

1 Nos. 52-1, 53-4). The games also contain a Major Jackpot, a Grand Jackpot, and two bonus
2 features: free games and a Hold & Spin feature. (*Id.* ¶ 31). The Hold & Spin feature is
3 triggered when a player receives six or more SCAT2 symbols¹, which are depicted as a gold
4 orb. (*Id.*). Each orb is held in place for three spins, and any additional orbs collected during the
5 three spins will also be held in place. (*Id.*). Every time a player lands a new orb, it resets the
6 free spin number back to three. (*Id.* ¶ 34).

7 Aristocrat released its Lightning Link game in 2014, which led to the launch of their
8 follow-up game, Dragon Link, in 2016. (Deitz Decl. ¶ 14, App. I to Mot. Prelim. Inj., ECF Nos.
9 52-1, 53-3). Dragon Link includes ten Asian-themed titles. (*Id.*). According to Aristocrat’s
10 experts, these games are “exceptionally complex and contributed to a longer-than-usual
11 development time,” (*id.* ¶ 16), but the hard work paid off because Lightning Link and Dragon
12 Link have continued to outperform industry averages. (*Id.* ¶ 19); (Vancura Decl. ¶ 27, App. I to
13 Mot. Prelim. Inj.). Aristocrat explains that its success is due to the complex mathematical
14 design of the games, which it considers a valuable trade secret. (Vancura Decl. ¶ 47, App. I to
15 Mot. Prelim. Inj.).

16 At the core of this suit is Aristocrat’s belief that L&W’s Dragon Train was developed
17 using Dragon Link game math that it acquired through the hiring of Ms. Emma Charles. Ms.
18 Charles worked for Aristocrat from 2008 to July 2017, during which time she was part of the
19 team that developed Dragon Link. (Charles Decl. ¶ 3, Ex. 1 to Resp., ECF Nos. 77-1, 79-1). In
20 July 2021, she joined Scientific Games, which later became L&W, as a senior mathematician
21 working in casino game design. (*Id.*). Ms. Charles first began working on Dragon Train in late
22 2021, and eventually led the overall direction for all Dragon Train games. (*Id.* ¶ 4). The
23 Dragon Train team also included Wil Soo and Yuri Leontiev, who have never been employed
24

25 ¹ “SCAT2 symbols” refers to gold coin-like orbs which can appear scattered among and in place of the usual symbols which appear for the player on the spinning reels when the reels stop spinning.

1 by Aristocrat. (Leontiv Decl. ¶¶ 3–4, Ex. 8 to Resp., ECF Nos. 77-9, 79-8); (Soo Decl. ¶ 4, Ex.
2 7 to Resp., ECF Nos. 77-9, 79-7). Ms. Charles had knowledge of Dragon Link’s game math,
3 but she was subject to a confidentiality agreement in her Aristocrat employment contract.
4 (Primmer Decl. ¶ 21, App. I to Mot. Prelim. Inj., ECF Nos. 52-1, 53-2); (Charles Contract, Ex.
5 B to App. 1 to Mot. Prelim. Inj., ECF Nos. 52-1, 53-2).

6 When L&W’s Dragon Train game launched in Australia in 2023, an Aristocrat game
7 developer played the game and immediately noted how similar Dragon Train felt to Dragon
8 Link. (Deitz Decl. ¶ 99, App. I to Mot. Prelim. Inj.). Even though he couldn’t see the
9 underlying game math, he noticed similar public-facing elements such as (1) five reels with
10 three visible symbols, (2) the same symbol set, (3) identical payout amounts and win
11 conditions, except for the 4 scatter symbols that pay 15 in Dragon Link but pay 10 in Dragon
12 Train, (4) the same jackpots and trigger rules for the Major and Grand jackpots, (5) a Hold &
13 Spin triggered by six or more bonus symbols that gives three free spins, and (6) a Free Game
14 feature triggered by three or more scatter symbols. (*Id.*). Based on the similarities between the
15 games, Aristocrat alleges that L&W has improperly obtained and used Aristocrat’s confidential
16 Dragon Link mathematical information in its creation of Dragon Train. (Mot. Prelim. Inj. 7:13–
17 15). The Court heard oral argument on the motion on September 9, 2024.

18 **II. LEGAL STANDARD**

19 “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed
20 on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief,
21 that the balance of equities tips in his favor, and that an injunction is in the public interest.”
22 *Winter v. NRDC, Inc.*, 555 U.S. 7, 20, (2008). Injunctive relief is “an extraordinary remedy that
23 may only be awarded upon a clear showing that the plaintiff is entitled to such relief.” *Id.* at 22.
24 “[C]ourts must balance the competing claims of injury and must consider the effect on each
25

1 party of the granting or withholding of the requested relief.” *Id.* at 24 (internal quotation marks
2 omitted). The Ninth Circuit has additionally held that “serious questions going to the merits
3 and a hardship balance that tips sharply toward the plaintiff can support issuance of an
4 injunction, assuming the other two elements of the *Winter* test are also met.” *Alliance for the*
5 *Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011) (internal quotation marks
6 omitted).

7 **III. DISCUSSION**

8 Aristocrat’s instant Motion for Preliminary Injunction is based on its claim for trade
9 secret misappropriation. (Mot. Prelim. Inj. 12:9–11). The Court begins its analysis with
10 whether Aristocrat has shown a likelihood of success on the merits of its trade secret
11 misappropriation claim.

