UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: OPENAI, INC., COPYRIGHT INFINGEMENT LITIGATION, This Document Relates To: All Actions	:	No. 1:25-md-03143-SHS-OTW **DEPOSITION PROTOCOL ORDER**

This Order governs the conduct of depositions of fact witnesses in the above-captioned multi-district litigation (the "MDL"). Counsel and all parties currently in or added to the MDL shall comply with this Order, and to the extent consistent with this Order, with the applicable Rules of Civil Procedure and the Local Rules of the United States District Court for the Southern District of New York. Unless specifically modified herein, nothing in this Order shall be construed to abrogate the Rules of Civil Procedure or the Local Rules.

1. Overall Deposition Time

a. Plaintiff-Side Allotted Hours

Class Plaintiffs[1] are entitled to 105 hours of deposition time with OpenAI[2] witnesses, exclusive of any deposition time that occurred prior to MDL centralization on April 1, 2025, and exclusive of the Rule 30(b)(6) deposition regarding the Books1 and Books2 addressed at ECF No. 270 at 2. Class Plaintiffs will have 100 hours of deposition time with Microsoft[3] ("MSFT")

[1] "Class Plaintiffs" refers to the plaintiffs in the following actions coordinated in the MDL: *Tremblay v. OpenAI, Inc.* (No. 3:23−03223), *Silverman v. OpenAI, Inc.* (No. 3:23−03416), *Chabon v. OpenAI, Inc.* (No. 3:23−04625), *Authors Guild v. OpenAI Inc.* (No. 1:23-cv-08292), *Alter v. OpenAI Inc.* (No. 1:23-cv-10211), which have been consolidated in the superseding operative complaint titled *Baldacci et al. v. OpenAI, Inc. et al.*, (No. 25-md-3143).

[2] OpenAI witnesses, for the purpose of this deposition protocol, include both current and former employees of OpenAI Defendants.

[3] Microsoft witnesses, for the purpose of this deposition protocol, include both current and former

witnesses, exclusive of the time spent on the Rule 30(b)(6) deposition regarding particular datasets addressed at ECF No. 270 at 2. Class Plaintiffs will have a maximum of 50 hours of deposition time with non-party (and non-former-employee) witnesses.

News Plaintiffs[4] are entitled to 130 hours of deposition time with OpenAI witnesses, exclusive of any deposition time that occurred prior to MDL centralization on April 1, 2025. News Plaintiffs will have 112 hours of deposition time with Microsoft witnesses. News Plaintiffs will have a maximum of 64 hours of deposition time with non-party (and non-former-employee) witnesses.

b. Defendant-Side Allotted Hours

Defendants are entitled to 110 hours of deposition time with named Class Plaintiffs.[5]

Defendants are entitled to the following deposition time with each News Plaintiff: 1) 112 hours with New York Times ("NYT") witnesses; 2) 100 hours with New York Daily News ("NYDN") witnesses; 3) 70 hours with each of CIR witnesses, Intercept witness, and Ziff Davis witnesses[6]; and 4) presumptively, 70 hours with any additional News Plaintiff group that joins the

employees of Microsoft Defendants.

[4] "News Plaintiffs" refers to the plaintiffs in the following actions coordinated in the MDL: *The New York Times Company v. Microsoft Corp.* (No. 1: 23-cv-11195); *Daily News, LP et al. v. Microsoft Corp.* (No. 1:24-cv-3285); *The Intercept Media, Inc. v. OpenAI, Inc.* (No. 1:24-cv 01515); *The Center for Investigative Reporting, Inc. v. OpenAI, Inc.* (No. 1:24-cv-04872); *Ziff Davis, Inc., v. OpenAI Inc.* (25-cv-0501) (D. Del.).

[5] The parties originally agreed upon 180 hours for Defendants' depositions of Class Plaintiffs, with agreed-upon upward and downward adjustments by 3.5 hours for each named plaintiff added or withdrawn. Class Plaintiffs subsequently filed their Consolidated Class Action Complaint which, among other things, withdrew 27 named plaintiffs from the case, which resulted in 70 fewer hours for Defendants' depositions of Class Plaintiffs. Given that change, Defendants reserve the right to seek leave for additional time to depose such witnesses, outside of the caps addressed herein, if necessary and for good cause shown. Plaintiffs reserve the right to oppose any request for additional time.

[6] The parties had previously agreed to 70 hours for Ziff Davis. Ziff Davis filed an amended complaint on July 3, 2025 adding additional entity plaintiffs. Defendants seek additional deposition hours with Ziff Davis on that basis. Ziff Davis opposes the request for additional hours. The parties are meeting and conferring and will seek relief from the Court if they cannot reach

MDL.[7]

Defendants will have a maximum of 50 hours of deposition time with non-party (and non-former employee) witnesses in the Class cases and 50 hours of deposition time with non-party (and non-former employee) witnesses in the News cases.

c. Per Witness time- Rule 30(b)(1)

Microsoft and OpenAI will be subject to a maximum of 11 hours per-witness of Rule 30(b)(1) deposition time if the deposition is noticed in both News and Class cases. Otherwise, Microsoft and OpenAI will be subject to the standard 7-hour limit per witness.

