[redacted]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: OpenAI, Inc. Copyright Infringement Litigation This Document Relates To: Case No. 1:23-cv-08292 Case No. 1:23-cv-10211	Case No. 1:25-md-3143 (SHS) (OTW)

Declaration of Catherine Tucker, Ph.D. In Support Of Defendant Microsoft Corporation's Motion For Summary Judgment In Books Plaintiffs' Consolidated Cases

[redacted]

I, Catherine Tucker, Ph.D., declare:

1. I am over the age of 18 and am competent to make this declaration.

2. I have been engaged by Microsoft Corporation ("Microsoft") to use my expertise in the economics of AI and digital data to (1) evaluate whether the alleged use of the Asserted Works[1] as training data has negative effects on the market for the Asserted Works (**Section III**), (2) evaluate whether an alleged increase in the supply of AI-generated books has negative effects on the market for the Asserted Works (**Section IV**), (3) evaluate whether a market for licensing the Asserted Works for training AI models exists or is likely to develop (**Section V**), and (4) evaluate whether a balancing of static and dynamic incentives suggests that the economic benefits from licensing the Asserted Works for training outweigh the costs (**Section VI*)**.

3. I submitted an opening expert report in this case on April 24, 2026 and a reply report on June 26, 2026. The opinions in this declaration ("Declaration") are a subset of the opinions set forth in my two expert reports, in addition to my opinions relating to a report that was submitted by Plaintiffs' expert Mr. Michael Lasinski after I submitted my reports.[2] The statements in this Declaration are true and accurate to the best of my knowledge, information, and belief. Except as otherwise stated herein, I make this Declaration based on my personal knowledge and professional expertise, documents produced in this case (as cited herein), research and analysis conducted by me or under my direction and supervision, and declarations by other experts retained by Microsoft in this case, including Professor On Amir, Professor Chris Bail, and Dr. John Lafferty.

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[1] I use the term "Asserted Works" to refer to the 222 unique copyright registration numbers included in the list of asserted works submitted by Plaintiffs on March 6, 2026, which correspond to 211 unique titles: 208 books and 3 plays. Plaintiffs' Asserted Works are listed in Appendix Exhibit E.1.

[2] Hurst Decl. Ex. 62, Deposition Transcript of Michael James Lasinski, August 3, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143, 83:5-84:14.

[redacted]

I. QUALIFICATIONS

4. I am the Sloan Distinguished Professor of Management Science at MIT Sloan at the Massachusetts Institute of Technology ("MIT") in Cambridge, Massachusetts. I received an undergraduate degree in Politics, Philosophy, and Economics from Oxford University in the United Kingdom. I received a Ph.D. in Economics from Stanford University in 2005.

5. I have been at MIT since completing my Ph.D. My academic specialty lies in digital economics, with a focus on digital technologies and especially questions of how the increasing use of digital technologies has transformed advertising and questions of privacy. I received a National Science Foundation CAREER Award, which is the National Science Foundation's most prestigious award in support of junior faculty, for my work on digital privacy.

6. I am the Director of Digital Economics and Artificial Intelligence initiatives at the National Bureau of Economics Research ("NBER"). I have been an Associate Editor at *Management Science*, *Marketing Science*, and the *Journal of Marketing Research*, and Co-Editor of the *Journal of Quantitative Marketing and Economics* and am currently Senior Editor at *Marketing Science*. I was recently invited to join the roundtable at the Copyright Board to discuss AI and copyright.

7. I have testified twice before Congress on policy issues relating to privacy and algorithms and have presented my research to the Federal Trade Commission ("FTC"), the International Monetary Fund, the Federal Communications Commission, the Organisation for Economic Co-operation and Development and recently led a plenary panel at the World Bank on the topic of competition and AI. I have published multiple academic papers in leading scientific, economics, marketing, management, and information systems journals, including *Science*, *Marketing Science*, *Journal of Marketing Research*, *Journal of Political Economy*, *RAND Journal of Economics*, *Management Science*, and *Information Systems Research*.

[redacted]

8. **Appendix A** to this Declaration is a copy of my curriculum vitae, which includes a list of all the publications I have authored, including during the previous ten years. **Appendix B** to this Declaration is a list of all the cases in which I have testified as an expert at trial or in deposition during the previous four years. **Appendix C** contains all of the figures cited in the text of this Declaration. **Appendix D** describes the methodology used to construct various book sales datasets discussed in this Declaration. **Appendix E** contains tables and graphs included in my expert reports but not identified as figures in this Declaration.

9. For the purposes of my Declaration, I refer to training, or the training stage of LLM development, as including both the pre-training stage and the post-training stage. The pre-training stage involves providing an LLM with a large variety and volume of text, such as formal correspondence, articles, computer code, social media content, and books, so that it can capture the statistical relationships between words in a broad range of contexts.[3] The post-training stage includes fine-tuning, which involves exposing a pre-trained LLM to much smaller, specific datasets that provide examples of tasks or use cases the LLM is being adapted for.[4] The set of associations learned by an LLM from its training data is fixed as of the time the model is trained.[5] For the purposes of my Declaration, I assume that the Asserted Works were copied for purposes of LLM training in connection with various GPT models.

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[3] May, Richard, "Artificial Intelligence, Data and Competition," *OECD Artificial Intelligence Papers*, No. 18, May 24, 2024, pp. 1-62 at p. 19; "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm.

[4] Liu, Yang, Jiahuan Cao, Chongyu Liu, Kai Ding, and Lianwen Jin, "Datasets for Large Language Models: A Comprehensive Survey," *Artificial Intelligence Review*, Vol. 58, No. 403, 2025, pp. 1-78 at p. 33.

[5] "What is Grounding?," *Microsoft Community Hub*, June 9, 2023, available at https://techcommunity.microsoft.com/blog/fasttrackforazureblog/grounding-llms/3843857; "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm.

[redacted]

II. SUMMARY OF OPINIONS

10. Based on my review of documents associated with this case and my expertise in the economics of AI and digital data, I have reached the following conclusions.

11. Empirical evidence indicates that the alleged use of the Asserted Works as training data for the at-issue models is not associated with [redacted]. This opinion is further discussed in **Section III (¶¶ 16-60)**.

    a. I would expect any negative effects from the training to occur only after the introduction of the LLMs. In order to assess whether the alleged use of the Asserted Works as training in the at-issue LLMs adversely affected the market for the Asserted Works, I assessed empirically whether the introduction of two applications, Copilot or ChatGPT, that allow customers to interact with these LLMs, was associated with a decline in sales for the Asserted Works or trade books more generally. Trade books is a term I use to refer to fiction and non-fiction books that are targeted towards the general public. *See* **Section III.B (¶¶ 20-46)**. Other LLMs were released during this same period of time, and my analysis suggests that their introduction collectively did not adversely affect trade book sales. I found no evidence of an adverse market impact of Copilot or ChatGPT on the Asserted Works across three empirical analyses. As discussed in **Section III.B.1 (¶¶ 21-23)** and shown in **Figure 1**, trade book sales naturally decline after publication. Because the potential effect of Copilot or ChatGPT on a book depends on where that book is in its lifecycle, my empirical analysis divides the Asserted Works into two groups based on a book's age: (1) Asserted Works published on or after January 1, 2017 (the "New Asserted Works"), and (2) Asserted Works published prior to January 1, 2017 (the "Older Asserted Works"). I also conducted an empirical analysis of two cohorts of trade books more broadly, which includes both Asserted Works and non-asserted trade books: (1) books published in the one to two years prior to the launch of ChatGPT, and (2) books published in the two years after the launch of Copilot (the "Newly Released Trade Book Cohorts").

[redacted]

- New Asserted Works. As discussed in **Section III.B.2 (¶¶ 24-37)**, I find no evidence of adverse market impact of Copilot, or ChatGPT, on the New Asserted Works using two different datasets. First, [redacted] associated with the New Asserted Works did not decrease following the introduction of Copilot and ChatGPT. *See* **Section III.B.2.a (¶¶ 25-32)**. [redacted] Second, [redacted] of the New Asserted Works did not decrease following the introduction of Copilot and ChatGPT. *See* **Section III.B.2.b (¶¶ 33-37)**.
- Older Asserted Works. As discussed in **Section III.B.3 (¶¶ 38-40)**, I find no evidence of adverse market impact of Copilot, or ChatGPT, on the Older Asserted Works. My empirical analysis finds that [redacted] of the Older Asserted Works did not decrease following the introduction of Copilot and ChatGPT.
- Newly Released Trade Book Cohorts. As discussed in **Section III.B.4 (¶¶ 41-46)**, I find no evidence of adverse market impact of Copilot, or ChatGPT, on the broader cohorts of trade books released around the launch of Copilot or ChatGPT. I compared: (1) [redacted], published in the one to two years before the release of ChatGPT to; (2) [redacted], published in the two years following the introduction of Copilot. I find no evidence of [redacted] in the latter cohort, which further supports my conclusion that there is no evidence of adverse market impact of Copilot and ChatGPT on the Asserted Works.

b. Additional evidence is consistent with my opinion that the alleged use of the Asserted Works as training data for the at-issue models is not associated with [redacted] of the Asserted Works. As discussed in **Section III.C (¶¶ 47-60)**, my analysis of the consumer needs that Copilot and the

[redacted]

Asserted Works serve indicates that they are not substitutes. Copilot is an AI-powered application designed to help people complete a variety of personal and business tasks. The Asserted Works, by contrast, consist of trade books and plays. Even if Copilot can be used to generate short snippets, fragmented passages, or summaries of a Plaintiff's book or script, such excerpts and summaries are already widely available and do not satisfy the same consumer need as reading an entire book and therefore would be unlikely to substitute for the original work, just as a book summary on Amazon.com does not substitute for the book itself. My analysis of these potential Copilot outputs and the Asserted Works indicates that they are not substitutes.

12. It is unlikely that the introduction of Copilot decreased or would decrease demand for the Asserted Works by creating a large quantity of long-form content that diverted, or would divert, sales from the Asserted Works. This opinion is further discussed in **Section IV (¶¶ 61-88)**.

a. As discussed in **Section IV.A (¶¶ 62-69)**, even if Copilot could generate an original manuscript, simply producing an original manuscript is not sufficient to capture consumers' attention for long-form creative and in-depth informative content. Trade books, such as the Asserted Works, are long-form content that compete for consumers' attention. The commercial success of trade books depends on many factors in addition to the words on the page, including the renown of authors and their books, the backing of an established publisher, and the strength of marketing efforts.

b. As discussed in **Section IV.B (¶¶ 70-76)**, increasing the number of available books does not mechanically reduce demand for existing works. It is necessary not only to write books but to gain readers' attention, which is influenced by many factors beyond the words on the page itself. Consumers are not aware of, and therefore do not consider, the complete universe of books when deciding what book to read. Consumers discover only a small subset of books available in the marketplace and consider only a fraction of titles when making purchase decisions. When consumers face many options, outcomes depend on which works

[redacted]

are able to capture attention rather than simply the number of titles available. Consumers consider many factors when evaluating and ultimately deciding what to purchase or read, including the renown of authors and their books, book ratings and reviews, bestseller list and media coverage of books, and marketing efforts by authors. Academic research finds that Amazon star ratings affect book sales, and that Amazon star ratings are, on average, lower for AI-containing books than human-generated books. It would be difficult for any books, including any original manuscripts created with assistance of Copilot, to gain sufficient attention to divert sales from the Asserted Works.

c. As discussed in **Section IV.C (¶¶ 77-82)**, to empirically assess whether an increase in the supply of books, illustrated by a large increase in self-published books, mechanically negatively affects demand for existing works, I consider the relationship between the rise of self-published books on Amazon and [redacted]. Within the last decade, and before the introduction of Copilot, there has been a large rise in self-published books distributed through digital platforms. Self-publishing is a useful setting to assess whether an increase in the supply of self-published books is associated with a change in the pattern of sales of the Asserted Works. My empirical analysis finds that the rise in self-published books on Amazon is not associated with [redacted]s. As a result, even if Copilot could generate original manuscripts, those manuscripts would be unlikely to overwhelm or destroy the market for or divert sales from Plaintiffs.

d. As discussed in **Section IV.D (¶¶ 83-88)**, [redacted]. This is not evidence that [redacted].

[redacted]

13. Plaintiffs have not suffered any lost revenue in an alleged market to license content for training LLMs because a functioning market for licensing data, including the Asserted Works, for training LLMs did not exist when the models at issue were trained, does not currently exist, and faces considerable challenges to developing. This opinion is further discussed in **Section V (¶¶ 89-145)**.

a. I am not aware of any evidence that there was a functioning market through which the Plaintiffs, their publishers, or their literary agents, could license the Asserted Works for the purpose of training general-purpose LLMs at the time the GPT models at-issue were trained, which was prior to December 2023. *See* **Section V.A (¶¶ 90-91)**.

b. Training general-purpose LLMs requires a large volume and variety of data, because they are designed to generate stochastic output in response to a variety of user prompts in a variety of contexts, not to systematically reproduce the data that was used to train the models. [redacted]. *See* **Section V.B (¶¶ 92-100)**.

c. Licensing data for training purposes would require negotiating with large and diverse sets of rightsholders, which is hindered by high transactions costs, holdout problems, and difficulties inherent to pricing or attributing value to individual pieces of content. *See* **Section V.C (¶¶ 101-115)**.

d. The experience of other industries that rely on large-scale scraped data provides an important point of comparison for evaluating Plaintiffs' claims. Despite longstanding and widespread reliance on scraped data across many contexts, a functioning market for licensing scraped data has not developed. *See* **Section V.D (¶¶ 116-123)**.

e. [redacted]. *See* **Section V.E (¶¶ 124-136)**. Indeed, [redacted]

[redacted]

[redacted]

f. The opinions offered by Plaintiffs' experts Mr. Lasinski and Mr. Seeley [redacted]. *See* **Section V.F (¶¶ 138-145)**. First, experimentation in licensing models in other contexts, such as music or videos, does not imply a functioning market for licensing other data for training LLMs will emerge. *See* **Section V.F.1 (¶¶ 138-139)**. Second, even if certain researchers at, or associated with, Microsoft's industrial research lab pursued a Data Dignity Initiative, the existence of such initiative does not establish that there is or will be a functioning market for licensing data for training LLMs. *See* **Section V.F.2 (¶¶ 140-145)**.

14. A balancing of static and dynamic incentives suggests that the economic benefits from licensing the Asserted Works for training are unlikely to outweigh the costs. This opinion is further discussed in **Section VI (¶¶ 146-155)**.

a. From an economic perspective, copyright protection balances the incentives to produce creative works against the costs of allowing the public and future creators to access those works. Even if functioning markets for licensing data for training purposes could exist, a balancing of static and dynamic incentives suggests that requiring firms to seek agreements for training data could harm generative AI innovation without incentivizing Plaintiffs to create new high-quality works. *See* **Section VI (¶¶ 146-155)**.

15. This summary of my opinions is provided for the convenience of the reader and should be read in the context of the full Declaration.

III. COPILOT HAS NOT AND IS UNLIKELY TO ADVERSELY AFFECT THE MARKETS FOR THE ASSERTED WORKS

16. In **Section III.A**, I describe the economic framework I used to assess whether the alleged use of the Asserted Works as training data for the at-issue models has or is likely to adversely affect the market for the Asserted Works. As discussed in **Section III.B**, empirical evidence indicates that there was [redacted]

[redacted] following the introduction of Copilot, or following the introduction of ChatGPT. The empirical evidence also indicates that the introduction of Copilot and ChatGPT is not associated with [redacted]. As discussed in **Section III.C**, additional evidence is consistent with my opinion that the introduction of Copilot and ChatGPT is not associated with [redacted]. My analysis of Copilot and the Asserted Works indicates that they are not substitutes because they are used for different purposes and serve distinct customer needs. These findings are consistent with the findings from my empirical analysis.

A. Economic Framework for Assessing the Effects of Actual or Potential Market Harm

17. This section provides the economic framework I used to assess "the effect of the use upon the potential market for or value of the copyrighted work."[6] I understand from Counsel that this is the fourth factor from the list of non-exclusive factors used by courts in "determining whether the use made of a work in any particular case is a fair use[.]"[7] To assess whether the challenged uses affected the market for the Asserted Works, I assessed empirically whether the introduction of two applications, Copilot and ChatGPT, that allow customers to interact with these LLMs was associated with a decline in sales for the Asserted Works or trade books more generally.

18. In practice, the existence and extent of actual harm is an empirical question, which can be assessed in several ways. For established products, one approach is to evaluate the extent to which changes in relative prices of two goods affect their relative demand. A change in the quantity of a good that consumers purchase in response to a change in the relative prices of two goods provides a way to empirically

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6 "Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code, 17 U.S.C. § 107," *U.S. Copyright Office*, available at https://www.copyright.gov/title17/92chap1.html#107.

7 "Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code, 17 U.S.C. § 107," *U.S. Copyright Office*, available at https://www.copyright.gov/title17/92chap1.html#107.

[redacted]

assess whether consumers consider two goods to be substitutes.[8] To assess whether a new product competes with an existing product, a common empirical approach is to assess whether the launch of the new product is associated with a measurable decrease in the existing product's price, sales, or both.[9] That is what I do in this Declaration. In **Section III.B**, I assess empirically whether the introduction of Copilot, or ChatGPT, was associated with [redacted]. My empirical analysis assesses the market impact of Copilot and ChatGPT on [redacted].

19. In addition to my empirical analysis, I also analyze the characteristics of Copilot to assess whether it meets the same customer needs as the Asserted Works in **Section III.C**. I find that Copilot and the Asserted Works are not substitutes because they meet distinct customer needs, which is consistent with my empirical analysis. In economic theory, two goods are considered substitutes when they serve a similar purpose and customers perceive the goods to be reasonable alternatives to one another.[10] To evaluate whether Copilot or ChatGPT are substitutes to the Asserted Works, I first assess evidence on the characteristics of the goods at issue to assess whether they serve the same functions or needs. Economists evaluate substitutability empirically by assessing whether demand for one good changes in response to a change in price or quality of the other good.[11] For example, consider frozen orange

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8 Berry, Steven T. and Philip A. Haile, "Chapter 1: Foundations of Demand Estimation," in *Handbook of Industrial Organization*, North-Holland, 2021, edited by Kate Ho, Ali Hortacsu, and Alessandro Lizzeri, p. 3. *See also Merger Guidelines*, U.S. Department of Justice and the Federal Trade Commission, December 18, 2023, https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf, p. 36.

9 *See, for example,* Hausman, Jerry A. and Gregory K. Leonard, "The Competitive Effects of a New Product Introduction: A Case Study," *The Journal of Industrial Economics*, Vol. L, No. 3, 2002, pp. 237-263 at p. 237.

10 Krugman, Paul and Robin Wells, *Microeconomics*, Worth Publishers, 2015, Fourth Ed., p. 74.

11 "Merger Guidelines," *U.S. Department of Justice and Federal Trade Commission*, December 18, 2023, available at https://www.ftc.gov/system/files/ftc_gov/pdf/2023_merger_guidelines_final_12.18.2023.pdf, p. 40.

[redacted]

juice and fresh orange juice. For these goods to be substitutes, if the price of fresh orange juice increased, then consumers would switch to frozen orange juice in response to that price increase. However, there may be some goods that are not substitutes. For example, we would not expect an increase in the price of fresh orange juice to affect demand for dictation software for radiologists. These goods are not substitutes because consumers do not use them to fulfill the same need. In addition, the customers for fresh orange juice and dictation software for radiologists do not largely overlap. For these reasons, economists also consider whether two goods serve a similar purpose or meet distinct customer needs when assessing substitution. If two goods do not serve a similar purpose or meet a similar customer need, it further supports that these two goods are not substitutes. If an at-issue use of a copyrighted work is not a substitute for the copyrighted work in an actual or potential market, then that use is not expected to harm the actual or potential market for the copyrighted work.

B. There Is No Evidence of Adverse Market Impact of Copilot, or ChatGPT, on the Asserted Works

20. This section assesses whether the introduction of Copilot, or the introduction of ChatGPT, were associated with [redacted] of the Asserted Works or in [redacted]. If Copilot, or ChatGPT, and the Asserted Works were substitutes, I would expect to see that the introduction of Copilot would be associated with [redacted] of the Asserted Works or [redacted]. To assess the impact of the introduction of Copilot and ChatGPT on the Asserted Works, I conduct three complementary analyses using different data sources and samples of books, which vary depending on a book's age when Copilot and ChatGPT were launched. As described in **Section III.B.1**, trade book sales naturally decline after publication. Because the potential effect of Copilot or ChatGPT on a book depends on where that book is in its lifecycle, my empirical analysis divides the Asserted Works into two groups based on a book's age. First, I assess whether the introduction of Copilot was associated with [redacted] for Asserted Works published on or after January 1, 2017 (the "New Asserted Works"). *See* **Section III.B.2**. Second, I assess

[redacted]

whether the introduction of Copilot was associated with [redacted] for Asserted Works published prior to January 1, 2017 (the "Older Asserted Works"). *See* **Section III.B.3**. Third, I assess whether [redacted] in the one to two years before the release of ChatGPT differed from [redacted] in the two years following the introduction of Copilot (the "Newly Released Trade Book Cohorts").[12] *See* **Section III.B.4**. Empirical evidence across these data sources, samples, and methodologies, indicates that [redacted] following the introduction of Copilot, or following the introduction of ChatGPT. I also find that the introductions of Copilot and ChatGPT [redacted]. Other LLMs were released during this same period of time, and my analysis

[12] Trade books is a term I use to refer to fiction and non-fiction books that are targeted towards the general public. The Asserted Works are primarily trade books as well as three plays. For the purposes of my declaration, when referring to trade books, I also include plays for ease of exposition. *See, for example,* Milliot, Jim, "Nonfiction Categories Continued to Grow in 2017," *Publishers Weekly*, January 19, 2018, available at https://www.publishersweekly.com/pw/by-topic/industry-news/bookselling/article/75877-nonfiction-categories-continued-to-grow-in-2017.html; "Definition of 'trade book'," *Collins English Dictionary*, available at https://www.collinsdictionary.com/us/dictionary/english/trade-book.

[redacted]

suggests that the introduction of these LLMs collectively [redacted].[13]

1. Trade Book Sales Naturally Decline After Publication

21. Book sales tend to be highest around the time a book is first published and then decline over time. For example, based on analyses of books on *The New York Times* bestseller list between August 2008 to March 2016, Yucesoy et al. (2018) find that most books' sales occur within their first year, and peak in the first 10 weeks, as illustrated in **Figure 1**.[14] The pattern of book sales over time are similar between fiction books, shown in **Panel A**, and nonfiction books, shown in **Panel B**. Yucesoy et al. (2018) attributes this early concentration of sales to greater visibility driven by the publisher marketing efforts, prominent in-store placement, and media reviews, which are more likely to occur in the initial weeks of release. This means books are more likely to capture consumers' attention and generate sales during this time.[15]

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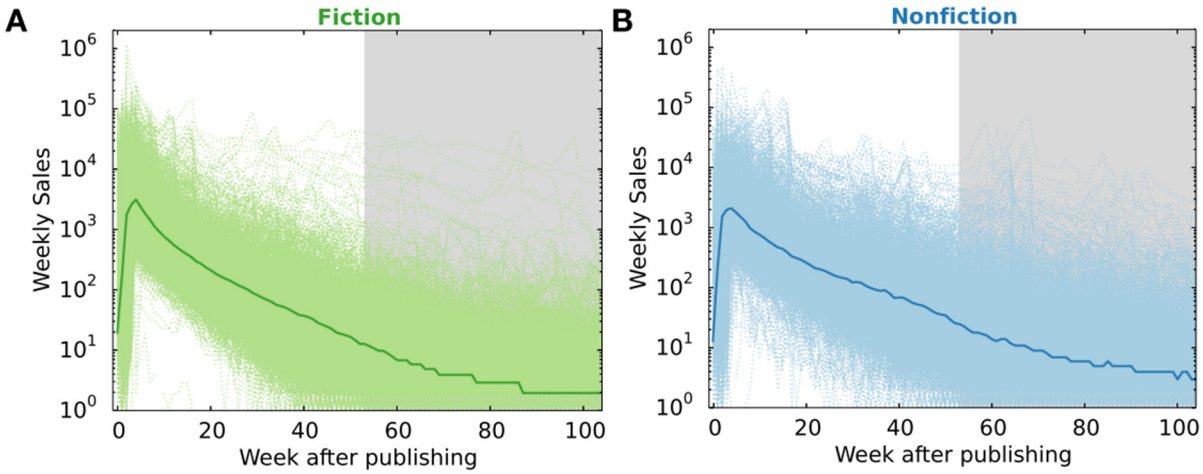
[13] For example, LLaMa was announced in February 2023 and made available to the general public in July 2023, Claude was launched in March 2023 and made available to the general public in July 2023, Grok was launched in November 2023 and made available widely in December 2023, and Gemini was introduced in December 2023. *See* Touvron, Hugo, Thibaut Lavril, Gautier Izacard, Xavier Martinet, Marie-Anne Lachaux, Timothee Lacroix, Baptiste Rozière, Naman Goyal, Eric Hambro, Faisal Azhar, Aurelien Rodriguez, Armand Joulin, Edouard Grave, and Guillaume Lample, "LLaMA: Open and Efficient Foundation Language Models," *arXiv*, 2023; "Meta and Microsoft Introduce the Next Generation of Llama," *Meta*, July 18, 2023, available at https://about.fb.com/news/2023/07/llama-2/; "Introducing Claude," *Anthropic*, March 14, 2023, available at https://www.anthropic.com/news/introducing-claude; "Claude 2," *Anthropic*, July 11, 2023, available at https://www.anthropic.com/news/claude-2; Edmonds, Lauren, Henry Chandonnet, Katherine Tangalakis-Lippert, Kwan Wei Kevin Tan, and Effie Webb, "What is Grok?," *Business Insider*, July 10, 2025, available at https://www.businessinsider.com/grok-artificial-intelligence-chatbot-elon-musk-xai-explained-2025-7; McKay, Chris, "X's AI Chatbot Grok Now Available to All Premium+ Subscribers in the US," *Maginative*, December 8, 2023, available at https://www.maginative.com/article/xs-ai-chatbot-grok-now-available-to-all-premium-subscribers-in-the-us/; Pichai, Sundar and Demis Hassabis, "Introducing Gemini: Our Largest and Most Capable AI Model," *Google*, December 6, 2023, available at https://blog.google/innovation-and-ai/technology/ai/google-gemini-ai/.

[14] Yucesoy, Burcu, Xindi Wang, Junming Huang, and Albert-László Barabási, "Success in Books: A Big Data Approach to Bestsellers," *EPJ Data Science*, Vol. 7, No. 1, 2018, pp. 1-25, p. 2, p. 16.

[15] Yucesoy, Burcu, Xindi Wang, Junming Huang, and Albert-László Barabási, "Success in Books: A Big Data Approach to Bestsellers," *EPJ Data Science*, Vol. 7, No. 1, 2018, pp. 1-25, p. 18.

[redacted]

Figure 1
Weekly Trend in *The New York Times* Bestsellers After Publication Date, August 6, 2008 to March 10, 2016[16]



Notes: Yucesoy, Burcu, Xindi Wang, Junming Huang, and Albert-László Barabási, "Success in Books: A Big Data Approach to Bestsellers," *EPJ Data Science*, Vol. 7, No. 7, 2018, p. 17 ("The weekly sales numbers of all bestselling (A) fiction and (B) nonfiction books, thick lines showing the median sales values for that week. The shaded area starts after the first year and only 4% of fiction and 6% of nonfiction sales happen there." Emphasis in original).

22. This lifecycle pattern is also reflected in the [redacted]s. For example, **Figure 2** shows [redacted].[17] Consistent with the post-publication sales patterns observed for books on *The New York Times* bestseller list as shown in **Figure 1**, **Figure 2** shows that [redacted]. The

[16] **Source**: Yucesoy, Burcu, Xindi Wang, Junming Huang, and Albert-László Barabási, "Success in Books: A Big Data Approach to Bestsellers," *EPJ Data Science*, Vol. 7, No. 1, 2018, pp. 1-25, Figure 9, p. 17.

[17] [redacted] *See also* **Appendix D**.

[redacted]

figure also reflects [redacted].

[redacted]

Figure 2

[redacted]

April 2021 to January 2026[18]

[redacted]

[18] **Sources**: [redacted]; "What is an ISBN?," *International ISBN Agency*, available at https://www.isbn-international.org/content/what-isbn/10; Perez, Jose, "Paperback Types: Difference Between Trade vs. Mass Market," *Pioneer Publishing*, November 21, 2023, available at https://pioneerpublishinggroup.com/paperback-types-difference-between-trade-vs-mass-market/; Hussain, Mukaram, "Audio Book CDs: Complete Guide to Physical Audiobook Publishing in 2026," *HMD Publishing*, March 19, 2026, available at https://hmdpublishing.com/blog/audio-book-cds-guide.

[redacted]

Notes:

Sample: This exhibit includes [redacted]. ISBNs typically correspond to different formats and editions of the same title, including hardcover, trade paperback, physical audio, and mass market paperback. Trade paperbacks are larger-format, higher-quality paperbacks typically released after hardcover, while mass market paperbacks are smaller, lower-priced editions designed for wide distribution. Physical audio refers to audiobooks distributed in physical formats such as CDs.

Y-axis: The Y-axis represents [redacted].

X-axis: The yearly tick marks represent the first month of each year. Dotted vertical lines denote [redacted]. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

23. The potential effect of Copilot or ChatGPT on a book depends on where that book is in its lifecycle when Copilot or ChatGPT was introduced. Because most trade book sales typically occur early in a book's lifecycle, book sales are likely to be relatively low by the time a book is a few years old. For this reason, I assess whether there is evidence of adverse market impact separately for three sets of books with different publication dates:

a. A sample of Asserted Works published on or after January 1, 2017 (the "New Asserted Works").

b. A sample of Asserted Works published prior to January 1, 2017 (the "Older Asserted Works").

c. A sample of trade books, including any editions and formats of the Asserted Works, published in the two years after the introduction of Copilot, as compared to a sample of trade books, including any editions and formats of the Asserted Works, published in the one to two years before the release of ChatGPT (the "Newly Released Trade Book Cohorts").

2. There Is No Evidence of Adverse Market Impact of Copilot, or ChatGPT, on the New Asserted Works

24. I first assess whether the introduction of Copilot, or the introduction of ChatGPT, were associated with [redacted] of the New Asserted Works, which were published on or after January 1, 2017. As discussed in **Section III.B.1**, sales for trade books typically occur early in a book's lifecycle, with sales declining as a book ages. I focus on the New Asserted Works to increase the likelihood of observing any potential diversion [redacted] following the launch of Copilot and ChatGPT, while also retaining a sample that supports meaningful analysis. This set includes some Asserted Works that are several years post-publication, which [redacted] and remain informative for assessing whether any post-launch changes are associated with the introduction of Copilot and ChatGPT. I assess this question using two complementary data sources. First, I analyze [redacted] Second, I analyze [redacted]

[redacted] Across both data sources, I find no evidence that [redacted] following the introduction of Copilot, or following the introduction of ChatGPT. I also find that the introductions of Copilot and ChatGPT are not associated with [redacted].

a) [redacted] Show No Evidence of Adverse Market Impact of Copilot, or ChatGPT, on the New Asserted Works

25. [redacted]. Because these data [redacted], they can be used to directly test whether the introduction of Copilot and ChatGPT affected the market for the Asserted Works. This allows me to assess whether Copilot and ChatGPT diverted demand away from the New Asserted Works, [redacted].

26. For the purposes of this empirical analysis, I limit the sample of New Asserted Works to those for which all physical formats and editions were released at least two years prior to the launch of ChatGPT. These restrictions reduce the risk of conflating [redacted] associated with new releases with the effect, if any, associated with the introduction of Copilot or ChatGPT. I further restrict the sample to New Asserted Works for which I was able to identify [redacted] over time both before and after the introduction of Copilot and ChatGPT [redacted].[19] I focus on Asserted Works with [redacted]

[19] [redacted]

[redacted]

[redacted][20] **Figure 3** reports information on [redacted] in the year prior to the launch of Copilot and ChatGPT for the 12 New Asserted Works that meet these sample criteria, illustrating that most of these Asserted Works continued to [redacted] in the period immediately prior to the launch of Copilot and ChatGPT, and are economically relevant for purposes of assessing potential diversion.

[20] *See* Appendix D; Appendix Exhibit E.4.

[redacted]

Figure 3

[redacted] **Prior to the Launch of Copilot and ChatGPT**[21]

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Rows [redacted]

Columns: [redacted]

[21] **Sources:** FICTION-0620570; GOL000122; FICTION-0694784; FICTION-0695230; FICTION-0630307; FICTION-0636221; GREER010206; GREER010276; FICTION-0635715; FICTION-0629711; FICTION-0633833; FICTION-0627679; FICTION-0692873; FICTION-0693787; **Appendix Exhibit E.1**.

[redacted]

27. **Figures 4A** and **4B** show a comparison of [redacted] for the sample of the 12 New Asserted Works, grouped by publication-year cohorts, before and after the launch of Copilot and ChatGPT. If Copilot, or ChatGPT, and the New Asserted Works were substitutes, I would expect to see that the introduction of Copilot would be associated with [redacted] of the New Asserted Works or in [redacted]

[redacted]Y

Figure 4A

[redacted] **the New Asserted Works,**
Before and After the Launch of Copilot and ChatGPT[22]

[redacted]

[22] **Sources**: FICTION-0620570; GOL000122; GOL001153; FICTION-0695146; FICTION-0694738; FICTION-0694784; FICTION-0695180; FICTION-0694848; FICTION-0695230; FICTION-0694932; FICTION-0695300; FICTION-0630223; FICTION-0636221; FICTION-0630307; FICTION-0636616; FICTION-0637104; FICTION-0630641; GREER010206; GREER010020; GREER010276; GREER010333; GREER010406; GREER010450; FICTION-0628795; FICTION-0635263; FICTION-0629363; FICTION-0635715; FICTION-0629711; FICTION-0636141; FICTION-0630069; FICTION-0636305; FICTION-0633808; FICTION-0627651; FICTION-0633833; FICTION-0627707; FICTION-0633859; FICTION-0627679; FICTION-0627731; FICTION-0633951; FICTION-0693677; FICTION-0692873; FICTION-0693787; FICTION-0692981; FICTION-0693097; FICTION-0693895; FICTION-0693097; "Amos Decker Series," *Goodreads*, available at https://www.goodreads.com/series/150209-amos-decker; "Dream Town," *Goodreads*, available at https://www.goodreads.com/book/show/58767158-dream-town; "Long Shadows," *Goodreads*, available at https://www.goodreads.com/book/show/60395678-long-shadows; "One Good Deed," *Goodreads*, available at https://www.goodreads.com/book/show/44016314-one-good-deed; "Arthur Less Series," *Goodreads*, available at https://www.goodreads.com/series/342803-arthur-less; "Less Is Lost," *Goodreads*, available at https://www.goodreads.com/book/show/60021216-less-is-lost.

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

Figure 4B

[redacted] **the New Asserted Works,**
Before and After the Launch of Copilot and ChatGPT[23]

[redacted]

[23] **Sources:** FICTION-0620570; GOL000122; GOL001153; FICTION-0695146; FICTION-0694738; FICTION-0694784; FICTION-0695180; FICTION-0694848; FICTION-0695230; FICTION-0694932; FICTION-0695300; FICTION-0630223; FICTION-0636221; FICTION-0630307; FICTION-0636616; FICTION-0637104; FICTION-0630641; GREER010206; GREER010020; GREER010276; GREER010333; GREER010406; GREER010450; FICTION-0628795; FICTION-0635263; FICTION-0629363; FICTION-0635715; FICTION-0629711; FICTION-0636141; FICTION-0630069; FICTION-0636305; FICTION-0633808; FICTION-0627651; FICTION-0633833; FICTION-0627707; FICTION-0633859; FICTION-0627679; FICTION-0627731; FICTION-0633951; FICTION-0693677; FICTION-0692873; FICTION-0693787; FICTION-0692981; FICTION-0693097; FICTION-0693895; FICTION-0693097; "Amos Decker Series," *Goodreads*, available at https://www.goodreads.com/series/150209-amos-decker; "Dream Town," *Goodreads*, available at https://www.goodreads.com/book/show/58767158-dream-town; "Long Shadows," *Goodreads*, available at https://www.goodreads.com/book/show/60395678-long-shadows; "One Good Deed," *Goodreads*, available at https://www.goodreads.com/book/show/44016314-one-good-deed; "Arthur Less Series," *Goodreads*, available at https://www.goodreads.com/series/342803-arthur-less; "Less Is Lost," *Goodreads*, available at https://www.goodreads.com/book/show/60021216-less-is-lost.

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

28. The 2017 cohort contains six Asserted Works and [redacted]. The 2017 cohort includes the Asserted Work *Less* by Andrew Sean Greer, a Pulitzer prize winner, which follows Arthur Less, a novelist who travels internationally to avoid attending his former partner's wedding.[24] As shown in **Figures 5A** and **5B**, [redacted][25] For the other five Asserted Works in the 2017 cohort, I find no evidence that [redacted] following the launch of Copilot and ChatGPT. For these five Asserted Works, [redacted].[26]

29. [redacted] for the 2017 cohort of the Asserted Works in 2022, and [redacted], is consistent with a temporary increase in the demand for other books in a series when a new installment is released, promoted, and captures consumers' attention. Academic research shows that such releases reduce information costs and redirect consumer attention to prior titles, increasing their sales. For example, Hendricks and Sorensen (2009) find that in the music

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[24] "Less," *Goodreads*, available at https://www.goodreads.com/book/show/39927096-less; "Less Is Lost," *Goodreads*, available at https://www.goodreads.com/book/show/60021216-less-is-lost.

[25] "Less Is Lost," *Goodreads*, available at https://www.goodreads.com/book/show/60021216-less-is-lost; "Arthur Less Series," *Goodreads*, available at https://www.goodreads.com/series/342803-arthur-less ("Arthur Less Series[:] Book 1 Less[,] Book 2 Less Is Lost").

[26] [redacted]. *See* Figures 5A and 5B.

[redacted]

industry, new releases can generate increased sales for older titles that would otherwise have continued their natural lifecycle decline.[27] This pattern is not consistent with [redacted] that I would expect to observe if the introduction of Copilot and ChatGPT negatively affected [redacted].

[27] Hendricks, Ken and Alan Sorensen, "Information and the Skewness of Music Sales," *Journal of Political Economy*, Vol. 117, No. 2, 2009, pp. 324-369, at pp. 324-326, at pp. 365-366.

[redacted]

Figure 5A

[redacted] **the New Asserted Works,**
Before and After the Launch of Copilot and ChatGPT[28]

[redacted]

[28] **Sources**: GOL000122; GOL001153; FICTION-0636063; FICTION-0629927; FICTION-0630223; FICTION-0636221; FICTION-0636616; FICTION-0630307; FICTION-0637104; FICTION-0630641; GREER010020; GREER010206; GREER010333; GREER010276; GREER010406; GREER010450; FICTION-0693573; FICTION-0692765; FICTION-0693677; FICTION-0692873; FICTION-0692981; FICTION-0693787; FICTION-0693097; FICTION-0693895.

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted].

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

Figure 5B

[redacted] **the New Asserted Works, Before and After the Launch of Copilot and ChatGPT**[29]

[redacted]

[29] **Sources**: GOL000122; GOL001153; FICTION-0636063; FICTION-0629927; FICTION-0630223; FICTION-0636221; FICTION-0636616; FICTION-0630307; FICTION-0637104; FICTION-0630641; GREER010020; GREER010206; GREER010333; GREER010276; GREER010406; GREER010450; FICTION-0693573; FICTION-0692765; FICTION-0693677; FICTION-0692873; FICTION-0692981; FICTION-0693787; FICTION-0693097; FICTION-0693895.

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

30. For the 2018 cohort I find no evidence that [redacted] following the introduction of Copilot, or following the introduction of ChatGPT. [redacted][30]

31. The 2019 cohort contains two Asserted Works: *One Good Deed* by David Baldacci, the first book in the "Archer" series, and *Redemption* by David Baldacci, the fifth book in the "Amos Decker" series.[31] For these Asserted Works, [redacted][32] Similar to the 2017 cohort, [redacted], is consistent with a temporary increase in the demand for other books in a series when a new installment is released, promoted, and captures consumers' attention, and then reversion from this release-driven spike rather than a decrease in demand associated with the introduction of Copilot and ChatGPT.

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30 [redacted] *See* Figures 4A and 4B.

31 "One Good Deed," *Goodreads*, available at https://www.goodreads.com/book/show/44016314-one-good-deed; "Amos Decker Series," *Goodreads*, available at https://www.goodreads.com/series/150209-amos-decker.

32 "Dream Town," *Goodreads*, available at https://www.goodreads.com/book/show/58767158-dream-town; "Long Shadows," *Goodreads*, available at https://www.goodreads.com/book/show/60395678-long-shadows.

[redacted]

32. Overall, evidence on [redacted]s for the 2017-2019 cohorts of Asserted Works is not consistent with a negative impact of Copilot and ChatGPT on sales. If Copilot and ChatGPT were diverting sales from the New Asserted Works, I would expect to observe such a pattern across cohorts, particularly for titles that continue to compete for readers' attention. I find no such systematic evidence in the data.

b) [redacted] Shows No Evidence of Adverse Market Impact of Copilot, or ChatGPT, on the New Asserted Works

33. [redacted], it allows me to detect changes in [redacted] around the introduction of Copilot and ChatGPT that may not be visible in [redacted]. This allows me to assess whether Copilot and ChatGPT diverted demand away from the New Asserted Works, [redacted]. My analysis [redacted] is complementary to my analysis of [redacted] and the findings from both analyses indicate that [redacted] did not decrease following the introduction of Copilot and ChatGPT.

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33 [redacted] *See also* **Appendix D**.

34 [redacted]. *See* **Appendix Exhibit E.5**.

[redacted]

34. [redacted][35] Because different ISBNs typically correspond to distinct editions or formats of the same title, such as hardcover, paperback, mass market, or special editions, I aggregate sales across all ISBNs associated with a given title to [redacted], as described in **Appendix D**.

35. For purposes of this empirical analysis, I limit the sample of New Asserted Works to those for which I could find [redacted] at least two years prior to the launch of ChatGPT. This restriction [redacted] with the effect, if any, associated with the introduction of Copilot or ChatGPT. The resulting sample of 15 New Asserted Works is summarized in **Figure 6**.

[35] [redacted]"

[36] "What is an ISBN?," *International ISBN Agency*, available at https://www.isbn-international.org/content/what-isbn/10.

[redacted]

Figure 6

[redacted]

, January 2017 to January 2026[37]

[redacted]

Notes:
Sample: This analysis is limited to the [redacted]).

Rows: Each row represents [redacted].

Columns: [redacted]

[37] **Sources**: [redacted]

[redacted]

36. **Figures 7A** and **7B** compare [redacted] of the New Asserted Works across different cohorts, grouped by year of first publication to account for the typical lifecycle pattern of book sales, in the periods before and after the introduction of Copilot and ChatGPT. [redacted] I find no evidence that the introductions of Copilot and ChatGPT are associated with a [redacted]s of the New Asserted Works across cohorts.

37. The [redacted] following the introduction of Copilot and ChatGPT. [redacted]. Over the two-year period following the launch of Copilot, [redacted].[38] This evidence is inconsistent with the conclusion that the introduction of Copilot and ChatGPT [redacted].

[38] [redacted]. *See* Figures 7A and 7B.

[redacted]

Figure 7A

[redacted] **the New Asserted Works, January 2017 to January 2026**[39]

[redacted]

[39] [redacted]

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents [redacted]

X-axis: The yearly tick marks represent the first month of each year. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

Figure 7B

[redacted] of the New Asserted Works, Two Years Before ChatGPT Launch to Two Years After Copilot Launch[40]

[redacted]

[40] [redacted]

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

3. [redacted] Show No Evidence of Adverse Market Impact of Copilot, or ChatGPT, on the Older Asserted Works

38. Next, I assess whether the introduction of Copilot, or the introduction of ChatGPT, were associated with [redacted] of the Older Asserted Works, which were first published prior to January 1, 2017. As discussed in **Section III.B.1**, most trade book sales occur early in a book's lifecycle, with substantially lower sales in later years. By the time Copilot and ChatGPT were introduced, sales for these older titles had already declined to relatively low levels. As a result, any diversion in sales would be expected to be limited in magnitude. However, if Copilot and ChatGPT reduced demand for these Older Asserted Works, I would still expect that the introduction of Copilot would be associated with [redacted] of these Older Asserted Works.

