No. 25-____

IN THE

Supreme Court of the United States

JAIME ROGOZINSKI,

Petitioner,

v.

REDDIT, INC.,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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PETITION FOR WRIT OF CERTIORARI

MATTHEW TOPIC
Counsel of Record
SHELLEY GEISZLER
LOEVY + LOEVY
311 N. Aberdeen
Chicago, IL 60515
(312) 243-5900
matt@loevy.com

Counsel for Petitioner

November 7, 2025

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D.C. 20002

QUESTIONS PRESENTED

Who owns the trademark for a user-created online community on a social media platform: the social media platform that provides the technical infrastructure or the creator of the online community who creates the look, feel, and personality of the community, moderates the community's content, cultivates the brand's goodwill, and is recognized by the public as the source of the brand?

RELATED PROCEEDINGS

United States District Court (N.D. Cal.):

Rogozinski v. Reddit, Inc., No. 23-cv-00686-MMC (Jan. 12, 2024)

United States Court of Appeals (9th Cir.):

Rogozinski v. Reddit, Inc., No. 24-735 (June 11, 2025)

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The Ninth Circuit's decision affirming the district court (App., *infra*, 1a-4a) is not published in the Federal Reporter but is available at 2025 WL 1650019. The district court's decision (App., *infra*, 5a-19a) is not published in the Federal Supplement but is available at 2024 WL 150727. An additional order of the district court (App., *infra*, 20a-39a) is not published in the Federal Supplement but is available at 2023 WL 4475581.

JURISDICTION

The Ninth Circuit affirmed the district court's order granting Reddit's Rule 12(b)(6) motion to dismiss on June 11, 2025. Rogozinski applied for an extension of time to file his petition for a writ of certiorari on September 5, 2025, and on September 11, 2025, the Court extended the time for Rogozinski to file his petition for a writ of certiorari to November 8, 2025. Rogozinski invokes this Court's jurisdiction under 28 U.S.C. § 1254(1) and seeks review of the Ninth Circuit's judgment filed June 11, 2025.

STATUTES INVOLVED

The Lanham Act, 15 U.S.C. §§ 1051 *et seq.*

STATEMENT OF THE CASE

Petitioner Jaime Rogozinski is an investor, entrepreneur, author, speaker, and the creator of the brand WALLSTREETBETS, which he launched as the subreddit r/wallstreetbets on the social media platform Reddit on January 31, 2012. App., *infra*, 6a, 42a. Respondent Reddit, Inc. is a forum-style technology platform where millions of users engage in communities organized around their interests and preferences. App., *infra*, 5a-6a. Communities on Reddit are called "subreddits," comprised of users and moderators, and identified using the convention "r/[subreddit name]." App., *infra*, 6a. There are at least 138,000 active subreddits. Users "post, comment, discuss, learn, debate, support, and connect with each other," while moderators create and manage the individual subreddit communities. App., *infra*, 5a-6a. Rogozinski created r/wallstreetbets and was the subreddit's first moderator. App., *infra*, 6a.

In launching WALLSTREETBETS, Rogozinski sought to establish an online community where ordinary people, or so-called "retail investors," could share financial advice and information, discuss stock and option trading, collaborate, and build camaraderie outside traditional Wall Street institutions. App., *infra*, 6a, 46a-48a. Rogozinki established the community's style and personality, and through his community building, moderation, and curation efforts, WALLSTREETBETS became widely known for its brazen, short-term approach to stock and option trading, its irreverent humor, and shared jargon among its users. App., *infra*, 51a-53a, 56a-60a. By 2020, r/wallstreetbets had over one million subscribers. App., *infra*, 6a. In early 2021, WALLSTREETBETS gained broader notoriety for sparking the GameStop short squeeze and the proliferation of meme stocks in financial markets. App., *infra*, 58a-60a, 80a-81a.

After moderating r/wallstreetbets and cultivating goodwill in the WALLSTREETBETS brand for more than eight years, Rogozinski filed an application on March 24, 2020, with the United States Patent and Trademark Office to register the trademark WALLSTREETBETS. App., *infra*, 6a-7a. A few weeks later, Reddit suspended Rogozinski's account for "attempting to monetize a community" and revoked his moderation privileges. App., *infra*, 7a. Then, on May 11, 2020, Reddit filed its own application with USPTO to register the mark WALLSTREETBETS and sought to block Rogozinski's registration. App., *infra*, 22a.

Rogozinski filed this action in the district court seeking a declaratory judgment that he, not Reddit, is the owner of the WALLSTREETBETS trademark. App., *infra*, 9a, 92a. Rogozinski's claim arose under the Lanham Act, and the district court had jurisdiction under 28 U.S.C. § 1331 and 15 U.S.C. § 1121. The district court also had diversity jurisdiction pursuant to 28 U.S.C. § 1332.

On January 12, 2024, the district court dismissed Rogozinski's First Amended Complaint without leave to further amend. App., *infra*, 19a. The district court ruled that Rogozinski had failed to state a claim because he failed to allege he was the first to use WALLSTREETBETS in commerce through the "launch and operation of" the subreddit. App., *infra*, 9a-12a.

The Ninth Circuit affirmed, holding that "Rogozinski failed to state a trademark claim because he failed to adequately plead ownership over the WALLSTREETBETS mark." App., *infra*, 2a. The Ninth Circuit found that "the core of the services at issue are the provision and hosting of r/WallStreetBets—an online forum-based community in which Reddit users exchange financial information." App., *infra*, 2a. It ruled that Rogozinski did not state "a valid ownership claim over the WALLSTREETBETS mark" because Reddit "created and provided the services that enabled Reddit's many users to contribute to the discussion on" r/wallstreetbets. App., *infra*, 2a.

Rogozinski petitions this Court to grant certiorari and review the Ninth Circuit's order.

ARGUMENT

I. The Ninth Circuit's rule that a technology platform owns the trademarks to all community discussion groups created on that platform is inconsistent with bedrock trademark principles as applied to the age of social media.

A. Rogozinski is the "source" of WALLSTREETBETS, not Reddit.

The purpose of trademarks is brand identification. *U.S. Patent & Trademark Off. v. Booking.com B.V.*, 591 U.S. 549, 552 (2020) ("A trademark distinguishes one producer's goods or services from another's."); *Jack Daniel's Properties, Inc. v. VIP Products LLC*, 599 U.S. 140, 146 (2023) ("[A] trademark is not a trademark unless it identifies a product's source (this is a Nike) and distinguishes that source from others (not any other sneaker brand)."); *Chance v. Pac-Tel Teletrac, Inc.*, 242 F.3d 1151, 1156 (9th Cir. 2001) ("a trademark identifies goods while a service mark identifies services" and "[s]ervice marks and trademarks are governed by identical standards") (internal citations omitted); *see* 15 U.S.C. § 1127. By identifying a brand as the source of a product or service, trademarks benefit both brand creators and their consumers by "'secur[ing] to the owner of the mark the goodwill' of her business and 'protect[ing] the ability of consumers to distinguish among competing producers.'" *Booking.com*, 591 U.S. at 552 (quoting *Park 'N Fly v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 198-99 (1985)).

Here, the mark at issue, WALLSTREETBETS, identifies a specific service: the subreddit r/wallstreetbets, an online community created by Rogozinski for discussing stock and option trading and the financial industry with a particular style and tone. Rogozinski built the community as a subreddit on the platform Reddit and curated the personality and style of the community by moderating content and cultivating a space where people could engage in discussions about intrepid, short-term approaches to stock and option trading. App., *infra*, 46a-48a, 51a-53a. Rogozinski's community is known for discussing high-risk day trading and sparked the 2021 GameStop short squeeze and the proliferation of meme stocks. App., *infra*, 56a-60a, 80a-81a. These cultural phenomena arose out of the WALLSTREETBETS ethos and are plausibly associated by the public with the specific community Rogozinski founded. Through Rogozinski's moderation and community building efforts, WALLSTREETBETS grew to more than one million users and developed a culture and shared jargon. App., *infra*, 6a, 57a. For example, members of WallStreetBets use specific slang, such as "stonks" for "stocks," "tendies" for gains or profits, "diamond hands" for adamantly holding onto a stock, and "paper hands" for selling a stock at the first signs of loss.[1]

In creating and cultivating the online community r/wallstreetbets, Rogozinski provided the relevant service, and he is the "source" of WALLSTREETBETS. *See Jack Daniel's*, 599 U.S. at 146 (trademarks identify the source of products or services). Despite this, the Ninth Circuit denied Rogozinski ownership of the WALLSTREETBETS mark because it did not consider it plausible, for the purposes of a motion to dismiss, for Rogozinski to be the source of the brand. Instead,

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[1] *See* SWFI, *Ultimate Guide to WallStreetBets Terms and Lingo* (Jan. 30, 2021), https://www.swfinstitute.org/news/84215/ultimate-guide-to-wallstreetbets-terms-and-lingo [https://perma.cc/HVD3-7C9A].

the Ninth Circuit considered the source of WALLSTREETBETS to be Reddit because, in its view, Reddit provided the technical infrastructure Rogozinski used to create the subreddit community. App., *infra*, 2a ("the core of the services at issue are the provision and hosting of r/WallStreetBets"). This is too high a level of abstraction and ignores that trademarks "help consumers identify the source" of a good or service. *Brookfield Commc'ns, Inc. v. West Coast Ent. Co.*, 174 F.3d 1036, 1051 (9th Cir. 1999). Here, the source of the specific online community and the WALLSTREETBETS brand is plainly Rogozinski, not Reddit. At the very least, that claim is sufficiently plausible to survive a motion to dismiss.

There is no dispute that Rogozinski first used WALLSTREETBETS when he created the subreddit and that Reddit provided only the platform and technical infrastructure for Rogozinski's subreddit community. App., *infra*, 2a, 6a. But the relevant "service" for the purpose of trademark ownership in this case is not who provided the technical infrastructure powering the subreddit, but who first created and cultivated the specific online community associated with the WALLSTREETBETS brand. *B&B Hardware, Inc. v. Hargis Indust., Inc.*, 575 U.S. 138, 142 (2015) ("One who first uses a distinct mark in commerce thus acquires rights to that mark."); *In re Advert. & Mktg. Dev., Inc.*, 821 F.2d 614, 620 (Fed. Cir. 1987) ("It is not enough for the applicant to be a provider of services; the applicant also must have used the mark to identify the named services for which registration is sought."). The Ninth Circuit, without analysis, assumed that because Reddit "created and provided the services," or technical infrastructure, that enabled r/wallstreetbets users to participate in the community, Reddit was the first to use the WALLSTREETBETS mark. App., *infra*, 2a.

But Reddit's "provision and hosting" of subreddits, which the Ninth Circuit identified as "the core of the services at issue," *id.*, are the services it provides to all its users, and they are in no way unique to WALLSTREETBETS. Reddit is a conduit, or a distributor of brands that emerge as subreddits on its platform, but it is not the source of those brands. *E.g. Sengoku Works Ltd. v. RCM Intern. Ltd.*, 96 F.3d 1217, 1220 (9th Cir. 1996) (manufacturer is the presumed source and owner of a trademark over a distributor).

This is clear from analogous situations. For example, a printing company is not the source of *Vogue* simply because it provides the technical infrastructure that prints the physical magazine. Similarly, a web server or web hosting service does not own the trademark in a "generic.com" simply because it provides the infrastructure underlying the website. *See Booking.com*, 591 U.S. at 559 ("consumers could understand a given 'generic.com' term to describe the corresponding website or to identify the website's proprietor").

This issue is also well illustrated by a precedential decision of the Trademark Trial and Appeal Board ("TTAB"). *See In re Florists' Transworld Delivery, Inc.*, 119 U.S.P.Q.2d 1056 (T.T.A.B. 2016), 2016 WL 3997062 (precedential). The TTAB characterized the question like this: "When an applicant sets up a social media account on Twitter in order to advertise or promote its business via a social-networking website, is it the applicant or Twitter that is providing the service of 'creating an on-line community for users' interested in the applicant's business?" *Id.* at *1. The TTAB found that Twitter, not the florist, provided the relevant service because the florist "has done nothing more than use the Twitter online community forum to engage in social-networking" to promote its floral business. *Id.* at *5. The TTAB observed that the florist "has not created a sub-community *forum*," *id.* (emphasis in original), and there was no evidence that Twitter users engaged the florist's Twitter account "to discuss or get feedback from their peers, form communities, or exchange information pertaining to flowers, floral products or gifts." *Id.* n.12.

But the TTAB left open the possibility that people who create sub-communities on larger online platforms can, in certain circumstances, provide a service of creating an online community necessary to own the applicable mark. Specifically, the TTAB recognized that someone who "carved out a smaller, online 'community'" of people with a specific interest on a larger platform could provide the service of creating an online community. *Id.* at *5, 5 n.12. Here, Rogozinski ***did*** use Reddit to "carve out a smaller, online 'community' of people with an interest in" stock and option trading, and people used Rogozinski's community "to discuss or get feedback from their peers" and "exchange information" about the financial industry. *Id.* And Rogozinski's community is not just any forum for discussing the stock market—it is a community that has garnered public notoriety for irreverent, bold trading strategies among retail investors that have had real-world impacts on financial markets.

B. The Ninth Circuit's decision conflicts with three well-established trademarks principles and decisions of this Court.

Permitting multi-billion-dollar tech companies to claim they are the source of brands that first emerge on their platforms, as the Ninth Circuit has, means that no one who first launches a brand on a tech platform can ever be the source of the trademark. And because the Ninth Circuit's ruling affirmed a ruling on a motion to dismiss, its decision is not even fact dependent, but rather, has wide ranging application and far-reaching consequences for the creator economy and consumers alike, which Rogozinski addresses in more detail *infra* Section II. What is more, however, the decision conflicts with three well-established trademarks principles.

First, the Ninth Circuit's ruling conflicts with the presumption that the manufacturer of a product owns the trademark over its distributor absent some agreement otherwise. *Sengoku Works*, 96 F.3d at 1220 ("When disputes arise between a manufacturer and distributor . . . in the absence of an agreement between the parties, the manufacturer is presumed to own the trademark."). Here, Reddit acts akin to a distributer of Rogozinski's distinct online community, while Rogozinski functions as the manufacturer of that community and presumptive trademark owner. While Reddit provided the technology infrastructure supporting r/wallstreetbets, Rogozinski cultivated and developed the personality and style of the community that attracted users. Rogozinski could have just as easily done this on a different platform, like Facebook, but the result would be the same: Rogozinski would be the source of the brand, and the technology platform would provide the infrastructure. *See* App., *infra*, 53a. The Ninth Circuit's ruling turns the presumption of ownership on its head and places the rights of an online intermediary over the rights of content creators.

Second, the Ninth Circuit's ruling conflicts with the principle that brands that exist online can own the trademark in their web address names. *See Booking.com*, 591 U.S. at 559 ("consumers could understand a given 'generic.com' term to describe the corresponding website or to identify the website's proprietor"). Under the Ninth Circuit's decision, proprietors of websites could not own the trademark to their web address names if a separate webserver hosted the website, *see* App., *infra*, 2a ("the core of the services at issue are the provision and hosting of r/wallstreetbets"), so the Ninth Circuit's decision conflicts with authority from this Court.

Third, the ruling conflicts with the black letter principle that trademarks must be assessed "from the perspective of the ordinary purchaser." *Hana Fin., Inc. v. Hana Bank*, 735 F.3d 1158, 1164 (9th Cir. 2013), *aff'd*, 574 U.S. 418 (2015) (quoting 3 J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition* § 17:26 (4th ed. 2013)). Because the Ninth Circuit affirmed on Reddit's motion to dismiss, there was no opportunity for Rogozinski to develop the factual record on this point, or on other factors courts consider when assessing trademark ownership between manufacturers and distributors. *See Sengoku Works*, 96 F.3d at 1220 (outlining four-factor test for determining whether a manufacturer or distributor has superior right of trademark ownership); *Hana Fin., Inc. v. Hana Bank*, 574 U.S. 418, 422-23 (2015) ("we have long recognized across a variety of doctrinal contexts that, when the relevant question is how an ordinary person or community would make an assessment, the jury is generally the decisionmaker that ought to provide the fact-intensive answer") (citing cases). But ordinary consumers and users are reasonably likely to identify WALLSTREETBETS with the personality and style of the subreddit community, not with the technology platform that hosts it. For example, complaints as to the tone and topics of discussions or how the subreddit was being run (outside of general Reddit terms of use issues) would go to the moderators of the subreddit, including Rogozinski.[2] App., *infra*, 6a (moderators "manage the communities"). So, it is reasonably likely that consumers would identify WALLSTREETBETS as the source of the discussions occurring on the subreddit rather than Reddit. Moreover, the media attributes the trading style and discussions that spawned the 2021 GameStop short squeeze and the proliferation of meme stocks to WALLSTREETBETS, not to Reddit the tech company. App., *infra*, 57a-60a, 80a-81a. By affirming on a motion to dismiss, the Ninth Circuit not only overlooked these well-established trademark principles, but it also foreclosed any factual inquiry into how WALLSTREETBETS operates in relation to Reddit and how it is perceived by the public, two inquiries that are crucial for establishing trademark ownership and are typically the subject of fact and expert discovery. *See Sengoku Works*, 96 F.3d at 1220; *Hana Fin.*, 574 U.S. at 422-23.

C. The Ninth Circuit's ruling conflicts with Section 230 of the Communications Decency Act.

Apart from these trademark principles, the Ninth Circuit's ruling also conflicts with how the law treats technology platforms and their users. Section 230 of the Communications Decency Act absolves technology platforms, or "interactive computer services," of liability because they are not "the publisher or speaker of any information provided by" their users. 47 U.S.C.

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[2] *Moderator Code of Conduct*, Reddit, https://redditinc.com/policies/moderator-code-of-conduct [https://perma.cc/JHB5-7CFS] (requiring moderators to "set appropriate and reasonable expectations" for their communities and "ensure people have predictable experiences") (last accessed Nov. 5, 2025).

§ 230(c)(1), (f)(2). In other words, Section 230 says, for the purpose of civil liability, Reddit is ***not*** the creator of its users' content. *Doe 1-6 v. Reddit, Inc.*, 51 F.4th 1137, 1140 (9th Cir. 2022) (quoting *Doe v. Internet Brands, Inc.*, 824 F.3d 846, 850 (9th Cir. 2016)) (Section 230 "protects websites from liability for material posted on the website by someone else"). There is no dispute that Reddit is subject to this requirement. *Id.* at 1141 ("Reddit is an "interactive computer service" provider as defined in § 230(f)(2)"). Indeed, Reddit availed itself of this argument below as a defense to other claims.[3] App., *infra*, 3a, 16a-18a.

Under Section 230's provisions, and in practice, the creation of a subreddit and its content comes from Reddit's users (the "information content providers"), not from Reddit. 47 U.S.C. § 230(f)(3) (an "information content provider" is "any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service"); App., *infra*, 2a-3a (holding Rogozinski's state law claim was barred by Section 230 because he failed to allege Reddit "is itself responsible, in whole or in part, for the creation or development of the offending content") (internal quotation and citation omitted). Thus, if the relevant service for the purpose of trademark ownership is the provision of content in an online community, as Rogozinski argues, it cannot be true that Reddit can own the trademark in a service that by law (and by its own admission) Reddit does not provide. *See id.*

Reddit cannot argue it is the creator of the WALLSTREETBETS brand while simultaneously

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[3] Rogozinski does not seek review of his state law claims.

arguing it bears no responsibility for the WALLSTREETBETS content that makes up the brand, yet the Ninth Circuit's ruling permits it to do so. The ruling not only ignores bedrock trademark principles, but it also fails to consider how these principles should apply in the digital age, where platforms hold themselves out as distributors of user-generated content and brands, but are not legally responsible for creating content and brands themselves.

