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13

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

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16 WPENGINE, INC., a Delaware corporation,   Case No. 3:24-cv-06917-AMO

17   Plaintiff,   **DECLARATION OF HEATHER BRUNNER IN SUPPORT OF PLAINTIFF WPENGINE, INC.'S MOTION FOR PRELIMINARY INJUNCTION**

18   vs.

19 AUTOMATTIC INC., a Delaware   Judge: Honorable Araceli Martínez-Olguín
20 corporation; and MATTHEW CHARLES   Courtroom: 10
    MULLENWEG, an individual,   Date: March 6, 2025
21   Time: 2:00 p.m.
                Defendants.
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DECLARATION OF HEATHER BRUNNER IN SUPPORT OF

WPENGINE, INC.'S MOTION FOR A PRELIMINARY INJUNCTION

I, Heather Brunner, declare as follows:

1.   I am the Chairwoman and CEO of WPEngine, Inc. ("WPE"). I have held this position since 2013. My duties as Chairwoman and CEO include driving the direction of the company, supervising other executives, and overseeing growth plans. I am a veteran in the technology industry, having held leadership roles at both privately held and Fortune 500 companies in this space for more than 30 years. I also hold a degree in International Economics from Trinity University.

2.   I have personal knowledge of all the facts set forth in this declaration, and if called upon to do so by the Court, I could and would testify competently thereto.

WPEngine, Inc.

3.   WPE is a technology company that offers a hosting platform, plugins, themes, support and other tools for websites built using the WordPress open source program, and also develops support, training, and advocacy resources for the WordPress community. WPE has built its own sophisticated platform, leveraging a range of proprietary and third party technologies, on top of which it offers customers the ability to host websites built using WordPress. WPE was founded in 2010, and today is considered one of the most trusted platforms for sites built on WordPress in the world. WPE has invested hundreds of millions of dollars supporting WordPress in the market and creating a platform without which many customers would not have been able to use WordPress for their sites in a cost-efficient manner, and thus might have never adopted or left the WordPress platform were it not for WPE.

4.   During my tenure as WPE CEO, I have grown the company from a staff of 40 to more than 1,100 employees as of today. I have also been honored by Great Place to Work with the CEO Leadership for All award, EY Entrepreneur of the Year for Central Texas, the Austin Business Journal Best CEO award, and a Stevie Award for executive leadership. I am extremely proud of our workforce and what we have accomplished to grow this business, and to serve our customers and the entire WordPress community, over the past 11 years.

5.   The contributions that WPE makes, as well as the contributions of many of its people, to the wider world of WordPress include the investment of significant resources into growing the community of developers, users, and organizations that can use WordPress and developing and contributing to the open source ecosystem. This is exemplified by WPE's development and stewardship of some of the most popular plugins in WordPress like Advanced Custom Fields (ACF) and Genesis Blocks, our sponsorships of global WordCamps and educational events like our own DE{CODE} Conference, as well as our own free "Local" software that enables WordPress developers to build websites on their own PC without being dependent on an internet connection and/or before selecting a host. WPE also educates and empowers the WordPress community through content like the WordPress Roundup and our Building WordPress series, and produces informative webinars, podcasts, and tutorials on how to get the best out of WordPress supported by WPE's Developer Relations team. WPE is one of the few organizations with "at scale" commercial support for users, which means that those users can obtain assistance from WPE rather than imposing on the community of volunteers who would otherwise need to absorb these questions and issues.

WordPress' Promises to WPE and the Entire Community

6.   WordPress is an open source software program that allows users to build and maintain their websites. Over the past 21 years since WordPress was released in open source, a diverse ecosystem of users has formed, comprised of individuals, small businesses, larger companies, non-profits, and the like. In parallel, many hosting and management companies have been founded to serve the members of this ecosystem by helping users with their WordPress websites for a fee. WPE is one such company. Like many companies in the WordPress ecosystem, WPE's business is built to support the WordPress open source platform.

7.   As an open source platform, for the past two decades, the wordpress.org website and WordPress creators and contributors have promoted WordPress as a software platform that is free and accessible for everyone. For example, the open source WordPress software is publicly available for download at https://wordpress.org/download/. The wordpress.org webpage located at https://wordpress.org/about/ states that WordPress has this mission:

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> WordPress is designed for everyone. We believe great software should work with minimum set up, emphasizing accessibility, performance, security, and ease of use. The basic WordPress software is simple and predictable, offering powerful features for growth and success. WordPress is open source software. Supporting the idea of democratizing publishing and the freedoms that come with open source, is a large community of people collaborating on and contributing to this project. WordPress is welcoming and inclusive. Our contributors' passion drives the success of WordPress which, in turn, helps you reach your goals. WordPress contributors work around the globe, and have dedicated countless hours to build a tool that offers anyone a voice."

A true and correct printout of this webpage is attached hereto as Exhibit A.

8. Until very recently, I was under the impression that wordpress.org was associated with and/or owned by the non-profit WordPress Foundation.

9. On its website, wordpress.org describes its commitment to open source and its "four core freedoms" that encourage others to use and adapt the open source software. The four freedoms are: "The freedom to run the program for any purpose. The freedom to study how the program works and change it to make it do what you wish. The freedom to redistribute. The freedom to distribute copies of your modified versions to others." *See id.* at 3 (https://wordpress.org/about/). WordPress is licensed under the GNU General Public License ("GPL"), which WordPress states guarantees these "four core freedoms." *See id.* at 2 (https://wordpress.org/about/). WordPress calls these "four core freedoms" its "bill of rights" on its webpage located at https://wordpress.org/about/philosophy, a true and correct printout of which is attached hereto as Exhibit B. It explains that GPL licensing requirements include licensing derivative works or things that link core WordPress functions (like themes, plugins, etc.) under the GPL as well, thereby passing on the freedom of use for these works as well. *See* Ex. B at 4 (https://wordpress.org/about/philosophy).

10. The wordpress.org website also explains that "The WordPress community should emphasize that the freedoms in the GPL help provide high quality software." *Id.* (https://wordpress.org/about/philosophy).

11. Even apart from these "four core freedoms," the wordpress.org website makes even more specific promises to software developers who it encourages to build on its platform. WordPress hosts an entire separate developer website (developer.wordpress.org) to encourage third-

DECLARATION OF HEATHER BRUNNER

party software developers (such as WPE) to build plugins on its platform. On that developer website, WordPress promises that "Wordpress.org offers free hosting to *anyone* who wishes to develop a plugin in our directory." (Emphasis added.) This language can be seen at the webpage located at https://developer.wordpress.org/plugins/wordpress-org/, a true and correct copy of which is attached hereto as Exhibit C. Nowhere on the developer website does it say that a plugin developer must pay Automattic or WordPress to host their plugin on wordpress.org, or that a developer can be excluded entirely from wordpress.org if any particular individual unilaterally decides to do so.

12.   WPE relied on all of the promises for open access made by Defendants in deciding to invest its time and resources into building its business around the WordPress platform. Pursuant to that reliance, WPE has built a substantial business, committing hundreds of thousands of engineering hours and tens of millions of dollars to develop its software on the WordPress platform to serve tens of thousands of individuals and companies.

