Congress of the United States

Washington, DC 20515

November 19, 2026

The Honorable Todd Blanche
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Blanche:

We write to express our alarm regarding the U.S Department of Justice's (DOJ) September 1, 2026 Statement of Interest filing in the United States District Court for the Southern District of New York in the copyright infringement case, *In re: OpenAI, Inc. Copyright Infringement Litigation*. Recent reporting indicates that DOJ failed to follow standard procedure and consult the expert offices on intellectual property law before filing the Statement of Interest.[1] As Members with a shared interest in protecting American artists, creators, and the robust creative economy, we recognize that the outcome of this case will carry significant implications. We question the DOJ's process to justify executive intervention in this case.

Pursuant to Section 517 of the U.S. Code, the Department of Justice may "attend to the interests of the United States in a suit pending in a court of the United States" by filing Statements of Interest (SOI) in private lawsuits. These statements are intended to express a neutral and objective national interest in a case and can carry significant legal weight with courts. Historically, this procedural tool has been used by the DOJ primarily in antitrust and civil rights cases, and more rarely in intellectual property cases. We do not dispute that the DOJ may, on some occasions, have legitimate governmental interests in intellectual property litigation. However, we are alarmed by recent reporting from Axios that the U.S. Copyright Office (USCO) and the U.S. Patent and Trademark Office (USPTO), which advise on and administer the nation's complex set of policies on intellectual property issues, were not consulted ahead of the DOJ's filing on September 1.

Among other duties and functions, USCO is statutorily tasked with providing impartial and expert advice to the federal government on copyright issues and has been historically consulted and involved in doing so in past copyright cases. For instance, in the 2006 case, *Fonavisa, Inc. v. Alvarez*, the DOJ filed an SOI[2], and the Copyright Office assisted the DOJ in drafting the SOI on the scope of the defendant's distribution right[3]. In May 2026, in testimony before the Senate Judiciary Subcommittee on Intellectual Property, Register of Copyrights Shira Perlmutter affirmed this responsibility directly, "The Office collaborates with the Department of Justice (DOJ) and the Office of the Solicitor General to develop amicus briefs and other submissions in cases that raise important issues of copyright law in the U.S. Supreme Court and federal courts of appeal."[4] But USCO was not

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[1] Scoop: DOJ's copyright filing took key agencies by surprise. *Axios*. September 19, 2026. https://www.axios.com/2026/09/19/justice-department-openai-new-york-times.

[2] United States. Department of Justice, Task Force on Intellectual Property, Progress Report of the Department of Justice's Task Force on Intellectual Property (Washington, DC: U.S. Department of Justice, June 2006), DOJ archive PDF.pdf).

[3] Annual Report 2006: Annual Report of the Register of Copyrights for the Fiscal Year Ending September 30, 2006. Washington, D.C.: U.S. Copyright Office, 2006. https://www.copyright.gov/reports/annual/2006/annual2006.pdf.

[4] Shira Perlmutter. *Testimony of Register Shira Perlmutter Before the Subcommittee on Intellectual Property, U.S. Senate Committee on the Judiciary, May 12, 2026*. U.S. Copyright Office. https://www.copyright.gov/laws/hearings/Testimony-Register-Shira-Perlmutter-May-12-2026-Hearing-Senate-Judiciary-IP-Subcommittee.pdf.

consulted for the SOI filed in the *In re: OpenAI, Inc. Copyright Infringement Litigation*. Further, the DOJ also failed to consult or include the USPTO, an executive branch agency that was consulted by the DOJ as recently as February 2026 on a SOI reaffirming the importance of preserving incentives for innovation *in Collision Communications, Inc. v. Samsung Electronics Co., et al.*[5]

Further, the DOJ's SOI argues in favor of a categorical exception in copyright law for any type of generative AI development under a national security argument. While there are national security considerations for the regulation of the training, development, and deployment of generative AI, the DOJ overgeneralizes AI models that serve distinct purposes. An LLM used in a defense system is drastically different from an LLM used to generate artificial music lyrics. The scale and differing applications of LLMs may be too broad to justify bypassing any set of laws, including copyright laws, and creating backdoors for mass copyright infringement in the name of national security.

