

Court File No.

FEDERAL COURT

PROPOSED CLASS PROCEEDING

B E T W E E N:

KERRY CLARE, ARIANNE DES ROCHERS, and STEPHEN BURROWS

Plaintiffs

and

META PLATFORMS, INC.

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the [Federal Courts Rules](#), serve it on the plaintiffs' solicitor or, if the plaintiffs does not have a solicitor, serve it on the plaintiffs, and file it, with proof of service, at a local office of this Court

WITHIN 30 DAYS after the day on which this statement of claim is served on you, if you are served in Canada or the United States; or

WITHIN 60 DAYS after the day on which this statement of claim is served on you, if you are served outside Canada and the United States.

TEN ADDITIONAL DAYS are provided for the filing and service of the statement of defence if you or a solicitor acting for you serves and files a notice of intention to respond in Form 204.1 prescribed by the [Federal Courts Rules](#).

Copies of the [Federal Courts Rules](#), information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date

Issued by

Local RegistrarAddress of
local office:180 Queen Street West
Suite 200
Toronto, ON
M5V 3L6

TO:

Meta Platforms, Inc.
1 Meta Way
Menlo Park, California
94025
USA

CLAIM

1. The Plaintiffs claim on their own behalf and on behalf of the other Class Members as against the Defendant, Meta Platforms, Inc. (“Meta”):¹

(a) an order:

- (i) certifying this action as a class proceeding pursuant to Part 5.1 of the *Federal Court Rules*, SOR/98-106 (“*Federal Court Rules*”);
- (ii) appointing the Plaintiffs as representative plaintiffs on behalf of the Class pursuant to the *Federal Court Rules*;
- (iii) defining the Class as set out in paragraph 14;

(b) a declaration that Meta has:

- (i) infringed the Class Members’ copyright contrary to sections 3 and 27 of the *Copyright Act*, RSC 1985, c C-42 (“*Copyright Act*”); and
- (ii) infringed the Class Members’ moral rights contrary to section 28.1 of the *Copyright Act*.

(c) general damages and an accounting of Meta’s profits pursuant to section 35 of the *Copyright Act*, in amounts to be determined;

(d) in the alternative, if elected before final judgement is rendered, an award of statutory damages in the amount of \$20,000 per work, or an amount the

¹ Capitalized terms not defined in paragraph 1 are defined below.

Court considers just, for Meta's infringement of the Class Members' copyright pursuant to section 38.1 of the *Copyright Act*;

- (e) punitive/exemplary damages against Meta for the willful and knowing infringement of the Class Members' copyright and the attempts to conceal their infringing conduct;
- (f) a permanent and/or interlocutory and/or interim injunction pursuant to section 34 of the *Copyright Act* enjoining Meta's continued infringement of the Class Members' copyright, including through any use, development, distribution, and/or commercialization of the LLaMA models;
- (g) pre-judgement and post-judgment interest;
- (h) such further and other relief as this Court deems just.

A. The Parties

- 2. The plaintiff, Kerry Clare, is an individual residing in Toronto, Ontario.
- 3. Ms. Clare is the author of three published novels:
 - (a) *Mitzi Bytes*, published by HarperCollins Canada, the Canadian imprint of the global publishing house HarperCollins;
 - (b) *Waiting for a Star to Fall*, published by Doubleday Canada, an imprint of the Canadian arm of global publisher Penguin Random House;
 - (c) *Asking for a Friend*, published by Doubleday Canada;

4. Ms. Clare is also the editor of, and contributor to, *The M Word: Conversations About Motherhood*, an anthology published by Goose Lane Editions, an independent Canadian publisher based in New Brunswick.
5. Ms. Clare holds the copyright in all three of her novels as well as copyright in *The M Word: Conversations About Motherhood* for her written contribution to the anthology.
6. The plaintiff, Arianne des Rochers, is an individual residing in Moncton, New Brunswick.
7. Ms. Des Rochers is a professor at the Université de Moncton and a literary translator. She has composed and published over a dozen literary translations.
8. Ms. Des Rochers holds the copyright in all of her literary translations.
9. The plaintiff, Stephen Burrows, is an individual residing in Oshawa, Ontario.
10. Mr. Burrows is the author of eight published novels, known as the Birder Murder Mysteries:
 - (a) *A Siege of Bitterns* published by Dundurn Press;
 - (b) *A Pitying of Doves* published by Dundurn Press;
 - (c) *A Cast of Falcons* published by Dundurn Press;
 - (d) *A Shimmer of Hummingbirds* published by Dundurn Press;
 - (e) *A Tiding of Magpies* published by Dundurn Press;

- (f) *A Dance of Cranes* published by Dundurn Press;
- (g) *A Foreboding of Petrels* published by Oneworld Publications; and
- (h) *A Nye of Pheasants* published by Oneworld Publications.

