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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RICHARD KADREY, *et al.*,

Individual and Representative Plaintiffs,

v.

META PLATFORMS, INC., a Delaware
corporation,

Defendant.

Case No. 3:23-cv-03417-VC-TSH

**DEFENDANT META PLATFORMS, INC.'S
OPPOSITION TO ADMINISTRATIVE MOTION
FOR LEAVE RE: LIMITED CUSTODIAL
SEARCHES AND DEPOSITIONS**

1 The Court should reject the Kadrey Plaintiffs’ attempts to further expand fact discovery in
 2 this case. Just a few months ago, when the Kadrey Plaintiffs had possession of the information
 3 relied upon in this Motion, their counsel expressly told the Court that no new discovery was needed.
 4 If this discovery is truly important to the overlapping distribution claims, the Plaintiffs in the related
 5 cases can pursue it. The Court should deny the Kadrey Plaintiffs’ motion.

6
 7 **Plaintiffs Should Be Held to Their Representations That No New Discovery Is Necessary.**

8 After repeatedly telling this Court that no new fact discovery was needed to pursue their remaining
 9 claims, the Kadrey Plaintiffs once again ask the Court to grant them additional discovery even
 10 though fact discovery closed 18 months ago. Plaintiffs’ motion is premised on incorrect
 11 interpretations of documents that were produced *before* Kadrey’s counsel told the Court in February
 12 2026 “I don’t think any new discovery is necessary” when counsel was urging the Court to grant
 13 Plaintiffs’ motion to amend the complaint to add a new contributory infringement claim. 2026-02-
 14 05 Tr. at 16:1-5; *see also* ECF No. 658 at 2 (“Plaintiffs do not intend to seek new discovery on their
 15 amended claim and seek leave only to add one additional expert to provide testimony on the online
 16 piracy ecosystem.”); *id.* at 6 (“Plaintiffs’ amendments are based on evidence Meta produced nearly
 17 a year after the initial December 2024 fact discovery cutoff, and they will not require new fact
 18 discovery beyond that already occurring”). Plaintiffs made similar representations when they
 19 sought leave to file the Third Amended Complaint. ECF No. 300 at 6-7 (“If the claims are added,
 20 Plaintiffs will not seek to initiate any additional discovery.”). Indeed, Plaintiffs make clear that this
 21 motion for additional discovery will not be their last, as they state in a footnote that another motion
 22 seeking yet more fact discovery may soon be filed. The Court should hold Plaintiffs to their word
 23 and deny their motion to further expand fact discovery in the *Kadrey* matter.

24
 25 **None of The Proposed Custodians or Deponents Are “Newly Disclosed.”** As Plaintiffs admit
 26 in their brief, they have long been aware of each of their newly proposed custodians and deponents.
 27 The documents cited in the Motion were produced to Plaintiffs no later than January 2026 (Yongyi
 28 Hu, Armand Joulin), October 2025 (Arrigo Benedetti) and March 2025, over a year ago (Guan

Peng, Eric Han¹). If Plaintiffs believed that these persons had information critical to their claims, Plaintiffs should have said so in the briefing or argument in support of their Motion for Leave to File the Fourth Amended Complaint, not waited until long after the Motion for Leave was granted to raise it with the Court.²

Meta Has Voluntarily Provided Extensive Additional Discovery to the Kadrey Plaintiffs and They Will Benefit from Discovery Sought in the *Entrepreneur*, *Cognella*, *Cambronne*, and *Chicken Soup* Matters. The Kadrey Plaintiffs were originally entitled to ten custodians under the agreed upon ESI order. ECF No. 101, Ex. A at 2. The Court ordered five additional custodians during discovery, and after discovery closed, the Court ordered Meta to run an additional set of search terms on the fifteen previous custodians as well as adding five additional custodians for specific terms. In the interest of providing transparency about its data acquisition activities, Meta voluntarily added four more custodians, and expanded the scope of searches on three prior custodians. Meta undertook all of this discovery while also voluntarily engaging with the *Kadrey* Plaintiffs’ extensive follow-up questions regarding torrenting, which has resulted in the production of numerous additional documents, hundreds of gigabytes of logs, and continued supplementation of discovery responses. Regarding depositions, the Kadrey Plaintiffs have already taken 25 depositions plus over 20 additional hours of 30(b)(6) testimony, including numerous depositions regarding torrenting activities.

