IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

Xentex Technologies, Inc., A Delaware corporation,	)	
Plaintiff,	)	
v.	)	No. 02 CH 20219
Robert Copeland, individually, Todd Copeland, individually, Brian Flanagan, individually, Bruce Friedman, individually, Duncan McCall, individually, Mathieu Reyna, individually, Thomas Spellman, individually, Douglas Tucker, individually, IS Solutions, Inc. a U.K. corporation, Mercury Partners 135 XT, Inc., an Illinois corporation, Premier Capital Management, L.L.C., a Virginia Limited Liability Company, TMB, L.L.C., a Virginia Limited Liability Company, and Xen Investors, L.L.C., Virginia Limited Liability Company,	)	
Defendants.	)	

VERIFIED COMPLAINT FOR DECLARATORY AND OTHER RELIEF

Plaintiff, Xentex Technologies, Inc. by its attorneys, Much Shelist Freed Denenberg Ament & Rubenstein, P.C., complains of defendants Robert Copeland, Todd Copeland, Brian Flanagan, Bruce Friedman, Duncan McCall, Mathieu Reyna, Thomas Spellman, Douglas Tucker, IS Solutions, Inc., Mercury Partners 135 XT, Inc., Premier Capital Management, L.L.C., TMB, L.L.C., and Xen Investors, L.L.C. as follows:

1. Plaintiff Xentex Technologies, Inc. ("Xentex") is a Delaware corporation with its principal place of business in San Jose, California, doing business in Illinois and California. Xentex is a small, privately owned corporation which designed and developed the "Flip-Pad™ Voyager", an innovative personal computer which is a cross between a desktop and notebook, and which flips and

folds utilizing Xentex's patented Flip-Pad™ Quad-Fold™ architecture. Xentex's "Flip-Pad Voyager" has received rave reviews from the personal computing and technology spheres, was featured in Popular Science, ZD Net News and MaximumPC, and was on the cover of the October 15, 2002 issue of PC Magazine and its "Special Report" for innovation and design. Jeffrey A. Batio is the founder and majority shareholder of Xentex, as well as Xentex's President, Chief Executive Officer and Chairman of the Board of Directors.

2. Xentex has completed its design and development, and has already produced a small number of "Flip-Pad Voyagers". Xentex is now in the position where, if Xentex is able to raise the additional capital required by its manufacturers, Xentex can begin mass production of Voyagers.

3. Upon information and belief, Defendants Robert Copeland, Todd Copeland, Bruce Friedman ("Friedman"), Mathieu Reyna ("Reyna"), and Thomas Spellman ("Spellman") are individuals residing in Virginia Beach, Virginia.

4. Defendants Premier Capital Management, L.L.C. ("Premier"), TMB, L.L.C. ("TMB"), and Xen Investors, L.L.C. ("Xen"), are Virginia limited liability companies.

5. Upon information and belief, Premier is a Registered Investment Advisor, in the business of, among other things, creating and managing investment portfolios for its clients.

6. Upon information and belief, defendants Reyna and Spellman are the members of Premier, and Reyna is its Managing Member. Defendants Spellman, Reyna, Friedman and Premier are the members of TMB, which they formed for the purpose of proposing and effecting a loan to Xentex in mid-2001, and Premier is the Managing Member of TMB.

7. Upon information and belief, Robert Copeland, Todd Copeland, Reyna and Spellman are the members of Xen, which they formed for the purpose of investing in Xentex, and Robert Copeland is the Managing Member of Xen.

8. Defendant Brian Flanagan ("Flanagan") is an individual and resident of Tinley Park, Illinois. At all times relevant hereto, Flanagan was a member of Board of Directors of Xentex.

9. Defendant Mercury Partners 135 XT, Inc. (“Mercury”) is an Illinois corporation with its principal place of business in Tinley Park, Illinois. Upon information and belief, defendant Flanagan is an officer, director and the principal shareholder of Mercury.

