UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REDDIT, INC.,	)
	)
Plaintiff,	)
	) Case No.: 25-cv-8736 (PAE)
v.	)
	)
SERPAPI LLC, OXYLABS UAB,	)
AWMPROXY, and PERPLEXITY AI, INC.,	)
	)
Defendants.	)
	)

MEMORANDUM OF LAW IN SUPPORT OF
SERPAPI LLC'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT

Nili T. Moghaddam
Jessica L. Falk
Sarah Ryu
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

Jeff Homrig (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
200 Crescent Court, Suite 300
Dallas, TX 75201
Tel: (214) 746-7700
jeff.homrig@weil.com

Attorneys for Defendant SerpApi, LLC

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

v

PRELIMINARY STATEMENT

Reddit, Inc. ("Reddit") lauds itself as "one of the largest repositories of human conversation in existence," with a mission to "empower communities and provide human perspectives to everyone." Compl. ¶¶ 2, 8. By filing this lawsuit, Reddit purports to vindicate "its users' rights" and to ensure "that the Reddit community is protected from abuse." *Id.* ¶ 3. But this action is motivated by money, not altruism: Reddit seeks to establish itself as the gatekeeper, and the toll collector, for user content that, as Reddit concedes, it does not even own.

This lawsuit is an ill-conceived means to that end. Indeed, SerpApi LLC ("SerpApi") has little to do with Reddit or its users' content. SerpApi enables users to scrape and normalize publicly accessible web search outputs into consistent, structured formats, enabling automated analysis, monitoring, and interoperability across software systems. That data is used by a variety of organizations including journalists, technology innovators, and financial institutions. As Reddit concedes, SerpApi does not access content from Reddit's website. Instead, Reddit's allegations concern snippets of text found on *Google's* search engine result pages ("SERPs") and the alleged technological protection measures at issue are *Google's* measures—which Reddit does not control in any way.

Reddit nonetheless tries to recast this dispute as one about Reddit users' content, asserting that SerpApi's activities somehow abused Reddit users' trust. But, in the same breath, Reddit reveals its true purpose, complaining that SerpApi's use of Google SERPs somehow robbed Reddit of the opportunity to license—and collect revenues from—the content created and owned by Reddit users. Thus, Reddit seeks to consolidate its control over its users' content so that it will be in a better position to tax that content. Reddit is not acting to protect its users; Reddit is clearing a path to exploit them.

Regardless of their true purpose, Reddit's claims under the Digital Millenium Copyright Act ("DMCA") and derivative claims all lack merit and should be dismissed under Fed. R. Civ. P. 12(b)(1) and 12(b)(6).

As a threshold matter, Reddit lacks standing. *No* court has ever extended DMCA standing to a plaintiff like Reddit: it is neither the owner nor the exclusive licensee of any copyright at issue. Reddit users have not given it any contractual enforcement right with respect to their user content. Reddit does not even control the technological protection measures that were allegedly circumvented. Thus, Reddit lacks statutory standing. Reddit also lacks Article III standing because it does not allege any concrete injury; its claims of lost commercial opportunities and reputational harm are speculative and lack particularity. Even if Reddit did have standing, each of its claims fails on its face.

First, Reddit fails to allege the circumvention of any technological measure that qualifies as an effective access control for DMCA Section 1201(a) or as a copying control for Section 1201(b). Because public access to Google's search results is "wide open," Reddit fails to allege that Google "effectively controls access" to its search results like a "lock on a homeowner's door." Thus, Reddit's claim does not fall within the scope of Section 1201(a). And because there are no allegations that the technological measures at issue prevent copying, Reddit's claim is not within the scope of Section 1201(b).

Second, Reddit's Section 1201 claims fail because Section 1201 applies only to "work[s] protected under [the Copyright Act]." The "Reddit content" underlying this claim—which consists of mere snippets of information—is not copyrightable. As a result, Reddit fails to allege that SerpApi's software infringed or facilitated infringement, further dooming its Section 1201 claims.

Third, Reddit's unfair competition claim fails because it is preempted by the Copyright Act

2

and because Reddit does not compete with SerpApi. Whereas Reddit is a social news content aggregator and social media platform, SerpApi extracts and provides information from various search engines. Compl. ¶¶ 17, 44. As there can be no unfair competition without competition, this claim is meritless.

Fourth, Reddit's unjust enrichment claim fails because it is likewise preempted by the Copyright Act, as well as duplicative of Reddit's other claims. Reddit also fails to articulate any specific or direct benefit conferred upon SerpApi—a basic element of the claim.

Lastly, Reddit's claim for civil conspiracy must be dismissed because it, too, is preempted by the Copyright Act. Moreover, Reddit's DMCA claims, which serve as the necessary tortious conduct underlying the purported civil conspiracy claim, also fail.

STATEMENT OF FACTS

SerpApi is a well-established technology company with clients such as the United Nations, Morgan Stanley, KPMG, and Shopify. Compl. ¶ 18. Founded in 2017 in Austin, Texas, SerpApi provides developers and businesses with structured access to publicly available data from Google's and other third-parties' SERPs.[1] The SerpApi activity that Reddit calls "scraping" is simply the automated retrieval of the same search results any ordinary user can access by typing a query into Google without signing in or otherwise obtaining authorization. *See* Compl. ¶¶ 54–55. SerpApi's services support a wide variety of business use cases, including but not limited to "build[ing] large

---

[1] *See* S. Palazzolo, *Meet the Google-Scraping Startup Used by ChatGPT, Cursor and Perplexity,* The Information (Aug. 28, 2025) (cited at Compl. ¶ 62 n.38). When deciding a motion to dismiss, this Court may consider "facts alleged in the complaint and documents attached to it or incorporated in it by reference" as well as "documents integral to the complaint and relied upon in it, even if not attached or incorporated by reference[.]" *Waiting Room Sols. v. Excelsior Ins. Co.*, 2020 WL 5505386, at *5 (S.D.N.Y. Sept. 9, 2020). Each source cited in the Complaint, including SerpApi's website and Reddit's User Agreement, is incorporated by reference, and may be considered by this Court with this Motion.

dataset[s] for Machine Learning models[,]" analyzing news trends, "optimiz[ing] [] content for Generative Engine Optimization (GEO)[,]" utilizing maps for reliable statistics on which to base local marketing decisions, and conducting individual or company background checks.[2] Among the vast amount of text-based data that SerpApi enables users to collect are snippets of Reddit posts contained in Google SERPs. Compl. ¶ 18. These are snippets in which Reddit, by its own admission, owns no copyrights and to which, at best, it holds a non-exclusive license. Reddit User Agreement § 5.[3]

Critically, Reddit does not allege that SerpApi ever accessed Reddit's website. Nor does Reddit allege that SerpApi circumvented any of Reddit's technological measures. Reddit alleges only that SerpApi accessed Google's publicly available SERPs. Compl. ¶ 52.