Automattic's Long-Time Investment in WPE From 2011-2018

13.   As part of my role as CEO and Chairwoman, I am familiar with WPE's former and current investors. Automattic, Inc. made a strategic investment in WPE in November 2011 in WPE's Series A investment round. In connection with this, WPE made a press release announcing the investment, which can be found at https://wpengine.com/blog/wp-engine-closes-1-2m-in-series-a-financing/, a true and correct printout of which is attached hereto as Exhibit D.

14.   WPE's press release for this investment by Automattic described WPE as "the *WordPress hosting and security service* for bloggers and small businesses." *See Id.* (https://wpengine.com/blog/wp-engine-closes-1-2m-in-series-a-financing/) (emphasis added).

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15.   WPE's website at the time, in fall 2011, used the WordPress mark to refer to the software platform on which its customers' websites are built. This can be seen in Exhibit E to the declaration of Jason Teichman, as shown below:

Declaration of Jason Teichman in Support of Plaintiff WPEngine, Inc.'s Motion for a Preliminary Injunction ("Teichman Decl."), Ex. E (https://web.archive.org/web/20111115053852/http://wpengine.com/).

16.   WPE's website has continuously done so – used the WordPress mark to refer to the software platform on which its customers' websites are built – for well over a decade, right up through today.

17.   Since Automattic's 2011 investment in WPE, WPE and Automattic have maintained regular communications, including about WPE's website.

18.   WPE has also been a long-time sponsor of and attended the WordPress conferences known as WordCamp, including having booths with promotional signage and materials at the conferences. Those materials also use the WordPress mark to refer to the software platform on which its customers' websites are built, and always have, for as long as I can remember. There is no meaningful way to describe services that manage and host WordPress websites without using the term WordPress.

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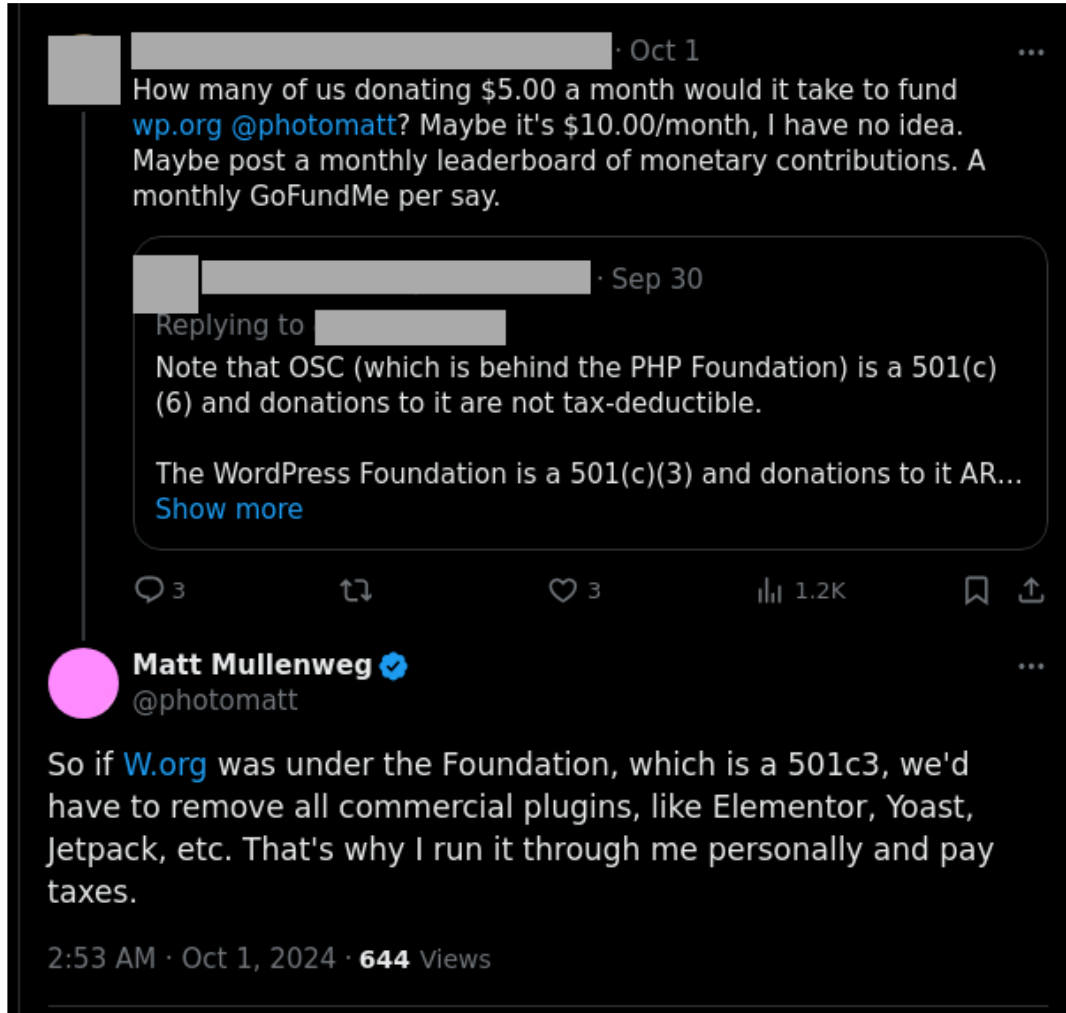**Our Competitor Automattic and Its Coercive Threats To WPE**

2   19.   Automattic is a for-profit company that competes with WPE as a webhost for

3 WordPress websites.   Automattic's CEO is Matt Mullenweg, who also is one of the original

4 developers of WordPress. Mr. Mullenweg also claims to be a director of the WordPress Foundation,

5 which, as I understand it, claims to be a non-profit foundation that owns the WordPress open source

6 software and trademarks.

7   20.   I have known Mr. Mullenweg professionally since 2013.

8   21.   In recent weeks, Mr. Mullenweg has publicly stated that he individually owns and

9 controls wordpress.org, which is the website where the WordPress open source software and related

