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**OPINION OF THE UNITED STATES COURT
OF APPEALS FOR THE SIXTH CIRCUIT
(OCTOBER 25, 2021)**

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MARTIN H. LEAF,

Plaintiff-Appellant,

v.

NIKE, INC.; WIEDEN & KENNEDY,

Defendants-Appellees,

TWITTER, INC.; FACEBOOK, INC.;
GOOGLE, LLC; YOUTUBE LLC,,

Defendants.

No. 21-1045

On Appeal from the United States District
Court for the Eastern District of Michigan

Before: McKEAGUE, NALBANDIAN,
and MURPHY, Circuit Judges.

MURPHY, Circuit Judge.

Nike, Inc., released a short, animated film, *The Last Game*, to promote its products ahead of the 2014 World Cup. Martin Leaf alleges that this Nike ad

contains hidden anti-Semitic imagery and other offensive content. He sued Nike and its advertising agency under the Michigan Consumer Protection Act. This Act protects consumers who buy or lease goods or services for their personal use from many deceptive business practices, including “[f]ailing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.” Mich. Comp. Laws § 445.903(1)(cc). Here, however, Leaf does not allege that he ever even contemplated buying Nike products, let alone that he considered engaging in those “transactions” only because of Nike’s positive reassurances that its ad lacked offensive content. Rather, he treats the Nike ad itself as a “product” and his viewing of this freely available commercial as the “transaction.” This reading would effectively transform the Michigan Consumer Protection Act from a narrow regulation of consumer transactions into a broad regulation of internet speech. Because the Act does not reach so far, we affirm the district court’s dismissal of Leaf’s complaint.

I

Leaf’s first amended complaint makes startling factual allegations that we must accept as true at this stage of his suit—whether or not they are, in fact, true. *See Rudd v. City of Norton Shores*, 977 F.3d 503, 507, 511 (6th Cir. 2020). Leaf takes issue with *The Last Game*, an animated film released in advance of the 2014 World Cup that runs for about five minutes. According to Leaf, this film was “engineered to leverage racial Jew-hatred to make more money in a sneaky subliminal way without ‘getting caught.’” First Am. Compl., R.16, PageID 520.

The advertising agency Wieden + Kennedy (W+K) co-created *The Last Game* with Nike. The film tells the story of an evil villain who creates a team of soccer-playing clones. These evil clones ruin soccer (and somehow steal the beauty from the world) by winning games through a methodical (yet boring) playing style that takes no risks. A group of international soccer stars unite to come to the sport's (and the world's) rescue. Clad in Nike gear, these stars best the monotonous clones through their dazzling and risky play during "the last game." Billions of people have watched *The Last Game*, and anyone can view it for free on the internet.

In June 2014, Leaf read an article in *The Times of Israel* describing a debate over whether *The Last Game* was anti-Semitic. Some people viewed images in the short film in this light. Others, such as the Anti-Defamation League, thought that this claim was baseless and diminished real anti-Semitism. *Id.*, PageID 527. Leaf decided to watch *The Last Game* on Nike's YouTube page. He has viewed this film many times since, including by examining the film's thousands of frames one frame at a time.

Based on these repeated viewings, Leaf concluded that the film contained subliminal anti-Semitic messages, pornography, and terroristic threats. Most of his first amended complaint goes through the alleged ways in which the film contains offensive content. Throughout the film, for example, both the uniforms and the home stadium of the evil clones display a soccer-ball logo that at times looks like a Jewish star. *Id.*, PageID 548. In addition, the film features various images (such as a skull with a Nike swoosh and a "hook-nosed figure") that Leaf claims resemble Nazi

symbols and propaganda. *Id.*, PageID 534-47. Frames from the film also allegedly show “pornographic images” of animated characters, including children. *Id.*, PageID 540, 542, 544. Leaf asserts that Nike included the anti-Semitic imagery to make more money because of what he describes as the “well documented Jew hatred among European and many South American soccer fans[.]” *Id.*, PageID 576-77.

When Leaf watched the film and discovered its purportedly offensive content, he claims to have suffered mental distress. *Id.*, PageID 579-80, 582. He sued Nike and W+K, alleging that their failure to disclose the film’s subliminal messages violated two provisions of the Michigan Consumer Protection Act. (Leaf sued other entities, but he voluntarily dismissed some of these defendants and failed to serve another.) Nike and W+K moved to dismiss Leaf’s complaint under Federal Rule of Civil Procedure 12(b)(6).

Before the district court could rule on their motion, Leaf sought to file a second amended complaint. In the proposed new complaint, Leaf alleged that the film also contained terroristic threats, including, for example, the word ISIS with a red axe in the background of one scene. Second Am. Compl., R.38, PageID 1503-04. Leaf also alleged that at least one individual responsible for creating *The Last Game* is anti-Semitic, as evidenced by his social media. *Id.*, PageID 1402-18. Leaf further clarified that, before he watched *The Last Game*, he had read a second news article containing Nike’s response to the anti-Semitism allegations. According to this article, Nike reassured its audience that the logo on the clones’ uniforms was a soccer ball and that “[a]ny resemblance to any other symbol or image within the campaign is entirely

coincidental and unintentional.” *Id.*, PageID 1429. Nike added: “We respect all religions and the image was in no way designed to cause any offense.” *Id.*

The district court held that Leaf’s first amended complaint failed to state a claim under the two provisions of the Michigan Consumer Protection Act on which he relied. The first provision required Leaf to allege that Nike and W+K failed to reveal a material fact, that the omission of this fact could mislead consumers, and that consumers could not reasonably discover the omitted fact on their own. Mich. Comp. Laws § 445.903(1)(s). According to the district court, Leaf’s complaint failed to assert that he could not have discovered the omitted “material fact” (that *The Last Game* contained subliminal messages) on his own. To the contrary, the complaint alleged that he learned of the film’s potential anti-Semitic messages before he viewed it and that he discovered its offensive images when he did.

The second provision required Leaf to allege that Nike and W+K failed to reveal facts about a transaction that became material in light of earlier “positive” representations they had made about that transaction. *See id.* § 445.903(1)(cc). According to the court, Leaf’s complaint did not allege that Nike and W+K made any positive representation (for example, that the film was not anti-Semitic) that could trigger any duty to disclose the contrary fact.

The court next denied Leaf’s motion to file a second amended complaint as futile. It reasoned that the new complaint also failed to state a claim under subsection (cc) because it still did not assert that Nike made a positive statement about *The Last Game*.

Leaf appeals. We review de novo both the district court's decision to dismiss his complaint and its decision to deny as futile Leaf's request to file an amended complaint. *See Rudd*, 977 F.3d at 511; *Riverview Health Inst. LLC v. Med. Mut. of Ohio*, 601 F.3d 505, 512 (6th Cir. 2010). To survive a motion to dismiss (or show that the filing of an amended complaint would not be futile), Leaf's first and second amended complaints needed to allege enough facts to state a "plausible" violation of the Michigan Consumer Protection Act. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)); *see Seaton v. TripAdvisor LLC*, 728 F.3d 592, 596, 601 (6th Cir. 2013). In addition, Federal Rule of Civil Procedure 9(b) requires complaints to "state with particularity the circumstances constituting fraud[.]" Leaf nowhere challenges the district court's conclusion that this rule applies to his claims under the Act. We thus may assume that Leaf must meet this heightened standard. *Cf. Storey v. Attends Healthcare Prods., Inc.*, 2016 WL 3125210, at *10 (E.D. Mich. June 3, 2016).

II

The Michigan Consumer Protection Act prohibits "[u]nfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce," Mich. Comp. Laws § 445.903(1), and allows private parties to sue for violations, *id.* § 445.911(1)-(2). Under this Act, "[t]rade or commerce" means the conduct of a business providing goods, property, or service primarily for personal, family, or household purposes and includes the advertising, solicitation, offering for sale or rent, sale, lease, or distribution of a service or

property, tangible or intangible, real, personal, or mixed, or any other article, or a business opportunity.” *Id.* § 445.902(g). For a transaction to fall within this “trade or commerce” definition, Michigan courts have long held that a customer must buy the good or service primarily for personal use, not for use in the customer’s business. *See Slobin v. Henry Ford Health Care*, 666 N.W.2d 632, 634-35 (Mich. 2003) (per curiam); *Jackson Cnty. Hog Producers v. Consumers Power Co.*, 592 N.W.2d 112, 117-18 (Mich. Ct. App. 1999); *Noggles v. Battle Creek Wrecking, Inc.*, 395 N.W.2d 322, 324-25 (Mich. Ct. App. 1986). So an individual who bought a truck for his business could not rely on the Act to challenge the manufacturer’s deceptive conduct. *See Zine v. Chrysler Corp.*, 600 N.W.2d 384, 392-94 (Mich. Ct. App. 1999). Nor could a patient rely on the Act to challenge a doctor’s medical judgment. *See Tipton v. William Beaumont Hosp.*, 697 N.W.2d 552, 555-58 (Mich. Ct. App. 2005).

The Act contains over thirty specific prohibitions on unfair or deceptive practices for the transactions that fall within its coverage. Mich. Comp. Laws § 445.903(1)(a)-(ll). Michigan courts have recognized that these prohibitions contain language that varies greatly. Some provisions, for example, require express representations; others require factual omissions; and still others mention neither. *See Zine*, 600 N.W.2d at 397. The courts thus follow a provision-by-provision approach to resolve a dispute, paying close attention to the text of the specific subsection at issue. *See id.*; *see also Leaf v. Refn*, 742 F. App’x 917, 926-27 (6th Cir. 2018); *Cormier v. PF Fitness-Midland, LLC*, 2018 WL 3594443, at *2-5 (Mich. Ct. App. July 26, 2018) (per curiam); *DiPiero v. Better Bus. Bureau of W. Mich.*,

Inc., 2014 WL 6679406, at *3-4 (Mich. Ct. App. Nov. 25, 2014) (per curiam). We thus will consider each of the subsections on which Leaf relies in turn.

A. Section 445.903(1)(cc)

Leaf relies primarily on a subsection that prohibits a business from “[f]ailing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.” Mich. Comp. Laws § 445.903(1)(cc). This language requires a plaintiff to identify a “transaction.” Because the Act does not define the word, Michigan courts have adhered to its ordinary meaning. *See Zine*, 600 N.W.2d at 396-97. “Transaction” means such things as “something that is transacted, esp. a business agreement” or “an act or agreement . . . in which more than one person is concerned, and by which the legal relations of such persons between themselves are altered.” *Id.* (quoting dictionaries). The word thus covers “the mutual and reciprocal acts typical of business deals that alter the legal relationships of the parties.” *DiPiero*, 2014 WL 6679406, at *4. This is not a difficult requirement. Many deals—from the purchase of a vehicle to the lease of an apartment—suffice. *See Zine*, 600 N.W.2d at 396-97; *Barnes v. Arbor Circle Apartments*, 2019 WL 2063310, at *1, *5 (Mich. Ct. App. May 9, 2019) (per curiam). Still, the subsection “does not afford a right to [challenge] confusing, false or misleading” statements in the abstract without showing that the statements are connected to some potential transaction between the parties. *DiPiero*, 2014 WL 6679406, at *4. Thus, an unhappy customer of a window supplier could not sue the Better Business Bureau for airing deceptive information about the supplier because the customer

did not contemplate entering into any sort of agreement with the Bureau. *Id.*

The subsection next requires that a business fail to disclose a fact about the transaction that is “material” “in light of” the business’s earlier “positive” representation. What makes an omitted fact “material”? Michigan courts have looked to the common law of fraud when deciphering this legal term of art. *See Zine*, 600 N.W.2d at 398; *see also Brownlow v. McCall Enters., Inc.*, 888 N.W.2d 295, 305-06 (Mich. Ct. App. 2016) (per curiam). Relying on these common-law sources, the courts have defined “material” to cover only those facts that are “important to the transaction” or that “affect[] the consumer’s decision to enter into” it. *Zine*, 600 N.W.2d at 398. To show that an omitted fact is material under subsection (cc), then, a plaintiff must show that the fact could have affected the plaintiff’s contemplated transaction with the defendant in light of the defendant’s earlier positive statements about the transaction. Thus, when plaintiffs have complained about a factual omission that occurred only after the parties consummated their deal, Michigan courts have repeatedly held that the omission could not have affected the parties’ preexisting decision to enter into it. *See id.*; *see also Cap. One Bank USA N.A. v. Ponte*, 2013 WL 6692511, at *5 (Mich. Ct. App. Dec. 19, 2013) (per curiam); *Herbrandson v. ALC Home Inspection Servs., Inc.*, 2004 WL 316275, at *3 (Mich. Ct. App. Feb. 19, 2004) (per curiam); *Wood v. Detroit Mem’l Park Ass’n, Inc.*, 2001 WL 1654940, at *3 (Mich. Ct. App. Dec. 21, 2001) (per curiam).

These transaction and materiality elements make good sense when the statutory language is read against its broader context. The Michigan Consumer

Protection Act does not seek to police speech in the abstract—something that would raise First Amendment concerns. After all, outside the commercial context, the First Amendment protects even the offensive anti-Semitic speech that Leaf alleges in this case. *See Snyder v. Phelps*, 562 U.S. 443, 458 (2011); *Collin v. Smith*, 578 F.2d 1197, 1201-07 (7th Cir. 1978). The Act instead protects consumers by regulating the speech that a business uses to convince them to buy or lease its goods or services. *See Cap. One Bank*, 2013 WL 6692511, at *4; *Noggles*, 395 N.W.2d at 324.

Here, Leaf’s first and second amended complaints both allege that Nike and W+K violated subsection (cc) by failing to reveal that *The Last Game* contained subliminal offensive content. Yet neither complaint adequately alleges that Nike and W+K failed to disclose a fact that was “material” to a “transaction” between these parties—as that subsection requires.

Leaf’s view of the relevant “transaction” is a moving target. At times, his complaints treat *The Last Game* as an ad that promotes the sale of Nike “gear” (its shoes and athletic apparel). Second Am. Compl., R.38, PageID 1396. The second amended complaint, for example, alleges that *The Last Game* sends the “clear message” that “buying Nike gear” will help consumers “save the world” because the soccer stars are wearing that gear. *Id.*, PageID 1534. It elsewhere claims that Nike included the anti-Semitic content to “increase sales of Nike products[.]” *Id.*, PageID 1424-25. Just like the sales of cars, the sales of Nike products would qualify as “transactions” under subsection (cc). *See Zine*, 600 N.W.2d at 397. And if a plaintiff contemplated purchasing, say, Nike shoes based on Nike’s representations that *The Last Game* did not contain anti-

Semitic content, the failure to reveal the film’s allegedly offensive imagery might be material to such a transaction. *See id.* at 398. But Leaf’s complaints do not allege that *The Last Game* affected his decision to do any “business” with Nike. *DiPiero*, 2014 WL 6679406, at *4. Indeed, the complaints do not identify a single Nike product that Leaf has ever even considered buying—let alone a product that he considered buying based on Nike’s positive statements about *The Last Game*. Because Leaf fails to identify any actual or contemplated Nike purchases, he fails to allege that the short film was material to this sort of traditional “transaction.” *See Zine*, 600 N.W.2d at 397.

At other times, however, Leaf’s complaints seem to treat *The Last Game* itself—not the athletic gear that the company sells—as Nike’s “product.” Both of his complaints, for example, conclusorily describe the “commercial” as a “product” that Nike disseminated. First Am. Compl., R.16, PageID 581; Second Am. Compl., R.38, PageID 1428. The proposed second amended complaint alleges further that Leaf watched this so-called product only after Nike made “positive” reassurances to the media that the soccer logo on the evil clones’ uniforms was not a Jewish star and that the company respects all religions. Mich. Comp. Laws § 445.903(1)(cc); *see* Second Am. Compl., R.38, PageID 1429. This second amended complaint also asserts that Leaf would not have viewed *The Last Game* “in the ordinary manner” or “at all” if Nike had disclosed the allegedly offensive subliminal messages. Second Am. Compl., R.38, PageID 1538.

But Leaf’s viewing of *The Last Game*, by itself, is not a “transaction” within the meaning of subsection (cc). Although it involves two or more persons (Nike

and Leaf), this ad did not alter their legal relationship. *See Zine*, 600 N.W.2d at 396. Neither Nike nor Leaf undertook any legal obligation or gained any legal right. *See id.* When Leaf watched the video, there was also no transfer of value. The parties “forged no agreement and exchanged no promises.” *DiPiero*, 2014 WL 6679406, at *4. Leaf simply went onto Nike’s YouTube page and watched an ad. Second Am. Compl., R.38, PageID 1429. Any other person could have done the same thing because Nike made the ad available free of charge. If every viewer of freely available “speech” could treat that speech as a “business deal,” it would greatly expand the Michigan Consumer Protection Act beyond its narrow domain of protecting consumers who buy goods or services for personal use. *See Cap. One Bank*, 2013 WL 6692511, at *4. Because, however, “website representations” alone do not generally qualify as “transactions,” subsection (cc) does not give everyone who views a representation a right to challenge it as deceptive—irrespective of whether a viewer has any intent to buy any associated products or services. *See DiPiero*, 2014 WL 6679406, at *4.

Regardless, even if Leaf’s viewing of this ad could be considered a “transaction,” Leaf has failed to plead with particularity the materiality of Nike’s alleged omitted fact. *Cf. Universal Health Servs., Inc. v. U.S. ex rel. Escobar*, 136 S. Ct. 1989, 2004 n.6 (2016); *Minzer v. Keegan*, 218 F.3d 144, 151 (2d Cir. 2000). His second amended complaint simply concludes that he would not have watched *The Last Game* if he had known of the alleged anti-Semitism within it. Second Am. Compl., R.38, PageID 1538. Yet the rest of his complaint contradicts this bare allegation—one resembling a legal conclusion that merely parrots the

materiality requirement. *Cf. Iqbal*, 556 U.S. at 678-79. Leaf did not plead that he was an unsuspecting soccer fan who came across the short film in anticipation of the World Cup. Rather, he pleaded that he watched the film only after viewing articles debating whether it was anti-Semitic. Second Am. Compl., R.38, PageID 1427-29. These allegations show that Leaf knew of the film's potential offensive content before he watched it. Yet he went ahead and did so, frame by frame. If anything, the complaint's specifically alleged facts (in contrast to its legal conclusions) suggest that the film's potential anti-Semitism was an "important" reason why Leaf *watched* the film. Those facts do not suggest that he would have *avoided* the film if he had known of its content. *See Zine*, 600 N.W.2d at 398. Because Leaf failed to plead facts plausibly suggesting that he might not have watched the film had he known of its content, he has not pleaded this materiality element with particularity. *See Collins v. A1 Motors, LLC*, 2017 WL 1190932, at *7 (Mich. Ct. App. Mar. 28, 2017) (per curiam); *Vandermale v. Harvey Auto.*, 2005 WL 1459610, at *2 (Mich. Ct. App. June 21, 2005) (per curiam).

In response, Leaf argues that the district court mistakenly concluded that Nike and W+K made no "positive" representations about *The Last Game*—as subsection (cc)'s language requires to trigger any duty to disclose omitted facts. *See Mich. Comp. Laws* § 445.903(1)(cc). According to Leaf, Nike's reassurances in the media that the soccer logo on the clones' uniforms was not a Jewish star and that the company respected all religions sufficed to allege this positive-representation requirement and trigger a duty to disclose the film's offensive content. We need not consider

this point. Even if the allegations in the second amended complaint would have sufficed to allege a “positive” representation, Leaf’s claim would still fail because he has identified no omitted fact that was “material” to a “transaction.”

Leaf also relies on the Michigan court’s decision in *Brownlow*. There, the defendant was hired to clean the plaintiffs’ home following a small fire. 888 N.W.2d at 297. The defendant used an ozone generator to remove the smell of smoke, and this generator allegedly damaged the home. *Id.* The court held that there was a dispute of fact over whether the defendant had made a “positive” representation that the generator would remove the smoke odor so as to trigger a duty to disclose that it might also damage the home. *Id.* at 308. In that case, then, a transaction existed (for clean-up services) and the omitted fact (that the ozone generator might damage the home) was material to whether plaintiffs would go through with it. These elements are missing here.

B. Section 445.903(1)(s)

Leaf thus falls back on a second provision of the Michigan Consumer Protection Act that prohibits a business from “[f]ailing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.” Mich. Comp. Laws § 445.903 (1)(s). Unlike subsection (cc), subsection (s) does not include the term “transaction.” Like subsection (cc), however, subsection (s) does require a “material fact.” And because Michigan courts have defined a “material” fact as one “important” to a transaction, they have repeatedly held that subsection (s) impliedly requires

a plaintiff to identify the underlying transaction that the alleged factual omission could affect. *See Zine*, 600 N.W.2d at 398; *see also DiPiero*, 2014 WL 6679406, at *4; *Cap. One Bank*, 2013 WL 6692511, at *5; *Herbrandson*, 2004 WL 316275, at *4. Leaf’s claim under subsection (s) thus fails for the same reasons that his claim under subsection (cc) fails: He did not establish that the alleged failure to disclose the hidden offensive content in the Nike ad was “material” to any underlying “transaction.”

This claim also fails for an additional reason. Subsection (s) requires that the omitted fact “could not reasonably be known by the consumer.” Mich. Comp. Laws § 445.903(1)(s). This element incorporates a form of the “reasonable reliance” requirement from the common law of fraud. *See, e.g., Fox v. Sherwin Williams Co.*, 2010 WL 46905, at *2 (Mich. Ct. App. Jan. 7, 2010) (per curiam); *Evans v. Ameriquest Mortg. Co.*, 2003 WL 734169, at *3 (Mich. Ct. App. Mar. 4, 2003) (per curiam). Leaf must adequately allege that he relied on Nike’s failure to disclose the allegedly offensive content because he could not have reasonably discovered this content on his own. Yet, as the district court noted, his complaints pleaded that he watched the film only after reading a news article in which individuals alleged that it was anti-Semitic. He thus “could reasonably be expected to discover the omission at issue.” *Zine*, 600 N.W.2d at 398.

[* * *]

Leaf ends with a trio of procedural objections to the district court’s dismissal of his suit. He suggests that we and the district court should not rely on unpublished Michigan decisions because they lack precedential effect and do not bind Michigan’s courts.

Yet we routinely rely on these unpublished decisions for their “persuasive” power concerning the substance of Michigan law. *Bennett v. MIS Corp.*, 607 F.3d 1076, 1095-96 (6th Cir. 2010); *see, e.g., Crossing at Eagle Pond Apartments, LLC v. Lubrizol Corp.*, 790 F. App’x 775, 779 (6th Cir. 2019). They persuasively show why Leaf’s claims fail here.

Leaf next suggests that the district court improperly considered extrinsic evidence. He correctly notes that if a court relies on outside-the-complaint evidence when ruling on a motion to dismiss, the court must treat the motion as one for summary judgment and give the parties a chance to present relevant evidence. Fed. R. Civ. P. 12(d); *see Bates v. Green Farms Condo. Ass’n*, 958 F.3d 470, 483-85 (6th Cir. 2020). But Leaf wrongly claims that the district court relied on outside-the-complaint materials from one of his other cases when dismissing his complaint in this one. The district court considered the materials in this related case only when unsealing certain exhibits, not when ruling on the merits of the motion to dismiss. Op., R.58, PageID 1805-06. The outside-the-complaint evidence thus did not affect its ruling on the merits.

Leaf lastly argues that the district court showed improper bias against him. That is so, he claims, because the court described his conduct across four similar cases as “sloppy.” *Id.*, PageID 1806-07. The court noted, among other things, that Leaf had failed to serve some defendants, had voluntarily dismissed other defendants “at an alarming rate,” and had filed many irrelevant exhibits. *Id.* It warned him that further wasteful litigation “may well lead to future sanctions.” *Id.*, PageID 1807. Like Leaf’s prior claims of bias against a state judge, this “accusation is

wholly without basis[.]” *Deming v. CH Novi, L.L.C.*, 2013 WL 5629814, at *1 (Mich. Ct. App. Oct. 15, 2013) (per curiam). Just because a court looks unfavorably on a party’s litigation tactics does not make the court improperly biased against that party. *Liteky v. United States*, 510 U.S. 540, 550-51 (1994); *United States v. Parker*, 837 F. App’x 341, 346 (6th Cir. 2020). For this type of criticism to reveal improper bias, the criticism must stem from something that can be described as wrongful (for example, a court’s use of some outside-the-lawsuit source that it should not have considered). *Parker*, 837 F. App’x at 346. We see nothing of the sort in the district court’s “ordinary efforts at courtroom administration” in this case. *Liteky*, 510 U.S. at 556. Its statements about Leaf’s litigation conduct had firm evidentiary support.

At day’s end, Leaf claims to have been “outraged” that *The Last Game* contains offensive content that will inflame hatred and violence. Second Am. Compl., R.38, PageID 1531. Even accepting as true his allegations about this offensive content (as we must at this pleading stage), these allegations do not plead the types of commercial harms that the Michigan Consumer Protection Act seeks to remedy. We affirm.

**ORDER OF THE UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF MICHIGAN
DISMISSING DEFENDANT TWITTER
WITHOUT PREJUDICE
(NOVEMBER 30, 2020)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTIN LEAF,

Plaintiff,

v.

NIKE INC., ET AL.,

Defendants.

Case No. 2:20-cv-11491

Before: Hon. Stephen J. MURPHY, III,
United States District Judge.

**ORDER DISMISSING DEFENDANT
TWITTER WITHOUT PREJUDICE**

More than five months ago, the Clerk of the Court issued a summons for Defendant Twitter. ECF 12. By rule, Plaintiff was to have served Twitter by September 10, 2020. *See* Fed. R. Civ. P. 4(m). But there is no evidence on the docket that Plaintiff has served Twitter. The Court therefore ordered Plaintiff to show

cause by November 30, 2020 why the Court should not dismiss the case against Twitter for failure to timely serve. ECF 58, PgID 1805. Plaintiff has not responded. The Court will therefore dismiss the complaint against Twitter for failure to prosecute. Because Twitter was the last remaining Defendant, *see* ECF 41, 53, 58, the Court will also close the case.

WHEREFORE, it is hereby ORDERED that Defendant Twitter is DISMISSED WITHOUT PREJUDICE. This is a final order that closes the case.

SO ORDERED.

/s/ Stephen J. Murphy, III
United States District Judge

Dated: November 30, 2020

**OMNIBUS OPINION AND ORDER OF THE
UNITED STATES DISTRICT COURT EASTERN
DISTRICT OF MICHIGAN GRANTING
DEFENDANTS' MOTIONS TO DISMISS
(NOVEMBER 23, 2020)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTIN LEAF,

Plaintiff,

v.

NIKE INC., ET AL.,

Defendants.

Case No. 2:20-cv-11491

Before: Hon. Stephen J. MURPHY, III,
United States District Judge.

OMNIBUS OPINION AND ORDER

Plaintiff sued Defendants for violating the Michigan Consumer Protection Act ("MCPA"), Mich. Comp. Laws §§ 445.903(1)(s), (cc). ECF 16, PgID 578–83. Defendant Nike moved to dismiss the first amended complaint under Federal Rule of Civil Procedure 12(b)(6). ECF 23. Defendant Wieden + Kennedy then joined Defendant Nike's motion to dismiss. ECF 47.

After reviewing the parties' briefs, the Court finds that a hearing is unnecessary. *See* E.D. Mich. LR 7.1(f). For the reasons stated below, the Court will grant Defendants Nike and Wieden + Kennedy's motion to dismiss.

BACKGROUND

Before the 2014 FIFA World Cup, Defendant Nike contracted with Defendant Wieden + Kennedy to create an animated short film called *The Last Game*. ECF 16, PgID 522. Plaintiff first learned of the film after reading an article in *The Times of Israel*. *Id.* at 527. The article reported that the Anti-Defamation League had dismissed claims that *The Last Game* was anti-Semitic. Ilan Ben Zion, *ADL Rejects Anti-Semitism in Nike Ad*, *The Times of Israel*, June 11, 2014, (accessed on Oct. 29, 2020), <https://bit.ly/3jFHxpl> [<https://perma.cc/9QHV-7ZE2>]. But Plaintiff decided to still view the YouTube video.¹ ECF 16, PgID 527.

Plaintiff gave *The Last Game* “numerous viewings, over a period of months, including frame by frame[.]” *Id.* (emphasis omitted). After the extensive analysis, Plaintiff determined that *The Last Game* “was anti-Semitic and was materially and deceptively so.” *Id.* (emphasis omitted). Plaintiff also claimed that “some of the deception . . . was not discovered until many months and many viewings after Plaintiff [] first viewed” the film. *Id.* at 577.

A viewer may watch *The Last Game* and identify a plot about “the world’s greatest [soccer] players”

¹ The video is available at ECF 16, PgID 527; *Nike Football: The Last Game full edition*, YouTube, (Oct. 29, 2020), <https://bit.ly/37PWbrO> [<https://perma.cc/RQ9C-NB6K>].

competing against a team of clones. ECF 23, PgID 845. But to Plaintiff, *The Last Game* has subliminal images—including “child pornography”—and features an “evil ‘Devil’ Jew,” that unconsciously causes the viewer to “hate Jews, or otherwise negatively affect[] their minds.” ECF 16, PgID 525–33.

For example, in the opening frame, Plaintiff identified a subliminal image: a skull and cross bones, that Plaintiff alleged was a “non-conscious Nazi, Neo Nazi, and Satanic symbol[.]” *Id.* at 533–34. In other parts of the film, Plaintiff allegedly spotted subliminal, sexually explicit images of minors, “a soccer player on his back clearly and graphically masturbating[, and] another soccer player ejaculating.” *Id.* at 544. In brief, Plaintiff described dozens of similar subliminal messaging tactics found throughout *The Last Game*. *See generally* ECF 16. Plaintiff also alleged that “[t]he full extent of [*The Last Game*’s] material deception is still not known to Plaintiff[.]” *Id.* at 577.

Given all the alleged subliminal messages, Plaintiff sued Defendants for violating the MCPA, §§ 445.903(1)(s), (bb), (cc) and civil conspiracy. *Leaf v. Nike, Inc.*, 18-13406, ECF 1, PgID 83–91 (E.D. Mich. 2018). But the Court dismissed the case without prejudice for failure to timely serve. *Leaf*, 18-13406, ECF 6.

Almost eighteen months later, Plaintiff sued Defendants once more but only for violating the MCPA, §§ 445.903(1)(s), (cc). ECF 1, PgID 18–22. And before Defendants responded to the complaint, Plaintiff filed an amended complaint that alleged the same two MCPA violations. ECF 16. Defendants Nike and Wieden + Kennedy later moved to dismiss the first amended complaint under Rule 12(b)(6). ECF 23; ECF 47.

