

CANADA

SUPERIOR COURT
(Class Actions Division)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-001414-255

ANNE ROBILLARD

Applicant

v.

OPENAI INC.
and
OPENAI GLOBAL, LLC
and
OPENAI GP, LLC
and
OPENAI HOLDINGS, LLC
and
OPENAI OPCO, LLC
and
OAI CORPORATION
and
OPENAI STARTUP FUND GP I, LLC
and
OPENAI STARTUP FUND I, L.P.
and
OPENAI STARTUP FUND
MANAGEMENT, LLC
and
OPENAI L.L.C.
and
MICROSOFT CORPORATION
and
MICROSOFT CANADA INC.

Defendants

APPLICATION OF OPENAI DEFENDANTS FOR THE ISSUANCE OF A
CONFIDENTIALITY AND SEALING ORDER
(Articles 11,12, 25 and 49 C.C.P.)

TO THE HONOURABLE MARTIN F. SHEEHAN, J.S.C., ACTING AS THE DESIGNATED
JUDGE IN THE PRESENT CASE, THE OPENAI DEFENDANTS STATE AS FOLLOWS:

I. INTRODUCTION

1. The OpenAI Defendants¹ have not attorned to the jurisdiction of this Honourable Court and file this application in the context of their pending application challenging this Honourable Court's jurisdiction over this matter.
2. The OpenAI Defendants ask this Court to issue a sealing order directing that the identified unredacted documents be filed under seal.

II. CONTEXT

3. On or about September 4, 2025, the Applicant filed a *Demande pour autorisation d'exercer une action collective et pour être représentante* (the "**Robillard Application**"), alleging that the Defendants deliberately chose to train their large language models with data containing illegal copies of literary and dramatic works, including those of the Applicant.
4. On June 12, 2026, the OpenAI Defendants filed an *Application for Declinatory Exception for Lack of Jurisdiction* (the "**Jurisdiction Application**"), as appears more fully from the Court record.
5. The Jurisdiction Application is supported by three (3) affidavits and supporting exhibits, namely:
 - 5.1. Affidavit of Alex Paino of OpenAI OpCo, LLC;
 - 5.2. Affidavit of Davis Wu of OpenAI OpCo, LLC, and supporting Exhibits DW-1 and DW-2;
 - 5.3. Affidavit of Chirani Mudunkotuwa of Gowling WLG, and supporting Exhibits A to T.
6. The Jurisdiction Application is scheduled for hearing on November 4, 2026.
7. The OpenAI Defendants are leaders in the fiercely competitive and fast developing artificial intelligence field. Their competitors range from large, established technology companies like Google and Amazon to smaller startups trying to establish a foothold in the industry.
8. In the context of the Jurisdiction Application, confidential information, including commercially sensitive information, has been exchanged between the lawyers acting on behalf of the parties. The receipt of this confidential information by the OpenAI Defendants' competitors would likely significantly and negatively impact the OpenAI Defendants' business within the highly competitive artificial intelligence industry.

¹ OpenAI, Inc., OpenAI GP, LLC, OpenAI Global, LLC, OpenAI OpCo, LLC, OpenAI Holdings, LLC, OpenAI, LLC, OAI Corporation, OpenAI Startup Fund I, L.P., OpenAI Startup Fund GP I, LLC, OpenAI Startup Fund Management, LLC.

9. In particular, the OpenAI Defendants have designated the affidavit of Davis Wu as confidential pursuant to an agreement with the Applicant's counsel. This designated affidavit contains evidence that would be sealed under the proposed sealing order. The proposed sealing order, however, only applies to limited confidential portions of the designated affidavit.
10. The OpenAI Defendants have identified specific excerpts from the Davis Wu affidavit served in connection with the Jurisdiction Application that contain confidential information (the "**Affidavit Confidential Information**") that they seek to seal.
11. The Affidavit Confidential Information comprises the OpenAI Defendants' sensitive and commercially valuable confidential information. The information is both confidential and necessary for the Jurisdiction Application.
12. The Affidavit Confidential Information is confidential business and technical information related to the OpenAI Defendants' artificial intelligence systems and processes, as well as confidential information relating to their commercial relationships with third parties. It contains confidential business and technical information concerning the OpenAI Defendants' operations, including model training and inference processes, resource allocations and/or cost structures, and the geographic locations of computing clusters used for inference.
13. All of the Affidavit Confidential Information is maintained as confidential by the OpenAI Defendants, who take steps to protect such information from public disclosure, including maintaining related company records on access-controlled storage mediums and only disclosing the confidential information to authorized individuals on a need-to-know basis.
14. Unrestricted or public disclosure of the Affidavit Confidential Information would allow the OpenAI Defendants' competitors to have access to their model training and inference processes, systems, resource allocations and/or costs structures, and the geographic locations of computing clusters used for inference, which would enable those competitors to modify, guide or shift focus with respect to those competitors' artificial intelligence systems and processes, as well their commercial relationships with third parties, in ways that mimic and/or more effectively compete with the OpenAI Defendants. Such public availability would cause harm to the OpenAI Defendants, given the highly competitive nature of the artificial intelligence industry.
15. The OpenAI Defendants may seek to expand the scope of the sealing order if further yet-to-be-determined Affidavit Confidential Information, beyond the above-discussed existing Affidavit Confidential Information, is disclosed in relation to the Jurisdiction Application.

III. LEGAL BASIS

16. To obtain a confidentiality and sealing order, an applicant must show that: (i) court openness poses a serious risk to an important public interest; (ii) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and (iii) as a matter of proportionality, the benefits of the order outweigh its negative effects.

i. Disclosure of the Affidavit Confidential Information poses a serious risk to an important public interest

17. Disclosure of the Affidavit Confidential Information would pose a serious risk to an important public interest for multiple, independently sufficient reasons.
18. The information at issue contains commercially and technically sensitive material that the OpenAI Defendants have consistently protected to preserve their competitive advantages. Even the possibility that disclosure could give competitors an undeserved commercial benefit is enough to constitute a serious risk to the public interest. This concern is heightened in the present case because the Affidavit Confidential Information belongs to the OpenAI Defendants, who have been compelled to participate in this litigation, and who must be able to respond fully without suffering unfair commercial harm.
19. The public interest in maintaining confidentiality is further intensified because the material will be filed in connection with a jurisdictional challenge. It is essential that the OpenAI Defendants be able to contest a court's jurisdiction without being forced to reveal confidential data before jurisdiction is even established. Moreover, there is a strong public interest in protecting the Affidavit Confidential Information from disclosure in intellectual property disputes like this one. A party's confidential proprietary, commercial, and scientific information is unquestionably commercially sensitive.

ii. A sealing order is the only option

20. There is no reasonable alternative to a sealing order capable of preventing serious harm to the public interest in protecting the Affidavit Confidential Information.
21. The OpenAI Defendants rely on this information in their Jurisdiction Application, and the material they seek to seal consists of narrow, highly specific facts that cannot be replaced or summarized in a non-confidential form.
22. Moreover, the OpenAI Defendants have crafted the least obtrusive order capable of protecting their commercially sensitive information. They have identified only limited, targeted excerpts for sealing, ensuring that the restriction is minimal and narrowly tailored to the sensitive content. This approach allows the OpenAI Defendants to fully participate in the litigation without sacrificing their commercial interests.

iii. The benefits of a sealing order outweigh its negative effects

23. The proposed sealing order offers substantial benefits which outweigh any marginal negative effects that the order may have.
24. The proposed confidentiality and sealing order serves an important public interest by safeguarding the OpenAI Defendants' confidential business and technical information from disclosure, thereby preventing competitors in the marketplace from gaining an unfair advantage. The order also ensures that the OpenAI Defendants can fully

advance their jurisdiction challenge without being forced to choose between advancing their legal position and protecting their commercial interests.

25. Any negative effects of the proposed sealing order are, at most, minimal. The OpenAI Defendants, the Microsoft Defendants² through their attorneys of record, the Applicant through her attorneys of record, and the Court retain access to the unredacted materials. The proposed sealing order is narrowly tailored, sealing only what is necessary, and it does not impede the public's understanding of the issues or the Court's ultimate decision on the Jurisdiction Application.
26. In line with common practice in intellectual property cases, the public's limited interest in the OpenAI Defendants' proprietary business information is outweighed by the need to prevent competitors from exploiting it for commercial gain.
27. In similar matters involving the OpenAI Defendants, a confidentiality order and sealing order were granted by the Ontario Superior Court of Justice, and a confidentiality order and sealing order were granted by the Supreme Court of British Columbia, all of which were in the context of a jurisdiction challenge, as appears from a copy of said orders communicated as **Exhibit CO-1, Exhibit CO-2, Exhibit CO-3 and Exhibit CO-4**.
28. It is in the interest of justice to grant the present application. Refusing the order sought would render moot the protection that was provided by other jurisdictions. Judicial comity supports this Court protecting the information that was sealed in other provincial superior courts, and is, itself, an important public interest that can justify limiting the open courts principle.
29. The present application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present application;

DECLARE that the following document is confidential:

Affidavit Confidential Information

paragraphs 19, 20, 21, 22, 23 and 24 of the affidavit of Davis Wu of OpenAI OpCo, LLC, dated June 12, 2026, and any reference to such confidential information in any other materials filed or to be filed by any party in this proceeding;

ORDER that the following unredacted document be sealed in the Court file, kept confidential, and not form part of the public record, pending further order of this Court:

Affidavit Confidential Information

the affidavit of Davis Wu of OpenAI OpCo, LLC, dated June 12, 2026, and any other document having any reference to any confidential information in such affidavit in any other materials filed or to be filed by any party in this proceeding;

² Microsoft Corporation and Microsoft Canada Inc.

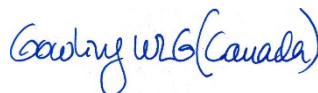
ALLOW a redacted version of the document listed above to be filed concurrently with the filing of the confidential non-redacted version. The redactions in such public version shall be as follows:

Affidavit Confidential Information

paragraphs 19, 20, 21, 22, 23 and 24 of the affidavit of Davis Wu of OpenAI OpCo, LLC, dated June 12, 2026, and any reference to such confidential information in any other materials filed or to be filed by any party in this proceeding;

THE WHOLE without costs, save in case of contestation.

Montréal, July 31, 2026



GOWLING WLG (CANADA) LLP

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Me Marc Crandall

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Me Gabriel D'Addona

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Lawyers for the OpenAI Defendants

SWORN STATEMENT OF JAMES SHERWOOD

I, the undersigned James Sherwood, with an address of 110 Noland Street, Falls Church, Virginia, 22046, United States of America, **solemnly declare the following:**

1. I am a Member of the Legal Staff at OpenAI OpCo, LLC. I joined OpenAI in January 2025 and am responsible for various legal functions. I have been authorized by each of OpenAI, Inc., OpenAI GP, LLC, OpenAI Global, LLC, OpenAI OpCo, LLC, OpenAI Holdings, LLC, OpenAI, LLC, OAI Corporation, OpenAI Startup Fund I, L.P., OpenAI Startup Fund GP I, LLC and OpenAI Startup Fund Management, LLC to make this sworn statement.
2. All the facts alleged at paragraphs 7-14, 17-18, 20-22, 24-25 and 27 of the present *Application of OpenAI Defendants for the Issuance of a Confidentiality and Sealing Order* are true to my personal knowledge, or upon company information and records to which I have access and that I believe to be true and accurate.