LEGAL STANDARD

"A district court properly dismisses an action under Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction if the court 'lacks the statutory or constitutional power to adjudicate it,' such as when . . . the plaintiff lacks constitutional standing to bring the action." *Cortlandt St. Recovery Corp. v. Hellas Telecomms, S.a.r.l*, 790 F.3d 411, 416–17 (2d Cir. 2015); *see also All. for Env't Renewal, Inc. v. Pyramid Crossgates Co.*, 436 F.3d 82, 88 n.6 (2d Cir. 2006) ("[T]he proper procedural route" for Article III standing challenges "is a motion under Rule 12(b)(1).").

A complaint also must be dismissed under Rule 12(b)(6) if it fails to allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Although the Court must "accept as true all factual allegations and draw from them all reasonable inferences," it is "not required to credit conclusory allegations or legal conclusions."

---

[2] *See SerpApi Use Cases*, SerpApi, https://serpapi.com/use-cases/ (last visited Dec. 31, 2025).

[3] *See Reddit User Agreement*, Reddit (May 29, 2025), https://redditinc.com/policies/user-agreement.

Dane v. UnitedHealthcare Ins. Co., 974 F.3d 183, 188 (2d Cir. 2020). Courts routinely grant

dismissal of claims that turn on an erroneous interpretation of statutory language. *See Keane v.*

Velarde, 2022 WL 3577841, at *4–7 (S.D.N.Y. Aug. 19, 2022), *aff'd sub nom Keane v. Dibbins*,

2023 WL 6785370, at *3 (2d Cir. Oct. 13, 2023) (dismissing complaint where plaintiff's

interpretation was inconsistent with "statutory context" and legislative history); *Wallen v.*

Consumer Reps., Inc., 2022 WL 17555723, at *4–6 (S.D.N.Y. Dec. 9, 2022) (affirming dismissal

where plaintiff's inconsistent interpretation would "transform" statute "into sweeping . . . law[]").

ARGUMENT

I.   Reddit Lacks Statutory Standing to Bring DMCA Claims

Where a cause of action is created expressly by an act of Congress, courts may only hear

claims by plaintiffs who fall within the "zone of interests" protected by the law invoked. *See*

Lexmark Int'l. Inc. v. Static Control Components Inc., 572 U.S. 118, 128–30 (2014). Courts use

"traditional tools of statutory interpretation" to determine the bounds of that zone. *Id.* at 127. Here,

Reddit asserts standing pursuant to 17 U.S.C. § 1203(a), which states that "[a]ny person injured

by a violation of section 1201 or 1202" may bring an action for such violation. Section 1203(a),

however, does not confer statutory standing here because, as evidenced by both the plain text of

the DMCA and its legislative history, Reddit falls outside the DMCA's zone of interests.

A.   Reddit is neither the owner nor the exclusive licensee of any copyrights at issue

The DMCA's anti-circumvention provisions reflect a narrow zone of interests: protecting

the *copyright owner's* rights. Indeed, the statute defines circumvention as an action "to descramble

a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate,

or impair a technological measure, *without the authority of the copyright owner*." 17 U.S.C. §

1201(a)(3)(A) (emphasis added). Consistent with the statute's plain text, courts in the Second

Circuit have held that only copyright owners are definitively within the DMCA's zone of interests.

5

See Sheldon v. Plot Com., 2016 WL 5107072, at *10 (E.D.N.Y. Aug. 26, 2016) (finding that the DMCA's zone of interests only extends to "owners" of copyrights), *report and recommendation adopted*, 2016 WL 5107058 (E.D.N.Y. Sept. 19, 2016); *see also Sanborn Libr. LLC v. ERIS Info. Inc.,* 2024 WL 1744630, at *20 (S.D.N.Y. Mar. 25, 2024) (stating in report and recommendation in case settled before adoption by district judge that plaintiff would have "clear standing to bring DMCA claims" if it "owns some quantity of enforceable copyrights," but "several genuine issues of material fact [existed] as to which copyrights [plaintiff] owns and may enforce").[4]

This narrow zone of interest, focused on the copyright owner, is explained by the DMCA's legislative history. The statute was enacted to implement the WIPO Copyright Treaty, which requires contracting parties to "provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used *by authors* in connection with the exercise of their rights" under international copyright law. *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 440 (2d Cir. 2001) (emphasis added); *see also Microsoft Corp. v. AT&T Corp.*, 550 U.S. 437, 458 (2007) (explaining that the DMCA "backed with legal sanctions the *efforts of copyright owners* to protect their works from piracy behind digital walls") (emphasis added). The House Judiciary Committee Report on the DMCA confirms this focus on the copyright owner, stating that, to comply with international copyright treaties, "the U.S. must make it unlawful to defeat technological protections *used by copyright owners* to protect their

---

[4] Although *Sheldon* and *Sanborn* involved claims under Section 1202 of the DMCA, the zone of interests under Section 1202 and Section 1201 are the same. First, both sections explicitly mention "the authority of the copyright owner." *Compare* 17 U.S.C. § 1201(a)(3) (defining circumvention and effective control with reference to the authority of the copyright owner), *with* 17 U.S.C. § 1202(b) (proscribing, *inter alia*, the removal or alteration of copyright management information without the authority of the copyright owner). Second, Section 1203(a) confers statutory standing on both Section 1201 and Section 1202 plaintiffs. Accordingly, the statute's very text demonstrates that the "zone of interests" protected by each section is identical.

works." H.R. Rep. No. 105-551 (I), at 10 (1998) (hereinafter "House Judiciary Committee Report") (emphasis added). The House Judiciary Committee further described digital encryption of copyrighted works as necessary to "protect the owner" from internet piracy. *Id.* And the Senate Judiciary Committee Report stated that § 1201(a) of the DMCA applies "when a person has not obtained authorized access to a [copyrighted work] and for which *the copyright owner* has put in place a technological measure that effectively controls access to his or her work." S. Rep. No. 105-190 at 28 (1998) (hereinafter "Senate Judiciary Committee Report") (emphasis added). Thus, the DMCA's legislative history confirms that its zone of interests is limited to copyright owners.

