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 Counsel for Defendants

12  
 13 **IN THE UNITED STATES DISTRICT COURT**  
 14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 U.S. WECHAT USERS ALLIANCE, *et al.*,  
 16  
 Plaintiffs,

17 v.

18 DONALD J. TRUMP, President of the United  
 19 States, and WILBUR ROSS, Secretary of  
 20 Commerce,  
 21 Defendants.

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

**DECLARATION OF SERENA ORLOFF IN  
 SUPPORT OF DEFENDANTS’ OPPOSITION  
 TO PLAINTIFFS’ MOTION FOR  
 PRELIMINARY INJUNCTION**

Date: Sept. 17, 2020  
 Time: 9:30 a.m.  
 Place: San Francisco, CA  
 Judge: Hon. Laurel Beeler

22 I, Serena Orloff, declare as follows:

- 23 1. I am a Trial Attorney and the attorney of record for Defendants in this action.  
 24 2. Attached to Defendants’ opposition to Plaintiffs’ motion for preliminary injunction, ECF

25 No. 22 (“opposition”), as Exhibit 1, ECF No. 22-1, is a true and correct copy of the following document:  
 26 Congressional Leaders Cite Telecommunications Concerns with Firms that Have Ties with Chinese  
 27 Government (Oct. 19, 2010), *available at* <https://www.hsgac.senate.gov/media/minority->  
 28

1 [media/congressional-leaders-cite-telecommunications-concerns-with-firms-that-have-ties-with-chinese-](#)  
2 [government](#) (last visited Sept. 15, 2020).

3 3. Attached to Defendants' opposition as Exhibit 2, ECF No. 22-2, is a true and correct copy  
4 of the following document: U.S. House of Representatives, Permanent Select Committee on  
5 Intelligence, 112th Congress, Investigative Report on the U.S. National Security Issues Posed by  
6 Chinese Telecommunications Companies Huawei and ZTE (Oct. 8, 2012), *available at*  
7 [https://republicans-intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-](https://republicans-intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20(final).pdf)  
8 [zte%20investigative%20report%20\(final\).pdf](https://republicans-intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20(final).pdf) (last visited Sept. 15, 2020).

9 4. Attached to Defendants' opposition as Exhibit 3, ECF No. 22-3, is a true and correct copy  
10 of the following document: U.S.-China Economic and Security Review Commission Staff Report, The  
11 National Security Implications of Investments and Products from the People's Republic of China in the  
12 Telecommunications Sector (Jan. 2011), *available at*  
13 [https://www.uscc.gov/sites/default/files/Research/FINALREPORT\\_TheNationalSecurityImplicationsofI](https://www.uscc.gov/sites/default/files/Research/FINALREPORT_TheNationalSecurityImplicationsofI)  
14 [nvestmentsandProductsfromThePRCintheTelecommunicationsSector.pdf](https://www.uscc.gov/sites/default/files/Research/FINALREPORT_TheNationalSecurityImplicationsofI) (last visited Sept. 15, 2020).

15 5. Attached to Defendants' opposition as Exhibit 4, ECF No. 22-4, is a true and correct copy  
16 of the following document: 2011 Report to Congress of the U.S. China Economic and Security Review  
17 Commission, 112th Congress (Nov. 2011), *available at*  
18 [https://www.uscc.gov/sites/default/files/annual\\_reports/annual\\_report\\_full\\_11.pdf](https://www.uscc.gov/sites/default/files/annual_reports/annual_report_full_11.pdf) (last visited Sept. 15,  
19 2020).

20 6. Attached to Defendants' opposition as Exhibit 5, ECF No. 22-5, is a true and correct copy  
21 of the following document: Department of Defense, Annual Report to Congress, Military and Security  
22 Developments Involving the People's Republic of China (2011), *available at*  
23 [https://archive.defense.gov/pubs/pdfs/2011\\_CMPR\\_Final.pdf](https://archive.defense.gov/pubs/pdfs/2011_CMPR_Final.pdf) (last visited Sept. 15, 2020).

24 7. Attached to Defendants' opposition as Exhibit 6, ECF No. 22-6, is a true and correct copy  
25 of the following document: Statement for the Record, Worldwide Threat Assessment of the U.S.  
26 Intelligence Community, Daniel R. Coats, Director of National Intelligence (Feb. 13, 2018), *available at*  
27 <https://www.dni.gov/files/documents/Newsroom/Testimonies/2018-ATA---Unclassified-SSCI.pdf> (last  
28 visited Sept. 15, 2020).

