

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

SPARK CONNECTED, LLC, KENNETH
MOORE, EMANUEL STINGU, and
RUWANGA DASSANAYAKE,

Plaintiffs and Counter-Defendants,

v.

SEMTECH CORPORATION,

Defendant and Counter-Plaintiff.

Civil Action No. 4:18-cv-00748

JURY TRIAL REQUESTED

**DEFENDANT SEMTECH CORPORATION'S ANSWER, AFFIRMATIVE DEFENSES,
AND COUNTERCLAIMS**

Defendant Semtech Corporation (“Semtech”), for its Answer, Affirmative Defenses, and Counterclaims to the Complaint for Declaratory Judgment (“Complaint”) by Plaintiffs Spark Connected, LLC (“Spark”), Ken Moore (“Moore”), Emanuel Stingu (“Stingu”), and Ruwanga Dassanayake (“Dassanayake”) (collectively, “Plaintiffs”), admits, denies, and alleges as follows.

PRELIMINARY STATEMENT

While Plaintiffs filed a declaratory judgment Complaint asking this Court to absolve them of any wrongdoing, the information collected by Semtech to date proves Plaintiffs’ wrongdoing and the urgent need for an injunction to stop it. When Moore sold his ownership stake in Triune Systems, L.L.C. (“Triune”) to Semtech for millions of dollars in March 2015, he agreed not to compete with Semtech for five years. But after Semtech terminated Moore’s employment in May 2017, Moore promptly formed Spark to compete directly with Semtech’s unique wireless power solutions. His strategy to compete with Semtech included hiring away

certain key technical and marketing employees of Semtech with extensive access to Semtech's wireless power confidential information and trade secrets.

To help fulfill this plan, only weeks after Moore's termination, Stingu, without any notice, mysteriously began an extended "vacation," and he resigned from Semtech shortly thereafter without ever returning to work. Stingu then began working with Spark while still in possession of Semtech's highly sensitive wireless power confidential information and trade secrets. Similarly, on information and belief, by September 2017—only two and a half weeks after Spark was officially formed—Dassanayake began acting as a double-agent for Spark and emailing Semtech's confidential information and trade secrets to his personal email account. He then promptly began employment with Spark, only days after his employment with Semtech ended in January 2018. Only two months later, at a March 2018 industry conference, Spark demonstrated a wireless charging solution remarkably similar to Semtech's. That solution took Semtech years to develop but was achieved by Spark in mere months. Shortly thereafter, Spark began actively marketing that solution. By August 2018, Dassanayake had contacted a large Semtech vendor and prospective customer and represented that Spark would soon be able to offer the same wireless power solution as Semtech but that Spark could undercut Semtech's pricing. These actions were in flagrant violation of Moore's, Stingu's, and Dassanayake's legal and contractual duties to their former employer, Semtech.

The facts expose a pattern of conduct in which Moore and Spark have improperly competed with Semtech, solicited Semtech employees, encouraged them to retain and disclose Semtech's confidential information and trade secrets, and used such information and trade secrets to compete directly with Semtech in the wireless power market, actions that will irreparably harm Semtech if not enjoined. Semtech thus brings these counterclaims to prevent

Plaintiffs from unfairly competing and improperly usurping Semtech's significant investment of time, effort, and resources in developing, engineering, and selling wireless power solutions.

NATURE OF THE ACTION

1. In answer to Paragraph 1, Semtech admits that Plaintiffs' action is for a declaratory judgment seeking certain determinations. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 1.

PARTIES

2. In answer to Paragraph 2, Semtech is without knowledge or information sufficient to form a belief as to the truth of the allegations thereof, and on that basis denies them.

3. In answer to Paragraph 3, Semtech is without knowledge or information sufficient to form a belief as to the truth of the allegations thereof, and on that basis denies them.

4. In answer to Paragraph 4, Semtech is without knowledge or information sufficient to form a belief as to the truth of the allegations thereof, and on that basis denies them.

5. In answer to Paragraph 5, Semtech is without knowledge or information sufficient to form a belief as to the truth of the allegations thereof, and on that basis denies them.

6. In answer to Paragraph 6, Semtech admits the allegations thereof.

JURISDICTION AND VENUE

7. In answer to Paragraph 7, Semtech admits the allegations thereof.

8. In answer to Paragraph 8, Semtech admits that this Court has subject matter jurisdiction over this action.

9. In answer to Paragraph 9, Semtech admits that it has conducted certain business in this district. Semtech further admits that it has a place of business located in this district at 1101 Resource Dr., Suite 121, Plano, Texas 75074. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 9.

10. In answer to Paragraph 10, Semtech admits that venue is proper in this district because it resides in this district. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 10.

11. In answer to Paragraph 11, Semtech admits that this Court has subject matter jurisdiction over this action. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 11.

FACTUAL ALLEGATIONS

12. In answer to Paragraph 12, Semtech admits that Moore, Stingu, and Dassanayake are former employees of Semtech. Semtech further admits that Moore's employment with Semtech ended in May 2017. Semtech further admits that Moore, Stingu, and Dassanayake are currently employed by Plaintiff Spark. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 12.

13. In answer to Paragraph 13, Semtech admits that on September 4, 2018, Semtech's counsel sent a letter to Plaintiffs' then-counsel, Patricia A. Nolan, that alleged, among other things, that Plaintiffs had misappropriated Semtech's trade secrets.

14. In answer to Paragraph 14, Semtech admits the allegations thereof.

15. In answer to Paragraph 15, Semtech denies the allegations thereof.

16. In answer to Paragraph 16, Semtech admits the allegations thereof.

17. In answer to Paragraph 17, Semtech admits that its September 4, 2018 letter demanded that Plaintiffs take certain actions. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 17.

18. In answer to Paragraph 18, Semtech admits that on or about September 19, 2018, Plaintiffs' instant counsel responded to Semtech's September 4, 2018 letter.

19. In answer to Paragraph 19, Semtech denies the allegations thereof.

20. In answer to Paragraph 20, Semtech denies the allegations thereof.

21. In answer to Paragraph 21, Semtech admits the allegations thereof.

22. In answer to Paragraph 22, Semtech is without knowledge or information sufficient to form a belief as to the truth of the allegations thereof, and on that basis denies them.

COUNT 1

DECLARATION THAT THE NON-COMPETE AND NON-SOLICITATION PROVISIONS OF KEN MOORE'S PURCHASE AGREEMENT ARE NO LONGER ENFORCEABLE

23. In answer to Paragraph 23, Semtech incorporates by reference all prior paragraphs of this Answer.

24. In answer to Paragraph 24, Semtech admits that Paragraph 24 of the Complaint quotes certain portions of the Declaratory Judgment Act, 28 U.S.C. § 2201(a); *Nike, Inc. v. Already, LLC*, 663 F.3d 89, 94 (2d Cir. 2011), *aff'd*, 133 S. Ct. 721, 184 L. Ed. 2d 553 (2013); and *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007). Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 24.

25. In answer to Paragraph 25, Semtech admits that a dispute exists between Plaintiff Moore and Semtech regarding whether Moore breached Section 7.1 of the Purchase Agreement. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 25.

26. In answer to Paragraph 26, Semtech admits that Plaintiff Moore executed a separation agreement in June 2017. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 26.

27. In answer to Paragraph 27, Semtech denies the allegations thereof.

28. In answer to Paragraph 28, Semtech denies that Plaintiff Moore is entitled to any of the relief requested.

COUNT 2

DECLARATION THAT KEN MOORE AND RUWANGA DASSANAYAKE HAVE NOT BREACHED SEPARATION AGREEMENTS

29. In answer to Paragraph 29, Semtech incorporates by reference all prior paragraphs of this Answer.

30. In answer to Paragraph 30, Semtech admits that Paragraph 30 of the Complaint quotes certain portions of the Declaratory Judgment Act, 28 U.S.C. § 2201(a); *Nike, Inc. v. Already, LLC*, 663 F.3d 89, 94 (2d Cir. 2011), *aff'd*, 133 S. Ct. 721, 184 L. Ed. 2d 553 (2013); and *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007). Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 30.

