OPPENHEIM + ZEBRAK, LLP
Matthew J. Oppenheim
Nicholas C. Hailey
Audrey L. Adu-Appiah
(admitted *pro hac vice*)
4530 Wisconsin Ave., NW, 5th Floor
Washington, DC 20016
Telephone: (202) 480-2999
matt@oandzlaw.com
nick@oandzlaw.com
aadu-appiah@oandzlaw.com

Jennifer Pariser
Andrew Guerra
Timothy Chung
(admitted *pro hac vice*)
461 5th Avenue, 19th Floor
New York, NY 10017
Telephone: (212) 951-1156
jpariser@oandzlaw.com
andrew@oandzlaw.com
tchung@oandzlaw.com

COBLENTZ PATCH DUFFY & BASS LLP
Jeffrey G. Knowles (SBN 129754)
One Montgomery Street, Suite 3000
San Francisco, CA 94104
Telephone: (415) 391-4800
ef-jgk@cpdb.com

COWAN, LIEBOWITZ & LATMAN, P.C.
Richard S. Mandel
Jonathan Z. King
Richard Dannay
(admitted *pro hac vice*)
114 West 47th Street
New York, NY 10036-1525
Telephone: (212) 790-9200
rsm@cll.com
jzk@cll.com
rxd@cll.com

Attorneys for Plaintiffs

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-SVK

PLAINTIFFS' OPPOSITION TO ANTHROPIC'S ADMINISTRATIVE MOTION (ECF NO. 356)

Judge Eumi K. Lee
Magistrate Judge Susan van Keulen

Pursuant to Civil Local Rule ("L.R.") 7-11(b), Plaintiffs ("Publishers") respectfully submit this Response in Opposition to Anthropic's Administrative Motion, ECF No. 356 ("Motion").

Anthropic's Motion is improper, and it should be stricken or denied, for three reasons.

First, the Motion is untimely. Anthropic seeks to raise new arguments in support of its sealing request. It could—and should—have made these arguments in its declaration in support of sealing, by the deadline required by L.R. 79-5(f)(3).[1] It did not. While Anthropic styles the Motion as an "administrative motion" addressing "related docket activity," the Motion amounts to a reply brief, filed without seeking leave, improperly incorporating by reference new arguments not timely raised. The Motion should be stricken. *See, e.g.*, *Yocum v. CBS Corp.*, 2017 WL 8231363, at *2 (C.D. Cal. May 1, 2017) (striking "untimely" filing as "impermissible second bite of the apple").

Second, the Motion has no bearing. The question before the Court is whether Anthropic has demonstrated compelling reasons sufficient to justify sealing specific references in the First Amended Complaint ("FAC") to (1) three Claude prompt/output excerpts and (2) two AI training datasets. As explained in Publishers' opposition, Anthropic has not made that showing. ECF No. 348. As Anthropic notes in its Motion, Publishers have also had to challenge Anthropic's overbroad confidentiality designations and sealing requests in the context of various other disputes before Magistrate Judge van Keulen. Indeed, Anthropic's request to seal non-sensitive information in the FAC is, unfortunately, part of a broader pattern. But Anthropic's selective reference to arguments from these other disputes (including its unsubstantiated claim that the SCA applies to it, which, among other things, ignores that the three anonymous excerpts in the FAC here could not possibly "be tied to specific, identifiable Claude users") omits key information, serves only to confuse the issues, and, ultimately, has no bearing on the more narrow sealing question before the Court.

Third, the Motion undermines, rather than promotes, judicial economy. By making another sealing filing, Anthropic seeks a second bite at the apple, asserting various additional arguments to which Publishers should fairly have the opportunity to respond. In doing so, Anthropic adds to the already-heavy burden that this motion to seal briefing has imposed on the Court and Publishers.

[1] The Parties finalized their joint dispute statement (ECF No. 345) before Anthropic filed its declaration in support of sealing (ECF No. 343), and all other filings Anthropic references in its Motion were filed before its declaration.

Dated: May 9, 2025

Respectfully submitted,

/s/ Timothy Chung

OPPENHEIM + ZEBRAK, LLP
Matthew J. Oppenheim
Nicholas C. Hailey
Audrey L. Adu-Appiah
(admitted *pro hac vice*)
4530 Wisconsin Ave., NW, 5th Floor
Washington, DC 20016
Telephone: (202) 480-2999
matt@oandzlaw.com
nick@oandzlaw.com
aadu-appiah@oandzlaw.com

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Andrew Guerra
Timothy Chung
(admitted *pro hac vice*)
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New York, NY 10017
Telephone: (212) 951-1156
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Richard S. Mandel
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(admitted *pro hac vice*)
114 West 47th Street
New York, NY 10036-1525
Telephone: (212) 790-9200
rsm@cll.com
jzk@cll.com
rxd@cll.com

Attorneys for Plaintiffs