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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CONCORD MUSIC GROUP, INC., ET AL.,

Plaintiffs,

v.

ANTHROPIC PBC, ET AL.,

Defendants.

Case Number: 5:26-cv-00880-EKL-SVK

PLAINTIFFS' POSITION STATEMENT
REGARDING DESTRUCTIVE-
SCANNING DISCOVERY

Judge Eumi K. Lee
Magistrate Judge Susan van Keulen

BMG RIGHTS MANAGEMENT (US) LLC,

Plaintiff,

v.

ANTHROPIC PBC,

Defendant.

Case Number: 5:26-cv-02334-EKL-SVK

PLAINTIFFS' POSITION STATEMENT
REGARDING DESTRUCTIVE-
SCANNING DISCOVERY

Judge Eumi K. Lee
Magistrate Judge Susan van Keulen

Plaintiffs in *Concord Music Group, Inc., et al. v. Anthropic PBC, et al.*, Case No. 26-cv-00880-EKL-SVK (“*Concord II*”) and *BMG Rights Management (US) LLC v. Anthropic PBC*, Case No. 26-cv-02334-EKL (“*BMG*”) allege that Anthropic infringed their copyrights by scanning and destroying print books containing their copyrighted musical compositions and lyrics. Anthropic’s acquisition and digitization of Plaintiffs’ works via this destructive scanning implicates distinct factual and legal issues that will not be resolved by the pending summary judgment motions in *Concord Music Group, Inc., et al. v. Anthropic PBC*, Case No. 5:24-cv-03811-EKL-SVK (“*Concord I*”). Anthropic’s destructive scanning shares more in common with its torrenting of pirated books because both involve copying books containing Plaintiffs’ works, rather than scraping Plaintiffs’ lyrics from the internet. Indeed, Anthropic kept these torrented and scanned books (and potentially other misappropriated works) as part of a general-purpose library for its own uses. Coordinating discovery into Anthropic’s destructive scanning and torrenting will create efficiencies for the Parties and the Court, while postponing discovery into destructive scanning pending the *Concord I* summary judgment ruling would serve no purpose but delay. Accordingly, pursuant to the Court’s Order, *Concord II*, ECF No. 117, Plaintiffs respectfully request that “Phase 1” discovery include both Anthropic’s torrenting and destructive scanning of books.

I. Anthropic’s destructive scanning raises unique issues not addressed in *Concord I*.

Judge Alsup’s June 2025 summary judgment ruling in *Bartz, et al. v. Anthropic PBC* first revealed that Anthropic “destructively scan[ned]” “millions” of copyrighted print books. 787 F. Supp. 3d 1007, 1014–18, 1023 (N.D. Cal. 2025). In particular, Anthropic “purchased copyrighted books (some overlapping with those acquired from the pirate sites [LibGen and PiLiMi]), tore off the bindings, scanned every page, and stored them in digitized, searchable files . . . to amass a central library of ‘all the books in the world’ to retain ‘forever.’” *Id.* at 1014. That order also revealed Anthropic had likewise “downloaded for free millions of copyrighted books in digital form from pirate sites” LibGen and PiLiMi. *Id.* Judge Alsup’s July 2025 class certification ruling in *Bartz* further revealed Anthropic downloaded these books from pirate sites specifically via torrenting. *Bartz v. Anthropic PBC*, 791 F. Supp. 3d 1038, 1046–47 (N.D. Cal. 2025).

When the *Concord I* plaintiffs moved to amend their complaint to address Anthropic’s

1 torrenting, *Concord I*, ECF No. 411, Anthropic argued it would “fundamentally transform [the]
 2 case.” *Concord I*, ECF No. 419 at 3. The Court denied that motion on the basis that *Concord I* was
 3 limited to the theory that “[Anthropic’s training] data was derived from scraping,” *Concord I*, ECF
 4 No. 468, and did not include claims related to other “methods by which copyrighted materials were
 5 collected.” *Concord I*, ECF No. 474 at 26:9–22. Accordingly, the *Concord I* summary judgment
 6 motions address neither torrenting nor destructive scanning. *Concord I*, ECF Nos. 594, 693.

