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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 Number: 5:24-cv-03811-EKL-SVK

DECLARATION OF DR. MICHAEL D. SMITH IN SUPPORT OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

FILED UNDER SEAL
Judge Eumi K. Lee
Magistrate Judge Susan van Keulen

I, Michael D. Smith, hereby declare pursuant to 28 U.S.C. § 1746:

1. I am the J. Erik Jonsson Professor of Information Technology and Marketing at Carnegie Mellon University's Heinz College of Information Systems Management and Public Policy Management, where I co-direct Carnegie Mellon University's Initiative for Digital Entertainment Analytics.

2. I submit this declaration in connection with Plaintiffs' Motion for Partial Summary Judgment filed by Plaintiffs Concord Music Group, Inc., Capitol CMG, Inc., Universal Music Corp., Songs of Universal, Inc., Universal Music – MGB NA LLC, Polygram Publishing, Inc., Universal Music – Z Tunes LLC, and ABKCO Music, Inc. (collectively, "Publishers"), in their lawsuit against Defendant Anthropic PBC ("Anthropic").

3. My statements set forth below are based on my specialized knowledge, education, and experience, as applied to the facts and circumstances of this case. If called upon, I would and could competently testify as to the matters contained herein.

4. I have been retained to serve as an economic expert on behalf of Publishers in this case. I have been asked to analyze the academic literature studying the present and future economic impact of Generative Artificial Intelligence and "Large Language Models" on the legal sales and markets for creative content and output. I have also been asked to offer an opinion on the economic impact of Anthropic's unauthorized use of Publishers' copyrighted works, including any effects of Anthropic's unauthorized uses of Publishers' song lyrics upon the potential markets for or value of Publishers' song lyrics, any harm to Publishers and the songwriters they represent from such unauthorized uses, and the economic benefits Anthropic has reaped from its unauthorized and uncompensated uses of Publishers' copyrighted materials. In offering my opinions, I have applied my education, background, and scholarship in the fields of economics, intellectual property, digital piracy, Generative AI, and my general understanding of market licensing of creative content to the facts and issues of this case.

5. My full opinions and analyses are described in the expert reports that I authored and caused to be served in this case (collectively, the "Smith Reports"), including an opening report dated December 19, 2025 (the "Smith Report"), a rebuttal report dated January 23, 2026

(the "Smith Rebuttal"), a reply report dated February 13, 2026 (the "Smith Reply"), and two short supplements dated February 13 and March 9, 2026.

6. In addition to my general background in understanding economics and intellectual property, I have reviewed various materials the Parties have either filed or produced in discovery as well as certain scholarly literature and other publicly available sources. The complete list of materials I have reviewed in connection with forming my opinions in this case is contained in the appendices to the Smith Reports. Materials relevant to the opinions I assert in this Declaration are cited herein.

7. My research focuses on the economics of digitization and the industrial organization of markets for digital information and digital media products. I have a particular expertise in economic issues associated with intellectual property, including the impact of unlicensed distribution of copyrighted entertainment goods on the legal markets for those goods.

8. I am co-author of the book *Streaming, Sharing, Stealing: Big Data and the Future of Entertainment* (MIT Press, 2016). I teach a course on managing disruption in media and entertainment and have written book chapters and articles discussing how unlicensed access to copyrighted works impacts legal markets for entertainment products in a variety of outlets, including the World Trade Organization, U.S. Patent and Trademark Office[1] and the World Intellectual Property Organization.[2]

9. I was one of ten economists chosen to participate in drafting the U.S. Copyright Office's report, *Identifying the Economic Implications of Artificial Intelligence of Copyright Policy.*[3] I have testified twice on economic issues associated with copyright law before the Senate

[1] Brett Danaher, Michael D. Smith & Rahul Telang, *Piracy Landscape Study: Analysis of Existing and Emerging Research Relevant to Intellectual Property Rights Enforcement of Commercial-Scale Piracy* (U.S. PAT. AND TRADEMARK OFF., Economic Working Paper No. 2020-02, March 20, 2020), https://www.uspto.gov/sites/default/files/documents/USPTO-Piracy-Landscape.pdf.

[2] Brett Danaher, Michael D. Smith & Rahul Telang, *Copyright Enforcement in the Digital Age: Empirical Economic Evidence and Conclusions*, WORLD INTELL. PROP. ORG., Advisory Comm. on Enf't (Aug. 25, 2015), https://www.wipo.int/edocs/mdocs/enforcement/en/wipo_ace_10/wipo_ace_10_20.pdf.

[3] 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-

Judiciary Committee subcommittees: on July 16, 2025, to the Subcommittee on Crime and Counterterrorism in a hearing titled "*Too Big to Prosecute?: Examining the AI Industry's Mass Ingestion of Copyrighted Works for AI Training*"; and on March 10, 2020, to the Subcommittee on Intellectual Property in a hearing titled "*Copyright Law in Foreign Jurisdictions: How are other countries handling digital piracy?*"[4]

10. In December 2019, I gave the Digital Piracy Summit keynote address on the impact of digital piracy at the National Intellectual Property Rights Coordination Center in Arlington, Virginia.[5] In April 2013, I also served as a panelist for the Congressional International Antipiracy Caucus, discussing education, enforcement, and the economics of piracy and counterfeiting.[6] I have also given a talk at the White House Office of the Intellectual Property Coordinator on piracy, regulation, and digital media.[7]

11. I hold a B.S. degree in Electrical Engineering and a M.S. degree in Telecommunications from the University of Maryland, and a Ph.D. degree in Management Science from MIT's Sloan School of Management. My full curriculum vitae is attached to this Declaration as **Ex. 1**.

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research/economic-implications-of-ai/Identifying-the-Economic-Implications-of-Artificial-Intelligence-for-Copyright-Policy-FINAL.pdf.

[4] *Too Big to Prosecute?: Examining the AI Industry's Mass Ingestion of Copyrighted Works for AI Training*: *Hearing before the S. Comm. on the Judiciary,* 119th Cong. (2025) (Written Statement of Dr. Michael D. Smith), https://www.judiciary.senate.gov/imo/media/doc/64bc45b6-9e04-22e4-34c1-12d0efad69ef/2025-07-16%20-%20Testimony%20-%20Smith.pdf; *Copyright Law in Foreign Jurisdictions: How Are Other Countries Handling Digital Piracy?: Hearing Before the Subcomm. on Intellectual Property of S. Comm. on Judiciary,* 116th Cong. (2020) (Written Statement of Michael D. Smith), https://www.judiciary.senate.gov/imo/media/doc/Smith%20Testimony1.pdf.

[5] Michael D. Smith, Keynote Address at the Digital Piracy Summit at the National Intellectual Property Rights Coordination Center: Digital Piracy: Industry Harm, Consumer Harm, and Law Enforcement Effectiveness (Dec.13, 2019).

[6] Michael D. Smith, Panelist at the Congressional Institutional Anti-Piracy Caucus at the Rayburn House Office Building: Education, Enforcement, and the Economics of Piracy and Counterfeiting (Apr. 28, 2014).

[7] Michael D. Smith, Address at the Office of the Intellectual Property Coordinator, Executive Office of the President, Eisenhower Executive Office Building: Piracy, Regulation, and Digital Media (Apr. 22, 2013).

I. Anthropic deprived Publishers of considerable licensing revenue to display and reproduce lyrics.

12. Anthropic's copying and display of Publishers' lyrics as AI-generated outputs deprived Publishers of revenue that they would have earned if Anthropic had sought a license.

13. Publishers generate significant revenue by licensing the display rights for their lyrics to numerous entities.[8] [redacted]

14. Publishers also generate lyric-display revenue from lyric-display sites, like Genius, LyricFind, and MusixMatch.[12] [redacted]

[8] Decl. of Duff Berschback in Supp. of Pls.' Mot. For Partial Summ. J. ("Berschback Decl."); ¶¶ 41–45 Decl. of Alisa Coleman in Supp. of Pls.' Mot. For Partial Summ. J. ("Coleman Decl.") ¶¶ 16–20; Decl. of Kenton Draughon in Supp. of Pls.' Mot. For Partial Summ. J. ("Draughon Decl.") ¶¶ 32–34; Decl. of David Kokakis in Supp. of Pls.' Mot. For Partial Summ. J. ("Kokakis Decl.") ¶¶ 147–151.

[9] Ex. 2, UMPG_0000000388, at -88; Ex. 3, UMPG_0000023090–93.

[10] Ex. 4, UMPG_0000023257–75.

[11] Ex. 5, UMPG_0000023282–99; Ex. 6, UMPG_00000275–77; Ex. 7, UMPG_00000366–72.

[12] Berschback Decl. ¶ 43; Coleman Decl. ¶ 19; Draughon Decl. ¶ 34; Kokakis Decl. ¶ 149.

[13] Ex. 8, UMPG_0000000311, at -313.

[redacted]

15. Additionally, Publishers also generate lyric-display revenue from social media companies, including TikTok, Snap, and Meta, and other lyric-oriented businesses, like karaoke and sheet music companies.[16] These license agreements also generate significant annual revenue for Publishers.

16. By training on and outputting Publishers' lyrics in response to search requests from Claude users, Anthropic provides the same service to its users as Publishers' licensees, depriving Publishers of the licensing revenue they would have earned if Anthropic had paid for the right to use and display Publishers' lyrics in this manner. In effect, this creates a competing service and another market substitute to Publishers' licensees.[17]

17. Anthropic's unauthorized use of Publishers' Works in this manner denies Publishers their customary licensing fees, erodes the value of Publishers' Works for these types of licenses, and threatens Publishers' revenues from their existing licensees.

18. Consumers can choose to either search for and access lyrics through platforms that license lyrics and pay copyright owners, or through AI tools developed by companies that do not. If users choose Claude, the legitimate licensees' business model suffers, which could destroy Publishers' ability to license lyrics in the future.

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[14] Ex. 9, UMPG_0000023011.

