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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO**

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16 OPEN SOURCE SECURITY, INC., and
BRADLEY SPENGLER,

17 Plaintiffs,

18 v.

19 BRUCE PERENS, and Does 1-50,

20 Defendants.
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Case No. 3:17-cv-04002-LB

**DECLARATION OF MELODY
DRUMMOND HANSEN IN SUPPORT
OF DEFENDANT BRUCE PERENS'S
ADMINISTRATIVE MOTION
PURSUANT TO CIV. L.R. 7-11 FOR
LEAVE TO FILE A SURREPLY AND
SUPPLEMENTAL DECLARATION**

DECLARATION OF MELODY DRUMMOND HANSEN

I, Melody Drummond Hansen, declare as follows:

1. I am a partner of O'Melveny & Myers LLP, attorneys of record for Defendant Bruce Perens in this action. I am admitted to practice before this Court. I submit this Declaration under Civil Local Rule 7-11 in Support of Defendant's Motion For Leave to File a Surreply and Supplemental Declaration. I have personal knowledge and am informed of the facts stated herein and, if called to testify, I could and would testify completely hereto.

2. On November 18, 2017, counsel for Mr. Perens contacted counsel for Open Source Security, Inc. ("OSS") to inform him of Mr. Perens's intent to seek leave to file a surreply and supplemental declaration to correct a small factual inaccuracy in Mr. Perens's October 31 Declaration and to respond to ways that Mr. Perens believes OSS misconstrues that Declaration in OSS's Reply to suggest that Mr. Perens reviewed the Grsecurity Agreement before posting a July 9 comment. In his October 31 Declaration, Mr. Perens referred to reviewing the Grsecurity Agreement later in the evening of July 9. He has now confirmed based on searching his emails that he first read the Grsecurity Agreement the next morning, on July 10, and that he stated in his email response that he did not have a copy of the Grsecurity Agreement before. Counsel for Mr. Perens provided the emails to OSS's counsel and asked whether OSS would stipulate to allow Mr. Perens to submit a supplemental declaration with the emails and to file a surreply to respond to statements in OSS's Reply regarding when Mr. Perens first reviewed the Grsecurity Agreement.

3. Counsel for the parties exchanged several emails discussing the issue until November 21 but were unable to reach an agreement on a stipulation. Counsel for OSS does not agree that Mr. Perens should be permitted to change his declaration after OSS's Reply and does not agree that a surreply is necessary given that Mr. Perens can raise these matters at the hearing. OSS also believes that it did not introduce new evidence in its Reply. Counsel for OSS asked that we attach his email to our request for leave. Mr. Perens's counsel declined to do so, explaining that OSS will have the opportunity to respond to Mr. Perens's motion for leave and we believe

1 that attaching such colloquy among counsel is disfavored.

2 I declare under penalty of perjury under the laws of the United States that the foregoing is
3 true and correct, and that this declaration was executed this 24th day of November 2017 in Tega
4 Cay, South Carolina.

5 By: /s/ Melody Drummond Hansen
6 Melody Drummond Hansen
7 Of O'Melveny & Myers LLP
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