S≡252936

No.
Vancouver Registry

In the Supreme Court of British Columbia

Between

James Bernard MacKinnon

Plaintiff

and

Meta Platforms Inc. and Facebook Canada Ltd.

Defendants

Brought under the *Class Proceedings Act,* R.S.B.C. 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

(c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

(d) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

{25005-001/00985411.1}

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

     (a)   if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

     (b)   if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,

     (c)   if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

     (d)   if the time for response to civil claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

Introduction

1.   Meta set out to build an artificial intelligence ("AI") large language model. In an effort to obtain an advantage over its competitors, it decided to train its model in part by feeding into its software a vast array of books. However, rather than license books to use for this purpose, or rely only on books that were the public domain, it instead obtained data sets online that it knew contained unlicensed copyrighted material. It made no effort to pay the owners of this copyright to obtain or use their works. Indeed, it instead went so far as to unlawfully share the works through a "bit torrent" service.

2.   The Plaintiff is an author whose works were used without his consent, license or permission by Meta to train its AI large language models. The Plaintiff brings a

claim in copyright and unjust enrichment on his own behalf and on behalf of a class of persons resident in Canada who also had their copyrighted materials used without their license of permission by Meta to train its AI large language models.

The Plaintiff

3. The Plaintiff, James Bernard MacKinnon, is an author, journalist, editor and educator. The Plaintiff is commonly cited in his publications as J.B. MacKinnon. The Plaintiff has an address for service at 400-856 Homer St, Vancouver, British Columbia, and has been a resident of British Columbia throughout the Class Period (defined below).

4. The Plaintiff is the author of, and owns the copyright to, the following works:

    (a)   *The Once and Future World*, published in 2013, a national bestselling non-fiction work ("*The Once and Future World*"); and

    (b)   *The Day the World Stops Shopping*, published in 2021, a national bestselling non-fiction work ("*The Day the World Stops Shopping*").

5. The Plaintiff is the co-author of, and co-owns the copyright to, the following work:

    (a)   *The 100-Mile Diet,* published in 2007, a national bestselling non-fiction work ("*The 100-Mile Diet*").

    (Co-authored and copyright co-owned with Alisa Smith)

Defendants

6. The Defendant, Meta Platforms Inc., is a Delaware company with an address for service c/o Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808, USA. Its principal place of business is located at 1 Hacker Way, Menlo Park, CA 94025, USA.

7.   The Defendant, Facebook Canada Ltd. ("Facebook Canada"), is a wholly owned
        Canadian subsidiary of Meta Platforms Inc. with its head Canadian office located
        at 661 University Avenue, Suite 1201, 12th floor, Toronto, Ontario, MSG 1M1, and
        other offices around the country.

8.   At all material times, Meta and Facebook Canada (hereinafter collectively referred
        to as "Meta") functioned as an ongoing, organized and continuing business unit
        sharing common purposes and objectives. Meta and Facebook Canada were
        agents of each other and each is vicariously responsible for the acts and omissions
        of the other as particularized herein.

9.   Meta has at all relevant times operated an office at 200 Burrard St., Vancouver,
        British Columbia.

10.   Meta owns and operates social media applications, including the Instagram
        platform, the Facebook platform, the Messenger messaging service, and the
        WhatsApp messaging service.

11.   At the time of filing, Meta had a market capitalization of approximately $1.30 trillion
        CAD.

12.   Meta also has an artificial intelligence group called "Meta AI" which creates and
        distributes AI products.

The Class and the Class Period

13.   This action is brought on behalf of all members of a class consisting of the Plaintiff
        and all natural persons or corporations, resident in Canada, who owned or co-
        owned the copyright to works used by Meta to train one of the various versions of
        the Meta LLMs (defined below) (the "Class" and/or the "Class Members") between
        January 2022 and the present (the "Class Period").

Large Language Models

14. Large Language Models ("LLMs") are a form of AI software that are designed to comprehend, and to generate, natural language.

