

EXHIBIT 53

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 8 **BREAKING CODE SILENCE**

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**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

BREAKING CODE SILENCE, a
 California 501(c)(3) nonprofit,

Plaintiff,

v.

KATHERINE MCNAMARA, an
 individual, JEREMY WHITELEY, an
 individual, and DOES 1 through 50,
 inclusive,

Defendants.

Case No. 2:22-cv-02052-MAA

**PLAINTIFF BREAKING CODE
 SILENCE’S RESPONSES TO
 DEFENDANT KATHERINE
 MCNAMARA’S SECOND SET OF
 REQUESTS FOR ADMISSION**

Judge: Hon. Maria A. Audero
 Complaint Filed: March 28, 2022
 Trial Date: October 17, 2023

PROPOUNDING PARTY: Defendant KATHERINE MCNAMARA
 RESPONDING PARTY: Plaintiff BREAKING CODE SILENCE
 SET NO.: Two

1 Pursuant to Federal Rule of Civil Procedure 36, Plaintiff Breaking Code
2 Silence (“Plaintiff”) hereby responds as follows to Defendant Katherine
3 McNamara’s Second Set of Requests for Admission (the “Requests”) as follows:

4 **GENERAL STATEMENT AND OBJECTIONS**

5 Plaintiff’s responses are subject to the General Objections set forth below.
6 These General Objections form a part of each response to each Request and are set
7 forth here to avoid the duplication and repetition that would follow from restating
8 them in each response. The General Objections may be specifically referred to in
9 response to the Requests for the purpose of clarity; however, the failure to
10 specifically reference a General Objection in a response should not be construed as a
11 waiver of the objection in connection therewith.

12 1. Plaintiff objects to these Requests to the extent that they seek
13 information neither relevant to this litigation, nor reasonably calculated to lead to
14 the discovery of admissible evidence, nor proportional to the needs of the case, in
15 violation of Fed. R. Civ. P. 26(b)(1).

16 2. Plaintiff objects to these Requests to the extent that they seek
17 information already in Defendants’ possession, or information that is in the public
18 domain or otherwise equally available to Plaintiff.

19 3. Plaintiff objects to these Requests to the extent that they are vague,
20 ambiguous, overbroad, oppressive, or seek information for which the burden or
21 expense of the proposed discovery outweighs the likely benefit.

22 4. Plaintiff objects to these Requests to the extent that they are not limited
23 to a reasonable time period and are therefore overbroad, seek information for which
24 the burden or expense of the proposed discovery outweighs the likely benefit, and
25 seek information beyond the scope of permissible discovery.

26 5. Plaintiff objects to these Requests to the extent that they seek
27 information that is protected from discovery by the attorney-client privilege and/or
28 attorney work-product doctrine, protected by the right to privacy, or protected by

1 any other applicable privilege or protection. Any inadvertent production of
2 privileged or protected information shall not constitute, or be deemed, a waiver of
3 any applicable statutory, regulatory, common law, or other privilege.

4 6. Plaintiff objects to these Requests to the extent that they seek the
5 disclosure of information that contain private, proprietary, confidential, trade secret,
6 sensitive financial, or otherwise protected information.

7 7. Plaintiff objects to these Requests to the extent that they call for
8 speculation because Plaintiff lacks sufficient foundation to provide a response.

9 8. Plaintiff objects to these Requests to the extent that Defendants purport
10 to impose on Plaintiff any obligation different from, or greater than, those set forth
11 in the Federal Rules of Civil Procedure, the Local Rules of the Central District of
12 California, or other applicable rules or standing orders of the Court. Plaintiff is not
13 obligated to, and declines to, comply with any instructions or directions that conflict
14 with the Federal Rules of Civil Procedure, the Local Rules of the Central District of
15 California, or other applicable rules or standing orders of the Court.

16 9. Plaintiff objects to these Requests to the extent that they seek the
17 disclosure of information that calls for an expert witness opinion.

18 10. Plaintiff objects to these Requests to the extent that they seek
19 information that addresses purely legal issues, contains legal conclusions, implies or
20 assumes facts or circumstances which do not or did not exist, or seeks an admission
21 of liability.

