UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: OpenAI, Inc. Copyright Infringement Litigation	1:25-md-03143-SHS **This Document relates to:**
THE NEW YORK TIMES COMPANY, Plaintiff, v. OPENAI, INC., et al., Defendants.	Case No. 1:23-cv-11195-SHS-OTW

DEFENDANT MICROSOFT'S ANSWER TO THE NEW YORK TIMES COMPANY'S THIRD AMENDED COMPLAINT

Defendant Microsoft Corporation submits this Answer to the Third Amended Complaint ("TAC") filed by Plaintiff on August 21, 2026 in the above-captioned matters. Where the TAC combines allegations about Microsoft and OpenAI together, Microsoft's responses below apply solely to allegations related to Microsoft, and Microsoft states that it lacks sufficient knowledge or information sufficient to form a belief regarding such allegations against OpenAI and on that basis denies them. To the extent not expressly admitted below, Microsoft denies each and every allegation of the TAC.

I. NATURE OF THE CASE

1. Paragraph 1 states conclusions of law and argument by Plaintiff for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations of paragraph 1.

2. Microsoft admits that it offers tools that utilize large-language models and offered Bing Chat, subsequently renamed Bing Copilot. The rest of paragraph 2 states conclusions of law and argument by Plaintiff for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations of paragraph 2.

3. Microsoft admits that the Copyright Act affords certain protections to copyright owners, subject to limitations. The rest of paragraph 3 states conclusions of law and argument by Plaintiff for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations of paragraph 3.

4. Denied.

5. Denied.

6. Microsoft admits that its Fiscal Year 2024 First Quarter Earnings Conference Call transcript is available at https://www.microsoft.com/en-us/Investor/events/FY-2024/earnings-fy-2024-q1.aspx, where it is noted that Azure AI provides access to models from OpenAI. The rest of paragraph 6 otherwise states conclusions of law and argument by Plaintiff for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations of paragraph 6.

7. Microsoft admits that The Times "objected" and that it subsequently engaged in negotiation discussions with The Times. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 7 and therefore denies them.

8. Microsoft admits that the negotiation discussions with The Times did not lead to a resolution. Microsoft further admits that its position has been and continues to be that its conduct is protected by the fair use doctrine. The rest of paragraph 8 otherwise states conclusions of law

and argument by Plaintiff for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations of paragraph 8.

9. Paragraph 9 states conclusions of law and argument by Plaintiff for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations of paragraph 9.

II. JURISDICTION AND VENUE

10. Admitted.

11. Microsoft admits that it has made available and sold GPT-based software and services. Microsoft admits that it maintains offices and employs personnel in New York, including some personnel who are involved in its AI-related operations. Microsoft denies that Microsoft or OAI committed infringement when OAI trained its models, or that Microsoft assisted in any infringement. Microsoft does not contest jurisdiction and venue in this Court. To the extent a further response is required, the remaining allegations are denied.

12. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegation regarding Plaintiff's principal place of business and headquarters. Microsoft otherwise denies the allegations of paragraph 12.

13. Paragraph 13 states conclusions of law for which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft admits that venue is proper in the Southern District of New York. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegation regarding OAI's licensing practices, and therefore denies those allegations. Except as expressly admitted, Microsoft denies the allegations of paragraph 13.

III. THE PARTIES

14. Microsoft admits that The New York Times is a corporation and that it publishes digital and print products. Microsoft admits that the incorporated Exhibits to the TAC can be

found at ECF Nos. 170–202. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 14 and therefore denies them.

15. Microsoft admits that it is a Washington corporation with a principal place of business and headquarters in Redmond, Washington. Microsoft also admits that it is a minority investor in OpenAI Global LLC. Except as expressly admitted, Microsoft denies the remaining allegations set forth in paragraph 15.

16. Microsoft admits that there were joint efforts between Microsoft and OpenAI to create supercomputer technologies suitable for developing and operating LLMs. Microsoft further admits that it has access to OAI's LLMs. Microsoft further admits that it was noted during an October 2023 earnings call that "more than 18,000 organizations now use Azure OpenAI Service, including new-to-Azure customers." Microsoft denies the remainder of the allegations in paragraph 16.

17. Microsoft admits that the OpenAI Defendants are Delaware entities, and otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 17 and therefore denies them.

