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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

ELON MUSK, et al.,

Plaintiffs,

v.

SAMUEL ALTMAN, et al.,

Defendants.

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

TEMPORARY SEALING MOTION RE: OPENAI DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Local Rule 79-5(e) and Paragraph 12 of this Court's Standing Order in Civil Cases ("Standing Order"), the OpenAI Defendants submit this Temporary Sealing Motion requesting to file under seal portions of the OpenAI Defendants' Motion for Summary Judgment (ECF No. 327), Supporting Statement of Undisputed Material Facts in Support of Motion for Summary Judgment, and certain Exhibits to the Declaration of David J. Wiener, as detailed in the chart below.

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
328-1	OpenAI Defendants' Notice of Motion and Motion for Summary Judgment	Provisionally Under Seal	
328-2	OpenAI Defendants' Notice of Motion and Motion for Summary Judgment	Redacted	
328-3	Separate Statement of Undisputed Material Facts	Provisionally Under Seal	
328-4	Declaration of David J. Wiener in Support of the OpenAI Defendants Motion for Summary Judgment	Not Under Seal	N/A
328-5	Ex. 1 to the Wiener Decl. – Certificate of Incorporation of OpenAI, Inc, a Non-Stock Corporation, filed December 8, 2015	Not Under Seal	N/A
328-6	Ex. 2 to the Wiener Decl. – Amended and Restated Certificate of Incorporation of OpenAI, Inc., a Nonprofit Non-Stock Corporation, filed April 23, 2020	Not Under Seal	N/A
328-7	Ex. 3 to the Wiener Decl. – OpenAI Charter	Not Under Seal	N/A
328-8	Ex. 4 to the Wiener Decl. – Summary chart reflecting Plaintiff Musk's Alleged Monetary and In-Kind Donations to OpenAI, Inc., introduced as Exhibit 41 at the deposition of OpenAI's 30(b)(6) corporate representative	Provisionally Under Seal	OpenAI Defendants; Third-party YC.Org; Third-party Vanguard Charitable; Third-party Fidelity Charitable
328-9	Ex. 5 to the Wiener Decl. – Letter from Chris Clark to Elon Musk, dated May 27, 2016	Provisionally Under Seal	Third-party YC.Org
328-10	Ex. 6 to the Wiener Decl. – Letter from Chris Clark to OpenAI, Inc., dated June 6, 2016	Provisionally Under Seal	Third-party YC.Org
328-11	Ex. 7 to the Wiener Decl. – Letter from Chris Clark to Elon Musk, dated March 1, 2017	Provisionally Under Seal	Third-party YC.Org

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
328-12	Ex. 8 to the Wiener Decl. – Letter from Chris Clark to Elon Musk, dated June 1, 2017	Provisionally Under Seal	Third-party YC.Org
328-13	Ex. 9 to the Wiener Decl. – Compilation of receipts for contributions made from Vanguard Charitable to YC.Org, as summarized in Exhibit 4, produced by third-party, Vanguard Charitable	Provisionally Under Seal	Third-party Vanguard Charitable
328-14	Ex. 10 to the Wiener Decl. – Compilation of receipts for contributions made from Vanguard Charitable to OpenAI, Inc., as summarized in Exhibit 4, produced by third-party, Vanguard Charitable	Provisionally Under Seal	Third-party Vanguard Charitable
328-15	Ex. 11 to the Wiener Decl. – Compilation of receipts for contributions made by Fidelity Charitable to OpenAI, Inc., as summarized in Exhibit 4, produced by third-party, Fidelity Charitable	Provisionally Under Seal	Third-party Fidelity Charitable
328-16	Ex. 12 to the Wiener Decl. – Deposition Transcript of Elon Musk, dated September 26, 2025	Provisionally Under Seal	Plaintiff Elon Musk
328-17	Ex. 13 to the Wiener Decl. – Plaintiff Musk's Supplemental Responses and Objections to OpenAI Defendants' Second Set of Interrogatories, dated and verified on September 25, 2025	Provisionally Under Seal	Plaintiff Elon Musk
328-18	Ex. 14 to the Wiener Decl. – YC.Org Form 990 Return of Organization Exempt from Income Tax for the 2017 calendar year	Provisionally Under Seal	Third-party YC.Org
328-19	Ex. 15 to the Wiener Decl. – Annual Registration Renewal Fee Report to Attorney General of California for OpenAI, Inc., filed November 30, 2020	Not Under Seal	N/A
328-20	Ex. 16 to the Wiener Decl. – Vanguard Charitable Gift Agreement for Individuals or Trusts, executed July 9, 2014	Provisionally Under Seal	Third-party Vanguard Charitable
328-21	Ex. 17 to the Wiener Decl. – 2014 Vanguard Charitable Policies and Guidelines	Provisionally Under Seal	Third-party Vanguard Charitable
328-22	Ex. 18 to the Wiener Decl. – 2015 Vanguard Charitable Policies and Guidelines	Provisionally Under Seal	Third-party Vanguard Charitable
328-23	Ex. 19 to the Wiener Decl. – 2016 Vanguard Charitable Policies and Guidelines	Provisionally Under Seal	Third-party Vanguard Charitable
328-24	Ex. 20 to the Wiener Decl. – 2017 Vanguard	Provisionally	Third-party

