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16 Attorneys for Plaintiffs

17  
18 UNITED STATES DISTRICT COURT

19 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

20 U.S. WECHAT USERS ALLIANCE,  
CHIHUO INC., BRENT COULTER,  
21 FANGYI DUAN, JINNENG BAO,  
ELAINE PENG, and XIAO ZHANG,

22 Plaintiffs,

23 v.

24 DONALD J. TRUMP, in his official  
capacity as President of the United States,  
25 and WILBUR ROSS, in his official  
capacity as Secretary of Commerce,

26 Defendants.  
27  
28

Case No. 3:20-cv-05910-LB

**DECLARATION OF XIAO ZHANG IN  
SUPPORT OF PLAINTIFFS' MOTION  
FOR PRELIMINARY INJUNCTION**

Judge: Hon. Laurel Beeler  
Date: September 17, 2020  
Time: 9:30 a.m.  
Crtrm.: Remote

Trial Date: None Set

1 I, Xiao Zhang, declare as follows:

2 1. I am a Plaintiff in the above-captioned action (the “Action”). I have personal  
3 knowledge of the matters stated herein and if called as a witness I would and could testify  
4 competently to them.

5 2. I was assisted in preparing this declaration in English. I primarily write and  
6 speak in Chinese, and if called as a witness I would testify in Chinese.

7 3. I am a Chinese citizen residing in Sunnyvale, California. I have a visa that  
8 permits me to live and work in the United States. I have lived in the United States since  
9 2011.

10 4. I work as a Geomatics Specialist at Shell, a Fortune 500 oil and gas company.

11 5. In 2019 I founded a charity program, Hita Education Foundation (the  
12 “Foundation”), to benefit disadvantaged students attending high school in my hometown in  
13 China. The Foundation is incorporated in the State of Texas as a non-profit organization.

14 6. The Hita Foundation provides financial aid to students from poor families. It  
15 is currently funding seven indigent students’ high school educations with monthly  
16 donations of 300 yuan (approximately US\$43) to each for meals and school supplies.

17 7. I first downloaded and used WeChat around 2011 when it was launched.  
18 Since then it has become the exclusive means for me to communicate with Chinese family  
19 members and Chinese-speaking friends in both China and in the United States. I also use  
20 WeChat for Foundation-related group chats, and for chatting with colleagues at Shell who  
21 are also WeChat users. Further, I receive news updates and interact with my WeChat  
22 network through WeChat’s numerous social-media functions.

23 8. I also use WeChat to further my Foundation’s mission. Since I am based in  
24 the United States, I use WeChat to communicate with teachers at the high school where the  
25 Foundation sponsors students.

26 9. WeChat is my primary means of receiving updates about the students the  
27 Foundation is helping.

28 10. The Foundation also uses WeChat as the exclusive means of issuing monthly

1 grants to students. Through WeChat Pay (WeChat's digital payment function), I am able  
2 to transfer the charitable funds I raise here to the students' bank accounts with just a few  
3 clicks.

4 11. In fact, our fundraising efforts also depend on WeChat as we fundraise and  
5 receive payments through WeChat Pay.

6 12. I also actively promote my Foundation through WeChat. In particular, we  
7 share social media accounts about our charitable work with our WeChat network so that  
8 they may share it with their networks, and so on.

9 13. I learned about the Executive Order on WeChat from contacts sharing the  
10 news to me, from discussions in group chats. I also read the Executive Order itself, read  
11 news articles, and discussed it with others to try to understand its scope. So far I have not  
12 fully understood, and no one can give me a definitive answer, on the meaning of the words  
13 "transaction that is related to WeChat".

14 14. I understand that the Executive Order will take effect forty-five days after its  
15 issuance, and that violation of the Executive Order may subject one to administrative, civil  
16 or criminal liabilities.

17 15. I am not certain whether WeChat can still be used in the United States after  
18 the Executive Order takes effect, or that if WeChat can be used, what uses will cause me to  
19 violate the Executive Order and what uses will not. For example, I don't know if I will be  
20 violating the Executive Order if I simply log onto WeChat, send a message to my teachers,  
21 make a voice or video call with my family, or make a transfer of charitable funds to the  
22 indigent students we are trying to help. The possibility of being penalized for using  
23 WeChat leaves me in a state of constant fear that I may be violating the law simply by  
24 helping poor students go to school.

25 16. Since the Executive Order was issued, I keep worrying that I will no longer  
26 be able to run my Foundation to support students from poor families. The daily operation  
27 of my Foundation largely depends on the free, continuous and uninterrupted access to  
28 WeChat in the United States. Without WeChat, our ability to raise awareness, raise funds,

1 and help our students will be severely compromised. The Executive Order has raised  
2 concerns among our regular donors that they will be banned from donating to our  
3 Foundation on WeChat.

4 17. If it was not for WeChat, I do not even think my Foundation could have been  
5 founded in the first place.

6 18. My ability to maintain my social ties, and to communicate with other  
7 Chinese speaking people in China and in the United States will also be adversely affected.

8 19. Since WeChat is the most popular social media platform among Chinese  
9 speakers in the U.S., it is practically impossible for me and my Foundation to locate an  
10 alternative platform that has the same or substantially similar reach. The possibility of  
11 losing contact with my family, friends, donors, and social network generally has caused me  
12 great anxiety.

13 20. Faced with the threats of losing access to WeChat posed by the Executive  
14 Order, we have been forced to expend our limited time, energy and resources to explore  
15 other U.S. based social media platforms. However, we have not found a good alternative.  
16 The thought of losing the Foundation I built because of the Executive Order, and the  
17 possibility that I may be found in violation of the Executive Order and subject to criminal  
18 or civil penalties simply for using WeChat, has also caused me great anxiety.

19 21. We had to settle for backing up our WeChat data as a temporary solution.  
20 However, there is no sophisticated backup solution and I had to manually type out contact  
21 information of more than 500 WeChat contacts, search for and identify important data to  
22 be transferred, such as profiles of the students we fund, and manually copy and paste them.


23 22. To ensure the continuous existence of the Foundation, we also had to build a  
24 new website to receive donations. The website is still being prepared and has already  
25 caused us hundreds of dollars in fees and dozens of hours and labor. We anticipate more  
26 money, time and labor will be incurred for the website to launch.

27 23. Despite the mitigation measures we were forced to take, it is our sincere  
28 belief that the harm caused by the Executive Order, if it is allowed to stand, cannot be fully

1 redressed. None of the alternatives that we are considering can replace the functionality  
2 and ease of WeChat or the ability to communicate and receive support from a like-minded  
3 community bound by our language and culture.

4 I declare under penalty of perjury under the laws of the United States of America  
5 that the foregoing is true and correct, and that this declaration is executed at

6 summit California this 26 day of August, 2020.

7  
8   
9 Xiao Zhang