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16 *Attorneys for Plaintiff Pfizer Inc.*

17 **UNITED STATES DISTRICT COURT**
18 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

19 PFIZER INC.,
20
21 Plaintiff,
22
23 - against -
24 CHUN XIAO LI and DOES 1-5,
25 Defendants.

26 Civil Action No. '21CV1980 CAB JLB
27 **COMPLAINT**

28 Plaintiff PFIZER INC., (“Pfizer”), through its undersigned attorneys, Davis Polk & Wardwell LLP, as and for its Complaint against Defendant CHUN XIAO LI (“Li”) and DOES 1-5, respectfully alleges, upon knowledge as to itself, and otherwise upon information and belief, as follows:

SUMMARY OF THE ACTION

1. Conventional wisdom says that the cover up is worse than the crime. Pfizer is not yet sure whether that is the case here, and thus comes to this Court for

1 expedited relief in support of arbitration. What Pfizer can say for sure is that its
2 soon-to-be former employee Chun Xiao (Sherry) Li uploaded over 12,000 files—
3 including scores of confidential Pfizer documents—from her Pfizer-issued laptop
4 to a personal Google Drive account and onto other personal devices. Upon
5 learning of Ms. Li’s troubling conduct, Pfizer addressed it with her. Although Ms.
6 Li initially gave the appearance of cooperation, it turns out that Ms. Li instead has
7 misled Pfizer about what she took, how she took it, when and why she did it, and
8 where those files (and possibly others) can be found today.

9 2. For over 150 years, Pfizer has been an industry leader in the
10 development of vaccines and drugs for the treatment of life-threatening diseases.
11 As just one example, Pfizer has been at the forefront of the global effort to develop
12 a vaccine for COVID-19. Through hard work, ingenuity, perseverance, and
13 billions of dollars in capital expense, Pfizer secured the first emergency-use
14 authorization in the United States for its COVID-19 vaccine in December 2020.
15 Pfizer’s work related to COVID-19 and other debilitating diseases such as
16 urothelial carcinoma, Merkel cell carcinoma, and non-small-cell lung cancer, to
17 name but a few, saves tens of thousands of lives each year.

18 3. Success breeds imitation, and competitors have been trying to recruit
19 Pfizer’s employees relentlessly, especially during 2021. The vast majority of
20 Pfizer employees choose to remain at Pfizer, pleased to remain on a winning team
21 that recognizes individuals’ efforts with generous compensation packages and
22 advancement opportunities within Pfizer. Not so for Ms. Li, who decided to leave
23 Pfizer for a competitor believed to be Xencor, Inc.

24 4. Had Ms. Li left Pfizer honorably, she would not be named in this
25 Complaint. But she made a different choice: on her way out the door, she
26 transferred onto personal accounts and devices over 12,000 files, scores of which
27 contain Pfizer confidential and trade-secret information, and tried covering her
28 tracks repeatedly. She went so far as to provide Pfizer’s security team a decoy

1 laptop, leading Pfizer to believe it was the one she used to download the 12,000
2 files from her Google Drive account. Forensic analyses confirmed it was not, and
3 Ms. Li (or somebody else, including potentially DOES 1-5) likely remains in
4 possession of the actual computer that contains those 12,000 files.

5 5. Pfizer believes in robust, fair competition. It was specifically that sort
6 of competition that led Pfizer and its competitors to develop different COVID-19
7 vaccines with record-breaking speed. And it is specifically that sort of competition
8 that compels Pfizer and its competitors to push the boundaries to develop other
9 blockbuster medications. It would be unjust to permit Ms. Li and anybody with
10 whom she may be working in concert to trade on Pfizer's successes and
11 experience, whether at Xencor or elsewhere, by leveraging the numerous
12 confidential Pfizer documents she took without permission and refuses to return.

13 6. Pfizer therefore brings this action against Ms. Li and DOES 1-5 for
14 (a) misappropriation of trade secrets in violation of the Defend Trade Secrets Act
15 of 2016 ("DTSA"), 18 U.S.C. § 1836, *et seq.*, and the California Uniform Trade
16 Secrets Act ("CUTSA"), Cal. Civ. Code § 3426, *et seq.*; (b) breach of contract; (c)
17 conversion; and (d) trespass to chattel. Pfizer concurrently seeks a temporary
18 restraining order and injunctive relief to preserve the status quo and prevent further
19 irreparable harm while Pfizer promptly commences arbitration proceedings in
20 accordance with the terms of Ms. Li's Mutual Arbitration and Class Waiver
21 Agreement.