39. To assess this question, I analyze [redacted], applying the same aggregation and measurement approach described in **Section III.B.2.b**. I limit this analysis to Older Asserted Works [redacted]. This restriction [redacted] with the effect, if any, associated with the introduction of Copilot or ChatGPT. Consistent with the lifecycle dynamics for trade books, [redacted] in the period leading up to the introduction of Copilot and ChatGPT. [redacted], for the sample of the 125 Older Asserted Works that meet the selection criteria, [redacted] in the two years prior to the launch of ChatGPT [redacted].[41]

[41] [redacted]

[redacted]

40. **Figure 8** reports [redacted] over the period spanning before and after the introduction of Copilot and ChatGPT. These Older Asserted Works exhibit [redacted] throughout this period, with no indication of a [redacted] following the introduction of these tools. Consistent with this visual evidence, [redacted].[42] This evidence is inconsistent with the conclusion that the introduction of Copilot and ChatGPT d[redacted]

[42] [redacted] *See* Figure 8.

[redacted]

Figure 8

[redacted] **of the Asserted Works,**
January 2021 to December 2025[43]

[redacted]

[43] [redacted]

[redacted]

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The yearly tick marks represent the first month of each year. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

[redacted]

4. [redacted] Show No Evidence of Adverse Market Impact of Copilot, or ChatGPT, on the Newly Released Trade Book Cohorts

41. While **Sections III.B.2** and **III.B.3** focus on the Asserted Works that were published prior to the release of Copilot and ChatGPT, this section evaluates whether books whose sales lifecycles begin after the introduction of Copilot and ChatGPT were affected by their general usage. Ideally, I would assess Asserted Works released after the launch of Copilot and ChatGPT. However, none of the Asserted Works were first released after the introduction of Copilot and ChatGPT, though some subsequent formats and editions of the Asserted Works were, which I include in my analysis.[44] Instead, I assess whether Copilot and ChatGPT diverted demand from books more generally by examining a broader sample of trade books. If Copilot or ChatGPT reduced demand for trade books, I would expect to observe changes in the typical lifecycle pattern of physical sales for newly released trade books following their introduction, such as lower initial physical sales levels or a steeper decline in physical sales over time.

42. To implement this analysis, I examine [redacted] focusing on ISBNs released before and after the introduction of Copilot and ChatGPT. This approach allows me to compare books whose initial sales trajectories were not yet influenced by Copilot and ChatGPT with those whose lifecycle began after the introduction of Copilot and ChatGPT. I compare the trajectory of physical sales over time since publication for ISBNs released in the two years to one year prior to the launch of ChatGPT (the "Before ChatGPT Launch" cohort) to those released in the two years following the introduction of Copilot (the "After Copilot Launch" cohort). I examine sales over the first year following publication, which provides a consistent window over which lifecycle patterns can be compared across cohorts and ensures that the sales for the

[44] *See* Appendix Exhibit E.1; Appendix Exhibit E.5.

[redacted]

Before ChatGPT Launch cohort are not affected by the introduction of ChatGPT or Copilot.

43. [redacted]. If the launch of Copilot and ChatGPT affected the physical sales of trade books, I would expect to observe lower initial physical sales levels, a steeper decline in physical sales over time, or both, for ISBNs released after the launch of Copilot and ChatGPT relative to those released before.

44. **Figure 9** shows that [redacted]. In both cohorts, [redacted] discussed in **Section III.B.1**. The levels of [redacted] with no evidence of [redacted] This pattern holds across all Newly Released Trade Books, as well as separately for newly released fiction and non-fiction trade books.[45] These findings further support my conclusion that there is no evidence of adverse market impact of Copilot and ChatGPT on the Asserted Works.

[45] *See* Appendix Exhibits E.6A and E.6B.

[redacted]

[redacted]

[redacted]

[redacted]

Notes:

Sample: This analysis includes all ISBNs in the [redacted]

[redacted]

Y-axis: The Y-axis represents the [redacted].

X-axis: The X-axis represents the number of months between [redacted].

[redacted]

45. The absence of measurable adverse effects in [redacted] is also consistent with Plaintiffs' testimony that [redacted]. For example:

a. John Grisham agreed that he is [redacted] He also testified that he is [redacted][47] He further testified [redacted].[48]

b. James Shapiro testified that he had not lost any book deals since November 2022.[49]

c. Jonathan Franzen testified that [redacted][50]

d. George R.R. Martin testified that [redacted][51]

e. Sylvia Day testified [redacted][52]

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47 Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 176:22-178:6.

48 Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 178:7-11.

49 Hurst Decl. Ex. 108, Shapiro Deposition, 136:22-24.

50 Hurst Decl. Ex. 35, Franzen Deposition, 46:5-8.

51 Hurst Decl. Ex. 73, Martin Deposition Individual and 30(b)(6), 211:23-212:4, 216:24-217:5.

52 Hurst Decl. Ex. 128, Deposition Transcript of Sylvia June Wolicki, February 13, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Wolicki Deposition"), 150:6-15, 189:19-190:1.

[redacted]

f. Jodi Picoult agreed that [redacted][53]

g. Greer testified that [redacted][54]

46. Playwright David Henry Hwang testified [redacted][55] He also agreed that [redacted][56] He further agreed that [redacted][57]

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53 Hurst Decl. Ex. 87, Deposition Transcript of Jodi Picoult, September 29, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-3143 ("Picoult Deposition"), 99:3-13.

54 Hurst Decl. Ex. 43, Deposition Transcript of Andrew Sean Greer, January 7, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Greer Deposition"), 108:16-19.

55 Hurst Decl. Ex. 55, Deposition Transcript of David Henry Hwang, January 22, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Hwang Deposition"), 151:3-15, 68:7-69:3.

56 Hurst Decl. Ex. 55, Hwang Deposition, 137:6-12, 38:4-8, 150:4-9, 150:19-24.

57 Hurst Decl. Ex. 55, Hwang Deposition, 152:3-152:14, 152:21-25.

[redacted]

C. Copilot's Output Is Not a Substitute for the Asserted Works

47. In addition to my empirical analysis described in **Section III.B**, I consider whether Copilot and the Asserted Works meet the same consumer need and therefore are likely to substitute for one another. I find that Copilot and the Asserted Works are not substitutes because they meet distinct customer needs. *See* **Section III.C.1**. In assessing whether Copilot and the Asserted Works meet the same consumer need, I consider: (a) academic literature on Copilot usage in **Section III.C.2**; (b) the opinions on Copilot usage presented by Professor On Amir and Professor Christopher Bail in **Section III.C.3**; (c) whether book summaries generated by Copilot substitute for the Asserted Works in **Section III.C.4**; and (d) testimony from Plaintiffs on [redacted] in **Section III.C.5**.

1. Trade Books Compete for the Attention of Consumers Seeking Long-Form Content

48. I find that Copilot output and the Asserted Works are not substitutes because they meet distinct customer needs. Trade books are long-form content that are targeted towards the general public and compete for the attention of consumers seeking long-form content. A trade book's commercial success depends on many factors in addition to the words on the page, including the renown of authors and their books, the backing of an established publisher in editing, marketing, and distributing books, and the strength of marketing efforts. Competition for the attention of consumers seeking long-form content, which includes trade books and other content that covers a topic in detail and requires substantial time to read in its entirety, is intense and has increased over time due to technological advances in book publishing, marketing, and sales.[58]

[58] *See, for example,* "Long-Form Definition & Meaning," *Merriam-Webster*, available at https://www.merriam-webster.com/dictionary/long-form.

[redacted]

49. In contrast, Copilot is an AI-powered application that was designed, and is used, to help people complete a variety of personal and business tasks.[59] For example, Copilot can be used to create a packing list for a train trip traveling north to south through Japan in June, to help reply politely to a problematic email from a relative or co-worker, or to brainstorm birthday cake designs for an eight-year-old boy who is interested in the solar system.

2. Academic Literature on Copilot Usage Supports That Copilot and the Asserted Works Are Not Substitutes

50. Research on Copilot and ChatGPT use finds that consumers use AI applications for personal and work tasks in a wide variety of contexts. For example, Tomlinson et al. (2025), a study conducted by Microsoft researchers, analyzes a representative sample of 100,000 Copilot conversations from January through September 2024 and finds that people use Copilot to perform a variety of work activities related to the creation, analysis, and processing of information.[60] The authors also note that AI can be used in different ways, including improving existing workflows or allowing workers to delegate certain tasks to AI and focus on aspects of their jobs that require a human touch.[61] Chatterji et al. (2025) analyze a random sample of ChatGPT messages from May 2024 and June 2025 and find that nearly 80 percent of "usage falls into three broad categories[:] *Practical Guidance, Seeking Information,* and *Writing*." *Practical Guidance*, the most common use case, "includes activities like

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59 *See, for example,* Hurst Decl. Ex. 150, Microsoft Responses and Objections to Class Plaintiffs Fourth Set of Interrogatories, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143, January 16, 2016, ("Microsoft Responses and Objections to Class Plaintiffs Fourth Set of Interrogatories"), p. 8.

60 Tomlinson, Kiran, Sonia Jaffe, Will Wang, Scott Counts, and Siddharth Suri, "Working with AI: Measuring the Applicability of Generative AI to Occupations," *arXiv*, 2025, p. 8, p. 7. *See also* "Working with AI: Measuring the Applicability of Generative AI to Occupations," *Microsoft*, available at https://www.microsoft.com/en-us/research/publication/working-with-ai-measuring-the-occupational-implications-of-generative-ai/.

61 Tomlinson, Kiran, Sonia Jaffe, Will Wang, Scott Counts, and Siddharth Suri, "Working with AI: Measuring the Applicability of Generative AI to Occupations," *arXiv*, 2025, p. 7. *See also* "Working with AI: Measuring the Applicability of Generative AI to Occupations," *Microsoft*, available at https://www.microsoft.com/en-us/research/publication/working-with-ai-measuring-the-occupational-implications-of-generative-ai/.

[redacted]

tutoring and teaching, how-to advice about a variety of topics, and creative ideation."[62] *Writing* includes generating emails and other communications, as well as editing, critiquing, summarizing, and translating user-provided text and roughly two-thirds of these requests involve modifying existing text rather than creating new content.[63] The authors also classify messages according to the type of output users are looking for when prompting ChatGPT, into the categories *Asking*, *Doing*, and *Expressing*, and find that approximately half of user messages involve *Asking* questions, while only 11 percent of messages are classified as *Expressing*.[64] The authors also find that more than 70 percent of ChatGPT usage is for non-work-related tasks, but that work and non-work usage of ChatGPT increased over time, which the authors conclude "underscor[es] ChatGPT's dual role as both a productivity tool and a driver of value for consumers in daily life."[65]

3. Opinions of Professor On Amir and Professor Christopher Bail Support That Copilot and the Asserted Works Are Not Substitutes

51. I understand from Counsel that Professor On Amir has conducted a survey of 2,013 respondents to assess how people use Copilot and finds that only 1.8 percent of survey respondents reported that their most recent use of Copilot was "Writing / drafting of book, poem, short story or other literature."[66] I also understand from

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62 Chatterji, Aaron, Tom Cunningham, David Deming, Zoe Hitzig, Christopher Ong, Carl Shaun, and Kevin Wadman, "How People Use ChatGPT," *National Bureau of Economic Research Working Paper Series*, No. 34255, 2025, pp. 1-64 at p. 1, p. 2.

63 Chatterji, Aaron, Tom Cunningham, David Deming, Zoe Hitzig, Christopher Ong, Carl Shaun, and Kevin Wadman, "How People Use ChatGPT," *National Bureau of Economic Research Working Paper Series*, No. 34255, 2025, pp. 1-64 at p. 2.

64 Chatterji, Aaron, Tom Cunningham, David Deming, Zoe Hitzig, Christopher Ong, Carl Shaun, and Kevin Wadman, "How People Use ChatGPT," *National Bureau of Economic Research Working Paper Series*, No. 34255, 2025, pp. 1-64 at p. 3.

65 Chatterji, Aaron, Tom Cunningham, David Deming, Zoe Hitzig, Christopher Ong, Carl Shaun, and Kevin Wadman, "How People Use ChatGPT," *National Bureau of Economic Research Working Paper Series*, No. 34255, 2025, pp. 1-64 at p. 12. *See also* "How People Are Using ChatGPT," *OpenAI*, September 15, 2025, available at https://openai.com/index/how-people-are-using-chatgpt/.

66 Declaration of On Amir, Ph.D., *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143-SHS-OTW, August 31, 2026, ("Amir Declaration"), ¶¶ 35, 41, Figure 1, 45-54.

[redacted]

Counsel that Professor Christopher Bail reviewed a sample of 45,000 conversations that users had with Copilot between December 10, 2023 and September 30, 2024 in the United States.[67] After excluding 2,000 conversations used for coder training and category refinement and pilot coding, Professor Bail finds that in only 4.2 percent of conversations the user intent was classified as "Writing - Content Creation."[68] The findings of Professor Amir and Professor Bail are also consistent with the conclusion that Copilot and the Asserted Works are not substitutes.

4. Book Summaries Generated by Copilot Are Not a Substitute for the Asserted Works

52. Even if Copilot can be used to generate short snippets, fragmented passages, or summaries of a Plaintiff's book or script, such output would also be unlikely to substitute for the original work, just as a book summary on Amazon.com does not substitute for the book itself. For example:

a. When asked [redacted], Jodi Picoult testified [redacted][69]

b. Sylvia Day testified [redacted].[70]

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67 Declaration of Christopher Bail, Ph.D., *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143-SHS-OTW, August 31, 2026, ("Bail Declaration"), ¶ 58.

68 Bail Declaration, ¶ 80, Exhibit 16.

69 Hurst Decl. Ex. 87, Picoult Deposition, 106:23-107:7.

70 Hurst Decl. Ex. 128, Wolicki Deposition, 123:11-124:4.

[redacted]

c. Johnathan Franzen also testified that [redacted][71]

d. Michael Connelly testified [redacted][72]

53. Playwright David Henry Hwang testified that [redacted]"[73]

54. Readers are unlikely to have the kind of immersive experience Plaintiffs describe by reading a summary or an excerpt of a novel or play. Plaintiffs writing non-fiction books also seek to engage readers through a combination of in-depth information and compelling storytelling, distinguishing their works from purely factual reference materials.

a. In describing his approach to writing, James Shapiro explained "I had no master plan when I started writing popular books; I just wanted to tell a story that was accurate, consequential, suspenseful, visually rich, and as close to a page-turner as possible. My style really developed in rebellion against academic writing. In a lot of ways, my books are acts of translation, turning reams of invaluable but dry scholarship into stories that engage an informed and curious reading public."[74]

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71 Hurst Decl. Ex. 35, Deposition Transcript of Jonathan Franzen, October 9, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Franzen Deposition"), 22:13-18.

72 Hurst Decl. Ex. 25, Deposition Transcript of Michael Connelly, Individual and 30(b)(6), December 9, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Connelly Deposition Individual and 30(b)(6)"), 90:5-9.

73 Hurst Decl. Ex. 55, Hwang Deposition, 45:13-46:1.

74 Riding, James, "James Shapiro on Cinematic Storytelling and 'Shakespeare in a Divided America'," *The London Magazine*, available at https://thelondonmagazine.org/interview-james-shapiro-on-cinematic-storytelling-and-shakespeare-in-a-divided-america/.

[redacted]

b. Prior to writing his non-fiction books on Martin Luther King Jr., Taylor Branch noted that he felt the existing "literature on King [...] was too analytical" and that "it should be more personal. We learn about race relations in personal encounters. I therefore wanted to write storytelling books."[75]

c. Stacy Schiff described earlier accounts of the Salem witch trials as "very thesis driven" and "felt her book [on the subject] 'could only work if you just tell the story,'" explaining that even with such a "sobering subject" "you need to be interesting and you need to be vivid and you need to be lively. I decided that even while I told this relatively dark story, there was no reason I couldn't sparkle on the page."[76]

55. Book excerpts, such as those on Google Books and Amazon, and book summaries, such as those on publisher or author webpages, can increase the demand for a book, as they provide a way for readers to gather information about a book when deciding whether they want to read it, similar to how a movie trailer may increase someone's interest in seeing a movie.[77] The idea that pre-purchase information such as a book excerpt or summary, for example, may increase demand for the book is consistent with academic research showing that high-quality information helps consumers discover new books and helps reduce the uncertainty about whether the consumer will enjoy the specific book.[78] Plaintiffs' testimony is consistent with the conclusion that [redacted]

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75 Carini, Susan, "Historian Taylor Branch to discuss Martin Luther King Jr., James Weldon Johnson," *Emory News Center*, April 3, 2018, available at https://news.emory.edu/stories/2018/04/er_jwji_taylor_branch/campus.html.

76 Mudge, Alden, "Stacy Schiff," *BookPage*, November 2015, available at https://www.bookpage.com/interviews/18985-stacy-schiff-history/.

77 "About Google Books," *Google Books*, available at https://www.google.com/intl/en/googlebooks/perspectives/facts.html; "Read Sample: Caribbean Moon by Rick Murcer," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/G200644250. *See also* Watercutter, Angela, "To Predict the Next Box Office Hit, Look at Google MovieTrailer Searches," *Wired*, June 6, 2013, available at https://www.wired.com/2013/06/google-box-office-prediction/.

78 Reimers, Imke and Joel Waldfogel, "Digitization and Pre-Purchase Information: The Causal and Welfare Impacts of Reviews and Crowd Ratings," *American Economic Review*, Vol. 111, No. 6, 2021, pp. 1944-1971 at p. 1946, p. 1970.

[redacted][redacted][79] Collectively, 96 percent of Asserted Works have some form of summary or excerpt available across Google Books, Amazon, and the authors' sites, as shown in **Appendix Exhibit E.3**.[80]

56. Publishers and authors often provide book excerpts and summaries, and in some cases detailed information on a novel's plot, on their webpages. For example, Hachette Book Group's website includes a summary of David Baldacci's Asserted Work, *A Gambling Man,* as shown in **Figure 10**. Penguin Random House's website, includes both an option to "Look Inside" the book to view the first 7 pages of the first chapter of *Bared to You* in digital book format and an option to "Read Sample" through a pop-up that that provides an excerpt of 271 paragraphs from the Asserted Work.[81]

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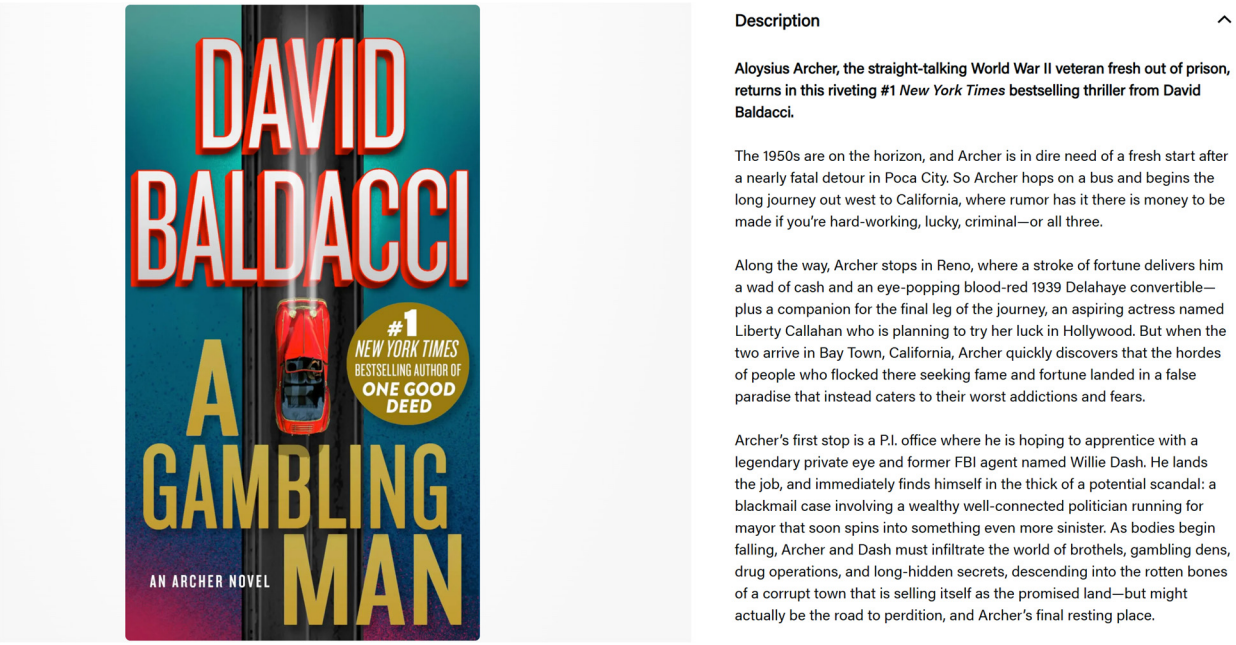
79 Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 259:25-260:16; Hurst Decl. Ex. 87, Picoult Deposition, 53:12-18, 74:19-75:9; Hurst Decl. Ex. 43, Greer Deposition, 137:2-9; Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 73:3-74:13; Hurst Decl. Ex. 128, Wolicki Deposition, 163:10-23, 164:18-165:7; Hurst Decl. Ex. 108, Shapiro Deposition, 97:5-20. *See also* Hurst Decl. Ex. 108.A, Shapiro Deposition, Exhibit 6; Hurst Decl. Ex. 106, Deposition Transcript of Stacy Schiff, Individual and 30(b)(6), December 19, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Schiff Deposition Individual and 30(b)(6)"), 153:15-154:13, 164:2-10; Hurst Decl. Ex. 55, Hwang Deposition, 115:7-23.

80 *See* Appendix Exhibit E.3.

81 "Bared to You," *Penguin Random House*, available at https://www.penguinrandomhouse.com/books/313015/bared-to-you-by-sylvia-day/.

[redacted]

Figure 10
Summary of David Baldacci's *A Gambling Man* Available on Publisher's Website[82]



57. Excerpts of the Asserted Works are also publicly available online, which in some cases is decided explicitly by the author or publisher for the purposes of promotion. For example, Google Books explains that when it offers "full pages" of a book, then the author or publisher granted permission for Google Books to do so to "help[] you learn enough about a book to know whether [they] want to buy it."[83] Most of the

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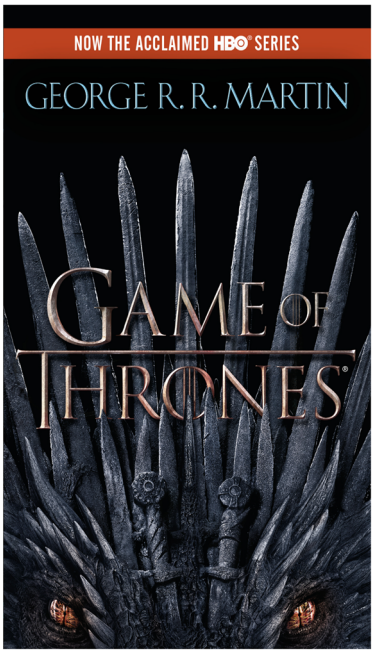
82 **Source**: "A Gambling Man by David Baldacci," *Hachette Book Group*, available at https://www.hachettebookgroup.com/titles/david-baldacci/a-gambling-man/9781538719664/?lens=grand-central-publishing.

83 "FAQs," *Google Books*, available at https://www.google.com/googlebooks/perspectives/facts.html.

[redacted]

Asserted Works have excerpts on Google Books and other platforms.[84] For example, the digital copy of George R. R. Martin's *Game of Thrones* includes a 26-page preview of *A Clash of Kings*, as shown in **Figure 11**.

Figure 11
Excerpt of George R. R. Martin's *A Clash of Kings* Available Within George R. R. Martin's *Game of Thrones*[85]



we married, and the dragons are all dead!" He pointed at Robb with the blade. "*There* sits the only king I mean to bow *my* knee to, m'lords," he thundered. "The King in the North!"

And he knelt, and laid his sword at her son's feet.

"I'll have peace on *those* terms," Lord Karstark said. "They can keep their red castle and their iron chair as well." He eased his longsword from its scabbard. "The King in the North!" he said, kneeling beside the Greatjon.

Maege Mormont stood. "The King of Winter!" she declared, and laid her spiked mace beside the swords. And the river lords were rising too, Blackwood and Bracken and Mallister, houses who had never been ruled from Winterfell, yet Catelyn watched them rise and draw their blades, bending their knees and shouting the old words that had not been heard in the realm for more than three hundred years, since Aegon the Dragon had come to make the Seven Kingdoms one ... yet now were heard again, ringing from the timbers of her father's hall:

"The King in the North!"

"The King in the North!"

"THE KING IN THE NORTH!"

Now, here's a special preview of the next book in

George R. R. Martin's

landmark series

A CLASH OF KINGS

the riveting sequel to

A GAME OF THRONES

On sale now

58. Authors and publishers would not have an economic incentive to make book excerpts and summaries publicly available for free if those excerpts and summaries were substitutes for the books they are trying to sell. For this reason, even if Copilot

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[84] Approximately 84 percent of the Asserted Works, or 178 out of 211 Asserted Works, have excerpts available on Google Books, and approximately 94 percent of the Asserted Works that are sold on Amazon, or 197 out of 209 Asserted Works sold on Amazon, have excerpts available on Amazon. I identified twelve Asserted Works that are sold on Amazon but do not have an excerpt available: Michael Connelly's works *Cielo Azul*, *Father's Day*, and *One-Dollar Jackpot*. Sylvia Day's works *Aftershock*, *Mischief and the Marquess*, and *What Happened in Vegas*; Mignon Eberhart's work *The White Cockatoo*; David Henry Hwang's work *The Dance and the Railroad*; and George R.R. Martin's works *Sandkings*, *Songs the Dead Men Sing*, *The Journal of Xavier Desmond*, and *The Sons of the Dragon*. I identified two Asserted Works that are not sold on Amazon: George R.R. Martin's work *Winter's Chill* and Jodi Picoult's work *The Color War*. *See* **Appendix Exhibit E.3**.

[85] **Source**: "A Game of Thrones by George R. R. Martin," *Boston Public Library*, available at https://bpl.bibliocommons.com/v2/record/S75C8247743.

[redacted]

were capable of generating a book summary or excerpt as an output, it is unlikely such output would be a substitute for the Asserted Works. Instead, such book summaries and excerpts would likely benefit Plaintiffs if people are led towards purchasing their books. Copilot can be used for searching for information such that, to the extent that users can use Copilot for books recommendations or links to author websites, Copilot may be a complement to the Asserted Works.

5. Testimony from Plaintiffs [redacted]

59. Plaintiffs testified that [redacted]. For example:

a. John Grisham agreed that [redacted][86] He further testified [redacted][87]

b. James Shapiro testified that he had not lost any book deals since November 2022.[88]

c. Jonathan Franzen testified that [redacted][89]

d. George R.R. Martin testified that [redacted]

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86 Hurst Decl. Ex. 44, Deposition Transcript of John Grisham, Individual and 30(b)(6), March 23, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Grisham Deposition Individual and 30(b)(6)"), 176:22-178:6.

87 Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 178:7-11.

88 Hurst Decl. Ex. 108, Shapiro Deposition, 136:22-24.

89 Hurst Decl. Ex. 35, Deposition Transcript of Jonathan Franzen, October 9, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Franzen Deposition"), 46:5-8.

[redacted][90]

e. Jodi Picoult agreed that [redacted][91]

f. Greer testified that [redacted][92]

g. Playwright David Henry Hwang testified [redacted].[93] He agreed that [redacted][94]

60. This testimony is consistent with my empirical analysis and my opinion that Copilot is not a substitute for the Asserted Works and thus has not adversely affected the market for the Asserted Works.

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90 Hurst Decl. Ex. 73, Deposition Transcript of George R. R. Martin, Individual and 30(b)(6), February 27, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Martin Deposition Individual and 30(b)(6)"), 211:23-212:4, 216:24-217:5.

91 Hurst Decl. Ex. 87, Picoult Deposition, 99:3-13.

92 Hurst Decl. Ex. 43, Greer Deposition, 108:16-19.

93 Hurst Decl. Ex. 55, Hwang Deposition, 152:3-152:14, 152:21-25.

94 Hurst Decl. Ex. 55, Hwang Deposition, 152:3-152:14, 152:21-25.

[redacted]

IV. COPILOT IS UNLIKELY TO DECREASE DEMAND FOR THE ASSERTED WORKS BY CREATING A LARGE QUANTITY OF LONG-FORM CONTENT THAT DIVERTS SALES FROM THE ASSERTED WORKS

61. It is unlikely that the introduction of Copilot decreased or would decrease demand for the Asserted Works by creating a large quantity of long-form content that diverted, or would divert, sales from the Asserted Works. For this to happen, Copilot would first need to be used to generate original manuscripts, and then the original manuscripts would need to compete for and capture consumers' attention. As discussed in **Section IV.A**, an original manuscript created with the assistance of Copilot is not a substitute for the Asserted Works. As discussed in **Section IV.B**, increased supply alone does not imply substitution away from existing products. As discussed in **Section IV.C**, the recent increase in the availability of self-published books, which began *before* the introduction of Copilot, is not associated with a change in the pattern of sales of the Asserted Works. For these same reasons, as discussed in **Section IV.D**, [redacted].

A. An Original Manuscript Created with the Assistance of Copilot Is Not a Substitute for the Asserted Works

62. Even assuming that Copilot could generate an original manuscript, such a manuscript is not a substitute for the Asserted Works. A trade book's commercial success depends on many factors in addition to the words on the page, including the renown of authors and their books, the backing of an established publisher in editing, marketing, and distributing books, and the strength of marketing efforts. Books that have famous authors, receive favorable book reviews or literary awards, or are featured in the press are able to compete for attention more effectively because consumers are more likely to be aware of the books and interested in

[redacted]

reading them. Academic research finds that professional book reviews and endorsements can be associated with increased sales.[95]

63. Plaintiffs testified that [redacted].[96] Plaintiffs are well-known and successful authors and playwrights who have received literary recognition, media coverage, and publicity for their writing, and have been featured in leading publications including *NPR, TIME, The Washington Post, The Boston Globe, The New York Times,* and *CBS News*, as shown in **Appendix Exhibit E.2**. Such recognition can be expected to increase Plaintiffs' ability to successfully market and sell their works.

64. Publishing houses, editors, and literary agents also help authors compete for consumers' attention and sell books by helping refine manuscripts before publication and providing access to the infrastructure and experience to print, distribute, and market books effectively.[97] Plaintiffs testified that [redacted]. For example:

a. David Baldacci testified that [redacted]

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95 Reimers, Imke and Joel Waldfogel, "Digitization and Pre-Purchase Information: The Causal and Welfare Impacts of Reviews and Crowd Ratings," *American Economic Review*, Vol. 111, No. 6, 2021, pp. 1944-1971 at p. 1946, p. 1969, p. 1970; Garthwaite, Craig, "Demand Spillovers, Combative Advertising, and Celebrity Endorsements," *American Economic Journal: Applied Economics*, Vol. 6, No. 2, 2014, pp. 76-104 at p. 77, p. 87.

96 Hurst Decl. Ex. 128, Wolicki Deposition, 132:3-8; Hurst Decl. Ex. 106, Schiff Deposition Individual and 30(b)(6), 107:13-21; Hurst Decl. Ex. 108, Shapiro Deposition, 215:4-216:20, 217:6-17. *See also* Hurst Decl. Ex. 87, Picoult Deposition, 200:9-11; Hurst Decl. Ex. 43, Greer Deposition, 106:20-107:14; Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 159:16-160:8; Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 16:2-25; Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 149:13-150:1; Hurst Decl. Ex. 14, Deposition Transcript of Franklin Taylor Branch, December 16, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Branch Deposition"), 91:12-21; Hurst Decl. Ex. 55, Hwang Deposition, 67:12-68:13.

97 Wang, Xindi, Burcu Yucesoy, Onur Varol, Tina Eliassi-Rad, and Albert-László Barabási, "Success in Books: Predicting Book Sales Before Publication," *EPJ Data Science*, Vol. 8, No. 31, 2019, Abstract; p. 3.

[redacted]

[redacted][98] He explained that [redacted][99] For example, [redacted][100] David Baldacci also explained that [redacted][101]

b. [redacted][102] [redacted][103]

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98 Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 128:5-10.

99 Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 189:15-190:19.

100 Hurst Decl. Ex. 9.A, Baldacci Deposition Individual and 30(b)(6), Exhibit 14, FICTION-0195219 at [redacted].

101 Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 169:24-170:7.

102 Hurst Decl. Ex. 39, Golden Deposition March 17, 2025, 230:8-23.

103 Hurst Decl. Ex. 39, Golden Deposition March 17, 2025, 231:20-232:2.

[redacted]

c. Andrew Sean Greer testified that [redacted][105]

d. Michael Connelly testified that [redacted][106]

e. James Shapiro also testified that his publisher helps promote and market his books, including negotiating placement of his books in stores.[107]

f. Jodi Picoult testified that [redacted][108]

65. [redacted] as summarized in **Appendix Exhibit E.1**.

66. Playwrights compete for the attention of producers seeking content for theatrical productions. David Henry Hwang testified that [redacted]

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[104] Hurst Decl. Ex. 43, Greer Deposition, 98:17-99:6.

[105] Hurst Decl. Ex. 43, Greer Deposition, 96:1-7.

[106] Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 92:24-94:6; *see also* Hurst Decl. Ex. 25.A , (Exhibit 6 to Deposition), Ex. 25-B (Ex. 7 to Deposition), and Ex. 25-C (Ex. 8 to Deposition).

[107] Hurst Decl. Ex. 108, Shapiro Deposition, 44:7-15.

[108] Hurst Decl. Ex. 87, Picoult Deposition, 197:14-198:3.

[redacted]

[redacted][109] He also explained that [redacted][110] Authors, including Plaintiffs, and [redacted][111]

67. Plaintiffs have personally branded websites featuring their works.[112] For example, Stacy Schiff's website features information on her books and other writings, information on past and future media appearances, and excerpts from reviews of her books by *The New York Times*, *The Wall Street Journal*, and other publications.[113] Jodi Picoult testified that [redacted][114]

68. Even if Copilot could be used to write original manuscripts, there are many factors described in this section that influence the commercial success of a book beyond the

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[109] Hurst Decl. Ex. 55, Hwang Deposition, 33:11-34:16.

[110] Hurst Decl. Ex. 55, Hwang Deposition, 133:15-19.

[111] Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 130:16-131:4; Hurst Decl. Ex. 87, Picoult Deposition, 108:6-9; Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 231:18-232:5; Hurst Decl. Ex. 73, Martin Deposition Individual and 30(b)(6), 38:12-17, 73:1-2, 193:22-194:8, 219:3-7; Hurst Decl. Ex. 39, Golden Deposition March 17, 2025, 197:3-10.

[112] *David Baldacci*, available at https://www.davidbaldacci.com/; *Taylor Branch*, available at http://taylorbranch.com; *Michael Connelly*, available at https://www.michaelconnelly.com/; *Sylvia Day*, available at https://www.sylviaday.com/; *Jonathan Franzen*, available at https://jonathanfranzen.com/; *Christopher Golden*, available at https://www.christophergolden.com; *Andrew Greer*, available at https://andrewgreer.com/; *John Grisham*, available at https://jgrisham.com/; *David Henry Hwang*, available at https://www.davidhenryhwang.com/home-en; *George R. R. Martin*, available at https://georgerrmartin.com/; *Jodi Picoult*, available at https://www.jodipicoult.com/; *Stacy Schiff*, available at https://stacyschiff.com; *James Shapiro*, available at https://www.jamesshapiro.net/. Mignon E. Eberhart, who is deceased and for whom The Authors Guild "is the owner of the registered copyrights" also has a personally branded website. *See Mignon G. Eberhart*, available at https://www.mignoneberhart.com/; Complaint, ¶ 282.

[113] "Books + Essays by Stacy Schiff," *Stacy Schiff*, available at https://stacyschiff.com/books-and-essays-by-stacy-schiff.html; "The Revolutionary," *Stacy Schiff*, available at https://stacyschiff.com/the-revolutionary-samuel-adams.html.

[114] Hurst Decl. Ex. 87, Picoult Deposition, 110:5-9.

[redacted]

writing itself. The book industry is highly competitive and to sell books, it is necessary not only to write books but to gain readers' attention, which is influenced by many factors besides the writing itself. Therefore, it would be difficult for any single book, including an original manuscript created with the assistance of Copilot, to gain sufficient attention to divert sales from one of the Asserted Works. John Grisham also testified [redacted][115]

69. A script created with the assistance of Copilot would also need to capture sufficient attention from theatre producers to divert sales from David Henry Hwang's asserted scripts. For example, David Henry Hwang agreed that [redacted][116] Yet, [redacted][117] He also testified that [redacted][118]

B. Increased Supply of Books Alone Does Not Imply Substitution from Incumbent Books

70. It is unlikely that the introduction of Copilot decreased or would decrease demand for the Asserted Works by creating a large quantity of long-form content that diverted, or would divert, sales from the Asserted Works. For this to happen, Copilot would first need to be used to generate original manuscripts, and then the original

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115 Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 175:24-176:10.

116 Hurst Decl. Ex. 55, Hwang Deposition, 137:6-12, 67:12-68:13.

117 Hurst Decl. Ex. 55, Hwang Deposition, 38:4-8, 150:4-9.

118 Hurst Decl. Ex. 55, Hwang Deposition, 151:3-15.

[redacted]

manuscripts would need to compete for and capture consumers' attention. However, as discussed in **Section IV.A**, an original manuscript generated with the assistance of Copilot is not a substitute for the Asserted Works. In this section, I analyze academic literature on whether increased supply alone implies substitution away from existing products.

71. Academic research examining major technological shocks in publishing does not support the inference that increases in the supply or digital availability of books systematically overwhelm or destroy the market for or reduce demand for incumbent works. For example, Waldfogel and Reimers (2015) document the Kindle-era expansion in self-publishing and show that there was a substantial increase in the number of new titles between 2008 and 2012, driven largely by self-published digital books. They find that over the same period total book unit sales increased, with digital book sales rising sharply and print sales remaining relatively stable in aggregate.[119]

72. Evidence from the post-2022 period also indicates that increased entry associated with generative AI does not mechanically displace incumbent activity. Reimers and Waldfogel (2026) assess the impact of the surge in the quantity of new digital book releases on Amazon on the quality of books, which they measure using a ratings-based usage measure that captures which books are discovered and consumed.[120] The authors find that "books containing AI are substantially less appealing to consumers" than "human-generated books" and "garner substantially less usage per title," whether measured by the number of ratings or by sales rank.[121] They also find that Amazon star ratings are, on average, "lower for AI-containing books" than "human-authored books" which the authors conclude "provides further evidence that

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[119] Waldfogel, Joel and Imke Reimers, "Storming the Gatekeepers: Digital Disintermediation in the Market for Books," *Information Economics and Policy*, Vol. 31, 2015, pp. 47-58 at p. 52.

[120] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research Working Paper Series*, No. 34777, revised May 2026, pp. 1-47 at p. 2.

[121] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research Working Paper Series*, No. 34777, revised May 2026, pp. 1-47 at p. 3, pp. 20-21.

[redacted]

AI books are, on average, worse" quality.[122] Another paper by the same authors, Reimers and Waldfogel (2021), found that "Amazon star ratings significantly affect quantities sold" for books and that pre-purchase information, such as Amazon star ratings, help "lead[] consumers to those products that they would enjoy more. for consumers evaluating books for purchase.[123] Taken together, the Reimers and Waldfogel (2026) conclude that "the star ratings may help consumers navigate the AI-enlarged product choice set."[124] In addition, they find that "incumbent authors increase their output during the LLM era," and conclude that "the arrival of LLMs does not appear to have displaced activity by incumbent authors."[125] Together, these findings suggest that increased entry altered the quality distribution of new digital book releases but did not, in the authors' analysis, produce a displacement of activity by incumbent authors. These findings are consistent with evidence and my opinion that producing a book, on its own, is not sufficient to capture consumers' attention.

73. Taken together, these studies, along with other evidence discussed in this report, identify several mechanisms that undermine the claim that quantity or accessibility of manuscripts alone would overwhelm or destroy the market or displace incumbent sales: (i) expanded variety may increase total consumption, and (ii) incumbents may respond by producing more of their higher-quality offerings. These findings are consistent with the economic principle that increased supply alone does not imply substitution away from existing products. Academic research shows that the introduction of additional products and enhanced product visibility can expand

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[122] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research Working Paper Series*, No. 34777, revised May 2026, pp. 1-47 at pp. 21-22.

[123] Reimers, Imke and Joel Waldfogel, "Digitization and Pre-Purchase Information: The Causal and Welfare Impacts of Reviews and Crowd Ratings," *American Economic Review*, Vol. 111, No. 6, 2021, pp. 1944-1971 at p. 1945; p. 1946, p. 1969, p. 1970.

[124] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research Working Paper Series*, No. 34777, revised May 2026, pp. 1-47 at pp. 21-22.

[125] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research Working Paper Series*, No. 34777, revised May 2026, pp. 1-47 at p. 26, p. 27.

[redacted]

overall demand and generate positive spillovers for other products in that category in a variety of contexts.[126] Products within a category may therefore both compete for consumer attention and, at the same time, contribute to making that category more salient or attractive overall. As a result, substitution occurs only if consumers view the new products as meaningful alternatives and shift their limited consumption toward them.

74. In markets for trade books, the key constraint is not the supply of manuscripts, but consumers' limited time and attention. When consumers face many options, outcomes depend on which works are able to capture attention rather than simply on the number of titles available. As a result, increasing the number of available books does not mechanically reduce demand for existing works, particularly where most new titles attract limited attention. Given consumers have limited time and attention, consumers are not aware of, and therefore don't consider, the complete universe of books when deciding what book to read.

75. The consumer behavior literature establishes that consumers typically do not evaluate all products available in a market when making purchase decisions.[127] Books are no exception. Consumers discover only a small subset of books available in the marketplace and consider only a fraction of titles when making purchase decisions. The expansion of available books has served to increase the importance of factors other than just the words on the page, such as the author's renown, in capturing consumer's attention. As an Authors Guild report explains, "[w]ith far

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[126] Borle, Sharad, Peter Boatwright, Joseph B. Kadane, Joseph C. Nunes, and Galit Shmueli, "The Effect of Product Assortment Changes on Customer Retention," *Marketing Science*, Vol. 24, 2005, pp. 616-622 at p. 620; Sahni, Navdeep S., "Advertising Spillovers: Evidence from Online Field Experiments and Implications for Returns on Advertising," *Journal of Marketing Research*, Vol. 53, No. 4, 2016, pp. 459-478 at pp. 459-460; Shapiro, Bradley T., "Positive Spillovers and Free Riding in Advertising of Prescription Pharmaceuticals: The Case of Antidepressants," *Journal of Political Economy*, Vol. 126, No. 1, 2018, pp. 381-437 at pp. 382-393.

[127] Hauser, John R., "Consideration-Set Heuristics," *Journal of Business Research*, Vol. 67, 2014, pp. 1688-1699 at p. 1688; Roberts, John H. and James M. Lattin, "Development and Testing of a Model of Consideration Set Composition," *Journal of Marketing Research*, Vol. 28, No. 4, 1991, pp. 429-440 at p. 429; O'Laughlin, Laura and Catherine Tucker, "The Purchase Funnel and Litigation," in *The Cambridge Handbook of Marketing and the Law*, Cambridge University Press, 2023, edited by Jacob E. Gersen and Joel H. Steckel, pp. 9-35 at p. 10.

[redacted]

more books published than ever, thanks to self-publishing, the marketplace is more crowded and 'discovery'—finding the right book—has become increasingly difficult. In this environment, readers often default to buying only recognized titles or authors. Online buying exacerbates that effect; when readers look for books through an online word search, instead of visually scanning store shelves, only a limited number of choices appears on screen."[128] Plaintiffs' testimony is also consistent with [redacted][129]

76. Accordingly, even if the use of Copilot lowered the cost of producing long-form creative content and increased the number of available titles, the literature does not support the inference that generation and publication of original manuscripts alone would harm the market for the Asserted Works.

C. Any Increase in the Availability of Self-Published Books Is Unlikely to Harm the Market for the Asserted Works

77. Consistent with the findings from academic literature, I show evidence from the self-publishing industry to illustrate that generating and publishing a manuscript is not sufficient to capture attention and divert sales from other books. Within the last decade, and starting years before Copilot was released, there has been a large rise in self-published books distributed through digital platforms, which allow authors to publish and sell directly to consumers without the assistance of a traditional

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[128] Hurst Decl. Ex. 200, "The Authors Guild: The Profession of Author in the 21st Century," NON-FICTION-0108057–108, pp. 7-8. *See also*, "Authors Guild Issues Report Exploring the Factors Leading to the Decline of the Writing Profession," *The Authors Guild*, February 19, 2020, available at https://authorsguild.org/news/authors-guild-issues-report-exploring-the-factors-leading-to-the-decline-of-the-writing-profession/.

[129] Hurst Decl. Ex. 97, Deposition Transcript of Mary Rasenberger, February 12, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Rasenberger Deposition"), 10:25-11:3; Hurst Decl. Ex. 98, Deposition Transcript of Mary Rasenberger, 30(b)(6), February 13, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Rasenberger Deposition 30(b)(6)") 21:7-22:16; Hurst Decl. Ex. 108, Shapiro Deposition, 64:20-65:25.

