UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re OpenAI, Inc. Copyright Infringement Litigation This Document Relates to: *Denial et al. v. OpenAI Inc. et al.*, No. 1:25-cv-06286-SHS-OTW	Case No. 1:25-md-3143-SHS-OTW **JOINT STIPULATION AND [PROPOSED] ORDER STAYING *DENIAL* ACTION**

Plaintiffs Catherine Denial, Ian McDowell, and Steven Schwartz ("Plaintiffs") and Defendants OpenAI, Inc. and Microsoft Corporation ("Defendants") (collectively, the "Parties"), hereby stipulate and agree as follows:

WHEREAS, on March 4, 2025, plaintiffs in the action entitled *Tremblay et al v. OpenAI, Inc. et al.*, 1:25-cv-03482-SHS-OTW ("Tremblay Action") then-pending in the United States District Court for the Northern District of California moved for leave to file a Proposed Second Amended Complaint that would have added Microsoft as a Defendant and asserted the following claims ("Motion for Leave to Amend"): (1) Direct Copyright Infringement against all Defendants; (2) Vicarious Copyright Infringement against Microsoft only; (3) Violation of the UCL (Cal. Bus. & Prof. Code §§ 17200 et seq.) against all Defendants; (4) Violation of the California Comprehensive Computer Data Access and Fraud Act (CDAFA) against OpenAI; (5) Violation of the DMCA anti-circumvention provision (17 U.S.C. § 1201) against all Defendants; (6) Violation of the DMCA (17 U.S.C. § 1201(b)(1)) – removal of copyright management information against all Defendants; (7) Conversion against OpenAI; (8) Unjust Enrichment / Quasi-Contract against all Defendants; (9) Breach of Contract as a Third-Party Beneficiary against all Defendants; (10) Violation of the Computer Fraud and Abuse Act (18 U.S.C. § 1030)

against all Defendants; (11) Larceny / Receipt of Stolen Property (Cal. Penal Code § 496(a), (c)) against all Defendants; and (12) Conspiracy to Restrain Trade (15 U.S.C. § 1) against all Defendants;

WHEREAS, the Motion for Leave to Amend was fully briefed as of March 25, 2025, and an oral argument on the motion was scheduled for April 17, 2025;

WHEREAS, on April 3, 2025, the United States Judicial Panel on Multidistrict Litigation ordered various actions brought against Defendants OpenAI, Inc. and Microsoft Corporation be centralized and transferred to the Southern District of New York. *In re OpenAI, Inc., Copyright Infringement Litigation*, No. 1:25-md-03143-SHS-OTW (the "MDL"); *see also id.* ECF 1 at 5, Schedule A (list of the "MDL Actions"); *Authors Guild et al v. OpenAI Inc. et al*., 1:23-cv-08292-SHS-OTW ("*Authors Guild* Action"), *Alter et al v. OpenAI Inc. et al.*, 1:23-cv-10211-SHS-OTW ("*Alter* Action"), Tremblay Action;[1]

WHEREAS, on May 22, 2025, the Court ordered the plaintiffs in the MDL Actions to file a Consolidated Class Complaint excluding any new claims, models, products, or parties that were not already encompassed by the operative complaints in the *Authors Guild*, *Alter*, or *Tremblay* Actions and denied the Motion for Leave to Amend;

WHEREAS, on June 30, 2025, Plaintiffs filed an action captioned *Catherine Denial et al. v. OpenAI Inc. et al.*, No. 3:25-cv-05495, in the Northern District of California (the "*Denial* Action") to assert the claims they sought to add in the Motion for Leave to Amend;

WHEREAS, on June 24, 2025, pursuant to a Conditional Transfer Order from the Judicial Panel on Multidistrict Litigation, the *Denial* Action was transferred to the Southern District of

[1] The *Authors Guild*, *Alter*, and *Tremblay* Actions are collectively referred to herein as the "Consolidated Class Action."

New York for pretrial proceedings as part of the MDL;

WHEREAS, the complaint in the *Denial* Action asserts different claims than those asserted in the operative complaints in the MDL Actions, including claims (1) under California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq; (2) under California's Computer Data Access and Fraud Act (CDAFA), Cal. Pen. Code § 502; (3) for conversion; (4) for unjust enrichment; (5) for breach of contract; (6) under the Computer Fraud and Abuse Act, 18 U.S.C. § 1030; (7) for larceny/receipt of stolen property; and (8) under the Sherman Act for Conspiracy to Restrain Trade, 15 U.S.C. §§ 1 & 3;

WHEREAS, discovery and motion practice related to these claims will be significant and would disturb and extend the Joint Case Schedule entered by the Court (ECF 238);

WHEREAS, to avoid burdening the Parties and the Court with additional motion practice and discovery on the different claims asserted in *Denial*, the Parties have conferred and agree that the *Denial* Action be stayed during the pendency of the MDL;

WHEREAS, staying the *Denial* Action will conserve judicial and the litigants' resources by (1) avoiding the time and expense incurred by additional motion practice and discovery directed at the different claims, and (2) allowing the existing case schedule to be maintained.

NOW WHEREFORE, IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES THAT, subject to the Court's approval, the *Denial* Action is stayed during the pendency of the MDL.

Dated: September 8, 2025

Respectfully submitted,

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Dated: September 8, 2025

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* All parties whose electronic signatures are included in this filing have provided consent in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.

SO ORDERED this _____ day of September, 2025.

_____
Hon. Sidney H. Stein
United States District Judge