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1 2 3 4 5 6 7 8 9 10 11	QUINN EMANUEL URQUHART & SU Rachel Herrick Kassabian (SBN 191060) rachelkassabian@quinnemanuel.com Yury Kapgan (SBN 218366) yurykapgan@quinnemanuel.com Margret M. Caruso (SBN 243473) margretcaruso@quinnemanuel.com 555 Twin Dolphin Dr., 5th Floor Redwood Shores, CA 94065 Telephone: (650) 801-5000 Facsimile: (650) 801-5100 Brian Mack (SBN 275086) brianmack@quinnemanuel.com 50 California Street, 22nd Floor San Francisco, CA 94111 Telephone: (415) 875-6400 Facsimile: (415) 875-6700		LLP		
12	Attorneys for Plaintiff WPEngine, Inc.				
13	IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA				
14	FOR THE NORTHE	KN DIST	RICT OF CALL	FURNIA	
15	WPENGINE, INC., a Delaware corporation	n, C	Case No. 3:24-cv-()6917-AMO	
16	Plaintiff,			OF SARA JENKI	
17	VS.	Π	NC.'S REPLY IN	AINTIFF WPENON N SUPPORT OF IT	
18	AUTOMATTIC INC., a Delaware corpora		IOTION FOR P NJUNCTION	RELIMINARY	
19	and MATTHEW CHARLES MULLENW an individual,	/EG,	udge: Honorable /	Araceli Martínez-Ol	auín
20		C	ourtroom: 3, Oak	land Courthouse	Buill
21	Defendants.		learing Date: Nov learing Time: 10:3		
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		1		Case No. 3:24-cv-	
		_	REPLY DE	ECLARATION OF SAF	RA JENKIN <mark>S</mark>

1 I, Sara Jenkins, declare as follows:

I am Of Counsel at Quinn Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff
 WPEngine, Inc. in this action. I am licensed to practice law in California and admitted to practice
 in the Northern District of California. I make this Declaration in support of Plaintiff WPEngine,
 Inc.'s ("WPE") Reply In Support Of Its Motion for Preliminary Injunction. I have personal
 knowledge of the facts stated herein, and if called as a witness, I could and would testify thereto.

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Defendants' Statements About the Ownership of wordpress.org

2. 8 Attached hereto as Exhibit 37 is a true and correct copy of a webpage located at the 9 following link: https://wordpress.org/support/topic/wordpress-org-administration/. This page of the wordpress.org website is titled "WordPress.org Administration." In response to a question about 10 the ownership of wordpress.org, "luisherranz," who is identified as a "Software engineer at 11 12 Automattic," in the "Profiles" section of the wordpress.org website states, "WordPress.org is not 13 'owned' in the traditional sense, as it's an open-source project." The post goes on to state that "no 14 one owns WordPress.org for practical purposes." On November 3, 2024, I caused a screenshot to be taken of this webpage, which is shown below. 15

Understanding the ownership and management structure of WordPress.org requires distinguishing between the WordPress open-source project and the entities associated with it. Here's a breakdown:
1. Ownership of WordPress.org: WordPress.org is not "owned" in the traditional sense, as it's an
open-source project. The software it provides is licensed under GPLv2, which means it's free
to use and modify. There's no individual or company that "owns" the open-source software of WordPress.org.
 WordPress.org. WordPress Foundation: While no one owns WordPress.org for practical purposes, the WordPress
Foundation holds the trademark for WordPress. The Foundation focuses on ensuring free access
to the software and promoting the open-source project.
3. Management and Distribution: WordPress.org mainly distributes open-source code and hosts
this code. It is not an entity that enters into agreements or has a typical ownership structure like a
private company.
4. WordPress.com vs. WordPress.org: There's often confusion between WordPress.org and
WordPress.com. WordPress.com is a commercial entity owned by Automattic, offering WordPress
hosting services. In contrast, WordPress.org is community-based, providing the open-
source software.
In summary, while the WordPress Foundation holds the trademark, WordPress.org operates as a
community-driven platform distributing open-source software, with no traditional ownership or
corporate structure to manage it.

