

MURPHY ORLANDO LLC

Jason F. Orlando, Esq.
John W. Bartlett, Esq.
30 Montgomery Street, 11th Floor
Jersey City, New Jersey 07302
(201) 451-5000
Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MCKINSEY & COMPANY, INC. UNITED STATES,

Plaintiff,

v.

PARKER SHI,

Defendant.

Civil Action No. _____

**VERIFIED COMPLAINT
AND JURY DEMAND**

Plaintiff MCKINSEY & COMPANY, INC. UNITED STATES, at 1 Deforest Avenue, Suite 300, Summit, New Jersey 07901, by way of Verified Complaint against PARKER SHI, at 25 Deerwood Trail, Warren, New Jersey 07059, says:

Parties

1. Plaintiff MCKINSEY & COMPANY, INC. UNITED STATES, (“Plaintiff” or “McKinsey”) is a Delaware corporation with a place of business at 1 Deforest Avenue, Suite 300, Summit, New Jersey 07901.

2. Defendant PARKER SHI is a natural person residing at 25 Deerwood Trail, Warren, New Jersey 07059, and is a former shareholder and Senior Partner of McKinsey.

Jurisdiction and Venue

3. This Court has subject matter jurisdiction pursuant to 29 U.S.C. §1132(e)(1) and 28 U.S.C. § 1331 because this action is brought under the Defend Trade Secrets Act of 2016,

Pub.L. 114–153, 130 Stat. 376, codified at 18 U.S.C. § 1836 et seq. (“DTSA”), and the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (“CFAA”). This Court also has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367.

4. Personal jurisdiction over Defendant lies under 29 U.S.C. § 1132(e)(2), which provides that “process may be served in any . . . district where a defendant resides or may be found.” Defendant resides in this District.

5. Venue lies in this District pursuant to 28 U.S.C. § 1391(b) because Defendant resides in this district, Plaintiff has substantial business operations in this District, and a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this District.

Facts Common To All Claims

6. This Complaint seeks redress for the theft and misappropriation of trade secrets and confidential documents and information of McKinsey and its clients and the unauthorized access to and taking of documents and information on McKinsey’s computer systems for Defendant’s commercial advantage and private financial gain.

7. Plaintiff also seeks redress for the actions of Defendant, its former shareholder and employee, in violation of his fiduciary duties to the company and to his fellow shareholders in Plaintiff’s parent company, McKinsey & Company, Inc.

Parker Shi’s Employment History With McKinsey

8. Defendant PARKER SHI was employed by McKinsey, or one of its affiliates, from 2008 to 2018, during which time he was both an employee of McKinsey with the title Senior Partner and a shareholder of McKinsey & Company, Inc.

9. Shi was hired to work for a McKinsey affiliate in China, where he worked until approximately 2015. In that year, at his request, he was relocated to the United States and began serving McKinsey’s U.S. clients from its Summit, New Jersey office.

10. As an employee and shareholder, Shi was bound by fiduciary duties that included to keep McKinsey's and its clients' trade secrets and confidential business material protected from disclosure and not to use such secrets and material for any purpose other than his service to McKinsey and its clients.

11. As a shareholder, Shi enjoyed the particular trust of the Firm and its clients, and participated personally and substantially in the most sensitive confidential matters on behalf of the Firm and its clients. Precisely because of the importance of client confidences and McKinsey's intellectual property, McKinsey's shareholders mutually covenant their business loyalty to one another and commit to ensuring the security of the firm's and its clients' business information.

12. Consistent with all these obligations, McKinsey's Associate General Counsel sent Shi a letter in connection with his separation from McKinsey, reminding him that "before and after leaving the Firm, you remain prohibited from disclosing any trade and business secrets of the Firm and/or its clients. Please note, this includes not only the traditional information the Firm considers to be 'Confidential,' such as client identities, engagement details, business plans, and competitively sensitive information, but also internal Firm procedures and mechanisms."

McKinsey Safeguards Its And Its Clients' Confidential Documents And Intellectual Property

13. McKinsey's key asset and competitive advantage is the accumulated knowledge of its partners and employees and the proprietary processes, methods, models, and materials with which it serves its clients. Because McKinsey's intellectual property derives its value from its non-public nature, the security of that intellectual property, and the documents containing it, is paramount to the company's business success.