22 11. Plaintiff objects to these Requests to the extent they seek to restrict the
23 facts on which Plaintiff may rely at summary judgment, trial, or any other
24 proceeding in this matter. Discovery has yet to be completed in this case. By
25 responding and objecting to these Requests, Plaintiff does not intend to, and does
26 not, limit the evidence upon which it may rely to support its contentions, denials,
27 and defenses, or to rebut or impeach contentions, assertions, and evidence presented
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1 by Defendants. Further, Plaintiff reserves the right to supplement or amend its
2 responses.

3 These General Objections are incorporated into each of the responses
4 hereinafter provided as if the same were fully set forth therein.

5 **RESPONSES TO REQUESTS FOR ADMISSION**

6 **REQUEST FOR ADMISSION NO. 9:**

7 Admit that the December 15, 2021 email from Jennifer Magill attached hereto
8 as Exhibit 1, including the attachment, is genuine.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

10 Admitted.

11 **REQUEST FOR ADMISSION NO. 10:**

12 Admit that MCNAMARA never signed the Assignment of Intellectual
13 Property attached to the email attached hereto as **Exhibit 1**.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

15 Admitted.

16 **REQUEST FOR ADMISSION NO. 11 :**

17 Admit that MCNAMARA never signed any agreement assigning the domain
18 <breakingcodesilence.org> to BCS.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

20 Denied.

21 **REQUEST FOR ADMISSION NO. 12:**

22 Admit that MCNAMARA never signed any agreement transferring the
23 domain <breakingcodesilence.org> to BCS.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

25 Denied.

26 **REQUEST FOR ADMISSION NO. 13:**

27 Admit that Emily Carter never signed the Assignment of Intellectual Property
28 attached to the email attached hereto as **Exhibit 1**.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

2 Admitted.

3 **REQUEST FOR ADMISSION NO. 14:**

4 Admit that Rebecca Moorman never signed the Assignment of Intellectual
5 Property attached to the email attached hereto as **Exhibit 1**.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

7 Admitted.

8 **REQUEST FOR ADMISSION NO. 15:**

9 Admit that BCS never updated the Internet Corporation for Assigned Names
10 and Numbers (ICANN) to reflect any ownership change related to the domain
11 <breakingcodesilence.org>.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

13 Admitted that McNamara was responsible for updating the ICAAN to reflect
14 the ownership change related to the domain <breakingcodesilence.org>, but she
15 failed to do so.

16 **REQUEST FOR ADMISSION NO. 16:**

17 Admit that in March 2022, Jesse Jensen contacted Hover.com/Tuscows
18 support from jjensen@breakingcodesilence.org and requested the domain
19 <breakingcodesilence.org> be removed from MCNAMARA's account.

20 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

21 In addition to the General Objections set forth above and incorporated herein,
22 Plaintiff objects to this Request as vague and ambiguous with respect to
23 "MCNAMARA's account."

24 Subject to and without waiving the foregoing objections, Plaintiff responds as
25 follows: Admitted.

26 **REQUEST FOR ADMISSION NO. 17:**

27 Admit that MCNAMARA did not authorize the removal of the domain
28 <breakingcodesilence.org> from her Hover.com/Tuscows account in March 2022.

1 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

2 In addition to the General Objections set forth above and incorporated herein,
3 Plaintiff objects to this Request as vague and ambiguous with respect to the legal
4 term “authorize.” Plaintiff further objects to this Request on the ground that its use
5 of the term “authorize” assumes the fact that McNamara had the right to authorize
6 actions with respect to the domain <breakingcodesilence.org>.

7 Subject to and without waiving the foregoing objections, Plaintiff responds as
8 follows: Denied.

9 **REQUEST FOR ADMISSION NO. 18:**

10 Admit that in January 2022, BCS caused a library to be transferred from a
11 Zotero account in MCNAMARA’s name to a Zotero account in BCS’s name.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

13 In addition to the General Objections set forth above and incorporated herein,
14 Plaintiff objects to this Request on the ground that it is as vague and ambiguous with
15 respect to the phrases “in MCNAMARA’s name” and “in BCS’s name.”

16 Subject to and without waiving the foregoing objections, Plaintiff responds as
17 follows: Admitted that a library was transferred from a Zotero account in
18 McNamara’s name to a Zotero account in BCS’s name, and then transferred to a
19 Zotero account in McNamara’s name.

