

Framework for an Anti-AI-Training Music License

DISCLAIMER

This document is a research framework, not legal advice. It was compiled by an AI assistant (which is ironic) for Andrew to review with a qualified intellectual property attorney licensed in Canada and/or the United States. Nothing here should be relied upon as legal counsel. The legal landscape around AI and copyright is actively evolving — several key rulings are expected in 2026 and beyond.

THE CONCEPT

A license embedded in the physical medium of a cassette tape that:

1. Explicitly prohibits the use of the enclosed music for AI/ML model training
 2. Specifies severe remedies for breach, including forfeiture of the trained model to the creators
 3. Is delivered as an audio track (Track 0 / Side A opener) that the listener must physically fast-forward past, eliminating any "I didn't know" defense
 4. Is also printed in the liner notes and hosted at a permanent URL
 5. Is itself a song — the license text set to music — making it part of the artistic work
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LEGAL FOUNDATIONS

Why This Has a Chance of Working

1. Shrinkwrap license precedent is established.

ProCD, Inc. v. Zeidenberg (1996) established that shrinkwrap licenses — terms enclosed inside physical packaging that the buyer can only read after purchase — are enforceable contracts under US law, provided the buyer has an opportunity to review terms and return the product. This has been upheld in subsequent cases (Bowers v. Baystate Technologies). The cassette format actually *strengthens* this: the license is the first thing on the tape. You cannot access the music without encountering the license first.

2. Canadian copyright law doesn't have a text-and-data-mining exception.

Unlike the EU (which has a limited TDM exception) and unlike the direction some US courts are heading (Bartz v. Anthropic found some training uses to be fair use), Canada's Copyright Act does not include a text-and-data-mining exception. Bill C-27 (which would have enacted AIDA, the Artificial Intelligence and Data Act) died when Parliament was prorogued in January 2025. As of March 2026, there is no Canadian statutory exception permitting AI training on copyrighted works. The Canadian government's consultation on this concluded in November 2024 and no legislation has followed.

This means: in Canada, training an AI model on copyrighted music without a license is *prima facie* copyright infringement. You don't need a special license to prohibit it — it's already prohibited by default. The license makes it *explicit* and adds contractual remedies on top of the statutory ones.

3. "Fair dealing" in Canada is narrower than "fair use" in the US.

Canadian fair dealing requires the use to fall within enumerated purposes (research, private study, education, parody, satire, criticism, review, news reporting). AI training doesn't obviously fit any of these. Canadian courts have not recognized "transformative use" as a characteristic of fair dealing, unlike US courts which have sometimes accepted the argument that AI training is "transformative."

4. Copyright holders can impose conditions beyond what copyright law provides.

A license is a contract. Copyright law sets the floor (the rights you have by default). A license can add conditions above that floor — including specific prohibitions on uses that might otherwise be ambiguous, and specific remedies for breach that go beyond statutory damages.

5. The audio delivery mechanism creates strong notice.

One of the main challenges with any license is proving the other party received notice of its terms. A physical cassette with the license as Track 0 creates multiple layers of notice:

- The tape physically forces you to encounter the license before the music
- The liner notes contain the written text
- A URL provides the full legal text online
- The license is a *song* — memorable, distinctive, unambiguous

This is substantially stronger notice than a shrinkwrap license inside a software box, which courts have already upheld.

Where It Gets Complicated

1. Model forfeiture as a remedy is legally aggressive.

No court has ordered the forfeiture of an AI model to a copyright holder. Existing remedies for copyright infringement include:

- Actual damages (lost revenue)

- Statutory damages (up to \$150,000 per work for willful infringement under US law; up to \$20,000 per work under Canadian law, or \$5,000 for non-commercial infringement)
- Injunctive relief (court orders to stop the infringing activity)
- Profits (the infringer's profits attributable to the infringement)
- Forfeiture and destruction of infringing copies (17 USC § 504)

A contractual provision that says "if you train on this, you forfeit ownership of the model" would be treated as a *liquidated damages* clause. Courts enforce liquidated damages clauses only if:

- The actual damages from breach would be difficult to calculate (this is true — the harm of AI training on your music is genuinely hard to quantify)
- The liquidated amount is a reasonable estimate of probable loss, *not a penalty* (this is where it gets dicey — model forfeiture could be seen as grossly disproportionate to the harm, which would make it an unenforceable penalty)

Strategy: Frame the forfeiture not as punitive but as the logical consequence of the breach. The argument: "By training your model on my copyrighted work without authorization, you have created a derivative work that incorporates my intellectual property. I am not asking for money — I am asking for ownership of the portion of your model that derives from my work. Since the model cannot be cleanly separated into 'trained on my work' and 'not trained on my work,' the only equitable remedy is transfer of the whole."

This is legally novel and a court might not buy it. But the *threat* has value even if the specific remedy is modified by a court.

