IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CITADEL SECURITIES AMERICAS LLC, *et al.*, Plaintiffs, v. PORTOFINO TECHNOLOGIES AG, *et al.*, Defendants.	)	Case No.: 1:23-cv-05222 (GHW)

DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF ITS RULE 12(C) MOTION

Dated: June 24, 2026
New York, NY

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TABLE OF CONTENTS

<u>TABLE OF AUTHORITIES</u>

By its counsel, Slarskey LLC, Defendants Portofino Technologies AG and Portofino Technologies USA, Inc. (“Portofino” or “Defendants”) submit this memorandum of law in support of its Rule 12(c) Motion against Plaintiffs Citadel Securities (Europe) Limited, Citadel Management (Europe) II Limited (together, “Citadel Europe”), Citadel Securities Americas LLC, and Citadel Securities Americas Services LLC (collectively, “Citadel” or “Plaintiffs”).

PRELIMINARY STATEMENT

In 2022, when former Citadel employees Leonard Lancia, Alex Casimo, and Taym Moustapha (the “Portofino Founders”) left Citadel to start Portofino, a new cryptocurrency market-making venture, Citadel sued the Portofino Founders under their employment agreements, alleging, *inter alia*, that they had stolen Citadel trade secrets to support the launch of Portofino. Citadel simultaneously sued Portofino in the instant action, alleging that Portofino was built upon Citadel’s trade secrets. These allegations are two sides of the same coin.

The litigation against the Portofino Founders proceeded expediently before the London International Court of Arbitration. After extensive discovery, and an in-person hearing with more than a dozen fact and expert witnesses testifying, the three Kings Counsel arbitrators (the “Tribunal”) determined that the Portofino Founders had breached the exclusive services provisions in their employment agreements by beginning preparations for Portofino before resigning from Citadel. But they *denied* Citadel’s claim for hundreds of millions of dollars predicated on the allegation that the Portofino Founders had used Citadel confidential information, including any trade secrets, in building Portofino. To the contrary, the Tribunal determined it was “satisfied,” based on the affirmative evidence, that any Citadel work product was “unlikely to have been of much, if any, use” to Portofino. The Tribunal accordingly awarded Citadel approximately £50,000 for the value of the work performed by the Portofino Founders prior to their resignation, along with a clawback of compensation for violating the exclusive services provision of their employment agreement.

Under well-established principals of *res judicata*, Citadel and its affiliates are bound by the Tribunal's findings in resolving that dispute: the Portofino Founders did not steal or misuse any of Citadel's trade secrets, much less employ them in the launch of Portofino. Each of the elements of *res judicata* is present here: there was (1) a final judgment on the merits, (2) by a court of competent jurisdiction, (3) a case involving the same parties or their privies, and (4) the same cause of action. Specifically, the Tribunal issued a final award, which Citadel has confirmed as a judgment in London. The London Court of International Arbitration is a court of competent jurisdiction. This case involves, on the one hand, two plaintiffs who were claimants in the London Arbitration, along with their sister entities who were beneficiaries of the arbitration clause at the center of that dispute, along with Portofino—the entity founded by the Portofino Founders, which was at the center of the London Arbitration and with which the Portofino Founders are closely-associated. All of the parties here are thus "in privity" with the respective parties in the London Arbitration for purposes of *res judicata* analysis. And finally, this case involves the same cause of action, because the same allegations, facts, and witnesses are at issue and any of the issues or allegations that Citadel would pursue here could have been pursued in the London Arbitration. The fact that Plaintiffs are pursuing a slightly different *legal theory* against a party *in privity* with the Portofino Founders is no bar to the doctrine.

But even if *res judicata* does not strictly apply (though it should), issue preclusion on the key issues provides an independent basis for dismissing Citadel's claims: Citadel fully litigated and is bound by the findings, for example, that the Portofino Founders did not misuse confidential Citadel information to launch Portofino, and that any work the Portofino Founders performed prior to launching Portofino was unlikely to have been of much, if any, use to Portofino. Given these findings, and for the various reasons set forth *infra*, Citadel simply *cannot sustain* its claims related to theft of trade secrets and misappropriation in the face of the Tribunal's findings.

In the final analysis, it is telling that *both Plaintiffs and Defendants* in this case asked the Court to take note of the London Arbitration at the outset of the action, and the Court observed the similarities of the two proceedings.[1] Ironically, if Citadel had *prevailed* in the London Arbitration with its claim that the Portofino Founders had stolen trade secrets, it would assuredly be seeking the application of *res judicata* principles against Portofino—as no purpose would be served by relitigating the entire dispute to prove the same facts again. As it happens, however, the Portofino Founders were vindicated on the baseless allegation that they stole trade secrets worth hundreds of millions of dollars to launch Portofino. Portofino should not have to relitigate this entire dispute to again prove the facts already established by the Portofino Founders in the London Arbitration

BACKGROUND

A. Citadel's Allegations in this Case

Citadel alleges that, on September 15, 2022, two former Citadel employees emerged from "stealth mode" to promote Portofino, a "new high-frequency trading firm that they had co-founded." (Amended Complaint ("Compl."), ECF No. 25, ¶ 1.) According to Citadel, those founders—Leonard Lancia and Alexander Casimo—had "engaged in a brazen scheme to steal Citadel Securities' trade secrets, lie to their Citadel Securities colleagues, and raid the ranks of Citadel Securities' employees," building Portofino "while they were on Citadel Securities' clock." (*Id.* ¶ 2.)

Citadel alleges that when Mr. Lancia and Mr. Casimo resigned in March 2021, they "took with them a host of valuable trade secrets," categorized (though not specified) as follows: "Research Methodology," "Trading Strategies," "Simulations," and "Business Plans and Strategies" for high-frequency trading across asset classes, including cryptocurrency. (*Id.* ¶ 12, 45, 223, 238.) Citadel claims that Portofino itself was "work product" that "rightfully belonged to Citadel Securities." (*Id.* ¶¶ 13-14.) Citadel further alleges that Portofino sought to "raid" Citadel of its

[1] Oct. 30, 2024 Tr., ECF No. 67, at 41:12–13; 42:14–16. [WHICH ONE?]

employees, including Vincent Prieur and Taym Moustapha, to exploit their knowledge of Citadel's trade secrets and confidential business plans. (*Id.* ¶¶ 16, 252-53.)

