

MELODY DRUMMOND HANSEN (S.B. #278786)
mdrummondhansen@omm.com
HEATHER J. MEEKER (S.B. #172148)
hmeeker@omm.com
O'MELVENY & MYERS LLP
2765 Sand Hill Road
Menlo Park, California 94025-7019
Telephone: +1 650 473 2600
Facsimile: +1 650 473 2601

CARA L. GAGLIANO (S.B. #308639)
cgagliano@omm.com
Two Embarcadero Center
28th Floor
San Francisco, California 94111-3823
Telephone: +1 415 984 8700
Facsimile: +1 415 984 8701

Attorneys for Defendant
Bruce Perens

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

OPEN SOURCE SECURITY, INC., and
BRADLEY SPENGLER,

Plaintiff,

v.

BRUCE PERENS, and Does 1-50,

Defendants.

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

**[PROPOSED] ORDER GRANTING
DEFENDANT'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF
DEFENDANT BRUCE PERENS'S
NOTICE OF MOTION AND SPECIAL
MOTION TO STRIKE THE FIRST
AMENDED COMPLAINT PURSUANT
TO THE CALIFORNIA ANTI-SLAPP
STATUTE, CODE OF CIV. PROC.
SEC. 425.16, AND MOTION TO
DISMISS THE FIRST AMENDED
COMPLAINT WITH PREJUDICE
PURSUANT TO FED. R. CIV. P.
12(b)(6)**

Hearing Date: December 14, 2017
Time: 9:30 a.m.
Location: Courtroom C, 15th Floor
Judge: Hon. Laurel Beeler

[PROPOSED] ORDER

The Court, having considered all of the papers submitted in support and in opposition to Defendant Bruce Perens's Request for Judicial Notice in Support of Special Motion to Strike the First Amended Complaint Pursuant to the California Anti-Slapp Statute, Code of Civil Procedure section 425.16, and Motion to Dismiss the First Amended Complaint with Prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6), as well as argument of counsel, hereby GRANTS Defendant's motion.

The Court takes judicial notice of the following documents in support of Defendant's Special Motion to Strike the First Amended Complaint Pursuant to the California Anti-Slapp Statute, Code of Civil Procedure section 425.16, and Motion to Dismiss the First Amended Complaint with Prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6):

1. An August 8, 2016 memorandum issued by the Executive Office of the President, Office of Management and Budget titled "Federal Source Code Policy: Achieving Efficiency, Transparency, and Innovation through Reusable and Open Source Software."

2. An October 16, 2009 memorandum issued by the United States Department of Defense Chief Information Officer titled "Clarifying Guidance Regarding Open Source Software (OSS)."

3. A webpage published and maintained by the United States Department of Defense Chief Information Officer titled "DoD Open Source Software (OSS) FAQ," available at <http://dodcio.defense.gov/Open-Source-Software-FAQ/>.

IT IS SO ORDERED.

Dated: _____

The Honorable Laurel Beeler
United States Magistrate Judge