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## UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

CROSSCODE, INC., a Delaware corporation,

Plaintiff,

v.

ADITYA R. SHARMA, an individual,

Defendant.

CASE NO. 3:20-cv-00104

**COMPLAINT FOR:**
1) **DECLARATORY RELIEF**
2) **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS**
3) **DEFAMATION**
4) **COMMERCIAL DISPARAGEMENT**
5) **TRADE SECRET MISAPPROPRIATION UNDER THE FEDERAL DEFEND TRADE SECRET ACT**
6) **TRADE SECRET MISAPPROPRIATION UNDER THE CALIFORNIA UNIFORM TRADE SECRETS ACT**
7) **VIOLATION OF CAL. BUSINESS & PROFESSION CODE § 17200**

**DEMAND FOR JURY TRIAL**

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COMPLAINT

1    Plaintiff Crosscode, Inc. ("Crosscode" or the "Company"), for its complaint against

2  defendant Aditya R. Sharma ("Sharma"), alleges as follows:

3                              **NATURE OF DISPUTE**

4    1.    This is an action: (1) for declaratory judgment pursuant to the Federal Declaratory

5  Judgments Act, 28 U.S.C. §§ 2201–2202, and Rule 57 of the Federal Rules of Civil Procedure;

6  (2) to obtain damages for intentional interference with prospective economic relations,

7  defamation, commercial disparagement, trade secret misappropriation under the Federal Defend

8  Trade Secret Act and the California Uniform Trade Secret Act; (3) for restitution and attorney's

9  fees for violations of California's Business and Professions Code § 17200; and (4) for injunctive

10  relief prohibiting defendant Sharma from further engaging in the wrongful conduct described

11  below.

12    2.    The action arises from defendant Sharma's conduct *after* he was terminated as

13  Crosscode's President and Chief Executive Officer and was removed from Crosscode's board of

14  directors.  Specifically, after his termination and removal, Sharma falsely claimed that, pursuant

15  to a purported intellectual property license agreement between him and Crosscode (the

16  "Purported License Agreement"), he was the owner of essentially all of the Company's

17  intellectual property and had, among other things, the right to terminate the Company's

18  purported exclusive license to use such intellectual property.  Sharma has "exercised" his

19  supposed termination rights under the Purported License Agreement and threatened to report

20  Crosscode and at least one of its officers and directors to the Federal Bureau of Investigation for

21  "IP Theft."

22    3.    Sharma has also falsely communicated to both Company shareholders and third

23  parties that he is the rightful owner of Crosscode's intellectual property, that he intends to initiate

24  both civil and criminal proceedings against Crosscode for "IP Theft" [sic] and that, unless

25  Crosscode and certain third parties agree to his demands, he will start a new company using

26  Crosscode's intellectual property.  Sharma has also threatened to interfere with Crosscode's

27  near-term plans to raise additional capital by continuing to press his baseless claims regarding

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1  Crosscode's intellectual property and the Purported License Agreement, and will, by pressing

2  these claims, "kill" the Company.

3          4.      Plaintiff Crosscode now seeks a declaratory judgment of its respective rights and

4  obligations, and specifically that the Purported License Agreement was never entered into and no

5  agreement ever formed between the parties, or alternatively, that the Purported License

6  Agreement is null and void.  Plaintiff also seeks damages, injunctive relief, and all other

7  available remedies for the wrongful conduct alleged herein.

8                                          **THE PARTIES**

9          5.      Plaintiff Crosscode, Inc. is a Delaware corporation with its principal place of

10  business at 950 Tower Lane, Suite 2100, Foster City, California.  Crosscode is a software

11  company that offers and develops cloud-based information technology ("IT") mapping software

12  that mitigates the risk of making IT changes by automating key analytical processes.

13  Crosscode's software can map out a company's entire application environment, giving its users

14  the ability to make changes to its environment more efficiently and reliably.

15          6.      Defendant Sharma is a resident of the State of Minnesota.  He is a founder,

16  former director, and former Chief Executive Officer and President of Crosscode.  He remains a

17  significant Crosscode shareholder.

18                                  **JURISDICTION AND VENUE**

19          7.      This Court has original jurisdiction over this matter under 28 U.S.C. § 1332 in

20  that this is a civil action between citizens of different states in which the matter in controversy

21  exceeds, exclusive of costs and interest, seventy-five thousand dollars, in addition to equitable

22  relief.  Plaintiff Crosscode is a citizen of both the state of Delaware and California.  Defendant

23  Sharma is a citizen of Minnesota.

24          8.      An actual controversy exists between the parties within the meaning of 28 U.S.C.

25  §§ 2201 and 2202, which is of sufficient immediacy and reality to warrant declaratory relief.

26          9.      This Court also has original jurisdiction under 28 U.S.C. § 1331 in that Plaintiff

27  asserts a claim for trade secret misappropriation under the Federal Defend Trade Secrets Act 18

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1   U.S.C. §§ 1836-39 et seq.

2        10.      Venue is proper in the Northern District of California, pursuant to 28 U.S.C.

3   § 1391 (b)(2), because a substantial part of the events or omissions giving rise to Plaintiffs'

4   claims occurred in this District.