7 Plaintiffs filed *Concord II* and *BMG* to, *inter alia*, pursue claims as to Anthropic’s other
 8 methods of acquiring Plaintiffs’ works, including by torrenting and destructively scanning books
 9 containing their works. *Concord II*, ECF No. 93; *BMG*, ECF No. 44. The *Concord II* plaintiffs
 10 allege Anthropic “commenced an unauthorized scanning and digitization program” that copied
 11 “hundreds or more songbooks and sheet music collections” containing their works by “purchasing
 12 physical books, reproducing them as digital files without authorization, and adding those copies to
 13 its central library,” all “to acquire ‘all the books in the world’ while avoiding as much
 14 ‘legal/practice/business slog’ as possible.” *Concord II*, ECF No. 93 ¶ 97. The *BMG* complaint
 15 makes similar allegations. *See, e.g., BMG*, ECF No. 44 ¶¶ 10, 31, 45, 51–53, 114.

16 **II. Destructive scanning discovery should proceed without delay.**

17 The Court ordered that “Phase 1” discovery proceed on Anthropic’s torrenting of pirated
 18 books, while deferring discovery on Anthropic’s AI training and output pending resolution of the
 19 *Concord I* summary judgment motions addressing those issues. *Concord II*, ECF No. 117.
 20 Discovery into destructive scanning should proceed in “Phase 1” discovery for multiple reasons.¹

21 First, like Anthropic’s torrenting of pirated books, Anthropic’s destructive scanning—
 22 specifically, the unauthorized copying and digitization of Publishers’ print works—implicates
 23 discrete instances of infringement even before reaching Anthropic’s use of those works for AI
 24 training. *See, e.g., Hachette Book Grp., Inc. v. Internet Archive*, 115 F.4th 163, 181 (2d Cir. 2024)
 25 (“‘[R]ecasting of a novel as an e-book’ [is] a ‘paradigmatic’ example of a derivative work” and
 26 holding that digitization and distribution of plaintiffs’ works without permission was not fair use).

27
 28 ¹ On Sept. 9, 2026, the parties’ counsel conferred by videoconference about whether discovery on
 Anthropic’s destructive scanning claims should proceed in “Phase 1,” but were unable to agree.

1 Anthropic’s destructive scanning implicates a distinct theory of liability and separate facts from
2 Plaintiffs’ AI training and output claims—based on different methods by which Anthropic initially
3 copied those works (destructively scanning vs. scraping), different sources from which Anthropic
4 copied those works (print books vs. online sources), and different motivations animating that
5 copying (building a “central library” vs. collecting data for AI training specifically).

6 The *Concord I* summary judgment motions do not address this distinct theory of liability
7 because, in denying the motion to amend in *Concord I*, the Court drew a clear line based on method
8 of data collection. *See supra* at 2. Thus, unlike the AI training and output claims, the outcome of
9 the *Concord I* summary judgment motions will not guide the Parties on how to proceed on the
10 destructive scanning claims or Anthropic’s other content-acquisition methods not at issue there.

11 Moreover, discovery into Anthropic’s destructive scanning and torrenting of Plaintiffs’
12 works will overlap, which further supports proceeding on both concurrently. Both issues involve
13 Anthropic’s copying of books as part of its effort to create a “central library” containing “all the
14 books in the world,” and many of the books Anthropic destructively scanned “overlap[]” with the
15 ones it torrented from pirate websites. *Bartz*, 787 F. Supp. 3d at 1014; *see Concord II*, ECF No.
16 93 ¶ 97. Discovery into Anthropic’s central library and its uses, Plaintiffs’ licenses with book
17 publishers, and the economics of print book and e-book markets are directly relevant to both
18 torrenting and destructive scanning. Further, because discovery into Anthropic’s destructive
19 scanning and torrenting will involve time-intensive, file-by-file analysis of the books Anthropic
20 copied to identify which contain Plaintiffs’ works, it will be more efficient to perform this review
21 once rather than piecemeal.

22 That the *Concord II* plaintiffs pled their destructive scanning claims under the same
23 “Count” as AI training and output does not justify delaying discovery into the former; staying
24 discovery on that basis would elevate empty formalism over practical realities. Underscoring this
25 point, *BMG*’s destructive scanning allegations appear throughout its Amended Complaint
26 generally and directly in its cause of action on Anthropic’s torrenting and its creation of a central
27 library—*i.e.*, separate from *BMG*’s cause of action for infringement by training. *BMG*, ECF No.
28 44 ¶¶ 10, 31, 45, 51–53, 114. Therefore, destructive scanning discovery fits well within Phase 1.

1 Dated: September 11, 2026

2 By: /s/ Nicholas C. Hailey

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Respectfully submitted,

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SIGNATURE ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), I hereby attest that concurrence in the filing of this document was obtained from all other signatories of this document. I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 11, 2026

/s/ Bret Matera