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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
14

15 WILLIAM HERESNIAK, on behalf of himself  
and all others similarly situated,  
16 Plaintiff,  
17  
18 v.  
19 ELON R. MUSK, X HOLDINGS I, INC., X  
HOLDINGS II, Inc., and TWITTER, INC.,  
20 Defendants.

Case No. 3:22-cv-03074-CRB

**DEFENDANT TWITTER INC.’S NOTICE  
OF MOTION AND MOTION TO DISMISS  
UNDER RULES 12(b)(1) AND 12(b)(6), OR  
IN THE ALTERNATIVE, MOTION TO  
DISMISS FOR FORUM NON  
CONVENIENS OR TRANSFER UNDER 28  
U.S.C. § 1404(a); MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT OF THEREOF**

Hearing: Dec. 2, 2022, 10 A.M.  
Courtroom: 6 – 17<sup>th</sup> Floor  
Judge: Hon. Charles Breyer  
Date Filed: May 25, 2022

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**NOTICE OF MOTION AND MOTION**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on December 2, 2022, at 10 A.M. in Courtroom 6 – 17<sup>th</sup> Floor of the United States District Court, Northern District of California, San Francisco Division, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, California 94102, Defendant Twitter, Inc. (“Twitter”) will and hereby does move to dismiss Plaintiff William Heresniak’s (“Plaintiff”) second cause of action for declaratory and injunctive relief against Twitter and Defendants Elon R. Musk, X Holdings I, Inc., and X Holdings II, Inc. (collectively, the Musk Defendants”) in the First Amended Complaint (“Amended Complaint” or “Am. Compl.”) under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and pursuant to the *Brillhart* abstention doctrine, and under Federal Rule of Civil Procedure 12(b)(6) for failure to adequately plead standing. In the alternative, Twitter moves to dismiss this action on *forum non conveniens* grounds or to transfer this action to the District of Delaware under 28 U.S.C. § 1404(a).

The Motion is based on this Notice; the Memorandum of Points and Authorities; the papers, pleadings, and documents on file herein, including, without limitation, the Amended Complaint; the Declaration of Paula H. Anderson and accompanying exhibits; and on such other documents incorporated by reference into the Amended Complaint or the proper subject of judicial notice.

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Dated: September 9, 2022

SHEARMAN & STERLING LLP

By: /s/ Adam S. Hakki  
Adam S. Hakki

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