5                              **GENERAL ALLEGATIONS**

6                           **Sharma's Relationship with Crosscode**

7        11.      Crosscode was incorporated on or about October 20, 2015.  At the time of its

8   incorporation, the Company had no software developed, no code written, and no discernible

9   trade secrets.  It merely had Sharma's idea.  That idea was to develop software for the purposes

10  of mapping business processes to a line of code.

11       12.      Initially, Sharma was the Company's only employee, director, and shareholder.

12       13.      In the Spring of 2016, Soumik Sarkar ("Sarkar") joined the Company as a co-

13  founder and its Chief Technology Officer.  Sarkar also joined the Company's board of directors,

14  and became a 20 percent shareholder, with defendant Sharma owning the other 80 percent.

15       14.      Sarkar was initially only working for the Company part-time.  Rather than hire

16  software developers internally, Crosscode chose to outsource the development of its code to a

17  third-party, working under the direction of Sarkar.  That third-party was retained in or around

18  August 2016 and continues to work on the Company's code development.

19       15.      Beginning in 2016, the third-party developer and Crosscode stored the

20  Company's code in a "code repository" called Bitbucket, where only those with access could

21  download the Company's code and make changes to that code.

22       16.      After trying to execute on Sharma's original idea, Crosscode pivoted.  Instead of

23  developing software that would map business processes to a line of code, Crosscode, in or

24  around late 2016, decided to focus on developing IT mapping software to discover code level

25  application dependencies that would ultimately become the Company's Panoptics © software

26  solution ("Panoptics").  The development of Panoptics was outsourced to the third-party

27  developer, under the direction of Sarkar.  Sharma did not write any code for Panoptics (or for

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1   any other Company product/solution), and he never had access to the code repository Bitbucket.

2        17.     In April 2017, the Company raised a small amount of money in a friends and

3   family equity round, selling a small amount of common stock to approximately 40 accredited

4   investors.

5        18.     In or around May 2017, Mahmood Khan ("Khan") joined Crosscode's board of

6   directors, increasing the number of directors to three.  Khan also was given a substantial amount

7   of restricted common stock equal to about one percent of the Company.

8        19.     Despite the issuance of shares to Khan and the other common shareholders,

9   Sharma was still a controlling shareholder, owning more than 50% of the Company.

10        20.     In or around July 2017, the Company filed a patent application with the U.S.

11   Patent and Trademark Office ("U.S. P.T.O.") for a utility patent that was designed to cover,

12   among other things, portions of the Crosscode Panoptics software solution.  The patent

13   application listed Sharma as the inventor, and identified Crosscode as the assignee for the

14   eventual patent.  On or about December 18, 2019, the U.S. P.T.O. issued a notice of allowance,

15   allowing a patent to be issued for certain claims.  The patent should issue shortly, and is assigned

16   to Crosscode.

17        21.     In connection with the application, Sharma also signed a declaration pursuant to

18   37 C.F.R. 1.63, assigning to Crosscode (and its successors) his entire "worldwide right, title and

19   interest in and to the Invention" in the patent application, and "any and all other patent

20   applications and patents for the Invention which may be applied for or granted therefore in the

21   United States and in all foreign countries and jurisdictions, including all divisions, continuations,

22   reissues, reexaminations, renewals, extensions, counterparts, substitutes, and extensions thereof,

23   and all rights of priority resulting from the filing of such applications and granting of such

24   patents."  Pursuant to the declaration, Sharma also agreed to "execute any and all documents and

25   instruments and perform all lawful acts reasonably related to" recording the assignment to

26   Crosscode or perfecting Crosscode's (or its successors') title to the invention and all of the

27   related patents and applications.

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22.     In 2018, the Company decided to raise additional capital through an initial public offering.  It filed a Form S-1 with the Securities and Exchange Commission, and subsequently filed numerous amendments to the Form S-1 (Forms S-1/A).  In the Form S-1 and Forms S-1/A, the Company described the intellectual property as belonging to the Company and also described the anticipated future software development release dates for Crosscode's Panoptics.  The Form S-1 and S-1/As did not disclose any licensing agreement with Sharma, and it specifically did not identify or disclose the Purported License Agreement.

23.     In late January and/or early February 2019, Sharma started discussions with a boutique investment bank, Liquid Venture Partners and its affiliates (collectively, "LVP"), to raise capital in a private placement (the "Series A") instead of completing its initial public offering.  LVP began due diligence in earnest.

24.     During the due diligence phase of the Series A, Sharma produced to LVP a March 15, 2019 employment agreement between Sharma and the Company pursuant to which Sharma agreed to "not exploit, disclose or use for" himself any "Confidential Information" belonging to Crosscode.  Confidential Information was defined as information, including information conceived or developed by Sharma, that is not generally known to the public and that is used in connection with Crosscode's business, including trade secrets, inventions, formulas, algorithms, source code, etc.

25.     Pursuant to the March 15, 2019 employment agreement, Sharma also agreed that he would assign to Crosscode the entire right, title and interest to any and all inventions (defined broadly to include designs, concepts, ideas, improvements, source code, etc.) conceived or made by him during his time at the Company which relate to the Company's business, anticipated business, or research activities.  This employment agreement also had a space listed for Sharma to identify any inventions he made prior to his employment with the Company, which would be excluded from the employment agreement's assignment provisions.  Sharma did not identify any such excluded inventions.

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26.     Also during the due diligence phase, Sharma wrote to LVP stating that "there was no undisclosed compensation arrangements [sic] with any [Crosscode] executive or director."