Attached hereto as Exhibit 38 is a true and correct copy of a webpage located at the
 following link: <u>https://wordpress.org/support/topic/who-owns-wordpress-org/</u>. On the webpage,
 "Jan Dembowski," a wordpress.org forum moderator, states, "No one [owns] WordPress.org" for
 the purposes of a user who is asking who owns wordpress.org because the user was looking for a
 representative of wordpress.org to sign an agreement. On November 3, 2024, I caused a screenshot
 to be taken of this webpage, which is shown below.



5. Attached hereto as Exhibit 40 is a true and correct copy of a webpage located at the 1 2 following link: https://wordpressfoundation.org/projects/. This webpage from the WordPress Foundation's website is titled "Projects" and lists "WordPress" as one of the Foundation's projects 3 and links to <u>https://wordpress.org</u>. On November 3, 2024, I caused a screenshot to be taken of this 4 5 webpage, which is shown below.

Projects

8 Matt Mullenweg, the director of the WordPress Foundation, has been directly involved in the creation of, or coordination of volunteers 9 around, a number of WordPress projects that espouse the core philosophy: 10 11 • WordPress, freely available GPL blogging software with about 346,509 lines of code representing about 91 person-years of development. 12 6. Attached hereto as Exhibit 41 is a true and correct copy of a webpage located at the 13 following link: https://web.archive.org/web/20110923170547/http://codex.wordpress.org:80/ 14 Hardening WordPress. This webpage comes from the Internet Archive's Wayback Machine from 15 September 23, 2011. The Internet Archive states that the Wayback Machine makes more than 28 16 years of web history accessible to the public. See https://archive.org/about/. This webpage is titled 17 "Hardening WordPress," and states that users should "never download or install WordPress from 18 any website other than http://wordpress.org" (emphasis in original). On November 3, 2024, I caused 19 a screenshot to be taken of this webpage, which is shown below. 20 Updating WordPress 21 Main article: Updating WordPress. 22 The latest version of WordPress is always available from the main WordPress website at http://wordpress.org. Official releases

are not available from other sites -- never download or install WordPress from any website other than http://wordpress.org.

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7. Attached hereto as Exhibit 42 is a true and correct copy of a webpage located at the 25 following link: https://developer.wordpress.org/advanced-administration/security/hardening/. This 26 webpage is titled "Hardening WordPress" and states that users should "never download or install 27 WordPress from any website other than http://wordpress.org" (emphasis in original). On November 28 3, 2024, I caused a screenshot to be taken of this webpage, which is shown below.

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1 2 3 4 5	Updating WordPress Main article: Updating WordPress. The latest version of WordPress is always available from the main WordPress website at https://wordpress.org. Official releases are not available from other sites — never download or install WordPress from any website other than https://wordpress.org. <u>WordPress Community Comments Regarding Their Stated Understanding</u> <u>of the Ownership of wordpress.org</u>
6 7	8. Attached hereto as Exhibit 43 is a true and correct copy of a post on Reddit.com
8	dated October 22, 2024. In this post, the user states, "I was today old when I found out:
9	Wordpress.org is not owned by the WordPress foundation." Another user wrote, "the vast
10	majority of us thought that wordpress/.org was part of the Foundation." On November 3, 2024, I
11	caused three screenshots to be taken of this post, located at <u>https://www.reddit.com/r/Wordpress/</u>
12	comments/1gab4wq/i_was_today_old_when_i_found_out_wordpressorg_is/, which is shown
13	below.
14	r/Wordpress • 2 days ago ····
15	I was today old when I found out: Wordpress.org is not owned by the Wordpress foundation
16 17	WordPress.org is not WordPress. WordPress.org is not Automattic or the WordPress Foundation, and is not controlled by either. To the contrary, as Plaintiff itself acknowledges, WordPress.org is Mr. Mullenweg's
17	responsibility. From: <u>https://storage.courtlistener.com/recap/gov.uscourts.cand.437474/gov.uscourts.cand.437474.33.0.pdf</u>
19	Fancy that
20	
21	• 11d ago •
22	Top 10% Commenter This is the most important piece of this entire puzzle.
23	It's going to be interesting to see how the judge will decide on this case, because, lest we all forget, the vast majority of us thought that wordpress/.org was part of the Foundation. Even Matt's own lawyer thought it was run by the Foundation. Even wordpress (org. makes the distinction between WordPress, and wordpress (org. blurg, at
24	by the Foundation. Even wordpress/.org makes the distinction between WordPress and wordpress/.org blurry at best, and completely the same at worst. Even the Wikipedia page for Wordpress has wordpress/.org as another name for WordPress.
25	For decades, most the community has believed that the Foundation was in charge of and ran wordpress/.org. Yes, we knew the Foundation was basically Matt and some of his cronies, but we put trust in the organization to keep
26	WordPress, the WordPress Plugin repository and the WordPress Themes repository "freely available for any use to anyone in the world."
27	Speaking for myself, I would NEVER have built my websites using WordPress if I had known that I was gambling "for the sake of profit that Mr. Mullenweg would continue to maintain open access to his website for free."
28	
	-5- Case No. 3:24-cv-06917-AMO
	REPLY DECLARATION OF SARA JENKINS

