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META PLATFORMS, INC. (fka FACEBOOK, INC.), INSTAGRAM, LLC, and WHATSAPP LLC

11 **UNITED STATES DISTRICT COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA**

13 META PLATFORMS, INC.,  
14 INSTAGRAM, LLC, and WHATSAPP LLC,

15 Plaintiffs,

16 v.

17 OPENTLD B.V., FREEDOM REGISTRY B.V.,  
18 FINTAG GROUP B.V., CERVESIA ACIDA  
BV, B.V. DOT TK, CENTRAFRIQUE TLD  
19 B.V., EQUATORIAL GUINEA DOMAINS  
B.V., MALI DILI B.V., GABON TLD B.V.,  
20 STICHTING OPENTLD WHOIS PROXY,  
YOURS SAFE B.V., JOOST ZUURBIER  
21 MANAGEMENT SERVICES B.V., VTL  
22 MERCHANT SUPPORT, INC., and  
JOHN DOES 1-20, INCLUSIVE,  
23

24 Defendants.

Case No. 4:22-cv-07768-HSG

**FIRST AMENDED COMPLAINT FOR  
CYBERSQUATTING; TRADEMARK  
INFRINGEMENT; FALSE DESIGNATION  
OF ORIGIN; DILUTION; AND  
VIOLATION OF THE ANTI-PHISHING  
ACT UNDER CAL. BUS. & PROF. CODE §  
22948**

**DEMAND FOR JURY TRIAL**

Hon. Haywood S. Gilliam, Jr.

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26  
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1 Plaintiffs Meta Platforms, Inc. (“Meta”), Instagram, LLC (“Instagram”), and WhatsApp LLC  
 2 (“WhatsApp”) (collectively “Plaintiffs”) by and through their attorneys, Tucker Ellis LLP, file their First  
 3 Amended Complaint against Defendants OpenTLD B.V. dba Freenom dba Bitsafe Domains  
 4 (“Freenom”), Freedom Registry B.V. (“Freedom Registry”), Fintag Group B.V. aka Bitsafe B.V.  
 5 (“Fintag”), Cervesia Acida BV (“Cervesia”), B.V. Dot TK (“Dot TK”), Centrafrique TLD B.V.  
 6 (“Dot CF”), Equatorial Guinea Domains B.V. (“Dominio GQ”), Mali Dili B.V. (“Mali Dili”), Gabon  
 7 TLD B.V. (“My GA”), Stichting OpenTLD WHOIS Proxy aka OpenTLD WHOIS Proxy Foundation  
 8 (“ID Shield”), Yoursafe B.V. aka Bitsafe Payments B.V. aka Verotel aka Verotel Merchant Services B.V.  
 9 (“Yoursafe”), Joost Zuurbier Management Services B.V., VTL Merchant Support, Inc. aka Freedom  
 10 Registry, Inc. (“VTL”) (collectively, “Defendants”), and John Does 1-20, inclusive (“Doe Defendants”),  
 11 for injunctive relief and damages.

## 12 I. INTRODUCTION

13 1. Cybercrime is highly dependent on registered domain names, which are used to host  
 14 phishing websites<sup>1</sup> and engage in other types of online abuse.

15 2. Defendants’ business model involves registering and licensing domain names, and  
 16 providing related services and content, to Doe Defendants, who are high-risk clients engaged in illicit  
 17 activity such as in phishing and adult content.

18 3. Defendants operate as a complex web of shell companies controlled by individuals named  
 19 Johannes Wilhelmus Antonius Zuurbier aka Joost Zuurbier (“Joost Zuurbier”) and Marcel Trik, and  
 20 Defendants have, individually, collectively and/or together as alter egos, as direct participants, and/or as  
 21 agents of each other, registered, trafficked in, and used over 5,000 domain names that are identical or  
 22 confusingly similar to Plaintiffs’ trademarks with a bad faith intent to profit in violation of the  
 23 Anticybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d) (“ACPA”) (collectively, the  
 24 \_\_\_\_\_

25 <sup>1</sup> “Phishing” refers to the practice of deceiving internet users into divulging personal information, such as  
 26 login IDs and passwords, using fraudulent websites or emails that impersonate businesses. The  
 27 Anti-Phishing Working Group (“APWG”), a nonprofit that works to combat cybercrime, reported  
 28 1,097,811 total phishing attacks in the second quarter of 2022, “a new record and the worst quarter for  
 phishing that APWG has ever observed.” Anti-Phishing Working Group, *Phishing Activity Trends Report, 2nd Quarter 2022* (Sept. 20, 2022), available at docs.apwg.org/reports/apwg\_trends\_report\_q2\_2022.pdf.

1 “Infringing Domain Names”).

2 4. Plaintiffs’ brands are among the most attacked on the internet<sup>2</sup> and the domain names  
3 registered by Freenom and/or its alter egos account for one of the largest sources of phishing targeting  
4 Plaintiffs and their customers.

5 5. The Infringing Domain Names—including, for example, faceb00k.ga, fb-Instagram.cf,  
6 facebook-applogin.ga, instagrans-help.cf, instaqram.ml, chat-whatsaap.gq, chat-whatsaap-com.tk, and  
7 supportservice-Instagram.cf—not only are identical or confusingly similar to Plaintiffs’ trademarks but  
8 many have been used to launch phishing attacks, to display adult content, and to conduct other types of  
9 abusive, nefarious, fraudulent, and infringing activities that harm both Plaintiffs’ users and Plaintiffs. A  
10 list of the Infringing Domain Names is attached to this First Amended Complaint as Exhibit 1.

11 6. Freenom is, among other things, the exclusive domain name *registry*<sup>3</sup> services provider  
12 for five country code top level domains (“ccTLDs”). A country code top level domain is a two-letter  
13 domain that corresponds to a country, territory, or other geographic location (e.g., .us for the United  
14 States ). Freenom is the registry service provider for the operator of: .tk for Tokelau, .gq for Equatorial  
15 Guinea, .cf for the Central African Republic, .ml for Mali, and .ga for Gabon.<sup>4</sup> On information and belief,  
16 Freenom sets and administers the policies and performs all registry operations for these ccTLDs.  
17 Freenom is also the exclusive *registrar*<sup>5</sup> and provides free domain name registrations for domain names

18 \_\_\_\_\_  
19 <sup>2</sup> In 2022, FACEBOOK, WHATSAPP, INSTAGRAM were each listed in the top five brands targeted by  
20 phishing attacks. *See* Directorate-General for Communications Networks, Content and Technology  
21 (European Commission), *Study on Domain Name System (DNS) abuse* (Jan. 1, 2022), available at  
22 <https://op.europa.eu/en/publication-detail/-/publication/d9804355-7f22-11ec-8c4001aa75ed71a1/language-en>. FACEBOOK was ranked number 1, INSTAGRAM was ranked  
23 number 2, and WHATSAPP was ranked number 5. *Id.*

24 <sup>3</sup> According to the Internet Corporation for Assigned Names and Numbers (“ICANN”), “[t]he ‘Registry’  
25 is the authoritative, master database of all domain names registered in each Top Level Domain.” ICANN,  
26 *Glossary of WHOIS Terms*, available at [whois.icann.org/en/glossary-whois-terms](https://www.icann.org/en/glossary-whois-terms) (“ICANN Glossary”).

27 <sup>4</sup> Freenom created subsidiaries for each of the five ccTLDs it provides registry services for: Dot TK for  
28 .tk, Dot CF for .cf, Dominio GQ for .gq, Mali Dili for .ml, and My GA for .ga (collectively, the  
“ccTLD Service Providers”). Each of the ccTLD Service Providers and Freenom are alter egos of one  
another.

<sup>5</sup> A “registrar” processes a registrant’s desired domain name registration and records that registration with  
the registry. *See* ICANN Glossary.

1 in these five ccTLDs.