1 8. Attached to Defendants' opposition as Exhibit 7, ECF No. 22-7, is a true and correct copy  
2 of the following document: Statement for the Record, Worldwide Threat Assessment of the U.S.  
3 Intelligence Community, Senate Select Committee on Intelligence, Daniel R. Coats, Director of National  
4 Intelligence (May 11, 2017), *available at*  
5 [https://www.dni.gov/files/documents/Newsroom/Testimonies/SSCI%20Unclassified%20SFR%20-](https://www.dni.gov/files/documents/Newsroom/Testimonies/SSCI%20Unclassified%20SFR%20-%20Final.pdf)  
6 [%20Final.pdf](https://www.dni.gov/files/documents/Newsroom/Testimonies/SSCI%20Unclassified%20SFR%20-%20Final.pdf) (last visited Sept. 15, 2020).

7 9. Attached to Defendants' opposition as Exhibit 8, ECF No. 22-8, is a true and correct copy  
8 of the following document: Federal Bureau of Investigation, Counterintelligence Strategic Partnership  
9 Intelligence Note, Huawei, *available at* <https://info.publicintelligence.net/FBI-Huawei.pdf> (last visited  
10 Sept. 15, 2020).

11 10. Attached to Defendants' opposition as Exhibit 9, ECF No. 22-9, is a true and correct copy  
12 of excerpts of the following document: 2017 Report to Congress of the U.S.-China Economic and  
13 Security Review Commission (Nov. 2017). The full report is available at  
14 [https://www.uscc.gov/sites/default/files/2019-09/2017\\_Annual\\_Report\\_to\\_Congress.pdf](https://www.uscc.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf) (last visited  
15 Sept. 15, 2020).

16 11. Attached to Defendants' opposition as Exhibit 10, ECF No. 22-10, is a true and correct  
17 copy of the following document: Statement for the Record, Worldwide Threat Assessment of the U.S.  
18 Intelligence Community, Senate Armed Services Committee, James R. Clapper, Director of National  
19 Intelligence (Feb. 9, 2016), *available at*  
20 [https://www.dni.gov/files/documents/SASC\\_Unclassified\\_2016\\_ATA\\_SFR\\_FINAL.pdf](https://www.dni.gov/files/documents/SASC_Unclassified_2016_ATA_SFR_FINAL.pdf) (last visited  
21 Sept. 15, 2020).

22 12. Attached to Defendants' opposition as Exhibit 11, ECF No. 22-11, is a true and correct  
23 copy of the following document: National Counterintelligence and Security Center, Foreign Economic  
24 Espionage in Cyberspace (2018), *available at*  
25 <https://www.dni.gov/files/NCSC/documents/news/20180724-economic-espionage-pub.pdf> (last visited  
26 Sept. 15, 2020).

27 13. Attached to Defendants' opposition as Exhibit 12, ECF No. 22-12, is a true and correct  
28 copy of the following document: Open Hearing on Worldwide Threats, Hearing Before the Select

1 Committee on Intelligence of the U.S. Senate, 115th Congress (Feb. 13, 2018), *available at*  
2 <https://www.intelligence.senate.gov/sites/default/files/hearings/CHRG-115shrg28947.pdf> (last visited  
3 Sept. 15, 2020).

4 14. Attached to Defendants' opposition as Exhibit 13, ECF No. 22-13, is a true and correct  
5 copy of the following document: Summary of the 2018 National Defense Strategy of the United States  
6 of America, Sharpening the American Military's Competitive Edge, *available at*  
7 <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf> (last  
8 visited Sept. 15, 2020)

9 15. Attached to Defendants' opposition as Exhibit 14, ECF No. 22-14, is a true and correct  
10 copy of the following document: Danielle Cave, Samantha Hoffman, Alex Joske, Fergus Ryan, and  
11 Elise Thomas, Australian Strategic Policy Institute, Mapping China's technology giants, Issues Paper  
12 Report No. 15/2019, *available at* [https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2019-](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2019-05/Mapping%20China%27s%20technology%20giants.pdf?EINwiNpste_FojtgOPriHtlFSD2OD2tL)  
13 [05/Mapping%20China%27s%20technology%20giants.pdf?EINwiNpste\\_FojtgOPriHtlFSD2OD2tL](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2019-05/Mapping%20China%27s%20technology%20giants.pdf?EINwiNpste_FojtgOPriHtlFSD2OD2tL) (last  
14 visited Sept. 15, 2020).

15 16. Attached to Defendants' opposition as Exhibit 15, ECF No. 22-15, is a true and correct  
16 copy of the following document: Lotus Ruan, Australian Strategic Policy Institute, When the winner  
17 takes it all, Big data in China and the battle for privacy, Issues Paper Report No. 5/2018, *available at*  
18 <http://ad-aspi.s3.amazonaws.com/2018-06/Winner%20takes%20it%20all.pdf> (last visited Sept. 15,  
19 2020).