12 **A. Likelihood of Success on the Merits**

13 To demonstrate a likelihood of success on the merits, Aristocrat must show “a fair
14 chance of success” on its claim that L&W used or disclosed its trade secrets in contravention of
15 a “duty not to disclose.” *Republic of the Philippines v. Marcos*, 862 F.2d 1355, 1362 (9th Cir.
16 1988) (en banc); *Indep. Techs., LLC v. Otodata Wireless Network, Inc.*, 836 F. App’x 531, 533
17 (9th Cir. 2020). Aristocrat brings its Trade Secret Misappropriation claims under the federal
18 Defend Trade Secrets Act (“DTSA”) and the Nevada Trade Secrets Act (“NTSA”). “To
19 succeed on a claim for misappropriation of trade secrets under the DTSA, a plaintiff must
20 prove: (1) that the plaintiff possessed a trade secret, (2) that the defendant misappropriated the
21 trade secret; and (3) that the misappropriation caused or threatened damage to the plaintiff.”
22 *InteliClear, LLC v. ETC Glob. Holdings, Inc.*, 978 F.3d 653, 657 (9th Cir. 2020); *see* 18 U.S.C.
23 § 1839(5). The NTSA requires similar elements: (1) a valuable trade secret, (2)
24 misappropriation, and (3) breach of a contract or misappropriation by a party with a duty not to
25 disclose. *Frantz v. Johnson*, 999 P.2d 351, 358 (Nev. 2000).

1. Existence of a Valuable Trade Secret

To prove ownership of a trade secret, plaintiffs “must identify the trade secrets and carry the burden of showing they exist.” *MAI Sys. Corp. v. Peak Computer, Inc.*, 991 F.2d 511, 522 (9th Cir. 1993). “The plaintiff ‘should describe the subject matter of the trade secret with sufficient particularity to separate it from of general knowledge in the trade or of special knowledge of those persons . . . skilled in the trade.’” *Imax Corp. v. Cinema Techs., Inc.*, 152 F.3d 1161, 1164 (9th Cir. 1998). A trade secret is information that derives value from being kept secret and is not “readily ascertainable through proper means.” *InteliClear, LLC*, 978 F.3d at 657; NRS §§ 600A.030, 600A.010(5)(a); 18 U.S.C. §§ 1839(3), (5).² Whether information is a trade secret is a question of fact for the factfinder. *Frantz*, 999 P.2d at 358. Relevant factors to consider include the extent to which others outside the business know of the information, the ease or difficulty with which others could acquire the information properly, whether the information was confidential or secret, and the measures the plaintiff took to guard the information’s secrecy. *Id.* at 358–59.

L&W’s first argument is that Aristocrat has not sufficiently described its trade secrets. (Resp. 12:4–6, ECF Nos. 77, 79). L&W contends that Aristocrat’s “sole description of its trade secrets is ‘the math, including the models, algorithms, and calculations’” that underly its games, which is too vague. (*Id.*). Aristocrat provided more detail about its trade secrets in two declarations attached in Appendix I. (Reply 2:13–20, ECF Nos. 90, 93-1).

After reviewing the attached declarations and arguments from both parties, the Court finds that Aristocrat has provided sufficient detail for L&W to understand the alleged trade

² Aristocrat provides sufficient evidence that this confidential information is kept secret, which L&W does not refute. Aristocrat’s security measures include restrictions on access to the files containing game math, even within the company, and confidentiality provisions in employment agreements like the one Ms. Charles signed. (Primmer Decl. ¶¶ 19–22, App. I to Mot. Prelim. Inj. & Exs. B–C); (Deitz Decl. ¶¶ 20–21, App. I to Mot. Prelim. Inj.). See *MAI Sys. Corp.*, 991 F.2d at 521 (finding company took reasonable steps to protect its trade secret information by requiring employees to sign confidentiality agreements respecting its trade secrets).

1 secrets. Matthew Deitz, Aristocrat head game designer, provided a declaration attached to
2 Plaintiffs’ Motion for Preliminary Injunction explaining that the spreadsheets contain trade
3 secrets including “the mathematical parameters and associated calculations, including reel strip
4 layouts, hit rates, probabilities and return percentages” of Plaintiffs’ games. (Deitz Decl. ¶ 25,
5 App. I to Mot. Prelim. Inj.). He also provides nine paragraphs listing confidential trade secrets
6 that are not publicly disclosed or available, including hit rates and average prizes for the Grand
7 and Major Jackpots, mathematical calculations for the Hold & Spin feature for every
8 combination of denomination played, reel strip layouts, and the mathematical model that
9 determines the RTP³ and hit rate of various features and prizes. (*Id.*). Additionally, Mr.
10 Vancura explains that these details are not disclosed in Aristocrat’s patents. (Vancura Decl. ¶
11 35, App. I to Mot. Prelim. Inj.). This level of detail seems sufficient to put L&W on notice of
12 Aristocrat’s alleged trade secrets. (*Fujikura Composite Am., Inc. v. Dee*, No. 24-CV-782 JLS
13 (MSB), 2024 WL 3261214, at *7 (S.D. Cal. June 28, 2024) (“the reasonable particularity
14 standard does not require explication of the trade secrets down to the finest detail or require a
15 mini-trial on misappropriation,” but rather “ensures defendants have sufficient information to
16 prepare a rebuttal” (cleaned up)).

