

EXHIBIT 1

Q1F40PE1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 IN RE: ,

4 OPENAI, INC.,
5 COPYRIGHT INFRINGEMENT LITIGATION

25 MD 3143 (OTW)

6 Conference

7 -----x

8 New York, N.Y.
January 15, 2026
9:35 a.m.

9 Before:

10 HON. ONA T. WANG,

11 U.S. Magistrate Judge

12 APPEARANCES

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KAREN CHESLEY, The New York Times

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1 de-dupe. It's a whole process where engineers would have to
2 spend a bunch of time to figure out how.

3 MR. NELSON: Your Honor, class plaintiffs' name was
4 taken, at least invoked. At the very end of the class
5 plaintiffs' chart it reflects that there are continued meet and
6 confer efforts on this point. There are a number of things
7 that Mr. Gorman said that at least to me were new. And so we
8 are still discussing those. But there is stuff also that we
9 disagree with, including whether their personal containers and
10 personal custodians. But I don't want to get into that. We
11 are continuing to meet and confer productively with Mr. Gorman
12 with respect to the class plaintiffs on this point. Thank you,
13 your Honor.

14 THE COURT: Is that 1055 or is that something else?

15 MR. NELSON: Your Honor, page ten of Exhibit C which
16 is Sealed Docket 869 on the pending motions.

17 THE COURT: Okay.

18 MR. NELSON: Thank you, your Honor.

19 THE COURT: Thanks.

20 MR. FRAWLEY: Alexander Frawley, I think that brings
21 us to Docket 1043 on the news chart.

22 THE COURT: Okay. I thought this might have been
23 resolved or, is on the road to being resolved in light of a
24 late filing?

25 MR. FRAWLEY: I hope so. One portion was resolved.

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1 That was the capitalization table. That was resolved when
2 OpenAI in their response brief said we will produce. But the
3 part that wasn't resolved until maybe last night was the
4 discovery we are seeing from the Elon Musk case.

5 Just two brief points, and I'll start where you
6 started. There was an update last night, Docket 1165, OpenAI
7 filed a correction to their brief. And after officially
8 claiming that Mr. Sutskever had planned to oppose any
9 production of these two memos at his deposition transcript, has
10 now made clear that he is not going to oppose that. He is not
11 planning to intervene here to oppose the production of those
12 materials to us. So based on that update, we think that
13 hopefully resolves the motion, at least as those two memos and
14 his deposition transcript from that case. And maybe I should
15 stop there.

16 THE COURT: Yeah, that would be a great place to stop.

17 Any dispute?

18 MR. GRATZ: That update places that transcript and
19 those documents in the same bucket as the other documents we
20 are talking about, I think. Is our view is those are documents
21 that are not appropriately subject to cross production under
22 the relevant standard. There is no longer, we agree, it looks
23 like there is not any longer, we agree, the other procedural
24 impediment, which is Mr. Sutskever's objection or potential
25 objection.

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1 THE COURT: Okay. In other words there is a
2 protective order in the *Musk* case that may still not allow
3 production unless, is that accurate?

4 MR. GRATZ: I think the way I would put it is it looks
5 like the protective order in the *Musk* case will not act as an
6 impediment to production. And any impediment to production
7 that it represents would be a ministerial one since it seems
8 like respect to those documents, we would have to ask. And it
9 sounds like he would say okay.

10 We still have the objection that we don't think the
11 standard for cross production is met for those documents or any
12 of these others because of the differences between the cases.

13 THE COURT: Standard for cross production --

14 MR. GRATZ: As the cases cited by both the plaintiffs
15 and we identify, in order for cross production to be
16 appropriate between two cases, they need to have substantial
17 overlap in claims. Some of the cases say then need to be
18 essentially identical. And the claims in the *Musk* case and, in
19 our view, the issues in the *Musk* case and issues here are very
20 far from each other.

21 THE COURT: Is this really a cross production issue?
22 Or is this, as long as it's not privilege subject to an order
23 that doesn't allow it to be produced it's not so much cross
24 production because cross production in the way I understand it
25 is all of the documents are accessible, or you produce them in

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1 both cases at the same time, as we may have done or tried to do
2 before the MDL was instituted. This seems to be a more -- I
3 hesitate to say "garden variety," but this happens in
4 litigation generally. Right, there is a deposition transcript,
5 and rather than retake the deposition or rather than ask for
6 production of the document again, or require, say, that a
7 subpoena be issued and fight about the discovery, again, that
8 you are just going to do it to ease the process and make it go
9 faster.

10 MR. GRATZ: I did not mean to suggest they were
11 requesting full cross production, at least not anymore. The
12 cases that we are citing and the way that I'm using the term
13 "cross production" refers to basically the argument, well, this
14 deposition happened in that other case; I want them. Or, well,
15 these documents were produced in that other case; I want them.
16 There needs to be showing of a relationship between those cases
17 or the relevance of those documents to the matter. And we
18 don't think that's met here because of the difference between
19 the cases and between because of the -- because of the
20 attenuated relevance in the material and because of the
21 cumulative nature of the material as to the issues on which it
22 might be relevant.

