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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Richard Kadrey, et al.,

Individual and Representative Plaintiffs,

v.

Meta Platforms, Inc.,

Defendant.

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

**PLAINTIFFS' ADMINISTRATIVE
MOTION TO CONSIDER WHETHER
CASES SHOULD BE RELATED (L.R. 3-12,
7-11)**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Civil Local Rules 3-12 and 7-11, Plaintiffs Richard Kadrey, Sarah Silverman, and Christopher Golden in Case No. 3:23-cv-03417 (N.D. Cal.) (the “*Kadrey* Action”), submit this administrative motion to consider whether to relate *Huckabee, et al. v. Meta Platforms, Inc., et al.*, Case No. 3:23-cv-06663 (N.D. Cal.) (the “*Huckabee* Action”) to the *Kadrey* Action. The *Huckabee* Action was originally filed in the Southern District of New York on October 17, 2023. On December 29, 2023, it was transferred to this District. *See Kadrey* Action, ECF No. 70. Now that the *Huckabee* Action has been transferred and is pending in this District, it should be related to the *Kadrey* Action.

INTRODUCTION

The *Huckabee* Action should be related to the *Kadrey* Action. This Court has already found another similar case related to the *Kadrey* Action: *Chabon, et al. v. Meta Platforms, Inc.*, Case No. 4:23-cv-04663 (N.D. Cal.) (the “*Chabon* Action”). *See* ECF No. 31. The *Chabon* Action has since been consolidated with the *Kadrey* Action. *See* ECF No. 62. The *Huckabee* Action concerns the same Defendant, transactions, and events at issue in the *Kadrey* and *Chabon* Actions. Saveri Decl., Ex. A (*Huckabee* Complaint).¹

In all three actions, the plaintiffs all allege, on behalf of highly similar putative classes, Meta Platforms, Inc. (“Meta” or “Defendant”)² engaged in actions related to the creation and operation of LLaMA and other large language models that violated Plaintiffs’ rights under the Copyright Act (17 U.S.C. § 106). Saveri Decl. ¶ 2 & Ex. A. The *Huckabee* Action also contains causes of action for Vicarious Copyright Infringement; violation of the Digital Millennium

¹ “Saveri Decl.” refers to the Declaration of Joseph R. Saveri in Support of Plaintiffs’ Administrative Motion to Consider Whether Cases Should be Related, concurrently filed herewith.

² The *Huckabee* Action named several other defendants, but Meta’s conduct is the primary focus of the allegations in the Complaint and it is involved in all, or nearly all, of the wrongful conduct alleged. Microsoft Corporation is the only defendant besides Meta that remains a party to the *Huckabee* Action now pending in this District. Saveri Decl. ¶ 2 & Ex. A.

Copyright Act (17 U.S.C. §§ 1201–1205); Negligence; and Unjust Enrichment—all of which were alleged in the original Complaints in the *Kadrey* and *Chabon* Actions. *Id.*; see ECF Nos. 1, 28-3. Judicial economy and efficiency favor the Court finding that the cases are related. If the cases are not related, the likely results will be duplication of efforts, increased burden on the courts, contradictory rulings, and extra expense for the parties. Meta has been served and appeared in the *Kadrey*, *Chabon*, and *Huckabee* Actions. Plaintiffs conferred with Meta prior to filing this request, and Meta agrees that the *Huckabee* Action is and should be related to the *Kadrey* Action. See ECF No. 71 at 13; Saveri Decl. ¶ 4.

DISCUSSION

The *Huckabee* and *Kadrey* Actions fall squarely within the definition of “Related Cases” under the Civil Local Rules. Civil Local Rule 3-12(a) provides that actions are related when “(1) the actions concern substantially the same parties, property, transaction or event; and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Both are satisfied here.

First, the *Huckabee* and *Kadrey* Actions concern substantially the same parties, products, and events. Both are class actions, with the initial complaints in each including many common causes of action. See Saveri Decl. ¶ 2 & Ex. A; ECF No. 1. Both complaints focus on the same actions by Meta, such as the creation, training, operation, and distribution of its large language models. *Id.* Both actions assert Meta violated Plaintiffs’ rights under the Copyright Act by engaging in direct copyright infringement. *Id.* Both actions request damages, declaratory judgment, and injunctive relief resulting from that conduct. *Id.*

Second, “burdensome duplication of labor and expense” will result if the matters proceed before different courts. Civil L.R. 3-12(a)(2). This Court, as part of the *Kadrey* Action, will already have to adjudicate the same claims as the *Huckabee* Action plaintiffs’ claims. That adjudication will require proof of how LLaMA and Meta’s other large language models were/are created, trained, modified, and operated. Were multiple courts required to adjudicate the same facts or laws, there would be duplication of effort and the risk of inconsistent rulings. The parties

in the *Huckabee* and *Kadrey* Actions would need to brief similar issues and produce similar expert reports—time consuming and expensive projects that could be avoided.

Courts in this District routinely order that cases are related when they raise similar claims against the same defendants arising out of the same conduct. *See. e.g.*, ECF No. 31; Order Relating Cases, *Reece v. Altria Group, Inc., et al.*, No. 20-cv-02345-WHO (N.D. Cal. May 7, 2020), ECF No. 27.

Adjudication of these actions before separate judges would create burdensome duplication of labor and expense and the possibility of conflicting results. Relating the *Huckabee* Action to the pending *Kadrey* Action will help eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel, and the judiciary.

CONCLUSION

For the reasons set for above, Plaintiffs respectfully request that the Court relate the *Huckabee* Action to the *Kadrey* Action, pursuant to Local Rule 3-12(a).

Dated: January 16, 2024

By: /s/ Joseph R. Saveri
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