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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

PLAINTIFFS' MOTION AND NOTICE OF MOTION TO EXCLUDE THE OPINIONS OF COLIN E. STOKES

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 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 Expert Report of Colin E. Stokes, the Expert Reply Report of Colin E. Stokes, and any corresponding testimony.

STATEMENT OF RELIEF

Publishers respectfully request that the Court excludes Colin E. Stokes's opinions in their entirety.

INTRODUCTION

Mr. Colin Stokes's opinions are irrelevant, unreliable, and prejudicial. Presumably because this case challenges infringement of song lyrics, Mr. Stokes diminishes the "emotional" or "expressive value" of lyrics as subordinate to other musical elements. Mr. Stokes uses no discernible methodology or objective measure to gauge such "value." After castigating the music community as historically hostile to new technologies, Mr. Stokes then praises Claude as the latest in a "long line" of salutary innovations that musicians naively resist until forced to embrace their benefits. Apart from the impropriety of a broadside generalization about the habits of the music industry, he illustrates the purported benefits of AI by invoking different technologies, such as music and image generators, that have nothing to do with a case about text generation. Indeed, nearly all of Mr. Stokes's opinion is devoted to discussing aspects of music and technology that are not at issue in this case. When expert opinion is so far afield from the issues at hand, bereft of meaningful methodology, and designed simply to denigrate the other side and its copyrights, it has no place in evidence.

I. Mr. Stokes's Qualifications

Mr. Stokes is a "composer, cellist, and music technologist" seeking a Ph.D. in Composition "with a focus on Computer Music Media and a minor in Artificial Intelligence in Computer Music System Design." Decl. of Timothy Chung in Supp. of Pls.' Mot. to Exclude the Opinions of Colin E. Stokes ("Chung Decl.") Ex. A, ¶¶ 1, 2, 4, Expert Report of Colin E. Stokes (Dec. 19, 2025) ("Rpt."). He has registered 14 musical compositions with Broadcast Music Inc. ("BMI"), a leading music rights management company, only two of which contain lyrics. Chung Decl. Ex. C, 15:3–16:8, 21:16–23:13, Stokes Dep. Tr. ("Dep. Tr."). Mr. Stokes has no idea what his compositions earn, because he has not opened his envelope from BMI. Dep. Tr. 16:24–17:22; 21:5–15. Although Mr. Stokes opines liberally on how consumers respond to lyrics, he admits he has no training in psychology, consumer behavior, or linguistics. *Id.* at 29:6–17. Nor has he conducted any concrete analysis or survey of listener responses to lyrics. *Id.* at 84:7–22; 233:10–234:1. While he repeatedly discusses the "value" of lyrics, he disclaims any assessment of their economic or "market" value, because he likewise has no training in economics. *Id.* at 77:23–78:11; 92:21–93:7; 133:7–11; 192:7–11. Indeed, he has no knowledge of how music royalties are calculated or allocated between lyricists and composers. *Id.* at 32:5–12; 75:6–76:21.

Mr. Stokes has published one article in an academic journal. *See* Dep. Tr. at 57:8–16. Surprisingly, the article decries exactly what Anthropic does—train on human authorship without authorization. It calls out the "exploitation of human creativity through indiscriminate scrubbing of online data for training large applications in the commercial ecosystem" and repeatedly espouses the use of "ethically sourced data" to train AI models. Colin E. Stokes, *Our Vision for the Creative Applications of Deep Learning: The Center for Experimental Music and Intermedia, University of North Texas*, Vol. 33 No. 1–2, JOURNAL SEAMUS, 22 & n.1, 23 (Spring/Fall 2022). Mr. Stokes's article argues that "AI must not infringe upon original human work" and that "the unauthorized exploitation of human work should be recognized and compensated." *Id.* At his deposition, Mr. Stokes attempted to back away from these statements as addressing "hypothetical" situations or "legal conclusions," *see* Dep. Tr. at 46:3–15, 48:21–49:15, 49:23–52:21, but the

article speaks for itself and is directly applicable to the issues in this case. Such a retreat from his prior published opinions significantly undermines Mr. Stokes's credibility to speak to the very same issues being litigated here.

