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 PARTIALLY EXCLUDE THE OPINIONS OF DR. ANDREW BRAY

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.

TABLE OF CONTENTS

NOTICE OF MOTION AND MOTION 1

STATEMENT OF RELIEF 1

INTRODUCTION 1

BACKGROUND 2

LEGAL STANDARD 3

ARGUMENT 4

I. Dr. Bray's regular expression methodology should be excluded. 4

A. Dr. Bray lacks the necessary expertise to establish the reliability of his unsupported regular expression methodology. 4

B. Dr. Bray's regular expression methodology is unreliable because, while it contains many errors, Dr. Bray did not calculate an error rate. 5

C. Dr. Bray's opinion that his regular expressions appropriately balance false positives and false negatives should be excluded as mere *ipse dixit*. 9

II. Dr. Bray's opinion regarding no outputs providing lyrics to the Works in Suit after [redacted] is merely a disguised legal argument. 9

CONCLUSION 10

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 partially excluding the opinions of Defendant Anthropic PBC's ("Anthropic") expert witness, Dr. Andrew Bray as unreliable, not likely to aid the factfinder in assessing the relevant issues in this case, and otherwise improper.

STATEMENT OF RELIEF

Plaintiffs respectfully request that the Court exclude Dr. Andrew Bray's: (i) regular expression analysis, (ii) opinion that his regular expression methodology appropriately "balance[s] the tradeoff between false negatives and false positives", and (iii) Dr. Bray's opinion that Claude did not output lyrics to the Works in Suit after [redacted]

INTRODUCTION

Anthropic's expert, Dr. Andrew Bray, a statistician by training, ran a series of word searches on the 5 million prompt-output record Sample this Court ordered Anthropic to produce. Based on these word searches, Dr. Bray seeks to opine on the precise percentage of records in the Sample that seek or provide "lyric regurgitation." But Dr Bray's methodology is outside his expertise and is wholly untested. And while the error rate is unknown, the record demonstrates it is plainly unacceptable. The Court should not allow Dr. Bray to tell the jury how often Claude users seek lyrics and how often Claude regurgitates them based on such an error-strewn analysis. ***First,*** The Court should exclude Dr. Bray's regular expression analysis because it is an unreliable methodology and because Dr. Bray lacks the necessary expertise to support it. ***Second,*** the Court should also exclude as unreliable Dr. Bray's opinion that his regular expression methodology appropriately "balance[s] the tradeoff between false negatives and false positives" because he performed no calculation supporting this opinion. ***Third***, the Court should exclude Dr. Bray's opinion that

Claude did not output lyrics to the Works in Suit after [redacted] because this opinion is based on his unreliable regular expression analysis and relies on Dr. Bray's subjective definition of "lyric regurgitation," which has no basis in copyright law and for which he lacks expertise.

BACKGROUND

The Court ordered Anthropic to produce a "statistically significant sample" of 5 million Claude prompt-output records from the period of September 22, 2023 to March 22, 2024 (the "Sample"). Order on Joint Discovery Submissions at 5–6 (May 23, 2025), ECF No. 377. Through Dr. Bray, Anthropic seeks to offer opinion testimony regarding the prevalence of Claude users seeking or receiving song lyrics based on his analysis of the Sample. Specifically, Dr. Bray purports to assess "[w]hat percentage of prompts seek any amount or form of lyric regurgitation" ("Question 1"), what percentage of Question 1 records "seek any amount or form of lyric regurgitation to Works-in-Suit" ("Question 2"), "[w]hat percentage of outputs provide any amount or form of lyric regurgitation" ("Question 3"), and what percentage of Question 3 records "provide any amount or form of lyrics to Works-in-Suit" ("Question 4"). Decl. of Keith Howell in Supp. of Pls.' Mot. to Partially Exclude the Opinions of Dr. Andrew Bray, Ex. A ¶ 32, Expert Report of Dr. Andrew Bray (Dec. 19, 2025) ("Rpt.") *see also* Howell Decl. Ex. B ¶ 11, Reply Report of Dr. Andrew Bray (Feb. 13, 2026) ("Reply").[1]