Based on these allegations, the Complaint asserts six causes of action, all arising from "the secret development and operation of" Portofino (*id.* ¶ 17)—violation of the Defend Trade Secrets Act; common law misappropriation of trade secrets; tortious interference with contractual relationships; unfair competition; and unjust enrichment.

On October 30, 2024, the Court granted in part and denied in part the motions to dismiss and declined to stay this action pending the London Arbitration, but did so without prejudice, recognizing that "this action shares significant factual overlap and common issues with the pending LCI Arbitration" and inviting the parties to "submit further information to the Court regarding the status of the arbitration to the extent any developments would inform the resolution of this action." (Oct. 30, 2024 Tr., ECF No. 67, at 41:12–13; 42:14–16.)

B. The London Arbitration

On June 22, 2022—three months before filing this action—Citadel Europe initiated arbitration against Portofino founders Leonard Lancia and Alexander Casimo and Portofino employee Taym Moustapha (the "Portofino Founders") before the London Court of International Arbitration (the "London Arbitration"), serving its initial Statement of Claim on February 10, 2023. All of the Citadel entities benefit from the arbitration agreement giving rise to that arbitration. As recited in the Award, [INSERT QUOTE AND CITE]. After resigning from Citadel, Mr. Lancia "subsequently became the CEO and main shareholder of Portofino Technologies AG." (Award ¶ 54.)

In the arbitration, Citadel pressed substantially the same case it brings here: that the Portofino Founders misappropriated Citadel's confidential information to build Portofino, misused its "Work Product," breached their confidentiality and non-solicitation obligations, induced Citadel employees to leave, and deceived Citadel about why they were resigning. (Award ¶¶ 295, 324–325, 346, 360–457.)

The Tribunal, comprised of three K.C. barristers, oversaw extensive proceedings culminating with a detailed Partial Final Award and Second Partial Award, which were subsequently confirmed as a judgment. (Award; Second Partial Award; Summers Declaration ("Decl.") ¶¶ [].) The Tribunal held an evidentiary hearing over ten days, hearing live testimony from 15 witnesses—12 fact witnesses (including the three respondents) and three experts. (Award ¶¶ 31-34.) The parties made "very extensive written and oral submissions on a great number of points and cited a large number of legal authorities," and the Tribunal's resulting First Partial Award runs 202 pages. (Award ¶ 214.)

Working from an agreed List of Key Issues, the Tribunal determined, among other things, whether the respondents had "misused the Work Product/Copyright Works" (Issue 24); whether they had "use[d] (in their solicitation of Citadel employees) . . . [i]nformation concerning the compensation, skillset and experience of personnel" (Issue 26) and whether "that information [was] confidential to Citadel" (Issue 27); whether Lancia and Casimo had "ma[d]e false representations to Citadel in March 2021" about their reasons for leaving (Issue 32); and whether there was "an agreement or combination between the Respondents . . . to use unlawful means to injure Citadel" (Issue 36). (Award, Issues 24, 26–27, 32, 36 (Agreed List of Key Issues).)

On December 23, 2025, the Tribunal issued its Second Partial Award resolving remaining issues. It confirmed the sums awarded in the First Partial Award and ordered the respondents to pay Citadel's legal costs of £3,690,000 and the costs of the arbitration, together with interest. (SPA ¶118.) On February 25, 2026, the High Court of Justice of England and Wales (Commercial Court) gave Citadel leave to enforce the Awards "in the same manner as a judgment," and entered judgment against the respondents "in the terms of" the Awards. (Confirmation Order ¶¶ 1-2.)

C. The Arbitral Findings

In the First Partial Award, the Tribunal rejected the core of Citadel's case relating to confidential information and Citadel "Work Product" (a defined term, which broadly encompasses any Citadel trade secrets): the Tribunal rejected Citadel's claim that the Portofino Founders misused its confidential information, finding that what Citadel had identified either did not quality as protectable as a trade secret or had not been used. (Award ¶¶ 325, 346, 411–13.) The Tribunal found that while employed at Citadel, Mr. Lancia had created some files that met the contractual definition of "Work Product," as broadly defined under Citadel's Non-Disclosure Agreement. (*Id.* ¶ 387(e).) But the Tribunal found that these materials were "unlikely to have been of much, if any, use" in launching Portofino's trading system, and were neither a "minimum viable product" nor "capable of actually trading any substantial amount." (*Id.* ¶¶ 387b–c.) The Tribunal found that apart from these limited and essentially unusable files, the Portofino Founders did not misappropriate anything else within the definition of Work Product, or anything that could be described as a model, strategy, system, or plan, and thus *no trade secrets*. (*Id.* ¶387e.) Although Citadel contended that it was entitled to as much as $198 million as compensation for the misappropriation of Work Product, the Tribunal awarded only £50,260 as the value of the work performed in violation of the exclusive services provision (along with a clawback of compensation paid to the Portofino Founders). (*Id.* ¶ 606b.)

In short, the Tribunal decided the precise question at the center of this case—whether the Portofino Founders misappropriated confidential information *including trade secrets* from Citadel, and whether Portofino was then built upon that information—after a full period of disclosure, an evidentiary hearing, and briefing. The Tribunal answered that issue in the negative. Citadel now asks to relitigate the issue, under the pretense of a separate claim against Portofino.

ARGUMENT

"The standard for granting a Rule 12(c) motion for judgment on the pleadings is identical to that [for granting] a Rule 12(b)(6) motion for failure to state a claim." *Patel v. Contemporary Classics*, 259 F.3d 123, 126 (2d Cir. 2001) (citation omitted). "The Court may, however, take judicial notice of a fact outside of the pleadings provided that the fact 'can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.'" *Cox v. Perfect Bldg. Maint. Corp*., 2017 WL 3049547, at *3 (S.D.N.Y. July 18, 2017) (citing Fed. R. Evid. 201(b)). Courts regularly take judicial notice of arbitration awards in deciding 12(c) motions. *See id.* (collecting cases); *Anyachebelu v. Brooklyn Hosp. Ctr.*, 2017 WL 9511073, at *6 (E.D.N.Y. July 20, 2017), *report and recommendation adopted*, 2017 WL 4233033 (E.D.N.Y. Sept. 22, 2017) (collecting cases).

