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HUESTON HENNIGAN LLP

October 6, 2026 – Via ECF

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: *Entrepreneur Media, LLC v. Meta Platforms, Inc.*, Case No. 3:25-cv-09579-VC
Response to Dkt. No. 168

Dear Magistrate Judge Hixson:

Pursuant to the Court's Order (Dkt. 168), Plaintiff Entrepreneur Media, LLC ("EM") and Defendant Meta Platforms, Inc. ("Meta") submit this further joint discovery letter brief concerning what remains in dispute as to the interrogatories addressed in ECF Nos. 154 (ROGs 22-24) and 155 (ROGs 12, 19, and 20). On September 18, 2026, Meta served verifications and supplemental responses to Interrogatory Nos. 12, 20, and 24. Meta's verified Second Supplemental Responses to EM's Fifth Set of Interrogatories (Nos. 22-24) ("Set 5 Resp.") are attached as Exhibit A. The parties conferred on September 23, September 28, and October 5. The parties agree that Interrogatory Nos. 20 and 24 are resolved.

I. EM's Position

A. ECF No. 154

Meta did not supplement its responses to Interrogatory Nos. 22 or 23. The responses EM challenged are therefore unchanged, and they are now verified. EM incorporates its position in ECF No. 154 and has narrowed its requested relief as set out below.

1. Interrogatory No. 22

To address Meta's objection that EM already knows the "titles, roles, and organizational units" of the persons Meta identified (ECF No. 154 at 4), EM no longer seeks each person's role. EM continues to seek (i) an answer to Interrogatory No. 22 as drafted, including as to the decision to obtain or download each dataset; (ii) for each person identified, that person's approximate dates of involvement and which decision he or she made, authorized, or approved, as to which dataset; and (iii) identification of the natural persons who approved the LibGen acquisition within FAIR and the persons who approved resuming the Anna's Archive download, or a statement under oath that Meta has identified none.

Meta's verified response states that the LibGen acquisition "was approved for acquisition and internal evaluation and experimentation for internal research models by the FAIR organization that was led primarily by Joelle Pineau" (Set 5 Resp. at 6). Identifying who led an

organization does not identify who made, authorized, or approved a decision. For Anna's Archive, the response identifies only the person "believed to have communicated a decision and approval" (*id.* at 6-7), not the person who made it. And the same response states that, "as Meta's AI organizations grew and matured, the initial informal approach gave way to more structured review and approval processes" (*id.* at 5-6). On Meta's own account, the later decisions were made through structured approval processes, and the persons who made them can be identified. Fed. R. Civ. P. 33(b)(1)(B), (b)(3).

2. Interrogatory No. 23

Interrogatory No. 23 asks who "made, authorized, or approved any decision to obtain, download, upload, or distribute" shadow-library content by BitTorrent. Meta's verified response instead identifies who made a "technical decision": that Mr. Lample "likely made the technical decision to conduct this download via torrents," that Mr. Roller "made a technical decision" to use BitTorrent, and that Mr. Bashlykov "made a technical decision to conduct this download via torrents after discussing the issue with the team" (Set 5 Resp. at 8). Those statements identify who performed the downloads, not who authorized or approved them, and the response does not identify the "team" with whom Mr. Bashlykov discussed the issue.

To narrow the dispute, EM modifies item (iii) of its requested relief. In place of the persons who selected and configured the BitTorrent clients, EM seeks identification of each person who made, authorized, or approved the decision whether or how to seed, or to mitigate seeding, when Meta obtained LibGen Scimag and Anna's Archive content by BitTorrent. That decision is within the interrogatory's "upload" clause, and Mr. Bashlykov testified that the issue of seeding "was raised and discussed" and that "actions were undertaken to mitigate that" (ECF No. 154 at 3). EM otherwise continues to seek items (i) and (ii) as stated in ECF No. 154, including identification of each person who approved proceeding by torrent.[1]

B. ECF No. 155

1. Interrogatory No. 19

On September 30, 2026, as committed in ECF No. 155 at 4, Meta transmitted the results of its search of SpiderMate processed text from the EM domains against EM's produced magazine files. Those results reflect matches to 237 magazine files EM has produced, against the

[1] Meta's portion of ECF No. 154 represented that, based on its investigation, Messrs. Bell, Zhang, and Kerkez "did not make, authorize or approve any decisions to use BitTorrent," and that Meta "is not withholding responsive information on the grounds of privilege" (ECF No. 154 at 5). Neither representation appears in Meta's verified responses, which instead retain Meta's objection that it "will not respond to the extent the response would reveal privileged and/or protected information" (Set 5 Resp. at 2). EM asks that both representations be made in a verified supplemental response.

nine issues identified in Meta's verified responses to Interrogatory No. 19.[2] Because Meta transmitted its search results subject to a reservation of rights, EM seeks—and the parties are discussing—how best to make those results part of the evidentiary record, either by way of stipulation or a further verified supplemental response.[3] The parties expect to resolve the question by October 14, 2026, and if it is not resolved by then, EM requests leave to submit a letter of no more than two pages identifying any remaining dispute concerning Interrogatory No. 19.