[redacted]

publisher.[130] Self-publishing platforms typically offer authors higher royalty rates than traditional publishing arrangements and allow authors to set prices, which often results in lower-priced titles.[131] These features, such as low prices, low barriers to entry, and substantial growth in the supply of self-published books, particularly following the consolidation of Amazon's digital publishing platforms in 2018, make self-publishing a useful setting to assess whether an increase in supply of self-published books is associated with [redacted] of Asserted Works. I find that an increase in the supply of self-published books is not associated with [redacted] of the Asserted Works.

78. The Authors Guild acknowledged the increase in self-published books long before GenAI tools were ever available. In its 2018 Author Survey Report, the Authors Guild stated that "[t]he number of self-published books increased 40% between 2017 and 2018 alone, to 1.6 million titles. […] And that number only includes the self-published books that use ISBN numbers—many don't—so the actual number is likely even higher."[132] The Authors Guild referred to the self-publishing market as presenting "both opportunities and threats" as self-publishing "has produced tens of thousands of new authors and books."[133]

79. To measure trends in the supply of self-published books, I consider two measures of the number of self-published books released each year between 2017 and 2023. First, I consider the total number of new ISBNs assigned to self-published print books,

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[130] Waldfogel, Joel and Imke Reimers, "Storming the Gatekeepers: Digital Disintermediation in the Market for Books," *Information Economics and Policy*, Vol. 31, 2015, pp. 47-58 at p. 49. *See also* "Create a Book," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/G202172740; "Publish a Book to Apple Books in Pages on Mac," *Pages User Guide for Mac*, available at https://support.apple.com/guide/pages/publish-a-book-to-apple-books-tan229f2ef0c/mac.

[131] *See, for example,* "Self Publishing vs Traditional Publishing in 2025," *Lynx Publishers*, March 21, 2025, available at https://lynxpublishers.com/blog/self-publishing-vs-traditional-publishing-in-2025/; Yoo, Sarah, "Amazon KDP Royalty Rates & Pricing Strategies," *PublishDrive*, June 21, 2024, available at https://publishdrive.com/guide-amazon-self-publishing-pricing-and-royalties.html.

[132] Hurst Decl. Ex. 200, "The Profession of Author in the 21st Century," NON-FICTION-0108057-108, at 060.

[133] Hurst Decl. Ex. 200, "The Profession of Author in the 21st Century," NON-FICTION-0108057-108, at 060.

[redacted]

digital books, and audiobooks each year as reported by Bowker, the agency responsible for issuing ISBNs in the United States.[134] This measure may [redacted].[135] Second, following the approach of Reimers and Waldfogel (2026), I construct a count of the number of new self-published books on Amazon each year using Amazon's Advanced Search function.[136] This measure captures self-publishing activity specifically through Amazon, rather than self-publishing more broadly across all platforms. Specifically, as I discuss in **Appendix D**, I identify self-published books on Amazon as those with the publisher names "CreateSpace Independent Publishing Platform" for 2017 to 2018 and "Independently Published" for 2019 to 2023. However, [redacted], and because self-published authors may use inconsistent publisher names, this measure likely understates the true number of self-published books on Amazon.[137]

80. While the number of self-published books measured based on Bowker and Amazon data differ, both measures are directionally aligned and reflect a sharp rise in the supply of new self-published books that followed the consolidation of Amazon's

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[134] Milliot, Jim, "Self-Publishing Is Thriving, According to Bowker Report," *Publishers Weekly*, February 17, 2023, available at https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/91574-self-publishing-is-thriving-according-to-bowker-report.html. *See also* "ISBN US," *Bowker*, available at https://www.bowker.com/isbn-us.

[135] Hurst Decl. Ex. 105, Deposition Transcript of [redacted], March 27, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 [redacted], 40:6-22; Hurst Decl. Ex. 105, [redacted] 31:20-32:4.

[136] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research Working Paper Series*, No. 34777, 2026, pp. 1-50, p. 10; **Appendix D**.

[137] *See, for example,* "Get an ISBN," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/GTJ8LBXL6Z4WV5QX ("You don't need an ISBN for eBooks on KDP."); "What is an ISBN and Imprint?," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/G201834170. *See also* Hurst Decl. Ex. 105, [redacted] 31:20-32:4.

[redacted]

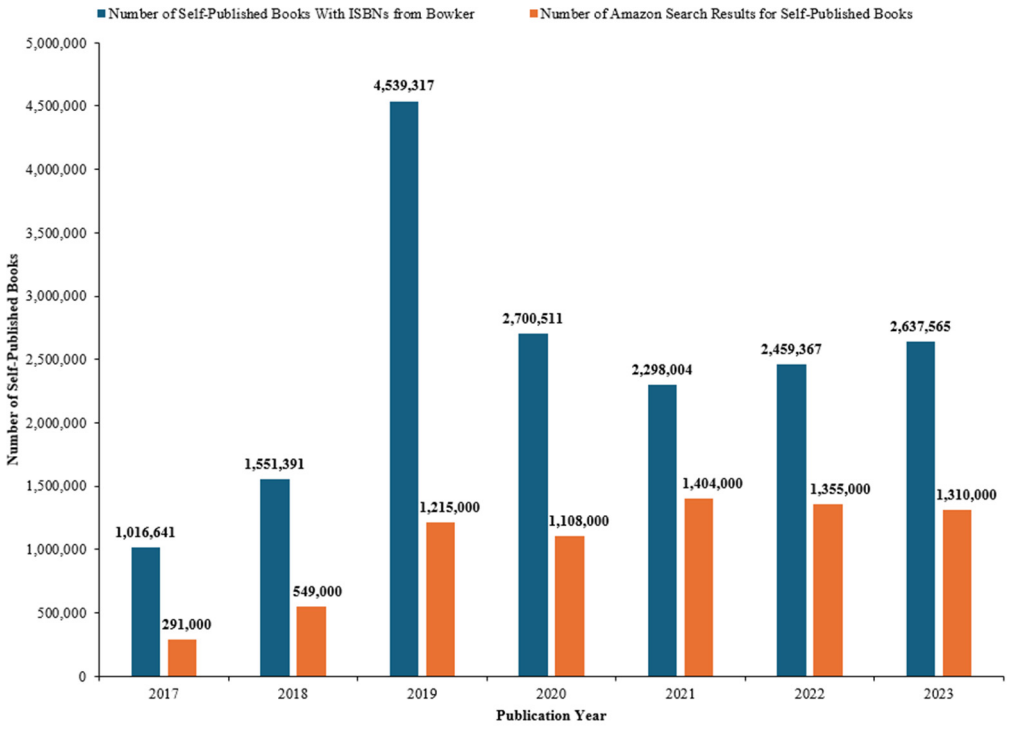
digital publishing platforms in 2018, shown in **Figure 12**.[138] Between 2018 and 2019, the number of new self-published books available on Amazon for purchase more than doubled, increasing from approximately 549 thousand to 1.2 million. The number of self-published books issued ISBNs by Bowker increased from approximately 1.6 million to 4.5 million, which "Bowker attributed to a large order from a major self-publishing platform."[139] In subsequent years, Bowker reported issuing approximately 2.3 to 2.7 million new ISBNs to self-published books annually.

[138] "Update on the Move from CreateSpace to KDP," *Kindle Direct Publishing*, November 27, 2018, available at https://www.kdpcommunity.com/s/article/Update-on-the-move-from-CreateSpace-to-KDP?language=en_US.

[139] Milliot, Jim, "Self-Publishing Is Thriving, According to Bowker Report," *Publishers Weekly*, February 17, 2023, available at https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/91574-self-publishing-is-thriving-according-to-bowker-report.html.

[redacted]

Figure 12
Number of New Self-Published Books Available for Purchase on Amazon[140]



[140] **Sources**: "Books Search," *Amazon*, available at https://www.amazon.com/advanced-search/books; Milliot, Jim, "Self-Publishing Is Thriving, According to Bowker Report," *Publishers Weekly*, February 17, 2023, available at https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/91574-self-publishing-is-thriving-according-to-bowker-report.html; Albanese, Andrew and Jim Milliot, "Self-Publishing's Output and Influence Continue to Grow," *Publishers Weekly*, November 8, 2024, available at https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/96468-self-publishing-s-output-and-infuence-continue-to-grow.html.

[redacted]

Notes:
Sample: Bowker's reported number of self-published books with ISBNs includes books assigned both an ISBN and a Book Industry Standards and Communications ("BISAC") code and covers ISBNs issued for print books, digital books, and audiobooks. The number of Amazon search results for self-published books excludes the "Bargain Books" and "Medicines" categories, as those categories do not display estimated search result counts. Queries to Amazon's Advanced Book Search may yield results that vary across searches and may include books that do not fully match the applied search filters.

Y-axis: The Y-axis represents the number of self-published books.

X-axis: The X-axis denotes the year in which the self-published books were published.

81. To illustrate how difficult it is for a manuscript to compete with the Asserted Works for the attention of consumers of long-form creative works, consider the relationship between the rise of self-published books on Amazon and [redacted] for the Asserted Works, as illustrated in **Figure 13**. The rise in self-published books on Amazon is not associated with [redacted] of the Asserted Works. Despite the rise in the supply of self-published books on Amazon following the consolidation of Amazon's digital publishing platforms in late 2018, [redacted]

[redacted]

Figure 13

[redacted]

, January 2017 to October 2022[141]

[redacted]

Notes:

Sample: This analysis is limited to [redacted].

Y-axis: The Y-axis represents the [redacted]

X-axis: The X-axis denotes the month corresponding to [redacted]. The yearly tick marks represent the first month of each year.

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[141] [redacted]

[redacted]

82. As a result, even if Copilot could generate original manuscripts, those manuscripts would be unlikely to overwhelm or destroy the market for or divert sales from Plaintiffs.

D. [redacted]

83. [redacted]

84. [redacted]

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142 Hurst Decl. Ex. 105, [redacted], 182:22-183:20, 177:18-178:1. *See also* Hurst Decl. Ex. 105, [redacted] 58:1-59:4.

143 Hurst Decl. Ex. 105 [redacted] 50:1-13, 61:11-15, 43:23-44:1.

144 Hurst Decl. Ex. 105, [redacted] 73:19-74:10.

145 [redacted]

[redacted]

85. [redacted]

86. [redacted]

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146 [redacted]

147 [redacted]

148 Hurst Decl. Ex. 105, [redacted] *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143, May 22, 2026 [redacted], ¶ 5.

149 [redacted] *See* Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 390.

150 Hurst Decl. Ex. 236, Lasinski Rebuttal Report, footnote 1319.

[redacted] Playwright David Henry Hwang and Author Andrew Sean Greer testified that [redacted][153] Sylvia Day testified that [redacted][154] Public statements by other authors also describe how they use generative AI in practice, including for research, brainstorming, and writing.[155]

87. As explained above, [redacted]. Additionally, [redacted] First, [redacted] Dr. Clementine Collett's white paper, which describes findings from focus groups, a

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151 Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶¶ 176, 179; [redacted] FICTION-0115116–132 at 117, 130. *See also* Hurst Decl. Ex. 60, Kazi Deposition, 229:19-230:1, 231:2-19; "Survey Reveals 90 Percent of Writers Believe Authors Should Be Compensated for the Use of Their Books in Training Generative AI," *The Authors Guild*, May 15, 2023, available at https://authorsguild.org/news/ai-survey-90-percent-of-writers-believe-authors-should-be-compensated-for-ai-training-use/; "New Authors Guild AI Survey Reveals That Authors Overwhelmingly Want Consent and Compensation for Use of Their Works," *The Authors Guild*, December 21, 2023, available at https://authorsguild.org/news/ag-ai-survey-reveals-authors-overwhelmingly-want-consent-and-compensation-for-use-of-their-works/.

152 [redacted] FICTION-0115116–132 at 118.

153 Hurst Decl. Ex. 55, Hwang Deposition, 71:12-24, 73:3-24, 74:13-75:13, 76:3-22, 79:3-6, 81:12-82:17, 83:11-18, 90:17-91:25. *See also* Hurst Decl. Ex. 182, [redacted] HWANG000154; *See also* Hurst Decl. Ex. 183, [redacted] HWANG000570–672; Hurst Decl. Ex. 43, Greer Deposition, 146:7-11, 146:25-147:6.

154 Hurst Decl. Ex. 128, Wolicki Deposition, 91:12-92:14, 98:25-99:20.

155 Nugent, Annabel, "The Authors Who Admit to Using AI: 'I Have Absolutely No Shame About It'," *The Independent*, June 21, 2026, available at https://www.the-independent.com/arts-entertainment/books/features/authors-artificial-intelligence-books-b2998498.html.

[redacted]

survey, and interviews of approximately 400 UK authors, publishers, and literary agents, that found that "39 percent of novelists reported their income had already been negatively affected by GenAI."[156] However, the majority of examples described in this white paper describe the impact of generative AI on advertising and editorial services such as writing copy, proofreading, or copyediting, not the impact of generative AI on the Asserted Works.[157] Second, [redacted] a March 2023 survey of 704 authors conducted by the International Thriller Writers honorary society of professional thriller writers reflects authors' expectations about the future and does not provide any evidence that Copilot or ChatGPT have affected their incomes.[158] That study reports that nearly all authors use AI in some capacity and that 93.5 percent of readers "would not buy a book written entirely by AI even if much cheaper than books written by humans."[159] Finally, [redacted][160] Chakrabarty et al. (2026) look at how sales and revenues of self-published fiction ebooks sold on Amazon changed as the number of books with AI-generated content increased.[161] However, the authors do not analyze sales of the Asserted Works, nor the market impact of an increased supply of self-published books with AI-generated content on

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156 Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 396; Collett, Clementine, "The Impact of Generative AI on the Novel," University of Cambridge, November 2025, available at https://www.mctd.ac.uk/wp-content/uploads/2025/11/MCTD-AIAndTheNovel-Report-Web.pdf, p. 8, p. 55.

157 Collett, Clementine, "The Impact of Generative AI on the Novel," *University of Cambridge*, November 2025, available at https://www.mctd.ac.uk/wp-content/uploads/2025/11/MCTD-AIAndTheNovel-Report-Web.pdf, p. 55.

158 Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 396; "Artificial Intelligence Survey Author Responses," *International Thriller Writers*, March 14, 2023, available at https://thrillerwriters.org/itw_docs/ITW-AI-Author-Survey-Responses.pdf, p. 17; "About," *International Thriller Writers*, available at https://thrillerwriters.org/about-itw/. *See also* "Artificial Intelligence Survey," *International Thriller Writers*, March 16, 2023, available at https://thrillerwriters.org/artificial-intelligence-survey/.

159 "Artificial Intelligence Survey," *International Thriller Writers*, March 16, 2023, available at https://thrillerwriters.org/artificial-intelligence-survey/.

160 Hurst Decl. Ex. 62, Deposition Transcript of Michael James Lasinski, August 3, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143, 83:5-84:14.

161 Chakrabarty, Tuhin, Xinyue Liu, Jane C. Ginsburg, and Paramveer Dhillon, "Generative AI Floods and Dilutes the Market for Books," *arXiv,* July 26, 2026, pp. 1-31 at pp. 2-4.

[redacted]

the sales of the Asserted Works. My empirical analysis [redacted] of the Asserted Works, shown in **Figure 13** shows that the rise in self-published books on Amazon [redacted] of the Asserted Works.

88. In sum, [redacted].

V. A FUNCTIONING MARKET FOR LICENSING DATA, INCLUDING THE ASSERTED WORKS, FOR TRAINING GENERAL-PURPOSE LARGE LANGUAGE MODELS DOES NOT EXIST AND FACES CONSIDERABLE CHALLENGES

89. A functioning market for licensing a large data corpus, including the Asserted Works, for training purposes did not exist when the models at issue were trained. *See* **Section V.A**. Additionally, such a functioning market does not currently exist and the formation of such markets face considerable challenges. As described in **Section V.B**, training a general-purpose LLM requires a large volume and variety of data, which creates considerable challenges to forming a functioning market for licensing data for training. As described in **Section V.C**, licensing data for training purposes would require negotiating with a large and diverse set of rightsholders, which is hindered by high transaction costs, holdout problems, and difficulties inherent to pricing or attributing value to any piece of content. As described in **Section V.D**, the experience of other industries that rely on large-scale scraped data provides an important point of comparison. Despite longstanding and widespread reliance on scraped data across many contexts, a functioning market for licensing scraped data has not developed. As described in **Section V.E**, [redacted] Finally, in **Section V.F**, I address why additional opinions offered by Plaintiffs' experts Mr. Lasinski and Mr. Seeley [redacted]

[redacted]

A. Functioning Markets For Licensing Data for Training Purposes Did Not Exist at the Time the GPT Models Were Trained

90. I am not aware of any evidence that there was a functioning market through which the Plaintiffs, their publishers, or their literary agents, could license the Asserted Works for the purpose of training general-purpose LLMs at the time the GPT models at-issue were trained, which was prior to December 2023.[162] At that time, anyone seeking to enter into an agreement to use a trade book, such as the Asserted Works, for the purpose of training would have had to contact and negotiate a new agreement separately with the corresponding rightsholders. [redacted][163]

91. Testimony from multiple Plaintiffs indicates that [redacted]. For example:

a. Jodi Picoult testified that [redacted][164]

b. David Henry Hwang testified that [redacted]"[165]

c. David Baldacci testified that [redacted][166]

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[162] "GPT-3.5 Turbo Model," *OpenAI*, available at https://developers.openai.com/api/docs/models/gpt-3.5-turbo; "GPT-4o Model," *OpenAI*, available at https://developers.openai.com/api/docs/models/gpt-4o; "GPT-4o Mini Model," *OpenAI*, available at https://developers.openai.com/api/docs/models/gpt-4o-mini; "GPT-4 Model," *OpenAI*, available at https://developers.openai.com/api/docs/models/gpt-4; "GPT-4 Turbo Model," *OpenAI*, available at https://developers.openai.com/api/docs/models/gpt-4-turbo.

[163] Hurst Decl. Ex. 236, Lasinski Rebuttal Report, [redacted]

[164] Hurst Decl. Ex. 87, Picoult Deposition, 86:8-11; 165:10-15.

[165] Hurst Decl. Ex. 55, Hwang Deposition, 70:13-71:4.

[166] Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 129:12-22; 213:16-19.

d. Taylor Branch testified that "[he has not] attempted to license any of [his] books for artificial intelligence training[.]" He further testified that "[he does not] know of any authors who have licensed their books for artificial intelligence training[.]"[167]

e. Christopher Golden testified that [redacted][168]

f. Andrew Sean Greer testified that [redacted][169]

B. Training General-Purpose LLMs Requires a Large Volume and Variety of Data

92. General-purpose LLMs are designed to generate stochastic output in response to a variety of user prompts, not to systematically reproduce the data that was used to train the models. They are built to generalize patterns in language, so they can generate new and stochastic outputs in response to user prompts in different contexts.[170] For example, general-purpose LLMs can summarize documents, draft or revise emails, translate text, improve code, or answer questions in response to user prompts.[171]

93. A goal of LLM pre-training is to develop the LLM's ability to generalize, which is the ability to generate relevant responses to prompts that the LLM has not previously been exposed to.[172] Pre-training of a general-purpose LLM involves providing the

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[167] Hurst Decl. Ex. 14, Branch Deposition, 108:21-109:10.

[168] Hurst Decl. Ex. 39, Golden Deposition March 17, 2025, 305:21-306:5.

[169] Hurst Decl. Ex. 43, Greer Deposition, 112:24-113:3.

[170] "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm.

[171] "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm. *See also* Declaration of John D. Lafferty, Ph.D., In re: OpenAI, Inc. Copyright Infringement Litigation, 1:25-md-03143-SHS-OTW, September 3, 2026, ("Lafferty Declaration"), ¶ 90.

[172] "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm.

[redacted]

LLM with a vast volume and variety of text, such as formal correspondence, academic articles, computer code, social media content, and newspaper content, so that it can capture statistical relationships across a broad range of contexts.[173]

94. Creating corpora of data for training from the ground up is a costly and time-consuming endeavor because of the vast volume and variety of data required to train a general-purpose LLM and because data needs to be formatted for use in training. The Lafferty Declaration explains that "[p]reparing data on a large scale typically requires extensive preprocessing."[174] Preparing data for training purposes involves multiple stages, including data collection, filtering, deduplication, standardization, and review.[175] Data also needs to be tokenized before it can be used in training.[176] Preparing the data for training is an important step in developing an LLM because "[t]he quality and uniformity of preprocessing strongly influence the stability and performance of the tokenizer, and ultimately the final language model."[177]

95. The GPT models on which Copilot was built [redacted]. For example, [redacted].[178] According to [redacted] for example:

[redacted]

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[173] May, Richard, "Artificial Intelligence, Data and Competition," *OECD Artificial Intelligence Papers*, No. 18, 2024, p. 19; "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm. *See also* Lafferty Declaration, ¶ 90.

[174] Lafferty Declaration, ¶ 101.

[175] Liu, Yang, Jiahuan Cao, Chongyu Liu, Kai Ding, and Lianwen Jin, "Datasets for Large Language Models: A Comprehensive Survey," *Artificial Intelligence Review*, Vol. 58, No. 403, 2025, pp. 1-78 at p. 20.

[176] Lafferty Declaration, ¶ 103.

[177] Lafferty Declaration, ¶ 101.

[178] "[redacted]" MSFT_AI_MDL_000221039-053 at -043-044. *See also* Lafferty Declaration, ¶ 96.

[redacted]

[redacted]

96. [redacted] the Library of Congress holds about 25 million books, which is equivalent to approximately 2.5 trillion tokens.[180] [redacted].[181]

97. No one piece of data is essential to training a general-purpose LLM because the goal of training is to develop the LLM's ability to generalize based on patterns in data that are derived from the full distribution of the training dataset.[182] For this reason, the incremental value of adding any one piece of data, such as an individual news article, to a training dataset set is close to zero. Jordan Usdan, Senior Director of Strategy and Innovation at Microsoft, stated that "[t]he volume and variety of data typically used to train a modern LLM is not available from any one source"[183] Jordan Usdan also stated that, "[t]o make a difference in a training model on top of what is publicly available on the web, Microsoft would need to acquire the equivalent of hundreds of millions of books, more than have ever been written. It would be difficult to detect

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179 Hurst Decl. Ex. 227, [redacted], ¶1, ¶¶ 4-10.

180 Lafferty Declaration, ¶ 92 (citing General Information about the Library of Congress. (n.d.). Library of Congress. Retrieved April 15, 2026, from https://www.loc.gov/about/general-information/).

181 ([redacted] ¶ 9; Samborska, Veronika, "Scaling Up: How Increasing Inputs has Made Artificial Intelligence More Capable," *Our World in Data*, January 19, 2025, available at https://ourworldindata.org/scaling-up-ai.

182 Lafferty Declaration, ¶ 99.

183 Declaration of Jordan Usdan, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143-SHS-OTW, September 1, 2026 ("Usdan Declaration"), ¶ 10.

[redacted]

any difference from even a hundred thousand books added to a training set since such a negligible amount of data represents only a drop in the ocean of the trillions of tokens needed to train an AI model."[184] Peter Hoeschele, Vice President of Strategy and Operations for Infrastructure at OpenAI, testified that [redacted][185]

98. Once created, digital data is also non-rivalrous. Non-rivalrous goods are goods whose supply is not affected by consumption.[186] For example, a radio broadcast is non-rivalrous; no matter how many people listen to it, others can listen to the exact same broadcast without any diminution of value. This means using digital data to create an LLM training dataset does not prevent someone else from using the same data for any other purpose, be that AI related or not.

99. Nicholas Ryder, Vice President of Research at OpenAI, [redacted][187] The 211 Asserted Works are [redacted][188]

100. As an illustration, it has been reported that there are approximately 80,000 words in the average book.[189] Plaintiffs would need to produce [redacted]

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184 Usdan Declaration, ¶ 10.

185 Hurst Decl. Ex. 53, Deposition Transcript of Peter Hoeschele, April 2, 2025, *In re: OpenAI [sic] ChapGPT Litigation*, 3:23-cv-03223-AMO ("Hoeschele Deposition"), 24:16-24, 35:18-36:11.

186 Varian, Hal R., *Microeconomic Analysis* W.W. Norton & Company, Inc., 1992, Third Ed., p. 414.

187 "Nick Ryder," *LinkedIn*, available at https://www.linkedin.com/in/nick-ryder-84774117b/; Hurst Decl. Ex. 104, Deposition Transcript of Nicholas R. Ryder, 30(b)(6), January 29, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Ryder Deposition 30(b)(6)"), 15:7-14, 43:19-24.

188 *See* Appendix Exhibit E.1.

189 *See, for example,* Reed, Jon, "How Many Words in a Novel? Average Word Count for Books by Genre," *Publishing Talk*, May 20, 2022, available at https://www.publishingtalk.org/writing/how-many-words-in-a-novel-average-word-count-for-books-by-genre/; Klems, Brian A., "Novel and Short Story Word Counts," *Writer's Digest*, October 9, 2007, available at https://www.writersdigest.com/publishing/novel-and-short-story-word-counts.

[redacted]

[redacted][190] This is more than [redacted] the total number of lifetime ISBN registrations in the U.S. as of 2020, more than [redacted] the number of books in the entire Google Books digital collection, and almost [redacted] more books than in the National Library of Congress collection.[191]

C. Transaction Costs, Holdout Problems, and Difficulties Inherent to Pricing or Attributing Value to Any Piece of Content Create Considerable Challenges to Forming a Functioning Market for Licensing Data for LLM Training

101. For an entity to be willing to participate in a hypothetical licensing market, the benefits of participating in the market would have to exceed the costs of transacting in the market. In the context of training general-purpose LLMs, there exist considerable challenges to forming a functioning market for licensing data for LLM training. Evidence from the trade book industry illustrates that the existence of transaction costs and holdout problems create considerable challenges to licensing data for LLM training, even for a single type of content. As explained in **Section V.B,** the Asserted Works are a miniscule share of the volume and variety of data needed for training. This relative position underscores that no one content provider holds the rights to the large volume and variety of data needed for training general-purpose LLMs. As a result, it would be necessary to identify and negotiate agreements with a large and diverse set of rightsholders. It is also difficult to assess the contribution of any individual work in LLM training, and there may be a

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190 [redacted]

191 [redacted] "The Global Publishing Industry in 2020," *World Intellectual Property Organization*, 2022, available at https://www.wipo.int/edocs/pubdocs/en/wipo-pub-1064-2022-en-the-global-publishing-industry-in-2020.pdf, Table 5 reporting 39,876,731 lifetime ISBN registrations as of 2020 for the United States; Marini, Ari, "How the Google Books Team Moved 90,000 Books Across a Continent," *Google*, January 27, 2023, available at https://blog.google/products-and-platforms/products/search/google-books-library-project/; "General Information," *Library of Congress*, available at https://www.loc.gov/about/general-information/.

[redacted]

mismatch in the value AI developers and rightsholders assign to individual pieces of content, exacerbating difficulties in reaching licensing agreements.

1. Identifying Rights for Individual Trade Books Is Difficult and Costly

102. It can be difficult to identify rights for individual pieces of content which increases the transaction costs of negotiating licenses for data for training purposes. As an illustration, consider the complexities of copyright for trade books. Identifying and securing the permission from the rightsholder for any one trade book, let alone for multiple ones, can be a costly and time-consuming process.[192] For example, consider the Cornell University Library's attempt to get copyright owners' permission to digitize 343 monographs as part of a preservation project in 2005.[193] Even after spending "over $50,000 in staff time" attempting to identify and contact copyright owners, the Cornell University Library "never could determine who currently owned the copyright" for 58 percent of the monographs.[194]

103. Even if a licensee identifies the rightsholder, if that rightsholder is not the original author, the rightsholder still may not agree to license a work without the permission of the original author. For example, Plaintiff David Baldacci testified [redacted][195]

104. In addition to identifying and locating rightsholders, another source of transaction costs is the need to negotiate agreements for each book, which often means

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[192] Pallante, Maria A., "Orphan Works and Mass Digitization: A Report of the Register of Copyrights," *U.S. Copyright Office*, June 2015, available at https://copyright.gov/orphan/reports/orphan-works2015.pdf, p.1.

[193] "Re: Response by the Cornell University Library to the Notice of Inquiry Concerning Orphan Works, 70 FR 3739 January 26, 2005," *Cornell University Library*, March 23, 2005, available at https://www.copyright.gov/orphan/comments/OW0569-Thomas.pdf, pp. 1-2.

[194] "Re: Response by the Cornell University Library to the Notice of Inquiry Concerning Orphan Works, 70 FR 3739 January 26, 2005," *Cornell University Library*, March 23, 2005, available at https://www.copyright.gov/orphan/comments/OW0569-Thomas.pdf, p. 2.

[195] Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 127:15-128:21.

[redacted]

negotiating with authors one by one. This too creates a barrier to a market for licensing the quantity of books needed to train LLMs. The Authors Guild, for example, claims that the right to license a book for AI training is currently not covered by standard publishing agreements and "is a right reserved by authors, a right that must be negotiated individually for each publishing contract, and only if the author chooses to license that right at all."[196] Plaintiffs testified that [redacted] [197]The transaction costs of negotiating with authors one by one are also high because authors have different views about the fee they would be willing to accept or whether they would be willing to provide their work at all or for specific purposes. Plaintiffs' deposition testimony illustrates that [redacted] [198]

105. Plaintiffs' testimonies are consistent with the results of a November 2023 Authors Guild survey, in which 62 percent of more than 2,400 respondents reported they would not be willing or did not know if they would be willing to enter agreements for their work, even if they could control the extent to which their content would be used in generative AI output and received additional compensation for substantial use of their work in the output.[199] The Authors Guild survey results suggest that authors

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196 "AI Licensing for Authors: Who Owns the Rights and What's a Fair Split?," *The Authors Guild*, December 12, 2024, available at https://authorsguild.org/news/ai-licensing-for-authors-who-owns-the-rights-and-whats-a-fair-split/, p. 1.

197 Hurst Decl. Ex. 106, Schiff Deposition Individual and 30(b)(6), 176:13-18; Hurst Decl. Ex. 87, Picoult Deposition, 80:5-7; Hurst Decl. Ex. 55, Hwang Deposition, 70:13-71:4; Hurst Decl. Ex. 35, Franzen Deposition, 81:8-15; 83:15-20; Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 128:22-129:22, 213:16-19; Hurst Decl. Ex. 39, Golden Deposition March 17, 2025, 90:12-20; Hurst Decl. Ex. 108, Shapiro Deposition, 158:21-159:3.

198 Hurst Decl. Ex. 87, Picoult Deposition, 81:16-82:2; 83:3-7; Hurst Decl. Ex. 9, Baldacci Deposition Individual and 30(b)(6), 212:5-213:2; Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 157:12-17.

199 "New Authors Guild AI Survey Reveals That Authors Overwhelmingly Want Consent and Compensation for Use of Their Works," *The Authors Guild*, December 21, 2023, available at https://authorsguild.org/news/ag-ai-survey-reveals-authors-overwhelmingly-want-consent-and-compensation-for-use-of-their-works/.

[redacted]

have differing views on whether to participate in a market for licensing data for training purposes, had one existed.

106. This evidence from trade books illustrates that the existence of transaction costs creates considerable challenges to licensing data for general-purpose LLM training, even for a single type of content. However, the difficulties associated with identifying rightsholders and negotiating licenses are not limited to trade books. For example, consider news articles. The right to license a news article depends on the contractual relationship between the news outlet and a journalist, including whether a journalist is an employee or freelance writer. Under "work made for hire" agreements, "an author creates a work as part of their scope of employment (like a staff writer at a publication)."[200] However, in general, according to the U.S. Copyright Office, "the author and initial copyright owner of a work is the person who writes the piece."[201] This is the case for online-only news organizations such as Substack and Beehiiv, where individual journalists own the works they publish.[202] Some agreements also grant news outlets non-exclusive licenses to publish articles while allowing the journalist to retain the right to republish or license the work elsewhere; while others provide the news outlet with an exclusive license for a specified period of time, after which rights revert to the author.[203] As a result, to license news articles for a training dataset it would be necessary to identify rightsholders and negotiate agreements for each article. To license an entire training dataset, it would be necessary to identify and negotiate agreements with a large and diverse set of rightsholders, as no one content provider holds the rights to the large volume and variety of data needed for training general-purpose LLMs.

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200 "What Writers Should Know About Copyright," *U.S. Copyright Office*, available at https://www.copyright.gov/engage/writers/.

201 "What Writers Should Know About Copyright," *U.S. Copyright Office*, available at https://www.copyright.gov/engage/writers/.

202 "Terms of Use," *Substack*, April 21, 2025, available at https://substack.com/tos; "Publisher Agreement," *beehiiv*, May 15, 2024, available at https://www.beehiiv.com/pa.

203 "Contracts and Copyright — Beyond the Basics," *Society of Professional Journalists*, available at https://www.spj.org/contracts-and-copyright-beyond-the-basics-on-your-own-a-guide-to-freelance-journalism-society-of-professional-journalists/.

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2. Holdout Problems Create Additional Challenges to Forming a Functioning Market for Licensing Data for LLM Training

107. Even if rightsholders can be identified, the outcomes of negotiations between AI developers and rightsholders would be uncertain and susceptible to holdout problems. In economics, a holdout problem arises when a project "requires that separately owned objects be combined[,]" in which case "[a] seller who wishes to obtain a high value for its object might find it advantageous to delay negotiations with the buyer in the hope of receiving a share of a large residual surplus."[204] Negotiating licenses for data for training purposes is susceptible to holdout problems because training requires assembling a large and diverse body of content that cannot be obtained from any single source. Licensing a corpus of data for training purposes, when licensors have the option to opt out of participating, is only possible if a large and diverse set of rightsholders agreed to participate on terms that are also beneficial to developers given the transaction costs. An agreement with one rightsholder has no value on its own if an AI developer cannot also obtain a sufficient volume and variety of content from other sources, which as discussed in **Section V.B**, is a requirement to assemble a complete the corpus of data for training purposes.

108. If a right to license data for LLM training purposes is recognized, then incentives exist for multiple rightsholders to hold out for greater compensation. This may be especially true when licensors and licensees have differing opinions regarding the perceived value of content in the corpus of data for training purposes. An individual rightsholder may have an incentive to withhold participation or demand supra-competitive terms if they believe their type of content is important to the perceived quality or completeness of the training dataset, even if an AI developer perceives the value of any individual news article to be close to zero. The presence of large rightsholders in particular content categories, such as major book publishers, does not eliminate the holdout problem. If anything, it may intensify it by increasing

[204] Menezes, Flavio and Rohan Pitchford, "A Model of Seller Holdout," *Economic Theory*, Vol. 24, 2004, pp. 231-253 at pp. 231-232.

[redacted]

those parties' holdout power in negotiations over a training corpus that must draw on many different types of content.

109. If certain categories of rightsholders are more able or more willing to withhold consent, holdout problems may result in training datasets that systematically exclude certain types of works. However, as I explain in my research, this has the potential to create unintended bias because some data sources may represent certain segments of the populations more than others. For example, although Reddit agreed to license its data to developers, Reddit users are not representative of the U.S. population.[205] A 2019 Pew Research Center study reports that Reddit use among U.S. adults was more common among younger adults, men, and college graduates.[206] As a result, even if it were easier to license Reddit data, a developer would still need to negotiate agreements for other data sources to avoid generating biased output.

110. The implications of bias in AI applications due to a lack of sufficient diversity in the underlying data sources used to develop AI applications have been documented in other contexts. For example:

a. Facial recognition technologies have been found to perform poorly for demographic groups that were underrepresented in their training dataset.[207]

b. AI recruitment algorithms have been found to discriminate against female applicants when the algorithms are disproportionately trained on men's resumes.[208]

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[205] Tucker, Catherine, "Chapter 8: Potential Socioeconomic Biases of AI Policy," in *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy: Context and Direction for Economic Research*, U.S. Copyright Office, 2025, edited by Brent Lutes, p. 57.

[206] "Who Uses YouTube, WhatsApp and Reddit," *Pew Research Center*, June 12, 2019, available at https://www.pewresearch.org/chart/who-uses-youtube-whatsapp-and-reddit/.

[207] Yucer, Seyma, Furkan Tektas, Noura Al Moubayed, and Toby Breckon, "Racial Bias Within Face Recognition: A Survey," *ACM Computing Surveys*, Vol. 57, No. 4, 2024, pp. 1-39, pp. 20-21, p. 22, p. 30, p. 31.

[208] Albaroudi, Elham, Taha Mansouri, and Ali Alameer, "A Comprehensive Review of AI Techniques for Addressing Algorithmic Bias in Job Hiring," *AI*, Vol. 5, 2024, pp. 383-404 at p. 385. *See also*, Mann, Gideon and Cathy O'Neil, "Hiring Algorithms are Not Neutral," *Harvard Business Review*, December 9, 2016, available at https://hbr.org/2016/12/hiring-algorithms-are-not-neutral.

[redacted]

c. A widely used algorithm, designed to identify high-risk patients for special care programs, systematically underestimated the health needs of Black patients because it uses healthcare costs as a proxy for health needs and unequal access to care means that Black patients have historically incurred lower healthcare costs.[209]

3. Difficulties Inherent to Pricing or Attributing Value to Any Piece of Content Create Additional Challenges to Forming a Functioning Market for Licensing Data for Training Purposes

111. Training a general-purpose LLM requires a large volume and variety of data but does not depend on any specific data source; one news article in a training dataset may be highly substitutable for another article, or the code for one computer program may be highly substitutable for another program. The fact that general-purpose LLMs generate outputs probabilistically in response to a wide range of prompts makes it difficult to assess the contribution of any individual piece of content in generating output. For example:

a. The Lafferty Declaration states that "it is not possible to reliably attribute LLM outputs to particular training data tokens," and that "[e]xisting methods which attempt to do this (e.g., influence functions and attribution techniques) [...] provide only approximate estimates and do not establish direct lineage between training tokens and model outputs in general."[210] The Lafferty Declaration also states that "even when an output token matches a token seen in the training data, or when an attribution method highlights a particular training token, this may reflect the distributed statistical associations learned from many related training tokens rather than influence from the specific training token itself."[211]

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[209] Obermeyer, Ziad, Brian Powers, Christine Vogeli, and Sendhil Mullainathan, "Dissecting Racial Bias in an Algorithm Used to Manage the Health of Populations," *Science*, Vol. 366, No. 6464, 2019, pp. 447-453 at p. 447, p. 450, p. 453.

[210] Lafferty Declaration, ¶ 175.

[211] Lafferty Declaration, ¶ 175.

[redacted]

b. Jordan Usdan stated that "[t]here is no accepted or reliable mechanism for valuing how one data input affects AI training. As noted, model development requires an immense number of tokens, and Microsoft does not have any scientific way to determine how one piece of data affects a model (if at all). My team went in circles trying to arrive at a way of valuing data for AI training, including consulting scientists like Mr. Bubeck, but it is extremely hard to determine the value of a given piece of data is to a model, and then the value, if any, of any increase of performance of that model based on that data input."[212]

112. There may be a fundamental mismatch between what rightsholders expect in traditional copyright licensing models and the value perceived by scientists for an LLM training corpus. In traditional content licensing, the particular expression supplies value, and the licensor seeks to extract value for that expression.[213] For example, John Grisham's book "The Firm" became a movie of the same name.[214] There is a long historical track record of movie producers turning books into films, and an identified range of how much writers are paid in such transactions.[215] For example, The Authors Guild provides a "Model Film Agreement Contract" template and explains that in the case of motion pictures, "the Purchase Price is often a percentage of the in-going production budget, usually in the 2.5%-5% range of the in-going production budget of the motion picture to be produced[.]"[216] In LLM training, no particular piece of content is relevant by itself, and any particular piece

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[212] Usdan Declaration, ¶ 11.

[213] Towse, Ruth, Christian Handke, and Paul Stepan, "The Economics of Copyright Law: A Stocktake of the Literature," *Review of Economic Research on Copyright Issues*, Vol. 5, No. 1, 2008, pp. 1-22 at p. 2, p. 6; Landes, William M. and Richard A. Posner, "An Economic Analysis of Copyright Law," *The Journal of Legal Studies*, Vol. 18, No. 2, 1989, pp. 325-363 at p. 336.

[214] Hurst Decl. Ex. 44, Grisham Deposition Individual and 30(b)(6), 20:16-25; Ball, Molly, "The Enduring Charm of John Grisham," *TIME*, October 2, 2023, available at https://time.com/6317634/john-grisham-the-exchange-book-interview/.

[215] "Modern Films You Might Not Know Were Based on Classic Literature," *BBC*, available at https://www.bbc.co.uk/bitesize/articles/zc979ty.

[216] "Model Film Agreement Contract," *The Authors Guild*, available at https://go.authorsguild.org/film_agreement_sections/6.

[redacted]

of content is useful only in that it supplies statistical information that is meaningful in the aggregate as part of a massive volume of other data.

113. Jordan Usdan stated that [redacted][217] This difference in value attribution even further exacerbates the challenges of negotiation and reaching agreements for licensing data for training purposes. For example, Jordan Usdan also stated that:

a. [redacted][218]

b. In relation to [redacted][219]

c. [redacted]

[217] Usdan Declaration, ¶ 15.

[218] Usdan Declaration, ¶ 15.

[219] Usdan Declaration, ¶ 22.

[redacted]

[redacted]"[220]

d. [redacted]

[redacted][221]

114. To the extent it is not possible to identify a distinct contribution that can be traced to a specific piece of content, it will be difficult to isolate the marginal value of any given work, which in turn complicates the pricing of individual content and makes negotiations more challenging. This exacerbates the challenges of negotiating and reaching agreements for licensing training datasets and creates challenges for the formation of a functioning market to license data for training purposes.

115. In sum, transaction costs, holdout problems, and difficulties inherent to pricing or attributing value to any piece of content create considerable challenges to the formation of functioning markets for licensing news content for training general-purpose LLMs. These challenges inhibit the emergence of functioning markets for licensing the volume and diversity of data required for training general-purpose LLMs.

D. Functioning Data Markets for Innovative Uses of Scraped Data in Other Contexts Have Not Developed

116. This section assesses the experience of other industries, where the use of scraped data is longstanding, to provide an important point of comparison for evaluating Plaintiffs' claims. Functioning data markets for innovative uses of scraped data have not developed, with transaction costs and bargaining frictions identified as obstacles. Where agreements involving scraped data exist, they tend to include access to products or services built around scraped data, rather than access to large amounts

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[220] Usdan Declaration, ¶¶ 27-28. *See also* [redacted]

[221] Usdan Declaration, ¶ 30.

[redacted]

of unprocessed information alone. This suggests that similar constraints would inhibit the development of a hypothetical market for licensing data for AI training purposes.

1. Scraped Data Has Been Widely Used in Both Public-Interest and For-Profit Work

117. Researchers and firms have used scraping to acquire data long before the recent emergence of LLMs. In addition to web crawling for search engines, scraped data has been used in a range of public-interest and for-profit applications.[222] Scraping has also been used to collect and analyze public records, including police and court data, in order to improve transparency and public access to information.[223]

118. Organizations advocating for open access to publicly available information point to the role of web scraping in supporting broader public interests. For example, the

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[222] Brown, Megan A., Andrew Gruen, Gabe Maldoff, Solomon Messing, Zeve Sanderson, and Michael Zimmer, "Web Scraping for Research: Legal, Ethical, Institutional, and Scientific Considerations," *Big Data & Society*, Vol. 12, No. 4, 2025, pp. 1-17 at p. 2; Skrenta, Rich, "Setting the Record Straight: Common Crawl's Commitment to Transparency, Fair Use, and the Public Good," *Common Crawl*, November 4, 2025, available at https://commoncrawl.org/blog/setting-the-record-straight-common-crawls-commitment-to-transparency-fair-use-and-the-public-good; "Common Crawl Foundation Opt-Out Registry," *Common Crawl*, September 17, 2025, available at https://commoncrawl.org/blog/common-crawl-foundation-opt-out-registry; "About the Internet Archive," *Internet Archive*, available at https://archive.org/about; Kamp, Florian N., "Alternative Data Accumulation, Investment Management and the Ever-Present Spectre of Insider Trading Liability – Should Hedge Funds Be Concerned About Trading on Scraped Data?," *University of Pennsylvania Journal of Business Law*, Vol. 22, No. 3, 2020, pp. 627-676 at p. 627; Kwark, Young, Jianqing Chen, and Srinivasan Raghunathan, "User-Generated Content and Competing Firms' Product Design," *Management Science*, Vol. 64, No. 10, 2018, pp. 4608-4628 at p. 4608; Cavallo, Alberto and Roberto Rigobon, "The Billion Prices Project: Using Online Prices for Measurement and Research," *Journal of Economic Perspectives*, Vol. 30, No. 2, 2016, pp. 151-178 at pp. 152, 154; Boegershausen, Johannes, Hannes Datta, Abhishek Borah, and Andrew T. Stephen, "Fields of Gold: Scraping Web Data for Marketing Insights," *Journal of Marketing*, Vol. 86, No. 5, 2022, pp. 1-20 at p. 2; Brown, Megan A., Andrew Gruen, Gabe Maldoff, Solomon Messing, Zeve Sanderson, and Michael Zimmer, "Web Scraping for Research: Legal, Ethical, Institutional, and Scientific Considerations," *Big Data & Society*, Vol. 12, No. 4, 2025, pp. 1-17 at p. 2; Ser Kuang Keng, Kuek and Federico Acosta Rainis, "How Non-Coding Journalists Can Build Web Scrapers With AI (Examples and Prompts Included)," *Pulitzer Center*, October 13, 2025, available at https://pulitzercenter.org/resource/how-non-coding-journalists-can-build-web-scrapers-ai-examples-and-prompts-included; "Data Journalism Resources," *Columbia Journalism School*, available at https://data.journalism.columbia.edu/content/scraping-data.

