

1 **Hao Li Authenticates USC's Confirmation of**
2 **Pinscreen's Public Deception at ACM SIGGRAPH RTL 2017**

3 <http://sadeghi.com/Hao-Li-Authenticates-USC-Confirmation-of-Pinscreen-Public-Deception-at-SIGGRAPH-RTL-2017>

4 The Office of Research at University of Southern California (USC) has been conducting
5 an investigation of Hao Li's and Pinscreen's scientific misconduct since 2018. On December 9,
6 2019, USC's Research Integrity Officer, Dr. Kristen Grace, confirmed in writing that
7 Pinscreen's demo at ACM SIGGRAPH Real-Time Live (RTL) 2017, lead by Hao Li, was
8 "misrepresented" constituting "falsification" and "research misconduct" (Appendix A):

9 **Kristen Grace** <gracekri@usc.edu> Mon, Dec 9, 2019 at 1:05 PM
10 To: Iman Sadeghi <sadeghi@gmail.com>

11 Thanks for the info. What I meant to ask relates to the claim that Pinscreen was pre-recording
12 avatar creation in the event there were internet issues. The conference organizers indicated to him
13 that it was acceptable to do IF there was a problem. This would mean that the full working code
14 was available, but that code was not able to be implemented after running in real-time and having
15 internet issues. At this point the decision would be made to use a cached version instead. If this
16 were the case, the presenter should explain this to the audience. According to you, the presenter,
17 and the Skype conversations, there were no attempts to run a working code at **SIGGRAPH RTL**,
18 one that actually does what you presented, but could not run effectively due to connectivity issues.

19 I'm just trying to counter Li's argument that it is acceptable to present a non-realtime presentation
20 based on problems with connectivity. That argument is moot if there was no test at SIGGRAPH for
21 any connectivity problems. Either way, **the presentation itself was misrepresented** with no
22 explanation to the audience. As presentation of a newly researched and developed computer
23 science technology, **that in-and-of itself is falsification and research misconduct**. Verifying from you
24 the presenter that the <https://gitlab.com/pinscreen/rtl-app.git> was the only code available at the time
25 and the one you presented to the audience is a key piece of information. Also that you, as presenter,
26 knew and admit that Pinscreen was knowingly misleading the audience (under Li's direction) by not
27 informing them that the presentation was manually created and pre-recorded and not a RT demo, as
28 was introduced by the moderator, Li and you at the time.

Kristen

<http://sadeghi.com/USC-Confirmation-of-Hao-Li-and-Pinscreen-Public-Deception-at-SIGGRAPH-RTL-2017>

Dr. Iman Sadeghi submitted a declaration under penalty of perjury to Los Angeles's
Superior Court referencing the USC emails by Dr. Kristen Grace (Appendix B):

11. On information and belief, the Office of Research at USC has been conducting an
investigation of Li's and Pinscreen's scientific misconduct since 2018. On December 9, 2019,
USC's Research Integrity Officer, Dr. Kristen Grace, confirmed in writing that (1) USC has "done a
full analysis of the code" (<https://gitlab.com/pinscreen/rtl-app.git>) for Pinscreen's RTL demo, that
(2) the code is as described in [SAC ¶ 93 & TAC ¶ 93], that (3) Pinscreen's demo was
"misrepresented", and that (4) Li's and Pinscreen's misrepresentation constitutes "falsification,"

1 and “research misconduct”. On information and belief, Li has made contradicting representations to
2 USC and during discovery and his employment at USC has terminated as of June 2020. A true and
3 correct copy of the various email exchanges are attached hereto as Exhibit 4.

4 Benjamin Davidson, on behalf of Pinscreen and Li, authenticated the USC emails by
5 confirming that the “same emails” were also produced by USC (Appendix C):

6 4. Attached as Exhibit 4 to Dr. Sadeghi’s Declaration are five pages of communications
7 between Dr. Sadeghi and USC.

8 6. Moreover, the first three of these pages were produced by USC in response to a
9 subpoena, bates-labeled USC000447-450. As they were produced as part of internal investigatory
10 files, my office designated those documents as Highly Confidential.

11 7. The only difference between the documents that Pinscreen has designated as
12 “Confidential” or “Highly Confidential,” and those attached as Exhibit 4 to Plaintiff’s Declaration
13 is the formatting and the fact that, in USC’s production, the documents are produced as part of an
14 email chain rather than as standalone emails. But the content is the same. These are for all practical
15 purposes the same emails.

16 In response, Adam Zaffos, on behalf Sadeghi, refuted Davidson’s contention that the
17 USC emails by Dr. Kristen Grace are confidential (Appendix D):

18 3. Mr. Davidson asserts that Exhibit 4 to Dr. Sadeghi’s declaration filed in opposition
19 to this ex parte application contains documents that were designated Confidential by Pinscreen,
20 specifically SADEGHI 005803-5804, 5808, and 5827-5829.

21 4. Those documents were designated confidential pursuant to Paragraph 4 of the
22 stipulation.

23 5. Pursuant to Paragraph 7 of the Protective Order, on October 30, 2020, I promptly
24 advised Mr. Davidson that Dr. Sadeghi was challenging the designation of confidentiality as to
25 these documents. A true and correct copy of my email is attached as **Exhibit 5**.

26 6. Under Paragraph 11, Pinscreen was obligated to meet and confer regarding the
27 challenged designation and, if unable to resolve, file a motion to retain confidentiality within 21
28 days following receipt of the notice.

7. Pinscreen did not file a motion to retain confidentiality and under the provisions of
Paragraph 7, the documents have been de-designated as confidential.

APPENDIX A



Iman Sadeghi <sadeghi@gmail.com>

Question

Iman Sadeghi <sadeghi@gmail.com>
To: Kristen Grace <gracekri@usc.edu>

Mon, Dec 9, 2019 at 11:18 AM

Dear Dr. Grace,

The main repository related to Pinscreen's RTL 2017 presentation was stored at:
<https://gitlab.com/pinscreen/rtl-app.git>

The stored code corresponding to August 1, 2017 in this repository demonstrates that the webcam avatar generation was fake:
"No matter who uses this version of the application to generate their own avatar from a webcam—as Pinscreen demonstrated—the pre-built avatar of Sadeghi will be displayed every time." (See [Second Amended Complaint Paragraph 93](#))

The commit history of this repository prior to August 1, 2017 demonstrates that all supposedly autogenerated avatars presented during the demo were manually prepared by Pinscreen employees including Carrie Sun.

If the code that you received does not match this description, then you have received an inauthentic code.

Gitlab's legal department would be able to confirm the authenticity of the code that you have received.

I am available to answer further questions via email or phone.

Regards,
-Iman Sadeghi, PhD



Iman Sadeghi <sadeghi@gmail.com>

Question

Kristen Grace <gracekri@usc.edu>
To: Iman Sadeghi <sadeghi@gmail.com>

Mon, Dec 9, 2019 at 1:05 PM

Thanks for the info. What I meant to ask relates to the claim that Pinscreen was pre-recording avatar creation in the event there were internet issues. The conference organizers indicated to him that it was acceptable to do IF there was a problem. This would mean that the full working code was available, but that code was not able to be implemented after running in real-time and having internet issues. At this point the decision would be made to use a cached version instead. If this were the case, the presenter should explain this to the audience. According to you, the presenter, and the Skype conversations, there were no attempts to run a working code at SIGGRAPH RTL, one that actually does what you presented, but could not run effectively due to connectivity issues.

I'm just trying to counter Li's argument that it is acceptable to present a non-realtime presentation based on problems with connectivity. That argument is moot if there was no test at SIGGRAPH for any connectivity problems.

Either way, the presentation itself was misrepresented with no explanation to the audience. As presentation of a newly researched and developed computer science technology, that in-and-of itself is falsification and research misconduct. Verifying from you the presenter that the

<https://gitlab.com/pinscreen/rtl-app.git> was the only code available at the time and the one you presented to the audience is a key piece of information. Also that you, as presenter, knew and admit that Pinscreen was knowingly misleading the audience (under Li's direction) by not informing them that the presentation was manually created and pre-recorded and not a RT demo, as was introduced by the moderator, Li and you at the time.

Kristen
[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Kristen Grace <gracekri@usc.edu>
To: Iman Sadeghi <sadeghi@gmail.com>

Mon, Dec 9, 2019 at 11:30 AM

Dear Dr. Sadeghi,

Thank you for getting back to me. We have done a full analysis of the code below, and it is as you described. Dr. Li's defense is the presentation was cashed in the event of internet connectivity issues. This would indicate (as suggested by a conference coordinator) that if there were an issue in this regard that the presenter could present a pre-cashed illustration or movie of the technology but also making it clear to alert the audience to this fact. As the presenter, it was obvious that there were no attempts by you to run a non-cashed code, nor did you inform the audience that you were presenting an illustration of the technology.

