

1 Roberta A. Kaplan*
John C. Quinn*
2 Matthew J. Craig (SBN 350030)
3 Amit Jain*
KAPLAN HECKER & FINK LLP
4 350 Fifth Avenue, 63rd Floor
New York, NY 10118
5 (212) 763-0883
6 rkaplan@kaplanhecker.com
jquinn@kaplanhecker.com
7 mcraig@kaplanhecker.com
ajain@kaplanhecker.com
8 * *admitted pro hac vice*

9 *Attorneys for Defendants Center for*
10 *Countering Digital Hate, Inc. and*
11 *Center for Countering Digital Hate Ltd.*

12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 X CORP.,

Plaintiff,

Case No. 3:23-cv-03836-CRB

16 v.

17 CENTER FOR COUNTERING DIGITAL
18 HATE, INC., et al.,

Defendants.

**DECLARATION OF ROBERTA A.
KAPLAN IN SUPPORT OF
DEFENDANTS CENTER FOR
COUNTERING DIGITAL HATE,
INC. AND CENTER FOR
COUNTERING DIGITAL HATE
LTD.’S MOTION TO DISMISS
AND ANTI-SLAPP MOTION TO
STRIKE**

19
20
21
22
23
24 I, Roberta A. Kaplan, declare as follows:

25 1. I am a partner in the law firm Kaplan Hecker & Fink LLP, attorneys for Defendants
26 Center for Countering Digital Hate, Inc. and Center for Countering Digital Hate Ltd. (collectively,
27 the “CCDH Defendants”). I make this declaration in support of the CCDH Defendants’ Motion to
28 Dismiss Plaintiff X Corp.’s Amended Complaint, pursuant to Federal Rules of Civil Procedure

1 12(b)(6) and 9, and Motion to Strike Counts 1, 3, and 4 of the Amended Complaint as legally
2 deficient pursuant to California's anti-SLAPP statute, Cal. Civ. Proc. Code § 425.16. I have
3 personal knowledge of the following, and if called as a witness, I could and would completely
4 testify to the matters stated herein.

5 2. Attached as Exhibit A is a true and correct copy of the Twitter Terms of Service
6 that were operative from June 10, 2022, to May 18, 2023, accessible at [https://twitter.com/en/tos/
7 previous/version-17](https://twitter.com/en/tos/previous/version-17). These Terms of Service are incorporated by reference in the Amended
8 Complaint. *See* Dkt. 10, ¶ 53.

9 3. Attached as Exhibit B is a true and correct copy of the CCDH Defendants' February
10 9, 2023 report titled *Toxic Twitter*, accessible at [https://counterhate.com/wp-content/uploads/2023/
11 02/Toxic-Twitter_FINAL.pdf](https://counterhate.com/wp-content/uploads/2023/02/Toxic-Twitter_FINAL.pdf). This report is incorporated by reference in the Amended Complaint.
12 *See* Dkt. 10, ¶¶ 49-54.

13 4. Attached as Exhibit C is a true and correct copy of the Brandwatch Service Terms
14 that were promulgated on October 15, 2022, accessible at [https://www.brandwatch.com/wp-
15 content/uploads/2023/04/MSA-Brandwatch-Oct-15-2022.pdf](https://www.brandwatch.com/wp-content/uploads/2023/04/MSA-Brandwatch-Oct-15-2022.pdf). These Service Terms are
16 incorporated by reference in the Amended Complaint. *See* Dkt. 10, ¶¶ 35-37.

17 5. Attached as Exhibit D is a true and correct copy of the Brandwatch Service Terms
18 that were promulgated on August 8 or 9, 2021, accessible at [https://www.brandwatch.com/wp-
19 content/uploads/2021/08/Service-TCs-Live-from-8-August-2021-to-15-October-2022.pdf](https://www.brandwatch.com/wp-content/uploads/2021/08/Service-TCs-Live-from-8-August-2021-to-15-October-2022.pdf). These
20 Service Terms are incorporated by reference in the Amended Complaint. *See* Dkt. 10, ¶¶ 35-37.

21 6. Attached as Exhibit E is a true and correct copy of the Brandwatch Service Terms
22 that were promulgated on April 15, 2019, accessible at [https://www.brandwatch.com/wp-content/
23 uploads/2022/04/Service-TCs-Live-from-15-August-2019-to-8-August-2021.pdf](https://www.brandwatch.com/wp-content/uploads/2022/04/Service-TCs-Live-from-15-August-2019-to-8-August-2021.pdf). These Service
24 Terms are incorporated by reference in the Amended Complaint. *See* Dkt. 10, ¶¶ 35-37.

25 7. Attached as Exhibit F is a true and correct copy of the Brandwatch Service Terms
26 that were promulgated on April 21, 2023, accessible at [https://www.brandwatch.com/legal/terms-
27 and-conditions](https://www.brandwatch.com/legal/terms-and-conditions). These Service Terms are incorporated by reference in the Amended Complaint.
28 *See* Dkt. 10, ¶¶ 35-37.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

Dated: New York, New York
November 16, 2023



Roberta A. Kaplan