Here, Reddit does not—and cannot—claim ownership of the copyright (if any) in user-generated content, nor does Reddit claim to hold an exclusive license to it. This is by Reddit's own design. Reddit's User Agreement expressly states that *Reddit users* "retain any ownership rights you have in Your Content," while reserving for Reddit only a "*non-exclusive* . . . license to use, copy, modify, adapt, prepare derivative works of, distribute, store, perform, and display" user-generated content posted to its platform. Reddit User Agreement § 5 (emphasis added). It is black-letter law that a non-exclusive license "conveys no ownership interest, and the holder of a nonexclusive license may not sue others for infringement." *John Wiley & Sons, Inc. v. DRK Photo*, 998 F. Supp. 2d 262, 277 (S.D.N.Y. 2014), *aff'd*, 882 F.3d 394 (2d Cir. 2018). Because Reddit does not have any copyright interest in its users' content (to the extent such content is copyrightable), Reddit falls outside the zone of interests of the DMCA and lacks statutory standing.

B.   *Reddit does not control the alleged technological measure at issue*

Reddit fails to allege that it has any right—as a copyright owner, an exclusive licensee, contractual, or otherwise—to enforce any copyright in Reddit user content (to the extent such content is copyrightable) or to control the alleged technological measure that safeguards copyrighted works ("technological protection measure" or "TPM"). No court has ever extended

standing to a putative DMCA plaintiff like Reddit. *See VidAngel LLC v. ClearPlay, Inc.*, 703 F. Supp. 3d 1329, 1335 (D. Utah 2023) ("The court is not aware of *any cases* extending the cause of action in Section 1203 beyond copyright owners and owners of an access control measure.") (emphasis added). Indeed, the few courts outside of the Second Circuit that recognized DMCA standing for non-copyright owners encountered plaintiffs that either had a contractually-granted enforcement right or controlled the at-issue TPM. *See, e.g.*, *Viral DRM LLC v. Seven W. Media Ltd.*, 768 F. Supp. 3d 1025, 1030–31 (N.D. Cal. 2025) (plaintiff held contractually-granted "rights to enforce and protect the content holders['] copyrighted works from non-licensed users"); *Echostar Satellite, L.L.C. v. Viewtech, Inc.*, 543 F. Supp. 2d 1201, 1205–06 (S.D. Cal. 2008) (inferring plaintiff had authority to control the TPM); *Comcast of Illinois X, LLC. v. Hightech Elecs., Inc.*, 2004 WL 1718522, at *6 (N.D. Ill. July 29, 2004) (plaintiff "control[led] access").

By contrast, in *VidAngel*, the court definitively foreclosed standing under the DMCA to a plaintiff that—much like Reddit—did not own the copyrighted material allegedly infringed, did not have authorization from a copyright owner to protect the copyrighted material, did not supply any TPM allegedly circumvented, and was not an agent or otherwise in privity with any such person or entity. *See* 703 F. Supp. 3d at 1335–36. The DMCA's legislative history is also devoid of any indication that Congress intended for the DMCA to grant a cause of action to plaintiffs like Reddit. *See generally* House Judiciary Committee Report; Senate Judiciary Committee Report.

In a disingenuous attempt to bring itself within the DMCA's zone of interests, Reddit tries to associate its own TPMs with those of Google and imply that SerpApi circumvented *Reddit's* TPMs. *See, e.g.*, Compl. ¶ 4 ("The problem for Defendants, however, is that Reddit is protected by technological control barriers . . . ."); *id.* ¶ 89 (alleging Defendants worked to "circumvent Reddit's and/or Google's technological control measures"). But beyond these misleading,

conclusory statements, Reddit has not alleged anywhere that SerpApi actually accessed Reddit's platform or otherwise circumvented Reddit's TPMs. Reddit's references to its own TPMs are thus irrelevant because Reddit concedes that SerpApi does not circumvent those measures. Instead, Reddit (incorrectly) alleges that SerpApi is "circumventing *Google's* technological control measures." *Id.* ¶ 52 (emphasis added). Therefore, *VidAngel* forecloses Reddit from having standing in this case, as Reddit falls outside even the outermost bounds of the DMCA's zone of interests. *See* 703 F. Supp. 3d at 1335–36. Reddit's Complaint should be dismissed on this basis.

II.   Reddit Lacks Article III Standing

To bring suit in federal court, a plaintiff's harm must be both concrete and fairly traceable to the challenged action. *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (plaintiff bears burden of proving standing). "[T]raditional tangible harms, such as physical harms and monetary harms," may constitute concrete injuries under Article III, but where the alleged harm is "intangible," there must be a "close historical or common-law analogue for [the] asserted injury." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 424–25 (2021). Here, Reddit fails to allege any harm—tangible or intangible—that is concrete and fairly traceable to SerpApi's actions, and so Reddit lacks Article III standing to bring this suit. *See Raw Story Media v. OpenAI, Inc.*, 756 F. Supp. 3d 1, 5–6 (S.D.N.Y. 2024) (denying standing for § 1202 violation without sufficiently alleging concrete injury-in-fact).

A.   Reddit fails to allege any concrete injury

Given that Reddit has no copyright rights in the content at issue, Reddit instead vaguely alleges injury in the form of "lost profits and business opportunities, reputational harm, and loss of user trust." Compl. ¶¶ 85, 92, 99. Specifically, Reddit first alleges that SerpApi has caused a "direct[] impact[]" to the "great trust" in Reddit as "stewards of [user] content." *Id.* ¶ 76. Second, Reddit alleges that SerpApi damaged Reddit's reputation and business relationships by depriving

9

it of the ability to control access to its users' data. *Id.* ¶ 77. Third, Reddit speculates loss of potential "licensing fees or other commercial opportunities" from existing and new licensing agreements with other AI companies. *Id*. Finally, Reddit alleges that SerpApi's conduct has forced Reddit and its partners to invest "significant resources" to "improve [their] technical security systems, surveillance, and anti-scraping efforts." *Id.* ¶ 78. Each of these alleged injuries is insufficient.

First, while reputational harm can be sufficiently concrete to confer Article III standing, *see Meese v. Keene*, 481 U.S. 465, 472–76 (1987), Reddit must allege that "any reputational harm actually materialized or was likely to materialize." *Miller v. James*, 751 F. Supp. 3d 21, 32–33 (N.D.N.Y. 2024), *aff'd*, 2025 WL 1085815 (2d Cir. Apr. 9, 2025), *cert. denied,* 2025 WL 3506991 (Dec. 8, 2025) (collecting cases). Reddit does not allege how or to what degree it has suffered (or will suffer) a loss of user trust. All Reddit alleges is that its users "care about how their content will be treated." Compl. ¶ 76. Because Reddit fails to allege "anything beyond conclusory assertions that [its] public reputation has been harmed," this assertion has no Article III merit. *Miller*, 751 F. Supp. 3d at 32; *see also Braver v. Diversified Adjustment Serv., Inc.*, 2023 WL 8435825, at *3 (S.D.N.Y. Dec. 5, 2023) (denying Article III standing where plaintiff failed to allege, *inter alia*, "specific evidence of reputational harm").