AND I HAVE SIGNED:

Signed by:

James Sherwood

JAMES SHERWOOD

7/31/2026

Solemnly declared before me by
videoconference, in Montréal, Québec, on
July 31, 2026

M. Rondeau

Commissioner of Oaths for the Province of
Québec and for outside of Québec



NOTICE OF PRESENTATION

TO:

Me Marie Audren
Me Marc-André Grou
Me Emmanuelle Rolland
AUDREN ROLLAND
maudren@audrenrolland.com
mgrou@audrenrolland.com
erolland@audrenrolland.com

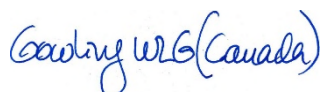
Attorneys for Applicant

Me Kristian Brabander
Me Jessica Harding
OSLER, HOSKIN & HARCOURT, LLP
kbrabander@osler.com
jharding@osler.com

Attorneys for defendants Microsoft
Corporation et Microsoft Canada inc.

TAKE NOTICE that the *Application of OpenAI Defendants for the Issuance of a Confidentiality and Sealing Order* shall be presented before the Honorable Martin F. Sheehan, J.S.C., of the Superior Court of Québec, sitting in and for the district of Montréal, at a time and place to be determined by the Court.

Montréal, July 31, 2026



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Lawyers for the OpenAI Defendants

CANADA

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(Class Actions Division)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N° : 500-06-001414-255

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Defendants

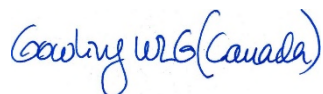
LIST OF EXHIBITS IN SUPPORT OF THE APPLICATION OF OPENAI DEFENDANTS
FOR THE ISSUANCE OF A CONFIDENTIALITY AND SEALING ORDER

EXHIBIT CO-1:

Protective Order issued by the Ontario Superior Court of
Justice on May 6, 2025;

- EXHIBIT CO-2:** *En liasse*, Amended Sealing Order issued by the Ontario Superior Court of Justice on December 16, 2025, and Endorsement relating to initial Sealing Order;
- EXHIBIT CO-3:** Protective Order issued by the Supreme Court of British Columbia on December 5, 2025;
- EXHIBIT CO-4:** Sealing Order issued by the Supreme Court of British Columbia on July 22, 2026.

Montréal, July 31, 2026



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Lawyers for the OpenAI Defendants

Court File No. CV-24-00732231-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BEFORE:) TUESDAY, THE 6TH
THE HONOURABLE)
JUSTICE KIMMEL) DAY OF MAY, 2025.

B E T W E E N:

**TORONTO STAR NEWSPAPERS LIMITED, METROLAND MEDIA
GROUP LTD., POSTMEDIA NETWORK INC., PNI MARITIMES LP,
THE GLOBE AND MAIL INC./PUBLICATIONS GLOBE AND MAIL
INC., CANADIAN PRESS ENTERPRISES INC./ENTREPRISES PRESSE
CANADIENNE INC., and CANADIAN BROADCASTING
CORPORATION/SOCIÉTÉ RADIO-CANADA**

Plaintiffs

and

**OPENAI, INC.; OPENAI GP, LLC; OPENAI, LLC; OPENAI STARTUP
FUND I, LP; OPENAI STARTUP FUND GP I, LLC; OPENAI STARTUP
FUND MANAGEMENT, LLC; OPENAI GLOBAL, LLC; OPENAI OPCO,
LLC; OAI CORPORATION; and OPENAI HOLDINGS, LLC**

Defendants

PROTECTIVE ORDER

THIS MOTION, made in writing and on consent by the Parties, for an Order concerning the confidentiality of certain documents, information and transcripts to be produced in relation to a motion initiated by the Defendants seeking an Order setting aside service of the Statement of Claim on the Defendants, staying or dismissing the proceeding as against the Defendants, and awarding the Defendants their costs in relation to the motion, all as more particularly set out in the Defendants' Notice of Motion dated February 14, 2025 (the "**Jurisdiction Motion**"), was

read on this day at the Toronto Court House, 393 University Avenue, Toronto, Ontario M5G 1E6.

1. **THIS COURT ORDERS** that this Order shall supersede and replace this Court's Endorsement issued April 17, 2025, and that as of the date of this Order, the Endorsement of April 17, 2025 is of no force or effect.

2. **THIS COURT ORDERS** that for the purpose of this Order, "Confidential Information" means:

- a. any document or any information, including but not limited to information contained in an affidavit or other document, information revealed during a cross-examination, or information produced pursuant to undertaking, which is designated by a party or a person other than a party (including non-party witnesses who produced Confidential Information in testimony, documents, or other tangible or intangible forms) (the **Disclosing Party**) to be confidential information on the basis that it contains commercially-sensitive financial, technical, sales, marketing, financial, business strategy, or other commercially sensitive information or proprietary information not otherwise known or available to the public, whether embodied in physical objects, documents, or the factual knowledge of persons;
- b. any document, thing, evidence (including as provided or marked in any cross-examination), or other information provided by or on behalf of any party during or for the purpose of this proceeding that refers to or contains the documents or information set out in paragraph (a) above;
- c. any information copied or extracted from Confidential Information;

- d. all copies, excerpts, summaries, or compilations of Confidential Information;
 - e. any testimony, conversations, or presentations by parties or their counsel that might reveal Confidential Information; and
 - f. any further document, information or thing as the Court may determine through further order or endorsement or as the parties may agree in writing.
3. **THIS COURT ORDERS** that a party, when it reasonably believes it will be disclosing or has disclosed Confidential Information, shall have the right, through its counsel, to designate such information as Confidential Information, in which event the designated Confidential Information shall be governed by the terms of this Order.
4. **THIS COURT ORDERS** that pending further Order of this Court:
- a. Any Confidential Information delivered by a party in connection with the Defendants' Jurisdiction Motion may not be used by the other party, their employees, their counsel, or their consultants or agents for any purpose other than this action and related appeals.
 - b. No person in receipt of Confidential Information shall use the Confidential Information for business, commercial, journalistic, or editorial purposes.
 - c. The Plaintiffs shall not provide any of the Defendants' designated Confidential Information to any person who is employed with any of the entities identified in the list provided by e-mail correspondence from the Defendants to the Plaintiffs on April 25, 2025.
5. **THIS COURT ORDERS** that nothing in this Order shall prevent the Defendants from seeking to update or amend the list referred to at Paragraph 4(c) with leave of the Court or on consent of the Plaintiffs in writing.

6. **THIS COURT ORDERS** that the inadvertent failure to designate any materials as Confidential Information shall not be deemed or construed to be a waiver of confidentiality. After discovering the inadvertent failure to designate, the party who failed to designate materials as Confidential Information shall promptly notify the other party that such materials have been inadvertently disclosed without being designated as Confidential Information. After receipt of such notification, the other party and any person to whom disclosure of the document has been made will treat that document as having been designated as Confidential Information in accordance with this Order.
7. **THIS COURT ORDERS** that this Order does not restrict a party's right to use or disclose its own Confidential Information.
8. **THIS COURT ORDERS** that no party shall publicly file any Confidential Information that has been disclosed in connection with the Jurisdiction Motion with the Court prior to September 1, 2025, except for the purposes of seeking a Sealing Order, without written agreement of the other party, or further Order of this Court, and any such public filing shall only be done in accordance with any applicable Sealing Order, or other applicable order or endorsement or as the parties may agree in writing.
9. **THIS COURT ORDERS** that if a party is applying for a Sealing Order and seeks to file with the Court a document or portion thereof, including affidavits, exhibits, transcripts, motion materials or written submissions, which contains or discusses Confidential Information in a manner that would reveal its content, the Confidential Information shall be segregated from the other information and documentation being submitted for filing and shall be submitted to the Court (i) for hard copies, in a sealed envelope with the following label; or

(ii) for electronic copies, with the following label, or substantially similar label, marked on its face and on every page and with the confidentiality designation reflected in the file name:

TORONTO STAR NEWSPAPERS LIMITED et al. v. OPENAI, INC. et al. – Court File No. CV-24-00732231-00CL

CONFIDENTIAL INFORMATION PURSUANT TO THE ORDER DATED MAY 6, 2025

Confidential Information that exists in a form that cannot be marked in a visible fashion shall be specifically identified as such by the Disclosing Party by way of correspondence, and, to the extent possible, shall have the confidentiality designation reflected in any applicable file name.

10. **THIS COURT ORDERS** that if a Sealing Order is going to be sought by a party, that party shall comply with the Consolidated Civil Provincial Practice Direction requiring notice to the media in respect of any Sealing Order motion.

11. **THIS COURT ORDERS** that if no Sealing Order motion is brought with respect to information designated as Confidential Information that has been disclosed in connection with the Jurisdiction Motion, then on or after September 1, 2025 any party may file any Confidential Information that has been disclosed in connection with the Jurisdiction Motion which is not subject to a Sealing Order.

12. **THIS COURT ORDERS** that only the following persons may be allowed access to material designated as Confidential Information:

- a. the Court, law clerks of the Court, Court personnel, and such other personnel as the Court may authorize, which Confidential Information may be filed with the Court and, subject to further Court Order under section 137(2) of the *Courts of*

Justice Act, R.S.O. 1990, c. C.43 ruling on the confidentiality of identified documents, shall be treated as confidential and kept sealed;

- b. Outside litigation counsel for a party receiving or requesting production of Confidential Information (the “**Receiving Party**”) retained to advise on issues related to this action, and all partners, associates, and of counsel thereof who are performing legal services in connection with this action together with clerical personnel, law clerks, students at law, paralegal and legal assistants as well as other support personnel employed by such outside litigation counsel, including outside copy and electronic discovery vendors of such outside litigation counsel. Outside litigation counsel for purposes of this Order consists of the following:
 - i. Lenczner Slaght LLP, in the case of the Plaintiffs; and
 - ii. Gowling WLG (Canada) LLP, in the case of the Defendants;
- c. up to two (2) in-house legal counsel for the Receiving Party, to whom disclosure is reasonably necessary for the Jurisdiction Motion;
- d. up to seven (7) employees or corporate officers for each of the Plaintiffs or the Defendants, to whom disclosure is reasonably necessary for the Jurisdiction Motion, provided they are not a journalist or member of the editorial department of any of the Plaintiffs;
- e. any outside service contractor (e.g., court reporting, photocopying, videotaping, translating, preparing of exhibits, graphics, demonstratives or demonstrations, organizing, storing or retrieving data in any form or medium) retained by a party to whom disclosure of the Confidential Information is reasonably necessary for the purpose of assisting with the Jurisdiction Motion;

- f. up to ten (10) independent consultants or experts consulted by the party receiving information designated as Confidential Information or by their solicitors set out in paragraph 12(b) herein, to assist in this action, and their necessary assistants and secretarial and clerical personnel, provided that such consultants or experts are neither:
 - i. current employees of any party; nor
 - ii. employed by any of the entities identified in the list provided by e-mail correspondence from the Defendants to the Plaintiffs on April 25, 2025, as may be amended by Order of the Court or with the consent of the Plaintiffs in writing;
- g. any other person to whom the Disclosing Party consents to receive such designated material, which consent shall be confirmed in writing before access to Confidential Information is provided to such person.

