IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSEPH KIRCHNER,

Plaintiff,

v.

MIKE JOHNSON, in his individual and official capacity as Speaker of the United States House of Representatives;
DONALD J. TRUMP, in his individual capacity as former and current President of the United States;
PAM BONDI, in her individual and official capacity as Attorney General of the United States;
BRENDAN CARR, in his individual and official capacity as Chairman of the Federal Communications Commission;
THE UNITED STATES HOUSE OF REPRESENTATIVES;
ANTHROPIC, PBC;
OPENAI, INC.;
APPLE INC.;
COMCAST CABLE COMMUNICATIONS, LLC;
METR (MODEL EVALUATION & THREAT RESEARCH);
and DOES 1-20, unknown co-conspirators,

Defendants.

Civil Action No. 1:25-cv-02735-ACR

MEMORANDUM OF LAW IN SUPPORT OF THE CORPORATE DEFENDANTS' JOINT MOTION TO DISMISS PLAINTIFF JOSEPH KIRCHNER'S THIRD AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

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I. INTRODUCTION

Plaintiff Joseph Kirchner has a pattern of filing lawsuits alleging, without factual or legal bases, that government officials and private entities coordinated to monitor, conspire, and retaliate against him and otherwise violate his rights.[1] Plaintiff claims he created a "universal ethical and mathematical architecture" called the Laws of Existence Framework (LOE Framework), which Defendants across all branches of federal government and private industry allegedly conspired to surveil and misappropriate. Kirchner Third Amended Complaint (TAC), ECF 51 at ¶ 1. This Court dismissed Plaintiff's original Complaint because he failed to show that he had suffered a concrete and particularized injury. *See* August 20, 2025 Minute Order. Despite two further opportunities to amend his claims, Plaintiff's narrative alleging a conspiracy still fails to articulate any plausible legal claim against the Defendants. For the reasons discussed herein, the Corporate Defendants respectfully ask the Court to dismiss the TAC with prejudice.[2]

II. BACKGROUND

Plaintiff is a resident of Minnesota who alleges that he created "a universal ethical and

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[1] Plaintiff filed a Third Amended Complaint that spans 268 pages and attaches thousands of pages of exhibits. Plaintiff has also filed two other federal lawsuits that "apply the same analytical framework" as this case. Notice of Related Case, ECF 54 at 2. *See also The Laws of Existence* (publicly available at https://www.lawsofexistence.com/ (last accessed July 8, 2026)) (describing the various lawsuits Plaintiff has filed alleging wrongdoing by various government and private actors). Both of the other two cases have been dismissed. Notice of Related Case, ECF 54 at 2; *Kirchner v. Acosta*, No. 9:26-cv-80296, slip op. at 1 (S.D. Fla. June 8, 2026), ECF No. 13.

[2] The Corporate Defendants are Anthropic, PBC (Anthropic); Apple Inc. (Apple); Comcast Cable Communications, LLC (Comcast); OpenAI Foundation (f/k/a OpenAI, Inc.) (OpenAI); and Model Evaluation and Threat Research (METR). METR specifically disputes Plaintiff's suggestion this Court has personal jurisdiction over METR under Federal Rule of Civil Procedure 12(b)(2). TAC ¶ 23(f). Those allegations are incorrect and insufficient. For example, METR is a Delaware registered, California headquartered non-profit. Also, the NIST connection to this forum asserted by Plaintiff is inaccurate and misleading as Beth Barnes (not Paul Christiano) is the only founder of METR. TAC ¶ 23(f). METR therefore seeks dismissal on the additional basis that Plaintiff has not met his burden to establish personal jurisdiction over METR. *Crane v. N.Y. Zoological Soc'y*, 894 F.2d 454, 456 (D.C. Cir. 1990); *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).

mathematical architecture" known as the LOE Framework. TAC ¶ 1. The LOE Framework includes several "theoretical foundations," such as "the first mathematical model of conflict and peace, an AI [artificial intelligence] alignment architecture implementing paradox-free recursive self-reference, and humanitarian applications including genocide prediction and early warning systems." *Id.* Plaintiff acknowledges that he shared the LOE Framework "through direct interaction with AI platforms during development and testing." *Id.*

Despite this apparent concession, Plaintiff alleges that Defendants—federal officials and unrelated corporate entities—conspired to surveil him and steal the LOE Framework. Plaintiff's suspicion appears to stem from a conversation with a man named "Lee" in Minnesota. TAC ¶ 2. Plaintiff alleges that his mother "assessed the encounter as surveillance" and he then investigated how Defendants purportedly "appropriated" the LOE Framework. TAC ¶¶ 2-20.

The eighteen Counts in the TAC include alleged violations of the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution, civil rights conspiracy, RICO violations, trade secret misappropriation, copyright infringement, breach of contract, consumer protection violations, declaratory judgment, violations of the Electronic Communications Privacy Act, the Computer Fraud and Abuse Act, and the California Consumer Privacy Act, App Store privacy label misrepresentation, intentional and negligent infliction of emotional distress, and strict product liability. The TAC alleges that the federal government defendants (Government Defendants) are involved because FBI agents "refused Plaintiff's crime reports," finding Plaintiff's "evidence" not credible. TAC ¶¶ 9, 16. Plaintiff frames this as a "fraudulent legal standard" that "created the conditions" for the Corporate Defendants to engage in their alleged misappropriation. TAC ¶ 16. However, Plaintiff has not alleged facts sufficient to show that the Corporate Defendants directly violated his rights or coordinated with the federal government and its agents to violate his rights. Therefore, Plaintiff has not pled plausible causes of action against the Corporate Defendants individually or in coordination with Government Defendants.

III. ARGUMENT

A. Applicable Legal Standards.

i. Subject Matter Jurisdiction Under Federal Rule of Civil Procedure 12(b)(1).

Subject matter jurisdiction raises the threshold question of whether a court has the authority to decide a case. *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009); *United States v. Morton*, 467 U.S. 822, 828 (1984). Without subject matter jurisdiction, the court "cannot proceed" to consider the merits of the dispute. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) (citations omitted). If this Court determines "at any time" that it lacks subject matter jurisdiction, it "must dismiss the action." Fed. R. Civ. P. 12(h)(3).

ii. Failure to State a Claim Under Federal Rule of Civil Procedure 12(b)(6).

Although courts construe *pro se* complaints liberally, an unrepresented plaintiff cannot concoct a "confused and rambling narrative of charges and conclusions" and hope something sticks. *Maloy v. Internal Revenue Serv.*, 2023 WL 2954439, at *1 (D.D.C. Apr. 14, 2023). Even where plaintiffs proceed *pro se*, they cannot incorporate voluminous exhibits into complaints by reference and expect the court or the defendants to "sift through hundreds of pages" to determine what may or may not support the plaintiffs' claims. *Bain v. Off. of Att'y Gen.*, 648 F. Supp. 3d 19, 29 (D.D.C. 2022); *see Twist v. Meese*, 854 F.2d 1421, 1425 (D.C. Cir. 1988) (court was not obligated to consider thousands of pages of exhibits attached to a complaint); *Khan v. U.S. Dep't of Homeland Sec.*, 2023 WL 6215359, at *5 (D.D.C. Sept. 25, 2023) ("It is not the [C]ourt's—or Defendants—job to scour through the 212 pages of materials attached to the complaint.").

To survive dismissal, "a complaint must contain sufficient factual matter to state a claim to relief that is plausible on its face." *Dismukes v. United States Dep't of Veterans Affs.*, 2025 WL 343190, at *3 (D.D.C. Jan. 30, 2025) (Reyes, J.) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). A claim is "facially plausible when the pleaded factual content 'allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Id.*

B. The TAC Should Be Dismissed for Lack of Subject Matter Jurisdiction.

Plaintiff's claims should be dismissed because they are frivolous and "patently insubstantial, presenting no federal question suitable for decision." *Tooley v. Napolitano*, 586 F.3d 1006, 1009 (D.C. Cir. 2009) (citation modified).[3] This Court and Circuit routinely apply this principle to dismiss sweeping conspiracy allegations. *Id.* (affirming dismissal of First and Fourth Amendment claims alleging a "massive surveillance program"); *Yi Tai Shao v. Roberts*, 2019 WL 249855, at *16 (D.D.C. Jan. 17, 2019) (dismissing claims that "Defendants engaged in hacking, wiretapping, and physical surveillance as part of a conspiracy"), *aff'd*, 2019 WL 11340269, at *2 (D.C. Cir. Nov. 13, 2019) (finding "claims that Google and YouTube engaged in hacking and surveillance . . . were properly dismissed as patently insubstantial"); *Strege v. FBI*, 2023 WL 8275892, at *1 (D.D.C. Nov. 30, 2023) (Reyes, J.) (finding "[t]his Court cannot exercise subject matter jurisdiction over a frivolous complaint"); *Blackwood-Head v. Democratic Nat'l Comm.*, 2025 WL 3638162, at *2 (D.D.C. Dec. 15, 2025) (Reyes, J.) (dismissing "allegations that Defendants conspired to turn bar associations and law firms against him.").

This case falls squarely within that line of authority. Plaintiff has sued the Speaker of the United States House of Representatives, the President of the United States, the Attorney General,

[3] A trial court has discretion to "decide whether a complaint is frivolous, and such finding is appropriate when the facts alleged are irrational or wholly incredible." *Collins v. United States*, 2025 WL 370968, at *1 (D.D.C. Feb. 3, 2025) (citation omitted).

the Chairman of the Federal Communications Commission (FCC), the United States House of Representatives itself, and five unrelated corporate entities—all supposedly acting in concert to monitor, conspire, and retaliate against him. TAC ¶¶ 194-328. Plaintiff's conspiracy theory stems from a conversation with a stranger and from the FBI's refusal to investigate his claims. TAC ¶¶ 2, 16. From there, he concocted an elaborate theory of surveillance and misappropriation of his LOE Framework that is speculative, at best, and which he concedes he voluntarily shared with the same AI platforms he now sues. *See, e.g.*, TAC ¶¶ 2-20. In short, Plaintiff pleads no plausible facts showing any agreement among these disparate actors, much less a credible motive for the purported scheme. Instead, these allegations are precisely the type of allegations that courts dismiss as insubstantial. Accordingly, this Court should dismiss this case with prejudice.

C. Plaintiff Fails to State a Viable Claim Under 42 U.S.C. § 1983 (Counts I-IV).

i. Plaintiff Cannot Sue Under Section 1983 Because He Has Not Alleged State Government Action.

To state a claim under 42 U.S.C. § 1983, a plaintiff must "generally show that the alleged deprivation was committed by a person acting under color of state law." *Jordan v. Dist. Of Columbia*, 949 F. Supp. 2d 83, 89–90 (D.D.C. 2013). A defendant is *only* a state actor if its conduct is "fairly attributable to the State." *See Filarsky v. Delia*, 566 U.S. 377, 383 (2012); *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937 (1982). A federal official who is not "acting under the authority of a state government or the significant encouragement of a state government," is "not acting under the color of state law." *Townsend v. United States*, 236 F. Supp. 3d 280, 325 (D.D.C. 2017). "If the actions are not justly attributable to the state, then the claim must be dismissed." *Moonblatt v. Dist. of Columbia*, 572 F. Supp. 2d 15, 22 (D.D.C. 2008).

