

No. 24-7700

**United States Court of Appeals
for the
Ninth Circuit**

J. DOE 1, et al.,
Plaintiffs-Appellants,

v.

GITHUB, INC., et al.,
Defendants-Appellees.

On Appeal from the United States District Court
for the Northern District of California
No. 4:22-cv-06823, Hon. Jon S. Tigar

APPELLANTS' EXCERPTS OF RECORD

VOLUME 2 OF 3

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From a Certified Order of the United States District Court
Northern District of California, Oakland Division
The Honorable Jon S. Tigar, Presiding
Case No. 4:22-cv-06823-JST

PETITION FOR PERMISSION TO APPEAL ORDER
CERTIFIED UNDER 28 U.S.C. § 1292(b)

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I. INTRODUCTION

This appeal presents an unresolved and critical question of statutory interpretation under the Digital Millennium Copyright Act (“DMCA”): whether 17 U.S.C. § 1202(b) requires that copies of works be “identical” in order for liability to attach. The district court imputed such a requirement into the statute, even though it is found nowhere in the statutory text (nor ever mentioned in its legislative history). Though the district court dismissed Plaintiff-Petitioners’ claims on this “identity” ground, other district courts, including those in the Ninth Circuit, have held otherwise, creating what one court has recognized as a “district-court split.” *Real World Media LLC v. Daily Caller, Inc.*, __ F. Supp. 3d __, 2024 WL 3835351, at *10 (D.D.C. Aug. 14, 2024).¹ To date, however, no court of appeals has definitively resolved this question. The stakes of this legal

¹ The following district court opinions have held, contrary to the district court’s conclusion, that § 1202(b) does not impose an identity requirement: *Real World Media LLC v. Daily Caller Inc.*, __ F. Supp. 3d __, 2024 WL 3835351 (D.D.C. Aug. 14, 2024); *Beijing Meishe Network Tech. Co. v. TikTok Inc.*, No. 23-CV-06012-SI, 2024 WL 3522196 (N.D. Cal. July 23, 2024); *Oracle Int’l Corp. v. Rimini St., Inc.*, No. 2:14-cv-01699-MMD-DJA, 2023 WL 4706127 (D. Nev. July 24, 2023); *Software Pricing Partners, LLC v. Geisman*, No. 3:19-cv-00195-RJC-DCK, 2022 WL 3971292 (W.D.N.C. Aug. 31, 2022); *ADR Int’l Ltd. v. Inst. for Supply Mgmt. Inc.*, 667 F. Supp. 3d 411 (S.D. Tex. 2023). The following decisions agree with the district court below: *Andersen v. Stability AI Ltd.*, __ F. Supp. 3d __, 2024 WL 3823234, at *8 (N.D. Cal. Aug. 12, 2024); *Kirk Kara Corp. v. W. Stone & Metal Corp.*, No. CV 20-1931-DMG (EX), 2020 WL 5991503 (C.D. Cal. Aug. 14, 2020); *Frost-Tsuji Architects v. Highway Inn, Inc.*, No. 13-0496 SOM/BMK, 2015 WL 263556 (D. Haw. Jan. 21, 2015).

determination are substantial, both for this case and for others like it, and will determine whether countless copyrights, worth billions of dollars, have any force in the age of generative artificial intelligence (“AI”).

Accordingly, the district court here recognized the importance of this question and certified an interlocutory appeal under 28 U.S.C. § 1292(b). This Court should accept jurisdiction and provide a uniform rule—i.e., that there is no identity requirement § 1202(b)—that will permit district courts to timely and correctly adjudicate the many emerging cases involving the intersection of copyright and generative AI technologies.

II. RELIEF SOUGHT

Plaintiff-Petitioners respectfully request that this Court grant permission to appeal under 28 U.S.C. § 1292(b) the district court’s June 24, 2024 Order, which dismissed Plaintiff-Petitioners’ claims under 17 U.S.C. §§ 1202(b)(1) and (b)(3) of the DMCA based on its imposition of an “identity” requirement. *See* ECF No. 253.

III. QUESTION PRESENTED

1. Is liability under § 1202(b) of the DMCA restricted solely to the removal or alteration of Copyright Management Information from an identical copy of a work?

IV. STATEMENT OF FACTS

Plaintiff-Petitioners are software developers. Defendant-Respondent GitHub, owned by Microsoft, supports open-source development of software by creating a repository of code that can be accessed and used by developers. Plaintiff-Petitioners made available on GitHub materials that are subject to various licenses containing conditions for use of those works, most commonly that use of the licensed work requires some form of attribution and copyright notice.

On November 21, 2022, Plaintiff-Petitioners filed their initial complaint, alleging that Defendant-Respondents' violated §§ 1202(b)(1) and (b)(3) by removing or altering CMI from Plaintiff-Petitioners' licensed software code and distributing copies of that code without the requisite CMI. *See* ECF No. 1, ¶¶ 46-77, 138-64. Plaintiff-Petitioners allege that Defendant-Respondents' AI programs, which was trained on code including Plaintiff-Petitioners' which was published with a variety of CMI, emitted copies of the code they were trained on with CMI removed or altered. *See* ECF No. 1, ¶¶ 138-167; *see also* ECF No. 201, ¶¶ 211-35. On May 11, 2023, the District Court permitted Plaintiff-Petitioners' DMCA claims under §§ 1202(b)(1) and (b)(3) to proceed in its order granting in part and denying in part Defendant-Respondents' first motion to dismiss. *See* ECF No. 95, at 18-21.

After Plaintiff-Petitioners filed an amended complaint (ECF No. 97), Defendant-Respondents again moved to dismiss and asked the district court to

reconsider its prior ruling on Plaintiff-Petitioners' § 1202(b) claims, arguing that Defendant-Respondents' copies were not "identical." *See* ECF Nos. 107-2, 109-3.

On January 3, 2024, the district court granted dismissal of Petitioners' section 1202(b) claims, holding that "identical copy[ing]" is required and Petitioners had not sufficiently alleged identical copying. *See* ECF No. 189, at 15. Although the court acknowledged that § 1202(b)(1) prohibits intentional removal or alteration of CMI without the copyright owner's authority, distinct from § 1202(b)(3), which addresses knowing distribution of works with removed or altered CMI, it nonetheless imposed an "identity" requirement on both claims. *See id.* at 15. It also granted Plaintiff-Petitioners leave to amend. *See id.* at 16-17.

On January 25, 2024, Plaintiff-Petitioners filed their Second Amended Complaint, which included new allegations showing the likelihood that Plaintiff-Petitioners' and class members' licensed code would be emitted verbatim over time as Defendant-Respondents' AI programs' capacity expanded. ECF No. 200. On June 24, 2024, the District Court again dismissed Plaintiff-Petitioners' § 1202(b) claims, ruling that Plaintiff-Petitioners had "failed to meet the DMCA's identity requirement." ECF No. 253, at 5 (the "MTD Order"). In so doing, it declined to follow *ADR Int'l Ltd. v. Inst. for Supply Mgmt. Inc.*, 667 F. Supp. 3d 411 (S.D. Tex. 2023), a recent decision Plaintiff-Petitioners highlighted in their briefing, which holds that the DMCA's prohibition on the removal or alteration of

CMI under § 1202(b) is *not* limited to removal or alteration of CMI from identical copies. *See id.* at 425-26.

On July 5, 2024, Plaintiff-Petitioners moved the district court to certify its MTD Order for interlocutory appeal under 28 U.S.C. § 1292(b). ECF No. 268. On September 2, 2024, the district court so certified, concluding that the question of whether section 1202(b) of the DMCA imposes an identity requirement is a controlling issue of law. *See* ECF No. 282, at 2. The district court found substantial grounds for a difference of opinion on this issue, based on conflicting rulings across various jurisdictions, including decisions in the Ninth Circuit post-dating Plaintiff-Petitioners' motion to certify. *See id.* at 2-3 (“One of the best indications that there are substantial grounds for disagreement on a question of law is that other courts have, in fact, disagreed.” (citation omitted)); *see also id.* (collecting cases). Furthermore, the district court also determined that an interlocutory appeal is “likely to materially advance the ultimate outcome of the litigation.” *See id.* at 3. The court noted that resolving this legal question at an early stage would prevent the parties from incurring significant litigation costs on issues that might ultimately be rendered moot by a later ruling from the Ninth Circuit. *See id.* at 3. By addressing the controlling legal issue now, the court below concluded that a decision by this Court could avoid unnecessary discovery, expert testimony, and class certification proceedings, ensuring a more efficient path to the

ultimate resolution of the case. *See id.* Accordingly, the district court certified the issue for appeal and granted a stay of proceedings pending this Court’s decision. *See id.* at 4.

V. ARGUMENT

As the district court’s certification explains, its order presents controlling legal questions that are subject to substantial disagreement and will significantly influence the final resolution of this case. This Court should exercise its discretion to hear the appeal and resolve this important legal question.

A. Whether §§ 1202(b)(1) and (b)(3) of the DMCA Impose an “Identity” Requirement is a Controlling Question of Law

“[A]ll that must be shown in order for a question to be ‘controlling’ is that resolution of the issue on appeal could materially affect the outcome of litigation in the district court.” *In re Cement Antitrust Litig. (MDL No. 296)*, 673 F.2d 1020, 1026 (9th Cir. 1982). A “controlling question of law” in an interlocutory appeal is generally a pure legal question that can be resolved without examining the particular facts of the case. *Steering Comm. v. United States*, 6 F.3d 572, 575-76 (9th Cir. 1993). In the absence of controlling Ninth Circuit precedent (and indeed, any appellate court precedent), and in the presence of conflicting district court authority elsewhere, this Court should review pure questions of law such as whether § 1202(b) requires CMI be removed or altered from identical copies. *See id.*

Whether § 1202(b) requires parties to plead and prove “identity” between the original and the copy from which CMI was removed or altered is a pure legal question of statutory interpretation. Such issues are particularly appropriate for interlocutory appeal. *See Joffe v. Google, Inc.*, 746 F.3d 920, 923-24 (9th Cir. 2013) (interlocutory appeal certified under 28 U.S.C. § 1292(b) because the district court “resolved a novel question of statutory interpretation”); *see also Sec’y, U.S. Dep’t of Lab. v. Preston*, 873 F.3d 877, 880 (11th Cir. 2017) (conducting *de novo* review because “[t]his interlocutory appeal presents a purely legal issue of statutory interpretation”); *Fast v. Applebee’s Int’l, Inc.*, 638 F.3d 872, 785-76 (8th Cir. 2011) (conducting *de novo* review of district court’s statutory interpretation on interlocutory appeal).

B. Existing Conflicts Over § 1202(b)’s “Identity” Requirement Highlight the Urgent Need for Appellate Resolution

Section 1292(b)’s requirement for a “substantial ground for difference of opinion” is easily satisfied here. Courts generally find a substantial ground for difference of opinion exists when “other courts have, in fact, disagreed.” *Rollins v. Dignity Health*, No. 13-CV-01450-TEH, 2014 WL 6693891, at *3 (N.D. Cal. Nov. 26, 2014) (finding “substantial grounds for disagreement” where “two district courts have decided this issue explicitly in conflict with this Court’s decision”); *see also Couch v. Telescope Inc.*, 611 F.3d 629, 633 (9th Cir. 2010) (quoting 3 Federal Procedure, Lawyers Edition § 3:212 (2010) (“the circuits are in dispute on the

question and the court of appeals of the circuit has not spoken on the point, if complicated questions arise under foreign law, or if novel and difficult questions of first impression are presented.”)). This Court has confirmed that “when novel legal issues are presented, on which fair-minded jurists might reach contradictory conclusions, a novel issue may be certified for interlocutory appeal without first awaiting development of contradictory precedent.” *Reese v. BP Expl. (Alaska) Inc.*, 643 F.3d 681, 688 (9th Cir. 2011). The identification of conflicting or contradictory rulings provides sufficient grounds for a substantial difference of opinion. *See Couch*, 611 F.3d at 633-34 (citing *Union Cnty., Iowa v. Piper Jaffray & Co., Inc.*, 525 F.3d 643 (8th Cir. 2008)).

Whether §§ 1202(b)(1) or (b)(3) requires that CMI be removed or altered from an identical copy of a work is a novel legal issue, one on which no Court of Appeals has yet directly spoken. District courts in this Circuit and across the country likewise are sharply divided on this question.

The court below primarily relied on district court opinions such as *Kirk Kara Corp. v. W. Stone & Metal Corp.*, No. CV 20-1931-DMG (EX), 2020 WL 5991503, at *6 (C.D. Cal. Aug. 14, 2020) which have held that “identity” is required for claims under §§ 1202(b)(1) and (b)(3) to proceed. *See also Kelly v. Arriba Soft Corp.*, 77 F. Supp. 2d 1116, 1122 (C.D. Cal. 1999); *Frost-Tsuji Architects v. Highway Inn, Inc.*, No. 13-00496 SOM/BMK, 2015 WL 263556, at

*2 (D. Haw. Jan. 21, 2015); *Fischer v. Forrest*, 286 F. Supp. 3d 590 (S.D.N.Y. 2018). On the other hand, district courts, including those within the Ninth Circuit, have held that DMCA liability can attach even when the work in question is not an “exact copy” or has been “altered,” thereby implying that the copied work need not be identical. *See, e.g., ADR Int’l Ltd. v. Inst. for Supply Mgmt. Inc.*, 667 F. Supp. 3d 411 (S.D. Tex. 2023). For example, in *Oracle Int’l Corp. v. Rimini St., Inc.*, No. 2:14-cv-01699-MMD-DJA, 2023 WL 4706127, at *82 (D. Nev. July 24, 2023), the court expressly rejected the argument “that a work that removes copyright management information must be an exact copy of the original work.” Similarly, in *Software Pricing Partners, LLC v. Geisman*, No. 3:19-cv-00195-RJC-DCK, 2022 WL 3971292, at *5 (W.D.N.C. Aug. 31, 2022), the court found DMCA liability where the defendant “altered SPP’s copyrighted documents by removing indications of the copyright or otherwise altering the documents prior to distributing [them] to customers,” despite those alterations. The court emphasized that Geisman, a former employee, knowingly altered the documents to make them appear as his own while maintaining a substantial similarity to the original work.

The district court’s adoption of an “identity” requirement for § 1202(b) claims in this case is also in conflict with other cases addressing DMCA violations in the context of software code. In such cases, courts have recognized that CMI can be embedded within the code itself, and its removal would inherently result in an

infringing copy that is no longer identical to the original. In *Oracle Int'l*, 2023 WL 4706127, at *82, the court held that when a defendant modifies source code that is “substantially similar” to the plaintiff’s copyrighted code, including by replacing the author’s name with its own, the defendant can be held liable under the DMCA. *See also Bounce Exch., Inc. v. Zeus Enter. Ltd.*, No. 15cv3268 (DLC), 2015 WL 8579023, at *3 (S.D.N.Y. Dec. 9, 2015) (finding § 1202(b) liability for removing CMI woven into and incorporated within the code). Moreover, at least one court in this circuit has explicitly recognized that a § 1202(b) claim is viable when the infringing copy is a “derivative”—which, by definition, is not identical. *See Splunk, Inc. v. Cribl, Inc.*, 662 F. Supp. 3d 1029, 1053-54 (N.D. Cal. 2023).

Within a day of Plaintiff-Petitioners’ filing their motion seeking certification for interlocutory appeal below, another court in the Northern District of California denied a motion to dismiss a § 1202(b) claim and rejected that an element of identity is required to state a § 1202(b) claim. *Beijing Meishe Network Tech. Co. v. TikTok Inc.*, No. 23-CV-06012-SI, 2024 WL 3522196, at *9 (N.D. Cal. July 23, 2024). *Meishe* acknowledged a “split in authority” as to § 1202(b)’s alleged “identity” standard, and countered the district court’s adoption of an “identity” standard in this action with two recent Ninth Circuit district court cases holding the opposite. *See id.* at *9 (comparing the district court’s order with *Oracle Int’l Corp.*, 2023 WL 4706127, at *82, and *Splunk Inc.*, 662 F. Supp. 3d at

1054). Even though the *Meishe* plaintiffs, much like Plaintiff-Petitioners here, alleged that the copied source code was only “strikingly similar” to the original works because the copies comprised portions of the original works and contained minor typographical variations and obviously altered CMI, the *Meishe* court held that plaintiffs had sufficiently pled a § 1202(b) claim. *See id.*

Three weeks later, on August 12, another court in the Northern District of California granted a motion to dismiss a DMCA claim involving generative AI technology on the ground that plaintiffs’ allegations failed to satisfy § 1202(b)’s purported “identity” standard. *See Andersen*, 2024 WL 3823234, at *8. While the *Andersen* court “agreed with the reasoning” of the district court in this action regarding the “identity” standard, he also recognized the very same “split in authority” identified by the *Meishe* court, describing § 1202(b)’s “identity” standard as an “issue [that] is unsettled.” *Id.*

Just two days after *Andersen*, a court in the District Court of the District of Columbia, while recognizing a “nascent district-court split” regarding 1202(b)’s “identity” requirement rejected the argument that “exact” copies are required to support a DMCA claim. *Real World Media*, 2024 WL 3835351, at *10 (collecting cases). Notably, the *Real World Media* court held that “nothing in § 1202(b) requires precise equivalence between the work from which CMI is removed and the allegedly infringing work,” and that a § 1202(b) action can lie even where a

party copies portions of a work rather than the entire work. *Id.*

The foregoing demonstrates that reasonable jurists could reach—and indeed have reached—different conclusions regarding the issue of “identity” for § 1202 liability. The difficulty of the issue, the absence of guidance from any circuit court—particularly the Ninth Circuit—and the conflicting rulings among district courts all underscore that “substantial grounds for difference of opinion” exist. *See, e.g., Kinghoffer v. S.N.C. Achille Lauro Ed Altri-Gestone Motonave Achille Lauro In Amministrazione Straordinaria, et al.*, 921 F.2d 21, 25 (2d Cir. 1990); *Shoreham Co-op. Apple Producers Ass’n, Inc. v. Donovan*, 764 F.2d 135, 140 n.14 (2d Cir. 1985) (noting that “there were substantial grounds for difference of opinion” because of a “difference of opinion among the district courts”).

C. Immediate Appellate Review Will Streamline This Litigation and Provide Crucial Guidance for Similar Cases in This Circuit and Elsewhere

As this Court has observed, “[n]either § 1292(b)’s literal text nor controlling precedent requires that the interlocutory appeal have a final, dispositive effect on the litigation, only that it ‘may materially advance’ the litigation.” *Reese*, 643 F.3d at 688 (citing 28 U.S.C. § 1292(b)). Settling the legal standard at issue here not only would materially advance this class action, but also would impact numerous other challenges to other AI models across the country. *J. B. v. G6 Hosp., LLC*, No. 19-CV-07848-HSG, 2021 WL 6621068, at *4 (N.D. Cal. Dec. 16, 2021) (“Rather

than litigating the case to the finish under a standard that will be challenged on appeal, the Court and the parties will benefit from definitive guidance from the Ninth Circuit at the outset, before time and resources are invested.”). Certification will materially advance this litigation for at least four reasons:

First, courts have consistently certified questions for interlocutory appeal when the issues go to the heart of the case. *See, e.g., Sterk v. Redbox Automated Retail, LLC*, 672 F.3d 535, 536 (7th Cir. 2012) (recognizing the importance of resolving claims that represent the “main” issues in the case). Plaintiff-Petitioners’ § 1202(b) claims—their remaining federal claims—are undeniably central to this litigation. *Cf. U.S. ex rel Huangyan Import & Export Corp., v. Nature’s Farm Prod., Inc.*, 370 F. Supp. 2d 993, 1005 (N.D. Cal. 2005) (“Depending on how the three issues are resolved [on interlocutory appeal], the United States might have two FCA claims, one FCA claim, no claim at all or might be in the wrong court altogether.”). The outcome of this appeal will dictate the fate of those claims. The monetary stakes are equally substantial: if Plaintiff-Petitioners succeed on their DMCA claim, they are entitled to statutory damages between \$2,500 and \$25,000 per violation. 17 U.S.C. § 1206(c)(3)(B). With Plaintiff-Petitioners alleging tens of thousands, if not more, individual violations, potential damages could reach billions of dollars.