17 Next, L&W argues that the similarities found in the games are not trade secrets because
18 they contain well-known game creation methods and can be reverse engineered. A trade secret
19 is not readily ascertainable by proper means, and defendants bear the burden to demonstrate
20 that they obtained the trade secret through proper means. 18 U.S.C.A. § 1839(6)(B); NRS
21 600A.030(5)(a)(1). “[I]f information is ‘readily ascertainable through proper means’ such as
22 reverse engineering, it is not eligible for trade secret protection.” *Insulet Corp. v. EOFlow, Co.*
23 *Ltd.*, 104 F.4th 873, 882 (Fed. Cir. 2024). However, just because “a matter may be susceptible
24

25 ³ “RTP” refers to the money returned to the player of the game.

1 of independent development or reverse engineering does not thereby make it ‘generally known’
2 or ‘readily ascertainable by proper means.’” *Medtronic MiniMed, Inc. v. Nova Biomedical*
3 *Corp.*, No. CV 08-900788 SJO (PJWX), 2009 WL 10672947, at *2 (C.D. Cal. Aug. 14, 2009)
4 (explaining that because the defendants presented no evidence that it actually obtained
5 Plaintiffs’ information through proper means, it did not raise the defense).

6 Aristocrat’s experts testified that while certain game elements such as rules,
7 denominations, and pay tables are visible to players, the underlying mathematical algorithms
8 are not publicly available. (*See* Deitz Decl. ¶¶ 20, 25, App. I to Mot. Prelim. Inj.); (Vancura
9 Decl. ¶¶ 26, 52–53, App. I to Mot. Prelim. Inj.). They further opine that it would not be
10 feasible to reverse engineer the mathematical design of these games by observing or playing
11 them. (Deitz Decl. ¶ 26, App. I to Mot. Prelim. Inj.); (Vancura Decl. ¶¶ 40, 44, 47, App. I to
12 Mot. Prelim. Inj.). Aristocrat divides its trade secrets into categories, which the Court will
13 review in turn: (1) method of assigning prizes to SCAT2 symbols, (2) hold & spin reels and
14 probabilities, (3) Major and Grand Jackpot information, and (4) base game math.

15 *i. Assignment of Prizes to SCAT2 Symbols*

16 When a SCAT2 symbol appears for a player during the base game or a bonus game, the
17 values assigned to SCAT2 symbols are dynamically assigned on each spin. (Suppl. Vancura
18 Decl. ¶ 28, Ex. J to App. I to Mot. Leave, ECF Nos. 80-1, 82-1). Mr. Vancura describes this
19 confidential method in his declaration. (*See id.* ¶¶ 28–35, 41–44). He testified that although a
20 player can see the potential prizes and perceive generally how often each prize may be won,
21 they cannot discern the “under the hood” details such as the exact method, weightings, and
22 probabilities used to control the outcome of the SCAT2 prize. (*Id.* ¶ 39). He explained that this
23 is because a game designer has many ways to control how prizes are assigned and could choose
24 from a number of different probabilities for assigning the amounts. (*Id.*). He is not aware of
25

1 Aristocrat publicly disclosing these methods, nor does he believe that Aristocrat's particular
2 implementation is commonly known in the industry. (*Id.*).

3 In response, L&W states that Aristocrat's method of assigning prizes is commonly used
4 throughout the industry, and L&W's earlier game, Epic Fortunes, used the same prize
5 assignment method. (Sur-Reply Nicely Decl. ¶¶ 34, 37, Ex. 9 to Sur-Reply, ECF Nos. 106-9,
6 108-9); (Sur-Reply Guerrero Decl. ¶¶ 3-6, Ex. 2 to Sur-Reply, ECF Nos. 106-2, 108-2). In
7 2017, L&W employees Chesworth and Goodall reverse engineered certain aspects of the prize
8 distribution feature of Lightning Link and Dragon Link. (Goodall Decl. ¶¶ 4-9, Ex. 5 to Resp.,
9 ECF Nos. 77-5, 79-5).

10 L&W has not successfully refuted Aristocrat's claim that its underlying weighting and
11 probabilities are trade secrets. Mr. Vancura details the differences and errors in L&W's earlier
12 reverse engineering attempts as compared with the actual Dragon Link game math. (Vancura
13 Reply Decl. ¶¶ 35-36, App. I to Reply, ECF Nos. 90-1, 93-1). Additionally, Epic Fortunes
14 seemingly assigns prizes differently than Dragon Link and Dragon Train. (*See* Deitz Suppl.
15 Decl. Exs. 2-3, App. I to Mot. Leave, ECF Nos. 80-1, 82-1); (Guerrero Sur-Reply Decl. Exs.
16 A, C, ECF Nos. 106-3, 108-3). Although it may be true that the general method of assigning
17 prizes is commonly known in the industry, the claimed trade secrets here involve the
18 probability and weight amounts, not merely the method. And even if the method is common,
19 the exact logic and probabilities used by Aristocrat can constitute a trade secret. *See United*
20 *States v. Nosal*, 844 F.3d 1024, 1042 (9th Cir. 2016) ("The fact that some or all of the
21 components of the trade secret are well-known does not preclude protection for a secret
22 combination, compilation, or integration of the individual elements.") Because it is actual
23 reverse engineering that serves as a defense, the Court finds Aristocrat's mathematical logic,
24 probability calculations, and weight values to constitute trade secrets.

