



Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

B E T W E E N:

(Court Seal)

TORONTO STAR NEWSPAPERS LIMITED, METROLAND MEDIA GROUP LTD., POSTMEDIA NETWORK INC., PNI MARITIMES LP, THE GLOBE AND MAIL INC./PUBLICATIONS GLOBE AND MAIL INC., CANADIAN PRESS ENTERPRISES INC./ENTREPRISES PRESSE CANADIENNE INC., and CANADIAN BROADCASTING CORPORATION/SOCIÉTÉ RADIO-CANADA

Plaintiffs

and

OPENAI, INC.; OPENAI GP, LLC; OPENAI, LLC; OPENAI STARTUP FUND I, LP; OPENAI STARTUP FUND GP I, LLC; OPENAI STARTUP FUND MANAGEMENT, LLC; OPENAI GLOBAL, LLC; OPENAI OPCO, LLC; OAI CORPORATION; and OPENAI HOLDINGS, LLC

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

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If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFFS' CLAIM, and \$750 for costs, within the time for serving and filing your Statement of Defence you may move to have this proceeding dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiffs' claim and \$400 for costs and have the costs assessed by the Court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue
Toronto ON M5G 1R7

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TO: **OPENAI, INC.**
2711 Centerville Road, Suite 400
Wilmington, New Castle County
Delaware 19808

c/o The Corporation Trust Company
1209 Orange Street,
Wilmington, New Castle County
Delaware 19801

OPENAI GP, L.L.C.
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Wilmington, New Castle County
Delaware 19808

c/o The Corporation Trust Company
1209 Orange Street,
Wilmington, New Castle County
Delaware 19801

OPENAI, LLC
251 Little Falls Drive
Wilmington, New Castle County
Delaware 19808

c/o Corporation Service Company
251 Little Falls Drive
Wilmington, New Castle County
Delaware 19808

OPENAI STARTUP FUND I, LP
251 Little Falls Drive
Wilmington, New Castle County
Delaware 19808

c/o The Corporation Trust Company
1209 Orange Street,
Wilmington, New Castle County
Delaware 19801

OPENAI STARTUP FUND GP I, LLC
251 Little Falls Drive
Wilmington, New Castle County
Delaware 19808

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c/o The Corporation Trust Company
1209 Orange Street,
Wilmington, New Castle County
Delaware 19801

OPENAI STARTUP FUND MANAGEMENT, LLC

251 Little Falls Drive
Wilmington, New Castle County
Delaware 19808

c/o The Corporation Trust Company
1209 Orange Street,
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OPENAI GLOBAL, LLC;

251 Little Falls Drive
Wilmington, New Castle County
Delaware 19808

c/o The Corporation Trust Company
1209 Orange Street,
Wilmington, New Castle County
Delaware 19801

OPENAI OPCO, LLC

251 Little Falls Drive
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Delaware 19808

c/o The Corporation Trust Company
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OAI CORPORATION

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Delaware 19808

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Delaware 19801

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OPENAI HOLDINGS, LLC
251 Little Falls Drive
Wilmington, New Castle County
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c/o The Corporation Trust Company
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Wilmington, New Castle County
Delaware 19801

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CLAIM

1. The Plaintiff News Media Companies (defined below) claim for:
 - (a) A declaration that the Defendants are jointly and severally liable for:
 - (i) Infringing, authorizing, and/or inducing the infringement of the News Media Companies' copyright in the Owned Works (defined below), contrary to sections 3 and 27 of the *Copyright Act*, RSC 1985, c C-42 ("*Copyright Act*");
 - (ii) Engaging in prohibited circumvention of technological protection measures that prescribed access to, and restricted copying of, the News Media Companies' Works (defined below), contrary to, and within the meaning of, section 41 and 41.1 of the *Copyright Act*;
 - (iii) Breaching the Terms of Use (defined below) of the News Media Companies' Websites (defined below); and
 - (iv) Unjustly enriching themselves at the expense of the News Media Companies.
 - (b) Orders for:
 - (i) Damages, and in addition to those damages, such part of the profits that the Defendants have made from the infringement of the News Media Companies' copyright in and to the Owned Works and from the circumvention of technological protection measures, pursuant to sections

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35 and 41.1 of the *Copyright Act*, in an amount to be determined at trial, payable on a joint and several basis;

(ii) In the alternative to (i), if elected before final judgment is rendered, an award of statutory damages in the amount of \$20,000 per work (or an amount the Court considers just), for the infringement of the News Media Companies' copyright in and to the Owned Works and from the circumvention of technological protection measures, pursuant to sections 38.1 and 41.1 of the *Copyright Act*, payable on a joint and several basis;

(iii) Damages and/or an accounting and disgorgement of profits in respect of the Defendants' breach of contract and unjust enrichment, in an amount to be determined at trial, payable on a joint and several basis; and,

(iv) Punitive and/or exemplary damages for the Defendants' willful and knowing infringement of the News Media Companies' rights and wholesale circumvention of technological protection measures as described herein, payable on a joint and several basis;

(c) A permanent injunction restraining the Defendants, their directors, officers, employees, agents, licensees, successors, assigns, related or affiliated companies, and all those under the control of the Defendants from, directly or indirectly:

(i) infringing the News Media Companies' copyright in the Owned Works, circumventing technological protection measures employed to protect the Works, or any other acts in relation to the Owned Works and Works that

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violate these sections of the *Copyright Act*, pursuant to section 34 of the *Copyright Act*, and

- (ii) obtaining and/or using the Works, contrary to the News Media Companies' respective Terms of Use, and without the News Media Companies' prior written consent;
- (d) A further 'wide injunction', pursuant to section 39.1 of the *Copyright Act*, enjoining the parties described in the previous paragraph from infringing the News Media Companies' copyright or interest therein granted by licence in any other Works that the Defendants are likely to infringe, and from circumventing technological protection measures to access the Works on the Websites, as may be evidenced to the Court's satisfaction;
- (e) Pre-judgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (f) Post-judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (g) The costs of this proceeding, plus all applicable taxes; and
- (h) Such further and other Relief as this Honourable Court may deem just.

I. Overview

2. The Defendants have engaged in ongoing, deliberate, and unauthorized misappropriation of the Plaintiffs' valuable news media works. The Plaintiffs bring this action to prevent and seek recompense for these unlawful activities.

3. The Plaintiffs constitute Canada's leading media companies and news publishers (collectively, the "**News Media Companies**"). Together, they are responsible for generating the bulk of Canada's journalistic content—from daily print broadsheet to round-the-clock digital news coverage. They publish in both official languages, in every province and territory across the country. Each of the News Media Companies produce original reporting and content on a wide range of subject matters, including global news, national politics, local issues, business news, sports, arts and culture, and entertainment. Collectively, they have millions of digital and print readers worldwide. Their journalism—covering virtually everything from opinions on the local beat to international long-form investigations—is widely recognized for its quality, having won numerous awards, including National Newspaper Awards, Michener Awards, Canadian Journalism Foundation awards, and Radio, Television and Digital News Association (RTDNA) awards.

4. The Defendants (collectively, "**OpenAI**") are the creators, proponents, and operators of a series of artificial intelligence ("**AI**") products, including their "Generating Pre-training Transformer" ("**GPT**") models, commercialized under the product name ChatGPT. ChatGPT is a mass-marketed large language model designed to provide natural-sounding text responses to user prompts, in a manner that mirrors human communication. OpenAI's GPT models work by using pattern recognition developed through the analysis of enormous quantities of text data.

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5. To obtain the significant quantities of text data needed to develop their GPT models, OpenAI deliberately “scrapes” (*i.e.*, accesses and copies) content from the News Media Companies’ websites, web-based applications, and/or the websites of their Third Party Partners (defined below). It then uses that proprietary content to develop its GPT models, without consent or authorization. OpenAI also augments its models on an ongoing basis by accessing, copying, and/or scraping the News Media Companies’ content in response to user prompts.

6. OpenAI has taken large swaths of valuable work, indiscriminately and without regard for copyright protection or the contractual Terms of Use applicable to the misappropriated content. The misappropriated content includes works that the News Media Companies own or exclusively license (the “**Owned Works**”) as well as works that they non-exclusively license from other third parties (the “**Licensed Works**”) (together, the “**Works**”). Through its conduct, OpenAI has and continues to:

- (a) Infringe, authorize, and/or induce the infringement of the News Media Companies’ copyright in its Owned Works;
- (b) Circumvent the technological protection measures employed by the News Media Companies and/or their Third Party Partners to protect the Works from unauthorized access; and,
- (c) Breach the Terms of Use of the News Media Companies’ Websites.

7. The data and intellectual property illicitly obtained by OpenAI is the product of immense time, effort, and cost on behalf of the News Media Companies and their journalists, editors, and

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staff. The News Media Companies' content is their core product and the driving force of their respective businesses.

8. At all material times, OpenAI was aware of the value of the News Media Companies' proprietary data and intellectual property, including the significant financial investments made to acquire the rights to publish the Licensed Works, and of the need to both pay for that information and secure the express authorization of the News Media Companies before obtaining and using it for its own purposes. Rather than seek to obtain the information legally, OpenAI has elected to brazenly misappropriate the News Media Companies' valuable intellectual property and convert it for its own uses, including commercial uses, without consent or consideration.

9. OpenAI has capitalized on the commercial success of its GPT models, building an expansive suite of GPT-based products and services, and raising significant capital—all without obtaining a valid licence from any of the News Media Companies. In doing so, OpenAI has been substantially and unjustly enriched to the detriment of the News Media Companies.

10. The News Media Companies accordingly seek damages and/or disgorgement to compensate them for the wrongful misappropriation of their Works, as well as permanent injunctive relief to prevent OpenAI from continuing with its unlawful conduct.

II. The Parties

i. The Plaintiffs

11. Founded in 1892, Toronto Star Newspapers Limited (“TSNL”) is a company incorporated under the *Business Corporations Act*, R.S.O. 1990, c. B.16 (“BCA”), with its principal place of business in Toronto, Ontario. TSNL is the publisher of the Toronto Star, which was established

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in 1892 and is Canada's most widely circulated daily newspaper. The Toronto Star is published digitally at thestar.com, on The Star mobile app, and in e-paper format. The Toronto Star is known for the depth of its reporting on local, national, and international issues, its award-winning investigations team, and for championing social justice and economic reform.

12. Founded in 1981, Metroland Media Group Ltd. ("**Metroland**"), is a company incorporated under the *BCA*, with its principal place of business in Toronto, Ontario. Metroland publishes six daily newspapers, each of which have been in circulation since at least the 1930s: the Hamilton Spectator (thespec.com), the Peterborough Examiner (thepeterboroughexaminer.com), the Waterloo Region Record (therecord.com), the St. Catharines Standard (stcatharinesstandard.ca), the Niagara Falls Review (niagarafallsreview.ca), and the Welland Tribune (wellandtribune.ca). Content from the regional dailies is also published in e-paper format, as well as on associated mobile apps. In addition, Metroland publishes community news and other content across at least 20 websites, serving more than 70 communities in Ontario.

