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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HOPE CHUNG, an individual,

Plaintiff,

vs.

INTELLECTSOFT GROUP
CORPORATION, a Delaware corporation;
and DOES 1 through 10, INCLUSIVE.

Defendants.

Case No.:

COMPLAINT FOR DAMAGES:

- 1) PATENT INFRINGEMENT**
- 2) THEFT OF TRADE SECRETS, 18 U.S.C. § 1832**
- 3) VIOLATION OF CALIFORNIA UNIFORM TRADE SECRETS ACT, CAL. CIV. CODE §§ 3426 ET SEQ.**
- 4) INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
- 5) NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
- 6) INTENTIONAL BREACH OF FIDUCIARY DUTY AND DUTY OF LOYALTY**
- 7) BREACH OF WRITTEN CONTRACTS**
- 8) BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING**
- 9) NEGLIGENT MISREPRESENTATION**
- 10) UNFAIR BUSINESS PRACTICES**

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Hope Chung (“Plaintiff”) hereby files this Complaint against Defendant Intellectsoft Group Corporation (“Defendant”) and DOES 1 through 10, inclusive (collectively with Defendant, the “Defendants”), and alleges as follows:

THE PARTIES

1. Plaintiff is, and at all times relevant to this action was, an individual residing in the State of Georgia.

2. Upon information and belief, Defendant is, and at all times relevant to this action was, a Delaware corporation with its principal place of business located at 490 Post Street, Suite 526, San Francisco, California 94102.

3. Plaintiff is unaware of the names and true capacities of the Defendants sued in this action by the fictitious names DOES 1 through 10, inclusive. Such fictitious Defendants are sued pursuant to the provisions of the California Code of Civil Procedure. Upon information and belief, Plaintiff alleges that each of the fictitiously named Defendants was in some manner responsible for, participated in, or contributed to the matters and things of which Plaintiff complains herein, and in some fashion, has legal responsibility therefore. When the exact nature and identity of the fictitious Defendants who are responsible for participating in the matters and things alleged herein are ascertained by Plaintiff, Plaintiff will amend this Complaint to set forth the same.

4. Plaintiff is informed and believes, and based thereon alleges, that Defendants in this action were and are the employees, agents, authorized representatives, joint venturers, partners, and/or alter egos of one another, and in participating in or contributing to the matters and things of which Plaintiff complains herein, did so jointly, for a common purpose, within the scope of his or her employment, and with the authority, knowledge,

1 consent, and permission as such employee, agent, authorized representative, joint venture,
2 or partner.

3 **JURISDICTION AND VENUE**

4 5. This Court has original jurisdiction in this action under 28 U.S.C. § 1331 pursuant
5 to the Constitution and 18 U.S.C. § 1836(c).

6 6. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over the state law
7 claims asserted herein because they are related to and form part of the same case and
8 controversy as Plaintiff's claim under the Constitution.

9 7. Venue is proper in this Court under 28 U.S.C. § 1391 as Defendant operates out of and
10 thus resides in San Francisco, CA in Santa Clara County.

11 **INTRODUCTION**

12 8. Plaintiff is an entrepreneur who wanted to develop a learning education system that
13 aimed to teach Mandarin to children ages four (4) through ten (10) from a parent/teacher
14 directed self-learning program and to license the program to schools willing to use the
15 system.

16 9. Defendant is a full-service software development company that provides various
17 engineering solutions and develops mobile apps.

18 10. Plaintiff contracted with Defendant to develop an education ecosystem including,
19 but not limited to, a corporate website with e-commerce functionality and a mobile app
20 with five language learning functions.

21 11. Plaintiff and Defendant entered into two main agreements: the Picture Mandarin
22 Agreement and the Friendship Diaries Agreement (collectively, the "Agreements").

23 **FACTUAL BACKGROUND**

24 **Picture Mandarin Agreement and Friendship Diaries Agreement**

1 12. Plaintiff approached Defendant to create an education learning management
2 ecosystem that could teach Mandarin to children ages 4 through 10. Defendant asked
3 Plaintiff to put the project design into documentation for them to do a comprehensive
4 analysis.

5 13. On or about October 24, 2015, Plaintiff and Defendant entered into a Non-
6 Disclosure Agreement to maintain the confidentiality of Plaintiff's proprietary information.

7 **Exhibit 1**

8 14. To perform the functions for an education ecosystem described above, there were
9 three sections involved, an eLearning section to allow teachers to track student progress,
10 an eCommerce section to sell merchandize and give out rewards, and a brand marketing
11 section to keep parents informed and involved with their children's progress.

12 15. Due to budget limitation, Plaintiff and Defendant decided to focus on the most
13 important functions to launch the business. The education ecosystem described above
14 would be implemented in phases.

15 16. On or about December 3, 2015, Defendant shared their first proposal for Plaintiff,
16 explained their development approach was to create a document called backlog. The
17 backlog would list all the features for software creation per phase development. Based on
18 their assessment, the project time frame would be about four months for \$89,710 to roll out
19 the first phase.

20 17. On or about December 15, 2015, Defendant sent Plaintiff a second proposal, for
21 2023 hours of work, approximately \$124,610 to create two versions of the language app in
22 iOS and Android form but did not include payment functionality.
23
24

1 18. Plaintiff asked Defendant to revised contract terms to create only iOS version of
2 the language app to include payment function and eCommerce function for corporate
3 website to sell needed textbooks and to grant school license to students.

4 19. On or about December 28, 2015 Plaintiff and Defendant entered into a written
5 agreement based on their third proposal, the Picture Mandarin Agreement (“PM
6 Agreement”), in which Defendant was to develop for Plaintiff an education learning
7 management ecosystem with unique features. More specifically, Defendant was to create
8 a corporate website with e-commerce functionality for parent control, an iOS mobile app
9 that allowed users to make in-app purchases, a student registration function, a school
10 administration function, and five language learning functions.

11 20. Under the terms of the PM Agreement, Plaintiff and Defendant agreed to an initial
12 budget of about \$104,000.00. A true and correct copy of the PM Agreement is attached
13 hereto as **Exhibit 2**.

14 21. On February 11, 2016, Plaintiff named August 2016 as delivery deadline.
15 Defendant asked to change pricing to include an estimation charge and changed the
16 delivery criteria to reduce language app functions from five language features to two
17 language features for \$38,705, app modification request of \$3795, and adding three
18 webpages for \$7,760 while they work on the corporate site to understand student
19 registration and school administration functions. **Exhibit 3**.

20 22. Even though prior to contract signing, three rounds of negotiation already occurred,
21 Defendant claimed that they cannot complete their Phase 1 work until they understand
22 Phase 2 tasks. Defendant asked Plaintiff to pay for Phase 2 estimation before completing
23 their work for Phase 1.

23. Plaintiff agreed to Defendant's request to modified pricing because it sounded like it was the same as the original PM Agreement, only more detailed.

24. On February 26, 2016, Plaintiff asked Defendant to clarify their billing and stated their must have delivery was the corporate website and two language features.

25. To demonstrate Defendant's progress, Defendant shared two files with Plaintiff. A file named App Wireframe, to show screen designs for Student Registration function to enroll as a class group for the paired-learning service, Study Buddy. **Exhibit 4**

26. Another google drive file named Wireframe, to show Parent Control Panel for the company website. **Exhibit 5.**

27. On or about April 21, 2016, Defendant requested from Plaintiff an additional 2078 hours to work due to development challenges, which according to Defendant's second proposal was approximately additional \$126,000 to complete the phase 2 development. Defendant claimed that the development challenge was significantly different from initial quote and called the additional hours required Phase 2 estimation. A copy of the Phase 2 estimation is shown as **Exhibit 6.**

28. On April 26, 2016, Plaintiff informed Defendant that she did not get next phase funding approval from her investors because the investors expected to see functional and potentially profitable product. Defendant needed to help her to show investors usable products before launch date, and language app had to be finished. Plaintiff was clear about her delivery requirement, "a functional and potentially profitable product" to include student registration, enrollment, and payment features.