Second, to the extent Reddit alleges that its "[in]ability to control" how user data is treated constitutes an independent injury, that claim fails, too. According to Reddit's User Agreement, Reddit users own their content, and Reddit merely possesses a non-exclusive license. Reddit User Agreement § 5. Reddit also does not, and cannot, allege any contractual right to enforce its users' rights in their content. Moreover, as a practical matter, if this alleged injury alone conferred standing, any website could sue any individual for copying and pasting snippets of that website's content without permission—even without any actual harm. Such a result would be nonsensical.

Third, Reddit's claim that it has "lost licensing fees or other commercial opportunities it would obtain from these and new arrangements" is entirely speculative and wholly unsupported by any concrete facts. Compl. ¶ 77. "[T]hreatened injury must be *certainly impending* to constitute injury in fact" for Article III purposes, however; "allegations of *possible* future injury are not sufficient." *Clapper*, 568 U.S. at 409; *see also TransUnion*, 594 U.S. at 438 (finding no standing without "a sufficient likelihood" that a potential injury will manifest). Reddit fails to allege a single specific commercial opportunity it has lost as a result of SerpApi's alleged conduct, and any allegation that Reddit would have secured commercial opportunities from AI companies like Perplexity were it not for SerpApi's alleged conduct is pure conjecture. Reddit's mere speculation is insufficient to confer Article III standing.

Fourth, Reddit's alleged injury stemming from having to invest in anti-scraping resources is specifically foreclosed by the Supreme Court's holding in *Clapper*. In *Clapper*, respondents could not establish standing by claiming they were forced to take "costly and burdensome measures to protect the confidentiality of their communications" in response to possible surveillance. 568 U.S. at 415–16. Likewise, Reddit "cannot manufacture standing merely by inflicting harm on [itself] based on [its] fears of hypothetical future harm that is not certainly impending." *Id.* at 416. Reddit has not alleged that SerpApi accessed Reddit's platform or that it intends to do so in the future. Moreover, even if Reddit could distinguish its injury from the one in *Clapper*, Reddit still cannot show how the harm allegedly suffered by purportedly expending resources to improve *its own* "anti-scraping efforts" is fairly traceable to SerpApi's alleged access of Reddit data on *Google* SERPs. *See* Compl. ¶ 78. And to the extent Reddit alleges harm based on what its partners are "force[d]" to do, *id.*, Reddit cannot claim that SerpApi has injured it because of the measures that Reddit, of its own volition, may require its partners to take.

11

> B.   *Reddit's DMCA claims also lack a close historical or common law analogue*

Reddit's claims of intangible harm stemming from SerpApi's purported circumvention of Google's TPMs also lack a "close historical or common-law analogue." *TransUnion*, 594 U.S. at 424. As explained above, the DMCA was enacted to protect copyright owners on the internet. Accordingly, traditional copyright infringement *would* provide the "historical or common law analogue" to the harm caused by a DMCA violation. *See New York Times Co. v. Microsoft Corp.*, 777 F. Supp. 3d 283, 312 (S.D.N.Y. 2025). The unifying harm in both traditional copyright and DMCA violations is injury to "an author's property right in his original work of authorship." *Id*.

But Reddit *cannot* bring a traditional infringement claim because it does not own or exclusively license any copyrights at issue. *See Davis v. Blige,* 505 F.3d 90, 101 (2d Cir. 2007). Furthermore, Reddit does not, and cannot, allege injury to any other property right, because it does not own or control the alleged TPMs at issue. Reddit thus attempts to predicate its DMCA claims on allegations of reputational and monetary harms. However, as explained above, these alleged harms cannot form the basis for Reddit's claims. Since there is no other historical or common-law analogue for harm to one that neither has any copyright interest nor controls the alleged TPM, at best, Reddit is left with a "bare procedural violation, divorced from any concrete harm." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 341 (2016); *see also Chamberlain Grp., Inc. v. Skylink Techs., Inc.*, 381 F.3d 1178, 1192 (Fed. Cir. 2004) ("The essence of the DMCA's anticircumvention provisions is that §§ 1201(a), (b) establish causes of action for liability. They do not establish a new property right."). For this additional reason, Reddit lacks Article III standing.

III.   **Reddit's Claims Fail Because Reddit Failed to Plead The Necessary Elements to Establish that Google's TPMs Are Effective Access Controls**

Since DMCA Section 1201(a) only prohibits circumvention of a technological measure that "*effectively* controls access" to a copyrighted work, there is no DMCA violation if the measure

does not control access "any more than a sign requesting that visitors 'keep off the grass' effectively controls access to a lawn." *Ziff Davis, Inc. v. OpenAI, Inc. (In re OpenAI, Inc. Copyright Infringement Litig.)*, 2025 WL 3635559, at *4 (S.D.N.Y. Dec. 15, 2025); *see also Lexmark Int'l, Inc. v. Static Control Components*, 387 F.3d 522, 547 (6th Cir. 2004) ("[T]he DMCA not only requires the technological measure to 'control[] access' but also requires the measure to control that access 'effectively[.]'") (citation omitted). "[A] technological measure 'effectively controls access to a work' if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work." 17 U.S.C. § 1201(a)(3)(B). Here, Reddit's Complaint failed to establish that Google's alleged TPMs "effectively control[] access." Indeed, it failed to plead any facts countering core flaws in its theory: (1) Google's measures do not limit access by the general public to its SERPs, and (2) Reddit users did not authorize Google to protect their content. What's more, the Reddit snippets reflected in Google SERPs are not copyrightable, and therefore Reddit's claims lack an infringement nexus as required under DMCA Section 1201.

A.   *Reddit admits that Google's TPMs do not limit public, human access to its SERPs*

Congress and the Second Circuit have likened effective control measures to a "locked room," "digital walls," "a lock on a homeowner's door, a combination of a safe, or a security device attached to a store's products." *Corley*, 273 F.3d at 435, 453; House Judiciary Committee Report at 17. Quintessential examples are "encryption codes or password protections." *Corley*, 273 F.3d at 435. And per the statutory definition of "effectively controls access," a DMCA-protected TPM must require, in the ordinary course of its operation, the "application of information, or a process or a treatment, with the authority of the copyright owner"—*i.e.*, the equivalent of a key to the lock—"to gain access" to the work. *See* 17 U.S.C. § 1201(a)(3)(B).

