

AUGUST 11, 2022

VIA EMAIL AND OVERNIGHT MAIL

Mr. Daniel O'Dowd, Founder and CEO
The Dawn Project, Inc.
30 West Sola Street
Santa Barbara, CA 93101

Re: **Cease and Desist**

Dear Mr. O'Dowd:

It has come to our attention that you, personally, and The Dawn Project have been disparaging Tesla's commercial interests and disseminating defamatory information to the public regarding the capabilities of Tesla's Full Self Driving (FSD) (Beta) technology. We demand that you immediately cease and desist further dissemination of all defamatory information, issue a formal public retraction within 24 hours and provide Tesla with the below demanded documentation.

Californians soundly rejected a political campaign, which was based on the single issue of spreading misinformation about Tesla, with barely 1% of voters in California's U.S. Senate Race showing support for this platform. Despite the public's very clear rejection, you and The Dawn Project continue to spread misinformation about Tesla, by falsely claiming that Tesla's FSD (Beta) technology will not recognize children and by falsely stating that the feature will run over children when it is engaged. The purported tests misuse and misrepresent the capabilities of Tesla's technology, and disregard widely recognized testing performed by independent agencies as well as the experiences shared by our customers. In fact, unsolicited scrutiny of the methodology behind The Dawn Project's tests has already (and within hours of you publicly making defamatory allegations) shown that the testing is seriously deceptive and likely fraudulent.

First, to be clear, FSD Beta incorporates safety by design and *does* recognize pedestrians, including children, and when utilized properly, the system reacts to prevent or mitigate a collision. In addition, every Tesla is equipped with Forward Collision Warning to warn drivers of an impending frontal collision; Automatic Emergency Braking to apply braking when an obstacle is detected that the Tesla may impact; and Obstacle-Aware Acceleration to reduce acceleration when an obstacle ahead is in the driving path.

Second, the totality of these safety features are the reason why Tesla vehicles have earned a reputation for being the safest on the road. Contrary to the obviously results-driven bias of your purported tests, independent safety agencies have rated Tesla's safety at the highest levels. For example, the Insurance Institute for Highway Safety (IIHS), an independent nonprofit scientific organization dedicated to reducing death and injuries on the roadways, rates current tested Tesla models with "superior" Automatic Emergency Braking for both vehicle-to-pedestrian prevention and vehicle-to-vehicle collisions. Notably, the IIHS conducted tests *simulating crossing children* for the 2022 Tesla Model 3 and 2022 Tesla Model Y, and in the tests, both models avoided collisions with the child dummies.¹

In contrast, your testing and methodology have already received swift and public rebukes from multiple sources. For example, the commercial you released claims that the tests shown were performed with Tesla's FSD Beta engaged.² But *Electrek* reported that your own videos clearly show that FSD Beta was not engaged at times. Similarly, *Electrek* reports that The Dawn Project manipulated its video after being confronted with the defamatory nature of its advertisement. Despite

¹ Similar IIHS testing for the Model X and Model Y is not available.

² <https://electrek.co/2022/08/10/tesla-self-driving-smear-campaign-releases-test-fails-fsd-never-engaged/>

your clear knowledge of the misleading nature of the advertisements, you continue to promote and disseminate these advertisements on multiple mediums.

While you and The Dawn Project purport to advocate for safety, the videos portray unsafe and improper use of FSD Beta and active safety features. Your actions actually put consumers at risk.

Accordingly, we demand the following:

1. Immediately cease and desist the dissemination of all defamatory advertisements;
2. Immediately remove the videos under the caption "Test Track" from The Dawn Project website and any website where you or The Dawn Project disseminated a copy;
3. Issue a public retraction of all defamatory and false claims within 24 hours of receipt of this correspondence;
4. Disclose all sources of funding for the purported "tests" in the commercial, including whether any campaign funds were used or whether you were funded by Tesla's competitors;
5. Disclose all recognized regulatory agencies that endorsed your testing methodology and/or results.

Furthermore, you and The Dawn Project, including any and all employees, officers, directors, and agents, are hereby placed on notice that Tesla demands that you preserve all documents, including communications, videos, and data, related to your purported tests and advertisements (including print and video) along with any and all communications surrounding the same. Tesla will exercise all legal remedies available to it in the event of your non-compliance with the above and reserves all rights. Please adjust your actions accordingly.

Very truly yours,



Dinna Eskin, Esq.
Sr. Director and Deputy General Counsel
Tesla, Inc.

cc: The Dawn Project, Inc. Registered Agent
1505 Corporation
986
National Registered Agents, Inc.
330 N. Brand Blvd., Suite 700
Glendale, California 91203