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
	Charitable Policies and Guidelines	Under Seal	Vanguard Charitable
328-25	Ex. 21 to the Wiener Decl. – Fidelity Charitable Investment Advisor Program Application, executed June 22, 2017	Provisionally Under Seal	Third-party Fidelity Charitable
328-26	Ex. 22 to the Wiener Decl. – Fidelity Charitable Contribution Form and Letter of Instruction, executed August 7, 2017	Provisionally Under Seal	Third-party Fidelity Charitable
328-27	Ex. 23 to the Wiener Decl. – July 2017 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-28	Ex. 24 to the Wiener Decl. – March 2018 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-29	Ex. 25 to the Wiener Decl. – June 2018 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-30	Ex. 26 to the Wiener Decl. – July 2018 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-31	Ex. 27 to the Wiener Decl. –October 2018 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-32	Ex. 28 to the Wiener Decl. – August 2019 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-33	Ex. 29 to the Wiener Decl. – March 2020 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-34	Ex. 30 to the Wiener Decl. – August 2020 Fidelity Charitable Policy Guidelines: Program Circular	Not Under Seal	N/A
328-35	Ex. 31 to the Wiener Decl. – Musk Foundation Form 990 Return of Private Foundation for tax year beginning July 1, 2017 and ending June 30, 2018	Not Under Seal	N/A
328-36	Ex. 32 to the Wiener Decl. – Musk Foundation Form 990 Return of Private Foundation for tax year beginning July 1, 2018 and ending June 30, 2019	Not Under Seal	N/A
328-37	Ex. 33 to the Wiener Decl. – Excerpt of an email from Paula Lo to Jared Birchall, dated June 1, 2016	Provisionally Under Seal	Third-party BMO
328-38	Ex. 34 to the Wiener Decl. – Fiscal Sponsorship Grant Agreement between YC.org and OpenAI, Inc., dated May 20, 2016	Provisionally Under Seal	OpenAI Defendants

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
328-39	Ex. 35 to the Wiener Decl. – Excerpts of the transcript of the deposition of Jared Birchall, dated September 10, 2025	Provisionally Under Seal	Third-party Jared Birchall
328-40	Ex. 36 to the Wiener Decl. – OpenAI, Inc. Grant Proposal, dated May 15, 2016	Provisionally Under Seal	OpenAI Defendants
328-41	Ex. 37 to the Wiener Decl. – Excerpts of combined tax returns for Elon R. Musk	Provisionally Under Seal	Third-party Catalyst
328-42	Ex. 38 to the Wiener Decl. – Email from Jared Birchall to Ronald Gong, dated June 14, 2016	Provisionally Under Seal	Third-party BMO
328-43	Ex. 39 to the Wiener Decl. – Email from Song Kong, to Jared Birchall and Matilda Simon-Ferrigno, copying Teresa Holland, Paula Lo, Ronald Gong, Julie DeMartini, Song Kong, Lorraine Edel, Mary Grace Tobias, and Harris myCFO, which attaches the Musk Foundation Form 990 Return of Private Foundation for tax year beginning July 1, 2016 and ending June 30, 2017, and from which other attachments have been omitted or excerpted	Provisionally Under Seal	Third-party BMO
328-44	Ex. 40 to the Wiener Decl. – Email from Janine Korovesis to Courtney Schrier, copying Chris Clark, dated June 24, 2021	Not Under Seal	N/A
328-45	Ex. 41 to the Wiener Decl. – OpenAI, Inc. Form 990 Return of Organization Exempt from Income Tax for the 2016 calendar year	Provisionally Under Seal	OpenAI Defendants
328-46	Ex. 42 to the Wiener Decl. – OpenAI, Inc. Form 990 Return of Organization Exempt from Income Tax for the 2017 calendar year	Provisionally Under Seal	OpenAI Defendants
328-47	Ex. 43 to the Wiener Decl. – OpenAI, Inc. Form 990 Return of Organization Exempt from Income Tax for the 2018 calendar year	Provisionally Under Seal	OpenAI Defendants
328-48	Ex. 44 to the Wiener Decl. – OpenAI, Inc. Form 990 Return of Organization Exempt from Income Tax for the 2019 calendar year	Provisionally Under Seal	OpenAI Defendants
328-49	Ex. 45 to the Wiener Decl. – OpenAI, Inc. Form 990 Return of Organization Exempt from Income Tax for the 2020 calendar year	Provisionally Under Seal	OpenAI Defendants
328-50	Ex. 46 to the Wiener Decl. – Excerpts of OpenAI, Inc. Audited Financial Statements for the Year Ended December 31, 2016	Provisionally Under Seal	OpenAI Defendants
328-51	Ex. 47 to the Wiener Decl. – Excerpts of OpenAI, Inc. Audited Financial Statements for the Years Ended December 31, 2017 and 2016	Provisionally Under Seal	OpenAI Defendants

