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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

JOINT STIPULATION AND [PROPOSED] ORDER REGARDING BRIEFING SCHEDULE AND CONSOLIDATION OF REPLIES IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

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

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Plaintiffs Elon Musk, Shivon Zilis, and X.AI Corp. (collectively, the "Plaintiffs"); 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"); Defendant Deannah Templeton, Reid Hoffman, and Microsoft Corporation (collectively, the "Microsoft Defendants", and with Plaintiffs and OpenAI Defendants, the "Parties"), by and through their counsel, hereby stipulate as follows:

WHEREAS, on August 5, 2024, Plaintiff Musk filed a Complaint against the OpenAI Defendants (ECF No. 1);

WHEREAS, on September 11, 2024, the Court granted Plaintiff Musk's and the OpenAI Defendants' stipulation extending the deadline for the OpenAI Defendants to respond to the Complaint to October 8, 2024 (ECF No. 22);

WHEREAS, on October 8, 2024, the OpenAI Defendants filed their Motion to Dismiss the Complaint (ECF No. 25);

WHEREAS, on October 11, 2024, the Court set a case management conference for December 16, 2024 (ECF No. 27);

WHEREAS, on October 15, 2024, the Court granted Plaintiff Musk's and the OpenAI Defendants' stipulation extending the deadline for Plaintiff Musk to respond to the Motion to Dismiss by filing an Opposition or amending the Complaint to November 14, 2024 (ECF No. 29);

WHEREAS, on November 14, 2024, Plaintiffs filed a First Amended Complaint (ECF No. 32);

WHEREAS, on November 19, the Court entered an Order setting the deadline to respond to the First Amended Complaint to December 10, 2024 (ECF No. 38);

WHEREAS, on November 21, the Court entered an Order vacating the Initial Case

Management Conference previously set for December 16 to be rescheduled to a later date (ECF No. 39);

WHEREAS, on November 29, Plaintiffs filed a Motion for a Preliminary Injunction, which set a hearing date of January 7, 2025 (ECF No. 46);

WHEREAS, on December 5, the Court entered an Order granting the Parties' stipulation extending the deadline for Defendants to respond to the First Amended Complaint to January 31, 2025, and set at Initial Case Management Conference for May 19, 2025 (ECF No. 61);

WHEREAS, on December 9, the Court entered an Order granting the Parties' stipulation continuing the January 7 hearing on Plaintiffs' Motion for a Preliminary Injunction to January 14, 2025 (ECF No. 63);

WHEREAS, on December 13, the OpenAI Defendants and the Microsoft Defendants each filed an opposition to Plaintiffs' Motion for a Preliminary Injunction (ECF Nos. 64 and 65, respectively);

WHEREAS, Plaintiffs' replies in support of their Motion for a Preliminary Injunction are presently due on December 20;

WHEREAS, the devastating Franklin Fire in Malibu, California, which began December 9 and is still ongoing, resulted in mandatory evacuation orders, road closures, and power outages, and as a result, shut down the office of Plaintiffs' counsel for most of last week, in addition to forcing Plaintiffs' lead counsel and his family to evacuate their home;

WHEREAS, in light of Plaintiffs' view that there are numerous overlapping arguments raised in both the OpenAI Defendants' and Microsoft Defendants' respective oppositions to Plaintiffs' Motion for a Preliminary Injunction and for the sake of judicial economy and the convenience of the Court, subject to the Court's approval, Plaintiffs seek to submit one consolidated reply not to exceed 24 pages in length in support of their Motion, to which the OpenAI Defendants and Microsoft Defendants do not object;

WHEREAS, the office of Plaintiffs' counsel was closed for several days as a result of the Franklin Fire impairing the ability of Plaintiffs' counsel to work on this case, the Parties have agreed, subject to the Court's approval, to extend the due date of Plaintiffs' reply(ies) in support of

their Motion for a Preliminary Injunction one week to December 27, 2024, which will not affect the January 14, 2025 hearing date nor otherwise delay the efficient progress of this case:

IT IS HEREBY STIPULATED AND AGREED, SUBJECT TO COURT APPROVAL, by Plaintiffs, the OpenAI Defendants, and the Microsoft Defendants that:

1. Plaintiffs shall submit one consolidated reply in support of their Motion for a Preliminary Injunction, not to exceed 24 pages in length, by December 27, 2024.

Dated: December 17, 2024

TOBEROFF & ASSOCIATES, P.C.

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

Attorneys for Plaintiffs Elon Musk, Shivon Zilis, and X.AI Corp.

Dated: December 17, 2024

MORRISON & FOERSTER LLP

By: */s/ Jordan Eth*
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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

Dated: December 17, 2024

DECHERT LLP

By: */s/ Russell P. Cohen*
Russell P. Cohen (SBN 213105)

Attorneys for Defendants Microsoft Corporation, Reid Hoffman, and Deannah Templeton

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: December 17, 2024

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

[PROPOSED] ORDER

GOOD CAUSE APPEARING, the Court hereby approves the foregoing stipulation and ORDERS that Plaintiffs shall submit one consolidated reply in support of their Motion for a Preliminary Injunction, not to exceed 24 pages in length, by December 27, 2024.

Dated: _____

_____
The Hon. Yvonne Gonzalez Rogers