II. Mr. Stokes's Vague Opinion on the "Emotional Value" of Lyrics

Mr. Stokes opines that lyrics are only one among "many individual elements" of a musical composition and "derive much of their value and expression from their setting within the rest of the musical composition." Rpt. ¶¶ 17.a, 18; *see also id.* ¶¶ 19, 54, 95. He describes the non-lyrical musical elements of a composition at length, *see id.* ¶¶ 20–28, but offers a truncated discussion of "lyrical elements," limited to niche examples where the human voice vocalizes words or sounds with no narrative meaning, such as "scat sing[ing]." *Id.* ¶¶ 30–32. Of course, this case is about the wholesale copying of narrative lyrics, and not about non-lyrical musical elements or scat singing.

Mr. Stokes asserts that lyrics play a subsidiary role in musical composition. He discusses different ways composers combine lyrics and music to prove how lyrics "may play a secondary role in the process," Rpt. ¶¶ 34–41, and gives examples of different artists singing the same lyrics in different musical settings that have a "large impact on what is being expressed . . . and how the audience experiences it." *Id.* ¶¶ 42–46. He concludes that "lyrics alone do not distinguish a composition," *id.* ¶ 47, and adds that songs "retain their emotional impact" even when lyrics are removed entirely. *Id.* ¶¶ 53–54. His bottom line is that "while lyrics can be part of contributing to the overall expression of the work, they derive much of their expressive value through their combination with the underlying musical elements." *Id.* ¶ 54.

Absent from his diagnosis of how listeners "experience" lyrics is any measure of their "expressive value" or methodology for making such assertions. While he claims to ground his opinions in "music theory," *id.* ¶ 19, Mr. Stokes simply announces what he believes lyrics mean to listeners when paired with other musical elements. *See, e.g., id.* ¶ 22 (melody borrowed from "My Favorite Things" in Ariane Grande's *Seven Rings* "suggest[s] that she can use her financial power to distract herself from pain or discomfort"); ¶ 23 (Adele's lyrics and dynamics changes suggest "a fragile and defeated emotional state" that transitions to "defiance and empowerment"); ¶ 25 (piano chords and vocals in Harry Styles's *Sign of the Times* "suggest emotional weight" whereas

an "upbeat" instrumental version of the same song "yield[s] different emotional outcomes"); ¶ 44 (Otis Redding's version of "Respect" is "misogynistic" whereas Aretha Franklin's version is "a feminist anthem"); ¶ 46 (Bob Seger's "Turn the Page" suggests "loneliness and anonymity" while Metallica's version conveys "intense and aggressive perception of the narrative meaning"); ¶ 52 (Bob Dylan's "Blowin' in the Wind" uses musical devices to emphasize the "universality of the human struggle described in the lyrics").

III. Mr. Stokes's Prejudicial Gloss on the History of Music Technologies

Mr. Stokes next argues that musicians use "technologies to augment their own creativity," "GenAI is simply the most recent in a long list of technological advances in music creation tools," and Publishers' concern that unlicensed AI potentially threatens "devastating effects on artists" is the "type of speculative catastrophic prediction has been made at prior times when musicians and artists faced new technology." Rpt. ¶ 55. In other words, Mr. Stokes argues that Publishers are just typical music industry naysayers resisting innovation yet again. Mr. Stokes then reviews prior technologies—ranging from Ancient Greek instruments and 1880s player pianos to synthesizers and digital technologies from the 1950s to technology of the present day, *see id.* ¶¶ 56–64—and describes how musicians initially rebuffed them. *See id.* ¶ 58 (John Philip Sousa's criticism of the player piano); ¶ 60 (labor unions worried that synthesizers would put musicians out of work); ¶ 63 ("Critics complained that [MIDI] would serve to homogenize composition toward popular idioms"); ¶ 64 (critics of Auto-Tune pitch correction said it lacked "integrity"). Mr. Stokes concludes that "GenAI" tools will "take their place" in a "long history" of technologies that faced initial suspicion but ultimately promoted "new creative outputs." *Id.* ¶ 65.

Mr. Stokes then illustrates ways musicians use AI. While he briefly mentions Claude's *potential* utility as an LLM text-generator, *see* Rpt. ¶¶ 67–68, he quickly pivots to unrelated AI systems that generate music, voice clones, and images. *Id.* ¶¶ 69–83. Amidst his examples of professionals using "multimodal" AI models to create sounds and images, he gives virtually no examples of professional composers using Claude, and in fact points out the small percentage of

Claude users who qualify as "Music Composers and Arrangers," "Musicians, Instrumental," and "Poets, Lyricists and Creative Writers." *Id.* ¶ 68 n.197.[1]

Mr. Stokes concludes with a contradiction. He states that "having large, heterogeneous sets of data for training genAI models . . . improves generalization and reduces bias," *see* Rpt. ¶¶ 84–89, but then backpedals by insisting that Claude would not "need to specifically be trained on the text of song lyrics to understand and generate lyric-like text" because other data would be sufficient. *Id.* ¶ 90. In other words, Anthropic needs lots of diverse, unique data, but that need does not extend to lyrics.