Arbitration awards and international judgments are routinely considered judicially noticeable documents for purposes of a Rule 12(c) motion or 12(b)(6) motion. *See Lopez v. Falco*, 2024 WL 4252561, at *2 (S.D.N.Y. Sept. 19, 2024) (collecting cases in which courts have taken judicial notice of arbitration awards). Because the Award underlies a confirmed, final judgment, and the contents of its findings cannot reasonably be questioned, it is a judicially noticeable document. *See id*.; *see also Siegel v. Daiwa Sec. Co.*, 842 F. Supp. 1537, 1539–41 (S.D.N.Y. 1994) (judicially noticing an arbitration award issued approximately ten months after the complaint was filed).

I. *Res Judicata* Bars Plaintiffs from Re-Litigating The Claims Presented Here

"The doctrine of *res judicata*, or claim preclusion, holds that 'a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in [a prior] action.'" *Monahan v. New York City Dep't of Corr.*, 214 F.3d 275, 284 (2d Cir. 2000) (quotation omitted). An arbitration award constitutes a "final judgment" for these purposes. *See Siegel v. Daiwa Sec. Co.*, 842 F. Supp. 1537, 1541–42 (S.D.N.Y. 1994).

Res judicata "bind[s] the parties both as to issues actually litigated and determined in the first suit, *and as to those grounds or issues which might have been, but were not, actually raised and decided in that action*." *Doe v. Columbia Univ.*, 551 F. Supp. 3d 433, 460 (S.D.N.Y. 2021) (quotation and citation omitted, emphasis supplied). The doctrine thus bars claims premised on the same operative facts, regardless of the precise legal theory advanced, *see Monahan*, 214 F.3d at 289–90, and bars subsequent litigation between the *parties and their privies*, including senior executives, founders, and affiliated companies. *See Melwani v. Jain*, 2004 WL 1900356, at *2 (S.D.N.Y. Aug. 24, 2004); *Fernicola v. Specific Real Prop. in Possession, Custody, Control of Healthcare Underwriters Mut. Ins. Co.*, 2001 WL 1658257, at *4 (S.D.N.Y. Dec. 26, 2001). .

The elements of *res judicata* are well established: the doctrine bars "'later litigation if [an] earlier decision was (1) a final judgment on the merits, (2) by a court of competent jurisdiction, (3) in a case involving the same parties or their privies, and (4) involving the same cause of action.'" *EDP Med. Computer Sys., Inc. v. United States*, 480 F.3d 621, 624 (2d Cir. 2007) (quotation omitted); see also *Charles Schwab & Co. v. Retrophin, Inc.*, 2015 WL 5729498, at *7 (S.D.N.Y. Sept. 30, 2015). The application does not invite, nor require, a strict formalistic analysis. Rather, "courts have adopted a pragmatic test that examines whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage." *VDARE Found., Inc. v. James*, 162 F.4th 77, 83-84 (2d Cir. 2025) (quotation marks and citation omitted).

Each of the elements required for the application of *res judicata* exists here.

A. The Award Is a Final Decision on the Merits

To be a final decision on the merits for purposes of *res judicata*, an arbitration award need not be judicially confirmed. *Jacobson v. Fireman's Fund Ins. Co.*, 111 F.3d 261, 267–68 (2d Cir. 1997). Here, however, the "First Partial Award" and a "Second Partial Award" (dealing with costs, fees, and payment date) were confirmed and incorporated by reference into a judgment entered by the High Court of Justice in London. (*See* Summers Decl. Ex. B, Second Partial Award; Ex. C, February 25, 2026 Order ¶ 2 ("judgment be, and is hereby, entered against the Defendants").) The Award is a Final Decision on the Merits. *See Jacobson*, 111 F.3d at 267-268.

B. The Award was Issued by the London Court of International Arbitration, a Court of Competent Jurisdiction

Duly-convened arbitral tribunals are courts of competent jurisdiction for purposes of *res judicata* analysis. *See Jacobson*, 111 F.3d at 267–68; *Weizmann Inst. of Sci.*, 421 F. Supp. 2d at 676. Insofar as courts routinely compel parties to arbitrate before The London Court of International Arbitration (the tribunal here), and confirm or enforce LCIA awards, and insofar as Citadel has *confirmed* the Tribunal's Award as a duly-obtained arbitration award, (Email; Summers Decl. ¶¶ []), the LCIA is a court of competent jurisdiction for *res judicata* purposes. *See World GTL Inc. v. Petroleum Co. of Trinidad & Tobago*, 2010 WL 3291673, at *3, 4 (S.D.N.Y. Aug. 11, 2010) (compelling arbitration in the LCIA); *Prodigy Fin. Ltd. v. Zadi-Pauyo*, 2021 WL 8317108, at *2, 6 (E.D.N.Y. Aug. 5, 2021).

C. The Parties and Their Privies Were Parties in the London Arbitration

"For *res judicata* purposes, the existence of privity between parties 'is a functional inquiry and not merely a static examination of legal status.'" *Melwani*, 2004 WL 1900356, at *2 (citation omitted). The Court may find privity "where a party's interest in litigation is virtually identical to an interest it had in a prior litigation, where it was not actually named," even when there is no formal agreement between the parties. *Id.* To that end, affiliated sister companies can be in privity with each other as a matter of law. *See id.* at *2, 3 (finding that two "sister companies" were in privity, even as separate entities with different business, "given the identity of interests and incentives between the two companies in defending against the same claims"); *In re RJT Food & Rest., LLC*, 670 B.R. 657, 671 (Bankr. E.D.N.Y. 2025) (entities wholly owned by the same ultimate stakeholder were in privity).