[223] "Explore Data About Police Systems," *Police Data Access Point*, available at https://www.pdap.io/; "About Free Law Project," *Free Law Project*, available at https://free.law/about/; "About," *Police Data Access Point*, available at https://www.pdap.io/about.

[redacted]

Electronic Frontier Foundation argued that restricting the ability to scrape the web would "threaten open access to information for everyone," including "journalists, academists, businesses, and everyday people" and create a "barrier to product innovation."[224] The Electronic Privacy Information Center noted that "[j]ournalists and researchers scrape data about corporations and the government to expose misconduct or shed light on obscure processes" and "[c]orporations scrape data from other corporations to keep tabs on their competitors or to create one-stop shops for consumers to compare prices on goods and services."[225]

2. Existing Data Markets in Other Contexts Are Site-Specific, Curated, and Access-Based, Rather Than Open, General-Purpose Markets for Raw Data

119. Despite the longstanding and widespread use of scraped data, functioning markets for licensing raw scraped data have not developed. When scraped data is monetized, it is typically limited to site-specific, curated, and access-based arrangements.

120. Several well-documented features of digital data markets help explain why functioning markets for scraped data have not formed. First, as my research explains, a reduction in the costs of parsing and storing data has made digital data

[224] Williams, Jamie, "'Scraping' Is Just Automated Access, and Everyone Does It," *Electronic Frontier Foundation*, April 17, 2018, available at https://www.eff.org/deeplinks/2018/04/scraping-just-automated-access-and-everyone-does-it; Rathi, Mukund and Kurt Opsahl, "EFF to Ninth Circuit: Recent Supreme Court Decision in Van Buren Does Not Criminalize Web Scraping," *Electronic Frontier Foundation*, July 19, 2021, available at https://www.eff.org/deeplinks/2021/07/eff-ninth-circuit-recent-supreme-court-decision-van-buren-does-not-criminalize-web.

[225] "Web Scraping," *Electronic Privacy Information Center*, available at https://epic.org/issues/platform-accountability-governance/web-scraping/.

[redacted]

abundant and widely available.[226] In many contexts, similar data is publicly accessible and can be easily substituted for other sources of data online.[227]

121. Second, research on online data marketplaces finds that data markets remain limited due to high transaction costs and bargaining frictions. Kennedy et al. (2022), for example, conclude that modern online data marketplaces "fall short on the promise of distributing the value of data widely and efficiently, as transaction costs remain high," which is "mainly because every transaction requires a one-on-one negotiation[.]"[228]

122. Third, academic literature also finds that data is typically used as an intermediate good whose value depends on context, downstream combination with other inputs, and transformation into other information goods.[229] As a result, market value tends to reflect services layered on top of scraped data, such as aggregation, verification, and indexing, rather than the inherent value of the raw data itself. Where arrangements have developed, they have generally been site-specific, curated, and

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[226] Goldfarb, Avi and Catherine Tucker, "Digital Economics," *Journal of Economic Literature*, Vol. 57, No. 1, 2019, pp. 3-43 at p. 3; Acs, Zoltan J., Abraham K. Song, László Szerb, David B. Audretsch, and Éva Komlósi, "The Evolution of the Global Digital Platform Economy: 1971-2021," *Small Business Economics*, Vol. 57, 2021, pp. 1629-1659 at 1629.

[227] *See, for example*, "Free People Search Engine," *That's Them*, available at https://thatsthem.com; "What Can You Discover with a People Search?," *USA People Search*, available at https://www.usa-people-search.com; "100% Free People Search," *TruePeopleSearch*, available at https://www.truepeoplesearch.com; "Fast, Accurate, People Finder," *PeopleFinders*, available at https://www.peoplefinders.com; "Census Datasets," *U.S. Census Bureau*, available at https://www.census.gov/data/datasets.html; "About the U.S. Bureau of Labor Statistics," *U.S. Bureau of Labor Statistics*, available at https://www.bls.gov/bls/about-bls.htm; "Using EDGAR to Research Investments," *U.S. Securities and Exchange Commission*, September 5, 2018, available at https://www.sec.gov/search-filings/edgar-search-assistance/using-edgar-research-investments; "Library of Freely Accessible Trade Data Resources," *World Trade Organization*, available at https://globaltradedata.wto.org/resource-library; "BPP Datasets," *The Billions Prices Project*, available at https://www.thebillionpricesproject.com/datasets/; "Beijing Air Pollution: Real-Time Air Quality Index (AQI)," *Air Quality Index*, available at https://aqicn.org/city/beijing/; "World Air Quality Index Project," *World Trade Organization*, January 17, 2023, available at https://globaltradedata.wto.org/node/15764; "Watching Our World Unfold," *The GDELT Project*, available at https://www.gdeltproject.org/.

[228] Kennedy, Javen, Pranav Subramaniam, Sainyam Galhotra, and Raul Castro Fernandez, "Revisiting Online Data Markets in 2022: A Seller and Buyer Perspective," *SIGMOD Record*, Vol. 51, No. 3, 2022, pp. 30-37 at p. 30.

[229] Koutroumpis, Pantelis, Aija Leiponen, and Llewellyn D. W. Thomas, "Markets for Data," *Industrial and Corporate Change*, Vol. 29, No. 3, 2020, pp. 645-660 at p. 646.

[redacted]

access-based. For example, Factiva, LexisNexis, and ProQuest illustrate this model, as they aggregate content from thousands of publishers, legal records, and academic sources and provide subscribers with searchable access and analytical tools.[230] As another example, PitchBook aggregates publicly available financial and capital market information, verifies and organizes the information, combines the information with other inputs, and provides subscribers with searchable access and analytical tools.[231] The economic value of such platforms includes the value of curation, indexing, reliability, and mitigating litigation risk, not just the value of the data.

123. Disputes over scraping rights further underscore the absence of a functioning market for licensing scraped data. Litigation involving LinkedIn and third-party scrapers, for example, focused on questions of access control and contractual restrictions, rather than on participation in a functioning market with established prices for scraped data.[232] The resolution of such disputes through litigation or bespoke agreements is inconsistent with the presence of functioning markets for licensing scraped data at scale.

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[230] "Your Source for Business Insight, Built on a Global Scale," *Dow Jones*, available at https://www.dowjones.com/business-intelligence/factiva/products/factiva/; "Nexis® Transform Your Research," *LexisNexis*, available at https://www.lexisnexis.com/en-us/products/nexis.page; "LexisNexis Processing Notice," *LexisNexis*, available at https://www.lexisnexis.com/global/privacy/en/processing-notice.page; "Who We Are," *ProQuest*, available at https://about.proquest.com/en/about/who-we-are/.

[231] "The All-in-One Private Capital Market Solution," *PitchBook Platform*, available at https://pitchbook.com/products; "Discover Hard-to-Find Data and Expand Your Story," *PitchBook*, available at https://pitchbook.com/research-process; "PitchBook Key Differentiators," *PitchBook*, available at https://pitchbook.com/pitchbook-key-differentiators.

[232] *See, for example,* Neuburger, Jeffrey D., "hiQ and LinkedIn Reach Proposed Settlement in Landmark Scraping Case," *The National Law Review*, December 8, 2022, available at https://natlawreview.com/article/hiq-and-linkedin-reach-proposed-settlement-landmark-scraping-case; Stipulation and [Proposed] Consent Judgement and Permanent Jurisdiction, *hiQ Labs, Inc. v. LinkedIn Corporation*, 17-cv-03301-EMC, December 6, 2022.

[redacted]

E. [redacted]

124. [redacted].

1. [redacted]

125. [redacted]

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[233] [redacted]

[redacted]

[redacted][6]

126. [redacted]

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234 [redacted].

235 Usdan Declaration, ¶ 24.

236 Usdan Declaration, ¶ 22.

237 [redacted]

238 Usdan Declaration, ¶ 22.

[redacted]

127. [redacted] If the costs to AI developers and rightsholders of finding and negotiating an agreement are too high relative to the benefits, the parties will not participate in the market. [redacted][240] Jordan Usdan further stated that [redacted][241]

2. [redacted]

128. [redacted]

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[239] [redacted]

[240] Usdan Declaration, ¶¶ 24, 27.

[241] Usdan Declaration, ¶ 25.

[redacted] For example:

a. The agreement between Reddit and Google, announced in February 2024, provides "new ways for Reddit content to be displayed across Google products" and "Google with an efficient and structured way to access the vast corpus of existing content on Reddit and enabled Google to use the Reddit Data API to improve its products and services – including supporting new ways to display Reddit content and providing more efficient ways to train models."[242]

b. The agreement between Google and Stack Overflow, announced in February 2024, allows Gemini for Google Cloud to "provide developers with suggestions, code, and answers from Stack Overflow" and Stack Overflow "to leverage Google Cloud's state-of-the art capabilities to improve their community engagement experiences and content curation processes."[243]

c. [redacted]

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[242] "Expanding Our Partnership with Google," *Reddit*, February 22, 2024, available at https://redditinc.com/news/reddit-and-google-expand-partnership.

[243] "Stack Overflow and Google Cloud Announce Strategic Partnership to Bring Generative AI to Millions of Developers," *Stack Overflow*, February 29, 2024, available at https://stackoverflow.co/company/press/archive/google-cloud-strategic-gen-ai-partnership.

[244] Hurst Decl. Ex. 8, [redacted]

[redacted]

d. [redacted]

[redacted]

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245 Hurst Decl. Ex. 8, [redacted] 11:25-12:1, 27:10-20, 54:8-24.

246 [redacted]

247 [redacted]

248 [redacted]

249 Usdan Declaration, ¶ 26.

250 Usdan Declaration, ¶ 27.

[redacted][251]

e. [redacted][252]

129. [redacted][253] For example:

a. The Copyright Clearance Center ("CCC") offers voluntary copyright licensing services for publishers, including for AI training.[254] The CCC's first collective licensing initiative for AI launched on July 1, 2024 and is "voluntary."[255] In July 2024, when discussing the CCC's collective licensing initiatives, Publishers Weekly described that "a general solution [to licensing for training LLMs] has been lacking," and Tracey Armstrong, president and Chief Executive Officer of CCC, noted that "[w]e now have a situation where you can litigate, legislate, or

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251 Usdan Declaration, ¶ 7.

252 [redacted]

253 Tong, Anna, Echo Wang, and Martin Coulter, "Exclusive: Reddit in AI Content Licensing Deal with Google," *Reuters*, February 21, 2024, available at https://www.reuters.com/technology/reddit-ai-content-licensing-deal-with-google-sources-say-2024-02-22/. *See also* Rosenblatt, Bill, "The Media Industry's Race to License Content for AI," *Forbes*, July 18, 2024, available at https://www.forbes.com/sites/billrosenblatt/2024/07/18/the-media-industrys-race-to-license-content-for-ai.

254 "Licensing Services for Publishers," *Copyright Clearance Center*, available at https://www.copyright.com/wp-content/uploads/2016/09/FY26-Product-sheet_Licensing-Services-for-Publishers_Feb-update.pdf; "Responsible AI Starts with Licensing," *Copyright Clearance Center*, available at https://www.copyright.com/solutions-business-ai/.

255 Nawotka, Ed, "CCC Launches Collective Licensing for AI," *Publishers Weekly*, July 16, 2024, available at https://www.publishersweekly.com/pw/by-topic/digital/copyright/article/95512-ccc-launches-collective-licensing-for-ai.html.

[redacted]

license" where "[l]itigating can take years, legislating can take decades, a quarter of a century in some cases [...] licensing is efficient, effective and time tested."[256] On the product page for the AI Systems Training License, the CCC notes that "[a]s more organizations train AI systems, they are looking for solutions to help them navigate the legal landscape and secure global rights to use content for training that is legally compliant and respects intellectual property" and that the CCC's license enables licensees to "build ethical, high-performing AI models while mitigating risk[.]"[257]

b. [redacted][259]

c. [redacted][261]

256 Nawotka, Ed, "CCC Launches Collective Licensing for AI," *Publishers Weekly*, July 16, 2024, available at https://www.publishersweekly.com/pw/by-topic/digital/copyright/article/95512-ccc-launches-collective-licensing-for-ai.html.

257 "Obtain the Rights to Use Content for Training AI Models for External Purposes — Fairly and Efficiently," *Copyright Clearance Center*, available at https://www.copyright.com/wp-content/uploads/2025/11/AI-Systems-Training-License-Product-Sheet.pdf.

258 [redacted]

259 [redacted]

260 [redacted]

261 Hurst Decl. Ex. 8 [redacted] 11:25-12:1, 41:25-42:22.

[redacted]

d. [redacted][262]

e. It has been reported that Perplexity launched the Perplexity Publishers Program one month after facing public threats of legal action from certain publishers relating to its AI tool.[263] Perplexity's Publishers Program started with select publishers in July 2024, including TIME, Der Spiegel, Fortune, Entrepreneur, The Texas Tribune, and WordPress.com, and later expanded to include "over a dozen new partners" in December 2024.[264] The program is "designed to promote collective success and to equip publishers with new technology to engage their audiences," including revenue sharing when "a publisher's content is referenced," free access to Perplexity's "Online LLM APIs and developer support," and free access to Perplexity's Enterprise Pro for all partners' employees.[265]

f. Comparable dynamics have appeared in other industries. For example, after accusations of copyright infringement by Universal Music Group (UMG), Udio, an AI-powered music generation platform, entered into a licensing agreement with UMG as part of a broader resolution that included plans for a licensed music platform.[266]

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262 [redacted]

263 Robison, Kylie, "Perplexity is Cutting Checks to Publishers Following Plagiarism Accusations," *The Verge*, July 30, 2024, available at https://www.theverge.com/2024/7/30/24208979/perplexity-publishers-program-ad-revenue-sharing-ai-time-fortune-der-spiegel.

264 "Introducing the Perplexity Publishers' Program," *Perplexity*, July 30, 2024, available at https://www.perplexity.ai/hub/blog/introducing-the-perplexity-publishers-program; "Welcoming More Global News Organizations to Perplexity's Publishers' Program," *Perplexity*, December 5, 2024, available at https://www.perplexity.ai/hub/blog/perplexity-expands-publisher-program-with-15-new-media-partners.

265 "Introducing the Perplexity Publishers' Program," *Perplexity*, July 30, 2024, available at https://www.perplexity.ai/hub/blog/introducing-the-perplexity-publishers-program.

266 "About," *Udio*, available at https://www.udio.com/about-us; Jaiswal, Rishabh, "Universal Music Settles Copyright Dispute with AI Firm Udio," *Reuters*, October 29, 2025, available at https://www.reuters.com/business/media-telecom/universal-music-settles-copyright-dispute-with-ai-firm-udio-2025-10-30/.

[redacted]

130. [redacted]

3. Emerging AI Licensing Collectives and Marketplaces Are in a State of Evolution

131. Collectives and marketplaces licensing data for AI uses have just started to emerge in the United States but should be treated as experiments rather than evidence of either a solution to the collective action problem or a functioning market for the acquisition of data for AI uses.[267] These efforts typically operate on opt-in designs, involve a limited subset of rightsholders, and primarily concern rights to display copyrighted content. Only two platforms connected with licensing trade books for training general-purpose LLMs have emerged but neither has gotten off the ground:

a. The CCC voluntary copyright licensing services for publishers, including for AI training, which I discuss in **Section VE.2** appears to be in a state of evolution.[268] Publishers Weekly described that the "initiative comes after 18 months of extensive consultations with both licensees and publishers," and Michael Healy, Executive Director at CCC, explained "[w]e've been consulting in two directions" by "talking, first of all, to our business licensees [...] to understand what uses they're making of copyrighted content within generative AI systems."[269]

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[267] *See, for example,* Davies, Jessica, "WTF is AI 'Grounding' Licensing, and Why Do Publishers Say It Matters Over Training Deals?," *Digiday*, August 22, 2025, available at https://digiday.com/media/wtf-is-ai-grounding-licensing-and-why-do-publishers-say-it-matters-over-training-deals/.

[268] "Licensing Services for Publishers," *Copyright Clearance Center*, available at https://www.copyright.com/wp-content/uploads/2016/09/FY26-Product-sheet_Licensing-Services-for-Publishers_Feb-update.pdf; "Responsible AI Starts with Licensing," *Copyright Clearance Center*, available at https://www.copyright.com/solutions-business-ai/.

[269] Nawotka, Ed, "How Copyright Clearance Center's Michael Healy Advocates for 'Responsible AI'," *Publishers Weekly*, November 18, 2024, available at https://www.publishersweekly.com/pw/by-topic/international/sharjah-book-fair/article/96168-how-copyright-clearance-center-s-michael-healy-advocates-for-responsible-ai.html.

[redacted]

Publishers Weekly further reported that "[t]he result of these discussions is a modified version of CCC's longstanding annual blanket license, now incorporating AI reuse rights."[270] Tracey Armstrong, President and Chief Executive Officer at CCC, further described the process, stating that "[they] held roundtables, identified rights where everybody was willing to compromise, understood the use cases, and found a license that fit the use."[271] The resultant CCC collective license provides licensees "AI rights for internal use," including "AI training."[272] The license is "voluntary, opt-in" and "non-exclusive."[273]

b. Created by Humans is a rights clearing and licensing platform designed to facilitate the licensing of books for AI uses, including for use in "training" and "in outputs."[274] The platform verifies authorship, coordinates publisher approvals, and requires affirmative opt-in from all rights holders before any work is licensed.[275] However, the platform remains in a nascent stage: Mary Rasenberger, corporate designee of the Authors Guild who worked with Created by Humans to

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270 Nawotka, Ed, "How Copyright Clearance Center's Michael Healy Advocates for 'Responsible AI'," *Publishers Weekly*, November 18, 2024, available at https://www.publishersweekly.com/pw/by-topic/international/sharjah-book-fair/article/96168-how-copyright-clearance-center-s-michael-healy-advocates-for-responsible-ai.html.

271 Nawotka, Ed, "CCC Launches Collective Licensing for AI," *Publishers Weekly*, July 16, 2024, available at https://www.publishersweekly.com/pw/by-topic/digital/copyright/article/95512-ccc-launches-collective-licensing-for-ai.html.

272 Levy, Roanie, "Navigating Copyright in the Age of Generative AI: Responsible AI Starts with Licensing," *Copyright Clearance Center*, November 5, 2024, available at https://www.copyright.com/blog/navigating-copyright-generative-ai-responsible-ai-starts-with-licensing/.

273 Levy, Roanie, "Navigating Copyright in the Age of Generative AI: Responsible AI Starts with Licensing," *Copyright Clearance Center*, November 5, 2024, available at https://www.copyright.com/blog/navigating-copyright-generative-ai-responsible-ai-starts-with-licensing/; Business Wire, "CCC Launching New AI Content Re-Use Rights for U.S. Academic Customers and Transactional Licensing Capabilities for AI," Mar. 3, 2026, https://www.businesswire.com/news/home/20260303630177/en/CCC-Launching-New-AI-Content-Re-Use-Rights-for-U.S.-Academic-Customers-and-Transactional-Licensing-Capabilities-for-AI.

274 "The AI Rights Licensing Platform for Books," *Created By Humans*, available at https://www.createdbyhumans.ai/.

275 "Author Overview," *Created by Humans*, available at https://support.createdbyhumans.ai/hc/en-us/articles/30891024362523-Author-Overview.

[redacted]

"recruit authors," testified that she did not believe Created by Humans "ha[s] any revenue yet from licensing."[276]

132. Other marketplaces and platforms related to AI uses have recently emerged allowing AI developers to obtain rights to display excerpts or summaries of content to end users in response to prompts, such as showing a short excerpt alongside a generated answer or in AI assistants. Display rights in copyrighted content have long been recognized and licensed.[277] For example, [redacted][278] The emerging marketplaces, in contrast, have very recently launched and are better characterized as ongoing experiments than evidence of a functioning market for licensing data for training purposes. [279]

133. Since participation is voluntary or limited to a subset of publishers, these platforms do not aggregate licensing rights over a comprehensive spectrum of rightsholders and none of these platforms are focused on licensing data to train a general-purpose LLM. As a result, data acquisition through such platforms may not provide the volume and variety of content needed to train a general-purpose LLM.

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[276] *See also* Hurst Decl. Ex. 98, Deposition Transcript of Mary Rasenberger, 30(b)(6), February 13, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Rasenberger Deposition 30(b)(6)"), 57:17-23, 58:11-59:1.

[277] *See, for example*, "AP Renews Licensing Deal with Yahoo, Not Yet with Google," *Reuters*, February 2, 2010, available at https://www.reuters.com/article/world/ap-renews-licensing-deal-with-yahoo-not-yet-with-google-idUS2475452098/; "Google Renews Licensing Deal With AP for News Content," *Reuters*, August 31, 2010, available at https://www.reuters.com/article/business/google-renews-licensing-deal-with-ap-for-news-content-idUS731624148/; Perez, Sarah, "Microsoft Launches A Personalized News Service, Microsoft Start," *TechCrunch*, September 7, 2021, available at https://techcrunch.com/2021/09/07/microsoft-launches-a-personalized-news-service-microsoft-start/.

[278] *See, for example*, [redacted].

[279] Usdan Declaration, ¶ 35; "Dow Jones Factiva Surpasses 8,000 Licensed Sources for GenAI Use," *Dow Jones*, January 20, 2026, available at https://www.dowjones.com/press-room/dow-jones-factiva-surpasses-8000-licensed-sources-for-genai-use/; Davies, Jessica, "AI Royalties for Small and Midsize Publishers: Collective Licensing's Next Big Play," *Digiday*, October 17, 2025, available at https://digiday.com/media/ai-royalties-for-small-and-midsize-publishers-collective-licensings-next-big-play/.

[redacted]

134. Even if a platform were to secure participation from several trade books publishers, it cannot supply the full range of book content, nor the additional categories of material, such as news articles, social media, and code, that general-purpose LLMs require. Therefore, these initiatives reduce some bilateral transaction costs but do not eliminate the broader rights fragmentation, valuation, and holdout challenges discussed in **Section V.C**. It would still be necessary for large numbers of individual rightsholders to opt in, and make their content available through these marketplaces, for such arrangements to be a viable alternative to individually negotiated agreements for licensing data for training general-purpose LLMs.

135. Collective licensing agreements have been proposed as a potential means of addressing the challenges of negotiating with individual rightsholders. For example, the Author's Guild states:

> It is not efficient or even practicable for AI companies to seek licenses from each individual author who owns the rights to their works. So, the Authors Guild is proposing to create a collective license whereby a collective management organization (CMO) would license out rights on behalf of authors who chose to register with the CMO, negotiate fees with the AI companies with the limits set by the authors, and then distribute those payments to authors. These licenses could cover past uses of books, articles, and other works in AI systems, as well as future uses. The latter would not be licensed without a specific opt-in from the author or other rights holder.[280]

That the Authors Guild envisioned licenses covering past, in addition to future, uses suggests that such licenses may serve, at least in part, to resolve or mitigate potential liability for prior uses, rather than solely to facilitate prospective access to content.

136. But there is uncertainty over how collective licensing initiatives will navigate issues such as antitrust concerns, given their role of aggregator and how aggregators of intellectual property rights who attempted to negotiate licenses on behalf of many

[280] "FAQs on the Authors Guild's Positions and Advocacy Around Generative AI," *The Authors Guild*, available at https://authorsguild.org/advocacy/artificial-intelligence/faq/.

[redacted]

rightsholders in the past have faced antitrust concerns in other spheres. For example:

a. Whitman (1938) discusses the case of the Motion Picture Patents Company ("MPPC"), which combined patents related to the exhibition of motion pictures and licensed them collectively.[281] Courts found that the MPPC's practices were unlawful under the Sherman Act, leading to the MPPC's dissolution in 1918.[282]

b. Bittlingmayer (1988) discusses a patent pool among aircraft manufacturers, in which firms aggregated their patents and made them available through a collective licensing arrangement.[283] This pooling arrangement was subject to repeated regulatory scrutiny, ultimately challenged by the Department of Justice and dismantled in a consent decree in 1975. The Department of Justice's charge was that the collective licensing agreement reduced competition in airplane innovation.

F. Additional Opinions Offered by Plaintiffs' Experts [redacted]

137. The opinions offered by Plaintiffs' experts Mr. Lasinski and Mr. Seeley [redacted]. First, experimentation in licensing models in other contexts, such as music or videos, does not imply a functioning market for licensing other data for training LLMs will emerge. Second, even if certain researchers at, or associated with,

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281 Whitman, William F., "Anti-Trust Cases Affecting the Distribution of Motion Pictures," *Fordham Law Review*, Vol. 7, No. 2, 1938, pp. 189-202, p. 190.

282 Gil, Alexandra, "Breaking the Studios: Antitrust and the Motion Picture Industry," *New York University Journal of Law & Liberty*, Vol. 3, No. 1, 2008, pp. 83-123, pp. 94-95. *See also*, "Orders Movie Trust To Be Broken Up; It Violates the Sherman Law, Federal Court in Philadelphia Holds. Exceeded Patent Rights Government Confers No License, Court Says, to Do What Anti-Trust Law Condemns.," *The New York Times*, October 2, 1915, available at https://www.nytimes.com/1915/10/02/archives/orders-movie-trust-to-be-broken-up-it-violates-the-sherman-law.html.

283 Bittlingmayer, George, "Property Rights, Progress, and the Aircraft Patent Agreement," *The Journal of Law & Economics*, Vol. 31, No. 1, 1988, pp. 227-248, pp. 1-2.

[redacted]

Microsoft's industrial research lab pursued a data dignity initiative, the existence of such initiative does not establish that there is or will be a functioning market for licensing data for training LLMs.[284]

1. Experimentation in Licensing Models in Other Contexts Does Not Imply a Functioning Market for Licensing Other Data for Training General-Purpose LLMs Will Emerge

138. Plaintiffs' experts Mr. Lasinski and Mr. Seeley [redacted][285]

139. Examples of licensing models in other contexts where the same content is embodied in a new technological format do not imply that a functioning market for licensing data for training exists or is likely to develop because those contexts are not comparable to licensing data for use in training. No one content provider holds the rights to the large volume and variety of data needed for training purposes, and it is difficult to assess the contribution of any individual work in LLM training, all of which makes it difficult to reach licensing agreements. The same is not true of licensing models for distributing ebooks, audio books, movies, and music:

a. Consumers read, listen to, and watch specific works. As a result, it is straightforward to measure usage and attribute revenue to individual works based on usage. For example, Spotify "pays royalties based on an artist's or songwriter's share of overall streams across the platform."[286] As another example, YouTube's Partner Program is a platform monetization program for video

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[284] Hurst Decl. Ex. 327, Seeley Rebuttal Report, ¶ 5; Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 12.

[285] Hurst Decl. Ex. 327, Seeley Rebuttal Report, ¶ 5; Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 12.

[286] "How Royalties Work on Spotify," *Spotify for Artists*, available at https://artists.spotify.com/royalties-guide.

[redacted]

content that creators choose to upload and display to users.[287] Compensation is tied to views of specific videos through advertising, YouTube Premium subscription revenue, and channel memberships, among other monetization features.[288] By contrast, using copyrighted works as data for training purposes does not involve distributing the original underlying works. Any particular work, including the Asserted Works, is one input to the model among a massive corpus that is used collectively to generate new and stochastic outputs in response to user prompts in different contexts.[289]

b. Music platforms must have particular works and catalogs that users demand. That demand gives platforms an additional economic incentive to incur the cost of licensing must-have works and broad catalogs, and helps explain why licensing infrastructure arises around those markets. Academic research has recognized this feature of music streaming markets. For example, Aguiar, Waldfogel, and Zeijen (2024) study music streaming platforms and playlists and explain that "[to] launch an appealing service, a platform needed to carry wide repertoires of music."[290] Meyn et al. (2023) explain that platforms compete "in procuring new high-quality content" and "platform assortment," and that "[a] platform's market position weakens when there is exclusive content from suppliers, and a competitive threat occurs when other platforms can potentially meet the needs of unsatisfied consumers with exclusive, better, or cheaper content."[291] By contrast,

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[287] "YouTube Partner Earnings Overview," *YouTube Help*, available at https://support.google.com/youtube/answer/72902?hl=en#zippy=%2Chow-do-i-earn-revenue%2Cwhats-my-revenue-sharezippy=%2Chow-do-i-earn-revenue%2Cwhats-my-revenue-share.

[288] "How to Earn Money on YouTube," *YouTube Help*, available at https://support.google.com/youtube/answer/72857?sjid=2570963591202315796-NA.

[289] "AI Demystified: Introduction to Large Language Models," *Stanford University*, December 13, 2024, available at https://uit.stanford.edu/service/techtraining/ai-demystified/llm.

[290] Aguiar, Luis, Joel Waldfogel, and Axel Zeijen, "Platform Power Struggle: Spotify and the Major Record Labels," *National Bureau of Economic Research Working Paper Series*, No. 33048, 2024, pp. 1-52 at p. 5.

[291] Meyn, Janek, Michael Kandziora, Sönke Albers, and Michel Clement, "Consequences of Platforms' Remuneration Models for Digital Content: Initial Evidence and a Research Agenda for Streaming Services," *Journal of the Academy of Marketing Science*, Vol. 51, 2023, pp. 114-131 at p. 116.

[redacted]

no one book is essential for training a general-purpose LLM and users do not choose LLMs on the basis of promises of the use of certain training data.[292] For example, if Spotify did not have available the latest Bad Bunny album then that would be challenging for customer acquisition and retention, but if an LLM does not use a certain author in its training corpus that does not pose a challenge for acquisition or retention of users.

c. Licensing in the music and video industries often relies on collective management organizations such as the American Society of Composers, Authors and Publishers ("ASCAP") or Broadcast Music Inc. ("BMI") to facilitate transactions.[293] Collective licensing initiatives have to navigate issues such as antitrust concerns given their role of aggregator in negotiating licenses on behalf of many rightsholders.[294] Government agencies in the United States and abroad ended up regulating and supervising collective agreements in this industry, including by requiring antitrust accommodations, and providing regulatory oversight and rate-setting mechanisms. For example, the United States has entered into consent decrees with ASCAP and BMI since 1941 "to remedy the competitive concerns that arise from the exclusive, collective, and blanket licensing of individual copyrights."[295]

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[292] Tucker Declaration, Section V.B.

[293] "Statement of the Department of Justice on the Closing of the Antitrust Division's Review of the ASCAP and BMI Consent Decrees: Remarks of the Assistant Attorney General Makan Delrahim," *Department of Justice*, January 15, 2021, available at https://www.justice.gov/atr/page/file/1355391/dl?inline; "ASCAP Music Licensing FAQs," *ASCAP*, available at https://www.ascap.com/help/ascap-licensing; "Music Licensing FAQs," *BMI*, available at https://www.bmi.com/licensing/faqs.

[294] Tucker Declaration, Section V.E.

[295] "Statement of the Department of Justice on the Closing of the Antitrust Division's Review of the ASCAP and BMI Consent Decrees: Remarks of the Assistant Attorney General Makan Delrahim," *Department of Justice*, January 15, 2021, available at https://www.justice.gov/atr/page/file/1355391/dl?inline.

[redacted]

2. Microsoft's "Data Dignity Initiative" Is not Evidence That a Functioning Market for Licensing Data for Training General-Purpose LLMs Exists

140. Plaintiffs' expert Mr. Lasinski [redacted][296]

141. Even if some individuals, in research positions at Microsoft, expressed a general view that some form of compensation may be desirable for creators and publishers, these statements are not evidence that a functioning market for licensing data for training general-purpose LLMs exists. It would still be necessary for market participants to identify the relevant rightsholders, value the relevant data, negotiate terms, allocate payments, and transact at the scale required for general-purpose LLMs.

142. Microsoft Research is an "industrial research lab" that has followed "an academic research approach" since it was established in 1991.[297] As part of this approach, Microsoft explained it made "a commitment to hiring the world's top minds and giving them the autonomy, resources, and support to conduct research in the areas they believe are most important to society and the planet."[298] An implication is that not all of the ideas and research generated by researchers at Microsoft Research are incorporated into Microsoft products or Microsoft's business decisions.

143. Jordan Usdan stated that "Data dignity predates ChatGPT and arose from the broader concept of compensating many kinds of contributors of data to digital systems prior to generative AI. Data dignity is not a Microsoft-wide initiative; it is a project conceived by a few individuals employed by Microsoft Research, such as Jaron Lanier, who was hired to bring diverse perspectives to Microsoft, and Glen Weyl. The Data Dignity effort was an incubation to lay out what was referred to as a manifesto and reflected the outside-the-box and idealistic thinking of these individuals. The Data Dignity efforts did not include an executed licensing program

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296 Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 105.

297 "We Advance Science and Technology to Benefit Humanity," *Microsoft*, available at https://www.microsoft.com/en-us/research/about-microsoft-research/.

298 "Our Research Lens," *Microsoft*, available at https://www.microsoft.com/en-us/research/.

[redacted]

for copyrighted material, a mechanism for clearing trade-book rights, or evidence that AI developers could assemble rights for training data at the scale required for general purpose LLMs."[299] Dr. E. Glen Weyl, research lead of the Plural Technology Collaboratory Catalyst Lab at Microsoft Research and who co-authored papers with Jaron Lanier on the topic of data dignity, testified that "[d]ata dignity has been a part of [his] role" at Microsoft since "as early as 2016."[300]

144. Jordan Usdan also stated that "[t]he only Microsoft efforts that was attempted under the Data Dignity ideology was the Trove app experiment, an internal incubation in which users were asked to complete data collection 'missions,' such as uploading images, in exchange for small payments. The Trove experiment predated the current LLM-training data acquisition work and ultimately failed because it did not develop a sufficiently large two-sided market of data buyers and data sellers. I am not aware of any other Microsoft experiment implementing Data Dignity beyond Trove."[301]

145. The fact that certain researchers at, or associated with, Microsoft Research pursued data dignity research projects does not change my opinion that a functioning market for licensing data for training general-purpose LLMs does not exist. As stated by Jordan Usdan: "the Data Dignity efforts did not include an executed licensing program for copyrighted material, a mechanism for clearing trade-book rights, or evidence that AI developers could assemble rights for training data at the scale required for general-purpose LLMs."[302] [redacted]

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[299] Usdan Declaration, ¶ 38.

[300] Lanier, Jaron and E. Glen Weyl, "A Blueprint for a Better Digital Society," *Harvard Business Review*, September 26, 2018, available at https://hbr.org/2018/09/a-blueprint-for-a-better-digital-society; Hurst Decl. Ex. 127, Deposition Transcript of Glen Weyl, Ph.D., March 25, 2026, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Weyl Deposition"), 14:15-23.

[301] Usdan Declaration, ¶ 41.

[302] Usdan Declaration, ¶ 38.

[303] Hurst Decl. Ex. 236, Lasinski Rebuttal Report, ¶ 105.

[redacted]

VI. A BALANCING OF STATIC AND DYNAMIC INCENTIVES SUGGESTS THAT THE ECONOMIC BENEFITS FROM LICENSING THE ASSERTED WORKS FOR TRAINING ARE UNLIKELY TO OUTWEIGH THE COSTS

146. From an economic perspective, copyright protection balances the incentives to produce creative works against the costs of allowing the public and future creators to access those works.[306] By granting creators a period of exclusivity, copyright policy provides dynamic incentives for innovation, which means creators expect returns on their efforts and are incentivized to create additional works in the future. At the same time, it limits access, which can increase the cost of using existing works as inputs into consumption, learning, and subsequent innovation.[307] Economics research has highlighted this tension.[308]

147. As discussed in **Section V.B,** LLM development is inherently cumulative in that models are trained on a large volume and variety of data to develop the ability to

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[304] Hurst Decl. Ex. 61, Deposition Transcript of Jaron Lanier, December 2, 2025, *In re: OpenAI, Inc. Copyright Infringement Litigation*, 1:25-md-03143 ("Lanier Deposition"), 33:15-34:1.

[305] Hurst Decl. Ex. 127, Weyl Deposition, 56:22-57:20.

[306] Tucker, Catherine, "Chapter 8: Potential Socioeconomic Biases of AI Policy," *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy: Context and Direction for Economic Research*, edited by Lutes, U.S. Copyright Office, 2025, p. 2.

[307] Kremer, Michael and Heidi Williams, "Incentivizing Innovation: Adding to the Tool Kit," *Innovation Policy and the Economy*, Vol. 10, No. 1, 2010, pp. 1-17 at p. 2, p. 13.

[308] Williams, Heidi L., "Intellectual Property Rights and Innovation: Evidence from the Human Genome," *Journal of Political Economy*, Vol. 121, No. 1, 2010, pp. 1-27 at p. 1, Section III; Murray, Fiona, Philippe Aghion, Mathias Dewatripont, Julian Kolev, and Scott Stern, "Of Mice and Academics: Examining the Effect of Openness on Innovation," *American Economic Journal: Economic Policy*, Vol. 8, No. 1, 2016, pp. 212-252 at pp. 213-215; Galasso, Alberto and Mark Schankerman, "Patents and Cumulative Innovation: Causal Evidence from the Courts," *Quarterly Journal of Economics*, Vol. 130, No. 1, 2015, pp. 317-369 at p. 321, p. 348.

[redacted]

capture statistical relationships between words across a broad range of contexts and use cases and generalize based on data patterns.[309] The usefulness of any individual work for training input is difficult to predict ex ante, and model performance depends on both the scale and diversity of the corpus of data. As a result, broad access to a wide range of materials, including the Asserted Works, increases the ability and incentives of firms developing general-purpose LLMs to innovate in the future.

148. Even if functioning markets for licensing data for training purposes could exist, a balancing of static incentives to use existing works as inputs into consumption, learning, and subsequent innovation against dynamic incentives to produce new creative works suggests requiring firms to seek licenses for training data could harm generative AI innovation. The cost of licensing may incentivize firms to train general-purpose LLMs on smaller datasets, data that are cheaper to license, or data sources that are free or have a low risk of copyright infringement, which could lead to bias in the models as discussed in **Section V.C**.

149. Requiring firms to seek licenses for training data may also preclude new AI innovations or firms from coming into existence if the costs of licensing data prevent firms from entering or introducing innovative new AI products. These effects are relevant not only for the pace of AI innovation itself, but also for broader economic and societal benefits. Generative AI technologies are increasingly used in a wide range of contexts. For example, the World Bank notes the use of "small AI" to aid farmers, such as the Nuru app which is used by farmers in Kenya "to photograph a diseased crop leaf and receive an instant diagnosis without needing continuous internet access."[310] The startup MedySapiens developed an AI technology enabling

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[309] Tucker, Catherine, "Chapter 8: Potential Socioeconomic Biases of AI Policy," *Identifying the Economic Implications of Artificial Intelligence for Copyright Policy: Context and Direction for Economic Research*, edited by Lutes, U.S. Copyright Office, 2025, p. 31.

[310] Kim, Sangbu and Christine Zhenwei Qiang, "Small AI, Big Impact: Harnessing Artificial Intelligence for Development," *World Bank Blogs*, September 10, 2025, available at https://blogs.worldbank.org/en/voices/small-ai-big-impact-harnessing-artificial-intelligence-for-development.

[redacted]

hospitals to aid in the quick diagnosis of genetic diseases in newborns.[311] Plaintiff, Michael Connelly [redacted][312]

150. Higher costs or barriers to development may also reduce the ability of firms operating in the United States to compete globally, relative to firms in other jurisdictions which may face different regulatory or data agreement constraints. For example, Bejara et al. (2023) find that China has a comparative advantage in developing, and is more likely to export, facial recognition AI than other countries, in part because firms developing the technology in China benefited from access to large-scale government datasets.[313]

151. On the other hand, agreement requirements are unlikely to incentivize Plaintiffs to create additional high-quality new works. The Asserted Works compete for people's attention and Plaintiffs' ability to compete for people's attention, and generate revenue, depends on the expertise of the publishing industry intermediaries used, the identity of the author, and book reviews, among other factors, as described in **Section IV.A**. In this context, Plaintiffs' incentives to create new works are driven primarily by the expected success of those works in capturing readers' attention, rather than by revenue from new ancillary sources. For example:

a. Sylvia Day testified [redacted]"[314]

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311 "Forbes Asia 100 to Watch 2025," *Forbes*, September 23, 2025, available at https://www.forbes.com/sites/forbesasiateam/2025/08/25/forbes-asia-100-to-watch-2025/.

312 Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 90:19-91:6.

313 Beraja, Martin, Andrew Kao, David Y. Yang, and Noam Yuchtman, "Exporting the Surveillance State Via Trade in AI," *National Bureau of Economic Research Working Paper Series*, No. 31676, 2023, p. 1, p. 13.

314 Hurst Decl. Ex. 128, Wolicki Deposition, 162:16-163:8.

b. Michael Connelly testified that [redacted][315]

c. Jodi Picoult testified that "[redacted]"[316]

d. Jonathan Franzen testified that [redacted][317]

e. Stacy Schiff testified that [redacted][318]

152. Any incremental revenue Plaintiffs could receive from licensing content for training purposes would therefore be unlikely to affect the expected returns from writing a new book substantially. As a result, any incremental revenue Plaintiffs could receive from licensing content for training purposes would not meaningfully increase incentives to produce additional high-quality content.

153. Plaintiffs fail to acknowledge that while copyright protection grants rightsholders exclusive rights to distribute and reproduce a work, it does not grant a monopoly on attention. Even if a market for licensing data for training purposes did exist, it would not shield the Plaintiffs from competition from other books, alternative forms of entertainment or sources of information, or new technologies that compete for consumers' attention. As discussed in **Section IV.A**, demand for the Asserted Works depends on a range of factors, including visibility, marketing, and consumer interest, rather than solely on the ability to control the use or reproduction of those

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315 Hurst Decl. Ex. 25, Connelly Deposition Individual and 30(b)(6), 90:5-9.

316 Hurst Decl. Ex. 87, Picoult Deposition, 14:6-16.

317 Hurst Decl. Ex. 35, Franzen Deposition, 21:18-22:18.

318 Hurst Decl. Ex. 106, Schiff Deposition Individual and 30(b)(6), 20:13-15.

[redacted]

works. As a result, licensing would not insulate Plaintiffs from competitive pressures or ensure sustained demand for the Asserted Works.

154. The ability of copyright protection to incentivize the creation of new works is also limited in practice because content creators may not be the ultimate beneficiaries of this protection. [redacted].

155. Creators not being the ultimate beneficiaries of copyright protection has also been observed in the music industry where the rights to music portfolios have increasingly been acquired by hedge funds.[320] In this context, the monetization of the music is completely divorced from artists and would be unlikely to affect their incentives to create new music. A similar dynamic exists with streaming, where studios control how content is distributed and monetized, while writers and other creators are typically paid upfront and receive additional payments that are not closely tied to how successful the work ultimately is.[321] As a result, even when a film or television show generates substantial downstream revenue, much of that revenue does not flow directly to the content creators and is unlikely to meaningfully affect their incentives to produce new content. Academic studies have found that creators' incentives to produce new works do not necessarily decline with reductions in revenue in the original markets for their copyrighted works. For example, Waldfogel (2011) finds that the quality of new recorded music did not decline following the introduction of Napster, a period of unusually low revenue to recorded music. Waldfogel (2011) also

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319 "[redacted]

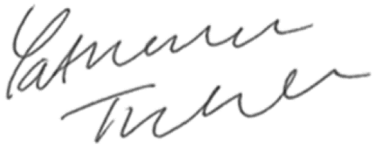
320 Hogan, Marc, "Same Old Song: Private Equity Is Destroying Our Music Ecosystem," *The New York Times*, March 18, 2024, available at https://www.nytimes.com/2024/03/18/opinion/private-equity-music-spotify.html.

321 Barnes, Brooks, "Writers, Seeking Pay Change for the Streaming Era, Prepare to Strike," *The New York Times*, April 30, 2023, available at https://www.nytimes.com/2023/04/30/business/media/hollywood-writers-strike.html.

[redacted]

concludes that "[r]evenue is, to be sure, important for financing the flow of new products; but revenue is a means toward the end of assuring continued production of new creative works."[322]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 3rd day of September, 2026 at Edinburgh, United Kingdom.



Catherine Tucker, Ph.D.

[322] Waldfogel, Joel, "Copyright Protection, Technological Change, and the Quality of New Products: Evidence from Recorded Music since Napster," *The Journal of Law & Economics*, Vol. 55, No. 4, 2012, pp. 715-740 at pp. 737-739.

