

Court File No. T-1204-25

FEDERAL COURT

PROPOSED CLASS PROCEEDING

B E T W E E N:

**KERRY CLARE, ARIANNE DES ROCHERS, and STEPHEN BURROWS, and
COLLEEN MURPHY**

Plaintiffs

and

META PLATFORMS, INC. and FACEBOOK CANADA LTD.

Defendant

AMENDED 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 Registrar

Address 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

c/o

McCarthy Tetrault LLP
Box 48, Suite 5300
Toronto Dominion Bank Tower
Toronto, ON M5K 1E6

Michael A. Feder LSBC#: 505668
mfeder@mccarthy.ca
Tel: 604-643-5983

Gillian Kerr LSO#: 56832S
gkerr@mccarthy.ca
Tel: 416-601-8226

Chris Puskas LSO#: 80187Q
cpuskas@mccarthy.ca
Tel: 416-601-8020

Lawyers for the Defendants

CLAIM

1. The Plaintiffs claim on their own behalf and on behalf of the other Class Members as against the Defendants, Meta Platforms, Inc. (“Meta”) and Facebook Canada Ltd. (together, “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~~ the defendants are jointly and severally liable for has:
 - (i) ~~infringed~~ infringing the Class Members’ copyrights contrary to sections 3 and 27 of the *Copyright Act*, RSC 1985, c C-42 (“*Copyright Act*”); ~~and~~
 - (ii) ~~infringed~~ infringing the Class Members’ moral rights contrary to section 28.1 of the *Copyright Act*;

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

- (iii) intentionally circumventing a technological protection measure in respect of the Class Members' copyrights contrary to section 41.1 of the *Copyright Act*; and
 - (iv) removing and/or altering rights management information in electronic form in respect of the Class Members' copyrights contrary to section 41.22 of the *Copyright Act*;
 - (c) general damages and an accounting and disgorgement of Meta's profits pursuant to section 35 of the *Copyright Act* and/or restitution in respect of Meta's unjust enrichment, in amounts to be determined;
 - (c.1) aggregate damages;
 - (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 Court considers just, for Meta's infringement of the Class Members' copyrights 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' copyrights 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' copyrights, including through any use, development, distribution, and/or commercialization of the LLaMA models and Meta AI;

(g) pre-judgement and post-judgment interest;

(g.1) costs associated with all notices and administration of the plan and distribution of the judgment in this action, together with applicable taxes; and

(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.

11.1. The plaintiff, Colleen Murphy, is an individual residing in Toronto, Ontario.

11.2. Ms. Murphy is the author of eight published plays, as well as numerous operas, films, dramas, and articles.

11.3. Ms. Murphy holds the copyright in all of her works.

12. The Defendant, ~~Meta~~, Meta Platforms, Inc., is a corporation organized pursuant to the laws of the State of Delaware. It is headquartered in Menlo Park, California.

~~13. Headquartered in California, Meta develops, markets, and sells software and hardware technology products, including artificial intelligence software products.~~

13. The Defendant, Facebook Canada Ltd., is a wholly owned subsidiary of Meta Platforms, Inc. It is headquartered in Toronto, Ontario.

13.1. Meta Platforms, Inc. and Facebook Canada Ltd. (together, "Meta") develop, market, and sell software and hardware technology products, including artificial intelligence ("AI") software products. Meta carries on business and operates with offices across Canada and also owns and operates social media and online messaging platforms including Facebook, Messenger, Instagram, and WhatsApp, which collectively host millions of Canadian users.

13.2. At all material times, Meta Platforms Inc. and Facebook Canada Ltd. functioned as an ongoing, organized and continuing business unit sharing common purposes and objectives. Meta Platforms Inc. and Facebook Canada Ltd. were agents of each other and each is vicariously responsible for the acts and omissions of the other as particularized herein.

B. The Class

14. The Plaintiffs bring their action on their own behalf and on behalf of all ~~copyright~~ holders of Canadian copyright resident in Canada, excluding residents of the Province of Quebec, whose Canadian copyrighted works (the “Works”) were reproduced without permission ~~downloaded and/or torrented~~ by Meta and used without permission by Meta 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, plays, research papers, other literary creations, and/or other scholarly works, whose copyrights belong to the Class Members.