II. The Ninth Circuit's rule is anticompetitive and bad for consumers.

Trademarks "seek[] to promote competition by protecting a firm's reputation[.]" *Qualitex Co. v. Jacobson Prod. Co., Inc.*, 514 U.S. 159, 164 (1995); *Booking.com*, 591 U.S. at 552 (quoting *Park 'N Fly*, 469 U.S. at 198-99) (a trademark "'secure[s] to the owner of the mark the goodwill' of her business"). Trademark ownership also "'makes effective competition possible in a complex, impersonal marketplace by providing a means through which the consumer can identify products which please him and reward the producer with continued patronage.'" *Anti-Monopoly, Inc. v. General Mills Fun Grp.*, 611 F.2d 296, 301 (9th Cir. 1979) (quoting *Smith v. Chantal, Inc.*, 402 F.2d 562, 566 (9th Cir. 1968)). In holding that Reddit, not Rogozinski, owns the trademark in WALLSTREETBETS, the Ninth Circuit has shattered competition in the online creator economy and greenlit tech companies to usurp the ownership rights of creators.

The consequence of the Ninth Circuit's ruling is plain: If the relevant service is the provision of technical infrastructure to host content, rather than the creation and curation of that content as Rogozinski argues, once a new online community or brand is created on one platform, it is impossible for the creator to use that goodwill to establish a comparable group on another platform because the technology platform, not the creator, owns the trademark, even if the groups utilize the same content and style. Put differently, the technology platform will own the brand's goodwill, and that goodwill will be limited to a single platform. *See Booking.com*, 591 U.S. at 552.

This paradigm is inconsistent with how content creation and publishing have traditionally worked—for example, because *Vogue* owns the trademark in its name, *Vogue* can market its brand through mediums beyond the print magazine and across social media platforms. It can also change printing houses. But if Reddit owns the trademark WALLSTREETBETS, the brand is limited to Reddit and Reddit can prevent it from existing on competitors' platforms. And as explained above, the Ninth Circuit's rule is inconsistent with how tech companies are traditionally conceived in relation to their users' content—as Congress envisions it, tech companies are not creators of their users' content, they are distributers of their users' content. *See* 47 U.S.C. § 230(c). Limiting brands that first emerge online like WALLSTREETBETS to a single platform limits their reach in the market and creates stratification. While brands that existed prior to social media platforms (like *Vogue*) can reap the rewards of trademark ownership, brands that emerge on social media are left without any trademark ownership rights and creators can be barred by the platform from moving the brand elsewhere. The online creator economy has an estimated value of $250 billion and is expected to double over the next year,[4] so the

[4] *The creator economy could approach half-a-trillion dollars by 2027*, Goldman Sachs (Apr. 19, 2023), https://www.goldmansachs.

Ninth Circuit's ruling has significant implications as to the rights of creators in this sector. *See B&B Hardware*, 575 U.S. at 142 ("One who first uses a distinct mark in commerce thus acquires rights to that mark. Those rights include preventing others from using the mark.") (citations omitted); *Jack Daniel's*, 599 U.S. at 146 (citing *Qualitex*, 514 U.S. at 164) (trademarks "ensure that the producer itself—and not some 'imitating competitor'—will reap the financial rewards associated with the product's good reputation.").

Beyond this substantial harm to the wider creator economy, the Ninth Circuit's decision will also lead to consumer confusion because it tells consumers that Reddit or another similar technology platform is the source of the online community's content, style, and culture, not the brand creator. *Id.* (quoting *Matal v. Tam*, 582 U.S. 218, 224 (2017)) ("A source-identifying mark enables customers to select 'the goods and services that they wish to purchase, as well as those they want to avoid.'"). But it is certainly at least plausible, for the purposes of a motion to dismiss, that the millions of members of the WALLSTREETBETS community and the public, who consume its content and whose perspective is relevant as to determining the source of the mark, *Hana Fin.*, 735 F.3d at 1164, would associate WALLSTREETBETS with Rogozinski, its founder and first moderator, not the technology platform that hosts it. App., *infra*, 57a-60a, 80a-81a.

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com/insights/articles/the-creator-economy-could-approach-half-a-trillion-dollars-by-2027 [https://perma.cc/4695-LFNP].

III. Guidance from this Court is necessary to protect against tech company overreach and to address the conflict between the Ninth Circuit and Trademark Trial and Appeal Board's decisions on this novel question of trademark ownership.

The Ninth Circuit's decision holds that technology platforms own the trademarks of brands that emerge in commerce on their platforms, even though Congress did not intend platforms to be publishers or speakers of third-party content. *See* 47 U.S.C. § 230(c). The decision is contrary to how Congress and other courts have conceived of technology platforms through Section 230. *See e.g. Small Justice LLC v. Xcentric Ventures LLC*, 873 F.3d 313, 322 (1st Cir. 2017) (website operator was not publisher or speaker of content on its website); *Ricci v. Teamsters Union Loc. 456*, 781 F.3d 25, 28 (2nd Cir. 2015) (web hosting service was immune under Section 230). If left to stand, the ruling would deprive creators of ownership of their brands and the goodwill they generate simply because they use social media as a tool to develop and distribute those brands.

The decision also conflicts with the TTAB's precedential decision on this very issue. *See B&B Hardware*, 575 U.S. at 143 (observing that TTAB proceedings are "similar to a civil action in a federal district court"); *id.* at 160 (holding that issue preclusion applies to TTAB decisions). In *Transworld*, the TTAB found that where a platform user cultivates a unique online community, that person should be considered the source of the service and the owner of the corresponding trademark. 119 U.S.P.Q.2d 1056 (T.T.A.B. 2016), 2016 WL 3997062. The Ninth Circuit disregarded the TTAB's analysis and held, without development of the factual record and without appreciation of the unique interaction between creators and the technology platforms they rely on, that a tech company can claim ownership of any brand that emerges on its platform when it had no role in developing that brand apart from providing a digital address. The Court should grant certiorari to resolve this conflict between the Ninth Circuit and the TTAB and ensure consistent and correct application of trademark law in this area nationwide.

CONCLUSION

For the foregoing reasons, Rogozinski respectfully requests that this Court grant certiorari and review of the decision below.

Respectfully submitted,

MATTHEW TOPIC
Counsel of Record
SHELLEY GEISZLER
LOEVY + LOEVY
311 N. Aberdeen
Chicago, IL 60515
(312) 243-5900
matt@loevy.com

Counsel for Petitioner

November 7, 2025

APPENDIX

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APPENDIX A

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

[Filed: June 11, 2025]

No. 24-735
D.C. No. 3:23-cv-00686-MMC

JAIME ROGOZINSKI,
Plaintiff - Appellant,
v.

REDDIT, INC.,
Defendant - Appellee.

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Argued and Submitted May 19, 2025
San Francisco, California

Before: FRIEDLAND, BRESS, and MENDOZA, Circuit Judges.

Plaintiff-Appellant Jaime Rogozinski appeals the district court's order granting Defendant-Appellee Reddit, Inc.'s motion to dismiss for failure to state a claim. We review de novo the district court's dis-

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

missal of a complaint under Rule 12(b)(6). *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890 (9th Cir. 2019). We review for abuse of discretion the district court's denial of leave to amend. *Telesaurus VPC, LLC v. Power*, 623 F.3d 998, 1003 (9th Cir. 2010). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

1. Rogozinski failed to state a trademark claim because he failed to adequately plead ownership over the WALLSTREETBETS mark. "To acquire ownership of a trademark[,] it is not enough to have invented the mark first or even to have registered it first; the party claiming ownership must have been the first to actually use the mark in the sale of goods or services." *Hana Fin., Inc. v. Hana Bank*, 735 F.3d 1158, 1163 (9th Cir. 2013), *aff'd*, 574 U.S. 418 (2015) (quoting *Brookfield Commc'ns. Inc. v. W. Coast Ent. Corp.*, 174 F.3d 1036, 1047 (9th Cir. 1999)). Here, the core of the services at issue are the provision and hosting of r/WallStreetBets—an online forum-based community in which Reddit users exchange financial information. Rogozinski does not allege that he had previously used WALLSTREETBETS in commerce prior to its use on the r/WallStreetBets subreddit; and by Rogozinski's own allegations, it was Reddit that created and provided the services that enabled Reddit's many users to contribute to the discussion on the r/WallStreetBets subreddit by, for example, posting and engaging with one another about various trading strategies. Even if Rogozinski played a prominent role among those users, he has not stated a valid ownership claim over the WALLSTREETBETS mark.

2. Rogozinski also failed to state a claim under state law. To the extent that Rogozinski's right-of-publicity claim seeks to hold Reddit liable for third-

party content to which Rogozinski objects, that claim is barred by 47 U.S.C. § 230, unless Rogozinski specifically alleged that Reddit "is itself responsible, in whole or in part, for the creation or development of the offending content." *Est. of Bride by & through Bride v. Yolo Techs., Inc.*, 112 F.4th 1168, 1176 (9th Cir. 2024) (quotation marks omitted), *cert. denied sub nom.*, *Est. of Bride v. Yolo Techs., Inc.*, No. 24-864, 2025 WL 889177 (U.S. Mar. 24, 2025). Here, the only allegation in the Complaint suggesting that Reddit was even partially responsible for content posted on r/WallStreetBets after Rogozinski's suspension is that Reddit once "partnered" with r/WallStreetBets moderators to provide users with digital artwork. But that is not enough to state a right-of-publicity claim because nothing in that artwork is alleged to have had any "uniquely distinguishing features" that made the offending content "peculiar to" Rogozinski. *Motschenbacher v. R. J. Reynolds Tobacco Co.*, 498 F.2d 821, 827 (9th Cir. 1974).

Rogozinski's breach-of-contract and violation-of-duty-of-good-faith-andfair-dealing claims also fail. During the relevant period, Reddit's User Agreement provided that it "reserve[d] the right to revoke or limit a user's ability to moderate *at any time and for any reason or no reason*." None of the policies to which Rogozinski refers in his Complaint create enforceable promises to the contrary. Reddit therefore did not violate any contractual obligation or other duty—let alone in bad faith—when it removed Rogozinski's moderator privileges or when it refused to reinstate Rogozinski as the moderator of r/WallStreetBets.

Rogozinski has likewise failed to state a claim under any of the three prongs of California's Unfair

Competition Law ("UCL"). The Complaint alleges that Reddit acted in an unlawful, unfair, or fraudulent manner by "seeking to obtain trademark protection over" the WALLSTREETBETS mark and by "block[ing] Mr. Rogozinski from controlling his brands." But whether Reddit acted in an unlawful, unfair, or fraudulent manner by asserting trademark ownership over the WALLSTREETBETS mark rises and falls with the merits of Rogozinski's trademark ownership claim; and, as explained above, Rogozinski has failed to state a valid trademark ownership claim. And the Complaint does not contain sufficient allegations explaining how either Reddit's contesting Rogozinski's ownership over the WALLSTREETBETS mark or Reddit's "block[ing] Mr. Rogozinski from controlling his brands" by suspending Rogozinski's moderator privileges on Reddit.com constituted unlawful, unfair, or fraudulent conduct within the meaning of the UCL.

3. The district court did not abuse its discretion in denying leave to amend. "[T]he 'general rule that parties are allowed to amend their pleadings . . . does not extend to cases in which any amendment would be an exercise in futility or where the amended complaint would also be subject to dismissal.'" *Novak v. United States*, 795 F.3d 1012, 1020 (9th Cir. 2015) (second alteration in original) (quoting *Steckman v. Hart Brewing, Inc.*, 143 F.3d 1293, 1298 (9th Cir. 1998)). Rogozinski argues that he could plead "myriad additional facts" that would cure the deficiencies in his Complaint, but he provides no examples of facts that would be material to the legal issues presented. Giving Rogozinski leave to amend would therefore be an exercise in futility.

AFFIRMED.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Case No. 23-cv-00686-MMC

JAIME ROGOZINSKI,

Plaintiff,

v.

REDDIT, INC.,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS FIRST AMENDED COMPLAINT; DISMISSING ACTION

Before the Court is defendant Reddit, Inc.'s ("Reddit") "Motion," filed September 15, 2023, "to Dismiss First Amended Complaint." Plaintiff Jaime Rogozinski ("Rogozinski") has filed opposition, to which Reddit has replied. Having read and considered the papers filed in support of and in opposition to the motion, the Court rules as follows.[1]

BACKGROUND[2]

Reddit is "a social media platform where millions of people around the world post, vote, and comment in

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[1] By order filed November 27, 2023, the Court took the matter under submission.

[2] The following facts are taken from the First Amended Complaint ("FAC").

communities organized around their interests." *(See* FAC ¶ 21 (internal quotation and citation omitted).) On Reddit, "[u]sers post, comment, vote, discuss, learn, debate, support, and connect with people," while "[m]oderators create and manage the communities" *(see id.* ¶ 21), called subreddits *(see id.* ¶ 35).

On January 31, 2012, Rogozinski launched the "r/WallStreetBets" subreddit, "serving as the forum's first moderator" *(see id.* ¶ 28), with the purpose being to "provide[] a forum for members to exchange information and content related to the financial industry" *(see id.* ¶ 3). Leading up to the launch of the r/WallStreetBets subreddit, Rogozinski "spent several weeks creating the WALLSTREETBETS logo and developing the overall look, feel, and design of the site by using CSS[3] to create code to modify Reddit's template page" *(see id.* ¶ 27), and thereafter started an "Internet Relay Chat chatroom," "Discord channel," and "Twitter account" using the WALLSTREETBETS name *(see id.* ¶¶ 34-35, 38). Additionally, he started a chatroom under the name WSB, "an abbreviation for WALLSTREETBETS." *(See id.* ¶ 36.) By 2020, the r/WallStreetBets subreddit had over "1,000,000 million subscriber[s]." *(See id.* ¶ 39.)

On March 24, 2020, Rogozinski "filed an application with the United States Patent and Trade-

[3] CSS is an abbreviation for Cascading Style Sheets. (*See* FAC ¶ 26 (citing Reddit, *Edit Stylesheet*, https://mods.reddithelp.com/hc/en-us/articles/360003000471-Edit-Stylesheet (last visited Aug. 10, 2023) (explaining a moderator can "use the edit stylesheet option in [the] moderation tools at the bottom of [the moderator's] sidebar to customize the look and feel of [the moderator's] community using CSS")).)

mark Office ("USPTO") to register the mark WALL-STREETBETS." *(See id.* ¶ 53.) Shortly thereafter, on April 7, 2020, Reddit notified him that his account had been placed on a seven-day suspension for "attempting to monetize a community" and that he was "no longer permitted to moderate communities on [R]eddit." *(See id.* ¶ 54.) On January 12, 2022, Rogozinski submitted a trademark application for WSB, "for which [he] asserted a date of first use in commerce of April 15, 2021." *(See id.* ¶ 77.) On June 7, 2022, "that registration issued." *(Id.)*

Based on the above, Rogozinski asserts the following claims for relief: (1) "a declaratory judgment that he, and not Reddit, is the owner of the WALL-STREETBETS and WSB trademarks" (Count I); (2) "infringement of WALLSTREETBETS trademark" in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a) (Count II); (3) "infringement of registered WSB trademark" in violation of Lanham Act § 32, 15 U.S.C. § 1114 (Count III); (4) "violation of right of publicity" (Count IV); (5) "breach of contract" (Count V); (6) "violation of duty of good faith and fair dealing" (Count VI); and (7) "unfair competition" in violation of Cal. Bus. & Prof. Code § 17200, *et seq.* (Count VII). *(See id.* ¶¶ 97-157.)

LEGAL STANDARD

Dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure "can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory." *See Balistreri v. Pacifica Police Dep't,* 901 F.2d 696, 699 (9th Cir. 1990). Rule 8(a)(2), however, "requires only 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" *See Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 555 (2007) (quoting Fed. R. Civ. P. 8(a)(2)). Consequently, "a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations." *See id.* Nonetheless, "a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than . . . a formulaic recitation of the elements of a cause of action." *See id.* (internal quotation, citation, and alteration omitted).

In analyzing a motion to dismiss, a district court must accept as true all material allegations in the complaint and construe them in the light most favorable to the nonmoving party. *See NL Indus., Inc. v. Kaplan,* 792 F.2d 896, 898 (9th Cir. 1986). "To survive a motion to dismiss," however, "a complaint must contain sufficient factual material, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Twombly,* 550 U.S. at 570). "Factual allegations must be enough to raise a right to relief above the speculative level," *Twombly,* 550 U.S. at 555, and courts "are not bound to accept as true a legal conclusion couched as a factual allegation," *see Iqbal,* 556 U.S. at 678 (internal quotation and citation omitted).

DISCUSSION

By order filed July 11, 2023, the Court dismissed Rogozinski's initial February 15, 2023, Complaint in its entirety. In so ruling, the Court identified specific deficiencies as to each of the causes of action alleged therein and afforded Rogozinski leave to amend to cure those deficiencies. By the instant motion, Reddit argues Rogozinski has failed to cure the deficiencies previously identified by the Court. The Court considers in turn the seven causes of action.

A. Trademark Claims

In the initial Complaint, Rogozinski alleged four federal trademark claims. In the FAC, he asserts three of those federal claims as amended. [4]

1. Count I – Declaratory Judgment

In Count I, Rogozinski "seeks a declaratory judgment that he, and not Reddit, is the owner of the WALLSTREETBETS and WSB trademarks." *(See* FAC ¶ 104.)

a. WALLSTREETBETS

By its prior order, the Court dismissed with leave to amend Rogozinski's claim for declaratory judgment as alleged in his initial Complaint. In so ruling, the Court noted that Rogozinski "acknowledge[d] in the Complaint that 'Reddit uses the WALLSTREETBETS trademark in commerce by operating the r/WallStreetBets subreddit'" *(see* Order Granting Defendant's Motion to Dismiss ("Order of Dismissal"), filed July 11, 2023, at 6:5-7 (quoting Complaint ¶ 73)), that he did "not allege his own use of the mark for any purpose prior to January 31, 2012" *(id.* at 7:10-11), the "date on which [the r/WallStreetBets] subreddit was created" *(id.* at 7:7-8), and, indeed, that he did "not assert he was the first to use the mark in commerce" *(id.* at 5:2-3). In light thereof, the Court found Rogozinski "fail[ed] to plead ownership rights in the WALLSTREETBETS mark." *(Id.* at 7:12-13.)

Rogozinski, citing newly added allegations concerning events occurring before the launch of the

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[4] In the FAC, Rogozinski omits the Federal Trademark Dilution claim brought in his initial Complaint and expands his claim for declaratory judgment to include the "WSB" mark.

r/WallStreetBets subreddit, now argues those allegations establish his first use in commerce. As set forth below, the Court is not persuaded.

In trademark law, "the standard test of ownership is priority of use." *See Sengoku Works Ltd. v. RMC Int'l, Ltd.,* 96 F.3d 1217, 1219 (9th Cir.), *as modified,* 97 F.3d 1460 (9th Cir. 1996). "To acquire ownership of a trademark it is not enough to have invented the mark first or even to have registered it first; the party claiming ownership must have been the first to actually use the mark in the sale of goods or services." *See id.* In other words, "a party pursuing a trademark claim must meet a threshold 'use in commerce' requirement." *See Rearden LLC v. Rearden Com., Inc.,* 683 F.3d 1190, 1203 (9th Cir. 2012).

Although, as Rogozinski points out, "trademark rights can vest even before any goods or services are actually sold if the totality of one's prior actions, taken together, can establish a right to use the trademark" *(see* Pl.'s Opp'n at 17:21-24 (quoting *Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp.,* 174 F.3d 1036, 1052)), Rogozinski fails to make the requisite factual showing. In particular, the mark must be "use[d] in a way sufficiently public to identify or distinguish the marked goods in an appropriate segment of the public mind as those of the adopter of the mark." *See Brookfield Commc'ns, Inc.* 174 F.3d at 1052 (internal quotation, citation, and alteration omitted).

