IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Plus One, LLC,

              Plaintiff,

v.

Capital Relocation Services L.L.C.,

              Defendant.

Court File No.: 23-cv-2016 (KMM/JFD)

[REDACTED]

DECLARATION OF MARK LANTERMAN IN SUPPORT OF CAPITAL RELOCATION SERVICES L.L.C.'S MOTION TO COMPEL AND FOR PROTECTIVE ORDER

I, Mark Lanterman, declare as follows:

1. I am the Chief Technology Officer of Computer Forensic Services, LLC ("CFS") located in Minneapolis, Minnesota. CFS and I have been retained by counsel for Capital Relocation Services L.L.C. ("CapRelo") as an expert witness in the above-captioned case.

2. I offer this declaration in support of CapRelo's motion to compel Plus to identify the source code its claims as trade secrets at issue in this lawsuit.

3. I have executed the declaration appended as Exhibit A to the protective order and have agreed to be bound by its terms, including those entered in the operative Amended Protective Order [ECF No. 123].

I. Expert background & qualifications

4. Our firm specializes in the analysis of digital evidence in civil and criminal

litigation. I have over 30 years of experience in computer forensics and cybersecurity. Prior to joining CFS, I was a sworn investigator for the United States Secret Service Electronic Crimes Task Force and acted as its senior computer forensic analyst.

5.   I am certified by the United States Department of Homeland Security as a "Seized Computer Evidence Recovery Specialist," as well as certified in computer forensics by the National White-Collar Crime Center. Both federal and state court judges have appointed me as a neutral computer forensic analyst or special master.

6.   I graduated from Upsala College with both a Bachelor of Science and a Master's degree in computer science. I completed my post graduate work in cyber security at Harvard University.

7.   I have previously served as adjunct faculty of computer science for the University of Minnesota Technological Leadership Institute's Master of Science and Security Technologies program (MSST). I am a faculty member at the University of St. Thomas School of Law in Minnesota, and for the National Judicial College in Reno, Nevada. I have instructed members of the federal judiciary through the Federal Judicial Center in Washington, D.C.

8.   I am a member of Working Groups 1 and 11 of the Sedona Conference, which is an institute dedicated to the advanced study of law. I serve on the Sedona Conference's Steering Committee on Artificial Intelligence and the Law.

9.   I am currently appointed to the Arizona Supreme Court's Steering Committee on Artificial Intelligence and the Courts.

10.   I have previously provided training or delivered keynote addresses for the

United States Supreme Court; the Eleventh Circuit Federal Judicial Conference; the Eighth

Circuit Federal Judicial Conference; the Southern District of Georgia; the Western District

of Tennessee; and several state judicial conferences. I delivered the keynote address at the

Chief Justices' Conference in Newport, Rhode Island and at Georgetown Law School's

advanced e-discovery conference.

11.   I was appointed by the Minnesota Supreme Court to serve as a member of

Minnesota's Lawyers Professional Responsibility Board ("LPRB").

12.   I am a co-author of the Minnesota State Bar's e-Discovery Deskbook, and I

also write monthly articles for *Minnesota Bench & Bar* magazine.

13.   CFS holds a corporate private detective license issued by the State of

Minnesota Board of Private Detective and Protective Agent Services (License No. 2341).

14.   CFS was awarded a Multiple Award Schedule contract (contract

#47QTCA22D004L) for the 54151HACS (highly adaptive cybersecurity services) SIN by

the General Services Administration (GSA). GSA awarded CFS the contract after a

rigorous inspection and technical competence evaluation of knowledge, abilities,

competency, policies, and procedures.

15.   CFS is the exclusive, contracted computer forensic service provider for the

Hennepin County Sheriff's Office (the county that encompasses Minneapolis); as well as

the Metropolitan Airports Commission, also known as the Minneapolis/Saint Paul

International Airport. I am a primary point-of-contact for servicing these contracts on

behalf of CFS.