25 ///

1 *ii. Hold & Spin Reels and Probabilities*

2 Aristocrat's next category of trade secrets involves the probabilities used during the
3 Hold & Spin feature. (Mot. Leave 8:12–15). The probabilities are described in Mr. Vancura's
4 Supplemental Declaration. (See Vancura Suppl. Decl. ¶ 8, Ex. J. to Mot. Leave, ECF No. 80-1,
5 82-1). L&W responds that the probabilities are readily ascertainable, and argues that it made
6 earlier games with similar, or the same, probabilities. (Nicely Sur-Reply Decl. ¶ 29–33, Ex. 11
7 to Sur-Reply, ECF No. 106-11). While Aristocrat points to additional similarities between the
8 games relating to the number of SCAT2 symbols, (Vancura Suppl. Decl. ¶ 20, Ex. J. to Mot.
9 Leave), L&W explains that any game with a certain number of SCAT2 symbols and hit rate
10 would have similar probabilities. (Nicely Sur-Reply Decl. ¶ 33, Ex. 11 to Sur-Reply).

11 The Court finds L&W's arguments persuasive. If it has also been targeting the same
12 chance of landing a SCAT2 symbol, which can logically be determined by playing the game
13 and noting every time a SCAT2 symbol is landed, the probability calculation may not be a trade
14 secret. Similarly, if the final probabilities are automatically determined by the number of
15 SCAT2s in the game, choosing to use that number of SCATs would not qualify as a trade
16 secret. At this time, Aristocrat does not demonstrate that these numbers are different than what
17 is generally known in the trade.

18 *iii. Major and Grand Jackpots*

19 Aristocrat's third category involves the probability of triggering a Grand or Major
20 Jackpot, which it alleges is not publicly disclosed or readily ascertainable. (Vancura Suppl.
21 Decl. ¶ 49, Ex. J. to Mot. Leave). L&W does not claim that the turnover rate of Aristocrat's
22 jackpots was reverse engineered, but instead references the Declaration of Ms. Charles who
23 testified that this information was shared with customers and shared at trade shows. (Charles
24 Decl. ¶ 9, Ex. 1 to Resp.). In Reply, however, Aristocrat presents evidence that to the extent
25 this information was ever shared, it was only shared with confidentiality restrictions. Mr. Deitz

1 testified that “Aristocrat and HRG do not disclose any confidential math information outside of
2 Aristocrat and HRG except on a confidential basis,” which is “consistent with industry
3 practice.” (Deitz Decl. ¶ 20, App. I to Mot. Prelim. Inj.). Because L&W fails to present
4 evidence that the information was reverse engineered or shared publicly without
5 confidentiality, the Court finds that the turnover rate of Aristocrat’s jackpots is a trade secret.

6 *iv. Base Game Math*

7 Lastly, Aristocrat claims that its base game math is a trade secret and describes the many
8 choices that go into such a design. (Vancura Decl. ¶ 40, App. I to Mot. Prelim. Inj.). Mr.
9 Vancura explains the difficulties with reverse engineering these details and argues that a game
10 designer could not readily ascertain non-public information about the composition of the
11 Dragon Link base game. (*Id.*). This information not only includes the composition and layout
12 of the base game reel strips, but also the symbol counts per reel, associated calculations, and the
13 hit rates. (Resp. to Interrogatory 28:15–18, App. I to Reply, ECF Nos. 90-1, 93-1). Further, Mr.
14 Deitz testified that the reel strip layouts, and a fact about the base game disclosed by Ms.
15 Charles in an email to colleague, are treated as confidential and not publicly disclosed or
16 available. (Deitz Decl. ¶ 25, App. I to Mot. Prelim. Inj.).

17 L&W, in response, argues that base games can be reverse engineered and presents the
18 declarations of two former employees who testified that they reverse engineered the base game
19 of Lightning Link, the predecessor game to Dragon Link, using YouTube footage. (Guerrero
20 Decl. ¶5, ECF Nos. 77-7, 79-6); (Chesworth Decl. ¶¶ 5–10, ECF Nos. 77-2, 79-2). However,
21 L&W did not provide the reconstructed base game, so the Court has no way to tell whether it
22 was successfully reverse engineered correctly. And even if aspects of the base game were
23 correctly reverse engineered, the fact remains that Dragon Train was not released until after
24 Ms. Charles joined the team, bringing Aristocrat’s trade secrets with her. L&W does not
25 demonstrate how the exact reels and base game math for Aristocrat’s Dragon Train are readily

1 ascertainable, particularly when considering the difficulties raised by Aristocrat’s expert. The
2 Court thus concludes that base game information constitutes a trade secret.

3 **2. Misappropriation**

4 A misappropriation claim under the DTSA or NUTSA requires a showing of (1)
5 acquisition of a trade secret by a defendant that knows or has reason to know was acquired by
6 improper means, or (2) disclosure or use of a trade secret by a defendant that knew or had
7 reason to know that the trade secret was (i) acquired under circumstances giving rise to a duty
8 to maintain the secrecy of the trade secret; or (ii) derived from or through a person who owed a
9 duty to maintain the secrecy of the trade secret. *See* 18 U.S.C. § 1839(5)(A), (B)(ii)(II)–(III);
10 NRS 600A.030(2)(a), (c)(2)(II)–(III). “Improper means” include “breach or inducement of a
11 breach of a duty to maintain secrecy” 18 U.S.C. § 1839(6)(A).

