

December 20, 2024

***E-Filed***

The Honorable Thomas S. Hixson  
United States District Court for the Northern District of California  
San Francisco Courthouse, Courtroom E – 15th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Re: *Kadrey et al. v. Meta Platforms, Inc.*; Case No. 3:23-cv-03417-VC-TSH

Dear Judge Hixson:

The parties jointly submit this letter brief regarding issues related to Meta's Supplemental Responses to Plaintiffs' First, Second, and Third Sets of Interrogatories served on December 13, 2024. The parties met and conferred on December 17 but were unable to reach a resolution.

## I. PLAINTIFFS' POSITION

Late on December 13, 2024, Meta served supplemental responses to all three sets of Plaintiffs' interrogatories. Some of those responses are deficient. Others create new issues that warrant further amendment. Still others ignore this Court's prior orders on relevance and construction of defined terms. *See* Dkt. 315. In light of these issues, Plaintiffs request the following relief.

### A. Supplemental Responses to First Set of ROGs, Ex. A at 5-46.

- Llamas 4&5: Meta's supplemental ROG responses served 12/13 are still limited to Llamas 1-3, even though this Court already held that Llamas 4 and 5 are also relevant. Dkt. No. 279 at 4 ("Llama 4 is relevant to this case, notwithstanding that it is still under development."); Dkt. No. 315 at 7 ("Llama 5 is relevant"). It should not matter that the ROGs initially defined only Llamas 1-3: they were issued before Plaintiffs had any knowledge of the existence of Llamas 4-5. The entire point of Rule 26(e)'s duty of supplementation is to ensure discovery responses "reflect new information" that developed afterwards. *Abernathy v. Liberty Ins. Corp.*, 2023 WL 6785797, at \*2 (C.D. Cal. Sept. 22, 2023). In the intervening time period, Meta has been rapidly developing Llamas 4-5, and the Court held they're relevant. This constitutes "new information," and a proper supplementation must update the ROG answers for the new models.
- Agreements: Meta continues to improperly limit the term "Agreements" to written contracts, despite this Court's rejection of that limitation and adoption of Plaintiffs' broader definition. Dkt. 315 at 8-9.
- Training Data: Meta improperly limits the definition of "Training Data" to Books3. But there are many other datasets that Meta uses as training data in addition to Books3, as well as data obtained from ██████████. Meta must expand its responses. At the time Plaintiffs served these ROGs (before any document productions), Books3 was the only shadow/pirated dataset that Meta had disclosed as constituting part of its training data. *See* Dkt. 69. Since discovery has revealed a treasure trove of "new information" about Meta's use of other pirated datasets and works as training data, there is no basis to continue limiting the ROG responses to Books3.
- ROG 1: Meta's response produces a chart of datasets along with narrative explanation. Yet neither the chart nor the explanation includes Llamas 4-5 despite their court-ordered relevance.
- ROG 2: Meta did not include this in their 12/13 ROG responses. Since Meta did reproduce other ROG responses that were not supplemented on December 13, Meta must confirm that its response to ROG 2 served on August 22, 2024 continues to be the final response to this ROG.
- ROGs 3 & 7: Meta's responses do not appear to include Llamas 4 and 5. Regardless, the responses fail to provide details about how *any* Llama model was/is fine-tuned. The responses similarly are scant on details of the specifics of Meta's efforts around memorization for any model.
- ROG 4: Meta's response fails to identify/explain all the "risks" it references or "mitigation(s)" it employed.
- ROG 8: Meta's response fails to address any of Llamas 3, 4, and 5. It must address all of them.
- ROG 10: Meta improperly limits the definition of "Training Data" to Books3. Further, this ROG asks Meta to identify and supply information about all Persons—which, as defined, includes hosts of online pirated datasets, *see* Ex. A at 4—from whom it obtained training data.

Yet Meta fails to provide all the requested information for *any* datasets it copied, let alone all of them. Meta must do so, including identifying dates it obtained each copy of pirated datasets.

- ROG 13: Meta’s response does not address Llamas 4 or 5. Further, mere reference to Bates numbers does not answer the entire ROG. In addition to identification of all training datasets, the ROG also requests a list of any forbidden datasets and reasons why they were prohibited.

**B. Supplemental Responses to Second Set of ROGs, Ex. A at 47-66.**

- Llamas 4&5: Meta’s objections continue to improperly limit Meta’s responses to Llamas 1-3.
- Agreements: Meta still improperly limits the definition of “Agreements” to written contracts.
- Training Data: Meta again improperly limits the definition of “Training Data” to just Books3.

**C. Supplemental Responses to Third Set of ROGs, Ex. A at 67-85.**

- Llamas 4&5: Meta’s objections continue to improperly limit Meta’s responses to Llamas 1-3.
- Shadow Datasets: Meta hasn’t disclosed all datasets it uses with Llamas 4 and 5, and thus improperly restricts the definition of “Shadow Datasets” to the extent it excludes any used with those models.
- ROG 19: Meta fails to set forth revenue it anticipates receiving with [REDACTED] (or even a projection). The ROG expressly asks for expected as well as actual revenue.
- ROG 22: This ROG asks whether Meta made any efforts to obtain licenses to use Shadow Datasets or the works therein. Meta responds with a colloquy that it didn’t need permission. The ROG does not ask Meta for its opinion about what it needed to do or didn’t need to do. If Meta didn’t do anything, then it should just say so, and that’s the end of it. *See* Dkt. 315 at 5.
- ROG 23: Meta’s response fails to identify what datasets it obtained from [REDACTED] [REDACTED]<sup>1</sup> Meta’s answer is akin to citing Google in an academic paper because the sources were initially found via Google Search. It’s also unclear from Meta’s response if it obtained datasets from other sources for any Llama models or if it’s just the three listed.

**D. Plaintiffs Timely Raised These Deficiencies in Meta’s Interrogatory Responses.**

During the parties’ M&C, Meta suggested Plaintiffs are time-barred from challenging its supplemental responses to ROG Sets 1 and 2 because those ROGs were “Existing Written Discovery.” Dkt. No. 258. The parties should not revive this long-squabbled-over term “like some ghoul in a late night horror movie that repeatedly sits up in its grave and shuffles abroad, after being repeatedly killed and buried.” *Lamb’s Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 398 (1993) (Scalia, J., concurring). Regardless, this argument is nonsensical. Meta amended its responses to include new information and, as discussed above, they now conflict with this Court’s recent orders. This necessarily renders Plaintiffs’ challenges—brought within one week of Meta’s service of its supplemental responses—timely and appropriate. Otherwise a party would have no recourse to challenge the other’s supplemental discovery responses. But that is not the rule.

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<sup>1</sup> [REDACTED]

## II. META'S POSITION

The issues above, which pertain to discovery served long ago, were not raised in the serial discovery motions filed by Plaintiffs over the past several weeks, instead they were withheld until Dec. 16, after the close of fact discovery. Like the other letter briefs filed today, Plaintiffs' manufactured discovery disputes raise issues that are baseless, irrelevant, and/or time-barred.

First, as to Meta's responses to Plaintiffs' 1st and 2nd Sets of Interrogatories ("ROGs"), Plaintiffs have "once again...fail[ed] to meet the deadline to present disputes regarding 'Existing Written Discovery.'" Dkt. 253. As the Court knows, Plaintiffs were obligated to bring disputes on Existing Written Discovery by Oct. 23, 2024, later extended to Nov. 9, 2024 (Dkt. 253). The 1st and 2nd Sets of ROGs, to which Meta first responded on Feb. 23, 2024 and Sept. 30, 2024, respectively, were clearly "Existing Written Discovery." If Plaintiffs had concerns regarding those responses, they should have timely brought them by Nov. 9, 2024, not on the last day to bring discovery disputes. Meta has identified each of these interrogatories as "**Waived**" below.

Meta's supplementation of certain responses for the 1st and 2nd Sets of ROGs does not render Plaintiffs' motion timely. Plaintiffs' issues could have been brought months ago, but were not. For instance, Plaintiffs take issue with Meta's consistent *objections* to certain definitions to the 1st and 2nd Sets of ROGs, served in February and September. *Compare*, Ex. B (Meta's Responses to ROGs, Set One, served Feb. 23, 2024), Ex. C (Meta's Responses to ROGs, Set Two, served Sep. 30, 2024). Moreover, the details Plaintiffs now claim are missing were not included in prior responses to the 1st and 2nd Sets of ROGs, thus there were no "new" issues in those responses for Plaintiffs to raise here.

Equally puzzling is that much of Meta's supplementation of its responses to the 1st and 2nd Sets of ROGs was the result of prior meet and confers and compromises reached between the parties. *See, e.g.*, Ex. D (Oct. 2024 emails reflecting agreements as to ROGs 3, 4, and 13). As to Plaintiffs' 3rd Set of ROGs, the parties met and conferred on Meta's initial responses to those ROGs weeks ago, and Meta supplemented its responses to avoid motion practice. *See, e.g.*, Ex. E at 1 (Nov. 26, 2024 email confirming parties' dispute as to ROGs 19, 20 and 22 were "moot"). Other than ROG 22, none of the issues raised then included the issues Plaintiffs raise now.

While the motion should be denied as untimely, it should also be denied on the merits. Plaintiffs fail to address or even acknowledge Meta's objections to the ROGs at issue. These include, but are not limited to, objections based on undue burden, proportionality, relevance, and privilege. Plaintiffs do not challenge these objections, which are proper and appropriately limit Meta's responses. Nor do Plaintiffs explain the relevance or proportionality of the additional information they seek in response to ROGs 3, 4, 7, 10, 13, 19, or 23 (apart from information relating to Llama 4 and 5, discussed below).

As to Llama 4 and 5,<sup>2</sup> Plaintiffs' reliance on this Court's prior orders concerning Meta's RFP responses is unavailing. Plaintiffs' 1st and 2nd Set of ROGs define "Meta Language Models" in reference to Llama 1-3—they do not encompass Llama 4 and 5. *See* Ex. F (excerpts of Plaintiffs' 1st and 2nd ROGs). Furthermore, Meta's responses to Plaintiffs' 2nd and 3rd Sets of ROGs are not limited to Llama 1-3. Plaintiffs are also far past the deadline to bring disputes concerning the 1st

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<sup>2</sup> In addition to Plaintiffs' challenges to Meta's objections as to all ROGs, Plaintiffs' challenges to Meta's responses to ROGs 1, 3, 7, 8, and 13 are also based, in whole or in part, on Meta's purported failure to address or include Llama 4 and 5.

Set of ROGs. In any event, those orders only required that Meta not exclude or decline to produce responsive *documents* that relate to Llama 4 and 5, which would have been encompassed by Meta's existing searches. Dkt. 279 at 4; Dkt. 315 at 6. They did not pertain to Meta's ROG responses (on which Plaintiffs never moved), let alone require that Meta supplement them.

Meta addresses the remaining issues raised by Plaintiffs below:

**Definitions of "Agreements" and "Training Data" (Waived):** As Meta has repeatedly represented to Plaintiffs, Meta did not restrict its ROG responses based on its limited construction of these terms.

**ROG 1 (Waived):** ROG 1 defined "Meta Language Models" as Llama 1-3, and Meta responded accordingly. Nevertheless, Meta has produced, and in ROG 13 referred to, documents reflecting various other datasets that have been or are being considered for use with future Llama models. To the extent Meta is ordered to further amend its ROG responses, Meta refers Plaintiffs to Meta Kadrey 00185698, which Meta produced on December 13, 2024 and includes the [REDACTED]

**ROG 2 (Waived):** Meta confirms that its response to ROG 2 served on *August 22, 2024* continues to be its final response to this ROG.

**ROGs 3 & 7 (Waived):** Meta made several objections to these ROGs, which Plaintiffs do not address. Contrary to Plaintiffs' demands, this ROG has nothing to do with memorization, and Meta, in fact, provided information regarding finetuning (as previously agreed upon), referring to documents and deposition testimony. As to ROG 7, again, the ROG itself defined Meta Language Model as Llama 1-3, and Meta responded accordingly. To the extent Plaintiffs attempt to rewrite the ROG to cover additional Llama models, it would be unduly burdensome and disproportionate for Meta to identify all of the individuals involved in Llama 4 and 5, which are still in development (as opposed to the released models which have published papers identifying those who were involved). Even aside from this being a moving target, Meta would need to conduct an extensive investigation to identify these individuals, and with fact discovery closed and Plaintiffs having deposed dozens of Meta witnesses, any conceivable utility of such information is marginal at best.

**ROG 4 (Waived):** Meta's supplemental response identifies the risks that Meta witnesses testified to in deposition and directs Plaintiffs to relevant deposition testimony. Meta agreed to supplement its response following a meet and confer in October, which, at the time, Plaintiffs accepted as sufficient. Most of the identified risks (data privacy, product safety, social risk, potential abuse by bad actors) have nothing to do with the issues in the case and would thus be disproportionate to the needs of the case. Moreover, plaintiffs do not identify the scope of "explanation" of risks they seek, which may invade the attorney-client privilege because the risks intersect with legal issues. Finally, this interrogatory does not request anything about "mitigations," which, in any event, were described in cited deposition testimony.

**ROG 8 (Waived):** Meta never supplemented its response to ROG 8, which was served in February. Plaintiffs never raised issues concerning this ROG, and are barred from doing so now after the deadline to bring disputes concerning "existing written discovery" has passed.

**ROG 10 (Waived):** Meta provided responsive information within its possession, custody, and control, including the sources of the datasets it obtained and licensing agreements for training data.

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<sup>3</sup> Given the nascency of the model, no similar list exists for Llama 5.

Until now, Plaintiffs never demanded that Meta identify the “*hosts* of online pirated datasets,” a vague and ambiguous term which Plaintiffs do not define, let alone explain the relevance of.

**ROG 13 (Waived):** Meta supplemented this response to the extent that it had previously agreed to, namely to identify datasets considered for use with Meta’s Llama models (including future models) and indicating which were approved. To the extent Plaintiffs seek additional information, Meta made several objections, including, specifically, privilege objections.

“Shadow” Datasets: Meta has produced the [REDACTED] and documents showing [REDACTED] “Plaintiffs can tell Meta which of those are Shadow Datasets” (Dkt. 315). They did not.

**ROG 19:** Meta amended its response to “provide a high-level explanation of the identified documents and what they show regarding Meta’s revenue from partnerships,” as agreed-upon by the parties. *See* Ex. E at 2.

**ROG 22:** Plaintiffs previously agreed not to move on this ROG, and Meta has not supplemented its response to this ROG. *See id.* at 1.

**ROG 23:** The information Plaintiffs seek – what datasets Meta obtained from [REDACTED] and whether it obtained datasets from sources other than those provided in Meta’s response – is plainly not called for by this ROG. It is also irrelevant. Meta has otherwise responded with information that could be located following a reasonable investigation.

### **III. PLAINTIFFS’ REPLY**

**Meta’s “waiver” objection is meritless.** To start, Meta ignores Judge Chhabria’s order that “the deadline to raise disputes regarding additional discovery”—which includes these supplemental ROGs served on 12/13—remains 7 days after the close of discovery[.]” Dkt. 253. Meta’s supplemental ROG responses are not “Existing Writing Discovery”; indeed, Meta ignores its Rule 26(e) duty to supplement incomplete responses, which plainly includes those that omit Llamas 4 and 5. Moreover, Meta cites no authority to support its “waiver” arguments (nor is there any).

**Meta failed to supplement responses to Plaintiffs’ 1<sup>st</sup> ROG Set, including as to Llamas 4&5.** Meta incorrectly states that Plaintiffs’ definition of Llama Models in their 1<sup>st</sup> Set of ROGs doesn’t cover Llamas 4 or 5 (which are relevant). The definition includes all “variant models,” precisely to capture models like Llamas 4 and 5 developed subsequent to the issuance of these ROGs.

**ROGs 1&10.** Meta’s [REDACTED] two hours before the close of discovery does not come close to satisfying the ROGs. Since Meta finally identified the [REDACTED] it can’t dispute information about them is relevant. Meta must supplement the ROGs to provide the requested information, including identifying all copies of the books datasets and when it took them.

**ROGs 4&13.** Meta does not even pretend its responses provide all the information requested, instead citing its rote, boilerplate objections. Those are meritless, as are its unexplained references to privilege—but if Meta intends to invoke privilege to withhold information, it needs to be precise.

**ROGs 19&22.** Meta suggests Plaintiffs backtrack on a prior decision not to challenge Meta’s responses. Not so. Meta promised to amend to resolve Plaintiffs’ concerns. It then failed to do so.

**ROG 23.** Meta’s response makes no sense. It expressly asks about all sources from which Meta obtained its shadow (i.e. pirated) datasets. Meta even identifies [REDACTED] i.e. sources of shadow datasets, none of which Meta identifies.

By: /s/ Bobby Ghajar

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*Attorneys for Defendant Meta Platforms, Inc.*



**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(h)**

I hereby attest that I obtained concurrence in the filing of this document from each of the other signatories. I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 20, 2024

BOIES SCHILLER FLEXNER LLP

*/s/ Maxwell V. Pritt* \_\_\_\_\_

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17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**  
19 **SAN FRANCISCO DIVISION**

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22 Díaz, Andrew Sean Greer, David Henry Hwang,  
23 Matthew Klam, Laura Lippman, Rachel Louise  
24 Snyder, Ayelet Waldman, and Jacqueline Woodson,

*Individual and Representative Plaintiffs,*

v.

25 Meta Platforms, Inc., a Delaware corporation;

*Defendant.*

Case No. 3:23-cv-03417-VC

**PLAINTIFFS' FIRST SET OF  
INTERROGATORIES TO DEFENDANT  
META**

1 In accordance with Federal Rules of Civil Procedure Rules 26 and 33, Plaintiffs, by and  
2 through their undersigned attorneys, hereby request that Defendant Meta respond to the following  
3 First Set of Interrogatories separately and fully, in writing and under oath, within thirty (30) days of  
4 service hereof, in accordance with the following definitions and instructions.

5 **DEFINITIONS**

6 As used herein, the following words, terms, and phrases—whether singular or plural, or in  
7 an alternate verb tense—shall have the meanings ascribed below. Defined terms may not be  
8 capitalized or made uppercase. The given definitions apply even if a term in question is not  
9 capitalized or made uppercase. No waiver of a definition is implied by the use of a defined term in a  
10 non-capitalized or lowercase form:

11 1. “Agreements” means any oral or written contract, arrangement or understanding,  
12 whether formal or informal, between two or more Persons, including all drafts, versions,  
13 modifications, amendments, attachments, exhibits, and appendices thereof.

14 2. “All,” “Or,” and “And” should be understood to include and encompass “any”;  
15 “or” should be understood to include and encompass “and”; and “and” should be understood to  
16 include and encompass “or.”

17 3. “Communications” means oral or written communications of any kind,  
18 communicated directly or indirectly, including, without limitation inquiries, complaints,  
19 discussions, conversations, negotiations, agreements, meetings, interviews, telephone  
20 conversations, letters, correspondences, memoranda, notes, telegrams, facsimiles, electronic mail  
21 (e-mail) messages and attachments, instant or direct messages (including SMS messages, text  
22 messages, Apple iMessages, Slack messages, Teams messages), memoranda, documents, writings,  
23 or other forms of communications. The term “Communications” includes instances where one  
24 party disseminates information that the other party receives but does not respond to.

25 4. “Complaint” refers to the operative complaint at the time documents are produced  
26 in response to these requests. At the time of service, the currently operative Complaint is Plaintiffs’  
27 First Amended Complaint. ECF No. 64.

28 5. “Concerning” refers to and includes “constituting,” “evidencing,” “supporting,”

1 “regarding,” “mentioning,” “reflecting,” “concerning,” “relating to,” “referring to,” “pertaining  
2 to,” “alluding to,” “responding to,” “proving,” “discussing,” “assessing,” “disproving,”  
3 “connected with,” “commenting on,” “about,” “showing,” “describing,” and/or logically or  
4 factually dealing with the matter described in the request in which the term appears.

5 6. “Defendant” means Defendant Meta Platforms, Inc.

6 7. “Document” is used in its broadest sense allowed by Rule 34(a) of the Federal Rules  
7 of Civil Procedure and includes, but is not limited to, any writings, drawings, graphs, handwriting,  
8 typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail  
9 or facsimile, and every other means of recording upon any tangible thing, any form of  
10 communication or representation, Including letters, words, pictures, sounds, or symbols, or  
11 combinations thereof, and any record thereby created, regardless of the manner in which the record  
12 has been stored.

13 This Includes:

- 14 • The originals, drafts and All non-identical copies thereof, whether different from the  
15 original by reason of any notation made on such copies or otherwise;
- 16 • Booklets, brochures, pamphlets, circulars, notices, periodicals, papers, contracts,  
17 agreements, photographs, minutes, memoranda, messages, appraisals, analyses,  
18 reports, financial calculations and representations, invoices, accounting and diary  
19 entries, inventory sheets, diaries, appointment books or calendars, teletypes,  
20 telefaxes, thermafaxes, ledgers, trial balances, correspondence, telegrams, press  
21 releases, advertisements, notes, working papers, drawings, schedules, tabulations,  
22 projections, information or programs stored in a computer (whether or not ever  
23 printed out or displayed), and All drafts, alterations, modifications, changes or  
24 amendments of any of the foregoing;
- 25 • Graphic or aural representations of any kind, Including, without limitation,  
26 photographs, microfiche, microfilm, videotapes, recordings, drawings, charts and  
27 motion pictures;
- 28 • All letters, words, pictures, sounds, or symbols, or combinations thereof stored in or

1 on any electronic, mechanical, magnetic, or optical device Including, but not limited  
2 to: (i) computer data storage devices (servers, laptops hard-drives, flash drives, discs,  
3 magnetic cards, and the like), (ii) the internet or “the Cloud” (such as e-mail, web  
4 posts, social media posts, internet pages, etc.), and (iii) information stored on cell  
5 phones.

6 8. “Identify” as it pertains to Persons means to describe each Person by name,  
7 residence address, residence telephone number, occupation, title, business address, and business  
8 telephone number. The term “Identify” as pertains to Documents means to state, to the extent  
9 known, the date the Document bears, if any; the title of the Document; the author(s) of the  
10 Document; the recipient(s) of the Document and the present location(s) or custodian of the  
11 Document.

12 9. “Including” and “Includes” are used to provide examples of certain types of  
13 information and should not be construed as limiting a request or definition in any way. The terms  
14 “Including” and “Includes” shall be construed as if followed by the phrase “but not limited to.”

15 10. “Llama 1” means the series of language models originally styled “LLaMA” and  
16 released by Meta in February 2023, as well as precursor models and variant models.

17 11. “Llama 2” means the series of language models of the same name released by Meta  
18 in July 2023, as well as precursor models and variant models.

19 12. “Llama 3” means the series of language models of the same name intended as a  
20 successor to Llama 2 and currently in development at Meta (according to a public statement by Meta  
21 in October 2023), as well as precursor models and variant models.

22 13. “Meta” means Meta Platforms, Inc., their respective parents, owners, directors,  
23 subsidiaries and any company, business entity or person in which any of them possess an ownership  
24 interest greater than five percent.

25 14. “Meta Language Models” means the series of large language models known as  
26 Llama 1, Llama 2, and Llama 3, as well as their precursor models and variant models.

27 15. “Person” means any natural person or any business, legal, or governmental entity or  
28 association.

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17  
18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 RICHARD KADREY, et al.,  
21 Individual and Representative Plaintiffs,  
22 v.  
23 META PLATFORMS, INC., a Delaware  
24 corporation;  
25 Defendant.

Case No. 3:23-cv-03417-VC

**DEFENDANT META PLATFORMS, INC.’S  
FURTHER SUPPLEMENTAL AND AMENDED  
RESPONSES AND OBJECTIONS TO  
PLAINTIFFS’ FIRST SET OF  
INTERROGATORIES**

Trial Date: None  
Date Action Filed: July 7, 2023

1 **PROPOUNDING PARTY:** **PLAINTIFFS RICHARD KADREY, SARAH SILVERMAN, CHRISTOPHER**  
2 **GOLDEN, TA-NEHISI COATES, JUNOT DÍAZ, ANDREW SEAN GREER,**  
3 **DAVID HENRY HWANG, MATTHEW KLAM, LAURA LIPPMAN,**  
4 **RACHEL LOUISE SNYDER, JACQUELINE WOODSON, LYSA**  
5 **TERKEURST, AND CHRISTOPHER FARNSWORTH**

6 **RESPONDING PARTY:** **DEFENDANT META PLATFORMS, INC.**

7 **SET NUMBER: ONE ONE**

8 Pursuant to Federal Rule of Civil Procedure 33 and Local Rule 33, Defendant Meta  
9 Platforms, Inc. (“Meta”) responds as follows to Plaintiffs Richard Kadrey, Sarah Silverman,  
10 Christopher Golden, Ta-Nehisi Coates, Junot Díaz, Andrew Sean Greer, David Henry Hwang,  
11 Matthew Klam, Laura Lippman, Rachel Louise Snyder, Jacqueline Woodson, Lysa TerKeurst, and  
12 Christopher Farnsworth’s (“Plaintiffs”) First Set of Interrogatories (“Interrogatories”).

13 **I. RESPONSES TO ALL INTERROGATORIES**

14 **1.** Meta’s responses to these Interrogatories are made to the best of Meta’s current  
15 employees’ present knowledge, information, and belief. Said responses are at all times subject to  
16 such additional or different information that discovery or further investigation may disclose and,  
17 while based on the present state of Meta’s recollection, is subject to such refreshing of recollection,  
18 and such additional knowledge of facts, as may result from Meta’s further discovery or  
19 investigation. Meta reserves the right to make any use of, or to introduce at any hearing and at trial,  
20 information and/or documents responsive to these Interrogatories but discovered subsequent to the  
21 date of these responses, including, but not limited to, any such information or documents obtained  
22 in discovery herein.

23 **2.** To the extent that Meta responds to an Interrogatory by stating that Meta will  
24 provide information or documents that Meta deems to embody material that is private, business  
25 confidential, proprietary, trade secret, or otherwise protected from disclosure pursuant to Federal  
26 Rule of Civil Procedure 26(c) and/or Federal Rule of Evidence 501, Meta will only do so subject  
27 to the parties’ stipulated protective order governing the unauthorized use or disclosure of such  
28 information or documents with a designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL

1 - ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" distinction  
2 (ECF No. 90, the "Protective Order").

3 3. Meta reserves all objections or other questions as to the competency, relevance,  
4 materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this  
5 or any other action for any purpose whatsoever of Meta's responses herein and any document or  
6 thing identified or provided in response to the Interrogatories.

7 **II. OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS<sup>1</sup>**

8 Whether or not separately set forth in response to each Interrogatory, Meta makes these  
9 objections to the following Instructions and Definitions:

10 1. Meta objects to the definition of "Agreement" as overbroad and unduly burdensome  
11 to the extent that it encompasses oral contracts, arrangements, or understandings, including those  
12 that are informal. Meta further objects to the definition of "Agreement" as vague, ambiguous, and  
13 unintelligible as to the term "modifications" to the extent it is intended to mean something distinct  
14 from "versions" or "amendments." Meta will construe "Agreement" to mean written contracts,  
15 including drafts, versions, amendments, exhibits, and appendices thereof.

16 2. Meta objects to the definition of "Communications" to the extent it is inconsistent  
17 with and otherwise seeks to circumvent the custodian and search term limits for electronic  
18 communications (including emails and other electronic correspondence, and documents attached  
19 thereto), as provided in the Stipulated Protocol regarding Electronic Discovery ("ESI  
20 Order"). Meta will produce Documents, including Communications, pursuant to the terms of the  
21 ESI Order, and any agreement to produce such Documents is explicitly in view of the terms of the  
22 ESI Order. To the extent that Meta responds to a Request, including by agreeing to search for  
23 relevant, non-privileged communications in Meta's possession, custody, or control, such response  
24 is not a representation that any particular custodian or search term is appropriate. Meta expressly  
25 reserves the right to object to any custodians and search terms proposed by Plaintiffs.

26  
27 \_\_\_\_\_  
28 <sup>1</sup> In connection with these First Supplemental Responses and Objections to Plaintiffs' First Set of Interrogatories, Meta has updated its objections to Plaintiffs' definitions of "Communications," "Llama 3," and "Meta Language Models" to address the entry of the ESI Order and the release of Llama 3.



1           **3.**       Meta objects to the definitions of “Llama 1,” “Llama 2,” and “Llama 3” as vague  
2 and ambiguous as to the undefined terms “precursor models” and “variant models.” Meta further  
3 objects to these definitions as overbroad, unduly burdensome, and disproportionate to the needs of  
4 the case to the extent that it purports to require Meta to produce documents or information  
5 concerning large language models (“LLMs”) that were not publicly released and/or were not trained  
6 on corpuses of text that include any of Plaintiffs’ allegedly copyrighted works. For the same reason,  
7 Meta objects to these definitions to the extent that they purport to require Meta to produce  
8 documents or information concerning LLMs that are not relevant to any party’s claims or  
9 defenses. For purposes of these responses, Meta construes the term “Llama 1” to refer to the LLM  
10 released by Meta as Llama on February 24, 2023, the term “Llama 2” to refer to the LLM released  
11 by Meta under that name on July 18, 2023, and the term “Llama 3” to refer to the LLM released by  
12 Meta under that name on April 18, 2024, July 23, 2024, and September 25, 2024.

