UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

XIAOMI CORPORATION, et al., Plaintiffs, v. DEPARTMENT OF DEFENSE, et al., Defendants.	Case No. 1:21-cv-00280-RC

DECLARATION OF BIN LIN

I, Bin Lin, hereby declare, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a Co-Founder, an Executive Director, and Vice Chairman of the Board of Xiaomi Corporation ("Xiaomi"). I co-founded Xiaomi with Lei Jun in 2010 and have served as a director of the company since that time.[1] Prior to co-founding Xiaomi, I was an engineering director at Google Inc., engineering manager/lead at Microsoft Corp., software engineer at ADP Inc., and held visiting and adjunct professorships at several universities. I currently sit on the Board of Advisors at the Tufts University School of Engineering. I am a 1990 graduate of Sun Yat-sen University, where I received a Bachelor of Science in Radio Electronics, and a 1992 graduate of Drexel University, where I received a Master of Science. I am a citizen of the United States.

2. During the early phases of Xiaomi's development, I was primarily responsible for recruiting the company's key personnel, raising private investments from venture-capital firms,

[1] Lei Jun is identified by his family name, followed by his given name. All other individuals in this declaration are identified by their given name, followed by their family name.

managing legal and finance operations, building strategic partnerships, and overseeing product development. As the company grew, I also managed strategic cooperation with suppliers, overseas sales, and online operations, and oversaw the company's sales, marketing, logistics, customer service, and after-sales services operations. I have been responsible for, among other things, Xiaomi's smartphone business, which is the company's largest business line by revenue. In November 2019, I took on the role of Vice Chairman of the Board. Since the founding of the company, together with Lei Jun, I have been responsible for making important strategic decisions for the company and overseeing its day-to-day management. As a result of these experiences, I am familiar with Xiaomi's business, including its operations, strategy, and finances.

3. This declaration is based on my personal knowledge and belief and upon my review of business records of Xiaomi and its subsidiaries.

I. Xiaomi Is a Successful Consumer Electronics Company.

4. Xiaomi is a consumer electronics company that offers a broad range of consumer products designed for civilian and commercial use. It is incorporated in the Cayman Islands and headquartered in Beijing, China. Xiaomi generated revenue of approximately $29.5 billion in 2019 and $25.7 billion through the end of the third quarter of 2020. A substantial percentage of this revenue—approximately 44 percent in 2019, and 50.5 percent in the first three quarters of 2020—came from sales outside mainland China. As of January 13, 2021, Xiaomi's market capitalization was approximately $106 billion.

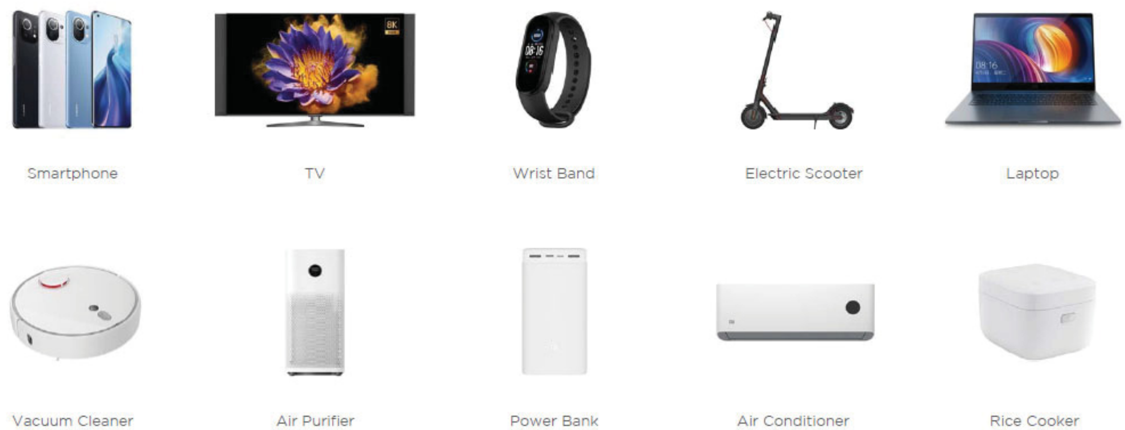
5. As we stated in our initial public offering ("IPO") prospectus, Xiaomi has pursued a mission of "relentlessly building amazing products with honest prices to let everyone in the world enjoy a better life through innovative technology." Xiaomi Corp., Global Offering (Prospectus) 1