14. Likewise, clients who come to McKinsey for its service and counsel disclose highly-confidential information regarding their business, including financial data, information regarding the clients' competitive advantages and information regarding weaknesses, exposure,

and risks affecting the client. Consistent with this, all McKinsey clients expect that their information and documents will be held in strictest confidence, and many clients' agreements with McKinsey include specific provisions regarding McKinsey's obligation to return or destroy clients' documents periodically or at the conclusion of a project or representation.

15. McKinsey's intellectual property and client confidences are protected technologically, including by limiting access to electronic files and documents to employees working on a particular initiative or serving a specific client.

16. Electronic files are stored in encrypted format both "at rest" (residing on McKinsey's secure server accessible only to authorized McKinsey users, known as the "Box") and when being transmitted between devices. Only devices with an electronic certificate provided by McKinsey's IT department can even access McKinsey's communications network. As further security, hard drives on all employees' Firm-issued laptops are protected by whole-disk encryption and all employees are required to change their passwords not less frequently than every 90 days.

17. Confidential financial information, intellectual property, and other documents belonging to a particular McKinsey client, as well as documents and other work-product generated in connection with McKinsey's service to a specific client (collectively, "Client Files"), are further protected through access controls. Only those working on a specific client account, and those with Firm-wide responsibilities and fiduciary duties such as Shi, as a Senior Partner, have electronic or physical access to particular Client Files.

18. Indeed, even the existence of client relationships—itsself a client confidence—is tightly protected from disclosure. Firm rules even prevent employees from identifying the client(s) they are working for to other McKinsey employees not on the same client team. In addition,

McKinsey staffing management systems are carefully designed to prevent any single employee from performing work for industry competitors on competitively sensitive projects.

19. Every McKinsey office is secured with electronic locks that can only be accessed using a “badge-reader” system. Badges are only issued to current McKinsey employees in good standing, and individual employees’ access can be disabled at any time. Departing employees’ card reader access ends on their last day with the Firm. Individual employees’ offices and desks can be locked, and employees—particularly Senior Partners and Partners—are encouraged to do so when in possession of paper files containing Firm or client proprietary information.

20. Defendant had access to information about numerous McKinsey clients, including not only those he performed work for but also those where his expertise was relevant to the development of materials intended for the solicitation of new clients or new work with existing clients.

21. At the time of his departure from McKinsey in 2018, Shi was a Senior Partner working in McKinsey Digital, the practice group that advises clients on transforming their businesses through the application of technology and advanced analytics, out of the New Jersey office. In this role, he was directly involved in McKinsey Digital’s work advising clients on their digital strategy and digital-transformation efforts. He had a hand in building underlying technology, reorganizing technology infrastructure, creating digital content, and building or managing key client relationships. His work included industry sectors such as insurance, consumer products, and pharmaceutical and medical products, all of which are important sectors for McKinsey.

22. Shi also had access to information about the firm’s strategic direction, the industry sectors in which and specific potential clients for which it intended to compete, and the nature of

McKinsey's competitive advantage in those fields. Shi's position afforded him access to a veritable treasure trove of materials containing confidential and proprietary information. As a Senior Partner, he was copied extensively on confidential, internal e-mail correspondence exchanged among McKinsey leadership. Shi was a member of multiple e-mail distribution groups through which he received a steady stream of confidential e-mails and proprietary documents.

23. As a Senior Partner in McKinsey Digital, Shi was regarded as a resource who could potentially field questions concerning the information technology components of client matters that he himself was not directly involved in.

Shi's Departure from McKinsey & Decision to Litigate

24. In or about February 2018, Shi and McKinsey began a discussion of Shi's possible departure from the Firm. In connection with that series of conversations, Shi repeatedly asked whether and when certain periodic and discretionary elements of his compensation would be paid.

25. Shi was advised, among other things, that the payment of any Additional Award (one of several types of compensation Senior Partners receive, valued from year-to-year based upon the company's performance) was discretionary and that any "AA" payment could be withheld if Shi joined a competitor of McKinsey.

