

July 1, 2024

**VIA ECF**

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

**Re: *The New York Times Company v. Microsoft Corp., et al., Case No. 1:23-cv-11195-SHS***

Dear Judge Stein:

Pursuant to Rule 2(G) of Your Honor’s Individual Practices, Defendant OpenAI respectfully requests an informal discovery conference to address The New York Times’s (“the Times”) refusal to produce critical discovery regarding the creation, registration, and ownership of the copyrighted works it has put at issue.<sup>1</sup> Discovery into those copyrighted works is directly relevant both to the Times’s claim of copyright infringement and to OpenAI’s defenses (such as fair use, which looks at, *inter alia*, various aspects of the works at issue). The Times can only assert infringement over those portions of the works that are (a) original to the author, and (b) owned or exclusively licensed to the Times. *See John Wiley & Sons, Inc. v. DRK Photo*, 882 F.3d 394, 410 (2d Cir. 2018); *Feist Publications, Inc. v. Rural Tel. Serv.*, 499 U.S. 340, 348 (1991). OpenAI’s requests target precisely those issues, and the Times should be ordered to satisfy them.

**1. The Times should be ordered to provide discovery showing the copyrighted works are original works of authorship.**

**Source of Creation (RFP 12).** Copyright protection extends “only to those components of a work that are original to the author.” *Feist*, 499 U.S. at 348. In other words, the Times cannot pursue a claim for infringement over any part of a copyrighted work that is not original to the Times, as would be the case if the Times copied another’s work or elements in the public domain. *See Wozniak v. Warner Bros. Ent. Inc.*, No. 22-cv-8969, 2024 WL 1311856, at \*15 (S.D.N.Y. Mar. 27, 2024) (“The copyright in a . . . derivative work extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work[.]” (quoting 17 U.S.C. § 103(b)); *Hines v. BMG Rts. Mgmt. (US) LLC*, No. 20-cv-3535, 2023 WL 6214264, at \*4–6 (S.D.N.Y. Sept. 25, 2023) (elements borrowed from the public domain are not protectable). Accordingly, the Court should order the Times to produce documents sufficient to show what portions of the asserted works are original to the Times and what are not.

OpenAI seeks precisely these documents through **RFP 12**, which requests “documents sufficient to show each and every written work that informed the preparation of each of Your Asserted Works, regardless of its length, format, or medium.” That information is necessary to determine whether and to what extent the Times is pursuing claims for infringement of works that

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<sup>1</sup> The parties conferred regarding the disputes addressed herein by videoconference on May 6, 2024, and by written correspondence both before and after the videoconference. The parties’ conferral efforts were unsuccessful.

are not protected, in part or in full, by copyrights the Times owns. *See Earth Flag Ltd. v. Alamo Flag Co.*, 153 F. Supp. 2d 349, 353 (S.D.N.Y. 2001) (“Although derivative works are protectable, copyright protection extends only to the non-trivial, original contributions of the derivative work’s author.”). Such discovery is also relevant to other assertions the Times has made, including those regarding *how* the Times created the works at issue. The Times alleges, for example, that “[t]o produce world-class journalism,” it “invests an enormous amount of time, . . . expertise, and talent,” including through “deep investigations—which usually take months and sometimes years to report and produce—into complex and important areas of public interest.” Compl. ¶¶ 32–33; *see also id.* ¶¶ 34–37. Having chosen to put directly at issue *how* the Times created the works at issue—including the methods, time, labor, and investment—OpenAI has a right to discovery into the same. The Times refuses to produce discovery in response to this request, instead “standing on its [largely boilerplate] objections.” Dkt. 124-5 at 8. Those objections are meritless.

*First*, the Times says the Request is “overbroad and unduly burdensome to the extent that it seeks material not relevant to any party’s claims or defenses.” Ex. 1 at 12. “This language tells the Court [and OpenAI] nothing,” *Fischer v. Forrest*, No. 14-cv-1304, 2017 WL 773694, at \*3 (S.D.N.Y. Feb. 28, 2017), and does not support the refusal to produce relevant, responsive discovery, *id.* Moreover, OpenAI’s requests are narrowly tailored to documents “sufficient to show” the materials that informed the works at issue. *Second*, the Times “objects to the terms ‘written work,’ ‘informed the preparation,’ ‘format,’ and ‘medium,’ as vague and ambiguous.” That objection strains credulity. Any ambiguity was resolved during the parties’ conferrals when OpenAI explained that it was seeking “underlying reporter’s notes, interview memos, records of materials cited, or other ‘files’ for each asserted work.” Dkt. 124-5 at 9.

