UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: OPENAI, INC., COPYRIGHT INFRINGEMENT LITIGATION This Document Relates To: News Cases 1:23-cv-11195-SHS-OTW 1:24-cv-01515-SHS-OTW 1:24-cv-03285-SHS-OTW 1:24-cv-04872-SHS-OTW 1:25-cv-04315-SHS-OTW	25-md-3143 (SHS) (OTW) **NEWS PLAINTIFFS' NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT** **ORAL ARGUMENT REQUESTED**

Please take notice that, upon the accompanying memorandum of law and supporting declarations and exhibits, the undersigned hereby moves the Court, on behalf of Plaintiffs The New York Times Company ("The Times"), the Daily News Plaintiffs,[1] The Center for Investigative Reporting, Inc., The Intercept Media, Inc., and the Ziff Davis Plaintiffs[2] (together, "News Plaintiffs"), before the Honorable Sidney H. Stein in Courtroom 23A of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York, 10007, for an order granting News Plaintiffs' motion for partial summary judgment.

News Plaintiffs seek an order:

1. granting summary judgment to News Plaintiffs on their *prima facie* claims of copyright infringement against the OpenAI Defendants and Microsoft Corporation (Count I in The Times's Third Amended Complaint, Dkt. 1677; Count I in the Daily News Plaintiffs' First Amended Complaint, DNP Dkt. 777; Counts I and II in CIR's Second Amended Complaint, Dkt. 1620; Count I in Ziff Davis' Second Amended Complaint, Dkt. 1676).
2. granting summary judgment to News Plaintiffs on Defendants' fair use affirmative defenses (in The Times's Case, Microsoft Corporation's Second

[1]Daily News, LP (the "New York Daily News"); Chicago Tribune Company, LLC, (the "Chicago Tribune"); Orlando Sentinel Communications Company, LLC (the "Orlando Sentinel"); Sun-Sentinel Company, LLC (the "Sun-Sentinel"); San Jose Mercury-News, LLC (the "Mercury News"); DP Media Network, LLC (the "Denver Post"); ORB Publishing, LLC (the "Orange County Register"); and Northwest Publications, LLC (the "Pioneer Press") (collectively the "Daily News Plaintiffs").

[2] Ziff Davis, Inc., Ziff Davis, LLC, IGN Entertainment, Inc., Everyday Health Media, LLC, Mashable, Inc., and CNET Media, Inc.

Affirmative Defense, Dkt. 1680, and the OpenAI Defendants' Third and Nineteenth Affirmative Defenses, Dkt. 1684; in the Daily News Plaintiffs' case, Microsoft Corporation's Second Affirmative Defense, DNP Dkt. 778, and the OpenAI Defendants' Third and Nineteenth Affirmative Defenses; DNP Dkt. 781; in the CIR case, OpenAI's Third and Nineteenth Affirmative Defenses, Answer to Second Amended Complaint, Dkt. 1652, and Microsoft's Second Affirmative Defense, Answer to Second Amended Complaint, Dkt. 1653; in the Intercept case, OpenAI's First Affirmative Defense, Answer Second Amended Complaint, Dkt. 221; in the Ziff Davis case, OpenAI's Third and Nineteenth Affirmative Defenses, Dkt. No. 1683).

3. granting partial summary judgment to News Plaintiffs' on three elements of their DMCA claims against the OpenAI Defendants—specifically, that (i) News Plaintiffs conveyed CMI in connection with copies of their asserted works; (ii) that OpenAI removed or altered that CMI without authority, and (iii) that OpenAI's removal of that CMI was intentional (Count V in The Times's Third Amended Complaint, Dkt. 1677; Count V in the Daily News Plaintiffs' First Amended Complaint, DNP Dkt. 777; Count III in CIR Second Amended Complaint, Dkt. 1620; Count I in Intercept Second Amended Complaint, 24-cv-1515 Second Amended Complaint; Count V in Ziff Davis' Second Amended Complaint, Dkt. No. 1680).

4. finding that News Plaintiffs are entitled to separate awards of statutory damages for each infringed article; and
5. granting summary judgment to News Plaintiffs on Defendants' remaining affirmative defenses because Defendants have not provided evidence establishing those defenses.

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