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16 UNITED STATES DISTRICT COURT  
17 CENTRAL DISTRICT OF CALIFORNIA  
18 WESTERN DIVISION

19  
20 Yuga Labs, Inc.,  
21 Plaintiff,  
22 v.  
23 Ryder Ripps, Jeremy Cahen,  
24 Defendants.

Case No.: 2:22-cv-4355-JFW-JEM

**DISCOVERY MATTER**

**LOCAL RULE 37 JOINT  
STIPULATION RE YUGA LABS,  
INC.'S MOTION TO COMPEL**

Magistrate Judge: Hon. John E. McDermott  
Motion Hearing Date: January 17, 2023  
Motion Hearing Time: 10:00 AM  
Discovery Cutoff Date: April 3, 2023  
Pre-Trial Conference Date: June 9, 2023  
Trial Date: June 27, 2023

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1 This Joint Stipulation is hereby submitted by Plaintiff Yuga Labs, Inc. and  
2 Defendant Ryder Ripps (“Ripps”) pursuant to Local Rule 37-2 in connection with  
3 Yuga Labs’ motion to compel Ripps to produce documents and supplement his  
4 written discovery responses. Yuga Labs served its portion of this stipulation on  
5 December 13, 2022. The Court’s order establishing the schedule for this case is  
6 attached as Exhibit 1 to the Declaration of Ethan M. Thomas (“Thomas Decl.”).

7 **1. Yuga Labs’ Introductory Statement**

8 In this trademark infringement dispute, Defendants launched a business  
9 venture to explicitly mislead consumers into thinking that Defendants’ product —  
10 RR/BAYC NFTs — are affiliated, sponsored, or associated with Yuga Labs. Worse  
11 still, they have intentionally cultivated and relished in the harm their scam caused by  
12 this confusion. Defendants do not dispute that they are using Yuga Labs’ marks to  
13 sell nearly identical NFTs on the same marketplaces Yuga Labs sells its NFTs, which  
14 is textbook trademark infringement and explicitly misleading use of a mark. Rather,  
15 their communications show that the entire point of the sale of RR/BAYC NFTs *was*  
16 to profit off of confusing unsuspecting consumers into thinking that what they were  
17 purchasing was an authentic Yuga Labs product — the BAYC NFT. Privately, they  
18 laugh and joke about the people who are deceived by their scam. Yet,  
19 notwithstanding that this case bears the hallmarks of a business venture designed to  
20 profit from infringing another’s marks, Defendants refuse to produce the most basic  
21 information in this trademark dispute. For example:

22 • Defendants used Yuga Labs’ BAYC Marks to explicitly mislead  
23 consumers. Yet, Defendants have refused to produce documents showing the scope  
24 of their explicitly misleading activities. Nor have they produced all of the internal  
25 communications amongst the Defendants and their conspirators that they know are  
26 directly relevant to their business venture designed to mislead consumers and profit  
27 off of Yuga Labs’ goodwill in its BAYC Marks. Instead — notwithstanding a  
28 commitment during the parties’ meet and confer to produce direct messages — they

1 have produced almost exclusively public communications and a handful of cherry-  
2 picked, arbitrarily date-limited documents, willfully withholding other group chats,  
3 private messages, and data sources.

4 • Defendants use the BAYC Marks in their commercial websites:  
5 rrbayc.com and apemarket.com. Yet, Defendants have not produced documents  
6 relating to the registration of those domains.

7 • Defendants brought two developers (each of whom were to be paid  
8 through a percentage of sales of RR/BAYC and sales on Ape Market) into the scam  
9 to help Defendants execute the technology components of their business venture.  
10 Yet, Defendants refuse to produce their direct communications with these two  
11 developers.

12 • Defendants reserved 500 RR/BAYC NFTs to gift freely to influencers  
13 who they admit were to then “shill” (or market) the RR/BAYC NFTs so that  
14 Defendants could profit from the sale of those RR/BAYC NFTs. Yet, Defendants  
15 refuse to produce documents related to their communications with these third parties  
16 or related to Defendants’ other marketing efforts.

17 • Defendants profited from their commercial sales of RR/BAYC NFTs.  
18 Defendants also continue to profit off of secondary sales. Yet, Defendants refuse to  
19 produce any financials related to those sales or even documents showing the timing  
20 or volume of those sales.

21 These are but some of the most basic categories of information about which  
22 Defendants refuse to provide discovery. Worse still, Defendants deliberately delayed  
23 the provision of discovery in this case, wasting time and resources.

24 Yuga Labs filed its lawsuit on June 24, 2022, and, complying with the Court’s  
25 standing order, immediately began “to actively conduct discovery.” Thomas Decl.,  
26 Exhibit 2. It promptly served its First Set of Requests for Production (“RFPs”) and  
27 First Set of Interrogatories on Ripps on July 12, 2022, which are the subject of this  
28 stipulation. Thomas Decl. ¶ 5. Although Ripps nominally responded to the written

1 discovery on August 15, 2022, he did not even *begin* to produce any documents until  
2 November 2022.

3 When Ripps finally made his first production (jointly with Defendant Cahen)  
4 on November 16, 2022, that production was limited to publicly available information  
5 and a mere 13 documents. Thomas Decl. ¶ 13. Defendants’ supplemental  
6 December 1 production again consisted mostly of public articles and social media  
7 content, failing to address the issues raised in Yuga Labs’ prior meet and confer  
8 correspondence and calls. Thomas Decl. ¶ 16.

9 Yuga Labs’ discovery with third parties has revealed that Defendants collected  
10 documents from third parties to produce to Yuga Labs. But as part of this collection,  
11 Defendants *specifically* instructed a third party to collect only “publicly available”  
12 information to be produced to Yuga Labs. Thomas Decl., Exhibit 26 (text message  
13 from Defendant Cahen to a third party sharing instructions from an unknown party  
14 to “[l]imit to publicly available information”). In other words, although Defendants  
15 have access to third parties to obtain documents responsive to Yuga Labs’ requests,  
16 Defendants actively thwarted Yuga Labs’ efforts to obtain discovery. They continue  
17 to do so, forcing Yuga Labs to bring this issue before the Court.

18 Ripps has not provided any reason for substantially failing to produce  
19 responsive documents in the more than five months since Yuga Labs served its  
20 requests or why Defendants are actively obstructing Yuga Labs’ efforts to obtain  
21 discovery. Ripps has made two document productions consisting of less than one  
22 hundred documents. Thomas Decl. ¶¶ 13, 16. Almost all of those materials are  
23 publicly available; indeed, Defendants appear to have intentionally avoided the  
24 collection of non-public information relevant to this litigation. Thomas Decl.,  
25 Exhibit 26. Ripps also has not provided meritorious objections to Yuga Labs’  
26 requests that warrant his delay and obstruction tactics. “The party who resists  
27 discovery has the burden to show discovery should not be allowed, and has the  
28 burden of clarifying, explaining, and supporting its objections.” *U.S. ex rel.*

1 *O'Connell v. Chapman Univ.*, 245 F.R.D. 646, 648 (C.D. Cal. 2007). And his  
2 interrogatories largely fail to respond at all, referring to documents that have not been  
3 produced and generally identifying entire social media accounts, while producing  
4 fewer than 100 actual documents. Yuga Labs respectfully requests that the Court  
5 compel Ripps to immediately provide responsive information and materials as  
6 discussed below.

## 7 **2. Ripps' Introductory Statement**

8 Plaintiff Yuga Labs, Inc. ("Yuga")'s motion to compel should be denied  
9 because it is moot in light of Mr. Ripps' document productions to date and  
10 forthcoming supplemental interrogatory responses. The motion should also be  
11 denied as procedurally improper, since Yuga failed to meet and confer in good faith  
12 before filing, and, as to many of the issues in its motion, did not raise the alleged  
13 deficiencies at or before the parties' Local Rule 37-1 teleconference, but instead  
14 raised them for the first time in its motion.

15 Mr. Ripps and his co-defendant, Mr. Cahen, are individuals who have been  
16 targeted by Yuga, a multi-billion dollar company, for their criticism of racist and neo-  
17 nazi imagery in Yuga's Bored Ape Yacht Club series of NFTs. As individuals, Mr.  
18 Ripps and Mr. Cahen have limited resources to support litigation. Yuga is  
19 aggressively pursuing burdensome discovery in an apparent effort to inflict financial  
20 and psychological harm upon Mr. Ripps and Mr. Cahen.<sup>1</sup> Yuga has taken this  
21 extremely hostile approach against a backdrop in which it has resisted the discovery  
22 served by Mr. Ripps and Mr. Cahen (forcing Mr. Ripps and Mr. Cahen to file their  
23 own motion to compel that will be heard on the same day).

24 Mr. Ripps and Mr. Cahen have worked diligently to search for and produce  
25 responsive documents in this case. Those efforts have included hours of searching  
26 for communications and documents relating to the RR/BAYC project that is the

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27 \_\_\_\_\_  
28 <sup>1</sup> Yuga's contempt for defendants is evident in its use of pejorative terms like  
"scam" throughout its introductory statement.

1 subject of this action. The bulk of the communications about the project took place  
2 on a private Discord server. *Over a month ago*, Mr. Ripps and Mr. Cahen began  
3 producing the entirety of the communications on that server, and believed in good  
4 faith that those communications encompassed the vast majority of all relevant  
5 communications about the project. Since receiving those messages, Yuga has sought  
6 irrelevant communications that took place on other platforms, including Telegram,  
7 Twitter, SMS, and others. Although Mr. Ripps and Mr. Cahen believe such  
8 communications are irrelevant and unduly burdensome to collect and produce (in  
9 large part because these individuals must manually go through every communication  
10 they have had over many months to search for references to the RR/BAYC project),  
11 they have nonetheless spent the time to do so and made a third production of  
12 documents responsive to Yuga's requests on December 23, 2022 and plan to produce  
13 a fourth prior to the hearing on this motion. Accordingly, at present, Mr. Ripps and  
14 Mr. Cahen have conducted more than a reasonable search and will have produced the  
15 resulting responsive, non-privileged communications in their possession, custody, or  
16 control of which they are presently aware relating to the RR/BAYC project at issue  
17 in this litigation. In other words, the discovery that Yuga seeks in its motion has will  
18 have been produced by the time this court hears this motion. Although Yuga may be  
19 disappointed that Mr. Ripps and Mr. Cahen's communications lack the "smoking  
20 gun" that they hoped to find to serve their hateful and slanderous narrative, that is not  
21 a basis to grant a motion to compel.

22 Further, the instant motion should be denied as procedurally improper.  
23 Although the parties met and conferred telephonically on October 3, 2022, and  
24 November 28, 2022, Yuga failed to raise many of the requests at issue in this motion  
25 during either of those calls, including Requests for Production Nos. 1, 2, 3, 6, 13, 14,  
26 16, 21, 22, 26, 27, and 28 and Interrogatories Nos. 7, 11, and 13. *See* Thomas  
27 Declaration Ex. 9; Gosma Declaration Ex. 1. As a result, Yuga's motion should be  
28 denied with respect to those requests. Moreover, for the requests that actually were

1 raised during the parties' meet and confers, Yuga's motion is still improper because  
2 Yuga failed to engage with Mr. Ripps and meet and confer in good faith after he had  
3 made his supplemental production on December 1, 2022. Had Yuga once picked up  
4 the phone and raised any of its concerns, the issues herein could have been resolved  
5 without burdening the Court. And of course, as discussed above, Mr. Ripps has  
6 recently produced or will produce before the date of the hearing on this motion  
7 additional documents that moot the vast majority of Yuga's requests.

8 Mr. Ripps and Mr. Cahen have nothing to hide. The RR/BAYC project at the  
9 heart of this case is an expression of their protected right to speak out against hatred  
10 and what they view as Yuga's unethical business practices. Mr. Ripps and Mr. Cahen  
11 wish to cooperate in discovery and have their day in Court on the merits. To that  
12 end, they have spent countless hours and incurred substantial financial costs  
13 responding to discovery. Despite those efforts, Yuga rushed to court to file the instant  
14 motion in violation of the local rules and without even the courtesy of a phone call.  
15 For the reasons set forth herein, Yuga's motion should be denied.

### 16 **3. Issues in Dispute**

#### 17 **A. Interrogatory No. 3 (Ripps' Use of Yuga Labs' Marks)**

##### 18 Interrogatory No. 3:

19 Describe in detail the reasons for using the BAYC Marks in connection  
20 with the RR/BAYC NFTs.

##### 21 Response:

22 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
23 burdensome, and not proportional to the needs of the case in that it asks Mr.  
24 Ripps to "describe in detail the reasons for using the BAYC Marks in  
25 connection with the RR/BAYC NFTs" including details not relevant or only  
26 remotely relevant to this Litigation. Mr. Ripps further objects to this  
27 Interrogatory to the extent it assumes that Mr. Ripps has infringed Yuga's  
28 trademark rights associated with the BAYC NFTs. Mr. Ripps further objects



1 to this Interrogatory to the extent it seeks information that is publicly available.  
2 Mr. Ripps also objects to this Interrogatory as premature to the extent it is  
3 inconsistent with anti-SLAPP immunity. Mr. Ripps further objects to this  
4 Interrogatory to the extent it requests information protected from disclosure by  
5 the attorney-client privilege, common interest privilege, work product  
6 doctrine, or any other applicable privilege or immunity.

7 Subject to and without waiving the foregoing Specific Objections and  
8 General Objections, Mr. Ripps responds as follows:

9 Mr. Ripps incorporates his response to Interrogatory No. 1.

10 Supplemental Response:

11 Mr. Ripps displayed modified versions of certain Asserted Marks—for  
12 example, as incorporated into his project’s title, RR/BAYC—to identify the  
13 BAYC NFT collection that the RR/BAYC project criticizes.

14 **1. Yuga Labs’ Position**

15 This interrogatory asks Ripps about each of his uses of Yuga Labs’ BAYC  
16 Marks<sup>2</sup> and his reasons for doing so. Ripps’ use of Yuga Labs’ marks is a core factual  
17 issue to Yuga Labs’ infringement claims. Ripps has consistently admitted that he  
18 used Yuga Labs’ marks, *see* Defendants’ Motion to Strike (ECF No. 48) at 18 (“Mr.  
19 Ripps’s appropriation art project would not be readily identifiable, or even possible,  
20 without using Yuga’s marks”), 19 (“the nature of Mr. Ripps’s performance and  
21 appropriation art project requires use of Yuga’s marks”); *see also* Thomas Decl.,  
22 Exhibit 4, Ripps Response to Interrogatory No. 5 (“‘BAYC’ [in RR/BAYC]  
23 references the abbreviated title of Yuga’s NFT collection”). Ripps’ principal  
24 engineer in his business venture also testified that Ripps used Yuga Labs’ BAYC

25 \_\_\_\_\_  
26 <sup>2</sup> “BAYC Mark” is defined in the Interrogatories as “any Mark used by Yuga Labs  
27 in connection with the BAYC NFTs, including but not limited to the Marks identified  
28 in the Complaint (Dkt. 1) in the Action and specifically the Marks subject to pending  
trademark applications referenced in Paragraphs 24-30 of the Complaint in the  
Action.” Thomas Decl., Exhibit 4.

1 Marks in Ripps’ sales of the knock-off NFTs. There is no justification for Ripps to  
2 continue withholding a straightforward response to this interrogatory — explaining  
3 his use of each of Yuga Labs’ BAYC Marks.

4 Ripps’ initial response to this interrogatory failed to provide any substantive  
5 response, instead referring to a separate interrogatory seeking “the facts and  
6 circumstances concerning the conception and creation of the RR/BAYC NFTs.”  
7 Ripps promised to provide a substantive response during the parties’ meet and confer,  
8 but has still failed to do so. Instead, he narrowly confined his answer to “*modified*  
9 *versions of certain* Asserted Marks” (emphasis added). This answer fails to address  
10 why Ripps used unmodified BAYC Marks on several occasions, including on  
11 commercial marketplaces. It also fails to address each of the marks covered by the  
12 definition of a BAYC Mark. For example, this was the listing page for RR/BAYCs  
13 on the Foundation marketplace:



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26 Thomas Decl., Exhibit 23; *see also* Thomas Decl., Exhibits 24, 25. On this page,  
27 Ripps uses multiple Yuga Labs marks, including BORED APE YACHT CLUB,  
28 BAYC, and the BORED APE YACHT CLUB logo. Ripps addresses none of this

1 use (and, as discussed below, he has failed to produce documents in response to RFP  
2 No. 21 showing all of his uses of the BAYC Marks). Instead, Ripps' continues to  
3 evade a meaningful response to this interrogatory, and he should be compelled to  
4 identify and explain why and where he used any of Yuga Labs' BAYC's Marks,  
5 identified in the Complaint, modified or otherwise.