[15] *See, e.g.*, Ex. 10, ABKCO_0000000052; Ex. 11, ABKCO_0000000328; Ex. 12, ABKCO_0000000045; Ex. 8, UMPG_0000000311; Ex. 13, UMPG_0000018093; Ex. 14, UMPG_0000000335; Ex. 15, CONCORD_0000000168; Ex. 16, CONCORD_0000000212.

[16] Berschback Decl. ¶ 42; Coleman Decl. ¶¶ 18–20; Draughon Decl. ¶¶ 33–34; Kokakis Decl. ¶ 148.

[17] *See, e.g.*, Ex. 15 to Decl. of Timothy Chung in Supp. of Pls.' Mot. for Partial Summ. J. ("Chung Decl."), Berschback Dep. Tr. 206:19–207:7 ("[T]o the extent that someone wants to know the lyrics to a given song and can go to various places to find those lyrics, amongst them licensed sites and unlicensed sites, where potentially the costs for the latter is zero. And when I say 'cost,' I mean cost in terms of monetary value, no payment exchanged, no ads that you have to view, no friction between you and what you want. In that sense, to the extent that Claude will provide lyrics in response to, 'What are the lyrics to blank song' type prompts, it's competing with -- on a free basis with licensed sites that pay songwriters. And that is obvious harm to both Concord and its songwriters and the licensed sites.").

19. Further, Publishers have lost significant licensing revenue that Anthropic would otherwise have paid Publishers in order to display and reproduce Publishers' lyrics to its Claude users and customers. Without 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 for these uses, but the payments reflected in Publishers' agreements with digital service providers, lyric-display sites, and social media companies provide some idea as to valuation.

II. Anthropic's conduct enables the creation of damaging and unrestricted AI-generated derivatives.

20. By training its Claude AI models with Publishers' copyrighted lyrics without authorization, Anthropic prejudicially impacted Publishers' abilities to license the creation of AI-Assisted derivative works and restrict the creation of offensive and reputationally damaging derivative works.

21. From the evidence I have reviewed, Publishers regularly license and protect this right, including in the form of "sampling" agreements.[18] Recently, Plaintiff UMPG also executed an agreement (the "Udio Agreement") to license its music lyrics on a catalog-wide basis to Uncharted Labs, Inc. (d/b/a Udio.com, "Udio"), which licensed, among other things, [redacted][19]

22. By using Publishers' compositions as training data and training Claude to produce helpful outputs based on those compositions, Anthropic uses Publishers' compositions as samples in new works of its own creation. This is essentially what Publishers offer when licensing their works as individual compositions for specific, limited uses. But Anthropic's use vastly exceeds the scope of any existing license. Claude creates its own "samples" of varying lengths, to be

[18] Chung Decl. Ex. 117, Kokakis 299:10–21 ("[redacted]"); Chung Decl. Ex. 15, Berschback Dep. Tr. 175:11–14 (discussing unlicensed sample enforcement).

[19] Ex. 17, UMPG_0000024457, at -58.

combined with some unknown set of new lyrics, to be used in any type of written work or musical work with lyrics. No existing license represents a perfect comparator for the extent of this grant of rights. It would almost certainly represent multiple times the value of any current commercial license.

23. Analysis from Plaintiffs' expert Josh Dennis illustrates how Claude users ask it to produce such unauthorized derivatives and samples in practice in the form of requests for original songs inspired by existing songs and artists.[20]

24. Anthropic's conduct harms Publishers in multiple material ways. First, Anthropic deprives Publishers of a licensing fee for the right to generate AI-assisted derivatives of Publishers' works. [redacted]"[21] Anthropic's conduct deprives UMPG and the other Publishers of similar compensation and contractual acknowledgment regarding ownership of outputs embodying Publishers' works.

25. Second, by training its Claude models to be able to generate AI-assisted derivatives of Publishers' works without authorization, Anthropic normalizes such conduct and encourages other AI companies to do the same, thereby weakening Publishers' negotiating power in future licensing renewals.

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[20] Decl. of Joshua Dennis in Supp. of Pls.' Mot. for Partial Summ. J. ¶¶ 40-41 (finding over 600 instances of users' prompting Claude to generate "new" lyrics based on or in the style of existing artists, songs, or lyrics in the 5 million Sample, and finding requests for new songs in the style of Works-in-Suit).

[21] Ex. 17, UMPG_0000024457, at -66; *see also* Chung Decl. Ex. 117, Kokakis Dep. Tr. 197:10–15 ("Q. [redacted]).

26. Third, by training its Claude models to be able to generate AI-assisted derivatives of Publishers' works without authorization, Anthropic denied Publishers the right and ability to contractually require Anthropic to observe certain safeguards and protections that would restrict or prevent Claude from creating reputationally damaging derivatives, such as distasteful mashups of Publishers' lyrics with offensive phrases or modifications. I understand this is a significant concern for Publishers and, based on UMPG's deposition testimony, is [redacted].[22]

27. Indeed, when Anthropic uses Publishers' compositions contrary to the songwriters' and Publishers' intent, Anthropic also devalues the works themselves. Such is the case for consumers who enjoy songs based on the content or messaging in the lyrics. For example, unauthorized "mashups" of religious faith-based music with sexually explicit words or themes can erode consumers' perception of songwriters or publishers.[23] These unauthorized derivatives can also discourage the future consumption of works from these songwriters or publishers with the consequence of devaluing current and future works.

28. The foregoing harms are once again difficult, if not impossible, to quantify, including because it is nearly impossible to quantify the reputational harm that may flow from an offensive or distasteful cover, remix, or mashup of Publishers' works.

III. Anthropic's Claude dilutes and disrupts the actual and potential markets for Publishers' copyrighted works with market substitutes.

A. Academic analysis and public reporting demonstrate how large language models create market substitutes for songs.

29. Even in its nascent form, LLM technology is already able to generate creative texts that can compete with human-generated texts in the market. For example, in one recent study,

[22] *See* Chung Decl. Ex 117, Kokakis Dep. Tr. 209:19–24 (referring to the Udio Agreement, [redacted]).

[23] *See* Draughon Decl. ¶¶ 35–36.

academic researchers determined that many readers may already *prefer* literary outputs from Generative AI models that have been trained on copyrighted books, including Anthropic's Claude 3.5 Sonnet, as compared to comparative works created by human writers.[24] The study proceeded in two parts. In the first part of the experiment, the researchers used three commercial AI models—GPT4o (OpenAI), Claude 3.5 Sonnet (Anthropic), and Gemini 1.5 Pro (Google)—to generate 450-word written excerpts that emulate the style of various famous authors. The researchers then asked a group of MFA candidates to complete the same task: generating a 450-word written excerpt that emulates the style of the same famous authors. Each AI-generated emulation was then paired with a human-generated emulation, and each pair was then presented to a group of lay readers and a group of expert readers, who rated the emulated pairs for preference in the categories of "style" and "quality."

30. The researchers found that, while the expert-reader group "demonstrated strong preference for human-written text" to both stylistic fidelity and writing quality, the *lay*-reader group showed "no significant preference regarding stylistic fidelity . . . but *favored* AI-generated text for writing quality."[25] To complete the first part of the experiment, the researchers submitted the AI-written excerpts to an AI-detection test, which detected AI writing in the samples with 97% accuracy.

31. In the second part of their experiment, the researchers repeated the exercise with OpenAI's GPT4o and a subset of the same famous authors. This time, however, the AI model was specifically trained on each famous author's *entire body of works* through a process called fine-tuning. The results were striking: both expert and lay reader groups *significantly* preferred the AI emulations for style and for writing quality.[26] The researchers also submitted the fine-tuned emulations to Pangram, which only correctly identified 3% as AI-written.

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[24] *See* 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 (October 15, 2025), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5606570.

[25] *Id.* at 5 (emphasis added).

[26] *Id.* at 12–13.

32. Put differently, the researchers conclude that lay readers show no preference between outputs generated by even already-outdated LLMs, like Claude 3.5 Sonnet, as compared to human-written text. And once fine-tuned on specific works for the purpose of emulating a specific author, both lay and expert readers prefer the LLM-generated outputs, which the researchers conclude "can substitute" in the market, proving "almost undetectable as AI-generated text." While the researchers had the AI models emulate book authors, not songwriters, there is no reason to think the results would be different for songwriters.

33. Consumers' inability to distinguish between human- vs. AI-generated content is not limited to writing. Another recent study, published in September 2025, concluded that research participants could successfully discern AI-generated music from human-made music only 53% of the time.[27] Another recent study of more than 900 participants found that typical consumers fare no better than random chance at differentiating AI-generated music from human-created music.[28]

34. Other studies have similarly concluded that writing jobs in particular are some of the most vulnerable to the AI revolution. For example, a 2025 paper published in the *Journal of Economic Behavior and Organization* found that, after the introduction of large language models, "demand for substitutable skills, such as writing and translation, decreased by 20–50%."[29] Another 2024 paper published in *Organization Science* found that the introduction of image-based generative-AI models caused freelance artists in highly-impacted occupations to experience "reductions in both employment and earnings."[30] The same paper found that the release of image-based generative-AI tools caused a 3.7% drop in monthly jobs and a 9.4% loss of income for designers, image, editors, and artists.

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[27] *See* Flavio Figueiredo et al., *Echoes of Humanity: Exploring the Perceived Humanness of AI Music*, 9TH CONF. ON NEURAL INFORMATION PROCESSING SYSTEMS (NEURIPS 2025), Creative AI Track, https://arxiv.org/pdf/2509.25601.

[28] Ex. 43, Stanley Wu, et al., *Characterizing Detectability and Impact of AI-generated Music on Streaming Platforms* at 11–12 (publication forthcoming).

[29] Ole Teutloff et al., *Winners and losers of generative AI: Early Evidence of Shifts in Freelancer Demand*, 235 J. OF ECON. BEHAVIOR & ORG. 106845 (2025), at 1.

[30] Xiang Hui, Oren Reshef, & Luofeng Zhou, *The Short-Term Effects of Generative Artificial Intelligence on Employment: Evidence from an Online Labor Market*, 35 ORGANIZATION SCIENCE 6 (2024) at 1.