26. On or about April 4, 2018, Shi informed McKinsey that he would be leaving McKinsey within a matter of months.

27. On or about April 18 and May 2, 2018, Shi received offers of employment from two companies, one of which is now believed to be Accenture, a direct competitor of McKinsey.

28. Not knowing that Shi was interviewing with McKinsey competitors, and having been repeatedly assured by Shi that he would not be joining a competitor, the company tried to assist Shi in finding his next professional position; among other things, senior management

discussed trying to get Shi placed at a McKinsey client with which Shi had worked while at McKinsey.

29. Shi ultimately advised McKinsey that he would depart the Firm on July 15, and that he intended to “enjoy the summer” and consider his options for next steps.

30. In fact, Shi almost immediately joined Accenture, one of McKinsey’s major competitors. Accenture hired Shi to be the head of its North America Information Technology (“IT”) strategy practice doing almost precisely the same consulting work he was doing at McKinsey. Shi now acknowledges that he formally initiated his new employment with Accenture on July 18, 2019, just three days after his separation from McKinsey.

31. In other words, Shi accepted a position in which he would be heading a unit that competes directly with the McKinsey unit he was leaving, and did so after months of repeatedly assuring his McKinsey colleagues that he would not be joining a competitor.

32. On or about February 28, 2019, Shi filed an action against McKinsey in the Superior Court of New Jersey, Law Division, Union County (the “State Litigation”), claiming that he is owed almost \$1 million in “AA,” despite his admissions that AA awards are discretionary.

33. Shi’s Complaint in the State Litigation contained claims for breach of contract and violation of the N.J. Law Against Discrimination, N.J.S.A. 10:5-1 et seq., as well as fraud, misrepresentation, and other common law claims.

34. Among other things, Shi’s Complaint admitted that he had received an offer of employment from another company by no later than April 18, 2019.

35. After motion practice, Shi’s discrimination claim was dismissed without prejudice on June 6, 2019.

36. Thereafter, McKinsey filed its answer to Shi's remaining claims and the State Litigation proceeded to the discovery phase.

*McKinsey's Discovery That Shi Took McKinsey and Client Documents
& The Resulting Damage To McKinsey And Its Clients*

37. In connection with its obligation to review and produce documents as part of the discovery process in the State Litigation, McKinsey catalogued and searched, and its counsel reviewed, e-mails and attachments sent to and from Shi's e-mail account at McKinsey.

38. In the course of that review, McKinsey discovered that in the final weeks of his employment, and earlier, Shi had accessed McKinsey's computers and e-mailed numerous confidential Firm and client documents to himself at personal or private e-mail accounts.

39. Among other things, Shi e-mailed documents to "parker_shi.5d456@m.evernote.com." Evernote is an on-line organizing and archiving system, and by sending documents to their own e-mail address "@m.evernote.com," users place those documents into a cloud-based storage system which they can access from anywhere with an Internet connection.

40. Shi's use of Evernote, and his transfer of Firm and client documents to Evernote, were not authorized by McKinsey and were not in connection with Shi's service to any McKinsey client.

41. Rather, they constituted misappropriation of McKinsey's and its clients' highly confidential information by a person trusted to safeguard their confidentiality. They also constituted violations of McKinsey's Information Technology Security And Usage Policy ("IT Security Policy"), with which Shi was familiar from his years of employment.

42. Shi also e-mailed confidential McKinsey and client documents to "parker.shi@me.com," which is apparently one of several personal e-mail addresses belonging to

Shi. The domain “me.com” is maintained by Apple, Inc., which also provides private e-mail and cloud storage to subscribers.

43. Shi’s use of me.com and any associated e-mail or file storage systems, and his transfer of Firm and client documents to himself at me.com, were not authorized by McKinsey.

44. Rather, they constituted misappropriation of McKinsey’s and its clients’ highly confidential information by a person trusted to ensure its confidentiality. They also constituted violations of McKinsey’s IT Security Policy.

45. Further investigation of Shi’s computer usage while employed by McKinsey revealed that during the period from April 18 to July 15, 2018—that is, from the day Shi has admitted he received a job offer from another company, until the day he separated from McKinsey—Shi downloaded more than 200 McKinsey and client documents from the Firm’s encrypted “Box” server to his laptop computer.