*Finally*, the Times objected “to the extent [the Request] seeks material protected by the reporters’ privilege pursuant to the First Amendment of the U.S. Constitution or the New York Shield Law, N.Y. Civ. Rights § 79-h.” The Times separately, however, agreed “to notify OpenAI if issues regarding the reporters’ privilege affects the Times’s willingness to search for and review any category of documents.” Dkt. 124-5 at 8. It has not done so with respect to RFP 12. But if that is the basis of the Times’s objection, it is unavailing. To begin with, the New York Shield Law does not apply because this case does not involve a claim under state law. *See Giuffre v. Maxwell*, 221 F. Supp. 3d 472, 475 (S.D.N.Y. 2016). And the reporters’ privilege under federal law does not justify withholding the materials at issue here because they (i) are of likely relevance to a significant issue in the case—whether the Times is asserting copyright protection over works or portions thereof in which it does not have a copyright—and (ii) are not reasonably obtainable from other available sources. *Gonzales v. Nat’l Broad. Co.*, 194 F.3d 29, 36 (2d Cir. 1999). In addition, OpenAI is *not* seeking confidential information (i.e., the identity of confidential sources).

***Human-authored Content (RFPs 10 & 11).*** “Human authorship is a bedrock requirement of copyright.” *Thaler v. Perlmutter*, 687 F. Supp. 3d 140, 146 (D.D.C. 2023). Accordingly, copyright protection extends only to expressive, original, human-authored content—not content authored by artificial intelligence or derived from third-party sources, including other journalists or public domain materials. *See id.* at 148–49 (collecting cases); Copyright Registration Guidance: Works Containing Material Generated by Artificial Intelligence, 37 C.F.R. § 202 (2023) (“When an AI technology determines the expressive elements of its output, the generated material is not the product of human authorship.”). To determine what portions of the works asserted by the Times are protected by copyright, OpenAI seeks documents sufficient to determine (a) what

portions of the works reflect “expressive, original, human-authored content” (as sought in **RFP 10**), and (b) what portions of the works reflect “non-expressive, non-original [to the Times], or non-human-authored content” (as sought in **RFP 11**). Here, too, the Times refuses to produce the vast majority of documents sought in these requests, agreeing only to produce the actual works at issue. But OpenAI cannot determine from the works alone which portions reflect human-authored content original to the Times and which portions do not. Production of the works alone is thus far from fully responsive to these requests and insufficient to allow OpenAI to test the Times’s assertion that the works it has put at issue are the Times’s “original works of authorship” entitled to copyright protection in the first place. *See Thaler*, 687 F. Supp. 3d at 146; *see also id.* at 143 (“copyright law is limited to original intellectual conceptions of the author”).

**2. The Times should be ordered to provide discovery into the registration and ownership of the works at issue.**

**Ownership Disputes (RFPs 8, 9, & 13).** “In the Copyright Act, Congress expressly provided a cause of action for infringement only for ‘legal or beneficial owner[s]’ of one of the six enumerated ‘exclusive right[s] under a copyright.’” *See John Wiley & Sons*, 882 F.3d at 405. To determine whether the Times is asserting protection over works for which it does not own the copyright, either in full or in part, OpenAI seeks documents related to, *inter alia*: (a) allegations against the Times of infringement and plagiarism in connection with the copyrighted works (**RFPs 8 and 9**); and (b) disputes regarding ownership of the works at issue (**RFP 13**). *See Ex. 1* at 10–11, 13. The Times refuses to respond to these requests in full. *See id.* As to RFPs 8 and 9, the Times has agreed to produce only “judicial or quasi-judicial determinations that any of the Asserted Works infringed a third party’s rights.” Dkt. 124-5 at 4. There is no basis for this limitation. Allegations of infringement and ownership disputes may undercut, and are therefore relevant to, the Times’s claim of ownership, regardless of whether such allegations or disputes were fully adjudicated.