## 6 **2. Ripps' Position**

7 Yuga's position is misleading and mischaracterizes Mr. Ripps' Responses to  
8 Yuga's Interrogatory No. 3. Mr. Ripps' response to Interrogatory No. 3 expressly  
9 incorporates his response to Yuga's Interrogatory No. 1. Yet Yuga has failed to  
10 include that response in its portion of the stipulation. The omitted response to  
11 Interrogatory No. 1 reads as follows:

### 12 Response to Interrogatory No. 1.:

13 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
14 burdensome, and not proportional to the needs of the case in that it asks Mr.  
15 Ripps to "describe in detail the facts and circumstances" of the creation of  
16 RR/BAYC NFTs including details not relevant or only remotely relevant to  
17 this Litigation. Mr. Ripps further objects to this Interrogatory to the extent it  
18 seeks information that is publicly available. Mr. Ripps also objects to this  
19 Interrogatory as premature to the extent it is inconsistent with anti-SLAPP  
20 immunity. Mr. Ripps further objects to this Interrogatory to the extent it  
21 requests information on facts or circumstances that are protected from  
22 disclosure by the attorney-client privilege, common interest privilege, work  
23 product doctrine, or any other applicable privilege or immunity.

24 Subject to and without waiving the foregoing Specific Objections and  
25 General Objections, Mr. Ripps responds as follows:

26 At least two circumstances caused Mr. Ripps to create the RR/BAYC  
27 NFTs. First, Yuga embedded its BAYC NFTs with racist elements and then  
28 misled the public on its use of such elements. Mr. Ripps publicized Yuga's use

1 of racist elements on Twitter because he considered Yuga’s behavior to be  
2 unethical and harmful to society. Mr. Ripps later chose to speak out against  
3 Yuga through the performance and appropriation art project known as  
4 RR/BAYC. He created the RR/BAYC NFTs to bring attention to Yuga’s use  
5 of hidden racist elements and to create a community of educators that would  
6 stand up against Yuga’s offensive conduct.

7 Second, Mr. Ripps created RR/BAYC NFTs to educate the public on  
8 the non-fungible nature of NFTs. RR/BAYC NFTs show that purchasing an  
9 NFT involves purchasing only a unique digital token recorded on the  
10 blockchain, and not the corresponding digital image. Mr. Ripps demonstrated  
11 this fact by creating RR/BAYC NFTs that identify the same digital image as  
12 BAYC NFTs, but do not copy those digital images or their unique digital  
13 tokens.

14 Yuga’s statement that Mr. Ripps has “failed to provide any substantive  
15 response” is simply not true. As shown, Mr. Ripps’ incorporated response to  
16 Interrogatory No. 1 directly addresses the question in Interrogatory No. 3, stating that  
17 the RR/BAYC project was aimed at criticizing BAYC “to bring attention to Yuga’s  
18 use of hidden racist elements and to create a community of educators that would stand  
19 up against Yuga’s offensive conduct.” Mr. Ripps’ response goes on to explain that  
20 he wanted to “to educate the public on the non-fungible nature of NFTs” and that  
21 “Mr. Ripps demonstrated this fact by creating RR/BAYC NFTs that identify the same  
22 digital image as BAYC NFTs.” Likewise, Mr. Ripps’ supplemental response to  
23 Interrogatory No. 3 answers the interrogatory’s question directly, stating Mr. Ripps  
24 used certain Marks to “identify the BAYC NFT collection that the RR/BAYC project  
25 criticizes.”

26 Yuga also incorrectly states that Mr. Ripps’ response is limited to “modified  
27 versions” of the BAYC Mark and is, therefore, incomplete. As discussed above, Mr.  
28 Ripps’ response incorporates his response to Interrogatory No. 1, which is not limited

1 to modified versions but discusses a protest of BAYC NFTs generally.

2 Finally, Yuga incorrectly states that Mr. Ripps has failed to address why the  
3 RR/BAYC NFTs used multiple BAYC marks. Again, Mr. Ripps’ response to  
4 Interrogatory No. 3 incorporates his response to Interrogatory No. 1, which explains  
5 the reasons why all of the BAYC marks were used.

6 Accordingly, because Mr. Ripps has already fairly answered Yuga’s  
7 interrogatory, its motion should be denied.

8 **B. Interrogatory No. 8 (Contributors to and Investors in RR/BAYC  
9 NFTs)**

10 Interrogatory No. 8:

11 Identify all persons who have invested in or contributed in any way to  
12 the creation of any good, service, or NFT offered for sale in connection with  
13 any RR/BAYC Mark, including but not limited to Ape Market.

14 Response:

15 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
16 burdensome, and not proportional to the needs of the case in that it asks Mr.  
17 Ripps to “[i]dentify all persons” that have contributed “in any way” to the  
18 creation of “any good, service, or NFT offered for sale in connection with any  
19 RR/BAYC Mark” including persons that are not relevant or only remotely  
20 relevant to this Litigation. Mr. Ripps further objects to this Interrogatory as  
21 vague and ambiguous because Yuga has not defined “good” and “service,” and  
22 Mr. Ripps is unable to determine how Yuga is using these terms. Mr. Ripps  
23 also objects to this Interrogatory as vague and ambiguous because Mr. Ripps  
24 is unable to determine how “Ape Market” is an example of a “good” or  
25 “service.” Mr. Ripps also objects to this Interrogatory as premature to the  
26 extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps further objects  
27 to this Interrogatory to the extent it requests information protected from  
28 disclosure by the attorney-client privilege, common interest privilege, work

1 product doctrine, or any other applicable privilege or immunity.

2 Subject to and without waiving the foregoing Specific Objections and  
3 General Objections, Mr. Ripps responds as follows:

4 Mr. Ripps incorporates his response to Interrogatories Nos. 1 and 4.

5 Supplemental Response:

6 Subject to and without waiving the foregoing Specific Objections and  
7 General Objections, Mr. Ripps responds as follows:

8 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
9 non-privileged documents—to the extent any are kept in the ordinary course  
10 of business and are located through a reasonably diligent search—sufficient to  
11 identify persons that substantively contributed to the RR/BAYC project. Such  
12 documents include, but are not limited to, messages from the RR/BAYC  
13 Discord server and posts by the following social media accounts:

- 14 • @ryder\_rip
- 15 • @JeremyCahen
- 16 • @Pauly0x
- 17 • @ApeMarketplace

18 **1. Yuga Labs’ Position**

19 This is a simple interrogatory that asks Ripps to identify contributors to and  
20 investors in the Defendants’ infringing goods, services, and NFTs. This request is  
21 plainly relevant as it seeks the identity of those who have contributed to infringing  
22 goods, service, and NFTs offered under the RR/BAYC mark. Those individuals will  
23 have discoverable information regarding Yuga Labs’ claims, Ripps’ ill-gotten profits,  
24 and the credibility of Ripps’ defenses to commercially selling knock-off NFTs under  
25 Yuga Labs’ marks. For example, Yuga Labs has discovered from third parties that  
26 Ripps had an “assistant” who handled the majority of the transactions involving the  
27 knock-off NFTs, but Ripps has failed to identify this individual in any manner. At  
28 the parties’ meet and confer, counsel for Yuga Labs explained that Ripps’ answer to

1 this interrogatory was not responsive and asked him to supplement with a responsive  
2 answer identifying such persons.

3 Ripps' initial reason for not meaningfully responding to this interrogatory was  
4 that "there are no RR/BAYC Marks" and a supposed failure to understand the  
5 meaning of "goods" and "services." These points were clarified during the parties'  
6 meet and confer. Ripps also objected on overbreadth grounds, but failed to explain  
7 how any such individuals would not be relevant to this litigation. *See Runway TV,*  
8 *LLC v. De Gray*, No. 2:18-CV-02503-FMO-JC, 2020 WL 6712253, at \*5 (C.D. Cal.  
9 Sept. 15, 2020) (discovery requests not overbroad where they "call for relevant  
10 information that is proportional to the needs of the case").

11 Ripps has not identified any such person in his response and thereby failed to  
12 answer the actual question posed by Interrogatory No. 8. Instead, Ripps references  
13 unidentified "messages" and "posts" from public sources. Ripps also relies on Fed.  
14 R. Civ. P. 33(d), but fails to identify documents from which "the answer to [the]  
15 interrogatory may be determined." This response is, of course, insufficient. "It is  
16 well established that an answer to an interrogatory must be responsive to the  
17 question." *Ricaldai v. US Investigations Servs., LLC*, No. 10-cv-7388, 2012 WL  
18 13223296, at \*2 (C.D. Cal. Sept. 4, 2012) (citing *Scaife v. Boenne*, 191 F.R.D. 590,  
19 594 (N.D. Ind. 2000)). Because Ripps continues to refuse to provide an answer to  
20 this interrogatory, the Court should compel him to make an adequate and substantive  
21 response.

## 22 **2. Ripps' Position**

23 Yuga's position is misleading and mischaracterizes Mr. Ripps' Responses to  
24 Yuga's Interrogatory No. 8. Mr. Ripps' response to Interrogatory No. 8 incorporates  
25 his responses to Yuga's Interrogatory Nos. 1 and 4. Yet Yuga has impermissibly  
26 failed to include those responses in its portion of the stipulation. The omitted  
27 responses are reproduced below:

### 28 Response to Interrogatory No. 1:

1 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
2 burdensome, and not proportional to the needs of the case in that it asks Mr.  
3 Ripps to “describe in detail the facts and circumstances” of the creation of  
4 RR/BAYC NFTs including details not relevant or only remotely relevant to  
5 this Litigation. Mr. Ripps further objects to this Interrogatory to the extent it  
6 seeks information that is publicly available. Mr. Ripps also objects to this  
7 Interrogatory as premature to the extent it is inconsistent with anti-SLAPP  
8 immunity. Mr. Ripps further objects to this Interrogatory to the extent it  
9 requests information on facts or circumstances that are protected from  
10 disclosure by the attorney-client privilege, common interest privilege, work  
11 product doctrine, or any other applicable privilege or immunity.

12 Subject to and without waiving the foregoing Specific Objections and  
13 General Objections, Mr. Ripps responds as follows:

14 At least two circumstances caused Mr. Ripps to create the RR/BAYC  
15 NFTs. First, Yuga embedded its BAYC NFTs with racist elements and then  
16 misled the public on its use of such elements. Mr. Ripps publicized Yuga’s use  
17 of racist elements on Twitter because he considered Yuga’s behavior to be  
18 unethical and harmful to society. Mr. Ripps later chose to speak out against  
19 Yuga through the performance and appropriation art project known as  
20 RR/BAYC. He created the RR/BAYC NFTs to bring attention to Yuga’s use  
21 of hidden racist elements and to create a community of educators that would  
22 stand up against Yuga’s offensive conduct.

23 Second, Mr. Ripps created RR/BAYC NFTs to educate the public on  
24 the non-fungible nature of NFTs. RR/BAYC NFTs show that purchasing an  
25 NFT involves purchasing only a unique digital token recorded on the  
26 blockchain, and not the corresponding digital image. Mr. Ripps demonstrated  
27 this fact by creating RR/BAYC NFTs that identify the same digital image as  
28 BAYC NFTs, but do not copy those digital images or their unique digital



1 tokens.

2 Response to Interrogatory No. 4:

3 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
4 burdensome, and not proportional to the needs of the case in that it asks Mr.  
5 Ripps to “identify all RR/BAYC Marks” including RR/BAYC Marks that  
6 Yuga has not accused in this litigation, or marks that are not relevant or only  
7 remotely relevant to this Litigation. Mr. Ripps further objects to this  
8 Interrogatory to the extent it seeks information that is publicly available. Mr.  
9 Ripps also objects to this Interrogatory as premature to the extent it is  
10 inconsistent with anti-SLAPP immunity. Mr. Ripps further objects to this  
11 Interrogatory to the extent it requests information protected from disclosure by  
12 the attorney-client privilege, common interest privilege, work product  
13 doctrine, or any other applicable privilege or immunity.

14 Subject to and without waiving the foregoing Specific Objections and  
15 General Objections, Mr. Ripps responds as follows:

16 Mr. Ripps’s performance and appropriation art project is titled  
17 RR/BAYC. “RR” stands for Mr. Ripps’s name, Ryder Ripps, and “BAYC”  
18 references the abbreviated title of Yuga’s NFT collection. Mr. Ripps does not  
19 claim ownership or interest in any Mark related to the RR/BAYC project,  
20 including RR/BAYC.

21 These responses explain, in pertinent part, that Mr. Ripps is the creator of  
22 RR/BAYC, which is directly responsive to Interrogatory No. 8. Moreover, the plain  
23 text of Mr. Ripps’ supplemental response to Interrogatory No. 8 identifies by Twitter  
24 handle persons that participated in the project.

25 Further, Mr. Ripps’ supplemental responses to Interrogatory No. 8 committed  
26 to produce documents sufficient to “identify persons that substantively contributed  
27 to the RR/BAYC project.” Mr. Ripps made that production on December 1, 2022,  
28 when he produced private Discord chat messages of the creators of the RR/BAYC

1 project. As such, Yuga’s assertion that “Ripps has not identified any such person in  
2 his response” is incorrect.

3 Notwithstanding his already complete response, Mr. Ripps will, prior to the  
4 hearing on this motion, supplement his response to this interrogatory to provide a  
5 complete list of the names of the creators of the RR/BAYC project and the assistant  
6 who worked on the project. Mr. Ripps will also identify specific documents produced  
7 pursuant to Fed. R. Civ. P. 33(d) in response to this Interrogatory. Accordingly, there  
8 remains nothing for this court to compel for this interrogatory, and the court should  
9 deny Yuga’s motion as moot.

10 **C. Interrogatory No. 10 (Marketing of RR/BAYC NFTs)**

11 Interrogatory No. 10:

12 Identify all persons who were or are responsible for or participating in  
13 the marketing or advertising of any goods, services, or NFTs offered for sale  
14 or sold by or for you in connection with any BAYC Mark or RR/BAYC Mark,  
15 including but not limited to Ape Market.

16 Response:

17 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
18 burdensome, and not proportional to the needs of the case in that it asks Mr.  
19 Ripps to “[i]dentify all persons” that are responsible for or participating in the  
20 “marketing or advertising of any goods, services, or NFTs offered for sale or  
21 sold by you or for you in connection with any BAYC Mark or RR/BAYC  
22 Mark” including persons that are not relevant or only remotely relevant to this  
23 Litigation. Mr. Ripps further objects to this Interrogatory as vague and  
24 ambiguous because Yuga has not defined “goods,” “services,” and  
25 “participating” and Mr. Ripps is unable to determine how Yuga is using these  
26 terms. Mr. Ripps also objects to this Interrogatory as vague and ambiguous  
27 because Mr. Ripps is unable to determine how “Ape Market” is an example of  
28 a “goods” or “services.” Mr. Ripps further objects to this Interrogatory to the

1 extent it assumes that Mr. Ripps has infringed Yuga’s trademark rights  
2 associated with the BAYC Mark. Mr. Ripps also objects to this Interrogatory  
3 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
4 Ripps further objects to this Interrogatory to the extent it requests information  
5 protected from disclosure by the attorney-client privilege, common interest  
6 privilege, work product doctrine, or any other applicable privilege or  
7 immunity.

8 Subject to and without waiving the foregoing Specific Objections and  
9 General Objections, Mr. Ripps responds as follows:

10 Mr. Ripps incorporates his response to Interrogatories Nos. 1 and 4.

11 Supplemental Response:

12 Subject to and without waiving the foregoing Specific Objections and  
13 General Objections, Mr. Ripps responds as follows:

14 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
15 non-privileged documents—to the extent any are kept in the ordinary course  
16 of business and are located through a reasonably diligent search—sufficient to  
17 identify persons that were substantively involved in marketing the RR/BAYC  
18 project.

19 Such documents include, but are not limited to, messages from the  
20 RR/BAYC Discord server and posts by the following social media accounts:

- 21 • @ryder\_rippls
- 22 • @JeremyCahen
- 23 • @Pauly0x
- 24 • @ApeMarketplace

25 **1. Yuga Labs’ Position**

26 As with Interrogatory No. 8, Ripps provides a non-responsive answer to this  
27 interrogatory by generally mentioning public sources and relying on Fed. R. Civ. P.  
28 33(d) without actually producing or identifying documents that answer the

1 interrogatory. At the parties' meet and confer, counsel for Yuga Labs pointed out  
2 that Ripps' answer to this interrogatory was not responsive and asked him to  
3 supplement with a responsive answer identifying such persons. In the course of  
4 discovery, Yuga Labs has learned of various individuals who received RR/BAYC  
5 NFTs from Defendants in exchange for marketing. *See* Thomas Decl., Exhibit 27.  
6 Defendants have avoided the production of any such information on these payments  
7 in RR/BAYC NFTs and Yuga Labs only learned of these transactions from third  
8 parties.

9 This interrogatory is relevant because, as with Interrogatory No. 8, individuals  
10 involved in the marketing and promotion of Ripps' infringing products will have  
11 discoverable information regarding Yuga Labs' claims, Ripps' ill-gotten profits, and  
12 the credibility of Ripps' defenses to commercially selling knock-off NFTs under  
13 Yuga Labs' marks. Ripps should be compelled to provide a substantive and complete  
14 response to this interrogatory as well.