15. In order to construct an LLM it is necessary to "train" it on vast arrays of text. Specifically, the software is fed with huge amounts of text from a variety of sources, from which the machine "learns" how to comprehend and generate language. The text fed to the LLM is called the training data set.

16. The LLM is programed to copy each text it is fed and to extract information from it. It uses this information to adjust its output so that this output will more closely resemble what it copied from the initial data set. Eventually, an LLM may be able to generate effective simulations of natural written language.

The Llama LLMs

17. In February 2023, Meta released an AI LLM product branded as "LLaMA", now rebranded as "Llama". Meta has since released a series of "Llama" products, which constitute a collection of large language models.

18. The first version of Llama trained by Meta was called "Llama 1". It was trained between December 2022 and February 2023.

19. Meta trained Llama 1 using a data set called the Books3 dataset, which Meta downloaded off of the internet without paying a licensing fee (the "Books3 Dataset").

20. The Books3 Dataset was described in a paper entitled "The Pile: An 800gb dataset of diverse text for language modeling" by Leo Gao *et al* in the following way:

> Books3 is a dataset of books derived from a copy of the contents of the Bibliotik private tracker made available by Shawn Presser (Presser, 2020). Bibliotik consists of a mix of fiction and nonfiction books and is almost an order of magnitude larger than our next largest book dataset

(BookCorpus2). We included Bibliotik because books are invaluable for long-range context modeling research and coherent storytelling.

21.   Bibliotik contains approximately 196,640 books, including books by Canadian authors with active copyright protection. Mr. Presser has confirmed publicly that the Books3 dataset contains all of the Bibliotek books.

22.   Meta downloaded the Books3 dataset and used it to train Llama 1.

23.   The Books3 Dataset included *The Once and Future World*, which the Plaintiff authored and which he holds copyright to, and *The 100-Mile Diet*, which the Plaintiff co-authored and which he co-owns copyright to. In respect of *The 100-Mile Diet*, the Books3 dataset included both the Canadian version and the United States version of the book (*The 100-Mile Diet* was published in the United States as "*Plenty: Eating Locally on the 100-Mile Diet*").

24.   Meta used *The Once and Future World* and *The 100-Mile Diet*, obtained off of the Books3 Dataset, to train its Llama LLM. Meta did not offer or pay a licensing fee to the Plaintiff, or otherwise obtain his consent, to obtain or use *The Once and Future World* and *The 100-Mile Diet* in this way.

25.   The Books3 Dataset contained other copyrighted material, including books whose copyright is owned by the Class Members and which is protected under Canadian law.

26.   The Books3 Dataset did not license the copyrighted work it contained in any way, and did not license *The Once and Future World* or *The 100-Mile Diet*.

27.   Meta knew that the Books3 Dataset contained copyrighted material, yet nevertheless downloaded and used the dataset.

28.   Meta did not pay the authors of the copyrighted material contained in the Books3 Dataset in order to access or use their work, and did not otherwise obtain a license or consent from Class Members to use copyrighted material in the Books3 Dataset.

29. Meta decided to train its large language model on books, including newer books sill under copyright, because it believed doing so would improve its model and give it an advantage over its competition.

30. Meta purported to release Llama 1 under a non-commercial license for research use cases. However, Meta in fact intended to use Llama 1 as commercially available and lucrative product, or as a precursor to a commercially available and lucrative product.

31. In March 2023, Llama 1 was leaked to a public internet site and has since circulated. Later in March 2023, Meta issued a takedown notice to a programmer who had released a tool to help users download the leaked version of Llama 1. Meta claimed copyright over Llama 1 in doing so.

Llama 2

32. Meta trained the successor to Llama 1, called "Llama 2", between January and July 2023.

33. Meta used the Books3 Dataset to train Llama 2, and Llama 2 benefited from and incorporated the use Meta had made of the Books3 Dataset when it trained Llama 1.