(June 25, 2018).[2] In the decade since Xiaomi's founding, that vision has enabled the company's rapid growth. According to the market-analysis firm Canalys, Xiaomi is the world's third-largest smartphone manufacturer and shipped more than 40 million smartphones in the fourth quarter of 2020.[3] Xiaomi has also built a large set of consumer lifestyle electronics (also known as "Internet of Things" or "IoT") products, such as smart TVs, smart speakers, and household appliances such as air purifiers, rice cookers, and robot vacuums, as well as laptop and tablet computers, smart watches, wristbands, powerbanks, and electric scooters. In addition to Xiaomi's extensive line of consumer hardware products, Xiaomi also offers its users a wide range of internet services in China, including content, entertainment, financial services, and productivity tools. For the nine months ending on September 30, 2020, over 60 percent of Xiaomi's total revenue came from smartphone sales, over 29 percent came from other consumer electronics product sales, and over 10 percent came from internet services and other software sales.

[2] Xiaomi's IPO prospectus is available online at this link: https://global.appmifile.com/f/i/18/ir/files/Prospectus-E.pdf. Relevant excerpts of the prospectus are attached as Exhibit A to the Declaration of Megan A. Crowley.

[3] Worldwide smartphone shipments Q4 2020 and full year 2020, Canalys (Jan. 28, 2021), *available at* https://www.canalys.com/newsroom/global-smartphone-shipment-Q4-2020.

6. The following figure illustrates the categories of consumer electronics products Xiaomi designs and manufactures:



7. Xiaomi sells its hardware products through both online and offline retail distribution platforms. In China, Xiaomi operates its own website and mobile app, and partners with major e-commerce platforms such as Alibaba and JD.com. Xiaomi also has a sizeable offline retail network. In the overseas markets, Xiaomi partners with global e-commerce platforms (such as Amazon), local retailers (such as Walmart), and telecom operators for product distribution.

8. I would attribute Xiaomi's success to three key aspects of our business strategy. First, modeling ourselves on successful Silicon Valley startups, we have made every effort to attract the most talented engineers and other professionals and award them with significant Xiaomi stock options and restricted stock units. These awards motivate our people to do their best at work, which is critical to the company's long-term success. Second, as a consumer electronics company, we have built a strong corporate culture of listening to direct customer feedback from Internet forums and social media platforms and striving to improve our products based on this timely feedback. Third, we have fully embraced the Internet as a channel for sales, allowing us to reach our customers directly and minimize layers of distributors, which enables us to offer our products

at a better price than our competitors while still providing cutting-edge products and investing heavily in research and development.

II. Xiaomi Has Extensive Ties to the United States.

9. Xiaomi has extensive ties to the United States. As an initial matter, I am a U.S. citizen, and I co-founded Xiaomi with Lei Jun in 2010, as noted above. As the first Co-Founder of the company, I own 9.5 percent of the total number of shares outstanding of the company, second to Lei Jun's 26.5 percent (as of January 31, 2021).

10. Apart from my involvement, Xiaomi has other substantial ties to the United States. Since Xiaomi's founding in 2010, we have established strong partnerships with many U.S. suppliers. For instance, our first smartphone (Mi-1), launched in August 2011 and was powered by Qualcomm's premier-tier Snapdragon 8-series system-on-chip ("SoC"). The Snapdragon SoC has also powered each premium smartphone we have launched annually since then. Besides Qualcomm, we have also established strong business partnerships with a number of other U.S. suppliers. In the past three years, Xiaomi has spent more than $16.2 billion on components and more than $1.6 billion in software and services supplied by U.S. companies.

11. Two Xiaomi subsidiaries are organized and headquartered in the United States: Xiaomi USA LLC and Xiaomi USA Technology LLC. Xiaomi USA Technology LLC has an office in San Diego, California. As of January 31, 2021, Xiaomi and its subsidiaries employed 17 U.S. citizens, including 12 employees based in China and 5 based in the United States. Between 2016 and 2020, Xiaomi's revenue from the sale of products in the United States totaled more than $300 million.