## 15 **2. Ripps' Position**

16 As with Interrogatory No. 8, Yuga once again fails to account for Mr. Ripps'  
17 response to Yuga's Interrogatory No. 1 and Interrogatory No. 4, which are  
18 incorporated by reference as part of Mr. Ripps' response. The omitted responses are  
19 reproduced below:

### 20 Response to Interrogatory No. 1:

21 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
22 burdensome, and not proportional to the needs of the case in that it asks Mr.  
23 Ripps to "describe in detail the facts and circumstances" of the creation of  
24 RR/BAYC NFTs including details not relevant or only remotely relevant to  
25 this Litigation. Mr. Ripps further objects to this Interrogatory to the extent it  
26 seeks information that is publicly available. Mr. Ripps also objects to this  
27 Interrogatory as premature to the extent it is inconsistent with anti-SLAPP  
28 immunity. Mr. Ripps further objects to this Interrogatory to the extent it

1 requests information on facts or circumstances that are protected from  
2 disclosure by the attorney-client privilege, common interest privilege, work  
3 product doctrine, or any other applicable privilege or immunity.

4 Subject to and without waiving the foregoing Specific Objections and  
5 General Objections, Mr. Ripps responds as follows:

6 At least two circumstances caused Mr. Ripps to create the RR/BAYC  
7 NFTs. First, Yuga embedded its BAYC NFTs with racist elements and then  
8 misled the public on its use of such elements. Mr. Ripps publicized Yuga's use  
9 of racist elements on Twitter because he considered Yuga's behavior to be  
10 unethical and harmful to society. Mr. Ripps later chose to speak out against  
11 Yuga through the performance and appropriation art project known as  
12 RR/BAYC. He created the RR/BAYC NFTs to bring attention to Yuga's use  
13 of hidden racist elements and to create a community of educators that would  
14 stand up against Yuga's offensive conduct.

15 Second, Mr. Ripps created RR/BAYC NFTs to educate the public on  
16 the non-fungible nature of NFTs. RR/BAYC NFTs show that purchasing an  
17 NFT involves purchasing only a unique digital token recorded on the  
18 blockchain, and not the corresponding digital image. Mr. Ripps demonstrated  
19 this fact by creating RR/BAYC NFTs that identify the same digital image as  
20 BAYC NFTs, but do not copy those digital images or their unique digital  
21 tokens.

22 Response to Interrogatory No. 4:

23 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
24 burdensome, and not proportional to the needs of the case in that it asks Mr.  
25 Ripps to "identify all RR/BAYC Marks" including RR/BAYC Marks that  
26 Yuga has not accused in this litigation, or marks that are not relevant or only  
27 remotely relevant to this Litigation. Mr. Ripps further objects to this  
28 Interrogatory to the extent it seeks information that is publicly available. Mr.

1 Ripps also objects to this Interrogatory as premature to the extent it is  
2 inconsistent with anti-SLAPP immunity. Mr. Ripps further objects to this  
3 Interrogatory to the extent it requests information protected from disclosure by  
4 the attorney-client privilege, common interest privilege, work product  
5 doctrine, or any other applicable privilege or immunity.

6 Subject to and without waiving the foregoing Specific Objections and  
7 General Objections, Mr. Ripps responds as follows:

8 Mr. Ripps's performance and appropriation art project is titled  
9 RR/BAYC. "RR" stands for Mr. Ripps's name, Ryder Ripps, and "BAYC"  
10 references the abbreviated title of Yuga's NFT collection. Mr. Ripps does not  
11 claim ownership or interest in any Mark related to the RR/BAYC project,  
12 including RR/BAYC.

13 Those responses explain, in pertinent part, that Mr. Ripps is the creator of  
14 RR/BAYC, which is directly responsive to Interrogatory No. 10. Moreover, the plain  
15 text of Mr. Ripps' response to Interrogatory No. 10 identifies by Twitter handle  
16 persons that participated in the project. Further, Mr. Ripps' supplemental responses  
17 to Interrogatory No. 10 committed to produce documents sufficient to "identify  
18 persons that were substantively involved in marketing the RR/BAYC project." Mr.  
19 Ripps made that production on December 1, 2022, which included private Discord  
20 chat messages of the creators of the RR/BAYC project. *See*  
21 RIPPSCAHEN00000301, which includes discussions relating to marketing of  
22 RR/BAYC. Thus, Yuga's assertion that Mr. Ripps has "a non-responsive answer to  
23 this interrogatory" is incorrect.

24 Notwithstanding his already complete response, Mr. Ripps will, prior to the  
25 hearing on this motion, supplement his response to this interrogatory to identify, by  
26 name, the individuals that were involved in marketing of RR/BAYC. Mr. Ripps will  
27 also identify specific documents produced pursuant to Fed. R. Civ. P. 33(d) in  
28 response to this Interrogatory. Accordingly, there remains nothing for this court to

1 compel for this interrogatory, and the court should deny Yuga’s motion as moot.

2 **D. Interrogatory No. 15 (Returns and Refunds of RR/BAYC NFTs)**  
3 Interrogatory No. 15:

4 Identify and describe the circumstances surrounding every instance in  
5 which a person asked to return, sell back to you, or receive a refund for a  
6 RR/BAYC NFT.

7 Response:

8 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
9 burdensome, and not proportional to the needs of the case in that it asks Mr.  
10 Ripps to “[i]dentify and describe the circumstances surrounding every instance  
11 in which a person asked to return, sell back to you, or receive a refund for a  
12 RR/BAYC NFT,” even if such requests (if any exist) are not relevant or only  
13 remotely relevant to this Litigation. Mr. Ripps also objects to this Interrogatory  
14 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
15 Ripps further objects to this Interrogatory to the extent it requests information  
16 protected from disclosure by the attorney-client privilege, common interest  
17 privilege, work product doctrine, or any other applicable privilege or  
18 immunity.

19 Subject to and without waiving the foregoing Specific Objections and  
20 General Objections, Mr. Ripps responds as follows:

21 None.

22 Supplemental Response:

23 Subject to and without waiving the foregoing Specific Objections and  
24 General Objections, Mr. Ripps responds as follows:

25 Mr. Ripps is aware of one request for a return by twitter user  
26 @orchidmouth on June 27, 2022. Mr. Ripps is not presently aware of any  
27 additional requests for returns.

28 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify

1 non-privileged documents—to the extent any are kept in the ordinary course  
2 of business and are located through a reasonably diligent search—sufficient to  
3 identify returns of RR/BAYC NFTs of which Mr. Ripps is aware.

4 Such documents include, but are not limited to, messages from the  
5 RR/BAYC Discord server and posts by the following social media accounts:

- 6 • @ryder\_ripps
- 7 • @JeremyCahen
- 8 • @Pauly0x
- 9 • @ApeMarketplace

### 10 **1. Yuga Labs’ Position**

11 This interrogatory seeks occasions on which purchasers of Ripps’ knockoff  
12 NFTs sought to return them or seek a refund. These instances are relevant to issues  
13 of actual confusion and harm to Yuga Labs. *See Home Comfort Heating and Air*  
14 *Conditioning, Inc. v. Ken Starr, Inc.*, 2018 WL 3816745, at \*7 (C.D. Cal. 2018)  
15 (considering customers’ attempts to return products and requests for refunds in  
16 finding of actual confusion); *Comphy Company v. Amazon.com, Inc.*, 371 F.Supp.3d  
17 914, 927 (W.D. Wash. 2019) (finding likelihood of confusion after considering  
18 instance where a consumer purchased defendant’s product mistakenly and returned  
19 it after receiving it).

20 Ripps initially responded with a mere “None.” However, presented with an  
21 example of the exact circumstances sought by this interrogatory that made his initial  
22 response patently false, Ripps supplemented his answer to identify only that one  
23 instance. Though Ripps now says he is “not presently aware of any additional  
24 requests for returns,” this is belied by his own minimal document production. In  
25 communications produced by Ripps, users discuss the common-knowledge  
26 understanding that Ripps provides purchases with refunds for RR/BAYC purchases  
27 and reservations:

- 28 • “I think RR refunded everyone who wanted them.”



- 1 • “Remaing will be hand minted at some point according to Ryder. If you
- 2 requested and didn’t get your ape, you will be refunded.”
- 3 • “U can get ur refund from Ryder”
- 4 • “Ryder allows refund. If someone had ever bought by mistake they can
- 5 ping him and he’ll return the eth.”

6 Thomas Decl., Exhibit 15. Ripps’ initial response and supplemental response  
7 demonstrate that he has not undertaken a good-faith diligent review to identify  
8 responsive information. Ripps should be compelled to identify all such instances  
9 described in this interrogatory rather than withholding responsive information.

10 **2. Ripps’ Position**

11 Yuga’s suggestion that Mr. Ripps’ responses “demonstrate that he has not  
12 undertaken a good-faith diligent review” is baseless. At the time he made his initial  
13 response, Mr. Ripps was unable to recall any instance in which he was asked to  
14 refund the purchase of a RR/BAYC NFT. When Yuga identified the instance  
15 referenced above, Mr. Ripps investigated and promptly amended his response to  
16 include that instance.

17 Although Yuga cited to a series of messages that it suggests evidence further  
18 refunds, the content of those messages do not support Yuga’s claim. Rather, the  
19 messages discuss the *opinions*’ of participants in the messaging platform that Mr.  
20 Ripps *allows* for refunds and a possible process for obtaining them. None of these  
21 messages identifies an actual request for a refund and, therefore, they are entirely  
22 consistent with Mr. Ripps’ response to this interrogatory.

23 Notwithstanding his already complete response, Mr. Ripps has begun  
24 producing and will complete producing before the hearing on this motion additional  
25 public and private messages on Twitter, Discord, and Telegram, where the  
26 RR/BAYC community interacted with one another and where any refund requests  
27 would most likely have been directed. Mr. Ripps is unaware of any other sources of  
28 information that could reflect requests for refunds that could be located after a

1 reasonable search. Moreover, prior to the hearing on this motion, Mr. Ripps will  
2 provide a supplemental interrogatory response identifying any relevant  
3 documentation discovered during Mr. Ripps' most recent document collection.

4 Accordingly, there is nothing further for the court to compel, and the motion  
5 should be denied as moot with respect to this interrogatory.

6 **E. Interrogatory No. 16 (Transactions Involving the Parties' NFTs  
and Marks)**

7 Interrogatory No. 16:

8 Identify every transaction to which you were a party or beneficiary,  
9 including any secondary sales, involving any BAYC NFT or Mark or any  
10 RR/BAYC NFT or Mark.

11 Response:

12 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
13 burdensome, and not proportional to the needs of the case. For example, the  
14 Interrogatory is overbroad because it asks Mr. Ripps to “[i]dentify every  
15 transaction to which you were a party or beneficiary, including any secondary  
16 sales, involving any BAYC NFT” including transactions relating to BAYC  
17 NFTs that are not relevant or are only remotely relevant to this Litigation. The  
18 Interrogatory is also overbroad to the extent it seeks information on  
19 transactions for RR/BAYC NFTs that are unrelated or only remotely related to  
20 the accused sales in this Litigation. Mr. Ripps also objects to this Interrogatory  
21 to the extent it seeks disclosure of information that Mr. Ripps is under an  
22 obligation to a third party not to disclose. Mr. Ripps also objects to this  
23 Interrogatory as premature to the extent it is inconsistent with anti-SLAPP  
24 immunity. Mr. Ripps further objects to this Interrogatory to the extent it  
25 requests information protected from disclosure by the attorney-client privilege,  
26 common interest privilege, work product doctrine, or any other applicable  
27 privilege or immunity.  
28

1 Subject to and without waiving the foregoing Specific Objections and  
2 General Objections, Mr. Ripps responds as follows:

3 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
4 non-privileged documents for which Mr. Ripps does not have an obligation to  
5 a third party to withhold from disclosure—to the extent any are kept in the  
6 ordinary course of business and are located through a reasonably diligent  
7 search—sufficient to identify whether Mr. Ripps was a beneficiary of  
8 transactions involving RR/BAYC NFT sales accused in this Litigation.

9 **1. Yuga Labs' Position**

10 This interrogatory seeks information regarding Ripps' transactions involving  
11 either genuine BAYC NFTs or knockoff RR/BAYC NFTs. This information is  
12 necessary to discern information such as which infringing RR/BAYC NFTs Ripps  
13 sold (and profited from), which ones he purchased or accepted as returns, and which  
14 genuine BAYC NFTs he may have bought or sold to interfere with Yuga Labs'  
15 customers or market.

16 This interrogatory is also relevant to, among other things, how Defendants  
17 intended to further commercialize and expand their Ape Market. Ape Market was  
18 designed as an online marketplace to sell the Defendants' infringing NFTs alongside  
19 Yuga Labs' genuine products. During the expansion of their scam, the Defendants  
20 and others had discussions about how to position Ape Market in the marketplace.  
21 Ripps wrote that he should purchase a BAYC NFT to offer for sale on the Ape Market  
22 in order to offer some legitimacy to his new marketplace. Thomas Decl., Exhibit 21.  
23 Whether Ripps, or someone on his behalf, made this suggested purchase is relevant  
24 to establishing that Ape Market was a commercial business venture designed to profit  
25 directly off Yuga Labs' BAYC Marks.

26 A response to this interrogatory would require only a list of the transactions.  
27 Ripps has failed to identify any such transactions, however. He responds by citing  
28 to Fed. R. Civ. P. 33(d), but he has not produced or identified any records responsive

1 to this interrogatory. Ripps should be compelled to identify all transactions of  
2 RR/BAYC NFTs or BAYC NFTs to which he was a party or beneficiary.

3 **2. Ripps' Position**

4 Yuga's position that Mr. Ripps "has not produced or identified any records  
5 responsive to this interrogatory" is plainly false. Mr. Ripps produced private Discord  
6 messages surrounding the RR/BAYC project on December 1, 2022. These messages  
7 include a link to a document entitled "FINAL: First Draw RR/BAYC Accounting"  
8 available at  
9 ([https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE\\_LaLiar6VAsAtMDA  
10 MVCha44yvtvbQ/edit#gid=1061603011](https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE_LaLiar6VAsAtMDA_MVCha44yvtvbQ/edit#gid=1061603011)) that includes transaction specific  
11 information for the minting of and proceeds from RR/BAYC NFTs.

12 Prior to the hearing on this motion, Mr. Ripps will supplement his  
13 interrogatory responses to identify the spreadsheet identified above, as well as other  
14 specific documents that have relevant responsive information. Accordingly, there is  
15 nothing for the court to compel.

16 **F. Interrogatory No. 17 (Wallet Addresses)**

17 Interrogatory No. 17:

18 Identify all cryptographic public keys (i.e., the public address of every  
19 wallet) used by you to send, receive, or transfer funds related to any BAYC  
20 NFT or RR/BAYC NFT.

21 Response:

22 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
23 burdensome, and not proportional to the needs of the case in that it asks for  
24 "all cryptographic public keys," even though the public addresses of digital  
25 wallets are not relevant or are only remotely relevant to this Litigation. This  
26 Interrogatory is also overbroad to the extent it seeks the public address of every  
27 wallet involved in transactions of BAYC NFTs because Mr. Ripps's  
28 transactions relating to BAYC NFTs (if any exist) are not relevant or are only

1 remotely relevant to this Litigation. Mr. Ripps also objects to this Interrogatory  
2 to the extent it seeks disclosure of information that Mr. Ripps is under an  
3 obligation to a third party not to disclose. Mr. Ripps also objects to this  
4 Interrogatory as premature to the extent it is inconsistent with anti-SLAPP  
5 immunity. Mr. Ripps further objects to this Interrogatory to the extent it  
6 requests information protected from disclosure by the attorney-client privilege,  
7 common interest privilege, work product doctrine, or any other applicable  
8 privilege or immunity.

9 Subject to and without waiving the foregoing Specific Objections and  
10 General Objections, Mr. Ripps responds as follows:

11 Mr. Ripps is willing to meet and confer regarding this Interrogatory.

12 Supplemental Response:

13 Subject to and without waiving the foregoing Specific Objections and  
14 General Objections, Mr. Ripps responds as follows:

15 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
16 non-privileged documents—to the extent any are kept in the ordinary course  
17 of business and are located through a reasonably diligent search—sufficient to  
18 identify public wallet addresses controlled by Mr. Ripps that was used to send,  
19 receive, or transfer funds that were obtained from the RR/BAYC project.

20 **1. Yuga Labs’ Position**

21 This interrogatory seeks the addresses of digital “wallets” used by Ripps to  
22 buy, sell, and transfer funds related to either genuine BAYC NFTs or knockoff  
23 RR/BAYC NFTs. Similar to Interrogatory No. 16, the information sought by this  
24 interrogatory is necessary to discern Ripps’ ill-gotten profits from his business  
25 venture in selling RR/BAYC NFTs. This interrogatory also seeks to determine  
26 Ripps’ involvement in market transactions of any such NFTs, and to the extent Ripps  
27 may have bought or sold either type of NFT in order to manipulate the market for  
28 them and inflate/deflate value, that information would be relevant to Yuga Labs’

1 damages. The parties clarified at the meet and confer discussion that all wallet  
2 addresses should be identified, notwithstanding Ripps' initial position that  
3 cryptocurrency wallet addresses were not "cryptographic public keys."

