

1 Yael Tobi (SBN 231425)  
 ytobi@munckwilson.com  
 2 William A. Munck (*Pro Hac Vice Forthcoming*)  
 wmunck@munckwilson.com  
 3 Ursula Smith (*Pro Hac Vice Forthcoming*)  
 usmith@munckwilson.com  
 4 **MUNCK WILSON MANDALA, LLP**  
 1925 Century Park East, Suite 2300  
 5 Los Angeles, California 90067  
 Telephone: (310) 855-3311  
 6 Facsimile: (972) 628-3616

7 Attorneys for Plaintiff  
 8 Canoo Technologies, Inc.

9 **UNITED STATES DISTRICT COURT**  
 10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

12 Canoo Technologies, Inc., a Delaware  
 13 Corporation,

14 Plaintiff,

15 v.

16 Harbinger Motors, Inc., a Delaware  
 17 Corporation; Electron Transport Inc., a  
 18 Delaware Corporation; John Henry  
 19 Harris; William Eberts; Phillip Weicker;  
 20 Alexi Charbonneau; Michael Fielkow;  
 Benjamin Dusastre; Overture Climate  
 21 VC; Schematic Ventures, LLC; Tiger  
 22 Global Management, LLC; Ridgeline  
 Partners, LLC; Bharat Forge Limited;  
 23 Ironspring, LLC; Jackson Moses; Thor  
 Industries, Inc.; and DOES 1 through  
 24 100,

25 Defendants.

Case No.

**COMPLAINT FOR:**

- 1) **MISAPPROPRIATION OF TRADE SECRETS IN VIOLATION OF THE DEFEND TRADE SECRETS ACT, 18 U.S.C. § 1836, et seq.**
- 2) **MISAPPROPRIATION OF TRADE SECRETS IN VIOLATION OF THE CALIFORNIA UNIFORM TRADE SECRETS ACT, Cal. Civ. Code. § 3426.1**
- 3) **BREACH OF THE CONFIDENTIALITY INFORMATION AND INVENTIONS ASSIGNMENT AGREEMENT**
- 4) **BREACH OF THE EMPLOYEE SEPARATION INFORMATION LETTER**
- 5) **INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS**

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- 6) **NEGLIGENT INTERFERENCE WITH CONTRACTUAL RELATIONS**
  - 7) **TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
  - 8) **NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS**
  - 9) **BREACH OF FIDUCIARY DUTY**
  - 10) **AIDING & ABETTING BREACH OF DUTY OF LOYALTY**
  - 11) **BREACH OF DUTY OF LOYALTY**
  - 12) **AIDING & ABETTING BREACH OF DUTY**
  - 13) **FRAUD IN THE INDUCEMENT OF THE CONFIDENTIALITY INFORMATION AND INVENTIONS ASSIGNMENT AGREEMENT**
  - 14) **FRAUD IN THE INDUCEMENT AS TO THE SEPARATION INFORMATION LETTER**
  - 15) **UNFAIR COMPETITION IN VIOLATION OF CAL. BUSINESS AND PROFESSIONS CODE. § 17200 ET SEQ.**
  - 16) **UNJUST ENRICHMENT**
  - 17) **SPECIFIC PERFORMANCE**
- DEMAND FOR JURY TRIAL**

1 Plaintiff Canoo Technologies, Inc. (“Plaintiff” or “Canoo”), by and through its  
2 undersigned counsel, hereby files this Original Complaint for damages and injunctive  
3 relief, as follows:

4 **INTRODUCTION**

5 1. This is a case of corporate espionage by a group of serial grifters who  
6 infiltrated Canoo to steal its intellectual property (including its confidential  
7 information and trade secrets) and human capital to create Defendant Harbinger  
8 Motors, Inc. (“Harbinger”), now a direct competitor of Canoo in the fiercely  
9 competitive marketplace for Electric Vehicles (“EV”).<sup>1</sup>

10 2. Defendants Phillip Weicker (“Weicker”), William Eberts (“Eberts”),  
11 John Harris (“Harris”), and Alexi Charbonneau (“Charbonneau”)—former  
12 colleagues at Faraday & Future, Inc. (“Faraday”)—always intended to own and  
13 control their own EV company. And they were determined to do so without letting  
14 anything get in their way. So when Weicker and Charbonneau left Faraday to join  
15 Canoo, where Eberts later joined, it was merely a stopping point, not a final  
16 destination.<sup>2</sup>

17 3. As such, when Canoo required Weicker, Charbonneau, and Eberts (like  
18 all employees) to execute broad confidentiality and invention assignment  
19 agreements, they never had any intention of honoring those commitments, knowing  
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21 <sup>1</sup> Canoo’s allegations of intellectual property theft involve national security concerns.  
22 Canoo’s intellectual property forms the basis for contracts that Canoo secured with  
23 both NASA (to provide crewed transportation vehicles for Artemis lunar exploration  
24 launches) and with the United States Army (to provide light tactical vehicles). The  
25 capabilities and vulnerabilities of Canoo’s intellectual property, now in the hands of  
26 Harbinger, could prove beneficial to adversaries of the United States Government.  
27 Harbinger has at least one foreign investor that may have access to Canoo’s stolen  
28 intellectual property.

<sup>2</sup> It is telling that Harris never joined Canoo, and that Eberts left Canoo eleven months  
after joining. Both knew that they would later join Weicker and Charbonneau at  
Harbinger.

1 full well Harbinger was on their horizon. Weicker, Charbonneau, and Eberts always  
2 intended to control the intellectual property they developed (and steal Canoo’s  
3 confidential information) once they left Canoo. And that’s exactly what happened.  
4 In all, Weicker, Charbonneau, and Eberts misappropriated vast amounts of Canoo’s  
5 financial resources, business plans, human capital, trade secrets, and other intellectual  
6 property, and conspired with Harris (who was employed elsewhere) to form  
7 Harbinger using Canoo’s stolen intellectual property.<sup>3</sup>

8 4. Canoo develops cutting-edge technology in the EV space, including an  
9 independent driving platform referred to as a “skateboard” (“Skateboard  
10 Technology”).<sup>4</sup> Canoo’s key trade secrets are imbedded in its Skateboard  
11 Technology, which can be used to convert gas-powered vehicles to electric at  
12 minimal cost. Canoo has invested considerable time, human resources, and hundreds  
13 of millions of dollars to develop its Skateboard Technology, which has given Canoo  
14 a crucial technological edge in the EV market.

15 5. After developing its Skateboard Technology, Canoo invested heavily in  
16 building business plans to commercialize its EV technology. Canoo retained a world-  
17 renowned consulting firm to assist Canoo in formulating, vetting, and proving a  
18 business plan centered solely around its Skateboard Technology (the “Skateboard  
19 Business Plan”). Canoo’s Skateboard Business Plan included exploring joint venture  
20 opportunities with third-party original equipment manufacturers (“OEM”)—  
21 including Morgan Olson (“MO”)—who could integrate Canoo’s driving platform

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22 <sup>3</sup> This is not the first time Eberts, Weicker, and Charbonneau have been linked to  
23 allegations of trade secret misappropriation. Four years ago, they were key players in  
24 a virtually identical trade secret misappropriation scheme involving their former  
25 employer’s EV technology.

26 <sup>4</sup> Canoo owns a wide array of intellectual property including that associated with its  
27 Skateboard Technology. Canoo invests significant resources in developing and  
28 protecting its global, market-focused intellectual property portfolio, which includes  
trade secret, patent, copyright, trade dress, and contractual programs. Canoo’s IP  
programs are interleaved and complimentary to one another.

1 into their pre-existing fleet of vehicles. Over the course of a year and a half, Canoo  
2 negotiated a potential partnership with MO.

3         6. Weicker, Eberts, Harris, and Charbonneau conspired, stole and  
4 misappropriated Canoo’s Skateboard Technology and Skateboard Business Plan for  
5 Harbinger’s use and benefit, enabling Harbinger to develop a business model  
6 targeting OEM partnerships (like **Canoo**) using a skateboard driving platform (like  
7 **Canoo**) developed by former employees **from Canoo**.<sup>5</sup> Harbinger’s illicit scheme  
8 has proven to be a financial success, as Harbinger recently announced its own highly  
9 profitable joint venture with MO.<sup>6</sup>

10         7. This is not a case where a couple of employees left a company to work  
11 for a competitor. This is far worse. Using Canoo’s confidential information and  
12 trade secrets related to Canoo’s employees, including their skills and training,  
13 Harbinger (through Eberts, Weicker, Charbonneau, and Harris) strategically  
14 recruited at least 33 of Canoo’s employees to join Harbinger, making up  
15 approximately 66% of Harbinger’s total workforce.<sup>7</sup>

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16 <sup>5</sup> Indeed, many of Canoo’s former employees who now work for Harbinger are  
17 pursuing intellectual property protection for trade secrets, patentable inventions,  
18 original works of authorship, trade dress, and designs that Canoo believes belong to  
19 (or are based upon) Canoo’s trade secrets and confidential and proprietary  
20 information. These former Canoo employees are contractually precluded from  
21 disclosing, using, or discussing Canoo’s confidential information and trade secrets.  
22 Canoo is therefore the rightful owner of these misappropriated intellectual property  
23 assets.

24 <sup>6</sup> As Weicker was instrumental in the negotiations and exploration of Canoo’s  
25 relationship with MO, Weicker, Charbonneau, and Harbinger sabotaged Canoo’s  
26 relationship with MO while using Canoo’s confidential information and Skateboard  
27 Business Plan to assist Harbinger in forming this joint venture with MO.

28 <sup>7</sup> Defendant Michael Fielkow (“Fielkow”) merits particular scrutiny. Fielkow served  
as Deputy General Counsel for Canoo for three years and had intimate knowledge of  
Canoo’s intellectual property portfolio and global business development plans.  
Rising within the company to Vice President, Canoo trusted Fielkow to provide



1 founder of Harbinger. Plaintiff is informed and believes, and on that basis alleges,  
2 that Harris is doing business in California and is a resident of the State of California.

3 14. Defendant Benjamin Dusastre is an executive officer at Harbinger.  
4 Plaintiff is informed and believes, and on that basis alleges, that Dusastre is doing  
5 business in California and is a resident of the State of California.

6 15. Defendant William Eberts is the Chief Operating Officer and a co-  
7 founder of Harbinger. Prior to joining Harbinger, Eberts managed Canoo's battery,  
8 powertrain, and power electronics division from September 2018 to July 2019.  
9 Plaintiff is informed and believes, and on that basis alleges, that Eberts is doing  
10 business in California and is a resident of the State of California, residing in Los  
11 Angeles County.

12 16. Defendant Phillip Weicker is the Chief Technology Officer and a co-  
13 founder of Harbinger. Prior to joining Harbinger, Weicker worked at Canoo as the  
14 engineer in charge of Canoo's powertrain and electronics systems division, a position  
15 he held from December 2017 to December 2020. Plaintiff is informed and believes,  
16 and on that basis alleges, that Weicker is doing business in California and is a resident  
17 of the State of California, residing in Los Angeles County.

18 17. Defendant Alexi Charbonneau is the Vice President of Structures and  
19 Chassis at Harbinger. From December 2017 to December 2021, Charbonneau was  
20 employed by Canoo as an engineer in charge of Canoo's skateboard and cabin  
21 systems. Plaintiff is informed and believes, and on that basis alleges, that  
22 Charbonneau is doing business in California and is a resident of the State of  
23 California, residing in Los Angeles County.

24 18. Defendant Michael Fielkow is the General Counsel and Head of  
25 Corporate Development at Harbinger. From April 2019 to March 2022, Fielkow was  
26 employed by Canoo as Deputy General Counsel and Vice President of Corporate  
27 Legal, Securities, and Global Strategies. Plaintiff is informed and believes, and on  
28 that basis alleges, that Fielkow is doing business in California and is a resident of the



1 State of California, residing in Los Angeles County.

2 19. Eberts, Weicker, Charbonneau, and Fielkow are collectively referred to  
3 herein as the “Former Canoo Employees.”

4 20. Defendant Overture Climate VC (“Overture”) is an early-stage  
5 venture fund headquartered in Los Angeles California. Plaintiff is informed and  
6 believes, and on that basis alleges, that Overture invested in Harbinger.