35. With respect to the impact of Generative AI on the broader labor market, some researchers found that "early-career workers (ages 22-25) in the most AI-exposed occupations have experienced a 16% relative decline in employment even after controlling for firm-level shocks."[31] They conclude that their results "provide early large-scale evidence consistent with generative AI disproportionately impacting entry-level workers in the American labor market." Similarly, a recent McKinsey report determined that as much as 40% of American jobs could be replaced by artificial intelligence in coming years.[32] This early evidence and reporting further support a conclusion that AI is a significant long-term threat for participants in the creative industries.

36. The effect is already playing out in the actual market as well. As one recent *New Yorker* article puts it, AI technology "has had an especially swift impact on songwriting," and the United States is now "in the midst of a full-blown A.I. music moment" as a slew of AI-created songs are flooding the streaming platforms and climbing the music sales charts.[33] For example, one recently-published AI country song called "Walk My Walk" recently hit Number 1 on the *Billboard* Country Digital Song sales chart and passed three million streams on the way to hitting Number 2 on Spotify's Global Viral 50 ranking.[34] The "artist" of the song is actually an "AI artist"

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[31] Erik Brynjolfsson, Bharat Chandar, & Ruyu Chen, *Canaries in the Coal Mine? Six Facts about the Recent Employment Effects of Artificial Intelligence*, STANFORD DIGITAL ECONOMY LAB & STANFORD INSTITUTE FOR HUMAN-CENTERED ARTIFICIAL INTELLIGENCE Working Paper (Nov. 13, 2025), https://digitaleconomy.stanford.edu/wp-content/uploads/2025/11/CanariesintheCoalMine_Nov25.pdf at 1.

[32] *See* Diego Castresana *et al.*, *Agents, Robots, and Us: Skill Partnerships in the Age of AI*, MCKINSEY GLOBAL INSTITUTE (Nov. 25, 2025), https://www.mckinsey.com/mgi/our-research/agents-robots-and-us-skill-partnerships-in-the-age-of-ai#/.

[33] Kyle Chakha, *That New Hit Song on Spotify? It Was Made by A.I.*, THE NEW YORKER (Nov. 12, 2025), https://www.newyorker.com/culture/infinite-scroll/that-new-hit-song-on-spotify-it-was-made-by-ai.

[34] Aisha Down, *AI Slop Tops Billboard and Spotify Charts as Synthetic Music Spreads*, THE GUARDIAN (Nov. 13, 2025), https://www.theguardian.com/technology/2025/nov/13/ai-music-spotify-billboard-charts; *see also* Amanda Hoover, *The AI Music Floodgates Have Been Opened*, BUSINESS INSIDER (Dec. 10, 2025), *https://www.businessinsider.com/why-the-music-industry-is-changing-its-tune-on-ai-2025-12*; Lanre Bakare, *An AI-Generated Band Got 1m Plays on Spotify. Now Music Insiders Say Listeners Should Be Warned*, THE GUARDIAN (July 14, 2025), https://www.theguardian.com/technology/2025/jul/14/an-ai-generated-band-got-1m-plays-on-spotify-now-music-insiders-say-listeners-should-be-warned.

called "Breaking Rust," which, as of this Declaration, boasts 1.6 million monthly listeners on Spotify and has two songs (including "Walk My Walk") with over 20 million streams played.[35] Similarly, another "AI band" called "The Velvet Sundown" went viral and amassed more than one million streams on Spotify before it was revealed that the hot new band was AI-generated—"right down to their music, promotional images and backstory."[36] Indeed, *Billboard* recently reported that "at least six AI or AI-assisted artists [] debuted on various Billboard rankings" in the final months of 2025 alone, while it is becoming "increasingly difficult to tell who or what is powered by AI," and this "trend is quickly accelerating."[37]

37. A study commissioned by the French streaming platform, Deezer, estimates that 50,000 AI-generated songs are uploaded to the platform every day—34% of all the music submitted.[38] The same study surveyed 9,000 people in eight countries and found that 97% could not distinguish between AI-generated music and human-written music.[39] Speaking about the Deezer study, the founder of Fairly Trained, a non-profit that certifies generative AI companies'

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[35] Breaking Rust, SPOTIFY, https://open.spotify.com/artist/3h9rLaviiFj1TeEhdIRpP5 (last visited Mar. 18, 2026); *see also* Melinda Newman, *As AI Artists Breaking Rust & Cain Walker Rule a Country Chart, Nashville Execs Weigh In: 'It's Incredibly Detrimental'*, BILLBOARD (Nov. 12, 2025), https:www.billboard.com/pro/ai-artists-breaking-rust-country-music-chart-reactions/; Megan Cartwright, *Country Music Stars React to AI-Generated Country Song Being No. 1 in US*, NEWSWEEK (NOV. 18, 2025), https://www.newsweek.com/entertainment/breaking-rust-singer-ai-generated-country-song-11065963.

[36] Lanre Bakare, *An AI-Generated Band Got 1m Plays on Spotify. Now Music Insiders Say Listeners Should Be Warned*, THE GUARDIAN (July 14, 2025), https://www.theguardian.com/technology/2025/jul/14/an-ai-generated-band-got-1m-plays-on-spotify-now-music-insiders-say-listeners-should-be-warned.

[37] Xander Zellner, *How Many AI Artists Have Debuted on Billboard's Charts?*, BILLBOARD (Nov. 4, 2025), https://www.billboard.com/lists/ai-artists-on-billboard-charts/.

[38] *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 NEWSROOM (Nov. 12, 2025), https://newsroom-deezer.com/2025/11/deezer-ipsos-survey-ai-music/; *see also* Kristin Robinson, *Deezer Now Says It Receives Roughly 50,000 New Fully AI-Generated Songs Daily*, BILLBOARD (Nov. 12, 2025), https://www.billboard.com/pro/deezer-ai-music-report-streamer-ai-songs-daily/.

[39] *Id.*; *see also* Jaspreet Singh, *Are You Listening to Bots? Survey Shows AI Music is Virtually Undetectable*, REUTERS (Nov. 12, 2025), *https://www.reuters.com/legal/litigation/are-you-listening-bots-survey-shows-ai-music-is-virtually-undetectable-2025-11-12/.*

data training practices as fair to artists, said, "There's no denying it. I think it's fair to say you can't distinguish the best AI music from human-composed music now."[40]

38. These trends are increasing as usage of Claude and other AI models continues to grow. For example, while in November 2025 Deezer estimated that 0.5% of streams on its platform involved AI-generated music,[41] by the end of January 2026, AI-generated music's share of streams had grown to 3%.[42] 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 if 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. In any case, fraudulent streams, if undetected as such, still displace revenues of existing human-created songs.

39. When it comes to generating lyrics specifically, Anthropic's Claude features among online creators. For example, in a video from June 2025 that has so far received over 2.5 million views,[43] YouTuber Rick Beato demonstrated how anyone can create an AI-generated song from the comfort of their own home. In the video, Mr. Beato specifically uses Anthropic's Claude to generate the lyrics he uses in an AI-generated song called "West Texas Dreams," that is currently available on streaming services and has over 31,000 views on YouTube.[44] Notably, Mr. Beato

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[40] Aisha Down, *AI Slop Tops Billboard and Spotify Charts as Synthetic Music Spreads*, THE GUARDIAN (Nov. 13, 2025), https://www.theguardian.com/technology/2025/nov/13/ai-music-spotify-billboard-charts; *see also* James Darley, *Spotify & OpenAI: Will Gen AI 'Hollow Out' Entertainment?*, TECHNOLOGY MAGAZINE (June 3, 2025), *https://technologymagazine.com/articles/spotify-open-ai-will-gen-ai-hollow-out-entertainment.*

[41] *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 NEWSROOM (Nov. 12, 2025), https://newsroom-deezer.com/2025/11/deezer-ipsos-survey-ai-music/.

[42] *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), https://newsroom-deezer.com/2026/01/ai-generated-music-deezer-selling-detection-tool/.

[43] Rick Beato, *I'm Sorry…This New Artist Completely Sucks*, YOUTUBE (July 15, 2025), https://www.youtube.com/watch?v=eKxNGFjyRv0 (last visited Mar. 18, 2026).

[44] Rick Beato 2, *Eli Mercer – West Texas Dreams (Official Lyric Video)*, YOUTUBE (July 15, 2025), https://www.youtube.com/watch?v=6NSfGW53vnw (last visited Mar. 18, 2026).

acknowledges in his how-to video that he only "wrote a prompt" for the lyrics and that Claude "created them based on work that other people have done."[45]

40. On this basis, it is my opinion that Generative AI technology, including the technology implemented by Anthropic's Claude models, is already capable of creating market substitutes for Publishers' copyrighted song lyrics, especially among the lay consumers who make up the vast majority of most music markets.

41. But it is my opinion that this is only the beginning. Given the fierce market competition and astronomical investment in the industry, AI companies will continue to develop increasingly sophisticated Generative AI models, which, when trained on Publishers' copyrighted lyrics, will continue to advance in their ability to generate market substitutes for Publishers' works. As such, these harms are likely to only worsen as Anthropic releases ever-more-powerful Claude models in the future.

42. The full downstream effects from Anthropic's unlicensed copying and use of existing copyrighted works to train its AI models to compete in the creative markets for human-generated textual works (novels, scripts, and song-lyrics, to name a few) may not be fully felt until years after the initial infringements. This is because the training that has occurred is building towards a future where Generative AI will "become as or more intelligent than people and even human experts in every area."[46]

43. This kind of "long-horizon" harm is often seen in other economic ecosystems, where damage from an initial injury may not be felt or realized until substantial time after the fact. For example, as I discuss in the December 2025 volume of the Hatch Policy Review titled *AI at the Crossroads: Policy, Innovation, and the Public Interest*, there are parallels between an unintended harm that arises sometime after a seemingly small change in an environmental ecosystem, and a similarly unintended harm that could arise sometime after from a seemingly

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

[46] Chung Decl. Ex. 6, Kaplan Dep. Tr. 95:19–21.

small change in the *creative* ecosystem.[47] Here, the unintended harm would be the use of copyrighted lyrics to create a tool capable of replacing songwriters. To borrow from Concord's designated witness, Duff Berschback, it's like an "earthquake" under the ocean, where "if you know that that has happened, you know the harm is coming."[48]

44. As a result, it is difficult to quantify the damage from Anthropic's unlicensed copying and use of Publishers' copyrighted works, at least initially.