13. Metroland and TSNL (collectively, the "**Torstar Companies**") are sister companies, both wholly owned by Torstar Corporation.

14. The Plaintiff, Postmedia Network Inc. (together with its wholly-owned subsidiary PNI Maritimes LP, described below, "**Postmedia**"), is a news and media company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44 ("**BCA**"), with its head office in Toronto, Ontario. Postmedia owns over 130 national, provincial, and local newspapers, including the National Post, one of Canada's most widely circulated newspapers. It is the publisher of leading English-language newspapers in most of Canada's largest metropolitan areas, including Vancouver, Calgary, Edmonton, Regina, Saskatoon, Ottawa, London, and Montreal, several of

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which have been in circulation for more than 100 years. It publishes its content across more than 100 websites, associated apps, and digital editions.

15. The Plaintiff, PNI Maritimes LP (“**PNIM**”), is a limited partnership formed in 2024 under *The Partnership Act*, CCSM, c P30, and a wholly-owned subsidiary of Postmedia. PNIM owns and operates various daily and local newspapers in Atlantic Canada, including many of the region’s most historic and leading newspaper brands, such as The Chronicle Herald, Cape Breton Post, The Guardian, and The Telegram.

16. Founded in 1844, The Globe and Mail Inc./Publications Globe and Mail Inc. (“**The Globe**”), is a news company incorporated under the *BCA*, with its head office in Toronto, Ontario. As one of Canada’s oldest and most widely read, and subscribed to, news organizations, The Globe publishes its proprietary content through The Globe and Mail newspaper, several websites and web-based applications, including theglobeandmail.com, secretcanada.com, The Globe and Mail apps, and Globe2Go, which is a digital replica of its print newspaper. With its award-winning coverage of business, politics and national affairs, The Globe leads the national discussion and has been a catalyst for policy change through its investment in brave and independent journalism. The Globe reaches millions of readers every week.

17. Founded in 1917, the Plaintiff, Canadian Press Enterprises Inc./Entreprises Presse Canadienne Inc. (“**The Canadian Press**”), is a news agency incorporated under the *CBCA*, with its head office in Toronto, Ontario. The Canadian Press is one of the largest producers of news content in Canada, with its content published in English and French by nearly every news media company across the country, pursuant to valid licensing agreements. The Canadian Press is also

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the exclusive distributor of Associated Press content in Canada. In addition to its licensing arrangements, The Canadian Press also maintains its own news website, thecanadianpressnews.ca.

18. Founded in 1936 as a radio broadcaster, the Plaintiff, Canadian Broadcasting Corporation/Société Radio-Canada (“**CBC/Radio-Canada**”), is Canada’s national public broadcaster and a multiplatform news media company, with its head office in Ottawa, Ontario. It is a Crown corporation governed by the *Broadcasting Act*, SC 1991, c 11. In addition to serving as Canada’s national radio and television broadcaster, CBC/Radio-Canada produces daily news and journalism content on a variety of websites and other web-based platforms, including CBC.ca, ici.radio-canada.ca, and ici.tou.tv.

i. The Defendants

19. OpenAI is a private, for-profit AI company that offers a variety of products and services to individual consumers and businesses, all of which leverage its proprietary GPT models.

20. OpenAI consists of several interrelated entities, including OpenAI, Inc.; OpenAI GP, LLC; OpenAI, LLC; OpenAI Startup Fund I, LP; OpenAI Startup Fund GP I, LLC; OpenAI Startup Fund Management, LLC; OpenAI Global, LLC; OpenAI OpCo, LLC; OAI Corporation; and OpenAI Holdings, LLC (collectively, “**OpenAI**” or the “**OpenAI Entities**”). Each of the OpenAI Entities are registered in Delaware, with head offices in California.

21. Together, and pursuant to a common purpose, the OpenAI Entities function as a common enterprise to fund, develop, and commercialize OpenAI’s proprietary GPT models—which are built, trained, and operated to infringe on the News Media Companies’ copyright and contractually

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protected rights. Such common purpose is reflected in agreements between the OpenAI Entities that are known to those entities, but not the News Media Companies.

22. The OpenAI Entities have each been directly or indirectly involved in the unlawful conduct as alleged by the News Media Companies:

- (a) The Defendant OpenAI, Inc., is a nonprofit corporation formed in 2015. It directly or indirectly owns and /or controls all other OpenAI entities.
- (b) The Defendant OpenAI GP, LLC is a limited liability company formed in 2018 (formerly, Summersafe GP, LLC is a limited liability company formed in 2018).
- (c) The Defendant OpenAI, LLC, is a limited liability company formed in 2020.
- (d) There are three Defendant OpenAI Startup Fund entities all formed in 2021: OpenAI Startup Fund I, LP is a limited partnership; OpenAI Startup Fund GP I, LLC is a limited liability company; OpenAI Startup Fund Management, LLC is a limited liability company.
- (e) The Defendant OpenAI Global, LLC is a limited liability company formed in 2022.
- (f) The Defendant OpenAI OpCo, LLC is a limited liability company as of 2023 (formerly OpenAI, LP, formerly Summersafe LP, a limited partnership formed in 2018).

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- (g) The Defendant OAI Corporation is a corporation formed in September 2023 (formerly OAI Corporation, LLC, a limited liability corporation formed in March 2023, and which was incorporated by OpenAI Holdings, LLC).
- (h) The Defendant OpenAI Holdings, LLC is a limited liability company formed in 2023.

23. Full particulars of the involvement of each of the OpenAI Entities in the unlawful conduct as set out in this Statement of Claim are solely within the knowledge and control of the OpenAI Entities.

III. OpenAI Used the News Media Companies' Proprietary Data and Intellectual Property Without Consent

i. The News Media Companies Publish Proprietary Content on their Websites for Personal, Non-Commercial Use

24. Each of the News Media Companies maintains, directly or indirectly, a website, series of websites, and/or web-based applications (the “Websites”), on which they publish original content (e.g., beat reporting; in-depth investigations; reviews; guides; and commentary, editorial and opinion pieces), which constitute original works within the meaning of sections 2 and 5 of the *Copyright Act*. These original works take the form of text, videos, images, and audio files, which span a wide variety of topics ranging from global news, national politics, local issues, business news, sports, arts and culture, and entertainment. In this Claim, “Works” refers to such original content available online as of 2015 and onwards. A list of the Websites maintained by the News Media Companies, where the Works were or are published, include those listed in **Appendix “A”**.

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25. The Works are the exercise of significant skill and judgment. Each Work represents the product of substantial collective expertise, talent, research, and investment. Each Work is researched, written, and edited by journalists and contributors, who are trained and compensated. The Works are fact checked for accuracy and fairness, before being readied for publication in accordance with the design and marketing standards of their respective publication. The journalistic process also involves necessary support from a wide range of departments, including legal, technology, operations, security, marketing, advertising, and subscriptions, many of which are essential to getting the Works into the hands of the public.

26. As noted above, the Works are comprised of both Owned Works—which are either owned or exclusively licensed by one of the News Media Companies—as well as Licensed Works—which are published by the News Media Companies under a non-exclusive licence and with the permission of the copyright owner. Each of the News Media Companies has published hundreds of thousands, if not millions, of Owned Works across the Websites, as well as hundreds of thousands of Licensed Works.¹ In each instance, the News Media Companies indicate that the Works are the subject of copyright protection (*e.g.*, by marking the Works with the copyright symbol: ©). The following table provides the approximate minimum number of Works for each News Media Company, published as of 2015 onwards:

News Media Company	Works	Owned Works	Licensed Works
Torstar Companies (TSNL and Metroland)	3,200,000	1,200,000	2,000,000
Postmedia	3,500,000	1,750,000	1,750,000
The Globe	2,300,000	1,000,000	1,300,000

¹ Given the volume, the Works for each News Media Company will be further particularized separately in due course.

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The Canadian Press	3,500,000	3,500,000	-
CBC/Radio-Canada	3,600,000	3,200,000	400,000

27. The author of each of the Works is a citizen, subject, or a person ordinarily resident in a treaty country, within the meaning of section 5(1)(a) of the *Copyright Act* and is identified within the Work. The Owned Works include:

- (a) works authored by staff journalists, all of whom were at the time employees of the respective News Media Companies or a predecessor-in-title, acting in the course of their employment;
- (b) works authored by freelance journalist and contributors, all of whom assigned and/or exclusively licensed any subsisting copyright interest in writing to the News Media Companies; or,
- (c) works which are owned by a third party, which are exclusively licensed to a News Media Company.

28. Each of the Works were published in the past 70 years, such that the term for which copyright subsists, pursuant to section 6 of the *Copyright Act*, has not concluded, and will not conclude during the course of this proceeding.

29. To maintain the quality of their journalism, certain of the News Media Companies (The Globe, Postmedia, and the Torstar Companies) have, commencing at different times since at least as early as 2015, employed account and subscription-based restrictions to the Works on certain of the Websites (the “**Paywalled Websites**”).

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30. The account and subscription-based restrictions, some of which are paid subscriptions, are intended to prevent visitors from accessing the Works without creating an account and/or paying for a subscription. While most of the Paywalled Websites use systems that permit visitors (identified by their unique IP address) to access a limited number of Works without creating an account or paying for a subscription, the vast majority of the Works published on the Paywalled Websites are, at any given time, accessible to account holders and/or subscribers only.

31. Commencing at different times, each of the News Media Companies have also employed web-based exclusion protocols on their respective Websites, such as the Robot Exclusion Protocol (*i.e.*, robots.txt), which is a standard used by websites to prevent the unauthorized scraping of data from the entirety or designated portions of a website. These exclusion protocols and account and subscription-based restrictions all serve to prevent unauthorized access to their Works.

32. Each of the News Media Companies' Websites are governed by publicly available agreements that specify the terms under which the information published on those websites, including the Works, may be used (the "**Terms of Use**").

33. Visitors to the News Media Companies' Websites accept the Terms of Use either by accessing or using the website and/or by agreeing to them as part of registration process for an account and/or subscription.

34. Generally, the Terms of Use governing each of the News Media Companies' Websites have specified, at all relevant times since at least as early as 2015, that the Works are for the personal, non-commercial use of individual users only, and may not be reproduced or used other than as permitted under the Terms of Use without the consent of the relevant News Media

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Company. A list of the operative Terms of Use for each of the News Media Companies since 2015 is attached as **Appendix “B”**.

35. The News Media Companies rely on the Terms of Use to ensure the protection of the Works. Given the significant expertise, effort, and cost required to produce the Works, the ability of the News Media Companies to protect and control the Works is essential to their ability to monetize their content, grow and invest in their businesses, and continue to provide high-quality journalism to the public.

