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25 *Attorneys for Defendants Automattic Inc. and*
26 *Matthew Charles Mullenweg*

27 **IN THE UNITED STATES DISTRICT COURT**
28 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

WPENGINE, INC., a Delaware corporation,

Plaintiff,

vs.

AUTOMATTIC INC., a Delaware
corporation; and MATTHEW CHARLES
MULLENWEG, an individual,

Defendants.

Case No. 3:24-cv-06917-AMO

**DECLARATION OF MATTHEW CHARLES
MULLENWEG IN SUPPORT OF
DEFENDANTS' MOTION TO STRIKE AND
OPPOSITION TO PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Judge: Hon. Araceli Martinez-Olguin

1 I, Matthew Charles Mullenweg, declare as follows:

2 1. I make this declaration in support of Defendants Automattic Inc. (“**Automattic**”)
3 and Matthew Charles Mullenweg’s Motion to Strike and Opposition to Motion for Preliminary
4 Injunction. I know the facts outlined in this declaration and could testify competently under oath as
5 a witness.

6 2. I am a co-founder of the open-source web publishing software WordPress and the
7 founder of Automattic, where I am currently the President and CEO. I am also a founding director
8 of the WordPress Foundation, a nonprofit public benefit corporation organized exclusively for
9 charitable, scientific, and educational purposes. In addition, I own the domain name
10 www.WordPress.org individually. I also manage the website WordPress.org (the “**Website**”) to
11 benefit the WordPress community.

12 3. WordPress is a free and open-source software platform that allows users to create,
13 manage, and publish websites or blogs without needing to write software from scratch. Based on
14 the blogging tool b2/cafelog, my co-founder Mike Little and I started developing WordPress in
15 January 2003. In May 2003, we released the first version of WordPress: WordPress version 0.7.
16 We spent hundreds of hours writing code and developing WordPress before its first release. To
17 democratize publishing across the Internet, we made the WordPress software available under an
18 open-source license to be accessible for anyone to use, copy, and modify.

19 4. Since its initial release, WordPress has been widely adopted worldwide. Today,
20 more than 40% of all websites run on WordPress.

21 5. Around the same time, in March 2003, I registered the domain name WordPress.org
22 and managed the Website associated with that domain name in my capacity to benefit the
23 WordPress community. I retain sole ownership of the domain name [WordPress.org](https://www.wordpress.org). I have no
24 contracts, agreements, or obligations to provide WPEngine, Inc. (“**WPE**”) access to the Website.

25 6. At first, the Website contained only a download link to the WordPress software.
26 Gradually, I added more resource directories, such as WordPress themes and plugins, with the help
27 of others. To access specific website directories, a user must register with the Website and log in

1 using their registered credentials. Based on my knowledge and maintenance of the Website, there
2 are over thirteen million cumulative registered accounts. The website requires significant resources
3 from Automattic, me, and others to manage and maintain.

4 7. Blocking certain registered accounts from accessing the Website is not uncommon,
5 including to protect the Website and its users from bad acts, such as spamming and security risks.
6 Hundreds of thousands of accounts have been blocked on the Website over the nearly two decades
7 it has been in operation.

8 8. Plugins are hosted on the Website in a plugin directory located at
9 <https://WordPress.org/plugins/>. This plugin directory is freely accessible to anyone. No log-in
10 credentials are required to access the plugin directory or download the plugins hosted on the
11 Website. At no point has WPE's access to the plugin directory been revoked, and even today, WPE
12 can access the plugin directory on the Website.

13 9. The Website also contains a blog where I share my thoughts on various issues
14 affecting the WordPress community. That blog is available at <https://wordpress.org/news/> and
15 includes posts from other contributors.

16 10. As the co-founder of WordPress, I often participate in conferences, panels,
17 roundtables, media interviews, and other public speaking events in my individual capacity rather
18 than on behalf of Automattic or the WordPress Foundation (“**Foundation**”).