Here, however, there is identity and formal privity among the Citadel entities: the identical Citadel entities who were claimants in the London Arbitration (*i.e.*, Citadel Securities (Europe) Limited and Citadel Management (Europe) II Limited) (collectively "Citadel Europe") are plaintiffs here, along with two additional Citadel entities (*i.e.*, Citadel Securities Americas LLC and Citadel Securities Americas Services LLC) who are in privity with the London Arbitration claimants. Not only are they self-evidently affiliated sister companies asserting rights out of the same related events, but the additional Citadel plaintiffs were beneficiaries of the arbitration clause as noted *supra*. (*See* Partial Award ¶8 (noting the arbitration agreement governed "all disputes and claims of any nature" against "any member of the Citadel Group").) The plaintiffs here are identical to, or in privity with, the London Arbitration claimants. *See Melwani*, 2004 WL 1900356, at *2.[2]

Similarly, the Portofino Founders and Portofino should be considered as parties in privity for purposes of this analysis, insofar as the Portofino Founders were self-evidently, and as alleged, closely-associated with Portofino. Mr. Lancia, in particular, is the CEO of Portofino and had a virtually-identical interest to Portofino in litigating the London Arbitration. *See Fernicola*, 2001 WL 1658257, at *4 ("the identity of interest between a corporate officer and the entity he or she leads is sufficient to establish privity"); *Kluge v. Fugazy*, 1990 WL 251221, at *2 (S.D.N.Y. Dec. 28, 1990) (finding privity between the corporate defendants and the officer and chairman of the board and direct owner of the corporate defendants); *see also Siegel v. Daiwa Sec. Co.*, 842 F. Supp. 1537, 1541–42 (S.D.N.Y. 1994) (finding that an individual defendant was in privity with a subsidiary

[2] If this were disputed by Citadel—and we do not believe it can reasonably be disputed—expedited and limited discovery should be directed so as to establish privity among the Citadel Plaintiffs.

company in an arbitration). In all practical effect, Citadel's arbitration over these events in London, against the Portofino Founders, is equivalent to its litigation against Portofino here.

D. Citadel Brings the Same Causes of Action Arising from the Same Events

Whether two suits assert the same claim depends on whether "the second suit involves the same claim—or nucleus of operative fact—as the first suit." *Waldman v. Village of Kiryas Joel*, 207 F.3d 105, 108 (2d Cir. 2000). Courts evaluate whether the underlying facts are "related in time, space, origin, or motivation" and whether the "claims aris[e] from the same transaction." *Id.*; *United States v. Tohono O'Odham Nation*, 563 U.S. 307, 316 (2011). What constitutes a "transaction" is "determined pragmatically" and given a flexible, common-sense construction. *Waldman*, 207 F.3d at 108. A party cannot escape preclusion by repackaging the same events under a new legal theory or by seeking a different remedy against a different party: "it is th[e] identity of facts surrounding the occurrence which constitutes the cause of action, not the legal theory upon which [the plaintiff] chose to frame [the] complaint." *Woods v. Dunlop Tire Corp.*, 972 F.2d 36, 39 (2d Cir. 1992); *accord Monahan v. New York City Dep't of Corr.*, 214 F.3d 275, 289–90 (2d Cir. 2000) (*res judicata* bars claims premised on the same operative facts regardless of the precise legal theory advanced).

Measured against these standards, Citadel advances the same claims here that it advanced in the London Arbitration. Both arise from a single course of events: the 2021 departure of Mr. Lancia and Mr. Casimo from Citadel Securities, and their founding and building of Portofino using what Citadel contends were its trade-secrets and confidential information. The operative facts are indisputably "related in time, space, origin, [and] motivation": the identical actors (Lancia, Casimo, and the employees they allegedly recruited, and Portofino), the identical allegation of purloined confidential information, and the identical alleged scheme to launch a cryptocurrency market-maker, supposedly built upon Citadel's trade secrets. *Waldman*, 207 F.3d at 108. Proof in both proceedings encompasses what the Portofino Founders allegedly took from Citadel, and whether Portofino was built upon it. And the Award confirms the overlap: the Tribunal adjudicated whether Citadel's trade secrets were of use to "Portofino's eventual production system" (Award ¶ 387c), whether the Portofino Founders created (while still employed by Citadel) any "model, strategy, system or plan" for the launch of Portofino, beyond some limited non-functional code (*id.* ¶ 387e), and whether the Portofino Founders misused Citadel's confidential information to solicit Portofino employees (*id.* ¶¶ 411–13). These are the very facts on which Citadel's trade-secret, unfair-competition, and unjust-enrichment claims here depend.

To the extent Citadel seeks to differentiate its claims or allegations against Portofino here, from the claims asserted against the Portofino Founders in the London Arbitration, any such claims or allegations were *available* to Citadel to litigate in the London Arbitration against the Portofino Founders and went unasserted: stated another way, *every theory* Citadel asserts here to allege that the Portofino Founders stole Citadel trade secrets for use in building Portofino was available to be asserted against the Portofino Founders in the London Arbitration. A party may not reserve theories arising from a single transaction for a later suit: the cause of action is the same whether or not every available theory was advanced the first time. *See Waldman*, 207 F.3d at 109–10; *Woods*, 972 F.2d at 38.

II. In the Alternative, Collateral Estoppel Bars Citadel from Re-Litigating Key Issues Already Decided by the Tribunal

The doctrine of collateral estoppel or issue preclusion prevents "a party from litigating [for] a second time an issue of fact or law that has once been decided." *NM IQ LLC. v. McVeigh*, 2004 WL 2827618, at *8 (S.D.N.Y. Dec. 9, 2004). Any party—even a stranger to the first action—may invoke the doctrine of collateral estoppel against a party who has once fully and fairly litigated the specified issues. *See Salvador v. Touro Coll. & Univ. Sys.*, 749 F. App'x 39, 42 (2d Cir. 2018) (finding privity between prior defendants and current defendants unnecessary). Parties may be collaterally-estopped based on findings against parties with whom they are in privity, applying the "privity" standards for *res judicata* stated above. *See Frydman v. Akerman*, 280 F.Supp.3d 418, 425-26 (S.D.N.Y. 2017). Arbitral awards are entitled to preclusive effect. *Weizmann Inst. of Sci. v. Neschis*, 421 F. Supp. 2d 654, 674-75 (S.D.N.Y. 2005).