36. Certain of the News Media Companies have also entered into agreements with third parties, under which the third parties are permitted to republish or use certain of the Works on their websites or in their platforms (the “**Third Party Partners**”). Like the News Media Companies, many of these Third Party Partners employ measures on their websites and platforms to restrict access to their published content, including the Works, to account holders and/or subscribers only.

ii. OpenAI Reproduces the News Media Companies’ Works Without Consent to Develop its For-Profit Products

37. On November 30, 2022, OpenAI released the first publicly available version of its “Generative Pre-training Transformer” (“**GPT**”)-based products, ChatGPT-3.5. ChatGPT-3.5 is version 3.5 of OpenAI’s generative AI chatbot, which is a proprietary large language model that provides text-based responses to user-generated prompts. Prior to the release of ChatGPT-3.5, OpenAI developed prior versions of its GPT model, including ChatGPT-1, ChatGPT-2, and ChatGPT-3.

38. Since the release of ChatGPT-3.5, OpenAI has introduced at least six additional versions of its GPT model: GPT-3.5 Turbo, GPT-4, GPT-4o, GPT-4o mini, o1-preview, and o1-mini.

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39. OpenAI’s GPT models work by predicting words that are likely to follow a given sequence of text using pattern recognition developed by copying, ingesting, and analyzing enormous quantities of data. To develop its GPT models, OpenAI generates a data set comprised of copious amounts of text data (the “**Training Data**”), which the model then analyzes to learn to generate coherent and natural-sounding text without the need for explicit supervision.

40. A significant proportion of the Training Data used to train the GPT models was obtained by OpenAI using a process called “scraping,” which involves programmatically visiting websites across the entirety of the Internet, locating the desired information, and extracting or copying it in a structured format for further use or analysis. As part of the scraping process, the scraped webpages are tracked by Uniform Resource Locator (URL) to avoid scraping the same webpage multiple times.²

41. The Works, including both the Owned Works and Licensed Works, formed part of the Training Data used to train each of the GPT models, as the Works were among the data accessed, scraped, and/or copied one or more times by OpenAI into one or more datasets used to train each version of the ChatGPT models.

42. To augment its models after they have been developed and released, OpenAI uses a process referred to as “Retrieval-Augmented Generation” or “RAG” through which its models are provided continuous access to an additional data set (the “**RAG Data**”), which is continually updated in response to user prompts. By repeatedly and continuously accessing websites across

² In general, non-technical terms, a URL contains a domain name (e.g., “thestar.com”), and may further include subdirectories (e.g., business content is available on “thestar.com/business/”) and subdomains (e.g., content on the 2023 Toronto mayoral election may be available is available on “votecompass.thestar.com”).

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the internet, OpenAI continuously updates the RAG Data by scraping and/or copying information from these websites.

43. The Works, including both the Owned Works and Licensed Works, form part of the RAG Data used to augment the GPT models, as the Works are among the data scraped and/or copied one or more times by OpenAI into one or more RAG datasets.

44. OpenAI maintains records of the Training Data used to train its GPT models and the RAG Data used to augment its models.

45. The Works were accessed, scraped, and/or copied, in their entirety (or in substantial part), one or more times by OpenAI from the News Media Companies' Websites and/or the websites of the Third Party Partners without the knowledge or consent of the News Media Companies. The Works may also have been accessed, scraped, and/or copied one or more times by OpenAI from the websites of other third parties (*i.e.*, websites other than those of the News Media Companies or their Third Party Partners), such as Common Crawl (commoncrawl.org), which provides a free, open repository of web crawl data, regularly collected since 2008.

46. The full particulars of when, from where, and exactly how, the Works were accessed, scraped, and/or copied is within the knowledge of OpenAI and not the News Media Companies.

47. At all times, Open AI was and is well aware of its obligations to obtain a valid licence to use the Works. It has already entered into licensing agreements with several content creators, including other news media organizations.

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48. Since the release of Chat GPT-3.5, OpenAI has leveraged its GPT models, all of which were developed using the unlawfully obtained Works, to offer a variety of GPT-based products and services to individual consumers and businesses, including ChatGPT Plus, ChatGPT Team, and ChatGPT Enterprise. OpenAI has also entered into various corporate partnerships and licensing agreements, including partnerships with media and news organizations, under which proprietary content is made available to OpenAI to develop its models and provide to ChatGPT users.

49. OpenAI generates billions of dollars in annual revenue through the sale of GPT-based products and services. As of October 2024, OpenAI was valued at \$157 billion.

50. The News Media Companies have never received from OpenAI any form of consideration, including payment, in exchange for OpenAI's use of their Works.

IV. OpenAI Infringed and Continues to Infringe the News Media Companies' Copyright

51. The News Media Companies are the owners or exclusive licensees of the copyright in the Owned Works published on the Websites and those of their Third Party Partners.

52. Without any licence or permission from the News Media Companies, OpenAI has reproduced and continues to reproduce and exploit each of the Owned Works (or a substantial part thereof), contrary to sections 3 and 27 of the *Copyright Act*.

53. By scraping and/or copying the Owned Works from the News Media Companies' Websites, the websites of their Third Party Partners, and/or the websites or data sets of other third parties for use as part of the Training Data and/or RAG Data, OpenAI reproduced the Owned

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Works in their entirety (or in substantial part) and copied them into one or more datasets used to train and/or augment each version of the GPT model. The scraping and reproduction process engaged in by OpenAI commenced as early as 2015, and was for the ultimate purpose of developing for-profit, commercial products and services. The precise timing and circumstances of the scraping and reproduction is information within the knowledge of OpenAI and not the News Media Companies.

54. The Works were used and reproduced by OpenAI without the knowledge or consent of the News Media Companies.

55. The scraping and reproduction process engaged in by OpenAI infringed, authorized, and/or induced the infringement of, the copyright of the News Media Companies in the Owned Works.

56. At all material times, OpenAI knew, or ought to have known, that copyright subsisted in the Owned Works, the News Media Companies are the owners or exclusive licensees of those works, and that OpenAI's activities (as detailed in this Claim) infringed the copyright in the Owned Works.

57. OpenAI continues to engage in these unlawful activities.

V. OpenAI Circumvented and Continues to Circumvent the Technological Protection Measures Employed by the News Media Companies

58. As pleaded above, commencing at different times since 2015, each of the News Media Companies have employed technological protection measures on most of their respective Websites, including exclusion protocols (*e.g.*, robots.txt) and account and subscription-based restrictions, to prevent unauthorized access to the Works. The News Media Companies' Third

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Party Partners also employ technological protection measures to prevent unauthorized access to the Works.

59. By scraping or otherwise illicitly accessing and reproducing the Works, including the Owned Works, from the News Media Companies' Websites and/or those of their Third Party Partners for use as part of the Training Data and/or RAG Data, OpenAI circumvented the technological protection measures employed for the purpose of protecting the Works. The scraping and reproduction process engaged in by OpenAI was for the purpose of developing for-profit, commercial products and services.

60. OpenAI knew, or ought to have known that, by engaging in and leveraging widespread scraping activity, it would, or was likely to, circumvent technological protection measures, such as those employed by the News Media Companies.

61. The Works were accessed, scraped, and/or copied by OpenAI without the knowledge or consent of the News Media Companies.

62. OpenAI continues to engage in these unlawful activities.

VI. OpenAI Breached and Continues to Breach the News Media Companies' Terms of Use

63. As described above, each of the News Media Companies owns and/or maintains Websites, governed by publicly available Terms of Use.

64. Each of these Terms of Use are binding on OpenAI. As a sophisticated commercial entity that itself employs similar terms on its own online products, at all material times, OpenAI had

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actual or constructive notice of the Terms of Use and the need to abide by them. By accessing and using the News Media Companies' Websites, OpenAI agreed to comply with these terms.

65. As described above, each of the Terms of Use expressly prohibit the use of the News Media Companies' Websites and Works for any use other than personal, non-commercial uses. The Terms of Use also generally prohibit users from reproducing, distributing, broadcasting, making derivative works from, retransmitting, distributing, publishing, communicating, or otherwise making available any of the Works. Any uses not expressly permitted by the Terms of Use require the News Media Companies' express consent—particularly commercial uses.

66. Since as early as 2015, OpenAI has breached and continues to breach the applicable Terms of Use for each of the Websites in various ways, including by accessing, scraping, and/or copying the Works for use as part of the Training Data to train its GPT models and/or as part of the RAG Data to augment its for-profit commercial products and services.

67. Further particulars of the applicable Terms of Use of each News Media Company, and the various ways in which OpenAI has breached those Terms, are set out in Appendix "B".

VII. OpenAI Has Been, and Continues to Be, Unjustly Enriched

68. OpenAI improperly obtained and continues to misappropriate the valuable Works without any form of consideration paid to the News Media Companies. As a result, the News Media Companies have been deprived of, among other things, their rights to obtain compensation pursuant to a valid licensing agreement or otherwise for the use of their Works. This deprivation is ongoing.

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69. OpenAI has been, and continues to be, enriched at the expense of the News Media Companies, including by unlawfully obtaining and using the Works for free. The News Media Companies have been correspondingly deprived. There is no juristic reason for OpenAI's enrichment at the expense of the News Media Companies. OpenAI is accordingly liable for unjust enrichment.

VIII. The News Media Companies are Entitled to the Requested Relief

(i) Damages and/or Disgorgement

70. The works published by the News Media Companies are simultaneously invaluable and highly valuable. It is difficult to quantify the value of access to accurate and responsible journalism and the importance of a free press to a democratic society. As noted above, for the News Media Companies to provide these essential services to the public, they expend significant time and resources and incur significant costs, including but not limited to the costs of compensating the human creators of the Works. To maintain their ability to generate and publish new works, the News Media Companies rely on streams of revenue generated through public funding, subscriber revenues, licensing agreements, and advertising.

71. Through its mass misappropriation of the News Media Companies' Works, OpenAI has taken for itself the benefit of the extensive efforts expended and costs incurred by the News Media Companies for no compensation. It has also deprived the News Media Companies of their rights to validly license their content to OpenAI in exchange for fair compensation. The News Media Companies are entitled to damages, in a value to be determined at trial, to remedy this unlawful taking.

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72. As noted above, OpenAI has profited substantially from its misappropriation of the News Media Companies' Works. As a result of its unauthorized use of the Works as part of the Training Data for its GPT models, OpenAI has been able to develop a suite of for-profit, commercial products and services, including ChatGPT Plus, ChatGPT Team, and ChatGPT Enterprise. Through the sale of these and other products and services, OpenAI has generated, and continues to generate, billions of dollars in annual revenue. As a result of OpenAI's wrongful conduct, the News Media Companies are entitled to an accounting and disgorgement of OpenAI's profits.

73. In the alternative, at their election, the News Media Companies are entitled to statutory damages for the infringement of the News Media Companies' copyright in the Owned Works and from the circumvention of technological protection measures, pursuant to sections 38.1 and 41.1 of the *Copyright Act*.