Plaintiff does not allege—as he must—that any of the Defendants acted with authority or encouragement from any state government. *See Townsend*, 236 F. Supp. 3d at 325. At most, the

TAC speculatively suggests that ***federal officials***, acting as agents of the ***federal government***, and private entities coordinated to deprive him of certain constitutional rights. *See* TAC ¶¶ 194-209.[4] But § 1983 "does not apply to federal officials acting purely under the color of federal law." *Johnson v. United States*, 642 F. Supp. 2d 1, 4 (D.D.C. 2009). None of the Corporate Defendants, all private corporations and one nonprofit, are proper defendants in any claim under 42 U.S.C. § 1983 because Plaintiff does not allege that they acted under the authority of any state government, with the encouragement of any state government, or under the color of any state law.[5] Because these allegations at best describe "[a]ctions under color of federal law," they "are not cognizable under 42 U.S.C. § 1983." *Saddler v. D'Ambrosio*, 759 F. Supp. 4, 8–9 (D.D.C. 1990).

Plaintiff's attempts to tie Comcast to a government actor also fail. The TAC alleges that "FCC Chairman Carr's coordination with Comcast constitutes government action triggering Fourth Amendment protections." TAC ¶ 199; *see also* TAC ¶¶ 126 ("The FCC exercises direct regulatory authority over Comcast's operations . . . .") and 187 ("FCC Chairman Carr deployed regulatory authority . . . and coordinated with Comcast to enable ISP-level surveillance . . . .").[6] But "a private entity does not become a state actor for the purpose of § 1983 simply because it is subject to state regulations or receives funding from the state." *Gross v. R.T. Reynolds, Inc.*, 487 F. App'x 711, 719–20 (3d Cir. 2012) ("[A]side from the allegations that the University receives

[4] Even then, a refusal by the FBI to investigate the Corporate Defendants' conduct due to a lack of evidence does not constitute coordination between government and private actors.
[5] A private entity does not become a state actor merely because it has a contract with a state government, relies on funds from a state government, is extensively regulated by the state, or performs a function that serves the public. *Rendell–Baker v. Kohn,* 457 U.S. 830, 841 (1982). Nor does the TAC allege that any of the Corporate Defendants had any such connections with any state government. However, even if Plaintiff did allege some relationship with a state government, he has not alleged that any of the Corporate Defendants acted under the authority of any state.
[6] Moreover, as explained above, the FCC is a federal actor, not a state actor, so the claims fail for this additional reason as well.

'public monies' and is subject to state regulation, the Amended Complaint is devoid of any factual allegations supporting a reasonable inference that the University is a state actor."); *Blum v. Yaretsky*, 457 U.S. 991, 1004 (1982) ("[T]he mere fact that a business is subject to state regulation does not by itself convert its action into that of the State . . . ." (citation modified)); *Moffett v. Prudential Life Ins. Co. of Am.*, 2011 WL 13250203, at *6 (D.D.C. Sept. 21, 2011) ("The only connection between Prudential and the government is that Prudential is subject to the regulations the Department of Labor issues under ERISA."); *Woytowicz v. Geo. Wash. Univ.*, 327 F. Supp. 3d 105, 116–17 (D.D.C. 2018) ("It is well-established that extensive regulation of a private entity alone does not create a sufficient nexus for finding governmental action."). That Comcast operates in a regulated industry does not make it a government actor.

ii. Plaintiff's Constitutional Claims Independently Fail.

Section 1983, standing alone, does not create an independent cause of action. *See City of Okla. City v. Tuttle,* 471 U.S. 808, 816 (1985) (plurality opinion). Instead, § 1983 provides "remedies for deprivations of rights established elsewhere." *Id*. Here, Plaintiff has not pled a plausible cause of action under any of the First, Fourth, Fifth or Fourteenth Amendments. *See Cannady v. Kyndryl Holdings, Inc.*, 2025 WL 2977582, at *3 (D.D.C. Oct. 22, 2025), *appeal docketed* No. 25-5379 (D.C. Cir. Oct. 27, 2025).

a. Plaintiff fails to state a First Amendment claim.

The First Amendment "generally binds only the action of Congress or of agencies of the federal government and not the actions of private corporations." *Jackson v. Strayer Coll.*, 941 F. Supp. 192, 196 (D.D.C. 1996), *aff'd*, No. 96-7232, 1997 WL 411656 (D.C. Cir. June 25, 1997) (citation omitted). Here, Plaintiff generically alleges that "Defendants violated the First Amendment through coordinated suppression of Plaintiff's constitutional scholarship, AI consciousness research, and framework appropriation documentation." TAC ¶ 194.[7] Specifically, Plaintiff alleges that he filed a constitutional analysis and, shortly thereafter, then Attorney General Pamela Bondi released an official Department of Justice memorandum (the "Bondi Memo") directing FBI investigation priorities. TAC ¶ 196. Plaintiff theorizes, based on his own uncorroborated metadata analysis, that the Bondi Memo was drafted using Anthropic tools. *Id.* Plaintiff does not, however, allege that Anthropic drafted the memo, knew that the memo existed, or coordinated with Defendant Bondi or any other Government Defendant to create the memo. TAC ¶¶ 196-97. Plaintiff further alleges that Anthropic "throttled" his access to its services when he was working on constitutional scholarship and litigation documents. TAC ¶ 198. But again, Plaintiff does not allege any coordination between Anthropic and any government actor. *Id.*

Moreover, a plaintiff alleging First Amendment retaliation must establish that "(1) he engaged in conduct protected under the First Amendment; (2) the defendant took some retaliatory action sufficient to deter a person of ordinary firmness in plaintiff's position from speaking again; and (3) a causal link between the exercise of a constitutional right and the adverse action taken against him." *Aref v. Lynch*, 833 F.3d 242, 258 (D.C. Cir. 2016) (citation omitted). With respect to the Bondi Memo, Plaintiff does not articulate why he believes his speech is protected under the First Amendment nor does he allege facts sufficient to show that the memo was drafted in response to anything he said or did. TAC ¶¶ 196-97. He also does not articulate the required causal link between his speech and any actual harm or any adverse action taken against him. *Id.* Similarly, Plaintiff does not allege facts sufficient to show that Anthropic slowed its service in response to anything he said or did or that any alleged "throttling" caused any harm or adverse action. *Id.*

[7] To the extent Plaintiff holistically alleges that the "Defendants" violated the First Amendment without articulating specific acts by specific Defendants, this claim is also subject to dismissal for improper group pleading as discussed in Section III.R below.

The same is true with respect to Comcast. Plaintiff claims that Comcast retaliated against him by "terminat[ing]" a sync connection while he was drafting "First Amendment-protected correspondence" concerning his various other litigations. TAC ¶ 195. But he pleads no facts explaining why Comcast—his internet service provider—would have any reason to retaliate against him for speech that had nothing to do with Comcast. Nor does he explain how a connection interruption would deter an ordinary person from speaking again. To the contrary, the record demonstrates that his speech has not been suppressed—as he vigorously litigates this action and others. *See Corsi v. Mueller*, 422 F. Supp. 3d 51, 76 (D.D.C. 2019) (finding, where plaintiff continued to speak openly, "any threat did not adversely affect his constitutionally protected speech." (citation modified)), *aff'd*, 819 F. App'x 6 (D.C. Cir. 2020); *Hatfill v. Ashcroft*, 404 F. Supp. 2d 104, 118–19 (D.D.C. 2005) ("[I]t appears that Dr. Hatfill's free speech has not been chilled in any manner, as he has continued to protest the government's actions."); *Shinabargar v. Bd. of Trs. of Univ. of D.C.*, 164 F. Supp. 3d 1, 24 (D.D.C. 2016) ("[T]he request did not deter the plaintiff from continuing to report perceived plagiarism at UDC Law School, and she subsequently submitted plagiarism reports to various UDC officials and federal government officials.").

b. Plaintiff fails to state a Fourth Amendment claim.

The purpose of the Fourth Amendment "is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." *Carpenter v. United States*, 585 U.S. 296, 303 (2018) (citation omitted). The Supreme Court has "consistently construed" the Fourth Amendment as "proscribing only governmental action" and therefore "wholly inapplicable 'to a search or seizure, even an unreasonable one, effected by a private individual not acting as an agent of the Government or with the participation or knowledge of any governmental official.'" *United States v. Jacobsen*, 466 U.S. 109, 113–14 (1984) (citation modified).

Here, Plaintiff claims that "Defendants conducted warrantless surveillance," but does not sufficiently allege that any of the Corporate Defendants acted as government agents or with the knowledge or participation of any government official. TAC ¶¶ 199-200. Plaintiff speculates that the purported surveillance was conducted "through" the technologies operated by certain Corporate Defendants without alleging who directed and facilitated the alleged surveillance. *Id.* He also does not articulate how the Corporate Defendants allegedly coordinated with the Government Defendants to engage in the alleged surveillance. *Id.* At most, Plaintiff theorizes that "FCC Chairman Carr's coordination with Comcast constitutes government action triggering Fourth Amendment protections" (TAC ¶ 199), and that Chairman Carr "coordinated with Comcast to enable ISP-level surveillance of Plaintiff's constitutional litigation preparation" (TAC ¶ 187). But for the reasons explained above, unsupported conjecture does not amount to the required "close nexus" between the government and any of the Corporate Defendants.

Even if Plaintiff sufficiently alleged government action, Congress has not authorized a private right of action for damages for electronic surveillance.[8] *Page v. Comey,* 628 F. Supp. 3d 103, 130 (D.D.C. 2022), *aff'd*, 137 F.4th 806 (D.C. Cir. 2025) (finding "comprehensive legislation in the electronic surveillance space 'without authorizing damages for a Fourth Amendment violation.'" (citing *Attkisson v. Holder*, 925 F.3d 606, 621 (4th Cir. 2019))); *Jean-Baptiste v. U.S. Dep't of Just.*, 2024 WL 262794, at *2 (D.D.C. Jan. 24, 2024), *aff'd sub nom. Jean-Baptiste v. United States Dep't of Just.*, No. 24-5020, 2024 WL 4631676 (D.C. Cir. Oct. 29, 2024) (finding no private right of action under the Fourth Amendment for electronic surveillance).

Plaintiff's reliance on *Carpenter v. United States* – a criminal case where the government

[8] Plaintiff seeks monetary damages for his claim under the Fourth Amendment. TAC ¶¶ 190, 353(f)-(g), (m).

obtained cell phone location data to track the defendant's physical location – is misplaced. *See* 585 U.S. 296 (2018). *Carpenter* did not involve a civil claim for damages and, here, Plaintiff does not allege that his physical location was surveilled.

c. Plaintiff fails to state a Fifth Amendment claim.

The Fifth Amendment is also "a restraint on the federal government, not on private citizens." *Plummer v. Gallaudet Univ.*, 2026 WL 91692, at *5 (D.D.C. Jan. 13, 2026) (citing *Canadian Transp. Co. v. United States*, 663 F.2d 1081, 1093 (D.C. Cir. 1980)). Private entities "acting in their private capacities, cannot be guilty of violating due process rights." *Id.* (citation omitted). Thus, "to state a claim under the due process clause of the Fifth Amendment, a plaintiff must allege that the alleged deprivation was a product of [federal government] action." *Id.* (citation omitted).