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
328-52	Ex. 48 to the Wiener Decl. – Excerpts of OpenAI, Inc. Audited Financial Statements for the Years Ended December 31, 2018 and 2017	Provisionally Under Seal	OpenAI Defendants
328-53	Ex. 49 to the Wiener Decl. – Excerpts of OpenAI, Inc. Consolidating Financial Statements as of and for the Year Ended December 31, 2019	Provisionally Under Seal	OpenAI Defendants
328-54	Ex. 50 to the Wiener Decl. – Excerpts of OpenAI, Inc. Consolidating Financial Statements as of and for the Year Ended December 31, 2020	Provisionally Under Seal	OpenAI Defendants
328-55	Ex. 51 to the Wiener Decl. – Email from Elon Musk to Ilya Sutskever, copying Greg Brockman, John Schulman, Wojciech Zaremba, and Jared Birchall, dated July 21, 2017	Not Under Seal	N/A
328-56	Ex. 52 to the Wiener Decl. – Email from Jared Birchall to Chris Clark, dated September 15, 2017	Not Under Seal	N/A
328-57	Ex. 53 to the Wiener Decl. – Plaintiff Musk's Responses and Objections to OpenAI Defendants' Second Set of Requests for Admission, dated July 7, 2025	Not Under Seal	N/A
328-58	Ex. 54 to the Wiener Decl. – Email from Elon Musk to Sam Altman, copying Shivon Zilis, dated April 28, 2018	Not Under Seal	N/A
328-59	Ex. 55 to the Wiener Decl. – Email from Ronald Gong to Chris Clark, copying Harris mCFO and Jared Birchall, dated March 11, 2016	Provisionally Under Seal	Third-party BMO
328-60	Ex. 56 to the Wiener Decl. – Email from Chris Clark to Prologue@openai.com, dated March 21, 2023, which attaches an email from Chris Clark to Jared Birchall, dated January 15, 2019, and from which other attachments have been omitted or excerpted	Provisionally Under Seal	OpenAI Defendants
328-61	Ex. 57 to the Wiener Decl. – Email from Leeder Hsu to Jared Birchall, dated July 27, 2020	Provisionally Under Seal	Third-parties Excession and Musk Foundation
328-62	Ex. 58 to the Wiener Decl. – Email from Shivon Zilis to Elon Musk and Sam Teller, dated July 18, 2017	Provisionally Under Seal	Plaintiff Elon Musk
328-63	Ex. 59 to the Wiener Decl. – Email from Elon Musk to Ilya Sutskever and Greg Brockman, dated February 1, 2018	Not Under Seal	N/A
328-64	Ex. 60 to the Wiener Decl. – Email from Elon Musk to Shivon Zilis, copying Sam Teller, dated April 23, 2018	Provisionally Under Seal	Plaintiff Elon Musk