46. For example, on May 23, 2018, Shi downloaded 177 documents from McKinsey’s secure Box server, many of them describing the details of McKinsey’s proprietary operating model developed to best utilize a popular technology platform and apply it successfully in the banking, financial services, and retail industries.

47. A week later, on Saturday, June 30, 2018—two days after Shi sent a memo to Michael Bender and Steven Van Kuiken, two Senior Partners, stating that all his work had been transitioned to other partners in preparation for his departure—Shi downloaded an additional 83 documents from Box, including information on data management design for retailers and investment banks that were current or prospective McKinsey customers.

48. Once Shi downloaded files from the Box to his laptop computer, Shi had the capability to copy or transfer the files out of that laptop and into a personal archive, or to any third

party, in numerous ways. Among other things, Shi could have e-mailed the downloaded documents to himself or others using a personal email account, or could have uploaded the documents to a cloud-based storage service such as Evernote, Google Drive, or Dropbox.

49. Altogether, Shi downloaded more than 200 documents and sent himself at least 40 e-mails and/or attachments containing McKinsey intellectual property, confidential and proprietary information of McKinsey clients, or both.

50. Of the 40 e-mails, at least 9 were sent by Shi to himself during the last 15 days of his employment at McKinsey.

51. These included highly confidential intellectual property or client confidential information about a client Shi previously served, McKinsey's proprietary thinking for the "Agile" software for project management, the company's analysis of disruption trends and its unique processes for assisting clients' technological innovation in unique business environments, its research on a technology company's moves into the financial services industry, and work being pulled together by multiple McKinsey staff for a potential new client in the banking industry.

52. On June 30, 2018, he forwarded an email soliciting information for a potential Firm bid for a restructuring group in the banking sector.

53. There was no business reason, related to his employment at McKinsey, for Shi to transmit any of the above-referenced information and documents to any personal account.

54. Rather, upon information and belief, Shi's purpose was to take McKinsey intellectual property and client information which he could then use in developing his practice at Accenture to compete with McKinsey.

55. Among the documents Shi e-mailed to himself were documents that contained confidential information belonging to McKinsey clients. In some cases, McKinsey has a

contractual obligation, as between itself and its client, to return or destroy this client confidential information and intellectual property. Shi's actions, if not mitigated, could cause McKinsey to be unable to meet these obligations to its clients.

56. Likewise, the documents Shi downloaded included numerous files from several clients and Firm engagements and internal, proprietary practice group documents.

57. In correspondence between his attorney in the State Litigation and McKinsey's litigation counsel, Shi represents that the file transfers described above were done in furtherance of his work at McKinsey for McKinsey clients.

58. On the contrary, Shi's conduct was obviously and provably *not* in connection with his work for McKinsey. Among other things,

- a. In a June 28, 2018 memorandum he sent to his colleagues, describing the transition of all his remaining projects to other McKinsey staff, he names the seven specific clients on whose files he was working in the final months of his employment at McKinsey. *None of the files Shi downloaded or e-mailed to himself were connected with any of those clients.*
- b. On May 23, 2019, Shi *downloaded 34 confidential McKinsey files regarding a national retail client that Shi had never done any work for.*
- c. Likewise, in his final months at the firm Shi was not doing work for clients of McKinsey's Financial Institutions Group ("FIG"). However, *dozens of the files*

Shi downloaded or e-mailed to himself were about FIG clients and prospective clients in the finance and investment industries.

- d. Shi's transition memo also mentioned no banks. Yet, *at least forty of the documents he downloaded were about McKinsey banking clients* or about McKinsey services or marketing materials developed for the banking industry.

59. Shi's actions were also at odds with McKinsey's corporate practice and culture, which Shi had followed for more than a decade. At McKinsey, *a Senior Partner would not generally be downloading any files from the Box server*, and certainly not slide decks or marketing models of the sort Shi took. That work would be done by associates and administrative staff.

60. Also, while a Senior Partner may view materials on Box (which would be reflected on the Box log as a "PREVIEW"), the Senior Partner ordinarily neither downloads nor edits the document in that way. Even if a Senior Partner wished to edit a document, for version control and data security, one would edit a live file on Box that automatically saves and updates directly to Box. The Box record would reflect this as an "EDIT."