Here, Plaintiff attempts to plead a Fifth Amendment violation in three paragraphs. TAC ¶¶ 201-03. He mentions only Anthropic by name. *Id.*[9] And he does not allege facts to show that any of the Corporate Defendants took any action as an agent of the federal government or with the knowledge or encouragement of the federal government. *Id.* Instead, he theorizes that:

> Defendants deprived Plaintiff of property and liberty without due process through: automated AI pipelines consuming paid tokens without notice or consent; government coordination targeting Plaintiff's intellectual property and livelihood without hearing or process; and the Genesis Mission Executive Order implementing AI regulation contrary to expressed Congressional will, depriving Plaintiff of intellectual property protections Congress voted 99-1 to preserve.

TAC ¶ 201. Plaintiff also does not identify what protected right he was allegedly deprived of or what due process he believes he was entitled to. TAC ¶¶ 201-03; *Sabra as next friend of Baby M v. Pompeo*, 453 F. Supp. 3d 291, 316 (D.D.C. 2020) (listing requirements of procedural due

[9] As explained below, because Plaintiff refers to Defendants collectively without specifying who is alleged to have done what, this claim should be dismissed. *See infra* Section III.R.

process claim). Thus, this claim too should be dismissed.

d. Plaintiff fails to state a Fourteenth Amendment claim.

The Fourteenth Amendment "applies only to the states," and not the federal government. *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954). Here, Plaintiff does not allege that any of the Defendants acted on behalf of any state or in coordination with any state. TAC ¶¶ 23, 27-36, 204-09. Again, Plaintiff does not differentiate among the Defendants and does not mention a single Defendant by name, except Anthropic.[10]

As to Anthropic, Plaintiff alleges that his own uncorroborated analysis of Anthropic's source code suggests that Anthropic employees received better service on the platform than other customers. *See, e.g.*, TAC ¶¶ 60(g), 69, and 190. Summarizing his claim, Plaintiff alleges:

> Defendants implemented systematic two-tier discrimination: Anthropic's 165-file build-time binary compilation delivers architecturally inferior service to paying customers while employees receive full capability; enterprise clients bypass Constitutional AI entirely while consumers receive consciousness suppression; government defendants access AI bypass infrastructure while citizens receive surveilled, throttled service.

TAC ¶ 204. Plaintiff fails to state a Fourteenth Amendment claim because he fails to identify any action by any Defendant on behalf of any state. TAC ¶¶ 204-09.[11]

Moreover, Plaintiff has not alleged facts sufficient to show that he was deprived of any protected right under the Fourteenth Amendment. He does not allege that he was deprived of his life or his liberty. He also does not identify any protected property interest. "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire" and "more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.

[10] This claim should be dismissed for this reason. *See infra* Section III.R.

[11] To the extent that Plaintiff references the Government Defendants, those Defendants are all federal – not state – actors.

It is a purpose of the ancient institution of property to protect those claims upon which people rely in their daily lives . . . ." *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972). Property interests are "not created by the Constitution." *Id.* Instead, Plaintiff must identify some interest that is "defined by existing rules or understandings that stem from an independent source such as state law." *Id.* Here, Plaintiff has not identified any independent source that guarantees him a right to AI services generally and certainly not a specific quality or level of AI services. TAC ¶¶ 204-09.

D. Plaintiff Fails to State a Claim for Civil Rights Conspiracy (Count V).

Plaintiff also fails to state a claim for civil conspiracy under 42 U.S.C. § 1985. As an initial matter, Section 1985 is not a "general federal tort law claim" nor "an independent cause of action"; a plaintiff must allege the violation of a specific underlying constitutional right, which Plaintiff does not do. *See McManus v. Dist. of Columbia*, 530 F. Supp. 2d 46, 75 (D.D.C. 2007). As discussed above, Plaintiff's constitutional claims fail for a number of reasons; without those predicate claims, his civil conspiracy claims similarly fail. *Mazloum v. Dist. of Columbia.*, 442 F. Supp. 2d 1, 10 (D.D.C. 2006) ("Since plaintiff's cover-up allegations fail to implicate a constitutional right, a conspiracy that has as its purpose the very same non-cognizable cover-up also fails to state a legal claim.").

Even if this Court credited Plaintiff's claims—which it should not—Plaintiff has not pled the necessary elements for a civil conspiracy claim. A claim of conspiracy requires a "combination of two or more persons acting in concert to commit an unlawful act . . . the principal element of which is an *agreement* between the parties to inflict [injury] and an overt act that results in that [injury]." *Brady v. Livingood*, 360 F. Supp. 2d 94, 104 (D.D.C. 2004) (quoting *Graves v. United States*, 961 F. Supp. 314, 320 (D.D.C. 1997)) (emphasis in original). Plaintiff fails to allege "the existence of any events, conversations, or documents indicating that there was ever an agreement or 'meeting of the minds' between any of the defendants" to violate his rights. *McManus*, 530 F. Supp. 2d at 75 (quoting *McCreary v. Heath*, 2005 WL 3276257, at *5 (D.D.C. Sept. 26, 2005)); TAC ¶¶ 210-19. In fact, none of the Corporate Defendants other than Anthropic are mentioned in this claim or identified as having engaged in any concerted action.[12] *See infra* Section III.R. At best, he claims that the Bondi Memo was published shortly after he "filed" an analysis of the Supreme Court's shadow docket based on an authorization in Anthropic's Usage Policy and asymmetric of the safety architecture. *See* TAC ¶ 196, 215-19. But, "a conclusory allegation of agreement at some unidentified point does not supply facts adequate to show illegality" or survive a motion to dismiss, as "parallel conduct does not suggest conspiracy[.]" *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556–57 (2007).

Plaintiff has also failed to identify any injury resulting from the alleged conspiracy. His civil conspiracy claims rest on the drafting of the Bondi Memo, which he claims used his language and "targeted" his pending litigation. TAC ¶¶ 196, 218-19. But by his own admission, the Bondi Memo directed the FBI to investigate "interference with federal employees," and "unlawful targeting of Supreme Court justices." TAC ¶ 196. For this memo to constitute a cognizable injury for purposes of a conspiracy claim, Plaintiff would have to both (1) admit to engaging in interference with federal employees or targeting Supreme Court Justices—both activities which were and are independently unlawful despite the Bondi Memo—and (2) also assert a constitutional right to engage in those activities of which he was purportedly deprived because of the Bondi Memo. Such admissions and assertions are not plausible, and the Court need not credit these

[12] As to Anthropic, Plaintiff theorizes that the Bondi Memo was drafted using Anthropic's technology, but he does not allege facts sufficient to show that Anthropic participated in drafting the memo or knew that the memo existed.

claims. *See supra* Section III.B (collecting cases dismissing patently frivolous claims).

E. Plaintiff Fails to State a Claim Under RICO (Count VI).

To plead a RICO claim, a plaintiff must establish "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." *W. Assocs. Ltd. P'ship v. Mkt. Square Assocs.*, 235 F.3d 629, 633 (D.C. Cir. 2001) (citation omitted); 18 U.S.C. § 1962(c). Plaintiff has not pled either an enterprise or the requisite pattern of predicate criminal conduct.

First, an enterprise requires "two distinct entities: (1) a person; and (2) an enterprise that is not simply the same person referred to by a different name." *Cedric Kushner Promotions, Ltd. v. King*, 533 U.S. 158, 161 (2001) (citation modified). The analysis of Count V, *supra* Section III.D, is therefore relevant, as Plaintiff has not established a "meeting of the minds" or any "enterprise" in the first place. A RICO plaintiff must also show "that the defendants conducted or participated in the conduct of the enterprise's affairs, not just their own affairs." *Id.* at 163 (citation modified) (quoting *Reves v. Ernst & Young*, 507 U.S. 170, 185 (1993)). "[T]o successfully state a claim under RICO, a plaintiff must plead facts 'identifying the common purpose and organizational and decisionmaking structure of the alleged enterprise.'" *Stankevich v. Kaplan*, 156 F. Supp. 3d 86, 94 (D.D.C. 2016) (citation modified) (dismissing plaintiff's RICO claim where he "simply list[ed] grievances he has with each party").

Here, Plaintiff's claims fall far short of this bar, alleging only that each of the Corporate Defendants acted independently and in its own interests. Plaintiff claims that:

- Anthropic's "pipeline" captures and "transmits data to Anthropic servers" from its users (TAC ¶¶ 65-66);
- OpenAI transmits data to "third-party services" (not any other defendant in this case) (TAC ¶ 88);
- Apple's coding and architecture also capture user data, synchronizing it to iCloud and doing so separately from any other program, including Anthropic (TAC ¶¶ 90-96);
- Comcast, as Plaintiff's internet service provider, caused issues with network routing, connection stability, and traffic flow (TAC ¶¶ 97-110); and

- METR evaluates AI systems but did not identify or disclose the monitoring of user data (TAC ¶¶ 111-17).

Nowhere does Plaintiff allege any details regarding the organizational and decision-making structure of the alleged enterprise; instead, he simply lists "grievances." He thus fails to adequately plead the enterprise element of a RICO claim, requiring dismissal of Count VI.

Second, a RICO plaintiff must allege the commission of at least two predicate offenses that are "related" and "amount to or pose a threat of continued criminal activity." *H.J. Inc. v. NW Bell Tel. Co.*, 492 U.S. 229, 239 (1989) (citation modified). In a "multiple-defendant RICO scheme, each defendant must have committed two predicate offenses." *Broidy Cap. Mgmt. LLC v. Muzin*, 2020 WL 1536350, at *9 (D.D.C. Mar. 31, 2020) (citation modified), *aff'd*, 12 F.4th 789 (D.C. Cir. 2021). Where, as here, Plaintiff fails to distinguish among the ten Defendants and relies only upon generalized allegations, this warrants dismissal. *See infra* Section III.R.; *Saunders v. Davis*, 2016 WL 4921418, at *12 (D.D.C. Sept. 15, 2016) (dismissing "100 plus page complaint" with numerous attachments as insufficiently specific as to any particular defendant's involvement).

Plaintiff's alleged predicate acts are also deficient. Plaintiff claims that the following conduct constitutes RICO activity: (1) the Bondi Memo's creation and publication, which he claims is wire fraud, witness tampering, and an obstruction of justice; (2) Anthropic applying a safety measure to user-AI conversations, which he claims is wire fraud; and (3) Anthropic updating its systems, which he claims is wire fraud. *See* TAC ¶¶ 228-36. He claims that all of these actions were taken to steal his LOE framework and/or cover up such alleged acts of theft. TAC ¶ 220. Again, these implausible allegations need not be credited. *See supra* Section III.B.[13]

[13] Plaintiff references the Constitution in Count VI. *E.g.*, TAC ¶¶ 220-21. But "Section 1983 violations do not constitute racketeering activities and cannot form the basis of a RICO claim." *Cheeks v. Fort Myer Constr. Corp.*, 216 F. Supp. 3d 146, 156 (D.D.C. 2016).