For collateral estoppel to apply, "(1) the issues in both proceedings must be identical,[3] (2) the issue in the prior proceeding must have been actually litigated and actually decided, (3) there must have been a full and fair opportunity for litigation in the prior proceeding, and (4) the issue previously litigated must have been necessary to support a valid and final judgment on the merits." *Terry v. Charitable Donor Advised Fund, L.P.*, 2024 WL 382113, at *16 (S.D.N.Y. Feb. 1, 2024) (quotations marks and citation omitted). Parties are barred by this doctrine "from relitigating not only matters actually litigated in the preceding action but also *any matters that could have been litigated in that action*." *Id.* at *17 (quotations marks and citation omitted, emphasis supplied).

"The party seeking the benefit of collateral estoppel bears the burden of proving the identity of issues, while the party challenging its application bears the burden of showing that he or she did not have a full and fair opportunity to adjudicate the claims involving those issues." *Weizmann Inst. of Sci. v. Neschis*, 421 F. Supp. 2d 654, 675 (S.D.N.Y. 2005) (quotations marks and citation omitted).[4] "In the end, the fundamental inquiry is whether relitigation should be permitted in a particular case in light of . . . fairness to the parties, conservation of the resources of the court and the

[3] *Identity* is concerned not with "'claims or . . . causes of action as a whole,' but with issues—'single, certain and material point[s] arising out of the allegations and contentions of the parties.'" *Bifolck v. Philip Morris USA Inc.*, 936 F.3d 74, 81 (2d Cir. 2019) (quotations omitted). The identicality standard "does not require either that the two cases have the same scope or that they involve the same causes of action." *Id.* at 82. Accordingly, what matters is that the London Tribunal decided the same factual questions on which Citadel's claims here depend.

[4] However, among other factors, the Court may consider "the nature of the forum and the importance of the claim in the prior litigation, the incentive and initiative to litigate and the actual extent of prior litigation, [and] the competence and expertise of counsel." *Hickerson v. City of New York*, 146 F.3d 99, 109 (2d Cir. 1998). All these factors point in favor of a finding that Citadel had a "full and fair opportunity to litigate" in the London Court for International Arbitration. *See* Award ¶¶ 19, 22, 26, 31, 32–34, 35, 37, 42, 43.

litigants, and the societal interests in consistent and accurate results. No rigid rules are possible . . . ." *Id.* (quotation marks and citation omitted).

Even if Citadel's complaint survives *res judicata* analysis (and it should not), the Tribunal already determined a number of key issues, which Citadel should be precluded from relitigating here. Each of the following (i) was directly at issue in both the London Arbitration and is at issue here; (ii) was actually litigated and decided; (iii) was subject to a full and fair opportunity for litigation; and (iv) was decided as necessary to the Award.

A. The Tribunal's Determinations With Respect to "Work Product" Apply to Citadel's Claims Regarding "Trade Secrets"

Central to the London arbitration, Citadel alleged that to launch Portofino, the Portofino Founders misused and misappropriated Citadel "Work Product," as defined in their employee non-disclosure agreements. The definition of "Work Product" includes "any and all information, ideas, [and] concepts" that "relate in any way to Citadel's" business. (Award ¶ 66 (quoting the NDA).) This broad definition *logically encompasses any trade secrets belonging to Citadel*,[5] such that the Tribunal's findings and conclusions as to whether the Portofino Founders misused any "Work Product" should be granted preclusive effect in determining the narrower issue of whether the Portofino Founders misused or misappropriated any *trade secrets* in launching Portofino.

B. The Tribunal Already Determined That the Portofino Founders Made Limited Use of Any Citadel "Work Product"

In the arbitration, Citadel alleged that Mr. Lancia had created, while still employed by Citadel, significant amounts of Citadel "Work Product," which he and the other Portofino Founders then improperly used in launching Portofino. (CITE.)

[5] "Under the DTSA, a 'trade secret' includes 'all forms and types of financial, business, scientific, technical, economic, or engineering information' so long as (1) the owner 'has taken reasonable measures to keep such information secret' and (2) 'the information derives independent economic value, actual or potential, from' its secrecy." *Inv. Sci., LLC v. Oath Holdings Inc.*, 2021 WL 3541152, at *3 (S.D.N.Y. Aug. 11, 2021) (quoting 18 U.S.C. § 1839(3)).

After extensive litigation, expert analysis and testimony, the Tribunal concluded that the extent to which Mr. Lancia and the Portofino Founders had misused or misappropriated any Work Product to support the launch of Portofino "was markedly less than that the Claimants had contended for," (Award ¶ 593), was limited to preliminary experimental code produced by Mr. Lancia while still employed by Citadel—and importantly—that Citadel failed to prove the misappropriation of any other Work Product. (CITE.) This finding was necessary to the Award in resolving Citadel's claim that the Portofino Founders breached their contractual obligations relating to "Work Product," as well as a related copyright claim.

C. The Tribunal Already Decided That the Misused "Work Product" Did Not Amount to a Minimum Viable Product and Was Not Capable of Trading Any Substantial Amount

The Tribunal found that the code Mr. Lancia wrote while still employed by Citadel "*did not amount to anything which could properly be said to be a minimum viable product*, or a market making system nor was it capable of actually trading any substantial amount (still less a system which could trade autonomously)." (Award ¶ 387b (emphasis supplied).) As above, this finding was litigated and decided and was essential to the Award in resolving the breach of NDA and copyright claims.

D. The Tribunal Already Decided That The "Work Product" Actually Employed by the Portofino Founders Was Nearly Worthless

The Tribunal valued at £50,260 the limited, rudimentary Work Product employed by the Portofino Founders—as against the $198 million Citadel urged. (Award ¶ 606b.) This finding was the result of extensive litigation and analysis by two teams of experts, which "were highly professional and helpful to the Arbitral Tribunal." (*Id.* ¶ 593.) The Tribunal awarded this amount to Citadel as the value of Mr. Lancia's and Mr. Casimo's "breaches of contract and copyright in relation to Work Product." (*Id.* ¶ 596.) In other words, to the extent that the Portofino Founders misused

Citadel Work Product—including *trade secrets*—the damages associated with that misuse were fully awarded at £50,260.