**Registration of the Works (RFP 14).** To sue for copyright infringement, a copyright owner must register the work with the Copyright Office. *See Fourth Est. Pub. Benefit Corp. v. Wall-Street.com, LLC*, 586 U.S. 296, 299 (2019). That process can involve communicating with the Copyright Office about the work and scope of protection thereof. OpenAI thus requested, in **RFP 14**, correspondence between the Times and the Copyright Office regarding the works at issue. The Times has agreed to produce only the deposit copies for the works. Here, too, the Times’s limitation is untenable. Correspondence with the Copyright Office is directly relevant to the Times’s claims. *See, e.g., Aalmuhammed v. Lee*, 202 F.3d 1227, 1230 (9th Cir. 2000) (noting that “[t]he Copyright Office issued [the plaintiff] a ‘Certificate of Registration,’ but advised him in a letter that his ‘claims conflict with previous registrations’ of the film”); *Brandir Int’l, Inc. v. Cascade Pac. Lumber Co.*, 834 F.2d 1142, 1146 (2d Cir. 1987) (“The Copyright Office refused registration by letter, stating that the RIBBON Rack did not contain any element that was “capable of independent existence as a copyrightable pictorial, graphic or sculptural work apart from the shape of the useful article.”). The Times has chosen to pursue claims for copyright infringement based on myriad copyrighted works. The Times’s correspondence with the Copyright Office regarding those works is thus directly relevant to the scope of the copyrights the Times is asserting.

For the foregoing reasons, OpenAI respectfully requests that the Court compel the Times to produce documents responsive to the RFPs at issue.

Respectfully submitted,

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PETERS LLP

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Michelle S. Ybarra\*

LATHAM & WATKINS  
LLP

/s/ Elana Nightingale Dawson  
Elana Nightingale Dawson

MORRISON &  
FOERSTER LLP

/s/ Allyson R. Bennett  
Allyson R. Bennett\*

cc: All Counsel of Record (via ECF)

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\* All parties whose electronic signatures are included herein have consented to the filing of this document, as contemplated by Rule 8.5(b) of the Court's ECF Rules and Instructions.

# Exhibit 1

Excerpts of Plaintiff's  
Responses and Objections to  
OpenAI's First Set of Requests  
for Production

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

MICROSOFT CORPORATION, OPENAI, INC.,  
OPENAI LP, OPENAI GP, LLC, OPENAI, LLC,  
OPENAI OPCO LLC, OPENAI GLOBAL LLC,  
OAI CORPORATION, LLC, and OPENAI  
HOLDINGS, LLC,

Defendants.

Civil Action No. 1:23-cv-11195-SHS

**PLAINTIFF THE NEW YORK TIMES COMPANY'S RESPONSES AND  
OBJECTIONS TO OPENAI OPCO, LLC'S FIRST SET OF  
REQUESTS FOR PRODUCTION (NOS. 1-61)**

Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiff The New York Times Company ("The Times") responds to Defendant OpenAI OpCo, LLC's ("OpenAI OpCo") First Set of Requests for Production of Documents and Things (the "Requests") as follows:

**GENERAL OBJECTIONS**

1. The Times objects to each Request to the extent it seeks information or documents subject to attorney-client privilege, work product, or any other applicable privilege or protection.
2. The Times objects to each Request to the extent it seeks documents or information not within The Times's possession, custody, or control or that are already in the possession, custody, and control of Defendants, on the grounds that such Requests are unduly burdensome and oppressive and therefore exceed the bounds of permissible discovery. The Times will only produce documents within its possession, custody, or control, and will do so in the manner such documents

are kept in the usual course of business. Such productions will be made subject to the terms of the anticipated ESI Order, which has not yet been entered and the parties are currently negotiating.

3. The Times objects that a Protective Order has not yet been entered in the case and production of confidential documents is subject to the entry of a Protective Order. Until a Protective Order is entered, The Times will produce confidential documents subject to an agreement that any documents marked “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” will be kept confidential before a Protective Order is entered.

