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7  
8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 ALESSANDRO DE LA TORRE,  
individually and on behalf of all others  
similarly situated,

11 *Plaintiff,*

12 v.

13 LINKEDIN CORPORATION, a Delaware  
14 corporation,

15 *Defendant.*

**Case No.:**

**CLASS ACTION COMPLAINT FOR**

- 16 **(1) Violation of the Stored Communications Act, 18 U.S.C. § 2702;**
- 17 **(2) Breach of Contract; and**
- 18 **(3) Violation of California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code § 17200**

**AND DEMAND FOR JURY TRIAL**

19 **CLASS ACTION COMPLAINT**

20 Plaintiff Alessandro De La Torre (“Plaintiff” or “De La Torre”) brings this Class Action  
21 Complaint and Demand for Jury Trial against LinkedIn Corporation (“LinkedIn” or  
22 “Defendant”) for unlawfully disclosing its Premium customers’ private messages to third parties.  
23 Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and  
24 experiences, and, as to all other matters, upon information and belief.  
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**NATURE OF THE ACTION**

1  
2 1. LinkedIn breached its contractual promises by disclosing its Premium customers'  
3 private messages to third parties to train generative artificial intelligence (“AI”) models.<sup>1</sup> Given  
4 its role as a professional social media network, these communications include incredibly  
5 sensitive and potentially life-altering information about employment, intellectual property,  
6 compensation, and other personal matters.

7 2. Microsoft is the parent company of LinkedIn, and Defendant claims it disclosed  
8 its users’ data to third-party “affiliates” within its corporate structure, and in a separate instance,  
9 more cryptically to “another provider.” LinkedIn did not have its Premium customers’  
10 permission to do so. This also raises grave privacy issues: private discussions could surface in  
11 other Microsoft products, and customers’ data is now permanently embedded in AI systems  
12 without their consent, exposing them to future unauthorized use of their personal information.

13 3. When it was publicly revealed that LinkedIn had unilaterally disclosed its users’  
14 data for these purposes, there was swift and harsh public backlash. LinkedIn responded the same  
15 day by discreetly modifying one of its privacy policies to account for AI-related data sharing and  
16 stated that users could choose to “opt out” of future disclosures for these purposes.

17 4. But the damage was already done, and LinkedIn has not offered to delete the data  
18 from the existing AI models or retrain them to eliminate their reliance on the disclosed  
19 information.

20 5. Plaintiff and members of the putative Class are Premium LinkedIn customers  
21 whose private messages were disclosed to third parties. They were not notified beforehand, did  
22 not consent to these disclosures, and their contracts were breached—especially egregious since  
23 they paid fees for membership subscriptions which include heightened privacy protections. As a  
24 result, they seek actual damages, statutory damages of \$1,000 under the Stored Communications  
25 Act, 18 U.S.C. § 2707, and such other relief as may be allowed by law or equity.

26  
27 \_\_\_\_\_  
28 <sup>1</sup> A generative AI model is an advanced machine learning system that creates new content, like text or images, by learning patterns and structures from existing data.

**PARTIES**

6. Plaintiff is a natural person and citizen of the State of California.

7. Defendant LinkedIn Corporation is a corporation organized and existing under the laws of the State of Delaware with its principal place of business located at 1000 W Maude Ave., Sunnyvale, California, 94085.

**JURISDICTION AND VENUE**

8. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 because it raises a federal question under the Stored Communications Act, 18 U.S.C. § 2702. This Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2) because (i) at least one member of the Class is a citizen of a different state than any Defendant, (ii) the amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and (iii) none of the exceptions under that subsection apply to this action.

9. This Court has jurisdiction over all other claims under 28 U.S.C. § 1367(a) as they are so related to claims in the action that they form part of the same case or controversy.

10. This Court has personal jurisdiction over Defendant because Defendant is headquartered in this District, conducts business in this District, and a substantial part of the events, decisions, or omissions giving rise to Plaintiff’s claims occurred in this District.

11. Venue is proper pursuant to 28 U.S.C. § 1391(b) because defendant resides in this District and a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this District.

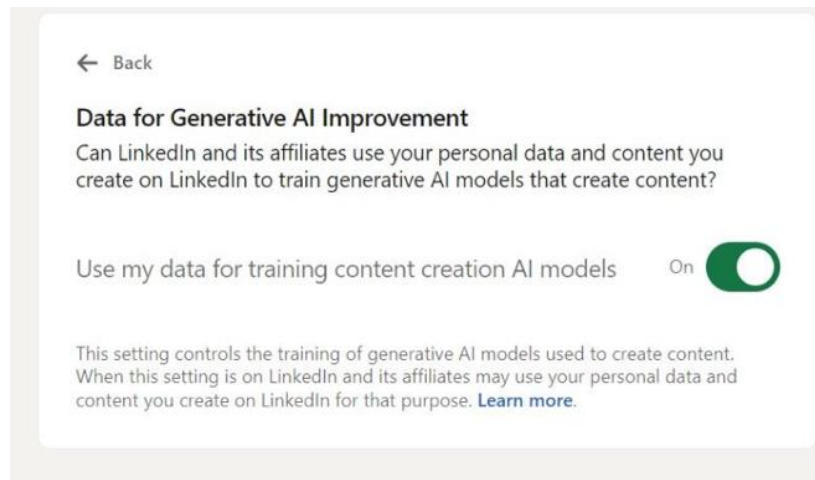
**COMMON FACTUAL ALLEGATIONS**

***I. LinkedIn Was Exposed for Disclosing User Data to Third Parties to Train Generative AI Models, Then Attempted to Cover Its Tracks***

