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November 18, 2025

VIA ECF

Hon. Ona T. Wang
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007

RE: *In re OpenAI, Inc. Copyright Infringement Litigation* (No. 1:25-md-03143) This document relates to the following Class Cases: Case No. 1:23-cv-08292, Case No. 1:23-cv-10211, Case No. 1:24-cv-00084, Case No. 1:25-cv-03291, Case No. 1:25-cv-03482, Case No. 1:25-cv-03483.

Dear Judge Wang:

On October 30, 2025, the Court denied without prejudice Class Plaintiffs' motion to compel OpenAI to engage in a re-review of privileged documents pursuant to the Court's October 1, 2025 Order. ECF 715 at 2-3. The Court also directed the parties "to continue meeting and conferring on OpenAI's rolling privilege re-review in light of [the Court's] October 1 Opinion and Order and to discuss prioritization of OpenAI's privilege re-review." *Id.* (citation omitted). During the discovery hearing the prior day, the Court urged OpenAI to conduct its re-review quickly:

> I'm not going to order a timeline, but you all should be putting people on it, okay? I'm looking at OpenAI there. Don't delay. I don't want this to be another issue that we're talking about a month from now.

October 29, 2025 Hearing Tr. at 31.

Class Plaintiffs write the Court to update the Court on the progress of OpenAI's re-review of privilege documents. Class Plaintiffs followed up on the Court's instructions from the discovery hearing on November 3, 2025, requesting that, by November 5, OpenAI complete its re-review of 114 documents that Class Plaintiffs had originally identified for re-review on October 8. Exhibit 1

at 1. Class Plaintiffs also requested that OpenAI "prioritize re-review of (1) any entries involving shadow libraries (including Library Genesis), (2) any entries involving piracy, and (3) any entries involving regurgitation." *Id.* On November 5, Class Plaintiffs followed up again and asked OpenAI to prioritize the following:

- entries involving the acquisition of news content;
- entries concerning paywalls and bypassing paywalls;
- entries involving books; and
- entries regarding memorization or regurgitation of news content.

Exhibit 2 at 1.

OpenAI first responded on November 6 and indicated that they still had not finished reviewing even the 114 documents Class Plaintiffs had inquired about on October 8. On a subsequent meet and confer, OpenAI stated that it would not complete its re-review of the priority documents identified above until early December.

It has now been 48 days since the Court ruled that the majority of a set of documents reviewed by the Court, which was a sample of documents that OpenAI had withheld as privileged, were in fact **not privileged**. ECF 618 at 14. At the current rate of re-review, with the resources that OpenAI is dedicating to this project, OpenAI will not re-review the more than 3,000 documents that OpenAI withheld as privileged until early February (less than a month before the close of fact discovery). Documents that OpenAI wrongfully withheld, using the same approach they applied to the documents that the Court reviewed *in camera*, will not be re-reviewed and produced by OpenAI until after all or most of the depositions of the OpenAI employees who wrote and received those documents. The Court's intervention is necessary to ensure OpenAI reviews these documents without further delay.

Class Plaintiffs would have moved to compel production of the priority documents. But OpenAI's promise of "early December" would moot Class Plaintiffs' motion if OpenAI abides by its promise. As a result, Class Plaintiffs seek only an opportunity to provide an update to the Court on the progress of OpenAI's re-review of privileged documents and request that OpenAI provide an update on when their re-review of all the documents they withheld on the basis of privilege will be complete.

Sincerely,

/s/ Justin A. Nelson
Susman Godfrey, LLP
Interim Lead Class Counsel