

## **WISK EMPLOYEES' TESTIMONY AND DOCUMENTS EVIDENCE THAT WISK FILED PATENT FOR AIRCRAFT DESIGN NEARLY IDENTICAL TO ARCHER'S WEEKS AFTER LEARNING OF ARCHER'S DESIGN**

- Wisk Chief Engineer, after learning Archer's design in recruiting meeting, emails himself on his Wisk email specific details of Archer's plans and designs and also informs Wisk CEO and CTO of what he learned and only afterwards Wisk files patent application
- Comprehensive forensics investigation for any Wisk data proves not a single confidential Wisk document exists at Archer
- Wisk fails to provide any evidence whatsoever—not a single document, not a single witness, nothing—that Archer received or used any Wisk trade secret
- Archer asks Court to deny Wisk's request for Preliminary Injunction

**PALO ALTO, CA, June 24, 2021** – In court papers filed late last night by Archer Aviation Inc. (“Archer”) in opposition to Wisk's motion for a preliminary injunction, Archer, citing Wisk employees' testimony and documents produced by Wisk in discovery, states that Wisk filed its aircraft design patent application -- which as Wisk points out in its lawsuit appears nearly identical to Archer's -- weeks *after* learning of Archer's aircraft design. The filing says that Wisk's Chief Engineer learned of Archer's aircraft design during an Archer recruiting meeting in December 2019, shared that information with senior executives at Wisk, and then weeks later, Wisk filed a patent application for an aircraft design which appears nearly identical to the one described to him by Archer executives. The court filing goes on to state that Wisk subsequently used this patent application as evidence of wrongdoing by Archer with both criminal authorities and the court.

The court filing also states that despite Wisk's claims to the contrary, Archer is *not* the target of an FBI or Justice Department criminal investigation and that an extensive forensic review of Archer's systems belies Wisk's allegation that Archer has stolen any of the documents that Wisk claims it did; the forensic review showed that none of the allegedly stolen documents exist on Archer employee Jing Xue's Archer devices or any of Archer's systems.

“Allegations of ‘brazen theft’ and ‘wholesale’ misappropriation are gravely serious, and have serious consequences,” the filing says. “At a minimum, such allegations demand serious evidence. Wisk's motion provides none, and should be denied.”

### **Wisk's Patent Application Underlying its Lawsuit Was Filed Weeks After Wisk Learned of Archer's Aircraft Design**

The filing states, “Wisk fundamentally misrepresents the ‘facts’ on which it urges this Court to infer misappropriation, starting with its central allegation that the similarity between Archer's aircraft and a design in Wisk's patent application ‘could not have been a coincidence’ and shows that Archer ‘ripped off wholesale’ Wisk's design. Wisk plasters a side-by-side comparison throughout its motion, claiming that it proves Archer's misappropriation because ‘Archer's aircraft is inexplicably a copy of a design Wisk submitted confidentially in a January 2020 patent application—more than a year before Archer's copycat design was revealed.”

“This is the centerpiece of Wisk’s motion (and media blitz), and every aspect of it is a fraud. Wisk’s design was not even in any document Xue downloaded. And Wisk’s claim that its application was filed before Archer ‘revealed’ its design is a sleight of hand. That is because Wisk knows—but does not tell the Court—that Wisk’s application was filed *after* Archer *developed* its design. In fact, Wisk’s application was filed *after Archer disclosed its design to Wisk.*”

“On December 9, 2019, Archer’s founders told Wisk’s chief engineer about the aircraft designs Archer was developing, including tilted rotors on a fixed wing. Wisk’s engineer reported Archer’s plans to Wisk’s CEO and CTO; days later, Wisk ... quickly filed an application that *included the very designs Archer had disclosed to Wisk.* Wisk mentions none of these *admitted* facts that conclusively disprove Wisk’s claim of copying, and show that if there is a ‘copycat design’ here, it is not Archer’s aircraft. Yet, Wisk uses the application it *created after Archer’s disclosure and including Archer’s design* as a litigation and media prop to falsely accuse Archer of theft.”