12. LinkedIn is the internet’s largest professional social networking platform. The company promotes its platform as a tool that people “can use . . . to find the right job or internship, connect and strengthen professional relationships, and learn the skills you need to succeed in your career.” LinkedIn’s services are accessible via desktop, mobile app, and mobile web.

1 13. LinkedIn offers both free and “Premium” (paid) tiers of service. All users must  
2 agree to a User Agreement and Privacy Policy when registering for an account. Premium  
3 customers agree to additional terms, including enhanced privacy protections, which are detailed  
4 below.

5 14. In August 2024, LinkedIn quietly introduced a new privacy setting to its settings  
6 menu (shown below), which ostensibly allowed users to enable or disable the sharing of their  
7 personal data for the purpose of training generative AI models.



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16 15. This setting was enabled by default, automatically opting users in to a program  
17 that allowed LinkedIn and its “affiliates” to train generative AI models with users’ personal  
18 data.<sup>2</sup>

19 16. On September 18, 2024, multiple news outlets reported on this new privacy  
20 setting and questioned a LinkedIn spokesperson about why LinkedIn had not disclosed its  
21 sharing of users’ personal data for generative AI training in its terms of service. LinkedIn  
22 responded with the statement: “We’ll be sharing an update on our Terms of Service with our  
23 members shortly.”

24 17. On the same day, September 18, 2024, LinkedIn discreetly updated its Privacy  
25 Policy, adding a description of its processing of user data for generative AI purposes.

26  
27 <sup>2</sup> LinkedIn defines “affiliates” as “companies controlling, controlled by or under common control  
28 with us, including, for example, LinkedIn Ireland, LinkedIn Corporation, LinkedIn Singapore  
and Microsoft Corporation.”

1 Defendant’s edits appear to acknowledge that its disclosure of user data exceeded the scope of its  
2 original consent to process users’ data, evidenced by the modifications shown below as tracked  
3 changes:

4 2. How We Use Your Data

5 We use your data to provide, support, personalize and develop our Services.

6 How we use your personal data will depend on which Services you use, how you  
7 use those Services and the choices you make in your settings. We may use your  
8 personal data to improve, develop, and provide products and Services, develop  
9 and train artificial intelligence (AI) models, develop, provide, and personalize  
10 our Services, and gain insights with the help of AI, automated systems, and  
11 inferences, so that our Services can be more relevant and useful to you and  
12 others. You can review LinkedIn’s Responsible AI principles here and learn  
13 more about our approach to generative AI here. Learn more about the inferences  
14 we may make, including as to your age and gender and how we use them.

15 18. Most notably, LinkedIn buried a crucial disclosure in an “FAQ” hyperlink (shown  
16 in italics above) rather than in the Privacy Policy:<sup>3</sup> “The artificial intelligence models that  
17 LinkedIn uses to power generative AI features may be trained by LinkedIn *or another provider*”  
18 (emphasis added). Admitting that data may be disclosed to “another provider” in this secondary  
19 document suggests that LinkedIn was aware its previous terms did not authorize these practices  
20 and was attempting to avoid further scrutiny.

21 19. Additionally, the FAQ states: “Opting out means that LinkedIn and its affiliates  
22 won’t use your personal data or content on LinkedIn to train models going forward, but does not  
23 affect training that has already taken place.” LinkedIn gives up the game with this statement—it  
24 indicates that LinkedIn users’ personal information is already embedded in generative AI models  
25 and will not be deleted, regardless of whether they opt out of future disclosures.

26 20. This modification of its Privacy Policy also violates LinkedIn’s promise not to  
27 update the terms of its Privacy Policy without first notifying users of the impending change and  
28 providing an opportunity to cancel their accounts if they object:

LinkedIn (“we” or “us”) can modify this Privacy Policy, and if we make material  
changes to it, we will provide notice through our Services, or by other means, to

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<sup>3</sup> FAQ hyperlink: <https://www.linkedin.com/help/linkedin/answer/a5538339>

1 provide you the opportunity to review the changes before they become effective. If  
2 you object to any changes, you may close your account.

