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12 *Attorneys for Plaintiff WPEngine, Inc.*

13 **IN THE UNITED STATES DISTRICT COURT**
 14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 WPENGINE, INC., a Delaware
 corporation,
 16
 17 **Plaintiff,**
 18 vs.
 19 AUTOMATTIC INC., a Delaware
 corporation; and MATTHEW CHARLES
 20 MULLENWEG, an individual,
 21 **Defendants.**
 22

Case No.: 3:24-cv-06917

COMPLAINT FOR:

- (1) **Intentional Interference with Contractual Relations;**
- (2) **Intentional Interference with Prospective Economic Relations;**
- (3) **Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq.;**
- (4) **Attempted Extortion;**
- (5) **Unfair Competition, Cal. Bus. Prof. Code § 17200, et seq.;**
- (6) **Promissory Estoppel;**
- (7) **Declaratory Judgment of Non-Infringement;**
- (8) **Declaratory Judgment of Non-Dilution;**
- (9) **Libel;**
- (10) **Trade Libel; and**
- (11) **Slander.**

DEMAND FOR JURY TRIAL

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1 For its Complaint, Plaintiff WPEngine, Inc. (“WPE”), by and through its attorneys Quinn
2 Emanuel Urquhart & Sullivan, LLP, avers as follows:

3 INTRODUCTION

4 1. This is a case about abuse of power, extortion, and greed. The misconduct at issue
5 here is all the more shocking because it occurred in an unexpected place—the WordPress open
6 source software community built on promises of the freedom to build, run, change, and redistribute
7 without barriers or constraints, for all. Those promises were not kept, and that community was
8 betrayed, by the wrongful acts of a few—Defendants—to the detriment of the many, including WPE.

9 2. WordPress is an open source content management system developed in 2003 that
10 allows people to create and publish their own websites. WordPress was an early success, and people
11 quickly began using it and building a community around it. The WordPress source code and
12 trademarks were initially owned by Defendant Matthew Mullenweg’s for-profit company,
13 Defendant Automattic Inc. (“Automattic”). In 2010, in response to mounting public concern, the
14 WordPress source code and trademarks were placed into the nonprofit WordPress Foundation
15 (which Mullenweg created), with Mullenweg and Automattic making sweeping promises of open
16 access for all: “*Automattic has transferred the WordPress trademark to the WordPress*
17 *Foundation*, the nonprofit dedicated to promoting and ensuring access to WordPress and related
18 open source projects in perpetuity. *This means that the most central piece of WordPress’s identity,*
19 *its name, is now fully independent from any company.*” Mullenweg and Automattic reiterated this
20 promise later, in even more forceful terms: “*What’s important is that [] longer than I’m alive,*
21 *longer than Automattic is alive, longer than any of us are alive, there is something that holds the*
22 *WordPress code and trademark for the free access for the world.*”

23 3. What Defendants’ statements and assurances did *not* disclose is that while they were
24 publicly touting their purported good deed of moving this intellectual property away from a private
25 company, and into the safe hands of a nonprofit, Defendants in fact had quietly transferred
26 irrevocable, exclusive, royalty-free rights in the WordPress trademarks right *back* to Automattic that
27 very same day in 2010. This meant that far from being “independent of any company” as Defendants
28 had promised, control over the WordPress trademarks effectively never left Automattic’s hands.

1 4. Despite the promises Defendants made to induce companies to build their businesses
2 around WordPress, Defendants are now misusing these trademarks for their own financial gain and
3 to the detriment of the community members. One such company that relied on Defendants’
4 promises was WPE, founded in 2010. WPE is a true champion of WordPress, devoting its entire
5 business to WordPress over other similar open source platforms. In reliance on Defendants’ many
6 promises, WPE invested hundreds of millions of dollars and 14 years of hard work building a
7 successful business to serve that community—only to see the petulant whims of Mullenweg inflict
8 harm to its business and the community that has embraced it.

9 5. Over the last two weeks, Defendants have been carrying out a scheme to ban WPE
10 from the WordPress community unless it agreed to pay tens of millions of dollars to Automattic for
11 a purported trademark license that WPE does not even need. Defendants’ plan, which came without
12 warning, gave WPE less than 48 hours to either agree to pay them off or face the consequences of
13 being banned and publicly smeared. In that short time, Defendants sent ominous messages and
14 photos designed to intimidate WPE into making an extortionate payout. When WPE did not
15 capitulate, Defendants carried out their threats, unleashing a self-described “nuclear” war against
16 WPE. That war involved defaming WPE in public presentations, directly sending disparaging and
17 inflammatory messages into WPE customers’ software and through the Internet, threatening WPE’s
18 CEO and one of its board members, publicly encouraging WPE’s customers to take their business
19 to Automattic’s competing service providers (for a discounted fee, no less), and ultimately blocking
20 WPE and its customers from accessing the wordpress.org portal and wordpress.org servers. By
21 blocking access to wordpress.org, Defendants have prevented WPE from accessing a host of
22 functionality typically available to the WordPress community on wordpress.org.

23 6. Mullenweg’s recent actions have exposed and highlighted his long history of
24 obfuscating the true facts about his control and manipulation of the WordPress Foundation and
25 wordpress.org—which he presents as a not-for-profit “dot-org” enterprise, but which in fact he
26 solely owns and directs with an iron fist to further his own commercial interests in Automattic and
27 associated commercial businesses, to the detriment of Defendants’ competitors.

28

1 of the company are located. In addition, on information and belief, at least some of the computers
2 and servers used to carry out the blocking of WPE's access to wordpress.org were located in
3 California.

4 **JURISDICTION AND VENUE**

5 11. Jurisdiction is proper in this court because this litigation arises under federal law,
6 namely 15 U.S.C. § 1051 *et seq.* (Lanham Act) and 18 U.S.C. § 1030 *et seq.* (Computer Fraud and
7 Abuse Act). The Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question),
8 28 U.S.C. § 1338(a) (trademarks), and 28 U.S.C. § 2201 (Declaratory Judgment Act). This Court
9 has supplemental jurisdiction over the remaining claims under 28 U.S.C. § 1367.

10 12. A case of actual controversy has arisen between the parties pursuant to 28 U.S.C.
11 § 2201 regarding whether WPE infringes any alleged trademark rights of Automattic, as further set
12 forth herein.

13 13. This Court has personal jurisdiction over Automattic because Automattic has its
14 principal place of business in the State of California and within this district, regularly conducts
15 business within this district, and advertises and sells its services through the Internet to California
16 residents. In addition, the claims at issue arise out of or relate in substantial part to Automattic's
17 activities in this District.

18 14. This Court has personal jurisdiction over Mullenweg, including due to his substantial
19 and regular contacts with the forum as the CEO of Automattic. In addition, the claims at issue arise
20 out of or relate in substantial part to Mullenweg's activities in this District.

21 15. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1391(c).

22 **CASE OF ACTUAL CONTROVERSY FOR DECLARATORY JUDGMENT**



23 16. With respect to WPE's request for declaratory judgment, a case of actual controversy
24 has arisen between the parties pursuant to 28 U.S.C. § 2201. During the week of September 16,
25 2024, as further described below, Defendants made various demands that WPE pay tens of millions
26 of dollars per year for a license to use Automattic's purported trademarks, including the terms
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1 “WordPress,” “WooCommerce,” and various other similar marks¹ (collectively the “Challenged
2 Terms”).

3 17. On September 23, 2024, counsel for Automattic and its subsidiary, WooCommerce,
4 Inc., sent a letter to WPE, alleging that WPE’s use of the Challenged Terms constitutes trademark
5 infringement and was diluting their rights, tarnishing their reputation, and harming their goodwill.
6 The letter further alleged that WPE’s “unauthorized use of our Client’s trademarks infringes their
7 rights and dilutes their famous and well-known marks,” as well as having “enabled [WPE] to
8 unfairly compete with our Client and has led to unjust enrichment.” A copy of that letter is attached
9 as Exhibit A. The letter also stated that Automattic is “entitled to file civil litigation to obtain an
10 injunction and an award of actual damages, a disgorgement of your profits, and our Client’s costs
11 and fees,” along with an award of “attorneys’ fees.”

12 18. On the same day, Mullenweg posted a public comment on the Reddit website, again
13 meritlessly accusing WPE of “trademark violations” and claiming that he was going to file “formal
14 legal action” against WPE.²

15 19. WPE denies Defendants’ accusations, including that WPE has violated any
16 trademark rights of Defendants. Consequently, a specific and immediate dispute exists between
17 WPE and Defendants. WPE cannot continue to allow Defendants’ unsubstantiated threats and
18 demands interfere with WPE’s business and relationships with its customers. WPE needs judicial
19 clarity regarding its non-infringement and non-dilution of the Challenged Terms so that it can
20 continue to serve customers and users of its platform, including the open source community, without
21 further interference from Defendants.

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23
24 ¹ WORDPRESS, U.S. Reg. No. 3201424; WORDPRESS, U.S. Reg. No. 4764217;
25 WORDPRESS, U.S. Reg. No. 4865558; WOOCOMMERCE, U.S. Reg. No. 5561427;
26 , U.S. Reg. No. 5561428; WOO, U.S. Reg. No. 5561425; , U.S. Reg. No.
5561426.

27 ² <https://www.reddit.com/r/Wordpress/comments/1fn3mjr/comment/lokzvec/>. Every hyperlink
28 referenced herein was last visited on October 1, 2024.

GENERAL ALLEGATIONS

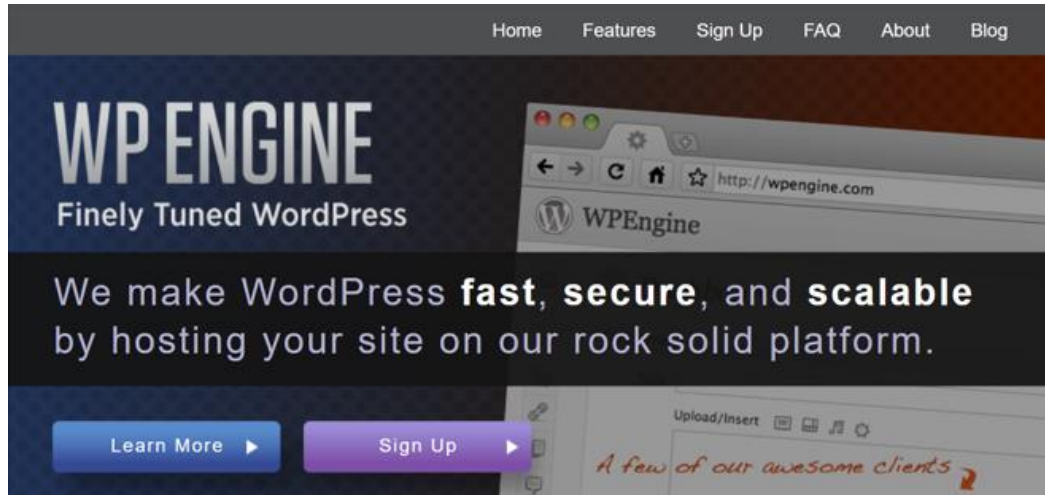
I. WPE’s Business as a Service Provider in the WordPress Community

A. WPE’s Services and Other Contributions to the WordPress Community

20. WPE was founded in 2010 as a comprehensive platform to develop, host, manage, and support websites that are built on the open source code known as WordPress. For example, amongst other things, WPE helps companies and agencies of all sizes to manage, host, operate, and optimize their WordPress websites with premium, enterprise-grade tools, services, and support. Over time, WPE began developing and offering additional products and services, such as plugins and other tools for the WordPress community. Today, WPE has more than 1,000 employees, and is used on more than 1.5 million websites, including by businesses, individuals, charities, schools, and governmental agencies that rely on WPE to keep their websites up and running. WPE has invested hundreds of millions of dollars to enable users and customers to host their sites using WordPress.

21. WPE is a proud member of the WordPress community, which consists of users and developers who collaborate to improve the WordPress platform and to make sure that this open source code remains free and accessible to everyone. As part of the WordPress community, WPE has contributed tens of millions of dollars in ongoing support for the broader community through events, sponsorships, and the development of educational resources, including sponsorship of WordCamps worldwide (a conference run by a wholly-owned for-profit subsidiary of the WordPress Foundation, WordPress Community Support, PBC) and producing DE{CODE}, a conference for developers who build WordPress websites; hosting, funding and actively maintaining multiple open source projects (e.g., ACF, WPGraphQL, faust.js) within the ecosystem used by millions of websites around the world; and educating and empowering the WordPress community through webinars, podcasts, and tutorials, and content like the WordPress Roundup and WPE’s Building WordPress series.

WPE Website (December 8, 2010)⁴



WPE Website (November 15, 2011)⁵



⁴ <https://web.archive.org/web/20101208000154/http://wpengine.com>.

⁵ <https://web.archive.org/web/20111115053852/http://wpengine.com/>.

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WPE's Website (January 10, 2013)⁶

Essential Plugins and Add-ons for WordPress eCommerce Sites

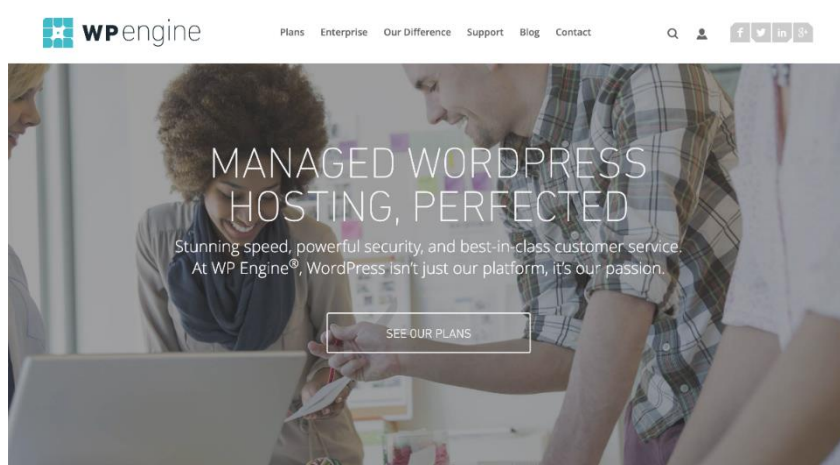
by Austin Gunter January 10, 2013



Ecommerce for WordPress has become common enough that it's often not just enough to have a well-functioning eCommerce site, you've also got to incorporate the right plugins and features to increase conversions and functionality on the site.

A few years ago, a large enterprise would have had a hard time building an ecommerce site with WordPress. However, in the last 2 years, WordPress has officially become a complete solution to develop large scale and feature-rich eCommerce sites. Solutions like WooCommerce, WP e-Commerce, and Cart 66 are each well-respected in their own right.

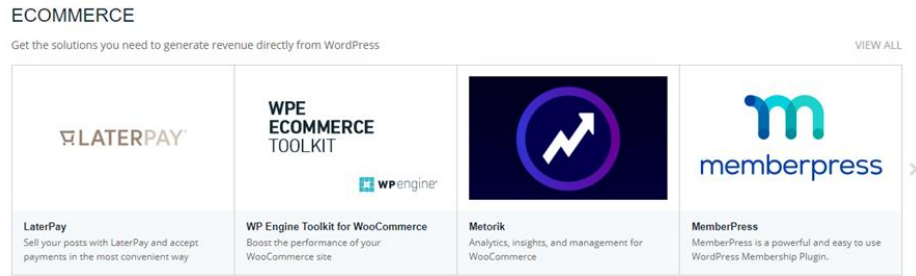
WPE's Website (June 16, 2015)⁷



⁶ <https://web.archive.org/web/20131114181316/http://wpengine.com/2013/01/10/essential-plugins-and-add-ons-for-wordpress-ecommerce-sites/>.

⁷ <https://web.archive.org/web/20150616200116/http://wpengine.com>.

WPE Website (Feb. 28, 2018)⁸



WPE Website (October 4, 2018)⁹



24. Defendants have known about WPE’s use of the Challenged Terms for more than a decade. Not only is WPE’s website publicly available for all to see, but in 2011 Automattic made a substantial investment in WPE and remained an investor until 2018. Over these years WPE and Automattic maintained regular communications, including about WPE’s website. In addition, WPE has been a long-time sponsor of the WordPress conferences known as WordCamp. Since at least 2012, WPE has attended these conferences, including having booths with promotional signage and materials at the conferences, with the full knowledge of Defendants.

25. Mullenweg presumably also had reviewed and approved WPE’s use of the Challenged Terms through the “Five for the Future” program, of which WPE is a longstanding member.¹⁰ Before allowing participation in this program, Mullenweg required that “[a]ny person

⁸ <https://web.archive.org/web/20180228230453/https://wpengine.com/solution-center/>.

⁹ <http://web.archive.org/web/20181004073656/https://wpengine.com/>.

¹⁰ See <https://wordpress.org/five-for-the-future/>.

