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October 1, 2025

Hon. Sidney H. Stein
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

In re OpenAI, Inc., Copyright Infringement Litigation, 25-md-03143 (SHS) (OTW)
This Document Relates To: Case Nos. 1:23-cv-11195; 24-cv-03285; 24-cv-04872

Dear Judge Stein:

I write on behalf of Plaintiffs The New York Times Company ("The Times"), the Daily News Publishers, and the Center for Investigative Reporting (together, "News Plaintiffs") concerning the upcoming October 8, 2025 hearing. *See* Dkt. 605.[1] In the interests of judicial economy and moving these cases forward efficiently, The Times respectfully requests to be heard on two issues at that hearing. Microsoft opposes this request.

Oct 3 2025

First, to the extent it will be helpful to the Court, The Times requests to be heard on its pending motion to strike Microsoft's express license affirmative defense, Dkt. 295, which is fully briefed, *see* Dkts. 296, 346, 361. The Court's order on this motion will guide the resolution of existing disputes between the parties about which contracts, if any, are subject to discovery before fact discovery closes on February 28, 2026. The Times proposes the parties be granted ten minutes of argument time—five minutes per side.

application granted

Similarly, News Plaintiffs request ten minutes of argument time (five minutes per side) on Microsoft's motion to strike portions of the Consolidated Class Action Complaint, which is

application denied. News Plaintiffs are not parties to this motion.

Oct 3, 2025 so ordered
S. Judge USDJ

[1] All references to the docket refer to the MDL docket unless otherwise noted. *See* 25-md-03143.

scheduled to be heard on October 8. Dkt. 326. A core question raised by that motion is whether Microsoft Copilot is a product that is already at issue in the class case, which begs the question, whether and how Copilot is a product that is already at issue in News Plaintiffs' cases. It is the latter point we seek to address.

Although News Plaintiffs are not parties to this motion, Microsoft has argued that the motion impacts News Plaintiffs' longstanding request for discovery into all versions of Microsoft Copilot. *See* Times Dkt. 487 (News Plaintiffs' March 31, 2025 motion to compel); Dkt. 372 (News Plaintiffs' July 28, 2025 supplemental motion to compel); Dkt. 549 (News Plaintiffs' September 9, 2025 second supplemental motion to compel). At the most recent discovery hearing, counsel for Microsoft claimed that this discovery dispute, between News Plaintiffs and Microsoft, "is implicated by the motion to strike" that Microsoft filed in the class case. Sept. 25, 2025 Hearing Tr. at 7:7-13. Magistrate Judge Wang thereafter denied News Plaintiffs' discovery motion, without prejudice, "until after Judge Stein has ruled on the pending motions to stay, and/or strike." Dkt. 612 at 1. Given Microsoft's position, News Plaintiffs respectfully seek limited argument time at the October 8 hearing to explain how their requested discovery is consistent with their pleadings, which include numerous allegations about the Copilot product. *See, e.g.*, Dkt. 72 (Times Complaint) ¶¶ 2, 11, 72, 95, 102, 108, 112-16, 171); Daily News Dkt. 1 (Daily News Complaint) ¶¶ 1, 16, 69, 114, 118-41; CIR Dkt. 88 (CIR Complaint) ¶¶ 4, 48, 52, 79, 81-82, 90-92, 100-07.

Respectfully,

/s/ Davida Brook
Davida Brook
Susman Godfrey LLP
Counsel for The New York Times Company
News Plaintiffs' Liaison Counsel

cc: All Counsel of Record (via ECF)