3 21. In yet another sleight of hand, LinkedIn quietly altered a statement in the  
4 aforementioned FAQ. The previous version of the FAQ stated: “Where LinkedIn trains  
5 generative AI models, we seek to minimize personal data in the data sets used to train the  
6 models, including by using privacy enhancing technologies to redact or remove personal data  
7 from the training dataset.” On or around October 1, 2024, LinkedIn removed the words  
8 “including by using privacy enhancing technologies to redact or remove personal data from the  
9 training dataset.” In other words, LinkedIn is not actually undertaking the privacy-protecting  
10 actions it promised users it would implement after unlawfully disclosing their personal data to  
11 train generative AI models.

12 22. LinkedIn’s actions, including discreetly introducing a new privacy setting,  
13 concealing critical data disclosures, and stealthily altering its privacy policies and statements,  
14 indicate a pattern of attempting to cover its tracks. This behavior suggests that LinkedIn was  
15 fully aware that it had violated its contractual promises and privacy standards and aimed to  
16 minimize public scrutiny and potential legal repercussions.

17 **II. *LinkedIn Disclosed Private Messages to Train AI Models in Breach of Contract***  
18 ***with Its Premium Customers***

19 **A. *LinkedIn Offers Premium Customers Additional Privacy Assurances Not***  
20 ***Available to Free Users***

21 23. LinkedIn Premium customers like Plaintiff and the Class members here must  
22 agree to an additional contract when purchasing a LinkedIn Premium subscription, known as the  
23 “LinkedIn Subscription Agreement” (“LSA”).<sup>4</sup> The LSA promises Premium customers  
24 enhanced privacy protections compared to the User Agreement and Privacy Policy, including  
25 terms that specifically apply to the processing and disclosure of LinkedIn Premium customers’  
26 personal information.

27 \_\_\_\_\_  
28 <sup>4</sup> <https://www.linkedin.com/legal/lisa>

1           24.     In Section 3.2 of the LSA, LinkedIn promises not to disclose its Premium  
2 customers' confidential information<sup>5</sup> to third parties:

3                   3.2.     Limited Use and Non-Disclosure. Recipient will (a) use  
4 Confidential Information only for the purposes of furthering the  
5 business relationship between the parties; (b) protect Confidential  
6 Information using the same degree of care it uses to protect its own  
7 confidential information of a like nature, but in no event less than a  
8 reasonable degree of care; (c) not disclose Confidential  
9 Information to any third party except (1) to Affiliates or  
10 employees, students, consultants, and agents who (i) have a need to  
11 know it in order to carry out their obligations under the Agreement,  
12 and (ii) are under written confidentiality and non-use obligations at  
13 least as restrictive as those stated in this LSA or (2) as required by  
14 law; and (d) not modify, reverse engineer, decompile, create other  
15 works from, or disassemble any Confidential Information, to the  
16 extent applicable, unless authorized in writing by discloser.

12           25.     LinkedIn breached Section 3.2 by disclosing its Premium customers' private and  
13 confidential communications to third parties to train generative AI models. This disclosure to and  
14 processing by third parties was not permitted under the LSA, and LinkedIn should have  
15 reasonably known the information was confidential given the sensitive nature of the messages it  
16 disclosed, as discussed further below.

17           26.     Section 2.3 of the LSA states that LinkedIn processes its Premium customers'  
18 Personal Data in compliance with the terms outlined in its Data Protection Agreement ("DPA"),  
19 which is incorporated by reference into the LSA. LinkedIn also violates the terms of its DPA.

20                   *i.     LinkedIn's Violates the DPA's Data Processing Promises*

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23 <sup>5</sup> The LSA defines Confidential Information in Section 3 as "any information disclosed under the  
24 Agreement that (a) if tangible, is clearly marked as "Confidential" or with a similar designation;  
25 (b) if intangible, is identified as "Confidential" by discloser at the time of disclosure and  
26 confirmed in writing to recipient as being Confidential Information; or (c) from the relevant  
27 circumstances should reasonably be known by recipient to be confidential (e.g., pricing, non-  
28 public Personal Data, etc.). Confidential Information does not include any portion of the  
information that recipient can prove (a) was rightfully known to recipient before receipt from  
discloser; (b) was generally known to the public on the Effective Date; (c) becomes generally  
known to the public after the Effective Date, through no fault of recipient; (d) was received by  
recipient from a third party without any confidentiality obligation; or (e) was independently  
developed by recipient without breach of this Section 3."

1 27. Section 5.1(a) of the DPA, quoted below, details the specific purposes for which  
2 LinkedIn is permitted to process its Premium customers' Personal Data:

3 5.1 Processing Requirements. LinkedIn will:

4 a. Process Customer Personal Data (i) only for the purpose of  
5 providing, supporting and improving LinkedIn's services  
6 (including to provide insights and other reporting), using  
7 appropriate technical and organizational security measures; and (ii)  
8 in compliance with the instructions received from Customer.  
9 LinkedIn will not use or Process the Customer Personal Data for  
10 any other purpose. LinkedIn will promptly inform Customer in  
11 writing if it cannot comply with the requirements under Sections 5-  
12 8 of this DPA, in which case Customer may terminate the  
13 Agreement or take any other reasonable action, including  
14 suspending data processing operations[.]