Second, and closely related, this is a class action. Granting an interlocutory

appeal would “shorten the period between the commencement of the action and its ultimate termination and would avert unnecessary work and expense,” an obvious efficiency gain, particularly in class actions, where litigants would be better positioned to predict their likelihood of success, the scope of potential liability, and a fair estimate of the case’s value. *See In re Cement Antitrust Litig.*, 673 F.2d at 1029 (discussing legislative history of 1292(b)) (Boochever, J., dissenting); 9 Moore, Federal Practice, P 110.22(2), at 260 (2d ed. 1975) (“The critical requirement is that it (the question) have the potential for substantially accelerating the disposition of the litigation.”). As observed by another court in this circuit, “especially in class actions, uncertainty over a key claim’s status may delay settlement (almost all class actions are settled . . .), and by doing so further protract the [case].” *Casa v. Victoria’s Secret Stores, LLC*, No. 14-6412-GW(VBKx), 2015 WL 13446989, at *3 (C.D. Cal. April 4, 2015) (quoting *Sterk*, 672 F.3d at 536 (Posner, J.)). “That is enough to satisfy the ‘may materially advance’ cause of section 1292(b).” *Sterk*, 672 F.3d at 536.

Similarly, in *Canela v. Costco Wholesale Corp.*, No. 13-cv-03598-BLF, 2018 WL 3008532, at *2 (N.D. Cal. June 15, 2018), the court recognized that resolving a key legal issue can lead to a more efficient trial or settlement. *Id.* (“If *Canela* is limited to pursuing only her individual PAGA claim . . . the trial would involve fewer disputed issues and it would be more likely that the parties would

reach a settlement.”). Likewise, *Rollins*, 2014 WL 6693891, at *4, affirmed that addressing critical legal questions early “saves time and expense” and may “encourage a negotiated settlement,” which could entirely resolve the litigation.

Third, courts have consistently found this requirement satisfied when the resolution of an interlocutory appeal would impact a significant number of other cases. *See, e.g., Klinghoffer v. S.N.C. Achille Lauro Ed Altri-Gestione Motonave Achille Lauro In Amministrazione Straordinaria*, 921 F.2d 21, 24 (2d Cir. 1990) (“[T]he impact that an appeal will have on other cases is a factor that we may take into account in deciding whether to accept an appeal that has been properly certified by the district court.”); *see also Leite v. Crane Co.*, No. 11–00636 JMS/RLP, 2012 WL 1982535, at *7 (D. Haw. May 31, 2012) (collecting cases). Given the number of other cases challenging AI models—many of them class actions—asserting similar DMCA claims, a resolution of these issues on interlocutory appeal will benefit those similarly situated. *See Ass’n of Irrigated Residents v. Fred Schakel Dairy*, 634 F. Supp. 2d 1081, 1093 (E.D. Cal. 2008) (“The opportunity to achieve appellate resolution of an issue important to other similarly situated [parties] can provide an additional reason for certification.” (citing, *inter alia*, *Klinghoffer*, 921 F.2d at 24)).

Moreover, the Ninth Circuit’s intervention is necessary to prevent conflicting interpretations of the DMCA across federal courts. As AI-related cases

continue to proliferate, the risk of courts reaching differing conclusions will grow. Without guidance, both defendants and plaintiffs will face a patchwork of standards, leading to inconsistent outcomes and unnecessary legal complexity in an area critical to the future of digital copyright enforcement.

Fourth, this case remains at an early procedural stage. Given the significance of Plaintiff-Petitioners' § 1202(b) claims, resolving the legal question now would avoid duplicative efforts should the district court's dismissal of these claims be reversed after trial. *See Casas*, 2015 WL 13446989, at *4. At this point, discovery has not materially progressed, meaning that little effort would need to be duplicated, and in the event of reversal, much future duplicative work could be avoided. *See Finder v. Leprino Foods Co.*, No. 1:13-CV-02059 AWI BAM, 2016 WL 4095833, at *4 (E.D. Cal. Aug. 1, 2016). Conversely, if this case proceeds and the dismissal is later reversed, both the parties and the court below will face substantial duplication of effort. *See Sterk*, 672 F.3d at 536.

D. The District Court's Rewriting of § 1202(b) to Require "Identity" Was Error

Interlocutory review is also warranted because the district court erred in resolving the controlling question of law at issue.

The district court's holding contravenes the plain text of the statute. *See Coronado-Durazo v. I.N.S.*, 123 F.3d 1322, 1325 (9th Cir. 1997) ("[U]nder the established approach to statutory interpretation, we rely on plain language in the

first instance[.]”). It is a standard principle of statutory construction that identical words and phrases should normally be given the same meaning. *Powerex Corp. v. Reliant Energy Servs., Inc.*, 551 U.S. 224, 232 (2007). The text of § 1202(b) does not include the word “identical” or anything approximating it. *See Transwestern Pipeline Co., LLC v. 17.19 Acres of Prop. Located in Maricopa Cnty.*, 627 F.3d 1268, 1270 (9th Cir. 2010); *Coronado-Durazo*, 123 F.3d at 1325 (“[U]nder the established approach to statutory interpretation, we rely on plain language in the first instance[.]”). On the other hand, the DMCA mentions the word “identical” only once elsewhere in the statute. The word “identical” is used in a provision exempting from liability nonprofit libraries, archives, and educational institutions under § 1201. *See* 17 U.S.C. § 1201(d)(2) (“The exemption made available under paragraph (1) shall only apply with respect to a work when an *identical* copy of that work is not reasonably available in another form.” (emphasis added)). The inclusion of “identical” in § 1202’s sister provision shows that if Congress had intended to require “identity” for § 1202(b) liability, it would have said so.² That Congress omitted the word “identical” in § 1202 is meaningful. *See Keene Corp. v. United States*, 508 U.S. 200, 208 (1993) (“[W]here Congress includes

² Though the language of the statute is unambiguous, the legislative history of the DMCA is in accord. *S.E.C. v. McCarthy*, 322 F.3d 650, 655 (9th Cir. 2003). There is absolutely nothing in the legislative materials leading to the enactment of the DMCA that indicates Congress intended to impose an “identity” requirement under § 1202(b). *See* S. Rep. No. 105-190, at 31 (1998).

particular language in one section of a statute but omits it in another, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.”) (internal quotation marks omitted, citing *Russello v. United States*, 464 U.S. 16, 23 (1983)); *Pettis ex rel. U.S. v. Morrison-Knudsen Co., Inc.*, 577 F.2d 668, 672 (9th Cir. 1978) (“We have no doubt but that under such circumstances the intent of Congress resides in the words of the statute. That is, discharge of our obligation to follow the intent of Congress requires that we assume that Congress said what it meant and meant what it said.”).

Further, to the extent the district court relied on district court cases such as *Kirk Kara*, to impute an “identity” requirement into § 1202, that too was error. “[A]lthough the court in *Kirk Kara* held the DMCA requires identical copies, the case law it cited does not support its holding.” *ADR Int’l*, 667 F. Supp. 3d at 427. For example, *Kirk Kara* referenced *Kelly*, 77 F. Supp. 2d at 1122, and *Frost-Tsuji Architects*, 2015 WL 263556, at *2, but neither of those cases mentioned or imposed an identical-copies requirement under the DMCA. Similarly, *Kirk Kara* cited *Fischer*, 286 F. Supp. 3d 590, where the term “identical” does not appear at all. In fact, *Fischer* did not endorse such a requirement.” *Id.* at 609 (finding the plaintiffs failed to plead that the “underlying work ha[d] been substantially or entirely reproduced”).

V. CONCLUSION

For the reasons outlined above, Plaintiff-Petitioners respectfully request that this Court grant permission to appeal under 28 U.S.C. § 1292(b) to allow this Court to definitively address whether §§ 1202(b)(1) and (b)(3) of the DMCA impose an “identity” requirement for liability.

Dated: October 7, 2024

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*Attorneys for Plaintiff-Petitioners and the
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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with Fed. R. App. P. 5(c)(1) because it contains no more than 5,200 words, excluding the portions of the brief exempted by Rule 32(f), according to the count of Microsoft Word. I further certify that this brief complies with the typeface and type-style requirements of Rule 32(a)(5)-(6) because it is printed in a proportionally spaced 14-point font, Times New Roman.

Dated: October 7, 2024

Respectfully submitted,

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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

J. DOE 1, et al.,
Plaintiffs,
v.
GITHUB, INC., et al.,
Defendants.

Case No. 22-cv-06823-JST

**ORDER GRANTING MOTION TO
CERTIFY ORDER FOR
INTERLOCUTORY APPEAL AND
MOTION TO STAY PENDING
APPEAL**

Re: ECF No. 268

Before the Court is Plaintiffs’ motion to certify the Court’s June 24, 2024 order dismissing their Section 1202(b) claims. ECF No. 253. The Court will grant the motion.

The final judgement rule ordinarily provides that courts of appeal shall have jurisdiction only over “final decisions of the district courts of the United States.” 28 U.S.C. § 1291. However, “[w]hen a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order.” 28 U.S.C. § 1292(b). “The Court of Appeals which would have jurisdiction of an appeal of such action may thereupon, in its discretion, permit an appeal to be taken from such order.” *Id.*

“Certification under § 1292(b) requires the district court to expressly find in writing that all three § 1292(b) requirements are met.” *Couch v. Telescope Inc.*, 611 F.3d 629, 633 (9th Cir. 2010). “Section 1292(b) is a departure from the normal rule that only final judgements are appealable, and therefore must be construed narrowly.” *James v. Price Stern Sloan, Inc.*, 283 F.3d 1064, 1067 n.6 (9th Cir. 2002). To that end, “section 1292(b) is to be applied sparingly and only

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1 in exceptional cases.” *In re Cement Antitrust Litig.* (MDL No. 296), 673 F.2d 1020, 1027 (9th Cir.
2 1981), *aff’d sub nom. Arizona v. Ash Grove Cement Co.*, 459 U.S. 1190 (1983).

3 Plaintiffs have satisfied the requirements of 28 U.S.C. § 1292(b). Accordingly, Plaintiffs’
4 motion will be granted.

5 First, the Court’s dismissal of Plaintiffs’ Section 1202(b) claims involves a “controlling
6 question of law”. 28 U.S.C. § 1292(b). A “controlling” question of law may only be found in
7 “exceptional situations in which allowing an interlocutory appeal would avoid protracted and
8 expensive litigation.” *In re Cement Antitrust Litig.*, 673 F.2d at 1026. A question of law is
9 controlling if the “resolution of the issue on appeal could materially affect the outcome of
10 litigation in the district court.” *Id.* at 1026. A controlling question of law “generally is a purely
11 legal one that can be resolved quickly without delving into a particular case’s facts.” *Henley v.*
12 *Jacobs*, No. C 18-2244 SBA, 2019 WL 8333448, at *2 (N.D. Cal. Oct. 25, 2019). The question of
13 law raised by Plaintiffs is whether Sections 1202(b)(1) and (b)(3) of the DMCA impose an
14 identity requirement. This is a purely legal question of statutory interpretation. *See In re*
15 *Google Inc. St. View Elec. Commc’ns Litig.*, No. C 10-MD-02184 JW, 2011 WL 13257346, at *1
16 (N.D. Cal. July 18, 2011) (finding a “controlling question of law” suitable for interlocutory appeal
17 regarding a “novel question of statutory interpretation”). Moreover, if this issue were to be
18 decided in Plaintiffs’ favor they would be able to proceed with their DMCA claims, which counsel
19 claims are the “heart of their class case.” ECF No. 268 at 8.

20 Second, the Court finds there is substantial ground for difference of opinion on the
21 question at issue. 28 U.S.C. § 1292(b). To determine whether there is a “substantial ground for
22 difference of opinion,” courts examine “to what extent the controlling law is unclear.” *Couch*, 611
23 F.3d at 633. “[A] party’s strong disagreement with the Court’s ruling is not sufficient for there to
24 be a ‘substantial ground for difference.’” *Id.* (quotation marks omitted). A substantial ground for
25 difference of opinion may exist where “the circuits are in dispute on the question and the court of
26 appeals of the circuit has not spoken on the point, if complicated questions arise under foreign
27 law, or if novel and difficult questions of first impression are presented.” *Id.* (quoting 3 Federal
28 Procedure, Lawyers Edition § 3:212 (2010) (footnotes omitted)). To this Court’s knowledge no

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1 court of appeal has ruled on this issue, and district courts have reached differing conclusions. *See,*
2 *e.g., Anderson v. Stability AI Ltd.*, No. 23-cv-00201-WHO, 2024 WL 3823234, at *8 (N.D. Cal.
3 Aug. 12, 2024) (finding DMCA Section 1202(b) claims have an identity requirement); *Beijing*
4 *Meishe Network Tech. Co., Ltd., v. TikTok Inc.*, No. 23-cv-06012-SI, 2024 WL 3522196, at *9
5 (N.D. Cal. July 23, 2024) (declining to dismiss on identity grounds); *ADR Int’l Ltd. v. Inst. for*
6 *Supply Mgmt. Inc.*, 667 F. Supp. 3d 411, 427 (S.D. Tex. 2023) (“Based on the plain wording of the
7 statute, the Court is not persuaded that the DMCA includes an ‘identical copy’ requirement.”);
8 *Kirk Kara Corp v. W. Stone & Metal Corp.*, No. CV 20-1931-DMG (Ex), 2020 WL 5991503
9 (C.D. Cal. Aug. 14, 2020) (adopting an “identity” standard); *Oracle Int’l Corp. v. Rimini St.,*
10 *Inc.*, No. 2:14-cv-01699-MMD-DJA, 2023 WL 4706127, at *82 (D. Nev. July 24, 2023) (“The
11 Court also rejects Rimini’s argument . . . that a work that removes copyright management
12 information must be an exact copy of the original work. This construction of the DMCA would
13 weaken the statute’s intended protections for copy right holders.”). “One of the best indications
14 that there are substantial grounds for disagreement on a question of law is that other courts have,
15 in fact, disagreed.” *Rollins v. Dignity Health*, No. 13-cv-01450-TEH, 2014 WL 6693891, at *3
16 (N.D. Cal. Nov. 26, 2014). Given this split in authority the Court finds there are substantial
17 grounds for disagreement on this issue.

18 Finally, the immediate appeal from the order is likely to materially advance the ultimate
19 outcome of the litigation. 28 U.S.C. § 1292(b). Courts within this Circuit have held “that
20 resolution of a question materially advances the termination of litigation if it ‘facilitate[s]
21 disposition of the action by getting a final decision on a controlling legal issue sooner, rather than
22 later [in order to] save the courts and the litigants unnecessary trouble and expense.’” *Finder v.*
23 *Leprino Foods Co.*, No. 13-cv-02059-AWI-BAM, 2016 WL 4095833, at *4 (E.D. Cal. Aug. 1,
24 2016) (citations omitted). The Ninth Circuit resolving this issue would materially advance not
25 only this particular case, but others in the Circuit raising the same issue. “Rather than litigating
26 the case to the finish [without the DMCA claims which] will be challenged on appeal, the Court
27 and the parties will benefit from definitive guidance from the Ninth Circuit at the outset, before
28 time and resources are invested.” *J.B. v. G6 Hosp., LLC*, No. 19-cv-07848-HSG, 2021 WL

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Northern District of California

1 6621068, at *4 (N.D. Cal. Dec. 16, 2021).

2 Having concluded that it is appropriate to certify the order for interlocutory appeal, the
3 Court now addresses Plaintiffs’ request for a stay pending appeal. When determining if a stay is
4 appropriate, courts apply a three-factor test derived from *Landis v. North American Co.*, 299 U.S.
5 248 (1936) and consider (1) “the possible damage which may result from the granting of a stay;
6 (2) the hardship or inequity which a party may suffer [if the case is allowed] to go forward; and (3)
7 the orderly course of justice measured in terms of the simplifying or complicating of issues, proof,
8 and questions of law which could be expected to result from a stay.” *Kuang v. U.S. Dep’t of Def.*,
9 No. 18-CV-03698-JST, 2019 WL 1597495, a *2 (N.D. Cal. Apr. 15, 2019) (quoting *Lockyer v.*
10 *Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005)).

11 With respect to the first *Landis* factor, Defendants do not contend any damage will result
12 from granting a stay or that they will face any hardship. The parties are still in the early stages of
13 discovery. Turning to the second factor, if the Court declines to issue a stay and the Ninth Circuit
14 revives Plaintiffs’ DCMA claims, Plaintiffs may have to redo fact discovery, expert testimony,
15 and/or class certification. Accordingly, if the case were to proceed pending Ninth Circuit review,
16 “significant and potentially unnecessary” resources might be invested by both parties. *Gustavson*
17 *v. Mars, Inc.*, No. 13-cv-04537-LHK, 2014 WL 6986421, at *3 (N.D. Cal. Dec. 10, 2014).
18 Finally, the Court believes that “judicial economy will be best served” by staying this case as “the
19 Ninth Circuit’s decision is likely to provide substantial guidance” that may “materially alter the
20 Court’s decisions in the instant case.” *Id.*

21 **CONCLUSION**

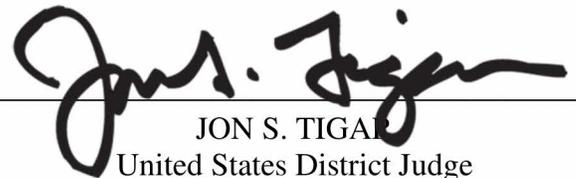
22 For the foregoing reasons the Court grants Plaintiffs’ motion to seek interlocutory appeal.
23 The Court also grants Plaintiffs’ request for a stay of trial court proceedings while the order

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1 certifying interlocutory appeal is reviewed by the Ninth Circuit. The parties are ordered to notify
2 the Court within 10 days of the receipt of a decision from the Ninth Circuit Court of Appeals.

3 **IT IS SO ORDERED.**

4 Dated: September 27, 2024

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6 JON S. TIGARI
United States District Judge

United States District Court
Northern District of California

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**ACMS Docket Report
United States Court of Appeals for the Ninth Circuit**

Court of Appeals Docket #: 24-6136
Doe, et al. v. Github, Inc., et al.
Appeal From: Oakland, Northern California
Fee Status: Not Applicable

Docketed: 10/08/2024

Case Type Information:

- 1) Original Proceeding
- 2) 1292(b) Petition
- 3) Private

Originating Court Information:

District: Northern District of California : [4:22-cv-06823](#)
Trial Judge: Jon S. Tigar, District Judge
Date Filed: 11/03/2022

Prior Cases:

Current Cases:

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Plaintiff - Petitioner

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J. DOE, 1; J. DOE, 2-5, individually and on behalf of all others similarly situated,

Plaintiffs - Petitioners,

v.

GITHUB, INC., a Delaware corporation; MICROSOFT CORPORATION, a Washington corporation; OPENAI, INC., a Delaware nonprofit corporation; OPENAI, LP, a Delaware limited partnership; OPENAI GP, LLC, a Delaware limited liability company; OPENAI STARTUP FUND GP I, LLC, a Delaware limited liability company; OPENAI STARTUP FUND I, LP, a Delaware limited partnership; OPENAI STARTUP FUND MANAGEMENT, LLC, a Delaware limited liability company; OPENAI OPKO, LLC; OPENAI, LLC; OPENAI GLOBAL, LLC; OAI CORPORATION; OPENAI HOLDINGS, LLC; OPENAI HOLDCO, LLC; OPENAI INVESTMENT; OPENAI STARTUP FUND SPV I, LP; OPENAI STARTUP FUND SPV GP I, LLC,

Defendants - Respondents.

10/07/2024 [1](#)
310 pg. 128571 KB **PETITION** for Permission to Appeal Pursuant to 28 U.S.C. Sec. 1292(b) filed by Petitioner J. Doe, Petitioner J. Doe. [Entered: 10/08/2024 04:46 PM]

10/08/2024 2 **CASE OPENED.** Your case opening documents have been received in the Clerk's office of the United States Court of Appeals for the Ninth Circuit on **10/7/2024**. The U.S. Court of Appeals docket number **24-6136** has been assigned to this case. All communications with the court must indicate this Court of Appeals docket number. Please carefully review the docket to ensure the name(s) and contact information are correct. It is your responsibility to alert the court if your contact information changes.