10. Defendant Douglas Tucker ("Tucker") is an individual and resident of Winnetka, Illinois. At all times relevant hereto, Tucker was a member of the Board of Directors of Xentex, as well as Xentex’s Chief Operating Officer and in-house legal counsel. On information and belief, Tucker is also an attorney licensed to practice in Illinois, and an Illinois licensed securities broker/trader, whose responsibilities with Xentex included finding investors for Xentex, documenting transactions, and handling the sales of shares in Xentex.

11. On or about March 1, 2000, Tucker entered into a written Employment Agreement with Xentex. Tucker’s Employment Agreement includes, among other terms, a Confidentiality and Loyalty provision, as well as a covenant not to compete with Xentex for a period of one (1) year following termination of his employment. A copy of Tucker’s Employment Agreement is attached hereto as Exhibit A.

12. Defendant IS Solutions, Inc. is a U.K. corporation, with a principal place of business in Redwood City, California. Defendant Duncan McCall is the Vice President of IS Solutions, Inc. and a resident of California.

13. On or about October 10, 1999, Flanagan, through his company Mercury Partners, proposed making a loan to Xentex in the amount of $500,000 (the “Mercury Loan”). The Mercury loan to Xentex was subject to a first lien position on all business assets of Xentex in favor of American

Enterprise Bank. American Enterprise Bank's lien was the result of a business loan to Xentex of approximately $75,000.

14. Soon after execution of the Mercury Loan documents, the parties to that agreement became involved in a dispute regarding the terms of the Mercury Loan, and in particular, whether the parties' agreement provided for a lien in favor of Mercury on Xentex's assets as security for the Mercury Loan. During and in conjunction with the parties' attempt to resolve this dispute, Flanagan joined the Board of Directors of Xentex. Flanagan also executed an agreement with Xentex including confidentiality and non-disclosure provisions.

15. However, once Flanagan became a Director of Xentex, Flanagan began working with Tucker who was already an Officer, Director and attorney for Xentex -- against Xentex's interests and in breach of their fiduciary duties, as well as in breach of their agreements with Xentex, as more fully set forth hereafter. Flanagan and Tucker's goal was to obtain Xentex's patents for themselves and to profit through establishment of a new company, thus freezing out shareholders of Xentex.

16. On information and belief, non-parties James Hickey ("Hickey") and Peter Miranda ("Miranda") are registered securities brokers in the Chicago area, and are among the earliest investors in Xentex. Throughout Xentex's start-up phase, Hickey and Miranda had worked to find new investors and additional sources of funding for Xentex. On or about October, 2000, following an initial introduction to Xentex by Hickey and Miranda, Defendants Reyna, Spellman and Premier invited Batio and Tucker to meet with them to discuss Premier's raising capital for Xentex.

17. On November 1, 2000, Batio and Tucker met with Reyna and Premier's clients Robert Copeland and Todd Copeland, at the offices of Copeland Construction in Virginia Beach, Virginia. Following the November 1, 2000 meeting, Premier entered into a Subscription Agreement for

240,000 shares of Xentex common stock, at a price of $1,200,000, to be paid in two installments by February, 2001.

18. In mid-2001, Premier claimed to be unable to fulfill its commitment to Xentex. Instead, Defendants Spellman, Reyna, Friedman and Premier formed TMB, for the purpose of making and funding a loan to Xentex. The parties' agreement provided for a loan to Xentex, but with severe penalties and a voting agreement that required the majority shareholder to place the lender's nominee in power as CEO, if there was a default. This loan from TMB to Xentex was negotiated by Tucker on behalf of Xentex, and was ostensibly intended to offset monies owed to Xentex by Premier, but in reality was another step in a scheme to take over Xentex. A copy of the loan documents, including the Note, Amendment, side agreement and Voting Agreement, are attached hereto as Exhibits B, C, D and E, respectively.

19. The Voting Agreement in Exhibit E requires election of directors who would elect the nominee as CEO, and is therefore unenforceable as impinging on the business judgment of the directors.