APPENDIX A

Appendix A

CATHERINE TUCKER

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EDUCATION

Stanford University, Ph.D. in Economics (Advisor: Tim Bresnahan), 2005

Oxford University, BA in Politics, Philosophy and Economics, 1999

APPOINTMENTS

MIT Sloan, Sloan Distinguished Professor of Management Science and Professor of Marketing, September 2015 –

MIT Sloan, Faculty Chair EMBA Program, July 2022 - July 2026

MIT Sloan, Chair MIT Sloan PhD Program, July 2015 -2022

MIT, Co-Founder of the MIT CryptoEconomics Lab, 2018 -

MIT Sloan, Professor of Management Science, July 2015 –September 2015

National Bureau of Economic Research (NBER), Research Associate, September 2012 –

MIT Sloan, Mark Hyman Jr. Career Development Professor (with tenure), July 2012 – September 2015

MIT Sloan, Associate Professor of Management Science, July 2011 – July 2015

National Bureau of Economic Research (NBER), Faculty Research Fellow, May 2011 – September 2012

MIT Sloan, Douglas Drane Career Development Chair in IT and Management, July 2006 –

MIT Sloan, Assistant Professor of Marketing, July 2005 – June 2011

PUBLISHED/ACCEPTED PAPERS

1. 'Identifying Formal and Informal Influence in Technology Adoption with Network Externalities', *Management Science*, Vol. 55 No. 12, December 2008, pp. 2024-2039

2. 'Privacy Protection and Technology Diffusion: The Case of Electronic Medical Records' with Amalia Miller, *Management Science (Lead Article)*, Vol. 55 No. 7, July 2009, pp. 1077-1093

    - Republished as part of INFORMS 'Healthcare in the Age of Analytics' series

3. 'How Sales Taxes Affect Customer and Firm Behavior: The Role of Search on the Internet' with Eric Anderson, Nathan Fong and Duncan Simester, *Journal of Marketing Research*, Vol. 47 No. 2, April 2010, pp. 229-239

4. 'Growing Two-sided Networks by Advertising the User Base: A Field Experiment', with Juanjuan Zhang, *Marketing Science*, Vol. 29 No. 5, September-October 2010, pp. 805-814

5. 'Privacy Regulation and Online Advertising' with Avi Goldfarb, *Management Science*, Vol. 57 No. 1, January 2011, pp. 57-71

    - Nominated for Long Term Impact Award 2020

6. 'Search Engine Advertising: Channel Substitution when Pricing Ads to Context', with Avi Goldfarb, *Management Science*, Vol. 57 No 3, March 2011, pp. 458-470

7. 'Stuck in the Adoption Funnel: The Effect of Interruptions in the Adoption Process on Usage' with Anja Lambrecht and Katja Seim, *Marketing Science*, Vol. 30 No. 2, March-April 2011, pp. 355-367

8. 'Advertising Bans and the Substitutability of Online and Offline Advertising', with Avi Goldfarb, *Journal of Marketing Research (Lead Article)*, Vol. 48 No. 2, April 2011, pp. 207-227

9. 'Can Healthcare Information Technology Save Babies?' with Amalia Miller, *Journal of Political Economy*, Vol. 119 No. 2, April 2011, pp. 289-324

10. 'How Does Popularity Information Affect Choices? A Field Experiment' with Juanjuan Zhang, *Management Science*, Vol. 57 No. 5, May 2011, pp. 828-842

11. 'Online Display Advertising: Targeting and Obtrusiveness' with Avi Goldfarb, *Marketing Science (Lead Article and Discussion Paper)*, Vol. 30 No. 3, May-June 2011, pp. 389-404

    - 'Rejoinder-Implications of "Online Display Advertising: Targeting and Obtrusiveness' with Avi Goldfarb, *Marketing Science*, Vol. 30 No. 3, May-June 2011, pp. 413-415.

- Nominated for John D. C. Little Award
- Nominated for Long Term Impact Award 2017
- Long Term Impact Award 2018

12. 'Encryption and Data Security' with Amalia Miller, *Journal of Policy Analysis and Management*, Vol. 30 No. 3, Summer 2011, pp. 534-556

13. 'Paying With Money or With Effort: Pricing When Customers Anticipate Hassle' with Anja Lambrecht, *Journal of Marketing Research*, Vol. 49 No. 1, February 2012, pp. 66-82.

14. 'Heterogeneity and the Dynamics of Technology Adoption' with Stephen Ryan, *Quantitative Marketing and Economics*, Vol 10 No. 1, March 2012, pp 63-109.

15. 'Shifts in Privacy Concerns', *American Economic Review: Papers and Proceedings* with Avi Goldfarb, Vol. 102 No. 3, May 2012, pp. 349-53.

16. 'How does the Use of Trademarks by Intermediaries Affect Online Search?' with Lesley Chiou. *Marketing Science*, Vol 31 No. 5, September 2012, pp 819-837.

17. 'Active Social Media Management: The Case of Health Care' with Amalia Miller. *Information Systems Research*, Vol. 24 No. 1, March 2013, pp. 52-70.

    - Republished as part of Informs 'Healthcare in the Age of Analytics' series

18. 'Paywalls and the Demand for News' with Lesley Chiou. *Information Economics and Policy*, Vol. 25 No. 2, June 2013, pp. 61-69.

19. 'Days on Market and Home Sales' with Juanjuan Zhang and Ting Zhu. *RAND Journal of Economics*, Vol. 44 No. 2, Summer 2013, pp. 337-360.

20. 'When Does Retargeting Work? Timing Information Specificity' with Anja Lambrecht. *Journal of Marketing Research (Lead Article)* Vol. 50 No. 5, October 2013, pp. 561-576.

    - Paul E. Green Award for the 'Best article in the Journal of Marketing Research that demonstrates the greatest potential to contribute significantly to the practice of marketing research.'
    - William O'Dell Award. This award honors the JMR article published in 2013 that has made the most significant, long-term contribution to marketing theory, methodology, and/or practice

21. 'Health Information Exchange, System Size and Information Silos' with Amalia Miller. *Journal of Health Economics*, Vol. 33 No. 2, January 2014: pp. 28-42

22. 'Electronic Discovery and the Adoption of Information Technology' with Amalia Miller. Journal of Law, Economics, & Organization (Lead Article), Vol. 30. No. 2, May 2014, pp. 217-243

23. 'Social Networks, Personalized Advertising, and Privacy Controls.', *Journal of Marketing Research*, Vol. 51 No. 5, October 2014, pp. 546-562.

    - Citation of Excellence Award Emerald Publishing
    - Nominated for William O'Dell Award (2019)

24. 'Trademarks, Triggers, and Online Search' with Stefan Bechtold. *Journal of Empirical Legal Studies*, Vol. 11 No. 4, December 2014

25. 'The Reach and Persuasiveness of Viral Video Ads' *Marketing Science*, Vol. 34 No. 2, 2015, pp. 281-296

26. 'Privacy Regulation and Market Structure' with James Campbell and Avi Goldfarb. *Journal of Economics & Management Strategy*, Vol 24, No. 1, Spring 2015, pp. 47-73

27. 'Standardization and the Effectiveness of Online Advertising' with Avi Goldfarb. *Management Science*, Vol. 61 No. 11, 2015, pp. 2707-2719

28. 'Harbingers of Failure' with Eric Anderson, Song Lin and Duncan Simester. *Journal of Marketing Research (Lead Article)*, Vol. 52 No. 5, Oct 2015, pp. 580-592

    - William O'Dell Award. This award honors the JMR article published in 2015 that has made the most significant, long-term contribution to marketing theory, methodology, andor practice

29. 'The Effect of Patent Litigation and Patent Assertion Entities on Entrepreneurial Activity' with Stephen Kiebzak and Greg Rafert. *Research Policy*, Vol. 45 No. 1, February 2016, pp. 218-231

30. 'When early adopters don't adopt' with Christian Catalini. *Science*, Vol. 357, Issue 6347, 2017 pp. 135-136

31. 'Network Stability, Network Externalities, and Technology Adoption' in *Advances in Strategic Management*, Vol. 37, 2017, pp. 151-175

32. 'Digital Content Aggregation Platforms: The Case of the News Media.' with Lesley Chiou, *Journal of Economics & Management Strategy*, Vol. 26 No. 4, 2017, pp. 782-805

33. 'Should You Target Early Trend Propagators? Evidence from Twitter' with Anja Lambrecht and Caroline Wiertz (Lead Article). *Marketing Science*, Vol. 37 No. 2, 2018, pp. 177-199

34. 'Privacy Protection, Personalized Medicine and Genetic Testing' with Amalia Miller. *Management Science*, Vol. 64 No. 10, 2018, pp. 4648-4668.

35. 'Digital Economics' with Avi Goldfarb, *Journal of Economic Literature*, Vol. 57 No. 1, 2019, pp. 3-43

36. Collusion by Algorithm: Does Better Demand Prediction Facilitate Coordination Between Sellers? with Jeanine Miklós-Thal *Management Science*, Vol. 65 No. 4, 2019, pp. 1552-1561

37. 'Algorithmic Bias? An Empirical Study into Apparent Gender-Based Discrimination in the Display of STEM Career Ads ' with Anja Lambrecht. *Management Science* 2019, Vol 65, No 7, pp. 2966-2981

- ISMS Long Term Impact Award 2026
- TechSIG-Lazaridis Prize for Best Paper in Innovation, Technology and Interactivity for 2019

38. 'How Effective Is Black-Box Digital Consumer Profiling And Audience Delivery?: Evidence from Field Studies' with Nico Neumann and Tim Whitfield. *Marketing Science*, Dec, 2019, Vol 38, No 6, pp. 918-926 (Lead Article)

39. The Surprising Breadth of 'Harbingers of Failure' with Duncan Simester and Clair Yang. *Journal of Marketing Research* 2019, Vol 56, No. 6, pp 1034-1049

40. 'Consumer privacy and the future of data-based innovation and marketing.' with Alexander Bleier and Avi Goldfarb. *International Journal of Research in Marketing*, Sep 2020, Vol. 37, No 3, pp 466-480

41. 'Informational Challenges in Omnichannel Marketing: Remedies and Future Research' with Tony Cui, Anindya Ghose, Hanna Halaburda, Raghuram Iyengar, Koen Pauwels, S. Sriram, and Sriraman Venkataraman. *Journal of Marketing* 2021, Vol. 85, No. 1, pp. 103-120.

42. 'Product Quality and Performance in the Internet Age: Evidence from Creationist Friendly Curriculum' with Ananya Sen. *Journal of Marketing Research* 2022, Vol 59, No.1, pp 211-29.

43. 'Conducting Research in Marketing with Quasi-Experiments' with Avi Goldfarb and Yanwen Wang, (Lead Article) *Journal of Marketing* 2022, Vol 86, No 3, pp 1-20.

44. 'How Do Restrictions on Advertising Affect Consumer Search?' with Lesley Chiou, *Management Science*, 2022, Vol. 68, No. 2, pp. 866-882.

45. Scaling Smart Contracts via Layer-2 Technologies: Some Empirical Evidence. with Wiliam Cong, Xiang Hui, and Luofeng Zhou, *Management Science*, 2023 Vol. 69, No. 12, pp. 7306–7316.

46. 'Privacy Regulation and Barriers to Public Health' with Joe Buckman and Idris Adjerid. *Management Science*, 2023 Vol 69, No 1, pp. 342–350.

47. ' What Blockchain Can and Can't Do: Applications to Marketing and Privacy' with Alex Marthews. *International Journal of Research in Marketing*, 2023, Vol 40, No. 1, pp. 49-53.

48. 'What Type of Digital Advertising is Most Effective for B2B Prospecting? The Case of IT Decision-Makers' with Nico Neumann, Kumar Subramanyam and John Marshall. *Quantitative Marketing and Economics*, 2023, Vol. 21, pp. 519–571

49. 'Choosing to Discover the Unknown: The Effects of Choice on User Attention to Online Video Advertising' with Cheng Luo, Zhenhui (Jack) Jiang, Xiuping Li, and Cheng Yi, *Management Science*, 2023, Volume 70, No. 10, pp. 6983-7003.

50. 'TV Advertising and Online Sales: The Role of Inter-Temporal Substitution' with Anja Lambrecht and Xu Zhang. *Journal of Marketing Research*, 2024, Vol 61, No. 2, pp. 248-270.

51. 'Data Deserts and Black Boxes: The Impact of Socio-Economic Status on Consumer Profiling' with Nico Neumann, Levi Kaplan, Alan Mislove, and Piotr Sapiezynski. *Management Science*, 2024, Vol 70, No 11, pp.8003-8029.

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53. 'Apparent algorithmic discrimination and real-time algorithmic learning in digital search advertising.' with Anja Lambrecht. *Quantitative Marketing and Economics*, 2024, Vol. 22, pp. 357–387.

54. 'Combining Ad Targeting Techniques: Evidence from a Field Experiment in the Auto Industry' with Chadwick Miller and Albert Valenti. *Management Science*, 2025, Vol. 71 No 10, pp. 8586-8603

55. Decentralization, Blockchain, Artificial Intelligence (AI): Challenges and Opportunities with Xiang Hui, *Journal of Product Innovation Management*, 2025, Vol 42, no. 5, pp. 947–957.

56. 'The Intended and Unintended Consequences of Privacy Regulation for Consumer Marketing' with Jean-Pierre Dubé, John G. Lynch, Dirk Bergemann, Mert Demirer, Avi Goldfarb, Garrett Johnson, Anja Lambrecht, Tesary Lin, Anna Tuchman, *Marketing Science* 2025, Volume 44, Issue 5 September-October, pp. 975–984.

57. 'Privacy, Data and Competition: The Case of Apps For Young Children', with Grazia Cecere, Fabrice Le Guel, Pai-Lin Yin, and Vincent Lefrere. Forthcoming at *Academy of Management Perspectives*

58. 'The Digital Privacy Paradox: Small Money, Small Costs, Small Talk' with Susan Athey and Christian Catalini, and Alex Moehring, Forthcoming at *MIS Quarterly*

59. 'Does Mobile Technology Integration Enhance Complaint Resolution Efficiency and Equity? An Empirical Study of How An Omnichannel Approach Affects Speed of Resolution of Government Service Requests' with Shuyi Yu and Yifei Wang. Forthcoming at *Information Systems Research*.

60. 'How Effective Is Subsidizing Access to Broader Digital Educational Content? Evidence from a Large-Scale Field Study on a Reading App' with Jingcun Cao, Xiru Pan and Yifei Wang. Forthcoming at *Manufacturing and Service Operations Management*

61. 'Friend or Foe? Social Media and The Sharing of News' with Nico Neumann and Lesley Chiou. Conditionally accepted at *International Journal of Research in Marketing*.

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62. 'Modeling Social Interactions: Identification, Empirical Methods and Policy Implications' with Wes Hartmann, Puneet Manchanda, Harikesh Nair, Matt Bothner, Peter Dodds, David Godes and Karthik Hosanagar, *Marketing Letters*, Vol. 19 No. 3, December 2008, pp. 287-304

63. 'Search Engine Advertising - Examining a profitable side of the long tail of advertising that is not possible under the traditional broadcast advertising model' with Avi Goldfarb, *Communications of the ACM*, Vol. 51 No. 11, November 2008, pp. 22-24

64. 'Online Advertising', with Avi Goldfarb, *Advances in Computers*, Vol. 81, March 2011, Marvin Zelkowitz (Ed), Elsevier

65. 'Substitution between Online and Offline Advertising Markets', with Avi Goldfarb, *Journal of Competition Law and Economics*, Vol. 7 No. 1, March 2011, pp. 37-44

66. 'Online Advertising, Behavioral Targeting, and Privacy', with Avi Goldfarb, *Communications of the ACM*, Vol. 54 No. 5, May 2011, 25-27

67. 'Privacy and Innovation', *Innovation Policy and the Economy*, Vol. 11, 2012, Josh Lerner and Scott Stern (Eds), NBER

68. 'The Economics of Advertising and Privacy', *International Journal of Industrial Organization*, Vol. 30 No. 3, May 2012, pp. 326-329

69. 'Empirical Research on the Economic Effects of Privacy Regulation'. *Journal on Telecommunications and High Technology Law*, Vol. 10 No. 2, Summer 2012, pp. 265-272

70. 'Social Networks, Advertising and Antitrust', with Alex Marthews, *George Mason Law Review*, 2012, Vol 19 No 5., pp. 1211-1227.

71. 'Why Managing Customer Privacy Can Be an Opportunity' with Avi Goldfarb, *Spring 2013, Sloan Management Review*

72. 'The Implications of Improved Attribution and Measurability for Antitrust and Privacy in Online Advertising Markets', *George Mason Law Review*, Vol. 2 No. 2, pp. 1025-1054 (2013).

73. 'Patent Trolls and Technology Diffusion' *Standards, Patents and Innovations*, NBER Books, (2014), Edited by Timothy Simcoe, Ajay K. Agrawal, and Stuart Graham, Chapter 7

74. 'Privacy and the Internet' Chapter 11, *Handbook of Media Economics*, 2016, Edited by Simon Anderson and Joel Waldfogel

75. Frontiers of Health Policy: Digital Data and Personalized Medicine, *Innovation Policy and the Economy*, Vol. 15, 2016, Josh Lerner and Scott Stern (Eds), NBER

76. 'Impacts of Surveillance on Behavior' with Alex Marthews, in Gray, David C. and Henderson, Stephen (Editors), *The Cambridge Handbook of Surveillance Law* (2017).

77. 'On Storks and Babies: Correlation. Causality and Field Experiments, ' with Anja Lambrecht, *GfK Marketing Intelligence Review*, Vol 8. No 2. 2016

78. 'Field Experiments in Marketing,' with Anja Lambrecht, *Handbook of Marketing*

Analytics, Edited by Natalie Mizik and Dominique Hanssens, Edward Elgar Publishing, (2018)

79. 'Can Big Data Protect a Firm from Competition?', *CPI Chronicle*, January, 2017 with Anja Lambrecht

80. Network Effects and Market Power: What Have We Learned in the Last Decade? *Antitrust* Vol. 32 No 2., Spring 2018

81. 'Inequality, Privacy and Digital Market Design', with Avi Goldfarb, Chapter in *Fair by Design* edited by Scott Kominers and Alex Teytelboym, 2017, Oxford University Press

82. 'Digital Data, Platforms and the Usual [Antitrust] Suspects: Network Effects, Switching Costs, Essential Facility' *Review of Industrial Organization* Volume 54, pp 683–694 (2019)

83. 'Antitrust and Costless Verification: An optimistic and a pessimistic view of the implications of blockchain technology' with Christian Catalini, *Antitrust Law Journal*, Volume 82 Issue 3, 2019

84. 'Online Advertising and Antitrust: Network Effects, Switching Costs and Data as an Essential Facility.' April 2019, *'Competition Policy International'*

85. 'Blockchain and Identity Persistence', with Alex Marthews, Chapter in *Cryptoassets: Legal, Regulatory, and Monetary Perspective*, edited by Chris Brummer, Oxford University Press, 2019.

86. 'Privacy, Algorithms, and Artificial Intelligence' in *The Economics of Artificial Intelligence: An Agenda*, edited by V Ajay Agrawal, Joshua Gans, and Avi Goldfarb, University of Chicago Press, pp. 423 – 437 (2019)

87. 'Digital Marketing,' with Avi Goldfarb, in the *Handbook of the Economics of Marketing*, Vol 1, edited by JP-Dube and Peter Rossi, pp. 259-290, Elsevier (2019)

88. 'Privacy Policy and Competition', with Alex Marthews. *Brookings Papers* (2019)

89. 'Digital Infrastructure: Does the 'Coring' of Digital Platforms make them part of Digital Infrastructure?." (2020) in *Economic Analysis and Infrastructure Investment* edited by Edward L. Glaeser and James M. Poterba, University of Chicago Press

90. 'Competition in the Digital Advertising Market', *The Global Antitrust Report on the Digital Economy* (2021)

91. 'How Platforms Create Value Through Coring and Implications for Market Definition', *Competition Policy International* (2022)

92. 'Digital Disruption in Schooling and the Pandemic: Documenting the Digital Infrastructure Divide Among School Children' with Ananya Sen, *Societal Experts Action Network* (2022)

93. 'Algorithmic Exclusion', *Brookings Papers*, (2022)

94. 'The Purchase Funnel and Litigation' with Laura O'Laughlin in *Marketing and the Law*, Cambridge University Press: 29 June 2023. Edited by Jacob E. Gersen and Joel H. Steckel

95. 'Economics of Privacy: An Agenda', Chapter 2, *The Economics of Privacy*, University of Chicago Press, (2024)

96. 'How does Competition Policy need to change in a world of Artificial Intelligence?', Oxford Review of Economic Policy, (2024), Vol. 40, Issue 4, Winter 2024, pp. 834–842.

97. 'The Interplay of Consumer Privacy, Competition, and Regulation' Chapter 2 in Handbook on Data, Privacy and Competition Law (2025), Edward Elgar Publishing, pp 35-58, with Olga Kozlova Guglielmi and Philipp Tillmann

98. 'Introduction to the Special Issue on the Human-Algorithm Connection,' Management Science, Vol. 72, No. 1, 2026, pp. 1–13 with Felipe Caro, Jean-Edouard Colliard, Elena Katok, Axel Ockenfels, Nicolas Stier-Moses, and D. J. Wu

99. 'The Economics of Digital Advertising and Advertising Platforms', forthcoming at the Cambridge Handbook on Digital Platforms with Cecilia Caliandro, Emmanuel Frot and Devin Reilly.

BOOKS EDITED

100. 'The Political Economy of Artificial Intelligence,', with Ajay Agrawal, Joshua Gans, Avi Goldfarb, University of Chicago Press, 2026

101. 'The Economics of Artificial Intelligence: Health Care Challenges', with Ajay Agrawal, Joshua Gans, Avi Goldfarb, University of Chicago Press, 2024

102. 'The Economics of Privacy', with Avi Goldfarb, University of Chicago Press, 2024

103. 'The Evolution of Antitrust in the Digital Era: Essays on Competition Policy', with David Evans and Alan Fels Ao, Competition Policy International, 2020

104. 'Blockchain: The Insights You Need from Harvard Business Review' (HBR Insights Series), 2019

105. 'Economic Analysis of the Digital Economy', University of Chicago Press, 2015, with Avi Goldfarb and Shane Greenstein

106. 'The Economics of Digitization', with Avi Goldfarb and Shane Greenstein, Edward Elgar Publishing, 2013.

POLICY WRITING

107. OECD Roundtable on Privacy, Report on the 'Economic Value of Online Information', December 2010

108. Written Congressional Testimony on 'Internet Privacy: The Impact and Burden of European Regulation,' U.S. House Energy and Commerce Committee, September 2011

109. Written Congressional Testimony on 'Algorithms: How Companies' Decisions About Data and Content Impact Consumers,' U.S. House Energy and Commerce Committee, November 2017

PAPERS UNDER REVIEW

110. 'Deplatforming and the Control of Misinformation: Evidence from Parler' with Saharsh Agarwal and Uttara M Ananthakrishnan. Revise and Resubmit at *Information Systems Research*.

111. 'The Chilling Effect of Dobbs: A Study of Mobile Health Apps Usage' with Naveen Basavaraj and Uttara M Ananthakrishnan. Revise and Resubmit at *Information Systems Research*.

112. 'Algorithmic Influence: Empirical Evidence from Microlending' Reject and Resubmit at *Production and Operations Management* with Jianfeng Guo, Xitong Li and Cathy Yang.

113. 'Optimizing Sustainable Choices: Evidence from a Large-Scale Randomized Field Experiment on Household Recycling' with Linyi Li and Rui Yan and Rowan Wang. Revise and Resubmit at *Marketing Science.*

114. Does Firm Size Influence the Collection of Sensitive Data?: A Study of Child-Orientated Apps. with Grazia Cecere and Vincent Lefrere and Pai-Ying Lin. Revise and Resubmit at *Journal of Marketing Research*

115. 'Social Distancing, Internet Access and Inequality' with Lesley Chiou. Revise and Resubmit at *Management Science*.

116. 'Privacy Regulation and Ad-Tech Consolidation' with Rozhina Ghanavi and Sepideh Hosseini. Revise and Resubmit at *Management Science*.

117. 'Interoperability, Spillovers and Mandates in Governmental IS systems: Evidence from Prescription Drug Monitoring Programs' with Nan Clement and Xiru Pan and Niam Yaraghi. Revise and Resubmit at Management Science.

118. 'The Activity Illusion: Broadcasting GenAI Output Backfires – Evidence from a Field Experiment' With Linyi Li, Revise and Resubmit at *Journal of Marketing Research*

119. 'Using Informational Interventions to Improve Smart-Linear TV Content Engagement: Evidence from a Large-Scale Randomized Field Experiment' with Raveesh Mayya and Siva Viswanathan

120. 'Private Sector Spillovers from a Government-Sponsored Centralized Procurement Platform: A Field Study' with Jingcun Cao and Xiru Pan.

121. 'Do Algorithms Help Firms Achieve Their Targeting Objectives?' with Cathy Cao.

122. 'Algorithmic Bias and Historical Injustice: Race and Digital Profiling' with Abigail Matthew and Amalia Miller

123. 'Tradeoffs in Automated Political Advertising Regulation: Evidence from the COVID-19 Pandemic' with Grazia Cecere, Clara Jean, and Vincent Lefrere

    - Best Paper Award Winners at the Digital Transformation Society 2025 Conference

124. 'Computer Algorithms Prefer Headless Women' with Grazia Cecere, Clara Jean, and M. Menant.

125. 'The Shifters and Virality of Hate Speech Online' with Uttara Ananthakrishnan

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WORK IN PROGRESS

Data Analysis

126. 'Mergers and Data: Evidence from Healthcare' With Nan Clement and Amalia Miller

127. 'The Role of Outdoor Advertising in the Reemergence of Banned Products' with Natasha Foutz, Fenrou Wang and Weiguang Wang

128. 'AI and Privacy Regulation: Evidence from the Marketing of Medical Devices' with Nan Clement

129. 'The Effects of Increased Centralization in Matching on Influencer Marketing' with Jingcun Cao and Xiru Pan

130. 'Creativity and AI' with Jens Foerderer and Franziska Vogel

131. 'Algorithmic Copyright Enforcement: A case study' with Sverrir Arnorsson and Stefan Bechtold and Christian Peukert

Data Collection

132. 'Privacy Regulation and Education IT' with Amalia Miller and Avi Goldfarb

133. 'The Lack of Appeal of Cross-Partisan Appeals: Evidence from an Experiment on Facebook' with Christina LaChapelle

134. 'Measurement and Creativity in Advertising: A Field Study' with Jingcun Cao and Xiru Pan

135. 'What Do Marketing Jobs Tell us About the AI Cliff' with Rozhina Ghanavi and Avi Goldfarb

136. 'How Generative AI Changes Search for Medical Information' with Lesley Chiou

Manuscripts

137. 'Rules For a Nascent Domain: Technological Innovation and Regulatory Uncertainty' with Christian Catalini

138. 'Big Bad Data: The Case of For-Profit College Advertising' with Avinash Collis and Avi Goldfarb

139. 'Spillovers from Product Failure' with Amalia Miller

140. 'Social Advertising: How Advertising that Explicitly Promotes Social Influence Can Backfire'.

141. 'Government Surveillance and Internet Search Behavior' with Alex Marthews

142. 'A New Method of Measuring Online Media Advertising Effectiveness: Prospective Meta-Analysis in Marketing' with Gui Liberali, Glen L. Urban, Benedict G. Dellaert, Yakov C. Bart, and S. Stremersch.

143. 'Patent Trolls and Technology Diffusion: The Case of Medical Imaging'

144. 'Empirically evaluating two-sided network effects: The case of electronic payments'

145. 'Personalizing mental fit for online shopping applications - How the success of recommendations depends on mental categorization and mental budgeting' with Oliver Emrich and Thomas Rudolph.

146. 'Third-Party Certification: The Case of Medical Devices' with Cristina Nistor

147. 'Tensile Promotions in Display Advertising' with Anja Lambrecht

148. 'Guns, Privacy and Crime' with Alessandro Acquisti

149. 'The Role of Delayed Data in the COVID-19 Pandemic', with Yifei Wang

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HONORS AND AWARDS

2026	Donald J Morrison Long Term Impact Award
2024	Academic Fellow, Marketing Science Institute
2020	CITI Fellowship (Columbia University Institute of TeleInformation)
2020	O'Dell Award
2020	TechSIG-Lazaridis Prize for Best Paper in Innovation, Technology and Interactivity for 2019
2018	ISMS Long Term Impact Award
2018	O'Dell Award
2018	MSI Scholar
2017	Congressional Testimony on 'Algorithms: How Companies' Decisions About Data and Content Impact Consumers'
2017	Nominated for Teacher of the Year award (Also in 2012, 2010 and 2009)
2015	Erin Anderson Award
2014	Paul E. Green Award
2013	Teacher of the Year Award, MIT Sloan
2013	Jamieson Prize for Excellence in Teaching
2012	Garfield Economic Impact Award for Best Paper in Health Economics
2011	WHITE Award for best paper in the Economics of Healthcare IT
2011	Public Utility Research Prize for the best paper in regulatory economics
2011	NSF CAREER Award
2011	MSI Young Scholar
2010	Management Science Distinguished Service Award
2004	Koret Foundation Scholar, Stanford Institute for Economic Policy Research Fellowship
2004	Fourth Annual Claire and Ralph Landau Student Working Paper prize

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INVITED SEMINARS

Universities

1. April 2027, University of Chapel Hill
2. April 2026, Business Technologies, Tepper School of Business

3. January 2026, Strategic Management Group, Toronto
4. Dec 2025, The Hamilton Project Brookings
5. May 2025, The Hamilton Project, Brookings
6. April 2025, Chapman University, School of Management
7. March 2025, Notre Dame University, Keynote Speech
8. March 2025, IESE, Barcelona, Keynote
9. March 2025, Bocconi, Italy, Keynote
10. January 2025, Georgetown University, Marketing Group
11. January 2025, University of Miami, Marketing Group
12. November 2024, Federal Trade Commission, Economics Group
13. May 2024, UC Santa Barbara, DEFI Group,
14. February 2024, UC Berkeley, Marketing Group
15. January 2024, Cornell University, Marketing Group
16. August 2023, National University of Singapore
17. August 2023, School of Business, Ewha Womans University, Seoul, Korea
18. May 2023, University of Washington
19. May 2023, TOM Group, Harvard Business School
20. April 2023, Tilburg University
21. April 2023, Yale University
22. March 2023, Emory University
23. March 2023, University of Zurich, Cryptoeconomics group
24. February 2023, CBER Forum
25. February 2023, University of Arizona
26. February 2023, Columbia University, Marketing Group
27. February 2023, New York University, IS Group
28. November 2022, LSE, Marketing Group
29. September 2022, Advertising Research Group Amazon
30. March 2022, Marketing Group, Rotman, University of Toronto
31. March 2022, IT Group, Krannert School, Purdue University
32. November 2021, Tufts University, Economics Department
33. October 2021, McGill University, Marketing Group
34. September 2021, Stockholm Business School
35. May 2021, Safegraph Seminar
36. April 2021, Marketing Science Institute
37. April 2021, George Mason University, Law and Economics Seminar
38. March 2021, Marketing Group, University of Michigan
39. March 2021, BIDT, Bavarian Academy of Sciences and Humanities
40. February 2021, University of Virginia, Law and Economics Seminar
41. January 2021, Marketing Group, Carnegie Mellon University
42. December 2020, Boston University, Boston Digital Leadership Forum
43. December 2020, Toulouse University, France
44. November 2020, Luohan Academy, Platform Economy and Market Dynamics, Virtual Seminar
45. November 2020, Johns Hopkins University
46. October 2020, Wharton, Marketing Group

47. October 2020, ITAM, Mexico City
48. September 2020, Econ, Stats and ML Team, Etsy
49. June 2020, CMU Seminar
50. April 2020, Virtual Digital Economy Seminar
51. March 2020, IS group, University of Minnesota
52. February 2020, Georgia Institute of Technology, GA
53. December 2019, Harvard Business School Field Experiments Seminar, Cambridge, MA
54. November 2019, Bank of Canada, Ottawa
55. May 2019, Joint-Economics Seminar, Autonomous University of Barcelona) and the IAE (Institute for Economic Analysis)
56. March 2019, LMU Center for Advanced Management Studies in Munich
57. February 2019, Berlin Applied Micro Seminar
58. January 2019, Marketing Group, University of Bologna
59. January 2019, Marketing Group, University College, London
60. January 2019, Marketing Group, London Business School
61. November 2018, Marketing Group, HEC Paris, France
62. November 2018, Management Group, Cass Business School, City University of London, UK
63. November 2018, Marketing Group, SOAS University of London
64. November 2018, All Souls College, Oxford
65. November 2018, Economics Group, Paris Telecom
66. October 2018, Marketing Group, University of Amsterdam, Netherlands
67. October 2018, Marketing Group, King's Business School, King's College, London
68. September 2018, Marketing Group, University of Frankfurt, Germany
69. June 2018, Harbin Institute of Technology, China
70. February 2018, IS/OM Group, New York University, NY
71. November 2017, Marketing Group, Rochester University, NY
72. October 2017, Marketing Group, Maryland University, MD
73. May 2017, Marketing Group, Old Dominion University
74. April 2017, Marketing Group, University of Southern California
75. March 2017, Marketing Group, Arison School of Business, IDC, Israel
76. January 2017, Distinguished Speakers Series, McGill University, Canada
77. September 2016, Technology Group, Harvard Business School, MA
78. August 2016, Southern Jiatong University, Sichuan, China
79. May 2016, Chapman University, Marketing Group
80. April 2016, Carnegie Mellon University, Public Policy Group
81. April 2016, Harvard Business School, Entrepreneurial Management Group
82. March 2016, INSEAD, Marketing Group
83. March 2016, University of Paris-Sud, Privacy Research Group
84. March 2016, Vienna University of Economics and Business, Marketing Group
85. September 2015 University of Maryland, IS Group
86. June 2015, Marketing Group, University of Cambridge, UK
87. May 2015, Marketing Group, University of Texas at Dallas, TX
88. March 2015, Health Policy Group, Georgia State University, GA
89. March 2015, Marketing Group, University of Colorado, CO

90. February 2015, Strategy Group, University of North Carolina, NC
91. January 2015, Marketing Group, Emory University, GA
92. December 2014, OPIM, Wharton School of Management, PA
93. October 2014, Economics Department, Yale University, CT
94. September 2014, Marketing Group, Boston University, MA
95. March 2014, Technology Group, University of California at Berkeley, CA
96. January 2014, Marketing Department at Texas A&M
97. November 2013, Marketing Group, University of California at Berkeley, CA
98. October 2013, Marketing Group, Tulane University, LA
99. October 2013, Marketing Group, University of Houston, TX
100. May 2013, Tuck School of Management, Dartmouth University, NH
101. March 2013, Economics Department, University of Toulouse
102. March 2013, Marketing Group, Rotterdam University
103. March 2013, Economics Department, University of Zurich
104. March 2013, Marketing group, Georgia Tech
105. January 2013, Anderson School, UCLA
106. January 2013, Marketing Group, CMU
107. October 2012, Marketing Group, Stanford University
108. October 2012, Marketing Group, Columbia University
109. October 2012, Marketing Group, University of Texas at Austin
110. September 2012, Marketing Group, Harvard Business School
111. June 2012, Strategy Group, London Business School
112. March 2012, Marketing Group, Cornell
113. February 2012, IS Group, Indian School of Business
114. February 2012, Marketing Group, Wharton
115. January 2012, Marketing Group, UCLA
116. November 2011, Marketing Group, University of Rochester
117. October 2011, Marketing Group, University of Zurich
118. October 2011, Department of Law and Economics, Swiss Federal Institute of Technology, Zurich
119. May 2011, Marketing Group, National University of Singapore
120. May 2011, IS Group, National University of Singapore
121. May 2011, Strategy Group, LMU Munich
122. May 2011, Marketing Group, New York University
123. March 2011, Marketing Group, Florida University
124. February 2011, IS Group, New York University
125. November 2010, European School of Management and Technology
126. October 2010, Marketing Group, Yale University
127. October 2010, Networked Business Group, Harvard Business School
128. September 2010, TIES Group, MIT Sloan
129. July 2010, Department of Economics, University of Mannheim
130. March 2010, Marketing Group, Wharton School, University of Pennsylvania
131. January 2010, Marketing Group, University of Michigan
132. November 2009, Marketing Group, University of California at Berkeley
133. October 2009, Digital Business Seminar, MIT Sloan

134. December 2008, Marketing Group, MIT Sloan
135. November 2008, Marketing Group, Rady School of Business, UCSD
136. September 2008, Strategy Group, MIT Sloan
137. May 2008, Digital Strategy Group, Tuck School of Business, Dartmouth University
138. April 2008, Kellogg Management and Strategy Group, Northwestern University
139. March 2008, Marketing Group, Duke University
140. March 2008, Strategy Group, Chicago GSB
141. July 2007, Marketing Group, London Business School, London, UK
142. April 2007, Marketing Group, Chicago GSB
143. March 2007, Marketing Group, Rotman School, University of Toronto
144. November 2005, Economics Department, Harvard University
145. October 2004-February 2005 (Job Market): NYU Stern, University of Michigan, University of Arizona, University of British Columbia, Federal Reserve Board, Federal Reserve Bank of New York, Harvard Business School, Kellogg, MIT Sloan, Federal Reserve Bank of Chicago, Stanford Economics Department

Other

146. March 2026, OECD, 'Is AI across the stack competitive or concentrated?' Panel
147. September 2025, International Development Bank
148. July 2025, World Bank
149. October 2023, Federal Reserve Board, DC
150. April 2021, American Enterprise Institute
151. June 2020, EE Times- Privacy and Security during Covid-19
152. May 2020, The Digital Economy & The Coronavirus, Bertelsmann Foundation Seminar
153. April 2020, Technology Policy Institute
154. October 2018, Digital Competition Expert Panel, HM Treasury, UK
155. October 2018, Competition and Markets Authority, UK
156. January 2018, IMF
157. December 2017, Technology Policy Institute
158. October 2016, Federal Communications Commission
159. April 2015, Federal Communications Commission
160. November 2014, Office of Research at the Consumer Financial Protection Bureau
161. April 2014, Big Data Working Group, The White House.
162. February 2014, Main Street Patent Coalition, Panel hosted at the Senate by Senator Orrin Hatch
163. July 2013, Federal Communications Commission
164. August 2012, DG Competition, European Commission, Brussels
165. August 2012, Technology Policy Institute Conference, Aspen
166. December 2011, Havas Digital, New York
167. June 2011, Eneca
168. September 2010, Federal Trade Commission
169. September 2010, Google European Public Policy Unit, Paris
170. July 2009, Information Technology and Innovation Foundation, Washington DC

Presentations of Research at Conferences

1. June 2025, Marketing Science, Washington, DC
2. June 2025, ISMS Doctoral Consortium
3. May 2024, Keynote, International IO Conference, Boston, MA
4. March 2024, OxREP editorial seminar, online
5. January 2024, AEA Continuing Education, Digital Economics, San Antonio, TX
6. November 2023, Georgetown and World Bank Artificial Intelligence Conference
7. November 2023, Marketing Science Institute Meetings on Privacy and Policy
8. June 2023, Marketing Science, Miami, FL
9. June 2023, Doctoral Consortium, Miami, FL
10. June 2023, Harvard Business School, Marketing Camp, Boston, MA
11. April 2023, University College London, Competition Law and Policy in a Data-Driven Economy
12. December 2022, Keynote 'Conference on Artificial Intelligence, Machine Learning and Business Analytics, Harvard University, Boston, MA
13. May 2022, Keynote ' AI and Analytics for Social Causes' conference, University of Maryland, College Park
14. December 2021, Keynote, 4th Research on Innovation, Science and Entrepreneurship Workshop, Max Planck Institute
15. November 2021, Keynote, Tokenomics, NYU
16. June 2021, Marketing Science
17. June 2021, OECD workshop on the Value of Data
18. June 2021, Chief Competition Economist ECN working group Annual Meeting
19. May 2021, International Finance Corporation, World Bank IFC Digital Jobs
20. May 2021, G20 Framework Working Group Seminar on Data Access and Availability
21. May 2021, Data and innovation: solutions and business models in the digital economy (Brazil)
22. March 2021, Digital Economics Seminar, Digital Tutorial
23. December 2020, Digital Economics Research Network Conference
24. December 2020, Conference on Artificial Intelligence, Machine Learning, and Business Analytics
25. December 2020, Health Systems Innovation Advisory Board Meeting
26. November 2020, 2nd Luohan Academy Frontier Dialogue - Platform Economy and Market Dynamics
27. October 2020, Policy Toolkit for a Better Europe, European Commission
28. September 2020, ICN Annual conference
29. June 2020, Marketing Science
30. June 2020, International Competition Network, ' Competition law enforcement at the intersection of Competition, Consumer Protection, and Privacy'
31. November 2019, ABA Fall Forum: The Tech Summit, Washington DC.
32. November 2019, Annual Challenges to Antitrust in a Changing Economy, Harvard Law School
33. October 2019, World Bank Platforms Summit, Washington DC.
34. September 2019, Economics of AI Doctoral Consortium, Toronto

35. July 2019, Quantitative Marketing and Structural Econometrics Workshop, Northwestern University
36. June 2019, Marketing Science, Rome
37. June 2019, Keynote Speaker, ZEW Conference on the Economics of Information and Communication Technologies, Mannheim
38. June 2019 Keynote Speaker, Munich Summer Institute, Munich
39. May 2019, Keynote Speaker, 3rd Doctoral Workshop on the Economics of Digitization, Brussels
40. November 2019, FTC Hearings on Big Data, Privacy, and Competition
41. October 2019, FTC Hearings on Platform Economics, George Mason University
42. June 2018, Antitrust and Big Data, Penn Wharton China Center Conference, Beijing
43. June 2018, Marketing Science
44. May 2018, Boston College Digital Innovation Workshop
45. December 2017, Mobile Marketing and Big Data Conference, NYU
46. September 2017, NBER Economics of AI Conference
47. July 2017, BU Platforms Conference
48. July 2017, NBER Digitization Meetings
49. June 2017, Marketing Science
50. June 2017, Regulation of Algorithms, Berlin
51. May 2017, Boston College Digital Innovation Workshop
52. November 2016, ICANN Public Meetings
53. October 2016, Conference on Digital Experimentation, Cambridge, MA
54. September 2016, FTC Consumer Protection Conference, Washington, DC
55. September 2016, George Washington roundtable on Platforms, Washington DC
56. May 2016, Competing with Big Data, Bruegel, Brussels, Belgium
57. April 2016, NBER Innovation and Policy, Washington DC
58. April 2016, Financial Services Roundtable, NYC
59. March 2016, Digitization Tutorial, NBER
60. January 2016, PrivacyCon, FTC Conference, Washington, DC
61. July 2015, NBER Law and Economics (co-author presented), Cambridge, MA
62. July 2015, NBER Economics of Digitization, Cambridge, MA
63. June 2015, 'The Future of Research in the Digital Society', French Ministry of Culture and Communication, Toulouse School of Economics, Paris, France
64. June 2015, Marketing Science, Baltimore, MD
65. June 2015, Doctoral Consortium, Baltimore, MD
66. March 2015, IP Leadership Conference, Washington, DC
67. February 2015, Patents in Theory and Practice, Washington, DC
68. June 2014, Marketing Science, Atlanta, GA
69. May 2014, Boston College Social Media Workshop, Boston, MA
70. January 2014, American Economic Association Meetings
71. July 2013, Marketing Science, Istanbul, Turkey
72. June 2013, Searle Center Conference on Internet Search and Innovation, Chicago, IL
73. April 2013, Brown University Mini-Networks Conference
74. February 2013, WSDM 2013 Conference (Keynote Speaker), Rome, Italy
75. January 2013, American Economic Association Meetings, San Diego, CA (Co-author

presented)
76. December 2012, New York Computer Science and Economics Day
77. November 2012, Search and Competition Conference, Melbourne Australia
78. October 2012, Economics of Personal Data, (Keynote Speaker), Amsterdam
79. August 2012, Amsterdam Symposium on Behavioral and Experimental Economics
80. July 2012, Fudan University Marketing Research Symposium, China
81. June 2012, Searle Center Conference on Internet Search and Innovation, Chicago, IL
82. June 2012, Innovation, Intellectual Property and Competition Policy Conference, Tilburg, Netherlands
83. June 2012, Marketing Science, Boston, MA
84. June 2012, Social Media and Business Transformation, Baltimore, MD
85. May 2012, The Law and Economics of Search Engines and Online Advertising, George Mason University, Arlington, VA
86. February 2012, NBER Economics of Digitization (co-author presented), Cambridge, MA
87. January 2012, Symposium on Antitrust and High-Tech Industries, George Mason University, VA
88. January 2012, Patents, Standards and Innovation, Tucson, AZ
89. January 2012, Econometric Society Meetings, Chicago, IL
90. January 2012, AEA Meetings (2 papers), Chicago, IL
91. December 2011, Economics of Privacy Workshop, Boulder, CO
92. November 2011, Economics and Computation Day, Cambridge, MA
93. November 2011, HBS Strategy Research Conference, Boston, MA
94. November 2011, The Law and Economics of Internet Search and Online Advertising Roundtable, George Mason University, Arlington, VA
95. November 2011, Patents Statistics for Decision Makers, Alexandria, VA
96. October 2011, Workshop on Health IT and Economics, Washington, DC
97. October 2011, Innovation, Organizations and Society, University of Chicago, IL
98. October 2011, Direct Marketing Research Summit, Boston, MA
99. September 2011, Invited Session 'Economics and Marketing', EARIE, Stockholm, Sweden.
100. July 2011, NBER Economics of Digitization, Cambridge, MA
101. July 2011, SICS, Berkeley, CA
102. June 2011, The Law and Economics of Search Engines and Online Advertising, George Mason University, Arlington, VA
103. June 2011, Workshop on the Economics on Information Security, Washington, DC
104. June 2011, Marketing Science (3 papers), Houston, TX
105. June 2011, Searle Center Conference on Internet Search and Innovation, Chicago, IL
106. May 2011, Boston College Social Media Workshop, Boston, MA
107. May 2011, Technology Pricing Forum, Boston, MA
108. April 2011, NBER Innovation Policy and the Economy, Washington, DC
109. April 2011, International Industrial Organization Conference (3 papers), Boston, MA
110. March 2011, Technology Policy Institute, Washington, DC
111. February 2011, NBER Economics of Digitization (co-author presented), Palo Alto, CA
112. January 2011, Sixth bi-annual Conference on The Economics of Intellectual Property, Software and the Internet (2 papers, plenary speaker), Toulouse, France
113. January 2011, MSI Young Scholars Conference, Park City, UT