Resources Available
For more information about case processing and to assist you in preparing your brief, please review the [Appellate Practice Guide](#). Counsel should consider the court's [Appellate Mentoring Program](#) for assistance. [Entered: 10/08/2024 04:48 PM]

10/08/2024 [3](#)
1 pg. 235 KB **SCHEDULE NOTICE** for Petition for Permission to Appeal. [Entered: 10/08/2024 04:52 PM]

10/09/2024 4 **DEFECTIVE---STATUS REPORT** filed by Petitioner J. Doe, Petitioner J. Doe.[Filed under wrong event. Correct entry#5] [Entered: 10/09/2024 12:50 PM] [Edited: 10/09/2024 02:07 PM]

10/09/2024 [5](#)
3 pg. 252 KB **PROOF OF SERVICE** filed by Petitioner J. Doe. [Entered: 10/09/2024 02:06 PM]

10/10/2024 6 **NOTICE OF APPEARANCE** by Christopher K.L. Young for Petitioner J. Doe. [Entered: 10/10/2024 12:09 PM]

10/10/2024 7 **ADDED** Counsel for Petitioner Christopher K.L. Young [Entered: 10/10/2024 12:42 PM]

10/17/2024 8 **NOTICE OF APPEARANCE** by Aileen McGrath for Respondent OAI CORPORATION, Respondent OPENAI GLOBAL, LLC, Respondent OpenAI GP, LLC, Respondent OPENAI HOLDCO, LLC, Respondent OPENAI HOLDINGS, LLC, Respondent OPENAI INVESTMENT, Respondent OpenAI OpCo, LLC, Respondent OpenAI Startup Fund GP I, LLC, Respondent OpenAI Startup Fund I, LP, Respondent OpenAI Startup Fund Management, LLC, Respondent OPENAI STARTUP FUND SPV GP I, LLC, Respondent OPENAI STARTUP FUND SPV I, LP, Respondent OpenAI, Inc., Respondent OPENAI, LLC, Respondent OpenAI, LP. [Entered: 10/17/2024 01:45 PM]

10/17/2024 9 **ADDED** Counsel for Respondent Aileen McGrath [Entered: 10/17/2024 02:23 PM]

10/17/2024 [10](#)
2 pg. 239 KB **STATUS REPORT** filed by Respondent OpenAI, Inc., Respondent OpenAI, LP, Respondent OpenAI GP, LLC, Respondent OpenAI Startup Fund GP I, LLC, Respondent OpenAI Startup Fund I, LP, Respondent OpenAI Startup Fund Management, LLC, Respondent OpenAI OpCo, LLC, Respondent OPENAI, LLC, Respondent OPENAI GLOBAL, LLC, Respondent OAI CORPORATION, Respondent OPENAI HOLDINGS, LLC, Respondent OPENAI HOLDCO, LLC, Respondent OPENAI STARTUP FUND SPV I, LP, Respondent OPENAI STARTUP FUND SPV GP I, LLC. [Entered: 10/17/2024 04:51 PM]

10/17/2024 [11](#)
191 pg. 75132 KB **ANSWER** to Petition for Permission to Appeal Pursuant to 28 U.S.C. Sec. 1292(b) (DE 1) filed by Respondent Github, Inc., Respondent Microsoft Corporation, Respondent OpenAI, Inc., Respondent OpenAI, LP, Respondent OpenAI GP, LLC, Respondent OpenAI Startup Fund GP I, LLC, Respondent OpenAI Startup Fund I, LP, Respondent OpenAI Startup Fund Management, LLC, Respondent OpenAI OpCo, LLC, Respondent OPENAI, LLC, Respondent OPENAI GLOBAL, LLC, Respondent OAI CORPORATION, Respondent OPENAI HOLDINGS, LLC, Respondent OPENAI HOLDCO, LLC, Respondent OPENAI STARTUP FUND SPV I, LP, Respondent OPENAI STARTUP FUND SPV GP I, LLC. [Entered: 10/17/2024 05:15 PM]

10/18/2024 12 **NOTICE OF APPEARANCE** by Christopher J. Cariello for Respondent Github, Inc., Respondent Microsoft Corporation. [Entered: 10/17/2024 07:20 PM]

10/17/2024 [13](#)
2 pg. 192 KB **NOTICE** of Intent to Unseal and Document Submitted Provisionally Under Seal filed by Respondent Github, Inc., Respondent Microsoft Corporation.--[COURT UPDATE: Attached corrected notice] [COURT UPDATE: UNSEALED DE 13.1 PER DE29] [Entered: 10/17/2024 07:26 PM] [Edited: 12/19/2024 03:27 PM]

10/17/2024 [14](#)
35 pg. 431 KB **ANSWER** to Petition for Permission to Appeal Pursuant to 28 U.S.C. Sec. 1292(b) (DE 1) filed UNDER SEAL by Respondent Github, Inc., Respondent Microsoft Corporation. (Court attached sealed answer originally submitted at DE 13) [Entered: 10/17/2024 07:29 PM] [Edited: 10/22/2024 03:42 PM]

10/18/2024 15 **ADDED** Counsel for Respondent Christopher J. Cariello [Entered: 10/18/2024 08:47 AM]

10/18/2024 16 **ADDED** Counsel for Respondent Christopher J. Cariello [Entered: 10/18/2024 08:48 AM]

10/21/2024 [17](#)
2 pg. 204 KB **STATUS REPORT** filed by Petitioner J. Doe, Petitioner J. Doe. [Entered: 10/21/2024 04:06 PM]

| | | |
|------------|---|---|
| 10/30/2024 | 18 | NOTICE OF APPEARANCE by William Waldir Castillo Guardado for Petitioner J. Doe. [Entered: 10/30/2024 04:38 PM] |
| 10/30/2024 | 19 | ADDED Counsel for Petitioner William Waldir Castillo Guardado [Entered: 10/30/2024 05:20 PM] |
| 11/07/2024 | <input type="checkbox"/> 20 2 pg. 224 KB | NOTICE of Intent to Unseal and Document Submitted Provisionally Under Seal filed by Petitioner J. Doe, Petitioner J. Doe. (Unlocked PDF of notice) [Entered: 11/07/2024 11:29 PM] [Edited: 11/17/2024 07:41 AM] |
| 11/07/2024 | <input type="checkbox"/> 21 25 pg. 1446 KB | MOTION to Maintain Document Under Seal filed by Petitioner J. Doe, Petitioner J. Doe.--[COURT UPDATE: Attached corrected declaration]--[COURT UPDATE: Attached redacted exh] [COURT UPDATE: UNSEALED DE 21 PER DE 29] [Entered: 11/07/2024 11:42 PM] [Edited: 12/19/2024 03:35 PM] |
| 11/07/2024 | 22 | DEFECTIVE --- MOTION to Maintain Document Under Seal filed by Petitioner J. Doe, Petitioner J. Doe. (Incorrect entry, see DE 21) [Entered: 11/07/2024 11:46 PM] [Edited: 11/17/2024 07:40 AM] |
| 11/18/2024 | <input type="checkbox"/> 23 21 pg. 352 KB | RESPONSE to Motion to Maintain Document Under Seal (DE 21) filed by Respondent Github, Inc., Respondent Microsoft Corporation. [Entered: 11/18/2024 04:28 PM] |
| 11/25/2024 | <input type="checkbox"/> 24 13 pg. 672 KB | REPLY to Response to Motion to Maintain Document Under Seal (DE 23) filed by Petitioner J. Doe, Petitioner J. Doe. [Entered: 11/25/2024 06:07 PM] |
| 12/03/2024 | 25 | NOTICE OF APPEARANCE by Margaux Poueymirou for Petitioner J. Doe. [Entered: 12/03/2024 02:05 PM] |
| 12/03/2024 | 26 | NOTICE OF APPEARANCE by Evan Creutz for Petitioner J. Doe. [Entered: 12/03/2024 02:09 PM] |
| 12/03/2024 | 27 | ADDED Counsel for Petitioner Margaux Poueymirou [Entered: 12/03/2024 03:02 PM] |
| 12/03/2024 | 28 | ADDED Counsel for Petitioner Evan Creutz [Entered: 12/03/2024 03:04 PM] |
| 12/19/2024 | <input type="checkbox"/> 29 2 pg. 224 KB | ORDER FILED. (Sidney R. THOMAS, Richard C. TALLMAN) The petition for permission to appeal is granted. See 28 U.S.C. § 1292(b). Within 14 days, petitioners must comply with Federal Rule of Appellate Procedure 5(d)(1). Petitioners' request for leave to file additional briefing (Docket Entry No. 17) is denied as unnecessary. Respondents Github, Inc. and Microsoft Corporation filed a notice of intent to file publicly their answer to the petition (Docket Entry No. 13). See 9th Cir. R. 27-13(f). Petitioners' opposed motion to file under seal portions of Github, Inc. and Microsoft Corporation's answer (Docket Entry No. 21) is granted. The Clerk will unseal the notice (Docket Entry No. 13.1) and file publicly the redacted answer (Docket Entry No. 14.2). The Clerk will maintain the unredacted answer under seal at Docket Entry No. 14.1. Petitioners filed a notice of intent to file publicly Exhibit 1 to the declaration in support of petitioners' motion to seal (Docket Entry No. 20). See 9th Cir. R. 27-13(f). No other party having filed a motion to seal Exhibit 1, the Clerk will file publicly the motion to seal, the supporting declaration, and Exhibit 1 (Docket Entry No. 21). [Entered: 12/19/2024 03:24 PM] |

ADRMOP,CONSOL,REFDIS,REFSET-SK,STAYED

**U.S. District Court
California Northern District (Oakland)
CIVIL DOCKET FOR CASE #: 4:22-cv-06823-JST**

DOE 1 et al v. GitHub, Inc. et al
Assigned to: Judge Jon S. Tigar
Referred to: Magistrate Judge Donna M. Ryu
Magistrate Judge Sallie Kim (Settlement)
Demand: \$1,000,000,000
Case in other court: Ninth Circuit, 24-07700
Cause: 28:1331 Fed. Question: Breach of Contract

Date Filed: 11/03/2022
Jury Demand: Plaintiff
Nature of Suit: 190 Contract: Other
Jurisdiction: Federal Question

Plaintiff

J. DOE 1

*individually and on behalf of all others
similarly situated*

represented by **Cadio R. Zirpoli**

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similarly situated*

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Christopher K.L. Young
(See above for address)
ATTORNEY TO BE NOTICED

Elissa Amlin Buchanan
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ATTORNEY TO BE NOTICED

Holden J. Benon
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ATTORNEY TO BE NOTICED

Louis Andrew Kessler
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ATTORNEY TO BE NOTICED

Margaux Poueymirou
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Matthew Butterick
(See above for address)
ATTORNEY TO BE NOTICED

Steven Noel Williams
(See above for address)
TERMINATED: 12/14/2023

Travis Luke Manfredi
(See above for address)
TERMINATED: 04/05/2024

William Waldir Castillo Guardado
(See above for address)
ATTORNEY TO BE NOTICED

Joseph R. Saveri
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

J. Doe 3

*individually and on behalf of all others
similarly situated*

represented by **Cadio R. Zirpoli**
(See above for address)
ATTORNEY TO BE NOTICED

Christopher K.L. Young
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ATTORNEY TO BE NOTICED

Elissa Amlin Buchanan
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TERMINATED: 12/14/2023

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TERMINATED: 04/05/2024

William Waldir Castillo Guardado
(See above for address)
ATTORNEY TO BE NOTICED

Joseph R. Saveri
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

J. Doe 4

*individually and on behalf of all others
similarly situated*

represented by **Cadio R. Zirpoli**
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ATTORNEY TO BE NOTICED

Christopher K.L. Young
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William Waldir Castillo Guardado
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Joseph R. Saveri
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ATTORNEY TO BE NOTICED

Plaintiff

J. Doe 5
*individually and on behalf of all others
similarly situated*

represented by **Cadio R. Zirpoli**
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Joseph R. Saveri

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ATTORNEY TO BE NOTICED

V.

Defendant

GitHub, Inc.

a Delaware corporation

represented by **Alyssa M. Caridis**

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Defendant

Microsoft Corporation
a Washington corporation

represented by **Alyssa M. Caridis**
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Annette L. Hurst
(See above for address)
ATTORNEY TO BE NOTICED

Daniel Denny Justice
(See above for address)
ATTORNEY TO BE NOTICED

William Wayne Oxley
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ATTORNEY TO BE NOTICED

Defendant

OpenAI, Inc.
a Delaware nonprofit corporation

represented by **Tiffany Cheung**
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TERMINATED: 09/17/2024

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TERMINATED: 02/11/2025

Defendant

OpenAI, L.P.
a Delaware limited partnership

represented by **Tiffany Cheung**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Alexandra Marie Ward
(See above for address)
ATTORNEY TO BE NOTICED

Allyson Roz Bennett
(See above for address)
TERMINATED: 09/17/2024

Eric Nikolaidis
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Rose S Lee
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Vera Ranieri
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TERMINATED: 02/11/2025

Defendant

OpenAI GP, L.L.C.
a Delaware limited liability company

represented by **Tiffany Cheung**
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LEAD ATTORNEY
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Alexandra Marie Ward
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TERMINATED: 02/11/2025

Defendant

OpenAI Startup Fund GPI, L.L.C.

a Delaware limited liability company

represented by **Tiffany Cheung**

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LEAD ATTORNEY

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Defendant

OpenAI Startup Fund I, L.P.
a Delaware limited partnership

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LEAD ATTORNEY
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TERMINATED: 02/29/2024

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TERMINATED: 02/11/2025

Defendant

**OpenAI Startup Fund Management,
LLC**
a Delaware limited liability company

represented by **Tiffany Cheung**
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Defendant

OpenAI OpCo, L.L.C.

represented by **Joseph Charles Gratz**
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Vera Ranieri
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TERMINATED: 02/11/2025

Defendant

OPENAI, L.L.C.

represented by **Joseph Charles Gratz**
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TERMINATED: 02/11/2025

Defendant

OPENAI GLOBAL, LLC

represented by **Joseph Charles Gratz**
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Vera Ranieri
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TERMINATED: 02/11/2025

Defendant

OAI CORPORATION,

represented by **Joseph Charles Gratz**
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LEAD ATTORNEY
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Allyson Roz Bennett
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TERMINATED: 09/17/2024

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TERMINATED: 02/11/2025

Defendant

OPENAI HOLDINGS, LLC

represented by **Joseph Charles Gratz**
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TERMINATED: 02/11/2025

Defendant

OPENAI HOLDCO, LLC

represented by **Joseph Charles Gratz**
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TERMINATED: 02/11/2025

Defendant

OPENAI INVESTMENT

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TERMINATED: 02/11/2025

Defendant

OPENAI INVESTMENT LLC
TERMINATED: 07/22/2024

represented by **Joseph Charles Gratz**
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TERMINATED: 02/11/2025

Defendant

OPENAI STARTUP FUND SPV I, L.P

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TERMINATED: 02/11/2025

Defendant**OPENAI STARTUP FUND SPV GP I,
L.L.C.**represented by **Joseph Charles Gratz**
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LEAD ATTORNEY
*ATTORNEY TO BE NOTICED***Allyson Roz Bennett**
(See above for address)
*TERMINATED: 09/17/2024***Carolyn Myrle Homer**
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*ATTORNEY TO BE NOTICED***John Robert Lanham**
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*ATTORNEY TO BE NOTICED***Rose S Lee**
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*ATTORNEY TO BE NOTICED***Vera Ranieri**
(See above for address)
TERMINATED: 02/11/2025

| Date Filed | # | Docket Text |
|-------------------|--------------------------|---|
| 11/03/2022 | <u>1</u> | CLASS ACTION COMPLAINT (with jury demand) (no process) against All Defendants (Filing fee \$402, receipt number BCANDC-17694670). Filed by J. DOE 2, J. DOE 1. (Attachments: # <u>1</u> Appendix A - Full Text of Licenses, # <u>2</u> Exhibit 1 - Terms of Service, Privacy Statement, # <u>3</u> Civil Cover Sheet)(Saveri, Joseph) (Filed on 11/3/2022) Modified on 11/4/2022 (cjl, COURT STAFF). (Entered: 11/03/2022) |
| 11/03/2022 | <u>2</u> | Proposed Summons. (Saveri, Joseph) (Filed on 11/3/2022) (Entered: 11/03/2022) |
| 11/03/2022 | 3 | Case assigned to Magistrate Judge Kandis A. Westmore. Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit <i>E-Filing A New Civil Case</i> at http://cand.uscourts.gov/ecf/caseopening . Standing orders can be downloaded from the court's web page at www.cand.uscourts.gov/judges . Upon receipt, the summons will be issued and returned electronically. A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. Consent/Declination due by 11/17/2022. (bw, COURT STAFF) (Filed on 11/3/2022) (Entered: 11/03/2022) |
| 11/04/2022 | | <u>Electronic filing error</u> . Error on PDF attached. [err201] First page overflows onto second page. This filing will not be processed by the clerks office. Please re-file in its entirety Re: <u>2</u> Proposed Summons filed by J. DOE 1, J. DOE 2. (cjl, COURT STAFF) (Filed on 11/4/2022) (Entered: 11/04/2022) |

| | | |
|------------|--------------------|---|
| 11/04/2022 | 4 | Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 1/31/2023. Initial Case Management Conference set for 2/7/2023 01:30 PM in Oakland, - To be determined. (cjl, COURT STAFF) (Filed on 11/4/2022) (Entered: 11/04/2022) |
| 11/04/2022 | 5 | Proposed Summons. (Saveri, Joseph) (Filed on 11/4/2022) (Entered: 11/04/2022) |
| 11/04/2022 | 6 | Summons Issued as to GitHub, Inc., Microsoft Corporation, OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P. (cjl, COURT STAFF) (Filed on 11/4/2022) (Entered: 11/04/2022) |
| 11/14/2022 | 7 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. GitHub, Inc. served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 8 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. Microsoft Corporation served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 9 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. OPENAI STARTUP FUND GP I, L.L.C. served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 10 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. OPENAI STARTUP FUND I, L.P. served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 11 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. OPENAI GP, L.L.C. served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 12 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. OPENAI, INC. served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 13 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. OPENAI, L.P. served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/14/2022 | 14 | SUMMONS Returned Executed by J. DOE 2, J. DOE 1. OPENAI STARTUP FUND MANAGEMENT, LLC served on 11/7/2022, answer due 11/28/2022. (Saveri, Joseph) (Filed on 11/14/2022) (Entered: 11/14/2022) |
| 11/15/2022 | 15 | MOTION to Relate Case filed by J. DOE 1, J. DOE 2. (Attachments: # 1 Declaration of Joseph R. Saveri in Support, # 2 Exhibit A to Saveri Declaration - Doe 3 Complaint, # 3 Proposed Order)(Saveri, Joseph) (Filed on 11/15/2022) (Entered: 11/15/2022) |
| 11/15/2022 | 16 | CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by J. DOE 1, J. DOE 2.. (Saveri, Joseph) (Filed on 11/15/2022) (Entered: 11/15/2022) |
| 11/28/2022 | 17 | STIPULATION EXTENDING TIME TO RESPOND TO COMPLAINT PURSUANT TO LOCAL RULE 6-1 filed by J. DOE 1, J. DOE 2, GitHub, Inc., Microsoft Corporation, Openai GP, L.L.C., Openai Startup Fund GP I, L.L.C., Openai Startup Fund I, L.P., Openai Startup Fund Management, LLC, Openai, Inc., Openai, L.P. (Saveri, Joseph) (Filed on 11/28/2022) Modified on 11/28/2022 (cjl, COURT STAFF). (Entered: 11/28/2022) |

| | | |
|------------|--------------------|---|
| 11/28/2022 | 18 | NOTICE of Appearance by Annette L. Hurst <i>for Defendants, Microsoft Corporation and GitHub, Inc.</i> (Hurst, Annette) (Filed on 11/28/2022) (Entered: 11/28/2022) |
| 11/28/2022 | 19 | ***POSTED IN ERROR. PLEASE SEE DOCUMENT #22*** NOTICE of Appearance by William Wayne Oxley for Defendants, Microsoft Corporation and GitHub, Inc. (Oxley, William) (Filed on 11/28/2022) Modified on 11/29/2022 (dhm, COURT STAFF). (Entered: 11/28/2022) |
| 11/28/2022 | 20 | ***POSTED IN ERROR. PLEASE SEE DOCUMENT #23*** NOTICE of Appearance by Alyssa M. Caridis for Defendants, Microsoft Corporation and GitHub, Inc. (Caridis, Alyssa) (Filed on 11/28/2022) Modified on 11/29/2022 (dhm, COURT STAFF). (Entered: 11/28/2022) |
| 11/29/2022 | 21 | CLERK'S NOTICE Re: Consent or Declination: Defendants GitHub Inc. and Microsoft Corporation shall file a consent or declination to proceed before a magistrate judge. Note that any party is free to withhold consent to proceed before a magistrate judge without adverse substantive consequences. The forms are available at: http://cand.uscourts.gov/civilforms . Consent/Declination due by 12/6/2022. (wft, COURT STAFF) (Filed on 11/29/2022) (Entered: 11/29/2022) |
| 11/29/2022 | 22 | Corrected 19 NOTICE of Appearance by William Wayne Oxley for Defendants Microsoft Corporation and GitHub, Inc. (Oxley, William) (Filed on 11/29/2022) Modified on 11/30/2022 (cjl, COURT STAFF). (Entered: 11/29/2022) |
| 11/29/2022 | 23 | Corrected 20 NOTICE of Appearance by Alyssa M. Caridis for Defendants Microsoft Corporation and GitHub, Inc. (Caridis, Alyssa) (Filed on 11/29/2022) Modified on 11/30/2022 (cjl, COURT STAFF). (Entered: 11/29/2022) |
| 11/29/2022 | 24 | Certificate of Interested Entities by J. DOE 1, J. DOE 2 (Saveri, Joseph) (Filed on 11/29/2022) (Entered: 11/29/2022) |
| 12/02/2022 | 25 | CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by GitHub, Inc., Microsoft Corporation.. (Hurst, Annette) (Filed on 12/2/2022) (Entered: 12/02/2022) |
| 12/02/2022 | 26 | NOTICE of Appearance by Cadio R. Zirpoli (Zirpoli, Cadio) (Filed on 12/2/2022) (Entered: 12/02/2022) |
| 12/02/2022 | 27 | NOTICE of Appearance by Elissa Amlin Buchanan (Buchanan, Elissa) (Filed on 12/2/2022) (Entered: 12/02/2022) |
| 12/02/2022 | 28 | NOTICE of Appearance by Travis Luke Manfredi (Manfredi, Travis) (Filed on 12/2/2022) (Entered: 12/02/2022) |
| 12/02/2022 | 29 | NOTICE of Appearance by Matthew Butterick (Butterick, Matthew) (Filed on 12/2/2022) (Entered: 12/02/2022) |