STANDARD OF REVIEW

The Court may grant a Rule 12(b)(6) motion to dismiss if the complaint fails to allege facts “sufficient ‘to raise a right to relief above the speculative level,’ and to ‘state a claim to relief that is plausible on its face.’” *Hensley Mfg. v. ProPride, Inc.*, 579 F.3d 603, 609 (6th Cir. 2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)). The Court views the complaint in the light most favorable to the plaintiff, presumes the truth of all well-pleaded factual assertions, and draws every reasonable inference in favor of the nonmoving party. *Bassett v. Nat’l Collegiate Athletic Ass’n*, 528 F.3d 426, 430 (6th Cir. 2008).

But the Court will not presume the truth of legal conclusions in the complaint. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). If “a cause of action fails as a matter of law, regardless of whether the plaintiff’s factual allegations are true or not,” then the Court must dismiss. *Winnett v. Caterpillar, Inc.*, 553 F.3d 1000, 1005 (6th Cir. 2009).

DISCUSSION

I. Defendant Nike’s Motion to Dismiss

In the first amended complaint, Plaintiff alleged that Defendants violated two provisions of the MCPA, §§ 445.903(1)(s), (cc). ECF 16, PgID 578–83. “The MCPA provides protection to Michigan’s consumers by prohibiting various methods, acts, and practices in trade or commerce.” *Slobin v. Henry Ford Health Care*, 469 Mich. 211, 215 (2003). Because MCPA claims “are essentially claims for fraudulent omission . . . [Plaintiff] must state with particularity the circumstances constituting the fraudulent omission.” *Storey v. Attends*

Healthcare Prods., Inc., No. 15-cv-13577, 2016 WL 3125210, at *10 (E.D. Mich. June 3, 2016); *see* Fed. R. Civ. P. 9(b) (“In alleging fraud[], a party must state with particularity the circumstances constituting fraud[.]”). The Court will now address each MCPA claim in turn.

A. Plaintiff’s Claim Under Mich. Comp. Laws § 445.903(1)(s)

To begin, Plaintiff’s first MCPA claim fails under Rule 12(b)(6) because Plaintiff was not misled about any material fact. Section 455.903(1)(s) prohibits the failure “to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.” The Michigan Court of Appeals has explained that for the latter half of the statute, “the issue is not whether the omission is misleading to a reasonable consumer but whether the consumer could reasonably be expected to discover the omission at issue.” *Zine v. Chrysler Corp.*, 236 Mich. App. 261, 284 (1999).

Here, even accepting Plaintiff’s allegations as true, Plaintiff has not alleged that he satisfied the latter part of Section 455.903(1)(s). Plaintiff alleged that he first learned about *The Last Game* after reading a news article. ECF 16, PgID 527. In the news article, Plaintiff read that some individuals had thought *The Last Game* was anti-Semitic. *Id.* Yet in the same article Plaintiff also read about how the Anti-Defamation League thought *The Last Game* was not anti-Semitic. *Id.* Presuming the truth of those factual assertions, the only reasonable inference the Court can draw is that Plaintiff knew that *The Last Game* might appear anti-Semitic even before he viewed it. *See Bassett*, 528 F.3d at 430. Because Plaintiff knew

that *The Last Game* might appear anti-Semitic to some individuals, Plaintiff and other consumers “could reasonably be expected to discover” the alleged anti-Semitism. *See Zine*, 236 Mich. App. at 284.

Thus, even though Plaintiff claimed that Defendants had concealed *The Last Game*’s anti-Semitism from him, Plaintiff also claimed that the film’s anti-Semitism was readily apparent to him. But both contentions cannot be true. In short, because Plaintiff was not misled about *The Last Game*’s alleged anti-Semitism, he has not suffered a cognizable injury under the MCPA. *See Leaf v. Refn*, 742 F. App’x 917, 927 (6th Cir. 2018) (“[Plaintiff] himself must experience an injury caused by the film, but he admits that he was not misled.”). The Court will therefore dismiss the first MCPA claim against Defendants Nike and Wieden + Kennedy.

B. Plaintiff’s Claim Under Mich. Comp. Laws § 445.903(1)(cc)

Plaintiff’s second MCPA claim fails under Rule 12(b)(6) because the Sixth Circuit has spoken directly to the issue. Section 445.903(1)(cc) prohibits “[f]ailing to reveal facts that are material to the transaction in light of representations of fact *made in a positive manner*.” (emphasis added). As the Sixth Circuit explained in an earlier MCPA case involving Plaintiff, “[e]ven assuming that the film contained anti-Semitic messaging, [Plaintiff] makes no allegation that the trailer made affirmative representations suggesting that the opposite was true.” *Leaf*, 742 F. App’x at 927.

Here, Plaintiff made no allegation that Defendants affirmatively represented that *The Last Game* was not anti-Semitic. Rather, the first amended complaint

contains only one affirmative representation that *The Last Game* is not anti-Semitic: the Anti-Defamation League's statement. ECF 16, PgID 527 ("Plaintiff [] read an article discussing a new Nike 'ad' as being anti-Semitic according to some, and not anti-Semitic according to others include the [Anti-Defamation League] who declared that those alleging anti-Semitism were 'certainly off base[.]'"). Indeed, the first amended complaint contains no alleged statement by Defendants that even refers to *The Last Game*. *Id.* at 520, 575. With no affirmative statement from Defendants in the first amended complaint, the second MCPA claim necessarily fails. *See Leaf*, 742 F. App'x at 927.

Still, Plaintiff claimed that the Sixth Circuit wrongly decided *Leaf v. Refn*, and that the Court should not follow it. ECF 31, PgID 973–78. But Plaintiff's reasoning is unpersuasive. For one, Plaintiff cited no change in governing law since the Sixth Circuit's opinion, either because of an amendment to the MCPA or a new statutory interpretation of it. *See id.* And separately, Plaintiff failed to explain how the facts in the Sixth Circuit opinion are materially different from the facts here. *See id.* In sum, the Court cannot simply ignore the Sixth Circuit's reasoning.

Plaintiff's second MCPA claim fails for the same reason it failed in Plaintiff's earlier case: Defendants made no positive affirmation suggesting that *The Last Game* lacked the messages that Plaintiff found offensive. *Leaf*, 742 F. App'x at 927. The Court will therefore dismiss the second MCPA claim against Defendants Nike and Wieden + Kennedy.

II. Case Management

A. Motions to Dismiss Filed by Defendants Facebook, Google, and YouTube

Defendants Facebook, Google LLC, and YouTube LLC also moved to dismiss the first amended complaint. ECF 26, 51. But since then, Plaintiff has voluntarily dismissed all three Defendants. ECF 41, 53. The Court will therefore find the motions to dismiss filed by Defendants Facebook, Google, and YouTube are moot. ECF 26, 51.

B. Plaintiff's Motions to File a Second Amended Complaint

After Defendant Nike moved to dismiss the first amended complaint, Plaintiff moved to amend it, ECF 35, and then moved for leave to file a second amended complaint, ECF 38. The Court will deny the first motion, ECF 35, as moot because Plaintiff filed the later motion for leave, ECF 38.

Next, the Court will deny as futile the motion for leave to file a second amended complaint. ECF 38. Federal Rule of Civil Procedure 15 governs amendments of pleadings. It provides that after a responsive pleading is filed, a party may only amend its pleading with the written consent of the opposing party or with leave of the Court. Fed. R. Civ. P. 15(a)(2). The rule also provides that “[t]he court should freely give leave when justice so requires.” *Id.*; see *Foman v. Davis*, 371 U.S. 178, 182 (1962).

To determine whether to grant leave to amend a pleading, the Court relies on six factors: (1) “undue delay in filing,” (2) “lack of notice to the opposing party,”

(3) “bad faith by the moving party,” (4) “repeated failure to cure deficiencies by previous amendments,” (5) “undue prejudice to the opposing party,” and (6) “futility of [the] amendment[.]” *Wade v. Knoxville Utils. Bd.*, 259 F.3d 452, 458–59 (6th Cir. 2001). Analysis of the last factor—futility of the amendment—sufficiently justifies the Court to deny leave to amend a pleading. *Martin v. Assoc. Truck Lines*, 801 F.2d 246, 248 (6th Cir. 1986). A proposed amended complaint is futile if it could not survive a motion to dismiss. *Id.*

Here, the proposed second amended complaint asserted the same MCPA claims against Defendants. ECF 38. For the second MCPA claim, the proposed second amended complaint added new allegations relating to Defendant Nike. *Id.* at 1374–75. The new allegations, however, do not support Plaintiff’s claim that Defendant Nike made an “affirmative representation suggesting that [*The Last Game* was not anti-Semitic].” *Leaf*, 742 F. App’x at 927. Not only that, but none of the new allegations even relate to *The Last Game*. See ECF 38, PgID 1374–75.

Because the proposed second amended complaint fails to allege that Defendant Nike made an affirmative representation that the film is not anti-Semitic, it would fail under Rule 12(b)(6). See *Leaf*, 742 F. App’x at 927 (“Even assuming that the film contained anti-Semitic messaging, [Plaintiff] makes no allegation the trailer made affirmative representations suggesting that the opposite was true.”). The Court will therefore deny Plaintiff’s motion for leave to file a second amended complaint. ECF 38.

C. Show Cause Order

More than five months ago, the Clerk of the Court issued a summons for Defendant Twitter. ECF 12. But there is no evidence on the docket that Defendant Twitter has been served. Because more than ninety days have passed since the Clerk issued summons, the Court will require Plaintiff to show cause no later than November 30, 2020 why the MCPA claims against Defendant Twitter should not be dismissed for failure to prosecute. *See* Fed. R. Civ. P. 4(m). Failure to timely respond to this order will lead to dismissal of the MCPA claims against Defendant Twitter.

D. Unsealing ECF 15, 18, 33, and 40

Finally, the Court will order ECF 15, 18, 33, and 40 unsealed. Plaintiff essentially claimed that the exhibits needed sealing because federal law prohibits publicly filing sexually explicit images of minors. *See* ECF 14, PgID 515; ECF 17, PgID 816; ECF 32, PgID 1008; ECF 39, PgID 1708.

But the Court has reviewed the exhibits and has concluded that the federal law does not cover the exhibits because the images clearly do not depict any kind of sexually explicit image or act. *See Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J. concurring) (“I know it when I see it, and the motion picture involved in this case is not that.”). Beyond this, Plaintiff must not truly believe that some of the images are sexually explicit because he already filed one of the images not under seal. *Compare* ECF 40, PgID 1714 (under seal) *with Leaf*, 18-cv-13406, ECF 1, PgID 45. Because “there is a strong presumption in favor of openness as to court records,” the Court will order ECF 15, 18, 33, and 40 unsealed. E.D. Mich.

LR 5.3(c) (comments to 2018 revisions); *see Shane Group, Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 305–06 (6th Cir. 2016) (Kethledge, J.) (explaining the importance of open court records).

CONCLUSION

Since 2016, Plaintiff has either been the plaintiff or attorney in four Eastern District of Michigan cases that alleged MCPA violations: this case, *Leaf*, No. 18 13406, *Deming v. Fox Entertainment Group, Inc.*, No. 17-11285, and *Leaf v. Refn*, No. 16-12149. In each case, Plaintiff has chronically failed to serve defendants. *Leaf*, 18 13406, ECF 6; *Deming*, No. 17-11285, ECF 27, 29; *Leaf*, No. 16-12149, ECF 37, 50. Plaintiff has also voluntarily dismissed defendants at an alarming rate. ECF 41, 53; *Deming*, No. 17-11285, ECF 15, 29; *Leaf*, No. 16-12149, ECF 26, 52.

In three of the cases, Plaintiff sought to amend several complaints before the Court could rule on motions to dismiss. ECF 16, 38; *Deming*, No. 17-11285, ECF 25; *Leaf*, No. 16-12149, ECF 5, 53. Plaintiff also attached large numbers of irrelevant exhibits to his complaints. For example, in *Leaf*, No. 16-12149, Plaintiff filed ninety-five exhibits, ECF 5-1, PgID 377–82, many of which had little to do with the allegations. Here, Plaintiff filed ninety-nine. ECF 16, PgID 587–89. In *Leaf*, No. 16-12149, the Honorable Victoria A. Roberts stated that Plaintiff's voluminous filings were unacceptable, ECF 56, PgID 2358. Judge Roberts even said that she would strike future complaints that attach too many exhibits or have excessive factual content that “goes beyond the requirements of [Federal Rule of Civil Procedure 8(a)(2).]” *Id.*

Simply put, Plaintiff's conduct before the Eastern District of Michigan has been sloppy. Depleting judicial resources by continued careless conduct in federal litigation may well lead to future sanctions.

ORDER

WHEREFORE, it is hereby ORDERED that Defendant Nike's motion to dismiss [23] is GRANTED.

IT IS FURTHER ORDERED that the claims against Defendants Nike and Wieden + Kennedy are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the motions to dismiss filed by Defendants Facebook, Google, and YouTube [26, 51] are MOOT.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to file a second amended complaint [35] is DENIED.

IT IS FURTHER ORDERED that Plaintiff's amended motion for leave to file a second amended complaint [38] is DENIED.

IT IS FURTHER ORDERED that Plaintiff shall SHOW CAUSE no later than November 30, 2020, why the Court should not dismiss the claims against Defendant Twitter for failure to prosecute.

IT IS FURTHER ORDERED that the Clerk of the Court shall UNSEAL ECF 15, 18, 33, and 40.

SO ORDERED.

/s/ Stephen J. Murphy, III
United States District Judge

Dated: November 23, 2020

**ORDER OF THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH
CIRCUIT DENYING MOTION TO LIMIT
THE ISSUES RULED UPON
(OCTOBER 22, 2021)**

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MARTIN H. LEAF,
Plaintiff-Appellant,

v.

NIKE, INC.; WIEDEN & KENNEDY,
Defendants-Appellees,

TWITTER, INC.; FACEBOOK, INC.;
GOOGLE, LLC; YOUTUBE LLC,,
Defendants.

No. 21-1045
Before: McKEAGUE, NALBANDIAN,
and MURPHY, Circuit Judges.

Appellant Martin H. Leaf filed a motion for allowance for briefing any issues used by this court to determine this case beyond the two issues used by the trial court to dismiss the case in the above-styled appeal,

Upon consideration, it is **ORDERED** that the motion is hereby **DENIED**.

ENTERED BY ORDER OF THE COURT

/s/ Deborah S. Hunt, Clerk

Issued: October 22, 2021

**ORDER OF THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH
CIRCUIT DENYING PETITION
FOR REHEARING EN BANC
(DECEMBER 7, 2021)**

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MARTIN H. LEAF,

Plaintiff-Appellant,

v.

NIKE, INC.; WIEDEN & KENNEDY,

Defendants-Appellees,

TWITTER, INC.; FACEBOOK, INC.;
GOOGLE, LLC; YOUTUBE LLC,,

Defendants.

No. 21-1045

Before: McKEAGUE, NALBANDIAN,
and MURPHY, Circuit Judges.

ORDER

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original sub-

mission and decision of the case. The petition then was circulated to the full court.* No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

Entered by Order of the Court

/s/ Deborah S. Hunt
Clerk

* Judges White, Donald, Thapar, and Bush recused themselves from participation in this ruling.

**ORDER OF THE UNITED STATES DISTRICT
COURT EASTERN DISTRICT OF MICHIGAN
DENYING MOTION FOR RECONSIDERATION
(DECEMBER 17, 2020)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTIN LEAF,

Plaintiff,

v.

NIKE INC., ET AL.,

Defendants.

Case No. 2:20-cv-11491

Before: Hon. Stephen J. MURPHY, III,
United States District Judge.

**ORDER DENYING MOTION FOR
RECONSIDERATION [61]**

Plaintiff sued Defendants for two claims of violating the Michigan Consumer Protection Act (“MCPA”), Mich. Comp. Laws §§ 445.903(1)(s), (cc). ECF 16, PgID 578– 83. In an omnibus opinion and order, the Court granted Defendants’ motion to dismiss the first amended complaint under Federal Rule of Civil Procedure 12(b)(6). ECF 58, PgID 1800–03. The Court

also denied leave for Plaintiff to file a second amended complaint. *Id.* at 1803–05. Plaintiff moved for reconsideration. ECF 61. For two reasons, the Court will deny the motion.

To succeed on a motion for reconsideration, “[t]he movant must not only demonstrate a palpable defect by which the Court . . . [has] been misled but also show that correcting the defect will result in a different disposition of the case.” E.D. Mich. LR 7.1(h)(3). A palpable defect is one that is “obvious, clear, unmis-takable, manifest, or plain.” *Mich. Dep’t of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). A motion for reconsideration will not be granted if it “merely present[s] the same issues ruled upon by the Court, either expressly or by reasonable implication.” E.D. Mich. LR 7.1(h)(3). “It is an exception to the norm for the Court to grant a motion for reconsideration.” *Maiberger v. City of Livonia*, 724 F. Supp. 2d 759, 780 (E.D. Mich. 2010) (citation omitted).

The motion for reconsideration is unclear about what ruling the Court should reconsider. For example, Plaintiff explained that “Count I of the [second amended complaint] should proceed.” ECF 61, PgID 1823. But the Court never ruled on whether the first claim of the second amended complaint should proceed. *See* ECF 58, PgID 1800–01 (dismissing the *first* MCPA claim in the first amended complaint). Instead, the Court denied leave to file a second amended complaint because the second amended complaint was futile and would fail under scrutiny of a motion to dismiss. *Id.* at 1804–05. In particular, the Court found that the second MCPA claim in the proposed second amended complaint “fail[ed] to allege that

Defendant Nike made an affirmative representation that the film is not anti-Semitic[.]” *Id.* at 1805.

But, in the motion for reconsideration, Plaintiff stated that the second amended complaint alleged that Defendant Nike made an affirmative representation of that type. ECF 61, PgID 1824–25. Plaintiff pointed the Court to an alleged statement made by Defendant Nike. *Id.* at 1825 (citing ECF 38, PgID 1429). The statement from Defendant Nike explained, “[t]he logo shown on ‘The Clones’ player uniforms and on the advertising boards in ‘The Last Game’ film is a logo of a football. Any resemblance to any other symbol or image within the campaign is entirely coincidental and unintentional.” ECF 38, PgID 1429. The statement also explained, “[w]e respect all religions and the image was in no way designed to cause any offense[.]” *Id.*

But that statement from Defendant Nike is not an affirmative representation because it did not represent a fact in a positive manner. *See Leaf v. Refn*, 742 F. App’x 917, 927 (6th Cir. 2018) (citing *Collins v. A1 Motors, LLC*, No. 330004, 2017 WL 1190932, at *7 (Mich. Ct. App. Mar. 28, 2017)). Instead, the first part of the statement acknowledged that even if the logo in the film resembled another image, then it would be coincidental and unintentional. *See* ECF 38, PgID 1429. It is the kind of acknowledgement that is far different from the affirmative representations discussed in *Collins*, because it suggests that the logo may—coincidentally—resemble another image. 2017 WL 1190932, at *7 n. 12. And last, the second part of the statement explained the intentions behind the logo’s design—not the logo itself. *See* ECF 38, PgID 1429. Thus, the Court properly denied the motion for leave

to file a second amended complaint. *Martin v. Assoc. Truck Lines*, 801 F.2d 246, 248 (6th Cir. 1986) (holding that futility of the amended sufficiently justifies the Court to deny leave to amend a pleading). The Court will therefore deny the motion for reconsideration. ECF 61.

WHEREFORE, it is hereby ORDERED that Plaintiff's motion for reconsideration [61] is DENIED.

SO ORDERED.

/s/ Stephen J. Murphy, III
United States District Judge

Dated: December 17, 202

**SECOND AMENDED COMPLAINT
AND JURY DEMAND
(AUGUST 20, 2020)**

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARTIN H. LEAF,
An individual citizen of Michigan,

Plaintiff,

v.

NIKE INC., An Oregon Corporation

WIEDEN + KENNEDY, INC.,
An Oregon Corporation,

GOOGLE LLC, A Delaware
limited liability company,

YOUTUBE, L.L.C.,
A Delaware limited liability company

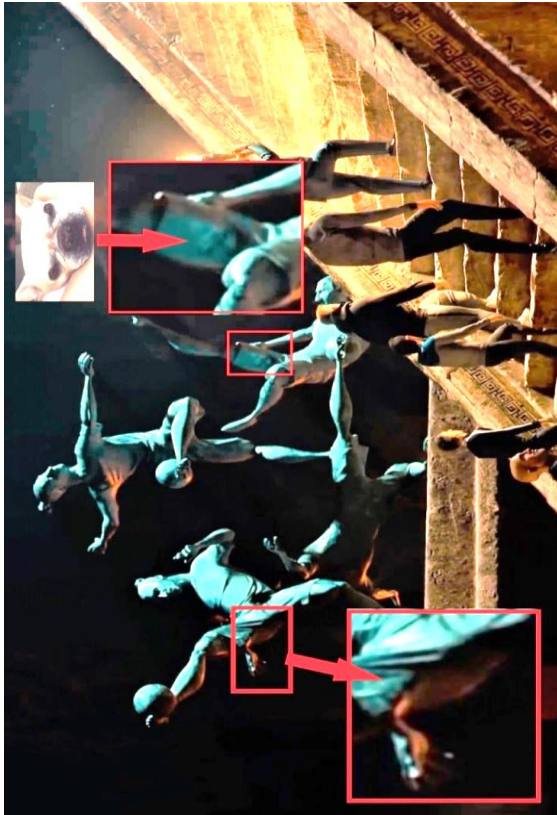
JON SAUNDERS, A Citizen of New York

Defendants.

No. 2:20-cv-11491-GCS-RSW

**SECOND AMENDED COMPLAINT
AND JURY DEMAND
COMPLAINT**

I. Introduction



Ex. SAC 1. The Nike Ad has a soccer player masturbating on his back with the promised adorable dog on his leg which was a lure especially for children and adolescents. The player on the far left is ejaculating with the fake excuse that this is mere lighting, as explained more fully herein. One of many illegal and deceptive sexual images in The Nike Ad.

The Last Game is a big budget 2014 animated five and one-half minute advertisement by Defendant Nike Inc., that is still on the internet for viewing. It has been seen by billions, and is targeted mainly to children and adolescents due to the fact it is animated.

The Nike Ad takes place in Rio de Janeiro and is about Perfect Inc. creating soccer playing “clones” that have a logo that sometimes varies slightly from a Jewish Star at first, and then is virtually identical to a Jewish Star.

Perfect Inc. takes over soccer and other businesses and ruin everything for everyone in Rio, displacing the good guy soccer heroes. A game is set up for the fate of soccer, and by implication the fate of the world, between the bad guys wearing their Jewish Star appearing logo and the good guys clad in Nike gear. The good guys win, saving soccer, and ending all the misery Perfect Inc. has caused.

There are about eight thousand frames, or individual animated images, that comprise The Nike Ad displayed at 24 frames per second.

Some of the offensive content is not consciously perceived by the viewer because it is shown too quickly. Some of the offensive content is not perceived because of something called “inattentional blindness”.

This is where there is something in an image that the brain does not consciously perceive for many reasons, including that the viewer is focusing on another part of that frame, where the “action is”, or because the offensive content is not expected. *See* Ex. 0 Affidavit of Dr. Motley UC-Davis, ¶¶ 31-35, 93.

Many of these frames contain offensive messages and images that are incompatible with an American publicly traded corporation that promotes itself as an ethical and legitimate business. These offensive images and themes also have no business being in a soccer ad, and no one would expect them to be there. A *small percentage* of those offensive frames are displayed in this complaint.

The Nike Ad is a deception within a deception because the viewer is first deceived by not knowing or expecting what is in The Nike Ad. The viewer is next deceived by not understanding consciously the depraved content the viewer is being presented with.

The offensive messages and images involve the promotion of: Racism¹; terror threats; and pornography including child pornography.

Only the nonconscious Racism, primarily against Jews, appears to be promoted in tandem with the subtle, and overt and nonconscious plot elements and themes. In other words, there is no sexuality or

¹ The Nike Ad manifests Racism, primarily but not exclusively Racism against Jews. Jew-Hatred is a form of Racism for numerous reasons. You are Jewish if you are born Jewish. The Nazis and Neo Nazis and Jew haters base their hatred of Jews and hatred of characteristics Jews share because they are born Jewish. <https://www.annefrank.org/en/topics/antisemitism/antisemitism-form-racism/> retrieved August 10, 2020. "According to the Nazis, the Jews were a weak, dangerous, and inferior race that did not belong in Germany." *See also* https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/53/133 Retrieved August 10, 2020, where the United Nations defines antisemitism as Racism:" [C]ontemporary forms of racism and racial discrimination, inter alia, against blacks, Arabs and Muslims, xenophobia, Negrophobia, *anti-Semitism* and related intolerance;". [Emphasis added]

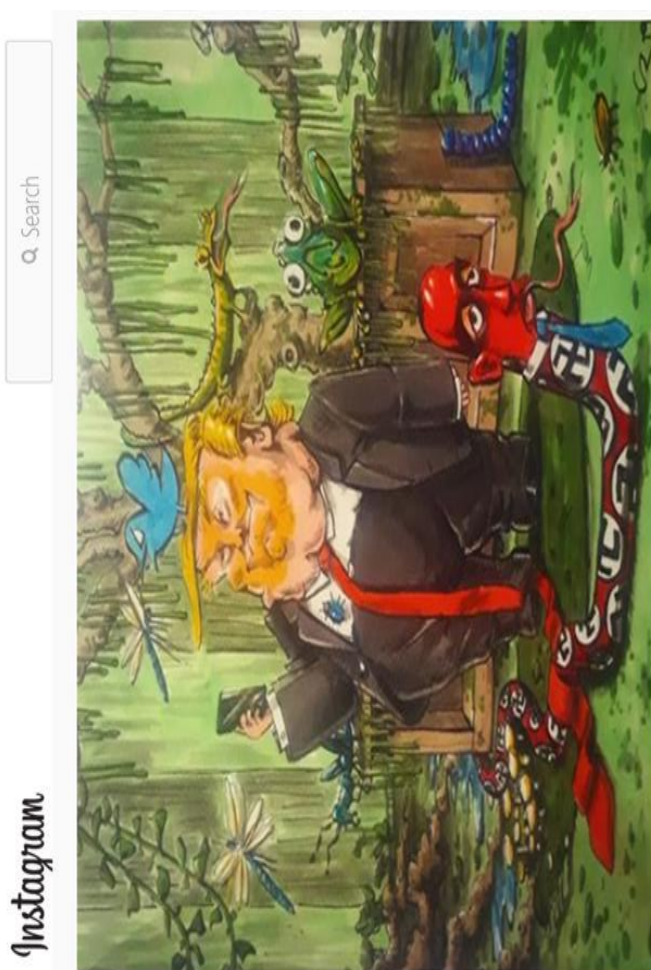
terror threats in the plot, but there is some *subtle* conscious Racism, which comprises a small percent of the Racism promoted.

The images were created and embedded using the highest level of artistry and evince advanced knowledge of human perception both conscious and nonconscious.

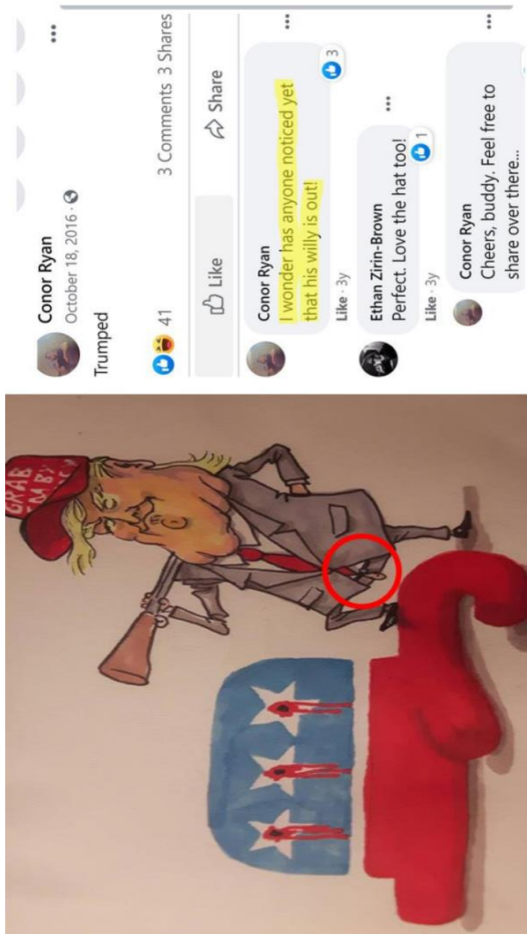
Three individuals—in addition to Defendant Nike Inc.—have been identified that appear to have a substantial role in these offensive images: Conor Ryan, the lead animator; Xavier Kunizem, head of previz/storyboarding; and Defendant Jon Saunders, The Nike Ad's director.

Three images below (of many more) created by The Nike Ad's lead animator Conor Ryan demonstrate his proclivity for using penises as part of his art, Nazi imagery, and deceptive nonconscious material, all of which are manifest substantially in the Nike Ad.

The Nike Ad also meets the United States Department of State's definition of anti-Semitism based on The Nike Ad's terrorist threats of Genocide against the Jews justified by religious texts. The Nike Ad also manifests anti-Semitism, as defined by The State Department based on its message that the Jews were controlling and dominating the Rio economy and beyond. Finally, The Nike Ad's messages violate the State Department's definition of anti-Semitism by dehumanizing the Jews.



Ex. SAC 2. Racial Jew-Hatred manifest by The Nike Ad's lead animator Conor Ryan in a cartoon he created where The White House senior advisor-Stephen Miller—who is Jewish, is adorned with Nazi flags, and is portrayed as a snake (and the Red Devil) with a forked serpent's tongue—a Nazi anti-Semitic trope, stereotype and hateful depiction of the Jew in Nazi Racist Jew-Hating propaganda.



Ex. SAC 3. A nonconscious message on The President's hat for many (regarding Donald J. Trump stating he could grab women by their private parts), and what amounts to The Nike Ad's lead animator's "admission" regarding his use of male genitalia, even on small children throughout The Nike Ad. The Nike Ad's lead animator laments that nobody noticed the small penis he had drawn on President Trump).



Ex. SAC 4. The Nike Ad's lead animator Conor Ryan's cartoon. A nonconscious dual perception Nazi flag on the White House is obscured slightly by reversing and varying slightly the Nazi swastikas, just like the Jewish Star was slightly changed to give Defendant Nike the fake excuse that the deceptive Jewish Star on the bad guys was really a soccer ball, in The Nike Ad. More importantly, the reverse and altered Nazi swastika is a dual perception of a skull. This is exactly what The Nike Ad did with the Jewish Star on "The Jews" falsely claiming it was a soccer ball. Lines highlighted in black on the inset for demonstrative purposes.