1 or business currently misusing or infringing on the WordPress trademark will need to fix any misuse
2 before their pledge will appear on the Five for the Future pledge page.”¹¹ Mullenweg knowingly
3 published WPE’s pledge to this program on wordpress.org, thereby acknowledging that WPE was
4 not “misusing or infringing on” the WordPress trademark.¹² In addition, Mullenweg acknowledged
5 that “[a]s a *longtime contributor* to WordPress Core, WP Engine has *played an integral role* in
6 supporting the WordPress project for *more than a decade*.¹³ Indeed, as also acknowledged by
7 Mullenweg, WPE, at the very least, “sponsors *11 contributors* for a total of *40 hours* per week
8 across *5 teams*.”¹⁴

9 26. Moreover, on March 21, 2023, with full knowledge of WPE’s use of the Challenged
10 Terms, Mullenweg attended and spoke at WPE’s developer conference, DE{CODE}, as part of a
11 “fireside chat,” which was broadcast widely and is still available to the public.¹⁵ As part of that
12 interview, in response to a question about what was required from “all of us who stand for a free
13 and open web to keep things thriving for the next 20 years,” Mullenweg responded that people
14 should “vote with your wallet. So when you support companies like WPE, who don’t just provide
15 a commercial service, but are also part of a wider open source community, you’re saying, hey, I
16 want more of this in the world.” On the day of his fireside chat, praising WPE, WPE’s site appeared
17 as follows, clearly using the Challenged Terms in a nearly identical way to how WPE uses the terms
18 today:

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24 ¹¹ <https://wordpress.org/five-for-the-future/expectations/>.

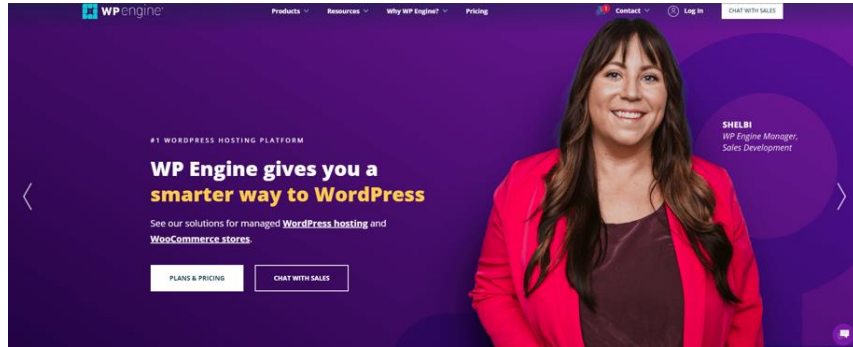
25 ¹² See <https://wordpress.org/five-for-the-future/pledge/wp-engine/> (emphasis added).

26 ¹³ *Id.*

27 ¹⁴ *Id.* (emphasis in original).

28 ¹⁵ <https://wpengine.com/resources/decode-2023-fireside-chat-mullenweg-ventura/>.

WPE Website (March 21, 2023)¹⁶



27. WPE’s website today uses the Challenged Terms in substantially the same way it has used them for more than a decade so that consumers know that WPE’s products and services are made to work with the open source code for WordPress and WooCommerce.¹⁷

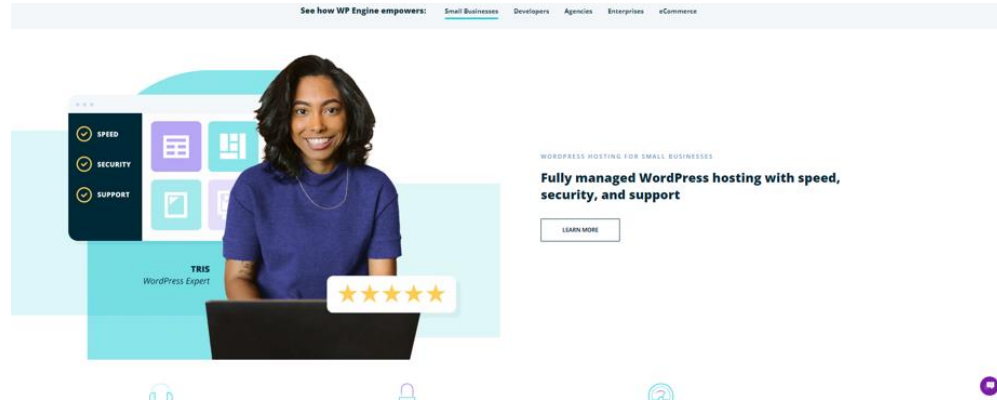
WPE Website (September 26, 2024)¹⁸



¹⁶ <https://web.archive.org/web/20230321054241/https://wpengine.com/>.

¹⁷ <https://www.youtube.com/watch?v=H6F0PgMcKWM>

¹⁸ <https://wpengine.com/>.



28. Indeed, during a livestream on September 26, 2024 on the X platform, when asked why he had not attempted to enforce Automattic’s trademarks against WPE a decade ago, Mullenweg admitted that he’d known about WPE’s use of the Challenged Terms for “years,” but opted not to take action.¹⁹

II. The WordPress Platform and Matthew Mullenweg’s Role in It

29. In 2003, Mullenweg cofounded WordPress, accessible at wordpress.org. WordPress is an opensource web content management system that is used in over 43% of websites on the Internet as of 2024.

30. In 2005, Mullenweg founded Automattic, a for-profit company. Upon its founding, Automattic controlled the WordPress trademark. Automattic also owns, among other sites and platforms, wordpress.com—a for-profit hosting provider for WordPress sites.

31. In 2006, Mullenweg founded the WordPress Foundation as a California nonprofit public benefit corporation. In 2009, the WordPress Foundation was recognized by the IRS as a tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code, retroactive to 2006. Mullenweg has served as a director of the WordPress Foundation since its founding. According to its annual filings with the IRS, the WordPress Foundation’s mission is “to ensure free access, in perpetuity, to the software projects we support.” According to its Articles of Incorporation, the purpose of the Foundation is to “preserve and protect the freedom to use, study, copy, modify,

¹⁹ <https://www.youtube.com/watch?v=H6F0PgMcKWM>

1 redistribute and otherwise make freely available certain open source software,” and to “serve the
2 general public by promoting and advancing the development of certain open source software and
3 technologies which can be used by individuals as a personal publishing platform free of charge, and
4 to educate the general public on the availability and use of such software and technologies.”

5 32. In 2010, after WordPress Foundation had been publicly recognized by the IRS as a
6 501(c)(3) public charity, Mullenweg caused Automattic to transfer ownership of the WordPress
7 marks to the WordPress Foundation, and publicly announced that transfer. On September 9, 2010,
8 Mullenweg posted on his blog that “Automattic has transferred the WordPress trademark to the
9 WordPress Foundation, the nonprofit dedicated to promoting and ensuring access to WordPress and
10 related open source projects in perpetuity.”²⁰ He did that around the same time of public concern
11 over his level of control and potential for abuse. Mullenweg’s public announcement did not
12 mention, however, that he had also caused the nonprofit WordPress Foundation to grant an
13 exclusive, fully-paid, royalty-free, perpetual, irrevocable, worldwide, sublicensable license and
14 related security agreement to the WordPress mark *right back* to Mullenweg’s for-profit Automattic.

15 33. Mullenweg failed to disclose this exclusive licensing arrangement between his
16 nonprofit (the WordPress Foundation) and his for-profit (Automattic) in the WordPress
17 Foundation’s tax filings with the California government, claiming that there were no “contracts . . .
18 *between [WordPress Foundation] and any officer, director or trustee . . . or with an entity in which*
19 *any such officer, director or trustee had any financial interest*” (emphasis added). This statement
20 was false, given that Mullenweg was a director of the WordPress Foundation while also having a
21 financial interest in Automattic, the entity with which the Foundation entered into a trademark
22 license agreement—an apparent self-dealing transaction constituting inurement under federal tax
23 law. It appears Mullenweg also did not disclose the license agreement in the WordPress
24

25 ²⁰ <https://ma.tt/2010/09/wordpress-trademark/>. See also [https://wordpress.org/book/2015/11/the-](https://wordpress.org/book/2015/11/the-wordpress-foundation/)
26 [wordpress-foundation/](https://wordpress.org/book/2015/11/the-wordpress-foundation/) (“Automattic registered the WordPress trademarks in 2006, but some
27 contributors — who had helped build the software or started their own local communities — felt
28 that they had as much right to the trademarks as Automattic. Some community members believed
that the community owned the codebase and thus should own the trademarks, not the corporate
entity.”).

1 Foundation's filings with the IRS, and none of WordPress Foundation's fourteen years of publicly
2 available federal reporting to the IRS indicates that the WordPress Foundation was compensated in
3 any form for granting an exclusive, fully-paid, royalty-free, perpetual, irrevocable, worldwide,
4 sublicensable license for trademarks Defendants now claim are incredibly valuable. Indeed, while
5 the Foundation has failed to ever disclose to the IRS its ownership of the trademarks or existence of
6 the exclusive royalty-free license to Automattic, for the past seven years Mullenweg himself
7 executed the IRS forms on behalf of the Foundation under penalties of perjury, an apparent false
8 certification to the IRS and public that the Foundation's Forms 990 were true, correct, and complete.

9 34. Notably, for the 2010 tax year when the apparent self-dealing transaction with
10 Automattic was executed, the Foundation chose to file the Form 990-N "e-postcard" version of the
11 Form 990 requiring no financial detail except a certification that the organization normally has
12 annual gross receipts of \$50,000 or less. Gross receipts are the total amounts the organization
13 received from all sources during the tax year including non-cash contributions such as valuable
14 trademarks, without subtracting any costs or expenses. By virtue of having filed this form, the
15 Foundation made a representation to the IRS and to the public that its gross receipts were normally
16 \$50,000 or less during the time in which it received rights to the WordPress trademarks, effectively
17 concealing what Defendants claim are valuable trademarks from being reported in the Foundation's
18 returns as assets of the Foundation. Further, for the subsequent year the Foundation filed a more
19 fulsome 2011 Form 990-EZ which reported that at the start of 2011, the Foundation only had total
20 assets \$14,071 consisting solely of cash, savings, and investments. No trademarks or other valuable
21 IP were reported. These filings demonstrate that the Foundation made no accounting to the IRS (or
22 the public reviewing IRS forms) concerning the Foundation's receipt and possession of the
23 trademarks at issue. Assuming the trademarks have any value (much less the tens of millions of
24 dollars annually that Mullenweg has demanded for use of them), each year the Foundation has failed
25 to report the value of the trademarks on its Form 990 balance sheet along with a description of assets
26 in its corresponding Schedule O, although required to do so under federal tax law.

27 35. In a number of public statements about the WordPress trademark, Mullenweg also
28 failed to disclose the critical fact that a for-profit entity he controlled held the exclusive WordPress

1 trademark rights. To the contrary, Mullenweg’s comments appeared intent on providing false
2 assurances that the WordPress trademark rights were safely in the hands of the nonprofit Foundation.
3 In 2010, Mullenweg stated that “it’s not often you see a for-profit company *donate one of their*
4 *most valuable core assets and give up control.*”²¹ And as he stated in an interview in 2014, referring
5 to the Foundation: “What’s important is that [] longer than I’m alive, longer than Automattic is alive,
6 longer than any of us are alive, *there is something that holds the WordPress code and trademark*
7 *for the free access for the world.*”²²

8 36. WordPress operates under the open-source GNU General Public License (GPL).
9 Under that license, anyone in the world has permission to access, review, copy, modify, distribute,
10 and create derivative works of WordPress without payment to anyone as long as, among other
11 things, derivative works are also contributed back to the open-source community. This sharing of
12 new code development is the fundamental principal by which open-source communities function
13 and thrive.

14 37. The WordPress open-source software is hosted by and accessible through the website
15 wordpress.org, which also contains information, tutorials, and news about WordPress. As described
16 in further detail below, wordpress.org also hosts plugins, themes, other add-ons created by software
17 developers in the WordPress community who wish to share their work with the rest of the WordPress
18 community, and hosts other services, such as a support ticket and bug tracking system as well as a
19 community chat and communications system.

20 38. Despite its .org top level domain, which is commonly understood to be used for
21 nonprofit entities, Mullenweg recently acknowledged that he controls wordpress.org, as in the
22 following message he posted on Slack on September 22, 2024:

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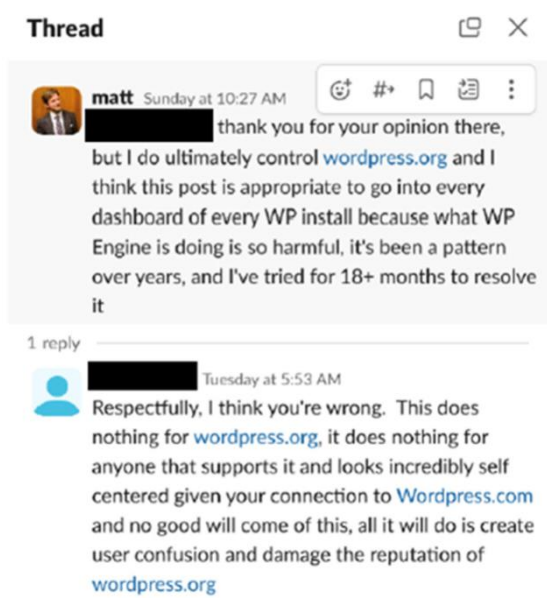
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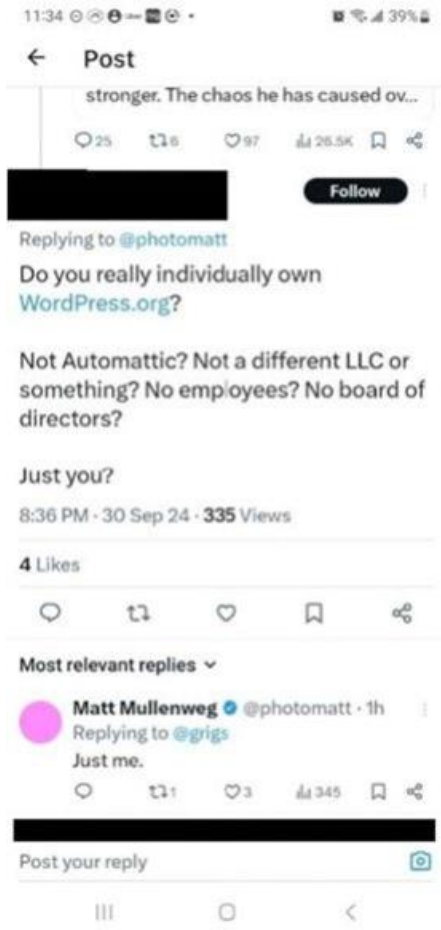
27 ²¹ <https://ma.tt/2010/09/wordpress-trademark/> (emphasis added).

28 ²² https://archive.wordpress.org/interviews/2014_04_17_Mullenweg.html (emphasis added).

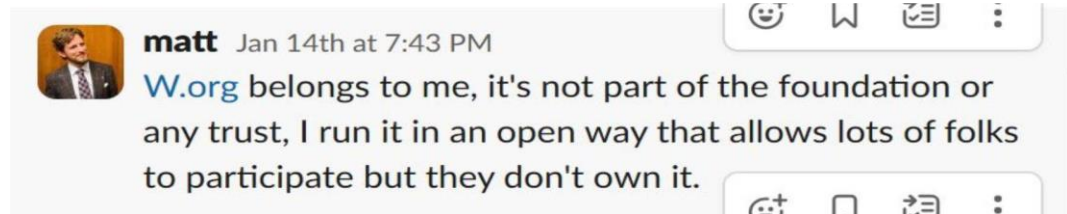
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39. Mullenweg also acknowledged that he is the sole owner of wordpress.org, as he stated in a post on X.com on September 30, 2024:



1 40. Mullenweg made similar statements in a message posted on Slack on January 14,
2 2024 to the effect that wordpress.org (using the abbreviation “W.org,” which redirects to
3 wordpress.org) “belongs to me, it’s not part of the foundation or any trust”:



8 41. In an interview with the *WordPress Blog & Podcast* on September 27, 2024,
9 Mullenweg also stated that he has “been running wordpress.org for 21 years,” which means that he
10 has been running the wordpress.org website since he founded WordPress in 2003, such that
11 wordpress.org was never owned by the nonprofit WordPress Foundation and existed years before
12 there even was a Foundation.²³

13 42. In May 2015, Automattic acquired WooCommerce, Inc., an open source e-commerce
14 plugin for WordPress. WooCommerce, Inc. is a for-profit entity and owns trademark registrations
15 for the WOOCOMMERCE and WOO marks.

16 **III. Defendants’ Promises to WPE and the Entire WordPress Community**

17 43. The WordPress community, consistent with the principles of open source, was built
18 upon the values of freedom and openness. As described above, WordPress’s core software is
19 licensed to the world under an open source GPL license. In addition to its software licensing,
20 WordPress’s messaging on wordpress.org and wordpressfoundation.org emphasize these
21 overarching values of freedom and openness.

22 44. For example, on wordpress.org, Mullenweg claims that the WordPress community
23 is “united by the spirit of open source, and the freedom to build, transform, and share without
24 barriers. *Everyone* is welcome.”²⁴ The website further states that WordPress “provides the
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27 ²³ <https://x.com/TheWPMinute/status/1839774203018662028>.

28 ²⁴ <https://wordpress.org/> (emphasis added).

1 opportunity for *anyone* to create and share.”²⁵ Defendants describe their commitment to open
2 source, which has led it to adopt “four core freedoms” related to its product offerings: (1) “freedom
3 to run [the software] for any purpose”; (2) freedom to “change [the software] make it do what you
4 wish”; (3) “freedom to redistribute” the software; and (4) “freedom to distribute copies of your
5 modified versions to others.”²⁶ Defendants explain that they are “committed to being as *inclusive*
6 *and accessible as possible*. We want users, regardless of device or ability, to be able *to publish*
7 *content* and maintain a website or application built with WordPress.”²⁷

8 45. Apart from these broad promises of openness, accessibility, and freedom, Defendants
9 make even more specific promises to third party software developers (such as WPE) which it
10 encourages to build on its platform. WordPress is architected in a way that allows third-party
11 software developers to create “plugins” and “themes” that can seamlessly interact with the
12 WordPress platform. WordPress plugins enhance and add to the functionality of WordPress, while
13 WordPress themes can change and enhance how WordPress looks when users interact with
14 it. Defendants strongly encourage software developers to develop and share plugins and themes
15 with other members in its community by uploading them to a repository within the wordpress.org
16 website for all to use. Websites around the world running WordPress can then download these
17 plugins from wordpress.org repository to their websites. Defendants operate an authentication
18 system at login.wordpress.org, which controls access to portions of the wordpress.org site, including
19 the ability to submit plugins and themes to the repository.

