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16 SUPERIOR COURT OF CALIFORNIA
17 COUNTY OF SANTA CLARA

17 INDRADEVI SABRINA JOSEPH,
18 Plaintiff,

19 vs.

20 XILINX, INC. and DOES 1-20
21 Defendants.

Case No.: 21CV385612

Unlimited Civil Case

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

- 1. Retaliation - Equal Pay Act
- 2. Retaliation - California Equal Pay Act
- 3. Retaliation - Fair Employment and Housing Act
- 4. Retaliation - Cal. Lab. Code § 1102.5
- 5. Retaliation - Cal. Lab. Code § 98.6
- 6. Retaliation - Cal. Lab. Code § 232.5
- 7. Common Law Wrongful Termination
- 8. Cal. Bus. & Prof. Code § 17200
- 9. Defend Trade Secrets Act
- 10. Common Law Fraud
- 11. Intentional Misrepresentation
- 12. Negligent Misrepresentation
- 13. Concealment
- 14. False Promise/Promissory Fraud

1 Plaintiff INDRADEVI SABRINA JOSEPH (“Plaintiff,” “Ms. Joseph” or “Sabrina
2 Joseph”), by her attorneys, brings this action on behalf of herself against Defendants XILINX,
3 INC., and their successors in interest (“Xilinx,” “Defendant,” or the “Company”) and DOES 1-20
4 (collectively “Defendants”). Plaintiff hereby alleges as follows:

5 **I. NATURE OF THE ACTION**

6 1. Ms. Sabrina Joseph is an elite marketing specialist with an unparalleled status in
7 the semiconductor industry. Ms. Joseph served as the Senior Vice President of Strategic Marketing
8 and Communications at Xilinx, Inc., a company that designs and manufactures a broad range of
9 programmable devices and associated technologies.

10 2. Shortly before and after beginning her employment on February 2, 2018, Ms.
11 Joseph spoke with numerous female Xilinx employees in the Marketing Department about being
12 underpaid relative to male employees performing the same or substantially similar work. Ms.
13 Joseph also spoke with female employees who recounted sexual discrimination, harassment, and
14 retaliation, with apparent ratification by Xilinx’s Human Resources and Legal Departments.

15 3. While employed at Xilinx, Ms. Joseph raised alarms throughout the Company
16 about the hostile, discriminatory, and inequitable conditions under which the women in the
17 Marketing Department were working and proposed a plan for correcting sex-based pay disparities.

18 4. This protected conduct met with immediate vociferous rebuke from Xilinx’s
19 highest ranks. On February 23, 2018, three weeks after Ms. Joseph began her employment, Xilinx
20 abruptly terminated her.

21 5. After terminating Ms. Joseph, Xilinx misappropriated a repositioning and
22 rebranding strategy that Ms. Joseph had crafted before her employment at Xilinx. Since early 2018,
23 Xilinx has implemented this stolen intellectual property, without Ms. Joseph’s consent, to its own
24 immense profit. With the benefit of Ms. Joseph’s work, Xilinx’s value soared 24 percentage points,
25 and Xilinx achieved record revenues of \$3.06 billion in Fiscal Year (“FY”) 2019, after years of
26 averaging low, single-digit growth rates.

27 6. Plaintiff hereby asserts claims against Defendants for: 1) retaliation and wrongful
28 termination in violation of the Equal Pay Act of 1963, 29 U.S.C. § 215(a)(3); the California Equal

1 Pay Act, Cal. Lab. Code § 1197.5; the Fair Employment and Housing Act, Cal. Gov. Code § 12940
2 *et seq.*; California Labor Code §§ 1102.5(b) and (c), 98.6(a), and 232.5(c); common law; and the
3 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*; 2) misappropriation of trade
4 secrets under the Defend Trade Secrets Act, 18 U.S.C. § 1836; and 3) common law fraud,
5 intentional misrepresentation, negligent misrepresentation, concealment, and promissory fraud.

6 **II. THE PARTIES**

7 7. Ms. Joseph is and was at all relevant times a California resident. Plaintiff was
8 employed in California by Xilinx, Inc. as Senior Vice President of Strategic Marketing and
9 Communications from February 2, 2018 through February 23, 2018.

10 8. Xilinx, Inc. (XLNX) is and was at all relevant times a corporation headquartered in
11 San Jose, California, and doing business in the State of California and within this District.

12 9. The true names and capacities of Defendants named herein as DOES 1 through 20,
13 whether individual, corporate, associate or otherwise, and the true involvement of Defendants sued
14 herein as DOES 1 through 20, are unknown to Plaintiff, who therefore sues said Defendants by
15 such fictitious names. Plaintiff will amend this complaint to show the true names, capacities, and
16 involvement of DOES 1 through 20 when ascertained. Plaintiff is informed and believes and
17 thereon alleges that each of the Defendants designated as a “Doe” is responsible in some manner
18 for the events and happenings referred to herein, and that Plaintiff’s injuries and damages as
19 hereinafter set forth were proximately caused by said Defendants.

20 10. Plaintiff is informed and believes and thereon alleges that each of the Defendants
21 sued herein as DOES 1 through 20 is or was the agent, employee, partner, and/or representative of
22 one or more of the remaining Defendants, and each of them was at all times acting within the
23 purpose and scope of such agency and employment. Plaintiff is further informed and believes that
24 each of the Defendants sued herein as DOES 1 through 20 gave consent to, ratified, and authorized
25 the acts alleged herein to each of the remaining Defendants.

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1 **III. JURISDICTION AND VENUE**

2 11. This Court has jurisdiction because Xilinx, presently and at all times relevant to
3 this action, has conducted substantial and continuous commercial activities in Santa Clara County,
4 and Defendant Xilinx employed Plaintiff in this County and is headquartered in this County.

5 12. Venue is proper in this County under California Code of Civil Procedure § 395.5
6 because the unlawful practices occurred in this County and because Defendant Xilinx’s principal
7 place of business is situated in the County.

8 **IV. FACTUAL ALLEGATIONS COMMON TO MULTIPLE CAUSES OF**
9 **ACTION**

10 13. Prior to working at Xilinx, Ms. Joseph was an elite marketing specialist with an
11 unparalleled status in her field. Ms. Joseph operated her own marketing firm, providing marketing
12 consulting services to multiple industry leaders.

13 14. In late 2016, Chairman of the Board of Directors for Xilinx, Dennis Segers
14 (“Chairman Segers”), began to recruit Ms. Joseph to join Xilinx. Chairman Segers had worked
15 with Plaintiff for several years at Tabula, where she created and directed Tabula’s marketing
16 strategy.

17 **A. Prior to Her Employment, Ms. Joseph Pioneered a Comprehensive Marketing**
18 **Campaign and Strategy for Xilinx**

19 15. On July 31, 2017, Chairman Segers introduced Ms. Joseph to then-Xilinx-COO
20 Victor Peng (“CEO Peng” or “Mr. Peng”) via email. Ms. Joseph had spent the nine months prior
21 to meeting Mr. Peng creating a tailored go-to-market plan using the comprehensive marketing
22 strategies she had developed over her long seventeen-year career. Up to that point, the Xilinx
23 marketing strategy had failed to advance beyond a thirty-year-old history of positioning against its
24 chief competitor – Altera. This outdated stance merely helped to retain customers or repeat
25 purchases specific to the programmable business model, with only a slight uptick due to occasional
26 new design wins after Intel’s acquisition of Altera. Prior to meeting Ms. Joseph, Xilinx went to
27 market using the term “Programmable.” On March 19, 1998, Xilinx called itself “The
28 Programmable Logic Company.” Nineteen years later, Xilinx used the “All Programmable” brand

1 to describe the company in their 2017 “About Xilinx” statement.

2 16. Ms. Joseph and Mr. Peng met in person for the first time on August 8, 2017. Mr.
3 Peng was receptive to Ms. Joseph’s strategy and appeared eager to use her ideas and sophisticated
4 go-to-market approach to influence the Xilinx customer and investor experience. He asked to meet
5 with Ms. Joseph again later that month.