While it is obvious from the Skype conversations that the cashing of pre-constructed avatars and a false progress bar was premeditated, my question for you, as presenter, was there another code (besides the Gitlab code) that you had access to at that time that could successfully run in the event connectivity and band-width issues were no problem?

Thanks,

Kristen

[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Iman Sadeghi <sadeghi@gmail.com>
To: Kristen Grace <gracekri@usc.edu>

Mon, Dec 9, 2019 at 3:18 PM

Thank you.

Has Li already admitted that this code, containing prebuilt avatars, was what executed during the RTL presentation?

[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Kristen Grace <gracekri@usc.edu>
To: Iman Sadeghi <sadeghi@gmail.com>

Mon, Dec 9, 2019 at 3:19 PM

In so many words.

[Quoted text hidden]

APPENDIX B

1 **FERNALD LAW GROUP APC**
Adam P. Zaffos (Bar No. 217669)
2 Brandon C. Fernald (Bar No. 222429)
3 510 W. Sixth St., Suite 700
Los Angeles, California 90014
4 Telephone: (323) 410-0300
Facsimile: (323) 410-0330
5 E-Mail: adam@fernaldlawgroup.com
brandon.fernald@fernaldlawgroup.com

6
7 Attorneys for Plaintiff
DR. IMAN SADEGHI

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

10 DR. IMAN SADEGHI, an individual,

11 Plaintiff,

12 v.

13
14 PINSSCREEN, INC., a Delaware Corporation;
15 DR. HAO LI, an individual; and DOES 1-100,

16 Defendants.

Case No.: BC709376

[Assigned to the Hon. Judge Lia Martin, Dept.
16]

**DECLARATIONS IN SUPPORT OF
PLAINTIFF DR. IMAN SADEGHI'S
OPPOSITION TO PINSSCREEN'S *EX
PARTE* APPLICATION FOR AN ORDER
SHORTENING TIME FOR MOTIONS TO
BE HEARD AND TO SET A BRIEFING
SCHEDULE**

HEARING DATE: December 16, 2020

TIME: 8:30 a.m.

PLACE: Dept. 16., Stanley Mosk Courthouse
Reservation ID: 827708380833

Complaint Filed: June 11, 2018

Trial Date: May 24, 2021

1 **DECLARATION OF ADAM P. ZAFFOS**

2 I, Adam P. Zaffos, declare as follows:

3 1. I am an attorney admitted to practice law before all the courts of the State of
4 California. I am a partner in the law firm of Fernald Law Group, APC, and counsel of record for
5 Plaintiff Dr. Iman Sadeghi in this action. I have personal knowledge of the matters set forth below
6 and, if called to testify, I would and could testify competently thereto.

7 2. We do not oppose an order advancing the hearing date from May 4, 2021 to the
8 proposed date of January 22, 2021. However, the extended briefing schedule is unnecessary. In
9 particular, the proposed schedule would have Sadeghi’s opposition due 15 court days in advance of
10 the hearing, on December 30, 2020. Setting a due date for this motion between the December 25
11 and January 1 court holidays is unnecessary and unduly burdensome. In addition, my firm is
12 moving to a new office location that week and will be working reduced hours due to the move and
13 holidays. There is no reason that Sadeghi would need to serve the opposition earlier than the time
14 provided in CCP §1005(b).

15 3. Just two days after Sadeghi’s wrongful termination, his former attorney made a
16 written request dated August 9, 2017 requesting that Pinscreen preserve a variety of electronically
17 stored information (“ESI”). The evidence preservation letter was produced by Pinscreen
18 (PINSSCREEN 000099-102) confirming that Pinscreen did, in fact, receive the August 9, 2017 letter.
19 A true and correct copy of the letter is attached hereto as Exhibit 1.

20 4. As noted in the letter, Sadeghi requested Pinscreen preserve a variety of ESI
21 including “the primary revision control repository,” “the revision control repository that hosted the
22 version of the code that ran during the SIGGRAPH demo”, “all GitLab.com repositories under
23 <https://gitlab.com/pinscreen>,” as well as “the rtl-app and facetrack repositories:
24 <https://gitlab.com/pinscreen/rtl-app.git>, <https://gitlab.com/pinscreen/facetrack.git>.”

25 5. In or about April 2019, my office was informed by GitLab that it had received a
26 DMCA takedown notice. GitLab offered to preserve the data provided Sadeghi pay the associated
27 storage costs. It was my understanding that, had Sadeghi not paid to preserve the Pinscreen code,
28

1 that the code could have been deleted in accordance with GitLab’s retention policies. These facts
2 were outlined in my letter to Mr. Davidson dated December 8, 2020. To date, I have not obtained a
3 copy of the DMCA notice, but I intend to issue another subpoena to GitLab re the DMCA notice
4 and the closure of Pinscreen’s account. A true and correct copy of my letter to Mr. Davidson is
5 attached hereto as Exhibit 2.

6 6. On December 10, 2020 I emailed Mr. Davidson wherein I confirmed that the GitLab
7 data is being segregated and has and will continue to be treated as Highly Confidential pursuant to
8 the Protective Order. A true and correct copy of my email is attached as Exhibit 3.

9 7. I have served numerous different discovery requests seeking information from
10 Pinscreen regarding the GitLab code. On May 23, 2019, I first served a third set of Requests for
11 Admission. That set included a Request:

12 “Admit that the software code that demonstrated Sadeghi's avatar generation using a webcam
13 during Pinscreen's SIGGRAPH Real-Time Live presentation on August 1, 2017 was stored at:
14 <https://gitlab.com/pinscreen/rtl-app.git>.”

15 8. On June 27, 2019, Pinscreen served its response consisting solely of objections.
16 After a meet and confer, on October 11, 2019, Pinscreen served amended response maintaining the
17 objections, but denying the request.

18 9. In June 2020, I served additional discovery to Pinscreen, which included several
19 requests for production and special interrogatories related to Pinscreen’s files store at GitLab,
20 including <https://gitlab.com/pinscreen/rtl-app.git>. Pinscreen filed a motion for protective order
21 which is set for hearing on August 11, 2021.

22 10. On November 6, 2020, I issued a subpoena to GitLab. A copy was provided to
23 Pinscreen’s counsel. The subpoena was issued after repeated attempts to obtain Pinscreen’s
24 SIGGRAPH Real-Time Live presentation directly from Pinscreen.

25 11. Around the time that the GitLab subpoena had been served, I discovered a serious
26 discrepancy in Pinscreen’s document production. Pinscreen had produced 1000s of Skype messages
27 in discovery in this matter. In the course of reviewing those messages, it became clear that select
28

1 messages had been removed. Not only are large sections simply missing, the missing portions
2 appear to relate to the most relevant communications around important deadlines mentioned in the
3 pleadings including SIGGRAPH RTL submission on April 4, 2017 and SIGGRAPH Asia
4 submission on May 23, 2017.

5 12. There is a Protective Order in place in this matter. Counsel negotiated and stipulated
6 to the terms of the Protective Order. The Protective Order was signed by counsel for both parties on
7 March 4, 2020 and entered by the Court on March 11, 2020.

8 **Protective Order § 1.e:**

- 9 • **“Highly Confidential”** means any information which belongs to a Designating Party who
10 believes in good faith that the Disclosure of such information to another Party or non-Party
11 would create a substantial risk of serious financial or other injury, including disclosure of
trade secrets and confidential or proprietary **intellectual property** or otherwise highly
sensitive information, that cannot be avoided by less restrictive means.

12 **Protective Order § 2:**

- 13 • The Designating Party shall have the right to designate as **“Highly Confidential”** only the
14 non-public Documents, Testimony, or Information that the Designating Party in good faith
15 believes would create a substantial risk of serious financial, **trade secret**, or other injury, if
Disclosed to another Party or non-Party, and that such risk cannot be avoided by less
restrictive means.

16 13. I received an email from GitLab before the Motion to Quash was filed. I have
17 confirmed to Mr. Davidson that the GitLab data has been and will continue to be segregated and
18 treated as Highly Confidential pursuant to the Protective Order. I also provided Mr. Davidson with a
19 password-protected USB via FedEx containing the documents sent by GitLab.

20
21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is accurate. Executed this 15th day of December 2020 in Los Angeles, California.

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25 

26 Adam P. Zaffos

1 **DECLARATION OF DR. IMAN SADEGHI**

2 I, Dr. Iman Sadeghi, declare as follows:

3 1. I am over the age of 18 and the Plaintiff in this action. I have personal knowledge of
4 the matters set forth below and, if called to testify, I would and could testify competently thereto.

5 2. I have a doctorate in Computer Science/Computer Graphics and have worked at Walt
6 Disney Animation Studios (2008, 2009), Industrial Light & Magic (2010) and Google (2011-2017).

