EXHIBIT 5

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

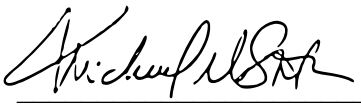
Case No. 5:24-cv-03811-EKL-SVK

DESIGNATED HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY

Judge Eumi K. Lee
Magistrate Judge Susan van Keulen

EXPERT REPORT OF PROFESSOR MICHAEL D. SMITH

Dated: December 19, 2025



Michael D. Smith

"Copyright and Artificial Intelligence."[52] Specifically, the U.S. Copyright Office concluded that "[t]he speed and scale at which AI systems generate content pose a serious risk of diluting markets for works of the same kind as in their training data."[53]

64. In the sections below, I review the public reporting and academic literature regarding the potential for AI-generated lyrics to act as market substitutes for human-generated lyrics. I also assess Anthropic's stated goals for Claude's advancement as it relates to the music publishing industry, and I analyze Claude's current usage by customers for creating song lyrics.[54] At bottom, while I believe the harm from training Claude on Publishers' copyrighted works is potentially existential to the music publishing industry, I also believe that precisely measured damages are not quantifiable with any reasonable degree of certainty.

1. Academic Analysis and Public Reporting Demonstrate How Large Language Models Create Market Substitutes for Songs

65. The full downstream effects from Anthropic's unlicensed copying and use of existing copyrighted works to train its AI models to compete in the creative markets for human-generated textual works (novels, scripts, and song-lyrics, to name a few) will not be fully felt until years after the initial infringements. This is because the training that occurs today is building towards a

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[52] *Copyright And Artificial Intelligence Part 3: Generative AI Training (Pre-Publication Version)* UNITED STATES COPYRIGHT OFFICE (May 2025), https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-3-Generative-AI-Training-Report-Pre-Publication-Version.pdf, at 64.

[53] *Id.* at 65.

[54] I understand that Anthropic takes the position that training on copyrighted works may constitute "fair use" under the law, which may have implications as to whether Publishers in this case have suffered legally cognizable harm. For purposes of this report, I assume *prima facie* liability for the unauthorized use of Publishers' works and offer no opinion whatsoever on applicability of Anthropic's "fair use" defense.