20 **REQUEST FOR ADMISSION NO. 19:**

21 Admit that MCNAMARA did not authorize the transfer of the library from a
22 Zotero account in MCNAMARA’s name to a Zotero account in BCS’s name.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

24 In addition to the General Objections set forth above and incorporated herein,
25 Plaintiff objects to this Request on the ground that it is vague and ambiguous with
26 respect to the phrases “in MCNAMARA’s name” and “in BCS’s name,” and the
27 legal term “authorize.”

28 Subject to and without waiving the foregoing objections, Plaintiff responds as

1 follows: Denied.

2 **REQUEST FOR ADMISSION NO. 20:**

3 Admit that Jennifer Magill was listed as an owner on BCS’s YouTube
4 account before December 9, 2021.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

6 In addition to the General Objections set forth above and incorporated herein,
7 Plaintiff objects to this Request on the ground that the term “owner” is vague and
8 ambiguous.

9 Subject to and without waiving the foregoing objections, Plaintiff responds as
10 follows: Admitted.

11 **REQUEST FOR ADMISSION NO. 21:**

12 Admit that Vanessa Hughes was listed as an owner on BCS’s YouTube
13 account before December 9, 2021.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

15 In addition to the General Objections set forth above and incorporated herein,
16 Plaintiff objects to this Request on the ground that the term “owner” is vague and
17 ambiguous.

18 Subject to and without waiving the foregoing objections, Plaintiff responds as
19 follows: Denied.

20 **REQUEST FOR ADMISSION NO. 22:**

21 Admit YOU revoked (by change of password or other means)
22 MCNAMARA’s access to the email account info@breakingcodesilence.org in
23 October 2021.

24 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

25 In addition to the General Objections set forth above and incorporated herein,
26 Plaintiff objects to this Request on the ground that it is vague and ambiguous with
27 respect to the term “access.”

28 Subject to and without waiving the foregoing objections, Plaintiff responds as

1 follows: Admitted that Plaintiff changed the password to the email account
2 info@breakingcodesilence.org.

3 **REQUEST FOR ADMISSION NO. 23:**

4 Admit that in 2022, Vanessa Hughes contacted UPS store #4833 in an attempt
5 to gain control of a mailbox registered to MCNAMARA.

6 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

7 In addition to the General Objections set forth above and incorporated herein,
8 Plaintiff objects to this Request on the ground that it is not reasonably calculated to
9 lead to the discovery of admissible evidence because it does not relate to the claims
10 or defenses in this action. Plaintiff further objects to this Request on the ground that
11 it is vague and ambiguous with respect to the phrase “gain control.”

12 **REQUEST FOR ADMISSION NO. 24:**

13 Admit that MCNAMARA did not authorize Vanessa Hughes to take control
14 for BCS of the mailbox registered to MCNAMARA at UPS store #4833.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

16 In addition to the General Objections set forth above and incorporated herein,
17 Plaintiff objects to this Request on the ground that it is not reasonably calculated to
18 lead to the discovery of admissible evidence because it does not relate to the claims
19 or defenses in this action. Plaintiff further objects to this Request on the ground that
20 it is vague and ambiguous with respect to the phrase “gain control.”

21 **REQUEST FOR ADMISSION NO. 25:**

22 Admit that in 2022, Vanessa Hughes contacted UPS store #4833 and asked
23 store employees to provide her with security camera footage of MCNAMARA’s
24 visits to the mailbox registered in her name.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

26 In addition to the General Objections set forth above and incorporated herein,
27 Plaintiff objects to this Request on the ground that it is not reasonably calculated to
28 lead to the discovery of admissible evidence because it does not relate to the claims

1 or defenses in this action.

2 **REQUEST FOR ADMISSION NO. 26:**

3 Admit that MCNAMARA never disabled any PERSON’s access level in the
4 BCS Slack workspace after her resignation on December 9, 2021.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

6 In addition to the General Objections set forth above and incorporated herein,
7 Plaintiff objects to this Request on the ground that it is vague and ambiguous with
8 respect to the phrase “access level.”

9 Subject to and without waiving the foregoing objections, Plaintiff responds as
10 follows: Admitted.

11 **REQUEST FOR ADMISSION NO. 27:**

12 Admit that MCNAMARA never removed any PERSON’s access level in the
13 BCS Slack workspace after her resignation on December 9, 2021.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

15 In addition to the General Objections set forth above and incorporated herein,
16 Plaintiff objects to this Request on the ground that it is vague and ambiguous with
17 respect to the phrase “access level.”