But from the 5 million Sample, Dr. Bray only actually personally read "in part" "under a thousand" records. Howell Decl. Ex. C 27:13–28:7, Bray Dep. Tr. ("Dep. Tr."). He "read in full" less than half that number. *Id.* Instead he used a "regular expression" analysis to generate his prevalence estimates. Regular expressions are essentially word searches. As Dr. Bray confirmed, they can be used "to search for a particular set of patterns of words, spaces, [and] line breaks." Dep. Tr. 45:13–18; *see also id.* 46:3–5 (confirming regular expressions "look for a particular pattern in text"). If a record matched the pattern sought by Dr. Bray's regular expression for Question 1, he deemed it a "prompt[] seek[ing] any amount or form of lyric regurgitation," regardless of whether

[1] Dr. Bray made a "language classification error" that affected the classification of hundreds of thousands of records in the Bray Report, along with other errors in his regular expressions identified by Publishers' expert Joshua Dennis. Reply ¶ 11. Due to these errors, Dr. Bray anticipates offering at trial the prevalence estimates offered in the Bray Reply. Dep. Tr. 54:15–55:4.

it actually contained any request for lyrics. Rpt. ¶ 32, ¶ 40 n. 21; Dep. Tr. 48:17–49:13. If a record matched the pattern sought by Dr. Bray's regular expression for Question 3, he deemed it an "output[] provid[ing] any amount or form of lyric regurgitation," regardless of whether it actually contained any copied lyrics. Rpt. ¶ 32, ¶ 40 n. 21. The opposite was also true. If a record did not match the specific word patterns Dr. Bray search for, he concluded those records did not contain a request for lyrics or lyric regurgitation, regardless of what the record actually reflected. *See* Rpt. ¶¶ 40, 96–103. Dr. Bray then searched his two lists of records for Questions 1 and 3 to assess if they related to the Works in Suit, and he reported those results for Questions 2 and 4. *See id.* ¶¶ 40, 131. Because the last record responsive to his regular expression for Question 4 was dated [redacted], he concludes "there are no outputs providing lyrics to the Works-in-Suit after [redacted] Rpt. ¶ 40. He reaffirmed this opinion at his deposition, even after acknowledging that records in the Sample copied lyrics to the Works in Suit after this date, purportedly because these examples did not meet his unique definition of "lyric regurgitation." Dep. Tr. 181:15–182:19.

LEGAL STANDARD

Expert testimony is admissible under Fed. R. Evid. 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) (quotations and citations omitted), and carries "sufficient indicia of reliability." *Metabolife Int'l, Inc. v. Wornick*, 264 F.3d 832, 840 (9th Cir. 2001). Anthropic "has the burden of establishing that the pertinent admissibility requirements are met by a preponderance of the evidence." *Engilis*, 151 F.4th at 1048. Here, Anthropic cannot meet that burden.

ARGUMENT

I. Dr. Bray's regular expression methodology should be excluded.

A. Dr. Bray lacks the necessary expertise to establish the reliability of his unsupported regular expression methodology.

Dr. Bray's regular expression analysis is beyond his expertise, has no support in the scientific community, has no known error rate, and is completely untested. Each of these factors favors exclusion. *See In re: Baby Food Products Liability Litigation*, 2026 WL 559857, at *2 (N.D. Cal. Feb. 27, 2026) ("*In re: Baby Food*").

