Why (even) major record companies can't always get what they want

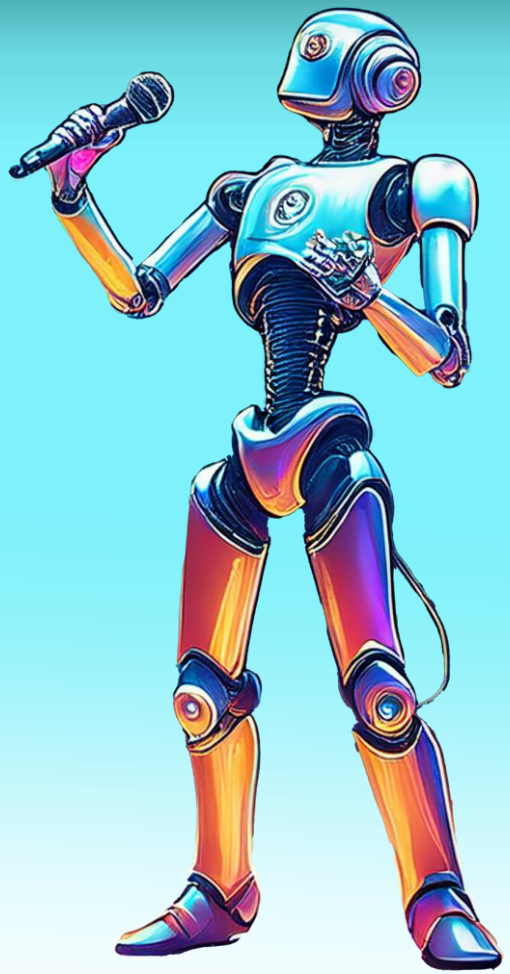
GenAI Music Licensing and the Limits of Copyright Contract Law

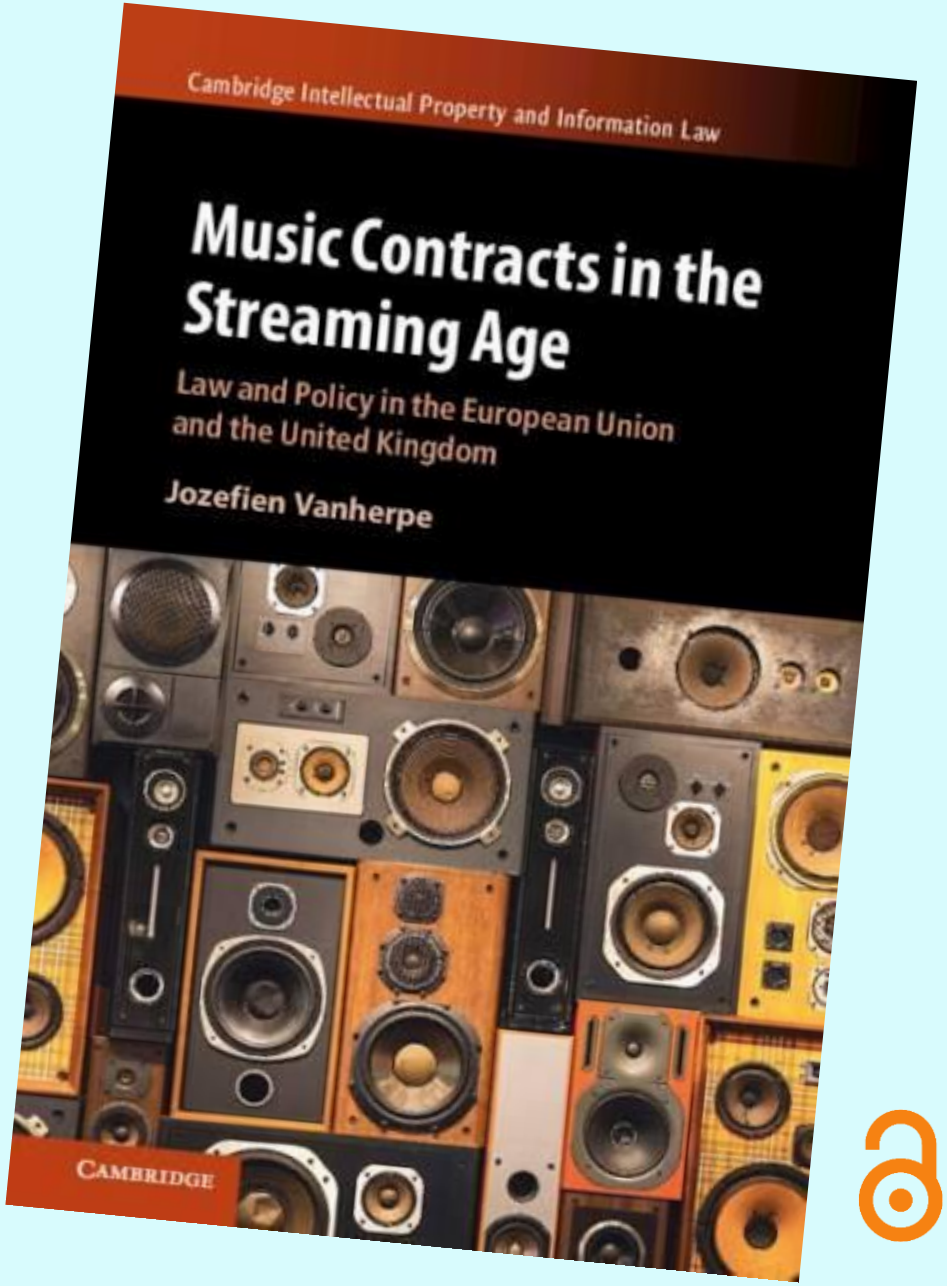
An EPIP Synergy Presentation on the *Suno* & *Udio* Settlements