27.     On March 26, 2019, Sharma entered into another employment agreement with the Company (the "March 26 Agreement").  The March 26 Agreement superseded all prior employment agreements.  Pursuant to the new agreement, Sharma agreed that he would never disclose trade secrets or other confidential information, as defined in an attached "Employee Intellectual Property Agreement" (the "Employee IP Agreement").  The March 26 Agreement also provided for the typical return of all Company materials following the termination of his employment.

28.     In the Employee IP Agreement, Sharma again agreed to assign to Crosscode all rights, title and interest to any creation/invention by him (or by him and others) during his time at the Company which relate to the Company's business, anticipated business, or research activities.

29.     Sharma further agreed in the Employee IP Agreement that in the event of any breach of the Employee IP Agreement, the Company would be entitled to injunctive relief restraining further violations without posting a bond, and would be entitled to its actual costs and attorneys' fees related to such breach.  These relevant confidentiality, assignment, and trade secret provisions of the Employee IP Agreement continue after the termination of Sharma's employment relationship.

30.     The Purported License Agreement was not disclosed in the Series A April 15, 2019 Private Placement Memorandum ("PPM") or related documents.  Indeed, the PPM expressly stated that Sharma's employment agreement provides for intellectual property assignment and confidentiality provisions that are customary in our industry."

31.     The Purported License Agreement was never disclosed to LVP or any shareholder that invested in the Series A during the capital raising process.

32.     The Series A ultimately closed in May 2019.  As part of the Series A, the Company issued approximately 4,000,000 preferred shares to more than 150 shareholders.  As a

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1    result of the Series A, Sharma's ownership was significantly diluted, with Sharma's ownership

2    interest decreasing to approximately 30% of the Company. Commensurate with the Series A, the

3    Board was also reconstituted.

**Sharma's Termination and His Wrongful Conduct Post-Termination**

5         33.    On November 13, 2019, Crosscode's board of directors terminated Sharma's

6    employment for cause. In conjunction with his termination, a majority of Crosscode's

7    shareholders also voted to remove Sharma as a Crosscode director (and its chairman of the

8    board).

9         34.    Sharma was provided notice of both his employment termination and his removal

10   from the board that same day. In the letter terminating Sharma, Sharma was reminded of his

11   confidentiality obligations and his obligations in the Employee IP Agreement, and was requested

12   to return all Company property forthwith.

13        35.    The very next day, Sharma sent an email to Crosscode's "directors, attorneys and

14   executives" claiming that he had uncovered "serious securities fraud" and a "massive cover-up."

15   He threatened to initiate litigation against LVP and Crosscode immediately. Sharma also

16   threatened to broadcast his allegations to all Crosscode investors and shareholders. Sharma

17   claimed that his intended actions would "completely block" any further investments in

18   Crosscode, cause "potential customers [to] stay away," and ultimately force Crosscode to shut

19   down.

20        36.    On November 15, 2019, after being advised by LVP that his claims regarding the

21   alleged securities fraud were false (and being provided with evidence of the falsity of his

22   allegations), he nonetheless broadcasted his now, knowingly false allegations. In his email to

23   "all employees, directors, attorneys and shareholders," he again threatened to interfere with the

24   Company's ability to raise capital and interfere with the Company's relations with potential

25   customers. In his email, he "reminded" the recipients that he is "deeply involved in almost every

26   single customer, current and prospect who see [him] as the face of Crosscode," and that he would

27   discuss with those customers and prospects as he sees fit. Sharma also stated that he was the

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1  person who "conceptualized" the technology.  Notably, his November 15 email did not mention

2  anything about being the owner of Crosscode's intellectual property or any Purported License

3  Agreement.

4     37.    On November 21, LVP sent a cease and desist letter and draft complaint to

5  Sharma threatening to initiate litigation if he did not cease and desist in making false claims

6  against it regarding the alleged securities fraud.  LVP also demanded that it return to Crosscode

7  all of its confidential information, and implement an appropriate litigation hold.  LVP

8  subsequently communicated that it would file litigation unless Sharma issued a full retraction of

9  his claims.

10     38.    On December 22, Sharma sent another email to "all employees, directors,

11  attorneys and shareholders" withdrawing "the entirety" of his November 15 email.  Sharma

12  stated that based on his now complete understanding of the facts, he would not be filing a

13  securities fraud lawsuit or reporting anyone to the SEC as he knew of no basis to do so.

14     39.    Despite withdrawing his securities fraud allegations, Sharma was not to be

15  deterred in interfering with Crosscode's business and capital raising efforts.  The very next day,

16  on December 23, 2019, Sharma sent a text message to at least one Crosscode investor (who is

17  also a potential investor in the Company's next round of financing) claiming that Crosscode and

18  its board entered into a licensing agreement under which the Company agreed and waived all

19  claims to the "IP" in Sharma's favor.  Sharma stated that it was "a licensing and royalty

20  agreement which can be terminated anytime by [Sharma]" and that the Company acknowledged

21  his ownership of the IP.  Sharma also stated that the next week Crosscode would no longer be

22  able to use the IP and that the termination was being invoked "by Sharma's lawyers."