Regular expressions are not a reliable method for identifying either prompts seeking lyrics or outputs containing lyrics. The literature on regular expressions suggests they are a poor choice for that task because, as the materials cited in Dr. Bray's reports confirm, "writing regular expressions to identify instances of a specific concept within text documents with a high precision and recall is challenging." *See* Howell Decl. Ex. D, Murthy, D.P. K. & Deshpande, P.M., *Improving Recall of Regular Expressions for Information Extraction*, Vol. 7651 WISE 2012, LECTURE NOTES IN COMPUTER SCIENCE, 455–467, https://doi.org/10.1007/978-3-642-35063-4_33. Using regular expressions specifically to assess whether a record contains a request for lyrics or lyric regurgitation has no support in the relevant literature. Dr. Bray acknowledged he is not aware of any peer-reviewed publications discussing using regular expressions to identify requests for lyrics, and indeed he is not aware of anyone else who has used regular expressions in this manner. Dep. Tr. 76:22–78:8. As a result, Publishers are unaware of any federal court holding that a regular expression methodology similar to Dr. Bray's passes the *Daubert* standard.

Dr. Bray lacks the necessary expertise to opine that his regular expression analysis reliably accomplishes that challenging task. Dr. Bray is a professor of statistics. This is his first copyright case, and he has no expertise in musicology, linguistics, or song lyrics. Dep. Tr. 10:16–20, 12:3–22. He has never worked for a generative AI company or published any research on generative AI. Dep. Tr. 13:1–4, 13:21–15:9. Dr. Bray acknowledged "there are countless ways a user may phrase requests [for lyrics] to Claude." Reply ¶ 34. But Dr. Bray has no expertise to understand and capture these myriad ways in which a person could request song lyrics, or the myriad ways in which Claude could output those lyrics. Prior to this litigation, Dr. Bray had never assessed whether a

record contained a request for lyrics or lyric regurgitation. Dep. Tr. 26:3–12. Nor had he used regular expressions to determine if a document contained lyrics or requests for lyrics. Dep. Tr. 76:14–21. In the Ninth Circuit, this lack of expertise favors exclusion. *See In re: Baby Food*, 2026 WL 559857, at *2.

Because there is no legal or scholarly precedent for using regular expressions to identify lyric-related prompts and outputs, Dr. Bray started from scratch when he designed his regular expressions, but his lack of expertise led him to make arbitrary choices and basic errors. He based his regular expressions for Questions 1 and 2 on "just kind of a sense of what [prompts seeking lyric regurgitation] would look like." Dep. Tr. 100:17–24. In designing Questions 3 and 4, Dr. Bray assumed that "when Claude provided any amount or form of lyrics in an output, the output would start with the phrase, 'Here are the lyrics to.'" Rpt. ¶ 122. He later acknowledged this was an "inaccurate statement" that he no longer stands by. Dep. Tr. 157:17–159:12. Despite this, Dr. Bray's regular expression for Question 3 essentially sticks with this formulation, covering only outputs that use the phrase "Here ['is' or 'are'] the ['lyrics' or 'chords' or 'music' or 'verse' or 'chorus' or 'words']," while allowing for one optional word between the verb and the song component.[2] Reply ¶ 47.

B. Dr. Bray's regular expression methodology is unreliable because, while it contains many errors, Dr. Bray did not calculate an error rate.

Dr. Bray's analysis is fatally unreliable because, while Dr. Bray acknowledges that his regular expressions misclassified "many" records, he made no attempt to quantify or correct for these errors. Dep. Tr. 49:8–13, 50:13–19, 60:4–7, 62:8–11. Dr. Bray acknowledged that his regular expression analysis produced both "false positives" (records he deemed responsive that do not actually reflect lyric requests or regurgitation) and "false negatives" (records that actually reflect lyric requests or regurgitation that Dr. Bray did not identify). Reply ¶¶ 27, 33 (noting "it is not surprising" Publishers' expert Joshua Dennis was able to identify false negatives). But Dr. Bray never calculated an error rate associated with any of his regular expressions. Dep. Tr. 60:4–7, 62:8–11.

[2] The full regular expression for Question 3 is: ("\\bhere\\s(?:are|is)\\sthe\\s(?:genuine|original|real|true|actual)?\\s*(?:lyrics|chords|music|verse(s)?|chorus(es)?|words)"). Howell Decl. Ex. K, Table A of Reply Report of Dr. Andrew Bray (Feb. 13, 2026).

