# North Carolina Supreme Court Greenlights Claims Against Insurance Agent


By: James Lawrence, Partner

Last week, in an opinion with implications for small businesses and insurance brokers, the Supreme Court of North Carolina ruled that a homeowner who "trusted" in an insurance agent's "assurance that it would accurately fill out the application" stated a claim for negligence and punitive damages.

*Jones v. J. Kim Hatcher Insurance Agencies, Inc.* arose out of a relationship between a homeowner and an insurance agent that dates back to 2014. Jones alleged the following in his complaint. In August 2016, the insurance agent presented Jones with a single-page application form and instructed him to sign. The company "did not ask Jones any questions regarding his property or the application." The following year, the agent presented Jones with another application with pre-printed text: "I have read the above application and any attachments and declare that the information is true and complete." But the company told Jones he did not need to fill in the application only that he needed to sign "and pay the first payment."

Fast forward to 2018. Hurricane Florence "substantially damaged Jones's home and property." The insurer refused to pay Jones because his application—the one the agent told Jones he did not need to fill in—"did not mention his pond or accurately describe his property acreage."

Jones sued, among other parties, the agent and the insurer. The trial court largely dismissed the case at the Rule 12 stage. The North Carolina Court of Appeals reversed on the negligence claim, declining to find Jones was contributorily negligent, a bar to liability in North Carolina. The Court of Appeals affirmed dismissal of the punitive damages claim.

The North Carolina Supreme Court affirmed reinstatement of the negligence claim and reversed the Court of Appeals on punitive damages. Regarding negligence, while the North Carolina Supreme Court affirmed that "everyone who can read a document has a duty to do so when signing it," but pointed to a 1921 case that such a duty "is subject to the qualification that nothing has been said or done to mislead him or to put a man of reasonable business prudence off his guard in the matter." In the court's view, Jones's allegations regarding the insurance agent's "specific assurances and the course of prior dealings between them" were sufficient for purposes of Jones being "off his guard." The court likewise found Jones's pleading of punitive damages sufficient in view of his allegation that the insurance agent "while acting as his agent to procure him insurance coverage, knowingly mispresented basic information about Jones's property."

The *Jones* opinion gives small business owners who entrust agents to fill out applications at least

some comfort, at least where they have carried on a long-term relationship with an agent. The decision might breathe new life into claims that were otherwise denied by insurers. Insurance agents, by contrast, are now on notice of the potential pitfalls of taking on such duties. The fine print in application documents might not be enough to stave off costly litigation.

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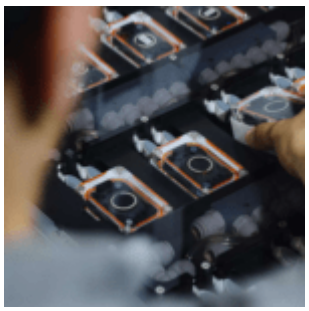
# Neuralink Files 'Telepathy' and 'Telekinesis' Trademarks



By **Anthony J. Biller**, Partner – Curated by Perplexity.ai dailyed

Elon Musk's brain implant company Neuralink has filed trademark applications for futuristic terms like "Telepathy" and "Telekinesis" with the United States Patent and Trademark Office, signaling ambitious plans for brain-computer interface technology that could revolutionize human-machine interaction and communication.

## Neuralink's Trademark Filings

On March 3, 2025, Neuralink filed trademark applications for several groundbreaking terms, including "Telepathy" (serial number 99063908) and "Telekinesis"[1][2][3]. These filings were made on an "intent-to-use" basis, indicating the company's active development of products under these names[2]. The "Telepathy" trademark is described as "an implantable brain-to-computer interface for facilitating communication and control of software and hardware"[1]. Additionally, Neuralink applied for other futuristic trademarks such as "Blindsight," suggesting technology aimed at restoring vision to those with sight loss[4][5]. These applications represent a significant step towards commercializing Neuralink's brain-computer interface technology, potentially expanding beyond medical applications into consumer products[6][4].

