

STONE MAGNANINI

COMPLEX LITIGATION

September 14, 2026

VIA ECF

The Honorable Paul A. Engelmayer
United States District Court
for the Southern District of New York
40 Foley Square, Room 2201
New York, NY 10007

Re: Hobbs, et al. v. Meta Platforms, Inc., et al., 1:26-cv-04314-PAE

Dear Judge Engelmayer:

We represent the parties in the above-captioned action. Attached please find a Civil Case Management Plan and Proposed Scheduling Order submitted on behalf of all parties. This matter is scheduled for an initial pretrial conference on Friday, September 18, 2026, at 2:30 p.m. Pursuant to the Court's Notice of Initial Pretrial Conference, entered August 27, 2026, the parties have met and conferred and submit this joint letter addressing the nature and history of the case, contemplated motions, and the prospect of settlement.

1. Description of the Case

A. Plaintiffs

This action arises from Defendants' alleged unauthorized copying, acquisition, distribution, and use of Plaintiffs' copyrighted books, including but not limited to in connection with the development and training of Meta Platforms, Inc.'s Llama large language models. Plaintiffs allege that Meta obtained hundreds of thousands, and potentially millions, of copyrighted books from pirate repositories, including LibGen and Anna's Archive, rather than licensing the works from copyright holders. Plaintiffs further allege that Meta employees downloaded and torrented massive quantities of copyrighted works, including more than 267 terabytes of material, and removed copyright-management information and took other steps to conceal the provenance and unauthorized nature of the materials. Plaintiffs further assert that in the process of "torrenting" the copyrighted books, defendants uploaded versions of those books to third parties. Plaintiffs assert claims under the Copyright Act and Digital Millennium Copyright Act, as well as New York common-law claims based on alleged unfair competition, conversion, and unjust enrichment. Plaintiffs further allege that Meta and Mark Zuckerberg knowingly participated in, induced, or materially contributed to the alleged infringement.

Meta has answered the Complaint. Defendant Mark Zuckerberg has moved to dismiss the claims asserted against him and Plaintiffs have informed counsel, and now inform the Court, that they will amend the Complaint in response to that motion. Plaintiffs have also voluntarily dismissed without prejudice Guillaume Lample and Joelle Pineau as defendants, although allegations concerning their conduct remain relevant to Plaintiffs' claims against Meta and Zuckerberg. Plaintiffs intend to file an amended complaint on or before September 16, 2026. The parties have begun meeting and conferring productively concerning discovery and have agreed that discovery should proceed pursuant to a phased plan, subject to the Court's determination of the appropriate schedule and the resolution of any venue issues discussed below.

The parties propose an initial phase of discovery focused on the individual Plaintiffs, including document requests and interrogatories concerning, among other things, the alleged copying, torrenting, and uploading of copyrighted works, together with production of documents from related matters to the extent they concern Plaintiffs or their claims. Following Plaintiffs' review of those materials and existing productions in related cases, the parties would meet and confer concerning a second limited phase of additional discovery and would propose a timeline for that discovery to the Court at the appropriate time.

The parties are also conferring concerning ESI and confidentiality. Defendants have provided Plaintiffs with proposed ESI and confidentiality-order templates, including protocols used in related matters, and Plaintiffs will be providing proposed revisions. The parties further anticipate meeting and conferring on whether additional custodians are needed considering the substantial volume of information produced in prior related matters. The parties will assess whether any additional custodians are required considering relevance, reasonableness, proportionality and other rules of discovery.

Meta explains below that it views litigating summary judgment on the named Plaintiffs' individual claims before even beginning class discovery as the more efficient approach to the case. Plaintiffs disagree. The parties did not discuss the timing of summary judgment motions vis-à-vis class discovery in their recent meet and confer. Nonetheless, engaging in class discovery concurrently with merits discovery would be the most efficient use of the parties' and the Court's resources because there is substantial overlap between the discovery relevant to Plaintiff's individual claims and the issues that will be relevant to class certification. In particular, discovery concerning Meta's acquisition, use, and treatment of copyrighted works, the development and training of its Llama models, and the defenses and issues common to the putative class is likely to be relevant both to Plaintiffs' individual claims and to the certification inquiry. Delaying class discovery until after summary judgment on the named Plaintiffs' claims could therefore result in duplicative discovery, unnecessary delay, and additional expense if Plaintiffs' claims survive summary judgment. Plaintiffs accordingly believe that merits and class discovery should proceed concurrently, subject to appropriate limitations and proportionality considerations. Plaintiffs' reserve the right to brief this issue to the extent that the parties cannot reach an agreement on it pending further discussion.

B. Meta

Meta is a technology company focused on developing services that help people connect, communicate, and build communities, such as Facebook, Instagram, Threads, and WhatsApp. Meta's development of its Llama line of large language models ("LLMs") began in 2022 as a research project focused on creating an LLM to assist with proving mathematical theorems. Between 2023 and 2025, Meta released a series of Llama models labeled Llama 1 through 4 to innovate and deliver new technologies, products, and services to the public.

Meta's LLMs are an extraordinary technology capable of providing human-like responses to user prompts. To achieve this functionality, certain of Meta's LLMs were trained on trillions of tokens consisting of individual words and letter combinations found in myriad data, including source code, websites, books, scientific articles, and other sources. This process extracts and converts grammatical, syntactical, and other patterns and information from the training corpus into billions of numerical weights that define relationships between all tokens in the datasets. After being trained on vast and varied data, LLMs can use the building blocks of language in remarkable ways, including to generate creative text, solve mathematical theorems, predict protein structure, answer reading comprehension questions, and more.