18. Microsoft admits that OpenAI, Inc. is a Delaware nonprofit corporation with a principal place of business in San Francisco, California and was formed in December 2015. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 18 and therefore denies them.

19. Microsoft admits that OpenAI LP is a Delaware nonprofit corporation with a principal place of business in San Francisco, California, and was formed in 2019. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 19 and therefore denies them.

20. Microsoft admits that OpenAI GP, LLC is a Delaware limited liability company with a principal place of business in San Francisco, California. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 20 and therefore denies them.

21. Microsoft admits that OpenAI, LLC is a Delaware limited liability company with a principal place of business in San Francisco, California. Microsoft admits that OpenAI, LLC was formed in September 2020. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 21 and therefore denies them.

22. Microsoft admits that OpenAI OpCo LLC is a Delaware limited liability company with a principal place of business in San Francisco, California. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 22 and therefore denies them.

23. Microsoft admits that OpenAI Global LLC is a Delaware limited liability company with a principal place of business in San Francisco, California. Microsoft admits that it is a minority investor of OpenAI Global LLC. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 23 and therefore denies them.

24. Microsoft admits that OAI Corporation, LLC is a Delaware limited liability company with a principal place of business in San Francisco, California. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 24 and therefore denies them.

25. Microsoft admits that OpenAI Holdings, LLC is a Delaware limited liability company. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 25 and therefore denies them.

IV. FACTUAL ALLEGATIONS

A. The New York Times and its Mission[1]

1. *Almost Two Centuries of High-Quality, Original, Independent News*

26. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26 and therefore denies them.

[1] The headings and sub-headings used herein are reproduced as they were used in the TAC. The reproduction of these headings should not be taken as an admission by Microsoft, and to the extent they are intended to convey allegations rather than simply argument, they are denied.

27. Microsoft admits that The Times was founded in 1851. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 27 and therefore denies them.

28. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 and therefore denies them.

29. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29 and therefore denies them.

30. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 and therefore denies them.

31. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 and therefore denies them.

2. *Groundbreaking, In-Depth Journalism and Breaking News at Great Cost*

32. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 and therefore denies them.

33. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 and therefore denies them.

34. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 and therefore denies them.

35. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35 and therefore denies them.

36. Microsoft admits that The Times acquired Wirecutter in 2016. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 36 and therefore denies them.

37. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 and therefore denies them.

3. *A Commitment to Quality Journalism*

38. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 and therefore denies them.

39. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 and therefore denies them.

40. Microsoft admits that the article titled *The Times Announces Digital Subscription Plan*, by Jeremy W. Peters, was published on March 17, 2011. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 40 and therefore denies them.

41. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 and therefore denies them.

42. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 and therefore denies them.

43. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 and therefore denies them.

44. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 and therefore denies them.

45. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 and therefore denies them.

46. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46 and therefore denies them.

4. *GenAI Products Threaten High-Quality Journalism*

47. Paragraph 47 is argument to which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations in paragraph 47.

48. Paragraph 48 is argument to which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations in paragraph 48.

49. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 and therefore denies them.

50. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 50 and therefore denies them.

51. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 51 and therefore denies them.

52. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 52 and therefore denies them.

53. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 53 and therefore denies them.

54. Microsoft admits that it had communications with The Times in April 2023 and that the parties did not come to any agreement. Except as expressly admitted, Microsoft denies the allegations in paragraph 54.

B. Defendants' GenAI Products

1. *A Business Model Based on Mass Copyright Infringement*

55. Microsoft admits that OpenAI was formed in December 2015 as a non-profit organization. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 55 and therefore denies them.

56. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 and therefore denies them.

57. Microsoft admits that OpenAI LP is a for-profit enterprise that was founded in 2019, and that Microsoft is a minority investor in it. Microsoft denies that it has authority and influence over OAI's operations. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 57 and therefore denies them.

58. Microsoft admits that OAI released GPT-1 and GPT-2 models in 2018 and 2019 respectively, and that it released GPT-3 in 2020. Microsoft lacks knowledge or information

sufficient to form a belief as to the truth of the allegations in paragraph 58 and therefore denies them.

59. Microsoft admits that GPT-3.5 and GPT-4 are more powerful than earlier GPT models. Microsoft admits that OpenAI's GPT-4 Technical Report was published in March 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 59 and therefore denies them.

60. Microsoft admits that the article titled *OpenAI Co-Founder on Company's Past Approach to Openly Sharing Research: "We Were Wrong"* by James Vincent was published on March 15, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 60 and therefore denies them.