7 3. In 2016 and 2017 I was extensively solicited by Hao Li (“Li”), who was an assistant
8 professor at USC at the time, to join Pinscreen as its Vice President of Engineering.

9 4. During my employment at Pinscreen (February 2, 2017 to August 7, 2017) I
10 repeatedly objected to Hao Li regarding Pinscreen’s wage and visa violations as well as
11 misrepresentation of its technology which I reasonably believed to constitute public deception and
12 fraud on investors. As a result of my whistleblowing and objections, Pinscreen, through Li,
13 retaliated against me and wrongfully terminated me on August 7, 2017 within the first working hour
14 after Pinscreen publicly presented its demo at ACM SIGGRAPH Real-Time Live (“RTL”) at the
15 Los Angeles Convention Center.

16 5. On August 1, 2017, during its demo at ACM SIGGRAPH RTL, Pinscreen, under
17 Li’s leadership, led the audience to believe that an avatar of me was being generated for the very
18 first time—in front of their eyes—in around 5 seconds. In reality, the avatar was pre-built for the
19 demo and required hours of human labor. Every single avatar and hair shape presented by Pinscreen
20 during its RTL demo was fabricated. All avatars were manually prepared and tweaked by Pinscreen
21 employees, including Carrie Sun.

22 6. Pinscreen’s demo at ACM SIGGRAPH RTL is published in the ACM Digital
23 Library¹² and ACM SIGGRAPH YouTube channel.³

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27 ¹ <https://dl.acm.org/doi/10.1145/3098333.3107546>

28 ² https://dl.acm.org/ft_gateway.cfm?id=3107546&ftid=1920365

³ https://www.youtube.com/watch?v=hpuEdXn_M0Q&t=31m6s

1 7. The software code that was executed during Pinscreen’s RTL demo was stored in a
2 third-party repository called GitLab: <https://gitlab.com/pinscreen/rtl-app.git>, branch: master, date:
3 August 1, 2017.

4 8. GitLab’s version-controlled repository stores snapshots of the codebase as it existed
5 at a specific time. Pinscreen’s application that was executed during SIGGRAPH RTL, on August 1,
6 2017 (“RTL App”), can be retrieved using this repository.

7 9. The RTL App proves:

- 8 • Pinscreen’s avatar generation from the webcam was fake:
 - 9 ○ No matter who uses Pinscreen’s RTL App to generate their own avatar
10 from a webcam—as Pinscreen demonstrated—the pre-built avatar of me
11 will be displayed every time.
- 11 • Pinscreen’s avatar generation from input images was fake:
 - 12 ○ No matter what input image is opened in Pinscreen’s RTL App to
13 generate the corresponding avatar—as Pinscreen demonstrated—the pre-
14 built avatar of Li will be displayed every time if and only if the file name
15 is “Hao.jpg”.
- 16 • Pinscreen misrepresented manually prepared avatars as autogenerated:
 - 17 ○ The historical snapshots of code maintained by GitLab prove that Carrie
18 Sun gradually and manually updated the hair shapes and appearance of all
19 pre-built avatars that were presented during Pinscreen’s Public Deception
20 at RTL.

21 10. I am fully familiar with Pinscreen’s RTL App as I helped develop and present it at
22 ACM SIGGRAPH RTL 2017 while employed at Pinscreen. The historical snapshots of code
23 maintained by GitLab contains documentation of my contributions to the software code. The
24 software code stored at branch master of <https://gitlab.com/pinscreen/rtl-app.git> contains no trade
25 secrets because the software has no avatar generation capabilities whatsoever.

26 11. On information and belief, the Office of Research at USC has been conducting an
27 investigation of Li’s and Pinscreen’s scientific misconduct since 2018. On December 9, 2019,
28 USC’s Research Integrity Officer, Dr. Kristen Grace, confirmed in writing that (1) USC has “done a
full analysis of the code” (<https://gitlab.com/pinscreen/rtl-app.git>) for Pinscreen’s RTL demo, that
(2) the code is as described in [SAC ¶ 93 & TAC ¶ 93], that (3) Pinscreen’s demo was
“misrepresented”, and that (4) Li’s and Pinscreen’s misrepresentation constitutes “falsification,”

1 and “research misconduct”. On information and belief, Li has made contradicting representations to
2 USC and during discovery and his employment at USC has terminated as of June 2020. A true and
3 correct copy of the various email exchanges are attached hereto as Exhibit 4.

4

5 I declare under penalty of perjury under the laws of the State of California that the foregoing
6 is accurate. Executed this 15th day of December 2020 in Los Angeles, California.

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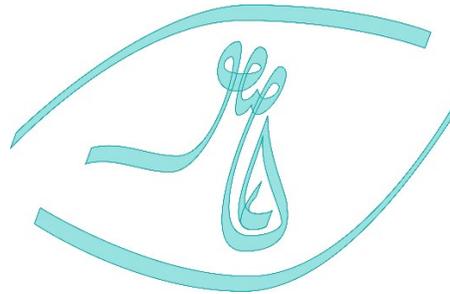
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Dr. Iman Sadeghi

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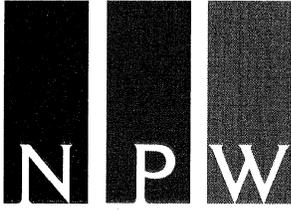
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EXHIBIT 1



Nevers, Palazzo, Packard,
Wildermuth & Wynner, PC

August 9, 2017

SHARLENE D. LEE
slee@npwlaw.com

*Via E-Mail lgrayver@gfwlaw.com and Facsimile
(310) 540-6609*

Leonard Grayver
Greenberg Fields Whitcombe
21515 Hawthorne Blvd., Ste. 450
Torrance, CA 90503

Re: Iman Sadeghi

Dear Mr. Grayver:

We have recently been retained to represent Iman Sadeghi in connection with his August 7, 2017 termination from Pinscreen, Inc. ("Pinscreen"). We understand that you are counsel for Pinscreen. If you no longer represent Pinscreen, please forward this letter to Pinscreen or its new counsel for immediate review.

Although we are still in the process of investigating the circumstances of the termination, we wished to bring some time sensitive matters to your attention to ensure proper handling.

Return of Property

We understand that Mr. Sadeghi had a number of private personal files stored on his Pinscreen laptop. These files include private information shared by a third party in confidence. In order to ensure the privacy of these files, we request that your office promptly secure possession of the laptop so that such files cannot be accessed or misused by anyone at Pinscreen pending resolution of this issue.

Separately, we understand that Mr. Sadeghi had some valuable personal property at Pinscreen which he would like returned. These items include three (3) Google patent puzzle pieces, a Mickey Mouse sculpture he sculpted, a box of his personal drawings and sketches, a series of Pixar renderman teapots, and a box under his desk with miscellaneous personal items. Because of the fragile nature of these valuable personal belongings, we request that Pinscreen immediately gather and secure these belongings for pickup by a third party designated by Mr. Sadeghi.

31248 OAK CREST DRIVE, SUITE 100
WESTLAKE VILLAGE, CALIFORNIA 91361

T (818) 879-9700 • 805-495-0700
F (818) 879-9680 • 805-495-4440
WWW.NPWLAW.COM

PINSCREEN 000099

Additionally, Pinscreen is obligated to reimburse Mr. Sadeghi for certain items, including for example travel expenses and health insurance premiums.

Preservation of Data

As you may be aware, there was a physical altercation on the day of the termination. Additionally, it appears that Mr. Sadeghi may have, among other things, a Labor Code §1102.5 whistleblower retaliation claim and a claim for wrongful termination in violation of public policy.

For these reasons, we demand that Pinscreen act immediately to preserve potentially relevant electronically stored information ("ESI") including, without limitation, information with the earlier of a Created or Last Modified date on or after January 1, 2017 through the date of this demand and created hereafter including:

- Security camera footage of the Pinscreen office on the day of Mr. Sadeghi's termination;
- The primary revision control repository;
- The revision control repository that hosted the version of the code that ran during the SIGGRAPH demo;
- Google Gsuite for pinscreen.com;
- Emails involving iman@pinscreen.com and all other Pinscreen personnel emails, including the emails for Hao Li and Frances Chen;
- All of Pinscreen's Google Documents, including without limitation, the Real-Time Live document:
https://docs.google.com/a/pinscreen.com/document/d/1VOY9eDxirYK5NKd8RUAluW__mFKpZQKBhfbveqLnAw/edit;
- All of Pinscreen's computer code;
- All Gitlab.com repositories under <https://gitlab.com/pinscreen/>;
- The rtl-app and facetrack repositories:

<https://gitlab.com/pinscreen/rtl-app.git>

<https://gitlab.com/pinscreen/facetrack.git>;

- All Pinscreen Slack.com data;
- All messages on all channels on pinscreen.slack.com;
- All Pinscreen Skype data, including without limitation all group messages involving iman.sadeghi and all other team conversations;
- All conversations on PinscreenTeamAll: <https://join.skype.com/RPeOBGAmFyTZ>;
- All conversations on Non-Tech Discussions: <https://join.skype.com/Kcc7ceWOyJfE>;
- All conversations on Sick or Absence (Vacation Leave):
<https://join.skype.com/FXoj6PxBsoJQ>;
- All conversations on VR Hair Modeling: <https://join.skype.com/JVcteOcfibnO>; and
- All conversations on RTL_Tracking: <https://join.skype.com/ISLOxnV4aRDB>.

