EXHIBIT 7

(FILED UNDER SEAL)

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

- - - - - - - - - - - - - -x

CONCORD MUSIC GROUP, INC., ET AL., : Case No.

Plaintiff, :5:24-CV-03811-EKL-SVK

v. :

ANTHROPIC PBC, :

Defendant.

- - - - - - - - - - - - - -x

*** HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY ***

Videotaped Deposition of MICHAEL SMITH
CONDUCTED VIRTUALLY
Monday, February 23, 2026
8:58 a.m.

Job No.: 621064
Pages: 1 - 377
Stenographically Reported By:
Brooklyn E. Schweitzer, RPR, CRR, CA CSR No. 14612

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Videotaped Deposition of MICHAEL SMITH, conducted virtually.

*** ALL PARTIES ATTENDED REMOTELY. ***

Pursuant to Notice, before Brooklyn E. Schweitzer, Registered Professional Reporter, Certified Realtime Reporter, Notary Public in and for the Commonwealth of Pennsylvania, and California CSR No. 14612.

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A P P E A R A N C E S

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P R O C E E D I N G S
VIDEOGRAPHER: Here begins Media Number 1 in the videotaped deposition of Michael Smith in the matter of Concord Music Group versus Anthropic in the United States District Court Northern District of California, San Jose Division, Case Number 24-CV-03811-AKL-CVK [sic].
Today's date is February 23rd, 2026. The time on the video monitor is 8:58 a.m. The remote videographer today is Nick Heisler representing Planet Depos. All parties of this video deposition are attending remotely.
Will counsel please voice-identify themselves and state whom they represent.
MS. MEHTA: Good morning. Sonal Mehta on behalf of Anthropic. With me is my colleague, Christina Luo.
MR. MILLER: Good morning. Corey Miller on behalf of the plaintiff music publishers, as well as the witness. With me also is my colleague Bret Matera.
MX. KIM: Liz Kim on behalf of Anthropic.
VIDEOGRAPHER: All right. The court reporter today is Brooklyn Schweitzer representing Planet Depos. The witness will now be sworn.

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MICHAEL SMITH,
was called, and having been duly sworn, testified as follows:
EXAMINATION
BY MS. MEHTA:
Q Good morning, Mr. Smith.
A Yeah. Could we do Professor Smith?
Q Sure. Professor Smith, good morning.
A Good morning.
Q Can you please tell me where you're located today?
A I'm in Pittsburgh, Pennsylvania.
Q And what physical space are you in?
A I'm -- I'm at my home, in my upstairs office. I apologize for the vest. We don't have heat in my room for whatever reason.
Q Well, thank you for --
A Sorry. I thought about going on campus, but I'm chairing the curriculum review right now, and I figured every time I'd leave my office, there'd be six faculty descending on me asking what they're teaching next semester.
Q Got it. Well, thank you for braving the cold for your deposition today.
You understand that you're testifying

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under oath today just as you would before the judge or the jury in this case, correct?
A Correct.
Q Is there anything that would prevent you from being able to provide your most truthful and accurate testimony here today?
A There is not.
Q We are remote, so we're going to do our best to not talk over each other. That can often be more challenging on Zoom than it is in person. I will do my best to let you finish your answers before I ask my next question, and I'd ask you do your best to let me finish a question before you answer.
Fair?
A Very fair.
Q Okay. If at any point you don't understand a question and you need help or a clarification, would you please let me know?
A Of course.
Q And if you don't, I'm going to assume that you understood the question and you're providing your most truthful and accurate testimony in response.
Fair?

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A Understood.
Q Great. Mr. -- Professor Smith, what did you do to prepare for the deposition today?
A I reviewed a variety of documents and wrote my -- wrote my reports.
Q In the time since you wrote your reports, have you done anything specifically to prepare for the deposition itself?
A Other than rereading the reports, no.
Q Did you meet with counsel?
A Yes.
Q Okay. And how -- who did you meet with?
A I met with both Mr. Miller and Mr. Matera.
Q How long did you meet with counsel for?
A I didn't -- I didn't track that. I mean, we met several times. I wouldn't be able to give an accurate estimate of that.
Q Over eight hours?
A I -- just ballpark, yes.
Q Over 15 hours?
A I'm honestly not sure.
Q You said you re-reviewed your reports in preparation for the deposition today, and you also have been preparing these reports over the last few months, correct?

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A Correct.
Q How much time total have you spent working on this case?
A I don't have my time card with me. I'm -- I'm -- again, I'd be speculating. I'm not sure.
Q I'm asking for a ballpark estimate.
A Somewhere between 100 and 200 hours, I would think.
Q Given that work that you've done in the case and given your preparation for the deposition today, do you feel well prepared to talk about the opinions that you formed in this case?
A Yes.
Q Professor Smith, you don't have a background in computer science, correct?
A That is correct.
Q And you don't have a background in LLM development, correct?
A That is correct.
MR. MILLER: Object to form.
Q You don't have a background in LLM training, correct?
MR. MILLER: Object to form.
A I -- I do not.
Q You've never worked in the music industry,

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correct?
MR. MILLER: Object to form.
A Yeah, I -- I have not. I've -- I've done -- yeah, done research on -- on the music industry, but I've not worked as a musician.
Q And you haven't worked for a music company or otherwise worked in the music industry, right?
A That's correct.
Q I take it you're not a songwriter or a composer?
A That is correct.
Q And you don't have a --
A Sorry. Keep going.
Q No, no. Go ahead.
A No. I -- I -- withdrawn.
Q What were you going to say?
A I was going to say I could be if I were to use Anthropic's tool.
Q You've never -- you've never tried to use an AI tool to write a song, have you?
A I have not.
Q And you never tried to use an AI tool to write a book or any other creative output, have you?
A I have not.

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Q You don't have a background in -- or formal training in data science, correct?
MR. MILLER: Object to form.
THE WITNESS: Yeah, go ahead, Corey.
MR. MILLER: Object to form.
A Can you define "data science"?
Q Well, do you know what -- do you know what the field or discipline of data science is?
A I guess I'm just asking you to define -- define the term.
Q I'm asking you whether you've ever heard the term before.
A I've heard the term defined loosely to include statistics and -- and things -- and things like that.
Q Okay.
A Is that -- is that how you're using it?
Q No, I'm using it much more precisely than that, but let me ask you the question this way, which maybe will cut through the definitional problem.
You're not offering an opinion here as a data scientist; fair?
MR. MILLER: Object to form.
A Yeah, I'm -- I'm still looking for a

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definition of "data scientist."
Q Did you do any analysis of any data samples or records for this case as part of your work in this case?
MR. MILLER: Object to form.
A Again, I'm -- I'm looking for -- did I do any -- ask the question again.
Q Yes. The question was: Did you do any analysis of any data samples or records of prompts and outputs as part of your work in this case?
MR. MILLER: Objection; form.
A Yeah, prompts and output, I did not.
Q And no data samples or samples of records of Anthropic? That's not something you studied for this case, correct?
MR. MILLER: Object to form.
A That is -- that is correct.
Q Do you have formal training in ethics?
MR. MILLER: Object to form.
A I think I took some classes in my Ph.D. that could be broadly defined as ethics, but -- but I -- yeah.
Q You're not holding yourself out to be an ethicist or an expert in ethics, are you?
A I am not.

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Q And I take it you also are not holding yourself out to be an expert in intellectual property damages, correct?
MR. MILLER: Object to form.
A I mean, I think my assignment, which I suspect we'll see very soon, broadly covers damages associated with the unlicensed, unauthorized use of intellectual property. That's something that I've certainly researched, but -- broadly.
Q Have you calculated any damages as part of your assignment in this case?
MR. MILLER: Object to form.
A In this particular case, specific damages, no.
Q Have you done anything to quantify what the alleged damage to the publishers is from the alleged infringement by Anthropic, quantified?
MR. MILLER: Object to form.
A For this particular assignment, I -- I don't believe so, no.
Q Have you ever been accepted as an expert witness in a legal proceeding to offer an opinion with respect to intellectual property damages?
MR. MILLER: Object to form.

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A That's a broad question. I have offered -- I've written reports as part of legal proceedings that were settled before they went to trial that -- that did, in fact, quantify damages.
Q Were any of those instances in which your opinion actually made it through to a -- through court's review and you were actually qualified to serve as an expert in intellectual property damages?
MR. MILLER: Object to form.
A Like I said, this settled before -- before it went to trial.
Q And is that one case that you're thinking of or multiple cases that you're thinking of where you offered that opinion?
A It was two that I can think of, off the top of my head.
Q Have you ever used Claude outside of any work that you did for this particular matter?
A I have not.
Q Did you use Claude as part of your work for this particular matter?
A I did not.
Q Did you --
A By definition.