15 28. LinkedIn breached these terms by using Premium customers' data to train third-  
16 party generative AI models, a use that falls outside of the specified purposes. This violated the  
17 explicit promise that users' personal data would be processed only to provide, support, and  
18 improve LinkedIn services.

19 29. LinkedIn's contemporaneous edits to parallel language in its Privacy Policy is  
20 further evidence that LinkedIn's unauthorized use of its Premium customers' data violated the  
21 DPA. Prior to changes made on September 18, 2024, LinkedIn's Privacy Policy stated that  
22 LinkedIn would process data to "provide, support, personalize and develop our Services." After  
23 LinkedIn faced public pushback for its new generative AI improvement setting, the allowable  
24 purposes for processing in the Privacy Policy were modified to state that user data could also be  
25 processed for training generative AI.

26 30. By contrast, LinkedIn failed to similarly update the DPA. This omission suggests  
27 an attempt to further avoid detection given that the DPA explicitly governs the processing of  
28 Premium customers' personal data.

31. Based on a reading of the DPA's data processing terms, no reasonable person  
would anticipate LinkedIn disclosing their personal data to third-party providers for the extensive  
and permanent purpose of training AI models (at least, not without first obtaining additional  
consent).



1                                   ii.        LinkedIn’s Violates the DPA’s Data Disclosure Promises

2           32.       According to the DPA, the only third parties permitted to process Premium  
3 customers’ personal data are designated “Subprocessors” listed on a webpage hyperlinked in the  
4 DPA. The webpage includes each Subprocessor’s company name and the specific services that  
5 Subprocessor is authorized to provide in processing customer data.

6           33.       None of the Subprocessors are authorized to process Premium customers’ data for  
7 the purpose of training generative AI models.

8           34.       Notably, the webpage lists “Microsoft Corporation and its Affiliates” as a  
9 Subprocessor, describing their authorized services as “Microsoft 365, Fraud Protection,  
10 Professional Services, Customer Support, Survey comment translation services.” No reasonable  
11 consumer would think that description authorizes Microsoft or its affiliates to train generative AI  
12 models using the private data of LinkedIn Premium customers.

13           35.       In addition, Section 5.5 of the DPA outlines LinkedIn’s obligations in the event of  
14 a “Personal Data Breach,” defined as “any accidental or unlawful destruction, loss, alteration,  
15 unauthorized disclosure of, or access to Customer Personal Data.”:

16                               5.5 If a Personal Data Breach results from either (i) the negligence  
17 or intentional misconduct of LinkedIn (or any LinkedIn  
18 Subprocessor consistent with Section 5.1(f)) or (ii) a material  
19 failure of LinkedIn to comply with the terms of this DPA,  
20 LinkedIn shall bear all costs associated with investigating and  
21 remediating the Personal Data Breach. LinkedIn shall provide  
22 reasonable reimbursement to Customer for any costs associated  
23 with notifying affected individuals as required by law or providing  
24 individuals with credit monitoring or other appropriate remediation  
25 services, provided that LinkedIn, as a processor, will adhere to its  
26 commitments under 5.3(b) of this DPA.

27           36.       In Section 5.5, LinkedIn commits to bearing all costs related to investigating and  
28 remediating a Personal Data Breach, including unauthorized disclosure of customers’ personal  
data.

1 37. LinkedIn breached this obligation by failing to investigate or remediate its own  
2 unauthorized disclosure of Premium customers' data for AI model training, thereby failing to  
3 fulfill its commitments under the DPA.

4 *B. LinkedIn Unlawfully Disclosed its Premium Customers' Private InMail*  
5 *Messages*

6 38. In addition to enhanced data protection, LinkedIn's Premium tiers offer a feature  
7 called "InMail," which allows Premium customers to directly message other LinkedIn members  
8 with whom they are not currently "connected"—meaning individuals outside their network of  
9 known contacts. In one promotional statement, LinkedIn describes one use for InMail as follows:  
10 "Message hiring managers directly and boost your chances of hearing back. It's 4.6x more  
11 effective than email."

12 39. Premium customers receive a specific number of InMail message "credits" per  
13 month, determined by their subscription type. Below are examples of Premium tiers, including  
14 LinkedIn's descriptions, total monthly InMail credits, and monthly costs.

Plan	Description	InMail Monthly Credits	Monthly Fee
Premium Career	helps you get hired and get ahead in your professional life	5	\$39.99
Premium Business	helps you get detailed business insights and further expand your business	15	\$69.99
Sales Navigator	helps you generate leads and build your clientele	50	\$99.99
Recruiter Lite	helps you find and hire talent	30	\$169.99

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23 40. People use InMail for a variety of purposes, including soliciting business from  
24 new contacts, seeking new employment opportunities, reconnecting with former colleagues,  
25 discussing sensitive business matters, and reaching out in a personal capacity to old friends or  
26 relatives. The confidential nature of these communications highlights the critical importance of  
27 privacy for Premium customers.  
28

1 41. Because of the sensitivity of private messages, many of LinkedIn’s rival social  
2 media networks have explicitly stated they never use the contents of users’ private messages for  
3 AI training. But to date, LinkedIn has never publicly denied that it disclosed the contents of its  
4 Premium customers’ InMail messages to third parties for the purpose of training generative AI  
5 models.