20. As Directors of Xentex, Flanagan and Tucker knew about Xentex's agreements and relationship with Robert Copeland, as well as with Reyna and TMB, Premier and Xen Investors (collectively the "Virginia Defendants"). Flanagan and Tucker also became aware of the Virginia Defendants' desire to starve Xentex for cash and then take over when the loan defaulted. Instead of protecting Xentex, they joined with Robert Copeland and the other Virginia Defendants in interfering and disrupting the business and interests of Xentex, for their own benefit and self interests.

21. In collusion with Flanagan and Tucker, and to increase the economic pressure on Xentex, Defendants Robert Copeland, TMB and Premier then sought to re-negotiate their agreements with Xentex. They demanded new and oppressive terms, including: (a) interest at the rate of 200-

300%, payable in 18 months; (b) all of Xentex's business assets, including Xentex's valuable patents, assigned as security; (c) that Batio (the majority shareholder) pledge all of his economic and voting stock as collateral for the loan; and, (d) that Batio resign as CEO and turn operational control of Xentex over to a voting trust, to be voted/controlled by Robert Copeland. Xentex's Board of Directors, naturally, rejected these terms.

22. Joining forces, Flanagan, Tucker, Robert Copeland and the other Virginia Defendants embarked upon a concerted effort to seize control of Xentex and/or substantially all of its assets. In a meeting at Xentex's offices in October 2001, even prior to Xentex's filing for its valuable international patents, Flanagan stated that he knew that Xentex's technology was worth at least $5 million dollars in licensing deals alone. Flanagan obtained this valuation of Xentex's technology and patents by releasing and disclosing Xentex's confidential and proprietary information to an industry expert with close ties to Xentex's competitors, in violation of his duties as a Director of Xentex, and in violation of Xentex's well-known, strict confidentiality policy.

23. Flanagan, Tucker (both still directors) and all of the Virginia Defendants, acting in concert, began making renewed demands that Batio resign as CEO and transfer all of his voting stock to a voting trust, which Defendants would control. When Batio and Xentex would not agree to Defendants' demands that Batio resign as CEO and give Defendants control of Xentex, Flanagan threatened to call the Mercury Note and foreclose on the disputed security interest in the collateral claimed by Mercury, which included Xentex's valuable patents.

24. Meanwhile, Flanagan, Tucker and Reyna contacted a number of Xentex's existing shareholders and potential investors, including James Hickey, Jim Kepouras, Dennis Nemkovic, and Joe Nemkovic, making false and defamatory representations about Batio's actions and performance as CEO and a Director of Xentex, and Xentex's finances and ability to produce and sell Voyagers.

Defendants' actions were intended to prevent Xentex from being able to raise funds from other investors and/or alternative sources, so that Xentex would be unable to pay off the Mercury Note and the conspirators could seize Xentex's patents at a collusive UCC sale.

25. Before resigning from Xentex's Board on January 1, 2002, Flanagan had also learned that American Enterprise Bank was negotiating to restructure its loan to Xentex. Flanagan contacted American Enterprise Bank and its lawyers, and attempted to disrupt Xentex's payment respecting the American Enterprise Bank Note, which was secured by a first lien position superior to that claimed by Mercury and Flanagan. Flanagan engaged in his own negotiations to buy the Note from American Enterprise Bank.

26. Flanagan, Tucker and the Virginia Defendants agreed and conspired to seize Xentex's assets and form their own computer company, which Tucker would run, to build and sell Voyagers or license the technology. Tucker gave Flanagan Xentex's confidential and proprietary vendor and contact information, which Defendants then used to defame Batio and Xentex, and to attempt to acquire Xentex's debt to these vendors.

27. On January 7, 2002, believing Xentex to be sufficiently vulnerable, Flanagan caused Mercury to call and demand immediate payment of the Mercury Note.

28. Flanagan and Mercury then scheduled a UCC sale of the disputed collateral. See Notice of Sale, attached hereto as Exhibit F. Flanagan intentionally sent the Notice of UCC Sale to Xentex's old and incorrect address, in order to delay and forestall the time Xentex would have knowledge of the sale, and thus, leave Xentex a limited or no opportunity to attempt to redeem its assets. While the UCC Notice of Public Sale lists Xentex's current address as 2440 Trade Zone Blvd., San Jose, CA 95131, and Flanagan in fact mailed Mercury's earlier demands to that address, as well

as faxing and/or e-mailing them to Batio, Flanagan directed the UCC Sale Notice to Xentex's former address at 940 Mission Court, Freemont, California. After the Notice of Sale made its way through mail forwarding, it did not arrive at Xentex's place of business for receipt and signature until March 20, 2002, just two days prior to the scheduled sale.