To that end, the TPM must "actually work[] to prevent access to the protected work."

13

Universal City Studios, Inc. v. Reimerdes, 111 F. Supp. 2d 294, 317–18 (S.D.N.Y. 2000), *aff'd sub nom. Universal City Studios, Inc. v. Corley,* 273 F.3d 429 (2d Cir. 2001). If the TPM in question "restricts one form of access but leaves another route wide open," that is not a measure that "effectively controls access" under the DMCA. *Lexmark*, 387 F.3d at 547 ("Just as one would not say that a lock on the back door of a house 'controls access' to a house whose front door does not contain a lock . . . it does not make sense to say that [Section 1201] applies to otherwise-readily-accessible copyrighted works."); *see also Couponcabin LLC v. Savings.com, Inc.*, 2016 WL 3181826, at *6 (N.D. Ind. June 8, 2016) (dismissing DMCA claim where website was accessible despite TPM).[5]

Here, Reddit does not allege that Google employs any TPMs that are akin to a "lock on a homeowner's door" or that require any "application of information" like a password by the general public in the ordinary course of Google's operations. To the extent Reddit refers to Google's "machine-readable instructions on [Google's] web pages" such as robots.txt files (Compl. ¶¶ 49, 56), there are no allegations that such instructions are anything more than "mere[] requests." *Ziff Davis*, 2025 WL 3635559, at *4–5 (dismissing Section 1201(a) claim based on use of robots.txt files). And while Reddit claims that Google's "SearchGuard" system serves to block *automated* access, Reddit simultaneously admits that the same measure still "allow[s] individual users—*i.e.*,

---

[5] One court in the District of Connecticut has ruled that an access control "need not necessarily 'prevent access' in the way that a 'lock' . . . do[es] . . . to constitute a technological measure." *Yout, LLC v. Recording Indus. Ass'n of Am., Inc.*, 633 F. Supp. 3d 650, 665 (D. Conn. 2022). However, when making this statement, the *Yout* court was *not* discussing whether the TPM at issue was *effective*, as required by Section 1201(a); rather, it was addressing the alleged circumventer's argument that there was no "technological measure" in place at all. *Id.* at 664–65. In addition, the facts of *Yout* are distinguishable. There, YouTube's TPM was deemed effective because it prevented ordinary YouTube users from downloading YouTube content in the ordinary course. *Id.* at 670–672. Here, by contrast, Reddit does not allege that Google's TPMs prevent ordinary Google Search users from accessing public Google SERPs in the ordinary course.

humans—access to Google's search results, including results that feature Reddit data." Compl.

¶ 49. That means, as Reddit admits, at least one route of access to Google's SERPs is "wide open"

and the featured content is readily accessible notwithstanding Google's TPM. *Lexmark*, 387 F.3d

at 547. Accordingly, these alleged measures do not "effectively control access" under the DMCA

and any alleged circumvention thereof does not support a Section 1201 claim.

> B.   *Reddit fails to allege that Google has authorization from the alleged copyright owners*

An "effective[]" control measure under the DMCA also requires the "authority of the

copyright owner[] to gain access to the work." 17 U.S.C. § 1201(a)(3)(B). Therefore, if a purported

TPM does not require any authorization from the copyright owner to bypass it, then it does not

"effectively control access." *See Echostar Satellite*, 543 F. Supp. 2d at 1205–06. In this case, to

the extent Reddit comments are copyrightable at all, Reddit users own those copyrights, but Reddit

fails to allege that Google received any authorization from any Reddit user to use the TPMs at

issue to protect any such copyrights. *See* Reddit User Agreement § 5 (Reddit users maintain

copyright ownership); *see* Compl. ¶ 49 (describing Google's TPMs without reference to authority

of copyright owners).[6] Therefore, Reddit's claims fail on this independent basis as well.

> C.   *The "Reddit content" at issue is not "works protected under" the Copyright Act*

Given the DMCA's focus on protecting copyright owners, as discussed above, a

technological measure that does not control access to a *copyrighted* work is not protected by

Section 1201. *See* 17 U.S.C. § 1201(a); *Lexmark*, 387 F.3d at 550 ("To the extent the Toner

Loading Program is not a work protected under the copyright statute . . . the DMCA necessarily

---

[6] While Reddit generally refers to "partnership agreements with a select list of AI companies that are willing to abide by" Reddit's Public Content Policy, as to Google, Reddit merely alleges that their partnership grants "programmatic access by Google to Reddit content." *See* Compl. ¶ 46. Reddit does not allege that its agreement with Google grants any authority to Google to take measures on behalf of Reddit users to protect their copyright interests, if any, in their content.

would not protect it."); *Storage Tech. Corp. v. Custom Hardware Eng'g & Consulting, Ltd.*, 2006 WL 1766434, at *7–8 (D. Mass. June 28, 2006) (dismissing DMCA claim where plaintiff did not show that defendants accessed copyright-protected works).

Because Reddit alleges that SerpApi accessed "Reddit content" in Google SERPs, Compl. ¶ 52, Reddit must sufficiently allege that such "Reddit content" is protected under the Copyright Act. Reddit does not—and cannot—do so. As Reddit admits, Compl. ¶¶ 54, 55, the "Reddit content" at issue consists of mere snippets gleaned by Google from Reddit user posts. Such snippets do not constitute works protected under the Copyright Act because they are comprised of unprotectable short phrases and basic, functional expressions. *See, e.g., Moody v. Morris*, 608 F. Supp. 2d 575, 579 (S.D.N.Y. 2009) ("[I]t is axiomatic that words, short phrases, titles, and slogans are not subject to copyright[.]"), *aff'd*, 407 F. App'x 434 (Fed. Cir. 2011); *see also Stern v. Does*, 978 F. Supp. 2d 1031, 1042 (C.D. Cal. 2011) (finding short listserv post uncopyrightable because it "display[ed] no creativity whatsoever" and was "dictated solely by functional considerations"), *aff'd sub nom. Stern v. Weinstein*, 512 F. App'x 701 (9th Cir. 2013).