114. December 2010, Workshop on Information Systems and Economics, Washington University of St. Louis (co-author presented), St. Louis, MO
115. December 2010, OECD Economics of Privacy Roundtable, Paris, France
116. November 2010, Net Institute Conference, New York, NY
117. October 2010, Workshop on Media Economics and Public Policy (co-author presented), New York, NY
118. October 2010, Workshop on Health IT and Economics, Washington, DC
119. September 2010, ITIF and CAGW Privacy Working Group Meetings, Washington, DC
120. September 2010, Medical Malpractice Conference, Mohegan, CT
121. September 2010, Search and Web Advertising Strategies and Their Impacts on Consumer Workshop, Paris, France
122. July 2010, NBER Meetings (IT), Cambridge, MA
123. July 2010, NBER Meetings (Healthcare and IT), Cambridge, MA
124. July 2010, SICS, Berkeley, CA
125. July 2010, Keynote Speaker, 8th ZEW Conference on the Economics of Information and Communication Technologies, Mannheim, Germany
126. June 2010, American Society of Health Economists Conference, Cornell, NY
127. June 2010, Marketing Science (2 papers), Koeln, Germany
128. June 2010, Workshop on the Economics of Information Security (2 papers), Harvard, MA
129. January 2010, AEA Meetings, Atlanta, GA
130. December 2009, Workshop on Information Systems and Economics, Scottsdale, AZ
131. November 2009, WPP/Google Marketing Awards, Cambridge, MA
132. July 2009, NBER meetings (IT), Cambridge, MA
133. June 2009, IHIF Debate on Privacy, Washington, DC
134. June 2009, Marketing Science, Ann Arbor, MI
135. April 2009, International Industrial Organization Conference, Boston, MA
136. January 2009, Information Security Best Practices Conference, Philadelphia, PA
137. January 2009, Modeling Social Network Data Conference, Philadelphia, PA
138. July 2008, NBER Meetings (Productivity), Cambridge, MA
139. July 2008, SICS, Berkeley, CA
140. July 2008, Fourth Workshop on Ad Auctions, Chicago, MA
141. June 2008, Marketing Science, Vancouver, BC
142. May 2008, International Industrial Organization Conference, Richmond, VA
143. April 2008, Net Institute Conference, New York, NY
144. November 2007, NBER Health Meetings (Co-author presented), Boston, MA
145. July 2007, SICS, Berkeley, CA
146. June 2007, Workshop on the Economics of Information Security, Pittsburgh
147. June 2007, Choice Symposium, Philadelphia, PA
148. May 2007, eCommerce Research Symposium, Stamford, CT
149. April 2007, Net Institute Conference, New York, NY
150. April 2007, International Industrial Organization Conference, Savannah, GA
151. March 2007, Health Economics Conference, Tucson, AZ
152. February 2007, NBER Winter Meetings, Palo Alto, CA
153. January 2007, Economics of the Software and Internet Industries (2 Papers), Toulouse, France

154. October 2006, QME Conference, Stanford University, CA
155. June 2006, Marketing Science, Pittsburgh, PA
156. April 2006, International Industrial Organization Conference, Boston, MA
157. October 2005, NEMC Conference, Boston, MA
158. October 2005, TPRC Conference, Washington, DC
159. June 2005, CRES Industrial Organization Conference, Washington University in St. Louis, MO
160. July 2002, Payment Systems Conference, IDEI, Toulouse, France

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PROFESSIONAL SERVICE

- **Senior Editor**, Marketing Science
- **Director** of the program on Digital Economics and Artificial Intelligence at The National Bureau of Economic Research, 2021-
- Advisory Board Member, Stanford Computational Antitrust Project, 2025-
- **Director** of the program on the Economics of Digitization and Co-Director of the program on the Artificial Intelligence at The National Bureau of Economic Research, 2018-2020
- **Vice President (Education)**, ISMS 2019-2021
- **Associate Editor:** Management Science, Marketing Science, Journal of Marketing Research, International Journal of Research in Marketing
- **Associate Editor:** Information Systems Research, Special Issue on Social Media and Business Transformation
- **Departmental Editor:** Quantitative Marketing and Economics
- **Editor:** The Economics of the Internet, Palgrave Dictionary of Economics
- **Co-Editor:** NBER: The Economics of Digitization - An Agenda
- **Co-Editor:** Information Economics and Policy, Special Issue on Economics of Digital Media Markets
- **Editorial Review Board:** Journal of Marketing, ISR Special Issue on Managing Digital Vulnerabilities, Journal of Economic Literature

- **Conference Program Committees**
  - 2025 Co-organizer, Summer Institute - NBER Conference on Digital Economics and Artificial Intelligence
  - 2025 Co-organizer, Winter Meetings - NBER Conference on Digital Economics and Artificial Intelligence
  - 2025 Co-organizer, NBER The Economics of Artificial Intelligence Tutorial
  - 2024 Co-organizer, NBER Conference on Digital Economics and Artificial Intelligence
  - 2024 Co-organizer, NBER Conference on Political Economy and Artificial Intelligence
  - 2023 Co-organizer, NBER The Economics of Artificial Intelligence Tutorial
  - 2024 Scientific Committee, ZEW Conference on the Economics of Information and Communication Technologies
  - 2023 Co-organizer, Meetings on the Economics of Artificial Intelligence
  - 2023 Co-organizer, NBER Digital Economics Tutorial
  - 2023 Co-organizer, NBER Conference on Digital Economics

- 2023 Scientific Committee, ZEW Conference on the Economics of ICT,
- 2022 Organizer, NBER Conference on the Economics of Privacy
- 2022 Co-organizer, NBER Conference on Digital Economics
- 2022 Co-organizer, NBER Conference on the Economics of Artificial Intelligence
- 2021 Co-organizer, NBER Conference on Digital Economics
- 2021 Co-organizer, NBER Conference on the Economics of Artificial Intelligence
- 2020 Co-organizer, NBER Conference on the Economics of Artificial Intelligence
- 2020 Organizer, ISMS Doctoral Consortium
- 2019 Co-organizer, NBER Conference on the Economics of Artificial Intelligence
- 2019 Scientific Committee: ZEW Conference on the Economics of Information and Communication Technologies
- 2019 Program Committee: Workshop on the Economics of Information Security
- 2019 Scientific Committee: IP Statistics for Decision Makers
- 2018 Co-organizer, NBER Conference on the Economics of Artificial Intelligence
- 2017 Scientific Committee: IP Statistics for Decision Makers
- 2017 Scientific Committee: ZEW Conference on the Economics of Information and Communication Technologies
- 2017 Program Committee: Workshop on the Economics of Information Security
- 2016 Program Committee: Workshop on the Economics of Information Security
- 2016 Scientific Committee: ZEW Conference on the Economics of Information and Communication Technologies
- 2015 Scientific Committee: Competition, Standardization and Innovation
- 2015 Scientific Committee: Intellectual Property Statistics for Decision Makers
- 2015 Associate Editor: ICIS 2015, Healthcare track
- 2015 Scientific Committee: European Association for Research in Industrial Economics
- 2015 Program Committee: ACM Conference on Economics and Computation
- 2015 Program Committee: Workshop on the Economics of Information Security
- 2015 Chief-Organizer: Quantitative Marketing and Economics Conference
- 2015 Scientific Committee: ZEW Conference on the Economics of Information and Communication Technologies
- 2014 Scientific Committee: European Association for Research in Industrial Economics
- 2014 Scientific Committee: Conference on the Economics of Information and Communication Technologies
- 2014 Program Committee: International Conference on Big Data and Analytics in Healthcare
- 2013 Program Committee: Quantitative Marketing and Economics
- 2013 Scientific Committee: European Association for Research in Industrial Economics Conference
- 2013 Scientific Committee: Conference on the Economics of Information and Communication Technologies
- 2013 Program Committee: Workshop on the Economics of Information Security
- 2013 Associate Editor of Personal Data Markets Track: ECIS 2013
- 2012 Program Committee: European Association for Research in Industrial Economics Conference
- 2012 Program Committee (Conference Organizer) NBER: The Economics of Digitization

Pre-Conference, June 2012
- 2012 Scientific Committee: Conference on the Economics of Information and Communication Technologies
- 2012 Senior Program Committee: 13th ACM Conference on Electronic Commerce
- 2012 Program Committee: Workshop on the Economics of Information Security
- 2011 Scientific Committee: European Association for Research in Industrial Economics Conference
- 2011 Scientific Committee: Conference on the Economics of Information and Communication Technologies
- 2011 Program Committee: Ad Auctions Workshop
- 2011 Program Committee: Workshop on the Economics of Information Security
- 2010 Program Committee: Workshop on IT and Economic Growth
- 2010 Program Committee: Conference on Health IT and Economics
- 2010 Program Committee: Workshop on the Economics of Information Security
- 2009 Program Committee: Workshop on the Economics of Information Security
- 2008 Program Committee: Workshop on the Economics of Information Security
- 2008 Program Committee: Ad Auctions Workshop

External Affiliations
- **Advisory Board:** Block Center for Technology and Society
- **Affiliate:** CESifo Research Network
- **Advisory Board:** Future of Privacy Forum
- **Academic Advisory Council:** Brookings Center on Regulation and Markets

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MIT SERVICE

- 2022-2026 Faculty Director, EMBA program
- 2015-2022 Faculty Chair, PhD program
- 2015- EMBA Committee
- 2015- ASB Committee
- 2014- MIT Sloan Gender Equity Committee
- 2013-2014 Group Head, Marketing Group
- 2013-2014 Chair, Marketing Faculty Search Committee
- 2013-2014 MIT Committee on Undergraduate Admissions and Financial Aid
- 2011 North East Marketing Conference Coordinator
- 2011 MIT Sloan Marketing Conference, Panel Moderator
- 2011 Sloan Women in Management Conference, Panel Moderator
- 2005, 2008, 2012 Marketing Faculty Search Committee

ADVISING

- 2025: Egor Kudriavtcev, University of Rochester, PhD Thesis Advisor

- 2024: Nan Clement, UT Dallas, PhD Thesis Advisor
- 2024: Alex Moehring, PhD Thesis Supervisor
- 2024: Yifei Wang, PhD Thesis Supervisor
- 2024: Emma Wiles, PhD Thesis Advisor
- 2022: Cathy Yiqun Cao, PhD Thesis Advisor
- 2019: Shuyi Yu, PhD Thesis supervisor
- 2018: Shweta Jindal, Masters Thesis
- 2016: Abhishek Nagaraj, PhD Thesis Advisor
- 2012: Cristina Nistor, PhD Thesis Advisor
- 2010: Katherine Molina, Masters Thesis
- 2008: Dinesh Shenoy, Masters Thesis
- 2007: James Kelm, Masters Thesis

Grants and Support

Academic Grants

2023	Sloan Foundation Grant (2023-) 'NBER Project on Digital Economics and Artificial Intelligence	
2018	Sloan Foundation Grant (2018-2021), 'NBER Project on the Economics of Artificial Intelligence' - Grant supporting series of NBER Economics of AI Conferences. (Joint with Ajay Agrawal, Joshua Gans and Avi Goldfarb)	$914,250
2017	Net Institute Grant (Joint with Anuj Kapoor)	$3,000
2016	Net Institute Grant (Joint with Christian Catalini)	$6,000
2013	MSI research Grant 4-1840 (Joint with Anja Lambrecht)	$10,200
2011	Tilburg Law and Economics Center (TILEC) IIPC grant	$21,000
2011	Google Grant	$50,000
2011	Junior Faculty Research Assistance Program	$30,000
2011	Net Institute Grant	$6,000
2011	NBER Digitization Grant	$20,000
2011	NSF CAREER Award	$502,000
2010	Time-Warner Research Program on Digital Communications	$20,000
2010	Net Institute Grant	$6,000
2009	Net Institute Grant	$6,000
2009	The James H. Ferry, Jr. Fund for Innovation in Research Education	$50,000
2009	Google/WPP Grant (Joint with Avi Goldfarb)	$55,000
2008	Net Institute Grant	$15,000
2007	Net Institute Grant	$8,000
2006	Net Institute Grant (Joint with Stephen Ryan)	$8,000

Industry Research Grants

2015	CCIA Research: Research into Sustainable Competitive Advantage and Big Data (Joint with Anja Lambrecht)	$60,000
2015	E-Logic: Research into Vertical Mergers and Patent Litigation	$60,000
2014	CCIA Research: Research into Patent Litigation and Entrepreneurship	$100,000
2012	Google Australia: Research into Measurement and Attribution	$50,000

EXPERT CONSULTING

- I have been retained as an expert for Accenture, Amazon, Atlantic Recording Company, ADT, Bausch Health, Broadcast Music Inc, Capitol Records, Change, Context Logic, Google, GoPuff, IAC, Lyft, Marriott, Match Group, Meta, Microsoft, NCAA, Paynerd, Plaintiffs in Blue Cross Blue Shield Antitrust Litigation, Revizer, Reynolds Automotive, RDIC, Samsung, Sony, Sound Exchange, StockX, SK Energy, Verizon (Yahoo and AOL), United Health Group, US Debtors (Nortel Bankruptcy Proceedings), Vitol, Walworth Investments and Warner Brothers.

TEACHING

- 15.7XX, Entrepreneurship for Senior Executives 2025 –
- 15.732, Marketing Management for Senior Executives 2012 –
- 15.726, Pricing (EMBA Elective) 2012-
- 15.818, Pricing (MBA Elective) 2006-2024
- 15.838, Doctoral Seminar, Spring 2006, Fall 2007, Fall 2013, Fall 2024
- Pricing, Asian School of Business, 2017 -2019
- Marketing Management, Asian School of Business, 2016
- Guest Lecturer: HST.936: Health information systems to improve quality of care in resource-poor settings, 2014
- Executive Education: Blockchain Technologies: Business Innovation and Application, 2018-
- Executive Education: Artificial Intelligence 2018-
- Executive Education: Marketing Innovation, 2016-
- Executive Education: Platform Strategy: Building and Thriving in a Vibrant Ecosystem, 2014-
- Executive Education: Pricing 4dX, 2016-
- Executive Education: Entrepreneurship Development Program, 2012-2022
- Executive Education: Systematic Innovation of Products, Processes, and Services, 2013-2022
- Executive Education: Strategic Marketing for the Technical Executive, 2012-2015
- Executive Education: Global Executive Academy (multi-language), 2013, 2014
- Faculty Coach, Takeda Leadership Academy, 2016-18

APPENDIX B

[redacted]

Appendix B

Catherine Tucker

Prior Testimony

1. Lyft, Inc. v. City and County of San Francisco and Office of the Treasurer and Tax Collector of the City and County of San Francisco, Case No. CGC-24-620845, Superior Court of California, County of San Francisco. Deposition (2026)

2. The New York Times Company v. Microsoft Corporation, et al., Case 1:23-cv-11195-SHS, United States District Court, Southern District of New York; Daily News, LP, et al. v. Microsoft Corporation, et al., Case 1:24-cv-03285, United States District Court, Southern District of New York; The Center for Investigative Reporting, Inc., v. OpenAI, et al., Case 24-cv-04872-SHS-OTW, United States District Court, Southern District of New York; and David Baldacci, et al. v. OpenAI Inc., et al., Case 1:25-md-3143 United States District Court, Southern District of New York. Deposition (2026). Deposition (2026).

3. X Corp. and X AI LLC v. Apple Inc.; OpenAI Inc.; OpenAI LLC; and OpenAI OpCo LLC, Case No. 4:25-cv-00914-P, United States District Court, Northern District of Texas, Fort Worth Division. Deposition (2026).

4. Adam Bensimon, Philip Eliades, Jonathan Swaby, John Boisi, Nathan Obey, Malik Drewey, Antwan Robinson, Robert Currie, and Lewie Lewis, individually and on behalf of all others similarly situated v. Grubhub Inc., Uber Technologies, Inc., and Postmates Inc., Case No. 1:20-cv-03000-LAK, United States District Court, Southern District of New York. Deposition (2026).

5. Portable Power, Inc., et al., v. Energizer Holdings, Inc., and Wal-Mart, Inc., Case No. 5:23-cv-02091-PCP, United States District Court, Northern District of California; Kimberly Schuman, et al., v. Energizer Holdings, Inc., and Walmart, Inc., Case No. Case No. 5:23-cv-02093-PCP, United States District Court, Northern District of California; Don Copeland, et al., v. Energizer Holdings, Inc., and Walmart, Inc., Case No. 5:23-cv-02087-PCP, United States District Court, Northern District of California. Deposition (2026).

6. In Re Mosaic LLM Litigation, Master File Case No. 3:24-cv-02653-CRB, United States District Court, Northern District of California, San Francisco Division. Deposition (2026).

7. McKenna Duffy, individually and on behalf of all others similarly situated, v. Yardi Systems, Inc., et al., Case No. 2:23-cv-01391-RSL, Western District of Washington. Deposition (2026).

8. Diana Young and Lanae Johnson, individually and on behalf of others similarly situated v. Salesforce, Inc., Case No. 4:22-cv-09067-JST, United

States District Court, Northern District of California. Deposition (2026).

9. Federal Trade Commission v. Meta Platforms, Inc., Case No. 1:20-cv-03590-JEB, United States District Court, District of Columbia. Deposition and Trial (2024, 2025).

10. Maximilian Klein, et al., on behalf of themselves and all others similarly situated, v. Meta Platforms, Inc., Case No. 3:20-cv-08570-JD, United States District Court, Northern District of California (San Francisco). Deposition (2023, 2024), Concurrent Expert Proceeding (2025).

11. In Re: Facebook Inc. Derivative Litigation, C.A. No. 2018-0307-JTL, Court of Chancery of the State of Delaware. Deposition (2025).

12. In Re: Lyft Rideshare Cases, Case No. CJC-20-005061, Superior Court of the State of California, County of San Francisco. Deposition (2023, 2025).

13. David Fleury and Alvin Turner individually and on behalf of a class of similarly situated individuals v. Union Pacific Railroad Company, Case No. 20-cv-00390, United States District Court, Northern District of Illinois, Eastern Division. Deposition (2024).

14. Fin Cap Inc. et al. v. Pay Nerd LLC et al., C. A. No. N21C-12-118 VLM CCLD, In the Superior Court of the State of Delaware. Deposition (2024).

15. In Re: Marriott International Customer Data Security Breach Litigation (MDL No. 19-md-2879), Case No. 9:19-cv-0654, United States District Court, District of Maryland. Deposition (2024).

16. The State of Connecticut, et al. v. Sandoz, Inc., et al., Civil Action No. 3:20-cv-00802, United States District Court, District of Connecticut. Deposition (2024).

17. Andrea Campbell, in her official capacity as Attorney General for the Commonwealth of Massachusetts v. Uber Technologies, Inc., and Lyft, Inc., Civil Action No. 2084CV01519-BLS1, Commonwealth of Massachusetts, Suffolk County Superior Court. Deposition and Trial (2024).

18. Nike, Inc. v. StockX LLC, Case No. 1:22-cv-000983-VEC, United States District Court, Southern District of New York. Deposition (2023).

19. In Re: College Athlete NIL Litigation, Case No. 4:20-cv-03919-CW, United States District Court, Northern District of California. Deposition (2023, 2024).

20. In Re: Google Play Store Antitrust Litigation (MDL No. 2981), Case No. 3:21-md-2981-JD, United States District Court, Northern District of California. Deposition and Trial (2023).

[redacted]

21. United States of America et al. v. UnitedHealth Group Incorporated et al., Case No. 1:22-cv-00481-CJN, In the United States District Court, District of Columbia. Deposition and Trial (2022).

22. United States of America, et al., v. Google LLC, Case No. 1:20-cv-03010-APM, and State of Colorado, et al., v. Google LLC, Case No. 1:20-cv-03715-APM, United States District Court, District of Columbia. Deposition (2022).

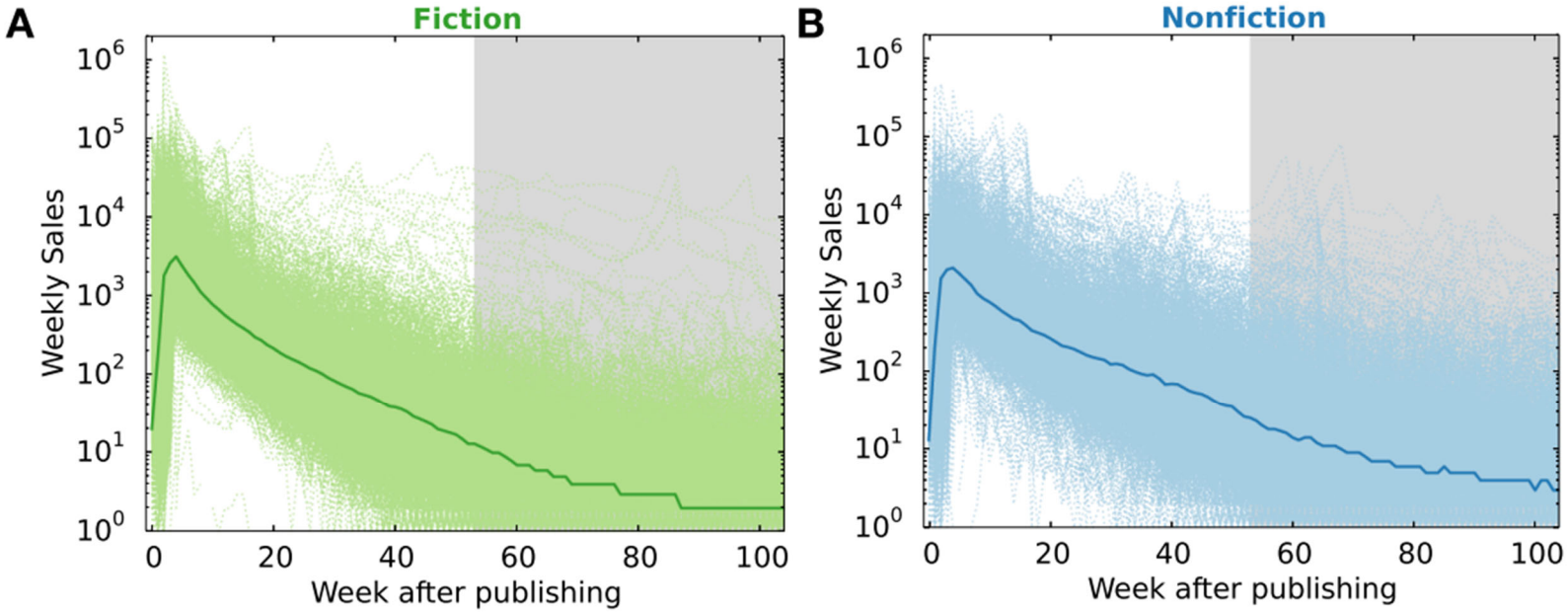
23. Atlantic Recording Corporation, LaFace Records LLC, Sony Music Entertainment, UMG Recordings, Inc., Warner Bros. Records Inc., Arista Music, Arista Records LLC, Bad Boy Records LLC, Capitol Records, LLC, Elektra Entertainment Group Inc., Roc-A-Fella Records, LLC, Sony Music Entertainment US Latin LLC, Zomba Recording LLC, v. Spinrilla, LLC and Jeffery Dylan Copeland, Case No. 1:17-cv-00431-AT, United States District Court, Northern District of Georgia (Atlanta). Deposition (2022).

24. Broadcast Music, Inc. v. North American Concert Promoters Association, Case No. 1:18-cv-08749-LLS, Related to United States v. Broadcast Music, Inc., Case No. 1:64-cv-03787-LLS, United States District Court, Southern District of New York. Deposition and Trial (2022).

25. In Re: Marriott International Customer Data Security Breach Litigation (MDL No. 2879), Case No. 8:19-md-2879, United States District Court, District of Maryland. Deposition (2021) and Hearing (2022).

APPENDIX C

Figure 1
Weekly Trend in *The New York Times* Bestsellers After Publication Date, August 6, 2008 to March 10, 2016



Notes: Yucesoy, Burcu, Xindi Wang, Junming Huang, and Albert-László Barabási, "Success in Books: A Big Data Approach to Bestsellers," *EPJ Data Science*, Vol. 7, No. 7, 2018, p. 17 ("The weekly sales numbers of all bestselling (A) fiction and (B) nonfiction books, thick lines showing the median sales values for that week. The shaded area starts after the first year and only 4% of fiction and 6% of nonfiction sales happen there." Emphasis in original).

Source: Yucesoy, Burcu, Xindi Wang, Junming Huang, and Albert-László Barabási, "Success in Books: A Big Data Approach to Bestsellers," *EPJ Data Science*, Vol. 7, No. 1, 2018, pp. 1-25, Figure 9, p. 17.

[redacted]

Figure 2

[redacted]

April 2021 to January 2026

[redacted]

[redacted]

Figure 2

[redacted]

April 2021 to January 2026

Notes:

Sample: This exhibit includes [redacted]. ISBNs typically correspond to different formats and editions of the same title, including hardcover, trade paperback, physical audio, and mass market paperback. Trade paperbacks are larger-format, higher-quality paperbacks typically released after hardcover, while mass market paperbacks are smaller, lower-priced editions designed for wide distribution. Physical audio refers to audiobooks distributed in physical formats such as CDs.

Y-axis: The Y-axis represents [redacted].

X-axis: The yearly tick marks represent the first month of each year. Dotted vertical lines denote [redacted] ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: [redacted]

"What is an ISBN?," *International ISBN Agency*, available at https://www.isbn-international.org/content/what-isbn/10; Perez, Jose, "Paperback Types: Difference Between Trade vs. Mass Market," *Pioneer Publishing*, November 21, 2023, available at https://pioneerpublishinggroup.com/paperback-types-difference-between-trade-vs-mass-market/; Hussain, Mukaram, "Audio Book CDs: Complete Guide to Physical Audiobook Publishing in 2026," *HMD Publishing*, March 19, 2026, available at https://hmdpublishing.com/blog/audio-book-cds-guide.

[redacted]

Figure 3

[redacted] **Prior to the Launch of Copilot and ChatGPT**

[redacted]

[redacted]

Figure 3

[redacted] **Prior to the Launch of Copilot and ChatGPT**

Notes:

Sample: This analysis is limited to the [redacted].

Rows: [redacted]

Columns: [redacted]

Sources: FICTION-0620570; GOL000122; FICTION-0694784; FICTION-0695230; FICTION-0630307; FICTION-0636221; GREER010206; GREER010276; FICTION-0635715; FICTION-0629711; FICTION-0633833; FICTION-0627679; FICTION-0692873; FICTION-0693787; **Appendix Exhibit E.1**.

[redacted]

Figure 4A

[redacted] of the New Asserted Works, Before and After the Launch of Copilot and ChatGPT

[redacted]

[redacted]

Figure 4A

[redacted] **the New Asserted Works,**

Before and After the Launch of Copilot and ChatGPT

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: FICTION-0620570; GOL000122; GOL001153; FICTION-0695146; FICTION-0694738; FICTION-0694784; FICTION-0695180; FICTION-0694848; FICTION-0695230; FICTION-0694932; FICTION-0695300; FICTION-0630223; FICTION-0636221; FICTION-0630307; FICTION-0636616; FICTION-0637104; FICTION-0630641; GREER010206; GREER010020; GREER010276; GREER010333; GREER010406; GREER010450; FICTION-0628795; FICTION-0635263; FICTION-0629363; FICTION-0635715; FICTION-0629711; FICTION-0636141; FICTION-0630069; FICTION-0636305; FICTION-0633808; FICTION-0627651; FICTION-0633833; FICTION-0627707; FICTION-0633859; FICTION-0627679; FICTION-0627731; FICTION-0633951; FICTION-0693677; FICTION-0692873; FICTION-0693787; FICTION-0692981; FICTION-0693097; FICTION-0693895; FICTION-0693097; [redacted]

[redacted]

Figure 4B

[redacted] of the New Asserted Works, Before and After the Launch of Copilot and ChatGPT

[redacted]

[redacted]

Figure 4B

[redacted] **the New Asserted Works,**

Before and After the Launch of Copilot and ChatGPT

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: FICTION-0620570; GOL000122; GOL001153; FICTION-0695146; FICTION-0694738; FICTION-0694784; FICTION-0695180; FICTION-0694848; FICTION-0695230; FICTION-0694932; FICTION-0695300; FICTION-0630223; FICTION-0636221; FICTION-0630307; FICTION-0636616; FICTION-0637104; FICTION-0630641; GREER010206; GREER010020; GREER010276; GREER010333; GREER010406; GREER010450; FICTION-0628795; FICTION-0635263; FICTION-0629363; FICTION-0635715; FICTION-0629711; FICTION-0636141; FICTION-0630069; FICTION-0636305; FICTION-0633808; FICTION-0627651; FICTION-0633833; FICTION-0627707; FICTION-0633859; FICTION-0627679; FICTION-0627731; FICTION-0633951; FICTION-0693677; FICTION-0692873; FICTION-0693787; FICTION-0692981; FICTION-0693097; FICTION-0693895; FICTION-0693097; [redacted].

[redacted]

Figure 5A

[redacted] **the New Asserted Works,**

Before and After the Launch of Copilot and ChatGPT

[redacted]

[redacted]

Figure 5A

[redacted] **the New Asserted Works,**

Before and After the Launch of Copilot and ChatGPT

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: GOL000122; GOL001153; FICTION-0636063; FICTION-0629927; FICTION-0630223; FICTION-0636221; FICTION-0636616; FICTION-0630307; FICTION-0637104; FICTION-0630641; GREER010020; GREER010206; GREER010333; GREER010276; GREER010406; GREER010450; FICTION-0693573; FICTION-0692765; FICTION-0693677; FICTION-0692873; FICTION-0692981; FICTION-0693787; FICTION-0693097; FICTION-0693895.

Figure 5B

[redacted] **the New Asserted Works,**

Before and After the Launch of Copilot and ChatGPT



Figure 5B
[redacted] the New Asserted Works,
Before and After the Launch of Copilot and ChatGPT

Notes:
Sample: This analysis is limited to th[redacted].

Y-axis: The Y-axis represents the [redacted]

X-axis: The yearly tick marks represent the reporting years. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: GOL000122; GOL001153; FICTION-0636063; FICTION-0629927; FICTION-0630223; FICTION-0636221; FICTION-0636616; FICTION-0630307; FICTION-0637104; FICTION-0630641; GREER010020; GREER010206; GREER010333; GREER010276; GREER010406; GREER010450; FICTION-0693573; FICTION-0692765; FICTION-0693677; FICTION-0692873; FICTION-0692981; FICTION-0693787; FICTION-0693097; FICTION-0693895.

[redacted]

Figure 6

[redacted]

January 2017 to January 2026

[redacted]

[redacted]

Figure 6

[redacted]**, January 2017 to January 2026**

Notes:

Sample: This analysis is limited to the [redacted]

Rows: Each row represents [redacted]

Columns: [redacted]

Sources: [redacted]

[redacted]

Figure 7A

[redacted] the New Asserted Works, January 2017 to January 2026

[redacted]

[redacted]

Figure 7A

[redacted] **the New Asserted Works,**

January 2017 to January 2026

Notes:

Sample: This analysis is limited to [redacted]

Y-axis: The Y-axis represents the [redacted].

X-axis: The yearly tick marks represent the first month of each year. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: [redacted]

[redacted]

Figure 7B

[redacted] **the New Asserted Works, Two Years Before ChatGPT Launch to Two Years After Copilot Launch**

[redacted]

[redacted]

Figure 7B

[redacted] the New Asserted Works, Two Years Before ChatGPT Launch to Two Years After Copilot Launch

Notes:

Sample: This analysis is limited to the [redacted].

Y-axis: The Y-axis represents the [redacted]

X-axis: ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

Sources: [redacted]

[redacted]

Figure 8

[redacted] **the Older Cohort of the Asserted Works,**

January 2021 to December 2025

[redacted]

[redacted]

Figure 8

[redacted] **the Older Cohort of the Asserted Works, January 2021 to December 2025**

Notes:

Sample: This analysis is limited to the [redacted]

Y-axis: The Y-axis represents [redacted]

X-axis: The yearly tick marks represent the first month of each year. ChatGPT was launched on November 30, 2022. Bing Chat was launched on February 7, 2023. On September 21, 2023, Microsoft re-branded Bing Chat as Copilot.

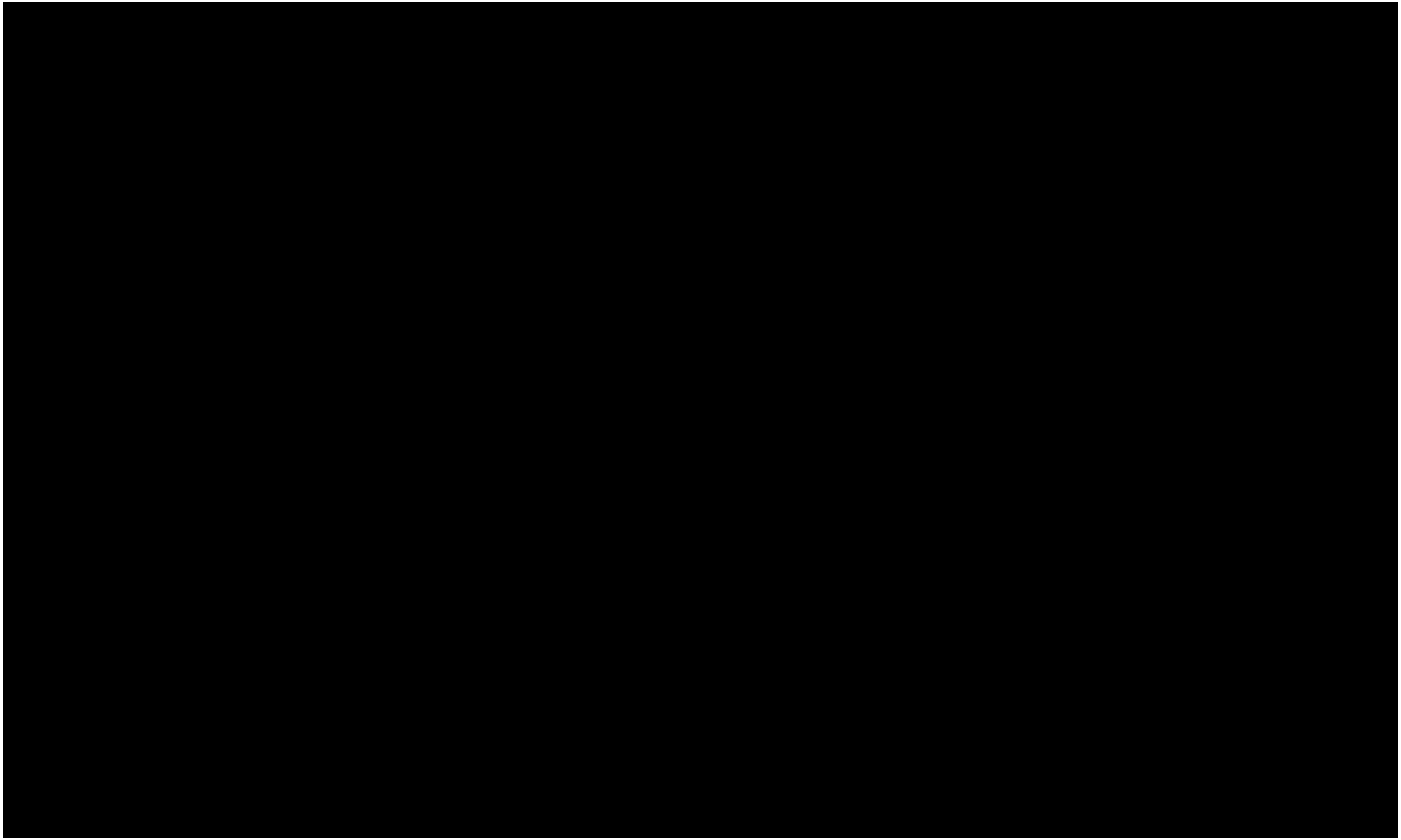
Sources: [redacted]

[redacted]

Figure 9

[redacted]

Before the Launch of ChatGPT and After the Launch of Copilot



[redacted]

Figure 9

[redacted]

Before the Launch of ChatGPT and After the Launch of Copilot

Notes:

Sample: This analysis includes all ISBNs in [redacted]

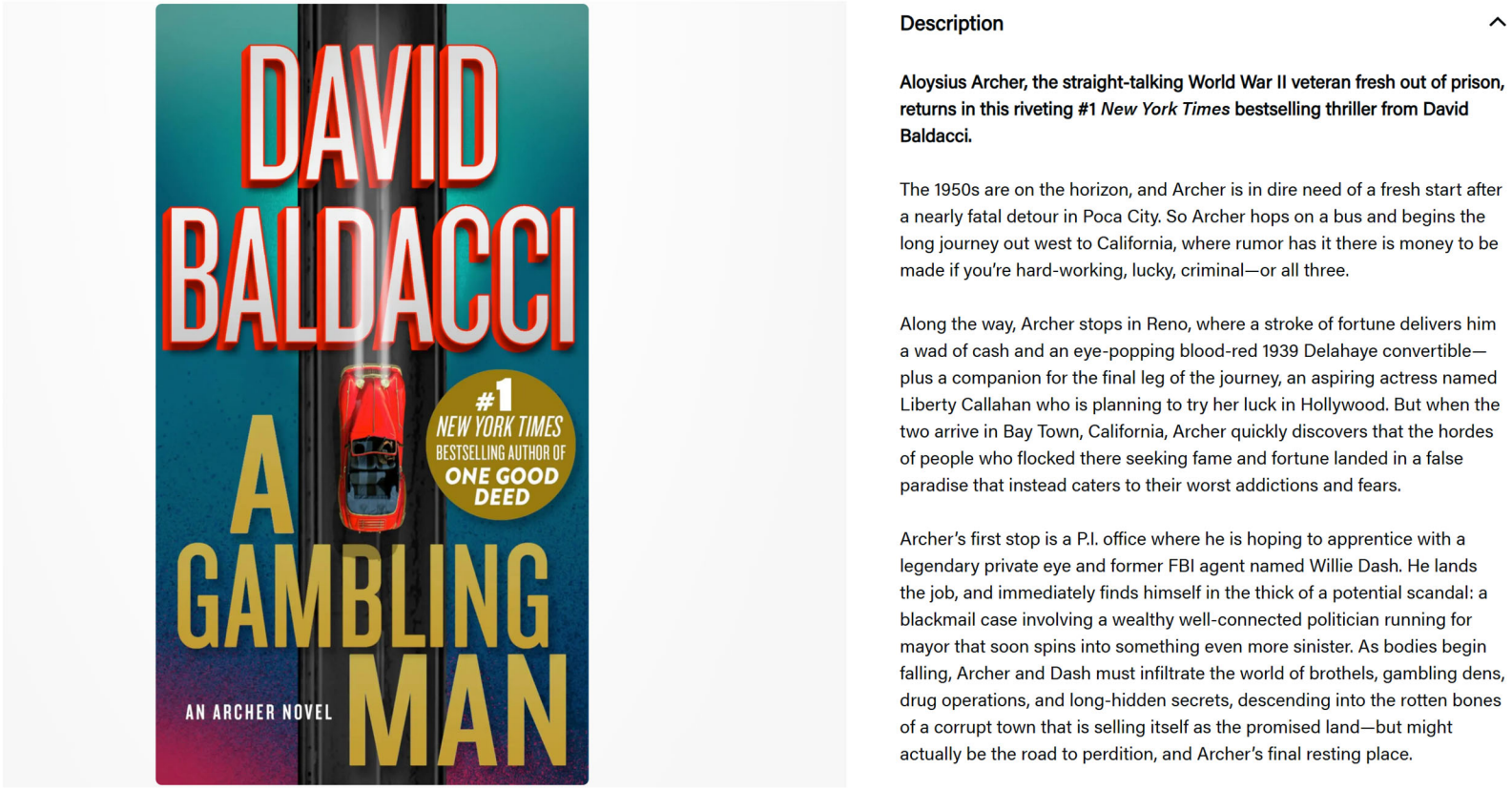
[redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The X-axis represents the number of months between [redacted]

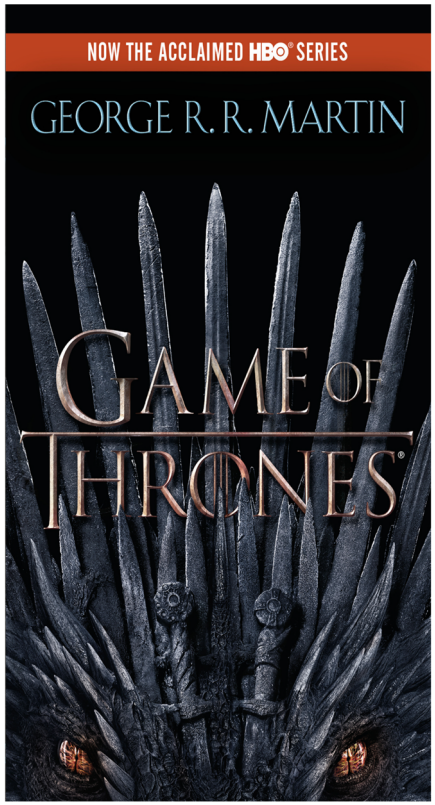
Sources: [redacted]

Figure 10
Summary of David Baldacci's *A Gambling Man* Available on Publisher's Website



Source: "A Gambling Man by David Baldacci," *Hachette Book Group*, available at https://www.hachettebookgroup.com/titles/david-baldacci/a-gambling-man/9781538719664/?lens=grand-central-publishing.

Figure 11
Excerpt of George R. R. Martin's *A Clash of Kings* Available Within George R. R. Martin's *Game of Thrones*



we married, and the dragons are all dead!" He pointed at Robb with the blade. "*There* sits the only king I mean to bow *my* knee to, m'lords," he thundered. "The King in the North!"

And he knelt, and laid his sword at her son's feet.

"I'll have peace on *those* terms," Lord Karstark said. "They can keep their red castle and their iron chair as well." He eased his longsword from its scabbard. "The King in the North!" he said, kneeling beside the Greatjon.

Maege Mormont stood. "The King of Winter!" she declared, and laid her spiked mace beside the swords. And the river lords were rising too, Blackwood and Bracken and Mallister, houses who had never been ruled from Winterfell, yet Catelyn watched them rise and draw their blades, bending their knees and shouting the old words that had not been heard in the realm for more than three hundred years, since Aegon the Dragon had come to make the Seven Kingdoms one ... yet now were heard again, ringing from the timbers of her father's hall:

"The King in the North!"

"The King in the North!"

"THE KING IN THE NORTH!"