B. Anthropic's stated business aim is to create an AI model capable of creating market substitutes for Publishers' copyrighted works.

45. Anthropic has not been shy in predicting the future of AI. One co-founder recently declared that "[t]he world will bend around AI akin to how a black hole pulls and bends everything around itself."[49] Another co-founder compared the advent of AI to the "Industrial Revolution,"[50] and predicted that AI will hit "human-level intelligence" by 2030.[51] In a series of interviews, Anthropic's CEO Dario Amodei claimed that "AI is starting to get better than humans at almost all intellectual tasks," and predicted that AI could wipe out half of all entry-level white-collar jobs within the next five years.[52] And Anthropic's designated witness in this case testified that, "in the

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[47] Michael D. Smith, *Creative Destruction or Destroying Creativity? It's Time to Chart a Sustainable Future for Our Creative and Technology Ecosystems*, HATCH POLICY REVIEW, VOL. 6: AI AT THE CROSSROADS: POLICY, INNOVATION, AND THE PUBLIC INTEREST, pp. 53–59 (Dec. 2025), *available at* https://orrinhatchfoundation.org/s/2025-Hatch-Policy-ReviewAI-FINAL-DIGITAL.pdf.

[48] Chung Decl. Ex. 15, Berschback Dep. Tr. 208:18–22.

[49] Jack Clark (@jackclarkSF), X (Oct. 13, 2025, 4:06 PM), https://x.com/jackclarkSF/status/1977828314871218378.

[50] Chung Decl. Ex. 6, Kaplan Dep. Tr. 85:4–15.

[51] 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.

[52] 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; Jim VandeHei and 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; 60 Minutes, *Anthropic CEO Warns that without Guardrails, AI Could be on a Dangerous Path,* YOUTUBE (Nov. 16, 2025), https://www.youtube.com/watch?v=aAPpQC-3EyE; Sasha Rogelberg, *'I'm Deeply Uncomfortable': Anthropic CEO Warns that a Cadre of AI Leaders, Including Himself, Should not be in Charge of the Technology's Future*, FORTUNE (Nov. 17, 2025), https://fortune.com/2025/11/17/anthropic-ceo-dario-amodei-ai-safety-risks-regulation/.

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, and that because of that, society and economy will be dramatically transformed in the process."[53]

46. For this reason, Anthropic periodically publishes an "Economic Index" that purports to track "AI's effects on the economy" over time.[54] The Index tracks nearly 1,000 different occupations impacted or augmented by AI and to what degree, including the impact on "Poets, Lyricists and Creative Writers." Categories of requests that Anthropic claims to have received from this profession include directives to "write narrative, dramatic, lyric, or other types of poetry" and "write words to fit musical compositions, including lyrics."[55] This data likewise reflects that professional singers are using Claude to "compose songs."[56]

47. Anthropic's co-founders have made clear their ambition for their company: they want to create a human-level intelligence capable of doing everything a human can, which naturally includes the ability to write lyrics for songs. Anthropic President Daniela Amodei testified, "Yes. I think what I mean is Claude is capable of, for example, creating its own song lyrics, if it wanted to."[57] She has asked Claude to write song lyrics herself.[58] Similarly, Benjamin Mann, testifying on behalf of Anthropic, said that "creative and collaborative writing," including the ability to write song lyrics, might "be one of the use cases that people would find interesting."[59] He has also 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[.]"[60] And Ms. Amodei testified to another instance in which an Anthropic employee sang Claude-generated lyrics

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[53] Chung Decl. Ex. 4, Mann 30(b)(6) Dep. Tr. 169:16–22.
[54] *Anthropic Economic Index,* ANTHROPIC (Sept. 15, 2025), https://www.anthropic.com/economic-index.
[55] *See id.* (Job Explorer, "Poets, Lyricists and Creative Writers").
[56] *See id.* (Job Explorer, "Singers").
[57] Chung Decl. Ex. 10, Daniela Amodei Dep. Tr. 180:4–6.
[58] *Id.* at 186:10–16.
[59] Chung Decl. Ex. 4, Mann 30(b)(6) Dep. Tr. 26:8–24.
[60] *Id*. at 76:9–17.

to an original song in front of the entire company, further indicating that songwriting and lyric-generation is an intended use case, at least among Anthropic employees.[61]

48. As recently as January 2025, Jared Kaplan, Anthropic's Chief Science Officer and the person responsible for steering Claude's technical development, specifically prompted Claude (in his personal use) to "write a cynical dark but hilarious rock song with the word weep."[62] Dr. Kaplan further testified to his great "interest[]" in Claude's ability to write poems, which he admits are "most similar" to song lyrics,[63] and he even included multiple LLM-generated poems in an early paper from his time at OpenAI, an Anthropic competitor.[64]

49. And Claude itself has touted its own capability and use to generate song lyrics. For example, in response to a March 2024 prompt entered by an Anthropic employee, "what is something cool you can do?," Claude responded, "There are many interesting things I can do! For example, I can engage in creative writing tasks like: . . . Writing song lyrics or parody lyrics to existing songs."[65]

50. The fact that Anthropic has repeatedly expressed a goal of creating a "human-like intelligence" to serve its customers within the next five years, which includes the human ability to generate song lyrics, further confirms my opinion that Generative AI models trained on Publishers' copyrighted lyrics—like Claude—will continue to increasingly generate market substitutes for Publishers' lyrics, thereby threatening the market for Publishers' lyrics and harming Publishers and songwriters in the process.

[61] Chung Decl. Ex. 10, Daniela Amodei Dep. Tr. 202:6–204:23.
[62] Ex. 18, Anthropic_0000570586; *see also* Chung Decl. Ex. 6, Kaplan Dep. Tr. 306:14–25 (confirming prompt for lyrics).
[63] Chung Decl. Ex. 6, Kaplan Dep. Tr. 154:24–25.
[64] *Id.* at 294:25–295:6 (referring to Tom Brown *et al.*, *Language Models are Few-Shot Learners*, ADVANCES IN NEURAL INFORMATION PROCESSING SYSTEMS 33, 49 (July 22, 2020), available at https://arxiv.org/pdf/2005.14165).
[65] Ex. 19, Anthropic_0000434319.

C. AI-generated lyrics harm the potential market for and value of Publishers' lyrics.

51. AI-generated lyrics, including those generated by Claude create market substitutes that threaten the market for Publishers' lyrics and harms Publishers and songwriters in multiple ways.

52. With respect to revenue that Publishers generate from Digital Services Providers ("DSPs") like Spotify and Apple Music, songs that use AI-generated lyrics reduce the total share of streaming revenue to which Publishers would otherwise be entitled. [redacted].[70]

[66] *See* Chung Decl. Ex. 15, Berschback Dep. Tr. 208:1–14 (explaining that there is "a royalty pool created by subscription and sometimes ad revenue and other things, and then that royalty pool, on a monthly or quarterly basis, is distributed to the copyright owners whose works are used on the service.").
[67] Ex. 4, UMPG_0000023257, at -70-71 (emphasis added).
[68] Ex. 20, UMPG_0000000001, at 2–3, 5–7.
[69] Ex. 21, ABKCO_0000000304, at -308.
[70] *See, e.g.,* Ex. 22, ABKCO_0000000025 at -36–39 (Apple [redacted]); Ex. 23, ABKCO_0000000369 at -371 (Google agreement [redacted]); Ex. 24, ABKCO_0000000398–400 (Google extension [redacted]"); Ex. 25, ABKCO_0000001313, at -1317 (Snap agreement [redacted]); Ex. 26, CCMG_0000000662, at -675–680 (Google agreement [redacted]); Ex. 27,

53. AI-generated works potentially dilute the revenue available to human generated songs by affecting both the numerator and denominator of this calculation. By diverting streams from Publishers' works, AI-generated works reduce the total number of streams of Publishers' works. And by increasing the total number of works generating streams, AI-generated works reduce Publishers' works' share of the total number of streams.[71] In other words, absent a significant increase in the size of the royalty pool that is caused by Generative AI, because there are more songs in the royalty pool, there are not only fewer royalties to go around, but also more songs competing for consumers' attention. The U.S. Copyright Office has similarly noted that "Royalty pools can also be diluted" as a result of training Generative AI on copyrighted works.[72]

54. While the flood of songs containing AI-generated lyrics uploaded to streaming platforms represents potential direct financial harm to Publishers, it is at this point nearly impossible to precisely quantify that financial harm, for a number of reasons. To do so, I would need to know the number of songs containing AI-generated lyrics (information that would be practically impossible to obtain because only the uploader would be able to confirm or deny whether a given song contained AI-generated lyrics) and their respective streaming figures, the amount paid out by relevant streaming platforms for those songs as a percentage of the total revenue-distribution pool, and some exogenous shock to determine which consumers switched their listening preferences from Publishers' songs to AI-generated songs while also accounting for any change in the consumer base as a result of the influx of AI-generated music to the relevant streaming platforms. Indeed, lack of clear and reliable market information and exogenous shocks

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CCMG_0000000259, at -60–61 (Google [redacted]); Ex. 28, UMPG_0000023125, at -28 (Pandora agreement [redacted]); Ex. 29, UMPG_0000023040, at -40 (Snap agreement [redacted]).

[71] *See* Chung Decl. Ex. 15, Berschback Dep. Tr. 208:1–14 (explaining that, when "you put a bunch of AI-generated works" into that same royalty pool, it "dilutes the royalty pool"); Chung Decl. Ex. 118, Coleman Dep. Tr. 172:10–14 ("As more compositions, songs, recordings flood the marketplace, that it will reduce the pool of revenue to talent versus skill and will directly impact existing and future songwriters and artists.").