4 Though this interrogatory is a simple ask for wallet addresses (alphanumeric  
5 strings of characters that serve as a rough equivalent to bank accounts on the  
6 blockchain), Ripps has failed to provide any. Instead, he responds by citing to Fed.  
7 R. Civ. P. 33(d), but he has not produced or identified records showing wallet  
8 addresses that he uses. Ripps should be compelled to identify all such addresses, as  
9 requested by the interrogatory, and to confirm that the list is complete.

## 10 **2. Ripps' Position**

11 Yuga's position that Mr. Ripps has "failed to provide any" wallet addresses is,  
12 once again, false. Mr. Ripps' response to Interrogatory No. 17 committed to produce  
13 documents "sufficient to identify public wallet addresses controlled by Mr. Ripps  
14 that was used to send, receive, or transfer funds that were obtained from the  
15 RR/BAYC project." Mr. Ripps produced private Discord messages surrounding the  
16 RR/BAYC project on December 1, 2022. These messages include a link to a  
17 document entitled "FINAL: First Draw RR/BAYC Accounting" available at  
18 ([https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE\\_LaLiar6VAsAtMDA\\_MVCha44yvtvbQ/edit#gid=1061603011](https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE_LaLiar6VAsAtMDA_MVCha44yvtvbQ/edit#gid=1061603011))  
19 that includes transaction specific  
20 information and the Wallet IDs of where the transactions were going to. With this  
21 information, Yuga can easily ascertain the wallet addresses used by Mr. Ripps to  
22 interact with the RR/BAYC contract.

23 Additionally, to be further clear in his response, prior to the hearing on this  
24 motion, Mr. Ripps will produce a native version of the link described above and will  
25 supplement his interrogatory response to include information sufficient to identify  
26 the specific wallets controlled by Mr. Ripps that were used for the RR/BAYC project.  
27 Accordingly, there is nothing for the court to compel.

28

1 **G. Requests for Production Nos. 1, 2, 3, 6, 13, 14, 16, 21, 22, 26, 27,**  
2 **and 28 (Documents Ripps Agreed to Produce in his Initial**  
3 **Responses re his Business Operations Infringing Yuga Labs**  
4 **Marks; And Yet Ripps has Continued to Fail to Make the**  
5 **Promised Production)**

6 Request No. 1:

7 All documents and communications concerning Yuga Labs.

8 Response:

9 Mr. Ripps incorporates his General Objections and Limitations to the  
10 extent applicable to the Request. Mr. Ripps further objects to this Request  
11 because it is overly broad, unduly burdensome, vague and ambiguous, and  
12 seeks information that is neither relevant to the claims or defenses of any party  
13 to this action nor proportional to the needs of the case. For example, the  
14 Request is overbroad because it seeks “[a]ll documents and communications  
15 concerning Yuga Labs,” even if such documents and communications (should  
16 any exist) are not related or only remotely related to this Litigation. Mr. Ripps  
17 further objects to this Request to the extent it seeks information that is publicly  
18 available. Mr. Ripps also objects to this Request as premature to the extent it  
19 is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects to this  
20 Request to the extent it seeks documents that are protected from disclosure by  
21 the attorney-client privilege, the common interest privilege, the work product  
22 doctrine, or any other applicable privilege or immunity against disclosure. Mr.  
23 Ripps further objects to this Request to the extent that it calls for information  
24 not within Mr. Ripps’s possession, custody, or control.

25 Subject to and without waiving the foregoing Specific Objections and  
26 General Objections, Mr. Ripps responds as follows:

27 To the extent any non-privileged documents exist, Mr. Ripps will  
28 produce such non-privileged documents—to the extent any are kept in the  
ordinary course of business, are not publicly available, and are located through  
a reasonably diligent search—referring to Yuga in connection with issues

1 relevant to this Litigation.

2 Request No. 2:

3 All documents and communications concerning any BAYC Mark.

4 Response:

5 Mr. Ripps incorporates his General Objections and Limitations to the  
6 extent applicable to the Request. Mr. Ripps further objects to this Request  
7 because it is overly broad, unduly burdensome, vague and ambiguous, and  
8 seeks information that is neither relevant to the claims or defenses of any party  
9 to this action nor proportional to the needs of the case. For example, the  
10 Request is overbroad because it seeks “[a]ll documents and communications  
11 concerning any BAYC Mark,” even if such documents and communications  
12 (should any exist) are not related or only remotely related to this Litigation.  
13 Mr. Ripps further objects to this Request to the extent it seeks information that  
14 is publicly available. Mr. Ripps also objects to this Request as premature to  
15 the extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects  
16 to this Request to the extent it seeks documents that are protected from  
17 disclosure by the attorney-client privilege, the common interest privilege, the  
18 work product doctrine, or any other applicable privilege or immunity against  
19 disclosure. Mr. Ripps further objects to this Request to the extent that it calls  
20 for information not within Mr. Ripps’s possession, custody, or control.

21 Subject to and without waiving the foregoing Specific Objections and  
22 General Objections, Mr. Ripps responds as follows:

23 To the extent any non-privileged documents exist, Mr. Ripps will  
24 produce such non-privileged documents—to the extent any are kept in the  
25 ordinary course of business, are not publicly available, and are located through  
26 a reasonably diligent search—referring to any asserted BAYC Mark in  
27 connection with issues relevant to this Litigation.

28 Request No. 3:



1 All documents and communications concerning any BAYC NFT.

2 Response:

3 Mr. Ripps incorporates his General Objections and Limitations to the  
4 extent applicable to the Request. Mr. Ripps further objects to this Request  
5 because it is overly broad, unduly burdensome, vague and ambiguous, and  
6 seeks information that is neither relevant to the claims or defenses of any party  
7 to this action nor proportional to the needs of the case. For example, the  
8 Request is overbroad because it seeks “[a]ll documents and communications  
9 concerning any BAYC NFT,” even if such documents and communications  
10 (should any exist) are not related or only remotely related to this Litigation.  
11 Mr. Ripps further objects to this Request to the extent it seeks information that  
12 is publicly available. Mr. Ripps also objects to this Request as premature to  
13 the extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects  
14 to this Request to the extent it seeks documents that are protected from  
15 disclosure by the attorney-client privilege, the common interest privilege, the  
16 work product doctrine, or any other applicable privilege or immunity against  
17 disclosure. Mr. Ripps further objects to this Request to the extent that it calls  
18 for information not within Mr. Ripps’s possession, custody, or control.

19 Subject to and without waiving the foregoing Specific Objections and  
20 General Objections, Mr. Ripps responds as follows:

21 To the extent any non-privileged documents exist, Mr. Ripps will  
22 produce such non-privileged documents—to the extent any are kept in the  
23 ordinary course of business, are not publicly available, and are located through  
24 a reasonably diligent search—referring to BAYC NFTs in connection with  
25 issues relevant to this Litigation.

26 Request No. 6:

27 All documents and communications concerning the advertisement of the  
28 RR/BAYC NFTs.

1           Response:

2           Mr. Ripps incorporates his General Objections and Limitations to the  
3 extent applicable to the Request. Mr. Ripps further objects to this Request  
4 because it is overly broad, unduly burdensome, vague and ambiguous, and  
5 seeks information that is neither relevant to the claims or defenses of any party  
6 to this action nor proportional to the needs of the case. For example, the  
7 Request is overbroad because it seeks “[a]ll documents and  
8 communications...” even if such documents and communications (should any  
9 exist) are not related or only remotely related to this Litigation. Mr. Ripps  
10 further objects to this Request to the extent it seeks information that is publicly  
11 available. Mr. Ripps also objects to this Request as premature to the extent it  
12 is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects to this  
13 Request to the extent it seeks documents that are protected from disclosure by  
14 the attorney-client privilege, the common interest privilege, the work product  
15 doctrine, or any other applicable privilege or immunity against disclosure. Mr.  
16 Ripps further objects to this Request to the extent that it calls for information  
17 not within Mr. Ripps’s possession, custody, or control.

18           Subject to and without waiving the foregoing Specific Objections and  
19 General Objections, Mr. Ripps responds as follows:

20           To the extent any non-privileged documents exist, Mr. Ripps will  
21 produce such non-privileged documents—to the extent any are kept in the  
22 ordinary course of business, are not publicly available, and are located through  
23 a reasonably diligent search—referring to advertisements of RR/BAYC NFTs  
24 in connection with issues relevant to this Litigation.

25           Request No. 13:

26           Documents sufficient to identify all channels of trade through which any  
27 RR/BAYC NFT is advertised, promoted, distributed, or sold, directly or  
28 indirectly.

1           Response:

2           Mr. Ripps incorporates his General Objections and Limitations to the  
3 extent applicable to the Request. Mr. Ripps further objects to this Request  
4 because it is overly broad, unduly burdensome, vague and ambiguous, and  
5 seeks information that is neither relevant to the claims or defenses of any party  
6 to this action nor proportional to the needs of the case. For example, the  
7 Request is overbroad because it seeks “[d]ocuments sufficient to identify all  
8 channels of trade through which any RR/BAYC NFT is advertised, promoted,  
9 distributed, or sold, directly or indirectly” even if such documents (should any  
10 exist) are not related or only remotely related to this Litigation. Mr. Ripps  
11 further objects to this Request as vague and ambiguous because Yuga has not  
12 defined “indirectly” and Mr. Ripps is unable to determine how Yuga is using  
13 this term. Mr. Ripps further objects to this Request to the extent it seeks  
14 information that is publicly available. Mr. Ripps also objects to this Request  
15 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
16 Ripps also objects to this Request to the extent it seeks documents that are  
17 protected from disclosure by the attorney-client privilege, the common interest  
18 privilege, the work product doctrine, or any other applicable privilege or  
19 immunity against disclosure. Mr. Ripps further objects to this Request to the  
20 extent that it calls for information not within Mr. Ripps’s possession, custody,  
21 or control.

22           Subject to and without waiving the foregoing Specific Objections and  
23 General Objections, Mr. Ripps responds as follows:

24           To the extent any non-privileged documents exist, Mr. Ripps will  
25 produce such non-privileged documents—to the extent any are kept in the  
26 ordinary course of business, are not publicly available, and are located through  
27 a reasonably diligent search—sufficient to disclose Mr. Ripps’s use of non-  
28 public channels for the sale of RR/BAYC NFTs.

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Request No. 14:

Documents sufficient to identify all channels of trade through which any good, service, or NFT using any RR/BAYC Mark is advertised, promoted, distributed, or sold, directly or indirectly.

Response:

Mr. Ripps incorporates his General Objections and Limitations to the extent applicable to the Request. Mr. Ripps further objects to this Request because it is overly broad, unduly burdensome, vague and ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor proportional to the needs of the case. For example, the Request is overbroad because it seeks “[d]ocuments sufficient to identify all channels of trade through which any good, service, or NFT using any RR/BAYC Mark is advertised, promoted, distributed, or sold, directly or indirectly” even if such (should any exist) are not related or only remotely related to this Litigation. Mr. Ripps further objects to this Request as vague and ambiguous because Yuga has not defined “indirectly” and Mr. Ripps is unable to determine how Yuga is using this term. Mr. Ripps further objects to this Request to the extent it seeks information that is publicly available. Mr. Ripps also objects to this Request as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects to this Request to the extent it seeks documents that are protected from disclosure by the attorney-client privilege, the common interest privilege, the work product doctrine, or any other applicable privilege or immunity against disclosure. Mr. Ripps further objects to this Request to the extent that it calls for information not within Mr. Ripps’s possession, custody, or control. Mr. Ripps also objects to the Request for being duplicative and subsumed in Request No. 13.

Subject to and without waiving the foregoing Specific Objections and General Objections, Mr. Ripps responds as follows:

1 To the extent any non-privileged documents exist, Mr. Ripps will  
2 produce such non-privileged documents—to the extent any are kept in the  
3 ordinary course of business, are not publicly available, and are located through  
4 a reasonably diligent search—sufficient to disclose Mr. Ripps’s use of non-  
5 public channels for the promotion of RR/BAYC Marks.

6 Request No. 16:

7 Documents sufficient to identify any person to or with whom you  
8 market, sell, or distribute or intend to market, sell, or distribute any RR/BAYC  
9 NFT or any good, service, or NFT using any BAYC Mark or RR/BAYC Mark.

10 Response:

11 Mr. Ripps incorporates his General Objections and Limitations to the  
12 extent applicable to the Request. Mr. Ripps further objects to this Request as  
13 vague and ambiguous because Yuga has not defined “good” or “service” and  
14 Mr. Ripps is unable to determine how Yuga is using these terms. Mr. Ripps  
15 further objects to this Request to the extent it seeks information that is publicly  
16 available. Mr. Ripps also objects to this Request as premature to the extent it  
17 is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects to this  
18 Request to the extent it seeks documents that are protected from disclosure by  
19 the attorney-client privilege, the common interest privilege, the work product  
20 doctrine, or any other applicable privilege or immunity against disclosure. Mr.  
21 Ripps further objects to this Request to the extent that it calls for information  
22 not within Mr. Ripps’s possession, custody, or control.

23 Subject to and without waiving the foregoing Specific Objections and  
24 General Objections, Mr. Ripps responds as follows:

25 To the extent any non-privileged documents exist, Mr. Ripps will  
26 produce such non-privileged documents—to the extent any are kept in the  
27 ordinary course of business, are not publicly available, and are located through  
28 a reasonably diligent search—sufficient to disclose intended consumers for

1 RR/BAYC NFTs.

2 Request No. 21:

3 Documents sufficient to show each and every use by you of any BAYC  
4 Mark.

5 Response:

6 Mr. Ripps incorporates his General Objections and Limitations to the  
7 extent applicable to the Request. Mr. Ripps further objects to this Request  
8 because it is overly broad, unduly burdensome, vague and ambiguous, and  
9 seeks information that is neither relevant to the claims or defenses of any party  
10 to this action nor proportional to the needs of the case. For example, the  
11 Request is overbroad because it seeks “each and every use by you of any  
12 BAYC Mark,” even if such documents (should any exist) are not related or  
13 only remotely related to this Litigation. Mr. Ripps further objects to this  
14 Request to the extent it seeks information that is publicly available. Mr. Ripps  
15 also objects to this Request as premature to the extent it is inconsistent with  
16 anti-SLAPP immunity. Mr. Ripps also objects to this Request to the extent it  
17 seeks documents that are protected from disclosure by the attorney-client  
18 privilege, the common interest privilege, the work product doctrine, or any  
19 other applicable privilege or immunity against disclosure. Mr. Ripps further  
20 objects to this Request to the extent that it calls for information not within Mr.  
21 Ripps’s possession, custody, or control.

22 Subject to and without waiving the foregoing Specific Objections and  
23 General Objections, Mr. Ripps responds as follows:

24 To the extent any non-privileged documents exist, Mr. Ripps will  
25 produce such non-privileged documents—to the extent any are kept in the  
26 ordinary course of business, are not publicly available, and are located through  
27 a reasonably diligent search—sufficient to show any of the asserted BAYC  
28 Marks used in the promotion or sale of RR/BAYC NFTs.

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Request No. 22:

All documents and communications concerning your registration, licensing, current or previous ownership, or transfer of any domain name that incorporates any BAYC Mark or RR/BAYC Mark, in whole or in part.

Response:

Mr. Ripps incorporates his General Objections and Limitations to the extent applicable to the Request. Mr. Ripps further objects to this Request because it is overly broad, unduly burdensome, vague and ambiguous, and seeks information that is neither relevant to the claims or defenses of any party to this action nor proportional to the needs of the case. For example, the Request is overbroad because it seeks “[a]ll documents and communications concerning your registration, licensing, current or previous ownership, or transfer of any domain name that incorporates any BAYC Mark or RR/BAYC Mark, in whole or in part,” even if such documents (should any exist) are not related or only remotely related to this Litigation. Mr. Ripps further objects to this Request to the extent it seeks information that is publicly available. Mr. Ripps also objects to this Request as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects to this Request to the extent it seeks documents that are protected from disclosure by the attorney-client privilege, the common interest privilege, the work product doctrine, or any other applicable privilege or immunity against disclosure. Mr. Ripps further objects to this Request to the extent that it calls for information not within Mr. Ripps’s possession, custody, or control.

Subject to and without waiving the foregoing Specific Objections and General Objections, Mr. Ripps responds as follows:

To the extent any non-privileged documents exist, Mr. Ripps will produce such non-privileged documents—to the extent any are kept in the ordinary course of business, are not publicly available, and are located through

1 a reasonably diligent search—sufficient to show the use of any asserted BAYC  
2 Mark in a domain name that relates to the accused activities in this Litigation.

3 Request No. 26:

4 Documents sufficient to show your revenue, gross profits, and net  
5 profits from the sale of RR/BAYC NFTs.

6 Response:

7 Mr. Ripps incorporates his General Objections and Limitations to the  
8 extent applicable to the Request. Mr. Ripps also objects to this Request as  
9 premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
10 Ripps also objects to this Request to the extent it seeks documents that are  
11 protected from disclosure by the attorney-client privilege, the common interest  
12 privilege, the work product doctrine, or any other applicable privilege or  
13 immunity against disclosure. Mr. Ripps further objects to this Request to the  
14 extent that it calls for information not within Mr. Ripps’s possession, custody,  
15 or control.