13. **THIS COURT ORDERS** that, in the event that Confidential Information is disclosed to anyone other than in the manner authorized by this Order, the Receiving Party responsible for such disclosure shall immediately bring all pertinent facts relating to the disclosure to the attention of the Disclosing Party who designated the Information as Confidential Information and shall make every reasonable effort to prevent further disclosure of the Information.

14. **THIS COURT ORDERS** that any party who inadvertently discloses Confidential Information in a manner not in accordance with this Order shall, upon discovery of the disclosure, promptly notify in writing all inadvertent recipients of the Information in question. The inadvertent recipients of the Information in question shall then promptly refrain, and shall request all persons to whom the Information was disclosed to promptly

refrain, from reading or viewing the Information and shall promptly return it and all copies thereof to the party who disclosed it, or destroy the Information and all copies thereof. No such inadvertently disclosed Information, may be used or disclosed by the recipient(s) without leave of the Court.

15. **THIS COURT ORDERS** that for the purposes of examinations on the Jurisdiction Motion and in the action, Confidential Information may be disclosed to the court reporter. If during an examination or following the receipt of a transcript of any examination a party designates information as Confidential Information, the court reporter shall redact those questions and answers from the main transcript (the “**Non-Confidential Transcript**”) and shall prepare a separate confidential transcript which includes the redacted portions of the transcript (the “**Confidential Transcript**”). The cover page of the Confidential Transcript shall be marked in accordance with paragraph 8 of this Order and shall be treated as Confidential Information for the purposes of this Order.
16. **THIS COURT ORDERS** that each person given access to Confidential Information shall be advised that the material is being disclosed pursuant to and subject to the terms of this Order and may not be disclosed or used other than pursuant to the terms hereof. Before being provided access to Confidential Information, each person contemplated under subparagraphs 12(c), (d), (f) and (g) shall have first reviewed and signed the acknowledgement in the form attached as Appendix “A” hereto. Outside counsel shall retain a copy of the written acknowledgement, but need not provide a copy of same to the opposing outside counsel except upon order of this Court.
17. **THIS COURT ORDERS** that consenting to and complying with the terms of this Order shall not:

- a. affect any implied or deemed undertaking;
- b. be deemed to be a waiver of any applicable privilege;
- c. operate as an admission by any person that any particular material actually or presumptively contains any Confidential Information, or any trade secrets, proprietary or commercial information, or other confidential information; or
- d. preclude any party from taking any position concerning:
 - i. whether particular materials should be produced;
 - ii. if produced, whether such materials should be subject to the terms of this Order;
 - iii. whether particular materials constitute Confidential Information; or
 - iv. whether a Sealing Order can or should be granted with respect to any information.
- e. preclude a party from:
 - i. opposing the production of any documents or the answering of any questions on any proper grounds whatsoever (including relevance and privilege); or
 - ii. using or disclosing its own Confidential Information for any purpose.

18. **THIS COURT ORDERS** that nothing in this Order shall limit or preclude any party from applying to the Court for relief from this Order, or for such further or additional orders or endorsements, as such party or the parties may deem appropriate. This Order shall be without prejudice to the right of any party to apply to the Court at any time to vary or terminate the effect of this Order or for a direction on any specific issue concerning production of a specific document.

19. **THIS COURT ORDERS** that neither the seeking of this Order, the agreement as to any terms or provisions contained in this Order, the issuance of this Order, the taking of any step in accordance with the provisions of this Order, nor the failure to take such step shall be construed as an attornment to this Court's jurisdiction, or as a waiver of any claim or defence in this action.

20. **THIS COURT ORDERS** that there shall be no costs on this motion.

Jessica
Kimmel

Digitally signed by
Jessica Kimmel

Date: 2025.05.06

14:10:20 -04'00'

APPENDIX “A”

Court File No. CV-24-00732231-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**TORONTO STAR NEWSPAPERS LIMITED, METROLAND MEDIA
GROUP LTD., POSTMEDIA NETWORK INC., PNI MARITIMES LP,
THE GLOBE AND MAIL INC./PUBLICATIONS GLOBE AND MAIL
INC., CANADIAN PRESS ENTERPRISES INC./ENTREPRISES PRESSE
CANADIENNE INC., and CANADIAN BROADCASTING
CORPORATION/SOCIÉTÉ RADIO-CANADA**

Plaintiffs

and

**OPENAI, INC.; OPENAI GP, LLC; OPENAI, LLC; OPENAI STARTUP
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FUND MANAGEMENT, LLC; OPENAI GLOBAL, LLC; OPENAI OPCO,
LLC; OAI CORPORATION; and OPENAI HOLDINGS, LLC**

Defendants

ACKNOWLEDGEMENT OF PROTECTIVE ORDER

I, _____, have read and understand the terms of the Protective Order of the Honourable Justice Kimmel dated May 6, 2025, a copy of which is attached hereto.

I acknowledge that I have read the Protective Order, understand it, agree to abide by it, and agree to be bound by it. I specifically agree and acknowledge that:

- a. I will not use the Confidential Information for any purpose other than this action;
- b. I will not use the Confidential Information for business, commercial, journalistic or editorial purposes.
- c. I am not employed by any of the entities identified in the list provided by e-mail correspondence from the Defendants to the Plaintiffs on April 25, 2025. If that list

has been amended by Court Order or on consent of the Plaintiffs in writing, I have been provided with that amendment and confirm that I am not employed by the further entities.

I understand that Confidential Information and my work product containing Confidential Information may be disclosed or discussed only with those persons permitted by the Protective Order to receive such information.

Dated: _____

Signature

Print

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

PROTECTIVE ORDER

GOWLING WLG (CANADA) LLP

Barristers & Solicitors

160 Elgin Street

Suite 2600

Ottawa, Ontario K1P 1C3

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Lawyers for the Defendants (Moving Parties)

[File Number: G10020891]

Court File No. CV-24-00732231-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	THURSDAY, THE 14 TH
	)	
JUSTICE KIMMEL	)	DAY OF AUGUST, 2025

B E T W E E N :

**TORONTO STAR NEWSPAPERS LIMITED, METROLAND MEDIA GROUP LTD.,
POSTMEDIA NETWORK INC., PNI MARITIMES LP, THE GLOBE AND MAIL
INC./PUBLICATIONS GLOBE AND MAIL INC., CANADIAN PRESS ENTERPRISES
INC./ENTREPRISES PRESSE CANADIENNE INC., and CANADIAN BROADCASTING
CORPORATION/SOCIÉTÉ RADIO-CANADA**

Plaintiffs

– and –

**OPENAI, INC.; OPENAI GP, LLC; OPENAI, LLC; OPENAI STARTUP FUND I, LP;
OPENAI STARTUP FUND GP I, LLC; OPENAI STARTUP FUND MANAGEMENT, LLC;
OPENAI GLOBAL, LLC; OPENAI OPCO, LLC; OAI CORPORATION; and OPENAI
HOLDINGS, LLC**

Defendants

AMENDED SEALING ORDER

THIS MOTION for a sealing order made by the Defendants was heard this 30th day of
July, 2025, at the Court House, 330 University Avenue, Toronto, Ontario, with reasons

released the 14th day of August, 2025 and the reasons regarding the costs of this motion released on December 5, 2025.

ON READING the Defendants' Motion Record dated June 20, 2025 and the Defendants' Supplementary Motion Record dated July 16, 2025, and the parties costs submissions, filed.

ON HEARING the submissions of the parties and the non-party journalists who appeared.

THIS COURT ORDERS that:

1. The Defendants' motion is granted.
2. The following non-redacted documents related to the Defendants' motion seeking an Order setting aside service of the Statement of Claim on the Defendants, and staying or dismissing the proceeding as against the Defendants and any reference to the redacted information therein in subsequently filed Court documents are hereby sealed and shall be segregated from other information, documentation and public record, and shall, subject to further Court order, not be disclosed to anyone:

Affidavit Confidential Information

- a. the affidavit of Robert Wu, dated April 15, 2025;
- b. the affidavit of Shantanu Jain, dated April 16, 2025;
- c. the affidavit of Colin Reid, dated April 16, 2025;
- d. the reply affidavit of Colin Reid, dated June 17, 2025; and,
- e. the reply affidavit of Mark Baker, dated June 17, 2025;

Cross-Examination Confidential Information

- f. the transcript of the cross-examination of Robert Wu, dated June 25, 2025;

g. the transcript of the cross-examination of Shantanu Jain, dated June 25, 2025;
and

h. the transcript of the cross-examination of Colin Reid, dated June 26, 2025.

3. Public (redacted) versions of each of the affidavits listed above shall also be filed concurrently with the filing of the confidential (non-redacted) versions. The redactions in such public versions shall be as follows:

Affidavit Confidential Information

a. With respect to the affidavit of Robert Wu, dated April 15, 2025: paragraph 32 (third sentence);

b. With respect to the affidavit of Colin Reid, dated April 16, 2025: paragraph 14;

c. With respect to the affidavit of Shantanu Jain, dated April 16, 2025: paragraphs 17, 18 and 19;

d. With respect to Exhibit "1" to the affidavit of Michael Candore, dated May 30, 2025: paragraph 81;

d.e. With respect to the reply affidavit of Colin Reid, dated June 17, 2025: paragraphs 4 and 14; and,

e.f. With respect to Exhibit MB-A to the affidavit of Mark Baker, dated June 17, 2025: paragraphs 15 (two bullet points) and 63 (fourth, ninth, and tenth

sentences);

Cross-Examination Confidential Information

f.g. With respect to the transcript of the cross-examination of Robert Wu, dated June 25, 2025: Page 18:lines 5-13, page 40:lines 1-25, page 41:lines 1-25, page 46:lines 23-25, page 47:lines 1-25, page 48:lines 1-21, page 49:lines 13-25, page 50:lines 1-4, 10 (in part), 11-15, 18-25, page 70:lines 1-11, page 71:lines 8-16, page 92:lines 1-25, page 93:lines 1-6, page 102:lines 21-25, page 103:lines 1-23, page 108: lines 13-25, page 109:lines 1-7, page 111:lines 8-13, page 118:lines 17-25, page 119:lines 1-25, page 120:lines 1-25, page 121:lines 1-16, and page 125:lines 9-14, and Exhibit 2 “Organizational Chart”;

g.h. With respect to the transcript of the cross-examination of Shantanu Jain, dated June 25, 2025: [Page 11:lines 11-14](#), Page 12:lines 4 (in part), 5-14, page 13:lines 1-10; page 39:lines 10-25, page 40:lines 8-12; page 41:lines 24-25, page 42:lines 1-24, page 59:lines 7-25, page 60:lines 1-25, page 61:lines 1-17, page 62:lines 4-25, page 63:lines 1-25, page 64:lines 1-25, page 65:lines 1-5, 20-25, page 66:lines 1-23, page 70:lines 20-25, page 71:lines 1-25, page 72:lines 1-11, page 75:lines 17-22, and page 77:lines 12 (in part), 13-20; [and Exhibit 1 at paragraph 6](#); and

h.i. With respect to the transcript of the cross-examination of Colin Reid, dated June

26, 2025: Page 35: lines 10-25, page 36:lines 1-3; page 39:lines 19-25, page 40:lines 1-25, page 41:line 1, page 42:lines 24-25, page 43:lines 1-24, page 44:lines 2 (in part), 3-8, page 48:lines 6-12, page 63:lines 10-21, page 64:lines 2-25, page 65:lines 1-25, page 66:lines 1-12, page 67:lines 2 (in part), 3, page 74:lines 8 (in part), 9-25, page 75:lines 1-25, and page 76:lines 1-4.

