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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

LOUJAIN HATHLOUL ALHATHLOUL,

Plaintiff,

v.

DARKMATTER GROUP, MARC BAIER,
RYAN ADAMS, and DANIEL GERICKE,

Defendants.

Case No. 3:21-cv-01787-IM

DEFENDANT DANIEL GERICKE'S
ANSWER TO PLAINTIFF'S FIRST
AMENDED COMPLAINT

For his answer to Plaintiff's First Amended Complaint, Defendant Daniel Gericke ("Gericke") admits, denies and alleges as follows on behalf of himself and no other defendant:

Preliminary statement: Gericke vehemently denies any act or omission in relation to the Plaintiff. He was completely unfamiliar with her when he worked for DarkMatter and was not involved in Computer Network Exploitation ("CNE") operations during the time of the alleged exfiltration of her data.

1. Gericke denies the second, third, and fourth sentences of Paragraph 1, and lacks knowledge or information sufficient to form a belief about the truth of the first sentence.

2. Deny.

3. Gericke admits that he entered into the DPA. Gericke admits that the DPA was filed in the U.S. District Court for the District of Columbia. Admit that the DPA is attached to the First Amended Complaint. The text of the DPA speaks for itself, and Gericke avers that it is a

document negotiated with the government that includes information of which Gericke has no personal knowledge. To the extent a response is required to the remainder of paragraph 3, Gericke denies the allegations of that paragraph.

4. Gericke lacks knowledge or information sufficient to form a belief about the truth of the first and fourth sentences of paragraph 4.

5. Gericke lacks knowledge or information sufficient to form a belief about the truth of the first and fourth sentences of paragraph 5.

6. Gericke lacks knowledge or information sufficient to form a belief about the truth of the first sentence of paragraph 6. Gericke otherwise denies the allegations of paragraph 6.

7. Gericke admits the first sentence of paragraph 7. Gericke lacks knowledge or information sufficient to form a belief about the second sentence of paragraph 7.

8. The allegations of paragraph 8 do not pertain to Gericke. No response is required.

9. Admit the first two sentences of paragraph 9. Admit that Gericke's job title was Vice President throughout his employment with Dark Matter, that he was a manager in relation to the cybersecurity services that seconded Dark Matter employees provided to the UAE government, that he managed several departments throughout his secondment but not all of CIO, that his secondment began in January 2016, and that his secondment ended in late 2018. Gericke further avers that by November 28, 2017, he was no longer involved in operational aspects of CNE and had moved to research and development. Admit that Gericke entered into the DPA attached to the complaint. The text of the DPA speaks for itself, and Gericke avers that it is a document negotiated with the government that includes information of which Gericke has no personal knowledge. Except as otherwise admitted, Gericke denies the allegations of paragraph 9.

10. Admit that Ryan Adams ("Adams") entered into the DPA. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 10.

11. Gericke does not concede that the CFAA applies extraterritorially and to that

extent denies that there is subject-matter jurisdiction. The Court lacks jurisdiction over the Alien Tort Statute claim, which was dismissed for that reason.

12. Deny as to Gericke.

13. Admit that 28 U.S.C. § 1391(b)(1) is not a basis for venue in this action. Deny that there is no judicial district where this action may be brought under 28 U.S.C. § 1391(b)(2). Plaintiff alleges that defendants exfiltrated data from her phone when she visited Washington D.C. She further alleges that the harm she suffered flows from that exfiltration. Thus, venue is proper in Washington D.C. and improper in Oregon. Deny that venue is proper pursuant to 28 U.S.C. § 1931(b)(3) because (1) as described above, this action could have been brought in U.S. District Court for the District of Columbia, and (2) the Court lacks personal jurisdiction over defendants.

14. Admit that women and girls in Saudi Arabia have fewer rights and protections than they do in Western countries.

15. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 15.

16. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 16.

17. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 17.

18. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 18.

19. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 19.

20. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 20.

21. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 21.

22. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 22.

23. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 23.

24. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 24.

25. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 25.

26. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 26.

27. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 27.

28. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 28.

29. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 29.

30. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 30.

31. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 31.

32. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 32.

33. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 33.

34. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 34.

35. Gericke lacks knowledge or information sufficient to form a belief about the truth

of paragraph 35.

36. Admit that the UAE and Saudi Arabia are monarchies. Admit that the rights of speech, assembly, and expression in those countries are more limited than in the United States. Gericke lacks knowledge or information sufficient to form a belief about the truth of the other allegations of paragraph 36.

