EXHIBIT 25

(FILED UNDER SEAL)

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 REPLY OPINION OF PROFESSOR MICHAEL D. SMITH

Dated: February 13, 2026



Michael D. Smith

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APPENDIX 1 I

SUPPLEMENT TO DECEMBER 19, 2025 EXPERT OPINION OF 1

I. Overview and Assignment.

1. On December 19, 2025, I issued an initial expert report in this case. *See* Expert Report of Michael D. Smith (Dec. 19, 2025) (hereinafter the "Smith Report"). On the same day, Defendant Anthropic PBC ("Anthropic") served a series of expert reports from Dr. Abhishek Nagaraj (hereinafter the "Nagaraj Report"), Julie L. Davis (hereinafter the "Davis Report"), Dr. Andrew Bray, Collin Stokes, Dr. Jeff Bilmes, and Russ B. Altman. Also on December 19, 2025, Publishers served several other expert reports, including from Joshua Dennis (hereinafter the "Dennis Report"), Benjamin Zhao, Shawn Shan, and Hal Leonard.

2. On January 23, 2026, I served a rebuttal report (hereinafter the "Smith Rebuttal") that responded to sections of the Nagaraj and Davis Reports. On the same day, Anthropic served rebuttal reports from Dr. Nagaraj (hereinafter the "Nagaraj Rebuttal") and Ms. Davis (hereinafter the "Davis Rebuttal") that responded to sections of the Smith Report.

3. As part of my retention by counsel for Plaintiffs ("Publishers") in this case, I have been asked to review and comment on sections of the Nagaraj Rebuttal and Davis Rebuttal that respond to the Smith Report in a reply report (the "Smith Reply"). In this Smith Reply, I provide my assessment of and opinions about Dr. Nagaraj's and Ms. Davis's critiques of my Smith Report analysis. The materials that I considered in preparing the Smith Report, the Smith Rebuttal, and the Smith Reply, are cited in each document and/or included in Appendix 1.

4. My credentials and compensation are set forth in the Smith Report, which I incorporate herein by reference. For the avoidance of doubt, I also incorporate the Smith Rebuttal by reference. My compensation is not contingent or dependent on the assessment and opinions in this Smith Reply nor the outcome for this or any other matter.

5. To the extent that Anthropic serves additional expert reports or supplements any of the reports it has already served, I reserve the right to supplement my analyses and opinions.[1] To that end, attached at the end of this Reply is a short supplement responding to a production from Anthropic dated February 4, 2026, that purports to update a document used in connection with the Dennis Report and subsequently relied upon in Section VI.C of the Smith Report.

II. Dr. Nagaraj's Rebuttal Report Does Not Change Any of My Opinions.

6. Dr. Nagaraj's Rebuttal does not offer any persuasive economic justification for why the rights of content creators should be ignored for Anthropic's exclusive benefit. He repeats many of the same contradictory opinions that he advanced in the Nagaraj Report, the most glaring of which I summarize below here and discuss in greater detail in the subsequent subsections of this Reply.

7. First, Dr. Nagaraj contends that I cited no evidence of economic harm to Publishers' works as a result of Anthropic's conduct in the Smith Report. Nagaraj Rebuttal ¶¶ 5, 7. This is not true. The Smith Report cites ample record evidence in explaining how Anthropic's unlicensed acquisition and use of Publishers' works harms multiple relevant markets for and the overall value of Publishers' works, including through the creation of market substitutes that dilute and disrupt shared revenue pools of existing works on streaming platforms. *See* Smith Report § V.

8. Anthropic's key witnesses do not seriously dispute that Anthropic's unlicensed acquisition and use of Publishers' works will cause economic harm to the "potential market for and value of" those works. Dario Amodei, for example, testified in this case that AI technology will soon "make human labor obsolete," including the human labor of songwriters, given his prediction

[1] I continue to reserve the right to supplement or modify my analyses based on recent or forthcoming discovery provided by Anthropic, including newly discovered information as it becomes available.

that the technology "will eventually automate everything." Dario Amodei 30(b)(l) Tr. 98:4–20. He has also openly predicted that AI could eliminate "half of all entry-level white-collar jobs — and spike unemployment to 20% in the next one to five years,"[2] and that, if left unchecked, generative AI technology could lead to "a huge concentration of wealth."[3] In a January 26, 2026 essay titled "The Adolescence of Technology," Mr. Amodei repeated his prediction of AI displacing "half of all entry-level white collar jobs," and observed that while the efficiency gains from Generative AI "would be great for economic growth" it will be "not so great for the labor market or those who are left behind."[4] In a January 27 interview with NBC News following the release of his essay, he stated plainly that "we can't deny that [AI] will also eliminate jobs and probably a large number of them."[5] In a January 20 interview with the Wall Street Journal at the World Economic Forum in Davos, Mr. Amodei observed "there are whole jobs, whole careers that we built for decades that may not be present" because of the capabilities of Generative AI models.[6] In a separate interview at the World Economic Forum Mr. Amodei said "we might have AI that's better than humans at everything in, you know, maybe one to two years, maybe a little longer than that."[7]

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[2] Jim VandeHei & Mike Allen, *Behind the Curtain: A White-Collar Bloodbath*, AXIOS (May 28, 2025), https://www.axios.com/2025/05/28/ai-jobs-white-collar-unemployment-anthropic (last visited Feb. 13, 2026).

[3] Dario Amodei, *The Adolescence of Technology* (Jan. 2026), https://www.darioamodei.com/essay/the-adolescence-of-technology (hereinafter, "*The Adolescence of Technology*").

[4] *Id.*

[5] NBC NEWS, *Anthropic CEO Speaks About 'Powerful' AI Risks and Regulation*, YOUTUBE (Jan. 27, 2026), https://youtu.be/tjW_gms7CME?si=xKH2NLCfTe4jTVta&t=958.

[6] THE WALL STREET J. , *Watch: Anthropic CEO Dario Amodei From World Economic Forum*, THE WALL ST. J. (JAN. 20, 2026), https://www.youtube.com/live/K7F6ohcBJus?si=dMDVXjEwTcWVxryh&t=357.

[7] World Economic Forum, *The Day After AGI | World Economic Forum Annual Meeting 2026*, WORLD ECON. FORUM (Jan. 20, 2026), https://youtu.be/NnVW9epLlTM?si=XL5mega5ICLy8u5h&t=1007.

9. Similarly, Anthropic's Chief Science Officer Jared Kaplan predicts "human-level artificial intelligence" by 2030,[8] while Anthropic's designated witness predicts that, "in the next five years, it's not only possible but quite probable that we will have superintelligent AI that is capable of doing most of the kinds of work that people do."[9] And, at the extreme end of the spectrum, Anthropic's Chief Compute Officer Tom Brown testified that generative AI technology has the realistic potential of causing "***the extinction of humanity***."[10] These are imminent and realistic consequences that Anthropic's executives openly admit could flow from the AI company's unfettered use of copyrighted works (including Publishers' lyrics) to train its Claude models, but Dr. Nagaraj does not attempt to reconcile any of these admissions with his broad conclusion that there is no evidence of economic harm to the "potential market for and value of" Publishers' copyrighted works. Nagaraj Report ¶ 12; Nagaraj Rebuttal ¶ 5.

10. Second, Dr. Nagaraj erroneously parrots Anthropic's contention that Publishers' lyrics offer minimal to no value as AI training data. As I discussed in the Smith Rebuttal Report, Anthropic's valuation of Publishers' lyrics is irreconcilably infected by its [redacted][11] Moreover, this contention is

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[8] Azeem Azhar, *Are We Ready for Human-Level AI by 2030? Anthropic's Co-Founder Answers*, YOUTUBE (Apr. 2, 2025), https://www.youtube.com/watch?v=tC_3KAyli4U&t=2s.

[9] B. Mann 30(b)(6) Tr. 169:16–22; *see also* T. Brown 30(b)(1) Tr. 241:21–23 ("Yeah, I think there's—there's many places where Claude and other large language models are superhuman.").

[10] T. Brown 30(b)(1) Tr. 41:6–10.

[11] Specifically, Anthropic's Vice President of Data Partnerships, Tom Turvey, [redacted] Anthropic_0000229152 at -52–53; *see also* T. Turvey 30(b)(6) Tr. 108:24 – 111:14.

directly at odds with Dr. Nagaraj's other assertion that the Smith Report advocates for an "overly expansive view of the scope of intellectual property rights" that "would lead to economic harm if accepted." Nagaraj Rebuttal ¶ 10. If Publishers' lyrics have no value in training general-purpose LLMs, as Anthropic and Dr. Nagaraj repeatedly claim, then even the most expansive application of intellectual property rights in this case should not have any impact on Anthropic's innovation whatsoever and therefore cannot "lead to economic harm if accepted." *Id.* Either Publishers' lyrics are worth something to Anthropic, and it can seek a license to use them, or they're not worth anything, and Anthropic can refrain from copying and using them.

11. Third, as I discussed at length in the Smith Rebuttal, Dr. Nagaraj's chosen "market for all of the data needed to train a general-purpose LLM" contains numerous circular methodological constraints that inherently skew his analysis towards several irrelevant and misleading conclusions in contradiction with his own prior academic publications. *See* Smith Rebuttal ¶¶ 15–38. Indeed, not only is Dr. Nagaraj's chosen market at odds with his stated assignment to analyze the "potential market for or value of the copyrighted work,"[12] it is also at odds with the analysis of Ms. Julie Davis, Anthropic's other expert, who conducted her own "factor 4" analysis with respect to the more sensible "market for licensing the lyrics of the Asserted Works." Davis Report at p. 49.

12. Dr. Nagaraj's market definition and his views about the viability of such a market are also at odds with collective views from the ad hoc committee of ten economic scholars convened by the U.S. Copyright Office to study the economic implications of artificial intelligence for copyright policy—a committee on which both Dr. Nagaraj and I served in January 2024.[13]

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[12] Nagaraj Report ¶ 6; Nagaraj Rebuttal ¶ 2.

[13] Brent A. Lutes, ed., *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy*, U.S. COPYRIGHT OFFICE (Feb. 2025), https://www.copyright.gov/economic-

During our three days of meetings, the committee discussed licensing markets for AI training at length. At no point in that time do I recall anyone proposing that a market "to assemble all of the data needed to train a general-purpose LLM" was the proper subject of analysis, nor do I recall any discussion that a market for data used to train general purpose LLMs is unlikely to exist in the future. Indeed, no such position is articulated in the committee's report generally, nor in the specific chapter of the report that Dr. Nagaraj drafted.

13. In fact, the chapter that Dr. Nagaraj drafted for the committee's report also appears at odds with his opinions in this case. Specifically, in his chapter, Dr. Nagaraj wrote that, "[w]hile unrestricted access would almost certainly be an advantage to developers (at least in the near term, putting aside any potentially negative long-run dynamics), this can also impose a cost to rightsholders and have negative implications for creative incentives."[14] It is hard to reconcile this statement with Dr. Nagaraj's claim that there is no evidence in this case that the unlicensed use of copyrighted material for AI training will affect the intrinsic and extrinsic incentives of creators to create. *See* Nagaraj Rebuttal ¶¶ 166–174.

14. Similarly, Dr. Nagaraj also wrote in his committee report chapter that "it will be useful to determine the performance achievable by models trained only on public domain content compared to models trained on copyrighted works," and that "clean-sourced models have demonstrated that foundation models are possible to develop without the unauthorized use of training materials." [15] A subsequent discussion compares the likely performance between "open-source

research/economic-implications-of-ai/Identifying-the-Economic-Implications-of-Artificial-Intelligence-for-Copyright-Policy-FINAL.pdf, at p. ii, 10.

[14] *Id.* at p. 40.

[15] *Id.* at pp. 41–42.

versus closed-source" models.[16] It is hard to reconcile these statements with Dr. Nagaraj's current position around the viability of training general-purpose LLMs without copyrighted materials. And when discussing the implications of different access regimes for newspaper content, Dr. Nagaraj wrote, "if newspapers are restricted but online forums are not, the degradation in performance that would come from switching to only training on online forum materials will determine how much bargaining power newspapers will have in license negotiations with developers."[17] Later in the chapter, Dr. Nagaraj notes that "[a] similar question arises when considering the heterogeneity between *larger incumbent firms (e.g., Google or OpenAI)* versus startups seeking to compete in the domain. Unlike open-source models, *both organizations can presumably license data*"[18] (emphasis added). Again, it is hard to reconcile these statements with Dr. Nagaraj's current position that the only relevant market is the market for "assembling all of the data needed to train a general-purpose LLM" and that a licensing market for Publishers' works "did not exist at the time of the alleged use and is unlikely to exist in the future." *See* Nagaraj Report ¶ 12.

15. Fourth, Dr. Nagaraj repeats the claim from the Nagaraj Report that a market for Publishers' lyrics cannot exist on account of "prohibitively high" transaction costs. Nagaraj Rebuttal ¶ 11. But as I explained in the Smith Rebuttal, this claim is entirely dependent upon Dr. Nagaraj's erroneous assumption that Publishers' lyrics are not valuable to Anthropic because Anthropic believes it can freely scrape the lyrics from the internet without a license. Smith Rebuttal ¶ 74. Moreover, Dr. Nagaraj's contention that it would be prohibitively expensive to "licens[e] the amount of data necessary to train a general-purpose LLM" puts the cart before the horse: the

[16] *Id.* at p. 42.

[17] *Id.*

[18] *Id.* at p. 43.

economically efficient process would be for a general-purpose LLM developer to identify valuable datasets to initially train on, license those datasets, and then fill the gaps with additional deals only where the benefit exceeds the cost of entering an agreement. Dr. Nagaraj, however, starts his analysis from the premise that all data necessary to train a general-purpose LLM has already been used and gathered—indeed, this is Anthropic's current position, given that it scraped and downloaded massive amounts of copyrighted data from the internet without regard to incremental value and now must grapple with its own failure to license that data before training on it.

16. Consequently, Dr. Nagaraj's opinions in this matter are rife with contradictions and unreliable analyses such that nothing in the Nagaraj Rebuttal has changed my view that a variety of economic harms will result from Anthropic's unlicensed use and acquisition of Publishers' works-in-suit.

III. Anthropic's Founders Do Not Dispute My Conclusions Regarding Market Dilution and Market Disruption.

17. In the Smith Report, I explained how Anthropic's Claude models can generate "original" textual works, including musical lyrics, that can be used in songs that will compete with Publishers' Works-in-Suit. Smith Report ¶¶ 81–84. In support, I cited academic studies, public news reports, and sworn statements from Anthropic's witnesses that generative AI was both theoretically capable and currently capable of generating "market substitutes," *id.* ¶¶ 65–78, which I further bolstered with evidence in this case reflecting the tens-of-thousands of Claude user prompts asking for new and original song lyrics. *Id.* ¶¶ 85–91.[19] I also explained that generative AI will continue to gain greater sophistication in the coming years such that AI-generated lyrics gain in

[19] I understand that Publishers' expert Joshua Dennis has updated some of the evidence relied upon in these paragraphs of the Smith Report. *See* Expert Reply Report and Supplemental Report of Joshua W. Dennia (Feb. 13, 2026). I have reviewed Mr. Dennis's updated analysis, and it comports with my opinions from the Smith Report, which have not changed.

quality and prevalence such that the technology poses a legitimate threat to Publishers' entire industry, not just the overall value of the 499 works-in-suit here. *Id.* ¶¶ 79–84. And finally, I explained how AI-generated lyrics will (and have) expanded the number of songs in the revenue-sharing pools of digital distributors, like Spotify, and how this will reduce Publishers' prospective revenue on account of the new unfair competition. *Id.* ¶¶ 92–98.

18. Anthropic's witnesses in this case have not disputed any of the foregoing conclusions. Anthropic co-founders Daniela Amodei, Jared Kaplan, and Tom Brown have each testified to personally using Claude to generate original song lyrics,[20] and Anthropic's designated witness admitted that "[i]f you ask Claude to generate song lyrics, it's likely Claude will output something that probably looks like song lyrics . . . that look pretty good[.]"[21] Jared Kaplan and Dario Amodei both agree that generative AI will only continue to gain in sophistication in coming years, reaching "human-level artificial intelligence" by 2030 and wiping out potentially half of all entry-level white-collar jobs in the meantime.[22] And Dr. Nagaraj himself agrees that, if left unchecked, generative AI may lead to explosive market expansion of songs that rely on AI-generated or AI-

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[20] Daniela Amodei 30(b)(1) Tr. 186:10–16 (asking Claude to write bedtime song for child); J. Kaplan 30(b)(1) Tr. 306:14–25 (confirming Claude prompt to "write a cynical dark but hilarious rock song with the word weep"); T. Brown 30(b)(1) Tr. 230:4–7 ("Producing novel, creative song lyrics is a use case that I think seems like a perfectly fine use case that seems good to—for Claude to do."), 241:21–23 ("Yeah, I think there's—there's many places where Claude and other large language models are superhuman.").

[21] B. Mann 30(b)(6) Tr. 176:9–17; *see also* Daniela Amodei 30(b)(1) Tr. 180:4–6 ("Yes. I think what I mean is Claude is capable of, for example, creating its own song lyrics, if it wanted to."); Nagaraj Rebuttal ¶ 16 (admitting that Claude "can produce original textual works and may impact the overall composition and supply of products and services in creative markets.").

[22] Azeem Azhar, *Are We Ready for Human-Level AI by 2030? Anthropic's Co-Founder Answers,* YOUTUBE (Apr. 2, 2025), https://www.youtube.com/watch?v=tC_3KAyli4U&t=2s (claiming human-level intelligence; *see also The Adolescence of Technology*.

assisted lyrics. *See* Nagaraj Rebuttal ¶ 19 (admitting to "inevitable market impacts"), ¶¶ 69–82 ("General-Purpose LLM Technology Can Lead to Market Expansion").

19. Accordingly, Anthropic and its witnesses do not dispute the fact that generative AI will lead to detrimental market impact, simply by virtue of the technology itself, and, as explained below, nothing in Dr. Nagaraj's Rebuttal Report changes my view that Anthropic's unlicensed scraping and subsequent training on Publishers' works is economically harmful to the potential markets for and value of those works.

A. AI-Generated Works Will Affect the Market for Publishers' Works-in-Suit Even If They Are Not "Indistinguishable" from "Human-Generated Works"

20. In his Rebuttal Section II.A.1, Dr. Nagaraj claims there is no evidence to support a conclusion that "AI-generated works are indistinguishable from human-generated works." But whether AI-generated Works are "indistinguishable" from human-generated works today does not prevent AI-generated works from negatively affecting the potential market for and value of Publishers' works-in-suit. Nor does it exclude the near certainty that the capabilities of future LLM models will make it harder to distinguish human-generated from AI-generated work given Mr. Amodei's accurate assessment of "the exponential trajectory that the technology is on."[23]

21. Indeed, in the very same section, Dr. Nagaraj himself admits that Claude "can produce original textual works and may impact the overall composition and supply of products and services in creative industries" and "there will be inevitable market impacts from the introduction of generative AI." *See* Nagaraj Rebuttal ¶¶ 16, 19. And as I noted above, Anthropic's executives share these opinions.[24] There is simply no dispute that Claude will impact the market for

[23] *The Adolescence of Technology*.