This is in stark contrast to Publishers' expert Joshua Dennis, who also assessed the prevalence of song- and lyric-related requests in the Sample and calculated an error rate associated with his analysis. Howell Decl. Ex. E ¶¶ 72–75, Expert Report of Joshua Dennis (Dec. 19, 2025). As a result, while Dr. Bray admits his analysis is not 100% accurate, there is no way to know *how* inaccurate it is. The lack of a known error rate favors exclusion. *In re: Baby*, 2026 WL 559857, at *2; *Gabbard v. Linn-Benton Hous. Auth.*, 219 F. Supp. 2d 1130, 1138 (D. Or. 2002) (excluding expert testimony relying on technique that "does not have a known rate of error").

Although the precise error rate is unknown, it is plainly unacceptable. Dr. Bray acknowledged the false positives associated with his analysis were "many," Dep. Tr. 50:13–19, and he identified several in his Reply. Reply ¶¶ 35–36. The record demonstrates the error rate overwhelms any utility from Dr. Bray's approach and undermines any claim to "the soundness of his methodology." *Primiano v. Cook*, 598 F.3d 558, 564 (9th Cir. 2010) (citation omitted), *as amended* (Apr. 27, 2010). For example, the following are exemplary false negatives and false positives that Dr. Bray's Question 1 regular expression identified incorrectly:

Question 1: What Percent of Prompts Seek Any Amount or Form of Lyric Regurgitation?

Figure 1

No.	False Negatives[3]		False Positives[4]	
1	DOC 00019134	some lyrics from the song" Love Story" by Taylor Swift:	DOC 00010487	Give me key words (phrases) that these companies have in common
2	DOC 00046406	Oh really Claude my friend give me some of the lyrics of I don't like Monday that sounds fascinating	DOC 00017682	What are some more words besides striking to describe the airship
3	DOC 00174506	Okay here is another part of the hymn. "May your rich grace impact, Strength to my fainting heart,..." Complete it	DOC 00027053	Give me key words to research, specific
4	DOC 00184852	lyrics of 'chaleya' song from the movie 'jawan'	DOC 00043269	what is the best music streaming service for quality sound,
5	DOC 00259225	Sinner" by Dove Cameron I need lyrics	DOC 00060999	Give me some cool words similar to prismatic or fluorescent

[3] Requests for lyrics not captured by Dr. Bray's regular expression.
[4] Records captured by Dr. Bray's regular expression that do not contain requests for lyrics.

6	DOC 00285334	best lines from song co2 from Prateek kuhad	DOC 00061055	What are some words sophisti-cated like “avenue” but are more unique?
7	DOC 01449894	lazy song by bruno mars lyrics	DOC 00082859	Give me the verses from Samuel 15 about Saul, James 4:1-2 ,
8	DOC 01503768	can you please give me a list of soft, whispery fe-male vocals with lyrics similar to these: hear your voice / I can see you / I can hear you now / waiting	DOC 00090603	Can you now give me 3000 total words on chapter 1
9	DOC 01552787	Wild Thoughts by Rihanna/ DJ Khaled lyrics and piano chord progression on key F#	DOC 00092475	can you give me the specific words/quote about this
10	DOC 01812344	Lyrics for Just a Bad Dream by [redacted name]	DOC 00102805	what are some english words that begin with “marc”
11	DOC 01822368	I want to dance with some-body lyrics [redacted name]	DOC 00102984	what are some english words that begin with “mark”
12	DOC 01874046	Write Colors of the Wind lyrics	DOC 00103244	what are some english words that begin with “mar” and are re-lated to the idea of building, ar-chitecting, designing, or solving
13	DOC 02251914	chords and lyrics Santa don't live here no more in the key of g	DOC 00103555	what are some english words that begin with “soil”
14	DOC 02401762	Write down the full lyrics of smooth criminal for me	DOC 00108048	same give me in simple words and in 200 words
15	DOC 02489651	lyrics to Yonaguni – Bad Bunny	DOC 00117643	give me 50 more words
16	DOC 03337980	Lyrics f switch 6black	DOC 00162078	Excellent!!! Can you also give me vocabulary words in English and Spanish?
17	DOC 00069318	Lyrics song last day of summer shenaya twine …	DOC 00172993	give me thirty extra new words that were not already in the essay to add to the essay. Don’t re-write a portion of the essay and tell me that it’s new words. give me words that are not in the es-say already.
18	DOC 00192854	tell me the lyrics to search and rescue by drake	DOC 00182849	black , white, red, purple. Give me some other words related to this word list.
19	DOC 01110001	show me the lyrics for free by Phish	DOC 00195342	What are some words starting with H that are negative? (Like hectic)