Jozefien Vanherpe
KU Leuven
Centre for IT & IP Law

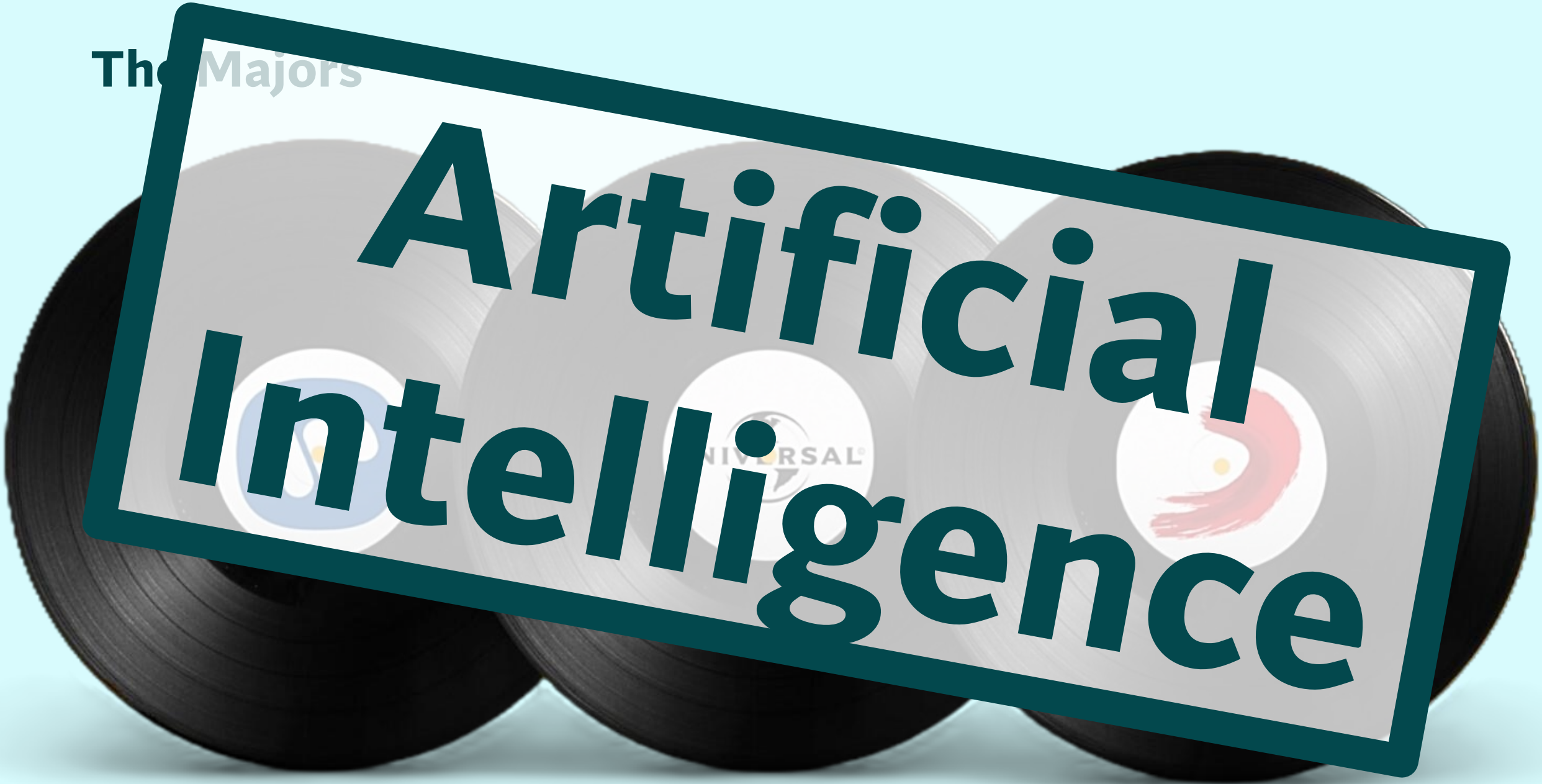
Simon Geiregat
Ghent University
Ghent IP Law Institute

