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

Alexander Kaplan
Jennifer Pariser
Andrew Guerra
Bret Matera
Timothy Chung
Michelle Gomez-Reichman
(admitted *pro hac vice*)
461 5th Avenue, 19th Floor
New York, NY 10017
Telephone: (212) 951-1156
alex@oandzlaw.com
jpariser@oandzlaw.com
andrew@oandzlaw.com
bmatera@oandzlaw.com
tchung@oandzlaw.com
mgomez-reichman@oandzlaw.com

Attorneys for Plaintiffs

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

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

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC,

Defendant.

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

PLAINTIFFS' NOTICE OF MOTION AND MOTION TO EXCLUDE THE OPINIONS OF DR. RUSS B. ALTMAN

Judge Eumi K. Lee
Magistrate Judge Susan van Keulen
Hearing Date: July 15, 2026, 10:00 am
Courtroom: 7

CERTIFICATION OF COMPLIANCE WITH CIVIL STANDING ORDER SEC. VIII.A

Pursuant to Sec. VIII.A of the Court's Civil Standing Order, the undersigned counsel certifies that Publishers' counsel met and conferred with Anthropic's counsel by videoconference on March 24, 2026 and by email to discuss the bases for this Motion in an effort to resolve or narrow disputed issues where possible to reduce motion practice.

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on July 15, 2026, at 10:00 am (*see* ECF No. 587), or as soon thereafter as this matter may be heard, before the Honorable Eumi K. Lee, District Judge, U.S. District Court for the Northern District of California, in Courtroom 7 – 4th Floor, 280 South 1st Street, San Jose, CA 95113, 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") will and hereby do respectfully move this Court for an order excluding the opinions of Defendant Anthropic PBC's ("Anthropic") expert witness, Dr. Russ B. Altman.

STATEMENT OF RELIEF

Publishers respectfully request the Court exclude Dr. Altman's opinions in their entirety.

INTRODUCTION

This case is about Anthropic's copying of Publishers' copyrighted song lyrics to train Anthropic's AI models ("Claude") to output content that reproduces or competes in the market with Publishers' lyrics, all without permission or payment. This case is not a referendum on AI technology. It is not about whether AI is good or bad, on net, for society. Indeed, Publishers embrace the promise of lawfully created AI and have licensed their works for use by multiple AI companies.

In an attempt to distract the Court and the jury from what this case is actually about, Anthropic seeks to introduce expert opinion testimony from Dr. Russ B. Altman, the Kenneth Fong Professor of Bioengineering, Genetics, Medicine, Biomedical Data Science, and (by courtesy) Computer Science at Stanford University. Decl. of Corey Miller in Supp. of Pls.' Mot. to Exclude the Opinions of Russ Altman ("Miller Decl."), Ex. A ¶ 7, Expert Report of Russ B. Altman (Dec. 19, 2025) ("Rpt."). Dr. Altman seeks to testify that "Anthropic's Claude has significant public benefits across several domains . . . [such as] be[ing] used to accelerate pharmaceutical research, improve clinical workflows, expand access to educational tools, and support environmental conservation efforts." Rpt. ¶ 19. None of these supposed benefits have anything to do with this case: there is no evidence in the record establishing any connection at all between Anthropic's use of

Publishers' song lyrics and any of the benefits of Claude that Dr. Altman identifies. Nor do any of those benefits have any connection to copyright law's goal of encouraging the creative production of new expression. Dr. Altman's opinions are irrelevant and should be excluded in their entirety.

Many of Dr. Altman's opinions should also be excluded because he lacks the necessary expertise to offer them. While Dr. Altman is undoubtedly an expert on biomedical science, and arguably has expertise regarding higher education due to his experience as a university professor, his opinions wander far beyond the use of Claude within those narrow realms to encompass uses of Claude in K-12 education, marine biology, environmental conversation, and small businesses, and he further improperly opines on the history of technological development.

Finally, many of Dr. Altman's opinions should also be excluded because he does nothing more than regurgitate press releases from Anthropic or its customers, adding a false imprimatur of expert gloss to Anthropic's and its customers' marketing copy. Merely regurgitating marketing materials without conducting any independent analysis or investigation is not a reliable method; such is not the stuff admissible expert opinion is made of under Rule 702.

