MORRISON FOERSTER LATHAM & WATKINS LLP KEKER VAN NEST & PETERS

June 13, 2025

VIA ECF

Hon. Ona T. Wang
United States Courthouse
500 Pearl St.
New York, New York 10007

Re: *In re: OpenAI, Inc., Copyright Infringement Litigation*, 1:25-md-03143-SHS-OTW [relating to *Ziff Davis, Inc. et al. v. OpenAI, Inc. et al.*, 25:cv-04315-SHS-OTW]: re Motion to Compel OpenAI to State Status of Cross-Production (Dkt. 133)

Dear Magistrate Judge Wang:

OpenAI cross-produced more than 93,000 OPCO_NEWS documents to Ziff Davis in the two weeks following the Court's last discovery conference on May 27, 2025. Despite these diligent efforts, Plaintiff Ziff Davis seeks a pre-motion conference concerning the status of OpenAI's cross-production of documents to Ziff Davis. (Dkt. No. 133.) The status is as follows: OpenAI is diligently cross-producing documents and expects to be substantially complete by the upcoming June 25, 2025 conference. The Court should deny Plaintiffs' motion.

On May 27, 2025, the Court ordered OpenAI to "[s]tart cross-production" while cautioning the parties to "not make perfect the enemy of the good." (Dkt. No. 109 at 6:12–13.) Since then, OpenAI has met and conferred with Plaintiffs and produced 93,360 documents to Ziff Davis in three productions between May 31, 2025 and June 9, 2025—including a production so voluminous that it had to be mailed on a hard drive (rather than sent electronically via FTP). OpenAI is currently preparing a fourth cross-production volume, estimated at around 10,000 additional documents, for production within the next few days. After that set, as OpenAI has explained to Ziff Davis during a meet and confer, OpenAI will produce the final set of documents once it has confirmed that any third-party notice obligations have been satisfied. OpenAI is working to clear those third-party notice requirements for Ziff Davis as a new party and will make further cross-productions soon.

OpenAI would have been happy to explain all of this to Ziff Davis, if they had waited more than a day to confer with OpenAI before burdening this Court with a discovery motion. (*See* Dkt. No. 133 at 2 (referencing correspondence on June 9 and 10).) Such short-fused motions distract resources from the work of completing these cross-productions. To be clear: OpenAI has already produced tens of thousands of documents to Ziff Davis. OpenAI is diligently working to get Ziff Davis the remaining OPCO_NEWS documents. OpenAI is also working to cross-produce to all News plaintiffs in the MDL the documents previously only produced in the books matters, and vice versa. In the interim, OpenAI invites Ziff Davis to start reviewing the soon-to-be over 100,000 documents it has already received.

OpenAI accordingly believes a pre-motion conference is unwarranted, and respectfully requests the Court deny Plaintiffs' motion. In any event, OpenAI will be prepared to provide both Ziff Davis and the Court with a further cross-production update at the June 25, 2025 discovery conference.

Respectfully submitted,

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/s/ Carolyn M. Homer	*/s/ Herman Yue*	*/s/ Christopher Sun*
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cc: All Counsel of Record (via ECF)