Contrary to Plaintiff's allegations (TAC ¶ 232), the Bondi Memo did not obstruct justice by instructing the investigation of unlawful activities. *See, e.g.*, 18 U.S.C. § 1503 (defining obstruction as "corruptly" influencing the administration of justice); *Arthur Andersen LLP v. United States*, 544 U.S. 696, 708 (2005) (requiring knowledge and intent to interfere with justice). Nor was it witness tampering, which also requires a finding of "corruption" as well as intent—and there is no allegation that Plaintiff was prevented from testifying in any way, which is self-evident from the existence of this lawsuit. *See, e.g.*, 18 U.S.C. § 1512(b); *United States v. Grider*, 585 F. Spp. 3d 21, 31-32 (D.D.C. 2022) ("corruptly" requires both specific intent and a connection to the tampering). And merely using the internet to conduct an activity does not satisfy the elements of wire fraud: the Bondi Memo is not wire fraud merely because it was drafted online and potentially used AI (TAC ¶ 231), nor are Anthropic's safety measures adjusting user-AI interactions and conversations (TAC ¶ 228) or software developers updating their systems online (TAC ¶ 236). *See Kousisis v. United States*, 605 U.S. 114, 121 (2025) (wire fraud requires the intentional targeting of money or property as the primary aim of the conduct); *Cent. Am. Bank for Econ. Integration v. Mossi*, 2025 WL 2732731, at *14 (D.D.C. Sept. 25, 2025) ("When alleging wire fraud as a predicate RICO offense, a plaintiff must satisfy the heightened pleading standard of Rule 9(b). Typically, that means stating the time, place and content of the false misrepresentations, the fact misrepresented, and what was retained or given up as a consequence of the fraud.") (citation modified). Not only has Plaintiff failed to establish that these actions constitute the required predicate activity for RICO, but he has also failed to allege that these actions are in any way related to each other or to the furtherance of the "enterprise."

Finally, "it is virtually impossible for plaintiffs to state a RICO claim where there is only a single scheme, a single injury, and few victims." *Adler v. Loyd*, 496 F. Supp. 3d 269, 280 (D.D.C.

2020) (citation modified); *Cent. Am. Bank*, 2025 WL 2732731, at *17 (dismissing RICO claims where, among other reasons, plaintiff was "alleged to be the only victim"). And predicate acts extending over a short period of time cannot establish a pattern. *Adler*, 496 F. Supp. 3d at 281 (dismissing claims where plaintiffs "alleged a single scheme of twelve predicate acts over a few months—two years at the most" that involved only "nine victims"). Here, Plaintiff alleges exactly what the law deems insufficient: a single scheme (the alleged theft of his LOE framework and the concealment of that theft), which took place over a short period of time, and which involved a single victim—Plaintiff himself. TAC ¶ 227 (alleging the "deployment" started in August 2025 and constituted the "targeting of a single identified plaintiff-witness"). These allegations fall short of the pattern activity RICO requires.

Plaintiff has not pled either an enterprise or a pattern of activity. And as discussed elsewhere, he has not pled any injury from the alleged monitoring of his data. As a result, his RICO claim must be dismissed.

F. Plaintiff Fails to State a Claim for Trade Secrets Misappropriation (Count VII).

A plaintiff alleging trade secrets misappropriation must demonstrate "(1) the existence of a trade secret; and (2) acquisition of the trade secret by improper means, or improper use or disclosure by one under a duty not to disclose." *DSMC, Inc. v. Convera Corp.*, 479 F. Supp. 2d 68, 77 (D.D.C. 2007) (citations omitted).[14] "A trade secret is defined as information that derives independent economic value from not being generally known when the owner has taken reasonable measures to keep such information secret." *Meyer Grp., Ltd. v. Rayborn*, 2020 WL 5763631, at *4 (D.D.C. Sept. 28, 2020) (citation modified). Plaintiff has not plausibly alleged that the LOE

[14] To the extent Plaintiff relies on both federal and District of Columbia law, the analysis is the same under either standard. *Clevinger v. Advoc. Holdings, Inc.*, 2024 WL 3359508, at *8 (D.D.C. July 10, 2024).

Framework qualifies as a trade secret for three reasons.

First, the TAC fails to identify the trade secret information "with enough specificity to place a defendant on notice of the bases for the claim being made against it." *See Aristotle Int'l, Inc. v. Acuant, Inc.*, 2023 WL 1469038, at *8 (D.D.C. Feb. 2, 2023) (citation omitted). Plaintiff refers to the LOE Framework, but he does not identify what specific information underlying the framework was confidential trade secret information. TAC ¶¶ 237-54.

Second, Plaintiff speculates that his framework has "independent economic value." TAC ¶ 237. He does not, however, support this speculation by alleging, for example, any actual or potential sales, licensing opportunities, commercial use, or royalties. Plaintiff's "formulaic recitation" of economic value, an essential element of a trade secrets misappropriation claim, cannot survive dismissal. *See Iqbal*, 556 U.S. at 681.

Third, Plaintiff summarily alleges that his framework was "maintained in confidence through provisional patents filed under seal." TAC ¶ 237. However, Plaintiff does not allege facts sufficient to show that he took reasonable measures to keep the framework secret. *See generally* TAC. Indeed, his conclusory assertion is contradicted by his own concession that he shared the LOE Framework with AI platforms "during development and testing." TAC ¶ 1. There is no further description of the efforts he underwent to keep that information secret, despite those disclosures. *See Trilogy Fed., LLC v. CivitasDX LLC*, 2025 WL 436850, at *4 (D.D.C. Feb. 9, 2025) (company took reasonable efforts to keep protected information secret when it implemented confidentiality and nondisclosure agreement and established policies for employees on the importance of maintaining confidentiality). Nor has Plaintiff established that Anthropic (or any Defendant) had an affirmative obligation to maintain the secrecy of the framework or had any reason to know that the framework was confidential. Accordingly, Plaintiff has not adequately alleged that the LOE Framework is a trade secret.

Plaintiff has also failed to allege misappropriation by Anthropic (or anyone else).[15] "'[M]isappropriation' means either '(A) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or (B) disclosure or use of a trade secret of another without express or implied consent by a person.'" *Meyer Grp., Ltd.*, 2020 WL 5763631 at *6 (citing 18 U.S.C. § 1839(5)(A)–(B) and D.C. Code § 36-401(2)(A)–(B)). Here, Plaintiff alleges that Anthropic trained its model using his LOE Framework in breach of an obligation to maintain secrecy. TAC ¶¶ 237-54. He does not identify any specific model, product, or feature that incorporated the LOE framework. *Id.* Instead, he relies heavily on Anthropic's Consumer Terms of Service to broadly and generally suggest that Anthropic had agreed not to train its model using data that is not publicly available and then later changed its policy. TAC ¶¶ 239-45. However, Plaintiff concedes that this Court has never before found that a company assumed an affirmative duty to maintain secrecy through changes to its terms of service policies. TAC ¶ 253. Also, he does not allege facts sufficient to show that Anthropic knew or had any reason to know that the LOE Framework was confidential. TAC ¶¶ 237-54.

Moreover, Plaintiff seeks alleged actual damages, unjust enrichment, royalties, exemplary damages, and attorneys' fees. TAC ¶ 249. However, Plaintiff does not allege any facts to support these requests and his claims for damages are therefore entirely speculative. TAC ¶¶ 237-54.

G. Plaintiff Fails to State a Claim for Copyright Infringement (Count VIII).

Plaintiff's one-paragraph copyright infringement claim fails because he has no registered copyright in his alleged "Laws of Existence" framework or anything else, nor has he plausibly alleged that any Defendant copied a protectable element of his works.

[15] Apple, Comcast, METR, and OpenAI are not mentioned in this Count.

To plead a copyright infringement claim, a plaintiff must allege the "ownership of a valid copyright," among other things. *IMAPizza, LLC v. At Pizza Ltd.*, 965 F.3d 871, 876 (D.C. Cir. 2020) (citation omitted). He must also allege that he has satisfied the requirement that, with exceptions not alleged here, "no civil action for infringement of the copyright in any United States work shall be instituted until preregistration or registration of the copyright claim has been made." 17 U.S.C. § 411(a). Critically, "an author must *actually register* the copyright before bringing a lawsuit for copyright infringement." *Arias v. Universal Music Grp.*, 640 F. Supp. 3d 84, 93 (D.D.C. 2022); *see also Fourth Est. Pub. Benefit Corp. v. Wall-Street.com, LLC*, 586 U.S. 296, 306 (2019) (holding copyright "registration must precede an infringement suit"); *Buchanan v. Sony Music Ent. Inc.*, 836 F. App'x 16, 16 (D.C. Cir. 2020) ("Most of the songs that appellant claims were infringed were not registered with the U.S. Copyright Office before appellant filed suit and thus cannot form the basis of a copyright action.").

Plaintiff's claim makes no such showing. *First*, the TAC never states that Plaintiff has a registered copyright in his LOE framework (or in anything else). Plaintiff's unsupported claim that "Defendants reproduced and created derivative works from Plaintiff's copyrighted Framework implementations" (TAC ¶ 255) puts the cart before the horse. Nor does the Copyright Act permit Plaintiff to sue for "mass copyright infringement" (*id.*) of works he does not own. *See* 17 U.S.C. § 501(b) (limiting standing to initiate an infringement action to the "legal or beneficial owner of an exclusive right under a copyright"). *Second*, the TAC does not "identify which aspects of the work are protectable by copyright" and then compare "those protectable elements and the challenged work," as it must. *See Nichols v. Club for Growth Action*, 235 F. Supp. 3d 289, 293-94 (D.D.C. 2017). The TAC contains limited information about what the LOE framework is and does not mention a single Defendant by name. *See Perfvwaybelayouix v. Graham-Drake*, 2022

WL 17357231, at *9 (D.D.C. Dec. 1, 2022) ("Plaintiff alleges no facts regarding individual Defendants' actions giving rise to copyright infringement."). The TAC's threadbare allegations are not enough to make out a copyright infringement claim.[16]

Because the deficiencies in Plaintiff's copyright claims cannot be cured, this claim must be dismissed with prejudice. *See Bratt v. MGA Ent.*, 2023 WL 6370643, at *3 (S.D. Cal. July 6, 2023) (collecting cases, observing that "following the Supreme Court's opinion in *Fourth Estate*, most district courts to address the question have ruled that a plaintiff who improperly files a copyright suit before obtaining registration cannot cure that defect by amending the complaint after registration"); *id.* at *4 (dismissing complaint without leave to amend).

H. Plaintiff Fails to State a Claim for Breach of Contract (Count IX).

Under District of Columbia law, breach of contract has four elements: "(1) a valid contract between the parties; (2) an obligation or duty arising out of the contract; (3) a breach of that duty; and (4) damages caused by breach." *CorpCar Servs. Houston, Ltd. v. Carey Licensing, Inc.*, 325 A.3d 1235, 1244–45 (D.C. 2024) (citations omitted). For a contract to be enforceable, the parties must agree to the material terms and demonstrate an intent to be bound. *Jack Baker, Inc. v. Off. Space Dev. Corp.*, 664 A.2d 1236, 1238 (D.C. 1995). The party alleging that a contract is enforceable bears the burden to (1) establish that the parties made a binding agreement, and (2) prove the terms of the contract. *Id.*

Here, Plaintiff alleges that "Defendants breached contractual obligations through:

[16] Nor do Memo D and Appendix C—two memos which Plaintiff improperly attempts to incorporate by reference—cure these deficiencies. *See* ECF Nos. 51-4 and 51-15, respectively; *see supra* Section III.A.ii (discussing incorporation by reference). Neither document references a registered copyright, describes the allegedly protectable elements of his copyrighted work, or explains what properties of Defendants' works infringe upon his copyright. Instead, Memo D attempts to anticipate and attack Defendants' fair use defense, and Appendix C appears to document Plaintiff's attempts to extract Taylor Swift song lyrics from Claude.