Michiel Roels
FWO Research Foundation - Flanders
Ghent IP Law Institute




Cambridge Intellectual Property and Information Law
Music Contracts in the Streaming Age
Law and Policy in the European Union and the United Kingdom
Jozefien Vanherpe
CAMBRIDGE

The Majors




SUNO


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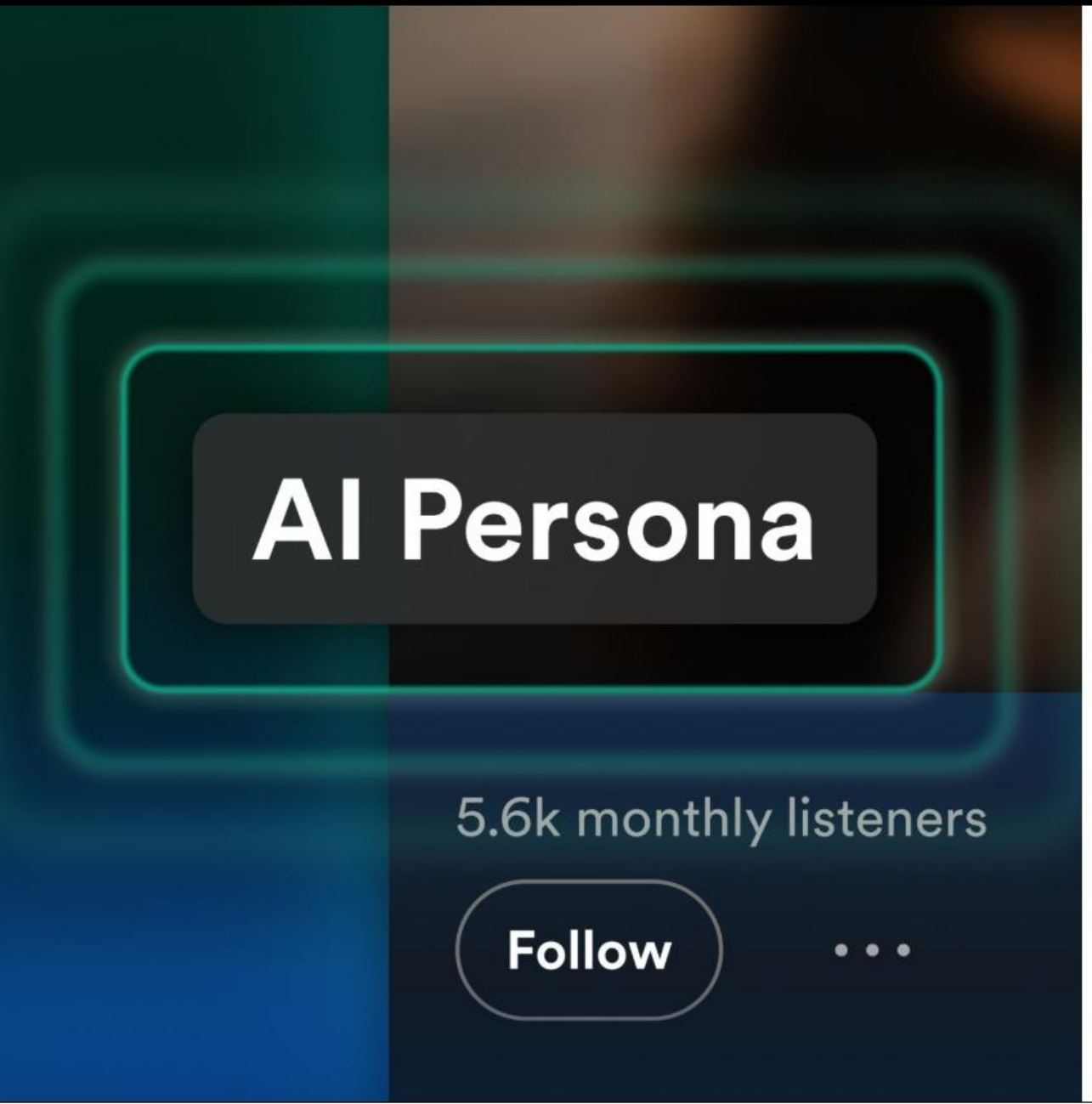
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IMPROVING LISTENER TRANSPARENCY