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| 12/05/2022 | 30 | <p>CLERK'S NOTICE OF IMPENDING REASSIGNMENT TO A U.S. DISTRICT COURT JUDGE: The Clerk of this Court will now randomly reassign this case to a District Judge because either (1) a party has not consented to the jurisdiction of a Magistrate Judge, or (2) time is of the essence in deciding a pending judicial action for which the necessary consents to Magistrate Judge jurisdiction have not been secured. You will be informed by separate notice of the district judge to whom this case is reassigned.</p> <p>ALL HEARING DATES PRESENTLY SCHEDULED BEFORE THE CURRENT MAGISTRATE JUDGE ARE VACATED AND SHOULD BE RE-NOTICED FOR HEARING BEFORE THE JUDGE TO WHOM THIS CASE IS REASSIGNED.</p> <p><i>This is a text only docket entry; there is no document associated with this notice. (wft, COURT STAFF) (Filed on 12/5/2022) (Entered: 12/05/2022)</i></p> |
| 12/05/2022 | 31 | NOTICE of Appearance by Steven Noel Williams (Williams, Steven) (Filed on 12/5/2022) (Entered: 12/05/2022) |
| 12/06/2022 | 32 | NOTICE of Appearance by Joseph Charles Gratz (Gratz, Joseph) (Filed on 12/6/2022) (Entered: 12/06/2022) |
| 12/06/2022 | 33 | <p>ORDER REASSIGNING CASE. Case reassigned using a proportionate, random, and blind system pursuant to General Order No. 44 to Judge Jon S. Tigar for all further proceedings. Magistrate Judge Kandis A. Westmore no longer assigned to case. Notice: The assigned judge participates in the Cameras in the Courtroom Pilot Project. See General Order No. 65 and http://cand.uscourts.gov/cameras. Signed by Clerk on 12/6/2022. (Attachments: # 1 Notice of Eligibility for Video Recording)(jml, COURT STAFF) (Filed on 12/6/2022) (Entered: 12/06/2022)</p> |
| 12/06/2022 | 34 | <p>CLERK'S NOTICE SETTING CASE MANAGEMENT CONFERENCE. Case Management Statement due by 3/7/2023. Initial Case Management Conference set for 3/14/2023 02:00 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than March 13, 2023 by 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>Case Management Statement due by 3/7/2023. Initial Case Management Conference set for 3/14/2023 02:00 PM in Oakland, - Videoconference Only. (mll, COURT STAFF) (Filed on 12/6/2022) (Entered: 12/06/2022)</p> |
| 12/06/2022 | 35 | NOTICE of Appearance by Michael A. Jacobs <i>for Defendants OpenAI, Inc., OpenAI L.P., OpenAI G.P., L.L.C., OpenAI Startup Fund GP I., OpenAI Startup Fund I, L.P., and</i> |

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| | | <i>OpenAI Startup Fund Management, LLC</i> (Jacobs, Michael) (Filed on 12/6/2022) (Entered: 12/06/2022) |
| 12/06/2022 | 36 | NOTICE of Appearance by Tiffany Cheung <i>for Defendants OpenAI, Inc., OpenAI L.P., OpenAI G.P., L.L.C., OpenAI Startup Fund GP I., OpenAI Startup Fund I, L.P., and OpenAI Startup Fund Management, LLC</i> (Cheung, Tiffany) (Filed on 12/6/2022) (Entered: 12/06/2022) |
| 12/06/2022 | 37 | NOTICE of Appearance by Rose S Lee <i>for Defendants OpenAI, Inc., OpenAI L.P., OpenAI G.P., L.L.C., OpenAI Startup Fund GP I., OpenAI Startup Fund I, L.P., and OpenAI Startup Fund Management, LLC</i> (Lee, Rose) (Filed on 12/6/2022) (Entered: 12/06/2022) |
| 12/06/2022 | 38 | Certificate of Interested Entities and Corporate Disclosure Statement by OPENAI GP, L.L.C. identifying Corporate Parent OPENAI, INC. for OPENAI GP, L.L.C. (Jacobs, Michael) (Filed on 12/6/2022) Modified on 12/7/2022 (cjl, COURT STAFF). (Entered: 12/06/2022) |
| 12/06/2022 | 39 | Certificate of Interested Entities and Corporate Disclosure Statement by OPENAI, INC.> (Jacobs, Michael) (Filed on 12/6/2022) Modified on 12/7/2022 (cjl, COURT STAFF). (Entered: 12/06/2022) |
| 12/06/2022 | 40 | Certificate of Interested Entities and Corporate Disclosure Statement by OPENAI, L.P. identifying Corporate Parent OPENAI, INC., Corporate Parent OPENAI GP, L.L.C., Other Affiliate Microsoft Corporation for OPENAI, L.P. (Jacobs, Michael) (Filed on 12/6/2022) Modified on 12/7/2022 (cjl, COURT STAFF). (Entered: 12/06/2022) |
| 12/06/2022 | 41 | Certificate of Interested Entities and Corporate Disclosure Statement by OPENAI STARTUP FUND GP I, L.L.C. (Jacobs, Michael) (Filed on 12/6/2022) Modified on 12/7/2022 (cjl, COURT STAFF). (Entered: 12/06/2022) |
| 12/06/2022 | 42 | Certificate of Interested Entities and Corporate Disclosure Statement by OPENAI STARTUP FUND I, L.P. identifying Corporate Parent OPENAI STARTUP FUND GP I, L.L.C., Other Affiliate Microsoft Corporation for OPENAI STARTUP FUND I, L.P. (Jacobs, Michael) (Filed on 12/6/2022) Modified on 12/7/2022 (cjl, COURT STAFF). (Entered: 12/06/2022) |
| 12/06/2022 | 43 | Certificate of Interested Entities and Corporate Disclosure Statement by OPENAI STARTUP FUND MANAGEMENT, LLC. (Jacobs, Michael) (Filed on 12/6/2022) Modified on 12/7/2022 (cjl, COURT STAFF). (Entered: 12/06/2022) |
| 12/07/2022 | 44 | ORDER RELATING CASE. Motions terminated: (15 in 4:22-cv-06823-JST) MOTION to Relate Case filed by J. DOE 1, J. DOE 2. Signed by Judge Jon S. Tigar on December 7, 2022. (mll, COURT STAFF) (Filed on 12/7/2022) (Entered: 12/07/2022) |
| 12/08/2022 | 45 | Application for Refund re 1 Complaint,, Receipt Number ACANDC-17694670 <i>re Duplicate Filing Fee Charge</i> by J. DOE 1, J. DOE 2. (Saveri, Joseph) (Filed on 12/8/2022) (Entered: 12/08/2022) |
| 12/15/2022 | 46 | STIPULATION WITH PROPOSED ORDER re Consolidation and Scheduling filed by J. DOE 1, J. DOE 2, GitHub, Inc. and Microsoft Corporation, OpenAI, Inc.; OpenAI, L.P.; OpenAI GP, L.L.C.; OpenAI Startup Fund GP I, L.L.C.; OpenAI Startup Fund I, L.P.; and OpenAI Startup Fund Management, LLC. (Saveri, Joseph) (Filed on 12/15/2022) Modified on 12/16/2022 (cjl, COURT STAFF). (Entered: 12/15/2022) |
| 12/20/2022 | 47 | ORDER REGARDING CONSOLIDATION AND SCHEDULING, Motions terminated: (46 in 4:22-cv-06823-JST) STIPULATION WITH PROPOSED ORDER re Consolidation and Scheduling filed by OPENAI, L.P., OPENAI STARTUP FUND |

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| | | MANAGEMENT, LLC, GitHub, Inc., OPENAI, INC., J. DOE 1, OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND GP I, L.L.C., Microsoft Corporation, J. DOE 2, OPENAI GP, L.L.C., (41 in 4:22-cv-07074-JST) STIPULATION WITH PROPOSED ORDER <i>re Consolidation and Scheduling</i> filed by J. Doe 4, J. Doe 3. Signed by Judge Jon S. Tigar on December 20, 2022. (mll, COURT STAFF) (Filed on 12/20/2022) (Entered: 12/20/2022) |
| 12/22/2022 | 48 | Refund Status re 45 Application for Refund Declined. (kep, COURT STAFF) (Filed on 12/22/2022) (Entered: 12/22/2022) |
| 01/23/2023 | 49 | MOTION for Protective Order filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. Motion Hearing set for 3/16/2023 02:00 PM in Oakland, Courtroom 06, 2nd Floor before Judge Jon S. Tigar. Responses due by 2/6/2023. Replies due by 2/13/2023. (Attachments: # 1 Declaration of Joseph R. Saveri, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Proposed Order)(Saveri, Joseph) (Filed on 1/23/2023) Modified on 1/30/2023 (dhm, COURT STAFF). (Entered: 01/23/2023) |
| 01/26/2023 | 50 | MOTION to Dismiss <i>Operative Complaint in Consolidated Actions</i> filed by GitHub, Inc., Microsoft Corporation. Motion Hearing set for 5/4/2023 02:00 PM in Oakland, Courtroom 6, 2nd Floor before Judge Jon S. Tigar. Responses due by 3/9/2023. Replies due by 4/6/2023. (Attachments: # 1 Proposed Order)(Hurst, Annette) (Filed on 1/26/2023) (Entered: 01/26/2023) |
| 01/26/2023 | 51 | Certificate of Interested Entities by GitHub, Inc. <i>identifies Microsoft Corporation as its parent company</i> (Hurst, Annette) (Filed on 1/26/2023) (Entered: 01/26/2023) |
| 01/26/2023 | 52 | Certificate of Interested Entities by Microsoft Corporation <i>identifies no entity owns more than 10 percent of Microsoft's stock</i> (Hurst, Annette) (Filed on 1/26/2023) (Entered: 01/26/2023) |
| 01/26/2023 | 53 | MOTION to Dismiss <i>Complaint; Memorandum of Points and Authorities</i> filed by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P.. Motion Hearing set for 5/4/2023 02:00 PM in Oakland, Courtroom 6, 2nd Floor before Judge Jon S. Tigar. Responses due by 2/9/2023. Replies due by 2/16/2023. (Attachments: # 1 Declaration of Michael A. Jacobs, # 2 Proposed Order)(Jacobs, Michael) (Filed on 1/26/2023) (Entered: 01/26/2023) |
| 02/06/2023 | 54 | STIPULATION WITH PROPOSED ORDER re 49 MOTION for Protective Order (<i>for Extension of Time</i>) filed by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P.. (Attachments: # 1 Declaration of Joseph C. Gratz)(Gratz, Joseph) (Filed on 2/6/2023) (Entered: 02/06/2023) |
| 02/08/2023 | 55 | ORDER re 54 GRANTING EXTENSION OF TIME. Signed by Judge Jon S. Tigar on 2/8/2023. Opposition due by 2/21/2023. Replies due by 2/28/2023. 49 Motion for Protective Order Hearing reset to 4/6/2023 at 02:00 PM in Oakland, - Videoconference Only before Judge Jon S. Tigar. This proceeding will be held via a Zoom webinar. Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst |

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| | | <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than April 5, 2023 by no later than 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/. (bxs, COURT STAFF) (Filed on 2/8/2023) (Entered: 02/08/2023)</p> |
| 02/21/2023 | 56 | STIPULATION WITH PROPOSED ORDER re 49 MOTION for Protective Order <i>Deadlines</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Saveri, Joseph) (Filed on 2/21/2023) (Entered: 02/21/2023) |
| 02/21/2023 | 57 | STIPULATION WITH PROPOSED ORDER re <i>Protective Order for Litigation Involving Patents, Highly Sensitive Confidential Information and/or Trade Secrets</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Saveri, Joseph) (Filed on 2/21/2023) (Entered: 02/21/2023) |
| 02/23/2023 | 58 | Order by Judge Jon S. Tigar denying 57 Stipulated Protective Order.(mll, COURT STAFF) (Filed on 2/23/2023) (Entered: 02/23/2023) |
| 02/24/2023 | 59 | NOTICE of Appearance by Daniel Denny Justice on <i>Behalf of Defendants GitHub, Inc. and Microsoft Corporation</i> (Justice, Daniel) (Filed on 2/24/2023) (Entered: 02/24/2023) |
| 03/01/2023 | 60 | <p>CLERK'S NOTICE CONTINUING CASE MANAGEMENT CONFERENCE. <i>(This is a text-only entry generated by the court. There is no document associated with this entry).</i>,. The case management conference set for 3/14/2023 is CONTINUED. Case Management Statement due by 5/16/2023. Initial Case Management Conference set for 5/23/2023 02:00 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than May 22, 2023 by 2:00 P.M.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>Case Management Statement due by 5/16/2023. Initial Case Management Conference set for 5/23/2023 02:00 PM in Oakland, - Videoconference Only. (mll, COURT STAFF) (Filed on 3/1/2023) (Entered: 03/01/2023)</p> |

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| 03/03/2023 | 61 | Declaration of Joseph R. Saveri <i>ISO [Proposed] Stipulated Protective Order</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Attachments: # 1 Exhibit 1 - Redline of Proposed Stipulated Protective Order, # 2 Exhibit 2 - Proposed Stipulated Protective Order)(Saveri, Joseph) (Filed on 3/3/2023) (Entered: 03/03/2023) |
| 03/06/2023 | 62 | NOTICE of Appearance by Christopher Kar-Lun Young <i>for Plaintiffs</i> (Young, Christopher) (Filed on 3/6/2023) (Entered: 03/06/2023) |
| 03/07/2023 | 63 | STIPULATED PROTECTIVE ORDER FOR LITIGATION INVOLVING PATENTS, HIGHLY SENSITIVE CONFIDENTIAL INFORMATION AND/OR TRADE SECRETS. Motions terminated: 49 MOTION for Protective Order filed by J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2. Signed by Judge Jon S. Tigar on March 7, 2023. (mll, COURT STAFF) (Filed on 3/7/2023) (Entered: 03/07/2023) |
| 03/07/2023 | 64 | ORDER REGARDING MOTION FOR PROTECTIVE ORDER DEADLINES by Judge Jon S. Tigar granting 56 Stipulation.(mll, COURT STAFF) (Filed on 3/7/2023) (Entered: 03/07/2023) |
| 03/09/2023 | 65 | Administrative Motion to File Under Seal <i>Exhibits to Plaintiffs' Oppositions to Motions to Dismiss</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Attachments: # 1 Declaration of Travis Manfredi, # 2 Proposed Order 1 - Unredacted Version Saveri Decl. Ex. 1, # 3 Exhibit 2 - Unredacted Version Saveri Decl. Ex. 2, # 4 Exhibit)(Manfredi, Travis) (Filed on 3/9/2023) (Entered: 03/09/2023) |
| 03/09/2023 | 66 | OPPOSITION/RESPONSE (re 50 MOTION to Dismiss <i>Operative Complaint in Consolidated Actions</i>) filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Saveri, Joseph) (Filed on 3/9/2023) (Entered: 03/09/2023) |
| 03/09/2023 | 67 | OPPOSITION/RESPONSE (re 53 MOTION to Dismiss <i>Complaint; Memorandum of Points and Authorities</i>) filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Saveri, Joseph) (Filed on 3/9/2023) (Entered: 03/09/2023) |
| 03/09/2023 | 68 | Omnibus Declaration of Joseph R. Saveri in Support of 67 Opposition/Response to Motion, 66 Opposition/Response to Motion filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5) (Related document(s) 67 , 66) (Saveri, Joseph) (Filed on 3/9/2023) Modified text on 3/10/2023 (dhm, COURT STAFF). (Entered: 03/09/2023) |
| 03/09/2023 | 69 | CERTIFICATE OF SERVICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4 re 65 Administrative Motion to File Under Seal <i>Exhibits to Plaintiffs' Oppositions to Motions to Dismiss</i> (Saveri, Joseph) (Filed on 3/9/2023) (Entered: 03/09/2023) |
| 03/15/2023 | 70 | Order by Judge Jon S. Tigar granting 65 Administrative Motion to File Under Seal. (mll, COURT STAFF) (Filed on 3/15/2023) (Entered: 03/15/2023) |
| 03/30/2023 | 71 | MOTION MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR PLAINTIFFS TRUE NAMES PURSUANT TO SECTION 6.3 OF THE STIPULATED PROTECTIVE ORDER (ECF NO. 63) filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. Motion Hearing set for 5/4/2023 12:30 PM in Oakland, Courtroom 6, 2nd Floor before Judge Jon S. Tigar. Responses due by 4/13/2023. Replies due by 4/20/2023. (Attachments: # 1 Declaration of Travis Manfredi, # 2 Proposed Order)(Saveri, Joseph) (Filed on 3/30/2023) Modified on 4/3/2023 (dhm, COURT STAFF). (Entered: 03/30/2023) |
| 04/06/2023 | 72 | REPLY (re 50 MOTION to Dismiss <i>Operative Complaint in Consolidated Actions</i>) <i>In Support Of Their Motions To Dismiss</i> filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Declaration of Annette Hurst In Support of Defendants Github And Microsofts Motions To Dismiss Operative Complaint In Consolidated Actions, # 2 Exhibit 1 to Hurst Declaration, # 3 Exhibit 2 to Hurst Declaration, # 4 Exhibit 3 to Hurst |