19 11. One such conference is WordCamp US, the largest annual gathering of the
20 WordPress community in the Americas. Attendees include WordPress users, content managers,
21 website agencies, e-commerce professionals, WordPress plugin authors and theme designers,
22 website hosts, and other members of the public who are interested in open-source issues and
23 supportive of the open web. Attached hereto as **Exhibit 1** is a true and correct copy of a screenshot
24 of the WordCamp US 2024 website.

25 12. I have previously offered a Q&A session during the WordCamp US conference and
26 spoke in my individual capacity as co-founder of WordPress. Attached hereto as **Exhibit 2** are true
27 and correct copies of screenshots of the WordCamp US 2022 schedule and session description.

1 13. On September 20, 2024, I led a Q&A session at WordCamp US 2024, where I spoke
2 again in my individual capacity as WordPress co-founder. Attached hereto as **Exhibit 3** are true
3 and correct copies of screenshots of the WordCamp US 2024 schedule and session description.

4 14. Attached hereto as **Exhibit 4** is a true and correct copy of an audio-visual recording
5 of my Q&A session from WordCamp 2024, which is available for viewing at
6 <https://www.youtube.com/live/fnI-QcVSwMU?t=5s>. **Exhibit 4** will be submitted in a physical
7 copy to the Clerk of the Court and will likewise be served on opposing counsel via email as this
8 exhibit is an audio-visual file. As of October 30, 2024, the video has received more than 14,000
9 views.

10 15. During the session, which lasted approximately one hour, I gave a brief introductory
11 presentation before answering live questions from attendees. During my presentation, I discussed
12 the Five for the Future program. I first introduced the Five for the Future program in 2014 in
13 response to the open source community’s desire to democratize access to publishing online and to
14 develop a collaborative system for improving and innovating on open source code, which is freely
15 available to everyone. Five for the Future calls on companies benefiting from WordPress to sign a
16 “pledge” to contribute time or sponsor resources to support the sustained growth of the WordPress
17 project. Participating organizations sponsor individual employees or teams to contribute a
18 dedicated number of hours per week to support and maintain the WordPress code. Since 2014,
19 hundreds of companies have signed the Five for the Future pledge. Attached hereto as **Exhibit 5** is
20 a true and accurate copy of the “About” page for the Five for the Future handbook.

21 16. WPE signed the Five for the Future pledge in 2020.

22 17. During my presentation at the start of the session, I made the following statements:

- 23 - “That’s the idea for this Five for the Future program, which is saying like, hey, if all the
24 farmers, all the people who are coming to bring their animals to graze in this field, take 5%
25 of their time, 5% of their profits from selling the animals or selling the fur or whatever it is,
26 and put that back into some fertilizer and some water and some labor to make things grow,
27 we’ll have a beautiful field that we can use for many generations to come. All right, back

1 to the post. That’s the ecosystem. But if that’s the yin, what’s the yang? We know the yin
2 and yang. Beautiful symbol. **This openness and generosity will track parasitic entities**
3 **that just want to feed off the host without giving anything back. There are companies**
4 **that participate in the learn, evolve, teach, nourish, loop.”**

5 - “Compare the Five for the Future pages from Automattic and WP Engine. Two companies
6 that are roughly the same size with revenue in the ballpark of about half a billion dollars per
7 year, these pledges are just a proxy and aren’t perfectly accurate, but as I write this,
8 Automattic has 3,786 hours per week, and that’s not even counting me. I currently count
9 my Five for the Future as zero because I’m kind of in a unique place because I spend some
10 of my time with WordPress Foundation, Audrey Capital, Automattic, and everything. **WP**
11 **Engine has 47 hours listed.** That’s actually gone down since I wrote this. So, some WP
12 Engine employees have modified their Five for the Future. **It’s down to 40 now.”**

13 - “Those of us who are makers who create the source need to be wary of those who would
14 take our creations and squeeze out the juice.”