Here, Rogozinski's new allegation, namely, that before the launch of the r/WallStreetBets subreddit, he "spent several weeks creating the WALLSTREETBETS logo and developing the overall look, feel, and design of the site by using CSS to create code to modify Reddit's template page" *(see* FAC

¶ 27), is readily distinguishable from the circumstances deemed sufficient by the Ninth Circuit and other courts. *See New West Corp. v. NYM Co. of Cal.,* 595 F.2d 1194, 1199 (9th Cir. 1979) (holding magazine title was mark used in commerce prior to sale of magazine where plaintiff mailed "430,000 solicitations to prospective customers" and also mailed "mock-up issue[s] to advertisers . . . on which the [mark] was placed"); *see, e.g., Marvel Comics Ltd. v. Defiant, a Div. of Enlightened Ent. Ltd.,* 837 F. Supp. 546, 548-49 (S.D.N.Y. 1993) (holding ownership rights established in comic book title through presale "promotional activity," including announcement of mark to 13 million comic book readers).

Likewise unavailing are Rogozinski's additional allegations that he "created an IRC or Internet Relay Chat chatroom," launched a "Discord channel," and "created the WALLSTREETBETS Twitter account (@wallstreetbets)." *(See* FAC ¶¶ 34-35, 38.) In the FAC, the creation of the IRC chatroom, Discord channel, and Twitter account are alleged to have occurred "after . . . Rogozinski launched WALLSTREETBETS on the Reddit platform" *(see id.* ¶ 34; *see also id.* ¶¶ 35, 38), and, consequently, cannot constitute a first use in commerce.

Lastly, and also unpersuasive, is Rogozinski's reliance on his allegation that the "launch and operation of the WALLSTREETBETS name in conjunction with financial information and forum services and related goods and services was his use of a mark in United States commerce." *(See id.* ¶ 99.) Rogozinski's argument in support thereof is, in essence, the same argument he previously made in support of this claim as alleged in the initial

Complaint, and which the Court found unpersuasive. *(See* Order of Dismissal at 6:5-7:13.)

b. WSB

In the initial Complaint, Rogozinski sought a declaration of ownership only as to the WALL-STREETBETS mark. In the FAC, Rogozinski now seeks such relief with regard to the WSB mark as well.

"When proving ownership of a trademark, federal registration of the mark is prima facie evidence that the registrant is the owner of the mark," and "the registrant is [thus] granted a presumption of ownership, dating to the filing date of the application for federal registration." *See Sengoku,* 96 F.3d at 1219-20 (citing Lanham Act §§ 7(b), 33(a), 15 U.S.C. §§ 1057(b), 1115(a)). A "non-registrant," however, "can rebut this presumption by showing . . . that he used the mark in commerce first." *See id.* at 1220.

In its prior order, the Court noted Rogozinski had alleged that "Reddit's infringing activity began on April 7, 2020," and that his "application for the WSB mark lists April 15, 2021, as the 'first use in commerce' date, which is later than Reddit's alleged use of the mark." *(See* Order of Dismissal at 8:17-26.) In the FAC, those facts remain essentially unchanged. Nowhere in the FAC does Rogozinski allege he used the WSB mark prior to its use on Reddit, nor does he allege any other facts that would establish him as the owner of the WSB mark.

Accordingly, the First Cause of Action is subject to dismissal.

2. Count II – Infringement of WALLSTREETBETS Trademark

In Count II, Rogozinski asserts Reddit is infringing the WALLSTREETBETS mark. *(See* FAC ¶ 110.)

"To prevail on a claim of trademark or trade name infringement under the Lanham Act or common law, a plaintiff 'must prove: (1) that [he] has a protectable ownership interest in the mark; and (2) that the defendant's use of the mark is likely to cause consumer confusion.'" *La Terra Fina USA, LLC v. TerraFina, L.L.C.,* 2017 WL 4284167, at *2 (N.D. Cal. Sept. 27, 2017) (quoting *Network Automation, Inc. v. Advanced Sys. Concepts,* 638 F.3d 1137, 1144 (9th Cir. 2011)).

In its prior order, the Court dismissed with leave to amend Rogozinski's claim alleging infringement of the WALLSTREETBETS mark. The Court found Rogozinski failed, as noted, to sufficiently plead first use in commerce of the WALLSTREETBETS mark, and, consequently, found he failed to plead ownership rights in said mark. *(See* Order of Dismissal at 7:25-27.) As set forth above, Rogozinski again fails to plead first use in commerce of the WALLSTREETBETS mark.

Accordingly, the Second Cause of Action is subject to dismissal.

3. Count III – Infringement of WSB Trademark

In Count III, Rogozinski asserts Reddit is infringing the WSB mark. *(See* FAC ¶ 125.)

In its prior order, the Court dismissed with leave to amend Rogozinski's claim alleging infringement of the WSB mark, finding, as with WALL-

STREETBETS, Rogozinski failed to adequately plead first use in commerce. *(See* Order of Dismissal at 8:8-9:1; *see also id.* at 6:7-12 (citing USTPO finding that "Reddit is the one providing the online forum, not [Rogozinski]")).

In opposition to the instant motion, Rogozinski now argues that, "[e]ven assuming [his] launch and operation of WALLSTREETBETS was Reddit's use of the mark and not his," his infringement claim survives because he is "the senior user" of WSB in the "cryptocurrency-related goods and services" market. *(See id.* at 22:3-12.) In support thereof, Rogozinski asserts that he "owns U.S. Trademark Registration No. 6754487 for the WSB mark in connection with certain cryptocurrency-related services with a date of first [use in commerce] of April 15, 2021" and that Reddit infringed when it "entered this market after [him], with its initial foray into the market taking place in 2022, and its collaboration with WALL-STREETBETS moderators occurring in January 2023." *(See* Pl.'s Opp'n at 21:11-15; 22:9-11; *see also* FAC ¶ 77; FAC ¶¶ 80-81 (alleging Reddit released "'Reddit's Avatars collection in July 2022,'" and, in 2023, "partnered with the post-Mr. Rogozinski moderators of WALLSTREETBETS to push the company's Avatars to WALLSTREETBETS users") (citation omitted).)

Even assuming, arguendo, Rogozinski has adequately pleaded priority rights to the WSB mark in the cryptocurrency-related goods and services market and that Reddit's avatars fall into such market, he has failed to adequately plead facts showing infringement. As Reddit points out, Rogozinski does not allege that any such avatars display the WSB mark or that Reddit has used the WSB mark in any other manner in connection with such market. *See, e.g., Naked Cowboy v. CBS,* 844 F. Supp. 2d 510, 515 (S.D.N.Y. 2012) (dismissing trademark infringement claim where plaintiff's mark "did not appear anywhere" in defendant's allegedly infringing television program).

Accordingly, the Third Cause of Action is subject to dismissal.

B. State Law Claims

In the FAC, Rogozinski asserts the same five claims for alleged violation of state laws as alleged in his initial Complaint. The Court addresses each such claim below.

1. Communications Decency Act § 230 (Counts IV, V, VI, and VII)

In its prior order, the Court found Rogozinski's claims for violation of the common law right of publicity (Count IV), breach of contract (Count V), violation of the duty of good faith and fair dealing (Count VI), and, in part,[5] violation of California's Unfair Competition Law ("UCL") (Count VII) were barred by section 230 of the Communications Decency Act of 1996, 47 U.S.C. § 230 ("CDA"). *(See* Order of Dismissal at 12:26-13:1; 13:24-26.)

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[5] The Court found the UCL claim was not barred to the extent said claim was based on Reddit's alleged "practice of asserting trademark rights in the brand names of subreddits," which allegation the Court reasoned did not derive from "[Reddit's] status or conduct as a 'publisher or speaker.'" *(See* Order of Dismissal at 13:6-11 (citation omitted).) As to the remainder of the UCL claim, the Court held Rogozinski "lacks standing." *(See id.* at 14:7-8.)

Section 230 "protects from liability (1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat, under a state law cause of action, as a publisher or speaker (3) of information provided by another information content provider." *Barnes v. Yahoo!, Inc.,* 570 F.3d 1096, 1100-01 (9th Cir. 2009), *as amended* (Sept. 28, 2009).

Here, as to his claim alleging violation of the common law right of publicity, Rogozinski, citing *Fair Housing Council of San Fernando Valley v. Roommates.com, LLC,* 521 F.3d 1157, 1162 (9th Cir. 2008), argues Reddit fails the third requirement for section 230 immunity because, according to Rogozinski, Reddit acted as a content provider, not merely as a publisher of another party's content. *See id.* at 1162 (explaining "[a] website operator can be both a service provider and a content provider"). Here, by contrast, Rogozinski alleges that "the WALLSTREETBETS forum changed after his ban" *(see* Pl.'s Opp'n at 12:25-26 (citing FAC ¶ 91-93)), that "Reddit partnered with the post-Mr. Rogozinski moderators of WALLSTREETBETS to push the company's Avatars to WALLSTREETBETS users" *(see* FAC ¶ 81), and that "WALLSTREETBETS' artwork and even its editorial agenda is under the influence of Reddit" *(see* Pl.'s Opp'n at 16:8-9 (citing FAC ¶ 82-83)).

Rogozinski's reliance on *Fair Housing* is misplaced. In *Fair Housing,* the Ninth Circuit held section 230 inapplicable where the defendant therein was an online roommate matching service, and, "entirely [of] its doing," created questions and provided "prepopulated answers" as a condition of accessing its services. *See Fair Housing,* 521 F.3d at 1165-66; *see also Anthony v. Yahoo! Inc.,* 421 F. Supp. 2d 1257, 1262-63 (N.D. Cal. 2006) (finding defendant acted as content provider where it created dating profiles for its online dating service). Rogozinski, by contrast, does not allege Reddit had a hand in creating, even in part, any artwork or posts by users or moderators nor that Reddit required any content to be posted. *See, e.g., Blumenthal v. Drudge,* 992 F. Supp. 44, 51 52 (D.D.C. 1998) (holding defendant immune under section 230 despite its having retained "certain editorial rights with respect to the content provided by [gossip columnist]" and having "affirmatively promoted [gossip columnist's]" report).

Next, as to the breach of contract and breach of good faith and fair dealing claims, Rogozinski, citing *"Barnes v. Yahoo!, Inc.,* 570 F.3d 1096 (9th Cir. 2009)," argues such claims are "allowe[d] . . . to proceed despite section 230." *(See* Pl.'s Opp'n at 15:21-24.) As noted in the Court's prior order, however, *Barnes* is distinguishable on its facts in that the Ninth Circuit found the claims therein were based on a theory of promissory estoppel, and, consequently, liability "would come not from [the defendant's] publishing conduct, but from [its] manifest intention to be legally obligated to do something." *See Barnes* 570 F.3d at 1107. Here, by contrast, Rogozinski alleges Reddit breached its contract and its duty of good faith and fair dealing by suspending him as a moderator *(see* FAC ¶¶ 141, 148), actions clearly within its role as a publisher under the CDA.

Rogozinski cites no other authority in support of his argument, and, indeed, numerous courts have found breach of contract claims barred by section 230. *See, e.g., King v. Facebook, Inc.,* 845 F. App'x 691, 692, 692 (9th Cir. 2021) (affirming dismissal under section 230 where plaintiff's breach of contract claim was based on defendant's removal of plaintiff's content and temporary suspension from social media website); *Cross v. Facebook, Inc.,* 14 Cal. App. 5th 190, 206, 222 Cal. Rptr. 3d 250, 263 (2017) (holding section 230 barred breach of contract claim arising out of defendant's refusal to remove offensive content from website); *Yuksel v. Twitter, Inc.,* No. 22-CV-05415-TSH, 2022 WL 16748612, at *5 (N.D. Cal. Nov. 7, 2022) (explaining section 230 "does not provide any exception for contract claims").

Lastly, to the extent Rogozinski's UCL claim is based on Reddit's actions as a publisher, Rogozinski offers no new argument, let alone authority, suggesting Reddit is not immune under section 230.

Accordingly, Rogozinski's claims alleging violation of the right of publicity, breach of contract, violation of the duty of good faith and fair dealing, and, to the above-referenced extent, violation of the UCL are subject to dismissal.

2. Standing (Count VIII – Violation of California's Unfair Competition Law)

As noted, the Court, in its prior order, dismissed for lack of standing and with leave to amend, Rogozinski's UCL claim to the extent such claim is based on Reddit's "engag[ing] in a practice of asserting trademark rights in the brand names of subreddits." *(See* Order of Dismissal at 14:2-8.) In particular, the Court found Rogozinski failed to plead he suffered an injury as a result of such conduct. *(See id.* at 14:18-15:8); *see also Mai v. Supercell Oy,* 648 F. Supp. 3d 1130, 1134 (N.D. Cal. 2023) (holding "[a] person has statutory standing only if he or she 'has suffered injury in fact and has lost money or property as a result of the unfair competition'") (quoting Cal. Bus. & Prof. Code § 17204).

In the FAC, the only new allegation as to injury is Rogozinski's assertion that "he would have never spent more than eight years building an audience" on Reddit had he known it "could be seized by Reddit at any moment." *(See* FAC ¶ 33.) An assertion one spent time one otherwise would not have spent does not suffice to plead the requisite element. *See Bass v. Facebook, Inc.,* 394 F. Supp. 3d 1024, 1040 (N.D. Cal. 2019) (finding, where plaintiff "alleged harm arising from . . . loss of time," plaintiff " ha[d] not sufficiently alleged standing under [UCL]"); *see also Sapan v. Auth. Tax Servs., LLC,* No. 13CV2782 JAH (JLB), 2014 WL 12493282, at *4 (S.D. Cal. July 15, 2014) (explaining "[l]ost time is insufficient to recover damages under a UCL claim").

Accordingly, Rogozinski's UCL claim, to the extent based on Reddit's "engag[ing] in a practice of asserting trademark rights in the brand names of subreddits," is subject to dismissal.

CONCLUSION

For the reasons stated above, Defendant Reddit, Inc.'s Motion to Dismiss is hereby GRANTED, and the First Amended Complaint is hereby DISMISSED without further leave to amend.

IT IS SO ORDERED.

Dated: January 12, 2024

/s/ Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Case No. 23-cv-00686-MMC

JAIME ROGOZINSKI,

Plaintiff,

v.

REDDIT, INC.,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS; AFFORDING PLAINTIFF LEAVE TO AMEND

Re: Dkt. No. 28

Before the Court is defendant Reddit, Inc.'s ("Reddit") "Motion," filed April 10, 2023, "to Dismiss Complaint." Plaintiff Jaime Rogozinski ("Rogozinski") has filed opposition, to which Reddit has replied. Having read and considered the papers filed in support of and in opposition to the motion, the Court rules as follows.[1]

BACKGROUND[2]

"Reddit is a social media platform where millions of people around the world post, vote, and comment in

[1] By order filed June 16, 2023, the Court took the matter under submission.

[2] The following facts are taken from the Complaint.

communities organized around their interests. *(See* Compl. ¶ 19 (internal quotation and citation omitted).) "Reddit is comprised of users and moderators." *(See id.)* Users "can post, comment, vote, discuss, learn, debate, support, and connect with people." *(See id.* (citation omitted).) Moderators, in addition to those actions, also "volunteer their time to help guide and create Reddit's many communities," which are called "subreddits." *(See id.* (citation omitted).)

On January 31, 2012, Rogozinski, "under the username 'jartek,'" created the "r/WallStreetBets" subreddit, a "forum where people share stock and other financial advice" and on which Rogozinski served as its first moderator. *(See* Compl. ¶¶ 1, 20.) By early 2020, the r/WallStreetBets subreddit "had grown to more than 1 million subscribers, earning recognition from the financial press." *(See id.* ¶¶ 1-2.) At the end of January 2020, Rogozinski published a book, *WallStreetBets: How Boomers Made the World's Biggest Casino for Millennials*, and posted, on the "side bar" of the r/WallStreetBets subreddit, "a link to purchase his book on Amazon." *(See id.* ¶ 33.) Thereafter, in early March 2020, Rogozinski "announced a WALLSTREETBETS-branded e-sports competition" on the subreddit. *(See id.* ¶ 34.)

On March 24, 2020, Rogozinski filed an application with the United States Patent and Trademark Office ("USPTO") to register the mark WALLSTREETBETS for use "in conjunction with online and print publications in the fields of trading and finance, clothing items and providing an online forum for financial and trading information." *(See* Compl. ¶ 35.) Two weeks later, on April 7, 2020, Reddit "sent a notification to [Rogozinski] that his account had been placed on a seven-day suspension for 'attempting to monetize a community.'" *(See id.* ¶ 36.) It also stated that he was "no longer permitted to moderate communities on reddit" with any account. *(See id.)* Subsequently, on May 11, 2020, Reddit filed its own application with the USPTO to register the mark WALL-STREETBETS. *(See id.* ¶ 41.) In addition, Reddit "initiated legal action at the USPTO's Trademark Trial and Appeal Board to block [Rogozinski] from asserting ownership of WALLSTREETBETS." *(See id.* ¶ 56.)

On January 12, 2022, Rogozinski filed an application to register the mark WSB, "which is shorthand for WALLSTREETBETS." *(See* Compl. ¶ 56.) Reddit did not oppose that registration, which, on June 7, 2022, the USPTO issued as U.S. Trademark Registration No. 6754487. *(See id.)*

As of 2023, Rogozinski has "made more than sixty media appearances to discuss WALLSTREETBETS," during which appearances "media consistently referred to [him] as WALLSTREETBETS' founder." *(See* Compl. ¶ 59.) Additionally, he has "spoke[n] at more than a dozen events . . . throughout the United States and around the world" *(see id.)* and "sold the rights to his life story to a major production company that is going to 'to dramatize the story of his role in the WallStreetBets saga'" *(see id.* ¶ 60). According to Rogozinski, after Reddit banned him, the content on the r/WallStreetBets subreddit became "offensive," "racially inflammatory," and "at various times included swastikas" and "hate speech." *(See id.* ¶ 64.)

Based on the above, Rogozinski asserts the following claims for relief: (1) "a declaratory judgment that he, and not Reddit, is the owner of the WALL-STREETBETS trademark" (Count I); (2) "infringement of WALLSTREETBETS trademark" in violation of Lanham Act § 43(a), 15 U.S.C. § 1125(a) (Count II); (3) “infringement of registered WSB trademark” in violation of Lanham Act § 32, 15 U.S.C. § 1114 (Count III); (4) “trademark dilution by tarnishment” in violation of Lanham Act § 43(c), 15 U.S.C. § 1125(c) (Count IV); (5) “violation of right of publicity” (Count V); (6) “breach of contract” (Count VI); (7) “violation of duty of good faith and fair dealing” (Count VII); and (8) “unfair competition” in violation of Cal. Bus. & Prof. Code § 17200, *et seq.* (Count VIII). *(See* Compl. at 20-25.)

LEGAL STANDARD

Dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure “can be based on the lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory.” *See Balistreri v. Pacifica Police Dep’t,* 901 F.2d 696, 699 (9th Cir. 1990). Rule 8(a)(2), however, “requires only ‘a short and plain statement of the claim showing that the pleader is entitled to relief.’” *See Bell Atlantic Corp. v. Twombly,* 550 U.S. 544, 555 (2007) (quoting Fed. R. Civ. P. 8(a)(2)). Consequently, “a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations.” *See id.* Nonetheless, “a plaintiff’s obligation to provide the grounds of his entitlement to relief requires more than . . . a formulaic recitation of the elements of a cause of action.” *See id.* (internal quotation, citation, and alteration omitted).