LEGAL STANDARD

Expert testimony is admissible under Rule 702 where "the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue," and the testimony is sufficiently reliable. Fed. R. Evid. 702. The court acts as a gatekeeper for such testimony, "ensur[ing] that any and all scientific testimony or evidence admitted is not only relevant, but reliable." *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 589 (1993). Generally, expert opinion "is relevant if the knowledge underlying it has a valid connection to the pertinent inquiry," *Engilis v. Monsanto Co.,* 151 F.4th 1040, 1047 (9th Cir. 2025) (quotations and citations omitted), and carries "sufficient indicia of reliability." *Metabolife Int'l, Inc. v. Wornick*, 264 F.3d 832, 840 (9th Cir. 2001). There is no presumption in favor of admission. *Engilis*, 151 F.4th at 1049.

ARGUMENT

I. Dr. Altman's opinions regarding the supposed benefits of Claude are irrelevant.

A. The supposed benefits of Claude Dr. Altman identifies have no connection to Anthropic's use of Publishers' works.

The fourth factor of fair use analysis focuses on "the effect of the use upon the potential market for or value of the copyrighted work." 17 U.S.C. § 107(4) (emphasis added). While fair use analysis "must take into account the public benefits the copying will likely produce," *Google LLC v. Oracle Am., Inc.*, 593 U.S. 1, 35 (2021), any such public benefits must flow from that copying to be relevant. Public benefits that flow from a defendant's technology generally, but that have no connection to a defendant's use of the copyrighted work at issue specifically, are not relevant.

This fair-use framework makes clear that the benefits of Claude Dr. Altman identifies are not relevant to fair use because there is no evidence in the record establishing any connection between any of those benefits and Anthropic's copying of Publishers' song lyrics. Dr. Altman testified that whether "Claude [would] be less effective if its training data did not include the song lyrics at issue in this case" is "an empirical question that I don't know the answer to." Miller Decl. Ex. D 104:10–15, Altman Dep. Tr. ("Dep. Tr."). Dr. Altman was repeatedly asked whether, if Claude's training corpus did not include Publishers' song lyrics, there would be any effect on Claude's ability to deliver the benefits Dr. Altman identifies, and Dr. Altman repeatedly confirmed that is an "empirical question" that has not "been tested," and that he could not opine either way. *Id.* at 132:25–133:23 (no opinion on whether lyrics have any effect on Claude's ability to assist with managing large multimodal datasets); *id.* at 141:25–142:19 (no opinion on whether lyrics have any effect on Claude's ability to assist with scientific literature reviews or developing research protocols); *id.* at 153:9–17 (no opinion on whether lyrics have any effect on Claude's ability to streamline regulatory processes); *id.* at 165:1–13 (no opinion on whether lyrics have any effect on Claude's ability to facilitate drug development and discovery); *id.* at 167:13–168:6 (no opinion on whether lyrics have any effect on Claude's ability to augment health care delivery in patient care); *id.* at 173:7–20 (no opinion on whether lyrics have any effect on Claude's ability to support effective time management); *id.* at 257:17–258:1 (no opinion on whether lyrics have any effect on

Claude's ability to make music recommendations).

While Dr. Altman does not know whether including Publishers' lyrics in Claude's training data affects Claude's abilities, Anthropic's other experts and witnesses have decisively answered that question in the negative. Technical expert Dr. Jeffrey Bilmes opined that "the effect of Plaintiffs' lyrics on Claude's learned parameters or outputs is extremely likely to be near zero, if present at all." Miller Decl. Ex. E 180:25–181:10, Bilmes Dep. Tr. Anthropic's co-founder and 30(b)(6) witness Benjamin Mann testified, "I don't think we view it as important to include lyrics" in Claude's training data. Miller Decl. Ex. F 114:5–9, Mann 30(b)(6) Dep. Tr. Anthropic Chief Science Officer Jared Kaplan stated in a sworn declaration that Anthropic has "no interest" in Publishers' Works in Suit specifically, that similar types of works "are considered fungible for purposes of the model," and that "it does not ultimately matter," for example, "what specific articles are included in the training data. . . ." Decl. of Jared Kaplan ¶¶ 36, 23, ECF No. 209. Economics expert Dr. Abishek Nagaraj opined "[l]yrics in particular are not a unique or indispensable input . . . . Anthropic could substitute Plaintiffs' Works-in-Suit with other text sources—including text that does not consist of lyrics—to train its general-purpose LLM." Miller Decl. Ex. G ¶ 47, Excerpt of Reply Report of Abhishek Nagaraj, PhD (Feb. 13, 2026). When asked whether these opinions are correct, Dr. Altman said he did not disagree with them. Dep. Tr. 104:23–106:17.