4. The Times’s responses are subject to the following objections to the “Definitions” and “Instructions” provided with the Requests.

5. The Times objects to the definitions of “Plaintiff,” “You,” and “Your” insofar as they include The Times’s “managers”—a vague term that is at best duplicative of the term “employees,” which is already part of the definitions. The Times also objects to these definitions because they include The Times’s “parent companies,” of which there are none. The Times further objects to these definitions as overbroad and unduly burdensome insofar as they include “any Person who served in any such capacity at any time,” which among other things would apply to former employees of The Times. The Times further objects to these definitions as contrary to the definition of “Plaintiff” provided by Local Rule 26.3. The Times construes “Plaintiff” as that term is defined in Local Rule 26.3.

6. The Times objects to the definition of “Defendant” as vague and ambiguous because it includes “any defendant named in the Complaint” without specifying a particular defendant. The Times further objects to this definition because it includes defendants named in a “subsequent complaint” that does not yet exist, making the definition even more vague and ambiguous. In any event, the term “Defendant” appears nowhere in the Requests.

7. The Times objects to the definition of “Generative AI” as overbroad and also vague and ambiguous insofar as it includes “other systems,” a virtually limitless term. The Times further objects to this definition as overbroad because it applies to products not implicated by the Complaint, including Gemini and Claude. The Times further objects to this definition as inaccurate insofar as it is limited to models or algorithms that generate “new” content. That definition is inaccurate because the at-issue products generate copies of Times content. The Times construes “Generative AI” to mean Defendants’ AI models that emulate the structure and characteristics of input content in order to generate derived synthetic content, such as images, videos, audio, text, and other digital content.

8. The Times objects to the definition of “Communication” as contrary to the definition of that term provided by Local Rule 26.3. The Times construes “Communication” as that term is defined by Local Rule 26.3.

9. The Times objects to the definition of “Complaint” insofar as it includes “any subsequent complaint” because only one Complaint has been filed in this case. The Times construes “Complaint” to refer to the Complaint filed in this case on December 27, 2023.

10. The Times objects to the definition of “Agent” as overbroad insofar as it applies to a person “asked” to assist with this litigation but not retained by The Times. The Times further objects to this definition as unintelligible because it does not specify who “asked, hired, retained, or contracted” the agent. The Times construes “Agent” to mean a person retained by The Times to assist The Times in connection with this litigation.

11. The Times objects to the definition of “Employee” as illogical insofar as it includes people who are “not” compensated. The Times further objects to this definition as overbroad and unduly burdensome because it applies to “retired” and “former” employees as well as “trustees,”



“officers,” and “directors.” The Times further objects to this definition as vague and ambiguous insofar as it applies to “partners.” The Times further objects to this definition as circular because it includes the term “employee” within the proposed definition, which just proves the term does not need to be defined. The Times construes “Employee” to mean an employee.

12. The Times objects to the definition of “Document” as contrary to the definition provided by Local Rule 26.3, which incorporates by reference the meaning of the term “documents or electronically stored information” in Federal Rule of Civil Procedure 34(a)(1)(A). The Times construes “Document” as that term is defined by Local Rule 26.3.

13. The Times objects to the definition of “Asserted Work” as vague and ambiguous insofar as it includes “any additional work that may be listed on an amended complaint.” No amended Complaint has been filed. The Times construes “Asserted Work” to mean any work listed in Exhibits A-I and K of the Complaint.

14. The Times objects to the definition of “Published Work” as overbroad and unduly burdensome insofar as it includes works “created” by The Times but not published. The Times construes “Published Work” to mean registered works published by The Times.

15. The Times objects to the definition of “GPT Services” as overbroad as well as vague and ambiguous because it includes “other third party services”—a term which makes the definition limitless. The Times construes “GPT Services” to mean any GPT-based product, including but not limited to ChatGPT, ChatGPT Enterprise, Bing Chat, Azure OpenAI Service, Microsoft Copilot, and the underlying large language models for these products.

16. The Times objects to the definition of “Electronically Stored Information” as contrary to how that term is described by Federal Rule of Civil Procedure 34. The Times construes the term “Electronically Stored information” consistent with that Rule.