[72] *Copyright And Artificial Intelligence Part 3: Generative AI Training (Pre-Publication Version)* UNITED STATES COPYRIGHT OFFICE at 65 (May 2025), https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-3-Generative-AI-Training-Report-Pre-Publication-Version.pdf.

is part of why it took many years for academics to settle on a consensus that digital piracy harmed the music industry.

55. I understand that Anthropic has added so-called "guardrails" that it asserts are intended to limit the generation of outputs containing Publishers' (and other rightsholders') lyrics and works.[73] While such tools might prevent regurgitation (at least in theory), they will not have any effect in stopping the foregoing market dilution if Anthropic continues to use copyrighted works to train its models and those models are enabled to create market substitutes in the form of "original" lyrics.[74]

56. Given Anthropic's own admissions and aspirations regarding the pace of development, it is likely that within only a few years, if not the case already, Claude users will be able to use Claude to directly compete with Publishers and the songwriters they represent. Over a long-enough time horizon, these market substitutes will also have the effect of "crowding out" emerging artists whose works would otherwise be appreciated by music publishers, consumers, and even AI companies that would want to train on their works. The downstream effects are likely to only expand from there: entry-level jobs for songwriters and music producers dry up, while fewer people will learn the craft and go onto become artists. In other words, Anthropic's use of copyrighted works to train its Claude AI models *today* has a very real potential to irreparably and significantly harm, if not destroy, the market for Publishers' works in the future.

57. The damages flowing from Anthropic's conduct are therefore impossible to quantify with reasonable certainty. That said, a useful benchmark for understanding the magnitude of harm here would be to look at the revenue earned by the Works-in-Suit in this matter. For example, I understand Publishers produced financial records showing the total revenue (mechanical, performance, print, and sync) earned for all 499 Works-in-Suit between Q1 2019 and

[73] *See* Decl. of Ben Y. Zhao in Supp. of Pls.' Mot. for Partial Summ. J. ¶¶ 54–89 ("Zhao Decl.").
[74] Chung Decl. Ex. 21, Anthropic's Am. Resp. to Publishers' RFA No. 89 (Sept. 18, 2025) (admitting that "Claude is designed and intended to respond as an intelligent human would to a vast array of user prompts, which may include generating new song lyrics in response to a user's prompt."); *see also* Chung Decl. Ex. 4, Mann 30(b)(6) Dep. Tr. 176:9–12 ("If you ask Claude to generate song lyrics, it's likely Claude will output something that probably looks like song lyrics.")

Q3 2025, [redacted].[75] Assuming these revenues remain constant going forward, a 10% reduction in the revenues for these 499 works alone would equate to a loss of [redacted] over the next seven years. Similarly, a 50% reduction in these revenues would equate to an approximate loss of [redacted] over the same timeframe. One could extrapolate to the scale of harm that would result if Publishers' entire catalog suffered the same market dilution and substitution harms described above.

IV. Anthropic's unlicensed[76] copying and use of Publishers' copyrighted lyrics as AI training data prejudicially impacts Publishers' ability to license those lyrics to other AI companies

58. By copying and using Publishers' lyrics to train its AI models without paying a license fee, Anthropic deprives Publishers of significant licensing fees Publishers otherwise would have received but for Anthropic's failure to license Publishers' lyrics for use as training data and otherwise damages Publishers' ability to license those lyrics as training data to other AI companies. While nascent, a robust market exists for licensing Publishers' copyrighted works as AI training data, but Anthropic's conduct subverts and undermines that market.

A. Preconditions for an effective AI licensing market for Publishers' lyrics already exist.

59. As described in the U.S. Copyright Office's report on *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy*[77] in which I participated, many economic scholars in my field agree that at least three preconditions are necessary for an effective AI licensing market to arise: (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

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[75] *See* UMPG_0000025145 (reflecting total revenue of [redacted] for UMPG); ABKCO_0000001512 (reflecting total revenue of [redacted] for ABKCO over same period); CONCORD_0000016756 (reflecting total revenue of [redacted] for Concord over same period); CCMG_0000001277 (reflecting total revenue of [redacted] for CCMG over same period).

[76] By "Unlicensed," I simply mean without Publishers' express permission, which I assume was not granted for purposes of this Declaration. I am not offering any opinion as to whether Anthropic was legally required to obtain a license in order to collect and use Publishers' copyrighted lyrics.

[77] Brent A. Lutes, ed., *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy*, UNITED STATES COPYRIGHT OFFICE (Feb, 2025), https://www.copyright.gov/economic-research/economic-implications-of-ai/, at 35–38.

costs must not be prohibitively high. In this case, each precondition has been sufficiently met, and a market exists for the effective licensing of copyrighted works as AI training data, including Publishers' lyrics.

60. ***Precondition 1*:** A preliminary condition for effective licensing to occur is that rightsholders must be able to practically restrict access to their work. Otherwise, potential licensees would not need to seek a license in order to use the work; they can simply obtain it for free. A natural way to do this is to put content behind a technological barrier such as a paywall. However, because that may create other costs that rightsholders wish to avoid (such as reducing access for the potential audience) as well as be a socially undesirable outcome, it is useful to consider whether there are other ways of restricting access to generative AI models without diminishing public access for human consumers.

61. Some websites have implemented "robots.txt" protocols, "which are industry-standard mechanisms to prevent scraping and use of data" that appear on public webpages.[78] I understand that Anthropic [redacted] but, as Anthropic's Mr. Mann implies, these protocols can be circumvented if desired. Moreover, robots.txt protocols cannot restrict access to a rightsholder's content if that content appears on uncontrolled or unauthorized webpages or in third-party datasets like Common Crawl or The Pile. Once a rightsholder's content has been added to one of these publicly available third-party datasets, it is difficult if not impossible to remove it. Further, versions of these third-party datasets were created long before the use of these datasets to train Generative AI models was widely known or even envisioned; Common Crawl, for example, dates back to at least 2013.[80] A rightsholder now seeking to prevent the use of its copyrighted content for AI training cannot retroactively restrict scraping that occurred a decade ago.

[78] Chung Decl. Ex. 4, Mann 30(b)(6) Dep. Tr. 30:12–18.
[79] *Id.*
[80] *Common Crawl*, WIKIPEDIA, https://en.wikipedia.org/wiki/Common_Crawl (last visited Dec. 18, 2025) (referring to the use of Common Crawl in 2013).

62. Consequently, there is no practical way for Publishers to use technical means to fully restrict access to their works that cannot be easily circumvented. One other limitation of technological solutions like robots.txt protocols is that they must be continuously improved upon to stay ahead of counter technologies aimed at circumventing access limits. It may be a perpetual arms race between developers and rightsholders, which itself will impose a social cost.

63. Legal restrictions on a model's access to training data can, in principle, have the necessary effect if enforced. To be effective, legal rights must be both clearly defined to exclude unpermitted ingestion and must be enforceable from a practical perspective. For enforcement to be practically effective, infringement needs to be detectable and come with a sufficiently large consequence to deter unlicensed use. However, detectability may be a limiting factor, at least under the current regime, as many developers are unwilling to reveal what data they use to train their models. Indeed, Anthropic's designated representative, Tom Turvey, testified that [redacted].[81] Thus, for legal restrictions to be a viable, long-term solution, some amount of transparency around training data would need to be mandated.

64. In this case, the obvious (if imperfect) means for Publishers to restrict access to their content for use as training data is enforcement through the legal system. Absent this ability to enforce a legal restriction on the unauthorized use of their lyrics as AI training data, any licensing market for those lyrics will likely collapse, Publishers will lose a significant and potential revenue stream, and their works will suffer a corresponding reduction in value. Indeed, Anthropic's Mr. Turvey stated [redacted][82]

[81] Chung Decl. Ex. 119, Turvey 30(b)(1) Dep. Tr. 70:17–22.

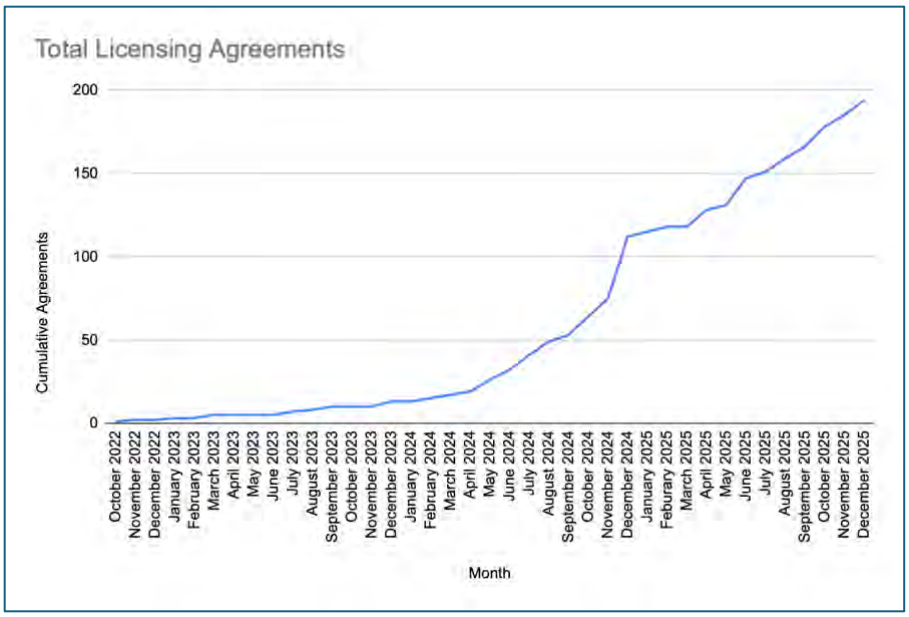
[82] Ex. 30, Anthropic_0000229152 at -52–53; *see also* Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 43:2–44:18.