23     **The Purported License Agreement and Sharma's Efforts to Enforce It or Otherwise**

24                  **Interfere with Crosscode's Business**

25     40.    This was the first time Crosscode had ever heard of any licensing and royalty

26  agreement.  No agreement could be located in any of Crosscode's files and no such agreement

27  was referenced in any of the Company's disclosures during the Company's prior capital raising

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1   efforts (when Sharma was the Company's CEO and President).

2   41.   On December 27, 2019 Sharma's counsel sent Crosscode a copy of the Purported

3   License Agreement.  This was the first time Crosscode had seen the Purported License

4   Agreement.

5   42.   The Purported License Agreement was not dated, but was purportedly "made

6   effective as of August 16, 2017."  Pursuant to the purported agreement, Sharma was the "sole

7   inventor and owner of Crosscode Panoptics, and all its variants and future enhancements (the

8   "Authored Work")…"  The purported agreement granted Crosscode, as licensee, an exclusive

9   right to market, sell, and further develop the "Authored Work", but Sharma retained all

10  modifications, enhancements, and derivative works.  The agreement also supposedly provided

11  that Crosscode would pay Sharma a 20% royalty based on all of Crosscode's sales revenues.  In

12  addition, the purported agreement provided that the "Authored Work" was confidential, and that

13  if Sharma requested, the Company was to terminate any employee who was using the material

14  without Sharma's permission.

15  43.   The Purported License Agreement also provided that Sharma could, upon fifteen-

16  day notice, terminate the supposed agreement, or alternatively, he could place a temporary

17  restriction on Crosscode's rights to sell, market, or develop on the "Authored Work."

18  44.   The Purported License Agreement was supposedly signed by Sharma in his

19  individual capacity as the "Licensor" and by Sharma on behalf of Crosscode, as the Licensee.

20  45.   The Crosscode board of directors never voted to enter into the Purported License

21  Agreement, nor did a majority of the stockholders vote to approve the Purported License

22  Agreement.

23  46.   Indeed, directors Sarkar and Khan (the two other directors at the time of the

24  "agreement's" effective date) never saw the Purported License Agreement until it was forwarded

25  by Sharma's counsel.  Crosscode also never paid any royalties to Sharma under the Purported

26  License Agreement, and was never invoiced by Sharma for any amounts supposedly due under

27  the purported agreement.

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47.     In transmitting the Purported License Agreement on December 27, 2019, Sharma's counsel stated that although Sharma had not given the company a notice of his exercise of the termination or restriction provisions, he was eager to invoke those provisions, and wanted the Company to terminate the Company's CTO, Sarkar, for supposedly violating the confidentiality provisions of the purported agreement.

48.     The next day, on December 28, 2019, Sharma wrote directly to the Company's Interim CEO, Greg Wunderle, and Khan, claiming that the day before his lawyers had asked for the immediate termination of Sarkar and demanded that the Company "return" all of the IP, including all documents, source code, etc.  (No such demand was made).  Sharma also served notice that he was invoking the temporary restriction provisions of the Purported License Agreement, and that he reserved the right to pursue Sarkar and the Company for "IP Theft."[1]

49.     Sharma has, in writing and orally, informed numerous shareholders and potential investors in an upcoming capital raise ("potential investors") of his supposed rights under the Purported License Agreement.  On information and belief, Sharma has also informed shareholders and potential investors of his claims that Sarkar and the Company are engaging in "IP Theft."  Also on information and belief, Sharma has made these claims to Crosscode's potential customers, including to at least one senior information technology executive for a large international conglomerate.

50.     Sharma has also threatened to press these claims in order to prevent the Company from raising new capital.  In at least one occasion, Sharma wrote to certain Crosscode shareholders and potential investors that "[i]f the current crisis goes ahead, Crosscode will be worth nothing and the company will be shut down in no more than 3 months and [that he] will start a new entity and a new legal structure where none of you [the investors] will have any claim."  Sharma also stated to the shareholders and potential investors that "Crosscode has

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[1]    Immediately after Sharma provided notice under the Purported License Agreement, his counsel emailed counsel for Crosscode stating that it was withdrawing from representing Sharma.

COMPLAINT

1   confirmed they [sic] are facing a financial crisis and cannot afford a litigation, unfortunately for

2   them I do not have that constraint and I will go all out for the kill."

**Sharma Intentionally Engaged in Rampant Evidence Spoliation**

4       51.    Sharma was first directed to return all Company property, including his computer,

5   in his termination letter sent on November 13, 2019.

6       52.    Sharma was then put on notice as early as November 14, 2019 of his obligations

7   to preserve evidence when he threatened to pursue securities fraud claims against Crosscode and

8   LVP.

9       53.    On November 21, 2019, LVP sent an evidence preservation demand, demanding

10  that Sharma take all steps to preserve all information, documents, or other materials (including

11  electronically stored information) related to, among other things, the Series A financing, LVP,

12  Sharma's service as a director of the company, and his employment with the company

13      54.    On November 27, 2019, Crosscode also sent a preservation demand to Sharma's

14  then-counsel, demanding that Sharma take all necessary steps to preserve any and all items

15  related to Sharma's work and tenure at Crosscode, and again demanding the return of Company

16  property, including Sharma's computer.