31. In answer to Paragraph 31, Semtech admits that a dispute exists between Plaintiffs Moore and Dassanayake, on the one hand, and Semtech, on the other, regarding whether Moore and Dassanayake have breached certain confidentiality agreements. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 31.

32. In answer to Paragraph 32, Semtech denies the allegations thereof.

33. In answer to Paragraph 33, Semtech denies that Plaintiffs Moore and Dassanayake are entitled to any of the relief requested.

COUNT 3

DECLARATION THAT KEN MOORE, EMANUEL STINGU, RUWANGA DASSANAYAKE, AND SPARK CONNECTED, LLC HAVE NOT MISAPPROPRIATED SEMTECH TRADE SECRETS

34. In answer to Paragraph 34, Semtech incorporates by reference all prior paragraphs of this Answer.

35. In answer to Paragraph 35, Semtech admits that Paragraph 35 of the Complaint quotes certain portions of the Declaratory Judgment Act, 28 U.S.C. § 2201(a); *Nike, Inc. v.*

Already, LLC, 663 F.3d 89, 94 (2d Cir. 2011), *aff'd*, 133 S. Ct. 721, 184 L. Ed. 2d 553 (2013); and *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007). Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 35.

36. In answer to Paragraph 36, Semtech admits that a dispute exists between Plaintiffs and Semtech regarding whether Plaintiffs have misappropriated Semtech's trade secrets. Except as expressly admitted herein, Semtech denies each and every allegation set forth in Paragraph 36.

37. In answer to Paragraph 37, Semtech denies the allegations thereof.

38. In answer to Paragraph 38, Semtech denies that Plaintiffs are entitled to any of the relief requested.

PRAYER FOR RELIEF

These paragraphs set forth Plaintiffs' request for relief, to which no response is required. Nevertheless, Semtech denies that Plaintiffs are entitled to any of the requested relief and denies the allegations in these paragraphs.

GENERAL DENIAL

To the extent that any allegations of the Complaint are not specifically admitted, Semtech hereby denies them.

AFFIRMATIVE DEFENSES

Without admitting or acknowledging that it bears the burden of proof as to any of them, Semtech pleads the following defenses:

FIRST AFFIRMATIVE DEFENSE

39. The Purchase Agreement, dated March 4, 2015, among Semtech, Triune, and Plaintiff Moore, remains in full force and effect, including without limitation the non-competition and non-solicitation provisions.

SECOND AFFIRMATIVE DEFENSE

40. Plaintiff Moore breached his Employee Confidentiality Agreement and Proprietary Rights Assignment, dated March 4, 2015, by retaining, disclosing, and/or using Semtech's confidential, proprietary, and/or trade secret information, and by soliciting Semtech's employees, after his employment with Semtech terminated.

THIRD AFFIRMATIVE DEFENSE

41. Plaintiff Moore breached his Separation and General Release Agreement, dated June 16, 2017, by retaining, disclosing, and/or using Semtech's confidential, proprietary, and/or trade secret information, and by soliciting Semtech's employees, after his employment with Semtech terminated.

FOURTH AFFIRMATIVE DEFENSE

42. Plaintiff Dassanayake breached his Employee Confidentiality Agreement and Proprietary Rights Assignment, dated August 31, 2015, by retaining, disclosing, and/or using Semtech's confidential, proprietary, and/or trade secret information after his employment with Semtech terminated.

FIFTH AFFIRMATIVE DEFENSE

43. Plaintiff Dassanayake breached his Separation and General Release Agreement, dated March 22, 2018, by retaining, disclosing, and/or using Semtech's confidential, proprietary, and/or trade secret information after his employment with Semtech terminated.

SIXTH AFFIRMATIVE DEFENSE

44. Plaintiffs have misappropriated Semtech's trade secrets.

SEVENTH AFFIRMATIVE DEFENSE

45. Semtech reserves the right to assert additional defenses upon discovery of further information concerning Plaintiffs' claims.

**SEMTECH'S COUNTERCLAIMS FOR
DAMAGES, INJUNCTIVE, AND OTHER RELIEF**

Defendant and Counter-Plaintiff Semtech hereby counterclaims and alleges against Plaintiffs and Counter-Defendants Spark, Moore, Stingu, and Dassanayake (collectively, "Counter-Defendants"), as follows:

THE PARTIES

1. Semtech is a Delaware corporation with its headquarters in Camarillo, California, and offices abroad and throughout North America, including in Plano, Texas. In March 2015, Semtech acquired Triune, a Texas limited liability company located in Plano that was owned by several individuals, including Moore.

2. Semtech is informed and believes that Spark is an Ohio limited liability company with its headquarters in Dallas, Texas. Semtech is further informed and believes that Spark was formed on September 11, 2017 as a Delaware limited liability company and was subsequently converted to an Ohio limited liability company in or around January 2018.

3. Semtech is informed and believes that Moore is a resident of Dallas, Texas. Moore served as the Vice President of Marketing and Applications for Triune in Plano, Texas from November 2011 until the acquisition of Triune by Semtech in March 2015. Moore subsequently served as the Vice President and General Manager of the Triune Product Group for Semtech in Plano, Texas from March 2015 to November 2016, and the Vice President of Marketing and Applications for Semtech's Power Business Unit from November 2016 to May 2017. Moore formed Spark on September 11, 2017, and currently serves as the Chief Executive Officer of Spark.

4. Semtech is informed and believes that Stingu is a resident of Dallas, Texas. Stingu served as a Systems Lead at Triune in Plano, Texas from 2012 until the acquisition of

Triune by Semtech in March 2015. Stingu subsequently served as a Senior Staff System Design Engineer for Semtech in Plano, Texas from March 2015 to June 12, 2017. Stingu currently serves as the Chief Technology Officer of Spark.

5. Semtech is informed and believes that Dassanayake is a resident of Dallas, Texas. Dassanayake served as a Senior Product Marketing Specialist for Semtech from August 31, 2015 to January 26, 2018. Dassanayake currently serves as the Chief Operating Officer of Spark.

6. Semtech is informed and believes that Moore, Stingu, and Dassanayake have acted and are presently acting as the agents and/or employees of Spark and working on its behalf.

JURISDICTION AND VENUE

7. This action arises under the Defend Trade Secrets Act of 2016, 18 U.S.C. §§ 1836, *et seq.*, as amended, and Texas statutory and common law. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and has supplemental jurisdiction over the state law claims alleged in these counterclaims under 28 U.S.C. § 1367.

8. This Court has personal jurisdiction over Counter-Defendants, as each is domiciled in the state of Texas.

9. As is further set forth herein, Semtech is a resident of this district, and a substantial part of the events or omissions giving rise to the claims alleged in this Complaint occurred and have a direct effect in this District. Venue therefore lies in the United States District Court for the Eastern District of Texas pursuant to 28 U.S.C. § 1391(b)(1) & (b)(2).