Reddit's Complaint provides two examples of Google search results accessed and collected using SerpApi's platform. Compl. ¶¶ 54, 55. The first search result reads in its entirety: "Reddit may provide public content to others, but never private Redditor data. Private messages, private group chats, mod mail, and deleted posts . . . ." *Id*. ¶ 54. This short, boilerplate sentence followed by a sentence fragment listing different kinds of user-generated material falls well below the threshold of originality necessary for copyright protection. The second example provided in Reddit's Complaint is equally uncopyrightable. It reads in full: "Inception, LotR trilogy, Fifth Element, The Princess Bride, Blues Brothers, Mouse Hunt (another personal favourite, I'm biased), Michael Bay's . . . ." *Id*. ¶ 55. This text—not even a full sentence—is merely a list of

movie titles supplemented by a short parenthetical statement that one of the movies is a personal favorite. These examples show that SerpApi collects mere fragments of text, not copyrighted works, as required for protection by the DMCA. Nowhere does Reddit allege that SerpApi collected any snippet that was long enough to qualify for copyright protection.

> D.   *Reddit's claims also fail because they lack an infringement nexus*

Infringement is a core component of any claim brought under Section 1201 of the DMCA. To state a claim, a plaintiff must allege that defendant's circumvention infringed a protected work or facilitated infringement (an "infringement nexus"). *Chamberlain*, 381 F.3d at 1195 ("Defendants whose circumvention devices do not facilitate infringement are not subject to § 1201 liability."). "17 U.S.C. § 1201 prohibits only forms of access that bear a reasonable relationship to the protections that the Copyright Act otherwise affords copyright owners." *Id.* at 1202; *see also Storage Tech. Corp. v. Custom Hardware Eng'g & Consulting, Inc.*, 421 F.3d 1307, 1319 (Fed. Cir. 2005) (holding that § 1201 claim was unlikely to succeed because plaintiff alleged harm resulting from breach of contract claim rather than copyright claim). Here, Reddit makes no claims of copyright infringement, nor can it, as SerpApi collects publicly accessible content that is not protected by the Copyright Act. *See generally* Compl.

Consistent with the Federal Circuit's approach, other Circuit Courts—and at least one court in the Second Circuit—have agreed that an infringement nexus is required to state a claim under Section 1201. *See Point 4 Data Corp. v. Tri-State Surgical Supply & Equip., Ltd.*, 2013 WL 5502852, at *7 (E.D.N.Y. Oct. 1, 2013) (citing *Chamberlain* for proposition that DMCA plaintiff must prove, *inter alia*, valid copyright ownership); *accord United States v. Reichert*, 747 F.3d 445, 448 (6th Cir. 2014) ("[T]he DMCA gave copyright owners a remedy against those who . . . circumvented technological controls and *thereby enabled others to infringe*.") (emphasis added); *Lexmark*, 387 F.3d at 547 (favorably citing *Chamberlain*); *Chambers v. Amazon.com Inc.*, 632 F.

App'x 742, 744 (4th Cir. 2015) (endorsing Federal Circuit's approach).[7]

The absence of an infringement nexus requirement would undermine the balanced protections of the Copyright Act, creating a regime in which "the owners of a work protected by *both* copyright *and* a technological measure that effectively controls access to that work per § 1201(a) would possess *unlimited* rights to hold circumventors liable under § 1201(a) *merely for accessing that work*, even if that access enabled *only* rights that the Copyright Act grants to the public." *Chamberlain*, 381 F.3d at 1200. It would effectively assume Congress intended to let copyright owners slam the door on public access—even when that access causes no harm. *Id.* This proposition is not only irrational on its face, but also "hard to reconcile with the DMCA's statutory prescription that 'nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under this title.'" *Id.* (cleaned up). Thus, with no allegations supporting an infringement nexus, Reddit's DMCA claims must be dismissed.

IV.   Reddit's DMCA § 1201(b) Claim Fails Because Reddit Does Not Allege That Google's TPMs Are Copying Controls

The DMCA makes a distinction between *access controls*, discussed above, that are protected under § 1201(a), and *copying controls*, protected under § 1201(b). Section 1201(b) prohibits trafficking in technology that is "designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively *protects a right of a copyright owner* under this title in a work." 17 U.S.C. § 1201(b)(1)(A) (emphasis added). The referenced rights are those provided by 17 U.S.C. § 106, including the exclusive right to reproduce the work. Accordingly, "the focus of subsection 1201(b)(1) is circumvention of technologies designed to *permit access* to a work but *prevent copying* of the work . . . ." *Corley*, 273 F.3d at 441.

---

[7] In a departure from this consensus view, the Ninth Circuit has held that Section 1201 does not require an infringement nexus. *See MDY Indus., LLC v. Blizzard Ent., Inc.*, 629 F.3d 928, 950 (9th Cir. 2010). No other Circuit Court has adopted this rule.

Count III of Reddit's Complaint alleges a violation of DMCA Section 1201(b). However, as described in the Complaint, the Google TPMs at issue allegedly control whether a bot can access Google's search pages —in other words, they are alleged to be *access* controls. *See* Compl. ¶¶ 49, 61 (describing Google's TPMs as measures designed to prevent *access* to SERPs and alleging circumvention of "effective measures Google has put in place to ward off automated *access* to search engine results") (emphasis added). Reddit does not allege that Google's TPMs prevent copying. *See* generally Compl. Although Reddit attempts to use Sections 1201(a) and 1201(b) interchangeably to ensure that it plausibly states a claim under *some* provision of the DMCA, the legislative history of the DMCA confirms that such attempts are futile. *See* Senate Judiciary Committee Report at 12 ("The two sections are not interchangeable . . . ."). Because Reddit fails to allege that Google's TPMs are copying controls, Reddit's Section 1201(b) claim fails.

V.   Reddit's Unfair Competition Claim Fails

A.   *Reddit's claim for unfair competition is preempted by the Copyright Act*

Reddit's unfair competition claim is preempted by the Copyright Act and should be dismissed. "A state cause of action is preempted by federal copyright laws if the subject matter of the state-law right falls within the subject matter of the copyright laws and the state-law right asserted is equivalent to the exclusive rights protected by federal copyright law." *Kregos v. Associated Press*, 3 F.3d 656, 666 (2d Cir. 1993); *see also* 17 U.S.C. § 301(a). While a state-law claim that "include[s] any extra elements that make it qualitatively different from a copyright infringement claim" will avoid preemption, courts are to take a "restrictive view" of what such extra elements qualify. *Briarpatch Ltd. v. Phoenix Pictures, Inc.*, 373 F.3d 296, 305–06 (2d Cir. 2004).