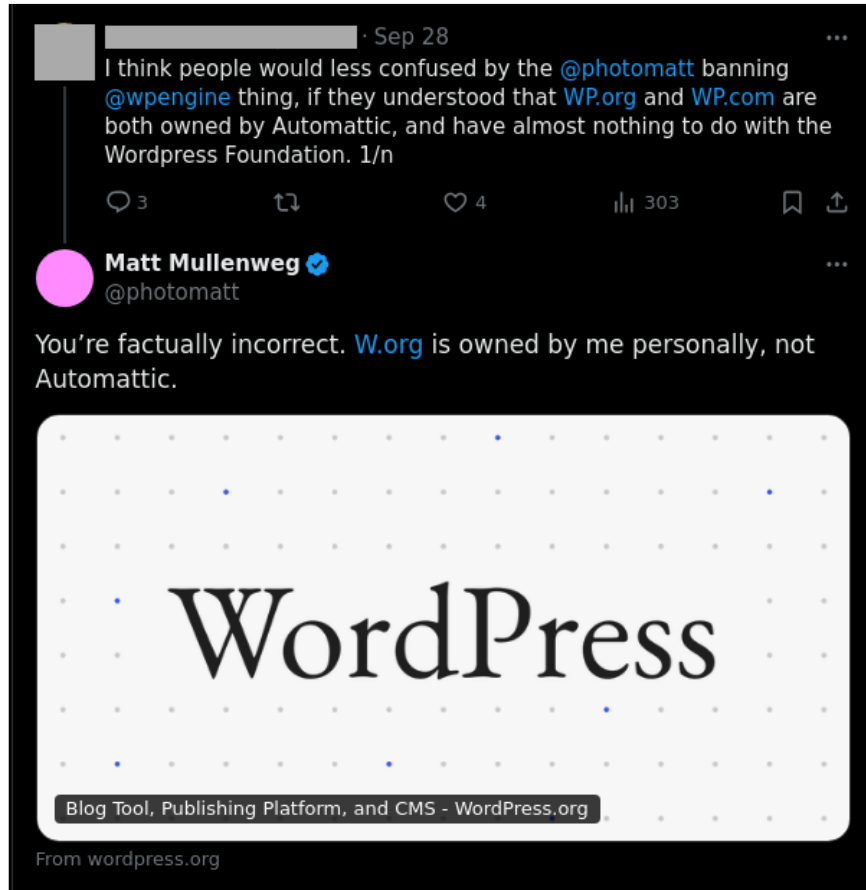10 plugins are hosted for everyone in the WordPress community to access, as shown below:

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DECLARATION OF HEATHER BRUNNER

1   *See* Declaration of Sara Jenkins in Support of Plaintiff WPEngine, Inc.'s Motion for a Preliminary

2   Injunction ("Jenkins Decl."), Ex. 19 at 2 (https://x.com/photomatt/status/1841156424631545960):

21   Jenkins Decl. Ex. 19 at 1 (https://x.com/photomatt/status/1840948013360910448).

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Jenkins Decl. Ex. 19 at 3 (https://x.com/photomatt/status/1839871781630554168).

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Until very recently, I had been under the impression that wordpress.org was associated with or

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owned by the WordPress Foundation as is typical for many open source software projects' websites.

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Given the various social media posts on this issue in recent weeks, it appears that many others held

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that same belief.

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  22. Last month, Automattic's CEO Mr. Mullenweg and Automattic's CFO Mark Davies

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began threatening me and one of our board members that if WPE did not agree to pay Automattic a

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very large sum of money before Mr. Mullenweg's September 20th keynote address at the WordCamp

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US Convention ("Keynote Speech"), he was going to embark on a "scorched earth nuclear

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approach" toward WPE within the WordPress community and beyond.

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  23. Specifically, during calls on September 17th and 19th, for instance, I am informed that

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Automattic CFO Mark Davies told a WPE board member that Automattic would "go to war" if

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WPE did not agree to pay Automattic large sums of money, on an ongoing basis. Mr. Davies stated

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1   that he would send over an agreement that he expected WPE to sign or else the "war" would

2   commence.

3   24.   On the morning of September 20, only hours before Mr. Mullenweg's Keynote, Mr.

4   Davies sent WPE a one-page "trademark license agreement" document we had never seen before,

5   and which sought to impose an 8% royalty on WPE's gross revenues (which would amount to tens

6   of millions of dollars), along with other onerous terms such as "full audit rights" of WPEs internal

7   records, including "access to employee records and time-tracking." In return, the "trademark license

8   agreement" document purported to grant WPE the "right" to use the WordPress trademark to

9   describe the WordPress open source software. A true and correct copy of this document is attached
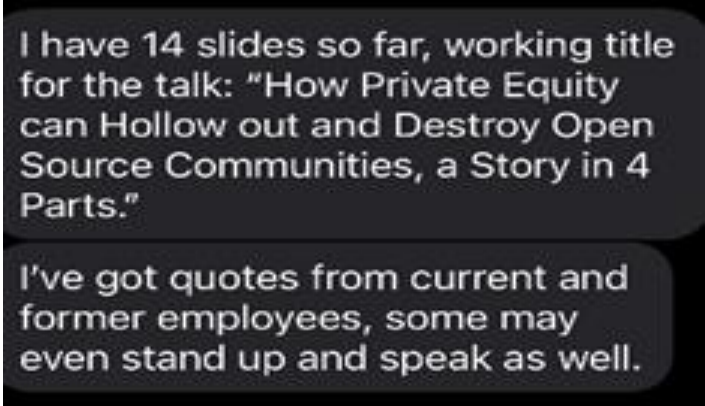
10   as Exhibit N.

11   25.   As explained in the declaration of Jason Teichman, WPE has been using the

12   WordPress and WooCommerce marks to accurately and truthfully identify those software products

13   used by our customers' websites – as companies in this space do – for many years.

14   26.   I am informed that Automattic's CFO insisted that WPE provide its response to this

15   demand immediately. After he sent the "trademark license agreement" document on the morning

16   of September 20, Mr. Davies followed up with an email to a WPE board member, on which I was

17   copied, reiterating that they needed WPE to agree to their demands immediately, "before Matt

18   makes his WCUS keynote at 3:45 p.m. PDT today." A true and correct copy of this email is attached
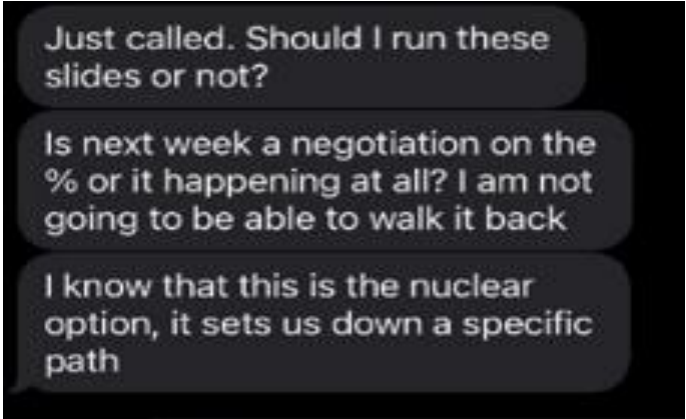
19   as Exhibit E.

20   27.   In parallel and throughout September 19 and 20, Mr. Mullenweg sent various texts

21   and made phone calls to me and a WPE board member. Here is one of Mr. Mullenweg's threatening

22   texts, which was sent to a WPE board member on September 20 and was then shared with me. A

23   true and correct copy of these text messages are attached as Exhibit F, and included below.

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I have 14 slides so far, working title for the talk: "How Private Equity can Hollow out and Destroy Open Source Communities, a Story in 4 Parts."

I've got quotes from current and former employees, some may even stand up and speak as well.
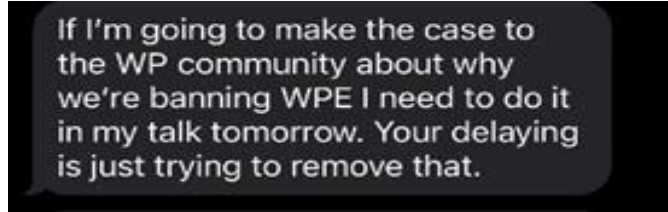
28.   Mr. Mullenweg also threatened that if WPE did not agree to pay up prior to the start of Mr. Mullenweg's livestreamed Keynote Speech at 3:45 pm PT on September 20, he would go "nuclear" on WPE, as shown in the text below. A true and correct copy of these text messages are attached as part of Exhibit F and displayed below:

Just called. Should I run these slides or not?