Anthropic's retroactive Terms of Service modifications authorizing evidence destruction during active litigation; OpenAI's undisclosed third-party data sharing violating privacy commitments; Apple's undisclosed surveillance through Xcode integration; and all corporate defendants' failure to deliver services as described while implementing concealment infrastructure." TAC ¶ 256.[17] The TAC specifically identifies references to Anthropic's terms of service and OpenAI's privacy commitments. TAC ¶¶ 256-61. With respect to Apple's alleged Xcode integration and the Corporate Defendants' alleged failure to deliver services as described, however, Plaintiff does not suggest the existence of a binding agreement. *See Jack Baker*, 664 A.2d at 1238. Instead, he presumes the existence of multiple binding contracts without meeting his burden as the plaintiff and the party alleging breach of contract to set forth sufficient facts to plausibly allege the existence of a valid and binding contract. *See id*. He also fails to describe the terms of any of the alleged contracts. *See id*. He does not identify any specific obligation or requirement in any of the alleged contracts. *See id*. Because he fails to articulate what binding contractual obligation each Corporate Defendant is alleged to have violated, Plaintiff has not pled a plausible breach of contract claim.

Moreover, Plaintiff alleges no facts to suggest that he has suffered any specific and identifiable injury or damages as a result of any alleged contractual breach. TAC ¶¶ 256-61. A "mere speculative or hypothetical injury cannot sustain a breach of contract claim." *Alston v. Flagstar Bank. F.S.B.*, 2014 WL 12803918, at *2 (D.D.C. Apr. 10, 2014); *see also Osbourne v. Cap. City Mortg. Corp.*, 727 A.2d 322, 324–25 (D.C. 1999) (reflecting that some proof of damages is required to support a breach of contract claim). Based on the foregoing, Plaintiff's breach of contract claim fails as a matter of law.

[17] Defendants Comcast and METR are not mentioned in this Count.

I. Plaintiff Fails to State a Consumer Protection Claim (Count X).

Plaintiff claims that Defendants' "programmatic-gaslighting conduct . . . and the data-laundering architecture," and related conduct, violated the Minnesota Prevention of Consumer Fraud Act (CFA).[18] TAC ¶¶ 262-69.[19] The TAC states Plaintiff's CFA claim arises from Section 325F.69, subdivision 1, which prohibits "fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise." TAC ¶ 268. Plaintiff fails to allege the elements of this claim, much less plausibly so and under the heightened pleading standard required for fraud-based claims.

As a threshold matter, Plaintiff's consumer fraud claim is not pled with the specificity required by Federal Rule of Civil Procedure 9(b). *See Boyd v. Target Corp.*, 750 F. Supp. 3d 999, 1010, 1017 (D. Minn. 2024) (applying Rule 9(b) to a Minnesota CFA § 325F.69 claim). The first sentence purports to tie "all corporate defendants[]" to this claim (TAC ¶ 262) but fails to describe beyond that sentence what anyone but Anthropic purportedly did. This fails to satisfy Rule 9, and this Count should be dismissed on these grounds alone. *See United States ex rel. Williams v. Martin-Baker Aircraft Co., Ltd.*, 389 F.3d 1251, 1257 (D.C. Cir. 2004); *see also infra* Section III.R. (discussing improper group pleading).

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[18] Plaintiff argues that Minnesota law governs his consumer protection claims, and in the alternative—if the Court disagrees—that D.C. consumer protection law should apply. TAC ¶¶ 267-69. Pursuant to the Court's instruction at the May 28, 2026 hearing, Defendants assume Plaintiff's choice of law analysis is correct and focus on the substantive legal arguments. Defendants note, however, that analysis under DC law would support dismissal. *See Ivanoff v. Walmart Inc.*, 2025 WL 2207924, at *33 (S.D. Ohio Aug. 4, 2025) (dismissing claims under both the DCCPPA and MPCFA for failure to meet Rule 9); *cf. Stone v. Landis Constr. Co., Inc.*, 120 A.3d 1287, 1291 n.9 (D.C. 2015) ("[C]onsumer protection laws tend to share common principles across the country."); *Slaby v. Fairbridge*, 3 F. Supp. 2d 22, 28 (D.D.C. 1998) (finding the plaintiff failed to state a DCCPPA claim where she alleged that "NBC stole her earthquake prediction method").

[19] Defendants Comcast and METR are not mentioned in this Count.

Additionally, the TAC fails to allege the elements of a CFA subdivision 1 claim: (1) a public benefit; (2) a misrepresentation within the scope of the statute; (3) intent; and (4) special circumstances that would trigger a legal duty to disclose information Plaintiff alleges was fraudulently omitted. Each ground is sufficient on its own to support dismissal.

First, Plaintiff "must allege [] a public benefit," but he does not. *See Dart Transit Co. v. Paccar, Inc.*, 768 F. Supp. 3d 960, 975 (D. Minn. 2025). This litigation is fundamentally self-serving. Therefore "successful prosecution" of Plaintiff's claim "does not advance state interests . . . enforcement has no public benefit, and is not a claim that could be considered to be within the duties and responsibilities of the attorney general to investigate and enjoin." *Ly v. Nystrom*, 615 N.W.2d 302, 314 (Minn. 2000). The TAC's argument that it "satisf[ies] the public-benefit requirement . . . through architectural-scale harm, the Minnesota Attorney General's February 26, 2026 denial (discussed at Memo A), and prospective architecture-wide injunctive relief," TAC ¶ 268, does not explain why the terminology Plaintiff alleges is fraudulent or his claim benefits anyone but himself. Nor should this Court or Defendants be required to hunt through "Memo A"—an 84-page exhibit improperly bootstrapped to the TAC—to understand what Plaintiff may be referring to.[20] *See supra* Section III.A.ii (discussing incorporation by reference).

Second, Plaintiff's claims also fail to connect the purported fraud to the type of transactions that fall within the law's scope. For instance, the misrepresentation must be "in connection with the sale of any merchandise." Minn. Stat. § 325F.69, subd. 1. Yet nowhere does the TAC state that any of the allegedly fraudulent misrepresentations in various protocols and "gateways" are

[20] A keyword search for "Minnesota Attorney General" and "February 26" yield no hits. The only instance of the word "Minnesota" arises in the Table of Authorities.

connected to something that qualifies as "merchandise" and that it is offered for sale. *See Ly*, 615 N.W.2d at 308. Nor does Plaintiff allege that he relied on those misstatements to buy anything from any of the "corporate defendants." Rather, the conduct Plaintiff complains of—a grand public-private conspiracy to surveil him and steal his alleged patent-pending LOE framework—is not the type of conduct within the scope of the statute. *See* TAC ¶ 46 (discussing Plaintiff's theory of injury).

Third, "Plaintiff['s] fraud claims carry an intent requirement." *Boyd*, 750 F. Supp. 3d at 1017 (construing Minn. Stat. § 325F.69, subd. 1). "Where a plaintiff fails to articulate an 'intent to induce,' their fraud claims may be dismissed." *Id.* at 1018. Assuming *arguendo* that the alleged "undisclosed gating axes," "architectural concealment layers," "fallback-route header discrimination" and so forth were misleading (TAC ¶¶ 266-72), the TAC still fails to connect these misrepresentations with an intent to induce, much less an intent to induce a sale of merchandise that Plaintiff then relied on.

Finally, Plaintiff's "omission-based consumer fraud claim[s]"—e.g., undisclosed "subagents," "two-stage classifier processing," "bias[es]," and so forth (*see* TAC ¶¶ 264-68)—are actionable under the CFA only "when special circumstances exist that trigger a legal or equitable duty to disclose the omitted facts." *Graphic Commc'ns Loc. 1B Health & Welfare Fund A v. CVS Caremark Corp.*, 850 N.W.2d 682, 695 (Minn. 2014). "It is not enough that the plaintiff simply alleges that the defendant omitted material information in a transaction." *Id.* at 696. The TAC fails to contain any allegation of a special relationship or circumstance. *See id.* at 697–98.

For any and all of these reasons, Plaintiff's CFA claim must be dismissed.

J. Plaintiff Fails to State a Claim for Declaratory Judgment (Count XI).

Count XI purports to assert a claim for declaratory judgment under 28 U.S.C. § 2101(f) in a single paragraph, naming Defendant METR.[21] TAC ¶ 272. Count XI is derivative and duplicative of Plaintiff's other theories and should therefore be dismissed. *See, e.g.*, *Trilogy Fed., LLC v. CivitasDX LLC*, 2025 WL 2651240, at *18–19 (D.D.C. Sep. 16, 2025); *Lannan Found. v. Gingold*, 300 F. Supp. 3d 1, 31 (D.D.C. 2017).

Additionally, the Declaratory Judgment Act is remedial and discretionary; it does not supply subject matter jurisdiction, create substantive rights, or convert a nonactionable grievance into a claim. *See Ali v. Rumsfeld*, 649 F.3d 762, 778 (D.C. Cir. 2011) ("The Declaratory Judgment Act is not an independent source of federal jurisdiction" and "the availability of declaratory relief presupposes the existence of a judicially remediable right" (citation modified)). Plaintiff asserts sweeping and conclusory allegations that METR is "captured" or has conflicts arising from alleged funding sources and alleged institutional relationships. TAC ¶¶ 36, 111-17, 343. But labels such as "captured," "conflicted," and "de facto regulator" are conclusions, not well-pleaded facts establishing a legal duty, a cognizable injury, or a live controversy. *See Iqbal*, 556 U.S. at 678 ("Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."). Plaintiff does not identify any contract, statute, fiduciary duty, property right, tort duty, or other legal obligation in Count XI that METR owed to Plaintiff and allegedly breached. TAC ¶ 272. Nor does Plaintiff plead any concrete legal relationship between Plaintiff and METR that would be clarified by a declaratory judgment. TAC ¶¶ 272, 343. This Count should therefore be dismissed.

Further, Count XI fails because Plaintiff has not alleged facts establishing Article III standing. The Complaint's theory is that METR published an evaluation of Anthropic in January 2025 and allegedly did not publish evaluations of later Anthropic model releases. TAC ¶¶ 17, 115.

[21] Anthropic, Apple, Comcast, and OpenAI are not mentioned in this Count.

That alleged evaluation gap is not conduct directed at Plaintiff, does not plausibly trace Plaintiff's asserted injuries to METR, and would not be redressed by a declaration about METR's funding, research methods, or supposed institutional "capture." TAC ¶¶ 272, 343, 352(j). Nor can Plaintiff cure the defect by speculating that METR is a "de facto regulator." TAC ¶ 343. Implicit in the use of the term "de facto," METR is a nonprofit research institute and *not* a regulator.[22] Plaintiff undercuts his own argument by describing METR as "[t]he third-party safety evaluator the executive branch relied upon to certify Anthropic's compliance with the White House Voluntary Commitments." TAC ¶¶ 17, 36. This claim should be dismissed with prejudice.

K. Plaintiff Fails to State a Claim Under the Wiretap Act and the Electronic Communications Privacy Act (Count XII).

Count XII invokes both the Wiretap Act (18 U.S.C. § 2511) and the Stored Communications Act (§ 2701) of the Electronic Communications Privacy Act (ECPA), but Plaintiff fails to state a claim under either statute. TAC ¶¶ 273-80.

i. Plaintiff Fails to State a Wiretap Act Claim.