B. The supposed benefits of Claude Dr. Altman identifies have no connection to the objectives of copyright law underlying fair use.

The benefits of Claude that Dr. Altman identifies are irrelevant to the fair use inquiry because they have nothing to do with the role of fair use in encouraging new creative expression. *Google* held that public benefits from copying are relevant only insofar as they relate to "copyright's concern for the creative production of new expression." *Google*, 593 U.S. at 35; *see also id.* at 39 (focusing public benefits analysis on "copyright's basic creativity objectives"); *Sega Enters. Ltd. v. Accolade, Inc.*, 977 F.2d 1510, 1524 (9th Cir. 1992) (focusing public benefits analysis on "statutory purpose of promoting creative expression"). Public benefits that are not related to the "creative production of new expression" are simply not relevant to a fair use analysis.

None of the supposed benefits of Claude Dr. Altman identifies have any connection to encouraging new creative expression. Uses of Claude to "accelerate pharmaceutical research, improve clinical workflows, expand access to educational tools, and support environmental conservation efforts," Rpt. ¶ 19—whatever their importance—have no connection to the purposes of copyright law. None directly encourage new creative expression. Even the supposed benefits to creative sectors Dr. Altman discusses largely focus on non-creative functions like "streamlining repetitive, non-creative tasks." Rpt. ¶¶ 108–109. Whether Claude is a useful technology in ways unrelated to new creative expression is irrelevant to whether Anthropic's use of Publishers' lyrics is a fair use. As such, Dr. Altman's testimony on these topics will not help the trier of fact understand the evidence or determine a fact in issue. "[E]xpert testimony is relevant [only] if the knowledge underlying it has a 'valid . . . connection to the pertinent inquiry.'" *Lin v. Solta Med., Inc.*, 2024 WL 5199905, at *2 (N.D. Cal. Dec. 23, 2024) (quoting *Daubert*, 509 U.S. at 591–92).

II. Dr. Altman lacks the necessary expertise to opine on any benefits of Claude beyond medical and biological research or higher education.

Dr. Altman strays far beyond his expertise in medical and biological research and higher education to offer opinions for which he is plainly unqualified. To offer expert testimony, a witness must have "scientific, technical, or other specialized knowledge" relevant to the issue on which the witness seeks to opine. Fed. R. Evid. 702(a); *Waymo LLC v. Uber Tech., Inc.*, 2017 WL 5148390, at *5 (N.D Cal. Nov. 6, 2017).

Dr. Altman is a professor of bioengineering, genetics, medicine, biomedical data science, and computer science; his publications are limited to those fields, and he has never taught a class outside those fields. Dep. Tr. 16:8–17:11. His expertise is limited to those areas, along with whatever expertise in higher education may be conferred by being a college professor. He is not qualified to opine on the wide range of topics outside his narrow expertise on which he seeks to offer opinions. *Gunaratna v. Dennis Gross Cosmetology LLC*, 2023 WL 2628620, at *10 (C.D. Cal. Mar. 15, 2023) ("Courts regularly find that an expert's qualifications in one field do not automatically translate to qualification to opine in a separate field, even if those fields are related in some general sense.") (citing *Metabolife Int'l, Inc. v. Wornick*, 264 F.3d 832, 841 (9th Cir. 2001) ("[A]

very significant fact to be considered is whether the experts are proposing to testify about matters growing naturally and directly out of research they have conducted independent of the litigation")).