Is next week a negotiation on the % or it happening at all? I am not going to be able to walk it back

I know that this is the nuclear option, it sets us down a specific path

29.   While waiting for a response to his text messages, Mr. Mullenweg emailed a WPE board member, who later shared the email with me, making threatening references to his planned Keynote Speech: "We get a few thousand viewers on the livestream, and the videos on YouTube can get millions of views when we promote them." Mr. Mullenweg further stated that he had already created slides for his Keynote speech, taking aim at WPE and its investor, and would present them to the live attendees of the Keynote Speech – and to millions of others via livestream on YouTube – if his financial demands were not met.

30.   Mr. Mullenweg continued to send texts to me and WPE's board member throughout the evening of September 19 and the morning of September 20, again trying to pressure WPE into agreeing to pay Automattic tens of millions of dollars a year on a going-forward basis. Here is

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another one of Mr. Mullenweg's threatening texts, which was sent to a WPE board member and then shared with me. A true and correct copy of this text message is attached as part of Exhibit F and displayed below.

> If I'm going to make the case to the WP community about why we're banning WPE I need to do it in my talk tomorrow. Your delaying is just trying to remove that.

31.   In response to these various texts, we offered to speak with Mr. Mullenweg the next business day, Monday, September 23 to have a business discussion. I personally offered to fly to San Francisco so that the meeting could be in person. Mr. Mullenweg refused, sending WPE's board member a text, later shared with me, stating that he took that response as a "no" to his demand. A true and correct copy of these text messages is attached as part of Exhibit F and displayed below.

> If you're saying "next week" that's saying "no", so I will proceed with the scorched earth nuclear approach to WPE

> Thank you for the clarity, it gives me time to work on things and hone my message.
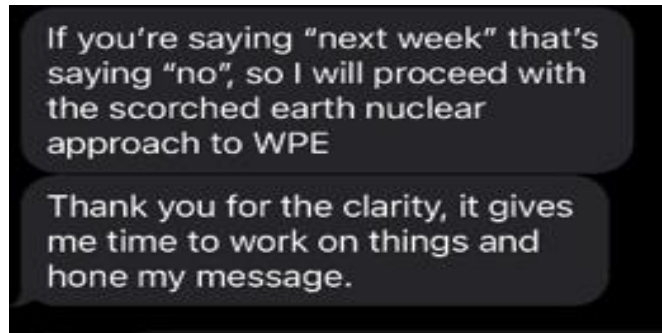
32.   In the final minutes leading up to his Keynote Speech, Mr. Mullenweg sent one last message to WPE's board member which was then shared with me: a photo of the WordCamp audience waiting to hear his speech, with the message that he could shift gears and turn his talk into "just a Q&A" if WPE immediately agreed to pay up. A true and correct copy of this text message is attached as part of Exhibit F and displayed below.

DECLARATION OF HEATHER BRUNNER
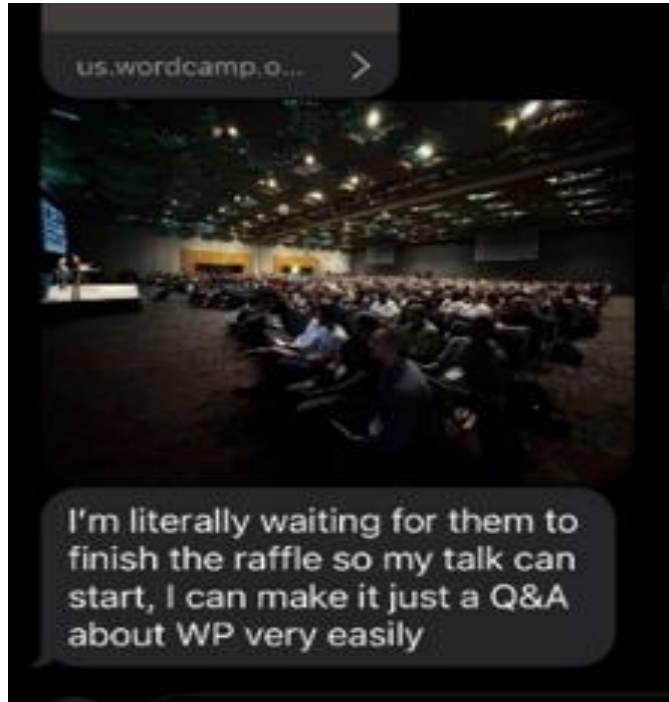
33.   WPE did not agree to Mr. Mullenweg's demands.

34.   Never in my 30+ year professional career have I ever been threatened by a competitor in this manner, nor asked to make such a financially consequential decision in a matter of hours, or on the basis of a single page "agreement" containing terms no competitor in their right mind would ever agree to. This did not feel like any business negotiation I have ever been a part of – it felt like a holdup.

Automattic and its CEO Carry Out Their Threats

35.   After WPE declined to pay Automattic tens of millions of dollars per year by Automattic's stated deadline of 3:45 pm on Friday September 20, Automattic and Mr. Mullenweg proceeded to carry out their extortionate threats in multiple ways.

36.   First, Mr. Mullenweg made a series of false and disparaging statements about WPE during his September 20th Keynote Speech. For example, he claimed that WPE is a company that "feed[s] off the host without giving anything back" and that every WPE customer should watch his speech and then not renew their contracts with WPE. He also falsely suggested that WPE employees may be fired for speaking up, supporting Mr. Mullenweg, or supporting WordPress and offering to

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1   provide support in finding them new jobs if that were to occur. None of that is true. *See* Jenkins

2   Decl. Ex. 29 at 3-4.

3   37.   Second, following the Keynote Speech, Mr. Mullenweg made additional false and

4   disparaging public statements about WPE.

5   38.   For example, on September 21, the day after the Keynote Speech, Mr. Mullenweg

6   authored an article and posted it on wordpress.org, entitled "WP Engine is not WordPress." In

7   that post he made the following statements:

What WP Engine gives you is not WordPress, it's something that they've chopped up, hacked, butchered to look like WordPress, but actually they're giving you a cheap knock-off and charging you more for it.

This is one of the many reasons they are a cancer to WordPress, and it's important to remember that unchecked, cancer will spread. WP Engine is setting a poor standard that others may look at and think is ok to replicate. We must set a higher standard to ensure WordPress is here for the next 100 years.

14   *See* Jenkins Decl. Ex. 6 at 3 (https://wordpress.org/news/2024/09/wp-engine/). Mr. Mullenweg

15   also claimed that WPE's disabling of revisions was setting a poor standard for WordPress.

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17   39.   It is not true that what WPE gives its customers "is not WordPress," nor is it a "cheap

18   knockoff " of WordPress. As for disabling revisions, this is a standard practice that Automattic's

19   wordpress.com does as well, so Mr. Mullenweg's suggestion that this jeopardizes the "integrity" of

20   user content or fails to protect that content is false.

