EXHIBIT B

EXHIBIT 51

In the Matter Of:

MUSK v

ALTMAN

ROBERT WU

October 03, 2025



LEXITAS™

UNITED STATES DISTRICT COURT

NORTHERN OF CALIFORNIA

OAKLAND DIVISION

ELON MUSK, et al., Plaintiffs, v. SAMUEL ALTMAN, et al., Defendants.	Case No. 4:24-cv-04722-YGR

** CONTAINS HIGHLY CONFIDENTIAL AND HIGHLY CONFIDENTIAL BUSINESS STRATEGY INFORMATION **

VIDEOTAPED DEPOSITION of OPENAI

by and through its corporate designees

San Francisco, California

Friday, October 3, 2025

Reported Stenographically by

Michael P. Hensley, RDR, CSR No. 14114

Page 2

UNITED STATES DISTRICT COURT
NORTHERN OF CALIFORNIA
OAKLAND DIVISION

ELON MUSK, et al.,
Plaintiffs,
v.
SAMUEL ALTMAN, et al.,
Defendants.
Case No. 4:24-cv-04722-YGR

Videotaped Deposition of OPENAI, commencing at the hour of 9:08 AM and concluding at the hour of 6:32 PM on Friday, October 3, 2025, at the location of Morrison & Foerster LLP, 425 Market Street, San Francisco, California 94105, before Michael Hensley, Registered Diplomate Reporter, Certified Shorthand Reporter No. 14114, in and for the State of California.

Page 3

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Page 4

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Page 5

INDEX

EXAMINATIONS

	Page
WITNESS: ROBERT WU	
BY ATTORNEY EYNON	12
WITNESS: NORA PUCKETT	
BY ATTORNEY EYNON	252
BY ATTORNEY WINTER	280

EXHIBITS

No.	Description	Page
1	OpenAI, Inc.'s Responses and Objections to Plaintiff's Notice of Deposition Pursuant to Fed. R. Civ. P. 30(b)(6)	13
2	Bates Number 2024MUSK-0003115 - 0003133: Initial Registration for OpenAI, Inc.	21
3	Bates Number OPENAI_MUSK00000419 - 00000421: Amended and Restated Certificate of Incorporation of OpenAI, Inc. A Nonprofit non-Stock Corporation	23
4	Bates Number 2024MUSK- 0003112 - 0003114: Initial Registration Form State of California	32
5	Bates Number 2024MUSK-0011569 - 0011571: OpenAI Charter	41

Page 98

THE WITNESS: My understanding is that the agreement, as laid out in the investment agreements, was that the FCLP interest would have a capped TRA multiple of 100X.
ATTORNEY EYNON: Okay.
May I have Tab 14, please.
You can set that aside.
Before I hand over what will be Exhibit 16, I should ask you did you review a structure chart for OpenAI LP to prepare for your deposition today?
THE WITNESS: I did.
BY ATTORNEY EYNON:
Q. You did?
A. Yes.
Q. Has that chart been produced in this litigation?
A. Yes.
ATTORNEY EYNON: Okay.
This is Exhibit 16.
(Exhibit 16 was marked for identification.)
BY ATTORNEY EYNON:
Q. This -- is this the structure chart that you reviewed?

Page 99

A. No. I reviewed another structure chart showing the entities in the OpenAI enterprise.
Q. Is the structure -- sorry. Go ahead.
A. No, no. Go ahead.
Q. Is the structure chart you reviewed the one that's at Tab 5 of your --
ATTORNEY WINTER: I think it's Tab 4.
THE WITNESS: I think it's Tab 4 for us.
BY ATTORNEY EYNON:
Q. Tab 4?
A. Yes.
Q. Okay.
So you did not review a structure chart of -- that included OpenAI LP?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Well, the structure chart in Tab 4 does include OpenAI LP, which became OpenAI OpCo LLC. But, no, I have not reviewed what you have handed over in Exhibit 16.
BY ATTORNEY EYNON:
Q. Thank you.
I will represent to you that the production data for this chart that was just handed up to you shows a date of -- in March 2019.
A. Okay.

Page 100

ATTORNEY WINTER: Is there -- Counsel, is there -- is that just the metadata, or is there any email attachments or anything like this?
ATTORNEY EYNON: It's the metadata.
ATTORNEY WINTER: Okay.
BY ATTORNEY EYNON:
Q. Is this a structure chart for OpenAI LP?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Based on my preparation, this appears, generally, to present, at a high level, the overall structuring of OpenAI LP and OpenAI, Inc., and certain other entities in the OpenAI enterprise.
BY ATTORNEY EYNON:
Q. Is there anything about this chart that is inaccurate?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I can't say whether there -- every arrow and detail in this chart is accurate, but it generally seems to represent the structure at that time.
BY ATTORNEY EYNON:
Q. Was the OpenAI LP entity in the middle managed by OpenAI GP LLC?
A. My understanding is, yes, OpenAI GP LLC,

Page 101

was the member manager of OpenAI LP.
Q. Was that general partner controlled by the board of directors of OpenAI, Inc., the nonprofit?
A. Correct in that OpenAI, Inc., was the single member manager of OpenAI GP LLC, and the board of directors is the governing body of OpenAI, Inc.
Q. The chart has an arrow that shows -- that -- it has an arrow coming from OpenAI, Inc., and the text over the arrow says "assets."
Does that reflect that assets were transferred from OpenAI, Inc., to OpenAI LP?
A. I can't speak to this specific chart because this is the first time I've reviewed it. But my -- if you're asking for my view, my -- I would guess that this represents OpenAI, Inc.'s contribution into OpenAI LP in exchange for an FCLP interest or a limited partner interest in OpenAI LP.
Q. Okay.
And that is, in fact, what happened; correct?
ATTORNEY WINTER: Objection to form.
THE WITNESS: OpenAI, Inc., did contribute certain assets in 2019 open -- into OpenAI LP, and in exchange it received economic interest in OpenAI

Page 102

LP, both through its first closed limited partnership interest and what we refer to as the "residual interest."
BY ATTORNEY EYNON:
Q. What assets did OpenAI, Inc., transfer to OpenAI LP in 2019?
A. OpenAI, Inc., primarily contributed IP into OpenAI LP in exchange for the FCLP interest in residual, and, also, most employees, I believe, at that time, had moved over into OpenAI LP at some point in 2019.
Q. Which intellectual property did OpenAI, Inc., transfer to OpenAI LP in 2019?
A. My understanding is that was substantially all of the IP that was developed at the nonprofit at that point in time was contributed down to OpenAI LP.
Q. Okay.
Did OpenAI, Inc., transfer any other assets to OpenAI LP?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I can't recall specifically if other assets were contributed down, but my understanding is that substantially -- what compromised the -- substantially, all of the assets

Page 103

that went down were IP and employees.
BY ATTORNEY EYNON:
Q. Okay.
What assets were left in OpenAI, Inc., if any?
ATTORNEY WINTER: Objection to form.
You can answer, if you can.
THE WITNESS: I don't remember -- or I don't recall specifics. I think certain employees remained at OpenAI, Inc. I think it retained certain IP, including, for example, trademarks to OpenAI and perhaps there were other assets.
BY ATTORNEY EYNON:
Q. Is there anything else you can think of, sitting here right now?
A. I can't recall, sitting here right now, any other assets that were specifically retained.
Q. You mentioned that employees were transferred from the nonprofit to OpenAI LP.
How many employees moved over?
A. I don't recall the specific number. If you are asking me based on kind of just my general knowledge and preparation, I would guess 100 to 200 at that time. I don't recall the size of OpenAI LP, at that point.