29. Over the 2-day period between Xentex's receipt of the Notice of Sale and the sale scheduled for March 22, 2002, Xentex attempted to raise money and to enter into a settlement and payment plan with Mercury. Upon information and belief, when Mercury's counsel agreed to discuss a continuance to allow Xentex more time to raise money for payment, he quickly returned, stating that Robert Copeland had screamed at him, threatening dire consequences if Flanagan did not hold the sale as scheduled. Although Mercury's counsel then agreed to at least postpone the scheduled sale from 10am to 12pm, while the parties continued to talk, Mercury instead proceeded with the sale within approximately 20 minutes of the time initially scheduled.

30. While Flanagan and Mercury appeared to be willing to negotiate a settlement with Xentex, Flanagan, along with Robert Copeland, Tucker, and the Virginia Defendants, had already planned their collusive UCC sale. Flanagan, Robert Copeland, Todd Copeland, Reyna and Spellman had agreed that Flanagan would own 51%, and Robert and Todd Copeland, along with Reyna and Spellman would own 49% of Xentex, or the new company they would form to own and control Xentex's assets after the sale. As part of their deal, Robert Copeland and his group would contribute an amount of money equal to what Flanagan believed Xentex owed to him, which by this time, Flanagan had inflated to $800,000.00.

31. On March 16, 2002, Reyna telephoned James Hickey in the Chicago area and told Hickey that he would double or triple Hickey's and Hickey's clients' holdings in Xentex, if Hickey

would not raise any more money for Xentex or Batio, so that Xentex could not pay Mercury and Defendants could take over Xentex.

32. Reyna also informed Hickey that Reyna and Reyna's aunt had taken one of Xentex's Voyagers to IBM, and that IBM took it apart and said they wanted it. Reyna told Hickey that he was going to sell the Voyager/Xentex's technology to IBM for $100,000,000.

33. In March, 2002, Hickey and Batio went to Jim Kepouras, who was an earlier investor in Xentex and had raised money for Xentex in the past. Kepouras was going to help raise the funds to pay off the Mercury Loan, so that Xentex could save its assets and valuable patents from foreclosure. Kepouras immediately gave Xentex $100,000, and was going to continue to raise the additional funds for Xentex. Over the next few weeks, Reyna contacted Kepouras and sent him faxes making false and defamatory statements about Xentex and Batio, including that Xentex was incapable of, and was never going to be able, to get the Voyagers into mass production.

34. In or about March, 2002, Reyna was also telephoning Hickey in the Chicago area, sometimes on an average of 3-5 times each day, and falsely asserting to Hickey that Batio did not know how to run a business, that Batio stole $600,000 from Xentex, that he was hiding money in a Cayman Islands bank account, and that the Voyager does not work.

35. Reyna also contacted, by telephone and fax, Chicago area Xentex investors Joe and Dennis Nemkovic, who like Hickey, were going to invest additional funds in Xentex and help Xentex to raise substantially all of the funds needed to pay Mercury and Flanagan. Upon information and belief, Reyna made the same false statements to the Nemkovics as to Hickey above.

36. When Defendants either learned or suspected that one of Hickey's clients was likely to provide the funds for Xentex to pay off the Mercury Note, at about 9 p.m. the night before the scheduled UCC sale, Spellman went to Hickey's home and was banging on the door. Although Hickey

was not at home at that time, his wife was there and became frightened. Spellman eventually left Hickey's house, only to return 2-3 more times later that same night. Upon information and belief, Spellman resumed banging on Hickey's door, and made threats against Hickey and his client, if Hickey did not withdraw his support of Xentex, and instead join with Defendants in their new venture that would own Xentex's assets after the UCC sale.