12. Xiaomi has raised significant capital from U.S. investors and through U.S. financial institutions. For example, in 2020 alone, Xiaomi raised approximately $4.5 billion through the issuance of U.S.-dollar-denominated bonds, convertible bonds, and common shares.

Approximately one-third of this total was placed with U.S. investors. Moreover, these and similar transactions generated over $120 million in fees in the past three years for the U.S. financial institutions that underwrote them.

III. Xiaomi Is Publicly Traded, Governed by its Management and Board, and Ultimately Controlled by Its Founders.

13. When Lei Jun and I founded Xiaomi in 2010, we designed a weighted-voting-rights structure to ensure that we would retain full control over the company. Under that structure, Lei Jun and I acquired Class A shares that, upon Xiaomi's IPO, would carry ten times the voting rights per share as the Class B shares, which were the only shares issued to other investors. Lei Jun and I were the only recipients of the Class A shares, only Class B shares were listed in the IPO, and Xiaomi's American Depositary Receipts ("ADRs") track only the Class B shares. No Class A shares have been issued since the IPO. In the event that, among other things, either Lei Jun or I transfer Class A shares to another person (subject to narrow exceptions), the transferred shares are irrevocably converted into Class B shares.

14. As a result of this weighted-voting-rights structure, as of January 31, 2021, Lei Jun owns shares representing more than 66 percent of the company's voting rights, and I own shares representing more than 9 percent of the company's voting rights (including more than 400 million Class A shares and more than 1.9 billion Class B shares). Together, Lei Jun and I thus control more than 75 percent of the company's voting rights, enabling us to exercise control over Xiaomi to the maximum extent permitted by the Hong Kong Stock Exchange rules where the company is listed.

15. In September 2010, Xiaomi raised its first external capital through a $10.25 million Series A round of funding. Xiaomi raised an additional approximately $1.5 billion in private capital in eight funding rounds prior to its July 2018 initial public offering ("IPO"). Xiaomi's

principal pre-IPO investors were funds sponsored by well-known corporate investors such as Qualcomm and Nokia, as well as venture capital investors such as Morningside, IDG-Accel, Shunwei Capital, DST Global, Qiming Venture Partners, Matrix Partners, Dragoneer Investment Group, GIC, and Temasek—many of which have U.S. investors as limited partners.

16. In July 2018, Xiaomi executed its IPO, listing shares on the Hong Kong Stock Exchange. In that transaction, described in detail in the prospectus that accompanied the transaction,[4] Xiaomi raised approximately $3.5 billion. Soon thereafter, ADRs evidencing Xiaomi Class B shares (described above) began trading on the NASDAQ OTC market.

17. As of December 31, 2020, a substantial number of Xiaomi's shareholders were U.S. persons. As illustrated in the following table of data provided by a third-party market monitoring service to which we subscribe, four of our top ten shareholders of Xiaomi shares were U.S. persons: myself and U.S. institutional investors consisting of BlackRock, Inc., The Vanguard Group, Inc., and State Street Corporation:

[4] *See supra* note 1.

No.	Name	%	Country	Ordinary Shares
1	Lei Jun	26.5%	China	6,670,539,142
2	Bin Lin	9.5%	U.S.	2,399,920,210
3	BlackRock, Inc.	3.0%	U.S.	762,394,928
4	Feng Hong (co-founder)	2.2%	China	561,572,709
5	The Vanguard Group, Inc.	1.9%	U.S.	468,527,146
6	Kong-Kat Wong (co-founder)	1.8%	China	463,484,897
7	State Street Corporation	1.6%	U.S.	392,022,535
8	HSBC Holdings	1.2%	U.K.	295,623,962
9	GIC	1.0%	Singapore	260,769,810
10	Wanqiang Li (co-founder)	1.0%	China	240,928,340
	Total (Top Ten Shareholders)	**49.7%**		**12,515,783,679**