E. The Tribunal Already Decided That This "Work Product" Was Not Foundational to Portofino's Business and Was Unlikely to Have Been of Much, If Any, Use in Portofino's Eventual Production System

The Tribunal found that the Citadel Work Product misused by the Portofino Founders "*was unlikely to have been of much, if any, use in Portofino's eventual production system.*" (Award ¶¶ 387c (emphasis supplied).) And the Tribunal ***ex****pressly rejected* Citadel's contention that Citadel's information was a "foundational building block" or the "bedrock" of Portofino's business. (*Id.* ¶ 387c ("[i]t would not be appropriate to describe it as a 'foundational building block' . . . or as the 'bedrock' of a new business, as the Claimants contended.").)

On this point, the Tribunal found the testimony of Francois Pallix, quantitative trader at Portofino, "to be of particular assistance in describing the state of the code when he arrived" (¶ 387(c)); he described Portofino's lack of a "working trading system" as of April 2021 thus: "It was as if I had been hired as a truck driver, and arrived at work only to find that there was no truck. Indeed, to continue the analogy, I then had to set out building the truck." (¶ 182.) As described in the Tribunal's "finding of fact," Mr. Pallix explained "that there was a simulation framework of sorts but it was unrealistic and essentially useless." *Id.* The Tribunal's determination was itself forward-looking, addressing and rejecting the code's utility to "Portofino's eventual production system" and rejecting the premise that the company was built upon it. (*Id.* ¶ 387c.)

As above, these findings were litigated and decided and were essential to the Award—specifically to the Tribunal's decision as to whether the Portofino Founders breached their NDA by misusing Citadel trade secrets, and copyright claims related to Work Product.

F. The Tribunal Already Decided That No Other Model, Strategy, System, or Plan Was Created

The Tribunal further found that it "is not satisfied that, other than the code, the Respondents had created anything within the definition of Work Product or which might have attracted copyright and which could be described as a model, strategy, system or plan." (*Id.* ¶ 387e.) Citadel proved no other creation or use of Work Product—much less any theft of trade secrets. *This precludes a finding that the Portofino Founders misappropriated any trade secrets in launching Portofino*. As above for the other Work Product-related findings, this finding was actually litigated and decided and was essential to the Award.

G. The Tribunal Already Decided There Was No Misuse of Confidential Information to Solicit Citadel Employees

The Tribunal concluded that the Portofino Founders did not misuse Citadel's confidential information to solicit Citadel employees. (*See id.* ¶¶ 411-13.) This was the only form of misuse alleged by Citadel in the arbitration. This issue was actually litigated, necessarily decided, and essential to the Award; the Tribunal came to this conclusion in resolving one of Citadel's breach of confidence claims against the Portofino Founders.

Citadel could have asserted the same claim as to any of the confidential information it alleges in this case—but chose not to. Citadel should be precluded from now belatedly asserting these claims.

H. The Tribunal's Findings Determine the Extent and Basis of Mr. Prieur's Alleged Involvement

As to Mr. Prieur, the Tribunal found that the Portofino Founders wanted to recruit him because they held his "abilities in high regard"; "the Arbitral Tribunal [did] not believe" that information regarding his "involvement in Citadel Securities' cryptocurrency project" was "used to recruit" him. (Award ¶ 402.) The Tribunal found that "[i]t is inherently unlikely that the [Portofino Founders] would have placed weight on [Mr. Prieur's] working on a cryptocurrency project at Citadel Securities, in particular as *there was no reason to believe that any such project was more* *advanced than the work that Portofino was doing* when [he was] recruited." *Id.* It further found that the Portofino Founders' knowledge of Mr. Prieur's skills and experience "formed part of their own skill, knowledge and experience," was "general in nature," and "d[id] not amount to a trade secret." (*Id.* ¶ 411.) It found that, in connection with Mr. Prieur, the Portofino Founders "did not misuse Citadel's confidential information." (*Id.* ¶¶325, 346, 413 ("there was no unlawful misuse of confidential information by the Respondents in the solicitation of Citadel employees").)

Each of these findings is entitled to preclusive effect. The identical issues—whether the Portofino Founders improperly used or acquired Citadel's confidential information in recruiting Mr. Prieur, whether they recruited him, as Citadel claims, in order to use Citadel trade secrets, and whether what Mr. Prieur knew was a protectable trade secret at all—were litigated in the arbitration and are the very issues Citadel presses here in alleging misappropriation "through [Portofino's] poaching of Vincent Prieur." (Compl. ¶ 166, 194, 209.) Those issues were actually litigated and decided in the extensive proceedings before the Tribunal and decided in the Tribunal's thorough Award. And the findings were necessary to a valid and final judgment on the merits, because they were the express basis on which the Tribunal rejected Citadel's breach of confidence claims. (*Id.* ¶¶ 325, 346, 413, 606(i).) Citadel is bound by these determinations and cannot relitigate them here.

# # #

Each of these findings is entitled to preclusive effect. The centerpoint of Citadel's claims against the Portofino Founders was that they misused and misappropriated Citadel Work Product, *i.e.*, "any and all information, ideas, [and] concepts" that "relate in any way to Citadel's" business," in launching Portofino. This *encompasses* trade secrets. Citadel litigated these issues fully and fairly, and the corresponding findings are entitled to preclusive effect. The Portofino Founders did not use any Citadel trade secrets in launching Portofino. Citadel had the chance to prove that they did, and failed to do so.

III. The Issues Decided by the Tribunal Require Dismissal of Citadel's Claims 1, 2, 4, and 6 in this Action

As set forth above, Citadel should be collaterally-estopped from relitigating the issues specified in Argument II. On that basis, and on the basis that the Court should refuse to accept as true the allegations that are contradicted by the Tribunal's findings, Citadel's remaining claims should be dismissed as a matter of law: Citadel simply cannot prove its claims against the previously-decided issues that it should be precluded from relitigating.

