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8 TESLA, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

| | | | |
|----|---------------|---|--|
| 12 | TESLA, INC., |) | Case No.: _____ |
| 13 | |) | |
| 14 | Plaintiff, |) | COMPLAINT |
| 15 | |) | |
| 16 | v. |) | (1) Violation of the Defend Trade Secrets |
| 17 | |) | Act (18 U.S.C. § 1831 <i>et seq.</i>) |
| 18 | ALEX KHATILOV |) | |
| 19 | |) | (2) Violation of the California Uniform |
| 20 | Defendant. |) | Trade Secrets Act (Cal. Civ. Code § 3426 |
| 21 | |) | <i>et seq.</i>) |
| 22 | |) | (3) Breach of Contract |
| 23 | |) | |
| 24 | |) | JURY TRIAL DEMANDED |
| 25 | |) | |

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1 Plaintiff Tesla, Inc. (“Tesla” or “Plaintiff”), complains and alleges against Defendant Alex
2 Khatilov (“Khatilov” or “Defendant”), as follows:

3 **NATURE OF THE ACTION**

4 1. This case is about Tesla protecting its trade secrets from premeditated theft by a
5 (now) former employee, and making sure it does not happen again. Within three days of being
6 hired by Tesla, Defendant brazenly stole thousands of trade secret computer scripts that took Tesla
7 years to develop. Then, he lied about it and tried to delete the evidence of his theft when quickly
8 confronted by Tesla’s security team, forcing Tesla to bring this complaint.

9 2. Tesla hired Defendant as a software automation engineer on December 28, 2020.
10 Within three days, he began stealing thousands of highly confidential software files from Tesla’s
11 secure internal network, transferring them to his personal cloud storage account on Dropbox, to
12 which Tesla has no access or visibility. The files consist of “scripts” of proprietary software code
13 that Tesla has spent years of engineering time to build. These scripts, when executed, automate a
14 broad range of functions throughout Tesla’s business. Only a select few Tesla employees even
15 have access to these files; and as a member of that group, Defendant took advantage of that access
16 to downloaded files unrelated to his job.

17 3. Tesla’s information security personnel detected Defendant’s unauthorized
18 download on January 6, 2021 and confronted Defendant that day and interviewed him. During
19 this interview he repeatedly claimed that he had only transferred a couple personal administrative
20 documents. After being prompted, he gave Tesla investigators access to view his Dropbox
21 account, where they discovered Defendant’s claims were outright lies: the Tesla investigators
22 found thousands and thousands of Tesla’s confidential computer scripts in his Dropbox.
23 Defendant then claimed he somehow “forgot” about the thousands of other files he stole (almost
24 certainly another lie). Even worse, it became apparent that Defendant had brazenly attempted to
25 destroy the evidence by hurriedly deleting the Dropbox client and other files during the beginning
26 of the interview when investigators were attempting to remotely access his computer.

27 4. Fortunately, the investigators were able to eventually view the Dropbox account
28 and instructed Defendant to delete all Tesla files that still remained. But Tesla’s ability to rectify

1 Defendants' wrongdoing ended there. Tesla does not know whether Defendant took additional
2 files, whether he copied files from the Dropbox account to other locations in the days before he
3 was caught, or whether he sent any of the files to other persons or entities. Indeed, as soon as
4 Defendant uploaded the stolen files to his Dropbox account, he could have shared or retransferred
5 those files to anyone or any other storage media (whether an external thumb drive, another
6 computer, a mobile device, or another cloud-based storage system). And Tesla would have had
7 no way to know that.

8 5. This action is based on Defendant's: (1) violation of the Defend Trade Secret Act,
9 18 U.S.C. § 1831, *et seq.*; (2) violation of the California Uniform Trade Secret Act, Cal. Civ. Code
10 § 3426, *et seq.*; and (3) breach of contract.

11 **THE PARTIES**

12 6. Plaintiff Tesla is a corporation organized and existing under the laws of Delaware,
13 with its principal place of business located at 3500 Deer Creek Road, Palo Alto, California 94304.
14 Tesla develops, manufactures, sells, and leases electric vehicles and energy generation and storage
15 systems throughout the United States and abroad.