18. Xiaomi is overseen by a board of directors, which includes our chairman, Lei Jun; two executive directors (including myself), one non-executive director, and three independent directors. Xiaomi's directors are all highly accomplished in their respective fields and have extensive technological and commercial expertise. Lei Jun is a renowned engineer, angel investor, and entrepreneur. He has previously held key leadership positions in some of China's leading technology companies, including Kingsoft Corporation (which he joined as an engineer in 1989, rising to become CEO in the following decade, and of which he remains chairman of the board), JOYY INC, joyo.com (later sold to Amazon), and UCWeb (acquired by Alibaba in 2014). My fellow executive director, Shou Zi Chew, a Harvard business school graduate from Singapore who

is now responsible for our international business, served as our CFO for more than four years, and previously worked for Goldman Sachs followed by DST, a leading internet-focused investment firm. Qin Liu, our non-executive director, is a successful venture capitalist. Our independent directors, Dongsheng Chen, Timothy Wai Cheung Tong, and Shun Tak Wong, are similarly distinguished. Mr. Chen is CEO of the life insurance company Taikang Insurance Group; Professor Tong is a distinguished scholar of mechanical engineering and former president of the Hong Kong Polytechnic University (and also a U.S. citizen); and Mr. Wong is the co-founder and CFO of Rokid Corporation and has held senior roles in technology companies including Alibaba and Kingsoft.

19. Xiaomi's business is overseen on a day-to-day basis by an accomplished senior management team under the oversight of CEO Lei Jun.[5] Xiaomi benefits from the insight and experience of its board of directors and senior management. Ultimately, however, in light of our respective shareholdings, Lei Jun and I together have—and Mr. Lei individually has—sufficient votes to control the company to the maximum extent permitted under the Hong Kong Stock Exchange rules.

IV. Xiaomi Is Not Owned, Controlled, or Affiliated with the Chinese Government or Military.

20. I understand that this case is about whether Xiaomi is a "Communist Chinese Military Company" ("CCMC") for purposes of Section 1237 of the National Defense Authorization Act for Fiscal Year 1999 and executive orders restricting the ability of U.S. persons to transact in, and ultimately to possess, publicly traded securities of designated CCMCs. The Department of Defense's designation of Xiaomi as a CCMC on January 14, 2021, came as a total

[5] Biographies of Xiaomi's senior management are available at https://www.mi.com/global/about/.

surprise to me and to other members of Xiaomi's senior management team, because Xiaomi is not such a company.

21. First, Xiaomi is not owned by the People's Liberation Army, a Chinese government ministry, or an entity affiliated with the Chinese government's "defense industrial base." As discussed above, Xiaomi's Class A shares are beneficially owned exclusively by Lei Jun and me. When Class A and Class B shares are aggregated, the top 10 shareholders of Xiaomi—which collectively own just short of 50 percent of the total shares issued by the company—include five of its co-founders; three U.S. asset-management firms; one U.K. financial institution; and a Singaporean sovereign wealth fund. Even if a Chinese government entity were to have acquired Xiaomi Class B shares on the open market by purchasing them on the Hong Kong Stock Exchange, such shareholding would necessarily be insignificant, as any shareholder not appearing on this list necessarily owns one percent or less of Xiaomi's outstanding shares.

22. Second, Xiaomi is not controlled by the People's Liberation Army, a Chinese government ministry, or an entity affiliated with China's "defense industrial base." No such entity plays a role in Xiaomi's corporate governance. As described above, Xiaomi is overseen and operated, respectively, by its experienced and commercially-oriented board of directors and senior management team, subject to the ultimate oversight of the controlling shareholders: Lei Jun and myself. Lei Jun and I are businesspeople, not members of the Chinese military forces or security services.

23. Third, Xiaomi is also not affiliated with the People's Liberation Army or a Chinese government ministry. As noted above, Xiaomi is a private company that is independently managed by its board and executives. The Chinese government and military do not play—and have no right to play (for example, through share ownership, or by contract)—any role in shaping the company's

strategy and operations, which are singularly focused on designing and bringing to market products and services for civilian and commercial use. We do not design or manufacture any products for military use.

V. The Designation of Xiaomi as a CCMC and the Restrictions on Xiaomi Securities Will Cause the Company and Its Employees to Suffer Irreparable Harm.