II.   Materials considered.

16.   In connection with preparing this declaration, CapRelo's counsel has provided the following documents for my review:

    a.   the First Amended Complaint [ECF No. 50];

    b.   the Protective Order [ECF No. 82] and Amended Protective Order; and

    c.   Plus's Supplemental Response to CapRelo's First Set of Interrogatories (Nos. 1-11), dated March 13, 2024 ("Supp. Response").

17.   I respectfully reserve the right to supplement and/or amend this declaration if additional materials are provided to me for evaluation.

III.   Plus's disclosures contain reference to specific code that it has claimed as trade secrets.

18.   In response to CapRelo's Interrogatory No. 1[1], Plus incorporated an attachment. (*See* Supp. Resp., Attach. A). Attachment A is a two (2) column table with the headings "Evidence Supporting Trade Secrets," and "Exemplary Evidence of CapRelo's Misappropriation."

19.   In some cases, the column "Evidence Supporting Trade Secrets" contains reference to Plus's source code, including: 1) a brief description of the code's function, 2)

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[1] "Identify and describe in detail each and every Alleged Trade Secret, including without limitation the Alleged Trade Secrets identified in the Amended Complaint and in Paragraphs 7–13 of the Declaration of Susan Benevides, filed as Document Number 25 in the Lawsuit, including all facts supporting or refuting Plus's allegations that the Alleged Trade Secrets are trade secrets under applicable law and have been misappropriated by CapRelo." (Supp. Resp. at 3.)

the name/directory of the source code file, and 3) a citation to the line where the specific

code is located within the referenced file.

20. ██

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(Supp. Resp., Attach. A at 4.)

21.   The information provided (description, name of file, line of code), does not

contain or constitute any source code itself.

22.   The description of the code's function, name/directory of the source code

file, and citation to the line where the specific code is located within the referenced file

does not provide me sufficient information to prepare to conduct any future inspections or

analysis of the source code at issue in this case. Plus has identified specific code portions

("snippets") as its trade secrets and such snippets will provide the actual material at issue,

and will therefore serve as a factual basis to determine whether the same or similar source

code exists within CapRelo's libraries. This exercise is not possible without Plus disclosing

the snippets of source code it claims are trade secrets.

23.   Having already identified the location and precise lines of source code it

contends are trade secrets, Plus will be able to provide these snippets with ease. Plus's

source code should be readily available to its responsible employees and can be provided

by copying the lines of source code it has referenced in the Supplemental Response.

24.   The ability to review the source code Plus claims as trade secrets will allow me to assist CapRelo with investigating Plus's claims and to begin a comparative analysis of that source code, which Plus alleges was misappropriated by CapRelo to develop a competing software ("CompanionFlex"), including by analyzing the similarities or differences between the source code underlying Point C and CompanionFlex.

25.   Moreover, access to such snippets will allow me to work more efficiently if and when I conduct a review of Plus's source code. At the inspection, I would almost certainly request to print out, or otherwise copy by permissible means, any such source code snippets that are cited in Plus's Supplemental Disclosure, in accordance with the Amended Protective Order.

26.   Additionally, although I cannot fully evaluate the necessity or scope of any inspection until I have reviewed the snippets identified in Plus's Supplemental Disclosure, the ability to review these snippets may eliminate the need for (or greatly diminish the duration and scope of) any inspection I undertake of the Point C source code.

27.   Lastly, such code snippets may not be functional, independent of the entirety of the source code (or the source code file). For this reason, such snippets will permit me to evaluate the important parts of the data, without a risk of the inadvertent disclosure of the entirety of Plus's source code.

28.   To aid my analysis and CapRelo's understanding of where such snippets originate, the identified source code should be organized with reference to the specific file where the snippets originate, and the line within that file. As one possible method, the

snippets could be provided in table format, with columns for the file/location, the line, and

the code snippet.

      I declare under penalty of perjury that the foregoing is true and correct.

Dated: May 1, 2024

                              Mark Lanterman