GENERAL ALLEGATIONS

A. Semtech's Unique, Firmware-Based Wireless Power Solutions.

10. Publicly traded for over 50 years with 32 locations across the world, Semtech is a leading analog and mixed-signal semiconductor and advanced algorithm company that develops, designs, and sells semiconductor products for consumer, enterprise computing, communications,

and industrial markets. Its product platforms include, among others, circuit protection, signal integrity, smart sensing power management, and, of interest in this case, wireless charging and power transfer. Semtech's diversified portfolio of products is used by original equipment manufacturers and their suppliers for automotive, LCD TV, smartphone, tablet, wearable, wireless, and other applications. In the wireless power market, Semtech designs both integrated circuit chips and system schematics and layouts that customers include in and/or use as a reference to make their own wireless power products. These chips and layouts provide Semtech's customers with the building blocks they need to make wireless power products, for example, a wireless charger or piece of furniture that makes it possible to charge a mobile phone by simply placing it on the charger or tabletop without the need to plug a cord or cable into the phone.

11. Semtech's firmware and the underlying source code containing its wireless power algorithms are some of Semtech's most important and valuable pieces of intellectual property related to its wireless power solutions. Developed using proprietary techniques and methods, Semtech's firmware-based wireless power solution sets Semtech apart from its competitors, which offer a hardware-based solution. For example, with hardware-based solutions, a change in the hardware is required to adjust to new standards, whereas with firmware-based solutions, such as Semtech's, only a software update is required to adjust to these changes. Semtech's firmware starts as a general module that can be customized for customer-specific needs. Semtech's wireless power solutions also use a specific single signal that operates at a frequency that minimizes load variation, whereas Semtech's competitors use multiple signals. Additionally, Semtech has developed a proprietary wireless charging technique known as BlackJack™ for low-power wireless charging used for wearable devices. And Semtech has developed wireless

charging solutions that are able to charge devices at a distance greater than what is standard in the industry. The flexibility of these and other of Semtech's confidential technologies have given Semtech a substantial commercial advantage in the wireless power market, which is burgeoning and changing rapidly.

12. On March 4, 2015, Semtech acquired Triune from Moore and other persons not parties to this lawsuit for approximately \$45 million in cash consideration, plus the opportunity to receive an earn-out of additional money. Among other product areas, Triune was developing and engineering wireless power technology. Semtech specifically targeted Triune for various technologies, including Triune's wireless power intellectual property.

13. Since the acquisition, Semtech has continued to invest substantial time, effort, and many millions of dollars into its wireless charging solutions, in the form of, among other things, thousands of engineering hours, wafer masks, wafers, circuit chips, firmware development, systems design, backend test solutions, test boards, and evaluation boards. This process took years. In particular, the development of the general firmware used in Semtech's wireless power solutions took three to four years. Stingu, along with other Semtech engineers, was instrumental in developing the firmware at Triune and subsequently at Semtech. Through this time-consuming and expensive process, Semtech achieved many important and commercially valuable advances in designing semiconductors and systems for its wireless power solutions.

B. Semtech's Trade Secrets And Its Extensive Measures To Protect Them.

14. Semtech's development of its wireless power solutions has produced a substantial amount of highly sensitive and proprietary confidential information and trade secrets, the confidentiality of which is critical to the significant value that these solutions represent to Semtech. Included among these trade secrets is technical know-how relating to firmware source code, wireless charging techniques and methods, unreleased or customer-specific system designs

and layout files, trial and error through research and development, and test results, as well as confidential information relating to the marketing and sale of Semtech's wireless power solutions, including specific customer identities, preferences, pricing and terms, industry competitive intelligence, strategic plans, bill of materials costs, built in overhead markups, and margins (collectively, the "Trade Secrets"). These Trade Secrets provide Semtech significant advantages in the wireless power market, because with these trade secrets, a competitor would be able to save the substantial time, effort, and resources required to develop wireless power solutions and identify target markets and customers.

15. To protect the confidentiality of the Trade Secrets, Semtech has implemented numerous security measures. For example, Semtech discloses confidential information to employees on a need-to-know basis, and it requires all employees who have access to confidential information or trade secrets to agree not to disclose that information. Employees must also agree to assign any inventions or intellectual property developed in the course of their employment to Semtech. Likewise, Semtech requires third parties who will receive access to its confidential information, such as actual and prospective customers, partners, and vendors, to sign non-disclosure agreements. Semtech maintains employee policies that express the importance of confidentiality and prohibit unauthorized actions regarding confidential information, including an Employee Handbook and Code of Conduct. Semtech also trains its employees on the importance of maintaining confidentiality.

16. Semtech maintains most, if not all, of its Trade Secrets in the form of electronic records. Access to these confidential electronic records, computers, and networks is limited to authorized persons and protected by a series of controls, including unique login credentials for

employees. Semtech also maintains other network protections to prevent unauthorized external access, including firewalls, encryption, and cyber security software.

17. Semtech's facilities, including the Plano, Texas location where Moore, Stingu, and Dassanayake worked, are physically secured against unauthorized access, including using locked doors, keycards, and other means. Semtech has visitor security measures to prevent unauthorized access by those visiting Semtech, including requiring all visitors to sign in and be escorted while in non-public areas.

C. Semtech Acquired Triune From Moore And Other Owners In March 2015, And Moore And Stingu Accepted Employment With Semtech.

18. Semtech acquired Triune from multiple Seller Parties through a Purchase Agreement, dated March 4, 2015 (the "Purchase Agreement"). Moore was a "Seller Party" under the Purchase Agreement and signed the Purchase Agreement as one of six "Owners" of Triune.

19. To protect its investment in acquiring Triune, Moore agreed that "[f]or a period of five (5) years beginning with the Closing Date" of March 4, 2015, he "shall not, and shall not permit any of the Affiliates of such Seller Party to, directly or indirectly, either alone or in association or in connection with or on behalf of any Person...become engaged in, or participate in...Restricted Business." "Restricted Business" is defined as:

the business of designing, developing, assembling, manufacturing, producing, testing, delivering, installing, marketing, selling or providing circuit solutions, power system and control semiconductor devices or designs (including firmware), reference designs as related to semiconductor devices or products, or semiconductor products for low power energy harvesting, solar power, wireless charging, isolated switching or any other power management application.

The prohibition against engaging or participating in Restricted Business includes "being or becoming, directly or indirectly, an organizer, owner, operator, investor, lender, lessor, partner,

joint venturer, equityholder, officer, director, employee, manager, representative, associate, advisor, consultant, or agent of, in, to or from any Restricted Business.”

20. Under the Purchase Agreement, Moore also agreed that he “shall not, and shall not permit any of the Affiliates of such Seller Party to, directly or indirectly, either alone or in association or in connection with or on behalf of any Person...for a five (5) year period commencing on the Closing Date, solicit or recruit the employment or consulting services of or hire or engage any employee, independent contractor or consultant.”

21. Moore became employed by Semtech after the acquisition, accepting employment with Semtech in the position of Vice President and General Manager of the Triune Product Group. Stingu also became employed by Semtech after the acquisition, accepting employment with Semtech in the position of Senior Staff System Design Engineer. Dassanayake, who did not have any prior relationship with Triune, became employed by Semtech in August 2015.

D. Moore, Stingu and Dassanayake Entered Into Various Agreements, Protecting Semtech’s Confidential Information And Trade Secrets, And Workforce.

22. As an owner and officer of Triune, and subsequently as a Vice President with Semtech, Moore had detailed knowledge of and access to Semtech’s Trade Secrets and other confidential information related to its wireless power solutions, including its firmware source code, techniques and methods, unreleased system designs and layout files, customer identities and preferences, market analysis, strategic plans, and costs and margins. Similarly, as a Systems Lead at Triune, and subsequently as a Senior Staff System Design Engineer with Semtech, Stingu had detailed knowledge of and access to certain technical Trade Secrets and other Semtech confidential information, including firmware source code, techniques and methods, unreleased system designs and layout files, research and development, and test results. Lastly, as a Senior Product Marketing Specialist with Semtech, Dassanayake had detailed knowledge of

and access to certain marketing Trade Secrets and other Semtech confidential information, including specific customer identities, preferences, pricing and terms, industry competitive intelligence, strategic plans, bill of materials costs, built in overhead markups, and margins.