Page 104

Q. You also mentioned that --
(Sotto voce discussion.)
BY ATTORNEY EYNON:
Q. You also mentioned that some of the employees were left in the nonprofit.
Which employees remained with the nonprofit?
A. I don't recall off the top of my head. I think it was a -- yeah, I can't -- I don't recall.
Q. Okay.
Do you recall how many employees were left with the nonprofit?
A. I don't recall specifics, but I believe most of the researchers and the like had transferred over to OpenAI LP.
Q. Do you know why some employees were left in the nonprofit?
A. I don't want to speculate. There were, I think -- there were activities at the nonprofit level in terms of nonprofit activities, in terms of initiatives and programs that they had in place that may have been appropriate to stay at the nonprofit. And I think there were also employees that had to support administrative functions and operational kind of activities there.

Page 105

Q. Besides OpenAI, Inc., and OpenAI LP, did any other entities shown in this chart have any employees?
A. In this chart?
Q. Yeah.
A. I don't believe OpenAI GP had any employees. I do not believe OpenAI Holdings LP employed any employees. Investors, I don't -- I think that is just referring to investors generally; so, no, I don't think any other entities on here had OpenAI employees.
Q. Besides the nonprofit OpenAI, Inc., did any other entities shown in this chart have a board of directors?
A. OpenAI GP LLC, OpenAI LP, and OpenAI Holdings LP, to my understanding, do not have a board of directors.
Q. Thank you. You can set that aside, and now I would like you to turn back to Exhibit 13.
Okay.
This is the document we looked at very briefly earlier that's titled "Amended and Restated Limit Partnership Agreement of OpenAI LP." And it's dated July 2nd, 2019.
Take a moment to look at this document, if

Page 118

ATTORNEY WINTER: Objection to form.
THE WITNESS: With respect to its FCLP interest specifically?
BY ATTORNEY EYNON:
Q. Yes.
A. I believe after Step 2A, which they receive their capital commitments, then the next step in the waterfall would be that payouts are distributed 25 percent pro rata to the first closed limited partners, which would include the nonprofit and the employee vehicle. And then 75 percent of all payments would go to the second closed limited partner -- well, until they receive -- the second closed limited partner receives its capital commitment.
And then Step 3, finally, is that the first closed limited partners, including the nonprofit and the employee vehicle and the second closing -- second closed limited partner, receive pro rata -- or participate pro rata based on their TRAs in any distributions until their respective target redemption amounts are hit.
Q. After it receives its capital contribution and its target redemption amount, is the nonprofit entitled to receive any further distributions under

Page 119

this agreement before all the -- all of the limited partners receive their full target redemption amounts?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Based on my review of this agreement in front of me right now, the nonprofit only participates in its residual after the other limited partners receive their TRAs.
BY ATTORNEY EYNON:
Q. Okay.
Turning to the next page of the agreement, there's a section 6 point -- there's Section 6, "Administration," and then Section 6.2, "Management By the General Partner."
This provision states:
[As Read] Notwithstanding any other provisions of this agreement to the contrary, the general partner shall not, in the exercise of its general control and decision making authority, as more particularly described in this Section 6, take or cause the partnership to take any of the actions described as a major decision without in each instance first obtaining the approval of a majority in

Page 120

interest of the limited partners based on their capital contributions.
Under this provision, did anything defined in this agreement as a major decision require an approval of the majority of limited partners as measured by their capital contributions?
ATTORNEY WINTER: Objection to form.
You can answer, if you can.
THE WITNESS: Are you asking whether there was ever a major decision, like, vote held? Or, sorry --
BY ATTORNEY EYNON:
Q. Sorry. Go ahead.
A. No, I was just -- maybe if you could reask the question.
Q. I'm just asking whether this provision means that OpenAI needs the approval of a majority of the limited partners to undertake anything that this agreement defines as a major decision?
ATTORNEY WINTER: Objection to form. Misstates the provision.
You can answer if you can.
THE WITNESS: Having not read the entire provision right now --
ATTORNEY WINTER: To be clear, if you need

Page 121

to read the provision, you can read the provision to answer counsel's question.
THE WITNESS: Well, maybe I'll take some time to read this actual provision, then.
Okay. So based on my review of 6.2A, correct that a majority in interest of the limited partners based on their capital contributions that would need -- we need approval from that group. OpenAI would need approval from that group before it could take any actions which are listed as major decisions, as defined.
BY ATTORNEY EYNON:
Q. Was Microsoft's capital commitment of 1 billion much bigger than the capital commitments of all of the other limited partners combined?
ATTORNEY WINTER: Objection to form.
THE WITNESS: The capital commitment of 1 billion is larger than the capital invested by the other first closed limited partners.
BY ATTORNEY EYNON:
Q. Yeah. I think earlier you said that the capital commitment of the other first closed limited partners was something like 190 million?
A. Yeah. I mean, we could add it up in Schedule A; but, yes, I think it roughly comes out

Page 122

to 198 million.
Q. And 1 billion is significantly larger --
A. Yes.
Q. -- than 190 million?
A. Correct.
Q. Under this 6.2 provision, would Microsoft, therefore, have the majority of the voting share as measured by its capital contribution?
A. At this particular time, if the limited partners did not change, yes, Microsoft would have the majority --
Q. Okay.
A. -- in any limited partner vote.
Q. Only a few more questions, and then we can take a break.
Do you know whether this provision, including the major decisions provision, was in the original limited partnership agreement we looked at earlier?
A. I don't recall off the top of my head. The -- are you referring to the 2018?
Q. Yes. So it would be under Section 6.2 in that agreement.
A. Yeah. It doesn't appear that there's any major decisions defined term in here.