20 17. Attached to Defendants' opposition as Exhibit 16, ECF No. 22-16, is a true and correct  
21 copy of the following document: Elsa B. Kania, Australia Strategic Policy Institute, Technological  
22 entanglement, Cooperation, competition and the dual-use dilemma in artificial intelligence, Policy Brief  
23 Report No. 7/2018, *available at* [https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2018-07/Tech-](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2018-07/Tech-Entanglemen_PolicyBrief_20180702-v2.pdf?7BahbUgNHcY1umz4PCrLOEdBJUjULCg)  
24 [Entanglemen\\_PolicyBrief\\_20180702-v2.pdf?7BahbUgNHcY1umz4PCrLOEdBJUjULCg](https://s3-ap-southeast-2.amazonaws.com/ad-aspi/2018-07/Tech-Entanglemen_PolicyBrief_20180702-v2.pdf?7BahbUgNHcY1umz4PCrLOEdBJUjULCg) (last visited  
25 Sept. 15, 2020).

26 18. Attached to Defendants' opposition as Exhibit 17, ECF No. 22-17, is a true and correct  
27 copy of the following document: Worried about Huawei? Take a closer look at Tencent, Sarah Cook, the  
28 *japan times* (Mar. 28, 2019), *available at*

1 [https://www.japantimes.co.jp/opinion/2019/03/28/commentary/world-commentary/worried-huawei-](https://www.japantimes.co.jp/opinion/2019/03/28/commentary/world-commentary/worried-huawei-take-closer-look-tencent/)  
2 [take-closer-look-tencent/](https://www.japantimes.co.jp/opinion/2019/03/28/commentary/world-commentary/worried-huawei-take-closer-look-tencent/) (last visited Sept. 15, 2020).

3 19. Attached to Defendants' opposition as Exhibit 18, ECF No. 22-18, is a true and correct  
4 copy of excerpts of the following document: 2019 Report to Congress of the U.S.-China Economic and  
5 Security Review Commission, 116th Congress (Nov. 2019). The full report is available at  
6 <https://www.uscc.gov/sites/default/files/2019-11/2019%20Annual%20Report%20to%20Congress.pdf>  
7 (last visited Sept. 15, 2020).

8 20. Attached to Defendants' opposition as Exhibit 19, ECF No. 22-19, is a true and correct  
9 copy of the following document: Fergus Ryan, An Orwellian future is taking shape in China (Jan. 8,  
10 2018), *available at* [https://www.smh.com.au/opinion/an-orwellian-future-is-taking-shape-in-china-](https://www.smh.com.au/opinion/an-orwellian-future-is-taking-shape-in-china-20171220-h07vbw.html)  
11 [20171220-h07vbw.html](https://www.smh.com.au/opinion/an-orwellian-future-is-taking-shape-in-china-20171220-h07vbw.html) (last visited Sept. 15, 2020).

12 21. Attached to Defendants' opposition as Exhibit 20, ECF No. 22-20, are true and correct  
13 copies of the following documents: (1) Liza Lin and Josh Chin, China's Tech Giants Have a Second Job:  
14 Helping Beijing Spy on Its People, Wall Street Journal (Nov. 30, 2017), *available at*  
15 [https://www.wsj.com/articles/chinas-tech-giants-have-a-second-job-helping-the-government-see-](https://www.wsj.com/articles/chinas-tech-giants-have-a-second-job-helping-the-government-see-everything-1512056284)  
16 [everything-1512056284](https://www.wsj.com/articles/chinas-tech-giants-have-a-second-job-helping-the-government-see-everything-1512056284) (last visited Sept. 15, 2020); (2) Chi Zhang, Study: Chinese-American  
17 immigrants fall prey to WeChat's misinformation problem, Columbia Journalism Review (Apr. 19,  
18 2018), *available at* [https://www.cjr.org/tow\\_center/wechat-misinformation.php](https://www.cjr.org/tow_center/wechat-misinformation.php) (last visited Sept. 15,  
19 2020); (3) Justin Sherman, Unpacking TikTok, Mobile Apps, and National Security Risks, Lawfare  
20 (Apr. 2, 2020), *available at* [https://www.lawfareblog.com/unpacking-tiktok-mobile-apps-and-national-](https://www.lawfareblog.com/unpacking-tiktok-mobile-apps-and-national-security-risks)  
21 [security-risks](https://www.lawfareblog.com/unpacking-tiktok-mobile-apps-and-national-security-risks) (last visited Sept. 15, 2020); (4) Paul Mozur, Forget TikTok. China's Powerhouse App Is  
22 WeChat, and Its Power is Sweeping, The New York Times (Sept. 4, 2020), *available at*  
23 <https://www.nytimes.com/2020/09/04/technology/wechat-china-united-states.html> (last visited Sept. 15,  
24 2020); (5) Christopher Wray, Director, Federal Bureau of Investigation, The Threat Posed by the  
25 Chinese Government and the Chinese Communist Party to the Economic and National Security of the  
26 United States (July 7, 2020), *available at* [https://www.fbi.gov/news/speeches/the-threat-posed-by-the-](https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states)  
27 [chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-](https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states)  
28 [united-states](https://www.fbi.gov/news/speeches/the-threat-posed-by-the-chinese-government-and-the-chinese-communist-party-to-the-economic-and-national-security-of-the-united-states) (last visited Sept. 15, 2020); and (6) Emily Feng, China Intercepts WeChat Texts from U.S.

