

US Justice Department backs OpenAI's fair-use defence in New York Times case

Source copy kept by wheresthe.ai for the story "US Justice Department backs OpenAI's fair-use defence in New York Times case" (<https://wheresthe.ai/d/us-doj-statement-of-interest-nyt-v-openai-2026-09/>).

Source: <https://news.bloomberglaw.com/ip-law/trump-administration-backs-openai-in-ny-times-copyright-suit>

Text saved 18 Oct 2026 (the page as published).

SHA-256 of the saved text: 2f93adbac0415893459fc6e11fadf6d579a1e73111ce9e84619c1c92f45d26d5

Listen Print Email

Share To: Facebook LinkedIn

The Trump administration is urging a New York federal judge to rule in favor of OpenAI Inc.'s claim that training its artificial intelligence models on New York Times Co. and other publishers' copyrighted works constitutes fair use. The US "has a strong interest in continuing to develop a robust and competitive artificial intelligence industry that sets the standard for the practice and procedure of AI use globally," the Justice Department said Tuesday in a statement of interest filed in the US District Court for the Southern District of New York. Ruling for OpenAI will bolster American innovation and national security capabilities, the DOJ said. By contrast, finding for the publishers in the multi-district litigation "would be inconsistent with basic copyright law principles and severely hamper" President Donald Trump's January 2025 executive order, which seeks to sustain US dominance in the AI space and "promote human flourishing, economic competitiveness, and national security," the agency said. The Trump administration's bid comes at a time of rapid AI innovation. As the judicial system struggles to keep pace with the tech, the court's ultimate decision could guide future rulings of what's considered copyright infringement amid rampant AI model training. "The Administration is siding with a handful of trillion-dollar AI companies at the expense of the countless American creators whose work they stole," Graham James, a spokesperson for the Times, said in an emailed statement. "Both AI and creators can thrive — AI companies simply need to pay fairly for the content that makes their products possible, as copyright law requires," he added. "The Administration's proposal to let companies take that content without permission or compensation would undermine the sustainability of the human-created content that a healthy society depends on, and which AI needs to function." Ruling against OpenAI would hamper large language model competition, as only the largest tech companies would have the resources to pay licensing fees to gain access to copyrighted training materials, the DOJ said. And such fees would "disproportionately benefit legacy media outlets due to the sheer volume of their written publications." Not only that, but using copyright law to constrain AI development threatens the country's "competitive advantage to foreign adversaries who are not so encumbered," the agency said. The Times' suit against OpenAI and Microsoft Corp. for training LLMs on copyrighted works was consolidated into the multidistrict litigation along with similar complaints from other national, regional, and local news publishers. The news organizations currently are seeking sanctions against OpenAI for alleged discovery misconduct. OpenAI's central argument is that training AI on the publishers' works is fair use because it's a limited use of copyrighted materials to create something that doesn't just duplicate them. The tech giant contends use of the copyrighted materials for AI-generated outputs is a "transformative" use of the material and so doesn't infringe the copyrights. For Innovation's Sake Trump's "National Policy Framework for Artificial Intelligence" explains that American creators and publishers should be "protected from AI-generated outputs that infringe protected content," without undercutting "lawful innovation and free expression," the DOJ said. The president also has encouraged Congress to consider forming licensing frameworks or "collective rights systems" for copyrights holders to protect them from unauthorized or commercial use of "AI-generated digital replicas of their identifiable attributes," the department added. Publications including The Times are leveraging LLMs for themselves for journalistic purposes, and constraining development "under a misunderstanding of fair use doctrine" would "thwart" creative and scientific progress "while hindering American prosperity and economic mobility," the DOJ said. Susman Godfrey LLP, Rothwell Figg Ernst & Manbeck PC, Loevy & Loevy, Klaris Law PLLC, and Ruttenberg IP Law represent the news plaintiffs. OpenAI is represented by Williams & Connolly LLP, Keeker Van Nest & Peters LLP, Latham & Watkins LLP, and Morrison & Foerster LLP. Microsoft is represented by Faegre Drinker Biddle & Reath LLP and Orrick, Herrington & Sutcliffe LLP. The case is In Re: OpenAI Inc. Copyright Infringement Litig., S.D.N.Y., No. 25-md-03143, statement of interest filed 9/1/26.

Learn more about Bloomberg Law or Log In to keep reading: See Breaking News in Context Bloomberg Law

provides trusted coverage of current events enhanced with legal analysis. [Learn more](#)

Already a subscriber? [Log in](#) to keep reading or access research tools and resources. [Log In](#)

© 2026 Bloomberg Industry Group, Inc. All Rights Reserved