2. Interrogatory No. 12

On September 23, EM asked Meta two questions to clarify its verified September 18 supplemental response to Interrogatory No. 12, and Meta has stated that it will respond. EM does not presently seek relief as to Interrogatory No. 12 and reserves the right to raise it if Meta's clarification shows the response to be incomplete.

C. Requested Relief

EM respectfully requests an order directing Meta to serve verified supplemental responses to Interrogatory Nos. 22 and 23 providing the relief stated in Part I.A, as narrowed above. As to Interrogatory No. 19, EM requests that the Court set October 14, 2026 as the date for the parties to reach resolution or, failing that, for EM to submit the two-page letter described above.

II. META'S POSITION

A. ECF No. 154

1. Interrogatory No. 22-23

Meta stands by the responses it provided to Interrogatory Nos. 22-23. Meta currently has no additional information to provide in response to those interrogatories.

For both interrogatories, Meta previously explained in its portion of the letter brief (Dkt. 154) that there may not be specific individual decision makers for certain decisions, such as the LibGen acquisition discussed by EM above for Interrogatory No. 22. EM may not like that that is Meta's answer, but EM's dissatisfaction with the facts is not a proper basis for a motion to compel. Where Meta did not identify an ultimate decision maker for a particular decision, its response did not stop there. Meta's response to Interrogatory No. 22, for example, provided an

[2] ECF 155 stated that EM had produced 152 magazine issues spanning 2009 through 2026 (ECF No. 155 at 2); however, that figure was incomplete. EM has produced 241 magazine issues.
[3] On October 1, Meta also transmitted a supplement to Exhibit 1 mapping each identified book to the Llama version or versions it was used to train. That mapping likewise postdates Meta's September 18 verification, and EM seeks that it be included in the same stipulation or verified supplemental response.

overview of the data approval process at Meta, how it did not necessarily have a single decisionmaker, and how decisions were often collaborative or the result of team consensus. Ex. A at 5. When Meta had information that tied a decision to a specific individual, Meta provided that information. Likewise, when Meta did not have information tying one of those decisions to a specific individual, Meta explained so in its interrogatory responses and identified persons that were known to have been involved in the decisions or that were leading groups that would have been involved in the approval of the decision.

EM (along with Kadrey and the Three C's) have had more than sufficient opportunities to take discovery into these issues and to test the facts underlying Meta's responses to Interrogatory Nos. 22-23 in the depositions of over 40 Meta witnesses (including many who were deposed multiple times) and through Meta's production of millions of pages of documents. Meta's responses to these interrogatories provide the responsive information that Meta has identified after the extensive discovery process in these cases.

For Interrogatory No. 23, EM's proposed "narrowing" is not a narrowing at all, but rather an attempt by EM to rewrite this interrogatory to cover information that they may have wished they had requested. EM tries to tie the modification of the interrogatory to the "upload" term in the response, but Meta already unequivocally answered that portion of the interrogatory in its response: "Meta is not currently aware of any persons who made, authorized, or approved any DECISION to upload or distribute any "Shadow Library Datasets." Ex. A at 5.

Regarding the statements that EM requests be verified in Footnote 1, this is a new request that was not raised in the original letter brief and should be denied because it is (1) untimely and (2) the interrogatory did not ask who did not make a decision about these activities, only who did. On the request to add a representation about privilege to the interrogatory response, Meta has already been clear in the interrogatory what it is withholding on privilege grounds. Ex. A at 9 (identification of legal review process).

B. ECF No. 155

1. Interrogatory No. 19

Meta appreciates that the parties have been able to work cooperatively to resolve the issues with Interrogatory No. 19. As noted by EM, Meta is working with EM to resolve how to make the results of the search of SpiderMate processed text search part of the evidentiary record.[4] To the extent the parties are not able to reach agreement on this remaining issue, Meta agrees to EM's proposal to file a two-page letter on October 14, provided that Meta has an opportunity to file a two-page response by October 21.

2. Interrogatory No. 12

[4] While not previously raised by EM, Meta will also address EM's request regarding the mapping |of Llama versions in the stipulation or verification the parties are negotiating.

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As stated by EM, Meta has agreed to answer the questions asked by EM about Meta's response to Interrogatory No. 12.

HUESTON HENNIGAN LLP

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Filers' Attestation

Pursuant to Civil L.R. 5-1, the undersigned attests that the concurrence in the filing of this document has been obtained from each of the other signatories.

By: *s/ Lee Linderman*