

ZHENG LIU (SBN: 229311)
zheng.liu@rimonlaw.com
RIMON P.C.
800 Oak Grove Avenue Suite, 250
Menlo Park, California 94025
Telephone/Facsimile: (650) 461-4433

SCOTT R. RABER (SBN 194924)
scott.raber@rimonlaw.com
RIMON P.C.
One Embarcadero Center, Suite 400
San Francisco, California 94111
Telephone: 415.683.5472
Facsimile: 800.930.7271

Attorneys for Third Party XMOTORS.ai. INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TESLA, INC., a Delaware corporation,

Plaintiff,

v.

GUANGZHI CAO, an individual

Defendant.

Case No. 19-cv-01463-VC

**DECLARATION OF XINZHOU WU IN
SUPPORT OF THIRD PARTY
XMOTORS.AI'S MOTION FOR
PROTECTIVE ORDER**

I, Xinzhou Wu, declare:

1. My name is Xinzhou Wu and I am over 18 years of age and competent to testify to the facts in this declaration. The information provided in this declaration is based upon my personal knowledge. If called upon to do so, I would and could testify competently thereto.
2. I am currently employed by XMotors.ai, Inc. (“XMotors”) as its Chief Executive Officer, and I was Dr. Guangzhi Cao’s direct supervisor when he was actively working at XMotors. There are about 70 engineers under my supervision at XMotors.
3. I am familiar with XMotors’ corporate entity status, Dr. Cao’s employment status, his access to XMotors’ technology and data storage systems, how he worked with his co-workers, and XMotors’ source code.
4. XMotors.ai, Inc. is a startup company incorporated in Delaware with its headquarters in Mountain View, California. Xiaopeng Motors is a company incorporated in China with its headquarters in Guangzhou, China. Xiaopeng Motors is XMotors’ sister company. The two companies are separate corporate entities with separate Boards of Directors and separate management.
5. On March 21, 2019, the day Tesla filed its lawsuit against Dr. Cao, under my supervision, Dr. Cao was put on administrative leave until further notice. I also instructed him not to use or access any XMotors’ related accounts/systems until further notice. Our HR manager Judy Cheng, who directly reports to me, personally collected Dr. Cao’s personal and work-issued electronic devices and had them stored at XMotors’ office, until they were turned over for forensic imaging shortly thereafter.
6. In May 2019, I formally worked out a system with Dr. Cao and IT that Dr. Cao was allowed to have read-only access to part of XMotors’ system, where he could receive emails and Dingtalk messages, but he could not send emails or Dingtalk messages or upload any documents or information onto XMotors’ system. He could read other documents in the system but could not make any changes.
7. Dr. Cao performed some discrete tasks which are unrelated to his former role as a technical lead under my supervision from June to August of 2019. The tasks were providing guidance and feedback to engineers working on indoor self-parking feature. Other than that, he did not perform

any work since March 21, 2019. During the period of time he performed these tasks for me, he had the same level of restricted access as described in paragraph 6.

8. Dr. Cao is still on administrative leave and under the same restrictions as to access to and use of XMotors' system as described in paragraph 6.

9. Before Dr. Cao went on leave, he did not submit, revise, or edit any source code to or in the XMotors' code repository during the nine weeks he had actively worked at XMotors. He had a technical lead role and he spent most of his time planning the direction of the projects and supervising other engineers' work. Dr. Cao also did not submit, revise, or edit any source code to or in repository during his leave.

10. Brian Gu, Xiaopeng He and Zhiguang Xiao reside and work in China. They have never been and are not employees of XMotors. Brian Gu and Xiaopeng He have senior management roles at Xiaopeng Motors. They have never worked on coding at Xiaopeng Motors. They have never worked directly with Dr. Cao. Zhiguang Xiao never worked closely with Dr. Cao. Junli Gu was an XMotors employee but she never worked directly with Dr. Cao. She led a separate team called Advanced Technology Group under my supervision. Dr. Cao was not part of that team.

11. XMotors' source code is highly confidential and critical to the business of XMotors. It is central to the operations of XMotors' autonomous driving vehicles. Substantial resources have been used to create the source code. An average of 70 engineers worked on these codes for more than two years and at the minimum tens of millions of dollars were spent creating, maintaining, and improving it. Its value is incalculable. XMotors has kept it as highly confidential at all times, and only discloses it to employees who have the need to access or work with it. XMotors has its own method of keeping track of any change or update to its source code and maintaining its source code. It also has records of who has access to XMotors' source code and the details of who makes changes to which codes. Such method and records are also highly confidential. It is certainly not something to be shared with any third-party, much less a competitor such as Tesla.

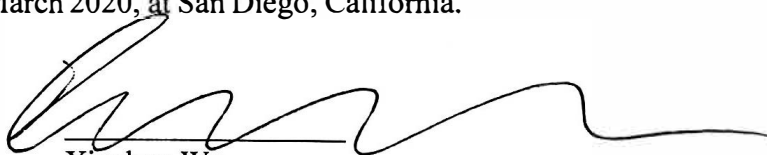
12. Dr. Cao never provided me with any Tesla source code materials or confidential information. Based on my knowledge and information, he also never provided any other XMotors

employees with any Tesla source code materials.

13. As a condition of employment, all XMotors employees receive, as part of the job offer, a confidentiality provision where job candidates were not to disclose to XMotors or make use of any confidential, proprietary, or trade secret information of a prior or current employer or an entity. Attached hereto as Exhibit A is a true and correct copy of the offer letter Dr. Cao signed as a condition of employment.

14. Based on XMotors' employment records, Mr. Xiaolang Zhang started working at XMotors on May 7, 2018 and was terminated on July 11, 2018. In summer 2018, XMotors produced documents in Mr. Zhang's criminal case to the U.S. government under a grand jury subpoena as a third party. I became CEO of XMotors in late 2018. To the best of my knowledge, XMotors has not been a party in this criminal case and there has been no investigation against XMotors.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 31st day of March 2020, at San Diego, California.


Xinzhou Wu