Page 123

Q. Okay.
Do you know whether Microsoft asked for this major decisions provision in the July 2019 -- to be added to the July 2019 limited partnership agreement?
ATTORNEY WINTER: Objection.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Okay.
If you would turn to the page stamped 59963, there's a defined term here for major decisions.
It says "major decisions shall include the following," and a list of -- a list follows.
Item 7 in the list says:
[As Read] Effect or permit a merger division or consolidation of the partnership with or into another person that would have a material adverse effect on the partnership or result in a conversion, division, transfer, or domestication of the partnership to another form or jurisdiction or knowingly take or permit any other action to occur that would adversely affect or otherwise

Page 124

alter the structure of the partnership.
Are changes to the structure of OpenAI one of the situations that falls under this definition of major decisions?
ATTORNEY WINTER: Objection to form. Document speaks for itself.
You could answer, if you can.
THE WITNESS: Yeah, I don't think any change to the structure would necessarily trigger romanette 7 of major decisions. I think -- again it's kind of laid out in the definition certain types of changes to the structure that would have material adverse affect on the partnership or result in a conversion, et cetera, et cetera, would trip the major decision definition.
BY ATTORNEY EYNON:
Q. I read it to say that would affect or permit a merger division or consolidation of the partnership, et cetera, et cetera, that would have a material adverse affect on the partnership or result in a conversion, division, transfer, or domestication of the partnership to another form or jurisdiction or knowingly take or permit any other action to occur that would adversely affect or otherwise alter the structure of the partnership?

Page 125

ATTORNEY WINTER: Objection. Is that a question?
BY ATTORNEY EYNON:
Q. Do you -- so let me ask you again.
Does this provision require the limited partners to approve any change in the structure of OpenAI LP?
ATTORNEY WINTER: Objection to form. Asked and answered. Document speaks for itself.
And I'll also instruct the witness not to reveal any privileged legal advice in connection with this provision or any other aspect of the agreement.
THE WITNESS: I think what you just laid out is the actual definition of the term; so I'm not going to disagree with that. There is a proviso coming after that, but yeah.
BY ATTORNEY EYNON:
Q. Okay.
Does this provision -- does the -- does this provision effectively require that Microsoft approve any change to the structure of the limited partnership?
ATTORNEY WINTER: Objection. Misstates his testimony.

Page 134

Under this provision, did the nonprofit and the limited partnership retain final decision-making authority over whether models were safe enough to release?

ATTORNEY WINTER: Objection to form.

THE WITNESS: Won't speak to the details of this whole safety review process, but I do -- my understanding is that there was a joint safety review process as part of the JDCA where both Microsoft and OpenAI would review any major large model deployments for safety and other criteria and would jointly decide on whether that criteria had been met.

I don't know whether, to the level of specificity, if there was a deadlock or -- or other kind of situation, who ultimately retained control or how that would play out.

BY ATTORNEY EYNON:

Q. Thank you.

Looking at the provision -- the safety review provision in this agreement, does it provide that LP and OpenAI will make a final decision on safety review?

ATTORNEY WINTER: Objection to form.

THE WITNESS: I won't speak for the whole

Page 135

contract as to whether there are other kind of provisions that might apply in any kind of dispute resolution.

I think the language you are quoting specifically kind of speaks for itself. LP and OpenAI will make a final decision on safety review.

BY ATTORNEY EYNON:

Q. Do you know whether the joint safety board was created under later versions of this JDCA agreement?

ATTORNEY WINTER: Objection to form.

THE WITNESS: I don't recall.

ATTORNEY EYNON: Okay.

You can set this aside.

And I will now mark Exhibit 18.

(Exhibit 18 was marked for identification.)

BY ATTORNEY EYNON:

Q. This -- this document has beginning Bates stamp MSFT_MUSK000064573.

Mr. Wu, what is this document?

A. This appears to be the second amended and restated limited partnership agreement of OpenAI LP.

Q. And what's the date on the document?

A. March 6th, 2021.

Page 136

Q. Under this agreement, did Microsoft agree to invest an additional $2 billion into OpenAI?

A. Yes. I believe this is the agreement that -- or the amendment to the LP that was entered into in connection with Microsoft's investment in 2021.

Q. Did the OpenAI board vote to approve this deal?

A. I believe, yes, OpenAI's board -- OpenAI, Inc.'s board voted to approve this deal.

Q. Did the entire board vote to approve it or just certain members of OpenAI, Inc.'s board?

A. I don't recall.

Q. Would you please turn to Schedule A, which begins on page 64658.

Does this schedule reflect the capital commitments and the target redemption amounts for the limited partners?

A. Yes.

Q. On the second page of Schedule A, does this agreement show both of Microsoft's capital commitments?

A. Yes.

Q. At this point had Microsoft already contributed all of its $1 billion initial capital

Page 137

commitment to OpenAI LP?

A. I don't know.

Q. Do you know when Microsoft contributed its second $2 billion capital commitment?

A. I don't know. There is a contribution, and then part of that is also credited against compute build-out.

Q. The target redemption amount for Microsoft's second $2 billion commitment is set at $12 billion.

That's a six-times return multiple; right?

A. Correct.

Q. How did OpenAI arrive at that multiple?

A. I don't know how the board and Microsoft arrived at that specific multiple. Again, all of these investments, I think, were a balancing of ensuring that the nonprofit received good terms but also balanced the need to attract top investors and bring in the capital needed to advance the mission.

Q. Why was the multiple for this second capital commitment lower than the 20X multiple for Microsoft's first-round investment?

A. I don't know specifically why it was lower or why it was set at 2X. Again, I think years had passed at that point, and given -- taking into

Page 142

the agreement?
A. Sorry, the provision was 6.2?
Q. 6.2A.
A. 6.2A does state that any major -- before any major decision can be taken, the approval of the majority and interest of limited partners is required.
Q. At this point, did Microsoft still have the vast majority of the voting shares under this provision as determined by capital contributions?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Microsoft did hold a majority of the capital contributions made by limited partners at this time in March 2021.
BY ATTORNEY EYNON:
Q. And under this agreement, did major decisions still include restructuring decisions?
And if you can turn to page -- the page ending 64587.
ATTORNEY WINTER: Objection to the form.
THE WITNESS: In this particular agreement major decisions, if you're referring to romanette 7, do cover certain actions, including merger division or consolidation or actions that would adversely affect or otherwise alter the structure of the

Page 143

partnership.
ATTORNEY EYNON: Thank you. You can set that aside. And I will now mark Exhibit 19.
(Exhibit 19 was marked for identification.)
BY ATTORNEY EYNON:
Q. In connection with -- well, first, let me state for the record that Exhibit 17 is a document with beginning Bates stamp --
ATTORNEY WINTER: I think we're on 19.
ATTORNEY EYNON: Oh, Exhibit 19 is a document with beginning Bates stamp OPENAI_MUSK0010268.
BY ATTORNEY EYNON:
Q. Mr. Wu, what is this document?
A. This appears to be the amended and restated draft of the joint development and collaboration agreement that was entered into effective March 5th, 2021.
Q. Okay.
And what -- oh, great.
In connection with Microsoft's -- did Microsoft enter into this agreement in connection with its additional $2 billion investment?
ATTORNEY WINTER: Objection to form.