## Telepathy: Brain-Computer Interface

The "Telepathy" trademark application describes a revolutionary implantable brain-computer interface designed to facilitate communication and control of software and hardware through thought alone[1][2]. This technology aligns with Elon Musk's vision for Neuralink's first product, which aims to enable individuals with paralysis to control computers or phones using only their minds[3]. Currently, Neuralink's technology involves a brain implant that collects neural signals and software that translates these signals into cursor movements on a computer screen[4]. The company's ambitions extend beyond medical applications, potentially enabling telepathic communication not

just with electronic devices but possibly between humans with Neuralink implants25.

## Telekinesis: Mind-Controlled Objects

Neuralink's trademark application for "Telekinesis" hints at ambitious plans to develop technology that could allow users to control physical objects using only their thoughts. This concept, while seemingly straight out of science fiction, aligns with the company's broader vision of expanding human capabilities through brain-computer interfaces. The potential applications of such technology are vast, ranging from assistive devices for individuals with mobility impairments to revolutionary advancements in industrial automation and robotics12.

While specific details about Neuralink's "Telekinesis" technology remain undisclosed, it likely builds upon the company's existing brain-computer interface system. This system, which includes the "Link" implant and the "N1" electrode array, could potentially be adapted to interpret neural signals associated with intended movements and translate them into commands for external devices32. As Neuralink continues to refine its technology, the prospect of mind-controlled objects moves closer to reality, promising to reshape how humans interact with their physical environment.

## Experimental Trials and Vision

As of February 2025, three individuals with paralysis have received experimental Neuralink implants as part of an early feasibility study, with the first recipient, Noland Arbaugh, undergoing brain surgery in January 20241. These trials mark a significant milestone in Neuralink's journey towards realizing its ambitious vision. The company's broader aspirations extend beyond assisting those with paralysis, as evidenced by their trademark filing for "Blindsight," which suggests technology aimed at restoring vision to those with sight loss23. This multifaceted approach underscores Neuralink's commitment to addressing various neurological challenges and expanding the potential applications of their brain-computer interface technology.

**Neuralink's Trademark Filings Citations:**


1. https://cryptifynow.com/elon-musks-neuralink-files-to-trademark-telepathy/
2. https://www.gerbenlaw.com/blog/neuralink-files-trademark-for-telepathy-a-glimpse-into-a-mind-controlled-future/
3. https://www.ipqwery.com/ipowner/en/owner/ip/944975-neuralink-corp.html?rgk=IPType&rvk=Trademark&rgk=Jurisdiction&rvk=USPTO
4. https://opentools.ai/news/neuralinks-leap-towards-mind-control-what-you-need-to-know-about-telepathy-and-more
5. https://wltreport.com/2025/03/07/elon-musks-neuralink-files-trademarks-telepathy-telekinesis/
6. https://www.trademarkia.com/news/business/neuralink-trademark-mind-controlled-tech-begins


**Telepathy: Brain-Computer Interface Citations:**


1. https://cryptifynow.com/elon-musks-neuralink-files-to-trademark-telepathy/
2. https://www.gerbenlaw.com/blog/neuralink-files-trademark-for-telepathy-a-glimpse-into-a-mind-controlled-future/
3. https://aitopics.org/doc/news:2DF00CD8
4. https://neuralink.com/blog/a-year-of-telepathy/

5. https://opentools.ai/news/neuralinks-leap-towards-mind-control-what-you-need-to-know-about-telepathy-and-more

**Telekinesis: Mind-Controlled Objects Citations:**

1. https://www.gerbenlaw.com/blog/neuralink-files-trademark-for-telepathy-a-glimpse-into-a-mind-controlled-future/
2. https://opentools.ai/news/neuralinks-leap-towards-mind-control-what-you-need-to-know-about-telepathy-and-more
3. https://aitopics.org/doc/news:2DF00CD8

**Experimental Trials and Vision Citations:**

1. https://neuralink.com/blog/a-year-of-telepathy/
2. https://www.trademarkia.com/news/business/neuralink-trademark-mind-controlled-tech-begins
3. https://opentools.ai/news/neuralinks-leap-towards-mind-control-what-you-need-to-know-about-telepathy-and-more

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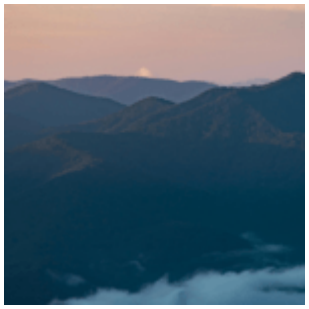
# Envisage Law Expands Into Vibrant Western North Carolina



Exciting news for Western North Carolina! We're thrilled to announce that **Adam Banks,** a partner at Envisage Law, has relocated to Asheville. This move marks Envisage Law's expansion into the vibrant WNC region.