16 Subject to and without waiving the foregoing Specific Objections and  
17 General Objections, Mr. Ripps responds as follows:

18 Mr. Ripps is investigating whether he maintains the requested  
19 information, including whether such information is maintained in the manner  
20 specified. Based on the outcome of this investigation, Mr. Ripps will produce  
21 such non-privileged documents—to the extent any are kept in the ordinary  
22 course of business and are located through a reasonably diligent search—  
23 sufficient to show revenues and summary P&L data for the sale of RR/BAYC  
24 NFTs.

25 Request No. 27:

26 Documents sufficient to show any costs or expenses you incurred in  
27 connection with the RR/BAYC NFTs, including all documents on which you  
28 intend to rely to show your costs or expenses in this Action.



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Response:

Mr. Ripps incorporates his General Objections and Limitations to the extent applicable to the Request. Mr. Ripps also objects to this Request as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps also objects to this Request to the extent it seeks documents that are protected from disclosure by the attorney-client privilege, the common interest privilege, the work product doctrine, or any other applicable privilege or immunity against disclosure. Mr. Ripps further objects to this Request to the extent that it calls for information not within Mr. Ripps’s possession, custody, or control. Mr. Ripps also objects to the Request for being duplicative and subsumed in Request No. 26.

Subject to and without waiving the foregoing Specific Objections and General Objections, Mr. Ripps responds as follows:

Mr. Ripps is investigating whether he maintains the requested information, including whether such information is maintained in the manner specified. Based on the outcome of this investigation, Mr. Ripps will produce such non-privileged documents—to the extent any are kept in the ordinary course of business and are located through a reasonably diligent search—sufficient to show revenues and summary P&L data for the sale of RR/BAYC NFTs.

Request No. 28:

All documents and communications concerning returns of or refunds for any RR/BAYC NFT.

Response:

Mr. Ripps incorporates his General Objections and Limitations to the extent applicable to the Request. Mr. Ripps further objects to this Request because it is overly broad, unduly burdensome, vague and ambiguous, and seeks information that is neither relevant to the claims or defenses of any party

1 to this action nor proportional to the needs of the case. For example, the  
2 Request is overbroad because it seeks “[a]ll documents and  
3 communications...” even if such (should any exist) are not related or only  
4 remotely related to this Litigation. Mr. Ripps also objects to this Request as  
5 premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
6 Ripps also objects to this Request to the extent it seeks documents that are  
7 protected from disclosure by the attorney-client privilege, the common interest  
8 privilege, the work product doctrine, or any other applicable privilege or  
9 immunity against disclosure. Mr. Ripps further objects to this Request to the  
10 extent that it calls for information not within Mr. Ripps’s possession, custody,  
11 or control.

12 Subject to and without waiving the foregoing Specific Objections and  
13 General Objections, Mr. Ripps responds as follows:

14 Mr. Ripps is investigating whether he maintains the requested  
15 information, including whether such information is maintained in the manner  
16 specified. Based on the outcome of this investigation, Mr. Ripps will produce  
17 such non-privileged documents—to the extent any are kept in the ordinary  
18 course of business and are located through a reasonably diligent search—  
19 sufficient to show returns or refunds for RR/BAYC NFTs.

### 20 **1. Yuga Labs’ Position**

21 Ripps acknowledged, in his initial responses on August 15, 2022 (Thomas  
22 Decl., Exhibit 5), that each of these requests seeks information discoverable under  
23 Fed. R. Civ. P. 26 and that there is no basis for withholding responsive documents.  
24 However, notwithstanding his commitment to produce these documents, Ripps has  
25 not.

26 Counsel for Yuga Labs raised issues with respect to these requests on  
27 November 16, 2022. Thomas Decl., Exhibit 13. Then, during a meet and confer call  
28 on November 28, 2022, counsel for Ripps addressed these document production

1 deficiencies by promising a substantially complete production on December 1. That  
2 production failed to address these issues.

3 At a minimum, Yuga Labs is entitled to receive, through these requests, the  
4 following documents:

- 5 • Every use by Ripps of a BAYC Mark, as defined in the request. (RFP 21)
- 6 • All text, SMS, Signal, Telegram, Discord, or other forms of communication  
7 amongst Ripps, Cahen, Ryan Hickman, and/or Tom Lehman, or other third  
8 parties as yet unknown to Plaintiff but known to Defendants, related to Yuga  
9 Labs, RR/BAYC NFTs, the RR/BAYC RSVP contract, rrbayc.com, or  
10 apemarket.com. (E.g. RFP 1, 2, 3, 6, 21)
- 11 • All development documents and communications, including source code,  
12 related to RR/BAYC NFTs, the RR/BAYC RSVP contract, rrbayc.com, or  
13 apemarket.com. (E.g. RFP 1, 2, 3, 13, 21)
- 14 • All documents or communications with or related to the transfer of any  
15 RR/BAYC NFT to any third party to promote or advertise RR/BAYC NFTS.  
16 (E.g. RFP 13, 14, 16)
- 17 • All registration documents and communications related to the same for the  
18 rrbayc.com and apemarket.com domains (RFP 22)
- 19 • Documents sufficient to show revenue, gross profits, and net profits from the  
20 sale of RR/BAYC NFTS. (RFP 26)
- 21 • Documents sufficient to show any costs or expenses you incurred in  
22 connection with the RR/BAYC NFTs, including all documents on which you  
23 intend to rely to show your costs or expenses in this Action. (RFP 27)
- 24 • All documents and communications concerning returns of or refunds for any  
25 RR/BAYC NFT. (RFP 28)

26 Ripps has failed to produce these documents, and has therefore failed to meet  
27 his obligations under Fed. R. Civ. P. 26. *Burnett v. United States*, 2016 WL 3392263,  
28 at \*5 (C.D. Cal. 2016) (“The requesting party ‘is entitled to individualized, complete  
responses to each of the requests . . . , accompanied by production of each of the  
documents responsive to the request, regardless of whether the documents have  
already been produced.’”).


Ripps has, and is withholding, responsive documents to these requests. For  
example, Ripps’ communications reveal that a user going by the name of “omakse is

1 supposed to make a wrapper” to allow for RR/BAYC NFTs to be used on Twitter as  
2 verified profile pictures identical to the ones available for BAYC NFT holders, but  
3 he has produced no such documents or communications regarding that business and  
4 marketing arrangement. Thomas Decl., Exhibit 15. Ripps and Defendant Cahen  
5 (“Pauly Shore” in the messages) have also discussed “shilling” RR/BAYC NFTs  
6 through third parties to artificially inflate demand. See Thomas Decl., Exhibits 27,  
7 28.

8 A third party produced documents showing that Defendants regularly  
9 communicated in group chats on third party social media platforms such as Telegram  
10 and Discord about their marketing of RR/BAYC NFTs and development and  
11 marketing of the rrbayc.com and apemarket.com websites, but Ripps has not  
12 produced, or confirmed the authenticity and completeness of, those internal  
13 communications either. E.g., Thomas Decl., Exhibits 17, 18. Worse still, one of the  
14 group chats show that on or about June 28, 2022, Ripps’ assistant started another  
15 group chat about Yuga Labs that has not been produced by any party or non-party:

16 ryder  28-Jun-22 06:33 PM  
17  Yuga\_Labs\_LOA\_1.pdf  
526.72 KB

18  
19 arze 28-Jun-22 06:40 PM  
what are you gonna do

20 ryder  28-Jun-22 06:51 PM  
21 not sure  
seems like a test no

22  
23 middlemarch.eth 28-Jun-22 07:28 PM  
Happy to brainstorm / help with what to do, though I think it's best to do so via voice call versus writing on this thing

24 arze 28-Jun-22 07:28 PM  
should probably move over to telegram/signal

25 arze 28-Jun-22 07:46 PM  
26 i can start a group chat i have everyone except tom  
27  
28

1 Thomas Decl., Exhibit 19. A third party recently testified that he and the Defendants  
2 were members of this group chat, which he believed to be on Telegram, in which  
3 Yuga Labs and the use of Yuga Labs' marks was discussed. The third party deleted  
4 those messages, but Ripps has presumably not spoliated them and should produce  
5 them. Group chats involving Defendants also show that Defendants secured the  
6 domain registrations for rrbayc.com and apemarket.com, and yet Defendants  
7 produced no documents related to those activities. *E.g.* Thomas Decl., Exhibit 20.  
8 This third party also testified that he had relevant text messages with Ripps  
9 concerning Yuga Labs, which Ripps has not produced.

10 Specifically, Ripps has access to but is continuing to withhold communications  
11 in at least the following places of which Yuga Labs is now aware:

- 12 • Group chat titled "RRBAYC" on Telegram (Ripps has produced none)
- 13 • An alternative group chat set up on Telegram and/or Signal for  
14 purposes of discussing Yuga Labs and use of Yuga Labs' marks (*see*  
Thomas Decl., Exhibit 19) (Ripps has produced none)
- 15 • Group chat titled "Team ApeMarket" on Discord (Ripps has produced  
16 none after June 24, 2022)
- 17 • Direct messages on Discord (Ripps has produced none)
- 18 • Direct messages on Telegram (Ripps has produced none)
- 19 • Direct messages on Twitter for the accounts @ryder\_ripss and  
20 @ApeMarketplace (Ripps has produced messages with only one third  
party)
- 21 • Text messages (Ripps has produced none)
- 22 • Emails (Ripps has produced none)

23 Instead of producing these required communications about the litigation and  
24 Ripps' use of the infringing marks to promote his business venture and sell knockoff  
25 NFTs, Ripps and his co-defendant have continued to hide their scam and delay the  
26 production of necessary evidence. Indeed, as part of their scam, Defendant Cahen  
27 shared instructions to "[l]imit to publicly available information" Defendants'  
28 document collection in this litigation:

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Thank you for your assistance with this. That would work well if you are able to pull the information from social media. To the extent you are able to, it would be helpful if you could incorporate the below parameters into your script:

1. Limit to publicly available information.
2. Limit to posts made in the last year.
3. Include both posts and replies to them (to the extent possible).
4. Include links or another way to access multi-media posts (gifs, attachments, etc.).

Thomas Decl., Exhibit 26.

Further, Ripps has produced no financial records, despite his promises to do so. Expert reports in this matter are due early next year, yet he continues to delay and conceal the amount of money he has made from his scam from primary sales and continues to make from secondary sales. He has offered no reason for obstructing discovery and failing to provide this information.

Finally, third parties have produced multiple documents showing that they communicated with Defendants and/or Defendants' counsel about Yuga Labs' subpoenas, but Defendants have not produced those communications either. Nor have they confirmed their authenticity or produced their internal defendant-to-defendant communications. *See* Thomas Decl., Exhibit 22. These are but some of the many examples Yuga Labs could offer to demonstrate that it knows, without a doubt, that Ripps is continuing to withhold documents that he promised to produce months ago.

Lacking any reason for withholding these materials, Ripps should have made his production and has had months to do so. The Court should compel Ripps to do so now.

Nevertheless, even where Ripps has made some production, it fails to comply with his discovery obligations. For example, Ripps has produced chat messages from

1 the RR/BAYC Discord server in an extracted and virtually unusable format that  
2 contains only text. Attachments and images are referenced by hyperlinks to online  
3 images, but those attachments and images have not themselves been produced. *See*  
4 Thomas Decl., Exhibit 16. Several comments in the spreadsheet also contain items  
5 that have been converted to numeric strings, which are not legible in the format in  
6 which Ripps has produced the chat messages. *Id.* This stripped-down export is not  
7 a “a reasonably usable form” as required by Fed. R. Civ. P. 34(b)(2)(E)(ii).

8 Non-public group chat messages produced by Defendants are also stale; when  
9 Defendants finally produced these messages, they impermissibly truncated the chat  
10 at June 24, 2022, withholding months of messages following the filing of the  
11 complaint in this action. Ripps never objected (and would have no basis to object)  
12 to producing communications following June 24, 2022, in response to RFP No. 1,  
13 nor did he raise any such issue during the parties’ meet and confer, but instead  
14 unilaterally decided to withhold such messages. Ripps should produce the up-to-date  
15 contents of RIPPSCAHEN00000301 in an HTML format or other form “in which it  
16 is ordinarily maintained,” *id.*, which shows the correspondence as it exists on the  
17 server.

## 18 **2. Ripps’ Position**

19 Yuga’s response raises a litany of complaints, many of which have no basis in  
20 fact, and all of which are without merit.

21 At the threshold, Yuga has not met and conferred with Mr. Ripps about any of  
22 the Requests for Production cited to in this section (Nos. 1, 2, 3, 6, 13, 14, 16, 21, 22,  
23 26, 27, and 28) and therefore this motion to compel is procedurally improper. None  
24 of these Requests for Production were discussed during the parties’ meet and confer  
25 teleconferences, nor do they appear in any of the letters summarizing those  
26 conferences. *See* Thomas Declaration Ex. 9; Gosma Declaration Ex. 1. Instead, Yuga  
27 points to a single email sent on November 16, 2022, which does not even reference  
28 all of the requests at issue in this motion (such as Request for Production No. 22).

1 See Thomas Declaration Ex. 13. But merely exchanging e-mail correspondence on  
2 a discovery request does not satisfy Local Rule 37-1. For this reason alone, Yuga’s  
3 motion should be denied.

4 Yuga’s motion should also be denied because, contrary to Yuga’s  
5 representation above, Mr. Ripps has already produced the responsive documents in  
6 his possession that could be located after a reasonable search. Specifically, Mr. Ripps  
7 has made three productions of documents, and will have made a fourth before the  
8 hearing for this motion, that consist of public and private materials responsive to  
9 Yuga’s Requests for Production. These productions will include *hundreds of*  
10 *thousands* of private messages between the RR/BAYC project creators and  
11 corresponding linked materials and public messages and posts about RR/BAYC that  
12 are directly responsive to Yuga’s Requests for Production.

13 Additionally, Yuga states that “Ripps has produced no financial records,  
14 despite his promises to do so.” Again, this is incorrect. As discussed above, Mr.  
15 Ripps produced private Discord chat messages on December 1, 2022, that include a  
16 number of discussions about the financial status and accounting of the RR/BAYC  
17 project and link documents that do the same. Specifically, these messages include a  
18 link to a document entitled “FINAL: First Draw RR/BAYC Accounting” available at  
19 ([https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE\\_LaLiar6VAsAtMDA](https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE_LaLiar6VAsAtMDA_MVCha44y tvbQ/edit#gid=1061603011)  
20 [MVCha44y tvbQ/edit#gid=1061603011](https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsilE_LaLiar6VAsAtMDA_MVCha44y tvbQ/edit#gid=1061603011)) that includes transaction specific  
21 information, “gas” usage, and a summary of “Profit Share” amongst the creators.  
22 Additionally, these messages include a link to a slide entitled “Economics” available  
23 at  
24 ([https://cdn.discordapp.com/attachments/976644968816967701/976911474813464](https://cdn.discordapp.com/attachments/976644968816967701/976911474813464596/unknown.png)  
25 [596/unknown.png](https://cdn.discordapp.com/attachments/976644968816967701/976911474813464596/unknown.png)) that includes information on the split for their profits amongst the  
26 creators and other economic information. To eliminate any ambiguity, before the  
27 hearing on this motion, Mr. Ripps will produce separate files containing the contents  
28 of these linked documents and will amend its response to Interrogatory Nos. 16-17



1 to identify them. (These are just some examples of the financial records Mr. Ripps  
2 has produced to date.)

3 Yuga also states that “third parties have produced multiple documents showing  
4 that they communicated with ... Defendants’ counsel about Yuga Labs’ subpoenas,  
5 but Defendants have not ...produced their internal defendant-to-defendant  
6 communications.” To be clear, the communications made between Mr. Ripps and  
7 Mr. Cahen and their lawyers about the subpoenas that have been issued in this  
8 litigation are unquestionably attorney-client privileged communications and Mr.  
9 Ripps is under no obligation to produce them to Yuga. Moreover, any  
10 communications with third parties are subject to common-interest privilege, as the  
11 parties all have a common interest in opposing Yuga’s claims. Had Yuga discussed  
12 these issues with Mr. Ripps before filing this motion, the parties could have discussed  
13 and potentially resolved this issue. In its rush to get before the Court, however, Yuga  
14 failed to even raise this issue in a meet and confer.

15 Yuga goes on to list several other categories of documents that it claims that  
16 Mr. Ripps “has failed to produce...” This list, again, incorrectly states that Mr. Ripps  
17 has failed to produce documents that have been included in his first two productions  
18 in this action. Specifically, Yuga states they have not received documents for  
19 “[e]very use by Ripps of a BAYC Mark...” But Mr. Ripps has produced tweets,  
20 Instagram posts, public Discord chats, and private Discord chats, all outlining Mr.  
21 Ripps use of the alleged BAYC Marks in the RR/BAYC project. Mr. Ripps made a  
22 further supplemental production on December 23, 2022 and will make a fourth  
23 production before the hearing on this motion. Mr. Ripps is not presently aware of  
24 any other responsive documents in his possession that could be located after a  
25 reasonable search.