12 Aristocrat has shown a fair chance of success on its trade secret misappropriation claim
13 by demonstrating that L&W acquired their trade secrets by hiring Ms. Charles. Under the
14 NTSA and DTSA, simply acquiring a trade secret through improper means constitutes
15 misappropriation. *See* NRS § 600A.030(2)(a) (defining misappropriation as the “[a]cquisition
16 of the trade secret of another by a person by improper means”); 18 U.S.C. § 1839(5)(A)
17 (defining misappropriation as the “acquisition of a trade secret of another by a person who
18 knows or has reason to know that the trade secret was acquired by improper means”).

19 Aristocrat identified three instances in which L&W acquired its trade secrets through
20 Ms. Charles. First, in September 2022, Ms. Charles sent a worksheet containing confidential
21 information for the Dragon Link base game, to a colleague, for a reverse engineering training
22 exercise. (Email, Ex. M to App. II to Mot. Prelim. Inj., ECF No. 52-2). This spreadsheet has an
23 identical layout to a spreadsheet Ms. Charles created while at Aristocrat and even contains
24 identical formatting errors such as an odd border around one blank row, gray highlighting on
25 the same four empty cells, and the same missing border on one cell in the same position.

1 (Comparison, Ex. O to App. II to Mot. Prelim. Inj., ECF No. 52-2). Second, in the body of the
2 email, Ms. Charles shared additional confidential information about the Dragon Link games.
3 (Email, Ex. M to App. II to Mot. Prelim. Inj.). And third, in a Teams message to a colleague,
4 she sent confidential information about Dragon Link’s Grand Jackpot. (Messages, Ex. P to
5 App. II to Mot. Prelim. Inj., ECF No. 52-2).

6 This information was acquired and disclosed by “improper means” because as part of
7 her employment agreement with Aristocrat, Ms. Charles contracted not to disclose Confidential
8 Information. (Charles Contract, Ex. B to App I to Mot. Prelim. Inj.). Confidential information
9 was defined to include trade secrets and game designs, and the contract prohibited the “use” of
10 trade secrets or allowing others to use them. (*Id.*). This confidentiality agreement remained in
11 effect even after she left Aristocrat. (*Id.*); (Primmer Decl. ¶ 21, App. I to Mot. Prelim. Inj.).
12 Ms. Charles appears to have breached her confidentiality agreement by disclosing Aristocrat’s
13 trade secrets to colleagues at L&W.

14 L&W also likely knew or had reason to know that the game math and spreadsheet were
15 improperly acquired because game math is known in the industry to be highly confidential and
16 proprietary. (*See* Primmer Decl. ¶ 21, App. I to Mot. Prelim. Inj.); (Deitz Decl. ¶ 20, App. I to
17 Mot. Prelim. Inj.); (Vancura Decl. ¶ 52, App. I to Mot. Prelim. Inj); *see, e.g., Lilith Games*
18 (*Shanghai*) *Co. Ltd. v. uCool, Inc.*, No. 15-CV-01267-SC, 2015 WL 4128484, at *3 (N.D. Cal.
19 July 8, 2015) (“[I]t is reasonable to infer that [the defendant] knew the code was acquired
20 through improper means or in breach of a duty because [the trade secret plaintiff] would not
21 have given its competitor . . . free access to its code.”). And when L&W hired Ms. Charles, it
22 advertised the fact that she worked on Lightning Link for many years. (Deitz Decl. ¶ 30, App. I
23 to Mot. Prelim. Inj.).

24 But even more than merely acquiring trade secrets, Aristocrat presents persuasive
25 evidence that Aristocrat’s Dragon Link trade secrets were used by L&W in the development of

1 Dragon Train. On August 2, 2024, after Aristocrat filed its Motion for Preliminary Injunction,
2 it filed a Motion for Leave to Supplement the underlying motion based on newly acquired
3 evidence: a worksheet named “Dragon Train Game 5.xlsx” retrieved from Ms. Charles’
4 computer containing the mathematical design of Dragon Train. (Mot. Leave 1:6–7); (Charles
5 Suppl. Decl. ¶ 2, Ex. 1 to Sur-Reply, ECF Nos. 106-1, 108-1). Aristocrat’s presentation to the
6 Court at the hearing on the instant motion contained slides with side-by-side comparisons of
7 L&W’s Dragon Train spreadsheet next to a Dragon Link spreadsheet created by Ms. Charles
8 when she was employed at Aristocrat in 2013. These comparisons demonstrated many striking
9 similarities.

10 To begin with, Dragon Train uses the same method to assign prizes to SCAT2 symbols,
11 with the same table value overlap and similar prize amounts. (Vancura Suppl. Decl. ¶¶ 30–44,
12 Ex. J. to Mot. Leave). Notably, while some of Aristocrat’s methods were not identified by
13 L&W’s reverse engineering, they still somehow appeared in Dragon Train’s final game math.
14 The overlap makes the possibility of trade secret use more likely, because there is no evidence
15 of reverse engineering, and a player would have no way of knowing where the assigned prizes
16 came from. Additionally, both games have an identical Major Jackpot probability, which
17 would be highly unlikely to surmise without some evidence of copying, given the difficulty and
18 rarity of winning a Major Jackpot and the multiple ways it can be won. (*Id.* ¶ 49). Mr. Vancura
19 further identified in a list many similarities in the base game of both games, many of which are
20 arbitrary and have no actual effect on gameplay, yet they still appear in both games and seem to
21 have been copied. (*Id.* ¶¶ 47–51).