34. Llama 2 was released in July 2023, and was made available under a permissive commercial license. It was and has always been Meta's intention that Llama 2 will be a lucrative commercial product.

Llama 3 and the LibGen Data Set

35. Meta trained the successor to Llama 2, called "Llama 3", in 2023 and early 2024.

36. Llama 3 was released on April 18, 2024.

37. Meta again used the Books3 Dataset to train Llama 3, and Llama 3 benefited from and incorporated the use Meta had made of Books3 Dataset when it trained Llama 1 and Llama 2.

38. In addition, in training Llama 3 Meta used a further, separate source of copyrighted books and articles.

39. Specifically, in October 2022 Meta downloaded pirated books from a source called Library Genesis or LibGen (hereinafter referred to as "LibGen"). LibGen is an online repository that contains pirated versions of copyrighted books.

40. In or around April 2023, Meta again downloaded works from LibGen, this time downloading millions of pirated books through a bit torrent platform called LibTorrent.

41. Meta obtained two versions of *The Day the World Stops Shopping* and a further edition of *The Once and Future World* through using the LibTorrent platform. Meta used *The Day the World Stops Shopping* and *The Once and Future World* to train its Llama 3 LLM. Meta did not offer or pay a licensing fee to the Plaintiff, or otherwise obtain his consent to obtain or use *The Day the World Stops Shopping* and *The Once and Future World* in this way.

42. Bit torrent is a peer-to-peer file sharing communication protocol. Users install a bit torrent client on their computer, which enables them to download large files efficiently. In essence, instead of downloading an entire file from one source, the file is broken up into pieces and each piece may be downloaded potentially from a separate source. Pieces are downloaded non-sequentially, and then reassembled into a complete file.

43. Users of the bit torrent protocol typically not only download material, but also upload material that is stored on their computer to other users. It is this decentralized system wherein many computers are simultaneously uploading material that allows bit torrent to be an effective protocol to quickly download large files.

44. In downloading material from LibGen through a bit torrent platform, Meta not only unlawfully acquired copyrighted material, it also distributed copyrighted material to other users of the torrent system.

45. The LibGen material downloaded by Meta included material copyrighted under Canadian law by Canadian authors, including not only books but also academic articles.

46. The LibGen material shared and distributed by Meta through bit torrent included material copyrighted under Canadian law by authors resident in Canada. Meta did not offer or pay a licensing fee to Class Members, or otherwise obtain their consent to obtain or use copyrighted works in this way.

47. Meta unlawfully shared and distributed *The Day the World Stops Shopping* and *The Once and Future World* through bit torrent.

48. Meta developed and used software to remove copyright management information from the books and articles it downloaded off of LibGen, including books and articles covered by copyright held by Class Members. It did not have the permission of the copyright holders to alter their works to remove copyright information.

49. Meta used a software to remove copyright management information from *The Day the World Stops Shopping* and *The Once and Future World*. It did not have the permission of the Plaintiff to alter their works to remove copyright information.

50. Collectively, the material copyrighted under Canadian law owned by authors resident in Canada used by Meta to train its Llama LLMs, including material in the Books3 and LibGen data sets, is "the Copyrighted Works".

Llama 4

51. In April 2025 Meta launched Llama 4.

52. Meta used the Books3 and LibGen datasets to train Llama 4.

53. Meta used the Copyrighted Works, including *The Day the World Stops Shopping*, *The 100-Mile Diet* and *The Once and Future World*, to train Llama 4.

54. Llama 4 benefited from and incorporated training done using Books3 and LibGen for the Llama 1, 2, and 3.

55. Llama 4 is available under a license to developers and businesses. It is also integrated into Meta's platforms including Facebook, Instagram, Messenger and WhatsApp.