15 18. During the question and answer portion of the session, I made the following
16 statements: “. . . One thing private equity likes to do is squeeze out the profits and the free cash
17 flow. You probably noticed some price increases coming up, yep, see some nodding heads over
18 there, yeah, customer service going down a little bit, yep yep, squeeze out that profit. That’s what
19 happens with these things, and it is a way to run a business, and obviously, it can be very lucrative;
20 they’re extremely successful to next returns on some of these things, but it’s not great for consumers.
21 Often when you do that, when you squeeze every last bit out of the business, and for open source
22 communities, it can be fatal, and I think that can be really rough . . .”

23 19. My statements were intended to contribute to the public debate regarding the role of
24 private equity in the development and flourishing of the technology industry and in particular, the
25 open source community.

26 20. At the time I made these statements, I understood that private equity firms operate
27 by using investor funding to take over target companies, then driving the company to meet KPIs

1 and derive the maximum profit, often at the expense of more community-oriented goals such as
2 those central to the WordPress mission. Attached hereto as **Exhibit 6** are true and accurate copies
3 of national press articles regarding the impact of private equity firms in the U.S. economy, which I
4 have reviewed.

5 21. It was also my understanding that Silver Lake, a private equity firm, invested \$250
6 million in WPE in 2018 and that three of WPE’s four board members are Silver Lake employees.

7 22. The day after the Q&A session, on September 21, 2024, I authored a blog post titled
8 “WP Engine is not WordPress,” which I posted on [WordPress.org](https://wordpress.org). I wrote this blog post in my
9 personal capacity as a co-founder of WordPress. The post was not reviewed by any Automattic
10 employee before posting. Attached hereto as **Exhibit 7** is a true and correct copy of this blog post
11 at <https://wordpress.org/news/2024/09/wp-engine/>, captured October 28, 2024.

12 23. In this blog post, I wrote the following:

- 13 - “I spoke yesterday at WordCamp about how Lee Wittlinger at Silver Lake, a private equity
14 firm with \$102B assets under management, can hollow out an open source community. (To
15 summarize, they do about half a billion in revenue on top of WordPress and contribute back
16 40 hours a week, Automattic is a similar size and contributes back 3,915 hours a week.)
17 Today, I would like to offer a specific, technical example of how they break the trust and
18 sanctity of our software’s promise to users to save themselves money so they can extract
19 more profits from you.”
- 20 - “WordPress is a content management system, and the content is sacred. Every change you
21 make to every page, every post, is tracked in a revision system, just like the Wikipedia. This
22 means if you make a mistake, you can always undo it. It also means if you’re trying to figure
23 out why something is on a page, you can see precisely the history and edits that led to it.
24 **These revisions are stored in our database. This is very important, it’s at the core of**
25 **the user promise of protecting your data, and it’s why WordPress is architected and**
26 **designed to never lose anything.”**
- 27 - **“WP Engine turns this off. They disable revisions because it costs them more money**

1 the ways in which private equity’s profit interests can interfere with WordPress’s core promises
2 and functions.

3 26. On September 24, 2024, I received information that WPE had modified the
4 WordPress dashboard’s news widget to strip out any negative comments about them. I further
5 learned that at least some WordPress users’ websites broke as a result of this action. Attached hereto
6 as **Exhibit 8** is a true and accurate copy of a tweet I posted from my individual X account,
7 @photomatt, which describes this issue and was also linked within the September 25 Blog at
8 <https://x.com/photomatt/status/1838502185879167069>, captured October 28, 2024.

9 27. The following day, on September 25, 2024, I authored a blog post titled “WP Engine
10 is banned from WordPress.org,” which I posted on WordPress.org. I wrote this blog post in my
11 personal capacity as a co-founder of WordPress. The post was not reviewed by any Automattic
12 employee before posting. Due to WP Engine’s growing misuse of the WordPress trademarks and
13 the threat it posed to the community, I blocked WPE’s servers from accessing the servers for the
14 Website. Attached hereto as **Exhibit 9** is a true and correct copy of this blog post at
15 <https://wordpress.org/news/2024/09/wp-engine-banned/>, captured October 28, 2024.