- 11. Mr. Burrows holds the copyright in all of his novels.
- 12. The Defendant, Meta, is a corporation organized pursuant to the laws of the State of Delaware.
- 13. Headquartered in California, Meta develops, markets, and sells software and hardware technology products, including artificial-intelligence software products.

B. The Class

- 14. The Plaintiffs bring their action on their own behalf and on behalf of all copyright holders resident in Canada, excluding residents of the Province of Quebec, whose copyrighted works (the “Works”) were downloaded and/or torrented by Meta and used as training data for Meta’s LLaMA language models (together with the Plaintiffs, the “Class” or “Class Members”).

C. The Works

- 15. The Works include books, research papers, other literary creations, and/or other scholarly works, whose copyrights belong to the Class Members.
- 16. At least 12 of the Plaintiffs’ Works were downloaded and/or torrented without authorization by Meta:

- (a) For Ms. Clare, the search tool identifies three of her works:

- (i) The novels *Asking for a Friend* and *Mitzi Bytes*; and
 - (ii) The anthology *The M Word: Conversations about Motherhood*, which includes written contributions by Ms. Clare.
- (b) For Ms. Des Rochers, the search tool identifies at least one of her literary translations: *Cartographie de l'amour décolonial* by Leanne Betasamosake Simpson, published in 2018 and co-translated by Ms. Des Rochers.
 - (c) For Mr. Burrows, the search tool identifies all eight of his novels as well as two “bundles” containing certain of those novels published in combined volumes.

17. On March 20, 2025, *The Atlantic* publicly released a search tool titled “Search LibGen, the Pirated-Books Database That Meta Used to Train AI”.² The search tool allows any member of the public to search for an author whose Works were downloaded and/or torrented without authorization by Meta in order to train its generative AI products.

D. Large language models

18. In recent years, Meta has developed and is continuing to develop artificial intelligence (“AI”) products, including a set of large language models (“LLMs”).

19. An LLM is a form of artificial intelligence software that is designed to recognize language inputs, interact with the inputs, and generate coherent, human-like responses.

² <https://www.theatlantic.com/technology/archive/2025/03/search-libgen-data-set/682094/>.

20. LLMs are developed through machine learning whereby the LLM recognizes and reproduces patterns in language by analyzing large sets of data (the “training datasets”).

21. The curation of large, high-quality training datasets is necessary for developing LLMs.

E. Meta infringes on the Class Members’ copyrights in the Works

1. Meta knowingly uses the pirated Works to develop its LLMs

22. Meta’s LLMs are known as the LLaMA models, which stands for Large Language Model Meta AI. The first LLaMA model was released in February 2023 (“LLaMA 1”).

23. To accompany LLaMA 1’s launch, Meta released a paper on February 24, 2023. The paper describes how LLaMA 1 was developed, including a description of the training dataset used in LLaMA 1’s development.

24. Meta’s paper attributes 4.5% of LLaMA 1’s training dataset to the Gutenberg Project and the “Books3 section of ThePile” (“Books3”).

25. The Gutenberg Project contains books in the public domain.

26. Books3, on the other hand, is a dataset of books copied from a “shadow library” website: an online platform through which over upwards of 200,000 copyrighted works, including the Works, can be unlawfully downloaded, extracted, otherwise copied, and/or used without permission.

27. Over the next two years and continuing through the present, Meta has released subsequent versions of LLaMA 1, including LLaMA 2 (released in July 2023) and LLaMA 3.3 (released in December 2024).

28. While developing each of these LLaMA models, Meta has and continues to use shadow library websites to supply the training datasets for the LLaMA models with unauthorized copies of the Works.

29. In later versions of the LLaMA models, including LLaMA 2 and LLaMA 3.3, Meta unlawfully downloaded, extracted, otherwise copied, and/or used without permission the Works from Library Genesis, another shadow library, to form part of the training dataset for these LLaMA models. Library Genesis, also known as “LibGen”, contains over 7.5 million books and 81 million research papers.

30. Meta retrieved content from these shadow libraries, including Books3 and LibGen, by “torrenting”.

31. Torrenting is a form of downloading, using a protocol known as BitTorrent, used to transfer large files over the internet, including copyrighted works.

32. When Meta torrents copyrighted works from the shadow libraries, it is reproducing those works by downloading them onto the Meta device executing the torrent.

33. Despite Meta’s knowledge that it was downloading copyrighted works, it did so *en masse* in order to access large amounts of high-quality written text quickly and without paying copyright holders for use of their works, including the Class Members for the Works.

34. At all material times, Meta understood that it was reproducing unauthorized copies of copyrighted works when it used content from shadow libraries to include in the LLaMA training datasets.

35. Among other things, Meta's employees discussed methods to hide Meta's reproduction of copyrighted content and pursued such methods, including the removal of copyright headers and document identifiers.