24. The U.S. Government has designated Xiaomi a CCMC (the "Designation") and imposed certain restrictions (the "Restrictions") on the ability of U.S. persons to transact in and possess Xiaomi's publicly traded securities and securities that are derivative of such securities (collectively, "Xiaomi Securities"). As a result of the Designation and Restrictions, as of March 15, 2021, U.S. persons will be prohibited from transacting in Xiaomi Securities, except to divest themselves of such securities, and as of January 14, 2022, U.S. persons will be prohibited from possessing Xiaomi Securities. The Designation and Restrictions will cause significant, irreparable harm to Xiaomi and its employees.

25. By way of background, Xiaomi operates in the highly competitive global smartphones, consumer internet of things, and internet services industries. Remaining competitive in these industries—all of which are marked by rapid innovation, frequent introduction of new products and services, and aggressive competition with respect to both features and prices—requires significant financial investments, including in research and development, marketing, and establishing and maintaining stable supply chains and distribution channels. In this highly competitive environment, it is critically important for Xiaomi to continue to grow rapidly, and constantly to upgrade its existing product offerings. Such rapid growth and improvement require significant new investment on an ongoing basis, and Xiaomi's rapid growth to date has been fueled by billions of dollars of investment.

26. As noted, Xiaomi raised approximately $1.5 billion in private capital before going public, raised another $3.55 billion in its IPO, and raised an additional $3.1 billion share offerings and $2.8 billion in debt offerings since its IPO. Of the total capital the company has raised since its IPO, $4.6 billion has been raised from U.S. investors or through U.S. financial institutions. Yet starting on March 15, 2021, the Designation and Restrictions would largely cut off Xiaomi's access to new investment from U.S. capital markets, the world's deepest and most liquid source of funding and a significant source of funding for Xiaomi to date. As a result, Xiaomi's ability to raise external funding will substantially decrease, and its cost of capital will increase, which will cause the company to decline to pursue projects—including research and development initiatives and expansion opportunities—that it would have pursued had U.S. funding been available.

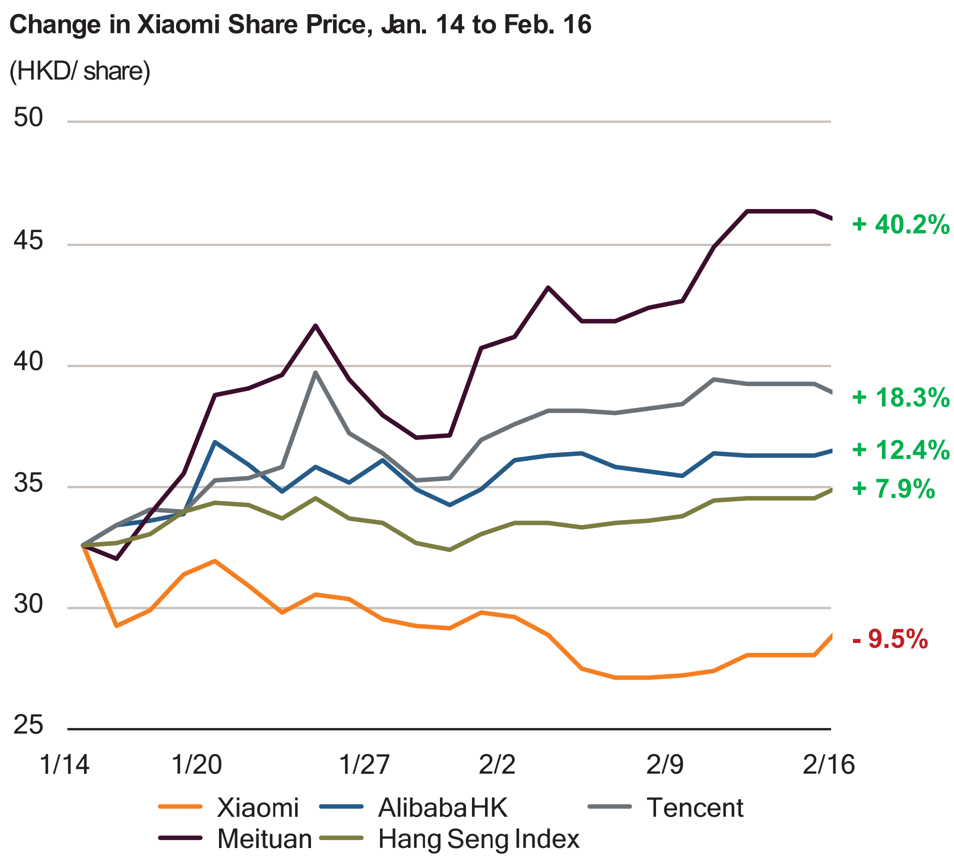
27. In particular, the Designation and Restrictions have already harmed, and will continue to harm, our ability to pursue strategic transactions. For example, I recently discussed with Lei Jun the possibility of a significant M&A opportunity, which was strategically important for our future business. The potential target is a fast-growing Chinese company with many U.S. institutional investors. However, the Designation and Restrictions have significantly reduced the market value of our ordinary shares, thereby rendering those shares unattractive consideration for this M&A transaction. Worse still, on March 15, 2021, Xiaomi will not be able to use its ordinary shares as consideration for this transaction, because the potential target's U.S. investors will no longer be able to exchange their shares for Xiaomi shares. As a result of these measures, we have been forced to abandon this transaction—leaving the potential target open to be acquired by one of our competitors. And it is not just a matter of this single transaction: our ability to grow through M&A transactions involving U.S. persons will be dramatically undercut as a result of the Designation and Restrictions.