2 7. Freenom is also an ICANN-accredited domain name registrar for generic top level  
3 domains (“gTLDs”). Generic top level domains include .com and .net, to list only a few. As an  
4 ICANN-accredited domain name registrar, Freenom provides registration services for domain names in  
5 the various gTLDs.

6 8. One of Freenom’s alter egos, ID Shield, provides a proxy service whereby ID Shield  
7 registers domain names, as the registrant and in its own name, and then licenses these domain names to  
8 Freenom and to Freenom’s customers for their use.

9 9. Freenom, directly and through a complex and geographically diverse web of alter egos,  
10 DBAs, and shell entities abuses its position of trust and authority to operate a coordinated scheme to  
11 cybersquat on, infringe, and dilute Plaintiffs’ trademarks.

12 10. The five ccTLDs to which Freenom provides its services are the TLDs of choice for  
13 cybercriminals because Freenom provides free domain name registration services and shields its  
14 customers’ identity, even after being presented with evidence that the domain names are being used for  
15 illegal purposes. On information and belief, even after receiving notices of infringement or phishing by  
16 its customers, Freenom continues to license new infringing domain names to those same customers.

17 11. According to the 2022 *Study on Domain Name System abuse* conducted for the European  
18 Commission, “five out of ten most abused TLDs (.ml, .tk, .ga, .cf, and .gq) are operated by Freenom.”<sup>6</sup>  
19 The study further concluded that “[t]he lack of registration fees is the most likely reason Freenom’s TLDs  
20 are widely abused by malicious actors.”

21 12. Further, according to the Interisle Consulting Group’s *Phishing Landscape 2021* report,  
22 Freenom’s five ccTLDs were reported for abuse in over 124,000 instances in that year alone.<sup>7</sup>

23 13. Despite the well-documented proliferation of cybercrime through the use of its services,  
24 Freenom has repeatedly failed to take appropriate steps to investigate and respond appropriately to reports

25 \_\_\_\_\_  
26 <sup>6</sup> Directorate-General for Communications Networks, Content and Technology, *supra* note 3, at  
27 Appendix 1.

28 <sup>7</sup> Interisle Consulting Group, *Phishing Landscape 2021* (Sept. 22, 2021), available at  
www.interisle.net/PhishingLandscape2021.pdf.

1 of abuse.

2 14. Defendants have demonstrated that they are knowingly disregarding (a) their legal and  
 3 contractual obligations, (b) the intellectual property rights of those being harmed by cybercriminals who  
 4 use Defendants' services to register domain names to infringe the marks of others, and (c) the harm  
 5 caused to third parties who fall victim to cybercrime such as phishing that is facilitated through domain  
 6 names registered with Defendants on behalf of their cybercriminal customers. These cybercrimes rely on  
 7 deceptive domain names, like the Infringing Domain Names, registered with Defendants to harvest users'  
 8 personal and financial information.

9 15. Defendants profit from their cybersquatting scheme because Defendants directly  
 10 (a) register the Infringing Domain Names, (b) resell or offer to sell the Infringing Domain Names, and/or  
 11 (c) monetize the Infringing Domain Names by operating revenue-generating parking pages<sup>8</sup> and redirect  
 12 visitors to other commercial websites, websites with pornographic content, and websites used for  
 13 malicious activity like phishing.

14 16. Defendants' and Doe Defendants' use of Plaintiffs' trademarks to divert internet traffic to  
 15 the Infringing Domain Names, including to websites used to launch phishing attacks, display adult  
 16 content, and for other malicious activity, deceives the public and erodes the goodwill associated with  
 17 Plaintiffs' brands. By this lawsuit, Plaintiffs seek to stop Defendants' and Doe Defendants' ongoing  
 18 unlawful and harmful conduct.

19 **II. THE PARTIES**

20 17. Plaintiff Meta Platforms, Inc. is a Delaware corporation with its principal place of business  
 21 in Menlo Park, California.

22 18. Plaintiff Instagram, LLC is a Delaware limited liability company with its principal place  
 23 of business in Menlo Park, California.

24 19. Plaintiff WhatsApp LLC is a Delaware limited liability company with its principal place  
 25 of business in Menlo Park, California.

26 20. Defendant Freenom, which is a trade name of OpenTLD B.V., is a Dutch corporation with

27 <sup>8</sup> A "parking page" is a website used to display commercial advertisements, typically in the form of links  
 28 to other commercial websites or commercial content.

1 its principal place of business at Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Freenom also  
 2 does business under the name Freedom Registry, Inc.,<sup>9</sup> which has a business address at 2225 East  
 3 Bayshore Road, Suite 290, Palo Alto, California 94303.

4 21. Defendant Freedom Registry is a Dutch corporation with its principal place of business at  
 5 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Freedom Registry is the sole shareholder of  
 6 Freenom.

7 22. Defendant Fintag is a Dutch corporation with its principal place of business at  
 8 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Fintag is the majority shareholder and sole  
 9 director of Freedom Registry. Fintag is also a director of Freenom.

10 23. Defendant Cervesia is a Dutch corporation with its principal place of business at  
 11 Spaarndammerdijk 699, Amsterdam 1014AE, Netherlands. Cervesia held or holds 87.5% of the shares  
 12 of Fintag and was the sole director of Fintag until October 24, 2022.

13 24. Defendant Dot TK is a Dutch corporation with its principal place of business at  
 14 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Dot TK is a subsidiary of Freenom. Dot TK is the  
 15 domain name registry service provider for the .tk ccTLD of Tokelau. Dot TK represents on its LinkedIn  
 16 page that it “is a subsidiary of Freenom,” which “has offices in Amsterdam (Netherlands) and Palo Alto  
 17 (USA).”

18 25. Defendant Dot CF is a Dutch corporation with its principal place of business at  
 19 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Dot CF is a subsidiary of Freenom. Dot CF is the  
 20 domain name registry service provider for the .cf ccTLD of the Central African Republic.

21 26. Defendant Dominio GQ is a Dutch corporation with its principal place of business at  
 22 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Dominio GQ is a subsidiary of Freenom.  
 23 Dominio GQ is the domain name registry service provider for the .gq ccTLD of Equatorial Guinea.

24 27. Defendant Mali Dili is a Dutch corporation with its principal place of business at  
 25 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Mali Dili is a subsidiary of Freenom. Mali Dili

26 <sup>9</sup> Freedom Registry, Inc. changed its name to VTL Merchant Support, Inc. in November 2017. Freenom  
 27 has done—and continues to do—business as Freedom Registry, Inc. despite the fact that corporate records  
 28 indicate that Freedom Registry, Inc. was a separate entity from Freenom and despite the fact that corporate  
 records indicate that VTL Merchant Support, Inc. is a separate entity from Freenom.

1 the domain name registry service provider for the .ml ccTLD of Mali.

2 28. Defendant My GA is a Dutch corporation with its principal place of business at  
3 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. My GA is a subsidiary of Freenom. My GA is the  
4 domain name registry service provider for the .ga ccTLD of Gabon.

5 29. Defendant ID Shield is a Dutch limited liability entity with its principal place of business  
6 at Danzigerkade 23D, Amsterdam 1013AP, Netherlands. ID Shield is Freenom's domain name proxy  
7 service, which registered domain names in the name of ID Shield on publicly-available domain name  
8 registration records.

9 30. Defendant Yoursafe is a Dutch corporation with its principal place of business at  
10 Danzigerkade 23D, Amsterdam 1013AP, Netherlands. Yoursafe is an Internet payment service provider  
11 that specializes in high-risk financial transactions, catering specifically to online adult entertainment.  
12 Yoursafe also provides domain name registration and related services. Yoursafe represents that it has  
13 offices in San Francisco, California.