16. At least ~~42~~ 19 of the Plaintiffs’ Works were ~~downloaded and/or torrented~~ without authorization by Meta:

- (a) For Ms. Clare, ~~the search tool identifies~~ Meta downloaded at least 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~~ Meta downloaded 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~~ Meta downloaded all eight of his novels as well as two “bundles” containing certain of those novels published in combined volumes.
- (d) For Ms. Murphy, Meta downloaded at least four of her plays:
- (i) *The Breathing Hole*, published in 2020;
 - (ii) *Pig Girl*, published in 2015;
 - (iii) *Armstrong’s War*, published in 2014; and
 - (iv) *The Goodnight Bird*, published in 2013.

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.

17.1. The Works described above are among the works downloaded and/or torrented by Meta, and, at least, *Armstrong’s War* and *The Goodnight Bird* were among the works downloaded and/or torrented by Meta as part of the Books3 dataset (defined below).

D. Large language models

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

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

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

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

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

21.1. The goal for an LLM is that it will be able to generate effective simulations of natural written language, including the ability to generate what appear to be creative works that may compete with the Works.

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 Llama 3 (released in April 2024), Llama 3.3 (released in December 2024), and Llama 4 (released in April 2025).~~

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~~, Llama 3, Llama 3.3, and Llama 4, 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 datasets for these LLaMA models. Library Genesis, also known as “LibGen”, contains over 7.5 million books and 81 million research papers that can be downloaded or otherwise copied and/or used without permission of the copyright holders.

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

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

31.1. BitTorrenting typically involves not only downloading material, but also uploading material stored on a user's computer to other users.

32. When Meta torrents or otherwise downloads copyrighted works from the shadow libraries, it is reproducing those works including by downloading reproducing them, in whole or substantial part, onto the Meta device executing the torrent or download.

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.

34.1. Meta used unauthorized copies of the Works in training datasets to refine the "parameters" in the LLaMA models. Parameters are essential to the function of the LLaMA models. At a high level, parameters (a term of art in AI) constitute the model's understanding of language. It is the parameters that interpret a text-based prompt to generate an output. High quality training datasets with a wide range of written works in different forms, styles, expressions, and language structures are the foundation of Meta's LLaMA models.

34.2. The LLaMA models are "open weight". This means the parameters for the latest LLaMA models are available for public use through a variety of online hosting providers

and Meta's public website. Any user with access to these models can thus download the models to use, modify, or fine-tune them. Accordingly, the results of Meta's copyright infringement may be reproduced and/or further used by others, thereby further undermining the copyrights of the Class Members and the markets for their works.

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.

35.1. Meta intentionally and knowingly removed or altered rights information in electronic form, including copyright headers and document identifiers, without consent from the Class. Meta knew or ought to have known that the removal or alteration of such information would conceal and/or facilitate its infringement of the Class's copyrights.

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.

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

36.2. The Works include copyrighted electronic books (the “Copyrighted E Books”) that are sold as protected files that have effective electronic restrictions on copying (the “Technological Protection Measures”).

36.3. The Technological Protection Measures mean that these files are “read only”; they cannot ordinarily be copied or edited with those measures in place.

36.4. In order to use these Copyrighted E Books for its commercial purpose of training the LLaMA models, Meta at all material times knew that it had to either itself remove the Technological Protection Measures or obtain copies of the Copyrighted E Books that already had the Technological Protection Measures removed.

36.5. Meta knew at all material times that most if not all pirated books such as those contained in the Books3 and LibGen Datasets have had the technological protection measures that preclude unauthorized copying removed in whole or in part.

36.6. For the express commercial purpose of facilitating its aim of making further copies of the Copyrighted E Books, Meta sought out and downloaded the Copyrighted E Books from the Books3 and LibGen Datasets.

