UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Paul Tremblay,

Individual and Representative Plaintiff, v.

OpenAI, Inc., et al.,

Defendants.

This document relates to:

Case No. 3:23-cv-03223-AMO

Case No. 4:23-cv-03416-AMO

Case No. 4:23-cv-04625-AMO

Lead Case No. 3:23-cv-03223-AMO

[PROPOSED] PRETRIAL ORDER NO. 1

[Filed Concurrently With Stipulation and [Proposed] Order to Consolidate Related Cases]

Case No. 3:23-cv-03223-AMO

To facilitate the efficient management of the actions filed against OpenAI, Inc.; OpenAI, L.P.; 2 OpenAI OpCo, L.L.C.; OpenAI GP, L.L.C.; OpenAI Startup Fund I, L.P.; OpenAI Startup Fund GP I, 3 L.L.C.; and OpenAI Startup Fund Management, LLC ("OpenAI") regarding OpenAI LLMs used for 4 ChatGPT (the "OpenAI ChatGPT Actions") involving claims of Direct Copyright Infringement (17 5 U.S.C. § 106), Vicarious Copyright Infringement (17 U.S.C. § 106), the Digital Millenium Copyright 6 Act – Removal of Copyright Management Information (17 U.S.C. § 1202 (b)) ("the DMCA"), Unfair 7 Competition (Cal. Bus. & Prof. Code §§ 17200, et seq.), Negligence, and Unjust Enrichment, the 8 Court hereby **ORDERS** as follows:

9 1. The provisions of this Order shall govern the practice and procedures in the OpenAI 10 ChatGPT Actions that were or will be related to *Tremblay*, et al. v. OpenAI, Inc., et al., Case No. 11 3:23-cv-03223-AMO (N.D. Cal. June 28, 2023) ("Tremblay Action") pursuant to N.D. Cal. Civil Local Rule 3-12.<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 42(a), the Court now consolidates the 12 13 OpenAI ChatGPT Actions into Case No. 23-cv-03223. The OpenAI ChatGPT Actions currently 14 pending in the Northern District have been will be deemed consolidated for all purposes under Federal Rule of Civil Procedure 42(a) pursuant to stipulation by the parties, see ECF No. 60, and upon the 15 16 filing of a consolidated complaint within 30 days of the Court's ruling on the pending motions to 17 dismiss in 23-cv-3223 and 23-cv-3416. Consolidation does not have the effect of making any entity a 18 party to any action in which he, she, or it has not been named, served, or added in accordance with the 19 Federal Rules of Civil Procedure. All subsequent filings filed in this Court related to the OpenAI 20 ChatGPT Actions shall be captioned "In re OpenAI ChatGPT Litigation" under Case No. 23-cv-21 03223.

2. In any cases that are subsequently filed in, removed to, or transferred to this Court involving the same or substantially similar issues of law and fact, Plaintiffs and/or the party responsible for the filing, removal, and/or transfer shall file a notice of related case under Civil Local

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<sup>1</sup> Silverman, et al v. OpenAI, Inc., et al., Case No. 4:23-cv-03416-KAW (N.D. Cal. July 7, 2023) ("Silverman Action") and Chabon, et al. v. OpenAI, Inc, et al., Case No. 4:23-cv-04625-AMO (N.D. Cal. Sept. 8, 2023) ("Chabon Action") have previously been related to the Tremblay Action by the Court. (ECF Nos. 26, - 53.)

Rules 3-12 and 7-11 and a stipulation or administrative motion to consolidate actions within fourteen 2 (14) days after the filing, removal, or transfer of the case (whichever is later).

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3. Every pleading or motion filed in the master docket shall bear the following caption: UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION IN RE OPENAI CHATGPT LITIGATION Master File No. 23-cv-03223-AMO This Document Relates To: ["All Actions" or the docket numbers of each individual case to which the document relates.] 4. If a document pertains to only one or some of the member cases, the document must list the actions or the docket number of each individual action to which the document applies immediately under the master caption as set forth above. Documents that pertain to one or only some of the individual pending actions shall *also* be filed in the individual case(s) to which the documents pertain. 15 5. Each attorney of record is obligated to become a Northern District of California ECF 16 User and be assigned a user ID and password for access to the system. If she or he has not already

17 done so, counsel shall register forthwith as an ECF User and be issued an ECF User ID and password. 18 Forms and instructions can be found on the Court's website at <u>www.cand.uscourts.gov/ cm-ecf</u>. The 19 docket in Case No. 3:23-cv-03223-AMO will constitute the master docket. All filings shall be filed in 20 the master docket.

21 6. A copy of this Order shall be filed by the Clerk parties in any subsequent OpenAI 22 ChatGPT Action related to In Re: OpenAI ChatGPT Litigation.

23 7. Counsel are directed to familiarize themselves with the Northern District of California's 24 Local Rules, the Standing Order for All Judges of the Northern District of California, the Court's 25 standing orders, and the Guidelines for Professional Conduct for the Northern District of California. 26 Noncompliance will be grounds for sanction.

27 8. Counsel who appeared in a related case prior to consolidation need not enter an 28 additional appearance before this Court. Attorneys admitted to practice and in good standing in any

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United States District Court may, at Case No. 3:23-cv-03223-AMO, seek to be admitted pro hac vice in this litigation pursuant to N.D. Cal. Civil Local Rule 11-3. The requirement that pro hac vice counsel retain local counsel, see N.D. Cal. Civil Local Rules 11-3(a)(3) and 11-3(e), is waived and does not apply to this action. 

**IT IS SO ORDERED.** 

Dated: November 9, 2023

Honorable Araceli Martínez-Olguín **United States District Judge**