37. Gericke is aware of public reports that the UAE has engaged in the conduct alleged in paragraph 37 but has no personal knowledge. Gericke lacks knowledge or information sufficient to form a belief about the truth of the other allegations of paragraph 37.

38. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 38.

39. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 39.

40. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 40.

41. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 41.

42. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 42.

43. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 43.

44. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 44.

45. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 45.

46. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 46.

47. Admit the first sentence of paragraph 47. Admit that the “Arab Spring” occurred

in 2011. Gericke lacks knowledge or information sufficient to form a belief about the truth of the other allegations of paragraph 47.

48. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 48.

49. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 49.

50. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 50.

51. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 51.

52. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 52.

53. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 53.

54. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 54.

55. Admit that the UAE has developed cyber-surveillance programs. Admit that the UAE government has hired U.S. companies to assist with UAE's cyber-surveillance. Admit that some of the technology used in connection with UAE's cyber-surveillance program was created by U.S. companies. Gericke lacks knowledge or information sufficient to form a belief about the truth of the other allegations of paragraph 55.

56. Gericke lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 56.

57. Gericke does not understand what is meant by "transferred" at the end of paragraph 57 and therefore denies that portion of paragraph 57. Gericke lacks knowledge or information sufficient to form a belief about whether CyberPoint was the primary contractor. Gericke otherwise admits the allegations of paragraph 57.

58. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 58.

59. Gericke admits that CyberPoint obtained export licenses from the Department of State. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of the remainder of paragraph 59.

60. Gericke admits that CyberPoint obtained export licenses from the Department of State. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of the remainder of paragraph 60.

61. Gericke admits that CyberPoint obtained export licenses from the Department of State, and that CyberPoint did not target U.S. persons. Gericke also admits that ITAR licenses place restrictions on export and transfer. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 61.

62. Gericke admits that Marc Baier (“Baier”) was a manager at CyberPoint. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of the remainder of paragraph 62.

63. It is unclear what is meant by “project leader.” Gericke admits the allegations of paragraph 63 and that he eventually led some projects at CyberPoint.

64. Gericke admits that Adams worked at CyberPoint. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of the remainder of paragraph 64.

65. Admit that Gericke helped to maintain and update Project Raven. Gericke otherwise denies the allegations of paragraph 65.

66. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 66.

67. Admit that the UAE government chose targets. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 67.

68. Admit that the UAE government designated CNE targets. Admit that CyberPoint personnel carried out the UAE government's requests. Admit that CNE involved using exploits. Except as expressly admitted, Gericke denies the allegations of paragraph 68.

69. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 69.

70. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 70.

71. Deny.

72. Admit that Gericke was a supervisor at CyberPoint, admit that some of the services CyberPoint provided were covered under ITAR, and admit that the UAE government identified targets. Gericke otherwise denies the allegations of paragraph 72.

73. Admit that Gericke transitioned from CyberPoint to DarkMatter. Admit that the UAE began working with DarkMatter beginning in or about December 2015 through February 2016. Gericke otherwise denies the allegations of paragraph 73.

74. Admit as to Gericke.

75. Admit as to Gericke.

76. Admit that Baier was, at some point, supervisor of the seconded DarkMatter employees while seconded to the UAE government. Gericke otherwise lacks knowledge or information sufficient to form a belief as to the other allegations of paragraph 76.

77. Admit that Adams was, at some point, a supervisor while assigned to the UAE government through his employment by DarkMatter. Gericke otherwise lacks knowledge or information sufficient to form a belief as to the other allegations of paragraph 77.

78. Deny and further aver that Gericke's job title was Vice President throughout his employment with Dark Matter, that he was a manager in relation to the cybersecurity services that seconded Dark Matter employees provided to the UAE government, that he managed several departments throughout his secondment but not all of CIO, that his secondment began in January 2016, and that his secondment ended in late 2018. Gericke further avers that by November 28,

2017, he was no longer involved in operational aspects of CNE operations and had moved to research and development.

79. Deny.

80. Deny, and further aver that, to Gericke's knowledge, CIO did not access computers in the United States.

81. Admit that Project Raven included an ITAR-controlled defense article, otherwise deny as to Gericke.

82. Admit that Gericke did not obtain any authorizations from the United States Government in relation to Project Raven.

83. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 83.

84. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 84.

85. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 85.

86. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 86.

87. Deny as to Gericke, and aver that he was not involved in acquiring "exploits" for DarkMatter.

88. Deny as to Gericke, and aver that he was not involved in acquiring "exploits" for DarkMatter. Admit that paragraph 88 accurately summarizes what a zero-click exploit is.

89. Admit that paragraph 89 accurately describes what zero-exploits do.

90. Admit that paragraph 90 correctly states how zero-click exploits work.

91. Deny that Gericke acquired exploits, otherwise admit.

92. Deny that Gericke developed Karma, otherwise admit.

93. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 93.

94. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 94.

95. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 95.

96. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 96.

97. Deny as to Gericke.

98. Admit that Apple's patch, in or around September 2016, rendered an exploit with which Gericke was familiar less effective.

99. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 99.

100. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 100.

101. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 101.

102. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 102.

103. Deny as to Gericke.

104. Deny as to Gericke.

105. Deny that anonymization services in the United States, or proxy servers in the United States, were used in computer network exploitation. Admit that some of the computer hardware was purchased from United States companies. Except as expressly admitted, Gericke denies the allegations of paragraph 105.

106. Admit that Baier, Adams, and Gericke entered into a Deferred Prosecution Agreement concerning alleged ITAR violations. Paragraph 106 otherwise states a legal conclusion to which no response is required.

107. Deny.

108. Deny.

109. Deny the use of U.S.-based proxy servers, or U.S.-based anonymization services, in CNE. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 109.

110. Deny as to Gericke.

111. Deny.

112. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 112.

113. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 113.

114. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 114.

115. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 115.

116. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 116.

117. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 117.

118. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 118.

119. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 119.

120. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 120.

121. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 121.

122. Gericke lacks knowledge or information sufficient to form a belief about the truth

of paragraph 122.

123. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 123.

124. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 124.

125. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 125.

126. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 126.

127. Deny.

128. Deny as to Gericke.

129. Deny that DarkMatter engaged in computer network exploitation. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 129.

130. Deny.

131. Deny as to Gericke.

132. Admit that Gericke possessed an understanding of how the exploits functioned, and deny that the exploits necessarily relied on U.S.-based Apple servers.

133. The *Reuters* reporting speaks for itself.

134. The *Reuters* reporting speaks for itself. Gericke was unfamiliar with the plaintiff until this lawsuit was filed and had not heard the code name “Purple Sword.” To the extent a response is necessary, Gericke denies the allegations of paragraph 134.

135. Deny that DarkMatter engaged in computer network exploitation. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 135.

136. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 136.

137. Gericke lacks knowledge or information sufficient to form a belief about the truth

of paragraph 137.

138. Deny that DarkMatter had malware and admit that the type of data listed could be exfiltrated using Karma.

139. Deny.

140. Deny.

141. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 141.

142. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 142.

143. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 143.

144. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 144.

145. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 145.

146. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 146.

147. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 147.

148. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 148.

149. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 149.

150. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 150.

151. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 151.

152. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 152.

153. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 153.

154. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 154.

155. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 155.

156. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 156.

157. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 157.

158. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 158.

159. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 159.

160. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 160.

161. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 161.

162. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 162.

163. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 163.

164. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 164.

165. Gericke lacks knowledge or information sufficient to form a belief about the truth

of paragraph 165.

166. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 166.

167. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 167.

168. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 168.

169. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 169.

170. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 170.

171. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 171.

172. Admit that Gericke entered into a Deferred Prosecution Agreement. Admit that the Deferred Prosecution Agreement contained a Factual Statement. Admit that Gericke signed an acknowledgment stating, among other things, that the Factual Statement was true and accurate. Deny that Gericke attested to the accuracy of things outside his personal knowledge. Except as expressly admitted, Gericke denies the allegations of paragraph 172.

173. The DPA speaks for itself as to the offenses it covered.

174. Admit that paragraph 174 is Gericke's understanding of the Deferred Prosecution Agreement.

175. Exhibit B to the First Amended Complaint speaks for itself. Gericke admits that Exhibit B bears his signature.

176. Exhibit B speaks for itself.

177. Exhibit B speaks for itself.

178. Gericke incorporates and realleges his prior responses as though set forth here in full.

179. The CFAA speaks for itself.

180. The CFAA speaks for itself.

181. Paragraph 181 is a legal conclusion to which no response is required.

182. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 182.

183. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 183.

184. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 184.

185. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 185.