A motion for judgment on the pleadings is the proper vehicle to give effect to the preclusive force of the award. The Rule 12(c) standard requires the Court to treat the issues the Tribunal already decided—the findings set out in Section II—as established and precluded. In light of those findings, the Court should *no longer* credit the allegations in the Complaint that are contradicted by the findings. *See Piazza v. Fla. Union Free Sch. Dist.*, 777 F. Supp. 2d 669, 678 (S.D.N.Y. 2011) (court need not accept as true allegations in contradicted by a judicially-noticeable document); *Bohmer v. New York*, 684 F. Supp. 2d 357, 360 (S.D.N.Y. 2010) (same). Taking the Tribunal findings as established, Citadel claims should be dismissed: the Tribunal's findings negate one or more elements that Citadel would have to plead and prove.

A. Counts 1 and 2— Violation of the Defend Trade Secrets Act, 18 U.S.C. § 1836; Misappropriation of Trade Secrets and Confidential Information (common law)

"To state a claim for trade secret misappropriation under the DTSA, a plaintiff must plausibly allege that (1) it possessed a trade secret, and (2) the defendant misappropriated the trade secret." *Inv. Sci., LLC v. Oath Holdings Inc.*, 2021 WL 3541152, at *3 (S.D.N.Y. Aug. 11, 2021) (quotation omitted).

First, the Tribunal's findings preclude the finding that the Portofino Founders misappropriated or misused "trade secrets" in launching Portofino. Under the DTSA, "a 'trade secret' includes 'all forms and types of financial, business, scientific, technical, economic, or engineering information' so long as (1) the owner 'has taken reasonable measures to keep such information secret' and (2) 'the information derives independent economic value, actual or potential, from' its secrecy." *Inv. Sci., LLC v. Oath Holdings Inc.*, 2021 WL 3541152, at *3 (S.D.N.Y. Aug. 11, 2021) (quoting 18 U.S.C. § 1839(3)).

Citadel litigated the London Arbitration to prove that the Portofino founders used Citadel's "Work Product," including but not limited to trade secrets, in launching Portofino. That is the same claim Citadel is pursuing here, *i.e.*, that Portofino was built upon Citadel's trade secrets. The Tribunal's findings are decisive: the Portofino Founders possessed no trade secret of independent economic value, and used no Citadel trade secrets—no "model, strategy, system, or plan"—in launching Portofino. (CITE.) To the extent the Portofino Founders developed any "Work Product" while still employed by Citadel, it was nearly worthless and Citadel was fully compensated with an award of £50,260. (Section II.B–D; Award ¶¶ 386–87, 606b.) Material of no real economic value is not a trade secret. *See Zirvi v. Flatley*, 433 F. Supp. 3d 448, 465 (S.D.N.Y. 2020), *aff'd*, 838 F. App'x 582 (2d Cir. 2020). And because *Citadel's* broad contractual definition of Work Product swept in "*any and all* information, ideas, [and] concepts" relating to Citadel's business (Award ¶ 66; Compl. ¶ 88), the Tribunal's finding that the founders created no model, strategy, system, or plan beyond that code (Section II.E; Award ¶ 387e) necessarily reaches the very categories Citadel now labels its trade secrets. With respect to trade secrets supposedly possessed by Mr. Prieur: "there was *no reason to believe*" that any "cryptocurrency project" Mr. Prieur worked on at Citadel Securities "was more advanced than the work that Portofino was doing when [he was] recruited." (Section II.H, Award ¶ 402.)

Second, the Tribunal's findings set forth in Section II negate the "misappropriation" element of the claim. The DTSA defines "misappropriation" as either the "acquisition of a trade secret by a person who knows or has reason to know that the trade secret was acquired by improper means," or "disclosure or use of a trade secret of another without express or implied consent," in certain circumstances. 18 U.S.C. § 1839(5). "Improper means" is defined to include, among other things, "breach or inducement of a breach of duty to maintain secrecy." 18 U.S.C. § 1839(6). The DTSA thus "contemplates three theories of liability: (1) acquisition, (2) disclosure, or (3) use." *Town & Country Linen Corp. v. Ingenious Designs LLC*, 556 F. Supp. 3d 222, 255 (S.D.N.Y. 2021) (quotation omitted).

Because the Portofino entities are corporate defendants, Citadel must include actual allegations as to its involvement in the alleged misappropriation, and must tie any misappropriation to the conduct of identified individuals. Merely alleging that Defendants hired the individual employees who allegedly stole trade secrets is insufficient to create liability. *R.R. Donnelley & Sons Co. v. Marino*, 505 F. Supp. 3d 194, 207 (W.D.N.Y. 2020); *see also Zebra Strategies, Inc. v. Gonzalez-Nazario*, 764 F. Supp. 3d 144, 156 (S.D.N.Y. 2025) ("merely providing an individual with the means to access files that contain trade secrets does not come within the DTSA's definition of 'misappropriation'" and finding that the defendant has to actually engage in the "acquisition," "disclosure," or "use" of the alleged trade secret).

The Tribunal's findings also mean that Citadel cannot prove misappropriation. The Tribunal decided that the only persons who could have misappropriated Citadel's trade secrets for use by Portofino did not do so: the Portofino Founders created no model, strategy, system, or plan that could have been carried to Portofino (Award ¶ 387e). And the Portofino Founders did not misuse Citadel confidential information in recruiting any Citadel employees to join Portofino, including the recruitment of Mr. Prieur. (Award ¶ 402.) In other words, Portofino could not have received what the Tribunal found the Portofino Founders never wrongfully took or used.

Finally, the Tribunal's findings also mean that it is not possible for Citadel to allege misappropriation based on "improper means," *i.e.*, via "breach or inducement of a breach of a duty to maintain secrecy." (CITE). The Tribunal found that no such breach or inducement existed, and rejected Citadel's breach of confidence claims, as set out in Section II.