26 Yuga also states that they have not received “[a]ll development documents and  
27 communications, including source code” regarding the RR/BAYC project. Mr.  
28 Ripps included in his December 1, 2022, production thousands of private Discord

1 messages and corresponding links that outline the development and planning of the  
2 RR/BAYC NFTs and apemarket.com. Additionally, these messages frequently  
3 include discussion of the code the creators will use for their project, which are sent  
4 as links to the messages. See e.g.,  
5 ([https://cdn.discordapp.com/attachments/976644968816967701/989414442716504](https://cdn.discordapp.com/attachments/976644968816967701/989414442716504134/Screen_Shot_2022-06-23_at_2.19.32_AM.png)  
6 [134/Screen\\_Shot\\_2022-06-23\\_at\\_2.19.32\\_AM.png](https://cdn.discordapp.com/attachments/976644968816967701/989414442716504134/Screen_Shot_2022-06-23_at_2.19.32_AM.png)). Moreover, as a crypto-centric  
7 company like Yuga should understand, the operative Solidity code for the RR /  
8 BAYC smart contract is publicly available on the Ethereum blockchain. See  
9 <https://etherscan.io/token/0x2ee6af0dff3a1ce3f7e3414c52c48fd50d73691e>.

10 Yuga also states that they have not received “[a]ll documents or  
11 communications with or related to the transfer of any RR/BAYC NFT to any third  
12 party to promote or advertise RR/BAYC NFTS.” Mr. Ripps’ production of Private  
13 Discord messages on December 1, 2022, included multiple messages amongst the  
14 creators discussing possible marketing of the RR/BAYC NFTs. Prior to the hearing  
15 on this motion, Mr. Ripps will produce all additional communications of which he is  
16 aware relating to the RR/BAYC project that could be located after a reasonable  
17 search, including any promotion or advertisement that may have occurred.

18 Yuga states that they have not received “[d]ocuments sufficient to show  
19 revenue, gross profits, and net profits from the sale of RR/BAYC NFTs” and that  
20 they have not received “[d]ocuments sufficient to show any costs or expenses you  
21 incurred in connection with the RR/BAYC NFTs...” As discussed above, Mr. Ripps  
22 produced private Discord chat messages on December 1, 2022, that include a number  
23 of discussions about the financial status and accounting of the RR/BAYC project and  
24 link documents that do the same. Specifically, these messages include a link to a  
25 document entitled “FINAL: First Draw RR/BAYC Accounting” available at  
26 ([https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsiE\\_LaLiar6VAsAtMDA](https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsiE_LaLiar6VAsAtMDA_MVCha44yvtvbQ/edit#gid=1061603011)  
27 [MVCha44yvtvbQ/edit#gid=1061603011](https://docs.google.com/spreadsheets/d/18Ez8xzby4XMsiE_LaLiar6VAsAtMDA_MVCha44yvtvbQ/edit#gid=1061603011)) that includes transaction specific  
28 information, “gas” usage, and a summary of “Profit Share” amongst the creators.

1 Finally, Yuga states they have not received “[a]ll documents and  
2 communications concerning returns of or refunds for any RR/BAYC NFT.” As  
3 explained above, prior to the hearing on this motion, Mr. Ripps will have produced  
4 hundreds of thousands of private and public messages surrounding the RR/BAYC  
5 project from Twitter, Discord, Telegram and other platforms. To Mr. Ripps’  
6 knowledge, any requests for refunds would be reflected in these communications,  
7 and Mr. Ripps is not aware of any other responsive communications that could be  
8 located after a reasonable search.

9 Accordingly, in light of the above and the productions from Mr. Ripps, there  
10 is nothing remaining for the court to compel.

11 **H. Requests for Production Nos. 8, 9, 17, 18, 19, 20, 23, 24, 25, 32**  
12 **(Documents Ripps Agreed to Produce in his Supplemental**  
13 **Responses re Consumer Perception and his Planned use of the**  
14 **Infringing Marks; And Yet Again Ripps has Failed to Make the**  
15 **Promised Production)**

16 Request No. 8:

17 All documents and communications concerning the planned future use  
18 of the RR/BAYC NFTs.

19 Response:

20 Mr. Ripps incorporates his General Objections and Limitations to the  
21 extent applicable to the Request. Mr. Ripps further objects to this Request  
22 because it is overly broad, unduly burdensome, vague and ambiguous, and  
23 seeks information that is neither relevant to the claims or defenses of any party  
24 to this action nor proportional to the needs of the case. For example, the  
25 Request is overbroad because it seeks “[a]ll documents and  
26 communications...” even if such documents and communications (should any  
27 exist) are not related or only remotely related to this Litigation. Mr. Ripps  
28 further objects to this Request because Yuga has not defined “planned future  
use” and Mr. Ripps is unable to determine how Yuga is using this term. Mr.  
Ripps also objects to this Request as premature to the extent it is inconsistent

1 with anti-SLAPP immunity. Mr. Ripps also objects to this Request to the  
2 extent it seeks documents that are protected from disclosure by the attorney-  
3 client privilege, the common interest privilege, the work product doctrine, or  
4 any other applicable privilege or immunity against disclosure. Mr. Ripps  
5 further objects to this Request to the extent that it calls for information not  
6 within Mr. Ripps's possession, custody, or control.

7 Subject to and without waiving the foregoing Specific Objections and  
8 General Objections, Mr. Ripps responds as follows:

9 Mr. Ripps is willing to meet and confer regarding this Request.

10 Supplemental Response:

11 Subject to and without waiving the foregoing Specific Objections and  
12 General Objections, Mr. Ripps responds as follows:

13 To the extent any non-privileged documents exist, Mr. Ripps will  
14 produce such non-privileged documents—to the extent any are kept in the  
15 ordinary course of business and are located through a reasonably diligent  
16 search—concerning benefits offered to RR/BAYC NFT holders and activities  
17 that monetize RR/BAYC NFTs planned for release before the close of fact  
18 discovery in this litigation.

19 Request No. 9:

20 All documents and communications concerning the planned future use  
21 of any good, service, or NFT using any BAYC Mark or RR/BAYC Mark,  
22 including but not limited to Ape Market.

23 Response:

24 Mr. Ripps incorporates his General Objections and Limitations to the  
25 extent applicable to the Request. Mr. Ripps further objects to this Request  
26 because it is overly broad, unduly burdensome, vague and ambiguous, and  
27 seeks information that is neither relevant to the claims or defenses of any party  
28 to this action nor proportional to the needs of the case. For example, the

1 Request is overbroad because it seeks “[a]ll documents and  
2 communications...” even if such documents and communications (should any  
3 exist) are not related or only remotely related to this Litigation. Mr. Ripps  
4 further objects to this Request because Yuga has not defined “planned future  
5 use” and Mr. Ripps is unable to determine how Yuga is using this term. Mr.  
6 Ripps also objects to this Request as premature to the extent it is inconsistent  
7 with anti-SLAPP immunity. Mr. Ripps also objects to this Request to the  
8 extent it seeks documents that are protected from disclosure by the attorney-  
9 client privilege, the common interest privilege, the work product doctrine, or  
10 any other applicable privilege or immunity against disclosure. Mr. Ripps  
11 further objects to this Request to the extent that it calls for information not  
12 within Mr. Ripps’s possession, custody, or control.

13 Subject to and without waiving the foregoing Specific Objections and  
14 General Objections, Mr. Ripps responds as follows:

15 Mr. Ripps is willing to meet and confer regarding this Request.

16 Supplemental Response:

17 Subject to and without waiving the foregoing Specific Objections and  
18 General Objections, Mr. Ripps responds as follows:

19 To the extent any non-privileged documents exist, Mr. Ripps will  
20 produce such non-privileged documents—to the extent any are kept in the  
21 ordinary course of business and are located through a reasonably diligent  
22 search—concerning goods and services associated with RR/BAYC NFTs  
23 planned for release before the close of fact discovery in this litigation.

24 Request No. 17:

25 Copies of all agreements between you and any other person involving  
26 any RR/BAYC NFT or any good, service, or NFT using any BAYC Mark or  
27 RR/BAYC Mark.

28 Response:

1 Mr. Ripps incorporates his General Objections and Limitations to the  
2 extent applicable to the Request. Mr. Ripps further objects to this Request  
3 because it is overly broad, unduly burdensome, vague and ambiguous, and  
4 seeks information that is neither relevant to the claims or defenses of any party  
5 to this action nor proportional to the needs of the case. For example, the  
6 Request is overbroad because it seeks “all agreements...” even if such  
7 documents (should any exist) are not related or only remotely related to this  
8 Litigation. Mr. Ripps further objects to this Request as vague and ambiguous  
9 because Yuga has not defined “good” or “service” and Mr. Ripps is unable to  
10 determine how Yuga is using these terms. Mr. Ripps also objects to this  
11 Request as premature to the extent it is inconsistent with anti-SLAPP  
12 immunity. Mr. Ripps also objects to this Request to the extent it seeks  
13 documents that are protected from disclosure by the attorney-client privilege,  
14 the common interest privilege, the work product doctrine, or any other  
15 applicable privilege or immunity against disclosure. Mr. Ripps further objects  
16 to this Request to the extent that it calls for information not within Mr. Ripps’s  
17 possession, custody, or control.

18 Subject to and without waiving the foregoing Specific Objections and  
19 General Objections, Mr. Ripps responds as follows:

20 Mr. Ripps is willing to meet and confer regarding the scope of this  
21 Request.

22 Supplemental Response:

23 Subject to and without waiving the foregoing Specific Objections and  
24 General Objections, Mr. Ripps responds as follows:

25 To the extent any non-privileged documents exist, Mr. Ripps will  
26 produce such non-privileged agreements—to the extent any are kept in the  
27 ordinary course of business and are located through a reasonably diligent  
28 search—concerning goods and services associated with RR/BAYC NFTs.

1           Request No. 18:

2           Representative samples of each type of advertisement or promotional  
3 material (e.g., flyers, press releases, website pages, website banners,  
4 promotional items, artwork, social media posts) concerning the RR/BAYC  
5 NFTs.

6           Response:

7           Mr. Ripps incorporates his General Objections and Limitations to the  
8 extent applicable to the Request. Mr. Ripps further objects to this Request  
9 because it is overly broad, unduly burdensome, vague and ambiguous, and  
10 seeks information that is neither relevant to the claims or defenses of any party  
11 to this action nor proportional to the needs of the case. For example, the  
12 Request is overbroad because it seeks “each type of advertisement or  
13 promotional material,” even if such documents (should any exist) are not  
14 related or only remotely related to this Litigation. Mr. Ripps further objects to  
15 this Request as vague and ambiguous because Yuga has not defined  
16 “representative samples” and Mr. Ripps is unable to determine how Yuga is  
17 using this term. Mr. Ripps further objects to this Request to the extent it seeks  
18 information that is publicly available. Mr. Ripps also objects to this Request  
19 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
20 Ripps also objects to this Request to the extent it seeks documents that are  
21 protected from disclosure by the attorney-client privilege, the common interest  
22 privilege, the work product doctrine, or any other applicable privilege or  
23 immunity against disclosure. Mr. Ripps further objects to this Request to the  
24 extent that it calls for information not within Mr. Ripps’s possession, custody,  
25 or control. Mr. Ripps also objects to the Request for being duplicative and  
26 subsumed in Request No. 6.

27           Subject to and without waiving the foregoing Specific Objections and  
28 General Objections, Mr. Ripps responds as follows:

1 Mr. Ripps is willing to meet and confer regarding the scope of this  
2 Request.

3 Supplemental Response:

4 Subject to and without waiving the foregoing Specific Objections and  
5 General Objections, Mr. Ripps responds as follows:

6 To the extent any non-privileged documents exist, Mr. Ripps will  
7 produce such non-privileged documents—to the extent any are kept in the  
8 ordinary course of business and are located through a reasonably diligent  
9 search—sufficient to identify marketing activities associated with the  
10 RR/BAYC project.

11 Request No. 19:

12 All documents and communications concerning any alleged confusion,  
13 mistake, or deception as to the origin, creator, affiliation, connection, or  
14 association of any BAYC NFT or RR/BAYC NFT.

15 Response:

16 Mr. Ripps incorporates his General Objections and Limitations to the  
17 extent applicable to the Request. Mr. Ripps further objects to this Request  
18 because it is overly broad, unduly burdensome, vague and ambiguous, and  
19 seeks information that is neither relevant to the claims or defenses of any party  
20 to this action nor proportional to the needs of the case. For example, the  
21 Request is overbroad because it seeks “[a]ll documents and communications  
22 concerning any alleged confusion, mistake, or deception as to the origin,  
23 creator, affiliation, connection, or association of any BAYC NFT or  
24 RR/BAYC NFT,” even if such documents (should any exist) are not related or  
25 only remotely related to the accused confusion in this Litigation. Mr. Ripps  
26 also objects to this Request as premature to the extent it is inconsistent with  
27 anti-SLAPP immunity. Mr. Ripps also objects to this Request to the extent it  
28 seeks documents that are protected from disclosure by the attorney-client



1 privilege, the common interest privilege, the work product doctrine, or any  
2 other applicable privilege or immunity against disclosure. Mr. Ripps further  
3 objects to this Request to the extent that it calls for information not within Mr.  
4 Ripps's possession, custody, or control.

5 Subject to and without waiving the foregoing Specific Objections and  
6 General Objections, Mr. Ripps responds as follows:

7 Mr. Ripps is willing to meet and confer regarding the scope of this  
8 Request.

9 Supplemental Response:

10 Subject to and without waiving the foregoing Specific Objections and  
11 General Objections, Mr. Ripps responds as follows:

12 To the extent any non-privileged documents exist, Mr. Ripps will  
13 produce such non-privileged documents—to the extent any are kept in the  
14 ordinary course of business and are located through a reasonably diligent  
15 search—concerning confusion of RR/BAYC NFTs with BAYC NFTs.

16 Request No. 20:

17 All documents and communications concerning any observations,  
18 perceptions, impressions, or inquiries as to whether any RR/BAYC NFT or  
19 any good, service, or NFT using any BAYC Mark or RR/BAYC Mark sold  
20 directly or indirectly by you are produced by, sponsored, or endorsed by, or in  
21 any manner associated or affiliated with Yuga Labs or any goods or services  
22 offered under any BAYC Mark or RR/BAYC Mark.

23 Response:

24 Mr. Ripps incorporates his General Objections and Limitations to the  
25 extent applicable to the Request. Mr. Ripps further objects to this Request  
26 because it is overly broad, unduly burdensome, vague and ambiguous, and  
27 seeks information that is neither relevant to the claims or defenses of any party  
28 to this action nor proportional to the needs of the case. For example, the

1 Request is overbroad because it seeks “[a]ll documents and communications  
2 concerning any observations, perceptions, impression, or inquiries....” even if  
3 such documents (should any exist) are not related or only remotely related to  
4 the accused confusion in this Litigation. Mr. Ripps further objects to this  
5 Request because Yuga has not defined “good,” “service,” or “indirectly” and  
6 Mr. Ripps is unable to determine how Yuga is using these terms. Mr. Ripps  
7 also objects to this Request as premature to the extent it is inconsistent with  
8 anti-SLAPP immunity. Mr. Ripps also objects to this Request to the extent it  
9 seeks documents that are protected from disclosure by the attorney-client  
10 privilege, the common interest privilege, the work product doctrine, or any  
11 other applicable privilege or immunity against disclosure. Mr. Ripps further  
12 objects to this Request to the extent that it calls for information not within Mr.  
13 Ripps’s possession, custody, or control.

14 Subject to and without waiving the foregoing Specific Objections and  
15 General Objections, Mr. Ripps responds as follows:

16 Mr. Ripps is willing to meet and confer regarding the scope of this  
17 Request.

18 Supplemental Response:

19 Subject to and without waiving the foregoing Specific Objections and  
20 General Objections, Mr. Ripps responds as follows:

21 To the extent any non-privileged documents exist, Mr. Ripps will  
22 produce such non-privileged documents—to the extent any are kept in the  
23 ordinary course of business and are located through a reasonably diligent  
24 search—concerning whether the RR/BAYC project is sponsored, or endorsed  
25 by, by Yuga.

26 Request No. 23:

27 All documents and communications concerning whether your use of any  
28 Bored Ape image or BAYC Mark did or did not constitute trademark

1 infringement and/or fair use.

2 Response:

3 Mr. Ripps incorporates his General Objections and Limitations to the  
4 extent applicable to the Request. Mr. Ripps further objects to this Request  
5 because it is overly broad, unduly burdensome, vague and ambiguous, and  
6 seeks information that is neither relevant to the claims or defenses of any party  
7 to this action nor proportional to the needs of the case. For example, the  
8 Request is overbroad because it seeks “[a]ll documents and  
9 communications...,” even if such documents (should any exist) are not related  
10 or only remotely related to this Litigation. Mr. Ripps also objects to this  
11 Request as premature to the extent it is inconsistent with anti-SLAPP  
12 immunity. Mr. Ripps also objects to this Request to the extent it seeks  
13 documents that are protected from disclosure by the attorney-client privilege,  
14 the common interest privilege, the work product doctrine, or any other  
15 applicable privilege or immunity against disclosure. Mr. Ripps further objects  
16 to this Request to the extent that it calls for information not within Mr. Ripps’s  
17 possession, custody, or control.