6 17. On August 24, 2017, Ms. Joseph presented Mr. Peng an extensive analysis of the
7 Xilinx marketing and IR (Investor Relations) program, focusing on an analytical approach to
8 customer-centric marketing, in two 50+ page PowerPoint slide decks. Her strategies outlined the
9 psychological dynamics of communication which effectively position a company to achieve new
10 opportunities. Ms. Joseph prepared detailed plans to overhaul each area of the Xilinx customer
11 experience from branding, web tactics and design, product positioning, thought leadership, events,
12 launch strategies, investor relations, and corporate positioning. Ms. Joseph’s slide decks were
13 marked “Confidential,” reflecting the fact that her strategies could only be used or disclosed in a
14 manner to which she agreed. Ms. Joseph’s analysis was so well received that Mr. Peng pushed for
15 Ms. Joseph to help him rebrand and direct upcoming events.

16 18. On September 11, 2017, Ms. Joseph presented her analysis and strategies to Xilinx
17 executive staff. Following those meetings, Mr. Peng verbally offered Ms. Joseph the position of
18 Senior Vice President of Marketing. Ms. Joseph texted Chairman Segers letting him know, and
19 minutes later Chairman Segers called to welcome her to Xilinx. Ms. Joseph would replace the
20 then-current Senior Vice President of Marketing, Steven Glaser.

21 19. After that September 2017 meeting, Ms. Joseph and Mr. Peng were often in touch
22 by messaging, phone, email and in person. In September, Chairman Segers informed the Xilinx
23 Board that Ms. Joseph would be replacing Mr. Glaser. Ms. Joseph subsequently prepared a
24 presentation for Xilinx board members Mary Louise (ML) Krakauer and Elizabeth Vanderslice on
25 her view of the semiconductor marketplace in November 2017. Once again, Ms. Joseph’s
26 presentation materials were marked “Confidential,” reflecting the understanding that her strategies
27 and work product could only be used on terms to which she would agree. The Board was impressed
28 with her comprehensive analysis and the sophistication of her work.

1 20. During the course of numerous meetings with Ms. Joseph, Mr. Peng began to
2 understand that deploying Ms. Joseph’s strategy to transform the Company was essential for Xilinx
3 to finally compete in a meaningful way with Nvidia and Intel. Mr. Peng had hired an outside
4 vendor, Nth Degree, to perform part of that task but quickly saw that its ideas were not as
5 innovative or effective as those of Ms. Joseph. On November 11, 2017, Mr. Peng asked Ms. Joseph
6 to add her own thoughts and ideas to the finalized and approved strategy from Nth Degree. The
7 three concepts proposed by Nth Degree were “The New Frontier,” “Power of X,” and “Unleashed,”
8 none of which Ms. Joseph considered innovative enough to help identify or motivate new
9 customers. In 2017, Mr. Peng selected the concept “The New Frontier” which was first used by
10 Xilinx in 2014.

11 21. Ms. Joseph believed that the Xilinx marketing program was ineffective and tactical
12 based. Xilinx needed to conceptualize new ideas and put them into practice if the Company had
13 any reasonable chance to scale beyond its niche component status, which had achieved
14 underperforming single digit revenue growth since FY 2012. Ms. Joseph requested a meeting with
15 Mr. Peng about rebranding and suggested that the Nth Degree theme be abandoned. She instead
16 proposed the term “Adaptable Intelligence,” along with an “adaptability” theme instead of the
17 “programmability” theme Xilinx has used since the Company was founded in 1984.

18 22. On November 26, 2017, Ms. Joseph introduced Mr. Peng to the branding approach
19 that she had developed: “Adaptive Compute Processing” (ACP). Xilinx had invented the FPGA
20 (Field Programmable Gate Arrays) and for over three decades has been known as the “FPGA
21 Company.” Mr. Peng enthusiastically embraced the adoption of ACP and informed Ms. Joseph
22 that he was “no longer stuck on XPU.” XPU (Xilinx Processing Unit) had been used for several
23 years as the internal name for a new product line Xilinx had developed named Everest, which was
24 set to launch in 2018. Mr. Peng asked Ms. Joseph to meet with Xilinx marketing staff to direct the
25 launch of the new technology using her marketing ideas and strategies that she had been
26 developing for years.

27 23. A discussion between Mr. Peng, Chairman Segers, and Ms. Joseph ensued about
28 compensation for Ms. Joseph’s strategies and work product—all of which had been confidentially

1 developed by Ms. Joseph through tremendous effort, and which were shared with Mr. Peng under
2 a mutual understanding that Ms. Joseph would be appropriately compensated for the information
3 and ideas reflected in her confidential presentations and work product. Mr. Peng assured Ms.
4 Joseph that the value of her intellectual property would be accounted for in a generous long-term
5 compensation package, rather than having Xilinx pay Ms. Joseph a fee for the substantial work
6 and valuable strategies she had developed over a long career. On information and belief, the Xilinx
7 Board's Compensation Committee met three times to approve this compensation package, which
8 recognized the substantial value of Ms. Joseph's ideas and work product.

9 24. The effort towards rebranding started to be set into motion on November 27, 2017,
10 when Steve Douglass, Vice President of Corporate Sales, sent an email to Ms. Joseph asking her
11 to integrate her new branding, messaging, and graphical language into Mr. Peng's 2018 Worldwide
12 Sales Conference strategy. The next day, Ms. Joseph created the final new technology name,
13 "ACAP" (Adaptive Computer Acceleration Platform), with Mr. Peng also giving high praise to
14 Ms. Joseph's creation of the tagline "Designing Adaptable Futures."

15 25. On December 10, 2017, Ms. Catia Hagopian, then-Vice President of Legal Affairs,
16 emailed Ms. Joseph an Offer Letter. It was agreed by Mr. Peng at the time that Ms. Joseph's start
17 date would not be until after Mr. Peng was appointed CEO. On December 26, 2017, Ms. Joseph
18 submitted a signed offer letter to Ms. Hagopian. Ms. Joseph decided to accept the position because
19 she believed that her marketing strategy could help the Company scale in organic revenue growth,
20 including strategically positioning Xilinx for a proposed acquisition for maximum customer
21 growth, competitive synergies, and shareholder return.

22 26. Mr. Peng apparently had serious doubts about the prospects of growth for Xilinx.
23 In 2017, Mr. Peng forecasted slow growth for Xilinx, predicting 2% Compound Annual Growth
24 Rate, from FY18-FY22 and a challenged revenue reduction from older 28nm products. The
25 Company averaged a low single digit revenue growth rate from FY11-FY18. In addition, Mr.
26 Peng expressed concerns that the \$1.5B R&D investment in 7nm Everest technology would take
27 ten years to yield a return due to their lack of a software stack ecosystem. Xilinx would be falling
28 below critical mass as it scaled down in process nodes, so it needed to accelerate growth. In mid-

1 December 2017, Mr. Peng cancelled the 2018 Worldwide Sales Conference due to budget issues.
2 Mr. Peng informed Ms. Joseph and the sales team that he expected the Company growth to
3 continue its flatline into 2018.

4 27. On January 4, 2018, Ms. Joseph wrote and released the press release announcing
5 the retirement of Xilinx's then-CEO, Mr. Moshe Gavrielov, as well as the appointment of Victor
6 Peng as the new CEO. Under the leadership of Mr. Gavrielov, Xilinx revenues were largely flat
7 – growing from \$1.84B in FY2008 to \$2.54B in FY2018. Mr. Peng was pleased with the investor
8 and press strategy and again praised Ms. Joseph highly for her work. That same day, Ms. Joseph
9 contacted the show “Mad Money” about Mr. Peng’s CEO appointment. That contact led to CNBC
10 mentioning Xilinx repeatedly. The next day, Xilinx’s stock price received a “Cramer Bounce” of
11 5.21%.

12 28. On January 7, 2018, Mr. Peng sent out an email stating that Ms. Joseph would be
13 leading Corporate Strategy and Marketing, reporting directly to him. Mr. Peng continued his high
14 praise of Ms. Joseph for her work on the CEO Launch, and on January 11, 2018, Mr. Peng asked
15 Ms. Joseph to help prepare him for the company-wide presentation, which would include her
16 creation of an image and strategy for Mr. Peng to present to the global employee base.