61. The only reason to *download* a file from the Box server is to save a copy locally. While one could do so to edit directly in the document, that is not a task generally undertaken by Senior Partners (and certainly not in the quantities downloaded by Shi). If someone edited a local version and then re-uploaded, the Box log would reflect an "UPLOAD." That did not happen with these materials. Instead, the Box log reflects that Shi logged in on June 30 and then undertook 83 successive file "DOWNLOADs." No subsequent "UPLOAD" by Shi occurred before his departure from the Firm, except for one client billing record on July 8, 2018.

62. In McKinsey's firm culture, however, a Senior Partner would certainly not be undertaking such downloads on Saturdays and Sundays in the final weeks of employment. On the contrary, departing McKinsey partners and senior partners who "opt-out" are given months of employment during which they are expected to slowly wind down and transition their work portfolios to remaining partners. It would be typical for someone in Shi's position to have little or no actual work to do in the final weeks or even months of nominal employment with McKinsey.

63. Given McKinsey's work culture of long days and work weeks, it is especially unusual for a departing partner like Shi to do any material amount of work on the weekend in their final months with the Firm. Yet Plaintiff's forensic analysis shows that *Shi was downloading confidential documents on Saturdays and Sundays in May, June, and July 2018—up to the early morning hours on his final day of work, a Sunday.*

64. Plaintiff has been damaged by Defendant's actions.

Count I

Violation of Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836 et seq. ("DTSA")

65. Plaintiff incorporates and re-alleges the foregoing paragraphs by reference as though fully set forth herein.

66. Plaintiff was in possession of information that is highly confidential, which derives its value from its non-public nature, as evidenced by the efforts expended by McKinsey to create and accumulate the information and the procedures McKinsey put in place to protect the information from disclosure.

67. McKinsey took more than adequate measures under the circumstances to maintain the secrecy of the confidential information identified herein, including without limitation by

securing its electronic materials using sophisticated encryption and access-control technologies, and also securing its physical office spaces.

68. The documents and information Shi improperly removed were all conveyed to him only in a manner and context consistent with their confidentiality and the position of trust and confidence he occupied.

69. By virtue of his employment with McKinsey, Shi had a duty not to reveal the confidential information obtained during his employment with McKinsey or to use such information for his own benefit and to the detriment of McKinsey.

70. By virtue of McKinsey's development and ownership of its and its clients' confidential information, McKinsey is entitled to the exclusive use and enjoyment of this information.

71. Upon information and belief, Shi has misappropriated and will continue to misappropriate and misuse the confidential information in question.

72. Plaintiff has been and will continue to be damaged by Shi's actions, for as long as he (or any third party to whom he has provided/forwarded any confidential information) remains in possession of that confidential information.

73. Plaintiff has been damaged thereby.

74. Plaintiff also faces the prospect of irreparable harm warranting injunctive relief against Defendant to compel him to disclose and destroy all affected material and submit to such inspection and searches of his personal and business electronic devices (and cloud storage) as is necessary to ensure such disclosure and destruction.

75. Plaintiff is entitled to temporary, preliminary, and permanent restraints compelling Defendant to do so.

Count II

Violation of New Jersey Trade Secrets Act, N.J.S.A. 56:15-1 et seq. (“NJTSA”)

76. Plaintiff incorporates and re-alleges the foregoing paragraphs by reference as though fully set forth herein.

77. By reason of Defendant’s acts and omissions as described herein, Plaintiff is entitled to awards of damages, and of temporary, preliminary, and permanent injunctive relief, consistent with Defendant’s actions and the remedies available under the NJTSA.

Count III

Violation of Computer Fraud and Abuse Act, 18 U.S.C. § 1030 (“CFAA”)

78. Plaintiff incorporates and re-alleges the foregoing paragraphs by reference as though fully set forth herein.

79. Defendant intentionally accessed a protected computer or computers connected to Plaintiff’s computer system, without authorization or in a manner or with a purpose that exceeded his authorized access thereto.

80. Defendant’s actions were taken for commercial advantage or private financial gain, and in furtherance of commercial misconduct and tortious acts.