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| | | Declaration, # 5 Exhibit 4 to Hurst Declaration, # 6 Exhibit 5 to Hurst Declaration)(Hurst, Annette) (Filed on 4/6/2023) **Locked per filer's request.** Modified on 4/24/2023 (ddk, COURT STAFF). (Entered: 04/06/2023) |
| 04/06/2023 | 73 | REPLY (re 53 MOTION to Dismiss <i>Complaint; Memorandum of Points and Authorities</i>) filed byOPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P.. (Gratz, Joseph) (Filed on 4/6/2023) (Entered: 04/06/2023) |
| 04/13/2023 | 74 | Administrative Motion to File Under Seal filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Proposed Order, # 2 Exhibit 1 (UNDERSEAL))(Hurst, Annette) (Filed on 4/13/2023) (Entered: 04/13/2023) |
| 04/13/2023 | 75 | OPPOSITION/RESPONSE (re 71 MOTION MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR PLAINTIFFS TRUE NAMES PURSUANT TO SECTION 6.3 OF THE STIPULATED PROTECTIVE ORDER (ECF NO. 63)) filed byGitHub, Inc., Microsoft Corporation. (Attachments: # 1 Declaration of Annette L. Hurst, # 2 Exhibit 1 to Hurst Declaration (Redacted), # 3 Exhibit 2 to Hurst Declaration)(Hurst, Annette) (Filed on 4/13/2023) *** Locked per filer's request.** Modified on 4/24/2023 (ddk, COURT STAFF). Modified on 4/25/2023 (dhm, COURT STAFF). *** Per filer's request on 4/25/2023, Attachment 1 unsealed.*** (Entered: 04/13/2023) |
| 04/13/2023 | 76 | CERTIFICATE OF SERVICE by GitHub, Inc., Microsoft Corporation re 74 Administrative Motion to File Under Seal <i>Exhibit 1 to Hurst Declaration Under Seal</i> . (Hurst, Annette) (Filed on 4/13/2023) (Entered: 04/13/2023) |
| 04/20/2023 | 77 | REPLY (re 71 MOTION MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR PLAINTIFFS TRUE NAMES PURSUANT TO SECTION 6.3 OF THE STIPULATED PROTECTIVE ORDER (ECF NO. 63)) filed byJ. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Attachments: # 1 Declaration of Matthew Butterick, # 2 Declaration of Joseph R. Saveri., # 3 Exhibit 1, # 4 Exhibit 2, # 5 Exhibit 3, # 6 Exhibit 4, # 7 Exhibit 5)(Saveri, Joseph) (Filed on 4/20/2023) (Entered: 04/20/2023) |
| 04/21/2023 | 78 | <p>CLERKS NOTICE SETTING ZOOM HEARING. Motion Hearing set for 5/4/2023 02:00 PM in Oakland, - Videoconference Only before Judge Jon S. Tigar. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than May 3, 2023 by 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>, Set/Reset Deadlines as to 53 MOTION to Dismiss <i>Complaint; Memorandum of Points and Authorities</i>, 50 MOTION to Dismiss <i>Operative Complaint in Consolidated Actions</i>, 71 MOTION MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR PLAINTIFFS TRUE NAMES PURSUANT TO SECTION 6.3 OF THE STIPULATED PROTECTIVE ORDER (ECF NO. 63) . Motion Hearing set for 5/4/2023 02:00 PM in Oakland, -</p> |

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| | | Videoconference Only before Judge Jon S. Tigar. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mll, COURT STAFF) (Filed on 4/21/2023) (Entered: 04/21/2023) |
| 04/21/2023 | 79 | ORDER RE: MOTION TO FILE UNDER SEAL 74 Administrative Motion to File Under Seal filed by Microsoft Corporation, GitHub, Inc. Declaration due by 4/28/2023. Signed by Judge Jon S. Tigar on April 21, 2023. (mll, COURT STAFF) (Filed on 4/21/2023) Modified on 4/21/2023 (mll, COURT STAFF). (Entered: 04/21/2023) |
| 04/24/2023 | 80 | Administrative Motion to Consider Whether Another Party's Material Should Be Sealed filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Proposed Order, # 2 Declaration of Annette L. Hurst, # 3 Exhibit 1, # 4 Exhibit 2 to Hurst Declaration (UNREDACTED), # 5 Exhibit 2 to Hurst Declaration (REDACTED), # 6 Exhibit 3 to Hurst Declaration (UNREDACTED), # 7 Exhibit 3 to Hurst Declaration (REDACTED), # 8 Exhibit 4 to Hurst Declaration (UNREDACTED), # 9 Exhibit 4 to Hurst Declaration (REDACTED))(Hurst, Annette) (Filed on 4/24/2023) (Entered: 04/24/2023) |
| 04/24/2023 | 81 | CERTIFICATE OF SERVICE by GitHub, Inc., Microsoft Corporation re 80 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed (UNREDACTED) Exhibits 2 - 4 to Hurst Declaration (Hurst, Annette) (Filed on 4/24/2023) (Entered: 04/24/2023) |
| 04/28/2023 | 82 | Statement re 74 Administrative Motion to File Under Seal by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Saveri, Joseph) (Filed on 4/28/2023) (Entered: 04/28/2023) |
| 05/01/2023 | 83 | Statement re 80 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Saveri, Joseph) (Filed on 5/1/2023) (Entered: 05/01/2023) |
| 05/02/2023 | 84 | NOTICE of Appearance by Allyson Roz Bennett (Bennett, Allyson) (Filed on 5/2/2023) (Entered: 05/02/2023) |
| 05/02/2023 | 85 | NOTICE of Appearance by Melody Ellen Wong (Wong, Melody) (Filed on 5/2/2023) (Entered: 05/02/2023) |
| 05/02/2023 | 86 | NOTICE of Appearance by Alexandra Marie Ward (Ward, Alexandra) (Filed on 5/2/2023) (Entered: 05/02/2023) |
| 05/04/2023 | 87 | Order by Judge Jon S. Tigar granting 74 Administrative Motion to File Under Seal. (mll, COURT STAFF) (Filed on 5/4/2023) (Entered: 05/04/2023) |
| 05/04/2023 | 88 | Minute Entry for proceedings held before Judge Jon S. Tigar: Motion Hearing held via Zoom videoconference on 5/4/2023 re 71 MOTION MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR PLAINTIFFS TRUE NAMES PURSUANT TO SECTION 6.3 OF THE STIPULATED PROTECTIVE ORDER (ECF NO. 63) filed by J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2, 53 MOTION to Dismiss <i>Complaint; Memorandum of Points and Authorities</i> filed by OPENAI, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND GP I, L.L.C., OPENAI GP, L.L.C., OPENAI, INC., 50 MOTION to Dismiss <i>Operative Complaint in Consolidated Actions</i> filed by Microsoft Corporation, GitHub, Inc. Argument heard from parties. Motions taken under submission. Written orders to issue. The Court continues the case management conference set for May 23, 2023 to July 11, 2023. Case Management Statement due by 7/5/2023. Initial Case Management Conference set for 7/11/2023 02:00 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar. |

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| | | <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at jsterd@cand.uscourts.gov no later than July 10, 2023 by 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/. Case Management Statement due by 7/5/2023. Initial Case Management Conference set for 7/11/2023 02:00 PM in Oakland, - Videoconference Only. Total Time in Court: 1 hour 17 minutes. Court Reporter: Irene Rodriguez. Plaintiff Attorney: Joseph Saveri, Christopher Young, Matthew Butterick. Defendant Attorney: Counsel for Defendants GitHub, Inc., and Microsoft Corp.: Annette Hurst ; Counsel for Defendants OpenAI GP, LLC, OpenAI Startup Fund GP I, LLC, OpenAI Startup Fund, LP, OpenAI Startup Fund Management, LLC, OpenAI, Inc., and OpenAI, LP: Joseph Gratz. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mll, COURT STAFF) (Date Filed: 5/4/2023) (Entered: 05/04/2023)</p> |
| 05/05/2023 | 89 | TRANSCRIPT ORDER for proceedings held on 5/4/2023 before Judge Jon S. Tigar by GitHub, Inc., for Court Reporter Irene Rodriguez. (Justice, Daniel) (Filed on 5/5/2023) (Entered: 05/05/2023) |
| 05/05/2023 | 90 | TRANSCRIPT ORDER for proceedings held on May 4, 2023 before Judge Jon S. Tigar by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P., for Court Reporter Irene Rodriguez. (Lee, Rose) (Filed on 5/5/2023) (Entered: 05/05/2023) |
| 05/07/2023 | 91 | Transcript of Proceedings held on 05/04/2023, before Judge Tigar. Court Reporter Irene Rodriguez, email address Irene_Rodriguez@cand.uscourts.gov . Per General Order No. 59 and Judicial Conference policy, this transcript may be viewed only at the Clerk's Office public terminal or may be purchased through the Court Reporter until the deadline for the Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction, if required, is due no later than 5 business days from date of this filing. Release of Transcript Restriction set for 8/7/2023. (Rodriguez, Irene) (Filed on 5/7/2023) (Entered: 05/07/2023) |
| 05/08/2023 | 92 | TRANSCRIPT ORDER for proceedings held on 5/4/2023 before Judge Jon S. Tigar by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, for Court Reporter Irene Rodriguez. (Saveri, Joseph) (Filed on 5/8/2023) (Entered: 05/08/2023) |
| 05/09/2023 | 93 | TRANSCRIPT ORDER for proceedings held on 5/4/2023 before Judge Jon S. Tigar for Court Reporter Irene Rodriguez. (sp, COURT STAFF) (Filed on 5/9/2023) (Entered: 05/09/2023) |
| 05/11/2023 | 94 | Order by Judge Jon S. Tigar denying 80 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed.(mll, COURT STAFF) (Filed on 5/11/2023) (Entered: 05/11/2023) |

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| 05/11/2023 | 95 | ORDER GRANTING IN PART AND DENYING IN PART MOTIONS TO DISMISS by Judge Jon S. Tigar granting in part and denying in part 50 Motion to Dismiss; granting in part and denying in part 53 Motion to Dismiss. Amended Pleadings due by 6/8/2023. (mll, COURT STAFF) (Filed on 5/11/2023) (Entered: 05/11/2023) |
| 06/08/2023 | 96 | NOTICE of Appearance by Louis Andrew Kessler <i>for Plaintiffs</i> (Kessler, Louis) (Filed on 6/8/2023) (Entered: 06/08/2023) |
| 06/08/2023 | 97 | Administrative Motion to File Under Seal <i>Portions of the First Amended Complaint</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4. (Attachments: # 1 Affidavit of Travis Manfredi, # 2 Proposed Order, # 3 First Amended Complaint, # 4 Redline of First Amended Complaint)(Saveri, Joseph) (Filed on 6/8/2023) (Entered: 06/08/2023) |
| 06/08/2023 | 98 | AMENDED COMPLAINT against GitHub, Inc., Microsoft Corporation, OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P., OpenAI OpCo, L.L.C.. Filed by J. Doe 3, J. DOE 2, J. DOE 1, J. Doe 4. (Attachments: # 1 Appendix A, # 2 Exhibit 1, # 3 Exhibit Redline (Slipsheet only))(Saveri, Joseph) (Filed on 6/8/2023) (Entered: 06/08/2023) |
| 06/08/2023 | 99 | Proposed Summons. (Saveri, Joseph) (Filed on 6/8/2023) (Entered: 06/08/2023) |
| 06/08/2023 | 100 | CERTIFICATE OF SERVICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4 re 97 Administrative Motion to File Under Seal <i>Portions of the First Amended Complaint</i> (Saveri, Joseph) (Filed on 6/8/2023) (Entered: 06/08/2023) |
| 06/09/2023 | 101 | Summons Issued as to OpenAI OpCo, L.L.C.. (dhm, COURT STAFF) (Filed on 6/9/2023) (Entered: 06/09/2023) |
| 06/12/2023 | 102 | EXHIBITS re 97 Administrative Motion to File Under Seal <i>Portions of the First Amended Complaint CORRECTION OF DOCKET # 97</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit Attachment A - FAC Redline) (Related document(s) 97) (Saveri, Joseph) (Filed on 6/12/2023) (Entered: 06/12/2023) |
| 06/12/2023 | 103 | CERTIFICATE OF SERVICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 re 102 Exhibits to an Administrative Motion to File Under Seal, (Saveri, Joseph) (Filed on 6/12/2023) (Entered: 06/12/2023) |
| 06/16/2023 | 104 | SUMMONS Returned Executed by J. Doe 5, J. Doe 3, J. DOE 2, J. DOE 1, J. Doe 4. OpenAI OpCo, L.L.C. served on 6/13/2023, answer due 7/5/2023. (Saveri, Joseph) (Filed on 6/16/2023) (Entered: 06/16/2023) |
| 06/21/2023 | 105 | STIPULATION WITH PROPOSED ORDER <i>FOR BRIEFING SCHEDULE</i> filed by GitHub, Inc., Microsoft Corporation, OpenAI, L.P., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C, OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management L.L.C., Doe 1, Doe 2, Doe 3, Doe 4, and Doe 5. (Hurst, Annette) (Filed on 6/21/2023) Modified on 6/22/2023 (jml, COURT STAFF). (Entered: 06/21/2023) |
| 06/22/2023 | 106 | ORDER FOR BRIEFING SCHEDULE by Judge Jon S. Tigar granting 105 Stipulation. Motions due by 6/29/2023. Responses due by 7/27/2023. Replies due by 8/10/2023. (mll, COURT STAFF) (Filed on 6/22/2023) (Entered: 06/22/2023) |
| 06/29/2023 | 107 | Administrative Motion to Consider Whether Another Party's Material Should Be Sealed filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Proposed Order, # 2 Motion to Dismiss (REDACTED), # 3 Motion to Dismiss (SEALED))(Hurst, Annette) (Filed on 6/29/2023) (Entered: 06/29/2023) |

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| 06/29/2023 | 108 | MOTION to Dismiss <i>Portions of the First Amended Complaint in Consolidated Actions (REDACTED)</i> filed by GitHub, Inc., Microsoft Corporation. Motion Hearing set for 9/14/2023 02:00 PM in Oakland, Courtroom 6, 2nd Floor before Judge Jon S. Tigar. Responses due by 7/27/2023. Replies due by 8/10/2023. (Attachments: # 1 Proposed Order)(Hurst, Annette) (Filed on 6/29/2023) (Entered: 06/29/2023) |
| 06/29/2023 | 109 | Administrative Motion to File Under Seal filed by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P., OpenAI OpCo, L.L.C.. (Attachments: # 1 Declaration, # 2 Proposed Order, # 3 Unredacted Defendants' Motion to Dismiss First Amended Complaint)(Gratz, Joseph) (Filed on 6/29/2023) (Entered: 06/29/2023) |
| 06/29/2023 | 110 | MOTION to Dismiss filed by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P., OpenAI OpCo, L.L.C.. Motion Hearing set for 9/14/2023 02:00 PM before Judge Jon S. Tigar. Responses due by 7/13/2023. Replies due by 7/20/2023. (Attachments: # 1 Proposed Order)(Gratz, Joseph) (Filed on 6/29/2023) (Entered: 06/29/2023) |
| 06/29/2023 | 111 | Certificate of Interested Entities and Rule 7.1 Disclosures by OpenAI OpCo, L.L.C. identifying Corporate Parent OPENAI, INC., Corporate Parent OPENAI GP, L.L.C. for OpenAI OpCo, L.L.C.. (Gratz, Joseph) (Filed on 6/29/2023) Modified on 6/30/2023 (jlm, COURT STAFF). (Entered: 06/29/2023) |
| 06/29/2023 | 112 | CERTIFICATE OF SERVICE by GitHub, Inc., Microsoft Corporation re 107 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed <i>re Motion to Dismiss Portions of the First Amended Complaint in Consolidated Actions</i> (Hurst, Annette) (Filed on 6/29/2023) (Entered: 06/29/2023) |
| 06/29/2023 | 113 | CERTIFICATE OF SERVICE by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P., OpenAI OpCo, L.L.C. re 109 Administrative Motion to File Under Seal (Gratz, Joseph) (Filed on 6/29/2023) (Entered: 06/29/2023) |
| 06/30/2023 | | Set/Reset Deadlines as to 108 MOTION to Dismiss <i>Portions of the First Amended Complaint in Consolidated Actions (REDACTED)</i> , 110 MOTION to Dismiss . Responses due by 7/27/2023. Replies due by 8/10/2023. (mll, COURT STAFF) (Filed on 6/30/2023) (Entered: 06/30/2023) |
| 07/05/2023 | 114 | Order by Judge Jon S. Tigar granting 109 Administrative Motion to File Under Seal. (mll, COURT STAFF) (Filed on 7/5/2023) (Entered: 07/05/2023) |
| 07/05/2023 | 115 | Order by Judge Jon S. Tigar granting 107 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed. (mll, COURT STAFF) (Filed on 7/5/2023) (Entered: 07/05/2023) |
| 07/05/2023 | 116 | JOINT CASE MANAGEMENT STATEMENT & Rule 26(f) Report filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5, GitHub, Inc., Microsoft Corporation, OpenAI, Inc., OpenAI, L.P., OpenAI GP, LLC, OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C, OpenAI Startup Fund I, L.P., and OpenAI Startup Fund Management LLC. (Saveri, Joseph) (Filed on 7/5/2023) Modified on 7/6/2023 (cjl, COURT STAFF). (Entered: 07/05/2023) |

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| 07/06/2023 | 117 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant OPENAI INC., a Delaware nonprofit corporation</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 118 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant, OPENAI, L.P., a Delaware limited partnership</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 119 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant, OPENAI GP, L.L.C., a Delaware limited liability company</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 120 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant, OPENAI STARTUP FUND GP I, L.L.C., a Delaware limited liability company</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 121 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant OPENAI STARTUP FUND I, L.P., a Delaware limited partnership</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 122 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant, OPENAI STARTUP FUND MANAGEMENT, L.L.C, a Delaware limited liability company</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 123 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Defendant, OPENAI OPCO, L.L.C., a Delaware limited liability company</i> (Gratz, Joseph) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 124 | TRANSCRIPT ORDER for proceedings held on 5/4/2023 before Judge Jon S. Tigar for Court Reporter Irene Rodriguez. (sp, COURT STAFF) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 125 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for GitHub, Inc. ADR</i> (Hurst, Annette) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/06/2023 | 126 | ADR Certification (ADR L.R. 3-5 b) of discussion of ADR options <i>for Microsoft Corporation ADR</i> (Hurst, Annette) (Filed on 7/6/2023) (Entered: 07/06/2023) |
| 07/10/2023 | 127 | ORDER REFERRING CASE to Magistrate Judge for Settlement. Signed by Judge Jon S. Tigar on July 10, 2023. (mll, COURT STAFF) (Filed on 7/10/2023) (Entered: 07/10/2023) |
| 07/10/2023 | | CASE REFERRED to Magistrate Judge Sallie Kim for Settlement (mkl, COURT STAFF) (Filed on 7/10/2023) (Entered: 07/10/2023) |
| 07/11/2023 | 128 | NOTICE OF VIDEO SCHEDULING CONFERENCE FOR SETTLEMENT CONFERENCE. (The attached notice contains Zoom meeting information counsel will need to participate). Scheduling Conference set for 7/20/2023 09:00 AM in San Francisco - Videoconference Only before Magistrate Judge Sallie Kim. Signed by Magistrate Judge Sallie Kim on 7/11/2023. (mkl, COURT STAFF) (Filed on 7/11/2023) (Entered: 07/11/2023) |
| 07/11/2023 | 129 | Minute Entry for proceedings held before Judge Jon S. Tigar: Further Case Management Conference held on 7/11/2023. Hearing held via Zoom videoconference. Issues raised in case management statement discussed. The parties are ordered to meet and confer about, and make a joint letter brief regarding the newly disclosed source code and confidential designation of names. The joint proposal should be no more than 5 pages. Further case management conference set. Written scheduling order to issue. Case Management Statement due by 9/8/2023. Letter Brief due by |

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| | | <p>7/21/2023. Further Case Management Conference set for 9/15/2023 01:30 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than September 14, 2023 by Noon.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>Case Management Statement due by 9/8/2023. Status Report due by 7/21/2023. Further Case Management Conference set for 9/15/2023 01:30 PM in Oakland, - Videoconference Only. Total Time in Court: 20 minutes. Court Reporter: N/A. Plaintiff Attorney: Joseph Saveri. Defendant Attorney: Defendants GitHub, Inc., and Microsoft Corp.: Annette Hurst Defendant OpenAI: Joseph Gratz. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mll, COURT STAFF) (Date Filed: 7/11/2023) (Entered: 07/11/2023)</p> |
| 07/11/2023 | 130 | <p>SCHEDULING ORDER. Amended Pleadings due by 12/22/2023. Close of Expert Discovery due by 2/21/2025. Close of Fact Discovery due by 9/27/2024. Designation of Experts due by 11/8/2024. Motions due by 3/27/2025. Opening Reports due by 12/13/2024. Rebuttal Reports due by 1/24/2025. Responses due by 4/24/2025. Replies due by 5/22/2025. Responses due by 7/27/2023. Replies due by 8/10/2023.. Signed by Judge Jon S. Tigar on July 11, 2023. (mll, COURT STAFF) (Filed on 7/11/2023) (Entered: 07/11/2023)</p> |
| 07/18/2023 | 131 | <p>***7/11/23 Case Managment Conference was not reported or recorded, no transcript can be prepared. Filer has been notified via email*** TRANSCRIPT ORDER for proceedings held on 7/11/2023 before Judge Jon S. Tigar by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5, for Court Reporter not listed - Oakland. (Saveri, Joseph) (Filed on 7/18/2023) Modified on 7/18/2023 (nap, COURT STAFF). (Entered: 07/18/2023)</p> |
| 07/20/2023 | 132 | <p>Minute Entry for proceedings held by Zoom before Magistrate Judge Sallie Kim: Scheduling Conference held on 7/20/2023. The parties and Court discuss potential dates for the settlement conference in January 2024. Counsel will confer with their clients and notify the Court no later than Monday 7/24/2023 at 9:00 AM whether any of the dates will work. If the dates discussed do not work, the parties should provide alternative dates in January and February 2024.</p> <p>Total Time in Court: 15 minutes. Not reported. Attorneys for Plaintiffs: Joseph Saveri and Cadio Zirpooli. Attorneys for Defendants Microsoft and GitHub: Annette Hurst and Daniel Justice. Attorney for Defendant OpenAI: Joseph Gratz.</p> |