Page 144

THE WITNESS: Microsoft did enter into this amended and restated JDCA at around the same time as it entered into the limited partnership agreement on March 6th, 2021.
BY ATTORNEY EYNON:
Q. On the first page of the terms and conditions in this agreement, there is a term "AGI" or artificial general intelligence that's -- that states:
[As Read] AGI or artificial general intelligence means a highly autonomous system that outperforms humans at most economically valuable work.
How did OpenAI come up with that definition of AGI?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Does this term reflect what OpenAI understood AGI to be at the time it executed this agreement?
ATTORNEY WINTER: Object as outside the scope.
You can answer if you can.
THE WITNESS: I don't know.

Page 145

BY ATTORNEY EYNON:
Q. Directing you to -- if you turn the page, on the page with Bates stamp ending in 10272, there's a term "Licensed IP."
Did Microsoft license additional OpenAI IP under this agreement?
ATTORNEY WINTER: Objection to the form.
THE WITNESS: Based on my understanding, the second -- or, sorry, the amended and the restated JDCA, Microsoft did get a license to certain IP that was not defined as licensed IP in the JDCA of 2019.
BY ATTORNEY EYNON:
Q. What additional IP did OpenAI license to Microsoft under this agreement?
A. I can't speak to that with any level of specificity. I can't speak to the technical details of everything that is laid out in licensed IP, but I do know that Microsoft did receive a license to certain of OpenAI's IP at that time that this was entered into.
Q. This provision states that:
[As Read] Licensed IP means all (i) trained models of LP, OpenAI, or both (or of any of their respective affiliates)

developed at any time during the term, (ii), GPT-3, and (iii) the Odyssey Period Models, in each case, in object code form. For clarity, Licensed IP excludes: (x) any research; (y) all related IP; and (z) AGI.

What are trained models?

ATTORNEY WINTER: Objection to the form.

THE WITNESS: I don't know if I can speak to that with any technical detail. We can look at the definition. It looks like it's a model for which the parameters and model weights perhaps have been fixed and completed.

BY ATTORNEY EYNON:

Q. What is GPT-3?

A. That is the name of one of OpenAI's models that, I believe, was in development or perhaps launched around this time in 2021.

Q. What are the Odyssey period models referred to in this provision?

A. I don't know.

Q. On the following page, there's a definition of Odyssey period models. It says:

[As Read] Odyssey period models means trained models other than GPT3 developed

by LP or OpenAI before the effective date during the period commencing on July 2nd, 2019.

So is an Odyssey period model a trained model developed after the first JDCA but before the effective date of this agreement?

A. Based on my view of this definition, yes, it appears that it's trained models as defined other than GPT-3 developed by OpenAI --

Q. Okay.

A. -- between July 2nd, 2019, and March 5th, 2021.

Q. Okay.

Was AGI excluded from the licensed IP under this agreement?

A. Based on my review now, it looks like AGI was excluded from the defined term "licensed IP."

Q. Why was AGI excluded?

ATTORNEY WINTER: Object to the form.

THE WITNESS: I don't know.

BY ATTORNEY EYNON:

Q. Other than -- well, directing you, first, to page 10283, there's a provision here titled "Commercialization of Licensed IP and Related IP."

Did this give -- did this agreement give

Microsoft the right to commercialize OpenAI's IP in its own products?

A. My understanding is that Microsoft did receive a license to commercialize certain licensed IP pursuant to this agreement. I can't speak to the specifics of exactly all of the licensed IP that was permitted to be commercialized but --

Yeah.

Q. Do you know -- do you know what specific product -- Microsoft products used OpenAI's intellectual property under this 2021 JDCA?

A. I don't.

Q. Romanette 3 on this page is "Commercialization Revenue." That provision states:

[As Read] Microsoft and it's affiliates will receive all revenue generated by any party during the term and by Microsoft or its affiliates after the term through commercialization of licensed IP, related IP, or foreground IP.

Does this provision entitle Microsoft to revenues net of production costs for products developed jointly by OpenAI -- with OpenAI?

ATTORNEY WINTER: Objection to the form.

THE WITNESS: I can't speak to whether --

the exact definition of revenue and whether it was net production costs; but based on my review of this and my understanding of general framework, Microsoft did receive a right to certain revenue generated by certain IP under this agreement.

BY ATTORNEY EYNON:

Q. Looking at the second sentence, it says:

[As Read] For licensed products jointly developed between Microsoft and LP, OpenAI, or both, or developed independently or otherwise independently commercialized by LP, OpenAI, or both, Microsoft will receive such net revenue net of any reasonable, actual, and documented direct production costs incurred by LP, OpenAI, or both.

Under this provision, was Microsoft entitled to the revenues net of production costs for products developed jointly with OpenAI?

ATTORNEY WINTER: Objection to the form.

THE WITNESS: For licensed products jointly developed, as defined in this agreement between Microsoft and OpenAI, yes, it appears Microsoft would receive revenue net of any reasonable, actual, and documented direct production

Page 150

costs.
BY ATTORNEY EYNON:
Q. Does this provision entitle Microsoft to revenues net of production costs for products developed by OpenAI, Inc., or OpenAI LP independent of Microsoft?
A. I can't speak to the entire agreement, but based on this particular sentence for licensed products jointly developed, as defined between Microsoft and LP, OpenAI, or both, or developed independently, yes, Microsoft would receive revenue net of any reasonable actual and documented production costs.
Q. Did OpenAI pay any such revenues to Microsoft?
ATTORNEY WINTER: Objection to the form.
Also register an objection that's outside the scope to the extent it's beyond the terms of the agreement.
But you can answer if you can.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Was the intellectual property license under this agreement exclusive to only OpenAI and Microsoft?

Page 151

ATTORNEY WINTER: Objection.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Are you -- oh, go ahead.
A. Oh, if you're asking about this agreement, my understanding is, yes, this agreement just covered a license between Microsoft and OpenAI directly. It didn't contemplate other third parties, to my knowledge.
Q. Are you aware of whether OpenAI licensed the intellectual property covered by this agreement to any third party?
A. I --
ATTORNEY WINTER: Objection to the form. Outside the scope.
You can answer if you can.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Okay.
Turning to the page with Bates stamp ending in 10286, there is a provision F, "Onsite Engineers."
Does this provision give Microsoft the right to embed ten engineers with OpenAI?
A. I think subject to this whole agreement,

Page 152

which looks like there are a lot of conditions and all of that, generally there was a framework where up to a limited amount of Microsoft engineers could be on site at OpenAI.
Q. Did Microsoft, in fact, embed engineers with OpenAI?
A. My understanding is, yes, there had been, through time, Microsoft engineers on site.
Q. Do you know how many engineers Microsoft embedded with OpenAI after this agreement was executed in March 2021?
ATTORNEY WINTER: I'll object as outside the scope.
You can answer if you can.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Beyond what we've discussed, was Microsoft entitled to any additional intellectual property rights under this agreement?
A. I don't know.
Q. Okay.
Turning to the page -- oh, well, turning to the bottom of this page, there's a provision G, "Safety Review."
The provision begins:

Page 153

[As Read] Microsoft, LP, and OpenAI collectively commit to treat the development of all artificial intelligence systems that both implement licensed IP, related IP, or AGI and involve neural network models above the safety-critical thresholds as being safety critical and requiring formal life-cycle management of safety, including management of security and ethics impacts and concerns.
The provision goes on to say:
[As Read] The parties also recognize that Microsoft's intent in entering into this agreement is to obtain access to the licensed IP and related IP primarily for commercial use and implementation in license products of Microsoft or its affiliates.
Did OpenAI, in fact, recognize that Microsoft was entering into the agreement with the intent to commercialize OpenAi's LP?
ATTORNEY WINTER: Objection to the form.
THE WITNESS: I think the contract kind of speaks for itself that Microsoft was licensed IP with the ability to commercialize that IP.