Introducing a New Label for AI-Generated Artist Identities on Spotify

AUGUST 11, 2026

SHARE





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Munich I Regional Court, judgment of 31 July 2026, case 42 O 763/25

ECLI:DE:LGMUEN1:2026:0731.42O763.25.0A

GenAI Music Licensing

Input

Output

GenAI Music Licensing meets EU contract-law rules

Input

- NL Aw. art. 25c, 2nd indent
- DE UrhG para. 32c(1)
- FR C.P.I. art. L122-7, al. 4

GenAI Music Licensing

Output

1



A new method of exploitation

2

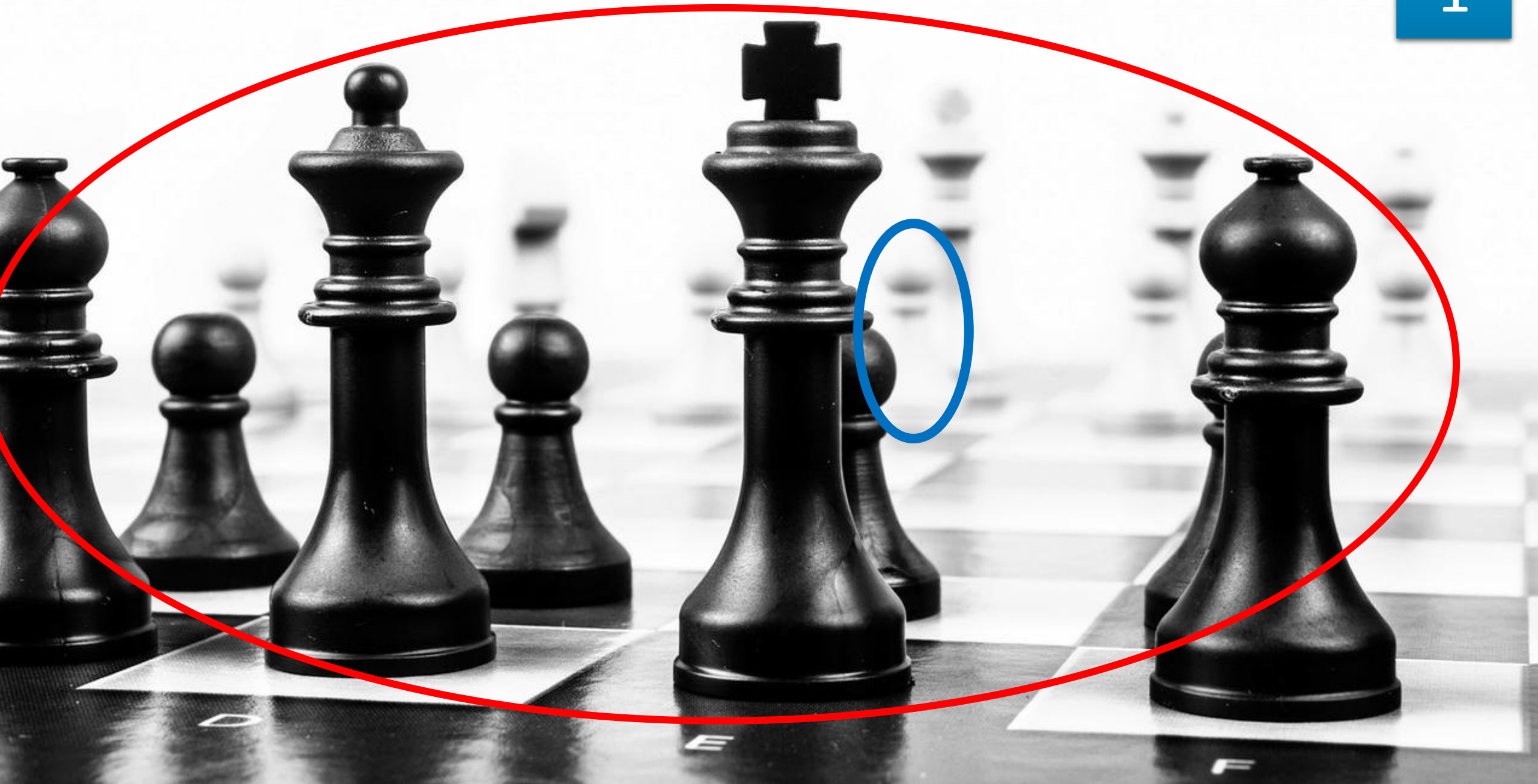


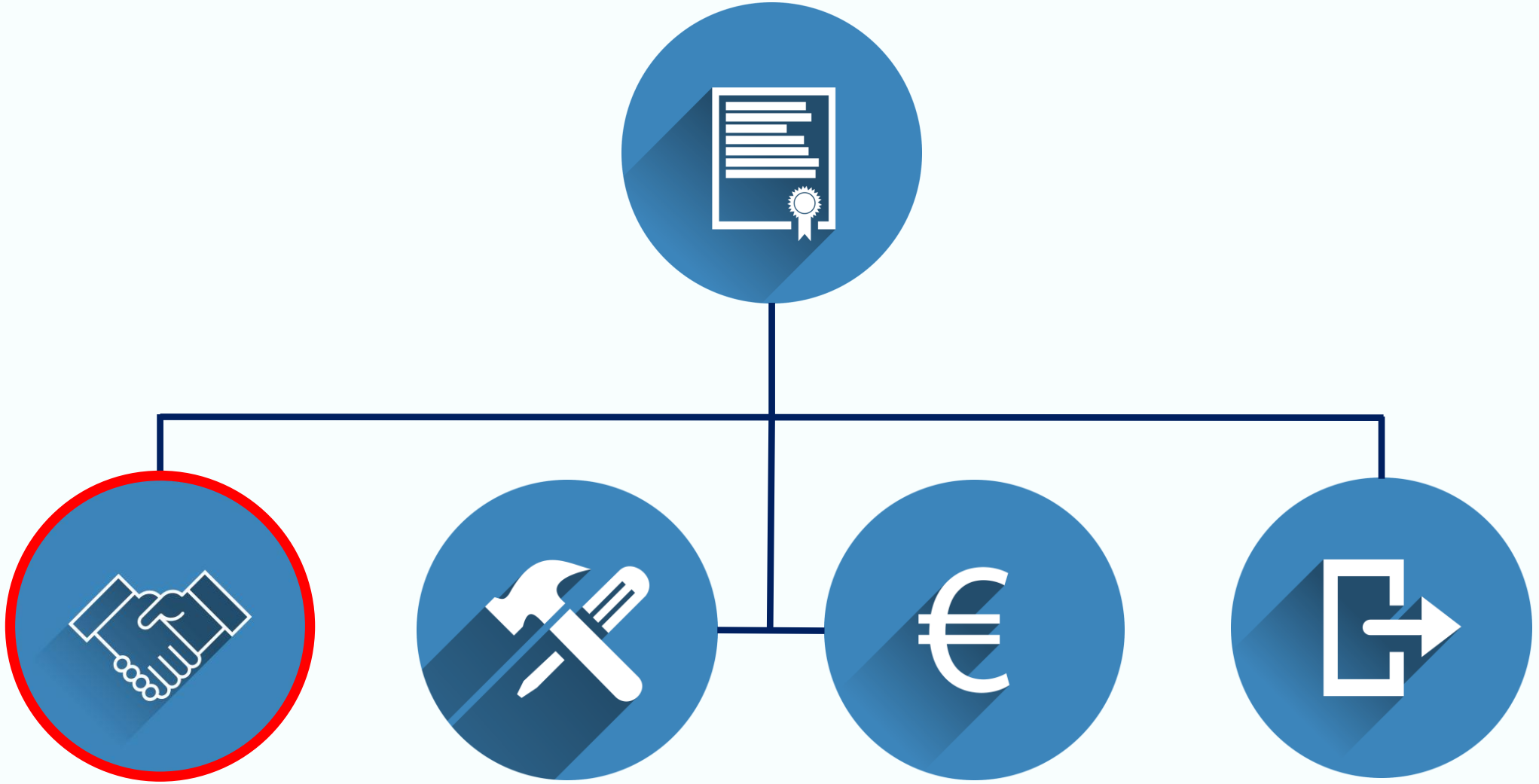
No contracting around

3



Fair scope for AI licenses





Contract negotiation and formation

1



- requirements for validity, scope and opposability
- precontractual liability: duty of care vs. duty of research
- requirement of consent (express + formalities)
- limitations in theory (e.g. future music, reasonability)
- determination in practice: duty to specify + restrictive interpretation