23. In consideration of their employment with Semtech, each of Moore, Stingu, and Dassanayake was a party to a confidentiality agreement under which they promised:

not to use, disclose, disseminate or otherwise communicate, directly or indirectly, in whole or in part, at any time or in any manner, whether during or after my employment with the Company, even in the course of casual conversation, any Confidential Information without the prior written consent of the Company in each instance.

“Confidential Information” is broadly defined in the confidentiality agreement to include:

any and all information relating to the Company’s business or operations which is not generally known outside of the Company, [including, but not limited to] trade secrets, technology, ideas, processes, products, improvements, developments, discoveries, inventions, design, manufacture or sale of the Company’s products or services, computer hardware and software, business or marketing plans, the names and locations of employees, vendors, distributors and customers, equipment and produce design and concepts, research and development, selling, marketing and any actual or contemplated trademark, service mark, trade name or patent application.

24. Under the confidentiality agreements, Moore, Stingu, and Dassanayake also promised that, for a two-year period after the termination of their employment with Semtech, they would not “request, induce or attempt to influence any current or future officer, director, employee, consultant, agent or representative of the Company to (i) terminate his, her or its employment or business relationship with the Company or (ii) commit any act that, if committed by me, would constitute a breach of any provision hereof.”

25. In May 2017, Semtech terminated Moore’s employment. In January 2018, Dassanayake was part of a reduction in force by Semtech, and his employment with Semtech ended effective as of January 26, 2018. As part of their separations from Semtech, each of

Moore and Dassanayake received a severance payment as consideration for entering into a separation and general release agreement, under which they agreed to “continue to comply with the terms and conditions of employee confidentiality, trade secret, inventions assignment or similar agreement(s) previously entered into” between them and Semtech, and they also agreed not to retain any document, file or electronic record containing any confidential or proprietary information of Semtech. Lastly, each agreed under the separation agreements that, for a twelve-month period following their separations, they would not “induce or solicit, or attempt to induce or solicit, or cause any other person, business or entity to induce or solicit, any person who at the time of such inducement or solicitation is an employee of Semtech, to perform work or services for any other person or entity other than Semtech.”

E. Moore Formed Spark And Solicited Semtech’s Employees To Unfairly Compete With Semtech.

26. Shortly after Moore departed from Semtech in May 2017, Stingu mysteriously began an extended vacation with no set end date and ultimately resigned two weeks later without ever returning to work. More specifically, without any prior notice or request for time off, let alone the two-week notice required by Semtech’s vacation policy, on Monday, May 29, 2017, Stingu sent an email to his team, indicating that he was getting married and that he would be out that week and possibly early the following week. Despite multiple requests from Semtech for clarification on when he planned to return and reminders of trainings and meetings that had already been set, Stingu failed to provide any clarification of his return date and continued to extend his vacation. Then, on June 12, 2017, Stingu indicated that he did not intend to return to work at Semtech and requested termination paperwork. Semtech accepted his resignation and requested an exit interview. Stingu responded that he needed to consult with his attorney before doing anything.

27. Semtech is informed and believes that, at or about the time of his departure from Semtech in May 2017, Moore began planning and preparing to launch a new wireless power company that would compete with Semtech for business. Semtech is further informed and believes that, shortly before Stingu resigned from Semtech, Moore solicited, induced, and ultimately hired Stingu to assist with launching Moore's new wireless power company. The domain name for Spark's website, sparkconnected.com, was registered on June 5, 2017—exactly one month after Moore's last day at Semtech and the same day Stingu informed his Semtech colleagues that he was extending his vacation by at least two more weeks. As a result, Semtech is further informed and believes that Stingu was secretly working on behalf of Spark while he was still employed at Semtech. On September 11, 2017, Spark was officially formed as a Delaware limited liability company.

28. On January 25, 2018—one day before Dassanayake's termination of employment with Semtech was even effective—Stingu sent an email from a Spark email address to Dassanayake's Semtech email address, with a copy to Moore, about Stingu's idea for a Spark logo. As a result, Semtech is informed and believes that Spark, through Moore and/or Stingu, solicited and ultimately hired Dassanayake, who became officially employed by Spark immediately after his employment with Semtech terminated. However, Semtech is further informed and believes that Dassanayake was secretly working on behalf of Spark since no later than September 2017 while still employed at Semtech.

29. Following the hiring of these former key Semtech employees, Semtech is informed and believes that Spark was and is pursuing a strategy to become a competitor in the wireless power market by, in part, poaching experienced employees of Semtech with valuable

and extensive knowledge of the technical and marketing Trade Secrets and other confidential information regarding Semtech's wireless power solutions.

D. Semtech's Discovery Of Counter-Defendants' Actual And Threatened Misappropriation Of The Trade Secrets, And Counter-Defendants' Attempts To Interfere With Semtech's Business Relationships.

30. Following his resignation in June 2017, Semtech obtained from Stingu certain of his electronic devices, including his company-issued laptop computer, a portable hard drive, a USB flash drive, and a mobile phone. Semtech's forensic review of Stingu's devices resulted in multiple concerning and problematic findings, including:

a. The company-issued laptop was booted by a device using a Linux operating system, instead of the Windows operating system installed on the internal drive that came with the laptop, so any activity occurring while the laptop was booted using that Linux device, and any data stored on that device, was not identifiable from the laptop's internal drive.

b. The portable hard drive contained over 83,000 files, many containing confidential Semtech information, including, among others, its general firmware source code and algorithms, firmware encryption software, customer-specific firmware and source code, and R&D testing results and simulation data. This hard drive was formatted for a Linux operating system, meaning that the files on the hard drive were copied from a Linux device, but Stingu did not turn over any Linux device, indicating Stingu is still in possession of that device and Semtech's confidential information on it.

c. The USB flash drive contained over 1,100 files, including Semtech's general firmware source code and algorithms, firmware encryption software, customer-specific firmware and source code, and R&D testing results and simulation data. In fact, all of the files on the USB flash drive are identical matches to files stored on the portable

hard drive but with a different organization and the USB flash drive is formatted for the Windows operating system, indicating that another Windows device was used as a conduit to copy, and then organize, the files from the portable hard drive. However, there is no evidence of such activity on the Windows drive on the laptop, indicating that Stingu used another Windows device that he is still in possession of and contains Semtech's confidential information.

d. The mobile phone had been reset to its factory settings, so all of its data was erased before it was returned to Semtech. This is commonly referred to as "wiping," which is an attempt to remove data and avoid forensic analysis of the device.

31. Based on the foregoing, Semtech is informed and believes that Stingu retained, and remains in possession of, copies of Semtech's confidential information and trade secrets.

32. In March 2018, at the Applied Power Electronics Conference ("APEC 2018"), Spark demonstrated a wireless charging solution with a description of Spark's technology very similar to Semtech's. For instance, Spark's solution architecture was firmware-based with the promise of supporting future standards through firmware upgrades. Instead of a variable frequency for its hardware architecture, Spark chose a fixed frequency, the same as Semtech. Spark's solution used the same Infineon microcontroller for which Semtech had already written firmware. Spark offered fastcharge support, something that Semtech developed but that other competitors still were not able to offer. Moreover, Moore was presenting on behalf of Spark and, of any number of ways to demonstrate Spark's wireless charging solution, Moore used the exact same demonstration as Semtech of placing tea lights on a wireless charger to power them, which is illustrative of the lengths Spark went in copying Semtech. Semtech was dismayed to

see that it took Spark only a matter of months to develop the same wireless charging solution that Semtech spent several years and significant effort and resources developing.