Page 154

BY ATTORNEY EYNON:
Q. Did OpenAI understand that releasing new products was important to achieving Microsoft's goals for the agreement?
ATTORNEY WINTER: Objection.
THE WITNESS: Sorry. Can you repeat that question.
BY ATTORNEY EYNON:
Q. Did OpenAI understand that releasing new products was important to achieving Microsoft's goals for this agreement?
ATTORNEY WINTER: Objection.
ATTORNEY JURATA: Objection. Form.
THE WITNESS: I can't speak to exactly what people back then recognized. My understanding is that this agreement itself covers certain terms, including Microsoft's ability to commercialize products -- or commercialize IP.
BY ATTORNEY EYNON:
Q. Turning to the next page, there's a provision "Deployment Safety Board."
Does this provision require Microsoft and OpenAI to form a joint Deployment Safety Board?
ATTORNEY WINTER: Objection to form.
THE WITNESS: This provision does seem to

Page 155

contemplate forming a joint new body -- or, sorry, I take that back.
Will form a new body to adjudicate matters related to deploying advanced AI models.
BY ATTORNEY EYNON:
Q. Is the process described here different from how the safety review process worked under the 2019 JDCA we looked at previously?
A. I can't speak to that level of specificity. I know that in both the 2019 version and the 2021 version of the JDCA, safety was a critical component of the arrangement and very important for both parties that were entering into this. And I think both parties recognized that.
But I don't think I'm qualified to get into the specifics of all of the processes.
Q. Does the 2019 JDCA provide for a joint Deployment Safety Board?
A. I don't recall.
I don't recall.
Q. Directing you to page 10307, Exhibit -- which is Exhibit E to this agreement.
Does this exhibit set out the provisions governing the Deployment Safety Board?
A. Having not read this entire Exhibit E in

Page 156

detail, and all of the cross-references and other information that may be in it, it does appear to lay out a framework for the Deployment Safety Board.
Q. Mm-hmm.
Table E1 lists the DSB members.
Are those the members of the Deployment Safety Board?
ATTORNEY WINTER: Objection to the form.
THE WITNESS: It appears, at least at the time this contract was entered into, it was contemplated that these individuals would be the initial members of the DSB.
BY ATTORNEY EYNON:
Q. Okay.
There are three Deployment Safety Board members from OpenAI, including Sam Altman, and there are three members from Microsoft, including Kevin Scott.
Who decided what individuals would be members of this Deployment Safety Board?
A. I don't know.
Q. Turning to page -- still in Exhibit E, page 10309, there's a Section 4, "Decisions."
(Court reporter clarification.)
///

Page 157

BY ATTORNEY EYNON:
Q. Beginning with the second sentence, this reads:
[As Read] A decision to improve a potential deployment in response to a request for deployment safety review requires a simple majority decision of those members of the DSB present.
The next sentence says:
[As Read] If a deployment safety review vote is tied, the vote will be decided in OpenAI and LP's favor.
Under this provision, if Sam Altman, plus the three Microsoft safety board members, decided that a product was safe to release, would the product be released even if the other two OpenAI members voted against it?
ATTORNEY WINTER: Objection to the form.
Also outside the scope to the extent it raises matters outside the terms of this agreement.
You can answer if you know.
THE WITNESS: Based on my review right now, Section 4, if four out of six members of -- of the DSB are present and they approve, that would -- that would approve a deployment even if there were

Page 158

two voting against.
BY ATTORNEY EYNON:
Q. Do you know whether any OpenAI board members raised concerns about that arrangement?
ATTORNEY WINTER: Objection to the form. Lacks foundation.
You can answer if you can.
THE WITNESS: I don't know.
ATTORNEY EYNON: Okay. I'd like to mark Exhibit 20.
And then after that would probably be a good time to break for lunch.
ATTORNEY WINTER: Sure.
ATTORNEY EYNON: If that works for you all.
ATTORNEY WINTER: Sure.
(Exhibit 20 was marked for identification.)
BY ATTORNEY EYNON:
Q. This document has a beginning Bates stamp OPENAI_MUSK00030220.
And it's an email from Chris Clark to some OpenAI recipients on December 15th, 2020.
Does this email request approval from the board to allow Sam Altman, Tasha McCauley, and

Page 159

Shivon Zilis to act as authorized independent directors to finalize/approve deal terms with Microsoft?
ATTORNEY WINTER: Objection to the form. I think this is outside the scope.
You can answer if you can.
THE WITNESS: Reviewing this email for the first time, it appears that it is seeking -- we're on bcc. Okay -- board approval for Sam, Tasha and Shivon to finalize and negotiate the deal terms with Microsoft, subject to them being reasonably within the parameters described in a attached term sheet, which is not included in this email.
BY ATTORNEY EYNON:
Q. Why did OpenAI appoint a committee to finalize the deal with Microsoft?
ATTORNEY WINTER: Objection to the form. Lacks foundation. Outside the scope.
You can answer, if you can.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Do you know how these three people were selected to approve the Microsoft deal?
ATTORNEY WINTER: Same objections.
THE WITNESS: I don't know.