13           **4.**       Meta objects to the definition of “Meta” as overbroad, unduly burdensome, and  
14 disproportionate to the needs of the case to the extent that it purports to require Meta to produce  
15 documents or information concerning any “owners” regardless of shareholder interest and  
16 shareholders with an ownership of in Meta of greater than 5%. Meta will construe “Meta” or “You”  
17 to mean Meta Platforms, Inc.

18           **5.**       Meta objects to the definition of “Meta Language Models” as vague and ambiguous  
19 as to the undefined terms “precursor models” and “variant models.” Meta further objects to this  
20 definition as overbroad, unduly burdensome, and disproportionate to the needs of the case to the  
21 extent that it purports to require Meta to produce documents concerning LLMs that were not  
22 publicly released and/or were not trained on corpuses of text that allegedly include any of Plaintiffs’  
23 allegedly copyrighted works. For the same reason, Meta objects to this definition to the extent that  
24 it purports to require Meta to produce documents that are not relevant to any party’s claims or  
25 defenses. Meta will construe “Meta Language Models” to mean the models within the Llama  
26 family of LLMs that have been publicly released by Meta, namely, Llama 1, Llama 2, Code Llama,  
27 and Llama 3 (as those terms are construed above).

28

1           **6.**       Meta objects to the definition of “Relevant Period” as vague, ambiguous, and  
2 unintelligible, as it is defined circularly to mean “all times relevant to... the Complaint.” Meta will  
3 construe the Relevant Period to mean January 1, 2022 to the present.

4           **7.**       Meta objects to the definition of “Training Data” as vague, ambiguous, and  
5 unintelligible as to the term “other material,” which is indefinite and undefined. Meta further  
6 objects to the definition of “Training Data” as vague and ambiguous as to the phrase “considered  
7 for use,” which, read literally, would encompass any dataset considered by any Meta employee,  
8 regardless of the seriousness of such consideration and whether or not that consideration was ever  
9 acted upon. Meta further objects to this definition to the extent it purports to include datasets (or  
10 “considered” datasets) that include content to which Plaintiffs have made no claim of ownership  
11 and which are not the subject of any allegations of copyright infringement by Plaintiffs. Meta will  
12 construe “Training Data” to mean the “Books3” textual dataset used to train the Meta Language  
13 Models (as construed above).

14           **8.**       Meta objects to the definition of “You” and “Your” as overbroad, unduly  
15 burdensome, and nonsensical, insofar as it refers to “the specific Defendant(s) producing  
16 documents in response to these Requests.” There is only one defendant in this case, Meta, and this  
17 response is to the Interrogatories, not any document requests. Meta further objects to this definition  
18 to the extent it seeks to impose upon Meta an obligation to investigate information or documents  
19 outside of its possession, custody, or control. For purposes of these responses, Meta construes the  
20 terms “You” and “Your” coextensively with Meta (as construed above).

21           **9.**       Meta objects to Instruction 1 to the extent that it purports to require more of Meta  
22 than any obligation imposed by law, and would subject Meta to unreasonable and undue burden  
23 and expense. Meta will supplement or amend its responses to these Interrogatories in accordance  
24 with Meta’s obligations under Rule 26(e).

25           **10.**      Meta objects to Instruction 2, which defines the “Relevant Period” as January 1,  
26 2000 to the present. Such definition is overbroad, unduly burdensome, and disproportionate to the  
27 needs of the case because it both precedes the existence of Facebook (and therefore Meta) by  
28 several years, and the development of the Meta Language Models by decades. For the same reason,

1 the definition of “Relevant Period,” as applied to the Interrogatories, would encompass information  
2 that is irrelevant to the parties’ claims and defenses. The Instruction is also inconsistent with the  
3 definition of “Relevant Period” provided on page 3 of the Interrogatories and is therefore vague  
4 and ambiguous. Meta will construe the Relevant Period to mean January 1, 2022 to the present.

5 **11.** Meta objects to Instruction 4 (referring to Fed. R. Civ. P. Rule 33(d)) on the ground  
6 that it purports to require more of Meta than any obligation imposed by law, and would subject  
7 Meta to unreasonable and undue burden and expense.

8 **12.** Meta objects to Instruction 6 (outlining additional obligations for allegedly  
9 incomplete responses) to the extent that it purports to require Meta to investigate information  
10 outside of its possession, custody, or control.

11 **13.** Meta objects to Instruction 8 (outlining additional obligations for any privilege  
12 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
13 law, and would subject Meta to unreasonable and undue burden and expense.

14 **14.** Meta objects to Instruction 9 (outlining additional obligations for any work product  
15 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
16 law, and would itself require disclosure of information protected by attorney-client privilege and/or  
17 attorney work product doctrine.

18 **15.** Meta objects to Instruction 10 (building in a separate question for each  
19 Interrogatory) on the ground that it purports to require more of Meta than any obligation imposed  
20 by law, seeks disclosure of information protected by attorney-client privilege and/or attorney work  
21 product doctrine, and seeks to circumvent Plaintiffs’ interrogatory limit.

22 **16.** Meta objects to Instruction 11 (purporting to require responses for “all predecessors,  
23 successors, subsidiaries ... divisions and/or affiliates of Meta”), on the ground that it purports to  
24 require more of Meta than any obligation imposed by law, and would subject Meta to unreasonable  
25 and undue burden and expense. Meta further objects to Instruction 11 to the extent that it purports  
26 to require Meta to investigate information outside of its possession, custody, or control. As such  
27 the Instruction is overly broad, as well. Subject to any objections applicable to a particular  
28

1 Interrogatory, Meta will conduct a reasonable, proportionate search for non-privileged, relevant,  
2 responsive information within its possession, custody, or control.

3 17. In responding to all Interrogatories, Meta will comply with the requirements of the  
4 Federal Rules of Evidence and Federal Rule of Civil Procedure 26.

5 **III. OBJECTIONS AND RESPONSES TO INDIVIDUAL INTERROGATORIES**

6 **INTERROGATORY NO. 1:**

7 Describe in detail the data You have used to train or otherwise develop the Meta Language  
8 Models, including, for each:

9 a. How You obtained the data, e.g., by scraping the data, purchasing it from third parties, or  
10 by other means;

11 b. All sources of Data, including any third parties that provided data sets;

12 c. To the extent the data was derived from publicly available websites, a list of all such  
13 websites and, for each, the percentage of the data corpus that is derived from that website;

14 d. The categories of content included in the data and the extent to which each category is  
15 represented in the data corpus (i.e., as a percentage of data used to train the model);

16 e. All policies and procedures Related to identifying, assessing, vetting and selecting sources  
17 of data for the model.

18 **RESPONSE TO INTERROGATORY NO. 1:**

19 Meta incorporates by reference its objections and definitions above, including to the terms  
20 “You” and “Meta Language Models.” Meta further notes that the capitalized term “Related” is not  
21 defined; Meta construes that term coextensively with “concerning.”

22 As an initial matter, Meta objects to this Interrogatory because it consists of multiple,  
23 separate Interrogatories, each which count toward Plaintiffs’ limit under the Federal Rules. For  
24 example, the question about what data used to train a model is separate from how it was obtained,  
25 and further, subparts (d) and (e) are not subsumed within and necessarily related to the primary  
26 question, and purport to require a calculation of percentages of data, and separate identification of  
27 “policies” and “procedures” for (1) identifying, (2) assessing, (3) vetting, and (4) selecting data.  
28 This Interrogatory consists of *at least* three Interrogatories, and depending on how it is interpreted,

1 many more. In answering the Interrogatory, Meta does not waive this objection.

2 Meta objects to this Interrogatory because, on its face, it does not exclude legal advice or  
3 opinions, which are subject to attorney-client privilege and/or attorney work product doctrine, in  
4 particular as to subpart (e). Meta will not produce privileged materials or attorney work product.

5 Meta objects to this Interrogatory as vague and ambiguous as to the term “data,” which is  
6 undefined. Meta will construe “data” to mean Training Data (as construed above).

7 Meta objects to this Interrogatory as vague, ambiguous, and unintelligible as to “percentage  
8 of that data corpus that is derived from that website” because “data corpus” is undefined, and Meta  
9 is accordingly unable to interpret and respond to subpart (c). Even if “data corpus” were defined,  
10 the subject matter of subpart (c) would be overbroad, unduly burdensome, and disproportionate to  
11 the needs of the case and seeks information that is not relevant to the parties’ claims and defenses.  
12 Meta will not respond to subpart (c).

13 Meta objects to the undefined phrase “categories of content, which is vague, ambiguous,  
14 and unintelligible.

15 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
16 Meta’s possession, custody, or control.

17 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
18 Protective Order and the ESI Order, Meta responds as follows: Meta incorporates by reference the  
19 identification of datasets used to train Llama 1 that is included in the publicly available paper  
20 “LLaMA: Open and Efficient Foundation Language Models.” Such datasets were used to train  
21 Llama 1. Meta will produce a copy of that paper in its forthcoming production pursuant to Rule  
22 33(d).

23 Meta will conduct a reasonable search for additional non-privileged information or, in  
24 accordance with Rule 33(d), documents in Meta’s possession, custody, or control, sufficient to  
25 show any other datasets used to train the Meta Language Models (as construed above), as well as  
26 policies and procedures for identifying, assessing, vetting, and selecting sources of data for those  
27 models.

28 Discovery is ongoing and Meta will also supplement its response to this Interrogatory to

1 identify the sources of such datasets and general categories of data within them, to the extent that  
2 such information is within Meta’s possession, custody, or control.

3 Discovery is continuing and Meta reserves the right to supplement or amend its response at  
4 a later time.

5 **Meta’s First Supplemental and Amended Response to Interrogatory No. 1:**

6 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
7 Protective Order, Meta responds as follows.

8 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
9 **Protective Order.**

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

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**INTERROGATORY NO. 3:**

Describe in detail the RLHF process for each Meta Language Model. Include in Your response:

- a. Examples of types of experts who write questions and answers for use in RLHF;
- b. Examples of questions and answers;
- c. An explanation of the rating system or method of evaluation for the Meta Language Model’s responses;
- d. A description of the RLHF You actually undertook in order to correct or remediate any Meta Language Model’s propensity to emit protected expression from its Training Data.

**RESPONSE TO INTERROGATORY NO. 3:**

Meta incorporates by reference its objections and definitions above, including to the terms

1 “Meta Language Model,” “You,” and “Your.”

2 As an initial matter, Meta objects to this Interrogatory because it consists of multiple,  
3 separate Interrogatories, each which count toward Plaintiffs’ limit under the Federal Rules. For  
4 example, the question about the RLHF process is separate from subpart (b), which asks for  
5 “examples of questions answers” or subpart (c) which asks for a description of a rating system.  
6 Moreover, subpart (d) asks about steps taken to “correct or remediate” *any* language model’s  
7 “propensity” to emit “protected expression,” which is a separate inquiry altogether. This  
8 Interrogatory consists of *at least* three Interrogatories. In answering the Interrogatory, Meta does  
9 not waive this objection.

10 Meta objects to this Interrogatory as vague and ambiguous as to “examples of types of  
11 experts.” Meta will construe this phrase to refer to examples of the general background of  
12 individuals who have written questions and answers for use in connection with RLHF for Meta  
13 Language Models (as construed above).

14 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
15 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
16 in particular as to subparts (a)-(c).

17 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
18 Meta’s possession, custody, or control.

19 Meta objects to the counterfactual presumption and characterization of its language models  
20 as having a “propensity to emit protected expression” from training data. Relatedly, “protected  
21 expression” appears to call for a legal conclusion and is otherwise vague.

22 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
23 Protective Order and the ESI Order, Meta responds as follows:

24 **This response is designated as Confidential under the Protective Order.**

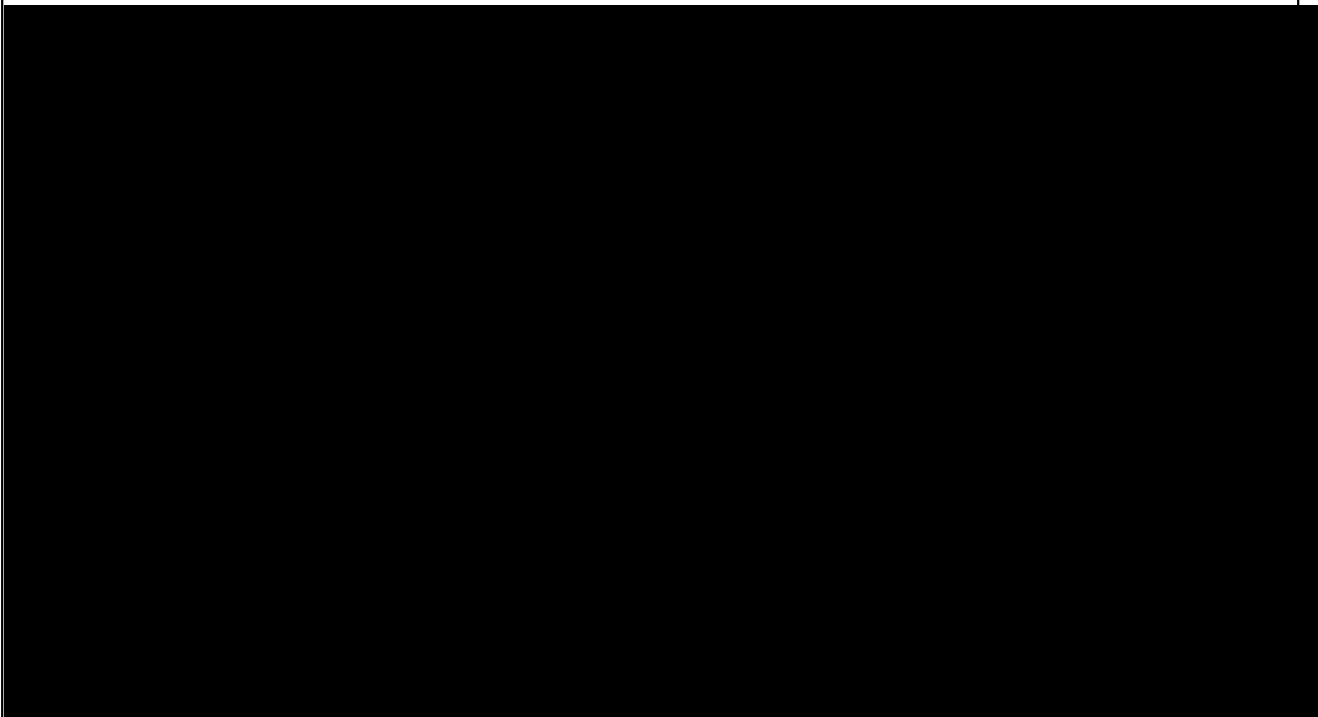
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**Meta’s First Supplemental Response to Interrogatory No. 3:**

Subject to and without waiving the foregoing objections, and pursuant to the terms of the Protective Order, Meta identifies the following documents as containing examples of questions and answers used during the RLHF process: Meta\_Kadrey\_00014794-00015376, Meta\_Kadrey\_00016896-00017243, Meta\_Kadrey\_00017244-00018017, Meta\_Kadrey\_00019182-00019625, and Meta\_Kadrey\_00022649-00022996.

Meta has produced a copy of “Llama 2: Open Foundation and Fine-Tuned Chat Models” as Meta\_Kadrey\_00000001-00000077. Pursuant to Rule 33(d), Meta also refers Plaintiffs to the paper titled “The Llama 3 Herd of Models,” published by Meta on July 23, 2024, for further information.

**Meta’s Second Supplemental Response to Interrogatory No. 3:**

**This response is designated as Confidential under the Protective Order.**



1 [REDACTED]  
2 **INTERROGATORY NO. 4:**

3 Describe in detail the policies and procedures that You follow in order to assess risk, safety,  
4 and alignment before You release a new Meta Language Model to the public, whether paid or free.

5 Include in Your response:

6 a. A description of the risks taken into consideration, including the risks that a Meta  
7 Language Model will emit protected expression from its Training Data;

8 b. A description of the individual(s), type(s) of individual by title and area of expertise,  
9 or department(s) responsible for determining whether the Meta Language Model is ready to be  
10 released;

11 c. A list of all instances where a Meta Language Model was released to the public after  
12 passing this review;

13 d. A list of all instances where a Meta Language Model was not released to the public  
14 after failing this review;

15 e. A list of all instances where a Meta Language Model was released to the public  
16 despite failing this review, and which individual(s) were responsible for overriding the result of  
17 this review.

18 **RESPONSE TO INTERROGATORY NO. 4:**

19 Meta incorporates by reference its objections and definitions above, including to the terms  
20 “Meta Language Model,” “You,” and “Training Data.”

21 As an initial matter, Meta objects to this Interrogatory because it consists of multiple,  
22 separate Interrogatories, each which count toward Plaintiffs’ limit under the Federal Rules. The  
23 Interrogatory consists of *at least* four Interrogatories, which count toward Plaintiffs’ limit. For  
24 example, subparts (c), (d), and (e) are not subsumed within and necessarily related to the primary  
25 question. In answering the Interrogatory, Meta does not waive this objection.

26 Meta objects to this Interrogatory because, on its face, it does not exclude legal advice or  
27 opinions, which are subject to attorney-client privilege and/or attorney work product doctrine, in  
28 particular as the subject matter of the Interrogatory encompasses policies and procedures that are

1 legal in nature. Meta will not respond to subparts (a), (d), and (e).

2 Meta objects to the phrase “risk, safety, and alignment” as undefined and thus vague and  
3 ambiguous. Meta also objects to the phrase “this review” as vague, ambiguous, and undefined,  
4 and, in particular, to the extent that it implies anything about the type of “review,” if any, undertaken  
5 by Meta.

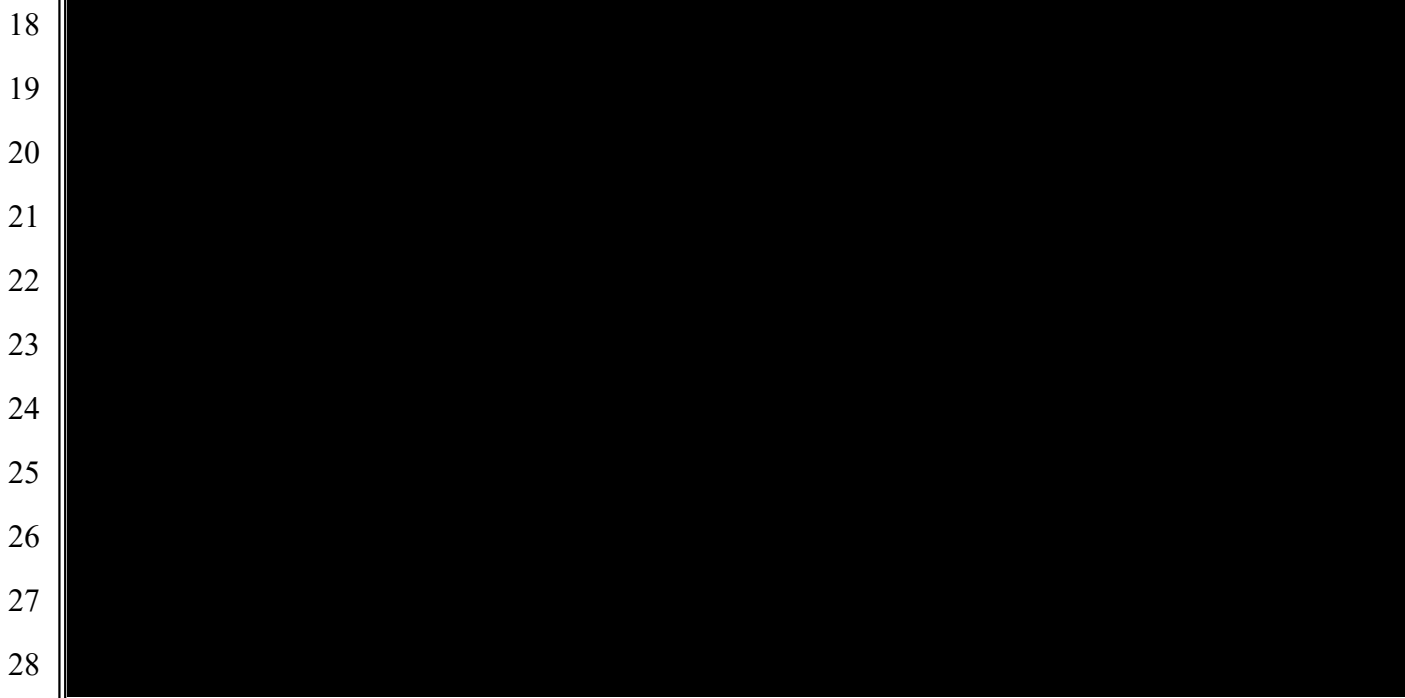
6 Meta objects to the counterfactual presumption and characterization of its language models  
7 as having a propensity to “emit protected expression” from training data. Relatedly, “protected  
8 expression” appears to call for a legal conclusion and is otherwise vague.

9 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
10 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
11 in particular to the extent it seeks information concerning policies and procedures that have no  
12 bearing on issues related to U.S. copyright law.

13 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
14 Meta’s possession, custody, or control.

15 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
16 Protective Order, Meta responds as follows:

17 **This response is designated as Confidential under the Protective Order.**

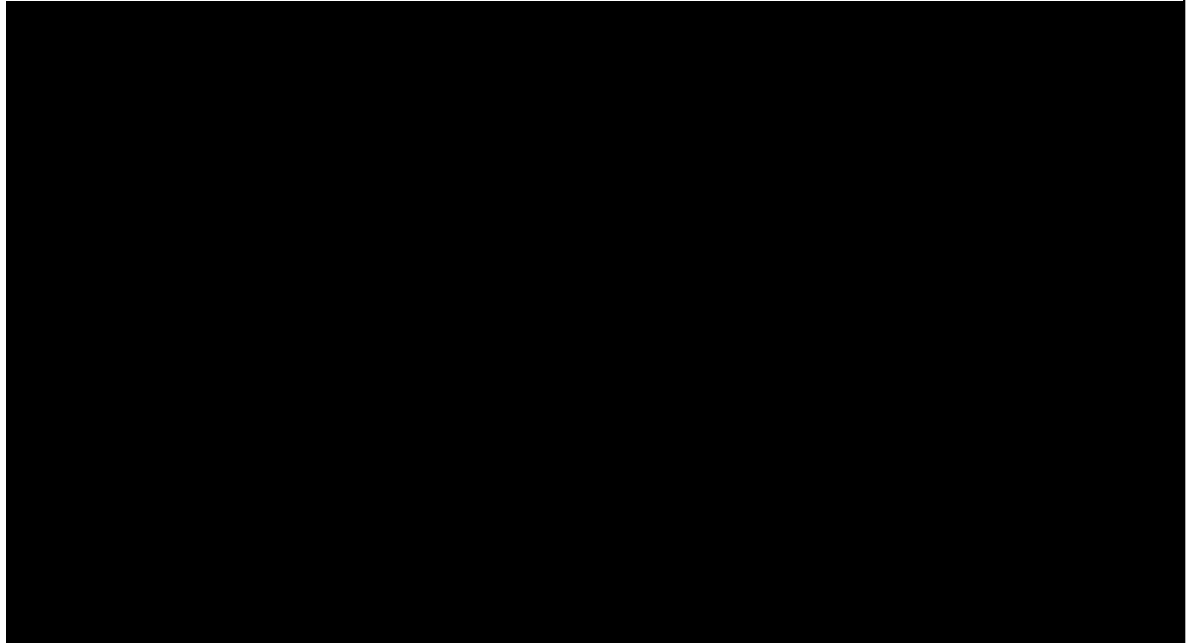


1 Discovery is continuing and Meta reserves the right to supplement or amend its response at  
2 a later time.

3 **Meta’s First Supplemental Response to Interrogatory No. 4:**

4 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
5 Protective Order, Meta identifies the following additional individuals:

6 **This response is designated as Confidential under the Protective Order.**



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17 **Meta’s Second Supplemental Response to Interrogatory No. 4:**

18 Meta considered a number of risks in conjunction with development and release of the Meta  
19 Language Models (as construed above), including risks associated with data privacy, product  
20 safety, intellectual property, social risks (e.g., toxicity and bias), and risks that the models could be  
21 abused by bad actors, among other risks. Meta made significant investments to mitigate these risks  
22 prior to release of the Meta Language Models (as construed above), in particular Llama 2 onward,  
23 and all such models were determined by cross-functional stakeholders to be suitable for release.  
24 *See e.g.*, M. Clark 11/13/2024 30(b)(6) Dep. 11:15-22, 16:6-18:15, 101:3-103:22.

25 **INTERROGATORY NO. 5:**

26 Identify all Agreements between and among:

27 a. You and anyone associated, affiliated, or having any connection with data used to  
28 train the Meta Language Models;



1           b.       You and directors and officers of Defendants or Related Entities with a more than  
2 five percent interest held by directors and officers of Defendants.

3 **RESPONSE TO INTERROGATORY NO. 5:**

4           Meta incorporates by reference its objections and definitions above, including to the terms  
5 “Meta Language Models,” and “You.”

6           As an initial matter, Meta objects to this Interrogatory because it consists of two  
7 Interrogatories, which count toward Plaintiffs’ limit. In answering the Interrogatory, Meta does not  
8 waive this objection.

9           Meta objects to this Interrogatory as vague, ambiguous, and unintelligible as to the phrase  
10 “any connection with data.” Meta is accordingly unable to respond to subpart (a) as written.

11           Meta objects to this Interrogatory as vague, ambiguous, and unintelligible as to  
12 “Defendants,” as Meta is the only named defendant in this case. Meta will interpret “Defendants”  
13 to mean Meta (as construed above).

14           Meta objects to this Interrogatory as vague, ambiguous, and unintelligible as to the term  
15 “Related Entities,” which is capitalized as if it is defined when it is not. For purposes of this  
16 response, Meta will construe “Related Entities” to mean entities owned by or sharing common  
17 ownership with Meta.

18           Meta objects to this Interrogatory on the ground that it is overbroad, unduly burdensome,  
19 and disproportionate to the needs of the case and seeks information that is not relevant to the parties’  
20 claims and defenses, in particular to the extent it seeks information concerning “all” such  
21 agreements regardless of their subject matter having “any connection” with “data.” Meta will  
22 construe subpart (a) to refer to formal, written agreements concerning licensing or acquisition of  
23 training data for any Meta Language Model (as construed above). Meta will not respond to subpart  
24 (b).

25           Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
26 Protective Order and the ESI Order, Meta responds as follows:

27           Meta incorporates by reference its most recent SEC FORM DEF 14A, which identifies  
28 individuals and companies with a beneficial interest of more than 5% of Meta’s publicly traded

1 stock. Meta will produce a copy of that document in its forthcoming production pursuant to Rule  
2 33(d).

3 Pursuant to Rule 33(d), Meta will also conduct a reasonable search for and produce on a  
4 rolling basis documents sufficient to show any executed written agreements concerning licensing  
5 or acquisition of training datasets for any Meta Language Models (as construed above).

6 **Meta’s First Supplemental Response to Interrogatory No. 5:**

7 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
8 Protective Order, Meta responds as follows:

9 **This response is designated as Confidential under the Protective Order.**

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]

13 **Meta’s Second Supplemental Response to Interrogatory No. 5:**

14 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
15 **Protective Order.**

16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22 **INTERROGATORY NO. 6:**

23 In order of corporate seniority, Identify by name and date all Your past and present directors,  
24 officers, and board members.

25 **RESPONSE TO INTERROGATORY NO. 6:**

26 Meta incorporates by reference its objections and definitions above, including to the term  
27 “Your.”

28 Meta objects to the portion of this Interrogatory requiring Meta to list individuals by order

1 of “corporate seniority,” as certain individuals may be of equivalent or otherwise indistinguishable  
2 seniority.

3 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
4 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
5 in particular to the extent it seeks information concerning all past and present directors, officers,  
6 and board members of Meta, irrespective of the time period relevant to Plaintiffs’ allegations, or  
7 the role of said individuals in the conduct at issue in Plaintiffs’ complaint, which concerns language  
8 models that were only recently released.

9 Meta will not respond to this Interrogatory. Meta instead refers Plaintiff to the Investor  
10 Relations (<https://investor.fb.com/home/default.aspx>) and Company Info  
11 (<https://about.meta.com/company-info/>) pages on its website, which contain information about  
12 present Meta leadership.

13 **INTERROGATORY NO. 7:**

14 In order of corporate seniority, Identify by name, job title, and date, all Persons, Including  
15 employees from other businesses, contractors, vendors, and other non-employees of Your business,  
16 previously and currently responsible for, or having oversight or control over the training,  
17 engineering, development, ethics, safety, or alignment of the Meta Language Models, and any  
18 iterations, versions, or variations thereof. Include in Your response:

- 19 a. For each Person, a description of his or her area of expertise;
- 20 b. For each Person, a description of whether such Person was previously or is currently  
21 responsible for, or has or had oversight or control over ethics, safety, or alignment related to the  
22 Meta Language Models;
- 23 c. For each Person, a description of whether such Person was previously or is currently  
24 responsible for, or has or had oversight or control over researching, analyzing, reporting on,  
25 mitigating, or remediating the propensity of the Meta Language Models to emit protected  
26 expression from the Training Data;
- 27 d. For each Person responsive to subpart b above, provide a description of whether  
28 such Person created Documents or Communications Concerning the ethics or legality of any

1 Training Data gathered or used by You;

2 e. Provide a description of the mitigations and remediations so undertaken by any  
3 Persons responsive to subpart c. above;

4 f. For Persons previously employed, Identify whether they left You voluntarily or  
5 involuntarily, and whether any disagreement with You about Training Data was a factor in their  
6 separation from You.