37. Defendants knew that Hickey, Kepouras and the Nemkovics were going to provide and raise capital for Xentex to pay off Flanagan and the Mercury loan, and intentionally interfered with Xentex's existing agreements and prospective economic advantage with these investors.

38. On March 22, 2002, just minutes before the UCC sale in which Defendants hoped to take the patents away from Xentex, Xentex filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the Northern District of Illinois, and the UCC sale was aborted.

39. After filing its Chapter 11 Petition, Xentex continued in its efforts to raise capital to satisfy the Mercury Note and redeem its collateral.

40. In an American Online or "AOL" instant messaging correspondence between Peter Choe ("Choe"), Hickey's assistant in the Chicago area, and Spellman on March 28, 2002, Spellman told Choe about the UCC sale, and claimed, falsely, that "we" bought the assets from Mars Equity, a/k/a Mercury and Flanagan. Spellman then asked Choe if he was helping Hickey raise money for Xentex, and told Choe that if Choe knew anyone who was going to invest in Xentex, Choe should have those people put the money in through Premier, "cuz we are the ones who are going to end up with the company and that way you can stay in it as well." Spellman asked Choe to sell Xentex stock for "us" and make the checks payable to Premier, and said that Premier was looking to raise $800,000 in sales of Xentex shares.

41. In another "AOL" instant message conversation between Spellman and Choe on April 3, 2002, Spellman told Choe that all of the checks for Xentex shares that Premier was selling should be made out to Premier, "because we are taking care of all the investments now", and "we will be doing the deal w/IBM."

42. Upon information and belief, Reyna had already begun negotiating the deal with IBM. Reyna had previously obtained a Voyager from Xentex, for demonstration purposes, prior to TMB's funding of the loan to Xentex. In breach of their confidentiality and non-disclosure agreements, Defendants, through Reyna, gave this Voyager to IBM, who, upon information and belief, took the Voyager apart so that it could discover and learn Xentex's protected technology.

43. Upon information and belief, Reyna also gave Xentex's Voyager to a company called KIS Computers in Virginia Beach, Virginia. KIS Computers then displayed the Voyager at a military industry trade show, where a company called Raytheon, and other competitors of Xentex, placed orders for Voyagers with KIS Computers and Reyna. A copy of Reyna's March 12, 2002 correspondence with KIS Computers is attached hereto as Exhibit G.

44. In furtherance of their efforts to weaken Xentex and then seize its assets, Defendants have filed three separate, frivolous lawsuits, in three different jurisdictions, against Xentex and Batio. Xentex has had to divert its time and resources, as well as expend substantial additional funds and monetary resources to defend against these suits, which have also harmed Xentex in that the pending litigation against Xentex and Batio is likely to deter new investors in Xentex.

45. Defendants also continue to contact Xentex's shareholders and creditors. Upon information and belief, Defendants contacted Xentex’s creditors, including Defendant IS Solutions, seeking to purchase Xentex's debt to IS Solutions. When Defendants were unable to obtain an

assignment from IS Solutions because of a no-assignment provision in Xentex's agreement with IS Solutions, Defendants were joined by IS Solutions in their efforts to injure Xentex.

46. At Defendants' urging and request, Defendant Duncan McCall, the Vice President of IS Solutions, executed an affidavit prepared by Defendants' counsel. McCall signed, what he later admitted to Batio and others, was a false affidavit regarding Xentex's debt to IS Solutions. In his affidavit, McCall claims that Xentex and Batio fraudulently induced him to sign a note, which differed from the one previously reviewed and approved by IS Solutions. McCall later admitted to Batio that he knew that this statement in his affidavit was not true, and that he signed the affidavit at the request of, and as prepared by, Defendants' counsel. McCall also stated that he would retract the statement and tell the truth, if and when, Batio or Xentex paid IS Solutions $25,000.

47. Upon information and belief, Defendants' counsel in Delaware obtained the false McCall affidavit to submit to the Delaware court in *Xen Investors v. Xentex*. Tucker also obtained the false McCall affidavit and published it in a letter Tucker sent to all Xentex shareholders on or about November 1, 2002, just one week before Xentex's scheduled November 8, 2002 annual meeting of shareholders.