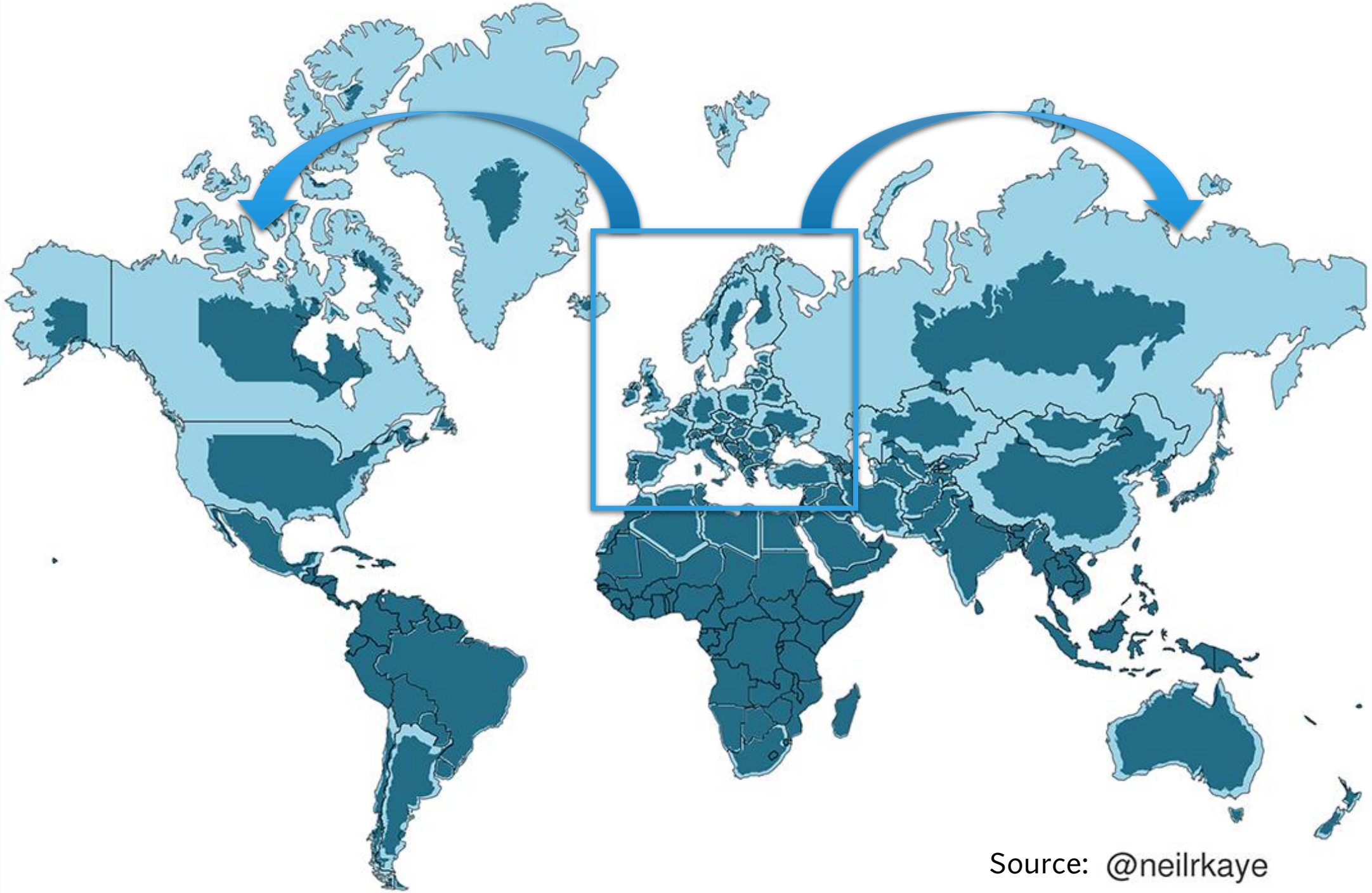
No advance transfer of the unknown

1



- rationale: no meaningful consent to unforeseen + unforeseeable use
- precedent: cable retransmission, digital downloads, streaming
- interpretation: technical + economic autonomy
- application: genAI training as new method of exploitation
- consequence: AI licenses legally ineffective? (‘relative nullity’)





Source: @neilrkaye

Choice of law as a strategy?