20 46. Mullenweg hosts an entirely separate developer website (developer.wordpress.org)
21 to encourage third-party software developers (such as WPE) to build plugins. On that developer
22 website, WordPress promises that “wordpress.org offers free hosting to *anyone* who wishes to
23 develop a plugin in our directory.”²⁸ The wordpress.org website is a control point over distribution

24 _____
25 ²⁵ <https://wordpress.org/about/> (emphasis added).

26 ²⁶ *Id.*

27 ²⁷ <https://wordpress.org/about/accessibility/> (emphasis added).

28 ²⁸ <https://developer.wordpress.org/plugins/wordpress-org/> (emphasis added).

1 for WordPress plugins. Nowhere on the developer website does it say that a developer must pay
2 money to WordPress to host their plugins on wordpress.org, or that access to wordpress.org can be
3 blocked at Mullenweg's whim. Nor does wordpress.org disclose on the site that it is *not* owned and
4 operated by the nonprofit WordPress Foundation (despite the dot-org top level domain and
5 WordPress Foundation donation page), but is, in fact, owned and controlled solely by Mullenweg.

6 47. Wordpress.org's developer website also contains a "Frequently Asked Questions"
7 which provides the process by which plugins are approved to be posted on wordpress.org.²⁹ The
8 developer website states that a plugin submitted for publication on wordpress.org "will be queued,
9 and as soon as we get to it, we will manually download and review your code. *If we find no issues*
10 *with the security, documentation, or presentation, your plugin will be approved.* If we determine
11 there are issues, you will receive a second email with details explaining what needs to be fixed."³⁰
12 Nowhere does the website say that the plugin will be approved only if the developer pays money to
13 WordPress. The "Frequently Asked Questions" also contains language that describes the conditions
14 under which plugins are not accepted.³¹ Again, nothing states that plugins will not be accepted for
15 failure to pay money to wordpress.org. The "Frequently Asked Questions" section of the website
16 also states that "[p]lugins are closed for guideline violations, security issues, or by author
17 requests."³² Nowhere on the website does WordPress state that Plugins can be closed simply
18 because Mullenweg decided so.

19 48. In addition to emphasizing the openness of the WordPress Core codebase and
20 wordpress.org, Defendants have also emphasized openness in use of the WordPress trademark.
21 According to the WordPress Foundation's website, the WordPress Foundation is the rightful owner
22 of the WordPress trademark and oversees its enforcement.³³ The WordPress Foundation has also

23 _____
24 ²⁹ <https://developer.wordpress.org/plugins/wordpress-org/plugin-developer-faq/>.

25 ³⁰ *Id.* (emphasis added).

26 ³¹ *Id.*

27 ³² *Id.*

28 ³³ <https://wordpressfoundation.org/trademark-policy/>.

1 represented to the IRS that “the Foundation will be responsible for protecting the WORDPRESS,
2 WORDCAMP, and related trademarks.”³⁴ As referenced above, Mullenweg also has stated that the
3 very reason that he created the WordPress Foundation was to ensure that “there is something that
4 holds the WordPress code and trademark for the *free access for the world*.”³⁵

5 49. Consistent with the doctrine of nominative fair use, nearly all third-party developers
6 of WordPress plugins prominently display “WordPress” on their websites when referring to the
7 software and platform on which their plugins are built, as do providers that host WordPress websites,
8 when describing the WordPress software and platform. As discussed above, WPE has been using
9 the term WordPress in this fashion since the company was formed in 2010. Defendants have been
10 aware of this usage for more than a decade without complaint.

11 **IV. Automattic’s and Mullenweg’s Recent Coercive Threats and Attempted Extortion of 12 WPE**

13 50. In the days leading up to Mullenweg’s September 20, 2024 keynote address at the
14 WordCamp US Convention, Automattic suddenly began demanding that WPE pay Automattic large
15 sums of money, and, if it refused, Automattic would wage war against WPE. This demand was
16 accompanied by allegations about WPE’s business that were not only baseless but also bore no
17 rational relation to the payment demand.

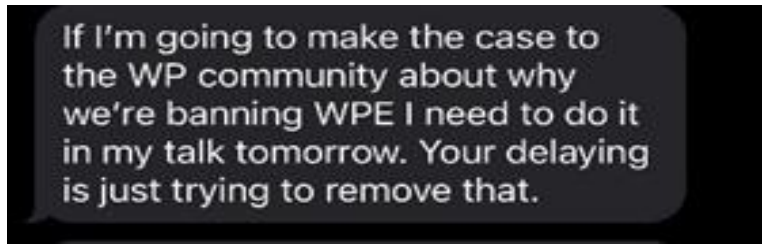
18 51. During the course of calls on September 17 and 19, for instance, Automattic CFO
19 Mark Davies told a WPE board member that Automattic would “go to war” if WPE did not agree
20 to pay its competitor Automattic a significant percentage of WPE’s gross revenues—tens of millions
21 of dollars—on an ongoing basis. Automattic’s CFO suggested the payment ostensibly would be for
22 a “license” to use certain trademarks like WordPress, even though WPE needs no such license and
23 had no reasonable expectation that Automattic had a right to demand money for use of a trademark
24 owned by the separate nonprofit WordPress Foundation. WPE’s nominative uses of those marks to
25 refer to the open-source software platform and plugin used for its clients’ websites are fair uses

26 ³⁴ https://projects.propublica.org/nonprofits/display_990/205498932/2012_12_EO%2F20-5498932_990EZ_201112.

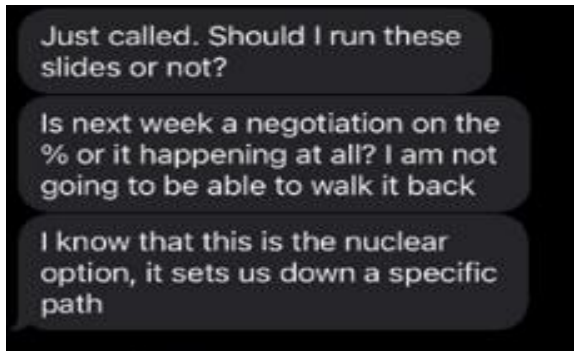
27 ³⁵ https://archive.wordpress.org/interviews/2014_04_17_Mullenweg.html (emphasis added).
28

1 under settled trademark law, and they are consistent with WordPress’ own guidelines and the
2 practices of nearly all businesses in this space. Nonetheless, Automattic’s CFO insisted that WPE
3 provide a response to the demand immediately and later, on the day of the keynote, followed up
4 with an email reiterating a claimed need for WPE to concede to the demands “before Matt
5 [Mullenweg] makes his WCUS keynote at 3:45 p.m. PDT today.”

6 52. In parallel, and throughout September 19 and 20, Mullenweg embarked on sending
7 a series of harassing text messages and making calls to WPE’s CEO and a board member. One of
8 Mullenweg’s threatening messages to WPE’s board member on September 19 read:

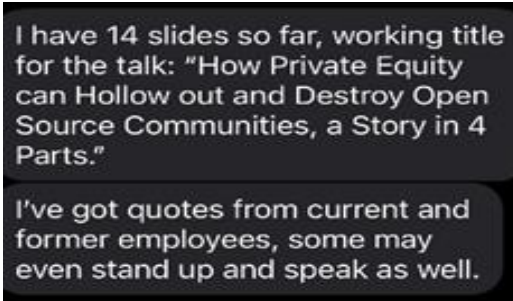


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13 53. Mullenweg also threatened that if WPE did not agree to pay his demands before the
14 start of Mullenweg’s livestreamed keynote address at 3:45 pm on September 20, he would go
15 “nuclear” on WPE, including by smearing its name, disparaging its directors and corporate officers,
16 and banning WPE from WordPress community events. His threats included the following message:

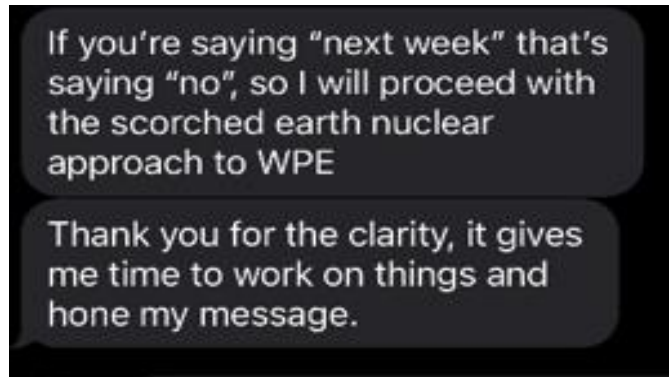


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23 54. While waiting for a response to his text messages, Mullenweg emailed WPE’s CEO
24 and a board member, threatening to use his planned keynote speech to disparage WPE: “We get a
25 few thousand viewers on the livestream, and the videos on YouTube can get millions of views when
26 we promote them.” Mullenweg stated that he had already created slides for his keynote speech,
27 taking aim at WPE and its investor, and would present them to WordCamp attendees—and to
28 millions of others via livestream on YouTube—if his financial demands were not met.

1 55. Mullenweg continued to send a barrage of texts throughout the evening of September
2 19 and the morning of September 20, attempting to pressure WPE into capitulating to Automattic’s
3 financial demands. For example:



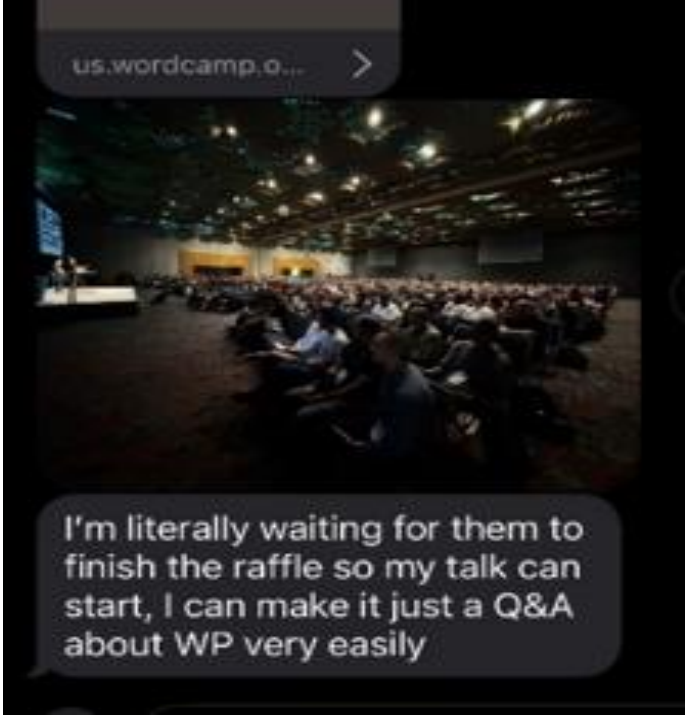
9 56. When WPE’s board member offered to speak with Mullenweg the next business day
10 in San Francisco to have a business discussion, Mullenweg refused, stating that he “will proceed
11 with the scorched earth nuclear approach to WPE” and that he would “hone” his message
12 accordingly for his keynote address that afternoon:



20 57. In the final minutes leading up to his keynote address, Mullenweg sent one last
21 missive—a photo of the WordCamp audience waiting to hear his speech, with the message that he
22 could shift gears and turn his talk into “just a Q&A about [WordPress]” if WPE agreed to
23 Defendants’ payout terms:

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V. Automattic and Mullenweg Carry Out Their Threats

58. When WPE refused to capitulate to Automattic’s astronomical and extortionate monetary demands, Mullenweg made good on his threats. The threat of “war” turned into a multi-front attack, part of an overarching scheme to extract payouts from WPE. That threat is ongoing. Defendants have continued to disrupt WPE’s business and falsely disparage its products and services.

59. Mullenweg’s actions also reflect a clear abuse of his conflicting roles as (1) a director of the nonprofit WordPress Foundation, (2) with ownership and control of the for-profit wordpress.org website and control over access to the open-source WordPress software that is accessed through his wordpress.org site, and (3) as the CEO of at least two for-profit businesses that compete with WPE and that claim to have an exclusive, royalty free license to the Challenged Marks that are necessarily used by the WordPress community to refer to the open-source WordPress software on which the relevant websites are built. Mullenweg’s private demand for tens of millions of dollars from WPE for his for-profit company sharply contrasts with his public proclamations to selflessly safeguard the interests of the WordPress community. His subsequent actions of terminating WPE’s ability to freely access portions of the wordpress.org site in order for WPE to

1 service its customers similarly stands in stark contrast to the mission statement of WordPress as an
2 open source community, and to the promises Mullenweg made on which the entire community
3 relied.

4 **A. Defendants’ False and Disparaging Statements**

5 60. During the keynote address at WordCamp US on the afternoon of September 20,
6 Mullenweg made a series of false and disparaging statements about WPE and its investor, including:

- 7 • Claiming that WPE is a company that just wants to “feed off” of the WordPress
8 ecosystem without giving anything back;
- 9 • Suggesting that WPE employees may be fired for speaking up, supporting
10 Mullenweg, or supporting WordPress, and offering to provide support in finding
11 them new jobs if that were to occur;
- 12 • Stating that every WPE customer should watch his speech and then not renew their
13 contracts with WPE when those contracts are up for renewal;
- 14 • Claiming that if current WPE customers switch to a different host they “might get
15 faster performance”;
- 16 • Alleging that WPE is “misus[ing] the trademark” including by using “WP” in its
17 name; and
- 18 • Claiming that WPE’s investor doesn’t “give a dang” about Open Source ideals.

19 61. Mullenweg’s statements during his keynote address at the WordCamp US
20 Convention were demonstrably false.

21 62. Contrary to Mullenweg’s statements that WPE does not contribute to the WordPress
22 community, WPE has been deeply dedicated to advancing the use and adoption of WordPress
23 through innovation, investment, and active community involvement. As Mullenweg acknowledges
24 on wordpress.org, “[i]t takes a lot of time and energy to create and then support Themes and
25 Plugins, keeping them updated as WordPress changes and bugs are found” and “every contribution
26 counts, no matter what it looks like.”³⁶ WPE has contributed tens of millions of dollars in ongoing
27 support for the broader community through events, sponsorships, and the development of
28 educational resources, including sponsorship of WordCamps worldwide and producing

³⁶ <https://wordpress.org/documentation/article/become-a-wordpress-contributor/>.

1 DE{CODE}; educating and empowering the WordPress community through content like the
2 WordPress Roundup and the Building WordPress series; hosting, funding and actively maintaining
3 multiple open source projects (e.g., ACF, Genesis, WPGraphQL, faust.js) within the ecosystem used
4 by millions of websites around the world; providing free developer tools such as Local (with more
5 than 100,000 monthly active users) and sponsoring development of WP-CLI, a command-line
6 interface for WordPress; and producing informative webinars, podcasts, and tutorials. WPE
7 significantly outpaces multiple other contributors relative to its revenue.

8 63. Mullenweg’s claim that WPE is misusing the WordPress trademark is false. For
9 more than a decade, WPE’s use of “WP” has been explicitly permitted by WordPress Foundation’s
10 trademark policy, which explicitly states: “The abbreviation ‘WP’ is not covered by the WordPress
11 trademarks and you are free to use it in any way you see fit.”³⁷ Moreover, WPE’s use of the
12 WordPress mark is entirely compliant with governing trademark law. For more than a decade, WPE
13 has fairly used that term to refer to the open-source WordPress software on which its customers’
14 websites are built, as other members of the WordPress ecosystem do. For more than a decade,
15 Defendants never complained.

16 64. Mullenweg’s public statements reveal that Automattic is knowingly misusing its
17 asserted trademark rights. These statements suggest Defendants had no genuine belief that their
18 recently manufactured trademark infringement accusation against WPE has any merit, as also
19 evidenced by their 14 years of inaction. Instead, Defendants appear to be attempting to leverage
20 trademark law for anticompetitive purposes. For example, on September 26, 2024, during a
21 livestream on YouTube, Mullenweg admitted: “Is there a law that says you have to give back? No,
22 there is a law that says you can’t violate the trademark. *So that’s the law that we’re using to try to*
23 *encourage them to give back.*”³⁸

24
25 ³⁷ In response to a cease and desist letter sent by WPE to Defendants, Defendants conspicuously
26 changed the policy to: “The abbreviation ‘WP’ is not covered by the WordPress trademarks, but
27 please don’t use it in a way that confuses people.” See <https://wordpressfoundation.org/trademark-policy/>.

28 ³⁸ <https://www.youtube.com/watch?v=H6F0PgMcKWM> at 13:12.

1 65. Mullenweg’s speculation that WPE might retaliate against employees for supporting
2 the WordPress ecosystem is not just false and wholly unsubstantiated—it is also absurd. WPE’s
3 business *depends* on the WordPress ecosystem. It would be nonsensical for WPE to retaliate against
4 employees who support it; the entire company supports the WordPress ecosystem.