7 21. Defendant Schematic Ventures, LLC (“Schematic Ventures”) is a  
8 venture capital fund headquartered in San Francisco, California. Plaintiff is informed  
9 and believes, and on that basis alleges, that Schematic Ventures invested in  
10 Harbinger.

11 22. Defendant Ridgeline Partners, LLC (“Ridgeline”) is a venture capital  
12 firm headquartered in Los Angeles, California. Plaintiff is informed and believes,  
13 and on that basis alleges, that Ridgeline invested in Harbinger.

14 23. Defendant Jackson Moses (“Moses”) is an individual residing in the  
15 State of Colorado. Plaintiff is informed and believes, and on that basis alleges, that  
16 Moses invested in Harbinger.

17 24. Defendant Ironspring, LLC (“Ironspring”) is a venture capital fund  
18 headquartered in Austin, Texas. Plaintiff is informed and believes, and on that basis  
19 alleges, that Ironspring invested in Harbinger.

20 25. Defendant Tiger Global Management, LLC (“Tiger Global”) is an  
21 investment firm headquartered in New York, New York. Plaintiff is informed and  
22 believes, and on that basis alleges, that Tiger Global invested in Harbinger.

23 26. Defendant Bharat Forge Limited (“Bharat Forge”) is a foreign  
24 technology company headquartered in Pune, Maharashtra, India. Plaintiff is  
25 informed and believes, and on that basis alleges, that Bharat Forge invested in  
26 Harbinger and has access to the intellectual property stolen from Canoo. Such access  
27 by a foreign entity involves national security concerns because Canoo’s trade secrets  
28 (which serve as a basis for Canoo's contracts with NASA and the United States Army)



1 could either be (i) used to either directly harm the United States Government, or (ii)  
2 provided and/or sold to adversaries and foreign governments, including near-peer  
3 competitors like China and Russia.

4 27. Defendant Thor Industries, Inc. (“Thor Industries”) is an investment  
5 firm headquartered in Elkhart, Indiana. Plaintiff is informed and believes, and on  
6 that basis alleges, that Thor Industries invested in Harbinger.

7 28. Overture, Schematic, Ridgeline, Moses, Ironspring, Tiger Global,  
8 Bharat Forge, and Thor Industries shall collectively be referred herein as the  
9 “Harbinger Investor Defendants.”

### 10 JURISDICTION AND VENUE

11 29. This Court has jurisdiction over this matter pursuant to 18 U.S.C. §  
12 1836(c) and 28 U.S.C. §§ 1331, 1367. Canoo’s claims arise, in part, under federal  
13 law, specifically the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1831 *et seq.*

14 30. This Court has supplemental jurisdiction over Canoo’s state law claims  
15 pursuant to 28 U.S.C. § 1367 because those claims are so related to Canoo’s federal  
16 claims that they form part of the same case or controversy.

17 31. Venue is proper in this judicial district pursuant to 28 U.S.C. §  
18 1391(b)(2) because a substantial part of the events or omissions giving rise to the  
19 claims occurred in this judicial district and some of the defendants reside in, do  
20 business in, and maintain a principal place of business is in this jurisdiction.

21 32. This Court has *in personam* jurisdiction over Defendants. In the  
22 agreements that are the subject of this action, the Former Canoo Employees  
23 voluntarily and intentionally submitted to the exclusive jurisdiction of the courts in  
24 Los Angeles County, California. The Harbinger Investor Defendants have engaged  
25 in continuous, regular, and systematic relations with this jurisdiction, including but  
26 not limited to doing business and investing in this jurisdiction. For example, the  
27 Harbinger Investor Defendants invested in a company whose operations would be  
28 conducted almost exclusively in California; and their investments provided

1 Harbinger with the capital needed to develop products using Canoo’s stolen  
2 intellectual property. The assertion of personal jurisdiction over the Harbinger  
3 Investor Defendants here will not offend traditional notions of fairness and  
4 substantial justice under Constitutional due process principles.

5 **GENERAL ALLEGATIONS**

6 **A. Canoo is Formed as an EV Industry Disruptor.**

7 33. Canoo was formed in 2017 by Stefan Krause and Ulrich Kranz as an EV  
8 industry disrupter to compete with the best the EV industry had to offer and the likes  
9 of Tesla. Since its formation, Canoo has invested significant resources—including  
10 time, money, and employee capital—to develop its vast intellectual property  
11 associated with its EV technology that includes trade secret, patent, copyright, trade  
12 dress, design, and its contractual programs. The Former Canoo Employees—who  
13 now work for Harbinger—were pivotal in developing and expanding Canoo’s  
14 intellectual property.

15 34. At the heart of Canoo’s business is its proprietary and highly  
16 differentiated platform—called the “skateboard”—that forms the core of Canoo’s  
17 products. Canoo’s skateboard is pictured below. Its architecture and design  
18 incorporate Canoo’s intellectual property portfolio—including a combination of  
19 patents, trade secrets, trade dress, designs, and confidential information developed  
20 over the course of years at great cost to Canoo and its investors.



28 35. Through years of technological development, experimentation,

1 refinement, and know-how, Canoo developed one of the flattest EV driving platforms  
2 ever produced, and the first driving platform with a fully functioning rolling  
3 chassis—making it fully drivable without a cabin. Canoo’s skateboard provides a  
4 highly modular design that allows for a uniquely independent “drive by wire”  
5 experience.

6 36. Canoo’s prized trade secrets consist of its independent driving platform,  
7 skateboard architecture, and design Skateboard Technology. The Skateboard  
8 Technology is highly adaptable and can be leveraged for a variety of purposes. Based  
9 on the Skateboard Technology, Canoo has secured contracts with both NASA (to  
10 provide crewed transportation vehicles for Artemis lunar exploration launches) and  
11 with the United States Army (to provide tactical vehicles). The capabilities and  
12 vulnerabilities of Canoo’s Skateboard Technology could thus prove beneficial to  
13 adversaries of the United States Government.

14 37. Canoo’s Skateboard Technology is uniquely well-suited for step-van  
15 delivery vehicles, where separate chassis remain in use for nearly all iterations of  
16 delivery vans. As such, Canoo invested heavily in developing business plans  
17 centered around the Skateboard Technology, which included exploring joint venture  
18 opportunities with third-party OEMs who could implement Canoo’s driving platform  
19 into their pre-existing fleet of vehicles (i.e., the Skateboard Business Plan). Because  
20 Canoo’s Skateboard Technology could help OEMs expedite the conversion of its gas-  
21 powered fleets to electric at minimal cost to the manufacturers, these joint venture  
22 opportunities became pivotal to Canoo’s long-term success in the crowded EV  
23 market.

24 38. To that end, on or about August 24, 2020, Canoo entered a Mutual Non-  
25 Disclosure Agreement (“MNDA”) with MO. The MO relationship represented an  
26 important opportunity for Canoo to expand its growing business. If Canoo could  
27 form a successful partnership with MO, Canoo could expand its Skateboard Business  
28 Plan to other OEMs.

1 39. In connection with such discussions, MO revealed to Canoo what it was  
2 looking for, including vehicle specifications, intentions, timelines, pricing  
3 information, and the structure of the desired relationship. Canoo and MO (and its  
4 parent corporation, Poindexter JB & Co, Inc.) worked together to explore the  
5 potential partnership for over a year and a half (the “MO Program”).

6 40. In September through December 2020, and in conjunction with Canoo’s  
7 exploration of the Skateboard Business Plan, Canoo spent tens of millions of dollars  
8 to engage a world-leading business consulting firm to analyze EV markets, business  
9 opportunities, market penetration strategies, customer interests, competitors, market  
10 demand, and a general assessment of Canoo’s relative competitiveness in the EV  
11 space, and its Skateboard Business Plan particularly.

12 41. According to this comprehensive analysis, selling Canoo’s skateboard  
13 to OEMs (like MO) was potentially highly profitable. Canoo therefore moved  
14 forward and pursued the MO partnership.

15 **B. Canoo’s Success Depends on Protecting Its Trade Secrets.**

16 42. Canoo’s cutting-edge Skateboard Technology attracted top industry  
17 engineers and investors. To develop and perfect its technology, Canoo spent a  
18 significant amount of time and money to build a team of talented employees qualified  
19 to develop and market Canoo’s technology.

20 43. Canoo’s success is based, in large part, on its institutional knowledge of  
21 the EV market, its human capital, intangible assets, and its business operations. As  
22 such, Canoo carefully protects its confidential, proprietary, and trade secret (and  
23 negative trade secret) information, which would have tremendous value to its  
24 competitors and foreign governments. Canoo has taken reasonable steps to maintain  
25 the secrecy of its confidential and proprietary information and to ensure that its  
26 employees understand and comply with company policies to keep confidential and  
27 proprietary information, including its trade secret information, secret.

28 44. Canoo’s offices have physical and electronic security systems such as

1 gates, fencing, keycard-access and keypad-locked doors, electronic surveillance and  
2 cameras, and security personnel. Electronic access to its computer network is  
3 restricted and electronic access to its datafiles and databases is limited to a “need to  
4 know” basis. All Canoo computer systems, servers, and networks require that each  
5 user have a unique password, and all remote and VPN access require dual-factor  
6 authentication. All employees and independent contractors who receive access to  
7 confidential information are required to sign confidentiality and/or non-disclosure  
8 agreements.

9 45. Moreover, Canoo requires its employees to execute a Confidential  
10 Information and Inventions Assignment Agreement (“Confidentiality Agreement”)  
11 as a condition of employment. The Confidentiality Agreement (i) prohibits, among  
12 other things, the unauthorized disclosure and use of Canoo’s confidential information  
13 (as defined therein) and (ii) bars the employees from discussing, disclosing, or using  
14 Canoo’s trade secrets and confidential and proprietary information inappropriately.

15 46. The Confidentiality Agreement also includes the following invention  
16 assignment provision whereby the employees agree to assign to Canoo all inventions  
17 created and/or developed by the employee while employed at Canoo:

18 I hereby assign to Company all my right, title, and interest in and to any and  
19 all Inventions (and all Intellectual Property Rights with respect thereto) made,  
20 conceived, reduced to practice, or learned by me, either alone or with others,  
21 during the period of my employment by Company.

22 47. Strict adherence to the Confidentiality Agreement is critical to Canoo’s  
23 operations, as Canoo’s current and former employees have developed and/or  
24 contributed to Canoo’s trade secrets and confidential information and have expanded  
25 the scope and content of Canoo’s intellectual property portfolio.

26 48. Upon departure from Canoo, Canoo requires each employee to execute  
27 an Employee Separation Information Letter (“Separation Agreement”). The  
28 Separation Agreement: (i) strictly prohibits the employees from emailing any Canoo

1 documents or information to a personal email account and requires the immediate  
2 deletion of any such document or emails with written confirmation to Canoo of such  
3 deletion; (ii) requires the employees to return of all Canoo equipment and documents  
4 in the possession of the departing employee; and (iii) expressly requires the  
5 employees “to observe and abide by the terms of the Confidentiality Agreement,”  
6 which includes the inventions assignment provision.

7 **C. Weicker and Charbonneau Join Canoo Shortly After Its Formation,**  
8 **Followed By Eberts.**

9 49. Before joining Canoo, Weicker, Eberts, and Charbonneau worked  
10 together with Harris at Faraday in Los Angeles where they conspired and schemed to  
11 own and control their own EV company one way or another.

12 50. Canoo believes it was at Faraday where Harris, Weicker, Eberts, and  
13 Charbonneau honed their trade craft of stealing intellectual property for personal  
14 financial gain. In lieu of starting an EV company using their own independent work,  
15 the four decided that it would be far more expeditious and inexpensive to do so by  
16 stealing privileged information and intellectual property while learning what works  
17 and doesn’t work—all at the employer’s expense. Such an unfair competitive  
18 advantage would prove (and indeed, did prove) attractive.

19 51. In or around December 2017, Weicker joined Canoo as the lead  
20 development manager/engineer “in charge of” Canoo’s powertrain and electronics  
21 system.<sup>8</sup>

22 52. Weicker’s duties and responsibilities at Canoo included leading the  
23 clean-sheet development<sup>9</sup> of Canoo’s electric drive system, battery system, power  
24

25 <sup>8</sup> At Canoo the employee “in charge” (like Weicker, Charbonneau, and Eberts)  
26 typically exercise the highest level of authority beneath Canoo’s executive team.