6 42. As paying subscribers, Premium customers are entitled to enhanced privacy  
7 protections, including the confidentiality of their InMail messages. The unauthorized disclosure  
8 of these messages constitutes a breach of LinkedIn’s promises as set forth in the LSA and DPA.  
9 As a result, Premium customers are entitled to seek actual damages for this breach.

### 10 ***III. The Harms Caused by LinkedIn’s Actions***

11 43. LinkedIn has a stated set of AI principles, which includes “Provide Transparency:  
12 We seek to explain in clear and simple ways how our use of AI impacts people.” Defendant has  
13 clearly failed to adhere to these principles and, worse, chose to cover up its transgressions rather  
14 than take accountability by deleting the relevant generative AI models or retraining them to  
15 eliminate their reliance on the improperly obtained data.

16 44. The extensive reach of Microsoft’s ecosystem makes disclosures to entities within  
17 its corporate structure particularly problematic. Private data could surface across Microsoft’s AI  
18 product suite, such as confidential job searches appearing in Word suggestions, business  
19 strategies in Teams chat completions, or salary discussions in Microsoft 365 features. Each AI  
20 product represents a potential point for data leakage, posing the harm of potential privacy  
21 breaches.

22 45. Moreover, LinkedIn’s own statements suggest that data was disclosed to other  
23 third-party providers not included within Microsoft’s corporate structure, heightening these  
24 concerns. Embedding personal communications in the AI models of unknown third-party  
25 providers without explicit consent may lead to unintended profiling, biased decisions, and misuse  
26 in sensitive contexts like employment.

27 46. Beyond individual harms, LinkedIn’s actions highlight a growing issue in the tech  
28 industry. If left unchecked, such unauthorized use of customers’ personal data for training

1 generative AI models could lead to widespread misuse of personal information, fueling  
2 discrimination, identity theft, and erosion of public trust. This case underscores the urgent need  
3 for companies to implement robust and transparent systems to protect privacy and ensure ethical  
4 AI development and use.

5 **FACTS SPECIFIC TO PLAINTIFF ALESSANDRO DE LA TORRE**

6 47. Plaintiff Alessandro De La Torre purchased a LinkedIn Premium subscription in  
7 July 2021.

8 48. Between July 2021 and September 2024, Plaintiff sent and received numerous  
9 InMail messages containing sensitive and private information.

10 49. The contents of Plaintiff's InMail messages included discussions about potential  
11 financing for startups, job-seeking efforts, and attempts to reconnect with former colleagues.

12 50. The exposure of such information could jeopardize Plaintiff's professional  
13 relationships, compromise business opportunities, and negatively impact his career prospects.

14 51. Upon information and belief, Plaintiff's private and confidential InMail messages  
15 were disclosed to third parties for the purpose of training generative AI models. Plaintiff did not  
16 consent to his private InMail messages being disclosed for this purpose.

17 52. Consequently, Plaintiff did not receive the promised benefit of a Premium  
18 subscription, which was supposed to include heightened data privacy protection for his InMail  
19 messages.

20 **CLASS ACTION ALLEGATIONS**

21 53. **Class Definition:** Plaintiff Alessandro De La Torre brings this proposed class  
22 action pursuant to Federal Rule of Civil Procedure 23(b)(2) and Rule 23(b)(3) on behalf of  
23 himself and a Class (collectively the "Class") of all others similarly situated, defined as follows:

24 All LinkedIn Premium customers that sent or received InMail messages and whose  
25 private communications were disclosed by LinkedIn with third-party entities,  
26 including other Microsoft affiliates, for AI training purposes prior to September  
27 18, 2024.

28 54. Excluded from the Class are: (1) any Judge or Magistrate presiding over this  
action and members of their families; (2) Defendant, Defendant's subsidiaries, parents,  
successors, predecessors, and any entity in which Defendant or its parents have a controlling

1 interest and its officers and directors; (3) persons who properly execute and file a timely request  
2 for exclusion from the Class; (4) persons whose claims in this matter have been finally  
3 adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's counsel;  
4 and (6) the legal representatives, successors, and assigns of any such excluded persons.

5       55.     **Numerosity:** The exact number of Class members is unknown and not available  
6 to Plaintiff at this time, but it is clear that individual joinder is impracticable. On information and  
7 belief, Defendant has millions of customers who fall into the definition of the Class. Class  
8 members can be identified through Defendant's records.

