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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

PLAINTFFS' NOTICE OF MOTION AND MOTION TO PARTIALLY EXCLUDE THE OPINIONS OF DR. JEFFREY BILMES

FILED UNDER SEAL

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. Jeffrey Bilmes as unreliable, not likely to aid the factfinder in assessing the relevant issues in this case, and otherwise improper.

STATEMENT OF RELIEF

Dr. Jeffrey Bilmes is a technical expert with no expertise in copyright law, yet he offers unreliable and prejudicial testimony concerning how Anthropic developed its Claude models and the "transformativeness" of Anthropic's uses of that data, all while regurgitating lay witness testimony as fact without applying any expert analysis. Plaintiffs respectfully request the Court exclude Dr. Bilmes's opinions and all related testimony: (i) regarding the effectiveness of Anthropic's deduplication processes, whether generally or as applied to Publishers' lyrics; (ii) that robots.txt files (or lack thereof) on websites granted "permission" for Anthropic to download Publishers' lyrics; (iii) that Anthropic's use of Publishers' lyrics was transformative; and (iv) relying on hearsay conversations with Benjamin Mann and other lay witness testimony.

BACKGROUND

Dr. Jeffrey Bilmes is a Professor of Electrical & Computer Engineering tasked with "provid[ing] an overview of technical concepts relating to Artificial Intelligence ('AI') and Large Language Models ('LLMs')." Decl. of Timothy Chung in Supp. Of Pls' Mot. to Exclude the Opinions of Jeffrey Bilmes, Ph.D. ("Chung Decl."), Ex. A ¶ 2, Expert Report of Jeffrey Bilmes, PhD., Dec. 19, 2025 ("Rpt."). Dr. Bilmes also submitted a Rebuttal Expert Report (Jan. 23, 2026) ("Rebuttal"), attached as Ex. B to the Chung Decl., and a Reply Expert Report (Feb. 13, 2026)

("Reply"), attached as Ex. C to the Chung Decl. As relevant here, his opening report includes the following opinions:

First, Dr. Bilmes opines Anthropic employs "substantial data filtering and deduplication techniques." Rpt. ¶ 117. Deduplication refers to the removal of duplicate texts in training datasets. Anthropic's deduplication techniques are critically important in this case because deduplication is one way a developer can reduce the likelihood the model memorizes and regurgitates its training data. *See id.* ¶¶ 115, 120. Dr. Bilmes opines that "Anthropic seeks to deduplicate data to ensure that no single piece of data exerts an outsized influence on the model," and that "Anthropic implements deduplication efforts that reduce the likelihood the model will memorize or regurgitate specific works. *Id.* ¶ 312. However, Dr. Bilmes admits that he did not review "any specific de-duplication code," Chung Decl. Ex. D, Bilmes Dep. Tr. 140:1–21 ("Dep. Tr."), or compare training datasets both before or after deduplication processes were run, *id.* 143:23–145:22. Dr. Bilmes also disclaimed any need to confirm whether Anthropic witnesses' testimony—on which he relies—"accurately described Anthropic's data cleaning and [processes]" because he simply "did not believe it is necessary to do." *Id.* 131:8–132:13. Dr. Bilmes nonetheless opines "[redacted]." *Id.* 154:19–21.

Second, Dr. Bilmes opines "Plaintiffs' lyrics appear in widely used LLM training datasets and Anthropic's own crawling of the Internet because Plaintiffs' lyrics were readily available on public websites that permitted web crawling and scraping." Rpt. ¶ 18. Dr. Bilmes also claims his analysis "show[s] that the overwhelming majority ([redacted]**, or 98.12%**) of relevant lyric-matched URLs were accessible by Anthropic's crawler under the robots.txt rules in place at the time of crawl," even where websites lacked robots.txt files entirely. *Id.* ¶ 306 & n.580.