7 **RESPONSE TO INTERROGATORY NO. 7:**

8 Meta incorporates by reference its objections and definitions above, including to the terms  
9 “You,” “Communications,” and “Meta Language Models.”

10 As an initial matter, Meta objects to this Interrogatory because it consists of *at least* four  
11 Interrogatories, which count toward Plaintiffs’ limit. For example, subparts (d), (e), and (f) are not  
12 subsumed within and necessarily related to the primary question. In answering the Interrogatory,  
13 Meta does not waive this objection.

14 Meta objects to this Interrogatory because, on its face, it does not exclude legal advice or  
15 opinions, which are subject to attorney-client privilege and/or attorney work product doctrine, in  
16 particular as the subject matter of the Interrogatory encompasses policies and procedures that are  
17 legal in nature. Meta will not respond to subpart (d). Meta also will not respond to subpart (e) to  
18 the extent it seeks information subject to attorney-client privilege and/or attorney work product  
19 doctrine.

20 Meta objects to this Interrogatory as vague and ambiguous as to the terms “safety” and  
21 “ethics,” and the phrase “iterations, versions, or variations thereof,” all of which are undefined (and  
22 as to “any iterations, versions, or variations thereof” as overly broad and unduly burdensome).

23 Meta also objects to the reference to “date” as vague, ambiguous, and unintelligible as to  
24 the subject of this Interrogatory.

25 Meta further objects to the portion of this Interrogatory requiring Meta to list individuals by  
26 order of “corporate seniority,” as certain individuals may no longer be employed by Meta (and thus  
27 have no seniority), while others may be of equivalent or otherwise indistinguishable seniority. Meta  
28 will identify individuals in alphabetical order of their last names.

1 Meta objects to this Interrogatory as vague and ambiguous as to the phrase “responsible for,  
2 or having oversight or control,” which, read broadly, would include a large number of individuals  
3 regardless of the significance of their role. Meta will construe this Interrogatory to seek information  
4 concerning individuals in a managerial role or who may be regarded as lead developers with  
5 primary responsibility for the training, engineering, development, or alignment of the Meta  
6 Language Models (as construed above).

7 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
8 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
9 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs’ direct  
10 copyright infringement claim.

11 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
12 Meta’s possession, custody, or control, in particular as to individuals who are no longer with the  
13 company.

14 Meta objects to the counterfactual presumption and characterization of its language models  
15 as having a “propensity to emit protected expression” from training data.

16 **Meta’s Further Supplemental and Amended Response to Interrogatory No. 7:**

17 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
18 Protective Order and the ESI Order, Meta responds as follows:

19 Meta refers Plaintiffs to Appendix A.1 to the publicly available paper “Llama 2: Open  
20 Foundation and Fine-Tuned Chat Models,” which identifies the following individuals as having  
21 leadership roles in connection with development of Llama 2:

22 • **Science and Engineering Leadership:**

- 23 ○ Guillem Cucurull (Research Engineer, former Meta employee) – Mr. Cucurull left  
24 Meta voluntarily. Meta is unaware of any information to suggest that his departure  
25 from Meta concerned a disagreement with Meta over training data.
- 26 ○ Naman Goyal (Software Engineer)
- 27 ○ Louis Martin (Research Scientist, former Meta employee) – Mr. Martin left Meta  
28 voluntarily. Meta is unaware of any information to suggest that his departure from

1 Meta concerned a disagreement with Meta over training data.  
2 ○ Thomas Scialom (Research Scientist)  
3 ○ Ruan Silva (Software Engineer)  
4 ○ Kevin Stone (Research Engineer, former Meta employee) – Mr. Stone left Meta  
5 voluntarily. Meta is unaware of any information to suggest that his departure from  
6 Meta concerned a disagreement with Meta over training data.

7 ○ Hugo Touvron (Research Scientist)

8 ● **Technical and Management Leadership:**

9 ○ Sergey Edunov (Director, AI Research)  
10 ○ Angela Fan (Research Scientist)  
11 ○ Melanie Kambadur (Research Engineering Manager)  
12 ○ Sharan Narang (Research Scientist Manager)  
13 ○ Aurelien Rodriguez (Software Engineering Manager, former Meta employee) – Mr.  
14 Rodriguez left Meta voluntarily. Meta is unaware of any information to suggest that  
15 his departure from Meta concerned a disagreement with Meta over training data.  
16 ○ Robert Stojnic (Engineering Manager, former Meta employee) – Mr. Stojnic left  
17 Meta voluntarily. Meta is unaware of any information to suggest that his departure  
18 from Meta concerned a disagreement with Meta over training data.

19 Meta has produced a copy of the Llama 2: Open Foundation and Fine-Tuned Chat Models  
20 paper as Meta\_Kadrey\_00000001-00000077. Excluding Mr. Silva and Mr. Martin, each of the  
21 foregoing listed individuals also contributed to development of Llama 3. Pursuant to Rule 33(d),  
22 Meta also refers Plaintiffs to the paper titled “The Llama 3 Herd of Models,” published by Meta on  
23 July 23, 2024, for further information.

24 Meta also identifies the following individuals as having leadership roles in connection with  
25 development of Llama 2 and Llama 3:

- 26 ● Mike Clark (Director, Product Management)  
27 ● Ahmad Al-Dahle (VP Gen AI)  
28 ● Chaya Nayak (Director, Product Management)

1 In addition, Meta identifies the following individuals as having leadership roles in  
2 connection with development of Llama 1:

- 3 • Joelle Pineau (VP, AI Research)
- 4 • Edouard Grave (Research Scientist, former Meta employee) – Mr. Grave was a  
5 research scientist at Meta. Mr. Grave was one of the lead developers of Llama 1.  
6 Mr. Grave left Meta voluntarily. Meta is unaware of any information to suggest that  
7 his departure from Meta concerned a disagreement with Meta over training data.
- 8 • Guillaume Lample (Research Scientist, former Meta employee) – Mr. Lample was  
9 a research scientist at Meta. Mr. Lample was one of the lead developers of Llama  
10 1. Mr. Lample left Meta voluntarily. Meta is unaware of any information to suggest  
11 that his departure from Meta concerned a disagreement with Meta over training data.
- 12 • Aurelien Rodriguez (Software Engineering Manager, former Meta employee)
- 13 • Hugo Touvron (Research Scientist)

14 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
15 **Protective Order.**

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 • [REDACTED]

22 • [REDACTED]

23 • [REDACTED]

24 [REDACTED]

25 • [REDACTED]

26 • [REDACTED]

27 [REDACTED]

28

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 **INTERROGATORY NO. 8:**

18 Identify all software, databases, or services previously and currently used by You for  
19 training, maintaining, supervising, managing, analyzing, programming, updating, troubleshooting,  
20 diagnosing, testing or modifying the Meta Language Models.

21 **RESPONSE TO INTERROGATORY NO. 8:**

22 Meta incorporates by reference its objections and definitions above, including to the terms  
23 “You” and “Meta Language Models.”

24 As an initial matter, Meta objects to this Interrogatory because it consists of twenty-seven  
25 Interrogatories, which count toward Plaintiffs’ limit. Specifically, “software,” “databases” and  
26 “services” are all broad, distinct subject matters, as are “training,” “maintaining,” “supervising,”  
27 “managing,” “analyzing,” “programming,” “updating,” “troubleshooting [and] diagnosing”,  
28 “testing,” and “modifying.” In answering the Interrogatory, Meta does not waive this objection.



1 Meta objects to this Interrogatory as vague, ambiguous, and unintelligible as to  
2 “maintaining,” “supervising,” “managing,” “troubleshooting,” “diagnosing,” and “modifying” in  
3 the context of Meta’s Llama models.

4 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
5 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
6 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs’ theory of  
7 copyright infringement.

8 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
9 Protective Order and the ESI Order, Meta responds as follows:

10 **This response should be treated as Confidential under the Protective Order.**

11 

12 **INTERROGATORY NO. 10:**

13 Identify all Persons or Related Entities from whom You licensed, purchased or otherwise  
14 obtained Training Data for the Meta Language Models. For each such provider of Training Data,  
15 include the name of such person(s), date, amount paid, approximate description and size of data  
16 You obtained, and Identify the particular models such Training Data was used for.

17 **RESPONSE TO INTERROGATORY NO. 10:**

18 Meta incorporates by reference its objections and definitions above, including to the terms  
19 “You,” “Training Data,” and “Meta Language Models.”

20 As an initial matter, Meta objects to this Interrogatory because it consists of *at least* three  
21 Interrogatories, which count toward Plaintiffs’ limit. For example, identifying a “Person” is  
22 separate from the date of an alleged transaction, how much was paid, or specifics about data. In  
23 answering the Interrogatory, Meta does not waive this objection.

24 Meta objects to this Interrogatory as vague, ambiguous, and unintelligible as to the term  
25 “Related Entities” which is capitalized as if it is defined when it is not. Meta will construe “Related  
26 Entities” to mean entities owned by or sharing common ownership with Meta.

27 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
28 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,

1 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs’ theory of  
2 copyright infringement.

3 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
4 Protective Order and the ESI Order, Meta responds that it will identify Persons from whom Meta  
5 has “licensed, purchased, or otherwise obtained” Training Data (as construed above) for the Meta  
6 Language Models (as construed above), if any, to the extent such information is within Meta’s  
7 possession, custody, or control, after additional investigation has been completed. Discovery is  
8 continuing and Meta reserves the right to supplement or amend its response at a later time.

9 **Meta’s First Supplemental Response to Interrogatory No. 10:**

10 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
11 Protective Order, Meta responds as follows:

12 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
13 **Protective Order.**

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 **Meta’s Second Supplemental Response to Interrogatory No. 10:**

19 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
20 **Protective Order.**

21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]  
26 [REDACTED]

27 **INTERROGATORY NO. 11:**

28 Identify by name all individuals or entities who possess or have possessed stock or

1 ownership interests in You greater than five percent.

2 **RESPONSE TO INTERROGATORY NO. 11:**

3 Meta incorporates by reference its objections and definitions above, including to the term  
4 “You.” Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
5 to the needs of the case, is unbounded in time and scope, and seeks information that is not relevant  
6 to the parties’ claims and defenses. A list of all individuals or entities that have at any point in time  
7 possessed stock or ownership in Meta greater than five percent is irrelevant to Plaintiffs’ theory of  
8 copyright infringement.

9 Meta incorporates by reference its most recent SEC FORM DEF 14A, which identifies  
10 individuals and companies with a beneficial interest of more than 5% of Meta’s publicly traded  
11 stock. Meta will produce a copy of that document in its forthcoming production pursuant to Rule  
12 33(d). Meta also refers Plaintiff to the Investor Relations  
13 (<https://investor.fb.com/home/default.aspx>) and Company Info ([https://about.meta.com/company-](https://about.meta.com/company-info/)  
14 [info/](https://about.meta.com/company-info/)) pages on its website, which contain information about present Meta leadership.

15 **INTERROGATORY NO. 12:**

16 Identify by name, department, and job description, all individuals who have directly  
17 participated in the planning, conception, design, programming, testing, or operation of the Meta  
18 Language Models during the Relevant Period (including organization charts if applicable),  
19 Including All Persons with responsibility who have directly participated in the choice or selection  
20 of Training Data for the Meta Language Models.

21 **RESPONSE TO INTERROGATORY NO. 12:**

22 Meta incorporates by reference its objections and definitions above, including to the terms  
23 “Relevant Period,” “Training Data,” and “Meta Language Models.”

24 As an initial matter, Meta objects to this Interrogatory because it consists of several  
25 Interrogatories, each which count toward Plaintiffs’ limit.

26 Meta objects to this Interrogatory as vague and ambiguous as to the phrase “directly  
27 participated in,” which, read literally, may include a large number of individuals regardless of the  
28 significance of their role. Meta also objects to this Interrogatory as vague and ambiguous as to the

1 term “operation,” which could mean any number of things, including any use of a model. Meta  
2 will construe this Interrogatory to seek information concerning individuals in a managerial role or  
3 who may be regarded as lead developers with primary responsibility for the planning, conception,  
4 design, programming, testing, or selection of Training Data (as construed above) used for Meta  
5 Language Models (as construed above).

6 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
7 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
8 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs’ direct  
9 copyright infringement claim.

10 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
11 Meta’s possession, custody, or control, in particular as to individuals who are no longer with the  
12 company and any “organization charts” of relevant employees.

13 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
14 Protective Order and the ESI Order, Meta responds as follows:

15 Meta incorporates by reference Appendix A.1 to the publicly available paper “Llama 2:  
16 Open Foundation and Fine-Tuned Chat Models,” which identifies the following individuals as  
17 having leadership roles in connection with development of Llama 2:

18 · **Science and Engineering Leadership:** Guillem Cucurull (Research Engineer),  
19 Naman Goyal (Software Engineer), Louis Martin (Research Scientist), Thomas Scialom (Research  
20 Scientist), Ruan Silva (Software Engineer), Kevin Stone (Research Engineer), Hugo Touvron (AI  
21 Research Scientist).

22 · **Technical and Management Leadership:** Sergey Edunov (Director, AI Research),  
23 Angela Fan (Research Scientist), Melanie Kambadur (Research Engineering Manager), Sharan  
24 Narang (Research Scientist Manager), Aurelien Rodriguez (Software Engineering Manager),  
25 Robert Stojnic (Engineering Manager).

26 Meta will produce a copy of that paper in its forthcoming production pursuant to Rule 33(d).

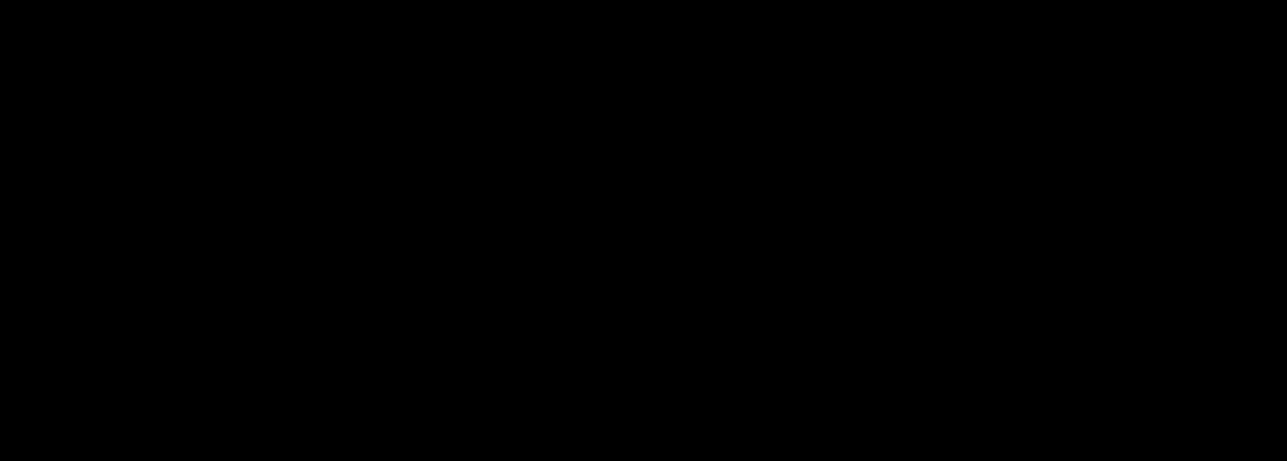
27 **This response is designated as Confidential under the Protective Order.**

28 In addition, Meta identifies the Edouard Grave (Research Scientist, former employee),

1 Guillaume Lample (Research Scientist, former employee), Hugo Touvron (AI Research Scientist),  
2 and Aurelien Rodriguez (Software Engineering Manager) as lead developers with primary  
3 responsibility for the planning, conception, design, programming, testing, or operation of Llama 1.

4 **Meta’s First Supplemental Response to Interrogatory No. 12:**

5 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
6 **Protective Order.**



14 **INTERROGATORY NO. 13:**

15 Describe in detail the policies and procedures that You follow or have followed in assessing  
16 whether to permit the use of a dataset as Training Data for a Meta Language Model, and:

- 17 a. list all datasets that have been so reviewed;
- 18 b. list datasets that have been permitted to be used as Training Data for any Meta  
19 Language Model, and the date so designated;
- 20 c. list datasets that have at any time been forbidden from being used as Training Data  
21 for any Meta Language Model;
- 22 d. for each forbidden dataset, list the reason that it was forbidden and the date so  
23 forbidden;
- 24 e. if a forbidden dataset was later designated safe to use, list the reason its designation  
25 was revised and the date so revised.

26 **RESPONSE TO INTERROGATORY NO. 13:**

27 Meta incorporates by reference its objections and definitions above, including to the terms  
28 “You,” “Training Data,” and “Meta Language Models.”

1 As an initial matter, Meta objects to this Interrogatory because it consists of at least three  
2 Interrogatories, which count toward Plaintiffs' limit. Specifically, questions about so-called  
3 policies or procedures are separate from a list of datasets reviewed, reasons why a dataset was  
4 "forbidden" (a term used by the Interrogatory), or reasons why a dataset was once "forbidden" but  
5 later not. In answering the Interrogatory, Meta does not waive this objection.

6 Meta objects to this Interrogatory because, on its face, it does not exclude legal advice or  
7 opinions, which are subject to attorney-client privilege and/or attorney work product doctrine, in  
8 particular as the subject matter of the Interrogatory encompasses policies and procedures that are  
9 legal in nature. Meta will not provide information concerning policies and procedures that  
10 constitute legal advice, nor will Meta respond to subparts (a), (b), to the extent that it concerns  
11 whether and when a given dataset received approval for use, and (c)-(e).

12 Meta objects to this Interrogatory as vague and ambiguous as to the term "forbidden  
13 dataset," which is undefined. Meta further objects to this term to the extent it implies that Meta has  
14 prohibited use of any particular dataset for training a language model. Meta will construe  
15 "forbidden dataset" to mean datasets referred to in subpart (c).

16 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
17 to the needs of the case and seeks information that is not relevant to the parties' claims and defenses,  
18 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs' direct  
19 copyright infringement claim.

20 Meta objects to this Interrogatory as duplicative and cumulative of Interrogatory No. 1, and  
21 therefore refers to its response to Interrogatory 1.

22 Meta objects to this Interrogatory because it exceeds Plaintiffs' limit of 25 Interrogatories  
23 under Rule 33(a)(1).

24 **Meta's First Supplemental Response to Interrogatory No. 13:**

25 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
26 Protective Order, the ESI Order, and Rule 33(d), Meta identifies Bates Nos.  
27 Meta\_Kadrey\_00089197, Meta\_Kadrey\_00093496, Meta\_Kadrey\_00065402, and  
28 Meta\_Kadrey\_00154774 as identifying datasets that Meta has considered for use as text training

1 data for the Meta Language Models (as construed above).

2 **INTERROGATORY NO. 14:**

3 Identify by name all individuals or entities who have applied for access to Llama 1. Include  
4 in Your response:

5 a. The names all individuals or entities who obtained access to Llama 1;

6 b. The names all individuals or entities who you denied access to Llama 1, including  
7 the names of all individuals or entities who have had their access to Llama 1 revoked or otherwise  
8 limited by You;

9 c. For each individual or entity whom you denied access to Llama 1, a description of  
10 the reason(s) why you denied access to that particular individual or entity.

11 **RESPONSE TO INTERROGATORY NO. 14:**

12 Meta incorporates by reference its objections and definitions above, including to the terms  
13 “You,” “Your,” and “Llama 1.”

14 As an initial matter, Meta objects to this Interrogatory because it consists of at least three  
15 Interrogatories, which count toward Plaintiffs’ limit. Specifically, an inquiry regarding entities  
16 who applied for access is separate from a question about who obtained or was denied access, and  
17 the reasons why (on a person by person basis).

18 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
19 to the needs of the case as it would require Meta to compile a list of every individual who sought  
20 to use Llama v1 and when and whether they were given access (or not), and then determine the  
21 reasoning (if there was one) why access was or was not granted. There is no relevance or  
22 proportionality of this request to Plaintiffs’ direct copyright infringement claim relating to training.

23 Meta objects to this Interrogatory because, on its face, it does not exclude legal advice or  
24 opinions, which are subject to attorney-client privilege and/or attorney work product doctrine, in  
25 particular as the subject matter of the Interrogatory encompasses determinations that are legal in  
26 nature.

27 Finally, Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25  
28 Interrogatories under Rule 33(a)(1).

1 **Meta’s First Supplemental Response to Interrogatory No. 14:**

2 Pursuant to Rule 33(d), Meta identifies the Bates Nos. Meta\_Kadrey\_00065897,  
3 Meta\_Kadrey\_00065898, Meta\_Kadrey\_00065899, Meta\_Kadrey\_00066056,  
4 Meta\_Kadrey\_00066065, Meta\_Kadrey\_00187042, Meta\_Kadrey\_00187043,  
5 Meta\_Kadrey\_00187044, Meta\_Kadrey\_00187045. These documents identify individuals who  
6 received, and who were denied, access to Llama 1. Meta also identifies Bates Nos.  
7 Meta\_Kadrey\_00185688, Meta\_Kadrey\_00185680, which describe the criteria Meta used to grant  
8 or deny access to Llama 1.

9 **INTERROGATORY NO. 15:**

10 Explain in detail the role of the following individuals in any aspect of the design, training,  
11 development, testing, marketing, release or support of each of the Meta Language Models:

- 12 a. Hugo Touvron
- 13 b. Aurélien Rodriguez
- 14 c. Tim Dettmers
- 15 d. Luke Zettlemoyer
- 16 e. Shawn Presser
- 17 f. Stella Biderman
- 18 g. Leo Gao
- 19 h. Yann LeCun
- 20 i. John Carmack
- 21 j. Andrew Bosworth
- 22 k. Chris Cox
- 23 l. Jennifer Newstead
- 24 m. Ahmad Al-Dahle
- 25 n. Marc Zuckerberg
- 26 o. Marc Andreessen

27 **RESPONSE TO INTERROGATORY NO. 15:**

28 Meta incorporates by reference its objections and definitions above, including to the term



1 “Meta Language Models.”

2 As an initial matter, Meta objects to this Interrogatory because it consists of at least fifteen  
3 Interrogatories, which count toward Plaintiffs’ limit. Specifically, each individual’s role in the  
4 broad subjects of “design, training, development, testing, marketing, release or support” are  
5 separate subjects, and are not necessarily related to one another.

6 Meta objects to this Interrogatory as vague and ambiguous as to the term “support,” which  
7 is undefined and effectively meaningless. Meta also objects to this Interrogatory as vague and  
8 ambiguous as to the phrase “involved in any aspect of,” which is undefined and overbroad. Meta  
9 will construe this Interrogatory to seek information concerning the identified individuals’ job  
10 responsibilities in connection with the “design, training, development, testing, marketing, and  
11 release” of the Meta Language Models (as construed above).

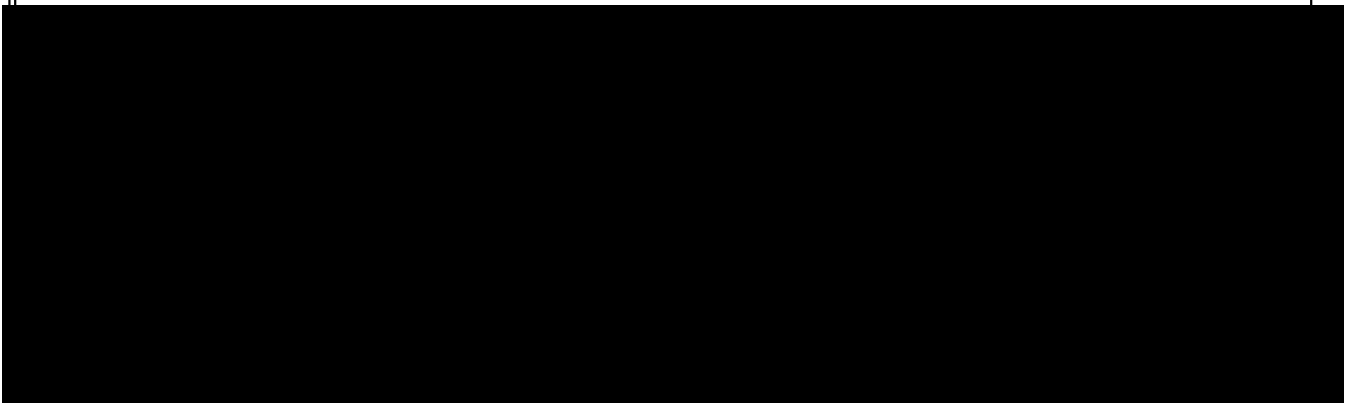
12 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
13 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
14 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs’ theory of  
15 copyright infringement.

16 Finally, Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25  
17 Interrogatories under Rule 33(a)(1).

18 **Meta’s First Supplemental Response to Interrogatory No. 15:**

19 Based on a reasonable investigation, Meta describes the roles of the following individuals  
20 in the development of the Meta Language Models as follows:

21 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
22 **Protective Order.**



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1 Dated: December 13, 2024

COOLEY LLP

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By: /s/ Judd Lauter

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**PROOF OF SERVICE**

I am a citizen of the United States and a resident of the State of California. I am employed in Los Angeles County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 355 South Grand Avenue, Suite 900, Los Angeles, CA 90071. On the date set forth below I served the documents described below in the manner described below:

- **DEFENDANT META PLATFORMS, INC.’S FURTHER SUPPLEMENTAL AND AMENDED RESPONSES AND OBJECTIONS TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**



(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

Executed on December 13, 2024, at Los Angeles, California.

/s/Jerry Gonzalez

Jerry Gonzalez

SERVICE LIST

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16 *Counsel for Defendant Meta Platforms, Inc.*

17  
18 **UNITED STATES DISTRICT COURT**  
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 RICHARD KADREY, et al.,  
21 Individual and Representative Plaintiffs,  
22 v.  
23 META PLATFORMS, INC., a Delaware  
24 corporation;  
25 Defendant.

Case No. 3:23-cv-03417-VC

**DEFENDANT META PLATFORMS, INC.’S  
FURTHER SUPPLEMENTAL AND AMENDED  
RESPONSES AND OBJECTIONS TO  
PLAINTIFFS’ SECOND SET OF  
INTERROGATORIES**

Trial Date:  
Date Action Filed: July 7, 2023



1 **PROPOUNDING PARTY:** **PLAINTIFFS RICHARD KADREY, SARAH SILVERMAN, CHRISTOPHER**  
2 **GOLDEN, TA-NEHISI COATES, JUNOT DÍAZ, ANDREW SEAN GREER,**  
3 **DAVID HENRY HWANG, MATTHEW KLAM, LAURA LIPPMAN,**  
4 **RACHEL LOUISE SNYDER, JACQUELINE WOODSON, LYSA**  
5 **TERKEURST, AND CHRISTOPHER FARNSWORTH**

6 **RESPONDING PARTY:** **DEFENDANT META PLATFORMS, INC.**

7 **SET NUMBER: ONE SECOND**

8 Pursuant to Federal Rule of Civil Procedure 33 and Local Rule 33, Defendant Meta  
9 Platforms, Inc. (“Meta”) responds as follows to Plaintiffs Richard Kadrey, Sarah Silverman,  
10 Christopher Golden, Ta-Nehisi Coates, Junot Díaz, Andrew Sean Greer, David Henry Hwang,  
11 Matthew Klam, Laura Lippman, Rachel Louise Snyder, Jacqueline Woodson, Lysa TerKeurst, and  
12 Christopher Farnsworth’s (“Plaintiffs”) Second Set of Interrogatories (“Interrogatories”).

13 **I. RESPONSES TO ALL INTERROGATORIES**

14 **1.** Meta’s responses to these Interrogatories are made to the best of Meta’s current  
15 employees’ present knowledge, information, and belief. Said responses are at all times subject to  
16 such additional or different information that discovery or further investigation may disclose and,  
17 while based on the present state of Meta’s recollection, is subject to such refreshing of recollection,  
18 and such additional knowledge of facts, as may result from Meta’s further discovery or  
19 investigation. Meta reserves the right to make any use of, or to introduce at any hearing and at trial,  
20 information and/or documents responsive to these Interrogatories but discovered subsequent to the  
21 date of these responses, including, but not limited to, any such information or documents obtained  
22 in discovery herein.

23 **2.** To the extent that Meta responds to an Interrogatory by stating that Meta will  
24 provide information or documents that Meta deems to embody material that is private, business  
25 confidential, proprietary, trade secret, or otherwise protected from disclosure pursuant to Federal  
26 Rule of Civil Procedure 26(c) and/or Federal Rule of Evidence 501, Meta will only do so subject  
27 to the parties’ stipulated protective order governing the unauthorized use or disclosure of such  
28 information or documents with a designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL

1 - ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" distinction  
2 (ECF No. 90, the "Protective Order").

3 3. Meta reserves all objections or other questions as to the competency, relevance,  
4 materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this  
5 or any other action for any purpose whatsoever of Meta's responses herein and any document or  
6 thing identified or provided in response to the Interrogatories.

