UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: OPENAI, INC., COPYRIGHT INFRINGEMENT LITIGATION This Document Relates To: No. 1:23-cv-08292 No. 1:23-cv-10211 No. 1:23-cv-11195 No. 1:24-cv-03285 No. 1:24-cv-04872 No. 1:24-cv-01515 No. 1:25-cv-04315	1:25-md-3143-SHS-OTW Hon. Sidney H. Stein Hon. Ona T. Wang

DECLARATION OF PAVEN MALHOTRA IN SUPPORT OF DEFENDANTS' JOINT RULE 702 MOTION TO EXCLUDE EXPERT TESTIMONY

I, Paven Malhotra, declare:

1. I am an attorney admitted to practice before this Court and am a partner with the law firm of Keker, Van Nest & Peters, LLP, which is counsel of record for the OpenAI Defendants (collectively, "OpenAI") in the above-captioned litigation. I submit this declaration in support of Defendants' Joint Rule 702 Motion to Exclude Expert Testimony.

2. I have personal knowledge of the facts set forth in this declaration and, if called to testify as a witness thereto, could do so competently under oath.

3. Attached as **Exhibit 1** is a true and correct copy of excerpts from the transcript of the deposition of Emily Bell, taken on July 17, 2026.

4. Attached as **Exhibit 2** is a true and correct copy of excerpts from the transcript of the deposition of Daniel Delorey, taken on July 15, 2026.

5. Attached as **Exhibit 3** is a true and correct copy of excerpts from the transcript of the deposition of Sue Cross, taken on July 27, 2026.

6. Attached as **Exhibit 4** is a true and correct copy of excerpts from the transcript of the deposition of Oren Etzioni, Ph.D., taken on July 21, 2026.

7. Attached as **Exhibit 5** is a true and correct copy of excerpts from the transcript of the deposition of Jonathan Franzen, taken on October 9, 2025.

8. Attached as **Exhibit 6** is a true and correct copy of excerpts from the transcript of Volume I of the deposition of Tom Goldstein, Ph.D., taken on July 30, 2026.

9. Attached as **Exhibit 7** is a true and correct copy of excerpts from the transcript of Volume II of the deposition of Tom Goldstein, Ph.D., taken on July 31, 2026.

10. Attached as **Exhibit 8** is a true and correct copy of excerpts from the transcript of the deposition of Jonathan L. Krein, Ph.D., taken on August 7, 2026.

11. Attached as **Exhibit 9** is a true and correct copy of excerpts from the transcript of the deposition of Michael James Lasinski, taken on August 3, 2026.

12. Attached as **Exhibit 10** is a true and correct copy of excerpts from the transcript of the deposition of Christine Liang, taken on January 27, 2026.

13. Attached as **Exhibit 11** is a true and correct copy of excerpts from the transcripts of Volumes I and II of the deposition of James E. Malackowski, taken on July 15 and 16, 2026.

14. Attached as **Exhibit 12** is a true and correct copy of excerpts from the transcript of the deposition of Michael B. McDonald, IV, Ph.D., taken on July 14, 2026.

15. Attached as **Exhibit 13** is a true and correct copy of excerpts from the transcript of the deposition of Taylor Owen, Ph.D., taken on July 31, 2026.

16. Attached as **Exhibit 14** is a true and correct copy of excerpts from the transcript of the deposition of Mark L. Seeley, taken on July 13, 2026.

17. Attached as **Exhibit 15** is a true and correct copy of excerpts from the transcript of the deposition of Jessie Stricchiola, taken on July 30, 2026.

18. Attached as **Exhibit 16** is a true and correct copy of the article titled "Are AI Chatbots Replacing Search Engines? A 2-Year Data Study on Web Traffic Trends," marked as Exhibit 5 to the July 30, 2026 deposition of Jessie Stricchiola.