16 7. Defendant Alex Khatilov is a former Tesla employee who also goes by the names
17 Alex Tilov or Sabir Khatilov. Upon information and belief, he resides at 556 Chestnut Avenue,
18 San Bruno, California 94066.

19 **JURISDICTION AND VENUE**

20 8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
21 1331 and 18 U.S.C. § 1836(c), as it arises under the federal Defend Trade Secrets Act, 18 U.S.C.
22 § 1831 *et seq.*

23 9. This Court has supplemental jurisdiction over Plaintiff's state law claims under the
24 California Uniform Trade Secret Act, Cal. Civ. Code § 3426, *et seq.* and for breach of contract
25 pursuant to 28 U.S.C. § 1367(a) because Tesla's state law claims are so closely related to its federal
26 claim that they form part of the same case of controversy under Article III of the United States
27 Constitution.

1 10. Venue is proper in the United States District Court for the Northern District of
2 California pursuant to 28 U.S.C. § 1391 because Defendant resides in the Northern District of
3 California and a substantial part of the events and omissions giving rise to the claims asserted
4 occurred in this District.

5 **INTRADISTRICT ASSIGNMENT**

6 11. A substantial part of the events and omissions which gave rise to the claims asserted
7 took place in Santa Clara County, California. Thus, pursuant to Civil L.R. 3-2(c) and (e), this
8 action should be assigned to the San Jose Division of this District.

9 **FACTUAL ALLEGATIONS**

10 ***Tesla's Trade Secrets and Confidential Information***

11 12. Among Tesla's numerous innovations is its development of automated, "Quality
12 Assurance" processes that run a broad range of business functions without human effort, including
13 procurement, materials planning and processing, payables, and purchasing (collectively, the "Tesla
14 Trade Secrets"). For example, much of the manufacturing cycle of Tesla vehicles is managed by
15 these automated processes – from ordering parts to delivering cars.

16 13. Tesla employs a team of Quality Assurance Engineers who help identify business
17 tasks to be automated based on input from Tesla's business leaders. The engineers write computer
18 scripts in Python (a computer programming language) to automate those tasks, and test the
19 automated processes to ensure they function properly. These scripts are unique to Tesla and run
20 on WARP Drive, the backend software for much of Tesla's business.

21 14. Developing this complex system is expensive and time-consuming. Tesla has spent
22 roughly 200 man-years of work to develop the Quality Assurance scripts – the cumulative hours
23 spent by the Quality Assurance Engineering team over the past twelve years. The engineers' work
24 is also guided by the business leaders in Tesla, who identify what tasks need to be automated –
25 another large and valuable investment of its time.

26 15. The Tesla Trade Secrets are extremely valuable to Tesla, and would be to a
27 competitor. Access to the scripts would enable engineers at other companies to reverse engineer
28 Tesla's automated processes to create a similar automated system in a fraction of the time and with

1 a fraction of the expense it took Tesla to build it. Third-party engineers could not compose these
2 scripts based on public information, especially with such minimal time and effort. The scripts also
3 would inform competitors of which systems Tesla believes are important and valuable to automate
4 and how to automate them – providing a roadmap to copy Tesla’s innovation.

5 16. For these reasons, Tesla takes extensive measures to ensure that the Tesla Trade
6 Secrets remain strictly confidential and are never shared externally. Even within Tesla, access to
7 the scripts is limited to members of the Quality Assurance Engineering team, which is
8 approximately 40 people out of Tesla’s roughly 50,000 employees. Who can grant access rights
9 to the Trade Secrets is even more narrowly controlled, with only eight people having the ability to
10 grant access. The engineers who do have access to the scripts are not permitted to download them
11 to personal devices or cloud storage.

12 17. Tesla’s engineers also sign a comprehensive set of agreements and policies as a
13 condition of their employment which require them to protect Tesla’s confidential information and
14 not to disclose or misuse that information, including the Tesla Trade Secrets. These include: an
15 Employee Nondisclosure And Inventions Assignment Agreement (“NDA”), which requires
16 employees to hold Tesla’s information “in strictest confidence” and prohibits them from using or
17 disclosing any Tesla “Proprietary Information,” including “technical data, trade secrets, know-
18 how, ... plans, designs, ... methods, processes, ... data, programs, ... and other business
19 information”; and an Internet Usage Policy that prohibits “transmitting, copying, downloading, or
20 removing trade secret, proprietary, or confidential business information of Tesla without written
21 authorization.”