Finally, Dr. Bilmes concludes that "LLMs like Claude are ***transformative with respect to training inputs***" because "Claude transforms raw input text, including Plaintiffs' song lyrics, into abstract, statistical representations," which Claude then uses "for a creative and distinct purpose

from Plaintiffs' use of the lyrics: to generate new outputs through probabilistic prediction of the next likely token to appear in context in response to user prompts." *Id*. ¶ 17 (emphasis added). Dr. Bilmes also suggests "Claude's purpose is to generalize, not reproduce or regurgitate its training data." *Id*. From Anthropic's counsel, Dr. Bilmes "understand[s]" that "one factor to be considered when determining if the use of copyrighted material is 'fair use' is whether the purpose and character of the secondary use ***is transformative of the first,***" and that "if the copyrighted material is used for a different purpose or character that promotes the sciences and the arts, the use is transformative, which tends to show that the use is a fair use." Dr. Bilmes is neither a lawyer nor an expert on copyright law. Dep. Tr. 24:13–16. Nonetheless, under this legal definition, Dr. Bilmes opines Claude is "transformative." *See* Rpt. ¶¶ 17, 286–300. Dr. Bilmes later attempts to walk back many of these statements during his deposition, claiming that an opinion on whether Anthropic's use of Publishers' lyrics is fair use under copyright law is "not something that is within [his] expertise," Dep. Tr. 164:23–165:2, and that he actually does not have an opinion on the matter, *id.* 168:16–23, despite initially applying his analysis within a legal framework.

LEGAL STANDARD

Expert testimony is admissible under Federal Rule of Evidence 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. 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), 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. The Court Should Exclude Dr. Bilmes' Unreliable Opinions Concerning the Effectiveness of Anthropic's Deduplication Processes

Dr. Bilmes's expert testimony concerning Anthropic's deduplication processes is neither reliable nor assistive to the trier of fact under Rule 702. Accordingly, the Court should exclude Dr.

Bilmes's opinions regarding the results, effectiveness, or completeness of Anthropic's deduplications processes, whether generally or as applied to Publishers' lyrics specifically.

First, Dr. Bilmes' opinion regarding Anthropic's deduplication processes is unreliable because he did nothing to assess their effectiveness, including to ascertain whether Anthropic actually deduplicated its training datasets generally or for Publishers' lyrics specifically. He did not review any of the code for Anthropic's deduplication processes. Dep. Tr. 140:1–21. He did not examine the pre-deduplicated and post-deduplicated datasets to ascertain the effects of Anthropic's deduplication processes. *Id.* 140:23–145:22. He did not run the millions of copies of Publishers' Works in Suit found in Anthropic's pre-deduplicated training data through Anthropic's deduplication processes to determine how many of those copies Anthropic's deduplication processes would remove. *Id.* 156:8–157:17. To the contrary, Dr. Bilmes ***specifically disclaimed*** the need to review Anthropic's deduplication code or compare any of Claude's training datasets before and after Anthropic's deduplication processes were run. Dep. Tr. 140:18–21, 143:23–145:22.

Despite this, Dr. Bilmes asserts Anthropic applies "substantial" deduplication techniques on its "entire training dataset," using "different approaches to data deduplication to improve model generalization and limit memorization," Rpt. ¶¶ 117–118, and that these deduplication efforts constitute "significant measures to mitigate memorization of training texts." *id.* ¶ 294 n.547. But because Dr. Bilmes "did not do any independent analysis to arrive at [these conclusions]" his opinions are "unreliable" and should be excluded. *Howard v. Tanium, Inc.*, 2025 WL 1906659, at *3 (N.D. Cal. July 10, 2025). In fact, when asked how he knew there was [redacted]—an opinion he offered for the first time at deposition—Dr. Bilmes cited his "years of working in machine learning and artificial intelligence where [he had] come to observe firsthand that duplication, even if it's only a little bit of duplication, has a detrimental effect on the model" and that "everything in [his] study in [his] field tells [him] that one would not want to have data or a sample or an entity or a lyric or a work . . . to appear in a duplicate form." Dep. Tr. 153:7–156:7. But Dr. Bilmes's general experience is not reliable testimony, where such general experience is "not replicable or testable in any meaningful way." *Lin v. Solta Med., Inc.*, 2024 WL 5199905, at *10 (N.D. Cal. Dec. 23, 2024).

