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November 21, 2025

VIA ECF

Honorable Ona T. Wang
United States District Court
500 Pearl Street
New York, NY 10007

Re: *In re OpenAI, Inc., Copyright Infringement Litigation*, 25-md-3143 (SHS) (OTW)
This Document Relates To: 23-cv-11195; 24-cv-03285; 24-cv-04872
Microsoft's Response to the News' Plaintiffs Motion on Bing Chat Click-Through-Rate Data (ECF 765)

Dear Magistrate Judge Wang:

Microsoft has diligently and in good faith collected and reviewed more than a million documents and has produced hundreds of thousands of documents in response to News Plaintiffs' document requests. Among these documents, Microsoft has produced detailed search performance data concerning traffic from Bing (including Bing Chat) to News Plaintiffs' websites as well as documents related to a [redacted] Microsoft has investigated [redacted] However, to date, it has not found the [redacted] data News Plaintiffs have requested. Microsoft's investigation is continuing, but in the meantime, it cannot produce data that it does not have. The motion to compel should be denied.

I. Microsoft Has Produced Exhaustive Bing Chat Clickthrough Data

Microsoft produced no fewer than a dozen detailed Excel spreadsheets showing [redacted] Both these aggregated data sets and News Plaintiffs' own website analytics data[2] allow News Plaintiffs to assess whether there has been reduced traffic to their websites from Bing. The News Plaintiffs' silence in their motion concerning this data speaks volumes. Indeed, this data shows [redacted] demonstrating that the Times's traffic from Bing (including Bing Chat) [redacted]

[1] "Impressions" are the "[n]umber of times a link to [a] website showed up in different places on Bing," and "clicks" are the "[n]umber of times a link to [a] website was clicked from different places on Bing." Help - Bing Webmaster Tools, https://www.bing.com/webmasters/help/search-performance-c680da36 (last visited Nov. 21, 2025).

[2] News Plaintiffs have their own extensive analytics data that monitors traffic to their own websites. That is, News Plaintiffs already have data that informs them if traffic to their sites is increasing or decreasing.

[redacted]

Ex. A (MSFT_AI_MDL_002758521) (line chart created by counsel using data in columns A and B).

Microsoft also has searched for and produced documents [redacted] As Microsoft's witnesses explained, [redacted] And while Microsoft disagrees about the relevance of the exhibits submitted by News Plaintiffs—[redacted]—it nevertheless produced them.

II. Microsoft Searched Extensively For, and Has Not Found, [redacted] Necessary to Generate the Additional Bing Chat CTR Data News Plaintiffs Have Requested

Microsoft does not concede the relevance of Bing Chat CTR data. Nevertheless, at News Plaintiffs' request, Microsoft has undertaken extensive efforts to investigate whether it has [redacted] Microsoft has expended substantial time since this litigation began and over the last several months analyzing the fields in the various views for Bing Chat log data and conducting numerous interviews to attempt to locate the data necessary to generate the requested Bing Chat CTR. The investigation has involved Microsoft's outside and in-house counsel, consulting data experts, and at least 10 Microsoft employees with knowledge of Bing and Bing Chat data. Despite Mr. Manivannan's testimony that [redacted], and despite [redacted], Microsoft has not been able to locate [redacted] And, as News Plaintiffs explained (ECF 765 at 1), that data is essential because the number of times a link was clicked is the numerator in a click-through rate. In other words, the click-through rate cannot be calculated without data regarding the number of times a link was clicked.

There is no dispute to resolve at this time. As explained to News Plaintiffs the day before the motion was filed:

> [W]e have not been able to locate raw click data from which to 'generate or derive' disaggregated CTR data for Bing Chat. Without such data, Microsoft cannot generate or derive the requested disaggregated CTR data for Bing Chat. We are continuing to investigate and will let you know if such data is located.

Ex. 8 at 2.

Microsoft has exhaustively investigated [redacted] That said, Microsoft continues to investigate whether particular custodians could potentially have access to some possible [redacted] If found, Microsoft will coordinate with News Plaintiffs to provide [redacted]

But, News Plaintiffs' current demand that Bing Chat CTR data from [redacted] be produced within ten days of the discovery conference is unreasonable and, frankly, not possible. As Mr. Manivannan explained, [redacted] Instead, if the [redacted] is located, Microsoft and the News Plaintiffs should confer regarding the technical efforts to create and run a suitable script over a lengthy time period of data and the likely extensive amount of time required to access and process such data.

For these reasons, Microsoft respectfully requests that the Court deny News Plaintiffs' letter motion in full and order that the parties further meet and confer regarding any disputes related to production of CTR data if located.

Respectfully submitted,

/s/ Annette L. Hurst
Annette L. Hurst

Respectfully submitted,

/s/ Jared B. Briant
Jared B. Briant

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