(ii) Injunctive Relief

74. The News Media Companies are entitled to a permanent injunction restraining OpenAI and those acting at their control and direction from directly or indirectly:

- (a) infringing, authorizing, and/or inducing the infringement of the News Media Companies' copyright in the Owned Works (as described in greater detail above), contrary to sections 3 and 27 of the *Copyright Act*;
- (b) engaging in prohibited circumvention of technological protection measures that prescribed access to, and restricted copying of, the Works (as described in greater detail above), contrary to, and within the meaning of, section 41 and 41.1 of the *Copyright Act*, and

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- (c) obtaining and/or using the Works, contrary to the News Media Companies' respective Terms of Use, and without the News Media Companies' prior written consent.

75. The News Media Companies are further entitled to a 'wide injunction', pursuant to section 39.1 of the *Copyright Act*, enjoining the parties described in the previous paragraph from infringing the News Media Companies' copyright or interest therein granted by licence in any other works that OpenAI is likely to infringe and from circumventing technological protection measures to access works on the Websites, as may be evidenced to the Court's satisfaction.

76. Unless restrained by this Court, OpenAI will continue its unlawful activities and will continue to profit at the News Media Companies' expense.

(iii) Punitive/Exemplary Damages

77. The conduct of OpenAI, in knowingly engaging in infringing and unlawful activities contrary to the News Media Companies' rights, justifies an award of punitive and exemplary damages.

78. As described in greater detail above, OpenAI undertook a course of conduct that is expressly prohibited by the News Media Companies' Terms of Use, and that it knew, or ought to have known, would constitute copyright infringement. This deliberate and knowing violation of the News Media Companies' intellectual property represents a marked departure from the standards of decent commercial behaviour. Despite concerns being raised by several content creators across various industries—including through numerous other lawsuits—OpenAI has done nothing to curtail its behaviour. It continues to access and scrape the News Media Companies'

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Works on an ongoing basis. OpenAI should be sanctioned through an award of punitive or exemplary damages for which they should be held jointly and severally liable.

IX. Joint and Several Liability

79. As pleaded above, each of the OpenAI Entities engaged in a common enterprise with the common purpose of developing and operating an AI model whose objectives could only be achieved by unlawfully accessing and scraping the Works, in contravention of the News Media Companies' copyright protection, technological protection measures, and contractual protections. Each of the OpenAI Entities either directly participated in, or otherwise knew or ought to have known of the unlawful conduct, and are therefore liable to the News Media Companies on a joint and several basis for each of the causes of action pleaded herein.

X. Venue

80. The Plaintiffs propose that this action be tried in Toronto, Ontario.

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November 28, 2024

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Email: jlepore@litigate.com

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Tel: (416) 865-3718

Email: jkras@litigate.com

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Tel: (416) 238-7453

Email: dkapoor@litigate.com

Lawyers for the Plaintiffs

**APPENDIX “A” TO THE STATEMENT OF CLAIM
NEWS MEDIA COMPANIES’ WEBSITES**

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This Appendix “A” to the Statement of Claim contains a list of Websites (as defined in the Statement of Claim) owned by the News Media Companies on which the Works (as defined in the Statement of Claim) have been published.

In addition to the listed Websites, this Appendix “A” should be understood to include (i) any and all websites derivative of the Websites listed; (ii) any and all mobile applications and digital editions/epapers associated with the listed Websites; and (iii) any and all unlisted expired and/or discontinued websites, the content of which has been reproduced on a listed Website.

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A. TORSTAR COMPANIES

- bramptonguardian.com
- caledonenterprise.com
- cambridgetimes.ca
- canadianimmigrant.ca
- durhamregion.com
- flamboroughreview.com
- guelphmercury.com
- hamiltonnews.com
- insidehalton.com
- insideottawavalley.com
- mississauga.com
- muskokaregion.com
- mykawartha.com
- newhamburgindependent.ca
- niagarafallsreview.ca
- niagarathisweek.com
- northbaynipissing.com
- northumberlandnews.com
- orangeville.com
- parrysound.com
- sachem.com

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- simcoe.com
- stcatharinesstandard.ca
- theifp.ca
- thepeterboroughexaminer.com
- therecord.com
- thespec.com
- thestar.com
- toronto.com
- waterloochronicle.ca
- wellandtribune.ca
- yorkregion.com

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B. POSTMEDIA

- airdrieecho.ca
- brantfordexpositor.com
- chathamthisweek.com
- cochranetimespost.ca
- draytonvalleywesternreview.com
- fortsaskatchewanrecord.ca
- hannaherald.ca
- hannaherald.com
- highrivertimes.ca
- intelligencer.ca
- kincardinews.ca
- kingstonthisweek.ca
- lakeshoreadvance.com
- leducep.ca
- lucknows sentinel.com
- mayerthorpefreelancer.com
- nantonnews.ca
- nantonnews.com
- northernnews.ca
- peacecountrysun.com
- pinchercreekecho.com

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- postmedia.com
- shorelinebeacon.com
- simcoereformer.ca
- strathroyagedispatch.com
- stthomastimesjournal.com
- thecragandcanyon.com
- thelondoner.ca
- tillsonburgnews.com
- tj.news
- vancouverprovince.com
- vulcanadvocate.ca
- wiartonecho.ca
- airdrieecho.ca
- airdrieecho.com
- alsinsideout.com
- ampifii.com
- anadianfamilyoffices.com
- ancouverprovince.com
- brantfordexpositor.ca
- brantfordexpositor.com
- businesslondon.ca
- calgaryherald.com

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- calgarysun.ca
- calgarysun.com
- canada.com
- canadianfamilyoffices.ca
- canoe.com
- chathamdailynews.ca
- chathamsmartshopper.com
- chathamthisweek.ca
- chathamthisweek.com
- christmasfund.com
- christmasfund.com
- classifieds.winnipegsun.com
- clintonnewsrecord.ca
- clintonnewsrecord.ca
- clintonnewsrecord.com
- cochrantimes.ca
- cochrantimes.com
- cochrantimespost.ca
- cochrantimespost.com
- coldlakesun.ca
- coldlakesun.com
- communitypress.ca

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- communitypress-online.com
- countymarket.ca
- countyweeklynews.ca
- countyweeklynews.com
- covidoptions.ca
- dailyheraldtribune.ca
- dailyheraldtribune.com
- delhiexpress.com
- devondispatch.ca
- draytonvalleywesternreview.ca
- draytonvalleywesternreview.com
- driving.ca
- eatplaystayalberta.com
- eatplaystayalbertadeals.com
- edmontonexaminer.ca
- edmontonexaminer.com
- edmontonjournal.com
- edmontonsun.ca
- edmontonsun.com
- elliotlakestandard.ca
- equestgov.com
- fairviewpost.ca

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- fairviewpost.com
- financialpost.com
- flyercity.ca
- flyerforce.ca
- fortmcmurraytoday.com
- fortsaskatchewanrecord.ca
- fortsaskatchewanrecord.com
- fpinfomart.com
- gananoquereporter.com
- goderichsignalstar.ca
- goderichsignalstar.com
- greybrucethisweek.ca
- greybrucethisweek.com
- habsinsideout.com
- hannaherald.ca
- hannaherald.com
- healthing.ca
- highrivertimes.ca
- highrivertimes.com
- hockeyinsideout.com
- homesanddesign.ca
- homesanddesign.ca supportlocaledmonton.com

-10-

- infoseeker.ca
- infoseeker.com
- infoweekend.ca
- intelligencer.ca
- kenoraminerandnews.com
- kincardinews.ca
- kincardinews.com
- kingstonlife.ca
- kingstonthisweek.ca
- kingstonthisweek.com
- kingstonwhigstandard.com
- lakeshoreadvance.ca
- lakeshoreadvance.com
- leaderpost.ca
- leaderpost.com
- leducprep.ca
- leducprep.com
- lfpress.ca
- lfpress.com
- londonfreepress.ca
- lucknows sentinel.ca
- lucknows sentinel.com

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- mayerthorpefreelancer.ca
- mayerthorpefreelancer.com
- melfortjournal.ca
- melfortjournal.com
- melfortnipawinjournal.com
- midnorthmonitor.com
- mitchelladvocate.ca
- mitchelladvocate.com
- montrealgazette.com
- nantonnews.ca
- nantonnews.com
- napaneeguide.ca
- napaneeguide.com
- nationalpost.ca
- nationalpost.com
- nipawinjournal.ca
- nipawinjournal.com
- norfolkandtillsonburgnews.com
- northbaynugget.ca
- northbaynugget.com
- northbaynugget.com.
- northernnews.ca

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- nugget.ca
- o.canada.com
- offislandgazette.com
- ontariofarmer.com
- ottawacitizen.com
- ottawacitizenstyle.ca
- ottawacitizenstyle.com
- ottawasun.ca
- ottawasun.com
- owensoundsuntimes.com
- parisstaronline.ca
- parisstaronline.com
- peacecountrysun.ca
- peacecountrysun.com
- pembrokeobserver.ca
- pembrokeobserver.com
- pinchercreekecho.ca
- pinchercreekecho.com
- postmedia.com
- postmediaadvertising.com
- postmediaauctions.com
- postmediaaws.com

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- [postmediahub.com](https://www.postmediahub.com)
- [postmedialso.com](https://www.postmedialso.com)
- [postmedianews.com](https://www.postmedianews.com)
- [postmediasolutions.com](https://www.postmediasolutions.com)
- [princegeorgepost.ca](https://www.princegeorgepost.ca)
- [princegeorgepost.com](https://www.princegeorgepost.com)
- [prrecordgazette.ca](https://www.prrecordgazette.ca)
- [prrecordgazette.com](https://www.prrecordgazette.com)
- [quickwire.com](https://www.quickwire.com)
- [raiseareader.com](https://www.raiseareader.com)
- [raise-a-reader.com](https://www.raise-a-reader.com)
- [readersales.com](https://www.readersales.com)
- [recorder.ca](https://www.recorder.ca)
- [remembering.ca](https://www.remembering.ca)
- [remembering.ca.](https://www.remembering.ca)
- [roundsforeless.ca](https://www.roundsforeless.ca)
- [roundsforeless.com](https://www.roundsforeless.com)
- [saltwire.com](https://www.saltwire.com)
- [sarniathisweek.ca](https://www.sarniathisweek.ca)
- [sarniathisweek.ca](https://www.sarniathisweek.ca)
- [sarniathisweek.com](https://www.sarniathisweek.com)
- [saultstar.com](https://www.saultstar.com)

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- saultthisweek.com
- seaforthuronexpositor.ca
- seaforthuronexpositor.com
- senatorsextra.ca
- senatorsextra.com
- sherwoodparknews.ca
- sherwoodparknews.com
- shorelinebeacon.ca
- shorelinebeacon.ca
- shorelinebeacon.com
- simcoereformer.ca
- sprucegroveexaminer.ca
- sprucegroveexaminer.com
- sprucestony.com
- standard-freeholder.com
- standard-freeholder.com
- stonyplainreporter.ca
- stonyplainreporter.com
- stratfordbeaconherald.ca
- stratfordbeaconherald.com
- strathroyagedispatch.com.
- streetperfect.com