Second, in lieu of applying any methodologies to his examination of Anthropic's deduplication processes, Dr. Bilmes instead parrots testimony from Anthropic's employees without applying any relevant expertise or analysis as to those statements. Because Dr. Bilmes's opinions "amount to nothing more than his summary of the depositions or the documents without applying any 'reliable principles and methods,'" they must be excluded. *Cisco Sys. Inc. v. Arista Networks, Inc.*, 2016 WL 11752975, at *5 (N.D. Cal. Nov. 16, 2016).

For example, Dr. Bilmes supports his bald assertion that Anthropic uses "substantial data filtering and deduplication techniques to maximize its models' abilities to generalize beyond their pre-training data and to minimize memorization," Rpt. ¶ 117, with a singular citation to Anthropic employee Dawn Drain's deposition statements that "memorization is harmful" and "something that we try and reduce using deduplication techniques." *Id.* ¶ 117 n.230. The same is true where he asserts "Anthropic seeks to deduplicate data to ensure that no single piece of data exerts an outsized influence on the model," *id.* ¶ 312, which he buoys with paraphrased citations to Anthropic's discovery responses and deposition testimony of Drain and Anthropic co-founder Ben Mann stating the same. *See id.* ¶¶ 117, 312 & n.588; *see also* Rebuttal ¶ 21 n.84 ((("Anthropic has undertaken extensive efforts to deduplicate its training data") citing Rpt. ¶¶ 113–114, 117); Rebuttal ¶ 30 ((("For this reason, Anthropic mitigates the potential for memorization through their extensive deduplication techniques.") citing Rpt. ¶¶ 118–119; Drain Dep. Tr. 98:14–98:24; *id.*at 96:16–97:6; Anthropic_0000343002)); Reply ¶ 188 ("I establish in my reports that Anthropic already performs deduplication on its training dataset." (citing Rebuttal ¶ 21 n.84; Rpt. ¶¶ 113–114, 117)).

At no point does Dr. Bilmes apply any expertise to confirm the truth of the statements given by Anthropic's lay witnesses, discovery responses, or documents. Dr. Bilmes instead simply assumes their truth and rephrases it as expert-endorsed fact. When asked whether he did anything to confirm the accuracy of Anthropic witnesses' testimony, he declared he "did not believe it is necessary to do" given his "experience in machine learning and artificial intelligence over many decades[.]" Dep. Tr. 131:8–132:13. This is insufficient under Rule 702, as "[s]imply parroting this testimony, or deciding that it is credible, usurps the jury's function in assessing testimony from a

fact witness and does not constitute a reliable methodology." *Lin v. Solta Med., Inc.*, 2024 WL 5199905, at *10 (N.D. Cal. Dec. 23, 2024). Accordingly, Dr. Bilmes's testimony concerning the results, completeness, or effectiveness of Anthropic's deduplication processes, whether generally or as applied to Publishers' lyrics specifically, should be excluded.

II. Dr. Bilmes Should Be Precluded from Opining that Anthropic Had "Permission" from Robots.txt Files to Scrape Publishers' Lyrics.

Dr. Bilmes's opinion that Publishers' lyrics "were readily available on public websites that permitted web crawling and scraping," Rpt. ¶ 18, and that Anthropic crawled Publishers' lyrics from such websites, *id.* Section VII.A., should be excluded as misleading to the trier of fact, unreliable, and legally irrelevant.