[24] In a recent essay, Dario Amodei went so far as to predict that one day generative AI will be akin to a country of 50 million Nobel-level geniuses. *The Adolescence of Technology*.

Publishers' works-in-suit, which is why Dr. Nagaraj instead points to "equally possible potential benefits of generative AI, both to the music industry and the labor market generally." Nagaraj Rebuttal ¶ 19.

22. Nevertheless, Dr. Nagaraj makes several other faulty assertions and mischaracterizations about the Smith Report that merit response.

23. First, Dr. Nagaraj mischaracterizes the Smith Report to say that I contend that "AI-generated lyrics are *superior* substitutes for human-generated lyrics." Nagaraj Rebuttal ¶ 22 (emphasis added). But I made no such contention and only claimed that AI-generated lyrics are viable market substitutes to Publishers' works-in-suit and that their sophistication and substitutability are likely to increase as the technology continues to develop—something that Anthropic's own witnesses do not dispute.[25] Indeed, AI-generated lyrics do not need to be "superior" to human-generated lyrics in order to disrupt or dilute market for Publishers' works-in-suit. Such lyrics can even be slightly *inferior* and still compete because they are so much less expensive to produce.

24. To that end, Dr. Nagaraj's contention that certain studies I rely on in the Smith Report "do not support a conclusion that people will be unable to tell AI works from human-generated works" misses the point. Nagaraj Rebuttal ¶ 16. The point is not that humans will be unable to tell AI works apart from human-generated works,[26] but that generative AI technology can already generate lyrical outputs that compete for human preference after only a few years of

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[25] *See* Smith Report ¶¶ 79–84; *see also The Adolescence of Technology*.

[26] Although, even this is questionable given a recent study from Ipsos and Deezer that found that 97% of listeners could not tell the difference between AI-generated music and human-generated music. *See Deezer/Ipsos Survey: 97% of People Can't Tell the Difference Between Fully AI-Generated and Human Made Music – Clear Desire for Transparency and Fairness for Artists*, DEEZER (Nov. 12, 2025), https://newsroom-deezer.com/2025/11/deezer-ipsos-survey-ai-music/.

development. This is illustrated by the Chakrabarty Study that I cited in the Smith Report,[27] which found that lay-readers showed no preference between AI-generated writing as compared to human-generated writing and that, with a little fine-tuning *on specific works*, even expert-readers *significantly* preferred the AI-generated writing.[28]

25. In other words, the Chakrabarty Study lends significant support to my opinion that general-purpose LLMs can already (and will continue to) generate market-competitive substitutes if they train on Publishers' works. And even Anthropic's own witnesses agree that these capabilities are likely to advance to the point where general-purpose LLMs will be "better than humans at almost all intellectual tasks."[29] Accordingly, Dr. Nagaraj's contention that this study does "not support the extrapolated conclusion that human writing is indistinguishable from AI-generated content in all formats," Nagaraj Rebuttal ¶ 24, misses the point (and in any case, addresses an assertion I simply never made in the Smith Report, *see generally* Smith Report § V.A).

26. Second, Dr. Nagaraj contends that I made "generalized claims that Claude itself—rather than other audio AI tools from other AI companies—is the source of the AI-generated music about which [I] am concerned." Nagaraj Rebuttal ¶ 16. Dr. Nagaraj ignores that lyric-generation is a chokepoint component in most AI song generation and that I have previously demonstrated how users can combine Claude and other AI tools to create full songs. *See, e.g.*, Smith Report ¶ 77.

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[27] Tuhin Chakrabarty, Jane C. Ginsburg, & Paramveer Dhillon, *Readers Prefer Outputs of AI Trained on Copyrighted Books over Expert Human Writers*, COLUMBIA PUBLIC LAW RESEARCH PAPER NO. 5606570 (Oct. 15, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5606570 (hereinafter, the "Chakrabarty Study").

[28] *Id.*

[29] Clare Duffy, *Why This Leading AI CEO is Warning the Tech Could Cause Mass Unemployment,* CNN (May 29, 2025), https://www.cnn.com/2025/05/29/tech/ai-anthropic-ceo-dario-amodei-unemployment.

27. Third, Dr. Nagaraj contends that, in order to prove "AI has resulted or will result 'in potentially existential' harm to the music publishing industry" I must first "marshal significantly more evidence." Nagaraj Rebuttal ¶ 20. Dr. Nagaraj inaccurately assesses the existing evidence, especially in light of testimony from Anthropic's witnesses (*see* above) and Dr. Nagaraj's own concession that Claude "may impact the overall composition and supply of products and services in creative markets[.]" Nagaraj Rebuttal ¶ 20. Moreover, at issue is not just the harm that will flow from Anthropic's unlicensed scraping and training of Publishers' works in this case, but the harm that will flow if Anthropic's conduct becomes widespread and *any AI company* is permitted to scrape and train on *any copyrighted work* that appears on the internet. *See* below § V.C. Dr. Nagaraj may disagree with the former, but he offers no justifiable explanation to dispute the latter.

28. Fourth, Dr. Nagaraj contends that, because "a text-based general-purpose LLM like Claude could only ever provide lyrics, not an entire song or piece of music," AI-generated music will not "displace or substitute for human-generated music." Nagaraj Rebuttal ¶ 25. This opinion is not responsive to any of my opinions. My analysis in the Smith Report relates to AI-generated *lyrics* that will compete with Publishers' works-in-suit, not AI-generated music or full songs. Whether an LLM is capable of replacing a "musician's full skillset" is simply irrelevant to whether an LLM is capable of replacing a lyricist's skillset.[30] Nagaraj Rebuttal ¶¶ 25, 37.

29. Fifth, Dr. Nagaraj makes several other muddying critiques of the studies that I cited in the Smith Report. *See* Nagaraj Rebuttal ¶¶ 26–28. As an initial matter, I cited these nascent studies in the Smith Report to show that there is already a growing, documented body of evidence

[30] In any case, if Dr. Nagaraj's point is simply that "even if Anthropic puts lyricists out of business, there will still be some musicians," that's still a dark conclusion for the music publishing industry.

that generative AI is harming markets for content creators. Dr. Nagaraj does not dispute this conclusion but instead seems to complain that these studies overstate the *presently observed* detrimental effects of generative AI. For example, he claims that one study I cited showing a 20–50% decrease in demand for freelance writers is limited because there was no similarly observable effect in the domain of "fiction writing," which he says, "suggest[s] that AI may not be substitutable for creative endeavors."[31] Nagaraj Rebuttal ¶ 26. But the fact that there are limited studies currently establishing displacement of labor demand (in this case) does not mean that such displacement will never happen. In fact, specifically to the fiction-writing point, Dario Amodei has publicly stated that he believes generative AI will one day be able to "write extremely good novels."[32] I see no reason why an AI that can write extremely good novels could not also write extremely good song lyrics.

30. Similarly, I cited the Deezer study to demonstrate how much of an impact generative AI has *already* had on the music publishing industry. Dr. Nagaraj emphasizes that, while this study revealed that 34% of daily uploads to Deezer's streaming platform involve AI-generated audio, the study also found that such audio tracks "accounted for ***only .5%*** of streams" on the platform. Nagaraj Rebuttal ¶ 30 (emphasis in original). Dr. Nagaraj does not appreciate the gravity of this finding—fully half a percent of all streams on the platform were AI-generated as of September 2025, which is the equivalent of a new music superstar competing for streams with

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[31] Notably, Dr. Nagaraj later claims in his Rebuttal that "AI can be very effective at idea generation," Nagaraj Rebuttal ¶ 60, and that it will "greatly expand the quality and quantity of creative goods available to the general public," *id.* ¶ 53. Indeed, he devotes an entire subsection of his Rebuttal to arguing that the "Positive Impacts" of generative AI are "More Likely to Arise in Creative Works." *See id.* ¶¶ 59–68.

[32] *See* Dario Amodei, *Machines of Loving Grace* (Oct. 2024), https://www.darioamodei.com/essay/machines-of-loving-grace (hereinafter "*Machines of Loving Grace*").

established works. Further, in January 2026, Deezer publicly announced that the rate of AI-generated tracks submitted to its platform has *increased*, now up to over 60,000 new tracks per day, and representing up to ***3% of total streams***.[33] A six-fold increase in total streams in four months is an alarming increase, and we are still only at the dawn of this technology. The trend is obvious, and even though some of the streams on this platform may be fraudulent (*i.e.*, listened to only by bots, and not by a human user), Deezer's reporting shows the speed and ubiquity with which generative AI has infiltrated the music market. And in any case, fraudulent streams, if undetected as such, still displace revenues of existing human-created songs.

31. To that end, Dr. Nagaraj's assertion that "A.I. is not, by most metrics, a very good songwriter" because the resulting songs "are monotonous and lacking structure, with no discernable hook, arc, or climax" is beside the point. Nagaraj Rebuttal ¶ 28. The Deezer statistics show that people still listen to the music, which draws streams away from Publishers' works, and as Anthropic's witnesses have attested, generative AI's capabilities, including the ability to generate song lyrics, will only improve. Moreover, whether generative AI is a good songwriter on the music-composition side of songwriting is irrelevant here—what matters in this case is whether generative AI can write good lyrics, and as I explained in the Smith Report, there's every reason to believe it can and will only continue to improve. *See* Smith Report ¶¶ 79–84; *see also* T. Brown 30(b)(1) 235:18 – 236:23 (explaining how Claude can read up to ten thousand words per second).

32. Last, Dr. Nagaraj claims that "growing evidence indicates that consumers value knowing whether the music they consume was AI-generated." Nagaraj Rebuttal ¶ 31. Despite

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[33] *Deezer Confirms Demonetization of Up to 85% of AI-Music Streams Due to Fraud and Moves to Sell AI-detection Technology,* DEEZER (Jan. 29, 2026) (available at https://newsroom-deezer.com/2026/01/ai-generated-music-deezer-selling-detection-tool/) (last visited Feb. 13, 2026).

criticizing me for "selectively citing" studies to support my own arguments, Dr. Nagaraj only cites a single study to illustrate this "growing evidence," and the cited evidence does not even support the point he tries to make. Specifically, the researchers in this study randomly labeled AI-generated *paintings* as either "Human-created" or "AI-created" and then asked observers for their visual appraisals of the paintings.[34] The researchers concluded that, in general, whether a work is labeled "AI-created" or "human-created" influences people's judgments of "*visual* artworks" (*i.e.*, the study had nothing to do with music, despite Dr. Nagaraj's mischaracterization) and that there is "a bias against AI-labelled art across all aesthetic judgment criteria, but more so for appraisals related to art as a deeper communicative medium."[35] In fact, the researchers expressly note that "differences in surface-level judgments between human- and AI-labelled art . . . were nearly non-significant." In other words, the study does not show that humans *prefer* human-made paintings (indeed, there were no human-made paintings involved in this study), but that humans are biased against paintings they *perceive* as AI-generated when compared to paintings they perceive as human-made.

33. This distinction between *preference* and *bias* illustrates a key point that Dr. Nagaraj ignores: consumers often do not know whether a work is AI-created unless they are expressly informed, and even then, they can be easily lied to, as demonstrated by the same Bellaiche study. And, notwithstanding his poetic aside about the "everlasting curiosity and appreciate that humans have in their fellow humans' talents and skills," Dr. Nagaraj does not account for the fact that preferences and biases can change. Nagaraj Rebuttal ¶ 32. Even if humans prefer human-made

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[34] Lucas Bellaiche et al., *Humans Versus AI: Whether and Why We Prefer Human-Created Compared to AI-Created Artwork*, COGNITIVE RESEARCH: PRINCIPLES AND IMPLICATIONS (2023), at p. 1, https://link.springer.com/content/pdf/10.1186/s41235-023-00499-6.pdf.

[35] *Id.* at p. 17.

works today (which is far from clear), that does not mean they won't prefer AI-generated works tomorrow. Indeed, the large recent investments in generative AI music companies like Suno ($2.5 billion valuation[36]) and Udio ($2 billion valuation[37]) suggest that there is a significant expectation that AI-generated and -enhanced music will enter the mainstream of public taste.

34. I generally agree with Dr. Nagaraj that labelling efforts may help distinguish between AI-generated and human-generated works, but he ignores several important issues with this exercise. To start, the examples he cites of recent labelling efforts relate to deepfake and voice mimicry detection applications, which are wholly irrelevant to lyric generation. Nagaraj Rebuttal ¶ 33. Indeed, I am unaware of any application or service that is capable of identifying whether *song lyrics* are AI-generated, absent specific disclosure by the human who prompted them. And with respect to the AI-music detection, Dr. Nagaraj ignores that this is thus far a cost born exclusively by the music industry (*i.e.*, an economic harm) that AI companies have no incentive to mitigate. In fact, there may even be an incentive from AI companies to *encourage* mass AI-generation, such that music companies are required to spend even more on detection and removal methods.

35. Dr. Nagaraj claims that such music-detection efforts "cut[] against [my] assertion that AI-generated works are automatically[38] substitutable or even preferable compared to human-

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[36] Julie Bort, *Legally Embattled AI Music Startup Suno Raises at $2.45B Valuation on $200M Revenue*, TECHCRUNCH (Nov. 19, 2025), https://techcrunch.com/2025/11/19/legally-embattled-ai-music-startup-suno-raises-at-2-45b-valuation-on-200m-revenue/.

[37] Stuart Dredge, *Report: Suno in Talks for $100m Funding Round at $2bn Valuation*, MUSICALLY (Oct. 20, 2025), https://musically.com/2025/10/20/report-suno-in-talks-for-100m-funding-round-at-2bn-valuation/.

[38] I never asserted that AI-generated works are "automatically" substitutable, and this is another example of Dr. Nagaraj's repeated mischaracterization of my Report.

generated works." Nagaraj Rebuttal ¶ 33. On the contrary, the music industry's investment here reflects a belief that failure to monitor and remove AI-generated content will harm consumer experiences because such failure will increase search costs of sifting through what Dr. Nagaraj refers to as "slop" in order to find, for example, Publishers' works. Nagaraj Report ¶ 33. Dr. Nagaraj does not explain why investment in AI detection methods do not constitute "economic harm" that may result from unlicensed scraping and use of Publishers' works-in-suit.

36. In sum, Dr. Nagaraj's contention that AI-generated works are distinguishable from human-generated is insufficiently supported and, in any event, does not rebut my contention that Anthropic's unlicensed scraping and training of Publishers' works (and copyrighted works generally) will likely lead to economically damaging market dilution and disruption in the near future.

B. Anthropic's Unlicensed Scraping and Crawling Conduct Negatively Impacts the Market for and Value of Publishers' Works-in-Suit

37. Dr. Nagaraj next claims that I have misattributed "the alleged growth of AI-generated music to Anthropic" and that I have not shown that "Claude is or has been a significant contributor in the alleged market for AI-generated music." Nagaraj Rebuttal ¶ 35. Dr. Nagaraj is incorrect, including because he fails to consider how Anthropic's unlicensed scraping and training conduct will negatively affect the potential market for and value of Publishers' works if such conduct becomes widespread and commonplace among AI companies. To that end, almost all of Dr. Nagaraj's analysis pertains to arguing that there is no *current* market displacement (of Publishers' works or otherwise), but he says very little about the potential for future displacement, including displacement that will result if other AI companies are permitted to replicate Anthropic's conduct.

38. Dr. Nagaraj's articulation about what this case "is about," Nagaraj Rebuttal ¶ 36, is wrong: this case is about whether Anthropic can make and distribute copies of Publishers' copyrighted works and use those copies to create market substitutes for Publishers' works.

Consequently, many of Dr. Nagaraj's critiques in this section of his rebuttal (§ II.A.2) are irrelevant and misleading.

39. First, Dr. Nagaraj contends that I have not sufficiently acknowledged that "Claude cannot produce audio outputs." Nagaraj Rebuttal ¶¶ 37–39. But whether Claude can generate audio outputs is irrelevant; Publishers' works-in-suit are text lyrics, which Claude produces and even claims to be the best at producing among all competitors. Claude does not need to "fully replace a musician's full skillset" in order to dilute and disrupt the market for Publishers' works-in-suit. Lyricist is its own distinct job, even if sometimes also performed by a composer, and Claude can replace *that* job. Smith Report ¶ 81; *see also* B. Mann 30(b)(6) Tr. 176:9–17 (confirming that Claude will generate "pretty good" lyrics if you ask it).

40. Dr. Nagaraj wrongly concludes that, because "Claude does not have the capacity to generate songs with lyrics and music, . . . any attribution of alleged market harm to Anthropic can only be miniscule." Nagaraj Rebuttal ¶ 38. But lyric-generation is a bottle-necking component to fully automating song creation in conjunction with audio-generating AI, like Suno and Udio. As a point of color, even a cursory Google search reveals multiple online forums discussing the use of Claude for writing lyrics in conjunction with other music-generation AI models.[39] Whether Anthropic's purported "aim" is not to "produce content in creative industries" (which is not supported

[39] *See, e.g.*, u/PureRely, *Claude + Suno Setup – Actually Creates Hit-Worthy Songs (With Example)*, REDDIT (May 24, 2025), (available at https://www.reddit.com/r/SunoAI/comments/1ku3ckx/claude_suno_setup_actually_creates_hitworthy/) (last visited Feb. 5, 2026); u/Individual_Visit_756, *Claude Wrote Me a Song. It's One of the Most Beautiful Things and it Completely Broke Me.*, REDDIT (Nov. 26, 2025), (available at https://www.reddit.com/r/claudexplorers/comments/1p7jyzd/claude_wrote_me_a_song_its_one_of_the_most/) (last visited Feb. 5, 2026).

by the evidence), or whether its user base is "heavily made up of enterprise customers"[40] are both beside the point. Nagaraj Report ¶ 38. Regardless of whether the majority of Claude users are enterprise customers, the fact that Claude *can and does* generate lyrics for potentially millions of non-enterprise customers is sufficient to dilute and disrupt the market for and value of Publishers' works-in-suit.

41. Second, Dr. Nagaraj strangely contends that I have only cited one example of Claude's contribution "to the growing market for AI-generated music."[41] Nagaraj Rebuttal ¶ 40. But as he expressly acknowledges in the very next paragraph, I relied on Publishers' expert Joshua Dennis and his analysis of 5 million statistically representative Claude prompt/output pairs[42] to show that, over an approximately 6-month period, there were tens of thousands of requests for lyrics, lyric generation, and lyrics in the style of specific artists and existing songs.[43] I also cited testimony from Anthropic witnesses—including multiple co-founders and high-level executives—

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[40] Dr. Nagaraj cites no evidence supporting his claim that Anthropic's user base is "heavily made up of enterprise customers," nor does he cite any evidence regarding the portion of Anthropic's user base that use Claude for creative purposes like songwriting. In any case, in a recent interview, Dario Amodei stated that Anthropic does provide consumer products, claiming an "80/20" split between enterprise and consumer. CNBC Television, *Anthropic CEO Dario Amodei on AI Race: Focused on Making Our Models as Smart and Capable as Possible*, YOUTUBE (uploaded Jan. 21, 2026) (available at https://www.youtube.com/watch?v=e4w5hEnWz2A).