In analyzing a motion to dismiss, a district court must accept as true all material allegations in the complaint and construe them in the light most favorable to the nonmoving party. *See NL Indus., Inc. v. Kaplan,* 792 F.2d 896, 898 (9th Cir. 1986). “To survive a motion to dismiss,” however, “a complaint must contain sufficient factual material, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Twombly,* 550 U.S. at 570). "Factual allegations must be enough to raise a right to relief above the speculative level," *Twombly,* 550 U.S. at 555, and courts "are not bound to accept as true a legal conclusion couched as a factual allegation," *see Iqbal,* 556 U.S. at 678 (internal quotation and citation omitted).

DISCUSSION

A. Trademark Claims

By separate order filed June 30, 2023, the Court denied Reddit's motion to stay Counts I, II, III, and IV (collectively, "Trademark Claims"). In light thereof, the Court considers below Reddit's argument, set forth in the instant motion, that the Trademark Claims "should be dismissed for failure to state a claim." *(See* Def.'s Mot. to Dismiss Compl. ("Def.'s Mot.") at 19:10, Dkt. No. 28.) The Court addresses below each such Count in turn.

1. Count I – Declaratory Judgment as to "Controversy Regarding Ownership of the WALLSTREETBETS Trademark"

In Count I, Rogozinski seeks "a declaratory judgment that he, and not Reddit, is the owner of the WALLSTREETBETS trademark." *(See* Compl. ¶ 69.)

"It is axiomatic in trademark law that the standard test of ownership is priority of use." *See Sengoku Works Ltd. v. RMC Int'l, Ltd.,* 96 F.3d 1217, 1219 (9th Cir.), *as modified,* 97 F.3d 1460 (9th Cir. 1996). "To acquire ownership of a trademark it is not enough to have invented the mark first or even to have registered it first; the party claiming ownership must have been the first to actually use the mark in the sale of goods or services." *See id.; see also id.* at 1220 (noting "federal registration of the mark is prima facie evidence that the registrant is the owner of the mark," but "if [a] non-registrant can show that he used the mark in commerce first, then the registration may be invalidated").

Here, Rogozinski, to establish his ownership of the WALLSTREETBETS mark, does not assert he was the first to use the mark in commerce. Rather, citing no authority for such proposition, Rogozinski argues the "owner" of a trademark is the person "whom the market identifies as the 'source' of the mark" *(see* Pl.'s Mem. of P. & A. in Opp'n to Reddit's Mot. to Dismiss ("Pl.'s Opp'n") at 17:8-9, Dkt. No. 34), and in support thereof asserts he has been "identified as the source of the WALLSTREETBETS mark," in that "through his jartek username, [he] was identified as WALLSTREETBET's creator" on the r/WallStreet-Bets subreddit page *(see id.* at 17:21-23 (citing Compl. ¶ 21 (displaying screenshot of r/WallStreetBets subreddit page containing phrase "created by jar-tek"))), that he "set the agenda for the WALL-STREETBETS community" *(see id.* at 17:24-25 (citing Compl. ¶ 21)), that he "built the WALLSTREETS brand, and 'carefully cultivated the community to ensure the forum aligned with his overall vision'" *(see id.* at 18:3-4 (citing Compl. ¶ 23)), that he "controlled the moderation team, set moderation rules, and enforced them" *(see id.* at 18:5 (citing Compl. ¶ 23)), that "national news media interviewed and treated [him] as the founder of WALLSTREETBETS" *(see id.* at 18:16-17 (citing Compl. ¶ 59)), and that "tens of millions of people associate [him] with the brand, so much so that a major production company purchased the rights to [his] life story to dramatize his role in the brand" *(see id.* at 18:19-21 (citing Compl. ¶ 59)).

None of the above circumstances, however, establishes Rogozinski's ownership, as none constitutes a use in commerce. "'[U]se in commerce' means the bona fide use of a mark in the ordinary course of trade . . . ," and "a mark shall be deemed to be in use in commerce —"

> (1) on goods when—
>
> > (A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and
> >
> > (B) the goods are sold or transported in commerce, and
>
> (2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in the United States and a foreign country and the person rendering the services is engaged in commerce in connection with the services.

See 15 U.S.C. § 1127.

Here, Rogozinski acknowledges in the Complaint that "Reddit uses the WALLSTREETBETS trademark in commerce by operating the r/WallStreetBets subreddit." *(See* Compl. ¶ 73.) Indeed, on May 15, 2020, the USPTO refused Rogozinski's proposed registration of the mark WALLSTREETBETS, noting, as to his purported use of the mark in "providing an online forum for financial and trading information," that "Reddit is the one providing the online forum, not the applicant." *(See* Req. for Judicial Notice in Supp. of Def.'s Mot. to Dismiss Compl. ("Def.'s RJN"), Ex. 3 at 3.)[3] In response, Rogozinski, on May 27, 2020, amended his application, asserting an intent to use the mark. *(See* Decl. of Holly Pranger in Supp. of Def.'s Mot. to Stay Action, Ex. B ("Rogozinski's Response to USPTO Action") at 2-3.) "[T]rademark rights," however, "are not conveyed through mere intent to use a mark commercially." *See Brookfield Commc'ns, Inc. v. W. Coast Ent. Corp.,* 174 F.3d 1036, 1052 (9th Cir. 1999); *Zazu Designs v. L'Oreal, S.A.,* 979 F.2d 499, 504 (7th Cir.1992) (noting "an intent to use a mark creates no rights a competitor is bound to respect").

To the extent Rogozinski alleges he created the mark *(see, e.g.,* Compl. ¶ 75), such event, as noted, is, without more, insufficient, *see Sengoku,* 96 F.3d at 1219 (holding "it is not enough to have invented the mark first"). To the extent Rogozinski relies on allegations that he used the mark as part of a book title in January 2020 or to promote an e-sports competition in March 2020 *(see* Pl.'s Opp'n at 18:21-25 (citing Compl. ¶¶ 32-34)), such arguments likewise find no support in the law. Rather, consistent with the authority discussed above, "[r]ights in a trademark are determined by the date of the mark's first use in commerce," and, "[t]he party who first uses a mark in commerce is said to have priority over

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[3] The Court hereby GRANTS Reddit's unopposed request for judicial notice of "the USPTO record for [Rogozinski's] trademark application for the WALLSTREETBETS mark." *(See* Def.'s Mot. at 20:4 n.13); *see also Johnson v. Castillo,* 2023 WL 3355260, at *1 (E.D. Cal. Apr. 19, 2023) (noting "a court may take judicial notice of undisputed matters of public record").

other users." *See Hana Fin., Inc. v. Hana Bank,* 574 U.S. 418, 419 (2015).

In the instant case, Rogozinski not only alleges that Reddit, by operating the r/WallStreetBets subreddit, has been using the WALLSTREETBETS mark, but that it has done so since "January 31, 2012," the date on which said subreddit was created. *(See* Compl. ¶ 20.) Moreover, his application for the mark lists January 31, 2012, as the "first use in commerce date." *(See* Rogozinski's Response to USPTO Action at 3.) Rogozinski does not allege his own use of the mark for any purpose prior to January 31, 2012. Consequently, he fails to establish his priority over Reddit.

In sum, Rogozinski fails to plead ownership rights in the WALLSTREETBETS mark.

Accordingly, Count I is subject to dismissal.

2. Count II – Infringement of Unregistered WALLSTREETBETS Trademark

In Count II, Rogozinski asserts Reddit is infringing his unregistered WALLSTREETBETS mark. *(See* Compl. ¶ 77.)

"To prevail on a claim of trademark or trade name infringement under the Lanham Act or common law, a plaintiff 'must prove: (1) that [he] has a protectable ownership interest in the mark; and (2) that the defendant's use of the mark is likely to cause consumer confusion.'" *La Terra Fina USA, LLC v. TerraFina, L.L.C.,* 2017 WL 4284167, at *2 (N.D. Cal. Sept. 27, 2017) (quoting *Network Automation, Inc. v. Advanced Sys. Concepts,* 638 F.3d 1137, 1144 (9th Cir. 2011)).

As set forth above, Rogozinski has failed to show he possesses ownership rights in the WALL-STREETBETS mark. Consequently, he fails to state a claim for infringement of said mark.

Accordingly, Count II is subject to dismissal.

3. Count III – Infringement of Registered WSB Trademark

In Count III, Rogozinski asserts Reddit is infringing his registered WSB mark. Specifically, Rogozinski alleges that "WSB is a known shorthand designation for WALLSTREETBETS" and that Reddit has been infringing his mark "by operating the r/WallStreetBets subreddit . . . following his ban as moderator." *(See* Compl. ¶¶ 81, 83.)

To prevail on a claim of trademark infringement, Rogozinski, as set forth above, must show (1) that he "has a protectable ownership interest in the mark" and (2) that Reddit's "use of the mark is likely to cause consumer confusion." *See La Terra Fina,* 2017 WL 4284167, at *2.

As noted, "[w]hen proving ownership of a trademark, federal registration of the mark is prima facie evidence that the registrant is the owner of the mark," and "the registrant is [thus] granted a presumption of ownership, dating to the filing date of the application for federal registration." *See Sengoku,* 96 F.3d at 1219-20 (citing Lanham Act §§ 7(b), 33(a), 15 U.S.C. §§ 1057(b), 1115(a)). As also noted, however, a "non-registrant can rebut this presumption by showing . . . that he used the mark in commerce first." *See id.* at 1220.

Here, the filing date of Rogozinski's application for registration of the WSB mark is January 12, 2022.

Rogozinski alleges, however, that Reddit's infringing activity began on April 7, 2020, when Rogozinski was removed as moderator *(see* Compl. ¶¶ 36, 83), and Reddit, citing *La Terra Fina,* 2017 WL 4284167, at *2 (noting "the standard test of ownership is priority of use"), argues "Reddit's purported use of WSB on the r/wallstreetbets subreddit could not infringe [Rogozinski's] WSB registration because the alleged use by Reddit predates any possible rights that [Rogozinski] has based on the WSB registration" *(see* Def.'s Mot. at 22:9-12). Further, Rogozinski's application for the WSB mark lists April 15, 2021, as the "first use in commerce" date, which is later than Reddit's alleged use of the mark. *(See* Def.'s RJN, Ex. 4 at 2.) To the extent Rogozinski argues Reddit's use nonetheless is not "valid" *(see* Pl.'s Opp'n at 22:25-26), he cites no authority in support of such assertion.

Accordingly, Count III is subject to dismissal.

4. Count IV – Trademark Dilution by Tarnishment

In Count IV, Rogozinski alleges Reddit's "operation of the WALLSTREETBETS subreddit since [he] was banned as a moderator" gives rise to a claim for dilution by tarnishment of the WALLSTREETBETS and WSB marks. *(See* Compl. ¶ 90.)

The Federal Trademark Dilution Act provides: "[T]he owner of a famous mark . . . shall be entitled to an injunction against another person who, at any time after the owner's mark has become famous, commences use of a mark or trade name in commerce that is likely to cause . . . dilution by tarnishment of the famous mark." *See* 15 U.S.C. § 1125(c)(1). Here, Reddit argues, Rogozinski has not established that either mark is sufficiently famous. *(See* Def.'s Mot. at 23:18.)

"[A] mark is famous if it is widely recognized by the general consuming public of the United States as a designation of source of the goods or services of the mark's owner." *See* 15 U.S.C. § 1125(c)(2)(A). "[T]o meet the 'famousness' element of protection under the [Federal Trademark Dilution Act], a mark must be truly prominent and renowned." *See Avery Dennison Corp. v. Sumpton,* 189 F.3d 868, 875 (9th Cir. 1999) (internal quotation, citation, and alteration omitted); *see also Dahon N. Am., Inc. v. Hon,* 2012 WL 1413681, at *9 (C.D. Cal. Apr. 24, 2012) (noting "trademark dilution claims are restricted to truly famous marks, such as Budweiser beer, Camel cigarettes, and Barbie dolls").

Although Rogozinski alleges the r/WallStreetBets subreddit attracted media attention beginning in 2017 *(see* Compl. ¶ 26) and reached one million subscribers in March 2020 *(see* Compl. ¶ 22), such allegations fall short of the level of fame courts have found to be sufficient to support a dilution claim, *see, e.g., Jada Toys, Inc. v. Mattel, Inc.,* 518 F.3d 628, 635 (9th Cir. 2008) (holding "reasonable trier of fact could conclude that the HOT WHEELS mark is famous"; noting "it has been in use for over thirty-seven years; 350 million dollars have been expended in advertising the mark; three billion HOT WHEELS units have been sold since the inception of the mark; and HOT WHEELS are sold in all fifty states and throughout the world"), and Rogozinski, in his opposition, provides no response to Reddit's argument that he fails to plead either mark is sufficiently famous.

Accordingly, Count IV is subject to dismissal.

B. State Law Claims

Reddit first argues Counts V, VI, VII, and VIII (collectively, "State Law Claims") are barred by Section 230 of the Communications Decency Act of 1996, 47 U.S.C. § 230 ("CDA"). The Court considers below each such claim in turn.

1. CDA § 230 (Counts V, VI, VII, and VIII)

Section 230 "provides broad immunity to websites that publish content provided primarily by third parties." *See Fraley v. Facebook, Inc.,* 830 F. Supp. 2d 785, 801 (N.D. Cal. 2011). In particular, § 230 states that "[n]o provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider," *see* 47 U.S.C. § 230(c)(1), and further states that "[n]o cause of action may be brought and no liability may be imposed under any State or local law that is inconsistent with this section," *see* 47 U.S.C. § 230(e)(3). In short, § 230 "protects from liability (1) a provider or user of an interactive computer service (2) whom a plaintiff seeks to treat, under a state law cause of action, as a publisher or speaker (3) of information provided by another information content provider." *See Barnes v. Yahoo!, Inc.,* 570 F.3d 1096, 1100–01 (9th Cir. 2009), *as amended* (Sept. 28, 2009). The Court considers below each of the above-listed elements.

a. Provider or User of an Interactive Computer Service

Rogozinski does not dispute, and the Court finds, Reddit is a provider of an interactive computer service. *See* 47 U.S.C. § 230(f)(2) (defining "interactive computer service" as "any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server . . . ."); *see also Does 1 6 v. Reddit, Inc.,* 51 F.4th 1137, 1141 (9th Cir. 2022), *cert. denied,* 2023 WL 3696135 (May 30, 2023) (finding "Reddit is an 'interactive computer service' provider as defined in § 230(f)(2)").

b. Treatment as Publisher or Speaker

Rogozinski contends he "is not trying to hold Reddit liable as a publisher." *(See* Pl.'s Opp'n at 15:9-10.)

To determine if a plaintiff seeks to treat a defendant as a publisher, "courts must ask whether the duty that the plaintiff alleges the defendant violated derives from the defendant's status or conduct as a 'publisher or speaker.'" *See Barnes,* 570 F.3d at 1102. "[P]ublication involves reviewing, editing, and deciding whether to publish or to withdraw from publication third-party content." *See id.* "[A]ny activity that can be boiled down to deciding whether to exclude material that third parties seek to post online is perforce immune under section 230." *See Fair Hous. Council of San Fernando Valley v. Roommates.Com, LLC,* 521 F.3d 115771 (9th Cir. 2008).

In Count V, his right of publicity claim, Rogozinski alleges that "Reddit uses [his] identity by operating the r/WallStreetBets subreddit," which "includes content[s] . . . to which [Rogozinski] objects and which harm his reputation." *(See* Compl. ¶¶ 94-95.) In Count VI, his breach of contract claim, Rogozinski alleges "Reddit breached its contract . . . by suspending him as moderator" and by "not reinstating [him]." *(See* Compl. ¶ 103.) Similarly, in Count VII, his claim for violation of the duty of good faith and fair dealing, Rogozinski alleges Reddit violated said duty by "suspending [his] ability to moderate WALLSTREETBETS" and "by not reinstating [his] account." *(See* Compl. ¶ 110.) Lastly, in Count VIII, his unfair competition claim, Rogozinski alleges Reddit "is engaged in a practice of asserting trademark rights in the brand names of subreddits" *(see* Compl. ¶ 114) and further alleges Reddit "blocked [him] from controlling his brands" *(see* Compl. ¶ 117).

Reddit argues all four State Law Claims "seek to hold Reddit liable for publisher conduct, that is, decisions about what types of content and which users are permitted on the site." *(See* Def.'s Mot. at 7:9-10.)

In response, Rogozinski first argues "Section 230 does not categorically bar commercial tort or breach of contract claims." *(See* Pl.'s Opp'n at 14:25.) As set forth below, however, three of the cases on which Rogozinski relies are readily distinguishable, in that those decisions either considered a statutory provision not at issue here, *see Enigma Software Grp. USA, LLC v. Malwarebytes, Inc.,* 946 F.3d 1040, 1049 (9th Cir. 2019) (addressing scope of immunity under § 230(c)(2)), or the claims therein were based on a theory of promissory estoppel, *see Barnes,* 570 F.3d at 1099, 1109 (reversing dismissal of breach of contract claim where defendant's Director of Communications had told plaintiff "she would 'personally walk the [objectionable material] over to the division responsible for stopping unauthorized profiles and they would take care of it'"); *Berenson v. Twitter, Inc.,* 2022 WL 1289049, at *2-3 (N.D. Cal. Apr. 29, 2022) (denying motion to dismiss breach of contract claim where defendant's "vice president gave specific and *direct* assurances" that plaintiff would be "given a heads up before any enforcement action [wa]s taken" with respect to his account (emphasis in original) (alteration omitted)), and the fourth, namely *Darnaa, LLC v. Google, Inc.,* 2016 WL 6540452 (N.D. Cal. Nov. 2, 2016), has been found to conflict with a number of cases holding to the contrary, *see King v. Facebook, Inc.,* 2019 WL 4221768, at *5 (N.D. Cal. Sept. 5, 2019), *aff'd,* 845 F. App'x 691 (9th Cir. 2021) (collecting cases); *see also, e.g., Brittain v. Twitter, Inc.,* 2019 WL 2423375, at *3 (N.D. Cal. June 10, 2019) (holding § 230 barred claims for breach of contract and promissory estoppel that sought to hold defendant liable for suspending plaintiff's accounts; finding claims "s[ought] to treat [defendant] as a publisher").

Next, as to his right of publicity claim, Rogozinski contends he is seeking "to put an end to and recover damages related to the company's misappropriation of his identity," and, as to his unfair competition claim, that it is "concerned with Reddit's attempts to control [his] brands and trademarks." *(See* Pl.'s Opp'n at 15:10-12.)

The Court, however, agrees with Reddit that all four State Law Claims, with one limited exception, seek to hold Reddit liable for publisher conduct, specifically, for either suspending Rogozinski from the r/WallStreetBets subreddit, banning him, and/or allowing the subreddit to continue to operate without him. *See Rangel v. Dorsey,* 2022 WL 2820107, at *3 (N.D. Cal. July 19, 2022) (noting "decision[s] to exclude [plaintiff's] content and suspend his account" are "traditional publishing functions"); *Fed. Agency of News LLC v. Facebook, Inc.,* 432 F. Supp. 3d 1107, 1116 (N.D. Cal. 2020) (noting "Section 230 immunizes decisions to delete user profiles" (internal quotation and citation omitted)).