Moreover, Reddit fails to allege extra elements in connection with its unfair competition claim (based on a misappropriation theory) that are qualitatively different from its would-be

19

copyright claims. "Courts in [the Second] Circuit have consistently held that claims for misappropriation of rights within the scope of copyright brought under New York unfair competition law are preempted." *Am. Movie Classics Co. v. Turner Ent. Co.*, 922 F. Supp. 926, 933 (S.D.N.Y. 1996) (collecting cases). A movant must allege conduct such as "breaches of confidential relationships, breaches of fiduciary duties and trade secrets" as extra elements of an unfair competition claim to avoid preemption by the Copyright Act. *Kregos*, 3 F.3d at 666. Reddit alleges none of those things and simply repackages copyright-sounding claims by asserting that SerpApi engaged in circumvention of TPMs to "secure for [itself] an undue competitive advantage, or to damage Reddit's competitive position" with respect to Reddit user content (that, even if copyrightable, Reddit does not own). Compl. ¶ 104. The mere allegation of competition does not rescue Reddit's unfair competition claim from preemption. *See Gogo Apparel, Inc. v. True Destiny, LLC*, 2020 WL 5578336, at *4 (S.D.N.Y. Sept. 17, 2020).

B.   *Reddit and SerpApi are not competitors*

Even if there were no preemption, Reddit's unfair competition claim fails because SerpApi and Reddit are not competitors. *See EMI Music Mktg. v. Avatar Recs., Inc.*, 317 F. Supp. 2d 412, 423 (S.D.N.Y. 2004) ("[W]here there is *no* competition, there can be no unfair competition.") (emphasis added); *see also Chartwell RX, LLC v. Inmar, Inc.*, 620 F. Supp. 3d 59, 78–79 (S.D.N.Y. 2022) (dismissing unfair competition claim where defendant distribution company did not compete with plaintiff pharmaceutical manufacturer). Whereas Reddit is a platform housing user-generated "subreddit" communities on which users may engage in discussions on any topic imaginable, SerpApi is a service that allows users to retrieve structured data from SERPs such as Google. Compl. ¶¶ 17, 44. Google SERPs may include snippets from Reddit, and SerpApi users may utilize its software to collect and analyze those SERPs. However, Reddit fails to plausibly allege (apart from its conclusory say-so) how this "remov[es] the need for [internet] users to access Reddit

20

content directly through Reddit," *id.* ¶ 104, when SerpApi itself is not even alleged to *directly access* Reddit content—let alone to the point of displacing the need for the Reddit platform in the way that a PDF copy of a novel may displace the need for the physical book. For the same reason, Reddit also fails to plausibly allege how SerpApi competes for Reddit's would-be licensing revenue from AI companies (*see id.* ¶¶ 77, 104).

Reddit's unfair competition claim likewise falls short because there are no non-conclusory allegations plausibly stating that SerpApi misappropriated "the skill, expenditures and labors of a competitor." *Chartwell RX*, 620 F. Supp. 3d at 78. Reddit asserts that SerpApi has "misappropriated Reddit's labor, skill, expenditures, and/or goodwill, and [has] displayed bad faith in doing so" seeking to "damage Reddit's competitive position" to secure for itself an "undue competitive advantage." Compl. ¶¶ 101, 104. But, again, SerpApi is not in competition with Reddit, nor does it leverage Reddit's product (rather, SerpApi leverages *Google's* SERPs).

Furthermore, as reflected in Reddit's own User Agreement, Reddit lacks any kind of property right or commercial advantage deriving from those snippets. *See* Reddit User Agreement § 5. This is significant because under New York law, a misappropriation theory of unfair competition requires the plaintiff to allege that the defendant misappropriated "goodwill constituting property or a commercial advantage" belonging exclusively to the plaintiff. *ITC Ltd. v. Punchgini, Inc.*, 9 N.Y.3d 467, 479 (2007); *see LoPresti v. Mass. Mut. Life Ins. Co.*, 30 A.D.3d 474, 476 (2d Dep't 2006) (affirming dismissal of unfair competition claim where "the complaint failed to allege the bad faith misappropriation of a commercial advantage which belonged exclusively to [plaintiff]"). Reddit's non-exclusive license to user-generated content affords Reddit neither a property right to that content nor an exclusive interest in the goodwill stemming from it. Therefore, Reddit's attempt to assert an unfair competition claim fails on its face. *See RBG*

Mgmt. Corp. v. Vill. Super Mkt., Inc., 692 F. Supp. 3d 135, 152–53 (S.D.N.Y. 2023) (dismissing unfair competition claim where "the only property or commercial advantage at issue" was goodwill derived from plaintiff's non-exclusive association with intellectual property owned by third party).

VI.   Reddit's Unjust Enrichment Claim Fails

Under New York law, an unjust enrichment claim "require[s] proof that (1) the defendant was enriched, (2) at plaintiff's expense, and (3) equity and good conscience militate against permitting defendant to retain what the plaintiff is seeking to recover." *Briarpatch*, 373 F.3d at 306. The alleged benefit to the defendant must be "both specific and direct." *RBG Mgmt.*, 692 F. Supp. 3d at 154. "[U]njust enrichment is not a catchall cause of action to be used when others fail," but rather, "is available only in unusual situations when, though the defendant has not breached a contract nor committed a recognized tort, circumstances create an equitable obligation" on the defendant's part. *Corsello v. Verizon N.Y., Inc.*, 18 N.Y.3d 777, 790 (2012).

Reddit's unjust enrichment claim fails for three reasons. First, the claim is preempted by the Copyright Act. Second, Reddit's claim functions as a "catchall," duplicative of its other counts. And third, even if Reddit's unjust enrichment claim were neither preempted nor duplicative, the Complaint still fails to allege any specific or direct benefit to SerpApi resulting from SerpApi's collection and analysis of Google SERPs that sometimes include snippets of Reddit comments.

A.   *Reddit's unjust enrichment claim is preempted by the Copyright Act*

"Courts have generally concluded that the theory of unjust enrichment protects rights that are essentially 'equivalent' to rights protected by the Copyright Act; thus, unjust enrichment claims related to the use of copyrighted material are generally preempted." *Ardis Health, LLC v. Nankivell*, 2012 WL 5290326, at *10 (S.D.N.Y. Oct. 23, 2012). Here, notwithstanding that Reddit has failed to allege any copyright interests as discussed above, the thrust of its unjust enrichment claim is the "unauthorized" scraping (*i.e.*, use) of "content." *See* Compl. ¶¶ 111–12. In other words,

the "fundamental nature" of Reddit's claim "is equivalent to a claim to enforce exclusive rights within the general scope of copyright." *Ziff Davis,* 2025 WL 3635559 at *4 (dismissing unjust enrichment claim as preempted where the "basis" of plaintiff's claim was that defendant used plaintiff's copyrighted works "in an unauthorized way"); *see also, e.g.*, *Rubio v. Barnes & Noble, Inc.*, 2014 WL 6769150, at *3 (S.D.N.Y. Nov. 12, 2014) (dismissing as preempted unjust enrichment claim based on "the unauthorized and uncompensated production" of allegedly infringing copies and derivatives). Thus, the Copyright Act preempts Reddit's claim.