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Q So you've never used Claude; fair?
A I've never used Claude.
Q Have you ever used ChatGPT?
A Yes.
Q And what do you use ChatGPT for?
A ChatGPT is licensed by Carnegie Mellon, I think in part because it doesn't use our inputs as training data, and I've used it for, you know, a variety of tasks as part of my work.
Q Do you know what training data ChatGPT used to train its -- or OpenAI used to train ChatGPT?
MR. MILLER: Object to form.
A I do -- I do not.
Q Do you know whether ChatGPT -- I'm sorry. Let me use the company name.
Do you know whether OpenAI used only licensed data to train ChatGPT?
A I -- I do not.
Q Let's go back to -- you said you used it as part of a license through Carnegie Mellon. What are the types of tasks you use ChatGPT for?
A Yeah. I think I'm -- I'm one of the less ChatGPT-aggressive of my colleagues. I use it mostly as a glorified search -- yeah, glorified

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search engine.
Q You understand that -- well, you just referenced your colleagues. You understand that other people use ChatGPT and AI tools for more than searching, correct?
A That is correct.
Q What are some of the examples of ways in which your colleagues use ChatGPT as more than a glorified search engine?
MR. MILLER: Object to form.
A Yeah. I -- I am aware that some of my colleagues will give it their papers and ask it to evaluate it as a referee would, you know, to identify potential flaws -- or potential challenges associated with the paper.
I've had some colleagues who have asked ChatGPT to help them, you know, write the paper. Yeah, I'm sure there's a variety of other -- of other uses. Data cleaning.
Q Where you've had colleagues that have used ChatGPT to help them write papers, did you think there was something wrong with that?
MR. MILLER: Object to form.
A I'm not sure how I would -- how I would answer that. It -- it's something that I don't

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BY MS. MEHTA:
Q Okay. If you could, Professor Smith, I'm going to have you turn to Page 22 of your report.
Okay.
Q And at Page 22, you start a discussion of the harms that you believe are inflicted on the publishers, and the first harm that you identify is at Subsection A.
Do you see that?
A Yep. Can I just --
Q Take -- take a moment to orient yourself.
A Thank you.
Q Of course.
A Okay. I might have to reorient myself when I get down to destruction and dilution, but...
Q No -- no problem. I want to ask a few general questions about this particular identified alleged harms.
Are you able to -- based on all the work that you did in this case, are you able to identify any songwriter specifically that has lost any opportunity based on competition from AI?
MR. MILLER: Object to form.
A So what we know and what we talk about in

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this report is to the extent that AI is -- is being -- AI-generated music is being uploaded to DSPs like Spotify, and to the extent that that content is getting -- is getting streams -- and we know that it is -- that that's a direct dilution of the royalty pool, which otherwise would have gone to humans.
Can I identify an individual? I don't know that that's part of my -- part of my charge.
Q Okay. So we're going to get to -- we'll get to the dilution of the royalty pool in just a second. I want to -- I want to ask you -- my question's a little different than that.
Can you identify any songwriter who lost money or an opportunity to sell a song because of AI, any specific songwriter?
MR. MILLER: Objection; asked and answered.
A Yeah. I -- actually, I think that was asked and answered, right? To the extent that the royalty pool is going to AI, then by definition, every other songwriter in the pool is -- is losing -- is losing money.
Q Have you quantified -- for purposes of your analysis, in these reports, have you

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quantified what the extent of dilution is for the royalty pool due to AI?
A Partially.
Q I didn't see a dollar figure anywhere in the reports.
MR. MILLER: Objection.
A Yeah. So -- so we'd have to go back. We -- we went from half a percent of streams to generative AI-based music on Deezer to 3 percent of streams on -- on Deezer to generative AI-based music.
Q Okay.
A If we -- if we knew Deezer's royalty pool, I could calculate, you know, with a calculator the -- the dilution from that.
Q But you don't know Deezer's royalty pool, do you?
A If I did, I could calculate it.
Q But you don't know it, do you?
A I -- I could do some searches. I don't -- I don't -- off the top of my head, I don't know Deezer's royalty pool, but I do know that if we did, we could calculate it.
Q That's not a number or calculation you've done in your report, is it?

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A The 3 percent times Deezer's royalty pool equals X? I have not done that in my report.
Q Okay. Now, let's set aside Deezer. Other than what you described as the 3 percent royalty pool for Deezer, set that aside.
As to other streaming services, you have not done any calculation of what the effect of AI is on the royalty pools for any other streaming services, have you?
A I have no reason to believe it wouldn't be similar to Deezer, if not worse given that Deezer's the one DSP that's done the most work to try to remove generative AI-based music.
Q That's not my question, sir. I'm not asking for your speculation. I'm asking for actual facts and analyses under oath.
You have not done any analysis of what the impact on the royalty pools of AI is for any other streaming service; isn't that correct?
MR. MILLER: Object to form. Yeah. I don't know that those data are available.
Q Okay. So you haven't done that analysis, have you?
A Because the data aren't available.
Q Okay. Now, with respect to -- going back

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to songwriters, other than potential dilution of royalty pools to streaming services, is there any other specific instance -- and I'm not sure I even agree that that's a specific instance, but I know you think it is.

So is there any other specific instance that you can identify where a songwriter has lost money or an opportunity as a result of AI?

MR. MILLER: Object to form.

A That's a weird question, and I want to make sure I don't get boxed in. Right?

So what we're looking at, as we said before, is a technology that by -- by Mr. Amodei's -- Amodei's own admission is going to be 16 -- is likely to be 16 times more powerful a year and a half to three years from now, four years from now, than it -- than it is today.

What we see in the Deezer example is an increase in the number of streams from half a percent to 3 percent over the course of four months.

You're saying do I know anybody individually who has suffered? And I'm saying I think it's perfectly reasonable to say everyone in that royalty pool has suffered.

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Q That wasn't my question. Focus on my question, sir.

I'm not asking about the royalty pool. I told you we were setting that aside for a moment. You've already --

A Okay.

Q -- talked about that.

Aside from the royalty pool dilution that you are asserting, can you identify any other actual quantified loss of revenue or opportunity to any songwriter?

MR. MILLER: Object to form.

A As long as I can keep in my statement the ability to say it is economically reasonable that songwriters are losing money based on the data I've seen, I have not talked to any individual on that -- you know, that has -- that has told me they have lost money.

Q And when you say as long as you want to have the ability to say that it's economically reasonable to say songwriters are losing money based on the data you've seen, you're referring to the Deezer data; is that right?

A I'm referring to the whole -- the whole shebang. I'm referring to the fact that Anthropic outputs lyrics at the -- at the rates discussed in my report based on the -- based on the other experts, and the fact that this is a technology that is growing in capacity exponentially.

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Q Can you quantify, based on actual dollars and actual data, any harm to songwriters -- I'm asking for a dollar figure -- from AI?

MR. MILLER: Object to form.

A If I had -- if I knew the royalty pool -- and I suspect the songwriters do, actually. If -- if I knew the royalty pool for Deezer and Spotify and the other -- other DSPs, I think I could do that calculation.

Q Okay. But for purposes of your opinions in this case, you have not done a calculation that could quantify, based on actual dollars and data, the harm to songwriters; isn't that right?

A Maybe what I'm saying is if -- if data became available, I would be willing to do those calculations.

Q Right. I'm asking about what you've done up to this date.

Up to now, having prepared all these reports and sitting here in this deposition, you have not quantified the actual dollar harm to

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songwriters; isn't that right?

A I haven't had the data to do that, and I don't think that was part of my charge.

Q Okay. And then in terms of the availability of that data, I think you just said you think the songwriters would have that data, right?

A Somebody in the industry has got to know what the royalty pool is.

Q Did you ask counsel for the publishers to provide you with the royalty pool information?

MR. MILLER: Object to --

A That's a different --

MR. MILLER: Objection. That question calls for communications between an expert and counsel, which are protected work product under Rule 26 of the Federal Rules of Civil Procedure. There are three enumerated exceptions, and the question doesn't fall into any of those exceptions.

So on that basis, I am going to instruct the witness not to answer.

BY MS. MEHTA:

Q Are you following that instruction, sir?

A I am.