4. The parties and participating non-parties shall each bear their own costs of this motion.
5. This order is effective as of the date first above written with amendments (identified by track changes) effective on the date of signing of this Amended Sealing Order.

Jessica
Kimmel

Digitally signed by
Jessica Kimmel
Date: 2025.12.16
09:47:08 -05'00'

**ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO, ONTARIO

AMENDED SEALING ORDER

GOWLING WLG (CANADA) LLP

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Lawyers for the Defendants (Moving Parties)

[File Number: G10020891]

CITATION: Toronto Star Newspapers Limited v. OpenAI Inc., 2025 ONSC 4685
COURT FILE NO.: CV-24-00732231-00CL
DATE: 20250814

SUPERIOR COURT OF JUSTICE – ONTARIO (COMMERCIAL LIST)

RE: TORONTO STAR NEWSPAPERS LIMITED, METROLAND MEDIA GROUP LTD., POSTMEDIA NETWORK INC., PNI MARITIMES LP, THE GLOBE AND MAIL INC./PUBLICATIONS GLOBE AND MAIL INC., CANADIAN PRESS ENTERPRISES INC./ENTREPRISES PRESSE CANADIENNE INC. and CANADIAN BROADCASTING CORPORATION/SOCIÉTÉ RADIO-CANADA

Plaintiffs

AND:

OPENAI, INC.; OPENAI GP, LLC; OPENAI, LLC; OPENAI STARTUP FUND I, LP; OPENAI STARTUP FUND GP I, LLC; OPENAI STARTUP FUND MANAGEMENT, LLC; OPENAI GLOBAL, LLC; OPENAI OPCO, LLC; OAI CORPORATION; and OPENAI HOLDINGS, LLC

Defendants

BEFORE: KIMMEL J.

COUNSEL: *Monique J. Jilesen & Niema Mohammad*, for the Plaintiffs/Responding Parties on Motion

Michael Crichton and Heather Fisher, for the Defendants/Moving Parties on Motion

Iain MacKinnon, for the Toronto Star Newspapers Limited and Canadian Broadcasting Corporation/Entreprises Presse Canadienne Inc. (Journalists, Non-Parties)

HEARD: July 30, 2025

ENDORSEMENT
(DEFENDANTS' PARTIAL SEALING ORDER MOTION)

The Action and Proximate Motions

[1] The plaintiffs are suing the defendants in this action for copyright infringement, breach of their standard "Terms of Use", and circumvention of technological protection measures. The defendants are recognized leaders in artificial intelligence research and other activities related to artificial intelligence, or "AI".

[2] Without attorning to the jurisdiction of this court, the defendants have brought a motion challenging this court's jurisdiction (the "Jurisdiction Motion") and, specifically, to set aside service of the Statement of Claim on the defendants and to stay or dismiss the action. The Jurisdiction Motion is now scheduled to be heard on September 10, 2025.

[3] In the meantime, on May 6, 2025, the court granted an interim Order concerning confidential treatment of certain documents, information and transcripts to be produced and used in relation to the Jurisdiction Motion, which included a mechanism for the parties to designate confidential information (the "Protective Order"). That order was granted on consent and without prejudice to any parties' position on this motion.

[4] The defendants have brought this motion seeking a partial sealing order in respect of their designated confidential information that they wish to rely upon for the Jurisdiction Motion (the "Partial Sealing Order").

[5] The Protective Order does not authorize the sealing of Confidential Information filed in court, except in connection with this motion for the Partial Sealing Order. If the Partial Sealing Order is granted, that is what will govern what designated Confidential Information under the Protective Order will, or will not, be sealed.

The Confidential Information and the Business Interests It Relates To

[6] The designated Confidential Information over which the defendants seek the Partial Sealing Order is contained in the affidavits of three witnesses for the defendants, the transcripts of their cross-examinations (appended to a law clerk's affidavit), and one exhibit (a detailed corporate organization chart) marked on the Wu cross-examination. The "Confidential Information" is comprised of:

1. In the affidavit of Robert Wu, dated April 15, 2025, portions of paragraphs 32 (third sentence), designated excerpts from his cross-examination and Exhibit 2 marked on his cross-examination (the "Wu Confidential Information");
2. In the affidavit of Colin Reid, dated April 16, 2025, paragraph 14, in the reply affidavit of Colin Reid, dated June 17, 2025, paragraphs 4 and 14 and designated excerpts from his cross-examination (the "Reid Confidential Information");
3. In the affidavit of Shantanu Jain, dated April 16, 2025, paragraphs 17, 18 and 19 and designated excerpts from his cross-examination (the "Jain Confidential Information"); and
4. In the reply affidavit of Mark Baker, affirmed June 17, 2025, paragraphs 15 (two bullet points) and paragraph 63 (fourth, eighth, and ninth sentences) (the "Baker Reply Confidential Information").

[7] The defendants explain that the Confidential Information relates to at least the following:

1. the corporate organization and structure of certain of the defendants;

2. web crawling and fetching processes, systems, resource allocations and updates/modifications/improvements; and
3. model training and inference processes, systems, resource allocations and/or cost structures.

[8] The proposed draft Partial Sealing Order is narrowly tailored to the specifically designated Confidential Information outlined above. These designations were based on a review and excision of only the excerpts that the defendants believe require exclusion from the public court record at this time to protect their commercial, competitively sensitive and valuable confidential information from disclosure to their competitors. These competitors are not party to this action but stand to gain an unearned competitive advantage through public disclosure of the Confidential Information.

[9] The defendants are leaders in the competitive and fast developing AI field. Their competitors range from large, established technology companies like Google and Amazon to smaller startups trying to establish a foothold in the industry.

[10] The defendants explain in two affidavits sworn on June 20 and July 16, 2025, respectively, by James Sherwood, a member of the Legal Staff at OpenAI OpCo. LLC (the “Sherwood Affidavits”)¹, why the designated Confidential Information is both confidential and necessary for the Jurisdiction Motion. They say that:

1. The Wu Confidential Information is confidential non-public commercial information that describes the nature of each of the defendants' business, including:
 - i. which particular defendants are operating entities, non-operating entities or startup fund entities, and including the corporate organization and structure of certain of the defendants;
 - ii. specific disclosures regarding the contents of organizational charts;
 - iii. information concerning shared services agreements among certain defendants;
 - iv. details of the corporate structure used for investment in certain defendants;
 - v. information relating to the transfer of or holdings of intellectual property assets of certain defendants;

¹ The defendants also submitted a law clerk’s affidavit that attaches the relevant portions of the transcripts that they are requesting a sealing order over. All of the unredacted affidavits, exhibit and transcripts were provided to the court separately with the redactions removed and replaced by highlighting to enable the court to see all of the designated Confidential Information that they ask be sealed under the Partial Sealing Order. The Protective Order allows counsel and certain designated representatives of the plaintiffs to see the Confidential Information, under confidentiality restrictions.

- vi. provisions required of employees and investors in order to invest in certain defendants; and
 - vii. the licensing arrangement between certain defendants.
2. The Reid Confidential Information and Baker Reply Confidential Information are comprised of confidential non-public business and technical information related to or that describes:
- i. the defendants' artificial intelligence systems, including web crawling and fetching processes, systems, resource allocations and updates/modifications/improvements;
 - ii. internal technical issues relating to system behavior under certain conditions;
 - iii. data retention and deletion practices;
 - iv. specific categories of data collected by certain defendant systems and the locations or systems where such data is stored; and
 - v. information regarding methods and infrastructure for accessing publicly available data, including the use of particular IP address ranges for retrieving certain web resources.
3. The Jain Confidential Information is confidential non-public business and technical information related to the defendants' AI systems, including:
- i. model training and inference processes, systems, resource allocations and/or cost structures;
 - ii. the treatment of specific intellectual property rights;
 - iii. the geographic locations of computing clusters used for inference and research;
 - iv. the entities that possess or have access to AI models;
 - v. high-level differences in the training approaches used across various GPT models; and
 - vi. information relating to training data storage locations.

[11] The specific business and technical information identified in the Sherwood Affidavits that comprises the Confidential Information is relevant to the Jurisdiction Motion in that the defendants seek to demonstrate which aspects of their AI activities and business are, and are not, carried on in or connected to Ontario (or Canada).

[12] The defendants further explain that they have always maintained confidentiality over the Confidential Information. They preserve its confidentiality by securing it on access-controlled storage mediums and by limiting access to authorized individuals on a need-to-know basis. The Confidential Information is neither public knowledge nor in the public domain.

[13] None of the defendants' evidence about the Confidential Information or the business interests that it describes or relates to has been contradicted by any responding evidence from the plaintiffs, nor was the defendants' evidence in support of the Partial Sealing Order challenged on cross-examination.

The Test for Granting a Partial Sealing Order

[14] The test that the court must apply in considering whether to grant the requested Partial Sealing Order is based on well settled law that the parties agree on.

[15] To obtain a sealing order under s. 137(2) of the *Courts of Justice Act*, RSO 1990, c. C.43, the defendants must show that:

1. court openness poses a serious risk to an important public interest;
2. the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
3. as a matter of proportionality, the benefits of the order outweigh its negative effects: see *Sherman Estate v. Donovan*, 2021 SCC 25, [2021] 2 S.C.R. 75, at para. 38; *Sierra Club of Canada v. Canada (Minister of Finance)*, 2002 SCC 41, [2002] 2 S.C.R. 522, at para. 53.

[16] The first two branches of this test make up the requirement of “necessity”, while the third “proportionality” branch of the test is where the balancing of interests takes place.

[17] The burden is on the parties requesting the sealing order. It is a high burden that must be met with clear, non-speculative evidence: see *SSN v. Canada (Citizenship and Immigration)*, 2022 FC 1189, at para. 4.

Responses to this Motion for a Partial Sealing Order

[18] The plaintiffs do not forcefully oppose the Partial Sealing Order that the defendants seek. Rather, they ask the court to evaluate whether the evidence that the defendants have filed in support of their request (primarily the Sherwood Affidavits) is sufficient to meet the required legal test and, therefore, justifies granting the Partial Sealing Order.

[19] The defendants complied with the court's direction at an earlier case conference on April 17, 2025, requiring that: “If a sealing order is going to be sought of the nature currently contemplated, the Defendants will be required [to] comply with the Consolidated Civil Provincial Practice Direction requiring notice to the media in respect of any sealing order motion.” Notably, many of these media outlets are, through other divisions within their same organizations, also plaintiffs in this action.