9       56.     **Commonality and Predominance:** There are questions of law and fact common  
10 to the claims of Plaintiff and the putative Class, and those questions predominate over any  
11 questions that may affect individual members of the Class. Common questions for the Class  
12 include, but are not limited to the following:

- 13           (a) Whether Defendant disclosed its Premium customers' private InMail messages to  
14           third parties for the purpose of training generative AI models;
- 15           (b) Whether Defendant obtained consent from its Premium customers to disclose  
16           their private InMail messages to third parties for the purpose of training  
17           generative AI models;
- 18           (c) Whether Defendant breached its contracts with Premium customers;
- 19           (d) Whether Defendant acted knowingly;
- 20           (e) Whether LinkedIn functions as an Electronic Communications Service or a  
21           Remote Computing Service within the meaning of the Stored Communications  
22           Act;
- 23           (f) Whether Plaintiff and the Class members are entitled to statutory damages; and
- 24           (g) Whether Plaintiff and the Class members are entitled to injunctive relief.

25       57.     **Typicality:** Plaintiff's claims are typical of the claims of members of the Class in  
26 that Plaintiff, like all members of the Class, had his private communications unlawfully disclosed  
27 and has been injured by Defendant's misconduct at issue.

1           58.     **Adequate Representation:** Plaintiff will fairly and adequately represent and  
2 protect the interests of the Class and has retained counsel competent and experienced in complex  
3 litigation and class actions. Plaintiff’s claims are representative of the claims of the other  
4 members of the Class. Plaintiff and the members of the Class sustained injuries and damages as a  
5 result of Defendant’s conduct. Plaintiff also has no interests antagonistic to those of the Class,  
6 and Defendant has no defenses unique to Plaintiff. Plaintiff and his counsel are committed to  
7 vigorously prosecuting this action on behalf of the members of the Class and have the financial  
8 resources to do so. Neither Plaintiff nor his counsel has any interest adverse to the Class.

9           59.     **Superiority:** Class proceedings are superior to all other available methods for the  
10 fair and efficient adjudication of this controversy, as joinder of all members of the Class is  
11 impracticable. Individual litigation would not be preferable to a class action because individual  
12 litigation would increase the delay and expense to all parties due to the complex legal and factual  
13 controversies presented in this Complaint. By contrast, a class action presents far fewer  
14 management difficulties and provides the benefits of single adjudication, economy of scale, and  
15 comprehensive supervision by a single court. Economies of time, effort, and expense will be  
16 fostered, and uniformity of decisions will be ensured.

17           60.     Plaintiff reserves the right to revise the foregoing “Class Allegations” and “Class  
18 Definitions” based on facts learned through additional investigation and in discovery.

19                                 **FIRST CAUSE OF ACTION**  
20                                 **Violation of Stored Communications Act**  
  **18 U.S.C. § 2702**  
21                                 **(On behalf of Plaintiff and the Class)**

22           61.     Plaintiff incorporates the foregoing allegations as if fully set forth herein.

23           62.     The Stored Communications Act (“SCA”) defines an Electronic Communication  
24 Service (“ECS”) as “any service which provides to users thereof the ability to send or receive  
25 wire or electronic communications.” 18 U.S.C. § 2510(15). The SCA prohibits an ECS provider  
26 from “knowingly divulg[ing] to any person or entity the contents of a communication while in  
27 electronic storage by that service.” 18 U.S.C. § 2702(a)(1).

1           63.     The SCA defines a Remote Computing Service (“RCS”) as “the provision to the  
2 public of computer storage or processing services by means of an electronic communications  
3 system.” 18 U.S.C. § 2711(2). The SCA prohibits an RCS provider from “knowingly divulg[ing]  
4 to any person or entity the contents of any communication which is carried or maintained on that  
5 service.” 18 U.S.C. § 2702(a)(2).

6           64.     In the modern computing environment, many companies, including LinkedIn,  
7 offer both ECS and RCS services. The relevant analysis focuses on the nature of the service or  
8 communication at issue to determine the role the provider plays at a given time.

9           65.     LinkedIn is an ECS provider because it offers its users, *inter alia*, the ability to  
10 send and receive private messages. Messages that are not yet opened are in “electronic storage”  
11 as defined by the SCA, since they are in temporary, immediate storage. 18 U.S.C. § 2510(17)(A).

12           66.     Defendant is also an RCS provider, because it offers, *inter alia*, storage services  
13 for messages that have already been opened by users. U.S.C. § 2702(a)(2). InMail messages that  
14 have previously been opened are retained for backup storage purposes in the Premium  
15 customer’s inbox. *Id.*

16           67.     LinkedIn violated the SCA when it knowingly disclosed the contents of Plaintiff  
17 and the Class Members’ private InMail messages to third-party entities. 18 U.S.C. § 2702(a).  
18 More specifically, LinkedIn violated § 2702(a)(1) by disclosing unopened InMail messages to  
19 third-party entities in its capacity as an ECS provider. Defendant also violated § 2702(a)(2) by  
20 disclosing previously opened InMail messages that were then held on its servers for storage  
21 purposes to third-party entities in its capacity as an RCS provider.

22           68.     None of the SCA’s disclosure exceptions apply to LinkedIn’s conduct. 18 U.S.C.  
23 § 2702(b).

24           69.     The intended recipients of the communications described herein were the senders  
25 and receivers of private InMail messages, not unknown third parties for purposes of training  
26 generative AI models.

