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Plaintiffs and the Proposed Class

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION

20 J. DOE 1, et al.,
21 Individual and Representative Plaintiffs
22 v.
23 GITHUB, INC., et al.,
24 Defendants.

Case Nos. 4:22-cv-06823-JST
4:22-cv-07074-JST

Hon. Jon S. Tigar

**STIPULATION AND [PROPOSED]
ORDER FOR BRIEFING SCHEDULE**

Date: February 6, 2024

25 AND CONSOLIDATED ACTION
26

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18 *Startup Fund I, L.P., OpenAI Startup Fund*
19 *Management, L.L.C., OpenAI, L.L.C.,*
20 *OpenAI Global, LLC, OAI Corporation,*
21 *OpenAI Holdings, LLC, OpenAI HoldCo,*
22 *LLC, OpenAI Investment LLC, OpenAI*
23 *Startup Fund SPV I, L.P., and OpenAI*
24 *Startup Fund SPV GP I, L.L.C.*

1 Pursuant to Northern District of California Local Rule 6-1, the parties in the above-
2 captioned action hereby stipulate and agree as follows:

3 WHEREAS, on January 24, 2024, Plaintiffs Doe 1, Doe 2, Doe 3, Doe 4, and Doe 5 (the
4 “Plaintiffs”) filed a Second Amended Complaint (the “SAC,” ECF No. 198) against Defendants
5 GitHub, Inc.; Microsoft Corporation; OpenAI, Inc.; OpenAI, L.P.; OpenAI OpCo, L.L.C.;
6 OpenAI GP, L.L.C.; OpenAI Startup Fund GP I, L.L.C.; OpenAI Startup Fund I, L.P.; OpenAI
7 Startup Fund Management, L.L.C.; OpenAI, L.L.C.; OpenAI Global, LLC; OAI Corporation;
8 OpenAI Holdings, LLC; OpenAI HoldCo, LLC; OpenAI Investment LLC; OpenAI Startup Fund
9 SPV I, L.P.; and OpenAI Startup Fund SPV GP I, L.L.C.¹ in the above-captioned consolidated
10 action (the “Action”);

11 WHEREAS, Defendants apart from OpenAI, L.L.C., OpenAI Global, LLC, OAI
12 Corporation, OpenAI Holdings, LLC, OpenAI HoldCo, LLC, OpenAI Investment LLC, OpenAI
13 Startup Fund SPV I, L.P., and OpenAI Startup Fund SPV GP I, L.L.C. were served on
14 January 24, 2024;

15 WHEREAS, apart from OpenAI, L.L.C., OpenAI Global, LLC, OAI Corporation, OpenAI
16 Holdings, LLC, OpenAI HoldCo, LLC, OpenAI Investment LLC, OpenAI Startup Fund SPV I,
17 L.P., and OpenAI Startup Fund SPV GP I, L.L.C, Defendants’ responses to the SAC are currently
18 due February 7, 2024;

19 WHEREAS, Defendants OpenAI, L.L.C., OpenAI Global, LLC, OAI Corporation,
20 OpenAI Holdings, LLC, OpenAI HoldCo, LLC, OpenAI Investment LLC, OpenAI Startup Fund
21 SPV I, L.P., and OpenAI Startup Fund SPV GP I, L.L.C. were served on February 2, 2024;

22 WHEREAS, the current deadline for Defendants OpenAI, L.L.C., OpenAI Global, LLC,
23 OAI Corporation, OpenAI Holdings, LLC, OpenAI HoldCo, LLC, OpenAI Investment LLC,
24

25 ¹ GitHub, Inc. is referred to as “GitHub.” Microsoft Corporation is referred to as “Microsoft.”
26 OpenAI, Inc.; OpenAI, L.P.; OpenAI OpCo, L.L.C.; OpenAI GP, L.L.C.; OpenAI Startup Fund
27 GP I, L.L.C.; OpenAI Startup Fund I, L.P.; OpenAI Startup Fund Management, L.L.C.; OpenAI,
28 L.L.C.; OpenAI Global, LLC; OAI Corporation; OpenAI Holdings, LLC; OpenAI HoldCo, LLC;
OpenAI Investment LLC; OpenAI Startup Fund SPV I, L.P.; and OpenAI Startup Fund SPV GP
I, L.L.C. are referred to herein as “OpenAI Defendants.” GitHub, Microsoft, and OpenAI
Defendants are referred to herein as “Defendants.”

1 OpenAI Startup Fund SPV I, L.P., and OpenAI Startup Fund SPV GP I, L.L.C to respond to the
2 SAC is February 23, 2023;

3 WHEREAS, Defendants in the Action have not filed any responses to the SAC;

4 WHEREAS, Civil Local Rule 6-1(a) permits the parties to “stipulate in writing, without a
5 Court order, to extend the time within which to answer or otherwise respond to the complaint” so
6 long as “the change will not alter the date of any event or any deadline already fixed by Court
7 order”;

8 WHEREAS, Civil Local Rule 6-1(b) permits the parties to stipulate to enlarge or shorten
9 the deadline for papers, other than an initial response to a complaint, required to be filed with the
10 Court;

11 WHEREAS, the parties have conferred and agreed to an extension of the deadline for
12 Defendants to move or otherwise respond to the SAC;

13 WHEREAS, the parties have conferred and agreed to a briefing schedule in the event
14 Defendants move to dismiss the SAC;

15 WHEREAS, there has not been an extension for the filing of responsive pleadings to the
16 SAC;

17 WHEREAS, an extension of the deadline to respond to the SAC will not alter the date of
18 any event or deadline already fixed by Court order; and,

19 WHEREAS, Defendants do not waive, and expressly reserve, all available defenses;

20 NOW THEREFORE, the parties, through their undersigned counsel, hereby stipulate and
21 agree pursuant to Local Rule 6-1(a) that Defendants’ deadline to respond to the SAC shall be
22 February 28, 2024.

23 NOW THEREFORE, the parties, through their undersigned counsel, hereby stipulate and
24 agree, subject to the approval of the Court:


25 1. Plaintiffs’ oppositions to any motion(s) filed by Defendants in response to the SAC
26 shall be due March 27, 2024.

27 2. Defendants’ replies to any such motions shall be due April 10, 2024.

28 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

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DATED: February 8, 2024



JON S. TIGAR
United States District Judge

Dated: February 6, 2024

ORRICK, HERINGTON & STUCLIFFE LLP

By: /s/ Annette L. Hurst

ANNETTE L. HURST
Attorneys for GitHub, Inc. and Microsoft Corporation

Dated: February 6, 2024

MORRISON & FOERSTER LLP

By: /s/ Joseph C. Gratz

JOSEPH C. GRATZ

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OpenAI Startup Fund I, L.P., OpenAI
Startup Fund Management, L.L.C.,
OpenAI, L.L.C., OpenAI Global, LLC,
OAI Corporation, OpenAI Holdings, LLC,
OpenAI HoldCo, LLC, OpenAI
Investment LLC, OpenAI Startup Fund
SPV I, L.P., and OpenAI Startup Fund
SPV GP I, L.L.C.

Dated: February 6, 2024

JOSEPH SAVERI LAW FIRM, LLP

By: /s/ Joseph R. Saveri

JOSEPH R. SAVERI

Attorneys for Individual and
Representative Plaintiffs and
the Proposed Class

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L.R. 5-1 SIGNATURE ATTESTATION

As the ECF user whose user ID and password are utilized in the filing of this document, I attest under penalty of perjury that concurrence in the filing of the document has been obtained from each of the other signatories.

Dated: February 6, 2024

/s/ Joseph C. Gratz
Joseph C. Gratz