7 **II. OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

8 Whether or not separately set forth in response to each Interrogatory, Meta makes these  
9 objections to the following Instructions and Definitions:

10 1. Meta objects to all defined terms to the extent that they are not utilized in Plaintiffs  
11 Second Set of Interrogatories.

12 2. Meta objects to the definition of "Agreements" as overbroad and unduly  
13 burdensome to the extent that it encompasses oral contracts, arrangements, or understandings,  
14 including those that are informal. Meta further objects to the definition of "Agreements" as vague,  
15 ambiguous, and unintelligible as to the term "modifications" to the extent it is intended to mean  
16 something distinct from "versions" or "amendments." Meta will construe "Agreements" to mean  
17 written contracts, including drafts, versions, amendments, exhibits, and appendices thereof.

18 3. Meta objects to the definition of "Communications" to the extent it is inconsistent  
19 with and otherwise seeks to circumvent the custodian and search term limits for electronic  
20 communications (including emails and other electronic correspondence, and documents attached  
21 thereto), as provided in the Stipulated Protocol regarding Electronic Discovery ("ESI  
22 Order"). Meta will produce Documents, including Communications, pursuant to the terms of the  
23 ESI Order, and any agreement to produce such Documents is explicitly in view of the terms of the  
24 ESI Order. To the extent that Meta responds to a Request, including by agreeing to search for  
25 relevant, non-privileged communications in Meta's possession, custody, or control, such response  
26 is not a representation that any particular custodian or search term is appropriate. Meta expressly  
27 reserves the right to object to any custodians and search terms proposed by Plaintiffs.

28

1           4.       Meta objects to the definition of “Complaint” which refers to an outdated complaint  
2 that has since been replaced by the Corrected Second Consolidated Amended Complaint (ECF No.  
3 133). Meta will construe “Complaint” to refer to the Corrected Second Consolidated Amended  
4 Complaint.

5           5.       Meta objects to the definitions of “Llama 1,” “Llama 2,” and “Llama 3” as vague  
6 and ambiguous as to the undefined terms “precursor models” and “variant models.” Meta further  
7 objects to these definitions as overbroad, unduly burdensome, and disproportionate to the needs of  
8 the case to the extent that it purports to require Meta to produce documents or information  
9 concerning large language models (“LLMs”) that were not publicly released and/or were not trained  
10 on corpuses of text that include any of Plaintiffs’ allegedly copyrighted works. For the same reason,  
11 Meta objects to these definitions to the extent that they purport to require Meta to produce  
12 documents or information concerning LLMs that are not relevant to any party’s claims or  
13 defenses. For purposes of these responses, Meta construes the term “Llama 1” to refer to the LLM  
14 released by Meta as Llama on February 24, 2023, the term “Llama 2” to refer to the LLM released  
15 by Meta under that name on July 18, 2023, and the term “Llama 3” to refer to the LLM released by  
16 Meta under that name on April 18, 2024, July 23, 2024, and September 25, 2024.

17           6.       Meta objects to the definition of “Meta” as overbroad, unduly burdensome, and  
18 disproportionate to the needs of the case to the extent that it purports to require Meta to produce  
19 documents or information concerning any “owners” regardless of shareholder interest and  
20 shareholders with an ownership of in Meta of greater than 5%. Meta will construe “Meta” or “You”  
21 to mean Meta Platforms, Inc.

22           7.       Meta objects to the definition of “Meta Language Models” as vague and ambiguous  
23 as to the undefined terms “precursor models” and “variant models.” Meta further objects to this  
24 definition as overbroad, unduly burdensome, and disproportionate to the needs of the case to the  
25 extent that it purports to require Meta to produce documents concerning LLMs that were not  
26 publicly released and/or were not trained on corpuses of text that allegedly include any of Plaintiffs’  
27 allegedly copyrighted works. For the same reason, Meta objects to this definition to the extent that  
28 it purports to require Meta to produce documents that are not relevant to any party’s claims or

1 defenses. Meta will construe “Meta Language Models” to mean the models within the Llama  
2 family of LLMs that have been publicly released by Meta, namely, Llama 1, Llama 2, Code Llama,  
3 and Llama 3 (as those terms are construed above).

4 **8.** Meta objects to the definition of “Relevant Period” as vague, ambiguous, and  
5 unintelligible, as it is defined circularly to mean “all times relevant to... the Complaint.” Meta will  
6 construe the Relevant Period to mean January 1, 2022 to the present.

7 **9.** Meta objects to the definition of “Training Data” as vague, ambiguous, and  
8 unintelligible as to the term “other material,” which is indefinite and undefined. Meta further  
9 objects to the definition of “Training Data” as vague and ambiguous as to the phrase “considered  
10 for use,” which, read literally, would encompass any dataset considered by any Meta employee,  
11 regardless of the seriousness of such consideration and whether or not that consideration was ever  
12 acted upon. Meta further objects to this definition to the extent it purports to include datasets (or  
13 “considered” datasets) that include content to which Plaintiffs have made no claim of ownership  
14 and which are not the subject of any allegations of copyright infringement by Plaintiffs. Meta will  
15 construe “Training Data” to mean the “Books3” textual dataset used to train the Meta Language  
16 Models (as construed above).

17 **10.** Meta objects to the definition of “You” and “Your” as overbroad, unduly  
18 burdensome, and nonsensical, insofar as it refers to “the specific Defendant(s) producing  
19 documents in response to these Requests.” There is only one defendant in this case, Meta, and this  
20 response is to the Interrogatories, not any document requests. Meta further objects to this definition  
21 to the extent it seeks to impose upon Meta an obligation to investigate information or documents  
22 outside of its possession, custody, or control. For purposes of these responses, Meta construes the  
23 terms “You” and “Your” coextensively with Meta (as construed above).

24 **11.** Meta objects to Instruction 1 to the extent that it purports to require more of Meta  
25 than any obligation imposed by law, and would subject Meta to unreasonable and undue burden  
26 and expense. Meta will supplement or amend its responses to these Interrogatories in accordance  
27 with Meta’s obligations under Rule 26(e).  
28

1           **12.** Meta objects to Instruction 2, which defines the “Relevant Period” as January 1,  
2 2000 to the present. Such definition is overbroad, unduly burdensome, and disproportionate to the  
3 needs of the case because it both precedes the existence of Facebook (and therefore Meta) by  
4 several years, and the development of the Meta Language Models by decades. For the same reason,  
5 the definition of “Relevant Period,” as applied to the Interrogatories, would encompass information  
6 that is irrelevant to the parties’ claims and defenses. The Instruction is also inconsistent with the  
7 definition of “Relevant Period” provided on page 3 of the Interrogatories and is therefore vague  
8 and ambiguous. Meta will construe the Relevant Period to mean January 1, 2022 to the present.

9           **13.** Meta objects to Instruction 4 (referring to Fed. R. Civ. P. Rule 33(d)) on the ground  
10 that it purports to require more of Meta than any obligation imposed by law, and would subject  
11 Meta to unreasonable and undue burden and expense.

12           **14.** Meta objects to Instruction 6 (outlining additional obligations for allegedly  
13 incomplete responses) to the extent that it purports to require Meta to investigate information  
14 outside of its possession, custody, or control.

15           **15.** Meta objects to Instruction 8 (outlining additional obligations for any privilege  
16 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
17 law, and would subject Meta to unreasonable and undue burden and expense.

18           **16.** Meta objects to Instruction 9 (outlining additional obligations for any work product  
19 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
20 law, and would itself require disclosure of information protected by attorney-client privilege and/or  
21 attorney work product doctrine.

22           **17.** Meta objects to Instruction 10 (building in a separate question for each  
23 Interrogatory) on the ground that it purports to require more of Meta than any obligation imposed  
24 by law, seeks disclosure of information protected by attorney-client privilege and/or attorney work  
25 product doctrine, and seeks to circumvent Plaintiffs’ interrogatory limit.

26           **18.** Meta objects to Instruction 11 (purporting to require responses for “all predecessors,  
27 successors, subsidiaries ... divisions and/or affiliates of Meta”), on the ground that it purports to  
28 require more of Meta than any obligation imposed by law, and would subject Meta to unreasonable

1 and undue burden and expense. Meta further objects to Instruction 11 to the extent that it purports  
2 to require Meta to investigate information outside of its possession, custody, or control. As such  
3 the Instruction is overly broad, as well. Subject to any objections applicable to a particular  
4 Interrogatory, Meta will conduct a reasonable, proportionate search for non-privileged, relevant,  
5 responsive information within its possession, custody, or control.

6 **19.** In responding to all Interrogatories, Meta will comply with the requirements of the  
7 Federal Rules of Evidence and Federal Rule of Civil Procedure 26.

8 **III. OBJECTIONS AND RESPONSES TO INDIVIDUAL INTERROGATORIES**

9 **INTERROGATORY NO. 16:**

10 State all facts on which you base Your contention that Your conduct constitutes fair use (17  
11 U.S.C. § 107).

12 **FIRST AMENDED AND SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 16:**

13 Meta incorporates by reference its objections and definitions above.

14 Meta objects to this Interrogatory as vague and ambiguous as to the phrase “Your conduct,”  
15 which is undefined and could refer to any conduct. Meta will construe this Interrogatory to seek  
16 information concerning Meta’s claim of fair use in connection with the conduct alleged in the  
17 Complaint (as construed above).

18 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
19 to the needs of the case to the extent it seeks information that Meta does not intend to rely on to  
20 support a claim of fair use and calls for a lengthy narrative with regard to twelve different plaintiffs  
21 and more than forty works.

22 Meta objects to this Interrogatory to the extent it prematurely calls for expert testimony or  
23 identification of facts yet to be disclosed by Plaintiffs, and to the extent that it requires Meta to  
24 respond to legal arguments or theories not yet disclosed by Plaintiffs.

25 Finally, Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25  
26 Interrogatories under Rule 33(a)(1).

27 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
28 Protective Order, Meta responds as follows:

1 The alleged use of Plaintiffs' asserted works, to the extent it is shown to have occurred, is  
2 highly transformative in nature, because it adds something new, with a further purpose or different  
3 character, altering those works with considerable new expression, meaning, or message. To the  
4 extent Plaintiffs' works were used to train the Meta Language Models, the purpose was  
5 transformative both in terms of purpose and expression. With respect to purpose, Plaintiffs' works  
6 were allegedly used as data to train the models. In other words, the works were allegedly a part of  
7 a corpus of text (specifically, terabytes of text from a variety of sources), from which the models  
8 built complex statistical representations of language derived from the patterns, structures, and  
9 relationships between words within the corpus. This enables the models to predict the next word  
10 in a sequence, and thereby provide useful responses to any manner of input prompts. Such use of  
11 textual material serves a fundamentally different purpose from the original texts on which the Meta  
12 Language Models were trained. *See e.g.*, Meta\_Kadrey\_00000001-00000077,  
13 Meta\_Kadrey\_00000078-00000104, Meta\_Kadrey\_00000224-00000248,  
14 Meta\_Kadrey\_00093669- Meta\_Kadrey\_00093760.

15 The text corpus used to train the Meta Language Models includes a large amount of textual  
16 materials, and to the extent Plaintiffs' works were used to train those models, they would constitute  
17 a tiny fraction of the textual training dataset (both individually and collectively). The purpose of  
18 the models, and the use of text datasets, is to create new, original textual output, not to reproduce  
19 the content of the datasets with which it was trained. This is demonstrated by, among other things,  
20 Meta's efforts to minimize the models' ability to memorize and/or output training data verbatim  
21 (*see e.g.*, Meta\_Kadrey\_00000277) and the wide variety of uses that have been made of the models.  
22 *See e.g.*, Meta\_Kadrey\_00092978-00093308, Meta\_Kadrey\_00062157. Indeed, all Plaintiffs have  
23 admitted that they are not aware of any output from any Meta Language Model that replicates any  
24 protected expression in their at-issue books. *See e.g.*, T. Coates 7/22/2024 Resps. & Objs. to Meta's  
25 2nd Set of RFAs, Resp. to RFA No. 24 (admitting, subject to objections, that Plaintiff is "personally  
26 unaware of any text generated by any of Meta's Llama models that infringes [Plaintiff's]  
27 ASSERTED WORKS."); J. Díaz 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to  
28 RFA No. 24 (same); C. Golden 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to

1 RFA No. 24 (same); A. Greer 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA  
2 No. 24 (same); D. Hwang 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No.  
3 24 (same); R. Kadrey 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 24  
4 (same); M. Klam 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 24  
5 (same); L. Lippman 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 24  
6 (same); S. Silverman 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 24  
7 (same); R. Snyder 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 24  
8 (same); J. Woodson 7/22/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 24  
9 (same); C. Golden 9/17/2024 Dep. 260:6–261:13 (Mr. Golden testifying that the present lawsuit is  
10 not about what comes out of Meta’s large language models); A. Greer 9/24/2024 79:21–80:3 (Mr.  
11 Greer testifying that his claims concern the use of his works to train large language models); D.  
12 Hwang 9/16/2024 Dep. 252:23–253:6 (Mr. Hwang testifying that the operative complaint does not  
13 allege that the Meta Language models create any output that is similar to any of his books or plays);  
14 L. TerKeurst 9/23/2024 Dep. 226:20–25, 229:5–12 (Ms. TerKeurst testifying that she was not  
15 aware of any text generated by the Meta Language Models that was substantially similar that of her  
16 asserted works); J. Woodson Dep. 328:23–329:4 (Ms. Woodson testifying that she is not aware of  
17 any output from any Meta LLM in which any of her characters appeared.); S. Silverman 10/10/2024  
18 Dep. 42:5–8 (Q: “[D]oes it matter if Meta's models never output any language from your book?” A:  
19 “It doesn't matter at all.”); *id.* 156:25–157:2 (“It doesn't matter what he does with it or what output  
20 comes from it. It's not right.”); *id.* 321:9–11 (“It's not about the output. If the output might not be  
21 this book, but without this book it wouldn't have the out-book [SIC] . . . .”); T. Coates 11/21/2024  
22 Dep. 52:22–53:11 (Mr. Coates testifying that he has not personally created or witnessed someone  
23 create output from Meta’s AI model that replicates or regurgitates portions of his books); M. Klam  
24 Rough Drft. Dep. 38:11–16, 234:5–11 (Mr. Klam testifying that he is unaware of any instance in  
25 which any Meta AI tool has output verbatim text from any of his books and cannot identify any  
26 language he has written in any of his books that was reproduced in the output of Meta’s AI model);  
27 R. Snyder Rough Drft. Dep. 36:2–4 (Ms. Snyder testifying that she has never seen any output  
28 generated by a Meta AI model that copies any language of hers); *cf.* D. Hwang 9/16/2024 Dep.



1 363:6–15 (Mr. Hwang testifying that he did not believe when he filed suit that the Meta Language  
2 Models could create works that were substantially similar to his works); L. Lippman 9/17/2024  
3 Dep. 311:16–312:1 (Ms. Lippman testifying that she is aware that the current version of the  
4 Complaint does not allege that Meta’s generative AI tools create any output that is substantially  
5 similar to her books); A. Greer 9/24/2024 Dep. 28:17–20 (same); J. Diaz 11/20/2024 Dep. 216:4–  
6 13 (same)

7         The transformative nature also extends to expression. The pre-training process involves a  
8 number of steps that fundamentally transform the input dataset text in order to facilitate training of  
9 the large language model (“LLM”), which Meta will further describe in further detail in connection  
10 with expert discovery. At a high-level, the pre-training process includes a “tokenization” step in  
11 which the data in training datasets is broken down and encoded into a series of values known as  
12 “tokens” which are used to create numerical vector representations that the LLM training  
13 algorithms can understand. (*See e.g.*, Meta\_Kadrey\_00000078-00000104, Section 2.1  
14 (“Tokenizer”); Meta\_Kadrey\_00000001-00000077, at 6 (“Tokenizer”).) The input data is then  
15 used in a complex series of LLM training algorithms that adjust the large number of numerical  
16 values (known as parameters which include weights) in the LLM, that define the connections and  
17 relationships between the nodes in the LLM. By adjusting these weights, the LLM can “learn” and  
18 better predict correct outputs based on input data. These numerical parameters enable the LLM,  
19 after the training process, to generate better output data in response to input prompts. The process  
20 of training of an LLM represents a complete transformation into a form that is entirely  
21 unrecognizable from the original training data.

22         The transformativeness of Meta’s use also extends to the post-training and fine-tuning  
23 processes used with the Meta Language Models. Plaintiffs have not alleged that their works were  
24 used as data in any post-training and fine-tuning processes for any Meta Language Model, but  
25 nevertheless, post-training and fine-tuning processes similarly involve a highly transformative use  
26 of the data used in those processes, both in terms of purpose and expression. The data used in post-  
27 training and fine-tuning is used to fine tune model parameters to improve the performance, quality,  
28 and behavior of the models and their responses. For example, in the post-training stage, “the model

1 is tuned to follow instructions, align with human preferences, and improve specific capabilities (for  
2 example, coding and reasoning).” The Llama 3 Herd of Models, p.1. In the post-training and fine-  
3 tuning processes (which will be discussed in more detail in expert discovery), post-training data is  
4 likewise used in a series of complex LLM training algorithms that further tailor the model  
5 parameters to improve the quality of responses and the ability of the model to perform various  
6 tasks. Post-training and fine-tuning processes also generally involve an amount of data that  
7 constitutes a fraction of the amount of data used in pre-training the model. Additionally, and for  
8 the same reasons, the transformativeness of Meta’s use also extends to research and evaluations  
9 (including ablation experiments) to assess the behavior and performance of the Meta Language  
10 Models. Plaintiffs likewise have not alleged that their works were used as data for research or  
11 evaluation of Meta Language Model, but nevertheless, the data used in these processes serves the  
12 transformative purpose of studying and improving model behavior, and furthering the research and  
13 development of the Meta Language Models.

14 As a further indication of the transformative nature, and the fact that the training process  
15 does not simply make a copy of the input dataset, the training process is so computationally  
16 complex that it requires an enormous amount of computing power. *See e.g.*,  
17 Meta\_Kadrey\_00000001-00000077, at 4 (“When training a 65B-parameter model, our code  
18 processes around 380 tokens/sec/GPU on 2048 A100 GPU with 80GB of RAM. This means that  
19 training over our dataset containing 1.4T tokens takes approximately 21 days.”).

20 Aside from its highly transformative nature, Meta’s alleged use also has substantial non-  
21 commercial, nonprofit, and educational (including research) purposes. Meta is investing billions  
22 of dollars in research and development of state-of-the-art LLM technology that it is then making  
23 available to the public. In particular, the training of the Meta Language Models resulted in Meta’s  
24 release of Llama 1, Llama 2, CodeLlama, and Llama 3, 3.1, and 3.2 to the open source  
25 community. These LLMs were provided openly to the public, pursuant to an open license that  
26 permits developers, researchers, and institutions (with the exception of licensees with more than  
27 700 million monthly active users) to use and modify the Llama models free of charge. *See e.g.*,  
28 Meta\_Kadrey\_00000160-00000162, Meta\_Kadrey\_00093275-00093284,

1 Meta\_Kadrey\_00093658-00093760. The open release of Llama has resulted in the Llama models  
2 being downloaded hundreds of millions of times by researchers and developers from around the  
3 world and has catalyzed development of new and improved AI tools and technologies. *See e.g.*,  
4 Meta\_Kadrey\_00092978-00093308, Meta\_Kadrey\_00062157. The open and public release of  
5 Llama has allowed the public to access highly capable LLM technologies that would otherwise be  
6 available only to large organizations and/or at considerable expense. More broadly, Meta's  
7 investment and open release is contributing to the U.S. economy, the emergence of a new and  
8 important industry, and the U.S.'s global leadership of that industry over geopolitical  
9 competitors. In that regard, Meta has agreed to permit members of the Five Eyes intelligence  
10 alliance, namely, the United States, Canada, UK, Australia, and New Zealand, to use the Meta  
11 Language Models. *See e.g.*, Meta\_Kadrey\_00213585.

12 Plaintiffs' allegedly infringed works were published prior to Meta's alleged use of those  
13 works. And Meta's use of large volumes of texts was necessary to extract data regarding, e.g.,  
14 word frequencies, grammar, and syntax from those works to generate new content. This  
15 information constitutes either facts and ideas, which are not protectable by copyright, or is  
16 otherwise unrelated to the purpose of copyright protection. Furthermore, given that training the  
17 Meta Language Models requires terabytes of text, that greater volumes of text tends to improve  
18 model performance on objective benchmarks measuring reasoning and knowledge of facts, and the  
19 formats in which the text is available, it was reasonable for Meta to utilize copies of entire works  
20 (as opposed to portions thereof), in particular given Meta's efforts to develop the models in a  
21 manner that minimizes the likelihood that training data can be reproduced as model output. For  
22 example, books data comprised only approximately 4.5% of tokens used to train Llama 1 and only  
23 4.4% of tokens used to train Llama 2.

24 The ordinary market for Plaintiffs' works is the market for people to purchase and read the  
25 books and, possibly, to create derivative works from those books, such as for audio books and film  
26 and television adaptations. The Meta Language Models and their outputs do not serve as a market  
27 substitute for the Plaintiffs' asserted works, do not compete with those works, and do not harm the  
28 value of Plaintiffs' asserted works. Plaintiffs have produced no evidence to the contrary, such as

1 evidence of lost sales or other financial harm. To the contrary, plaintiffs have admitted that they  
2 are not aware of any such harm. *See e.g.*, T. Coates 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of  
3 RFAs, Resp. to RFA No. 15 (admitting, subject to objections, that Plaintiff is unaware of lost sales  
4 due to alleged infringement); J. Díaz 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to  
5 RFA No. 15 (same); C. Golden 8/28/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to  
6 RFA No. 15 (same); A. Greer 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA  
7 No. 15 (same); D. Hwang 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No.  
8 15 (same); R. Kadrey 8/28/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15  
9 (same); M. Klam 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15 (same);  
10 L. Lippman 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15 (same); S.  
11 Silverman 8/28/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15 (same); R.  
12 Snyder 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15 (same); J.  
13 Woodson 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15 (same); L.  
14 TerKeurst 9/12/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 15 (similar);  
15 A. Greer 9/6/2024 Resps. & Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 16 (admitting,  
16 subject to objections, that Plaintiff’s book sales have not decreased due to the alleged use of  
17 Plaintiff’s Asserted Works to train large language models); L. TerKeurst 9/6/2024 Resps. & Objs.  
18 to Meta’s 2nd Set of RFAs, Resp. to RFA No. 16 (similar); T. Coates 9/19/2024 Resps. & Objs. to  
19 Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (admitting, subject to objections, that Plaintiff is  
20 unaware of lost licensing opportunities due to alleged infringement); J. Díaz 9/19/2024 Resps. &  
21 Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); C. Golden 9/19/2024 Resps. &  
22 Objs. to Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); A. Greer 9/19/2024 Resps. & Objs.  
23 to Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); D. Hwang 9/19/2024 Resps. & Objs. to  
24 Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); R. Kadrey 9/19/2024 Resps. & Objs. to  
25 Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); M. Klam 9/19/2024 Resps. & Objs. to  
26 Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); L. Lippman 9/19/2024 Resps. & Objs. to  
27 Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); S. Silverman 9/19/2024 Resps. & Objs. to  
28 Meta’s 2nd Set of RFAs, Resp. to RFA No. 18 (same); R. Snyder 9/19/2024 Resps. & Objs. to

1 Meta's 2nd Set of RFAs, Resp. to RFA No. 18 (same); J. Woodson 9/19/2024 Resps. & Objs. to  
2 Meta's 2nd Set of RFAs, Resp. to RFA No. 18 (same); L. TerKeurst 9/12/2024 Resps. & Objs. to  
3 Meta's 2nd Set of RFAs, Resp. to RFA No. 18 (same); T. Coates 7/22/2024 Resps. & Objs. to  
4 Meta's 2nd Set of RFAs, Resp. to RFA Nos. 22 and 23 (admitting, subject to objections, that  
5 Plaintiff is unaware of (1) persons reading text generated by Meta's Llama models as a substitute  
6 for Plaintiff's Asserted Works as described in RFA 22, and (2) documentary evidence of persons  
7 reading text generated by Meta's Llama models as substitute for Plaintiff's Asserted Works as  
8 described in RFA 23); J. Diaz 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to RFA  
9 Nos. 22 and 23 (same); C. Golden 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to  
10 RFA Nos. 22 and 23 (same); A. Greer 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp.  
11 to RFA Nos. 22 and 23 (same); D. Hwang 7/22/2024 Resps. & Objs. to Meta's 2nd Set of RFAs,  
12 Resp. to RFA Nos. 22 and 23 (same); R. Kadrey 7/22/2024 Resps. & Objs. to Meta's 2nd Set of  
13 RFAs, Resp. to RFA Nos. 22 and 23 (same); M. Klam 7/22/2024 Resps. & Objs. to Meta's 2nd Set  
14 of RFAs, Resp. to RFA Nos. 22 and 23 (same); L. Lippman 7/22/2024 Resps. & Objs. to Meta's  
15 2nd Set of RFAs, Resp. to RFA Nos. 22 and 23 (same); S. Silverman 7/22/2024 Resps. & Objs. to  
16 Meta's 2nd Set of RFAs, Resp. to RFA Nos. 22 and 23 (same); R. Snyder 7/22/2024 Resps. & Objs.  
17 to Meta's 2nd Set of RFAs, Resp. to RFA Nos. 22 and 23 (same); J. Woodson 7/22/2024 Resps. &  
18 Objs. to Meta's 2nd Set of RFAs, Resp. to RFA Nos. 22 and 23 (same); L. TerKeurst 8/21/2024  
19 Resps. & Objs. to Meta's 2nd Set of RFAs, Resp. to RFA Nos. 22 and 23 (similar); D. Hwang  
20 9/16/2024 Dep. 254:7–13 (Mr. Hwang testifying that he did not know whether he had experienced  
21 any financial loss as a result of the alleged training of the Meta Language Models on his asserted  
22 works); D. Hwang 9/16/2024 Dep. 290:10–17, 291:22–292:4 (Mr. Hwang testifying that he was  
23 not aware of any lost sales of his asserted works due to the alleged infringement in the complaint);  
24 R. Kadrey 9/25/2024 Dep. 223:23–224:1 (Mr. Kadrey testifying that he was unaware of any injury  
25 other than purported harm of not receiving compensation from Meta); R. Kadrey 9/25/2024 Dep.  
26 222:6–9 (Mr. Kadrey testifying that he was not aware of any lost sales of his asserted works due to  
27 the alleged infringement in the complaint); L. Lippman 9/17/2024 Dep. 339:3–10 (Ms. Lippman  
28 testifying that she is unaware of any financial harm that she has suffered as a result of conduct by

1 Meta alleged in the Complaint); A. Greer 9/24/2024 Dep. 120:21–121:10 (Mr. Greer testifying that  
2 he is unaware of any lost book sales or lost licensing opportunities as a result of Meta’s alleged  
3 infringement of his works, or whether it is possible that book sales have actually increased due to  
4 his participation in this lawsuit); S. Silverman 10/10/2024 Dep. 204:12–205:7, 296:10–297:2 (Ms.  
5 Silverman testifying that she is unaware of any evidence to suggest someone did not buy her book  
6 because they could generate a summary on a Meta AI tool, evidence of lost sales or lost licensing  
7 opportunities due to Meta’s conduct, or any instance in which another person did not seek to license  
8 her book because of Meta’s actions); T. Coates 11/21/2024 Dep. 123:19–125:25 (Mr. Coates  
9 testifying that he is unaware of any lost sales or lost licensing opportunities due to Meta’s LLMs);  
10 J. Díaz 11/20/2024 Dep. 337:22–339:6, 340:21–350:16 (Mr. Díaz testifying that he is unaware of  
11 any decrease in sales of his books or any monetary harm suffered due to Meta’s use of his books to  
12 train its Llama models) ; R. Snyder 12/11/2024 Rough Drft. Dep. 249:22–250:1, 250:14 251:1–  
13 253:5, 259:19–23 (Ms. Snyder testifying that she is unaware of any evidence of lost sales or lost  
14 licensing opportunities as a result of Meta’s conduct alleged in the Complaint); J. Woodson  
15 9/30/2024 Dep. 383:14–20, 389:5–20 (Ms. Woodson testifying that she is unaware of any lost  
16 licensing opportunities, loss of income, or lost sales as a result of Meta’s conduct alleged in the  
17 Complaint); M. Klam 12/10/2024 Rough Drft. Dep. 325:21–326:3, 328:6-10, 330:13–16 (Mr. Klam  
18 testifying that he is unaware of any evidence that he lost sales of his asserted works or lost licensing  
19 opportunities as a result of Meta’s conduct alleged in the Complaint); C. Farnsworth 12/4/2024  
20 Rough Drft. Dep. 138:20–139:8 (Mr. Farnsworth testifying that he could not point to any specific  
21 lost opportunity he suffered due to Meta’s release of its Llama model).