61. Microsoft admits that ChatGPT is a text-generating chatbot that requires user-generated prompts. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 61 and therefore denies them.

62. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 and therefore denies them.

63. Microsoft admits that a blog titled *Introducing ChatGPT Enterprise* by OpenAI was published on August 28, 2023. Microsoft admits that an article titled *OpenAI Reportedly Nears $1 Billion in Annual Sales* by Chris Morris was published on August 30, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 63 and therefore denies them.

64. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 and therefore denies them.

65. Denied.

66. Microsoft admits that its CEO Satya Nadella has stated "something we've been partnered with OpenAI deeply now for multiple years" in reference to OpenAI's LLMs. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure

hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Microsoft denies the remaining allegations set forth in paragraph 66.

67. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Microsoft denies the remaining allegations set forth in paragraph 67.

68. Microsoft admits that its CEO Satya Nadella has stated "We build the infrastructure to train their models. They're innovating on the algorithms and the training of these frontier models" in reference to OpenAI's LLMs. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Microsoft denies the remaining allegations set forth in paragraph 68.

69. Microsoft admits that Satya Nadella stated in an interview on CNBC's Fort Knox program "beneath what OpenAI is putting out as large language models, remember, the heavy lifting was done by the Azure team to build the compute infrastructure because these workloads are so different than anything that's come before and so we needed to completely rethink even the data center up the infrastructure that first gave us even a shot to build the models. And now we're translating those models into products." Microsoft denies the remaining allegations set forth in paragraph 69.

70. Microsoft admits that a blog post titled *Microsoft Announces New Supercomputer, Lays Out Vision for Future AI Work* by Jennifer Langston was published on May 19, 2020 and is available at https://news.microsoft.com/source/features/ai/openai-azure-supercomputer/. Microsoft further admits that the quoted language in Paragraph 70 appears in said blog post and respectfully refers the Court to that document for its content. Except as expressly admitted, Microsoft denies the allegations in paragraph 70.

71. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Microsoft admits that Mr. Nadella has stated "They do the foundation models, and we do a lot of work around them, including the tooling around responsible AI and AI safety." Microsoft admits that a paper titled *Sparks Of Artificial General Intelligence: Early Experiments With GPT-4* by Sébastien Brubeck and others was published in 2023. Except as expressly admitted, Microsoft denies the allegations in paragraph 71.

72. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Microsoft admits that some of its products use one or more of OpenAI's LLMs, and that such LLMs have been designed to generate new text content that may mimic a human written response. Except as expressly admitted, Microsoft denies the allegations in paragraph 72.

73. Microsoft admits that paragraph 73 reflects a cleaned-up version of statements made by Mr. Nadella in an episode of the podcast *On with Kara Swisher*. Except as expressly admitted, Microsoft denies the allegations in paragraph 73.

74. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Microsoft admits that paragraph 74 reflects a cleaned-up version of statements offered by Mr. Nadella in an episode of the podcast *On with Kara Swisher*. Except as expressly admitted, Microsoft denies the allegations in paragraph 74.

2. *How GenAI Models Work*

75. Microsoft admits that LLMs are a part of its GenAI products, and that different versions of GPT are LLMs. Microsoft admits that an LLM works by calculating probabilities that a token will follow a given string of text, and that such calculations are made based on the training of the LLM using billions of items of training data. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 75 and therefore denies them.

76. Microsoft admits that sentences and paragraphs are generated by appending output tokens to the input tokens and feeding it back into the model, and that this LLM operation is a part of the stack that makes up Bing Chat to generate responses to user queries, also known as prompts. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 76 and therefore denies them.

77. Microsoft admits that LLMs contain numbers called "parameters" (or "weights") and that the training corpus is used to adjust those numbers based on statistical and mathematical modeling. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 77 and therefore denies them.

78. Microsoft admits that the final value of each parameter (or weight) of an LLM is calculated during the process sometimes called "training" (and more often called "pre-training"), and that this process involves, among other steps, repeatedly using portions of the training data with tokens to be predicted masked out, using the actually predicted tokens to calculate the error in the LLM prediction, and then repeatedly adjusting each parameter in accordance with statistical and mathematical modeling to attempt to minimize the overall error function of the LLM. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 78 and therefore denies them.