29. On or about May 19, 2016, two months before the project was due, Igor Trandafilov, an employee of Defendant, presented Plaintiff with a delivery report, which detailed the features on the app and website that were complete and implemented. When

1 Plaintiff tested the functionality of these items, they, in fact, were not completed or
2 implemented. Additionally, there were various items that were marked “not completed” on
3 the delivery report. A true and correct copy of Defendant’s delivery report is attached
4 herein as **Exhibit 7**.

5 30. The app delivered by Defendant was unusable with no student registration and no
6 payment integration. Defendant billed for app icon but app icon was not implemented,
7 menu splash screen was billed but not implemented. The two language features were
8 completed, but one language feature had “For Test Only” on the screen. The other, Plaintiff
9 did a user testing with students, and they asked to remove Defendant recommended
10 restrictive score bar. The restrictive score bar limited children’s actions. The buttons would
11 not work until it is pressed at a certain sequence. Children hated it. **Exhibit 8** shows
12 Defendant’s delivered work.

13 31. Lastly, no Corporate website with eCommerce functionality was delivered, only
14 wireframe pictures shown. **Exhibit 5**

15 32. On June 1, 2016, Defendant sent Plaintiff an invoice to wrap up Picture Mandarin
16 project. The total invoice billed for Picture Mandarin project were \$77,269.40. After taking
17 away the two language feature, landing page modification, and Phase 2 estimation backlog,
18 there were \$15,009.40 remained, equivalent to 250 hours of extra development work left
19 to implement the student registration, menu screen, and corporate website with parent
20 control panel. According to PM Agreement 250 hours were exact number of hours needed
21 to finish the backend work, not the requested 2078 hours. **Exhibit 9** had all the invoices
22 charged for Picture Mandarin Project.

23 33. Meaning, Plaintiff did paid for the full development of a functioning language app
24 including app icon, student registration, and payment integration. Defendant billed but did

1 not implement the charged features. **Exhibit 10** demonstrated breakdown of the charges
2 and hours as quoted on PM agreement and on Picture Mandarin Backlog estimation hours.

3 34. Since Plaintiff needed to solicit more funding to cover the additional costs
4 requested by Defendant to complete the project, Plaintiff suspended development for future
5 phases. Plaintiff told Defendant to finish implementing the features already paid for under
6 the PM Agreement by stating that we should stick with what we agreed on, on April 27,
7 2016 email. It was agreed that Defendant would implement the student registration,
8 enrollment, and payment features after they finished Phase 2 Backlog estimation and had
9 a better understanding of the corporate website structure. By sticking with what we agreed
10 on, Plaintiff was asking Defendant to implement the missing features.

11 35. In order to solicit more funding, Plaintiff came up with another project. On or about
12 June 15, 2016, Plaintiff made sure Defendant knew that the new project, Friendship Diary
13 was part of the education ecosystem and that the purpose of this new project was to help
14 raise funds to pay for the overall education ecosystem as a whole, Picture Mandarin future
15 phases included.

16 36. Plaintiff wanted to develop a goal setting app where members could create support
17 groups to help achieve their goals. Plaintiff approached Defendant with her idea. Plaintiff
18 requested Defendant to create a prototype for the goal achieving app, Friendship Diary, to
19 demonstrate that Defendant had the ability to create usable apps.

20 37. A project research fee of \$9600 was charged to Plaintiff to yield an accurate quote
21 and to research potential development challenges, in order to avoid the billing quote
22 confusion in the education project. Defendant allowed Plaintiff to download the demo app
23 and it was sufficient to show the investors. **Exhibit 11** showed the prototype FD app.

1 38. This led to the parties entering into a second written agreement, the Friendship
2 Diaries Agreement (“FD Agreement”) on June 15, 2016. A true and correct copy of the FD
3 Agreement is attached herein as **Exhibit 12**.

4 39. Plaintiff and Defendant agreed to an initial budget of \$260,000.00 and required all
5 features to be completed and fully functional on both Android and iOS operating systems
6 within seven (7) months. *See* **Exhibit 12**.

7 40. On June 17, 2016 prior to returning the signed contract, Plaintiff had shared with
8 Defendant a new business model for FD. For development clarification, Plaintiff asked
9 Defendant to only concentrate on development of the MVP (minimum viable product), a
10 preliminary market ready app with goal achieving functionality, which was based on FD
11 Agreement and no modification added. Plaintiff would sign the existing FD Agreement
12 without any modification. Meaning, no payment system was requested to existing FD
13 agreement even though monetization models were heavily discussed.

14 41. On or about June 18, 2016, Plaintiff returned the signed FD contract and requested
15 Defendant to give an updated FD Backlog to be used for patent application, which would
16 include a point loyalty reward feature as it was part of the discussed monetization model.

17 42. On or about June 21, 2016, Plaintiff asked Defendant to resume PM project because
18 a new technology partner was acquired and there was progress with investment. The new
19 technology partner would allow Plaintiff to sell sensors that are compatible with lego
20 pieces. This would allow Plaintiff to sell lego toy lessons with her language classes.
21 Plaintiff delegated \$20,000 budget to resume education project. At the same time, Plaintiff
22 spelled out her desired monthly budget to around \$20,000 per month for Friendship Diary
23 software development.

1 43. Defendant needed a central place to access, view, edit, and share all of Plaintiff's
2 documents that were pertinent in creating Plaintiff's apps. Thus, Defendant created a
3 Google Share Drive, named "For the Client_FriendshipDiary" (the "FD Drive") to gain
4 Plaintiff's input and approval for software development. The Drive contained Plaintiff's
5 Friendship Diaries Backlog ("FD Backlog"). The backlogs were created to ensure
6 developmental and design consistency across all the apps. The FD Backlog was the primary
7 document of the Friendship Diaries App which all the features were transcribed to the FD
8 agreement. The Drive held all of its feature descriptions, system messages, business model
9 description, new function descriptions, meeting recording, graphic designs. Additionally,
10 the Drive contained the source codes for Picture Mandarin and all other relevant
11 documents.

12 44. On or about July 7, 2016, after gaining clarification and thorough understanding
13 about FD's business model, especially commercial account sponsorship, Defendant
14 recommended to move commercial account feature to next stage development because that
15 would require implementation of the point loyalty reward system and a payment system.
16 Plaintiff accepted Defendant's recommendation because adding a loyalty program and
17 payment system onto current agreement would again increase budget and time to deliver.

18 45. May to June was FD research stage for FD Backlog creation, late July to October
19 was Defendant's advanced progress period. Within three (3) months, by October 2016,
20 Defendant had used up \$216,000.00 out of the total \$260,000.00 budget allocated for the
21 FD Agreement. The bill was close to \$100,000 per month, that was five times more than
22 Plaintiff could handle, especially when Plaintiff still needed functional apps to solicit
23 funding. **Exhibit 14** has Plaintiff's payment timeline and all the invoices Defendant
24 charged for FD project

1 46. On or about October 2, 2016, apprehensive about Defendant's work product,
2 Plaintiff requested a third-party advisor from MIT Media Lab to verify the coding
3 generated by Defendant. When Plaintiff requested that Defendant share a functional and
4 operable version of the app, Defendant shared a version that was not functional. Plaintiff
5 questioned the discrepancy.

6 47. On or about October 4, 2016, Plaintiff wrote an email to confirm the reason
7 Defendant would not release the functional app to her because of the balance owed.
8 Defendant confirmed on October 8, 2016, that her calculations were correct and they did
9 acknowledge that they were withholding the app due to balance owed.

10 48. Defendant withheld the app because a balance of about \$163,000 was allegedly still
11 owed by Plaintiff. This put Plaintiff in a strenuous position because she could not receive
12 further funding from the investors without an operable app and could not get the app from
13 Defendant without paying the alleged balance owed.

14 49. Plaintiff did not get investor approval, continued to raise funding.

15 50. On October 19, 2016, Plaintiff asked Defendant to compile a list of implemented
16 features on FD app.

17 51. From November 2016 to February 2017, Plaintiff suspended development under
18 the FD Agreement to prevent more billing charges and to bring balance current.