B.   *Reddit's unjust enrichment claim is duplicative and derivative of its other claims*

Even assuming there is no preemption, under Second Circuit jurisprudence, "claims for unjust enrichment will not survive a motion to dismiss where plaintiffs fail to explain how their unjust enrichment claim is not merely duplicative of their other causes of action." *Duchnik v. Tops Markets, LLC*, 2023 WL 4827951, at *14 (W.D.N.Y. July 6, 2023), *report and recommendation adopted*, 2023 WL 4828141 (W.D.N.Y. July 26, 2023). "[T]wo claims are duplicative of one another if they arise from the same facts and do not allege distinct damages." *Cooper v. Anheuser-Busch, LLC*, 553 F. Supp. 3d 83, 115 (S.D.N.Y. 2021) (dismissing unjust enrichment claim as duplicative). Here, Reddit relies on the same underlying facts to support its DMCA and equitable claims: SerpApi offered a tool that purportedly allows users to "circumvent technological control measures" to scrape Google SERPs containing Reddit snippets. Compl. ¶ 9. Reddit does not plead unique facts to support its unjust enrichment claim, so it should be dismissed as duplicative.

Furthermore, "if [Reddit's] other claims are defective, an unjust enrichment claim cannot remedy the defects." *Corsello*, 18 N.Y.3d at 791. Because Reddit's DMCA claims are defective for the reasons stated above and Reddit also fails to sufficiently allege any other equitable claim, the unjust enrichment claim that relies on the same operative facts should likewise fail.

23

C.   *Reddit fails to allege a specific or direct benefit conferred upon SerpApi*

Even were the Court to find that Reddit's unjust enrichment claim is neither preempted nor duplicative, the claim still fails because Reddit fails to identify any "specific" and "direct" benefit to SerpApi resulting from its collection and analysis of Google SERPs that sometimes contain Reddit snippets. *See RBG Mgmt.*, 692 F. Supp. 3d at 154. Reddit only alleges in a conclusory manner that SerpApi has "been unjustly enriched at Reddit's expense." Compl. ¶ 112. And Reddit's vague claims of lost "commercial opportunities," as discussed above, fail to allege that any such opportunities went to SerpApi instead. Reddit's otherwise bare-bones allegations are simply "too nebulous and speculative to plausibly allege that a 'specific' and 'direct' benefit was received by" SerpApi. *RBG Mgmt.*, 692 F. Supp. 3d at 155; *see also Regnante v. Sec. & Exch. Offs.*, 134 F. Supp. 3d 749, 773 (S.D.N.Y. 2015) ("An allegation premised on an unnamed benefit that may accrue in the future . . . is too slender a reed on which to premise a claim of unjust enrichment."). Accordingly, Reddit's unjust enrichment claim must be dismissed.

VII.   Reddit's Civil Conspiracy Claim Fails

A.   *Reddit's civil conspiracy claim is preempted by the Copyright Act*

Reddit's claim for civil conspiracy is also preempted by the Copyright Act and should be dismissed. It is settled law that the Copyright Act creates secondary liability for contributory and vicarious infringement. *Gym Door Repairs, Inc. v. Young Equip. Sales, Inc.*, 206 F. Supp. 3d 869, 897 (S.D.N.Y. 2016). These forms of "secondary" liability penalize those who do not directly infringe but rather indirectly facilitate infringement. A common-law claim alleging conspiracy to violate the Copyright Act merely alleges acts that did not directly infringe but rather contributed to infringement in some meaningful way. Because federal courts construe the Copyright Act to confer liability onto those actors via causes of action for contributory and vicarious infringement, civil conspiracy claims do not extend liability beyond that which courts read the Copyright Act to

24

already remedy. *Id.* at 916 (finding claims for conspiracy to violate Copyright Act preempted); *Irwin v. ZDF Enters. GmbH*, 2006 WL 374960, at *4 (S.D.N.Y. Feb. 16, 2006) (collecting cases).

Analogously, the DMCA (itself part of the Copyright Act) creates penalties for parties who do not directly circumvent access-control measures but rather facilitate circumvention by trafficking in devices that do. 17 U.S.C. § 1201(a)(2). Because Section 1201(a)(2) already creates a form of "secondary" liability for facilitators of circumvention, the DMCA preempts a claim for civil conspiracy to violate the DMCA, just as the Copyright Act preempts a claim for civil conspiracy to commit copyright infringement.

B.   Even if Reddit's claim is not preempted, the claim fails because the underlying DMCA claims fail

Even if there were no copyright preemption, civil conspiracy is not an independent tort in the State of New York in any event. *Shared Commc'ns Servs. of ESR, Inc. v. Goldman Sachs & Co.*, 23 A.D.3d 162, 163 (1st Dep't 2005) (upholding dismissal of civil conspiracy claim); *Bell v. Alden Owners, Inc.*, 299 A.D.2d 207, 209 (1st Dep't 2002) (dismissing civil conspiracy claim). This is because "[t]he actionable wrong [in a civil conspiracy] lies in the commission of a tortious act . . . but never upon the agreement to commit the prohibited act standing alone." *Cuker Indus. v. Crow Constr. Co.*, 6 A.D.2d 415, 417 (1st Dep't 1958). Therefore, Reddit must successfully plead an underlying intentional tort, forming the basis for the conspiracy. *Payday Advance Plus, Inc. v. Findwhat.com, Inc.*, 478 F. Supp. 2d 496, 506 (S.D.N.Y. 2007). Here, Reddit's DMCA claims serve as the tortious conduct underlying its claim for civil conspiracy. *See* Compl. ¶¶ 117–18. Because the underlying DMCA claims fail, so, too, does Reddit's claim for civil conspiracy.

CONCLUSION

For the foregoing reasons, the Court should grant SerpApi's Motion to Dismiss.

25

Dated: New York, New York
      January 2, 2026

Respectfully submitted,

/s/ *Nili T. Moghaddam*

Nili T. Moghaddam
Jessica L. Falk
Sarah Ryu
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Tel.: (212) 310-8000
Fax: (212) 310-8007
nili.moghaddam@weil.com
jessica.falk@weil.com
sarah.ryu@weil.com

Jeff Homrig (*pro hac vice*)
WEIL, GOTSHAL & MANGES LLP
200 Crescent Court, Suite 300
Dallas, TX 75201
Tel: (214) 746-7700
jeff.homrig@weil.com

Attorneys for Defendant SerpApi, LLC

26