16 28. In the blog post, I wrote the following:

- 17 - “Any WP Engine customers having trouble with their sites should contact WP Engine
18 support and ask them to fix it.”
19 - “WP Engine needs a trademark license, they don’t have one. I won’t bore you with the story
20 of how **WP Engine broke thousands of customer sites yesterday in their haphazard**
21 **attempt to block our attempts to inform the wider WordPress community regarding**
22 **their disabling and locking down a WordPress core feature in order to extract profit.”**
23 - “WP Engine is free to offer their hacked up, bastardized simulacra of WordPress’s
24 **GPL code to their customers, and they can experience WordPress as WP Engine**
25 **envisions it, with them getting all of the profits and providing all of the services.”**

26 29. When I stated that WPE’s offering is a “hacked up, bastardized simulacra of
27 WordPress’s GPL code,” I was using colorful language to refer to the issue discussed in my

1 September 21 blog post: WPE disabling revisions by default.

2 30. On September 26, 2024, I appeared on a tech-focused livestream show hosted by
3 Michael B. Paulson, the creator of the “ThePrimeTime” YouTube channel. Mr. Paulson describes
4 his channel as “a place for all the things that are awesome on stream.” My appearance was not
5 planned. Rather, I dropped on the livestream after a colleague pinged me that Mr. Paulson was
6 discussing the current dispute between myself and WPE. Portions of the live stream were later
7 posted to the ThePrimeTime YouTube channel. I had no input or control over editing the live stream
8 to create the YouTube videos.

9 31. I appeared on Mr. Paulson’s show in my individual capacity, and I was introduced
10 at the beginning of the live stream as “Matt,” with visuals pointing to my individual X.com profile,
11 @photomatt. Attached hereto as **Exhibit 10** is a true and correct copy of an audio-visual recording
12 of a video posted to ThePrimeTime YouTube channel on September 26, 2024, titled “Matt Talks
13 About WordPress Situation,” available at <https://www.youtube.com/watch?v=H6F0PgMcKWM>.
14 **Exhibit 10** will be submitted in a physical copy to the Clerk of the Court and will likewise be
15 served on opposing counsel via email as this exhibit is an audio-visual file. As of October 30, 2024,
16 the video has received more than 203,000 views.

17 32. During the ThePrimeTime Livestream, I made the following statement regarding
18 WPE: “By the way, they’ve built a half-billion dollar business, they’ve given nothing back to
19 WordPress, and they were contributing 40 hours per week. So call that 100 grand per year. They
20 sponsored WordCamp for 75 grand, and we allowed them to be a top sponsor. By the way, lots of
21 people want those spots.”

22 33. My comment regarding WPE’s “contribution” of “40 hours per week” refers
23 specifically to WP Engine’s Five for the Future pledge, which I also referenced during the
24 September 20, 2024 Q&A session and in my September 21, 2024 blog post (in which I linked
25 directly to WP Engine’s Five for the Future pledge page). The word “contribution,” as used in
26 reference to the Five for the Future program, refers specifically to a company’s pledge of hours and
27 employee contributors to supporting the WordPress platform. Attached hereto as **Exhibit 11** is a

1 true and correct copy of a screenshot of WP Engine’s Five for the Future pledge page. The numbers
2 on these pages are self-reported by the individual companies. For transparency, these numbers
3 apply to the time period prior to WPE being blocked from the Website.

4 34. In response to my statement about WPE’s contributions, Mr. Paulson said,
5 "Sponsorship don’t count because you get – it’s you’re buying marketing. You’re not buying –
6 that’s not considered giving, at least I personally don’t consider giving – sponsoring a conference
7 giving back to the community. I’ve never considered that I don’t think that’s fair.”

8 35. No one at Automattic reviewed the statements made in either the WordCamp US
9 2024 Q&A session or the ThePrimeTime livestream prior to me making them.

10 36. I am also a founding director of the WordPress Foundation. I started the foundation
11 in January 2010. The WordPress Foundation is a charitable organization whose mission is to further
12 the mission of the WordPress open-source project: to democratize publishing through open-source
13 and General Public License (GPL) software. Apart from me, there are two other board members
14 for the Foundation: Mr. Mark Ghosh and Ms. Chele Chiavacci Farley. The WordPress Foundation
15 currently owns the following trademark registrations, among others:

- 16 - U.S. Trademark Registration No. 4865558;
- 17 - U.S. Trademark Registration No. 4764217; and
- 18 - U.S. Trademark Registration No 3201424.