18 Subject to and without waiving the foregoing Specific Objections and  
19 General Objections, Mr. Ripps responds as follows:

20 Mr. Ripps is willing to meet and confer regarding the scope of this  
21 Request.

22 Supplemental Response:

23 Subject to and without waiving the foregoing Specific Objections and  
24 General Objections, Mr. Ripps responds as follows:

25 To the extent any non-privileged documents exist, Mr. Ripps will  
26 produce such non-privileged documents—to the extent any are kept in the  
27 ordinary course of business and are located through a reasonably diligent  
28 search—concerning whether the RR/BAYC project constitutes trademark

1 infringement.

2 Request No. 24:

3 Copies of all trademark searches, trademark clearances, internet print-  
4 outs, and other inquiries conducted by or on behalf of you concerning any  
5 BAYC Mark or RR/BAYC Mark.

6 Response:

7 Mr. Ripps incorporates his General Objections and Limitations to the  
8 extent applicable to the Request. Mr. Ripps further objects to this Request  
9 because it is overly broad, unduly burdensome, vague and ambiguous, and  
10 seeks information that is neither relevant to the claims or defenses of any party  
11 to this action nor proportional to the needs of the case. For example, the  
12 Request is overbroad because it seeks “[a]ll trademark searches, trademark  
13 clearances, internet print-outs, and other inquiries conducted by or on behalf  
14 of you concerning any BAYC Mark or RR/BAYC Mark,” even if such  
15 documents should any exist) are not related or only remotely related to this  
16 Litigation. Mr. Ripps further objects to this Request to the extent it seeks  
17 information that is publicly available. Mr. Ripps also objects to this Request  
18 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
19 Ripps also objects to this Request to the extent it seeks documents that are  
20 protected from disclosure by the attorney-client privilege, the common interest  
21 privilege, the work product doctrine, or any other applicable privilege or  
22 immunity against disclosure. Mr. Ripps further objects to this Request to the  
23 extent that it calls for information not within Mr. Ripps’s possession, custody,  
24 or control.

25 Subject to and without waiving the foregoing Specific Objections and  
26 General Objections, Mr. Ripps responds as follows:

27 Mr. Ripps is willing to meet and confer regarding the scope of this  
28 Request.

1           Supplemental Response:

2           Subject to and without waiving the foregoing Specific Objections and  
3           General Objections, Mr. Ripps responds as follows:

4           To the extent any non-privileged documents exist, Mr. Ripps will  
5           produce such non-privileged documents—to the extent any are kept in the  
6           ordinary course of business and are located through a reasonably diligent  
7           search—concerning inquiries into the BAYC Mark.

8           Request No. 25:

9           All documents and communications concerning any application or  
10          correspondence you have made to the USPTO or any state trademark  
11          registration entity in connection with any BAYC Mark, any RR/BAYC Mark,  
12          or the RR/BAYC NFTs.

13          Response:

14          Mr. Ripps incorporates his General Objections and Limitations to the  
15          extent applicable to the Request. Mr. Ripps further objects to this Request  
16          because it is overly broad, unduly burdensome, vague and ambiguous, and  
17          seeks information that is neither relevant to the claims or defenses of any party  
18          to this action nor proportional to the needs of the case. For example, the  
19          Request is overbroad because it seeks “[a]ll documents and  
20          communications...” even if such (should any exist) are not related or only  
21          remotely related to this Litigation. Mr. Ripps also objects to this Request to  
22          the extent it seeks information that is publicly available. Mr. Ripps also objects  
23          to this Request as premature to the extent it is inconsistent with anti-SLAPP  
24          immunity. Mr. Ripps also objects to this Request to the extent it seeks  
25          documents that are protected from disclosure by the attorney-client privilege,  
26          the common interest privilege, the work product doctrine, or any other  
27          applicable privilege or immunity against disclosure. Mr. Ripps further objects  
28          to this Request to the extent that it calls for information not within Mr. Ripps’s

1 possession, custody, or control.

2 Subject to and without waiving the foregoing Specific Objections and  
3 General Objections, Mr. Ripps responds as follows:

4 Mr. Ripps is willing to meet and confer regarding the scope of this  
5 Request.

6 Supplemental Response:

7 Subject to and without waiving the foregoing Specific Objections and  
8 General Objections, Mr. Ripps responds as follows:

9 To the extent any non-privileged documents exist, Mr. Ripps will  
10 produce such non-privileged documents—to the extent any are kept in the  
11 ordinary course of business and are located through a reasonably diligent  
12 search—concerning applications/correspondence with any trademark  
13 registration entity regarding the Asserted Marks.

14 Request No. 32:

15 All studies, surveys, investigations, research, development, analysis, or  
16 opinions concerning RR/BAYC NFTs, BAYC NFTs, or any BAYC Mark or  
17 RR/BAYC Mark.

18 Response:

19 Mr. Ripps incorporates his General Objections and Limitations to the  
20 extent applicable to the Request. Mr. Ripps further objects to this Request  
21 because it is overly broad, unduly burdensome, vague and ambiguous, and  
22 seeks information that is neither relevant to the claims or defenses of any party  
23 to this action nor proportional to the needs of the case. For example, the  
24 Request is overbroad because it seeks “[a]ll studies, surveys, investigations,  
25 research, development, analysis, or opinions concerning RR/BAYC NFTs,  
26 BAYC NFTs, or any BAYC Mark or RR/BAYC Mark,” even if such  
27 documents (should any exist) are not related or only remotely related to this  
28 Litigation. Mr. Ripps further objects to this Request to the extent it seeks

1 information that is publicly available. Mr. Ripps also objects to this Request  
2 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
3 Ripps also objects to this Request to the extent it seeks documents that are  
4 protected from disclosure by the attorney-client privilege, the common interest  
5 privilege, the work product doctrine, or any other applicable privilege or  
6 immunity against disclosure. Mr. Ripps further objects to this Request to the  
7 extent that it calls for information not within Mr. Ripps's possession, custody,  
8 or control.

9 Subject to and without waiving the foregoing Specific Objections and  
10 General Objections, Mr. Ripps responds as follows:

11 Mr. Ripps is willing to meet and confer regarding the scope of this  
12 Request.

13 Supplemental Response:

14 Subject to and without waiving the foregoing Specific Objections and  
15 General Objections, Mr. Ripps responds as follows:

16 To the extent any non-privileged documents exist, Mr. Ripps will  
17 produce such non-privileged documents—to the extent any are kept in the  
18 ordinary course of business and are located through a reasonably diligent  
19 search—concerning research conducted at the direction of the Defendants  
20 concerning the RR/BAYC project, BAYC, or the Asserted Marks.

21 **1. Yuga Labs' Position**

22 Notwithstanding his objections, Ripps has acknowledged that each of these  
23 requests seek information discoverable under Fed. R. Civ. P. 26 and that there is no  
24 basis for withholding responsive documents. These requests seek basic information  
25 relevant to Yuga Labs' trademark infringement claims. Briefly:

- 26 • RFP 8 concerns “planned future use of the RR/BAYC NFTs,” which is  
27 relevant to injunctive relief to which Yuga Labs may be entitled concerning  
28 Ripps' ongoing infringement of Yuga Labs' marks. Ripps specifically

1           agreed in his supplemental response to produce documents “concerning  
2           benefits offered to RR/BAYC NFT holders and activities that monetize  
3           RR/BAYC NFTs planned for release,” but has not done so.

- 4           • RFP 9 concerns “planned future use of any good, service, or NFT using any  
5           BAYC Mark or RR/BAYC Mark,” which is similarly relevant to injunctive  
6           relief to which Yuga Labs may be entitled concerning Ripps’ ongoing  
7           infringement of Yuga Labs’ marks. Ripps specifically agreed in his  
8           supplemental response to produce documents “concerning goods and  
9           services associated with RR/BAYC NFTs planned for release,” but has not  
10          done so.
- 11          • RFP 17 concerns agreements involving RR/BAYCs, which is relevant to,  
12          for example, the extent of Ripps infringement and tortious interference with  
13          Yuga Labs’ business, the identities of potential witnesses, and Ripps’ ill-  
14          gotten profits from his infringing commercial activities.
- 15          • RFP 18 concerns “agreements between you and any other person involving  
16          any RR/BAYC NFT or any good, service, or NFT using any BAYC Mark  
17          or RR/BAYC Mark,” which is similarly relevant to, for example, the extent  
18          of Ripps infringement and tortious interference with Yuga Labs’ business,  
19          the identities of potential witnesses, and Ripps’ ill-gotten profits from his  
20          infringing commercial activities.
- 21          • RFP 19 concerns “alleged confusion, mistake, or deception as to the origin,  
22          creator, affiliation, connection, or association of any BAYC NFT or  
23          RR/BAYC NFT,” which is relevant to the issue of likelihood of confusion  
24          and therefore Yuga Labs’ trademark claims. *See Entrepreneur Media, Inc.*  
25          *v. Smith*, 279 F.3d 1135, 1150 (9th Cir. 2002) (“Evidence of actual  
26          confusion is strong evidence that future confusion is likely . . .”).
- 27          • RFP 20 concerns “observations, perceptions, impressions, or inquiries” as  
28          to whether goods, services, and NFTs offered by you are “produced by,



1 sponsored, or endorsed by, or in any manner associated or affiliated with”  
2 Yuga Labs or its goods and services. This is similarly relevant to likelihood  
3 of confusion. *See Entrepreneur Media*, 279 F.3d at 1140 (“The test for  
4 likelihood of confusion is whether a ‘reasonably prudent consumer’ in the  
5 marketplace is likely to be confused as to the origin of the good or service  
6 bearing one of the marks.”).

- 7 • RFP 23 concerns documents and communications about “whether your use  
8 of any Bored Ape image or BAYC Mark did or did not constitute trademark  
9 infringement and/or fair use.” This is relevant because Ripps’ “intent in  
10 selecting the marks” is a factor in determining trademark infringement. *See*  
11 *Entrepreneur Media*, 279 F.3d at 1140 (9th Cir. 2002).
- 12 • RFP 24 concerns trademark searches and inquiries regarding “any BAYC  
13 Mark or RR/BAYC Mark,” which is also relevant to Ripps’ intent in  
14 selecting the RR/BAYC mark. Yuga Labs clarified in the parties’ meet and  
15 confer that it did not expect Ripps to produce privileged documents in  
16 response to this request.
- 17 • RFP 25 concerns “any application or correspondence you have made to the  
18 USPTO or any state trademark registration entity in connection with any  
19 BAYC Mark, any RR/BAYC Mark, or the RR/BAYC NFTs,” which is also  
20 relevant to Ripps’ intent in selecting the RR/BAYC mark and Ripps’ claim  
21 that ApeMarket and RR/BAYC are registered trademarks. If Ripps has no  
22 responsive documents, he should say that he has no responsive documents.
- 23 • RFP 32 concerns “studies, surveys, investigations, research, development,  
24 analysis, or opinions concerning RR/BAYC NFTs, BAYC NFTs, or any  
25 BAYC Mark or RR/BAYC Mark.” Such documents are relevant to  
26 consumer perception of the BAYC and RR/BAYC marks, and they would  
27 speak to likelihood of confusion and the harm that Ripps has caused to  
28 Yuga Labs’ brand by commercially offering knockoff products.

1 At the parties' meet and confer, Yuga Labs asked Ripps to produce documents  
2 responsive to these requests. Ripps' proffered reasons for not responding (including  
3 purported ambiguity as to the terms "Marks," "goods," and "services," and questions  
4 concerning privilege as to RFP Nos. 24, 25, and 32) were resolved at the meet and  
5 confer. However, Ripps has failed to produce documents responsive to any of these  
6 requests, even after the parties met and conferred regarding the requests and agreed  
7 that responsive documents should be produced. Lacking any reason for withholding  
8 these materials, Ripps should have made his production and has had months to do so.  
9 The Court should compel Ripps to produce the documents now.

## 10 **2. Ripps' Position**

11 Yuga incorrectly states that for a number of Request for Production, Mr. Ripps  
12 was asked to produce documents and "has not done so." For example, they state that  
13 Mr. Ripps has not produced documents regarding "planned future use of the  
14 RR/BAYC NFTs..." or "planned future use of any good, service, or NFT using any  
15 BAYC Mark or RR/BAYC Mark." This is incorrect. On December 1, 2022, Mr.  
16 Ripps produced private Discord messages between the creators of RR/BAYC NFT  
17 that discussed planned future use of the RR/BAYC NFTs. Additionally, before the  
18 hearing on this motion, Mr. Ripps will produce public posts on Twitter and Instagram  
19 that include discussions of planned future use of the RR/BAYC NFTs. Finally, in a  
20 third production on December 23, 2022, and a fourth production before the hearing  
21 on this motion, Mr. Ripps will have produced hundreds of thousands of additional  
22 communications from Discord, Telegram, Twitter, and other platforms that would  
23 contain any communications responsive to these requests that could be located after  
24 a reasonable search.

25 Yuga also states that Mr. Ripps has not produced "agreements involving  
26 RR/BAYCs" or "agreements between you and any other person involving any  
27 RR/BAYC NFT or any good, service, or NFT using any BAYC Mark or RR/BAYC  
28 Mark." This is incorrect. On December 1, 2022, Mr. Ripps produced private Discord

1 messages between the creators of RR/BAYC NFT that included agreements  
2 involving the RR/BAYC NFT and project. For example, these messages include a  
3 link to a slide entitled “Economics” available at  
4 ([https://cdn.discordapp.com/attachments/976644968816967701/976911474813464](https://cdn.discordapp.com/attachments/976644968816967701/976911474813464596/unknown.png)  
5 [596/unknown.png](https://cdn.discordapp.com/attachments/976644968816967701/976911474813464596/unknown.png)) that includes information on the agreement the RR/BAYC  
6 creators had to split their profits. Additionally, in a third production on December  
7 23, 2022, and a fourth production before the hearing on this motion, Mr. Ripps will  
8 have produced hundreds of thousands of additional communications from Discord,  
9 Telegram, Twitter, and other platforms that would contain any communications  
10 responsive to these requests that could be located after a reasonable search.

11 Additionally, Yuga states that Mr. Ripps has not produced documents  
12 regarding “alleged confusion, mistake, or deception as to the origin, creator,  
13 affiliation, connection, or association of any BAYC NFT or RR/BAYC NFT.” This  
14 is incorrect. On November 15, 2022, and December 1, 2022, Mr. Ripps produced  
15 various public messages about RR/BAYC from Twitter, Instagram, and Discord as  
16 well as private Discord messages between the creators of RR/BAYC NFT.  
17 Additionally, in a third production on December 23, 2022, and a fourth production  
18 before the hearing on this motion, Mr. Ripps will have produced hundreds of  
19 thousands of additional communications from Discord, Telegram, Twitter, and other  
20 platforms that would contain any communications responsive to these requests that  
21 could be located after a reasonable search. These productions include the entirety of  
22 the responsive communications that Mr. Ripps is aware that could include  
23 information about those topics that could be located after a reasonable search.

24 Yuga also states that Mr. Ripps has not produced documents regarding  
25 “‘observations, perceptions, impressions, or inquiries’ as to whether goods, services,  
26 and NFTs offered by you are ‘produced by, sponsored, or endorsed by, or in any  
27 manner associated or affiliated with’ Yuga Labs or its goods and services.” This is  
28 incorrect. On November 15, 2022, and December 1, 2022, Mr. Ripps produced

1 various public messages about RR/BAYC from Twitter, Instagram, and Discord as  
2 well as private Discord messages between the creators of RR/BAYC NFT.  
3 Additionally, in a third production on December 23, 2022, and a fourth production  
4 before the hearing on this motion, Mr. Ripps will have produced hundreds of  
5 thousands of additional communications from Discord, Telegram, Twitter, and other  
6 platforms that would contain any communications responsive to these requests that  
7 could be located after a reasonable search. These productions include the entirety of  
8 the responsive communications that Mr. Ripps is aware that could include  
9 information about those topics that could be located after a reasonable search.

10 Accordingly, because Mr. Ripps has produced all of the communications he  
11 located about the RR/BAYC project, there is nothing for the court to compel.

12 **I. Ripps' Rule 33(d) Responses (Interrogatory Nos. 7, 8, 10, 11, 13,  
13 15, 16, 17)**

14 Interrogatory No. 7:

15 Identify all persons who were or are responsible for or participating in  
16 the conception or creation of the RR/BAYC NFTs.