27           70.     LinkedIn did not obtain consent from the Plaintiff, the Class members, or any  
28 intended recipients for these disclosures; instead, they were made surreptitiously to unknown

1 third parties. Any purported consent in the LSA or DPA did not extend to LinkedIn’s disclosure  
2 of customers’ personal data so that third parties could train generative AI models. LinkedIn’s  
3 actions therefore exceeded the scope of its agreement with customers.

4 71. The disclosures were not necessary for providing LinkedIn’s services as a  
5 professional social media network. Instead, they served the purpose of training AI models by  
6 unknown third parties, which is not justified under the LSA, DPA, or other agreements.

7 72. These disclosures involved the “contents” of Plaintiff’s and the Class members’  
8 communications. The disclosed contents included the substance of private InMail messages sent  
9 and received by Plaintiff and the Class members.

10 73. A reasonable consumer reading the LSA and the DPA would not understand that  
11 they were consenting to the disclosure of their private communications to third parties for the  
12 purpose of embedding them in generative AI models. This action contradicts the company values  
13 and express promises set forth in LinkedIn’s agreements.

14 74. LinkedIn acted knowingly at all times with respect to the conduct described  
15 herein. The public became aware of LinkedIn’s improper disclosures through LinkedIn’s own  
16 statements and actions, such as the introduction of a new privacy setting. This setting revealed  
17 that customer data was already being disclosed to train generative AI models. LinkedIn  
18 modified its Privacy Policy on September 18, 2024, in an attempt to retroactively justify its  
19 actions by purporting to obtain user consent for conduct that occurred without consent before  
20 that date.

21 75. Plaintiff, on behalf of himself and the Class, seeks actual damages for the  
22 diminished value of LinkedIn’s services as actually offered, since Premium customers paid for  
23 services that included promised privacy protections which were not delivered. The failure to  
24 uphold these privacy commitments reduces the value of LinkedIn’s Premium services for  
25 Plaintiff and the Class, resulting in financial loss and a deprivation of the bargained-for services.

26 76. Pursuant to 18 U.S.C. § 2707(b), Plaintiff on behalf of himself and the Class seeks  
27 equitable relief in the form of algorithmic disgorgement—the deletion or destruction of all  
28



1 models and algorithms trained using their private InMail messages to avoid the future irreparable  
2 harms alleged herein.

3 77. In addition, Plaintiff, on behalf of himself and the Class, seeks statutory damages  
4 of \$1,000 per person under the SCA, 18 U.S.C. § 2707, plus pre- and post-judgment interest,  
5 reasonable attorneys' fees, costs, and any other relief allowed by law.

6 **SECOND CAUSE OF ACTION**  
7 **Breach of Contract**  
8 **(On behalf of Plaintiff and the Class)**

9 78. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

10 79. LinkedIn's Terms of Service, Privacy Policy, LSA, and DPA represent a valid  
11 and enforceable contract between LinkedIn and its Premium customers, including Plaintiff and  
12 the Class members.

13 80. Premium LinkedIn customers, like Plaintiff and the Class, pay monthly  
14 subscription fees for heightened benefits, including InMail private messages and enhanced  
15 privacy and data protections, including those set forth in the LSA and DPA.

16 81. Plaintiff and the Class members have performed their duties under the contract by  
17 paying their monthly subscription fees to LinkedIn.

18 82. LinkedIn breached Section 3.2 of the LSA, and Sections 5.1 and 5.5 of the DPA  
19 by disclosing the private InMail messages of Plaintiff and the Class members to unknown third  
20 parties for the purpose of training generative AI models.

21 83. Further, LinkedIn's Privacy Policy contains an explicit commitment regarding  
22 material changes:

23 LinkedIn ("we" or "us") can modify this Privacy Policy, and if we make material  
24 changes to it, we will provide notice through our Services, or by other means, to  
25 provide you the opportunity to review the changes before they become effective.  
26 If you object to any changes, you may close your account.

27 84. LinkedIn breached this promise by disclosing Plaintiff and the Class's private  
28 InMail messages to third parties, and only updating its privacy policy after the practices were  
exposed. No opportunity was provided to Plaintiff or the Class to close their accounts, as

1 promised.

2 85. As a result of the breaches, Plaintiff and the Class members suffered actual  
3 damages, in the form of overpayment for LinkedIn Premium subscriptions that did not include  
4 the promised data privacy protections for their private InMail messages. In other words, Plaintiff  
5 and the Class did not receive the benefit of the bargain, in that they received a less valuable  
6 service than the subscriptions they paid for.

7 86. For these breaches, Plaintiff, on behalf of himself and the Class, seeks actual  
8 damages to be determined at trial plus pre- and post-judgment interest, costs, and such other  
9 relief as allowed by law.