Given all of this discovery, the *Kadrey* Plaintiffs already have an extensive factual record. And that record will be further supplemented by any discovery sought by the Plaintiffs in the four related cases on their overlapping distribution and contributory infringement claims. If the new

¹ A Workplace Chat between Mr. Lample and Ms. Zhang produced in March 2025 discusses assigning “cleaning” of Libgen to Eric Han. (Ex. H (Meta_Kadrey_00237780).) While Plaintiffs cite to this document, they do not disclose the date this document was produced, only referring to Exhibit F’s production date of January 2026.

² Additionally, Plaintiffs did not raise the request for the Eric Han and Guan Peng depositions or the Guan Peng custodial search before filing this motion. While Meta would have declined the requests if they had been made, Meta notes Plaintiffs’ failure to properly meet and confer before filing this Motion.

1 custodians the Kadrey Plaintiffs seek here were truly important to torrenting issues, Entrepreneur
 2 presumably would have sought them in their case, but tellingly chose to pursue other custodians,
 3 including other custodians related to data acquisition. Likewise, if the Plaintiffs in the related cases
 4 believe that depositions of these individuals are important to their distribution and contributory
 5 infringement claims, they may seek those within the discovery limitations in their cases and the
 6 *Kadrey* Plaintiffs would be permitted to attend.

7
 8 **The Kadrey Plaintiffs Overstate the Facts Regarding the Requested Custodians and**
 9 **Deponents.** Plaintiffs’ motion relies on a cobbled together collection of unrelated documents,
 10 speculating about the meaning of their contents while ignoring other portions of these documents
 11 that do not support their narrative.

12 **Yongyi Hu** was an intern that worked at Meta from August 2022 until February 2023.
 13 Plaintiffs argue that Mr. Hu “may possess critical records of Meta’s torrenting that prior discovery
 14 would not have reached.” (Motion at 3.) Plaintiffs misconstrue and speculate about the cited
 15 documents’ contents. **Exhibit B** appears to show in January 2023, Mr. Lample shared code relating
 16 to “fiction”; Libgen fiction is a single digit terabyte dataset (not 40 TB), and Meta has produced
 17 extensive records of Mr. Lample’s work downloading Libgen fiction. Ex. B (“python b0.py
 18 download fiction --start_idx 100 --n_urls 100”); ECF No. 663-7 at 1 (Internal Meta document
 19 showing Libgen fiction is about 5.6 TB in size)). **Exhibit C** refers to a specific file in a folder that
 20 was used by Mr. Lample to store a download of a small portion of Libgen Scitech, for which Meta
 21 has also produced records. Plaintiffs have had access to logs relating to the specific Scitech files
 22 referred to in Exhibit C for over a year. And **Exhibit D** does not confirm that Mr. Lample had
 23 already acquired “40 TB” of books at that time, simply that he was looking to build a pipeline to
 24 process and OCR books like those in Libgen. Based on Meta’s investigation to date, the files that
 25 were deleted at the request of Mr. Bashlykov to free up storage space (**Exhibit E**) appear to relate
 26 to work conducted by Mr. Lample in March of 2023, not the work of Mr. Hu who left in February
 27 2023. (Exhibit L (March 2023 chat showing “/large_experiments/fair_llm/data_v2/datasets/
 28 books/data/scitech” as the location of Libgen data at that time, which matches a path in Exhibit E)).

1 **Eric Han** was a Meta employee that worked in Meta’s AI organization. Plaintiffs rely on
 2 vague references in **Exhibit F** and **Exhibit H** to Mr. Han being tasked with “taking a look at”
 3 Libgen for “data cleaning work” to suggest he also torrented Libgen. Plaintiffs inexplicably point
 4 to **Exhibit G**, a chat between Mr. Roller and Mr. Lample about *Mr. Roller’s* activities that does not
 5 mention Mr. Han. And Plaintiffs point to cost and usage logs (**Exhibit I**) from a shared resource
 6 that show download activity in September 2022. What Plaintiffs do not disclose to the Court is that
 7 these logs do not show upload activity potentially indicative of torrenting, as the upload rate is
 8 particularly low (0.2% vs. 10% or more during periods of suspected torrenting activity). Ex. I
 9 (showing downloads of 29.1 TB and uploads of 67.5 GB, or ~0.2% ratio of upload to download for
 10 September 8, 17, 28, and 29, 2022, which were the dates raised by Plaintiffs during the Parties’
 11 discussions). Notably, Plaintiffs do not provide any explanation how these *download* spikes appear
 12 to be consistent with torrenting activity.