Count I
Action For Declaratory Judgment Against TMB, Flanagan, Tucker And Todd Copeland

48. Xentex incorporates and realleges Paragraphs 1 through 47 as though fully repeated herein.

49. Pursuant to the parties' loan documents, on or about June 4, 2002, TMB provided Xentex with a notice of Event of Default under the Amendment to Promissory Note and Voting Agreement.

50. The Voting Agreement signed at the same time as the Note provides that:

> Section 2. Voting Agreement. Batio hereby agrees to vote all shares of Xentex Common Stock now or at any time hereafter owned by him (the "Subject Shares"), during the time a Default exists under the Promissory in Note, in such manner as to cause the Board of Directors of Xentex to elect the Advisory Committee's designatee as CEO and President. In addition to any other legends required by agreement or by law, each certificate representing one or more Subject Shares of Xentex owned by Batio or his successors, transferees or assigns (and any share issued or created in connection with any stock dividend or stock split insofar as it affects such Subject Shares) shall be endorsed with the following legend:
>
> > "The shares represented by this certificate are subject to certain restrictions upon the voting thereof, all as more fully set forth in a certain Voting Agreement dated as of May [ ], 2001, among certain parties which is available for inspection at the registered office of the Corporation."
>
> Batio and Xentex, as soon as practicable after the date of this Agreement, will cause the certificates representing the Subject Shares to carry the legend set forth above.

51. An actual controversy exists between Xentex and TMB as to the parties' respective rights and duties under the Voting Agreement.

52. The Advisory Committee is described in the "Agreement Regarding Promissory Note" as including Batio, Tucker, Flanagan, Todd Copeland, and one other to be chosen.

53. The Voting Agreement, Section 2, is null and void or otherwise unenforceable under law and public policy, as it purports to require a director to breach his or her fiduciary duties by voting a certain way, as directed by Batio who would be, in turn, directed by Tucker, Copeland and Flanagan.

WHEREFORE, Xentex prays for declaratory judgment declaring Section 2 of the Voting Agreement null, void and unenforceable under law.

Count II
Misappropriation Of Trade Secrets Against All Defendants Except McCall And IS Solutions

54. Xentex incorporates and realleges Paragraphs 1 through 53 as though fully repeated herein.

55. Xentex's patented technology and vendor, contact, creditor, financial and market information disclosed to Defendants Tucker and Flanagan as officers, directors and employees of Xentex, and to Robert Copeland and the Virginia Defendants pursuant to confidentiality and non-disclosure agreements, was closely guarded by Xentex and not disclosed to anyone other than Xentex's corporate officers and accountants, or otherwise disclosed to anyone in the absence of first securing an agreement as to confidentiality and non-disclosure.

56. Such information was of economic value to Xentex when it was not known to potential competitors such as Defendants, KIS Computers, IBM, and persons to whom Defendants further disclosed such information, and who could derive substantial value from such information, which were trade secret under 764 ILCS 1065/2.

57. At the time of disclosure of Xentex's trade secret information, Xentex was the only company owning and possessing the Xentex technology and other confidential and proprietary information. Defendants used improper means to acquire knowledge of Xentex's trade secrets and acquired this information under circumstances giving rise to a duty to maintain its secrecy and limit its use, thereby misappropriating Xentex's trade secrets.

58. Defendants then used the information for their own benefit and in their business, and to the detriment of Xentex.

59. Pursuant to 765 ILCS 1065/4, Xentex is entitled to recover damages from Defendants for their conduct. Xentex's damages for disruption of its business exceed $40,000,000. Defendants' conduct was motivated by malice and plaintiff is entitled to recover exemplary damages, together with reasonable attorneys' fees pursuant to 765 ILCS 1065/5.

WHEREFORE, Xentex prays that it recover judgment against Defendant in an amount in excess of $40,000,000, plus exemplary damages, reasonable attorneys' fees, costs, and such other and further relief as is just.