79. Microsoft admits that models may be further fine-tuned after the pre-training process, including by using additional specific training sets or by using human feedback methods. Microsoft denies the remaining allegations of paragraph 79.

80. Microsoft admits that a paper titled *On Memorization in Probabilistic Deep Generative Models* by Gerritt J.J. van den Burg and Christopher K.I. Williams was published in 2021. Except as expressly admitted, Microsoft denies the remaining allegations in paragraph 80.

81. Microsoft admits that an article titled *How We Interact with Information: The New Era of Search* by Ben Ufuk Tezcan was published on September 19, 2023. Microsoft further admits that a pre-trained LLM is often placed into a broader product stack that involves various ways to "ground" the LLM's outputs, and that the four steps described in paragraph 81 loosely describe the process known as retrieval-augmented-generation, which certain Microsoft AI products use. Except as expressly admitted, Microsoft denies the remaining allegations in paragraph 81.

C. Defendants' Unauthorized Use and Copying of Times Content

82. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies those allegations. Microsoft denies the remaining allegations in paragraph 82.

1. *Unauthorized Reproduction of Times Works During GPT Model Training*

83. Microsoft admits the allegations in the first sentence of paragraph 83. Microsoft further admits that OAI's models were pre-trained on a very large amount of data. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies those allegations. Microsoft denies the remaining allegations in paragraph 83.

84. Microsoft admits that a paper titled *Better Language Models and Their Implications* by OpenAI was published on February 14, 2019. Microsoft lacks knowledge or information

sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies the remaining allegations in paragraph 84.

85. Microsoft admits that a paper titled *Better Language Models and Their Implications* by OpenAI was published on February 14, 2019. Microsoft admits that the GPT-2 Model Card was last updated in November 2019. Microsoft admits that GPT-2 domain text files are available at https://github.com/openai/gpt-2/blob/master/domains.txt. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 85 and therefore denies them.

86. Microsoft admits that a paper titled *Language Models are Few-Shot Learners* by Tom Brown and others was published on July 22, 2020. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies the remaining allegations in paragraph 86.

87. Microsoft admits that a paper titled *Language Models are Few-Shot Learners* by Tom Brown and others was published on July 22, 2020. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies the remaining allegations in paragraph 87.

88. Microsoft admits that the Common Crawl website is available at https://commoncrawl.org/. Microsoft admits that a paper titled *Documenting Large Webtext Corpora: A Case Study on the Colossal Clean Crawled Corpus* by Jesse Dodge and others was published in 2021. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies the remaining allegations in paragraph 88.

89. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 89 and therefore denies them.

90. Microsoft admits that a paper titled *Language Models are Few-Shot Learners* by Tom Brown and others was published on July 22, 2020. Microsoft lacks knowledge or information

sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies the remaining allegations in paragraph 90.

91. Microsoft admits that an article titled *GPT-4 Architecture, Datasets, Costs and More Leaked* by Maximilian Schreiner was published on July 11, 2023. Microsoft admits that an article titled *OpenAI GPT-3: Everything You Need to Know [Updated]* by Kindra Cooper was published on September 27, 2023. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models and on that basis denies the remaining allegations in paragraph 91.

92. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Except as expressly admitted, Microsoft denies the allegations in paragraph 92.

93. Microsoft admits that an article titled *Microsoft Thinks AI Can Beat Google at Search — CEO Satya Nadella Explains Why* by Nilay Patel was published on February 7, 2023. Microsoft admits that it built and operates the Azure hosting platform, that it worked with OpenAI to design supercomputers suitable for training and operating large language models as part of the Azure hosting platform, and that the Azure hosting platform was used by OpenAI to train and operate one or more of its LLMs. Except as expressly admitted, Microsoft denies the allegations in paragraph 93.

94. Denied.

95. Denied.

96. Denied.

97. Denied.

2. *Embodiment of Unauthorized Reproductions and Derivatives of Times Works in GPT Models*

98. Microsoft denies that the GPT LLMs "memorized" or encoded any copies of the Times Works. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown or referenced in paragraph 98 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

99. Microsoft admits that an article titled *As Thousands of Taxi Drivers Were Trapped in Loans, Top Officials Counted the Money* by Brian M. Rosenthal and others was published on May 19, 2019. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 99 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

100. Microsoft admits that an article titled *How the U.S. Lost Out on iPhone Work* by Charles Duhigg and Keith Bradsher was published on January 21, 2012. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 100 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

101. Microsoft denies that any GPT LLMs memorize any Times Works, or that they embody unauthorized copies or derivatives of those works. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 101 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

3. *Unauthorized Public Display of Times Works in GPT Product Outputs*

102. Microsoft admits that some of its products use one or more of OpenAI's LLMs. Except as expressly admitted, Microsoft denies the allegations in paragraph 102.

