KEKER VAN NEST & PETERS LATHAM & WATKINS LLP MORRISON FOERSTER

November 25, 2025

VIA ECF

Hon. Ona T. Wang
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

cc: *All Counsel of Record (via ECF)*

Re: ***OpenAI's Request for Stay Pending Rule 72 Objection to ECF 846***; *In re OpenAI Copyright Infringement Litigation*, No. 1:25-md-03143-SHS-OTW. This document relates to Case Nos. 1:25-md-03143-SHS-OTW; 1:23-cv-08292-SHS-OTW; 1:23-cv-10211-SHS-OTW; 1:24-cv-00084-SHS-OTW; 1:25-cv-03291-SHS-OTW; 1:25-cv-03482-SHS-OTW; 1:25-cv-03483-SHS-OTW.

Dear Magistrate Judge Wang:

OpenAI respectfully requests that the Court stay enforcement of the deadlines regarding the production of documents withheld as privileged and depositions of OpenAI in-house lawyers regarding privileged matters as described in the Court's November 24, 2025 Order (ECF 846 at 27–28). Pursuant to Rule 72 of the Federal Rules of Civil Procedure, OpenAI intends to object to the Court's Order.

Production of privileged documents or testimony about privileged subjects before Judge Stein has had the opportunity to review the Order would render such review meaningless and OpenAI's privilege would have been eviscerated before Judge Stein will have had the opportunity to address the issues. Under such circumstances, a stay—which must consider any irreparable harm to OpenAI—is appropriate. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987) (irreparable injury to applicant who seeks a stay is a relevant factor); *In re von Bulow*, 828 F.2d 94, 98 (2d Cir. 1987) (holding, in mandamus context, that "an order that information be produced that brushes aside a litigant's claim of a privilege not to disclose, leaves only an appeal after judgment as a remedy" and "is inadequate at best" because "[c]ompliance with the order destroys the right sought to be protected"); *Skillz Platform Inc v. AviaGames Inc.*, 2023 WL 7283886, at *2 (N.D. Cal. Nov. 2, 2023) (granting stay pending resolution of Rule 72 objection where movant was required "to produce documents that it claims are subject to the attorney-client privilege").

Therefore, OpenAI respectfully requests that the Court stay its Order pending Judge Stein's ruling on OpenAI's forthcoming Rule 72 objection.

Respectfully,

KEKER, VAN NEST & PETERS LLP[1]

/s/ R. James Slaughter
R. James Slaughter

LATHAM & WATKINS LLP

/s/ Margaret Graham
Margaret Graham

MORRISON & FOERSTER LLP

/s/ Rose Lee
Rose Lee

[1] All parties whose electronic signatures are included herein have consented to the filing of this document.