Throughout his reports, Dr. Bilmes frames robots.txt instructions as answering the question of whether Anthropic was "permitted" to crawl websites containing Publishers' lyrics. *See, e.g.*, Rpt. ¶¶ 301–310; Rebuttal ¶¶ 10.c, 56; Reply ¶¶ 71–78, 219, 222, 259. Testimony from Dr. Bilmes that Anthropic had "permission" to scrape Publishers' lyrics will mislead the jury to improperly believe Anthropic had *legal* permission to download Publishers' lyrics when, in fact, robots.txt instructions do no such thing. While Dr. Bilmes insists he does not address whether Anthropic's use of Publishers' scraped lyrics was legally authorized, Reply ¶ 77, his repeated use of variations of the phrases "permission" and "permissibly" implies as much. *See, e.g.*, Rpt. ¶¶ 308–310. But at deposition, Dr. Bilmes would not agree that accessibility under robots.txt instructions (what he purports to analyze) equates to "permission" to scrape. *See* Dep. Tr. 241:10–245:14. Rather than limiting himself to technical descriptions, Dr. Bilmes extensively uses permission-laden language that can only have the prejudicial effect of misleading the jury to incorrectly believe—contrary to his own sworn testimony—that Dr. Bilmes is opining Anthropic had legal permission to scrape Publishers' lyrics. The Court should not permit this obvious invitation to confusion.

Dr. Bilmes' methodology is also unreliable. Dr. Bilmes conflates websites that ***had no robots.txt files*** with websites that lacked disallow instructions and collapses both categories into a single grouping of "accessible" URLs. Rpt. ¶ 306 Table 3[e] & n.580. He claims that, based on his evaluation of whether "governing robots.txt file[s] existed" for "[redacted] relevant lyric-

matched URLs," the results "show that the overwhelming majority [redacted], or 98.12%) of relevant lyric-matched URLs were accessible by Anthropic's crawler under the robots.txt rules in place at the time of crawl." Rpt. ¶ 306. This assertion is methodologically unsound; Dr. Bilmes offers no explanation as to why websites without robots.txt files at all can be considered to permit crawling or scraping, nor does it demonstrate that a website or copyright owner affirmatively granted permission for Anthropic to copy or scrape Publishers' lyrics.

Finally, Dr. Bilmes's opinion that robots.txt instructions "permitted" scraping contravenes established law. Courts have rejected the argument that robots.txt instructions or the failure to implement robots.txt instructions amounts to a license or invitation for the general public to copy materials from a website. *See Associated Press v. Meltwater U.S. Holdings, Inc.*, 931 F. Supp. 2d 537, 563 (S.D.N.Y. 2013) ("there is no fair inference, based simply on the absence of the robots.txt protocol, that there has been a meeting of the minds between the copyright owner and the owner of the web crawler about the extent of copying"); *Tamburo v. Dworkin*, 974 F. Supp. 2d 1199, 1216 (N.D. Ill. 2013) ("the failure to use the robots.txt protocol is not evidence that [website owner] knew that [crawler owner] was allowed to copy her data").

Anthropic makes no allegation that it ever sought licenses from Publishers to use their lyrics as training inputs for its Claude models. Nor does Anthropic suggest Publishers themselves operated any of the websites scraped by Anthropic containing their lyrics. Accordingly, Dr. Bilmes's testimony that robots.txt files granted "permission" for Anthropic to crawl websites with Publishers' lyrics is legally irrelevant and should be excluded.

III. The Court Should Exclude Opinions on Whether Anthropic's Use of Publishers' Lyrics is "Transformative" as Impermissible Legal Opinion.

Dr. Blimes's opinion that Anthropic's use of Publishers' lyrics is transformative is an improper legal opinion. It is axiomatic that "an expert witness cannot give an opinion . . . on an ultimate issue of law[.]" *Laatz v. Zazzle, Inc.*, 2025 WL 3205586, at *4 (N.D. Cal. Nov. 17, 2025) (quotations and citations omitted). An expert's legal opinion is not admissible if it "would not aid the district court in finding *facts*." *United States SEC v. Barry*, 146 F.4th 1242, 1262 (9th Cir. 2025) (emphasis added) (affirming exclusion of expert witness offering a legal interpretation) (citing

Aguilar v. Int'l Longshoreme's Union Loc. No. 10, 966 F.2d 443, 447 (9th Cir. 1992) (explaining "matters of law for the court's determination" are "inappropriate subjects for expert testimony")).