27 <sup>9</sup> Clean-sheets analyze a product’s cost structure to help manufacturers optimize  
28 design and capture savings.

1 electronics, and electrical architecture. Weicker was also the lead inventor of  
2 Canoo's structural battery approach. He supervised and managed hundreds of  
3 employees, exercised control over hiring and firing employees, and established  
4 objectives and initiatives at Canoo.

5 53. In or around December 2017, Charbonneau joined Canoo as a  
6 "Founder" and head engineer "in charge of" skateboards and cabin, reporting directly  
7 to Canoo's Chief Technology Officer.

8 54. Charbonneau had authority to control budgets, exercised control over  
9 hiring and firing decisions, and established objectives and initiatives. He supervised  
10 numerous employees.

11 55. In or around September of 2018, Eberts joined Canoo and was "in  
12 charge of" Battery & Powertrain Development, reporting directly to Weicker with  
13 the same responsibilities as Charbonneau, including controlling budgets, exercising  
14 control over hiring and firing decisions, and establishing objectives and initiatives.  
15 He supervised numerous employees.

16 56. Through their leadership positions with Canoo, Eberts, Weicker, and  
17 Charbonneau had access to Canoo's considerable financial resources, business plans,  
18 human capital, trade secrets, and other intellectual property. For that reason, Canoo  
19 required Weicker, Eberts, and Charbonneau (like all Canoo employees) to sign a  
20 Confidentiality Agreement.

21 57. Plaintiff is informed and believes, and on that basis alleges, that neither  
22 Eberts nor Weicker nor Charbonneau intended to comply with the terms of their  
23 Confidentiality Agreement, but instead sought access to Canoo's trade secrets and  
24 confidential information, which Eberts, Weicker, and Charbonneau used to  
25 ultimately start and control their own competing EV company.

26 **D. Harris, Eberts, Weicker, and Charbonneau Conspire to Form Harbinger**  
27 **and Misappropriate Canoo's Trade Secrets and Confidential**  
28 **Information.**

58. Harris, Eberts, Weicker, and Charbonneau always intended to own and



1 control their own EV company. When Weicker and Charbonneau helped form Canoo  
2 in 2017, where Eberts later joined in 2018, it was only a stopping point, not the final  
3 destination.

4 59. When Weicker, Charbonneau, and Eberts executed the Confidentiality  
5 Agreement and Separation Agreement, they never had any intention of complying  
6 with their terms. To the contrary, they intended on using Canoo's intellectual  
7 property, business plan, and human capital to form their own competing company  
8 (and attract investors by having the information ready for use).

9 60. In July 2019, Eberts left Canoo. By that time, Eberts, Charbonneau, and  
10 Weicker had gained access to Canoo's trade secrets related to its Skateboard  
11 Technology. Canoo is informed and believes, and on that basis alleges, that when  
12 Eberts left Canoo he took with him trade secrets and intellectual property used in and  
13 related to Canoo's Skateboard Technology.

14 61. With Eberts gone, Weicker and Charbonneau remained at Canoo  
15 together for another seventeen (17) months to work as "moles" so that they could  
16 continue to obtain Canoo's going forward trade secrets and confidential information,  
17 relaying the information to Eberts and Harris as they continued to craft Harbinger's  
18 foundation.

19 62. The two moles embedded themselves in Canoo, taking on any task that  
20 would give them broad access to (and directional control of) Canoo's intellectual  
21 property portfolio and various lines of business. Under the guise of employment,  
22 Weicker and Charbonneau spent their days learning the names and jobs of key  
23 engineers, commodity purchasers, and business development professionals, as well  
24 as Canoo's suppliers, vendors, investors, and partners.

25 63. Weicker and Charbonneau began working on Canoo's Skateboard  
26 Business Plan (Weicker almost exclusively), and eventually the MO Program. The  
27 MO Program required modifications to Canoo's existing Skateboard Technology,  
28 and Canoo tasked Weicker and Charbonneau with managing those modifications. As

1 part of their work on those programs, Weicker met with investors, created slide decks,  
2 and worked with other Canoo employees. For the next five months, Weicker became  
3 intimately familiar with all aspects of the MO Program. Weicker and Charbonneau  
4 shared this information with their co-conspirators, Harris and Eberts.<sup>10</sup>

5 64. Ultimately, Canoo’s Skateboard Business Plan—the multimillion-dollar  
6 business plan to develop modular independent driving platforms that could be sold  
7 to OEMs for use in after-market delivery vehicles—cemented Harbinger’s direction.

8 65. In December 2020, Weicker left Canoo, leaving Charbonneau as the  
9 lead mole and one of the primary co-conspirators continuing to steal Canoo’s  
10 confidential information and trade secrets on Harbinger’s behalf.

11 66. Armed with the trade secrets related to Canoo’s Skateboard Technology  
12 and valuable Skateboard Business Plan, Weicker, Eberts and Harris sold the idea of  
13 a “ready-made EV” company to early investors, including Dusastre.

14 67. The Harbinger Investor Defendants were well aware that Harbinger’s  
15 business plan to develop modular independent driving platforms that could be sold  
16 to OEMs for use in after-market delivery vehicles (i.e., the Skateboard Business Plan  
17 and MO Program) was taken from Canoo through improper acts of corporate  
18 espionage.<sup>11</sup> It is inconceivable that a start-up company like Harbinger could

19 \_\_\_\_\_  
20 <sup>10</sup> Throughout his tenure at Canoo, Weicker continuously and systematically stole  
21 Canoo’s confidential information and trade secrets by forwarding emails to his  
22 personal email account as well as copying, downloading, and/or uploading Canoo’s  
23 confidential documents, including portable units. Weicker then shared such  
24 information with Harbinger, Harris, and Eberts. Additionally, Plaintiff is informed  
25 and believes, and on that basis alleges, that while Weicker was at Canoo, he and  
26 Charbonneau conspired to and did intentionally sabotaged Canoo’s relationship with  
27 MO to allow Harbinger the opportunity to form such an advantageous partnership.

28 <sup>11</sup> For example, Canoo explored a partnership (and even signed a non-disclosure  
agreement) with Kalyani Transmission Technology, an affiliate of Bharat Forge.  
**Bharat Forge is one of Harbinger’s investors** who recently announced a  
partnership with Harbinger. Bharat Forge therefore knew, or had reason to know,  
that Harbinger had at minimum misappropriated the Skateboard Business Plan and,  
in particular, Canoo’s supplier lists.

1 independently develop such intricate technology in such a short period.

2 68. The Harbinger Investor Defendants also knew of Harbinger’s plan to  
3 poach Canoo employees like Charbonneau, Fielkow, Patel and so many others. This  
4 made the investment even more attractive. They were able to bypass the time and  
5 substantial expense associated with the development of an EV business.

6 **E. Harbinger Launches.**

7 69. Plaintiff is informed and believed, and on that basis alleges, that  
8 Weicker, Eberts, and Harris started the company that was to become Harbinger in  
9 mid-2019 at the latest. And, once Weicker, Charbonneau, Eberts, and Harris had  
10 stolen enough of Canoo’s intellectual property to safely move forward with product  
11 development (and raise capital), they registered the company as “Electron Transport,  
12 Inc.” (“Electron”) with the Delaware Secretary of State in or about February 2021.

13 70. Subsequently, Electron changed its name to Harbinger.

14 71. According to Harbinger’s website, Harbinger created:

15  
16 [D]river-focused chassis architecture designed to improve safety, driver  
17 experience, and productivity. **The vehicles will feature autonomous-**  
18 **ready drive-by-wire steering and enhancements to vehicle**  
19 **ergonomics, including a best-in-class floor height below 28 inches,**  
20 **and a novel front suspension that reduces vehicle overhang.**

21 72. Several of these specifications were copied from Canoo’s Skateboard  
22 Technology. They were essential to the Skateboard Business Plan and the MO  
23 Program. And by this time, Charbonneau had spent two of his three years at Canoo  
24 as a key manager and designer of Canoo’s Skateboard Technology.<sup>12</sup> Charbonneau  
25 had access to Canoo’s design specifications, production needs, and other trade secrets  
26 and confidential information. Charbonneau’s knowledge of Canoo’s Skateboard  
27 Technology was critical to the development and launch of Canoo’s Skateboard

28 <sup>12</sup> Charbonneau is a lead inventor on several Canoo domestic and international patent filings.

1 Business Plan.

2 73. Charbonneau remained as the lead mole at Canoo for more than fifteen  
3 months after Weicker's departure, allowing him to further misappropriate Canoo's  
4 intellectual property for Harbinger's benefit. Charbonneau knew the importance of  
5 the Skateboard Business Plan to Canoo's long-term success, so (on information and  
6 belief) he took action to sabotage Canoo's Skateboard Technology and Skateboard  
7 Business Plan while continuing to provide competitive intelligence to Harbinger.

8 74. To copy Canoo's Skateboard Technology and execute the Skateboard  
9 Business Plan stolen from Canoo, Eberts, Weicker, Charbonneau, and Harris knew  
10 that Harbinger would need talented engineers and employees deeply familiar with  
11 EV technology. And they knew exactly where to look. Using Canoo's confidential  
12 information and trade secrets related to Canoo's employees, Eberts, Weicker,  
13 Charbonneau, and Harris strategically recruited the following employees to work for  
14 Harbinger, bringing with them the vast amount of confidential information and trade  
15 secrets that they themselves stole from Canoo:

- 16 ➤ **Patel:** During his 27 months at Canoo, Patel was the Director of Commodity  
17 Purchasing with Canoo in charge of Canoo's supplier relationships, production  
18 needs, and purchasing information. Patel's access to Canoo's purchasing  
19 needs and supplier relationships was critical to the profitability of Canoo's  
20 Skateboard Business Plan, and integral to Harbinger's scheme. Recent  
21 evidence confirms Patel stole supplier lists from Canoo. While at Canoo, Patel  
22 was directly involved in exploring a supplier relationship with Kalyani  
23 Transmission Technology,<sup>13</sup> which signed an MNDA with Canoo in July 2020.  
24 Kalyani's presentation(s) to Canoo outlined its product development and  
25 engineering capabilities, processes, and lead times. When Patel joined  
26 Harbinger in March 2022 and discovered Harbinger needed a manufacturing

27 \_\_\_\_\_  
28 <sup>13</sup> Kalyani Transmission Technology is a wholly-owned subsidiary of Bharat Forge, one of the  
Harbinger Investor Defendants.

1 partner for the drivetrain in its driving platform, Patel looked to his supplier  
2 list stolen from Canoo. In September 2022, only five months after Patel jointed  
3 Harbinger, Harbinger announced a joint venture with Kalyani Powertrain  
4 Limited, an affiliate of Kalyani Transmission Technology.

5 ➤ **Fielkow:** Fielkow, a self-described “experienced business executive and  
6 corporate attorney,” served as in-house counsel for Canoo for thirty-seven (37)  
7 months, initially as Deputy General Counsel and subsequently as Canoo’s Vice  
8 President of Corporate Legal, Securities & Global Strategy. During this time  
9 Fielkow oversaw a broad spectrum of in-house corporate legal and business  
10 matters, including strategic transactions and investments, corporate  
11 governance, board advisory, product development, intellectual property and  
12 technology licensing, IP litigation, regulatory compliance, securities law, data  
13 privacy, and commercial contracts with suppliers and partners. Fielkow had  
14 intimate knowledge of Canoo’s intellectual property portfolio and had  
15 established relationships with Canoo’s outside counsel that prosecuted  
16 Canoo’s patents and registered their trademarks. As an attorney, Canoo trusted  
17 Fielkow to provide advice and counsel free of fraud, theft, and divided loyalty.  
18 Unfortunately for Canoo, its trust in Fielkow was misplaced. Fielkow grossly  
19 abused his fiduciary position, stealing untold amounts of Canoo’s intellectual  
20 property, and even misrepresenting on several occasions that he would not join  
21 a competitor. Fielkow knew (or should have known) of the devastating  
22 impacts often caused by an attorney violating his ethical and professional  
23 responsibilities—yet he intentionally casted them aside.<sup>14</sup>

24  
25  
26 <sup>14</sup> Fielkow was also a member of Canoo’s business development team where he assisted in setting  
27 and developing plans for business and revenue growth, researching and planning new market  
28 initiatives, and meeting with business partners. In his role as both an attorney and business  
development manager, Fielkow had intimate knowledge related to all of Canoo’s business  
strategies.