Adequate preservation of ESI requires more than simply refraining from efforts to destroy or dispose of such evidence. Pinscreen must also intervene to prevent loss due to routine operations and employ proper techniques and protocols suited to protection of ESI. Consequently, alteration and erasure may result from your failure to act diligently and responsibly to prevent loss or corruption of ESI.

Nothing in this demand for preservation of ESI should be understood to diminish your concurrent obligation to preserve documents, tangible things and other potentially relevant evidence.

Request for Records

Finally, Mr. Sadeghi requests copies of the following records that Pinscreen is obligated to provide to him:

- Mr. Sadeghi's personnel file and all other records which Pinscreen maintains relating to Mr. Sadeghi's employment, including without limitation, employee handbooks, policies, procedures, and investigative reports. (Labor Code §1198.5);
- All documents Mr. Sadeghi signed that relate to his employment by Pinscreen (Labor Code §432); and
- Mr. Sadeghi's itemized wage statements, including for the check tendered to Mr. Sadeghi at his termination (Labor Code §226).

Leonard Grayver
August 9, 2017
Page 4

Conclusion

Thank you for your anticipated cooperation with respect to this matter. Please feel free to contact me to discuss any aspect of this letter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Sharlene D. Lee" followed by a stylized flourish or initials.

Sharlene D. Lee
for Nevers, Palazzo, Packard,
Wildermuth & Wynner, PC

SDL/DG

cc: Michael S. Wildermuth, Esq.

W:\Working\SDL\01\W0159069.DOCX v2

EXHIBIT 2

FERNALD LAW GROUP APC

A PROFESSIONAL CORPORATION

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Los Angeles, California 90014
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December 8, 2020

BY EMAIL

Benjamin Davidson, Esq.
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Leonard Grayver, Esq.
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Re: Dr. Iman Sadeghi v. Pinscreen, Inc.;
Los Angeles Superior Court Case No. BC709376

Dear Ben:

This letter is intended to summarize numerous outstanding issues and respond to your email letter dated December 7, 2020. Your letter contains many inaccuracies regarding our conversation and what actually transpired and also misstates and/or misapplies the law. I will address each issue in order. Unless expressly admitted in this letter, I categorically reject your mischaracterizations and alleged “admissions” in your letter. Preliminarily, the current situation was precipitated by (1) your clients’ failure to preserve the data on Gitlab’s software code repository (which goes to the heart of Dr. Sadeghi’s claims) and instead it appears that your clients have actively sought to have that data destroyed and (2) your clients’ apparent willingness to delete portions of Skype conversations between Dr. Li and Dr. Sadeghi that support Plaintiff’s claims which only served to render the former more questionable.

ESI Preservation

As you know, just two days after Dr. Sadeghi’s wrongful termination, his former attorney made a written request dated August 9, 2017 requesting that Pinscreen preserve a variety of electronically stored information (“ESI”), including “the primary revision control repository,” “the revision control repository that hosted the version of the code that ran during the

SIGGRAPH demo”, “all Gitlab.com repositories under <https://gitlab.com/pinscreen>,” as well as “the rtl-app and facetrack repositories: <https://gitlab.com/pinscreen/rtl-app.git>, <https://gitlab.com/pinscreen/facetrack.git>.”

The letter also requested preservation of all Skype conversations and data, including group messages involving Dr. Sadeghi (with Skype ID iman.sadeghi) and all other team conversations. In addition Pinscreen was instructed to preserve all Pinscreen data on Slack.com including all messages on all channels on <http://pinscreen.slack.com>. The evidence preservation letter was produced by Pinscreen (PINSCREEN 000099-102) confirming that Pinscreen did, in fact, receive the August 9, 2017 letter.

There are multiple issues that have come up with respect to preservation of the ESI:

First, as it relates to the Gitlab repositories, Gitlab received a Digital Millennium Copyright Act (“DMCA”) notice. As I mentioned in our recent telephone call, we initially inquired as to Gitlab’s retention policy and were advised that Gitlab had responded to a DMCA takedown request as required by law. As discussed, I informed you of this during a telephone call around the time I was informed of the DMCA, in or about April 2019. We plan to issue another subpoena to Gitlab re the DMCA notice and the closure of Pinscreen’s account to get to the bottom of this issue. As this information is undeniably relevant to what we believe to be Pinscreen’s abject failure to preserve critical information relevant to the case (and possibly active efforts to destroy it), we expect Pinscreen to not obstruct the production of these documents so that this dispute can put to rest as soon as possible.

In addition, I was informed by Gitlab that in absence of Pinscreen’s filing of a DMCA counter notice, Pinscreen’s account was closed and that, under normal retention procedures, the retention period is only two weeks. Since it appeared that Pinscreen had failed to comply with its duty to take steps necessary to preserve the Gitlab ESI, or was taking steps to actually destroy the Gitlab ESI, we have been paying ongoing electronic storage costs to ensure that the materials remain available.

Given this and the lengths Pinscreen has gone to in avoiding production of the Gitlab code, including repeated frivolous objections to discovery and the now pending motion for protective order, it leads to the logical conclusion that Pinscreen attempted to have information stored in the Gitlab repository deleted by sending the DMCA itself and by closing its Gitlab account. Unless Pinscreen can provide a legitimate, verifiable basis to explain these tactics, we will address the same in opposition to the pending motion for protective order as well as in a motion for evidentiary sanctions and/or issue sanctions for Pinscreen’s failure to preserve the ESI as requested.

So, there is no confusion, I append portions of the email exchanges between my office and Gitlab to preserve the data and Pinscreen’s failure to preserve it as it was required:

Dr. Iman Sadeghi vs. Pinscreen

From: Jamie Hurewitz <jhurewitz@gitlab.com>

Sent: Wed 4/10/2019 8:29 AM

To: Brandon Fernald <brandon.fernalddlawgroup.com>; Adam Zaffos

<adam@fernalddlawgroup.com>

Dear Sirs,

We received a request from your client, Dr. Sadeghi to preserve data relating to his lawsuit pending in the Superior Court of the State of California.

I am reaching out to inform you that we do not get involved in legal disputes between parties. We have responded to the DMCA takedown request as required by law. Any further action to obtain the data would require a court order or subpoena.

Furthermore, there is a significant amount of data relating to this request (approximately 13TB) which would require us to incur additional expenses to separately maintain, as well as the cost of our services in processing this data.

If you would like us to proceed with any of these actions, please let us know and we can provide you with a quotation and statement of work. Otherwise, the data will be deleted pursuant to our standard retention policies.

Thank you.

All the best,
Jamie Hurewitz
VP of Legal, Co Compliance

On Thu, Apr 25, 2019 at 3:46 PM Lea Enriquez <lea@fernaldlawgroup.com> wrote:

Hi Jamie,

Thank you for working with us on the above-referenced matter. I have a couple of questions that you may be able to answer for me. I'd like to know more about GitLab's retention policy. What would it cost be to preserve the following repository: <https://gitlab.com/pinscreen/rtl-app.git> ? Looking forward to hearing back from you.

Best regards,

LEA A. ENRIQUEZ

From: Jamie Hurewitz jhurewitz@gitlab.com
Sent: Thursday, April 25, 2019 1:55:19 PM
To: Lea Enriquez
Cc: Adam Zaffos

Subject: Re: Dr. Iman Sadeghi vs. Pinscreen

Hi Lea,

When accounts are closed, our retention period is only 2 weeks. However we did set aside this data because we were made aware by your client that he was in the middle of litigation, so we wanted to give him the opportunity to have us preserve it for him. As I shared with Adam earlier today, the data is not segregated to just pinscreen and is 13

TB large. In order to parse it down to just Pinscreen's data, it will take two resources, two days, at a cost of \$1k. Then for ongoing electronic storage it will cost \$20/month.

Please let us know how you would like us to proceed.

Thanks.

All the best,
Jamie Hurewitz
VP of Legal, Commercial, IP, and Compliance

On Thu, Apr 25, 2019 at 5:24 PM Lea Enriquez <lea@fernaldlawgroup.com> wrote:

Thank you for getting back to me so quickly, Jamie. We most definitely want to preserve all of Pinscreen's data for this litigation. Do you know if Pinscreen closed its account? if so, when?