22 18. The NDA also requires employees, upon termination, to “immediately return to the
23 Company all originals and copies of all hard copy and electronic documents, files and other
24 property of the Company in [their] possession or control or to which [they] have access ...
25 regardless of the storage medium (e.g., internal or external hard drives, solid-state drives, USB
26 flash drives, flash memory cards, and cloud storage).”

27 19. Tesla secures its physical facilities by restricting access to authorized personnel,
28 and then monitoring actual access with security guards and cameras. Visitors to Tesla’s facilities

1 must check in with a receptionist or security, sign a nondisclosure agreement, and submit to a
2 photograph. Visitors must also always be escorted by a Tesla employee while at the facilities.

3 20. Tesla further protects its confidential, trade secret, and proprietary information by
4 using password-protected and firewall-protected networks and servers that are only accessible to
5 current Tesla employees with proper credentials.

6 21. Tesla also has an Information Security team that monitors its systems for suspicious
7 activity, including unauthorized downloading of confidential information.

8 ***Defendant Alex Khatilov Promises to Protect Tesla’s Trade Secrets and Confidential***
9 ***Information as a Condition of His Employment at Tesla***

10 22. On December 28, 2020, Tesla hired Defendant Alex Khatilov as a Senior Software
11 Quality Assurance Engineer.

12 23. Defendant’s role and responsibility was to prepare and revise computer scripts to
13 help automate Environmental Health and Safety (“EHS”) systems.

14 24. As part of his employment, Tesla provided Defendant a laptop to perform his work.

15 25. As a condition of his employment, Defendant signed and agreed to abide by the
16 terms of the NDA.

17 ***Defendant’s Theft of Tesla’s Trade Secrets, and Attempts to Conceal His Misconduct***

18 26. On December 31, 2020 – just three days after being hired by Tesla – Defendant
19 began downloading thousands of files from Tesla’s networks and transmitted those files to his
20 personal Dropbox account. The downloading was completed on January 4, 2021. He also
21 downloaded some additional files on January 6.

22 27. Tesla’s Information Security team detected the downloading of up to approximately
23 26,000 files on January 6 through its monitoring software. The team immediately reviewed the
24 activity and concluded that it was not an authorized transfer. Tesla also discovered that the files
25 contained a complete set of all automation scripts produced by the Quality Assurance Engineering
26 team for WARP Drive over the last twelve years.

27 28. The scripts downloaded by Defendant had nothing to do with his responsibilities
28 for developing scripts on the EHS system, which runs on a separate system from WARP Drive.

1 29. Shortly after the Tesla Information Security team discovered Defendant's theft,
2 Tesla personnel confronted Defendant by initiating a videoconference call via Microsoft Teams
3 that same day. Defendant had been working remotely due to COVID-19.

4 30. During the call, Defendant confirmed that he had signed the NDA. He also
5 confirmed that he installed a Dropbox desktop application on his Tesla-issued laptop, which
6 enabled him to upload files to a personal cloud-based account to which Tesla has no access or
7 visibility. Defendant claimed, however, that he had only uploaded personal administrative
8 documents to his Dropbox, such as his scanned passport and a copy of his W-4. When asked to
9 clarify, he reiterated again that he uploaded only personal administrative documents to his
10 Dropbox account, not anything confidential to Tesla.

11 31. Tesla personnel prompted Defendant to share his laptop screen to confirm that his
12 Dropbox account did not contain any confidential Tesla files, as he twice claimed. Defendant
13 delayed accepting the screen share request for over a minute, thus preventing Tesla personnel from
14 viewing his screen or Dropbox files. During this time, he could be seen on videochat hurriedly
15 deleting information from his computer.

16 32. Once Defendant finally shared his screen, he claimed that he had already deleted
17 the Dropbox desktop application during the interview, confirming that Defendant was destroying
18 evidence to try to prevent Tesla from inspecting what he had done.

19 33. Although Defendant had deleted the Dropbox desktop application from his laptop,
20 such deletion only disabled the functionality that uploads files to the Dropbox cloud, and did not
21 necessarily delete files uploaded to the account itself. Tesla personnel thus instructed Defendant
22 to display all files that had already been transferred to Dropbox, which revealed folders containing
23 a large amount of non-administrative material, including many of the Quality Assurance scripts
24 that were detected by Tesla's monitoring software.