18 Subject to and without waiving the foregoing objections, Plaintiff responds as
19 follows: Admitted.

20 **REQUEST FOR ADMISSION NO. 28:**

21 Admit that MCNAMARA never changed any PERSON’s access level in the
22 BCS Slack workspace after her resignation on December 9, 2021.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

24 In addition to the General Objections set forth above and incorporated herein,
25 Plaintiff objects to this Request on the ground that it is vague and ambiguous with
26 respect to the phrase “access level.”

27 Subject to and without waiving the foregoing objections, Plaintiff responds as
28 follows: Admitted.

1 **REQUEST FOR ADMISSION NO. 29:**

2 Admit that YOU changed the administrative email for a Hootsuite account
3 associated with kmcnamara@breakingcodesilence.org to
4 admin@breakingcodesilence.org after MCNAMARA’s resignation from BCS.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 29:**

6 In addition to the General Objections set forth above and incorporated herein,
7 Plaintiff objects to this Request on the ground that it is vague and ambiguous with
8 respect to the phrase “administrative email.”

9 Subject to and without waiving the foregoing objections, Plaintiff responds as
10 follows: Denied.

11 **REQUEST FOR ADMISSION NO. 30:**

12 Admit that YOU created a separate Hootsuite account under a free plan after
13 MCNAMARA’s resignation from BCS.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 30:**

15 Denied.

16 **REQUEST FOR ADMISSION NO. 31:**

17 Admit that Cloudways continued to attempt to charge MCNAMARA’s credit
18 card until March 2022 for BCS’s web hosting services.

19 **RESPONSE TO REQUEST FOR ADMISSION NO. 31:**

20 Despite making reasonable efforts to obtain information sufficient to enable
21 Plaintiff to admit or deny this Request, Plaintiff lacks sufficient information to admit
22 or deny this Request.

23 **REQUEST FOR ADMISSION NO. 32:**

24 Admit that MCNAMARA was a BCS board member on December 8, 2021.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 32:**

26 Admitted.

27 **REQUEST FOR ADMISSION NO. 33:**

28 Admit that MCNAMARA had access to BCS’s Google Drive as an active

1 board member through her kmcnamara@breakingcodesilence.org account on
2 December 8, 2021.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 33:**

4 Admitted.

5 **REQUEST FOR ADMISSION NO. 34:**

6 Admit that BCS made no payments to MCNAMARA as consideration for an
7 assignment of intellectual property.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 34:**

9 In addition to the General Objections set forth above and incorporated herein,
10 Plaintiff objects to this Request on the ground that it calls for a legal conclusion.

11 Subject to and without waiving the foregoing objections, Plaintiff responds as
12 follows: Admitted.

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15 Dated: September 30, 2022

DLA PIPER LLP (US)

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18 By: /s/ Tamany J. Vinson Bentz

TAMANY J. VINSON BENTZ
JASON T. LUEDDEKE
BENJAMIN GRUSH

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22 Attorneys for Plaintiff
BREAKING CODE SILENCE
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PROOF OF SERVICE BY MAIL
(Fed. R. Civ. Proc. rule 5(b))

I declare that I am employed with the law firm of DLA Piper LLP (US), whose address is 2000 Avenue of the Stars, Suite 400 North Tower, Los Angeles, California 90067-4704; I am not a party to the within cause; I am over the age of eighteen years and I am readily familiar with DLA Piper’s practice for collection and processing of correspondence for mailing with the United States Postal Service and know that in the ordinary course of DLA Piper’s business practice the document described below will be deposited with the United States Postal Service on the same date that it is placed at DLA Piper with postage thereon fully prepaid for collection and mailing.

I further declare that on the date hereof I served a copy of:

**PLAINTIFF BREAKING CODE SILENCE’S RESPONSES TO
DEFENDANT KATHERINE MCNAMARA’S SECOND SET OF
REQUESTS FOR ADMISSION**

on the following by placing a true copy thereof enclosed in a sealed envelope addressed as follows for collection and mailing at 2000 Avenue of the Stars, Suite 400 North Tower, Los Angeles, California 90067-4704, in accordance with DLA Piper’s ordinary business practices:

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I declare under penalty of perjury that the above is true and correct. Executed at Los Angeles, California, September 30, 2022.

Jason Lueddeke

(typed)

/s/ Jason Lueddeke

(signature)