65. ***Precondition 2*:** For transactions to occur within a licensing market, the bargaining set must not be empty—that is, the licensee's maximum willingness to pay must be equal to or greater than the licensor's minimum willingness to accept. In other words, the licensee's value of gaining the rights to the licensed works must be greater than the rightsholders' value of retaining the rights to those works.

66. Over the past three years and continuing today, many copyright owners and AI companies have entered into widely-reported license agreements concerning a variety of forms of creative content, from music, to journalism, to books, images, and social media posts. Copyright owners and AI developers have entered into hundreds of agreements through which AI developers have licensed content from rightsholders for AI training and other uses in connection with AI models. The Copyright Alliance keeps a running list of publicly announced AI licensing deals by copyright owners that reflects more than 200 completed deals; this list is almost certainly underinclusive, as it includes only publicly announced agreements.[83]

67. There has been an amazing amount of licensing between rightsholders and generative AI companies over the last 24 months. As the below chart reflecting the Copyright Alliance's data shows, the rate at which new licenses are reached has been steadily growing:

[83] *AI Licensing by Copyright Owners*, COPYRIGHT ALLIANCE, https://copyrightalliance.org/artificial-intelligence-copyright/licensing/copyright-owners/ (last visited Dec. 19, 2025).



68. Prominent examples include Stability AI's agreement with AudioSparx to train its Stable Audio (an AI music generator),[84] Eleven Music's licensing agreement with Kobalt,[85] and OpenAI's recent and high-profile licensing agreement with The Walt Disney Company,[86] and many more. These examples demonstrate a growing creative content licensing market where AI companies license copyrighted content from a variety of rightsholders for uses in training their models and more.

69. In short, a market for licensing copyrighted works for use in AI training is already thriving and well-established—and expanding. This growing AI-licensing market parallels numerous examples in modern history of technological developments in which emerging technology companies overcame their initial reluctance and found a way to offer licensing terms that legacy media rightsholders could accept. These include:

- Peer-to-peer music sharing (P2P) (*e.g.*, Napster);
- Internet radio (*e.g.*, Pandora);

[84] Emilia David, *Stability AI Releases AI Audio Platform*, THE VERGE (Sept. 13, 2023), https://www.theverge.com/2023/9/13/23871635/stability-ai-generative-audio-model-platform.
[85] Tim Ingham, *Exclusive: Kobalt's AI Deal with Suno Rival Elevenlabs Guarantees Publishing 'Parity' with Recorded Music,* MUSIC BUSINESS WORLDWIDE (Aug. 5, 2025), https://www.musicbusinessworldwide.com/kobalts-ai-suno-most-favored-nation/.
[86] *The Walt Disney Company and OpenAI reach landmark agreement to bring beloved characters from across Disney's brands to Sora,* OPENAI (Dec. 11, 2025), https://openai.com/index/disney-sora-agreement/.

- Social media platforms (*e.g.*, YouTube, TikTok) and
- Streaming media (*e.g.*, Spotify, Deezer).

70. Notably, in each instance, emerging technology companies took the position that paying for licenses would bankrupt them, and many went ahead exploiting copyrighted music without a license. In some cases, individual companies were unable to stay in business because their particular business model was not sustainable. But in every instance, the technology itself survived after finding a way to license from legacy media, with some platforms learning to operate legitimate businesses while paying for content, and in other instances with the market finding different technologies that accomplished the same thing. Examples include:

- P2P: In general, none of the more notorious P2P companies such as Napster, Grokster, and Limewire continued to operate as P2P companies after being sued for copyright infringement. However, Napster re-emerged as a music streaming company before being acquired by a metaverse platform March 2025,[87] and Mega (a company related to Megaupload founded by Kim Dotcom) now removes infringing files within hours of a request.[88]
- Internet radio: Internet radio (webcasting) services of all sizes complained that they could not afford licenses. In 2007, the Copyright Royalty Board ruled that they would have to pay certain statutory rates, and many threatened to go out of business.[89] But in 2009, SoundExchange and the webcasters came together to negotiate rates that have allowed the webcasters to thrive.[90]

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[87] *Napster (streaming service)*, WIKIPEDIA, (last visited March 21, 2026) https://en.wikipedia.org/wiki/Napster_.

[88] Andy Maxwell, *Mega: 144,000+ Users Have Been Terminated for Repeat Copyright Infringement*, TORRENTFREAK (Oct. 21, 2021), https://torrentfreak.com/mega-144000-users-have-been-terminated-for-repeat-copyright-infringement-211021/.

[89] *See generally Statutory Royalty Rates for Digital Performance of Sound Recordings: Decision of the Copyright Royalty Board* (RL34020), CONGRESSIONAL RESEARCH SERVICE (Jan. 28, 2010), https://www.everycrsreport.com/files/20100128_RL34020_c0c377bba314153ec49eb0a813647dc1f3a4544b.pdf.

[90] *See* John Timmer, *Pandora Lives! SoundExchange Cuts Deal on Webcasting Rates*, ARSTECHNICA (July 7, 2009), https://arstechnica.com/tech-policy/2009/07/soundexchange-cuts-deal-on-music-webcasting-rates/; David Oxenford, *Pureplay Webcasters and SoundExchange Enter into Deal Under Webcaster Settlement Act to Offer Internet Radio Royalty Rate Alternative*

- Social media platforms: When YouTube first launched, it was sued by Viacom for copyright infringement. The parties tried to negotiate a license but the deal fell through.[91] Eventually YouTube was purchased by Google and implemented a ContentID system and agreed to compensate creators for content. In 2017, Facebook signed a deal with Universal Music Group to license content and began to respond to takedown notices.[92]
- Streaming media: Most streaming services started out with content licenses, but they paid low rates, complaining that they could not pay more. Over time they began to pay higher rates. For example, Apple Music agreed to pay artists for streams even during its free trial period.[93] Spotify has been the subject of complaints from artists for years that it paid below market rates. One of Spotify's executives said that the platform was designed to distribute music, not to pay artists.[94] After considerable pushback, Spotify announced it would increase its payments to artists and rightsholders.[95] Blogmusik.net, the predecessor to Deezer, a French streaming music service, launched without content licenses and then quickly shuttered. While the company reformed, Deezer struggled for

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for 2006-2015, BROADCAST LAW BLOG (July 7, 2009), https://www.broadcastlawblog.com/2009/07/articles/pureplay-webcasters-and-soundexchange-enter-into-deal-under-webcaster-settlement-act-to-offer-internet-radio-royalty-rate-alternative-for-2006-2015/.

[91] Opening Br. for Plaintiff-Appellants at 15–17, *Viacom Int'l, Inc., et al. v. YouTube, Inc., et al.*, No. 10–3270 (2d Cir. Dec. 7, 2010), ECF No. 63.

[92] Kerry Flynn, *Facebook Signs First-Ever Music Deal with a Record Label*, MASHABLE (Dec. 21, 2017), https://mashable.com/article/facebook-music-rights-record-label-universal-music-group.

[93] Tim Fernholz and Heather Timmons, *Taylor Swift Has Successfully Shamed Apple Music into Paying Artists All the Time*, QUARTZ (June 21, 2015), https://qz.com/433499/taylor-swift-wont-put-1989-on-apples-streaming-music-app-until-she-gets-paid.

[94] Paul Resnikoff, *Spotify Executive Calls Artist 'Entitled' for Requesting Payment of One Penny Per Stream*, DIGITAL MUSIC NEWS (June 29, 2021), https://www.digitalmusicnews.com/2021/06/29/spotify-executive-entitled-pay-penny-per-stream/.

[95] Tim Ingham, *Spotify Is Changing Its Royalty Model to Crush Streaming Fraud and Introduce a Minimum Payment Threshold. Its Plan? To Shift $1 Billion in Payouts Towards 'Working Artists' Over the Next 5 Years*, MUSIC BUSINESS WORLDWIDE (Oct. 24, 2023), https://www.musicbusinessworldwide.com/spotify-is-changing-its-royalty-model-to-crush-streaming-fraud/.

several years, complaining that it could not afford market-based license fees.[96] Today Deezer is financially healthy and has increased the amounts it pays rightsholders.[97]

71. And as I discussed in my testimony to the United States Senate, *Too Big to Prosecute?: Examining the AI Industry's Mass Ingestion of Copyrighted Works for AI Training*,[98] it is worth considering the possible new technologies and markets that can emerge when courts enforce licensing rights. For example, consider a world in which the Napster and Grokster cases came out the other way—"a world where sharing pirated content was 'fair use' and was allowed to exist legally." In that world, "there's a strong argument that licensed markets for creative content like Spotify and Netflix wouldn't exist today—to the detriment of consumers, creators, and technology investors."[99]

72. Based on this history as well as the existence of a robust licensing market for copyrighted works, generally, and music lyrics, specifically, it is evident that the bargaining set for a licensing market for use of Publishers' works as AI training data is not empty.

73. ***Precondition 3***: Transaction costs must be sufficiently low for a licensing market to arise. Transactions costs are expenses incurred in order to trade or sell goods or services, apart from the value of the goods or services themselves. Transaction costs can include search costs (such as the costs of finding a counterparty), information costs (such as the costs of collecting sufficient information to properly value the good/services being exchanged), bargaining costs (the costs of negotiating the price and terms of the deal), and the costs of ensuring compliance with the terms of the deal. Transaction costs include not just actual monetary expenditures but also the investment of time and effort.

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[96] Pascal Rozat, *Deezer: Profitability Down the Line?*, INA GLOBAL (Aug. 18, 2011), https://web.archive.org/web/20150403164334/http://www.inaglobal.fr/en/music/article/deezer-profitability-down-line?tq=4.

[97] Umar Shakir, *Universal Music Group Lands New Royalty Model That Boosts Popular Artists*, THE VERGE (Sept. 6, 2023), https://www.theverge.com/2023/9/6/23861232/universal-music-deezer-streaming-deal.