19 These are collectively referred to herein as the “WordPress Trademarks.”

20 37. The WordPress Trademarks were assigned to the Foundation from Automattic.
21 Automattic retained a license to use the WordPress trademarks for commercial use, and I retained
22 a license to use the WordPress trademarks in connection with the Website.

23 **38. WPE has never been licensed to use the WordPress Trademarks.**

24 39. In my September 25, 2024 blog post, I wrote, "WP Engine is banned from
25 WordPress.org." The blog reads that “[t]heir servers can no longer access our servers for free . . .
26 Why should WordPress.org provide these services to WP Engine for free, given their attacks on
27 us?" See **Exhibit 9**. WPE does not pay any operating costs towards the Website or to access the

1 Website.

2 40. On October 9, 2024, I also instituted a checkbox on the login portal for the Website,
3 and which required users to confirm their lack of affiliation with WPE in order to log in to the
4 Website. Like the server block, this checkbox requirement was intended to safeguard the
5 WordPress community against the threat posed by WPE.

6 41. Even after WPE was blocked from accessing the Website, including via the server
7 block and checkbox requirement, both their developers and their customers could still freely access
8 the plugin directory and download plugins from it.

9 42. Following WPE's block from accessing the Website, the WordPress development
10 team assumed responsibility for ensuring the plugins previously uploaded to the Website by WPE
11 remained safe and secure for the users who had installed them. Support notices were also added to
12 the Website pages for those WPE plugins, alerting customers that WPE could no longer log in to
13 the Website and that updates to its plugins could be obtained from WPE directly. **Exhibit 12**
14 contains examples of those notices.

15 43. One of the WPE plugins hosted on the Website was advanced custom fields
16 ("ACF"). ACF has over two million active installs, so any security vulnerability within ACF would
17 threaten a substantial portion of the WordPress community.

18 44. To guard against any such threat, the WordPress security team undertook a security
19 review of ACF. That review revealed the existence of a security vulnerability in the ACF software,
20 which the WordPress security team promptly disclosed to WPE in accordance with the principles
21 of responsible disclosure.

22 45. WPE never responded to that disclosure. While WPE did update the version of ACF
23 hosted on the WPE website to patch the disclosed vulnerability, a review of that patch by the
24 WordPress security team indicated that the patch was incomplete. As a result, given the resultant
25 security implications for the broader WordPress community, including over two million
26 community members, the WordPress security team worked to quickly implement a complete patch
27 for the ACF plugin hosted on the Website.

1 46. In implementing that patch and distinguishing the resultant plugin from ACF, which
2 was still being offered directly through WPE, the WordPress security team forked that plugin,
3 creating a new version. The WordPress security team named that fork Secure Custom Fields
4 (“SCF”).

5 47. Forking—where a developer creates a separate and independently developed
6 version of an existing open-source project—is a common practice in the open-source software
7 community and is how the WordPress software originated.

8 48. The forked SCF plugin was deployed as an update to ACF to address the existing
9 associated vulnerability and per the Website Plugin Guidelines. **Exhibit 13** is a copy of those
10 guidelines. That deployment was announced on the “news” portion of the Website. **Exhibit 14** is a
11 copy of that notice. This fork and associated security fix were also published in the changelog for
12 that plugin. **Exhibit 15** is a copy of that public-facing changelog. As such, steps were taken to
13 ensure that the public was notified that the SCF plugin was forked from the ACF plugin and further
14 to inform the public that if they wished to receive the ACF plugin and updates they should download
15 that directly from WPE.

16 49. Notwithstanding this fork, WPE retains control of its ACF plugin, which is available
17 directly through WPE itself.

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1 I declare under penalty of perjury under the laws of the United States of America and the
2 State of California that the foregoing is true and correct.

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Dated: October 30, 2024

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By: 
Matthew Charles Mullenweg

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