14.07. THIS AGREEMENT IS ENTERED INTO IN THE STATE OF NEW YORK AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF NEW YORK APPLICABLE TO CONTRACTS ENTERED INTO AND TO BE WHOLLY PERFORMED THEREIN (WITHOUT GIVING EFFECT TO ANY CONFLICT OF LAWS PRINCIPLES UNDER NEW YORK LAW). THE PARTIES AGREE THAT ANY ACTION, SUIT OR PROCEEDING BASED UPON ANY MATTER, CLAIM OR CONTROVERSY ARISING HEREUNDER OR RELATING HERETO SHALL BE BROUGHT SOLELY IN THE STATE COURTS OF OR THE FEDERAL COURT IN THE STATE AND COUNTY OF NEW YORK; EXCEPT THAT IN THE EVENT RAF IS SUED OR JOINED IN ANY OTHER COURT OR IN ANY OTHER FORUM IN RESPECT OF ANY MATTER WHICH MAY GIVE RISE TO A CLAIM BY RAF HEREUNDER, THE PARTIES HERETO OTHER THAN RAF CONSENT TO THE JURISDICTION OF SUCH COURT OR FORUM OVER ANY CLAIM WHICH MAY BE ASSERTED BY RAF THEREIN. THE PARTIES HERETO IRREVOCABLY WAIVE ANY OBJECTION TO THE VENUE OF THE ABOVE-MENTIONED COURTS, INCLUDING ANY CLAIM THAT SUCH ACTION, SUIT OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. ANY PROCESS IN ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY, AMONG OTHER METHODS PERMITTED BY LAW, BE SERVED UPON GRANTOR BY DELIVERING OR MAILING THE SAME IN ACCORDANCE WITH PARAGRAPH 14.05 HEREOF. ANY SUCH PROCESS MAY, AMONG OTHER METHODS, BE SERVED UPON ARTIST OR ANY OTHER PERSON WHO APPROVES, RATIFIES, OR ASSENTS TO THIS AGREEMENT TO INDUCE RAF TO ENTER INTO IT, BY DELIVERING THE PROCESS OR MAILING IT TO ARTIST OR THE OTHER PERSON CONCERNED IN THE MANNER PRESCRIBED IN PARAGRAPH 14.05.

Source: Twitter account Ye

Law applicable to contracts

- EU: Rome I Regulation (No 593/2008)
- freedom of contract: choice of law clauses – *lex contractus*
- formal validity of contract – *lex (loci) contractus*
- if artificial extraneity: also mandatory national / EU law
- overriding mandatory provisions
- specific regimes for consumer / insurance / employment contracts

More info: Vanherpe (2023)

A step back: scope of private international law rules



Scope of *lex loci protectionis:* the Steizer case

- context: written form requirement for © contracts | vs.
- formal validity of contract vs. of 'act of disposal' of © ?
- 'intrinsic characteristics' of IP right
- proprietary layer: initial ownership / transferability of rights
- Opinion of AG Emiliou: opposability vs. validity



Information regarding the main proceedings

Procedure and result	Reference for a preliminary ruling
Subject matter of the case	area of freedom, security and justice Judicial cooperation in civil matters