14 31. Defendant VTL is a Delaware corporation with its principal place of business at 2225 East  
15 Bayshore Road, Suite 290, Palo Alto, California 94303. According to its filings with the California  
16 Secretary of State, VTL's former agent for service of process in 2018 was Johannes W.A. Zuurbier (aka  
17 Joost Zuurbier) located at 628 O'Farrell Street #7, San Francisco, CA, and its current agent as of  
18 August 19, 2021 is Zhaobo Liu, located at 61 Airport Boulevard, Suite H, South San Francisco, CA  
19 94080. According to these corporate filings, VTL is in the business of payment processing and, according  
20 to its website, available until recently at vtl.support, VTL sells outsourcing services, including customer  
21 service support, to third parties. Until November 2017, VTL operated under the name Freedom Registry,  
22 Inc. Joost Zuurbier is VTL's CEO, and Marcel Trik is its CFO and Secretary.

23 32. Defendant Joost Zuurbier Management Services B.V. is a Dutch corporation with its  
24 principal place of business at Melis Stokehof 100, Amsterdam 1064JE, Netherlands. Joost Zuurbier  
25 Management Services B.V. is the director of Fintag.

26 33. On information and belief, Freenom, Freedom Registry, Fintag, Cervesia, the  
27 ccTLD Service Providers, ID Shield, Yoursafe, VTL, and Joost Zuurbier Management Services B.V. are  
28 a single enterprise and/or alter egos of each other. Freenom is also the direct participant in the actions of

1 Freedom Registry, Fintag, Cervesia, the ccTLD Service Providers, ID Shield, Yoursafe, VTL, and Joost  
2 Zuurbier Management Services B.V.

3 34. Plaintiffs have not yet identified the Doe Defendants. The Doe Defendants are individuals  
4 or entities, including individuals and entities related to Defendants, who have registered, or caused to be  
5 registered, domain names that cybersquat and infringe on Plaintiffs' trademarks and have been used to  
6 launch phishing attacks, display adult content, and for other types of abusive, nefarious, fraudulent, and  
7 infringing activities against Plaintiffs and their users.<sup>10</sup> As explained in more detail below, Doe  
8 Defendants are also licensees of Freenom, the ccTLD Service Providers, and/or ID Shield. Plaintiffs  
9 reserve the right to amend this complaint to allege such Doe Defendants' true names and capacities when  
10 they are ascertained.

### 11 **III. JURISDICTION AND VENUE**

12 35. The Court has federal question jurisdiction over the federal causes of action alleged in this  
13 complaint pursuant to 28 U.S.C. § 1331. This Court has supplemental jurisdiction over the state law  
14 claim set forth herein under 28 U.S.C. § 1367(a) because that claim is so related to the federal claims that  
15 they form part of the same case or controversy.

16 36. The Court has personal jurisdiction over Defendants because each of them, either by  
17 themselves or by virtue of being an alter ego of and/or direct participant in the conduct of the others,  
18 regularly conducts business in California and purposefully avails themselves of the privilege of  
19 conducting activities in this forum. Defendants have entered into one or more contracts with businesses  
20 in the United States in conjunction with their unlawful activity which, on information and belief, include  
21 as a material term Defendants' agreement to submit to the jurisdiction of courts within the United States.  
22 For instance, Freenom has entered into a number of contracts with California individuals or entities,  
23 including with ICANN<sup>11</sup>, a United States-based company located in California. Freenom has also entered  
24 into at least one contract governed by California law with Meta.

25 \_\_\_\_\_  
26 <sup>10</sup> For example, Cybersecurity & Infrastructure Security Agency has listed Freedom Registry, Inc. in a  
27 Malware Analysis Report as the registrant of certain domains implicated in use of ComRAT malware to  
28 exploit victim networks. See <https://www.cisa.gov/uscert/ncas/analysis-reports/ar20-303a>.

<sup>11</sup> Freenom initiated arbitration proceedings in Los Angeles, California against ICANN concerning this  
contract, which resulted in an order denying Freenom's requested relief on August 24, 2015.



1           37. The Court also has personal jurisdiction over Defendants because each of them, either  
2 themselves or through one of their alter egos/direct participants, knowingly directed and targeted parts  
3 of their unlawful scheme at the United States. For example, Defendants have targeted the intellectual  
4 property of businesses in the United States; Defendants' services are specifically targeted, advertised,  
5 and provided to consumers in the United States; Defendants' services are specifically offered in United  
6 States dollars; Defendants' websites are all in English and are accessible to consumers in the United  
7 States; and Defendants have contracted with numerous businesses in the United States in conjunction  
8 with their unlawful activity as described herein.

9           38. The Court also has personal jurisdiction over Defendants because Defendants have  
10 conducted business related to their unlawful scheme in the United States, as demonstrated by the fact that  
11 Freenom filed a trademark application on September 3, 2013 for domain name registration services, as  
12 well as various related services. In that application, Freenom's then Managing Director, Joost Zuurbier,  
13 declared under penalty of perjury that Freenom had been providing these services in interstate commerce  
14 in the United States since at least as early as March 1, 2013. Accordingly, on information and belief,  
15 Freenom was offering, and continues to offer, domain name registration services in two or more states,  
16 including in California.

17           39. As discussed in detail in this First Amended Complaint, Joost Zuurbier and Marcel Trik  
18 have incorporated a web of shell companies and alter egos who are liable for the conduct alleged herein.  
19 This web extends to the United States in general and California specifically even apart from the named  
20 Defendants and, on information and belief, have been used by Defendants to further their unlawful  
21 scheme in the United States and in California. In addition to the web of shell companies and alter egos  
22 identified above, Joost Zuurbier, Marcel Trik, and Defendants have also incorporated a number of related  
23 entities in the United States, such as Freenom, Inc. and OpenTLD, Inc. Freenom, Inc. was incorporated  
24 in Delaware by Joost Zuurbier in October 2012 and dissolved in March 2013. Corporate records indicate  
25 that Joost Zuurbier served as President and Director of this company with an address of 584 Castro Street,  
26 Suite 290, San Francisco, CA 94144. OpenTLD, Inc. was also incorporated in Delaware by Joost  
27 Zuurbier, again while he was located at 584 Castro Street, in November 2012 and was dissolved in  
28 January 2015. On information and belief, Freenom, Inc. and OpenTLD, Inc. were either shell companies

1 for, or predecessors of, Defendants.

2 40. The Court has personal jurisdiction over Defendants because, as discussed herein, each is  
3 part of a single enterprise and/or an alter ego of the others that have continuous and systematic contacts  
4 with California, including VTL, which is located in California and is registered as a California  
5 corporation.

6 41. Venue is proper with respect to each Defendant pursuant to 28 U.S.C. § 1391(b)(2)  
7 because a substantial part of the events and omissions giving rise to the claims alleged occurred in this  
8 district.

9 42. Pursuant to Civil L.R. 3-2(c), this case is exempt from the Court's division-specific venue  
10 rule because it involves intellectual property rights.

#### 11 **IV. FACTUAL ALLEGATIONS**

##### 12 **A. Background on Plaintiffs and their Trademarks**

##### 13 **1. Meta**

14 43. Meta is a Fortune 500 company that offers the Facebook social networking website and  
15 mobile applications that enable its users to create their own personal profiles and connect with each other  
16 on their personal computers and mobile devices.

17 44. Meta owns the exclusive rights to several trademarks and service marks to provide its  
18 online services, including the distinctive FACEBOOK word mark and stylized mark, and has used the  
19 marks in connection with its services since 2004.

20 45. In addition to its extensive common law rights, Meta owns numerous United States  
21 trademark registrations for its FACEBOOK marks, including:

- 22 a. United States Registration Number 3,122,052; and
- 23 b. United States Registration Number 3,881,770.

24 Copies of these registration certificates are attached to this First Amended Complaint as Exhibit 2.<sup>12</sup>  
25 Meta's common law and registered trademarks are collectively referred to as the "Facebook  
26 Trademarks."