33. Semtech is informed and believes that, in August 2018, Dassanayake, on behalf of Spark, contacted a large international vendor and prospective customer of Semtech and represented that Spark would soon be able to offer the same wireless power solution as Semtech but that Spark could undercut Semtech's pricing. Semtech had been actively working with this customer for over a year on developing a wireless charging solution. During his time at Semtech, Dassanayake had full knowledge of Semtech's business dealings with this customer, as well as Semtech's bill of materials costs, built in overhead, and markup. Semtech is further informed and believes that Counter-Defendants are using Semtech's Trade Secrets and other confidential information to establish partnerships with vendors and solicit prospective customers throughout the world.

34. This information, coupled with Spark's solicitation and hiring of Stingu and Dassanayake, caused Semtech to further investigate whether Spark and/or any of its agents or employees had improperly retained, disclosed, and/or used Semtech's Trade Secrets and other confidential information. While that investigation is ongoing and has necessarily been limited to information within Semtech's access, the results to date have been shocking and have led Semtech to conclude that Counter-Defendants are engaged in actual and threatened misappropriation of the Trade Secrets and other confidential information.

35. A review of certain internal Semtech emails shows that Dassanayake, Semtech's former Senior Product Marketing Specialist (and Spark's current Chief Operating Officer), began sending emails from his Semtech email account to his personal email account containing Semtech's Trade Secrets and other confidential information shortly after Spark's formation in

September 2017 (and four months *before* his employment with Semtech ended). Those email communications continued until the same day Dassanayake received notice of his termination from Semtech. Examples of the emails that Dassanayake sent to himself include the following:

a. On September 28, 2017—less than three weeks after Spark was formed—Dassanayake emailed himself contact information for Semtech customers.

b. On November 1, 2017, Dassanayake emailed himself a PowerPoint presentation titled “Wireless Charging Strategy Review, November 1, 2017.”

c. On November 1, 2017, Dassanayake also emailed himself a list of Semtech’s wireless power-related patents and patent applications, including several unpublished applications.

d. On November 7, 2017, Dassanayake sent himself an email attaching a spreadsheet containing wireless charging market analysis.

e. On December 11, 2017, Dassanayake emailed himself a chain of communications with a contact at a prospective customer interested in wireless charging.

f. On January 23, 2018—the day he was notified of his termination—Dassanayake emailed himself a spreadsheet identifying Semtech customers, with certain preferences relating to wireless power solutions and contact information.

36. Upon information and belief, the forensic review of Stingu’s devices and review of Dassanayake’s Semtech emails demonstrating Counter-Defendants’ misconduct are only the tip of the iceberg.

37. Semtech is informed and believes that Moore, Stingu, and Dassanayake have assumed roles at Spark similar to their prior roles at Semtech, in particular:

a. Moore was formerly an owner of Triune and Vice President of Marketing and Applications for the Power Business Unit of Semtech, and he is now founder and Chief Executive Officer of Spark.

b. Stingu was formerly a Senior Staff System Design Engineer for Semtech, and he is now Chief Technology Officer of Spark.

c. Dassanayake was formerly a Senior Product Marketing Specialist of Semtech, and he is now Chief Operating Officer of Spark.

38. Semtech is informed and believes that Spark has not taken the steps necessary to prevent these former Semtech employees from disclosing or using Semtech's Trade Secrets, such as assigning the employees to positions that have no relationship to wireless power. On the contrary, Spark is having them work directly on wireless power solutions.

39. Based on the information provided above, Semtech is informed and believes that Counter-Defendants have disclosed and used or will disclose and use Semtech's Trade Secrets and other confidential information to compete with Semtech in the wireless power market.

COUNT I
Violation Of Federal Defend Trade Secrets Act, 18 U.S.C. § 1836
(Against All Counter-Defendants)

40. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 39, inclusive, and incorporates them herein by reference.

41. Semtech is the owner of Trade Secrets relating to wireless power solutions. These Trade Secrets are described generally above and comprise financial, business, scientific, technical, economic, or engineering information that are used in or intended for use in interstate commerce and that accordingly constitute "trade secrets" under 18 U.S.C. § 1839(3).

42. Semtech has taken reasonable steps to maintain the secrecy of its Trade Secrets, including by, among other things, requiring confidentiality and/or nondisclosure agreements to

be signed by any party granted access to Semtech's Trade Secrets and by taking the other reasonable measures described above.

43. These confidential and proprietary Trade Secrets derive independent economic value from not being generally known to or readily ascertainable through proper means by another person who can obtain economic value from the disclosure and use of such information, and have conferred a competitive advantage on Semtech over others in the relevant market.

44. Other than through Counter-Defendants' improper disclosure, the Trade Secrets are not known to others and are not readily ascertainable by proper means to persons who could derive value from their disclosure or use.

45. Counter-Defendants misappropriated Semtech's Trade Secrets by improper means and without authorization, including by disclosing and using and/or threatening to disclose and use the Trade Secrets in interstate commerce, without Semtech's express or implied consent, in the development of competing wireless power solutions and in the other ways described above. Semtech's investigation of this conduct, which is ongoing, has identified various instances of this misappropriation by Counter-Defendants, including some described above.

46. The Counter-Defendants' actual and threatened use and disclosure of the Trade Secrets constitutes misappropriation because, among other reasons, at the time of such use and disclosure, the Counter-Defendants knew or had reason to know that their knowledge of the Trade Secrets was derived through persons who owed a duty to Semtech to maintain the secrecy of the Trade Secrets.

47. Counter-Defendants' misappropriation comprises acts, including without limitation use of Semtech's Trade Secrets, on or after the date of the enactment of the Defend Trade Secrets Act, May 11, 2016.

48. Counter-Defendants' current and continued misappropriation of Semtech's Trade Secrets is willful and malicious. Counter-Defendants know of the confidentiality, ownership, and use restrictions on the Trade Secrets.

49. By reason of the above-alleged acts and conduct of Counter-Defendants, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law, and, therefore, is entitled to injunctive relief. Semtech is informed and believes that, if Counter-Defendants are not enjoined, they will continue to disclose and use Semtech's confidential, proprietary, and trade secret information for their own benefit and to Semtech's detriment.

50. Semtech is also entitled to recover compensatory and exemplary damages from Counter-Defendants, including but not limited to the losses resulting from their wrongful conduct and any unjust enrichment caused by their misappropriation. The amount of such relief cannot be determined precisely at this time.

COUNT II
Violation Of The Texas Uniform Trade Secrets Act,
Tex. Civ. Prac. & Rem. Code § 134A
(Against All Counter-Defendants)

51. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 50, inclusive, and incorporates them herein by reference.

52. Semtech is the owner of Trade Secrets relating to wireless power solutions. These Trade Secrets as described generally above comprise business, scientific, technical, economic, or engineering information that constitute "trade secrets" under Tex. Civ. Prac. & Rem. Code § 134A.002(6).

53. Semtech has taken reasonable steps to maintain the secrecy of its Trade Secrets, including by, among other things, requiring confidentiality and/or nondisclosure agreements to be signed by any party granted access to Semtech's Trade Secrets and by taking the other reasonable measures described above.

54. These confidential and proprietary Trade Secrets derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, others who can obtain economic value from their disclosure or use, and have conferred a competitive advantage on Semtech in the relevant market.

55. Other than through Counter-Defendants' improper disclosure, the Trade Secrets are not known to the public and are not readily ascertainable by proper means to persons who could derive value from their disclosure or use.

56. Counter-Defendants misappropriated Semtech's Trade Secrets by improper means and without authorization, including by disclosing and using and/or threatening to disclose and use the Trade Secrets, without Semtech's express or implied consent, in the development of competing wireless power solutions and in the other ways described above, including in the inevitable disclosure or use of the Trade Secrets in their work for Spark. Semtech's investigation, which is ongoing, has identified several instances of this misappropriation by Counter-Defendants, including some described above.