From: Jamie Hurewitz <jhurewitz@gitlab.com>
Sent: Thursday, April 25, 2019 3:51 PM
To: Lea Enriquez
Cc: Adam Zaffos

It was not closed by Pinscreen. We took it down as the result of a DMCA notice.

Second, there is a serious concern regarding Pinscreen's and Dr. Li's apparent attempt to spoliage evidence with respect to the ESI of the Skype messages. As discussed on the phone, we have reviewed Pinscreen's Skype document production and note thousands of missing messages that were not produced. Not only are large sections simply missing, the missing portions appear to relate to the most relevant communications around important deadlines mentioned in the pleadings including SIGGRAPH RTL submission on April 4, 2017 and SIGGRAPH Asia submission on May 23, 2017.¹ The only conclusion is that Dr. Li purposely deleted these damning portions of the Skype messages hoping that Dr. Sadeghi did not have them. I refer you to the attached "Spoliation of Evidence" document which outlines the deletions along with Dr. Sadeghi's bates labeled production of the Skype messages.

Third, since Pinscreen has failed to produce a single message from <http://pinscreen.slack.com> to date, there are legitimate concerns that Pinscreen and Dr. Li have committed further spoliation of evidence with respect to the ESI of Slack data.

Gitlab Subpoena

As stated above, your letter dated December 7, 2020 is full of inaccuracies as to what was said during yesterday's conversation. Again, unless expressly admitted in this letter, I categorically reject your mischaracterizations and alleged "admissions" in your letter.

¹ I also note that during our phone conversation you informed me that the Skype messages were pulled from Dr. Sadeghi's old work laptop. Why? Did Dr. Li delete the Skype messages from his account--again in violation of his duty to preserve the data?

First, I did not say I obtained the Gitlab documents on 11/16/20. What I said is that Gitlab produced them (as it turned out on 11/13/20) and I obtained them on 11/17/20. Moreover, contrary to your contentions, at no point did I instruct Gitlab to produce them before the stated production date.

Second, I reject your now repeated false accusation regarding the previous Douglas Emmett subpoena—notice of which was properly served. You are also wrong as to the import of that portion of your letter and the law. We have a duty to provide notice to Pinscreen of the subpoena to GitLab—which we provided, but nothing under the CCP or Evidence Code requires us to inform you that we received documents. We need only ensure that the documents are delivered to the subpoenaing party (Dr. Sadeghi in this case) and that we provide a copy to Pinscreen—if so requested. If you are aware of any statute or rule requiring otherwise—please let me know.

As Pinscreen has now requested a copy, we will arrange to provide a copy of the produced data this week.²

Third, with regard to your reference to C.C.P. § 2031.285—it is inapplicable as the Gitlab documents were not an inadvertent production by the parties. They were produced by a third party in response to a subpoena.

Fourth, any privacy or other confidentiality concerns re the Gitlab documents are unwarranted as (1) there is a protective order in this case which we have and will continue to follow and (2) we have and will continue to treat the Gitlab data as Highly Confidential pursuant to the protective order.

Furthermore, I reject your bizarre demand that we immediately cease communications or “payment” with Gitlab to preserve smoking gun evidence of Pinscreen’s wrongdoing that your client should have but failed to preserve. Given the legitimate concerns re Pinscreen’s attempt to destroy and spoliage evidence, which subjects Pinscreen to serious consequences including monetary, evidentiary and possibly other sanctions, I find it odd that you were demand that we cease preserving such data.

In sum, the reason we find ourselves in this situation is (1) because your clients failed to preserve and possibly sought to actively destroy essential evidence in this case and (2) your clients appear to have deliberately deleted and altered other evidence in its production of the Skype messages. Under these circumstances, it was not only prudent that we preserve the Gitlab data but imperative.

Missing Verifications

To date, we have not received verifications to Requests for Admission, Sets 3, 4 and Requests for Production, Sets 3, 4, or 5 for both Pinscreen and Li despite our repeated requests for such including on October 22, 2020.

² We strongly believe that your client deleted this code and data in an attempt to obscure Pinscreen’s fraud (and believed it destroyed) and if not for our efforts to preserve the Gitlab repository it would now be gone. We are still investigating and so far are not aware of any caselaw addressing this unique situation where a party that is suspected of spoliation of evidence has requested a copy of that data due to failed efforts to destroy it.

Unverified responses are the equivalent of no responses at all. *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636. Motions to compel further responses are to be served within 45 days of the verified response. *Code Civ. Proc.* §§2031.310(c) and 2033.290(c). Because no verifications have been served, the 45-day time limit does not apply.

Please be advised that, if verifications are not received by December 14, 2020, Plaintiff will move to compel further, verified responses to the Requests for Production and will seek an order that the Requests for Admission be deemed admitted.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Adam Zaffos', written over a horizontal line.

Adam Zaffos

EXHIBIT 3

Sasha Brower

From: Adam Zaffos
Sent: Thursday, December 10, 2020 7:05 PM
To: Benjamin Davidson
Cc: 'Leonard Grayver'; Sasha Brower; Lea Enriquez; 'Christine Mills'; Mariana Leon
Subject: Re: Pinscreen/Sadeghi: Gitlab

Ben,

First, you still fail to explain, let alone justify why your client failed to preserve and potentially actively sought to destroy critically relevant, discoverable, and admissible evidence that it was explicitly instructed existed and demanded to preserve.

Second, the fact that it includes computer code is neither here nor there--as (1) there is a protective order in place which we have and will continue to follow and (2) my client helped write the code at issue in any event.

Third, you have still not provided any case law or statute that you can arguably claim was violated (other than your client's failure to preserve critical evidence it knew existed). There is nothing wrong with us talking with GitLab to make sure that critical evidence is preserved--particularly when it was clear your client had no interest in doing so. Your client was no doubt informed by Gitlab of the DMCA notice that was served and that the data would be deleted in 2 weeks if no counter-notice was sent. That counter-notice was apparently never sent and it was by sheer luck that we managed to save that evidence from being deleted. I suspect if not for our efforts, your client's apparent attempt to destroy evidence would have succeeded. So, I ask, does your client have the GitLab code we preserved?

Fourth, the GitLab data has been and will continue to be segregated and treated as Highly Confidential pursuant to the protective order.

Finally, in response to your request, I sent you a password-protected USB via FedEx today which contains the documents sent by Gitlab. Please confirm when you receive it. The password is [REDACTED].

Regards,
Adam

From: Benjamin Davidson <bdavidson@bendavidsonlaw.com>
Sent: Wednesday, December 9, 2020 7:51 PM
To: Adam Zaffos <adam@fernaldlawgroup.com>
Cc: 'Leonard Grayver' <leonard@grayverlaw.com>; Sasha Brower <sasha@fernaldlawgroup.com>; Lea Enriquez <lea@fernaldlawgroup.com>; 'Christine Mills' <paralegal@bendavidsonlaw.com>
Subject: RE: Pinscreen/Sadeghi: Gitlab

Adam: [See my response letter of today's date.](#)

Ben

From: Adam Zaffos [mailto:adam@fernaldlawgroup.com]
Sent: December 8, 2020 10:10 PM
To: Benjamin Davidson <bdavidson@bendavidsonlaw.com>
Cc: 'Leonard Grayver' <leonard@grayverlaw.com>; Sasha Brower <sasha@fernaldlawgroup.com>; Lea Enriquez <lea@fernaldlawgroup.com>; Christine Mills <paralegal@bendavidsonlaw.com>
Subject: Re: Pinscreen/Sadeghi: Gitlab

Ben,

Please see attached my letter of today's date and a link to (1) a bates labeled production of Skype messages from Plaintiff and (2) a comparison document showing the missing portions of Skype messages in Pinscreen's Skype production.

Regards,
Adam

From: Benjamin Davidson <bdavidson@bendavidsonlaw.com>
Sent: Monday, December 7, 2020 9:58 PM
To: Adam Zaffos <adam@fernaldlawgroup.com>
Cc: 'Leonard Grayver' <leonard@grayverlaw.com>; Sasha Brower <sasha@fernaldlawgroup.com>; Lea Enriquez <lea@fernaldlawgroup.com>; Christine Mills <paralegal@bendavidsonlaw.com>
Subject: Pinscreen/Sadeghi: Gitlab

Adam:

Please see my attached letter of today's date related to the Gitlab subpoena and your other communications with Gitlab.

Best regards,
Ben



Benjamin Davidson, Esq.
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IMPORTANT: This message is sent by a law firm and may contain information that is privileged or confidential. If you have received this transmission in error, please notify the sender immediately by reply email and delete the message and any attachments.