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27 <sup>12</sup> Meta Platforms, Inc. owns the Facebook Trademarks. The registration certificates for the Facebook  
28 Trademarks reflect Meta's former corporate name, Facebook, Inc.

1 46. Meta also owns and operates the website available at www.facebook.com and other  
2 websites that use the Facebook Trademarks to provide and promote its goods and services.

3 47. Meta's use of the Facebook Trademarks in interstate commerce has been extensive,  
4 continuous, and substantially exclusive. Meta has made, and continues to make, a substantial investment  
5 of time, effort, and expense in the promotion of Meta and the Facebook Trademarks. As a result of Meta's  
6 efforts and use, the Facebook Trademarks are famous (and have been famous since at least as early as  
7 2011) as they are recognized within the US and around the world as signifying high-quality, authentic  
8 goods and services provided by Meta.

9 **2. Instagram**

10 48. Instagram offers a photo and video sharing and editing service, mobile applications, and  
11 social network. Instagram users can choose to share their photos and videos with their followers online.

12 49. Instagram owns the exclusive rights to the distinctive INSTAGRAM word mark and  
13 stylized mark, having used the marks in connection with its goods and services as early as 2010.

14 50. In addition to its extensive common law rights, Instagram owns numerous United States  
15 trademark registrations for the INSTAGRAM marks, including:

- 16 a. United States Registration Number 4,795,634;
- 17 b. United States Registration Number 4,146,057;
- 18 c. United States Registration Number 4,756,754;
- 19 d. United States Registration Number 5,566,030;
- 20 e. United States Registration Number 4,170,675;
- 21 f. United States Registration Number 4,856,047;
- 22 g. United States Registration Number 4,822,600;
- 23 h. United States Registration Number 4,827,509;
- 24 i. United States Registration Number 4,863,595;
- 25 j. United States Registration Number 5,019,151; and
- 26 k. United States Registration Number 5,869,731.

27 Copies of these registration certificates are attached to this First Amended Complaint as Exhibit 3.  
28 Instagram's common law and registered trademark rights are collectively referred to as the "Instagram

1 Trademarks.”<sup>13</sup>

2 51. Instagram also owns and operates the website available at www.instagram.com and other  
3 websites that use the Instagram Trademarks to provide and promote its goods and services.

4 52. Instagram’s use of the Instagram Trademarks in interstate commerce has been extensive,  
5 continuous, and substantially exclusive. Instagram has made, and continues to make, a substantial  
6 investment of time, effort, and expense in the promotion of Instagram and the Instagram Trademarks. As  
7 a result of Instagram’s efforts and use, the Instagram Trademarks are famous (and have been famous  
8 since at least as early as 2014) as they are recognized within the US and around the world as signifying  
9 high-quality, authentic goods and services provided by Instagram.

### 10 3. WhatsApp

11 53. WhatsApp offers WhatsApp, a simple, secure, reliable messaging and calling service,  
12 provided for mobile devices and through desktop computers globally.

13 54. WhatsApp owns the exclusive rights to several trademarks and service marks, including  
14 the distinctive WHATSAPP word mark, having used the mark in connection with its goods and services  
15 since at least as early as 2009.

16 55. In addition to its extensive common law rights, WhatsApp owns numerous United States  
17 trademark registrations for the WHATSAPP marks, including, but not limited to:

- 18 a. United States Registration Number 3,939,463;
- 19 b. United States Registration Number 4,083,272;
- 20 c. United States Registration Number 5,492,738; and
- 21 d. United States Registration Number 5,520,108.

22 Copies of these registration certificates are attached to this First Amended Complaint as Exhibit 4.<sup>14</sup>  
23 WhatsApp’s common law and registered trademark rights are collectively referred to as the “WhatsApp  
24 Trademarks.”

25 <sup>13</sup> Instagram, LLC owns the Instagram Trademarks. A number of the registration certificates for the  
26 Instagram Trademarks reflect Instagram Inc. as the owner. Instagram Inc. no longer exists, having been  
27 merged with Instagram LLC.

28 <sup>14</sup> WhatsApp LLC owns the WhatsApp Trademarks. A number of the registration certificates for the  
WhatsApp Trademarks reflect WhatsApp’s former corporate name, WhatsApp Inc.

1 56. WhatsApp owns and operates the website available at www.whatsapp.com and other  
2 websites that use the WhatsApp Trademarks to provide and promote its goods and services.

3 57. WhatsApp's use of the WhatsApp Trademarks in interstate commerce has been extensive,  
4 continuous, and substantially exclusive. WhatsApp has made, and continues to make, a substantial  
5 investment of time, effort, and expense in the promotion of WhatsApp and the WhatsApp Trademarks.  
6 As a result of WhatsApp's efforts and use, the WhatsApp Trademarks are inextricably linked with the  
7 products and services offered by WhatsApp.

8 58. The Facebook Trademarks, Instagram Trademarks, and WhatsApp Trademarks are  
9 collectively referred to as the "Plaintiffs' Trademarks."

10 59. Plaintiffs spend billions of dollars each year marketing and advertising the services  
11 offered under Plaintiffs' Trademarks. Indeed, the Facebook Trademarks, Instagram Trademarks, and  
12 WhatsApp Trademarks are regularly listed as among the most recognized and valuable brands in the  
13 United States and globally by sources including Forbes, BrandFinance, and Interbrand.

14 **B. Defendants' Abuse of the Corporate Form to Perpetuate Their Cybersquatting**  
15 **Scheme**

16 60. On information and belief, the first Defendant to be established, Freenom, was founded  
17 by Joost Zuurbier in 2012.

18 61. Defendants are part of a web of companies created to facilitate cybersquatting, all for the  
19 benefit of Freenom. On information and belief, one or more of the ccTLD Service Providers, ID Shield,  
20 Yoursafe, Freedom Registry, Fintag, Cervesia, VTL, Joost Zuurbier Management Services B.V., and Doe  
21 Defendants were created to hide assets, ensure unlawful activity including cybersquatting and phishing  
22 goes undetected, and to further the goals of Freenom.

23 62. Joost Zuurbier and Marcel Trik are the officers and directors of these various entities, and  
24 on information and belief, they formed and operate these entities to further the unlawful goals of Freenom  
25 and the other Defendants and to hide assets. On information and belief, Joost Zuurbier and Marcel Trik  
26 control all aspects of these various entities for the benefits of Defendants. Accordingly, Defendants are  
27 alter egos of one another and direct participants in each other's unlawful activities, all at the ultimate  
28 direction of Joost Zuurbier and Marcel Trik.

1           63. On information and belief based on the facts discussed in detail herein, Defendants  
 2 comingle assets, fail to keep appropriate corporate records (including of financial transactions), fail to  
 3 file or timely file financial statements, are subject to the dominion and control by the same  
 4 entities/individuals, use the same business location, share employees (and do so without any appropriate  
 5 allocation or payment of costs), treat the stock of certain companies as interchangeable, conceal the  
 6 ownership and control of the various entities through a series of shells, use the various entities as a conduit  
 7 for the business of each other and of Joost Zuurbir and Marcel Trik, fail to maintain arms-length  
 8 relationships (as demonstrated through at least one court finding multiple conflicts of interest), and  
 9 manipulate assets so as to concentrate assets in certain entities and liabilities in other companies.