1	9. Attached hereto as Exhibit 44 is a true and correct copy of a post on X.com dated
2	October 24, 2024. In this post, the user states, "If O'Reilly is confused about WordPress, then I
3	feel ok being confused." O'Reilly refers to a website which published a "WordPress Bible." On
4	November 3, 2024, I caused a screenshot to be taken of this post located at

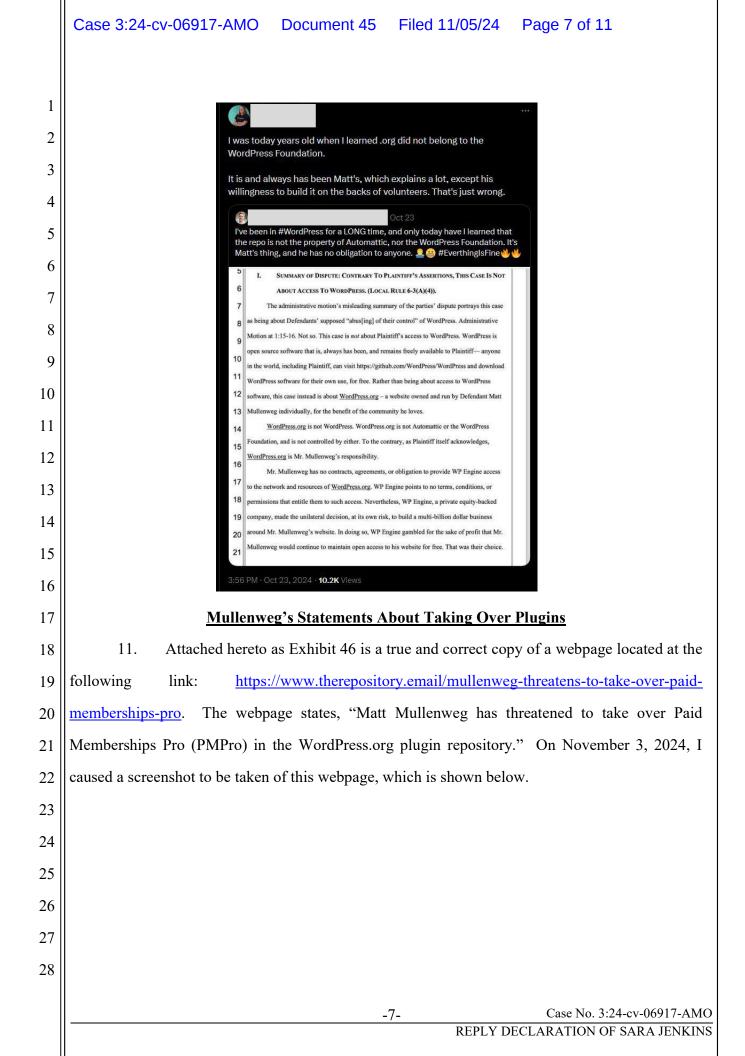
5 <u>https://x.com/hashim_warren/status/1849425065902760183</u>, which is shown below.