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
328-65	Ex. 61 to the Wiener Decl. – Email from Sam Altman to Elon Musk, copying Sam Teller and Shivon Zilis, attaching a document entitled "OpenAI LP - Summary Term Sheet"	Provisionally Under Seal	Third-party SpaceX
328-66	Ex. 62 to the Wiener Decl. – Email from Shivon Zilis to Shivon Zilis, dated September 4, 2018	Provisionally Under Seal	Third-party SpaceX
328-67	Ex. 63 to the Wiener Decl. – Email from Shivon Zilis to Reyna Ortiz, Sam Teller, and Omead Afshar, dated November 5, 2018	Provisionally Under Seal	Third-party Tesla
328-68	Ex. 64 to the Wiener Decl. – Text messages between Reyna Ortiz and Shivon Zilis, dated August 29, 2018	Provisionally Under Seal	Third-party Shivon Zilis
328-69	Ex. 65 to the Wiener Decl. – Email from Sam Teller to Shivon Zilis, copying Omead Afshar, Reyna Ortiz, and Jehn Balajadia, dated September 11, 2018	Provisionally Under Seal	Third-party Tesla
328-70	Ex. 66 to the Wiener Decl. – Email from Shivon Zilis to Elon Musk, dated March 8, 2019	Provisionally Under Seal	Third-party SpaceX
328-71	Ex. 67 to the Wiener Decl. – Text messages between Sam Altman and Elon Musk, dated March 10-11, 2019	Not Under Seal	N/A
328-72	Ex. 68 to the Wiener Decl. – Email from Sam Altman to Elon Musk, dated March 11, 2019	Not Under Seal	N/A
328-73	Ex. 69 to the Wiener Decl. – Blog post, entitled "Microsoft Invests in and Partners with OpenAI to Support Us Building Beneficial AGI," dated July 22, 2019	Not Under Seal	N/A
328-74	Ex. 70 to the Wiener Decl. – Email from Teresa Holland to Harris myCFO, dated February 3, 2016, attaching a blog post, entitled "Introducing OpenAI," dated December 11, 2015	Provisionally Under Seal	Third-party BMO
328-75	Ex. 71 to the Wiener Decl. – Email from Elon Musk to Jared Birchall, dated August 29, 2017	Provisionally Under Seal	Plaintiff Elon Musk
328-76	Ex. 72 to the Wiener Decl. – Text messages between Sam Teller and Shivon Zilis, dated March 11, 2019	Provisionally Under Seal	Third-party Shivon Zilis
328-77	Ex. 73 to the Wiener Decl. – Excerpts of the 2022 Instructions for Form 990 Return of Organization Exempt from Income Tax, available at https://www.irs.gov/instructions/i990	Not Under Seal	N/A
328-78	Ex. 74 to the Wiener Decl. – Email from Chris Clark to Ronald Gong, copying Harris myCFO, Jared Birchall, and Jonathan Levy, attaching the	Provisionally Under Seal	Third-party BMO

Dkt. No.	Document	Sealing Status	Party Claiming Confidentiality
	Articles of Incorporation if YC.org, a YC.org IRS determination letter, a letter describing a sponsorship arrangement, and wire transfer instructions		
328-79	Ex. 75 to the Wiener Decl. – Letter from Chris Clark to OpenAI, Inc., dated December 22, 2016	Provisionally Under Seal	OpenAI Defendants
328-80	Ex. 76 to the Wiener Decl. – Email from Ilya Sutskever to Elon Musk and Greg Brockman, dated September 13, 2017	Provisionally Under Seal	Plaintiff Elon Musk
328-81	Ex. 77 to the Wiener Decl. – Text messages between Shivon Zilis and Jared Birchall, dated September 19, 2017	Provisionally Under Seal	Third-party Shivon Zilis
328-82	Ex. 78 to the Wiener Decl. – Email from Chris Clark to Jared Birchall, dated September 1, 2017	Provisionally Under Seal	Third-parties Excession and Musk Foundation
328-83	Ex. 79 to the Wiener Decl. – Email from Elon Musk to Shivon Zilis, copying Sam Teller and Emma Gallagher, dated October 2, 2017	Provisionally Under Seal	Plaintiff Elon Musk
328-84	Ex. 80 to the Wiener Decl. – Email from Elon Musk to Greg Brockman, copying Sam Altman, dated November 23, 2015	Provisionally Under Seal	Plaintiff Elon Musk
328-85	Ex. 81 to the Wiener Decl. – Blog post, entitled "OpenAI LP"	Not Under Seal	N/A
328-86	Ex. 82 to the Wiener Decl. – Letter from Chris Clark to Elon Musk, dated October 2, 2017	Provisionally Under Seal	OpenAI Defendants
328-87	[Proposed] Order Granting OpenAI Defendants' Motion for Summary Judgment	Not Under Seal	N/A

In accordance with Paragraph 12(b)(i)(1) of the Standing Order, the reasons for sealing will be addressed in a forthcoming omnibus sealing stipulation or motion to be filed after the conclusion of briefing on the OpenAI Defendants' Motion for Summary Judgment.

Date: October 17, 2025

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