10           64. This complex web<sup>15</sup> of companies is illustrated in the following chart assembled based on  
 11 corporate filings and described in detail below, with a more detailed chart attached to this First Amended  
 12 Complaint as Exhibit 15:

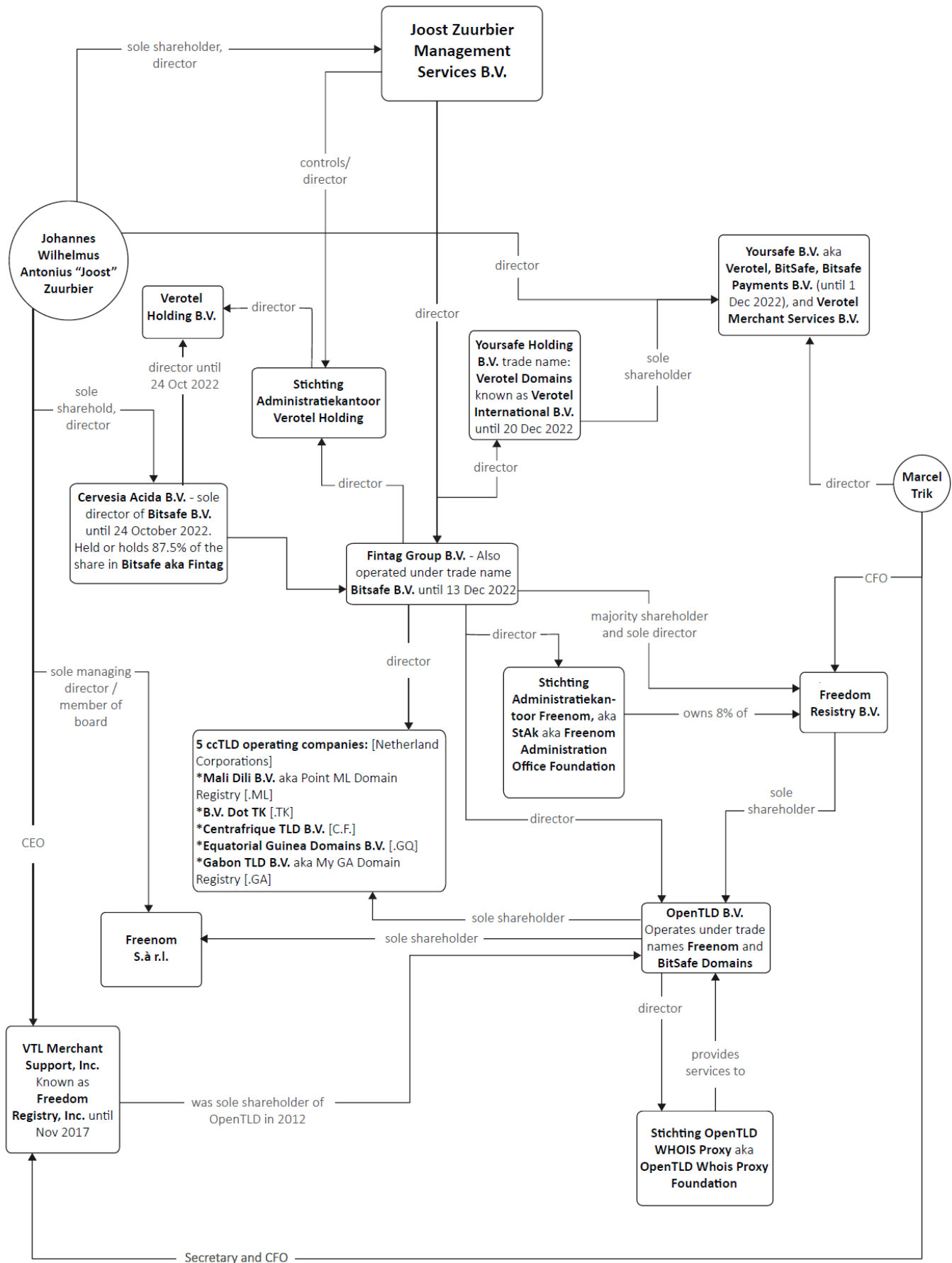
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27 <sup>15</sup> It is common for cybersquatters and malicious actors on the Internet to develop and maintain complex  
 28 corporate structures—just as Defendants have done—to mask their identities and to facilitate their  
 unlawful activities.

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1           **1. Defendants' General Corporate Structure and Potential Corporate**  
 2           **Malfeasance as Described by the Enterprise Chamber of the Amsterdam**  
 3           **Court of Appeal**

4           65. Defendants Freedom Registry and Bitsafe B.V. (a trade name for Fintag until  
 5 December 13, 2022) were recently engaged in a legal dispute in the Netherlands brought by one of their  
 6 investors before the Enterprise Chamber of the Amsterdam Court of Appeal. The investor accused  
 7 Freedom Registry and Fintag/Bitsafe B.V. of having an ownership structure that resulted in conflicts of  
 8 interest and a failure to engage in arms-length transactions, comingling assets and personnel, failing to  
 9 maintain corporate resolutions, failing to file required corporate documents and financial statements, and  
 10 improperly dissipating assets. The investor requested that the court appoint a director to monitor the  
 11 companies to ensure proper corporate and financial compliance and to ensure assets that the investor  
 12 alleged were illegally withdrawn from Freedom Registry by Joost Zuurbier be recovered.<sup>16</sup>

13           66. On October 17, 2022, the Amsterdam Court issued its decision (the English translation is  
 14 attached to this First Amended Complaint as Exhibit 16), which was published on December 22, 2022  
 15 and which made the following specific findings:

16           67. Fintag/Bitsafe B.V., Freedom Registry, Cervesia, a number of related companies, and  
 17 Joost Zuurbier developed a corporate structure<sup>17</sup> that resulted in Joost Zuurbier controlling  
 18 Fintag/Bitsafe B.V. during the relevant time period. Fintag/Bitsafe in turn was the director and majority  
 19 shareholder of Freedom Registry, resulting in a conflict of interest because the interests of the companies  
 20 Fintag/Bitsafe B.V. and Freedom Registry were not always aligned but were controlled by the same

21 \_\_\_\_\_  
 22 <sup>16</sup> The court decision redacts the name of the individual involved; however, the decision describes various  
 23 positions this individual holds in the companies at issue, and these positions match those held by Joost  
 24 Zuurbier according to corporate records. Accordingly, Plaintiffs refer to this anonymous individual from  
 25 the court decision as Joost Zuurbier.

26 <sup>17</sup> As detailed in the chart above, the court found Bitsafe B.V. (now Fintag) is the sole director of Freedom  
 27 Registry and holds 64% of its shares. The investor who began the legal proceedings owns 28% of Freedom  
 28 Registry's shares, and a company referred to as STAK owns the remaining 8% of the shares. Defendant  
 Cervesia was at the time of the decision the sole director of and held 87.5% of the shares of Fintag/Bitsafe  
 B.V., and an entity known as Stichting Administratiekantoor Bitsafe holds the remaining 12.5% of  
 Fintag/Bitsafe B.V.'s shares. Joost Zuurbier is the sole shareholder and director of Cervesia and thus  
 controlled Bitsafe B.V. during the time period referenced in the decision. At the same time, Fintag fka  
 Bitsafe B.V. is the director of STAK, and Freedom Registry is the sole shareholder of Freenom.



1 individual—namely, Joost Zuurbier.

2 68. The Amsterdam Court also found that Freedom Registry, Fintag/Bitsafe B.V., and  
 3 Freenom comingled assets and employees, possibly in violation of their statutory obligations of care.  
 4 Such comingling entailed offers for an investor in Freedom Registry to exchange its shares in the  
 5 company for shares in Fintag/Bitsafe B.V. Other comingling occurred through Freedom Registry by  
 6 contributing its current account receivables to Freenom, and Fintag/Bitsafe B.V. hiring all of Freenom’s  
 7 employees, who also performed work for Freedom Registry, without Fintag/Bitsafe B.V. ever passing on  
 8 the personnel costs for those employees to Freedom Registry or Freenom. Joost Zuurbier stated he had  
 9 decided to keep personnel costs outside of Freedom Registry and to have those costs paid by  
 10 Fintag/Bitsafe B.V.’s family of companies to allow Freedom Registry to “break even,” thus indicating  
 11 on information and belief that Freedom Registry was undercapitalized. Fintag/Bitsafe B.V. has continued  
 12 paying Freedom Registry’s personnel costs since this time.