[20] Certain non-party journalists associated with two of the plaintiff media organizations (The Toronto Star and the CBC) retained counsel just prior to the hearing and instructed their counsel to appear and oppose the requested order. They argued that the public interest outweighs the private interest that the defendants seek to protect. The arguments made against granting the Partial Sealing Order were mostly focused on the first and third branches of the test for a sealing order.

[21] The defendants opposed the tag team approach of having two different lawyers representing some of the plaintiffs. They also questioned whether the court should grant leave for a new lawyer to be permitted to appear and make submissions at the hearing without even having filed a Notice of Appearance. Counsel appearing on behalf of media interests in response to a publication ban notice are typically granted permission to make submissions. This is a unique situation given that the media interests who wish to appear are affiliated with the plaintiffs.

[22] After hearing submissions from all counsel, the court granted leave to counsel for the non-party journalists opposed to the granting of the Partial Sealing Order to make submissions in their capacities as recipients of the CJA publication ban notice. Their interests and focus were expected to be specific to their interests as journalists.

[23] Leave was granted on the understanding and expectation that the lawyer for the non-party journalists would focus his submissions on different matters from plaintiffs' counsel, namely the public interest from the perspective of the journalists, and that some of the plaintiffs' hearing time allocation would be reserved for those submissions. Both of these conditions were adhered to and submissions were made by both sets of counsel.

Summary of Outcome

[24] For the reasons that follow, the requested Partial Sealing Order is granted.

Analysis

[25] I will deal with the three branches of the test for granting a sealing order in turn.

a) Serious Risk to Important Public Interest by Disclosure of Confidential Information

[26] In *Sierra Club*, at paras. 54-56, the Supreme Court specified three important elements that are subsumed in the question of whether disclosure of the identified Confidential Information poses a serious risk to an important public interest, namely that:

[T]he risk in question must be real and substantial, in that the risk is well grounded in the evidence, and must pose a serious threat to the commercial interest in question.

In order to qualify as an "important commercial interest", the interest in question cannot merely be specific to the party requesting the order; the interest must be one which can be expressed in terms of a public interest in confidentiality.... [I]f there is no general principle at stake, there can be no "important commercial interest" for the purposes of this test. Or, in the words of Binnie J. in *F.N. (Re)*, [2000] 1 S.C.R. 880, 2000 SCC 35, at para. 10, the

open court rule only yields “where the public interest in confidentiality outweighs the public interest in openness” (emphasis added).

[C]ourts must be cautious in determining what constitutes an “important commercial interest”. It must be remembered that a confidentiality order involves an infringement on freedom of expression. Although the balancing of the commercial interest with freedom of expression takes place under the final branch of the test, courts must be alive to the fundamental importance of the open court rule.

[27] The information in question must be of a “confidential nature” in that it has been “accumulated with a reasonable expectation of it being kept confidential” as opposed to “facts which a litigant would like to keep confidential by having the courtroom doors closed”: see *Sierra Club*, at para. 60; see also *Mediatube Corp. v. Bell Canada*, 2022 ONSC 342, 191 C.P.R. (4th) 46, at para. 32. The party seeking the sealing order must demonstrate that the information in question has been treated at all relevant times as confidential and that on a balance of probabilities its proprietary, commercial and scientific interests could reasonably be harmed by the disclosure of the information.

[28] The *Sierra Club* test was recast by the Supreme Court of Canada in *Sherman Estate*, but it is widely accepted that the fundamental elements of the test and requirements for meeting it were not changed by this later decision.

[29] The defendants have established through the Sherwood Affidavits that their Confidential Information is comprised of valuable commercial and technical business information over which they have always maintained confidentiality. This safeguards the business strategies and methods that have given them their earned competitive advantages and prevent those advantages from being lost through disclosure to their competitors. They explain that maintaining this advantage is even more important in the current AI space, which is highly competitive and fast-paced. The defendants are concerned that their competitors will seize upon any litigation-related disclosure of their otherwise confidential commercial and technical business information and exploit it to their advantage and the defendants' detriment.

[30] This concern is inherently speculative as it is partly based on predictions of the defendants' competitors' behaviour. However, it is also grounded in evidence from Sherwood, someone who is knowledgeable about the defendants' business and the AI industry in general, regarding the competitive nature of the business and about the specific aspects of the defendants' business that would be of interest to their competitors.

[31] On a balance of probabilities, I find that disclosure of the Confidential Information does pose a real and substantial threat, well-grounded in the evidence when considered as a whole, to the important commercial interest of encouraging fair competition (and not giving unearned advantages to competitors) in the highly competitive and fast-paced AI space. Further, I find that its disclosure *could* reasonably harm the defendants' proprietary, commercial and scientific interests: see *Sierra Club*, at para. 60.

[32] Courts have recognized that there is a public interest in the “general commercial interest of preserving confidential information”: see *Sherman Estate*, at para. 41, citing *Sierra Club*, at para. 55. This is an important public interest worthy of the court’s protection.

[33] Encouraging fair competition in a free and open market is an important and related public interest. Fair competition should not confer an unearned advantage to a litigant’s competitors through the disclosure of confidential commercial and technical business information as a bi-product of that litigant’s need to fully respond to litigation. There is some further authority that this concern should be heightened when a party has not chosen to litigate but is being forced to defend themselves: see *Sierra Club*, at para. 62; *Lewis v. Uber Canada Inc.*, 2023 ONSC 5134, at para. 11; *Mediatube Corp.*, at paras. 32-34.

[34] It is not in the public interest for party litigants to have to choose between fully advancing their litigation interests and protecting their confidential, commercial and technical business information from public disclosure to non-party competitors. It is in the public interest for the defendants to be able to fully defend themselves without compromising or sacrificing competitively and commercially sensitive Confidential Information. This is an important commercial interest that is not specific only to the defendants in this case but to any litigants involved in highly-competitive and fast-paced competitive markets.

[35] I am cognizant of the need to exercise caution in determining what constitutes an “important public interest”. Not all of a commercial party litigant’s self-designated confidential information will be worthy of this type of protection. Conversely, this protection should not be limited to formally patented or copyrighted information. What information qualifies will depend on the nature of the business and issues in each specific case.

[36] Here, the defendants have reviewed and excised only what they consider to be the essential confidential, technical and commercially sensitive business information contained in their affidavits and cross-examination transcripts that could give their competitors an unearned competitive advantage by enabling those competitors to exploit the defendants’ vulnerabilities and learn how the defendants access and use available resources to compete more effectively. The defendants have identified this specific information as the designated Confidential Information. No opposing evidence has been presented and Mr. Sherwood, the primary affiant on this point, was not cross-examined.

[37] The plaintiffs and non-party journalists have urged the court to review the evidence and ensure that the defendants have met their evidentiary burden of identifying commercially sensitive and confidential information (see: *Sierra Club*, at para 62; *Sherman Estate*, at para. 80). Some specific examples of the type of Confidential Information that the plaintiffs and non-party journalists have questioned or challenged include:

1. The detailed organizational chart of the defendant group of companies, including the location of certain companies and their investors/shareholders, that comprises the only document that the defendants seek to seal as part of the Wu Confidential Information. They contend that corporate organization charts are routinely filed in litigation and would not typically be regarded as confidential or proprietary.

2. The generalized, repeated statement in the Sherwood Affidavits is too vague and generally, namely that the Reid Confidential Information and the Jain Confidential Information comprise confidential business and technical information “access to which would enable competitors to modify, guide or shift focus for their own web crawling and fetching processes, systems, resource allocations and updates/modifications/improvements, model training and inference processes, systems, resource allocations and/or cost structures in ways that mimic and/or more effectively compete with the Defendants.” They suggest that this evidence is analogous to what was before this court in *Crystallex International Corporation (Re)*, 2020 ONSC 3434, 81 C.B.R. (6th) 314, at paras. 8, 12-15, where the court was not satisfied with what it described as an insufficient paragraph of affidavit evidence to attempt to satisfy the *Sierra Club* test because “this evidence was highly speculative, not sufficiently detailed nor compelling”.
3. The proposed confidential record on this motion does not include the defendants' code or models, which have not been produced in the proceedings. Nor have any handbooks or technical records describing or outlining training, crawling, inference, or fetching processes been produced. Similarly, no defendant intercompany, third-party licencing, shared service, or other agreements are in the record.

[38] I accept the responses of the defendants to these general criticisms, that:

1. Context is important. Organizational charts will not always be confidential or competitively sensitive. Exhibit 2 to the Wu cross-examination is confidential because of the location-specific and investor-specific information that it contains. Conversely, there is a higher level corporate organizational chart in the record that is not part of the designated Confidential Information and no request is being made to seal it.
2. Unlike in *Crystallex*, the defendants have provided far more than a single paragraph of evidence to support their claim of confidentiality and commercial sensitivity in respect of the Confidential Information. The fact that the overarching concern is the same, and thus repeated, in connection with the Reid, Baker and Jain Confidential Information does not detract from the sufficiency of their unchallenged evidence. This is not a situation of a bare assertion of risk without any particulars, as was one of the concerns identified in *Sherman Estate* (at para. 102).
3. Context is similarly important when considering technical information. Not all technical information has to be formalized, patented, copyrighted or even memorialized in order to be proprietary and confidential. It is a false standard to say that this type of information must have been written down in a code or a handbook or spelled out in that level of detail in the evidence on the motion to qualify for a sealing order, especially where to do so would require an even deeper dive into the very same Confidential Information that the defendants are seeking to protect.

[39] What the plaintiffs and non-party journalists are essentially saying is that because the Confidential Information does not neatly fit into one of the previously recognized types of confidential information for sealing orders granted in commercial or technology cases (e.g. patented or copyrighted intellectual property such as source code or handbooks and manuals), it should not qualify for this designation without the defendants providing a detailed explanation outlining exactly how it could or would be used by a competitor. That level of specificity is not required in every case, and there is a satisfactory foundation in this case. There is a broader public interest in allowing corporate parties to litigate without having to expose all their private confidential inner workings. This also enhances the public interest in fair competition.

[40] I have reviewed and considered the evidence in the record and am satisfied that there is a risk, grounded in the evidence, that if competitors gain access to the defendants' Confidential Information, those competitors could gain an unearned advantage to the detriment of the defendants that could, in turn, reasonably harm the defendants' proprietary, commercial and scientific interests. This poses a real and substantial threat to the important commercial interest of encouraging fair competition (and not giving unearned advantages to competitors) in the highly competitive and fast-paced AI space.

b) Reasonable Alternative Measures will not Prevent the Risk from Disclosure

[41] The Supreme Court of Canada in *Sierra Club*, at para. 57, reiterated that “the phrase “reasonably alternative measures” requires the judge to consider not only whether reasonable alternatives to a confidentiality order are available, but also to restrict the order as much as is reasonably possible while preserving the commercial interest in question.”

[42] The defendants assert that the Confidential Information consists of narrow, discrete facts that are highly specific in nature. They maintain that this information cannot meaningfully be conveyed through non-confidential summaries, nor are there alternative, non-confidential substitutes.