Ex. SAC 5. More obvious (when pointed out) nonconscious Jewish Stars which Nike claims are soccer balls on the bad guys, with deliberately hard to consciously perceive Israeli flags in the background highlighted.



Ex. SAC 6. Nonconscious ISIS with a red Axe, a terror threat because the bloody Axe is included. In late 2013 when The Nike Ad was being worked on, ISIL became ISIS, a terrorist enemy of America, that murdered many innocent Americans, including American civilians James Foley, Steven Sotloff, and Kayla Mueller. ISIS filmed many mass murders by cutting off the heads of the innocent victims, lowering them under water in a cage while the victims were alive, and filming the murders professionally, including with a waterproof camera inside the cage. Numerous pro-terrorism messages are displayed in The Nike Ad.



Ex. SAC 7. Depraved picture of the Devil formed from the nonconscious word “Devil” demonstrating high motivation and artistic skill. The yellow ball that goes across the Nazi Racist stereotypes of the hooked nosed Jew as the “Crowned Kike Devil” also draws the “mind’s eye” to this important message. All the frames comprising this part of The Nike Ad, are not perceived because the scene is shown too fast. The erect child’s penis—displayed in this part of the The Nike Ad—is censored here because it is child pornography.

The above is a small fraction of the depraved content in The Nike Ad. The pornography, the pro-terrorism messages, and the Racial hatred are material facts because most people would want to know if such messages are in the media they are about to view, especially if they are presented in a sneaky way amounting to an unethical and illegal human medical experiment.

Such content could not have been known to Leaf when he first viewed The Nike Ad (or anyone else at the time Leaf viewed The Nike Ad) because no one knew there was nonconscious and conscious messages of Racial Hatred, pornography, and terrorism, at the time. This, in light of facts Nike made in a positive manner regarding their ethics and policies regarding non-offensive logos, respect for all religions, discontinuation of human slavery, and so on.

Finally, the depravity of The Nike Ad, including its deception within deception-which is illegal-justifies the damages Leaf-and anyone similarly situated-claims.

The Nike Ad is one of the only known cases where Racial hatred is deceptively promoted using subtlety, and sophistication in the plot elements, and buttressed by promoting such hatred in the individual frames nonconsciously evincing advanced skill and medical science regarding nonconscious messaging. In other words, the most advanced advertising methods, used to promote hatred, which is what The Nike Ad does.

PARTIES

1. Defendant Wieden + Kennedy is an Oregon corporation with principal offices in Portland, Oregon, and created The Nike Ad for Defendant Nike. The Nike Ad is currently being streamed on its website-<https://www.wk.com/work/nike-risk-everything> Retrieved June 3, 2020.

2. Defendant Nike is an Oregon corporation, with principal offices in Beaverton Oregon, and paid Defendant Wieden + Kennedy to create *The Last Game* for Defendant Nike—who also co-created The Nike Ad. The Nike Ad is currently being streamed on Defendant Nike’s Facebook page, and on other websites it controls.

3. Defendant Google L.L.C. is a Delaware limited liability company with its principal place of business in Mountain View, California. Google L.L.C. transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Google L.L.C. has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States, including Michigan . At all times material to this Complaint, acting alone or in concert with Defendant YouTube, L.L.C., Google L.L.C. formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

4. Defendant YouTube, L.L.C. is a Delaware limited liability company with its principal place of business in San Bruno, California, and is a wholly owned subsidiary of Google L.L.C. YouTube, L.L.C. transacts or has transacted business in this district and through-

out the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google L.L.C., YouTube, L.L.C. has advertised, marketed, and distributed its YouTube video sharing platform to consumers throughout the United States. At all times material to this Complaint, acting alone or in concert with Defendant Google L.L.C., YouTube, L.L.C. formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint.

5. Defendant Jon Saunders was the director of The Nike Ad.

6. Plaintiff Martin H. Leaf is a citizen of Michigan.

JURISDICTION AND VENUE

7. Subject matter jurisdiction is proper under 28 U.S.C. § 1332(a)(1) because the matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs, and is between citizens of different states and foreign states, therefore there is complete diversity, 28 U.S.C. § 1332(a)(1). The matter in controversy exceeds the sum of seventy-five thousand dollars (\$75,000) for reasons, including but not limited to the fact that attorney fees are recoverable under the Michigan Consumer Protection Act, MCL 445.901 *et. seq.* (“MCPA”).

8. The Plaintiff viewed *The Last Game* in Oakland County, Michigan. Therefore, venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claims asserted occurred within the Eastern District of Michigan.

FACTS

9. Plaintiff incorporates all prior and subsequent paragraphs as though pled herein, and this is true for each paragraph in this pleading.

10. Jews are more likely in America to be victims of religious hate crimes than all other religions combined. <https://ucr.fbi.gov/hate-crime/2018/topic-pages/incidents-and-offenses> Retrieved June 3, 2020.

11. Jews are 2.6 times more likely per capita than African Americans to be a victim of a hate crime. *Id.*

12. One of every two Jews born in the last two-thousand years has been murdered for being Jewish².

13. “Most American adults (64%) say Jews are subject to at least some discrimination in the U.S. today.” <https://www.pewresearch.org/politics/2019/04/15/sharp-rise-in-the-share-of-americans-saying-jews-face-discrimination/> Retrieved August 16, 2020.

14. A subliminal message is a message that is not perceived consciously because it is presented too quickly to be consciously perceived or is presented too faint to be consciously perceived.

15. A nonconscious message is a message that is not consciously perceived by a viewer for numerous reasons, including but not limited to the fact that it is not noticed unless pointed out, or because it is subliminal. *See* Ex. 98, Affidavit of Lawrence Porte,

² “[O]ne of every two Jews born in the last 2,000 years has been murdered”. *Comfort Ye My People The Church’s Mandate Toward Israel and the Jewish People*. (2012). West Bow Pr. at 95 quoting David Turner, who in turn was quoting Irving Borowski.

former head of the Detroit office of the U.S. Secret Service (Attesting to the nonconscious nature of the messages in Defendant Nike and Wieden + Kennedy's *Good v Evil*, and *The Last Game*). See also Ex. 0, ¶¶ 80-92, Affidavit of Dr. Michael Motley UC Davis Professor Emeritus.

99. In my opinion, all of these hateful messages in the Nike advertisement are intentional and exploit the well documented pre-existing hatred of Jews among soccer fans in order to sell more Nike gear.

100. These aforementioned stealthy methods of promoting hate "under the radar," without conscious awareness, can be adapted to promote hate against any group, such as Muslims, Blacks, *Republicans*, Democrats, etc. [Emphasis added]

16. A priming effect is when an image or message is perceived consciously or nonconsciously, and that image or message affects how a subsequent message is perceived.

17. Inattentional blindness involves placing an unexpected object, symbol, message, sound, or other stimulus in a scene from a given medium, with the intention that the viewer will not consciously notice that object, symbol, message, or stimulus, in part because the viewer or listener is focused on something else See Ex. 0, ¶¶ 31-33, Affidavit of Michael Motley USC-Davis.

18. There is substantial evidence that nonconscious messages affect behavior and beliefs. See Ex. 0, ¶¶ 80-92, 106, and Ex. 0-A, all attached to the Exhibits section of this Complaint.

19. There appears to be a nonconscious video track mixed together with the main video tracks in numerous places throughout The Nike Ad, which facilitates the nonconscious messaging in The Nike Ad.

II. Earlier Example of Sophisticated and Dedicated Nazi Style Racist Jew-Hatred Similar to the Nike Ad

20. In 2011 an accomplished and sophisticated Danish director Nicolas Winding Refn utilized his vast skillset as a Director of high end commercials—such as Gucci and Yves St. Laurent—to deceptively promote Jew Hating Racist messages to unsuspecting American young adults in the 2011 motion picture *Drive* using sophistication, dedication, and for reasons stated herein, experimentation.

21. There is no question the film *Drive* is anti-Semitic to anyone familiar with classic Nazi anti-Semitic themes and stereotypes, as indicated in the email of a leading expert on Nazi anti-Semitism. *See* <https://calvin.edu/directory/people/randall-bytwerk> retrieved August 15, 2020 (listing Bytwerk's credentials in Nazi anti-Semitic propaganda).

22. The Michigan Court of Appeals—one of the finest courts anywhere—improperly determined on their own as an appellate court fact finder pursuant to a Michigan motion—equivalent to FRCP 12(b)(6)—in the trial court that the film *Drive* contained no anti-Semitism, *despite the numerous Affidavits and experts opining otherwise*, including the submitted email from Randal Bytwerk (with the required Affidavit from Leaf) because he was later unavailable—out of the country—for an Affidavit regarding the anti-Semitic

content. This was a 2011 Michigan case of Leaf's for a client named Sarah Deming.


23. Sadly, the Michigan circuit court opinion dismissing Deming's complaint is anti-Semitic *on its face*, this despite Leaf's personal respect for the trial judge. (See SAC Ex. 0, ¶¶ 94-95 where Dr. Motley UC-Davis, discusses the trial court's findings regarding the materiality of unexpected/deceptive anti-Semitism including nonconscious anti-Semitism in a film. Although the Jew-Hatred was acknowledged to be in the film by the trial judge (for purposes of the motion) and "material", such Racist hatred was nevertheless also deemed to be not material by the trial judge. Motley further explained why the trial court's opinion was anti-Semitic.)

24. Unfortunately, the Michigan circuit court opinion had the effect of green-lighting such anti-Semitism and such anti-Semitic methods—both deceptive.

8/16/2020

Gmail - Re: Drive

Martin Leaf <leafmartin@gmail.com>



Re: Drive

Randall Bytwerk <bytwr@calvin.edu>
To: Martin Leaf <leafmartin@gmail.com>

Tue, Oct 25, 2011 at 9:50 PM

Hi Martin,

Saw the film this afternoon (with three other people in the audience).

I agree that Nino and Bernie Rose reflect quite a range of anti-Semitic stereotypes.

However, as I mentioned in an earlier e-mail, I have a hard time seeing how this complaint could succeed. I checked with a colleague who knows a fair amount about communication law, and his response was the same.

For me to want to get involved, I'd have to be more comfortable with the strength of the case.

One thought as you press on. The obvious film comparison is to the Nazi film *The Eternal Jew* (Der ewige Jude). You've probably heard of the film, but if not, it has the themes of the totally evil Jew, money-hungry, lustful, corrupting those around him.

Thanks for an interesting offer.

Best,

Randall Bytwerk

EX. SAC 8. Randal Bytwerk Professor at Calvin College and an expert and author in Nazi propaganda concludes that the Jews in *Drive* “reflect quite a range of anti-Semitic stereotypes.” At the time of Bytwerk’s email, no one was aware of the *nonconscious* hateful Racism embedded in *Drive*.

25. However, what was unique, arguably a first for a widely distributed American motion picture, and potentially most dangerous and harmful was the subtle and nonconscious nature of the Jew-Hatred that *Drive* was promoting in a manner similar in many ways to The Nike Ad, and equally as illegal because both were promoted deceptively and used deceptive nonconscious messages.

26. Setting aside the fact that the method of using such deception is repugnant—as well as the messages, such nonconscious promotion of Jew-Hatred is actually quite brilliant and artistically ingenious. Both *Drive* and The Nike Ad deliver the clear message that the good Christian must defeat the evil inhuman Jew. This, by using all the deceptive methods modern advertising brings to bear, including and especially the nonconscious and subtle.

27. *Drive* and The Nike Ad both used the advanced skillsets of the best marketers in the world to deceptively sell Jew-Hatred—among other agendas—rather than merchandise.

28. The Nike Ad targets the younger demographic, mainly children and adolescents and received rave, fawning, and gushing reviews—from Forbes <https://www.forbes.com/sites/markfidelman/2014/07/01/nike-is-dominating-the-world-cup-heres-why/#3d4897d732d1> Retrieved August 20, 2020:

Here is a campaign that exists on another plane. It is influencer marketing on steroids, content marketing so smart, distinct, so alive, you'll think I'm exaggerating—I'm not. Their clever integration of a World Cup storyline, product placement and influencers will be a future case

study on how to create a branded experience around sporting events.

From Variety Magazine (<https://variety.com/2014/digital/news/world-cup-why-nike-should-turn-its-soccer-short-the-last-game-into-a-digital-series-1201242251/> Retrieved August 20, 2020):

As Nike looks to grow the soccer side of its business, the success of “Game” now gives Nike a strong following among younger audiences—something every marketer always wants at a time when consumers are more distracted than ever by entertainment options. Through “The Last Game,” it now knows it has a captive audience. And with soccer’s huge fanbase, it has a digitally savvy audience ready to watch more of its elongated stars featured in “Game”.

29. In this video Nike was trying to expand its soccer business but also to reach out to the younger market.

III. The Players

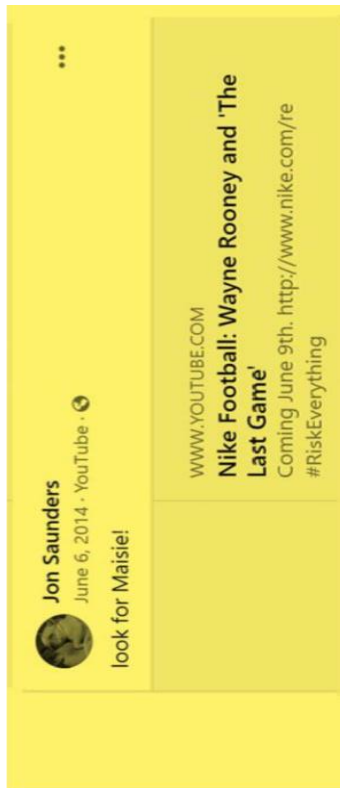
30. A review of some of the people that held responsible positions and worked on The Nike Ad is disturbing.

Jon Saunders–The Nike Ad’s Director

31. Jon Saunders, the Director of The Nike Ad, in a 2014 interview to an advertising industry publication admitted to lots of hidden gags in The Nike Ad. “We really wanted the film to be absolutely

loaded with jokes, so we kept on pushing. It really kept evolving right up until the end”. <https://shots.net/news/view/nike-and-passion-give-the-world-cup-itslast-game> Retrieved June 30, 2020

32. Also, in June 2014, just prior to the release of The Nike Ad, Saunders placed on his Facebook page three posts, including web links to The Nike Ad, announcing the coming release of the video.

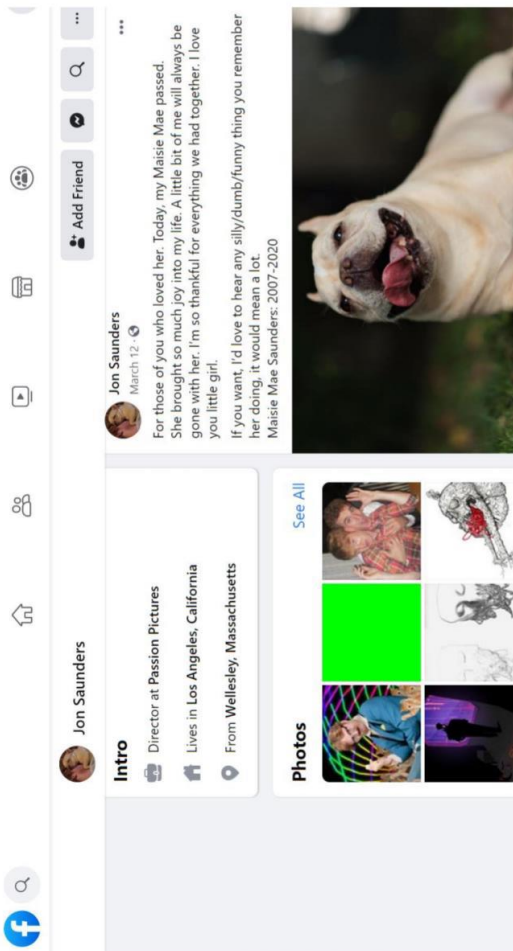


Ex. SAC 7. The Nike Ad’s Producer Jon Saunder’s Facebook Page. “Look for Maisie”.

33. In one of these posts Saunders points to a short snippet of The Nike Ad concerning one of the soccer stars (Rooney) and states “look for Maise”.

App.62a

Maise was Saunders pet bulldog. An image of a bulldog can be seen on a hat worn by the player in the linked snippet.



Ex. SAC 8. The Nike Ad’s director Jon Saunders’ loveable dog “Maise Mae” that passed in March 2020, but lives on in The Nike Ad and in many people’s hearts.

34. Easter eggs are hidden images in videos that many viewers try to find by using software that lets them go frame by frame.

35. Based on Leaf's findings so far, there must be other nonconscious "jokes" still hidden in this video.

36. Ex. SAC 1 above, contains the image of the soccer player lying on his back masturbating. There is a faint image of the face of a bulldog on the players' right leg, highlighted.

37. Saunders use of the lure to find a dog so that children are exposed to pornography is arguably a criminal act as set forth more fully herein.

Xavier Zahra—The Nike Ad's Previz/Storyboard Animator

38. Xavier Zahra aka Xavier Kinouzem—The Nike Ad's lead previz animator—animated "storyboard"—obviously hates America, the current President and even former President Barack Obama.

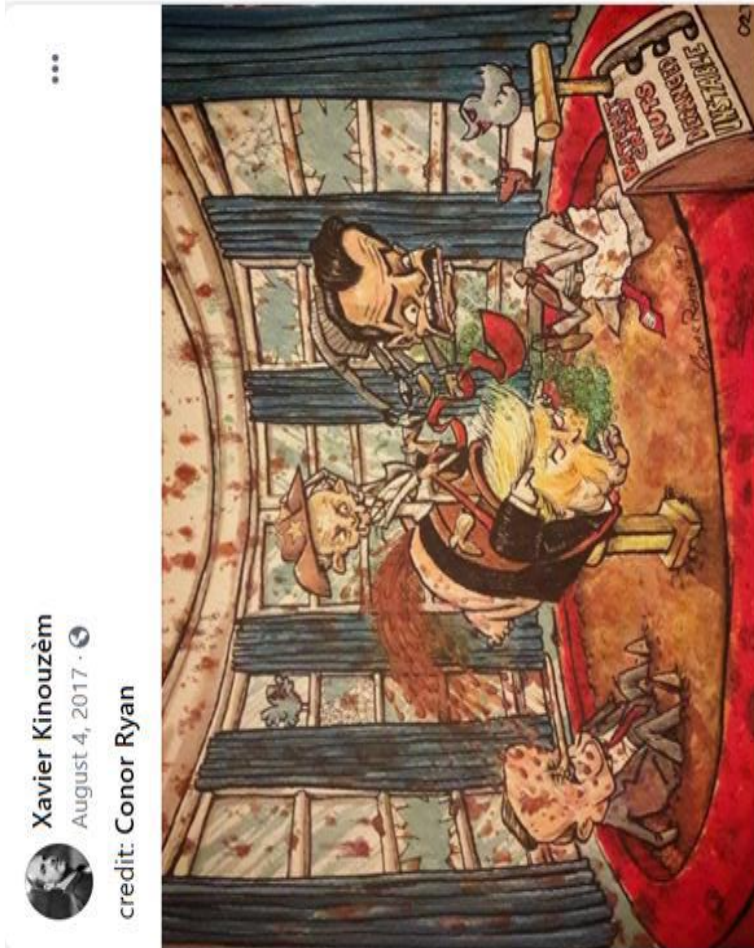
39. Posts from his Facebook page in June 2016, contain contempt for not only American leaders but also governmental policies concerning immigration issues and border security procedures.

40. Zahra went on to state that he himself was on the American no-fly list.

41. Further, in August 2017, Zahra posted on his Instagram page a political cartoon critical of the American president. He credited this cartoon to Conor Ryan.

<p>Xavier Zahra June 18, 2016</p>	<p>Anyone with a conscience would never vote for Trump. Anyone with a conscience would want to reform the System, this world is as toxic as it is beautiful. But do not Vote, do not Act and the extremists will Win, Win, Win.... Trump is the extremist and a much bigger threat to the World equilibrium than his is currently, they both are the vehicle of radical ideology that are based on hate and fear to control and manipulate the masses. I had a working Visa in the US, I was costing my company more than 15k a year on top of the Visa super expensive fees just to match the basic health insurance rights I had back in Britain (which are not even as good as in France), that's without even including my Salary - I am talking numbers and Money because that's what America is about isn't it? That's the core value of this country... someone said "No! It's Freedom"... AH-HA-HA-HA-HA!</p>	<p>Most of the population are slaves of their TV sets or too lazy or tired to get a critical and educated understanding of the reality of the World). I was sent in the US because of my sister (knowledge - and still, I was "fired" and still am, most likely because my dad was born in Tunisia (he was just born there from 2 French parents, he's always lived in France and is a high profile French State representative)... and that was during Bush administration, I am still on the list under Obama... but at least I could ask to have my name removed from it after - once again - further checking... I won't do it, because Fuck you, you do it, it's your fucking list, I love the ritual of getting checked and asked questions like: "Which country have you been to in the last 10 years?" and having the officer frown at me and asking this question aggressively: "What were you doing in Vietnam?" ... (the war is over dude... still bitter you lost? I am French and wasn't even born when this war ended and has nothing to do with your bullshit Nationalist Pride so leave me out of it...). Each time I want to visit or come for business in the US, I am held 2 to 4h at Homeland Security... being asked the same questions at least twice by at least 2 different officers (it's their trick to see if your story holds) America has the toughest border</p>	<p>control I have ever experienced and I have been very lucky to get to travel around the world. Anyone believing in the Rhetoric of Trump is brainwashed and/or live in fear. Don't let your fear get the best of you, get some common sense - things are so fucked up you may have to vote for the least worst choice, we did it in France when Right Wing Extremist Jean-Marie Le Pen was against Jacques Chirac during the election back in 2002... believe Sanders is the wisest choice, but the reality of what America is today most likely won't allow him and most importantly the values he defends to be falling the world of tomorrow just yet... the future of the world is in your hand America... and the world is watching and listening... are you?</p>
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Ex. SAC 9. Defendant Nike's lead story boarder Xavier Zahra espouses his views regarding America (he is on the no-fly list of the Immigration authorities—Homeland Security). Zahra/Kinouzem's hatred for America seems apparent.

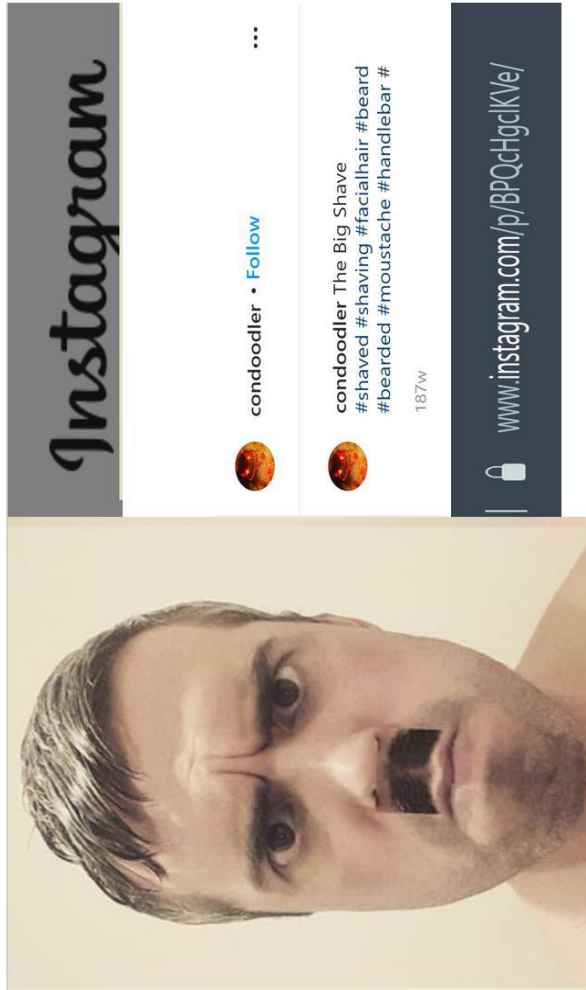


Xavier Kinouzèm
August 4, 2017 · 🌐

credit: Conor Ryan

Ex. SAC 10. The Nike Ad's lead previz, Xavier Kinouzèm's hatred for America with his comrade Conor Ryan listed as credit.

Conor Ryan–Lead Animator for the Nike Ad



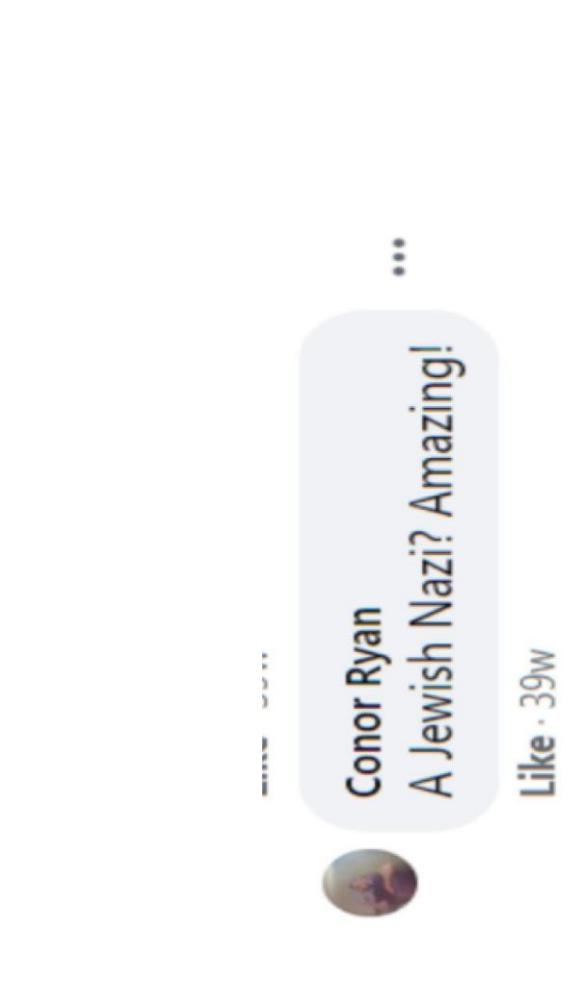
Ex. SAC. 10.1. The Nike Ad’s lead animator publicly posting (and posing) as *Führer* Adolf Hitler.

42. Conor Ryan was the Lead Animator for The Nike Ad.

43. The Nike Ad used dozens of animators during the creation of this film and Ryan was in charge of their work.

39. A review of Ryan's Facebook and Instagram pages found multiple entries of political cartoons directed at the American president.

40. Many of these cartoons contained anti-Semitic symbols and images.



Ex. SAC 10.2. Ryan admits (by facetiously denying given his demonstrated history of wrapping Jews in Nazi flags, symbols, and depicted as not human, such as serpents) to believing that Jews as Nazis is a valid description. That is why a tall blonde Nordic “white supremacist” type leads “The Jews” in The Nike Ad.

41. Ryan admits to believing that equating Jews with Nazis is a valid comparison, which manifests Jew-Hatred.

42. In the exhibit below the setting for the cartoon is in the Oval Office at the White House.

43. Ryan depicts White House Senior Advisor Stephen Miller as a snake, a common Nazi trope of a Jewish person.

44. Miller, who is Jewish, is drawn with a snake body and wearing clothing adorned with swastikas in black surrounded by white circles with a red background comprising official Nazi flag.

45. Stephen Miller also has a forked serpent tongue.



Ex. SAC 11. Official Nazi Flag (“Reverse side”).)



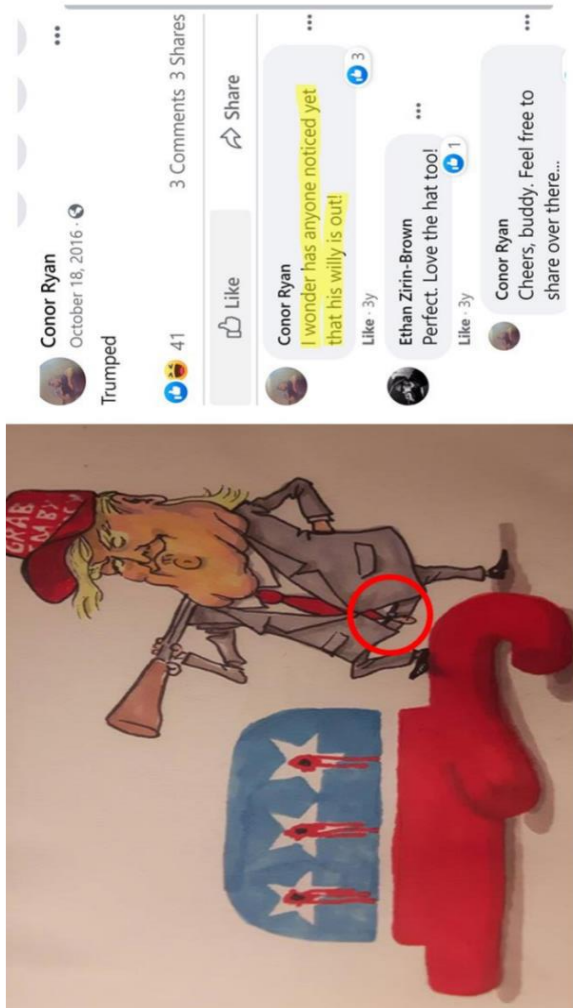
Ex. SAC 12. Racial Jew-Hatred manifest by The Nike Ad's lead animator Conor Ryan in a cartoon he created.

46. Conor Ryan's political belief system is not at issue for this complaint.

47. Conner Ryan's predisposition to use anti-Semitic symbols and messages in his work, and his apparent anti-Semitism is at issue.

48. The Nike Ad's lead animator, Conor Ryan also lamented that no one had discovered the little penis Ryan had drawn on President Donald J. Trump.

49. Inappropriate penises are illegally displayed throughout The Nike Ad, but someone did consciously notice some of the many within The Nike Ad-eventually.



Ex. SAC 12.1. A nonconscious message on The President's hat for many, and what amounts to The Nike Ad's lead animator's "admission" regarding his use of male genitalia, throughout The Nike Ad, and the nonconscious message on the hat conveyed by just a few letters.

50. The Nike Ad's lead animator Conor Ryan, also used a subliminal message about Trump having said in an interview about grabbing women by their private parts. This is clearly and effectively done by the words on the President's hat, which of course was consciously noticed *by some* as intended.