The one exception relates to Count VIII, the unfair competition claim. To the extent Rogozinski bases such claim on Reddit's alleged "practice of asserting trademark rights in the brand names of subreddits" *(see* Compl. ¶ 114), the Court finds the claim does not "derive[] from the defendant's status or conduct as a 'publisher or speaker,'" *see Barnes,* 570 F.3d at 1102, but, rather, from separate conduct, and Reddit cites no authority holding to the contrary.

c. Information Provided by Another Information Content Provider

As to the last element, Rogozinski does not appear to dispute, and the Court finds, the information at issue in the State Law Claims is information provided by another information content provider, specifically, Rogozinski's or other individuals' posts on the r/WallStreetBets subreddit. *See* 47 U.S.C. § 230(f)(3) (defining "information content provider" as "any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service"); *see also Sikhs for Just. "SFJ", Inc. v. Facebook, Inc.,* 144 F. Supp. 3d 1088, 1094 (N.D. Cal. 2015), *aff'd,* 697 F. App'x 526 (9th Cir. 2017) (noting "the CDA immunizes an interactive computer service provider that passively displays content that is created entirely by third parties").

d. Conclusion: CDA § 230

Accordingly, all four State Law Claims, with the exception of Count VIII to the extent it is based on

Reddit's alleged trademark practice, are subject to dismissal as barred by § 230(c)(1) of the CDA.[4]

2. Standing (Count VIII)

As noted, in Count VIII, Rogozinski asserts Reddit is violating California's Unfair Competition Law ("UCL") by "engag[ing] in a practice of asserting trademark rights in the brand names of subreddits" *(see* Compl. ¶ 114) and by "block[ing] [him] from controlling his brands" *(see* Compl. ¶ 117). To the extent Rogozinski bases this claim on the latter allegation, the Court, as discussed above, has found it is barred by § 230(c)(1) of the CDA. To the extent Rogozinski bases this claim on the former allegation, the Court, as set forth below, finds he lacks standing.

Under the UCL, an individual has standing "only if he or she 'has suffered injury in fact and has lost money or property as a result of the unfair competition.'" *See Mai v. Supercell Oy,* 2023 WL 25713, at *2 (N.D. Cal. Jan. 3, 2023) (quoting Cal. Bus. & Prof. Code § 17204). Here, Rogozinski asserts he has "suffered economic injury" in "lost book sales" and "lost contracts." *(See* Compl. ¶ 118.) Specifically, Rogozinski alleges, he "lost hundreds of thousands of dollars of sales for his book, which was published less than three months prior to the ban," and that "[a]s further consequence of Reddit's ban, [his] company lost its contract for the e-sports trading competition in Texas, costing him millions of dollars." *(See* Compl. ¶ 58.)

As to the alleged lost book sales, it is "not sufficient" for purposes of establishing standing under the

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[4] In light of this finding, the Court does not address herein Reddit's additional arguments in support of dismissal of Counts V, VI, and VII. *(See* Def.'s Mot. at 10:10-16:23.)

UCL for a plaintiff "to allege lost business opportunities, lost anticipated profits, or injury to goodwill." *See Dyson, Inc. v. Garry Vacuum, LLC,* 2010 WL 11595882, at *8-9 (C.D. Cal. July 19, 2010) (dismissing UCL claim that "rest[ed] on the effect [defendant's] advertising . . . had on customers' purchasing preferences"; finding "[t]his type of injury is not sufficient to support standing under the UCL").

As to the alleged lost contract, to the extent such agreement was prospective in nature, "'lost money or property' does not include the proceeds of prospective contracts." *See Ahussain v. GNC Franchising, LLC,* 2009 WL 10672353, at *5 (C.D. Cal. Mar. 18, 2009). To the extent it was an existing contract, Rogozinski must still show his "economic injury come[s] 'as a result of' the unfair competition." *See Kwikset Corp. v. Superior Ct.,* 51 Cal. 4th 310, 326 (2011) (quoting Cal. Bus. & Prof. Code §§ 17204, 17535). In particular, he must plead facts demonstrating "a causal connection" between Reddit's alleged "practice of asserting trademark rights in the brand names of subreddits" and his claimed loss of "millions of dollars." *See id.; (see also* Compl. ¶¶ 58, 114). As alleged in the Complaint, however, the contract was lost "[a]s [a] consequence of Reddit's ban," not its alleged trademark practice. *(See* Compl. ¶ 58.)

Accordingly, Count VIII, to the extent it is based on Reddit's alleged trademark practice, is subject to dismissal.[5]

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[5] In light of this finding, the Court does not address herein Reddit's additional arguments in support of dismissal of Count VIII. *(See* Def.'s Mot. at 18:3-19:6.)

CONCLUSION

For the reasons stated above, Reddit's motion is hereby GRANTED, and the Complaint is hereby DISMISSED with leave to amend.

A First Amended Complaint, if any, shall be filed no later than August 11, 2023.

Lastly, the Court hereby SETS a Case Management Conference for November 17, 2023. A Joint Case Management Conference Statement shall be filed no later than November 9, 2023.

IT IS SO ORDERED.

Dated: July 11, 2023

/s/ Maxine M. Chesney
MAXINE M. CHESNEY
United States District Judge

APPENDIX D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No.: 3:23-cv-00686-MMC

JAIME ROGOZINSKI,

Plaintiff,

v.

REDDIT, INC.,

Defendant.

FIRST AMENDED COMPLAINT

1. DECLARATORY JUDGMENT
2. INFRINGEMENT OF WALLSTREETBETS TRADEMARK
3. INFRINGEMENT OF FEDERALLY REGISTERED WSB TRADEMARK
4. VIOLATION OF COMMON LAW RIGHT OF PUBLICITY
5. BREACH OF CONTRACT
6. VIOLATION OF DUTY OF GOOD FAITH AND FAIR DEALING
7. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW

JURY TRIAL DEMANDED

JAMES R. LAWRENCE, III (admitted *pro hac vice*)
jlawrence@envisage.law
ANTHONY J. BILLER (admitted *pro hac vice*)
ajbiller@envisage.law
ENVISAGE LAW
2601 Oberlin Road, Suite 100
Raleigh, North Carolina 27608
Phone: 919.755.1317
Facsimile: 919.782.0452

SEAN P. GATES (SBN 186247)
sgates@charislex.com
CHARIS LEX P.C.
301 N. Lake Ave., Ste. 1100
Pasadena, CA 91101
Phone: 626.508.1715
Facsimile: 626.508.173

Attorneys for Plaintiff Jaime Rogozinski

INTRODUCTION

1. There is a material difference between a social media company providing online hosting services and the services its users provide under their user names and user-generated marks. Absent agreements to the contrary, such as a company's terms of use, a social media company should not be allowed to simply take valuable names and marks developed on their platform by their users. In this case, Jaime Rogozinski created a valuable name, mark, and service offering using the Reddit platform, and then Reddit deplatformed him and claimed the company owns his mark. Reddit's operative terms of use said nothing about name and user trademark ownership, but did say users owned all their content. Reddit even publicly

stated "that moderators are free to run their subreddits however they choose," provided the moderators do not break the company's rules. Mr. Rogozinski did not break Reddit's rules, but the company deplatformed him anyway.

2. Mr. Rogozinski is an entrepreneur, investor, author, and creator of WALLSTREETBETS, a well-known forum where people share stock and other financial advice. Through Mr. Rogozinski's creation, many Americans and others around the world achieved life-changing returns in the financial markets.

3. Mr. Rogozinski invested years of his life building the WALLSTREETBETS mark. He built the brand on the social media platform Reddit, and on that platform, provided a forum for members to exchange information and content related to the financial industry. Mr. Rogozinski built this WALLSTREETBETS service offering from the ground up, creating content while moderating discussions on the r/WallStreetBets subreddit and on WALLSTREETBETS chatrooms. Mr. Rogozinski offered these services in commerce to the consuming public in order to share the following message with people reeling in the aftermath of the Great Recession: you are not powerless in the financial markets; Wall Street is not just a casino where the house always wins; you can win too, and win big. People all over the world responded. By early 2020, his WALLSTREETBETS forum had grown to more than 1 million subscribers, earning recognition from the financial press.

4. This is what winning looks like. Mr. Rogozinski was not done. Working to bring WALLSTREETBETS' empowering message to a larger audience, Mr.

Rogozinski authored a book using the same trademark, WALLSTREETBETS, and launched an e-sports trading competition to generate further brand awareness. Again, this was Mr. Rogoinzki's use of the WALLSTREETBETS trademark in commerce. He also filed a federal trademark application to protect WALLSTREETBETS. Reddit took notice and promptly responded.

5. Though Reddit says "people should be able to find a welcoming home on our platform," the company's reaction to Mr. Rogozinski was anything but hospitable. Reddit terminated Mr. Rogozinski as a moderator of his forum, claiming he had violated company policy by "attempting to monetize a community."

6. Reddit's justification was a pretext—people use Reddit to market and sell everything from investment advice to bodily fluids. On Reddit, just about everyone, to include aspiring pornographers and scam artists, can find a place, everyone that is except Mr. Rogozinski. Mr. Rogzinski's true offense was trying to control the brand he created in the first place, a famous brand he developed using Reddit's platform that helped Reddit ride to a $10 billion valuation. Upon information and belief, Reddit listed the subreddit names and brands of its users on its valuations that Reddit used to raise capital. When Mr. Rogozinski publicly treated the WALLSTREETBETS mark as his own, Reddit saw it as a direct threat to their valuation practices. In response, Reddit deplatformed Mr. Rogozinski to protect their profits. They terminated him and filed several applications with the United States Patent and Trademark Office to register WALLSTREETBETS

as their mark, and aggressively opposed Mr. Rogozinski's application.

7. "If you build it, they will come," entrepreneurs tell themselves, drawing inspiration from the protagonist-farmer's walk through an Iowa cornfield in the 1989 film *Field of Dreams*. Reddit's dreams, however, turned out to be Mr. Rogozinski's nightmare as the company insists, "if you build it, we will take it from you." While other social media platforms endeavor to compensate their content creators, Reddit works to capture, take credit for, and monetize other people's creations. Reddit says it is all-in on social justice while at the same time engaging in systematic, calculated exploitation by asserting trademark rights over brands innovators built using the company's platform, and then leveraging those trademarks to secure financing. Mr. Rogozinski is just the latest victim of Reddit's unfair and deceptive practices.

8. Mr. Rogozinski never asked to be treated like this. For far too long, Reddit has taken advantage of content creators and innovators. This case is about putting a stop to Reddit's systematic theft by holding the company accountable for its misconduct.

PARTIES

9. WALLSTREETBETS creator Jaime Rogozinski is a citizen of the United States and the United Mexican States. Mr. Rogozinski resides in Mexico City, Mexico.

10. Reddit, Inc. is a Delaware corporation with a principal place of business located at 1455 Market Street, Suite 1600, San Francisco, California 94103.

JURISDICTION

11. Reddit is a citizen of Delaware and California. Mr. Rogozinski is a citizen of both the United States and Mexico who resides in Mexico City, Mexico. Reddit and Mr. Rogozinski have complete diverse citizenship. Mr. Rogozinski seeks damages of more than $75,000. This Court has subject matter jurisdiction over this case under 28 U.S.C. § 1332.

12. Mr. Rogozinski also brings claims arising under the federal Lanham Act. This Court has jurisdiction over those claims under 28 U.S.C. § 1331 and 15 U.S.C. § 1121. This Court has supplemental jurisdiction over Mr. Rogozinski's state law claims under 28 U.S.C. § 1367 because they arise out of the same set of operative facts.

13. This Court has personal jurisdiction over Reddit because its headquarters are in San Francisco, California.

VENUE

14. Venue is proper in this judicial district under 28 U.S.C. § 1391 because Reddit's headquarters are in this judicial district. Further, Reddit's relevant User Agreement provides that "all disputes related to these Terms or the Services will be brought solely in the federal or state courts located in San Francisco, California."

DIVISIONAL ASSIGNMENT

15. Pursuant to Civil L.R. 3-2(c), this case should be assigned to the San Francisco division because a substantial portion of the events giving rise to this case occurred at Reddit's corporate headquarters located in San Francisco.

FACTUAL BACKGROUND

I. In the wake of the Great Recession which wiped out the life savings of tens of millions, Jaime Rogozinski sees a need for ordinary people to protect their interests in the financial markets. Mr. Rogozinski creates WALL-STREETBETS to meet that need.

16. Jaime Rogozinski is an investor, entrepreneur, author, speaker, and the creator of WALL-STREETBETS. From 2007 to 2008, Mr. Rogozinski looked on as the Great Recession consumed the life savings of tens of millions of people around the world. To compound the harm, taxpayers, including many of the very people who lost everything, bailed out the very large financial institutions who helped create the crisis in the first place. These dynamics fueled the rise of political movements like Occupy Wall Street.

17. As he observed these events, Mr. Rogozinski noticed a power asymmetry. The banking and financial services industries had access to political power and information ordinary people lacked. Faced with these obstacles, many individual investors simply sat on the sidelines, content to allow fund managers to take the wheel. Those who wanted to take control of their own financial future, so-called "retail investors," had few places to turn. Those investors needed more than traditional "buy," "hold," and "sell" recommendations—they required insight on how their trades fit in with larger Wall Street dynamics. No amount of scouring the financial press, hours spent watching financial news, or paying for infomercial retirement seminars was enough to demystify a system laden with acronyms and buzzwords.

18. Mr. Rogozinski saw a need, so he did what entrepreneurs do: he got busy solving the problem. At the time, Mr. Rogozinski had a full-time job working as an information technology consultant to the Inter-American Development Bank. In his spare time, Mr. Rogozinski started to look for a way for retail investors to collaborate, communicate, and take control of their financial lives all while having fun and building camaraderie. Mr. Rogozinski wanted to present retail investors with a stark contrast to the staid narratives dominating the financial press at the time. While stock tickers and charts dominated daily programming on mainstream networks, Mr. Rogozinski's community would feature breaking news and irreverent commentary all in a live-and-let-live format.

19. Even though online training was exploding in popularity, Mr. Rogozinski noticed that there were no online communities where individual, ordinary investors could openly and honestly discuss Wall Street and share advice with each other. Mr. Rogozinski acted. He could have chosen any number of off-the-shelf web message board utilities to host what he envisioned. In the 2000s, there were numerous bulletin board systems competing for market share, including solutions such as vBulletin and MyBB. Chatrooms and services like AOL Instant Messenger allowed Internet users the ability to connect and communicate instantaneously around the world.

20. Mr. Rogozinski decided to start a web-based service offering where he could empower ordinary people with information and facilitate the exchange of information and commentary regarding financial markets. He decided on a two-component approach to

launch these services to the public. For the message board forum, Mr. Rogozinski decided to use the social media platform Reddit. Because he wanted users to be able to communicate with one another in real time, Mr. Rogozinski launched a companion chatroom. To raise awareness for these forums, he secured social media handles to promote this new service offering: WALLSTREETBETS.

A. Mr. Rogozinski launches WALLSTREETBETS, adapting Reddit's stock solution to meet his community's needs.

21. Reddit admits it is a social media platform where "millions of people around the world post, vote, and comment in communities organized around their interests. Reddit, *How Does Reddit Work*?, https://www.redditinc.com/ (last visited Aug. 11, 2023). Those communities on Reddit are comprised of users and moderators. Users post, comment, vote, discuss, learn, debate, support, and connect with people. Moderators create and manage the communities.

22. On Reddit, "cake day" is known as the day on which a user creates an account to use the service. "Cake day" for "jartek," Mr. Rogozinski's username, was February 5, 2010. At the time, Reddit's user agreement, which the company had last updated on October 21, 2008, governed. Internet Archive, Capture of Reddit User Agreement as of Feb. 9, 2010, https://web.archive.org/web/20100209122821/http://reddit.com/help/useragreement.

23. While Reddit addressed various issues in that agreement, nowhere did Reddit assert ownership over names, trademarks or brands or otherwise suggest that the names of communities and corresponding services offered using the Reddit platform

would inure to the company's benefit as opposed to the person or people responsible for those service offerings. The agreement included a licensing provision under which users

> agree[d] that by posting messages, uploading files, inputting data, or engaging in any other form of communication with or through the Website, you grant us a royalty-free, perpetual, non-exclusive, unrestricted, worldwide license to use, reproduce, modify, adapt, translate, enhance, transmit, distribute, publicly perform, display, or sublicense any such communication in any medium (now in existence or hereinafter developed) and for any purpose, including commercial purposes, and to authorize others to do so.

Id. Even assuming a forum name falls within the scope of this licensing provision, nothing in this language suggests users were signing over any brand ownership rights to Reddit. Related, Reddit proclaimed it "respects the intellectual property of others, and we ask our users to do the same." *Id.*

24. The "cake day" agreement suggested users could use Reddit for commercial gain. While the agreement barred users from posting "any graphics, text, photographs, images, video, audio or other material that constitutes junk mail, spam, advertising, and/or commercial offers," *id.*, Reddit's agreement contemplated the sale of merchandise through Reddit. The agreement provided that "[n]either Service Provider nor its third party service providers make any warranties with respect to any of the merchandise, products, and/or

services featured, mentioned, or sold by others on or through the Website." Reddit also did not distinguish between moderators and other users in the agreement. *See id.*

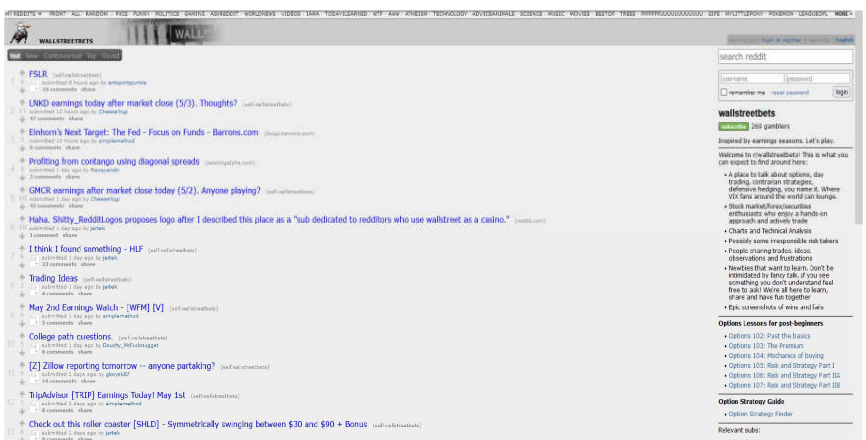
25. These terms remained in force while Mr. Rogozinski launched his service offerings under the WALLSTREETBETS trademark. Using Reddit's platform, Mr. Rogozinski formed and moderated a community where he provided, curated, and moderated information regarding the financial industry, such as information about securities, options, futures, and financial instruments, including stock trading, bond trading, futures trading, options trading, forex trading, and commodities trading. Mr. Rogozinski offered these services under the WALLSTREETBETS mark in commerce to the consuming public, to include but not limited to the consuming public in the United States.

26. Historically, websites like Angelfire and Geocities offered Internet users the ability to launch a website without having to write code from scratch. Reddit offered some of this convenience, but it was not a turnkey solution for Mr. Rogozinski. As a Reddit help page explains to would-be page creators, "[y]ou can use the *edit stylesheet* option in your moderation tools at the bottom of your sidebar to customize the look and feel of community of CSS (Cascading Style Sheets)." Reddit, *Edit Stylesheet*, https://mods.reddithelp.com/hc/en-us/articles/360003000471-Edit-Stylesheet (last visited Aug. 10, 2023). "Before you begin, know that editing the stylesheet only affects the look of your community on desktop when viewed in old Reddit and requires at least some working knowledge of CSS," Reddit says. *Id.* "Fortunately, there are plenty of resources to help

you learn how to customize the stylesheet for your community's needs." *Id.*

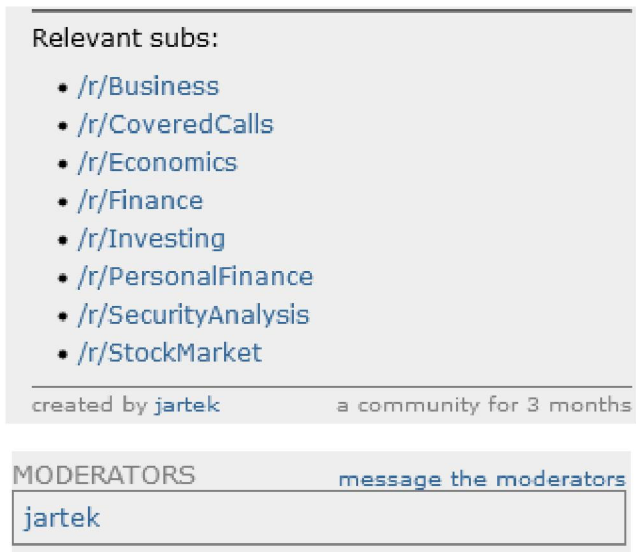
27. Mr. Rogozinski, who taught himself how to code in the late 1990s, and who was already working in the information technology industry, spent several weeks creating the WALLSTREETBETS logo and developing the overall look, feel, and design of the site by using CSS to create code to modify Reddit's template page. Upon information and belief, Mr. Rogozinski's code is embedded into the r/WallStreetBets community to this day.