22 Moreover, there was no market for licensing Plaintiffs’ literary books as training data for  
23 LLMs at the time Meta first Llama 1 or at the time Plaintiffs’ filed their lawsuit, and there is no  
24 such market today. Plaintiffs have admitted as much in discovery. Moreover, testimony from  
25 Meta’s witnesses, including, by way of example, from Sy Choudhury, and Alex Boesenberg,  
26 indicate that there has not been, and is not a market for licensing books for AI training. *See e.g.*, S.  
27 Choudhury 12/5/2024 Dep. 20:6-22:21, 65:10-21; A. Boesenberg 11/18/2024 Dep. 381:14-  
28 22. Moreover, any particular book has no independent value as training data and/or is

1 interchangeable with countless other books. In any case, such a market would be for a  
2 transformative use. It would also be impractical, if not impossible, for companies developing  
3 LLMs to attempt to negotiate licenses with each individual book rights holder for various reasons,  
4 including but not limited to the amount of time and cost necessary to do so would have precluded  
5 development of the models in the first instance, in particular given the time and costs relative to the  
6 de minimis value of individual works to the development of the models. In support, Meta intends  
7 to rely on Plaintiffs’ discovery responses and testimony, expert reports and testimony, percipient  
8 witness testimony, as well as documents produced in this litigation

9 **INTERROGATORY NO. 17:**

10 If You or any of Your employees and/or agents intend to assert the advice of counsel  
11 defense, state any and all facts upon which You or any of your employees and/or agents intend to  
12 rely on for that contention.

13 **SECOND AMENDED RESPONSE TO INTERROGATORY NO. 17:**

14 Meta incorporates by reference its objections and definitions above.

15 Meta objects to this Interrogatory as vague and ambiguous as to the reference to “Your  
16 employees and/or agents” with respect to any defense in this case, as no Meta employees or agents  
17 are parties to this case.

18 Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25 Interrogatories  
19 under Rule 33(a)(1).

20 Subject to and without waiving the foregoing objections, Meta responds as follows: Meta  
21 does not intend to assert the advice of counsel defense in this case.

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Dated: December 13, 2024

COOLEY LLP

By: /s/ Judd Lauter

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**PROOF OF SERVICE**

I am a citizen of the United States and a resident of the State of California. I am employed in Los Angeles County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 355 South Grand Avenue, Suite 900, Los Angeles, CA 90071. On the date set forth below I served the documents described below in the manner described below:

- **DEFENDANT META PLATFORMS, INC.’S FURTHER SUPPLEMENTAL AND AMENDED RESPONSES AND OBJECTIONS TO PLAINTIFFS’ SECOND SET OF INTERROGATORIES**

(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

Executed on December 13, 2024, at Los Angeles, California.

/s/Jerry Gonzalez \_\_\_\_\_

Jerry Gonzalez

**SERVICE LIST**

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 18 *Counsel for Defendant Meta Platforms, Inc.*

19 **UNITED STATES DISTRICT COURT**  
 20 **NORTHERN DISTRICT OF CALIFORNIA**

21 RICHARD KADREY, et al.,  
 22 Individual and Representative Plaintiffs,  
 23 v.  
 24 META PLATFORMS, INC., a Delaware  
 25 corporation;  
 26 Defendant.

Lead Case No. 3:23-cv-03417-VC  
 Related Case No. 4:23-cv-06663

**DEFENDANT META PLATFORMS, INC.’S  
 FIRST SUPPLEMENTAL RESPONSES AND  
 OBJECTIONS TO PLAINTIFFS’ THIRD SET  
 OF INTERROGATORIES**

1 **PROPOUNDING PARTY:** **PLAINTIFFS RICHARD KADREY, SARAH SILVERMAN, CHRISTOPHER**  
2 **GOLDEN, TA-NEHISI COATES, JUNOT DÍAZ, ANDREW SEAN GREER,**  
3 **DAVID HENRY HWANG, MATTHEW KLAM, LAURA LIPPMAN,**  
4 **RACHEL LOUISE SNYDER, JACQUELINE WOODSON, LYSA**  
5 **TERKEURST, AND CHRISTOPHER FARNSWORTH**

6 **RESPONDING PARTY:** **DEFENDANT META PLATFORMS, INC.**

7 **SET NUMBER: ONE THIRD**

8 Pursuant to Federal Rule of Civil Procedure 33 and Local Rule 33, Defendant Meta  
9 Platforms, Inc. (“Meta”) responds as follows to Plaintiffs Richard Kadrey, Sarah Silverman,  
10 Christopher Golden, Ta-Nehisi Coates, Junot Díaz, Andrew Sean Greer, David Henry Hwang,  
11 Matthew Klam, Laura Lippman, Rachel Louise Snyder, Jacqueline Woodson, Lysa TerKeurst, and  
12 Christopher Farnsworth’s (“Plaintiffs”) Third Set of Interrogatories (“Interrogatories”).

13 **I. RESPONSES TO ALL INTERROGATORIES**

14 **1.** Meta’s responses to these Interrogatories are made to the best of Meta’s current  
15 employees’ present knowledge, information, and belief. Said responses are at all times subject to  
16 such additional or different information that discovery or further investigation may disclose and,  
17 while based on the present state of Meta’s recollection, is subject to such refreshing of recollection,  
18 and such additional knowledge of facts, as may result from Meta’s further discovery or  
19 investigation. Meta reserves the right to make any use of, or to introduce at any hearing and at trial,  
20 information and/or documents responsive to these Interrogatories but discovered subsequent to the  
21 date of these responses, including any such information or documents obtained in discovery herein.

22 **2.** To the extent that Meta responds to an Interrogatory by stating that Meta will  
23 provide information or documents that Meta deems to embody material that is private, business  
24 confidential, proprietary, trade secret, or otherwise protected from disclosure pursuant to Federal  
25 Rule of Civil Procedure 26(c) and/or Federal Rule of Evidence 501, Meta will only do so subject  
26 to the parties’ stipulated protective order governing the unauthorized use or disclosure of such  
27 information or documents with a designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL  
28 - ATTORNEYS’ EYES ONLY” or “HIGHLY CONFIDENTIAL – SOURCE CODE” distinction  
(ECF No. 90, the “Protective Order”).

1           **3.**       Meta reserves all objections or other questions as to the competency, relevance,  
2 materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this  
3 or any other action for any purpose whatsoever of Meta’s responses herein and any document or  
4 thing identified or provided in response to the Interrogatories.

5       **II.     OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

6           Whether or not separately set forth in response to each Interrogatory, Meta makes the  
7 following objections to Plaintiffs’ Instructions and Definitions:

8           **1.**       Meta objects to all defined terms to the extent that they are not utilized in Plaintiffs’  
9 Second Set of Interrogatories.

10          **2.**       Meta objects to the definition of “Communications” to the extent it is inconsistent  
11 with and otherwise seeks to circumvent the custodian and search term limits for electronic  
12 communications (including emails and other electronic correspondence, and documents attached  
13 thereto), as provided in the Stipulated Protocol regarding Electronic Discovery (“ESI  
14 Order”). Meta will produce Documents, including Communications, pursuant to the terms of the  
15 ESI Order, and any agreement to produce such Documents is explicitly in view of the terms of the  
16 ESI Order. To the extent that Meta responds to a Request, including by agreeing to search for  
17 relevant, non-privileged communications in Meta’s possession, custody, or control, such response  
18 is not a representation that any particular custodian or search term is appropriate. Meta expressly  
19 reserves the right to object to any custodians and search terms proposed by Plaintiffs.

20          **3.**       Meta objects to the definition of “Describe” as overbroad, unduly burdensome, and  
21 disproportionate to the needs of the case to the extent that it purports to require more of Meta than  
22 any obligation imposed by law, and would subject Meta to unreasonable and undue burden and  
23 expense. Meta also objects to the definition of “Describe” as vague, ambiguous, and unintelligible  
24 as to the phrase “desirable to support such statement or make the description complete.” Meta  
25 construes “Describe” to mean provide a detailed narrative statement or description of specific facts.

26          **4.**       Meta objects to the definition of “Llama Models” as vague and ambiguous as to the  
27 terms and phrases “other AI models,” “instances,” “iterations,” “versions,” “updates,”  
28 “modifications,” “original version,” “experimental versions,” “subsequent versions,” and

1 “refinements to the underlying algorithm, parameters, or architecture,” as applied to Llama and  
2 “any other AI models developed or in development by Meta.” Meta further objects to this definition  
3 as overbroad, unduly burdensome, and disproportionate to the needs of the case to the extent that  
4 it purports to require Meta to produce documents concerning large language models (“LLMs”) that  
5 were not publicly released and/or were not trained on corpuses of text that allegedly include any of  
6 Plaintiffs’ allegedly copyrighted works. For the same reason, Meta objects to this definition to the  
7 extent that it purports to require Meta to produce documents that are not relevant to any party’s  
8 claims or defenses. Meta construes “Llama Models” to mean the models within the Llama family  
9 of LLMs publicly released by Meta, namely, Llama 1, Llama 2, Code Llama, and Llama 3.

10 5. Meta objects to the definitions of “Llama 1,” “Llama 2,” and “Llama 3” as vague  
11 and ambiguous as to the undefined terms “precursor models” and “variant models.” Meta further  
12 objects to these definitions as overbroad, unduly burdensome, and disproportionate to the needs of  
13 the case to the extent that it purports to require Meta to produce documents or information  
14 concerning LLMs that were not publicly released and/or were not trained on corpuses of text that  
15 include any of Plaintiffs’ allegedly copyrighted works. For the same reason, Meta objects to these  
16 definitions to the extent that they purport to require Meta to produce documents or information  
17 concerning LLMs that are not relevant to any party’s claims or defenses. For purposes of these  
18 responses, Meta construes the term “Llama 1” to refer to the LLM released by Meta as Llama on  
19 February 24, 2023, the term “Llama 2” to refer to the LLM released by Meta under that name on  
20 July 18, 2023, and the term “Llama 3” to refer to the LLMs released by Meta under that name on  
21 April 18, 2024, July 23, 2024, and September 25, 2024.

22 6. Meta objects to the definition of “Meta” as overbroad, unduly burdensome, and  
23 disproportionate to the needs of the case to the extent that it purports to require Meta to produce  
24 documents outside of its possession, custody, or control. Meta construes “Meta” or “You” to mean  
25 Meta Platforms, Inc.

26 7. Meta objects to the definition of “Relevant Period” as vague, ambiguous, and  
27 unintelligible, as it is defined circularly to mean “all times relevant to ... the Complaint.” Meta  
28 construes the Relevant Period to mean January 1, 2022 to the present.

1           **8.**       Meta objects to the definition of “Shadow Dataset(s)” as vague and ambiguous as  
2 to the phrasing “the type of databases described in paragraph 37 of the Complaint—databases  
3 including but not limited to . . .” and “encompass all versions, updates, augmentations, or  
4 modifications of such databases.” Without any admission with respect to their content or nature,  
5 Meta construes the term “Shadow Dataset(s)” as used in the Requests and the term “Third Party  
6 Datasets” synonymously to refer to the third party datasets that are commonly referred to as  
7 Books3, Z-Library (aka B-ok), Library Genesis, Bibliotik, Anna’s Archive, and The Pile.

8           **9.**       Meta objects to the definition of “SRT” to the extent it characterizes Meta’s SRT  
9 platform as being used to track “business” issues. Meta construes “SRT” to refer to Meta’s SRT  
10 platform.

11           **10.**      Meta objects to the definitions of “Train” and “Training” as vague, ambiguous,  
12 overbroad, unduly burdensome, and disproportionate to the needs of the case to the extent these  
13 terms refer to processes other than pretraining or post-training processes. Meta construes “Train”  
14 and “Training” to refer to pretraining and post-training processes.

15           **11.**      Meta objects to Instruction 1 to the extent that it purports to require more of Meta  
16 than any obligation imposed by law, and would subject Meta to unreasonable and undue burden  
17 and expense. Meta will supplement or amend its responses to these Interrogatories in accordance  
18 with Meta’s obligations under Rule 26(e).

19           **12.**      Meta objects to Instruction 2, which defines the “Relevant Period” as January 1,  
20 2000 to the present. Such definition is overbroad, unduly burdensome, and disproportionate to the  
21 needs of the case because it both precedes the existence of Facebook (and therefore Meta) by  
22 several years, and the development of the Meta Language Models by decades. For the same reason,  
23 the definition of “Relevant Period,” as applied to the Interrogatories, would encompass information  
24 that is irrelevant to the parties’ claims and defenses. The Instruction is also inconsistent with the  
25 definition of “Relevant Period” provided on page 3 of the Interrogatories and is therefore vague  
26 and ambiguous. Meta construes the Relevant Period to mean January 1, 2022 to the present.

27           **13.**      Meta objects to Instruction 5 (referring to Fed. R. Civ. P. Rule 33(d)) on the ground  
28 that it purports to require more of Meta than any obligation imposed by law, and would subject



1 Meta to unreasonable and undue burden and expense.

2       **14.** Meta objects to Instruction 6 (outlining additional obligations for allegedly  
3 incomplete responses) to the extent that it purports to require Meta to investigate information  
4 outside of its possession, custody, or control.

5       **15.** Meta objects to Instruction 7 (outlining additional obligations for any privilege  
6 objection or work product objection) on the ground that it purports to require more of Meta than  
7 any obligation imposed by law, would subject Meta to unreasonable and undue burden and expense,  
8 and would itself require disclosure of information protected by attorney-client privilege and/or  
9 attorney work product doctrine.

10       **16.** Meta objects to Instruction 8 (building in a separate question for each Interrogatory)  
11 on the ground that it purports to require more of Meta than any obligation imposed by law, seeks  
12 disclosure of information protected by attorney-client privilege and/or attorney work product  
13 doctrine, and seeks to circumvent Plaintiffs’ interrogatory limit.

14       **17.** Meta objects to Instruction 10 (purporting to require responses for “all predecessors,  
15 successors, subsidiaries ... divisions and/or affiliates of Meta”), on the ground that it purports to  
16 require more of Meta than any obligation imposed by law, and would subject Meta to unreasonable  
17 and undue burden and expense. Meta further objects to Instruction 11 to the extent that it purports  
18 to require Meta to investigate information outside of its possession, custody, or control. As such,  
19 the Instruction is overly broad as well. Subject to any objections applicable to a particular  
20 Interrogatory, Meta will conduct a reasonable, proportionate search for non-privileged, relevant,  
21 responsive information within its possession, custody, or control.

22       **18.** In responding to all Interrogatories, Meta will comply with the requirements of the  
23 Federal Rules of Evidence and Federal Rule of Civil Procedure 26.

24 **III. OBJECTIONS AND RESPONSES TO INDIVIDUAL INTERROGATORIES**

25 **INTERROGATORY NO. 19:**

26 Describe the total revenue You have received and forecast or otherwise expect you will  
27 receive from the distribution or use of Llama Models since the start of their development, including  
28 by way of any direct sales, licensing fees, or other financial or in-kind benefits.

1 **RESPONSE TO INTERROGATORY NO. 19:**

2 Meta incorporates by reference its objections and definitions above.

3 Meta objects to this Interrogatory as vague and ambiguous as to the term “distribution” and  
4 the phrasing “since the start of their development” (as it relates to actual revenues), “direct sales,”  
5 and “other financial or in-kind benefits.” Meta construes this Interrogatory as seeking information  
6 concerning Meta’s actual and projected revenue associated with the Llama Models (as construed  
7 above).

8 Meta objects to this Interrogatory on the ground that it is overbroad, unduly burdensome,  
9 and disproportionate to the needs of the case and seeks information that is not relevant to the parties’  
10 claims and defenses.

11 Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule  
12 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs’ prior sets  
13 of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25  
14 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior  
15 interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs served  
16 additional interrogatories exceeding the limit. By answering interrogatories “19-25,” Meta does  
17 not waive its rights or objections as to Plaintiffs’ violation of Rule 33(a)(1).

18 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
19 Protective Order and the ESI , Meta responds as follows:

20 Pursuant to Rule 33(d), Meta refers Plaintiffs to the following documents:

21 Meta\_Kadrey\_00089020, Meta\_Kadrey\_00092364, and Meta\_Kadrey\_00093345,  
22 Meta\_Kadrey\_00093571.

23 In response to Plaintiffs’ Fifth Set of Requests for Production of Documents, Meta has  
24 conducted an additional search for non-privileged documents in its possession, custody, or control  
25 sufficient to show Meta’s actual and/or projected revenue associated with the Llama Models (as  
26 construed above), if any. Meta will amend its response to this Interrogatory to identify such  
27 documents, if any, after they have been produced.

28 **Meta’s First Supplemental Response to Interrogatory No. 19:**

1           **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
2 **Protective Order.**

3           • [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED], [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]

12           • [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED]

18           Meta further identifies Meta\_Kadrey\_00156462, which reflects updated financial forecasts,  
19 including revenues, associated with Meta’s generative AI initiatives.

20 **INTERROGATORY NO. 20:**

21           Describe any partnerships or collaborations related to the Llama Models You have entered  
22 with third parties that have resulted in financial benefits, including the details of such arrangements,  
23 such as financial terms, revenue or in-kind benefits received in relation to them.

24 **RESPONSE TO INTERROGATORY NO. 20:**

25           Meta incorporates by reference its objections and definitions above.

26           Meta objects to this Interrogatory as vague and ambiguous as to the phrases “partnerships  
27 or collaborations,” “financial benefits,” and “in-kind benefits.” Meta construes this Request as  
28

1 seeking documents concerning revenues generated by Meta from its agreements with third parties  
2 concerning use of the Llama Models (as construed above).

3 Meta objects to this Interrogatory on the ground that it is overbroad, unduly burdensome,  
4 and disproportionate to the needs of the case and seeks information that is not relevant to the parties’  
5 claims and defenses.

6 Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule  
7 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs’ prior sets  
8 of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25  
9 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior  
10 interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs  
11 served additional interrogatories exceeding the limit. By answering interrogatories “19-25,” Meta  
12 does not waive its rights or objections as to Plaintiffs’ violation of Rule 33(a)(1).

13 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
14 Protective Order and the ESI , Meta responds as follows:

15 **This response is designated as Confidential under the Protective Order.**

16 [Redacted]  
17 [Redacted]  
18 [Redacted]  
19 [Redacted]  
20 [Redacted]

21 **Meta’s First Supplemental Response to Interrogatory No. 20:**

22 Meta identifies Meta\_Kadrey\_00212903, Meta\_Kadrey\_00213257,  
23 Meta\_Kadrey\_00212679, Meta\_Kadrey\_00212864, and Meta\_Kadrey\_00212689 as Meta’s  
24 collaboration agreement with Amazon; Meta\_Kadrey\_00212710, Meta\_Kadrey\_00213055, and  
25 Meta\_Kadrey\_00213435 as Meta’s collaboration agreement with Google; and  
26 Meta\_Kadrey\_00213281, Meta\_Kadrey\_00213303, as Meta’s collaboration agreement with  
27 Microsoft.

28 **This response is designated as Confidential under the Protective Order.**

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED] [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

8 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 **INTERROGATORY NO. 21:**

13 Identify all Person(s) involved in the decision to use Shadow Datasets to train Llama  
14 Models.

15 **RESPONSE TO INTERROGATORY NO. 21:**

16 Meta incorporates by reference its objections and definitions above.

17 Meta objects to this Interrogatory as vague and ambiguous as to the phrase “involved in,”  
18 which could refer to anyone who had any role in use of such datasets. Meta construes this  
19 Interrogatory as seeking the identities of any individuals who had a direct role in the approval of  
20 Meta’s use of such datasets.

21 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
22 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
23 in particular to the extent it seeks information concerning individuals whom had no significant  
24 involvement in approving use of a particular dataset.

25 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
26 Meta’s possession, custody, or control.

27 Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule  
28 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs’ prior sets

1 of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25  
2 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior  
3 interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs  
4 served additional interrogatories exceeding the limit. By answering interrogatories “19-25,” Meta  
5 does not waive its rights or objections as to Plaintiffs’ violation of Rule 33(a)(1).

6 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
7 Protective Order, Meta responds as follows:

8 **This response is designated as Highly Confidential – Attorney’s Eyes Only under the**  
9 **Protective Order.**

10 [Redacted]

11 [Redacted]

- 12 • [Redacted]
- 13 • [Redacted]
- 14 • [Redacted]
- 15 • [Redacted]
- 16 • [Redacted]
- 17 • [Redacted]
- 18 • [Redacted]
- 19 • [Redacted]
- 20 • [Redacted]
- 21 • [Redacted]
- 22 • [Redacted]
- 23 • [Redacted]
- 24 • [Redacted]
- 25 • [Redacted]
- 26 • [Redacted]
- 27 • [Redacted]

28 **INTERROGATORY NO. 22:**

1 Describe any efforts You have made to obtain licenses or any similar permissions to use  
2 Shadow Datasets, or the works contained therein, to train Llama Models.

3 **RESPONSE TO INTERROGATORY NO. 22:**

4 Meta incorporates by reference its objections and definitions above.

5 Meta objects to this Interrogatory as vague and ambiguous as to the term “works” and the  
6 phrases “similar permissions” and “the works contained therein.” Meta construes this Interrogatory  
7 as seeking information concerning Meta’s efforts, if any, to obtain licenses or other consent to use  
8 the Third Party Datasets as training data for the Llama Models (as construed above).

9 Meta objects to this Interrogatory to the extent it implicitly assumes that licenses or  
10 permission are required for use of the Third Party Datasets to train the Llama Models (as construed  
11 above).

12 Meta objects to this Interrogatory because, on its face, it does not exclude legal advice or  
13 opinions, which are subject to attorney-client privilege and/or attorney work product doctrine, in  
14 particular to the extent that the subject matter of the Interrogatory encompasses internal  
15 deliberations between or among Meta attorneys concerning actual or contemplated contract  
16 provisions.

17 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
18 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
19 in particular to the extent it seeks information concerning licenses or consent to use works other  
20 than literary works as training data for the Llama Models (as construed above).

21 Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule  
22 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs’ prior sets  
23 of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25  
24 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior  
25 interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs  
26 served additional interrogatories exceeding the limit. By answering interrogatories “19-25,” Meta  
27 does not waive its rights or objections as to Plaintiffs’ violation of Rule 33(a)(1).

28 Subject to and without waiving the foregoing objections, and pursuant to the terms of the

1 Protective Order, Meta responds as follows:

2 **This response is designated as Confidential under the Protective Order.**

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 **INTERROGATORY NO. 23:**

7 Identify all sources from which You have obtained Shadow Datasets.

8 **RESPONSE TO INTERROGATORY NO. 23:**

9 Meta incorporates by reference its objections and definitions above.

10 Meta objects to this Interrogatory to the extent that it seeks information that is not within  
11 Meta's possession, custody, or control.

12 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
13 to the needs of the case and seeks information that is not relevant to the parties' claims and defenses,  
14 in particular to the extent it seeks information concerning datasets that were not used to train the  
15 Llama Models (as construed above) and the identity of every source from which a given dataset  
16 may have been obtained at any time.

17 Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule  
18 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs' prior sets  
19 of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25  
20 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior  
21 interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs  
22 served additional interrogatories exceeding the limit. By answering interrogatories "19-25," Meta  
23 does not waive its rights or objections as to Plaintiffs' violation of Rule 33(a)(1).

24 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
25 Protective Order, Meta responds as follows:

26 **This response is designated as Highly Confidential – Attorney's Eyes Only under the**  
27 **Protective Order.**

28 [REDACTED]



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[REDACTED]

**INTERROGATORY NO. 24:**

Identify all individuals, including current and former employees, who work or have worked on securing licenses for data or material You have used, have planned to use, or plan to use to train Llama Models.

**RESPONSE TO INTERROGATORY NO. 24:**

Meta incorporates by reference its objections and definitions above.

Meta objects to this Interrogatory as vague and ambiguous as to the phrasing “who worked on securing,” which could encompass any number of individuals who lack material knowledge of Meta’s data licensing efforts. Meta also objects to the terms “data” and “material” as vague, ambiguous, indefinite, overbroad, and disproportionate to the needs of the case, in particular to the extent it refers to training data other than text. Meta construes this Interrogatory as seeking information concerning the identities of Meta employees who were directly involved in and had responsibility for securing licenses, if any, for text data to train the Llama Models (as construed above).

Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses.

Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs’ prior sets of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs served additional interrogatories exceeding the limit. By answering interrogatories “19-25,” Meta does not waive its rights or objections as to Plaintiffs’ violation of Rule 33(a)(1).

Subject to and without waiving the foregoing objections, and pursuant to the terms of the

1 Protective Order, Meta identifies the following Meta employees as having been directly involved  
2 in and having responsibility for securing licenses, if any, for text data to train the Llama Models:

3 **This response is designated as Confidential under the Protective Order.**

- 4 • [REDACTED]
- 5 • [REDACTED]
- 6 • [REDACTED]
- 7 • [REDACTED]
- 8 • [REDACTED]
- 9 • [REDACTED]
- 10 • [REDACTED]
- 11 • [REDACTED]
- 12 • [REDACTED]
- 13 • [REDACTED]
- 14 • [REDACTED]
- 15 • [REDACTED]
- 16 • [REDACTED]
- 17 • [REDACTED]
- 18 • [REDACTED]
- 19 • [REDACTED]
- 20 • [REDACTED]

21 **INTERROGATORY NO. 25:**

22 Identify all Meta employees who communicated with third parties—including Microsoft  
23 Corporation, OpenAI, Eleuther AI, Anthropic, Dell Inc., Cloudflare, Inc. and Qualcomm—  
24 regarding data used to train Llama Models.

25 **RESPONSE TO INTERROGATORY NO. 25:**

26 Meta incorporates by reference its objections and definitions above.

27 Meta objects to this Interrogatory as vague, ambiguous, indefinite, overbroad, and  
28 disproportionate to the needs of the case as to the term “third parties.” Meta construes this term in

1 the context of this Interrogatory to mean Microsoft Corporation, OpenAI, Eleuther AI, Anthropic,  
2 Dell Inc., Cloudflare, Inc. and Qualcomm.

3 Meta also objects to the term “data” as vague, ambiguous, indefinite, overbroad, and  
4 disproportionate to the needs of the case, in particular to the extent it refers to training data other  
5 than text. Meta construes this Interrogatory as seeking information concerning the identities of  
6 Meta employees who were directly involved in and had responsibility for securing licenses, if  
7 any, for text data to train the Llama Models (as construed above). Meta construes the term “data”  
8 to mean text data.

9 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
10 to the needs of the case and seeks information that is not relevant to the parties’ claims and  
11 defenses.

12 Meta objects to this Request as improperly seeking discovery on discovery.

13 Meta objects to this Interrogatory as exceeding the limit of 25 Interrogatories under Rule  
14 33(a)(1). Meta informed Plaintiffs in connection with its objections to their Plaintiffs’ prior sets  
15 of Interrogatories that those interrogatories included numerous discrete subparts, far exceeding 25  
16 total. Nonetheless, and without waiver of its objections, Meta provided its responses to the prior  
17 interrogatories or is in the process of supplementing them. Without leave of Court, Plaintiffs  
18 served additional interrogatories exceeding the limit. By answering interrogatories “19-25,” Meta  
19 does not waive its rights or objections as to Plaintiffs’ violation of Rule 33(a)(1).

20 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
21 Protective Order, Meta responds as follows:

22 Meta is presently unaware of any Meta employees who communicated with Microsoft  
23 Corporation, OpenAI, Eleuther AI, Anthropic, Dell Inc., Cloudflare, Inc. and Qualcomm  
24 regarding text training data used to train the Llama Models. Meta is aware that Mr. Dettmers  
25 communicated with EleutherAI about training data for a model unrelated to the Llama Models.  
26 However, Meta is in the process of completing a reasonable investigation concerning the subject  
27 matter of this Interrogatory and will, if necessary, supplement its response in due course.

28 **Meta’s First Supplemental Response to Interrogatory No. 25:**

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**This response is designated as Confidential under the Protective Order.**

[Redacted]

[Redacted]

[Redacted]

Dated: December 13, 2024

COOLEY LLP

By: /s/ Judd Lauter

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**PROOF OF SERVICE**

I am a citizen of the United States and a resident of the State of California. I am employed in Los Angeles County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 355 South Grand Avenue, Suite 900, Los Angeles, CA 90071. On the date set forth below I served the documents described below in the manner described below:

- **DEFENDANT META PLATFORMS, INC.’S FIRST SUPPLEMENTAL RESPONSES AND OBJECTIONS TO PLAINTIFFS’ THIRD SET OF INTERROGATORIES**



(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

Executed on December 13, 2024, at Los Angeles, California.

/s/Jerry Gonzalez

Jerry Gonzalez

**SERVICE LIST**

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# EXHIBIT B

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11 *Counsel for Defendant Meta Platforms, Inc.*

12  
13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 RICHARD KADREY, et al.,  
16 Individual and Representative Plaintiffs,  
17 v.  
18 META PLATFORMS, INC., a Delaware  
19 corporation;  
20 Defendant.