40.   On September 21, 2024, Mr. Mullenweg began pushing his anti-WPE posts to all WPE customers, and the entire WPE community, by putting them on the news feed on the WP Admin Panel, an online interface for WordPress community members. The WP Admin Panel can be seen in Exhibit 31 to the Declaration of Sara Jenkins, as shown below:

See Jenkins Decl. Ex. 31 (https://x.com/Krylann/status/1839429540554174683).
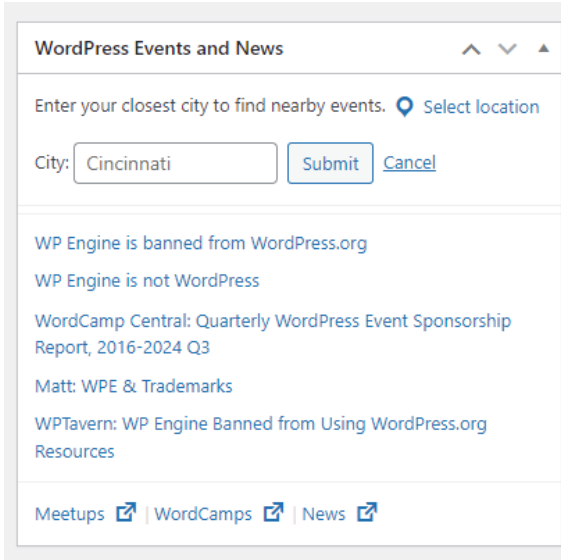
41.   This meant that all users of WPE services or plugins were barraged with Defendants' false and defamatory statements about WPE.

42.   Furthermore, as explained in the Prabhakar Declaration, on September 24, 2024, Mr. Mullenweg blocked WPE from accessing wordpress.org. This meant that WPE was unable to edit its plugins on wordpress.org or manage its plugin updates, and was blocked from making any community contributions whatsoever. Mr. Mullenweg stated publicly on wordpress.org that he blocked WPE because WPE had started a litigation against wordpress.org, as can be seen below:

> **What I will tell you is that, pending their legal claims and litigation against WordPress.org, WP Engine no longer has free access to WordPress.org's resources.**

See Jenkins Decl. Ex. 7 at 1 (https://wordpress.org/news/2024/09/wp-engine-banned/). This was false as WPE had not filed litigation against wordpress.org.

43. The next day, on September 25, 2024, Mr. Mullenweg banned WPE customers who host their WordPress installations on WPE servers from accessing wordpress.org resources through the administration panel.

44. Mr. Mullenweg's actions in blocking WPE from wordpress.org were incredibly damaging and disruptive to WPE and its business. The full extent of this harm is difficult if not impossible to measure at this stage.

45. Mr. Mullenweg also blocked some WPE employees from editing plugins they had personally developed and maintained on wordpress.org, apparently simply because they were identifiable as WPE employees.

46. Mr. Mullenweg has also levied personal attacks against me, and one of WPE's board members, for failing to capitulate to his demands. For instance, on September 26, 2024, Mr. Mullenweg gave an interview on the Twitch platform. During that interview he gave my personal cell phone number to the host of the interview, who was a stranger to me, and encouraged him to contact me.

47. Mr. Mullenweg's attacks against me have also continued in private. First, on September 28, 2024, Mr. Mullenweg attempted to poach me from WPE. A true and correct copy of this text is attached as Exhibit G.

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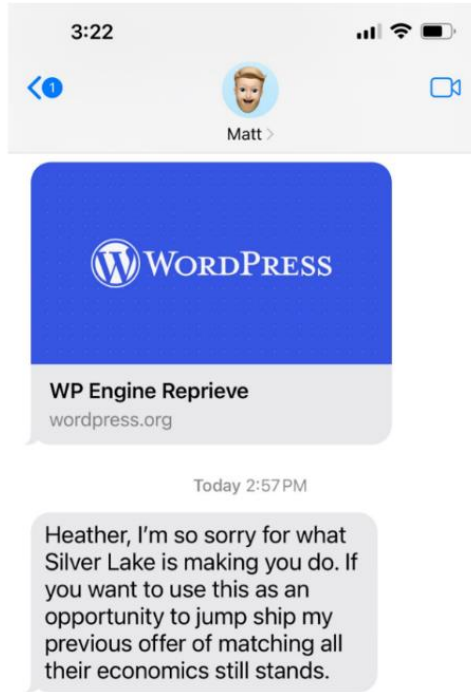
48.   When I did not immediately respond to his message, Mr. Mullenweg followed up

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the next day, September 29, 2024, with more threats. Specifically, Mr. Mullenweg gave me until

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midnight that day to "accept" his job "offer" with Automattic. If I did not agree, Mr. Mullenweg

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threatened to tell the press, and WPE's investor, that I had interviewed with Automattic. A true

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and correct copy of this text is attached as Exhibit G.

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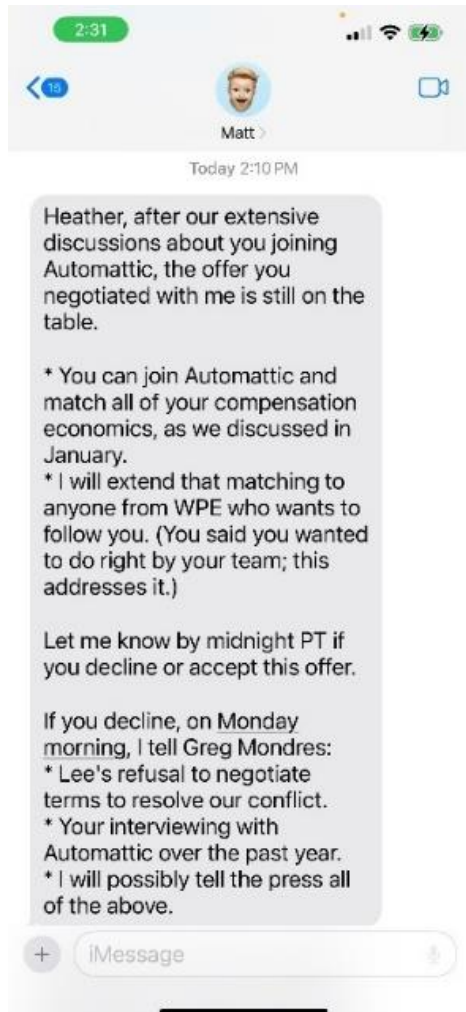
49.   Mr. Mullenweg's premise was false, as I had never interviewed or had "extensive discussions" with Automattic. In May 2022, Mr. Mullenweg and I met for a business lunch in San Francisco, and during our conversation he expressed an interest in hiring me to run wordpress.com. I got back to him a short time later and politely declined his offer.

50.   I did not respond to Mr. Mullenweg's latest threat sent September 29.

51.   All of these actions have caused serious harm to WPE, its reputation, and its customer relationships. Additional details concerning this harm are set forth in the accompanying declarations of Mr. Prabhakar and Mr. Teichman.

52.   Despite the WordPress community uproar about the harm Mr. Mullenweg is inflicting upon WPE (and the entire ecosystem), Mr. Mullenweg has shown no signs of stopping his "war" against WPE any time soon.