28. On January 31, 2012, under his jartek username, Mr. Rogozinski launched WALLSTREETBETS by creating the r/WallStreetBets community and serving as the forum's first moderator. Below is a true and accurate depiction of how the WALLSTREETBETS page appeared on May 4, 2012, less than four months after Mr. Rogozinski created the forum.



Internet Archive, Capture of r/WallStreetBets as of May 4, 2012, https://web.archive.org/web/20120504022702/https://www.reddit.com/r/wallstreetbets/.

29. As shown in the image above, users exchanged information about trading ideas, the Federal Reserve, and particular stocks. Mr. Rogozinski, through his jartek username, was identified as WALL-STREETBET's creator, not Reddit, and the forum's sole moderator.

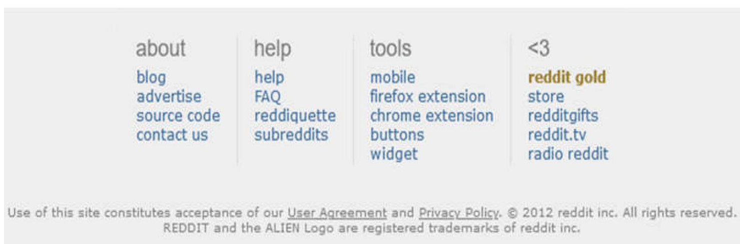


Id. Mr. Rogozinski set the agenda for the WALL-STREETBETS community, describing in detail "what you can expect to find around here," calling his forum a "place to talk about options, day trading, contrarian strategies, defensive hedging, you name it." *Id.* "Don't be intimidated by fancy talk," Mr. Rogozinski wrote to new users, consistent with his overall goal of empowering ordinary people. *Id.* "If you see something you don't understand feel free to ask! We're all here to learn, share and have fun together." *Id.*

30. Mr. Rogozinski was the source of the services offered in commerce under the WALLSTREET BETS

mark. Those services were a web-based community for the exchange of financial information.

31. As shown below, at the bottom of the WALLSTREETBETS page is a statement that says "[a]ll rights reserved. REDDIT and the ALIEN logo are registered trademarks of reddit inc." Here again, Reddit said nothing about owning any or all brands used on its platform, other than the platform brand itself. There was every indication that Mr. Rogozinski's use of WALLSTREETBETS trademark was his use of the brand, not Reddit's.



32. This was and remains normal. When consumers log onto the largest social media platform in the world, Meta's FACEBOOK, no one believes or understands that Meta owns the names, brands, and identities of its users' accounts. Meta owns the FACEBOOK brand, not the brands used and developed using the FACEBOOK-branded platform. In "old world" technology, a billboard company does not own the content posted to its billboards. What is abnormal, indeed what is wrong, is a social media platform taking its user's identities and brands because the brands and identities were developed on its platform.

33. When Mr. Rogozinski created the WALLSTREETBETS forum services, he reasonably believed that the mark and its corresponding com-

munity belonged to him. He understood his use of the mark on Reddit to be *his use* of the brand in commerce, not Reddit's. Nothing in Reddit's user agreement or public statements suggested otherwise. If he had known the brand he was building could be seized by Reddit at any moment, and for any or no reason, he would have never spent more than eight years building an audience there. Instead, he could have launched a website using off-the-shelf bulletin board software. Reddit waited and allowed Mr. Rogozinski to build his audience, the company profited along the way, and then it pounced when Mr. Rogozinski treated his mark as his own.

B. Mr. Rogozinski launches a WALLSTREETBETS chatroom and promotes the forum on social media.

34. Shortly after Mr. Rogozinski launched WALLSTREETBETS on the Reddit platform, he created an IRC or Internet Relay Chat chatroom. An archived version of the WALLSTREETBETS page from December 18, 2012 shows how Mr. Rogozinski promoted the chatroom on the side panel of the main page. The chat channel, which Mr. Rogozinski moderated, was called "#wallstreetbets," and Mr. Rogozinski explained that the room would "[m]ost likely be active during M-F trading hours and everyone is welcome." Mr. Rogozinski advised those "not familiar with IRC but still want to chat" to click a link and "use the word 'wallstreetbets' under the channel and then cho[o]se a username and then finally prove you're a human." This use of WALLSTREETBETS was part of Mr. Rogozinski's service offerings in commerce. A true and accurate depiction of Mr. Rogozinski's promotion of the chat on the WALLSTREETBETS is shown below.

Live Chat on IRC

- Channel: **#wallstreetbets** on **irc.freenode.net**
- Most likely to be active during M-F trading hours and everyone is welcome
- If you're not familiar with IRC but still want to chat, just click **HERE** and use the word "wallstreetbets" under channel then chose a username and then finally prove you're human
- Keep in mind, that there's no direct link between IRC usernames and reddit usernames. So if in doubt, PM the IRC user to his reddit account if you want to confirm their identity

Internet Archive, Capture of r/WallStreetBets as of Dec. 18, 2012, https://web.archive.org/web/20121218025312/http://www.reddit.com/r/wallstreetbets.

35. This chatroom was the progenitor for the Discord channel which was launched later. In the chatroom, users traded financial advice and engaged in banter like on the WALLSTREETBETS forum. Also like the WALLSTREETBETS subreddit, Mr. Rogozinski moderated this initial chat and was able to exert at least some control over the contents of the chatroom.

36. Mr. Rogozinski later launched a similar chatroom under the name WSB. This use too was as a trademark in conjunction with Mr. Rogozinski's service offerings in commerce. The mark was an abbreviation for WALLSTREETBETS, and upon information and belief, the consuming public perceived the WSB mark as meaning WALLSTREETBETS.

37. As shown below, the WALLSTREETBETS subreddit page contained a link to the chatroom in the right-hand column of the page, just below a link

to the WALLSTREETBETS Twitter account, @wallstreetbets.

Internet Archive, Capture of r/WallStreetBets as of Mar. 26, 2016, https://web.archive.org/web/20160326011513/https://www.reddit.com/r/wallstreetbets.

38. To further promote his brand and community, Mr. Rogozinski created the WALLSTREETBETS Twitter account (@wallstreetbets) in May 2012. Reddit did not object to the either of the WALLSTREETBETS or WSB chatrooms or Mr. Rogozinski's Twitter account. Again, this use of WALLSTREETBETS on Twitter was a trademark use in commerce to promote Mr. Rogozinski's service offerings that were being hosted on the Reddit platform.

II. Mr. Rogozinski's hard work pays off as WALLSTREETBETS generates 1 million subscribers, drawing attention from the financial press.

39. In May 2012, Mr. Rogozinski's forum had 269 subscribers. Internet Archive, Capture of r/WallStreetBets as of May 4, 2012, *supra*. Through Mr. Rogozinski's efforts, the community's size increased by almost seven-fold by early 2013. Internet Archive, Capture of r/WallStreetBets as of Jan. 9, 2013, https://web.archive.org/web/20130109034814/http://www.reddit.com/r/wallstreetbets/ (showing 1,852 subscribers.) By the spring of 2015, WALLSTREETBETS boasted more than 11,000 subscribers.

Internet Archive, Capture of r/WallStreetBets as of Apr. 22, 2015, https://web.archive.org/web/20150422023924/http://www.reddit.com/r/wallstreetbets/. At the end of March 2020, just before Reddit took away Mr. Rogozinski's ability to moderate the forum, WALLSTREETBETS crossed the 1,000,000 million subscriber threshold. Internet Archive, Capture of r/WallStreetBets as of Mar. 31, 2020, https://web.archive.org/web/20200331000705/https://www.reddit.com/r/wallstreetbets/.

40. This success was the product of literally years of hard work by Mr.Rogozinski building the WALLSTREETBETS brand. Starting from scratch, Mr. Rogozinski carefully cultivated the community to ensure the forum aligned with his overall vision. Because he created WALLSTREETBETS, consistent with Reddit policy,[1] Mr. Rogozinski controlled the moderation team. Over time, Mr. Rogozinski expanded WALLSTREETBETS' content moderation team, carefully choosing moderators who shared his vision for the forum. At all relevant times prior to Reddit suspending him, Mr. Rogozinski retained the ability to enforce the forum's rules. The same was true for the WALLSTREETBETS chatroom Mr. Rogozinski created.

41. As the brand grew, the financial press started taking notice of the forum Mr. Rogozinski created. In 2018, *Money* published an in-depth profile on WALLSTREETBETS, identifying Mr. Rogozinski as

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[1] Reddit provides "three main ways to become a moderator": (1) "[b]y creating your own community," (2) "[b]y making a request," and (3) "[b]y requesting an invitation." Reddit, *How do I become a moderator*?, https://reddit.zendesk.com/hc/en-us/articles/205192505-How-do-I-become-a-moderator- (last visited Aug. 10, 2023).

the forum's founder. Jake Davidson, *Meet the Bros Behind /r/WallStreetBets, Who Lose Hundreds of Thousands of Dollars in a Day—And Brag About It*, Money, Oct. 25, 2018, https://money.com/wall-street-bets/.

42. The *Money* report described the unique culture Mr. Rogozinski cultivated. "The mix of braggadocio and nihilism that pervades Wallstreetbets makes it difficult to tell how much money is really at stake," *Money* reported. *Id.* "But WSB," shorthand for WALLSTREETBETS, "is best known as a place where users announce their bets on the market, which are often centered on so-called meme stocks—like Tesla—securities that have transcended their role as financial instruments to become a sort of economic inside joke." *Id.*

43. Other media outlets covered the WALLSTREETBETS story. In 2017, *Vice* observed that "/r/Wallstreetbets is like a scrappier, more foul-mouthed version of the startup community, where the rate of failure is placed as high as 90 percent." Roison Kiberd, *You Probably Shouldn't Bet Your Savings on Reddit's 'Wallstreetbets'*, Vice, Dec. 11, 2017, https://www.vice.com/en/article/nedzqm/you-probably-shouldnt-bet-your-savings-on-reddits-wallstreetbets. The *Vice* report linked WALLSTREETBETS to Mr. Rogozinski. "The mods tell me that /r/Wallstreetbets was founded by one of their team, 'Jartek,' in 2012, after he was run out of /r/investing for advocating risky bets." *Id.*

44. In early 2020, CNBC spotlighted WALLSTREETBETS for the forum's role in the so-called "meme stock" craze. Michael Sheetz, *Crazy speculative trading is driving some stocks inexplicably higher, a 'late cycle' market sign*, CNBC, Feb. 22,

2020, https://www.cnbc.com/2020/02/22/crazy-speculative-trading-is-driving-some-stocks-inexplicably-higher-a-late-cycle-market-sign.html. "Reddit users have dubbed these companies as 'meme stocks,' due to the humorously outsized gains that have come after r/wallstreetbets declared the shares were going to surge." *Id.* This coverage was a sign that individual, retail investors were now at the center of the action.

45. *Bloomberg Business Week* picked up these themes in early March, running the below cover story with the subheading "A band of Reddit users is hijacking stocks and defying even the coronavirus sell-off."

46. An upstart no more, *Bloomberg Business Week* reported that "even veteran traders have trouble dismissing a 900,000-user Reddit forum called r/wallstreetbets, or r/WSB for short, whose tips and tactics have shown an uncanny ability to push prices, at least for the short term." Luke Kawa, *Reddit's Profane, Greedy Traders Are Shaking Up the Stock Market*, Bloomberg Business Week, Feb. 26, 2020, https://www.bloomberg.com/news/articles/2020-02-26/reddit-s-profane-greedy-traders-are-shaking-up-the-stock-market. The article's conclusion: "Chatter on a Reddit message board is pushing up prices on some stocks and reshaping the options market. Retail traders are back—for better or for worse." *Id.*

47. Mr. Rogozinski's creation had come full circle. Just eight years earlier, Mr. Rogozinski and his WALLSTREETBETS service offerings were on the outside looking in, subject to the whims of fund managers and institutional investors. In a remarkable turn, now the WALLSTREETBETS forum was shaping the agenda.

48. This should have been a win-win scenario. From Reddit's vantage point, WALLSTREETBETS generated a heavy stream of Internet traffic and provided significant brand exposure for Reddit. Meanwhile, Mr. Rogozinski looked forward not only to growing his service offerings on the Reddit platform, but also telling the WALLSTREETBETS story while empowering retail investors to make money in the financial markets. Reddit could have featured Mr. Rogozinski as an entrepreneurial success story. But Reddit was not interested in playing nice with high-profile creators on its platform. Just as the world was coming to grips with the COVID-19 pandemic, Reddit made a dramatic,

pretextual powerplay against WALLSTREETBETS' creator.

III. As Mr. Rogozinski grew his WALLSTREETBETS brand, Reddit seized control over his creation, invoking its moderator rules as a pretext.

49. With WALLSTREETBETS' subscriber base approaching 1 million, Mr. Rogozinski published *WallStreetBets: How Boomers Made the World's Biggest Casino for Millenials* at the end of January 2020. In the book, Mr. Rogozinski chronicles the stock market's evolution from a mechanism for raising capital to power industry to an arbitrary, more manipulable modern form. Mr. Rogozinski also tells WALLSTREETBETS' success story in his book.

50. Mr. Rogozinski's use of the WALLSTREETBETS mark on his book constituted trademark use in commerce.

51. Around the same time the book launched, Mr. Rogozinski included a link to purchase his book on Amazon on the WALLSTREETBETS side bar. A screenshot showing the link to the book is shown below.

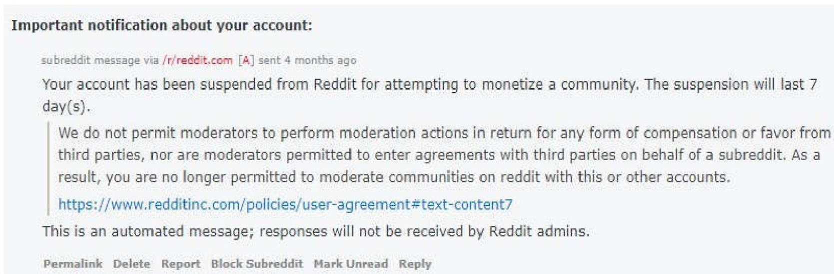
Internet Archive, Capture of r/WallStreetBets as of Feb. 9, 2020, https://web.archive.org/web/20200209062916/https://www.reddit.com/r/wallstreetbets/. Just below the book link was a link to purchase WALLSTREETBETS merchandise which had been previously published on the forum by other forum moderators. Reddit took no action against Mr. Rogozinski or any other WALLSTREETBETS moderator for the book or merchandise links at that time. Again, Mr. Rogozinski's use of the WALLSTREETBETS mark was trademark use in commerce.

52. In early March 2020, Mr. Rogozinski announced a WALLSTREETBETS-branded e-sports competition. The competition, which was set to take place in Texas in October 2020, was to "pit the country's top traders against each other, using real money to see who is most skilled." WallStreetBets Announces First Live Trading Championship, Mar. 26, 2020, https://www.businesswire.com/news/home/20200326005099/en/WallStreetBets-Announces-First-Live-Trading-Championship. Again, Reddit took no action against Mr. Rogozinski for announcing the competition.

53. On March 24, 2020, Mr. Rogozinski filed an application with the United States Patent and Trademark Office ("USPTO") to register the mark WALLSTREETBETS used in conjunction with online and print publications in the fields of trading and finance, clothing items and providing an online forum for financial and trading information.

54. Without warning, on April 7, 2020, Reddit sent a notification to Mr. Rogozinski that his account had been placed on a seven-day suspension for "att-

empting to monetize a community." The entire notification is shown below.



Important notification about your account:

subreddit message via /r/reddit.com [A] sent 4 months ago

Your account has been suspended from Reddit for attempting to monetize a community. The suspension will last 7 day(s).

> We do not permit moderators to perform moderation actions in return for any form of compensation or favor from third parties, nor are moderators permitted to enter agreements with third parties on behalf of a subreddit. As a result, you are no longer permitted to moderate communities on reddit with this or other accounts.
>
> https://www.redditinc.com/policies/user-agreement#text-content7

This is an automated message; responses will not be received by Reddit admins.

Permalink Delete Report Block Subreddit Mark Unread Reply

55. In the notice, Reddit cited section 7 of the then-in-force User Agreement, which stated "[y]ou may not perform moderation actions in return for any form of compensation or favor from third parties," and "[y]ou may not enter into any agreement with a third party on behalf of Reddit, or any subreddits that you moderate, without our written approval Reddit." Reddit, *Previous Reddit User Agreement Effective September 24, 2018*, https://web.archive.org/web/20200124040622/https://www.redditinc.com/policies/user-agreement-september-24-2018. Neither Mr. Rogozinski's book nor the e-sports competition he had planned had anything to do with any of his decisions as a moderator of the WALLSTREETBETS forum. Simply put, there was never any moderation-for-compensation deal. Further, Mr. Rogozinski's e-sports competition was between a company he established and a third party.

56. As Reddit currently says elsewhere, moderators are "free to run *their communities* as they choose, *as long they don't break the rules outlined in Reddit's Content Policy or Moderator Code of Conduct*." Reddit, *What's a moderator?*, https://reddit.zendesk.com/hc/en-us/articles/204533859-What-s-a-moderator- (last visited Aug. 10, 2023) (emphasis

added). Reddit pointed to no violations of either policy. In 2014, Reddit's own frequently asked questions similarly advised users to "[p]lease keep in mind, however, that moderators are free to run their subreddits however they choose so long as it is not breaking any reddit's rules." Reddit, *Frequently Asked Questions, What if the moderators are bad?*, Internet Archive capture as of Apr. 2, 2014, https://web.archive.org/web/20140402003119/http://www.reddit.com/wiki/faq.

57. According to Reddit's moderator guidelines which were in effect on the date of Mr. Rogozinski's suspension, Reddit may intervene to take control of a subreddit if necessary, but "[t]his should happen rarely." Reddit, *Moderator Guidelines for Healthy Communities*, https://web.archive.org/web/20220803212256/https://www.redditinc.com/policies/moderator - guidelines-for-healthy-communities. The Guidelines further provide that only "[w]here moderators consistently are in violation of these guidelines," will Reddit "step in with actions to heal the issues," but that Reddit "hope[s] permanent actions will never become necessary." *Id.* (emphasis added). Even where a moderator consistently violates the Guidelines, which was not the case with Mr. Rogozinski, the first potential response should be to drop a moderator down the moderator list as part of an effort to "heal the issues," not to permanently remove them. *See id.* Reddit leapfrogged the intermediate sanctions provided in the Guidelines to impose a destructive, immediate, and severe punishment on Mr. Rogozinski.