57. The Counter-Defendants' actual and threatened use and disclosure of the Trade Secrets constitute misappropriation because at the time of such use and disclosure, the Counter-Defendants knew or had reason to know that their knowledge of the Trade Secrets was derived through persons who owed a duty to Semtech to maintain the secrecy of the Trade Secrets.

58. Counter-Defendants' current and continued misappropriation of Semtech's Trade Secrets is willful and malicious. Counter-Defendants know of the confidentiality, ownership, and use restrictions on the Trade Secrets.

59. By reason of the above-alleged acts and conduct of Counter-Defendants, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law, and, therefore, is entitled to injunctive relief. Semtech is informed and believes that, if Counter-Defendants are not enjoined, they will continue to disclose and use Semtech's confidential, proprietary, and trade secret information for their own benefit and to Semtech's detriment.

60. Semtech is also entitled to recover compensatory and punitive damages from Counter-Defendants, including but not limited to the losses resulting from their wrongful conduct and any unjust enrichment caused by their misappropriation. The amount of such relief cannot be determined precisely at this time.

COUNT III
Breach Of Contract
(Against Counter-Defendant Moore)

61. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 60, inclusive, and incorporates them herein by reference.

62. In connection with Semtech's acquisition of Triune in March 2015, Moore signed the Purchase Agreement with provisions related to non-competition and non-solicitation. The relevant provisions of this agreement remain in full force and, for good consideration, Moore remains obligated to comply with these provisions. Semtech has satisfied all of its obligations under this valid and enforceable agreement.

63. Moore was a “Seller Party” under the Purchase Agreement, which defined “Restricted Business” as:

the business of designing, developing, assembling, manufacturing, producing, testing, delivering, installing, marketing, selling or providing circuit solutions, power system and control semiconductor devices or designs (including firmware), reference designs as related to semiconductor devices or products, or semiconductor products for low power energy harvesting, solar power, wireless charging, isolated switching or any other power management application.

By signing the Purchase Agreement, Moore agreed that “[f]or a period of five (5) years beginning with the Closing Date” of March 4, 2015, he “shall not, and shall not permit any of the Affiliates of such Seller Party to, directly or indirectly, either alone or in association or in connection with...become engaged in, or participate in...Restricted Business.”

64. By signing the Purchase Agreement, Moore also agreed that he “shall not, and shall not permit any of the Affiliates of such Seller Party to, directly or indirectly, either alone or in association or in connection with, ...for a five (5) year period commencing on the Closing Date, solicit or recruit the employment or consulting services of or hire or engage any employee, independent contractor or consultant.”

65. By signing the Purchase Agreement, Moore further agreed that a breach of his non-competition and non-solicitation obligations:

would cause irreparable harm to [Semtech], that [Semtech’s] remedies at Law upon any such breach would be inadequate, and that accordingly, upon any such breach a restraining order or injunction or both may be issued . . . in addition to any other rights and remedies which are available to [Semtech] at law or in equity.

66. During the course of his employment with Semtech, Moore signed at least two additional and separate agreements with clauses relating to the Trade Secrets, confidential information, and non-solicitation. The relevant provisions of these agreements remain in full force and, for good consideration, Moore remains obligated to comply with these provisions. Semtech has satisfied all of its obligations under these valid and enforceable agreements.

67. In March 2015, Moore signed an Employee Confidentiality Agreement and Proprietary Rights Assignment (the “Moore Confidentiality Agreement”). This agreement defined “Confidential Information” as:

any and all information relating to the Company’s business or operations which is not generally known outside of the Company, [including], but not be limited to, trade secrets, technology, ideas, processes, products, improvements, developments, discoveries, inventions, design, manufacture or sale of the Company’s products or services, computer hardware and software, business or marketing plans, the names and locations of employees, vendors, distributors and customers, equipment and produce design and concepts, research and development, selling, marketing and any actual or contemplated trademark, service mark, trade name or patent application.

By signing the Moore Confidentiality Agreement, Moore agreed “not to use, disclose, disseminate or otherwise communicate, directly or indirectly, in whole or in part, at any time or in any manner, whether during or after my employment with the Company, even in the course of casual conversation, any Confidential Information without the prior written consent of the Company in each instance.”

68. By signing the Moore Confidentiality Agreement, Moore also agreed to a two-year non-solicitation provision, which provided that he would not

request, induce or attempt to influence any current or future officer, director, employee, consultant, agent or representative of the Company to (i) terminate his, her or its employment or business relationship with the Company or (ii) commit any act that, if committed by me, would constitute a breach of any provision hereof.

69. By signing the Moore Confidentiality Agreement, Moore further agreed that “a breach of any of the promises or agreements contained herein will result in irreparable and continuing damage to [Semtech] for which [Semtech] will have no adequate remedy at law [so] that [Semtech] shall be entitled to obtain injunctive relief and/or a decree for specific performance.”

70. In June 2017, Moore signed a Separation and General Release Agreement (the “Moore Separation Agreement”). By signing this agreement, Moore agreed to “continue to comply with the terms and conditions of employee confidentiality, trade secret, inventions assignment or similar agreement(s) previously entered into” between him and Semtech.

71. By signing the Moore Separation Agreement, Moore also agreed to a one-year non-solicitation provision, which stated that he will not “induce or solicit, or attempt to induce or solicit, or cause any other person, business or entity to induce or solicit, any person who at the time of such inducement or solicitation is an employee of Semtech, to perform work or services for any other person or entity other than Semtech.”

72. The relevant provisions of all three agreements—the Purchase Agreement, the Moore Confidentiality Agreement, and the Moore Separation Agreement—are still in effect. Neither Moore nor Semtech has terminated the agreements. To the extent the non-disclosure and non-solicitation clauses in the agreements address the same subject matters, the clauses are consistent and without contradiction among the three agreements. To the extent that other clauses within the agreements contradict these clauses, those contradictions do not affect the enforceability of the non-disclosure and non-solicitation clauses. As a result, all three agreements are valid contracts and independently enforceable.

73. Moore is a “Seller Party,” and Spark is an “Affiliate,” within the meaning of the Purchase Agreement. Moore’s non-competition obligations under the Purchase Agreement extended for a five-year period from March 4, 2015. Semtech is informed and believes that Moore formed Spark in September 2017 to engage in business that constitutes “Restricted Business” within the meaning of the Purchase Agreement. Moore’s founding of Spark, its

continued existence, and his ongoing role as Chief Executive Officer of Spark constitute breaches of the non-competition obligations in the Purchase Agreement.

74. Semtech is the owner of Trade Secrets and other proprietary or confidential information relating to wireless power solutions. These Trade Secrets are described above and comprise, among others, firmware source code, wireless charging techniques and methods, unreleased or customer-specific system designs and layout files, specific customer identities and preferences, industry competitive intelligence, strategic plans, bill of materials costs, and margins. Some or all of the documents and information comprising Semtech's Trade Secrets constitute "Confidential Information" as defined in the Moore Confidentiality Agreement and the Moore Separation Agreement.

75. Moore was in possession of Semtech's Trade Secrets while subject to two agreements. In those agreements, he: (1) expressly acknowledged and confirmed the confidential nature of Semtech's Trade Secrets; (2) agreed to maintain the confidentiality of Semtech's Trade Secrets; (3) agreed not to use Semtech's Trade Secrets for his own purposes or the purposes of a third party; and (4) agreed not to solicit Semtech's employees.

76. Moore knowingly and improperly retained and disclosed Semtech's Trade Secrets to Spark and used the Trade Secrets outside the scope of his employment with Semtech. Moore's knowing and improper retention, disclosure and use of Semtech's Trade Secrets constitutes a breach of the non-disclosure clauses in the Moore Confidentiality Agreement and the Moore Separation Agreement.