103. Microsoft denies that any GPT LLMs memorize any Times Works, or that they embody unauthorized copies or derivatives of those works. Microsoft lacks knowledge or

information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 103 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

104. Microsoft admits that an article titled *Snow Fall: The Avalanche at Tunnel Creek* by John Branch was published on December 13, 2012. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 104 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

105. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 105 or Exhibit J and therefore denies the allegations contained in this paragraph.

106. Microsoft admits that an article titled *As Not Seen on TV* by Pete Wells was published on November 13, 2012. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 106 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

107. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 107 or Exhibit J and therefore denies the allegations contained in this paragraph.

4. *Unauthorized Retrieval and Dissemination of Current News*

108. Microsoft admits that its generative search chatbot marketed initially under the name Bing Chat and later under the name Copilot uses a grounding technique. Otherwise, denied.

109. With respect to the allegations contained in paragraph 109 related to Bing Chat, denied. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 109 and therefore denies them.

110. Denied.

111. Paragraph 111 states Plaintiff's characterization of its claims as to which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the allegations in paragraph 111.

a) Examples of Synthetic Search Results from Bing Chat

112. Microsoft admits that an article titled *GPT-4 Turbo* by Michael Schade is available at https://help.openai.com/en/articles/8555510-gpt-4-turbo-in-the-openai-api. Microsoft admits that an article titled *The Secrets Hamas Knew About Israel's Military* by Patrick Kingsley and Ronen Bergman was published on October 13, 2023. Microsoft denies that Bing Chat creates unauthorized copies and derivatives of the Times Works. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 112 and therefore denies the remainder of the allegations contained in this paragraph.

113. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 113 or Exhibit J and therefore denies the allegations contained in this paragraph.

114. Denied.

115. Microsoft admits that an article titled *To Experience Paris Up Close and Personal, Plunge Into a Public Pool* by Catherine Porter was published on September 3, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 115 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

116. Microsoft admits that certain portions of the output shown in paragraph 115 are identical to portions of the original article. Microsoft denies that original article text was "copied." Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 115 and referenced in paragraph 116 or Exhibit J and therefore denies the allegations contained in this paragraph.

117. Denied.

b) Synthetic Search Results from ChatGPT Browse with Bing

118. Microsoft admits that an article titled *The Precarious, Terrifying Hours After a Woman Was Shoved Into a Train* by Hurubie Meko was published on May 25, 2023. Microsoft denies that any GPT LLM contains unauthorized copies or derivatives of Times Works. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 118 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

119. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 119 or Exhibit J and therefore denies the allegations contained in this paragraph.

120. Denied.

121. Microsoft admits that an article titled *Are the Hamptons Still Hip?* by Anna Kodé was published on May 26, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 121 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

122. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 122 or Exhibit J and therefore denies the allegations contained in this paragraph.

123. Denied.

5. *Willful Infringement*

124. Microsoft lacks knowledge or information sufficient to form a belief about the particulars of the training of OpenAI's models or its internal disagreements and on that basis denies those allegations. The remainder of paragraph 124 is argument to which no response is required. To the extent a response is nonetheless deemed necessary, Microsoft denies the remainder of the allegations in paragraph 124.

125. Microsoft admits that it had communications with The Times regarding its product offerings. Except as expressly admitted, Microsoft denies the remaining allegations in paragraph 125.

126. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 126 and therefore denies them.

127. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 127 and therefore denies them.

128. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 128 and therefore denies them.

129. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 129 and therefore denies them.

130. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 130 and therefore denies them.

131. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 131 and therefore denies them.

132. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 132 and therefore denies them.

133. Denied.

D. Misappropriation of Commercial Referrals

134. Denied.

135. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 135 and therefore denies them.

136. Microsoft denies the allegations in the last sentence of Paragraph 136. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 136 and therefore denies them.

137. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 137 or Exhibit J and therefore denies the allegations contained in this paragraph.

138. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 138 or Exhibit J and therefore denies the allegations contained in this paragraph.

139. Denied.

140. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 140 or Exhibit J and therefore denies the allegations contained in this paragraph.

141. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 141 and therefore denies them.

142. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 142 and therefore denies them.

E. "Hallucinations" Falsely Attributed to The Times

143. Denied.

144. Microsoft admits that an article titled *Artificial Hallucinations in ChatGPT: Implications in Scientific Writing* by Hussam Alkaissi and Samy I McFarlan was published on February 19, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 144 and therefore denies them.

145. Microsoft denies that Bing Chat commits copyright infringement by generating output content. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 145 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

146. Microsoft admits that an article titled *Moderate Drinking Has No Health Benefits, Analysis of Decades of Research Finds* by Roni Caryn Rabin was published on April 4, 2023.

Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 146 or Exhibit J and therefore denies the remainder of the allegations contained in this paragraph.

147. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 147 or Exhibit J and therefore denies the allegations contained in this paragraph.

148. Microsoft lacks knowledge or information sufficient to form a belief as to the complete mechanism by which The Times obtained the output shown in paragraph 148 or Exhibit J and therefore denies the allegations contained in this paragraph.

149. Denied.

F. Profit to Defendants

150. Denied.

151. Denied.

152. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 152 and therefore denies them.

153. Microsoft admits that an article titled *Top 10 Million Websites* is available at https://www.domcop.com/top-10-million-websites. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 153 and therefore denies them.

154. Microsoft admits that U.S. Patent No. 9,165,040 was granted on October 20, 2015. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 154 and therefore denies them.

155. Denied.

156. Microsoft admits that an article titled *107 Up-to-Date ChatGPT Statistics & User Numbers* was published by Nerdynav. The link provided in the TAC was updated in August 2026 so Microsoft therefore lacks information sufficient to confirm these allegations in the TAC and on

that basis denies them. Microsoft admits that a blog post titled *Introducing ChatGPT Plus* by OpenAI was published on February 1, 2023. Microsoft admits that a blog post titled *Introducing ChatGPT Enterprise* by OpenAI was published on August 28, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 156 and therefore denies them.

157. Microsoft admits that an article titled *OpenAI Passes $1 Billion Revenue Pace as Big Companies Boost AI Spending* by Amir Efrati and Aaron Holmes was published on August 29, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 157 and therefore denies them.

158. Microsoft admits that an article titled *Microsoft's Investment into ChatGPT's Creator May Be the Smartest $1 Billion Ever Spent* by Hasan Chowdhury was published on January 6, 2023. Microsoft admits that an article titled *ChatGPT's Creator OpenAI Has Doubled in Value Since 2021 as the Language Bot Goes Viral and Microsoft Pours in $10 Billion* by Phil Rosen was published on January 24, 2023. Microsoft admits that an article titled *Microsoft Emerges as Big Winner from OpenAI Turmoil* by Aditya Soni was published on November 20, 2023. Microsoft admits that it is a minority investor of OpenAI Global LLC. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 158 and therefore denies them.

159. Microsoft admits that an article titled *Microsoft Bing Hits 100 Million Active Users in Bid to Grab Share from Google* by Tom Warren was published on March 9, 2023. Microsoft admits that an article titled *OpenAI Tech Gives Microsoft's Bing a Boost in Search Battle with Google* by Akash Sriram and Chavi Meta was published on March 22, 2023. Microsoft admits that, as of March 8, 2023, Bing surpassed 100 million Daily Active Users and that Bing page visits have increased in the six weeks after Bing Chat went live. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 159 and therefore denies them.

160. Microsoft admits that it has started to integrate one or more of OpenAI's LLMs into its Office 365 products and that it charges separately for this feature. Microsoft admits that it charges $30 per user per month for Microsoft 365 Copilot, which uses one or more of OpenAI's LLMs. Microsoft admits that an article titled *Microsoft Launches Teams Premium with Features Powered by OpenAI* by Tom Warren was published on February 2, 2023. Microsoft admits that an article titled *Microsoft Announces Copilot: The AI-Powered Future of Office Documents* by Tom Warren was published on March 16, 2023. Microsoft admits that an article titled *Microsoft Puts a Steep Price on Copilot, Its AI-Powered Future of Office Documents* by Tom Warren was published on July 18, 2023. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 160 and therefore denies them.

G. Harm to The Times

161. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of paragraph 161 and therefore denies them. Microsoft denies the remaining allegations in paragraph 161.