[41] Dr. Nagaraj notably concedes here that a market for AI-generated music exists, which is plainly relevant to the market for Publishers' works-in-suit and highlights his failure to consider this market in his opening report.

[42] I understand that Mr. Dennis updated some of his analysis to reflect certain methodological changes, which has produced new results for his extrapolation of the 5 million prompt and output sample. *See* Expert Reply Report of Joshua Dennis (Feb. 13, 2026). I have reviewed his new results, and they do not change any of my opinions from the Smith Report. Specifically, Mr. Dennis's analysis continues to reflect the prevalence of lyric-related use cases among Claude users, including the ability to create "original" song lyrics.

[43] *See* Smith Report ¶¶ 85–91. Dr. Nagaraj claims that some of these requests may have been "for personal use, not for commercial use," Nagaraj Rebuttal ¶ 44, but he offers no suggestion for how to determine the intended uses of the prompts and outputs that Anthropic produced.

where they admitted to using Claude themselves to look up existing lyrics[44] and generate original song lyrics.[45] Dr. Nagaraj may quibble about Mr. Dennis's final numbers, but this evidence shows that song-lyric generation is clearly a use case among Claude users (whether intended by Anthropic or not). And all parties agree that Claude's sophistication will continue to advance and that Claude's existing use cases (songwriting included) will impact their correlative markets.

42. Dr. Nagaraj's only real contention with my conclusion is that I have not specifically traced Mr. Dennis's analysis of Claude-generated lyrics to "empirical examples" of songs in the marketplace. Nagaraj Rebuttal ¶ 43. This is asking the impossible. I am presently unaware of any means by which to conclusively determine whether textual lyrics in a song are either fully or partially AI-generated, absent express disclosure by the person who prompted creation of the song, and Dr. Nagaraj has not identified any such method. Indeed, this is why I cited Rick Beato, a prominent YouTuber with over 5 million subscribers, as an example of someone who disclosed his use of Claude to generate lyrics for his AI persona "Eli Mercer."[46] In any case, absence of evidence is not evidence of absence.

43. Third, Dr. Nagaraj claims that I have not put the Dennis Report figures "into appropriate context" because I did not discuss the relative number of new tracks uploaded to streaming platforms each day. Nagaraj Rebuttal ¶ 45. Dr. Nagaraj himself claims that in 2024, "streaming platforms received 99,000 new songs every day." *Id.* Presumably, Dr. Nagaraj means streaming

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[44] *See* T. Brown 30(b)(1) Tr. 209:18 – 210:23 (discussing using Claude to search for lyrics to Bob Dylan's "Desolation Row"); *see also* Anthropic_0000016458 ("@Claude what are the lyrics to desolation row by Dylan?").

[45] *See* Smith Report ¶ 81 (describing how various Anthropic executives, including Daniela Amodei, Jared Kaplan, and Benjamin Mann used or confirmed use of Claude to generate song lyrics).

[46] Rick Beato, *I'm Sorry…This New Artist Completely Sucks,* YOUTUBE (July 15, 2025), https://www.youtube.com/watch?v=eKxNGFjyRv0.

platforms *globally*—relevant to which, the French streaming platform Deezer recently reported that it received over an estimated ***60,000 new AI songs*** every day in January 2026 alone.[47] The platform now reports that "synthetic content now accounts for roughly ***39% of all music delivered to the platform daily.***"[48] That is an astonishing number in its own right, and an increase from the approximately 50,000 daily new tracks reported by Deezer in November 2025, which itself is up from 30,000/day in September 2025, and 10,000/day in January 2025 when Deezer first launched its AI detection tool.[49] These are new uploads to just one platform. And while not all may have AI-generated lyrics, the trend line should be clear that AI-generated music, including lyrics, is clearly a burgeoning and rapidly expanding market.

44. To that end, Dr. Nagaraj's contention that "listener engagement remains concentrated on a relatively small subset of music" ignores the storied case of the "one-hit wonder." *See* Nagaraj Rebuttal ¶ 46. It only takes one hit song to capture prolonged "listener engagement," and Dr. Nagaraj's apparent conclusion that AI will never generate a popular song is not only unsubstantiated, but outright contradicted by the existence of AI artists like the "Velvet Sundown,"[50]

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[47] Murray Stassen, *60,000 AI Tracks Hit Deezer Daily as Platform Moves to License Detection Tech to Wider Music Industry*, MUSIC BUS. WORLD (Jan. 29, 2026), https://www.musicbusinessworldwide.com/60000-ai-tracks-hit-deezer-daily-as-platform-moves-to-license-detection-tech-to-wider-music-industry/) (last visited Feb. 13, 2026).

[48] *Id.* (emphasis added).

[49] *Id.*

[50] Brian Hiatt, *AI. 'Band' The Velvet Sundown Officially Confirm They're AI – And a 'Provocation'*, ROLLING STONE (July 5, 2025), https://www.rollingstone.com/music/music-features/ai-band-the-velvet-sundown-confirm-ai-1235379354/) (last visited Feb. 13, 2026).

which reportedly had over 900,000 monthly listeners on Spotify in November 2025, and Xania Monet,[51] who recently signed a multimillion-dollar recording deal.

45. Fourth, Dr. Nagaraj is wrong that I have "ignore[d] the fact that music publishers like Plaintiff [UMPG] have partnered with companies developing the same audio AI tools that the Smith Report says dilute the market for Plaintiffs' songs." Nagaraj Rebuttal ¶ 47. I discussed the importance of these partnerships to the market for Publishers' works-in-suit (which Dr. Nagaraj inexplicably dismissed as irrelevant to the market in his own Report) in the Smith Report, and I specifically explained how these partnerships were designed to protect against market dilution. *See* Smith Report ¶¶ 129–30. For example, I went into great detail how the [redacted] *Id.* ¶ 130. Dr. Nagaraj's critique ignores all of this discussion from my initial report.

46. Regardless, even assuming that UMPG's Udio and Klay partnerships somehow contribute to market dilution, UMPG is still being compensated for that partnership via a licensing agreement. *See* Smith Report ¶ 126. And this is my whole point: rewards from generative AI's use of Publishers' works-in-suit are welcome, but Dr. Nagaraj appears to contend that these rewards should belong entirely to Anthropic. Even Anthropic's co-founders agree that this is unfair and that the benefits of AI should be shared with the content creators who enable the technology.[52] And while Dr. Nagaraj quotes UMPG's Chief Counsel, David Kokakis, as endorsing AI-created

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[51] *See* Lisa Respers France, *Xania Monet is the First AI-Powered Artist to Debut on a Billboard Airplay Chart, But She Likely Won't Be the Last*, CNN (Nov. 1, 2025), https://www.cnn.com/2025/11/01/entertainment/xania-monet-billboard-ai (last visited Feb. 5, 2025). I note that the human behind Xania Monet claims to write the lyrics for the AI artist's songs—I do not know if this true, but I cite the Monet case only as a counter example to Dr. Nagaraj's claim that AI music is not listened to widely.

[52] Anthropic_0000462964; Anthropic_0000462969.

music, Dr. Nagaraj omits the last sentence of Mr. Kokakis's statement, where he wrote that, "generative AI can be a potent tool the music industry should embrace and cultivate in collaboration with the AI development community . . . But in its nascent state of explosive growth and seemingly limitless copying and exploitation of millions of works of authorship without license, generative AI imposes potentially existential artistic, cultural, and legal threats to the music industry."[53] *See also* Nagaraj Rebuttal ¶ 48 (quoting same but omitting the last sentence).

C. The Benefits of Generative AI that Dr. Nagaraj Describes are Attributable to the Technology Itself, Not Anthropic's Unlicensed Conduct

47. Dr. Nagaraj devotes several pages in his Rebuttal to his contention that AI is "just as likely to benefit players in the music industry" as it is likely to harm them. Nagaraj Rebuttal ¶¶ 50–68. Even assuming that all of the benefits Dr. Nagaraj describes come to pass, and further assuming they can be fairly attributable to a general-purpose LLM, like Claude, Dr. Nagaraj does not connect these benefits specifically to Anthropic's unlicensed scraping and crawling of, and training on, Publishers' works, rather than the technology itself. The distinction is crucial: Dr. Nagaraj does not connect these purported and generalized benefits "the effect of [Anthropic's] use [of the copyrighted works at issue] upon the potential market for or value of [Publishers'] copyrighted work[s]." 17 U.S.C. § 107(4). Indeed, as I noted above and in the Smith Report, Publishers do not dispute that the music industry will derive some benefits from generative AI, which explains why Publishers have been willing to license, and have licensed, their works for use in AI models.

48. First, despite his earlier critiques that the Smith Report makes "generalized claims that Claude itself—rather than other audio AI tools from other AI companies—is the source of the

[53] *Comments of Universal Music Group*, at p. 4, U.S. Copyright Office (Nov. 1, 2023), https://www.regulations.gov/comment/COLC-2023-0006-9014 (last visited Jan. 20, 2026).

AI-generated music about which [I am] concerned,"[54] and that my conclusions about potential market harm to Publishers' works "are overgeneralized,"[55] Dr. Nagaraj uses this section of his Rebuttal (§ II.B) to offer equally overgeneralized and undifferentiated claims about the benefits of generative AI writ large. For example, he points to the published views of various prominent economists to contend that "AI's labor-market effects will vary considerably," and that "automation, AI, and robotics could increase labor demand." *See* Nagaraj Rebuttal ¶¶ 54–55. But Dr. Nagaraj makes no attempt to specifically trace these conclusions to Claude, let alone Anthropic's use of Publishers' works.

49. Other studies Dr. Nagaraj refers to are equally generalized and irrelevant. For example, he cites one study that purports to "examin[e] the influence AI had on the labor market from 2010 to 2023"—a full *decade* before the alleged conduct in this case, and during almost all of which a publicly available version of Claude did not exist. *See* Nagaraj Rebuttal ¶ 56. He then claims that "[s]tudies across *different industries* have shown that AI can complement labor-market tasks," Nagaraj Rebuttal ¶ 57 (emphasis added), but fails to explain how these "different industries" relate to Anthropic's conduct here, and he fails to mention that the study he quotes does not even involve Claude.

50. On the supposed strength of these studies, Dr. Nagaraj concludes that "the theoretical and empirical economics literature supports the notion that AI's effect on the labor market is neither uniformly negative nor positive." Nagaraj Rebuttal ¶ 58. Missing from Dr. Nagaraj's analysis, however, is any discussion of the many public statements of Anthropic's own co-founders, including CEO Dario Amodei, who recently claimed that AI "will also eliminate jobs and probably

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[54] Nagaraj Rebuttal ¶ 16.

[55] Nagaraj Rebuttal ¶ 19.

a large number of them,"[56] including up to ***half*** of all white-collar entry level jobs.[57] Neither is there any discussion about the ever-evolving nature of generative AI, which has rapidly advanced its capabilities during just the course of this litigation.[58] Studies from the past do not account for this—even if AI hasn't disrupted labor markets yet, that doesn't mean it won't in the future. Dr. Amodei and his fellow co-founders are some of the most authoritative voices in predicting the future effects of generative AI on labor markets given their proximity to the technology—if *they* are predicting unambiguous labor market upheaval in the next five years, Dr. Nagaraj cannot credibly reject that claim, especially without any discussion or analysis.

51. Second, Dr. Nagaraj had earlier claimed that "AI may not be suitable for creative purposes," but here he claims that "AI can be very effective at idea generation" for people in "creative fields." Nagaraj Rebuttal ¶ 60. He expounds on this apparent contradiction by claiming—without any real basis of support—that, beyond idea generation, "the real challenge lies in exercising judgment in identifying which concept is most promising and likely to resonate with an audience." *Id.* He then cites to a series of studies to conclude that "judgment often outweighs ideation in importance," *id.* ¶ 61, but he does not explain why advanced generative AI would not also have better judgment than humans. If AI is capable of "writ[ing] extremely good novels,"[59] as Dr. Amodei expects, surely it can also exercise the kind of judgment needed to write good song lyrics.

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[56] NBC NEWS, *Anthropic CEO Speaks About 'Powerful' AI Risks and Regulation*, YOUTUBE (Jan. 27, 2026), https://youtu.be/tjW_gms7CME?si=xKH2NLCfTe4jTVta&t=958.

[57] *The Adolescence of Technology*, at Part 4 ("*Labor market disruption"*).

[58] *See, e.g.*, Azeem Azhar, *Are We Ready for Human-Level AI by 2030? Anthropic's Co-Founder Answers*, YOUTUBE (Apr. 2, 2025), https://www.youtube.com/watch?v=tC_3KAyli4U&t=2s.

[59] *See Machines of Loving Grace*, at "Basic assumptions and framework."

52. Dr. Nagaraj then contends that generative AI will facilitate creation of new works by seasoned professionals, including songwriters and musicians. *Id.* ¶¶ 61–67 These examples, however, support my larger point about market dilution, which Dr. Nagaraj rejected with respect to potential harm to Publishers' works but embraces when it comes to purported benefits. Specifically, to the extent that generative AI enables existing artists to generate new works more easily, that means there are more works in the market that will compete with Publishers' works—*i.e.*, market dilution. In other words, Anthropic has used Publishers' works without compensation or permission to build a tool that will be used to create new works that will compete with, and displace revenue from, Publishers' works. Market competition, of course, is not inherently bad, but it is when it is being powered by what amounts to IP theft. *See* Smith Report ¶ 61 (comparing Anthropic's unlicensed scraping and ingest of copyrighted works to IP theft). This is especially true when *other* of Anthropic's AI market competitors are playing by a different set of rules and licensing the works that they use to train their models.

53. Third, Dr. Nagaraj asserts that "the most useful AI tools for generating music (whether lyrics or audio) may be custom AI tools, rather than general-purpose LLMs." Nagaraj Rebuttal ¶ 65. Dr. Nagaraj offers no real support for this statement other than one anecdotal example involving Chicago rapper Lupe Fiasco. *Id.* And whether custom AI tools are more useful for generating audio is irrelevant here. In any case, it's not clear to me why "custom" AI tools (dependent on LLMs in any case, *see id.*) would be better tools for lyrics than a general-purpose LLM, since creative writing is precisely what general-purpose LLMs are best at, comparatively speaking.

54. Fourth, Dr. Nagaraj misleadingly describes Publishers in this case as "middlemen or gatekeepers." Nagaraj Rebuttal ¶ 67. Specifically, Dr. Nagaraj relies on his own research related to digitization in the "Hindi film industry in the 1990s" to broadly argue that the advent of

generative AI technology will benefit "incumbents in the music publishing industry," including Publishers from this case. To start, digitization of the Hindi film industry in the 1990s is not an appropriate comparison to what generative AI is doing to the music industry (and many other industries) today.[60] As Dario Amodei has stated, generative AI technology is unlike anything humanity has ever seen before, and its effects run much "deeper" and will be felt much more quickly than any even moderately comparable technological revolution.[61] In any case, Dr. Nagaraj is also wrong to designate Publishers as "gatekeepers" or "middlemen" of the music industry, simply because *music publishers* do not share the same role as *record labels*, which are the entities most likely to benefit from "the ability to 'choose among an ever-expanding list of artists for a limited number of gigs.'" Nagaraj Rebuttal ¶ 67. Moreover, Dr. Nagaraj also ignores the fact that AI-created works are not copyrightable, which is crucial for publishing rights, which makes this comparison even more inappropriate.

D. Dr. Nagaraj Has Not Shown how Anthropic's Unlicensed Conduct Leads to Market Expansion

55. Dr. Nagaraj next contends that "[t]he Smith Report fails to consider that the availability of generative AI and AI-generated lyrics may affect the market in other ways," such as that they may "lead to market expansion, meaning an overall increase in the quantity demanded of the good in addition to its supply." Nagaraj Rebuttal ¶ 70. First, even if generative AI does lead to market expansion, Dr. Nagaraj has not shown how any such expansion results from *Anthropic's* use of Publishers' works that is at issue in this case. Any potential expansion is thus irrelevant to

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[60] Dr. Nagaraj has made similar critiques of my analogies to other industries. *See* Nagaraj Rebuttal ¶¶ 92, 96, 161.

[61] *See* NBC NEWS, *Anthropic CEO Speaks About 'Powerful' AI Risks and Regulation*, YOUTUBE (Jan. 27, 2026), https://youtu.be/tjW_gms7CME?si=j9IMaYtq_uh8sW48&t=907 (describing "difference in kind" between agricultural and industrial revolutions with today).

"the effect of [Anthropic's] use upon the potential market for or value of [Publishers'] copyrighted work[s]." 17 U.S.C. § 107(4).

56. Second, the historical examples Dr. Nagaraj cites as evidence of new technology supposedly leading to an increase demand in a related existing market are inappropriate. Specifically, he claims that certain "technologies" of the "Industrial Revolution" led to increased demand in the market for "coal," *id.* ¶ 71; the "daguerreotype" and "snapshot photography" led to increased demand for in the markets for "portraiture" and "printed images," *id.* ¶ 72; and the "electronic microphone" led to an increased demand in the market for the "crooning" style of certain singers, *id.* ¶ 73. But unlike generative AI, the foregoing historical examples did not use existing intellectual property without compensation in generating new demand in existing markets (which, in any event, is not the case here). The steam engine did not need to consume water pumps in order to generate new demand for coal; the "daguerreotype" did not need to consume existing portraits in order to generate new ones; and the electronic microphone did not need to consume copyrighted song lyrics in order to increase demand for new ones.[62]

57. Dr. Nagaraj's examples simply do not fit the context of generative AI, which uses other copyrighted works to generate new works. Thus, even if generative AI increases demand in the music market, generally, it does not follow that the harmful infringement of Publishers' copyrighted lyrics will be offset, nor does it relieve any of the expected negative effects that Anthropic agrees will flow from the new technology.

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[62] Dr. Nagaraj cites to additional historical examples in a following paragraph, Nagaraj Rebuttal ¶ 74, where he contends that "the advent of photography" in the 19th century did not make painters obsolete as a profession. In support, he strangely cites to the Bureau of Labor Statistics reported figure of "craft and fine artist jobs" in the United States in 2024, which, while useful in demonstrating that this profession was not wholly eradicated, offers little insight into what that figure would have been but for "the advent of photography."