77. Moore knowingly and improperly solicited Semtech's employees to leave Semtech and/or breach their respective agreements with Semtech. Moore's knowing and

improper solicitation constitutes a breach of the non-solicitation clauses in the Purchase Agreement, the Moore Confidentiality Agreement, and the Moore Separation Agreement.

78. By reason of Moore's breach of contracts alleged above, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law, and, therefore, is entitled to injunctive relief. Semtech is informed and believes that, if Counter-Defendants are not enjoined, they will continue to disclose and use Semtech's confidential, proprietary, and trade secret information for their own benefit and to Semtech's detriment.

79. Semtech is also entitled to recover compensatory damages, general damages, and special damages from Moore. The amount of such relief cannot be determined precisely at this time.

COUNT IV
Breach Of Contract
(Against Counter-Defendant Dassanayake)

80. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 79, inclusive, and incorporates them herein by reference.

81. During the course of his employment with Semtech, Dassanayake signed at least two separate agreements with clauses relating to the Trade Secrets and confidential information. The relevant provisions of these agreements remain in full force and, for good consideration, Dassanayake remains obligated to comply with these provisions. Semtech has satisfied all of its obligations under these valid and enforceable agreements.

82. *First*, in August 2015, Dassanayake signed an Employee Confidentiality Agreement and Proprietary Rights Assignment (the “Dassanayake Confidentiality Agreement”).

This agreement defined “Confidential Information” as:

any and all information relating to the Company’s business or operations which is not generally known outside of the Company, [including], but not be limited to, trade secrets, technology, ideas, processes, products, improvements, developments, discoveries, inventions, design, manufacture or sale of the Company’s products or services, computer hardware and software, business or marketing plans, the names and locations of employees, vendors, distributors and customers, equipment and produce design and concepts, research and development, selling, marketing and any actual or contemplated trademark, service mark, trade name or patent application.

By signing the Dassanayake Confidentiality Agreement, Dassanayake agreed “not to use, disclose, disseminate or otherwise communicate, directly or indirectly, in whole or in part, at any time or in any manner, whether during or after my employment with the Company, even in the course of casual conversation, any Confidential Information without the prior written consent of the Company in each instance.”

83. By signing the Dassanayake Confidentiality Agreement, Dassanayake further agreed that “a breach of any of the promises or agreements contained herein will result in irreparable and continuing damage to [Semtech] for which [Semtech] will have no adequate remedy at law [so] that [Semtech] shall be entitled to obtain injunctive relief and/or a decree for specific performance”

84. *Second*, in March 2018, Dassanayake signed a Separation and General Release Agreement (the “Dassanayake Separation Agreement”). By signing this agreement, Dassanayake agreed to “continue to comply with the terms and conditions of employee confidentiality, trade secret, inventions assignment or similar agreement(s) previously entered into” between him and Semtech.

85. The relevant provisions of these two agreements—the Dassanayake Confidentiality Agreement and the Dassanayake Separation Agreement—are still in effect. Neither Dassanayake nor Semtech has terminated the agreements. To the extent the non-disclosure clauses in the agreements address the same subject matters, the clauses are consistent and without contradiction among the agreements. To the extent that other clauses within the agreements contradict these clauses, those contradictions do not affect the enforceability of the non-disclosure clauses. As a result, all three agreements are valid contracts and independently enforceable.

86. Semtech is the owner of Trade Secrets and other proprietary or confidential information relating to wireless power solutions. These Trade Secrets are described above and comprise, among others, firmware source code, wireless charging techniques and methods, unreleased or customer-specific system designs and layout files, specific customer identities and preferences, industry competitive intelligence, strategic plans, bill of materials costs, and margins. Some or all of the documents and information comprising Semtech's Trade Secrets constitute "Confidential Information" as defined in the Dassanayake Confidentiality Agreement and the Dassanayake Separation Agreement.

87. Dassanayake was in possession of Semtech's Trade Secrets while subject to two agreements. In those agreements, he: (1) expressly acknowledged and confirmed the confidential nature of Semtech's Trade Secrets; (2) agreed to maintain the confidentiality of Semtech's Trade Secrets; and (3) agreed not to use Semtech's Trade Secrets for his own purposes or the purposes of a third party.

88. Dassanayake knowingly and improperly retained and disclosed Semtech's Trade Secrets to Spark and used the Trade Secrets outside the scope of his employment with Semtech.

Dassanayake's knowing and improper retention, disclosure and use of Semtech's Trade Secrets constitutes a breach of the non-disclosure clauses in the Dassanayake Confidentiality Agreement and the Dassanayake Separation Agreement.

89. By reason of Dassanayake's breach of contracts alleged above, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law, and, therefore, is entitled to injunctive relief. Semtech is informed and believes that, if Counter-Defendants are not enjoined, they will continue to disclose and use Semtech's confidential, proprietary, and trade secret information for their own benefit and to Semtech's detriment.

90. Semtech is also entitled to recover compensatory damages, general damages, and special damages from Dassanayake. The amount of such relief cannot be determined precisely at this time.

COUNT V
Breach Of Contract
(Against Counter-Defendant Stingu)

91. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 90, inclusive, and incorporates them herein by reference.

92. During the course of his employment with Semtech, Stingu signed an agreement with clauses relating to the Trade Secrets, confidential information, and non-solicitation. The relevant provisions of this agreement remains in full force and, for good consideration, Stingu remains obligated to comply with these provisions. Semtech has satisfied all of its obligations under this valid and enforceable agreement.

93. In March 2015, Stingu signed an Employee Confidentiality Agreement and Proprietary Rights Assignment (the “Stingu Confidentiality Agreement”). This agreement defined “Confidential Information” as:

any and all information relating to the Company’s business or operations which is not generally known outside of the Company, [including], but not be limited to, trade secrets, technology, ideas, processes, products, improvements, developments, discoveries, inventions, design, manufacture or sale of the Company’s products or services, computer hardware and software, business or marketing plans, the names and locations of employees, vendors, distributors and customers, equipment and produce design and concepts, research and development, selling, marketing and any actual or contemplated trademark, service mark, trade name or patent application.

By signing the Stingu Confidentiality Agreement, Stingu agreed “not to use, disclose, disseminate or otherwise communicate, directly or indirectly, in whole or in part, at any time or in any manner, whether during or after my employment with the Company, even in the course of casual conversation, any Confidential Information without the prior written consent of the Company in each instance.”

94. By signing the Stingu Confidentiality Agreement, Stingu also agreed to a two-year non-solicitation provision, which provided that he would not

request, induce or attempt to influence any current or future officer, director, employee, consultant, agent or representative of the Company to (i) terminate his, her or its employment or business relationship with the Company or (ii) commit any act that, if committed by me, would constitute a breach of any provision hereof.

95. By signing the Stingu Confidentiality Agreement, Stingu further agreed that “a breach of any of the promises or agreements contained herein will result in irreparable and continuing damage to [Semtech] for which [Semtech] will have no adequate remedy at law [so] that [Semtech] shall be entitled to obtain injunctive relief and/or a decree for specific performance”

96. The relevant provisions of the Stingu Confidentiality Agreement are still in effect. Neither Stingu nor Semtech has terminated the agreements.

97. Semtech is the owner of Trade Secrets and other proprietary or confidential information relating to wireless power solutions. These Trade Secrets are described above and comprise, among others, firmware source code, wireless charging techniques and methods, unreleased or customer-specific system designs and layout files, specific customer identities and preferences, industry competitive intelligence, strategic plans, bill of materials costs, and margins. Some or all of the documents and information comprising Semtech's Trade Secrets constitute "Confidential Information" as defined in the Moore Confidentiality Agreement and the Moore Separation Agreement.