Page 160

BY ATTORNEY EYNON:
Q. Do you know why Sam Altman was considered an independent director for the purposes of the Microsoft deal?
ATTORNEY WINTER: Same objections.
THE WITNESS: I don't know.
ATTORNEY EYNON: Okay.
This is a good time to break for lunch.
THE VIDEOGRAPHER: We're going off the record at 1:32 PM Pacific Time.
(A break was taken.)
THE VIDEOGRAPHER: We're back on the record at 2:27 PM, Pacific Time.
ATTORNEY EYNON: I will now mark Exhibit 20 -- 21, thank you.
(Exhibit 21 was marked for identification.)
ATTORNEY EYNON: This is a document with beginning Bates stamp MSFT_MUSK000035611. It is an email chain from February 2022 with some Microsoft employees, Sam Altman, Jason Kwon, and Brad Lightcap at OpenAI; and the subject is "OpenAI Restructure."
If you would turn to the second page. In the bottom email, Sam Altman wrote:
[As Read] We are working on a

Page 161

restructure to OpenAI to address some of the challenges we faced with our unusual structure, a nonprofit being in control of a LLC, as we become a more commercial effort.
BY ATTORNEY EYNON:
Q. Was Mr. Altman the CEO of OpenAI at this point?
A. Yes. Mr. Altman was the CEO of OpenAI.
Q. Was Mr. Altman a member of OpenAI's board of directors at this time?
A. Yes.
Q. In your understanding, was Mr. Altman's email consistent with the view of OpenAI's board?
A. Are you referring --
ATTORNEY WINTER: Hold on. Objection to the form.
You can answer, if you can.
THE WITNESS: I'm not -- I don't know whether the specific email from Mr. Altman on February 5th, 2022, was something specifically discussed or approved at the board level at that point.
BY ATTORNEY EYNON:
Q. In 2022, was the board discussing

scope.
You can answer, if you know.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Do you know whether these slides were prepared by OpenAI?
A. I don't know.
Q. These slides were -- you can tell from the Bates number on the bottom, these slides were produced by Microsoft, but they were not produced to us by OpenAI in this litigation.
Do you know why that is?
ATTORNEY WINTER: Objection to form. Lacks foundation.
You can answer, if you know.
THE WITNESS: I don't know.
BY ATTORNEY EYNON:
Q. Okay.
Turning to the first page -- the second page, this is a slide with a "Title OpenAI Restructure Objectives."
The second bullet here says:
[As Read] Remove nonprofit from formal control to mitigate private benefit risk.

At this time in February 2022, was OpenAI contemplating removing the nonprofit's control over the for-profit entity?
A. I don't know.
Q. When did OpenAI's board first contemplate a restructuring that removed nonprofit control over the for-profit entity?
ATTORNEY WINTER: Objection to form. Lacks foundation.
THE WITNESS: The board, from time to time, in '24 -- sorry, in 2024 with the mission and strategy committee had discussed potential modifications to the structure always with the intent of ensuring that the structure was best set up to ensure that the nonprofit could advance the mission.
I'm not aware of any formal proposal for consideration or approval by the board with respect to the nonprofit -- removing the nonprofit from formal control.
BY ATTORNEY EYNON:
Q. Do you know what it means to mitigate private benefit risk?
ATTORNEY WINTER: Objection. Outside the scope.

I'll also instruct you not to answer to the extent it would require you to reveal any privileged legal advice.
Subject to that instruction, you can answer, if you can.
THE WITNESS: Just as a general matter, I believe private benefit risk relates to nonprofit tax law, but I won't, I think, go into privileged information there.
BY ATTORNEY EYNON:
Q. Would you turn to the last page of this document which has Bates number ending 54865.
Looking at the second line -- sorry.
Looking at the third line, the -- it -- the commentary box says:
[As Read] The OpenAI nonprofit would transform from GP control to a set of control rights related to the OAI mission, all of which it has today.
Did OpenAI's board consider a restructuring under which the OpenAI nonprofit would transition from general partner control to a set of rights related to the mission?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I'm not aware of any formal

proposal for the board to approve the OpenAI nonprofit transitioning to a set of control rights related to the OpenAI mission.
BY ATTORNEY EYNON:
Q. Okay.
Directing you to the box with -- the row that has the box "MS Ownership and Profit Cap" in this. The commentary in this box said:
[As Read] No targeted changes to MS's ownership, preference, or profit cap amounts. However, transitioning the nonprofit from GP control to control rights may require the nonprofit to receive some value. This may impact the profit waterfall, but we do not expect it to be significant. MS plus OAI to discuss.
At this time, was OpenAI's board considering a restructure under which the nonprofit received some value in exchange for giving up its control rights?
ATTORNEY WINTER: Objection.
THE WITNESS: Based on this document, it appears that this was being discussed between Brad and members of Microsoft. I'm not aware of any

Page 170

formal proposal presented to the board where the nonprofit would transition to certain control rights and receiving value in return.
BY ATTORNEY EYNON:
Q. Has OpenAI's board ever considered a restructuring under which the nonprofit would give up control rights in -- without receiving value in return or compensation in return?
A. I'm not aware of any discussions at -- or any proposals at the board level where the nonprofit would give up control rights and not receive value in exchange.
ATTORNEY EYNON: Okay.
I'd now like -- you can set that aside, and I'd like to mark Exhibit 23.
(Exhibit 23 was marked for identification.)
BY ATTORNEY EYNON:
Q. This document has beginning Bates number MSFT_MUSK000055001.
Mr. Wu, what is this document?
A. This appears to be the amended and restated LLC agreement of OpenAI Global, LLC, dated January 23rd, 2023.
Q. Okay.

Page 171

Under this agreement, was the for-profit entity in OpenAI's structure now an LLC?
A. I don't recall the exact timing of the steps, but my understanding is that OpenAI Global, which is an LLC, became the holding company for the capped-profit subsidiary.
Q. Turning to Schedule A, which is -- starts on the page with Bates ending 55085.
Does this schedule list the capital commitments, capital contributions, and target redemption amounts for members of the LLC?
A. Yes.
Q. Okay.
The first entity listed here is Aestas LP? What is that entity?
A. My understanding is that that was the entity that was formerly known as OpenAI Holdings LP and changed its name to Aestas LP.
Q. Under this -- on this schedule, did OpenAI, Inc.'s capital commitment, capital contribution, and target redemption amounts remain the same as in the prior LP agreement? The 2021?
A. I believe that's correct. The capital commitment and TRA remain unchanged from the 2021 LP agreement.

Page 172

Q. Okay.
On the following page -- actually, the next, next page, 55087, there, Microsoft's second capital commitment of $2 billion is listed.
Does this schedule reflect that, at this point, Microsoft had only contributed 1 billion of that $2 billion commitment?
A. I believe that's correct, although there's a footnote that says inclusive of funds in the escrow account, which I think gets into a level of detail I -- I'm not going to speak to at this point.
Q. Did Microsoft subsequently contribute the -- the full $2 billion capital commitment?
A. My understanding is they have committed -- or contributed the full 2 billion. Although, there's -- again, some of that is, I believe, without getting into all of the technical details, credit for compute spend and all of that.
Q. Under the -- the next entry in this schedule reflects that Microsoft made a capital commitment of $10 billion.
Is this a new -- under this agreement, had Microsoft agreed to contribute an additional $10 billion to OpenAI?
A. Under this agreement, Microsoft did make

Page 173

an additional capital commitment of $10 billion. Again, I think similar to prior -- prior versions of this partnership, a portion of that was actual cash contributed, and a portion of that was for compute.
Q. The target redemption amount for Microsoft's $10 billion investment is $60 billion.
That -- is that a six-times return on investment?
A. Correct.
Q. What did the OpenAI board do to determine whether that 6X return was reasonable and fair to the nonprofit?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I think similar to prior investments made by Microsoft and prior investments made by other investors, the board took into consideration, first and foremost, what was in the best interests of the nonprofit's mission.
And then taking into consideration that, the timing, the partnership with Microsoft, including the commercial agreement, and balancing things like investability, made the determination that a 6X return -- or a 6X target redemption amount on capital committed was in the best interests of the mission.

