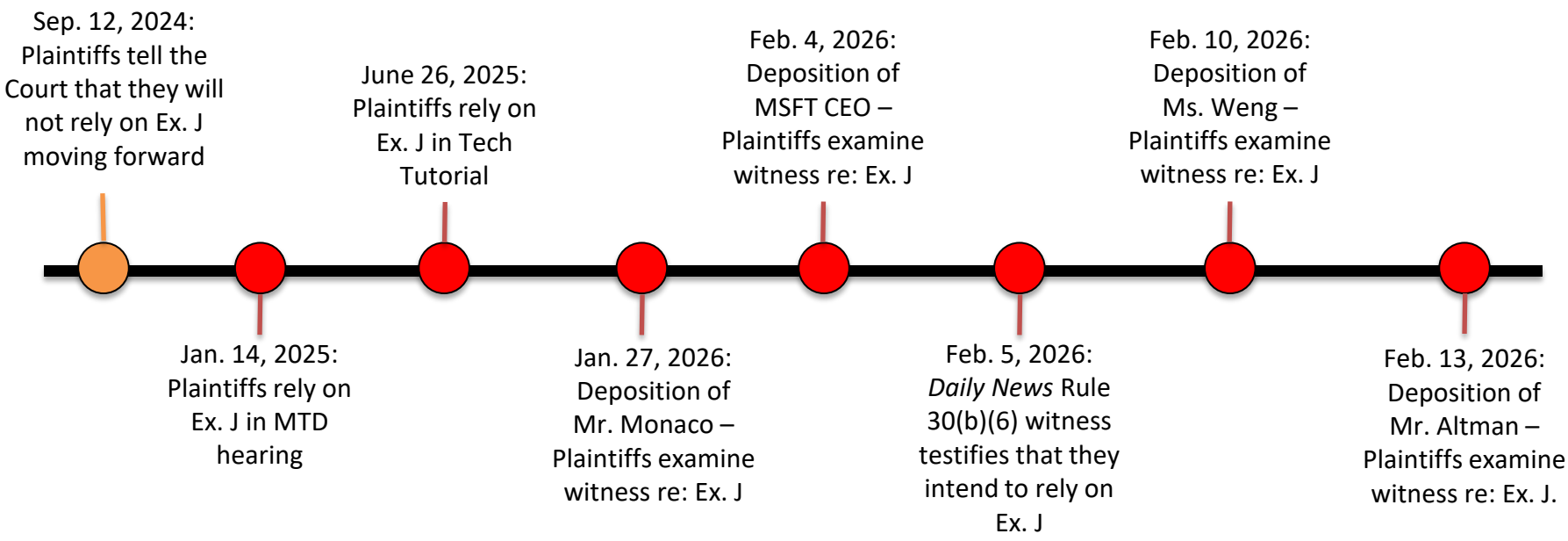
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: OpenAI, Inc. Copyright Infringement Litigation This Document Relates To: No. 1:23-cv-11195; No. 1:24-cv-3285	Case No. 1:25-md-3143 (SHS) (OTW)

NOTICE OF OPENAI'S MARCH 10, 2026 DEMONSTRATIVES REGARDING OPENAI'S RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR PROTECTIVE ORDER RE: TOM GOLDSTEIN SUBPOENA [ECF NO. 1378]

Timeline of Plaintiffs' Reliance on Exhibit J



The Court Already Ruled that Deposing Plaintiffs Re: Exhibit J Is Appropriate

"**[OpenAI] could depose New York Times' witnesses later about what they did [to generate Ex. J] and how they did it**. That, I think, is a more practical and efficient way to get the same information, okay?"

9/12/2024 Hr'g Tr. at 64–65 (emphasis added).

Plaintiffs Disavowed Reliance on Exhibit J in September 2024

- "Now, the Times is not going to use the examples of infringing outputs that it has included with its complaint going forward."
- "Exhibit J is not going to be relevant to this litigation moving forward"
- "There is no relevance, moving forward, to these particular examples"
- "Exhibit J or the examples in the complaint are not relevant. We're not going to rely on them moving forward."

9/12/2024 Hr'g Tr. at 59–61.

The *Daily News* Plaintiffs' Rule 30(b)(6) Witness Admits that They Will Rely on Exhibit J

Q. "Do plaintiffs intend to rely on Exhibit J to support their claim of copyright infringement in this case?"

A.: "**[T]he answer would be yes**."

2/5/26 Pine Tr. at 479:3–8 (emphasis added).

Plaintiffs Questioned OpenAI's Witnesses Extensively on Exhibit J

- "And you see it says, Data/NYT/Exhibit J examples?"
- "And did you say that you were – somebody provided Exhibit J to you?"
- "Do you understand that Exhibit J is the exhibit letter of an exhibit to the New York Times's complaint that included 100 examples of regurgitated output from OpenAI's models?"
- "And were you provided only with Exhibit J or did you also have access to the full New York Times complaint?"
- "Besides the work that you did with respect to these Exhibit J examples, do you recall doing any work specific to The New York Times after December 27th, 2023?"
- "And do you recall whether this evaluation [which used Ex. J] included prompts intended to elicit regurgitation with respect to any other news publishers?"

2/10/26 Weng Tr. at 151–55, 209–10.

The Times Questioned OpenAI's Witnesses Extensively on Exhibit J

- "[Y]ou're aware that we were able to get the GPT-4 model to regurgitate a whole lot of New York Times content, and we put that in our Complaint in this lawsuit, right?"
- "Do you have any doubt that the contents of those articles is retrievable from that model using at least some form of prompt, whatever that prompt may be?"
- "Do you dispute that the text that was generated in those instances [in Exhibit J] came from the weights of your model?"
- "Those [Ex. J examples] were, in fact, the outputs of your model, right?"
- "The outputs that were publicly filed in The New York Times Complaint were outputs of your model[?]"
- "With respect to the publicly filed Exhibits on the docket in The New York Times case, do you have any reason to dispute that what is represented as having been the outputs of the GPT-4 model were, in fact, output by the GPT-model?"
- "You have no idea whether those [examples in Ex. J] actually were outputs of the model?"

2/13/26 Altman Tr. at 139–43.