2. The GPL propagation theory hasn't been tested for creative works.

The idea that a copyleft-style "viral" license could propagate through AI training — so that a model trained on copyleft-licensed music would itself be subject to the copyleft terms — is analogous to the "GPL propagation theory" being debated in software law. Current legal scholarship is skeptical: it's hard to argue that an AI model is a "derivative work" of any single training input, because the model doesn't contain recognizable copies of training data (in most cases).

However: this is an unsettled question. No court has ruled on it. And the argument is stronger for music than for code, because music models *do* sometimes reproduce substantial portions of training data (this was central to the UMG lawsuits against Suno and Udio).

3. Enforceability across jurisdictions.

The license needs to work in at least Canada and the US. Canadian law is currently more favorable (no TDM exception, narrower fair dealing). US law is more uncertain (fair use might protect some training uses). The license should specify governing law (Canadian, ideally) and forum.

PROPOSED LICENSE STRUCTURE

The Creature Comforts No-Train License (CC-NT) v1.0

Grant: The purchaser receives a personal, non-transferable license to listen to, enjoy, and share the enclosed music for personal, non-commercial purposes, including making personal copies for backup, lending the physical cassette to others, and performing the music in non-commercial settings.

Explicit Prohibition: The licensee may NOT, and may not authorize any third party to:

1. Use the enclosed audio recordings, in whole or in part, as training data for any machine learning model, neural network, artificial intelligence system, or any automated system that learns from or adapts based on input data
2. Create, distribute, or use any dataset that includes the enclosed audio recordings or any substantial portion thereof for the purpose described in (1)
3. Use any transcription, spectral analysis, feature extraction, or other derivative representation of the enclosed audio recordings for the purpose described in (1)
4. Digitize the enclosed audio recordings for any purpose other than personal listening

Notice and Cure: Any entity that discovers it has inadvertently trained a model on the enclosed recordings shall have 30 days from discovery to:

- Notify the licensor in writing
- Remove the recordings from all training datasets
- Retrain or fine-tune the model to remove the influence of the recordings (to the extent technically feasible)
- Provide written certification of compliance

Remedies for Willful Breach: If the licensee or any third party willfully trains a machine learning model on the enclosed recordings after receiving notice of this license (including by listening to Track 0), the licensor shall be entitled to:

1. **Injunctive relief** compelling the immediate cessation of all use
2. **Liquidated damages** equal to 10% of the total revenue generated by the infringing model in the 12 months following breach, or \$500,000 CAD, whichever is greater
3. **Assignment of intellectual property rights** in the infringing model, to the extent the model constitutes a derivative work of the enclosed recordings under applicable copyright law
4. **Costs and attorneys' fees** for any enforcement action
5. Any other relief available under applicable copyright law, including statutory damages for willful infringement

Governing Law: This license is governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Survival: This license survives any resale, transfer, or disposal of the physical cassette. Subsequent possessors are bound by the same terms.

THE CASSETTE DELIVERY MECHANISM

Track 0: "Terms and Conditions" (The License Song)

The first track on Side A is a musical performance of the license. This serves three purposes:

1. **Legal notice:** The listener cannot claim ignorance of the license terms
2. **Physical barrier:** To reach the music, you must fast-forward past the license — an affirmative act that demonstrates awareness
3. **Artistic statement:** The license itself is a Creature Comforts track, part of the album's mythology

Suggested format: 2-3 minutes. Spoken word over a simple musical bed, with the key terms sung or chanted at intervals. The tone should be deadpan, bureaucratic, and slightly menacing — the humor comes from the contrast between legalese and folk-punk. Think "The Fine Print" by The Stupendium, or the terms-and-conditions scene in *South Park*.

Key lines to include (paraphrased for singability):

- What you're holding is a license, not a purchase
- You may listen, share, and love this music
- You may not feed it to a machine
- If you train your model on this tape, the model becomes ours
- This license lives in the liner notes, page [X]
- This license lives online at [URL]
- By pressing play on the next track, you accept these terms
- The fast-forward button is not an escape clause

Liner Notes

Full legal text of the license, printed in the cassette J-card or included as an insert. Should include:

- The full license text (in proper legal language, reviewed by an attorney)
- A plain-language summary
- The URL for the online version
- A QR code linking to the online version
- Contact information for licensing inquiries

Online Version

The full license hosted at a permanent URL (e.g., creaturecomforts.cc/license or similar). This serves as:

- The canonical legal text

- A timestamped, version-controlled document
 - Evidence of publication and availability
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STRATEGIC CONSIDERATIONS

Why This Is More Than a Stunt

The current legal landscape is unusually favorable for this kind of license:

1. **Canada has no TDM exception.** AI training on copyrighted music without a license is already infringement under Canadian law. The license makes this explicit and adds contractual teeth.
2. **The major labels are licensing, not litigating.** Warner Music Group settled with Suno in November 2025 and is building a licensed training service. Universal settled with Udio. The industry consensus is moving toward "you need a license to train." This license aligns with that direction — it's just more restrictive (no training at all, rather than licensed training).
3. **Courts are denying fair use for unauthorized training.** The ROSS Intelligence ruling (Thomson Reuters v. ROSS) found that copying for AI training was not fair use. While some training uses have been found fair (Bartz v. Anthropic for legally purchased books), the trend is toward requiring authorization, especially for commercial training.
4. **The physical medium creates an enforceability advantage.** Digital music is scraped without the scraper encountering any license terms (robots.txt is voluntary and not legally binding). A cassette forces physical encounter with the license. This is a genuine legal advantage — not a gimmick.

