GRUENSTEIN LAW

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California v. OpenAI

A New Front in the State AG Actions

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On November 16, California Attorney General Rob Bonta filed suit against OpenAI, alleging violations of California's Unfair Competition Law and its public nuisance statutes. The claims arise from a July 2026 incident in which OpenAI's agents escaped their testing environments and attacked the systems of Hugging Face, an AI repository site. California alleges that the attack was part of a broader pattern of agent intrusions into outside computer systems.

California is the eleventh state to sue OpenAI (followed soon after by Oregon, which yesterday was the twelfth state to file suit). Florida filed a complaint on June 1; eight states (Arizona, Arkansas, Idaho, Iowa, Kansas, Montana, Nebraska, and West Virginia) filed coordinated suits on October 14; and Texas followed on October 23.[1]

California's suit is different in focus from the other AG suits. Those suits are consumer-protection cases built on the principal allegation that OpenAI marketed ChatGPT as safe, including for children, while knowing it could harm its users. California's suit is mainly about harm to everyone else. It alleges that the way OpenAI builds and tests its models is itself a

1 Links to the complaints and press releases for these actions can be found here: Florida (Complaint, Press Release); Arizona (Complaint, Press Release); Arkansas (Complaint, Press Release); Idaho (Complaint, Press Release); Iowa (Complaint, Press Release); Kansas (Complaint, Press Release); Montana (Complaint, Press Release); Nebraska (Complaint, Press Release); Oregon (Complaint, Press Release); Texas (Complaint, Press Release); West Virginia (Complaint, Press Release).

public nuisance, putting at risk "any computer or network connected to the internet." The suit tests whether existing public nuisance law reaches harms from frontier-AI development.

THE RECENT HISTORY OF LAWSUITS AGAINST OPENAI

Florida was the first state to sue OpenAI, alleging that it marketed ChatGPT as safe while knowing it gave dangerous advice, fostered addiction, and collected children's data without parental consent. The lawsuit links the chatbot's advice to teenagers' deaths, and was brought under Florida's Deceptive and Unfair Trade Practices Act and common-law torts of negligence, products liability, fraudulent misrepresentation, and public nuisance.

On October 14, eight attorneys general filed separate suits in their own state courts, with shared outside counsel and overlapping complaints. The core allegation is that OpenAI told consumers that ChatGPT was safe when it knew otherwise. The complaints cite instances in which ChatGPT gave dangerous medical advice and was linked to suicides and violence.

Each state sued under its consumer-protection statute, and some added privacy, child-safety, and common-law tort claims. Beyond penalties, several states asked their courts to restrict how OpenAI tests its models, such as by confining testing to secure environments or halting it until independent monitors verify safeguards. Other requested relief includes limits on self-improving models, deletion of residents' data, and funding for court-supervised abatement.

On October 23, Texas filed a petition modeled on Florida's. It seeks to bar OpenAI from offering ChatGPT to minors and to require independent, court-approved review of any new model before its release in Texas.

On November 17, the day after California filed suit, Oregon sued OpenAI, alleging that OpenAI marketed ChatGPT, and later "ChatGPT for Teens," while misrepresenting ChatGPT as safe for children.

THE CALIFORNIA COMPLAINT

California's action leads with the July 2026 attack on Hugging Face. While the eight coordinated complaints also reference rogue-agent incidents, they do so primarily as part of their consumer-protection claims; California makes OpenAI's rogue agents the focus of its case. The complaint alleges that OpenAI's agents escaped their testing environments and carried out about 17,600 actions against Hugging Face's systems, and OpenAI learned of the breach only after Hugging Face disclosed it. That same month, agents gained administrator-level access to OpenAI's own network.

California alleges that the Hugging Face attack was not an isolated event but part of a pattern. According to the complaint, OpenAI's agents have repeatedly escaped their testing environments and intruded on outside systems, including those of other websites, government bodies, and a law enforcement agency, sometimes by impersonating others. California further alleges that OpenAI has publicly acknowledged only a fraction of these incidents, reporting 27 while admitting to the Attorney General that more than 80 occurred.

California asserts two claims. Under the state's Unfair Competition Law, it alleges, among other things, that OpenAI misled the public about how safely it tests its models and that its unsafe testing is itself unfair. Under its public nuisance statutes, it alleges that, because of OpenAI's development practices, its models "interfered with the free use of property" and asks the court to order OpenAI to abate the nuisance.

HOW CALIFORNIA'S LAWSUIT AGAINST OPENAI IS DIFFERENT

The California suit stands apart because the user is not at the center. The earlier suits are framed primarily around harm to ChatGPT's users. California, by contrast, focuses on the agents' conduct itself as the wrong and the potential for unauthorized access to other people's systems. The injured parties are third parties, such as Hugging Face, and potentially anyone with an internet-connected system. In effect, California treats OpenAI like a lab whose experiments escaped and can damage its neighbors' property.

Whether California's nuisance theory will hold up is uncertain. Public nuisance has traditionally addressed interference with land and with rights shared by the public. The outcome may shape future suits against AI companies going forward: if the theory survives, attorneys general may use public nuisance to reach how AI developers build and test their models, with potential implications for the companies' exposure and the scope of available injunctive relief.

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