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***Application for Admission Pro Hac Vice To Be Filed*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CARLOS DADA, SERGIO ARAUZ, GABRIELA CÁCERES GUTIÉRREZ, JULIA GAVARRETE, ROMAN GRESSIER, GABRIEL LABRADOR, ANA BEATRIZ LAZO ESCOBAR, EFREN LEMUS, CARLOS MARTÍNEZ, ÓSCAR MARTÍNEZ, MARÍA LUZ NÓCHEZ, VÍCTOR PEÑA, NELSON RAUDA ZABLAH, MAURICIO SANDOVAL SORIANO, and JOSÉ LUIS SANZ,

Plaintiffs,

v.

NSO GROUP TECHNOLOGIES LIMITED and Q CYBER TECHNOLOGIES LIMITED,

Defendants.

Case No. _____

COMPLAINT

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Defendants NSO Group Technologies Limited and Q Cyber Technologies Limited develop spyware—malicious surveillance software—and sell it to rights-abusing governments. With Defendants' technology and assistance, these governments surveil journalists, human rights advocates, and political opponents, often in the service of broader campaigns of political intimidation and persecution. As the U.S. Department of Commerce observed last year when it added NSO Group to its "Entity List," Defendants' spyware has enabled authoritarian governments to "conduct transnational repression"—to reach across borders and stifle dissent. In recent years, the supply of spyware to authoritarian and other rights-abusing governments, by Defendants and other mercenary spyware companies, has become a grave and urgent threat to human rights and press freedom around the world.

2. Defendants' signature product, usually sold under the name "Pegasus," is a particularly sophisticated and insidious type of spyware. Defendants and their clients can install Pegasus on a target's smartphone remotely and surreptitiously, without any action by the target. Once installed, Pegasus gives its operators essentially full control of the device. They can covertly extract contact lists, calendar entries, text and instant messages, notes, emails, search histories, and GPS locations. They can turn on the smartphone's microphone to record surrounding sounds. They can activate the smartphone's camera to take photographs. They can also copy authentication keys to gain access to cloud-based accounts. Defendants highlight these and other capabilities in their marketing materials.

3. Defendants developed Pegasus, and deploy it, by repeatedly accessing computer servers owned by U.S. technology companies, including Apple Inc., a company based in Cupertino, California. As relevant to this case, Defendants accessed Apple servers to identify and exploit vulnerabilities in Apple software and services, to enable the delivery of Pegasus to targets' iPhones, and to allow Pegasus operators to extract data from their targets' iPhones and their targets' cloud-based

accounts. On information and belief, some of the Apple servers that Defendants abused to facilitate the delivery and operation of Pegasus in this case are located in California. In November 2021, Apple sued Defendants in this district, asserting that, through their development and deployment of spyware, they had exploited Apple's software and services, damaged its business and goodwill, and injured its users.

4. Plaintiffs in this case include journalists and others who write, produce, and publish El Faro, a digital newspaper based in El Salvador that has become one of the foremost sources of independent news in Central America—in the words of the International Press Institute, a "paragon of investigative journalism . . . with its fearless coverage of violence, corruption, inequality, and human rights violations." El Faro has a broad readership not only in Central America, but also in the United States, and particularly here in California. Plaintiffs include Carlos Dada, El Faro's co-founder and director; Roman Gressier, an El Faro reporter who is a U.S. citizen; Nelson Rauda Zablah, a former El Faro reporter who currently lives in the United States; José Luis Sanz, the Washington correspondent for El Faro, who also currently lives in the United States; and eleven other El Faro employees.

5. Between June 2020 and November 2021, at least twenty-two people associated with El Faro, including Plaintiffs, were the victims of Pegasus attacks. Their devices were accessed remotely and surreptitiously, their communications and activities monitored, and their personal data accessed and stolen. Many of these attacks occurred when they were communicating with confidential sources, including U.S. Embassy officials, and reporting on abuses by the Salvadoran government. The journalists and others who were the victims of these Pegasus attacks learned of them only much later. When they came to light, the attacks were condemned by human rights and press freedom groups around the world. For example, a coalition of civil society groups from Central America and the United States issued a joint statement in January 2022 denouncing the attacks and decrying

"[t]he lack of accountability for such egregious conduct by public authorities and private companies."

6. The Pegasus attacks have profoundly disrupted Plaintiffs' lives and work. The attacks have compromised Plaintiffs' safety as well as the safety of their colleagues, sources, and family members. The attacks have deterred some sources from sharing information with Plaintiffs. Some Plaintiffs have been diverted from pressing investigative projects by the necessity of assessing which data was stolen, and of taking precautions against the possibility that the stolen data will be exploited. Plaintiffs have also had to expend substantial resources to protect their devices against possible future attacks, to ensure their personal safety, and to address serious physical and mental health issues resulting from the attacks. The attacks have undermined the security that is a precondition for the independent journalism that El Faro strives to provide its readers, as well as the ability of El Faro's readers, including those in the United States, to obtain independent analysis of events in Central America.

7. Defendants' development and deployment of Pegasus against Plaintiffs was unlawful. It violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, and the California Comprehensive Computer Data Access and Fraud Act, Cal. Penal Code § 502, and it constituted trespass to chattels and intrusion upon seclusion. This is a suit for injunctive and declaratory relief, as well as compensatory and punitive damages.

JURISDICTION AND VENUE

8. This Court has jurisdiction over Plaintiffs' federal causes of action pursuant to 28 U.S.C. § 1331.

9. This Court has jurisdiction over Plaintiffs' state law causes of action pursuant to 28 U.S.C. § 1367, because these claims arise out of the same nucleus of operative fact as Plaintiffs' federal statutory claims.

10. This Court has personal jurisdiction over Defendants because Defendants have purposefully availed themselves of California as a forum and have purposefully directed their tortious activities at California. A court in this district exercised personal jurisdiction over Defendants based on substantially similar facts in *WhatsApp Inc. v. NSO Group Technologies Limited*, 472 F. Supp. 3d 649 (N.D. Cal. 2020).

11. Alternatively, this Court has personal jurisdiction over Defendants pursuant to Federal Rule of Civil Procedure 4(k)(2), because Plaintiffs' claims arise under federal law; if Defendants are not subject to jurisdiction in California, then they are not subject to jurisdiction in any state's courts of general jurisdiction; and exercising jurisdiction over Defendants is consistent with U.S. law and the U.S. Constitution.

12. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) or, alternatively, 28 U.S.C. § 1391(b)(3).

DIVISIONAL ASSIGNMENT

13. Pursuant to Civil Local Rule 3-2(e), this case may be assigned to the San Jose division because a substantial part of the events giving rise to Plaintiffs' claims occurred in Santa Clara County, where Apple is located.

PARTIES

Plaintiffs

14. Plaintiff Carlos Dada is the director of El Faro, which he co-founded in 1998. His reporting focuses on corruption and violence, and he has reported from numerous conflict zones, including in Guatemala, Honduras, Iraq, Mexico, and Venezuela. In 2011, he won the Maria Moors Cabot Prize for Latin American Reporting. In 2022, he was honored by the International Press Institute and International Media Support with a World Press Freedom Hero award, which recognizes "journalists who have made significant contributions to promote press freedom, particularly in the face of great personal risk." He also won the 2022

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