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- stthomastimesjournal.ca
- stthomastimesjournal.com
- sudburystar.com
- sunmedia.ca
- sunmedia.org
- sunpub.com
- supportlocalcalgary.ca
- supportlocalcalgary.com
- supportlocaledmonton.ca
- supportlocaledmonton.com
- thebeaumontnews.ca
- thecalgaryherald.com
- thecanucks.com
- thechronicle-online.ca
- thechronicle-online.com
- thecommunitypress.ca
- thecragandcanyon.ca
- thecragandcanyon.com
- thedailyobserver.ca
- thedailyobserver.ca.
- thedailypress.ca
- theedmontonjournal.com

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- theexpositor.com
- thegraphicleader.ca
- thegraphicleader.com
- thegrowthop.ca
- thegrowthop.com
- thehabs.com
- theleafs.com
- thelondoner.ca
- theobserver.ca
- thepost.on.ca
- theprincegeorgepost.ca
- theprincegeorgepost.com
- theprovince.com
- thestarphoenix.com
- thesudburystar.com
- thesudburystar.com.
- thevancouver.sun.com
- thewhig.com
- tillsonburgnews.com
- timminspress.com
- timminstimes.ca
- timminstimes.com

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- tj.news
- todaysfarmer.ca
- torontosun.ca
- torontosun.com
- trentonian.ca
- vancouver.sun.com
- vermilionstandard.ca
- vermilionstandard.com
- vulcanadvocate.ca
- vulcanadvocate.com
- wallaceburgcourierpress.ca
- wallaceburgcourierpress.com
- westislandgazette.com
- wetaskiwintimes.com
- whitecourtstar.ca
- whitecourtstar.com
- wiaronecho.ca
- wiaronecho.com
- windsorstar.com
- winnipegsun.ca
- winnipegsun.com
- woodstocksentinelreview.ca

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- woodstocksentinelreview.com
- working.ca
- working.com
- yourlifemoments.ca

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C. THE GLOBE

- theglobeandmail.com
- secretcanada.com

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D. THE CANADIAN PRESS

- bnhotwire.ca
- bnhotwire.com
- bnhotwire.info
- broadcastnews.biz
- broadcastnews.ca
- broadcastnews.info
- businessdesk.ca
- canadianpress.biz
- canadianpress.ca
- canadianpress.info
- canadianpress.net
- canadianpress.news
- canadianpress.org
- canadianpressnews.ca
- canadianpressnews.com
- canapress.ca
- canapress.info
- commandnews.ca
- commandnews.com
- commandnews.info
- commandnewspublisher.ca

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- commandnewspublisher.com
- commandnewspublisher.info
- cp.org
- cpagenda.ca
- cparchive.ca
- cparchive.com
- cparchive.info
- cpbusinessdesk.ca
- cpbusinessdesk.info
- cpcontentengine.ca
- cpcontentengine.com
- cpdatebook.ca
- cpdatebook.info
- cpimage.biz
- cpimage.ca
- cpimage.info
- cpimage.net
- cpimage.org
- cpimages.biz
- cpimages.ca
- cpimages.com
- cpimages.info

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- cpimages.net
- cpimages.org
- cpmediasolutions.ca
- cpnews.ca
- cpnews.mobi
- cpnewsdesk.ca
- cpnewsdesk.info
- cpnewspro.com
- cponline.ca
- cpphotoalbum.ca
- cpphotoalbum.info
- cpphotoarchive.ca
- cpphotoarchive.com
- cppicturearchive.ca
- cpsportsdesk.ca
- cpvideosolutions.ca
- lapressecanadienne.ca
- lapressecanadienne.com
- lapressecanadienne.org
- lapressecanadienneimages.ca
- lapressecanadienneimages.com
- monnouvelles.pro

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- monnouvellespro.ca
- monnouvellespro.com
- monpcnouvelles.pro
- monpcnouvellespro.ca
- monpcnouvellespro.com
- mycpnews.pro
- mycpnewspro.ca
- mycpnewspro.com
- mynewspro.ca
- news4mobile.ca
- newsdesk.ca
- nouvellesmobile.ca
- nouvellessurcommande.ca
- nouvellessurcommande.com
- pcnouvellespro.com
- photoalbum.ca
- picturearchive.ca
- pressecanadienne.ca
- pressecanadienne.com
- pressecanadienne.org
- thecanadianpress.ca
- thecanadianpress.com

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- thecanadianpress.news
- thecanadianpress.org
- thecanadianpresscontentengine.ca
- thecanadianpresscontentengine.com
- thecanadianpressimages.ca
- thecanadianpressimages.com
- thecanadianpressnews.ca
- thecanadianpressnews.com

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E. CBC/RADIO-CANADA

- cbc.ca
- ici.radio-canada.ca
- ici.tou.tv

**APPENDIX “B” TO THE STATEMENT OF CLAIM
NEWS MEDIA COMPANIES’ TERMS OF USE**

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A. TORSTAR COMPANIES

1. From before 2015 to present, the Torstar Companies published Terms of Use on its Websites with the following substantially similar provisions pertaining to access and use of the Works:

Access and Use

These are the main terms of use for the Torstar Companies' daily and community brands, and cover all related websites, properties, offerings, applications and services that do not have a separate set of terms. By accessing, browsing, downloading, enabling, installing or otherwise using any Torstar Company website, digital property, audio offering, mobile application and/or mobile enabled site that does not have a separate set of terms, including thestar.com, toronto.com, mississauga.com, durhamregion.com, save.ca, and any related applications (collectively, the "Properties" and each a "Property"); or any product, content, feature, software or service available in or on a Property (each a "Service," and collectively with the Paid Services as defined below, the "Services"), including Services offered on a payment basis (such services, the "Paid Services" and each a "Paid Service"), you agree without limitation or qualification to be bound by these terms and such other terms and conditions, rules and policies which you may be directed to or are displayed in connection with the use of a Property or Service, all as amended and updated from time to time (collectively, the "Terms"). If you have not read, or do not understand, or do not agree to these Terms, you may not use the Properties or Services.

We reserve the right, in our sole discretion, to change these Terms, in whole or part, at any time. Except as otherwise provided in these Terms, any change will be effective when notice of the change is posted on a Property. Please check back regularly for updates by checking the date of the last update above. Your continued use of any Property or Service following the posting of amended Terms will mean you accept those changes. We reserve the right to modify, suspend, remove or discontinue any of the Properties, Services, or Content (as defined below) or any part of them from time to time without notice or liability for any reason whatsoever. We also reserve the right at any time to charge fees for access to, and to change any limits applicable to obtain free access to, all or any portion of the Properties, Services or Content. In such event, although your access to the applicable Property, Service or Content may be restricted or denied, you will not be charged for access unless we obtain your prior agreement to pay such charges.

You may not access or use, or attempt to access or use, the Properties or Services to take any action that could harm us or a third party. You may not access parts of the Properties or Services which you are not authorized to access. You may not attempt to circumvent any restriction or condition imposed on your use or access, or do anything that could disable or damage the functioning or appearance of the Properties, Services, or Content, including

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the presentation or display of advertising. Being exposed to advertising is a condition of your accessing the Properties, Services, and Content.

Restrictions on Use of Content and Materials

The Properties and Services and all content made available thereon, including articles, stories, text, photographs, images, illustrations, audio and video clips and other content (collectively, the "Content") are the property of the applicable Torstar Company or its licensors and are protected, without limitation, pursuant to Canadian and foreign copyright, trademark and other laws. Subject to your compliance with these Terms, the Torstar Companies grant you a limited, personal, non-exclusive, revocable, non-assignable and non-transferable license to download, display or use a single copy of the applicable Property, Service and Content on your computer or other personal electronic device. This license is for personal, non-commercial, and educational purposes only. You cannot use any Property, Service or Content in connection with any commercial purpose, unless you obtain our written consent in advance. You are not permitted to alter or modify, or remove any copyright notice from, any Property, Service or Content. No other use is permitted and all other rights not expressly granted in these Terms are reserved. Nothing contained herein shall grant any license or right to use any Content in any manner other than as explicitly set forth in these Terms without the prior written consent of the applicable Torstar Company or such third party that may own the Content displayed on the Property or Service. Any unauthorized use of any of the Content is strictly prohibited. Except as provided herein, you agree not to reproduce, sell, republish, broadcast, distribute, make derivative works of or otherwise make available any Content, including by framing, caching or other similar means, without the prior written consent of the applicable Torstar Company, and, if applicable, the copyright owner of such Content.

2. On May 22, 2024, the Terms of Use were updated with the **bolded** text below to clarify existing restrictions governing the use of the Works on the Websites, as follows:

The Properties and Services and all content made available thereon, including articles, stories, text, photographs, images, illustrations, audio and video clips and other content (collectively, the "Content") are the property of the applicable Torstar Company or its licensors and are protected, without limitation, pursuant to Canadian and foreign copyright, trademark and other laws. Subject to your compliance with these Terms, the Torstar Companies grant you a limited, personal, non-exclusive, revocable, non-assignable and non-transferable license to download, display or use a single copy of the applicable Property, Service and Content on your computer or other personal electronic device. This license is for personal, non-commercial, and educational purposes only. You cannot use any Property, Service or Content in connection with any commercial purpose, unless you obtain our written consent in advance. **For greater clarity, personal, non-commercial use does not include the use of Content in connection with: (1) the development of any**

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software program, including, but not limited to, training a machine learning or artificial intelligence (AI) system; or (2) providing archived or cached data sets containing Content to another person or entity. You are not permitted to alter or modify, or remove any copyright notice from, any Property, Service or Content. No other use is permitted and all other rights not expressly granted in these Terms are reserved. Nothing contained herein shall grant any license or right to use any Content in any manner other than as explicitly set forth in these Terms without the prior written consent of the applicable Torstar Company or such third party that may own the Content displayed on the Property or Service. Any unauthorized use of any of the Content is strictly prohibited. Except as provided herein, you agree not to reproduce, sell, republish, broadcast, distribute, make derivative works of or otherwise make available any Content, including by framing, caching, using robots, spiders, scripts, software or any manual or automatic device, tool, or process designed to data mine or scrape the Content, data or information from the Services, or otherwise using, accessing, or collecting the Content, data or information from the Services using similar automated means, without the prior written consent of the applicable Torstar Company, and, if applicable, the copyright owner of such Content.