[43] As discussed earlier in this endorsement, I am satisfied that the proposed Partial Sealing Order is restricted as much as is reasonably possible to preserve the commercial interest in question. The defendants have undertaken to excise only the Confidential Information that is commercially sensitive and that could give an unearned advantage to their competitors in the AI space.

[44] As the court found in *Sierra Club* (at para. 66), expungement of the Confidential Information would also be an unworkable and ineffective solution that is unreasonable in the circumstances. The Confidential Information has been demonstrated to be potentially relevant to the Jurisdiction Motion, which the defendants have the right to bring and for which the defendants should not be forced to compromise their arguments to preserve their Confidential Information. It has not been suggested that there is a more reasonable and less restrictive method than what the defendants have proposed.

[45] I am satisfied, based on the foregoing considerations under the first two branches of the test, that the proposed Partial Sealing Order is necessary to protect the public interest. This affords the litigants the ability to protect their competitively sensitive, confidential commercial and

technical business information from public disclosure in the context of an interlocutory motion that could be dispositive of this proceeding in Ontario, such as the Jurisdiction Motion in this case.

c) *Proportionality: the Benefits of the Order Outweigh the Negative Effects*

[46] In *Sierra Club*, the Supreme Court of Canada emphasized at para. 69) that, at the proportionality stage:

The salutary effects of the confidentiality order, including the effects on the appellant's right to a fair trial, must be weighed against the deleterious effects of the confidentiality order, including the effects on the right to free expression, which in turn is connected to the principle of open and accessible court proceedings. This balancing will ultimately determine whether the confidentiality order ought to be granted.

[47] There are circumstances such as these where, in the absence of an affected *Charter* right, the proper administration of justice still calls for a confidentiality order: see *R. v. Mentuck*, 2001 SCC 76, [2001] 3 S.C.R. 442, at para. 31 and its companion case *R. v. O.N.E.*, 2001 SCC 77, [2001] 3 S.C.R. 478, at para. 14. Like in *Sierra Club* (at para. 70), in this case, the fair trial right being invoked to protect commercial, rather than liberty, interests is a recognized fundamental principle of justice. By facilitating access to relevant documents in a judicial proceeding through the proposed redactions and Partial Sealing Order, the order sought would assist in the search for truth, a core value underlying freedom of expression: see *Sierra Club*, at para. 72.

[48] The salutary effects that such an order would have on the administration of justice relate to the ability of the appellant to present its case and fairly participate in this litigation, as encompassed by the broader fair trial right.

[49] The Supreme Court of Canada describes in *Sierra Club*, at para. 74, the deleterious effects to be the negative effect that granting the Partial Sealing Order would have:

...on the open court principle, as the public would be denied access to the contents of the Confidential Documents. As stated above, the principle of open courts is inextricably tied to the s. 2(b) *Charter* right to freedom of expression, and public scrutiny of the courts is a fundamental aspect of the administration of justice: *New Brunswick, supra*, at paras. 22-23. Although as a general principle, the importance of open courts cannot be overstated, it is necessary to examine, in the context of this case, the particular deleterious effects on freedom of expression that the confidentiality order would have.

[50] Considered in light of the core values underlying the open court principle and freedom of expression enumerated in *Sierra Club*, at para. 75, namely (1) seeking the truth and the common good, (2) promoting self-fulfillment of individuals by allowing them to develop thoughts and ideas as they see fit, and (3) ensuring that participation in the political process is open to all persons, the proposed Partial Sealing Order in this case:

1. Arguably promotes rather than undermines the truth-seeking objective, if the alternative is that the litigant might have to make the hard business choice of

withdrawing the Confidential Information and sacrifice or compromise on the evidence it puts forward on its Jurisdiction Motion.

2. Is arguably neutral to the self-fulfillment of the development of individual's thoughts and ideas, since there is no indication that the general public would have any interest in the Confidential Information, save for a small select subset of the public which stands to gain an unearned competitive advantage. The proposed Partial Sealing Order would restrict access to a relatively small number of specific evidentiary extracts and one document. Giving public access to these excerpts of evidence would contribute little to the public interest in the search for truth in this case whereas allowing the plaintiffs' designated representatives and their lawyers access would enhance the evidentiary foundation and arguments upon which the Jurisdiction Motion is to be decided.
3. Appears to have no bearing upon or relevance to protecting individual's rights to participating in an open political process.

[51] The Supreme Court of Canada cautions that "although the public nature of the case may be a factor which strengthens the importance of open justice in a particular case, the level of media interest should not be taken into account as an independent consideration": see *Sierra Club*, at para. 83. Here the plaintiffs are themselves media outlets and it is thus not surprising that there is some media interest in the case; however, I do not consider that to be an influential factor in the balancing of competing public interests at this proportionality stage of the test.

[52] Under the terms of the order sought, the only restrictions relate to public accessibility and distribution. The Confidential Information would be available to the court and the parties (in the case of the plaintiffs, designated representatives), and public access to the proceedings would be generally unimpeded. As such, the order represents a minimal intrusion into the open court rule, and thus would not have significant deleterious effects on this principle. In contrast, the older cases that the non-party journalists rely upon more directly engaged the importance of the open court principle and freedom of expression. *Canadian Broadcasting Corp. v. R*, 2010 ONCA 726, 102 O.R. (3d) 673 and *CBC v. New Brunswick*, [1996] 3 S.C.R. 480, 139 D.L.R. (4th) 385, were decided in context of absolute bans on media access to entire exhibits and portions of the hearing.

[53] In the context of this case, the Partial Sealing Order would only marginally impede, and in some respects would even promote, the pursuit of the fundamental values that the open court principle is intended to protect. As such, the order would not have significant deleterious effects on freedom of expression.

[54] The evidence establishes, on a balance of probabilities, that the defendants could suffer harm as a result of non-party competitors being able to access sensitive commercial and technical information about how and where the defendants conduct certain aspects of their business in the fast-paced world of generative AI. As in *Miller & Smith Foods Incorporated v. Citadelle, Coopérative de Producteurs de Sirop Dérable*, 2024 ONSC 6133, at para. 26, here there has been no indication that the public has a strong interest in the Confidential Information to be sealed, "apart from the general public interest in being fully informed of what transpires during the judicial process, which is only mildly impaired by the narrow order proposed." While there is no obvious

corresponding benefit to the freedom of expression of the general public for that Confidential Information to be part of the public court file, it may be of great interest to competitors of the defendants; however, those (private interests of non-party competitors) are not interests that the court is concerned about protecting in this context: see *GasTOPS Ltd. v. Forsyth*, 2011 ONCA 186, 12 C.P.C. (7th) 116, at paras.17-22.

[55] Although not determinative, it is also a relevant consideration that this Partial Sealing Order is only being granted in connection with the Jurisdiction Motion. If the defendants are successful, then they will not be litigating in Ontario. In such circumstances, there is potentially heightened unfairness in the defendants having to expose their Confidential Information publicly when they have been specific about what needs to be sealed and provided supporting evidence for their request. If they are not successful in the Jurisdiction Motion, it is not to be presumed that there will be a sealing order that persists for the duration of this case.

[56] In the balance, I find that the salutary effects of the proposed Partial Sealing Order in the context of the Jurisdiction Motion outweigh its deleterious effects, and that the order should be granted.

Final Disposition and Costs

[57] The parties agreed to exchange costs outlines for this motion within a week of the hearing. I assume they have done so. They were directed to advise the court if they are able to reach any agreement on any aspect of costs. The court has not heard anything regarding the costs of this motion since the hearing concluded.

[58] The parties may incorporate any costs claimed of this motion into their costs outlines for the Jurisdiction Motion. The court may provide further directions regarding submissions as to costs of either this motion and/or the Jurisdiction Motion in conjunction with its decision on that upcoming motion. The court does note that, although the defendants were successful, it was their burden and obligation to bring this motion, which they would have had to fully brief and argue irrespective of whether there were any others opposing it: see *Aquino v. Aquino*, 2021 ONSC 7797, 96 C.B.R. (6th) 138, at para. 72.

[59] On this motion for a Partial Sealing Order, the cost dynamic is not one with a winner and a loser. I have not made any finding that any party took an unreasonable position on this motion. Although the parties opposite to the defendants made some submissions, they did eventually leave the determination in the court's hands. The court is grateful for the contributions of all counsel on this motion so that it could be decided with the benefit of all issues having been raised and considered.

[60] Neither the plaintiffs nor the non-party journalists offered any comments on the draft form of Partial Sealing Order that the defendants provided to the court at the hearing. I will sign that form of order once it has been updated to provide the missing information at the top (name of judge and date, which should be the date of this endorsement).

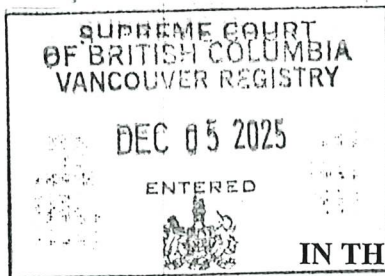
[61] The moving parties shall be responsible for submitting the materials to be sealed in an envelope to the court together with a copy of the order, once issued. Redacted versions of the materials for the Jurisdiction Motion shall be filed in the public court file and uploaded into Case Center. The same unredacted, highlighted versions of the sealed materials as were provided to the court for this motion shall be re-sent to the presiding judge by email through the Commercial List Office the week before the hearing is scheduled to proceed.

[62] The terms of the continuation of the sealing order after the Jurisdiction Motion shall be addressed at a case conference once the decision on that motion has been rendered.

A handwritten signature in black ink, appearing to read "Kimmel J.", is positioned above a horizontal line.

KIMMEL J.

Date: August 14, 2025



No. S246286
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

MICHAEL DEAN JACKSON

Plaintiff

and

OPENAI, INC., OPENAI, LP, OPENAI, LLC, OPENAI GP, LLC, OPENAI
OPCO, LLC, OPENAI GLOBAL, LLC, OAI CORPORATION, LLC,
OPENAI HOLDINGS, LLC, OPENAI STARTUP FUND I, LP, OPENAI
STARTUP FUND GP I, LLC, OPENAI STARTUP FUND MANAGEMENT,
LLC, MICROSOFT CORPORATION AND MICROSOFT CANADA INC.

Defendants

Brought under the *Class Proceedings Act*, RSBC, 1996, c.50

CONSENT ORDER

BEFORE A JUDGE OF THE COURT

DR. JACKSON J.