EXHIBIT 4



Iman Sadeghi <sadeghi@gmail.com>

Question

Iman Sadeghi <sadeghi@gmail.com>
To: Kristen Grace <gracekri@usc.edu>

Mon, Dec 9, 2019 at 11:18 AM

Dear Dr. Grace,

The main repository related to Pinscreen's RTL 2017 presentation was stored at:

<https://gitlab.com/pinscreen/rtl-app.git>

The stored code corresponding to August 1, 2017 in this repository demonstrates that the webcam avatar generation was fake:

"No matter who uses this version of the application to generate their own avatar from a webcam—as Pinscreen demonstrated—the pre-built avatar of Sadeghi will be displayed every time." (See [Second Amended Complaint Paragraph 93](#))

The commit history of this repository prior to to August 1, 2017 demonstrates that all supposedly autogenerated avatars presented during the demo were manually prepared by Pinscreen employees including Carrie Sun.

If the code that you received does not match this description, then you have received an inauthentic code.

Gitlab's legal department would be able to confirm the authenticity of the code that you have received.

I am available to answer further questions via email or phone.

Regards,
-Iman Sadeghi, PhD

[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Kristen Grace <gracekri@usc.edu>
To: Iman Sadeghi <sadeghi@gmail.com>

Mon, Dec 9, 2019 at 11:30 AM

Dear Dr. Sadeghi,

Thank you for getting back to me. We have done a full analysis of the code below, and it is as you described. Dr. Li's defense is the presentation was cashed in the event of internet connectivity issues. This would indicate (as suggested by a conference coordinator) that if there were an issue in this regard that the presenter could present a pre-cashed illustration or movie of the technology but also making it clear to alert the audience to this fact. As the presenter, it was obvious that there were no attempts by you to run a non-cashed code, nor did you inform the audience that you were presenting an illustration of the technology.

While it is obvious from the Skype conversations that the cashing of pre-constructed avatars and a false progress bar was premeditated, my question for you, as presenter, was there another code (besides the Gitlab code) that you had access to at that time that could successfully run in the event connectivity and band-width issues were no problem?

Thanks,

Kristen

[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Kristen Grace <gracekri@usc.edu>
To: Iman Sadeghi <sadeghi@gmail.com>

Mon, Dec 9, 2019 at 1:05 PM

Thanks for the info. What I meant to ask relates to the claim that Pinscreen was pre-recording avatar creation in the event there were internet issues.

The conference organizers indicated to him that it was acceptable to do IF there was a problem. This would mean that the full working code was available, but that code was not able to be implemented after running in real-time and having internet issues. At this point the decision would be made to use a cached version instead. If this were the case, the presenter should explain this to the audience. According to you, the presenter, and the Skype conversations, there were no attempts to run a working code at SIGGRAPH RTL, one that actually does what you presented, but could not run effectively due to connectivity issues.

I'm just trying to counter Li's argument that it is acceptable to present a non-realtime presentation based on problems with connectivity. That argument is moot if there was no test at SIGGRAPH for any connectivity problems.

Either way, the presentation itself was misrepresented with no explanation to the audience. As presentation of a newly researched and developed computer science technology, that in-and-of itself is falsification and research misconduct. Verifying from you the presenter that the <https://gitlab.com/pinscreen/rtl-app.git> was the only code available at the time and the one you presented to the audience is a key piece of information. Also that you, as presenter, knew and admit that Pinscreen was knowingly misleading the audience (under Li's direction) by not informing them that the presentation was manually created and pre-recorded and not a RT demo, as was introduced by the moderator, Li and you at the time.

Kristen

[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Iman Sadeghi <sadeghi@gmail.com>
To: Kristen Grace <gracekri@usc.edu>

Mon, Dec 9, 2019 at 3:18 PM

Thank you.

Has Li already admitted that this code, containing prebuilt avatars, was what executed during the RTL presentation?

[Quoted text hidden]



Iman Sadeghi <sadeghi@gmail.com>

Question

Kristen Grace <gracekri@usc.edu>
To: Iman Sadeghi <sadeghi@gmail.com>

Mon, Dec 9, 2019 at 3:19 PM

In so many words.

[Quoted text hidden]

APPENDIX C

1 BENJAMIN DAVIDSON (SBN 241859)
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24 Attorneys for Defendants PINSCREEN, INC. and
25 DR. HAO LI

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16 DR. IMAN SADEGHI, an individual,
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18 Plaintiff,
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20 v.
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22 PINSCREEN, INC., a Delaware Corporation;
23 DR. HAO LI, an individual; and DOES 1-100,
24
25 Defendants.

Case No. BC709376

**Assigned for All Purposes to:
Hon. Lia Martin, Dept. 16**

**SUPPLEMENTAL DECLARATION OF
BENJAMIN DAVIDSON IN SUPPORT OF
EX PARTE APPLICATION FOR AN
ORDER SHORTENING TIME FOR
MOTIONS TO BE HEARD AND TO SET
A BRIEFING SCHEDULE**

Date: December 16, 2020
Time: 8:30 a.m.
Dept.: No. 16

Action Filed June 11, 2018
Trial Date: May 24, 2021

1 I, BENJAMIN DAVIDSON, declare as follows:

2 1. I am an attorney duly licensed to practice in all the courts of the State of California,
3 and am the principal of the Law Offices of Benjamin Davidson, P.C., attorneys of record for
4 Pinscreen, Inc. (“Pinscreen”) in this matter. The information set forth below is known to me through
5 personal knowledge and, if called as a witness, I could and would competently testify thereto.

6 2. I make this Declaration in support of Pinscreen’s *Ex Parte* Application for an Order
7 Shortening time for Motions to Be Heard and to Set a Briefing Schedule.

8 3. I have reviewed Plaintiff Dr. Iman Sadeghi’s Opposition to Pinscreen’s *Ex Parte*
9 Application and supporting documents.

10 4. Attached as Exhibit 4 to Dr. Sadeghi’s Declaration are five pages of communications
11 between Dr. Sadeghi and USC.

12 5. These same five pages were produced by Plaintiff in discovery (in landscape format),
13 as SADEGHI 005803-5804, 5808, and 5827-5829. On 10/28/2020, pursuant to paragraph 4 of the
14 Stipulation and Protective Order executed by the Court on March 11, 2020, Pinscreen designated
15 those documents as “Confidential.” I duly advised Mr. Zaffos of these designations via email.
16 Attached hereto as Exhibit 1 is a true and correct copy of my email to Mr. Zaffos advising him of
17 the confidentiality designations.

18 6. Moreover, the first three of these pages were produced by USC in response to a
19 subpoena, bates-labeled USC000447-450. As they were produced as part of internal investigatory
20 files, my office designated those documents as Highly Confidential.

21 7. The only difference between the documents that Pinscreen has designated as
22 “Confidential” or “Highly Confidential,” and those attached as Exhibit 4 to Plaintiff’s Declaration
23 is the formatting and the fact that, in USC’s production, the documents are produced as part of an
24 email chain rather than as standalone emails. But the content is the same. These are for all practical
25 purposes the same emails.

26 8. Pursuant to Paragraph 20 of the Protective Order, documents designated
27 “Confidential” or “Highly Confidential” must be filed under seal:

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If Confidential Materials, Highly Confidential Materials, or Information derived therefrom are submitted to or otherwise disclosed to the Court in connection with discovery motions and proceedings, the same shall be separately filed under seal with the clerk of the Court in an envelope marked: "CONFIDENTIAL – FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER AND WITHOUT ANY FURTHER SEALING ORDER REQUIRED."

- 9. Despite this requirement, Plaintiff included these documents in a non-sealed filing.
- 10. Pinscreen is reviewing all rights and remedies it has in connection with this filing.

However, for purposes of this *Ex Parte* Application, Pinscreen asserts that these most recent actions by Plaintiff and his counsel Adam Zaffos further underscore the need to **sequester the documents that Mr. Zaffos obtained from Gitlab and to permit Plaintiff to seek the Court’s intervention in connection with modifying the protective order to include an “Attorney Eyes Only” designation that would prevent Dr. Sadeghi from having highly confidential documents in his possession.**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Declaration was executed on this 16th day of December 2020, in Beverly Hills, California.

BENJAMIN DAVIDSON

EXHIBIT 1

Benjamin Davidson

From: Benjamin Davidson <bdauidson@bendavidsonlaw.com>
Sent: October 28, 2020 2:00 PM
To: 'Adam Zaffos'
Cc: 'Sasha Brower'; 'Mariana Leon'; 'Lea Enriquez'; 'Leonard Grayver'
Subject: Pinscreen/ Confidential Designations & Cease and Desist

Importance: High

Adam:

This letter is intended to (1) advise you of Defendants' confidentiality designation; (2) direct you to instruct your client to remove such confidential documents or excerpts thereof from his website and cease and desist from publishing/sending information and documents related to the USC investigation to third parties; and (3) seek your confirmation that you will stipulate to the placing under seal of the Opposition to Demurrer to TAC, or portions thereof containing excerpts of or referring to confidential documents.

Pursuant to the Protective Order, paragraph 4, Defendants Pinscreen, Inc. and Dr. Hao Li hereby designate the following documents produced by Plaintiff on October 19, 2020 as **Confidential**.