13 69. In addition to comingling assets and employees, Fintag/Bitsafe B.V. and Freedom  
 14 Registry did not keep records of all transactions, and Freedom Registry “repeatedly violated its  
 15 obligations with regard to annual accounts law and in particular the formatting and publication obligation  
 16 and does not keep proper records from which Freedom[ Registry’s] rights and obligations can be known  
 17 at all times.”

18 70. By way of example, Freedom Registry and Fintag/Bitsafe B.V. failed to file corporate  
 19 returns for a number of years. In particular, Freedom Registry and Fintag/Bitsafe B.V. acknowledged  
 20 that Freedom Registry’s financial statements for 2013 through 2020 were not prepared and published in  
 21 a timely manner. A statement submitted by Fintag/Bitsafe B.V. showed that annual reports for 2013,  
 22 2014, and 2017 through 2020 were not filed on time and that the annual statements for 2015 and 2016  
 23 have never been filed. Further, the Amsterdam Court’s review of the annual accounts acknowledged by  
 24 Fintag/Bitsafe B.V. as relevant to the issue revealed the records incorrectly state that the annual accounts  
 25 for 2014, 2017, and 2018 have been adopted, yet the adoption resolutions of Freedom Registry’s general  
 26 meetings are missing.<sup>18</sup> Freedom Registry and Fintag/Bitsafe B.V. also failed to provide their investor

27 \_\_\_\_\_  
 28 <sup>18</sup> Records from the Netherlands Chamber of Commerce register indicate that the failure to file or timely

1 with contractually required financial data and business strategy updates, leading the Amsterdam Court to  
 2 determine that there were well-founded reasons to doubt Freedom Registry’s correct policy decisions and  
 3 course of affairs.

4 71. According to the decision, Fintag/Bitsafe B.V. acknowledged that its corporate conduct  
 5 with respect to Freedom Registry has not been proper, that it has not held shareholders meetings for  
 6 Freedom Registry, and that it had not adopted and filed financial returns for Freedom Registry.

7 72. For at least these reasons, the Amsterdam Court found the soundness of Freedom  
 8 Registry’s administration to be questionable, and the Amsterdam Court also stated that these facts provide  
 9 a valid reason to doubt the correct policy and course of affairs of Freedom Registry. The Amsterdam  
 10 Court also found that there may be a deliberate obscuration of the true financial and operational state of  
 11 affairs of Freedom Registry stemming from alleged repeated violations of its obligations with regard to  
 12 annual accounting laws, including through the failure to maintain proper records from which Freedom  
 13 Registry’s rights and obligations can be known at all times.

14 73. As a result of these findings, the Amsterdam Court ordered an investigation into the  
 15 conduct of Freedom Registry from 2013 onward and appointed a supervisory director of Freedom  
 16 Registry to investigate Freedom Registry’s affairs.

17 74. The Amsterdam Court also ordered Freedom Registry to pay the costs of the proceedings  
 18 “as the party that has been found to be predominantly in the wrong.”

19 75. Contemporaneously with the decision, Joost Zuurbier incorporated a new company called  
 20 Joost Zuurbier Management Services B.V. Joost Zuurbier is the sole shareholder and director of this new  
 21 company, which in turn replaced Cervesia as the director of Fintag fka Bitsafe B.V. as of  
 22 October 24, 2022, just seven days after the Amsterdam Court issued its decision.

23 76. Fintag remains the director of Freenom and also remains the majority shareholder and sole  
 24

25 \_\_\_\_\_  
 26 file corporate returns has been a common practice for Defendants and their various related entities. For  
 27 instance, Yoursafe Holding B.V. filed its FY2018 report on May 11, 2022 and apparently did not file  
 28 reports for 2019-2021. Freenom filed its FY2017 report on December 15, 2020, its FY2018 report on  
 May 11, 2022, its FY2019 report on October 18, 2022, and its FY2020 report on November 15, 2022.  
 Dot TK filed its FY 2018 report on May 09, 2022 and its FY2019 report on October 18, 2022. These are  
 just a few examples of Defendants failure to keep and file accurate and timely reports.

1 director for Freedom Registry, which in turn remains the sole shareholder of Freenom.

2 77. The Amsterdam Court’s findings, combined with Defendants restructuring following  
3 those findings, highlight that several of Defendants act as a single enterprise and as alter egos of each  
4 other through an intricate web of offshore shell companies.

## 5 2. Freenom and the ccTLD Service Providers

6 78. Freenom has established relationships with the governments of Tokelau, the Central  
7 African Republic, Equatorial Guinea, Mali, and Gabon wherein Freenom provides technical and  
8 operational support services to the managers of those countries’ ccTLDs.

9 79. For each of the five ccTLDs it services, Freenom has created a separate wholly-owned  
10 subsidiary to offer domain registry and registration services: Dot TK for .tk of Tokelau; Dot CF for .cf  
11 of the Central African Republic; Dominio GQ for .gq of Equatorial Guinea; Mali Dili for .ml of Mali;  
12 and My GA for .ga of Gabon. Freenom has referred to the ccTLD Service Providers as its “subsidiaries,”  
13 “sister companies,” and “daughter companies.”

14 80. On information and belief, Freenom exercises control and/or directs the ccTLD Service  
15 Providers because the same individuals hold positions within each of these entities as directors, officers,  
16 and/or managers. For example, Joost Zuurbier, the CEO of Freenom, is also an officer of all five  
17 ccTLD Service Providers. Fintag, which is indirectly controlled by Joost Zuurbier, is also a director of  
18 each of the ccTLD Service Providers. As stated above, Fintag is also a director of Freenom and is the  
19 majority shareholder and sole director of Freedom Registry, which in turn is the sole shareholder of  
20 Freenom.

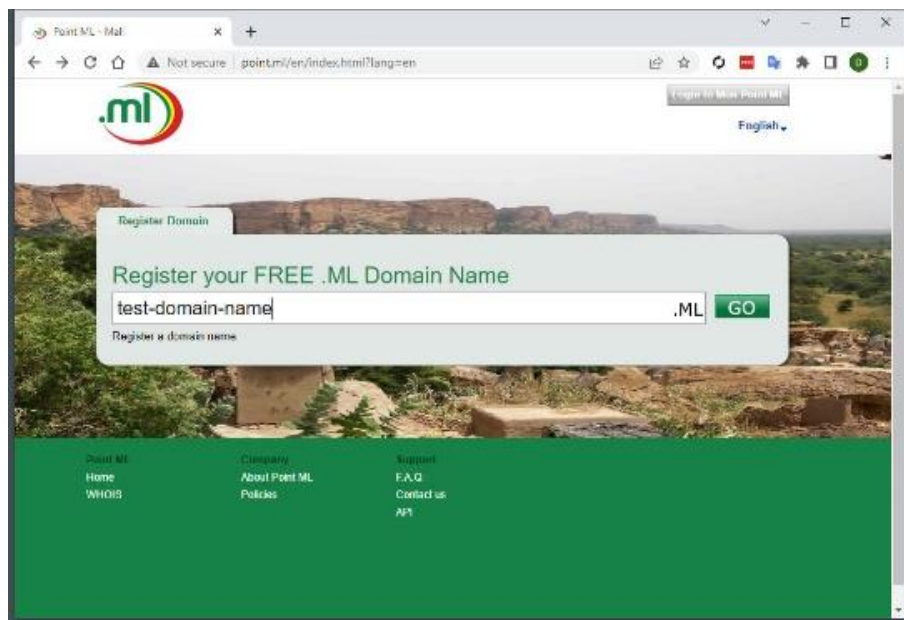
21 81. On information and belief, these directors, officers, and/or managers do not independently  
22 manage and direct the Freenom and the ccTLD Service Providers, but rather operate the ccTLD Service  
23 Providers as a single integrated company with a unified management system.