5 66. Not satisfied with the harm he inflicted at WordCamp, Mullenweg expanded his
6 smear campaign. For example, on September 21, 2024, Mullenweg authored a post on
7 wordpress.org entitled “WP Engine is not WordPress.” The post falsely states: “What WP Engine
8 gives you is not WordPress, it’s something that they’ve chopped up, hacked, butchered to look like
9 WordPress, but actually they’re giving you a cheap knock-off and charging you more for it” because
10 WPE allegedly “disables revisions by default.” In truth, WPE’s WordPress installations are
11 identical to the wordpress.org ZIP file which defines WordPress. His allegations that WPE “disables
12 revisions by default” and therefore WPE is delivering a “cheap knock-off” are simply false, as
13 Mullenweg would well know. Disabling revisions is a built-in feature of WordPress and has been
14 since before WPE was founded (a quick Google search returns about 140,000 articles discussing the
15 practice). The feature has been officially documented by WordPress and personally approved by
16 Mullenweg, and limiting revisions is also a feature touted by Automattic’s own product, JetPack.
17 Mullenweg then caused a post from his personal blog entitled “On WP Engine,” containing these
18 same false and disparaging statements, to be placed onto the WordPress admin dashboard, a part of
19 every customer’s WordPress installation, and displayed to most customers as they go about their
20 daily business in WordPress, regardless of the host that they use, including WPE.

21 67. Similarly, in another post on wordpress.org on September 25, 2024, Mullenweg
22 wrote, “WP Engine is free to offer their hacked up, bastardized simulacra of WordPress’s GPL code
23 to their customers.”³⁹ This statement is false and defamatory. WPE’s services use the identical
24 WordPress GPL code that is downloadable from wordpress.org.

25 68. Mullenweg also has continued to repeat false and defamatory statements about WPE
26 on his X account and to encourage customers to switch away from WPE. He has even disparaged

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28 ³⁹ <https://wordpress.org/news/2024/09/wp-engine-banned/>.

1 WPE as a “cancer” to WordPress—despite the countless contributions WPE has made to the
2 WordPress community and the obvious harm such aspersions inflict upon WPE’s business
3 reputation. Mullenweg’s “nuclear war” against WPE for daring not to submit to Automattic’s
4 extortionate monetary demands has continued through this filing.

5 69. Mullenweg made his false, misleading, and disparaging statements to key members
6 of the WordPress and broader software and technology ecosystem, including WPE employees and
7 customers at WordCamp US, and livestreamed them across the world via YouTube. Among other
8 things, Mullenweg’s words and actions threaten to intentionally harm WPE’s business and
9 reputation within the WordPress community and beyond, and tortiously interfere with WPE’s
10 contractual relationships with its employees and customers. Indeed, some WPE customers and
11 community members have already expressed an intention to stop doing business with WPE due to
12 Mullenweg’s misconduct, as further detailed below.

13 70. After WPE wrote to Automattic and Mullenweg highlighting their
14 misrepresentations, Mullenweg’s attacks continued unabated with blog posts, posts on X.com and
15 Reddit, and appearances on multiple YouTube channels.

16 **B. Defendants’ Blocking Access to wordpress.org**

17 71. In another act of retaliation for WPE’s refusal to hand over tens of millions of dollars
18 to Automattic, on or about September 24, 2024, Mullenweg blocked WPE from updating the
19 WordPress plugins that it publishes through wordpress.org. By blocking access to wordpress.org,
20 Defendants prevented WPE employees from accessing a host of functionality typically available to
21 the WordPress community on wordpress.org, including, for example, the ability to submit and edit
22 code contributions, participate in support forums designed to notify the community of issues, submit
23 new versions of WPE-managed or WPE-led plugins, participate in WordPress development teams,
24 interact with other WordPress community members through the WordPress Slack channel, and open
25 or comment on support tickets. This means that if WPE identified that one of the many plugins it
26 created that are in use by millions of websites had a bug or a security issue, it would no longer be
27 able to publish an update for that plugin on wordpress.org.

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1 72. At the same time, Mullenweg withdrew login credentials for individual employees
2 at WPE, preventing them from logging into their personal accounts to access other wordpress.org
3 resources, including the community Slack channels which are used to coordinate contributions to
4 WordPress Core, the Trac system which allows contributors to propose work to do on WordPress,
5 and the SubVersion system that manages code contributions. These actions had the effect of halting
6 the contributions that WPE makes to WordPress Core, and depriving many WPE employees of
7 access to emerging information on the project—which could include security alerts or other threats
8 to the normal functioning of customers’ websites.

9 73. On September 25, 2024, Mullenweg wrote a blog post on wordpress.org, stating “WP
10 Engine is banned from WordPress.org.”⁴⁰ In the post, Mullenweg wrote that “pending their legal
11 claims and litigation against WordPress.org, WP Engine no longer has free access to
12 WordPress.org’s resources.” The claim that Mullenweg terminated WPE’s access to wordpress.org
13 because WPE had filed a lawsuit against wordpress.org was false (there was no lawsuit at that time),
14 but the post confirmed to WPE and the WordPress community that it had been Mullenweg who
15 caused WPE’s inability to update its plugins through his exercise of his self-described control over
16 wordpress.org.

17 74. As a result of this ban, WPE users were prevented from updating their plugins,
18 accessing wordpress.org themes, and accessing other resources from wordpress.org.

19 75. In a further escalation, on or about September 25, 2024, Mullenweg prevented WPE
20 customers who host their WordPress installations on WPE servers from accessing wordpress.org
21 resources through the WordPress administration panel. This ban prevented WPE customers from
22 downloading any of the 50,000+ WordPress themes and plugins from wordpress.org onto their sites,
23 including themes and plugins developed by WPE. As a result, WPE’s customers were no longer
24 able to install new plugins and themes from wordpress.org or update their existing plugins and
25 themes to address bugs and security vulnerabilities.

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28 ⁴⁰ <https://wordpress.org/news/2024/09/wp-engine-banned/>.

1 76. On September 28, 2024, during a live streamed interview on YouTube which took
 2 place in San Francisco, Mullenweg publicly took credit for carrying out these retaliatory actions
 3 against WPE and its customers, and gave various spurious reasons for his actions. Mullenweg
 4 publicly stated that he gave WPE advance warning that he was going to terminate WPE’s access to
 5 wordpress.org. That is false. He gave no notice at all. WPE discovered Defendants’ misconduct
 6 when its engineers attempted to log into their Admin panel for wordpress.org on the morning of
 7 September 24 as usual, only to discover their accounts had been disabled. In the same September
 8 28, 2024 interview, Mullenweg was defiant and unremorseful for his wrongful acts, and even asked
 9 WPE to “please sue me.” In other posts on the social media platform X, Mullenweg seems to have
 10 justified his blocking of WPE from wordpress.org in part because of “Stripe issues” with WPE:



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 20 77. While Mullenweg did not explain what he meant by the “Stripe issues,” he appeared
 21 to be suggesting that WPE is modifying the way that a certain WordPress plugin called
 22 WooCommerce interacts with Stripe, an online credit card payment processor. His accusation
 23 makes no sense. The WooCommerce plugin adds functionality to WordPress that, among other
 24 things, allows users to sell products and services on their website and take payment for those sales.
 25 WPE offers customers the ability to use alternative payment methods with the WooCommerce
 26 plugin, and a small segment of the WPE customer base has opted to use WPE’s Stripe connection
 27 due to functionality that is not available in the Stripe connection utilized in the default
 28 WooCommerce plugin. In an interview Mullenweg gave on YouTube, he stated that WP Engine

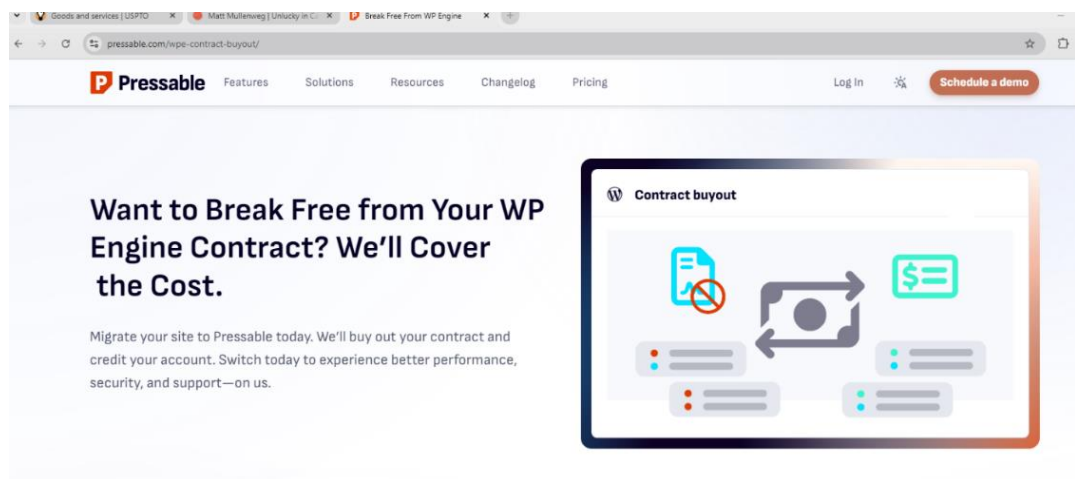
1 earns “tens of millions” of dollars annually from using WPE’s Stripe connection. This is false. The
 2 commissions WPE receives from Stripe related to the WooCommerce plugin are currently less than
 3 \$2,000 per month.

4 **C. Defendants Seek to Capitalize on the Chaos They Created**

5 78. The orchestrated campaign following WPE’s refusal to cede to Defendants’ demand
 6 for tens of millions of dollars was designed to sow fear and doubt in, among others, current and
 7 potential future customers of WPE. To try to directly capitalize on the chaos he caused, Mullenweg
 8 has used another company he owns, Pressable, which competes with WPE, to tell clients to breach
 9 their contracts with WPE and move to Pressable.

10 79. Beginning with his September 20, 2024 keynote, Mullenweg urged WPE’s
 11 customers to reconsider renewing their contracts with WPE, and pushed his own company: “Well,
 12 I hope that we can get every single WP Engine customer to watch this presentation. And that when
 13 their renewal time comes up, they think about that. And there’s some really hungry other hosts.
 14 Those things are Blue Host Cloud, Pressable, etc., that would love to get that business.”

15 80. As of September 2024, the Pressable homepage tells WPE customers that Pressable
 16 will pay for the costs of breaching their current contracts with WPE:



1 81. As of September 30, 2024, the wordpress.com homepage (also owned and controlled
2 by Mullenweg) offers WPE customers one year of free hosting on their service:⁴¹



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11 82. As another example, Mullenweg urged WPE customers to use “any other web host
12 in the world” besides WPE in a post on X.com dated September 24, 2024:



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23 **D. Amid Public Backlash, Defendants Attempt Damage Control—Only Digging a Deeper Hole For Themselves**

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25 83. As described in more detail below, Defendants’ actions received wide-ranging
26 criticism in the WordPress community. For instance, WordPress community members published

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28 ⁴¹ <https://wordpress.com/migrate-from-wp-engine/>.

1 articles with titles such as, “Matt Mullenweg needs to step down from WordPress.org leadership
2 ASAP,”⁴² a video titled “This might be the end of WordPress,”⁴³ and started community discussions
3 about the issue.⁴⁴

4 84. On September 27, 2024, in reaction to this public outcry, Mullenweg announced that
5 he was temporarily restoring access—but not permanently. Instead, he made another threat—that
6 he would be blocking access again on October 1.⁴⁵ He carried out that threat as well, blocking
7 WPE’s access to wordpress.org again on October 1.

8 85. As members of the WordPress ecosystem continued to criticize Defendants’ actions,
9 Defendants went into damage control mode to attempt to characterize WPE as the sole target of their
10 imperious actions. As one example, Mullenweg participated in an interview livestreamed on X.com
11 on September 27, 2024. Far from assuaging public concerns, Mullenweg made various damning
12 admissions demonstrating his anticompetitive animus towards WPE, including by stating that
13 “every other web host in the world, we have no beef with, by the way, and [] none of them, all of
14 them can, their servers can access WordPress.org servers, WordPress works just fine on every other
15 web host in the world. This is very singular to WP Engine.”

16 86. On September 28, 2024, Mullenweg gave an interview to the author of the “This
17 might be the end of WordPress” video blog. Among other statements, Mullenweg acknowledged
18 his retaliatory and vindictive intentions, saying: “They could make this all go away by doing a
19 license. Interesting question is whether, now ... you know, maybe more than 8% is what we would
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23 _____
24 ⁴² <https://notes.ghed.in/posts/2024/matt-mullenweg-wp-engine-debacle/>.

25 ⁴³ <https://www.youtube.com/watch?v=XoTToRfM3iA>. In a blog post on September 29, 2024,
Mullenweg called this video “very harsh.” See <https://ma.tt/2024/09/t3/>.

26 ⁴⁴ See, e.g., [https://www.reddit.com/r/Wordpress/comments/1fn3mjr/
27 matt_mullenweg_needs_to_step_down_from/](https://www.reddit.com/r/Wordpress/comments/1fn3mjr/matt_mullenweg_needs_to_step_down_from/).

28 ⁴⁵ <https://wordpress.org/news/2024/09/wp-engine-reprieve/>.

1 agree to now.”⁴⁶ Mullenweg also conceded that no one was currently paying an 8% license fee to
2 Automattic like he attempted to extort from WPE.

3 87. Defendants have publicly stated that Automattic had been in discussions with WPE
4 concerning their purported claim that WPE was infringing their trademarks for approximately 18
5 months leading up to their extortive demands in mid-September 2024. That is false. Rather, earlier
6 in 2024, Automattic had proposed that WPE participate in a WooCommerce “Hosting Partner
7 Program,” which would have involved WPE collaborating to advance WooCommerce as the leading
8 e-commerce engine for the WordPress ecosystem; Automattic’s proposal referenced the inclusion
9 of a trademark license (which WPE did not need under governing trademark law), but made no
10 accusations that WPE was violating any trademarks. Nor did Defendants ask WPE to make any
11 changes to its references to WordPress or WooCommerce on its website. In any event, Automattic
12 unilaterally shut down those discussions in August 2024 without an agreement, informing WPE that
13 Automattic was “reassessing how we will deal with WP Engine.” Thereafter, WPE received no
14 further communications from Defendants concerning trademarks until the above-referenced
15 extortion demand in mid-September, 2024.

16 88. WPE later learned that in July 2024, Automattic had filed new trademark registration
17 applications, seeking registration for the first time of phrases commonly used in the WordPress
18 ecosystem such as “Managed WordPress” and “Hosted WordPress.”

19 **E. Undeterred, Defendants Expand Their Extortive Efforts to Threaten WPE’s**
20 **CEO**

21 89. Defendants’ extortion campaign included levying personal attacks against the CEO
22 of WPE for not capitulating to his demands. For instance, on September 26, 2024, Mullenweg gave
23 an interview on the X platform during which he gave the CEO’s personal cell phone number to the
24 interviewer and encouraged him to contact her. She was in fact contacted by the interviewer.
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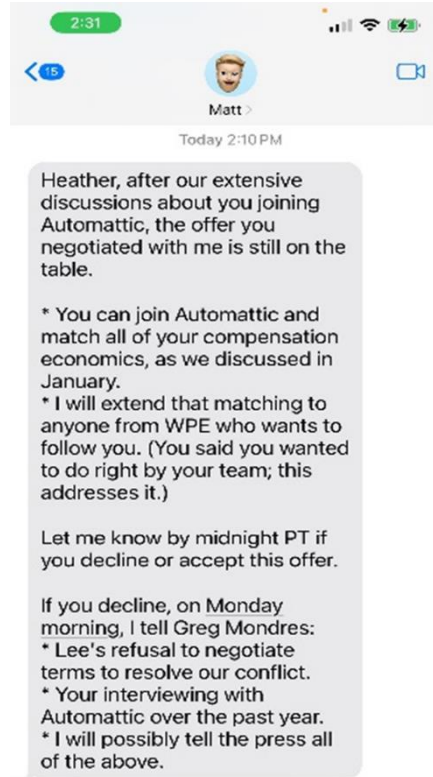
28 ⁴⁶ <https://www.youtube.com/watch?v=OUJgahHjAKU/>.

1 90. Defendants’ attacks against WPE’s CEO have also continued in private. First, on
2 September 28, 2024, Mullenweg attempted to poach her to come and work for Automattic, and
3 falsely suggested that WPE’s investor was making her do something she did not want to do:



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14 91. After WPE’s CEO did not immediately respond, Mullenweg threatened her the
15 following day. Specifically, on September 29, 2024 Mullenweg gave her until midnight that day to
16 “accept” his job “offer” with Automattic. If she did not accede to his demand, Mullenweg
17 threatened to tell the press, and WPE’s investor, that she had interviewed with Automattic:

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92. Mullenweg’s premise was false, as WPE’s CEO had never interviewed with or negotiated a job offer with Automattic. To the contrary, back in 2022 Automattic had asked if she would be interested in running wordpress.com, but she politely declined.

93. WPE’s CEO did not respond to Mullenweg’s September 29 threat.

F. Mullenweg Represents That Automattic Might Seek To Acquire WPE For a Discount

94. In a recent interview, Mullenweg stated that his demand that WPE pay him 8% of its revenue to license the trademarks that Automattic purports to control is “not on the table anymore . . . [he’s] seeking more.”⁴⁷ Mullenweg boasted that he might “*tak[e] over*” WPE, not just seek a licensing fee. Mullenweg promised in the interview that “his public attacks would continue.” In a social media post on the platform X, he boasted that as a result of his actions, WPE is now a “distressed asset,” worth just a “fraction” of what it was before, because “[c]ustomers are leaving in droves” – calling into question whether Defendants’ motivations extend beyond mere

⁴⁷ <https://www.therepository.email/mullenweg-threatens-corporate-takeover-of-wp-engine> (emphasis added).