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Q Can you identify any reason that that information about the royalty pool was not made available to you in this litigation?
MR. MILLER: Object to form.
A The best I can -- you know, the Deezer data's relatively recent, and -- yeah. That's -- that's, I think, all I can say.
Q Well, but I'm talking about the other data. Like, in terms of royalty pools for Spotify and other streaming services, is there some reason that that information was not available -- made available to you in this litigation?
MR. MILLER: Object to form.
A I don't know that we had -- so to the -- to the extent that we don't know the streaming -- the streaming proportion of generative AI on Spotify, I think it's -- I think it's not relevant.
Q Okay. So let me break that down, then. I want to talk about the royalty pool information, and we'll also talk about the streaming proportion.
With respect to the royalty pool, I ask you again: Was there any reason that you were not able to get the royalty pool information from the

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music publishers in this case?
A So --
THE WITNESS: Go ahead, Corey.
Q He's not objecting. You can't --
A Okay.
Q -- call a lifeline. You've got to answer the question.
A No, no, no, no. I'm not calling a lifeline. He was moving his lips, and I wanted to make sure I wasn't -- I wasn't stepping over him. The -- ask the question again.
Q Were there any reasons you were not able to get the royalty pool information from the music publishers in this case?
A I don't know that it was relevant to my assignment at the time I was engaging in the analyses.
Q Okay. And then with --
A Actually, let me -- to -- to the extent that we didn't have the data about the level of AI displacement of upstreams.
Q Okay. And then that was going to be the second part of my question, was you don't have any data about the level of AI displacement in streaming services other than the Deezer data that

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you cited in your report, correct?
A Other than the released Deezer data, yes.
Q Okay. So, then, for any streaming service other than Deezer, you cannot quantify the extent to which AI has displaced royalty revenue for the songwriters, if any; isn't that fair?
MR. MILLER: Object to form.
A As long as I'm still able to say what I said before, which is I think it's reasonable to say that whatever we see on Deezer is going to be similar, if not larger than what's happened on other -- on other services.
Q And the reason you say that you think that's reasonable is because you think Deezer has made efforts to take down AI content, right?
A Deezer --
MR. MILLER: Object to form.
A Deezer, to my understanding, has been the most aggressive of the -- of the major streaming platforms in taking down content.
Q Do you know whether and to what extent platforms like Spotify and others have taken steps to take down AI-generated content?
A I -- I don't -- what I was saying is Deezer has been the most public and I think the

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most aggressive about taking down content.
Q You're basing that on your public statements about taking down content, right?
A On the public statements and my inference that if other -- if other platforms were doing it, they'd want to make the same sorts of statements.
Q But you don't actually know, sufficient to testify under oath, as to what efforts other platforms, like Spotify, are putting -- or Pandora or others, are putting into taking down AI-generated content? That's not something you've analyzed for purposes of this case, is it?
MR. MILLER: Object to form.
A That's not something I think was necessary to analyze for the -- yeah, for the --
Q Okay. And in terms of whether or not Deezer is more or less successful at taking down AI-generated content, that's not something you've analyzed either, is it?
A For the purpose of -- of this -- of my report, that's correct. I'm relying on -- yeah, that's correct.
Q Now, have you, for purposes of your opinions in this case, spoken with any songwriters about how they have used AI to increase their

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positive or net negative; fair?
MR. MILLER: Object to form, mischaracterizes the witness's testimony.
You can answer.
A I think what I was trying to say is we don't have numbers on that. Either is theoretically possible, but I think if you listen to the coverage in the -- in the news and the casual appearances of computers talking to listeners, including students in my class, that slop is winning right now.
Q But you're not here to offer expert opinions based on casual empirical -- I'm sorry, casual anecdotes from listeners or coverage in the news. You're here to offer economic analysis, right?
A I'm here to say that at the point we stand right now, there's a problem, and the power of the tool is growing exponentially, and we need to look into the future and project how powerful these tools are going to be in the future as we think about what's going to happen in the future with respect to these tools.
Q Sir, you're not here to offer an opinion about what the judge and the jury should find in

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this case, right?
A I'm definitely staying in my lane as an economic expert.
Q Great. And you understand that as an economic expert, your opinions have to be tethered to data and economic principles, right?
MR. MILLER: Object to form.
A Am I allowed to take economic principles and apply them to data that don't exist yet, that exist four years down -- you know, that are likely to exist four years down the road given the -- you know, as long as I'm able to do that as an -- as an economist, I think it's -- I -- I think everything I've just said makes sense. Right?
There's a problem today. It -- it seems to be getting worse, and we need to think about what's going to happen in the future. We don't have data about what's going to happen in the future, but as an economist, as an economic expert, I can -- I can project into the future what this might look like.
Q Ultimately, the judge and the jury will make a decision about whether that's right or not. I'm not here to debate that with you. I'm here to ask a few specific questions, so focus in on my

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question.
You don't know how much AI slop there is on streaming services, correct?
A Yeah. I think either the definition that we gave for AI slop doesn't allow for a precise numerical quantification.
Q Okay. And you also don't know how much value there is from AI contributing to music that's on those platforms, right?
MR. MILLER: Objection; asked and answered. You're talking about marginal value or net value.
Q Either one. Well, first of all, you don't know the extent to which songwriters are using AI to assist them in songwriting? That's not something you know, is it?
A Can we have the person who just logged in identify themselves?
Q That's an Anthropic lawyer.
MX. KIM: Liz Kim. I'm just dialing in.
THE WITNESS: And then the other phone number? Okay. It just disappeared. So Liz was the phone number. Got it.
BY MS. MEHTA:
Q So the question is -- let me go back to my

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question.
You don't know the extent to which songs or songwriters are using AI to assist them in songwriting today?
A I can't quantify that.
Q Okay. So, then, in terms of what the value or the contribution of AI is to songs that are on the platform that are not AI slop, that's not something you know; fair?
MR. MILLER: Object to form.
A Now we're talking about something really complicated, right, because to the extent that artists are using AI to create better songs, you're right. I don't have the -- I don't have the numbers on -- I can't quantify that, if that's -- if that's what you're driving at.
Q It is. And --
A I apologize. Is Liz still the [redacted]
Q Yeah.
A On the call? Okay.
Q Okay. So if you can't identify how much AI slop there is, and you also can't quantify -- quantify how much value AI is providing to non-AI slop songs, then I think it follows that you can't

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quantify whether AI is having a -- quantify whether AI is having a net positive or net negative impact; isn't that right?
MR. MILLER: Object to form.
A Yeah. As -- as long as I'm still allowed to say based on economic principles and the growing power of the tool -- as long as I'm still allowed to talk about that -- and, you're right. That's for the judge to decide. But what I -- I don't want to get boxed out of saying you now can't comment in any way, shape, or form on the future capabilities of this tool.
Q Ultimately, sir, the judge will decide what you are and are not allowed to talk --
A And I'm not -- I'm not the judge, and I don't want to get in -- in their lane.
Q And neither am I, but you do have to answer the questions I'm asking.
So let me go back to the question that I asked, which is: You -- if you can't identify how much AI slop there is and you can't quantify how much value AI is providing to music, you don't know, you can't quantify whether or not AI is net positive or net negative; isn't that right?
MR. MILLER: Object to form, compound.

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A Net -- net positive and net negative to what? Now I am confused.
Q The value that AI has to the streaming platform. You don't know whether the value that AI is giving to songwriters who are using it as a tool outweighs whatever the costs are associated with AI slop. That's not something you can quantify because you don't have the underlying data; isn't that correct?
A I'm not --
MR. MILLER: Objection to form, compound.
A Yeah. I'm not sure that's the scope of my engagement. I'm here to talk about the impact on the -- on the rightsholders.
Q Okay. So you haven't formed an opinion that AI is net negative in terms of its effect on streaming platforms; fair?
MR. MILLER: Object to form.
A I think that was laid out in my report what I -- what I believe. I'll stand behind that.
Q No, sir. You have to answer my questions.
My question is you haven't formed an opinion that AI is net negative in terms of its effect on the streaming platforms; isn't that right?

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MR. MILLER: Object to form.
A I -- I'm not sure that's my charge. My charge is to -- is to think about the -- the total impact of Anthropic's unlicensed injection on the -- on the rightsholders. I'm going to -- I'm going to try to stay in my lane on that and stick with what I've said in my report.
Q Okay. And then you can't quantify the impact -- the dollar impact of AI on the royalty pools for the streaming services, correct?
MR. MILLER: Object to form.
A Yeah. I -- I can -- I can look at Deezer's numbers and say this -- this amount -- the amount that's going to AI-generated songs is directly diluting the pool available to human authors.
What you're saying, as I understand it, is it's entirely possible -- what you're saying is it's possible that there have been more subscribers to these platforms because of the increased quality. I can't quantify that.
Q Could you turn to Paragraph Number 71 of your report, which is on Page 7?
A 71?
Q Yep, and feel free to read that paragraph

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if you need to orient yourself.
A Yep.
Okay.
Q Okay. So in this -- in this paragraph, you talk about outputs generated from LLMs versus human-written texts.
Do you see that?
A Correct.
Q Okay. And then you -- what you say here is that once fine-tuned on specific works for the purpose of emulating a specific author, you talk about the presence of lay readers for the LLM generated outputs.
Do you see that?
A Tell you what. Can I take a moment? Because this is actually referring to a broader study that --
Q Sure.
A -- I just talked about in the previous paragraphs.
Q Yeah, no problem.
A Yeah. So 68. For example, in one recent study.
Q Yep.
A Okay.

