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17 *Farnsworth v. Meta Platforms, Inc.*

18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20

21 RICHARD KADREY, *et al.*
22 Plaintiffs,
23 v.
24 META PLATFORMS, INC.,
25 Defendant.

Case No. 3:23-cv-03417-VC

**UNOPPOSED ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED
PURSUANT TO CIVIL LOCAL RULES 3-
12 AND 7-11**

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1 Pursuant to Civil Local Rules 3-12(b) and 7-11, Plaintiffs in *Farnsworth et al., v. Meta*
2 *Platforms, Inc.*, 3:24-cv-06893-AMO (N.D. Cal.) (“*Farnsworth*”) file this unopposed motion for
3 consideration of whether the *Farnsworth* suit should be related to the above-captioned case,
4 *Kadrey et al., v. Meta Platforms, Inc.*, 3:23-cv-03417-VC (N.D. Cal.) (“*Kadrey*”). This Motion is
5 accompanied by the Declaration of Daniel M. Hutchinson and Exhibit 1 thereto (copy of the
6 complaint filed in *Farnsworth*) (“Hutchinson Decl.”).

7 Civil Local Rule 3-12(b) requires a party to file “an Administrative Motion to Consider
8 Whether Cases Should be Related” whenever “a party . . . believes that” another action “may be
9 [r]elated.” Under Local Rule 3-12(b), an action is related to another when: “(1) The allegations
10 concern substantially the same parties, property, transaction or event; and (2) It appears likely that
11 there will be an unduly burdensome duplication of labor and expense or conflicting results if the
12 cases are conducted before different Judges.” On October 3, 2024, the Court in *Farnsworth* issued
13 a Referral to this Court “for consideration of whether the case is related.”

14 The Local Rule 3-12 criteria are met here.

15 The plaintiffs in the *Kadrey* and *Farnsworth* actions are book authors asserting the same,
16 single claim for copyright infringement, against the same lone defendant, Meta Platforms, Inc.
17 (“Meta”). The infringement claim in each class action arises from the same alleged conduct by
18 Meta. Specifically, plaintiffs in both actions allege that Meta stole a large trove of copyrighted
19 books, including plaintiffs’ copyrighted works, and used those books to train a set of large
20 language models (“LLMs”) called “Llama.” *Compare Farnsworth Complaint* at ¶¶ 3, 10 *et seq.*,
21 *22 et seq.* with *Kadrey Complaint* at ¶¶ 1, 4-5, 18 *et seq.*; *see, e.g., Our Children’s Earth Found.*
22 *v. Nat’l Marine Fisheries Serv.*, Case No. 14-cv-1130, 2015 WL 4452136, at *12 (N.D. Cal. July
23 20, 2015) (relating cases involving “substantially the same matter” despite “slightly differing
24 parties” and “a differing underlying FOIA request”).

25 In addition to the substantial similarity of the parties and alleged predicate conduct, the
26 *Kadrey* and *Farnsworth* actions will both likely require an adjudication of Meta’s fair use
27 defense. The potential for conflicting rulings on this issue supports relating the cases. *See* L.R. 3-
28 12(b). Moreover, discovery into Meta’s alleged infringing conduct and fair use defense will

1 concern almost entirely overlapping evidence regarding—*inter alia*—the technical features of
2 Meta’s LLMs, the data used to train the LLMs and the existence of licensing markets for LLM
3 training data. Thus, “to avoid duplication of labor or conflicting results, the two matters should be
4 related.” *JaM Cellars, Inc. v. Wine Grp. LLC*, No. 19-CV-01878-HSG, 2020 WL 2322992, at *1
5 (N.D. Cal. May 11, 2020) (relating trademark infringement actions involving overlapping parties
6 “although the underlying products, marks, and some portion of evidence differ”).

7 Neither Meta nor counsel for the *Kadrey* plaintiffs oppose relating these cases.¹ *See*
8 *Hutchinson Decl.* at ¶ 4.

9 For these reasons, the *Farnsworth* plaintiffs respectfully request that the Court enter an
10 order relating *Farnsworth* with *Kadrey* and reassigning *Farnsworth* to this Court.

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28 ¹ Meta’s counsel requested a note clarifying that while they do not oppose relating the cases, they do not agree with all characterizations within this brief.

1 Dated: October 3, 2024

Respectfully submitted,

3 By: /s/ Daniel Hutchinson

4 Daniel M. Hutchinson

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was duly served upon all Counsel of record in:

- *Farnsworth et al., v. Meta Platforms, Inc.*, 3:24-cv-06893-AMO (N.D. Cal.)
- *Kadrey et al., v. Meta Platforms, Inc.*, 3:23-cv-03417-VC (N.D. Cal.)

via electronic service, in accordance with the Federal Rules of Civil Procedure, on October 3, 2024.

/s/Daniel M. Hutchinson