22 After briefing on this Motion concluded, L&W produced documents providing
23 additional evidence that Ms. Charles based the Dragon Train game math on Aristocrat’s game
24 math files she created while employed there. One of these files, referred to as the “Inception
25 Conception” spreadsheet, was a math file used to create L&W’s Sky Train, an early version of

1 Dragon Train. (Inception Conception Spreadsheet, Ex. 5 to Not. Manual Filing, ECF No. 114).
2 Although this was a L&W spreadsheet, its creation date is November 12, 2013, which was
3 during Ms. Charles' employment at Aristocrat. (*Id.*). November 12 is also the same date and
4 time noted as the creation date on Aristocrat's original Dragon Link spreadsheet submitted with
5 its Preliminary Injunction Motion. (Dragon Link Spreadsheet, Ex. G to App. I. to Mot. Prelim.
6 Inj., ECF No. 52-1); (Inception Conception Spreadsheet, Ex. 5 to Not. Manual Filing). Side by
7 side, the Dragon Link spreadsheet and Inception Conception spreadsheet contain many
8 similarities including labels, headings, formatting, highlighting, symbols, wild clusters, and
9 Hold & Spin prizes and probabilities. (*Id.*). L&W also produced a second math spreadsheet
10 with the same November 2013 creation date as the Dragon Link spreadsheet and Inception
11 Conception spreadsheet. (Ex. 3 to Not. Manual Filing). It appears that the game designers
12 tweaked a few numbers and changed royal symbols, but much of the underlying math and
13 probabilities remained the same.

14 Aristocrat further presents evidence that even though Ms. Charles stated she never
15 sought to copy from Dragon Link, an internal L&W PowerPoint stated L&W's desire to
16 "preserve as many of the important elements in [Dragon Link] as we can, while offering a new
17 and exciting experience." (L&W PowerPoint at 9, Ex. 2 to Not. Manual Filing, ECF No. 114).
18 It notes their overall goal of adding a "twist" to Dragon Link, and states that Dragon Link is at
19 the top of the charts in Australian and American markets. (*Id.*). And in another Dragon Train
20 spreadsheet, a cell contains a note that the sales pitch is to make Dragon Train "just like Dragon
21 Link, but cheaper and more depth for the real punter." (Sheet 5 Tab, Ex. Q to App. II to Mot.
22 Prelim. Inj., ECF No. 52-2). Thus, the logical and reasonably likely conclusion is that Dragon
23 Train began its initial development by starting with the actual Dragon Link math.

24 L&W fails to counter this evidence with a persuasive explanation or reasonable
25 alternative theory. First, it argues that the Dragon Train spreadsheet was developed after the

1 math was finalized. (Sur-Reply 3:7–11). Aristocrat counters this argument by providing
2 evidence that although the spreadsheet was last modified July of 2023, it was created in August
3 2022, before Dragon Train math was finalized. Dragon Train launched in Australia in August
4 2023.

5 L&W also argues that it has not misappropriated Aristocrat’s trade secrets because its
6 final game math differs in certain aspects, and it has an additional bonus feature. This
7 argument not only misunderstands trade secret law but misunderstands Aristocrat’s claim.
8 Aristocrat does not argue that Dragon Train is a replica of Dragon Link; rather, its claim is
9 based on substantial critical similarities that appear to arise out of shared spreadsheets. Given
10 the strong circumstantial evidence supporting the allegation that Ms. Charles began with a
11 Dragon Link math spreadsheet and then made tweaks to it, the fact that some of the final math
12 differs does not mean Aristocrat’s trade secret misappropriation claim would fail. “In the
13 context of trade secret misappropriation, information may be improperly ‘used’ in that it is
14 unlawfully acquired and then built upon or modified before being disclosed or benefit derived.”
15 *SkinMedica, Inc. v. Histogen Inc.*, 869 F. Supp. 2d 1176, 1197 (S.D. Cal. 2012); *see also Am.*
16 *Can Co. v. Mansukhani*, 742 F.2d 314, 328–29 (7th Cir. 1984) (“If the law were not flexible
17 enough to reach [independent] modifications, trade secret protection would be quite hollow”).
18 Evidence demonstrates that the games are still materially similar, even after the developers
19 made tweaks.

20 Two of Dragon Train’s game designers, Soo and Leontiev, testified that they
21 independently developed a math model used in Dragon Train. (Soo Decl., Ex. 7 to Resp.);
22 (Leontiev Decl., Ex. 8 to Resp.). Leontiv specifically stated that he did not rely on any game
23 design documents relating to Dragon Link when formulating the math model used in Dragon
24 Train. (Leontiev Decl. ¶ 9, Ex. 9 to Resp.). But even so, Excel spreadsheet data demonstrates
25 that both Soo and Leontiev modified L&W spreadsheets created by Ms. Charles that appear to

1 have been copied from a Dragon Link spreadsheet she created at Aristocrat. (Exs. 4, 6 to
2 Manual Filing, ECF Nos. 114-4, 114-6).

3 Lastly, L&W asserts that any “arbitrary and idiosyncratic” similarities between the
4 spreadsheets are simply due to Ms. Charles’ personal spreadsheet preferences. (Sur-Reply
5 10:23–12:8). L&W contends that because Ms. Charles was involved with the development of
6 both games, it is unsurprising for the spreadsheets of both games to contain similarities in
7 formatting, weight sums, and reel lengths. (*Id.*). But that justification does not quite explain the
8 formatting mistakes that appear to be copied between spreadsheets. For example, not only are
9 the colors, tabs, and layouts almost identical, but they contain similar formatting errors such as
10 a border around the same blank row, gray highlighting in the same empty cells, and the same
11 missing border on an identical cell. (Comparison, Ex. O to App. II to Mot. Prelim. Inj.). These
12 mistakes have seemingly been copied into the L&W spreadsheet from an Aristocrat
13 spreadsheet, which lends support to Aristocrat’s position that Ms. Charles brought confidential
14 spreadsheets to L&W. The likelihood that Ms. Charles brought a blank template with her to
15 L&W seems belied by the mathematical similarities described above. The Court therefore
16 finds it logical and reasonable to conclude Aristocrat is extremely likely to succeed in
17 demonstrating L&W misappropriated Aristocrat’s trade secrets in its development of Dragon
18 Train.