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of AI, would -- or, actually, let me ask the question this way.
You can envision situations in which somebody uses AI to write a song, but in the absence of AI, they simply wouldn't write the song at all, right?
A I can imagine -- repeat the question.
Q Yes. Well, I'll give you an example.
Let's say I choose to use ChatGPT to help me write a song.
A Okay.
Q If I didn't have ChatGPT available, you can see a situation in which I just wouldn't write the song at all, right?
A Yes.
MR. MILLER: Object to form.
Q Okay. You could also envision the situation in which I write -- I use ChatGPT to help write a lullaby for -- I have a new niece -- for my niece. And in the absence of ChatGPT, it's not like I'd go hire a songwriter to go out and write a song for my niece, right?
MR. MILLER: Object to form.
A As -- as long as we still recognize that my -- my report is saying there's going to be --

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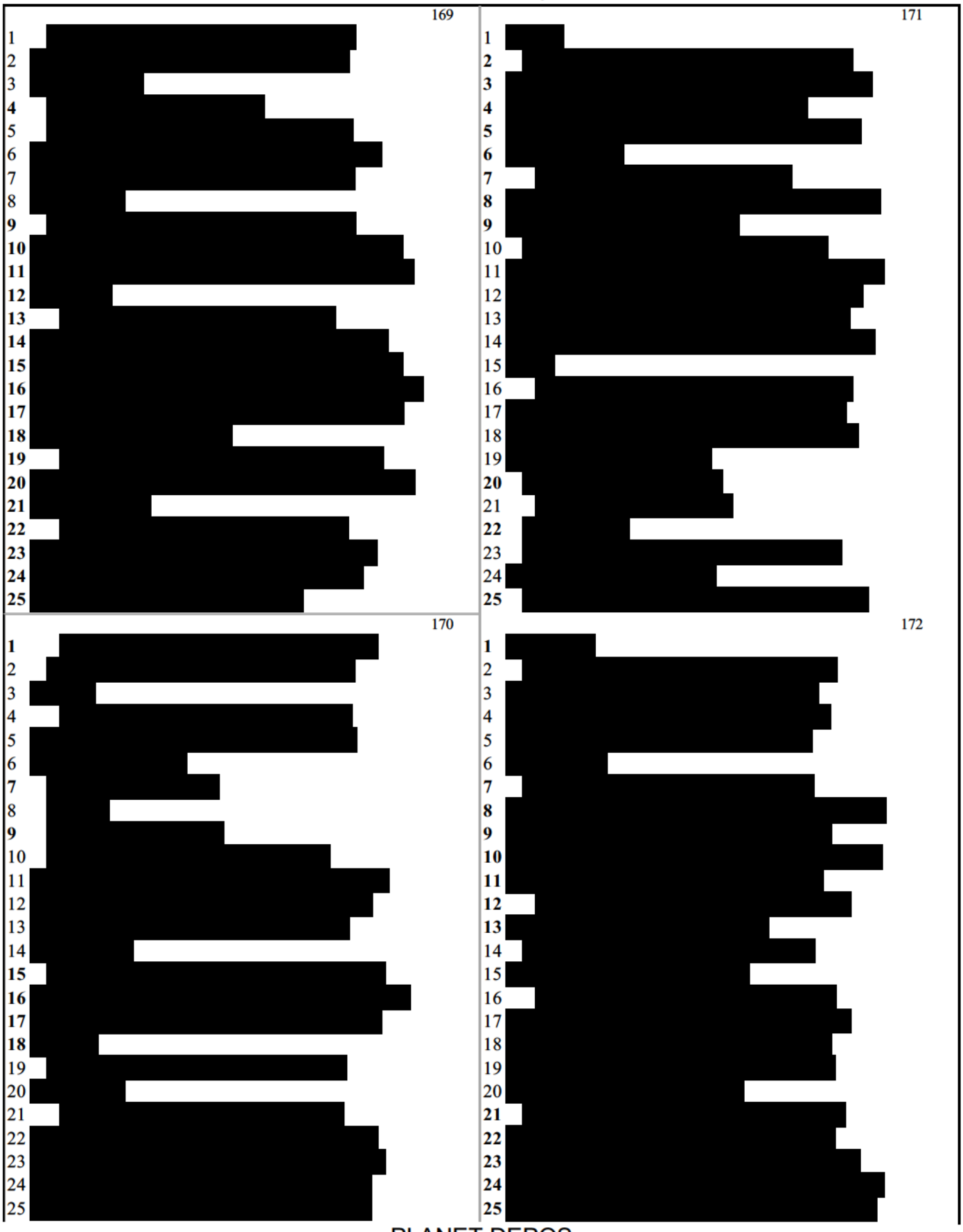
that the displacement and delusion here is going to include professional songwriters.
Q Right?
A That, yes, I could imagine a world where somebody would use Claude -- in fact, we mention in the report, obviously -- to write a song that they wouldn't have gone out and hired a lyricist for.
Q And then --
A As long as both of those things can be true, I'm cool.
Q Right. And then in terms of quantifying that, you don't have an empirical analysis or quantification of how much of the use of Claude to write songs is a use that displaces an existing songwriter versus is a song that would otherwise never have been created but for Claude? That's not a quantification or an empirical analysis you've done, is it?
MR. MILLER: Object to form.
A I don't know that I -- yeah.
THE WITNESS: Corey --
MR. MILLER: Object to form.
You can answer.
A I don't know that anybody has that -- that

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number.
Q Have you done any analysis of the prevalence of prompts and outputs from Claude requesting original song lyrics?
A Me personally?
Q Yes.
A No.
Q Have you done --
A I'm relying on the other -- I'm sorry. I'm relying on the other experts in this case.
Q Okay. And have you done any analysis or empirical study of the value to Anthropic of -- from Claude of the ability or the capability to generate new songs?
MR. MILLER: Object to form.
You can answer.
A Other than --
Q Let me -- I kind of botched that. Let me ask the question more clearly. That will help. I think it will help.
Are you able to quantify what dollar value, if any, Anthropic derives from Claude being able to generate new original songs?
A I think we're quantifying -- I think I'm quantifying other things in the report associated

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with the people who have made requests for lyrics and the amount of revenue that is attributable to -- to those customers.
As long -- as long as nothing I'm about to say negates those statements later on in the report, I think -- ask the question again. With that preface, ask the question again.
Q Yes. The question is: Are you able to quantify what dollar value, if any, Anthropic derives from Claude being able to generate new or original songs or song lyrics?
A Other than the -- other than the numbers later on in the report, I can't quantify a specific value associated with this.
Q And the numbers later on in the report, you are referring to your analysis of paid Claude accounts and the [redacted] that you identify in your supplemental report; is that right?
A I don't -- I don't remember how much it was, but whatever -- whatever -- whatever's said in the supplemental -- whatever's said later on in the report.
Q Okay. Do you think there was a finite number of songs that can be written?
MR. MILLER: Object to form.



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Do you see that?
A Yes.
Q Okay. Now, you understand that the genius.com agreement, as you say, relates to use in guardrails rather than for training, correct?
A That's correct, and that's what I say.
Q Okay. Do you have any sort of empirical analysis or quantification of whether an AI company would pay more or less to license song lyrics for guardrails than for training? Is that an opinion you formed in this case?
A I -- I don't know how to do that analysis, and I haven't -- I haven't formed that opinion in this case.
Q Do you have any sort of analysis or quantification of whether a source for lyrics information would be willing to accept more or less to license song lyrics for guardrails than for training?
A I've not done that analysis, and I'm not sure how you do that analysis.
Q Okay. Could you go down to Paragraph Number 151? And feel free to read 151 and 152 to yourself to orient yourself.
A Okay.