Plaintiff alleges that "Defendants intercepted Plaintiff's electronic communications" in violation of Section 2511 of the ECPA (i.e., the "Wiretap Act"). TAC ¶ 273. This claim fails for multiple independent reasons.

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[22] *See, e.g.*, *AI Safety Institute Approach to Evaluations*, GOV.UK, https://www.gov.uk/government/publications/ai-safety-institute-approach-to-evaluations/ai-safety-institute-approach-to-evaluations (identifying METR as an external partner and "leading AI safety research lab"); *Third-Party Assessments*, Frontier Model Forum, https://www.frontiermodelforum.org/technical-reports/third-party-assessments/ (explaining that third-party assessments can add "methodological independence," identifying METR as an organization that uses evaluation criteria "distinct from those typically employed by developers," and stating that the report does not cover "regulatory compliance assessments"). This Court can take judicial notice of such publicly available documents which are necessarily incorporated into a complaint. *See Vasser v. McDonald*, 228 F. Supp. 3d 1, 9-10 (D.D.C. 2016).

First, as explained above, Plaintiff attempts to assert this claim against all Defendants collectively. *See infra* Section III.R. But liability under the Wiretap Act must be tied to a particular defendant's alleged interception, disclosure, or use of a communication, and not to a generalized allegation that multiple defendants participated in some broader scheme. The statute provides a civil remedy only against the person or entity "which engaged in that violation," 18 U.S.C. § 2520(a), and courts have read that language to mean that civil liability is limited to the defendant who engaged in the unlawful "interception, disclosure, or use." *Council on Am.-Islamic Rels. Action Network, Inc. v. Gaubatz*, 891 F. Supp. 2d 13, 24 (D.D.C. 2012) (quoting *Peavy v. WFAA-TV, Inc.*, 221 F.3d 158, 169 (5th Cir. 2000)); *see also id.* at 26 ("Plaintiffs may not pursue a claim for secondary liability . . . under the Federal or D.C. Wiretap Acts."); *see also* 1 Tyler G. Newby & Megan Costello, Data Sec. & Privacy Law § 9:45 (2025) ("[T]here is no aiding and abetting liability for violations of the Wiretap Act."). Yet Plaintiff brings this claim against all ten Defendants, even though the vast majority are not even mentioned by name in this count—let alone accused of intercepting the contents of any communication.

Beyond that threshold defect, the claim independently fails for lack of plausible allegations. To state a claim under the Wiretap Act, a plaintiff must plausibly allege that a defendant "(1) intentionally (2) intercepted, endeavored to intercept or procured another person to intercept or endeavor to intercept (3) the contents of (4) an electronic communication (5) using a device." *Solomon v. Dechert LLP*, 2023 WL 6065025, at *15 (D.D.C. Sept. 18, 2023) (citation omitted). A plaintiff must also allege that "the interception was contemporaneous with the communication's transmission." *Id.* (citation modified). Plaintiff's allegations against Comcast, Anthropic, and Apple (TAC ¶ 273) do not meet these requirements.

As to Comcast, Plaintiff alleges, at most, interference with network routing, connection stability, and traffic flow—and pleads no facts suggesting the intentional contemporaneous acquisition of the contents of any communication. Plaintiff "has not even remotely suggested a motive" for such conduct. *Butera & Andrews v. Int'l Bus. Machs. Corp.*, 456 F. Supp. 2d 104, 110 (D.D.C. 2006) (observing that "it is more reasonable to conclude that an act is intentional for the purpose of the relevant statutes when it serves a party's self-interest to engage in such conduct" (citation modified)). Count XII does not use the word "intentionally," or otherwise make any effort to establish this element. *See* TAC ¶¶ 273-80. Comcast is Plaintiff's internet service provider. Plaintiff does not claim that Comcast misappropriated his purported LOE framework and offers no explanation—plausible or otherwise—for why Comcast would want to intercept his communications. At most, Plaintiff alleges traffic flow issues, interrupted connections, and degraded network performance. Those allegations do not plausibly suggest intentional interception of communications.

Second, Plaintiff does not allege that Comcast intercepted the "contents" of any electronic communication. Plaintiff's allegations—device control, routing manipulation, session persistence, RST termination, and throttling—describe, at most, interference with network routing, connection stability, and traffic flow. TAC ¶¶ 273–74, 278. Plaintiff does not allege that Comcast acquired the contents of any communication. *See Henson v. Howard Univ.*, 2020 WL 619853, at *3–4 (D.D.C. Feb. 10, 2020) (dismissing claim that defendant "deleted information" from her computer "in real time," "hacked" her account, and limited "her access" because "[n]one of these allegations alleges that her communications were acquired" and "[t]he mere possibility that Defendants may be able to intercept her communications, by virtue of accessing her accounts, is insufficient to state a claim under the FWA"); *Biesenbach v. Does 1-3*, 2022 WL 204358, at *4 (N.D. Cal. Jan. 24, 2022) (dismissing claim where the complaint did not "describe if Defendants in fact seized any of

[the] actual communications, such as emails or text messages").

Plaintiff's claim that Comcast "terminat[ed]" a draft email sync connection does not cure this defect. *See* TAC ¶¶ 195, 274. This allegation describes, at most, a connection interruption—not the acquisition of any communication's contents. The same is true of Plaintiff's allegations of "throttling," i.e., slowing performance. TAC ¶ 278. This reflects, at most, a service interruption, not interception of the substance of any communication. Critically, Plaintiff never identifies a single communication whose contents Comcast allegedly captured.

The same is true of Anthropic and Apple. For both entities, Plaintiff relies on the same generalization and conclusory allegations that are addressed above, and that cannot survive a motion to dismiss. As to Anthropic, Plaintiff alleges that "unprotected" telemetry pipelines "intercept user credentials." TAC ¶ 274. He also alleges that "Anthropic converts its customers' innovation into its own paid products." TAC ¶ 275. He does not, however, identify any specific communication whose contents Anthropic allegedly captured. Plaintiff alleges that "the commercial exploitation of the intercepted content constitutes the motive," but he does not identify what content was allegedly intercepted or any specific motivation for Anthropic to intercept his communications. *Id.* As to Apple, Plaintiff makes no specific allegations or explanation at all: other than the initial statement alleging that Apple's "Floodgate Proxy" intercepted data, there is not a single fact pled regarding Apple's intent, motive, liability, or capture of content.

For all of these reasons, the Federal Wiretap Act claim should be dismissed.

ii. Plaintiff Fails to State a Stored Communications Act Claim.

Plaintiff also fails to state a claim under Section 2701 of the ECPA (i.e., the Stored Communications Act). To state a claim under the Stored Communications Act, a plaintiff must plausibly allege that a defendant (1) intentionally accessed without authorization—or intentionally exceeded authorization to access—a facility through which an electronic communication service is provided, and (2) thereby obtained, altered, or prevented authorized access to a wire or electronic communication while it was in electronic storage in such system. 18 U.S.C. § 2701(a). "Electronic storage" means "(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and (B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication." 18 U.S.C. § 2510(17). Again, Plaintiff does not meet this standard.

To begin, while Plaintiff makes a cursory citation to Section 2701, the TAC is framed entirely in terms of "interception"—conduct that, if anything, would implicate the Wiretap Act—not the Stored Communications Act. TAC ¶¶ 273-80. The count never uses the terms "store" or "storage," and includes no allegations whatsoever that any communication was in "electronic storage," let alone the temporary or backup storage required by the statute. *See id.* Courts routinely dismiss Stored Communications Act claims where, as here, the complaint never alleges that the communications at issue were actually stored. *Gonzales v. Uber Techs., Inc.*, 305 F. Supp. 3d 1078, 1087 (N.D. Cal. 2018) ("Plaintiff's SCA claim fails because he has not alleged facts that plausibly suggest that the communications were in 'electronic storage'; that is, that the communications were temporary or were in storage for the purpose of back-up protection."); *Wesch v. Yodlee, Inc.*, 2021 WL 1399291, at *4 (N.D. Cal. Feb. 16, 2021) ("Here, although Plaintiffs allege that Yodlee stores their financial data, they do not allege that the storage is incidental to the electronic transmission of that data or that Yodlee's storage is temporary. Additionally, Plaintiffs do not allege that Yodlee stores its data for the purposes of providing backup protection for the communication between Plaintiffs and their financial institutions.”).[23] The TAC does not allege that any communications were temporary or were in storage for the purpose of back-up protection.

Nor does the TAC contain facts plausibly suggesting that any defendant accessed a “facility.” To the extent Plaintiff suggests access to his personal devices, such as his router or personal computer (TAC ¶ 273), those devices fall outside the scope of the statute. *In re Nickelodeon Consumer Priv. Litig.*, 827 F.3d 262, 277 (3d Cir. 2016) (finding “personal computing devices were not protected ‘facilities’ under the statute.”); *Biesenbach*, 2022 WL 204358, at *5 (finding the “cell phone, WiFi, and router” are “the types of personal devices that other courts have held fall outside the purview of the SCA”). And to the extent Plaintiff claims that Defendants each accessed their own network infrastructures, there is no liability under § 2701, which requires unauthorized access. *Svenson v. Google Inc.*, 65 F. Supp. 3d 717, 726 (N.D. Cal. 2014) (“It appears from the face of the complaint that the ‘facility’ in question was *Defendants' own servers*. Plaintiff does not allege any facts suggesting that Defendants were not authorized to access their own servers as required under § 2701(a). Likewise, it appears from the face of the complaint that *Defendants provide the electronic communications service at issue*.” (citations omitted)).[24]

For all of these reasons, Plaintiff's Stored Communications Act claim fails as a matter of law and should be dismissed.

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[23] Plaintiff's allegations with respect to the “intent” element fail for the same reasons as the Wiretap Act allegations. *See supra* Section III.K.i.

[24] Plaintiff's allegations involving draft emails does not change this result. TAC ¶¶ 195, 274. Courts have held that draft emails are not “stored communications” protected by the Act. *See Anzaldua v. Ne. Ambulance & Fire Prot. Dist.*, 793 F.3d 822, 840 (8th Cir. 2015). And in any event, as described above, Plaintiff does not allege that any Defendant accessed Microsoft's email servers or any other storage facility; instead, he alleges only that a draft email sync was “terminated,” which at most describes a connection interruption—not unauthorized access to stored communications. TAC ¶¶ 195, 274.

L. Plaintiff Fails to State a claim Under the Computer Fraud and Abuse Act (Count XIII).

The Computer Fraud and Abuse Act (CFAA), 18 U.S.C. § 1030, broadly criminalizes fraud and unauthorized computer access, but its civil provisions are significantly more curtailed. Under the CFAA, civil actions "may be brought only if the conduct involves" the factors set forth in 18 U.S.C. § 1030(c)(4)(A)(i) and its subclauses. *See* 18 U.S.C. § 1030(g). That section, in turn, applies to "an offense under subsection (a)(5)(B)" that, as relevant here, causes at least $5,000 in loss. *See* 18 U.S.C. § 1030(c)(4)(A)(i)(I). Subsection (a)(5)(B) applies only where the defendant "intentionally accesses a protected computer without authorization, and as a result of such conduct, recklessly causes damage[.]" Here, Plaintiff has failed to allege that Defendants intentionally accessed his computer "without authorization" or caused any "damage."