19 **B. Irreparable Harm**

20 Plaintiff must “demonstrate a likelihood of irreparable injury—not just a possibility—in
21 order to obtain preliminary relief.” *Winter*, 555 U.S. at 21. “Alleged harm that is remote or
22 speculative will not be considered irreparable; rather, the movant must demonstrate that the
23 threatened harm is imminent.” *Lilith Games*, 2015 WL 5591612, at *10. Public disclosure of a
24 trade secret destroys the information’s status as a trade secret. *See Ruckelshaus v. Monsanto*
25 *Co.*, 467 U.S. 986, 1002 (1984). This harms the trade secret owner by both depriving him of a

1 property interest and by allowing his competitors to reproduce his work without an equivalent
2 investment of time and money. *See Winston Research Corp. v. Minnesota Min. & Mfg. Co.*,
3 350 F.2d 134, 142 (9th Cir. 1965). Similarly, disclosure of non-trade secret confidential
4 information is also recognized as a serious harm. *Union Pacific R.R. Co. v. Mower*, 219 F.3d
5 1069, 1071 n. 1 (9th Cir. 2000).

6 The Court finds that Aristocrat has demonstrated a likelihood of irreparable harm if
7 L&W is allowed to continue profiting from a game created with the misappropriation of
8 Aristocrat's trade secrets. L&W misappropriated Aristocrat's trade secrets and was able to
9 develop Dragon Train without investing the equivalent time and money. A competitor's use of
10 trade secrets gives them an unfair advantage, and injunctions can be used to prevent this unfair
11 advantage. *Lamb-Weston, Inc. v. McCain Foods, Ltd.*, 941 F.2d 970, 974 (9th Cir. 1991).
12 Aristocrat further provides an email and Teams message demonstrating that Ms. Charles has
13 disclosed their trade secrets to particular colleagues, and L&W will likely be making new
14 versions of Dragon Train, which puts Aristocrat at risk of further dissemination of its trade
15 secrets. Other courts have similarly recognized that disclosure of trade secrets to a competitor
16 can constitute irreparable harm. *See, e.g., Saini v. Int'l Game Tech.*, 434 F. Supp. 2d 913, 919
17 (D. Nev. 2006); *WeRide Corp. v. Kun Huang*, 379 F. Supp. 3d 834, 853 (N.D. Cal. 2019).
18 Additionally, as Dragon Train has recently overtaken Dragon Link as the number one game for
19 new placements among premium games, Aristocrat has demonstrated sufficient evidence of
20 potential market share loss. (Hansen Reply Decl. ¶ 90, App. I to Reply, ECF Nos. 90-1, 93-1).

21 **C. Balance of Hardships**

22 "In cases where a plaintiff has shown a defendant is likely misappropriating a trade
23 secret, courts have routinely held that the degree of hardships favors the plaintiff."
24 *ImageKeeper LLC v. Wright Nat'l Flood Ins. Servs. LLC*, No. 2:20-CV-01470-GMN-VCF,
25 2020 WL 4677299, at *4 (D. Nev. Aug. 12, 2020); *WeRide Corp.*, 379 F. Supp. 3d at 853.

1 Aristocrat argues that because L&W decided to launch Dragon Train in the U.S. after it put
2 L&W on notice of its trade secret misappropriation claim, it cannot now “complain of the harm
3 that will befall it when properly forced to desist from its infringing activities.” (Mot. Prelim.
4 Inj. 23:27–24:7) (citing *Samick Music Corp. v. Gordon*, No. SACV 20-395-GW-JDEx, 2020
5 WL 3210613, at *11 (C.D. Cal. 2020). L&W counters that a wrongfully issued injunction
6 would be devastating because Dragon Train represents millions of dollars and years of
7 investment. (Resp. 21:23–24).

8 The Court finds that the balance of hardships favors Aristocrat. L&W is using
9 Aristocrat’s trade secrets in its Dragon Train games, therefore, imposing this preliminary
10 injunction will not harm any of L&W’s legitimate business and will only protect Aristocrats’
11 rights in their trade secrets. L&W had the option of resolving Aristocrat’s claims before it
12 launched its product in the U.S. but chose not to.⁴

13 **D. Public Interest**

14 Public interest also weighs in favor of granting the preliminary injunction. “The public
15 interest analysis for the issuance of [injunctive relief] requires [district courts] to consider
16 whether there exists some critical public interest that would be injured by the grant of
17 preliminary relief.” *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1138 (9th Cir.
18 2011) (citation omitted). “The public interest inquiry primarily addresses [the] impact on non-
19 parties rather than parties.” *Sammartano v. First Jud. Dist. Ct.*, 303 F.3d 959, 974 (9th Cir.
20 2002). As another court in this district has held, “there is a strong public interest in protecting
21 trade secrets, as evidenced by the existence of the DTSA and [NUTSA].” *Protection Techs.,*
22 *Inc. v. Ribler*, No. 3:17-cv-00144-LRH-WGC, 2017 WL 923912, at *3 (D. Nev. Mar. 8, 2017).
23 L&W argues that enjoining Dragon Train would stifle legitimate competition and deprive
24

25 ⁴ In September 2023, Aristocrat shared its trade secret concerns with L&W’s counsel in Australia, where Dragon Train was first launched. (Swanson Decl., App. II to Mot. Summ. J., ECF No. 52-2). Despite the litigation disputes in Australia, L&W moved forward with its plans to launch Dragon Train in the U.S. market. (*Id.*).