23 (Continued on next page)
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1 MR. FRAWLEY: May I respond, your Honor?

2 THE COURT: Sure.

3 MR. FRAWLEY: To start with just the two memos. I
4 don't see that as a cross-production issue. These are two
5 memos that OpenAI has and that we're asking for and we think
6 the memos are relevant. There's obviously no burden because
7 it's two memos they have. In terms of relevance. What we know
8 from the public material that's come to light is that these are
9 memos where the former chief scientist Ilya Sutskever raised
10 concerns about OpenAI's safety processes. And more
11 specifically, their rush to publicly release models before
12 going through the proper safety checks, which include checking
13 for copyright issues. These are relevant memos. They have the
14 memos. They can be produced here without burden. that's for the
15 memos. I can address the transcripts now or we can pause there.

16 THE COURT: Why can't you produce them?

17 MR. GRATZ: Because these issues don't have anything
18 to do with the case. Mr. Frawley correctly I think says that
19 they have to do with complaints about --

20 THE COURT: Doesn't it go to fair use.

21 MR. GRATZ: I don't think it does, your Honor, because
22 the issues that it's about, that is, you release this model
23 without sort of checking it as much as I wanted you to for the
24 safety issues that it wouldn't do this or do that don't relate
25 to copyright. That is, if it's a model that, for example, one

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1 safety issue is making sure that it does not talk about how to
2 build nuclear weapons, important that it not talk about how to
3 build nuclear weapon.

4 THE COURT: You have one minute to my hard stop.

5 MR. GRATZ: Very good. I will stop talking about
6 nuclear weapons, your Honor.

7 THE COURT: What about this particular issue about
8 properly checking for copyright violations. What is it -- look
9 --

10 MR. GRATZ: These memos don't have to do with that.
11 To the extent they do, I think we would be willing to
12 facilitate the production of whatever portions had to do with
13 copyright. I don't think there are.

14 THE COURT: So if I order them produced under an
15 attorneys-eyes only designation, what would happen next?

16 MR. GRATZ: Mechanically, I think what would happen
17 next is, I would reach out to Mr. Sutskever's counsel
18 indicating that order had occurred, and he would probably say
19 to me okay.

20 THE COURT: All right. Well, then, that is what I'm
21 going to order. Deposition transcript and memos to be produced
22 under attorneys eyes only designation.

23 MR. FRAWLEY: Your Honor, just to clarify. That
24 includes -- our request was for all the overlapping deposition
25 transcripts from Musk, for any witness being deposed in this

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1 case who was also deposed in that case. That was the second
2 part of the request.

3 THE COURT: Sutskever and memos, attorneys eyes only
4 designation produced. If there's more and you can't work it
5 out, I guess we'll have to talk about it in February.

6 MR. FRAWLEY: There's one more issue. This was in our
7 supplement filing which was docket 1162. And basically what
8 happened was, the day after we filed this motion, materials
9 were publicly unsealed in the Musk case the very next day.
10 Deposition transcripts, some documents, all exhibits to summary
11 judgment that have now been decided. So we filed this notice
12 of supplement authority at docket 1162 to apprise your Honor of
13 that development and to show your Honor why we think there's
14 such substantial overlap between our case and that case in
15 terms of the discovery. I don't need to go through all the
16 different examples.

17 THE COURT: So now, just so I understand, so now you
18 have publicly unsealed materials that you don't need an order
19 from me to get. You now have an order from me for Ilya
20 Sutskever material as well as his non-objection so long as it's
21 produced under AEO. If you have other request relates to the
22 Musk Altman litigation, raise them in February, but it's going
23 to have to be based on -- there are other things that are
24 relevant, and production will be proportional and we don't have
25 it from what we already have. Okay. It's gonna be a different

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1 showing.

2 MR. NELSON: I know you're at a hard stop, your Honor.
3 I guess really just for logistics here. There are a number of
4 issues we didn't get to. We didn't get to any of the Class
5 specific issues. There are a number of different issues
6 including some that were briefed prior to the January 5,
7 January 12 schedule, whatever it was, because they were
8 important and argued at the last hearing, including the back
9 and forth with respect to Microsoft Office financial and
10 marketing documents. We don't have time to have that robust
11 argument right now. There are a number of other issues
12 including one that Mr. Stein was going to argue with respect to
13 project giraffe inward regurgitation. You heard Mr. Monaco's
14 name mentioned today. It impacts his deposition is coming up
15 in a couple of weeks. Mr. Monaco is heavily involved with the
16 regurgitation project.

17 We do need some guidance quite quickly on that.
18 There's also another issue -- and again I'm not trying to
19 argue. I'm just trying to go through the list quite quickly in
20 the order of priority. Your Honor ordered because of we found
21 out in his personal container, recall from Mr. Hallisy's
22 deposition, and that's all I'll say on that. There was an
23 order for either interrogatories or a 30(b)(6). OpenAI picked
24 a 30(b)(6), and then said, actually, we're just going to limit
25 it in narrow ways that are not the scope --