162. Denied.

163. Microsoft denies that Defendants have infringed and that Plaintiff has suffered any harm attributable to Defendants' conduct. Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 163, and therefore denies them.

164. Denied.

COUNT I: Copyright Infringement (17 U.S.C. § 501)

Against All Defendants

165. Microsoft realleges and incorporates by reference its foregoing responses to the preceding paragraphs as if fully set forth herein.

166. Microsoft admits that The Times holds certain rights under 17 U.S.C. § 106 in the works which have registered copyrights. Microsoft denies the remaining allegations in paragraph 166.

167. Denied.

168. Denied.

169. Denied.

170. Denied.

171. Denied.

172. Denied.

173. Denied.

174. Denied.

175. Denied.

COUNT II: Vicarious Copyright Infringement

Against Microsoft, OpenAI Inc., OpenAI GP, OpenAI LP, OAI Corporation LLC, OpenAI Holdings LLC, and OpenAI Global LLC

176. Microsoft realleges and incorporates by reference its foregoing responses to the preceding paragraphs as if fully set forth herein.

177. Denied.

178. Denied.

179. Denied.

180. Denied.

COUNT III: Contributory Copyright Infringement

Against Microsoft

[Voluntarily dismissed in light of the Court's August 6, 2026 Order]

COUNT IV: Contributory Copyright Infringement

Against All Defendants

[Dismissed pursuant to the Court's August 6, 2026 Order]

COUNT V: Digital Millennium Copyright Act – Removal of Copyright Management Information (17 U.S.C. § 1202(b)(1))

Against OpenAI Inc., OpenAI LP, OpenAI GP, OpenAI LLC, OpenAI OpCo LLC, OAI Corporation LLC, OpenAI Holdings LLC, and OpenAI Global LLC

181. Microsoft realleges and incorporates by reference its foregoing responses to the preceding paragraphs as if fully set forth herein.

182. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 182 and therefore denies them.

183. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 183 and therefore denies them.

184. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 184 and therefore denies them.

185. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information

sufficient to form a belief as to the truth of the allegations in paragraph 185 and therefore denies them.

186. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 186 and therefore denies them.

187. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 187 and therefore denies them.

188. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 188 and therefore denies them.

189. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 189 and therefore denies them.

190. No response to this paragraph is required because Count V of the TAC is not alleged against Microsoft and this Count was previously dismissed with prejudice as to Microsoft (Dkt. No. 514). To the extent a response is deemed required, Microsoft lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 190 and therefore denies them.

COUNT VI: Common Law Unfair Competition By Misappropriation

Against All Defendants

[Dismissed pursuant to the Court's April 4, 2025 Order]

COUNT VII: Trademark Dilution (15 U.S.C. § 1152(c))

Against All Defendants

[Dismissed pursuant to the Court's August 6, 2026 Order]

PRAYER FOR RELIEF

Microsoft denies that Plaintiff is entitled to any relief whatsoever, including but not limited to the relief sought in the section of the TAC titled "Prayer for Relief." To the extent that this section contains any allegations requiring a response, Microsoft denies them.

JURY DEMAND

Microsoft hereby demands a trial by jury on all claims, defenses, and issues in this action so triable.

* * *

DEFENSES

In addition to the above, Microsoft asserts the following defenses. Each defense is asserted as to all claims for relief against Microsoft, unless otherwise noted. By setting forth these defenses, Microsoft does not concede that these are affirmative defenses and does not assume the burden of proving any fact, issue, or element of a claim for relief where such burden properly belongs to Plaintiff. Further, nothing stated herein is intended or shall be construed as an acknowledgement that any particular issue or subject matter necessarily is relevant to Plaintiff's allegations.

Microsoft reserves the right to amend its Answer as additional information becomes available and to assert additional defenses to the extent such defenses are or become applicable.

FIRST DEFENSE
(Failure to State a Claim)

Plaintiff's claims fail, in whole or in part, because the TAC, and each purported cause of action therein, fails to state a claim upon which relief may be granted and/or to state facts sufficient to constitute a claim for relief against Microsoft.

SECOND DEFENSE
(Fair Use)

Plaintiff's claims fail, in whole or in part, because any unauthorized copies of any of Plaintiff's copyrighted works made for the purposes described in the TAC constitute fair use under 17 U.S.C. § 107.