K-12 education. Dr. Altman does not limit his opinions that LLMs are "transforming education" and that "Claude improves educational outcomes" to higher education, about which Dr Altman has arguable expertise due to his experience as a professor, but extends his opinions to K-12 education, about which he plainly has none. *See* Rpt. ¶¶ 41–42, 86–96, Miller Decl. Ex C ¶¶ 40–52, Expert Reply Report of Russ Altman (Feb 13, 2026) ("Reply"). In completing his Ph.D. and M.D. at Stanford, Dr. Altman took no classes at Stanford's Graduate School of Education, has never taught a K-12 class, and has never published anything on K-12 pedagogy. Dep. Tr. 210:9–212:10, 303:3–5. He is not qualified to opine on the effect of AI on K-12 education, and whatever review of literature he may have conducted seems to have omitted a large body of research demonstrating significant harm to K-12 students from AI. *See, e.g.*, Mary Burns et al., *A New Direction for Students in an AI World: Prosper, Prepare, Protect*, CENTER FOR UNIV. ED. AT BROOKINGS (Jan. 2026), https://www.brookings.edu/wp-content/uploads/2026/01/A-New-Direction-for-Students-in-an-AI-World-FULL-REPORT.pdf.

Use of Claude to improve public outcomes, increase civic engagement, and support environmental conservation. Dr. Altman lacks expertise to opine regarding the use of Claude "by governments and communities to improve public outcomes, increase civic engagement, and support environmental conservation." Rpt. ¶ 97. Dr. Altman has never served in local government and has never conducted any research or empirical analysis on how governments use AI. 244:4–5, 18–22. He cites case studies regarding conservation of whale populations, lead removal from Lake Tahoe, and carbon removal, Rpt. ¶¶ 98–104, but admits he is not an ecologist, marine biologist, or environmental scientist. Dep. Tr. 241:11–20.

Claude's effect on business. Dr. Altman lacks any expertise to opine that "LLMs lower barriers to entry for new businesses." Rpt. ¶¶ 117–121. Dr. Altman is not an economist and, outside of a brief sabbatical more than 15 years ago, Dr. Altman has never worked in the day-to-day operations of a company outside academia. Dep. Tr. 31:5–32:10, 265:7–8. He conducted no empirical analysis on whether LLMs have lowered barriers to entry for new businesses, and admitted that is

the kind of analysis typically performed by economists—which he is not. Dep. Tr. 265:14–266:2.

Claude's impact on creative sectors. Dr. Altman is not qualified to opine on Claude's impact on creative sectors. Rpt. ¶¶ 105–116, Miller Decl. Ex. B ¶¶ 67–68, Expert Rebuttal Report of Russ Altman (Jan. 23, 2026) ("Rebuttal"). He opines on Claude's impact on artists and graphic designers, Rpt. ¶ 105, but admits he is neither. Dep. Tr. 249:1–17. And while his work requires academic writing, he admits he is "not what many people would consider" a writer or content creator. Dep. Tr. 249:18–250:8. Dr. Altman relies extensively for his opinions about creative sectors on a conference he attended in 2023 and his review of case studies. Rpt. ¶¶ 106–107. But attending a conference and reading some background material does not qualify Dr. Altman to opine under Rule 702; that would water down Rule 702's requirements to nothing.

AI safety generally and Anthropic's safety practices. Dr. Altman lacks the necessary expertise to opine regarding AI safety generally. Dr. Altman's expertise in AI safety is limited to the deployment of AI systems in the medical and bioengineering contexts in which he specializes, and he lacks any expertise to opine about AI safety beyond those contexts. Indeed, Dr. Altman conceded that he is not an expert on AI safety generally, admitting that, while he has "quite a bit of knowledge about AI safety in the areas within which I work . . . it ***trails off*** in terms of my familiarity with the full academic literature. It kind of trails off as—as expected." Dep. Tr. 175:5–176:5 (emphasis added). When asked whether he considers himself an expert on the responsible deployment of AI models, he admitted that, while he claims expertise in AI deployment within healthcare and scientific venues, "one has to be very careful when claiming expertise, and so my strongest expertise would be in the areas within which I work directly." Dep. Tr. 206:13–207:17. Dr. Altman thus lacks the necessary expertise to offer his opinion that "[l]eading AI companies, including Anthropic, have adopted safety-by-design principles and model alignment strategies into their design process." Rpt. ¶ 49. For the same reason, he lacks the expertise to challenge the conclusion of Publishers' technical expert, Dr. Ben Zhao, that technical, market, and governance challenges are intrinsic risks of AI. *See* Rebuttal ¶¶ 16–34, 52–56, Reply ¶ 38.