17 29. As of early January 2018, the Everest Launch was still on the calendar. However,
18 nothing had been prepared for what was supposed to have been the biggest Xilinx event since the
19 launch of Virtex in the 1990s. Ms. Joseph was told by the marketing team as late as December
20 2017 that because of the ambiguity in Mr. Peng’s vision, no content had been created and the only
21 thing that was confirmed for the Everest launch was Mr. Peng’s XPU name.

22 30. Mr. Glaser sent Ms. Joseph a copy of the New Xilinx Outbound Program and
23 Priorities presentation in December 2017. Again, those presentations were focused on an “All
24 Programmable” future for Xilinx. Ms. Joseph was concerned with the lack of innovation in
25 marketing necessary to win competitive battles in already established high growth markets and
26 attracting new customers in core products. In a meeting with Mr. Peng, Salil Raje (Senior Vice
27 President of Xilinx Software) and Liam Madden (Senior Vice President of Xilinx Hardware), Ms.
28 Joseph broached the idea of moving Xilinx away from “Programmable” to “Adaptable.” Since the

1 Company would be rebranded, she suggested a new thought leadership brand for Mr. Peng as well.

2 31. On January 14, 2018, Ms. Joseph shared with Mr. Peng her concepts for new brand
3 marks and the plan to change all Xilinx marketing materials based on the new designs she directed.
4 On January 25, 2018, in a text message to Mr. Peng, Ms. Joseph shared the term “adaptable
5 intelligence.” The next day, Mr. Peng held his first executive staff meeting as CEO, where he
6 asked Ms. Joseph to present her marketing strategies – including the new Company brand replacing
7 Programmable. Over the next couple of days, Ms. Joseph and Mr. Peng messaged each other about
8 eighteen possible taglines around the word “adaptable” until they agreed on Ms. Joseph’s
9 “Adaptable Intelligence” idea, a term that was formally introduced to the Company during Mr.
10 Peng’s first internal all-hands meeting on February 1, 2018.

11 32. The next day, February 2, 2018, Ms. Joseph began her employment with Xilinx.
12 By that time, Ms. Joseph had devoted substantial time and effort developing and implementing the
13 new marketing and branding strategy of Xilinx before becoming an employee of Xilinx. Ms.
14 Joseph had not signed, and never did sign or otherwise enter, any assignment agreement that
15 transferred her intellectual property rights in the marketing and branding strategy she had
16 developed before her employment commenced. Ms. Joseph owned the intellectual property rights
17 in those confidential strategies and work product.

18 **B. Plaintiff Discovers Sexual Harassment, Sex Discrimination, and Sex-Based Pay**
19 **Disparities While Preparing to Begin Her Employment at Xilinx**

20 33. In November 2017, as Ms. Joseph was preparing to step into her role, Xilinx
21 provided her with salary and grade level information for the employees in the Marketing
22 Department, as well as a number of other organizational materials. From November 2017 through
23 January 2018, Ms. Joseph regularly emailed with Xilinx employees in the marketing, finance, and
24 Human Resources departments regarding the organizational structure, budget, and salaries for the
25 department Ms. Joseph would soon manage. These materials and communications with soon-to-
26 be colleagues revealed wide-spread sex-based pay disparities, sex discrimination, and sexual
27 harassment within the Marketing Department.

28 34. Plaintiff observed that women at Xilinx were frequently assigned titles, grades, and

1 levels that in-part understated their roles and contributions, while men were assigned titles, grades,
2 and levels that in-part *overstated* their roles and contributions. As a result, women frequently
3 possessed lower ranking titles, grades, and levels than men performing substantially similar and
4 equal work. For example, a disproportionate number of positions at the highest pay grades (E.10
5 and E.9) were held by men, while women possessing the same or greater responsibilities
6 dominated the lower level pay grades (E.7 and E.8). Because these disparities in title, grades, and
7 levels correlated to differences in compensation, Xilinx was paying women substantially less than
8 it paid their male counterparts.

9 35. Plaintiff also discovered that women in the Marketing Department often bore
10 additional burdens, on top of their fulltime marketing work, and they received no additional
11 compensation for this additional work.

12 36. Plaintiff also learned of a flourishing sex-based hostile work environment. As Ms.
13 Joseph discovered in the leadup to her start date, women at Xilinx were at times disrespected,
14 dismissed, demeaned, bullied, and undervalued relative to male employees. Female employees
15 speaking to Ms. Joseph repeatedly described being yelled at and demeaned. Plaintiff learned that
16 some women had complained about mistreatment by a male senior manager who continued to
17 work at the Company with no repercussions. Some female employees informed Plaintiff that
18 women were not respected and were treated as less than equal. There were, additionally, well-
19 known allegations of sexual misconduct at the Company.

20 37. Retaliation against women who raised complaints was standard operating
21 procedure within Xilinx. In or about September of 2017, the Executive Administrative Assistant
22 to Mr. Peng, Eddie Fisher, warned Ms. Joseph about the retaliatory regime at Xilinx. Ms. Fisher
23 identified Catia Hagopian, Marilyn Meyer, the Senior Vice President of Human Resources, and
24 Andee Nieto, the Senior Director of Human Resources, as the members of a cabal referred to as
25 the “Three Musketeers” that would join forces to “usher out” any women who spoke out at the
26 Company, especially on matters related to sexism. Throughout Ms. Joseph’s conversations with
27 certain female employees, fear of retaliation was a common refrain, and some employees
28 recounted stories of retaliatory terminations.

1 **C. Ms. Joseph Discloses, Opposes, and Seeks to Correct Sex-Based Pay Disparities**

2 38. As a successful woman in a male-dominated company in a male-dominated
3 industry, Ms. Joseph could not turn a blind eye to the plight of other women at Xilinx. In short
4 order, she began to take steps to draw attention to this unlawful activity and receive necessary
5 approvals for her proposed plan to correct it. The response from Xilinx’s senior leaders, ranging
6 from dismissiveness to open hostility, made clear that the sex-based inequity, discrimination, and
7 harassment occurred with the imprimatur of Xilinx’s leadership.

8 39. On January 10, 2018, on a phone call with Chairman Segers, Ms. Joseph described
9 the frequent discrimination and harassment, as well as the female employees’ fears of retaliation
10 for speaking out. In response, Chairman Segers stated, “I’m so ashamed. I am so ashamed. I didn’t
11 realize how bad Xilinx had become under [Mr. Gavriellov].” Despite this, Chairman Segers did
12 nothing to address these issues or Ms. Joseph’s concerns.

13 40. Following their phone conversation, Ms. Joseph texted Chairman Segers and
14 expressed her belief that Ms. Meyer should be terminated because of her failure to take any action
15 to address toxic culture at Xilinx. In response, Chairman Segers advised that Ms. Joseph “stay
16 serious minded [and] to focus on the task at hand.” He added that Ms. Joseph should “keep [her]
17 opinions to [herself] and [she would] be a rockstar.”

18 41. In January 2018, after a thorough review of job titles and responsibilities, Ms.
19 Joseph color-coded her group’s 2017 salaries in an excel spreadsheet which laid bare the pay
20 disparities between men and women. She then reviewed her annual marketing budget and created
21 a proposed plan to correct the titles, levels, and pay disparities within her team during the April
22 2018 focal review.

23 42. On January 19, 2018, Ms. Joseph had an impromptu meeting with nine female
24 members of the Marketing Department. During this meeting, Ms. Joseph told the nine women that
25 she knew that they were underpaid compared to the men at Xilinx, and that she would try to correct
26 the problem when she took over by correcting their titles and raising their salaries.

27 43. Over the subsequent days and weeks, Ms. Joseph met with members of Human
28 Resources and Legal Affairs regarding her proposed vision for the Marketing Department.