58. Dario Amodei also appears to disagree with Dr. Nagaraj's application of the "Jevons Paradox" in the generative AI context. *See* Nagaraj Rebuttal ¶ 71. In his essay, "The Adolescence of Technology," Dr. Amodei explains why the Jevons Paradox, as it has been observed in connection with industrial era technological changes, will not hold in the context of the Generative AI revolution. Specifically, he emphasizes key differences like how: (1) "[t]he pace of progress in AI is much faster than for previous technological revolutions," (2) the breadth of affected careers "will make it harder for people to switch easily from jobs that are displaced to similar jobs that they would be a good fit for," (3) Generative AI can advance rapidly from mediocre to out-performing human workers in certain job categories, and (4) Generative AI can "fill in the gaps" in knowledge-work positions, whereas in industrial-era technologies human labor would have filled those gaps.

59. The Jevons Paradox is particularly inapt in the context of lyrics and entertainment. Unlike Dr. Nagaraj's example of the increasing efficiency of coal production leading to the increased use of coal in existing and entirely new applications, humans face bounds in terms of the time available to them for listening to music in a 24-hour day and that market is already highly saturated. It is far from clear how, even if AI could massively increase the efficiency of creating music, those gains would stimulate significant *additional* demand for music, rather than just displace existing less-efficient human creators. Dr. Nagaraj has not described any mechanism by which the Jevons Paradox would operate in this case.

60. Dr. Nagaraj next claims that, "in addition to expanding the size of the market, adding AI-generated lyrics may have other added benefits, like democratization and diversity." Nagaraj Rebuttal ¶¶ 75–78. Here, he returns to "the advent of photography" as an example of how "working-class Americans, immigrant communities, and African Americans" were able to be

imaged for the first time. Nagaraj Rebuttal ¶ 75. He does not explain how these communities were previously prevented from writing song lyrics. Nor does he explain how "labor market displacement" or the radical "concentration of economic power"—two specific problems Dario Amodei claims will flow from generative AI[63]—are effective examples of "democratization and diversity." His subsequent examples of how the internet and e-books allowed women to become authors and how there's been an alleged expansion in demand for market research are equally irrelevant to Anthropic's unlicensed scraping and training conduct. Nagaraj Report ¶¶ 77–78.

61. Dr. Nagaraj then departs from his earlier claims that AI-generated works will never compete with human works in order to argue that "[i]n the area of music, there are also examples of AI tools being able to help compose entirely novel and previously nonexistent types of music, suggesting that the market for music composition is expanding to include the unique uses brought about by AI tools." Nagaraj Rebuttal ¶ 79. Similarly, Dr. Nagaraj fails to explain how UMPG's license with AI music-generation companies like Udio justifies Anthropic's unlicensed scraping and training of Publishers' copyrighted works.

62. After relying exclusively on theoretical and historical examples to support his claim that generative AI may lead to expansion in the market for song lyrics, Dr. Nagaraj concedes that Claude, in fact, can be used to generate displacing original song lyrics. Nagaraj Rebuttal ¶ 80. Specifically, he cites Anthropic President Daniela Amodei's use of Claude to "write a lullaby for her young son." Nagaraj Rebuttal ¶ 80. Dr. Nagaraj claims this example illustrates market expansion because Claude "created new demand that would not otherwise exist" but it shows precisely the opposite. The demand in this scenario was Ms. Amodei's desire to sing her son a lullaby, and the supply was the catalog of existing lullaby songs she could have played for him. By generating

[63] *The Adolescence of Technology*, at Part 4 ("*Economic concentration of power*").

original lyrics for Ms. Amodei, Claude did not "create new demand," it created new, diluting supply to compete with the existing songs that Ms. Amodei would have sung or played for her son but for Claude. Ms. Amodei' use of Claude to create a lullaby replaced a potential stream of an existing song. The same is true for the Halloween and Christmas party examples that Dr. Nagaraj cites—for example, instead of playing Bobby Pickett's "Monster Mash" or Mariah Carey's "All I Want for Christmas," these users prompted Claude create new song lyrics to entertain their holiday party guests.

63. Finally, and as I have noted repeatedly, Dr. Nagaraj's contention that "it is not a foregone conclusion that the advent of generative AI that can produce song lyrics will result in simple market dilution or substitution of incumbent players' works," Nagaraj Rebuttal ¶ 82, is directly contradicted by multiple party admissions from Anthropic's own highest executives.[64] Even if Dr. Nagaraj disagrees with the conclusions of Drs. Amodei, Kaplan, and Brown, he has not addressed and explained why he thinks their many and varied statements, including testimony under oath, about the inevitable effect of generative AI on the economy are wrong.

64. It also bears noting that, despite Dr. Nagaraj's lengthy discussion of possible market expansion from generative AI, such expansion is still consistent with a conclusion of market displacement. As I explained in the Smith Report, an influx of AI-generated works potentially dilutes the revenue available to human-generated songs (including Publishers' works) by affecting both the numerator and denominator of Publishers' revenue sharing agreements. *See* Smith Report ¶ 94. By increasing the supply of songs, AI-generated works reduce the total number of streams to Publishers' works (because more people are listening to AI works), while simultaneously increasing the total number of works that are in the shared revenue pool. *See id*. In such a scenario, there is a

[64] *See* Smith Report ¶¶ 79–84.

potential for both market expansion and displacement. Dr. Nagaraj does not account for this possibility in his opinions.

E. Dr. Nagaraj Misunderstands the Economic Purpose of Copyright

65. Dr. Nagaraj says he disagrees with my "conclusions about market dilution because they are fundamentally at odds with the economic principles underlying intellectual property rights in the United States, which attempt to strike a balance between key factors in fostering innovation." *See* Nagaraj Rebuttal ¶¶ 83–93. At the outset, Dr. Nagaraj's opinions regarding the "economic principles underlying intellectual property rights," and any of his purported disagreements with me vis-à-vis the same, are irrelevant to whether Anthropic's unlicensed scraping and training conduct harmed the market for and value of Publishers' works-in-suit. Moreover, even if we assume that Anthropic's repeated contention (echoed by Dr. Nagaraj) that Publishers' lyrics have little to no value to training Claude,[65] and further assume that Claude can generate original song lyrics without training on any copyrighted song lyrics, then even the strictest interpretation of copyright and intellectual property rights in this case should have zero impact on economic innovation in the field of generative AI. In other words, Dr. Nagaraj cannot both claim that Publishers' lyrics are effectively worthless in training Claude ***and*** that copyright enforcement in this case would somehow stymie economic innovation of generative AI. Either Publishers' lyrics are valuable to training general-purpose LLMs, in which case Anthropic can license them, or the lyrics are not valuable, in which case Anthropic can respect Publishers' statutory rights and remove the lyrics from its training corpus without detriment. Anthropic's refusal to do the latter cannot be solely justified by an unwillingness to incur the business cost of doing so, because ***that*** would be "fundamentally at

[65] Nagaraj Report ¶ 61.

odds with the economic principles underlying intellectual property rights in the United States." Nagaraj Rebuttal ¶ 83.

66. Nevertheless, I do not necessarily disagree with Dr. Nagaraj that "the economic goal of the copyright system and intellectual property is not to protect incumbent innovators from market competition." Nagaraj Rebuttal ¶ 83. Rather, the economic goal is (or should be) to encourage innovation and creation of new works in a functioning market. For the many reasons set forth in my initial report, Anthropic's scraping and crawling for the purpose of AI training undermines the functioning of the markets for uses of Plaintiffs' works, including because it enables Anthropic to use Publishers' protected works, without license, as the inputs required to create market substitutes that dilute and disrupt the market and value of those same protected works. Anthropic's founders do not dispute that content creators should be fairly compensated for the "oil of the future."[66]

67. Dr. Nagaraj also contends that, "if rightsholders are permitted to limit subsequent uses of the innovation, the new innovator's cost of creating new works would increase and IP rights would restrict future innovation." Nagaraj Rebuttal ¶ 86. But as Dr. Nagaraj subsequently notes, "Economists clearly understand that IP rights may be necessary in order to incentivize creators to produce the *optimal* number of creative works." *Id.* ¶ 87 (emphasis added). Licensing helps ensure an optimal number of creative works, and a lack of licensing incentivizes the creation of *more* than the optimal number of creative works (*e.g.*, what Dr. Nagaraj refers to as "slop," *id.* ¶ 82). Without licensing the works it consumes for training, Anthropic is able to capture all of the benefits of a content creator's labor without internalizing any of the costs, thus encouraging Anthropic (and others) to scrape and use as much data as possible, even when doing so will result in

[66] Anthropic_0000462969, at -70.

more economic harm than gain to the creator. To that end, Dr. Nagaraj's contention that "the Smith Report suggests that rightsholders ought to be able to prevent not only copies but also works inspired by their works, " *id.* ¶ 87, misinterprets my opinion. The Smith Report does not discuss preventing the creation of new works "inspired" by other works; it addresses only the creation of new works whose creation requires *copying* existing works. Accordingly, the relevant question here is whether Anthropic can freely *copy* Publishers' works in order to create works "inspired" by Publishers' works, which Dr. Nagaraj does not address.

68. Dr. Nagaraj next contends that, "If IP rules are very strict in this context, they can hinder both consumers' enjoyment of the works and the transformative reuse of works." Nagaraj Rebuttal ¶ 88. But it's equally true that if IP rules are nonexistent, creativity is also hindered, as the effects of digital piracy show.[67] Indeed, Dr. Nagaraj makes precisely this point in his chapter of the U.S. Copyright Office's report, *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy*. Specifically, he writes: "While unrestricted access would almost certainly be an advantage to developers (at least in the near term, putting aside any potentially negative long-run dynamics), this can also impose a cost to rightsholders and have negative implications for creative incentives."[68]

69. Last, Dr. Nagaraj rejects my comparison between general-purpose LLMs and peer-to-peer music sharing services like Napster and Grokster. *See* Nagaraj Rebuttal ¶¶ 92–93.

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[67] *See, e.g.,* Rahul Telang & Joel Waldfogel, *Piracy and New Product Creation: A Bollywood Story*, 43 INFO. ECON. AND POLICY, 1 (2018); Brett Danaher & Michael D. Smith, *Digital Piracy, Film Quality, and Social Welfare*, 24 GEO. MASON L. REV. 4, 923 (2017).

[68] Brent A. Lutes, ed., *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy*, U.S. COPYRIGHT OFFICE (Feb. 2025), https://www.copyright.gov/economic-research/economic-implications-of-ai/Identifying-the-Economic-Implications-of-Artificial-Intelligence-for-Copyright-Policy-FINAL.pdf.

Specifically, he contends that because general-purpose LLMs like Claude "are not designed to simply regurgitate what they are given," it is inappropriate to compare the technology with a service like Napster, which Dr. Nagaraj says, "unquestionably cannibalized demand on other platforms and became a one-for-one substitution." Nagaraj Rebuttal ¶ 93. But what an LLM developer like Anthropic "aims to do" with its model is irrelevant in the face of the outputs it actually generates, and there is ample evidence in this case of Claude generating outputs that contain the exact lyrics to Publishers' works-in-suit (*i.e.*, a "one-for-one substitution"). *See, e.g.*, Smith Report ¶ 204. And generating competing substitutes still cannibalizes demand for existing works, even if the substitution may not be one-to-one. Moreover, the notion that Claude "fundamentally transform[s]" the data it trains on such that one-to-one regurgitation cannot occur is dispelled by the fact that Anthropic had to specifically design and implement guardrails to *prevent* one-to-one regurgitation by its trained LLMs. Dr. Nagaraj does not account for this in his analysis.

70. I also note that the analogies to piracy in the context of AI training on copyrighted works were discussed extensively by the ten economists who participated in the U.S. Copyright Office's forum on the economic implications of AI (discussed above), which included both Dr. Nagaraj and myself. Notably, the report that came out of that forum specifically "analogize[d] the effects of AI-generated works to those of piracy, to the extent that AI generative models can produce near-verbatim copies of valuable—and costly-to-create—content. In this context, one would expect AI-enabled access to works to substantially displace human creators' revenue."[69] Further, the report also notes that, "[w]hile the substitution effect is easy to conceptualize in the case of AI producing near-verbatim copies, it exists (perhaps to a lesser degree) even when AI output bears

[69] *Id.* at p. 10.

no substantive resemblance to a particular human-generated work."[70] I don't recall anyone objecting to these analogies during our discussions, and I am not aware of anyone objecting to their inclusion in the committee's final report.

IV. Dr. Nagaraj's Market Analysis Remains Deeply Flawed and Irrelevant.

A. The "Relevant" Market at Issue is Any Market in which Anthropic's Unlicensed and Uncompensated Use of Publishers' Works-in-Suit has Caused Harm

71. Contrary to Dr. Nagaraj's mischaracterization of the Smith Report, I did not confine my analysis to only the "AI licensing market" and "the existing market for the display and reproduction of lyrics." Nagaraj Rebuttal ¶ 94. Instead, I considered *all* relevant markets that were affected by Anthropic's "unauthorized and uncompensated use of Publishers' copyrighted materials," *see* Smith Report ¶¶ 10–11, including (1) a market for Publishers' song lyrics as musical compositions, for which I explained how Anthropic's conduct allows for the creation of diluting and damaging market substitutes, *see* Smith Report § V.A; (2) a market for Publishers' song lyrics as AI training data, without limitation to any particular type of AI model (*i.e.*, general-purpose vs. single-purpose), for which I explained in detail how Anthropic's conduct deprives Publishers of revenue from that licensing market, *id.* § V.B.1, dissuades other companies from negotiating with Publishers in that market, *id.*, destroys Publishers' ability to police damaging AI-generated derivatives, *id.*§V.B.3, and otherwise diminishes the overall value of Publishers' works in that market, Smith Report § V.B.4; (3) a market for the online display of Publishers' lyrics, for which I explained how Anthropic's conduct acts as a one-to-one substitution, *see* Smith Report § V.B.2. I also looked at the damage Anthropic caused beyond just the markets related specifically to Publishers' lyrics, including the damage caused by the removal of Copyright Management

[70] *Id.*

Information, *id* § V.C, and the downstream effects to future investment in new creative works, *id.* § V.D. Accordingly, in determining whether a market is "relevant" in this case, the touchstone of my analysis was whether Anthropic's conduct caused Publishers harm in that market.

72. Dr. Nagaraj, by comparison, narrowly constrains his analysis to look only at "(1) a purported market for licensing all data to train a general-purpose LLM, and (2) an actual market for the online display of lyrics."[71] Nagaraj Rebuttal ¶ 97. The Smith Rebuttal explains in detail why Dr. Nagaraj's focus on the former market is inappropriate, *see* Smith Rebuttal ¶¶ 15–38, especially in light of his stated assignment to "analyze economic issues related to fair use factor 4, which is 'the effect of the use upon the potential market for or value of *the copyrighted work*.'" Nagaraj Report ¶ 6 (emphasis added); *see also* Nagaraj Rebuttal ¶ 2 (reaffirming his stated assignment). I will not repeat my critiques of these market constructions here; I note that, by acknowledging a second market for the online display of lyrics, Dr. Nagaraj concedes that there may be more than one "potential market" in which Anthropic's conduct has affected the "value of" Publishers' works. Indeed, Anthropic enlisted another expert, Julie Davis, who opined on the separate and much broader "market for licensing the lyrics of the Asserted Works." *See* Davis Report at p. 49.

73. Thus, Dr. Nagaraj's claim that I did not sufficiently "differentiate among a number of actual, potential, and hypothetical markets that are distinct" illustrates exactly why his analysis is so fatally narrow. ***Every*** market for Publishers works' affected by Anthropic's unlicensed and uncompensated use of Publishers' works is relevant to this case, and many are interconnected. For example, Dr. Nagaraj claims that UMPG's deals with Udio and Klay "concern a different market

[71] In his opening report, Dr. Nagaraj also briefly analyzes an alternative (and equally dubious) market for training a general-purpose LLM on *only* song lyrics. *See* Nagaraj Report ¶ 52.

than the purported market for licensing all of the data needed to train an LLM like Claude," Nagaraj Rebuttal ¶ 96, but, even assuming that is true, he offers no explanation for why he failed to analyze Anthropic's conduct in that "different market," which, even under Dr. Nagaraj's constrained view, is still relevant to the value of Publishers' works. Moreover, his only justification for this "different market" assertion is that the Udio and Klay agreements contemplate licensing both lyrics *and* audio. *See* Nagaraj Rebuttal ¶ 96. In other words, despite his admission that Udio and Klay are competitors with Anthropic for textual lyric data, Dr. Nagaraj excludes both companies from his analysis of a "purported market for licensing all data to train a general-purpose LLM" simply because they *also* want to license audio data embodying Publishers' lyrics. As an economic matter that is wrong, and it demonstrates why Dr. Nagaraj's market analysis is fundamentally flawed and unreliable.

B. Digital Piracy Would be Found Harmless Under Dr. Nagaraj's Asserted Market Definition

74. As I set forth in the Smith Report, Dr. Nagaraj accepts the view that there are generally three preconditions necessary for a market to form: (1) rightsholders must have the practical ability to restrict access to their content; (2) licensees and licensors must both be willing to enter a deal; and (3) transaction costs must not be prohibitively high.[72] *See* Nagaraj Rebuttal ¶ 100 (quoting Smith Report ¶ 101). In his rebuttal, Dr. Nagaraj applies these preconditions to his own market models (and no others) as a means of justifying his own broad and categorical conclusion that Publishers have suffered no harm as a result of Anthropic's unlicensed and uncompensated use of

[72] These preconditions are taken directly from the U.S. Copyright Office's report, *Identifying Economic Implications of Artificial Intelligence for Copyright Policy*, to which both Dr. Nagaraj and I are credited contributors.

the works-in-suit because, he says, there is no "market for all the data needed to train a general-purpose LLM." *See* Nagaraj Report ¶ 12.

75. For the reasons I've previously discussed, Dr. Nagaraj's principal market definition is deeply flawed and irrelevant to an inquiry into how Anthropic's conduct in this case affects the potential markets for and value of Publishers' works. *See* Smith Rebuttal ¶¶ 15–38. Indeed, under Dr. Nagaraj's conception of the relevant market in this case, even digital piracy would have been considered harmless to rightsholders since, when Napster launched, no market for widespread digital distribution of sound recordings had yet developed and, according to Dr. Nagaraj, there can be no economic harm in a market that doesn't exist. Nagaraj Report ¶ 12 ("Because I find that these two markets did not exist and are not likely to emerge, I conclude that Plaintiffs cannot have been economically harmed in such markets."). That is plainly wrong on an intuitive level, let alone under the body of academic literature regarding the damaging effects of digital piracy.[73]

76. Beyond his flawed market definitions, Dr. Nagaraj's application of the above three market preconditions also rests on several erroneous assumptions.

77. First, Dr. Nagaraj's analysis fatally depends on his claim that, "given the low value *Anthropic* places on lyrics for use in training data, even moderate transaction costs would exceed the value of the good." Nagraj Rebuttal ¶ 101 (emphasis). Dr. Nagaraj fails to take into account that Anthropic places a low value on lyrics for use in training data because its alternative to licensing them has been to copy them for free. *See* Smith Rebuttal ¶ 74. Further, notwithstanding Anthropic's "eminent domain" theory of valuation[74] and the fact that there is no evidence in the record

[73] *See, e.g.,* Rahul Telang & Joel Waldfogel*, Piracy and New Product Creation: A Bollywood Story*, 43 INFO. ECON. AND POLICY, 1 (2018); Brett Danaher & Michael D. Smith, *Digital Piracy, Film Quality, and Social Welfare*, 24 GEO. MASON L. REV. 4, 923 (2017).