81. Plaintiff was damaged thereby, in that Plaintiff suffered loss aggregating at least \$5,000 in value.

Count IV

Breach of Fiduciary Duty

82. Plaintiff incorporates and re-alleges the foregoing paragraphs by reference as though fully set forth herein.

83. During his employment with McKinsey, Defendant had access to the confidential information described herein, including without limitation McKinsey's intellectual property and the confidential information of McKinsey and its clients.

84. As a Senior Partner in McKinsey U.S. and Shareholder in McKinsey & Company, Inc., Shi was in a position of trust and confidence, and had a duty to keep confidential all the McKinsey and client confidential information he learned and/or obtained during his employment.

85. Shi's duty of confidentiality survived his separation.

86. Shi is likely to use and/or disclose the confidential information in breach of his fiduciary duty and, on information and belief, he has negligently or intentionally used and/or disclosed the confidential information.

87. Defendant owed fiduciary duties to McKinsey and his fellow shareholders, including the requirement of good faith, loyalty, due care, and candor.

88. By committing the acts and omissions described herein, including by taking McKinsey and client documents, Defendant breached his fiduciary duty to Plaintiff and his fellow shareholders of Plaintiff, to the detriment of Plaintiff.

89. As a direct and proximate result of Defendant's actions Plaintiff has sustained and continues to sustain damages, in an amount as yet unascertained.

90. Defendant acted willfully, maliciously, wantonly, intentionally, and egregiously, with reckless disregard for McKinsey's and its clients' rights, and Plaintiff is thereby entitled to punitive or exemplary damages.

WHEREFORE, Plaintiff McKinsey & Company, Inc. United States demands judgment against Defendant Parker Shi as to all Counts of the Complaint, for:

- a. compensatory damages;
- b. consequential damages;
- c. punitive damages;
- d. reasonable attorneys' fees and costs, pursuant to applicable statutes and the common law;
- e. prejudgment interest;
- f. temporary, preliminary, and permanent injunctive relief, in the form set forth in Plaintiff's proposed Order To Show Cause filed herewith, including relief compelling Defendant to disclose all McKinsey and McKinsey client documents and information retained by him; temporarily, preliminarily, and permanently enjoining him to review, retain, disclose, or otherwise make any use of same; and enjoining him to submit all his electronic devices and cloud storage platforms for forensic examination and imaging in furtherance of the prevention of further and irreparable harm and the protection of Plaintiff's rights under applicable law; and
- g. such other and further relief as this Court deems reasonable and just.

Jury Demand

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff demands trial by jury of all issues so triable.

Certification Pursuant to L. Civ. R. 11.2

The undersigned certifies, in accordance with L. Civ. R. 11.2, that to the best of his knowledge, there is one other proceeding either pending or contemplated with respect to the matter in controversy in this action: *Parker Shi v. McKinsey & Company*, Dkt. No. UNN-L-000762-19, and that, at this time, there are no other parties known who should be joined in this action.

MURPHY ORLANDO LLC
30 Montgomery Street, 11th Floor
Jersey City, New Jersey 07302
(201) 451-5000
jbartlett@murphyorlando.com

Attorneys for Plaintiff

s/ John W. Bartlett
John W. Bartlett, Esq.

Dated: November 12, 2019

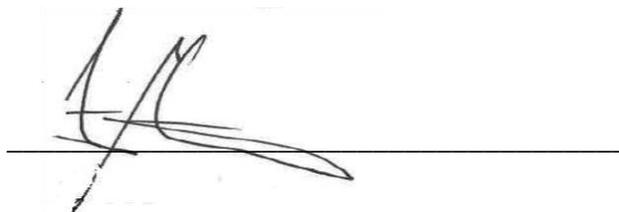
VERIFICATION

I, Steve Van Kuiken, verify and declare as follows:

I am a Senior Partner of McKinsey & Company, Inc. United States (“McKinsey & Company”) and am authorized to make this Verification on behalf of McKinsey & Company. I have read the Verified Complaint and know its contents.

I verify under penalty of perjury that the matters set forth in the foregoing Verified Complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are made subject to the penalties of Title 28 U.S.C. § 1746.

Dated: November 12, 2019

A handwritten signature in black ink, appearing to be 'S. Van Kuiken', is written over a solid horizontal line. The signature is stylized and somewhat cursive.