Transformativeness is a legal, not factual, concept. It is "judicially created." *McGucken v. Pub Ocean Ltd.*, 42 F.4th 1149, 1157 (9th Cir. 2022). Some "kind[s] of creativity merit[] protection from the ordinary strictures of copyright law [and] [f]or decades, ***courts*** have used the concept of 'transformation' to define and identify that creativity in fair use cases." *Id* (emphasis added). The Supreme Court has made clear that "the ultimate 'fair use' question primarily involves legal work." *Google LLC v. Oracle Am., Inc.*, 593 U.S. 1, 24 (2021). "[W]hich way in the fair use analysis [a factor] points in a particular case, and by how much, is a legal question." 42 F.4th at 1158.

Dr. Bilmes's opinion that "LLMs like Claude are transformative with respect to training inputs," Rpt. ¶ 17; *see also id.* ¶¶ 286–300, clearly crosses this line. Dr. Bilmes bases that opinion on his understanding that "one factor to be considered when determining if the use of copyrighted material is 'fair use' is whether the purpose and character of the secondary use is transformative of the first." *Id*. ¶ 286. Such opinions constitute impermissible testimony on the legal issue of the "transformativeness" of Anthropic's use of Publishers' lyrics. Further, permitting Dr. Bilmes to testify on this topic will grant "unmerited credibility" to testimony that is "likely to carry special weight with the jury." *United States v. Gadson*, 763 F.3d 1189, 1212 (9th Cir. 2014).

Dr. Bilmes cannot salvage his opinion by suggesting he is opining on some other, unrelated concept of transformativeness. Dr. Bilmes' Reply discusses how academics in the AI/machine learning space haphazardly use "transformative." Reply ¶¶ 61–70. And at deposition, Dr. Bilmes claimed he used "transformative" in its "general sense." Dep. Tr. 169:25–170:12. But how the term is used in those contexts has no bearing on what it means as a legal matter and is irrelevant.

These are transparent post-hoc band-aids to try to save his opinion only after inundating his reports with language about "transformativeness" in the context in fair use. But Dr. Bilmes cannot have it both ways. If he is opining on the legal concept of transformativeness as it is used in fair use law, that is an impermissible legal opinion. If he is *not* opining on transformativeness as it is used in fair use law, then that opinion is not relevant or helpful to the trier of fact: whether Anthropic's use is transformative in some unrelated sense will not help the trier of fact determine

any fact in issue. Moreover, if Dr. Bilmes is not opining on transformativeness as it is used in fair use law, his use of that term is highly prejudicial. Lay jurors are likely to be confused by Dr. Bilmes's use of this term and mistakenly believe his testimony speaks to whether Anthropic's use of Publishers' copyrighted works is transformative as a legal matter. Since courts must "exerci[se] more control over experts than over lay witnesses" in weighing possible prejudice against probative force under Rule 403, *Daubert,* 509 U.S. at 595, Dr. Bilmes's opinions concerning "transformativeness" should be excluded.

Second, as part of his transformativeness opinion, Dr. Bilmes purports to opine on the purpose of Publishers' copyrighted works. He has no qualifications to opine on that issue. Dr. Bilmes is not a lyricist and has no experience in the music industry. Dep. Tr. 24:13–16. He did no analysis or investigation to determine the purpose of lyrics, such as reviewing literature or speaking to songwriters. He has no basis on which to opine on how lyrics are used, and his conclusion is mere *ipse dixit* that must be excluded. *General Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997) (court should exclude *ipse dixit* of the expert); *Stanley v. Novartis Pharms. Corp.*, 11 F. Supp. 3d 987, 995 (C.D. Cal. 2014) (opinions based "on unsubstantiated generalizations or opinions not derived by the scientific method must be excluded").