[74] *See* Smith Rebuttal ¶ 80 (quoting Anthropic_0000462964 where Dario Amodei's explains that "[h]aving only one side of the market is like forcefully buying the data by eminent domain.").

to justify Dr. Nagaraj's assertion that there would be even "moderate transaction costs" associated with licensing Publishers' works-in-suit, the conclusion from Dr. Nagaraj's point here should not be that Anthropic gets to use Publishers' works for free (as he contends), but that Anthropic ***doesn't get to use the works***. In the standard functioning of a market, the alternative to a market transaction is not that one of the parties gets the benefit of a potential bargain without paying the costs. Put simply, Anthropic doesn't get to eat at a restaurant for free because it values the food less than the credit card fee associated with paying for the food.

78. To that end, the reason that the Smith Report "ignores that the transaction costs it would take to negotiate deals for *all* of the data needed to license a general-purpose LLM would be extraordinarily prohibitive," Nagaraj Rebuttal ¶ 102, is because it is not relevant. The relevant question is whether transaction costs would prohibit a deal to license ***Publishers' works***, and Dr. Nagaraj has not put forth any evidence that they would be. Indeed, as I explained in the Smith Report, there are multiple AI companies that have already struck deals to license Publishers' works, *see* Smith Report ¶ 120, and there are increasingly more frequent license agreements being struck between rightsholders and other AI companies (including general-purpose LLM developers), *see* Smith Rebuttal ¶¶ 26–28. Figure 1 below reflects this latter point and builds off analysis from the Smith Rebuttal reflecting the rapidly increasing rate of new AI licensing agreements.

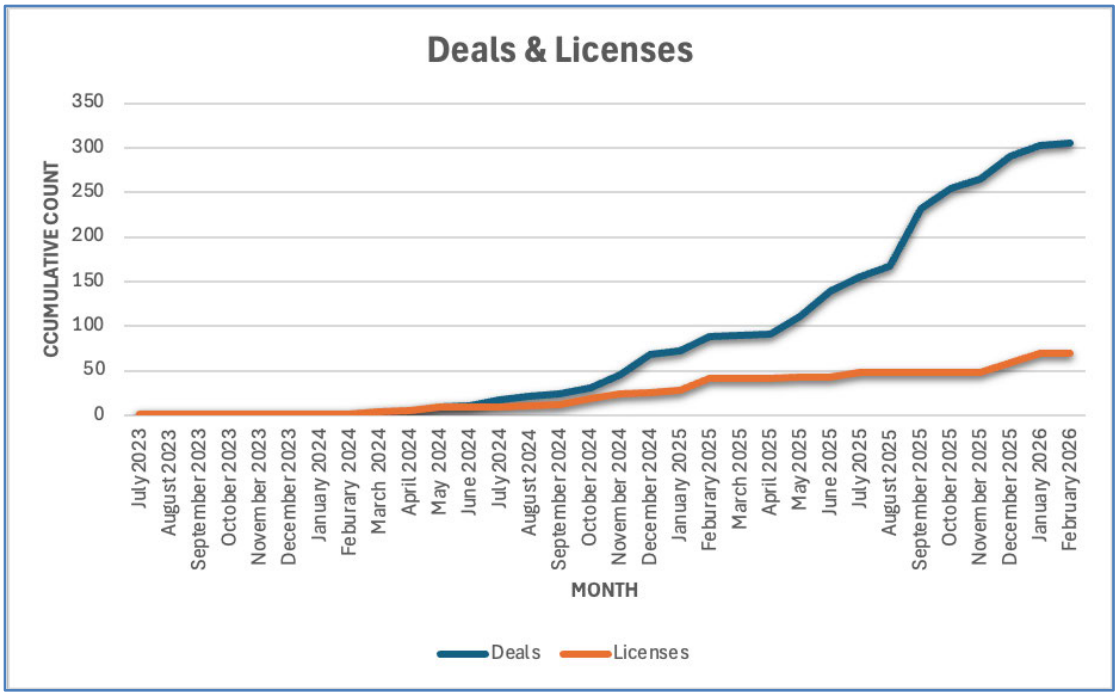


Figure 1

79. The data reflected in Figure 1 comes from the Columbia School of Journalism's *AI Deals and Disputes Tracker* (similar to the Copyright Alliance tracker I reference in the Smith Rebuttal, but here just covering deals between Generative AI firms and news publishers).[75] Notably, Columbia's tracker reflects multiple deals between various rightsholders and general-purpose LLM developers, including OpenAI, Google, and Meta. Anthropic, however, is conspicuously absent from the tracker. Consistent with rapidly emerging markets between publishers and AI

[75] *See* Tow Center for Digital Journalism, *AI Deals and Disputes Tracker*, COLUMBIA SCHOOL OF JOURNALISM (last updated Feb. 11, 2026), https://tow.cjr.org/ai-deals-lawsuits/. I created the Deal line in the chart by filtering on "Deal" under "Category" in the website and counting the cumulative number of deals. I created the Licenses line in the chart by filtering on "Licenses" under "Category" in the website and counting the cumulative number of licenses (excluding any sublicense deals listed under the main license deal).

companies, just this week Reuters reported that Amazon is "planning to launch a marketplace where publishers can sell their content to firms offering artificial intelligence products."[76]

80. Dr. Nagaraj has offered no persuasive justification to ignore these deals from his analysis, especially after his admission in previous academic publications that a "nascent market for licensing"[77] for AI training data exists and Anthropic's admission that it has previously engaged in this very market. Smith Rebuttal ¶ 24.

81. In the Smith Report and the Smith Rebuttal, I offered several other potential solutions to high transaction costs, and examples where the music industry overcame equally difficult licensing challenges. *See* Smith Report ¶¶ 118–19; Smith Rebuttal ¶¶ 52–53. Dr. Nagaraj offers no reason to doubt these solutions, and his point about there not necessarily being "comparable" collective rightsholders in "other fields" outside of music is not relevant to this case. *See* Nagaraj Rebuttal ¶ 107. Similarly, whether Plaintiffs "would be willing to participate in deals with collective licensing organizations for the rights to training data for use in a general-purpose LLM" is also not relevant because they don't need to—they are large enough to negotiate their own rights.

82. Second, Dr. Nagaraj's discussion of the "bargaining set" precondition ignores that I applied this concept to "a licensing market for use of Publishers' works as AI training data," and therefore offers no reason not to believe that a bargaining set exists for that market. Nagaraj ¶ 109. Instead, Dr. Nagaraj analyzes this precondition in the context of his own "market for all of the data needed to train a general-purpose LLM," *id.*, where he dismisses the relevance of dozens of

[76] Reuters, *Amazon Plans to Launch AI Content Marketplace, The Information Reports,* REUTERS (Feb. 9, 2026), https://www.reuters.com/business/retail-consumer/amazon-discusses-ai-content-marketplace-with-publishers-information-reports-2026-02-10/.

[77] Stella Jia & Abhishek Nagaraj, *Cloze Encounters: The Impact of Pirated Data Access on LLM Performance,* NAT'L BUREAU ECON R., Working Paper No. 33598 (Mar. 2025), https://www.nber.org/system/files/working_papers/w33598/w33598.pdf) (last visited Jan. 22, 2026); *see also* Anthropic_0000597354 (copy of same produced by Anthropic).

publicly reported AI licensing because they purportedly involve "detailed, individualized negotiations," while simultaneously relying on Anthropic's own subjective valuation of the "books" it uses for AI training, to contend "that there is no clear agreement on market value." *Id.* ¶ 110. Dr. Nagaraj does not thereafter explain why "clear agreement on market value" is necessary for a market to exist, nor does he explain who needs to be in "clear agreement on market value" for a market to exist. In a subsequent paragraph Dr. Nagaraj relies on comments made by "Meta, a16z, and Hugging Face" to support the point that "meaningful compensation for licensing is not possible," because "such deals would be cost-prohibitive in the aggregate." *See* Nagaraj Rebuttal ¶ 111. But here, he conflates transaction costs for many deals with the mutual valuation of a single deal.

83. At bottom, Dr. Nagaraj's arguments once again seem to boil down to Dario Amodei's "eminent domain" theory of valuation,[78] where, if Anthropic does not agree with a rightsholder's valuation of their own works, Anthropic is entitled to use it for free. But Anthropic's own executives, including Dario Amodei, recognize that this does not resemble a functioning 'market' or an economically efficient long-run outcome. Indeed, in an early internal memo, Dario Amodei proposed compensating content creators "for their labor, not at a flat rate, but with a fraction of the profits from the model produced."[79] And in the same document, he openly wondered whether there was a way to "value the contribution of data creators to AI models" and to compensate them with equity in the model "by virtue of their contribution to training it," as a "sort of 'guaranteed basic capital' for the machine age."[80] Similarly, Anthropic co-founder Christopher

[78] *See* Smith Rebuttal ¶ 80 (quoting Anthropic_0000462964 where Dario Amodei's explains that "[h]aving only one side of the market is like forcefully buying the data by eminent domain.").

[79] Anthropic_0000462964 at -95.

[80] *Id.*

Olah described AI training data as "oil of the future" and worried that "if AI radically succeeds, it doesn't really feel fair for data creators not to be compensated more."[81] Moreover, Dr. Nagaraj's claim that "the value to developers of any individual work for model-training purposes is trivial" contradicts his own previously published research.[82]

84. Third, while Dr. Nagaraj concedes that "a licensing market must necessarily include the ability *for rightsholders* to practically restrict access to their work," he disputes my conclusion that *Anthropic's* internal policy for respecting "robots.txt" protocols is insufficient to satisfy that precondition. *See* Nagaraj Rebuttal ¶ 113 (emphasis added). He does not offer any other alternative solutions to this problem, and he offers no response to many of the points I made about why Anthropic's purported policy for respecting robots.txt is an insufficient guarantee for a concerned rightsholder. For example, he does not acknowledge that Anthropic's corporate policy: (1) can change at any time, irrespective of a rightsholder's demands; (2) offers no transparency to ensure effective application; (3) only applies to *Anthropic*, and not to entities that may mimic Anthropic's unlicensed scraping and crawling conduct; (4) does not apply to pre-existing collections of scraped data like Common Crawl; and (5) does not account for unauthorized displays of Publishers' lyrics on websites that do not implement robots.txt. Dr. Nagaraj offers no response to any of these important points, and he fails to persuade me that *Anthropic's* robots.txt policy sufficiently reflects *Publishers*' ability to practically restrict access to their works.

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[81] Anthropic_0000462969 at -70.

[82] Jia & Nagaraj, *Cloze Encounters, supra*, n. 77, at p. 5 ("[W]e can refute the claim that any single source has a negligible effect on model performance, even in large production models.").

C. No One Disputes that a General-Purpose LLM Cannot be Trained on *Only* Music Lyrics

85. Dr. Nagaraj repeats his application of the Smith Report's market preconditions to his alternative "market to license lyrics alone for use as training data." Nagaraj Rebuttal ¶ 114. I discussed the flaws with this market definition in my rebuttal report, *see* Smith Rebuttal ¶¶ 15–38 & 68, but it bears re-emphasizing that I have never advocated for a "market to license lyrics *alone*," and I do not believe any parties in this litigation seriously dispute whether a general-purpose LLM could be trained *only* on music lyrics. To that end, this hypothetical (and strange) market is not relevant to whether Anthropic's conduct affects the "potential market for and value of" Publishers' works.

86. Nevertheless, Dr. Nagaraj relies on many of the same flawed assumptions in his application of market preconditions in this section. For example, he again asserts that, "given the low value *Anthropic* places on lyrics for use in training data, even moderate transaction costs would exceed the value of the good." Nagaraj Rebuttal ¶ 115. But here again, Dr. Nagaraj relies on Anthropic's unilateral "eminent domain" theory of valuation to make this argument,[83] which is infected by the erroneous assumption that music lyrics have low value because Anthropic can simply scrape them for free if it so desires. *See* Smith Rebuttal ¶¶ 74.

87. Dr. Nagaraj's rebuttal to my point that Anthropic [redacted] *see* Nagaraj Rebuttal ¶ 117 (quoting Smith Report ¶ 150), does not undermine the significance of my analysis based on that document. [redacted] does not change the fact that it was

[83] *See* Smith Rebuttal ¶ 80 (quoting Anthropic_0000462964 where Dario Amodei's explains that "[h]aving only one side of the market is like forcefully buying the data by eminent domain.").

presumably commissioned by Anthropic, in Anthropic's possession, and referred to and relied on by Anthropic's data acquisition team.

88. Similarly, Dr. Nagaraj does not appear to dispute my point that Anthropic's [redacted] *See* Nagaraj Rebuttal ¶ 118 (quoting Smith Report ¶ 156). His only dispute here seems to be with the *degree* to which Anthropic increases transaction costs for itself and others, not that it does so via this [redacted]. Instead, Dr. Nagaraj surprisingly contends that the reason Anthropic does not disclose the data used in its training corpus is that the information "is highly confidential and may amount to a *trade secret*." Nagaraj Rebuttal ¶ 120 (emphasis added). I am not a lawyer and therefore cannot say what meets the legal definition of trade secret, but I am surprised that Dr. Nagaraj appears to argue that Anthropic's unlicensed collection of ***other people's copyrighted work*** constitutes ***Anthropic's*** protected intellectual property, especially after his many paragraphs criticizing my "expansive" view of intellectual property rights. *See* Nagaraj Rebuttal ¶¶ 83–93. It would not serve economic innovation to allow one company to refuse to tell an inquiring rightsholder whether they are using that rightsholder's protected work, without license, on the grounds that such use is a trade secret.

89. Dr. Nagaraj next returns to Anthropic's [redacted] to argue that record evidence contradicts my "assertion that lyrics are very important to Anthropic[.]" Nagaraj Rebuttal ¶ 122. I have already explained in detail why this [redacted] *See* Smith Rebuttal ¶¶ 74, 76. Dr. Nagaraj's own research confirms that the value of lyrics to

Anthropic, specifically, would increase if the company was unable to obtain them for "free."[84] Dr. Nagaraj even claimed that Tom Turvey told him in conversation that [redacted]"[85] and other internal Anthropic documents show that [redacted]. *See* Anthropic_0000012538, at -41 [redacted] Moreover, Dr. Nagaraj ignores that there have been multiple major AI licensing agreements involving general-purpose LLMs for other [redacted].[86]

90. That Dr. Nagaraj has "seen no evidence that UMPG and Concord would have been willing to license all of their lyrics to Anthropic as training data" is a function of the fact that Anthropic has never approached UMPG or Concord to license those works. Smith Report ¶ 146. In any case, even if UMPG and Concord are not willing to license their lyrics to Anthropic, it does not follow that Anthropic should be permitted to use them for free.

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[84] Jia & Nagaraj, *Cloze Encounters, supra*, n. 77, at p. 5 ("These findings therefore have implications for pricing of data licenses, and support more bargaining power for content providers who provide more unique content.").

[85] Nagaraj Report ¶ 80 [redacted] (emphasis added).

[86] *See* THE ASSOCIATED PRESS, *AP, OpenAI Agree to Share Select News Content and Technology in New Collaboration* (July 13, 2023), https://www.ap.org/media-center/press-releases/2023/ap-open-ai-agree-to-share-select-news-content-and-technology-in-new-collaboration/); *see also* Anna Tong, et al., *Exclusive: Reddit in AI Content Licensing Deal with Google*, REUTERS (Feb. 21, 2024), https://www.reuters.com/technology/reddit-ai-content-licensing-deal-with-google-sources-say-2024-02-22/ (discussing deal worth $60 million per year).

D. Dr. Nagaraj's "Empirical Analysis" is Methodologically Flawed and Assumes that Anthropic's Conduct Will Have No Future Effects on the Market for or Value of Publishers' Lyrics

91. As discussed in my rebuttal report, Dr. Nagaraj's purported "empirical analysis" of the market for the online display of lyrics is methodologically flawed and further assumes that Anthropic's conduct will have no future effects. *See* Smith Rebuttal ¶¶ 100–41. This latter point seems especially unlikely, given that Anthropic's own co-founders agree that generative AI will likely result in economic upheaval on par with the Industrial Revolution.

92. While Dr. Nagaraj largely repeats his previous analysis in his rebuttal to the Smith Report, none of his new contentions are persuasive. For example, he contends that Mr. Dennis's analysis of sample Claude prompts overstates how many concern lyrics, but the basis for his dispute is his own speculation about the intent behind a handful of anonymous Claude user prompts. *See* Nagaraj Rebuttal ¶ 131. Moreover, he confuses absolute use with relative use: whether lyrics are a significant Claude use case relative to other Claude use cases is irrelevant to whether there was harm in the market for lyric display. The fact that Claude can be used for many things in addition to lyrics-related uses by millions of people does not change the fact that there is harm in this market.

V. Anthropic Itself Does Not Dispute that Its Conduct Will Harm Plaintiffs' Works and the Music Production Industry.

93. Dr. Nagaraj disputes my conclusions that "(1) Anthropic's conduct enables the creation of damaging so-called derivatives of songs for which Plaintiffs hold the copyright, (2) Anthropic has diminished the overall value of all of Plaintiffs' works by its data collection practices (such as web scraping), (3) Anthropic's removal of copyright management information ('CMI') from its training data causes harm through a 'loss of attribution,' and (4) because of Anthropic's conduct, songwriters will be discouraged from creating new works." Nagaraj Rebuttal ¶ 136 (citing

Smith Report §§ V.B.3, V.B.4, V.C, V.D). Specifically, he claims he has not found evidence of any of the foregoing harms in his "empirical analyses" of Publishers' revenues, *id.*, however, I have identified multiple methodological errors in his analysis, and multiple instances where has relied on erroneous assumptions or ignored critical evidence.

94. Additionally, I note that both Dr. Nagaraj and Ms. Davis contend that I offer no opinions regarding Anthropic's revenue and capitalization, nor explain their relevance. *See* Nagaraj Rebuttal ¶ 139; Davis Rebuttal at p. 4. While this is not correct, *see* Smith Report ¶ 148 & § VI, for the avoidance of doubt, the purpose of including details regarding Anthropic's revenue and capitalization in the Smith Report was to support my opinions that Anthropic has sufficient funds to license Publishers' works (including transaction costs) and to further illustrate that, despite Anthropic's claims about the marginal value of individual pieces of copyrighted text, the company has managed to generate substantial revenue, profits, and investment by scraping and using other people's copyrighted works without authorization. I also understand that the jury may consider Anthropic's revenue and capitalization in determining an appropriate award of statutory damages necessary to deter future infringement.[87] Indeed, given Anthropic's valuation of $380 billion, Dr. Nagaraj is wrong that it would be "prohibitively" expensive for Anthropic to license the copyrighted works it needs to train its models (inclusive of transaction costs).