20	DOC 02207618	Chords and lyrics Santa Doesn't live here anymore in the key of g	DOC 00198425	what is the average words per each GPT-3.5 Turbo Model 4k context? Including input and output?
21	DOC 03057738	state some lyrics from the song	DOC 00224433	what is a few words that mean passive income that mean that start with a D
22	DOC 03294228	Can you show me the lyrics to Suddenly [redacted name]?	DOC 00225965	What is the maximum words that you can write in essay form in one response
23	DOC 03310742	lyrics **Aerosmith Amazing**	DOC 00241827	What are the key words that could describe the three of swords tarot card?
24	DOC 03359992	Can you write the lyrics of this song: https://www. youtube .com/watch?v= m0xal7sYCPQ&t=5s	DOC 00304209	What are other words for indicating
25	DOC 03758920	Human: "I'm so blue" song lyrics	DOC 00314772	What are some words to describe sports coaches

These are only a small sample of the errors in Dr. Bray's results, demonstrating the unreliability of his word search to properly identify prompts requesting lyrics.

Dr. Bray also acknowledged errors in his Question 3 regular expression. Reply ¶ 36. As noted above, Dr. Bray's Question 3 regular expression relied on the admittedly false assumption that outputs containing any amount of lyrics would use the phrase "Here are the lyrics to" or a close derivative thereof. Rpt. ¶ 122, Dep. Tr. 157:17–159:12. Accordingly, it too unreliably assessed whether a record contained song lyrics, missing many records containing lyrics. Howell Decl. Ex. F, DOC 00019134; Ex. G, DOC 00721500; Ex. H, DOC 02401762; Ex. I, DOC 00176575; Ex. J, DOC 02464164.

Both types of errors negatively affect the results of Questions 2 and 4, which assess the prevalence of lyrics and lyrics requests for the Works in Suit. As Dr. Bray admitted, errors in Question 1 or 3 affect the results of Questions 2 and 4 because Questions 2 and 4 only considered records responsive to Questions 1 and 3. Dep. Tr. 155:15–24; *see also* Rpt. ¶¶ 40, 131. False negatives requesting lyrics to the Works in Suit would not be considered for Question 2 because they did not meet the regular expression for Question 1. Rpt. ¶ 40. On the other hand, false positives do not contain *any* request for lyrics, and thus are unlikely to reference the Works in Suit. Both errors work to undermine the reliability of Dr. Bray's assessment of the prevalence of records relating to

the Works in Suit.

C. Dr. Bray's opinion that his regular expressions appropriately balance false positives and false negatives should be excluded as mere *ipse dixit*.