Case No. 3:23-cv-03417-VC

**DEFENDANT META PLATFORMS, INC.’S  
RESPONSES AND OBJECTIONS TO  
PLAINTIFFS’ FIRST SET OF  
INTERROGATORIES**

Trial Date: None  
Date Action Filed: July 7, 2023



1 **PROPOUNDING PARTY:** **PLAINTIFFS RICHARD KADREY, SARAH SILVERMAN, CHRISTOPHER**  
2 **GOLDEN, MICHAEL CHABON, TA-NEHISI COATES, JUNOT DÍAZ,**  
3 **ANDREW SEAN GREER, DAVID HENRY HWANG, MATTHEW KLAM,**  
4 **LAURA LIPPMAN, RACHEL LOUISE SNYDER, AYELET WALDMAN,**  
5 **AND JACQUELINE WOODSON**

6 **RESPONDING PARTY:** **DEFENDANT META PLATFORMS, INC.**

7 **SET NUMBER: ONE ONE**

8 Pursuant to Federal Rule of Civil Procedure 33 and Local Rule 33, Defendant Meta  
9 Platforms, Inc. (“Meta”) responds as follows to Plaintiffs Richard Kadrey, Sarah Silverman,  
10 Christopher Golden, Michael Chabon, Ta-Nehisi Coates, Junot Díaz, Andrew Sean Greer, David  
11 Henry Hwang, Matthew Klam, Laura Lippman, Rachel Louise Snyder, Ayelet Waldman, and  
12 Jacqueline Woodson’s (“Plaintiffs”) First Set of Interrogatories (“Interrogatories”).

13 **I. RESPONSES TO ALL INTERROGATORIES**

14 **1.** Meta’s responses to these Interrogatories are made to the best of Meta’s current  
15 employees’ present knowledge, information, and belief. Said responses are at all times subject to  
16 such additional or different information that discovery or further investigation may disclose and,  
17 while based on the present state of Meta’s recollection, is subject to such refreshing of recollection,  
18 and such additional knowledge of facts, as may result from Meta’s further discovery or  
19 investigation. Meta reserves the right to make any use of, or to introduce at any hearing and at trial,  
20 information and/or documents responsive to these Interrogatories but discovered subsequent to the  
21 date of these responses, including, but not limited to, any such information or documents obtained  
22 in discovery herein.

23 **2.** To the extent that Meta responds to an Interrogatory by stating that Meta will  
24 provide information or documents that Meta deems to embody material that is private, business  
25 confidential, proprietary, trade secret, or otherwise protected from disclosure pursuant to Federal  
26 Rule of Civil Procedure 26(c) and/or Federal Rule of Evidence 501, Meta will only do so subject  
27 to the parties’ stipulated protective order governing the unauthorized use or disclosure of such  
28 information or documents with a designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL

1 - ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" distinction  
2 (ECF No. 90, the "Protective Order").

3 3. Meta reserves all objections or other questions as to the competency, relevance,  
4 materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this  
5 or any other action for any purpose whatsoever of Meta's responses herein and any document or  
6 thing identified or provided in response to the Interrogatories.

7 **II. OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

8 Whether or not separately set forth in response to each Interrogatory, Meta makes these  
9 objections to the following Instructions and Definitions:

10 1. Meta objects to the definition of "Agreement" as overbroad and unduly burdensome  
11 to the extent that it encompasses oral contracts, arrangements, or understandings, including those  
12 that are informal. Meta further objects to the definition of "Agreement" as vague, ambiguous, and  
13 unintelligible as to the term "modifications" to the extent it is intended to mean something distinct  
14 from "versions" or "amendments." Meta will construe "Agreement" to mean written contracts,  
15 including drafts, versions, amendments, exhibits, and appendices thereof.

16 2. Meta objects to the definition of "Communications" to the extent it encompasses  
17 email and other forms of electronic correspondence (collectively "email"). The parties are currently  
18 negotiating a protocol for managing electronic discovery ("ESI Order"), including email. The  
19 parties continue to meet and confer regarding that language. Regardless, under Meta's  
20 understanding of both parties' current proposals, email production shall be limited to a specified  
21 number of custodians and search terms to be identified by the requesting party, and such "search  
22 terms shall be narrowly tailored to particular issues." In view of this, Meta objects to production  
23 of email or information therefrom in response to these Interrogatories at this time. Pending the  
24 entry of an ESI Order, and pending service of identification of custodians and search terms that  
25 comply with any such additional agreed upon or Court-ordered requirements for email production  
26 in an entered ESI Order, Meta does not intend to search for or produce email. At such time, Meta  
27 will respond to any identification of custodians and search terms that comply with the requirements  
28

1 of the entered ESI Order in the manner set forth by the ESI Order. Meta expressly reserves the right  
2 to object to any custodians and search terms proposed by Plaintiffs.

3           **3.**       Meta objects to the definitions of “Llama 1,” “Llama 2,” and “Llama 3” as vague  
4 and ambiguous as to the undefined terms “precursor models” and “variant models.” Meta further  
5 objects to these definitions as overbroad, unduly burdensome, and disproportionate to the needs of  
6 the case to the extent that it purports to require Meta to produce documents or information  
7 concerning large language models (“LLMs”) that were not publicly released and/or were not trained  
8 on corpuses of text that include any of Plaintiffs’ allegedly copyrighted works. For the same reason,  
9 Meta objects to these definitions to the extent that they purport to require Meta to produce  
10 documents or information concerning LLMs that are not relevant to any party’s claims or defenses.  
11 For purposes of these responses, Meta construes the term “Llama 1” to refer to the LLM released  
12 by Meta as Llama on February 24, 2023, and the term “Llama 2” to refer to the LLM released by  
13 Meta under that name on July 18, 2023. Meta objects to the term “Llama 3,” and to all Instructions  
14 and Interrogatories that include it, on the ground that Llama 3 is not yet completed and not the  
15 subject of any claim in this litigation.

16           **4.**       Meta objects to the definition of “Meta” as overbroad, unduly burdensome, and  
17 disproportionate to the needs of the case to the extent that it purports to require Meta to produce  
18 documents or information concerning any “owners” regardless of shareholder interest and  
19 shareholders with an ownership of in Meta of greater than 5%. Meta will construe “Meta” or “You”  
20 to mean Meta Platforms, Inc.

21           **5.**       Meta objects to the definition of “Meta Language Models” as vague and ambiguous  
22 as to the undefined terms “precursor models” and “variant models.” Meta further objects to this  
23 definition as overbroad, unduly burdensome, and disproportionate to the needs of the case to the  
24 extent that it purports to require Meta to produce documents or information concerning LLMs that  
25 were not publicly released and/or were not trained on corpuses of text that include any of Plaintiffs’  
26 allegedly copyrighted works. For the same reason, Meta objects to this definition to the extent that  
27 it purports to require Meta to produce documents or information that are not relevant to any party’s  
28 claims or defenses. Meta will construe “Meta Language Models” to mean the models within the

1 Llama family of LLMs that have been publicly released by Meta, namely Llama 1, Llama 2, and  
2 Code Llama.

3 **6.** Meta objects to the definition of “Relevant Period” as vague, ambiguous, and  
4 unintelligible, as it is defined circularly to mean “all times relevant to... the Complaint.” Meta will  
5 construe the Relevant Period to mean January 1, 2022 to the present.

6 **7.** Meta objects to the definition of “Training Data” as vague, ambiguous, and  
7 unintelligible as to the term “other material,” which is indefinite and undefined. Meta further  
8 objects to the definition of “Training Data” as vague and ambiguous as to the phrase “considered  
9 for use,” which, read literally, would encompass any dataset considered by any Meta employee,  
10 regardless of the seriousness of such consideration and whether or not that consideration was ever  
11 acted upon. Meta further objects to this definition to the extent it purports to include datasets (or  
12 “considered” datasets) that include content to which Plaintiffs have made no claim of ownership  
13 and which are not the subject of any allegations of copyright infringement by Plaintiffs. Meta will  
14 construe “Training Data” to mean the “Books3” textual dataset used to train the Meta Language  
15 Models (as construed above).

16 **8.** Meta objects to the definition of “You” and “Your” as overbroad, unduly  
17 burdensome, and nonsensical, insofar as it refers to “the specific Defendant(s) producing  
18 documents in response to these Requests.” There is only one defendant in this case, Meta, and this  
19 response is to the Interrogatories, not any document requests. Meta further objects to this definition  
20 to the extent it seeks to impose upon Meta an obligation to investigate information or documents  
21 outside of its possession, custody, or control. For purposes of these responses, Meta construes the  
22 terms “You” and “Your” coextensively with Meta (as construed above).

23 **9.** Meta objects to Instruction 1 to the extent that it purports to require more of Meta  
24 than any obligation imposed by law, and would subject Meta to unreasonable and undue burden  
25 and expense. Meta will supplement or amend its responses to these Interrogatories in accordance  
26 with Meta’s obligations under Rule 26(e).

27 **10.** Meta objects to Instruction 2, which defines the “Relevant Period” as January 1,  
28 2000 to the present. Such definition is overbroad, unduly burdensome, and disproportionate to the

1 needs of the case because it both precedes the existence of Facebook (and therefore Meta) by  
2 several years, and the development of the Meta Language Models by decades. For the same reason,  
3 the definition of “Relevant Period,” as applied to the Interrogatories, would encompass information  
4 that is irrelevant to the parties’ claims and defenses. The Instruction is also inconsistent with the  
5 definition of “Relevant Period” provided on page 3 of the Interrogatories and is therefore vague  
6 and ambiguous. Meta will construe the Relevant Period to mean January 1, 2022 to the present.

7 **11.** Meta objects to Instruction 4 (referring to Fed. R. Civ. P. Rule 33(d)) on the ground  
8 that it purports to require more of Meta than any obligation imposed by law, and would subject  
9 Meta to unreasonable and undue burden and expense.

10 **12.** Meta objects to Instruction 6 (outlining additional obligations for allegedly  
11 incomplete responses) to the extent that it purports to require Meta to investigate information  
12 outside of its possession, custody, or control.

13 **13.** Meta objects to Instruction 8 (outlining additional obligations for any privilege  
14 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
15 law, and would subject Meta to unreasonable and undue burden and expense.

16 **14.** Meta objects to Instruction 9 (outlining additional obligations for any work product  
17 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
18 law, and would itself require disclosure of information protected by attorney-client privilege and/or  
19 attorney work product doctrine.

20 **15.** Meta objects to Instruction 10 (building in a separate question for each  
21 Interrogatory) on the ground that it purports to require more of Meta than any obligation imposed  
22 by law, seeks disclosure of information protected by attorney-client privilege and/or attorney work  
23 product doctrine, and seeks to circumvent Plaintiffs’ interrogatory limit.

24 **16.** Meta objects to Instruction 11 (purporting to require responses for “all predecessors,  
25 successors, subsidiaries ... divisions and/or affiliates of Meta”), on the ground that it purports to  
26 require more of Meta than any obligation imposed by law, and would subject Meta to unreasonable  
27 and undue burden and expense. Meta further objects to Instruction 11 to the extent that it purports  
28 to require Meta to investigate information outside of its possession, custody, or control. As such

1 the Instruction if overly broad, as well. Subject to any objections applicable to a particular  
2 Interrogatory, Meta will conduct a reasonable, proportionate search for non-privileged, relevant,  
3 responsive information within its possession, custody, or control.

4 17. In responding to all Interrogatories, Meta will comply with the requirements of the  
5 Federal Rules of Evidence and Federal Rule of Civil Procedure 26.

6 **III. OBJECTIONS AND RESPONSES TO INDIVIDUAL INTERROGATORIES**

7 **INTERROGATORY NO. 1:**

8 Describe in detail the data You have used to train or otherwise develop the Meta Language  
9 Models, including, for each:

10 a. How You obtained the data, e.g., by scraping the data, purchasing it from third  
11 parties, or by other means;

12 b. All sources of Data, including any third parties that provided data sets;

13 c. To the extent the data was derived from publicly available websites, a list of all such  
14 websites and, for each, the percentage of the data corpus that is derived from that website;

15 d. The categories of content included in the data and the extent to which each category  
16 is represented in the data corpus (i.e., as a percentage of data used to train the model);

17 e. All policies and procedures Related to identifying, assessing, vetting and selecting  
18 sources of data for the model.

19 **RESPONSE TO INTERROGATORY NO. 1:**

20 Meta incorporates by reference its objections and definitions above, including to the terms  
21 “You” and “Meta Language Models.” Meta further notes that the capitalized term “Related” is not  
22 defined; Meta construes that term coextensively with “concerning.”

23 As an initial matter, Meta objects to this Interrogatory because it consists of multiple,  
24 separate Interrogatories, each which count toward Plaintiffs’ limit under the Federal Rules. For  
25 example, the question about what data used to train a model is separate from how it was obtained,  
26 and further, subparts (d) and (e) are not subsumed within and necessarily related to the primary  
27 question, and purport to require a calculation of percentages of data, and separate identification of  
28 “policies” and “procedures” for (1) identifying, (2) assessing, (3) vetting, and (4) selecting data.

1 n. Marc Zuckerberg

2 o. Marc Andreessen

3 **RESPONSE TO INTERROGATORY NO. 15:**

4 Meta incorporates by reference its objections and definitions above, including to the term  
5 “Meta Language Models.”

6 As an initial matter, Meta objects to this Interrogatory because it consists of at least fifteen  
7 Interrogatories, which count toward Plaintiffs’ limit. Specifically, each individual’s role in the  
8 broad subjects of “design, training, development, testing, marketing, release or support” are  
9 separate subjects, and are not necessarily related to one another.

10 Meta objects to this Interrogatory as vague and ambiguous as to the term “support,” which  
11 is undefined and effectively meaningless. Meta also objects to this Interrogatory as vague and  
12 ambiguous as to the phrase “involved in any aspect of,” which is undefined and overbroad. Meta  
13 will construe this Interrogatory to seek information concerning the identified individuals’ job  
14 responsibilities in connection with the “design, training, development, testing, marketing, and  
15 release” of the Meta Language Models (as construed above).

16 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
17 to the needs of the case and seeks information that is not relevant to the parties’ claims and defenses,  
18 in particular to the extent it seeks information concerning issues unrelated to Plaintiffs’ theory of  
19 copyright infringement.

20 Finally, Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25  
21 Interrogatories under Rule 33(a)(1).

22 For these reasons, Meta will not respond to the Interrogatory.

23 Dated: February 23, 2024

COOLEY LLP

24 By: /s/ Judd Lauter

25 Judd Lauter  
26 Bobby Ghajar  
27 Mark Weinstein  
28 Kathleen Hartnett  
Colette Ghazarian

Attorneys for Defendant  
META PLATFORMS, INC.

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**PROOF OF SERVICE**

I am a citizen of the United States and a resident of the State of California. I am employed in Santa Clara County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 3175 Hanover Street, Palo Alto, California 94304-1130. On the date set forth below I served the documents described below in the manner described below:

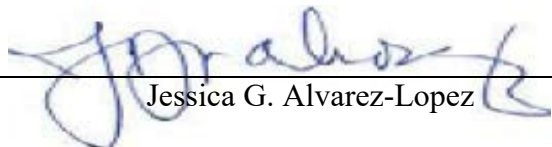
- **DEFENDANT META PLATFORMS, INC.’S RESPONSES AND OBJECTIONS TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**



(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

Executed on February 23, 2024, at Palo Alto, California.




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Jessica G. Alvarez-Lopez



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18 *Counsel for Defendant Meta Platforms, Inc.*

19 **UNITED STATES DISTRICT COURT**  
 20 **NORTHERN DISTRICT OF CALIFORNIA**

21 RICHARD KADREY, et al.,  
 22 Individual and Representative Plaintiffs,  
 23 v.  
 24 META PLATFORMS, INC., a Delaware  
 25 corporation;  
 26 Defendant.

Case No. 3:23-cv-03417-VC

**DEFENDANT META PLATFORMS, INC.’S  
 RESPONSES AND OBJECTIONS TO  
 PLAINTIFFS’ SECOND SET OF  
 INTERROGATORIES**

Trial Date:  
 Date Action Filed: July 7, 2023

1 **PROPOUNDING PARTY:** **PLAINTIFFS RICHARD KADREY, SARAH SILVERMAN, CHRISTOPHER**  
2 **GOLDEN, TA-NEHISI COATES, JUNOT DÍAZ, ANDREW SEAN GREER,**  
3 **DAVID HENRY HWANG, MATTHEW KLAM, LAURA LIPPMAN,**  
4 **RACHEL LOUISE SNYDER, JACQUELINE WOODSON, AND LYSA**  
5 **TERKEURST**

6 **RESPONDING PARTY:** **DEFENDANT META PLATFORMS, INC.**

7 **SET NUMBER: ONE SECOND**

8 Pursuant to Federal Rule of Civil Procedure 33 and Local Rule 33, Defendant Meta  
9 Platforms, Inc. (“Meta”) responds as follows to Plaintiffs Richard Kadrey, Sarah Silverman,  
10 Christopher Golden, Ta-Nehisi Coates, Junot Díaz, Andrew Sean Greer, David Henry Hwang,  
11 Matthew Klam, Laura Lippman, Rachel Louise Snyder, Jacqueline Woodson, and Lysa  
12 TerKeurst’s (“Plaintiffs”) Second Set of Interrogatories (“Interrogatories”).

13 **I. RESPONSES TO ALL INTERROGATORIES**

14 **1.** Meta’s responses to these Interrogatories are made to the best of Meta’s current  
15 employees’ present knowledge, information, and belief. Said responses are at all times subject to  
16 such additional or different information that discovery or further investigation may disclose and,  
17 while based on the present state of Meta’s recollection, is subject to such refreshing of recollection,  
18 and such additional knowledge of facts, as may result from Meta’s further discovery or  
19 investigation. Meta reserves the right to make any use of, or to introduce at any hearing and at trial,  
20 information and/or documents responsive to these Interrogatories but discovered subsequent to the  
21 date of these responses, including, but not limited to, any such information or documents obtained  
22 in discovery herein.

23 **2.** To the extent that Meta responds to an Interrogatory by stating that Meta will  
24 provide information or documents that Meta deems to embody material that is private, business  
25 confidential, proprietary, trade secret, or otherwise protected from disclosure pursuant to Federal  
26 Rule of Civil Procedure 26(c) and/or Federal Rule of Evidence 501, Meta will only do so subject  
27 to the parties’ stipulated protective order governing the unauthorized use or disclosure of such  
28 information or documents with a designated “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL

1 - ATTORNEYS' EYES ONLY" or "HIGHLY CONFIDENTIAL – SOURCE CODE" distinction  
2 (ECF No. 90, the "Protective Order").

3 3. Meta reserves all objections or other questions as to the competency, relevance,  
4 materiality, privilege or admissibility as evidence in any subsequent proceeding in or trial of this  
5 or any other action for any purpose whatsoever of Meta's responses herein and any document or  
6 thing identified or provided in response to the Interrogatories.

7 **II. OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

8 Whether or not separately set forth in response to each Interrogatory, Meta makes these  
9 objections to the following Instructions and Definitions:

10 1. Meta objects to all defined terms to the extent that they are not utilized in Plaintiffs  
11 Second Set of Interrogatories.

12 2. Meta objects to the definition of "Agreements" as overbroad and unduly  
13 burdensome to the extent that it encompasses oral contracts, arrangements, or understandings,  
14 including those that are informal. Meta further objects to the definition of "Agreements" as vague,  
15 ambiguous, and unintelligible as to the term "modifications" to the extent it is intended to mean  
16 something distinct from "versions" or "amendments." Meta will construe "Agreements" to mean  
17 written contracts, including drafts, versions, amendments, exhibits, and appendices thereof.

18 3. Meta objects to the definition of "Communications" to the extent it is inconsistent  
19 with and otherwise seeks to circumvent the custodian and search term limits for electronic  
20 communications (including emails and other electronic correspondence, and documents attached  
21 thereto), as provided in the Stipulated Protocol regarding Electronic Discovery ("ESI  
22 Order"). Meta will produce Documents, including Communications, pursuant to the terms of the  
23 ESI Order, and any agreement to produce such Documents is explicitly in view of the terms of the  
24 ESI Order. To the extent that Meta responds to a Request, including by agreeing to search for  
25 relevant, non-privileged communications in Meta's possession, custody, or control, such response  
26 is not a representation that any particular custodian or search term is appropriate. Meta expressly  
27 reserves the right to object to any custodians and search terms proposed by Plaintiffs.

28

1           4.       Meta objects to the definition of “Complaint” which refers to an outdated complaint  
2 that has since been replaced by the Corrected Second Consolidated Amended Complaint (ECF No.  
3 133). Meta will construe “Complaint” to refer to the Corrected Second Consolidated Amended  
4 Complaint.

5           5.       Meta objects to the definitions of “Llama 1,” “Llama 2,” and “Llama 3” as vague  
6 and ambiguous as to the undefined terms “precursor models” and “variant models.” Meta further  
7 objects to these definitions as overbroad, unduly burdensome, and disproportionate to the needs of  
8 the case to the extent that it purports to require Meta to produce documents or information  
9 concerning large language models (“LLMs”) that were not publicly released and/or were not trained  
10 on corpuses of text that include any of Plaintiffs’ allegedly copyrighted works. For the same reason,  
11 Meta objects to these definitions to the extent that they purport to require Meta to produce  
12 documents or information concerning LLMs that are not relevant to any party’s claims or  
13 defenses. For purposes of these responses, Meta construes the term “Llama 1” to refer to the LLM  
14 released by Meta as Llama on February 24, 2023, the term “Llama 2” to refer to the LLM released  
15 by Meta under that name on July 18, 2023, and the term “Llama 3” to refer to the LLM released by  
16 Meta under that name on April 18, 2024 and July 23, 2024.

17           6.       Meta objects to the definition of “Meta” as overbroad, unduly burdensome, and  
18 disproportionate to the needs of the case to the extent that it purports to require Meta to produce  
19 documents or information concerning any “owners” regardless of shareholder interest and  
20 shareholders with an ownership of in Meta of greater than 5%. Meta will construe “Meta” or “You”  
21 to mean Meta Platforms, Inc.

22           7.       Meta objects to the definition of “Meta Language Models” as vague and ambiguous  
23 as to the undefined terms “precursor models” and “variant models.” Meta further objects to this  
24 definition as overbroad, unduly burdensome, and disproportionate to the needs of the case to the  
25 extent that it purports to require Meta to produce documents concerning LLMs that were not  
26 publicly released and/or were not trained on corpuses of text that allegedly include any of Plaintiffs’  
27 allegedly copyrighted works. For the same reason, Meta objects to this definition to the extent that  
28 it purports to require Meta to produce documents that are not relevant to any party’s claims or

1 defenses. Meta will construe “Meta Language Models” to mean the models within the Llama  
2 family of LLMs that have been publicly released by Meta, namely, Llama 1, Llama 2, Code Llama,  
3 and Llama 3 (as those terms are construed above).

4 **8.** Meta objects to the definition of “Relevant Period” as vague, ambiguous, and  
5 unintelligible, as it is defined circularly to mean “all times relevant to... the Complaint.” Meta will  
6 construe the Relevant Period to mean January 1, 2022 to the present.

7 **9.** Meta objects to the definition of “Training Data” as vague, ambiguous, and  
8 unintelligible as to the term “other material,” which is indefinite and undefined. Meta further  
9 objects to the definition of “Training Data” as vague and ambiguous as to the phrase “considered  
10 for use,” which, read literally, would encompass any dataset considered by any Meta employee,  
11 regardless of the seriousness of such consideration and whether or not that consideration was ever  
12 acted upon. Meta further objects to this definition to the extent it purports to include datasets (or  
13 “considered” datasets) that include content to which Plaintiffs have made no claim of ownership  
14 and which are not the subject of any allegations of copyright infringement by Plaintiffs. Meta will  
15 construe “Training Data” to mean the “Books3” textual dataset used to train the Meta Language  
16 Models (as construed above).

17 **10.** Meta objects to the definition of “You” and “Your” as overbroad, unduly  
18 burdensome, and nonsensical, insofar as it refers to “the specific Defendant(s) producing  
19 documents in response to these Requests.” There is only one defendant in this case, Meta, and this  
20 response is to the Interrogatories, not any document requests. Meta further objects to this definition  
21 to the extent it seeks to impose upon Meta an obligation to investigate information or documents  
22 outside of its possession, custody, or control. For purposes of these responses, Meta construes the  
23 terms “You” and “Your” coextensively with Meta (as construed above).

24 **11.** Meta objects to Instruction 1 to the extent that it purports to require more of Meta  
25 than any obligation imposed by law, and would subject Meta to unreasonable and undue burden  
26 and expense. Meta will supplement or amend its responses to these Interrogatories in accordance  
27 with Meta’s obligations under Rule 26(e).  
28

1           **12.** Meta objects to Instruction 2, which defines the “Relevant Period” as January 1,  
2 2000 to the present. Such definition is overbroad, unduly burdensome, and disproportionate to the  
3 needs of the case because it both precedes the existence of Facebook (and therefore Meta) by  
4 several years, and the development of the Meta Language Models by decades. For the same reason,  
5 the definition of “Relevant Period,” as applied to the Interrogatories, would encompass information  
6 that is irrelevant to the parties’ claims and defenses. The Instruction is also inconsistent with the  
7 definition of “Relevant Period” provided on page 3 of the Interrogatories and is therefore vague  
8 and ambiguous. Meta will construe the Relevant Period to mean January 1, 2022 to the present.

9           **13.** Meta objects to Instruction 4 (referring to Fed. R. Civ. P. Rule 33(d)) on the ground  
10 that it purports to require more of Meta than any obligation imposed by law, and would subject  
11 Meta to unreasonable and undue burden and expense.

12           **14.** Meta objects to Instruction 6 (outlining additional obligations for allegedly  
13 incomplete responses) to the extent that it purports to require Meta to investigate information  
14 outside of its possession, custody, or control.

15           **15.** Meta objects to Instruction 8 (outlining additional obligations for any privilege  
16 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
17 law, and would subject Meta to unreasonable and undue burden and expense.

18           **16.** Meta objects to Instruction 9 (outlining additional obligations for any work product  
19 objection) on the ground that it purports to require more of Meta than any obligation imposed by  
20 law, and would itself require disclosure of information protected by attorney-client privilege and/or  
21 attorney work product doctrine.

22           **17.** Meta objects to Instruction 10 (building in a separate question for each  
23 Interrogatory) on the ground that it purports to require more of Meta than any obligation imposed  
24 by law, seeks disclosure of information protected by attorney-client privilege and/or attorney work  
25 product doctrine, and seeks to circumvent Plaintiffs’ interrogatory limit.

26           **18.** Meta objects to Instruction 11 (purporting to require responses for “all predecessors,  
27 successors, subsidiaries ... divisions and/or affiliates of Meta”), on the ground that it purports to  
28 require more of Meta than any obligation imposed by law, and would subject Meta to unreasonable



1 and undue burden and expense. Meta further objects to Instruction 11 to the extent that it purports  
2 to require Meta to investigate information outside of its possession, custody, or control. As such  
3 the Instruction is overly broad, as well. Subject to any objections applicable to a particular  
4 Interrogatory, Meta will conduct a reasonable, proportionate search for non-privileged, relevant,  
5 responsive information within its possession, custody, or control.

6 **19.** In responding to all Interrogatories, Meta will comply with the requirements of the  
7 Federal Rules of Evidence and Federal Rule of Civil Procedure 26.

8 **III. OBJECTIONS AND RESPONSES TO INDIVIDUAL INTERROGATORIES**

9 **INTERROGATORY NO. 1:**

10 State all facts on which you base Your contention that Your conduct constitutes fair use (17  
11 U.S.C. § 107).

12 **RESPONSE TO INTERROGATORY NO. 1:**

13 Meta incorporates by reference its objections and definitions above.

14 Meta objects to this Interrogatory as vague and ambiguous as to the phrase “Your conduct,”  
15 which is undefined and could refer to any conduct. Meta will construe this Interrogatory to seek  
16 information concerning Meta’s claim of fair use in connection with the conduct alleged in the  
17 Complaint (as construed above).

18 Meta objects to this Interrogatory as overbroad, unduly burdensome, and disproportionate  
19 to the needs of the case to the extent it seeks information that Meta does not intend to rely on to  
20 support a claim of fair use and calls for a lengthy narrative with regard to twelve different plaintiffs  
21 and more than forty works.

22 Meta objects to this Interrogatory to the extent it prematurely calls for expert testimony or  
23 identification of facts yet to be disclosed by Plaintiffs, and to the extent that it requires Meta to  
24 respond to legal arguments or theories not yet disclosed by Plaintiffs.

25 Finally, Meta objects to this Interrogatory because it exceeds Plaintiffs’ limit of 25  
26 Interrogatories under Rule 33(a)(1).

27 Subject to and without waiving the foregoing objections, and pursuant to the terms of the  
28 Protective Order, Meta responds as follows:

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Dated: September 30, 2024

COOLEY LLP

By: /s/ Judd Lauter

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Mark Weinstein  
Kathleen Hartnett  
Judd Lauter  
Liz Stameshkin  
Colette Ghazarian

LEX LUMINA PLLC  
Mark A. Lemley

CLEARY GOTTLIB STEEN &  
HAMILTON LLP  
Angela L. Dunning

Attorneys for Defendant  
META PLATFORMS, INC.

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**PROOF OF SERVICE**

I am a citizen of the United States and a resident of the State of California. I am employed in Los Angeles County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley LLP, 355 South Grand Avenue, Suite 900, Los Angeles, CA 90071. On the date set forth below I served the documents described below in the manner described below:

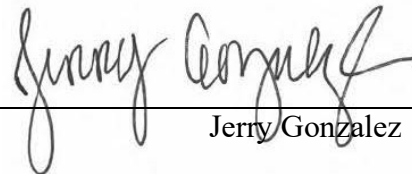
- **DEFENDANT META PLATFORMS, INC.’S RESPONSES AND OBJECTIONS TO PLAINTIFFS’ SECOND SET OF INTERROGATORIES**



(BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.

on the following part(ies) in this action:

Executed on September 30, 2024, at Los Angeles, California.