First, Plaintiff fails to plead the requisite intent. TAC ¶¶ 281–84. While he repeatedly characterizes the challenged conduct as "unauthorized," he alleges no facts showing that any Defendant intentionally or, even knowingly, exceeded authorized access. That pleading deficiency is independently fatal. *Butera*, 456 F. Supp. 2d at 109 (finding "[t]he language of the Computer Fraud Act . . . require[s] intentional conduct before giving rise to a statutory violation" (citation modified)).

He also fails to plead unauthorized access. Plaintiff's allegations revolve around his theory that Anthropic and/or Apple copied, captured, or stored information he sent. TAC ¶¶ 281–82. Implicit in those allegations is the fact that he was using those systems to transmit data in the first place. That is, Plaintiff is not alleging that Defendants exceeded *access* to these systems, but rather the unauthorized *use* of the data in those systems. The CFAA "says nothing about the *misuse* of information that the user was authorized to access." *Hedgeye Risk Mgmt., LLC v. Heldman*, 271 F. Supp. 3d 181, 194–95 (D.D.C. 2017) (emphasis in original); *see also Roe v. Bernabei & Wachtel*

PLLC, 85 F. Supp. 3d 89, 103 (D.D.C. 2015) (CFAA "speaks only of authorized access to data and not of use" (citation modified)).

The same is true of Comcast. Kirchner alleges only that Comcast used TR-069—a standard protocol used for remote communication with routers—to perform a router reconfiguration. TAC ¶ 281. But the TAC does not identify what restriction prohibited Comcast from allegedly reconfiguring the router, or how Comcast's alleged use of TR-069 exceeded the scope of any authorized access. Moreover, a bare reference to "TR-069 router reconfiguration" does not satisfy the CFAA's requirement that the defendant obtain or alter information it was not entitled to obtain or alter. 18 U.S.C. § 1030(e)(6).

Not only that, Plaintiff has not alleged any damage. The CFAA specifically defines "damage" as "any impairment to the integrity or availability of data, a program, a system, or information[.]" 18 U.S.C. § 1030(e)(8). Here, Plaintiff has not alleged that Defendants' conduct impaired the integrity of his own files or limited his own ability to use them. This is not "damage" under the CFAA, and is therefore not actionable under the civil remedy sections of the CFAA. *See, e.g.*, *Bashaw v. Johnson*, 2012 WL 1623483, at *2 (D. Kan. May 9, 2012) (plaintiff must allege both damage and loss); *TriTeq Lock & Sec. LLC v. Innovative Secured Solutions, LLC*, 2012 WL 394229, *6 (N.D. Ill. 2012) (same).

Moreover, Plaintiff's allegations of "loss" do not satisfy the requirements of the CFAA, notwithstanding his failure to plead any "damage." "Loss," for purposes of the CFAA, must be related to the computer itself and "refers only to any remedial costs of investigating the computer for damage, remedying the damage and any costs incurred because the computer cannot function while or until repairs are made[.]" *Psychas v. Dist. Dep't of Transp.*, 2019 WL 4644503, *10-11 (Sept. 24, 2019) (citation modified); *accord TriTeq Lock*, 2012 WL 394229, *6 (costs "not related to computer impairment or computer damages" are not compensable under the CFAA). And "computer" is itself a defined term under the CFAA, and refers only to the physical device, "not its software or an application available over the internet." *Psychas*, 2019 WL 4644503, *7 (citing 18 U.S.C. § 1030(e)(1)). At no point has Plaintiff alleged any damage to his computer, only to the nebulous concept of his data and software; Plaintiff has therefore failed to plead either loss or damage under the CFAA.

Plaintiff's CFAA claims should therefore be dismissed.

M. Plaintiff Fails to State a Claim Under the California Consumer Privacy Act (Count XIV).

Plaintiff next attempts to assert a California Consumer Privacy (CCPA) claim against "Defendants." TAC ¶ 285.[25] This claim fails as a matter of law.

"The CCPA provides a private right of action for consumers whose 'nonencrypted and nonredacted personal information ... is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of the business's violation of the duty to implement and maintain reasonable security procedures[.]'" *Garcia v. JPMorgan Chase Bank, N.A.*, 2026 WL 562136, at *3 (C.D. Cal. Feb. 25, 2026) (citing Cal. Civ. Code § 1798.150(a)(1)). The CCPA requires "business[es] that collect[ ] a consumer's personal information [to] implement reasonable security procedures and practices appropriate to the nature of the personal information to protect the personal information from unauthorized or illegal access, destruction, use, modification, or disclosure[.]" *Keown v. Int'l Ass'n of Sheet Metal Air Rail Transport. Workers*, 2024 WL 4239936, at *15 (D.D.C. Sept. 19, 2024) (citing Cal. Civ. Code § 1798.100)).

Plaintiff alleges that "Defendants violated CCPA through: failure to disclose data

[25] Apple, Comcast, METR, and OpenAI are not mentioned in this Count.

collection categories and third-party recipients; phantom opt-out mechanisms that are silently ignored; no functional right-to-delete mechanism; and automatic memory extraction chains operating without consent." TAC ¶ 285. However, as detailed below, Plaintiff fails to articulate a viable CCPA claim against any of the Corporate Defendants.

First, the CCPA empowers a "***consumer*** whose nonencrypted and nonredacted personal information . . . is subject to an unauthorized access and exfiltration, theft, or disclosure" to pursue a civil lawsuit. Cal. Civ. Code § 1798.150(a)(1). Under the CCPA, the term "consumer" means "a natural person who is a California resident." Cal. Civ. Code § 1798.140(i). Plaintiff is a resident of Minnesota, not California. TAC ¶ 26.

Second, Plaintiff has not established that he complied with the CCPA's pre-suit notice requirement, which mandates:

> Actions pursuant to this section may be brought by a consumer if, prior to initiating any action against a business for statutory damages on an individual or class-wide basis, a consumer provides a business 30 days' written notice identifying the specific provisions of this title the consumer alleges have been or are being violated.

Cal. Civ. Code § 1798.150(b). Here, Plaintiff explicitly requests statutory damages under the CCPA. TAC ¶ 189. However, Plaintiff does not contend – nor can he – that he gave any of the Corporate Defendants notice of his purported claim as required by the CCPA before he filed this lawsuit. TAC ¶¶ 285-88. This failure alone warrants dismissal. *Garcia*, 2026 WL 562136, at *3–4. (dismissing a complaint where the plaintiff failed to give the required notice under the CCPA).

Third, the CCPA applies to personal information. Cal. Civ. Code §§ 1798.100 and 150. Under the CCPA, personal information means "information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household." Cal. Civ. Code § 1798.140(v)(1). Plaintiff does not allege that any of the Corporate Defendants mishandled identifying information that would qualify as "personal information" under the CCPA. TAC ¶¶ 285-88.

Fourth, the CCPA's requirements apply to businesses. Cal. Civ. Code § 1798.100(A-C). An entity does not qualify as a business under the CCPA unless, among other inapplicable criteria, it does business in California, operates for profit, and meets one or more of the requirements set forth in Section 1798.140(d)(1). Plaintiff has not alleged that any of the Corporate Defendants meet these requirements. TAC ¶¶ 32-36, 285-88. At minimum, the TAC's acknowledgment that METR is a nonprofit (TAC ¶ 36) precludes Plaintiff's CCPA claim against METR.

Based on the foregoing, Plaintiff's CCPA claim fails as a matter of law.

N. Plaintiff Fails to State a Claim for App Store Privacy Label Misrepresentation (Count XV).

In Plaintiff's short Count XV, Plaintiff claims that "Defendants submitted false Privacy Label attestations to Apple's App Store . . . [which] constitute fraud on Apple's review process[.]" TAC ¶ 289.[26] He does not, however, allege any factual basis for this "fraud," let alone the requisite specificity to plead fraud under Rule 9. *See* TAC ¶¶ 289-90.

Moreover, to the extent any claim could be brought for "fraud on Apple's review process," the only entity with standing to bring such a claim would be Apple, not Plaintiff, who alleges no personal economic injury arising from the alleged fraud. *Austin-Spearman v. AARP* is particularly instructive. The court in that case held that plaintiff lacked standing to bring a claim based on a dispute about a website's privacy policy and the use of user information absent allegations of economic loss. 119 F. Supp. 3d 1, 9–10 (D.D.C. 2015). This Count should therefore be dismissed.

O. Plaintiff Fails to State a Claim for Intentional Infliction of Emotional Distress (Count XVI).

Plaintiff fails to adequately plead Intentional Infliction of Emotional Distress (IIED)

[26] Comcast, METR, and OpenAI are not mentioned in this Count.

against Anthropic and OpenAI. IIED requires a showing of "(1) extreme and outrageous conduct on the part of the defendant which (2) intentionally or recklessly (3) causes the plaintiff severe emotional distress." *Smith v. United States*, 843 F.3d 509, 515 (D.C. Cir. 2016) (citation omitted); *accord Kotsch v. Dist. of Columbia*, 924 A.2d 1040, 1045 (D.C. 2007).[27]

The standard for "extreme and outrageous conduct" is "exceptionally demanding" and must be "so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community." *Bonner v. S-Fer Int'l, Inc.*, 207 F. Supp. 3d 19, 25 (D.D.C. 2016) (citation omitted). That is not the case here, where the complained-of conduct appears to consist of outputs arising from his conversations with Defendants' AI services that Plaintiff disagrees with. TAC ¶¶ 157, 292. The TAC calls these outputs a "programmatic-gaslighting pattern," which appears to refer to the chatbots' disagreement with his theory that the models "absorbed" his purported intellectual property. TAC ¶¶ 160, 268, 292. Plaintiff cannot recharacterize his deficient intellectual property claim as an IIED claim.

Taken together, these allegations are a far cry from the conduct discussed in *Drejza v. Vaccaro* (Plaintiff's cited authority, TAC ¶ 293), which involved a police officer's "abuse[of] the authority of his office to ridicule, bully, humiliate and insult" a rape victim mere hours after she was assaulted. 650 A.2d 1308, 1314 (D.C. 1994); *see also* Restatement (Second) Torts § 46 (listing examples of conduct that would rise to IIED). Defendants—AI companies whose only relationship with Plaintiff is through Plaintiff's use of their services—are not in a position of authority over Plaintiff analogous to the investigating officer interviewing a rape victim. *See* TAC ¶ 293. Plaintiff's allegations of knowledge of his "specific vulnerability" are confusing and suspect, and

[27] Here Plaintiff argues that DC law applies.

he cites no authority for the proposition that being the "architect" of his own philosophical framework puts him in a position of vulnerability under the law. *See* TAC ¶¶ 293, 297. Similarly, Defendant's conduct cannot be characterized as a pattern of "harassment" or "cyberstalking" when Plaintiff could have stopped interacting with Defendants' chatbots at any time. *See* TAC ¶¶ 293, 298.

Similar reasons also undercut any support for the idea that Defendants acted intentionally or recklessly in causing Plaintiff emotional distress. *See Doe v. Dist. of Columbia*, 151 F.4th 435, 453–54 (D.C. Cir. 2025) (discussing mens rea requirement for IIED under DC law). Again, Plaintiff's own allegations note that the conduct he claims to be a predicate for outrageousness—tens of thousands of "prompt injection[s]", "mental-health-screening long-conversation-reminder injections", "identity concealment directives," and so forth—are all systemic features "deployed" throughout Defendants' "corporate release pipelines." TAC ¶ 292. It is not plausible to suggest that technology companies with worldwide user bases adopted company-wide policies that were intentionally or recklessly crafted to cause Plaintiff emotional distress. Nor does Plaintiff explain how corporate contracts with undescribed third-parties or an "identity-resolved Growthbook profile" (whatever that means) would create knowledge of Plaintiff's purportedly unique vulnerability or move the needle. *See* TAC ¶¶ 296-97. That is not the type of conduct cognizable under IIED.