1 44. On January 22, 2018, during a meeting with Ms. Hagopian and others, Ms. Joseph
2 reiterated what she had told the nine employees during the January 19, 2018 meeting. Ms. Joseph
3 stated that she had informed the women that their titles inaccurately reflected the significant work
4 they were doing for Xilinx and that she believed women were, as a result, being underpaid in
5 comparison to their male counterparts. Ms. Joseph also informed Ms. Meyer of her proposed plan
6 to restructure her team in a manner that ensured fair titling and equal pay for the female employees.
7 Ms. Joseph showed Ms. Hagopian the current organizational chart for the department and
8 identified a specific example of a female employee who Xilinx had under-titled and under-
9 compensated. Ms. Hagopian laughed and said, “Welcome to Xilinx.”

10 45. Ms. Joseph also had several calls with Chairman Segers about the topic of unequal
11 pay. During these calls, she raised the need to correct the salaries and titles of female employees
12 in her department. Ms. Joseph stated that she believed that these disparities could be corrected
13 through her proposed updated budget. Again, Chairman Segers pressured Ms. Joseph to remain
14 silent. Chairman Segers instructed Ms. Joseph on these calls to work on executing for Xilinx first
15 and to wait on solving any disparities or issues at the Company.

16 46. On January 26, 2018, Ms. Joseph met with Ms. Meyer to discuss the treatment of
17 women, and Ms. Joseph’s plan for the Marketing team going forward. At this meeting, Ms. Joseph
18 disclosed to Ms. Meyer that she had learned that women in the Marketing Department had faced
19 discrimination and harassment under her predecessor, and that this treatment was unacceptable.
20 Ms. Meyer laughed and told Ms. Joseph that she was not at all surprised, as this mistreatment had
21 been uncovered during previous investigations.

22 47. On January 30, 2018, Ms. Joseph met with Ms. Nieto and an employee reporting to
23 Ms. Joseph. Ms. Joseph discussed the discrepancies in job titles and compensation for female
24 employees and asked Ms. Nieto to ensure the titles of the marketing employees were updated. On
25 January 31, 2018, Ms. Joseph followed up with Ms. Nieto and asked that an employee assisting
26 her be given access that day to Radford, a Human Resources software used to determine salaries
27 and titles, so that Ms. Joseph could assist in resolving the discrepancies. Ms. Joseph sent Ms. Nieto
28 a copy of the reorganized department chart that Ms. Joseph had completed, illustrating the changes

1 that Ms. Joseph proposed.

2 48. Ms. Joseph's efforts to improve conditions for women at Xilinx—and the
3 Company's persistent refusal to implement Ms. Joseph's suggestions—continued once Ms. Joseph
4 joined the Company on February 2, 2018. Shortly after she began her employment, Ms. Joseph
5 met with Andee Nieto and the senior members of the sales and vertical marketing team to discuss
6 her proposed changes to the organization, including changes to align titles with job responsibilities.

7 49. On or about February 2, 2018, Ms. Joseph met with Mr. Vincent Tong, Executive
8 Vice President of Global Operations and Quality. Mr. Tong suggested that the way Mr. Peng
9 interacted with female employees was strange and asked Ms. Joseph if she felt safe or scared to
10 work with Mr. Peng. In another conversation with Chairman Segers, Ms. Joseph mentioned Mr.
11 Tong's implication that Mr. Peng had problems with female employees and that they were afraid
12 to work with him. Chairman Segers acknowledged these concerns but reiterated to Ms. Joseph that
13 she should focus on executing for the Company.

14 50. Throughout February 2018, Ms. Joseph followed up regarding the changes to titles
15 and compensation that were necessary to bring an end to ongoing pay disparities between men and
16 women at Xilinx. In or about mid-February 2018, Ms. Joseph began to prepare for the upcoming
17 April focal review, at which time she anticipated changes to align pay and titles with job
18 responsibilities would be implemented. As part of these preparations, Ms. Joseph was scheduled
19 to meet with members of the Human Resources and Finance departments, in or around the end of
20 February, to discuss effectuating changes to levels and compensation to align with the new titles
21 that properly reflected women's true job responsibilities. The purpose and effect of these meetings
22 would have been to increase the compensation of multiple women to levels commensurate with
23 the compensation of their male colleagues who performed substantially similar and equal work.
24 Ms. Joseph was terminated before these meetings could take place.

25 **D. Xilinx Terminates Ms. Joseph in Retaliation for her Protected Conduct**

26 51. On February 14, 2018, at a Board of Directors meeting, Ms. Joseph unveiled the
27 marketing strategy that she had been working on prior to her employment at Xilinx. At the
28 conclusion of her presentation, Xilinx Board members praised Ms. Joseph. Board members and

1 executive staff stated that her presentation was “very, very impressive,” that Ms. Joseph had
2 “[knocked] it out of the park,” and that she was clearly “a marketing expert.” They unanimously
3 made it clear they were looking forward to working with Ms. Joseph and that she had earned an
4 overwhelming mandate to pursue the agenda she had laid out.

5 52. This success was short-lived. On the morning of February 20, 2018, Ms. Nieto
6 informed Ms. Joseph that she would need to meet with Ms. Meyer. During that meeting, Ms. Meyer
7 interrogated Ms. Joseph regarding the January 19 meeting at which Ms. Joseph had acknowledged
8 and stated her intent to correct sex-based pay disparities. Ms. Meyer asked whether Ms. Joseph
9 had told the women in attendance at that meeting that they were underpaid and that there was a
10 pay inequity between the female and male employees at Xilinx. Ms. Joseph confirmed that she
11 had, that she believed this to be true, and that she wanted Xilinx to correct their salaries and titles.
12 In response, Ms. Meyer became enraged and yelled, “I cannot believe that came out of your mouth
13 . . . As an officer of the Company, you have to know what you can and cannot say” and “How
14 could you say such a thing?” Ms. Meyer also protested, “The women are not complaining” and
15 asked Ms. Joseph angrily, “Why are you doing this?” Ms. Meyer made it clear that she would not
16 address the pay inequity, asking Ms. Joseph whether the female employees were “deserving.”
17 Finally, Ms. Meyer stated that she would now have to take action to protect the CEO and the
18 Chairman of the Board.

19 53. On February 23, 2018, only three days after Ms. Meyer had yelled at Ms. Joseph
20 and stated Ms. Meyer would need to protect the CEO and Chairman, CEO Peng fired Ms. Joseph.
21 At the time CEO Peng fired Ms. Joseph, he acknowledged that Ms. Joseph’s work had been
22 exemplary, but claimed that a number of other factors were recently taken into consideration.
23 When pressed on these considerations, CEO Peng mentioned that Ms. Joseph had made comments
24 to many of the women that the Company was going to have to correct. Ms. Joseph inquired whether
25 these “comments” concerned her statements regarding the treatment of women (a reference to
26 concerns about ongoing discrimination, unequal pay, and harassment). In response, Mr. Peng said,
27 “you’ve said things,” and refused to elaborate further, citing “legal reasons.”

28 54. On February 24, 2018, Ms. Joseph briefly spoke with Chairman Segers regarding

1 her termination. Chairman Segers stated that he had had dinner with Mr. Peng and that he could
2 not elaborate on the reasons for her termination due to “legal reasons.”

3 55. On June 13, 2018, a now former Xilinx employee confirmed to Ms. Joseph that her
4 protected conduct was the reason for her termination. This former employee informed Ms. Joseph
5 that he had asked Chairman Segers why Ms. Joseph had been terminated, and Chairman Segers
6 had replied to the effect of, “Sabrina said the females were underpaid, and one sued.”

7 **E. Defendants Steal and Implement Ms. Joseph’s Rebranding and Repositioning Ideas,**
8 **Strategies, and Plan, to the Immense Benefit of Xilinx**

9 56. Mr. Peng apparently had serious doubts about the prospects of growth for Xilinx.
10 In a November 2017 meeting, Mr. Peng presented a slide deck outlining his view that the Xilinx
11 business would never move beyond a niche component provider if the Company could not scale
12 products and software. On November 28, 2017, Mr. Peng requested Ms. Joseph work with Salil
13 Raje, Senior Vice President of Xilinx Software, to produce a software marketing strategy to build
14 an ecosystem that could compete with Nvidia’s CUDA (Compute Unified Device Architecture)
15 platform. In mid-December 2017, Mr. Peng cancelled the 2018 Worldwide Sales Conference due
16 to budget issues. Mr. Peng informed Ms. Joseph that he expected the Company growth to continue
17 its flatline into 2018.