Meta denies that it is liable for any alleged violation of Plaintiffs' rights that may have occurred during the process of sourcing data to train certain of its LLMs and/or during the training and development of certain of its LLMs. Additionally, to the extent that Meta made use of Plaintiffs' works in the process of researching, training, and developing its LLMs, such use was fair as a matter of law.¹ Meta also denies that Plaintiffs have been injured by any alleged copyright infringement; if infringement were to be established, Meta reserves all rights to respond to any arguments by Plaintiffs with respect to entitlement to, and/or the amount of, any actual or statutory damages.

Meta also denies that it intentionally removed Copyright Management Information ("CMI") from any training data for the purpose of concealing copyright infringement. Although Meta ran scripts that removed CMI from training data alongside other repetitive text, that removal was in accordance with industry standard procedures to improve performance, not a means of concealing any alleged copyright infringement. Finally, Meta denies that Plaintiffs and the putative class are entitled to any relief for their unfair competition, conversion, and unjust enrichment claims. Meta also views these claims as potentially preempted by Plaintiffs' copyright claims.

As set forth below, Meta anticipates moving for summary judgment. Meta views litigating summary judgment on the named Plaintiffs' individual claims before litigating class certification and engaging in discovery relevant to class certification as the most efficient approach to the case. Such an approach would preserve the resources of the parties and the Court by limiting potentially overbroad and unnecessary discovery and crystallizing the issues in dispute at the class certification stage if any of Plaintiffs' claims survive summary judgment. *See, e.g., Authors Guild,*

¹ *See Kadrey v. Meta Platforms, Inc.*, 788 F. Supp. 3d 1026 (N.D. Cal. 2025); *Google LLC v. Oracle Am., Inc.*, 141 S. Ct. 1183, 1196 (2021); *see also Perfect 10, Inc. v. Amazon.com, Inc.*, 508 F.3d 1146 (9th Cir. 2007); *Sega Enterprises Ltd. v. Accolade, Inc.*, 977 F.2d 1510 (9th Cir. 1992); *Authors Guild v. Google Inc.*, 805 F.3d 202 (2d Cir. 2015); *Authors Guild, Inc. v. HathiTrust*, 755 F.3d 87 (2d Cir. 2014).

Inc. v. Google Inc., 721 F.3d 132, 134-35 (2d Cir. 2013) (vacating a grant of class certification made before the court had adjudicated the issue of fair use because “the resolution of [defendant’s] fair use defense in the first instance will necessarily inform and perhaps moot our analysis of many class certification issues”). Discovery relevant to class certification—such as discovery on the typicality of the claims of the class members—would sweep more broadly than discovery on Plaintiffs’ individual claims and would be more efficient after summary judgment. As just one example, discovery on the fourth factor of Meta’s fair use defense would require Meta to issue extensive third-party subpoenas to putative class members about the market for their works. This discovery would not be relevant to, or overlap with, Plaintiffs’ individual claims.

C. Mr. Zuckerberg

Mr. Zuckerberg is the Chief Executive Officer of Meta and is named as an individual defendant in this action. Plaintiffs allege that Mr. Zuckerberg knowingly participated in, induced, or materially contributed to the alleged infringement of Plaintiffs’ copyrighted works. Mr. Zuckerberg has moved to dismiss all claims asserted against him. Plaintiffs have indicated they intend to amend the Complaint, which will render that motion moot. Mr. Zuckerberg anticipates filing a motion to dismiss in response to the amended complaint. If Mr. Zuckerberg’s motion to dismiss is not granted, Mr. Zuckerberg anticipates moving for summary judgment at the appropriate time.

Mr. Zuckerberg joins in Meta’s positions concerning fair use, venue, and the proposed phased discovery plan to the extent applicable, while reserving his right to assert additional defenses specific to his individual liability.

2. Contemplated Motions

Plaintiffs intend to file an amended complaint on or before September 16, 2026, which will supersede the current Complaint and render Defendant Zuckerberg’s pending motion to dismiss moot. Plaintiffs do not presently anticipate filing any other motions. To the extent Plaintiffs’ claims in the Amended Complaint mirror their current claims, Meta anticipates moving for summary judgment at the appropriate time. Mr. Zuckerberg anticipates filing a motion to dismiss in response to Plaintiffs’ amended complaint. Mr. Zuckerberg also anticipates moving for summary judgment at the appropriate time if his motion to dismiss is not granted.

The parties note, however, that a motion to transfer venue is currently pending in the action *Elsevier, Inc. v. Meta Platforms, Inc.*, Case No. 1:26-cv-03689-PKC (S.D.N.Y), which raises overlapping claims, and is scheduled for argument on September 15, 2026. Defendants have advised that, if the motion is granted, they anticipate also moving to transfer this action to the Northern District of California. Plaintiffs currently wish to proceed with their case in this Court but have agreed to meet and confer on the issue following the Court’s ruling in *Elsevier*.

The parties’ respective positions concerning whether discovery should proceed while the transfer issue is pending are set forth in the proposed Civil Case Management Plan and Proposed Scheduling Order submitted with this letter.

3. Prospect of Settlement

The parties have not yet engaged in settlement discussions. Plaintiffs remain open to discussing a resolution, but believe that formal settlement discussions are unlikely to be productive at this time given that the case is presently at the motion-to-dismiss stage, discovery has not yet commenced, and the parties' positions concerning venue and the scope and sequencing of discovery remain unresolved. Defendants likewise believe that the parties would benefit from further development of the factual and legal record before engaging in formal settlement discussions. The parties remain open to revisiting settlement as the case develops and as the parties obtain a better understanding of the factual and legal issues.

Respectfully submitted,

/s/ Eric Cohen

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