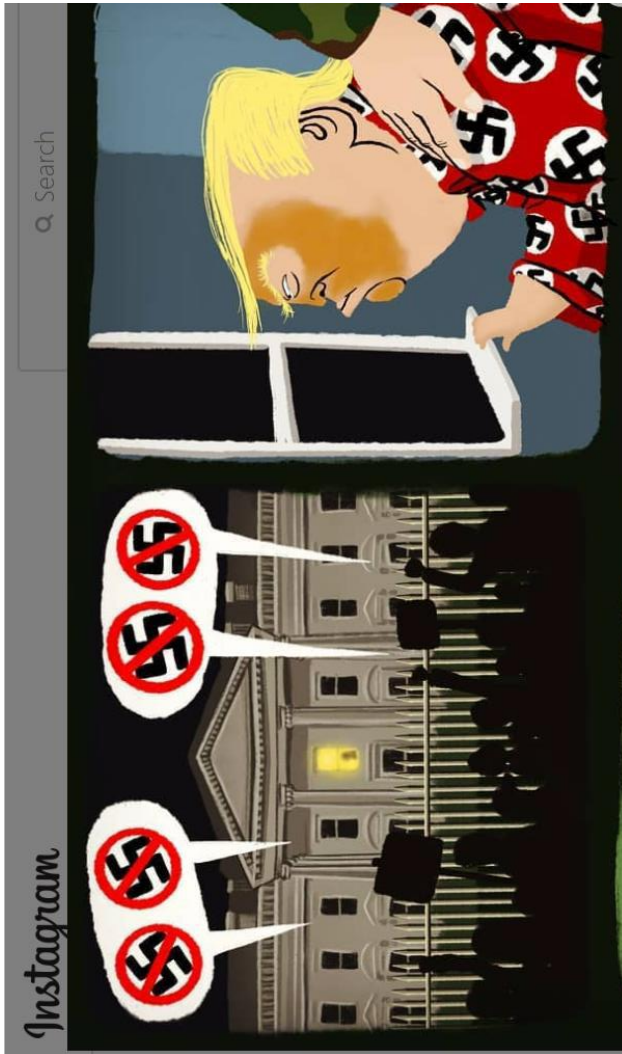
51. The fact that the nonconscious message manifest by only a few letters-was understood consciously by some-proves The Nike Ad's lead animator knows that nonconscious messaging works, knows how to use it, and the recognition of the hat shows that others get the message, even with a few letters (As is the case with changing a few details when showing "ISIS", and "KIKE" in The Nike Ad).



Ex. SAC 12.2. The Nike Ad's lead animator's manifestation of artistic skill and *dedicated* hatred, which is manifest throughout The Nike Ad.

52. The Nike Ad's lead animator's extremist view endorsing the assassination of the United States President, and proclivity for expressing himself using the penis is evident.

53. The Nike Ad's lead animator is an anti-Semite according to the definition of anti-Semitism adapted by the United States State Department (Based on the images he has created herein, and statements he has made regarding Jews). "Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such . . ." <https://www.state.gov/defining-anti-semitism/> retrieved August 20, 2020.



Ex. SAC 12.3. The Nike Ad's lead animator's—Conor Ryan's—proclivity for everything Nazi virtually all the time.



Ex. SAC 12.4. The Nike Ad's lead animator Conor Ryan's cartoon. A nonconscious dual perception Nazi flag on the White House is obscured slightly by reversing and varying slightly the Nazi swastikas, just like the Jewish Star was slightly changed to give Defendant Nike the fake excuse that the deceptive Jewish Star was really a soccer ball, in The Nike Ad. More importantly, the reverse and altered Nazi swastika is a dual perception of a skull. This is

exactly what The Nike Ad did with the Jewish religious symbol, the Jewish Star by often incorporating the Devil into the Jewish Star, or attached to the face of a Nazi caricature of a Jew. The inset has visible black lines drawn in that were grey in the original.



Ex. SAC. 12.5. Hidden sexual image, Nazi swastika.



Ex. SAC 12.6. The Nike Ad's lead animator's depiction of President Donald J. Trump.



Ex. SAC 12.7. The Nike Ad's lead animator's depiction of President Donald J. Trump. Notice the extra face on President Trump's ear. The Nike Ad uses the same technique to portray the Kike Crowned Jew Devil, where the Devil shares an ear with the Kike Crowned Jew.

54. The use of nonconscious hateful images, whether they are hidden, darkened, blurred or otherwise artfully concealed is unlawful because they are deceptive and material.

55. This, especially when these images are promoting anti-Semitic, hateful, pornographic, terror threats, and inappropriate material directed to a massive worldwide audience that primarily targets children and adolescents.

56. Islamist Jew haters and left wing Jew haters, including vast members of the mainstream media and social media equate Jews and Judaism with Nazis and Nazism, as The Nike's Ad's lead animator Conor Ryan apparently does by wrapping the Jewish White House advisor Stephen Miller in Nazi flags, and portraying him as a Devil, and a serpent. (Ex. SAC 12)



Ex. SAC 13. Equating Jews with Nazis.

57. All Defendants were on notice that these deceptive techniques have been used and are being used “mainstream” to promote racial hatred, religious hatred, and anti-Semitism.

58. An Islamic Marvel illustrator—Ardian Syef—placed hidden anti-Semitic, anti-Christian, and pro-Islamic messages in a comic book for children and teens, just like the Defendants Nike and Wieden + Kennedy have done in The Nike Ad as alleged herein.

59. Syef admitted in the image below the “51” on the shirt refers to Quranic Sura QS 5:51—which warns that Christians and Jews should not be taken as friends and cannot be trusted—according to the New York Times article—<https://www.nytimes.com/2017/04/10/arts/marvel-x-men-gold-syaf.html> retrieved on April 17, 2017. This based on admissions by the illustrator.



Ex. SAC 14. Nonconscious anti-Semitic messages of hate in a recent Marvel comic manifest by Quranic Surah 5:51 (QS 5:51) on shirt highlighted.

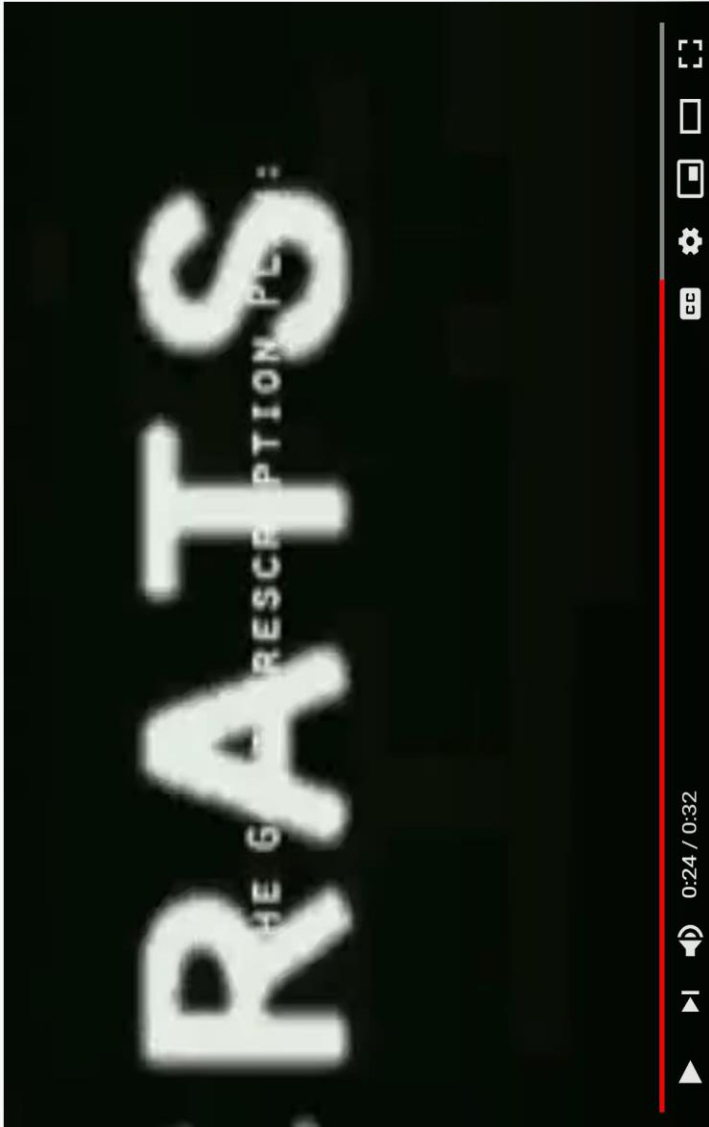
54. Syef admitted that in the image below, “212” refers to the Indonesian movement to oust the Christian Governor of Jakarta, Basuki Tjahaja Purnama. The word “Jew”, as part of Jewelry was deliberately placed next to the Jewish character Kitty Pride because presumably Jews are responsible for “everything” and must be labeled.



Ex. SAC 15. Marvel hero Kitty Pride as “Jew” associated with the “212” movement.

55. Marvel fired the illustrator—Ardian Syaf—immediately on a Saturday evening after finding out what the illustrator had done. Proof that anti-Semitic messages “hidden” in the media are material, as they are in the instant case before this Court.

56. When the issue was raised that a Bush Republican presidential ad in 2000 nonconsciously flashed “rats” for a very brief period—one thirtieth of a second—after displaying “Democrats”, the Republican ad was immediately pulled, although the Republicans denied pulling the ad because of the subliminal. <https://www.deseret.com/2000/9/12/19528524/bush-denies-campaign-ad-has-subliminal-message> retrieved August 17, 2020.



Ex. SAC 16. Bush 2000 political ad. “RATS” displayed 1/30 of a second.

57. Candidate John James' ad for the Michigan US Senate seat in 2018 had a nonconscious swastika and it was immediately pulled when discovered, James taking full responsibility. "It's my responsibility to stand and denounce hatred and bigotry and take responsibility for that error and omission," said James.



Ex. SAC 17. Nonconscious Nazi swastika that appeared in John James Ad.

58. Disney recalled all the Rescuers DVDs with nonconscious sexual content—a nude woman in a window—in 1989. <https://apnews.com/0c4e3681c3576b572b1d6204e96aec6a#:~:text=on%20Friday%20recalled%203.4%20million,in%201977%2C%201983%20and%201989>. Retrieved August 17, 2020.

59. Defendant Nike, despite much more overwhelming proof of such deceptive hateful and harmful content in The Nike Ad, has refused to do anything to remedy the situation.

60. It is illegal for anyone, including Defendants, to test the effectiveness of *The Last Game's* deceptive *nonconscious* messages of hate and/or pornography, and terrorism because of the damage it can cause to the viewer by making them hate Jews, or otherwise negatively affecting their minds. Ex. 0 ¶ 93, Affidavit of Motley Professor Emeritus UC Davis).

[I]t is possible to conduct social-scientific research to test the hypothesis (or opinion) that the inattentional and subliminal stimuli in Drive (and in the Nike ad) discussed above do indeed have the effects predicted above on individuals already predisposed toward anti-Semitism. And it is possible to run the same test for subjects more neutral toward Jews. In fact, as a social scientist, I seriously considered running just such an experiment. I am confident, however, that such a study would not be allowed by the Human Subjects Committee, *i.e.*, Institutional Review Board (IRB) of my institution (University of California at Davis). I sat on that IRB for over 30 years, and Chaired it for several years. I am confident that the IRB

would consider it unethical to expose subjects (usually college sophomores) to the stimuli discussed above because of the chance that such exposure would trigger or exacerbate biases toward Jews. It is my opinion that the use of those symbols is unethical for the same reason in *Drive* and in the Nike ad.

61. It is illegal to test the effectiveness of the pornography including child pornography in The Nike Ad for reasons including because of its potential to negatively affect the mind without the viewer's informed consent, or realization.

62. Despite this, Defendants Nike and/or Wieden + Kennedy likely unlawfully tested the nonconscious anti-Semitic messages and/or had reason to believe such anti-Semitic nonconscious content and subtle anti-Semitic content—including the pornography—would increase sales of Nike products, and otherwise increase the effectiveness of The Nike Ad.

63. The Nike Ad is an offensive illegal human experiment because it deceptively exposes humans to hateful and harmful stimuli that can negatively affect them, and then measures the results. This has been considered unethical and is now illegal following the Stanley Milgram electrical shock experiment in 1961, and the *Stanford Prison Experiment* (Where college students played the role of prison guards to other students) in 1971.

64. The Nike Ad is worse in many ways than the illegal Milgram and Stanford experiments because all Defendants have never disclosed to anyone—and Nike has denied—including Leaf, what every viewer

has been illegally exposed to. Something that was disclosed in both the aforementioned illegal experiments.

65. The Nike Ad is also worse than Milgram and Stanford because neither experiment promoted hate, pornography, or terrorism.

66. The Nike Ad is also worse than Milgram and Stanford because The Nike Ad is purely for money.

67. For years prior to Leaf viewing The Nike Ad, Nike made the following representations of facts in a positive way extolling their company's values, all of which Leaf was generally aware of.

- a) Nike would never again use slave labor (*See* <https://www.nytimes.com/1998/05/13/business/international-business-nike-pledges-to-end-child-labor-and-apply-us-rules-abroad.html> retrieved August 16, 2020. “*Nike Inc promises to root out underage workers and require overseas manufacturers of its wares to meet strict US health and safety standards.*”) However the Gatestone Institute reported (citing a report “*Uyghurs for Sale*” by the non-partisan Australian Strategic Policy Institute.) *See* <https://www.gatestoneinstitute.org/16263/china-slave-labor-nike?anid=4>: retrieved

The report's accusations against Nike are damning. “A factory in eastern China that manufactures shoes for U.S. company Nike is equipped with watchtowers, barbed-wire fences, and police guard boxes,” it noted. . . . There, people have been

kept against their will in inhumane conditions. This facility, a Nike supplier for more than three decades, produces approximately eight million pairs of shoes each year.

- b) Nike would carefully consider logo design so as not to offend religions (*See* <http://masud-blog.com/allah-on-nike-shoes/> retrieved August 16, 2020.)
- c) Nike recalled shoes that had a logo that was offensive to the Islamic faith (*Id.*).
- d) Nike was building a children's playground as compensation for offending Muslims (*Id.*).

68. The above representations of fact lead Leaf to believe that Nike would not promote overt subtle and subliminal: pornography associated with children; terrorism, and Jew-Hatred.

69. On or about June 11, 2014 Plaintiff Martin Leaf read an article discussing a new Nike "ad" as being anti-Semitic according to some (because the logo on the bad guys resembled a Jewish Star), and not anti-Semitic according to others including the ADL (Anti-Defamation League) who declared that those alleging anti-Semitism were "certainly off base", and such false claims against Nike regarding anti-Semitism diminished the legitimate claims. <https://www.timesofisrael.com/adl-rejects-anti-Semitic-racism-in-nike-ad/> retrieved June 3, 2020.

70. In retrospect it is clear that the ADL did not understand this new form of deception manifest by *Drive*, and The Nike Ad. It was premature for the

ADL, within hours of The Nike Ad release have a spokesperson, criticize and quite frankly ridicule those claiming The Nike Ad was anti-Semitic, because it takes much more time than that to rule out that the offensive content complained of herein is *not* in any given media.

71. The ADL is a charity that does a good job of monitoring groups that hate Jews and the symbols they use, including historic Nazi propaganda.

72. The ADL lacks the knowledge and resources to deal with media that contains very subtle and nonconscious offensive messages.

73. Leaf had a certain brand trust regarding Nike like he would any other major publicly traded American corporation like Coca Cola, and had reason to believe that such a corporation as Nike would not put child pornography, terrorism, and Racist messages and images including subtle, overt and subliminal in their product—in this case a commercial.

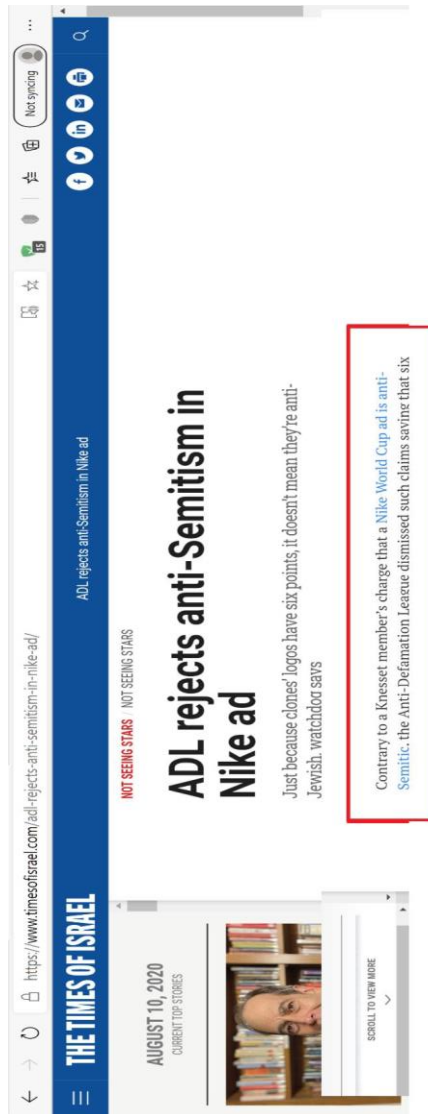
74. Leaf clicked on the link in the above article, linking to an hours earlier version of the Times of Israel article-<https://www.timesofisrael.com/nike-ad-features-evil-jewish-clones/> retrieved August 2, 2020-where Defendant Nike made the following positive representation of fact:

Nike said in response to the MK's [Minister of the Israeli Knesset's] remarks: "The logo shown on 'The Clones' player uniforms and on the advertising boards in 'The Last Game' film is a logo of a football. Any resemblance to any other symbol or image within the campaign is entirely coincidental and unintentional."

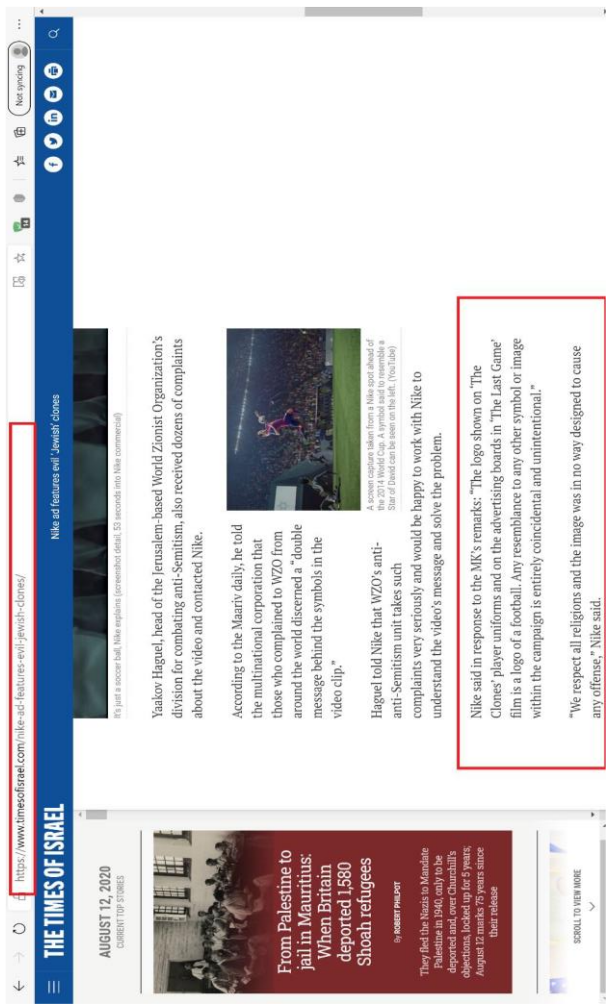
“We respect all religions and the image was in no way designed to cause any offense,” Nike said.

75. Shortly thereafter, Plaintiff went on You Tube, and viewed The Nike Ad on Nike’s You Tube page. <https://www.youtube.com/watch?v=Iy1rumvo9xc> Retrieved October 6, 2018. A similar version to the one Plaintiff viewed of *The Last Game* can be found at <https://www.youtube.com/watch?v=KriBQVhsgZk> Retrieved June 4, 2020, and is being submitted on electronic media as Ex. SAC 3. This one website has been seen over 127 million times.

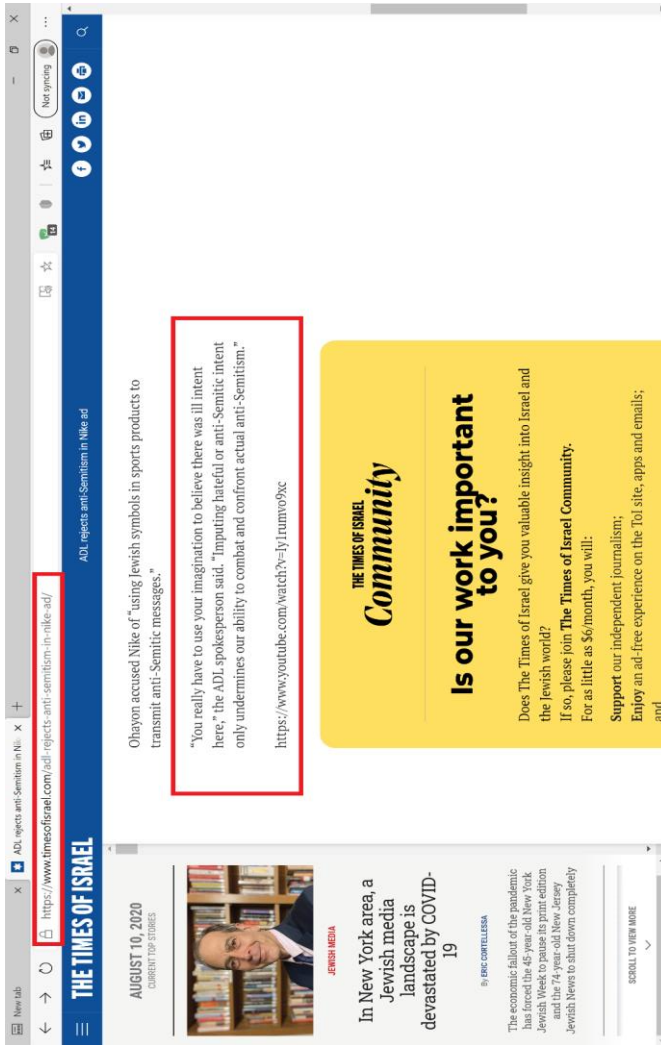
76. This was the sequence of his viewing:



Ex. SAC 17.1. Leaf viewed this first, including the link to Nike's denial.



Ex. 17.2. Leaf viewed this second, including Nike's denial.



Ex. 17.3. Leaf viewed this third, including the link to The Nike Ad.

77. The material facts Leaf complains of herein could not have reasonably been known by Leaf because even if the issue of whether the Logo resembled a Jewish Star was equivocal, and nothing more than that was mentioned prior to Leaf viewing The Nike Ad, nothing was mentioned anywhere about nonconscious, subtle and overt: Jew-Hatred; Nazi images and themes; pornography; and terrorism including terror threats, and all the material facts Leaf alleges he did not expect or had reason to know were in the Nike Ad.

78. After *numerous* viewings, over a period of months, including frame by frame, Plaintiff determined that The Nike Ad was anti-Semitic and was materially and *deceptively* so.

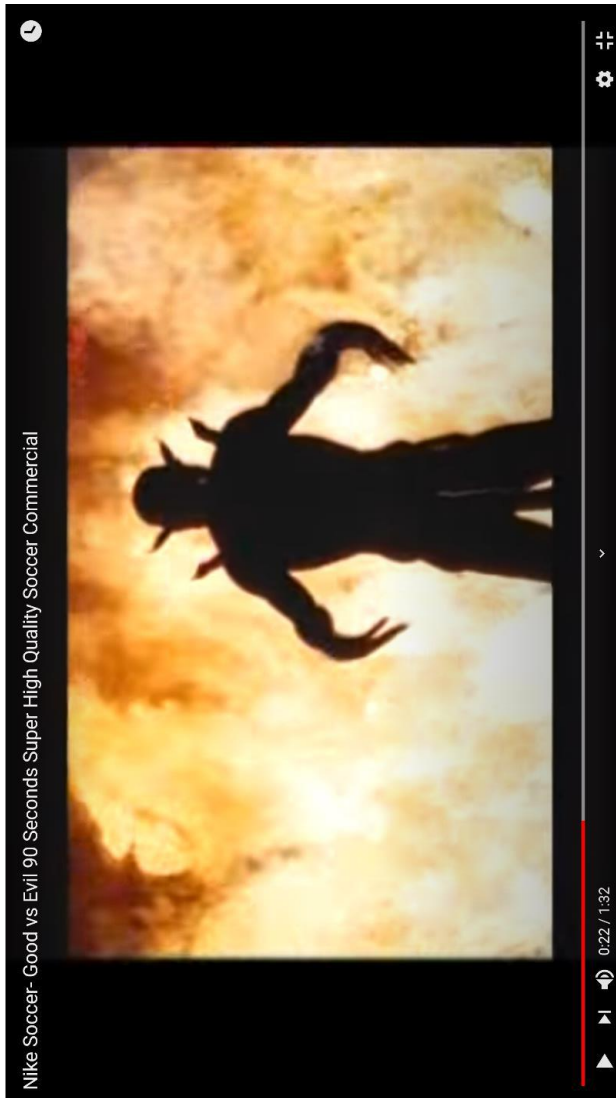
79. European and South American soccer fans have a high rate of obsessive anti-Semitism. <https://www.annefrank.org/en/about-us/research/social-research/research-on-antisemitism/antisemitism-football/> Retrieved June 3, 2020. <https://edition.cnn.com/interactive/2019/06/sport/antisemitism-soccer-chelsea-spt-intl/> Retrieved June 3, 2020. (Both articles among presumably millions of articles and studies noting the widespread problem of anti-Semitism among European soccer fans, based on a google search of the term “anti-Semitism in football”—3,200,000 results.)



Ex. SAC 18. Jew hating soccer fans.

80. Defendant Nike and Defendant Wieden + Kennedy created a motion picture/advertisement in 1996 where the Nike clad “Good Guys” are playing the Devil and his Minions to save the game of Soccer. <https://www.youtube.com/watch?v=834gDrY2Hd8>
Retrieved June 20, 2020.

81. There is what appears to be a large penis on the Devil. *See Good v Evil* from 20 to 22 seconds to view this in context. Note that when the Devil guards the goal towards the end of *Good v Evil* (45s-52s), the “penis” is gone. This, indicative of more than one game—including one of deception—that is being shown in *Good v Evil*.



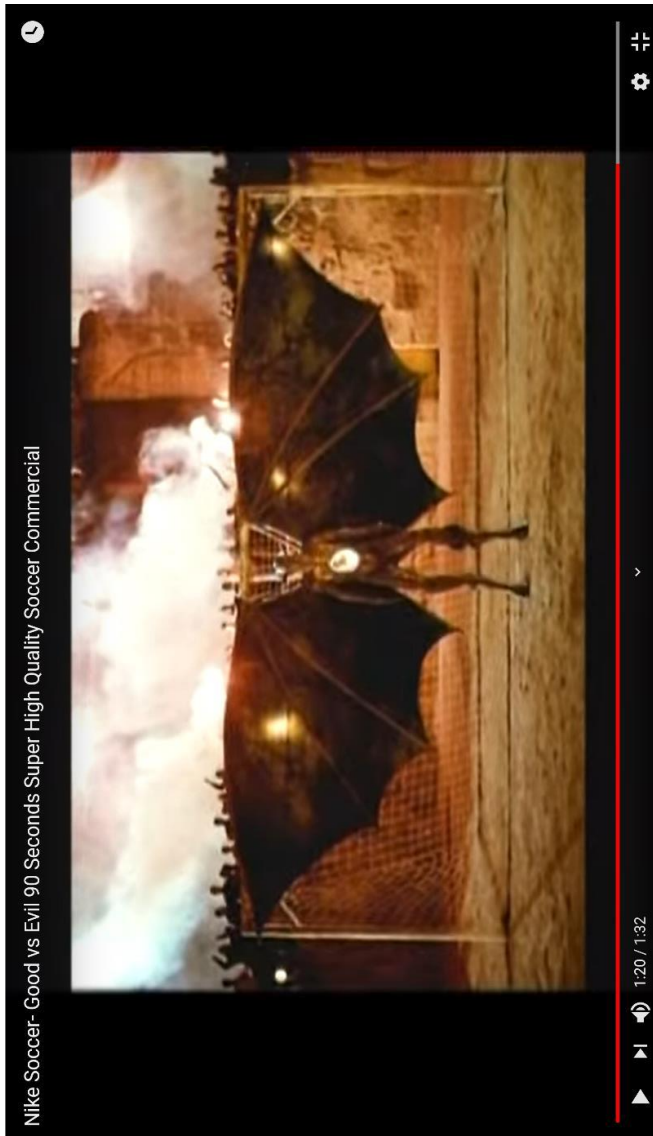
Ex. SAC 19. The Devil with enlarged “penis” leading his minions to destroy soccer. From Defendants Nike and Wieden + Kennedy’s “Good v Evil” 1996.

82. Defendants Nike and Wieden + Kennedy chose to make the Devil black to appeal to the Racism among European soccer fans, thereby making the Devil more hated and as a result making the viewer more involved with the Advertisement/Film *Good v Evil*³. The term Black Devil is a Racist slur. See https://www.vice.com/en_us/article/438ejd/darren-wilsons-testimony-and-the-historically-racist-black-devil-trope Retrieved June 20, 2020. (Describing “Black Devil” as a Racist trope).

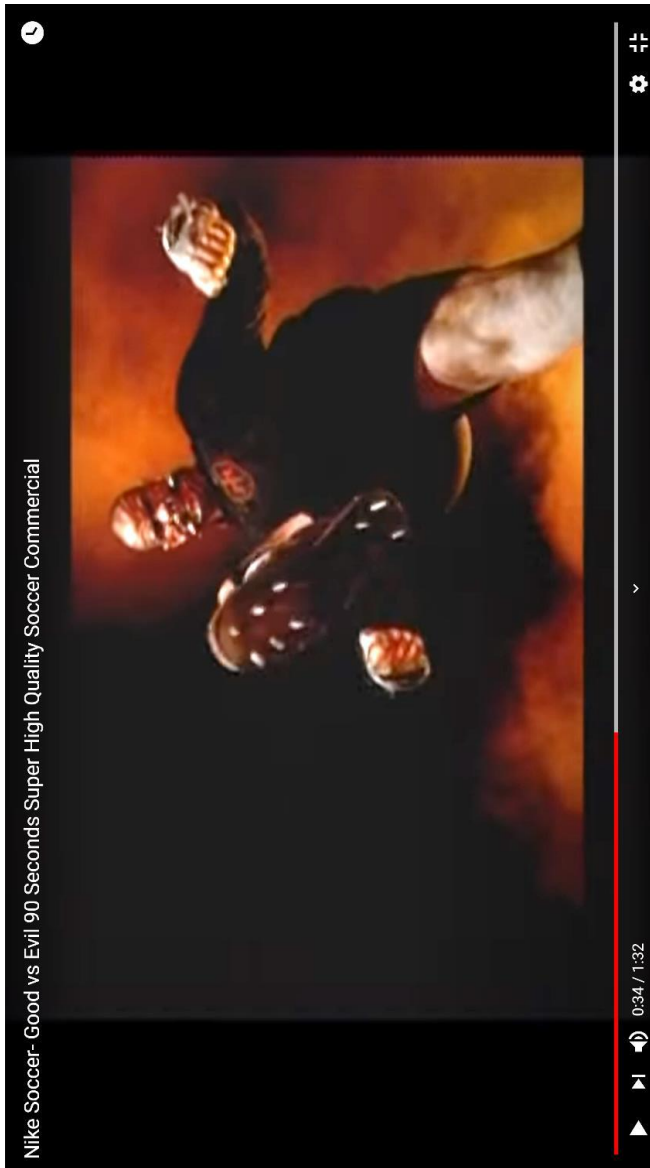
³ It is the same reason that Defendants Nike and Wieden + Kennedy twenty years later used The Jew Devil in The Nike Ad.