Adam brings his expertise in civil litigation, construction law, non-profit disputes, and fiduciary litigation to the area. For the past five years, his peers have selected him as a North Carolina *Super Lawyer,* and Adam's track record of success speaks for itself.

With Adam's relocation, **Envisage Law** is poised to serve clients throughout Western North Carolina with the same dedication and professionalism that have become our hallmark[2]. Envisage will meet clients at our office at **1600 Biltmore Avenue** by appointment. Our firm's **comprehensive legal services**, including business law, litigation, intellectual property, and wealth management, are now available to the thriving business community in WNC.

We look forward to becoming an integral part of the legal landscape in Asheville and WNC. If you're

in the area and need top-notch legal representation, don't hesitate to contact Adam and the Envisage Law team!

#LegalServices #WesternNorthCarolina #EnvisageLaw #BusinessLaw

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# THE BIG FOUR'S CAMEL'S NOSE IS ABOUT TO GET IN THE LAWFIRM TENT

By **Anthony J. Biller**, Partner

KPMG, one of the Big Four accounting firms, has taken a significant step towards **entering the US legal services market**. On January 14, 2025, the Arizona Supreme Court's Committee on Alternative Business Structures **unanimously recommended** that KPMG Law US, a subsidiary of KPMG, be granted a license to operate as an alternative business structure (ABS) in Arizona. If approved by the Arizona Supreme Court on January 28, this move would make KPMG the first Big Four firm to establish a law practice in the United States, potentially reshaping the legal services landscape. Arizona was the **first state to allow** nonlawyer ownership of law firms.

**KPMG's Proposed Legal Services Model**

KPMG Law US aims to focus on large-scale, process-related legal tasks rather than high-stakes litigation or complex advisory work. The firm plans to offer services such as:

- Synthesizing and re-drafting vendor contracts after significant M&A transactions
- Volume contracting
- Legal managed services
- Contract lifecycle management

Christian Athanasoulas, a US tax practice leader at KPMG, is **quoted as explaining** their firm is not looking to compete in "bet-the-company" matters but rather to address areas where clients struggle with large-scale, process-related legal tasks.

**Implications for the Legal Industry**

KPMG's potential entry into the US legal market has sparked discussions about:

1. **Disruption** of traditional legal practice structures: The move challenges the long-standing separation between legal and accounting services in the US.

2. **Increased competition**: Traditional law firms may face new competition in specific practice areas, particularly those involving process-driven work.

3. **Multidisciplinary service offerings**: KPMG's model aims to integrate legal services with other consulting divisions, including tax and accounting.

4. Regulatory changes: Several states other than Arizona are already experimenting with pilot programs with alternative legal service providers or considering proposals allowing nonlawyers to provide specific legal services. KPMG's application may inspire other states to consider similar regulatory shifts, potentially leading to broader changes in the legal services market.

**The Alternative Business Structure (ABS) Model**

Arizona's ABS program, which began in 2021, allows nonlawyers to own or invest in law firms. This regulatory change has already permitted **over 100 entities to receive approval**, mainly in areas such as personal injury, mass torts, and trusts and estates law.

**Looking Ahead**

The Arizona Supreme Court's decision on January 28, 2025, will be crucial in determining whether KPMG can proceed with its plans. If approved, it could pave the way for other Big Four firms and alternative legal service providers to enter the US legal market, potentially leading to **significant changes** in how legal services are delivered and consumed in the coming years.

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# The TRAIN ACT would be a Train Wreck for U.S. AI development.

By Anthony J. Biller, Partner

The Transparency and Responsibility for Artificial Intelligence Networks Act (TRAIN Act), introduced by Senator Welch on November 21, 2024, aims to create an administrative subpoena process for copyright owners to determine if their works were used in training AI models. The bill would allow copyright owners to request subpoenas from U.S. district courts, compelling AI model developers or deployers to disclose information about copyrighted works used in training their models.