For Rule 30(b)(1) witnesses also designated as Rule 30(b)(6) witnesses the parties will confer in good faith to negotiate a total amount of deposition time for each witness; there is not a presumption that any witness will be subject to 7 additional hours for Rule 30(b)(6) testimony on top of the cap set forth above.

For former employees and third-party depositions where the witness is outside the subpoena of the Court such that the deposition is being taken for trial purposes, the parties will negotiate in good faith on a witness-by-witness basis. For former employee witnesses and third-parties, the Parties' agreement on total time is subject to the witnesses' assent.

d. Rule 30(b)(6) Time

Rule 30(b)(6) hours are included in the allocated hours cap for each Party set forth in Part 1(a), 1(b).

Total Rule 30(b)(6) deposition hours for each party is as follows: (1) Minimum of 17 hours (assuming good faith need for those minimum hours) for all parties other than Author's Guild and

resolution.

[7] For the purpose of this deposition protocol, the caps for each News Plaintiff includes both current and former employees of the News Plaintiff.

Loan-Out companies in the Class Cases; (2) Maximum of 25 hours for OpenAI[8], MSFT,[9] NYT, CIR, and Intercept witnesses and Ziff Davis witnesses[10]; 3) Maximum of 44 hours for NYDN witnesses; 4) Maximum of 7 hours per witness for Author's Guild and any other Class Plaintiff entity. The parties may apply for additional time under Rule 30(d).

2. Deposition Notices

a. Deposition Notices

All Parties agree to negotiate a deposition scheduling protocol to ensure compliance with the Federal Rules and so all parties receive proper notice of any upcoming deposition.

b. Deposition Subpoenas

All deposition subpoenas will be served on all Parties simultaneously with service on the witness, including that Microsoft will receive notice of all depositions subpoenaed in any case to which it is not a party if joined or cross-noticed by any Plaintiff in a case in which Microsoft is a party.

c. Rule 30(b)(6) Notices

The Parties will provide consolidated draft 30(b)(6) notices prior to commencement of depositions of the party receiving the notice, with the specific timing set forth below or to be agreed. News Plaintiffs will serve a consolidated notice on each of OpenAI and Microsoft. Class

[8] This cap is exclusive of any Rule 30(b)(6) deposition time that already occurred and exclusive of any Rule 30(b)(6) deposition time regarding the Books1 and Books2 addressed at ECF No. 270 at 2.

[9] This cap is exclusive of the time spent on the Rule 30(b)(6) deposition regarding particular datasets addressed at ECF No. 270 at 2.

[10] The parties had previously agreed to 25 hours for Ziff Davis. Ziff Davis filed an amended complaint on July 3, 2025 adding additional entity plaintiffs. Defendants seek additional deposition hours with Ziff Davis on that basis. Ziff Davis opposes the request for additional hours. The parties are meeting and conferring and will seek relief from the Court if they cannot reach resolution.

will serve a consolidated notice on each of OpenAI and Microsoft. Defendants will serve a consolidated notice on each Plaintiff party.

OpenAI and Microsoft will serve a draft Rule 30(b)(6) notice on each of NYT and NYDN by July 31, 2025. News Plaintiffs will provide updates, if any, to the draft Rule 30(b)(6) notices already served on OpenAI and Microsoft in March 2025, by July 31, 2025.

3. Document and Deposition Production

a. Timing of Document Production for Depositions

Production of documents relevant to a particular witness or Rule 30(b)(6) topic must be substantially complete at least 14 days before the scheduled deposition.

b. Production of Deposition Transcripts

All transcripts of depositions taken pursuant to this deposition protocol will be provided to the opposing parties in all cases that are part of the MDL, with the following exceptions for Microsoft, Ziff Davis and the Intercept: deposition transcripts of Microsoft depositions taken pursuant to this deposition protocol will be provided in the cases that are part of the MDL and to which Microsoft is a party. Other parties to this MDL seeking to obtain those Microsoft transcripts may do so through standard means, all objections by Microsoft preserved. And, Ziff Davis and Intercept will not be required to provide deposition transcripts of their witness to Microsoft. Microsoft may seek to obtain those transcripts through standard means, all objections reserved.

4. Document and Deposition Use Across MDL

a. Use of Documents

Use of documents across the MDL will be governed by the Protective Order in this MDL.

b. Use of Depositions

Depositions taken pursuant to this deposition protocol can be used in any of the cases in

which the deponent's current or former employer is a party. Parties seeking to use depositions in cases in which the deponent is not a party may do so through standard means, all objections reserved.

5. Reservation of Rights

All Parties reserve the right to move the Court for additional deposition time beyond these limits for good cause shown.

All objections are reserved, including but not limited to objections that depositions may be unnecessary, irrelevant, or duplicative.

Standard rules and procedures for apex witnesses will govern and be individually addressed, including whether the witness qualifies as an apex witness.

IT IS SO ORDERED.

DATE: July __, 2025

Hon. Ona T. Wang
United States District Magistrate Judge