53.   In an October 1, 2024 article, on TheRepository.com reported that, in an interview with its reporter, Mr. Mullenweg stated that he had rescinded the offer to WPE to license the trademarks for 8%, and claimed, instead, that now the deal may be that he "*tak[e] over*" WPE. He further stated that he would continue to publicly attack WPE, warning that "I have a lot to work with" and that WPE's investors stood to "lose billions" if there was a corporate takeover. These statement can be seen in excerpts from TheRepository.com article below:

> In an interview with **The Repository**, Mullenweg said **Automattic** now wanted more than 8% of **WP Engine's** annual revenue, or an equivalent of resources invested into the **WordPress** project—or a combination of both—in exchange for the use of its "**WordPress**" and "**WooCommerce**" trademarks.
>
> "That deal's not on the table anymore. We're seeking more, not 8%," Mullenweg said. "I don't want to speculate on what the deal might be... In July it was less than 8%, it was smaller. In September it was 8%. The deal they have to do next could be taking over the company, they have no leverage."

Jenkins Decl. Ex. 9 at 1 (https://www.therepository.email/mullenweg-threatens-corporate-takeover-of-wp-engine.).

> Mullenweg said his public attacks would continue, adding "I have a lot to work with."
>
> "**Silver Lake** used to hold this asset (**WP Engine**) on their books for $2 billion... They stand to lose billions [in the event of a corporate takeover]."

Id. at 2 (https://www.therepository.email/mullenweg-threatens-corporate-takeover-of-wp-engine.).

54.   On that same day, Mr. Mullenweg made a public post, pictured below, expressing that WPE's customers were "leaving in droves" because of the block he instituted against WPE and its customers. He further stated that the value of WPE's company was only "a fraction" of what it was before, in response to a tweet that provided the opinion that Mr. Mullenweg's attacks

1   on WPE were motivated by a desire to reduce WPE's value so that he could acquire it for a

2   cheaper price.

19   *See* Jenkins Decl. Ex. 10 at 1 (https://x.com/photomatt/status/1841281383307604453).

20   55.   WPE filed a complaint against Mr. Mullenweg on October 2, 2024. Since then, his

21   attacks on WPE's business, employees, customers and users has only worsened. Mr. Mullenweg

22   has repeatedly made new threats about future acts he intends to take to harm and devalue WPE.

23   56.   One of those attacks occurred on October 4, 2024, when Automattic sent WPE a

24   security alert about ACF, a plugin that WPE develops and contributes for use by the open source

25   community. A true and correct copy of this email is attached as Exhibit H. Both Mr. Mullenweg

26   and myself were cc'd on the email, which is without precedent.   As the CEO, I never get copied

27   on such routine security patch emails for minor security issues.

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From: **Automattic Security Team** <security@automattic.com>
Date: Fri, Oct 4, 2024 at 7:38 PM
Subject: Responsible Disclosure - Vulnerability in Advanced Custom Fields
To: <acf-security@wpengine.com>
CC: Matt Mullenweg <matt@automattic.com>, <security@automattic.com>, <heather.brunner@wpengine.com

Howdy,

We are writing today to let you know about a vulnerability we
discovered in your WordPress plugin, Advanced Custom Fields, found at
https://wordpress.org/plugins/advanced-custom-fields/. The
vulnerability allows administrators to run arbitrary PHP functions,
which we consider to be a medium level of risk due to it being
exploitable in multisite configurations. We have confirmed this issue
in the current version available on WordPress.org, 6.3.6, as well as
the latest version available from advancedcustomfields.com, 6.3.7. In
order to replicate the attack we recommend you follow the proof of
concept we're sharing: By default, an administrator is allowed to run
imports from a JSON file. One can import different post types (acf
field group, acf post type, and acf taxonomy). The importer uses the
key item of each imported item to determine the post type to use. In
this particular case, if we use the post_type_ prefix, once the post
type gets imported it will be mapped to ACF_Post_Type which results in
custom post types registered in the DB to be loaded in WP-Admin.

```
[
 {
  "key": "post_type_demo",
  "post_type": "demo",
  "title": "demo",
  "active": true,
  "_valid": true,
  "labels": {
  "name": "demo",
  "singular_name": "demo",
  "menu_name": "demo"
  },
  "register_meta_box_cb": "wp_write_post"
 }
```

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57.   The next day, Mr. Mullenweg began posting strange messages about WPE's ACF plugin. In a post on X.com on October 5, 2024, pictured below, Mr. Mullenweg wrote that he "suspect[s] there are going to be millions of sites moving away from [ACF] in the coming weeks." And, when criticized for his stance on WPE and ACF, Mullenweg responded, "I guess we'll see how WordPress does without them."


See Jenkins Decl. Ex. 11 at 1 (https://x.com/photomatt/status/1842500184825090060).

58.   When someone asked why developers would invest time moving away from ACF, Mullenweg responded in a Slack message in the Post Status Slack that the person will "have to

1   wait and see why people might not trust ACF as much going forward." A true and correct copy of

2   this post is attached as Exhibit I and pictured below:

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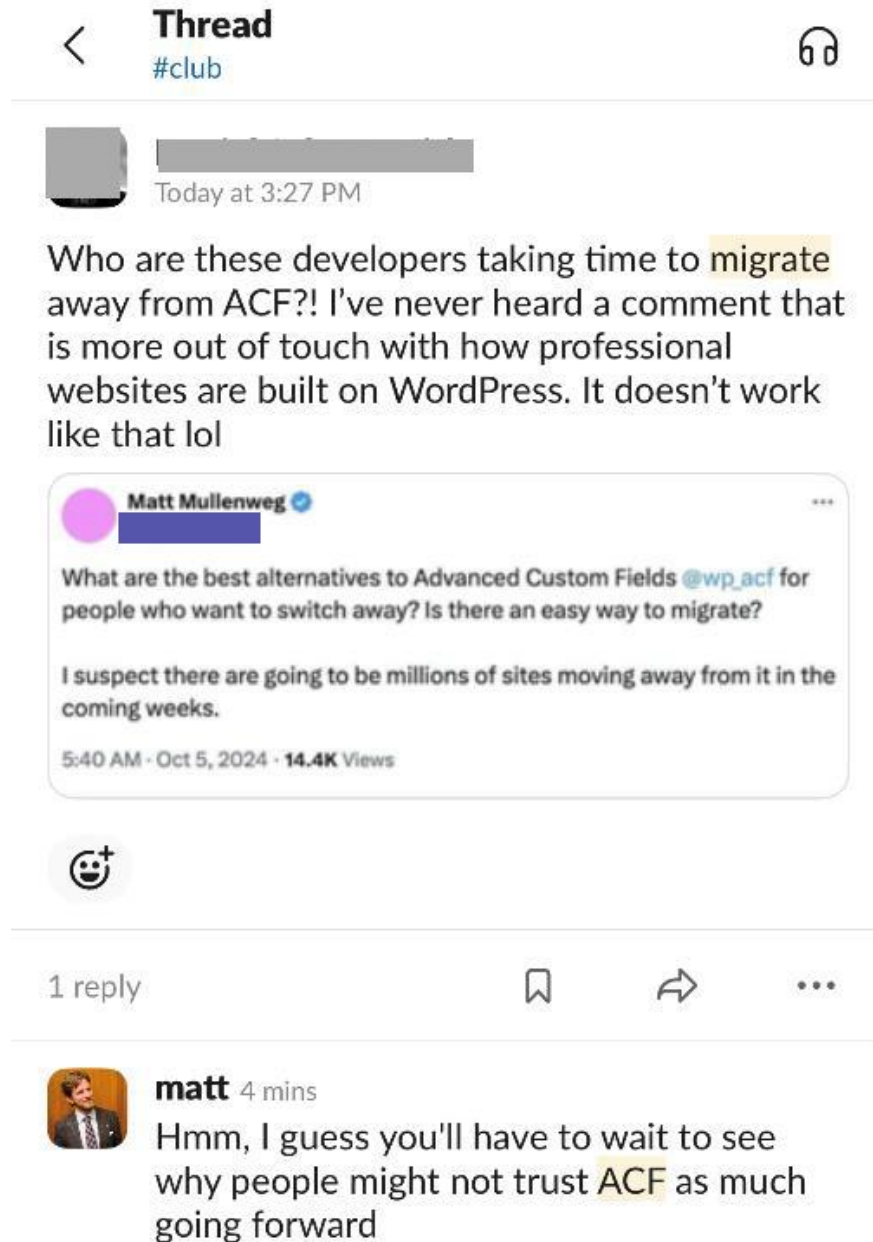
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26   59.   As another example, on Monday, October 7, Mr. Mullenweg stated in a Slack