1       ➤ **Steven Offutt:** During his nearly four (4) years at Canoo, Offutt was in charge  
2 of manufacturing, battery, powertrain, and general assembly. During this time,  
3 Offutt gained detailed knowledge of Canoo’s technology, partners, and  
4 business plans (including the MO Program). This included a wealth of  
5 information regarding the manufacturing and assembly of skateboards,  
6 including, suppliers and service providers, assembly/sub-assembly, timing,  
7 shipping, and logistics. He was also involved in developing and building a  
8 manufacturing facility able to build skateboards at scale for the MO Program.

9       75. Charbonneau, Patel, Offutt, and Fielkow decided to remain at Canoo  
10 after being recruited by Harbinger to continue stealing Canoo’s trade secrets and  
11 confidential information.

12       76. Over the course of the next two years, Harbinger continued to solicit,  
13 hire, and encourage Canoo’s employees to misappropriate Canoo’s trade secrets and  
14 confidential information, including fourteen former employees who had patent  
15 applications (including unpublished applications) pending at the time of their  
16 departure from Canoo.

17       77. In sum, Canoo is informed and believes, and on that basis alleges, that  
18 Weicker, Charbonneau, and Eberts (i) conspired to form Harbinger prior to departing  
19 Canoo; (ii) solicited other Canoo employees (while still employed by Canoo) to leave  
20 Canoo and join Harbinger; (iii) continuously and systematically shared Canoo’s trade  
21 secrets and confidential information with Harbinger (both while still employed at  
22 Canoo and upon their departure); and/or (iv) incentivized other Canoo employees to  
23 proactively steal Canoo’s trade secrets and confidential information.

24       78. The table below includes a list of Canoo’s employees that have left to  
25 join Harbinger (“Poached Employees”), including (i) the month they departed Canoo;  
26 (ii) the month they joined Harbinger; (iii) their position at Canoo upon departure; and  
27 (iv) their position at Harbinger.  
28

<b>NAME</b>	<b>TITLE AT CANOO</b>	<b>DEPARTURE FROM CANOO</b>	<b>HARBINGER TITLE</b>	<b>STARTED AT HARBINGER</b>
William Eberts	Program Manager – Battery, Powertrain, & Power Electronics	July 2019	Co-Founder and Chief Operating Officer	March 2021
Phillip Weicker	In charge of Property and Electric	December 2020	Co-Founder and Chief Technology Officer	March 2021
Isaac Meadows	Electrical Engineer	July 2021	Electric Vehicle Engineer, Systems	July 2021
Kenneth Kawanishi	Power Electronics Packaging Engineer & Battery Engineer	August 2021	Battery Mechanical Engineer	September 2021
Jackson Diebel	Powertrain Engineer	September 2021	Powertrain Engineer	September 2021
Dheemanth Uppalapati	Systems Engineer	September 2021	Senior Systems Engineer	September 2021
Anna Scheibengraber	Test Engineer, Battery Systems	September 2021	Battery Test Engineer	October 2021
Adrian Alvarado	Senior Purchasing Manager	November 2021	Senior Supply Chain Analyst	June 2022
Samuel Jantzi	Powertrain Engineer	December 2021	Powertrain Engineer	January 2022
Aaron Youngblood	Lead EV Technician	December 2021	Senior Engineering Tech	January 2022



NAME	TITLE AT CANOO	DEPARTURE FROM CANOO	HARBINGER TITLE	STARTED AT HARBINGER
Alexi Charbonneau	In Charge of Skateboard & Cabin	December 2021	Vice President of Structure and Chassis	January 2022
Richard D. Walker IV	In charge of Controls	January 2022	Senior Software Engineer, Controls	January 2022
Cody Rhebergen	Thermal Engineer	February 2022	Thermal Analysis Engineer	February 2022
Daniel McCarron	In Charge Skateboard	February 2022	Senior Chassis Engineer	February 2022
Jue Wang	Chassis Control Engineer	February 2022	Senior Chassis Controls Engineer	February 2022
Steven Offutt	In Charge – General Assembly, Powertrain, and Battery Engineering	February 2022	Director, Manufacturing	February 2022
Seth Lewis	Powertrain Engineer	February 2022	Thermal Analysis Engineer	March 2022
Tae Won Park	CAE Engineer	February 2022	Principle, CAE Engineer	February 2022
Kunal Gupta	Chassis Design Engineer	March 2022	Chassis Engineer, Suspension	March 2022
Michael Fricke	Design Release Engineer – HV Battery	March 2022	HV Battery Pack Mechanical Engineer	March 2022
Michael Fielkow	Vice President – Corporate Legal, Securities &	March 2022	General Counsel Security & Head of	March 2022

## COMPLAINT

NAME	TITLE AT CANOO	DEPARTURE FROM CANOO	HARBINGER TITLE	STARTED AT HARBINGER
	Global Strategy		Corporate Development	
Jigar Patel	Commodity Director – Metals & Chassis	March 2022	Director, Supply Chain	March 2022
Pau Burgaya Julia	Senior Thermal Engineer	March 2022	Senior Thermal Engineer	April 2022
Deb Bourke	Director, Battery Systems	March 2022	Director, Engineering Program Management	April 2022
Garrett Allen	Powertrain Engineer, Lead Drive Unit DRE	April 2022	Senior Powertrain Engineer	May 2022
Anthony Washington	Engineering Technician, Senior Design Prototype Engineering Technician	May 2022	Senior Engineering Tech	June 2022
Mrudang Kadakia	Powertrain Test Engineer	May 2022	System Test Engineer	July 2022
Will Smith	Lead Controls Engineer, Thermal Management	June 2022	Thermal Controls, Simulation and Testing	June 2022
Oscar Arriola	Manufacturing Supervisor	July 2022	Senior Operator	July 2022
Brent Caldwell	Senior Interior	September 2022	Manager, Systems Integration	October 2022

COMPLAINT

NAME	TITLE AT CANOO	DEPARTURE FROM CANOO	HARBINGER TITLE	STARTED AT HARBINGER
	Systems Engineer			
James Dameron	Motor Design Engineer	November 2022	Senior Motor Design Engineer	November 2022
Zane Bodenbender	HV Systems Engineer	December 2022	HV Systems Engineering Lead	December 2022

79. To date, Harbinger has poached and hired at least 33 Canoo employees, making up more than 66% of Harbinger's workforce.

**F. Harbinger Utilizes Canoo's Trade Secrets and Confidential Information.**

80. Harbinger's surreptitious scheme began to unravel in March 2022 when Canoo mistakenly received an email from one of its outside law firms that included three patent applications. Those patent applications listed Harris, Eberts, and Weicker as the inventors.

81. Harbinger had engaged Canoo's own outside patent counsel for patent work—privileged information that Fielkow (as Canoo's Deputy General Counsel) would have known. It is particularly telling that Fielkow left Canoo for Harbinger on March 11, 2022, just six days before the patent applications were sent by mistake to Canoo. Given that the patent application drafting process is generally several months long, the process (as to Harbinger's patents sent to Canoo) was ongoing through at least the latter months of Fielkow's tenure **at Canoo**. Canoo's outside law firm's and Fielkow's ethical duties and obligations to Canoo were neither disclosed, discussed, nor waived by Canoo.

82. Fielkow—by working for Harbinger while still employed at Canoo—flagrantly disregarded his ethical duty to his then-client (Canoo) to avoid conflicts of interest while promoting the misappropriation of his client's (Canoo's) trade secrets by its own current and former employees. Even if Harbinger's patent applications

1 involved EV technology not identical to Canoo’s Skateboard Technology (or more  
2 broadly Canoo’s EV technology), the underlying technology was developed by  
3 Weicker and Eberts, who were previously employed by Canoo. Thus, Harbinger’s  
4 patent applications involved technology potentially derivable from Canoo’s  
5 technology and possibly assignable to Canoo pursuant to the invention assignment  
6 provision in the Confidentiality Agreement. Fielkow, an attorney, knew that.

7 83. On September 14, 2022, an article titled “What the hell is Harbinger and  
8 Why are They Showing a Boring Delivery Van at the Detroit Auto Show?” appeared  
9 online in the Autopian, a startup website self-described as a “car-culture website run  
10 by obsessive car nerds.” The article discusses an auspicious blue delivery van on a  
11 sizeable plot of show floor marked Harbinger, stating:

12 That blue van up there looks to be an off-the-rack Grumman MT45  
13 step[-]van, also sold as a Freightliner MT45, or a Morgan Olson  
14 RouteStar, or some confusing combination of those names; it’s a  
15 boring, useful delivery van, and I think that’s the whole point. You see,  
16 Harbinger is in the business of making electric delivery van chassis, and  
17 I think they’re very smart to make them work with one of the most  
18 common van bodies available instead of succumbing to the temptation  
19 of making something sleek and cool and new looking that will get a lot  
20 of attention, but will be expensive and effectively unavailable.

21 84. As captured in the article and using Harbinger’s own words:

22 Harbinger’s scalable stripped chassis has been built to support all of the  
23 popular medium-duty body types available today, including  
24 commercial walk-in vans, recreational vehicles, box trucks, and others.  
25 The front overhang is reduced by Harbinger’s innovative independent  
26 front suspension, and the tight integration of battery, powertrain, and  
27 frame allows a best-in-class floor height. Steer-by-wire and brake-by-  
28 wire systems offer greater flexibility for driver positioning and prepares  
fleets for future innovations in autonomy and advanced safety.

85. The article concludes, “[t]his is exactly what the delivery market needs  
if it’s going to move to electrification: something that works with equipment that’s

1 already in place: loading docks, racks and other interior van organizing systems, has  
2 driver and operator familiarity, and so on.”

3 86. The information confirmed Canoo’s suspicions. Harbinger had copied  
4 Canoo’s Skateboard Business Plan and its Skateboard Technology, and rather than  
5 assign the associated intellectual property to Canoo as required, Eberts, Weicker,  
6 Charbonneau stole it for Harbinger to use.

7 87. The article further confirms that Harbinger’s entire technology and  
8 business model was stolen from Canoo’s Skateboard Business Plan involving its MO  
9 Program. More egregiously, **Harbinger’s first partner was MO**. Undoubtedly,  
10 Weicker, Charbonneau and Fielkow used confidential information discovered  
11 through their involvement with the Canoo-MO negotiations (over the course of a year  
12 and a half) to solidify the Harbinger-MO venture.

13 88. Additionally, Plaintiff is informed and believes, and on that basis  
14 alleges, that while Weicker, Charbonneau and Fielkow were at Canoo, they conspired  
15 to and intentionally sabotaged Canoo’s Skateboard Technology and its relationship  
16 with MO to allow Harbinger both the time and opportunity to form such an  
17 advantageous partnership.

18 89. Indeed, Harbinger stole Canoo’s valuable trade secrets, confidential  
19 information, Skateboard Technology, Skateboard Business Plan, strategic  
20 partnership, investor and vendor opportunities, and employees, and leveraged the  
21 same into a successful business model. Defendants’ calculated and systematic  
22 misconduct, theft of trade secrets and confidential information, and acts of corporate  
23 espionage is the pillar of Harbinger’s success, while costing Canoo hundreds of  
24 millions of dollars.

25 **FIRST CAUSE OF ACTION**  
26 **Misappropriation Of Trade Secrets in Violation**  
27 **Of The Defend Trade Secrets Act, 18 U.S.C. § 1836, et seq.**  
28 **(Against All Defendants)**

90. Canoo incorporates and realleges the allegations set forth above as if

1 fully set forth herein.

2 91. Canoo enjoys an advantage over its competitors because of Canoo's  
3 trade secrets, which include but are not limited to Canoo's Skateboard Technology,  
4 intellectual property, consulting reports, programs or codes, suppliers and  
5 manufacturers, pitch decks, lists of current and prospective customers and vendors  
6 (such as MO), and lists of employees, whether such trade secrets are tangible or  
7 intangible, and whether or however they are stored, compiled, or memorialized  
8 physically, electronically, graphically, and/or photographically.