25 34. Tesla personnel also instructed Defendant to login to the Dropbox website so they
26 could see whether the files he downloaded remained available in his Dropbox account. This
27 revealed that the same confidential Tesla files seen on his laptop were still available through his
28 cloud storage account. Defendant agreed to delete the remainder of those files – or at least, the

1 ones that Tesla personnel were able to see during the call. The investigators, however, were only
2 able to view Defendant’s screen – they could not actually control his mouse or keyboard in order
3 to delete the files themselves.

4 35. Tesla personnel then informed Defendant that, despite his claims to the contrary,
5 the Information Security team detected that he removed over 26,000 highly confidential, non-
6 administrative files from the Tesla network over the course of several days. Defendant claimed
7 that he “forgot” he had downloaded them. Defendant was also unable to articulate a business
8 reason for his downloads.

9 36. Defendant was terse and evasive throughout the interview, providing mostly one-
10 word answers and feigning ignorance. Defendant repeatedly lied to Tesla, claiming (twice) that
11 he had only downloaded and transferred personal administrative files, and then claiming that he
12 “forgot” about downloading thousands of other non-administrative, highly confidential software
13 scripts. He also attempted to destroy evidence of his theft while obstructing Tesla’s efforts to
14 access his laptop screen and see what he had taken.

15 37. After discovering Defendant’s theft of the Tesla Trade Secrets, and due to his
16 repeated lying and obfuscation during the investigation, Tesla fired Defendant that day.

17 38. Although investigators were able to watch Defendant delete the information they
18 found on Defendant’s laptop and in his Dropbox account, Tesla could not confirm whether he took
19 additional files, whether the information he downloaded was further transferred from Dropbox to
20 other locations in the days before he was caught, or whether he shared the information with anyone
21 else.

22 39. As soon as Defendant uploaded the files to his Dropbox account, he had the ability
23 to instantly share or retransfer those files from Dropbox to any other person or location at any time
24 – including loading them onto a thumb drive, emailing them, syncing them to another computer,
25 transferring them to an entirely different cloud-based account, or even printing them. Tesla would
26 have had no way to monitor that activity, which Defendant could have done at any time before he
27 purportedly deleted the files from Dropbox.

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1 40. Moreover, because of COVID-19, this interview had to be conducted remotely,
2 rather than in person. This remote process necessarily hindered Tesla’s ability to ensure complete
3 deletion of the Trade Secrets, since Tesla could not directly control Defendant’s devices, perform
4 immediate forensic analysis of the devices, or acquire full access to Defendant’s Dropbox.

5 41. On information and belief, Tesla did not uncover all of Defendant’s theft.
6 Defendant’s proven track record of dishonesty and evidence destruction raises grave concerns that
7 he continues to misappropriate Tesla’s Trade Secrets. On information and belief, Defendant has
8 indeed further used and/or disseminated that information.

9 **First Cause of Action**

10 **(Violation of the Defend Trade Secrets Act, 18 U.S.C. § 1831 *et seq.*)**

11 42. Tesla re-alleges and incorporates by reference each and every allegation contained
12 in paragraphs 1 through 38 of this Complaint.

13 43. As set forth above, Defendant misappropriated thousands of Quality Assurance
14 automation software scripts constituting “trade secrets” under the Defend Trade Secrets Act, 18
15 U.S.C. § 1831 *et seq.* Tesla is the owner of these Tesla Trade Secrets.

16 44. The Tesla Trade Secrets automate business processes underlying the development,
17 manufacturing, sale, and leasing of products and services used in, and intended for use in, interstate
18 and foreign commerce.

19 45. The Tesla Trade Secrets derive independent economic value from not being
20 generally known to the public, to Tesla’s competitors, or to other persons who can obtain economic
21 value from the disclosure or use of the information.

22 46. The Tesla Trade Secrets are not readily ascertainable through proper means or from
23 generally available, public sources.

24 47. At all relevant times, Tesla has made reasonable efforts to protect and preserve the
25 secrecy of the Tesla Trade Secrets.