17 Response:

18 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
19 burdensome, and not proportional to the needs of the case in that it asks Mr.  
20 Ripps to “[i]dentify all persons” involved in the creation of RR/BAYC NFTs  
21 even if such persons are not relevant or only remotely relevant to this  
22 Litigation. Mr. Ripps further objects to this Interrogatory as vague and  
23 ambiguous because Yuga has not defined “participating” or “responsible for.”  
24 For purposes of responding to this Interrogatory, Mr. Ripps interprets  
25 “participating” to mean substantial involvement in the creation of RR/BAYC  
26 NFTs at the direction of Mr. Ripps and “responsible for” to mean those who  
27 directly contributed to the creation of RR/BAYC NFTs at the direction of Mr.  
28 Ripps. Mr. Ripps also objects to this Interrogatory as premature to the extent

1 it is inconsistent with anti-SLAPP immunity. Mr. Ripps further objects to this  
2 Interrogatory to the extent it requests information protected from disclosure by  
3 the attorney-client privilege, common interest privilege, work product  
4 doctrine, or any other applicable privilege or immunity.

5 Subject to and without waiving the foregoing Specific Objections and  
6 General Objections, Mr. Ripps responds as follows:

7 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
8 non-privileged documents—to the extent any are kept in the ordinary course  
9 of business and are located through a reasonably diligent search—sufficient to  
10 identify persons that Mr. Ripps directed to participate in the creation of  
11 RR/BAYC NFTs.

12 Interrogatory No. 8:

13 Identify all persons who have invested in or contributed in any way to  
14 the creation of any good, service, or NFT offered for sale in connection with  
15 any RR/BAYC Mark, including but not limited to Ape Market.

16 Response:

17 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
18 burdensome, and not proportional to the needs of the case in that it asks Mr.  
19 Ripps to “[i]dentify all persons” that have contributed “in any way” to the  
20 creation of “any good, service, or NFT offered for sale in connection with any  
21 RR/BAYC Mark” including persons that are not relevant or only remotely  
22 relevant to this Litigation. Mr. Ripps further objects to this Interrogatory as  
23 vague and ambiguous because Yuga has not defined “good” and “service,” and  
24 Mr. Ripps is unable to determine how Yuga is using these terms. Mr. Ripps  
25 also objects to this Interrogatory as vague and ambiguous because Mr. Ripps  
26 is unable to determine how “Ape Market” is an example of a “good” or  
27 “service.” Mr. Ripps also objects to this Interrogatory as premature to the  
28 extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps further objects

1 to this Interrogatory to the extent it requests information protected from  
2 disclosure by the attorney-client privilege, common interest privilege, work  
3 product doctrine, or any other applicable privilege or immunity.

4 Subject to and without waiving the foregoing Specific Objections and  
5 General Objections, Mr. Ripps responds as follows:

6 Mr. Ripps incorporates his response to Interrogatories Nos. 1 and 4.

7 Supplemental Response:

8 Subject to and without waiving the foregoing Specific Objections and  
9 General Objections, Mr. Ripps responds as follows:

10 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
11 non-privileged documents—to the extent any are kept in the ordinary course  
12 of business

13 and are located through a reasonably diligent search—sufficient to  
14 identify persons that substantively contributed to the RR/BAYC project. Such  
15 documents include, but are not limited to, messages from the RR/BAYC  
16 Discord server and posts by the following social media accounts:

17 @ryder\_ripps

18 @JeremyCahen

19 @Pauly0x

20 @ApeMarketplace

21 Interrogatory No. 10:

22 Identify all persons who were or are responsible for or participating in  
23 the marketing or advertising of any goods, services, or NFTs offered for sale  
24 or sold by or for you in connection with any BAYC Mark or RR/BAYC Mark,  
25 including but not limited to Ape Market.

26 Response:

27 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
28 burdensome, and not proportional to the needs of the case in that it asks Mr.

1 Ripps to “[i]dentify all persons” that are responsible for or participating in the  
2 “marketing or advertising of any goods, services, or NFTs offered for sale or  
3 sold by you or for you in connection with any BAYC Mark or RR/BAYC  
4 Mark” including persons that are not relevant or only remotely relevant to this  
5 Litigation. Mr. Ripps further objects to this Interrogatory as vague and  
6 ambiguous because Yuga has not defined “goods,” “services,” and  
7 “participating” and Mr. Ripps is unable to determine how Yuga is using these  
8 terms. Mr. Ripps also objects to this Interrogatory as vague and ambiguous  
9 because Mr. Ripps is unable to determine how “Ape Market” is an example of  
10 a “goods” or “services.” Mr. Ripps further objects to this Interrogatory to the  
11 extent it assumes that Mr. Ripps has infringed Yuga’s trademark rights  
12 associated with the BAYC Mark. Mr. Ripps also objects to this Interrogatory  
13 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
14 Ripps further objects to this Interrogatory to the extent it requests information  
15 protected from disclosure by the attorney-client privilege, common interest  
16 privilege, work product doctrine, or any other applicable privilege or  
17 immunity.

18 Subject to and without waiving the foregoing Specific Objections and  
19 General Objections, Mr. Ripps responds as follows:

20 Mr. Ripps incorporates his response to Interrogatories Nos. 1 and 4.

21 Supplemental Response:

22 Subject to and without waiving the foregoing Specific Objections and  
23 General Objections, Mr. Ripps responds as follows:

24 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
25 non-privileged documents—to the extent any are kept in the ordinary course  
26 of business and are located through a reasonably diligent search—sufficient to  
27 identify persons that were substantively involved in marketing the RR/BAYC  
28 project.

1           Such documents include, but are not limited to, messages from the  
2 RR/BAYC Discord server and posts by the following social media accounts:

3           @ryder\_ripps

4           @JeremyCahen

5           @Pauly0x

6           @ApeMarketplace

7           Interrogatory No. 11:

8           Describe all channels of trade through which you have offered for sale,  
9 sold, or provided RR/BAYC NFTs.

10          Response:

11           Mr. Ripps objects to this Interrogatory as overly broad, unduly  
12 burdensome, and not proportional to the needs of the case. For example, the  
13 Interrogatory is overbroad because it asks Mr. Ripps to “[d]escribe all channels  
14 of trade” for the RR/BAYC NFTs including channels of trade that are publicly  
15 available. Mr. Ripps also objects to this Interrogatory as premature to the  
16 extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps further objects  
17 to this Interrogatory to the extent it requests information protected from  
18 disclosure by the attorney-client privilege, common interest privilege, work  
19 product doctrine, or any other applicable privilege or immunity.

20           Subject to and without waiving the foregoing Specific Objections and  
21 General Objections, Mr. Ripps responds as follows:

22           Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
23 non-privileged documents—to the extent any are kept in the ordinary course  
24 of business, not publicly available, and are located through a reasonably  
25 diligent search—sufficient to identify channels of trade for RR/BAYC NFTs.

26          Interrogatory No. 13:

27           State the revenues derived from the sales of the RR/BAYC NFTs and  
28 an explanation of how such revenues were calculated.



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Response:

Mr. Ripps objects to this Interrogatory as vague and ambiguous because Yuga has not defined “revenues derived.” For purposes of answering this Interrogatory, Mr. Ripps interprets the term to mean the gross income produced through sales. Mr. Ripps further objects to this interrogatory as vague and ambiguous because Yuga has requested an “explanation of how such revenues were calculated” without explain what would constitute an “explanation” that is adequately responsive to this request. Mr. Ripps also objects to this Interrogatory as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr. Ripps further objects to this Interrogatory to the extent it requests information protected from disclosure by the attorney-client privilege, common interest privilege, work product doctrine, or any other applicable privilege or immunity.

Subject to and without waiving the foregoing Specific Objections and General Objections, Mr. Ripps responds as follows:

Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify non-privileged documents—to the extent any are kept in the ordinary course of business and are located through a reasonably diligent search—sufficient to identify the sales revenue of RR/BAYC NFTs.

Interrogatory No. 15:

Identify and describe the circumstances surrounding every instance in which a person asked to return, sell back to you, or receive a refund for a RR/BAYC NFT.

Response:

Mr. Ripps objects to this Interrogatory as overly broad, unduly burdensome, and not proportional to the needs of the case in that it asks Mr. Ripps to “[i]dentify and describe the circumstances surrounding every instance in which a person asked to return, sell back to you, or receive a refund for a

1 RR/BAYC NFT,” even if such requests (if any exist) are not relevant or only  
2 remotely relevant to this Litigation. Mr. Ripps also objects to this Interrogatory  
3 as premature to the extent it is inconsistent with anti-SLAPP immunity. Mr.  
4 Ripps further objects to this Interrogatory to the extent it requests information  
5 protected from disclosure by the attorney-client privilege, common interest  
6 privilege, work product doctrine, or any other applicable privilege or  
7 immunity.

8 Subject to and without waiving the foregoing Specific Objections and  
9 General Objections, Mr. Ripps responds as follows:

10 None.

11 Supplemental Response:

12 Subject to and without waiving the foregoing Specific Objections and  
13 General Objections, Mr. Ripps responds as follows:

14 Mr. Ripps is aware of one request for a return by twitter user  
15 @orchidmouth on June 27, 2022. Mr. Ripps is not presently aware of any  
16 additional requests for returns.

17 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
18 non-privileged documents—to the extent any are kept in the ordinary course  
19 of business and are located through a reasonably diligent search—sufficient to  
20 identify returns of RR/BAYC NFTs of which Mr. Ripps is aware.

21 Such documents include, but are not limited to, messages from the  
22 RR/BAYC Discord server and posts by the following social media accounts:

23 @ryder\_ripps

24 @JeremyCahen

25 @Pauly0x

26 @ApeMarketplace

27 Interrogatory No. 16:

28 Identify every transaction to which you were a party or beneficiary,

1 including any secondary sales, involving any BAYC NFT or Mark or any  
2 RR/BAYC NFT or Mark.

3 Response:

4 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
5 burdensome, and not proportional to the needs of the case. For example, the  
6 Interrogatory is overbroad because it asks Mr. Ripps to “[i]dentify every  
7 transaction to which you were a party or beneficiary, including any secondary  
8 sales, involving any BAYC NFT” including transactions relating to BAYC  
9 NFTs that are not relevant or are only remotely relevant to this Litigation. The  
10 Interrogatory is also overbroad to the extent it seeks information on  
11 transactions for RR/BAYC NFTs that are unrelated or only remotely related to  
12 the accused sales in this Litigation. Mr. Ripps also objects to this Interrogatory  
13 to the extent it seeks disclosure of information that Mr. Ripps is under an  
14 obligation to a third party not to disclose. Mr. Ripps also objects to this  
15 Interrogatory as premature to the extent it is inconsistent with anti-SLAPP  
16 immunity. Mr. Ripps further objects to this Interrogatory to the extent it  
17 requests information protected from disclosure by the attorney-client privilege,  
18 common interest privilege, work product doctrine, or any other applicable  
19 privilege or immunity.

20 Subject to and without waiving the foregoing Specific Objections and  
21 General Objections, Mr. Ripps responds as follows:

22 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
23 non-privileged documents for which Mr. Ripps does not have an obligation to  
24 a third party to withhold from disclosure—to the extent any are kept in the  
25 ordinary course of business and are located through a reasonably diligent  
26 search—sufficient to identify whether Mr. Ripps was a beneficiary of  
27 transactions involving RR/BAYC NFT sales accused in this Litigation.

28 Interrogatory No. 17:

1 Identify all cryptographic public keys (i.e., the public address of every  
2 wallet) used by you to send, receive, or transfer funds related to any BAYC  
3 NFT or RR/BAYC NFT.

4 Response:

5 Mr. Ripps objects to this Interrogatory as overly broad, unduly  
6 burdensome, and not proportional to the needs of the case in that it asks for  
7 “all cryptographic public keys,” even though the public addresses of digital  
8 wallets are not relevant or are only remotely relevant to this Litigation. This  
9 Interrogatory is also overbroad to the extent it seeks the public address of every  
10 wallet involved in transactions of BAYC NFTs because Mr. Ripps’s  
11 transactions relating to BAYC NFTs (if any exist) are not relevant

12 or are only remotely relevant to this Litigation. Mr. Ripps also objects  
13 to this Interrogatory to the extent it seeks disclosure of information that Mr.  
14 Ripps is under an obligation to a third party not to disclose. Mr. Ripps also  
15 objects to this Interrogatory as premature to the extent it is inconsistent with  
16 anti-SLAPP immunity. Mr. Ripps further objects to this Interrogatory to the  
17 extent it requests information protected from disclosure by the attorney-client  
18 privilege, common interest privilege, work product doctrine, or any other  
19 applicable privilege or immunity.

20 Subject to and without waiving the foregoing Specific Objections and  
21 General Objections, Mr. Ripps responds as follows:

22 Mr. Ripps is willing to meet and confer regarding this Interrogatory.

23 Supplemental Response:

24 Subject to and without waiving the foregoing Specific Objections and  
25 General Objections, Mr. Ripps responds as follows:

26 Pursuant to Fed. R. Civ. P. 33(d), Mr. Ripps will produce and identify  
27 non-privileged documents—to the extent any are kept in the ordinary course  
28 of business and are located through a reasonably diligent search—sufficient to

1 identify public wallet addresses controlled by Mr. Ripps that was used to send,  
2 receive, or transfer funds that were obtained from the RR/BAYC project.

### 3 1. Yuga Labs' Position

4 Despite Ripps' representation that his document production is now the "lion's  
5 share" of documents he intends to hand over in this litigation, he has failed to properly  
6 answer the eight interrogatories numbered above.

7 Instead of answering substantively, Ripps responds pursuant to Fed. R. Civ. P.  
8 33(d), offering to "produce and identify" responsive documents. "Under Rule 33(d),  
9 the responding party chooses to produce business records in answer to the  
10 interrogatories — not to avoid answering them. To answer an interrogatory, "a  
11 responding party has the duty to specify, by category and location, the records from  
12 which answers to interrogatories can be derived." *O'Connor v. Boeing N. Am., Inc.*,  
13 185 F.R.D. 272, 277 (C.D. Cal. 1999). If the responding party "is *unable* to identify  
14 the specific documents sufficient to respond to the question asked by [the  
15 interrogatory," a narrative response is both more practical and required by the Rules."  
16 *Kaneka Corp. v. Zhejiang Med. Co.*, No. CV-11-2389 SJO-SS, 2016 WL 11266869,  
17 at \*8 (C.D. Cal. Oct. 18, 2016) *see also Kaneka Corp. v. Zhejiang Med. Co.*, No. CV  
18 11-2389 SJO (SS), 2016 WL 11266869, at \*8 (C.D. Cal. Oct. 18, 2016) (responding  
19 party relying on Rule 33(d) "must identify in its written response the relevant  
20 documents by bates range with enough specificity to enable [the requesting party] to  
21 identify" the responsive documents, or "provide a narrative response.").

22 Even though the responses identified here are Ripps' supplemental responses  
23 following a meet and confer regarding his deficient initial responses, Ripps further  
24 delays by promising to produce and identify documents at some unspecified future  
25 time. Ripps has represented that he has now completed the "lion's share" of his  
26 document production, and these evasive responses are merely another tactic to delay  
27 participating in good faith in discovery. Far from "specifying the records that must  
28 be reviewed, in sufficient detail to enable the interrogating party to locate and identify

1 them as readily as the responding party could,” Fed. R. Civ. P. 33(d)(1), Ripps **has**  
2 **not even produced the materials necessary to answer these interrogatories.**

3 Having failed to comply with Fed. R. Civ. P. 33(d), Ripps should be compelled  
4 to provide substantive, narrative responses to these interrogatories.

## 5 **2. Ripps’ Position**

6 At the threshold, Yuga has not met and conferred with Mr. Ripps about  
7 Interrogatories Nos. 7, 11, and 13 and therefore this motion to compel is procedurally  
8 improper. None of these Interrogatories were discussed during the parties’ meet and  
9 confer teleconferences, nor do they appear in any of the letters summarizing those  
10 conferences. *See* Thomas Declaration Ex. 9; Gosma Declaration Ex. 1. For this  
11 reason alone, Yuga’s motion should be denied.

12 Yuga incorrectly states that Mr. Ripps “has not even produced the materials  
13 necessary to answer these interrogatories.” As outlined fully in the sections above,  
14 Mr. Ripps will have produced by the hearing on this motion hundreds of thousands  
15 of private and public messages, posts, documents, and communications regarding the  
16 RR/BAYC project to answer Yuga’s discovery requests. It is inaccurate to state that  
17 Mr. Ripps has not produced sufficient materials to answer any of these  
18 interrogatories. Although Yuga may be disappointed that Mr. Ripps’  
19 communications do not serve the false narrative they have put forward in this  
20 litigation, that issue is distinct from whether Mr. Ripps has satisfied his obligations  
21 in discovery. Mr. Ripps will, before the hearing on this motion, provide supplemental  
22 interrogatory responses identifying specific documents pursuant to Rule 33(d).

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Respectfully submitted,

Dated: December 27, 2022

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**ATTESTATION OF CONCURRENCE IN FILING**

Pursuant to the United States District Court for the Central District of California’s Civil L.R. 5-4.3.4(a)(2)(i), Ethan M. Thomas attests that concurrence in the filing of this document has been obtained from Henry Nikogosyan.

Dated: December 27, 2022

/s/ Ethan M. Thomas  
Ethan M. Thomas