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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

vs.

ANTHROPIC PBC,

Defendant.

Case No. 5:24-cv-03811-EKL

DEFENDANT ANTHROPIC PBC'S LOCAL RULE 7-3(d) OBJECTION TO REPLY EVIDENCE RE: EVIDENCE SUBMITTED ON NOVEMBER 23, 2024

Hon. Eumi K. Lee

Date: November 25, 2024
Time: 1:30 p.m.
Courtroom: 7—4th Floor

OBJECTION TO REPLY EVIDENCE

Pursuant to Northern District of California Civil Local Rule 7-3(d)(1), Anthropic submits this Objection to Reply Evidence concerning evidence Plaintiffs submitted on November 23, 2024, for use in the November 25, 2024 hearing on their Renewed Motion for Preliminary Injunction. Plaintiffs' demonstratives exchanged yesterday afternoon include new evidence of "greeting cards" featuring excerpts of Plaintiffs' song lyrics, which purportedly were generated earlier this month using a third-party application powered by Anthropic's Claude model. *See* Plaintiffs' Oral Argument Demonstratives ("Demonstratives") at 7-9. This is another belated effort to supplement the record for a motion they first brought more than a year ago. *See* Dkt. 241 at 1. The Court should reject Plaintiffs' improper attempt to add to the evidentiary record at this late stage.

On October 22, 2024, in granting Anthropic's motion for leave to file a surresponse, the Court explained it was "not inclined to permit any further . . . evidentiary submissions in connection with Plaintiffs' motion for preliminary injunction." Dkt. 255. Subsequently, at the October 24, 2024 conference, Plaintiffs argued that an evidentiary hearing on their Motion was not necessary because "the Court has a very ample record." Oct. 24, 2024 Tr. 8:12. The Court agreed, and ruled again that the record was closed to new evidence. *See id.* 9:21-23 ("At this point the record will be – will stand as it is.").

Yet when the parties exchanged hearing demonstratives on November 23, three of Plaintiffs' slides included several brand-new examples of what they allege is the "continued failure of [Claude's] guardrails." Demonstratives at 7. These examples were never presented in any of Plaintiffs' numerous submissions in connection with their preliminary injunction motion and should not be permitted now, particularly because Plaintiffs themselves insisted live testimony was not required for this hearing and so Anthropic's witnesses will have no opportunity to address this late-breaking evidence.

"Arguments and evidence presented for the first time at a hearing are routinely disregarded by courts in this District." *Loop AI Labs Inc. v. Gatti*, 2015 WL 14085123, at *1 n.1

(N.D. Cal. Apr. 23, 2015). Plaintiffs should not be permitted to flout the Court's order closing the evidentiary record on their long-pending motion. Anthropic respectfully requests that the Court strike Plaintiffs' slides 7 through 9 and decline to hear any argument relying on evidence not presented in Plaintiffs' briefing and declarations.

Dated: November 24, 2024

Respectfully submitted,

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By */s/ Joseph R. Wetzel*

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