19. Attached as **Exhibit 17** is a true and correct copy of the Microsoft Bing blog post titled "Announcing new options for webmasters to control usage of their content in Bing Chat," marked as Exhibit 9 to the July 30, 2026 deposition of Jessie Stricchiola.

20. Attached as **Exhibit 18** is a true and correct copy of excerpts from the transcript of the deposition of Antoinette M. Tease, taken on July 7, 2026.

21. Attached as **Exhibit 19** is a true and correct copy of a document titled "Keywords used to generate 8.2 million conversation dataset," marked as Exhibit 20 to the July 21, 2026 deposition of Emily Wenger, Ph.D.

22. **Exhibit 20** is intentionally omitted.

23. Attached as **Exhibit 21** is a true and correct copy of excerpts from the transcript of the deposition of Ben Zhao, Ph.D., taken on July 21, 2026.

24. Attached as **Exhibit 22** is a true and correct copy of a document containing text and associated data for the GamesIndustry.biz article titled "TrackMania DS," marked as Exhibit 2 to the July 15, 2026 deposition of Daniel Delorey.

25. Attached as **Exhibit 23** is a true and correct copy of a document containing text and associated data for the ZDNet article titled "New York City subpoenas creator of text messaging code," marked as Exhibit 3 to the July 15, 2026 deposition of Daniel Delorey.

26. Attached as **Exhibit 24** is a true and correct copy of the New York Times article titled "City Subpoenas Creator of Text Messaging Code," dated March 30, 2008, marked as Exhibit 4 to the July 15, 2026 deposition of Daniel Delorey.

27. Attached as **Exhibit 25** is a true and correct copy of a document containing text and associated data for the Mashable article titled "Remove unwanted body hair with light flashes using this handheld IPL device," marked as Exhibit 5 to the July 15, 2026 deposition of Daniel Delorey.

28. Attached as **Exhibit 26** is a true and correct copy of a document containing data records relating to the CNET article titled "Obama proposes end to NSA bulk data collection," marked as Exhibit 6 to the July 15, 2025 deposition of Daniel Delorey.

29. Attached as **Exhibit 27** is a true and correct copy of a document containing data records relating to the PCMag article titled "Qualcomm to Pay $7.5M to Settle Charges of Bribing Chinese Officials," marked as Exhibit 7 to the July 15, 2025 deposition of Daniel Delorey.

30. Attached as **Exhibit 28** is a true and correct copy of a Hollywood Reporter article by Kim Masters, dated November 21, 2017, concerning John Lasseter's leave of absence from Pixar, marked as Exhibit 13 to the July 15, 2025 deposition of Daniel Delorey.

31. **Exhibit 29** is intentionally omitted.

32. Attached as **Exhibit 30** is a true and correct copy of excerpts from the redline Rebuttal Report of Jonathan L. Krein, Ph.D., dated June 23, 2026.

33. **Exhibits 31 and 32** are intentionally omitted.

34. Attached as **Exhibit 33** is a true and correct copy of excerpts from the Rebuttal Report of Sanjay Krishnan, Ph.D., to Dr. Delorey's Opening, dated May 29, 2026.

35. Attached as **Exhibit 34** is a true and correct copy of the signed errata sheet of Sanjay Krishnan regarding the Rebuttal Report to Dr. Delorey's Opening, executed June 2, 2026.

36. Attached as **Exhibit 35** is a true and correct copy of excerpts from the Rebuttal Report of Sanjay Krishnan, Ph.D., to Dr. Goldstein's Opening, dated May 29, 2026.

37. Attached as **Exhibit 36** is a true and correct copy of excerpts from the Corrected Rebuttal Report of Sanjay Krishnan, Ph.D., to Dr. Wenger's Opening, dated May 29, 2026.

38. Attached as **Exhibit 37** is a true and correct copy of excerpts from the Supplemental Report of Sanjay Krishnan, Ph.D., to Dr. Goldstein's Opening, dated August 14, 2026.