19 52. On or about March 22, 2017, Defendant stated they could deliver the Android
20 version of the app, but the iOS version was going to take more time. Defendant then
21 requested a delivery deposit of \$19,000.00 for the Android version. Plaintiff made the
22 advance payment of \$19,000.00 in hopes that the final delivery of the app would be
23 forthcoming.
24

1 53. On or about April 4, 2017, Defendant assured Plaintiff in an email stating that they
2 would be able to deliver the iOS and Android version of the app by the projected deadline
3 without any further obstacles.

4 54. Thereafter, Plaintiff asked for all the source codes to the projects. Picture Mandarin
5 Source Code shared on April 14, 2017. On the same day, prior to her getting the source
6 code, Plaintiff wanted confirmation from Defendant that they would deliver according to
7 agreements for on time and on budget delivery. Defendant did not reply only shared Picture
8 Mandarin Source Code. Friendship Diary Source Code requested on the same day as PM
9 Source Code, but Defendant did not address the request.

10 55. On or about April 21, 2017, two weeks after its previous email, Defendant
11 requested another 1,045 hours, equivalent to an additional \$62,000.00 to complete the
12 project.

13 56. On or about April 27, 2017 Defendant wrote an email to Plaintiff stating they could
14 not meet the expected delivery deadline anymore.

15 57. On or about April 28, 2017, Plaintiff sent an email to Defendant to notify them of
16 contract termination and to completely cease all work being done under both Agreements.
17 Plaintiff mentioned that the cause for termination was usable products by deadline for both
18 projects but Defendant failed to deliver usable products.

19 58. On or about May 2, 2017, Defendant acknowledged and responded to Plaintiff's
20 email accepting the termination of the Agreements. Plaintiff confirmed on May 2, 2017,
21 was the official contract termination date for Picture Mandarin Agreement and Friendship
22 Diary Agreement. FD Source Code shared on May 4, 2017 after repeated request.
23
24

1 59. On May 10, 2016, within one month of all source code delivery, Plaintiff wrote an
2 email complained about useless source codes Defendant delivered and requested a refund
3 for unauthorized work.

4 60. Defendant did not deny the useless product delivery but included their work log of
5 254 hours of work from Oct 2016 to April 2017.

6 61. On the work log, it clearly stated that the app would crash if Diary icon was pressed
7 twice. On the work log, Defendant was still working on linking Facebook and Twitter
8 account while these function were a completed feature in Spring 2 Delivery Report on July
9 27, 2016.

10 62. PM Source Code still had no menu and login screen even though student
11 registration and menu splash screen design was shared and billed on April 16, 2016.
12 Company website design was shared and billed on April 20, 2016, one month before
13 Defendant gave their Delivery report. Plaintiff had asked Defendant to update PM source
14 code on December 19, 2016. On Defendant shared work log, Defendant did bill for PM
15 Work under FD work log on December 19, 2016. The PM source code delivered on April
16 14, 2017 still did not have student registration, menu screen, and payment integration.

17 63. By failing to produce functional apps for both Friendship Diary and Picture
18 Mandarin by the agreed upon deadline, Defendant failed to perform its obligations under
19 the Agreements and baselessly demanded additional payment from Plaintiff. As a result,
20 Plaintiff lost a considerable amount of her investors' trust and suffered real damages in an
21 amount to be proven at trial.

22 64. Defendant's failure to perform its obligations under the Agreements resulted in loss
23 to Plaintiff of about \$77,269.40 under the PM Agreement and \$246,655.35 under the FD
24 Agreement, totaling to about \$323,924.75 plus interest.

65. Defendant was originally hired to develop useful software to help Plaintiff secure investment funding. Instead, Defendant's poorly managed development pace for both projects made Plaintiff lost all her investments and had to find other funding solutions to fund their development. Her development cost doubled and lost all her resources, credibility, and partnerships.

Unfair Competition

66. Throughout the duration of the Agreements, Defendant was falsely claiming developmental challenges to request more money from Plaintiff.

67. Defendant published their own education software with ERP functionality when they had challenge developing the same software under PM agreement. The ERP (Enterprise Resource Planning) functionality, which is to better manage and streamline enterprise resources for schools (such as human resources management, school inventory management, and payroll management) were discussed in February 26, 2016 as a key function for the corporate website school licensing function. The ERP function was needed to pre-plan textbook ordering because oversea shipment can take a few months for delivery, and number of teachers needed to be hired depends on number of student registered. Defendant claimed that they could not complete the education license section due to their lack of understanding for website structure. Therefore, the only requirement under PM Agreement was for Defendant to complete parent control panel and eCommerce function to sell text books but not pre-plan ordering or staff management. ERP (Enterprise Resource Planning), the pre-plan ordering and staff management function and CRM (Customer

Relationship Management), parent notification for student progress and event notification functionalities were moved on to third phase development due to the complexity and challenges Defendant faced.

68. Plaintiff believed Defendant's claimed development challenges at the time. That was the reason why Plaintiff did not initially questioned Defendant's request for additional funding for the education project and gave extra time for Defendant to complete education ecosystem work.

69. But, in September 2016 Defendant published an education ERP solution to license to other schools. Publishing an education solution to license to schools, while still under contract with Plaintiff and billing close \$100,000 per month to Plaintiff, is egregious, intentional and in direct competition to the product Plaintiff hired them to develop. As Plaintiff approached Defendant to develop a learning education system that aimed to teach Mandarin to children ages four (4) through ten (10) from a parent/teacher directed self-learning program and to license the program to schools willing to use the system, Defendant's education ERP solution offered the features Defendant had trouble developing using PM agreement. Even Defendant's website advertisement showed the same target group of children ages 4-10, demonstrated direct competition against Plaintiff's business.

Exhibit 13.

70. For Friendship Diary Agreement, Defendant falsely claimed their completed features to rush to collect a quarter of million dollars but barely worked on the product.

71. On June 14, 2016, Defendant showed Plaintiff a prototype of the FD app with a "Goal" feature implemented. On August 29, 2016, Defendant confirmed to Plaintiff the "Goal" feature was implemented on the email. However, in April 2017, Defendant requested more money for the development of Notification to "Goal Activate" feature, even

1 though it was supposedly already implemented in August 2016 according to Project
2 Manager's email.

3 72. Friendship Diary app delivered on May 1, 2017. It showed that when trying to
4 create a Goal, message "Error, Invalid JWT Token" pops up. Then a notification with
5 "Goal Set Without Support Group" prompts user click on email or FaceBook link to access
6 contact list. However, even though the device had 4G connection, "No Internet
7 Connection" message still pops up. When moved to Friend List screen, it showed
8 "Something Went Wrong" again. The delivered Friendship Diary app is consistent with
9 Request For Additional Hours documentation that Facebook link and Twitter Account link
10 does not work and needed additional hours to fix it. It also showed on the work log that
11 engineers were trying to fix Facebook Link.

12 73. The Friendship Diary apps Defendant delivered were in fact unusable because it
13 failed at the very basic function of social networking to achieve a goal.

14 74. On May 10, 2017, Plaintiff stated on her email, Defendant had plenty of time to
15 inform her of actual development progress. Yet, Defendant repetitiously lied to her on the
16 delivery reports that social networking functions, Facebook & Email Link invitation to
17 Support Group Members were completed.

18 75. Defendant had the ability to deliver according to both agreements but deceived
19 Plaintiff of the challenges they faced to request additional funding, which led to
20 development projects paused and lost of investments for Plaintiff.

21 76. The two examples before demonstrated Defendant published projects that they
22 were contracted to develop but failed to deliver for Plaintiff. The following example will
23 show features that were shared with Defendant but was not included in the agreements due
24

1 to budget restraint. Defendant went on to published these features without Plaintiff's
2 knowledge.

3 77. Defendant spoke about their specialty feature, a blockchain loyalty rewards feature
4 on YouTube Webinar: Digital Transformation In Hospitality on July 19, 2019. Friendship
5 Diary as a goal achieving app, had overlapping feature with blockchain technology, such
6 as a decentralized system with a consensus algorithm, has virtual currency tokenization
7 usage with smart contract feature. Through these similarities, Defendant was able to create
8 a blockchain loyalty rewards feature for their hotel customer based on FD Backlog's
9 feature descriptions, which a loyalty program and payment system were discussed
10 originally but was not included in their delivery because of their development challenges.