17. The Times objects to the definitions of “Concern,” “Concerning,” “Related to,” and “Relating to” as contrary to the definition of “concerning” provided by Local Rule 26.3. The Term construes these terms to mean “concerning,” as that term is defined by the Local Rule.

18. The Times objects to the Instruction suggesting that “the present tense shall be construed to include the past tense, and vice versa.” The Times will respond to the Requests as written.

19. The Times is willing to meet and confer regarding these Requests.

### **RESPONSES TO REQUESTS FOR PRODUCTION**

#### **REQUEST FOR PRODUCTION NO. 1:**

All Documents and Communications relating to the alleged reproduction, public display, or distribution of Your Asserted Works via GPT Services.

#### **RESPONSE TO NO. 1:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad, vague, and ambiguous insofar as it seeks “all Documents and Communications” relating to the “alleged reproduction, public display, or distribution” by any person not limited to material that is relevant to any party’s claims or defenses in this dispute. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest. The Times further objects to this Request to the extent that it seeks material protected by the reporters’ privilege pursuant to the First Amendment of the U.S. Constitution or the New York Shield Law, N.Y. Civ. Rights § 79-h. The Times will not search for or produce Documents or Communications protected by the reporters’ privilege in response to this Request.

Constitution or the New York Shield Law, N.Y. Civ. Rights § 79-h. The Times will not search for or produce Documents or Communications protected by the reporters' privilege in response to this Request.

Based on these objections, The Times will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 8:**

All Documents and Communications relating to any allegations that any of Your Asserted Works infringe any third-party rights.

**RESPONSE TO NO. 8:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome because it seeks material not relevant to any party's claims or defenses. The Times further objects to the terms "allegations," "infringe" and "third-party rights" as vague and ambiguous. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest.

Based on these objections, The Times will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 9:**

All Documents and Communications relating to any complaints by any Person regarding alleged plagiarism in Your Asserted Works.

**RESPONSE TO NO. 9:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome because it seeks material not relevant to any

party's claims or defenses. The Times further objects to the term "alleged plagiarism" as vague and ambiguous. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest.

Based on these objections, The Times will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 10:**

Documents sufficient to identify the expressive, original, and human-authored content of each of Your Asserted Works.

**RESPONSE TO NO. 10:**

The Times incorporates the General Objections set forth above. The Times objects to the terms "sufficient to identify," "expressive," "original," and "human-authored content" as vague and ambiguous. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest. The Times further objects to this response to the extent that it seeks material protected by the reporters' privilege pursuant to the First Amendment of the U.S. Constitution or the New York Shield Law, N.Y. Civ. Rights § 79-h. The Times will not search for or produce Documents or Communications protected by the reporters' privilege in response to this Request. The Times further objects to this Request to the extent that it calls for a legal conclusion.

Based on these objections, The Times will not produce documents in response to this Request aside from the works identified in Exhibits A-I, K to the Complaint.

**REQUEST FOR PRODUCTION NO. 11:**

Documents sufficient to identify the non-expressive, non-original, or non-human-authored content of each of Your Asserted Works.

**RESPONSE TO NO. 11:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome to the extent that it seeks material not relevant to any party's claims or defenses and outside the relevant timeframe. The Times further objects to the terms "sufficient to identify," "non-expressive," "non-original," and "non-human-authored content" as vague and ambiguous. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest. The Times further objects to this response to the extent that it seeks material protected by the reporters' privilege pursuant to the First Amendment of the U.S. Constitution or the New York Shield Law, N.Y. Civ. Rights § 79-h. The Times will not search for or produce Documents or Communications protected by the reporters' privilege in response to this Request. The Times further objects to this Request to the extent that it calls for a legal conclusion.

Based on these objections, The Times will not produce documents in response to this Request aside from the works identified in Exhibits A-I, K to the Complaint.

**REOUEST FOR PRODUCTION NO. 12:**

Documents sufficient to show each and every written work that informed the preparation of each of Your Asserted Works, regardless of its length, format, or medium.