13 Finally, Mr. Roller’s discussions in Exhibits J and K appear to be referring to third party
 14 torrenting activities, not Meta’s. For instance, in Exhibit K, Mr. Roller suggests that use of certain
 15 books might be “ok” because “someone else did the torrenting and putting [sic] it into corpus
 16 form.” Ex. K (emphasis added). Regardless, even were Mr. Roller referring to supposed additional
 17 torrenting, Exhibits J and K demonstrate Mr. Han’s lack of involvement in such activities. Exhibit
 18 J - where Mr. Roller suggests Meta is already in possession of “this torrent” - is dated September
 19 14, 2023. That predates Exhibits F and H (September 15, 2023), which discuss assigning Mr. Han
 20 to look into preparing Libgen data for training (also referred to as “cleaning”). And Exhibit K
 21 refers to “emea” (an abbreviation for Europe Middle East Africa) acquiring the data at issue, not
 22 Mr. Han (who was located in the United States).

23 **Armand Joulin** was a Meta employee that worked on LLM training in Meta’s Paris office
 24 and left in May 2023. Plaintiffs cite to **Exhibit L**, a single chat between Mr. Joulin and Mr. Lample,
 25 where Mr. Joulin suggests Lample rename Libgen to another name. **Exhibit M**, which discusses
 26 the need for additional storage because of the size of Libgen, does not demonstrate that Mr. Lample
 27 had already torrented 70 TB as of January 2023 (or ever actually torrented 70 TB) - just that he
 28 anticipated a need for additional space should they acquire all of this data. There is no suggestion

1 in any cited documents that Mr. Joulin participated in torrenting or would have access to any records
2 that Mr. Lample would not have.

3 **Arrigo Benedetti** is a former Meta contractor who worked on computer vision applications
4 for Meta's Reality Labs group. Mr. Benedetti's work was not related to any of the Llama models
5 that are the subject of this and the related litigations. When Plaintiffs raised the downloading
6 associated with Mr. Benedetti that arose in materials filed in the *Strike 3* matter³, Meta voluntarily
7 disclosed Mr. Benedetti's identity to the *Kadrey* Plaintiffs and investigated his work at Meta, which
8 indicated that the material was downloaded by Mr. Benedetti for personal use given that it was
9 unrelated to Mr. Benedetti's work at Meta. Moreover, Mr. Benedetti's alleged acquisition of a
10 relatively small number of "random" books from Anna's Archive is not consistent with the known
11 acquisitions of works in connection with Meta's Llama models.

12 **Guan Peng** is a current Meta employee that works on models relating to image reasoning
13 and generation. Plaintiffs' claims of relevance relate to a single chat message sent by Mr. Peng
14 asking questions about data acquisition activities, including torrenting. Meta has investigated that
15 chat and determined there is no record of any person responding to it. Mr. Peng has also stated that
16 he did not engage in any torrenting activity in his work at Meta and was not aware of any torrenting
17 activity related to the work of his team.

18
19 **Conclusion.** Plaintiffs' Motion should be denied in its entirety. If any of this discovery is truly
20 necessary to prosecute the distribution and contributory infringement claims, the Plaintiffs in the
21 related cases can pursue it in those cases within the previously established discovery limitations in
22 those matters. And if it is sought in those cases, the *Kadrey* Plaintiffs will receive the benefit of it.
23 The *Kadrey* Plaintiffs should not be permitted, once again, to disavow the representations they
24 made to this Court and to Meta that no additional fact discovery was necessary for the claims in
25 their amended complaint.

26
27
28 ³ *Strike 3 Holdings, LLC v. Meta Platforms, Inc.*, Case No. 5:25-cv-06213-EKL (N.D. Cal.)

1 Dated: June 29, 2026

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