24 82. Freenom and the ccTLD Service Providers all share the same business address and, on  
25 information and belief, use the same offices, employees, computers, hosting services, and accounts to  
26 carry out their mutual online business.

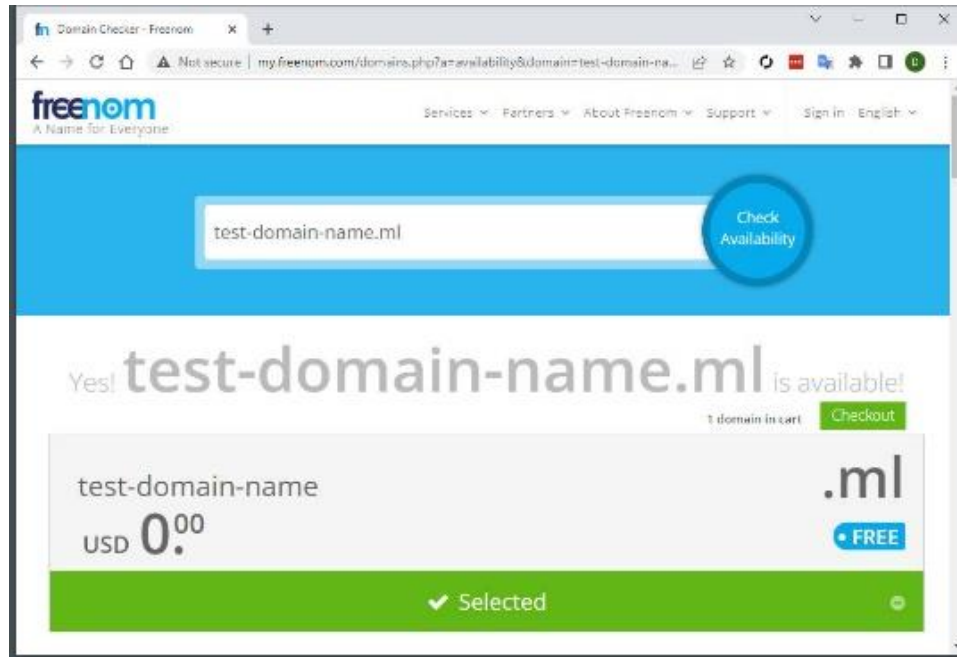
27 83. On information and belief, Freenom and the ccTLD Service Providers have held  
28 themselves out as integrated entities to the public. For example, the websites of the five ccTLD Service

1 Providers all contain links to “Login to My Freenom” and/or redirect to freenom.com.

2 84. Each time a customer enters into an agreement with any of the ccTLD Service Providers  
3 to register a domain name, that customer is entering into an agreement with Freenom. When a visitor  
4 attempts to register a domain name through Dot CF, Dominio GQ, Mali Dili, or My GA, that visitor is  
5 redirected to Freenom’s website. For example, when registering a .ml domain name using Mali Dili’s  
6 website available at point.ml, visitors are prompted to enter the domain name into a search field as shown  
7 in the screenshot below:



19 However, when visitors click “GO” they are redirected to freenom.com where they may finalize the  
20 domain name registration, as shown screenshot below.



85. Visitors who click on the “Policies” page on the website of Dot TK are redirected to a policy page located under the freenom.com domain name.

86. On information and belief, Freenom does not engage in arm’s length transactions with the ccTLD Service Providers when Freenom registers or sells domain names through the ccTLD Service Providers.

87. On information and belief, Freenom and the ccTLD Service Providers comingle assets and resources with each other. For example, payments for the purchase of ccTLD domain names owned by the ccTLD Service Providers were made to Freenom.

### 3. Freenom and ID Shield

88. ID Shield provides a proxy service whereby ID Shield registers domain names, as the registrant and in its own name, and then licenses these domain names to Defendants and Doe Defendants for their use.

89. Freenom and the ID Shield share the same business address and, on information and belief, use the same offices, employees, computers, hosting services, and accounts to carry out their mutual online business. For example, when a visitor attempts to navigate to ID Shield’s website available at idshield.tk, the visitor is automatically redirected to freenom.com.

1 90. On information and belief, ID Shield has no bank accounts or assets and is  
2 undercapitalized.

3 91. On information and belief, ID Shield has no employees of its own and its operations are  
4 performed by Freenom’s employees.

5 92. Freenom is a director of ID Shield and, on information and belief, is the sole director of  
6 ID Shield. Accordingly, on information and belief, Freenom completely controls the operations of  
7 ID Shield.

8 93. On information and belief, Freenom completely controls the policy decisions made by  
9 ID Shield.

10 94. On information and belief, Freenom completely controls the agreements into which  
11 ID Shield enters.

12 95. On information and belief, Freenom pays all of the expenses of ID Shield.

13 96. On information and belief, Freenom collects all revenue from ID Shield’s domain name  
14 registration proxy service. Freenom’s customers purchase and pay for the ID Shield services directly  
15 from Freenom’s website.

16 97. On information and belief, Freenom and ID Shield do not engage in arm’s length  
17 transactions when they conduct transactions with each other. For example, the “Freenom ID Shield  
18 WHOIS Privacy Service Agreement” outlines the terms and conditions for a customer’s “use of the  
19 services offered by Stichting OpenTLD WHOIS Proxy [ID Shield]. . . *and* OpenTLD B.V.  
20 [Freenom]. . .” (emphasis added). The Freenom ID Shield WHOIS Privacy Service Agreement is  
21 attached to this First Amended Complaint as Exhibit 5.

22 **4. Freenom and Yoursafe aka Bitsafe aka Verotel**

23 98. Freenom and Yoursafe are controlled by the same persons: Joost Zuurbier and Marcel  
24 Trik. Joost Zuurbier is the CEO of Freenom and is a director of Yoursafe. Yoursafe’s sole shareholder is  
25 a company called Yoursafe Holding B.V., whose director in turn is Fintag. Similarly, Marcel Trik is the  
26 CFO of Freenom and a director of Yoursafe.

27 99. Yoursafe operates under a variety of trade names, including Bitsafe and Verotel/Verotel  
28 Merchant Services B.V. (“Verotel”).

1           100. According to its website available at verotel.com, “Verotel is a leading Internet Payment  
2 Service Provider (IPSP) that has been enabling more than 50,000 high-risk webmasters with building  
3 their online businesses since 1998.”

4           101. When a customer purchases and pays for domain name registration services or privacy  
5 services from Freenom, credit card processing is provided by Verotel.

6           102. Verotel also offers domain name registration services. According to Verotel’s website  
7 available at veroteldomains.com, “[t]hrough its affiliation with Freenom, an ICANN accredited registrar,  
8 Verotel Domains offers a dedicated registrar platform for adult webmasters who are privacy conscious  
9 and require extra protection and service for they *[sic]* high risk domain names.”

10           103. According to its website available at bitsafe.com, Bitsafe is “the new name for Freenom  
11 and Verotel, two disruptive brands in the transactional online business space. . . . Bitsafe brings these two  
12 brands together into a new service: a Bitsafe Basic Payment Account. Offering a ‘discreet account’,  
13 Bitsafe provides a Bitsafe IBAN, allowing account holders to take part of SEPA transactions and hold  
14 domain names and other digital assets. Purchases and ATM withdrawals can be made with the Bitsafe  
15 Debit Card.”

16           104. A June 6, 2018 press release by Verotel contained the following information: “Verotel  
17 and Bitsafe allow you to register or transfer your domains while protecting your identity online. Domain  
18 names can be registered with Bitsafe at cost price *[sic]*, making this service the cheapest domain solution  
19 available. Bitsafe also offers additional privacy protection for a nominal fee that further safeguards your  
20 digital assets and ensures your continuity.”

21           105. Marcel Trik, the CFO of Freenom and a director of Yoursafe/Bitsafe/Verotel, is quoted in  
22 the same press release: “Combining the trust in payments and domains makes perfect sense. . . . With  
23 Bitsafe we are not only protecting your money but also your digital assets in one single discreet account.”

