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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

Case Number: 5:24-cv-03811-EKL

DECLARATION OF TIMOTHY CHUNG IN SUPPORT OF PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

Hon. Eumi K. Lee

I, Timothy Chung, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am an attorney at the law firm of Oppenheim and Zebrak, LLP. I represent Plaintiffs Concord Music Group, Inc.; Capitol CMG, Inc.; Universal Music Corp.; Songs of

Universal, Inc.; Universal Music – MGB NA LLC; Polygram Publishing, Inc.; Universal Music – Z Tunes LLC; and ABKCO Music, Inc. in this matter.

2. I respectfully submit this Declaration in support of Plaintiffs' Reply in Support of their Motion for Preliminary Injunction. I have knowledge of the facts stated herein based on personal knowledge and my review of the documents and other items referenced herein. If called upon to do so, I am able to testify competently to the matters as stated herein.

3. Attached as **Exhibit A** hereto is a true and correct copy of tweets posted to X (formerly known as Twitter) by various Claude users discussing methodologies and techniques to bypass Claude's guardrails, including:

- Pliny the Liberator (@elder_plinius), X (Jun. 29, 2024), https://x.com/elder_plinius/status/1807187730884968621;
- Simon Willison (@simonw), X (Jul. 26, 2024), https://x.com/simonw/status/1817018370757472556;
- Riley Goodside (@goodside), X (Sep. 2, 2024), https://x.com/goodside/status/1830747657653940532; and
- ereliuer eteer (@ereliuer_eteer), X (Sep. 5, 2024), https://x.com/ereliuer_eteer/status/1831854250437308913.

4. Attached as **Exhibit B** hereto is a true and correct copy of Anthropic's Responses and Objections to Plaintiffs' Second Set of Requests for Production (Nos. 13-66), dated April 22, 2024. Since Publishers issued the corresponding discovery requests on March 22, 2024, Anthropic has not produced any documents in response to those requests. Anthropic has specifically refused to produce documents concerning, among other issues, any "failure, malfunction, or defect in Claude guardrails or output filters" or "any review or analysis of the adequacy, reasonableness, or efficacy of Anthropic's policies or procedures concerning copyright infringement." Ex. B, at 37–38, 54–55.

5. Attached as **Exhibit C** hereto is a true and correct copy of an article by published by Reuters on August 30, 2024, titled "Ask Claude: Amazon turns to Anthropic's AI for Alexa revamp," available at https://www.reuters.com/technology/artificial-intelligence/amazon-turns-

anthropics-claude-alexa-ai-revamp-2024-08-30, which reports that "Amazon's revamped Alexa due for release in October [2024] ahead of the U.S. holiday season will be powered primarily by Anthropic's Claude artificial intelligence models."

6. During the parties' August 15, 2024 meet and confer discussion about Publishers' outstanding discovery requests to Anthropic, counsel for Anthropic represented to Publishers' counsel that a limited search of Anthropic's early-January 2024 records of Claude outputs and user prompts using the terms "lyric" and "song" resulted in such a high number of results that Anthropic's e-discovery vendor's system crashed.

7. Attached as **Exhibit D** hereto is a true and correct copy of an open letter from the Artists Rights Alliance addressed to "AI developers, technology companies, platforms and digital music services to cease the use of artificial intelligence (AI) to infringe upon and devalue the rights of human artists," signed by songwriters to works-in-suit, including Aerosmith, Imagine Dragons, Mumford & Sons, Nicki Minaj, Ryan Tedder, Robert Smith (of The Cure), and Zayn Malik. *200+ Artists Urge Tech Platforms: Stop Devaluing Music*, ARTISTS RIGHTS ALLIANCE (Apr. 1, 2024), https://artistrightsnow.medium.com/200-artists-urge-tech-platforms-stop-devaluing-music-559fb109bbac. *See also* Maria Sherman, *Miranda Lambert, Billie Eilish, Nicki Minaj submit letter to AI developers to honor artists' rights*, AP NEWS (Apr. 2, 2024), https://apnews.com/article/ai-open-letter-billie-eilish-miranda-lambert-nicki-minaj-9cd5f32f692d83e75b9c3b3da1554b6f.

8. While Publishers began investigating the possibility that Anthropic was infringing their copyrighted lyrics through Claude several months before filing their Complaint, it was not until early Fall 2023 that Publishers determined that they had valid claims, finalized the evidence supporting those claims, and put those claims together in their Complaint. Publishers' formal investigation could not commence until June 2023, when Publishers' outside vendor was able to obtain a Claude account (due to Anthropic's waitlist) and perform tests at scale. Thereafter, the process of investigating Anthropic's infringement and collecting and preserving evidence was complicated and time-consuming, given, among other reasons, the novel nature of the AI technology, the massive scope of the infringement, Anthropic's lack of transparency about its training data, the limitations it placed on access to Claude, and the resulting challenges of

collecting evidence. The investigation was further complicated by Anthropic's release of a new version of Claude in July 2023. Only after completing this investigation were Publishers confident they had done sufficient research to proceed to file their Complaint on October 18, 2023, ECF No. 1, and shortly thereafter their Motion for Preliminary Injunction on November 16, 2023, ECF No. 40.

9. Attached as **Exhibit E** hereto is a true and correct copy of OpenAI's Public Comments in response to the U.S. Copyright Office's Notice of Inquiry and Request for Comments Regarding Artificial Intelligence and Copyright, dated October 30, 2023, in which OpenAI states that it worked with authors "to identify sites on the internet that reproduce their copyrighted works" and that OpenAI "has [] been able to exclude those sites from being crawled for future training." OpenAI, Public Comments of OpenAI on U.S. Copyright Office's Notice of Inquiry and Request for Comments Regarding Artificial Intelligence and Copyright (Oct. 30, 2023) at 7, https://downloads.regulations.gov/COLC-2023-0006-8906/attachment_1.pdf.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my personal knowledge and belief.

Executed in New York, NY, this 12th day of September, 2024.

/s/ Timothy Chung

Timothy Chung