Third, Dr. Bilmes did not apply any relevant expertise on the issue of Claude's purpose; he failed to analyze Claude's code or technical features and merely summarizes how he understands LLMs work, Rpt. ¶¶ 291–297, quoting Anthropic's marketing documents and employee testimony on the subject of Claude's alleged intended purpose. See Rpt. ¶ 290 n.538 (quoting marketing materials); *id.* ¶ 298 n.557; *id*. ¶ 299 n.559 (quoting deposition testimony of Deep Ganguli); *id.* ¶ 300 n.563 (quoting deposition testimony of Ben Mann). Expert opinions must be excluded where they "amount to nothing more than his summary of the depositions or the documents without applying any reliable principles and methods." *Cisco*, 2016 WL 11752975, at *5.

IV. The Court Should Exclude All Opinions Relying on Unsworn Hearsay Testimony

Dr. Bilmes relies on—without applying independent analysis or expertise—a series of unsworn conversations he had with Benjamin Mann, one of Anthropic's co-founders, whom Dr. Bilmes identifies as a "member of the Technical Staff at Anthropic," for numerous factual matters.

See, e.g., Rpt. ¶¶ 234 & n.432, 251 & n.469 (citing Dec. 16, 2025 conversation concerning operation of guardrails); Rebuttal ¶¶ 10.e n.7, 101 n.336 (citing Jan. 22, 2026 conversation regarding fine-tuning methods); *id*. ¶¶ 113 n.377, 115 n.379, 282 n.649 (citing same regarding meaning of "Helper" tag in Claude outputs); Reply ¶¶ 83 n.288, 134 n.372 (citing Feb. 12, 2026 conversation regarding Anthropic's web crawler and whether earlier models of Claude were available to test). But "expert witnesses may not simply repeat hearsay without 'bring[ing] their expertise to bear' on it." *Caldwell v. City of San Francisco*, 2021 WL 1391464, at *5 (N.D. Cal. Apr. 13, 2021) (quoting *Marvel Characters, Inc. v. Kirby*, 726 F.3d 119, 136 (2d Cir. 2013)).

All of these conversations are unsworn hearsay statements that Publishers have not had the opportunity to investigate, and for which there are no transcripts. Experts may rely on hearsay if it is of a type reasonably relied on by experts in the field. Fed. R. Evid. 703. Nevertheless, the expert's opinion must still be based on reliable methods and sound science, not merely act as a conduit for another person's hearsay opinion. *United States v. Nelson*, 2021 WL 75757 at * 15–16 (N.D. Cal., Jan 8, 2021). That is particularly true where the expert "does no more than regurgitate information given to him by other sources (including self-serving assertions by the defendant[])." *Dep't of Toxic Substances Control v. Technichem, Inc.*, 2016 WL 1029463, at *1 (N.D. Cal. Mar. 15, 2016). Here, Dr. Bilmes cites his conversations with Ben Mann for various factual matters he did not investigate himself. For example, he cited Ben Mann for the contents of Claude's fine-tuning dataset and many choices of how Claude was finetuned. Rebuttal ¶¶ 107–109 nn.359–367. The choices Anthropic made in finetuning Claude are highly probative of Anthropic's knowledge, intent, and willfulness. Yet on this critical point, Dr. Bilmes simply parrots Anthropic's employee. In addition, Dr. Bilmes could have independently verified all of this information by reviewing the underlying data, but instead Dr. Bilmes simply accepted Ben Mann's characterization of these facts. This is improper. Experts cannot serve as a backdoor for improper fact-witness hearsay testimony.

CONCLUSION

For the foregoing reasons, Publishers respectfully request that the Court exclude the foregoing opinions and related testimony of Dr. Bilmes.

Dated: March 31, 2026

Respectfully submitted,

/s/ Timothy Chung

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