

Geoffrey A. Neri, Esq. VSB No. 72219
11601 Wilshire Blvd, Ste. 2080
Los Angeles, CA 90025
Phone: (310) 593-9890
Fax: (310) 593-9980
Ryan@bnsklaw.com
Tim@bnsklaw.com
Geoff@bnsklaw.com

Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WASHINGTON D.C.**

Stephen Thaler, an individual

Plaintiff,

v.

Shira Perlmutter, in her official capacity as Register
of Copyrights and Director of the United States
Copyright Office; and The United States Copyright
Office;

Defendants.

Case No. 1:20-cv-00903-LMB-TCBVAED

BRIEF IN SUPPORT

**BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Ryan Abbott, Esq. (*pro hac vice* granted)
Timothy Lamoureux, Esq. (*pro hac vice*
application pending)
Geoffrey A. Neri, Esq. VSB No. 72219
11601 Wilshire Blvd, Ste. 2080
Los Angeles, CA 90025
Phone: (310) 593-9890
Fax: (310) 593-9980
Ryan@bnsklaw.com
Tim@bnsklaw.com
Geoff@bnsklaw.com

Attorneys for Plaintiff

TABLE OF CONTENTS

TABLE OF AUTHORITIESii-vi

I. INTRODUCTION AND SUMMARY OF ARGUMENT 1

II. STATEMENT OF UNDISPUTED MATERIAL FACTS2

III. LEGAL STANDARD.....6

IV. ARGUMENT7

A. The Work Is Copyrightable7

1. The Act’s Plain Language Establishes That AI-Generated Works Are Copyrightable.....7

2. Should the Court Consider the Copyright Act Ambiguous, the Purpose of the Act Must be Considered and Requires Protection of AI-Generated Works.....9

a. *Courts Have Recognized that Technological Advancement Can Cause Ambiguity in the Copyright Act*.....9

b. *The Purpose of the Copyright Act Requires Protection of AI-Generated Works*.....10

c. *The Supreme Court, Applying the Purpose of Copyright, Has Expanded the Scope of Copyright, Reading the Act Expansively, Not Regressively as the USCO Urges*.....13

d. *The USCO’s Interpretation of the Act Is Not Entitled to Deference*.....15

B. Dr. Thaler Is the Owner of the Copyright in the Work Either By Common Law Property Principles or, in the Alternative, Because as a Work For Hire Ownership Originally Vested in Him20

1. Accession And The Right of First Possession Both Allow Dr. Thaler to Be an Owner By Operation of Law.....20

a. *General Principles of Property Begetting Property Remaining with the Property Owner Provide the Copyright to Dr. Thaler*.....21

b. *Dr. Thaler Has the Right of First Possession to the Copyright*.....22

	2.	Alternatively, the Work Is a Work-For-Hire and Dr. Thaler Its Author.....	24
V.	CONCLUSION.....		27

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.