[98] *Too Big to Prosecute?: Examining the AI Industry's Mass Ingestion of Copyrighted Works for AI Training*: *Hearing before the S. Comm. on the Judiciary,* 119th Cong. (2025) (Written Statement of Dr. Michael D. Smith), https://www.judiciary.senate.gov/imo/media/doc/64bc45b6-9e04-22e4-34c1-12d0efad69ef/2025-07-16%20-%20Testimony%20-%20Smith.pdf.

[99] *Id.* at 5.

74. If the transaction costs associated with seeking out and negotiating with individual rightsholders are higher than the value of the content to the licensor, individual licensing is less likely to occur, even if a transaction (absent transaction costs) would be mutually beneficial. But transaction costs are unlikely to outweigh the value derived from a licensing deal in cases where the licensor is an entity that controls a high concentration of rights, like Publishers here, who control rights to hundreds of thousands, or more, of individual works. Under such circumstances, bargaining can take place on a catalog-wide basis based on the licensing value of the catalog as a whole, rather than based on the license value of individual works. By consequence, the transaction cost on a per-work basis should be low enough to facilitate a licensing deal.

75. Given the size of Publishers' catalogs, it is reasonable that any transaction costs associated with negotiating collective licensing rights to those catalogs for use in AI training are not prohibitively high to restrict emergence of a licensing market. Accordingly, it is my economic opinion that the preconditions for an effective licensing market for AI training data comprised of Publishers' copyrighted music lyrics already exist.

B. Publishers actively participate in the market for licensing their works as AI training data.

76. Because AI technology itself is still so new, the licensing market for copyrighted works as AI training data is also still developing. Nevertheless, Publishers in this case are early entrants to this emerging licensing market, actively engaging in the market to license their Works and the lyrics contained therein for use in connection with AI technology. Publishers have already entered into multiple licenses with AI companies and are exploring many others. Licensing is core to Publishers' work on behalf of songwriters, and Publishers are particularly well-positioned to participate in this burgeoning AI licensing market.

77. Plaintiff UMPG has already struck agreements to license its music lyrics on a catalog-wide basis to two AI companies: Udio and Klay Vision, Inc. ("Klay").

78. The Udio Agreement serves as a useful benchmark for understanding the rights, restrictions, and compensation negotiated between two active participants in the licensing market

for music compositions (including music lyrics) as AI training data.[100] [redacted]

79. UMPG's agreement with Klay (the "Klay Agreement") serves as another useful reference point for understanding the relevant rights, restrictions, and compensation negotiated in this emerging market.[101] [redacted][102]

80. Publishers' witness testimony further reinforces my opinion that Publishers are active participants in the market for licensing their works as AI training data. For example, UMPG's David Kokakis testified that [redacted].[104]

[100] *See* Ex. 17, UMPG_0000024457.
[101] Ex. 31, UMPG_0000025119.
[102] *Id.* at -19–21, -23–31.
[103] Chung Decl. Ex. 117, Kokakis Dep. Tr. 164:6–16, 224:11–18.
[104] Chung Decl. Ex. 15, Berschback Dep. Tr. 161:19–169:25.

81. Accordingly, Publishers are active and receptive participants in the licensing market for AI training data and related AI-use purposes, and the Udio and Klay Agreements serve as useful reference points for understanding the specific rights, restrictions, and revenue-sharing structures that rightsholders, like UMPG, will expect to negotiate in future Generative AI licensing agreements

C. Anthropic's unlicensed scraping of Publishers' copyrighted lyrics subverts and undermines the licensing market for AI training data.

82. Anthropic subverts the licensing market for AI training data by undermining the market preconditions that I described above, particularly with respect to rightsholders' ability (including Publishers) to restrict access to their copyrighted works.

83. Anthropic primarily subverts the licensing market for training data through its corporate strategy of obtaining AI training data by "scraping" the Internet for copyrighted text.[105] Anthropic colloquially describes "scraping" as "making a copy of the contents that are downloaded when visiting a web page."[106] Anthropic's scraping does not require any contact with, license from, or compensation to the rightsholders of the copyrighted works Anthropic obtains in this manner.

84. A significant feature of Anthropic's scraping practice (and its content-acquisition strategy, more broadly) is its reliance on third-party datasets, like Common Crawl and The Pile, which themselves are collections of scraped and other data that have been compiled for public download, and which include vast amounts of copyrighted materials.[107]

85. Anthropic's unlicensed scraping of Publishers' copyrighted works subverts the nascent licensing market for AI training data, generally, and the licensing market for Publishers' song lyrics as AI training data, specifically.

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[105] *See* Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 37:6–13 (testifying that "the majority of the content" that Anthropic obtains to train its AI models comes from scraping the web, [redacted]). To be clear, Anthropic collects training data in a wide variety of ways. The unlicensed scraping conduct to which I refer in this section is not meant to be a comprehensive or exclusive analysis of Anthropic's content-acquisition practices.

[106] Chung Decl. Ex. 4, Mann 30(b)(6) Dep. Tr. 47:8–10.

[107] *Id.* at 53:20–25 (describing Common Crawl); Chung Decl. Ex. 5, Mann 30(b)(1) Dep. Tr. 42:1–7.

1. Anthropic's unlicensed scraping subverts rightsholders' practical ability to restrict access to copyrighted material.

86. Anthropic's unlicensed scraping of copyrighted works from the Internet (including Publishers' lyrics) subverts the first licensing-market precondition—a rightsholder's ability to restrict access to copyrighted material.

87. First, to the extent copyrighted content appears online, there is presently no practical way for a rightsholder to completely prevent an entity like Anthropic from crawling or scraping that content to then use it as AI training data. This is true even if rightsholders could take steps to restrict scraping prospectively (for example, by using robots.txt instructions), because third-parties datasets like Common Crawl and The Pile have already crawled, scraped, and collected countless copyrighted works that are available to AI companies like Anthropic to freely download. In the pre-AI world, rightsholders would not have had any reason to implement anti-scraping measures to restrict use of their content for AI training, so to the extent protected works appear in similar third-party datasets, there really is no practical means of restricting access.

88. The fact that Anthropic purportedly instructs its employees to respect "robots.txt" protocols does not change my opinion. Technological protocols are imperfect and circumventable. Moreover, that rightsholders would need to rely on and trust a company like Anthropic to respect robots.txt protocols as a matter of policy further illustrates that the *rightsholder* lacks the practical ability to restrict access to their content.

89. Rightsholders with works displayed online therefore must rely on the legal enforcement of copyright law to satisfy the first precondition for an AI licensing market. Copyright law allows rightsholders to generate value from their created works via public display and distribution without fear that the value of their works will be stolen or diminished because the rightsholder has the opportunity to recover at least some of that value in a court of law, if needed. But when copyright protection is ignored or nullified, any effective licensing market for those copyrighted works is subverted and may even collapse.

90. Consequently, absent legal enforcement under copyright law, rightsholders (including Publishers) would have no effective ability to restrict AI companies from using their

copyrighted content as training data if that copyrighted content appears anywhere online (either through legitimate licensee websites or other unauthorized sources). Indeed, when an entity like Anthropic can simply go on the internet and scrape copyrighted content for free, that entity has little to no economic incentive to pay money to a rightsholder to separately license that same content for use in AI training. Thus, absent legal enforcement of copyright law, Anthropic's crawling and scraping conduct would severely impact, if not wholly destroy, the licensing market for Publishers' copyrighted content as AI training data.

2. By subverting Publishers' practical ability to restrict access to their copyrighted works, Anthropic's scraping conduct enables it to avoid the licensing process altogether.

91. Because Anthropic faces minimal practical obstacles to obtaining large quantities of unlicensed copyrighted content, by downloading preassembled datasets like Common Crawl or by conducting its own scraping, Anthropic has not attempted to license much of the copyrighted content it uses to train its model. For example, Anthropic has never even attempted to negotiate with Publishers for a license to use their copyrighted lyrics.[108] Indeed, at least with respect to the [redacted], and Anthropic's designated representative testified that [redacted][109]

92. Anthropic's reluctance to license song lyrics from Publishers is not for a lack of need for such data.[110] Like its competitors, Anthropic requires vast amounts of text data to train its Claude models, and its designated representative testified that [redacted].[111] Several Anthropic witnesses, including its Chief Science Officer Jared Kaplan, have

[108] Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 37:20–38:1.
[109] *Id.* at 38:2–5, 65:21–23.
[110] *See* Zhao Decl. ¶¶ 44–53; *see also* Ex. 32, Anthropic_000218479 [redacted]).
[111] Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 25:21–22 ("[redacted]; 26:17–18 [redacted]); 33:4–24 (testifying that [redacted]).

attested to the utility of song lyrics as training data,[112] and Anthropic specifically identified music lyrics as one of twelve sources of human-written text to use as AI training data.[113] Anthropic has also acknowledged that "[i]t's likely that some lyrics from some publishers' songs were included in Anthropic's model training."[114]

93. Anthropic's reluctance to license song lyrics from Publishers also cannot be for a lack of funds. Apart from Anthropic's $380 billion valuation, Anthropic's designated witness testified that the company [redacted]"[115] [redacted].[116] According to Mr. Turvey, Anthropic's current benchmark for [redacted].[117] I also understand that Anthropic has separately purchased over $66 million worth of print books in connection with its destructive-scanning project.[118] An internal planning document from Anthropic CEO Dario Amodei also noted the company's [redacted].[120]

94. Moreover, [redacted]

[112] Decl. of Jared Kaplan in Supp. of Def.'s Opp.'n to Renewed Mot. for Prelim. Inj. ("Kaplan Decl.") ¶ 35, ECF No. 209.
[113] Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 23:23–24:8.
[114] Chung Decl. Ex. 4, Mann 30(b)(6) Dep. Tr. 96:10–15.
[115] Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 66:14–17 (referring to Ex. 33, Anthropic_0000228080).
[116] Ex. 33, Anthropic_0000228080.
[117] Chung Decl. Ex. 119, Turvey 30(b)(1) Dep. Tr. 68:8–21.
[118] *See* Ex. 34, Anthropic_0000441006 (reflecting monies paid on "[Project] Panama Orders"); *see also* Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 96:16–24 ("[T]hese are actual verified orders.").
[119] Ex. 35, Anthropic_0000217184, at -86.
[120] Ex. 36, Anthropic_0000582634.