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MR. MILLER: And while Professor Smith is reading those paragraphs, how much time do we have left before the tape runs out?
MS. MEHTA: Good question.
VIDEOGRAPHER: Actually, perfect timing. Five minutes.
MS. MEHTA: Okay. Why don't we do this: Why don't we go off the record, just so that we don't run out of tape, and then feel free to look at that, and then we can look at it when we get back, and then I'll ask you my questions about 151 and 152. Okay?
THE WITNESS: Tell you what: I'll -- let's all take a break. I'll come back and read it when we're on the record.
MS. MEHTA: Okay. That's fine. Yeah, let's take about ten minutes. Great.
VIDEOGRAPHER: All right. We are going off the record. The time is 3:08 p.m.
(A recess was taken.)
VIDEOGRAPHER: We are back on the record. The time is 3:17 p.m.
BY MS. MEHTA:
Q So, Professor Smith, let me ask you a couple of background questions. One is: Have you

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ever spoken with anyone that works at Anthropic?
A Not that I'm aware of, no.
Q Never talked to the co-founders or executives of the company?
And I take it you don't have any knowledge about what their motivations were for how they selected training data or how they went about training Claude; fair?
A That's fair.
Q And you haven't formed any opinion about whether motivations were for using information that they obtained through scraping or through the Internet, datasets as part of their training set, correct?
MR. MILLER: Object to form.
A Can you ask the question again? I think I was following it right up until the end.
Q Sure. You haven't formed any opinions about what motivations Anthropic had for using information obtained through scraping or through public datasets for their training for Claude, correct?
A Other -- other than for the purpose of forming -- you know, other than for the purpose of forming the large language model they'd need to

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develop Claude. The specific purposes, I do not have any.
Q You -- you dropped off there. Did you mean to say you don't have any knowledge of the specific purposes?
A Yeah. What I was trying to say is I'm -- I'm quite sure they weren't doing it for fun. I think they were doing it so they can start -- start a large language model. The specific purposes of any dataset, I have no knowledge about how -- what they were using that for.
Q Okay. And then in terms of whether -- whether and to what extent the Anthropic executives or co-founders believed that training on publicly available information from the Internet was fair use, I take it you don't have a basis to dispute whether or not they had that belief?
MR. MILLER: Object to form.
Go ahead.
A I don't have a basis to dispute any of their public statements about that.
Q Or their sworn testimony in this case; fair?
A Definitely not their sworn testimony.

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Q If we could go to Paragraph 154. And this happens in a few places in your report, but I really want to direct you to a reference you make to a -- what you call a policy of [redacted] that policy?

A Yeah. Let me just familiarize myself with the paragraphs in this section.

Q Sure.

A Okay.

Q Okay. So do you see the references there to that -- what you're describing as a policy [redacted]

A Yes.

Q Okay. And that -- that policy that you're referring to, that's based exclusively on the testimony of Mr. Turvey, correct?

A That is -- that is all I cite here, so yes.

Q Okay. Now, do you know when -- if there is such a policy, do you know when it was implemented?

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A Here -- and, again, just going on what I cite here without going back and refreshing myself with the actual transcript -- it was during the first week of his job in February 2024 that he made the statements that I quote here in Paragraph 155.

Q And do you know whether the -- well, it says the genesis of the policy came from an internal document during his first week of the job in February 2024.

Do you know if that's when what you're describing as this policy was actually implemented or not?

A That's all I saw in the -- in the records that I -- that I had.

Q Do you know whether the music publishers that are the plaintiffs in this case ever approached Anthropic to ask whether or not their lyrics were used for training, either before or after February 2024?

MR. MILLER: Object to form.

A Not that I recall, and I hope I'm not forgetting something deep within one of the documents that I'm citing, but not that I recall.

Q Okay. And you understand that it's pretty commonly understood that large language model companies trained on the Common Crawl database, right?

A That's correct.

Q And you would expect sophisticated companies like the music publishers to know that large language model companies trained on Common Crawl, right?

MR. MILLER: Object to form.

A What's the question again?

Q You would expect sophisticated companies like the music publishers to know that large language model companies trained on Common Crawl?

A I -- at some point, that -- that would have become -- become apparent to them. I'm not sure what that point was.

Q Do you -- would you also expect the music publishers to know that lyrics from lyric websites were contained in Common Crawl at some point in time?

MR. MILLER: Object to form.

A Yeah. I'll give the same answer that you already teed up. At some point in time, I expect they realized that our lyrics are being ingested into Common Crawl, which is being used to train a lot of -- but I don't know when -- when that happened.

Q Could you please go to Paragraph 160?

A I'll do the same thing and just familiarize myself with the context.

Q I'm sorry. Let me take you to 159 first.

A Okay. I'll do the same thing.

Q Feel free.

And just to confirm, you're at 159, 160?

A Yeah. I'm halfway through 159.

Q Okay.

A Okay.

Q Okay. So let's start with 159. You talked there about your opinion that there would be a loss in licensing or a negotiating power in licensing discussions with other AI companies if AI -- if Anthropic were allowed to use unlicensed content acquisition strategies, right?

A That's correct.

Q Now, that would also be true for other AI companies. In other words, if other AI companies were training on content without licensing it, on unlicensed content, then that would reduce the music publishers licensing --

A To the extent that they -- sorry. I

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disadvantaged or had reduced negotiating power as a result of AI?
MR. MILLER: Object to form.
A Give me a second just to -- just to -- because I -- I mean, I think this is kind of Paragraph 158 I'm alluding to. Right?
So the -- for example, if Anthropic continues to train its AI models with copyrighted lyrics without restriction, without returning any value to the rightsholders, these models will continue to create market substitutes based on the copyrighted lyrics.
So I -- that are capable of siphoning value from revenue sharing pools.
Have I quantified that? No. Do I think that exists and is true? Yes.
Q Let's set aside the royalty pool dilution issue which we talked about extensively this morning.

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ability to generate new songs versus all of the information in the world about songwriting, you haven't done that analysis yet, have you? Or you haven't done that analysis, have you?

A I've not done that analysis.

Q Now, with respect to Paragraph 170 again, there's a sentence that says, Claude creates its own samples of varying lengths to be combined with some set of unknown set of new lyrics to be used in any type of written work or musical work with lyrics.

Do you see that?

Is that an opinion that you have formed based on your technical understanding of how Claude works, or is that -- you're relying on someone else for that?

A I'm relying on my general understanding of how large language models work.

Q Okay. And so your general understanding is you think Claude has samples on the work from which it trains from, and when it creates new songs, it goes and pulls from those samples?

MR. MILLER: Objection; mischaracterizes the record.

A Yeah. Let's just read the sentence so we

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understand precisely what I'm saying here.

Claude creates its own samples -- and this is all -- this is all in layman's terms writing -- of varying lengths, to be combined with some unknown set of new lyrics, to be used in any written work or musical work with -- with lyrics.

That's my understanding.

Q Okay. My question was: Do you believe that when Claude writes a new song or an original song, it is referring to a sample of an existing song in order to do that?

MR. MILLER: Objection.

A In a -- in a broad sense of how these weights get trained, I think that's a fair way of characterizing it, but it's -- you know, in a broad sense.

Q Do you think that Claude could write an original song if it had never been trained on song lyrics specifically?

MR. MILLER: Objection to form.

Q Do you know?

A Corey -- so Corey's objection, and then you said something.

Q Do you know?

A Ask the full question again.

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Q Do you know if Claude could write an original song even if it had never been trained on song lyrics specifically?

MR. MILLER: Objection to form.

A I -- I do not know because we don't have that counterfactual.

Q Could you go to Paragraph Number 174?

A Okay. I've read 174.

Q Okay. Great.

So there you talk about the harms from reputationally damaging derivatives such as distasteful mashups of publishers' lyrics with offensive phrases or modifications.

Is that right?

A That's correct.

Q You'd agree with me that there can be distasteful mashups or damaging derivatives of work in -- of publishers' works even without AI?

A That's true.

Q You'd agree with me that there's no evidence in the record Claude ever creating a distasteful mashup or offensive or damaging derivative of one of the works-in-suit?

MR. MILLER: Objection.

A Yeah. This -- this all came out of a long

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discussion we had at the -- at the Copyright Office, you know, of -- gathering of the -- of the economists where, in most cases, the rightsholder gets to say, you can use my content for this purpose and this purpose only, and just how different this -- this use was.

So --

Q Not my question.

My question was specific to this opinion that you're giving here about damaging derivatives. There's no evidence in the record in this case that you have seen that Claude has ever created a damaging derivative of any of the works-in-suit, correct?

MR. MILLER: Objection to form.

A I want to be careful about answering this, because my Spidey sense is tingling.

I can't tell whether the examples I'm thinking of are Claude-specific or non-Claude. So can I -- can I just leave that answer? I can't -- okay.

Q That's fine. I -- the -- that's -- that's the question I'm getting at, is can you identify any output created by Claude that is in the record in this case that you think is a reputationally

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damages derivative, as opposed to created by a human not assisted by AI or by some other AI tool?

MR. MILLER: Objection to form.

[redacted]

You're going to ask your question again, so go ahead.

Q My question was: Are you able to identify any reputationally damaging derivative or work generated by Claude as opposed to just a normal human, not assisted by AI, or by some other AI tool?

MR. MILLER: Objection to form.

A Yeah, I think I've answered this. Off the top of my head, no. I'm worried I'm missing something, but I'll just -- off of the top of my head right now, no.

Q And you understand that even with respect to the Christian rightsholders, which is the Capitol Christian Music Group entity, that -- did you read the testimony of their corporate

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representative, Mr. Draughon?