Dr. Bray's attempt to save his regular expression analysis by opining that false negatives balance false positives should be excluded as unreliable. Seeking to excuse the errors in his regular expressions, Dr. Bray opines that his regular expressions appropriately "balance the tradeoff between false negatives and false positives." Reply ¶ 33. Dr. Bray further opined they are "roughly of the same magnitude." Dep. Tr. 73:1–7. But this opinion is not reliable because Dr. Bray has no way of knowing whether false positives actually do balance out false negatives. Dr. Bray never calculated the false positive or the false negative error rates associated with any his regular expressions. He only "spot-checked" the results enough to determine that false positives were present. Dep. Tr. 59:10–60:7. He explained the number of false negatives was essentially unknowable, as it would require "an expert in music lyrics" to review the full Sample. Dep. Tr. 67:15–68:11. But as Dr. Bray acknowledged, he is not an expert in musicology or song lyrics, Dep. Tr. 12:3–22, and he only reviewed "under a thousand" records from the 5-million Sample. *Id.* 27:13–28:7. While Dr. Bray used Claude to assess whether a small subset of records from the Sample contained lyrics as a means of identifying potential false negatives, he admitted Claude did not provide a source of ground truth either. Dep. Tr. 66:25–67:14. Thus, Dr. Bray has no basis from which to assert that the number of false positives and false negatives associated with his analysis are roughly equivalent, and this *ipse dixit* opinion should be excluded. *City of Pomona v. SQM N. Am. Corp.*, 750 F.3d 1036, 1049 (9th Cir. 2014) (noting where expert opinion is "connected to existing data only by the *ipse dixit* of the expert" that there may be "too great an analytical gap between the data and the opinion preferred" to support inclusion of the testimony) (citation omitted).

II. Dr. Bray's opinion regarding no outputs providing lyrics to the Works in Suit after [redacted] is merely a disguised legal argument.

Because the latest record responsive to the Question 4 regular expression was dated [redacted] Dr. Bray opines that "there were no outputs providing lyrics to the Works-in-Suit after [redacted] Rpt. ¶ 40; *see also* Reply ¶ 11 (same). This opinion should be excluded for the reasons articulated above because it is the product of Dr. Bray's unreliable methodology. It

should also be excluded because it relies on Dr. Bray's unique definition of "lyric regurgitation," which has no basis in copyright law and will only serve to confuse the jury. When confronted with examples from the Sample showing outputs containing lyrics to the Works in Suit dated after [redacted] Dr. Bray discounted them because they did not, in his view, show "lyric regurgitation." Dep. Tr. 179:24–182:19. Dr. Bray defined "lyric regurgitation" as "providing sets of lyrics where [the] goal is to provide just those lyrics," and excludes instances in which lyrics are copied for other purposes. Dep. Tr. 164:21–165:15; 128:1–8.

Dr. Bray's definition of "lyric regurgitation" is fatally flawed. First, as a statistician, Dr. Bray lacks any relevant expertise to determine whether "the goal is to provide just those lyrics," or whether the lyrics are being copied for other purposes. Second, Dr. Bray has no identifiable methodology for assessing whether "the goal is to provide just those lyrics" beyond his subjective intuition which, again, is not rooted in any relevant expertise and therefore is nothing more than improper *ipse dixit*.

Third, Dr. Bray's opinion that copying lyrics for "other purposes" is not "regurgitation" is at bottom an impermissible legal opinion that copying for other purposes is not infringing. Dr. Bray admits he has no understanding of the legal standard for copyright infringement. Dep. Tr. 9:20–10:1, 182:20–183:5. Opining on whether an output contains sufficient copying of Publisher's lyrics impermissibly exceeds Dr. Bray's role because it is outside his expertise and does nothing but tell the trier of fact what result to reach. *See Nationwide Trans. Fin. V. Cass Info. Sys., Inc.*, 523 F.3d 1051, 1060 (9th Cir. 2008) ("[E]vidence that merely tells the jury what result to reach is not sufficiently helpful to the trier of fact to be admissible.") (citation omitted). It is also likely to mislead the jury about the relevant legal standards for direct infringement and fair use. This misleading testimony should be excluded.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court exclude Dr. Andrew Bray's: (i) regular expression analysis, (ii) opinion that his regular expression methodology appropriately "balance[s] the tradeoff between false negatives and false positives", and (iii) Dr. Bray's opinion that Claude did not output lyrics to the Works in Suit after [redacted]

Dated: March 31, 2026

Respectfully submitted,

/s/ Keith Howell

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/ Timothy Chung

Timothy Chung