39. Attached as **Exhibit 38** is a true and correct copy of a document containing data records relating to the CNET article titled "The legislation behind a national ID," marked as Exhibit 35 to the July 30, 2026 deposition of Sanjay Krishnan, Ph.D.

40. Attached as **Exhibit 39** is a true and correct copy of a document containing data records relating to the Mashable article titled "Apple shares stop trading ahead of bad financial news," marked as Exhibit 41 to the July 30, 2026 deposition of Sanjay Krishnan.

41. **Exhibit 40** is intentionally omitted.

42. Attached as **Exhibit 41** is a true and correct copy of excerpts from the Opening Report of Gregory K. Leonard, Ph.D., dated April 24, 2026.

43. Attached as **Exhibit 42** is a true and correct copy of excerpts from the Rebuttal Report of Gregory K. Leonard, Ph.D., dated May 29, 2026.

44. Attached as **Exhibit 43** is a true and correct copy of excerpts from the Reply Report of Gregory K. Leonard, Ph.D., dated June 26, 2026.

45. Attached as **Exhibit 44** is a true and correct copy of the Opening Report of Antoinette M. Tease, dated April 24, 2026.

46. Attached as **Exhibit 45** is a true and correct copy of the document titled "Wenger Appendix Record," marked as Exhibit 8 to the July 21, 2026 deposition of Emily Wenger, Ph.D.

47. **Exhibit 46** is intentionally omitted.

48. Attached as **Exhibit 47** is a true and correct copy of the document titled "Wenger Appendix Record," marked as Exhibit 10 to the July 21, 2026 deposition of Emily Wenger, Ph.D.

49. Attached as **Exhibit 48** is a true and correct copy of a document containing model inspection outputs and article text, marked as Exhibit 12 to the July 21, 2026 deposition of Emily Wenger, Ph.D.

50. Attached as **Exhibit 49** is a true and correct copy of a document containing article text, training data records, and model outputs, marked as Exhibit 19 to the July 21, 2026 deposition of Emily Wenger, Ph.D.

51. Attached as **Exhibit 50** is a true and correct copy of a screenshot of the “”Site Explorer” page of Bing Webmaster Tools, as captured on September 23, 2026.

52. Attached as **Exhibit 51** is a true and correct copy of a document produced in this action by Microsoft with Bates numbers MSFT_AI_MDL_001716629 to 001716631.

53. Attached as **Exhibit 52** is a true and correct copy of the file “extract_spreadsheet_robots-dot-py 2026-9-3 version” submitted with the materials in support of Dr. Jonathan L. Krein’s Second Supplemental Report served on September 3, 2026.

54. Attached as **Exhibit 53** is a true and correct copy of the Reply Report of Emily Bell, dated June 26, 2026.

55. Attached as **Exhibit 54** is a true and correct copy of “Exhibit TD-077—Training Data Matches,” comparing OpenAI training data with articles from The Denver Post, marked as Exhibit 7 to the deposition of Goldstein taken July 30–31, 2026.

56. Attached as **Exhibit 55** is a true and correct copy of a chart identifying counts by model for The New York Times article “A 1789 Proclamation By Washington,” together with a copy of the article dated November 26, 1987, marked as Exhibit 8 to the deposition of Goldstein taken July 30–31, 2026.

57. Attached as **Exhibit 56** is a true and correct copy of a chart identifying counts by model for The New York Times article "Articles of the Bill of Rights," together with a copy of the article dated December 16, 1955, marked as Exhibit 9 to the deposition of Goldstein taken July 30–31, 2026.

58. Attached as **Exhibit 57** is a true and correct copy of a chart identifying counts by model for the New York Daily News article "I Have a Dream," together with a copy of the article dated April 5, 1998, marked as Exhibit 10 to the deposition of Goldstein taken July 30–31, 2026.

59. Attached as **Exhibit 58** is a true and correct copy of excerpts from the transcript of the deposition of Emily Wenger, Ph.D., taken on July 21, 2026.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 24th day of September, 2026, at San Francisco, California.



Paven Malhotra