17      55.    On December 2, 2019, the day before Sharma before sent his computer back to

18  the company, Sharma, attempted to wipe the company's computer entirely.  Specifically,

19  Sharma, among other things, performed a Microsoft Windows factory reset on the Company's

20  computer.  After performing the factory reset, Sharma googled "file shredder software" and

21  ultimately downloaded "File Shredder," a free tool that removes files from hard drives and

22  prevents those documents from being recovered.  Mr. Sharma ran File Shredder on December 2,

23  2019, and ultimately deleted more than 6,000 documents. There were no emails or company

24  documents on the computer when it was returned to the Company.  The returned computer did

25  not contain any copy of (or even a draft of, or any other evidence of) the Purported License

26  Agreement.

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1       56.     On information and belief, it is unlikely that the Company will be able to recover

2   the evidence that Sharma destroyed.

3   <div align="center">**FIRST CLAIM FOR RELIEF**</div>

4   <div align="center">(Declaratory Judgment that the Purported License Agreement is Null and Void)</div>

5       57.     Plaintiff realleges and incorporate by reference each and every allegation of

6   paragraphs 1 through 56, inclusive, as if fully stated herein.

7       58.     The Purported License Agreement was never entered into by Crosscode, and

8   Crosscode never signed, or otherwise assented to, any agreement to license the "Authored

9   Work."

10       59.     Crosscode and Sharma also never formed, nor could they form, an agreement to

11   license Panoptics and the "Authored Work."  Prior to the time of the supposed effective date of

12   the Purported License Agreement, Sharma had agreed to, and did, assign all rights to Crosscode

13   to any and all inventions, patents, designs, concepts, ideas, source code, etc. conceived by him

14   during his time at the Company that related to the Company's business, anticipated business or

15   research activities.  Thus Sharma, even if he did originally develop the source code or for

16   Panoptics, had no authority or ability in his individual capacity to license Panoptics or the

17   "Authored Work" to Crosscode as it already belonged to Crosscode.  The Purported License

18   Agreement, assuming it is not fabricated, is therefore invalid and void as it lacks consideration.

19       60.     The Purported License Agreement is also an interested transaction because

20   Sharma was both the purported Licensor (in his individual capacity) and, at the time of the

21   supposed effective date, a director, the Company's Chief Executive Officer and President, and a

22   controlling shareholder.

23       61.     The Purported License Agreement was not authorized by the affirmative vote of a

24   majority of disinterested directors.  The Purported License Agreement was also not approved by

25   a vote of Crosscode's stockholders (in good faith or otherwise).  The supposed entering into the

26   Purported License Agreement was not fair to Crosscode at the time it was supposedly authorized.

27   As a result, the Purported License Agreement is also void under Delaware corporate law.

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62.     Sharma's conduct after his employment was terminated, and which continues today, indicates an intent to use the Purported License Agreement to destroy Crosscode's business.

63.     As a result of the facts described in the foregoing paragraphs, an actual controversy of sufficient immediacy exists between Crosscode and Sharma, and a judicial determination is necessary and proper to resolve this controversy and determine the parties' respective rights and obligations.

## SECOND CLAIM FOR RELIEF

(Intentional Interference with Prospective Economic Relations)

64.     Plaintiff realleges and incorporate by reference each and every allegation of paragraphs 1 through 63, inclusive, as if fully stated herein.

65.     Plaintiff has important relationships with its directors and officers, investors and potential investors, its employees, and its customers and potential customers.  These relationships are valuable and offer current and prospective economic opportunities from their continued existence.

66.     Plaintiff has near-term needs, and plans, to raise additional capital from its current investors and new investors.  Plaintiff's ability to raise additional capital depends on its intellectual property rights, including its rights to market, sell, and further develop the Panoptics solution.  It also depends on the credibility of Crosscode's directors, officers, and employees, as well as the ability of the Company to retain and recruit top-quality employees.

67.     Defendant Sharma was and is intimately aware of the Company's needs to raise additional capital.  Sharma is also aware of the Company's current shareholders, several of whom may invest in future investment rounds.  Sharma is also aware that the Company will not be able to raise additional capital if it lacks the rights to develop, market, and sell the Panoptics solution and lacks the ability to retain key employees.

68.     After his termination and removal, defendant Sharma intentionally interfered with Plaintiff's ability to raise additional capital, disrupting business operations, and attempting to

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COMPLAINT

1    shutdown Crosscode, and damaging Plaintiff Crosscode's reputation and credibility in the

2    marketplace.  Indeed, Sharma admitted that by claiming ownership over Crosscode's intellectual

3    property and trying to enforce the Purported License Agreement, he would prevent Crosscode

4    from raising additional capital and would effectively kill the Company.

5         69.    Defendant Sharma was and is also aware of Crosscode's customers and potential

6    customers.  After his termination and removal, Sharma stated that he is deeply involved with

7    Crosscode's customers and will discuss his allegations of securities fraud with them as he sees

8    fit.  On information and belief, Sharma also has told potential customers and/or customers that he

9    had the rights to Panoptics and the Company's other intellectual property, and understood that

10   these statements would cause the customers and/or potential customers to cease working with

11   Crosscode.

12        70.    Sharma's actions were and continue to be willful, intentional, and malicious and

13   calculated to damage Crosscode through business disruption, false statements, and

14   misrepresentations.  Among other things, Defendant is in violation of the California Business &

15   Profession Code § 17200.

16        71.    Sharma's false statements and interference (made after he was terminated) have

17   caused damage to Crosscode, as they have created uncertainty in the market, disrupted

18   Crosscode's business operations, damaged its business, investor, and employee relationships, and

19   may prevent or at the very least delay Crosscode from being able to raise additional capital or

20   enter into contracts with its customers and/or potential customers.