Page 174

BY ATTORNEY EYNON:
Q. Did the board do any quantitative analysis to determine whether this 6X return was appropriate?
A. I -- I don't know.
Q. Did the board do any financial modeling to determine whether the 6X return was appropriate?
A. I don't know about specific financial modeling.
Q. Do you understand that your counsel agreed that you would testify about OpenAI's fixed maximum return and capped-profit structures, including the process by which OpenAI determined the profit maximums or caps for those structures?
A. I do.
Q. But you can't tell me whether the board performed any quantitative analysis at all to determine whether this -- this cap was appropriate?
ATTORNEY WINTER: Objection.
I'll just note for the record that the witness has answered the question about the process that was used to determine the matter specified in the topic.
And subject to that -- that notation, you can answer if you can.
THE WITNESS: Yeah.

Page 175

I mean, I can speak to the board having met with management and the team that was negotiating this deal with Microsoft.
And they did review the terms, including all of the terms beyond just the investment, as well, taking into consideration the compute that was necessary, talent, the state of the company and the industry at that point, and made a determination that this deal was fair and in the best interests of the mission.
I can't speak to specific financial modeling or analysis that was done.
BY ATTORNEY EYNON:
Q. And you don't know whether any of that was done?
A. I don't.
Q. Okay.
Do you know whether the OpenAI board did anything to determine whether it would be able to pay Microsoft the 6X return it had promised?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Again, I think the board took into consideration the investment, the capital that it was receiving, the commercial terms, and the partnership that it was entering into with Microsoft

Page 176

and determined that this was in the best interests of the mission.
I don't know if it specifically did an analysis on the payback to Microsoft of the target redemption amount.
BY ATTORNEY EYNON:
Q. Okay.
You don't know if it did any modeling to determine whether it would have sufficient profits to pay Microsoft back?
ATTORNEY WINTER: Objection.
THE WITNESS: My understanding is that the board would've considered the state of the business at that point, and I think that would've considered the financials and the commercial operations of the for-profit subsidiary and other operational and financial metrics.
I'm not aware of the specific financial analysis, and I probably can't speak to that level of specificity.
BY ATTORNEY EYNON:
Q. Well, and -- okay.
Under this agreement, based on the target redemption amounts in this schedule, how much would the limited partners have to be paid before the

Page 177

nonprofit received any residual proceeds?
A. Based on my kind of back-of-the-napkin math here, appears that the total target redemption amounts for all of the limited partners, including the nonprofit and Microsoft, amounted to north of 250 billion.
And the residual, the nonprofit-specific residual interest, would not be paid until those target redemption amounts were paid out.
Q. Okay.
Directing you to page 55041, this is Section 6.2A again.
Under this agreement, did the LLC members retain control over major decisions?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Based only on review of Section 6.2A, I would agree that the approval of a majority in interest of the limited partners or members here, based on their capital contributions, is required for the company to take any actions that would constitute a major decision, as defined.
BY ATTORNEY EYNON:
Q. Because Microsoft had the largest investment in economic terms, did it also have, by far, the greatest voting share for major decisions

further amendment to the JDCA?
ATTORNEY WINTER: Objection to form.
THE WITNESS: My understanding is that both the global -- or sorry -- the global amended and restated LLC agreement of OpenAI Global and this second amended and restated joint development and collaboration agreement were entered into on the same day.
BY ATTORNEY EYNON:
Q. Turning to the page with Bates stamp ending 10534, there's a term "Licensed IP."
This says:
[As Read] Licensed IP means all of OpenAI's and OpCo's background IP, 2, foreground IP including OpCo's and OpenAI's interest in any jointly developed foreground IP and, 3, improvements to OpCo's and OpenAI's and OpCo's background IP in each -- in each case of the foregoing clauses.
The last sentence in this provision says:
[As Read] For clarity, licensed IP explicitly includes all IP and technology of OpenAI, OpCo, or both, excluding only AGI.

Under this agreement, did OpenAI give Microsoft a license to all of OpenAI's intellectual property except AGI?
ATTORNEY WINTER: Objection to form.
THE WITNESS: Based kind of on a review of this definition of "licensed IP" and the definitions of "IP" and "technology" in this agreement, it does appear that OpenAI, Inc., OpCo, licensed all IP and technology as defined in this agreement, excluding only AGI.
BY ATTORNEY EYNON:
Q. Did OpenAI own any intellectual property at this point -- OpenAI, Inc.?
ATTORNEY WINTER: Objection to the form. Outside the scope.
You can answer, if you know, or can.
THE WITNESS: I don't know specifically what IP if any that the nonprofit held at this specific time.
BY ATTORNEY EYNON:
Q. Does the -- does this agreement provide for a broader IP license than the intellectual property license Microsoft had under the 2021 JDCA that we reviewed?
ATTORNEY WINTER: Objection to form.

THE WITNESS: I can't speak to the specifics of the IP that was included. I think if you look at the definition of licensed IP and compare it to the definition of licensed IP in the prior iteration of the JDCA, there are -- you know, subject to kind of me understanding all of the specific defined terms, it does appear that it is broader.
BY ATTORNEY EYNON:
Q. Did the prior JDCA provide for license to all of OpenAI's intellectual property?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I don't believe it did.
BY ATTORNEY EYNON:
Q. Was one of the purposes of this agreement to allow Microsoft to commercialize OpenAI's intellectual property?
ATTORNEY JURATA: Objection. Form.
THE WITNESS: I won't speak to the purposes, but my understanding is that the second amended and restated JDCA does permit Microsoft to commercialize licensed IP.
BY ATTORNEY EYNON:
Q. Okay.
On page 10543, there is a term "Commercial

Use Model Training."
It says:
[As Read] The primary purpose of this agreement is to provide for the commercial use of license products powered by licensed IP.
Was the primary purpose of this agreement to permit Microsoft to commercialize licensed products powered by licensed IP?
ATTORNEY WINTER: Objection.
THE WITNESS: I think there's a very specific definition of "commercial use" and licensed products licensed IP. I think that provision you just read kind of speaks for itself.
The primary purpose is to provide for the commercial use as defined of -- licensed products as defined, powered by licensed IP as defined.
BY ATTORNEY EYNON:
Q. Okay.
What licensed IP did OpenAI and Microsoft commercialize under this agreement?
A. I don't know the specifics of what Microsoft commercialized using licensed IP.
Q. Turning to page 10549, there is a provision -- romanette 3 is "Commercialization