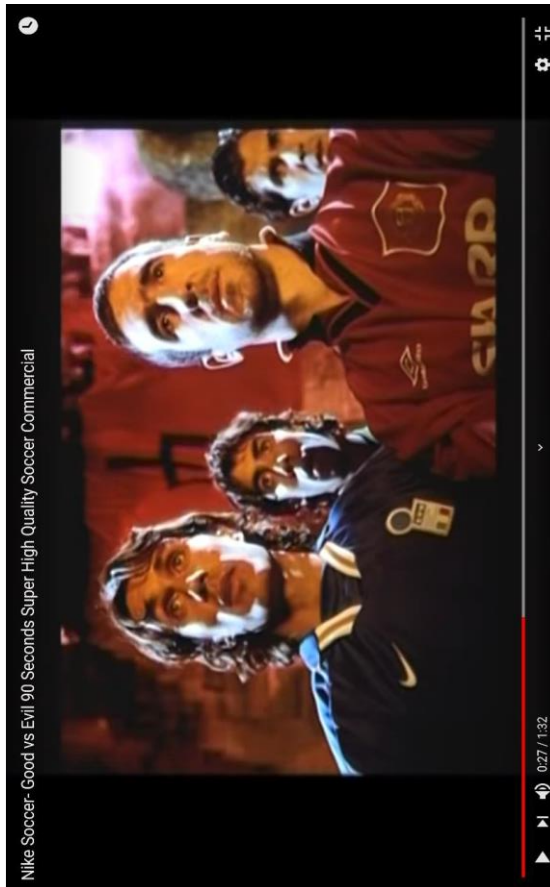
Ex. SAC 20. Defendants Nike and Wieden + Kennedy made the Devil black in Good v Evil, but his Minions are white.



Ex. SAC 21. If the Devil had a “tail” in the above frame, it is now missing.



Ex. SAC 22. One of the Devil's Minions with pitchfork logo



Ex. SAC 23. The Nike clad “Good Guys” are playing in the Devil’s Stadium. Note the Pitchfork flag on the stadium wall, and the pitchfork on the bad guys as their logo. In The Nike Ad the good guys are playing in the Devil Kike Jew’s stadium. In the Nike Ad, there are Jewish Stars on the flags on the Devil Jew Kike’s stadium walls, and on the bad guys to provoke even more hate than a Devil’s pitchfork would. In other words The Nike Ad is “new and improved” and exploits the dramatic rise in Jew-Hatred since Nike’s Good v Evil.

83. In Defendants' *Good vs. Evil* the Nike clad good guys defeat the evil Devil and his Minions and save soccer.

84. According to Bleacher Report.com, the Nike advertisement Good vs Evil was considered the fourth best soccer ad of all time. <https://bleacherreport.com/articles/756964-top-10-football-adverts-of-all-time>.

85. In 2014 Defendants Nike and Wieden + Kennedy used many of the same themes as in *Good vs. Evil*—and even added more offensive obscene content including child pornography and Terrorism—but this time instead of Evil being represented by the Devil and his Minions, Evil is represented by the hated evil “Devil” Jew, albeit using some subtlety and non-conscious messaging as originally advocated by Dr. Joseph Goebbels, *Reichsministerium für Volksaufklärung und Propaganda* (Reich’s Minister for Propaganda and Public Enlightenment) who believed that *subliminal and subtle* entertaining Jew-Hatred, directed to young adults, was the best way to promote anti-Semitic racism ⁴ (which is exactly what The Nike Ad is). This effectiveness of the subliminal is supported by recent peer reviewed scientific studies. See for example Exhibit 0-A. The effectiveness of Defendants Nike and Widen + Kennedy’s illegal research will be proven when discovery requires such research to be examined by Plaintiff. See Ex. SAC 102 (Referring to

⁴ Lee, S. J. (1998). *Hitler and Nazi Germany*. London: Routledge at 32. “At this stage, Goebbels had learned to introduce propaganda as a subliminal message within the context of a story with which the viewers could identify”. Also, see Rees, L. (2005). *Auschwitz: A new history*. New York: Public Affairs at xvi: “... the vast majority of his [Goebbels] work was much more sophisticated and much more subtle.”

Defendant Nike's marketing research). See also The Nike Ad's director Jon Saunders, in his interview (¶ 31 above) stated the following: "Animation took about three to four months, *with all the testing and development work we did.*"

86. The substitution of the *Jew* Devil as the bad guy in The Nike Ad (2014) for the Devil and his minions in *Good vs. Evil* (1996) is because of the growth and tolerance of anti-Semitism since *Good vs Evil*. See <https://www.theguardian.com/commentisfree/2016/dec/05/antisemitism-football-antisemitic-incidents-abuse> Retrieved June 20, 2020. (Charting the meteoric rise in European soccer anti-Semitic Racism since the 2013-2014 season).

87. Defendants are driving a vicious cycle by The Nike Ad exploiting existing anti-Semitism, thereby creating more, and as a result increasing demand for such anti-Semitic content.

IV. The Nike Ad Contains Nazi and Hate Symbols, Including Nonconscious Hate Symbols, Including A Swastika.

88. Lawrence Porte, familiar with hate symbols, found many of such symbols in The Nike Ad. See Ex. 97, Dec. of Lawrence Porte Homeland Security Special Agent In Charge (Retired) ¶ 17:

“In The Nike Ad, many of the nonconscious messages I have identified and that are reflected in the Second Amended Complaint are messages of hate, including hate symbols catalogued by the Anti-Defamation League.”

89. The opening frame of *The Last Game* contains a skull with two objects—a die and a soccer ball—below on either side, with a Nike swoosh on the skull.



Ex. SAC 24. The Last Game opening frame.

90.The Nazi *Schutzstaffel* “SS” used a skull and crossbones symbol.



Ex. SAC 25. Nazi Genocidal murderer Adolf Eichmann with SS skull and Nazi eagle on cap.

91.The Title Frame of the Nike Ad contains non-conscious Nazi, Neo Nazi, and Satanic symbols.



Ex. SAC 26. Title frame highlighted.

92. These Nazi images include the Arrow Cross which is center and tilted in the title frame. According to the ADL: “The Arrow Cross symbol derives from the Hungarian fascist political party known as the Arrow Cross Party that was active during 1935-45. Since then, various neo-Nazis and white supremacists have used the symbol themselves, either generically or as part of the logo of a specific hate group.” <https://www.adl.org/education/references/hate-symbols/arrow-cross> Retrieved June 20, 2020.



Ex. SAC 27. Neo-Nazi Arrow Cross-rotated.

93. *Nazi Schutzstaffel* “SS” lightning bolts are highlighted in the upper right corner of the title frame. According to the ADL: “The SS Bolts are a common white supremacist/neo-Nazi symbol derived from Schutzstaffel (SS) of Nazi Germany. The SS, led by Heinrich Himmler, maintained the police state of Nazi Germany. Its members ranged from agents of the Gestapo to soldiers of the Waffen (armed) SS to guards at concentration and death camps.” <https://www.adl.org/education/references/hate-symbols/ss-bolts> Retrieved June 20, 2020.



Ex. SAC 28. Nazi SS lightning bolts-ADL.



Ex. SAC 29. Nazi Genocidal murderer Joseph Mengele M.D. wearing his SS lightning bolts.

App.117a



Ex. SAC 30. SS lightning bolts.

94. A Devil's Pitchfork is also highlighted in the title frame. Nazis and anti-Semites associate the Jew with the Devil. See for example http://ghdi.ghi-dc.org/sub_image.cfm?image_id=2065&startrow=1 Retrieved June 18, 2020. Image below.



Ex. SAC 31. Hooked Nose Jew as Devil influencing a Priest. From Der Sturmer May 1938.



Ex. SAC 32—Nazi pub. *Der Sturmer* Jul. 1938



Ex. SAC 33-Nazi propaganda for Russians—"Jew unmasked". 1941

95. The illegal erect child or adolescent penis–child pornography since it depicts a minor in an “erotic nudity” context⁵–is displayed to draw the “mind’s attention” to the frame⁶. The hooked nose figure with the crown and the Devil references is a common anti-Semitic trope of the Devil Jew controlling the world. The Devil’s tail, the crown-like depiction, and the embedded Devil image all reinforce in the mind the idea promoted in The Nike Ad that the Devil Jew controls the world to the detriment of the Gentile victim. All this nonconsciously and therefore deceptively.

⁵ See MCL 750.145c, 750.145d, and *People v Czarnik* no. 3338856 (Mi COA 2018) making this a ten year felony for each person The Nike Ad was shown to, which was billions–because it is disseminated using the internet/computer. This is also a violation of Federal Child Pornography Laws.

⁶ Gillath, Omri; Mikulincer, Mario; Birnbaum, Gurit E.; Shaver, Phillip R. (May 2007). “Does subliminal exposure to sexual stimuli have the same effects on men women?”. *Journal of Sex Research*. 2 44:111–121, concluding women are more affected than men by subliminal sexual images.

96. The extent to which the “Kike⁷ Crown” is important and deceptively yet presumably effectively re-enforced is evident by the crown shadow, highlighted below. This is an advanced deceptive technique. If one compares the two frames (Ex. SAC 35 and Ex. SAC 36) of the children running down the stairs it is clear the soccer ball was drawn in that position in Ex. SAC 35 and distorted to make the knee appear to be an erect penis, and was not an accident. A careful viewing of Ex. SAC 34, shows the knee and legs in an awkward, unnatural position for running downstairs in order to set up the image of the erect penis.

⁷ A Kike is an ethnic slur for a Jew. As used herein, a “Kike Crown” is a depiction of a powerful, evil Jew with a crown on his head. This crown, as used by Nazi, and other anti-Semitic depictions, represents the power and control Jews are alleged to wield.



Ex. SAC 34. If one image captures the depravity of The Nike Ad it is this image. It contains child pornography implemented using advanced deception, advanced Nazi anti-Semitic stereotypes promoted using the finest artistic skills and medical knowledge. The way the Kike Crown is re-enforced using a fake shadow, as well as the Devil, including the Devil's tail and the typography of the Devil is consistent with a deep understanding of how the human brain perceives stimuli that is quickly presented, but intended to deceptively affect the viewer.

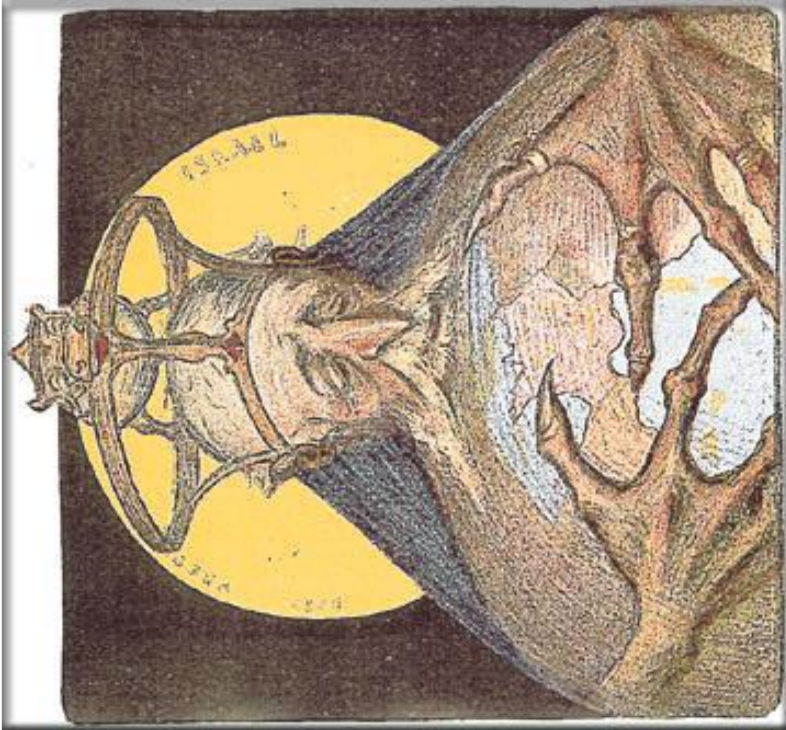


Ex. SAC 35. Picture of the Devil formed from the word “Devil” demonstrating high motivation and artistic skill. The yellow ball that goes across the Kike Crowned Devil also draws the “mind’s eye” to this important message. Notice the Kike crowned Jew shares an ear with the Devil, just like President Trump’s shared an ear with a face attached to the President’s face. Ex. SAC 12.5.



Ex. SAC 36. Fake nonconscious crown shadow to deceptively promote the “Kike Crown” message that the Kikes, *i.e.* Jews, control the world. That message is also manifest primarily by the crown on the hooked nose nonconscious Nazi Jewish stereotype. A Devil’s tail is also drawn to deceptively emphasize in the mind that the Kike Jew is the Devil in case your mind missed the point.

97.The “Kike Crown” is a modern and historic Nazi Racist anti-Semitic stereotype that the Jews control the world, but is not the most common anti-Semitic stereotype. Its use manifests sophisticated and dedicated depraved Jew-Hatred.



Ex. SAC 36.1. *Nazi Germany’s depiction of the Kike with crown controlling the world.*

98.Modern anti-Semitism also uses a nonconscious “Kike Crown”.



Ex. SAC 36.2. Wealthy evil Jew with deliberate nonconscious “Kike Crown” described in the film as ripping off Africans. From the B.B.C. anti-Semitic film McMafia. The lettering on the glass on the outside of his building spelled out his name-Sydney Bloom.

99. There are many other pornographic and sexual images that are deceptively and deliberately promoted to children and adolescents and therefore illegal and criminal, including a soccer player on his back clearly and graphically masturbating (unblocked image filed under seal). In the same image is another soccer player ejaculating. These pornographic images are shown for 48 frames, which is over one second and a half.

100. These are criminal offenses under both Michigan and Federal law because, although the images are not *child* pornography in these frames, the images are sexual acts being shown to minors.

101. The hooked nose stereotype is a common neo-Nazi, Nazi, and white supremacist anti-Semitic theme, described as forming the number “6”.



„Die Judennase ist an ihrer Spitze gebogen. Sie sieht aus wie ein Sechser...“

Ex. SAC 37. “The Jewish nose is crooked at its tip. It looks like the number six...” From the Nazi publication “Der Giftpilz”—The Poisonous Mushroom (1935).

102. The word “Kike” is flashed and the “mind’s eye” is drawn to the word “Kike” as the children run in front of it.



Ex. SAC 38. Subliminal Kike with Devil’s Tail quickly flashed. The significance of the Devil and Devil’s tail will be explained further herein.

103. Hebrew letters are placed on the cable car for at least two reasons: As an attack on the Jews; and more importantly as a prime⁸ for the drawing that spells out “Kike”, and as a prime for the logo on the bad guys so it is interpreted by the mind as a Jewish Star.

⁸ A prime will change one’s perception of what follows the prime. *See* Ex. 0 ¶ 36.



Ex. SAC 38. Nonconscious Terrorist message in Hebrew from The Nike Ad taunting Jews with the message “Come on vulture.” Vulture and buzzard are equivalent in Hebrew. This nonconscious Hebrew writing is shown right after the nonconscious “ISIS” is flashed. Expertise in Nazi propaganda, and Jew Hatred, such as manifest by *Drive* and The Nike Ad, is promoted with cynical nonconscious Hebrew letters and writing, as was done also in *Drive* (Hebrew letters in blood on the Jew’s hand).

104. The Nazi symbols, the hooked nose Kike Jew Devil, the Hebrew lettering, and the word “Kike”, all act as primes for each other and especially for the Jewish Star–like symbol, so that the mind will always interpret the symbol as a Jewish Star.

105. A nonconscious swastika is also displayed.

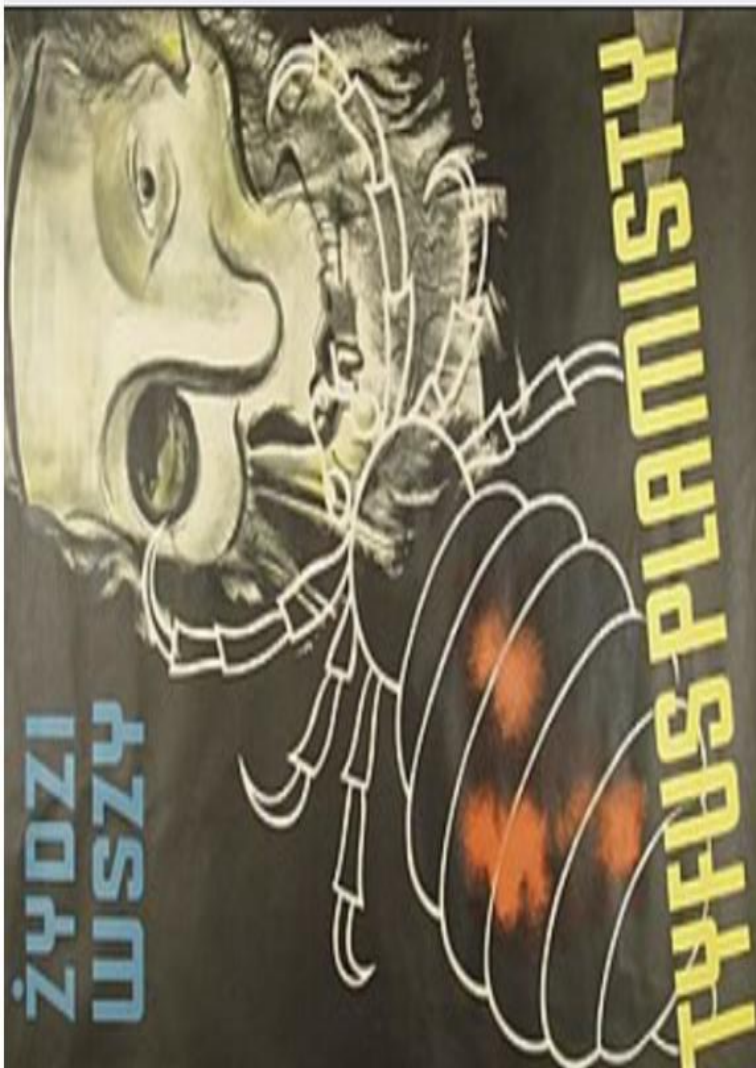


EX. SAC 39. Detail on wall highlighted showing subliminal Nazi swastika on The Nike Ad logo—top and to the right—in the opening frame. Notice die and flaming soccer ball on either side of skull.

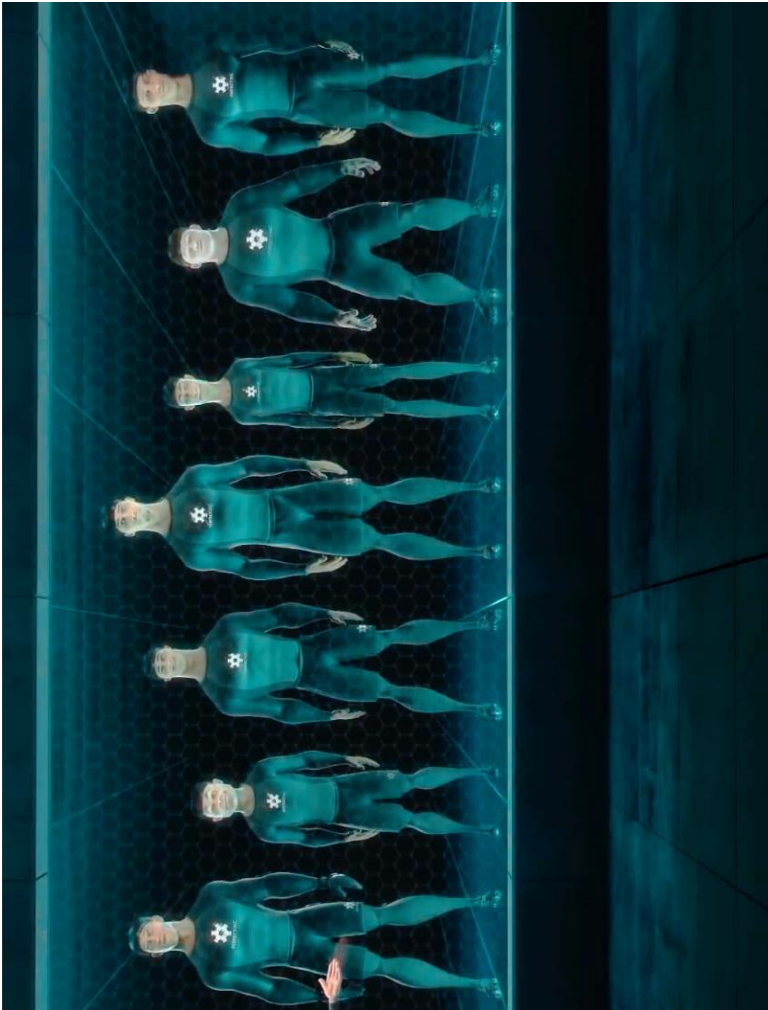
106. “The Jews” are “created” with a honeycomb insect background. The Jew as an insect is a common Nazi and neo-Nazi anti-Semitic theme. <https://twitter.com/RaphaelAhren/status/1231564392090808320/photo/4> Retrieved June 20, 2020.



Ex. SAC 40. Jews as flies in an anti-Semitic hate fest. Belgium 2020.



Ex. SAC 41. Nazi poster in occupied Poland. Jews as insects transmitting typhus.



Ex. SAC 42. Honeycomb in back of “The Jews”. The Nordic White Supremacist manager of “The Jews”, when first revealing them states: They are only human [the good guy soccer heroes], but what if they weren’t? I give you our clones [“The Jews”].

107. “The Jews” are also pictured in The Nike Ad as serpents, a common Nazi anti-Semitic theme.



Ex. SAC 43. “The Jew” with a snakeskin scaly leg and a snake’s mouth for an ankle tripping up one of the “good guys”.



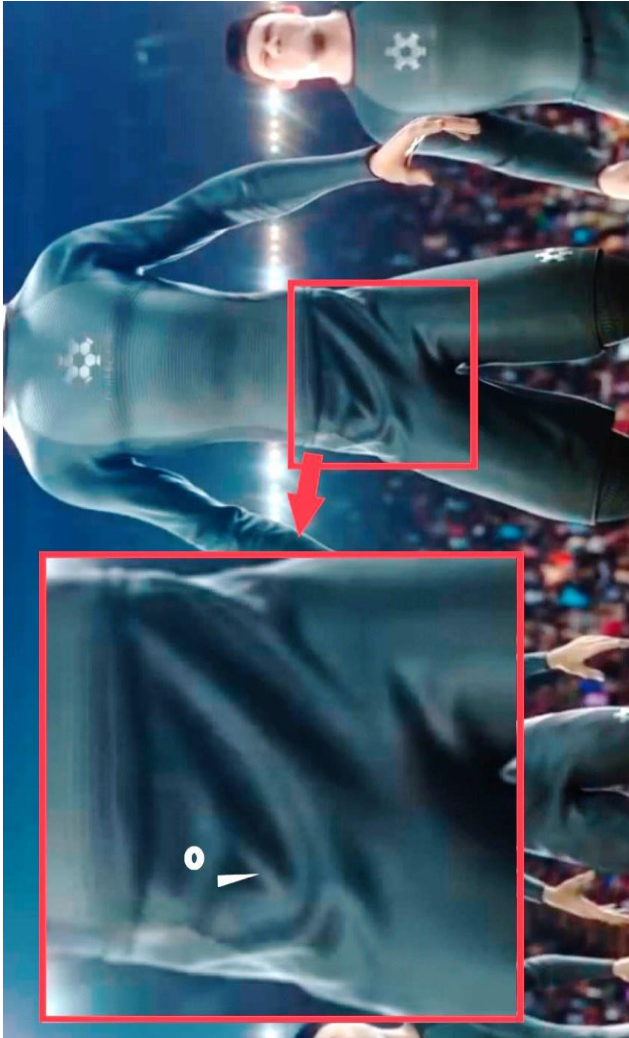
Ex. SAC 44. Egyptian Newspaper March 17, 2007.



Ex. SAC 45. "Don't Let Go". From the Nazi war criminal Julius Streicher's "Der Sturmer" March 1935.



Ex. SAC 45.1. Nonconscious snake heads with open mouths on the crotch of “The Jews” pants. “The Jew” on the left, has the serpent facing left, The Jew on the right, has the serpent facing right. There are also two snakes’ heads above the serpent facing to the right of the viewer with their mouths open.



Ex. SAC 45.2. Nonconscious snakes with open mouths just below the waist of “The Jews” pants. A white eye and fang were added for demonstrative purposes.

108. “The Jews” all wear bowl haircuts in every frame they are shown, which is now considered a racist hate symbol. See <https://www.adl.org/education/references/hate-symbols/bowlcutdylann-roof> Retrieved June 14, 2020.



Ex. SAC 46. “The Jews” All Wear A Racist Bowl Cut.



Ex. SAC 47. Mass murderer of black Americans praying, Dylan Roof with his racist bowl cut.

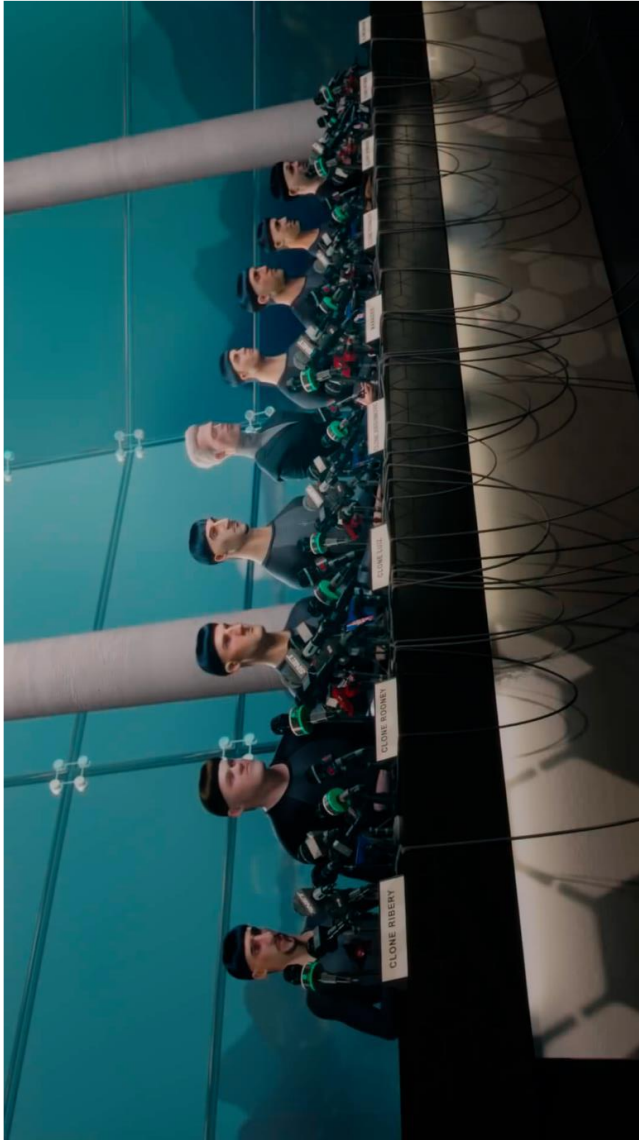
 HATE SYMBOL



Bowlcut/Dylann Roof

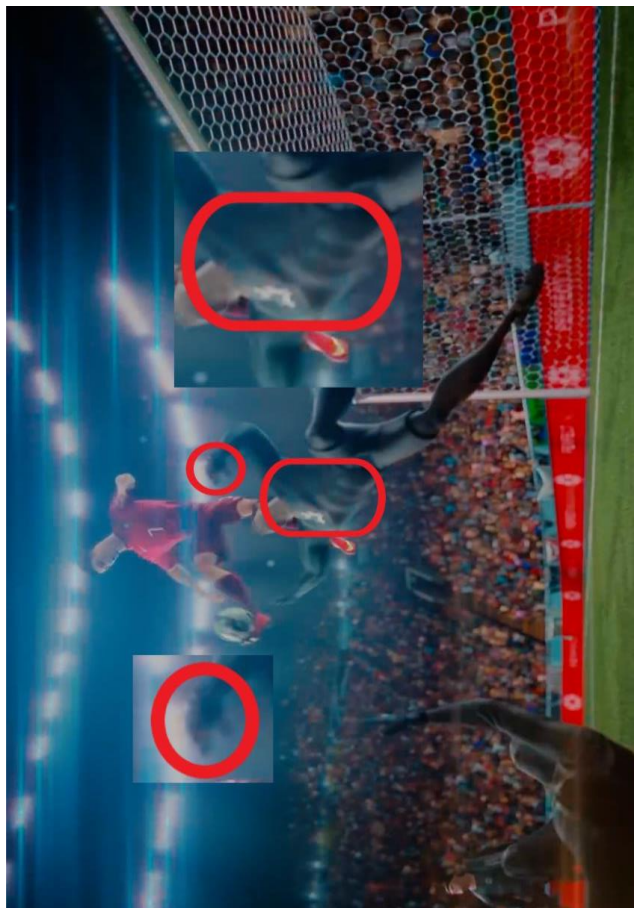
The "Bowlcut" is an image of a bowl-shaped haircut resembling the one sported by white supremacist mass killer Dylan Roof. People who use the "bowlcut" image or other "bowl" references admire Roof and call for others to emulate his racist murders.

Ex. SAC 48. From the ADL website.



Ex. SAC 48.1. “The Jews” all have hate symbol bowl cuts.

109. Many of the images of The Jews have Satanic depictions next to the Jewish Star, and Defendants' dissemination and/or promotion of The Nike Ad thereby desecrates Judaism's most recognized religious symbol.



Ex. SAC 49. "The Jews" with subliminal Devils, and snake head.



Ex. SAC 50. Nonconscious Satanic face on “The Jew”
Circled, with a desecrated Jewish religious symbol.
One of many.