11 78. Defendant broke down the hospitality digital transformation to stages, when all
12 stages are successfully implemented, their hotel customer would ultimately get an
13 ecosystem.

14 79. First stage was API integration with new website and app development. It means
15 to have a new feature integrated with both website and app so the feature is functional on
16 website as well as on app. In PM project, Defendant was hired to integrate language app
17 with corporate website to sell license to schools. The API integration function was never
18 completed for the language app with corporate website.

19 80. For their hotel customer, on information and believe, Defendant implemented
20 Friendship Diary screen design file, sp4_1.1_create_post.png for their customer's website
21 and hotel app. This screen had mood emoji, which would allow hotel customers to use app
22 to detect and adjust room lighting for mood control.

23 81. Defendant stated in the webinar that digital transformation second stage would be
24 Room control through app/tablet, which was what Plaintiff wanted to do with her projects.

1 using cellphone to connect to IoT (Internet of Things) devices, such as smart speaker
 2 Alexa, to enhance user experience. Plaintiff requested on July 5, 2016 to have FD app
 3 compatible with XiaoMi MI 5, because MI 5 is a cellphone compatible with smart devices
 4 such as speaker, wrist band, and fan.

5 82. Her specific usage, as she disclosed to Defendant on June 20, 2016, was to connect
 6 lego pieces with sensors to allow children to make movable objects such as a movable lego
 7 car.

8 83. Defendant replicated the building of an ecosystem through using Friendship Diary
 9 screen designs to create functions for a new hotel app, use the interface to connect to smart
 10 devices, build enhanced user experience through personalization data collection, and
 11 finally reward their customer with a blockchain loyalty program.

12 84. On information and believe, the main reason after contract termination, Defendant
 13 continues to share and use google drive's proprietary content ,was to use the information
 14 Plaintiff shared to create softwares to increase their profitability.

15 16 **Misappropriation of Plaintiff's Confidential Information**

17
 18 85. Section 4 of the Terms and Conditions of the Agreements strictly lays out the rules
 19 for confidentiality and requires the parties to refrain from disclosing confidential
 20 information regarding the work without the other party's written consent. **Exhibit 2 &**
 21 **Exhibit 12.** Additionally, Section 4.3 states that "[u]pon termination of Service Schedule
 22 or this Agreement, the recipient of Confidential Information shall "promptly deliver to the
 23 other Party or destroy any and all such information in its possession or under its control,
 24 and any copies made thereof which the recipient of said information may have made,

1 except as the Parties by prior express written permission have agreed to retain.” **Exhibit 2**
2 **& 12**

3 86. As noted above, in order for Defendant to have access to all of Plaintiff’s documents
4 and pertinent information to create the apps, Defendant created a Google Share Drive
5 (“Drive”). The Drive contained Plaintiff’s Friendship Diaries Backlog (“FD Backlog”).
6 The FD Backlog was the primary document of the Friendship Diaries App and held all of
7 its software descriptions, feature descriptions, application descriptions, page designs, new
8 function descriptions, advertisement function detail and graphic design. The backlogs were
9 created to ensure developmental and design consistency across all the apps. Additionally,
10 the Drive contained the source codes for Picture Mandarin and Friendship Diaries, and all
11 other relevant documents.

12 87. After termination of both Agreements on May 2, 2017, Section 4.3 states Defendant
13 was required to “promptly deliver to the other Party or destroy any and all such information
14 in its possession or under its control, and any copies made thereof which the recipient of
15 said information may have made, except as the Parties by prior express written permission
16 have agreed to retain.”

17 88. Instead of following its obligation under the Agreements, Defendant started to
18 expand the Drive’s accessibility to be shareable and viewable by unrelated third parties,
19 without Plaintiff’s prior written consent. According to section 4.2 of the agreements, “the
20 Party receiving Confidential Information will not at any time disclose to any person or use
21 for its own benefit or the benefit of anyone, Confidential information of the other Party
22 without the prior written consent of said Party. Each Party shall limit disclosure of
23 Confidential Information to its employees or agents who have a need to know related to
24 the Parties’ business.

89. A second demand letter was sent to Defendant's legal counsel on September 4, 2020 for Defendant to stop sharing her proprietary information. The files were created in 2016, four years of access was not enough. Instead of restricting access directly, on September 21, 2020, Kateryna Polishchuk, changed the drive's permission from only CEO can view, to "Anyone in the group with this link can comment". Finally, on October 13, 2020, one month after anyone from the group can comment, Root Main Account owner finally restricted access of 103 items to a deleted user. A deleted user should not have access to the drive. Defendant did not tighten its control after Plaintiff made the demand request. On the contrary, Defendant loosened its control, to allow its employees to comment and edit the files for over one month before actually restricting access.

90. Before project initiation, Plaintiff advised Defendant to limit the actual persons working on the projects and had access to the Drive by including this statement on the front page of the project description quote documentation, "We would like to get a price quote from Intellectsoft regarding launching Picture Mandarin LLC, a startup. We are disclosing proprietary company information, essentially our business model. Therefore, we do expect Intellectsoft and all its prospect contractors, and current employees to obey the Non-disclosure agreement." Defendant had agreed to obey the NDA by signing the official NDA and return it to Plaintiff on the same day she shared her proprietary information. **Exhibit 1**. The Drive was only meant to be shared with individuals who were working directly on the app for Plaintiff. Any unauthorized users were prohibited. Official Contract Termination Date was mutually agreed on May 2, 2017. However, proprietary information in the drive was shared with Defendant's Sales Team in US, UK, and Norway on May 24, 2017 three weeks after contract termination, and continuously to New Hires in 2020.

1 91. The new hires include Vladimir Vahromovs, who was announced to be new CEO
2 of Intellectsoft, on their blog, on January 17, 2020. Prior to that, according to the blog
3 announcement, Vladimir Vahromovs had already been working in Intellectsoft for four
4 years. Vladimir was not given control to Plaintiff's drive content initially, but after he
5 became CEO, he was sharing Picture Mandarin source code, made a copy of Friendship
6 Diary's Request for Additional Hours and share the document. This is indication that
7 Defendant actually do control who can access, edit, and distribute the Drive's content. In
8 addition, Intellectsoft is not in the business of Chinese language learning, there is no reason
9 for its new CEO to share Picture Mandarin Source Code whose only completed function
10 for the project was 2 language features.

11 92. Other key executives who had access was Vladislav Kirillov, Defendant's Sales
12 Director, who was invited to attend initial project question and answer session on
13 November 13, 2015. On March 5, 2018, Vlad Kirillov, changed the Drive's 'permissions'
14 so that "anyone at Intellectsoft with the link" can view or edit the contents of the Drive.

15 93. Michael Brothers, who was Defendant's UK Director, who had access to Plaintiff's
16 file and wrote the newsletter about Defendant's own education ERP software, the school
17 license software that Defendant completed for themselves but was a development challenge
18 in Plaintiff's project.

19 94. Defender's key executives: Co-Founder, Artem Kozel, Alexander S, and new CTO,
20 Andriy Kashcheyev could share, edit, and access Plaintiff's drive. Alexander S was given
21 authority to edit FD Backlog on May 24, 2017. On March 5, 2018 Artem Kozel shared
22 224 items with Tetiana, Senior Vice President of Engineering. Tetiana's access to the drive
23 was restricted on October 8, 2019 including file names: Copy of 4.7_My_Goals_Info, Copy
24

1 of 3.2_Create_Post_file, Copy of 9_viewed_goal. This indicates that Defendant made
2 copies of Plaintiff's files, distributed, then restricted access to the copied files.

3 95. On March 25, 2019, new CTO Andriy Kashcheyev was given access to file name
4 sp4_1.1_create_post.png. On information and believe, Friendship Diary screen design
5 sp4_1.1_create_post.png was used on Defendant's hotel project led by their new CTO. On
6 July 19, 2019, Andriy Kashcheyev was speaker for YouTube Webinar: Digital
7 Transformation in Hospitality.