21        72.    As a result of Defendant Sharma's conduct, Plaintiff seeks compensatory

22   damages, punitive damages, attorney's fees and costs.  Plaintiff further seeks permanent

23   injunctive relief to estop Defendant's harmful conduct and prevent further damage.

## THIRD CLAIM FOR RELIEF

(Defamation)

26        73.    Plaintiff realleges and incorporates by reference each and every allegation of

27   paragraphs 1 through 72, inclusive, as if fully stated herein.

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1   74.  After his termination, Defendant Sharma made material false statements about

2 Crosscode and its Chief Technology Officer, Sarkar, in statements to at least two of Crosscode's

3 investors (and potential investors), to Crosscode employees, and, on information and belief, to

4 customers and/or potential customers, including at least one senior information technology

5 executive of a large international conglomerate.

6   75.  Defendant's false statements include statements concerning the ownership and

7 rights to Crosscode's Panoptics, the source code, and other Crosscode intellectual property.

8 Sharma has further suggested that Crosscode and its CTO's use of the source code was

9 "criminal" and tantamount to "IP Theft."

10   76.  Defendant Sharma's false statements are willful, intentional, and malicious.

11 Sharma has on multiple occasions assigned all rights to any inventions, source code, patent

12 applications, ideas, etc., that he developed at Crosscode to Crosscode.  As Crosscode's former

13 CEO and President, Sharma is also aware of the fact that Panoptics software was developed after

14 the Company was founded.  Sharma is also aware that the Purported License Agreement was

15 fabricated (or void), and nevertheless, continues to assert to investors, employees, and, on

16 information and belief, to customers and/or potential customers, that he is the rightful owner of

17 the Company's intellectual property.

18   77.  Sharma's false and defamatory communications are continuing, as he is now

19 informing shareholders, employees, and others, that he is seeking to enforce the Purported

20 License Agreement.

21   78.  Defendant Sharma's false allegations that Crosscode, and/or its CTO, are

22 involved in "IP Theft" and that the purported conduct is criminal are defamation *per se.*

23   79.  Sharma's false statements have caused damage to Crosscode, as they have created

24 uncertainty in the market, disrupted Crosscode's business operations, damaged its business,

25 investor, and employee relationships, and may prevent or at the very least delay Crosscode from

26 being able to raise additional capital or enter into contracts with its customers and/or potential

27 customers.

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1    80.    Sharma's false statements have caused damage to Crosscode and its executives

2  and maligned their reputations with investors, customers and/or potential customers, and other

3  partners.

4    81.    As a result of Defendant Sharma's conduct, Plaintiff seeks presumptive damages,

5  compensatory damages, punitive damages, attorney's fees and costs.  Plaintiff further seeks

6  permanent injunctive relief to estop Defendant's harmful conduct and prevent further damage.

7                           **FOURTH CLAIM FOR RELIEF**

8                            (Commercial Disparagement)

9    82.    Plaintiff realleges and incorporates by reference each and every allegation of

10  paragraphs 1 through 81, inclusive, as if fully stated herein.

11    83.    After his termination, Defendant Sharma made material false statements about

12  Crosscode in statements to at least two of Crosscode's investors (and potential investors), to

13  Crosscode employees, and, on information and belief, to customers and/or potential customers.

14    84.    Defendant's false statements include statements concerning the ownership and

15  rights to Crosscode's Panoptics, the source code, and other Crosscode intellectual property.

16  Sharma has further suggested that Crosscode and its CTO's use of the source code was

17  "criminal" and tantamount to "IP Theft."

18    85.    Defendant Sharma's false statements are willful, intentional, and malicious.

19  Sharma has on multiple occasions assigned all rights to any inventions, source code, patent

20  applications, ideas, etc., that he developed at Crosscode to Crosscode.  As Crosscode's former

21  CEO and President, Sharma is also aware of the fact that Panoptics software was developed after

22  the Company was founded.  Sharma is also aware that the Purported License Agreement was

23  fabricated, and nevertheless, continues to assert to investors, employees, and, on information and

24  belief, to customers and/or potential customers, that he is the rightful owner of the Company's

25  intellectual property.  Sharma also acted willfully, intentionally, and maliciously in that he knew

26  the damage the false statements would cause, and did so for the purposes of harming the

27  Company that terminated him.

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86.     Sharma's false communications are continuing, as he is now informing shareholders, employees, and others, that he is seeking to enforce the fabricated or void Purported License Agreement.

87.     Sharma's false statements have caused damage to Crosscode, as they have created uncertainty in the market, disrupted Crosscode's business operations, damaged its business, investor, and employee relationships, and may prevent or at the very least delay Crosscode from being able to raise additional capital or enter into contracts with its customers and/or potential customers.

88.     Sharma's false statements have caused damage to Crosscode and its executives and maligned their reputations with investors, customers and/or potential customers, and other partners.

89.     As a result of Defendant Sharma's conduct, Plaintiff seeks presumptive damages, compensatory damages, punitive damages, attorney's fees and costs.  Plaintiff further seeks permanent injunctive relief to estop Defendant's harmful conduct and prevent further damage.