110. This *dehumanizing* of the Jews in The Nike Ad makes The Nike Ad anti-Semitic, according to the United States Department of State. “Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews . . .” <https://www.state.gov/defining-anti-semitism/> Retrieved August 20, 2020.



Ex. SAC 51. Nonconscious Jew as Shark. A common anti-Semitic theme from *Drive* (2011). White teeth and eye drawn in *e.g.* teeth and eye not in the film—for demonstrative purposes. This is the same skillful nonconscious dehumanization of the Jews that The Nike Ad uses, albeit with snakes, insects, hooked noses, Devils, bowl cuts, etc..

111. The Nike Ad manifests its hatred of Jews and Judaism with the expertise typical of the most fanatical and obsessive Jew haters—sophistication, dedication, and experimentation in its Jew hatred-like Adolf Hitler and Adolf Eichmann.

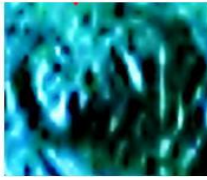
112. A Satanic LeBron James, the only black male in The Nike Ad has become one of “The Jews” with red Satanic eyes, and a racist bowl cut, in a depressing environment. The TV announcer refers to him as “Perfect LeBron”. He is finally liberated when “The Jews” are defeated.



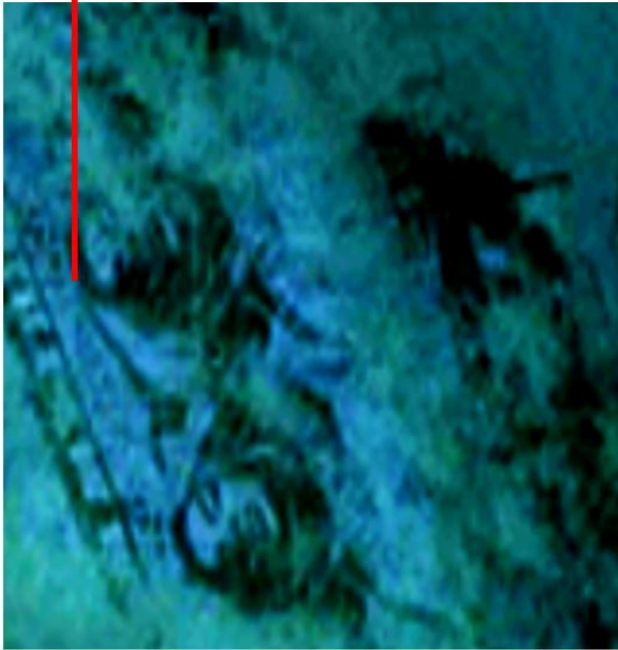
Ex. SAC 52. Satanic LeBron with red eyes and a racist bowl cut, as one of “The Jews”.

113. It is highly offensive to have a well-known black man wearing the recognized hate symbol—the bowl cut—used by Neo Nazis as a symbol to honor and emulate a mass murderer of unarmed black civilians praying in their Church.

114. There is a nonconscious image highlighted next to the trophy of a woman and a terrifying black man decomposing, forming a Racist chimpanzee likeness with the images as eyes. Green filter applied.



Right eye image



Ex. SAC 53. Highlighted, two nonconscious faces, the “male” to the right terrifying, next to LeBron—enlarged.



Ex. SAC 54. LeBron finally liberated from “The Jews”.

115. Obviously the most popular black person in America—arguably—wearing a Jewish Star as his basketball logo, which Nike claims is a football logo, in a depressing grey environment, playing basketball like they did in the 1950's with the two arm between the legs free throw, and then finally becoming a human being after “The Jews” are defeated, is the Nazi and current anti-Semitic stereotype of the Jews controlling black people for The Jews own benefit, and that it is incumbent on black people to defeat the evil Jews.

116. Other current incitement of black people against Jews, in addition to The Nike Ad, includes the lie—designed to incite—that only Blacks are real Jews and the “white Jews” are interlopers. *See* <https://www.youtube.com/watch?v=YZoKrt8cO54&feature=youtu.be> Retrieved August 17, 2020 describing the promotion of the Racist anti-Semitic lie that white Jews are not real Jews, but rather Blacks are the real Jews.

V. The Star of David—Jewish Star—Is the Logo of the Bad Guys

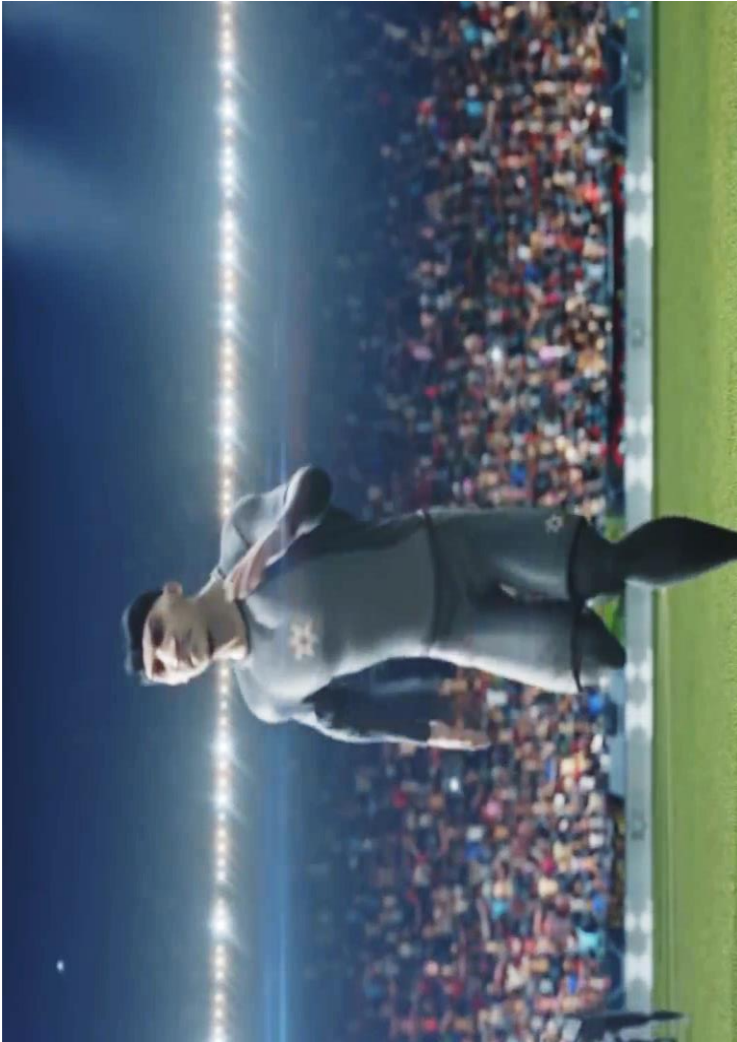
117. Early in The Nike Ad the viewer meets the “bad guys”—“the clones” with a logo that early in The Nike Ad looks similar, though not always identical to a Jewish Star. Once this fake cover is presented, The Nike Ad virtually abandons this pretense to establish what the symbol really conveys: Jews and Judaism.



Ex. SAC 55. Ambiguity of the logo drawn in as part of the deception.

118. Throughout *The Last Game* this evil group (hereafter “The Jews”) is taking over everything—including all businesses, soccer, basketball, the world—and ruining everything for everyone, including ruining the weather. This evil group’s symbol that is sometimes ambiguous is deceptively and deliberately so, like wearing a Nixon mask during a bank robbery.

119. However, other images quickly flashed and/or not noticed consciously, are intended to, or have the potential to convince the mind that the evil guys are The Jews.



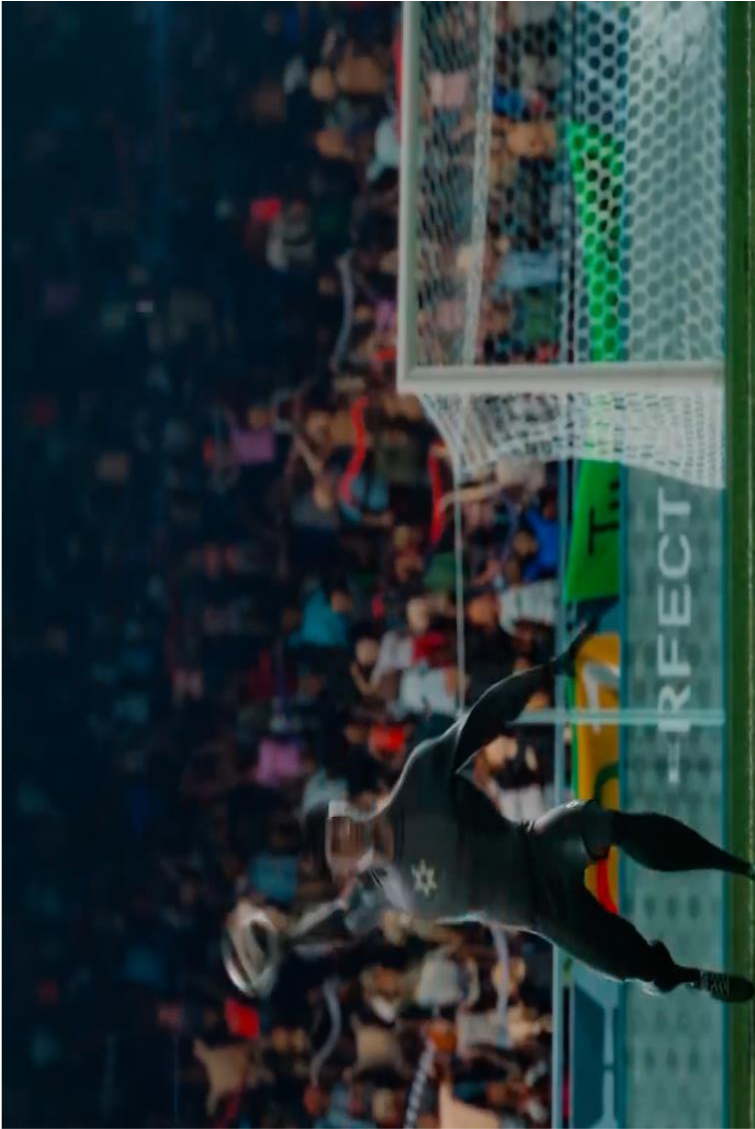
Ex. SAC 56. Although Clear Jewish Stars are on “The Jew”, they are flashed quickly and therefore are nonconsciously perceived to promote the message that Jews and Judaism are evil.



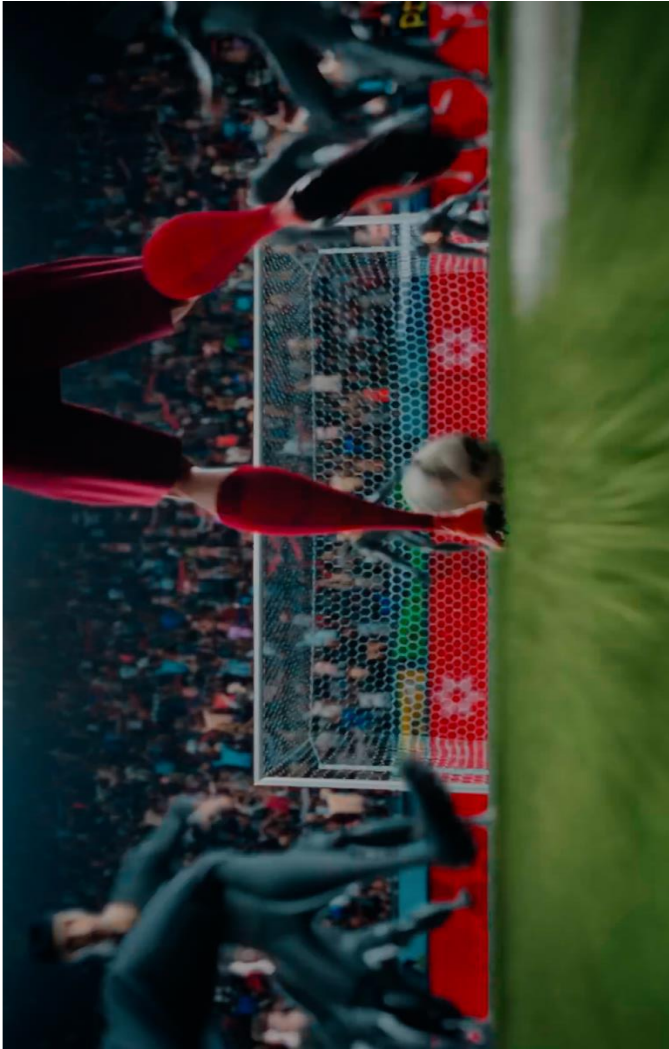
Ex. SAC 57. Nonconscious—and therefore deceptive—Jewish star highlighted in red next to the evil Jew to influence the mind that Jews and Judaism are evil. From *Drive* (2011). Of course the Jew is surrounded by gold, what else? The Nike Ad also deceptively and nonconsciously flashed Jewish Stars to promote hateful Racist messages about Jews.



Ex. SAC 5. Clear nonconscious or very brief Jewish Star, emphasizing that the bad guys are “The Jews”. Inset of a tiny deceptive nonconscious Israeli Flag in the upper left corner.



Ex. SAC 57.1. Clear Jewish Star on the Goalie, making him “The Jew” Goalie.



Ex. SAC 58. Jewish Stars behind the net that deceptively “morph” into a soccer ball, which belies Defendant Nike’s claim that the clear Jewish Stars are really just soccer balls.



Ex. SAC 59. The Jewish Stars from Ex. SAC 58 have morphed into a soccer within a few frames which belies Defendant Nike's claim that the Jewish Stars are soccer balls.

120. An Israeli flag is flashed very quickly, so that Nike can deceptively and cynically exploit the hatred for Israel in Middle Eastern and other countries that have people that hate Jews and Israel (Over one billion Jew-Haters. *See* <https://www.adl.org/what-we-do/anti-semitism/anti-semitism-globally> retrieved August 16, 2020.)



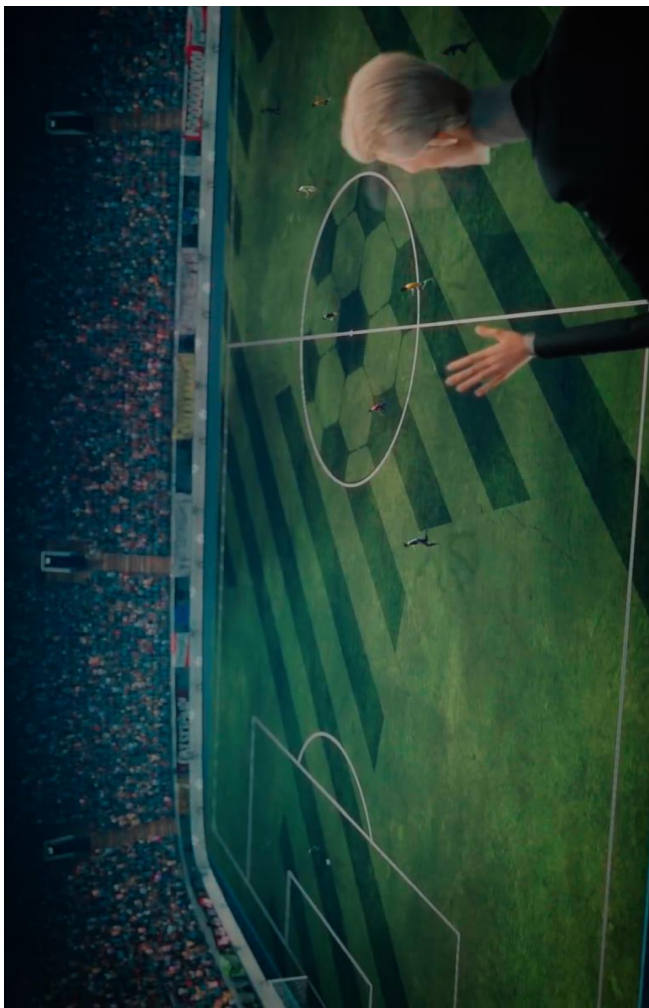
Ex. SAC 60. Israeli flag quickly flashed. Note the blue horizontal stripes.

121. The bad guys' stadium has a subliminal Jewish Star on the side, and more overt Jewish Star in the center.

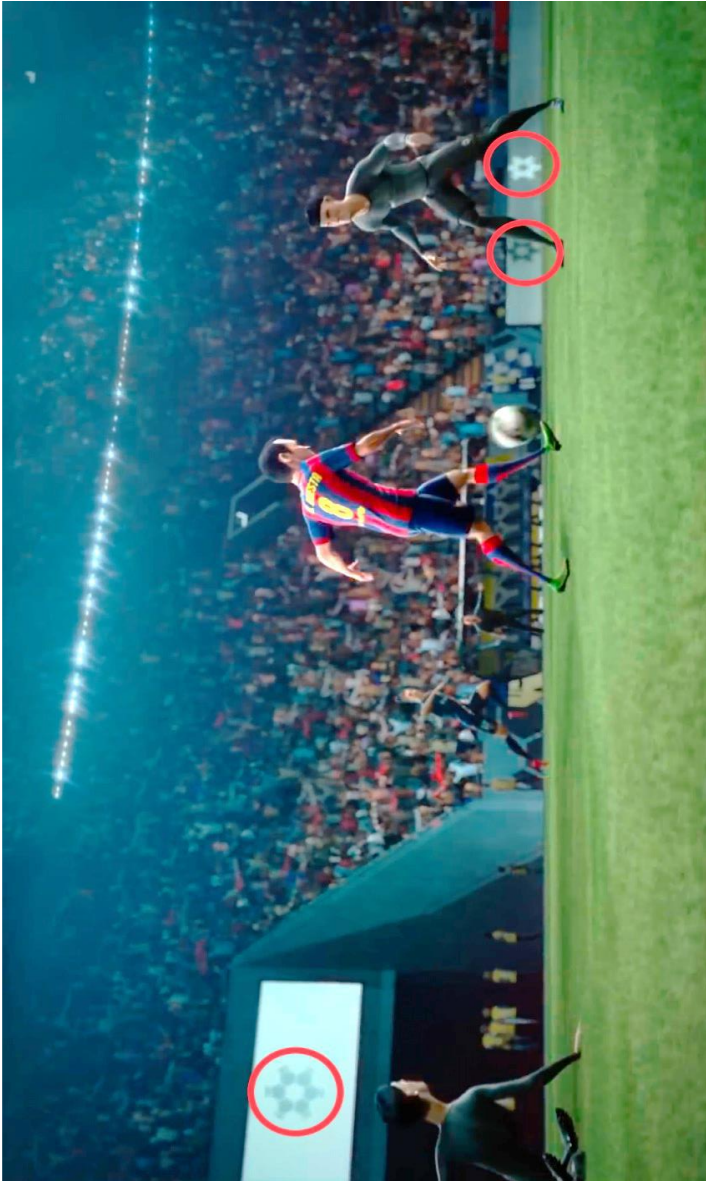


Ex. SAC 61. “Outer” Nonconscious Jewish Star on field highlighted–inset.

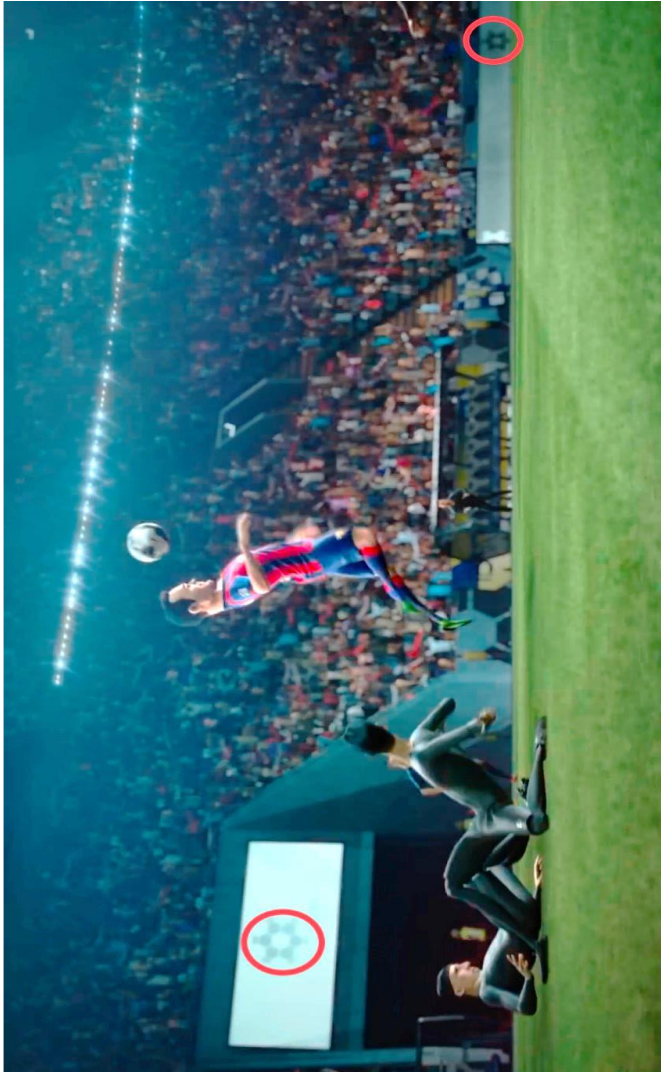
122. Later in The Nike Ad, the Jewish Star vanishes from the bad guy's field revealing the true intent of that Jewish Star by Defendant Nike—to provoke.



Ex. SAC 62. “Outer” Jewish Star no longer on the field. Inner nonconscious Jewish Star remains.



EX SAC 62.1. Three nonconscious Jewish Stars.



Ex. SAC 62.2. Notice the Jewish Stars keep changing and morphing between other shapes—including a real soccer ball—along the lower wall around the field.



Ex. SAC 62.3. Four clear Jewish Stars next to what looks more like a soccer ball pattern in white.

VI. “The Jews” in the Nike Ad Manifest a Wide Range of Anti-Semitic Stereotypes.

a) Jews Control All Businesses and Everything Else and Are Ruining Everything for Everyone

123. The Nike Ad promotes the message nonconsciously that the Jews have taken two of the most important things from “us”. The first being Jesus—because of all the images of a crucified Jesus and the crucified good guys, and the crucified person with the skull.

124. The Jews have also taken soccer from “us”, one of the most precious things.

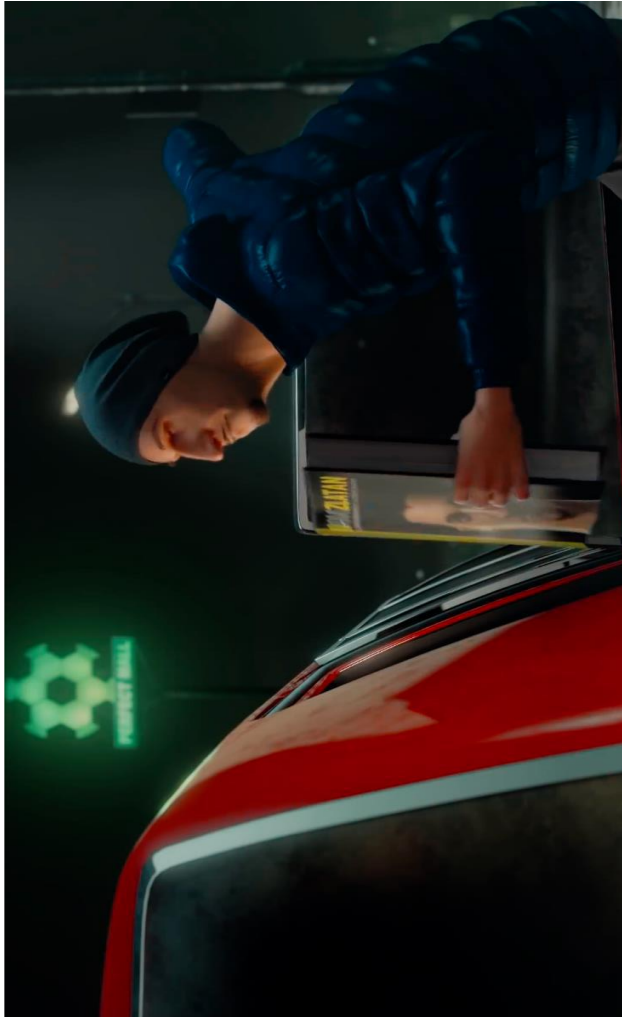
125. The Nike Ad also promotes the message using the storyline and images, including nonconscious images, that “The Jews”-through “Perfect Inc.”-are taking over everything, including all businesses, the weather, basketball. In the process they are causing misery for everyone.



Ex. SAC 63. Subtle and nonconscious message that the Jews control all businesses in Rio, in a depressing dreary scene with a nonconscious Nazi swastika *See* Ex. SAC. 39.



Ex. SAC 64. Subtle and nonconscious messages that the Jews put the good guys out of work, and are giving the Racist bowl-cuts, and controlling the hair-cutting industry through Perfect Inc.



Ex. SAC 65. The storyline shows through a subtle and subliminal message that the Jews, through Perfect Inc. control the malls–Perfect Mall-and are putting the good guys out of work and doing what they love, soccer.



Ex. SAC 66. Subtle and nonconscious message that the Jews control and dominate everyone else with the large logo on the stadium dominating the former soccer great who is now degraded into selling the book “I was Zlatan”.



Ex. SAC 67. Jews Are Ruining Basketball through Perfect Inc. “Perfect LeBron” depicted in a depressing grey environment, red eyes, Racist bowl-cut, playing basketball like they did in the 1950’s with the “two arms between the legs” free throw.



Ex. SAC 68. Nonconscious and subtle message that the Jews have caused misery and depression among everyone else.

126. The message in the Nike Ad that “The Jews” control the economy meets the United States Department of State’s definition of anti-Semitism: “Jews controlling the media, economy, government or other societal institutions.” <https://www.state.gov/defining-anti-semitism/> Retrieved August 20, 2020.

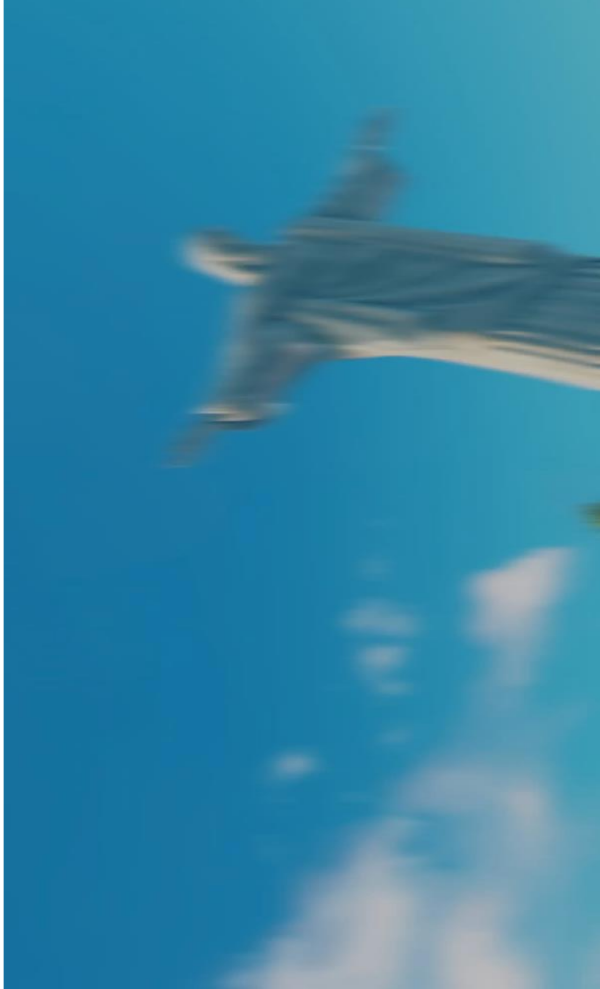
VII. The Good Guys Are Associated with Jesus

127. The depiction of the Devil Kike Jew in The Nike Ad is only one side of the equation. The other side of the equation is that the “good guys” are associated with Jesus in a deceptive manipulative way, that reflects skill, focus, and sophistication beyond what virtually any consumer is capable of perceiving or recognizing—especially children and adolescents.

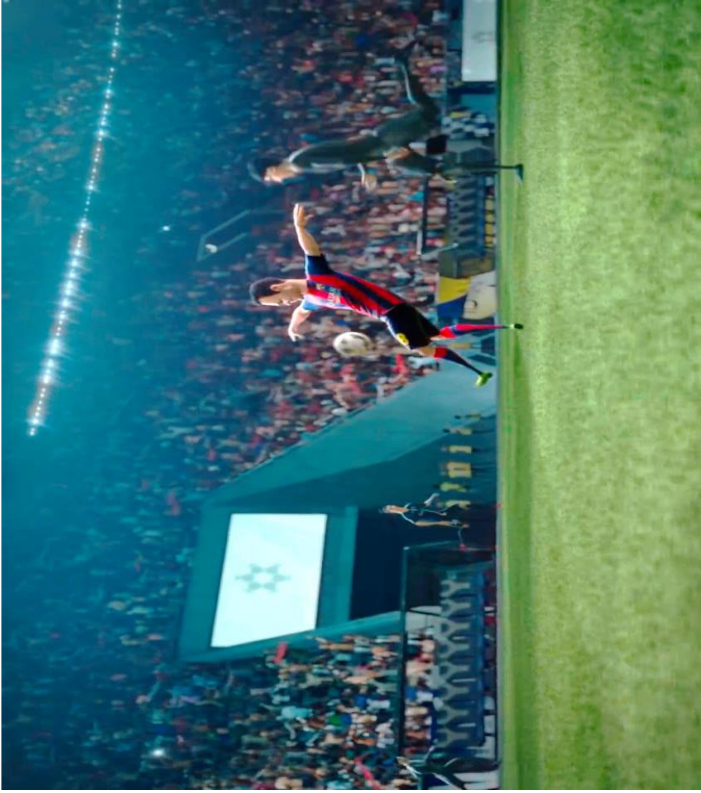
128. The Nike Ad begins with a gold soccer ball ascending past a subliminal Christ The Redeemer statue in Rio.

129. Crucified “good guys” are constantly flashed very quickly and unnaturally since the arms-out “Christ The Redeemer” position is rare in a soccer match. The crucified positions are often not noticed consciously. Below are seven of at least twenty-one such crucifixion images.

130. The good guys—associated with crucifixion and the crucifix—end up defeating “The Jews” and saving us all, or rather most of us.



Ex. SAC 69. A crucified Jesus—“Christ The Redeemer”—is flashed very quickly and therefore nonconsciously as the soccer ball ascends. This is followed by a visible Jesus, as the soccer ball descends.