27   message in the Post Status Slack that there would be more "surprises for you all on Tuesday,

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Wednesday, Thursday" in connection with the "fight[] . . . against evil private equity." A true and

correct copy of this message is attached as Exhibit J and also shown below:
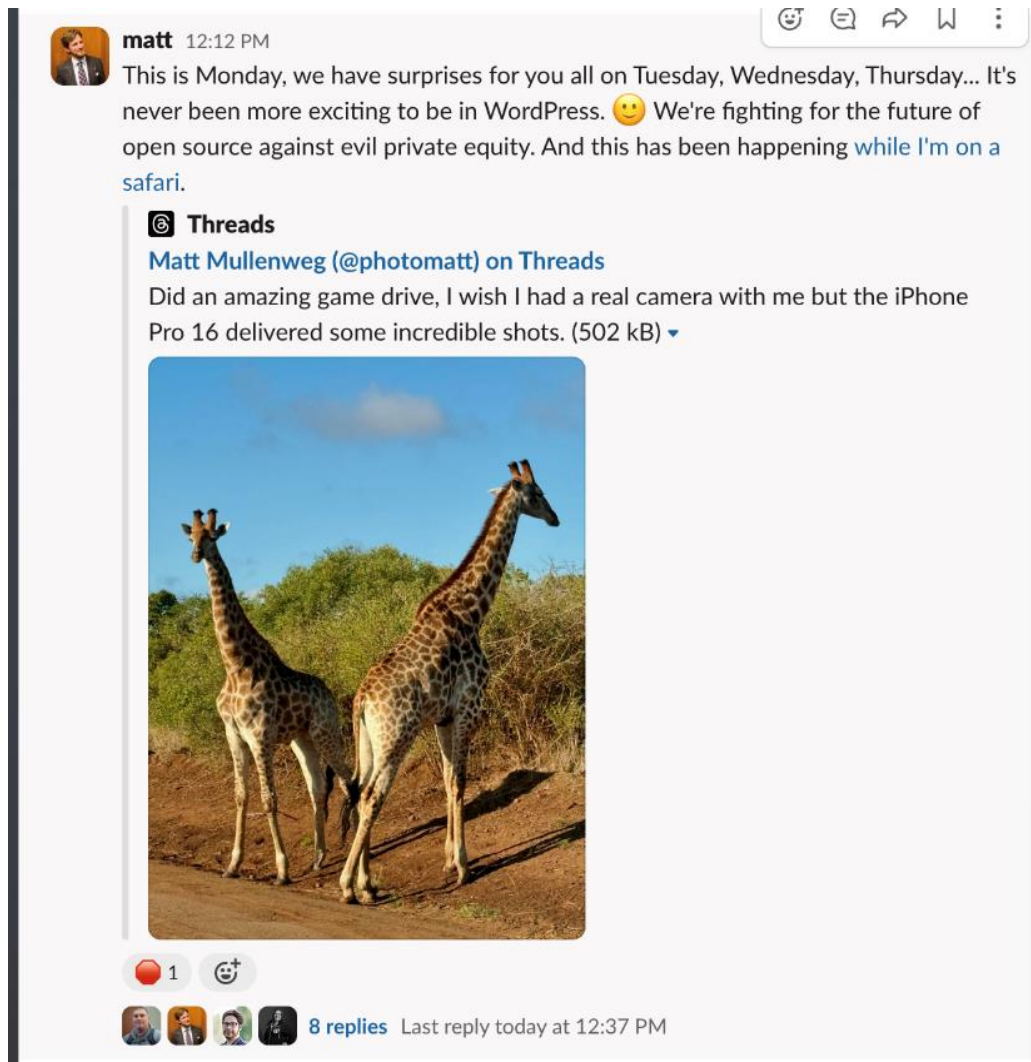
60.   On October 8, it appears that Mr. Mullenweg caused the wordpress.org login screen

to require all WordPress users to check a box to agree that "I am not affiliated with WP Engine in

any way, financially or otherwise." Without checking the box, users cannot login to

wordpress.org. A true and correct screenshot, taken from the webpage located at

https://login.wordpress.org, is attached hereto as Exhibit L[1] and also pictured below:

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[1]   Exhibit K was omitted intentionally.

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61.   On October 9, Mr. Mullenweg stated in a in a Slack message in the Making
WordPress Slack, (displayed below) that the checkbox is part of Mr. Mullenweg's efforts to ban
all WPE customers from accessing wordpress.org's resources.