A Yes, but I don't remember it verbatim.

Q That's -- that's fair. But do you recall generally that he acknowledged that, of course, there could be damaging -- damaging derivatives or sexualized mashups that were created without AI?

A I --

MR. MILLER: Object --

THE WITNESS: Go ahead. Go ahead, Corey.

MR. MILLER: Object to form.

Go ahead.

A I don't recall that, but it would not surprise me if he said that.

Q Okay. And do you recall any instance of anyone creating a sexualized or otherwise inappropriate mashup of a religious, faith-based song using Claude other than perhaps the publishers themselves or the lawyers in this case?

MR. MILLER: Objection to form.

A I don't recall.

Q Do you have any evidence that you have in the record in this case or that you've identified in your work in this case of any reputational harm from damages derivatives created by Claude to the publishers?

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MR. MILLER: Objection to form.

A To the extent that, as we discussed previously, it's -- it's hard, if not impossible, to know which of these songs came from which of the generative AI companies, then I think the answer is -- is I do not.

Q Do you have any -- actually, strike that.

Let me take you to Paragraph Number 179.

Let me know when you're done with 179.

A Done.

Q Okay. Now, in 179, you say that in delivering complete verbatim or near-verbatim copies of publishers' lyrics, Anthropic usurps a service typically provided by licensees such as lyric aggregators or karaoke services, who are required to pay licensing fees for their use of publishers' lyrics.

Do you see that?

A Yes.

Q Did you do any user survey or empirical research as to the extent to which Anthropic users used Claude for lyrics delivery rather than going to a lyrics aggregator or karaoke service?

A I don't know how you could credibly do that -- that research. I think -- I think you

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could toss some data into aggression and -- and say something, but I don't know how you could credibly do that -- that research.

Q And you didn't conduct any kind of user survey in this case, correct?

A I really don't do user surveys that much.

Q Okay. I mean, you haven't seen any user surveys about the extent which, if at all, Anthropic is diverting people from lyrics websites or lyrics aggregators or karaoke services to Claude, right?

A I haven't seen any of that research.

Q You're not able to quantify the extent to which people are using Claude to receive song lyrics rather than going to a lyrics aggregator or karaoke service or website, correct?

A I think it's economically reasonable that if that -- the behavior today, and particularly if it would become widespread, that's a problem. I haven't quantified the degree of that problem.

Q Are you able to identify any particular instance in which a user searched for song lyrics on Anthropic or using Claude rather than actually searching for them on the Internet?

A I don't even know how you would do that

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right now.
Q Okay. Is it fair to say that any information that you have about the extent of copyright management information removal came from the Shan report and that you have not done your own analysis of that?
A I relied on the Shan report for -- for my analysis.
Q Okay. And I take it, then, that you have not done an analysis of whether and to what extent there were works-in-suit for which no copyright management information was removed? That's not something you've looked at; fair?
A Where no copyright information -- where the copyright information was maintained, is -- is your --
Q If it existed, yep.
A If it existed. I relied on the Shan report.
Q Okay. So if it's not in the Shan report, you wouldn't know it either; fair?
A That's correct.
Q And I take it, then, that you also have not done an analysis of the extent to which for each -- or for any particular work, there were

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copies of the work in the training data where the CMI existed, even if there were other copies where the CMI was removed.
That's not something you've looked at, right?
MR. MILLER: Objection to form.
A Ask the question one more time slowly.
Q Yes.
You have not looked at the question of whether there were copies for any particular work, there were copies of the work in the training data where CMI was present, even if there were other copies where the CMI was removed?
MR. MILLER: Objection to form.
A In -- in the training data?
Q Yes.
A I -- I -- no, I have not touched the training data.
Q Okay. I'm asking whether you know what was -- what's in the training data either directly or indirectly. Is that something that you know?
MR. MILLER: Objection.
A That's not something I know. As it -- as it pertains to -- that's not something I know.
Q Okay. And the next question I have is:

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Are you able to identify any work-in-suit for which there is not attribution information for that work in the training data?
MR. MILLER: Objection to form.
A Am I able to identify any work-in-suit where there's not attribution information in the training data some -- somewhere? I am not.
Q Could you go to Paragraph 185?
A Yes. Let me review this real quick because we talked about this a lot.
Okay.
Q Okay. In paragraph -- in Paragraph 185, you say, Humans have a natural drive to be creative and fulfilling that drive generates utility for the creator.
Do you see that?
A Yes.
Q Do you believe that to be a true statement?
A Yes.
Q Okay. Then the next --
A I can't --
Q -- sentence says --
A Right?
Q I just want to make sure you stand behind

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that.
A I -- I stand behind that as long as we also recognize that intrinsic incentives aren't the only incentives that a -- a creator has.
Q Understood. I understand there are multiple incentives for a creator. My question is actually quite specific.
Humans have a natural drive to be creative and fulfilling that drive generates utility for the creator.
That is a true statement, correct?
A That's a true statement as long as we also acknowledge that they have intrinsic incentives to get paid, as do the -- as do the publishers -- I'm sorry, as do the rights -- as do the rights owners.
Q Is it your -- is it your opinion that humans would not create but for intrinsic incentives?
MR. MILLER: Objection.
A My opinion, that's backed up in both my research and -- and my colleagues' research, is that creation would be lessened in a -- in a world where there -- where there weren't extrinsic incentives.

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I think your question is, you know, would people cease to create, and my opinion is they would not entirely cease to create.

Q And in terms of the extent to which there would be a lessening if you only looked at incentives -- intrinsic incentives and -- and not intrinsic incentives is how you could qualify it; is that -- is that how I understand your opinion?

MR. MILLER: Objection to form.

A Yeah. It's incredibly hard to quantify that. I talked about the Bollywood paper where I think my colleague Rahul Telang and -- and my colleague Joe Walpolu [ph] did a great job of trying to -- of quantifying it. Quantifying it here, to what degree it's driven my intrinsic versus extrinsic, I don't know anyone who's done that or even tried because it's -- that's an impossible question.

Q The utility that comes from creativity in and of itself serves as an incentive to create works.

Do you stand behind that statement?

A Within the context of all the other caveats I've given. I don't want us to get into a world where we say if we kill all the extrinsic

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incentives, we're still going to have enough intrinsic incentives that we're all going to be okay. I don't believe that's true.

Q That's not my question. My question is -- set aside extrinsic incentives. Do you agree that the utility that comes from creativity in and of itself serves as an incentive to create works?

A Sure, yeah. That's what I said.

Q Okay. Now, let's go to Paragraph 187, if you could.

A Okay.

Q Okay. So I think somewhere else in your report you said the publishers and the works-in-suit in this case include some of the most popular musical artists out there, right?

A That's correct.

Q Who were you thinking of? Give me a -- give me a couple of names.

A In this particular case, or just popular in general?

Q No, amongst the works-in-suit. Who are some of the artists that you think are amongst some of the biggest, most popular artists out there?

A I would have to go back to the -- to the

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list and refresh my memory, but -- yeah.

Q Have you ever heard of -- I think Katy Perry might be one of the -- does that sound familiar?

A My kids would smack me around if I -- if I answered no to that question. Yes, I've heard of Katy Perry.

Q Okay. And you understand that she's one of the -- one of the artists for one of the works-in-suit, right?

A Thank you for refreshing my memory.

Q Okay. Now, is it your testimony that if Claude were trained on one or more sets of lyrics to a Katy Perry song in which some copyright management information were removed, that the extrinsic incentives -- I'm sorry, the intrinsic incentives for Katy Perry to write her next hit song would be reduced?

A Katy Perry may not be the best example because she's already made it, Roar. That's -- but I -- I think that at some level, if people are outputting the lyrics to Roar without Katy Perry getting credit for it, I think it -- at some level, even for Katy Perry, that damages her intrinsic incentives.

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It's going to be much harder -- it's going to be much more problematic for someone who's right at that edge of emerging than -- than for our friend Ms. Perry.

Q Right. But you -- let's take another example. Elton John is another artist for one of the works-in-suit.

A Sure.

Q You know that, right?

A Yeah.

Q Okay. And is it your testimony that if in some copy of training data that included lyrics to Tiny Dancer by Elton John, some information, copyright information were removed, that that would reduce Elton John's intrinsic incentive to create more works?

MR. MILLER: Objection; assumes facts not in evidence.

A Yeah. I think we'd have to ask Sir Elton.