98. Stingu was in possession of Semtech's Trade Secrets while subject to the Stingu Confidentiality Agreement. In that agreement, he: (1) expressly acknowledged and confirmed the confidential nature of Semtech's Trade Secrets; (2) agreed to maintain the confidentiality of Semtech's Trade Secrets; (3) agreed not to use Semtech's Trade Secrets for his own purposes or the purposes of a third party; and (4) agreed not to solicit Semtech's employees.

99. Stingu knowingly and improperly retained and disclosed Semtech's Trade Secrets to Spark and used the Trade Secrets outside the scope of his employment with Semtech. Stingu's knowing and improper retention, disclosure and use of Semtech's Trade Secrets constitutes a breach of the non-disclosure clause in the Stingu Confidentiality Agreement.

100. Stingu knowingly and improperly solicited Semtech's employees to leave Semtech and/or breach their respective agreements with Semtech. Stingu's knowing and improper solicitation constitutes a breach of the non-solicitation clause in the Stingu Confidentiality Agreement.

101. By reason of Stingu's breach of contract alleged above, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law, and, therefore, is entitled to injunctive relief. Semtech is informed and believes that, if Counter-Defendants are not enjoined, they will continue to disclose and use Semtech's confidential, proprietary, and trade secret information for their own benefit and to Semtech's detriment.

102. Semtech is also entitled to recover compensatory damages, general damages, and special damages from Stingu. The amount of such relief cannot be determined precisely at this time.

COUNT VI
Breach Of Fiduciary Duty, Texas Common Law
(Against Counter-Defendants Moore, Dassanayake, and Stingu)

103. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 102, inclusive, and incorporates them herein by reference.

104. Moore, Dassanayake, and Stingu each owed fiduciary duties to Semtech because Semtech employed them in positions of trust and confidence and entrusted each of them with access to confidential corporate information. Moore, Dassanayake, and Stingu also were subject to agreements that advised them of their fiduciary duties.

105. Moore's, Dassanayake's, and Stingu's fiduciary duties included, among others, a duty to protect the confidentiality of Semtech's confidential information, a duty of loyalty, a duty of candor, and a duty to refrain from unfairly competing with Semtech by using Semtech's confidential information.

106. Semtech is informed and believes that Moore, Dassanayake and Stingu have knowingly breached their fiduciary obligations to Semtech by secretly preparing to compete with Semtech while still employed by Semtech, and disclosing and/or using Semtech's confidential information for the benefit of Spark in developing competing wireless power solutions. Semtech is further informed and believes that Stingu knowingly breached his fiduciary obligations to Semtech by resetting his phone to its factory settings before returning it to Semtech, thereby deleting potentially incriminating evidence.

107. Moore, Stingu, and Dassanayake were subject to agreements that advised them of their fiduciary duties and received training regarding Semtech's confidentiality policies. Accordingly, Semtech is informed and believes that their failures to discharge their fiduciary duties and responsibilities as Semtech employees placed in positions of trust and confidence were willful and intentional.

108. These actions—proscribed by their duty of loyalty and obligations under their confidentiality agreements—do not depend on the existence or misappropriation of Semtech's trade secrets for their wrongfulness.

109. By reason of the above-alleged acts and conduct of Moore, Dassanayake and Stingu, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law.

110. Semtech is also entitled to recover compensatory damages and punitive damages from Moore, Dassanayake, and Stingu. The amount of such relief cannot be determined precisely at this time.

COUNT VII

Tortious Interference With Contractual Relations, Texas Common Law (*Against Counter-Defendants Spark, Moore, and Stingu*)

111. Semtech re-alleges each and every allegation set forth in Paragraphs 1 through 111, inclusive, and incorporates them herein by reference.

112. Semtech has contractual relationships with employees that have confidential knowledge of the Trade Secrets and other confidential information described above, including such former key employees as Moore, Stingu, and Dassanayake. These contractual relationships include non-disclosure obligations. Semtech has fulfilled its obligation under those agreements.

113. As described above, Spark, through Moore and/or Stingu, undertook to hire Semtech's key employees with actual knowledge of Semtech's contractual relationships with those employees and the contractual relationships' protection of Semtech's Trade Secrets. Legitimate hiring on the open market, without using confidential information as to which Semtech employees had knowledge of the Trade Secrets and other confidential information, would not have resulted in such targeting of the above-named individuals.

114. Spark, Moore and Stingu intended to use improper means in interfering with Semtech's contractual relationships with the former key employees listed above without lawful justification or legitimate reason for this interference. As a result, Spark's tortious interference was intentional and with malice.

115. As a direct and proximate result of Spark's actions, the former key employees listed above were induced to breach the non-disclosure obligations in their various employment agreements.

116. As a result of Spark's wrongdoing, Semtech has been damaged, and it will continue to suffer great and irreparable harm and damage. The amount of this irreparable harm

will be difficult if not impossible to ascertain, and Semtech will be without an adequate remedy at law.

117. Semtech is also entitled to recover compensatory damages and punitive damages from Spark. The amount of such relief cannot be determined precisely at this time.

DEMAND FOR JURY TRIAL

118. Semtech demands a trial by jury on all issues so triable.

RELIEF SOUGHT

WHEREFORE, Semtech prays for judgment against Counter-Defendants, and each of them, as follows:

1. A judgment against Counter-Defendants and in favor of Semtech, and that Counter-Defendants' Complaint be dismissed with prejudice;
2. An injunction enjoining Spark and Moore from engaging in or participating in any activity relating to wireless power solutions;
3. An injunction enjoining all Counter-Defendants, as well as their employers, agents, employees, and all persons acting in concert with them, from using, copying, publishing, disclosing, transferring, or selling Semtech's Trade Secrets or other confidential and proprietary information that may be determined not to be Trade Secret information, or any product that is based on or incorporates part or all of Semtech's Trade Secrets or other confidential and proprietary information, and from obtaining any commercial advantage or unjust enrichment from their misappropriation of Semtech's Trade Secrets or other confidential and proprietary information;
4. An order requiring all Counter-Defendants, their employers, agents, employees, and all persons acting in concert with them, to return to Semtech any and all of its Trade Secrets

and other confidential and proprietary materials that may be determined not to be Trade Secret information, including but not limited to any and all materials created incorporating or referencing Semtech's Trade Secrets and other confidential information;

5. An order compelling Moore, Stingu, and Dassanayake to comply with their continuing obligations as set forth above;

6. During the pendency of this action, an injunction enjoining and restraining all Counter-Defendants, as well as their employers, agents, employees, and all persons acting in concert with them, from destroying, manipulating, or otherwise altering any evidence, including evidence that may reside on (or be embodied by changes to) any computer system, network, or other electronic means of data storage or transfer, relating in any way to the matters alleged in this Complaint;

7. An award of damages caused by Counter-Defendants' conduct, including compensatory, punitive and exemplary damages as applicable and interest;

8. The imposition of a constructive trust for the benefit of Semtech upon (a) all assets misappropriated or used by one or more Counter-Defendants in violation of their contractual obligations to Semtech, and all Semtech trade secrets misappropriated by Counter-Defendants; and (b) all gains, including, but not limited to, any profits of, equity interests in, and/or increases in the value of equity interests in, Spark, derived from the breach of any agreements with Semtech, or from any misappropriation of Semtech's trade secrets by Counter-Defendants;

9. Reasonable attorneys' fees;

10. All costs of suit herein incurred; and

11. Such other and further relief as the Court may deem proper.

Dated: November 16, 2018

Respectfully submitted,

/s/ Roger D. Sanders

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on November 16, 2018.

/s/ Roger D. Sanders