36. Meta had internal concerns about the risks and ethics of pirating large volumes of the Works through shadow libraries. The decision to resort to the shadow libraries anyway was escalated to, and ultimately approved by, Mark Zuckerberg, Meta's Chief Executive Officer, among other senior executives.

F. Meta infringes the Class Members' copyrights

37. Section 3(1) of the *Copyright Act* provides owners of the copyright with the sole right, among other things, to produce, reproduce, use, publish, and sell the works.

38. The Class Members never assigned or licensed the rights to the copyright to Meta in writing, as required by s. 13(4) of the *Copyright Act*.

39. Meta reproduced and used, without license or colour of right, the copyrighted Works in its development of the LLaMA models.

40. Meta directly infringed the Class Members' copyright pursuant to s. 27(1) of the *Copyright Act* by reproducing the Works when it torrented the Works from Books3, LibGen, and any other shadow libraries that Meta accessed, without license or the Class Members' permission. In doing so, Meta reproduced the Works in their entirety, or in substantial part, and reproduced (and continues to reproduce) them into one or more LLaMA training datasets. These infringements were made for the purpose of use, development, distribution, and/or commercialization the LLaMA models.

41. Further, Meta infringed, and continues to infringe, the Class Members' copyright pursuant to s. 27(1) of the *Copyright Act* by reproducing and/or using the Works for additional LLaMA training datasets used to adjust and "improve" the LLaMA models. This entails downloading, extracting, copying, and/or using without permission the Works from the shadow libraries and/or previous LLaMA training datasets into one or more new training datasets used to develop the LLaMA models.

G. *Meta has infringed the Class Members' moral rights*

42. As the authors of the Works, the Class has unassignable moral rights, including the right to the integrity of the Works and the right to be associated with the Works pursuant to s. 14.1(1) of the *Copyright Act*.

43. Meta's use of the Works as described above, including for training LLaMA, modifies the Works and uses them in association with their product, the LLaMA models, to the prejudice and detriment of the Class Members' honour, reputation, and the dignity of the Works.

44. Among other things, Meta's LLaMA models are artificial intelligence products ultimately aimed at replacing human authors, including the Class Members.

H. *Remedy*

1. *Damages and disgorgement*

45. The Class Members have suffered damages due to Meta's infringement of their copyrights.

46. The Class Members expended significant costs, time, and labour into creating the Works.

47. Meta, through its infringement of the Class Members' copyright, has appropriated the benefits of the Class Members' cost, time, and labour without providing any consideration to the Class Members.

48. Further, Meta deprived the Class Members of the right and opportunity to sell or licence the Works to Meta.

49. The Class Members are thus entitled to damages in an amount to be determined at trial.

50. Meta has been enriched through its creation and dissemination of the LLaMA models, including, among other things, through revenue sharing agreements with other entities that host LLaMA models.

51. The Class is entitled to an accounting and disgorgement of Meta's profits for amounts attributable to Meta's infringement of the Works.

52. Particulars as to how Meta monetizes the LLaMA models, including regarding the revenue sharing models, are solely in Meta's knowledge.

53. The Class Members are entitled to elect statutory damages under section 38.1 of the *Copyright Act* at any time before final judgement is rendered.

54. If the Plaintiffs elect, the Class Members are entitled to damages amounting to \$20,000 per Work for which Meta infringed the Class Members' copyright.

55. Among other things:

- (a) Meta infringed the Class Members' copyright for a commercial purpose, the development of its commercial AI software product;
- (b) the Works infringed are labour-intensive creations by the Class; and
- (c) Meta pirated the Works *en masse* despite knowing that the Works were copyright protected and knowing that there were available alternatives such as licensing the Works.

2. Injunctive Relief

56. Pursuant to subsections 34(1) and (2) of the *Copyright Act*, the Class is entitled to an injunction enjoining Meta from:

- (a) infringing, authorizing, and/or inducing the infringement of the Class Members' copyright in the Works, including through the use of unauthorized copies of the Works as part of the LLaMA models' training datasets;
- (b) commercializing and distributing existing LLaMA models that were developed using training datasets that included the Works; and
- (c) using, in any way or for any purpose, existing LLaMA models that involved the use of the Works in any manner.

3. Punitive/Exemplary Damages

57. Meta's conduct justifies punitive and exemplary damages.

58. Meta knew and understood that it would be accessing copyrighted works through shadow libraries such as Books3 and LibGen.

59. Despite that knowledge, Meta decided to reproduce unauthorized copies of the Works from these shadow libraries, and then deliberately attempted to conceal its unauthorized copying and use of copyrighted Works.

I. Legislation

60. The Plaintiffs plead and rely upon the *Copyright Act*.

61. The Plaintiffs plead and rely upon the *Federal Courts Act*.

62. The Plaintiffs plead and rely upon the *Federal Court Rules*.

The plaintiffs propose that this action be tried in Toronto, Ontario.

April 14, 2025



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