Q Is it your testimony -- let's talk about Ariana Grande. She's another one of the artists. Is it your testimony that if in a copy of Ariana Grande's 7 Rings lyrics in the training data some CMI information was removed, that that would remove or reduce her incentive to create more

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works?
A Again, I think we'd have to ask Ms. Grande.
Q Can you identify any evidence in the record that for any of the works-in-suit there was any CMI removed that actually reduced the intrinsic incentive for the artist to create?
A In general -- and this is something that the ten economists discussed at the -- at the workshop and came to a broad consensus. In general, artists have intrinsic and extrinsic incentives. Intrinsic incentives are important, as I've described here.
Ms. Grande, Sir Elton, Ms. Perry, you know, maybe not at the -- at the steepest part of that curve, but I think all artists have this.
Q Okay. I'm not asking about a general principle or your general supposition about what the incentives are. I'm asking a very specific question.
Can you identify any evidence in the record of this case that for any of the works-in-suit there was any CMI removed that reduced the incentive for the artists to create?
A Yeah. I'll --

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MR. MILLER: Objection.
A -- to Paragraph 188. A harm from this loss of attribution is significant and real, but also impossible to quantify.
Q Right. I'm not asking for a quantification, sir. I'm not asking for a quantification. I'm asking -- you say it's significant and real. This case is, as you know, is about 499 works-in-suits, not about all songs or all artists.
You know that, right?
MR. MILLER: Objection.
A Yeah. This -- this sentence was written with respect to even those 499 songs.
Q Great. But focus on my question.
You understand that this particular lawsuit is about 499 works-in-suit, not about the music industry in general. You know that, right?
MR. MILLER: Same objection; argumentative.
A Right.
Q Okay. So now I want to ask again: With respect to the 499 works-in-suit, can you identify any evidence in the record that there was any impact on the incentive for those songwriters or

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artists to create based on the removal of any -- or supposed removal of any CMI?
MR. MILLER: Objection; asked and answered.
A I feel like I've already answered that question.
Q No, sir, you haven't.
A It's impossible to quantify, but it's real and -- and significant.
Q I'm not asking for a quantification. I'm asking for any specific evidence. A document, a piece of literature, a citation to someone's deposition testimony, a specific piece of evidence in the record in this case that any CMI was removed that led to a degradation in someone's incentive to create?
MR. MILLER: Objection; asked and answered several times.
A I -- I think --
Q You haven't answered it, sir.
MR. MILLER: Objection; argumentative.
A How about we go with professor instead of sir?
I'm going to go with the same sentence. The harm from loss of attribution is significant

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and real, but also impossible to quantify. I think that answers your question. I really do.
Q I really don't. Let me ask the question this way.
If the judge or the jury in this case wanted to know if you can identify any evidence in the record in this case of someone's incentive to create being reduced by the removal of any CMI, what would the answer be?
MR. MILLER: Objection; asked and answered, argumentative.
A Yeah, I'm -- I'm -- coming to the absence of evidence, if not the evidence of an absence.
Q That's fine. But you agree that in this record, you have not seen any evidence that you could identify for the judge or the jury of someone's incentive to create being reduced by the removal of CMI? You agree with that?
MR. MILLER: Objection; asked and answered, argumentative, mischaracterizes the witness's previous testimony.
A We've got a whole set of paragraphs here talking about how this is real and -- and I -- I don't want to get boxed in a corner where I can't say this is -- this is real even for the 499

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works-in-suit.
Q All due respect, I understand you don't want to get boxed in a corner. This is my opportunity to ask you for the bases for your opinion.
Can you identify for the judge and the jury in this case any piece of evidence in the record that would support the conclusion that the -- the incentive to create was reduced by removal of CMI from Anthropic's training data?
MR. MILLER: Objection; asked and answered, like, eight times. Counsel, I suggest you move on.
MS. MEHTA: Not answered.
BY MS. MEHTA:
Q Please answer the question, Professor.
A Are we talking about just the 499 works-in-suit at this time?
Q Yes.
A I'm going to stick with the same -- the harm and -- the harm from loss of attribution is significant and real, but it's also impossible to quantify.
As an economist, I'm not aware of any academic studies or meaningful measurements of

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harm from loss of attribution --
Q You cite --
A -- including for the 499 works in -- in this case.
Q Okay. Can you cite any evidence in the record of this case of loss of incentive to create based on loss of attribution due to removal of CMI?
MR. MILLER: Objection; asked and answered, I don't even know how many times now. Argumentative.
A As long as I'm still able to say the harm from attribution is significant and real but also impossible to quantify. Like I said, I think that --
Q Let me -- let me stipulate for purposes of this question that the judge will let you say that, that thing you keep reading from your report. I'm not asking about that. I'm not asking about the sentence that you keep reading from your report.
I am asking you whether you have any evidence in this record in this case of any loss of incentive to create based on a loss of attribution from the removal of CMI. Any

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document, any testimony, any evidence in this case.
MR. MILLER: Objection. I don't know what it means to stipulate to something for the purposes of a specific question. I think that's inappropriate.
And this question has been asked and answered, like, 12 times already. This is getting argumentative. Counsel, move on.
BY MS. MEHTA:
Q Professor, please answer my question.
A I believe I have. If the judge is going to let me answer it with this sentence, I'm going to answer it with this sentence. The harm from loss of attribution is significant and real but also impossible to quantify. I'll stand behind --
Q And if the -- and if the judge said, can you identify any evidence in the record of that harm, what would your answer be?
MR. MILLER: Same objections.
A My answer would be the harm from loss of attribution is significant and real, but also impossible to quantify.
Q Okay. I'm not a judge, so I can't order you to answer my question. I will move on to

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something else. We'll take that up at the appropriate time.
Could you please turn to Paragraph Number 193 of your report?
Actually, I'm sorry. Before we get to that, let me ask you one more question -- or a couple more questions.
You analyzed, for purposes of your rebuttal report, Dr. Nagaraj's web traffic study, correct?
A I did.
Q And he provided you with the data that he used to run that study, right?
A I have not touched the data. StoneTurn has -- has the data. They did analysis on -- you know, under my -- under my direction. I have not touched his -- his original data.
Q Okay. And I did not see anywhere in your rebuttal reply report an opinion based on your rerunning that study. In other words, you didn't try to repeat his web traffic study; is that correct?
A I don't think you can make -- so there -- there's three levels of problems with -- with that -- with that study. Right? The -- the first

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level, or the lowest level, is all of the econometric problems that -- that we identified in terms of areas and variables on the left-hand side, areas and variables on the right-hand side, both of which are going to make it hard to find an effect. Right? So there's that level.

One level above that is the problem that what you're talking about is essentially the first four months after Claude -- Claude AI was released. I don't know how you make a credible statement, but in the first four months after Claude was released, golly, we don't see a big change in these very noisily measured variables.

And then the top line is we don't know, you know, how this affected to her -- other channels, other areas of revenue.

So on -- on all those reasons that I've discussed in my report, I don't think that's a credible -- I don't think you can make credible claims with those data.

Q Okay. That wasn't my question. My question was actually a lot more simple than that, which is just a yes or no: Did you attempt to rerun his web traffic study?

MR. MILLER: Objection.

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A Personally or with StoneTurn?

Q Well, let me ask you the question as it relates to your reports.

I don't see anywhere in your reports any discussion of your attempting to rerun the web traffic study and reporting out on what you found; is that fair?

MR. MILLER: Objection to form.

A Rerun the study -- so just to validate the study; is that -- is that what you're asking?

Q Yep.

A What we did in the report was look at the -- look at the data, change some of the regression form, right, what happens if you take out fixed effects, what happens if you include fixed effects, what happens if you -- anyway, and look at how the results changed.

And in many of those cases, the results actually changed. The results actually -- actually flipped.

Q That's in your rebuttal report?

A That's in the rebuttal report, and -- and the reply, I believe.

Q Okay. Now --

A How about that?

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Q Okay. And then what about the Google trends study? Did you receive data from Dr. Nagaraj about that?

A Yes, that's my understanding.

Q Okay. And did you attempt to rerun that study?

MR. MILLER: Object to form.

A And also identified areas where if you made slightly different assumptions, that the results -- the results changed, which leads me to believe this is a -- this is a very noisy empirical analysis.

Q Not my question.

Did you rerun the study and report on the results of your attempt to rerun it in your reports? I didn't see it.

MR. MILLER: Object to form.

A What you're asking is did we go back and rerun exactly the same regressions and then report the results of those -- of those regressions?

I -- like I said, what we did was look at how sensitive are the reported results to reasonable changes in how you run the regressions, and the answer is the coefficients go all over the place.

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Q You reviewed as part of your work in this case the analysis that Dr. -- or Mr. Dennis, rather, did of the five million Claude user prompts, the sample, right?

A That is correct.

Q And if you turn -- if you turn to Paragraph 201.

A Give me a sec.

Q Yep.

A Okay.

Q Okay. With respect to that sample, do you know how Mr. Dennis identified those 6,849 prompts and outputs that he analyzed?