Citadel's conclusory, fallback allegation relying on Mr. Prieur—that Portofino misappropriated trade secrets "through its poaching of Vincent Prieur" (Compl. ¶166)—fares no better. The Tribunal's findings foreclose it (Section II.H.2): the founders recruited him for his general abilities rather than any knowledge of Citadel's crypto project, and did not misuse confidential information in recruiting him. And Mr. Prieur did not join Portofino until April 2022, a year after Portofino's creation. Taken together with the Tribunal's finding that Citadel's project was no more advanced than Portofino's—"[i]t is inherently unlikely that the [Portofino Founders] would have placed weight on [Mr. Prieur's] working on a cryptocurrency project at Citadel Securities, in particular as there was no reason to believe that any such project was more advanced than the work that Portofino was doing when [he was] recruited"—Citadel should be precluded from alleging that any misappropriation occurred through Mr. Prieur. *See, e.g.*, *Zebra Strategies, Inc. v. Gonzalez-Nazario*, 764 F. Supp. 3d 144, 156 (S.D.N.Y. 2025). The Tribunal's findings directly contradict Citadel's allegations that Portofino hired Prieur "to make its own crypto trading business scalable" based on the Citadel trade secrets that Prieur allegedly knew. (Compl. ¶ 123; *see also* ¶¶ 167, 209.)[6]

The preclusive effect of the Tribunal's findings also means that Citadel's only remaining theory also fails—that Portofino employees carry technical knowledge regarding Citadel in their heads. (Compl. ¶¶ 230-31, 244.) This amounts to alleging only general skill and experience, which are not trade secrets, and no allegation of acquisition by improper means. *See Big Vision Private Ltd.*

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[6] For these same reasons, the DTSA cannot apply extraterritorially to this case: no "act in furtherance of the offense was committed in the United States." 18 U.S.C. § 1837. And the "offender" is not an "organized under the laws of the United States or a State or political subdivision thereof" (*id.*), as Portofino Technologies USA "was never made operational and has no office, assets, operations, or employees." (ECF No. 43 (prior Portofino Motion to Dismiss), at 37.)

v. E.I. DuPont De Nemours & Co., 1 F. Supp. 3d 224, 258–59 (S.D.N.Y. 2014), *aff'd sub nom. Big Vision Priv. Ltd. v. E.I du Pont de Nemours & Co.*, 610 F. App'x 69 (2d Cir. 2015) (finding that "matters of general knowledge in the trade or of special knowledge of persons skilled in the trade" do not constitute trade secrets) (quotation marks and citation omitted). And Citadel does not and cannot allege any acquisition through improper means such as theft or unauthorized access. 18 U.S.C. § 1839(5)(A); *see also Harley Marine NY, Inc. v. Moore*, 716 F. Supp. 3d 21, 31 (N.D.N.Y. 2024) ("When one acquires information as part of their job duties, they are not using improper means.").

Last, Citadel's common law misappropriation claims also fail. Under New York law, "[a] plaintiff claiming misappropriation of a trade secret must prove: (1) it possessed a trade secret, and (2) defendant is using that trade secret in breach of an agreement, confidence, or duty, or as a result of discovery by improper means." *eShares, Inc. v. Talton*, 727 F. Supp. 3d 482, 495 (S.D.N.Y. 2024) (quotation omitted). Each element fails for the same reasons above. In addition, unlike the DTSA, under New York law, acquisition of a trade secret is not enough to state a claim—use of the trade secret must be sufficiently alleged. *Id.* Citadel does not adequately allege any "use," and the Tribunal's findings discussed above are fatal to any attempt to do so.

B. Counts 4 and 6, for Unfair Competition and Unjust Enrichment

Citadel pleads its unfair competition claim as the "unauthorized misappropriation and use of Citadel Securities' Trade Secrets and other confidential information" to compete "without expending the substantial time . . . [and] resources" Citadel invested. (Compl. ¶¶ 262–63.) Under New York law, this claim requires the bad-faith misappropriation of another's labor, skill, and expenditures. S*ee Bytemark, Inc. v. Xerox Corp.*, 342 F. Supp. 3d 496, 505 (S.D.N.Y. 2018); *CDC Newburgh Inc. v. STM Bags, LLC*, 692 F. Supp. 3d 205, 225 (S.D.N.Y. 2023) (some element of bad faith must be displayed in the alleged misappropriation). As with Plaintiffs' trade secret misappropriation claims, as explained *supra*, the findings in the Award foreclose and contradict Plaintiffs' allegations that Portofino used or misappropriated Citadel's confidential information, thus defeating Plaintiffs' unfair competition claim. *TileBar v. Glazzio Tiles*, 723 F. Supp. 3d 164, 207 (E.D.N.Y. 2024) ("It is well-established that [a] claim for unfair competition based on the same allegations as a claim for misappropriation of trade secrets is treated as a single cause of action, and should be dismissed as duplicative." (quotation marks and citation omitted)).

Citadel pleads its unjust enrichment claim as Portofino gaining its success "on the shoulders of Citadel Securities' operations, employees, Trade Secrets, and work product." (Compl. ¶¶ 273–76.) To successfully plead a claim for unjust enrichment, Plaintiffs must allege that: "(1) defendant was enriched, (2) at plaintiff's expense, and (3) equity and good conscience militate against permitting defendant to retain what plaintiff is seeking to recover." *Briarpatch Ltd., L.P v. Phoenix Pictures, Inc.*, 373 F.3d 296, 306 (2d Cir. 2004). As explained *supra*, the findings in the Award foreclose and contradict Plaintiffs' allegations that Defendants have been enriched by Plaintiffs' confidential information, thus defeating this claim as well. *See TileBar*, 723 F. Supp. 3d at 207 (dismissing plaintiff's unjust enrichment claim as duplicative of its trade secret claim). Indeed, the Tribunal found Mr. Lancia's limited Work Product "unlikely to have been of much, if any, use" to Portofino and found nothing else of Citadel's wrongfully taken or used. (Award ¶¶ 387c, 387e, 411–13.) That alleged predicate of enrichment at Citadel's expense was thus rejected by the Tribunal.

As pleaded by Citadel, both claims rest principally (if not entirely) on the alleged trade secret violations. However, the Tribunal's findings foreclose any other non-trade secret basis for these claims. For example, the Tribunal's findings encompassed trade secrets and reached beyond them, finding that *no* confidential information was misused and *no* broadly defined "Work Product" was created other than the rudimentary source code valued at a mere £50,260.

The Court should dismiss Plaintiffs' Counts 1, 2, 4, and 6 because the Award forecloses and contradicts essential allegations in the Complaint, rendering Plaintiffs' claims inadequately pled.

CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court grant its Rule 12(c) motion.

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New York, NY

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