9 92. Canoo's key trade secret, its Skateboard Technology, consists of its  
10 highly differentiated skateboard platform, the architecture and design of which  
11 incorporates Canoo's intellectual property portfolio—including a combination of  
12 patents, trade secrets, trade dress, and confidential information developed over the  
13 course of years at great cost to Canoo and its investors. Canoo developed its  
14 Skateboard Technology through years of technological development,  
15 experimentation, refinement, and know-how, resulting in the first driving platform  
16 with a fully functioning rolling chassis. Canoo's skateboard provides a highly  
17 modular design that allows for a uniquely independent "drive by wire" experience.

18 93. Canoo's trade secret information also includes the Skateboard Business  
19 Plan. Canoo's Skateboard Business Plan is based on and includes Canoo's  
20 confidential information about (i) Canoo's technology; (ii) third-party business needs  
21 (including MO); (iii) market penetration; (iv) supplier and manufacturer costs and  
22 timelines; (v) the architecture of proposed deals, including potential partners; and (vi)  
23 employing a competitive business plan to provide the business intelligence necessary  
24 to confirm the profitability of selling skateboards to OEMs.

25 94. Canoo's many other trade secrets include but are not limited to:

- 26 a. Lists and information about investors and potential investors.  
27 b. Pitch decks and other confidential internal communications about  
28 market strategies and market development.

- 1 c. Lists and information concerning Canoo’s current and prospective  
2 customers and vendors and similar compilations.
- 3 d. Methodologies, strategies, programs, and systems used by Canoo  
4 in managing assets, liabilities, and risk and/or in soliciting,  
5 marketing, selling, and providing products and services to its  
6 customers.
- 7 e. Financial and accounting information of Canoo such as cost,  
8 pricing information, price lists, financial policies and procedures,  
9 revenues, and profit margins, targets, and forecasts.
- 10 f. Information concerning Canoo’s consultants, independent  
11 contractors, strategic partners, and lists of the foregoing.
- 12 g. Information regarding employees including but not limited to their  
13 skills, evaluations, duties, and responsibilities.
- 14 h. Information and identity about Canoo’s employees.
- 15 i. Negative trade secrets, i.e., Canoo’s secret know-how about what  
16 does *not* work related to its skateboard platform.

17 95. Additionally, information received from third parties (such as MO)  
18 under contractual confidentiality obligations is also considered a trade secret because  
19 it has independent value and derives a financial benefit to Canoo while depriving  
20 competitors like Harbinger of Canoo’s strategies, relationships, and resources.

21 96. Canoo’s trade secrets are valuable and derive independent economic  
22 value because they are not generally known or readily accessible through proper  
23 means to others who can profit from use of the trade secrets. Generally, this  
24 information has allowed Canoo to redefine its business processes and better position  
25 its products (i.e., the skateboard) to target a particular market segment (like OEMs).

26 97. Canoo’s actual and potential customer list provides Canoo with a  
27 substantial business advantage because its disclosure would allow a competitor—like  
28 Harbinger—to direct sales efforts to those customers, enabling them to solicit



1 business selectively and effectively.

2 98. Canoo’s financial information data provides Canoo with a substantial  
3 business advantage because it provides actionable insight into product performance,  
4 helps Canoo refine its business strategies, and improves organizational decision-  
5 making.

6 99. Canoo’s employee information has potential economic value because  
7 Canoo incurred great expense to compile this data and the underlying information  
8 would enable a competitor—like Harbinger—to recruit away Canoo’s employees.

9 100. As discussed above, Canoo has taken more than adequate measures to  
10 maintain the secrecy of this information.

11 101. Accordingly, the above-described information constitutes “trade  
12 secrets” under the Defend Trade Secrets Act, 18 U.S.C. § 1836.

13 102. Defendants were and are under a duty both to keep Canoo’s proprietary  
14 and confidential information secret, and not to use or disclose such information other  
15 than for the benefit of Canoo and with Canoo’s authorization.

16 103. Defendants disclosed Canoo’s confidential, proprietary, and trade  
17 secret information to other persons, and used that information in connection with their  
18 own competing business activities, as opposed to the interest of Canoo, all without  
19 Canoo’s consent.

20 104. Defendants obtained the proprietary and confidential information  
21 described above directly or indirectly from Canoo and not from generally available  
22 information and/or from Defendants' own independent research and efforts.

23 105. Defendants’ foregoing conduct constitutes an actual and threatened  
24 misappropriation and misuse of Canoo’s trade secret information in violation of the  
25 Defend Trade Secrets Act, 18 U.S.C. § 1836.

26 106. Defendants’ actions with respect to Canoo’s trade secrets, as alleged  
27 above, were a deliberate scheme and plan to deprive Canoo of the benefits of Canoo’s  
28 own substantial investment and to steal the economic benefit of years of Canoo’s

1 labor.

2 107. As a direct and proximate cause of Defendants' actions as alleged above,  
3 Canoo has suffered, and will continue to suffer, actual damages, including, but not  
4 limited to, loss of capital, loss of valuable business, loss of profits and future profits,  
5 and loss of goodwill, in an amount to be proven at trial.

6 108. As a further proximate result of the misappropriation, Plaintiff is  
7 informed and believes, and on that basis alleges, that the Defendants have been  
8 unjustly enriched as a result of the misappropriation of Canoo's trade secrets. The  
9 amount of this unjust enrichment cannot presently be ascertained.

10 109. Canoo has suffered irreparable harm as a result of Defendants' activities  
11 and will continue to suffer irreparable injury that cannot be adequately remedied at  
12 law unless Defendants, including their agents and all other persons acting in concert  
13 with them, are enjoined from engaging in any further such acts. The substantial harm  
14 to Canoo outweighs the public benefit of Defendants' conduct.

15 110. Canoo is informed and believes, and on that basis alleges, that the  
16 conduct of Defendants was, and is, malicious, fraudulent, deliberate, and willful, as  
17 demonstrated by their conduct described above. Canoo is therefore entitled to  
18 recover from Defendants exemplary damages as permitted by 18 U.S.C. §  
19 1836(b)(3)(C).

20 111. Canoo is also entitled to an award of attorneys' fees pursuant to 18  
21 U.S.C. § 1836(b)(3)(D).

22 **SECOND CAUSE OF ACTION**  
23 **Misappropriation Of Trade Secrets in Violation of the California Uniform**  
24 **Trade Secrets Act, Cal. Civ. Code. § 3426.1**  
**(Against All Defendants)**

25 112. Canoo incorporates and realleges the allegations set forth above as if  
26 fully set forth herein.

27 113. Canoo enjoys an advantage over its competitors because of Canoo's  
28 trade secrets as defined above in paragraphs 91-95, whether such trade secrets are

1 tangible or intangible, and whether or how stored, compiled, or memorialized  
2 physically, electronically, graphically, photographically.

3 114. As described above, Canoo's trade secrets are valuable and derive  
4 independent economic value because they are not generally known or readily  
5 accessible through proper means to others who can profit from use of the trade  
6 secrets.

7 115. As discussed above, Canoo has taken more than adequate measures to  
8 maintain the secrecy of this information.

9 116. Canoo's trade secrets therefore constitute trade secrets under the  
10 California Uniform Trade Secrets Act (California Civil Code § 3426 *et seq.*).

11 117. Defendants were and are under a duty both to keep Canoo's proprietary  
12 and confidential information secret, and to not use or disclose such information other  
13 than for the benefit of Canoo and with Canoo's authorization.

14 118. Defendants disclosed Canoo's confidential, proprietary, and trade  
15 secret information to other persons, and used that information in connection with their  
16 own competing business activities, as opposed to the interest of Canoo, all without  
17 Canoo's consent.

18 119. Defendants (either directly or indirectly) acquired Canoo's trade secret  
19 information described above.

20 120. Defendants' actions with respect to Canoo's trade secrets, as alleged  
21 hereinabove, were a deliberate scheme to deprive Canoo of the benefits of Canoo's  
22 own substantial investment and to steal the economic benefit of its labor.

23 121. As a direct and proximate cause of Defendants' actions as alleged above,  
24 Canoo has suffered, and will continue to suffer, actual damages, including, but not  
25 limited to, loss of capital, loss of valuable business, loss of profits and future profits,  
26 and loss of goodwill, in an amount to be proven at trial.

27 122. As a further proximate result of the misappropriation, Plaintiff is  
28 informed and believes, and on that basis alleges, that the Defendants have been

1 unjustly enriched as a result of the misappropriation of Canoo's trade secrets. The  
2 amount of this unjust enrichment cannot presently be ascertained.

3 123. Canoo has suffered irreparable harm as a result of Defendants' activities  
4 and will continue to suffer irreparable injury that cannot be adequately remedied at  
5 law unless Defendants, and their agents, and all other persons acting in concert with  
6 them, are enjoined from engaging in any further such acts. The substantial harm to  
7 Canoo outweighs the public benefit of Defendants' conduct.

8 124. Plaintiff is informed and believed, and on that basis alleges, that the  
9 conduct of Defendants was and is, malicious, fraudulent, deliberate, and willful, as  
10 revealed by their conduct described above. Canoo is therefore entitled to recover  
11 from Defendants exemplary damages as permitted by California Civil Code § 3426.3.

12 125. Canoo is also entitled to an award of attorneys' fees pursuant to  
13 California Civil Code §3426.4.

14 **THIRD CAUSE OF ACTION**  
15 **Breach of Contract -- Confidentiality Agreement**  
**(Against Eberts, Weicker, Fielkow, and Charbonneau)**

16 126. Canoo incorporates and realleges the allegations set forth above as if  
17 fully set forth herein.

18 127. In addition to the above-described trade secrets, Canoo maintains other  
19 confidential information that (i) has value to Canoo in being kept confidential; and  
20 (ii) Canoo has legal and/or contractual obligations to maintain as confidential (such  
21 information is referred to herein as "Confidential Information").

22 128. As set forth above, each of the Former Canoo Employees executed the  
23 Confidentiality Agreement.

24 129. Based on the unambiguous terms of the Confidentiality Agreement,  
25 each of the Former Canoo Employees agreed that Canoo's trade secrets, intellectual  
26 property, and confidential information were Canoo's sole property and agreed to not  
27 use or disclose such information without Canoo's express written consent.

28 130. Moreover, pursuant to the terms of the Confidentiality Agreement, the

1 Former Canoo Employees were prohibited from disclosing or using Canoo's  
2 Confidential Information without Canoo's consent.

3 131. The Confidentiality Agreement further required the Former Canoo  
4 Employees to assign to Canoo, all inventions invented while employed at Canoo.

5 132. The Confidentiality Agreement constitutes an enforceable contract  
6 between each of the Former Canoo Employees and Canoo. As with every contract,  
7 the Confidentiality Agreement contains an implied covenant of good faith and fair  
8 dealing that requires the Former Canoo Employees to refrain from doing anything  
9 that would injure Canoo's right to receive the benefits of the Confidentiality  
10 Agreement.

11 133. Canoo has performed all of its covenants and/or conditions under the  
12 Confidentiality Agreement, except to the extent that such performance has been  
13 prevented, excused, hindered, or waived by the Former Canoo Employees.

14 134. The Former Canoo Employees' obligations under the Confidentiality  
15 Agreement are valid, enforceable, and binding upon each of them.

16 135. The Former Canoo Employees materially breached the Confidentiality  
17 Agreement based on their conduct described herein by, among other things, (i) taking,  
18 disclosing, transferring, removing, misusing, and/or misappropriating Canoo's trade  
19 secrets and Confidential Information; (ii) accepting employment with Harbinger with  
20 the purpose or intent of disclosing Canoo's trade secrets and Confidential  
21 Information; and/or (iii) soliciting, recruiting, or inducing Canoo's employees to  
22 leave Canoo and join Harbinger for the purpose of further acquiring Canoo's  
23 intellectual property.

24 136. In addition, the Former Canoo Employees, including Weicker, Eberts,  
25 and Charbonneau, failed to assign to Canoo, all inventions (and associated  
26 intellectual property) that they developed and/or invented while employed at Canoo.  
27 Their failure to do so constitutes a separate, material breach of the Confidentiality  
28 Agreement.