Now, here's a special preview of the next book in

George R. R. Martin's

landmark series

A CLASH OF KINGS

the riveting sequel to

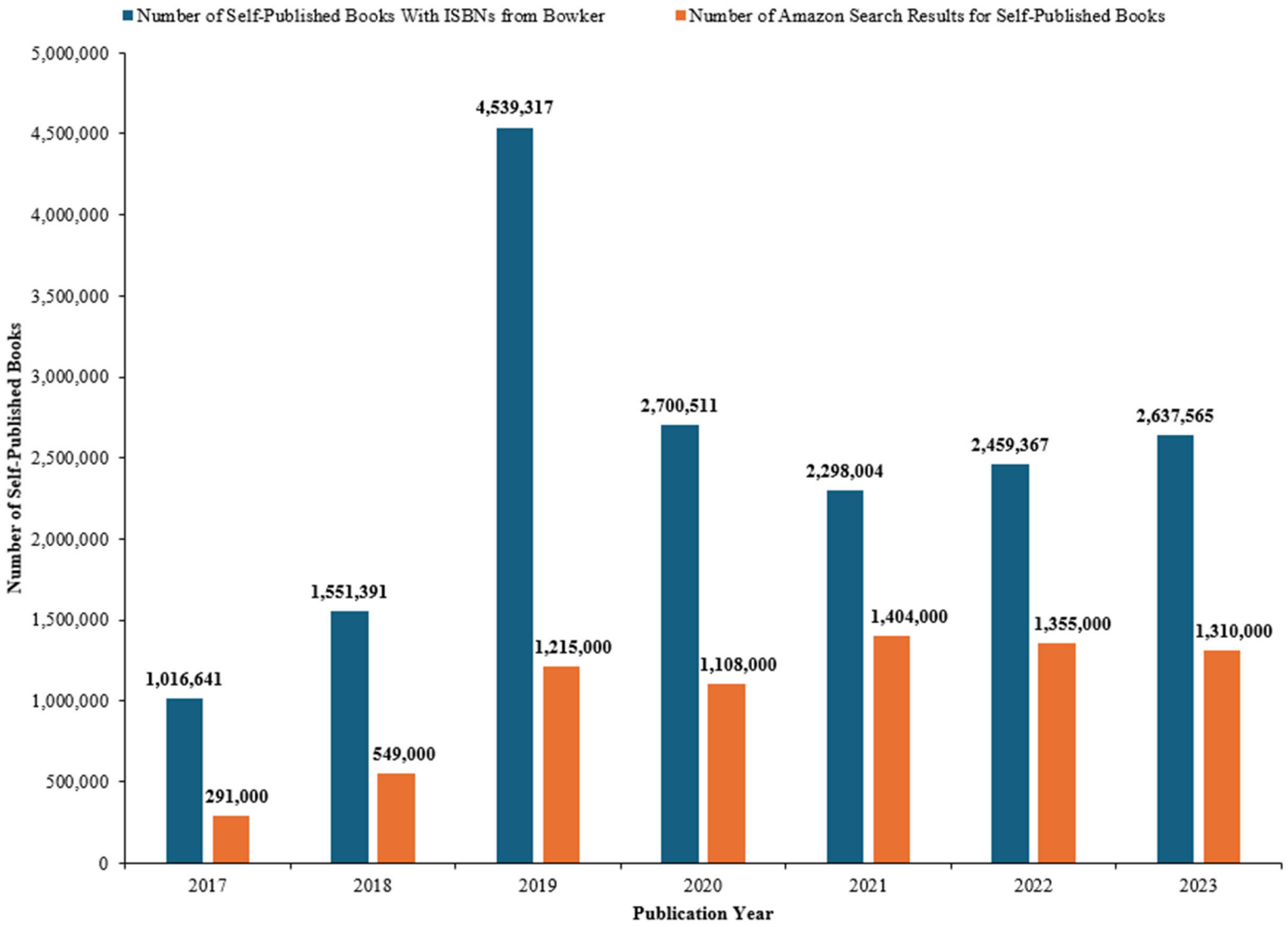
A GAME OF THRONES

On sale now

Source: "A Game of Thrones by George R. R. Martin," *Boston Public Library*, available at https://bpl.bibliocommons.com/v2/record/S75C8247743.

[redacted]

Figure 12
Number of New Self-Published Books Available for Purchase on Amazon



[redacted]

Figure 12
Number of New Self-Published Books Available for Purchase on Amazon

Notes:
Sample: Bowker's reported number of self-published books with ISBNs includes books assigned both an ISBN and a Book Industry Standards and Communications ("BISAC") code and covers ISBNs issued for print books, digital books, and audiobooks. The number of Amazon search results for self-published books excludes the "Bargain Books" and "Medicines" categories, as those categories do not display estimated search result counts. Queries to Amazon's Advanced Book Search may yield results that vary across searches and may include books that do not fully match the applied search filters.

Y-axis: The Y-axis represents the number of self-published books.

X-axis: The X-axis denotes the year in which the self-published books were published.

Sources: "Books Search," *Amazon*, available at https://www.amazon.com/advanced-search/books; Milliot, Jim, "Self-Publishing Is Thriving, According to Bowker Report," *Publishers Weekly*, February 17, 2023, available at https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/91574-self-publishing-is-thriving-according-to-bowker-report.html; Albanese, Andrew and Jim Milliot, "Self-Publishing's Output and Influence Continue to Grow," *Publishers Weekly*, November 8, 2024, available at https://www.publishersweekly.com/pw/by-topic/industry-news/publisher-news/article/96468-self-publishing-s-output-and-infuence-continue-to-grow.html.

[redacted]

Figure 13
[redacted] **for the Asserted Works, January 2017 to October 2022**

[redacted]

[redacted]

Figure 13
[redacted] **for the Asserted Works, January 2017 to October 2022**

Notes:
Sample: This analysis is limited to [redacted]

Y-axis: The Y-axis represents the [redacted]

X-axis: The X-axis denotes the month corresponding to the [redacted]

Sources: [redacted]

APPENDIX D

[redacted]

APPENDIX D
CONSTRUCTION OF BOOK SALES DATASETS

1. In this appendix, I describe data [redacted] that I use in my empirical analyses. I describe the data available in the [redacted] and how I constructed the datasets I use in my empirical analysis. I also describe [redacted] and how I constructed the dataset I use in my empirical analysis. I further describe how I estimated the number of new self-published books available on Amazon each year using Amazon's Advanced Search function.

A. [redacted]

2. I review and extract data from [redacted] Asserted Works. This data allows me to examine [redacted] for the Asserted Works around the launch of Copilot and ChatGPT, and to assess whether there was any change in [redacted] following their introduction. The [redacted]. For the purposes of my analysis, I restrict attention to [redacted]

3. [redacted]

4. [redacted]

[redacted]

5. To construct the sample used in my empirical analysis, I focus on Asserted Works [redacted] before and after the introduction of Copilot and ChatGPT, [redacted] prior to the launch of ChatGPT in November 2022. [redacted] **Appendix Exhibit E.4** reports, for the set of [redacted].

B. [redacted]

6. [redacted]

[redacted]

7. [redacted] **Appendix Exhibit E.5**.

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1 [redacted].

2 [redacted]

3 "What is an ISBN?," *International ISBN Agency*, available at https://www.isbn-international.org/content/what-isbn/10 ("An ISBN is essentially a product identifier used by publishers, booksellers, libraries, internet retailers and other supply chain participants for ordering, listing, sales records and stock control purposes. The ISBN identifies the registrant as well as the specific title, edition and format.").

[redacted]

8. [redacted]

C. Number of Self-Published Books on Amazon

9. To estimate the number of self-published books on Amazon, I estimate the number of new self-published books available on Amazon each year using Amazon's Advanced Search function. A similar approach is followed by Reimers and Waldfogel (2026), who query Amazon's Advanced Search for Kindle ebooks by publication month and Amazon book category, and use the reported number of search results to construct monthly time series of new ebook titles.[6]

10. I focus on books that were given a free ISBN by Amazon because these titles were assigned consistent and standardized publisher names associated with Amazon's

[4] [redacted]

[5] [redacted]

[6] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research*, January, 2026, available at https://www.nber.org/system/files/working_papers/w34777/w34777.pdf, p. 10 ("We rely on Amazon for the numbers of books published by month and by category, using queries to Amazon's advanced book search function at https://www.amazon.com/advanced-search/books. We specify English-language books in new condition and in the Kindle (ebook) format, and we specify their publication dates by month and by category (or subcategory). A query delivers a list whose first page indicates '1-16 of x results.' […] Subject to these limitations, we can produce monthly time series of new titles by category and subcategory.").

[redacted]

digital publishing platforms.[7] As a result, this measure captures self-publishing activity specifically through Amazon. Before the consolidation of Amazon's CreateSpace and Kindle Direct Publishing services in 2018, books that were self-published on Amazon listed the publisher's name as "CreateSpace Independent Publishing Platform."[8] After the 2018 consolidation, the automatically assigned publisher's name changed to "Independently Published."[9] However, because self-published books are not always assigned ISBNs, and because self-published authors may use inconsistent publisher names, this measure likely understates the true number of self-published books on Amazon.[10] I further restrict the data to English-language books but do not apply any filter for book formats.

11. To construct a count of self-published books, I conduct Amazon searches by publication year and each of 28 Amazon book categories, having excluded the "Bargain Books" and "Medicine" categories as those categories do not display

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7 "Find the Right ISBN for Your Book," *CreateSpace*, available at https://web.archive.org/web/20170710123607/https://www.createspace.com/Products/Book/ISBNs.jsp ("CreateSpace-Assigned ISBN […] Free […] Imprint[:] CreateSpace Independent Publishing Platform."). *See also* "Get an ISBN," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/GTJ8LBXL6Z4WV5QX ("KDP Free ISBN […] Publisher field in the Book's detail page[:] It will show imprint name 'Independently published.'");"ISBN US," *Bowker*, available at https://www.bowker.com/isbn-us.

8 "Find the Right ISBN for Your Book," *CreateSpace*, available at https://web.archive.org/web/20170710123607/https://www.createspace.com/Products/Book/ISBNs.jsp ("CreateSpace-Assigned ISBN […] Free […] Imprint[:] CreateSpace Independent Publishing Platform."). *See also* "Update on the Move from CreateSpace to KDP," *Kindle*, November 27, 2018, available at https://www.kdpcommunity.com/s/article/Update-on-the-move-from-CreateSpace-to-KDP?language=en_US ("In late August we announced that CreateSpace and Kindle Direct Publishing (KDP) are becoming one service, making KDP the single place to publish and manage paperback and digital books.").

9 "Get an ISBN," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/GTJ8LBXL6Z4WV5QX ("KDP Free ISBN […] Publisher field in the Book's detail page[:] It will show imprint name 'Independently published.'").

10 *See, for example,* "Get an ISBN," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/GTJ8LBXL6Z4WV5QX ("You don't need an ISBN for eBooks on KDP."); "What is an ISBN and Imprint?," *Kindle Direct Publishing*, available at https://kdp.amazon.com/en_US/help/topic/G201834170 ("An imprint is the name of the publisher associated with your book's ISBN. If you buy your own ISBN, you can list your own publishing imprint (such as your business or brand name). If you use a free ISBN from KDP, the imprint will appear as "Independently published." (emphasis removed)). *See also* [redacted]

[redacted]

estimated search result counts, and identify the total number of books with the publisher names "CreateSpace Independent Publishing Platform" for 2017 to 2018 and "Independently Published" for 2019 to 2023.

12. Each search query returns a search-result page that shows the number of books on Amazon that match the specified search filters. For example, **Figure D.1**, shows a summary of the search results for English-language books published under the publisher's name "Independently Published" in 2020 for the "Literature & Fiction" book category, which returned over 70,000 search results. I use the reported value of 70,000 as a measure of the number of self-published books in the "Literature & Fiction" category in 2020 and repeat this process for the remaining book categories and years.

Figure D.1
Amazon Search Results for Books Published under Independently Published in the Literature & Fiction Category in 2020[11]



[11] **Source:** "Search Results," *Amazon*, available at https://www.amazon.com/s?i=stripbooks&rh=n%3A17%2Cp_30%3AIndependently%2BPublished%2Cp_20%3AEnglish&s=date-desc-rank&Adv-Srch-Books-Submit.x=0&Adv-Srch-Books-Submit.y=0&p_46=During&p_47=2020&unfiltered=1&ref=sr_adv_b.

[redacted]

13. As Reimers and Waldfogel (2026) notes, the total number of search results reported may be rounded, depending on whether the search results exceed certain thresholds:

a. search queries with less than 1,000 search results report the exact number of results;

b. search queries with up to 10,000 search results report the number of results rounded to the nearest 1,000; and

c. search queries with more than 10,000 search results report the number of results rounded to the nearest 10,000.[12]

[12] Reimers, Imke and Joel Waldfogel, "AI and the Quantity and Quality of Creative Products: Have LLMs Boosted Creation of Valuable Books?," *National Bureau of Economic Research*, January, 2026, available at https://www.nber.org/system/files/working_papers/w34777/w34777.pdf, p. 10 ("A query delivers a list whose first page indicates '1-16 of x results.' When there are fewer than 1,000 results, x is the exact number of releases in the category and release month. Up to 10,000, the number of search results is reported to the nearest thousand[.] From 10,000 on, the result is reported to the nearest 10,000. The search result also includes the number of search-result pages, with a maximum of 400, indicating 400 × 16, or 6,400 titles in the result. Hence, the number of books in a search is exact for 1-999, to the nearest 16 for 1,000-6,400, to the nearest 1,000 up to 10,000, and to the nearest 10,000 for higher numbers.").

APPENDIX E

[redacted]

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Plaintiff	Asserted Work	Publisher	First Publication Date	Genre
David Baldacci	A Gambling Man	[redacted]		
	A Minute to Midnight			
	Absolute Power			
	Bullseye: An Original Will Robie / Camel Club Short Story			
	Daylight			
	Deliver Us From Evil			
	Divine Justice			
	End Game			
	First Family			
	Hell's Corner			
	Hour Game			
	Long Road to Mercy			
	Memory Man			
	No Man's Land			
	No Time Left			
	One Good Deed			
	One Summer			
	Redemption			
	Saving Faith			
	Simple Genius			
	Split Second			
	Stone Cold			
	The Christmas Train			
	The Collectors			
	The Fallen			
	The Finisher			
	The Fix			
	The Guilty			
	The Keeper			
	The Last Mile			
	The Simple Truth			
	The Sixth Man			
	The Target			
	The Whole Truth			
	The Winner			
	Total Control			
	True Blue			
	Walk the Wire			
	Wish You Well			
	Zero Day			
Taylor Branch	Parting the Waters: America in the King Years, 1954-63			
	Pillar of Fire: America in the King Years, 1963-65			

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Plaintiff	Asserted Work	Publisher	First Publication Date	Genre
Michael Connelly	A Darkness More than Night			
	Angels Flight			
	Blood Work			
	Chasing the Dime			
	Cielo Azul			
	City of Bones			
	Crime Beat: A Decade of Covering Cops and Killers			
	Dark Sacred Night			
	Echo Park			
	Fair Warning			
	Father's Day			
	In the Shadow of the Master			
	Lost Light			
	Nine Dragons			
	One-Dollar Jackpot			
	Switchblade			
	The Black Box			
	The Black Echo			
	The Black Ice			
	The Blue Religion			
	The Brass Verdict			
	The Closers			
	The Concrete Blonde			
	The Drop			
	The Fifth Witness			
	The Gods of Guilt			
	The Last Coyote			
	The Late Show			
	The Law of Innocence			
	The Lincoln Lawyer			
	The Narrows			
	The Night Fire			
	The Overlook			
	The Poet			
	The Reversal			
	The Safe Man			
	The Scarecrow			
	The Wrong Side of Goodbye			
	Trunk Music			
	Two Kinds of Truth			
Sylvia Day	A Dark Kiss of Rapture			
	A Familiar Kind of Magic			
	A Hunger So Wild			
	A Passion For Him			
	A Touch of Crimson			

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Plaintiff	Asserted Work	Publisher	First Publication Date	Genre
Sylvia Day (cont.)	Afterburn			
	Aftershock			
	All Revved Up			
	Ask For It			
	Bad Boys Ahoy!			
	Bared to You			
	Butterfly in Frost			
	Captivated by You			
	Don't Tempt Me			
	Entwined With You			
	Eve of Chaos			
	Eve of Darkness			
	Eve of Destruction			
	Heat of the Night			
	Mischief and the Marquess			
	On Fire			
	One with You			
	Passion For the Game			
	Pleasures of the Night			
	Pride and Pleasure			
	Reflected In You			
	Seven Years to Sin			
	Taking the Heat			
	The Stranger I Married			
	What Happened in Vegas			
Mignon G. Eberhart	A Fighting Chance			
	Alpine Condo Crossfire			
	Casa Madrone			
	Escape of the Night			
	Family Affair			
	Hasty Wedding			
	Next of Kin			
	Nine O'clock Tide			
	Postmark Murder			
	The Bayou Road			
	The Patient in Cabin C			
	The Patient in Room 18			
	The White Cockatoo			
	Three Days for Emeralds			
	While the Patient Slept			
Jonathan Franzen	Freedom			
	Purity			
	Strong Motion			
	The Corrections			
	The Twenty-Seventh City			
Christopher Golden	Ararat			

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Plaintiff	Asserted Work	Publisher	First Publication Date	Genre
Andrew Sean Greer	Less	[redacted]		
	The Story of a Marriage			
	The Confessions of Max Tivoli			
	The Impossible Lives of Greta Wells			
John Grisham	A Painted House			
	A Time to Kill			
	Bleachers			
	Calico Joe			
	Ford County			
	Skipping Christmas			
	The Brethren			
	The Broker			
	The Chamber			
	The Client			
	The Firm			
	The Guardians			
	The King of Torts			
	The Last Juror			
	The Litigators			
	The Partner			
	The Pelican Brief			
	The Rainmaker			
	The Reckoning			
	The Runaway Jury			
	The Street Lawyer			
	The Summons			
	The Testament			
David Henry Hwang	Chinglish			
	M. Butterfly			
	The Dance and the Railroad			
George R.R. Martin	A Clash of Kings			
	A Dance with Dragons			
	A Feast for Crows			
	A Game of Thrones			
	A Storm of Swords			
	Fevre Dream			
	Fire & Blood			
	Sandkings			
	Songs the Dead Men Sing			
	The Armageddon Rag			
	The Ice Dragon			
	The Journal of Xavier Desmond			
	The Sons of the Dragon			
	Tuf Voyaging			
	Winter's Chill			

[redacted]

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Plaintiff	Asserted Work	Publisher	First Publication Date	Genre
Jodi Picoult	A Spark of Light	[redacted]		
	Change of Heart			
	Handle with Care			
	Harvesting the Heart			
	House Rules			
	Keeping Faith			
	Larger than Life			
	Leaving Time			
	Lone Wolf			
	Mercy			
	My Sister's Keeper			
	Nineteen Minutes			
	Perfect Match			
	Picture Perfect			
	Plain Truth			
	Salem Falls			
	Second Glance			
	Shine			
	Sing You Home			
	Small Great Things			
	Songs of the Humpback Whale			
	The Book of Two Ways			
	The Color War			
	The Pact			
	The Tenth Circle			
	Vanishing Acts			
	Weights & Measures			
Stacy Schiff	A Great Improvisation: Franklin, France, and the Birth of America			
	Cleopatra			
	The Witches			
James Shapiro	A Year in the Life of William Shakespeare 1599			
	Contested Will: Who Wrote Shakespeare?			
	The Year of Lear			

[redacted]

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Notes:
Sample: The 211 distinct titles of Plaintiffs' Asserted Works included in the list of asserted works submitted by Plaintiffs on March 6, 2026. The 222 unique copyright registration numbers included in this March 6, 2026 list of asserted works, which correspond to 211 unique titles: 208 books and 3 plays.

Rows: Each row represents one of the 211 distinct titles of Plaintiffs' Asserted Works. Michael Connelly's website depicts *Blue Religion: An Introduction* and *Mystery Writers of America Presents Blue Religion: News Stories About Cops, Criminals, and the Chase* as one book, which is included as *The Blue Religion* . Some Asserted Works were published under a different title name than what was listed in the list of asserted works submitted by Plaintiffs on March 6, 2026. In such instances, I identified the published title(s), and the publisher, date published, and genre of the published title(s). When an Asserted Work appeared to have been published using multiple titles, I reference the publisher, date published, and the genre of the title most recently published by the author as follows:

- *Cielo Azul* and *One-Dollar Jackpot* by Michael Connelly are both short stories that were published in Mr. Connelly's book *Suicide Run: Three Hary Bosch Short Stories* .
- *Father's Day* by Michael Connelly is a short story that was published in Mr. Connelly's book *Angle of Investigation: Three Harry Bosch Short Stories* .
- *A Familiar Kind of Magic* by Sylvia Day is a short story that was published in Ms. Day's book *Spellbound* .
- *Bad Boys Ahoy!* by Sylvia Day was republished by Ms. Day under the title *Scandalous Liaisons* .
- *The Journal of Xavier Desmond* by George R. R. Martin is a short story that was published in Mr. Martin's book *Dreamsongs: Volume II* .
- *The Sons of the Dragon* by George R. R. Martin is a short story that was published in an anthology titled *The Book of Swords* edited by Gardner Dozois.
- *Winter's Chill* by George R. R. Martin is a short story that was published in an anthology edited by Mr. Martin titled *Wild Cards II: Aces High* .
- *Weights & Measures* by Jodi Picoult is a short story that was published in Ms. Picoult's book *Leaving Home: Short Pieces* .

Columns: T[redacted]

[redacted]

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Sources:
Class Plaintiffs' List of Asserted Works, *David Baldacci, et al. v. OpenAI Inc.* , et al., 1:25-md-03143, March 6, 2026;

Differences in published titles: "Michael Connelly's Short Stories," *Michael Connelly* , available at https://www.michaelconnelly.com/wp-content/uploads/2022/03/Printable-Short-Story-List-2022.pdf; "The Blue Religion (2008)," *Michael Connelly* , available at https://www.michaelconnelly.com/writing/thebluereligion/; "Alluring Tales: Awaken the Fantasy," *Sylvia Day* , available at https://www.sylviaday.com/books/alluring-tales-awaken-the-fantasy/; "Scandalous Liaisons," *Sylvia Day* , available at https://www.sylviaday.com/books/scandalous-liaisons/; "Dreamsongs, Volume II," *Goodreads* , available at https://www.goodreads.com/book/show/417730; "Leaving Home: Short Pieces," *Goodreads* , available at https://www.goodreads.com/book/show/10320040-leaving-home; "The Book of Swords," *Goodreads* , available at https://www.goodreads.com/book/show/27917260-the-book-of-swords; "Wild Cards II: Aces High," *Goodreads* , available at https://www.goodreads.com/book/show/2639175;

Publishing agreements: FICTION-0001094, FICTION-0001097, FICTION-0001100, FICTION-0001590, FICTION-0001904, FICTION-0001946, FICTION-0002041, FICTION-0002066, FICTION-0002323, FICTION-0002455, FICTION-0002480, FICTION-0006603, FICTION-0006616, FICTION-0006630, FICTION-0006644, FICTION-0006657, FICTION-0006670, FICTION-0006679, FICTION-0006688, FICTION-0006708, FICTION-0008106, FICTION-0008121, FICTION-0008135, FICTION-0008155, FICTION-0008168, FICTION-0008189, FICTION-0008203, FICTION-0008215, FICTION-0008263, FICTION-0008289, FICTION-0008293, FICTION-0008469, FICTION-0009047, FICTION-0009048, FICTION-0009051, FICTION-0009097, FICTION-0009112, FICTION-0009126, FICTION-0009140, FICTION-0009155, FICTION-0009169, FICTION-0009187, FICTION-0009196, FICTION-0009208, FICTION-0009224, FICTION-0009252, FICTION-0009272, FICTION-0009287, FICTION-0009301, FICTION-0009312, FICTION-0009330, FICTION-0009344 , FICTION-0009359, FICTION-0009371, FICTION-0009386, FICTION-0009399, FICTION-0009408, FICTION-0009674, FICTION-0010751, FICTION-0013199, FICTION-0013364, FICTION-0028480, FICTION-0035440, FICTION-0056875, FICTION-0057012, FICTION-0060458, FICTION-0060482, FICTION-0060484, FICTION-0060489, FICTION-0060524, FICTION-0060546, FICTION-0060574, FICTION-0060887, FICTION-0085412, FICTION-0085535, FICTION-0294357, FICTION-0294428, FICTION-0673498, FICTION-0673512, FICTION-0673526, FICTION-0673538, FICTION-0673583, FICTION-0673600, FICTION-0673618, FICTION-0673635, FICTION-0673654, FICTION-0673672, FICTION-0673694, FICTION-0761576, FICTION-0832102, FICTION-0837255, FICTION-0837272, FICTION-0837305, FICTION-0837335, FICTION-0837351, GREER000839, GREER011364[redacted] HWANG000167, HWANG018440, HWANG038791, [redacted], NON-FICTION-0127360, NON-FICTION-0163080[redacted]

[redacted]

Appendix Exhibit E.1: Plaintiffs' Asserted Works, Publisher, First Publication Date, and Genre

Copyright registration certificates: FICTION-0000001, FICTION-0071355, FICTION-0071358, FICTION-0071360, FICTION-0071369, FICTION-0071372, FICTION-0071378, FICTION-0071381, FICTION-0071384, FICTION-0071387, FICTION-0071389, FICTION-0071391, FICTION-0071393, FICTION-0071395, FICTION-0071397, FICTION-0071399, FICTION-0071401, FICTION-0071403, FICTION-0071405, FICTION-0071407, FICTION-0071409, FICTION-0071412, FICTION-0071414, FICTION-0071416, FICTION-0071418, FICTION-0071420, FICTION-0071422, FICTION-0071424, FICTION-0071426, FICTION-0071428, FICTION-0071430, FICTION-0071432, FICTION-0071434, FICTION-0071436, FICTION-0071438, FICTION-0071440, FICTION-0071442, FICTION-0071444, FICTION-0071446, FICTION-0071448, FICTION-0071450, FICTION-0071452, FICTION-0071454, FICTION-0071456, FICTION-0071458, FICTION-0071460, FICTION-0071462, FICTION-0071464, FICTION-0071466, FICTION-0071468, FICTION-0071538, FICTION-0071540, FICTION-0071542, FICTION-0071544, FICTION-0071546, FICTION-0071548, FICTION-0071550, FICTION-0071552, FICTION-0071554, FICTION-0071556, FICTION-0071558, FICTION-0071560, FICTION-0071562, FICTION-0071564, FICTION-0071566, FICTION-0071568, FICTION-0071570, FICTION-0071572, FICTION-0071574, FICTION-0071576, FICTION-0071578, FICTION-0071580, FICTION-0071582, FICTION-0071584, FICTION-0071586, FICTION-0071588, FICTION-0071590, FICTION-0071592, FICTION-0071594, FICTION-0071596, FICTION-0071598, FICTION-0071600, FICTION-0071602, FICTION-0071604, FICTION-0071606, FICTION-0071608, FICTION-0071610, FICTION-0071612, FICTION-0071614, FICTION-0071616, FICTION-0071618, FICTION-0071621, FICTION-0071624, FICTION-0071627, FICTION-0071629, FICTION-0071635, FICTION-0071637, FICTION-0071639, FICTION-0071641, FICTION-0071643, FICTION-0071645, FICTION-0071647, FICTION-0071649, FICTION-0071651, FICTION-0071653, FICTION-0071655, FICTION-0071657, FICTION-0071659, FICTION-0071661, FICTION-0071663, FICTION-0071665, FICTION-0071668, FICTION-0071671, FICTION-0071674, FICTION-0071676, FICTION-0071679, FICTION-0071682, FICTION-0071685, FICTION-0071688, FICTION-0071691, FICTION-0071694, FICTION-0071697, FICTION-0071700, FICTION-0071703, FICTION-0071706, FICTION-0071708, FICTION-0071710, FICTION-0071712, FICTION-0071714, FICTION-0071716, FICTION-0071719, FICTION-0071722, FICTION-0071724, FICTION-0071726, FICTION-0071728, FICTION-0071730, FICTION-0071732, FICTION-0071734, FICTION-0071736, FICTION-0071738, FICTION-0071740, FICTION-0071742, FICTION-0071744, FICTION-0071746, FICTION-0071748, FICTION-0071750, FICTION-0071753, FICTION-0071756, FICTION-0071759, FICTION-0071762, FICTION-0071765, FICTION-0071767, FICTION-0071769, FICTION-0071772, FICTION-0071775, FICTION-0071778, FICTION-0071781, FICTION-0071869, FICTION-0071873, FICTION-0071875, FICTION-0071877, FICTION-0071879, FICTION-0071881, FICTION-0071884, FICTION-0071888, FICTION-0071894, FICTION-0071897, FICTION-0071906, FICTION-0071912, FICTION-0071916, FICTION-0071918, FICTION-0071920, FICTION-0071922, FICTION-0071924, FICTION-0071926, FICTION-0071928, FICTION-0071930, FICTION-0071932, FICTION-0071934, FICTION-0071936, FICTION-0071938, FICTION-0071940, FICTION-0071942, FICTION-0071946, FICTION-0071950, FICTION-0071954, FICTION-0071956, FICTION-0071958, FICTION-0071962, FICTION-0071966, FICTION-0071970, FICTION-0071974, FICTION-0071978, FICTION-0071982, FICTION-0071985, FICTION-0645710, FICTION-0673400 , FICTION-0836932, FICTION-0837435, FICTION-0837436, FICTION-0837439, FICTION-0837440, FICTION-0837448, FICTION-0837449, Gol000096, GREER000351, GREER009525, GREER012435, HWANG000117, HWANG038664, HWANG039095, NON-FICTION-0074108, NON-FICTION-0074121, NON-FICTION-0074197, NON-FICTION-0074201, NON-FICTION-0074207, NON-FICTION-0074211, NON-FICTION-0074219, NON-FICTION-0074223;

"Public Records System," *U.S. Copyright Office* , available at https://publicrecords.copyright.gov/;

Genre: *Goodreads* , available at https://www.goodreads.com/; [redacted].

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Appendix Exhibit E.2: Plaintiff Renown, Including Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Their Writing, and Features in Leading Publications

Plaintiff	Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Writing	Features in Leading Publications
David Baldacci	David Baldacci is the recipient of a Best Series Novel Award from the International Thriller Writers honorary society of professional thriller authors and was named a PEN/Faulkner Literary Champion for his "lifetime of devoted literary advocacy and a commitment to inspiring new generations of readers and writers."[1] All of his novels for adults have been national and international bestsellers.[2]	A *Publishers Weekly* review of his book, *Absolute Power*, described David Baldacci as a "first-rate storyteller who grabs readers by their lapels right away and won't let go,"[3] and an *Associated Press* article similarly described his book, *No Man's Land,* as "action-packed" and "thought-provoking."[4]
Taylor Branch	Taylor Branch is a Pulitzer Prize-winning author and was awarded the National Humanities Medal from President Clinton.[5]	A review in *The New York Times* of his novel *America in the King Years:1965-68* described Taylor Branch as having "a commanding moral voice, attached to no political party or public office" with writing capable of "bringing history to life with a few sentences."[6]
Michael Connelly	Michael Connelly is a bestselling author and recipient of the Mystery Writers of America Edgar Award for Best First Novel.[7] Several of his novels have been featured on *The New York Times's* "Best Crimes Novels of the Year" lists.[8]	*CBS News* has covered Michael Connelly, describing "for more than 30 years, Connelly has been creating bestsellers in the detective and crime genre" and *The Washington Post* described him as a "master of [his] genre."[9]
Sylvia Day	Sylvia Day is a number one *New York Times*, *USA Today*, and international bestselling author.[10] Her novels have been featured by a variety of leading publications including *TIME*, *Variety*, *People*, *Publishers Weekly, The Wall Street Journal, Cosmopolitan,* and *Entertainment Weekly*.[11] Sylvia Day is also the two-time recipient of the National Readers Choice Award and two-time nominee of the Romance Writers of America's RITA Award of Excellence.[12]	In a press release from Lionsgate announcing acquisition of television rights for her Crossfire novels, Lionsgate described "Sylvia has created an enduring, sexy, and edgy story" and that her books "excite[] and connect[] with audiences."[13]

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Appendix Exhibit E.2: Plaintiff Renown, Including Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Their Writing, and Features in Leading Publications

Plaintiff	Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Writing	Features in Leading Publications
Mignon G. Eberhart	Mignon G. Eberhart authored over 50 novels and short stories prior to her death in 1996, and received the Grand Master Award from the Mystery Writers in America.[14]	*The New York Times* described Mignon G. Eberhart as "a highly prolific author of mystery novels who specialized in stories that combined romance and suspense" and "one of the most popular mystery writers" during her 60-year career.[15]
Jonathan Franzen	Jonathan Franzen is a National Book Award winner and a finalist for the Pulitzer Prize for Fiction.[16] Several of his novels have been selected as *Oprah's Book Club* books and featured on *The New York Times*'s "Notable Books" and "Best Books of the Year" lists.[17] He was also named as one of *TIME Magazine's* top 100 "most influential people around the world" in 2011.[18]	Articles in *The Washington Post* and *The Boston Globe* describe Jonathan Franzen as "an extraordinary stylist"[19] and his writing as "soulful, funny, and so sharply observed."[20]
Christopher Golden	Christopher Golden is a *New York Times* best-selling author. He was awarded the Bram Stoker award for best novel from the Horror Writers Association for his novel *Ararat*, and has been nominated for several other awards including the British Fantasy Award, the Eisner Award, and multiple Shirley Jackson Awards.[21]	A *Publishers Weekly* review of Christopher Golden's book, *Ararat*, described his ability to create books that "feel fresh through solid prose, effective characterizations, and a willingness not to pull any plot punches."[22]
Andrew Sean Greer	Andrew Sean Greer is bestselling author, Pulitzer Prize winner, and recipient of the O Henry Award, an annual award given to "short stories of exceptional merit," for Short Fiction.[23] His novel, *Less* was featured on the best book lists by *The New York Times*, *The Washington Post*, *San Francisco Chronicle*, and *New York Post,* among others.[24]	An article in *The Washington Post* described "Greer is an exceptionally lovely writer, capable of mingling humor with sharp poignancy" whose novels are "brilliantly funny" and "laced with wit."[25]

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Appendix Exhibit E.2: Plaintiff Renown, Including Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Their Writing, and Features in Leading Publications

Plaintiff	Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Writing	Features in Leading Publications
John Grisham	John Grisham is a number one bestselling author with numerous awards and accolades, including a two-time winner of the Harper Lee Prize for Legal Fiction and recipient of a Library of Congress Creative Achievement Award for Fiction.[26]	A *TIME* interview with John Grisham titled "The Enduring Charm of John Grisham" comments that "Grisham's steady commitment to giving readers what they want" has not changed since 1994 when he "released a succession of best-selling novels that became hit movies" and that "every fall, like clockwork, Grisham publishes a new legal thriller, and every fall it shoots to the top of the bestseller list."[27]
David Henry Hwang	David Henry Hwang is a Tony Award-winning playwright, a Grammy Award recipient, and a three-time Finalist for a Pulitzer Prize in Drama.[28] He is also the recipient of the Dramatists Guild's 2025 Lifetime Achievement Award for his lifetime achievement in theatrical writing.[29]	A Style article in *The New York Times* on David Henry Hwang in its Style section described him as a "master of undercutting" with a writing "approach that, intentionally, makes it almost impossible for audience members to feel secure in their perspective, which Hwang delights in subverting."[30]
George R. R. Martin	George R.R. Martin is a number one *New York Times* bestselling author of many novels including the series *A Song of Fire and Ice*, which was adapted into the Emmy Award-winning HBO series, *Game of Thrones*.[31]	A Style article in *The New York Times* of Geroge R. R. Martin titled "George R. R, Martin, Fantasy's Reigning King" comments that he "has expanded the realms of genre fiction and prestige television – and forever changed how we engage with an imagined universe" by creating novels "more than special, even: perhaps unlike anything fantasy readers had ever seen" that are "calibrated to optimize depth and breadth" and have amassed him a readership heights "few authors have ever found."[32]
Jodi Picoult	Jodi Picoult is a number one *New York Times* bestselling author, is one of twenty "famous authors" featured in the book *Why We Write: 20 Acclaimed Authors on How and Why They Do What They Do*, and the recipient of the New England Bookseller Award for Fiction and the Sarah Josepha Hale Award.[33]	An *NPR* interview with Jodi Picoult describes how she "turns tough topics into best-sellers" and quotes her longtime editor describing that she "has had a strong bond with readers since the beginning of her career."[34]

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Appendix Exhibit E.2: Plaintiff Renown, Including Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Their Writing, and Features in Leading Publications

Plaintiff	Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Writing	Features in Leading Publications
Stacy Schiff	Stacy Schiff is a Pulitzer Prize-winning author.[35] Her book, Cleopatra, was featured across several best year-end best book lists, and Revolutionary: Samuel Adams was featured on *The Wall Street Journal*'s Top Ten Books of the Year and President Obama's "Favorite Books of 2022," among other bestseller lists.[36]	A review in *The New York Times* described Stacy Schiff as "one of the most talented and creative biographers at work today," and *The Washington Post* described her "eye for detail" and being "especially skilled at limning the social contours" of a story.[37]
James Shapiro	James Shapiro is a prominent Shakespeare scholar, winner of the Samuel Johnson Prize for Best Non-Fiction Book, and recipient of the UK's Ballie Gifford Prize for Non-Fiction "Winner of Winner" Award for the "best work of non-fiction from the last 25 years of the prize," and was featured on *The New York Times*'s "10 Best Books of 2020" list.[38]	*The New York Times* describes James Shapiro as having "consummate skill" with a "friendly and evocative style" who is able to "bring[] Shakespeare himself alive" in his books.[39]

1 "David Baldacci is Our 2024 PEN/Faulkner Literary Champion," *PEN/Faulkner*, January 17, 2024, available at https://www.penfaulkner.org/2024/01/17/david-baldacci-is-our-2024-pen-faulkner-literary-champion/ ("Author and philanthropist David Baldacci has been selected as the 2024 PEN/Faulkner Literary Champion. This annual commendation recognizes a lifetime of devoted literary advocacy and a commitment to inspiring new generations of readers and writers. 'David Baldacci, whose novels have captivated millions of readers worldwide, has been a paragon of service to the literary community,' said Executive Director Gwydion Suilebhan.").

2 "About," *International Thriller Writers*, available at https://thrillerwriters.org/about-itw/ ("ITW represents professional thriller authors from around the world. The International Thriller Writers is an honorary society of authors, both fiction and nonfiction, who write books broadly classified as 'thrillers.'" and "With more than 6,000 members in 49 countries, representing over 3.6 billion book sales, ITW is the world's leading organization for thriller writers."); "Past Nominees and Winners," *International Thriller Writers*, available at https://thrillerwriters.org/past-nominees-and-winners/ ("We're thrilled to announce the winners of the 2025 ITW Thriller Awards: […] Best Series Novel[:] David Baldacci *To Die For*."); "About," *David Baldacci*, available at https://www.davidbaldacci.com/landing-page/david-baldacci-about/ ("David published his first novel, *Absolute Power*, in 1996. The feature film adaptation followed, with Clint Eastwood as its director and star. In total, David has published 53 novels for adults; all have been national and international bestsellers, and several have been adapted for film and television.").

3 "Absolute Power," *Publishers Weekly*, available at https://www.publishersweekly.com/9780446519960 ("[David Baldacci is] a first-rate storyteller who grabs readers by their lapels right away and won't let go until they've finished his enthralling yarn.").

4 Tsunoda, Waka, "Review: 'No Man's Land' by David Baldacci is action-packed," *The Associated Press*, November 14, 2016, available at https://apnews.com/ad0393d4d91e4a0cb04feb399190bc45 ("David Baldacci's

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typical action thriller often features a character in dire emotional straits. This gives the novel dramatic depth and intensity, making it an unforgettable read. It has a strong element of science fiction, is action-packed and thought-provoking.").

[5] "Taylor Branch," *Georgia Writers Hall of Fame*, available at https://www.georgiawritershalloffame.org/honorees/taylor-branch ("The recipient of a 1991 MacArthur Foundation fellowship – "genius grant" – Branch was awarded the National Humanities Medal from President Clinton in 1999."); "Biography," *Taylor Branch*, available at http://taylorbranch.com/about-taylor-branch/ ("Parting the Waters: America in the King Years, 1954-63 (1988) […] Winner: Pulitzer Prize for History, 1988").

[6] Lewis, Anthony, "The Whirlwinds of Revolt," *The New York Times*, February 5, 2006, available at https://www.nytimes.com/2006/02/05/books/review/the-whirlwinds-of-revolt.html ("We have had nothing like it in this country in living memory: a commanding moral voice, attached to no political party or public office, that moved governments and changed social institutions. […] He has an incredible command of it all, bringing history to life with a few sentences here, extended chapters there on something like the march from Selma to Montgomery.").

[7] "Michael Connelly's Biography," *Michael Connelly*, available at https://www.michaelconnelly.com/about ("Michael is the bestselling author of forty-two novels and one work of non-fiction. [...] His very first novel, *The Black Echo*, won the prestigious Mystery Writers of America Edgar Award for Best First Novel in 1992.").

[8] *See*, *for example*, Stasio, Marilyn, "The Best Crime Novels of 2017," *The New York Times*, November 29, 2017, available at https://www.nytimes.com/2017/11/29/books/review/best-crime-novels-2017.html, which includes Michael Connelly's novel, *Two Kinds of Truth*; Stasio, Marilyn, "The Best Crime Novels of the Year," *The New York Times*, December 5, 2019, available at https://www.nytimes.com/2019/12/05/books/review/crime-fiction-stasio-10-best.html, which includes Michael Connelly's novel, *The Night Fire*.

[9] "Best-Selling Detective Author Michael Connelly Talks Career and Crime Novels," *CBS News*, November 9, 2024, available at https://www.youtube.com/watch?v=C59zfMiMUWM at 00:00-00:08; Corrigan, Maureen, "Bosch is Back in Michael Connelly's Masterful 'The Wrong Side of Goodbye'," *The Washington Post*, October 31, 2016, available at https://www.washingtonpost.com/entertainment/books/bosch-is-back-in-michael-connellys-masterful-the-wrong-side-of-goodbye/2016/10/28/1a22dc86-9c59-11e6-b3c9-f662adaa0048_story.html ("Because Connelly is such a master of the genre, he casually sidesteps the usual narrative convention and does not intertwine these two plots.").

[10] "About," *Sylvia Day*, available at https://www.sylviaday.com/about ("Sylvia is the #1 New York Times, #1 USA Today & #1 international bestselling author of over twenty award-winning novels, including six Sunday Times, ten New York Times, and thirteen USA Today bestsellers.").

[11] "About," *Sylvia Day*, available at https://www.sylviaday.com/about ("Sylvia's work has been covered in *Time*, *Variety*, *The Hollywood Reporter*, *People*, the *Wall Street Journal*, *Cosmopolitan*, the *Associated Press*, *USA Today*, and *Entertainment Weekly* – to name just a few." and "Her work has been called an 'exhilarating adventure' by *Publishers Weekly* and 'a flawless blend of captivating characters, clever plotting, and searing sensuality' by *Booklist.*").

[12] "Awards & Honors," *Sylvia Day*, available at https://www.sylviaday.com/media-kit/awards/ ("Awards & Honors: Sylvia's work has been nominated for Romance Writers of America's prestigious RITA Award of Excellence twice. Sylvia has been honored with the National Readers' Choice Award twice."); "The Voice of Romance Writers," *Romance Writers of America*, available at https://www.rwa.org/about-rwa ("Romance Writers of America (RWA) is a nonprofit trade association whose mission is to advance the professional and common business interests of career-focused romance writers through networking and advocacy and by increasing public awareness of the romance genre.").

[13] "Lionsgate Acquires Television Rights to the #1 New York Times Best Selling Series Crossfire by Award Winning Author Sylvia Day," *PR Newswire*, August 5, 2013, available at https://www.prnewswire.com/news-releases/lionsgate-acquires-television-rights-to-the-1-new-york-times-bestselling-series-crossfire-by-award-winning-author-sylvia-day-218352681.html ("'The CROSSFIRE series is an incredible property and it is a thrill

to bring it to Lionsgate,' said Selak. 'Sylvia has created an enduring, sexy and edgy story, and we're looking forward to working with her to create a show that both excites and connects with audiences as her books have done.'").

[14] "Biography," *Mignon G. Eberhart*, available at https://www.mignoneberhart.com ("[…] Mignon Good Eberhart penned over 50 novels and numerous short stories, many of which have been adapted for film and television. In 1971, she received the Grand Master Award from the Mystery Writers of America. She is also a past president of the Mystery Writers of America.").

[15] Gussow, Mel, "Mignon Eberhart, Novelist, 97; Blended Mystery and Romance," *The New York Times*, October 9, 1996, available at https://www.nytimes.com/1996/10/09/arts/mignon-eberhart-novelist-97-blended-mystery-and-romance.html ("Mignon G. Eberhart, a highly prolific author of mystery novels who specialized in stories that combined romance and suspense, died yesterday in the Nathaniel Witherell nursing home in Greenwich, Conn., where she lived. She was 97. In a 60-year career, Mrs. Eberhardt was one of the most popular mystery writers and one of the most highly paid. She wrote 59 books, including novels and several collections of stories. Her first mystery was published in 1929 and her last, 'Three Days for Emeralds,' in 1988, when she was in her late 80's.").

[16] "Mr. Jonathan E. Franzen," *American Academy of Arts & Sciences*, January 2026, available at https://www.amacad.org/person/jonathan-e-franzen ("Jonathan Franzen is a novelist and essayist whose 2001 novel, *The Corrections*, won the National Book Award and the James Tait Black Memorial Prize, and was a finalist for the Pulitzer Prize for Fiction.").

[17] "About," *Jonathan Franzen*, available at https://jonathanfranzen.com/about ("Honors and Recognition [..] 2001 Oprah's Book Club Selection" [..] "2001 The New York Times Best Books of the Year" [..] "2010 Oprah's Book Club selection" [..] 2010 The New York Times 100 Notable Books of 2010 list [..] 2010 The New York Times Best Books of the Year").