December 5, 2025

ON THE APPLICATION of the defendants, OpenAI, Inc., OpenAI, LP, OpenAI, LLC, OpenAI GP, LLC, OpenAI OpCo, LLC, OpenAI Global, LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, OpenAI Startup Fund I, LP, OpenAI Startup Fund GP I, LLC and OpenAI Startup Fund Management, LLC without a hearing and by consent;

THIS COURT ORDERS that:

1. For the purpose of this Order:
 - a. “**Confidential Information**” means the following documents, things or other information disclosed in connection with the Jurisdiction Application:
 - i. any document or any information, including but not limited to information contained in an affidavit or other document, information revealed during a cross-examination, or information produced pursuant to undertaking, which

is designated by a party or a person other than a party (including non-party witnesses who produced Confidential Information in testimony, documents, or other tangible or intangible forms) (the “**Disclosing Party**”) to be confidential information on the basis that it contains commercially-sensitive financial, technical, sales, marketing, financial, business strategy, or other commercially sensitive information or proprietary information not otherwise known or available to the public, whether embodied in physical objects, documents, or the factual knowledge of persons;

- ii. any document, thing, evidence (including as provided or marked in any cross-examination), or other information provided by or on behalf of any party during or for the purpose of this proceeding that refers to or contains the documents or information set out in paragraph (i) above;
 - iii. any information copied or extracted from Confidential Information;
 - iv. all copies, excerpts, summaries, or compilations of Confidential Information;
 - v. any testimony, conversations, or presentations by parties or their counsel that might reveal Confidential Information; and
 - vi. any further document, information or thing as the Court may determine through further order or endorsement or as the parties may agree in writing;
- b. “**Jurisdiction Application**” refers to the application that the Defendants OpenAI, Inc., OpenAI, LP, OpenAI, LLC, OpenAI GP, LLC, OpenAI OpCo, LLC, OpenAI Global, LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, OpenAI Startup Fund I, LP, OpenAI Startup Fund GP I, LLC and OpenAI Startup Fund

Management, LLC intend to bring to strike, dismiss, stay or set aside the Notice of Civil Claim;

- c. **“Microsoft Entities”** means the Defendants Microsoft Corporation and Microsoft Canada Inc.;
 - d. **“OpenAI Entities”** means the Defendants OpenAI, Inc., OpenAI, LP, OpenAI, LLC, OpenAI GP, LLC, OpenAI OpCo, LLC, OpenAI Global, LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, OpenAI Startup Fund I, LP, OpenAI Startup Fund GP I, LLC and OpenAI Startup Fund Management, LLC; and
 - e. **“Outside Litigation Counsel”** means:
 - i. Siskinds LLP, in the case of the Plaintiff;
 - ii. Gowling WLG (Canada) LLP, in the case of the OpenAI Entities; and
 - iii. Osler, Hoskin & Harcourt LLP, in the case of the Microsoft Entities.
2. Any party, when it reasonably believes it will be disclosing or has disclosed Confidential Information, shall have the right, through its counsel, to designate such information as Confidential Information, in which event the designated Confidential Information shall be governed by the terms of this Order.
3. Pending further Order of this Court:
- a. Any Confidential Information delivered by a party shall not be used by the other party, their employees, their counsel, or their consultants or agents for any purpose other than this proceeding and any related appeals.
 - b. No person in receipt of Confidential Information shall use the Confidential Information for business, commercial, journalistic, or editorial purposes.

- c. The Plaintiff shall not provide any of the Defendants' designated Confidential Information to any person who is employed with any of the entities identified in the list provided by e-mail correspondence from the OpenAI Entities to the Plaintiff on July 8, 2025.
4. Nothing in this Order shall prevent the Defendants from seeking to update or amend the list referred to at Paragraph 3(c) with leave of the Court or on consent of the Plaintiff in writing.
5. The inadvertent failure to designate any materials as Confidential Information shall not be deemed or construed to be a waiver of confidentiality. After discovering the inadvertent failure to designate, the party who failed to designate materials as Confidential Information shall promptly notify the parties that such materials have been inadvertently disclosed without being designated as Confidential Information. After receipt of such notification, the other parties and any person to whom disclosure of the document has been made will treat that document as having been designated as Confidential Information in accordance with this Order.
6. This Order does not restrict a party's right to use or disclose its own Confidential Information.
7. No party shall file any Confidential Information with the Court prior to February 17, 2026, except for the purposes of seeking a Sealing Order, without written agreement of the other party, or further Order of this Court, and any such filing shall only be done in accordance with any applicable Sealing Order, or other applicable order or endorsement or as the parties may agree in writing.

8. If a party is applying for a Sealing Order (“**Sealing Order**”) and wishes to file with the Court a document or portion thereof, including affidavits, exhibits, transcripts, application materials or written submissions, which contains or discusses Confidential Information, in a manner that would reveal its content, the Confidential Information shall be segregated from the other information and documentation being submitted for filing and shall not be filed and instead be submitted to the Court (i) for hard copies, in a sealed envelope with the following label; or (ii) for electronic copies, with the following label, or substantially similar label, marked on its face and on every page and with the confidentiality designation reflected in the file name:

MICHAEL DEAN JACKSON v. OPENAI, INC. et al. – Court File No. S246286

CONFIDENTIAL INFORMATION PURSUANT TO THE ORDER DATED [DATE], 2025

Confidential Information that exists in a form that cannot be marked in a visible fashion shall be specifically identified as such by the Disclosing Party by way of correspondence, and, to the extent possible, shall have the confidentiality designation reflected in any applicable file name.

9. If a Sealing Order is going to be sought by a party, that party shall bring any application for a Sealing Order in accordance with British Columbia Supreme Court Practice Direction PD-58. Until such Sealing Order application, and any appeals therefrom, has been determined, no materials that have been sought to be sealed will be filed without being sealed.
10. If a party intends to use another party’s Confidential Information as part of its record on the Jurisdiction Application, it must first give notice to the other party. The notice must:

- a. Be given in sufficient time to allow the party to seek a sealing order whose Confidential Information is sought to be used, and in particular, at least 10 business days before any deadline to seek a sealing order; and
- b. Clearly identify the specific Confidential Information the party intends to put on the record.

A party cannot use another party's Confidential Information on the Jurisdiction Application, or for any other public purpose, unless this notice has been provided.

11. If no application for a Sealing Order is brought, or if a Sealing Order application is brought but denied, with respect to some or all of the Confidential Information, then on February 17, 2026 any party may file any Confidential Information which is not subject to a Sealing Order and such filed material shall cease to be Confidential Information.
12. Notwithstanding the foregoing, any Confidential Information of another party that is not included in any party's record on the Jurisdiction Application shall remain confidential and subject to this Order. Such information shall not be disclosed publicly, and in particular shall not be filed on the court record, without the consent of the other party, unless adequate notice is first provided to the other parties. Any such notice must give the other parties sufficient time to bring an application for, or otherwise seek, a sealing order.
13. Only the following persons may be allowed access to material designated as Confidential Information, subject to this Court's order:
 - a. the Court, law clerks of the Court, Court personnel, and such other personnel as the Court may authorize, which Confidential Information may be filed with the Court and, subject to further Sealing Order ruling on the confidentiality of identified

documents, shall be treated as confidential and kept sealed, in accordance with PD-58;

- b. Outside Litigation Counsel for a party receiving or requesting production of Confidential Information (the “**Receiving Party**”) retained to advise on issues related to this proceeding, and all partners, associates, and of counsel thereof who are performing legal services in connection with this proceeding together with clerical personnel, law clerks, students at law, paralegal and legal assistants as well as other support personnel employed by Outside Litigation Counsel, including outside copy and electronic discovery vendors of Outside Litigation Counsel;
- c. with respect to the parties:
 - i. the Plaintiff, Michael Dean Jackson;
 - ii. in the case of the OpenAI Entities, up to two (2) in-house legal counsel and four (4) employees or corporate officers to whom disclosure is reasonably necessary for the Jurisdiction Application;
 - iii. in the case of the Microsoft Entities, up to two (2) in-house legal counsel and four (4) employees or corporate officers to whom disclosure is reasonably necessary for the Jurisdiction Application;
- d. any outside service contractor (e.g., court reporting, photocopying, videotaping, translating, preparing of exhibits, graphics, demonstratives or demonstrations, organizing, storing or retrieving data in any form or medium) retained by a party to whom disclosure of the Confidential Information is reasonably necessary for the purpose of assisting with the Jurisdiction Application;

- e. up to ten (10) independent consultants or experts consulted by each of (i) the Plaintiff, (ii) the OpenAI Entities or (iii) the Microsoft Entities receiving information designated as Confidential Information, to assist in this proceeding, and their necessary assistants and secretarial and clerical personnel, provided that such consultants or experts are neither:
 - i. current employees of any party; nor
 - ii. employed by any of the entities identified in the list provided by e-mail correspondence from the OpenAI Entities to the Plaintiff on July 8, 2025, as may be amended by Order of the Court or with the consent of the Plaintiff in writing;
 - f. any other person to whom the Disclosing Party consents to receive such designated material, which consent shall be confirmed in writing before access to Confidential Information is provided to such person.
14. In the event that Confidential Information is disclosed to anyone other than in the manner authorized by this Order, the Receiving Party responsible for such disclosure shall immediately bring all pertinent facts relating to the disclosure to the attention of the Disclosing Party who designated the Information as Confidential Information and shall make every effort to prevent further disclosure of the Information.
15. Any party who inadvertently discloses Confidential Information in a manner not in accordance with this Order shall, upon discovery of the disclosure, promptly notify in writing all inadvertent recipients of the Confidential Information in question. The inadvertent recipients of the Confidential Information in question shall then promptly refrain and shall request all persons to whom the Confidential Information was disclosed

to promptly refrain, from reading or viewing the Confidential Information and shall promptly return it and all copies thereof to the party who disclosed it, or destroy the Confidential Information and all copies thereof. No such inadvertently disclosed Confidential Information, including any document or information contained therein, may be used or disclosed by the recipient(s) without leave of the Court.

16. For the purposes of examinations on the Jurisdiction Application and in the proceeding, Confidential Information may be disclosed to the court reporter. If during an examination or following the receipt of a transcript of any examination a party designates information as Confidential Information, the designating party shall redact those questions and answers from the main transcript (the “**Non-Confidential Transcript**”) and shall prepare a separate confidential transcript which includes the redacted portions of the transcript (the “**Confidential Transcript**”). The cover page of the Confidential Transcript shall be marked in accordance with the label set out at paragraph 8 of this Order and shall be treated as Confidential Information for the purposes of this Order.
17. Each person given access to Confidential Information shall be advised that the material is being disclosed pursuant to and subject to the terms of this Order and may not be disclosed or used other than pursuant to the terms hereof. Before access to Confidential Information is given to any person pursuant to subparagraphs 11(c), 11(e) and 11(f), such person shall have first reviewed and signed the acknowledgement in the form attached as Schedule “A” hereto. Outside Litigation Counsel shall retain a copy of the written acknowledgement but need not provide a copy of same to the other Outside Litigation Counsel except upon order of this Court.

18. Consenting to and complying with the terms of this Order shall not:

- a. affect any implied or deemed undertaking;
- b. be deemed to be a waiver of any applicable privilege;
- c. operate as an admission by any person that any particular material actually or presumptively contains or reflects trade secrets, proprietary or commercial information or other confidential information; or
- d. preclude any party from taking any position concerning:
 - i. whether particular materials should be produced; or
 - ii. if produced whether such materials should be subject to the terms of this Order; or
 - iii. whether particular materials constitute Confidential Information; or
 - iv. whether a Sealing Order can or should be granted with respect to any information.
- e. preclude a party from:
 - i. opposing the production of any documents or answering of any questions on any proper grounds whatsoever (including relevance and privilege); or
 - ii. using or disclosing its own Confidential Information for any purpose.