3. Most recently, on August 15, 2024, the Terms of Use were updated again with the **bolded** text below to further clarify the restrictions governing the use of the Works on the Websites, as follows:

Restrictions on Use of Content and Materials

The Properties and Services and all content made available thereon, including articles, stories, text, photographs, images, illustrations, audio and video clips and other content (collectively, the “Content”) are the property of the applicable Torstar Company or its licensors and are protected, without limitation, pursuant to Canadian and foreign copyright, trademark and other laws. Subject to your compliance with these Terms, the Torstar Companies grant you a limited, personal, non-exclusive, revocable, non-assignable and non-transferable license to download, display or use a single copy of the applicable Property, Service and Content on your computer or other personal electronic device. This license is for personal, non-commercial, and educational purposes only. You cannot use any Property, Service or Content in connection with any commercial purpose, unless you obtain our written consent in advance. **This is a personal, individual subscription and you are not permitted to (a) allow others to use your password or (b) login to a Torstar subscriber account that is not associated with your own personal email address. If you represent an organization that wishes to purchase subscriptions for more than one user, you must purchase a group subscription.** For greater clarity, personal, non-commercial use does not include the use of Content in connection with: (1) the development of any software program, including, but not limited to, training a machine

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learning or artificial intelligence (AI) system; or (2) providing archived or cached data sets containing Content to another person or entity. You are not permitted to alter or modify, or remove any copyright notice from, any Property, Service or Content. No other use is permitted and all other rights not expressly granted in these Terms are reserved. Nothing contained herein shall grant any license or right to use any Content in any manner other than as explicitly set forth in these Terms without the prior written consent of the applicable Torstar Company or such third party that may own the Content displayed on the Property or Service. Any unauthorized use of any of the Content is strictly prohibited. Except as provided herein, you agree not to reproduce, sell, republish, broadcast, distribute, make derivative works of or otherwise make available any Content, including by framing, caching, using robots, spiders, scripts, software or any manual or automatic device, tool, or process designed to data mine or scrape the Content, data or information from the Services, or otherwise using, accessing, or collecting the Content, data or information from the Services using similar automated means, without the prior written consent of the applicable Torstar Company, and, if applicable, the copyright owner of such Content.

4. In addition to the manner set out in the Statement of Claim, OpenAI has breached the above

Terms of Use by:

- (a) Making use of the Torstar Companies' Works for purposes other than personal, non-commercial use;
- (b) Relatedly, using the Torstar Companies' Works for commercial purposes without their consent;
- (c) Using the Works in contravention of Canadian copyright laws, in a manner that infringes the copyright of the Torstar Companies as well as the owners of the Licensed Works;
- (d) Accessing and using the Torstar Companies' Works in a manner that harms the interests of the Torstar Companies;

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- (e) Circumventing the established restrictions on use or access to the Torstar Companies' Websites;
- (f) Using the Works to develop its software programs and train its AI systems;
- (g) Using robots, spiders, and other automatic means to scrape or mine data or information from the Websites without prior written consent of any Torstar Company or, if applicable, the copyright owner of such content;
- (h) Using the Works in ways other than as explicitly set forth in the Terms without the prior written consent of any of the Torstar Companies or the third party who may own the content displayed on Torstar Companies' Websites;
- (i) Reproducing, selling, republishing, broadcasting, distributing, making derivative use of and/or otherwise making the Works available, including by framing, caching, using robots, spiders, scripts, software or any manual or automatic device, tool, or process designed to data mine or scrape the Content, data or information from the Websites, and/or otherwise using, accessing, or collecting the Works, data or information from the Websites using similar automated means, without the prior written consent of the applicable Torstar Company, and, if applicable, the copyright owner of such Works.

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B. POSTMEDIA

5. From at least September 10, 2014 to present, Postmedia published Terms and Conditions on its Websites with the following substantially similar provisions pertaining to access and use of the Works:

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING ANY WEBSITE SERVICES PROVIDED TO YOU BY POSTMEDIA NETWORK INC. AS THEY CONTAIN BINDING LEGAL TERMS AND OBLIGATIONS INCLUDING LIMITATIONS OF POSTMEDIA'S LIABILITY AND DISCLAIMERS.

[...]

1. Acceptance of Terms

All website services provided to you by Postmedia Network Inc., and any of its respective affiliates, related companies, unaffiliated partners and/or licensors (together herein referred to as "Postmedia" or "we") are provided to you subject to the following terms and conditions of service.

By using or accessing (either by computer, e-reader, mobile or other electronic device now or hereafter devised) any Postmedia website, mobile enabled website, or mobile application (each a "Postmedia Site" and collectively, the "Postmedia Sites") or any products, content or other services available on a Postmedia Site (each a "Service" and collectively, the "Services"), including Services offered on a payment basis (each a "Paid Service" and collectively, "Paid Services"), you agree to be bound by these terms and conditions and such other additional or alternative terms, conditions, rules and policies which are displayed or to which you may be directed in connection with any particular Postmedia Site or Service (collectively the "Terms and Conditions"), all as may be modified by Postmedia in accordance with these Terms and Conditions. Without limiting the generality of the foregoing, the Terms and Conditions will also apply if you access a Postmedia Site or Service, or authenticate as a user, through a third party website or social media application (for example, through Twitter® or Facebook®). These Terms and Conditions, along with any modifications or additional or alternate terms or conditions referred to, including those related to your agreement to use a Paid Service (a "Paid Services Agreement"), shall be the entire agreement between you and Postmedia and any prior communications between you and Postmedia (including, for example, e-mails) do not form part of these Terms and Conditions. If you do not agree with these Terms and Conditions, do not use any Postmedia Site or any of the Services.

4. User Conduct

[...]

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You agree to not use any Service to post, e-mail, transmit, upload or otherwise submit any User Content that:

[...]

(f) infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party including, without limitation, promoting an illegal or unauthorized copy of another person's copyrighted work, such as providing pirated computer programs or links to them, providing information to circumvent manufacture-installed copy-protect devices, or providing pirated music or links to pirated music files;

[...]

(m) engages in commercial activities and/or sales, such as contests, sweepstakes, barter, advertising, and pyramid schemes, without our prior written consent; and

[...]

8. Restrictions on Re-use, Re-sale of Services

All Content available on a Postmedia Site, including the manner in which such Content is presented, and the Services are: Copyright Postmedia Network Inc., its affiliates, related companies, unaffiliated partners and/or licensors. All rights reserved. Such Content is protected by Canadian and worldwide copyright laws and treaty provisions. Postmedia grants you a limited non-exclusive, non-transferable license to use and display on your computer or other electronic access device, the Content and Services for your own personal and non-commercial use only, provided that you do not modify the Content and that you maintain all copyright and other proprietary notices. Except as provided herein, you agree not to reproduce, make derivative works of, retransmit, distribute, sell, publish, communicate, broadcast or otherwise make available any of the Content obtained through a Postmedia Site or any of the Services, including without limitation, by caching, framing, deep-linking or similar means, without the prior written consent of the respective copyright owner of such Content. Your entry or participation in any contest, sweepstakes, promotion or other similar offering on any Postmedia Site (each, a "Contest") shall also be subject to and governed by the specific rules and regulations in respect of that Contest.

9. Commercial Use

No Forum or other areas of the Postmedia Sites may be used by you for any commercial purposes such as to conduct sales of goods and services of any kind. You must obtain our prior written consent to make commercial offers of any kind, whether by advertising, solicitations, links, or any other form of communication. Without limiting the foregoing, you may not resell or link to other sites for any commercial purpose whatsoever. We reserve the right to investigate and take appropriate legal action against anyone who

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violates this provision, including without limitation, removing the offending communication from the applicable Postmedia Site(s) and barring such violators from use of the Postmedia Sites. We reserve the right to block access to the Postmedia Sites by any user known or reasonably believed to be using the Postmedia Sites for any commercial purpose (including, without limitation, the sale of goods and services).

10. Access and Interference

You agree that you will not use any robot, spider, other automatic device, or manual process to monitor or copy our web pages or the Content contained thereon, to register for a Member Account or for any other unauthorized purpose without our prior express written permission. You agree that you will not use any device, software or routine to interfere or attempt to interfere with the proper working of the Site. You agree that you will not take any action that imposes an unreasonable or disproportionately large load on our infrastructure. You agree that you will not access, reload or "refresh" pages contained on the Postmedia Sites, or make any other request to transactional servers, more than once during any three second interval.

6. On October 8, 2024, the Terms and Conditions were updated to include the below language, which further clarifies the restrictions governing the use of the Works on the Websites:

12. Site Information

a. Permitted Use

You may display, download or print the information displayed on the Site (the "Information") for your own internal and non-commercial purposes provided that you maintain all copyright and other proprietary notices contained on such Information if and when you download it. You may not, however, use, reuse, display, distribute, modify, perform, or transmit any Information, including any text, images, audio, or video, for commercial or public purposes, without the express prior written permission of its owner. You must not transfer the Information to any other person unless you give them notice of, and they agree to accept, the obligations arising under these Terms.

b. Web Scraping

Means the use of manual processes, automated processes, artificial intelligence, bots, web crawlers, or the like, to harvest content from our Site, extract data from our Site, or for machine or artificial intelligence learning purposes. Except as expressly stated in these Terms, Web Scraping shall not be permitted under any circumstance without the prior consent of Postmedia.

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[...]

g. Intellectual Property

Postmedia, and all associated logos are existing, pending or registered trademarks of Postmedia Network Inc., used under license.

Unless otherwise indicated, information contained in this site is © Postmedia Network Canada Corp. 2010. All Rights Reserved.

The material provided on this Site is copyrighted and protected by applicable local laws and worldwide copyright laws and treaties. Except as specifically stated, none of the material may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form without Postmedia prior written permission. You also may not, without our permission, “mirror” any material contained on our Site or any other server.

All other trade marks, trade names or marked brands and logos found on any part of the Site are the property of their respective owners. Please note that the Site may contain other proprietary notices and copyright information that must be observed.

You agree to comply with all copyright laws worldwide in your use of this Site and to prevent any unauthorized copying of the Information. Except as expressly provided herein, Postmedia does not grant any express or implied right or license to you under any patents, trademarks, copyrights, trade secret information or other intellectual property rights of Postmedia or any third parties. Nothing contained herein shall be construed as conferring by implication, estoppel or otherwise any such license or right.

[...]

7. Over time, Postmedia and/or its partners or affiliates have acquired several other news media corporations, including the following:

- (a) Postmedia acquired Sun Media Corporation’s English language newspapers and specialty publications and related assets, as well as digital properties and related assets from Quebecor Media Inc., in April 2015. As part of the acquisition, Postmedia purchased several well-established publications including the Toronto

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Sun, the Ottawa Sun, the Winnipeg Sun, the Edmonton Sun, the Calgary Sun, and the London Free Press – all of which were available online;

- (b) Brunswick News Inc. was acquired by Postmedia in March 2022. As part of the acquisition, Postmedia acquired several important local publications, including Telegraph-Journal, Times Globe, Times & Transcript, The Daily Gleaner, Miramichi Leader, Woodstock Bugle-Observer, Bathurst Northern Light, Kings County Record, and The Campbellton Tribune – all of which were available online;
- (c) Certain businesses and assets of Saltwire Network Inc. and the Halifax Herald Limited were acquired by PNI Maritimes LP in August 2024. Pursuant to this acquisition, PNI Maritimes acquired publications including The Telegram (St. John's), The Chronicle Herald (Halifax), Cape Breton Post and The Guardian (Charlottetown), as well as several others – all of which were available online.