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Jerry Gonzalez

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**SERVICE LIST**

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# EXHIBIT D

**Lauter, Judd**

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**From:** Reed Forbush <rforbush@BSFLLP.com>  
**Sent:** Monday, October 21, 2024 12:35 PM  
**To:** Lauter, Judd; Hartnett, Kathleen; Jesse Panuccio; Maxwell Pritt; Holden Benon; Christopher Young; Aaron Cera; Cadio Zirpoli; Joe Saveri; Margaux Poueymirou; Ashleigh Jensen; Rya Fishman; Matthew Butterick; Nada Djordjevic; James Ulwick; Bryan L. Clobes; Mohammed Rathur; Amy Keller; David Straite; Ruby Ponce; Alexander Sweatman; Heaven Haile; Llama BSF; Josh Schiller; David Boies  
**Cc:** Ghazarian, Colette A; Poppell, Cole A; Dunning, Angela L.; Ghajar, Bobby A.; Alvarez, Jessica; Weinstein, Mark; Stameshkin, Liz; z/Meta-Kadrey  
**Subject:** RE: Kadrey v. Meta - October 16 Meet and Confer

**[External]**

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Counsel:

We reply to your response of earlier this morning to our correspondence on the parties' 10/16 meet and confer, and specifically to the portion below containing your individual responses on the various issues discussed. Plaintiffs' responses to those responses are interlineated below in bold and red font.

We dispute your comments on timing and as to the presence of any "new issues." We note generally that on many subjects for which you stated that Meta would return with supplemented responses, you have provided little in the form of such supplemented responses and have not made any promises to produce any missing responses by specific dates.

Given the short timeframe, we must preserve our rights (and avoid prejudice from any further delay in resolving discovery disputes) by teeing up such issues for the Court's consideration. Please let us know if you will not object to our contacting chambers to arrange a telephonic conference, as provided in Judge Hixson's standing order. Otherwise, we will do so in the status report that Judge Hixson has ordered to be filed tomorrow by noon. Naturally, if any issues can be resolved before the court hears or rules on them, then we can withdraw them.

Best,  
Reed

I. **"Follow-Up Issues"**

1. RFP No. 64: Meta will consider proposing an agreeable limitation and searching/producing responsive documents.

[Meta response: This request seeks documents showing "each instance within the last three years where You have licensed copyrighted works for Meta's commercial use," without any limitation whatsoever, including any tie to Meta's training of the Meta Language Models. As we discussed on the call, Meta objected to this request 6 months ago and Plaintiffs never raised it since, and it is unduly burdensome and not proportional to the needs of the case. In response to your latest set of RFPs, Meta will be making a production regarding the licensing of copyrighted textual works for Meta's use in training the Meta Language Models, which reflects the scope of potentially relevant materials in this case. We believe that this production will be sufficient and appropriate to respond to RFP No. 64 and the latest requests. We trust that this issue is now resolved.]

**The date of Meta's objection is irrelevant. Meta also continues to use its defined terms "Meta Language Models," which as discussed does not include all Llama models, including Llama 4 even if the RFP was tied to Llama, which it's not. Also, "Making a production" is vague, as is "reflects the scope." We cannot rely on these statements, so**

**do not agree that this issue is resolved. The RFP is clear and plainly relevant. The parties therefore remain at an impasse.**

2. **Training Data (RFP Nos. 1-3 & 7, ROG No. 1):** Meta declined to produce all datasets with copyrighted material that it downloaded but will consider whether it would identify all iterations of downloaded datasets with copyrighted material (including [REDACTED])

[Meta Response: Since the beginning of this case, Meta has been clear that it would produce the training data alleged to contain the Plaintiffs' works and has done so, along with significant additional training data. The training data produced by Meta constitutes many terabytes of data, and Plaintiffs' counsel has complained that this volume of data is too large for them to handle. In any event, Meta had understood that the parties had reached a compromise to limit production of datasets to those datasets that are alleged to contain Plaintiffs' works. It is not proportional to the needs of the case, nor pertinent to adjudication of the fair use defense, to produce copies of all pre-training and fine tuning datasets, but Meta is willing to consider producing additional datasets, if any, that contain books. In addition, Meta will confirm whether the [REDACTED] dataset that has been produced is the current and most comprehensive version of that dataset. However, Meta will not identify and produce duplicative copies of each training dataset, which, among other things, would impose a highly disproportionate burden in light of Plaintiffs' needs.]

**As we have explained, there is no issue more relevant than the copying of the infringing datasets, and the intentions behind and use of each infringing dataset is especially pertinent to fair use. All such datasets must be produced to show the scope of Meta's infringement. Meta has not made a showing of any burden or proposed a reasonable alternative that would still demonstrate the scope of infringement, particularly in light of our proposal to provide information re: other downloads rather than the downloads themselves. We thus remain at an impasse.**

3. **GitHub-Hosted Communications and Source-Code Repositories:** Meta will investigate gaps in data (e.g., time periods during which there were no pull requests) as identified in declaration of Joannathan Krein.

[Meta Response: We confirm that we are actively identifying any alleged gaps in the pull requests and will produce any located pull requests for the requested time periods. We are also investigating whether additional source code should be produced in response to Plaintiffs' most recent set of discovery requests (as Plaintiffs' initial requests did not call for source code). We thus trust that this issue is now resolved.]

**Plaintiffs thank Meta for agreeing to produce all responsive pull requests. Please provide a date certain upon which we will receive the same. Meta has now had two weeks since receiving our letter regarding this deficiency and our request for complete source code for longer, so saying you'll investigate further is insufficient at this late stage. Moreover, all of source code is clearly relevant and responsive to the RFPs at issue. We thus remain at an impasse.**

4. **Llama Filters or Training Data (RFP Nos. 45, 64, 74, 76, and 77):** Meta will consider providing screenshot(s) of the filtering tool that Meta's counsel described on the call and represented was not collectible.

[Meta Response: None of the cited RFPs address any alleged tools for filtering data. Moreover, the "tool" you are referring to is merely a tool used to visualize data. Because (among other things) there is no identified RFP to which this tool would be responsive, we do not agree there is anything else to provide in response to this request and we trust that this issue is now resolved.]

**As stated during our meet and confer, any tools—whether or not you want to call them something else, like processes, programs, methods, etc.—for filtering, especially if they can filter copyrighted material, are plainly relevant and responsive. You confirmed there was a "tool" utilized by Meta and we compromised by offering to accept screenshots of it if it couldn't otherwise be produced. Moreover, forcing Plaintiffs to issue a new (duplicative and/or overlapping) RFP is necessarily wasteful of time and resources. We thus remain at an impasse.**

5. Valuation and Financials: Meta will confirm the scope of data/documents already searched and produced (and whether the documents pertain to Llama 4—see general impasse regarding Llama 4.)

[Meta Response: Meta has already produced financial-related materials responsive to Plaintiffs’ document requests. Meta will be producing additional financial-related documents responsive to Plaintiffs’ latest set of RFPs in due course to the extent any such documents exist. Meta has not withheld responsive financial related documents on the basis that they relate only to Llama 4. We thus trust that this issue is now resolved.]

**It is not clear whether Meta searched for and produced all responsive information, yet it is clear Meta is withholding documents on account of its assertion that it would only be responsive to the “latest set” of RFPs and not responsive to prior RFPs. We thus remain at an impasse.**

6. Identifying Responsiveness of Document Productions: Meta said it’ll consider including in its document production letters an indication of the content of the productions and to what RFPs they’re responsive.

[Meta Response: We discussed notifying Plaintiffs when a production addresses a production or formatting issue from a prior production. We are not aware of, and you did not provide, any authority supporting an obligation for a party to provide descriptions of the content of its document productions and to tie those productions to specific RFPs. To resolve this issue, going forward we will provide a description of our productions when we make them. We thus trust that this issue is now resolved.]

**We appreciate your agreement to provide descriptions of productions when made. Please let us know if that will include identifying RFPs to which the documents contained in a production are responsive, without prejudice to identifying every possible RFPs to which any particular document may be responsive as we recognize documents can be responsive to multiple RFPs and RFPs can overlap. Plaintiffs would agree to do the same. If acceptable, then this issue is resolved.**

7. Identification of Search Terms: Meta declined to identify search terms and hit counts unless it was a mutual exchange and said it would get back to us on when it could exchange search terms and hit counts. Meta said it would identify all non-custodial and custodial sources searched but not all sources with potentially relevant information (see Identification of Search Terms entry under Impasse section).

[Meta Response: As we stated, we are agreeable to engaging with Plaintiffs in a mutual exchange of search terms and hit counts as contemplated by the parties’ agreed-upon ESI order. (Doc No. 101, para. 7). This disclosure would also identify which non-custodial and custodial sources of information that were searched with these terms . We do not believe there are any other types of data sources with potentially relevant information that were not searched for and/or collected from, nor is that required by the ESI order. We trust that this issue is now resolved.]

**We asked you to let us know when you can provide search terms and hit counts for the mutual exchange you demanded, and you still have not done so. As we explained, a party must produce all known responsive information and documents in response to discovery requests after a reasonable, good faith investigation for responsive information. That investigation is not limited only to document custodians. See, e.g., *Strategic Partners, Inc. v. FIGS, Inc.*, No. 19-CV-2286-GW (KSX), 2020 WL 2527056, at \*6-7 (C.D. Cal. Feb. 6, 2020) (defendant “impermissibly truncated the scope of its search for responsive information” by limiting its custodians because the “reasonable inquiry” required under Rule 26 must include, “at a minimum, a reasonable procedure to distribute discovery requests to all employees and agents of the [party] potentially possessing responsive information”) (emphasis in original). Meta may not conceal information and refuse to produce known responsive information on the basis that the ESI Order sets forth how documents may be collected from document custodians. See, e.g., Dkt. 101, § 7(d) (“Specific, non-duplicative ESI that is identified by a party as responsive to a discovery request shall not be withheld from review or production solely on the grounds that it was not identified by (or is subject to an exclusion set forth in) the protocols described in, or developed in accordance with, this Order.”). We thus remain at an impasse.**



8. RFP No. 59: Meta said it would consider proposing a limitation or definition for “fictional works.”

[Meta Response: We asked Plaintiffs to explain what they mean by documents about the output of “fictional works.” We need to understand what Plaintiffs are seeking here in order to be able to respond to this request.]

**Plaintiffs continue to be puzzled by Meta’s contention that it doesn’t understand what “fictional works” are. We explained “fictional” has the same meaning as defined in dictionaries, and “works” refers to copyrighted works. This request cannot arguably be construed by Meta as too vague so as to not warrant a response. We thus remain at an impasse.**

9. Interrogatory No. 3: Meta agreed to supplement its response.

[Meta Response: Yes, Meta will supplement this response. We trust that this issue is now resolved.]

**Thank you. Please let us know by what date you will supplement your response to this interrogatory.**

10. Interrogatory No. 4: Meta said it would consider proposing an agreeable construction of this interrogatory.

[Meta Response: We do not know what you mean by “agreeable construction.” We said that we would take another look at the interrogatory and consider supplementation. We will supplement our response. We trust that this issue is now resolved.]

**Thank you. Please let us know by what date you will supplement your response to this interrogatory.**

11. Interrogatory No. 5: Meta said it would investigate Plaintiffs’ description of inchoate agreements as negotiations for licenses, deals in process, or deals that fell apart.

[Meta Response: As an initial matter, we do not understand what you mean by “inchoate agreement,” as by definition an agreement is something that is not inchoate. In any event, we will search for and produce any documents about the acquisition or licensing of training data in response to more recently served RFPs. We will also supplement our response to this interrogatory accordingly. We trust that this issue is now resolved.]

**We similarly are puzzled by Meta’s continued failure to understand what an “inchoate agreement” is. But if Meta prefers the term “draft and/or unexecuted agreement,” it may construe the term that way. Absent agreement to supplement your response, we remain at an impasse.**

12. Interrogatory Nos. 13 and 14: Meta agreed to answer the sub-parts in Rog Nos. 13 and 14.

[Meta Response: While we maintain and do not waive any objections to the fact that these interrogatories and others previously served by Plaintiffs contain multiple subparts, Meta will supplement its responses. We trust that this issue is now resolved.]

**Thank you. Please let us know by what date you will supplement your response to this interrogatory.**

13. Data Formats: Meta confirmed some garbled chats are from WhatsApp and represented its production of Workplace Chats are in the format available. Meta said it would consider providing file types (but did not agree to re-produce chats in any other formats, see entry in Impasses section).

[Meta Response: We are working to reproduce the discrete number of WhatsApp chats that had a processing issue. With respect to Workplace chats, you have not identified any legitimate issues with the format of those materials. All text is legible, including emojis and links, in the document you cited. To your question, the format in which they were archived,

searched, and collected has a file extension of eMail. This reproduction and information about file extension should address any issues that exist re “data format.” We trust that this issue is now resolved.]

**We do not understand what you mean by “discrete number”—we asked Meta to reproduce all responsive WhatsApp chats in a reasonably usable format similar to how chats are viewed by users. While reserving our rights regarding the dispute on whether Meta has produced WhatsApp and the Workplace chats in a reasonably usable format, we currently are attempting to ascertain whether we might be able to process the files Meta provided in an adequate format and thus consider this issue resolved for the moment unless and until we learn that they cannot be processed on our end for sufficient legibility, provided that Meta will agree not to object to showing the Jury this evidence once so processed.**

II. **“Potentially Disputed Issues”**

1. Production of Incorrectly Imaged Documents: Meta said it was aiming for the end of October to re-produce documents incorrectly imaged and/or formatted that Judge Hixson ordered on 10/1 it must produce. Plaintiffs will ask Judge Hixson to impose an earlier deadline given the deposition schedule.

[Meta Response: Meta has already addressed and reproduced 1,335 documents with imaging issues, which is a majority of the documents at issue. There are no more than 1,100 documents remaining with potential imaging issues. We anticipate completing our review and reproduction by no later than the end of the month and will endeavor to do so sooner. We trust that this issue is now resolved.]

**Please let us know if Meta agrees to complete this re-production by this Friday. If so, we agree this issue is resolved.**

2. General Scope of Custodial Files Searched:

Meta declined to search custodial files outside of the 10 custodians it originally selected and the additional five ordered by Judge Hixson. Meta also represented its search for responsive documents was limited to non-custodial sources and custodial sources of only those 10 custodians (and now the additional five). Meta also identified two for which it searched custodial files beyond its initial 10 custodians but declined to identify whether it conducted a similar search for any other requests. This dispute concerns all RFPs, including Communications with Business Partners and Communications with Shadow Libraries.

[Meta Response: In compliance with the parties’ agreed-upon ESI Order, Meta conducted a comprehensive search for documents responsive to Plaintiffs’ requests and conducted custodial documents for the designated custodians. The ESI Order limited custodial ESI searches to only 10 custodians, and Judge Hixson’s October 4 order added 5 more custodians. You have identified no authority for your demand that Meta conduct boundless custodial searches beyond the 15 custodians that have already been identified. On our meet and confer, we discussed specific requests regarding, for example, training data discussions with certain companies (RFP 29-34) or archives of information on the internet (RFP Nos. 7-12). We are willing to conduct some reasonable follow up searches for these discrete categories.]

**Again, as we explained, Meta must produce all known responsive information and documents in response to discovery requests after a reasonable, good faith investigation for responsive information. That investigation is not limited to non-custodial data sources and only a handful of document custodians. See, e.g., *Strategic Partners, Inc. v. FIGS, Inc.*, No. 19-CV-2286-GW (KSX), 2020 WL 2527056, at \*6-7 (C.D. Cal. Feb. 6, 2020) (defendant “impermissibly truncated the scope of its search for responsive information” by limiting its custodians because the “reasonable inquiry” required under Rule 26 must include, “at a minimum, a reasonable procedure to distribute discovery requests to all employees and agents of the [party] potentially possessing responsive information”) (emphasis in original). Meta may not refuse to search for responsive information held by other individuals (which, as explained, is not the same as making every employee a document custodian) and conceal responsive information on the basis that the ESI Order sets forth how documents may be collected from document custodians. See, e.g., Dkt. 101, § 7(d) (“Specific, non-duplicative ESI that is identified by a party as responsive to a discovery request**

**shall not be withheld from review or production solely on the grounds that it was not identified by (or is subject to an exclusion set forth in) the protocols described in, or developed in accordance with, this Order.”). We thus remain at an impasse.**

Meta declined to add any additional custodians identified by Plaintiffs.

[Meta Response: We have already produced documents for the 10 custodians authorized by the ESI order and are in the process of doing so for 5 additional custodians allowed for by Judge Hixson’s recent order. Plaintiffs have identified no reason for doubling (and now in your latest email, tripling) the number of custodians this late in the discovery process. Plaintiffs also have failed to follow the required procedures set forth in the ESI order for seeking additional custodians.]

**The relevance of the additional custodians we have proposed is obvious, including those who will be deposed and any who will serve as 30(b)(6) witnesses, and Meta’s refusal to search for produce relevant documents from non-custodians further makes it critical that these custodians be added for searches for responsive documents. The parties thus remain at an impasse.**

3. All Llama Models and All Datasets: Meta represented that despite its written objections it has included all Llama models in its document and data searches and productions except as to Llama 4, and it declined to search for and produce responsive information and data in connection with Llama 4. Meta also represented that despite its written objections it has not limited its search for and production of datasets to Book3, but it declined to identify all datasets with copyrighted works that it copied or how many times those datasets, in full or in part, were downloaded. Meta also represented it believed only datasets relating to training was relevant and declined to produce other datasets. This dispute concerns Plaintiffs’ RFP Nos. 64, 67, and 49, GitHub-Hosted Communications and Source-Code Repositories, documents and interrogatories related to Valuation and Financials.

[Meta Response: This issue relates to Follow Up Item #2 above, and we refer you to our response above. Meta has stated that it would produce the training data alleged to contain the Plaintiffs’ works and has done so. That training data constitutes multiple terabytes of data, which Plaintiffs’ counsel has complained is too large for them to handle. It is not proportional to the needs of the case, nor pertinent to adjudication of the fair use defense, to produce any duplicative copies of enormous data sets. With respect to Llama 4, that model is being developed and not expected to be released until next year, after the close of fact discovery in this case. While we are willing to work with Plaintiff to identify reasonable discovery to address the fair use issues as it relates to Llama 4, we do not think it is proportional to the needs of the case nor practical to comprehensively address another, unreleased and unfinalized model in the short time period the parties have to conduct the remaining discovery.]

**As we’ve explained and you continue to ignore, we do not seek only “training” datasets, but all datasets with copyrighted material that Meta uses at any stage, including pre- and post-training. We also continue to disagree that Llama 4’s later launch date has any relevance to this dispute or is a proper basis to refuse to produce responsive information. We thus remain at an impasse.**

4. RFP No. 45: Meta declined to expand its search beyond use of “tools” for identifying licensed material to include documents or materials regarding licensing and communications with book publishers.

[Meta Response: While we maintain our position that there are no “tools” responsive to your request, as discussed above regarding Follow Up Item #1, Meta will be producing documents about acquisition or licensing of training data in response to more recently served RFPs. We consider this issue resolved.]

**As stated during our meet and confer, any tools—whether or not you want to call them something else, like processes, programs, methods, etc.—for identifying licensed material is plainly relevant responsive. Referring to later RFPs is not responsive. We thus remain at an impasse.**

5. Production of Hyperlinks: Meta declined to make a supplemental production of all hyperlinked documents.

[Meta Response: As the ESI order makes clear, hyperlinked documents are not akin to attachments (ESI Order, Doc. No. 101 at 17). Meta has been responding to your requests for additional hyperlinked documents; has been producing the hyperlinked documents when they are responsive; and has noted that in many instances you already had the document you were asking us to produce. We expect to complete our production of any remaining responsive hyperlinked documents that you have requested in about a week. We trust that this issue is now resolved.]

**The ESI order does not suggest hyperlinked documents must not produced, only that “[l]inks within a document are not considered attachments.” Because we now know that Meta often uses hyperlinks in lieu of attachments, we suggested amending the ESI Order. Meta refused. Absent agreement by Meta to, at a minimum, review and produce all hyperlinked documents within responsive documents that also are relevant and/or responsive, then we remain at an impasse.**

6. Addition of Timothy Dettmers as Custodian: Meta declined to add Mr. Dettmers as a custodian.

[Meta Response: We do not agree that Mr. Dettmers should be added as a custodian. To begin, the ESI order has a protocol for adding custodians and Plaintiffs have not followed that protocol here. Moreover, as we have repeatedly explained, and as Plaintiffs are well aware, Mr. Dettmers was a part-time employee at Meta prior to the company’s development of the Llama models and was uninvolved in the development of those models. Mr. Dettmers’ documents, including those that Judge Hixson determined were privileged, have no bearing on the issues in dispute. Moreover, you have known about Mr. Dettmers since at least December 2023 and provide no reason why Plaintiffs’ suddenly need his ESI now, particularly after Judge Hixson’s adjudication of the privilege dispute.]

**We do not agree the ESI protocol requires any additional steps to be undertaken, and to the extent Meta insists on adhering to the time frames set forth therein for considering whether to add a document custodian, we will raise that issue with Judge Hixson as it is unworkable. We also are not required to accept your mere assertion that Mr. Dettmers’ documents “have no bearing on the issues in dispute,” particularly when you refuse to search his files. Further, as we explained, the adjudication of privilege and waiver with respect to a single document is irrelevant to the issue of searching his files for responsive documents. We thus remain at an impasse.**

7. Identification of Repositories Not Searched: Meta declined to identify repositories of potentially relevant documents that were not searched. This dispute is relevant to all of RFP Nos. 1-12 and 36-38.

[Meta Response: We do not understand what you are referring to . Meta searched for and/or collected responsive documents in the data sources within Meta’s possession, custody or control that would have potentially responsive or relevant documents, including both non-custodial files and custodial files (see response to Potentially Disputed Issue #2 above). Meta is not aware of any types of data sources with potentially responsive or relevant documents that were not searched. We will provide that information when the parties exchange ESI search terms and hit counts (see Follow Up Issue #7 above).]

**Meta represented that it did not search several non-custodial data repositories such as the Hive despite their frequent mention in documents Meta produced (see examples in M&C deficiency letters) and made vague statements about the fact that data within these non-custodial sources may not be searchable or available without explanation. We thus remain at an impasse.**

8. Identification of Noncustodial and Custodial Sources: Meta declined to identify all sources that potentially might have responsive information even if not searched, and confirmed its investigation of custodial files to search consisted of asking the custodians in a general way what modes of communication they use to communicate about work (without specifically asking about alternative modes like WhatsApp, Discord, Signal, Telegram, etc.). Meta was not able to explain the production of Al-Dahle WhatsApp messages on the night before his deposition.

[Meta Response: Your statements do not reflect what the parties discussed. Meta searched for and/or collected responsive documents in the data sources within Meta's possession, custody or control that would have potentially responsive or relevant documents, including both non-custodial files and custodial files (see response to Potentially Disputed Issue #2 above). For each of the ESI custodians, Meta has made a reasonable inquiry into which modes of communication they use for work, including by asking about particular modes by name. We will identify the data sources (including communication platforms) that were searched when the parties mutually exchange search terms and hit counts.

**During the meet and confer, Meta represented that it relied on the representations of individual custodians as to which devices they used for work and did not further inquire as to what personal devices were owned by the custodians and/or what kind of relevant content might be contained on the same. Nor did Meta explain how and why it obtained WhatsApp chats for one witness (on the eve of his deposition) but no other WhatsApp chats have been provided. Meta further refused to conduct a reasonable investigation into the various methods of communication commonly used as requested in our letters. We thus remain at an impasse.**

9. Searching Manifold, GTT, Hive: Meta generally refused to perform searches in Manifold, GTT or Hive on the purported grounds that purportedly they cannot be searched and, in any event, would only contain duplicative data. Meta agreed to consider identifying (not producing) the iterations of copies of training datasets with copyrighted material or books within their PCC.

[Meta Response: This item involves storage locations that may include training data, an issue that was previously addressed in Follow Up Item #2 above. Meta has stated that it would produce the training data alleged to contain the Plaintiffs' works and has done so. That training data constitutes multiple terabytes of data, which Plaintiffs' counsel has complained is too large for them to handle. It is not proportional to the needs of the case, nor pertinent to adjudication of the fair use defense, to produce any duplicative copies of enormous data sets.]

**As stated above, we remain at an impasse on this request given Meta's refusal to search known sources of responsive data and limitation to "training" datasets and singles copies thereof.**

10. RFP No. 54: Meta declined to search for documents on the grounds that the "factual premise" of the RFP is purportedly wrong, even if there had been a decision at one point not to market Llama with a user interface.

[Meta Response: RFP No. 54 asks for documents about a decision "not" to create an interface for users for the Meta Language Models. But Meta did create an interface for users for the Meta Language Models – Meta AI – and Meta has produced documents about that interface. This document request therefore is based on an inaccurate premise and, in light of that inaccuracy, you have not articulated any reason it would be relevant or proportional to Plaintiffs' needs.]

**Plaintiffs understand that Meta initially developed Llama without an end user interface (ostensibly to be white labeled for use by others). But even if that understanding is wrong (and Meta has yet to actually demonstrate it is), documents about Meta's planning regarding an end-user interface is still responsive and relevant to the Fair Use inquiry. Forcing Plaintiffs to issue a new RFP without the word "not" is wasteful and would disregard judicial economy. Absent Meta's agreement to search for and produce all responsive documents concerning its decision(s) to create and/or not create a user interface for Llama models, we remain at an impasse.**

11. Interrogatory No. 15: Meta declined to answer all sub-parts of this interrogatory.

[Meta Response: Reserving all rights and objections, Meta intends to supplement its response to this interrogatory. We trust that this issue is now resolved.]

**Absent agreement by Meta to supplement its responses to all subparts of this interrogatory, we remain at an impasse. Please let us know if, contrary to your statement otherwise on the meet and confer call, Meta will respond substantively to all subparts of this interrogatory.**

12. Additional Interrogatories Requested: Meta declined to agree to Plaintiffs' request to expand the numbers of interrogatories the parties may serve and answer the interrogatories Plaintiffs served on October 10.

[Meta Response: Meta is willing to agree to a small increase in the number of interrogatories, up to 5 more than the 25 the parties had previously agreed to, provided the increase is mutual for both sides. We trust with this compromise that this issue is now resolved.]

**Given the complexity of this case and the clearly relevant nature of Plaintiffs' recent interrogatories, which you have had for weeks now, we believe the number of interrogatories we requested is appropriate and will help narrow the issues in this case. Further, we disagree that Plaintiffs have exceeded their number of interrogatories—we are entitled to 25 additional interrogatories now that Farnsworth has been consolidated. In any event, absent Meta's agreement to withdraw its objections to the number of interrogatories served, we remain at an impasse.**

13. Data Formats: Meta declined to reproduce in a legible format the Workplace Chat and WhatsApp messages that Plaintiffs explained contain garbled text or was not produced in a reasonably usable format.

[Meta Response: This complaint is duplicative of Follow Up Item #13 above. We have addressed these issues there.]

**See Plaintiffs' reply above as to the same.**

14. Relevant Time Period: Meta declined to extend its searches to the beginning of the class period.

[Meta Response: Since the beginning of discovery in this case, Meta has clearly stated that its collection and production of documents would be based on the January 1, 2022 date that it included in its responses and objections. This is a conservative date because Meta did not even begin work on the Meta Language Models at issue in this case until late 2022. Plaintiffs never raised any issue with this time frame until your October 9 letter. We have no reason to believe that there would be relevant responsive documents at an earlier date than 2022 regarding the Llama models.

**Plaintiffs cannot rely on Meta's uncorroborated and speculative claim that there are no responsive materials prior to January 1, 2022. In any event, if that were true, then Meta would not have anything to produce so there is no reason not to search that time frame as well. Because the claims period is what it is, and documents and information from within that period that are responsive must be produced and provided, we remain at an impasse. That said, if Meta is willing to provide a declaration stating the precise date(s) it began working on Llama models and that there are no responsive documents earlier than January 1, 2022, we will consider it.**

15. Fair Use Interrogatory (No. 1, Set 2): Meta declined to amend its interrogatory to remove its reference to unidentified documents that it contends support its Fair Use defense and to identify the them.

[Meta Response: Your statement does not reflect the parties' discussion. We told you that Meta will supplement its response to this interrogatory, including identifying documents where appropriate. We trust that this issue is now resolved.]

**Thank you, but we also asked Meta to withdraw its incorporation of unidentified discovery materials. Absent Meta's agreement to do so (and by a date certain soon), we remain at an impasse.**

16. Advice of Counsel Interrogatory (No. 2, Set 2): Meta would not agree to amend its response to state without ambiguity and equivocation whether it will or will not rely on an Advice of Counsel defense.

[Meta Response: We said that our response reflected our position and that we would take your issue back to the client. To resolve this issue, Meta will supplement its response in the manner requested. We trust that this issue is now resolved.]

**Thank you. Please let us know by what date you will supplement your response to this interrogatory.**

17. Additional 30(b)(6) Topics: Meta decline to state whether it would object to any of the amended 30(b)(6) topics Plaintiffs served on October 8, and if so to meet and confer now and attempt to resolve any such objections, because the response time set forth in the rules has not yet elapsed.