186. Deny.

187. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 187.

188. Deny.

189. Deny.

190. Deny.

191. Deny.

192. Deny that Gericke infected Plaintiff's phone with malware and deny that her data would have been routed to a DarkMatter server. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 192.

193. Deny.

194. Deny.

195. Deny.

196. Deny.

197. Deny as to Gericke.

198. Deny as to Gericke.

199. Deny as to Gericke.

200. Gericke denies damaging Plaintiff's iPhone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 200.

201. Gericke denies impairing the security systems on Plaintiff's iPhone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 201.

202. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 202.

203. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 203.

204. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 204.

205. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 205.

206. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 206.

207. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 207.

208. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 208.

209. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 209.

210. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 210.

211. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 211.

212. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or

information sufficient to form a belief about the truth of paragraph 212.

213. Gericke lacks knowledge or information sufficient to form a belief about the truth of paragraph 213.

214. Gericke denies hacking Plaintiff's phone. Gericke otherwise lacks knowledge or information sufficient to form a belief about the truth of paragraph 214.

215. Gericke incorporates and realleges the foregoing responses as though set forth in full here.

216. Deny as to Gericke.

217. Deny as to Gericke.

218. Admit that while he was engaged in CNE, he oversaw the targeting of groups and persons identified by UAE personnel as security threats, otherwise denied.

219. Deny as to Gericke.

220. Deny as to Gericke.

221. Admit that UAE officials selected targets for CNE operations, which UAE nationals carried out. Except as expressly admitted, Gericke denies the allegations of paragraph 221.

222. Deny as to Gericke

223. Deny as to Gericke.

224. Deny as to Gericke.

225. Deny as to Gericke.

226. Deny as to Gericke.

227. The Alien Tort Statute has been dismissed. Therefore, no responses to paragraphs 227 through 234 are necessary.

AFFIRMATIVE DEFENSES

First Affirmative Defense: Intracorporate conspiracy doctrine

228. The intracorporate conspiracy doctrine bars the Second Claim for Relief. Plaintiff alleges that DarkMatter and the Individual Defendants conspired to hack Plaintiff's phone, and

that the hack comprises a CFAA violation. The First Amended Complaint alleges that the Individual Defendants were employees of DarkMatter. Thus, on its face, the CFAA conspiracy claim is barred by the intercorporate conspiracy doctrine. The CFAA conspiracy claim also fails under the intracorporate conspiracy doctrine if the alleged conspiracy is between or among the Individual Defendants and the UAE government to which they were seconded.

Second Affirmative Defense: Statute of limitations

229. Plaintiff alleges that the charging document in connection with her trial in Saudi Arabia in March 2019 “referenced private communications stored on Ms. Althathloul’s iPhone. These included private communications between Ms. Althathloul and other human rights activists that had been transmitted via Telegram and WhatsApp, both end-to-end encrypted messaging services.” FAC, ¶ 169. She also alleges that the charging document referenced her participation in conferences, communications with human rights advocates, etc.

230. Both CFAA claims have a two-year statute of limitations.

231. This lawsuit was filed on December 9, 2021.

232. Plaintiff’s CFAA claims accrued in March 2019 because she knew, or should have known, that her phone was hacked.

233. The First and Second Claims for Relief therefore are time-barred.

Third Affirmative Defense: Improper venue

234. Plaintiff alleges that her phone was exfiltrated when she visited Washington D.C. for five days.

235. None of the defendants resides in Oregon and the acts or omissions alleged in the FAC did not occur there.

236. The District of Oregon therefore is an improper venue; the District Court for the District of Columbia is the proper venue.

Fourth Affirmative Defense: Immunity

237. When seconded to the UAE government, the Individual Defendants acted as agents of the UAE government. Common law conduct-based immunity therefore bars Plaintiff’s

claims against them.

Fifth Affirmative Defense: Personal jurisdiction

238. The Court lacks personal jurisdiction for the reasons set forth in defendants' motions to dismiss and based on the evidence to be adduced in discovery.

WHEREFORE, Gericke prays for entry of judgment as follows:

1. That Plaintiff take nothing and that Plaintiff's lawsuit be dismissed with prejudice;
2. That judgment be entered in favor of Gericke;
3. That Gericke recover costs of suit; and
4. For such further relief as the Court deems just and proper.

DATED this 1st day of October, 2025.

SNELL & WILMER L.L.P.

/s/ Clifford S. Davidson

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