8. At all material times, the Terms of Use set out on each of the Websites for each of these companies (and/or their predecessors) similarly restricted users to accessing the Works on the Websites for personal, non-commercial use, and prohibited the reproduction of the Works without the Website owner's consent. They also provided that the Works were subject to copyright protections.

9. In addition to the manner set out in the Statement of Claim, OpenAI has breached the Terms and Conditions of Postmedia, its partners and affiliates, and/or the companies and assets it has since acquired by:

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- (a) Making use of Postmedia's Works for purposes other than personal, non-commercial use;
- (b) Relatedly, using Postmedia's Works for commercial purposes without their consent;
- (c) Using the Works in contravention of Canadian copyright laws, in a manner that infringes the copyright of Postmedia as well as owners of the Licensed Works;
- (d) Accessing and using Postmedia's Works in a manner that harms the interests of Postmedia;
- (e) Circumventing the established restrictions on use or access to Postmedia's Websites;
- (f) Using Postmedia's Works to develop its software programs and train its AI systems;
- (g) Using robots, spiders, and other automatic means to scrape or mine data or information from the Websites without prior written consent of Postmedia or, if applicable, the copyright owner of such content;
- (h) Using the Works in ways other than as explicitly set forth in the Terms without the prior written consent of Postmedia or the third party who may own the content displayed on Postmedia's Websites;

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- (i) Reproducing, making derivative works of, retransmitting, distributing, selling, publishing, communicating, broadcasting, or otherwise making available any of the Works obtained through a Postmedia Website, without the prior written consent of the respective copyright holder of the Works.

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C. THE GLOBE

10. From at least December 2014 to the present date, The Globe published Terms and Conditions on its Websites containing the following substantially similar provisions pertaining to access and use of the Works:

1. Your Use of a Service

These terms, along with our Privacy Policy, apply to your use of any product and/or service offered by The Globe and Mail (the “Services”). If you are paying a fee for a Service, then you may also have a separate Subscription Agreement with The Globe and Mail and/or certain authorized third-parties (such as with financial exchanges).

If you continue to use a Service, then you are deemed to accept the Terms of Service and it forms a legally binding agreement between you and The Globe and Mail. If you do not agree with these Terms of Service, Privacy Policy, or any applicable Subscription Agreement, then please do not use the Service.

[...]

6. The Content – Protected by Copyright and Trade-mark Laws

The Services include literary, musical, dramatic and artistic works, including but not limited to computer programs, software, databases, text, information, data, code, sounds, sound effects, sound recordings, audio, musical compositions, performances, video, cinematographic works, photographs, pictures, illustrations and graphics (the “Content”).

All Content is protected by Canadian and international intellectual property laws and treaties, including copyright and trade-mark laws, and is owned by The Globe and Mail, licensed to The Globe and Mail, or otherwise provided by a third-party.

All trade-marks (including, but not limited to, trade names, logos, word and design marks) that appear in the Services are the trade-marks or registered trade-marks of The Globe and Mail or of their respective owners and are protected from reproduction, dilution and confusing or misleading uses. The use of any trade-mark appearing on any of the Services without the express written consent of the trade-mark owner is strictly prohibited.

[...]

8. Licence to Use the Services and Content

You are hereby granted a non-exclusive, limited, non-transferable licence to use, access and view the Content and Services, as permitted by your User type, for your personal,

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private and non-commercial use. Unless otherwise permitted by your Subscription Agreement, you may not use the Content or Services for any commercial purpose.

Content owned by The Globe and Mail may be used as permitted by the licensing options and tools associated with the Content, including uses such as email, printing, storage, posting, sharing, RSS feeds, linking and republishing.

You may print single copies of Content licensed to The Globe and Mail, but may not otherwise reproduce or use the Content. Licensed Content is identifiable by the credit line and lack of other licensing options or tools for the Content.

You agree to maintain all copyright and other proprietary notices provided on the Content, including but not limited to author name and licensor name for third-party licensed content.

All rights are otherwise reserved. You may not modify, sell, resell, make derivative works, create a database, create a media monitoring service, aggregate, deep link, republish, retransmit, distribute, transfer, communicate, broadcast or otherwise make the Services and Content available, including without limitation, by caching, scraping, harvesting, framing or similar means, without the prior written consent of The Globe and Mail and its licensors, as applicable.

No other uses of the Content and Services are permitted, unless otherwise permitted by law. For additional licensing options, please see the Contact Information section of the Terms of Service.

9. Restrictions on the Use of Content and Services

You acknowledge that The Globe and Mail has the right, but is under no obligation, to monitor the Content, Services, and your use of the Content or Services. You agree that you will not use the Services in an unlawful manner. You acknowledge that The Globe and Mail may investigate any violations by you of the Terms of Service, Privacy Policy, Community Guidelines, any applicable Subscription Agreement and applicable laws in respect of the Services. You agree that The Globe and Mail may reveal your identity and any User information we have about you to any law enforcement authority in the event of a violation arising from your use of the Services or Content.

You agree not to use the Services and Content (including submitting any User-Generated Content) in any manner that violates the following restrictions:

- is defamatory, libellous, offensive, abusive, stalking, threatening, demeaning, obscene, promotes hatred, bigotry, racism, sexism, harassment, discrimination, is pornographic, indecent, unlawful, profane, harmful to minors, false, misleading, would constitute spam, promotes, advocates or otherwise encourages illegal activities including activities that would constitute a criminal offense or give rise to civil liability, or otherwise violate the legal rights of others;

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- infringe any intellectual property rights including copyrights, trade-marks, proprietary rights, privacy rights, publicity rights or any other rights of any kind whatsoever;
- promote commercial activities, such as to conduct sales of goods and services of any kind, promote charitable donations, or participation in sweepstakes and contests, whether by advertising, solicitations, links or any other form of communication, without the prior written consent of The Globe and Mail;
- contains software viruses or any other computer code, files or programs designed to interrupt, destroy, circumvent, disable, replicate, damage or otherwise limit the functionality of any computer software or hardware or telecommunications equipment, including without limitation, Trojan horses, worms, time bombs, computer viruses, code, cancelbots or corrupted files;
- use any spider, robot, other automatic device or manual process to monitor, harvest or copy the Content of the Services without the express written consent of The Globe and Mail;
- violate or attempt to violate the security of the Services or Content, including without limitation accessing data not intended for you, logging into a registration account you are not authorized to access, attempting to probe, scan or test the vulnerability of the Services, information technology systems or network or to breach security authorizations;
- take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Services; or
- create a substitute for the Services or Content, meaning any product or service that diminishes the need for users or third-parties to access the Services or Content via The Globe and Mail or reduces The Globe and Mail's ability to generate revenues from the Services or Content.

Please report any Content, including User-Generated Content, that you believe violates these Terms of Service or the Community Guidelines at the email address provided under the Contact Information section.

10. Disclaimers

[...]

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(C) Downloads

The Services and Content may contain materials available for download, such as software applications, codes, data, files, images or other forms of Content.

Your use of downloaded materials may be governed by terms made available to you at the time of download. Any materials downloaded or otherwise obtained by you through your use of the Services and Content is done at your own risk and you are solely responsible for any damage to your computer system or loss of data that may result from the download and/or use of such material.

You agree that downloaded materials, unless otherwise specified, are licensed to you for your personal, non-commercial use. You may not modify, redistribute, decompile, reverse engineer, disassemble the downloaded material, and you must maintain all copyright or other proprietary notices.

The Globe and Mail and its licensors, to the maximum extent permitted by law, make no warranties regarding the downloaded materials and will not be responsible or liable, directly or indirectly, in any way for any loss or damage of any kind incurred as a result of or in connection with your use of or reliance on the downloaded materials, including the failure of the downloaded materials to meet your needs, standard, expectations or specifications.

[...]

11. On August 10, 2023, the Terms and Conditions were updated to include the below **bolded** language, which further clarifies the restrictions governing the use of the Works on the Websites:

9. Restrictions on the Use of Content and Services

You acknowledge that The Globe and Mail has the right, but is under no obligation, to monitor the Content, Services, and your use of the Content or Services. You agree that you will not use the Services in an unlawful manner. You acknowledge that The Globe and Mail may investigate any violations by you of the Terms of Service, Privacy Policy, Community Guidelines, any applicable Subscription Agreement and applicable laws in respect of the Services. You agree that The Globe and Mail may reveal your identity and any User information we have about you to any law enforcement authority in the event of a violation arising from your use of the Services or Content.

You agree not to use the Services and Content (including submitting any User-Generated Content) in any manner that violates the following restrictions:

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- is defamatory, libellous, offensive, abusive, stalking, threatening, demeaning, obscene, promotes hatred, bigotry, racism, sexism, harassment, discrimination, is pornographic, indecent, unlawful, profane, harmful to minors, false, misleading, would constitute spam, promotes, advocates or otherwise encourages illegal activities including activities that would constitute a criminal offense or give rise to civil liability, or otherwise violate the legal rights of others;
- infringe any intellectual property rights including copyrights, trade-marks, proprietary rights, privacy rights, publicity rights or any other rights of any kind whatsoever;
- promote commercial activities, such as to conduct sales of goods and services of any kind, promote charitable donations, or participation in sweepstakes and contests, whether by advertising, solicitations, links or any other form of communication, without the prior written consent of The Globe and Mail;
- contains software viruses or any other computer code, files or programs designed to interrupt, destroy, circumvent, disable, replicate, damage or otherwise limit the functionality of any computer software or hardware or telecommunications equipment, including without limitation, Trojan horses, worms, time bombs, computer viruses, code, cancelbots or corrupted files;
- use any spider, robot, other automatic device or manual process to monitor, harvest or copy the Content of the Services without the express written consent of The Globe and Mail;
- violate or attempt to violate the security of the Services or Content, including without limitation accessing data not intended for you, logging into a registration account you are not authorized to access, attempting to probe, scan or test the vulnerability of the Services, information technology systems or network or to breach security authorizations;
- take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Services;
- **use Content or Services for developing other products or services (e.g. software), including, but not limited to, training a machine learning or artificial intelligence (AI) system; or**
- create a substitute for the Services or Content, meaning any product or service that diminishes the need for users or third-parties to access the Services or Content via The Globe and Mail or reduces The Globe and Mail's ability to generate revenues from the Services or Content.

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[...]

12. In addition to the manner set out in the Statement of Claim, OpenAI has breached and continues to breach the above Terms and Conditions by:

- (a) Making use of The Globe's Works for purposes other than personal, non-commercial use;
- (b) Relatedly, using The Globe's Works for commercial purposes without their consent;
- (c) Reproducing and/or using The Globe's Works in a manner not permitted under the Terms of Use;
- (d) Creating a database or similar repository of Works scraped or copied from the Globe's Website;
- (e) Republishing, distributing, transferring, communicating, broadcasting, and/or otherwise making available content from the Globe's Works without its prior written consent;
- (f) Making derivative works based on the Globe's Works;
- (g) Scraping, harvesting, and/or copying the Globe's Works without its prior written consent, including through the use of spiders, robots, or other automatic or manual processes;

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- (h) Using the Globe's Websites in a manner that infringes the intellectual property rights, including copyrights and proprietary rights, of The Globe and others who license their content to The Globe;
- (i) Using the Websites and the Works to develop other products or services, including training a machine learning or AI system; and,
- (j) Creates a substitute for The Globe's Websites or Works, insofar as the responses to user's prompts diminishes the need for users to access The Globe's Works via The Globe, and/or reduces The Globe's ability to generate revenues from the Works.