1 137. Indeed, Harbinger’s entire product platform is based on Canoo’s  
2 Confidential Information, Skateboard Technology, and developments made by  
3 Eberts and Weicker that should have been assigned to Canoo pursuant to the  
4 Confidentiality Agreement.

5 138. As a direct and proximate result of the Former Canoo Employees’  
6 material breaches of the Confidentiality Agreement, Canoo has sustained general,  
7 special, consequential, and incidental damages in an amount to be proven at trial.

8 139. Moreover, pursuant to the specific terms of the Confidentiality  
9 Agreement, Canoo is entitled to a Court order, directing Harbinger to assign all of its  
10 intellectual property, including its skateboard technology that was developed by  
11 Eberts and Weicker (while employed at Canoo) yet was not assigned to Canoo as  
12 required by the Confidentiality Agreement.

13 **FOURTH CAUSE OF ACTION**  
14 **Breach of Contract -- Separation Agreement**  
**(Against Eberts, Weicker, Fielkow, and Charbonneau)**

15 140. Canoo incorporates and realleges the allegations set forth above as if  
16 fully set forth herein.

17 141. As described above, each of the Former Canoo Employees and Canoo  
18 entered into the Separation Agreement.

19 142. Pursuant to the Separation Agreement, the Former Canoo Employees  
20 agreed to (i) not disclose Canoo’s Confidential Information, (ii) to not email any  
21 Canoo documents or information to a personal email address, and (iii) return all of  
22 Canoo’s equipment in their possession to Canoo prior to their departure.

23 143. The Separation Agreement specifically states:  
24 [Y]ou have certain post-employment obligations which you are  
25 required to uphold with respect to Canoo’s confidential information and  
26 intellectual property, which are outlined below and also fully set forth  
27 in the Employee Confidential Information and Inventions Assignment  
28 Agreement that you signed during your employment (“*CIIA*”).  
“Confidential Information” is fully defined in the CIIA but includes,  
without limitation, product information and specifications, supplier

1 information, contract terms, methods of operation, sales and marketing  
2 plans and investor and financial information. Under applicable law and  
3 under the terms of the CIIA, you are obligated to keep all such  
4 information confidential and to not use it to the detriment of the  
5 Company. In particular, you may not use it for, or disclose it to, any  
6 third party, including any new employer or competitor of the Company.  
7 This duty with respect to Confidential Information extends for two (2)  
8 years following your separation (other than with respect to trade secrets,  
9 which remain subject to restriction indefinitely by law).

10 144. The Separation Agreement constitutes an enforceable contract between  
11 each of the Former Canoo Employees and Canoo. As with every contract, the  
12 Separation Agreement contains an implied covenant of good faith and fair dealing  
13 that requires the Former Canoo Employees to refrain from doing anything that would  
14 injure Canoo's right to receive the benefits of the Separation Agreement.

15 145. Canoo has performed all of its covenants and/or conditions in the  
16 Separation Agreement, except to the extent that such performance has been  
17 prevented, excused, hindered, or waived by the Former Canoo Employees.

18 146. The Former Canoo Employees' obligations under the Separation  
19 Agreement are valid, enforceable, and binding upon each of them.

20 147. Each of the Former Canoo Employees materially breached the  
21 Separation Agreement based on the conduct described above by, among other things,  
22 (i) taking, disclosing, transferring, removing, misusing, and/or misappropriating  
23 Canoo's trade secrets and Confidential Information; (ii) accepting employment with  
24 Harbinger with the purpose or intent of disclosing Canoo's trade secrets and  
25 Confidential Information.

26 148. In addition, Weicker, Eberts, and Charbonneau failed to assign to  
27 Canoo, all inventions (and associated intellectual property) that they developed  
28 and/or invented while employed at Canoo. Their failure to do so constitutes a  
separate, material breach of the Separation Agreement.

149. Indeed, Harbinger's entire product platform is based on Canoo's  
Confidential Information, Skateboard Technology, and developments made by



1 Eberts, Weicker, and Charbonneau that should have been assigned to Canoo pursuant  
2 to the Separation Agreement.

3 150. As a direct and proximate result of the Former Canoo Employees'  
4 material breaches of the Separation Agreement, Canoo has sustained general, special,  
5 consequential, and incidental damages in an amount to be proven at trial.

6 151. Moreover, pursuant to the terms of the Separation Agreement, Canoo is  
7 entitled to a Court order, directing Harbinger to assign all of its intellectual property,  
8 including its skateboard technology which was developed by Eberts and Weicker yet  
9 was not assigned to Canoo as required by the Separation Agreement.

10 152. Canoo also seeks an award of attorneys' fees pursuant to the terms of  
11 the Separation Agreement.

12  
13 **FIFTH CAUSE OF ACTION**  
**Intentional Interference with Contractual Relations**  
**(Against Harbinger and Electron)**  
14

15 153. Canoo incorporates and realleges the allegations set forth above as if  
16 fully set forth herein.

17 154. As set forth above, each of the Poached Employees (including the  
18 Former Canoo Employees) and Canoo entered into the Confidentiality Agreement  
19 and the Separation Agreement.

20 155. Harbinger knew that the Poached Employees had contracts with Canoo,  
21 as Weicker, Eberts, and Charbonneau themselves signed such agreements with  
22 Canoo and such agreements were required of all Canoo employees.

23 156. Nonetheless, Harbinger entered into an employment agreement with the  
24 Poached Employees, requiring them and/or expecting them to disclose Canoo's trade  
25 secrets and Confidential Information.

26 157. Harbinger encouraged the Poached Employees to disclose Canoo's trade  
27 secrets and Confidential Information and refuse to assign to Canoo, all inventions  
28 invented while employed at Canoo, fully aware that these individuals were

1 contractually barred from doing so under the Confidentiality Agreement and the  
2 Separation Agreement.

3 158. Harbinger's conduct prevented (and continues to prevent) the Poached  
4 Employees' performance under the Confidentiality Agreement and Separation  
5 Agreement.

6 159. Harbinger willfully and intentionally interfered with these agreements,  
7 without privilege to do so, by aiding, abetting, encouraging and/or assisting the  
8 Poached Employees in breaching their contractual obligations to Canoo to (i)  
9 immediately return all of Canoo's trade secrets and Confidential Information to  
10 Canoo upon departure from Canoo; (ii) return all of Canoo's property upon departure;  
11 and (iii) not use, disclose or misappropriate Canoo's trade secrets and Confidential  
12 Information.

13 160. In addition, Weicker, Eberts, and Charbonneau aided, abetted, and  
14 encouraged the Poached Employees to breach their contractual obligation to assign  
15 to Canoo, all inventions they created and/or developed while employed at Canoo.

16 161. Canoo is informed and believes, and on that basis alleges, that Harbinger  
17 intended to disrupt the performance of the Confidentiality Agreement and Separation  
18 Agreement, or knew that disruption of performance was certain, or substantially  
19 certain, to occur.

20 162. Canoo was harmed by Harbinger's conduct.

21 163. Harbinger's conduct was a substantial factor in causing Canoo's harm.

22 164. As a result of Harbinger's conduct, Canoo has sustained general, special,  
23 consequential, and incidental damages in an amount to be proven at trial.

24 165. Canoo is informed and believes, and on that basis alleges, that Harbinger  
25 acted with oppression, fraud, and malice, and with the intent to injure and damage  
26 Canoo, entitling Canoo to an award of punitive damages against Harbinger in an  
27 amount according to proof at trial and sufficient to punish and to deter Harbinger  
28 from engaging in this conduct in the future.



1 **SEVENTH CAUSE OF ACTION**  
2 **Intentional Interference with**  
3 **Prospective Economic Advantage**  
4 **(Against Harbinger and Electron)**

5 177. Canoo incorporates and realleges the allegations set forth above as if  
6 fully set forth herein.

7 178. A business relationship existed between Canoo and other third parties,  
8 including MO.

9 179. Based upon the significant financial capital and human resources  
10 exerted in developing the Skateboard Business Plan, including development of the  
11 MO Program, Canoo had a reasonable expectation of receiving the benefits of its  
12 relationship with MO for the implementation of its skateboard technology in MO's  
13 fleet of vehicles.

14 180. There was a probability of future economic benefit to Canoo from the  
15 business relations between Canoo and MO. If MO incorporated Canoo's technology  
16 as discussed above, then it would expedite the conversion of MO's existing gas-  
17 powered fleet to electric at minimal cost. The MO Program would therefore have  
18 yielded a significant financial profit to Canoo. Canoo invested millions of dollars in  
19 both evaluating its potential relationship with MO and determining the benefit and  
20 profitability of Canoo's OEM strategy.

21 181. Harbinger knew of Canoo's Skateboard Business Plan and its  
22 relationship with MO, including the development of the MO Program, as Weicker  
23 was intimately familiar with virtually all aspects of the MO Program.

24 182. Using information obtained from Weicker, Harbinger willfully and  
25 intentionally interfered with that relationship, without privilege to do so, by usurping  
26 Canoo's corporate opportunity with MO.

27 183. Harbinger's conduct was willful.

28 184. Harbinger acted in such manner to exclude Canoo from any revenues  
and profits derived from the transactions between Canoo and MO.

1 185. Canoo is informed and believes, and on that basis alleges, that by  
2 engaging in this conduct, Harbinger intended to disrupt the relationship or knew that  
3 disruption of the relationship between Canoo and MO was certain or substantially  
4 certain to occur.

5 186. There was an actual disruption in the relationship between Canoo and  
6 MO.

7 187. As discussed hereinabove, Harbinger engaged in wrongful conduct.

8 188. Canoo was substantially harmed by Harbinger's conduct.

9 189. Harbinger's conduct was a substantial factor in causing Canoo's harm.

10 190. As a direct and proximate result of Harbinger's conduct, Canoo suffered  
11 substantial damages, including special damages in the form of lost earnings, benefits  
12 and/or out of pocket expenses in an amount to be proven at trial.

13 191. As a further direct and proximate result of Harbinger's conduct, Canoo  
14 will continue to suffer additional damages including special damages in the form of  
15 lost future earnings, benefits and/or other prospective damages in an amount  
16 according to proof at trial.

17 192. Canoo is informed and believes, and on that basis alleges, that Harbinger  
18 acted with oppression, fraud, and malice, and with the intent to injure and damage  
19 Canoo, entitling Canoo to an award of punitive damages against Harbinger, in an  
20 amount according to proof at trial and sufficient to punish and to deter Harbinger  
21 from engaging in this conduct in the future.

22  
23 **EIGHTH CAUSE OF ACTION**  
24 **Negligent Interference with Prospective Economic Advantage**  
**(Against Harbinger and Electron)**

25 193. Canoo incorporates and realleges the allegations set forth above as if  
26 fully set forth herein.

27 194. A business relationship existed between Canoo and other third parties,  
28 including MO.

1 195. Based upon the significant financial capital and human resources  
2 exerted in developing the Skateboard Business Plan, specifically the MO Program,  
3 Canoo had a viable expectation of receiving the benefits of its relationship with MO  
4 for the implementation of its skateboard technology in MO's electrified fleet of  
5 vehicles.

6 196. There was a probability of future economic benefit to Canoo from the  
7 business relations between Canoo and MO.

8 197. Harbinger knew of Canoo's Skateboard Business Plan and its  
9 relationship with MO, including the development of the MO Program.

10 198. Harbinger failed to act with reasonable care.

11 199. Canoo is informed and believes, and on that basis alleges, that by  
12 engaging in the conduct discussed hereinabove, Harbinger disrupted the relationship  
13 between Canoo and MO.

14 200. There was an actual disruption in the relationship between Canoo and  
15 MO.

16 201. Canoo was substantially harmed by Harbinger's conduct.

17 202. As a proximate result of Harbinger's conduct, Canoo suffered  
18 substantial damages, including special damages, in the form of lost earnings, benefits  
19 and/or out of pocket expenses in an amount to be proven at trial.

20 203. As a further direct and proximate result of the Harbinger's conduct,  
21 Canoo will continue to suffer additional damages including special damages in the  
22 form of lost future earnings, benefits and/or other prospective damages in an amount  
23 to be proven at trial.