22 PARTIES

23 7. Pfizer is a Delaware corporation, with its principal place of business at
24 235 East 42nd Street, New York, New York 10017. As part of its business, Pfizer
25 is involved in researching, developing, making and selling pharmaceutical
26 products, including vaccines, which it distributes in California, throughout the
27 United States, and around the world.
28

1 8. Ms. Li resides, on information and belief, in San Diego, California.
2 Ms. Li was hired in 2006 and currently serves as Associate Director of Statistics in
3 Pfizer's Global Product Development group at Pfizer's facility in La Jolla,
4 California. Ms. Li informed Pfizer that she intends to resign effective November
5 24, 2021.

6 9. The true names and capacities, whether individual, corporate,
7 associate or otherwise, of DOES 1 through 5 are unknown to Pfizer, who therefore
8 sues them by fictitious names. DOES 1 through 5, on information and belief, are
9 individuals or corporations who acted or are acting in concert with Ms. Li in
10 connection with the misappropriation of Pfizer's trade-secret and confidential
11 information and/or knowingly and intentionally have acquired, disclosed, and/or
12 used Pfizer's trade-secret and confidential information. Pfizer will amend this
13 Complaint to state the true names and capacities of DOES 1 through 5 once they
14 have been ascertained.

15 **JURISDICTION AND VENUE**

16 10. This action arises under the DTSA, 18 U.S.C. § 1836, *et seq.*, as well
17 as under California and New York law. This Court has federal-question
18 jurisdiction over this action pursuant to 28 U.S.C. § 1331 because Pfizer has claims
19 for misappropriation of trade secrets under the DTSA, 18 U.S.C. § 1836(c). This
20 Court has supplemental jurisdiction over the state-law claims alleged in this
21 complaint pursuant to 28 U.S.C. § 1367.

22 11. This Court has personal jurisdiction over Ms. Li because she is a
23 resident of the State of California. Ms. Li has also had continuous and systematic
24 contacts with the State of California by and through her employment with Pfizer at
25 its facility in La Jolla, California where, upon information and belief, a substantial
26 part of the actions causing Pfizer's injuries and giving rise to Pfizer's claims
27 occurred. Ms. Li has also purposefully directed business activities at the State of
28 California, which constitute at least minimum contacts with the State of California

1 such that the maintenance of this suit in this Court does not offend traditional
2 notions of fair play and substantial justice.

3 12. Venue is proper in this Court because Ms. Li is subject to the personal
4 jurisdiction of this Court, and because a substantial part of the events giving rise to
5 Pfizer's claims and causing Pfizer's injuries occurred at Pfizer's facility in La
6 Jolla, California, *i.e.*, within this Judicial District. Further, based on information
7 and belief, Ms. Li resides within this Judicial District.

8 **FACTUAL ALLEGATIONS**

9 13. Due to the sheer number of documents Ms. Li misappropriated, Pfizer
10 has yet to understand the full scope of trade-secret and confidential information in
11 her possession. While Ms. Li possesses thousands of documents potentially related
12 to numerous Pfizer vaccines, drugs, and other innovations, this Complaint focuses
13 on Pfizer's COVID-19 vaccine and its avelumab and elranatamab monoclonal
14 antibodies.

15 **Background on the Covid-19 Vaccine**

16 14. As the COVID-19 pandemic spread globally, Pfizer decided that it
17 had a moral and scientific imperative to develop and bring to the public a vaccine
18 as quickly as possible. On March 17, 2020, Pfizer signed a letter of intent to
19 partner with BioNTech to co-develop an mRNA-based coronavirus vaccine
20 program, BNT162, aimed at preventing COVID-19 disease. The collaboration
21 leverages Pfizer's expertise in vaccine research and development, regulatory
22 capabilities, and global manufacturing and distribution network.

23 15. To date, Pfizer has invested over \$2 billion of its own capital to
24 develop its COVID-19 vaccine and has dedicated hundreds of Pfizer scientists,
25 strategists, and other personnel to the COVID-19 vaccine effort. By risking its
26 own investment, rather than relying on government funds, Pfizer could be more
27 nimble in the development of the vaccine.
28

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