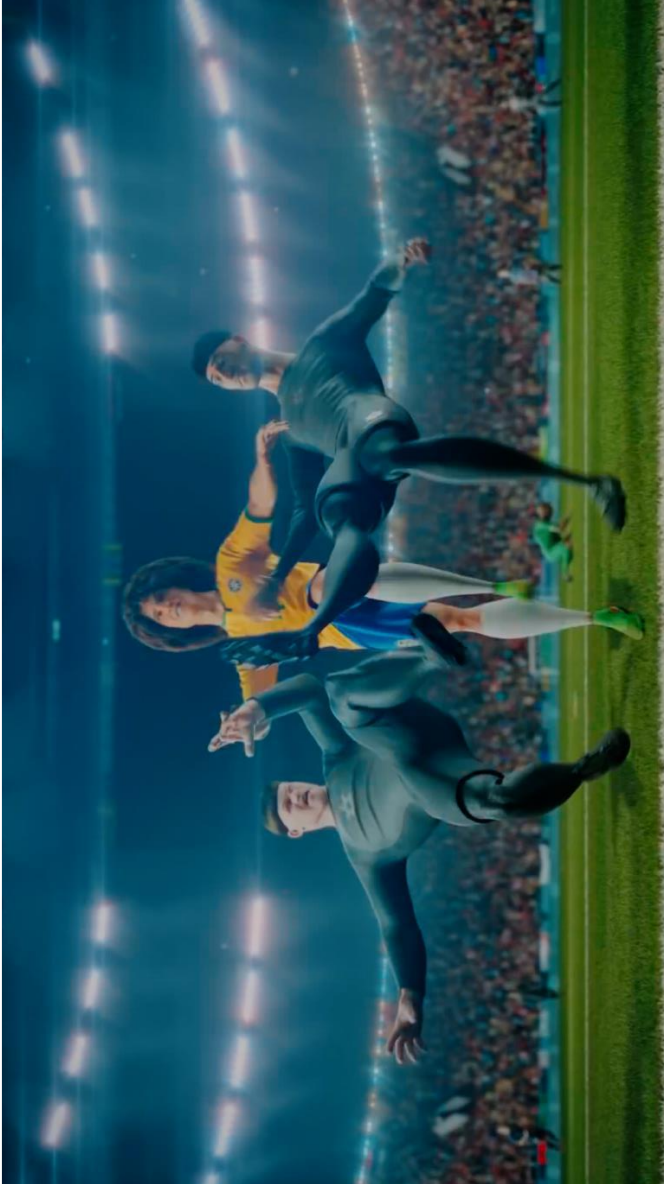
Ex. SAC 70. One of many “crucified” good guys, with what is by this point in The Nike Ad perceived by most to be a Jewish Star next to the “crucified” good guy, one of many dozens of such “crucified” good guys. The obvious nonconscious message is that the Jews murdered Jesus. Millions of “ordinary Jews”—as opposed to Jesus (who is Jewish)-have been murdered because of this allegation over the last two millennium, so a Jewish Star next to a crucified image is extremely offensive, especially when done-as here-in a sneaky nonconscious unexpected way.



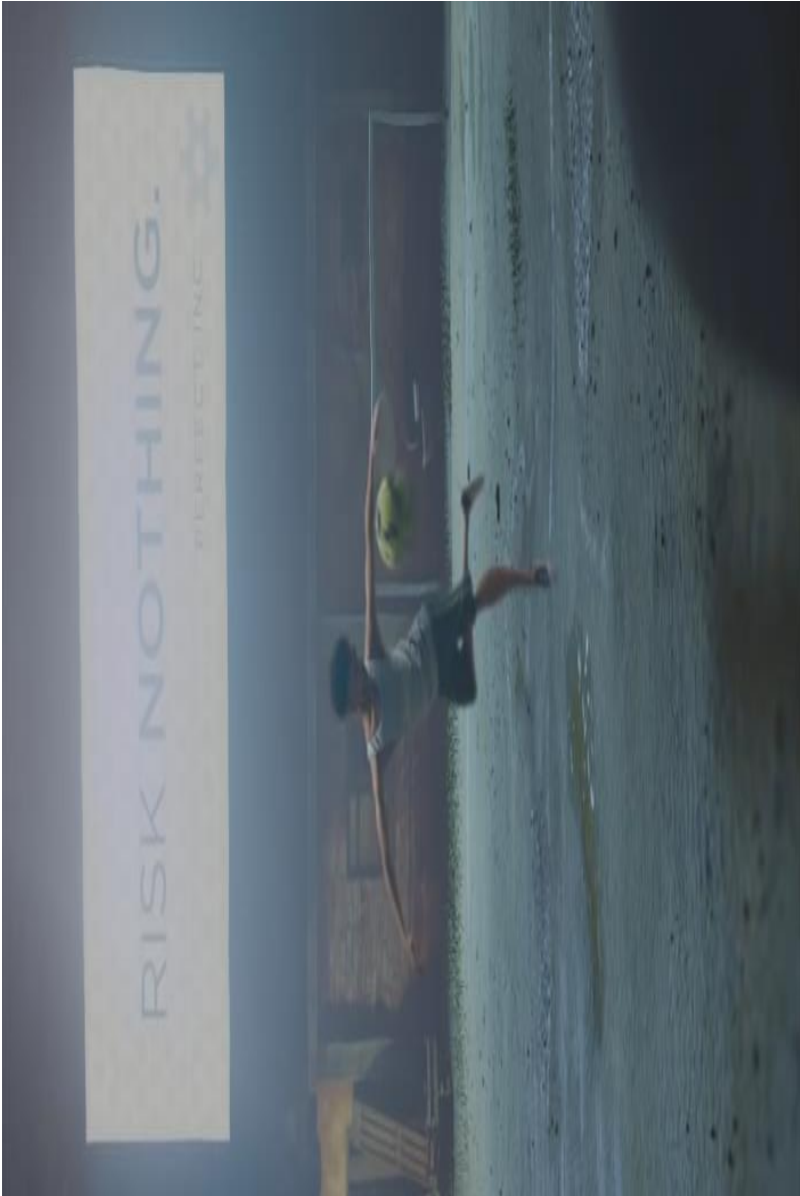
Ex. SAC 71.



Ex. SAC 72.



Ex. SAC 73.



Ex. SAC 74.



Ex. SAC 75.



Ex. SAC 75.1. Good Guy in the crucified position. Notice in The Nike Ad, “The Jews “, never face the viewer in the crucified position.



Ex. SAC 75.2. “The Jews” NEVER extend their arms facing the viewer, unlike the good guys that are constantly in the mostly nonconscious crucified position –because the scene is so quick–in order to make the good guys holy, associated with Jesus, and the victim of the Jews.



Ex. SAC 76. Christian about to be murdered by the evil Jew with a fake nonconscious shadow (highlighted in red), suddenly appearing behind him to deceptively promote the message that Jews and Judaism “murder” or are the enemy of Christianity, especially given the evil Jew has a nonconscious Jewish Star behind him. From *Drive* (2011). This is the same skillful deception and message promoted in The Nike Ad, both by very skilled advertisers and marketers.



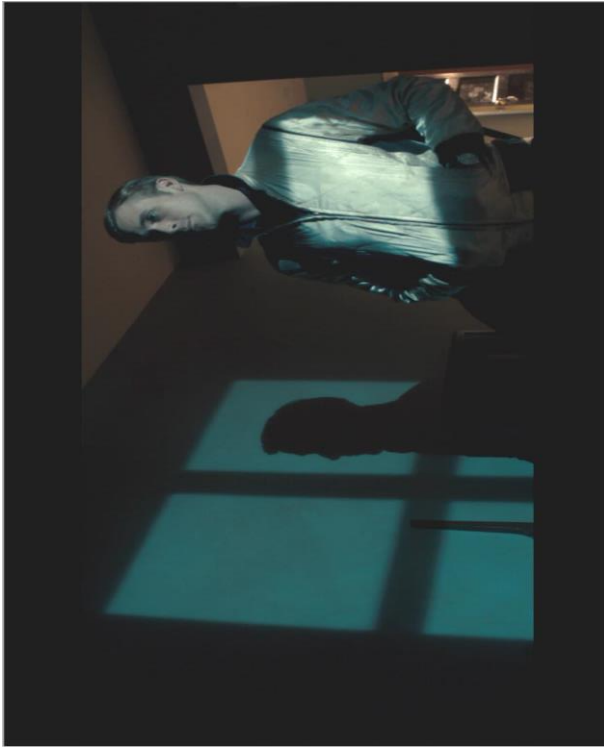
Ex. SAC 76. Statue of soccer star good guy Neymar in a crucified position with nonconscious graphic penis on the statue, and stigmata—Jesus' nail wounds—on the hands.



Ex. SAC 77. Dead Jew in the crucified position—from *Drive* (2011)—next to a bag of money of course—with nonconscious ‘JC’ in nails (highlighted in red) to nonconsciously remind the viewer that the Jews murdered Jesus (and nailed him to the Cross). Nonconscious Hebrew letters in blood on the Jew’s hand is utilized for the same purpose, all done in a deceptive illegal way, just like The Nike Ad uses Hebrew letters. The nonconscious content had nothing to do with what the film was represented to be about—a chase action film—but rather reflected a separate hateful agenda, similar to what The Nike Ad did.

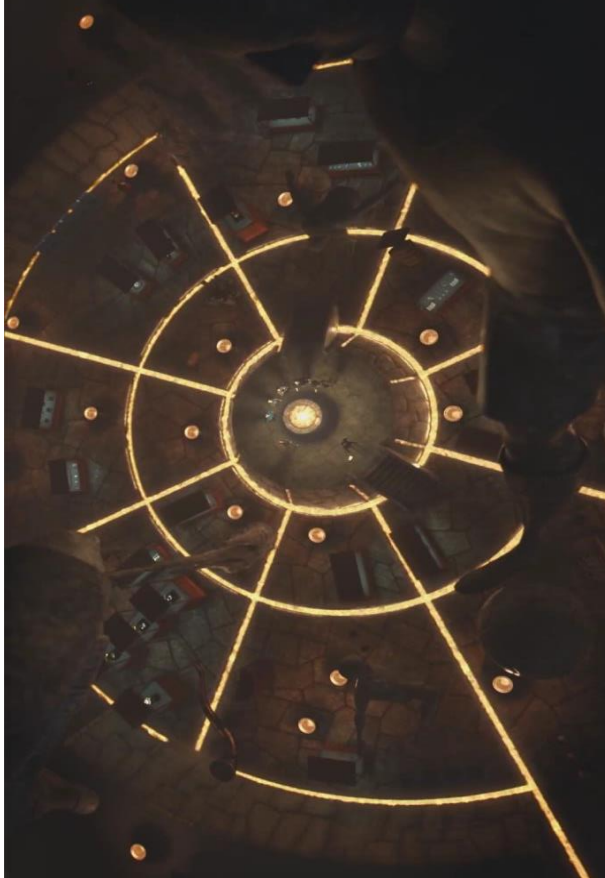


Ex. SAC 78. Nonconscious “JC” in nails that even the Michigan trial judge admitted he was deceived by because he didn’t notice it until pointed out. This, to deceptively remind the viewer just who murdered Jesus-the evil Jews and who was meting out justice-Jesus. Using Jesus skillfully as a prop, nonconsciously to promote a hateful Racist message against Jews is common to The Nike Ad, as well as *Drive* which pioneered such use. The use of symbols to convey anti-Semitism, such as *Drive* does and The Nike Ad, is proscribed by the State Department’s working definition of anti-Semitism.



Ex. SAC 79. Nonconscious cross envelops “the good guy” that ends up defeating the evil Jews by killing them, thereby saving himself, his female friend, and her adorable son the Jews threaten. This, just like The Nike Ad, where the Jews are threatening and destroying everything, especially the most precious thing of all: Football, and therefore must be defeated. Also, Christians in *Drive* are deceptively differentiated from the base Jews because Christians have nonconscious halos, or non-conscious crosses from fake shadows behind them, just like in The Nike Ad where the good guys are constantly in the deceptive nonconscious crucifix position, and are otherwise intimately associated with Jesus.

131.The Roman Catholic religious symbol—a Monstrance—is reverently ignited for the good guys at the base of *Christ The Redeemer*.



Ex. SAC 80. A dramatically lit Monstrance, a Roman Catholic religious icon at the base of *Christ The Redeemer* displayed to “fire up” the good guys, and promote the nonconscious message that Jesus is backing up the good guys.

132. A “crucified” man with Nike’s “Risk Everything” smiling skull, has the Devil on its shoulder. There is another nonconscious smiling Nike skull to the far left.



Ex. SAC 81. Nonconscious Nike smiling skull on the wall on the right. Nonconscious smiling skull on the far wall, with arms outstretched, and Devil on the shoulder.

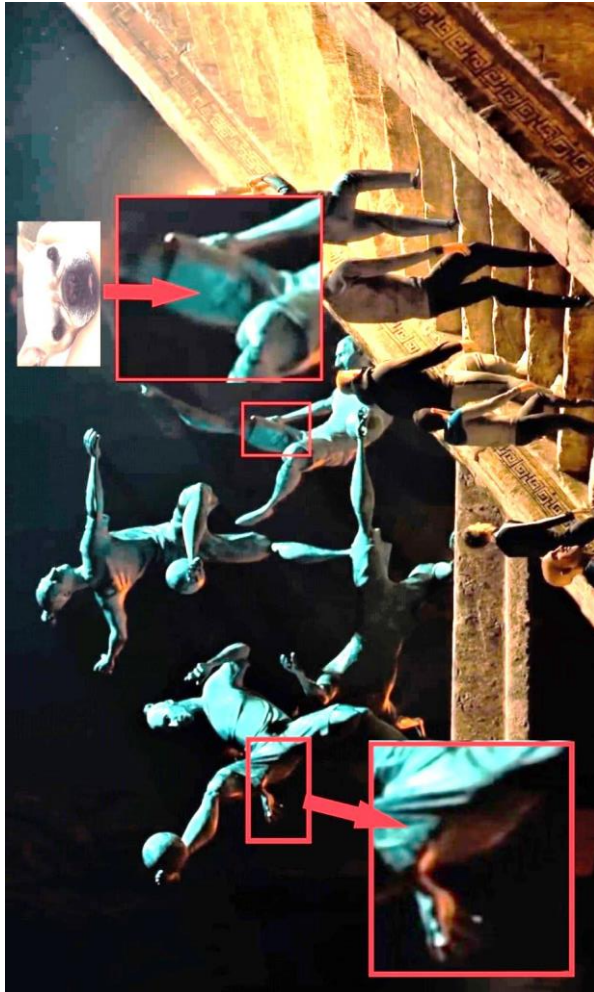


Ex. SAC 82. "The Jews" urge "Risk Nothing". The crucified figure with Nike's skull and Devil on his shoulder has Nike's slogan "Risk Everything" written on his arms.



Ex. SAC 83. Nike's "Risk Everything" written on crucified skull faced arms.

133. As a Christian paeon to the good guys, the stairs that ascend the inside of Christ The Redeemer are lined with statues of the good guys.



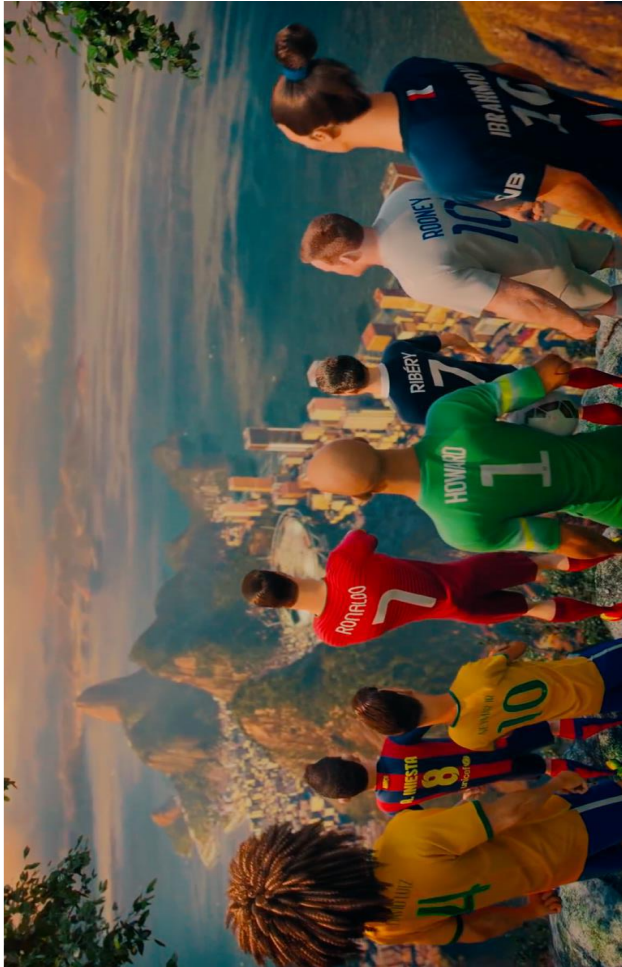
Ex. SAC 84. Ascending to the top of Christ The Redeemer.—A nonconscious message that the good guys are fighting for Christ against the evil devil Jews.

134. At the top of the inside of Christ The Redeemer, glowing Nike gear has been miraculously arranged for the good guys with the Nike skull reminding them and the viewer to “Risk”.



Ex. SAC 85. Top of Christ The Redeemer, Nike gear is miraculously laid out for the good guys urging all to “Risk”, written on top of the Nike skull.

135. The good guys, outfitted by Christ The Redeemer, look down from Christ The Redeemer to Rio De Janeiro below.



Ex. SAC 86. Good guys having just received their gear miraculously from the top of Christ The Redeemer look down from the base of Christ The Redeemer.

136. Needless to say, the Jesus clad good guys defeat the Jew Devils, save the world, and liberate LeBron James who can once again promote Nike instead of The Jews⁹.

VIII. The Nike Ad Contains Nonconscious and Hidden Terror Threats Such as Beheadings, and Terror Threats Based on the Quran and the Bible.

137. Lawrence Porte, familiar with terror threats. *See* Ex. 97, Dec. of Lawrence Porte Homeland Security Special Agent In Charge (Retired) ¶¶ 11-14:

11. There are terrorist threats—in context—in The Nike Ad because there is the word ISIS displayed with a reddish axe in some of the frames.
12. There are also numbers in scenes that correspond to religious texts that describe the Genocide of the Jews.

⁹ Of course given the realities of today's Jew-hatred, and recognizing the fact that 23% of blacks hold anti-Semitic views compared to 14% of non-blacks, Defendants Nike and Wieden + Kennedy deceptively exploit the disproportionate Jew-hatred among blacks, including young adult blacks. https://www.adl.org/sites/default/files/documents/ADL_MS_Survey_Pres_1_25_17.pdf. Retrieved June 3, 2020.

13. There is also Hebrew Text in The Nike Ad (that I did not consciously notice even after numerous viewings) that should not be in this Soccer Ad.
14. I recognize Hebrew text because of my experiences in Israel as part of the United States Secret Service Presidential Detail. I do not read, write, or understand Hebrew, but was told that the translation of the text is: "Come on buzzard."

138. There is a scene where a young soccer player has his back against a wall where there is the non-conscious word "ISIS", and a nonconscious red axe.

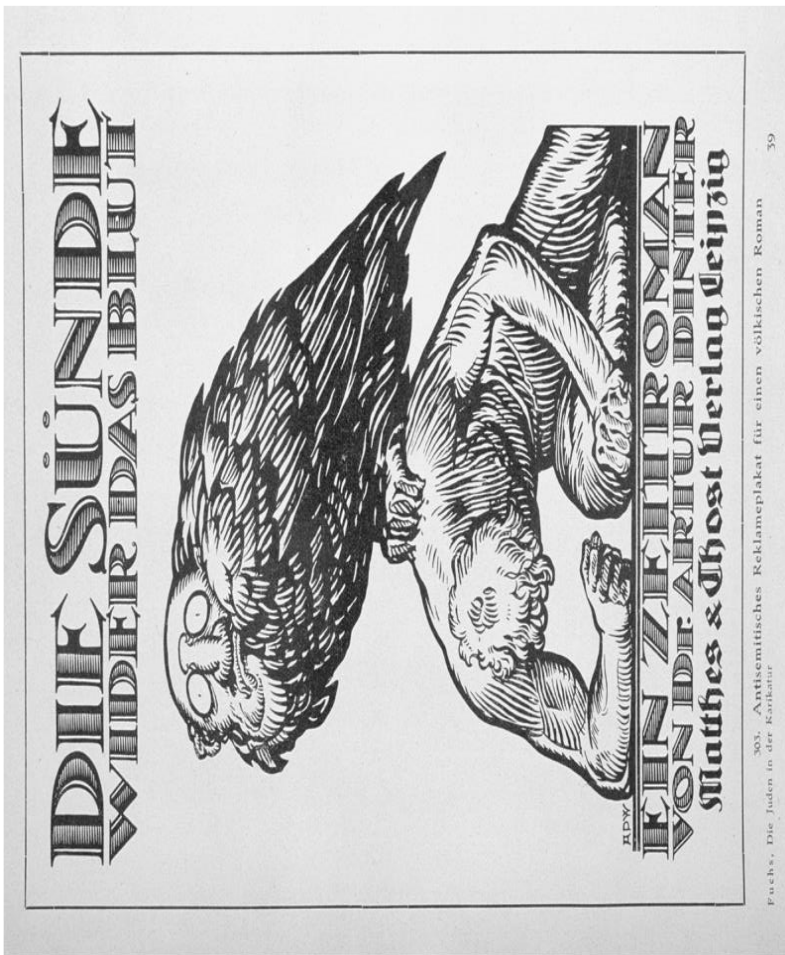


Ex. SAC 6. Subliminal ISIS with a red Axe, a terror threat because the bloody Axe is included and for other reasons described herein. In late 2013 when The Nike Ad was being worked on, ISIL became ISIS, a terrorist enemy of America, that later murdered many innocent Americans. In late 2014 these beheadings and murders, including American civilians James Foley, Steven Sotloff, and a few years later Kayla Mueller. ISIS filmed many mass murders by cutting off the heads of the innocent victims, while the victims were alive, and filming the murders professionally.

139. A second later, the Nike Ad has another subliminal anti-Semitic message of hate. In small Hebrew letters that would normally go unrecognized, and therefore nonconscious, there is written in Hebrew the phrase “Come on buzzard.”



Exhibit SAC 87. The Hebrew word for buzzard is nonconsciously and therefore deceptively shown. The entire phrase—including the top word—is: “Come on vulture/buzzard” (A buzzard and vulture are equivalent in Hebrew). Obviously, The Nike Ad had this drawn in by hand.



Ex. SAC 87.1. In the illustration the Jew is depicted as a vulture sitting atop the bent-over Aryan. An antisemitic caricature published in Eduard Fuchs, "Die Juden in der Karikatur: ein Beitrag zur Kulturgeschichte." Albert Langen, 1921. From the United States Holocaust Memorial Museum (<https://collections.ushmm.org/search/catalog/pa6399> Retrieved August 20, 2020.)

140. Next, a reference is made in The Nike Ad that Jews and Christians and other members of non-Muslim religions will die a horrible painful death because they are not Muslims—“non-believers”. This is often used as justification for Terrorist murders.

141. Two numbers are displayed in the image below. “571” is the year of Muhammed’s birth¹⁰. 4018 represents Quranic Suhra 40:18, which states: “When the doom comes, the hearts of the doomed [non-believers¹¹] will choke in their throats, and no one will help them.” The odds that this would be “coincidental”, as Defendant Nike claimed in their denial of anti-Semitism in The Nike Ad (See ¶ 74—any offense is “coincidental and unintentional”), is intractable, as in at least many trillions to one.

¹⁰ See <http://ismaili.net/heritage/node/10627> retrieved August 2, 2020. (Giving the birth year as 571 CE).

¹¹ Christians, Jews, Hindus, Buddhists, *e.g.* non-Muslims. See <http://www.alquranenglish.com/quran-surah-ghafir-18-qs-40-18-in-arabic-and-english-translation> retrieved August 2, 2020 by the great Islamic Imam Ahmed Raza Khan: “(40:18) And warn them of the day of impending calamity, when hearts will rise up to the throats filled with grief; and the disbelievers will have neither any friend nor any intercessor who will be obeyed. (Intercession will be accepted only for the Muslims, not for the disbelievers).”



Ex. SAC 88. Nonconscious reference to Muhammed's birthyear—571—and the destruction of all non-Muslims by a horrible painful death—Quran Surah 40:18—with the display of 4018. The odds of this being random are infinitesimal.

142. Manifesting sophisticated hatred for-and intimate knowledge of-Judaism, The Nike Ad has the Master Race Nordic manager of “The Jews” in front of a control panel that represents “local time” as 20:42:49, which would be 8:42:49 pm, shortly after the “Last Game” begins.



Figure SAC 89. “Local Time” on The Nordic Jews’ manager’s control panel—20:42:49 or 8:42:49 PM is a reference to Ezekiel 20: 42-49, regarding the destruction of the Jews when they return to Jerusalem-Genocide. The Nike Ad of course is wrong about a Jewish Prophet—Ezekiel—prophesizing Genocide of the Jews.

143. However, when the “Last Game” is over and people are celebrating, The Nike Ad shows the clock at the Rio café displaying the time as Four O’clock which would be impossible.

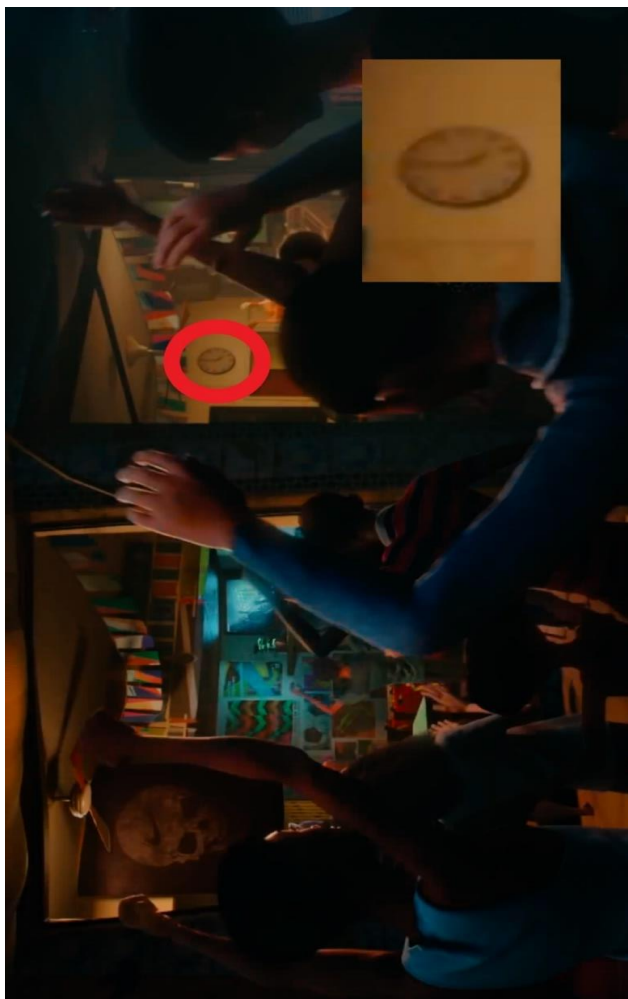


Figure SAC 89. “Local Time” at the bar in Rio.

144. “Local time” is really a sophisticated Jew-Hating reference to Ezekiel 20: verses 42-49 which describes the destruction of the Jews upon their return to Jerusalem:

Ezekiel 20:42-49 Then you will know that I am the LORD, when I bring you into the land of Israel, the land I had sworn with uplifted hand to give to your ancestors. ⁴³There you will remember your conduct and all the actions by which you have defiled yourselves, and you will loathe yourselves for all the evil you have done. You will know that I am the LORD, when I deal with you for my name’s sake and not according to your evil ways and your corrupt practices, you people of Israel, declares the Sovereign LORD.” The word of the LORD came to me: “Son of man, set your face toward the south; preach against the south and prophesy against the forest of the southland. Say to the southern forest: ‘Hear the word of the LORD. This is what the Sovereign LORD says: I am about to set fire to you, and it will consume all your trees, both green and dry. The blazing flame will not be quenched, and every face from south to north will be scorched by it. Everyone will see that I the LORD have kindled it; it will not be quenched.’” Then I said, “Sovereign LORD, they are saying of me, ‘Isn’t he just telling parables?’” [Emphasis added]

145. The Nike Ad continues its sophisticated promotion of Jew-Hatred in that frame by using a Jewish and Islamic religious symbol in conjunction

with that out of context Jew hating quote from Ezekiel. The Nike Ad shows the Hand of GOD being used in conjunction with the description of GOD destroying the Jews.

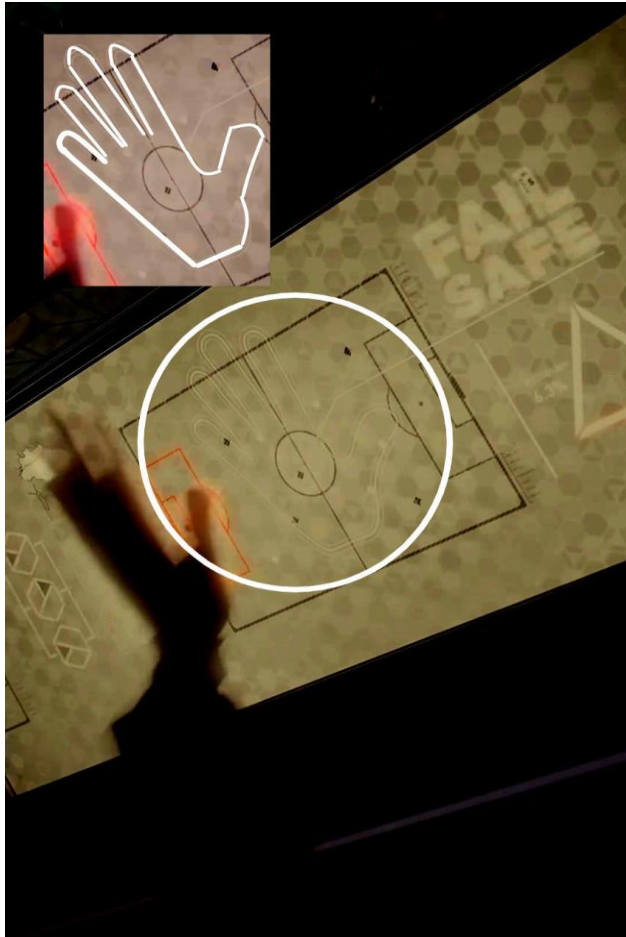


Figure SAC 90. Nonconscious Hand of God used in the context of the Genocide of the Jews.