56. Collectively, Llama 1, 2, 3, and 4 are referred to as the "Meta LLMs".

Meta's Concealment

57. Meta took steps to conceal the fact that it had infringed copyright material in training Llama. These steps include:

(a) Representing in February 2023 in a paper published by Meta called ""[Llama 1]: Open and Efficient Foundation Language Models" that the Books3 Data set was a "publicly available dataset" which implied that it was in the public domain when Meta knew that the dataset contained copyrighted material;

(b) Training Llama to respond in a misleading way if a user asked if it was built off of copyrighted material;

(c) Removing copyright management information from material before it was fed into Llama so that the LLM did not itself learn that it was built off of copyrighted material.

Meta Benefited

58. Training the LLM on copyrighted materials including the Copyrighted Works has improved the performance of the Meta LLMs.

59. Meta has monetized, currently monetizes, and plans in the future to continue to monetize, both directly and indirectly, the Meta LLMs.

60. Meta monetizes the Meta LLMs directly though licensing, and indirectly through using the Meta LLMs to increase engagement on Facebook, WhatsApp, Messenger, and Instagram, which increases the value of advertising on those applications and increases Meta's revenue.

61. In August 2024, Meta advertised that Llama has had "10x growth since 2023", and was "approaching 350 million downloads to date".

62. Independent experts including Jeffries, a leading full-service investment banking and capital market firm, have estimated that Llama could be worth over $20 billion USD.

The Plaintiff and the Class Members Suffered a Loss

63. The Plaintiff and the Class Members held copyright in the Copyrighted Works. This copyright was infringed, which inherently causes a loss to a copyright holder.

64. Further, the Plaintiff and the Class Members lost the opportunity to choose to license their copyright in the Copyrighted Works to Meta, for some or any purpose that the Plaintiff and the Class Members may see fit.

65. The Plaintiff and the Class Members lost the opportunity to choose not to contribute to the development of the Meta LLMs, which pose a threat to people who do creative work, including authors.

Meta Circumvented Technological Protection Measures

66. Some of the Copyrighted Works were made available by their publisher as electronic books (the "Copyrighted E Books")

67. The Copyrighted E Books were protected from unauthorized copying by encryption and/or digital rights management ("DRM") tools such as access control technology (collectively, encryption and DRM are the "Technological Protection Measures").

68.   By downloading the Copyrighted E Books from the Books3 and LibGen data sets, Meta circumvented the Technological Protection Measures.

69.   Meta removed and altered rights management information in electronic form without the consent of the owner of the copyright in the work by using software to remove copyright management information in the Copyrighted Works, including the Copyrighted E Books.

70.   Meta removed and altered rights management information in electronic form without the consent of the Plaintiff by using software to remove copyright management information in his works.

The Plaintiff and the Class Members Were Given No Opportunity to Sell or License

71.   Meta provided copyright holders in Canada, including the Plaintiff and other Class Members, no opportunity to license their books or articles to Meta for the purposes of training the Meta LLMs.

Meta Knew

72.   Meta at all relevant times knew or ought to have known that the Copyrighted Works were copyrighted.

73.   In March and April 2023, Meta pursued licensing deals with publishers of copyrighted books, and was prepared to pay millions for licensing. However, Meta changed course and instead issued a directive on April 7, 2023 to cease licensing efforts. It determined that it would instead continue to use pirated books to train its AI. This directive to stop licensing was known of and approved by the highest levels within Meta, including by Mark Zuckerberg, Meta's founder, chairman, chief executive officer, and controlling shareholder.

74.   Meta at all relevant times knew or ought to have known that it did not have a license or otherwise have permission to download the Copyrighted Works, or to use the Copyrighted Works to train the Meta LLMs.

75. Meta determined that, rather than attempt to obtain a license, it would violate copyright and face whatever consequences arose. In so doing it acted in a high handed manner without regard for the rights of the Plaintiff or the Class Members.

76. Meta at all relevant times knew or ought to have known that the Copyrighted E Books were protected by Technological Protection Measures, and that it was circumventing such measures by acquiring the Copyrighted Works through the Books3 and LibGen datasets.