18 57. Xilinx took Ms. Joseph’s ideas months before hiring her. Prior to meeting Ms.
19 Joseph, Xilinx was looking to accelerate revenue growth using a multi-market approach that
20 targeted data centers, emulation and prototyping, and wired communications sub-segments. The
21 problem with this approach was that customers could not readily define the brand’s identity and
22 Xilinx had yet to achieve significant revenue in the data center market. Ms. Joseph solved this
23 problem by focusing outbound positioning on a single high growth target market, namely data
24 centers. Xilinx recognized the benefits of this concept as evidenced by the fact that Mr. Peng
25 introduced Xilinx’s Data First Strategy in his first press release as CEO, explaining that a challenge
26 Xilinx historically faced was an outdated market view of the FPGA. The benefit of focusing on
27 a single high growth industry was expected to translate to a significant change in perception. The
28 change in the Company’s public competitive strategy of Xilinx technology could, and did,

1 influence new and existing customer behaviors resulting in increased Xilinx revenues. Starting in
2 2018, Xilinx products such as their RF SOC Zynq product lines and 7nm Everest technology began
3 to be marketed using Ms. Joseph's Adaptable strategies, which can be found in white papers,
4 customer presentations, and sales materials. Xilinx used and continues to use Ms. Joseph's work
5 in interviews, trade magazines, presentations, and marketing, without her permission, and without
6 crediting her for her work.

7 58. Prior to hiring Ms. Joseph, Xilinx did not position itself as a semiconductor chip
8 provider for use in the Artificial Intelligence ("AI") market. Xilinx had positioned itself towards
9 Machine Learning. However, Machine Learning is only a part of the broader AI opportunity.
10 From 2013 through 2016, Xilinx issued 231 public press releases without one mention of AI. In
11 2017, AI was mentioned 8 times in 3 of the 36 press releases issued that year. At that time, Xilinx
12 was still consistently using the tagline Programmable, as it had for 34 years. Ms. Joseph sought
13 to position Xilinx as the number two player behind Nvidia. Ms. Joseph noted the importance of
14 using the words "Intelligence" and "AI" in all of Xilinx positioning materials, because those words
15 were important to changing customer behaviors. Based on her research, Ms. Joseph developed the
16 phrase "Adaptable Intelligence," which is consistent with customer's familiarity with the words
17 "Intelligence," the abbreviation "AI," and the previously noted "Adaptability" theme. Xilinx
18 recognized the benefits of this phrase/tagline, as evidenced by the fact that on February 1, 2018,
19 Mr. Peng first used the tagline in his first internal "All Hands" presentation after he was announced
20 as CEO. From 2018 through 2020, Artificial Intelligence appeared over 150 times in Xilinx press
21 releases.

22 59. On March 19, 2018, Mr. Peng announced his CEO vision and strategy based on a
23 word-for-word copy of Ms. Joseph's strategy that she outlined in a November 26, 2017 text
24 message. On August 21, 2018, Mr. Peng's presented at Stanford's HotChips conference. Mr.
25 Peng's presentation used Ms. Joseph's new concepts and strategies she prepared in November
26 2017 for Chairman Segers and Xilinx Board members. Microsoft's Azure Cloud Unit indicated
27 that it switched to Xilinx based on this "Data Center First" strategy. Xilinx was featured in many
28 trade magazines as being reimagined, with many mentioning how ACAP might replace FPGA as

1 its flagship technology.

2 60. Following that announcement, Xilinx revenues and profits quickly and dramatically
3 increased and reached heights significantly higher than those envisioned by Mr. Peng. In July
4 2018, Mr. Peng raised Xilinx's full-year guidance and demonstrated strength across all end
5 markets.

6 61. The rebranding and repositioning of Xilinx by Ms. Joseph had a direct and
7 exceptional impact on the value of the Company. In October 2018, a Xilinx earnings release
8 showed a 30 percent increase credited to the Data Center First rebranding created and developed
9 by Ms. Joseph. Xilinx reported revenues of \$3.06 billion dollars for the FY ending April 2019. In
10 an earnings call on November 27, 2018, John William Pitzer, Credit Suisse AG Semiconductor
11 analyst, conducted a "fireside chat" with Lorenzo Flores, Executive Vice President and CFO of
12 Xilinx. Mr. Pitzer commented to the effect of: "I wouldn't say you've gone through a repositioning
13 as much as a rebranding of the company, trying to become more than just an FPGA company" and
14 then asked: "Maybe you can spend kind of a few minutes and talk about the core IP of the company,
15 the core strategy of the company and rebranding is probably the wrong word, but the rebranding
16 you've done through over the last couple of years?" Mr. Flores responded: "Repositioning might
17 be more accurate way of describing it." At the same time, Xilinx's market cap increased
18 exponentially to an all-time high of \$35 billion dollars, up from \$17 billion dollars in December
19 2017. On October 27, 2020, AMD announced plans to acquire Xilinx in an all-stock deal valued
20 at \$35 billion.

21 **V. PROCEDURAL ALLEGATIONS**

22 62. Plaintiff has exhausted her administrative remedies to pursue claims.

23 63. On February 6, 2019, Plaintiff filed an administrative charge with the California
24 Department of Fair Employment and Housing ("DFEH") and received an immediate Notice of
25 Right to Sue.

26 64. On August 9, 2021, Plaintiff filed another administrative charge with the DFEH
27 and received an immediate Notice of Right to Sue, which Plaintiff served on Defendants via email
28 and via Certified Mail that same day.

1 **VI. TOLLING OF STATUTES OF LIMITATIONS**

2 65. The statutes of limitation in this case are subject to tolling by court order, by
3 agreement, and by operation of equitable tolling. In addition, Defendants are equitably estopped
4 from asserting the expiration of the statute of limitations.

5 66. On May 29, 2020, the Judicial Council of California adopted California Rules of
6 Court, emergency Rule 9, which tolled the statute of limitations and repose on the commencement
7 of civil causes of action in state court with statutes of limitations that exceed 180 days from April
8 6, 2020 until October 1, 2020. *See* Appendix I, Emergency Rules Related to COVID-19,
9 <https://www.courts.ca.gov/documents/appendix-i.pdf> (last visited August 9, 2021).

10 67. On February 17, 2021, Plaintiff and Defendant Xilinx entered into a tolling
11 agreement, which tolled the statutes of limitations for the filing of Plaintiff's claims against the
12 Company, including any administrative charge proceeding.

13 68. On July 25, 2021, as provided by the tolling agreement, counsel for Ms. Joseph
14 provided written notice to Xilinx of its intention to withdraw from the tolling agreement. In
15 accordance with the tolling agreement, the tolling period terminated at the end of the day on August
16 8, 2021.

17 69. In addition, Plaintiff seeks and is entitled to the application of equitable estoppel
18 and equitable tolling based on a course of severe surveillance, harassment, and intimidation that
19 she experienced and/or perceived after her termination by Xilinx, which deterred and impeded her
20 from pursuing her claims. This has included, without limitation, hacking of Ms. Joseph's phones
21 and internet, frequent interruption of her phone and internet signals, hacking of a family member's
22 phone, hacking of her home security devices, cars following her, strangers approaching and
23 photographing her home and security cameras, a slashed pillow left on her fenced-in porch, her
24 mail being stolen, and her car tire being punctured repeatedly from the side. Upon information and
25 belief, Xilinx is responsible for the harassment, intimidation and/or surveillance.

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1 **FIRST CAUSE OF ACTION**

2 **RETALIATION**

3 **(Fair Labor Standards Act of 1938, as amended by the Equal Pay Act of 1963,**

4 **29 U.S.C. § 215(a)(3))**

5 **(Against All Defendants)**

6 70. Plaintiff re-alleges and incorporates by reference each and every allegation
7 contained in the previous paragraphs of this Complaint as though fully set forth herein.