8 96. From December 24, 2019 to March 26, 2020, Tim Kozak, Defendant's Chief
9 Solution Architect and Chief Blockchain Evangelist shared a total of 1197 items from the
10 Drive to Delivery Manager Bakhtior Aripov, and Diana Kocheva Business Development
11 Manager & Head of Healthcare Digitization Service respectively. Diana Kocheva and Tim
12 Kozak were the only two speaker for YouTub Webinar: Digital Health Strategy:
13 Leveraging Emerging Technologies in Healthcare published on June 5, 2020.

14 97. Plaintiff's confidential information and contents contained on the Drive continued
15 to be shared through September 2020. There was no reason for Defendant's employees and
16 other non-related third parties to continue to access, edit, or share any of the contents
17 located on the Drive after termination of the Agreements. As evidenced above, Defendant
18 was in strict violation of Section 4 of the Terms and Conditions under the Agreements. See
19 **Exhibits 1 and 2.**

20 98. Additionally, Section 7.2 of the Terms and Conditions of the Agreements stipulate
21 that "[Defendant] cannot sell, transfer, publish or otherwise make the Work Product
22 available to third parties." See **Exhibits 1 and 2.** Further, "[a]ny rights granted to
23 [Defendant] under this Agreement shall not affect [Plaintiff's] exclusive ownership of the
24 software package." *Id.* Although Section 7.2 also provides that "[Defendant] can publish

description of the finished projects for marketing purposes,” it is “obliged to include the reference to [Plaintiff] as an owner of any and all intellectual property created during the term of this agreement.” *Id.* Accordingly, the Agreements made clear that Plaintiff was to maintain all ownership rights in the Friendship Diaries App and Picture Mandarin project.

99. On information and belief, Defendant has utilized Plaintiff’s intellectual property in many apps that it has subsequently developed, including, but not limited to, XMedHealth and MobileRoadie.

Plaintiff’s ‘297 Patent

100. Plaintiff developed the idea of Education Learning Management Ecosystem, which would consist of a central database that can integrate with various devices and apps to collect data.

101. On or about July 17, 2017, Plaintiff filed a U.S. Patent application for the ‘297 Patent, which was entitled “Learning Progress Monitoring System.” It was assigned Application No. 15/651,013.

102. On or about March 10, 2020, the United States Patent and Trademark Office (“USPTO”) duly and legally issued the ‘297 Patent to Plaintiff. A true and correct copy of the ‘297 Patent is attached hereto as **Exhibit 14**.

103. The key features to the Patent are:

104. “An executing device for outputting a goal signal, a stage number signal, and a completion time signal associated with a learning goal;

105. A plurality of monitoring devices connected to the server and receiving the completion data.

106. The server determines whether any of the monitoring devices outputs an approval signal. When the monitoring device outputs the approval signal, the server determines whether the number of the approval signals reaches a satisfaction threshold,

107. The learning progress monitoring system of claim 4, wherein there are three levels of the level medals, and the server stores the level medals of different levels to the account corresponding to the number of the at least one suggested award point". A true and correct copy of the patent is **Exhibit 14**.

108. On or about June 5, 2020, Plaintiff discovered that, notwithstanding Plaintiff's exclusive statutory right to use the '297 Patent and all similar variations thereof, Defendants reproduced the Learning Progress Monitoring System or a substantially equivalent variation thereof, for the Defendant's own use and sale, without Plaintiff's consent, which came to be known as "XMedHealth" (the "Infringing App").

109. According to XMed's website description: "Xmed's goal is to unite the health and wellness industry on one multifaceted social platform - one unified community. Operating with the direct focus to grow and sustain a community of thinkers, experts, innovators, dreamers, and believers focused on growth and well being. A place where medical experts can teach and students can learn, where users feel comfortable and safe, a community of personal and societal improvement. Together we are Xmed. Together we can expand your wellness." It satisfied Learning Progress Monitoring System's requirement: learning health topic as a goal, and their description clearly stated that Xmed is a place where medical experts can teach and students can learn.

110. "A plurality of monitoring devices connected to the server and receiving the completion data" is demonstrated by having a Medical Expert, a Motivator, and community

1 supporters serve as evaluators with multiple devices to receiving the completion of data in
2 XMed to help monitor the learning progress.

3 111. According to Apple Store App Preview Description, “Xmed provides a real time
4 solution. Our platform allows remedies from both certified medical professional and the
5 community on the application. Each remedy has a rating from other users and medical
6 professional so you know you can trust the information”. The ratings function satisfied the
7 patent requirement “the server determines whether any of the monitoring devices outputs
8 an approval signal that reaches a satisfaction threshold” is met with XMed’s other
9 community users, and experts for approval through rating.

10 112. Another key feature for Xmed description, “Xmed helps users tackle health issues
11 in a fresh, familiar, and less stressful way. The carefully thought-out flow of the app ensures
12 the user’s issue is eventually resolved. Meanwhile, the eye-pleasing design, rich
13 animations, and gamification with a leveling up system and many achievements facilitate
14 the experience while also providing a pleasant distraction until the search for the cure is
15 over.” XMed’s usage of a token leveling up gamification feature to learn about a health
16 topic satisfied the patent requirement of “a stage number signal, and a completion time
17 signal associated with a learning goal and the server stores the level medals of different
18 levels to the account corresponding to the number of the at least one suggested award
19 point.”

20 113. App Store Preview describes, “We love to see the community engage, therefore we
21 regard that engagement with a very unique reward system using tokens that will unlock
22 additional features on our upcoming updates of the application.” This description further
23 solidified that Xmed has a reward system using tokens, which operates very similarly to a
24 point reward system required by the patent: “The learning progress monitoring system of

1 claim 3, wherein after computing the number of award points N and storing the N award
2 points to the account, the server further stores a level medal corresponding to the number
3 of the suggested award points to the account.”

4 114. Defendant’s Infringing App mimics a combination of several features of Plaintiff’s
5 Learning Progress Monitoring Systems as explained above. On Defendant’s XMed Case
6 Study Page, it described the app as “a unique mobile ecosystem that helps users diagnose
7 health issues with the power of artificial intelligence and social networking.” Plaintiff had
8 explained to Defendant that Friendship Diary is a unique education ecosystem that helps
9 users diagnose learning issues with the power of Artificial Intelligence and social
10 networking through a personalized learning experience chart. More specifically,
11 Friendship Diary is a social networking app that helps learners achieve goals with
12 supporters, find their learning obstacles through analyzing the problem from actions taken,
13 people’s comment, self-recordings, and diary descriptions. The later half of the description,
14 “find their learning obstacles through analyzing the problem from actions taken, people’s
15 comment, self-recordings, and diary descriptions,” were the data collection feature to build
16 the AI function Plaintiff initially hired Defendant to develop. Friendship Diary’s carefully
17 thought-out design flow was the AI machine learning model Plaintiff had shared with
18 Defendant.

19 115. The technical information of the ‘297 Patent was included in the Drive to which
20 Defendant and its employees had access to.

21 116. Friendship Diary app, as the actual system for which ‘297 Patent was based on, as
22 an actual app has much more detail. Plaintiff elaborated the point reward feature mentioned
23 in the patent to Defendant as its business model, also as a financial system with
24

decentralization, virtual currency with smart contract and a consensus algorithm, which could be developed as blockchain technology.

117. On information and belief, Defendant utilized the Friendship Diaries features and interface to develop Defendant's blockchain technology.

