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May 14, 2024

DELIVERY METHOD: CM/ECF

Hon. Margaret M. Garnett, U.S.D.J.
United States District Court
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

> **Re: Huckabee et al. v. Meta Platforms, Inc. et al.**
> **No. 1:23-cv-09152-MMG**
> **Response to Defendants' Letter Requesting Oral Argument**

Dear Judge Garnett:

Pursuant to Paragraph II.B.5 of Your Honor's Individual Rules and Practices, Plaintiffs hereby briefly respond to Defendants Bloomberg L.P. and Bloomberg Finance L.P. (together, "Bloomberg")'s May 7, 2024 letter.

While this case does involve "novel and interesting legal issues involving large language models and artificial intelligence," the legal treatment of Bloomberg's "fair use" defense at the pleadings stage does not—there is nothing new or novel about the application of the Second Circuit's jurisprudence disfavoring a finding of "fair use" before discovery is permitted to proceed. Bloomberg is correct on one point: there are only a handful of decisions at the pleadings stage discussing Large Language Models in the context of copyright claims, and none address fair use. This should be unsurprising. Fair use is a defense that cannot be resolved without a complete factual record, except in the rare
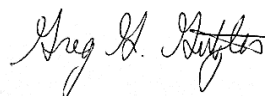
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circumstance where judgment on the pleadings is appropriate. Those circumstances are not present here.

The Plaintiffs do not believe oral argument will be needed to dispose of Bloomberg's defenses at this stage. However, should the Court find it helpful to hold a hearing on the motion, the Plaintiffs will be prepared to answer any questions the Court may have.

Sincerely,

Greg G. Gutzler