What's more, the Administration has explicitly said that it supports courts resolving questions surrounding fair use and the training of AI models on copyrighted materials. Issued in March of 2026, the Administration's National Policy Framework for Artificial Intelligence states:

> "Although the Administration believes that training of AI models on copyrighted material does not violate copyright laws, it acknowledges arguments to the contrary exist *and therefore supports allowing the Courts to resolve this issue*. Similarly, Congress should not take any actions that would impact the judiciary's resolution of whether training on copyrighted material constitutes fair use."[6]

To seek clarification on and better understand the DOJ's decision in filing the SOI and the process it underwent to do so in the *In re: OpenAI, Inc. Copyright Infringement Litigation*, we urge you to provide responses to the following questions and requests no later than November 30.

1. What are the DOJ's internal standards, policies, and procedures regarding the filing of Statements of Interest?
2. Please explain the DOJ's standard vetting process for SOIs in intellectual property lawsuits and the chain of approval for statements.
3. Did the DOJ consult the U.S. Copyright Office before filing the SOI? If not, please explain the DOJ's reasoning for foregoing their counsel and assistance.
4. Did the DOJ consult the U.S. Patent and Trademark Office before filing the SOI? If not, please explain the DOJ's reasoning for foregoing their counsel and assistance.
5. How does the DOJ reconcile the Statement of Interest with the Administration's past support for courts resolving AI and fair use questions?
6. Provide all draft statements and other documents from within the DOJ used in the development and drafting of the September 1, 2026 SOI.
7. Identify any external companies and organizations that provided legal analyses, briefing materials, or other communication related to the development of the SOI.

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[5] United States Patent and Trademark Office. *USPTO and DOJ File Statement of Interest Reaffirming the Importance of Incentives to Innovate.* Press release, February 27, 2026. https://www.uspto.gov/about-us/news-updates/uspto-and-doj-file-statement-interest-reaffirming-importance-incentives.

[6] The White House, *National Policy Framework for Artificial Intelligence: Legislative Recommendations* § III (Mar. 2026), https://www.whitehouse.gov/wp-content/uploads/2026/03/03.20.26-National-Policy-Framework-for-Artificial-Intelligence-Legislative-Recommendations.pdf (emphasis added).

In re: OpenAI, Inc. Copyright Infringement Litigation will likely be one of the most consequential intellectual property cases of the decade. The ruling will undoubtedly have ripple effects through the creative sector, which was estimated to contribute over $2 trillion or 7.66% to U.S. GDP.[7] There are nearly 150 copyright lawsuits involving an AI system, model, training pipeline, or output currently pending that hinge on the resolution of many of the legal questions this case raises.[8] The DOJ's apparent decision to forego consultation with USCO and USPTO and its efforts to justify intervening in this case altogether raise serious questions about potential bias. This SOI stands to undermine public trust in the impartiality of the DOJ and its ability to represent the best interests of the nation. We urge your clarification on these questions so artists and creators can have confidence in the governmental interest in this case and assurance that the proper processes and procedures were followed in filing it.

Sincerely,

Sincerely,

Chellie Pingree
Member of Congress

Becca Balint
Member of Congress

Deborah K. Ross
Member of Congress

Judy Chu
Member of Congress

Raja Krishnamoorthi
Member of Congress

Jared Huffman
Member of Congress

[7] International Intellectual Property Alliance (IIPA). *Copyright Industries in the U.S. Economy: The 2024 Report*. By Jéssica Dutra and Robert Stoner. February 2025. https://www.iipa.org/files/uploads/2025/02/IIPA-Copyright-Industries-in-the-U.S.-Economy-Report-2024_ONLINE_FINAL.pdf.

[8] AI Lawsuit Tracker. *AI Lawsuit Tracker*. Accessed October 2, 2026. https://ailawsuittracker.com/ai-lawsuits/.

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