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| | | <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mkl, COURT STAFF) (Date Filed: 7/20/2023) (Entered: 07/20/2023) |
| 07/21/2023 | 133 | ORDER GRANTING PLAINTIFFS' ADMINISTRATIVE MOTION TO FILE UNDER SEAL PORTIONS OF FIRST AMENDED COMPLAINT by Judge Jon S. Tigar granting 97 Administrative Motion to File Under Seal.(mll, COURT STAFF) (Filed on 7/21/2023) (Entered: 07/21/2023) |
| 07/21/2023 | 134 | EXHIBITS re 97 Administrative Motion to File Under Seal <i>Portions of the First Amended Complaint CORRECTION OF DOCKET # 102</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit Redline)(Related document(s) 97) (Saveri, Joseph) (Filed on 7/21/2023) (Entered: 07/21/2023) |
| 07/21/2023 | 135 | AMENDED COMPLAINT <i>CORRECTION OF DOCKET # 98</i> against All Defendants. Filed by J. Doe 5, J. Doe 3, J. DOE 2, J. DOE 1, J. Doe 4. (Attachments: # 1 Exhibit Redline)(Saveri, Joseph) (Filed on 7/21/2023) (Entered: 07/21/2023) |
| 07/21/2023 | 136 | Joint Discovery Letter Brief filed by All Plaintiffs, GitHub, Inc., Microsoft Corporation, OpenAI, Inc.; OpenAI, L.P.; OpenAI GP, L.L.C.; OpenAI OpCo, LLC; OpenAI Startup Fund GP I, L.L.C.; OpenAI Startup Fund I, L.P.; and OpenAI Startup Fund Management, LLC. (Hurst, Annette) (Filed on 7/21/2023) Modified on 7/24/2023 (cjl, COURT STAFF). (Entered: 07/21/2023) |
| 07/25/2023 | 137 | NOTICE OF SETTLEMENT CONFERENCE AND SETTLEMENT CONFERENCE ORDER. Settlement Conference set for 1/19/2024 09:30 AM in San Francisco, Courtroom C, 15th Floor. Signed by Magistrate Judge Sallie Kim on 7/25/2023. (mkl, COURT STAFF) (Filed on 7/25/2023) (Entered: 07/25/2023) |
| 07/26/2023 | 138 | ORDER RE: DISCOVERY DISPUTE. Motions terminated: 71 MOTION MAINTAIN CONFIDENTIALITY DESIGNATIONS FOR PLAINTIFFS TRUE NAMES PURSUANT TO SECTION 6.3 OF THE STIPULATED PROTECTIVE ORDER (ECF NO. 63) filed by J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2. Signed by Judge Jon S. Tigar on July 26, 2023. (mll, COURT STAFF) (Filed on 7/26/2023) (Entered: 07/26/2023) |
| 07/27/2023 | 139 | STIPULATION WITH PROPOSED ORDER <i>Regarding Briefing Schedule For Responding To Second Corrected First Amended Complaint</i> filed by GitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 7/27/2023) (Entered: 07/27/2023) |
| 07/27/2023 | 140 | OPPOSITION/RESPONSE (re 108 MOTION to Dismiss <i>Portions of the First Amended Complaint in Consolidated Actions (REDACTED)</i>) filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 7/27/2023) (Entered: 07/27/2023) |
| 07/27/2023 | 141 | *Filing Error. See dkt 142 for Corrections* OPPOSITION/RESPONSE (re 110 MOTION to Dismiss) filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 7/27/2023) Modified on 7/28/2023 (sfb, COURT STAFF). (Entered: 07/27/2023) |
| 07/27/2023 | 142 | OPPOSITION/RESPONSE (re 110 MOTION to Dismiss) <i>CORRECTION OF DOCKET # 141</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 7/27/2023) (Entered: 07/27/2023) |
| 07/28/2023 | 143 | Order by Judge Jon S. Tigar granting 139 Stipulation Regarding Briefing Schedule For Responding To Second Corrected First Amended Complaint. (mll, COURT STAFF) (Filed on 7/28/2023) (Entered: 07/28/2023) |
| 08/02/2023 | 144 | STIPULATION WITH PROPOSED ORDER <i>FOR ENTRY OF AMENDED AND STIPULATED PROTECTIVE ORDER</i> filed by GitHub, Inc., Microsoft Corporation. |

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| | | (Attachments: # 1 Declaration of Annette L. Hurst in Support, # 2 Exhibit 1 to Hurst Declaration)(Hurst, Annette) (Filed on 8/2/2023) (Entered: 08/02/2023) |
| 08/07/2023 | 145 | AMENDED AND STIPULATED PROTECTIVE ORDER. Motions terminated: 144 STIPULATION WITH PROPOSED ORDER <i>FOR ENTRY OF AMENDED AND STIPULATED PROTECTIVE ORDER</i> filed by Microsoft Corporation, GitHub, Inc. Signed by Judge Jon S. Tigar on August 7, 2023. (mll, COURT STAFF) (Filed on 8/7/2023) (Entered: 08/07/2023) |
| 08/10/2023 | 146 | REPLY (re 108 MOTION to Dismiss <i>Portions of the First Amended Complaint in Consolidated Actions (REDACTED)</i>) filed by GitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 8/10/2023) (Entered: 08/10/2023) |
| 08/10/2023 | 147 | REPLY (re 110 MOTION to Dismiss) filed by OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., OPENAI STARTUP FUND MANAGEMENT, LLC, OPENAI, INC., OPENAI, L.P., OpenAI OpCo, L.L.C.. (Gratz, Joseph) (Filed on 8/10/2023) (Entered: 08/10/2023) |
| 09/05/2023 | 148 | <p>CLERKS NOTICE CONTINUING MOTION HEARING. The motion hearings set for 9/14/2023 are CONTINUED. Motion Hearing set for 11/9/2023 02:00 PM in Oakland, - Videoconference Only before Judge Jon S. Tigar. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. A combined list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than November 8, 2023 by 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>, Set/Reset Deadlines as to 108 MOTION to Dismiss <i>Portions of the First Amended Complaint in Consolidated Actions (REDACTED)</i>, 110 MOTION to Dismiss . Motion Hearing set for 11/9/2023 02:00 PM in Oakland, - Videoconference Only before Judge Jon S. Tigar. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mll, COURT STAFF) (Filed on 9/5/2023) (Entered: 09/05/2023)</p> |
| 09/08/2023 | 149 | **DOCUMENT REMOVED PER COURT ORDER 156 *** JOINT CASE MANAGEMENT STATEMENT filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 9/8/2023) Modified text on 9/8/2023 (dhm, COURT STAFF). **Locked per filer's request.** Modified on 9/12/2023 (ddk, COURT STAFF). Modified on 9/21/2023 (kab, COURT STAFF). (kab, COURT STAFF). (Entered: 09/08/2023) |
| 09/08/2023 | 150 | Rule 7.1 Disclosures by OpenAI, L.P. - <i>Certification of Interested Entities or Persons and Corporate Disclosure Statement</i> (Bennett, Allyson) (Filed on 9/8/2023) (Entered: 09/08/2023) |

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| 09/08/2023 | | Electronic filing error . Incorrect event used. [err101]Corrected by Clerk's Office. No further action is necessary. Re: 149 Case Management Statement filed by J. Doe 5, J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2 (dhm, COURT STAFF) (Filed on 9/8/2023) (Entered: 09/08/2023) |
| 09/12/2023 | 151 | MOTION to Remove Incorrectly Filed Document filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Proposed Order)(Manfredi, Travis) (Filed on 9/12/2023) (Entered: 09/12/2023) |
| 09/12/2023 | 152 | Administrative Motion to File Under Seal filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Declaration of Travis Manfredi, # 2 Proposed Order, # 3 Joint Case Management Statement)(Manfredi, Travis) (Filed on 9/12/2023) (Entered: 09/12/2023) |
| 09/12/2023 | 153 | JOINT CASE MANAGEMENT STATEMENT filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Manfredi, Travis) (Filed on 9/12/2023) (Entered: 09/12/2023) |
| 09/13/2023 | 154 | CERTIFICATE OF SERVICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 re 152 Joint Case Management Statement Filed Under Seal (Manfredi, Travis) (Filed on 9/13/2023) Modified on 9/13/2023 linking entry to #152 (dhm, COURT STAFF). (Entered: 09/13/2023) |
| 09/15/2023 | 155 | Minute Entry for proceedings held before Judge Jon S. Tigar: Further Case Management Conference held on 9/15/2023. ESI Protocol Deadline 10/27/2023. Expert Discovery Stipulation Deadline 10/27/2023. Joint Case Management Statement due 11/10/2023. Further Case Management Conference set for 11/17/2023 at 1:30 PM in Oakland, - Videoconference Only. Total Time in Court: 32 minutes. Court Reporter: Not Reported. Plaintiff Attorney: Joseph Saveri. Defendant Attorney: Annette Hurst, Joseph Gratz, Micahel Jacobs. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (jlg, COURT STAFF) (Date Filed: 9/15/2023) (Entered: 09/17/2023) |
| 09/15/2023 | | Set Deadlines/Hearings: Case Management Statement due by 11/10/2023. (jlg, COURT STAFF) (Filed on 9/15/2023) (Entered: 09/17/2023) |
| 09/19/2023 | 156 | ORDER by Judge Jon S. Tigar granting (151) Motion to Remove Incorrectly Filed Document in case 4:22-cv-06823-JST. (mll, COURT STAFF) (Filed on 9/19/2023) (Entered: 09/19/2023) |
| 09/19/2023 | 157 | ORDER by Judge Jon S. Tigar granting (152) Administrative Motion to File Under Seal in case 4:22-cv-06823-JST. (mll, COURT STAFF) (Filed on 9/19/2023) (Entered: 09/19/2023) |
| 09/27/2023 | 158 | NOTICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 <i>NOTICE OF SUPPLEMENTAL AUTHORITY RELEVANT TO PLAINTIFFS OPPOSITIONS TO DEFENDANTS MOTIONS TO DISMISS</i> (Attachments: # 1 Exhibit 1)(Manfredi, Travis) (Filed on 9/27/2023) (Entered: 09/27/2023) |
| 09/29/2023 | 159 | STIPULATION WITH PROPOSED ORDER <i>REGARDING BRIEFING SCHEDULE FOR JOINT LETTER BRIEF RE: TELEMETRY DATA</i> filed by GitHub, Inc., Microsoft |

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| | | Corporation. (Hurst, Annette) (Filed on 9/29/2023) (Entered: 09/29/2023) |
| 10/03/2023 | 160 | ORDER by Judge Jon S. Tigar GRANTING 159 STIPULATION REGARDING BRIEFING SCHEDULE FOR JOINT LETTER BRIEF RE: TELEMETRY DATA. Joint Discovery Letter Brief due by 10/6/2023. (jlg, COURT STAFF) (Filed on 10/3/2023) (Entered: 10/03/2023) |
| 10/06/2023 | 161 | STIPULATION WITH PROPOSED ORDER <i>REGARDING PRESERVATION OF TELEMETRY DATA</i> filed by GitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 10/6/2023) (Entered: 10/06/2023) |
| 10/10/2023 | 162 | ORDER REGARDING PRESERVATION OF TELEMETRY DATA by Judge Jon S. Tigar granting 161 Stipulation.(mll, COURT STAFF) (Filed on 10/10/2023) (Entered: 10/10/2023) |
| 10/16/2023 | 163 | NOTICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 <i>NOTICE OF SUPPLEMENTAL AUTHORITY RELEVANT TO PLAINTIFFS OPPOSITIONS TO DEFENDANTS MOTIONS TO DISMISS</i> (Attachments: # 1 Exhibit 1)(Young, Christopher) (Filed on 10/16/2023) (Entered: 10/16/2023) |
| 10/27/2023 | 164 | STIPULATION WITH PROPOSED ORDER <i>CONCERNING EXPERT DISCOVERY</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 10/27/2023) (Entered: 10/27/2023) |
| 10/27/2023 | 165 | ***POSTED IN ERROR. PLEASE DOCUMENT #166*** Letter Brief filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Supplement Plaintiffs Proposed ESI Protocol, # 2 Declaration Defendants, # 3 Exhibit 1 - Defendants, # 4 Exhibit 2 - Defendants)(Saveri, Joseph) (Filed on 10/27/2023) Modified text on 10/30/2023 (dhm, COURT STAFF). (Entered: 10/27/2023) |
| 10/27/2023 | 166 | ERRATA re 165 Letter Brief, <i>CORRECTION OF DOCKET # [165-1] and [165-2]</i> by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Declaration)(Saveri, Joseph) (Filed on 10/27/2023) (Entered: 10/27/2023) |
| 10/30/2023 | 167 | ORDER CONCERNING EXPERT DISCOVERY by Judge Jon S. Tigar granting 164 Stipulation.(mll, COURT STAFF) (Filed on 10/30/2023) (Entered: 10/30/2023) |
| 11/01/2023 | 168 | ORDER RE: DISCOVERY OF ELECTRONICALLY STORED INFORMATION. Signed by Judge Jon S. Tigar on November 1, 2023. (mll, COURT STAFF) (Filed on 11/1/2023) (Entered: 11/01/2023) |
| 11/01/2023 | 169 | NOTICE by OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P. <i>NOTICE OF SUPPLEMENTAL AUTHORITY RELEVANT TO DEFENDANT OPENAI'S MOTION TO DISMISS FIRST AMENDED COMPLAINT</i> (Attachments: # 1 Exhibit 1)(Gratz, Joseph) (Filed on 11/1/2023) (Entered: 11/01/2023) |
| 11/06/2023 | 170 | CLERKS NOTICE CONTINUING CASE MANAGEMENT CONFERENCE. The case management conference set for 11/17/2023 is CONTINUED. Case Management Statement due by 12/13/2023. Further Case Management Conference set for 12/20/2023 02:00 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar. Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. A combined list of names of all counsel appearing for all parties must be sent |

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| | | <p>in one email to the CRD at JSTCRD@cand.uscourts.gov no later than December 19, 2023 by 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>Case Management Statement due by 12/13/2023. Further Case Management Conference set for 12/20/2023 02:00 PM in Oakland, - Videoconference Only. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mll, COURT STAFF) (Filed on 11/6/2023) (Entered: 11/06/2023)</p> |
| 11/09/2023 | 171 | <p>Minute Entry for proceedings held before Judge Jon S. Tigar: Motion Hearing held on 11/9/2023. Hearing held via Zoom videoconference. Argument heard from parties regarding motions to dismiss. Motions taken under submission. Written order to issue. Total Time in Court: 47 minutes. Court Reporter: Pamela Hebel. Plaintiff Attorney: Joseph Saveri, Matthew Butterick. Defendant Attorney: Counsel for GitHub and Microsoft Defendants: Annette Hurst; Counsel for OpenAI Defendants: Joseph Gratz. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mll, COURT STAFF) (Date Filed: 11/9/2023) (Entered: 11/09/2023)</p> |
| 11/14/2023 | 172 | <p>TRANSCRIPT ORDER for proceedings held on 11/9/23 before Judge Jon S. Tigar by OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P., for Court Reporter Pam Batalo-Hebel. (Lee, Rose) (Filed on 11/14/2023) (Entered: 11/14/2023)</p> |
| 11/15/2023 | 173 | <p>Joint Discovery Letter Brief <i>REGARDING OPENAI DEFENDANTS RESPONSES TO PLAINTIFFS INTERROGATORY Nos. 2, 5, 8, and 9</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Declaration of Joseph R. Saveri, # 2 Exhibit 1, # 3 Exhibit 2, # 4 Exhibit 3, # 5 Exhibit 4, # 6 Exhibit 5)(Saveri, Joseph) (Filed on 11/15/2023) (Entered: 11/15/2023)</p> |
| 11/17/2023 | 174 | <p>Transcript of Proceedings held on 11/09/2023, before Judge Tigar. Court Reporter Pamela Batalo Hebel, telephone number 626-688-7509; pamelabatalohebel@cand.uscourts.gov. Per General Order No. 59 and Judicial Conference policy, this transcript may be viewed only at the Clerk's Office public terminal or may be purchased through the Court Reporter/Transcriber until the deadline for the Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction, if required, is due no later than 5 business days from date of this filing. (Re 172 Transcript Order,) Redaction Request due 12/8/2023. Redacted Transcript Deadline set for 12/18/2023. Release of Transcript Restriction set for 2/15/2024. (Related documents(s) 172) (Batalo, Pam) (Filed on 11/17/2023) (Entered: 11/17/2023)</p> |
| 11/21/2023 | 175 | <p>ORDER REFERRING ALL DISCOVERY DISPUTES TO MAGISTRATE JUDGE. Signed by Judge Jon S. Tigar on November 21, 2023. (mll, COURT STAFF) (Filed on 11/21/2023) (Entered: 11/21/2023)</p> |

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| 11/21/2023 | 176 | NOTICE by GitHub, Inc., Microsoft Corporation <i>NOTICE OF SUPPLEMENTAL AUTHORITY RELEVANT TO DEFENDANTS GITHUB AND MICROSOFTS MOTIONS TO DISMISS PORTIONS OF THE FIRST AMENDED COMPLAINT IN CONSOLIDATED ACTIONS</i> (Attachments: # 1 Exhibit 1 to Notice)(Hurst, Annette) (Filed on 11/21/2023) (Entered: 11/21/2023) |
| 11/21/2023 | | CASE REFERRED to Magistrate Judge Donna M. Ryu for Discovery (mkl, COURT STAFF) (Filed on 11/21/2023) (Entered: 11/21/2023) |
| 11/28/2023 | 177 | Notice of Reference and Order re: Discovery Procedures; Order Denying Without Prejudice 173 Discovery Letter Brief. (dmrlc2, COURT STAFF) (Filed on 11/28/2023) (Entered: 11/28/2023) |
| 12/08/2023 | 178 | NOTICE of Appearance by Joyce C Li (Li, Joyce) (Filed on 12/8/2023) (Entered: 12/08/2023) |
| 12/08/2023 | 179 | NOTICE of Appearance by Holden J. Benon (Benon, Holden) (Filed on 12/8/2023) (Entered: 12/08/2023) |
| 12/13/2023 | 180 | JOINT CASE MANAGEMENT STATEMENT filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 12/13/2023) (Entered: 12/13/2023) |
| 12/13/2023 | 181 | Discovery Letter Briefre <i>GitHub Response to Plaintiffs' 1st set of Interogatoriesogs</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 12/13/2023) (Entered: 12/13/2023) |
| 12/13/2023 | 182 | Discovery Letter Briefre <i>Microsoft Response to Plaintiffs' 1st Set of Interrogatories</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit 1)(Saveri, Joseph) (Filed on 12/13/2023) (Entered: 12/13/2023) |
| 12/14/2023 | 183 | NOTICE of Change In Counsel by Joseph R. Saveri <i>Withdrawal of Counsel - Steven N. Williams</i> (Saveri, Joseph) (Filed on 12/14/2023) (Entered: 12/14/2023) |
| 12/14/2023 | 184 | Letter from GitHub <i>GitHub's Response to Plaintiffs' December 13, 2023 Letter Brief.</i> (Hurst, Annette) (Filed on 12/14/2023) (Entered: 12/14/2023) |
| 12/14/2023 | 185 | Letter from Microsoft <i>Microsoft's Response to Plaintiffs' December 13, 2023 Letter Brief.</i> (Hurst, Annette) (Filed on 12/14/2023) (Entered: 12/14/2023) |
| 12/19/2023 | 186 | ORDER CONTINUING CASE MANAGEMENT CONFERENCE The Court having reviewed the parties' most recent case management statement, ECF No. 180, and it appearing that there currently are no matters requiring the Court's attention, the case management conference scheduled for December 20, 2023 is CONTINUED to March 22, 2024 at 1:30 p.m. An updated joint case management statement is due March 15, 2024. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (Tigar, Jon) (Filed on 12/19/2023) (Entered: 12/19/2023) |
| 12/20/2023 | 187 | CLERKS NOTICE SETTING ZOOM HEARING. Case Management Statement due by 3/15/2024. Further Case Management Conference set for 3/22/2024 01:30 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar. Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. A combined list of names of all counsel appearing for all parties must be sent to the CRD at JSTCRD@cand.uscourts.gov no later than March 21, 2023 by Noon. |