PART 2: RELIEF SOUGHT

77. The Plaintiff claims on their own behalf and on behalf of the proposed Class Members:

(a) An order pursuant to s. 4 of the *Class Proceedings Act,* [RSBC 1996] c. 50, ("*CPA*") certifying this action as a class proceeding;

(b) An order pursuant to s. 2 of the *CPA* appointing the Plaintiff as the representative Plaintiff;

(c) A declaration that the defendants are jointly and severally liable for infringing, authorizing, and or inducing the infringement of the copyright owned by the Plaintiff and the class members in the Copyrighted Works;

(d) A declaration that the defendants are jointly and severally liable for circumventing a technological protection measure contrary to ss. 41 and 41.1 of the *Copyright Act,* R.S.C. 1985, c. 42;

(e) A declaration that the defendants are jointly and severally liable for knowingly removing or altering rights management information in electronic form contrary to s. 41.22(1) of the *Copyright Act;*

(f) A declaration that the defendants are jointly and severally liable for unjustly enriching themselves at the expense of the Plaintiff and the Class Members;

(g) Damages, including damages under ss. 35, 41.1 and 41.22 of the *Copyright Act*, and/or statutory damages under s. 38.1 of the *Copyright Act*;

(h) An order pursuant to ss. 35 and/or 41.1 of the *Copyright Act* for, in addition to damages, such part of the profits that the defendants have made from the infringement that were not taken into account in calculating the damages that the court considers just;

(i) An accounting and disgorgement of profits and/or restitution in respect of the defendants' unjust enrichment;

(j) Aggregate damages;

(k) Punitive damages for the defendants' repeated, wilful, and knowing infringement of the Plaintiff and the Class Member's copyright in the Copyrighted Works;

(l) A permanent injunction pursuant to s. 34, 41.1 and 41.22 of the *Copyright Act* restraining the Defendants, their directors, officers, employees, agents, licensees, successors, assigns, related or affiliated companies, and all those under the control of the Defendants from, directly or indirectly, infringing copyright in the Copyrighted Works or circumventing the Technological Protection Measures;

(m) Pre-judgement and post-judgement interest pursuant to the *Court Order Interest Act*;

(n) Costs of all notices and of administering the plan of distribution of the judgment in this action, together with applicable taxes; and

(o) Such further and other relief as this Honourable Court may deem just.

PART 3: LEGAL BASIS

78.   The Plaintiff plead and relies upon:

(a)   The *Class Proceedings Act;*

(b)   The *Copyright Act;*

(c)   The *Court Order Interest Act,* [R.S.B.C. 1996], c. 79; and

(d)   The Supreme Court Civil Rules, B.C. Reg. 168/2009.

Causes of Action

Breach of Copyright Act

79.   The Plaintiff and the Class Members are the owners of the copyright in the Copyrighted Works.

80.   Without license or permission from the Plaintiff and the Class Members, Meta has reproduced and continues to reproduce and exploit the Copyrighted Works (or a substantial part thereof), contrary to ss. 3 and 27 of the *Copyright Act.*

81.   Without license or permission from the Plaintiff and the Class Members, Meta has infringed their copyright in the Copyrighted Works by distributing the Copyrighted Works to others through bit torrent, contrary to s. 27 of the *Copyright Act.*

82.   Meta has circumvented technological protection measures contrary to s. 41.1 of the *Copyright Act.*

83.   Meta removed and altered rights management information in electronic form without the consent of the owner of the copyright contrary to s. 41.22 of the *Copyright Act.*

84.   Meta continues to breach the *Copyright Act* as described above.

Unjust Enrichment

85.   Meta has benefited from its use of the Copyrighted Work without license or permission as that work allowed it to improve the potentially extremely lucrative Meta LLMs.

86.   The Plaintiff and the Class Members have suffered a corresponding deprivation as they lost the ability to either license their work to Meta or choose to not participate in the development of the Meta LLMs.