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D. THE CANADIAN PRESS

13. From November 2022 to present, Canadian Press has published Terms of Use on its Website containing the following provisions concerning the access and use of Works:

THESE TERMS OF USE CONTAIN LEGAL OBLIGATIONS AND FORM AN AGREEMENT BETWEEN YOU AND CANADIAN PRESS ENTERPRISES LTD. ("CPE"). PLEASE READ THESE TERMS OF USE BEFORE YOU USE ANY CPE SERVICES (AS DEFINED BELOW) AS THEY PLACE RESTRICTIONS ON YOUR USE OF THE CPE SERVICES AND LIMIT CPE'S LIABILITY.

Acceptance of Terms

Your use of or gaining access to any CPE website, mobile enabled website, or software applications that you download, or any product, content or other services available on a CPE website, mobile enabled website or software application (collectively "CPE Services" or individually "CPE Service")) constitutes acceptance of these Terms of Use (hereinafter "this Agreement" or "Terms of Use"). If you do not comply with the provisions of the Terms of Use, you may not use CPE Services. CPE reserves the right to modify these terms of use at any time and such modifications will be effective immediately upon posting of the modified terms. You agree to review these Terms of Use periodically so you are aware of such modifications and your continued use of CPE Services shall be deemed your acceptance of the modified terms. The Terms of Use will also apply if you access CPE Services, or authenticate as a user, through a third party website or social media application.

[...]

ARTICLE 1 - YOUR RESPONSIBILITIES

[...]

Interference with Services

1.04 You agree not to use any robot, spider, device or manual process to monitor or copy the CPE Services or the content thereon. You also agree not to use any such device or process to interfere with the proper working of any of the CPE Services, nor will you take any action that imposes an unreasonably large load on CPE's infrastructure. Without limiting the foregoing, you agree that you will not employ "screen scraping", "database scraping" and any other activity intended to collect, store, re-organize, summarize or manipulate any content or other information (whether via an automatic program or a manual process) associated with the CPE Services.

[...]

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Restrictions on Re-use and Commercial Use

1.06 CPE, its affiliates, related companies, unaffiliated partners and licensors own the copyright in all elements of the CPE Services, including the content and how it is presented. CPE grants you a limited, non-exclusive, non-transferable license to use and display on your computer or other personal device, the content of the CPE Services for your own personal and non-commercial use only, provided you maintain all copyright notices. You may not resell, broadcast, publicly display, transmit or publish any of the CPE Services for any purpose whatsoever. You may establish a hypertext link to CPE Services provided that: (i) the link does not state or imply any affiliation, connection, sponsorship, or approval of your site by CPE or create a false appearance that an entity is associated with or sponsored by CPE; (ii) the link does not damage the goodwill associated with CPE trademarks, and; (iii) the link is not for a commercial purpose. You are not permitted to frame, embed or inline link to any CPE Service or any portion thereof without the written permission of CPE. CPE reserves the right to block access to the CPE Services by any user known or thought by it on reasonable grounds to be using any of the CPE Services for any commercial purpose.

[...]

ARTICLE 2 - USE OF SERVICE

Intellectual Property – Content and Software

2.01 All text, information, images, audio, video and other material posted on the CPE Services is protected by copyright and trademark laws and is owned, controlled and /or licensed by CPE and/or its affiliates, licensors and related companies. All content posted on the CPE Services remains the property of its owners and you agree to abide by all copyright notices, information and restrictions contained in or displayed with any content. You do not acquire any ownership rights in the content on any of the CPE Services as a result of accessing it. You may not use any trademark or service mark appearing on any of the CPE Services without the prior written consent of the rightful owner. The CPE Services are for your personal, non-commercial use.

14. In addition to the manner set out in the Statement of Claim, OpenAI has breached Canadian Press's Terms of Use by:

(a) Using Canadian Press's Works for uses other than personal, non-commercial use;

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- (b) Using a robot, spider, or other similar device to monitor and copy Canadian Press's Works on its Website;
- (c) Relatedly, employing scraping and other similar activities to collect, store, reorganize, summarize, and manipulate content associated with Canadian Press's Websites and Works;
- (d) Broadcasting, displaying, transmitting, and publishing Canadian Press's Works by providing responses to user-generated prompts based in part on those works; and,
- (e) Using the Works in contravention of Canadian copyright laws, including in a manner that infringes the copyright of Canadian Press as well as the owners of the Licensed Works.

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E. CBC/RADIO-CANADA

15. From before January 2015 to present, CBC/Radio-Canada published Terms of Use on its Websites with the following substantially similar provisions pertaining to access and use of the Works on its Websites:

By using any of CBC/Radio-Canada's digital services including various Apps, console platforms and sites such as cbc.ca, cbcmusic.ca, cbcnews.ca, cbcsports.ca, cbcbooks.ca, Radio-Canada.ca, icimusique.ca, tou.tv, ici.exploratv.ca, curio.ca, you agree to comply with these Terms of Use, the Submission Guidelines (<http://www.cbc.ca/aboutcbc/discover/submissions.html>) as well as all applicable laws. These Terms of Use may be amended from time to time, so please comeback to review them periodically: THEY CONSTITUTE A BINDING AGREEMENT BETWEEN YOU AND THE CANADIAN BROADCASTING CORPORATION (CBC/Radio-Canada).

[...]

In accordance with our mandate as the public broadcaster, CBC/Radio-Canada allows you to access a variety of public-interest content, for your information and entertainment. It also makes available a digital public space for sharing ideas, comments and creations, and for participating in the community through interactive activities.

CBC/Radio-Canada is responsible for the content of its own productions and those it commissions. CBC/Radio-Canada must honour the agreements it has with its partners, and the collective agreements with its artists and collaborators. To that end, no publication, reproduction or communication of such content to the public is authorized except in the specific cases set out in the federal Copyright Act (<http://lois-laws.justice.gc.ca/eng/acts/c-42/>), upon granting of a licence by CBC/Radio-Canada, or upon granting of clear permission for a particular subject or activity.

[...]

CBC/Radio-Canada Content

(a) May I use CBC/Radio-Canada content?

No, unless otherwise authorized. CBC/Radio-Canada does not allow the reproduction or public communication of content that it produces or commissions, so as to protect the credibility and integrity of content that it broadcasts and to ensure fulfilment of the agreements with its authors, artists and others partners. Your access to CBC/Radio-Canada digital services does not give you any rights to that content.

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CBC/Radio-Canada also does not allow the use of its content to train and develop artificial intelligence models and software programs. This means you can't, among other things, use any automated tools or applications to scrape data and content from CBC/Radio-Canada's digital services without written permission.

As Canada's public broadcaster, CBC/Radio-Canada produces content or commissions it from third parties. That content usually requires working with partners or the public and negotiating rights with media artists, news agencies, authors, musicians and performers, for the use of pictures (videos, photos, drawings) and material from third-parties; those rights are protected by law.

To be allowed to reproduce or present certain content in public, you must first obtain a licence from CBC/Radio-Canada, unless use is permitted by law or by special notice in connection with a program or interactive activity, subject to the terms and conditions stated therein.

(b) Do these Terms of Use apply to news feeds (RSS) and podcasts?

Yes. These terms also apply to the use of CBC/Radio-Canada news feeds. Any use other than for private purposes must be subject to an agreement with CBC/Radio-Canada specifying the conditions for use with due regard for the integrity of the content. You agree not to frame the news feed or its content, nor to use similar means to generate unauthorized benefits.

(c) May I repost content from CBC/Radio-Canada digital services?

Yes, but only by hyperlinks or by special permission. You may place links to CBC/Radio-Canada digital pages on your own web pages or sites or on social media. You may not repost content from CBC/Radio-Canada digital services in any other way without first obtaining a licence. CBC/Radio-Canada may, at its sole discretion, intervene to remove content communicated to the public without authorization on third-party sites and take legal action to enforce its rights.

[...]

4. Conducting business on CBC/Radio-Canada digital services

(a) May I use CBC/Radio-Canada digital services for business or commercial purposes?

Only if specifically authorized by CBC/Radio-Canada. You may not use any CBC/Radio-Canada digital services for business or commercial purposes without prior written permission. This means you cannot, among other things, use CBC/Radio-Canada digital services to train and develop artificial intelligence models and software programs (for example, collect data and content using web scraping tools).

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You may, however, provide a link to a CBC/Radio-Canada digital page; this will ensure full, unmodified communication of content and respect the rights of any third parties involved.

[...]

5. Liability

c) What is my liability with respect to the use of CBC/Radio-Canada digital services?

You must not hinder operations; must comply with the terms of use. Besides your responsibility for the content, your submissions to CBC/Radio-Canada digital services may not, under any circumstance, have the effect of hindering or preventing other users from using CBC/Radio-Canada digital services, nor modifying its operation or its effectiveness by any means whatsoever.

You may neither use CBC/Radio-Canada digital services other than for private purposes, unless otherwise authorized under specific agreements with CBC/Radio-Canada, nor may you use CBC/Radio-Canada digital services for any illegal purpose.

You are liable for any damage arising from not complying with these Terms of Use, Submission Guidelines or with any other law or regulation applicable to your submissions. If your submissions to CBC/Radio-Canada digital services require a name and a password, you are responsible for ensuring their confidentiality.

16. In addition to the manner set out in the Statement of Claim, OpenAI has breached CBC/Radio-Canada's above Terms of Use by:

- (a) Publishing, reproducing, and/or communicating the content produced and commissioned by CBC/Radio-Canada, without a license or clear permission from CBC/Radio-Canada;
- (b) Using CBC/Radio-Canada's Works to train and develop artificial models and software programs;

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- (c) Using automated tools and applications to scrape data and content from CBC/Radio-Canada's digital services without written permission;
- (d) Using CBC/Radio-Canada's Works for purposes other than private purposes;
- (e) Using CBC/Radio-Canada's news feeds to generate unauthorized benefits;
- (f) Using CBC/Radio-Canada's Works for business or commercial purposes without prior written permission;
- (g) Using the Works in contravention of Canadian copyright laws, in a manner that infringes the copyright of CBC/Radio-Canada as well as owners of the Licensed Works; and,
- (h) Using CBC/Radio-Canada's Works in a manner other than as expressly authorized under the Terms of Use.

TORONTO STAR NEWSPAPERS LIMITED et al.
Plaintiffs

-and- OPENAI, INC. et al.
Defendants

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

STATEMENT OF CLAIM

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