1 interference and extortion, and are in fact a thinly disguised attempt to artificially drive down WPE’s
 2 valuation in hopes of acquiring it on the cheap:



16 **VI. WPE is Harmed by Defendants’ Actions**

17 95. As a result of Defendants’ actions, WPE and its customers have been harmed in
 18 multiple ways.

19 96. For example, because of Defendants’ wrongful blocking of WPE, its employees, and
 20 customers from functionality on wordpress.org, including the WordPress Plugin Directory, WPE,
 21 its employees, and customers no longer have the ability to perform many formerly routine tasks,
 22 such as submit support tickets, service, update, or fix any WordPress plugins, or publish those
 23 updated plugins on wordpress.org. Because WPE has effectively lost control of its ability to
 24 maintain its code on wordpress.org, users and customers of WPE will have outdated and/or
 25 potentially vulnerable WPE plugins. The users of these plugins are subject to increased risk the
 26 longer the plugins are not updated or patched to correct for any reported vulnerabilities, causing
 27 harm to both WPE’s brand and reputation, and its relationships with its customers. Defendants’
 28 actions have also harmed WPE by exposing it to potential legal risk and liability from some of the

1 affected plugins' users and customers for at least the same reasons. WPE also has had to invest
2 significant efforts and resources in an attempt to mitigate the harmful consequences of Defendants'
3 actions.

4 97. WPE customers have posted online about their frustrations with WPE's inability to
5 update its plugins or connect to wordpress.org, harming WPE's reputation as a reliable host of sites
6 built on WordPress.

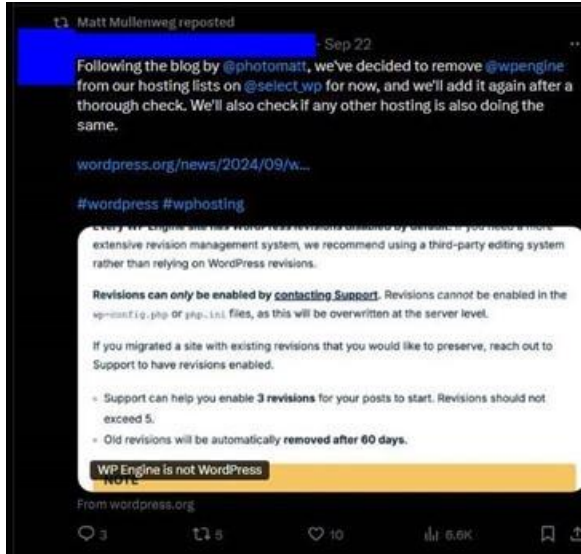
7 98. For example, a September 25, 2024 post from a customer on X.com states: "Not
8 being able to do @WordPress updates because of the @photomatt/@wpengine fight is infuriating.
9 For a small nonprofit, being caught in the middle of this could be costly if we need to migrate our
10 sites to a new host. That money/time should be used for our mission."



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17 99. In addition, as a result of Defendants' actions, various customers have posted on
18 social media or reached out to WPE directly to communicate that they plan to end their relationships
19 with WPE and switch to a different provider.

20 100. For example, in a post dated September 22, 2024 from X.com, a WPE customer states
21 that due to Mullenweg's blog post about WPE, he has decided to remove WPE from his company's
22 hosting lists:
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101. A post dated September 24, 2024 from X.com shows a WPE customer planning not to renew his contract with WPE:



102. In yet another post on the same date on X.com, a WPE customer proclaims: “Looks like we’ll [sic] moving our sites off ASAP!”:



103. In an email from September 25, 2024, a WPE customer tells a WPE account representative, “If we can’t get a solid answer or plan we will have to consider moving our business and sites away from WPEngine”:

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From:
Date: Wed, Sep 25, 2024 at 5:42 PM
Subject: Re: Account questions / ASAP
To: _____
CC:

Hi
As you are aware there is a serious problem present between WPEngine and WordPress. I can't access wordpress to update our plug-ins on your server. We are limited in what we can do for our clients. If we have an outage we are screwed. Do we have any idea of when this will be resolved?
If we can't get a solid answer or plan we will have to consider moving our business and sites away from WPEngine.

What are you being told? What is the plan?

104. In a private message to WPE's X.com account, a WPE customer stated that due to Mullenweg's act of blocking plugin updates on WPE sites, the customer is "going to move our WPE server to Kinsta," another WPE competitor:

If you can't solve your differences with Automattic and Matt Mullenweg we're going to move our WPE server to Kinsta. The plugin and theme updates block is utterly ridiculous. I just sent Matt a DM asking him to reverse their move...I hope it helps. This is going to put our client sites in jeopardy and expose Automattic and likely WPE to a class-action lawsuit. I mean, plugin updates are daily. Vulnerabilities appear weekly. This is really really bad.
4 minutes ago

105. In a series of posts on Reddit from September 25, 2024, users expressed their frustration about having to manually update their site plugins due to Mullenweg's actions:⁴⁸

⁴⁸ https://www.reddit.com/r/Wordpress/comments/1fpst5p/wpengine_matt_automattic_wordpressorg_megathread/.

1 106. In another series of posts on Reddit from September 26, 2024, customers stated that
2 they are “[a]ready underway” in leaving WPE:



16 107. As a result of Defendants blocking WPE access to wordpress.org, WPE has been
17 forced to expend significant resources to find workarounds needed to service WPE’s customers and
18 update its plugins. WPE sales staff has been inundated with queries from their customers and
19 accounts, forcing WPE to divert staff to focus on helping existing customers as opposed to working
20 with new ones, resulting in a loss of new revenue. And overtime for WPE support professionals has
21 increased significantly to deal with the much higher rates of customer inquiries due to Defendants’
22 wrongful actions.

23 108. In addition, many of WPE’s users and customers have long considered WPE as the
24 most trusted WordPress platform with unmatched performance and support. Defendants’ actions
25 threaten the trust WPE has built with thousands of customers over more than a decade.

26 **VII. The Entire WordPress Community is Harmed by Defendants’ Actions**

27 109. Not only have WPE and its customers been harmed by Automattic and Mullenweg’s
28 actions, so has the entire WordPress community. As described above, WordPress has long prided

1 itself in building a community around principals of “freedom” and “openness” with the express
2 promise that anyone in the world is able to contribute to be part of the WordPress ecosystem. As a
3 result of these promises, tens of millions of users have decided to use WordPress as their preferred
4 content management tool and publishing platform on the Internet. Over 43% of websites are built
5 on WordPress.

6 110. Importantly, hundreds of companies (such as WPE) have built their businesses to
7 support the millions of WordPress users. These companies help WordPress users around the world
8 host their websites, build additional functionality (*e.g.*, plugins, themes), and provide customer
9 support. These companies also give back to the WordPress community by making their
10 enhancements to WordPress available to all users around the globe via a permissive GPL license.
11 Companies in the WordPress ecosystem have invested billions of dollars and millions of hours
12 making WordPress a better experience for the entire WordPress community. Moreover, the
13 evangelism and marketing these companies provided has yielded incalculable value, allowing
14 WordPress to establish the recognition, presence, and credibility that have historically been beyond
15 the size of any one business or the reach of individual enthusiasts.

16 111. This symbiotic relationship between WordPress, its community, and its business
17 ecosystem only works because of the promises of openness and freedom that WordPress has made
18 in the past. Businesses are willing to commit so much money, time, and resources to developing
19 WordPress in large part because they have the trust that the community will be “open” to them.
20 Without that trust, investment in the ecosystem will certainly decline. Reasonable businesses may
21 choose to build on platforms that do not have vindictive leaders who are willing to go “nuclear” and
22 destroy their businesses, or worse yet, extort them for money. In the days following Defendants’
23 actions, businesses have already questioned their choice of WordPress, noting the harm Defendants’
24 are causing volunteer-driven nonprofits, “local mom and pop” businesses, hobbyists, fire and police
25 stations, and schools:

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 **WordPress**  @WordPress · 40m

Pending their legal claims and litigation against [WordPress.org](#), WP Engine no longer has free access to [WordPress.org](#)'s resources.
[wordpress.org/news/2024/09/w...](#)

#WordPress



wordpress.org
WP Engine is banned from WordPress.org
Pending their legal claims and litigation against
WordPress.org, WP Engine no longer has free acces...

 37  78  54  9.7K  



So, I can't fulfill my obligations to my clients now? How do I explain this without making y'all sound really stupid? And by y'all I mean Matt and Automattic.

7:16 PM · Sep 25, 2024 · 148 Views

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 **WordPress**  @WordPress · Sep 25

Pending their legal claims and litigation against [WordPress.org](#), WP Engine no longer has free access to [WordPress.org](#)'s resources.
[wordpress.org/news/2024/09/w...](#)

#WordPress



wordpress.org
WP Engine is banned from WordPress.org
Pending their legal claims and litigation against
WordPress.org, WP Engine no longer has free acces...

 302  593  798  817K  



Well this just set my next few days of meetings with my stakeholders for our hundreds of WordPress sites (sorry, "sites that use WordPress") and how we move forward. This is an awful move from an optics, user experience, developer experience, and brand-trust perspective.

11:06 PM · Sep 25, 2024 · 379 Views

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This is an absolutely disgusting move from @WordPress

So in order to maintain continuity for clients, I need to eat the time sent on manual updates or migrate away from an excellent hosting provider.

Not good enough. I stand with @wpengine

 · 16h

I want to share: WordPress.org has blocked @wpengine customers from updating and installing plugins and themes via WP Admin—disrupting essential work for #WordPress users, agencies, freelancers, and plugin developers.

...
[Show more](#)

Last edited 1:42 AM · Sep 26, 2024 · 153 Views



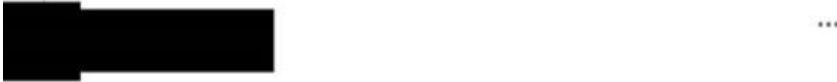
You know who is about to get screwed big time. Small hobbieists, small nonprofits who have absolutely no idea WTF is going on between Automattic and WP Engine.

10 16 132 4.9K



And they should relax and not worry! The only questions that WP Developers and involved businesses should ask is: Am I making millions from WordPress? No? I am good! Yes, I make millions out of WP? Then I should start to contribute appropriate amount of time :) That simple.

3 49



Not that simple if you can't access something on your website and you're a local mom and pop or volunteer driven non-profit this happened without warning and they don't necessarily know what to do. It takes time to figure it out time is a very valuable and limited commodity

4:29 PM · Sep 26, 2024 · 27 Views

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112. Defendants’ actions must be stopped, and the harm to WPE must be remedied.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Intentional Interference with Contractual Relations)

(against All Defendants)

113. WPE repeats and realleges each and every allegation of this Complaint as if fully set forth herein.

114. As herein alleged, Defendants have intentionally interfered with the contracts between WPE and its customers for the provision of WPE’s products and services.

115. Defendants have known of these contracts.

116. Defendants have intended to disrupt the performance of those contracts.

117. Defendants’ conduct has prevented and will prevent performance, has made and will make performance more expensive or difficult, and has caused customers to terminate their contracts.

118. WPE has been and will be harmed.

119. Defendants’ conduct has been and will be a substantial factor in causing WPE’s harm.

SECOND CLAIM FOR RELIEF

(Intentional Interference with Prospective Economic Relations)

(against all Defendants)

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4 120. WPE repeats and realleges each and every allegation of this Complaint as if fully set
5 forth herein.

6 121. As herein alleged, Defendants have intentionally interfered with prospective
7 economic relationships between WPE and its past and current customers with the option to renew
8 or create new contracts with WPE, as well as future customers. WPE has received numerous
9 messages specifically tying decisions to leave, not renew, or not engage to the problems created by
10 the events described herein.

11 122. WPE and the customers mentioned in the previous paragraph have had economic
12 relationships that likely would have resulted in an economic benefit to WPE.

13 123. Under those relationships, WPE likely would have been entitled to provide its
14 products and services for each potential client. In exchange, WPE would have been paid the fees it
15 charges for such products and services.

16 124. Defendants have known of these relationships and prospective relationships.

17 125. Defendants have intended to disrupt those relationships and prospective
18 relationships.

19 126. Defendants have engaged in wrongful conduct, including, but not limited to, their
20 violations of Section 17200 of the California Business and Professions code and their wrongful and
21 ongoing attempts to extort WPE.

22 127. Defendants' conduct has disrupted and will disrupt those relationships.

23 128. WPE has been and will be harmed.

24 129. Defendants' wrongful conduct has been and will be a substantial factor in causing
25 WPE's harm.

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THIRD CLAIM FOR RELIEF

(Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.*)

(against All Defendants)

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4 130. WPE repeats and realleges each and every allegation of this Complaint as if fully set
5 forth herein.

6 131. As alleged herein, WPE operates a WordPress computer hosting service that accesses
7 wordpress.org systems. These computers include “protected computers” used in or affecting
8 interstate or foreign commerce or communication, such as through the Internet, and are designed to
9 be accessed, and are accessed, by users around the world.

10 132. Through the acts set forth herein, Defendants caused “damage” to “protected
11 computers” as those terms are used in 18 U.S.C. § 1030, including through Defendants’ acts to
12 interfere with the normal operation of WPE’s systems, by blocking and interfering with access to
13 wordpress.org’s systems.

14 133. As alleged herein, Defendants threatened WPE with “war” if it did not agree to pay
15 a significant percentage of its gross revenues to Automattic. These threats were communicated
16 through text messages, calls, emails, and other communications using the Internet.

17 134. After WPE refused to accede to Defendants’ attempts to extort money from WPE,
18 Defendants caused damage to WPE’s computer hosting service and its access to wordpress.org’s
19 systems by impairing the integrity and availability of data, programs, systems and information
20 therein.

21 135. Defendants’ threats to cause damage to these computer systems, and actual damage
22 thereto, were made with the intent to extort money from WPE, and transmitted in interstate or
23 foreign commerce. The damage was caused to facilitate the extortion.

24 136. Because of Defendants’ actions, WPE was and continues to be irreparably harmed
25 and its damages, incurred over a period of less than one year, exceed \$5,000.

26 137. Defendants’ actions violate at least 18 U.S.C. § 1030(a)(7).

27 138. WPE’s remedy at law is not by itself sufficient to compensate WPE for all the
28 irreparable injuries inflicted and threatened by Defendants. WPE is therefore entitled to a temporary

1 restraining order, a preliminary injunction, and a permanent injunction to prohibit Defendants from
2 continuing their unlawful actions.

3 139. In addition to equitable relief, WPE demands monetary damages, fees and costs, as
4 allowed.

5 **FOURTH CLAIM FOR RELIEF**

6 **(Attempted Extortion)**

7 **(against All Defendants)**

8 140. WPE repeats and realleges each and every allegation of this Complaint as if fully set
9 forth herein.

10 141. Around September 17 to September 20, 2024, Defendants, with intent to extort
11 money from WPE, made a series of threats that Automattic would wage a “war” against WPE by
12 spreading disparaging statements about WPE and banning WPE from the WordPress community
13 unless it agrees to pay Automattic tens of millions of dollars on an ongoing basis for a license to use
14 certain WORDPRESS, WOOCOMMERCE, and WOO trademarks.

15 142. As herein alleged, these threats were made on phone calls by Automattic CFO Mark
16 Davis, and by text messages, phone calls, and emails from Mullenweg from September 17 to
17 September 20, 2024.

18 143. Defendants also carried out these threats by (1) spreading false and disparaging
19 statements about WPE and its investors at the September 20, 2024 keynote; (2) denying WPE and
20 its customers and users access to wordpress.org; (3) blocking WPE from updating its plugins on
21 wordpress.org; (4) terminating WPE employees’ wordpress.org accounts and blocking them from
22 the contributor Slack channel.

23 144. Defendants knew that their demand for a trademark license is meritless because WPE
24 needs no such license.

25 145. WPE has been injured in numerous ways as a result of Defendants’ ongoing
26 extortion, including, but not limited to, measures taken to respond to the extortionate threats, loss
27 and continuing loss of customers, and injury to its goodwill and reputation. WPE is entitled to
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1 monetary damages as allowed and injunctive relief to prohibit Defendants from continuing their
2 unlawful actions.

3 **FIFTH CLAIM FOR RELIEF**

4 **(Unfair Competition, Cal. Bus. Prof. Code § 17200, et seq.)**

5 **(against All Defendants)**

6 146. WPE repeats and realleges each and every allegation of this Complaint as if fully set
7 forth herein.

8 147. California’s Unfair Competition Law (“UCL”) prohibits any business practice that
9 is “unlawful,” “unfair,” or “fraudulent.” Cal. Bus. & Prof. Code § 17200.

10 148. WPE has standing under the UCL as it has been deprived of money and/or property
11 sufficient to qualify as injury in fact, such economic injury being the direct result of Defendants’
12 unfair business practices described herein.

13 149. UCL § 17203 provides that “[a]ny person who engages, has engaged, or proposes to
14 engage in unfair competition may be enjoined in any court of competent jurisdiction.”

15 150. WPE seeks injunctive relief under § 17203 enjoining Defendants from ongoing
16 extortive, anticompetitive and otherwise unlawful, unfair and fraudulent business practices. Such
17 conduct is an actual and imminent threat to WPE, including, but not limited to, lost business, lost
18 goodwill, and reputational harm. Unless Defendants are restrained by a preliminary and permanent
19 injunction, WPE will suffer severe, irreparable harm in that it will be forced to terminate or breach
20 contracts with its clients. WPE is informed and believes, and on that basis alleges, that unless the
21 court grants injunctive relief, Defendants will continue to restrict WPE’s access to the WordPress
22 platform.