87.   There is no juristic reason for this benefit and corresponding deprivation.

Remedies

Damages

88.   Pursuant to s. 34 of the *Copyright Act,* the Plaintiff and the Class Members are entitled to all remedies including way damages, accounts, delivery up and otherwise that are or may be conferred by law for the infringement of a right. As a result of Meta's acts and omissions, as particularized above, the Plaintiff and the Class Members have suffered losses and damages. These damages include loss of control of their copyrighted works and the loss of licensing revenue.

89.   The Plaintiff and the Class Members claim damages under ss. 35, 41.1 and 41.22 of the *Copyright Act,* and may elect at any time prior to final judgement being rendered to pursue statutory damages under s. 38.1 of the *Copyright Act.*

90.   The Plaintiff and the Class Members claim an accounting of profits and disgorgement and/or restitution in respect of Meta's unjust enrichment.

Punitive Damages

91.   Meta's conduct in acquiring, sharing, and using the Copyrighted Works was high handed, arrogant, and displayed a reckless disregard for the rights of the Class

Members. The Plaintiff asks this Court to award punitive damages against Meta in an amount deemed appropriate by the Court.

Injunction

92.   The Plaintiff asks this Court to issue an injunction pursuant to s. 34, 41.1 and 41.22 of the *Copyright Act* restraining the Defendants, their directors, officers, employees, agents, licensees, successors, assigns, related or affiliated companies, and all those under the control of the Defendants from, directly or indirectly, infringing copyright in the Copyrighted Works or circumventing the Technological Protection Measures. This includes publishing or making available in British Columbia any Meta LLM built off of or integrating infringement of the plaintiff and the Class Member's copyright.

Jurisdiction

93.   This action has a real and substantial connection with British Columbia because, among other things, it concerns a business carried out in British Columbia, a tort that caused damage to the Plaintiff in British Columbia, and restitutionary obligations arising in British Columbia, and is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia.

Plaintiff's address for service:

CFM LAWYERS LLP
#400 – 856 Homer Street
Vancouver, BC   V6B 2W5
Tel: (604) 689-7555
Fax: (604) 689-7554
Email: service@cfmlawyers.ca

Place of trial: Vancouver Law Courts

Address of the registry: 800 Smithe Street, Vancouver, BC   V6Z 2E1

Date: 16/Apr/2025

_____
Signature of lawyers
for Plaintiff

Reidar Mogerman and Oliver Pulleyblank

ENDORSEMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Plaintiff claims the right to serve this pleading/petition on the Defendants outside British Columbia on the ground that:

The Plaintiff has at all material times been a resident of British Columbia and has suffered loss in British Columbia. This Action concerns a business carried out in British Columbia, concerns a tort that was committed in British Columbia, is a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia, and concerns restitutionary obligations that, to a substantial extent, arose in British Columbia. The Supreme Court of British Columbia has jurisdiction with respect to this matter and the Plaintiff pleads the *Court Jurisdiction and Proceedings Transfer Act*, 2003, SBC Chapter 28 and amendments thereto.

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1)   Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

     (a)   prepare a list of documents in Form 22 that lists

         (i)   all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

         (ii)   all other documents to which the party intends to refer at trial, and

     (b)   serve the list on all parties of record.

APPENDIX

CONCISE SUMMARY OF NATURE OF CLAIM:

A claim on behalf of persons resident in Canada who, during the Class Period, had their copyrighted works used by Meta without license of permission to train its AI Large Language Models.

THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

☐   a motor vehicle accident

☐   medical malpractice

☐   another cause

A dispute concerning:

☐   contaminated sites

☐   construction defects

☐   real property (real estate)

☐   personal property

☐   the provision of goods or services or other general commercial matters

☐   investment losses

☐   the lending of money

☐   an employment relationship

☐   a will or other issues concerning the probate of an estate

☒   a matter not listed here

THIS CLAIM INVOLVES:

☒   a class action

☐   maritime law

☐   aboriginal law

☐   constitutional law

☐   conflict of laws

☐   none of the above

☐   do not know