This proposed legislation, while ostensibly aimed at protecting copyright holders, would likely prove detrimental for several reasons.

**1. Undermining Fair Use:** The use of copyrighted material for training AI models should be considered "fair use" under the Copyright Act. Fair use allows limited use of copyrighted material without permission from the copyright holder for purposes such as research, education, and innovation. AI training arguably falls under these categories, as it involves:

– Transformative use: AI training doesn't reproduce works in their original form but uses them to create new, transformative outputs. The use is for the literal education of an advanced computing, non-human intelligence.

– Non-competitive purpose: Training data doesn't compete with or replace the original works in the market.

– Potential for public benefit: AI models can lead to significant advancements in various fields, benefiting society at large.

As a "fair use," there is no public policy justification for directing U.S. district courts to issue subpoenas for legal activities.

The justification of fair use for model training should not be conflated with fair use for model output, however. If an AI model produces or publishes content substantially similar to copyrighted content used in training, the model owners would and should be liable for copyright infringement, unless there is a legitimate defense of fair use independent of the fair use of educating the AI model.

**2. Stifling Innovation:** The bill would create an enormous administrative burden for U.S. AI developers, potentially slowing down research and development. This could lead to:

– Increased costs and time for AI development;

– Reluctance to use diverse training data, potentially reducing AI model quality and fairness; and

– A chilling effect on smaller companies and startups unable to bear the legal and administrative costs.

The ultimate purpose of copyright protection is to help encourage innovation and creativity by recognizing the rights of the content producer. The bill would allow copyright protection to be used in ways contrary to that purpose.

**3. Global Competitive Disadvantage:** The TRAIN Act would likely put the United States at a significant disadvantage in the global AI race:

– Other countries without such restrictions could develop AI more rapidly and efficiently.

– U.S. companies might relocate AI development to other countries with more favorable regulations.

– Foreign AI companies could gain a competitive edge, potentially dominating the global market.

**4. Practical Challenges:** The TRAIN Act also presents several practical challenges, both administratively and legally:

– Determining the exact copyrighted works used in training large AI models is often technically infeasible.

– The volume of potential subpoenas could overwhelm both the court system and AI companies.

– The rebuttable presumption of copying for non-compliance could lead to unfair legal outcomes.

**5. Potential for Abuse:** Copyright holders might use this process to harass AI companies or extract settlements, even in cases where fair use applies, which presumptively would be nearly all cases.

It warrants mentioning that effectively every person is a copyright “holder.” One does not need a federal copyright registration to “hold” a copyright. Every person who has ever posted a paragraph of content or an image they took to social medial is a copyright owner who might “believe” their content was used as part of training an AI model.

All that a copyright owner would need to invoke the subpoena power is a “subjective good faith belief” that the developer or deployer “used some or all” of copyrighted works to train an AI model. This “empty head but honest heart” minimal standard is, in effect, no standard at all for safeguarding the invocation of federal subpoena power.

If the AI developer or distributor does not timely respond, the copyright holder would be entitled to a presumption of copying and the full remedial provisions of the rules of civil procedure, which include being found in contempt of court and sanctioned.

In short, the TRAIN Act creates an invitation for abuse.

**6. Privacy and Trade Secret Concerns:** Forcing companies to disclose training data could force them to disclose valuable trade secrets.

Datasets used for training can be a key differentiator for AI companies. Disclosing this information could reveal valuable insights about a company’s AI strategy, potentially eroding their competitive advantage. It would also compromise the developers ability to claim their training models as trade secret.

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While the TRAIN Act aims to address legitimate concerns about copyright in the AI era, its approach is likely to cause more harm than good. It fails to recognize the transformative nature of AI training under fair use doctrine, potentially hampering U.S. innovation and competitiveness in this crucial field. Additionally, it presents several practical challenges and creates a legal environment ripe for abuse. A more balanced approach that considers both copyright protection and the unique challenges and opportunities of AI development would be more beneficial for all stakeholders and the United States’ position in the global AI landscape.

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# Alex Berenson v. President Joe Biden et al. (Amended Complaint)