26 48. Defendant misappropriated the Tesla Trade Secrets within the meaning of 18
27 U.S.C. § 1839(5) by, *inter alia*, knowingly acquiring the Tesla Trade Secrets through improper
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1 means, and disclosing and/or using the Tesla Trade secrets without Tesla's express or implied
2 consent.

3 49. Defendant knew or had reason to know that, at the time he accessed, downloaded
4 and used the Tesla Trade Secrets, this information was acquired and obtained by improper means
5 and/or under circumstances giving rise to a duty to maintain secrecy or limit use, and that he did
6 not have Tesla's express or implied consent to do so.

7 50. Defendant acquired the Tesla Trade Secrets by virtue of his employment with Tesla,
8 not through his own independent research and efforts, in direct violation of his legal obligations to
9 Tesla.

10 51. On information and belief, Defendant failed to fully delete or return the Tesla Trade
11 Secrets that he misappropriated, and continues to use or disclose the Tesla Trade Secrets without
12 Tesla's consent.

13 52. On information and belief, Defendant has gained, or will gain, substantial benefit
14 from his misappropriation of the Tesla Trade Secrets, to Tesla's substantial detriment.

15 53. As a result of Defendant's unlawful conduct, the Tesla Trade Secrets have been
16 compromised, and Tesla is substantially threatened by Defendant's further use and/or
17 dissemination of that information.

18 54. As a direct, proximate, and foreseeable result of Defendant's misappropriation of
19 the Tesla Trade Secrets, Tesla has been damaged in an amount not yet ascertained.

20 55. Defendant's unlawful actions were willful and malicious, and with the deliberate
21 intent to injure Tesla's business, thereby entitling Tesla to exemplary damages and/or attorneys'
22 fees in an amount to be proven at trial pursuant to 18 U.S.C. § 1836(b)(3)(D).

23 56. Tesla is entitled to an order requiring Defendant, his agents, and all persons acting
24 in concert with him, from using or disclosing, or threatening to use or disclose, the Tesla Trade
25 Secrets, and restraining Defendant from obtaining any benefit from his wrongful possession and
26 use of the Tesla Trade Secrets. Unless enjoined by this Court, said misappropriation of the Tesla
27 Trade Secrets, actual or threatened, will cause great and irreparable injury to Tesla. Tesla has no
28 adequate or other remedy at law for such acts and threatened acts.

Second Cause of Action

(Violation of California’s Uniform Trade Secrets Act, Cal. Civ. Code § 3426 *et seq.*)

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3 57. Tesla re-alleges and incorporates by reference each and every allegation contained
4 in paragraphs 1 through 53 of this Complaint.

5 58. As set forth above, Defendant misappropriated thousands of Quality Assurance
6 automation software scripts constituting “trade secrets” under the California Uniform Trade
7 Secrets Act, Cal. Civ. Code § 3426, *et seq.* Tesla is the owner of these Tesla Trade Secrets.

8 59. The Tesla Trade Secrets derive independent economic value from not being
9 generally known to the public, to Tesla’s competitors, or to other persons who can obtain economic
10 value from disclosure or use of the information.

11 60. At all relevant times, Tesla has made reasonable efforts to protect and preserve the
12 secrecy of the Tesla Trade Secrets.

13 61. Defendant misappropriated the Tesla Trade Secrets within the meaning of Cal. Civ.
14 Code § 3426.1(b) by, *inter alia*, knowingly acquiring the Tesla Trade Secrets through improper
15 means, and disclosing and/or using the Tesla Trade secrets without Tesla’s express or implied
16 consent.

17 62. Defendant knew or had reason to know that, at the time he accessed, downloaded
18 and used the Tesla Trade Secrets, this information was acquired and obtained by improper means
19 and/or under circumstances giving rise to a duty to maintain secrecy or limit use, and that he did
20 not have Tesla’s express or implied consent to do so.

21 63. Defendant acquired the Tesla Trade Secrets by virtue of his employment with Tesla,
22 not through his own independent research and efforts, in direct violation of his legal obligations to
23 Tesla.

24 64. On information and belief, Defendant failed to fully delete or return the Tesla Trade
25 Secrets that he misappropriated, and continues to use or disclose the Tesla Trade Secrets without
26 Tesla’s consent.