Page 194

with Bates stamp OPENAI_MUSK00037714.
Does this organizational chart reflect the structure that OpenAI, Inc., and its related entities had in 2023?
A. I believe this reflects the organizational chart of OpenAI, Inc., and its related entities as of 2024.
Q. Okay.
Does this reflect the structure of OpenAI, Inc., and its related entities today?
A. My understanding is that there have been some additional entities added, for example, foreign international subsidiaries underneath OpenAI LLC; but I think, materially, things have been the same as of -- as today as compared to 2024.
Q. Is there anything about this organization chart that is inaccurate?
ATTORNEY WINTER: Objection to form.
THE WITNESS: I -- again, I think there have been certain changes with respect to international subsidiaries and an acquisition that was done; but I think, with respect to OpenAI, Inc., down to OpenAI Global and Aestas, it is -- it has stayed the same.
///

Page 195

BY ATTORNEY EYNON:
Q. During the restructuring that brought about the structure in this organizational chart, did the nonprofit OpenAI, Inc., transfer any additional assets to any for-profit entity?
ATTORNEY WINTER: Objection to form.
THE WITNESS: During the restructuring of the for-profit subsidiaries back in April -- I think April or May of '23, I'm not aware of any contribution of assets from Inc. downwards.
BY ATTORNEY EYNON:
Q. Does OpenAI, Inc., still have employees today?
A. I don't believe it has any full-time employees. It has a board of directors, and Sam is the CEO.
Q. Is he employed by OpenAI, Inc., the nonprofit?
A. I don't believe he is actually a --
ATTORNEY WINTER: Sorry. I'm going to object as outside the scope, I think.
But you can answer if you can.
THE WITNESS: I don't know technically if he is an employee in terms of on payroll sort of stuff.

Page 196

BY ATTORNEY EYNON:
Q. Do any entities besides -- well, which entity employs the majority of OpenAI's employees?
A. I believe the -- the majority of employees are employed by OpenAI OpCo LLC, OpenAI LLC, or the -- in the case of international employees, international subsidiaries underneath OpenAI.
Q. Okay.
Are those -- are the four entities listed at the bottom of this chart international subsidiaries of OpenAI?
A. Correct.
Q. Okay.
And which of those four entities have employees?
A. I don't know the specifics. My understanding is that each of those has employees based in those specific countries.
Q. Beyond OpenAI OpCo LLC, OpenAI LLC, and the four entities listed at the bottom of this chart -- OpenAI Japan Ltd., OpenAI UK Ltd., Summerlight Technologies Ltd., and OpenAI Ireland Ltd. -- do any other entities shown on this chart have employees?
ATTORNEY WINTER: Is this time-bound as of

Page 197

a certain date?
I believe the witness testified there may have been changes to the international structure since the chart, and I want to just make sure record is clear on that.
THE WITNESS: Well, let me ask both questions.
BY ATTORNEY EYNON:
Q. Do any -- does any other entities beyond those listed that I just listed out have any employees today?
A. I don't know the specifics. My understanding that, as of today, we do have -- or OpenAI LLC and the entities underneath, there are additional international subsidiaries which likely employ local employees in those particular countries.
Q. Does any other entity shown in this chart beyond those that I just listed have employees as of today?
A. Sorry. Other than the entities listed?
Q. Other than the list I just went through; so OpenAI OpCo LLC, OpenAI LLC, and then the four international entities at the bottom of the chart.
Does any other entity shown in the chart

Besides OpenAI, Inc., the nonprofit, do any of the entities shown on this chart have a board of directors?

ATTORNEY WINTER: If there's a document that's helpful for you to refer to in your binder, please feel free to do that in answering counsel's question.

THE WITNESS: Is this another -- oh.

Yeah. I believe, other than OpenAI, Inc., OpenAI -- or, sorry, OAI corporation is a corporation with a board of directors, and then a number of the international subsidiaries have a board of directors as well.

BY ATTORNEY EYNON:

Q. Who is on the board of OpenAI corporation?

A. Adam D'Angelo, Larry Summers, and Brett Taylor are the directors for OAI corporation.

Q. Okay.

And you are looking at Tab 5 in your binder now?

Okay.

A. Correct.

ATTORNEY EYNON: I'd like to mark that as Exhibit 26.

///

(Exhibit 26 was marked for identification.)

BY ATTORNEY EYNON:

Q. Mr. Wu, did you review this document to prepare for your deposition today? Exhibit --

A. This one?

Q. Yes.

A. Yes, I did.

Q. What is this document?

A. I -- this is a list of directors for the for-profit affiliated entities and then past members of OpenAI LP, OpenAI GP LLC, and OpenAI Holdings LP.

Q. Is the information contained in this document accurate?

A. I believe so.

Q. Does this accurately list the board members for OpenAI, Inc., and related entities?

A. I believe so, yes.

Q. Okay. Thank you. You can set that aside.

We've now walked through a series of agreements today between OpenAI and Microsoft, and I'd like to ask you a few questions about those agreements.

A. Okay.

ATTORNEY WINTER: So just -- we've been

about an hour and 15 minutes. Do you have a sense of how long this segment is or is this a good point to take a break?

ATTORNEY EYNON: I think -- let me ask my next few questions and then that would be a great -- with no document -- and then we can take a break.

ATTORNEY WINTER: All right. I'll take that under advisement.

ATTORNEY EYNON: Thank you.

BY ATTORNEY EYNON:

Q. Between 2019 and 2023, did Microsoft's rights in OpenAI's intellectual property increase?

A. I believe between 2019 and 2023, through amendments of the JDCA, there were modifications to their IP rights which kind of evolved over time.

Again, I won't get into the specificity of all of the IP, but if you look at the defined terms in the JDCA, there did appear to be broader categories of IP that were licensed.

Q. Between 2019 and 2023, did Microsoft's decision-making authority about which products were safe to release increase?

ATTORNEY WINTER: Objection to form. Outside the scope to the extent it also calls for testimony in respect of safety matters beyond the

terms of the agreements referenced. To the extent you can answer, please do.

ATTORNEY EYNON: I'm just asking about the terms of the agreements.

ATTORNEY WINTER: Your question was broader than that, that's why I lodged my objection and instruction.

THE WITNESS: I don't know. I can't speak to whether their rights to safety actually expanded.

BY ATTORNEY EYNON:

Q. Do you recall that under the 2019 JDCA that we looked at, OpenAI, Inc., and the LP had final decision-making authority over which products were released?

ATTORNEY WINTER: Objection.

THE WITNESS: I do recall that sentence you pointed out that specifically said OpenAI LP and, Inc. had review. Again, I can't speak to the broader contractual language and whether there were other terms and other agreements that related to launching products.

BY ATTORNEY EYNON:

Q. Do you recall that in the 2021 and 2023 JDCA agreements, there was a joint development -- Deployment Safety Board that had representatives