28. Being shut out from new U.S. investments starting on March 15 will not only adversely affect our ability to access capital from U.S. investors and to engage in strategic transactions with U.S. sellers; just as damaging will be the harm to our strategic relationships with U.S. financial institutions, and in particular U.S.-headquartered investment banks. In addition to underwriting capital markets transactions, U.S. investment banks serve as trusted advisors and frequently identify other potential transactions, such as acquisitions, in which Xiaomi could engage. U.S. investment banks also play an important role in facilitating Xiaomi's access to capital from non-U.S. investors. If the Designation persists and the Restrictions take effect, these U.S. investment banks will have significantly less incentive to maintain relationships with Xiaomi, and will focus their efforts on building relationships with our competitors. Once formed, these relationships are "sticky," and it will be difficult or impossible for us to repair this damage even in the event the Designation and Restrictions are eventually lifted.

29. Moreover, the Designation and Restrictions will sever Xiaomi's relationships with various firms that sponsor stock- and bond-market indices. Xiaomi has been included in major indices, including ones sponsored by FTSE Russell, MSCI, and Standard & Poor's ("S&P"). Many asset management firms, including U.S. firms, sponsor funds that track the performance of these indices, and many such funds are marketed to U.S. investors. But because of the Designation and Restrictions, S&P has already announced that it will remove Xiaomi Securities from its indices. As March 15 approaches, we expect other index providers to announce their plans to remove Xiaomi Securities from their indices. According to third-party investment-bank estimates, the removal of Xiaomi from these indices will lead funds that track these indices to sell approximately $6 billion in Xiaomi Securities, creating tremendous downward pressure on the

prices of those Securities, and further eroding our ability to access the capital we need to continue to grow and compete.

30. More generally, the Designation and Restrictions are highly likely to precipitate sustained downward pressure on Xiaomi's stock price as existing U.S. shareholders sell their shares and as existing U.S. demand for Xiaomi shares vanishes. Since the announcement of the Designation and Restrictions, Xiaomi's stock price has decreased by 9.5 percent as of February 16, 2021. Xiaomi's market capitalization declined by approximately $10 billion after the Designation, as of February 16, 2021. As the following chart indicates, this downward trajectory is in stark contrast with the upward trajectory of other prominent Chinese technology companies and the Hang Seng (Hong Kong) stock index.