History of social adaptation to new technologies. Dr. Altman also lacks the expertise to opine regarding the "historical experience and the observed evolution of complex transformative

technologies." Rebuttal ¶¶ 23–28. Dr. Altman is not a historian, has never published any historical research, and has never even taken any graduate-level history classes. Dep. Tr. 258:2–14. Prior to this case, he has never conducted any research on the history of technological development outside his specialized field of biomedical informatics. *Id.* at 258:25–259:17. His opinion that, "[h]istorically, early-stage challenges prompt iterative improvements in technical design, governance structures, and institutional norms, rather than persisting unchanged," Rebuttal ¶ 24, together with his historical analysis of the rollout of electrical power in the 19th and 20th centuries, the discovery of x-rays and radioactive materials in the 1890s, the development of GPS, and the introduction of the automobile, *id.* ¶¶ 25–28, all exceed his narrow expertise and should be excluded.

III. Dr. Altman's method of relying solely on marketing copy from the websites of Anthropic and its customers to identify Claude's benefits is unreliable.

For many of the benefits of Claude Dr. Altman identifies, his sole sources are marketing materials from Anthropic's website or the website of an Anthropic customer. Dr. Altman just regurgitates those marketing materials regarding the use of Claude and then pronounces that Claude has the benefit those materials describe. An expert must "employ[] in the courtroom the same level of intellectual rigor that characterizes the practice of an expert in the relevant field." *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 152 (1999)). But Dr. Altman failed to do that. He conducted no independent analysis or investigation, such as actually using Claude in the ways described, or even speaking to anyone at Anthropic or the relevant customers regarding their uses of Claude.

For example, one of the benefits of Claude Dr. Altman identifies is Claude's ability to perform scientific literature reviews. Rpt. ¶ 65–66. The only support Dr. Altman provides for Claude's ability to perform scientific literature reviews is that, "FutureHouse, a nonprofit advancing research automation, uses Claude to power AI agents that help [perform scientific literature reviews]." *Id.* ¶ 66. In turn, the only evidence Dr. Altman cites for FutureHouse's use of Claude are marketing articles from Anthropic's and FutureHouse's websites, and one article from TechCrunch that quotes from FutureHouse's marketing articles. *Id.* ¶ 66 nn.75–78. Dr. Altman has never used FutureHouse's service, did not speak to anyone at FutureHouse to prepare his report, and does not cite any instances of anyone using FutureHouse to do a scientific literature review. Dep. Tr. 145:6–

7, 145:22–146:7. While Dr. Altman claims that he "review[ed] FutureHouse's work," Rpt. ¶ 66, he admitted that the only review he did was to "go[] to the FutureHouse website where they provide what you could call descriptive promotional material about those tools to confirm that they existed, and I did – and so that's what I did." Dep. Tr. 144:24–145:5.

This impoverished method (to the extent there is any "method" here at all) plagues most of Dr. Altman's opinions. Dr. Altman relies solely on Anthropic's website and a news article that appears to be sourced from Anthropic's website to opine that Bluenote, a life sciences technology company, uses Claude to streamline the FDA submission process." Rpt. ¶ 68, n.80; Dep. Tr. 148:9–151:9. Again, Dr. Altman has never used Bluenote's service nor spoken to anyone at Bluenote, and other than what Anthropic's website says, has no knowledge whether or how *anyone* has used Bluenote. Dep. Tr. 151:13–153:8. Dr. Altman opines that "Claude-powered agents are now in use at several life sciences companies," Rpt. ¶ 69, but cites only one example from an article on Anthropic's website. *Id.* ¶ 69 n.81.