Count III
Breach Of Fiduciary Duty Against Tucker

60. Xentex incorporates and realleges Paragraphs 1 through 59, as though fully repeated herein.

61. As an officer, director and attorney for Xentex, Tucker owed fiduciary duties to Xentex and its shareholders, including the duties of due care, good faith and loyalty.

62. Tucker breached his fiduciary duties to Xentex and shareholders

63. As a result of Tucker's breach of fiduciary duties, Xentex's damages for disruption of its business exceed $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendant in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

Count IV
Breach of Fiduciary Duty Against Flanagan

64. Xentex incorporates and realleges Paragraphs 1 through 63, as though fully repeated herein.

65. As a director of Xentex, Flanagan owed fiduciary duties to Xentex and its shareholders, including the duties of due care, good faith and loyalty.

66. Flanagan waited until Xentex's patents issued, it's website order processing system was completed, final revisions to the Voyager were completed and tooled, and the production line for Voyagers was prepared. When Flanagan knew that Xentex was in a position to launch the technology

to the market, he acted to further in his own and Mercury's interests, and against the interests of Xentex.

67. Flanagan breached his fiduciary duties to Xentex and its shareholders.

68. As a result of Flanagan's breach of fiduciary duties, Xentex's damages for disruption of its business exceed $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendant in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

Count V
Breach of Employment Agreement Against Tucker

69. Xentex incorporates and realleges Paragraphs 1 through 68, as though fully repeated herein.

70. Tucker entered into an Employment Agreement with Xentex.

71. Tucker breached his Employment Agreement with Xentex.

72. As a result of Tucker's breach of his Employment Agreement with Xentex, Xentex has been injured and has suffered damages in excess of $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendant in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

Count VI
Aiding And Abetting Breach Of Fiduciary Duty Against All Defendants

73. Xentex incorporates and realleges Paragraphs 1 through 72, as though fully repeated herein.

74. Tucker and Flanagan were fiduciaries of Xentex.

75. Tucker and Flanagan breached their fiduciary duties to Xentex.

76. Defendants knowingly participated in Tucker's and Flanagan's breaches of their fiduciary duties.

77. As a result of Defendants' aiding and abetting Tucker's and Flanagan's breaches of fiduciary duties, Xentex has suffered damages in excess of $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendants in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

Count VII
Breach of Nondisclosure and Confidentiality Agreements Against Robert Copeland, Todd Copeland, Flanagan, Friedman, McCall, Reyna, Spellman, Tucker, Mercury Partners 135 XT, Premier Capital Management, L.L.C., TMB, L.L.C. and Xen Investors.

78. Xentex incorporates and realleges Paragraphs 1 through 77, as though fully repeated herein.

79. Defendants entered into agreements with Xentex with respect to the confidentiality and non-disclosure of Xentex's confidential, proprietary and protected technology information.

80. Defendants breached their agreements with Xentex.

81. As a result of Defendants' breaches, Xentex has suffered damages in excess of $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendants in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

Count VIII
Tortious Interference With Prospective Economic Advantage Against All Defendants

82. Xentex incorporates and realleges Paragraphs 1 through 81, as though fully repeated herein.

83. Xentex had a reasonable expectancy of entering into a valid business relationship, including the relationship with Jim Kepouras, who withdrew his offer and never invested the additional monies he had promised to Xentex, as a result of Defendants' interference.

84. As a result of Defendants' interference, Xentex has suffered damages for the disruption of its business in excess of $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendants in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

Count IX
Conspiracy To Injure in Business Against All Defendants

85. Xentex incorporates and realleges Paragraphs 1 through 84, as though fully repeated herein.

86. Defendants conspired to injure Xentex in its business.

87. Defendants' actions as more fully set forth in Paragraphs 13 through 47 above were done with the malicious intent to drive Xentex out of business.

88. As a result of Defendants' conspiracy and actions taken against Xentex, Xentex's damages for disruption of its business exceed $40,000,000.

WHEREFORE, Xentex prays that it recover judgment against Defendants in an amount in excess of $40,000,000, costs, and such other and further relief as is just.

XENTEX TECHNOLOGIES, INC.

By:_____
one of its attorneys

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