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| | | <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>Case Management Statement due by 3/15/2024. Further Case Management Conference set for 3/22/2024 01:30 PM in Oakland, - Videoconference Only. (Related document(s) 186) <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mll, COURT STAFF) (Filed on 12/20/2023) (Entered: 12/20/2023)</p> |
| 01/02/2024 | 188 | <p>ORDER: The court has received Plaintiffs' December 13, 2023 unilateral discovery letters and Defendants GitHub, Inc. and Microsoft Corporation's responses thereto. Plaintiffs' motions to compel GitHub and Microsoft's responses to interrogatories are denied without prejudice because they do not comply with this court's standing order, which requires parties to file a joint letter. The parties are ordered to immediately meet and confer <i>in person</i> on all of the issues raised in Plaintiffs' letters. The parties must engage in productive discussions until every issue has been covered. A new joint discovery letter must be filed by January 26, 2024. The letter must be in full compliance with this court's standing order and may not incorporate by reference any prior submissions or include footnotes. Signed by Chief Magistrate Judge Donna M. Ryu on 1/2/2024. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (dmrlc2, COURT STAFF) (Filed on 1/2/2024) (Entered: 01/02/2024)</p> |
| 01/03/2024 | 189 | <p>ORDER GRANTING IN PART DENYING IN PART MOTION TO DISMISS by Judge Jon S. Tigar granting in part and denying in part 108 Motion to Dismiss; granting in part and denying in part 110 Motion to Dismiss. (mll, COURT STAFF) (Filed on 1/3/2024) (Entered: 01/03/2024)</p> |
| 01/03/2024 | 190 | <p>ORDER RE: ORDER GRANTING IN PART DENYING IN PART MOTION TO DISMISS re 189 Order on Motion to Dismiss, Amended Pleadings due by 1/24/2024. Stipulation due by 1/10/2024. Signed by Judge Jon S. Tigar on January 3, 2024. (mll, COURT STAFF) (Filed on 1/3/2024) (Entered: 01/03/2024)</p> |
| 01/10/2024 | 191 | <p>STIPULATION WITH PROPOSED ORDER re 190 Order,, Set Deadlines/Hearings, filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 1/10/2024) (Entered: 01/10/2024)</p> |
| 01/11/2024 | | <p>Electronic filing error. ***PARTIES DID NOT ATTACH DOCUMENT WITH PROPOSED REDACTIONS*** Re: 191 STIPULATION WITH PROPOSED ORDER re 190 Order, filed by J. Doe 5, J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2 (dhm, COURT STAFF) (Filed on 1/11/2024) (Entered: 01/11/2024)</p> |
| 01/11/2024 | 192 | <p>EXHIBITS re 191 STIPULATION WITH PROPOSED ORDER re 190 Order,, Set Deadlines/Hearings, <i>Proposed Redactions</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Related document(s) 191) (Saveri, Joseph) (Filed on 1/11/2024) (Entered: 01/11/2024)</p> |
| 01/16/2024 | 193 | <p>ORDER REGARDING REDACTED PORTIONS OF ORDER GRANTING IN PART DENYING IN PART MOTION TO DISMISS (ECF NO. 189) by Judge Jon S. Tigar granting (191) Stipulation in case 4:22-cv-06823-JST. (mll, COURT STAFF) (Filed on 1/16/2024) (Entered: 01/16/2024)</p> |
| 01/19/2024 | 194 | <p>Minute Entry for proceedings held before Magistrate Judge Sallie Kim: Settlement Conference held on 1/19/2024. Case did not settled. Total Time in Court: 9:30 - 5:02.</p> |

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| | | (7 H, 32 M) Court Reporter: Not reported. (jlg, COURT STAFF) (Date Filed: 1/19/2024) Modified on 1/23/2024 (jlg, COURT STAFF). (Entered: 01/22/2024) |
| 01/22/2024 | 195 | ORDER GRANTING IN PART DENYING IN PART MOTION TO DISMISS re 110 MOTION to Dismiss filed by OpenAI GP, L.L.C., OpenAI, Inc., OpenAI Startup Fund I, L.P., OpenAI OpCo, L.L.C., OpenAI Startup Fund GPI, L.L.C., OpenAI, L.P., OpenAI Startup Fund Management, LLC, 108 MOTION to Dismiss <i>Portions of the First Amended Complaint in Consolidated Actions (REDACTED)</i> filed by Microsoft Corporation, GitHub, Inc. Amended Pleadings due by 2/12/2024. Signed by Judge Jon S. Tigar on January 22, 2024. (mll, COURT STAFF) (Filed on 1/22/2024) (Entered: 01/22/2024) |
| 01/22/2024 | 196 | NOTICE of Appearance by William Waldir Castillo Guardado (Castillo Guardado, William) (Filed on 1/22/2024) (Entered: 01/22/2024) |
| 01/24/2024 | 197 | Administrative Motion to File Under Seal <i>Second Amended Complaint</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Declaration T. Manfredi, # 2 Proposed Order, # 3 Unredacted Second Amended Complaint, # 4 Exhibit A - Redline Unredacted Second Amended Complaint)(Saveri, Joseph) (Filed on 1/24/2024) (Entered: 01/24/2024) |
| 01/24/2024 | 198 | DOCUMENT REMOVED PER COURT ORDER 205 ***PLEASE SEE DOC. #200 FOR CORRECT DOCUMENT*** AMENDED COMPLAINT <i>Second</i> against All Defendants. Filed by J. Doe 5, J. Doe 3, J. DOE 2, J. DOE 1, J. Doe 4. (Attachments: # 1 Exhibit A)(Saveri, Joseph) (Filed on 1/24/2024) **Locked per filer's request.** Modified on 1/25/2024 (ddk, COURT STAFF). Modified on 1/26/2024 (dhm, COURT STAFF). Modified on 1/30/2024 (kab, COURT STAFF). (Entered: 01/24/2024) |
| 01/25/2024 | 199 | MOTION to Remove Incorrectly Filed Document filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Proposed Order)(Saveri, Joseph) (Filed on 1/25/2024) (Entered: 01/25/2024) |
| 01/25/2024 | 200 | SECOND AMENDED COMPLAINT <i>CORRECTION OF DOCKET # 198</i> against All Defendants. Filed by J. DOE 2, J. DOE 1, J. Doe 3, J. Doe 5, J. Doe 4. (Saveri, Joseph) (Filed on 1/25/2024) Modified on 7/23/2024 modified docket text (dhm, COURT STAFF). (Entered: 01/25/2024) |
| 01/25/2024 | 201 | EXHIBITS re 197 Administrative Motion to File Under Seal <i>Second Amended Complaint CORRECTION OF DOCKET # [197-3] and [197-4]</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit A - Redline Unredacted Second Amended Complaint)(Related document(s) 197) (Saveri, Joseph) (Filed on 1/25/2024) (Entered: 01/25/2024) |
| 01/26/2024 | 202 | Discovery Letter Brief filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Exhibit 1 to Discovery Letter Brief)(Hurst, Annette) (Filed on 1/26/2024) (Entered: 01/26/2024) |
| 01/29/2024 | 203 | Discovery Letter Brief <i>response to 202</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 1/29/2024) (Entered: 01/29/2024) |
| 01/30/2024 | 204 | Order by Judge Jon S. Tigar granting 197 Administrative Motion to File Under Seal. (mll, COURT STAFF) (Filed on 1/30/2024) (Entered: 01/30/2024) |
| 01/30/2024 | 205 | Order by Judge Jon S. Tigar granting 199 Motion to Remove Incorrectly Filed Document. (mll, COURT STAFF) (Filed on 1/30/2024) (Entered: 01/30/2024) |
| 01/30/2024 | 206 | Proposed Summons. (Saveri, Joseph) (Filed on 1/30/2024) (Entered: 01/30/2024) |

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| 01/30/2024 | 207 | Summons Issued as to OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C.. (dhm, COURT STAFF) (Filed on 1/30/2024) (Entered: 01/30/2024) |
| 01/30/2024 | 208 | Discovery Letter Brief filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 1/30/2024) (Entered: 01/30/2024) |
| 01/30/2024 | 209 | Discovery Letter Brief filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit A)(Saveri, Joseph) (Filed on 1/30/2024) (Entered: 01/30/2024) |
| 02/06/2024 | 210 | STIPULATION WITH PROPOSED ORDER <i>FOR BRIEFING SCHEDULE</i> filed by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. (Gratz, Joseph) (Filed on 2/6/2024) (Entered: 02/06/2024) |
| 02/08/2024 | 211 | ORDER RE: BRIEFING SCHEDULE by Judge Jon S. Tigar granting 210 Stipulation. Motions due by 2/28/2024. Responses due by 3/27/2024. Replies due by 4/10/2024. (mll, COURT STAFF) (Filed on 2/8/2024) (Entered: 02/08/2024) |
| 02/09/2024 | 212 | ORDER: The parties filed four discovery letters: two are unilateral letters filed by Defendants 202 and Plaintiffs 203 ; the other two are disputes between Plaintiffs and non-parties Morgan Stanley 208 and Andreessen Horowitz 209 . All four relate to Microsoft's 2018 acquisition of GitHub, and hinge on whether discovery about the acquisition is relevant to this case. Both unilateral letters are denied without prejudice because they do not comply with this court's standing order, which requires parties to file a joint letter. The parties have previously been admonished about filing unilateral discovery letters. [See Docket No. 188.] The parties are ordered to immediately meet and confer regarding Microsoft's acquisition of GitHub and the relevance of that acquisition to Plaintiffs' claims. If they cannot resolve the dispute, they must file a new standalone joint discovery letter on this single issue by February 23, 2024. The letter must be in full compliance with the court's standing order and may not incorporate by reference any prior submissions or include footnotes. The discovery disputes between Plaintiffs and non-parties Morgan Stanley and Andreessen Horowitz are denied without prejudice because, as the letters point out, those disputes are contingent on the relevance of the 2018 acquisition. That question will be answered through the process set forth above. If any disputes remain, Plaintiffs and non-parties may re-file standalone joint discovery letters on the pending subpoenas. Signed by Chief Magistrate Judge Donna M. Ryu on 2/9/2024. (This is a text-only entry generated by the court. There is no document associated with this entry.) (dmrlc2, COURT STAFF) (Filed on 2/9/2024) (Entered: 02/09/2024) |
| 02/23/2024 | 213 | Joint Discovery Letter Brief filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Exhibit 1 to Joint Discovery Letter Brief)(Hurst, Annette) (Filed on 2/23/2024) (Entered: 02/23/2024) |
| 02/28/2024 | 214 | Administrative Motion to Consider Whether Another Party's Material Should Be Sealed filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Proposed Order, # 2 GitHub and Microsoft's Motion to Dismiss (UNREDACTED))(Hurst, Annette) (Filed on 2/28/2024) (Entered: 02/28/2024) |

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| 02/28/2024 | 215 | MOTION to Dismiss <i>Portions of the Second Amended Complaint in Consolidated Actions (REDACTED)</i> filed by GitHub, Inc., Microsoft Corporation. Motion to Dismiss Hearing set for 5/16/2024 02:00 PM in Oakland, Courtroom 6, 2nd Floor. Responses due by 3/13/2024. Replies due by 3/20/2024. (Attachments: # 1 Proposed Order)(Hurst, Annette) (Filed on 2/28/2024) (Entered: 02/28/2024) |
| 02/28/2024 | 216 | CERTIFICATE OF SERVICE by GitHub, Inc., Microsoft Corporation re 214 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed (<i>Unredacted</i>) Motion to Dismiss Portions of Second Amended Complaint (Hurst, Annette) (Filed on 2/28/2024) (Entered: 02/28/2024) |
| 02/28/2024 | 217 | TRANSCRIPT ORDER for proceedings held on 11/09/2023 before Judge Jon S. Tigar by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5, for Court Reporter Pam Batalo-Hebel. (Castillo Guardado, William) (Filed on 2/28/2024) (Entered: 02/28/2024) |
| 02/28/2024 | 218 | MOTION for Reconsideration re 189 Order on Motion to Dismiss, filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 2/28/2024) (Entered: 02/28/2024) |
| 02/28/2024 | 219 | MOTION to Dismiss <i>Second Amended Complaint</i> filed by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. Motion to Dismiss Hearing set for 5/16/2024 02:00 PM. Responses due by 3/13/2024. Replies due by 3/20/2024. (Attachments: # 1 Exhibit 1, # 2 Proposed Order)(Gratz, Joseph) (Filed on 2/28/2024) (Entered: 02/28/2024) |
| 02/29/2024 | 220 | MOTION for leave to appear in Pro Hac Vice (Filing fee \$ 328, receipt number ACANDC-19173735.) filed by OpenAI GP, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. (Attachments: # 1 Exhibit Certificate of Good Standing)(Nikolaides, Eric) (Filed on 2/29/2024) (Entered: 02/29/2024) |
| 02/29/2024 | 221 | NOTICE by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P. <i>for withdrawal of Michael A. Jacobs</i> (Lee, Rose) (Filed on 2/29/2024) (Entered: 02/29/2024) |
| 03/01/2024 | 222 | NOTICE of Appearance by Max I. Levy <i>on behalf of Defendants OpenAI, Inc., OpenAI, L.P., OpenAI OpCo, L.L.C., OpenAI GP, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., and OpenAI Startup Fund Management, LLC</i> (Levy, Max) (Filed on 3/1/2024) (Entered: 03/01/2024) |
| 03/01/2024 | 223 | Order by Judge Jon S. Tigar granting 220 Motion for Pro Hac Vice as to Eric Nikolaides.(mll, COURT STAFF) (Filed on 3/1/2024) (Entered: 03/01/2024) |
| 03/04/2024 | 224 | ORDER REGARDING MOTION FOR RECONSIDERATION re 218 MOTION for Reconsideration re 189 Order on Motion to Dismiss, filed by J. Doe 5, J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2 Responses due by 3/15/2024. Signed by Judge Jon S. Tigar on March 4, 2024. (mll, COURT STAFF) (Filed on 3/4/2024) (Entered: 03/04/2024) |
| 03/05/2024 | 225 | Order by Judge Jon S. Tigar granting 214 Administrative Motion to Consider Whether Another Party's Material Should Be Sealed.(mll, COURT STAFF) (Filed |

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| | | on 3/5/2024) (Entered: 03/05/2024) |
| 03/07/2024 | 226 | Order by Chief Magistrate Judge Donna M. Ryu denying 213 Joint Discovery Letter. The court has reviewed the 2/23/24 Joint Discovery Letter (JDL) in which Plaintiffs seek damages discovery relating to Microsoft's 2018 acquisition of GitHub. 213 After consulting with Judge Tigar, the court denies the JDL without prejudice. The pleadings are not yet settled. After Defendants file an answer, the parties shall file a new stand-alone JDL that presents arguments on the relevance and proportionality of the requested discovery that are tailored to the claims and defenses in the case. Signed by Chief Magistrate Judge Donna M. Ryu on 3/7/2024. (This is a text-only entry generated by the court. There is no document associated with this entry.) (dmrlc2, COURT STAFF) (Filed on 3/7/2024) (Entered: 03/07/2024) |
| 03/13/2024 | 227 | NOTICE of Appearance by Vera Ranieri (Ranieri, Vera) (Filed on 3/13/2024) (Entered: 03/13/2024) |
| 03/15/2024 | 228 | OPPOSITION/RESPONSE (re 218 MOTION for Reconsideration re 189 Order on Motion to Dismiss,) filed by GitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 3/15/2024) (Entered: 03/15/2024) |
| 03/15/2024 | 229 | OPPOSITION/RESPONSE (re 218 MOTION for Reconsideration re 189 Order on Motion to Dismiss,) filed by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. (Gratz, Joseph) (Filed on 3/15/2024) (Entered: 03/15/2024) |
| 03/15/2024 | 230 | JOINT CASE MANAGEMENT STATEMENT filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 3/15/2024) (Entered: 03/15/2024) |
| 03/22/2024 | 231 | <p>Minute Entry for proceedings held before Judge Jon S. Tigar: Further Case Management Conference held on 3/22/2024. Hearing held via Zoom videoconference. Issues raised in case management statement discussed. Case Management Statement due by 7/5/2024. Further Case Management Conference set for 7/12/2024 01:30 PM in Oakland, - Videoconference Only. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. A combined list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than July 11, 2024 by Noon.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>Case Management Statement due by 7/5/2024. Further Case Management Conference set for 7/12/2024 01:30 PM in Oakland, - Videoconference Only. Total Time in Court: 23 minutes. Assigned Transcriber: Tara Jauregui. Plaintiff Attorney:</p> |

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| | | Joseph Saveri, Matthew Butterick. Defendant Attorney: Counsel for GitHub and Microsoft Defendants: Annette Hurst; Counsel for OpenAI Defendants: Joseph Gratz. (This is a text-only entry generated by the court. There is no document associated with this entry.) (mll, COURT STAFF) (Date Filed: 3/22/2024) Modified on 3/26/2024 to add assigned transcriber (wft, COURT STAFF). (Entered: 03/22/2024) |
| 03/26/2024 | 232 | TRANSCRIPT ORDER for proceedings held on 03/22/2024 before Judge Jon S. Tigar by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5, for Recorded Proceeding - Oakland. (Saveri, Joseph) (Filed on 3/26/2024) (Entered: 03/26/2024) |
| 03/27/2024 | 233 | TRANSCRIPT ORDER for proceedings held on 3/22/24 before Judge Jon S. Tigar by OpenAI, L.P., for Recorded Proceeding - Oakland. (Lee, Rose) (Filed on 3/27/2024) (Entered: 03/27/2024) |
| 03/27/2024 | 234 | OPPOSITION/RESPONSE (re 215 MOTION to Dismiss <i>Portions of the Second Amended Complaint in Consolidated Actions (REDACTED)</i>) filed byJ. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 3/27/2024) (Entered: 03/27/2024) |
| 03/27/2024 | 235 | OPPOSITION/RESPONSE (re 219 MOTION to Dismiss <i>Second Amended Complaint</i>) filed byJ. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 3/27/2024) (Entered: 03/27/2024) |
| 04/01/2024 | 236 | MOTION for leave to appear in Pro Hac Vice (Filing fee \$ 328, receipt number ACANDC-19279878.) filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit Certificate of Good Standing)(Poueymirou, Margaux) (Filed on 4/1/2024) (Entered: 04/01/2024) |
| 04/02/2024 | 237 | ORDER DENYING MOTION FOR LEAVE TO APPEAR IN PRO HAC VICE by Judge Jon S. Tigar denying 236 Motion for Pro Hac Vice.(mll, COURT STAFF) (Filed on 4/2/2024) (Entered: 04/02/2024) |
| 04/05/2024 | 238 | NOTICE of Change In Counsel by Joseph R. Saveri <i>Withdrawal of Counsel - Travis Manfredi</i> (Saveri, Joseph) (Filed on 4/5/2024) (Entered: 04/05/2024) |
| 04/05/2024 | 239 | NOTICE of Change of Address by Joseph R. Saveri (Saveri, Joseph) (Filed on 4/5/2024) (Entered: 04/05/2024) |
| 04/07/2024 | 240 | Transcript of Proceedings held on 03/22/24, before Judge Jon Tigar. Court Reporter/Transcriber Echo Reporting, Inc., telephone number echoreporting@yahoo.com. Tape Number: 1:30 - 1:49. Per General Order No. 59 and Judicial Conference policy, this transcript may be viewed only at the Clerk's Office public terminal or may be purchased through the Court Reporter/Transcriber until the deadline for the Release of Transcript Restriction. After that date it may be obtained through PACER. Any Notice of Intent to Request Redaction, if required, is due no later than 5 business days from date of this filing. (Re 232 Transcript Order, 233 Transcript Order) Redaction Request due 4/29/2024. Redacted Transcript Deadline set for 5/8/2024. Release of Transcript Restriction set for 7/8/2024. (Related documents(s) 232 , 233) (Jauregui, Tara) (Filed on 4/7/2024) (Entered: 04/07/2024) |
| 04/10/2024 | 241 | REPLY (re 215 MOTION to Dismiss <i>Portions of the Second Amended Complaint in Consolidated Actions (REDACTED)</i>) filed byGitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 4/10/2024) (Entered: 04/10/2024) |
| 04/10/2024 | 242 | Administrative Motion to File Under Seal <i>Reply in Support of Motion to Dismiss Second Amended Complaint</i> filed by GitHub, Inc., Microsoft Corporation. (Attachments: # 1 Reply in Support of Motion to Dismiss Portions of Second Amended Complaint |