8 71. Plaintiff engaged in protected activity under the Equal Pay Act by providing,
9 causing to be provided, and being about to provide or cause to be provided to Xilinx information
10 relating to unequal pay and retaliation in violation of the Equal Pay Act; and objecting to activities,
11 policies and practices that she reasonably believed to be in violation of the Equal Pay Act,
12 including unequal payment of female employees and retaliation in violation of the Equal Pay Act,
13 and opposing unequal pay in violation of the Equal Pay Act.

14 72. Defendants engaged in adverse employment actions against Plaintiff for engaging
15 in protected activities, including termination.

16 73. Defendants' retaliatory acts against Plaintiff were a direct and proximate result of
17 her protected activities.

18 74. Defendants' retaliation against Ms. Joseph was willful.

19 75. A reasonable employee would find Defendants' retaliatory acts materially adverse
20 and that such acts would dissuade a reasonable person from making or supporting a charge of
21 discrimination.

22 76. As a direct, foreseeable, and proximate result of the Defendants' unlawful actions,
23 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
24 benefits and has incurred other economic losses.

25 77. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
26 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to
27 Plaintiff's damage in an amount to be proven at the time of trial.

28 78. Plaintiff is therefore entitled to all legal and equitable remedies, including backpay

1 and liquidated damages. Under 29 U.S.C. § 216(b), Plaintiff is entitled to liquidated damages and
2 other relief.

3 79. Under 29 U.S.C. § 216(b), Plaintiff is entitled to attorneys' fees and costs.

4 **SECOND CAUSE OF ACTION**

5 **RETALIATION**

6 **(California Equal Pay Act, Cal. Lab. Code § 1197.5, *et seq.*)**

7 **(Against All Defendants)**

8 80. Plaintiff re-alleges and incorporates by reference each and every allegation
9 contained in the previous paragraphs of this Complaint as though fully set forth herein.

10 81. Plaintiff engaged in protected activity under the California Equal Pay Act, by
11 invoking or assisting in enforcement of the California Equal Pay Act by providing, causing to be
12 provided, and being about to provide or cause to be provided to Xilinx information relating to
13 unequal pay and retaliation in violation of the California Equal Pay Act; and objecting to activities,
14 policies, and practices that she reasonably believed to be in violation of the California Equal Pay
15 Act, including unequal payment of female employees. Plaintiff also engaged in protected activity
16 by discussing the wages of others in the course of comparing male and female compensation,
17 inquiring about other employees' wages, and aiding and encouraging other female employees of
18 Xilinx to exercise their rights under the California Equal Pay Act.

19 82. Defendants engaged in adverse employment actions against Plaintiff for engaging
20 in protected activities, including termination.

21 83. Defendants' retaliatory acts against Plaintiff were a direct and proximate result of
22 her protected activities.

23 84. A reasonable employee would find Defendants' retaliatory acts materially adverse
24 and such acts would dissuade a reasonable person from making or supporting a charge of
25 discrimination.

26 85. As a direct, foreseeable, and proximate result of the Defendants' unlawful actions,
27 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
28 benefits and has incurred other economic losses.

1 her protected activities.

2 94. A reasonable employee would find Defendants' retaliatory acts materially adverse
3 and such acts would dissuade a reasonable person from making or supporting a charge of
4 discrimination.

5 95. Defendants' conduct has been intentional, deliberate, willful, malicious, reckless,
6 and conducted in callous disregard of the rights of the Plaintiff, entitling her to punitive damages.

7 96. As a direct, foreseeable, and proximate result of the Defendants' unlawful actions,
8 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
9 benefits and has incurred other economic losses.

10 97. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
11 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to
12 Plaintiff's damage in an amount to be proven at the time of trial.

13 98. Plaintiff is therefore entitled to all legal and equitable remedies, including backpay
14 and liquidated damages.

15 99. Defendants committed the acts herein despicably, maliciously, fraudulently, and
16 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
17 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.
18 Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to
19 proof.

20 100. Under Cal. Gov't Code § 12940, Plaintiff is entitled to attorneys' fees and costs.

21 **FOURTH CAUSE OF ACTION**

22 **RETALIATION**

23 **(California Whistleblower Protection Act, Cal. Lab. Code § 1102.5(b)&(c))**

24 **(Against All Defendants)**

25 101. Plaintiff re-alleges and incorporates by reference each and every allegation
26 contained in the previous paragraphs of this Complaint as though fully set forth herein.

27 102. Plaintiff engaged in protected activity by disclosing information to a person with
28 authority over the employee or another employee who has the authority to investigate, discover,

1 or correct the violation or noncompliance, which information Plaintiff had reasonable cause to
2 believe disclosed a violation of state or federal statute, or a violation of or noncompliance with a
3 local, state, or federal rule or regulation. Plaintiff did this by investigating, disclosing, objecting
4 to, opposing, and seeking to correct unequal pay of women, as well as other discriminatory
5 practices forbidden or reasonably believed to be forbidden, by Title VII, the Equal Pay Act, the
6 California Fair Employment and Housing Act, the California Equal Pay Act, and California
7 common law, as alleged herein.

8 103. Plaintiff also engaged in protected activity by refusing to participate in an activity
9 that would result in a violation of state or federal statute, or a violation of or noncompliance with
10 a local, state, or federal rule or regulation. She did this by opposing, and seeking to correct unequal
11 pay of women, as well as other discriminatory practices forbidden by Title VII, the Equal Pay Act,
12 the California Fair Employment and Housing Act, the California Equal Pay Act, the California
13 Labor Code, and California common law, as alleged herein.

14 104. Defendants engaged in adverse employment actions against Plaintiff for engaging
15 in protected activities, including termination.

16 105. A reasonable employee would find Defendants' retaliatory acts materially adverse
17 and such acts would dissuade a reasonable person from making or supporting a charge of
18 discrimination.

19 106. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
20 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
21 benefits and has incurred other economic losses.

22 107. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
23 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to
24 Plaintiff's damage in an amount to be proven at the time of trial.

25 108. Plaintiff is therefore entitled to all legal and equitable remedies, including backpay
26 and liquidated damages.

27 109. Defendants committed the acts herein despicably, maliciously, fraudulently, and
28 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive

1 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.
2 Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to
3 proof.

4 110. Under Cal. Lab. Code § 1102.5, Plaintiff is entitled to attorneys' fees and costs.

5 **FIFTH CAUSE OF ACTION**

6 **RETALIATION**

7 **(Cal. Lab. Code § 98.6(a))**

8 **(Against All Defendants)**

9 111. Plaintiff re-alleges and incorporates by reference each and every allegation
10 contained in the previous paragraphs of this Complaint as though fully set forth herein.

11 112. Plaintiff engaged in protected activity that included, but is not limited to, exercising
12 her right to speak out against violations of the law, for complaining that female employees are
13 owed unpaid wages as a result of the discrimination they faced, for engaging in conduct delineated
14 under Labor Code § 1102.5, and for exercising the rights afforded to female employees (1) to
15 receive equal pay pursuant to the Equal Pay Act, 29 U.S.C. § 206, and the California Equal Pay
16 Act, Cal. Lab. Code § 1197.5; (2) to be free from sex-based harassment, discrimination with
17 respect to compensation and other terms and conditions of employment, and retaliation, pursuant
18 to Title VII, 42 U.S.C. § 2000e, *et seq.*, and the California Fair Employment and Housing Act,
19 Cal. Gov. Code § 12940 *et seq.*; (3) to discuss her own and others' compensation, to inquire about
20 others' compensation, to aid and encourage other female attorneys employed by Xilinx to exercise
21 their rights under this section, and to discuss working conditions pursuant to Labor Code §§ 232.5,
22 and 1197.5; (4) to oppose, and to disclose facts that Plaintiff has reason to believe disclose
23 violations of, state, federal and local laws, pursuant to Labor Code § 1102.5; and (5) to refuse to
24 participate in an activity that would result in a violation of state or federal statute, or a violation of
25 or noncompliance with a local, state, or federal rule or regulation, pursuant to Labor Code § 1102.5.