THIRD DEFENSE
(Substantial Noninfringing Uses)

Plaintiff's claims fail, in whole or in part, because all of the models accused of infringement, and all of Microsoft's generative AI search products and services offered in connection with those models that are accused of infringement, are capable of substantial noninfringing uses.

FOURTH DEFENSE
(Works or Elements of Works Not Protected by Copyright)

Plaintiff's claims fail, in whole or in part, to the extent they claim rights to elements of works or to works which are not protectable under copyright law, such as under the doctrines of *scènes à faire*, merger, or under 17 U.S.C. § 102(b), or that are in the public domain, lack the

requisite originality, are unregistered, or are works to which copyright protection has been abandoned.

FIFTH DEFENSE
(Invalid Ownership / Lack of Ownership)

Plaintiff's claims fail, in whole or in part, to the extent they assert copyrights that they do not own or exclusively license in the first instance, including but not limited to purported copyrights in individual newspaper articles, and/or in the full scope of their collective works.

SIXTH DEFENSE
(Lack of Standing)

Plaintiff's claims fail, in whole or in part, because they lack standing to bring suit and assert copyrights in any works that they do not own or exclusively license, including pursuant to 17 U.S.C. § 501(b).

SEVENTH DEFENSE
(DMCA Safe Harbor)

Plaintiff's claims fail, in whole or in part, because they are barred by the safe harbor provisions of the Digital Millenium Copyright Act, 17 U.S.C. § 512 (a)-(d).

EIGHTH DEFENSE
(De Minimis Copying or Use)

Plaintiff's claims fail, in whole or in part, because they are barred by the doctrine of *de minimis* copying or use.

NINTH DEFENSE
(Acts of Third Parties)

Plaintiff's claims fail, in whole or in part, because any reproduction, distribution, or display of any allegedly infringing outputs, or copies allegedly made in the generative search process, were caused by the acts or omissions of other persons or entities for whose conduct Microsoft is not legally responsible.

TENTH DEFENSE
(Lack of Injury)

Plaintiff's claims fail, in whole or in part, because Plaintiff has not suffered and is not likely to suffer any injury or damages as a result of the conduct alleged of Microsoft in the TAC.

ELEVENTH DEFENSE
(Unavailability of Injunctive Relief)

Plaintiff's claims fail, in whole or in part, because Plaintiff is not entitled to injunctive relief (temporarily, preliminarily, or permanently), including because any injury to it is not immediate or irreparable, Plaintiff would have an adequate remedy at law, the balance of hardships favors no injunction, and the public interest is best served by no injunction.

TWELFTH DEFENSE
(Unconstitutional Damages)

Plaintiff seeks improper damages in violation of the United States Constitution and other applicable law. Any award of statutory or enhanced damages would constitute an unconstitutional penalty under the circumstances of this case and would violate the due process and equal protection guarantees, and other substantive and procedural safeguards afforded by the United States Constitution.

THIRTEENTH DEFENSE
(Implied License)

Plaintiff's claims fail, in whole or in part, because Plaintiff was actually aware of and chose not to implement tools offered by Microsoft that would have included its copyrighted material in the Bing search index while at the same time readily enabling the exclusion of its copyrighted material from use by Microsoft in connection with its generative AI products and services. Plaintiff's knowing failure to adopt such tools while engaging in ongoing communications and

business relations with Microsoft relative to the publication and listing of its works in the Bing search index constitutes an implied license.

FOURTEENTH DEFENSE
(Express/Implied License)

Plaintiff's claims fail, in whole or in part, because the complained-of use was licensed by express or implied license.

FIFTEENTH DEFENSE
(Unclean Hands)

Plaintiff's claims fail, in whole or in part, because Plaintiff engaged in inequitable conduct in generating and alleging the outputs described in the TAC.

RESERVATION OF ADDITIONAL DEFENSES

Microsoft's investigation of the claims and its defenses is continuing. Microsoft reserves the right to assert additional defenses, such as through amendment of its Answer, that may develop through discovery in this action or otherwise.

REQUEST FOR RELIEF

Therefore, Microsoft respectfully requests that this Court:

1. Enter judgment in Microsoft's favor and against Plaintiff;
2. Dismiss all claims by Plaintiff with prejudice;
3. Award Microsoft its costs of suit;
4. Award Microsoft its attorneys' fees to the extent permitted by law; and
5. Grant Microsoft such other and further relief as this Court deems just and proper.

Dated: August 31, 2026

Respectfully submitted,

/s/ Annette L. Hurst

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