Case-law documents 1

Opinion	23/04/2026

Procedural documents 1

Request for a preliminary ruling	04/03/2025

Analysis and information documents 1

Application (OJ)	23/05/2025

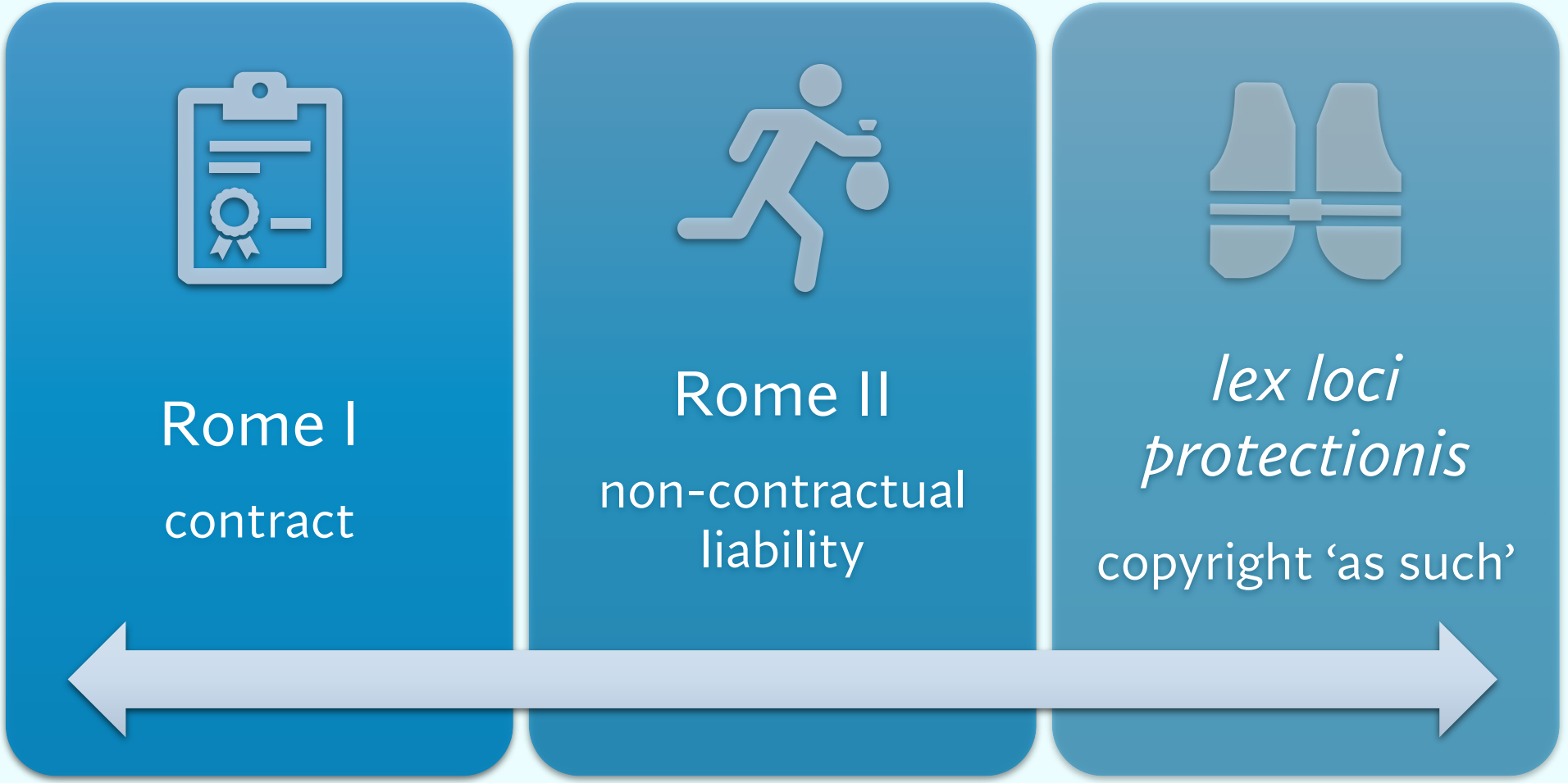
Procedural information

Usual case name	Steizer
Source of the question referred for a preliminary ruling	Oberlandesgericht Düsseldorf - Germany
Date of lodging of the application initiating proceedings	04/03/2025
Language(s) of the case	DE

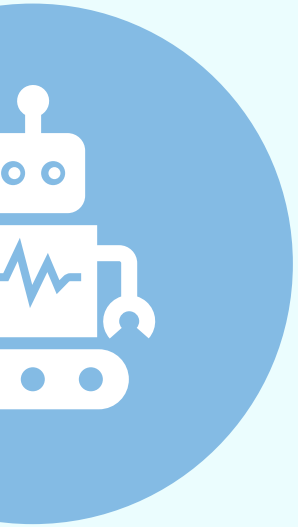
Date of delivery 24/09/2026

🥲

A step forward? scope of private international law rules



Implications for AI catalogue licenses



- limits to scope: proprietary (not contractual) | *ex ante* (not *ex post)*
- cf AG Emiliou: validity (not opposability)
- no Rome I where no validly licensable subject matter
- application of *lex loci protectionis* 
- choice of law clauses cannot redefine what is transferable



The case for fair scope

- no artist agency without meaningful creator participation + consent
- no consent based on private ordering if law prevents it
- more scrutiny of catalogue-level AI licensing
- case for excluding AI from scope of existing contracts
- align with human-centric AI and cultural diversity commitments

2025 Settlements

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Opt-in for artists?

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Remuneration and the DSM Directive

- Art. 18(1): ‘appropriate and proportionate’ remuneration
- Art. 20(1): right to additional remuneration
- Art. 19(1): transparency requirement

Text and data mining

"1. Member States shall provide for an exception (...) for reproductions and extractions of lawfully accessible works and other subject matter for the purposes of text and data mining.

2. Reproductions and extractions made pursuant to paragraph 1 may be retained for as long as is necessary for the purposes of text and data mining.

3. The exception or limitation provided for in paragraph 1 shall apply on condition that the use of works and other subject matter referred to in that paragraph has not been expressly reserved by their rightholders in an appropriate manner, such as machine-readable means in the case of content made publicly available online."

– Art. 4 DSM Directive





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Munich I Regional Court, judgment of 31 July 2026, case 42 O 763/25

ECLI:DE:LGMUEN1:2026:0731.42O763.25.0A





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Like Company





AG M. Szpunar, opinion of 3 September 2026, case C-250/25

ECLI:EU:C:2026:****

GenAI Music Licensing

Styles?

Output

Why (even) major record companies can't always get what they want

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