IV. The Stokes Reply Report

Mr. Stokes's Reply is largely redundant of his opening Report, repeating verbatim passages meant to reiterate that lyrics "derive their unique expressive value when paired with other elements of musical compositions." *Compare* Chung Decl. Ex. B, ¶¶ 4.a–b, 7–12, 14, 16–19, Expert Reply Report of Colin E. Stokes (Feb. 13, 2026) ("Reply"), with Rpt. ¶¶ 17.a, 23, 24, 32, 36, 37, 44, 46. His Reply adds two additional thoughts. First, in response to Publishers' computer science expert, Dr. Ben Zhao's opinion that lyrics are valuable as training data in ways that cannot be "covered by poems," Mr. Stokes offers the unqualified *non sequitur* that poems can be used as lyrics but not all lyrics can be "thought of as poetry." Reply ¶¶ 6–7. Second, based on data disclosed in another of Publishers' expert reports, which analyzed roughly 9,000 Claude user interactions about lyrics, Mr. Stokes spotlights three to "illustrate the creative benefits" Claude offers to "users interested in composition and songwriting." *Id.* ¶¶ 20–24. It is not clear what part of Publishers' data expert's opinion he is rebutting, and three out of so many thousands of examples are hardly "illustrative."

[1] Notably, many of the music-generative AI systems he invokes are also lawfully trained on materials in the public domain or for which the developer had consent. *See, e.g.*, Rpt. ¶¶ 70–71; Dep. Tr. at 27:14–24, 29:1–5 (discussing AI systems VEGA and LYRA trained on public domain or datasets of Mr. Stokes's own music); Rpt. ¶ 72 & nn. 210–211 and Chung Decl. Ex. D, Stokes Dep. Ex. 6 (discussing AI system LANDR trained on "ethical, consent-based data" that "ensure[es] creators are fairly compensated"); Rpt. ¶¶ 77–78 and Dep. Tr. 187:4–188:15 (describing artists who train models on their own voices).

LEGAL STANDARD

A district court must ensure that expert testimony "is both relevant and reliable." *ngilis v. Monsanto Co.*, 151 F.4th 1040, 1047 (9th Cir. 2025) (citation omitted). The proponent of the testimony must demonstrate that "it is more likely than not" that:

> (a) 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;
> (b) the testimony is based on sufficient facts or data;
> (c) the testimony is the product of reliable principles and methods; and
> (d) the expert's opinion reflects a reliable application of the principles and methods to the facts of the case.

Fed. R. Evid. 702. The Ninth Circuit recently clarified that "there is no presumption in favor of admission." *ngilis*, 151 F.4th at 1049.

Expert testimony is *relevant* "if the knowledge underlying it has a valid connection to the pertinent inquiry," *id.* at 1047 (citation omitted), and it will "assist the trier of fact to understand or determine a fact in issue." *Cooper v. rown*, 510 F.3d 870, 880 n.6 (9th Cir. 2007) (citation omitted). Stated otherwise, it must be "relevant to the task at hand" and "fit the facts of the case." *In re Apple Inc. Sec. Litig.*, 2023 WL 4556765, at *1 (N.D. Cal. July 17, 2023) (quoting *Da ert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 591, 597 (1993)). To be helpful to the trier of fact, the subject matter must also be "beyond the common knowledge of the average layman." *Mata v. r. ealth A th.*, 739 Fed. App'x. 370, 372 (9th Cir. 2018).