146. The sophistication of quoting both the Quran and the Old Testament to support the Genocide of the Jews—because both those referenced passages are about the destruction of the Jews, manifests the ideology of fanatical religious based terrorism, *i.e.* The Nike Ad also manifests a dedicated terrorist threat.

147. The terrorist message in The Nike Ad that religion justifies the Genocide of the Jews satisfies the Department of State's definition of anti-Semitism: "Calling for, aiding, or *justifying* the killing or harming of Jews in the name of a radical ideology or an extremist view of religion." [Emphasis added] <https://www.state.gov/defining-anti-semitism/> Retrieved August 20, 2020.

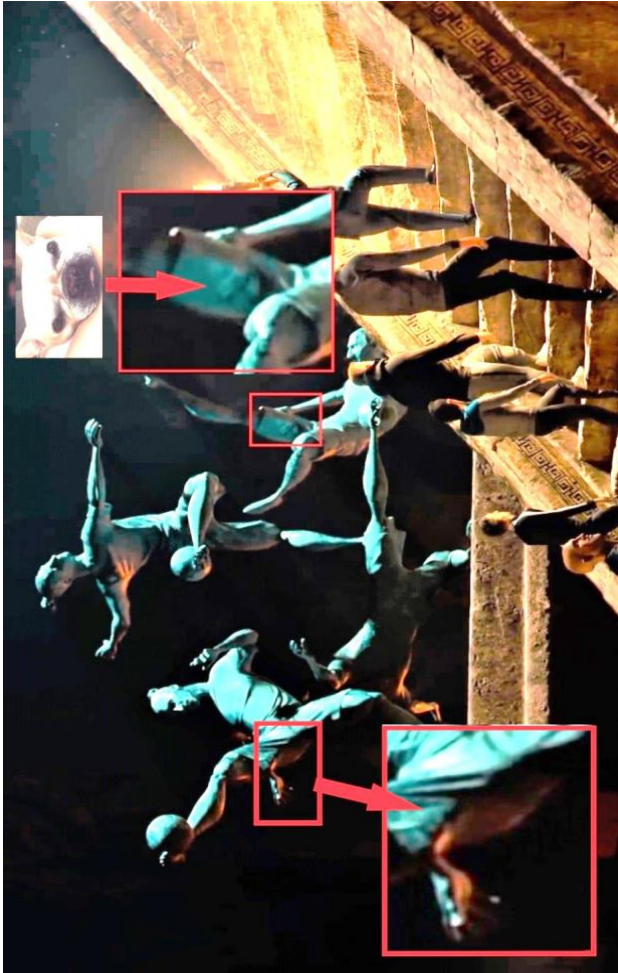
IX. The Nike Ad Contains Nonconscious Pornography, Child Pornography, and Inappropriate Sexual Images and Content Promoted Primarily to Children and Adolescents.



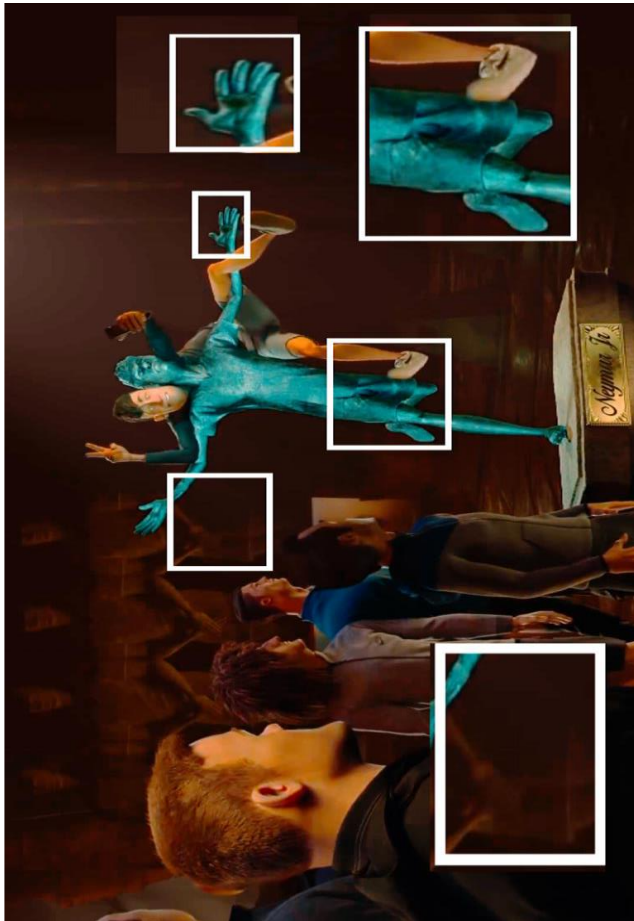
Ex. SAC 91. Erect adolescent's or child's penis and therefore Child pornography flashed quickly like "flashers" do. Nike drew the blurry soccer ball and drew the legs in a manner to flash the erect penis, yet have an excuse that this was a knee, as developed more fully herein.



Ex. SAC 5. Close up view of the erect child's penis flashed very quickly, 1/24th of a second. Slightly longer than the 1/30th second "Rats" was displayed in the Bush political ad from 2000.



Ex. SAC 1. Soccer player masturbating on his back with the promised adorable dog on his leg which was the lure especially for children and adolescents. The player on the far left is ejaculating with the fake excuse that this is mere lighting, as explained more fully herein. These pornographic images are shown for 48 frames, which is over one second and a half.



Ex. SAC 92. The Nike Ad contains this creepy and illegal form of Nike promotion because *the animated Neymar rubs his shoe with the Nike logo up and down alongside the penis. All of this nonconscious, and a very disturbing self-promotion of Nike to children.* Notice on both hands of the statue there are stigmata–nail wounds to Jesus. Blow up to the left are statues in back holding their penises, and is further shown below enhanced.



Ex. SAC 93. The men in the back are holding their penises, enhanced from Ex. SAC 92.

148. Nike cynically mocks the deceived viewer by nonconsciously reinforcing *part* of The Nike Ad's message to children and adolescents: "Sports Dick"¹².

¹² The producer of The Nike Ad was Jon Saunders. "We really wanted the film to be absolutely loaded with jokes, so we kept on pushing. It really kept evolving right up until the end". <https://shots.net/news/view/nike-and-passion-give-the-world-cup-its-last-game> Retrieved June 30, 2020.



Ex. SAC 94. Obvious deceptive message and reminder about part of what the children are watching: “Sports Dick”. The woman in the middle is the only one whose hair moves to form the belabored nonconscious message, and she is the only one where both hands are “cupped” in the position to form a sexual act. The penis is nonconsciously displayed in a sexual context, and virtually no one can find it as The Nike Ad is running and it is hard to find even in an individual frame.



Ex. SAC 95. Nonconscious Penis Highlighted as part of the nonconscious “Sports Dick”. Her hand is on the head of the penis.



Ex. SAC 96. Nonconscious Child's penis. From The Nike Ad. Very similar to what the Nike lead animator drew on President Trump.



Ex. SAC. 97. Another two apparent Nike lead animator Conor Ryan nonconscious “signature penises”. From The Nike Ad. Notice the child on the right is the same child with the penis exposed in SAC 96.



Ex. SAC 97.1. Black child's hand—who is hidden directly behind the child kneeling down—is on the female child's breast (circled). The female child's hand (circled) is on the “erect penis”, with the pretense that it is a leg. Under Michigan, Federal, and many Nations' laws, placing this image in The Nike Ad is a criminal act because the male child's hand is one the underage female's breast in an erotic context. This image, as well as many others in The Nike Ad, also violate FIFA bylaws.



Ex. SAC 97.2. One of many images quickly flashed intended to be interpreted by the mind as a penis.



Ex. SAC 98. Subliminal penis highlighted from The Nike Ad. This could be one of the “jokes” The Nike Ad was “loaded with” the producer Jon Saunders was alluding to above.

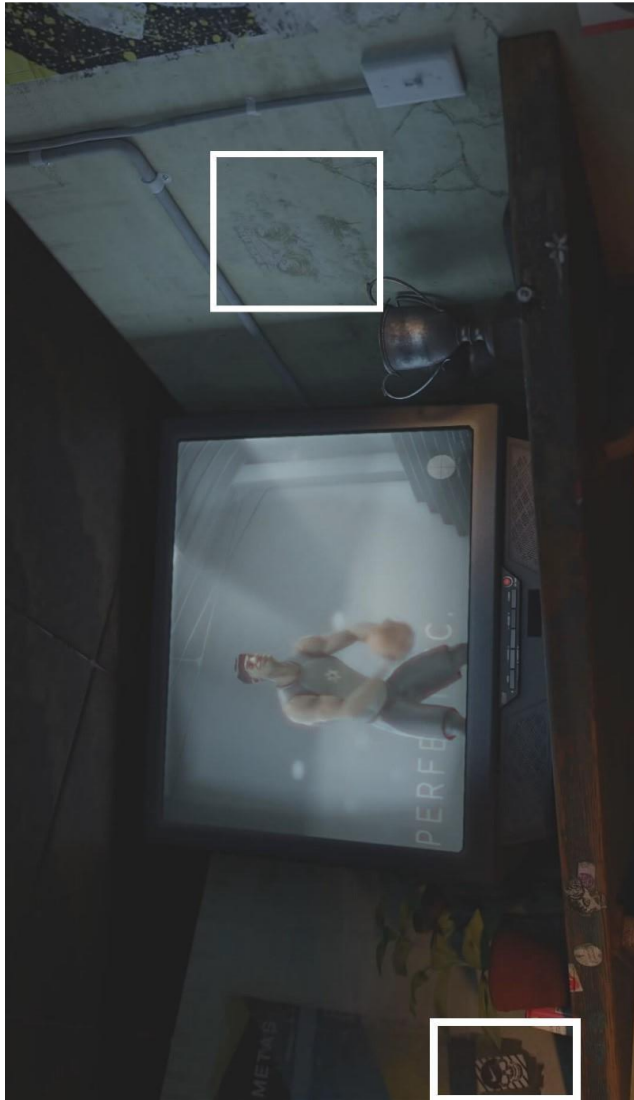
X. The Nike Ad Is Substantially Subliminal and Nonconscious.

149. Many of The Nike Ad's messages including "Risk Everything" and the skull with Nike's swoosh are nonconscious because they are not noticed consciously—because often they are off to the side of the changing frames and away from the action—but still affect the mind. This, in addition to all the nonconscious messages alleged above.

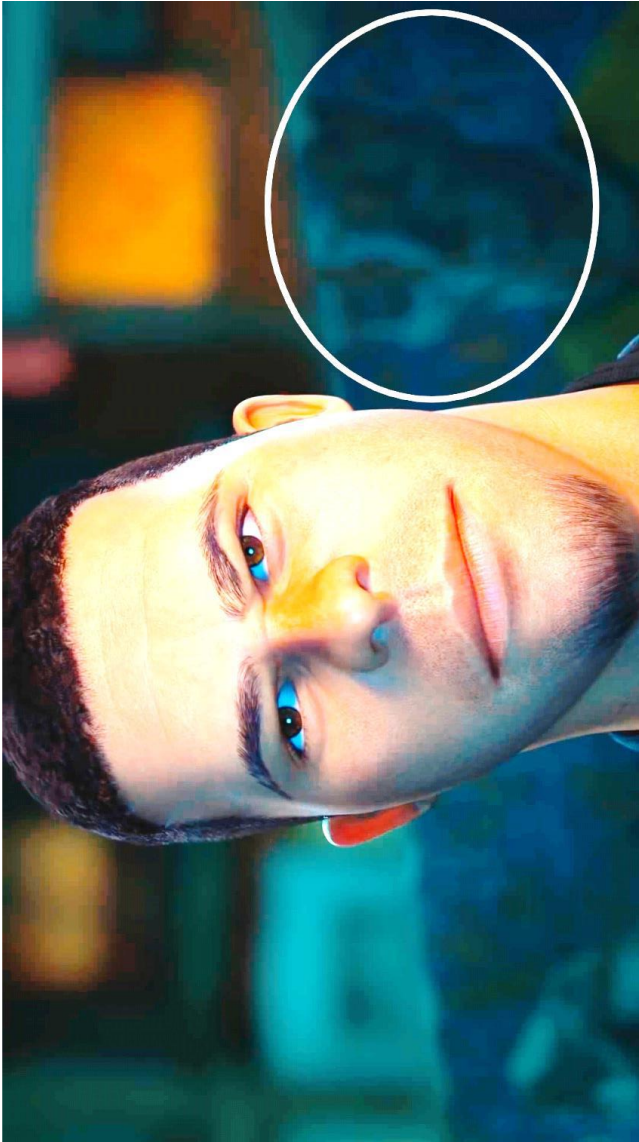
150. Nike's swoosh and risk everything "campaign" is important, so the fact it was placed in a corner, or the side of a frame, not consciously noticed, means The Nike Ad manifests knowledge that the nonconscious works.



Ex. SAC 100. Nonconscious skulls to the right.



Ex. SAC 101. Nike skull with swoosh nonconsciously displayed in the lower left corner. It is not noticed consciously while watching The Nike Ad.



Ex. SAC 102. Nonconscious skull.

XI. The Defendants Risk Nothing by Promoting the Nike Ad

151. Defendant Nike has been on notice regarding anti-Semitism in The Nike Ad since 2014 because of the letters it received from various individual and organizations.

152. Letters were sent by the Zionist Organization of America (ZOA) directly to Defendant Nike. *See* Ex. 95 attached in the section of Exhibits following this Complaint.

153. The letters by the ZOA were cynically dismissed with patronizing contempt, stating falsely that Defendant Nike did not notice or intend the desecration and attack on Jews, Judaism, and Jewish Religious symbols in The Nike Ad that contains messages implicitly promoting criminal violence against Jews, including Jewish children, which is the natural consequence of promoting Racist Jew-Hatred. *See also* https://jewishjournal.com/mobile_20111212/134013/ Retrieved June 20, 2020. (Describing how Nike blew off the legitimate concerns of the Jewish community).



July 15, 2014

MORTON KLEIN
4 E 34TH ST
NEW YORK, NY 10016-4333

Hello Morton,

Thank you for taking the time to write us. This letter is in response to your letter dated July 2, 2014 addressed to Mr. Phillip Knight. Nike always welcome constructive comments concerning our advertising and appreciate you sharing your feelings with us.

I will forward your comments to our Advertising Department for their consideration. Consumer observations do have a vital impact on our market research and marketing techniques.

Again, thank you for writing.

Sincerely,

K
Kyle
Nike

NIKE, INC. ONE BOWERMAN DRIVE BEAVERTON, OREGON 97005.6453 T: 503.671.6453 F: 503.671.6300 NIKE.COM

Ex. SAC 102. Nike's response from "Kyle". Notice the reference to "market research" and marketing techniques.

154. The Letter from Plaintiff Leaf to Defendant Nike was ignored. Ex. 96.

155. On the other hand, Nike responded and remedied an arguably much less obvious and less egregious alleged affront to Islam in 1997.

156. Defendant Nike was on notice in 1989 that an animator put a frame containing a naked woman in the Disney DVD *The Rescuers* and had to recall all the DVDS.

157. Defendant Nike in 1994 was already on notice that religious symbols on shoes in a manner that desecrates the symbol is offensive, which is what Defendant Nike did to Jews in The Nike Ad.

158. Defendant Nike addressed Racism against other groups in Soccer but ignored Jews and anti-Semitic racism. https://www.researchgate.net/publication/249723224_We_can't_'Just_do_it'_alone_An_analysis_of_Nike's_potential_contributions_to_anti-racism_in_soccer Retrieved June 20, 2020. (Concluding Nike can do much to reduce hate in Soccer).

159. Defendant Nike targets Jews because obviously Defendant Nike believes they can get away with it, or that the benefit of leveraging the well documented Jew-Hatred among European, Middle Eastern, and many South American soccer fans—and thereby making more money—outweighs any risk.

160. It is obvious that Defendant's promotion of The Nike Ad would cause outrage and the emotional damages alleged herein if a different, more valuable-in Defendant Nike's eyes-vulnerable group were the target instead of Jews.

161. The full extent of The Nike Ad's material deception is still not known to Plaintiff, but some of the deception, including the significant nonconscious crowned Devil Jew Kike, and the child pornography and pornography and terror threats as referenced above and herein, was not discovered until many months and many viewings after Plaintiff Leaf first viewed The Nike Ad.

162. Nonconscious techniques, such as those employed in *The Last Game*, are deceptive by their very nature¹³.

163. Plaintiff Leaf has the right to avoid what amounts to an illegal medical experiment as described herein.

164. Most people including Leaf, would be outraged and suffer other emotional damages after discovering this depraved content as described herein was forced on them through deception.

165. By Defendant Nike creating and inciting division, and choosing the side that makes them the most money, they simply make more money, regardless of in this case, how many Jews, including Jewish children, are the victims of the criminal violence that *always* results from anti-Semitic incitement and provocation.

¹³ FCC 74-78, BROADCAST OF INFORMATION BY MEANS OF 'SUBLIMINAL PERCEPTION' TECHNIQUES, issued January 24, 1974: "We believe that the use of subliminal perception is inconsistent with the obligations of a licensee, and therefore we take this occasion to make clear that broadcasts employing such techniques are contrary to the public interest. Whether effective or not, such broadcasts clearly are intended to be deceptive." [Emphasis added]

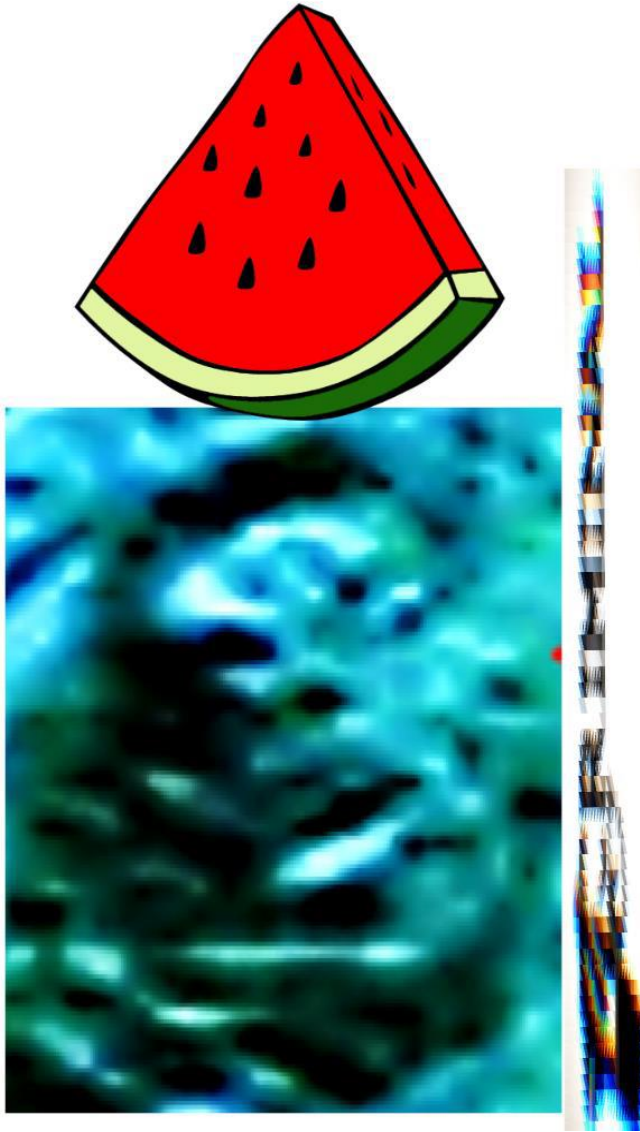
166. American Jews are being “quietly” beaten up, murdered, and otherwise harmed because they are Jewish, (See <https://www.jpost.com/diaspora/kosher-stores-synagogues-vandalized-and-looted-in-ongoing-la-protests-629895> Retrieved June 20, 2020 (Describing the anti-Semitic pogroms¹⁴ in America). Their houses of worship are being desecrated. Given all of this, Defendants Nike and Wieden + Kennedy’s illegal exploitative and very sophisticated promotion of hatred is outrageous, even though profitable.

167. Defendant Nike made positive representations of fact as set forth herein including a disavowal of any anti-Semitic intent, that the logo was only a soccer ball and other positive representations of fact that would have led Leaf and others to reasonably believe that the content complained herein, constituting material facts, would not be in The Nike Ad.

168. Based on the above Plaintiff Leaf had no reason to believe The Nike Ad contained such Implanted Hate and all of the other material content complained of because after all, presumably fine ethical American companies publicly traded like Defendant Nike and its advertising company—Defendant Wieden + Kennedy—would never promote such Hate, pornography, and terrorism.

¹⁴ A pogrom is an anti-Semitic riot.

169. Damages are easy to understand. Imagine a Black person later discovering that the animated Nike ad he was watching, that was mainly directed to children and adolescents, quickly flashed the left image in Ex. SAC 103, and flashed the “N” word. Everyone would understand the outrage. Now imagine that an equivalent or even more offensive image is flashed to a Jew (or anyone offended by Racist Jew–hatred, such as Leaf), with the “K” word flashed–“Kike”. Instead of a stereotype of a black person, a stereotype of a Jew is used. Instead of typographical “gun”, there is typographical “Devil”. Instead of watermelon there is the “Kike Crown”.



The Nike Ad's apparent disgusting stereotypic depiction of a terrifying black person, with an added gun formed typographically from "criminal", and added watermelon.



The Nike Ad's disgusting stereotypic depiction of a Jew, with a Devil formed typographically from "Devil". Flashed quickly. A manifestation of depraved hate that contradicts Nike's disavowal of anything objectionable in The Nike Ad.

Exhibit SAC 103. Roughly equivalent depraved messages of hate. The first Racist Hate against Blacks, the second, Racist hate against Jews. The terrifying

face on the left was in The Nike Ad. The watermelon and typographical gun was added to make the analogy to the actual image from The Nike Ad—highlighted—to the right of the terrifying face.

170. The reasonable inference is that the Jew would be just as outrageously offended and justifiably so—even with this one example of an uncivilized deceptive message, let alone all of the small fraction discovered so far, with all the damages Leaf has pled—and then some.

171. The common arc promoted primarily to children and adolescents that runs through everything in The Nike Ad is the defeat of the Jew. The theme and story of The Nike Ad is about this, the Nazi symbols, and stereotypes support this, as well as the logo on the bad guys. The Christian images support this. The anti-Semitic terrorism related messages support this. The sexual content directed to children and adolescents supports this, with the clear message that you can be the bigger “manly” hero and save the world—from the Jews—by buying Nike gear. All this by a publicly traded American corporation to make a few more dollars.

172. The Nike Ad was animated which means each and every frame is intentionally drawn or computer generated with all of the input provided by a person.

173. The pornographic images presented indicate intentionality and depravity considering the target audience.

174. The terror threatening frames were intentional and uncivilized.

175. The Racial hatred was intentional and beyond anything a legitimate company would do.

**COUNT I-AS TO DEFENDANTS NIKE, WEIDEN
+ KENNEDY, GOOGLE, YOUTUBE,
AND JON SAUNDERS:**

Violation of the Michigan Consumer Protection Act, MCL 445.903(1)(s): Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.

176. Plaintiff incorporates all prior paragraphs as though pled herein.

177. Defendants Nike, Wieden + Kennedy, Google, YouTube, and Jon Saunders failed to reveal the following material facts individually and in any combination about The Nike Ad, which made each of the below material facts deceptive:

- a) That The Nike Ad manifests Jew-Hatred.
- b) That The Nike Ad used a symbol for the bad guys that resembled a Jewish star and was sometimes virtually identical to a Jewish Star, in an overt, subtle, and nonconscious way.
- c) That the bad guys in The Nike Ad manifest a wide range of new and classic anti-Semitic stereotypes including but not limited to controlling all businesses; being part of white supremacy; causing everyone misery; being associated with the Devil; murdering Jesus; having insect characteristics; having

serpent characteristics; being the enemy of Jesus; destroying the things that matter most; controlling the world; taking advantage of black people; physically repugnant, that the Jews must be defeated. This was done in an overt, subtle, and nonconscious way.

- d) That The Nike Ad contained nonconscious and conscious highly offensive Nazi anti-Semitic stereotypes including but not limited to hooked nose Devil with a crown, and the nonconscious Hebrew words “Come on Vulture”.
- e) That The Nike Ad contains Nazi and hate symbols, including nonconscious hate symbols, including a swastika.
- f) That The Nike Ad contains nonconscious and hidden references to terrorism such as ISIS beheadings, justifications for terrorism, and the murder, Genocide, and destruction of non-Muslims, and thereby promotes terrorism and thereby manifests terrorist threats.
- g) That The Nike Ad contains nonconscious pornography, child pornography, and inappropriate sexual images and content promoted primarily to children and adolescents.
- h) That the discovered material facts so far are likely a very small percent of the hidden, deceptive material facts in The Nike Ad.
- i) That The Nike Ad promoted unexpected, deceptive, offensive messages to Leaf without his consent or Leaf knowing this fact.

- j) The Defendants cannot show that the offensive content complained of herein, including the nonconscious content, does not cause offensive, harmful, or unconsented-to changes in behavior and belief.

178. This material fact Defendants Nike, Wieden + Kennedy, Google, and YouTube failed to reveal, which are material to Leaf and other reasonable people, consists of all of the alleged components in the above paragraph taken individually and together with any other factor or factors. This means that the deceptive child pornography alone is a sufficient material fact, and is also a material fact combined with Jewish Stars on the bad guys. This is true for any other combinations of the factors listed in the above paragraph.

179. This failure to reveal said material fact occurred *prior* to Plaintiff viewing The Nike Ad's offensive material deceptive content. Defendants Nike, Wieden + Kennedy, Google, YouTube and Jon Saunders actions as described herein, were the direct and proximate cause of Plaintiff Leaf's damages, and were foreseeable.

180. Plaintiff Leaf was damaged by mental distress, including but not limited to suffering emotional distress, outrage, humiliation, embarrassment, fear, and other emotional damages due to all of the material content in The Nike Ad including the fact that offensive content was hidden in The Nike Ad.

181. Plaintiff Leaf would not have viewed The Nike Ad in the ordinary manner, that is to say by watching it at normal speed instead of frame by frame avoiding the depraved sneaky content "being implanted", (or

even not watching it at all) had Plaintiff known all the above material facts.

182. Plaintiff had no reasonable way of knowing The Nike Ad contained the material facts as described herein, and therefore the failure to reveal such material facts deceived and misled Leaf.

183. All Defendants for this count did not implement reasonable means, procedures, or methods to prevent the actions alleged herein that are in violation of this section of the MCPA. They even ignored a letter sent from Plaintiff and numerous letters from the ZOA and others as set forth herein, and it is not difficult for these Defendants to go frame by frame and eliminate or attempt to eliminate the illegal content.

**COUNT II-AS TO DEFENDANTS NIKE,
WIEDEN + KENNEDY, GOOGLE,
YOU TUBE AND JON SAUNDERS**

Violation of the Michigan Consumer Protection Act, MCL 445.903(1)(cc): Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

184. Plaintiff incorporates all prior paragraphs as though pled herein.

185. Plaintiff Leaf relied on the representation of fact, made in a positive way by all Defendants, that The Nike Ad was a five-minute Nike video product based on what was written on the YouTube web site Plaintiff Leaf viewed The Nike Ad on, including that The Nike Ad was a Nike video. Also, The Nike Ad indicated in the beginning the fact it was produced

by Nike which led Plaintiff to believe it would not contain the Implanted Hate described herein.

186. Defendants actions as described herein were the direct and proximate cause of Plaintiff Leaf's damages.

187. Plaintiff had no reasonable way of knowing The Nike Ad contained Implanted Hate.

188. Defendants for this count did not implement reasonable means, procedures, or methods to prevent the actions alleged herein that are in violation of this section of the MCPA.

189. Plaintiff Leaf was damaged by suffering emotional distress, humiliation and embarrassment after viewing The Nike Ad and finding out it was rife with Implanted Hate, anti-Semitic racism not much different than Nazi Germany's movie production company *Terra Filmkunst* would produce if it were in power today, since Joseph Goebbels believed in subtle, not overt anti-Semitism. This in addition to child pornography and other types of pornography.

190. Plaintiff Leaf would not have viewed The Nike Ad in the ordinary manner or at all had Plaintiff known the above material facts: That The Nike Ad contained said hateful messages and Implanted Hate including the pornography and terror threats described herein, and that such Implanted Hate can be effective, including the details herein concerning how Implanted Hate is implemented in The Nike Ad.

191. The MCPA and case law requires that the consumer be told material facts in light of *any* facts or representations made, not just positive representations of fact contradicting the facts material to the

transaction. See for example *Brownlow v. McCall Enters., Inc.*, 315 Mich. App. 103, 888 N.W.2d 295 (Mich. Ct. App. 2016) (Holding that it was for the Jury to decide under 445.903(1)(cc) if failing to inform the consumer that an ozone machine alleged to be able to remove smoke in a house, required informing the consumer that the machine could damage furniture).

192. 445.903(1)(cc) is violated not only if the ozone machine cannot remove smoke, but if the consumer is not informed about *any* facts material to the transaction *given* what was revealed: Furniture damage, asthma to humans and pets, paint damage, carpet damage, fixture damage, wood damage, etc. . . . anything material to the consumer. Likewise 445.903(1)(cc) is violated when Defendant Nike makes *any* positive representations that the jury determines require revealing facts material to the transaction, given the positive representation, in this case representing The Nike Ad is a soccer commercial with no Jew-Hatred or ill intent, from a company promoting its ethics and respect for religions, and care with logo design, and concern for children by building an Islamic playcenter, but not exploiting human slavery, and all the other positive representations of fact Defendant Nike and other Defendants have made. All on numerous occasions and known by Leaf prior to viewing The Nike Ad.

JURY DEMAND

Plaintiff demands a jury for this matter.

RELIEF REQUESTED

Plaintiff requests reasonable attorney fees in accordance with MCL § 445.911(2), statutory dam-

ages or actual damages described herein, whichever is greater, actual costs, and any other relief deemed appropriate by this Court.

Respectfully submitted,

/s/Martin H. Leaf (P43202)

Martin H. Leaf PLLC

Attorney for Plaintiff

19641 Mack Ave.

Grosse Pointe Woods, MI 48236

248.687.9993 Fax. 248.479.0493

leafmartin@gmail.com

/s/ Douglas MacLean

Douglas MacLean (P48880)

Attorney for Plaintiff

19641 Mack Ave.

Grosse Pointe Woods, MI 48236

Tel. (313) 928.5310

dougmaclean@hotmail.com

/s/ Herman Petzold

Herman Petzold(P41760)

19641 Mack Ave.

Grosse Pointe Woods, MI 48236

Main: (616) 881-2127

Cell: (616) 881-2127

hgp_3@yahoo.com

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