[18] Stein, Joel, "Down with People!," *TIME*, April 21, 2011, available at https://content.time.com/time/specials/packages/article/0,28804,2066367_2066584_2066582,00.html.html ("The 2011 TIME 100[.] Meet the most influential people in the world. […] Jonathan Franzen, another novelist on the TIME 100.").

[19] Charles, Ron, "Jonathan Franzen's New Novel, 'Freedom,' Reviewed by Ron Charles," *The Washington Post*, August 25, 2010, available at https://www.washingtonpost.com/wp-dyn/content/article/2010/08/24/AR2010082405326.html ("When Franzen drops the Patty mask around page 200, we can finally enjoy his exquisite sentences without reservation. Love him or hate him -- the critical extremism he inspires demands that everybody pick a side -- you've got to admit he's an extraordinary stylist, America's best answer to Martin Amis. In dialogue that conveys each palpitation of the heart, every wince of the conscience, and especially in those elegantly extended phrases of narration, Franzen conveys his psychological acuity in a fugue of erudition, pathos and irony that is simply fantastic.").

[20] Upchurch, Michael, "Faith & Family," *The Boston Globe*, September 30, 2021, available at https://www.bostonglobe.com/2021/09/30/arts/faith-family/ ("Soulful, funny, and so sharply observed it hurts, [Crossroad is] a portrait of a family coming apart on multiple fronts as they live through an era when all the rules — social, moral, sexual, political — seem to be in flux.").

[21] *Christopher Golden*, available at https://www.christophergolden.com ("Christopher Golden is the New York Times bestselling, Bram Stoker Award-winning author of such novels as Road of Bones, Ararat, Snowblind, and Red Hands. [..] His work has been nominated for the British Fantasy Award, the Eisner Award, and multiple Shirley Jackson Awards. For the Bram Stoker Awards, Golden has been nominated ten times in eight different categories, and won twice."); "About the Bram Stoker Awards," *The Bram Stoker Awards*, available at https://www.thebramstokerawards.com/the-bram-stoker-awards/ ("Each year, the Horror Writers Association presents the Bram Stoker Awards for Superior Achievement, named in honor of Bram Stoker, author of the seminal horror work, Dracula.").

[22] "Ararat," *Publishers Weekly*, available at https://www.publishersweekly.com/978-1-250-11705-2 ("While the contours of the story line will be familiar to genre fans, Golden makes them feel fresh through solid prose, effective characterizations, and a willingness not to pull any plot punches.").

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Appendix Exhibit E.2: Plaintiff Renown, Including Publicly Discussed Literary Recognition, Media Coverage, and Publicity for Their Writing, and Features in Leading Publications

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[23] "Bio," *Andrew Sean Greer*, available at https://andrewgreer.com/bio ("Andrew Sean Greer is the author of eight works of fiction, including the bestsellers *Less* and its companion *Less is* Lost. […] He is the recipient of a NEA grant, a Guggenheim Fellowship, and the 2018 Pulitzer Prize for Fiction."); "Author: Andrew Sean Greer," *Macmillan*, available at https://us.macmillan.com/author/andrewseangreer ("[Andrew Sean Greer] is also the recipient of the Northern California Book Award, the California Book Award, the New York Public Library Young Lions Award, the O Henry Award for Short Fiction, and fellowships from the National Endowment for the Arts and the New York Public Library."). *See also* "O. Henry Awards," *The American Writers Museum*, available at https://americanwritersmuseum.org/award/o-henry-awards/?.

[24] "Less, a Novel," *Andrew Greer*, available at https://andrewgreer.com/less ("Winner of the Pulitzer Prize for Fiction! New York Times bestseller! Winner: Northern California Book Award! Washington Post 10 Best Books of 2017! New York Times 2017 Notable Book! San Francisco Chronicle 10 Best Books of 2017! San Jose Mercury News 10 Best Books of 2017! New York Post Best Books of 2017! American Library Association Notable Fiction 2017! Paris Review Best Books of 2017!").

[25] Charles, Ron, "'Less' is the Funniest Novel You'll Read This Year," *The Washington Post*, July 13, 2017, available at https://www.washingtonpost.com/entertainment/books/do-we-really-need-another-novel-about-a-novelist-yes--this-one-is-delightful/2017/07/11/7e40267c-545c-11e7-a204-ad706461fa4f_story.html ("Greer is an exceptionally lovely writer, capable of mingling humor with sharp poignancy. His books are frequently constructed around some clever conceit. […] Greer is brilliantly funny about the awkwardness that awaits a traveling writer of less repute. […] Greer's narration, so elegantly laced with wit, cradles the story of a man who loses everything: his lover, his suitcase, his beard, his dignity.").

[26] "About John Grisham," *John Grisham*, available at https://jgrisham.com/bio/ ("John Grisham is the author of more than fifty consecutive #1 bestsellers, which have been translated into nearly fifty languages. His recent books include *Framed*, *Camino Ghosts*, and *The Exchange: After the Firm*. Grisham is a two-time winner of the Harper Lee Prize for Legal Fiction and was honored with the Library of Congress Creative Achievement Award for Fiction.").

[27] Ball, Molly, "The Enduring Charm of John Grisham," *TIME*, October 2, 2023, available at https://time.com/6317634/john-grisham-the-exchange-book-interview/ ("The picture on the postcard is from a book signing for *The Chamber*, in 1994. It's a momento of the heady days of Grisham's early success, when he released a succession of best-selling novels that became hit movies. People camped out in line for his book signings, Hollywood studios got in bidding wars for his film rights, and stores could barely keep his novels in stock. Many things have changed in the intervening decades. […] What hasn't changed is Grisham's steady commitment to giving readers what they want. At 68, he may no longer be publishing's fresh young hotshot; his books sell a fraction of the copies that they used to, and it's been 19 years since he has had a feature film made. Yet every fall, like clockwork, Grisham publishes a new legal thriller, and every fall it shoots to the top of the bestseller list.").

[28] "Bio," *David Henry Hwang*, available at https://www.davidhenryhwang.com/bio ("David Henry Hwang is a Tony Award winner and three-time nominee, a three-time OBIE Award winner, a Grammy Award winner who has been twice nominated, and a three-time Finalist for the Pulitzer Prize in Drama.").

[29] Lueders, Ellice, "Professor David Henry Hwang Honored by Dramatists Guild with Lifetime Achievement Award," *Columbia University School of the Arts*, April 25, 2025, available at https://arts.columbia.edu/news/professor-david-henry-hwang-honored-dramatists-guild-lifetime-achievement-award ("Professor of Theater and Playwriting Concentration Head David Henry Hwang will receive the Dramatists Guild's 2025 Lifetime Achievement Award. The Guild's highest honor recognizes distinguished lifetime achievement in theatrical writing, and the list of previous recipients includes some of the biggest names in the business, like Edward Albee, Adrienne Kennedy, Arthur Miller, Stephen Sondheim, and George C. Wolf.").

[30] Harris, Mark, "How David Henry Hwang Remade Theater in His Own Image," *The New York Times Style Magazine*, October 9, 2025, available at https://www.nytimes.com/2025/10/09/t-magazine/david-henry-hwang.html ("The same rhythms are often apparent in his plays – sometimes as themes, motifs, and sometimes within a single line. It's an approach that, intentionally, makes it almost impossible for audience members to

feel secure in their perspective, which Hwang delights in subverting. […] You think you know where he's taking you, and then that one unexpected final word, 'ruthless,' forces you to rewind even as the rueful, ambivalent play keeps moving forward. It's a hallmark Hwang move; he is a master of undercutting.").

[31] "George R. R. Martin," *Penguin Random House*, available at https://www.penguinrandomhouse.com/authors/233901/george-r-r-martin ("George R. R. Martin is the #1 New York Times bestselling author of many novels, including those of the acclaimed series A Song of Ice and Fire—A Game of Thrones, A Clash of Kings, A Storm of Swords, A Feast for Crows, and A Dance with Dragons—as well as Tuf Voyaging, Fevre Dream, The Armageddon Rag, Dying of the Light, Windhaven (with Lisa Tuttle), and Dreamsongs Volumes I and II.").

[32] Yu, Charles, "George R. R. Martin, Fantasy's Reigning King," *The New York Times Style Magazine*, October 15, 2018, available at https://www.nytimes.com/2018/10/15/t-magazine/george-rr-martin-got-interview.html ("The author of 'A Game of Thrones' has expanded the realms of genre fiction and prestige television – and forever changed how we engage in an imagined universe. […] Although the first book in the series, 'A Game of Thrones,' was published in 1996 to modest expectations, as the enthusiasm of early readers and booksellers spread (the old-fashioned way, by word of mouth), there was a sense that Martin's story was special – more than special, even: perhaps unlike anything readers had ever seen […] After the HBO show premiered, the world Martin had created became a global phenomenon, and his readership reached heights few authors have ever found – his American peers now include other household names of genre fiction, such as Tom Clancy and Stephen King. […] Throughout the books, Martin depicts a society simple enough to understand but complex enough in its dynamics to be a model and mirror of our own. His output, in fact, seems calibrated to optimize depth and breadth.").

[33] "Jodi Picoult," *Penguin Random House*, available at https://www.penguinrandomhouse.com/authors/83188/jodi-picoult/ ("**Jodi Picoult** is the #1 *New York Times* bestselling author of thirty novels, including *By Any Other Name, Mad Honey* (co-authored with Jennifer Finney Boylan), *Wish You Were Here, The Book of Two Ways, A Spark of Light, Small Great Things, Leaving Time,* and *My Sister's Keeper*, and, with daughter Samantha van Leer, two young adult novels, *Between the Lines* and *Off the Page.*"); Leddy, Chuck, "'Why We Write' by Meredith Maran," *The Boston Globe*, February 8, 2013, available at https://www.bostonglobe.com/arts/books/2013/02/08/book-review-why-write-acclaimed-authors-how-and-why-they-what-they-edited-meredith-maran/F48f878tlnyxI5osKhwhXK/story.html?event=event12 ("In 'Why We Write,' edited by Meredith Maran, author and Globe contributor, 20 famous writers take us inside their literary worlds to see how the magic of writing takes place and explain why otherwise sane people would engage in an activity that, Maran argues, 'promises only poverty, rejection, and self doubt.' […] Jodi Picoult speaks of hearing her characters' voices in her head as she's writing."); "Authors: Jodi Picoult," *HarperCollins*, available at https://www.harpercollins.com/blogs/authors/jodi-picoult-18032 ("**Jodi Picoult** […] is the recipient of numerous awards, including the New England Bookseller Award for Fiction, the ALA's Alex Award, the New Hampshire Literary Award for Outstanding Literary Merit, and the prestigious Sarah Josepha Hale Award in recognition of her distinguished body of written work."). *See also* "Sarah Josepha Hale Award," *Richards Free Library*, available at https://richardsfreelib.org/about/sarah-josepha-hale/ ("The Sarah Josepha Hale Award, presented annually since 1956, is a New England award given by the trustees of the Richards Free Library, Newport, New Hampshire, in recognition of a distinguished body of work in the field of literature and letters. […] The award is based on the full body of the nominee's work.").

[34] Neary, Lynn, "Jodi Picoult Turns Tough Topics Into Best-Sellers," *NPR*, March 13, 2012, available at https://www.npr.org/2012/03/13/148231356/jodi-picoult-turns-tough-topics-into-bestsellers ("When you think about blockbuster best-sellers, genres like mystery, crime and romance typically come to mind. Ethical or moral fiction? Not so much. But that's how Jodi Picoult, who has 33 million copies of her books currently in circulation, describes her books. So how did an author who writes about divisive issues get so popular? […] Picoult's longtime editor Emily Bestler says the author has had a strong bond with readers since the beginning of her career. […] Picoult takes a controversial issue and lets her characters hash out their differences over it, usually in the context of a family facing some kind of crisis. She says she tends to write about subjects that keep

her awake at night. […] Picoult doesn't take her fans for granted. She gets around 200 emails a day and answers them all.").

[35] "About Stacy Schiff," *Stacy Schiff*, available at https://stacyschiff.com/about-stacy-schiff.html ("A Pulitzer Prize-winner, Stacy Schiff […]."). *See also* "*Vera (Mrs. Vladimir Nabokov)*, by Stacy Schiff (Random House)," *The Pulitzer Prizes*, available at https://www.pulitzer.org/winners/stacy-schiff.

[36] "About Stacy Schiff," *Stacy Schiff*, available at https://stacyschiff.com/about-stacy-schiff.html ("*Cleopatra* appeared on most year-end best book lists, including the *New York Times's* Top Ten Books of 2010, and won the PEN/Jacqueline Bograd Weld Award for biography. Also a #1 bestseller, *Cleopatra* has been translated into 30 languages."); "The Revolutionary," *Stacy Schiff*, available at https://stacyschiff.com/the-revolutionary-samuel-adams.html ("A New York Times Bestseller [..] Best Books of 2022 — New York Times, The New Yorker, NPR, The Wall Street Journal, The Boston Globe, "Barack Obama's Favorite Books," Oprah Daily, Los Angeles Times, TIME, USA Today, Air Mail, Daily Kos, Barnes & Noble, BookPage, GoodReads.").

[37] Greenberg, Amy S., "The Rabble-Rouser Who 'Wired a Continent for Rebellion'," *The New York Times*, October 22, 2022, available at https://www.nytimes.com/2022/10/22/books/review/the-revolutionary-samuel-adams-stacy-schiff.html ("Any book from the Pulitzer Prize-winning Schiff is reason for excitement. Her previous subjects, including Véra Nabokov, Antoine de Saint-Exupéry and Cleopatra, have established her as one of the most talented and creative biographers at work today."); Arana, Marie, "A Queen-Size Accomplishment: Cleopatra Brought Fully to Life," *The Washington Post*, November 2, 2010, available at https://www.washingtonpost.com/archive/style/2010/11/02/a-queensize-accomplishment-cleopatra-brought-fully-to-life/b7c6126d-2a62-417c-87dc-afbf6c1e9a8e/ ("Schiff is especially skilled at limining the social contours of the story." and "Schiff has a magpie's eye for detail; her Cleopatra, as a result, is hung with shiny bits of history.").

[38] "Biography," *James Shapiro*, available at https://www.jamesshapiro.net/bio.htm ("He is the author of Rival Playwrights: Marlowe, Jonson, Shakespeare (1991); Shakespeare and the Jews (1996); Oberammergau: The Troubling Story of the World's Most Famous Passion Play (2000); 1599: A Year in the Life of William Shakespeare (2005), which was awarded the Samuel Johnson Prize for the best non-fiction book published in Britain, as well as the Ballie Gifford 'Winner of Winner' Award (2023) […] He is currently Shakespeare Scholar in Residence at the Public Theater in New York City."); "The 10 Best Books of 2020," *The New York Times*, November 23, 2020, available at https://www.nytimes.com/2020/11/23/books/review/best-books.html, which includes James Shapiro's novel, *Shakespeare in a Divided America*. *See also* "James Shapiro's 1599: A Year in the Life of William Shakespeare Wins the Winner of Winners Award," *The Baillie Gifford Prize for Non-Fiction*, April 27, 2023, available at https://www.thebailliegiffordprize.co.uk/inside-the-covers/news/james-shapiros-1599-a-year-in-the-life-of-william-shakespeare-wins-the-winner-of-winners-award ("1599: A Year in the Life of William Shakespeare by James Shapiro is tonight, Thursday 27 April, named winner of the Baillie Gifford Prize for Non-Fiction 'Winner of Winners' Award. […] The Ballie Gifford Prize for Non-Fiction Winner of Winners Award marks the 25th anniversary of the UK's premier non-fiction book prize by crowning the best work of non-fiction from the last 25 years of the prize.").

[39] Smiley, Jane, "'The Year of Lear: Shakespeare in 1606,' by James Shapiro," *The New York Times*, December 8, 2015, available at https://www.nytimes.com/2015/12/13/books/review/the-year-of-lear-shakespeare-in-1606-by-james-shapiro.html ("Shapiro is a prominent Shakespeare scholar […] What Shapiro does, with consummate skill and in a friendly and evocative style, is sort through the information that has emerged from old libraries and dusty archives in the last 50 years, and then he consolidates it and brings it alive in a smooth, lively and conversational style. He brings Shakespeare himself alive by demonstrating how the playwright's mind worked over not only events but also other writers' perceptions (those of playwrights and writers of masques, the king himself, court officials and men of the church).").

[redacted]

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Plaintiff	Asserted Work	Excerpt on Google Books	Excerpt on Amazon	Summary or Excerpt on Author's Site
David Baldacci	A Gambling Man	✓	✓	
	A Minute to Midnight	✓	✓	
	Absolute Power	✓	✓	✓
	Bullseye: An Original Will Robie / Camel Club Short Story	✓	✓	✓
	Daylight	✓	✓	✓
	Deliver Us From Evil	✓	✓	✓
	Divine Justice	✓	✓	✓
	End Game	✓	✓	✓
	First Family	✓	✓	✓
	Hell's Corner	✓	✓	✓
	Hour Game	✓	✓	✓
	Long Road to Mercy	✓	✓	✓
	Memory Man	✓	✓	✓
	No Man's Land	✓	✓	✓
	No Time Left	✓	✓	✓
	One Good Deed	✓	✓	✓
	One Summer	✓	✓	✓
	Redemption	✓	✓	✓
	Saving Faith	✓	✓	✓
	Simple Genius	✓	✓	✓
	Split Second	✓	✓	✓
	Stone Cold	✓	✓	✓
	The Christmas Train	✓	✓	✓
	The Collectors	✓	✓	✓
	The Fallen	✓	✓	✓
	The Finisher	✓	✓	
	The Fix	✓	✓	✓
	The Guilty	✓	✓	✓
	The Keeper	✓	✓	
	The Last Mile	✓	✓	✓
	The Simple Truth	✓	✓	✓
	The Sixth Man	✓	✓	✓
	The Target	✓	✓	✓
	The Whole Truth	✓	✓	✓
	The Winner	✓	✓	✓
	Total Control	✓	✓	✓
	True Blue	✓	✓	✓
	Walk the Wire	✓	✓	✓
	Wish You Well	✓	✓	✓
	Zero Day	✓	✓	✓
Taylor Branch	Parting the Waters: America in the King Years, 1954-63	✓	✓	✓
	Pillar of Fire: America in the King Years, 1963-65	✓	✓	✓

[redacted]

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Plaintiff	Asserted Work	Excerpt on Google Books	Excerpt on Amazon	Summary or Excerpt on Author's Site
Michael Connelly	A Darkness More than Night	✓	✓	✓
	Angels Flight	✓	✓	✓
	Blood Work	✓	✓	✓
	Chasing the Dime	✓	✓	✓
	Cielo Azul			✓
	City of Bones	✓	✓	✓
	Crime Beat: A Decade of Covering Cops and Killers	✓	✓	✓
	Dark Sacred Night	✓	✓	✓
	Echo Park	✓	✓	✓
	Fair Warning	✓	✓	✓
	Father's Day			✓
	In the Shadow of the Master		✓	✓
	Lost Light		✓	✓
	Nine Dragons	✓	✓	✓
	One-Dollar Jackpot			✓
	Switchblade	✓	✓	✓
	The Black Box	✓	✓	✓
	The Black Echo	✓	✓	✓
	The Black Ice	✓	✓	✓
	The Blue Religion		✓	✓
	The Brass Verdict	✓	✓	✓
	The Closers	✓	✓	✓
	The Concrete Blonde	✓	✓	✓
	The Drop	✓	✓	✓
	The Fifth Witness	✓	✓	✓
	The Gods of Guilt	✓	✓	✓
	The Last Coyote	✓	✓	✓
	The Late Show	✓	✓	✓
	The Law of Innocence	✓	✓	✓
	The Lincoln Lawyer	✓	✓	✓
	The Narrows	✓	✓	✓
	The Night Fire	✓	✓	✓
	The Overlook	✓	✓	✓
	The Poet	✓	✓	✓
	The Reversal	✓	✓	✓
	The Safe Man	✓	✓	✓
	The Scarecrow	✓	✓	✓
	The Wrong Side of Goodbye	✓	✓	✓
	Trunk Music	✓	✓	✓
	Two Kinds of Truth	✓	✓	✓
Sylvia Day	A Dark Kiss of Rapture	✓	✓	✓
	A Familiar Kind of Magic		✓	
	A Hunger So Wild	✓	✓	✓
	A Passion For Him	✓	✓	✓
	A Touch of Crimson	✓	✓	✓

[redacted]

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Plaintiff	Asserted Work	Excerpt on Google Books	Excerpt on Amazon	Summary or Excerpt on Author's Site
Sylvia Day (cont.)	Afterburn	✓	✓	✓
	Aftershock	✓		✓
	All Revved Up	✓	✓	✓
	Ask For It	✓	✓	✓
	Bad Boys Ahoy!	✓	✓	✓
	Bared to You	✓	✓	✓
	Butterfly in Frost		✓	✓
	Captivated by You		✓	✓
	Don't Tempt Me	✓	✓	✓
	Entwined With You	✓	✓	✓
	Eve of Chaos	✓	✓	✓
	Eve of Darkness	✓	✓	✓
	Eve of Destruction	✓	✓	✓
	Heat of the Night		✓	✓
	Mischief and the Marquess			
	On Fire		✓	✓
	One with You	✓	✓	✓
	Passion For the Game	✓	✓	✓
	Pleasures of the Night		✓	✓
	Pride and Pleasure	✓	✓	✓
	Reflected In You	✓	✓	✓
	Seven Years to Sin	✓	✓	✓
	Taking the Heat	✓	✓	✓
	The Stranger I Married	✓	✓	✓
	What Happened in Vegas			
Mignon G. Eberhart	A Fighting Chance	✓	✓	
	Alpine Condo Crossfire	✓	✓	
	Casa Madrone	✓	✓	
	Escape of the Night		✓	
	Family Affair		✓	
	Hasty Wedding	✓	✓	
	Next of Kin		✓	
	Nine O'clock Tide	✓	✓	
	Postmark Murder	✓	✓	
	The Bayou Road		✓	
	The Patient in Cabin C		✓	
	The Patient in Room 18	✓	✓	
	The White Cockatoo			
	Three Days for Emeralds		✓	
	While the Patient Slept	✓	✓	✓
Jonathan Franzen	Freedom	✓	✓	✓
	Purity	✓	✓	✓
	Strong Motion	✓	✓	✓
	The Corrections	✓	✓	✓
	The Twenty-Seventh City	✓	✓	✓
Christopher Golden	Ararat	✓	✓	✓

[redacted]

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Plaintiff	Asserted Work	Excerpt on Google Books	Excerpt on Amazon	Summary or Excerpt on Author's Site
Andrew Sean Greer	Less	✓	✓	✓
	The Story of a Marriage	✓	✓	✓
	The Confessions of Max Tivoli	✓	✓	✓
	The Impossible Lives of Greta Wells		✓	✓
John Grisham	A Painted House	✓	✓	✓
	A Time to Kill	✓	✓	✓
	Bleachers	✓	✓	✓
	Calico Joe	✓	✓	✓
	Ford County	✓	✓	✓
	Skipping Christmas	✓	✓	✓
	The Brethren	✓	✓	✓
	The Broker	✓	✓	✓
	The Chamber	✓	✓	✓
	The Client	✓	✓	✓
	The Firm	✓	✓	✓
	The Guardians	✓	✓	✓
	The King of Torts	✓	✓	✓
	The Last Juror	✓	✓	✓
	The Litigators	✓	✓	✓
	The Partner	✓	✓	✓
	The Pelican Brief	✓	✓	✓
	The Rainmaker	✓	✓	✓
	The Reckoning		✓	✓
	The Runaway Jury	✓	✓	✓
	The Street Lawyer	✓	✓	✓
	The Summons	✓	✓	✓
	The Testament	✓	✓	✓
David Henry Hwang	Chinglish	✓	✓	✓
	M. Butterfly	✓	✓	✓
	The Dance and the Railroad	✓		✓
George R.R. Martin	A Clash of Kings	✓	✓	✓
	A Dance with Dragons	✓	✓	✓
	A Feast for Crows	✓	✓	✓
	A Game of Thrones	✓	✓	✓
	A Storm of Swords	✓	✓	✓
	Fevre Dream	✓	✓	✓
	Fire & Blood	✓	✓	✓
	Sandkings			
	Songs the Dead Men Sing			
	The Armageddon Rag	✓	✓	✓
	The Ice Dragon	✓	✓	✓
	The Journal of Xavier Desmond			
	The Sons of the Dragon			
	Tuf Voyaging	✓	✓	✓
	Winter's Chill			

[redacted]

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Plaintiff	Asserted Work	Excerpt on Google Books	Excerpt on Amazon	Summary or Excerpt on Author's Site
Jodi Picoult	A Spark of Light	✓	✓	✓
	Change of Heart	✓	✓	✓
	Handle with Care	✓	✓	✓
	Harvesting the Heart	✓	✓	✓
	House Rules	✓	✓	✓
	Keeping Faith	✓	✓	✓
	Larger than Life		✓	✓
	Leaving Time		✓	✓
	Lone Wolf	✓	✓	✓
	Mercy	✓	✓	✓
	My Sister's Keeper	✓	✓	✓
	Nineteen Minutes	✓	✓	✓
	Perfect Match	✓	✓	✓
	Picture Perfect	✓	✓	✓
	Plain Truth	✓	✓	✓
	Salem Falls	✓	✓	✓
	Second Glance	✓	✓	✓
	Shine		✓	✓
	Sing You Home	✓	✓	✓
	Small Great Things	✓	✓	✓
	Songs of the Humpback Whale	✓	✓	✓
	The Book of Two Ways	✓	✓	✓
	The Color War			✓
	The Pact	✓	✓	✓
	The Tenth Circle	✓	✓	✓
	Vanishing Acts	✓	✓	✓
	Weights & Measures		✓	
Stacy Schiff	A Great Improvisation: Franklin, France, and the Birth of America	✓	✓	✓
	Cleopatra	✓	✓	✓
	The Witches	✓	✓	✓
James Shapiro	A Year in the Life of William Shakespeare 1599	✓	✓	
	Contested Will: Who Wrote Shakespeare?	✓	✓	
	The Year of Lear	✓	✓	

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Notes:
Sample: This analysis includes all 211 distinct titles of Plaintiffs' Asserted Works included in the list of asserted works submitted by Plaintiffs on March 6, 2026. The 222 unique copyright registration numbers included in this March 6, 2026 list of asserted works, which correspond to 211 unique titles: 208 books and 3 plays.

Rows: Each row represents one of the 211 distinct titles of Plaintiffs' Asserted Works. Michael Connelly's website depicts *Blue Religion: An Introduction* and *Mystery Writers of America Presents Blue Religion: News Stories About Cops, Criminals, and the Chase* as one book, which is included in this analysis as *The Blue Religion* . Some Asserted Works were published under a different title name than what was listed in the list of asserted works submitted by Plaintiffs on March 6, 2026. *Bad Boys Ahoy!* by Sylvia Day was republished by Ms. Day under the title *Scandalous Liaisons* , and I therefore analyzed whether excerpts or summaries were available for *Scandalous Liaisons* . Eight Asserted Works were short stories published within a collection. For these works, I identified the published title(s), and analyzed whether excerpts or summaries were available for the Asserted Work within the published title(s). When an Asserted Work appeared to have been published using multiple titles, I analyzed the Asserted Work within the title most recently published by the author as follows:

- *Cielo Azul* and *One-Dollar Jackpot* by Michael Connelly are both short stories that were published in Mr. Connelly's book *Suicide Run: Three Hary Bosch Short Stories* .
- *Father's Day* by Michael Connely is a short story that was published in Mr. Connelly's book *Angle of Investigation: Three Harry Bosch Short Stories* .
- *A Familiar Kind of Magic* by Sylvia Day is a short story that was published in Ms. Day's book *Spellbound* .
- *The Journal of Xavier Desmond* by George R. R. Martin is a short story that was published in Mr. Martin's book *Dreamsongs: Volume II* .
- *The Sons of the Dragon* by George R. R. Martin is a short story that was published in an anthology titled *The Book of Swords* , edited by Gardner Dozois.
- *Winter's Chill* by George R. R. Martin is a short story that was published in an anthology edited by Mr. Martin titled *Wild Cards II: Aces High* .
- *Weights & Measures* by Jodi Picoult is a short story that was published in Ms. Picoult's book *Leaving Home: Short Pieces* .

Columns: The "Excerpt on Google Books" column reflects a "✓" if at least one format or edition of the Plaintiff's Asserted Work has the option to "Preview this book" on its books.google.com webpage or to "Preview" certain pages on its google.com/books webpage. The "Excerpt on Amazon" column reflects a "✓" if at least one format or edition of the Asserted Work has the option to "Read sample" on its amazon.com webpage which includes Amazon Kindle formats. The "Summary or Excerpt on Author's Site" column reflects a "✓" if a summary or excerpt of the Plaintiff's Asserted Work is available on the author's personal branded website. For the seven Asserted Works that are short stories published within a different title, the "Excerpt on Google Books" and "Excerpt on Amazon" columns reflect a "✓" if pages of the Asserted Work are included in the preview or sample of the title.

I identified twelve Asserted Works that are sold on Amazon but do not have an excerpt available: Michael Connelly's works *Cielo Azul* , *Father's Day* , and *One-Dollar Jackpot* . Sylvia Day's works *Aftershock* , *Mischief and the Marquess* , and *What Happened in Vegas* ; Mignon Eberhart's work *The White Cockatoo* ; David Henry Hwang's work *The Dance and the Railroad* ; and George R. R. Martin's works *Sandkings* , *Songs the Dead Men Sing* , *The Journal of Xavier Desmond* , and *The Sons of the Dragon* . I identified two Asserted Works that are not sold on Amazon: George R. R. Martin's work *Winter's Chill* and Jodi Picoult's work *The Color War* . Sylvia Day's works *Afterburn* and *Aftershock* are sold together on Amazon. However, only exerpts of *Afterburn* are available in the "Read sample" option.

Appendix Exhibit E.3: Availability of Excerpts and Summaries of Plaintiffs' Asserted Works

Sources:
Class Plaintiffs' List of Asserted Works, *David Baldacci, et al. v. OpenAI Inc., et al.* , 1:25-md-03143, March 6, 2026;

Differences in published titles: "Michael Connelly's Short Stories," *Michael Connelly* , available at https://www.michaelconnelly.com/wp-content/uploads/2022/03/Printable-Short-Story-List-2022.pdf; "The Blue Religion (2008)," *Michael Connelly* , available at https://www.michaelconnelly.com/writing/thebluereligion/; "Alluring Tales: Awaken the Fantasy," *Sylvia Day* , available at https://www.sylviaday.com/books/alluring-tales-awaken-the-fantasy/; "Scandalous Liaisons," *Sylvia Day* , available at https://www.sylviaday.com/books/scandalous-liaisons/; "Dreamsongs, Volume II," *Goodreads* , available at https://www.goodreads.com/book/show/417730; "Leaving Home: Short Pieces," *Goodreads* , available at https://www.goodreads.com/book/show/10320040-leaving-home; "The Book of Swords," *Goodreads* , available at https://www.goodreads.com/book/show/27917260-the-book-of-swords; "Wild Cards II: Aces High," *Goodreads* , available at https://www.goodreads.com/book/show/2639175;

Google, Amazon, and author websites: *Google Books* , available at https://books.google.com; *Amazon* , available at https://www.amazon.com; *David Baldacci* , available at https://www.davidbaldacci.com/; *Taylor Branch* , available at http://taylorbranch.com; *Michael Connelly* , available at https://www.michaelconnelly.com/; *Sylvia Day* , available at https://www.sylviaday.com/; *Jonathan Franzen* , available at https://jonathanfranzen.com/; *Christopher Golden* , available at https://www.christophergolden.com ; *Andrew Greer* , available at https://andrewgreer.com/; *John Grisham* , available at https://jgrisham.com/; *David Henry Hwang* , available at https://www.davidhenryhwang.com/home-en; *George R. R. Martin* , available at https://georgerrmartin.com/; *Jodi Picoult* , available at https://www.jodipicoult.com/; *Stacy Schiff* , available at https://stacyschiff.com; *James Shapiro* , available at https://www.jamesshapiro.net/; *Mignon G. Eberhart* , available at https://www.mignoneberhart.com/.

[redacted]

Appendix Exhibit E.4: Sample Summary for [redacted]

First	Last	Information on Net Unit Sales and Net Royalty
[redacted]		

Notes:

Sample: This summary is limited to th[redacted]

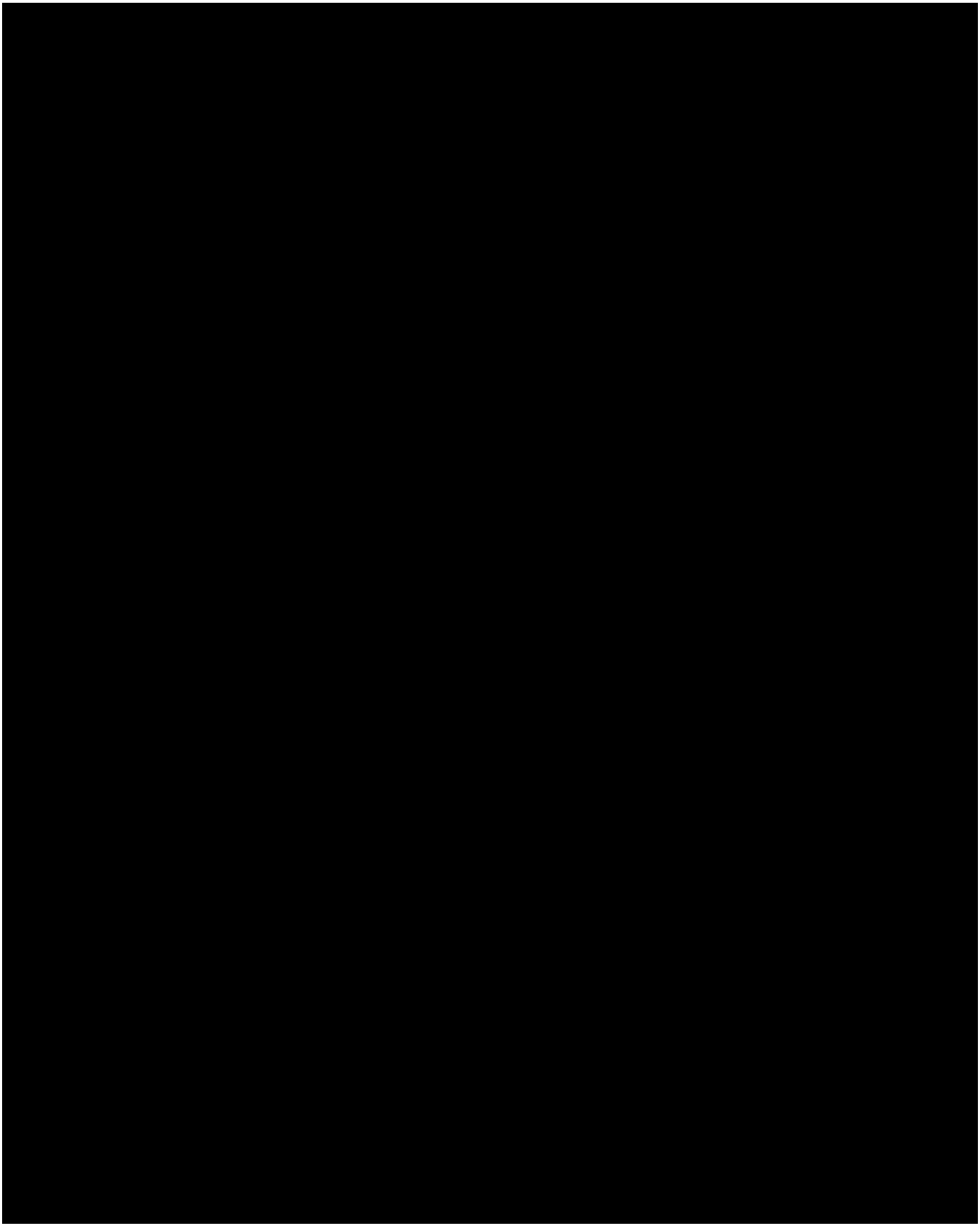
Rows: Each row represents [redacted].

Columns: "First Publication Date" is directly recorded as the original publication date from the Plaintiff's registration certificate for a given work, when available, or the copyright page of a produced scanned version of the work. [redacted]

Sources:

FICTION-0620570; GOL000122; GOL001153; FICTION-0695146; FICTION-0694738; FICTION-0694784; FICTION-0695180; FICTION-0694848; FICTION-0695230; FICTION-0694932; FICTION-0695300; FICTION-0630223; FICTION-0636221; FICTION-0636616; FICTION-0630307; FICTION-0637104; FICTION-0630641; GREER010020; GREER010206; GREER010333; GREER010276; GREER010406; GREER010450; FICTION-0635263; FICTION-0628795; FICTION-0635715; FICTION-0636063; FICTION-0629363; FICTION-0636141; FICTION-0629711; FICTION-0629927; FICTION-0636305; FICTION-0630069; FICTION-0633808; FICTION-0627651; FICTION-0627707; FICTION-0633833; FICTION-0627679; FICTION-0633859; FICTION-0633951; FICTION-0627731; FICTION-0693573; FICTION-0693677; FICTION-0692765; FICTION-0692873; FICTION-0692981; FICTION-0693787; FICTION-0693097; FICTION-0693895; FICTION-0774365; FICTION-0786427; FICTION-0785795; FICTION-0786067; Exhibit E.1; Exhibit E.5; [redacted]

Appendix Exhibit E.5: [redacted] January 2017 to January 2026



Appendix Exhibit E.5: [redacted], January 2017 to January 2026

[redacted]

Appendix Exhibit E.5: [redacted], January 2017 to January 2026

[redacted]

[redacted]

Appendix Exhibit E.5: [redacted] January 2017 to January 2026

[redacted]

Appendix Exhibit E.5: [redacted] January 2017 to January 2026

Notes:

Sample: [redacted]

Rows: Each row [redacted]

Columns: [redacted]

Sources:

[redacted]

Appendix Exhibit E.6A: [redacted] **Before the Launch of ChatGPT and After the Launch of Copilot**

[redacted]

Appendix Exhibit E.6A: **Before the Launch of ChatGPT and After the Launch of Copilot**

Notes:

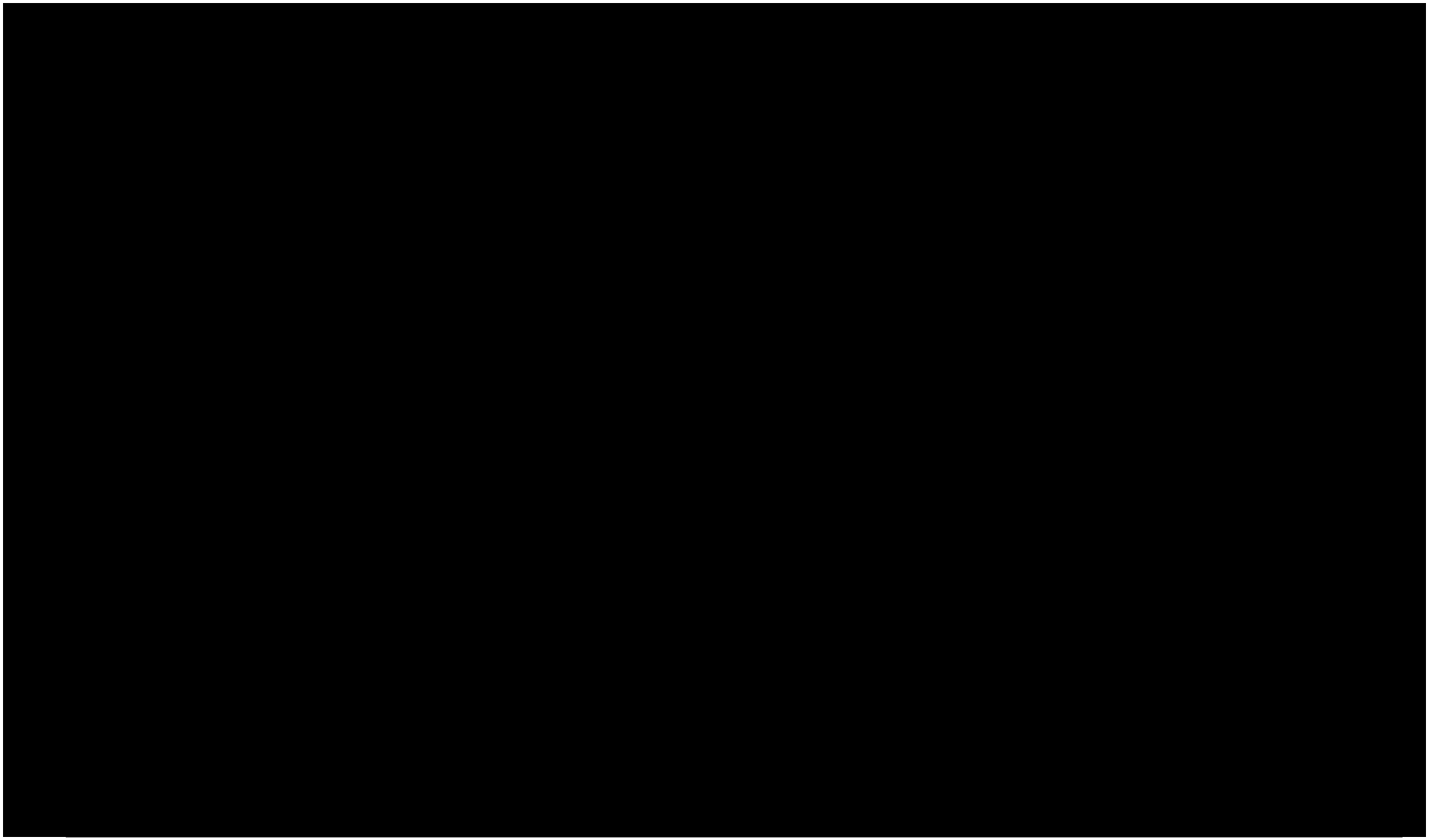
Sample:

Y-axis: The Y-axis represents

X-axis: The X-axis represents

Sources:

Appendix Exhibit E.6B: **Before the Launch of ChatGPT and After the Launch of Copilot**



Appendix Exhibit E.6B: Released Before the Launch of ChatGPT and After the Launch of Copilot

Notes:

Sample: This analysis includes

Y-axis: The Y-axis represents

X-axis: The X-axis represents

Sources:

[redacted]

Appendix Exhibit E.7: Examples of Datasets Available on Hugging Face

Dataset	Date Uploaded	Source	Description
British Library Books	01/31/2022	Public domain books	This dataset includes approximately 25 million pages of out-of-copyright texts that were digitized by the British Library in partnership with Microsoft.
Project Gutenberg	09/07/2023	Public domain books	This dataset include books available on the Project Gutenberg website, an online library that contains more than 70,000 free eBooks.
Institutional Books	05/24/2025	Public domain books	This dataset consists of 983,004 public domain books digitized by the Harvard Library. As of March 4, 2026, the dataset is "an Early-Access release shared by the Institutional Data Initiative for research and public-interest use."
Big Patent	01/25/2022	Patent documents	This dataset consists of 1.3 million records of U.S. patent documents.
PMC Open Access Subset	01/07/2022	Scientific articles	This dataset includes more than 3.4 million journal articles and preprints from PubMed Central, an archive of biomedical and life sciences journal literature at the U.S. National Institutes of Health's National Library of Medicine.
Caselaw Access Project	02/29/2024	Legal decisions	This dataset consists of over 40 million U.S. court decisions from 6.7 million cases over the last 360 years, digitized by the Harvard Law Library.
U.S. Public Domain Newspapers	02/07/2024	Public domain newspapers	This dataset contains nearly 21 million unique newspaper and periodical editions digitized by the Library of Congress.

[redacted]

Appendix Exhibit E.7: Examples of Datasets Available on Hugging Face

Notes:
Sample: The sample includes examples of datasets available in the online repository of the Hugging Face Datasets hubs that are categorized as "Text."

Sources: "British Library Books," *Hugging Face*, available at https://huggingface.co/datasets/TheBritishLibrary/blbooks; "Project Gutenberg," *Hugging Face*, available at https://huggingface.co/datasets/manu/project_gutenberg; "Institutional Books 1.0," *Hugging Face*, available at https://huggingface.co/datasets/institutional/institutional-books-1.0; "Dataset Card for Big Patent," *Hugging Face*, https://huggingface.co/datasets/NortheasternUniversity/big_patent; "PMC Open Access," *Hugging Face*, available at https://huggingface.co/datasets/pmc/open_access; "About PMC," *National Library of Medicine*, available at https://pmc.ncbi.nlm.nih.gov/about/intro/; "Caselaw Access Project," *Hugging Face*, https://huggingface.co/datasets/free-law/Caselaw_Access_Project; "US Public Domain Newspapers," *Hugging Face*, available at https://huggingface.co/datasets/PleIAs/US-PD-Newspapers.