Expert testimony is *relia le* "if the knowledge underlying it has a reliable basis in the knowledge and experience of the relevant discipline." *ngilis*, 151 F.4th at 1047 (citation omitted). Reliability requires "objective criterion" rather than "subjective and ambiguous" opinion. *See Cisco Sys. v. Arista Networ s*, 2016 2016 WL 11752975, at *3 (N.D. Cal. Nov. 16, 2016). *See also ischler apel oldings, LLC v. lavor Prod cers, LLC*, 2023 WL 8113301, at *4 (C.D. Cal. Oct. 6, 2023) (rejecting expert opinion "not sufficiently supported by a consistent reasoning or methodology"). Courts consider whether the expert's methodology can be "challenged in some objective sense, or whether it is instead simply a subjective, conclusory approach." *City o Pomona v. S M N. Am. Corp.*, 750 F.3d 1036, 1046 (9th Cir. 2013) (citation omitted). The tests for reliability apply equally to scientific and nonscientific expert testimony, and for both, courts may

consider whether a theory "can be (and has been) tested" or enjoys "general acceptance." *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 149–50 (1998).

ARGUMENT

I. Mr. Stokes's Opinion About the Value of Lyrics is Irrelevant and Lacks Any Discernable Methodology.

Mr. Stokes's first opinion that lyrics are only one among many elements of a musical composition and "derive much of their value" from these other elements, *see* Rpt. ¶¶ 17.a, 18, 19, 54, 95, meets none of these tests. The unremarkable observation that there are other parts of compositions besides lyrics is neither an issue in dispute nor something beyond the ken of any lay person. Publishers' pleadings treat lyrics as a component, rather than the entirety, of a musical composition. *See, e.g.*, First Amended Complaint ¶ 160, ECF No. 337 ("FAC") (alleging infringement of "Publishers' musical compositions, including the song lyrics contained therein"). Expert testimony about the existence of non-lyrical elements of songs is confusing and useless to the trier of fact.

But Mr. Stokes's opinion is not limited to the banal point that music is comprised of multiple elements. His opinion goes further, asserting that lyrics are less "valuable" than other musical elements in some nebulous way. In his view, lyrics are "*secondary*," *see, e.g.,* Rpt. ¶¶ 33–34 (emphasis added) (lyrics "may be less salient to listeners" or "may play a secondary role" in the composition"). Mr. Stokes also opines that lyrics have limited "*emotional effect*" without the underlying music. *Id.* ¶¶ 23–24 (emphasis added) (combination of compositional elements "creates an emotional effect beyond what is conveyed by the words alone" and the harmonic structure "conveys the emotional depth and sadness of the song in a way that the lyrics alone could not"); ¶ 27 (Louis Armstrong's "growl" creates "a deep sense of emotion that gives meaning to the song beyond its lyrical content"); ¶ 28 ("The non-lyrical elements of these songs are critical to how listeners remember them and derive meaning from hearing them"); ¶ 47 ("lyrics alone do not distinguish a composition, but instead must be paired with the music to achieve the full emotional response intended by the composer"). These opinions suffer from multiple infirmities.

First, and most importantly, the relative emotional "value" of lyrics is not at issue in this case. The jury will not be tasked with determining the non-economic value of the Works in Suit, or any portion thereof. It is no defense to infringement that the infringer copied less than the entirety of a copyrighted work, and expert testimony suggesting that one portion has more value than another unhelpfully suggests to the jury that it should apportion liability. To the extent Anthropic intends to use this testimony as a proxy for the economic value of the Works in Suit in assessing damages, or to argue that copying lyrics does not impair the "potential market for or value of the copyrighted work," as part of its fair use defense, *see* 17 U.S.C. §107(4), Mr. Stokes's own testimony makes clear that would not be appropriate. At every turn, Mr. Stokes was at pains to clarify that he had no training in economics and was not performing any market analysis of lyrics. *See* Dep. Tr. at 77:23–78:11; 92:21–93:5; 133:7–11; 192:7–11. Rather, as he put it, "I'm using value here to discuss their emotional and narrative communication." *Id.* at 70:15–16.

If, alternatively, Anthropic hopes to use this testimony as part of its fair use defense to argue "the portion used in relation to the copyrighted work," 17 U.S.C. §107(3), was relatively small, Mr. Stokes's gauzy assessment of the "value" of lyrics to the "emotional effect" of a song is not a helpful measure. The jury is amply suited to determine how much of the copyrighted works were taken, both from a quantitative and qualitative perspective, without an expert hinting that the lyrics in general are not terribly "valuable" in an "emotional" or "expressive" sense. An expert's testimony should be excluded where it is not relevant and will not help the jury understand a fact at issue. *Cooper*, 510 F.3d at 880 n.6.

