

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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5 ANTHROPIC PBC,

6 Plaintiff,

7 v.

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9 U.S. DEPARTMENT OF WAR, *et al.*,

10 Defendants.
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Case No. 3:26-cv-01996-RFL

SECOND DECLARATION OF EMIL MICHAEL

12 Pursuant to 28 U.S.C. § 1746, I, Emil Michael, declare as follows:

13 1. I am the Under Secretary of War for Research and Engineering (USW(R&E)) and Chief
14 Technology Officer for the Department of War (DoW). I have held this position since May 20, 2025.

15 2. In my current position, I am responsible for spearheading the Department’s efforts to
16 ensure U.S. military technological superiority and keep DoW at the forefront of innovation. I provide
17 strategic direction and oversight for DoW’s entire research, development, and prototyping
18 enterprise, which includes providing critical input on the acquisition, implementation, and use of cutting-
19 edge technologies such as artificial intelligence (AI).

20 3. This declaration is based on my personal knowledge as well as information made available
21 to me through reasonable diligence in the course of my official duties.

DoW’s 2025-2026 Contract Negotiations with Anthropic

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23 4. During the course of contract negotiations with DoW in late 2025 and early 2026,
24 Anthropic became a supply chain risk following a progression of risk that reached a saturation point as
25 a result of the behavior of its leadership, resulting in DoW’s designation of Anthropic under 10 U.S.C.
26 § 3252.

27 5. Contrary to Anthropic’s assertions, DoW did raise its concerns during contract
28 negotiations with Anthropic about the Department’s need to use Anthropic’s technology for all lawful

1 uses. Beyond that, the Department is not required to preemptively share information relating to national
2 security concerns with private companies. Moreover, the Department generally does not share national
3 security concerns with private actors, particularly when the Department has concerns about the private
4 actor itself.

5 6. Anthropic has attempted to characterize itself as a trusted partner to DoW. However,
6 Anthropic's continued attempts, including now under oath, to dictate to DoW what the nature of the
7 Department's relationship with Anthropic is or has been demonstrates Anthropic's desire to insert itself
8 into DoW decision-making.

9 7. While Anthropic has tried to disclaim a desire to have an approval role in DoW's
10 decision-making, Anthropic leadership repeatedly sought to insert themselves into such decision-
11 making. First, in a contract negotiation meeting on December 4, 2025, Anthropic leadership expressed
12 that DoW would have to call Anthropic in real time to seek authorization for a usage exception to one
13 of their redlines, which are not prohibited by law. Alarming, that statement demonstrated not only
14 that Anthropic demanded an operational veto of DoW's decision-making, but that Anthropic would
15 seek to exercise that veto, possibly in situations where any delay or disruption to U.S. military
16 operational decisions and execution could endanger American lives and national security. Second, in
17 both meetings and a publicly disclosed message to Anthropic staff, Anthropic leadership stated that it
18 has two redlines that it will not allow the Department to cross.¹ If accepted, this would fundamentally
19 insert Anthropic into decision-making related to those issues, and it engenders concern about other
20 redlines the company may have, now or in the future.

21 8. Indeed, despite Anthropic's claim that it never desired an approval role in military
22 operations, Anthropic repeatedly insisted in negotiations and in public statements that it would not
23 allow DoW to use its technology to cross its redlines. That is in fact an operational veto over DoW's
24 use of Anthropic technology for all lawful uses and confirms that Anthropic did want to intervene in
25 and assert control over DoW operations in at least those two areas.

26 9. Moreover, Anthropic's insistence during contract negotiations on its redlines inherently
27 injects the company into DoW's decision-making because those redlines could be embedded

28 ¹ <https://www.anthropic.com/news/statement-department-of-war>.

1 restrictions on its model’s functionality. That is a per se operational veto and suggests, contrary to the
2 company’s assertions, that Anthropic leadership believed it could enforce such a veto, including during
3 active military operations.

4 10. Despite Anthropic’s claims that before contract negotiations broke down the parties were
5 near agreement on language that would address Anthropic’s concerns about its technology being used
6 for lethal autonomous warfare, the fact remains that Anthropic would not agree to acquisition of its
7 LLM products with the usage terms and technical and service delivery specifications DoW requires.

8 11. Regarding the contractual language Anthropic proposed on March 4 (“For the avoidance
9 of doubt, [Anthropic] understands that this license does not grant or confer any right to control or veto
10 lawful Department of War operational decision-making”), this language remained insufficient to
11 mitigate DoW’s concerns that Anthropic would exercise its own judgment—and embed that judgment
12 into model guardrails and weights—about what constitutes “lawful” operational decision-making.

13 12. Contrary to Anthropic’s suggestion, any ongoing discussions do not undermine any of
14 the determinations made by DoW. Rather, DoW will consider any information provided by Anthropic
15 that may warrant altering its supply chain risk designation in whole or in part.

16 **Anthropic’s Access to and Control of Its AI Model on DoW Systems**

17 13. As previously explained in my March 17 declaration, the baseline risk inherent in the
18 relatively opaque nature of large language model (LLM) technology that DoW procures from Anthropic
19 escalated due to the unusual degree of control that Anthropic retains over its model, as well as
20 Anthropic’s adversarial posture towards DoW’s statutory mission and the manner in which it is
21 conducted.

22 14. The Department was reliant on Anthropic to continuously provide updated versions of
23 its model to keep pace with the most advanced technology and emerging threats. Unlike traditional
24 software, which has reviewable code, language models are a black box. Anthropic has full control over
25 the weights in, and thus the resulting behavior and outputs of, the model it delivers to the Department.
26 This access and control could enable Anthropic to impact the model’s availability or performance.

1 EXECUTED this 24th day of March, 2026.



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4 Emil Michael

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