24  
25 **NINTH CAUSE OF ACTION**  
26 **Breach of Fiduciary Duty**  
**(Against Eberts, Weicker, Fielkow and Charbonneau)**

27 204. Canoo incorporates and realleges the allegations set forth above as if  
28 fully set forth herein.

1           205. Eberts, Weicker, Fielkow, and Charbonneau were high-level executives  
2 at Canoo. As such, they owed Canoo fiduciary duties, including, without limitation,  
3 duties of care and undivided loyalty.

4           206. Canoo is informed and believes, and on that basis allege, that Eberts,  
5 Weicker, Fielkow, and Charbonneau breached their fiduciary duties to Canoo, and/or  
6 knowingly aided and abetted, substantially assisted, and encouraged each of the other  
7 Poached Employees, to breach their duties by engaging in the following acts and  
8 omissions, among others:

- 9           a. Competing with Canoo through the new entity they were forming,  
10           while still employed by Canoo;
- 11           b. Attempting to divert Canoo's business plan and strategic  
12           partnership with MO;
- 13           c. Improperly disclosing to a competitor, Canoo's trade secrets and  
14           Confidential Information;
- 15           d. Interfering with Canoo's relationships with its customers, potential  
16           partners and suppliers, and investors;
- 17           e. Soliciting employees to leave Canoo and join Harbinger for the  
18           purpose of acquiring Harbinger's intellectual property;
- 19           f. Interfering with the Canoo's relationships with its employees and  
20           third-party service providers through various solicitations;
- 21           g. Working and acting as officers for Harbinger, while still employed  
22           by Canoo; and,
- 23           h. Sabotaging and undermining Canoo's Skateboard Business Plan,  
24           specifically the MO Program.

25           207. Fielkow (as counsel to Canoo) owed a non-waivable fiduciary duty to  
26 Canoo. As described above, Fielkow breached both his fiduciary and ethical duties  
27 to Canoo by (i) disclosing to Harbinger, Canoo's intellectual property, including trade  
28 secret information and Confidential Information; (ii) misrepresenting to Canoo on



1 several occasions that he would not join a competitor; and (iii) disclosing to  
2 Harbinger while still employed at Canoo, Canoo's patent counsel.

3 208. Canoo did not give informed consent to Eberts, Weicker, Fielkow, or  
4 Charbonneau to breach their fiduciary duties.

5 209. Fielkow did not seek and Canoo did not waive any conflict of interest to  
6 Fielkow, as its former legal counsel.

7 210. Canoo is informed and believes, and on that basis alleges, that as a  
8 direct, foreseeable, and proximate result of Eberts', Weicker's, Fielkow's, and  
9 Charbonneau's breaches of fiduciary duties described herein, Canoo has been  
10 damaged in an amount presently unknown, but to be proven at trial.

11 211. Canoo is informed and believes and on that basis alleges, that Eberts,  
12 Weicker, Fielkow, and Charbonneau acted willfully, maliciously, oppressively and  
13 despicably with the full knowledge of the adverse effect of their actions and with  
14 willful and deliberate disregard of the consequences such as to constitute oppression,  
15 fraud or malice. By reason thereof, Canoo is entitled to recover punitive and  
16 exemplary damages from Eberts, Weicker, Fielkow, and Charbonneau in an amount  
17 to be proven at trial and sufficient to punish or set an example of Eberts, Weicker,  
18 Fielkow and Charbonneau and to deter them from engaging in such conduct in the  
19 future.

20 **TENTH CAUSE OF ACTION**  
21 **Aiding & Abetting Breach of Fiduciary Duty**  
**(Against Harbinger, Harris and Dusastre)**

22 212. Canoo incorporates and realleges the allegations set forth above as if  
23 fully set forth herein.

24 213. At all times alleged herein, Harbinger, Harris and Dusastre knew (or  
25 should have known) that Eberts, Weicker, Fielkow, and Charbonneau each owed  
26 fiduciary duties to Canoo.

27 214. As discussed above, Weicker, Eberts, Fielkow and Charbonneau  
28 breached their fiduciary duties to Canoo.



1 Canoo. The Former Canoo Employees owed such duties by virtue of their  
2 employment relationship with Canoo and by the special confidence reposed in them  
3 by Canoo in connection with their exposure and access to Canoo’s trade secrets and  
4 Confidential Information.

5 222. In addition, at all times during their employment with Canoo the Former  
6 Canoo Employees owed to Canoo multiple statutory duties of care, including duties  
7 to: “use ordinary care and diligence” in the performance of their duties (Cal. Labor  
8 Code § 2854); “substantially comply with all the directions of” the Company (*id.*  
9 § 2856); “exercise a reasonable degree of skill” in the performance of their duties (*id.*  
10 § 2858); and “use such skill as [they] possess[], so far as the same is required” (*id.* §  
11 2859).

12 223. Each of the Former Canoo Employees directly breached their duty of  
13 loyalty owed to Canoo, and/or knowingly aided and abetted, substantially assisted  
14 and encouraged each of the other Poached Employees in breaching their duty of  
15 loyalty of care, by among other things engaging in the following conduct while  
16 employed by the Canoo:

- 17 a. Competing with the Canoo;
- 18 b. Disclosing Canoo’s trade secrets and Confidential Information to  
19 Harbinger;
- 20 c. Acting in such manner as to sabotage Canoo’s operations;
- 21 d. Interfering with and attempting to sabotage Canoo’s relationships  
22 with investors, customers, and suppliers;
- 23 e. Interfering with and sabotaging Canoo’s relationship with potential  
24 partnership opportunities, such as with MO;
- 25 f. Diverting Canoo’s business plan to Harbinger;
- 26 g. Soliciting employees to leave Canoo and join Harbinger for the  
27 purpose of acquiring Harbinger’s intellectual property; and,
- 28 h. Interfering with Canoo’s relationships with its employees and third-

1 party service providers through various solicitations.

2 224. The Former Canoo Employees' misconduct, as described above,  
3 breached multiple statutory and other duties of care that they owed Canoo, damaging  
4 Canoo. Further, the Former Canoo Employees' actions and/or inactions constituted  
5 culpable misconduct, and the Former Canoo Employees are "liable to [Canoo] for the  
6 damage thereby caused," pursuant to California Labor Code Section 2865.

7 225. Canoo did not give informed consent to the Former Canoo Employees'  
8 misconduct.

9 226. Canoo is informed and believes, and on that basis alleges, that as a  
10 direct, foreseeable, and proximate result of the Former Canoo Employees' breach of  
11 the duties of loyalty and care described herein, Canoo has been damaged in an amount  
12 presently unknown, but to be proven at trial.

13 **TWELFTH CAUSE OF ACTION**  
14 **Aiding & Abetting Breach of Duty of Loyalty**  
15 **(Against Harbinger, Harris and Dusastre)**

16 227. Canoo incorporates and realleges the allegations set forth above as if  
17 fully set forth herein.

18 228. At all times alleged herein, Harbinger, Harris, and Dusastre knew that  
19 each of the Former Canoo Employees owed Canoo a duty of loyalty.

20 229. As discussed hereinabove, each of the Former Canoo Employees  
21 breached their duty of loyalty to Canoo.

22 230. At all times alleged herein, Harbinger, Harris, and Dusastre were aware  
23 of the wrongful conduct of the Former Canoo Employees as alleged above, including  
24 their breach of the duty of loyalty.

25 231. Harbinger, Harris, and Dusastre gave substantial assistance and/or  
26 encouragement to the Former Canoo Employees to breach their duty of loyalty.

27 232. Harbinger's, Harris', and Dusastre's conduct caused Canoo harm.

28 233. Harbinger's, Harris', and Dusastre's conduct was a substantial factor in  
causing harm to Canoo.

1 234. Canoo is informed and believes, and on that basis alleges, that as a  
2 direct, foreseeable, and proximate result of Harbinger's, Harris', and Dusastre's  
3 conduct, Canoo has been damaged in an amount presently unknown, but to be proven  
4 at trial.

5 235. Canoo is informed and believes, and on that basis alleges, Harbinger,  
6 Harris, and Dusastre acted with oppression, fraud, and malice, and with the intent to  
7 injure and damage Canoo, entitling Canoo to an award of punitive damages against  
8 Weicker and Eberts in an amount according to proof at trial and sufficient to punish  
9 and to deter Weicker and Eberts from engaging in this conduct in the future.

10 **THIRTEENTH CAUSE OF ACTION**  
11 **Fraud in the Inducement as to the Confidentiality Agreement**  
12 **(Against Eberts, Weicker, Fielkow, and Charbonneau)**

13 236. Canoo incorporates and realleges the allegations set forth above as if  
14 fully set forth herein.

15 237. Eberts, Weicker, Fielkow, and Charbonneau engaged in wide-ranging  
16 corporate espionage. From the outset, they joined Canoo knowing that they would  
17 later form their future EV company (Harbinger) where Harris would later join them.  
18 Eberts, Weicker, Charbonneau, and Fielkow gained access to Canoo's trade secrets  
19 and Confidential Information to be used in forming Harbinger.

20 238. In order to do so, Weicker, Eberts, Fielkow, and Charbonneau entered  
21 into the Confidentiality Agreement promising among other things that they would  
22 refrain from using, stealing, and/or disclosing Canoo's Confidential Information as  
23 defined therein, and that they would assign to Canoo, all inventions (and all  
24 intellectual property associated therewith) that they created and/or developed while  
25 employed at Canoo.

26 239. Neither Weicker, nor Eberts, nor Fielkow, nor Charbonneau had any  
27 intention to comply with the terms of the Confidentiality Agreement when they  
28 entered into it, knowing that they would later form Harbinger using intellectual  
property stolen from Canoo.

1           240. Weicker, Eberts, Fielkow, and Charbonneau joined Canoo to steal  
2 Canoo's trade secrets and Confidential Information and using the information for  
3 their own economic benefit, including to form Harbinger. Harbinger (through  
4 Weicker, Eberts, Harris, Fielkow, and/or Charbonneau) solicited investments from  
5 foreign entities, including Bharat Forge, with knowledge that such foreign investors  
6 would enjoy access to the intellectual property (including trade secrets) stolen from  
7 Canoo.

8           241. Canoo is informed and believes, and on that basis alleges, that Weicker,  
9 Eberts, Fielkow, and Charbonneau knew that the representations they made in the  
10 Confidentiality Agreement were false.

11           242. Canoo is informed and believes, and on that basis alleges, that these  
12 material false statements were made with the intent to deceive and defraud Canoo.

13           243. When they joined Canoo and entered into the Confidentiality  
14 Agreement, Weicker, Eberts, Fielkow, and Charbonneau intentionally concealed  
15 their plan to steal Canoo's trade secrets and Confidential Information for their own  
16 economic benefit.

17           244. Canoo is informed and believes, and on that basis alleges, that Weicker,  
18 Eberts, Fielkow, and Charbonneau made these material misrepresentations and  
19 concealments with the intent to induce Canoo to take actions detrimental to Canoo's  
20 interests – to provide them with access to Canoo's trade secrets and Confidential  
21 Information.

22           245. Canoo was ignorant of the true facts when Weicker, Eberts, Fielkow,  
23 and Charbonneau made the foregoing material misrepresentations and concealments  
24 in the Confidentiality Agreement.

25           246. Canoo relied on Weicker's, Eberts's, Fielkow's, and Charbonneau's  
26 concealments, misrepresentations, and deception to its detriment, including by  
27 providing them with access to Canoo's trade secrets and Confidential Information,  
28 such as its Business Plans, strategies and development efforts.

1 247. Canoo's reliance was reasonable in light of Weicker's, Eberts',  
2 Fielkow's, and Charbonneau's stated intent to comply with the Confidentiality  
3 Agreement.

4 248. As a direct and proximate result of Weicker's, Eberts', Fielkow's, and  
5 Charbonneau's concealment, misrepresentations, improper conduct, and actual fraud  
6 alleged herein, Canoo has suffered damages in an amount to be proven at trial.

7 249. Canoo is informed and believes, and on that basis alleges, that Weicker,  
8 Eberts, Fielkow, and Charbonneau acted with oppression, fraud, and malice, and with  
9 the intent to injure and damage Canoo, entitling Canoo to an award of punitive  
10 damages against Weicker, Eberts, Fielkow, and Charbonneau in an amount according  
11 to proof at trial and sufficient to punish and to deter Weicker, Eberts, Fielkow, and  
12 Charbonneau from engaging in this conduct in the future.