The court filing also states, “Tom Muniz, who was the Vice President of Engineering for Wisk and predecessor entities from May 2017 to December 2019 and now works for Archer, has testified that at the time he left Wisk he ‘was unaware of any development project or efforts by Wisk for a tilting rotor aircraft of any configuration.’”

#### **Forensics Investigation Shows Archer Does Not Have A Single Confidential Wisk Document Wisk Has No Evidence Xue Retained a Single Document**

Archer’s filing states, “Wisk’s motion is predicated on downloads by former Wisk employee, Jing Xue. But Wisk *admits* that it has no evidence that Xue retained even a single document, let alone brought any to Archer. Wisk ominously claims that ‘Archer’s agent Xue stole thousands of Wisk’s files,’ but Xue downloaded files to his work computer while at Wisk, and Wisk does not even allege that the downloads were improper or outside the scope of his work. Instead, Wisk *speculates* that Xue may have downloaded files for an improper purpose, and then copied files to a USB drive (though Wisk’s forensics expert admitted there is no evidence), and then retained those files after certifying in writing that he did not, and then brought those files to Archer, and then shared those files with Archer, which then used them to build its aircraft. Literally no evidence exists for any of these assumptions, *all of* which are necessary to Wisk’s motion. Wisk’s motion is based on rank speculation about what Xue might have done if he were a thief, as Wisk recklessly assumes and publicly declares.”

“More importantly, regardless of Xue’s conduct, this case is against *Archer*, and there is not a shred of evidence—literally nothing—that Archer received or used any Wisk confidential information at any time about anything. Archer has provided overwhelming, undisputed evidence (sworn declarations and documents) establishing the independent development of its aircraft. Archer conducted an exhaustive forensics investigation for *any* Wisk data (including *all* files Xue allegedly downloaded) and determined that not *a single* confidential Wisk document exists at Archer.”

Later the filing states, “In Xue’s exit interview at Wisk on January 10, 2020, Carlie Russell—the Wisk Senior People Person—asked Xue to sign a termination agreement confirming he was not retaining any Wisk proprietary information, but Xue advised Russell that he could not yet do so because he still had some Wisk files on his personal devices. Russell later emailed Xue and asked him to confirm that ‘all items have been returned and/or removed from [his] personal devices and accounts.’ Xue did exactly that, confirming that, ‘[a]s instructed, all items have been returned and/or removed.’ Xue then signed

the termination agreement and Russell was ‘satisfied’ that Xue had done what she asked and ‘had no reason to believe that he hadn’t upheld his obligation.’”

**Wisk Provides No Evidence Whatsoever—Not a Single Document, Not a Single Witness, Nothing—That Archer Received or Used Any Wisk Trade Secret**

The filing states, “Wisk provides no evidence whatsoever—not a single document, not a single witness, nothing—that Archer received or used any Wisk trade secret. Archer independently developed its aircraft, working with leading eVTOL consultants and a world-class team of engineers; Archer did not need, did not have, and did not use, anything from Wisk—and there is not one iota of evidence to the contrary. Instead, Wisk’s motion is suffused from top to bottom with misdirection and misrepresentations that preclude the equitable relief it seeks.”

To read the full text of Archer’s most recent court filing and supporting evidence, [click here](#).

**About Archer**

Archer’s mission is to advance the benefits of sustainable air mobility. Archer’s goal is to move people throughout the world’s cities in a quick, safe, sustainable, and cost-effective manner. Archer is designing and developing electric vertical takeoff and landing (eVTOL) aircraft for use in Urban Air Mobility that can carry passengers for 60 miles at speeds of up to 150 mph while producing minimal noise. Archer’s team is based in Palo Alto, CA.

To learn more, visit [www.archer.com](http://www.archer.com)

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