23 151. Defendants’ threats and attempts to extort payment, by threatening and now carrying
24 out threats to ruin WPE’s business are plainly illegal under the California Penal Code and under the
25 Computer Fraud and Abuse Act. It is well-established that such extortion is a predicate unlawful
26 act under the UCL. Defendants have been unambiguous regarding their intent to extort WPE, have
27 made good on their threats, and appear intent to try to ruin WPE’s business in short order, unless
28 they are enjoined by this Court from doing so.

1 152. Indeed, Defendants’ attempts to exclude WPE from the WordPress market are
2 blatantly motivated by anticompetitive animus—an attempt to use their monopoly power over the
3 WordPress platform to ruin a competitor—and axiomatically “unfair” under the UCL. WPE has no
4 adequate remedy at law because monetary damages will not afford adequate relief for the loss of its
5 business relationships, client goodwill, and ability to continue operating.

6 153. Defendants’ unlawful and unfair business practices not only harm WPE and its
7 employees, but also threaten the entire WordPress community. WPE thus brings this claim to
8 remedy an important right affecting the public interest and seeks to confer on the public a significant
9 benefit. Pursuant to Code of Civil Procedure section 1021.5, WPE seeks and should be awarded, in
10 addition to all other remedies, prevailing party attorneys’ fees.

11 **SIXTH CLAIM FOR RELIEF**

12 **(Promissory Estoppel)**

13 **(against All Defendants)**

14 154. WPE repeats and realleges each and every allegation of this Complaint as if fully set
15 forth herein.

16 155. Over the last several decades, Defendants have made clear and unambiguous
17 promises to the WordPress plugin developer community regarding the openness and accessibility
18 of the WordPress platform.

19 156. Even apart from these broad promises of openness, accessibility, and freedom,
20 Defendants make even more specific promises to software developers who Defendants encourage
21 to develop on the WordPress platform. Defendants have made promises on the wordpress.org
22 website and elsewhere that WordPress will forever be an open platform that encourages third-party
23 developers to build WordPress plugins and themes to enhance the functionality of WordPress.
24 WPE’s reliance on those promises has been both reasonable and foreseeable.

25 157. In reliance on these clear and unambiguous promises, WPE has built a substantial
26 business over the last decade, including substantial customer relationships, premised on the fact that
27 WordPress was and would always remain open and accessible to all. WPE has committed hundreds
28

1 of thousands of engineering hours and tens of millions of dollars to develop its software on the
2 WordPress platform and contributing to the WordPress community. As a result of its work, WPE
3 has built a business servicing tens of thousands of individuals and companies.

4 158. WPE has been injured and continues to be injured in reliance on the promises made
5 by Defendants. WPE has been injured in numerous other ways, including, but not limited to, injury
6 to its goodwill and reputational harm, as the result of Defendants' failure to abide by their promises.

7 **SEVENTH CLAIM FOR RELIEF**

8 **(Declaratory Judgment of Non-Infringement)**

9 **(against Automattic)**

10 159. WPE repeats and realleges each and every allegation of this Complaint as if fully set
11 forth herein.

12 160. Automattic has engaged in conduct that gives rise to a real and reasonable
13 apprehension on the part of WPE that it will face an action for injunctive relief and/or damages for
14 trademark infringement under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1), Section 43(a)
15 of the Lanham Act, 15 U.S.C. § 1125(a), and/or common law, if WPE continues its activities,
16 including maintaining its website, its advertising, promotion, and sale of goods and services while
17 making reference to the Challenged Terms. *See Exhibit A* ("Your unauthorized use of our Client's
18 trademarks infringes their rights").

19 161. WPE seeks a declaration of non-infringement with respect to its use of the
20 Challenged Terms so that it can proceed with its business plans without the continuing risk of suit
21 by Automattic. There is a substantial controversy between WPE and Automattic with respect to
22 WPE's use of its Challenged Terms. The parties have adverse legal interests of sufficient
23 immediacy and reality to warrant the issuance of a declaratory judgment.

24 162. WPE's use of the Challenged Terms does not infringe any registered marks, or any
25 other federal, state or common law trademark rights that Automattic has accused WPE of infringing,
26 including because WPE's uses of the Challenged Terms are nominative uses to refer to the
27 WordPress open source software and/or the open source WooCommerce software which WPE's
28 customers use in connection with their websites. WPE had no intent to confuse the buying public,

1 as it uses the Challenged Terms in good faith in order to refer to the WordPress open source software
2 and/or the WooCommerce software that its customers' websites use.

3 163. Automattic may not enforce any rights in the Challenged Terms on grounds of
4 trademark misuse, as it is attempting to leverage trademark law for anticompetitive purposes.
5 Automattic's 14 years of knowing acquiescence and inaction further belie that it has any legitimate
6 infringement claim.

7 164. Automattic is not the registered owner of the marks in question, and lacks standing
8 to enforce the Challenged Terms. The WordPress Foundation's website claims it is the rightful
9 owner of the WordPress trademark and oversees its enforcement, has represented to the IRS that it
10 is "responsible for protecting the WORDPRESS, WORDCAMP, and related trademarks," and
11 Mullenweg has stated that the very reason that he created the WordPress Foundation was to ensure
12 that it would hold the trademarks "for the free access for the world."

13 165. WPE's use of the Challenged Terms is protected by at least the doctrines of laches,
14 estoppel, unclean hands, implied license, acquiescence and trademark misuse, as well as fair use.

15 166. Automattic has no valid, enforceable trademark rights that have been infringed by
16 WPE.

17 167. To resolve the legal and factual questions and afford relief from the uncertainty and
18 controversy raised by Automattic's communications alleging trademark infringement, WPE is
19 entitled to a declaratory judgment of its rights under 28 U.S.C. §§ 2201-2202, *i.e.*, a declaration that
20 the Challenged Terms do not infringe any valid trademark rights asserted by Automattic (to the
21 extent that any exist).

22 **EIGHTH CLAIM FOR RELIEF**

23 **(Declaratory Judgment of Non-Dilution)**

24 **(against Automattic)**

25 168. WPE repeats and realleges each and every allegation of this Complaint as if fully set
26 forth herein.

27 169. Automattic has engaged in conduct that gives rise to a real and reasonable
28 apprehension on the part of WPE that it will face an action for injunctive relief and/or damages for

1 trademark dilution under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), if WPE continues
2 its activities, including maintaining its website, its advertising, promotion, and sale of goods and
3 services while making reference to the Challenged Terms. *See Exhibit A* (“Your unauthorized use
4 of our Client’s trademarks . . . dilutes their famous and well-known marks.”).

5 170. WPE seeks a declaration of non-dilution with respect to its use of the Challenged
6 Terms so that it can proceed with its business plans without the continuing risk of suit by Automatic.
7 There is a substantial controversy between WPE and Automatic with respect to WPE’s use of the
8 Challenged Terms. The parties have adverse legal interests of sufficient immediacy and reality to
9 warrant the issuance of a declaratory judgment.

10 171. The registered marks, or any other federal, state or common law trademark rights
11 Automatic accuses WPE of diluting, are not “famous” under 15 U.S.C. § 1125(c)(2), including
12 because they are not widely recognized by the general consuming public of the United States as a
13 designation of source of the goods or services of Defendants.

14 172. To the extent that any of the registered marks, or any other federal, state or common
15 law trademark rights Automatic asserts, is famous, WPE’s use of such a mark commenced before
16 that mark became famous.

17 173. WPE’s use of the Challenged Terms is not likely to dilute by blurring or dilute by
18 tarnishment any registered marks, or any other federal, state or common law trademark rights
19 Automatic claims.

20 174. Automatic may not enforce any rights in the Challenged Terms on grounds of
21 trademark misuse, as it is attempting to leverage trademark law for anticompetitive purposes.
22 Automatic’s 14 years of knowing acquiescence and inaction further belie that Automatic has any
23 legitimate dilution claim.

24 175. Automatic lacks standing to enforce the Challenged Terms. The WordPress
25 Foundation’s website claims it is the rightful owner of the WordPress trademark and oversees its
26 enforcement, has represented to the IRS that it is “responsible for protecting the WORDPRESS,
27 WORDCAMP, and related trademarks,” and Mullenweg has stated that the very reason that he
28

1 created the WordPress Foundation was to ensure that it would hold the trademarks “for the free
2 access for the world.”

3 176. WPE’s use of the Challenged Terms is protected by at least the doctrines of laches,
4 estoppel, unclean hands, implied license, acquiescence and trademark misuse, as well as fair use.

5 177. Automattic has no valid, enforceable trademark rights that have been diluted by
6 WPE.

7 178. To resolve the legal and factual questions and afford relief from the uncertainty and
8 controversy raised by Automattic’s communications asserting trademark dilution, WPE is entitled
9 to a declaratory judgment of its rights under 28 U.S.C. §§ 2201-2202, *i.e.*, a declaration that the
10 Challenged Terms do not dilute any valid trademark rights asserted by Automattic (to the extent that
11 any exist).

12 **NINTH CLAIM FOR RELIEF**

13 **(Libel)**

14 **(against All Defendants)**

15 179. WPE repeats and realleges each and every allegation of this Complaint as if fully set
16 forth herein.

17 180. On or about September 21, 2024, Mullenweg, on behalf of Automattic, posted the
18 following statement on the publicly accessible website wordpress.org: “What WP Engine gives you
19 is not WordPress, it’s something that they’ve chopped up, hacked, butchered to look like WordPress,
20 but actually they’re giving you a cheap knock-off and charging you more for it.”

21 181. On or about September 25, 2024, Mullenweg, on behalf of Automattic, also posted
22 the following statement on wordpress.org: “WP Engine is free to offer their hacked up, bastardized
23 simulacra of WordPress’s GPL code to their customers, and they can experience WordPress as WP
24 Engine envisions it, with them getting all of the profits and providing all of the services.”

25 182. These statements were false and defamed WPE itself—not solely disparaging its
26 products. WPE’s WordPress installations are identical to the wordpress.org ZIP file that defines
27 WordPress, and WPE’s services use the identical WordPress GPL code that everyone else does.
28 Thus, WPE is not engaged in misleading and deceiving customers and consumers, as Mullenweg

1 and Automattic asserted, by delivering “something that they’ve chopped up, hacked, butchered to
2 look like WordPress” but “is not WordPress.” And, contrary to Defendants’ statements, WPE is not
3 a company that deals in “cheap knock off[s]” or a “bastardized simulacra of WordPress’s GPL
4 code.”

5 183. Mullenweg has publicly stated that others at Automattic review Mullenweg’s public
6 statements before he makes them.

7 184. At the time Mullenweg and Automattic made these statements, they knew these
8 statements were false or at the very least entertained serious doubts as to their truth. Indeed,
9 Mullenweg and Automattic knew that (i) WPE’s WordPress installations are identical to the
10 wordpress.org ZIP file which defines WordPress and (ii) WPE’s services use the identical
11 WordPress GPL code that everyone else does. Mullenweg and Automattic also knew WPE is not
12 misleading and deceiving its customers and consumers by delivering “something that [WPE]
13 chopped up, hacked, butchered to look like WordPress” but “is not WordPress.” Further,
14 Mullenweg and Automattic knew WPE is not a company that deals in “cheap knock off[s]” or a
15 “bastardized simulacra of WordPress’s GPL code.”

16 185. WPE’s business includes selling a platform specifically for websites that use
17 WordPress; WPE is a business within the WordPress community; WPE advertises itself as “[t]he
18 most trusted platform for WordPress”; and WPE advertises its product as “[b]uilt purely for
19 WordPress.” Thus, Defendants’ statements had a tendency to injure WPE in its occupation.
20 Similarly, they exposed WPE to contempt, ridicule, and obloquy in the WordPress community and
21 caused it to be shunned and avoided in the same. These statements also had natural tendency to
22 cause special damage to WPE and constitute defamation per se.

23 186. Indeed, these statements were intended to have such effects, and Defendants’ posts
24 indicate as much. As one of the founders of the WordPress open source project, Mullenweg has a
25 large following and audience. Defendants understood and were aware of the impact that their
26 statements and actions would have, and have had, on the WordPress community and WPE’s
27 customers. Defendants’ statements and actions were deliberate and calculated to have the
28 aforementioned effects.

1 187. As a proximate result of these publications, (a) WPE has suffered general damages,
2 including reputational damage, and (b) WPE has incurred various special damages, including, but
3 not limited to, lost customers as well as resources and expenses incurred in efforts to remedy
4 Defendants' false statements and their effects.

5 **TENTH CLAIM FOR RELIEF**

6 **(Trade Libel)**

7 **(against All Defendants)**

8 188. WPE repeats and realleges each and every allegation of this Complaint as if fully set
9 forth herein.

10 189. On or about September 21, 2024, Mullenweg, on behalf of Automattic, posted the
11 following statement on the publicly accessible website wordpress.org: "What WP Engine gives you
12 is not WordPress, it's something that they've chopped up, hacked, butchered to look like WordPress,
13 but actually they're giving you a cheap knock-off and charging you more for it."

14 190. On or about September 25, 2024, Mullenweg, on behalf of Automattic, also posted
15 the following statement on wordpress.org: "WP Engine is free to offer their hacked up, bastardized
16 simulacra of WordPress's GPL code to their customers, and they can experience WordPress as WP
17 Engine envisions it, with them getting all of the profits and providing all of the services."

18 191. These statements were false. In truth, WPE's WordPress installations are identical
19 to the wordpress.org ZIP file which defines WordPress, and WPE's services use the identical
20 WordPress GPL code that everyone else does. WPE's product is not "chopped up, hacked,
21 butchered to look like WordPress." Nor is WPE's product "a cheap knock off" or a "bastardized
22 simulacra of WordPress's GPL code."

23 192. These statements disparaged the quality of WPE's product for hosting WordPress
24 websites and constitute defamation per se.

25 193. Mullenweg has publicly stated that others at Automattic review Mullenweg's public
26 statements before he makes them.

27 194. These statements played a material and substantial part in inducing specific existing
28 WPE customers to stop purchasing WPE's platform for WordPress websites. Similarly, these

1 statements played a material and substantial part in inducing specific WPE customers that otherwise
2 would have purchased WPE’s platform not to do so.

3 195. Indeed, these statements were intended to have such effects, and Defendants’ posts
4 indicate as much. In Defendants’ September 21, 2024 post, Defendants also stated “as you vote
5 with your dollars, consider literally any other WordPress host....” And, in Defendants’ September
6 25, 2024 post, Defendants added that “[i]f you want to experience WordPress, use any other host in
7 the world besides WP Engine.”

8 196. As a proximate result of these publications, WPE has suffered various special
9 damages, including, but not limited to, lost customers as well as resources and expenses incurred in
10 efforts to remedy these misstatements in the public eye.

11 **ELEVENTH CLAIM FOR RELIEF**

12 **(Slander)**

13 **(against All Defendants)**

14 197. WPE repeats and realleges each and every allegation of this Complaint as if fully set
15 forth herein.

16 198. On or about September 20, 2024, Matt Mullenweg, on behalf of Automattic, gave a
17 keynote address at the WordCamp US Convention to hundreds of attendees from the WordPress
18 community. The keynote address was simultaneously livestreamed to countless others in the
19 WordPress community via YouTube.

20 199. In the address, Mullenweg stated that WPE was one of a number of “parasitic
21 entities” who “just want to feed off” WordPress “without giving anything back.” Mullenweg also
22 stated, with respect to WPE, that it aims to “squeeze every last bit out of the business and for open
23 source communities, it can be fatal.”

24 200. Similarly, in a September 26, 2024 interview, Mullenweg, on behalf of Automattic,
25 stated with regard to WPE: “they’ve built a half a billion dollar business, they’ve given nothing back
26 to WordPress, they were contributing 40 hours per week. So call that 100 grand per year. They
27 sponsored WordCamp for 75 grand, we allowed them to be a top sponsor, by the way, lots of people
28 want those spots.”

1 201. The statement that WPE “feed[s] off” WordPress “without giving anything back”
2 was false. Additionally, the statement that WPE was only contributing “40 hours per week” and
3 “75 grand” was false. In reality, WPE’s contributions back to WordPress far exceed this: WPE has
4 bet its entire business on WordPress and has been deeply dedicated to advancing the use and
5 adoption of WordPress through innovation, investment, and active community involvement. WPE
6 has contributed tens of millions of dollars in ongoing support for the broader community through
7 events, sponsorships, and the development of educational resources, including sponsorship of
8 WordCamps worldwide and producing DE{CODE}; educating and empowering the WordPress
9 community through content like the WordPress Roundup and the Building WordPress series;
10 hosting, funding and actively maintaining multiple open source projects (*e.g.*, ACF, Genesis,
11 WPGraphQL, faust.js) within the ecosystem used by millions of websites around the world;
12 providing free developer tools such as Local (with more than 100,000 monthly active users) and
13 sponsoring development of WP-CLI, a command line interface for WordPress; and producing
14 informative webinars, podcasts, and tutorials.

15 202. Mullenweg has publicly stated that others at Automattic review Mullenweg’s public
16 statements before he makes them.

17 203. At the time Mullenweg and Automattic made these statements, they knew they were
18 false or at the very least entertained serious doubts as to their truth. Mullenweg and Automattic
19 knew about WPE’s innovation, investment, and active community involvement described above.

20 204. Indeed, days after Mullenweg stated that WPE was one of a number of “parasitic
21 entities” who “just want to feed off” WordPress “without giving anything back,” Mullenweg
22 admitted his prior statements were false and that he knew they were false. On a livestreamed
23 interview posted to YouTube on September 29, 2024, Mullenweg admitted that “everyone who uses
24 WordPress or tells their friend about it is contributing in some ways. If you just have a WordPress
25 site and you tell your friend, hey, I like WordPress, awesome. You just contributed.” And
26 Mullenweg continued, “I will say that if you want me to give [WPE] credit, sure, I’ll give them
27 credit. So they have gotten 1.5 million websites to pay them to host WordPress. Awesome, like
28

1 kudos.” Additionally, Mullenweg admitted that WPE’s act of “betting [its] billion dollar business
2 entirely on WordPress” was a form of giving back and thanked WPE multiple times for doing so.

