

1 MICHAEL D. GRANSTON
 Deputy Assistant Attorney General
 2 ALEXANDER K. HAAS
 Branch Director
 3 DANIEL SCHWEI
 Special Counsel
 4 SERENA M. ORLOFF
 MICHAEL DREZNER
 5 STUART J. ROBINSON
 AMY E. POWELL
 Attorneys
 6 United States Department of Justice
 Civil Division, Federal Programs Branch
 7 Ben Franklin Station, P.O. Box No. 883
 Washington, DC 20044
 8 Phone: (202) 305-0167
 9 Fax: (202) 616-8470
 E-mail: serena.m.orloff@usdoj.gov
 10 *Counsel for Defendants*

11
12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

14 U.S. WECHAT USERS ALLIANCE,
 15 CHIHUO INC., BRENT COULTER,
 FANGYI DUAN, JINNENG BAO,
 16 ELAINE PENG, and XIAO ZHANG,

17 Plaintiffs,

18 v.

19 JOSEPH R. BIDEN, JR., in his official
 capacity as President of the United States,
 and WYNN COGGINS, in her official
 20 capacity as Acting Secretary of Commerce,

21 Defendants.

Case No. 3:20-cv-05910-LB

**STIPULATED REQUEST TO STAY
PROCEEDINGS; PROPOSED ORDER**

Judge: Hon. Laurel Beeler

Trial Date: None Set

1 TO THE COURT AND TO ALL PARTIES OF RECORD:

2 WHEREAS, on August 6, 2020, President Donald Trump issued Executive Order
3 13943 titled “Addressing the Threat Posed by WeChat, and Taking Additional Steps to
4 Address the National Emergency with Respect to the Information and Communications
5 Technology and Services Supply Chain” (“Executive Order”), 85 Fed. Reg. 48641
6 (Aug. 6, 2020), and on September 18, 2020, the Secretary identified six categories of
7 prohibitions pursuant to the Executive Order;

8 WHEREAS, Plaintiffs filed this case on August 21, 2020, seeking declaratory and
9 injunctive relief against the President and the Secretary of Commerce in relation to the
10 Executive Order, and subsequently twice amended their complaint;

11 WHEREAS, on September 19, 2020, the Court granted Plaintiffs’ motion to
12 preliminarily enjoin the Secretary’s six identified prohibitions, and subsequently declined
13 to stay its injunction pending Defendants’ appeal to the Court of Appeals for the Ninth
14 Circuit;

15 WHEREAS, the parties have since commenced briefing of Defendants’ partial
16 motion to dismiss Plaintiffs’ Second Amended Complaint, ECF No. 136, and are engaged
17 in ongoing efforts to eliminate or narrow disputes regarding the appropriate scope of the
18 administrative record;

19 WHEREAS, on January 20, 2021, the Biden Administration took office, and
20 thereafter the Department of Commerce began a review of certain recently issued agency
21 actions, including the Secretary’s prohibitions regarding the WeChat mobile application at
22 issue in this case;

23 WHEREAS, the Department plans to conduct an evaluation of the underlying
24 record justifying those prohibitions, which will better position the Government to
25 determine whether the national security threat described in the President’s August 6, 2020
26 Executive Order, and the regulatory purpose of protecting the security of Americans and
27 their data, continue to warrant the identified prohibitions;

28 WHEREAS, the Department of Commerce remains committed to a robust defense

1 of national security as well as ensuring the viability of our economy and preserving
2 individual rights and data privacy;

3 WHEREAS, the Department’s review of the prohibitions at issue here may narrow
4 the issues presented or eliminate the need for judicial review entirely, and will permit new
5 agency officials sufficient time to become familiar with the issues in this case;

6 WHEREAS, to allow the Department to adequately consider the issues presented in
7 this case, the Government filed a motion to hold in abeyance the ongoing appeal before the
8 Ninth Circuit of the preliminary injunction previously entered by this Court. *See U.S.*
9 *WeChat Users Alliance v. Biden, et al.*, No. 20-16908, Dkt. No. 78 (9th Cir. Feb. 11,
10 2021), and that motion was unopposed by Plaintiffs;

11 WHEREAS, for the same reasons that the Government requested that the Ninth
12 Circuit appeal be held in abeyance, the parties agree that it likewise makes sense to stay
13 further proceedings before this Court based on the above developments.

14 Accordingly, pursuant to Northern District Local Rule 6-2, Plaintiffs U.S.
15 WECHAT USERS ALLIANCE, CHIHUO INC., BRENT COULTER, FANGYI DUAN,
16 JINNENG BAO, ELAINE PENG, and XIAO ZHANG and Defendants JOSEPH R.
17 BIDEN JR., in his official capacity as President of the United States, and WYNN
18 COGGINS, in her official capacity as Acting Secretary of Commerce, by and through their
19 Counsel of Record,

20 HEREBY STIPULATE AS FOLLOW:

21 1. All further proceedings and pending deadlines in this case should be stayed
22 and held in abeyance pending further developments;

23 2. The parties shall file a joint status report in 60 days, *i.e.*, on April 12, 2021,
24 regarding this matter and any further developments.

25 IT IS SO STIPULATED.
26
27
28

1 DATED: February 11, 2021

Respectfully submitted,

2

ROSEN BIEN GALVAN & GRUNFELD LLP

3

By: */s/ Michael W. Bien*

4

Michael W. Bien

5

Attorneys for Plaintiffs

6

7 DATED: February 11, 2021

Respectfully submitted,

8

MICHAEL D. GRANSTON
Deputy Assistant Attorney General

9

10

ALEXANDER K. HAAS
Branch Director

11

DANIEL SCHWEI
Special Counsel

12

13

By: */s/ Serena M. Orloff*

14

Serena M. Orloff

15

Michael Drezner

16

Amy Powell

17

Stuart J. Robinson

18

Trial Attorneys

United States Department of Justice

Civil Division, Federal Programs Branch

1100 L Street NW

Washington, D.C. 20005

Phone: (202) 305-0167

Fax: (202) 616-8470

serena.m.orloff@usdoj.gov

19

20

Attorneys for Defendants

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that I have on file approvals for any signatures indicated by a “conformed” signature (/s/) within this e-filed document.

DATED: February 11, 2021

By: /s/ Serena M. Orloff
Serena M. Orloff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

Pursuant to the above Stipulation, and good cause appearing therefor,

IT IS HEREBY ORDERED that further proceedings in this matter are STAYED, all pending deadlines are vacated, and the March 4, 2021 hearing on Defendants’ Partial Motion to Dismiss is removed from the Court’s calendar.

IT IS FURTHER ORDERED that the parties shall file a joint status report in 60 days, *i.e.*, on April 12, 2021, regarding this matter and any additional developments.

IT IS SO ORDERED.

DATED: _____, 2021

Honorable Laurel Beeler
United States Magistrate Judge