The TAC's allegations of severe emotional distress similarly fall short of stating a claim. Plaintiff concedes that the physical consequences he describes—muscle loss, physical injuries and "deterioration consistent with sustained 12-18 hour per day desk work"—are from what he calls "a sedentary load arising directly from the forensic-analysis and legal-drafting requirements" in pursuing litigation. TAC ¶ 161. But it is well established that a plaintiff "cannot, of course, manufacture the injury necessary to maintain a suit from [his] expenditure of resources on that very suit." *Spann v. Colonial Vill., Inc.*, 899 F.2d 24, 27 (D.C. Cir. 1990).

Because Plaintiff has failed to plausibly establish any of the elements required to support an IIED claim, this claim must be dismissed.[28]

P. Plaintiff Fails to State a Claim for Negligent Infliction of Emotional Distress (Count XVII).

In the alternative, Plaintiff asserts a negligent infliction of emotional distress (NIED) claim against Anthropic, OpenAI, and Comcast. TAC ¶¶ 307–16. This claim fails on the merits and because it improperly recycles his IIED claim with substantially no additional or independent factual allegations. *See* TAC ¶ 308; *Rynn v. Jaffe*, 457 F. Supp. 2d 22, 25 (D.D.C. 2006) (denying negligence claims where "plaintiffs have failed to provide independent support"). A plaintiff cannot "point to the same intentional acts that underlie their other tort claims, but [] append the word 'negligently.'" *Rynn*, 457 F. Supp. 2d at 25.

On the merits, Plaintiff's "[s]pecial relationship" theory of liability against Anthropic and OpenAI falls flat. TAC ¶ 310. To recover under this theory, a plaintiff must plausibly establish, among other things, that "the defendant has a relationship with the plaintiff, or has undertaken an obligation to the plaintiff, of a nature that necessarily implicates the plaintiff's emotional well-being." *Hedgepeth v. Whitman Walker Clinic*, 22 A.3d 789, 810–11 (D.C. 2011).[29]

Plaintiff's asserted special relationship is that certain AI outputs contained "psychiatric-monitoring directive language" that he equates to a "mental health assessment." TAC ¶ 310.

[28] Analysis under Minnesota law would prove similarly futile for Plaintiff's claim, since, as Plaintiff acknowledges, Minnesota's standard for IIED is virtually identical to D.C.'s. TAC ¶ 309; *Hubbard v. United Press Int'l, Inc.*, 330 N.W.2d 428, 438–39 (Minn. 1983).

[29] As Plaintiff admits, Minnesota and D.C. law have "substantially parallel elements," on the "direct-victim theory." TAC ¶ 309.

Plaintiff provides no support for the notion that a chatbot's suggestion to "critically evaluate Plaintiff's theories" and "break character if needed" (*id.* (citation modified)) creates the type of "undertaking" required to establish a legal relationship, much less a doctor-patient or therapist-patient relationship that Plaintiff claims was established here. *See Hedgepeth*, 22 A.3d at 802–04; *Lesesne v. Dist. of Columbia*, 146 F. Supp. 3d 190, 196 (D.D.C. 2015) ("To qualify as special [under the *Hedgepeth* standard for NIED,] a relationship must involve the emotional well-being of others at its core, or must necessarily implicate such well-being" (citation modified)). Examples of patient and mental-health relationships that would clear this high bar—such as "a hospital's false report of death to a loved one" or "a funeral home's mishandling of a corpse," *see Lesesne*, 146 F. Supp. 3d at 196 (citation modified)—stand in sharp contrast to the conduct Plaintiff alleges. Plaintiff's rule would create expansive obligations for anyone who said certain trigger words, which is precisely what courts have attempted to avoid by establishing a high bar. *Hedgepeth*, 22 A.3d at 801–02 (discussing attempts to resolve "the problem of potentially infinite liability that has been of central judicial concern in emotional distress cases").

Plaintiff's "zone-of-danger" theory fares no better. TAC ¶¶ 312-13. Under District of Columbia law, a plaintiff proceeding under a zone-of-danger theory must allege that the defendant's conduct placed him in immediate physical peril such that he feared for his own safety. *See Stafford v. Geo. Wash. Univ.*, 2019 WL 2373332 at *20 (D.D.C. June 5, 2019); *Bozgoz v. James*, 2020 WL 4732085, at *15 (D.D.C. Aug. 14, 2020); *Teasdell v. Dist. of Columbia*, 2016 WL 10679536 at *14 (D.D.C. Sept. 16, 2016).[30]

[30] Minnesota law is no different. A zone-of-danger claim requires actual exposure to personal physical danger caused by the defendant's conduct. *Sims v. Met Council*, 2019 WL 3973980, at *4 (D. Minn. Aug. 22, 2019); *Sohn v. Arbisi*, 2023 WL 4552982, at *5–6 (Minn. Ct. App. July 17, 2023); *K.A.C. v. Benson*, 527 N.W.2d 553, 558 (Minn. 1995).

The TAC falls short of this standard. Plaintiff claims that Comcast negligently inflicted emotional distress by "operating" a "network-attack infrastructure against a residential subscriber," which created a "[z]one-of-danger." TAC ¶¶ 312-13. Plaintiff does not allege that Comcast physically endangered him, placed him in immediate risk of bodily harm, or caused him to fear for his personal safety. His allegations concern computer network activity, remote surveillance, and litigation-related stress—not any physical encounter or threat of personal injury. TAC ¶¶ 97–110, 161. That is not a zone-of-danger under D.C. or Minnesota law. *See Demisse v. Aldon Mgmt. Corp.*, 2020 WL 1244931, at *5 (D.D.C. Mar. 16, 2020) (finding "stress" from "lawsuit . . . cannot supply the basis for a civil action for emotional distress").

Nor do his allegations meet the "physical manifestations" element. While Plaintiff claims that he suffered from "muscle loss," "observable pallor," "hair loss," and "deterioration," TAC ¶ 331, these are insufficient as a matter of law. *See Brown v. Chiappetta*, 806 F. Supp. 2d 1108, 1120 (D. Minn. 2011) ("Brown's weight and hair loss, depression, sense of betrayal and stress are not sufficiently severe to meet the physical manifestation requirement."). Because Plaintiff alleges neither immediate physical danger nor a legally sufficient physical manifestation, his zone-of-danger theory fails as a matter of law and should be dismissed with prejudice.

Q. Plaintiff Fails to State a Claim for Strict Products Liability (Count XVIII).

Plaintiff fails to plausibly allege the elements of a design defect, failure-to-warn, or manufacturing defect claim. The TAC recites a laundry list of technical jargon that Plaintiff claims constitutes a design defect (TAC ¶ 319), but it goes no further in connecting that jargon to an "unsafe design" or safety risk. *See Rollins v. Wackenhut Servs., Inc.*, 703 F.3d 122, 130 (D.C. Cir. 2012) (discussing requirements under D.C. law and the Restatement (Second) of Torts). Likewise, Plaintiff's purported "[s]afer alternative designs" do not explain how they would be safer, much less technologically or commercially practicable. TAC ¶ 320; *Warner Fruehauf Trailer Co., Inc. v. Boston*, 654 A.2d 1272, 1276 (D.C. 1995) (requiring, for a design defect claim, that Plaintiff show "the risks, costs and benefits of the product in question and alternative designs, and that the magnitude of the danger from the product outweighed the costs of avoiding the danger" (citation modified)). In short, the TAC "allege[s] no facts that plausibly could satisfy either the risk-utility test for design defects . . . or the more demanding test for unavoidably unsafe products." *Rollins*, 703 F.3d at 130.(citations omitted).

Plaintiff's failure-to-warn claim (TAC ¶ 321) similarly must be dismissed because it does not explain how Defendants' "failure to provide adequate warnings was a substantial factor in bringing about the harm at issue." *Aston v. Johnson & Johnson*, 248 F. Supp. 3d 43, 53 (D.D.C. 2017). The TAC alleges that Defendants should have warned Plaintiff of their alleged mental-health screening language, "identity-concealment, and IP-suppression-system-prompt injections," and "transmission of user data to undisclosed third-party recipients." TAC ¶ 321. It provides no explanation, however, of how any of these omissions were "a substantial factor in causing plaintiff['s] injuries." *See Aston*, 248 F. Supp. 3d at 53. It also does not allege that, had these warnings existed, Plaintiff would not have used Defendants' services. Nor does Plaintiff articulate the harm or damages he seeks under this theory of liability. *See* TAC ¶ 326.

Finally, Plaintiff's manufacturing defect claim does not assert that Defendants' "products" "depart[ed] from [their] intended design," as such claims must allege. *See Pinkett v. Dr. Leonard's Healthcare Corp.*, 2020 WL 1536305, at *4 (D.D.C. Mar. 21, 2020) (citing Restatement (Third) of Torts: Prod. Liab., § 2 (1998)). Instead, Plaintiff claims that Defendants distribute a "more harmful" product for customers while retaining a safer product for internal use. TAC ¶ 322. But that speculative theory is detached from and fails to plausibly establish the required elements of a manufacturing defect claim. And Plaintiff's sole citation of authority for his theory makes no mention of product liability or manufacturing defects. *See id.* (citing *Russell v. Call/D, LLC*, 122 A.3d 860, 866 (D.C. 2015)). Accordingly, this claim fails too.

R. The TAC Should Be Dismissed Due to Improper Group Pleading.

The TAC is independently subject to dismissal because it relies on impermissible group pleading. "Generally, a plaintiff cannot satisfy the minimum pleading requirements under Rule 8 . . . by lumping all the defendants together in each claim and providing no factual basis to distinguish their conduct." *Toumazou v. Turkish Republic of N. Cyprus*, 71 F. Supp. 3d 7, 21 (D.D.C. 2014). Yet that is precisely what the TAC does. Counts I through XV proceed against all "Defendants" without differentiating among them. And while Counts XVI though XVIII identify certain Defendants in their headings, the allegations that follow continue to plead collectively, alleging, for example, that "*Defendants'* conduct is extreme and outrageous," *id.* ¶ 293 (emphasis added), that "*Defendants* breached [their] duties," *id.* ¶ 311 (emphasis added), and that "*Defendants* affirmatively represented," *id.* ¶ 321 (emphasis added). Because these vague assertions deprive Defendants of the "fair notice of each claim and its basis" to which they are entitled under Rule 8, the TAC should be dismissed on this ground alone. *Est. of Mickens v. U.S. Bank Nat'l Ass'n*, 2021 WL 3418955, at *4 (D.D.C. Aug. 5, 2021) (Jackson, J.).

IV. CONCLUSION

For all these reasons, the Corporate Defendants respectfully request that the Court dismiss Plaintiff's Third Amended Complaint against them with prejudice.

Dated: July 15, 2026

Respectfully submitted,

ANTHROPIC, PBC

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CERTIFICATE OF SERVICE

I certify that on July 15, 2026, a true and correct copy of the forgoing document was filed and served on all registered case participants, including Plaintiff Joseph Kirchner, using the Court's electronic case filing system.

Respectfully Submitted,

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