A I read the report. It may be in there. Off the top of my head, I don't -- I don't recall.

Q Okay. Did you do anything to evaluate whether or not those -- the identification of those samples was a representative sample from the five million?

MR. MILLER: Object to form.

Q Or did you rely on Mr. Dennis for that?

A I relied on Mr. Dennis, who I think was relying on the judge who said it is representative.

Q I'm not asking about whether the 5 million

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Q Did he tell you what areas he might ask you questions about?
A We didn't -- we didn't talk about the details, like I said.
Q Okay.
MS. MEHTA: Pass the witness.
MR. MILLER: All right. Thank you for your time today, Professor Smith. I just have a few brief questions to clarify a few points in the record.

EXAMINATION

BY MR. MILLER:
Q First, do you still have your report --
MS. MEHTA: Mr. Miller, just before you go, can we just reach an agreement that any objections to form include leading and scope so that I don't have to say them all every time, save you some time?
MR. MILLER: Sure.
MS. MEHTA: Thank you.
BY MR. MILLER:
Q Professor Smith, do you still have your report, Exhibit 1, open in front of you?
A I do.
Q Could you please turn to Paragraph 129,

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please? Which is on Page 54.
A 129, 54. Got it.
Q And I want to direct your attention to the middle of Paragraph 129.

[redacted]

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[redacted]

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[redacted]

Q Do you recall being asked questions earlier today about whether you offer opinions regarding Anthropic's motivations on particular points?
A I do.
Q I'd like to direct your attention to Paragraphs 152 and 153 of your report, which are on Page 63 and 64.
Could you please review those?
A Of course.
Q And let me know when you've had a chance to review those.
A Okay.
Q Does your review of Paragraphs 152 and 153 refresh your recollection regarding whether you are offering any opinions regarding Anthropic's

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motivations?
MR. MILLER: Objection to the form.
A I think when I answered previously, I was -- I was not thinking about the competitive motivations that they might have had. We're in a serious race with these other competitors, and so that colors our motivation of gathering more and more information off -- off the web. Right? So all of these quotes relate to that.
Q Do you recall being asked questions today regarding the relative harms resulting from use of Claude versus in relation to lyrics versus the use of other large language models?
A Yes.
MS. MEHTA: Form.
Q Have you seen any evidence in the record that any other large language models were trained on the works-in-suit?
MS. MEHTA: Objection to the form.
A I -- I believe so, yeah, but -- yes.
Ask -- ask the question again.
Q Have you seen any evidence in the record in this case that any other LLMs besides Claude were trained specifically on the works-in-suit?
MS. MEHTA: Objection to the form.

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A I have not.
Q Do you recall being asked questions today about whether you were offering a damages opinion?
A I do.
Q Are you offering any opinion on a specific amount of actual damages the plaintiffs have suffered?
MS. MEHTA: Form.
A Not in this report.
Q Are you offering any opinions that could potentially be relevant to a jury's assessment of statutory damages?
MS. MEHTA: Objection to the form.
A Yes.
Q Do you recall being asked questions today about the possibility that Anthropic's guardrails could reduce harm suffered by plaintiffs in this case?
MS. MEHTA: Objection to the form.
A Yes.
Q And in your report, you identified several different types of harm to the publishers resulting from Anthropic's use of publishers' works.
Is that a fair statement?

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MS. MEHTA: Form.
A That is a fair statement.
Q Do some of those harms you identify in your report result from something other than Claude's verbatim or near-verbatim output of the works-in-suit?
MS. MEHTA: Form.
A Yes, very much so.
Q Would Anthropic's guardrails, even if 100 percent effective, have any effect on those harms?
MS. MEHTA: Objection to the form.
A It would not.
Q Do you recall being asked many, many questions today about whether you can quantify various harms?
A Yes.
MS. MEHTA: Form.
Q Does the inability to precisely quantify -- excuse me.
Does the -- let me -- let me start again.
Does the inability to precisely quantify a particular harm mean that that harm does not exist?
MS. MEHTA: Objection to the form.

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A Of course not. I think I said that in one of my answers.
MR. MILLER: No further questions.
MS. MEHTA: Okay. I have some follow-up questions.
RE-EXAMINATION
BY MS. MEHTA:
[redacted]

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Q Okay. Now, you were asked a number of opinions about motivations and about whether or not you're opining on Anthropic's motivations, and Mr. Miller directed you to a particular portion of your report and asked you to read that and talk about your statement in the report that Anthropic was motivated by competition with other large AI companies.

Do you remember those questions from your lawyer?

A Can -- can you give me the paragraphs again just so I can go there?

Q Of course. He took you to 152.

A Got it. I remember the questions.

Q Okay. Now, you're not a mind reader, I assume?

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A I am not.

Q Okay. And you're not purporting to offer an opinion as to what was in the minds of or the discussions of Anthropic about what data it would or would not train on, correct?

MR. MILLER: Objection to form.

A Yeah. All -- all I'm saying here is exactly what's in the record. One of the challenges we face is that the break-neck competition with OpenAI has driven us to release models as soon as we've established the capabilities and so on -- and so on throughout this paragraph, that there's clearly competitive interest here motivating -- motivating their behavior.

Q Right. What I'm asking is that your opinions with respect to motivations are based on your reading of the documents that are cited in this paragraph, not some other knowledge you have of what was in the minds of Anthropic's executives or founders, correct?

A That's fair.

Q Okay. And is it also fair that the -- all the documents that you're relying on for that are the ones cited in Paragraph 152?

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A All the documents -- all the quotes are from documents cited in 152 for this paragraph, yes.
Q Okay. And other than what's cited in Paragraph 152, did you look at any other evidence in the record to see whether there were other documents or other testimony that undermined your conclusion that AI -- that Anthropic's decision about where to source data was partly motivated by competition with other AI companies?
A I don't know that I saw any evidence of that in any of the documents. I did not see any evidence of that in any of the documents I reviewed.
Q Did you look for other documents to see whether, in fact, this was the complete record of everything or whether there was something else that was contradictory in the record?
A I think we talked about this previously. I reviewed -- I reviewed the documents looking for things that were relevant. This -- that would have been relevant. A counter -- a counter example, I did not see any evidence of that.
Q How did -- how did you get the documents that you relied on? So we -- we talked earlier

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about the list of documents that you cited in your materials considered. How did you get the internal Anthropic documents that are identified there? Were they provided to you by counsel, or did you go and access them directly through a database?
A They were provided to me by counsel through a SharePoint.
Q Okay. Do you know what percentage of documents produced in the case they shared with you?
A I do not.
Q Do you know --
A Actually -- no.
Q Do you know how they selected the documents they shared with you?
A I think I had access to basically everything on -- on the SharePoint, is -- is my -- is my understanding, and I can go back to the SharePoint just to look at the volume of documents, but...
Q My question --
A If -- your question was do I know how they decided what to share with me on the SharePoint? I do not.

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Q Right. And so if I am looking let's go to -- you're still in your report, your first report?
A Yep.
Q If you could go to Appendix 2, which is the list of materials considered. It's -- I don't know. It's about 12 pages or so from the end of the document.
A Yep.
Q And then there is a list there of Bates-numbered documents.
Do you see that?
A I do.
Q Okay. And then in the Bates-numbered documents, there are -- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 -- 16 documents that were produced by Anthropic in this case.
Do you see that?
A I do.
Q Do you understand that the Anthropic production in this case was only 16 documents?
A Now -- now I understand where we're going with this. I had access to the full set of documents. These are the ones cited in my report.
Q Okay. So you had access to every document

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produced by Anthropic in this case?
A I had access to a bigger set of documents than this. I don't know whether it was everything.
Q Okay. Do you know how the lawyers selected what they gave you and gave you access to?
A I don't know.
Q Did you specifically ask them for documents that went to the reasons why Anthropic chose the data that it chose to train on?
MR. MILLER: Objection. As I instructed earlier, questions directed at communications between an expert and counsel are protected work product under Rule 26, which has three limited enumerated -- enumerated exceptions. This question does not fall into any of those exceptions, and therefore, I am going to instruct you not to answer the question.
BY MS. MEHTA:
Q Do you accept that instruction, sir?
A I do.
Q Okay. Let me ask the question this way.
Did you do anything to validate that you were given all the documents that bear on the

REPORTER'S CERTIFICATE

I, BROOKLYN E. SCHWEITZER, CSR NO. 14612, RPR, CRR, in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify the truth, the whole truth and nothing but the truth and that the witness reserved the right of signature;

That said deposition was taken down by me in shorthand at the time and place therein named, and thereafter reduced to typewriting under my direction, and the same is a true, correct and complete transcript of said proceedings.

I further certify that I am not interested in the event of the action.

Witness my hand this 28th day of February, 2026.



Certified Shorthand Reporter for the State of California