31. As we approach March 15, these downward pressures will doubtless intensify, making it likely that Xiaomi's share price will continue to decline or remain substantially lower than it otherwise would have, and lower in comparison to other firms that are competitors of Xiaomi but that have not been designated as CCMCs. This drop in Xiaomi's stock price will impede the company's ability to fundraise from other sources, and will require it to do so on terms that are less desirable than those it could have obtained previously. These effects will exacerbate the adverse effects on Xiaomi's ability to pursue new R&D and expansion projects, discussed above, and will likely lead to a loss of market share to competitors that have not been designated and which therefore can continue to access U.S. capital markets to fund innovation and expansion. Even if the Designation and Restrictions were to be reversed later, we would not be able to make up the ground we would lose to our competitors during this period, and many of the business opportunities we would lose while the Designation and Restrictions are in effect would not resurface again.

32. The Designation and Restrictions will also cause lasting adverse effects to Xiaomi's business by harming our brand reputation and goodwill in the marketplace more generally. Xiaomi has invested substantially in building an international brand in the consumer electronics space that is perceived as friendly, accessible, and responsive to customer preferences. It will be more difficult to maintain this brand if our global customer base perceives Xiaomi as a proxy for the Chinese military. Moreover, the Designation and Restrictions have undermined confidence in the marketplace regarding Xiaomi's ability to operate its business, leading to rumors that our business partners will cut ties with us.[6] This damage to our reputation and goodwill has caused and will

[6] Xiaomi was recently forced to issue a public statement refuting rumors that Google would make its Google Mobile Services ("GMS"), a suite of products available on phones that use the Android operating system, unavailable on Xiaomi phones. Xiaomi's official announcement is available in

continue to cause reduced sales, further downward pressure on Xiaomi's stock price, and erosion of our competitive position, and will have devastating impacts on Xiaomi's long-term business prospects.

33. Lastly, the Designation and Restrictions have already had, and will continue to have, serious adverse effects on Xiaomi's ability to recruit and retain talented employees. As a consumer electronics company, Xiaomi competes fiercely for talented engineers, industrial designers, and other employees on whom we rely to create and refine innovative, high-performance, user-friendly hardware, software, and other products. Given the importance of talent to our business, I and other senior executives spend a significant percentage of our time recruiting senior engineers and scientists. The Designation and Restrictions have already hampered our recruiting efforts by damaging our international branding and corporate goodwill and creating uncertainty about our future business prospects. Indeed, since the Designation, two potential

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Chinese at https://m.weibo.cn/status/4600913236853939 (in Chinese), and an English translation of the announcement is as follows:

> Clarification on Reports Stating that "Xiaomi mobile phones will no longer support GMS"
>
> (1) The "Xiaomi community response group" is a support group organized by Xiaomi fans, which does not represent the official Xiaomi opinion;
>
> (2) We have noticed that there are rumors that Xiaomi mobile phones will no longer support GMS service, which is untrue;
>
> (3) Some domestic versions of Xiaomi mobile phones have pre-installed GMS service framework, and these versions will not be impacted. For those versions that have not pre-installed GMS service framework, Xiaomi will not provide special support for users to install GMS service framework by themselves. In the future, to meet the needs of our users, we will increase the number of versions that have GMS system pre-installed;
>
> (4) International versions of Xiaomi mobile phones will not be impacted.

senior recruits have told me that they were unwilling to join Xiaomi because of the measures the U.S. Government has taken against us.

34. Moreover, the Designation and Restrictions will make it harder for us to retain the talented employees we already have. Most of our employees are compensated partly with awards of Xiaomi stock and/or stock options. In fact, in the first three quarters of 2020, 24.2 percent of our overall employees' compensation was provided in the form of stock and stock options, and this figure can be as high as 74 percent for upper-level employees. By undercutting our share price, the Designation and Restrictions have significantly reduced the value of that compensation. For example, stock options that Xiaomi granted on January 6, 2021 (shortly before the Designation) are now significantly underwater. By diminishing the value of unvested awards of stock and options, the Designation and Restrictions have reduced many of our employees' incentives to remain with the company until those awards vest.

35. Finally, insofar as the Restrictions apply to me, the requirement that I divest my publicly traded shares of Xiaomi at a time when the price of those shares is significantly lower than it would be in the absence of the Designation and Restrictions not only will cause me to experience significant losses on the value of those shares and prevent me from benefiting from future appreciation in the price of those shares, but will also be emotionally devastating to me as it will force me to cut ties to the company that I co-founded and have spent the last decade developing.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on February 17, 2021.

Bin Lin