## FIFTH CLAIM FOR RELIEF

(Trade Secret Misappropriation Under the Federal Defend Trade Secret Act)

90.     Plaintiff realleges and incorporates by reference each and every allegation of paragraphs 1 through 89, inclusive, as if fully stated herein.

91.     The Federal Defend Trade Secrets Act ("DTSA"), 18 U.S.C. §§ 1836-39 et seq. provides civil remedies, independent of California state law, in federal district courts for trade secret misappropriation.

92.     Crosscode has developed confidential, proprietary, and trade secret information related to its Panoptic software solution, including the solution's features, specifications, and operations, source code, and associated information.

93.     Crosscode's confidential and proprietary trade secret information is not generally known in the industry and is not ascertainable through proper means.  The fact that the information is unique allows Crosscode's Panoptic software solution to offer features and

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1   functionality that its competitors do not and cannot offer which increases the product's value.

2          94.    Crosscode restricts access to such trade secret documents and information and

3   have taken reasonable steps to make sure they are not improperly disclosed or misappropriated.

4   For example, all Crosscode employees who developed or had access to Crosscode trade secrets

5   were instructed that the technology being developed was propriety and confidential and not to be

6   discussed publicly.  All Crosscode employees signed the Employee IP Agreement, or similar

7   documents, that, among other things, prevented the disclosure of Company confidential

8   information.  Third party vendors and consultants were also required to sign nondisclosure

9   agreements in advance of being granted access to the Company's trade secrets.  Moreover,

10  Crosscode's trade secrets were stored securely, and its source code was stored on secure

11  computer systems.

12         95.    Crosscode's confidential and proprietary trade secret documents and information

13  were available and in the possession, custody, or control of Sharma in his role as CEO for

14  Crosscode.  Although Defendant Sharma did not have login information to access the

15  Company's source code, on information and belief, he has made attempts to obtain such source

16  code.

17         96.    Sharma's authorization to use Crosscode's trade secret information was limited to

18  his work on behalf of Crosscode and its employees, and his authorization ceased when his

19  employment was terminated and he was removed from the Board.

20         97.    Sharma was not authorized to keep any of Crosscode's confidential, proprietary,

21  and trade secret documents or information, and was required to return all of it upon his

22  termination.  Defendant was reminded of this in his November 23 termination letter and again on

23  November 27.

24         98.    On information and belief, Defendant Sharma has retained and used, or threatened

25  to use, without authorization, confidential, proprietary and trade secret documents and

26  information.  Specifically, Sharma has made false statements and taken other steps to interfere

27  and disrupt Crosscode's business operations, damage its business, investor, and employee

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1  relationships, with the intent to kill the Company.  Sharma has admitted that, after weakening or

2  killing Crosscode, he intends to use the Company's trade secret information and proprietary

3  materials as part of a new, yet to be formed company.

4      99.    Upon information and belief, all of Sharma's conduct is calculated and is for his

5  own pecuniary gain.

6      100.    As a result of Defendant Sharma's conduct, Plaintiff seeks compensatory

7  damages, punitive damages, attorney's fees and costs.  Plaintiff further seeks permanent

8  injunctive relief to estop Defendant's harmful conduct and prevent further damage.

9                          **SIXTH CLAIM FOR RELIEF**

10      (Trade Secret Misappropriation Under the California Uniform Trade Secret Act)

11      101.    Plaintiff realleges and incorporates by reference each and every allegation of

12  paragraphs 1 through 100, inclusive, as if fully stated herein.

13      102.    The California Uniform Trade Secret Act ("CUTSA"), Cal. Civ. Code § 3426-

14  3426.11, provides civil remedies, independent of federal law, for trade secret misappropriation.

15      103.    Crosscode has developed confidential, proprietary, and trade secret information

16  related to its Panoptic software solution, including the solution's features, specifications, and

17  operations, source code, and associated information.

18      104.    Crosscode's confidential and proprietary trade secret information is not generally

19  known in the industry and is not ascertainable through proper means.  The fact that the

20  information is unique allows Crosscode's Panoptic software solution to offer features and

21  functionality that its competitors do not and cannot offer which increases the product's value.

22      105.    Crosscode restricts access to such trade secret documents and information and

23  have taken reasonable steps to make sure they are not improperly disclosed or misappropriated.

24  For example, all Crosscode employees who developed or had access to Crosscode trade secrets

25  were instructed that the technology being developed was propriety and confidential and not to be

26  discussed publicly.  All Crosscode employees signed the Employee IP Agreement, or similar

27  documents, that, among other things, prevented the disclosure of Company confidential

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1   information.  Third party vendors and consultants were also required to sign nondisclosure

2   agreements in advance of being granted access to the Company's trade secrets.  Moreover,

3   Crosscode's trade secrets were stored securely, and its source code was stored on secure

4   computer systems.

5       106.   Crosscode's confidential, proprietary, and trade secret documents and information

6   were available and in the possession, custody, or control of Sharma in his role as CEO for

7   Crosscode.  Although Defendant Sharma did not have login information to access the

8   Company's source code, on information and belief, he has made attempts to obtain such source

9   code.

10      107.   Sharma's authorization to use Crosscode's trade secret information was limited to

11  his work on behalf of Crosscode and its employees, and his authorization ceased when his

12  employment was terminated and he was removed from the Board.