58. The company also violated its so-called "top mod removal process." Upon information and belief, this process was in place prior to Mr. Rogozinski's

suspension from the platform. Reddit's description of the process begins with the following: "If you are active on Reddit but no longer actively moderating a community, it is possible to be removed as a moderator of it through the top mod removal process." Reddit, *How does mod removal via the top mod removal process work?*, Internet Archive capture as of Sept. 19, 2020, https://web.archive.org/web/20200919182033/https:/mods.reddithelp.com/hc/en-us/articles/360003669692-How-does-mod-removal-via-the-top-mod-removal-process-work-. It is clear from the context that the process is not limited to mods "no longer actively moderating a community" because the process later refers to how "one of the things we take into consideration is whether or not the mod in question *is harming* or could harm the subreddit." *Id.*

59. Under the policy, Reddit advised that "mod teams should attempt to resolve their issues internally, through a discussion with other moderators." *Id.* A request is not "guaranteed to be successful," and consideration as to whether the "mod's actions have disrupted the rest of the mod team, the workings of the subreddit, or anything else that could cause problems for the community as a whole." *Id.* Reddit also provided due process for top mods, stating that the company "will contact the top mod to inform them of the process and give them the opportunity to provide us with further details as needed." Despite Reddit's own policy, the company did not provide Mr. Rogozinski with the requisite due process, as Reddit banned him without any warning or the company's promised due process.

60. What is more, the notice says that Mr. Rogozinski's suspension "will last seven days." The implication of the time limitation was that Mr.

Rogozinski's moderator position would be reinstated once the seven-day period elapsed, but that was not the case here as, to this day, Mr. Rogozinski remains cut off from moderating the WALLSTREETBETS forum he created.

61. Seven days from the termination came and went, but Reddit did not reinstate Mr. Rogozinski as a moderator, nor did the company respond to his many requests asking to know why the company had deplatformed him from the forum he created and managed. Instead, on May 11, 2020, Reddit filed its first of what would be four federal trademark applications to the USPTO to register the mark WALLSTREETBETS.

62. Mr. Rogozinski had no input on Reddit's User Agreement, the Moderator Guidelines, or any other Reddit corporate policy. Reddit's terms of service and policies are, by definition, the terms of an adhesion contract which must be construed against the company. *See City of Hope Nat'l Med. Ctr. v. Genentech, Inc.*, 43 Cal. 4th 375, 397, 181 P.3d 142, 158 (2008) (referring to the "special construction rules" that apply to adhesion contracts such as construing terms against the drafter). Regardless, there is no need to resort these principles here because Mr. Rogozinski did not violate the plain language of any of Reddit's terms or policies. The fact that Reddit violated its own adhesion contract makes the company's conduct even more extreme.

63. Reddit's embrace or at least tolerance of monetization by other subreddit owners underscores the point that Mr. Rogozinski did nothing wrong by promoting his book and launching a WALL-STREETBETS-branded e-sports competition. Nowhere in the User Agreement or Moderator Guide-

lines is there any reference to the ambiguous concept of "monetizing a community." That omission is not surprising. Carried to its logical conclusion, the principle would bar any commercial activity on Reddit. Of course, in practice, subreddit creators consistently use their channels to market products and services. As noted above, WALLSTREETBETS previously included links to merchandise without incident. The following are just a few examples of how other subreddit moderators monetize their platforms:

a. Well-known brands like Fidelity Investments (r/fidelityinvestments) and Red Bull (r/redbull) use Reddit to generate awareness of their products and services.

b. The r/StockTradingIdeas subreddit contains a link to www.ultraalgo.com, a pay-for-service algorithm training platform.

c. The r/BitCoin subreddit has included links to Bisq, a platform to buy and sell bitcoin.

d. Subreddit r/WallStreetSilver, a WALLSTREETBETS competitor, includes links to Silver Gold Bull and Sprott Money, two websites from which users can purchase silver and gold assets, and OnlyFans.

e. The r/SatoshiStreetBets subreddit has linked users to the opportunity to purchase the SatoshiSwap margin trading protocol.

f. The subreddit r/SellerCircleStage is "dedicated to providing information for new and aspiring sellers/performers within the online adult entertainment industry." One post offers advice on "Pricing Your Products and Services," including a suggested pricing schedule for bodily fluids. #Pricing Your Products and Services, https://www.reddit.com/r/SellerCircleStage/wiki/pricing/?v=19f5d960-7b91-11e4-ba12-12313b0ead6e.

64. Currently, other Reddit platform users routinely monetize their platforms by offering investment advice, gold and silver, and trading algorithms. Users on r/SellerCircleStage can even trade tips on how to sell their urine, saliva, and menstruation blood. At the same time, under Reddit's interpretation of its terms and policies, Mr. Rogozinski is barred from linking to his book and operating an e-sports competition. Reddit's justifications for punishing Mr. Rogozinski are as pretextual as they are indefensible and downright embarrassing viewed in context.

65. Social media platforms, including industrialist and new Twitter/X owner Elon Musk, are discussing how to better compensate content creators. Mr. Rogozinski's success story is compelling. With so much to gain from working with WALLSTREETBETS' founder, why would a social media platform treat a successful entrepreneur this way?

IV. As Reddit positions itself for an initial public offering, the company asserts ownership over other third-party names and brands they platformed.

66. As early as 2017, Reddit announced its intentions to pursue an initial public offering or IPO. "San Francisco-based social news website Reddit is planning to go public by 2020, the company's CEO said this week," the *San Francisco Business Times* reported in November 2017. Riley McDermid, *Reddit CEO eyes 'inevitable' IPO by 2020*, San Francisco

Business Times, Nov. 14, 2017, https://www.bizjournals.com/sanfrancisco/news/2017/11/14/reddit-ceo-eyes-inevitable-ipo-by-2020.html. "Reddit CEO Steve Huffman said that going public was 'inevitable; and added that it was 'the only responsible choice' for both the company and its investors." *Id.*

67. Like any company eyeing the public markets, Reddit had work to do. Financial and compliance systems would have to be implemented. Valuations would have to be conducted. Over time, intangible assets like patents, software, and brands have come to account for the vast majority of a company's value, from just seventeen percent in 1975 to ninety percent in 2020 according to one estimate. Bruce Berman, Latest Data Show that Intangible Assets Comprise 90% of the Value of the S&P 500 Companies, IP CloseUp, Jan. 19, 2021, https://ipcloseup.com/2021/01/19/latest-data-show-that-intangible-assets-comprise-90-of-the-value-of-the-sp-500-companies/.

68. For Reddit, this meant shoring up the company's intellectual property portfolio, including its trademark holdings. And here, Reddit confronted a dilemma. The company's platform facilitated access to content, but the company did not itself create content or communities. People logged onto WALL-STREETBETS to read what Mr. Rogozinski and others in his community were saying, not to dialogue with Reddit employees and executives. It was sub-reddit creators, not Reddit, that named the platform's various communities, brought them to life, set standards, and created and moderated the content.

69. Reddit's own policies confirm this arrangement. Reddit's User Agreement in force at the time the company suspended Mr. Rogozinski contains one reference to "ownership," and it is confirmation that

"[y]ou retain any ownership rights you have in Your Content," subject to certain licenses granted to Reddit. Reddit, Previous Reddit User Agreement Effective September 24, 2018, https://www.redditinc.com/policies/useragreement-september-24-2018 (last visited Aug. 10, 2023). The term Content is defined as "information, text, links, graphics, videos, or other materials." Id. Reddit did not claim it owned brands created on its platform by its users. The User Agreement contains one reference to trademark in a section related to the company's Digital Millennium Copyright Act takedown policy, where Reddit also proclaims the company "respects the intellectual property rights of others." Id.

70. Reddit also has a Trademark Use Policy. Reddit, Trademark Use Policy, https://www.redditinc.com/policies/trademark-use-policy (last visited Aug. 10, 2023). The policy includes references to Reddit's "stylized Snoo head in an OrangeRed Circle," "the Reddit wordmark," and variations of the same. Id. Nowhere in the policy does Reddit assert ownership or even licensing rights over subreddit names or related trademarks.

71. Neither the lack of express warrant in Reddit's policies nor the company's contractual commitment that it "respects the intellectual property rights of others" stopped Reddit from asserting ownership of subreddit names. To bolster the company's valuation to satisfy Wall Street, Reddit took deliberate, systematic action to assert ownership of various third-party names that were platformed on Reddit, beginning as early as 2012, but accelerating in 2016 and on. The table below shows Reddit's trademark filings on various subreddit names that had been created and managed by third parties. Upon infor-

mation and belief, some or all of the individuals responsible for creating and managing these subreddit hosted identities did not consent to Reddit's claims of ownership over their names.

Trademark	Application Date	Registration No.	Register Date
IAMA	July 12, 2012	4295647	February 26, 2013
AMA (image)	March 17, 2016	5220980	June 13, 2017
AMA	March 17, 2016	5283555	September 12, 2017
ASK ME ANYTHING	May 25, 2016	5134849	January 31, 2017
NOSLEEP	August 3, 2018	5702447	March 19, 2019
R/NOSLEEP	August 3, 2018	5702448	March 19, 2019
EXPLAIN LIKE I'M FIVE	October 22, 2019	6067931	June 2, 2020
ELI5	October 24, 2019	6111764	July 28, 2020
TODAY I LEARNED (TIL)	February 4, 2020	6466212	August 31, 2021
AM I THE ASSHOLE?	February 9, 2020	6173432	October 13, 2020
SHOWER-THOUGHTS	February 9, 2020	6198752	November 17, 2020

SHOWER-THOUGHTS	February 19, 2020	6198751	November 17, 2020
AM I THE ASSHOLE?	February 19, 2020	6269771	February 16, 2021
NATURE IS FUCKING LIT	March 4, 2020	6152852	September 15, 2020
NATURE IS FUCKING LIT	March 4, 2020	6152853	September 15, 2020

72. The company's fifteen different registrations cover seven distinct subreddit names, including shorthand variations like ELI5 for r/Explain-LikeImFive. In total, these subreddits have more than 135,000 million subscribers.

73. Reddit leverages these filings to secure capital. On October 8, 2021, Reddit pledged the registrations above as part of a Trademark Security Agreement with JPMorgan Chase Bank, N.A. A true and accurate copy of the Trademark Assignment Cover Sheet and Trademark Security Agreement as filed with the USPTO is attached hereto as Exhibit A. Upon information and belief, Reddit amended its secured credit facility with JP Morgan to raise more money as part of the company's efforts to go public. The company used the trademark registrations cited above as part of the collateral for that deal.

74. Reddit's conduct was deliberate. The company did not file trademark applications on names used on their platform by corporate partners like Fidelity and Red Bull. Further, Reddit has done deals with content creators in the past. *See, e.g.*, Sarah Perez, *After Five Years Of Boostrapping Imgur Raises*

$40 Million From Andreessen Horowitz & Reddit, TechCrunch, Apr. 3, 2014, https://techcrunch.com/2014/04/03/after-five-years-of-bootstrapping-imgur-raises-40-million-from-andreessen-reddit/. In other words, the company knows how to play nice, at least when it suits Reddit's purposes or where its users have the means and sophistication to understand and defend their rights. Here, Reddit targeted individual owners and entrepreneurs, many of whom lacked the financial resources and wherewithal to protect their interests.

75. Reddit underestimated Mr. Rogozinski in this regard. Though Mr. Rogozinski founded WALLSTREETBETS in 2012, and even though Reddit was filing to secure trademark protection on subreddit names as early as 2012, Reddit did not file a trademark application on WALLSTREETBETS—at least not initially. To protect his interests, Mr. Rogozinski, however, did take steps to secure his intellectual property. As noted above, on March 24, 2020, Mr. Rogozinski filed U.S. Trademark Application No. 88845638 for WALLSTREETBETS at the USPTO. Upon information and belief, it was this action, not Mr. Rogozinski's alleged "monetization efforts," which spurred Reddit to act against Mr. Rogozinski's account.

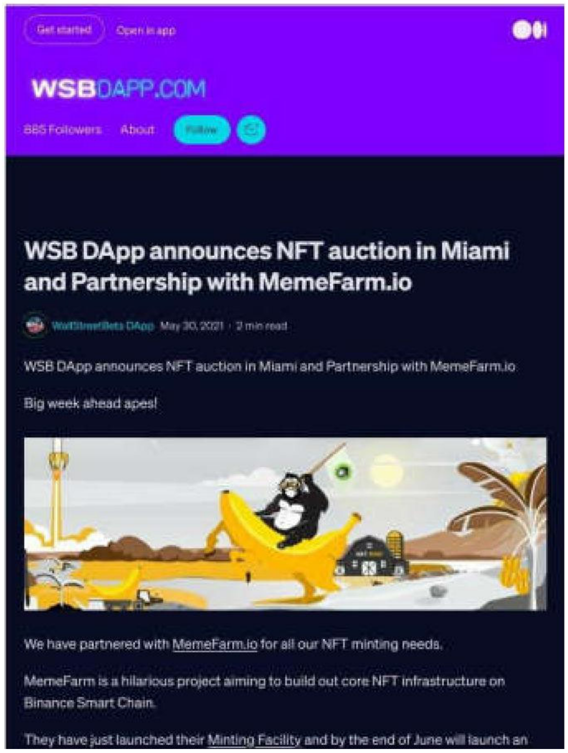
76. After taking away Mr. Rogozinski's ability to control the community he created, Reddit initiated legal action at the USPTO's Trademark Trial and Appeal Board to block him from asserting ownership of WALLSTREETBETS. Reddit also filed four separate trademark applications on WALLSTREETBETS trademarks, all of which are still pending at the USPTO. Reddit did not oppose Mr. Rogozinski's trademark application for the mark

WSB, which is shorthand for WALLSTREETBETS. That registration issued as U.S. Trademark Registration No. 6754487 on June 7, 2022, a true and accurate registration certificate for which is attached as Exhibit B.

77. The WSB trademark registration, for which Mr. Rogozinski asserted a date of first use in commerce of April 15, 2021, is for the WSB word mark in connection with the following goods and services which Mr. Rogozinski offered in commerce under the WSB mark:

> CLASS 35: On-line auction services featureing non-fungible tokens (NFTs) for digital art; Provision of an online marketplace for buyers and sellers of downloadable digital art images authenticated by non-fungible tokens (NFTs)
>
> CLASS 36: Financial information provided by electronic means in the field of decentralized finance, namely, a mobile app and website for creating exchange traded platforms (ETP) voted on by owners of governance tokens, staking of governance tokens, and buying, selling and tracking synthetic assets

78. The following is a representative specimen showing the WSB mark being used in commerce:



79. Since Mr. Rogozinski filed his original complaint in this action, Reddit has petitioned to cancel the WSB trademark registration at the USPTO. If Reddit's goal is simply to "protect the best interests of the communities and moderators on our platform," then why is the company trying to block Mr. Rogozinski from using his brand in connection with cryptocurrency?

80. Answer: Reddit decided to go into the cryptocurrency business, and the company wants to leverage the WALLSTREETBETS or WSB brands in that market. As one report explained, "Reddit's Avatars collection in July 2022," which was the "social media giants foray into the NFT space," turned out to be "a smash hit." Shilpa Lama, *Reddit*

Collectible Avatars: A Deep Dive Into Reddit's NFTs, Being Crypto, last updated June 8, 2023, https://beincrypto.com/learn/reddit-avatars/.

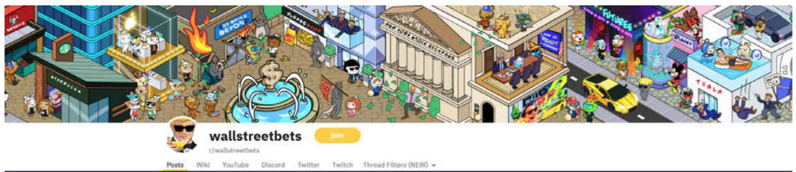
81. Soon after the launch of Reddit's NFTs, a WALLSTREETBETS moderator announced the community was collaborating with the company. "Good news!" the moderator intoned. "This is the only trade this year you can't lose money on. Although. . . I'm sure some of you will find a way. About a month WallStreetBets released some Collectible Avatars with Reddit. Did you notice them in the banner?" As shown below, Reddit partnered with the post-Mr. Rogozinski moderators of WALLSTREETBETS to push the company's Avatars to WALLSTREETBETS users.

New Years 2023 Banner, Complete with Collectible Avatars

AutoModerator's Father, *We're giving away 10,000 Reddit Avatars for top WSB members, worth $200+ now - Claim period ends Friday!*, r/WallStreetBets, Jan. 9, 2023, 12:22:44 PM, https://www.reddit.com/r/wallstreetbets/comments/107k3de/were_giving_away_10000_reddit_avatars_for_top_wsb/.

82. Upon information and belief, the banner above is the only WALLSTREETBETS banner the current moderators of the forum developed "with Reddit." At various times, the page has featured artwork playing off, among other themes, the video game Mario Brothers. This represents a departure from the tongue-in-cheek art that dominated on the forum under Mr. Rogozinski's leadership. Another example

of a WALLSTREETBETS banner featuring Reddit's SNOO character is shown below.



Internet Archive, Capture of WALLSTREETBETS Forum on Feb. 10, 2023, https://web.archive.org/web/20230210134123/https://www.reddit.com/r/wallstreetbets/.

83. All this suggests WALLSTREETBETS' look and feel and the forum's editorial agenda is not being set by an organic group of moderators, but is rather under the influence of Reddit's corporate leadership. At the same time, the apparent links between WALLSTREETBETS' current moderation team and Reddit make a further mockery of the company's claims to have preserved the forum's integrity from Mr. Rogozinski's alleged profit-driven agenda.

84. While Reddit tries to portray Mr. Rogozinski as a greedy scion, a WALLSTREETBETS moderator executed what is known in the cryptocurrency world as a "rug pull," meaning the moderator pumped up the valuation of a new token to attract initial investors only to exit the investment with funds just after the token's launch. According to one report, "[a]llegations surfaced that a project founder, ZJZ.eth, executed a rug pull by suddenly dumping a large portion of the WSB team supply for $635,000 (334 ETH)," causing "significant concern within the crypto community." *WSB token trader makes $240,000 in two days despite alleged rug pull*, Crypto.Ro, May 4, 2023, https://crypto.ro/en/news/wsb-token-trader-makes-240000-in-two-days-despite-al

leged-rug-pull/. Mr. Rogozinski fielded complaints about these actions on Twitter, as consumers wrongfully confused him and his WALLSTREETBETS brand with this apparent bait-and-switch scam. But since Reddit is working to block Mr. Rogozinski from securing a trademark registration for WALLSTREETBETS, the company's actions interfere with Mr. Rogozinski's efforts to distance himself these reputation-damaging schemes. Upon information and belief, Reddit has done nothing to sanction this moderator for this apparent misconduct.

85. Reddit's bad faith conduct has paid off. The company achieved a $10 billion valuation, with Bloomberg noting in the header of its article that Reddit is "[t]he home of WallStreetBets." Michael Hytha & Priya Anand, *Reddit Files for IPO After Igniting The Year's Meme Stock Frenzy*, Bloomberg, Dec. 15, 2021, https://news.bloomberglaw.com/mergers-and-acquisitions/social-platform-reddit-says-it-filed-confidentially-for-ipo-1. Reddit achieved a multi-billion dollar valuation for an IPO that stands to create life-changing wealth for the company's executives and investors on the backs of Mr. Rogozinski's creation as well as other innovators whose brands Reddit also seized. Not surprisingly, Reddit is not the least bit apologetic for this and maintains it owes Mr. Rogozinski nothing. While Reddit enriched itself at Mr. Rogozinski's expense, the company's actions have caused him concrete, tangible financial and reputational harm.

V. By seizing control of WALLSTREETBETS, Reddit caused Mr. Rogozinski direct financial and reputational harm.

86. Reddit's decision to ban Mr. Rogozinski as a WALLSTREETBETS moderator had an immediate

financial effect on him. He lost hundreds of thousands of dollars of sales for his book, which was published less than three months prior to the ban. As a further consequence of Reddit's ban, Mr. Rogozinski's company lost its contract for the e-sports trading competition in Texas, costing him millions of dollars.