10 **THIRD CAUSE OF ACTION**  
11 **Violation of California’s Unfair Competition Law (“UCL”)**  
12 **Cal. Bus. & Prof. Code § 17200**  
13 **(On behalf of Plaintiff and the Class)**

14 87. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

15 88. California’s Unfair Competition Law (“UCL”) prohibits unfair competition in the  
16 form of “any unlawful, unfair, or fraudulent business act or practice and unfair, deceptive, untrue  
17 or misleading advertising[.]” Cal. Bus. & Prof. Code § 17200. The UCL allows “a person who  
18 has suffered injury in fact and has lost money or property” to prosecute a civil action for  
19 violation of the UCL. *Id.* § 17204.

20 89. LinkedIn violated the UCL’s “unfair” prong by disclosing Plaintiff and the Class  
21 members’ private InMail messages in breach of its Privacy Policy, LSA, and DPA. As alleged  
22 herein, LinkedIn violated its specific contractual obligations regarding the purposes for which it  
23 processes personal information and the companies may share data with.

24 90. LinkedIn’s actions constitute an unfair business practice because they are  
25 immoral, oppressive, unscrupulous, and substantially injurious to consumers. In February 2024,  
26 the FTC stated: “It may be unfair or deceptive for a company to adopt more permissive data  
27 practices—for example, to start sharing consumers’ data with third parties or using that data for  
28 AI training—and to only inform consumers of this change through a surreptitious, retroactive

1 amendment to its terms of service or privacy policy.”<sup>6</sup> This is exactly what LinkedIn did.

2 91. In addition, LinkedIn’s actions are unfair because they violate the United States’  
3 public policy of protecting consumers’ stored communications, as well as the California  
4 Business and Professions Code § 22576, which prohibits website operators from failing to  
5 comply with their privacy policies.

6 92. LinkedIn’s actions alleged herein are also “unlawful” within the meaning of the  
7 UCL because they violated the Stored Communications Act, 18 U.S.C. § 2702, as well as the  
8 California Business and Professions Code § 22576.

9 93. Plaintiff and the Class member suffered injury in fact and lost money as a result  
10 of LinkedIn’s actions, in that they overpaid for LinkedIn premium subscriptions that included  
11 promises to protect the privacy of their private InMail messages, and their personal data more  
12 generally, and did not receive the full value of the services they bargained for.

13 94. Under Cal. Bus. & Prof. Code § 17203, Plaintiff and the Class seek restitution of  
14 all amounts overpaid in connection with their Premium subscriptions, as well as injunctive relief  
15 to in the form of algorithmic disgorgement—the deletion or destruction of all models and  
16 algorithms trained using their private InMail messages to avoid the future harms alleged herein.

17 95. Injunctive relief is appropriate because Plaintiff and the Class have suffered  
18 irreparable injuries. LinkedIn has used their private InMail messages to train its AI models and  
19 will not delete that personal data from its models. Monetary damages alone are insufficient, and  
20 given the balance of hardships—including the potential future harm from unauthorized data  
21 use—a remedy in equity is warranted. The public interest would not be harmed by a permanent  
22 injunction, as the public interest is served by requiring digital platform companies to adhere to  
23 their own stated Privacy Policies.

24 96. Plaintiff, individually and on behalf of the Class, brings this action to enforce an  
25 important right affecting the public interest, and therefore also seek an award of attorneys’ fees  
26

27  
28 <sup>6</sup> <https://www.ftc.gov/policy/advocacy-research/tech-at-ftc/2024/02/ai-other-companies-quietly-changing-your-terms-service-could-be-unfair-or-deceptive>

1 under Cal. Civ. Proc. Code § 1021.5.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff individually and on behalf of the Class, prays for the following  
4 relief:

5 (a) An order certifying the Class as defined above, appointing Alessandro De La  
6 Torre as the representative of the Class, and appointing his counsel as Class Counsel;

7 (b) An order declaring that Defendant’s actions, as set out above, violate the Stored  
8 Communications Act, 18 U.S.C. § 2702;

9 (c) An order declaring that Defendant’s actions, as set out above, breached the  
10 contracts between LinkedIn and its Premium customers;

11 (d) An order declaring that Defendant’s actions, as set out above, are unfair and  
12 unlawful under the UCL;

13 (e) An injunction requiring algorithmic disgorgement, that is, ordering Defendant to  
14 delete or destroy all models and algorithms trained using their private InMail messages in  
15 violation of the SCA, 18 U.S.C. § 2702, UCL, and in breach of contract, and to cease processing  
16 and disclosing their personal data in the future without proper consent;

17 (f) An award of all damages allowed by law, including statutory damages, actual  
18 damages, disgorgement of profits, punitive damages, costs, and attorneys’ fees;

19 (g) Such other and further relief that the Court deems reasonable and just.

20 **JURY DEMAND**

21 Plaintiff requests a trial by jury of all claims that can be so tried.

22 Respectfully submitted,

23 **ALESSANDRO DE LA TORRE**, individually and  
24 on behalf of all others similarly situated,

25 Dated: January 21, 2025

26 By: /s/Jared Lucky  
27 *One of Plaintiff’s Attorneys*

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*Counsel for Plaintiff and the Putative Class*