[Meta Response: As we told you, we were evaluating your topics and identifying the witnesses that Meta plans to designate. This must be informed by your list of intended 30(b)(1) deponents, which Plaintiffs provided only on Thursday, October 17th (and subsequently have modified over the weekend). Meta will meet and confer with Plaintiffs' this week about the 30(b)(6) topics and any objections.]

**Thank you, please let us know when Meta is available to meet and confer this week. Also, please let us know if Meta will identify its designated 30(b)(6) witnesses (and by topic) this week. Absent Meta's agreement to provide this information, we remain at an impasse over this issue.**

---

**From:** Lauter, Judd <jlauter@cooley.com>

**Sent:** Monday, October 21, 2024 12:05 AM

**To:** Reed Forbush <rforbush@BSFLLP.com>; Kathleen Hartnett <khartnett@cooley.com>; Jesse Panuccio <jpanuccio@BSFLLP.com>; Maxwell Pritt <mpritt@BSFLLP.com>; Holden Benon <hbenon@saverilawfirm.com>; Christopher Young <cyoung@saverilawfirm.com>; Aaron Cera <aCera@saverilawfirm.com>; Cadio Zirpoli <czirpoli@saverilawfirm.com>; Joe Saveri <jsaveri@saverilawfirm.com>; Margaux Poueymirou <mpoueymirou@saverilawfirm.com>; Ashleigh Jensen <ajensen@saverilawfirm.com>; Rya Fishman <rfishman@saverilawfirm.com>; Matthew Butterick <mb@buttericklaw.com>; Nada Djordjevic <ndjordjevic@dicellolevitt.com>; James Ulwick <Julwick@dicellolevitt.com>; Bryan L. Clobes <BClobes@caffertyclobes.com>; Mohammed Rathur <MRathur@caffertyclobes.com>; Amy Keller <akeller@dicellolevitt.com>; David Straite <dstraite@dicellolevitt.com>; Ruby Ponce <rponce@saverilawfirm.com>; Alexander Sweatman <ASweatman@caffertyclobes.com>; Heaven Haile <hhaile@saverilawfirm.com>; Llama BSF <Llama\_BSF@bsfllp.com>; Josh Schiller <JiSchiller@BSFLLP.com>; David Boies <DBoies@BSFLLP.com>

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**Subject:** RE: Kadrey v. Meta - October 16 Meet and Confer

**CAUTION: External email. Please do not respond to or click on links/attachments unless you recognize the sender.**

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Counsel:

This email responds to your emails below from Friday and this morning regarding the parties' 10/16 meet and confer, on which the parties discussed Plaintiffs' two 10/9 letters regarding their claimed disputes with Meta's discovery responses.

In this morning's email, you demanded we respond by 9 AM tomorrow to your voluminous set of inquiries and stated that you would be contacting Judge Hixson's chambers "because you did not get back to us on any of the issues despite our request that you do so by Friday." However, we did not agree to provide responses by Friday, but instead told you on our meet and confer that we might not be able to respond until at least Monday. Your Friday email also does not accurately

reflect a number of our positions and aspects of the parties' conversation on 10/16, and below we correct the record. We are further troubled by your assertion in this morning's email of additional new issues about which you are demanding our response by tomorrow at 9 AM. This violates both L.R. 37 and Judge Hixson's Discovery Standing Order. We are available to meet and confer with you on the new issues you have raised.

Without waiving any objections and reserving all rights, below is an update regarding the items listed in your Friday email, with corrections to the record as necessary. We have copied the text of your statements from your Friday email below, and we have placed our responses in brackets. Your Friday email divided the issues into two unnamed categories, and for clarity we have renamed the first "Follow-Up Issues" and the second "Potentially Disputed Issues".

1. **"Follow-Up Issues"**

1. RFP No. 64: Meta will consider proposing an agreeable limitation and searching/producing responsive documents.

[Meta response: This request seeks documents showing "each instance within the last three years where You have licensed copyrighted works for Meta's commercial use," without any limitation whatsoever, including any tie to Meta's training of the Meta Language Models. As we discussed on the call, Meta objected to this request 6 months ago and Plaintiffs never raised it since, and it is unduly burdensome and not proportional to the needs of the case. In response to your latest set of RFPs, Meta will be making a production regarding the licensing of copyrighted textual works for Meta's use in training the Meta Language Models, which reflects the scope of potentially relevant materials in this case. We believe that this production will be sufficient and appropriate to respond to RFP No. 64 and the latest requests. We trust that this issue is now resolved.]

2. ██████ Training Data (RFP Nos. 1-3 & 7, ROG No. 1): Meta declined to produce all datasets with copyrighted material that it downloaded but will consider whether it would identify all iterations of downloaded datasets with copyrighted material (including the Bashlykov download of ██████).

[Meta Response: Since the beginning of this case, Meta has been clear that it would produce the training data alleged to contain the Plaintiffs' works and has done so, along with significant additional training data. The training data produced by Meta constitutes many terabytes of data, and Plaintiffs' counsel has complained that this volume of data is too large for them to handle. In any event, Meta had understood that the parties had reached a compromise to limit production of datasets to those datasets that are alleged to contain Plaintiffs' works. It is not proportional to the needs of the case, nor pertinent to adjudication of the fair use defense, to produce copies of all pre-training and fine tuning datasets, but Meta is willing to consider producing additional datasets, if any, that contain books. In addition, Meta will confirm whether the ██████ dataset that has been produced is the current and most comprehensive version of that dataset. However, Meta will not identify and produce duplicative copies of each training dataset, which, among other things, would impose a highly disproportionate burden in light of Plaintiffs' needs.]

3. GitHub-Hosted Communications and Source-Code Repositories: Meta will investigate gaps in data (e.g., time periods during which there were no pull requests) as identified in declaration of Joanathan Krein.

[Meta Response: We confirm that we are actively identifying any alleged gaps in the pull requests and will produce any located pull requests for the requested time periods. We are also investigating whether additional source code should be produced in response to Plaintiffs' most recent set of discovery requests (as Plaintiffs' initial requests did not call for source code). We thus trust that this issue is now resolved.]

4. Llama Filters or Training Data (RFP Nos. 45, 64, 74, 76, and 77): Meta will consider providing screenshot(s) of the filtering tool that Meta's counsel described on the call and represented was not collectible.

[Meta Response: None of the cited RFPs address any alleged tools for filtering data. Moreover, the "tool" you are referring to is merely a tool used to visualize data. Because (among other things) there is no identified RFP to which this tool would be responsive, we do not agree there is anything else to provide in response to this request and we trust that this issue is now resolved.]



5. Valuation and Financials: Meta will confirm the scope of data/documents already searched and produced (and whether the documents pertain to Llama 4—see general impasse regarding Llama 4.)

[Meta Response: Meta has already produced financial-related materials responsive to Plaintiffs’ document requests. Meta will be producing additional financial-related documents responsive to Plaintiffs’ latest set of RFPs in due course to the extent any such documents exist. Meta has not withheld responsive financial related documents on the basis that they relate only to Llama 4. We thus trust that this issue is now resolved.]

6. Identifying Responsiveness of Document Productions: Meta said it’ll consider including in its document production letters an indication of the content of the productions and to what RFPs they’re responsive.

[Meta Response: We discussed notifying Plaintiffs when a production addresses a production or formatting issue from a prior production. We are not aware of, and you did not provide, any authority supporting an obligation for a party to provide descriptions of the content of its document productions and to tie those productions to specific RFPs. To resolve this issue, going forward we will provide a description of our productions when we make them. We thus trust that this issue is now resolved.]

7. Identification of Search Terms: Meta declined to identify search terms and hit counts unless it was a mutual exchange and said it would get back to us on when it could exchange search terms and hit counts. Meta said it would identify all non-custodial and custodial sources searched but not all sources with potentially relevant information (see Identification of Search Terms entry under Impasse section).

[Meta Response: As we stated, we are agreeable to engaging with Plaintiffs in a mutual exchange of search terms and hit counts as contemplated by the parties’ agreed-upon ESI order. (Doc No. 101, para. 7). This disclosure would also identify which non-custodial and custodial sources of information that were searched with these terms . We do not believe there are any other types of data sources with potentially relevant information that were not searched for and/or collected from, nor is that required by the ESI order. We trust that this issue is now resolved.]

8. RFP No. 59: Meta said it would consider proposing a limitation or definition for “fictional works.”

[Meta Response: We asked Plaintiffs to explain what they mean by documents about the output of “fictional works.” We need to understand what Plaintiffs are seeking here in order to be able to respond to this request.]

9. Interrogatory No. 3: Meta agreed to supplement its response.

[Meta Response: Yes, Meta will supplement this response. We trust that this issue is now resolved.]

10. Interrogatory No. 4: Meta said it would consider proposing an agreeable construction of this interrogatory.

[Meta Response: We do not know what you mean by “agreeable construction.” We said that we would take another look at the interrogatory and consider supplementation. We will supplement our response. We trust that this issue is now resolved.]

11. Interrogatory No. 5: Meta said it would investigate Plaintiffs’ description of inchoate agreements as negotiations for licenses, deals in process, or deals that fell apart.

[Meta Response: As an initial matter, we do not understand what you mean by “inchoate agreement,” as by definition an agreement is something that is not inchoate. In any event, we will search for and produce any documents about the acquisition or licensing of training data in response to more recently served RFPs. We will also supplement our response to this interrogatory accordingly. We trust that this issue is now resolved.]

12. Interrogatory Nos. 13 and 14: Meta agreed to answer the sub-parts in Rog Nos. 13 and 14.

[Meta Response: While we maintain and do not waive any objections to the fact that these interrogatories and others previously served by Plaintiffs contain multiple subparts, Meta will supplement its responses. We trust that this issue is now resolved.]

13. Data Formats: Meta confirmed some garbled chats are from WhatsApp and represented its production of Workplace Chats are in the format available. Meta said it would consider providing file types (but did not agree to re-produce chats in any other formats, see entry in Impasses section).

[Meta Response: We are working to reproduce the discrete number of WhatsApp chats that had a processing issue. With respect to Workplace chats, you have not identified any legitimate issues with the format of those materials. All text is legible, including emojis and links, in the document you cited. To your question, the format in which they were archived, searched, and collected has a file extension of eMail. This reproduction and information about file extension should address any issues that exist re “data format.” We trust that this issue is now resolved.]

## II. “Potentially Disputed Issues”

1. Production of Incorrectly Imaged Documents: Meta said it was aiming for the end of October to re-produce documents incorrectly imaged and/or formatted that Judge Hixson ordered on 10/1 it must produce. Plaintiffs will ask Judge Hixson to impose an earlier deadline given the deposition schedule.

[Meta Response: Meta has already addressed and reproduced 1,335 documents with imaging issues, which is a majority of the documents at issue. There are no more than 1,100 documents remaining with potential imaging issues. We anticipate completing our review and reproduction by no later than the end of the month and will endeavor to do so sooner. We trust that this issue is now resolved.]

2. General Scope of Custodial Files Searched:

Meta declined to search custodial files outside of the 10 custodians it originally selected and the additional five ordered by Judge Hixson. Meta also represented its search for responsive documents was limited to non-custodial sources and custodial sources of only those 10 custodians (and now the additional five). Meta also identified two for which it searched custodial files beyond its initial 10 custodians but declined to identify whether it conducted a similar search for any other requests. This dispute concerns all RFPs, including Communications with Business Partners and Communications with Shadow Libraries.

[Meta Response: In compliance with the parties’ agreed-upon ESI Order, Meta conducted a comprehensive search for documents responsive to Plaintiffs’ requests and conducted custodial documents for the designated custodians. The ESI Order limited custodial ESI searches to only 10 custodians, and Judge Hixson’s October 4 order added 5 more custodians. You have identified no authority for your demand that Meta conduct boundless custodial searches beyond the 15 custodians that have already been identified. On our meet and confer, we discussed specific requests regarding, for example, training data discussions with certain companies (RFP 29-34) or archives of information on the internet (RFP Nos. 7-12). We are willing to conduct some reasonable follow up searches for these discrete categories.]

Meta declined to add any additional custodians identified by Plaintiffs.

[Meta Response: We have already produced documents for the 10 custodians authorized by the ESI order and are in the process of doing so for 5 additional custodians allowed for by Judge Hixson’s recent order. Plaintiffs have identified no reason for doubling (and now in your latest email, tripling) the number of custodians this late in the discovery process. Plaintiffs also have failed to follow the required procedures set forth in the ESI order for seeking additional custodians.]

3. All Llama Models and All Datasets: Meta represented that despite its written objections it has included all Llama models in its document and data searches and productions except as to Llama 4, and it declined to search for and produce responsive information and data in connection with Llama 4. Meta also represented that despite its written objections it has not limited its search for and production of datasets to Book3, but it declined to identify all datasets with copyrighted works that it copied or how many times those datasets, in full or in part, were

downloaded. Meta also represented it believed only datasets relating to training was relevant and declined to produce other datasets. This dispute concerns Plaintiffs' RFP Nos. 64, 67, and 49, GitHub-Hosted Communications and Source-Code Repositories, documents and interrogatories related to Valuation and Financials.

[Meta Response: This issue relates to Follow Up Item #2 above, and we refer you to our response above. Meta has stated that it would produce the training data alleged to contain the Plaintiffs' works and has done so. That training data constitutes multiple terabytes of data, which Plaintiffs' counsel has complained is too large for them to handle. It is not proportional to the needs of the case, nor pertinent to adjudication of the fair use defense, to produce any duplicative copies of enormous data sets. With respect to Llama 4, that model is being developed and not expected to be released until next year, after the close of fact discovery in this case. While we are willing to work with Plaintiff to identify reasonable discovery to address the fair use issues as it relates to Llama 4, we do not think it is proportional to the needs of the case nor practical to comprehensively address another, unreleased and unfinalized model in the short time period the parties have to conduct the remaining discovery.]

4. RFP No. 45: Meta declined to expand its search beyond use of "tools" for identifying licensed material to include documents or materials regarding licensing and communications with book publishers.

[Meta Response: While we maintain our position that there are no "tools" responsive to your request, as discussed above regarding Follow Up Item #1, Meta will be producing documents about acquisition or licensing of training data in response to more recently served RFPs. We consider this issue resolved.]

5. Production of Hyperlinks: Meta declined to make a supplemental production of all hyperlinked documents.

[Meta Response: As the ESI order makes clear, hyperlinked documents are not akin to attachments (ESI Order, Doc. No. 101 at 17). Meta has been responding to your requests for additional hyperlinked documents; has been producing the hyperlinked documents when they are responsive; and has noted that in many instances you already had the document you were asking us to produce. We expect to complete our production of any remaining responsive hyperlinked documents that you have requested in about a week. We trust that this issue is now resolved.]

6. Addition of Timothy Dettmers as Custodian: Meta declined to add Mr. Dettmers as a custodian.

[Meta Response: We do not agree that Mr. Dettmers should be added as a custodian. To begin, the ESI order has a protocol for adding custodians and Plaintiffs have not followed that protocol here. Moreover, as we have repeatedly explained, and as Plaintiffs are well aware, Mr. Dettmers was a part-time employee at Meta prior to the company's development of the Llama models and was uninvolved in the development of those models. Mr. Dettmers' documents, including those that Judge Hixson determined were privileged, have no bearing on the issues in dispute. Moreover, you have known about Mr. Dettmers since at least December 2023 and provide no reason why Plaintiffs' suddenly need his ESI now, particularly after Judge Hixson's adjudication of the privilege dispute.]

7. Identification of Repositories Not Searched: Meta declined to identify repositories of potentially relevant documents that were not searched. This dispute is relevant to all of RFP Nos. 1-12 and 36-38.

[Meta Response: We do not understand what you are referring to. Meta searched for and/or collected responsive documents in the data sources within Meta's possession, custody or control that would have potentially responsive or relevant documents, including both non-custodial files and custodial files (see response to Potentially Disputed Issue #2 above). Meta is not aware of any types of data sources with potentially responsive or relevant documents that were not searched. We will provide that information when the parties exchange ESI search terms and hit counts (see Follow Up Issue #7 above).]

8. Identification of Noncustodial and Custodial Sources: Meta declined to identify all sources that potentially might have responsive information even if not searched, and confirmed its investigation of custodial files to search consisted of asking the custodians in a general way what modes of communication they use to communicate about work (without specifically asking about alternative modes like WhatsApp, Discord, Signal, Telegram, etc.). Meta was not able to explain the production of Al-Dahle WhatsApp messages on the night before his deposition.

[Meta Response: Your statements do not reflect what the parties discussed. Meta searched for and/or collected responsive documents in the data sources within Meta’s possession, custody or control that would have potentially responsive or relevant documents, including both non-custodial files and custodial files (see response to Potentially Disputed Issue #2 above). For each of the ESI custodians, Meta has made a reasonable inquiry into which modes of communication they use for work, including by asking about particular modes by name. We will identify the data sources (including communication platforms) that were searched when the parties mutually exchange search terms and hit counts.

9. Searching Manifold, GTT, Hive: Meta generally refused to perform searches in Manifold, GTT or Hive on the purported grounds that purportedly they cannot be searched and, in any event, would only contain duplicative data. Meta agreed to consider identifying (not producing) the iterations of copies of training datasets with copyrighted material or books within their PCC.

[Meta Response: This item involves storage locations that may include training data, an issue that was previously addressed in Follow Up Item #2 above. Meta has stated that it would produce the training data alleged to contain the Plaintiffs’ works and has done so. That training data constitutes multiple terabytes of data, which Plaintiffs’ counsel has complained is too large for them to handle. It is not proportional to the needs of the case, nor pertinent to adjudication of the fair use defense, to produce any duplicative copies of enormous data sets.]

10. RFP No. 54: Meta declined to search for documents on the grounds that the “factual premise” of the RFP is purportedly wrong, even if there had been a decision at one point not to market Llama with a user interface.

[Meta Response: RFP No. 54 asks for documents about a decision “not” to create an interface for users for the Meta Language Models. But Meta did create an interface for users for the Meta Language Models – Meta AI – and Meta has produced documents about that interface. This document request therefore is based on an inaccurate premise and, in light of that inaccuracy, you have not articulated any reason it would be relevant or proportional to Plaintiffs’ needs.]

11. Interrogatory No. 15: Meta declined to answer all sub-parts of this interrogatory.

[Meta Response: Reserving all rights and objections, Meta intends to supplement its response to this interrogatory. We trust that this issue is now resolved.]

12. Additional Interrogatories Requested: Meta declined to agree to Plaintiffs’ request to expand the numbers of interrogatories the parties may serve and answer the interrogatories Plaintiffs served on October 10.

[Meta Response: Meta is willing to agree to a small increase in the number of interrogatories, up to 5 more than the 25 the parties had previously agreed to, provided the increase is mutual for both sides. We trust with this compromise that this issue is now resolved.]

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[Meta Response: This complaint is duplicative of Follow Up Item #13 above. We have addressed these issues there.]

14. Relevant Time Period: Meta declined to extend its searches to the beginning of the class period.

[Meta Response: Since the beginning of discovery in this case, Meta has clearly stated that its collection and production of documents would be based on the January 1, 2022 date that it included in its responses and objections. This is a conservative date because Meta did not even begin work on the Meta Language Models at issue in this case until late 2022. Plaintiffs never raised any issue with this time frame until your October 9 letter. We have no reason to believe that there would be relevant responsive documents at an earlier date than 2022 regarding the Llama models.

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[Meta Response: Your statement does not reflect the parties' discussion. We told you that Meta will supplement its response to this interrogatory, including identifying documents where appropriate. We trust that this issue is now resolved.]

16. Advice of Counsel Interrogatory (No. 2, Set 2): Meta would not agree to amend its response to state without ambiguity and equivocation whether it will or will not rely on an Advice of Counsel defense.

[Meta Response: We said that our response reflected our position and that we would take your issue back to the client. To resolve this issue, Meta will supplement its response in the manner requested. We trust that this issue is now resolved.]

17. Additional 30(b)(6) Topics: Meta decline to state whether it would object to any of the amended 30(b)(6) topics Plaintiffs served on October 8, and if so to meet and confer now and attempt to resolve any such objections, because the response time set forth in the rules has not yet elapsed.

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Regards,  
Judd

**Judd Lauter**

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**Sent:** Sunday, October 20, 2024 8:55 AM  
**To:** Hartnett, Kathleen <[khartnett@cooley.com](mailto:khartnett@cooley.com)>; Lauter, Judd <[jlauter@cooley.com](mailto:jlauter@cooley.com)>; Jesse Panuccio <[jpanuccio@BSFLLP.com](mailto:jpanuccio@BSFLLP.com)>; Maxwell Pritt <[mpritt@BSFLLP.com](mailto:mpritt@BSFLLP.com)>; Holden Benon <[hbenon@saverilawfirm.com](mailto:hbenon@saverilawfirm.com)>; Christopher Young <[cyoung@saverilawfirm.com](mailto:cyoung@saverilawfirm.com)>; Aaron Cera <[aCera@saverilawfirm.com](mailto:aCera@saverilawfirm.com)>; Cadio Zirpoli <[czirpoli@saverilawfirm.com](mailto:czirpoli@saverilawfirm.com)>; Joe Saveri <[jsaveri@saverilawfirm.com](mailto:jsaveri@saverilawfirm.com)>; Margaux Poueymirou <[mpoueymirou@saverilawfirm.com](mailto:mpoueymirou@saverilawfirm.com)>; Ashleigh Jensen <[ajensen@saverilawfirm.com](mailto:ajensen@saverilawfirm.com)>; Rya Fishman <[rfishman@saverilawfirm.com](mailto:rfishman@saverilawfirm.com)>; Matthew Butterick <[mb@buttericklaw.com](mailto:mb@buttericklaw.com)>; Nada Djordjevic <[ndjordjevic@dicellolevitt.com](mailto:ndjordjevic@dicellolevitt.com)>; James Ulwick <[Julwick@dicellolevitt.com](mailto:Julwick@dicellolevitt.com)>; Bryan L. Clobes <[BClobes@caffertyclobes.com](mailto:BClobes@caffertyclobes.com)>; Mohammed Rathur <[MRathur@caffertyclobes.com](mailto:MRathur@caffertyclobes.com)>; Amy Keller <[akeller@dicellolevitt.com](mailto:akeller@dicellolevitt.com)>; David Straite <[dstraite@dicellolevitt.com](mailto:dstraite@dicellolevitt.com)>; Ruby Ponce <[rponce@saverilawfirm.com](mailto:rponce@saverilawfirm.com)>; Alexander Sweatman <[ASweatman@caffertyclobes.com](mailto:ASweatman@caffertyclobes.com)>; Heaven Haile <[hhaile@saverilawfirm.com](mailto:hhaile@saverilawfirm.com)>; Llama BSF <[Llama\\_BSF@bsfllp.com](mailto:Llama_BSF@bsfllp.com)>; Josh Schiller <[JiSchiller@BSFLLP.com](mailto:JiSchiller@BSFLLP.com)>; David Boies <[DBoies@BSFLLP.com](mailto:DBoies@BSFLLP.com)>  
**Cc:** Ghazarian, Colette A <[cghazarian@cooley.com](mailto:cghazarian@cooley.com)>; Poppell, Cole A <[CPoppell@cooley.com](mailto:CPoppell@cooley.com)>; Dunning, Angela L. <[adunning@cgsh.com](mailto:adunning@cgsh.com)>; Ghajar, Bobby A. <[bghajar@cooley.com](mailto:bghajar@cooley.com)>; Alvarez, Jessica <[jalvarezlopez@cooley.com](mailto:jalvarezlopez@cooley.com)>; Weinstein, Mark <[mweinstein@cooley.com](mailto:mweinstein@cooley.com)>; Stameshkin, Liz <[lstameshkin@cooley.com](mailto:lstameshkin@cooley.com)>; z/Meta-Kadrey <[zmetakadrey@cooley.com](mailto:zmetakadrey@cooley.com)>  
**Subject:** RE: Kadrey v. Meta - October 16 Meet and Confer  
**Importance:** High

**[External]**

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Good Morning Counsel – Following up on our discovery letters dated 10/8, M&C on 10/16, and the email we sent on Friday.

# EXHIBIT E

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**From:** Maxwell Pritt <mpritt@BSFLLP.com>  
**Sent:** Tuesday, November 26, 2024 14:05  
**To:** Lauter, Judd; Llama C-Counsel  
**Cc:** z/Meta-Kadrey; Dunning, Angela L.  
**Subject:** RE: Kadrey v. Meta - Meet and confer follow-up

**[External]**

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Counsel,

Following up on yesterday's 2 PM PT M&C, Plaintiffs agree the following issues are moot in light of the responses/compromises in Judd's 1:55 PM email from yesterday (11/25):

- Plaintiffs' ROGs 19, 20, 22
- Plaintiffs' RFAs 44 and 98
- Plaintiffs' RFPs 120 and 134

Separately, as confirmed on yesterday's M&C, the parties are at an impasse on the following issues:

- Plaintiffs' RFPs 118-119
- Plaintiffs' RFPs 121-122

Plaintiffs do intend to brief RFPs 118-119 and 121-122. We note that Meta maintains its refusal to produce documents and communications responsive to RFP 119 despite our offered compromise so we will move in full on that RFP. We also note that Meta has not clarified its intended scope of its limitation on RFP 118 to "sufficient to show Meta's training data memorization mitigations for the Llama Models (as construed above)"—please let us know if Meta is excluding both Llamas 4 and 5, and if Meta excluding documents and communications concerning Meta's stripping or removing of copyright management information from copyrighted material.

Our plan is to send a draft letter brief at 3 PM PT next Monday for Wednesday turnaround and filing. Thank you.

Best,  
Max

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**From:** Lauter, Judd <jlauter@cooley.com>  
**Sent:** Monday, November 25, 2024 1:55 PM  
**To:** Llama C-Counsel <llama\_cocounsel@bsfllp.com>  
**Cc:** z/Meta-Kadrey <zmetakadrey@cooley.com>; Dunning, Angela L. <adunning@cgsh.com>  
**Subject:** Kadrey v. Meta - Meet and confer follow-up

**CAUTION:** External email. Please do not respond to or click on links/attachments unless you recognize the sender.

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Counsel,

In advance of today’s meet and confer, Meta has set forth its responses to the unresolved issues detailed below. Except as to RFPs 121 and 122, we believe these issues are now moot. We look forward to your confirmation of the same.

Regards,

Judd

Issue / ROG	Response / Compromise
<b>ROG 17</b>	Meta will amend its response to this Interrogatory to read as follows:  Subject to and without waiving the foregoing objections, Meta responds as follows: Meta is not relying on the advice of counsel defense.
<b>ROG 19</b>	Meta will amend its response to provide a high-level explanation of the identified documents and what they show regarding Meta’s revenue from its partnerships.
<b>ROG 20</b>	Meta will provide a description of its agreements with Amazon, Google, and Microsoft, in addition to producing copies of those agreements.
<b>ROG 22</b>	In light of Meta’s agreement to amend the foregoing responses, we understand that Plaintiffs will drop their demands as to this Interrogatory.

Issue / RFAs	Response / Compromise
Disputed Definitions (of “Dataset” and Llama Models”)	Meta will not construe “Llama Models” to encompass Llama “5.” However, Meta is prepared to construe “Llama Models” to include Llama 4, and “Datasets” to include web-scraped data. This will not change Meta’s RFA responses, except as to RFA 15 because, as relevant to that RFA, Llama 4 remains in development.
<b>RFA No. 44</b>	We understanding that in light of Meta’s compromise on the foregoing interrogatories and RFA No. 98, Plaintiffs will drop their demands as to this RFA.
<b>RFA No. 98</b>	Plaintiffs clarified during a call last week that Meta can construe this RFA to read “Admit that you used books data included in Books3 to train one or more of your large language models. With this clarification Meta will amend its response to RFA 98.

Issue / RFPs	Response / Compromise
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<p><b>RFP No. 120</b></p>	<p>Meta has produced all commits and pull requests for the repositories provided to date. Meta will produce these commits and pull requests in text format independent of the source code computer.</p>
<p><b>RFPs 121 and 122:</b> Plaintiffs are willing to narrow requests to:</p> <ul style="list-style-type: none"> <li>• The production and application code underlying the <a href="https://www.meta.ai/">https://www.meta.ai/</a> chatbot, including all code that encompasses, supports, and integrates the models into <a href="https://www.meta.ai/">meta.ai</a>.</li> <li>• The components of Facebook and Instagram that “incorporat[e] already-trained Llama models,” including the portions of code that encompass, support, and integrate those models into Facebook and Instagram.</li> <li>• any of the source code repositories mentioned in Appendix A to Dr. Jonathan Krein’s November 6, 2024 declaration that are relevant to these RFPs.</li> </ul>	<p>Meta has produced the source code repositories mentioned by Dr. Krein. However, Meta disagrees that the additional code requested is relevant or proportional.</p>
<p><b>RFP 134</b> (seeks documents concerning the “value of books”)</p>	<p>Plaintiffs clarified that by “value of books” they mean both the rationale for using books as training data and financial cost associated with licensing. With that clarification, Meta has, in response to this and other Requests, conducted a reasonable search for documents responsive to this Request. Accordingly, there does not appear to be a dispute concerning RFP 134.</p>

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