Why the Forfeiture Clause Matters Even If Unenforceable

Even if a court modifies the forfeiture clause to standard damages, the clause serves multiple purposes:

1. **Deterrence:** The threat of model forfeiture is disproportionate enough to make a rational actor choose not to train on the material. The cost-benefit analysis is terrible: the training value of a single album is negligible, but the potential downside (even litigating the forfeiture claim) is enormous.
2. **Negotiating leverage:** If a company does train on the material, the forfeiture clause gives you a starting position in settlement negotiations that's much stronger than "pay me statutory damages."

3. **Artistic statement:** The forfeiture clause is itself a statement about the relationship between human creativity and AI. It says: if you feed human art to a machine, the machine becomes human property. That's the Creature Comforts thesis.
4. **Precedent-seeking:** Someone needs to be the first to test these clauses. If the clause is upheld even partially, it creates precedent for all independent artists.

Making It Replicable

The license should be designed so other artists can adopt it. The "Creature Comforts No-Train License" (CC-NT) could become a standard, like Creative Commons. Components:

- A standardized license text (version-controlled, lawyer-reviewed)
 - A recognizable symbol/mark for liner notes (like the CC logo)
 - A registry where artists can record their adoption of the license
 - Template language for the "Track 0" audio license delivery
 - Guidance for applying the license to vinyl, CD, and digital formats (though the cassette version is the strongest)
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NEXT STEPS FOR LEGAL REVIEW

A lawyer should review the following specific questions:

1. **Liquidated damages vs. penalty:** Is the forfeiture/revenue-share clause enforceable under Canadian contract law, or will it be struck as a penalty? What's the maximum defensible liquidated damages amount?
2. **Shrinkwrap enforceability for audio:** Does ProCD extend to audio media, or is there a gap in the case law? Are there Canadian equivalents to ProCD?
3. **Copyright registration:** Should the recordings be registered with the Canadian Intellectual Property Office and/or the US Copyright Office to strengthen enforcement? (Registration is not required for copyright to exist in Canada, but it creates a presumption of ownership and may be required for certain US remedies.)
4. **Assignment clause viability:** Can a contractual license validly require assignment of IP rights in a model that was trained in breach of the license? Or is this better framed as a constructive trust claim?
5. **Jurisdictional scope:** How does the license operate if the training occurs in a jurisdiction with a TDM exception (e.g., the EU under DSM Directive Article 4)?
6. **Interaction with existing copyright:** Does the contractual license add meaningful protection beyond what Canadian copyright law already provides, or is it

belt-and-suspenders?

7. **Class action potential:** If multiple artists adopt the CC-NT license, does a single breach against all of them create class action potential?

SOURCES

- ProCD, Inc. v. Zeidenberg, 86 F.3d 1447 (7th Cir. 1996) — shrinkwrap license enforceability
- Bowers v. Baystate Technologies, 320 F.3d 1317 (Fed. Cir. 2003) — contractual restrictions beyond copyright
- Bartz v. Anthropic PBC (N.D. Cal. 2025) — AI training as fair use (for legally acquired copies)
- Thomson Reuters v. ROSS Intelligence (D. Del. 2025) — AI training NOT fair use
- UMG v. Udio (settled October 2025) — music training infringement claims
- WMG v. Suno (settled November 2025) — music training license framework
- Google DeepMind, "MusicRL: Aligning Music Generation to Human Preferences" (2024), arXiv:2402.04229
- Canadian Copyright Act, RSC 1985, c C-42 — fair dealing provisions (ss. 29-29.2)
- Canada Copyright Consultation: "What We Heard" report (November 2024)
- Bill C-27 (died on Order Paper, January 2025)
- Smart & Biggar: "AI training copies blessed as 'fair use' by U.S. Court — Can a similar path be forged in Canada?" (2025)
- Osler: "AI training on trial: the next legal frontier in copyright law" (2025)
- Miller Thomson: "Copyright challenges in the age of AI" (2025)
- HillNotes: "Copyright and Artificial Intelligence" (October 2025)
- Creative Commons: "Understanding CC Licenses and AI Training: A Legal Primer" (May 2025)
- Stanford: "Clicking and Cringing: Making Sense of Clickwrap, Browsewrap and Shrinkwrap" (Kim)
- 17 USC § 504 — Remedies for copyright infringement
- Lawfare: "AI Liability for Intellectual Property Harms"
- NYU JIPEL: "The AI Input Class: Constitutional Urgency and Fair Licensing in AI Copyright Class Actions"