13 **FOURTEENTH CAUSE OF ACTION**  
14 **Fraud in the Inducement as to the Separation Agreement**  
15 **(Against Eberts, Weicker, Fielkow, and Charbonneau)**

16 250. Canoo incorporates and realleges the allegations set forth the above as  
17 if fully set forth herein.

18 251. As discussed herein, Harbinger and its officers, Weicker, Eberts, Harris  
19 and Dusastre conspired to form Harbinger using Canoo's trade secrets and  
20 Confidential Information including Canoo's own employees.

21 252. In connection with such scheme, when each of the Former Canoo  
22 Employee departed Canoo to join Harbinger, each of the Former Canoo Employees  
23 intended to (and did) take Canoo's trade secrets and Confidential Information.

24 253. Each of the Former Canoo Employees entered into the Separation Letter,  
25 promising among other things that they would refrain from disclosing Canoo's trade  
26 secrets and Confidential Information subsequent to their departure from Canoo and  
27 that they would return all documents and equipment to Canoo prior to departure.

28 254. The Former Canoo Employees, however, never intended to comply with  
these promises when they signed the Separation Letter. Rather, their plan was to



1 continue to use Canoo's trade secrets and Confidential Information for the benefit of  
2 Harbinger once they joined Harbinger.

3 255. Canoo is informed and believes, and on that basis alleges, that the  
4 Former Canoo Employees knew that the representations they made in the Separation  
5 Agreement were false.

6 256. Canoo is informed and believes, and on that basis alleges, that these  
7 material false statements were made with the intent to deceive and defraud Canoo.

8 257. Each of the Former Canoo Employees intentionally concealed the fact  
9 that when they entered into the Separation Agreement, they intended to join  
10 Harbinger, and intended to share Canoo's trade secrets and Confidential Information.

11 258. Canoo is informed and believes, and on that basis alleges, that the  
12 Former Canoo Employees made these material misrepresentations and concealments  
13 with the intent to induce Canoo to take actions detrimental to Canoo's interests.

14 259. Canoo was ignorant of the true facts when the Former Canoo Employees  
15 made the foregoing material misrepresentations and concealments in the Separation  
16 Agreement.

17 260. Canoo relied on the Former Canoo Employees' concealments  
18 misrepresentations and deception to its detriment.

19 261. Canoo's reliance was in fact reasonable in light of the Former Canoo  
20 Employees' agreement to be bound by the Separation Agreement.

21 262. As a direct and proximate result of the Former Canoo Employees'  
22 concealment, misrepresentations, improper conduct and actual fraud alleged herein,  
23 Canoo has suffered damages in an amount to be proven at trial.

24 263. Canoo is informed and believes, and on that basis alleges, that the  
25 Former Canoo Employees acted with oppression, fraud, and malice, and with the  
26 intent to injure and damage Canoo, entitling Canoo to an award of punitive damages  
27 against the Former Canoo Employees in an amount according to proof at trial and  
28 sufficient punish and to deter the Former Canoo Employees from engaging in this

1 conduct in the future.

2  
3 **FIFTEENTH CAUSE OF ACTION**  
4 **Unfair Competition [Cal. Business and Professions Code. § 17200 et seq.]**  
5 **(Against All Defendants)**

6 264. Canoo incorporates and realleges the allegations set forth above as if  
7 fully set forth herein.

8 265. This is a cause of action for unfair business practices arising under  
9 California Business and Professions Code section 17200 et seq., which prohibits  
10 unfair competition.

11 266. The statute prohibits “any unlawful, unfair or fraudulent business act or  
12 practice.” *See* Cal. Bus. & Prof. Code §17200.

13 267. As alleged above, Defendants engaged in unlawful, unfair and  
14 fraudulent business practices, including but not limited to Defendants’ corporate  
15 espionage, fraud, improper disclosure of Canoo’s Confidential Information, and  
16 intentionally sabotaging and undermining Canoo’s operations, including its  
17 relationship with MO.

18 268. Plaintiff is informed and believes, and on that basis alleges, that in  
19 violation of California Business and Professions Code section 17200 et seq.,  
20 Defendants improperly misappropriated, removed, retained, and/or began using  
21 Canoo’s Confidential Information.

22 269. Defendants’ actions are part of a deliberate scheme and plan to deprive  
23 Canoo of the benefits of its own substantial investment and efforts and to steal the  
24 fruits of several years of its labor, and to give Defendants an unfair competitive  
25 advantage.

26 270. Defendants have been unjustly enriched and Canoo has suffered  
27 irreparable harm as a result of Defendants’ activities and will continue to suffer  
28 irreparable injury that cannot be adequately remedied at law unless Defendants,  
including their agents and all other persons acting in concert with them, are enjoined

1 from engaging in any further such acts.

2 271. The substantial harm to Canoo outweighs the public benefit of  
3 Defendants' conduct.

4 272. Canoo is entitled to injunctive relief ordering Defendants to refrain from  
5 further violations of the California Business and Professions Code.

6 273. Canoo is further entitled to restitution of monies wrongfully acquired by  
7 Defendants as well as all funds expended by Canoo as a result of Defendants' acts  
8 and practices of unfair competition.

9 **SIXTEENTH CAUSE OF ACTION**  
10 **Unjust Enrichment**  
**(Against Harbinger)**

11 274. Canoo incorporates and realleges the allegations set forth above as if  
12 fully set forth herein.

13 275. As a result of the illegal and wrongful conduct alleged herein, Harbinger  
14 has been and will be unjustly enriched at the expense of Canoo.

15 276. Harbinger is under an obligation to repay Canoo all monies and financial  
16 benefits it gained and by which Harbinger was unjustly enriched as a result of the  
17 wrongful conduct discussed herein.

18 277. Canoo is informed and believes, and on that basis alleges, that Harbinger  
19 has been unjustly enriched in an amount to be proven at trial.

20 **SEVENTEENTH CAUSE OF ACTION**  
21 **Specific Performance**  
**(Against Harbinger, Eberts, Weicker, Fielkow, and Charbonneau)**

22 278. Canoo hereby repeats and incorporates by reference the allegations set  
23 forth above.

24 279. As discussed above, Canoo and the Former Canoo Employees executed  
25 the Confidentiality Agreement (a specifically enforceable contract) that is sufficiently  
26 certain in its terms; namely, the Former Canoo Employees agreed to assign to Canoo,  
27 all inventions (and all intellectual property associated therewith) that they created  
28 and/or developed while employed at Canoo.

1 280. Canoo and the Former Canoo Employees further executed the  
2 Separation Agreement (a specifically enforceable contract) that is sufficiently certain  
3 in its terms; namely, the Former Canoo Employees agreed (by reaffirming the terms  
4 of the Confidentiality Agreement) to assign to Canoo, all inventions (and all  
5 intellectual property associated therewith) that they created and/or developed while  
6 employed at Canoo.

7 281. Canoo has performed all of its obligations under the Confidentiality  
8 Agreement, except to the extent that such performance has been prevented, hindered,  
9 excused, and/or waived by the Former Canoo Employees.

10 282. The Former Canoo Employees have refused to comply with the terms of  
11 the Confidentiality Agreement, as discussed above, by among other things refusing  
12 and/or failing to assign to Canoo, the inventions and associated intellectual property  
13 that they created and/or developed while employed at Canoo.

14 283. Canoo has no adequate remedy at law because the inventions and  
15 associated intellectual property in issue are unique.

16 284. Canoo prays that the Court order the Former Canoo Employees to  
17 specifically perform under the Confidentiality Agreement by transferring to Canoo,  
18 all of the inventions and associated intellectual property that they created and/or  
19 developed while employed at Canoo.

20 **REQUEST FOR PRELIMINARY INJUNCTIVE RELIEF**

21 285. Canoo incorporates and realleges the allegations set forth above as if  
22 fully set forth herein.

23 286. Canoo demonstrated, and the evidence to be presented at a hearing  
24 and/or trial will show, that Canoo has a likelihood of success on the merits of one or  
25 more of its claims set forth in its Complaint.

26 287. In addition, Canoo will be irreparably harmed without preliminary  
27 injunctive relief that restores the status quo ante between Canoo and Defendants  
28 before Defendants committed one or more of the wrongful acts described in this

1 Complaint.

2 288. Canoo has no adequate remedy at law for the ongoing and threatened  
3 conduct in that it would be impossible for Canoo to determine the precise amount of  
4 damages Canoo will suffer if Defendants' conduct is not restrained, and Canoo will  
5 continue to be deprived of certain employees, vendors, and customers which cannot  
6 be compensated in damages.

7 289. A balancing of the equities favors the entry of preliminary injunctive  
8 relief upon a hearing before the Court, in favor of Canoo and, without the entry of  
9 such relief, Canoo will suffer a greater hardship than Defendants would suffer if such  
10 relief were entered.

11 290. It is in the public interest that confidential information remain protected  
12 and that the integrity of protected computers remains intact, rather than the  
13 alternative: unabated breaches of confidentiality agreements, disclosures of  
14 confidential and trade secret information.

15 **DEMAND FOR RELIEF**

16 **WHEREFORE**, Plaintiff Canoo Technologies, Inc. asks this Court to enter  
17 Judgment against the Defendants, as follows:

18 1. For compensatory damages in an amount to be determined at trial  
19 together with interest thereon at the legal rate;

20 2. For punitive and exemplary damage in an amount appropriate to punish  
21 or set an example of Defendants;

22 3. For disgorgement of all monies unjustly received by Defendants and  
23 retained at the expense of Canoo;

24 4. For an accounting of all gains, profits, and advantage derived from  
25 Defendants' unlawful conduct;

26 5. For an order assigning to Canoo all inventions developed by the Former  
27 Canoo Employees, including but not limited to Harbinger's skateboard technology  
28 and any inventions related thereto;

1           6. For preliminary and permanent injunctive relief ordering Defendants to  
2 refrain from using or disclosing all trade secrets of Canoo in their possession,  
3 custody, or control;

4           7. For preliminary and permanent injunctive relief ordering Defendants to  
5 refrain from further violations of the Business and Professions Code;

6           8. For preliminary and permanent injunctive relief ordering Defendants to  
7 refrain from hiring and/or engaging Canoo employees or independent contractors  
8 who are subject to enforceable contracts with Canoo;

9           9. Preliminary and permanent injunctive relief prohibiting any further  
10 wrongful possession, disclosure, and/or misuse of Canoo's Trade Secrets and  
11 Confidential Information, and preventing Defendants from profiting or benefiting  
12 from their wrongful conduct;

13           10. Ordering Defendants to return to Canoo, and purge from their  
14 possession, custody, and control, any and all documents, computer-based files or  
15 data, or information in any form, whether originals, copies, compilations, or  
16 derivations, which were removed from Canoo or Canoo-owned computers issued to  
17 the Poached Employees by Canoo, or which were obtained by Defendants or anyone  
18 acting on their behalf or in concert with them;

19           11. An order that Defendants return any and all of Canoo's Trade Secrets  
20 and Confidential Information, and an order prohibiting any further use or benefit from  
21 the use of such information;

22           12. For Canoo's attorney's fees and costs;

23           13. For prejudgment and post judgment interest at the maximum legal rate,  
24 as provided by the laws of the state of California, as applicable;

25           14. For specific performance ordering the Former Canoo Employees to (i)  
26 return to Canoo, all confidential information and trade secrets owned by Canoo; and  
27 (ii) assign to Canoo, all of the inventions and associated intellectual property that  
28 they created and/or developed while employed at Canoo; and

1           15. For such other and further relief as the Court deems just and proper.

2  
3 Dated: December 22, 2022

**MUNCK WILSON MANDALA, LLP**

4  
5 By: /s/ Yael Tobi  
Yael Tobi

6 Attorneys for Plaintiff  
7 Canoo Technologies, Inc.  
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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: December 22, 2022

**MUNCK WILSON MANDALA, LLP**

By: /s/ Yael Tobi  
Yael Tobi

Attorneys for Plaintiff  
Canoo Technologies, Inc.