

In the
Supreme Court of the United States

JAIME ROGOZINSKI,

Petitioner,

v.

REDDIT, INC.,

Respondent.

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

**BRIEF OF AMICUS CURIAE
THE DIGITAL CHAMBER (TDC)
IN SUPPORT OF PETITIONER**

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INTEREST OF THE AMICUS CURIAE

THE DIGITAL CHAMBER (“TDC”)¹ is a national trade association representing over two hundred companies and innovators working across the digital economy, including online commerce, digital platforms, blockchain technology, creator-economy enterprises, and emerging internet-native business models. TDC members depend on predictable legal rules governing digital identity, brand ownership, and cross-platform economic participation. TDC regularly engages with Congress, federal agencies, and courts on issues affecting digital markets, intellectual-property frameworks, and platform governance.

Businesses and creators invest substantial resources in developing online communities, services, and brand goodwill. The ability to rely on settled principles of trademark ownership—and to understand the respective roles of platforms and the creators who use them—is critical to capital formation, market entry, and competitive parity across the digital economy.

The Ninth Circuit’s decision raises questions of broad economic significance. By attributing the “services” associated with a user-created online community to the hosting platform, the decision introduces uncertainty into how ownership of com-

¹ Pursuant to Sup. Ct. R. 37.6, no counsel for a party authored this brief in whole or in part, and no person other than amicus or its counsel made a monetary contribution intended to fund its preparation or submission. Pursuant to Sup. Ct. R. 37.2, Amicus provided timely notice of its intent to file this brief to all parties on December 2, 2025.

munity-generated goodwill is determined in internet-based markets. That uncertainty affects not only the parties to this case, but every business model that depends on user-generated identity and brand development.

TDC submits this brief because clear legal boundaries between platform infrastructure and the creators and enterprises that generate economic value are crucial to sustaining competition and innovation. The Court's review is necessary to restore coherence to the federal framework governing trademark origin and platform responsibility.



SUMMARY OF ARGUMENT

The decision below creates a direct conflict at the center of federal law. Section 230 provides that online platforms are not treated as the creators, publishers, or speakers of information supplied by users. Yet the Ninth Circuit concluded that Reddit itself supplied the relevant services associated with the r/WallStreetBets community, characterizing those services as Reddit's own provision and hosting of the forum in which users interact. These two legal propositions cannot function together. A platform cannot simultaneously be exempt from creator status for immunity purposes while being treated as the origin of goodwill that arises entirely from user activity. The conflict is structural, not factual, and cannot be resolved by revisiting the pleadings or record.

The Ninth Circuit's approach also departs from longstanding principles of trademark law. Ownership

has always turned on who controls the nature and quality of the goods or services that the mark represents—not on who supplies the venue in which community activity occurs. Courts and the Trademark Trial and Appeal Board have recognized that distributed, user-generated communities may develop protectable goodwill independent of the platform that hosts them. The decision below disregards this settled rule, effectively treating infrastructure as authorship.

The consequences are substantial. The modern creator economy depends on the ability of individuals and businesses to build and maintain goodwill without risking involuntary appropriation by the platforms they use. Under the Ninth Circuit’s rule, any platform could claim ownership over the identity and economic value of user-created communities, limiting mobility, discouraging investment, and reinforcing the dominance of the largest intermediaries—outcomes Congress has never authorized under either § 230 or the Lanham Act.

Only this Court can restore coherence between these statutes and clarify the boundary between platform infrastructure and the creators whose contributions generate economic and cultural value. The question presented is clean, nationally significant, and of immediate importance to millions of creators, consumers, and digital enterprises.



ARGUMENT

I. The Ninth Circuit’s Rule Creates a Direct Conflict Between § 230 and the Lanham Act

Congress enacted 47 U.S.C. § 230 to ensure that online platforms are not treated as the creators, publishers, or speakers of user-generated material.² The purpose was to prevent courts from attributing authorship responsibility to intermediaries when users, not platforms, supply the expressive content.

The Ninth Circuit, however, concluded that Reddit itself supplied the relevant “services” associated with r/WallStreetBets, describing those services as encompassing the platform’s technical hosting and the environment in which users interact.³ In effect, the decision treats Reddit’s infrastructure as the operative source of the trademark-relevant activity.

These two legal frameworks cannot function together. If a platform is legally classified as *not* the creator or speaker of user material for § 230 purposes, it cannot simultaneously be deemed the originator of a trademark whose goodwill arises entirely from that same user activity. This is not a dispute about factual nuance; it is a structural collision between statutory regimes.

Trademark law identifies the “origin” of a mark by focusing on who controls the nature and quality of

² 47 U.S.C. § 230(c)(1).

³ *Rogozinski v. Reddit, Inc.*, No. 24-735, 2025 WL 1650019, at *1–2 (9th Cir. June 11, 2025) (mem.).

the goods or services the mark represents.⁴ Nothing in the record indicates that Reddit exercised such control. On the contrary, Reddit’s own immunity posture depends on disclaiming responsibility for the content and conduct that generated the WALL-STREETBETS goodwill.⁵ Treating Reddit’s hosting role as establishing trademark origin collapses Congress’s deliberate distinction between online intermediaries and content creators.