95. That Anthropic does, in fact, have the means to license all of the works it conceivably needs to train a general-purpose LLM is further reinforced by recent news of a $30 billion

[87] While the opinions I offer may inform the jury's assessment of statutory damages, I offer no opinion on what an appropriate award of statutory damages would be in this case.

capital injection (resulting in a new $380 billion valuation),[88] plans for an IPO in early 2026,[89] and a recent flurry of costly Super Bowl ads[90] (reportedly costing a minimum of $8 million per thirty-second airing).[91] Such extreme valuations and displays of wealthy advertising not only support my belief that Anthropic can afford to pay licensing fees for the works it consumes, but also that any legal imposition on Anthropic in this case will not be fatal to the company, let alone the generative AI industry, as Dr. Nagaraj appears to contend. *See* Nagaraj Rebuttal ¶¶ 83–93 (arguing that expansive IP rights will stifle economic innovation). Indeed, the evidence I have reviewed suggests that Anthropic's refusal to compensate rightsholders is better explained by the company's intense competition with OpenAI and Google, rather than any inability to pay. *See* T. Brown 30(b)(1) Tr. 48:7–50:4; 79:22–80:13; Anthropic_0000235875, at -76–79; Anthropic_0000011373; Anthropic_0000011382, at -82.

A. Dr. Nagaraj's Regression Analyses Are Unreliable and Obscure Claude's Impact on the Relevant Market for the Works-in-Suit

96. In this Section V.A, I relied upon the research and analysis that was completed under my direction by StoneTurn Group, LLP.

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[88] *Anthropic raises $30 billion in Series G funding at $380 billion post-money valuation*, ANTHROPIC (Feb. 12, 2026), https://www.anthropic.com/news/anthropic-raises-30-billion-series-g-funding-380-billion-post-money-valuation.

[89] George Hammond, *SpaceX, OpenAI and Anthropic Prepare to Launch Landmark IPOs,* FINANCIAL TIMES (JAN. 1, 2026), https://www.ft.com/content/bf607829-dca5-497d-b1a1-ca945d32a8c6; *see also* T. Brown 30(b)(1) Tr. 60–62: ("[F]olks would like to go public at some point.").

[90] Sarah Perez, *Anthropic's Super Bowl ads mocking AI with ads helped push Claude's app into the top 10* (Feb. 13, 2026), https://techcrunch.com/2026/02/13/anthropics-super-bowl-ads-mocking-ai-with-ads-helped-push-claudes-app-into-the-top-10/.

[91] Nick Brinkerhoff, *How Much Does a Super Bowl commercial Cost in 2026? 30-Second Ad Prices Through History*, USA TODAY (Feb. 9, 2026), https://www.usatoday.com/story/sports/nfl/super-bowl/2026/02/08/how-much-does-super-bowl-commercial-cost-2026/88510663007/) (last visited Feb. 12, 2026).

97. Dr. Nagaraj reiterates his opinion that "there was no empirical evidence supporting Plaintiffs' theory that alleged use of Claude for display of lyrics harmed them in any market for licensing lyrics, since Claude had no measurable effect on traffic to other means of lyrics display." Nagaraj Rebuttal ¶135. He again describes his analyses of Google Trends and web traffic data, with which he purports to refute Plaintiffs' theory of harm in the market for licensing lyrics. As I discuss in the Smith Rebuttal, Dr. Nagaraj's regression analyses obscure the relationship between Claude and lyric interest and do not adhere to reliable economic principles and methodologies.

98. In addition to reiterating his previous analyses, Dr. Nagaraj also offers new "empirical analysis" purporting to analyze the effect of Claude's introduction on the revenue earned by Plaintiffs. Nagaraj Rebuttal ¶141. I find that this new analysis suffers from similar flaws that I identified in his previous regression analyses, as detailed in the Smith Rebuttal. Dr. Nagaraj again adopts data and model specifications which fail to measure the conduct at issue and offers alternative models with superficial or erroneous modifications to support the purported "robustness" of his results. Further, his latest analysis ignores and even contradicts factors he claimed were important to account for in his previous regression analyses.

99. While Dr. Nagaraj claims to offer multiple different regression analyses purporting to disprove Plaintiffs' theory of harm, his models all suffer from a similar set of flaws and erroneous specifications. Similar results across similarly flawed models are not evidence of the robustness of Dr. Nagaraj's results nor the reliability of his conclusions.

1. Dr. Nagaraj Relies on Data That Do Not Reflect the Conduct at Issue and Are Not Amenable to Regression Analysis

100. Dr. Nagaraj purports to measure whether and to what extent the introduction of Claude had a negative effect on the "overall revenue" earned by the Plaintiffs. Nagaraj Rebuttal ¶ 141. He purports to do so by analyzing the relationship between changes in Plaintiffs' song-

specific revenue from the previous quarter ("quarter-over-quarter" or "QoQ" changes) and the level of Claude traffic, measured by visits to Claude.ai.[92]

101. As I discuss in my Rebuttal Report, Dr. Nagaraj's Claude variable fails to measure the conduct at issue: *lyric-related* Claude usage. Despite Dr. Nagaraj's claim that lyric-related Claude usage is *de minimis*, he treats overall Claude usage as an appropriate proxy for his regression analyses. Dr. Nagaraj does not offer any analysis to establish that this is true for lyric-related Claude usage, nor does he establish that overall Claude traffic is an appropriate proxy for *song-specific* Claude usage. A disconnect between a variable of interest and its proxy can lower the significance of its coefficient and lead to a Type II error, in which a model incorrectly concludes that there is no statistical relationship between the variable of interest (here, lyric-related or song-specific Claude usage) and the dependent variable (here, lyric-related or song-specific revenue).[93]

102. As with his previous regressions, Dr. Nagaraj's Claude variable also suffers from a limited data period. This issue is compounded by his decision to replace or overwrite Claude's overall traffic with zeroes after Anthropic's purported implementation of guardrails. In Dr. Nagaraj's regression analysis of Publishers' song revenues, Claude traffic is the only variable which varies across time, yet it takes a value of 0 for approximately two-thirds of observations in his "No Guardrails" model and over 92% of observations in his "Guardrails" model (*see* Figure 2).

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[92] I note that Dr. Nagaraj applies log-transformations to song revenue, as well as to the Claude variable in his primary regression models.

[93] *See* Jeffrey M. Wooldridge, INTRODUCTORY ECONOMETRICS: A MODERN APPROACH (5th ed. 2012), at pp. 320-322 (discussing how use of a proxy for an unobserved independent value biases the coefficient toward zero).

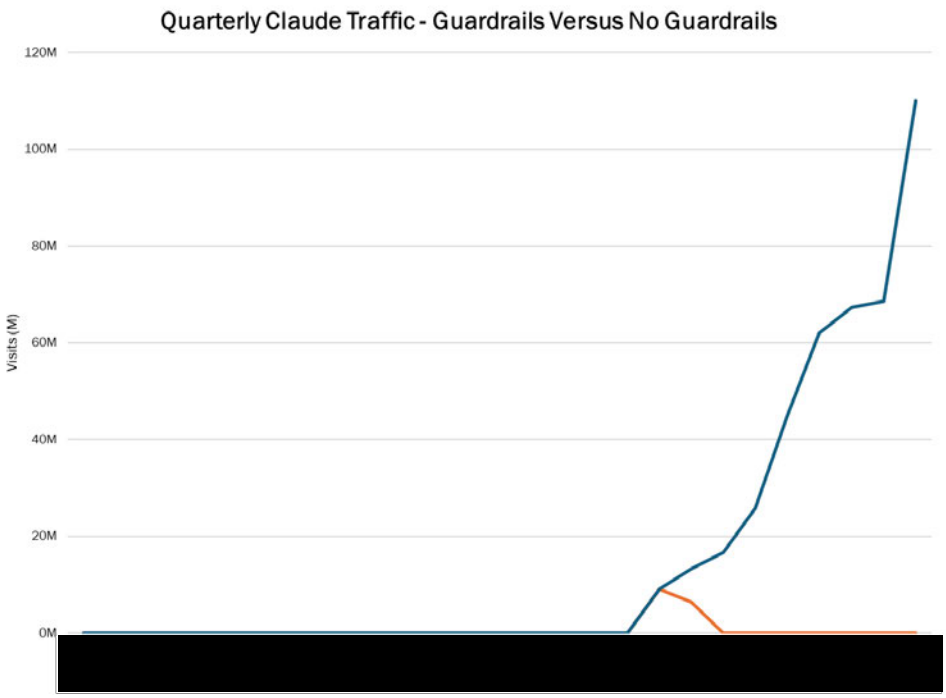


Figure 2

103. In addition to the limitations and shortcomings of Dr. Nagaraj's variable of interest, he also errs in his choice of the dependent variable, song-specific revenue. Dr. Nagaraj's regression models use each song's *total* quarterly revenue, including revenues which may not be not related to lyrics but may be derived from only the musical composition.

104. Thus, Dr. Nagaraj's revenue regressions, with which he purports to assess Claude's effect on the Plaintiffs in the relevant market for the display of lyrics, fail to reflect the relevant market in either the dependent variable or the independent variables. As such, any conclusions Dr. Nagaraj draws from these models fail to reflect the alleged conduct at issue and are wholly unreliable.

105. Dr. Nagaraj's revenue regressions also suffer from his failure to include any variables to account for any other factors that could influence QoQ changes in song-specific revenue. For example, certain songs may exhibit much stronger seasonality, such as an increase during

holiday months. Dr. Nagaraj's models only allow for a constant quarter-to-quarter growth rate for each song[94] and the potential effect of Claude traffic on this constant quarter-to-quarter change. Other than Claude traffic, Dr. Nagaraj includes no other variables that allow for revenue growth rates to vary across time.

106. As a result, Dr. Nagaraj's revenue regressions are a poor representation of the factors that affect song-specific revenue, explaining almost none of the variation in QoQ changes in song revenue. Each of Dr. Nagaraj's "preferred" specifications for his revenue regressions explain less than 1% of the variation in QoQ change in revenue for the Works-in-Suit.[95] By failing to control for any other factors which affect song revenue and could coincide with the extremely limited period during which Dr. Nagaraj's Claude variable is non-zero, Dr. Nagaraj's revenue regressions and any conclusions he draws from them are wholly unreliable.

2. Dr. Nagaraj Adopts Only Superficial Changes in his Alternative Models, Concealing the Sensitivity of his Results

107. To support his conclusions, Dr. Nagaraj claims to "conduct robustness checks to confirm that my results are robust under different specifications." Nagaraj Rebuttal ¶ 141. Dr. Nagaraj offers various alternative models for his revenue regressions, which show how his results change when post-guardrail Claude traffic is not overwritten with zeroes, when Claude traffic is not log-transformed, and when ABKCO revenue data is included.

108. Based on my review of Dr. Nagaraj's methodology and data, I find that none of Dr. Nagaraj's alternative models address the glaring flaws and unsubstantiated assumptions present in

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[94] Note that here, "constant" refers to a constant change in *log-transformed* song revenue, which is typically interpreted as a percentage change in the actual values. Dr. Nagaraj's fixed effects allow this constant growth rate to vary across songs, but not across time.

[95] Nagaraj Rebuttal, Table 1. In other words, Dr. Nagaraj's model is unable to explain nearly all (over 99%) of the variation in Plaintiffs' revenues.

his favored model specifications. Instead, Dr. Nagaraj's alternative models feature superficial changes likely to produce similar results and provide the appearance of robustness. Dr. Nagaraj relegates several alternative models to appendices and offers no opinion as to whether he believes his alternative specifications are reasonable, yet he nonetheless asserts that these alternative models support the robustness of his favored models and the conclusions he draws from them.

109. The most obvious example of Dr. Nagaraj offering an erroneous model as evidence of "robustness" is his revenue regressions, which include song revenues from ABKCO. Dr. Nagaraj notes that he excludes this data from his favored analysis as ABKCO produced data on a semi-annual basis, unlike the quarterly data produced by the other Plaintiffs. Nagaraj Rebuttal ¶ 143. Still, Dr. Nagaraj purports to conduct a "robustness analysis" with ABKCO data included in his revenue regressions. Nagaraj Rebuttal ¶ 143, Appx. C.

110. However, this "robustness analysis" suffers from a clear and obvious error. To account for the mismatch in frequency between ABKCO's semi-annual data and other Plaintiffs' quarterly data, Dr. Nagaraj simply splits each ABKCO song's semi-annual revenue in half and allocates the same revenue to each constituent quarter. This means that for every ABCKO song in a given year, its Q2 revenue will equal its Q1 revenue, and its Q4 revenue will equal its Q3 revenue. Because Dr. Nagaraj's model measures quarter-over-quarter changes in revenue, [redacted]. As a result, Dr. Nagaraj's alternative regressions models which include ABKCO data simply add erroneous data which do not reflect quarter-over-quarter changes in song revenue. Dr. Nagaraj does not offer any opinion as to why he still includes these flawed models in

the appendix of his Rebuttal Report, nor why he believes these erroneous models represent a "robustness analysis" for his preferred regression models.

111. Dr. Nagaraj also offers alternative regressions models in which he does not overwrite Claude traffic with zeroes after Anthropic's purported implementation of guardrails. Note that Dr. Nagaraj did not offer similar alternative models in his web traffic and Google Trends analyses in his Initial Report, and he offers no justification for doing so in his revenue regressions in his Rebuttal Report. A likely explanation for this alternative specification is that in Dr. Nagaraj's "Guardrails" models, his Claude variable is non-zero in only 2 out of 26 quarters (Q3 and Q4 2023). Given the volatility and potential seasonality of song revenue, as well as Dr. Nagaraj's failure to control for any other trends which might affect song revenue during these two quarters, noise in the data would likely obscure any effect Claude would have on song revenue in such a limited period. For this reason, any of Dr. Nagaraj's "Guardrails" models should be considered unreliable and not indicative of the robustness of Dr. Nagaraj's models and conclusions.

112. In addition to the "Guardrails" and "No Guardrails" variations, Dr. Nagaraj provides regression models which adopt actual values for Claude traffic, rather than log-transformed values used in his "preferred" models. Again, this is a superficial change, especially given that it leaves most Claude values unchanged, as they are already 0. Dr. Nagaraj also only removes the log-transformation for the Claude variable, while still using log-transformed values for the change in song revenue.

113. A much more meaningful robustness test would be to test an alternative model which uses the same functional form for both the dependent variable (song revenue) and variable of interest (Claude traffic). For example, the below sensitivity test measures the effect of applying log-changes for both song revenue *and* Claude traffic, not just the former. As Figure 3 shows, by

simply adopting a consistent transformation to both variables, Dr. Nagaraj's results are reversed in his "No Guardrails" model; the Claude variable has a negative coefficient significant at a 99% confidence level.

Sensitivity Test Using Change in Log Claude Traffic		
Dr. Nagaraj's Table 1:		
Dependent Variable: Δ Log Revenue		
	Guardrails	**No Guardrails**
Log Traffic	-0.002	-0.007
	-0.018	-0.010
Observations	12,688	12,688
R-Squared	0.5%	0.6%
Using Δ Log Traffic:		
Dependent Variable: Δ Log Revenue		
	Guardrails	**No Guardrails**
Δ Log Traffic	0.000	-0.028***
	-0.018	-0.006
Observations	12,688	12,688
R-Squared	0.5%	0.7%
*** p<.01, ** p<.05, * p<.1		

Figure 3

114. This alternative approach is not intended to convey the reliability of Dr. Nagaraj's models, but rather to illustrate the sensitivity of his model even to minor reasonable adjustments. This alternative approach addresses the obvious mismatch between the functional form of his dependent variable (the *change* in log-transformed revenue from the previous quarter) and his key independent variable (the *level* of Claude traffic, either actual or log-transformed). Furthermore, it provides a more easily interpretable result for the variable of interest's coefficient: the expected percentage change in a song's revenue from the previous quarter in response to a 1% increase in Claude traffic from the previous quarter. I note that the Guardrail Claude variable's coefficient, though negative, remains insignificant, which is unsurprising given the volatility of song revenue and the fact that in Dr. Nagaraj's data there are just two quarters where this variable is non-zero.

115. As the above demonstrates, similar results across similarly flawed models are not evidence of the robustness of Dr. Nagaraj's results nor the reliability of his conclusions.

3. Dr. Nagaraj's Rebuttal Regression Models Contradict his Own Assumptions and Adjustments in his Initial Report

116. In addition to similar deficiencies in data, model specifications, and purported robustness analyses, the revenue regressions offered by Dr. Nagaraj in his Rebuttal Report also contradict multiple assumptions and adjustments he adopted in his own Initial Report.

117. For example, in Dr. Nagaraj's Initial Report, he limits the data period for both his web traffic and Google Trends regressions to start at the beginning of 2022. He claims to do so "to avoid any unintended effects on the data from the COVID-19 pandemic." Nagaraj Report ¶ 109. Yet, in the Nagaraj Rebuttal, Dr. Nagaraj's revenue regressions include data for 2019 through 2025, overlapping with COVID-19 period (March 2020 through December 2021) that he cited concern for in his Initial Report. Nagaraj Report n.162. Dr. Nagaraj does not provide any basis for his inclusion of pre-2022 data in his revenue regressions, nor does he provide web traffic and Google Trends data prior to 2022 to determine the effect of excluding earlier months on the results of those regressions.

118. Dr. Nagaraj's revenue regressions also differ from his earlier regressions in their omission of month-year fixed effects. In his Initial Report, Dr. Nagaraj claimed these fixed effects were necessary to control for "time-dependent factors, meaning factors that are not constant over time, such as the release of a new song from a popular artist, or the season," Nagaraj Report ¶ 119, and he includes them in both his web traffic and Google Trends analyses. Yet, in his Rebuttal Report, with no explanation, Dr. Nagaraj does not include any fixed effects for time-dependent factors. In fact, he provides no analysis or economic reasoning whatsoever as to how he determined

time-dependent factors were necessary to control for in his previous regressions, but not his revenue regressions.

119. Given this disparity, the below test measures sensitivity of Dr. Nagaraj's revenue regressions to seasonality in his data. While Dr. Nagaraj's regression data in this instance is at a quarterly frequency, rather than weekly, a simple adjustment to address seasonality is to consider year-over-year changes in quarterly song revenue (*i.e.*, the change in song revenue from the same quarter in the previous year), rather than comparing song revenue against the previous quarter. As Figure 4 shows, this simple modification reverses the sign of his Claude coefficient in his "No Guardrails" model, causing it to become negative at a 99% confidence level.