**RESPONSE TO NO. 12:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome to the extent that it seeks material not relevant to any party's claims or defenses. The Times further objects to the terms "written work," "informed the preparation," "format," and "medium," as vague and ambiguous. The Times further objects to this response to the extent that it seeks material protected by the reporters'

privilege pursuant to the First Amendment of the U.S. Constitution or the New York Shield Law, N.Y. Civ. Rights § 79-h. The Times will not search for or produce Documents or Communications protected by the reporters' privilege in response to this Request.

Based on these objections, The Times will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 13:**

All Documents and Communications relating to any disputes as to the ownership of Your Asserted Works, including but not limited to DMCA Takedown Notices or other copyright infringement removal requests received by You.

**RESPONSE TO NO. 13:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome to the extent that it seeks material not relevant to any party's claims or defenses, including "DMCA Takedown Notices" which apply to user-submitted content. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest.

Based on these objections, The Times will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 14:**

All Documents and Communications relating to Your correspondence with the United States Copyright Office regarding Your Asserted Works, including deposit copies.

**RESPONSE TO NO. 14:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome to the extent that it seeks "[a]ll Documents and

Communications” relating to The Times’s correspondence with the USCO “regarding” the Asserted Works, without limitation to documents relevant to any party’s claims or defenses. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest.

Subject to these objections, The Times will produce deposit copies for the Asserted Works that can be located after a reasonable search.

**REQUEST FOR PRODUCTION NO. 15:**

All Documents and Communications relating to Your ownership of the Asserted Works, including agreements related to the authorship of Your Asserted Works and work-for-hire agreements.

**RESPONSE TO NO. 15:**

The Times incorporates the General Objections set forth above. The Times objects to this Request as overbroad and unduly burdensome to the extent that it seeks material not relevant to any party’s claims or defenses. The Times further objects to this Request to the extent that it seeks material protected by the attorney-client privilege, work-product doctrine, or common interest.

Subject to these objections, The Times responds that it will produce agreements (including work-for-hire agreements) related to authorship of the Asserted Works that can be located after a reasonable search.

**REQUEST FOR PRODUCTION NO. 16:**

All Documents and Communications relating to Your knowledge of the alleged use of Your Published Works for training Generative AI models.

**RESPONSE TO NO. 16:**

further objects to this request as overbroad, vague, and ambiguous to the extent that it calls for all documents The Times “intend[s] to provide” to any expert, testifying or not, and is not limited to documents relevant to any party’s claims or defenses in this dispute. The Times further objects to this request as outside the scope of Federal Rule of Civil Procedure 26(b)(4)(C), which requires production of documents a testifying expert relies on or facts and data they considered in rendering their opinion.

Subject to these objections, The Times responds that it will produce documents any testifying expert relies on or facts and data considered in rendering their opinion in this case.

April 8, 2024

/s/ Ian Crosby

Ian Crosby (*admitted pro hac vice*)  
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*Attorneys for Plaintiff  
The New York Times Company*

**CERTIFICATE OF SERVICE**

I declare that I am employed with the law firm of Susman Godfrey L.L.P., whose address is One Manhattan West, New York, NY 10001. I am not a party to the within cause, and I am over the age of eighteen years.

I further declare that on April 8, 2024, I served a copy of:

**PLAINTIFF THE NEW YORK TIMES COMPANY'S RESPONSES AND  
OBJECTIONS TO OPENAI OPCO, LLC'S FIRST SET OF  
REQUESTS FOR PRODUCTION (NOS. 1-61)**

- BY ELECTRONIC SERVICE [Fed. Rule Civ. Proc. Rule 5(b)(2)(E)]** by electronically mailing a true and correct copy through Susman Godfrey L.L.P.'s electronic mail system to the email address(es) set forth below, or as stated on the attached service list per agreement in accordance with Fed. Rule Civ. Proc. Rule 5(b)(2)(E).
- BY PERSONAL SERVICE** I caused to be delivered such envelope by hand to the offices of the addressee.

**See Attached Service list**

I declare under penalty of perjury that the following is true and correct.

Executed at New York, New York, this 8<sup>th</sup> day of April, 2024.

/s/ Alexander Frawley  
Alexander Frawley

**SERVICE LIST**

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