** Learning Progress Monitoring System, or more commonly known as Friendship Diary app, is applicable to Blockchain technology due to 5 main overlapping elements:

Overlapping Elements	Blockchain Technology	Friendship Diary App
Decentralized Peer-to-Peer Network	Requested transaction is broadcast to a P2P network consisting of Nodes (a device on a server). The nodes (multiple devices) validate the transaction and the user's status. No central agency involvement, it is a decentralized system.	When a goal is created, it is uniformly announced to Support Group Members. There is no central governing agency. It is solely governed by its participants, a decentralized system
Virtual Currency & Tokenization Usage	Usage of currency tokens such as <i>Bitcoin</i> , the original cryptocurrency with largest market cap, or <i>Ether</i> , the second largest cryptocurrency that runs on Ethereum platform. Allows <i>Token-Curated Registry</i> (TCR), use utility tokens to represent votes for a list.	Friendship Points as a virtual currency or token, can be used for group challenge, donated from support group members or represent sponsored amount
Smart Contract	Ethereum feature, a digital contract with the security coding of the blockchain. A smart contract has details and permissions written in code that require an exact sequence of events to take place to trigger the agreement of the terms mentioned in the smart contract. It can also include the time constraints that can introduce deadlines in the contract.	Sponsors specify the requirements, such as number of badges and points, needed to get the sponsored amount. Only when the requirement is satisfied, then the Goal Setter can receive the agreed upon FD points. It is a contract between Sponsor and Goal Setter with time constraint.
Consensus Algorithm: Proof of Work	In Bitcoin, the Miners compete to solve a difficult puzzle using computer computation power. The first Miner who solves that puzzle gets rewarded with more Bitcoins. It requires lots of electricity so it is energy inefficient.	Goal Setter must provide proof to convince the Support Group Members (SGM) for each task completion. Minimum passing vote for task completion is 5 votes from SGM
Consensus Algorithm: Proof of Stake	In Ethereum, an alternate method is the algorithm randomly chooses the winner based on the amount they have staked. Those who stake are going to want to help keep the network secure by doing things correctly. If a forger attempted to hack the network or process malicious transactions, then they would lose their entire stake. The reward for validating the block is through a transaction fee.	Sponsors stake their donation in the amount they want to sponsor. When a Goal Setter completed his goal through support group members votes, then the amount gets transferred to goal setter as a reward. A transaction fee was charged to hold the payment.

118. Additionally, Defendant incorporated Friendship Diaries financial features into Mobile Roadie, an app creation tool with content management capabilities. Prior to acquisition, Mobile Roadie was known for landing famous musician such as Madonna, Taylor Swift, and Adele. By adding a blockchain loyalty rewards program to the app

1 creation tool, allowed Defendant to position themselves as innovator in the financial
2 industry. Thus, landed many more large financial projects and profited from it.

3
4
5 **FIRST CAUSE OF ACTION**
6 **(Infringement of the ‘297 Patent)**

7 119. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
8 paragraphs of its Complaint as though fully set forth herein.

9 120. The ‘297 Patent is presumed valid pursuant to 35 U.S.C. § 282.

10 121. Rather than investing their own time and effort to innovate and develop their own
11 systems, Defendants instead decided to copy and incorporate Plaintiff’s designs, methods,
12 and style in the Infringing App.

13 122. Defendants Infringing App has no substantial non-infringing uses.

14 123. On or about July 6, 2020, Plaintiff issued a cease-and-desist letter to Defendants
15 advising them of Plaintiff’s patent rights and demanding that Defendants cease their use of
16 Plaintiff’s ‘297 Patent. Despite Plaintiff’s repeated demands, Defendants have refused to
17 discontinue their sale of the Infringing App and thus, continues to intentionally and
18 surreptitiously infringe upon Plaintiff’s ‘297 Patent.

19 124. Defendants, through their agents, employees, and servants, have and continue to
20 directly infringe, engage in acts of contributory infringement, and/or induce the
21 infringement of the ‘297 Patent, by directly and/or indirectly making, using, selling,
22 offering for sale, and/or importing the Infringing App, some of which are labeled
23 “XMedHealth,” having a design that is substantially similar to the Learning Progress
24

1 Monitoring System disclosed in the '297 Patent. Defendants' infringing activities violate
2 35 U.S.C. § 271.

3 125. Defendants' acts of infringement of the '297 Patent were undertaken without
4 permission or license from Plaintiff.

5 126. Plaintiff is informed and believes, and thereon alleges, that Defendants
6 infringement of the '297 Patent has been and continues to be intentional, deliberate, willful,
7 and without regard to Plaintiff's rights. At a minimum, Defendants had knowledge of the
8 '297 Patent through direct communications with Plaintiff via email and the shared Drive.

9 127. Plaintiff is informed and believes, and thereon alleges, that as a direct and
10 proximate result of Defendants infringement of the '279 Patent, Defendants have derived
11 and received gains, profits, and advantages in an amount to be proven at time of trial, but
12 which Plaintiff believes are not less than the sum of \$1,000,000.00.

13 128. As a direct and proximate result of Defendant's infringement of the '279 Patent,
14 Plaintiff has sustained damages in an amount to be proven at time of trial, but which
15 Plaintiff believes are not less than the sum of \$1,000,000.00.

16 129. Due to the aforesaid infringing acts, Plaintiff has suffered and will continue to
17 suffer great and irreparable injury from Defendant's infringement of the '279 Patent.
18 Plaintiff has no adequate remedy at law and is entitled to an injunction to prevent
19 Defendants' further use of the '279 Patent.

20 **SECOND CAUSE OF ACTION**
21 **(Theft of Trade Secrets, 18 U.S.C. § 1832)**

22 130. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
23 paragraphs of its Complaint as though fully set forth herein.
24

1 131. Defendants, through their agents, employees, and servants, have and continue to
2 directly steal, or without authorization appropriate, or induce the misappropriation of
3 Plaintiff's trade secrets.

4 132. Based on an examination of records on the Drive, and on information and belief,
5 Defendants have misappropriated at least the following trade secrets from Plaintiff: (a) The
6 Educational Ecosystem developed by Plaintiff, and (b) Plaintiff's Business Model
7 Marketing features, such as the blockchain loyalty rewards feature, Voting for Rewards,
8 Commercial Account Sponsorship Subscription and Group Challenge Campaigns.

9 133. These items are protectable trade secrets under 18 U.S.C. § 1839 because Plaintiff
10 took reasonable measures to keep such information secret, such as limiting access to
11 employees of Defendant on the Drive. Further, Plaintiff does not and did not consent to the
12 use of any of her trade secrets by anyone other than authorized users who were established
13 at the beginning of work on the project.

14 134. Additionally, Plaintiff's trade secrets derive independent economic value, actual or
15 potential, from not being generally known to, and not being readily ascertainable through
16 proper means by, another person who can obtain economic value from the disclosure or
17 use of the information.

18 54. On information and belief, Defendant's theft of Plaintiff's trade secrets goes well
19 beyond the specific examples identified here, as Plaintiff will be able to better ascertain
20 through discovery.

21 55. Defendant's misappropriation was intentional, knowing, willful, malicious,
22 fraudulent, and oppressive. Defendant attempted and continues to attempt to conceal its
23 misappropriation.
24

1 56. On information and belief, if Defendants are not enjoined, they will continue to
2 misappropriate and use Plaintiff's trade secret information for their own benefit and to
3 Plaintiff's detriment, and continue to disseminate Plaintiff's trade secrets to potential
4 investors or other third parties.

5 57. As the direct and proximate result of Defendant's conduct, Plaintiff has suffered
6 significant damages, in an amount to be proven at trial. Plaintiff demands (a) monetary
7 damages, in an amount no less than \$1,000,000.00, (b) exemplary damages in an amount
8 not more than two times the amount of its compensatory damages pursuant to 18 U.S.C. §
9 1836(b)(3)(C), and (c) attorneys' fees pursuant to 18 U.S.C. § 1836(b)(3)(D).

10 58. Notwithstanding its entitlement to monetary relief, Defendants' theft of Plaintiff's
11 trade secrets have also caused and will continue to cause irreparable injury to Plaintiff if
12 not restrained by this Court. Plaintiff has no adequate remedy at law, and therefore seeks
13 preliminary and permanent injunctive relief under 15 U.S.C. § 1116. Plaintiff's business
14 operates in a competitive market and will continue suffering irreparable harm absent
15 injunctive relief.

16 59. An injunction is necessary to prevent any further misappropriation or unauthorized
17 use by Defendants of Plaintiff's trade secrets. Plaintiff requests that the Court order
18 Defendants to immediately destroy, remove, or discard any and all of Plaintiff's trade
19 secrets saved on any computers, systems, drives, emails or storage accounts of Defendants
20 and prohibit Defendants from further disseminating Plaintiff's trade secrets and/or any such
21 unauthorized use Plaintiff's trade secrets.

22 **THIRD CAUSE OF ACTION**
23 **(Violation of California Uniform Trade Secrets Act, Cal. Civ. Code § 3426 et seq.)**

1 60. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
2 paragraphs of its Complaint as though fully set forth herein.