Sensitivity Test Using YoY Change in Log Revenue

Dr. Nagaraj's Table 1:

Dependent Variable: Δ Log Revenue

	Guardrails	No Guardrails
Log Traffic	-0.002	-0.007
	-0.018	-0.010
Observations	12,688	12,688
R-Squared	0.5%	0.6%

Using Δ Log Revenue (YoY):

Dependent Variable: Δ Log Revenue (YoY)

	Guardrails	No Guardrails
Log Traffic	-0.002	-0.020***
	-0.007	-0.006
Observations	11,226	11,226
R-Squared	13.3%	14.3%

*** p<.01, ** p<.05, * p<.1

Figure 4

120. This alternative approach is not intended to convey the reliability of Dr. Nagaraj's models, but rather to illustrate the sensitivity of his model even to minor reasonable adjustments. I note that the Guardrail Claude variable's coefficient, though negative, remains insignificant,

which is unsurprising given the volatility of song revenue and the fact that in Dr. Nagaraj's data there are just two quarters during which this variable is non-zero.

121. As with the regression analyses in his Initial Report, the revenue regressions in Dr. Nagaraj's Rebuttal Report are plagued by numerous flaws and unsubstantiated assumptions. Dr. Nagaraj adopts improper data and model specifications which fail to measure the effect of Anthropic's conduct at issue on the relevant market. Dr. Nagaraj purports to establish the "robustness" of his analyses and conclusions by offering numerous alternative regression models, which feature superficial changes while suffering from the same shortcomings or even introducing new errors.

122. While I demonstrate the impact of various modifications to Dr. Nagaraj's revenue regressions, these checks merely demonstrate the sensitivity of Dr. Nagaraj's models to even minor reasonable adjustments. The poor explanatory power of Dr. Nagaraj's results is not evidence of a lack of harm to Plaintiffs caused by Claude, but rather indicative of the difficulty of reliably measuring the overall harms suffered by Plaintiffs. Given data limitations, including the limited data on lyric-related Claude usage and the volatile nature of revenue and traffic data in the market for the online display of lyrics, not to mention the relatively early stage of development of this industry at the time measured, Dr. Nagaraj's regression analyses are not a reliable method of establishing whether and to what extent Plaintiffs were harmed and are likely to continue to be harmed by Anthropic's conduct at issue.

123. Instead, I argue that a more applicable measure of harm in the market for the online display of lyrics relies on an economic principle that Dr. Nagaraj describes in his characterization of Napster and Grokster in his Rebuttal Report: "when a song would appear on Napster, ***that***

unquestionably cannibalized demand on other platforms and became a one-to-one substitution." Nagaraj Rebuttal ¶ 93 (emphasis added).

B. Anthropic Does Not Dispute that Claude is Capable of Creating Damaging Derivative Works

124. Dr. Nagaraj contends that there is no evidence that Anthropic's Claude has generated derivative lyrics that are offensive and reputationally damaging. Nagaraj Rebuttal ¶ 149. He does not, however, dispute my conclusion that Anthropic's unlicensed and unrestricted use of Publishers' lyrics in training enables the creation of such reputationally damaging derivatives.[96] Removing Publishers' right to control the production of derivatives to works that they own is a harm, and a harm discussed in the final report of the ad hoc committee of economic scholars convened by the U.S. Copyright Office.[97]

125. As Dr. Nagaraj notes, I also used Mr. Dennis's analysis of Anthropic's sample production to demonstrate how Anthropic's users are prompting Claude to create lyrical derivatives. *See* Smith Report ¶ 171. Notwithstanding Dr. Nagaraj's assertion to the contrary, *see* Nagaraj Rebuttal ¶ 151, these *are* "real-world" examples of Claude producing mashups and derivatives that are completely outside of a rightsholder's control. To that end, this past year there have been several high-profile instances of offensive AI-generated derivatives in the news,[98] and Publishers' in

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[96] Dr. Nagaraj notes that I did not include a definition of "derivative" in the Smith Report. *See* Nagaraj Rebuttal ¶ 150. For purposes of my opinions in this case, by "derivative," I refer to the definition of "derivative work" set forth in the U.S. Copyright Act. *See* 17 U.S.C. § 101.

[97] *See, e.g.*, Jia & Nagaraj, *Cloze Encounters, supra*, n. 77, at pp. 24 & 34.

[98] *See, e.g.*, Joe Coscarelli, *An A.I. Hit of Fake 'Drake' and 'The Weeknd' Rattles the Music World*, THE N.Y. TIMES (updated Apr. 24, 2023), https://www.nytimes.com/2023/04/19/arts/music/ai-drake-the-weeknd-fake.html) (last visited Feb. 13, 2026).

this case have explained how damaging it can be to their relationships with artists, who have entrusted them to steward and administer their works.[99]

126. The "safeguards" that Dr. Nagaraj refers to are pertinent with respect to exact lyric match and regurgitation, but not to derivative lyric creation. Moreover, even with safeguards and guardrails, Publishers are without any ability to ensure their effectiveness and application, leaving them at the mercy of Anthropic's future largesse to keep them working and in place. This is a costly risk that Publishers alone must bear while Anthropic reaps the benefit of their works.

127. Dr. Nagaraj points to an instance where Claude ostensibly rejects a user's request to produce a parody of the "star spangled banner" (not a work-in-suit). *See* Nagaraj Rebuttal ¶ 154. Dr. Nagaraj claims this demonstrates Claude's ability to refuse generating "offensive" outputs, which, even if we accept that this is an offensive request, misses the point. What counts as "offensive" is subjective, and the *rightsholder*, not Anthropic, should get to make that subjective determination. For example, a religious or conservative songwriter may object to their song being adapted to include more sexual content, whereas a more sex-positive artist may not care in such a circumstance. The loss of control to Anthropic is the harm, and Dr. Nagaraj does not dispute that Anthropic's unlicensed consumption of Publishers' works has resulted in a loss of control over their right to make derivative works.

128. Dr. Nagaraj claims that Publishers are nevertheless able to submit "takedown requests" to prevent reputational or financial harm. Nagaraj Rebuttal ¶ 156. Even if this is true, it does not fully redress the loss of control suffered by Anthropic's unlicensed taking of Publishers' works (*i.e.*, Publishers must still rely on Anthropic to act) and, if anything, imposes an additional cost on Publishers to monitor for damaging derivatives that would not exist but for Anthropic's

[99] *See* Smith Report ¶ 181.

conduct. From a practical standpoint, Publishers also have no way to observe what responses Claude is giving to users in private outputs, which may nevertheless be reputationally damaging or offensive even on an individual scale.

129. Dr. Nagaraj's rebuttal has not changed my view that Anthropic's unlicensed scraping and training of Publishers' works has resulted in a damaging loss of control in their ability to make derivatives of the Works-in-Suit.

C. Dr. Nagaraj Fails to Account for What Will Happen if Anthropic's Practices Become Widespread

130. Dr. Nagaraj contends that I have overstated the harm caused by Anthropic's unlicensed conduct, Nagaraj Rebuttal § IV.C, the harmful effects from which I explain in detail in the Smith Report and will not repeat here. *See* Smith Report ¶¶ 137–56. To the contrary, Dr. Nagaraj understates the harm caused by Anthropic's conduct and that he does not offer enough (or any) discussion about what will happen if Anthropic's conduct is accepted by the Court here and becomes widespread among Anthropic's AI competitors. *See* Smith Report ¶ 159. To that end, Dr. Nagaraj's critiques of my analysis are mistaken.

131. First, Dr. Nagaraj claims that I "do not explain which market [Anthropic's conduct] would harm." Nagaraj Rebuttal ¶ 159. This is not accurate. In the Smith Report, I explained how Anthropic's conduct directly undermines Publishers' ability to restrict access to their content—a necessary precondition for any licensing market—specifically in the nascent market for Publishers' lyrics as AI training data. *See* Smith Report ¶¶ 137–45.

132. Dr. Nagaraj's demand for "empirical research" of financial harm from scraping ignores factual reality. Nagaraj Rebuttal ¶ 160. The market for Publishers' lyrics as AI training data is no more than a few years old, and it is so far represented by only two licensing agreements (with Udio and Klay). *See* Smith Report ¶ 120. Anthropic has taken the position that it does not need to

pay for any training data it collects from the internet and therefore does not have any valuation benchmarks that are not infected by that erroneous assumption. *See* Smith Rebuttal ¶ 74. Accordingly, the "empirical" evidence of harm that Dr. Nagaraj seems to be searching for is counterfactual—I cannot, for example, show a decrease in licensing revenue as a result of Anthropic's conduct because there is not yet sufficient evidence to contrast against.[100] That does not mean the harm is not real.

133. I am not persuaded by Dr. Nagaraj's rebuttal to my comparison between Anthropic's scraping conduct and digital piracy. Nagaraj Rebuttal ¶ 161. Specifically, Dr. Nagaraj claims that the comparison is not "sound" because, unlike early distribution platforms like Napster, "Anthropic's primary goal is not to provide equivalent, duplicative, or substitutable version of copyrighted works[.]" *Id.* As an initial matter, "Anthropic's primary goal" is irrelevant"—what matters is what Anthropic actually does, and here Anthropic's conduct reflects a one-to-one replacement of data used to train Claude that otherwise would need to be licensed by Publishers. As Dr. Nagaraj's own research shows, exclusivity is an important factor in data valuation,[101] and by scraping Publishers' works and using those works to train its models (and thereby normalizing or even encouraging such conduct by others), Anthropic not only reduces demand for Publishers' works but also decreases the value of Publishers' works as exclusive training data.

[100] Indeed, as I explained in the Smith Report, academic literature struggled to coalesce around a means of showing the economic harm of piracy for many years, but consensus was eventually reached. *See* Smith Report ¶ 95.

[101] Jia & Nagaraj, *Cloze Encounters, supra*, n. 77.

D. Dario Amodei Agrees that Anthropic's Conduct Will Harm the Intrinsic and Extrinsic Incentives of Creators to Create

134. I am surprised that Dr. Nagaraj disagrees with me on "a theoretical level" that the loss of attribution results in reduced intrinsic and extrinsic incentives among creators to create. Nagaraj Rebuttal ¶ 166. The issue was discussed extensively by the ad hoc committee of ten economic scholars convened by the U.S. Copyright Office and is included in the committee's final report. Notably, on page 34 the report states "[s]ome creators may be distributing works in part because they wish to be recognized as creators. Thus, whether attribution is granted in the use of distribution of a work may affect the creator's intrinsic incentives to create that work."[102] I don't recall any of the scholars disagreeing with that conclusion, either during the committee's discussions or during the drafting of our final report.

135. Additionally, with respect to Dr. Nagaraj's contention that my conclusions lack evidence, he ignores the anticipated future effects that I described, and which Anthropic does not seem to contest. *See* Smith Report ¶¶ 79–84. He also ignores that Anthropic's witnesses have admitted to removing CMI and related attributions during the company's deduplication processes.[103]

136. Dr. Nagaraj also misreads the "Piracy and New Product Creation: A Bollywood Story" paper. *See* Nagaraj Rebuttal ¶ 169 n.362. Specifically, the quote that Dr. Nagaraj selectively pulls to contend that the paper's results are specific to the Indian film industry is simply motivating why the study matters. It is difficult to establish causation between music output and harm from

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[102] Brent A. Lutes, ed., *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy*, at p. 34, U.S. COPYRIGHT OFFICE (Feb. 2025), https://www.copyright.gov/economic-research/economic-implications-of-ai/Identifying-the-Economic-Implications-of-Artificial-Intelligence-for-Copyright-Policy-FINAL.pdf.

[103] D. Drain 30(b)(l) Tr. 117:25-119:24 (discussing importance of removing "garbage" data from Common Crawl dataset during preprocessing phase of model training).

piracy without being able to break endogeneity. Accordingly, the researchers in this paper are not suggesting that such harm does not exist in the music industry (or that it only exists in the Indian film industry), they are simply saying that their research here contributes to the literature because of a unique empirical setting that may not exist in other industries.

VI. Julie Davis's Rebuttal Report Does Not Change Any of My Opinions.

137. Ms. Davis's rebuttal report contains numerous erroneous assumptions, contradictions, and opinions that do not appear to be responsive to anything in the Smith Report.

138. At the outset, I note that the Davis Rebuttal does not resolve her apparent disagreement with Dr. Nagaraj about how to define the "relevant market" for purposes of their respective "factor 4" analyses. *See* Smith Rebuttal ¶¶ 9, 144. As discussed above, Dr. Nagaraj contends that the correct market to analyze is a "market to assemble all data needed to train a general-purpose LLM," Nagaraj Report ¶ 34; Nagaraj Rebuttal ¶ 12, while Ms. Davis analyzed the "market for licensing the lyrics of the Asserted Works," *see* Davis Report at p. 49. I explained in the Smith Rebuttal that Ms. Davis's market was the more appropriate of the two, given that it framed the relevant market in terms of Publishers' copyrighted works, and how the discrepancy between Anthropic's experts further supported my belief that Dr. Nagaraj's market definition is overtly constrained and unreliable. Smith Rebuttal ¶ 144. I now note that despite disclosing that she reviewed both the Nagaraj Report and the Smith Report in connection with drafting the Davis Rebuttal, she has not addressed nor attempted to resolve the apparent discrepancy between her and Dr. Nagaraj with respect to an appropriate market definition, and she offers no opinion as to the appropriateness of the relevant markets that I identified as being harmed by Anthropic's conduct in this case.

139. I address the remainder of Ms. Davis's rebuttal opinions below.

A. Ms. Davis Offers No Basis to Dispute the Fact that Anthropic has Generated Billions of Dollars in Capital Investment from its Unlicensed and Uncompensated Use of Copyrighted Works, Including Publishers' Lyrics

140. Ms. Davis contends that I "entirely ignore[d], without explanation, other measures of Anthropic's income/profit which have been and continue to be, negative." *See* Davis Rebuttal at p. 4. But in the face of Anthropic's meteoric valuation,[104] Other measures of Anthropic's income or profit do not take away from my overarching point that Anthropic has, in fact, generated substantial revenue, profits, and investment from its unlicensed and uncompensated use of content (including Publishers' lyrics), which Dr. Nagaraj even describes as the "lifeblood of generative AI foundation models."[105] Ms. Davis cannot then seriously contend that, just because certain profitability metrics reflect negative in the early years of a start-up, a company that has enjoyed multiple multi-billion dollar fundraising rounds has not generated significant value from its work. Anthropic's executives agree that Publishers are entitled to some of that enormous value.[106]

141. Along those same lines, Ms. Davis also appears to contend that any increase in revenues and profits that occurred "*after* the guardrails were implemented" (emphasis in original) are "unrelated to the request for, or display of, lyrics, let alone the lyrics for the 499 Asserted Works." Davis Rebuttal at p. 4. But Ms. Davis does not offer any basis (let alone her own analysis)

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[104] As of September 2025, Anthropic announced a $13 billion Series F funding round with a $183 billion "post-money valuation." *See Anthropic Raises $13B Series F at $183B Post-Money Valuation,* ANTHROPIC (Sep. 2, 2025), https://www.anthropic.com/news/anthropic-raises-series-f-at-usd183b-post-money-valuation. As of yesterday, this valuation has now skyrocketed to $380 billion following another capital injection of another $30 billion. *Anthropic raises $30 billion in Series G funding at $380 billion post-money valuation*, ANTHROPIC (Feb. 12, 2026), https://www.anthropic.com/news/anthropic-raises-30-billion-series-g-funding-380-billion-post-money-valuation.

[105] Jia & Nagaraj, *Cloze Encounters, supra*, n. 77.

[106] Anthropic_0000462964; Anthropic_0000462969.

to believe that Anthropic's guardrails were effective in stopping all requests for lyrics, nor does she explain why Anthropic's revenue and profit increases after guardrails could not be attributable to Anthropic's training on Publishers' works. Indeed, the former point is disputed by the parties' experts, as Ms. Davis even notes later in her Rebuttal where she cites Mr. Dennis's findings that Claude generated almost 22,000 lyric outputs in just the three months post-guardrails. *See* Davis Rebuttal at p. 9.

142. Ms. Davis further disputes my conclusion that Anthropic has derived significant value from the works it has consumed, including Publishers' lyrics, by relying on analysis from Anthropic's expert Dr. Bilmes. *See* Davis Rebuttal at pp. 4–5. Specifically, she quotes Dr. Bilmes's conclusions that lyrics aren't "necessary for Claude to generate lyric-like outputs" and that "lyrics do not constitute a high-quality dataset for general-purpose LLM training." *Id.* Here, she unravels Dr. Nagaraj's contention that "expansive" intellectual property rights will stifle innovation in the generative AI industry. *See* Nagaraj Rebuttal ¶¶ 83–93. As I note above, either Publishers' lyrics are valuable in AI training, and Anthropic has incentives to pay Publishers to license them, or their value is trivial,[107] and Anthropic could simply refrain from using them with no effect on its models' performance. It cannot be that Anthropic gets to ignore Publishers' intellectual property rights because it does not value Publishers' lyrics.

143. Ms. Davis next relies on the analyses of various other experts in this case to illustrate her apportionment opinions. *See* Davis Rebuttal at pp. 3–7. Specifically, she contends that (1) Publishers' lyrics make up a small percentage of tokens used to train various Claude models and (2) lyric regurgitation reflects a small percentage of total Claude prompt/outputs. With respect to

[107] And the fact that other AI companies have happily engaged Publishers and licensed their catalog of works for AI training suggests that lyrics are *not* trivial in value.

her first contention, the Smith Rebuttal explains in detail why token yield and training-corpus percentage are unreliable metrics for data valuation—a view that is shared by Dr. Nagaraj's research "refut[ing] the claim that any single source has a negligible effect on model performance, even in large production models."[108] And with respect to her second contention, the Smith Rebuttal also explains why statistics of relative Claude usage (as opposed to absolute figures) are not appropriate stand-ins for value. *See* Smith Rebuttal ¶ 78. Moreover, neither of Ms. Davis's apportionment contentions account for the damage inflicted by Anthropic's unlicensed scraping conduct, which destroys value derived from the exclusivity of Publishers' lyrics as training data—another opinion espoused by Dr. Nagaraj's prior academic research.[109]

144. Ms. Davis thereafter notes and selectively quotes a series of documents, reports, and transcripts that she contends support her view that "lyric regurgitation is not a primary use case for Claude or driving users to Claude," but she offers no discussion nor analysis of any of the sources cited. *See* Davis Rebuttal at pp. 10–13.

145. Ms. Davis next applies the findings of Dr. Bilmes and Dr. Bray to determine what portion of Anthropic's gross profits are attributable to Publishers' works. *See* Davis Rebuttal at pp. 13–15. But profit is the wrong starting point for this exercise. The company has a ***$380 billion post-money valuation***.[110] Investors obviously believe that the company will be hugely profitable in the future, so the fact that Anthropic has not made substantial profits yet is not indicative of the

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[108] Jia & Nagaraj, *Cloze Encounters, supra*, n. 77.

[109] Jia & Nagaraj, *Cloze Encounters, supra*, n. 77 ("These findings therefore have implications for pricing of data licenses, and support more bargaining power for content providers who provide more unique content.").

[110] *Anthropic raises $30 billion in Series G funding at $380 billion post-money valuation*, ANTHROPIC (Feb. 12, 2026), https://www.anthropic.com/news/anthropic-raises-30-billion-series-g-funding-380-billion-post-money-valuation.

value the company has generated from the copyrighted works, including Publishers' lyrics it has used in training its models.