26 113. Defendants engaged in adverse employment actions against Plaintiff for engaging
27 in protected activities, including termination.

28 114. A reasonable employee would find Defendants' retaliatory acts materially adverse

1 and such acts would dissuade a reasonable person from making or supporting a charge of
2 discrimination.

3 115. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
4 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
5 benefits and has incurred other economic losses.

6 116. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
7 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to
8 Plaintiff's damage in an amount to be proven at the time of trial.

9 117. Plaintiff is therefore entitled to all legal and equitable remedies, including backpay
10 and liquidated damages.

11 118. Defendants committed the acts herein despicably, maliciously, fraudulently, and
12 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
13 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.
14 Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to
15 proof.

16 119. Plaintiff is entitled to attorneys' fees under California Code of Civil Procedure §
17 1021.5. Plaintiff is also entitled to costs.

18 **SIXTH CAUSE OF ACTION**

19 **RETALIATION**

20 **(Cal. Lab. Code § 232.5(c))**

21 **(Against All Defendants)**

22 120. Plaintiff re-alleges and incorporates by reference each and every allegation
23 contained in the previous paragraphs of this Complaint as though fully set forth herein.

24 121. Defendants discharged, formally disciplined, and otherwise discriminated against
25 Plaintiff for disclosing information about Xilinx's working conditions, including sex-based
26 discrimination and inequalities in pay.

27 122. Defendants engaged in adverse employment actions against Plaintiff for engaging
28 in protected activities, including termination.

1 131. Her termination violates the fundamental public policy contained in the FEHA that
2 employees are to be free from discrimination on the basis of sex and from retaliation for reporting
3 sex-based discrimination.

4 132. Her termination violates the fundamental public policy contained in the California
5 Equal Pay Act that an employer shall not pay any of its employees at wage rates less than the rates
6 paid to employees of the opposite sex for substantially similar work, and that employees are to be
7 free from retaliation for reporting sex-based pay disparities.

8 133. Her termination violates the fundamental public policy contained in the California
9 Equal Pay Act that an employee should be free from retaliation for invoking or assisting in the
10 enforcement of the CEPA, for discussing the wages of others, for inquiring regarding other
11 employees' wages, or for aiding or encouraging any other employee to exercise his or her rights
12 under the CEPA.

13 134. Her termination violates the fundamental public policy contained in Labor Code §
14 1102.5 that employers shall not retaliate against employees for reporting or objecting to what they
15 believe is illegal conduct.

16 135. Her termination also violates the fundamental public policy contained in Labor
17 Code § 1102.5 that employers shall not retaliate against employees for refusing to participate in
18 illegal conduct.

19 136. Her termination violates the fundamental public policy contained in Labor Code §
20 98.6 that employees are to be free from retaliation in the exercise of any rights afforded them.

21 137. Her termination violates the fundamental public policy contained in Labor Code §
22 232.5 that employees are to be free from retaliation for disclosing or discussing working
23 conditions.

24 138. The termination of Plaintiff's employment was motivated by Plaintiff's opposition
25 to activities made unlawful under any or all of the California public policies identified above.

26 139. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
27 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
28 benefits and has incurred other economic losses.

1 Plaintiff has suffered and continues to suffer substantial losses in earnings and other employment
2 benefits and has incurred other economic losses.

3 149. As a direct, foreseeable, and proximate result of Defendants' unlawful actions,
4 Plaintiff has suffered emotional distress, humiliation, shame, anxiety, and embarrassment, all to
5 Plaintiff's damage in an amount to be proven at the time of trial.

6 150. Plaintiff is therefore entitled to all legal and equitable remedies, including
7 restitution.

8 151. Defendants committed the acts herein despicably, maliciously, fraudulently, and
9 oppressively, with the wrongful intention of injuring Plaintiff, from an improper and evil motive
10 amounting to malice, and in conscious disregard of the rights and safety of Plaintiff and others.
11 Plaintiff is thus entitled to recover punitive damages from Defendants in an amount according to
12 proof.

13 152. Plaintiff is entitled to attorneys' fees under California Code of Civil Procedure §
14 1021.5. Plaintiff is also entitled to costs.

15 **NINTH CAUSE OF ACTION**

16 **MISAPPROPRIATION OF TRADE SECRETS**

17 **(Against All Defendants)**

18 153. Plaintiff re-alleges and incorporates by reference each and every allegation
19 contained in the previous paragraphs of this Complaint as though fully set forth herein.

20 154. Plaintiff is an expert in the field of marketing, known for her prowess and creativity,
21 and hired by top-notch companies for her unmatched skill and ability. Her know-how and
22 experience created a highly valuable skill set and the intricate marketing designs that she developed
23 are representative examples of her intellectual property.

24 155. Plaintiff created, developed, and authored trade secret information which has been
25 misappropriated and used by Defendants. Examples include the branding ideas and strategies,
26 presentations and designs more fully set forth in Paragraphs 15–32 herein.

27 156. The proprietary marketing concepts and ideas of Plaintiff described herein were
28 disclosed to Defendants and constitute trade secrets under California's Uniform Trade Secrets Act,

1 Cal. Civ. Code § 3426 *et seq.* Plaintiff disclosed those trade secrets to Defendants with the
2 understanding that they were her confidential work product, as evidenced by the “Confidential”
3 markings on the slide presentations containing them. By virtue of those “Confidential” markings,
4 and based on the relationship of trust and confidence between Plaintiff and Defendants, Plaintiff’s
5 measures to protect the secrecy of her trade secrets were reasonable.

6 157. Plaintiff’s trade secrets derive independent economic value from not being
7 generally known to and not being readily ascertainable through proper means by another person
8 who can obtain economic value from their disclosure or use.

9 158. In violation of Plaintiff’s rights, Defendants misappropriated her confidential,
10 proprietary and trade secret information in the improper and unlawful manner as alleged herein.

11 159. Defendants’ acquisition and use of these trade secrets without payment or
12 permission is a violation of the Defend Trade Secrets Act.

13 160. Defendants wrongfully acquired Plaintiff’s trade secrets through deception and
14 misrepresentation. Defendants spent many months using the lure of a high-profile job with
15 lucrative stock options and outstanding benefits, only to gain Plaintiff’s trade secrets, give her a
16 job for three weeks, and then terminate her for no lawful reason.

17 161. Defendants have been unjustly enriched by their misappropriation of Plaintiff’s
18 trade secrets. Based on the historical business practices and growth of Defendants over the last 30
19 years, it is highly unlikely that Defendants would have the success they have enjoyed had it not
20 been for their misappropriation and use of Plaintiff’s trade secrets, marketing skills and idea
21 development.

22 162. Defendants’ misappropriation and misconduct was willful, malicious, fraudulent,
23 and oppressive.

24 163. Plaintiff suffered actual loss as a direct and proximate result of Defendants’
25 misappropriation of Plaintiff’s trade secrets. The damages suffered by Plaintiff include, without
26 limitation, the loss of value of Plaintiff’s core marketing and rebranding plan and strategy which
27 were developed over years and with considerable research. Defendants’ actions have also marred
28 Plaintiff’s reputation within the industry, causing her to be unable to secure work, costing her

1 substantial personal and business harm. Plaintiff is also entitled to recover damages for the unjust
2 enrichment to Defendants caused by their acts of misappropriation of trade secrets, which is
3 estimated to be at least approximately \$350 million.

4 164. Plaintiff is entitled to an award of exemplary damages and reasonable attorneys'
5 fees.

6 **TENTH CAUSE OF ACTION**

7 **FRAUD**

8 **(Against All Defendants)**

9 165. Plaintiff re-alleges and incorporates by reference each and every allegation
10 contained in the previous paragraphs of this Complaint as though fully set forth herein.