3 61. Defendants, through their agents, employees, and servants, have and continue to
4 directly steal, or without authorization appropriate, or induce the misappropriation of
5 Plaintiff's trade secrets.

6 62. Based on an examination of records on the Drive, and on information and belief,
7 Defendants have misappropriated at least the following trade secrets from Plaintiff: (a) The
8 Educational Ecosystem developed by Plaintiff, and (b) Plaintiff's Business Model
9 Marketing features, such as the blockchain loyalty rewards feature, Voting for Rewards,
10 Commercial Account Sponsorship Subscription and Group Challenge Campaigns.

11 63. These items are protectable trade secrets under Cal. Civ. Code § 3426(d)(2) because
12 Plaintiff took reasonable measures to keep such information secret, such as limiting access
13 to Defendants on the Drive. Further, Plaintiff did not and does not consent to the use of any
14 of her trade secrets by anyone other than authorized users.

15 64. Additionally, the trade secrets derive independent economic value, actual or
16 potential, from not being generally known to, and not being readily ascertainable through
17 proper means by, another person who can obtain economic value from the disclosure or
18 use of the information.

19 65. On information and belief, Defendants' misappropriation of Plaintiff's trade secrets
20 goes well beyond the specific examples identified here, as Plaintiff will be able to better
21 ascertain through discovery.

22 66. Defendants' misappropriation was intentional, knowing, willful, malicious,
23 fraudulent, and oppressive. Defendants have attempted and continue to attempt to conceal
24 their misappropriation.

1 67. On information and belief, if Defendants are not enjoined, they will continue to
2 misappropriate and use Plaintiff's trade secret information for their own benefit and to
3 Plaintiff's detriment, and continue to disseminate Plaintiff's trade secrets to potential
4 investors or other third parties.

5 68. As the direct and proximate result of Defendants' conduct, Plaintiff has suffered
6 actual loss and significant damages, in an amount to be proven at trial. Plaintiff demands
7 (a) monetary damages caused by the unjust enrichment, in an amount no less than
8 \$1,000,000.00, (b) exemplary damages in an amount two times its compensatory damages,
9 pursuant to Cal. Civ. Code § 3426.3(c), and (c) attorneys' fees, pursuant to Cal. Civ. Code
10 § 3426.4.

11 69. Notwithstanding its entitlement to monetary relief, Defendants' theft of Plaintiff's
12 trade secrets also have caused and will continue to cause irreparable injury to Plaintiff if
13 not restrained by this Court. Plaintiff has no adequate remedy at law, and therefore seeks
14 preliminary and permanent injunctive relief under Cal. Civ. Code § 3426.2. Plaintiff's
15 business operates in a competitive market and will continue suffering irreparable harm
16 absent injunctive relief.

17 70. An injunction is necessary to prevent any further misappropriation or unauthorized
18 use by Defendants of Plaintiff's trade secrets. Plaintiff requests that the Court to order
19 Defendants to immediately destroy, remove, or discard any and all of Plaintiff's trade
20 secrets saved on any computers, systems, drives, emails or storage accounts of Defendants
21 and prohibit Defendants from further disseminating Plaintiff's trade secrets and/or any such
22 unauthorized use Plaintiff's trade secrets.

23 **FOURTH CAUSE OF ACTION**
24 **(Intentional Interference with Prospective Economic Advantage)**

1 71. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
2 paragraphs of its Complaint as though fully set forth herein.

3 72. Plaintiff had a reasonable probability of future business opportunities and economic
4 benefit in connection with: (a) its relationships with its investors; (b) its relationship with
5 customers; and (c) partners in the education development industry.

6 73. Defendants had knowledge of such opportunities and intentionally interfered with
7 such opportunities in violation of, among others, California Business & Professions Code
8 § 17200.

9 74. Defendants committed these tortious acts with deliberate and actual malice, ill-will,
10 and oppression in conscious disregard of Plaintiff's legal rights.

11 75. Defendant's actions have disrupted Plaintiff's relationships and business
12 opportunities with her investors, customers and partners.

13 76. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
14 damages, in an amount to be proven at trial.

15 **FIFTH CAUSE OF ACTION**
16 **(Negligent Interference with Prospective Economic Advantage)**

17 77. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
18 paragraphs of its Complaint as though fully set forth herein.

19 78. Plaintiff had a reasonable probability of future business opportunities and economic
20 benefit in connection with: (a) its relationships with its investors; (b) its relationship with
21 customers; and (c) partners in the education development industry.

22 79. Defendants had knowledge of such opportunities and knew, or should have known,
23 that if they did not act with due care, their actions would interfere with such opportunities
24 and cause Plaintiff to lose the economic benefit of such relationships.

1 80. Defendants have acted negligently and have disrupted Plaintiff's relationships and
2 business opportunities with its customers and investors in violation of, among others,
3 California Business & Professions Code § 17200.

4 81. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered
5 damages in an amount to be proven at trial.

6 **SIXTH CAUSE OF ACTION**
7 **(Intentional Breach of Fiduciary Duty and Duty of Loyalty)**

8 82. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
9 paragraphs of its Complaint as though fully set forth herein.

10 83. As a contractor with Plaintiff, and given the duties and obligations they had
11 accepted toward Plaintiff, and in light of the trust that Plaintiff had placed in them,
12 Defendants owed Plaintiff an undivided loyalty and was obligated to act as her fiduciary
13 with the utmost good faith, and in the best interests of Plaintiff. Defendants employed and
14 supervised a team of multiple engineers and were responsible for the project's budget for
15 Plaintiff.

16 84. Plaintiff placed her trust and confidence in Defendants and expected them to act
17 with the utmost good faith toward Plaintiff in developing her mobile app and website.

18 85. Defendants did not perform their duties owed to Plaintiff under the Agreements,
19 acted in conflict of interest by engaging in business for their own account, and attempted
20 to conceal their improper conduct from Plaintiff.

21 86. Defendants knowingly and willingly breached their fiduciary duty and duty of
22 loyalty to Plaintiff by misappropriating Plaintiff's trade secrets, making efforts to cover up
23 their conduct, and by obstructing and failing to be fully forthcoming or otherwise
24 cooperative in Plaintiff's efforts to develop a mobile app they were contracted to develop.

1 87. As a direct and proximate result of Defendants' disloyalty to Plaintiff and breach
2 of their duties, Plaintiff has been and continues to be harmed. Plaintiff is entitled to its
3 damages, in an amount to be determined at trial but not less than \$1,000,000.00, as well as
4 disgorgement from Defendants, and the forfeiture and return of all monies and
5 compensation paid to them during their period of disloyalty, in an amount to be determined
6 at trial.

7 88. Plaintiff is further entitled to injunctive relief against Defendant and all those acting
8 in concert or participation with them, remedying their past improper conduct, and
9 preventing such conduct in the future.

10 89. Defendant acted in a wanton, willful, and outrageous manner in breaching their
11 fiduciary duties and duty of loyalty to Plaintiff. Defendant's conduct as alleged above was
12 outrageous, demonstrating an evil motive and a reckless indifference to Plaintiff's rights,
13 entitling Plaintiff to enhanced and/or punitive damages in an amount to be proven at trial,
14 but no less than \$2,000,000.00.

15 90. Plaintiff's remedy at law is inadequate to compensate her for the harm Defendant
16 has done. Plaintiff therefore seeks, in addition to damages, temporary, preliminary, and
17 permanent injunctive relief to recover and protect her trade secrets and to protect other
18 legitimate business interests. Plaintiff's business operates in a competitive market and will
19 continue suffering irreparable harm absent injunctive relief.

20 91. Unless restrained, Defendant will continue to inflict irreparable injury upon
21 Plaintiff through their violations of their fiduciary duties and duty of loyalty to Plaintiff.
22 Accordingly, Plaintiff is entitled to preliminary injunctive and injunctive relief preventing
23 Defendant from continuing to misuse and/or misappropriate Plaintiff's property or from
24 otherwise engaging in acts detrimental to Plaintiff.

SEVENTH CAUSE OF ACTION
(Breach of Written Contracts)

92. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned paragraphs of its Complaint as though fully set forth herein.

