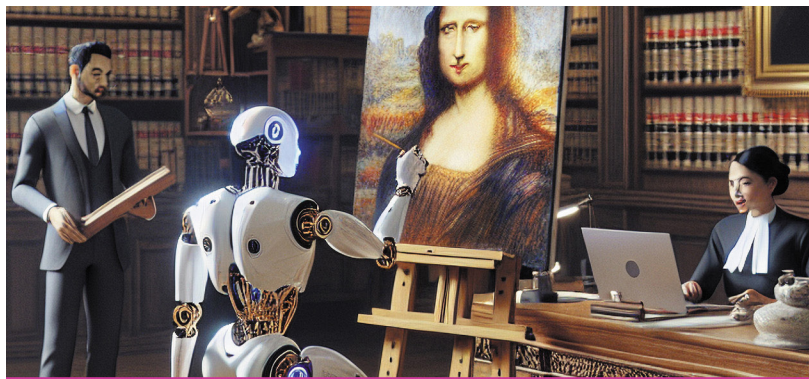
His newest class action is against NVIDIA, famous for its AI chips, over the company's own generative product. *Nazemian v. NVIDIA Corp.*, 4:24-cv-01454 (N.D. Cal., filed May 8, 2024).

But there will be more, he promised. "With the passage of time, and ... [as] we keep pushing this rock up the hill, I think people are coming to the conclusion that we're right."

— DON DEBENEDICTIS

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### Cadio Zirpoli

Cadio Zirpoli's expertise primarily lies in antitrust suits, where he has played a pivotal role in resolving some of the largest electronics antitrust cases. More recently, his work extends to initiating groundbreaking generative artificial intelligence-related litigation against some of the industry's biggest names, including Stability AI, OpenAI and Google.

Zirpoli said his interest in AI law was sparked by the years of positive and negative reporting about AI in the news, drawing him to the complexities and challenges it presents.

"I enjoy and appreciate art and creativity in all its forms, so I began to get alarmed when I read and heard disturbing accounts of artists, coders and authors who claimed their creative work was being illegally appropriated by tech companies' AI and machine learning technology without consent, credit, compensation or transparency," he said. "This unfair threat to their livelihood touched me and made me want to help them. It seemed fundamentally unfair that these creators were losing control of their life's work without any compensation while the tech companies were building their billions of dollars in valuation on their work."

One of Zirpoli's lawsuits is against GitHub Copilot, a commercial generative AI product developed by OpenAI and GitHub. *Doe 1 v. GitHub, Inc.*,

4:22-cv-06823 (N.D. Cal., filed Nov. 3, 2022).

The product, which outputs computer code, sometimes verbatim from the code it was trained on, became a point of contention for not providing attribution to the original creators.

"Copilot is based on a large language model developed by OpenAI and GitHub that was trained on plaintiffs' and class members' computer code without credit, consent or compensation, and which outputs portions of that code verbatim without the required attribution," Zirpoli said.

The case is in the discovery phase.

In a separate matter against OpenAI, Zirpoli's clients allege that the AI company infringed on the copyrights of a group of book authors, including comedian Sarah Silverman, by using their copyrighted works to train ChatGPT, its generative AI large language model. *Tremblay v. OpenAI, Inc.*, 3:23-cv-03223-AMO (N.D. Cal., filed June 28, 2023).

The lawsuit alleges direct and vicarious copyright infringement, violations of the Digital Millennium Copyright Act, negligence, unjust enrichment and various violations of California's unfair competition laws.

"There's a perception among some in the tech community that our clients and our firm are Luddites using litigation to thwart progress that will bene-



Joseph Saveri Law Firm,  
LLP  
SAN FRANCISCO

fit society. Nothing could be further from the truth," Zirpoli said. "Our goal is to get our clients the attribution and compensation that they deserve. Given the novelty of our cases, we and the courts are trying to figure out where copyright law applies and where it doesn't. When we first filed these cases, we received death threats and accusations that we were in cahoots with foreign governments to slow the progress in the arms race that is now AI."