

VIA ECF AND MAIL

Special Master Harold J. McElhinny
1664 Ninth Avenue
San Francisco, CA, 94122

RE: Plaintiffs' Reply in Support of Plaintiffs' Motion to Compel (Dkt. 323)

Dear Special Master McElhinny:

The Special Master should compel Anthropic to provide the “reasonable discovery” that Judge Alsup ordered Plaintiffs would be entitled to receive when “prepar[ing] the [class] list.” Dkt. 244 at 30. None of the reasons Anthropic offers for its categorical refusal to respond have merit.

First, Anthropic complains that Plaintiffs served 25 prior interrogatories. But Judge Alsup expressly permitted “reasonable discovery” as to the class list, which would have been entirely superfluous if Plaintiffs were limited to only discovery to which they were already entitled. Anthropic’s response brief never acknowledges this explicit statement by Judge Alsup, even though Plaintiffs identified it in their opening brief repeatedly. *See* Dkt. 323 at 1, 3.

Second, Anthropic objects that Plaintiffs’ metadata interrogatories “shift the[] burden” to Anthropic. Dkt. 336 at 1. Nonsense. Anthropic was obligated by August 1 to “provide the titles, authors, publishers, ISBNs and/or ASINs data” “about the two pirated datasets.” Dkt. 244 at 30. Plaintiffs’ interrogatories are each carefully designed to test whether Anthropic has done so.

- Plaintiffs’ first interrogatory seeks the “documents [Anthropic] relied upon” in creating its August 1 submission. That information is readily available to Anthropic and is obviously relevant to assessing the accuracy of Anthropic’s August 1 disclosure.
- Plaintiffs’ second interrogatory seeks confirmation that Anthropic provided information “about the two pirated datasets” themselves, instead of information about works that Anthropic did not download or do not exist within those datasets. Dkt. 244 at 30. Anthropic cannot have abided by the Court’s order if it provided information that *itself* believes does not relate to the class works. Anthropic’s understanding of its own submission, made weeks ago, is readily within its possession and should not be difficult to produce.
- Plaintiffs’ third interrogatory asks whether the metadata Anthropic provided is inaccurate. It is unclear why Anthropic would be permitted to knowingly provide inaccurate information to Plaintiffs and then simultaneously refuse to respond when Plaintiffs inquire whether Anthropic has done so. This information is at Anthropic’s fingertips, too.

Because Judge Alsup allowed Plaintiffs to take reasonable discovery, the information Plaintiffs seek should have been produced along with Anthropic’s August 1 production. Plaintiffs followed up with Anthropic immediately after August 1. Anthropic refused discovery, and Plaintiffs timely moved as a result. Anthropic should not be allowed to “run out the clock” by now saying it is too late or too burdensome when Judge Alsup required Anthropic collect this information, when he allowed reasonable discovery, and when it is in the interests of all parties to have a complete and accurate list. It would be inappropriate for Anthropic to fail to produce this information and then challenge the class-works list on the very grounds on which it refused to produce information.

Respectfully submitted,

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/s/ Samir Doshi

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