This Court has intervened when judicial interpretations collapse the boundaries Congress established between intermediaries and creators.⁶ Without review, federal courts will be left with a bifurcated regime—platforms as non-creators for immunity purposes, yet deemed originators for trademark purposes. Statutory coherence requires resolution.

II. Trademark Ownership Turns on Control of Quality, Not the Existence of a Hosting Platform

Trademark ownership has never been assigned based on who provides a venue—physical or digital—in which expression occurs. Instead, ownership attaches to the entity that controls the nature and quality of the goods or services associated with the mark. Courts have long applied this principle to prevent

⁴ *Sengoku Works Ltd. v. RMC Int’l, Ltd.*, 96 F.3d 1217, 1220 (9th Cir. 1996).

⁵ Derived from Reddit’s own § 230 immunity arguments as described in the Ninth Circuit memorandum.

⁶ See, e.g., *Gonzalez v. Google LLC*, 598 U.S. 617 (2023) (declining to expand § 230 beyond statutory bounds).

entities that merely supply distribution channels or infrastructure from asserting trademark origin.⁷

Under this standard, Reddit cannot plausibly be considered the origin of the WALLSTREETBETS mark. Reddit did not generate the content, define the community ethos, or control the quality of the informational exchanges that built the goodwill associated with the mark. Reddit has consistently represented that it does not direct user content or moderate quality in a way that would constitute authorship responsibility.⁸ Its legal position depends on that representation.

The Trademark Trial and Appeal Board has recognized that goodwill may stem from the activity of community participants rather than from the platform that hosts them.⁹ Here, the defining value of WALLSTREETBETS was created and maintained by the user community; Reddit supplied only the infrastructure.

Nothing in the Lanham Act authorizes courts to invert this settled rule. Allowing platforms to assert ownership over marks derived entirely from user activity would permit appropriation of goodwill without satisfying trademark law's requirements regarding origin and quality control. Such a rule would also contradict the longstanding understanding that ownership follows control, not mere convenience.

⁷ See, e.g., *Sengoku*, 96 F.3d at 1220.

⁸ *Id.*

⁹ *In re Florists' Transworld Delivery, Inc.*, 119 USPQ2d 1056 (TTAB 2016).

III. The Decision Threatens Competition and Encourages Platform Consolidation

The Ninth Circuit’s rule has consequences far beyond the parties. If hosting alone establishes trademark origin, platforms acquire a de facto power to lock in user communities and prevent competitive migration. Trademark law exists to protect goodwill and promote fair competition—not to consolidate market power in the hands of distributors or infrastructure providers.¹⁰

The creator economy depends on the ability to port identity, goodwill, and community from one service to another. A rule that permits platforms to claim ownership over community-generated identity would impede market entry by rival services, discourage creators from forming new communities, and reinforce the power of dominant platforms. These effects contradict the pro-competitive functions trademark law is designed to serve.

Congress has never granted platforms a special trademark privilege. When enacting § 230, Congress sought to protect innovation by removing publisher liability for user content—not by transferring proprietary rights over user-developed identity to online intermediaries. Assigning new trademark powers to platforms absent statutory authorization raises the same concerns this Court identified when courts or agencies infer major policy changes without a clear directive from Congress.¹¹

¹⁰ Trademark law protects goodwill, not distribution dominance.

¹¹ See *West Virginia v. EPA*, 597 U.S. 697, 722 (2022).

Left uncorrected, the Ninth Circuit’s approach risks insulating incumbent platforms from meaningful competition. Platforms could assert ownership over communities that generate their value, foreclosing competitive alternatives and reshaping digital markets in ways Congress has never endorsed.

IV. The Question Presented Is Nationally Significant and Warrants Review

This case presents a structural legal issue of exceptional national importance. The Ninth Circuit’s approach affects every creator, business, and platform that depends on settled expectations governing brand ownership and community-generated goodwill. Treating platforms as trademark originators based solely on hosting functionally rewrites the relationship between users and intermediaries in the digital economy.

This Court has granted review where lower courts adopt interpretations that disrupt national markets, undermine statutory coherence, or create divergent federal rules.¹² The rule announced below has all three consequences. It creates a statutory contradiction (§ 230 vs. the Lanham Act), threatens nationwide uniformity in trademark principles, and introduces new barriers to competition across digital markets.

If one circuit treats platform infrastructure as establishing trademark origin while others follow the traditional quality-control standard, the result will be fragmentation of federal trademark law. Such fragmentation would impede commerce, deter investment, and destabilize the competitive architecture of creator-driven markets.

¹² See, e.g., *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

The consequences are immediate and concrete: the Ninth Circuit's rule enables platforms to assert proprietary control over identities and communities they did not create, chilling innovation and constraining user mobility. Federal law requires clarity on this foundational question.



CONCLUSION

The Ninth Circuit's decision creates a structural contradiction within federal law. A platform cannot be deemed a non-creator for immunity purposes and simultaneously treated as the originator of a trademark whose value arises entirely from user activity. This inconsistency threatens statutory coherence, distorts competition, and disrupts longstanding principles of trademark origin.

Review is necessary to restore harmony between § 230 and the Lanham Act, safeguard competitive markets, and ensure that ownership of user-generated identity is determined according to established legal standards rather than the location of a digital host.

Respectfully submitted,

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