3 205. Furthermore, according to the “Become a WordPress Contributor” article on
4 Mullenweg’s wordpress.org website, contributions to WordPress come in many shapes and sizes
5 including creating and supporting themes and plugins: “The WordPress Community exists because
6 everyone takes part in some way, by giving their time, energy, and sometimes even money, because
7 they believe in the valuable services WordPress provides. . . . It takes a lot of time and energy to
8 create and then support Themes and Plugins, keeping them updated as WordPress changes and bugs
9 are found The more the WordPress Community supports the programmers, developers, testers,
10 and challengers, the stronger and better WordPress becomes. . . . Just remember, every contribution
11 counts, no matter what it looks like.” At the time Defendants made the above false statements, they
12 knew that WPE created and supported themes and plugins.

13 206. Mullenweg and Automattic’s statements tended directly to injure WPE in respect of
14 its business by (a) imputing to it a general disqualification in those respects which its occupation
15 peculiarly requires and (b) imputing something with reference to WPE’s business that has a natural
16 tendency to harm its profits. These statements constitute defamation per se.

17 207. Indeed, WPE’s business includes selling a platform specifically for websites that use
18 WordPress, which is open source, and WPE advertises itself as “[t]he most trusted platform for
19 WordPress” and its product as “[b]uilt purely for WordPress.” Defendants’ statements that WPE
20 aims to “squeeze every last bit out of the business and for open-source communities, it can be fatal,”
21 and “it’s not great for consumers often when you do that” communicates to listeners (a) that WPE
22 is harming WordPress, which its products specifically aim to support, and (b) that WPE is also
23 harming its customers.

24 208. As a proximate result of these publications, WPE has suffered general damages in
25 the form of reputational damage and incurred various special damages, including, but not limited
26 to, lost customers as well as resources and expenses incurred in efforts to remedy these
27 misstatements in the public eye.

28

PRAYER FOR RELIEF

WHEREFORE, WPE prays for judgment as follows:

1. A judgment in favor of Plaintiff that Defendants have intentionally interfered with the contractual relations of Plaintiff;
2. A judgment in favor of Plaintiff that Defendants have intentionally interfered with the prospective economic relations of Plaintiff;
3. A judgment in favor of Plaintiff that Defendants have violated the Computer Fraud and Abuse Act, 18 U.S.C. § 1030 *et seq.*
4. A judgment in favor of Plaintiff that Defendants have attempted to extort Plaintiff;
5. A judgment in favor of Plaintiff that Defendants have violated Cal. Bus. Prof. Code § 17200, *et seq.*
6. A judgment in favor of Plaintiff that Defendants are estopped under the doctrine of promissory estoppel;
7. A judgment declaring that Plaintiff does not infringe or dilute any enforceable, valid trademark rights owned by the Defendants;
8. A judgment in favor of Plaintiff that Defendants have libeled and/or trade libeled Plaintiff;
9. A judgment in favor of Plaintiff that Defendants have slandered Plaintiff;
10. A finding that WPE has remedied an important right affecting the public interest and is entitled to attorney fees under California Code of Civil Procedure section 1021.5;
11. A finding that this case is “exceptional” within the meaning of 15 U.S.C. § 1117 and a corresponding award of attorneys’ fees in Plaintiff’s favor;
12. Compensatory damages in an amount to be proven at trial;
13. Exemplary and punitive damages in an amount to be proven at trial;
14. An award of Plaintiff’s fees and costs in this action;
15. Pre-and post-judgment interest for Plaintiff’s costs and fees as available under law;
16. Injunctive relief; and

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17. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6, WPE hereby demands a jury trial on all issues so triable.

DATED: October 2, 2024

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

By 

Rachel Herrick Kassabian
Attorneys for Plaintiff WPEngine, Inc.

EXHIBIT A



September 23, 2024

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700 13th Street, N.W.
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Washington, D.C. 20005-3960
T: +1.202.654.6200
F: +1.202.654.6211
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VIA EMAIL & COURIER

Heather Brunner
Chief Executive Officer
WP Engine, Inc. (d/b/a/ WP Engine)
504 Lavaca Street, Suite 1000
Austin, TX 78701
heather.brunner@wpengine.com

With copy to:

Chad Costello
General Counsel
chad.costello@wpengine.com

Ramadass Prabhakar
Chief Technology Officer
ramadass.prabhakar@wpengine.com

Jason Teichman
Chief Operating Officer
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Ezinne Udezue
Chief Product Officer
ezinne.udezue@wpengine.com

Sam Monti
Chief Financial Officer
sam.monti@wpengine.com

Annette Alexander
Chief People Officer
annette.alexander@wpengine.com

**Re: Unauthorized Use of WordPress Foundation and WooCommerce, Inc. Intellectual Property
Our Ref. No.: 110338.7100**

Dear Ms. Brunner:

We represent Automattic Inc. and WooCommerce, Inc. (collectively, our “Client”) in connection with intellectual property matters.

As you know, our Client owns all intellectual property rights globally in and to the world-famous WOOCOMMERCE and WOO trademarks; and the exclusive commercial rights from the WordPress Foundation to use, enforce, and sublicense the world-famous WORDPRESS trademark, among others, and all other associated intellectual property rights.

September 23, 2024

Page 2



We are writing about WP Engine's web hosting and related services that improperly use our Client's WORDPRESS and WOOCOMMERCE trademarks in their marketing.

We understand that our Client has contacted you about securing a proper license to use its trademarks, yet no such agreement has been reached. As such, your blatant and widespread unlicensed use of our Client's trademarks has infringed our Client's rights and confused consumers into believing, falsely, that WP Engine is authorized, endorsed, or sponsored by, or otherwise affiliated or associated with, our Client. WP Engine's unauthorized use of our Client's trademarks also dilutes their rights, tarnishes their reputation, and otherwise harms the goodwill they have established in their famous and well-known trademarks, and has enabled WP Engine to unfairly compete with our Client, leading to WP Engine's unjust enrichment.

Accordingly, our Client insists that you immediately stop all unauthorized use of their trademarks. Please find additional details below.

Our Client's Rights

As noted above, our Client owns all intellectual property rights in and to the world-famous WOOCOMMERCE and WOO trademarks and the exclusive commercial rights to the world famous WORDPRESS trademark, among others, and all other associated intellectual property rights, in connection with software for Internet publishing and managing website content, website development, and other related goods and services. These rights include the following U.S. incontestable federal trademark registrations:

- WORDPRESS, U.S. Reg. No. 3201424
- WORDPRESS, U.S. Reg. No. 4764217
- WORDPRESS, U.S. Reg. No. 4865558
- WOOCOMMERCE, U.S. Reg. No. 5561427
-  , U.S. Reg. No. 5561428
- WOO, U.S. Reg. No. 5561425
-  , U.S. Reg. No. 5561426

Copies of the registration certificates for these registrations are attached as **Exhibit A**.

September 23, 2024

Page 3

Violations of Our Client's Intellectual Property Rights

WP Engine promotes its services as bringing “WordPress to the masses”. See <https://wpengine.com/about-us/>. In reality WP Engine brings almost zero aspect of WordPress to the world: It claims to contribute 40 hours per week to WordPress (see <https://wordpress.org/five-for-the-future/pledge/wp-engine/>), while, by contrast, Automattic is contributing almost 4000 hours per week to WordPress. See <https://wordpress.org/five-for-the-future/pledge/automattic/>.

Instead, WP Engine's entire business model is predicated on using our Client's trademarks – particularly WORDPRESS, WOOCOMMERCE, and WOO – to mislead consumers into believing there is an association between WP Engine and Automattic. Even a cursory review of WP Engine's website shows numerous examples of such misappropriation. See **Exhibit B** attached hereto.

On information and belief, WP Engine has developed a business generating annual revenues of over \$400 million, which has been based entirely on extensive and unauthorized uses of our Client's trademarks.

Unsurprisingly, WP Engine's infringing commercial uses of our Client's trademarks have created consumer confusion as to whether WP Engine is affiliated with our Client; including many references to WP Engine being “WordPress Engine”. A few of the hundreds of examples of actual confusion are attached as **Exhibit C**. Moreover, an objective empirical survey by a leading professional survey expert indicates that a significant degree of marketplace confusion is caused by your infringing use of the WORDPRESS and WOOCOMMERCE trademarks.

Your unauthorized use of our Client's trademarks infringes their rights and dilutes their famous and well-known marks. Negative reviews and comments regarding WP Engine and its offerings are imputed to our Client, thereby tarnishing our Client's brands, harming their reputation, and damaging the goodwill our Client has established in its marks. Your unauthorized use of our Client's intellectual property has enabled WP Engine to unfairly compete with our Client, and has led to unjust enrichment and undue profits.

Violations of Our WordPress Foundation Trademark Policy

It is further inappropriate that you violated the terms of your WordCamp US Sponsorship Agreement, which specified clearly that “any use of the WordPress trademarks is subject to the WordPress Trademark Policy listed at <http://wordpressfoundation.org/trademark-policy>.” You repeatedly and intentionally violated the WordPress Foundation Trademark Policy's prohibition on the “use [of] the[] [WordPress marks] as part of a product, project, service, domain name, or company name,” as demonstrated in Exhibit B attached hereto.

September 23, 2024

Page 4

Action Requested

Our Client cannot permit this unauthorized use of its intellectual property. Our Client is entitled to file civil litigation to obtain an injunction and an award of actual damages, a disgorgement of your profits, and our Client's costs and fees. Our Client also is entitled to seek an award of attorneys' fees due to the bad faith and extraordinary nature of WP Engine's knowing and willful infringements.

Notwithstanding the above, our Client is willing to amicably resolve this matter, including through a licensing relationship for use of its trademarks. However, until there is such a license in place, we demand that you (and any parties operating in concert with you or at your direction) **immediately**:

- Stop all unauthorized use of our Client's trademarks, including but not limited to the WORDPRESS, WOOCOMMERCE, and WOO trademarks;
- Remove any offerings making unauthorized use of our Client's trademarks from any websites under your control, any associated social media accounts, and any other online or offline locations;
- Remove and destroy any advertisements that make unauthorized use of our Client's trademarks, including any online or offline advertisements and other marketing materials;
- Provide an accounting of all profits from the service offerings that have made unauthorized use of our Client's intellectual property;
- Pay our Client compensation in the amount to make them whole for your unauthorized use of their intellectual property and unfair competition, the specific amount of which may be ascertained once we have an accounting from you as requested above (even a mere 8% royalty on WP Engine's \$400+ million in annual revenue equates to more than \$32 million in annual lost licensing revenue for our Client); and
- Refrain from any further offerings making unauthorized use of our Client's intellectual property.

Legal Hold

Given the nature of this matter and the failed attempts to reach an amicable resolution, please immediately put into place a legal hold for WP Engine to preserve (i.e., not delete, destroy or modify) all physical and electronically stored data, documents, software, information and things that relate in any way to the issues raised in this letter and the prior negotiations between WP Engine and our Client regarding those issues, including any discussions related to use of the

September 23, 2024

Page 5

WORDPRESS, WOOCOMMERCE, and WOO trademarks. Data, documents, software, information and things to be preserved include but are not limited to the following, whether retained on WP Engine's or its employees' servers, work computers, home computers, tablets, phones, or any other devices:

- Emails and their attachments;
- Physical and electronic versions of documents, in any form, whether a draft, final or copy;
- Physical and electronic calendar entries, meeting notes, appointments, memorandums, letters, and meeting requests;
- Voice mails and other audio or visual recordings or files;
- Software, including application source files, software repositories, build files, and JIRA tickets;
- Websites and screenshots, including visible content and metadata; and
- Advertising materials, including social media posts, communications with advertisers, and advertisements placed via search engine sponsored ads.

Please preserve all such data, documents, software, information and things in exactly their present form until we or our Client have confirmed in writing that the duty to preserve is no longer necessary.

Please confirm your understanding of and compliance with our Client's requests by **October 3, 2024**.

Our Client reserves all rights and remedies.

Sincerely,

/Jim Davis/

James R. Davis II

cc: Thomas L. Holt; Griffin Barnett

EXHIBIT A

Int. Cls.: 9 and 42

Prior U.S. Cls.: 21, 23, 26, 36, 38, 100 and 101

Reg. No. 3,201,424

United States Patent and Trademark Office

Registered Jan. 23, 2007

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

WordPress

AUTOMATTIC INC. (DELAWARE CORPORATION)
2757 GREEN STREET
SAN FRANCISCO, CA 94123

FOR: DOWNLOADABLE SOFTWARE PROGRAM FOR USE IN DESIGN AND MANAGING CONTENT ON A WEBSITE, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-28-2003; IN COMMERCE 3-28-2003.

FOR: SOFTWARE SOLUTIONS, NAMELY PROVIDING USE OF ON-LINE NON-DOWNLOADABLE

SOFTWARE FOR USE IN ENABLING INTERNET PUBLISHING, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 3-28-2003; IN COMMERCE 3-28-2003.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 78-826,734, FILED 3-1-2006.

TRAVIS WHEATLEY, EXAMINING ATTORNEY

United States of America
United States Patent and Trademark Office

WORDPRESS

Reg. No. 4,764,217

WORDPRESS FOUNDATION (CALIFORNIA CORPORATION)
660 4TH STREET #119

Registered June 30, 2015

SAN FRANCISCO, CA 94107

Int. Cl.: 25

FOR: CLOTHING, NAMELY, T-SHIRTS, HATS, SWEATSHIRTS, JACKETS, PULLOVERS,
TANK TOPS AND SHORTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

TRADEMARK

FIRST USE 7-0-2006; IN COMMERCE 7-0-2006.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 86-448,426, FILED 11-7-2014.

JULIE GUTTADAURO, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

***ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

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United States of America
United States Patent and Trademark Office

WORDPRESS

Reg. No. 4,865,558

WORDPRESS FOUNDATION (CALIFORNIA CORPORATION)
660 4TH STREET #119
SAN FRANCISCO, CA 94107

Registered Dec. 8, 2015

Int. Cl.: 41

FOR: ELECTRONIC PUBLISHING SERVICES, NAMELY, PUBLICATION OF VIDEO, TEXT AND GRAPHIC WORKS OF OTHERS VIA THE INTERNET, IN CLASS 41 (U.S. CLS. 100, 101 AND 107).

SERVICE MARK

FIRST USE 3-28-2003; IN COMMERCE 3-28-2003.

PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 86-448,439, FILED 11-7-2014.

JULIE GUTTADAURO, EXAMINING ATTORNEY



Michelle K. Lee

Director of the United States
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

Requirements in the First Ten Years*

What and When to File:

First Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

Second Filing Deadline: You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.*
See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

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United States of America

United States Patent and Trademark Office

WOOCOMMERCE

Reg. No. 5,561,427

Registered Sep. 11, 2018

Int. Cl.: 9, 42

Service Mark

Trademark

Principal Register

Bubblestorm Management (Pty) Limited (SOUTH AFRICA proprietary limited company (p/l or pty. ltd.))
60 29th Street #343
San Francisco, CALIFORNIA 94110

CLASS 9: Website development software

FIRST USE 9-27-2011; IN COMMERCE 9-27-2011

CLASS 42: Design of home pages, computer software and websites

FIRST USE 9-27-2011; IN COMMERCE 9-27-2011

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-796,658, FILED 10-22-2015



Andrei Iancu

Director of the United States
Patent and Trademark Office

REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION

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Requirements in the First Ten Years*

What and When to File:

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- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.* See 15 U.S.C. §1059.

Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

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United States of America

United States Patent and Trademark Office



Reg. No. 5,561,428

Registered Sep. 11, 2018

Int. Cl.: 9, 42

Service Mark

Trademark

Principal Register

Bubblestorm Management (Pty) Limited (SOUTH AFRICA proprietary limited company (p/l or pty. ltd.))
60 29th Street #343
San Francisco, CALIFORNIA 94110

CLASS 9: Website development software

FIRST USE 9-27-2011; IN COMMERCE 9-27-2011

CLASS 42: Design of home pages, computer software and websites

FIRST USE 9-27-2011; IN COMMERCE 9-27-2011

The mark consists of the word "WOO" contained within a word/thought bubble shape immediately followed by the word "COMMERCE".

No claim is made to the exclusive right to use the following apart from the mark as shown: "COMMERCE"

SER. NO. 86-796,666, FILED 10-22-2015



Andrei Iancu

Director of the United States
Patent and Trademark Office

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Requirements in the First Ten Years*

What and When to File:

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Requirements in Successive Ten-Year Periods*

What and When to File:

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.*

Grace Period Filings*

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United States of America

United States Patent and Trademark Office

WOO

Reg. No. 5,561,425

Registered Sep. 11, 2018

Int. Cl.: 9, 42

Service Mark

Trademark

Principal Register

Bubblestorm Management (Pty) Limited (SOUTH AFRICA proprietary limited company (p/l or pty. ltd.))
60 29th Street #343
San Francisco, CALIFORNIA 94110

CLASS 9: Website development software

FIRST USE 7-9-2008; IN COMMERCE 7-9-2008

CLASS 42: Design of home pages, computer software and websites

FIRST USE 7-9-2008; IN COMMERCE 7-9-2008

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 86-796,651, FILED 10-22-2015



Andrei Iancu

Director of the United States
Patent and Trademark Office

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United States of America

United States Patent and Trademark Office



Reg. No. 5,561,426

Registered Sep. 11, 2018

Int. Cl.: 9, 42

Service Mark

Trademark

Principal Register

Bubblestorm Management (Pty) Limited (SOUTH AFRICA proprietary limited company (p/l or pty. ltd.))