SADEGHI 005229-5272
SADEGHI 005439-5463
SADEGHI 005740-5759
SADEGHI 005803-5808
SADEGHI 005820-5821
SADEGHI 005823-5830

These pages are marked "Confidential" on the grounds that USC's investigation of Dr. Li was private, and involves confidential personnel matters that per USC's policies are not disclosed to the general public (and which indeed have not been disclosed to the general public), as well as Pinscreen's trade secrets. Plaintiff has conceded the private nature of the investigation in correspondence regarding its subpoena on USC. Thus, communications regarding the investigation and communications that formed *part* of the investigation are also private.

Pinscreen also notes that excerpts of the documents that are now designated as "Confidential" were also filed with the Court -- *before* they were produced in discovery -- as part of Exhibit A to Plaintiff's Opposition to Defendants' Demurrer to the Third Amended Complaint, and also referred to within the body of the Opposition. The documents were not supported by declaration and were improper in the first instance as they constituted material outside of the four corners of the Complaint. The excerpted documents contain portions of the following pages that are now designated as Confidential:

SADEGHI 005446/5827
SADEGHI 005803/5823
SADEGHI 005805/5825
SADEGHI 005807/5829
SADEGHI 005808/5830

We believe that Plaintiff's primary reason for attaching these documents was to exploit the exception in the Protective Order regarding the publication of non-confidential materials on the Internet. In short, Plaintiff

attached the documents to a pleading *before* they had been produced in discovery and before Defendant had an opportunity to label them as confidential. We find this conduct reprehensible although sadly typical of Dr. Sadeghi.

And Plaintiff has indeed published this pleading on his website, and actively forwarding it to individuals in the graphics community, causing severe harm to Dr. Li and Pinscreen. See, e.g., http://sadeghi.com/USC-Confirmation-of-Hao-Li-and-Pinscreen-Public-Deception-at-SIGGRAPH-RTL-2017.pdf?fbclid=IwAR1-AdL_ZAEwU2mP8y2aRRHrt0kvWyCXAGJ_xaUHCeYBUxPZ-f2R9cuT71A. Interestingly, in the website version, Plaintiff removed almost everything from his filing except the excerpts involving USC's investigation (and discovery responses that he incorrectly believes contradict the investigation).

Regardless, Defendants now label these documents as confidential, and therefore as of now, Plaintiff is posting Confidential discovery documents online in violation of the Protective Order. Furthermore, the Opposition and attachments should be placed under seal. Please (1) ensure that all documents containing any portion of USC's investigation are removed forthwith from you client's website and that (2) he will cease forwarding the Opposition or any document (or excerpt thereof, or reference to such documents) related to the USC investigation.

We will also be preparing a stipulation and order for the Court to place the Opposition under seal or alternatively, to place any portion of the Opposition (and Exhibits) referring to the investigation under seal. Please advise if you do not intend to sign such stipulation.

In addition, as to anyone who Plaintiff has forwarded these confidential documents, Plaintiff should instruct such individuals to delete or destroy such documents, or if applicable secure the signature of such person on the statement attached as Exhibit A to the Protective Order.

Best regards,
Ben



Benjamin Davidson, Esq.
Law Offices of Benjamin Davidson, P.C.
Office 323.713.0010 | Cell 213.531.7010 | bdavidson@bendavidsonlaw.com
www.BenDavidsonLaw.com
8383 Wilshire Blvd., Suite 830, Beverly Hills, CA 90211

IMPORTANT: This message is sent by a law firm and may contain information that is privileged or confidential. If you have received this transmission in error, please notify the sender immediately by reply email and delete the message and any attachments.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is 8383 Wilshire Blvd., Suite 830,
Beverly Hills CA 90211. My electronic mailing address is bdavidson@bendavidsonlaw.com.

5 On December 16, 2020, I served the foregoing document(s) described as
6 **SUPPLEMENTAL DECLARATION OF BENJAMIN DAVIDSON IN SUPPORT OF EX**
7 **PARTE APPLICATION FOR AN ORDER SHORTENING TIME FOR MOTIONS TO BE**
8 **HEARD AND TO SET A BRIEFING SCHEDULE** to the interested parties in this action as follows:

9 **Attorneys for Plaintiff**

Brandon C. Fernald, Esq.

Adam P. Zaffos, Esq.

Fernald Law Group APC

510 W. 6th Street, Suite 700

Los Angeles, CA 90014

Fax: 323-410-0330

E-mail: brandon@fernaldlawgroup.com

adam@fernaldlawgroup.com

14 **Cc:** lea@fernaldlawgroup.com

mariana@fernaldlawgroup.com

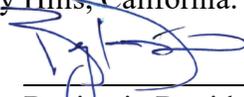
15 sasha@fernaldlawgroup.com

16 **By Designated Electronic Filing Service.** Pursuant to section 1010.6 of the Code of Civil
17 Procedure, and rule 2.253(b) of the California Rules of Court. I electronically filed the
18 document(s) with Los Angeles Superior Court via Ace Legal, E Filing Service Provider designated
19 by the Court. I hereby certify that the above-referenced document(s) were served electronically on
20 the parties listed herein at their most recent known email address or email of record by submitting
an electronic version of the document(s) to Ace Legal, through the user interface at
<https://efile.acelegal.com/ca/>, and checking the boxes next to the names and email addresses of the
counsel listed herein.

21 **By email:** Pursuant to Emergency Rule No. 12 (“Electronic service”) adopted by the
22 Judicial Council of California effective April 17, 2020, codified in Cal. Rules of Ct., Appendix I, I
23 caused this document(s) identified above to be transmitted by electronic transmission from my
email address, bdavidson@bendavidsonlaw.com, to the email address(es) set forth above.

24 **STATE** I declare under penalty of perjury under the laws of the State of California
25 that the above is true and correct. *C.C.P. §2015.5.*

26 Executed on December 16, 2020, at Beverly Hills, California.

27 
28 _____
Benjamin Davidson

APPENDIX D

1 **FERNALD LAW GROUP APC**
Adam P. Zaffos (Bar No. 217669)
2 Brandon C. Fernald (Bar No. 222429)
3 510 W. Sixth St., Suite 700
Los Angeles, California 90014
4 Telephone: (323) 410-0300
Facsimile: (323) 410-0330
5 E-Mail: adam@fernaldlawgroup.com
brandon.fernald@fernaldlawgroup.com

6
7 Attorneys for Plaintiff
DR. IMAN SADEGHI

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES-CENTRAL DISTRICT**

10 DR. IMAN SADEGHI, an individual,
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12 Plaintiff,
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14 v.
15 PINSSCREEN, INC., a Delaware Corporation;
DR. HAO LI, an individual; and DOES 1-100,
16
17 Defendants.

Case No.: BC709376

[Assigned to the Hon. Judge Lia Martin, Dept. 16]

**SUPPLEMENTAL DECLARATION IN
SUPPORT OF PLAINTIFF DR. IMAN
SADEGHI'S OPPOSITION TO
PINSSCREEN'S *EX PARTE* APPLICATION
FOR AN ORDER SHORTENING TIME
FOR MOTIONS TO BE HEARD AND TO
SET A BRIEFING SCHEDULE**

HEARING DATE: December 16, 2021

TIME: 8:30 a.m.

PLACE: Dept. 16., Stanley Mosk Courthouse

Reservation ID: 827708380833

Complaint Filed: June 11, 2018

Trial Date: May 24, 2021

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DECLARATION OF ADAM P. ZAFFOS

I, Adam P. Zaffos, declare as follows:

1. I am an attorney admitted to practice law before all the courts of the State of California. I am a partner in the law firm of Fernald Law Group, APC, and counsel of record for Plaintiff Dr. Iman Sadeghi in this action. I have personal knowledge of the matters set forth below and, if called to testify, I would and could testify competently thereto.

2. I have reviewed the supplemental declaration filed by Mr. Davidson in support of the ex parte.

3. Mr. Davidson asserts that Exhibit 4 to Dr. Sadeghi’s declaration filed in opposition to this ex parte application contains documents that were designated Confidential by Pinscreen, specifically SADEGHI 005803-5804, 5808, and 5827-5829.

4. Those documents were designated confidential pursuant to Paragraph 4 of the stipulation.

5. Pursuant to Paragraph 7 of the Protective Order, on October 30, 2020, I promptly advised Mr. Davidson that Dr. Sadeghi was challenging the designation of confidentiality as to these documents. A true and correct copy of my email is attached as **Exhibit 5**.

6. Under Paragraph 11, Pinscreen was obligated to meet and confer regarding the challenged designation and, if unable to resolve, file a motion to retain confidentiality within 21 days following receipt of the notice.

7. Pinscreen did not file a motion to retain confidentiality and under the provisions of Paragraph 7, the documents have been de-designated as confidential.