13      108.   Sharma was not authorized to keep any of Crosscode's confidential, proprietary,

14  and trade secret documents or information, and was required to return all of it upon his

15  termination.  Defendant was reminded of this in his November 23 termination letter and again on

16  November 27.

17      109.   On information and belief, Defendant Sharma has retained and used, or threatened

18  to use, without authorization, confidential, proprietary and trade secret documents and

19  information.  Specifically, Sharma has made false statements and taken other steps to interfere

20  and disrupt Crosscode's business operations, damage its business, investor, and employee

21  relationships, with the intent to kill the Company.  Sharma has admitted that, after weakening or

22  killing Crosscode, he intends to use the Company's trade secret information and proprietary

23  materials as part of a new, yet to be formed company.

24      110.   Upon information and belief, all of Sharma's conduct is calculated and is for his

25  own pecuniary gain.

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COMPLAINT

1    111.    As a result of Defendant Sharma's conduct, Plaintiff seeks compensatory

2  damages, punitive damages, attorney's fees and costs.  Plaintiff further seeks permanent

3  injunctive relief to estop Defendant's harmful conduct and prevent further damage.

4                              **SEVENTH CLAIM FOR RELIEF**

5                         (Violation of California Bus. & Prof. Code § 17200

6    112.    Plaintiff realleges and incorporates by reference each and every allegation of

7  paragraphs 1 through 111, inclusive, as if fully stated herein.

8    113.    Defendant Sharma's false, disparaging, defamatory and intentional acts to

9  interfere with Plaintiff's business, and for his own pecuniary gain, are in violation of California

10  Business & Professions Code § 17200.

11    114.    California Business & Professions Code § 17200 defines unfair competition to

12  include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue

13  or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500)

14  of Part 3 of Division 7 of the Business and Professions Code.

15    115.    Sharma is acting as the former CEO of Crosscode, one of its largest shareholders,

16  and for his own interests, "in the course of business, vocation, and occupation," to disparage the

17  goods, service, and/or business of Crosscode.

18    116.    Sharma engaged in the dissemination of information that he knew to be deceptive

19  and falsely disparaging of Crosscode.  Among other things, he disseminated false information

20  that he is the true owner of Crosscode's Panoptics software solution and related intellectual

21  property, and that Crosscode and its director and Chief Technology Officer are engaged in "IP

22  Theft".  He disseminated this false information into the marketplace and to Crosscode investors

23  intending to disrupt Crosscode's business for his own pecuniary gain.

24    117.    As of January 3, 2020, in further confusion to the market, Sharma continues to

25  hold himself out as the "President & CEO at Crosscode, Inc." on his LinkedIn profile

26  www.linkedin.com/in/adity-sharma937793108 ).  Sharma, through his former counsel, informed

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1  Crosscode that he has no intention of changing his LinkedIn profile until he reaches a settlement

2  with Crosscode.

3     118.   Sharma's false statements have caused damage to Crosscode, as they have created

4  uncertainty in the market, disrupted Crosscode's business operations, damaged its business and

5  investor relationships, and may prevent or at the very least delay Crosscode from being able to

6  raise additional capital or enter into contracts with its customers and/or potential customers.

7     119.   As a result of Sharma's conduct, Plaintiff Crosscode seeks restitution, injunctive

8  relief, and its attorney's fees.

9                                   **PRAYER**

10     WHEREFORE, Plaintiff prays for judgment as follows:

11     1.    A declaration that the Purported License Agreement was either (a) not entered

12  into; or (b) is null and void;

13     2.    For permanent injunctive relief, enjoining Defendant from disparaging Crosscode,

14  publishing false statements, disrupting its business and capital raising efforts, or causing further

15  damage to Crosscode's relationships with its investors, prospective investors, customers, and/or

16  potential customers and employees;

17     3.    For permanent injunctive relief, requiring Sharma to return all Company

18  confidential, proprietary, and trade secret documents and information;

19     4.    For Plaintiff and against Defendant Sharma on all counts;

20     5.    That Plaintiff be awarded presumptive damages for Defendant's Defamation and

21  Trade Disparagement Claims;

22     6.    That Plaintiff be awarded all compensatory, consequential, and punitive damages

23  for Sharma's misappropriation of Plaintiff's proprietary, confidential and trade secret

24  information and documents;

25     7.    That Plaintiff be awarded all actual and compensatory damages suffered from

26  Defendant's false disparaging, and defamatory statements;

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8. That Plaintiff be awarded all actual and compensatory damages suffered from Defendant's intentional interference with, and disruption of Plaintiff's business;

9. That Plaintiff be awarded punitive and/or special damages for Defendant's willful, intentional, and malicious damage to Plaintiff;

10. Pre-judgment and post-judgment interest on all damages at the maximum legal rate;

11. For Reasonable attorney's fees, as provided by contract or statute;

12. For all costs of suit herein, as provided for by contract or statute;

13. For such other and further relief as the Court deems just and proper.

Dated:  January 3, 2020   OGLOZA FORTNEY + FRIEDMAN LLP

By _____
DAVID M. FRIEDMAN
Attorneys for Crosscode, Inc.

## DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury.

Dated:  January 3, 2020   OGLOZA FORTNEY + FRIEDMAN LLP

By _____
DAVID M. FRIEDMAN
Attorneys for Crosscode, Inc.

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