Second, Mr. Stokes brings no identifiable methodology or metrics to this amorphous assessment other than the *ipse dixit* of his own views. *See General Elec. Co. v. Joiner*, 522 U.S. 136, 146 (1997) ("nothing in either *Daubert* or the Federal Rules of Evidence requires a district court to admit opinion evidence that is connected to existing data only by the *ipse dixit* of the expert"). There is no way to meaningfully challenge whether music suggests "loneliness" or "defiance" when the expert's views on those matters are based on a "subjective, conclusory approach" rather than some objective criteria or mode of analysis. *See City of Pomona*, 750 F.3d at 1046. While Mr. Stokes may be conversant in music theory, he has no expertise in consumer

behavior or psychology, and his unvarnished speculation of consumers' perceptions of music is untethered to any methodology that can be tested or evaluated in any measurable sense.

Moreover, Mr. Stokes makes these assessments for approximately 25 out of 499 Works in Suit, and yet broadly and inappropriately generalizes his conclusions to *all* lyrics, including all of the Works in Suit. *Lin v. Solta Med., Inc*., 2024 WL 5199905, at *2 (N.D. Cal. Dec. 23, 2024) (expert testimony is unreliable where expert "unjustifiably extrapolate[s] from an accepted premise to an unfounded conclusion"); *Stanley v. Novartis Pharms. Corp*., 11 F. Supp. 3d 987, 995 (C.D. Cal. 2014) (expert opinions based "on unsubstantiated generalizations" not admissible).[2] Setting aside the irrelevance of this opinion, it would prejudice Publishers to allow Anthropic to use bogus "expert" testimony about "emotions" to persuade jurors that copying lyrics is somehow permissible, fair, or a lesser violation. *See* Fed. R. Evid. 403 (permitting exclusion of relevant evidence where "its probative value is substantially outweighed by a danger of . . . unfair prejudice").

II. Mr. Stokes's Opinion about Musicians' Historical Use of Technology Is Irrelevant and Prejudicial.

Mr. Stokes's review of musicians' purported hostility to past technologies is equally irrelevant and misleading. This case has nothing to do with Ancient Greek instruments, synthesizers, or any of Mr. Stokes's other historical examples, none of which were built on the copying of copyrighted works or challenged on that basis. In fact, where past music technologies *were* created by unauthorized copying, courts did not hesitate to deem them infringing and unfair. *See, e.g., Capitol Records, LLC v.ReDigi Inc.*, 910 F.3d 649 (2d Cir. 2018) (digital resale of downloaded music files); *A&M Records v. Napster, Inc.*, 239 F.3d 1004 (9th Cir. 2001) (peer-to-peer file sharing). It is also highly prejudicial to suggest that the music industry is habitually predisposed to resist technology based on a one-sided assessment of its business judgments. Publishers welcome the use of AI in music, as long as it is licensed and authorized. *See, e.g.*, FAC ¶ 1 ("Publishers embrace innovation and recognize the great promise of AI when used ethically

[2] The Reply's analysis of only a handful of Claude interactions with users about lyrics among the many thousands identified suffers from the same fatal flaw. It improperly draws broad conclusions about how uses of Claude to create lyrics based on the tiniest of samples. *See* Reply ¶¶ 20–23.

and responsibly"); Declaration of David Kokakis in Support of Plaintiffs' Mot. for Partial SJ (Mar. 23, 2026), ¶¶ 159–60, ECF No. 610 (describing licensing agreements between Plaintiffs UMPG and two generative AI companies). This case involves copying lyrics in AI training and outputs and has no room for a prejudicial frolic and detour into Aelian Harps or synthesizers that were not made possible by first infringing on protected works.

Mr. Stokes's praise for how some musicians are creatively using AI is equally irrelevant and prejudicial. Indeed, as noted above, many of Mr. Stokes's examples of the AI systems used by composers are in fact "ethically" developed, something Mr. Stokes himself advocates for in his article. More important, as also noted above, virtually all of Mr. Stokes's examples of musicians using AI involves different AI technologies that produce music, sounds and images, not text-generators like Claude. Those technologies are irrelevant to whether copying the text of lyrics to generate substantially similar or substitutional lyrics is lawful. It is misleading to justify Claude as a music tool, by invoking different music tools that work completely differently.

CONCLUSION

For the foregoing reasons, Publishers respectfully request that Mr. Stokes's testimony be excluded in its entirety.

Dated: March 31, 2026

Respectfully submitted,

/s/ Timothy Chung

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