See Jenkins Decl. Ex. 21 at 1 (https://x.com/JavierCasares/status/1843963071183880345).
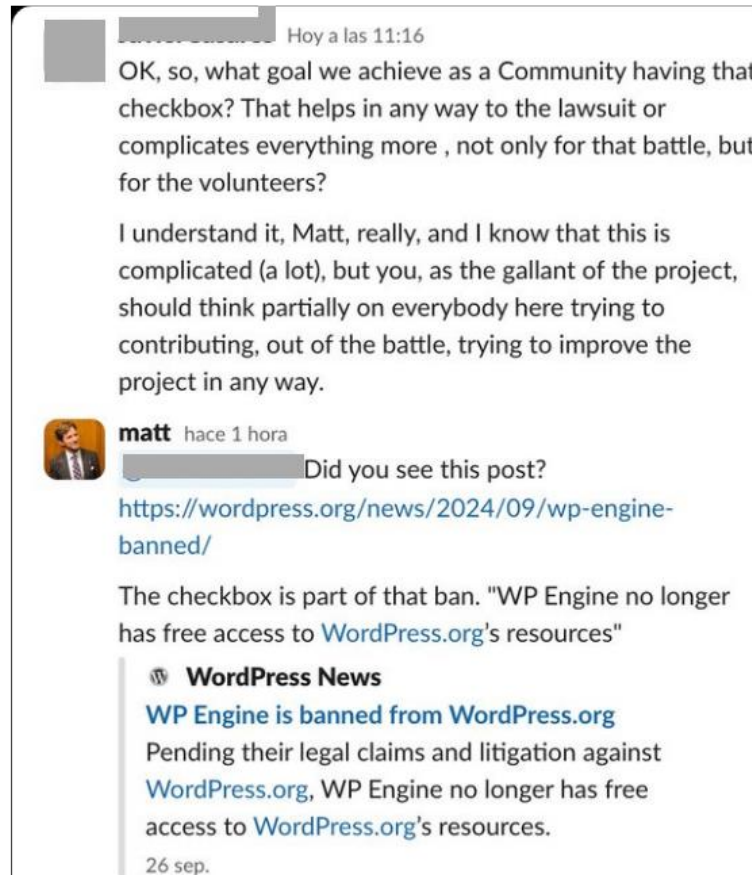
62.   I have heard from multiple sources and understand that Defendants will soon
demand that agency partners must choose between doing business with WPE, or doing business
with Automattic, and if they chose WPE, they would similarly be cut off from the WordPress
community by the Defendants. In the context of our business, an agency is an organization that
builds websites, stores and publications on behalf of multiple clients, using WPE tools and
products. Losing an agency relationship would mean that WPE would lose both the agency
partner as well as many customers all at once. If Defendants carry out this threat, it will cause
irreparable harm to our business in for form of lost customers and reputational harm.

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63.   On October 12, 2024, Mr. Mullenweg forcibly took over WPE's Advanced Custom

Fields (ACF) plugin and renamed it Secure Custom Fields. As described in the Prabhakar

Declaration, the ACF plugin extends the functionality of WordPress by allowing WordPress to

store additional types of information. WPE acquired the team and business line associated with

the ACF plugin in 2022 for a substantial sum of money. As shown below, the page for ACF on

wordpress.org's "Plugin Directory" now shows a new name, "Secure Custom Fields," even though

the URL is still listed as "wordpress.org/plugins/advanced-custom-fields/".
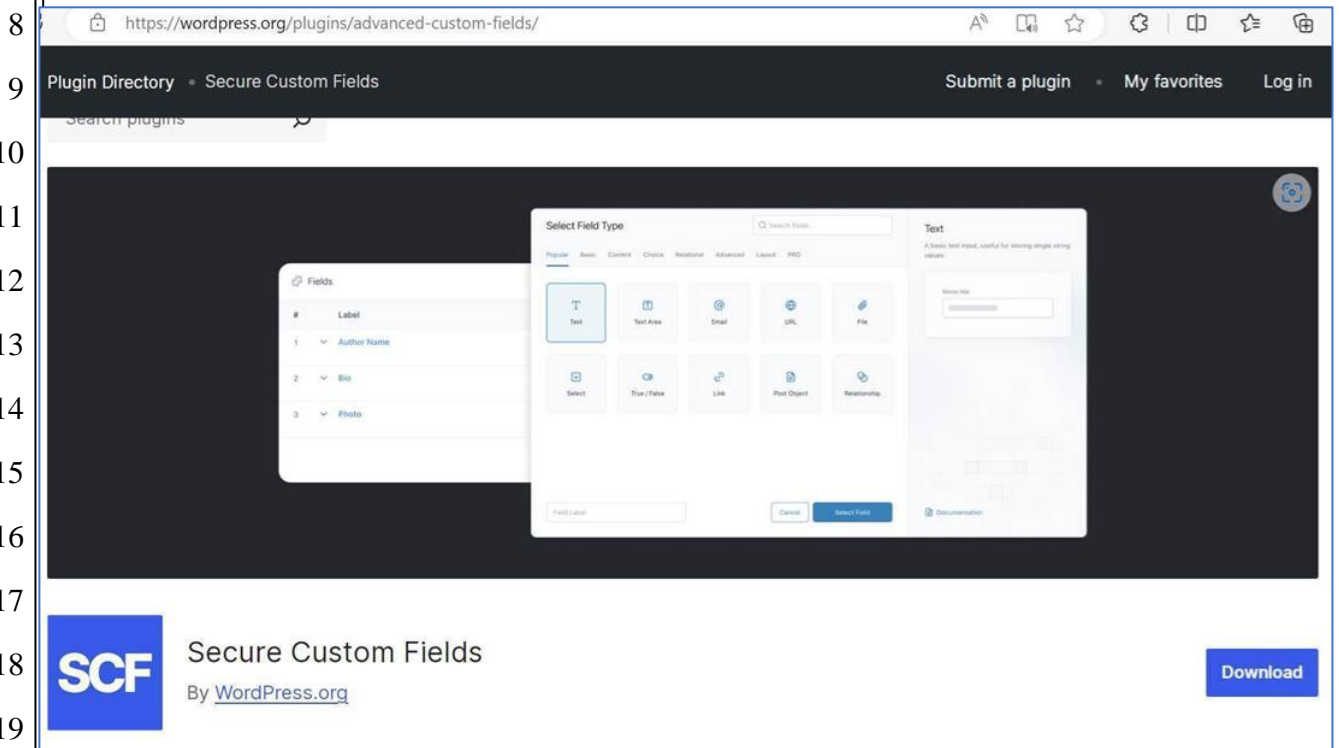
A true and correct copy of a screen shot from this webpage located at

https://wordpress.org/plugins/advanced-custom-fields/ is attached hereto as Exhibit M.

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64.   ACF had a nearly 5 star rating with reviews ranging from 11 years ago to the present. As can be seen in Exhibit B to Prabhakar Declaration, which is also pictured below, those reviews are now listed as reviews for Secure Custom Fields, which is false.

See Prabhakar Decl. Ex. B at 4 (https://wordpress.org/support/plugin/advanced-custom-fields/reviews/page/43/)

65.   All of the above-referenced actions by Defendants are, and will continue to, inflict irreparable harm on WPE in the form of lost customers, lost potential customers, reputational harm and loss of goodwill. *See also* Teichman Decl. at ¶¶ 30-49.   Defendants clearly are not done with their "nuclear war" as they continue to make new threats about additional actions they plan to take to harm our business in furtherance of their extortionate conduct.

66.   On multiple occasions since Defendants made their extortionate demand for 8% of WPE's gross revenues on September 20, Mr. Mullenweg has publicly stated that WPE could make

DECLARATION OF HEATHER BRUNNER

1 | all of these attacks stop right now, if we just paid Defendants the tens of millions of dollars they

2 | demanded of us.

3 | I declare under penalty of perjury that the foregoing is true and correct. Executed on

4 | October 17, 2024, in Austin, Texas.

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ATTESTATION

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I, Rachel Herrick Kassabian, am the ECF user whose ID and password are being used to

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file the above Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Heather

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Brunner has concurred in the aforementioned filing.

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By */s/ Rachel Herrick Kassabian*
Rachel Herrick Kassabian

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