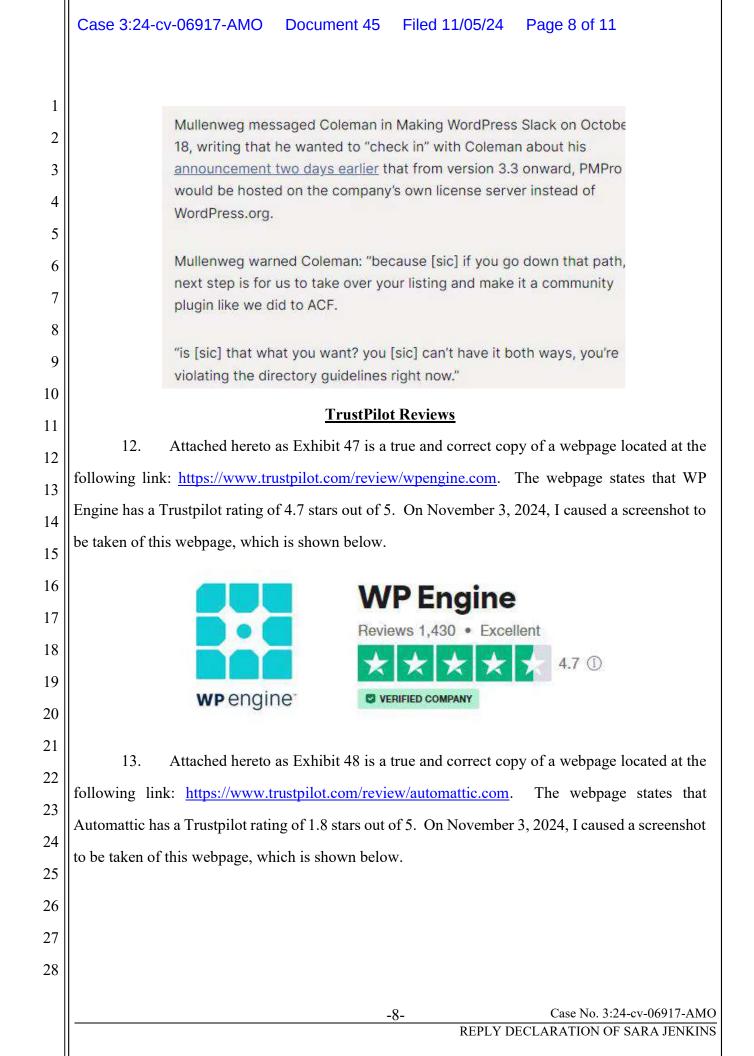
6	
7	If O'Reilly is confused about WordPress, then I feel ok being confused.
8	O'DEILLY'
9	O'REILLY [®]
10	WordPress.org is the home of the
11	open source, self-hosted WordPress
12	software. Everything on
13	http://wordpress.org is owned by the community, even though
14	Automattic is the sponsor.
15	Automattic has even gone out of its
16	way to ensure that all of the core de- velopers of WordPress are not
17	Automattic employees.
18	5:17 AM - Oct 24, 2024 - 11.6K Views
19	
20	10. Attached hereto as Exhibit 45 is a true and correct copy of a post on X.com dated
21	October 23, 2024. The user states, "I was today years old when I learned .org did not belong to the
22	WordPress Foundation." On November 3, 2024, I caused a screenshot to be taken of this post
23	located at https://x.com/cdils/status/1849223389564617159, which is shown below.
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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.
3	Executed on this 4th day of November, 2024, in Redwood City, California.
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6	By /s/ Sara Jenkins Sara Jenkins
7	Sara Jenkins
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	-10- Case No. 3:24-cv-06917-AMC
	REPLY DECLARATION OF SARA JENKINS

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1	ATTESTATION
2	I, Rachel Herrick Kassabian, am the ECF user whose ID and password are being used to file
3	the above Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Sara Jenkins has
4	concurred in the aforementioned filing.
5	By <u>/s/ Rachel Herrick Kassabian</u> Rachel Herrick Kassabian
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	-11- Case No. 3:24-cv-06917-AMO REPLY DECLARATION OF SARA JENKINS