[redacted]. [121] [redacted]

95. Anthropic also has sufficient information to identify the relevant counterparties (*i.e.*, rightsholders) from whom to license. An internal tracking document shows that Anthropic previously internally considered [redacted]. [122] The document specifically notes [redacted]. The document also provides a specific assessment as to whether the [redacted] noting that [redacted] [123] The document also [redacted]. *Id.*

96. Other internal Anthropic documents and witness testimony also support a conclusion [redacted] For example, when commenting on a document titled "Anthropic Plan for 2023," [124] Anthropic's CEO Dario Amodei recognized that, while there are "many places from which we could in principle buy [books and scientific papers]" for use in AI training, doing so is "a huge legal/practice/business slog." [125] Anthropic's Dr. Kaplan

[121] Ex. 37, Anthropic_0000429496.
[122] Ex. 38, Anthropic_0000231226.
[123] *Id.*
[124] *See* Ex. 35, Anthropic_0000217184.
[125] Ex. 39, Anthropic_0000215992; *see also* Ex. 35, Anthropic_0000217184, at -88 [redacted]).

echoed this sentiment by stating his belief that [redacted]."[126]

97. Internal Anthropic documents suggest that [redacted][127] In another internal document, an Anthropic employee wrote that [redacted][128]Similarly, in July 2023, Jared Kaplan described his concern that Anthropic's [redacted][129] Another internal document written by Mr. Turvey notes that [redacted]."[130]

98. Accordingly, from an economic point of view, Anthropic would have been incentivized *not* to engage in licensing negotiations with rightsholders, including Publishers, given [redacted] Thus, with respect to the AI-licensing market for song lyrics, specifically, Anthropic subverts the licensing market by refusing to pay any amount of money to any music publishers, including Plaintiffs, to use their song lyrics as AI training data.

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[126] Ex. 40, Anthropic_0000479241.
[127] Ex. 41, Anthropic_0000011376, at -82 & -86.
[128] Ex. 42, Anthropic_0000443204, at -09.
[129] Ex. 40, Anthropic_0000479241, at -42.
[130] Ex. 30, Anthropic_0000229152; *see also* Ex. 32, Anthropic_000218479 [redacted]).

This refusal comes despite the fact that *other* AI companies have been willing to pay Publishers to license their lyric data, as UMPG's agreements with Klay and Udio show. As a result, Anthropic subverts the market as a whole and drives down the value of Publishers' licensing rights.

3. Anthropic's policy of concealing the content it uses for AI training increases licensing transaction costs for rightsholders.

99. Anthropic has also adopted certain corporate policies related to its content-acquisition practices that subvert the third licensing-market precondition that I described above. Specifically, [redacted]

100. The genesis for this policy ostensibly came from an internal document written by Anthropic's Vice President of Data Acquisitions, Tom Turvey, during his first week on the job in February 2024.[131] In the document, Mr. Turvey [redacted]

101. Anthropic's [redacted] increases discovery and search costs for rightsholders and further undermines trust and transparency in the market.

D. It is difficult, if not impossible, to quantify Publishers' harm resulting from Anthropic's unlicensed copying and use of their lyrics as AI training data.

102. Anthropic's unlicensed copying and use of Publishers' lyrics through its practice of scraping, crawling, and downloading of third-party datasets, subverts the necessary preconditions that serve as the foundation of a burgeoning AI licensing market for copyrighted

[131] Chung Decl. Ex. 7, Turvey 30(b)(6) Dep. Tr. 109:5–13.
[132] Ex. 30, Anthropic_0000229152, at -55.
[133] *Id.* at -56.
[134] Chung Decl. Ex. 119, Turvey 30(b)(1) Dep. Tr. 70:17–22.

works. The resulting harm to Publishers is difficult, if not impossible, to calculate with any reasonable certainty for multiple reasons.

103. First, Anthropic's unlicensed copying and use of Publishers' copyrighted works harms Publishers' ability to negotiate restrictions on AI-generated outputs that potentially compete with Publishers' copyrighted works. These contractual protections are important because they counterbalance the threat of market substitution by AI-created works.[135] For example, if Anthropic continues to train its AI models on copyrighted lyrics, without restriction and without returning any value to the rightsholders, those models will continue to create market substitutes based on those copyrighted lyrics that are capable of siphoning value from the revenue-sharing pools of digital platforms like Spotify and YouTube.[136] Indeed, this underscores the importance of the [redacted].[137]

104. Second, Anthropic's unlicensed copying and use of Publishers' lyrics normalizes the circumvention of licensing by other AI companies. For example, if Anthropic continues its unlicensed scraping practices without restriction (as it does now), other AI companies in the market will have reduced incentives to license from rightsholders if they determine that they can also get the same content for free or much cheaper by adopting Anthropic's strategy. Even worse, other AI companies may feel compelled to adopt Anthropic's unlicensed content-acquisition strategies in order to *compete* with Anthropic. As a result, rightsholders would lose negotiating power in licensing discussions with other AI companies that would otherwise be willing to pursue a license for copyrighted works. This in turn would result in an overall drop in value for those works. By the same token, Anthropic's unlicensed copying and use of Publishers' lyrics could also undermine Publishers' attempts and ability to renew and renegotiate existing licenses.[138]

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[135] *See* above ¶¶ 24–26, 77–79.
[136] *See* above ¶¶ 52–54.
[137] *See* above ¶¶ 24–26, 77–79.
[138] *See, e.g.*, Chung Decl. Ex. 118, Coleman Dep. Tr. 178:14–17 ("[redacted]").

105. Third, Anthropic's unlicensed copying and use of Publishers' lyrics deprives Publishers of revenue that Anthropic would have paid in licensing fees to include Publishers' lyric catalog in its training corpus.[139] This amount is nearly impossible to quantify. While I understand that, to calculate this type of harm, courts sometimes assess a "hypothetical" negotiation between the parties based on potential "benchmark" agreements, the difficulty with doing that here is that there are relatively few benchmark agreements to rely on, given the infancy of AI technology and the licensing market for AI training data. Indeed, the only relevant benchmark agreements available are the Udio Agreement and the Klay Agreement. Even these agreements, however, [redacted] that are nearly impossible to quantify in value.

106. All of this leads me to conclude that the harm from Anthropic's unlicensed copying is significant but not reliably quantifiable.

V. Anthropic's unlicensed scraping of Publishers' lyrics for use in AI training has diminished the overall value of those works.

107. Beyond licensing, Anthropic's infringement also undermines the value of the entire market for song lyrics, including Publishers' asserted works in this case. As my colleagues and I have demonstrated in extensive research on the impact of digital piracy, the unauthorized use or reproduction of copyrighted works reduces the market value of these works, which means lowered income for publishers and songwriters.[140] Specifically, in a 2020 Piracy Landscape Study conducted for the U.S. Patent and Trademark Office, my colleagues and I document that 29 of the 33 peer-reviewed academic studies of the impact of piracy on legal sales found that piracy caused statistically and economically significant harm to sales in legal markets.[141]

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[139] I understand Anthropic disputes whether it is required to license Publishers' works in order to use them as AI training data. For purposes of this opinion, I assume that Anthropic is required to do so.

[140] Brett Danaher, Michael D. Smith & Rahul Telang. *Piracy Landscape Study: Analysis of Existing and Emerging Research Relevant to Intellectual Property Rights Enforcement of Commercial-Scale Piracy*, U.S. PATENT AND TRADEMARK OFFICE, Economic Working Paper No. 2020-02 (March 20, 2020), https://www.uspto.gov/sites/default/files/documents/USPTO-Piracy-Landscape.pdf.

[141] *Id.*

108. This contraction in the market has an indirect effect as well. When unauthorized content circulates widely in the marketplace, it has a depressing effect on even legal sales. Our research has shown that presence of freely available unlicensed content reduces the prices consumers are willing to pay for licensed content.[142]

109. These harms are felt by Publishers whether Anthropic provides complete copies of Publishers' lyrics or in part. In delivering complete, verbatim or near-verbatim copies of Publishers' lyrics, Anthropic usurps a service typically provided by licensees such as lyric aggregators or karaoke services, who are required to pay licensing fees for their use of Publishers' lyrics. This conduct robs Publishers of licensing fees, inhibits their ability to negotiate licenses, undermines the value of the market for song lyrics, and reduces the prices consumers are willing to pay.

110. The same harms befall Publishers when Anthropic provides Publishers' lyrics in part or combined with other texts or materials obtained from other sources since such uses of Publishers' lyrics would require licensing agreements as well.

111. Anthropic's delivery of Publishers' lyrics without attribution also divests songwriters of recognition and reputation among consumers and music publishers, further undermining the economic value of their compositions and services.

112. Even with guardrails that restrict some infringing responses by Claude, Publishers face the same economic harms so long as Anthropic continues to exploit Publishers' lyrics without obtaining any licenses for its uses.

113. Ultimately, all of this combines to depreciate the value of creative output. In the context of music publishing, this hurts the publisher companies, the songwriters, and their licensees. And in the long run, this depreciation in market incentives reduces artists' incentives to create, which harms everyone.[143]

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[142] *See, e.g.,* Miguel Godinho de Matos, Pedro Ferriera & Michael D. Smith, *The Effect of Subscription Video-On-Demand on Piracy: Evidence from a Household Level Randomized Experiment*, 64 MGMT. SCIENCE 12, 5610 (2017).

[143] *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).

Executed in Pittsburgh, Pennsylvania, this 23rd day of March, 2026.

Michael D. Smith

SIGNATURE ATTESTATION PURSUANT TO CIVIL L.R. 5-1(h)

Pursuant to Civil L.R. 5-1(h), I hereby attest that concurrence in the filing of this document was obtained from the signatory of this document. I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 23, 2026

/s/ Nicholas C. Hailey
Nicholas C. Hailey