1 And Abroad, Researchers Say, National Public Radio (Aug. 29, 2019, updated Sept. 19, 2019), *available*  
2 *at* [https://www.npr.org/2019/08/29/751116338/china-intercepts-wechat-texts-from-u-s-and-abroad-](https://www.npr.org/2019/08/29/751116338/china-intercepts-wechat-texts-from-u-s-and-abroad-researcher-says)  
3 [researcher-says](https://www.npr.org/2019/08/29/751116338/china-intercepts-wechat-texts-from-u-s-and-abroad-researcher-says) (last visited Sept. 15, 2020).

4 22. Attached to Defendants' opposition as Exhibit 21, ECF No. 22-21, is a true and correct  
5 copy of the following document: Department of Homeland Security, Cyber and Infrastructure, Executive  
6 Order 13873 Response, Methodology for Assessing the Most Critical Information and Communications  
7 Technologies and Services (Apr. 2020), *available at*  
8 [https://www.cisa.gov/sites/default/files/publications/eo-response-methodology-for-assessing-](https://www.cisa.gov/sites/default/files/publications/eo-response-methodology-for-assessing-ict_v2_508.pdf)  
9 [ict\\_v2\\_508.pdf](https://www.cisa.gov/sites/default/files/publications/eo-response-methodology-for-assessing-ict_v2_508.pdf) (last visited Sept. 15, 2020).

10 23. Attached to Defendants' opposition as Exhibit 22, ECF No. 22-22, is a true and correct  
11 copy of the following document: United States Strategic Approach to the People's Republic of China  
12 (May 20, 2020), *available at* [https://www.whitehouse.gov/wp-content/uploads/2020/05/U.S.-Strategic-](https://www.whitehouse.gov/wp-content/uploads/2020/05/U.S.-Strategic-Approach-to-The-Peoples-Republic-of-China-Report-5.20.20.pdf)  
13 [Approach-to-The-Peoples-Republic-of-China-Report-5.20.20.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/05/U.S.-Strategic-Approach-to-The-Peoples-Republic-of-China-Report-5.20.20.pdf) (last visited Sept. 15, 2020).

14 24. Attached to Defendants' opposition as Exhibit 23, ECF No. 22-23, is a true and correct  
15 copy of the following document: Jeffrey Knockel, Christopher Parsons, Lotus Ruan, Ruohan Xiong,  
16 Jedidiah Crandall, and Ron Deibert, We Chat, They Watch, How international users unwittingly build  
17 up WeChat's Chinese censorship apparatus, The Citizen Lab (May 7, 2020), *available at*  
18 <https://tspace.library.utoronto.ca/bitstream/1807/101395/1/Report%23127--wechattheywatch-web.pdf>  
19 (last visited Sept. 15, 2020).

20 25. Attached to Defendants' opposition as Exhibit 24, ECF No. 22-24, is a true and correct  
21 copy of the following document: Paige Leskin, Here are all the major US tech companies blocked  
22 behind China's 'Great Firewall,' Business Insider (Oct. 10, 2019), *available at*  
23 <https://www.businessinsider.com/major-us-tech-companies-blocked-from-operating-in-china-2019-5>  
24 (last visited Sept. 15, 2020).

25 26. Attached to Defendants' opposition as Exhibit 25, ECF No. 22-25, is a true and correct  
26 copy of the following document: WeChat – Terms of Service, *available at*  
27 [https://www.wechat.com/en/service\\_terms.html](https://www.wechat.com/en/service_terms.html) (last visited Sept. 15, 2020).

28 I declare under penalty of perjury that the foregoing is true and correct. Executed on September

1 15, 2020, at Washington, District of Columbia.

2 Respectfully submitted,

3 /s/ Serena M. Orloff  
4 SERENA ORLOFF

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