1 casinos and customers from leveraging a game they have already purchased or planned to
2 purchase. (Resp. 22:26–23:5). But the public interest in protecting trade secrets and preventing
3 competitors from receiving an unfair advantage, outweighs both the harm to consumers having
4 one less game to play and the harm to casinos from removing the game until this lawsuit
5 concludes.

6 Accordingly, Aristocrat successfully demonstrates that all *Winter* factors weigh in its
7 favor, and the Court GRANTS their request for a preliminary injunction.

8 **E. Bond**

9 Under the Federal Rules, “[t]he court may issue a preliminary injunction . . . only if the
10 movant gives security in an amount that the court considers proper to pay the costs and
11 damages sustained by any party found to have been wrongfully enjoined.” Fed. R. Civ. P.
12 65(c). L&W requests a bond of \$49 million if the injunction is granted, based on Dragon
13 Train’s revenue projections. (Resp. 23:11–19). L&W states that enjoining the
14 commercialization of Dragon Train and their future game development “would cause serious
15 damage” to their business. (*Id.*). Aristocrat responds that \$49 million is based on speculative
16 revenue, and the courts more often look to profits, not revenue, to set a bond amount. (Reply
17 12:7–22). It contends that L&W’s assumption that it will lose all revenue is unlikely because
18 withdrawn Dragon Train games may be replaced by other L&W games, resulting in minimal
19 lost profits. (*Id.*). Aristocrat proposes either a nominal bond or a bond of \$1.2 million to \$3.0
20 million based on potential lost profits. (*Id.*); (Hansen Reply Decl. ¶¶ 37–40, App. I to Reply).
21 L&W declined to provide an alternative lost profits amount.

22 The Court agrees that a bond of \$1 million is appropriate to account for L&W’s potential
23 profit loss. The \$1 million bond is based on projected profits from L&W’s lost revenue and
24 assumes that L&W will be able to mitigate its damages by replacing certain Dragon Train
25 games already on casino floors or on internet game sites or apps with other L&W games, which

1 L&W has not persuasively disputed. (Tr. 87:1–5; 167:21–168:3, ECF No. 117). Accordingly,
2 the Court ORDERS that the preliminary injunction shall not issue or be effective until the
3 posting of a bond by Aristocrat in the amount of \$1 million.

4 **IV. CONCLUSION**

5 **IT IS HEREBY ORDERED** that Plaintiff’s Motion for Preliminary Injunction, (ECF
6 No. 52), is **GRANTED**.

7 **IT IS FURTHER ORDERED** that L&W is hereby enjoined, pending a final
8 determination on the merits, from using or disclosing any of Plaintiffs’ trade secrets (as
9 described in this Order) or other confidential and proprietary information relating to the
10 mathematical design of Dragon Link and Lightning Link (“Plaintiffs’ Trade Secrets”). The
11 enjoined use or disclosure
12 includes without limitation 1) any current or planned game development efforts that would
13 involve the use or disclosure of Plaintiffs’ Trade Secrets; and 2) any continued or planned sale,
14 leasing, or other commercialization of Dragon Train. L&W is further enjoined from accessing,
15 transferring, copying, disseminating, modifying, or destroying any documents or materials in
16 L&W’s possession, custody, or control reflecting Plaintiffs’ Trade Secrets, except to the extent
17 necessary to comply with this order.

18 **IT IS FURTHER ORDERED** that within 30 days of this Order, L&W shall:

19 A. Search for and identify all documents and materials in its possession, custody, or
20 control reflecting Plaintiffs’ Trade Secrets;

21 B. Provide an accounting that describes with specificity every document identified in
22 its search, including the (i) title, (ii) date, (iii) subject or description, (iv) any sender or
23 recipient, (v) location where found, and (vi) any attachments;

24 C. Isolate all documents and materials identified in its search so that they cannot be
25

1 used, accessed, transferred, copied, disseminated, modified, or destroyed (including, if
2 necessary, via suspension of any automated deletion processes and retrieval of any company
3 devices issued to employees);

4 D. Provide an accounting to Aristocrat's counsel in this case that describes with
5 specificity every instance in which L&W has disclosed Plaintiffs' Trade Secrets, including the
6 (i) name of the person or entity to which the information was disclosed, (ii) date of disclosure,
7 (iii) specific information disclosed, (iv) reason for disclosure, and (v) all documents or
8 materials reflecting the disclosure; and

9 E. File in this case docket a certification of compliance with the requirements provided
10 in this Order.

11 **IT IS FURTHER ORDERED** that the preliminary injunction issued herein shall be
12 effective upon the posting of a bond by Aristocrat in the amount of \$1 million.

13
14 **DATED** this 20 day of September, 2024.

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17 _____
18 Gloria M. Navarro, District Judge
19 UNITED STATES DISTRICT COURT
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