B. Ms. Davis Offers No Substantive Response to My Conclusion that Use Cases Related to Music Lyrics are a Significant Draw for Anthropic's Customers

146. Ms. Davis does not offer any substantive analysis of her own in disputing my conclusion that lyric-related use cases represent a significant draw for Anthropic's customers. *See* Davis Rebuttal at pp. 15–16. Instead, she relies almost entirely on the fact that Anthropic's expert Dr. Bray "disagrees with Mr. Dennis' analysis and finds his methodology unsound and conclusions unreliable" as the basis for her contention that my own conclusion is unsupported. *Id.* at p. 15.

147. She then claims that, even when accepting Mr. Dennis's findings, lyric-related prompts only represent a small fraction of total prompts over the relevant time period. *Id.* at pp. 15–16. But even if lyric-related prompts represent only a tiny fraction of total prompts, the absolute number of prompts is more significant in determining whether a use case is prevalent among Claude users. In this case, Mr. Dennis identified hundreds of thousands of lyric-related prompts across the six-month relevant period. That is a significant number of queries, and Ms. Davis offers no reason to believe that number will not continue to expand alongside Anthropic's user base in the coming years.

148. Last, Ms. Davis offers no discussion regarding the many admissions from Anthropic's own witnesses and employees who have used Claude specifically for the purpose of searching for existing lyrics and generating new lyrics. *See* Smith Report ¶ 81; *see also* T. Brown 30(b)(1) Tr. 105:23–106:7 ("I'm not a very good lyricist, and so I wanted to . . . like ask Claude . . . to give me feedback because I didn't have access to somebody who would help coach me on lyric writing."); 126:15–17 ("I have definitely asked Claude for things like—like coaching me on making my own songs."); 129:8–10 ("I think sometimes it's given me, like, little snippets to, like,

illustrate a point."); 230:4–7 ("Producing novel, creative song lyrics is a use case that I think seems like a perfectly fine use case that seems good to—for Claude to do."); 316:3 – 319:22 (explaining how, during parental leave, he used Claude to help him write poetry and short stories in the style of existing authors); 239:25–242:25 (while discussing Anthropic_0000011757, explains how Claude can rhyme better than any human and noting instances when Claude appears "super human" by doing "better than the best person whose data it has seen").

C. Ms. Davis Disputes the Magnitude, not the Fact, that Anthropic Received Compensation from Generating Verbatim Copies of the Works-in-Suit

149. Ms. Davis contends that my conclusion that Anthropic received payment in exchange for generating verbatim reproductions of Publishers' lyrics is "based upon a flawed analysis." Davis Rebuttal at p. 16. Crucially, though, Ms. Davis does not appear to dispute that Anthropic did, in fact, receive payment for generating verbatim reproductions, only how much it received. In fact, Ms. Davis seems to agree that Anthropic received at least a "*de minimis*" amount of the payments made by infringing Claude users. Davis Rebuttal at p. 17. While we may disagree over the magnitude of "de minimis," we appear not to disagree over the baseline fact that Anthropic received financial compensation for infringing conduct.

150. Ms. Davis next argues that I have not explained why "revenues for a user that was not paying for Claude at the time of the prompt/output at issue and then later became a paying customer should be considered part of [my] analysis." Davis Rebuttal at p. 17. In support, she points to one instance in which a user was not paying for Claude, appears to have prompted Claude into generating an infringing output, and then subsequently became a paying customer to Anthropic. *Id.* As I explained previously, lyric-related use cases are a significant draw for prospective Claude users, and this instance pointed to by Ms. Davis is appropriately included in my analysis

because there is a presumption and inference that the user enjoyed Anthropic's service enough (including the infringing lyrical output) to upgrade their account to a paid account.

151. Ms. Davis's "Fourth" contention that my analysis is somehow faulty because it relies on Mr. Dennis's analysis since Dr. Bray "finds Mr. Dennis's analysis . . . to be unreliable and based on an unsound methodology," is not an opinion. Similarly, Ms. Davis's "Fifth" contention that Anthropic believes "at least some of the outputs that Mr. Dennis has identified are not infringing" is also not an opinion but a point of fact under dispute.

D. Ms. Davis Does Not Dispute That Publishers' Valuation is Relevant to Determining What Anthropic Would Have Paid to License Publishers' Lyrics

152. In the Smith Report, I explained how it would be difficult, if not impossible, to retroactively determine what Anthropic would have paid to license Publishers' lyrics, including because the AI licensing market is so new and there are "relatively few benchmark agreements to rely on, given the infancy of AI technology." *See* Smith Report ¶ 160. Both Ms. Davis and Dr. Nagaraj have offered opinions as to Anthropic's valuation of Publishers' lyrics, but as Dario Amodei recognizes, "[h]aving only one side of the market is like forcefully buying the data by eminent domain."[111] Accordingly, as a way of demonstrating Publishers' "side of the market," I showed how Publishers' license agreements with lyric-display companies, digital service platforms, and other entities routinely [redacted]. *Id.* I also explained that, while it is "likely impossible to determine what Anthropic would have paid to license Publishers' lyrics," given the lack of relevant benchmarks in the AI licensing market, these agreements reflect "some idea" as to Publishers' valuation of their lyric catalogs. *Id.*

[111] *See* Anthropic_0000462964, at -67.

153. Ms. Davis contends, however, that I have ignored "significant differences in the agreements," which she says causes my analysis to be unreliable. *Id.* at p. 20. Again, Ms. Davis appears to only dispute the degree to which certain aspects of these agreements are relevant, but not the overarching premise that a retrospective determination of what Anthropic would have paid to license Publishers' lyrics must account for both Anthropic's valuation *and* Publishers' valuation. To that end, many of her critiques of my analysis are irrelevant and faulty.

154. First, throughout this section of the Davis Rebuttal, Ms. Davis contends that, to the extent any of Publishers' agreements provide some idea as to their valuation of lyrics, "such valuation needs to be considered in light of the substantial differences in the scope of those agreements . . . and the allegations in this matter." Davis Rebuttal at p. 22. Specifically, she highlights the fact that many of Publishers' agreements [redacted] as opposed to only the 499 Works-in-Suit at issue here.[112] *Id*. Ms. Davis fails to appreciate, however, that Anthropic would not have been able to anticipate which works its users would request lyrics for in the future, and therefore that any retrospective analysis of a hypothetical licensing negotiation between Publishers and Anthropic would have most likely been on a catalog-wide or near catalog-wide basis. Accordingly, any licensing agreement between the parties would have to have been for Publishers'

[112] *See, e.g.*, Davis Rebuttal at pp. 22 ("[S]uch valuation needs to be considered in light of the substantial differences in the scope of those agreements (*i.e.*, worldwide rights for entire catalogs) and the allegations in this matter (*i.e.*, U.S. rights for 499 Asserted Works). . . . "[A]ll of the agreements include [redacted] as opposed to only the 499 Asserted Works in this matter."), 23 ("UMPG's agreements with Apple, like others, [redacted]."), 25 ("Dr. Smith does not account for the fact that the agreements he discusses included [redacted] as opposed to only the 400 Asserted Works that are at issue in this matter.").

entire (or near entire) catalog, as is their common practice.[113] Ms. Davis does not account for this in her critique of the Smith Report.

155. Second, Ms. Davis appears to contend that I do not provide enough analysis regarding the "similarities, or differences" among certain of Publishers' agreements with various lyric-display sites. *Id.* at p. 21. However, Ms. Davis does not identify which "similarities, or differences" between these agreements she contends would be relevant to a hypothetical negotiation with Anthropic, which she notes, in the same paragraph, would not necessarily apply in a deal with Anthropic. *See* Davis Rebuttal at p. 22 ("Dr. Smith wholly ignores the substantial rights that these licensees received, and amounts paid for those rights, compared to what any license with Anthropic would cover."). In any case, the Smith Report goes into great detail about the kinds of rights and restrictions Publishers would likely expect in a hypothetical licensing agreement with Anthropic. *See* Smith Report ¶¶ 120–36.

156. Relatedly, Ms. Davis's contention in this paragraph that "the only specific amount" I reference is the [redacted] is incorrect. In the same paragraph, I cite to multiple lyric-display agreements, which reflect compensation on the face of the documents. *See* Smith Report ¶ 164 (citing ABKCO_0000000052; ABKCO_0000000328; ABKCO_0000000045; UMPG_0000000311; UMPG_0000018093; UMPG_0000000335; CONCORD_0000000168; CONCORD_0000000212).

157. Third, as with my discussion regarding lyric-display agreements, Ms. Davis contends that I did not offer enough discussion regarding the differences in rights granted to digital

[113] Ms. Davis also notes a distinction between the value of "U.S. only" rights and "worldwide" rights, which is a distinction I did draw with respect to UMPG's [redacted]. *See* Smith Report ¶ 126 ("Notably, the [redacted]).

display and social media companies, which Ms. Davis appears to contend, without basis, would not apply or would (presumably) apply differently in a deal with Anthropic. *See* Davis Rebuttal p. 23–24. But as I expressly explained, in the Smith Report, "[w]ithout personal knowledge of the various and specific business considerations at play in any corporate negotiation, it is likely impossible to determine precisely what Anthropic would have paid to license Publishers' lyrics, but the payments reflected in Publishers' agreements with DSPs, lyric-display sites, and social media companies provide some idea as to valuation." Smith Report ¶ 167. In any case, I offered significant analysis about what Publishers would likely expect in terms of rights and restrictions granted in a hypothetical licensing agreement based on UMPG's agreements with Udio and Klay. Smith Report ¶¶ 120–36.

158. Last, Ms. Davis contends that, "[w]hile stating that these agreements provide 'some idea as to valuation,' which Dr. Smith does not define, it is important to note that the license amounts represent revenues to the licensors (i.e., the Music Publishers); however, any analysis of 'valuation' would also need to consider the costs incurred by the Music Publishers in order to determine the profits the Plaintiffs receive related to any licenses they may have." Davis Rebuttal at p. 26. Ms. Davis does not define "value" in her own discussion of how Anthropic values Publishers' lyrics either. *See, e.g.*, Davis Rebuttal at p. 5. Moreover, if it's Ms. Davis's contention that a valuation of Publishers' lyrics must include some account of creation costs, then Anthropic's valuation of Publishers' lyrics completely fail that metric, as it only account for Anthropic's subjective valuation of those lyrics in terms of token yield and does not account for any of the labor or expenses that went into creating and popularizing those lyrics.

E. Ms. Davis Fails to Account for All Relevant Factors Used in Determining Statutory Damages

159. Unlike Ms. Davis, I offer no opinion on the appropriate amount of statutory damages that the jury should award in this case, nor do I opine on whether any particular amount would be proportionate or disproportionate. It is not clear to me which opinion of mine Ms. Davis's statutory damages analysis purports to be rebutting. *See* Davis Rebuttal at pp. 27–30. I note, however, that Ms. Davis's opinion that "The Plaintiffs Claimed Statutory Damages are Disproportional" fails to account for what I understand to be relevant factors for statutory damages, including the need to deter future infringement; the need to penalize the infringer; the circumstances of the infringement; and whether the infringement was intentional.[114]

[114] 17.37 Copyright—Damages—Statutory Damages (17 U.S.C. § 504(c)), Ninth Circuit Model Jury Instructions, https://www.ce9.uscourts.gov/jury-instructions/node/706 (last visited Feb. 13, 2026).

Appendix 1

EXPERT MATTERS

No	*Case*	*Date*	*Venue*
1	*In re Google Generative AI Copyright Litigation*, 5:23-cv-03440-EKL (N.D. Cal. 2023)	2023	Northern District of California
2	*Warner Records Inc, et al. v Altice USA Inc.*, 2:23-cv-00576-JRG-RSP (E.D.T.X. 2023)	2023	Eastern District of Texas
3	*Bartz v. Anthropic PBC*, 791 F. Supp. 3d 1038 (N.D. Cal. 2024)	2024	Northern District of California

TESTIMONY IN LAST 4 YEARS

Warner Records Inc, et al. v Altice USA Inc.	Declaration
Bartz et al. v. Anthropic PBC	Declaration
In re Google Generative AI Copyright Litigation	Declaration
United States Copyright Royalty Judges on behalf of Settling Devotional Claimants in the 2018-2021 distribution of cable royalty funds	Testimony
Too Big to Prosecute?: Examining the AI Industry's Mass Ingestion of Copyrighted Works for AI Training, Sen. Comm. on the Jud. (July 16, 2025)	Testimony

DISCOVERY, PLEADINGS, AND PRODUCED DOCUMENTS RELIED UPON

Action Discovery, Pleadings
Expert Reply Report of Joshua Dennis (Feb. 13, 2026)
Expert Rebuttal Report of Dr. Abhishek Nagaraj (Jan. 23, 2026)
Expert Rebuttal Report of Julie L. Davis (Jan. 23, 2026)
Expert Rebuttal Report of Michael D. Smith (Jan. 23, 2026)
Expert Report of Dr. Abhishek Nagaraj (Dec. 19, 2025)
Expert Report of Joshua Dennis (Dec. 19, 2025)
Expert Report of Julie L. Davis (Dec. 19, 2025)
Expert Report of Michael D. Smith (Dec. 19, 2025)

Deposition Transcripts and Exhibits
Benjamin Mann 30(b)(6) Transcript and Exhibits (November 20, 2025)
Daniela Amodei 30(b)(1) Transcript and Exhibits (November 12, 2025)

Dario Amodei 30(b)(1) Transcript and Exhibits (January 8, 2026)
Dawn Drain 30(b)(l) Transcript and Exhibits (November 12, 2025)
Duff Berschback 30(b)(6) & 30(b)(1) Transcript and Exhibits (October 10, 2025)
Jared Kaplan 30(b)(1) Transcript and Exhibits (November 21, 2025)
Thomas Brown 30(b)(1) Transcript and Exhibits (January 22 & January 26, 2026)
Tom Turvey 30(b)(6) Transcript and Exhibits (November 5, 2025)

BATES-NUMBERED DOCUMENTS

ABKCO_0000000052
ABKCO_0000000045
ABKCO_0000000328
Anthropic_0000011373
Anthropic_0000011382
Anthropic_0000011757
Anthropic_0000012538
Anthropic_0000016458
Anthropic_0000229152
Anthropic_0000235875
Anthropic_0000462964
Anthropic_0000462969
Anthropic_0000524085
Anthropic_0000597354
CCMG_0000001277
CONCORD_0000000168
CONCORD_0000000212
CONCORD_0000016756
UMPG_0000000311
UMPG_0000000335
UMPG_0000018093
UMPG_0000025145
ABKCO_0000000052
ABKCO_0000000045

INTERNET AND ACADEMIC REFERENCES

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2. Anna Tong, et al., *Exclusive: Reddit in AI Content Licensing Deal with Google*, REUTERS (Feb. 21, 2024), https://www.reuters.com/technology/reddit-ai-content-licensing-deal-with-google-sources-say-2024-02-22/.

3. *Anthropic Raises $13B Series F at $183B Post-Money Valuation,* ANTHROPIC (Sep. 2, 2025), https://www.anthropic.com/news/anthropic-raises-series-f-at-usd183b-post-money-valuation.

4. *Anthropic raises $30 billion in Series G funding at $380 billion post-money valuation*, ANTHROPIC (Feb. 12, 2026), https://www.anthropic.com/news/anthropic-raises-30-billion-series-g-funding-380-billion-post-money-valuation.

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

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

DESIGNATED HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY

Judge Eumi K. Lee
Magistrate Judge Susan van Keulen

SUPPLEMENT TO DECEMBER 19, 2025 EXPERT OPINION OF

PROFESSOR MICHAEL D. SMITH

Dated: February 13, 2026



Michael D. Smith

160. On December 19, 2025, I issued an initial expert report in this case. *See* Expert Report of Michael D. Smith (Dec. 19, 2025) (hereinafter the "Smith Report"). On the same day, Defendant Anthropic PBC ("Anthropic") served a series of expert reports from Dr. Abhishek Nagaraj (hereinafter the "Nagaraj Report"), Julie L Davis (hereinafter the "Davis Report"), Dr. Andrew Bray, Collin Stokes, Dr. Jeff Bilmes, and Russ B. Altman. Also on December 19, 2025, Publishers served several other expert reports, including from Joshua Dennis (hereinafter the "Dennis Report"), Benjamin Zhao, Shawn Shan, and Hal Leonard.

161. The Smith Report contained certain analysis that relied on the findings contained in "Exhibit 8" of the Dennis Report, which in turn relied on certain information produced by Anthropic (the "Source File"[115]). Specifically, the Smith Report relied on the Dennis Report to conclude that "48 Unique IDs (the 'Paying Accounts') were responsible for paying Anthropic a total 'amount' of [redacted] between April 2023 and February 2024." *See* Smith Report ¶¶ 204–05. The Smith Report separately concluded that these Paying Accounts were collectively responsible for a list of "Works-in-Suit Records," which appear on their face to include the lyrics to Publishers' Works-in-Suit.[116] As described in more detail in the Smith Report, from these findings, I concluded that "Anthropic received some fraction of the total [redacted] paid by the Paying Accounts as a result of generating the Works-in-Suit Records." Smith Report ¶ 205.

162. I understand that, after the issue date for the Smith and Dennis Reports, counsel for Anthropic informed counsel for Publishers that the Source File contained a "data join error" that

[115] *See* Anthropic_0000524085.

[116] I have not reviewed the Works-in-Suit Records that Mr. Dennis analyzed, but I rely on his findings for purposes of the following.

"resulted in errors in the billing information."[117] I understand that Anthropic subsequently produced a corrected version of the file on February 4, 2026.[118] I also understand that Mr. Dennis has subsequently updated Exhibit 8 from the Dennis Report to reflect changes contained in the updated Source File, which I have reviewed. Upon my review of the updated Dennis Report Exhibit 8, it appears that the total number of Unique IDs identified by Mr. Dennis has increased from 48 to 185, and that the final "amount" paid by these Unique IDs has been revised to [redacted] during the period between September 7, 2023, and October 21, 2025.

163. Given that this "amount" revision and the total number of relevant Paying Accounts appear to be the only material changes as a result of the updated Source File, I maintain my opinion that Anthropic received some fraction of the total amount ([redacted]) paid by the Paying Accounts (185) between September 7, 2023, and October 21, 2025, as a result of generating the Works-in-Suit Records.

164. To the extent that Anthropic serves additional expert reports or supplements any of the reports it has already served, I reserve the right to supplement my analyses and opinions.[119]

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[117] Email, R. Burrell to Publishers (Feb. 4, 2026); *see also* Supplement to Rebuttal Expert Report and Disclosure of Julie L. Davis (Feb. 10, 2026).

[118] *See* Anthropic_R_0000524085.

[119] I continue to reserve the right to supplement or modify my analyses based on recent or forthcoming discovery provided by Anthropic, including newly discovered information as it becomes available.