

PAUL HOFFMAN #71244
JOHN WASHINGTON #315991
Schonbrun, Seplow, Harris,
Hoffman & Zeldes LLP
200 Pier Avenue, Suite 226
Hermosa Beach, CA 90254
T: (424) 297-0114
F: (310) 399-7040
hoffpaul@aol.com

*Counsel for all Plaintiffs**

**See Signature Page for Complete List of
Plaintiffs*

CARRIE DECELL**
JAMEEL JAFFER**
ALEX ABDO**
STEPHANIE KRENT**
EVAN WELBER FALCÓN**
Knight First Amendment Institute
at Columbia University
475 Riverside Drive, Suite 302
New York, NY 10115
T: (646) 745-8500
F: (646) 661-3361
carrie.decell@knightcolumbia.org

*Counsel for all Plaintiffs**

***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

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

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

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

1 “[t]he lack of accountability for such egregious conduct by public authorities and
2 private companies.”

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

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

22 JURISDICTION AND VENUE

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

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

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

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

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

15 **DIVISIONAL ASSIGNMENT**

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

19 **PARTIES**

20 ***Plaintiffs***

21 14. Plaintiff Carlos Dada is the director of El Faro, which he co-founded in
22 1998. His reporting focuses on corruption and violence, and he has reported from
23 numerous conflict zones, including in Guatemala, Honduras, Iraq, Mexico, and
24 Venezuela. In 2011, he won the Maria Moors Cabot Prize for Latin American
25 Reporting. In 2022, he was honored by the International Press Institute and
26 International Media Support with a World Press Freedom Hero award, which
27 recognizes "journalists who have made significant contributions to promote press
28 freedom, particularly in the face of great personal risk." He also won the 2022

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.