87. Even after the ban, the public continued to connect Mr. Rogozinski to WALLSTREETBETS. Throughout 2020, 2021, 2022, and 2023, Mr. Rogozinski made more than sixty media appearances to discuss WALLLSTREETBETS, including on television networks like MSNBC, CNN, Fox Business, Bloomberg, and CNBC, and on podcasts hosted by Jordan Belfort of *Wolf of Wall Street* fame, Glenn Greenwald, and Logan Paul. As shown below, during these appearances, media consistently referred to Mr. Rogozinski as WALLSTREETBETS' founder.

Mr. Rogozinski also spoke at more than a dozen events at venues throughout the United States and around the world, further building the WALLSTREETBETS brand and his own reputation.

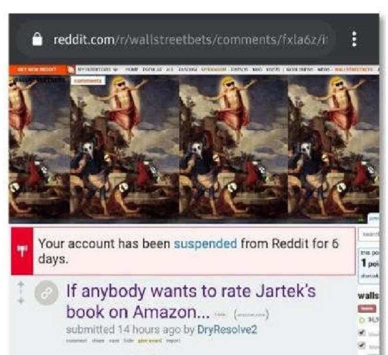
88. During these close to eighty different appearances, Mr. Rogozinski was further connected to the WALLSTREETBETS brand in the minds of tens of millions of people, adding onto an already established association between himself and the brand. Mr. Rogozinski is so entwined with the brand that he sold the rights to his life story to a major production company that is going to "to dramatize the story of his role in the WallStreetBets saga." Erich Schwartzel & Akane Otani, Reddit's WallStreetBets Founder Sells Life Story to Movie Producer RatPac Entertainment, Wall St. J., Feb. 4, 2021, https ://www.wsj.com/articles/reddits-wallstreetbets-founder-sells-life-story-to-movie-producer-ratpac-entertainment-11612440001.

89. Another WALLSTREETBETS movie is in production. The upcoming film titled *Dumb Money* will dramatize the Gamestop short-squeeze. Matthew Fox, *The GameStop saga is getting a movie. Seth Rogen is cast as Wall Street Bets' most reviled hedge funder, and Paul Dano will play meme-stock hero Roaring Kitty*, Business Insider, Apr. 25, 2023, https://markets.businessinsider.com/news/stocks/gamestop-meme-stock-movie-seth-rogen-pete-davidson-paul-dano-2023-4. The film is based on a book by Ben Mezrich. *Id.* Mr. Mezrich's book, published in 2021, demonstrates Mr. Rogozinski's connection to WALLSTREETBETS. While a WALLSTREETBETS user "hadn't known much about WSB's history," Mr. Mezrich wrote in the book on which *Dumb Money* is based, she "learned a bit from reading posts." Ben Mezrich, *The Anti-Social Network*, at 38 (2021). "It had been founded by a thirty-year-old tech consultant named Jaime Rogozinski, who had wanted to build a forum for people who weren't cut from the conservative cloth regularly associated with Wall

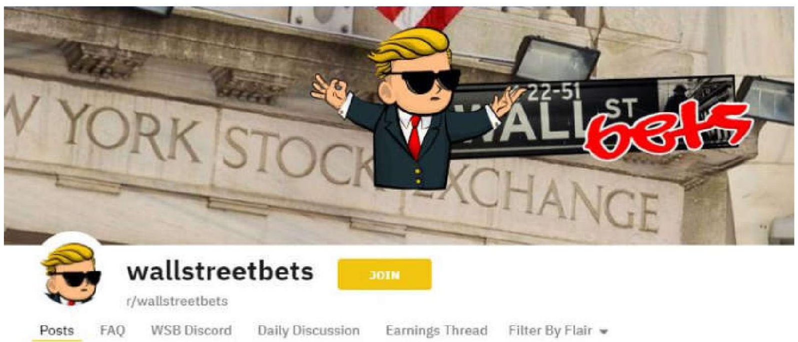
Street, to discuss stocks, investing, wins, and losses." *Id.* at 38-39.

90. After Reddit banned Mr. Rogozinski, the WALLSTREETBETS forum he created took a damaging turn. The moderators who replaced Mr. Rogozinski who, upon information and belief, pushed Reddit to ban him, flashed their contempt for the creator of WALLSTREETBETS almost immediately. One such moderator celebrated Mr. Rogozinski's ban in a post that received more than 2,400 comments, writing that "the United States has conducted an operation that killed jartek and a terrorist who's responsible for the murder of thousands of innocent members."

91. The WALLSTREETBETS community guidelines bar "brigading," meaning an online harassment campaign against a particular user. Nevertheless, a WALLSTREETBETS user organized a brigade against Mr. Rogozinski's book, *WallStreetBets*, inciting others to leave negative reviews. "Wrote a shit review on TTG and Amazon for you queer," the user noentic wrote to Mr. Rogozinski. As shown below, other users piled on while the WALLSTREETBETS moderators looked on, causing Mr. Rogozinski to lose thousands of dollars in books sales.



92. The new moderators also published pictures of the WALLSTREETBETS cartoon character flashing an "okay" sign, which has been associated with "white power." One such example is shown below.



93. WALLSTREETBETS' new leadership owned a Discord channel on which users published racial slurs. This Discord channel is what came to replace the chatrooms Mr. Rogozinski created. For Mr. Rogozinski, a Jewish and natural-born Mexican citizen, the content itself, which at various times included swastikas, was offensive, but the harm was only compounded by having to sit and watch the trademark he created and worked diligently for years to build be tarnished by these activities. Things got so bad that "Discord banned the r/WallStreetBets server for 'hate speech.'" Rachel Sandler, *Discord Bans r/WallStreetBets Over 'Hate Speech,' Reddit Forum Returns After Going Private*, Forbes, Jan. 27, 2021, https://www.forbes.com/sites/rachelsandler/2021/01/27/discord-bans-rwallstreetbets-over-hate-speech-reddit-forum-goes-private. Reddit might have a First Amendment right to platform racially inflammatory content, but it does not have the right to connect Mr. Rogozinski's trademark and identity to this content.

94. All this makes a mockery of Reddit's vaunted "cultural DNA." In a blog post published on June 1, 2021, Reddit boasted that its "mission is to bring community and belonging to everyone in the world," and that "[w]e believe that people should be able to find a welcoming home on our platform." Reddit, *Reddit's Cultural DNA: A Year Look Back and Onward*, June 1, 2021, https://www.redditinc.com/blog/reddits-cultural-dna. On Reddit, just about everyone, including aspiring pornographers and scam artists, can find a place, everyone that is except Mr. Rogozinski. Why? Because money and the pursuit of profits over people—not equity, inclusion, or social justice—is what is actually wired into Reddit's DNA.

95. For too long, Reddit has systematically taken advantage of content creators and innovators so that it can line its pockets with billions of dollars. The company has self-righteously talked the talk of equity and inclusion while walking the walk of exploitation. Mr. Rogozinski is not about to let Reddit get away with it.

96. Reddit acted with oppression, fraud, and/or malice toward Mr. Rogozinski.

CLAIMS FOR RELIEF

COUNT I

DECLARATORY JUDGMENT
Controversy Regarding Ownership of the WALLSTREETBETS and WSB Trademarks
28 U.S.C. §§ 2201-2202

97. Mr. Rogozinski re-alleged the preceding paragraphs herein.

98. There is an actual, justiciable dispute between Mr. Rogozinski and Reddit as to which party owns the WALLSTREETBETS and WSB trademarks.

99. Mr. Rogozinski's launch and operation of the WALLSTREETBETS name in conjunction with financial information and forum services and related goods and services was his use of a mark in United States commerce. Mr. Rogozinski made this use through moderating and curating the WALL-STREETBETS community on Reddit and through WALLSTREETBETS-branded chatrooms.

100. Mr. Rogozinski used the Reddit platform to provide information and forum services to the consuming public regarding financial information, to include securities, options, futures, and financial instruments, including stock trading, bond trading, futures trading, options trading, forex trading, and commodities trading. Reddit's social media hosting services are and were separate and distinct from the services offered by Mr. Rogozinski on Reddit's platform. There was no agreement between the parties, nothing in the terms of use, that stated a user's creation of identities and trademarks on the Reddit platform inured to the benefit and ownership of Reddit. To the contrary, the only reference to ownership at the time Mr. Rogozinski started the forum on Reddit, stated that users owned the content they generated.

101. As such, Mr. Rogozinski, not Reddit, has priority rights in the WALLSTREETBETS mark for purposes of providing the aforementioned services.

102. Mr. Rogozinski has priority rights for the WSB trademark in connection with NFTs.

103. Reddit disagrees with Mr. Rogozinski's positions.

104. Mr. Rogozinski seeks a declaratory judgment that he, and not Reddit, is the owner of the WALLSTREETBETS and WSB trademarks.

COUNT II
INFRINGEMENT OF
WALLSTREETBETS TRADEMARK
Lanham Act § 43(a), 15 U.S.C. § 1125(a)

105. Mr. Rogozinski re-alleges the preceding paragraphs herein.

106. Mr. Rogozinski uses of the WALLSTREETBETS trademark were in commerce and the mark is valid and protectable.

107. Mr. Rogozinski was the first to use the WALLSTREETBETS trademark by launching and operating the WALLSTREETBETS forum using Reddit's platform.

108. Mr. Rogozinski owns the WALLSTREETBETS trademark.

109. Mr. Rogozinski exercised control over the WALLSTREETBETS trademark by moderating the WALLSTREETBETS subreddit, moderating the WALLSTREETBETS IRC chatroom, and operating WALLSTREETBETS social media accounts.

110. After the company cut Mr. Rogozinski off from their platform, Reddit uses the WALLSTREETBETS trademark in commerce by operating the r/WallStreetBets subreddit on the company's website. Reddit also uses the WALLSTREETBETS trademark in connection with various NFT offerings, including in direct collaboration with the current moderators of the WALLSTREETBETS subreddit.

111. Reddit's uses of the WALLSTREETBETS trademark occur in interstate commerce, including on the Internet.

112. Reddit's operation of the WALLSTREETBETS forum is likely to cause confusion regarding moderation of content on the WALLSTREETBETS forum, including whether or not Mr. Rogozinski is affiliated with, connected to, or sponsors the forum.

113. Mr. Rogozinski did not give Reddit permission to use the WALLSTREETBETS trademark following his ban as a moderator of the r/WallStreetBets subreddit he created. Mr. Rogozinski also did not give Reddit permission to use the WALLSTREETBETS trademark in connection with NFTs and cryptocurrency.

114. Reddit's actions damage Mr. Rogozinski.

115. Reddit's actions constitute trademark infringement.

116. Reddit's actions constitute willful trademark infringement under 15 U.S.C. § 1117(a). Reddit was fully aware of Mr. Rogozinski's rights in WALLSTREETBETS, but chose to prevent him from exercising ownership over his creation, violating the company's own terms and policies in order to do so.

COUNT III
INFRINGEMENT OF REGISTERED WSB TRADEMARK
Lanham Act § 32, 15 U.S.C. § 1114

117. Mr. Rogozinski re-alleges the preceding paragraphs herein.

118. The term WSB is a shorthand reference for WALLSTREETBETS.

119. Mr. Rogozinski used the WSB mark in commerce in conjunction with on-line auction services featuring non-fungible tokens (NFTs) for digital art and provision of an online marketplace for buyers and sellers of downloadable digital art images authenticated by non-fungible tokens (NFTs).

120. The WSB trademark is valid and protectable.

121. Mr. Rogozinski U.S. Trademark Registration No. 6754487 for WSB.

122. Mr. Rogozinski was the first to use the WALLSTREETBETS trademark by launching and operating the WALLSTREETBETS forum on Reddit.

123. Mr. Rogozinski owns the WALLSTREETBETS trademark.

124. Mr. Rogozinski exercised control over the WALLSTREETBETS trademark by moderating the WALLSTREETBETS subreddit, moderating the WALLSTREETBETS IRC chatroom, and operating WALLSTREETBETS social media accounts.

125. Reddit uses the WSB trademark in commerce by operating the r/WallStreetBets subreddit on the company's website, as WSB is a known shorthand designation for WALLSTREETBETS. Reddit also uses the WALLSTREETBETS trademark in connection with various NFT offerings, including in direct collaboration with the current moderators of the WALLSTREETBETS subreddit.

126. Reddit's uses of the WSB trademark occur in interstate commerce, including on the Internet.

127. Mr. Rogozinski did not give Reddit permission to use the WSB trademark following his ban as a moderator of the r/WallStreetBets subreddit he created. Mr. Rogozinski also did not give Reddit perm-

ission to use the WSB trademark in connection with NFTs and cryptocurrency.

128. Reddit's actions damage Mr. Rogozinski.

129. Reddit's actions constitute willful trademark infringement under 15 U.S.C. § 1117(a). Reddit was fully aware of Mr. Rogozinski's rights in WSB, but chose to prevent him from exercising ownership over his creation, violating the company's own terms and policies in order to do so.

COUNT IV
VIOLATION OF RIGHT OF PUBLICITY
California Common Law

130. Mr. Rogozinski re-alleges the preceding paragraphs herein.

131. As alleged above, the WALLSTREETBETS and WSB trademarks have become identified with Mr. Rogozinski.

132. Reddit uses Mr. Rogozinski's identity by operating the r/WallStreetBets subreddit on the company's website for the company's commercial advantage.

133. The r/WallStreetBets subreddit includes content and links to content to which Mr. Rogozinski objects and which harm his reputation.

134. The r/WallStreetBets subreddit does not contain any prominent disclaimer regarding Mr. Rogozinski.

135. Mr. Rogozinski does not consent to Reddit's use of his identity.

136. Reddit's actions damage Mr. Rogozinski by, among other things, causing harm to his professional standing and future publicity.

COUNT V
BREACH OF CONTRACT

137. Mr. Rogozinski re-alleges the preceding paragraphs herein.

138. Reddit's User Agreement and related policies constitute a binding contract between Mr. Rogozinski and the company.

139. The contract between Reddit and Mr. Rogozinski is a contract of adhesion under California law. Since Reddit drafted the terms of the contract between it and Mr. Rogozinski, the terms should be construed against the company.

140. As set forth above, Mr. Rogozinski did not violate Reddit's terms or policies, but the company permanently suspended him from being a moderator of the WALLSTREETBETS forum he created anyway.

141. Reddit breached its contract with Mr. Rogozinski by at least the following:

a. suspending him as moderator of the WALLSTREETBETS in violation of its own terms and policies;

b. failing to follow the company's "top mod" policy; and

c. failing to reinstate Mr. Rogozinski as moderator of the WALLSTREETBETS forum prior on or before April 14, 2020, at the end of his seven-day suspension.

142. Mr. Rogozinski incurred damages on account of Reddit's breach of the contract.

143. Reddit's breach of contract was intentional and willful.

144. Under California law, "[e]very one who offers to the public to carry persons, property, or messages, excepting only telegraphic messages, is a common carrier of whatever he thus offers to carry." Cal. Civ. Code § 2168. Reddit offers to carry messages and is thus a common carrier under California law.

145. Since Reddit is a common carrier and its actions against Mr. Rogozinski were at least willful, the liability waiver the company unilaterally included in its User Agreement is unenforceable since a "common carrier cannot be exonerated, by any agreement made in anticipation thereof, from liability for the gross negligence, fraud, or willful wrong of himself or his servants." Cal. Civ. Code § 2175.

COUNT VI
VIOLATION OF DUTY OF GOOD FAITH AND FAIR DEALING

146. Mr. Rogozinski re-alleges the preceding paragraphs herein.

147. California's duty of good faith and fair dealing which requires "each contracting party to refrain from doing anything to injure the right of the other to receive the benefits of the agreement." *Egan v. Mut. of Omaha Ins. Co.*, 24 Cal. 3d 809, 818, 620 P.2d 141 (1979).

148. Reddit violated its duty of good faith and fair dealing by, among other things, wrongfully suspending Mr. Rogozinski's ability to moderate WALLSTREETBETS in violation of Reddit's user agreement and policies as alleged above.

149. Reddit's violation of its duty damaged Mr. Rogozinski.

COUNT VII

VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW

Cal. Bus. & Professions Code §§ 17200 et seq.

150. Mr. Rogozinski re-alleges the preceding paragraphs herein.

151. The California Unfair Competition Law (the "UCL") prohibits "any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by [California's False Advertising Law]." Cal. Bus. & Prof. Code § 17200.

152. As alleged above, Reddit is engaged in a practice of asserting trademark rights in the brand names of subreddits which creators using the company's platform develop, including but not limited to AMITHEASSHOLE and EXPLAIN LIKE I'M FIVE.

153. Neither Reddit's User Agreement nor the company's other policies disclose that the company has ownership rights over brands brought to it by content creators. In fact, Reddit's User Agreement states the company "respects the intellectual property rights of others."

154. Relying on Reddit's User Agreement, Mr. Rogozinski engaged Reddit to use the platform on which to build WALLSTREETBETS or WSB. If Reddit had disclosed its policies, Mr. Rogozinski would have built his forum on another platform or launched his own website using off-the-shelf software, but he proceeded under the belief that he could do so without interference by Reddit.

155. Reddit already blocked Mr. Rogozinski from controlling his brands. To make matters worse,

consistent with its past unfair and deceptive practice, Reddit is seeking to obtain trademark protection over Mr. Rogozinski's brand. Reddit's actions prevent Mr. Rogozinski from enforcing rights in his brand despite being connected to WALLSTREETBETS and WSB-branded NFT and cryptocurrency offerings.

156. Mr. Rogozinski has suffered economic injury on account of these acts, including lost book sales while his company has lost contracts.

157. These injuries were caused by Reddit's unfair and deceptive practices.

PRAYER FOR RELIEF

WHEREFORE, Mr. Rogozinski respectfully prays that this Court:

A. Enters an order declaring that as between Mr. Rogozinski and Reddit, Mr. Rogozinski is the owner of all right, title, and interest to the WALLSTREETBETS trademark;

B. Enjoin Reddit from any and all use of the WALLSTREETBETS or WSB trademarks absent Mr. Rogozinski's express consent;

C. Enters an order reinstating Mr. Rogozinski as the senior-most moderator of the r/WallStreetBets subreddit;

D. Enters an order that Reddit disgorge all the company's ill-gotten profits related to its use of the WALLSTREETBETS and WSB trademarks following Mr. Rogozinski's ban from the platform;

E. Enters an order restraining Reddit from engaging in unfair and deceptive practices regarding the company's efforts to obtain trademark ownership over the names of subreddits on the platform, including WALLSTREETBETS and WSB;

F. Award Mr. Rogozinski damages for Reddit's infringements and violations of his rights, including without limitation his contract rights;

G. Award Mr. Rogozinski punitive damages for Reddit's willful misconduct complained of herein;

H. Award Mr. Rogozinski recovery of all fees and costs associated with this action; and

I. Award such other relief to Mr. Rogozinski which this Court deems necessary and proper.

DEMAND FOR TRIAL BY JURY

Mr. Rogozinski demands a jury trial on all issues so triable.

Respectfully submitted, this 11th day of August, 2023.

By: */s/ James R. Lawrence, III*
James R. Lawrence, III
NC State Bar No. 44,560*
Anthony J. Biller
NC State Bar No. 24,117*
ENVISAGE LAW
2601 Oberlin Rd, Suite
Raleigh, NC 27608
Telephone: 919.755.1317
Facsimile: (919) 782.0452
Email: jlawrence@envisage.law
ajbiller@envisage.law

* admitted *pro hac vice*

SEAN P. GATES (SBN 186247)
sgates@charislex.com
CHARIS LEX P.C.
301 N. Lake Ave., Ste. 1100
Pasadena, CA 91101
Phone: 626.508.1715
Facsimile: 626.508.173

Attorneys for Plaintiff Jaime Rogozinski