27 65. On information and belief, Defendant has gained, or will gain, substantial benefit
28 from his misappropriation of the Tesla Trade Secrets, to Tesla’s substantial detriment.

1 66. As a result of Defendant’s unlawful conduct, the Tesla Trade Secrets have been
2 compromised, and Tesla is substantially threatened by Defendant’s further use and/or
3 dissemination of that information.

4 67. As a direct, proximate, and foreseeable result of Defendant’s misappropriation of
5 the Tesla Trade Secrets, Plaintiff has been damaged in an amount not yet ascertained.

6 68. Defendant’s unlawful actions were willful and malicious, and with the deliberate
7 intent to injure Tesla’s business, thereby entitling Tesla to exemplary damages pursuant to Cal.
8 Civ. Code § 3426.3(c) and/or attorneys’ fees in an amount to be proven at trial pursuant to Cal.
9 Civ. Code § 3246.4.

10 69. Tesla is entitled to an order requiring Defendant, his agents, and all persons acting
11 in concert with him, from using or disclosing, or threatening to use or disclose, the Tesla Trade
12 Secrets, and restraining Defendant from obtaining any benefit from his wrongful possession and
13 use of the Tesla Trade Secrets. Unless enjoined by this Court, said misappropriation of the Tesla
14 Trade Secrets, actual or threatened, will cause great and irreparable injury to Tesla. Tesla has no
15 adequate or other remedy at law for such acts and threatened acts.

16 **Third Cause of Action**

17 **(Breach of Contract)**

18 70. Tesla re-alleges and incorporates by reference each and every allegation contained
19 in paragraphs 1 through 66 of this Complaint.

20 71. As a condition of his employment with Tesla, Defendant signed and agreed to abide
21 by 1) the terms of an NDA between himself and Tesla and 2) the terms of an employment
22 agreement contained in the offer letter between Defendant and Tesla. Both the NDA and the
23 employment agreement prohibited Defendant from, among other things, using or disclosing the
24 Tesla Trade Secrets.

25 72. Tesla fully complied with and fulfilled its obligation under the NDA and
26 employment agreement by, among other things, employing the Defendant.

27 73. While employed by Tesla, Plaintiff breached the NDA and employment agreement
28 by, without authorization or any business purpose, accessing, downloading, transmitting, and

1 retaining thousands of Quality Assurance automation software scripts constituting the Tesla Trade
2 Secrets, and storing those scripts on a personal cloud storage account.

3 74. On information and belief, Plaintiff further breached his NDA and employment
4 agreement by providing the Trade Secret information to other unknown individuals or entities after
5 that information had been exfiltrated to Dropbox.

6 75. Tesla has sustained and will sustain damages as a direct and proximate result of
7 Defendant's breach of contract.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff Tesla prays for judgment in its favor and against Defendant Alex
10 Khatilov, inclusive as follows:

11 1. Granting temporary, preliminary, and permanent injunctive relief against
12 Defendant, and any persons in active concert or participation with him: (i) enjoining Defendant
13 from obtaining, retaining, using, transmitting, disseminating, or disclosing the Tesla Trade Secrets;
14 (ii) requiring Defendant to immediately return all Tesla equipment, tangible materials, and
15 information that remain in Defendant's possession, custody, or control; (iii) ordering Defendant to
16 identify, and turn over, any property in his possession, custody, or control containing or reflecting
17 the Tesla Trade Secrets, including hard copy documents or any form of electronic storage media;
18 (iv) ordering Defendant to identify any other persons, entities, or locations not within his
19 possession, custody, or control, to which Defendant has transmitted, disseminated, disclosed, or
20 stored any Tesla Trade Secrets; and (v) any other appropriate injunctive relief;

21 2. Awarding compensatory damages in an amount to be determined at trial;

22 3. Awarding exemplary damages in an amount to be determined at trial;

23 4. Awarding interest at the maximum legal rate on all sums awarded;

24 5. Awarding reasonable attorneys' fees as permitted by law;

25 6. Awarding all costs of suit and investigation herein; and

26 7. Awarding such other and further relief as the Court deems just and proper.

27 **JURY DEMAND**

28 Plaintiff Tesla demands a jury trial on all triable issues.

1 Dated: January 22, 2021

s/ Joseph Alm
Joseph Alm

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