60 29th Street #343
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SER. NO. 86-796,654, FILED 10-22-2015



Andrei Iancu

Director of the United States
Patent and Trademark Office

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EXHIBIT B


HEADLESS WORDPRESS

Headless WordPress: the all-in-one headless platform for radically fast sites

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- ✓ Single, end-to-end optimized headless platform
- ✓ Incredible performance up to 10x classic WordPress
- ✓ Flexible Node.js frontend, including Next & React
- ✓ Diverse plans for any size project
- ✓ Free, feature-complete sandbox environments
- ✓ Rich resources, communities, and learning tools


 60 day money-back **guarantee**


 24/7 WordPress expert support


Excellent 


WORDPRESS HOSTING FOR SMALL BUSINESS

Power your business with the WordPress experts

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 [Plans & Pricing](#)

 [Migrate](#)

 [Case Studies](#)



FAST WORDPRESS HOSTING

Increase website speed with the fastest WordPress hosting

Create a better experience by improving your website speed up to 40% after migrating to WP Engine. Faster page speeds will increase your Google rankings and will drive more traffic to your site.

[Plans & Pricing](#)[Test Your Speed](#)

WORDPRESS SPEED

What makes WP Engine the fastest?

We used 3rd party data to determine who has the fastest platform and found that WP Engine has the highest percentage of **top WordPress hosts' sites** that load under 200ms. Our proprietary EverCache® caching technology is built with WordPress-specific rules designed to move hundreds of millions of hits per day—your site will run faster with less strain on resources. We offer free CDN and global data centers to provide a fast experience to globally.

MANAGED WORDPRESS HOSTING

Finally, a fully managed WordPress hosting service

Take the complexity out of website maintenance with a managed WordPress hosting platform that gives you industry-leading speed, security, and support.



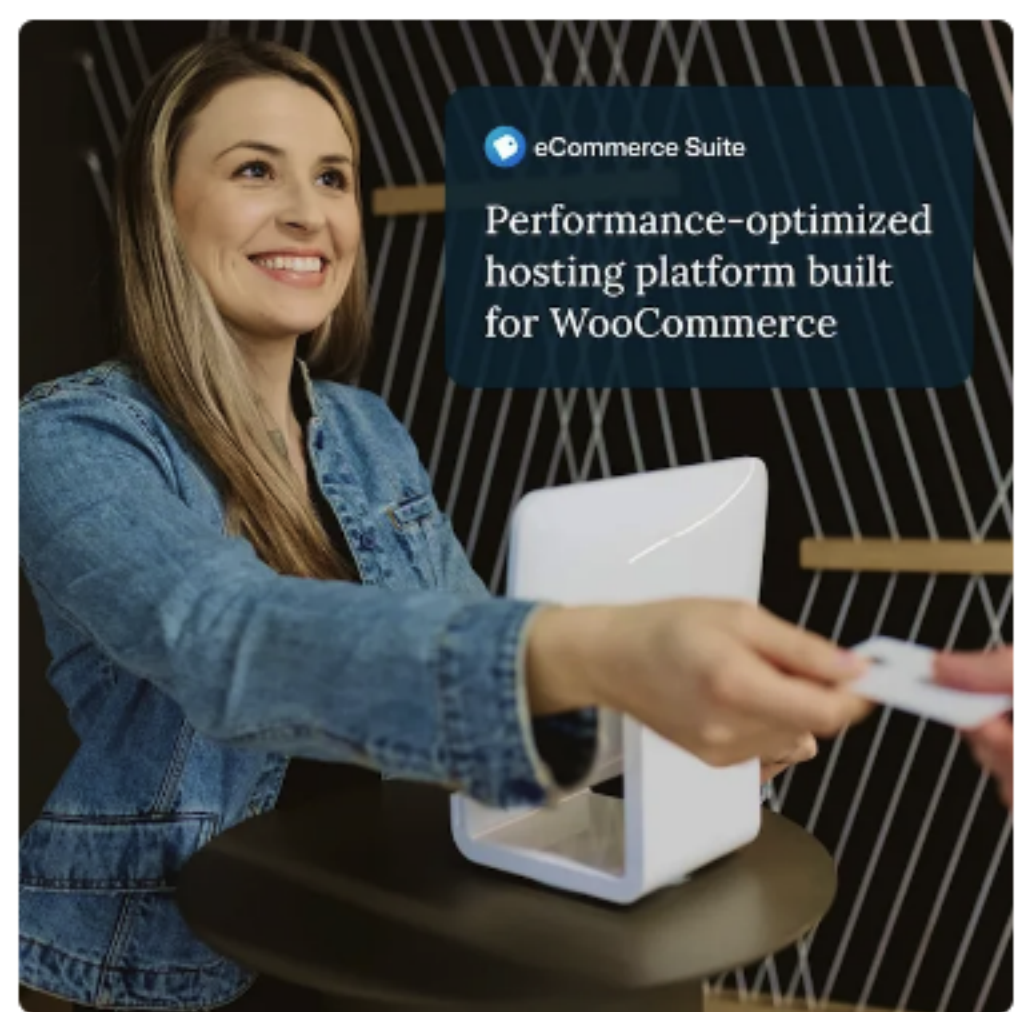
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OUR MANAGED HOSTING PLATFORM

What makes WP Engine the best managed WordPress host?

Think of a managed WordPress host as a dedicated technical assistant that powers your website. This includes threat detection and blocking, daily backups, regular WordPress updates, caching to boost page speeds, and more. WP Engine additionally equips you with premium tools to design, build, and launch your website with ease and 24/7 live support should you need it.



WOOCOMMERCE HOSTING

The path to WooCommerce success starts here

<input type="radio"/>	Startup	1 site, 25,000 visits/mo	\$24 USD /mo
<input checked="" type="radio"/>	Professional	3 sites, 75,000 visits/mo	\$50 USD /mo
<input type="radio"/>	Growth	10 sites, 100,000 visits/mo	\$94 USD /mo
<input type="radio"/>	Scale	30 sites, 400,000 visits/mo	\$234 USD /mo
<input type="radio"/>	Custom	Premium hosting solutions	Starting at \$500 USD /mo

4 months free saves \$300!

\$50

 USD /mo

Buy Now

View All Plans

Billed at ~~\$900~~ \$600* First year pricing for new customers only.

Excellent ★★★★★ 1,386 reviews on Trustpilot

60 day money-back guarantee

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WORDPRESS SUPPORT

WordPress technical experts at your service

Our award winning team of WordPress experts receive continuous training on the latest WordPress trends, WP Engine technology, and industry best practices. They're available to you 24/7.



[Plans & Pricing](#)

[Migrate Your Website](#)

The *most trusted* WordPress platform



24/7/365 GLOBAL SUPPORT

WordPress support, when you need it most

When you need help, customer support is everything. WP Engine's trusted WordPress experts act as an extension of your business and are committed to your success. From pre-launch to go live and beyond, we're here for you.

EXHIBIT C



Search in r/WordPress

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See more

RESOURCES

- About Reddit

TOPICS

- Internet Culture (Viral)
- Games
- Q&As

See more

r/WordPress • 8 days ago

wordpress engine is failing me....

Feels like Rackspace 5 years ago. support is dropping off. techs seem unfamiliar with so many things.

What do I love...

1. The multiple backups and recovery system. (I will need to find a similar level of ability)
2. a system that alerts you to known security issues with largely used plug=ins/themes

What do I not love

1. kinda expensive.... with 100 sites I am dropping a monthly bill larger than a nice house note
 2. support falling off (I need server geeks that can ferret out serious issues)
- I don't mind paying the bill. Hosting partners are usually my biggest expense (next to my awesome staff)... but I pay for the ability to sleep at night.

7 upvotes 42 comments

+ Add a Comment

Sort by: Best Search Comments

pwhite • 8d ago

Poor performance is my main issue with WP Engine of late.

9 upvotes 1 reply 1 award 1 share

NHRADeuce • 7d ago

I've always liked WP Engine, but this is what happens when companies get too big. WP Engine is getting huge.

I still have some clients on WP Engine, but the hulk of our sites are on Cloudways. We have the upgraded support package, but I'm not sure it's necessary. Their support has been top notch.

4 upvotes 1 reply 1 award 1 share

animpossiblepopsicle • 8d ago

I've been a customer for years but all my sites seem just a bit slower lately. Frustrating for the cost.

2 upvotes 1 reply 1 award 1 share

gold1mpala • 7d ago

Interesting your comment on the support. I thought the support up to a few months ago was terrible. Previous to that it was always great. My experience on the last few months is they've got they're act together again. Live chat, always resolves without the need for additional tickets or handing off to someone else.

2 upvotes 1 reply 1 award 1 share

2 more replies

retr00ne • 7d ago

Have you ever thought to host yourself?

Hetzner (dedicated), Linode or DigitalOcean VPS, Cloudways managed VPS with some nice control panel like CloudPanel plus ManageWP to handle multiple WP sites...

It's not so hard as it was decades ago. And it would be cheaper than WP Engine or Kinsta.

r/WordPress

Join

WordPress

The place for news, articles and discussion regarding WordPress.

220K Members

72 Online

Top 1% Rank by size

r/WordPress

Is 6-10 Seconds Load a Time "Normal" or is WP Engine...

7 upvotes 51 comments

r/framework

Screen problems.....

7 upvotes 9 comments

PREFERRED PARTNER



Axelerant Technologies, Inc.

Axelerant is your go-to WordPress Engine Partner. Our digital experience agency helps changemakers like other agencies, enterprises, and organizations make change.

We're a Great Place To Work® certified firm with uniquely empowered workforce of 180+ global team members.

Integrated services: Drupal, Acquia, DevOps, Frontend, Quality Engineering, and Consulting.

Why Choose Axelerant As Your WP Engine Partner?

Dedicated center of excellence for best implementation standards and holistic success

Experience-centric service suite to optimize your business potential

Use-case oriented value offering to achieve organization-specific goals

Open collaboration via leading project management approaches/tools

Practical solutions for resolving business pains/creating gains

Application Development, eCommerce, Migration Support, Headless, Web Design & Development, Website Maintenance

Greater than \$100,000

Boston, Massachusetts, United States

Contact this Agency Partner

First name* [input] Last name* [input]

Email* [input] Phone number* [input]

Company name* [input]

Tell us about your project* [input]

Submit

*Indicates required fields. By clicking submit, I acknowledge receipt of the WP Engine Privacy Policy.

Featured portfolio items



A Website to Mobilize Community Awareness around Health and Wellness.

Integrative Wellness required a flexible and easy-to-use hosting platform, which also offered interactive features and support.

The ideal choice was WordPress. Through WordPress contributed plugins, the customer could manage:

Blogs

Podcasts

Forums

Contact Forms

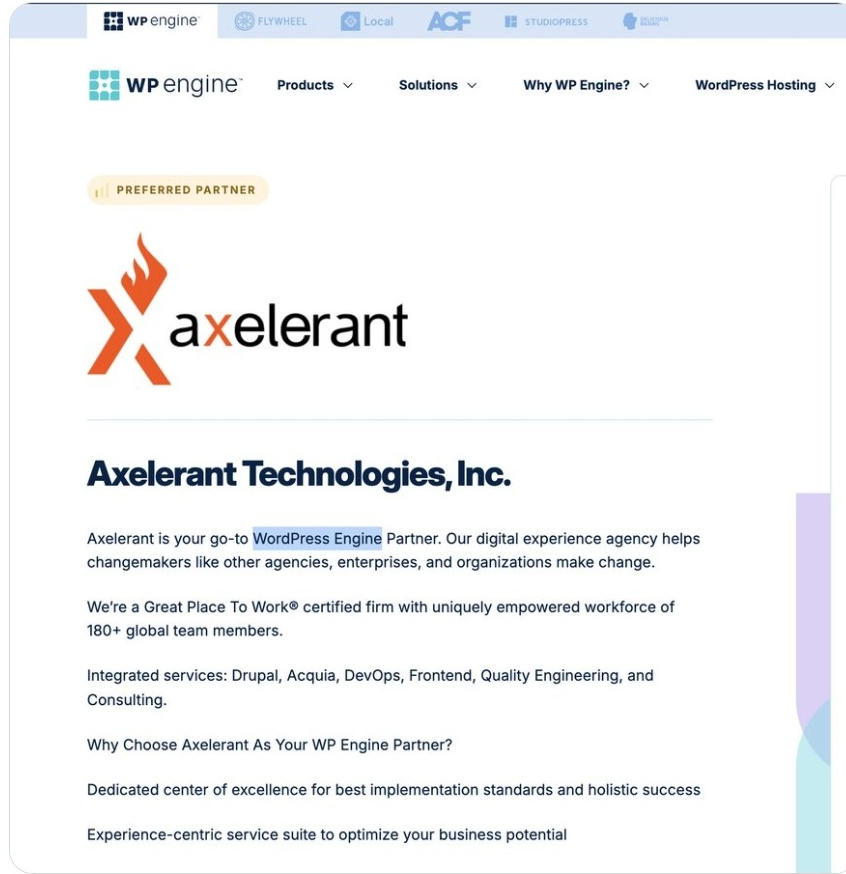
Additionally, we built a custom WordPress plugin to enable Guest Blogging on the site.



← Post


 **Prince Kumar**
@onemoreprince

WP Engine (& many others) call themselves "WordPress Engine"
wpengine.com/agency-directo...



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Exploring paradoxes in life. Learning the art of doing nothing.

 **Aaron Jorbin**
@aaronjorbin **Follow**
Odds are I've broken more websites than you // Art, Code, & Beverages.
[@WordPress](#) committer.
[@AMUNchicago](#) Board. he/him

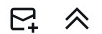
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Why Choose Axelerant As Your WP Engine Partner?

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Experience-centric service suite to optimize your business potential

 **Aaron Jorbin** @aaronjorbin · Sep 21

After walking around the sponsor hall as someone only tangentially connected to WordPress, @christinarose33 asked me what the big deal was with “WordPress Engine” and I think that exemplifies part of the problem. #WCUS

12:28 AM · Sep 22, 2024 · **6,354** Views



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5



3



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Jackson DeWalt @DewaltJackson · 21h

If that's the case, then provide a screenshot from WP engine, calling themselves, WordPress engine and not a third-party calling them WordPress engine



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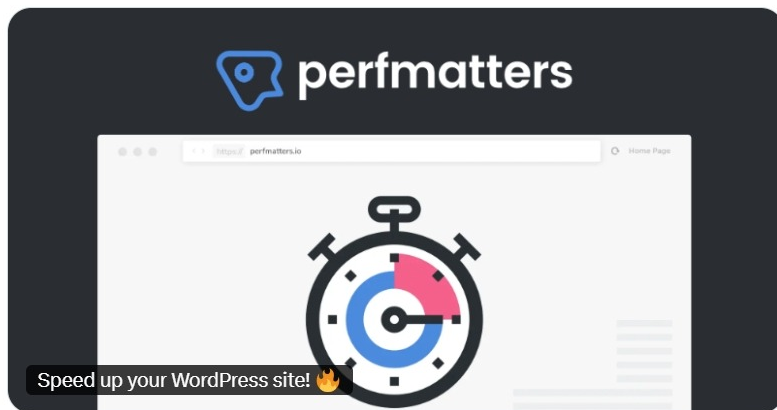
 If that's the case, then provide a screenshot from WP engine, calling themselves, WordPress engine and not a third-party calling them WordPress engine

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 **Prince Kumar** @onemoreprince · Sep 22 ...

This blog is a gem.

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Prince Kumar @onemoreprince · Sep 22



This blog is a gem.



Ángel @angelfplaza · Sep 22

this is a response to a post from @photomatt using WordPress.org as his own personal field to get more customers into their business @automattic.

From a member of WordPress.org
wpherc.com/wordpress-com-.....

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Post



Diane Tuman
@dianetuman

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6:07 AM · Aug 8, 2024 · 26 Views



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WordPress > Basics > **WordPress Engine**

- Understanding WordPress >
- WordPress Engine features
- The benefits of managed WordPress hosting >
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- 10Web advanced managed WordPress hosting

What Is WordPress Engine

WordPress Engine, often referred to simply as WP Engine, is a hosting service specifically designed for websites that use WordPress. It provides users with managed hosting, which means it takes care of all the technical aspects of running a WordPress site. This includes things like ensuring the site is secure, loading quickly, and running the latest version of WordPress. WP Engine is popular among businesses and professionals who want a robust, optimized environment for their WordPress sites without having to manage the technical details themselves.

It powers more than 1.5 million websites in over 150 countries. You'll find its features ideal for scaling and maintaining your sites without hassle. This makes it an appealing choice for anyone serious about their website's performance.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

WPEngine, Inc.

(b) County of Residence of First Listed Plaintiff Travis, TX (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Rachel Kassabian, Quinn Emanuel Urquhart & Sullivan LLP, 555 Twin Dolphin Dr., 5th Floor, Redwood Shores, CA 94065, (650) 801-5000

DEFENDANTS

Automattic Inc.; Matthew Charles Mullenweg

County of Residence of First Listed Defendant San Francisco, CA (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:
Declaration of rights with respect to trademark; intentional interference; unfair business practices; attempted extortion; cyber- extortion; libel; slander; and other causes of action.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 10/02/2024

SIGNATURE OF ATTORNEY OF RECORD

Rachel Kassabian

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.