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16 Attorneys for Plaintiffs

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18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

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

22 Plaintiffs,

23 v.

24 DONALD J. TRUMP, in his official
 capacity as President of the United States,
 25 and WILBUR ROSS, in his official
 capacity as Secretary of Commerce,

26 Defendants.

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

DECLARATION OF YING CAO IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Judge: Hon. Laurel Beeler
 Date: September 17, 2020
 Time: 9:30 a.m.
 Crtrm.: Remote

Trial Date: None Set

1 I, Ying Cao, declare as follows:

2 1. I am one of three trustees of U.S. WeChat Users Alliance, (“USWUA”), a
3 Plaintiff in the above-captioned action (the “Action”). I have personal knowledge of the
4 matters stated herein and if called as a witness I would and could testify competently to
5 them.

6 2. I am an attorney and a member of the New York and New Jersey State Bar.

7 3. USWUA is incorporated in the State of New Jersey as a non-profit
8 organization.

9 4. My co-trustees and I founded USWUA solely to respond to the Executive
10 Order banning WeChat in the United States and to protect the lawful interests of average,
11 everyday WeChat users in the United States.

12 5. We founded USWUA ourselves. We do not have any connection with
13 representatives of WeChat, Tencent or any of their respective affiliates and are not
14 associated with WeChat, Tencent or any of their respective affiliates. We have not
15 solicited, nor, to my knowledge, have we received any donations or support from WeChat
16 or Tencent.

17 6. We do not represent the interests of, nor are we affiliated with, any political
18 party, government, or any governmental entity.

19 7. Our sole mission is to protect the lawful interests of WeChat users in the
20 United States. We rely exclusively on publicly raised donations in the United States.

21 8. WeChat is a multi-purpose messaging, social media, productivity, and utility
22 mobile app. At its heart, it is a social networking platform with numerous utility functions.

23 9. The social networking platform market is of a “winner-take-all” nature and is
24 thus dominated by a small number of major providers, with each enjoying near-monopoly
25 status in their own markets.

26 10. In China as well as among the global Chinese diaspora, WeChat has the
27 commanding, dominant position as a social media and messaging platform. It has a sticky
28 user base of over one billion monthly active users. By “sticky” I mean two things: (i) that

1 WeChat has a very powerful network effect that draws users to a social network found
2 nowhere else; and (ii) it is so useful and deeply integrated into users' daily lives that users
3 have become reliant on it for a variety of tasks and functions.

4 11. WeChat is often inseparable from its users' everyday habits. They use it to
5 order food, book rides, buy movie tickets, transfer money, and chat with friends and family
6 and business associates and clients, all without switching to other applications or webpages.
7 WeChat also integrates with essential public services, with Chinese-speaking Californians
8 even relying on it to receive live updates about the locations of wildfires currently raging
9 in California.

10 12. WeChat has become so central to its users that they click on the app icon
11 almost subconsciously whenever they use their smart phones.

12 13. WeChat has evolved from an instant messaging tool into an ecosystem. This
13 ecosystem includes WeChat instant messaging, WeChat Moments (an Instagram-like
14 social media "wall" functionality mainly used to share pictures with captions), WeChat
15 Official Accounts (a type of social media home page) and WeChat Mini Programs (a
16 feature that allows content creators and merchants to connect with and sell products to
17 customers through a customizable "mini-program" within the WeChat user interface).

18 14. WeChat also offers a digital payment function that serves various online-to-
19 offline services. For example, one can upload a credit or bank card to WeChat payments,
20 then scan a QR code at an establishment that accepts WeChat payments and pay that
21 establishment electronically through WeChat.

22 15. WeChat has revolutionized the way Chinese-speaking people communicate,
23 and has so entrenched itself amongst Chinese users that there is effectively no substitutes
24 for users that rely on it.

25 16. WeChat has a broad user base in the United States made up of Chinese-
26 Americans, Chinese citizens studying, working and living in the United States, as well as
27 other Americans in need of a convenient means of communication with people and
28 business in China.

1 17. For many of the WeChat users in the United States, WeChat’s instant
2 messaging function is their main means of costless communication with family members
3 and business partners in China. For those without family in China but whose first
4 language is Chinese, WeChat is also a primary means of electronic communication
5 because other chat applications only provide English user interfaces.

6 18. Many users in the United States use WeChat in their work, whether as a
7 communication tool with colleagues, customers or suppliers, or as a tool to generate
8 business. For example, during the COVID-19 pandemic, many Chinese restaurants have
9 become heavily reliant on WeChat as a platform to advertise and promote their business
10 (for example on WeChat moments), solicit and process orders (for example on WeChat
11 mini-programs), and manage customer relationships (for example through their WeChat
12 homepages).

13 19. In short, for small businesses that cater primarily to a Chinese-speaking
14 clientele, WeChat has become a primary source of revenue. A WeChat ban will be
15 devastating to their businesses.

16 20. During the COVID-19 pandemic, more than 670 Chinese-Americans
17 grassroots organizations have raised over 15 million dollars and delivered millions of
18 personal protection equipment (PPE) to various hospitals, nursing homes, police
19 departments, firefighter stations, Volunteer First Aid Squad and other agencies. We
20 mainly use WeChat to organize this fundraising and donation efforts and communicate
21 news among the Chinese communities in the US.

22 21. I have read the Executive Order. As an attorney, I have received requests
23 from clients/potential clients for my assistance in interpreting whether/what uses of
24 WeChat is permitted under the Executive Order. Because the Executive Order does not
25 itself define the word “transaction,” and delegates the Secretary of Commerce to identify
26 the “transactions” prohibited by the Executive Order almost at the same time when it takes
27 effect, we are yet unable to advise whether any particular use of WeChat will be allowed
28 after the Executive Oder takes effect.

1 22. The vague language contained in the Executive Order has left WeChat users
2 in the United States wondering how they will be affected. Enormous time has been spent
3 researching the possible scope of coverage of the Executive Order. Uncertainty and fear of
4 being subject to criminal penalties as a result of the Executive Order has caused distress,
5 confusion and anxiety among WeChat users, myself included.

6 23. Since the Executive Order, WeChat users in the United States have been
7 forced to explore other U.S. based social media platform options. But since WeChat is the
8 most popular social media among the global Chinese population, many have found that
9 there is no viable alternative. For example, users who use it as their primary means of
10 international communication must now use the old and expensive international phone calls.
11 Users who store important information on WeChat have no means of transferring that data
12 other than to manually search, identify, and then type out or copy and paste such data onto
13 other applications. The process is usually time-consuming, labor-intensive and mind-
14 numbing.

15 24. Banning WeChat means effectively cutting off many people’s primary
16 means of communication with their business and social contacts, and will be highly
17 disruptive to our way of life.

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1 25. WeChat is used widely by millions in the United States to talk to families
2 and friends, to discuss and engage in political activities, to organize and participate in
3 charitable, religious and cultural programs, and to develop and communicate with business
4 clients across the world. The Executive Order has left WeChat users in the United States
5 in constant fear of becoming disconnected with families and friends in China and of being
6 cut off from political discussions, campaign participation, religious events such as group
7 prayers, and other social or cultural events.

8 I declare under penalty of perjury under the laws of the United States of America
9 that the foregoing is true and correct, and that this declaration is executed at

10 Short Hills, New Jersey this 26th day of August, 2020.

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Ying Cao

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