93. As alleged above, Plaintiff and Defendant entered into two validly written Agreements.

94. Plaintiff gave valuable consideration under the Agreements to Defendant, and Defendant received approximately \$326,655.35 for work done under the Agreements.

95. Defendant breached the PM Agreement by delivering an unusable app lacking multiple features required by the Agreements.

96. Defendant breached the FD Agreement by going approximately \$62,000.00 over the budget and attempting to modify the original deadline by pushing it out three (3) additional months.

97. Plaintiff did not discover this breach until April 28, 2017, when Defendants demanded more money, and asked for another extension on the deadline to complete the project.

98. Defendants' multiple delays, constant requests for more money, and no showing of a useable product gave Plaintiff no choice but to terminate both Agreements.

99. Plaintiff has fully performed all her obligations under the agreements, including paying Defendants nearly half a million dollars in compensation.

100. Defendants breached and threatened to continue to breach the Agreements by maintaining possession of Plaintiff's confidential property, continuously accessing said property, and misappropriating Plaintiff's trade secrets.

101. Defendants' breaches of the Agreements have caused damages to Plaintiff, including, but not limited to, the loss of her investment, loss of value of Plaintiff's trade secrets, and loss of future investment opportunities. As a result, Plaintiff is entitled to damages in an amount to be determined at trial, but no less than \$10,000,000.00.

102. Defendant agreed in both the PM Agreement and FD Agreement that "...a breach of its obligations under this Section may cause harm to the other Party for which monetary damages are not a sufficient remedy. In such event the Parties understand and agree that the non-defaulting Party shall be entitled to seek to obtain from a court of appropriate jurisdiction immediate injunctive or other equitable relief to which it may be entitled under the circumstances in addition to other remedies allowed under this Agreement and under applicable law." As a result of any one of these breaches of the Agreements, Plaintiff has been injured and faces irreparable injury. Plaintiff is threatened with losing investments, customers, her competitive advantage, and her trade secrets in amounts which may be not be possible to determine, unless Defendants and each of them is enjoined and restrained by order of this Court.

EIGHTH CAUSE OF ACTION
(Breach of the Covenant of Good Faith and Fair Dealing)

103. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned paragraphs of its Complaint as though fully set forth herein.

104. Plaintiff and Defendants are parties to a valid and binding agreement.

105. Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement. This implied covenant of good faith and fair dealing requires that no party do anything that will have the effect of impairing, destroying, or injuring the rights of the other party to receive the benefits of their agreement. The covenant

1 implies that in all contracts, each party will do things reasonably contemplated by the terms
 2 of the contract to accomplish its purpose. The covenant protects the benefits of the contract
 3 that the parties reasonably contemplated when they entered into the agreement.

4 106. Defendants breached the covenant of good faith, and unfairly and intentionally
 5 interfered with Plaintiff's right to receive the benefits of the Agreement by, inter alia,
 6 failing to make reasonable efforts to develop and build a program, by delaying, by
 7 demanding more funds and resources when they had no good faith purpose to make such
 8 demands, by misappropriating Plaintiff's trade secrets to uninvolved third parties, and
 9 failing to disclose conflicts of interest.

10 107. As a direct and proximate result of Defendant's breaches, Plaintiff has suffered
 11 damages in an amount to be determined according to proof at trial, not less than
 12 \$1,000,000.00.

13 **NINTH CAUSE OF ACTION**
 14 **(Negligent Misrepresentation)**

15 108. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned
 16 paragraphs of its Complaint as though fully set forth herein.

17 109. Plaintiff alleges that defendant, orally and in writing, represented to Plaintiff that it
 18 would be able to provide a useable app that complied with Plaintiff's specifications and
 19 requirements.

20 110. Through conduct described herein, Defendant had no reasonable basis for believing
 21 these representations were true when it made them to Plaintiff. Indeed, Defendant made
 22 these representations recklessly, carelessly, and negligently, in order to induce Plaintiff to
 23 pay more money towards the projects.
 24

111. Through conduct described herein, Plaintiff reasonably, justifiably, and reasonably relied on these false representations.

112. As a direct and proximate cause of Defendant's negligent misrepresentations, Plaintiff incurred hundreds of thousands of dollars in damages, including, but not limited to (i) lost of investment funds, (ii) costs that were sunk into product development, (iii) premium payments that Plaintiff needed to pay a new app developer to provide a working app within Plaintiff's timeline for development, and (iv) costs associated with the business disruption within Plaintiff's projects caused by Defendant's inability to fulfill its promises.

TENTH CAUSE OF ACTION
(Unfair Business Practices)

113. Plaintiff repeats, re-alleges and incorporates by reference the aforementioned paragraphs of its Complaint as though fully set forth herein.

114. As alleged above, Defendant engaged in deceitful, deceptive, unfair, and/or unlawful practices which have caused Plaintiff to suffer actual injury.

115. The foregoing conduct of Defendant constitutes unfair business practices and/or unfair competition under California Business & Professions Code § 17200, et seq.

116. Defendant has acquired money or property or other benefits in amounts to be proven at trial as a direct and proximate result of Defendant's unfair competition and/or unfair business practices directed at Plaintiff.

117. Defendant should be ordered to restore and/or disgorge to Plaintiff all money or property or other benefits gained by Defendant as a direct and proximate result of Defendant's unfair competition and/or unfair business practices directed at Plaintiff. Defendant should also be enjoined from further engaging in the foregoing acts of unfair business practices or unfair competition.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendants as follows:

1. Judgment in favor of Plaintiff and against Defendants on all of her claims asserted in her Complaint.

2. That the Court grant Plaintiff damages as described in each of the above claims, in favor of Plaintiff and against Defendants in amounts to be determined at trial.

3. Establishment of a constructive trust ordering Defendants to transfer legal title and possession to Plaintiff of any devices containing Plaintiff's trade secrets and other Confidential Information, including any Proprietary Information under the PM Agreement and FD Agreement;

4. The issuance of a preliminary injunction and final, permanent injunction against Defendants as follows:

a. That Defendants, and all those acting in concert with any of them, be preliminarily and permanently enjoined from disclosing or utilizing for any purpose Plaintiff's Confidential Information.

b. That Defendants, and all those acting in concert with any of them, be directed immediately to return to Plaintiff any and all of Plaintiff's Confidential Information in their possession, custody, or control;

c. That Defendants deliver, or that Plaintiff may seize, Defendants' business computers (including laptops and desktops), memory devices, electronic data storage media, "cloud"-based file storage accounts and hardcopy documents to search, at Defendants' expense, for Plaintiff's Confidential Information and other property belonging or relating to Plaintiff and to arrange for the deletion of any and all such Confidential Information from those computers, media, devices and

accounts;

d. That pending delivery to Plaintiff of the materials described in the two preceding sub-paragraphs, Defendants be enjoined and restrained from destroying: (i) any electronic or hard copy document, file, record, information or other property containing any of Plaintiff's Confidential Information; (ii) any electronic or hard copy document, file, record, information or other property referring or relating in any way to any of Plaintiff's Confidential Information; and (iii) any data contained on any of their home and business computers (including laptops and desktops), memory devices, mobile telephones and other wireless communication devices, any other electronic data storage media and/or "cloud"-based storage accounts;

e. That Defendants identify, under oath, the identity of the individuals, groups and companies, if any, to whom any Defendant has disclosed Plaintiff's Confidential Information;

5. That the Court grant Plaintiff's pre-judgment and post-judgment interest on all such damages;

6. That the Court grant Plaintiff an award for reasonable attorneys' fees and costs of suit incurred herein;

7. That the Court grant Plaintiff an award for punitive damages in amount to be determined at trial, but not less than \$2,000,000.00; and

8. That the Court award Plaintiff such other and further relief as the Court deems just and proper.

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1 DATED: April 27, 2021

Respectfully submitted,

2 /s/ Tommy SF Wang

Tommy SF Wang (SBN: 272409)

3 WANG IP LAW GROUP, P.C.

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6 Attorneys for Plaintiff,

7 HOPE CHUNG

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands trial by jury in this action of all issues so triable.

DATED: April 27, 2021

Respectfully submitted,

/s/ Tommy SF Wang

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