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| | | (SEALED), # 2 Proposed Order)(Hurst, Annette) (Filed on 4/10/2024) (Entered: 04/10/2024) |
| 04/10/2024 | 243 | CERTIFICATE OF SERVICE by GitHub, Inc., Microsoft Corporation re 242 Administrative Motion to File Under Seal <i>Reply in Support of Motion to Dismiss Second Amended Complaint</i> (Hurst, Annette) (Filed on 4/10/2024) (Entered: 04/10/2024) |
| 04/10/2024 | 244 | REPLY (re 219 MOTION to Dismiss <i>Second Amended Complaint</i>) filed by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. (Gratz, Joseph) (Filed on 4/10/2024) (Entered: 04/10/2024) |
| 04/15/2024 | 245 | ORDER GRANTING DEFENDANTS GITHUB AND MICROSOFT'S LOCAL RULE 79-5(f) ADMINISTRATIVE MOTION TO CONSIDER WHETHER ANOTHER PARTY'S MATERIAL SHOULD BE SEALED by Judge Jon S. Tigar granting 242 Administrative Motion to File Under Seal.(mll, COURT STAFF) (Filed on 4/15/2024) (Entered: 04/15/2024) |
| 04/15/2024 | 246 | Order by Judge Jon S. Tigar denying 218 Motion for Reconsideration re 218 MOTION for Reconsideration re 189 Order on Motion to Dismiss, filed by J. Doe 5, J. DOE 1, J. Doe 4, J. Doe 3, J. DOE 2. (mll, COURT STAFF) (Filed on 4/15/2024) (Entered: 04/15/2024) |
| 04/17/2024 | 247 | ***POSTED IN ERROR. PLEASE SEE DOCUMENT #248*** Joint Discovery Letter Brief filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 4/17/2024) Modified text on 4/18/2024 (dhm, COURT STAFF). (Entered: 04/17/2024) |
| 04/18/2024 | 248 | Joint Discovery Letter Brief *** CORRECTION OF DOCKET # 247 *** filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Exhibit 1)(Saveri, Joseph) (Filed on 4/18/2024) Modified on 6/28/2024 (dhm, COURT STAFF). (Entered: 04/18/2024) |
| 05/02/2024 | 249 | <p>CLERKS NOTICE SETTING ZOOM HEARING. Motion Hearing set for 5/16/2024 02:00 PM in Oakland, - Videoconference Only before Judge Jon S. Tigar. This proceeding will be held via a Zoom webinar.</p> <p>Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst</p> <p>Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. A combined list of names of all counsel appearing for all parties must be sent in one email to the CRD at JSTCRD@cand.uscourts.gov no later than May 15, 2024 by 2:00 p.m.</p> <p>General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited.</p> <p>Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/.</p> <p>, Set/Reset Deadlines as to 219 MOTION to Dismiss <i>Second Amended Complaint</i>, 215 MOTION to Dismiss <i>Portions of the Second Amended Complaint in Consolidated</i></p> |

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| | | <i>Actions (REDACTED)</i> . Motion Hearing set for 5/16/2024 02:00 PM in Oakland, - Videoconference Only before Judge Jon S. Tigar. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mll, COURT STAFF) (Filed on 5/2/2024) (Entered: 05/02/2024) |
| 05/03/2024 | 250 | CLERK'S NOTICE VACATING MOTION HEARING. Before the Court are the Motions to Dismiss. ECF Nos. 215 , 219 . Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds the matter suitable for disposition without oral argument. The hearing on this matter, currently scheduled for, May 16, 2024 is hereby VACATED. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (mll, COURT STAFF) (Filed on 5/3/2024) (Entered: 05/03/2024) |
| 05/08/2024 | 251 | NOTICE by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P. re 248 Joint Discovery Letter Brief CORRECTION OF DOCKET # 247 (Attachments: # 1 Exhibit A to OpenAI Defendants' Notice of Supplemental Authority Relevant to the Joint Discovery Letter (ECF No. 248))(Bennett, Allyson) (Filed on 5/8/2024) (Entered: 05/08/2024) |
| 05/09/2024 | 252 | CLERKS NOTICE SETTING ZOOM HEARING. Notice is hereby given to all parties that a motion hearing on 248 Joint Discovery Letter Brief is set for 7/11/2024 01:00 PM in Oakland, - Videoconference Only before Chief Magistrate Judge Donna M. Ryu. Parties can find the Zoom link to Judge Ryu's virtual Zoom courtroom at: https://cand.uscourts.gov/judges/ryu-donna-m-dmr/ . Signed by Chief Magistrate Judge Donna M. Ryu on 5/9/2024. <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (dmrlc2, COURT STAFF) (Filed on 5/9/2024) (Entered: 05/09/2024) |
| 06/24/2024 | 253 | ORDER GRANTING IN PART DENYING IN PART MOTIONS TO DISMISS by Judge Jon S. Tigar Re 219 MOTION to Dismiss <i>Second Amended Complaint</i> and 215 MOTION to Dismiss <i>Portions of the Second Amended Complaint in Consolidated Actions.</i> (dms, COURT STAFF) (Filed on 6/24/2024) (Entered: 06/24/2024) |
| 06/24/2024 | 254 | ORDER RE: ORDER GRANTING IN PART DENYING IN PART MOTION TO DISMISS. Signed by Judge Jon S. Tigar on 6/24/2024. (kc, COURT STAFF) (Filed on 6/24/2024) (Entered: 06/24/2024) |
| 06/27/2024 | 255 | NOTICE by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P. re 248 Joint Discovery Letter Brief CORRECTION OF DOCKET # 247 OF SUPPLEMENTAL AUTHORITY RELEVANT TO JOINT DISCOVERY LETTER (Attachments: # 1 Exhibit A)(Bennett, Allyson) (Filed on 6/27/2024) (Entered: 06/27/2024) |
| 07/01/2024 | 256 | STIPULATION WITH PROPOSED ORDER re 253 Sealed Document,, Terminate Motions, filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 7/1/2024) (Entered: 07/01/2024) |
| 07/03/2024 | 257 | STIPULATION <i>Regarding Extension of Time to File Answer to Second Amended Complaint</i> filed by OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP |

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| | | I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P. (Bennett, Allyson) (Filed on 7/3/2024) (Entered: 07/03/2024) |
| 07/05/2024 | 258 | STIPULATION AND ORDER REGARDING REDACTIONS TO ORDER ON MOTION TO DISMISS SECOND AMENDED COMPLAINT by Judge Jon S. Tigar granting 256 Stipulation. (dms, COURT STAFF) (Filed on 7/5/2024) (Entered: 07/05/2024) |
| 07/05/2024 | 259 | JOINT CASE MANAGEMENT STATEMENT filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 7/5/2024) (Entered: 07/05/2024) |
| 07/11/2024 | 260 | Minute Entry for proceedings held before Chief Magistrate Judge Donna M. Ryu: Motion Hearing held on 7/11/2024 by Zoom Videoconference re 248 Joint Discovery Letter Brief. See minute Order for all particulars. Digital Recording Time: Zoom Webinar Time 1:12-1:32. Attachment: Civil Law and Motion Minute Order. (ig, COURT STAFF) (Date Filed: 7/11/2024) (Entered: 07/11/2024) |
| 07/12/2024 | 261 | ORDER CONTINUING CASE MANAGEMENT CONFERENCE It appearing that there are no issues for resolution by the district court at this time, the case management conference scheduled for July 12, 2024 is continued to October 4, 2024 at 1:30 p.m. An updated case management statement is due September 27, 2024. On that subject, the Court observes that the parties' most recent case management statement, ECF No. 259, is largely dedicated to an issue-by-issue discussion of the parties' many discovery disputes, including a recitation of the parties' positions as to those disputes. While the Court requires that a high-line summary of the progress of discovery be included in the case management statement, and such a summary is a useful case management tool, the level of detail about the parties' positions contained in the recent case management statement exceeds what is necessary or helpful. As the parties acknowledge, discovery disputes have been referred to Magistrate Judge Donna Ryu. (This is a text-only entry generated by the court. There is no document associated with this entry.) (Tigar, Jon) (Filed on 7/12/2024) (Entered: 07/12/2024) |
| 07/12/2024 | | Reset Hearing. Updated Joint Case Management Statement due by 9/27/2024. Further Case Management Conference set for 10/4/2024 at 01:30 PM - Videoconference Only. This proceeding will be held via a Zoom webinar. Webinar Access: All counsel, members of the public, and media may access the webinar information at https://www.cand.uscourts.gov/jst Court Appearances: Advanced notice is required of counsel or parties who wish to be identified by the court as making an appearance or will be participating in the argument at the hearing. One list of names of all counsel appearing for all parties must be sent in one email to the CRD at jstcrd@cand.uscourts.gov no later than 10/03/2024 at 1:30PM PST. General Order 58. Persons granted access to court proceedings held by telephone or videoconference are reminded that photographing, recording, and rebroadcasting of court proceedings, including screenshots or other visual copying of a hearing, is absolutely prohibited. Zoom Guidance and Setup: https://www.cand.uscourts.gov/zoom/ . (dms, COURT STAFF) (Filed on 7/12/2024) (Entered: 07/12/2024) |
| 07/15/2024 | 262 | STIPULATION <i>Regarding Extension of Time to File Answers to Second Amended Complaint</i> filed by GitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 7/15/2024) (Entered: 07/15/2024) |

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| 07/18/2024 | 263 | *Filing Error See dkt 264 for Corrections* NOTICE of Voluntary Dismissal <i>OF DEFENDANT OPENAI INVESTMENT LLC WITHOUT PREJUDICE PURSUANT TO FED. R. CIV. P. 41(a)(1)(A)(ii)</i> by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 (Saveri, Joseph) (Filed on 7/18/2024) Modified on 7/19/2024 (sfb, COURT STAFF). (Entered: 07/18/2024) |
| 07/18/2024 | 264 | NOTICE of Voluntary Dismissal <i>CORRECTION OF DOCKET # 263 DEFENDANT OPENAI INVESTMENT LLC WITHOUT PREJUDICE PURSUANT TO FED. R. CIV. P. 41(a)(1)(A)(i)</i> by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 (Saveri, Joseph) (Filed on 7/18/2024) (Entered: 07/18/2024) |
| 07/22/2024 | 265 | ANSWER to Second Amended Complaint by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. (Gratz, Joseph) (Filed on 7/22/2024) Modified on 7/23/2024 correcting filer information (dhm, COURT STAFF). (Entered: 07/22/2024) |
| 07/22/2024 | 266 | ANSWER to Amended Complaint by Microsoft Corporation. (Hurst, Annette) (Filed on 7/22/2024) (Entered: 07/22/2024) |
| 07/22/2024 | 267 | ANSWER to Amended Complaint by GitHub, Inc.. (Hurst, Annette) (Filed on 7/22/2024) (Entered: 07/22/2024) |
| 07/24/2024 | 268 | MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. Motion Hearing set for 9/26/2024 02:00 PM in Oakland, Courtroom 6, 2nd Floor before Judge Jon S. Tigar. Responses due by 8/7/2024. Replies due by 8/14/2024. (Attachments: # 1 Proposed Order)(Saveri, Joseph) (Filed on 7/24/2024) (Entered: 07/24/2024) |
| 07/29/2024 | 269 | STIPULATION WITH PROPOSED ORDER re 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i> filed by GitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 7/29/2024) (Entered: 07/29/2024) |
| 07/31/2024 | 270 | ORDER GRANTING 269 JOINT REQUEST TO MODIFY BRIEFING SCHEDULE FOR PLAINTIFFS' MOTION TO AMEND AND CERTIFY THE COURT'S JUNE 24, 2024 ORDER FOR INTERLOCUTORY APPEAL PURSUANT TO 28 U.S.C. § 1292(b) by Judge Jon S. Tigar.(dms, COURT STAFF) (Filed on 7/31/2024) (Entered: 07/31/2024) |
| 07/31/2024 | | Reset Deadlines as to 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i> per docket no. 270 . Opposition due by 8/21/2024. Reply due by 9/11/2024. (dms, COURT STAFF) (Filed on 7/31/2024) Modified on 7/31/2024 (dms, COURT STAFF). (Entered: 07/31/2024) |
| 08/15/2024 | 271 | NOTICE of Appearance filed by Margaux Poueymirou on behalf of J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 (Poueymirou, Margaux) (Filed on 8/15/2024) (Entered: 08/15/2024) |
| 08/15/2024 | 272 | NOTICE by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5 <i>OF SUPPLEMENTAL AUTHORITY</i> (Attachments: # 1 Exhibit 1)(Saveri, Joseph) (Filed on 8/15/2024) (Entered: 08/15/2024) |
| 08/21/2024 | 273 | OPPOSITION/RESPONSE (re 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i>) filed byGitHub, Inc., Microsoft Corporation. (Hurst, Annette) (Filed on 8/21/2024) (Entered: 08/21/2024) |

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| 08/21/2024 | 274 | OPPOSITION/RESPONSE (re 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i>) filed by OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P.. (Attachments: # 1 Declaration of Joseph C. Gratz, # 2 Exhibit A to Joseph C. Gratz Declaration)(Gratz, Joseph) (Filed on 8/21/2024) (Entered: 08/21/2024) |
| 08/30/2024 | 275 | STIPULATION WITH PROPOSED ORDER <i>TO EXTEND CASE DEADLINES</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Attachments: # 1 Declaration Joseph R. Saveri)(Saveri, Joseph) (Filed on 8/30/2024) (Entered: 08/30/2024) |
| 09/05/2024 | 276 | JOINT STIPULATION AND ORDER TO EXTEND CASE DEADLINES PURSUANT TO LOCAL RULE 6-2 by Judge Jon S. Tigar granting 275 Stipulation. Close of Fact Discovery due by 3/27/2025. Plaintiff's Expert Reports due by 5/6/2025. Defendant's Expert Reports due by 6/11/2025. Rebuttal Expert Reports due by 9/23/2025. Close of Expert Discovery due by 10/21/2025. Class Certification and Daubert Motions due by 11/20/2025. Class Certification and Daubert Oppositions due by 12/22/2025. Class Certification and Daubert Replies due by 1/24/2026. (dms, COURT STAFF) (Filed on 9/5/2024) (Entered: 09/05/2024) |
| 09/11/2024 | 277 | REPLY (re 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i>) <i>TO DEFENDANTS GITHUB AND MICROSOFTS OPPOSITION</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 9/11/2024) (Entered: 09/11/2024) |
| 09/11/2024 | 278 | REPLY (re 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i>) <i>TO DEFENDANTS OPENAI, INC., OPENAI, L.P., OPENAI OPCO, L.L.C., OPENAI GP, L.L.C., OPENAI STARTUP FUND GP I, L.L.C., OPENAI STARTUP FUND I, L.P., AND OPENAI STARTUP FUND MANAGEMENT, LLC'S OPPOSITION</i> filed by J. DOE 1, J. DOE 2, J. Doe 3, J. Doe 4, J. Doe 5. (Saveri, Joseph) (Filed on 9/11/2024) (Entered: 09/11/2024) |
| 09/13/2024 | 279 | NOTICE of Appearance filed by John Robert Lanham on behalf of OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc., OpenAI, L.P. (Lanham, John) (Filed on 9/13/2024) (Entered: 09/13/2024) |
| 09/16/2024 | 280 | CLERK'S NOTICE VACATING MOTION HEARING. Before the Court is Plaintiff's 268 MOTION for Leave to Appeal <i>PURSUANT TO 28 U.S.C. § 1292(B)</i> . Pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b), the Court finds the matter suitable for disposition without oral argument. The hearing on this matter that is currently scheduled for 09/26/24 at 2:00PM is hereby VACATED. (<i>This is a text-only entry generated by the court. There is no document associated with this entry.</i>) (dms, COURT STAFF) (Filed on 9/16/2024) (Entered: 09/16/2024) |
| 09/17/2024 | 281 | NOTICE of Withdrawal filed by Allyson Roz Bennett, no longer appearing on behalf of OAI CORPORATION,, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund |

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| | | Management, LLC, OpenAI, Inc., OpenAI, L.P. in this case (Bennett, Allyson) (Filed on 9/17/2024) (Entered: 09/17/2024) |
| 09/27/2024 | 282 | ORDER GRANTING MOTION TO CERTIFY ORDER FOR INTERLOCUTORY APPEAL AND MOTION TO STAY PENDING APPEAL by Judge Jon S. Tigar granting 268 Motion for Leave to Appeal. (dms, COURT STAFF) (Filed on 9/27/2024) (Entered: 09/27/2024) |
| 10/09/2024 | 283 | USCA DOCKETING NOTICE: Acknowledging receipt of Petition for Permission to Appeal. Case Number 24-6136 Ninth Circuit (dhm, COURT STAFF) (Filed on 10/9/2024) (Entered: 10/09/2024) |
| 10/16/2024 | 284 | NOTICE of Appearance filed by Carolyn Myrle Homer on behalf of OAI CORPORATION, OPENAI GLOBAL, LLC, OPENAI HOLDCO, LLC, OPENAI HOLDINGS, LLC, OPENAI INVESTMENT, OPENAI INVESTMENT LLC, OPENAI STARTUP FUND SPV GP I, L.L.C., OPENAI STARTUP FUND SPV I, L.P, OPENAI, L.L.C., OpenAI GP, L.L.C., OpenAI OpCo, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P., OpenAI Startup Fund Management, LLC, OpenAI, Inc. (Homer, Carolyn) (Filed on 10/16/2024) Modified on 10/16/2024 correcting filer (dhm, COURT STAFF). (Entered: 10/16/2024) |
| 10/16/2024 | | Electronic filing error. *** Corrected by Clerk's Office. No further action is necessary. Correction made pursuant to telephone request *** Re: 284 Notice of Appearance/Substitution/Withdrawal of Attorney,, filed by filed by Carolyn Myrle Homer on behalf of GitHub, Inc., Microsoft Corporation (dhm, COURT STAFF) (Filed on 10/16/2024) (Entered: 10/16/2024) |
| 12/19/2024 | 285 | ORDER of USCA as to 283 . The petition for permission to appeal is granted. Within 14 days, petitioners must comply with Federal Rule of Appellate Procedure 5(d)(1). Petitioners request for leave to file additional briefing is denied as unnecessary. (dhm, COURT STAFF) (Filed on 12/19/2024) (Entered: 12/19/2024) |
| 12/23/2024 | 286 | USCA Case Number 24-7700 Ninth Circuit; Time Schedule Order (dhm, COURT STAFF) (Filed on 12/23/2024) (Entered: 12/23/2024) |
| 12/27/2024 | 287 | Notice of Appeal FEE PAID (Filing fee\$605,receipt number ACANDC-20181530). (Saveri, Joseph) (Filed on 12/27/2024) (Entered: 12/27/2024) |
| 01/10/2025 | 288 | Transcript Designation Form for proceedings held on 5/4/2023 and 11/9/2023 before Judge Jon S. Tigar, (Saveri, Joseph) (Filed on 1/10/2025) (Entered: 01/10/2025) |
| 02/11/2025 | 289 | NOTICE of Withdrawal filed by Vera Ranieri, no longer appearing on behalf of OpenAI Startup Fund Management, LLC, OpenAI OpCo, L.L.C., OpenAI, Inc., OPENAI, L.L.C., OPENAI GLOBAL, LLC, OAI CORPORATION,, OPENAI HOLDINGS, LLC, OPENAI HOLDCO, LLC, OPENAI STARTUP FUND SPV I, L.P, OPENAI STARTUP FUND SPV GP I, L.L.C., OpenAI, L.P., OpenAI GP, L.L.C., OpenAI Startup Fund GP I, L.L.C., OpenAI Startup Fund I, L.P. in this case (Ranieri, Vera) (Filed on 2/11/2025) (Entered: 02/11/2025) |

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