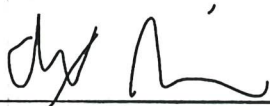
19. Nothing in this Order shall limit or preclude any party from applying to the Court for relief from this Order, or for such further or additional orders, as the parties may deem appropriate. This Order shall be without prejudice to the right of any party to apply to the Court at any time to vary or terminate the effect of this Order or for a direction on any specific issue concerning production of a specific document.

20. Neither the seeking of this Order, the agreement as to any terms or provisions contained in this Order, the issuance of this Order, the taking of any step in accordance with the provisions of this Order, nor the failure to take such step shall be construed as an attornment to this Court's jurisdiction, or as a waiver of any claim or defence in this proceeding.

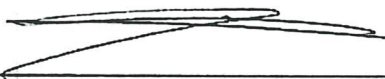
21. There shall be no costs on this application.

22. The order may be executed in counterparts by counsel for the parties and by facsimile, email or otherwise, each of which when executed and delivered will be deemed an original, and all of which will constitute one and the same document.

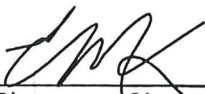
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING ON CONSENT:



Signature of lawyer for the Plaintiff Michael Dean Jackson
Alex Dimson



Signature of lawyer for the Defendants OpenAI, Inc., OpenAI, LP, OpenAI, LLC, OpenAI GP, LLC, OpenAI OpCo, LLC, OpenAI Global, LLC, OAI Corporation, LLC, OpenAI Holdings, LLC, OpenAI Startup Fund I, LP, OpenAI Startup Fund GP I, LLC and OpenAI Startup Fund Management, LLC
Michael Crichton



Signature of lawyer for the Defendants Microsoft Corporation and Microsoft Canada Inc.
Emily MacKinnon

By the Court



Registrar

SCHEDULE "A"

No. S246286
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

B E T W E E N:

MICHAEL DEAN JACKSON

Plaintiff

and

**OPENAI, INC., OPENAI, LP, OPENAI, LLC, OPENAI GP, LLC, OPENAI
OPCO, LLC, OPENAI GLOBAL, LLC, OAI CORPORATION, LLC,
OPENAI HOLDINGS, LLC, OPENAI STARTUP FUND I, LP, OPENAI
STARTUP FUND GP I, LLC, OPENAI STARTUP FUND MANAGEMENT,
LLC, MICROSOFT CORPORATION AND MICROSOFT CANADA INC.**

Defendants

Brought under the *Class Proceedings Act*, RSBC, 1996, c.50

ACKNOWLEDGEMENT OF PRELIMINARY PROTECTIVE ORDER

I, _____, have read and understand the terms of the Preliminary Protective Order, dated _____, a copy of which is attached hereto.

I acknowledge that I have read the Preliminary Protective Order, understand it, agree to abide by it, and agree to be bound by it. I specifically agree and acknowledge that:

- a. I will not use the Confidential Information for any purpose other than this proceeding;
- b. I will not use the Confidential Information for business, commercial, journalistic or editorial purposes.
- c. I am not employed by any of the entities identified in the list provided by e-mail correspondence from the OpenAI Entities to the Plaintiff on July 8, 2025. If that

list has been amended by Court Order or on consent of the Plaintiff in writing, I have been provided with that amendment and confirm that I am not employed by the further entities.

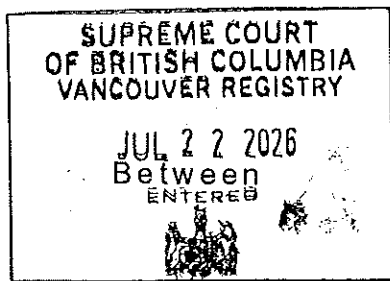
I understand that Confidential Information and my work product containing Confidential Information may be disclosed or discussed only with those persons permitted by the Preliminary Protective Order to receive such information.

Dated: _____

Signature

Print

Address



No. S-246286
Vancouver Registry

In the Supreme Court of British Columbia

MICHAEL DEAN JACKSON

Plaintiff/Respondent

and

**OPENAI, INC.; OPENAI, LP; OPENAI, LLC;
OPENAI GP, LLC; OPENAI OPKO, LLC;
OPENAI GLOBAL, LLC; OAI CORPORATION, LLC;
OPENAI HOLDINGS, LLC; OPENAI STARTUP FUND I, LP;
OPENAI STARTUP FUND GP I, LLC;
OPENAI STARTUP FUND MANAGEMENT, LLC;
MICROSOFT CORPORATION and MICROSOFT CANADA INC.**

Defendants/Applicants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

SEALING ORDER

BEFORE THE HONOURABLE
JUSTICE BRONGERS

)
) July 22, 2026
)
)

ON THE APPLICATION of OpenAI, Inc.; OpenAI, LP; OpenAI, LLC; OpenAI GP, LLC; OpenAI Opco, LLC; OpenAI Global, LLC; OAI Corporation, LLC; OpenAI Holdings, LLC; OpenAI Startup Fund I, LP; OpenAI Startup Fund GP I, LLC; and, OpenAI Startup Fund Management, LLC (the "**Applicants**"); without a hearing and by consent:

THIS COURT ORDERS THAT:

1. The following documents are to be sealed by the Registrar of this Honourable Court for the duration noted:

Description	Date filed, if applicable	Number of copies filed, including any extra copies for the judge	Duration of sealing order:	Sought	Granted	
					Yes	No
1a) Specific Documents			Until further order of this Honourable Court			

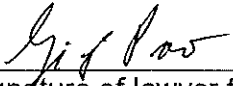
Affidavit #1 of Shantanu Jain, dated August 1, 2025;	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]
Affidavit #1 of Angie Lee dated October 9, 2025;	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]
Affidavit #2 of Angie Lee dated October 30, 2025;	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]
Affidavit #1 of Kitty Kwok dated July 21, 2026	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]
The Notice of Application dated August 1, 2025;	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]

The Written Submissions of the Applicant dated December 17, 2025;	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]
Any document that references any confidential information in any of the foregoing documents will be filed with "CONFIDENTIAL" marked on the top of the document.	To be filed	1	Until further order of this Honourable Court	[X]	[X]	[]
1b) Entire court file				[]	[]	[]
2) Other court records stored by the court				[]	[]	[]
3) Orders				[]	[]	[]
4) Reasons for Judgements				[]	[]	[]

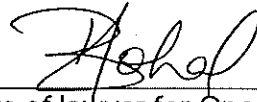
2. The Applicants must file redacted versions of Affidavit #1 of Shantanu Jain dated August 1, 2025 redacting paragraphs 19 and 20; the final transcript of the cross-examination of Colin Reid dated November 13, 2025 at Exhibit "A" of Affidavit #1 of Kitty Kwok dated July 21, 2026 redacting page 24, lines 2-3; the final transcript of the cross-examination of Shantanu Jain dated November 13, 2025 at Exhibit "B" of Affidavit #1 of Kitty Kwok dated July 21, 2026 redacting page 91, lines 6-11; the transcript of the cross-examination of Shantanu Jain held on June 25, 2025 at Exhibit DDDD of each of Affidavit #1 of Angie Lee dated October 9, 2025, and Affidavit #2 of Angie Lee dated October 30, 2025, respectively, redacting page 11, lines 11-14; and any reference to such confidential information in any other materials filed or to be filed by any party in this proceeding, including: the Notice of Application dated August 1, 2025; and, the Written Submissions of the Applicant dated December 17, 2025.

3. Access to the sealed items is restricted to the following persons:

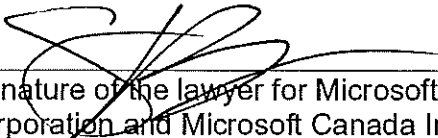
- a. ☒ Parties
- b. ☒ Counsel for a party
- c. ☐ Others:



Signature of lawyer for
Michael Dean Jackson
Gigi Pao

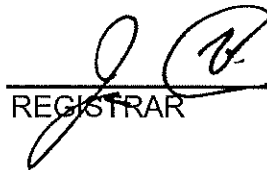


Signature of lawyer for OpenAI, Inc.; OpenAI,
LP; OpenAI, LLC; OpenAI GP, LLC; OpenAI
Opco, LLC; OpenAI Global, LLC; OAI
Corporation, LLC; OpenAI Holdings, LLC;
OpenAI Startup Fund I, LP; OpenAI Startup
Fund GP I, LLC; and, OpenAI Startup Fund
Management, LLC
Raman Johal



Signature of the lawyer for Microsoft
Corporation and Microsoft Canada Inc.
Simone Penney

By the Court



REGISTRAR



Vasquez, Alejandra

De: Vasquez, Alejandra
Envoyé: 31 juillet 2026 14:50
À: maudren@audrenrolland.com; mgrou@audrenrolland.com; erolland@audrenrolland.com; kbrabander@osler.com; jharding@osler.com
Cc: Poitras, Guy; D'Addona, Gabriel; Crichton, Michael; Crandall, Marc
Objet: NOTIFICATION - Application of OpenAI Defendants for the issuance of a Confidentiality and Sealing Order - Anne Robillard c. OpenAI inc. et al. 500-06-001414-255 (G10076603)
Pièces jointes: Application for the issuance of a Sealing order (Robillard) with exhibits - signed(96069772.1).pdf

NOTIFICATION PAR COURRIEL
(ART. 134 C.P.C.)
BORDEREAU D'ENVOI

DATE DE L'ENVOI : Le 31 juillet 2026

Avocat :	Me Guy Poitras / Me Gabriel D'Addona / Me Marc Crandall / Me Michael Crichton
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Me Jessica Harding	Osler, Hoskin & Harcourt, LLP	jharding@osler.com

IDENTIFICATION DU DOSSIER ET NATURE DU DOCUMENT TRANSMIS:

No de dossier de Cour :	500-06-001414-255
Parties :	Anne Robillard c. OpenAI inc. et al.
Nature des documents :	<i>Application of OpenAI Defendants for the issuance of a Confidentiality and Sealing Order</i>
Nombre total de pages :	61 pages

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N°: 500-06-001414-255
SUPERIOR COURT (Class Actions Division) DISTRICT OF MONTREAL
ANNE ROBILLARD Applicant v. OPENAI INC. and OPENAI GLOBAL, LLC and OPENAI GP, LLC and OPENAI HOLDINGS, LLC and OPENAI OPKO, LLC and OAI CORPORATION and OPENAI STARTUP FUND GP I, LLC and OPENAI STARTUP FUND I, L.P. and OPENAI STARTUP FUND MANAGEMENT, LLC and OPENAI L.L.C. and MICROSOFT CORPORATION and MICROSOFT CANADA INC. Defendants BL0052
APPLICATION OF OPENAI DEFENDANTS FOR THE ISSUANCE OF A CONFIDENTIALITY AND SEALING ORDER (Articles 11, 12, 25 and 49 C.C.P.)
ORIGINAL
Me Guy Poitras, Me Michael Crichton Me Marc Crandall and Me Gabriel D'Addona 1, Place Ville Marie, Suite 3700 Montréal (Québec) H3B 3P4 Telephone: 514-392-9511 / 514-392-9598 Fax: 514-878-1450 Email: guy.poitras@gowlingwlg.com gabriel.daddona@gowlingwlg.com Our File: G10076603