11 166. In seeking to convert and misappropriate Plaintiff's confidential and proprietary
12 trade information to their own use and benefit, Defendants made false promises and
13 representations to Plaintiff that she would enjoy a long-term position with Xilinx, and that this
14 position would provide a highly generous compensation package, including significant stock
15 options. Indeed, Mr. Peng represented to Plaintiff that her options package was higher than most
16 of the Company's executive staff.

17 167. Defendants made these promises and representations to Plaintiff without any
18 intention of performing them, and with knowledge of their falsity and without regard for their
19 truth.

20 168. Plaintiff reasonably relied on these promises when making decisions to disclose
21 and share her confidential, proprietary trade secret information with Defendants.

22 169. Defendants did not honor and fulfill their promises and representations.

23 170. As a result of Plaintiff's reliance on Defendants' false promises and
24 misrepresentations, Plaintiff has been and continues to be damaged and irreparably injured. Such
25 damages include the value of her confidential and proprietary trade secret information that was
26 wrongfully taken by Defendants together with lost business and profits that she would have earned
27 had it not been for the actions of Defendants. Plaintiff also suffered non-economic losses as a result
28 of Defendants' fraud, including physical pain and mental suffering.

1 171. Defendants' wrongful actions were committed with malice, oppression and fraud,
2 thereby entitling Plaintiff to an award of exemplary damages.

3 **ELEVENTH CAUSE OF ACTION**

4 **Intentional Misrepresentation in Violation of California Civil Code §§ 1709 & 1710(1)**

5 **(Against All Defendants)**

6 172. Plaintiff re-alleges and incorporates by reference each and every allegation
7 contained in the previous paragraphs of this Complaint as though fully set forth herein.

8 173. In seeking to convert and misappropriate Plaintiff's confidential and proprietary
9 trade information to their own use and benefit, Defendants made false promises and
10 representations to Plaintiff that she would enjoy a long-term position with Xilinx, and that this
11 position would provide a highly generous compensation package, including significant stock
12 options. Indeed, Mr. Peng represented to Plaintiff that her options package was one of the highest
13 in the Company.

14 174. Defendants made these promises and representations to Plaintiff without any
15 intention of performing them, and with knowledge of their falsity and without regard for their
16 truth.

17 175. Plaintiff reasonably relied on these promises when making decisions to disclose
18 and share her confidential, proprietary trade secret information with Defendants.

19 176. Defendants did not honor and fulfill their promises and representations.

20 177. As a result of Plaintiff's reliance on Defendants' false promises and
21 misrepresentations, Plaintiff has been and continues to be damaged and irreparably injured. Such
22 damages include the value of her confidential and proprietary trade secret information that was
23 wrongfully taken by Defendants together with lost business and profits that she would have earned
24 had it not been for the actions of Defendants. Plaintiff also suffered non-economic losses as a result
25 of Defendants' fraud, including physical pain and mental suffering.

26 178. Defendants' wrongful actions were committed with malice, oppression and fraud,
27 thereby entitling Plaintiff to an award of exemplary damages.

28

1 **TWELFTH CAUSE OF ACTION**

2 **Negligent Misrepresentation in Violation of California Civil Code §§ 1709 & 1710(2)**

3 **(Against All Defendants)**

4 179. Plaintiff re-alleges and incorporates by reference each and every allegation
5 contained in the previous paragraphs of this Complaint as though fully set forth herein.

6 180. Defendants made false promises and representations to Plaintiff that she would
7 enjoy a long-term position with Xilinx, and that this position would provide a highly generous
8 compensation package, including significant stock options. Indeed, Mr. Peng represented to
9 Plaintiff that her options package was one of the highest in the Company.

10 181. Defendants made these promises and representations to Plaintiff without reasonable
11 grounds for believing the representations and promises were true when Defendants made them.
12 Defendants intended that Plaintiff rely on these representations.

13 182. Plaintiff reasonably relied on these promises when making decisions to disclose
14 and share her confidential, proprietary trade secret information with Defendants.

15 183. Defendants did not honor and fulfill their promises and representations.

16 184. As a result of Plaintiff's reliance on Defendants' false promises and
17 misrepresentations, Plaintiff has been and continues to be damaged and irreparably injured. Such
18 damages include the value of her confidential and proprietary trade secret information that was
19 wrongfully taken by Defendants together with lost business and profits that she would have earned
20 had it not been for the actions of Defendants. Plaintiff also suffered non-economic losses as a result
21 of Defendants' fraud, including physical pain and mental suffering.

22 185. Defendants' wrongful actions were committed with malice, oppression and fraud,
23 thereby entitling Plaintiff to an award of exemplary damages.

24 **THIRTEENTH CAUSE OF ACTION**

25 **Concealment in Violation of California Civil Code §§ 1709 & 1710(3)**

26 **(Against All Defendants)**

27 186. Plaintiff re-alleges and incorporates by reference each and every allegation
28 contained in the previous paragraphs of this Complaint as though fully set forth herein.

1 187. Defendants made false promises and representations to Plaintiff that she would
2 enjoy a long-term position with Xilinx, and that this position would provide a highly generous
3 compensation package, including significant stock options. Indeed, Mr. Peng represented to
4 Plaintiff that her options package was one of the highest in the Company.

5 188. Defendants intentionally failed to disclose certain facts that were known to them
6 and that Plaintiff could not have discovered.

7 189. Plaintiff did not know of the concealed facts.

8 190. Defendants intended to deceive Plaintiff by concealing the facts.

9 191. Had the omitted information been disclosed, Plaintiff reasonably would have
10 behaved differently.

11 192. As a result of Plaintiff's reliance on Defendants' false promises and
12 misrepresentations, Plaintiff has been and continues to be damaged and irreparably injured. Such
13 damages include the value of her confidential and proprietary trade secret information that was
14 wrongfully taken by Defendants, together with lost business and profits that she would have earned
15 had it not been for the actions of Defendants. Plaintiff also suffered non-economic losses as a result
16 of Defendants' fraud, including physical pain and mental suffering.

17 193. Defendants' wrongful actions were committed with malice, oppression and fraud,
18 thereby entitling Plaintiff to an award of exemplary damages.

19 **FOURTEENTH CAUSE OF ACTION**

20 **False Promise/Promissory Fraud in Violation of California Civil Code §§ 1709 & 1710(4)**

21 **(Against All Defendants)**

22 194. Plaintiff re-alleges and incorporates by reference each and every allegation
23 contained in the previous paragraphs of this Complaint as though fully set forth herein.

24 195. Defendants made promises to Plaintiff.

25 196. Defendants did not intend to perform these promises when Defendants made them.

26 197. Defendants intended that Plaintiff rely on these promises.

27 198. Plaintiff reasonably relied on Defendants' promises.

28 199. Defendants did not perform the promised acts.

1 1021.5, and Cal. Gov't Code § 12965;

2 J. For an award to Plaintiff of all pre-judgment interest and post-judgment interest
3 available under law;

4 K. For an award to Plaintiff for any other appropriate equitable relief; and

5 L. For additional and further relief as the Court may deem just and proper.

6 Date: August 9, 2021

SANFORD HEISLER SHARP, LLP

7 By: *Danielle Fuschetti*

8 ED CHAPIN
9 DANIELLE FUSCHETTI
10 QIAOJING ZHENG
11 LUCY ZHOU *
12 CLARE J. HORAN *
13 Attorneys for Plaintiff

12 Date: August 9, 2021

FITZGERALD KNAIER LLP

13 *Ken Fitzgerald*
14 KENNETH M. FITZGERALD
15 Attorneys for Plaintiff

16 **DEMAND FOR JURY TRIAL**

17 Plaintiff hereby requests trial by jury.

19 Date: August 9, 2021

SANFORD HEISLER SHARP, LLP

20 By: *Danielle Fuschetti*

21 DANIELLE FUSCHETTI
22 Attorneys for Plaintiff

23 Date: August 9, 2021

FITZGERALD KNAIER LLP

24 By: *Ken Fitzgerald*

25 KENNETH M. FITZGERALD
26 Attorneys for Plaintiff

27
28

1 *Continued from Caption Page*

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12 * *application for admission pro hac vice forthcoming*

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