36.7. Subsequently, as a component of training the Meta LLMs, Meta made one or more copies of the Copyrighted E Books. Meta could not have done so if the Technological Protection Measures had been in place.

36.8. By intentionally selecting versions of the Copyrighted E Books that had been stripped of their Technological Protection Measures, and/or removing such measures itself, for a commercial purpose unrelated to any statutorily protected fair dealing, Meta

knowingly and intentionally avoided and bypassed such Technological Protection Measures.

36.9. Using the LLaMA models, Meta has also developed and released another AI software product called “Meta AI”.

36.10. Meta AI has been built using the LLaMA models and integrated into Meta’s social media and messaging platforms, including Facebook, Messenger, WhatsApp, and Instagram. It is also available on Meta AI’s website.

36.11. Meta AI is an AI-powered assistant. Meta AI is one of the most used AI-powered assistants in the world.

36.12. Since April 2024, Meta AI has been available to Canadian users of Meta’s social media and messaging platforms and Meta AI’s website.

36.13. Meta has monetized, currently monetizes, and plans in the future to continue to monetize, directly and indirectly, its AI products that were developed in breach of the Class Members’ copyrights.

36.14. Among other things, Meta monetizes its AI products directly through licensing and indirectly through increasing engagement on its social media platforms, which increases the value of advertising on those platforms and increases Meta’s revenue.

1.1 Meta undercuts the emerging market for LLM training

36.15. The growing industry of AI and LLM development has created an emerging market for licensing or purchasing works specifically to be used in training datasets.

36.16. Meta downloaded the Works en masse without the consent of the Class and without any attempt to license or purchase the Works to be used in their training datasets. Meta did this deliberately and specifically to avoid paying for the Works or for licenses to use the Works in its training datasets. In doing so, Meta has deprived the Class of any opportunity to license or sell their Works to Meta.

36.17. Because Meta makes its LLaMA models available to other AI developers, Meta has also deprived the Class of any opportunity to license or sell their Works to any other AI developer that has used LLaMA models that were trained on the Works.

Causes of Action

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~~ their copyrights 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' copyrights pursuant to s. 27(1) of the *Copyright Act* by reproducing the Works when it torrented or otherwise downloaded 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 of the LLaMA models, including through Meta AI.

41. Further, Meta infringed, and continues to infringe, the Class Members' copyrights 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, and damages the authors' ability to be associated with their Works.

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

G.1. Meta circumvented technological protection measures and knowingly removed or altered rights management information

44.1. By knowingly seeking out and acquiring versions of the Copyrighted E Books that had Technological Protection Measures removed in whole or in part, and then subsequently making further copies of those works for a commercial purpose, Meta circumvented technological protection measures contrary to s. 41.1 of the *Copyright Act*.

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

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' copyrights, 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~~ license the Works to Meta and other AI developers that use the LLaMA models.

48.1. Meta, through its infringement of the Class Members' copyrights, has also diminished the economic value of the Works including by diminishing the demand for original works and/or contributing to the entrance of AI-generated books and other materials and media in the market that compete with the Works.

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; the Class Members are entitled to damages amounting to \$20,000 per Work for which Meta has circumvented technological protection measures; and the Class Members are entitled to damages amounting to \$20,000 per Work for which Meta has removed or altered rights management information in electronic form.

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.

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

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 August 14, 2025



Paliare Roland Rosenberg Rothstein LLP

155 Wellington Street West, 35th Floor
Toronto ON M5V 3H1
Tel: 416-646-4300

Linda Rothstein

Email: linda.rothstein@paliareroland.com

Odette Soriano

Email: odette.soriano@paliareroland.com

Ren Bucholz

Email: ren.bucholz@paliareroland.com

Paul Davis

Email: paul.davis@paliareroland.com

CFM Lawyers LLP

#400-856 Homer Street
Vancouver, BC V5B 2W5
Tel: 604-689-7555

Reidar M. Mogerman, K.C.

Email: RMogerman@cfmlawyers.ca

Oliver Pulleyblank

Email: OPulleyblank@cfmlawyers.ca

Lawyers for the Plaintiffs