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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ELON MUSK,

Plaintiff,

v.

SAMUEL ALTMAN, et al.,

Defendants.

Case No. 4:24-cv-04722-YGR

JOINT STIPULATION AND [PROPOSED] ORDER REGARDING BRIEFING SCHEDULE

Hearing Date: None Set
Action Filed: August 5, 2024
Judge: Hon. Yvonne Gonzalez Rogers

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STIPULATION

Pursuant to Civ. L.R. 6-1(b) and 6-2 and paragraph 3 of the Court's Standing Order in Civil Cases, Plaintiff Elon Musk and Defendants Samuel Altman, Gregory Brockman, OpenAI, Inc., OpenAI L.P., OpenAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, LLC, OpenAI Global, LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, OpenAI Startup Fund Management, LLC, OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund SPV GP I, L.L.C., OpenAI Startup Fund SPV GP II, L.L.C., OpenAI Startup Fund SPV GP III, L.L.C., OpenAI Startup Fund SPV GP IV, L.L.C., OpenAI Startup Fund SPV I, L.P., OpenAI Startup Fund SPV II, L.P., OpenAI Startup Fund SPV III, L.P., OpenAI Startup Fund SPV IV, L.P., AESTAS Management Company, LLC, and AESTAS LLC (collectively, the "OpenAI Defendants" and together with Plaintiff, the "Parties"), by and through their counsel, hereby stipulate and request as follows:

WHEREAS, on October 8, 2024, OpenAI Defendants filed a Motion to Dismiss Plaintiff's Complaint and a Request for Judicial Notice in support thereof (Dkt. Nos. 25 and 26, respectively; collectively, "Motion"), and set a hearing for November 12, 2024;

WHEREAS, pursuant to Civ. L.R. 7-3 Plaintiff must respond to OpenAI Defendants' Motion by October 22, 2024 and OpenAI Defendants must reply to Plaintiff's response by October 29, 2024;

WHEREAS, Commentary to Civ. L.R. 7-2 provides: "For complex motions, parties are encouraged to stipulate to or seek a Court order establishing a longer notice period with correspondingly longer period for response or reply.";

WHEREAS, on October 8, 2024, Leonard Horowitz filed a Motion to Intervene in this case (Dkt. No. 24), to which the Parties must respond by October 22, 2024;

WHEREAS, in addition, the intervening Jewish Holidays (e.g., Yom Kippur (October 11-12) and Sukkot (October 17-23)) impede Plaintiff's counsel's ability to simultaneously respond to the OpenAI Defendants' Motion and the Motion to Intervene;

WHEREAS, on October 11, 2024, the Court ordered the Parties to file a Joint Statement outlining the elements of Plaintiff's causes of action to be filed by October 16, 2024, vacated the

November 12, 2024 hearing on the Motion, and continued the Case Management Conference to December 16, 2024 (Dkt. No. 27);

WHEREAS, modifying the time for Plaintiff's response and OpenAI Defendants' reply in connection with the Motion as set forth below will not interfere with any dates set in this action; and

WHEREAS, the Parties have conferred over a proposed modification to the briefing schedule on the Motion and agree good cause exists to modify the time to respond and reply to the Motion.

IT IS HEREBY STIPULATED AND AGREED by the Parties that:

1. Plaintiff shall have until November 14, 2024 to respond to OpenAI Defendants' Motion by filing an Opposition or amending the Complaint under Fed. R. Civ. P. 15(a)(1)(B);
2. OpenAI Defendants shall have until December 9, 2024 to reply to Plaintiff's response to the Motion;
3. For the avoidance of doubt, all ADR and other deadlines attendant to the Case Management Conference are reset based on the new date of December 16, 2024; and
4. All other deadlines remain unchanged.

Dated: October 14, 2024

TOBEROFF & ASSOCIATES, P.C.

By: s/ *Marc Toberoff*
Marc Toberoff (CA SBN 188547)

Attorneys for Plaintiff Elon Musk

Dated: October 14, 2024

MORRISON & FOERSTER LLP

By: s/ *Jordan Eth*
Jordan Eth (CA SBN 121617)

Attorneys for Defendants Samuel Altman, Gregory Brockman, OpenAI, Inc., OpenAI L.P., OpenAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, LLC, OpenAI Global, LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, OpenAI Startup Fund Management, LLC, OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund SPV GP I, L.L.C., OpenAI Startup Fund SPV GP II, L.L.C., OpenAI Startup Fund SPV GP III, L.L.C., OpenAI Startup Fund SPV GP IV, L.L.C., OpenAI Startup Fund SPV I, L.P., OpenAI Startup Fund SPV II, L.P., OpenAI Startup Fund SPV III, L.P., OpenAI Startup Fund SPV IV, L.P., AESTAS Management Company, LLC, and AESTAS LLC

SIGNATURE ATTESTATION

I hereby attest that signatories listed above, on whose behalf this stipulation is submitted, concur in the filing's content and have authorized the filing.

Dated: October 14, 2024

s/ *Marc Toberoff*
Marc Toberoff (CA SBN 188547)

[PROPOSED] ORDER

GOOD CAUSE APPEARING, the Court hereby approves the foregoing stipulation and ORDERS that:

1. Plaintiff shall have until November 14, 2024 to respond to OpenAI Defendants' Motion or to amend the Complaint under Fed. R. Civ. P. 15(a)(1)(B);
2. OpenAI Defendants shall have until December 9, 2024 to reply to Plaintiff's response to the Motion;
3. For the avoidance of doubt, all ADR and other deadlines attendant to the Case Management Conference are reset based on the new date of December 16, 2024; and
4. All other deadlines remain unchanged.

Dated: _____

_____
The Hon. Yvonne Gonzalez Rogers