I declare under penalty of perjury under the laws of the State of California that the foregoing is accurate. Executed this 16th day of December 2020 in Los Angeles, California.



Adam P. Zaffos

EXHIBIT 5

From: [Adam Zaffos](#)
To: [Benjamin Davidson](#)
Cc: [Sasha Brower](#); [Mariana Leon](#); [Lea Enriquez](#); "[Leonard Grayver](#)"
Subject: Re: Pinscreen/ Ex Parte Notice
Date: Friday, October 30, 2020 2:02:37 PM

Ben,

I've now reviewed the communications you have attempted to designate as confidential. Everything you have attempted to designate as confidential is either (1) Dr. Sadeghi's emails with USC professors about what he believes is misconduct by Li or (2) emails between Dr. Sadeghi and USC investigators about Li's misconduct. Nothing in those communications is a trade secret nor is it private or confidential. And Dr. Sadeghi's communications with USC are not internal investigative emails between the investigators. What Dr. Sadeghi thinks Li has done is clearly not confidential even if it is uncomfortable for Li. Are you saying that Dr. Sadeghi is prohibited from discussing Li's misconduct because Li doesn't like it? Li wasn't even a party to any of these communications.

As to the Opposition to the TAC--there is nothing in there that is a trade secret or confidential. Again, the exhibit at issue is Dr. Sadeghi's email communications with USC. That is not a trade secret or confidential and, in any event, is a public document now. Nothing in the protective order requires us to post hoc seal that document. Moreover, the opposition and exhibit were filed and served on 9/23/20--pursuant to the protective order you had 21 days to move to mark it confidential--but you didn't.

Moreover, the procedure for challenging or adding a designation is a meet and confer, then IDC, then a motion. There is nothing in there about ex parte relief. Accordingly, it is you that is violating the protective order.

We will oppose the ex parte and seek sanctions.

Adam

From: Benjamin Davidson <bdavidson@bendavidsonlaw.com>
Sent: Friday, October 30, 2020 9:59 AM
To: Adam Zaffos <adam@fernaldlawgroup.com>
Cc: Sasha Brower <sasha@fernaldlawgroup.com>; Mariana Leon <mariana@fernaldlawgroup.com>; Lea Enriquez <lea@fernaldlawgroup.com>; 'Leonard Grayver' <leonard@grayverlaw.com>
Subject: RE: Pinscreen/ Ex Parte Notice

Adam:

Please take ex parte notice that on Tuesday, November 3, 2020 at 8:30 a.m., in Dept. 16 of the Los Angeles Superior Court located at 111 N. Hill St., Defendants will apply ex parte for an order:

1. Placing under seal Plaintiff's Opposition to Defendants' Demurrer to the TAC in its entirety, or alternatively those portions thereof that have been designated confidential by Defendant pursuant to the protective order; and
2. For injunctive relief ordering Plaintiff to remove confidential materials from his website and to prohibit him from publishing such materials elsewhere; and
3. For sanctions against Plaintiff and/or his counsel for violating the parties' Confidentiality Agreement and Protective Order, or to specially set or advance a hearing date re: the same.

Please advise if you will appear to oppose.

Best regards,
Ben Davidson

From: Benjamin Davidson [mailto:bdavidson@bendavidsonlaw.com]

Sent: October 29, 2020 7:25 PM

To: 'Adam Zaffos' <adam@fernaldlawgroup.com>

Cc: 'Sasha Brower' <sasha@fernaldlawgroup.com>; 'Mariana Leon' <mariana@fernaldlawgroup.com>; 'Lea Enriquez' <lea@fernaldlawgroup.com>; 'Leonard Grayver' <leonard@grayverlaw.com>

Subject: RE: Pinscreen/ Confidential Designations & Cease and Desist

Importance: High

Adam:

It has been more than a day since we designated documents posted on Plaintiff's website as confidential. He still has not taken the page down. Time is of the essence for the reasons set forth below. Why hasn't he taken it down yet, except for purposes of continuing to inflict reputational harm on Dr. Li and Pinscreen?

Do you agree to stipulate to sealing the portions of the Opposition that refer to the USC deposition, as well as the Exhibit?

If not, and if the document remains up, we will need to move ex parte and seek injunctive relief and sanctions against your client.

Thank you.

Ben

From: Benjamin Davidson [<mailto:bdavidson@bendavidsonlaw.com>]
Sent: October 28, 2020 2:00 PM
To: 'Adam Zaffos' <adam@fernaldlawgroup.com>
Cc: 'Sasha Brower' <sasha@fernaldlawgroup.com>; 'Mariana Leon' <mariana@fernaldlawgroup.com>; 'Lea Enriquez' <lea@fernaldlawgroup.com>; 'Leonard Grayver' <leonard@grayverlaw.com>
Subject: Pinscreen/ Confidential Designations & Cease and Desist
Importance: High

Adam:

This letter is intended to (1) advise you of Defendants' confidentiality designation; (2) direct you to instruct your client to remove such confidential documents or excerpts thereof from his website and cease and desist from publishing/sending information and documents related to the USC investigation to third parties; and (3) seek your confirmation that you will stipulate to the placing under seal of the Opposition to Demurrer to TAC, or portions thereof containing excerpts of or referring to confidential documents.

Pursuant to the Protective Order, paragraph 4, Defendants Pinscreen, Inc. and Dr. Hao Li hereby designate the following documents produced by Plaintiff on October 19, 2020 as **Confidential**.

SADEGHI 005229-5272
SADEGHI 005439-5463
SADEGHI 005740-5759
SADEGHI 005803-5808
SADEGHI 005820-5821
SADEGHI 005823-5830

These pages are marked "Confidential" on the grounds that USC's investigation of Dr. Li was private, and involves confidential personnel matters that per USC's policies are not disclosed to the general public (and which indeed have not been disclosed to the general public), as well as Pinscreen's trade secrets. Plaintiff has conceded the private nature of the investigation in correspondence regarding its subpoena on USC. Thus, communications regarding the investigation and communications that formed *part* of the investigation are also private.

Pinscreen also notes that excerpts of the documents that are now designated as

“Confidential” were also filed with the Court -- *before* they were produced in discovery – as part of Exhibit A to Plaintiff’s Opposition to Defendants’ Demurrer to the Third Amended Complaint, and also referred to within the body of the Opposition. The documents were not supported by declaration and were improper in the first instance as they constituted material outside of the four corners of the Complaint. The excerpted documents contain portions of the following pages that are now designated as Confidential:

SADEGHI 005446/5827

SADEGHI 005803/5823

SADEGHI 005805/5825

SADEGHI 005807/5829

SADEGHI 005808/5830

We believe that Plaintiff’s primary reason for attaching these documents was to exploit the exception in the Protective Order regarding the publication of non-confidential materials on the Internet. In short, Plaintiff attached the documents to a pleading *before* they had been produced in discovery and before Defendant had an opportunity to label them as confidential. We find this conduct reprehensible although sadly typical of Dr. Sadeghi.

And Plaintiff has indeed published this pleading on his website, and actively forwarding it to individuals in the graphics community, causing severe harm to Dr. Li and Pinscreen. See, e.g., http://sadeghi.com/USC-Confirmation-of-Hao-Li-and-Pinscreen-Public-Deception-at-SIGGRAPH-RTL-2017.pdf?fbclid=IwAR1-AdL_ZAEwU2mP8y2aRRHrt0kvWyCXAGJ_xaUHCeYBUxPZ-f2R9cuT71A. Interestingly, in the website version, Plaintiff removed almost everything from his filing except the excerpts involving USC’s investigation (and discovery responses that he incorrectly believes contradict the investigation).

Regardless, Defendants now label these documents as confidential, and therefore as of now, Plaintiff is posting Confidential discovery documents online in violation of the Protective Order. Furthermore, the Opposition and attachments should be placed under seal. Please (1) ensure that all documents containing any portion of USC’s investigation are removed forthwith from you client’s website and that (2) he will cease forwarding the Opposition or any document (or excerpt thereof, or reference to such documents) related to the USC investigation.

We will also be preparing a stipulation and order for the Court to place the Opposition under seal or alternatively, to place any portion of the Opposition (and Exhibits) referring to the investigation under seal. Please advise if you do not intend to sign such stipulation.

In addition, as to anyone who Plaintiff has forwarded these confidential documents, Plaintiff

should instruct such individuals to delete or destroy such documents, or if applicable secure the signature of such person on the statement attached as Exhibit A to the Protective Order.

Best regards,
Ben



Benjamin Davidson, Esq.

Law Offices of Benjamin Davidson, P.C.

[Office 323.713.0010](tel:323.713.0010) | [Cell 213.531.7010](tel:213.531.7010) | bdavidson@bendavidsonlaw.com

www.BenDavidsonLaw.com

8383 Wilshire Blvd., Suite 830, Beverly Hills, CA 90211

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