

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

THE NEW YORK TIMES COMPANY,

Plaintiff,

v.

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

Defendants.

Case No. 1:23-cv-11195 (SHS) (OTW)

**NOTICE OF MOTION AND
MOTION TO DISMISS**

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the undersigned hereby moves this Court on behalf of Defendant Microsoft Corporation, before the Honorable Sidney H. Stein in Courtroom 23A of the United States District Court for the Southern District of New York, Daniel Patrick Moynihan Courthouse, 500 Pearl Street, New York, New York, 10007, for an order pursuant to Federal Rule of Civil Procedure 12(b)(6) dismissing Counts IV, V, and VI for failure to state a claim upon which relief can be granted.

Dated: San Francisco, California
March 4, 2024

Respectfully submitted,

By: /s/ Annette L. Hurst

ORRICK, HERRINGTON & SUTCLIFFE LLP
Annette L. Hurst (admitted *pro hac vice*)
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: (415) 773-5700
Facsimile: (415) 773-5759
ahurst@orrick.com

Christopher J. Cariello
51 West 52nd Street
New York, NY 10019
Telephone: (212) 506-3778
Facsimile: (212) 506-5151
ccariello@orrick.com

*Attorneys for Defendant
Microsoft Corporation*