Further examples abound. Dr. Altman opines that LLMs including Claude can offer similar benefits to creative and academic writing workflows, but cites only the description of the Claude app from the Google Play app store. *Id.* ¶ 70 n.82. Dr. Altman opines that Pfizer and Novo Nordisk have integrated Claude into their core research infrastructure," *id.* ¶ 71, but relies on only two news articles, one of which appears to be sourced from a paid advertisement (a fact of which Dr. Altman was unaware). *Id.* n.83; Dep. Tr. 158:10–163:11. Again, Dr. Altman did not speak to anyone at Pfizer or Novo Nordisk in forming his opinions, and his knowledge of their use of Claude was limited to the articles he cited. Dep. Tr. 163:14–164:20. *See also* Rpt. ¶ 80, nn.81–82 (relying only on website of Claude customer); *id.* ¶ 87, nn.107–108 (relying solely on Anthropic website for discussion of Claude's "Learning Mode); *id.* ¶ 89, n.113 (relying solely on https://claude.northeastern.edu for description of Northeastern University's implementation of Claude).

That many of these examples arise in domains outside Dr. Altman's expertise, *see supra*, only multiplies the unreliability because, even if he had tried to do so (and he did not), Dr. Altman lacks the expertise to critically evaluate his source material. *See* Rpt. ¶¶ 90–91, nn.114–116 (relying solely on Rising Academies' and Anthropic's websites for of Rising Academies' use of

Claude); *id.* ¶ 92, nn.117–118 (relying solely on Anthropic's website and paid advertisement by school using Claude for RileyBot's use of Claude); *id.* ¶ 93, nn.119–121 (relies on Anthropic's website and technology companies' advertisements and marketing for educational technology companies' use of Claude); *id.* ¶ 95, nn.124–125 (relies on Anthropic's website for discussion of AI grading/teaching tool); *id.* ¶¶ 98–99, nn.127–132 (relying solely on articles from Anthropic's and University of Sydney's websites for use of Claude in whale-related research); *id.* ¶¶ 100–101, nn.133–139 (relying solely on Anthropic's website for role of Claude in Tahoe Lead Removal Project); *id.* ¶ 102, nn.140–142 (relying solely on Amazon Web Services marketing document for role of Claude in gorilla conservation project); *id.* ¶ 103, nn.143–146 (relying solely on Anthropic website and LinkedIn post by carbon removal company for company's use of Claude); *id.* ¶ 108, nn.149–150 (relying solely on Anthropic website and Norwegian news article for Norwegian communications agency's use of Claude);); *id.* ¶ 110, nn.153–155 (relying solely on Anthropic website and news article for Australian software company's use of Claude); *id.* ¶ 113, nn.160–162 (relying solely on Anthropic website or Pulpit AI's use of Claude); *id.* ¶ 114, nn.163–164 (relying solely on Anthropic website for Jumpcut's use of Claude); *id.* ¶ 120, nn.172–173, 175 (relying solely on Anthropic customers' websites for startups' use of Claude).

None of these are reliable expert opinions under Rule 702. To pass muster, the expert must employ an "identifiable methodology" and explain how his professional experience qualifies him to conduct that analysis. *Rearden, LLC v. Walt Disney Pictures*, 152 F.4th 1058, 1077–78 (9th Cir. 2025) (expert testimony excluded as it lacked appropriate rigor). Here, Dr. Altman has done nothing more than launder Anthropic's marketing claims into the record. *Dep't of Toxic Substances Control v. Technichem, Inc.*, 2016 WL 1029463, at *1 (N.D. Cal. Mar. 15, 2016) (excluding expert opinion where expert "does no more than regurgitate information given to him by other sources" and "does not analyze his source materials so much as repeat their contents") (internal quotation marks omitted). This is wholly improper and should be excluded.

CONCLUSION

For the foregoing reasons, Publishers respectfully request that Dr. Russ Altman's opinions be excluded in their entirety.

Dated: March 31, 2026

Respectfully submitted,

/s/ Corey Miller

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

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

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

Alexander Kaplan
Jennifer Pariser
Andrew Guerra
Bret Matera
Timothy Chung
Michelle Gomez-Reichman
(admitted *pro hac vice*)
461 5th Avenue, 19th Floor
New York, NY 10017
Telephone: (212) 951-1156
alex@oandzlaw.com
jpariser@oandzlaw.com
andrew@oandzlaw.com
bmatera@oandzlaw.com
tchung@oandzlaw.com
mgomez-reichman@oandzlaw.com

Attorneys for Plaintiffs

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 31, 2026

/s/ Michelle Gomez-Reichman
Michelle Gomez-Reichman