24           106. On information and belief, the directors, officers, and/or managers do not independently  
25 manage and direct Freenom and Yoursafe/Bitsafe/Verotel, but rather operate Freenom and  
26 Yoursafe/Bitsafe/Verotel as a single integrated company with a unified management system.

27           107. Freenom and Yoursafe/Bitsafe/Verotel both share the same business address and, on  
28 information and belief, use the same offices, employees, computers, hosting services, and accounts to

1 carry out their mutual online business.

2 108. On information and belief, Freenom does not engage in arm's length transactions with  
3 Yoursafe/Bitsafe/Verotel, for example, when Freenom registers or sells domain names through  
4 Yoursafe/Bitsafe/Verotel. Each time a customer enters into an agreement with Yoursafe/Bitsafe/Verotel  
5 to register a domain name, that customer is entering into an agreement with Freenom.

6 109. On information and belief, Freenom and Yoursafe/Bitsafe/Verotel comingle assets and  
7 resources with each other. For example, payments for the purchase of domain name registration services  
8 and proxy services offered by Yoursafe/Bitsafe/Verotel are made to Freenom.

9 **5. Freenom and VTL/Freedom Registry, Inc.**

10 110. Freedom Registry, Inc. was incorporated in Delaware in 2013. In November 2017,  
11 Freedom Registry, Inc. formally changed its name to VTL Merchant Support Inc. (referred to in this First  
12 Amended Complaint as "VTL").

13 111. VTL was the sole shareholder of Freenom in 2012. Sometime between 2012 and the  
14 present, Freedom Registry became the sole shareholder of Freenom.

15 112. VTL's filing with the California Secretary of State identifies its type of business as  
16 "Payment Processing."

17 113. In its filings with the California Secretary of State, VTL represents that its principal office  
18 in California is 2225 East Bayshore Road, Suite 290, Palo Alto, California 94303.

19 114. VTL's filing with the California Secretary of State identifies "Johannes W.A. Zuurbier"  
20 (aka Joost Zuurbier) as VTL's CEO.

21 115. Similarly, Marcel Trik, the CFO of Freenom and Freedom Registry and director of  
22 Yoursafe, serves as VTL's Secretary and CFO.

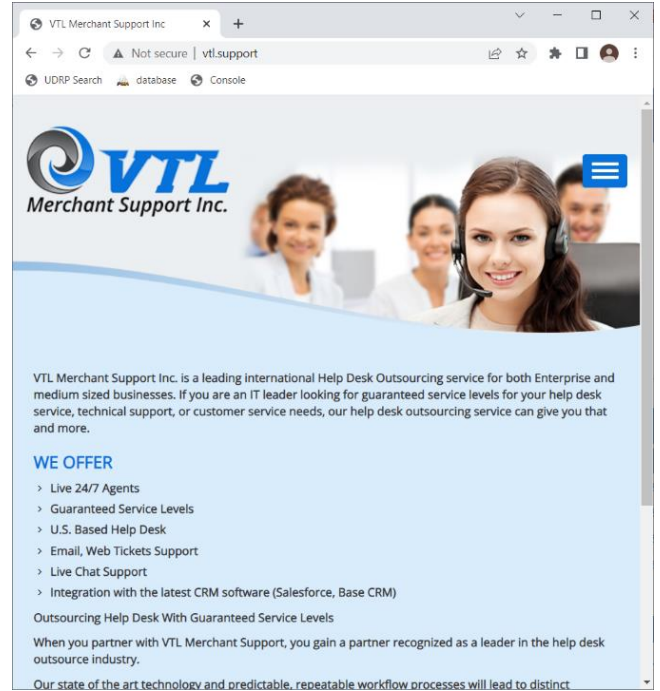
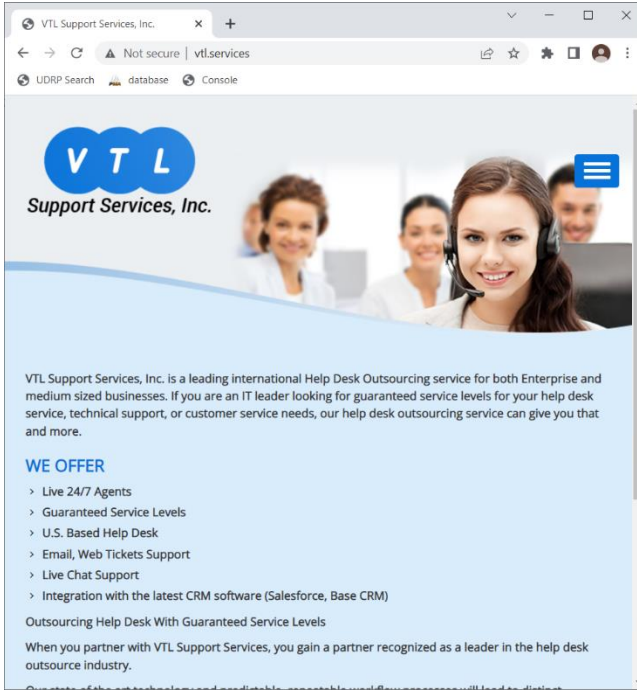
23 116. In or around December 2022 or January 2023, VTL deactivated the name servers for its  
24 website accessible at vtl.support such that the website is no longer accessible.

25 117. According to its former website, VTL is "a leading international Help Desk Outsourcing  
26 service for both Enterprise and medium sized businesses."

27 118. VTL's former website was nearly identical to websites of other entities that, on  
28 information and belief, are connected to Defendants. For example, VTL's former website was nearly

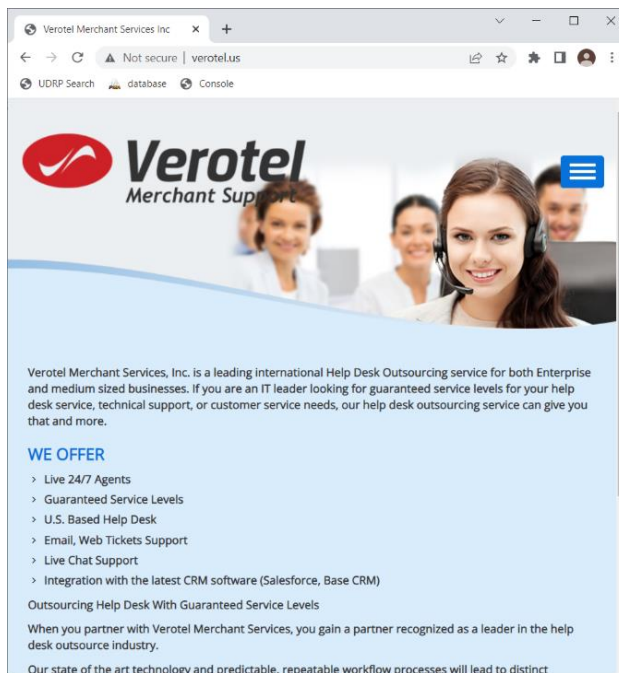


1 identical to that of yet another entity called VTL Support Services, Inc., a Nevada corporation for which  
 2 Joost Zuurbier serves as the President, Secretary, Treasurer, and Director. These websites are compared  
 3 below:



16 119. Similarly, both of these websites are nearly identical to that of still another entity called  
 17 Verotel Merchant Support, Inc., a Delaware corporation. On information and belief, Verotel Merchant  
 18 Support, Inc. is another shell company or alter ego of Yoursafe/BitSAFE/Verotel. Apart from the fact that  
 19 Verotel is a trade name of Yoursafe, the website for Verotel Merchant Support, Inc., shown in the  
 20 screenshot below, shares key features with the two websites pictured above:

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**C. Defendants’ Unlawful Conduct**

**1. Defendants Registered the Infringing Domain Names**

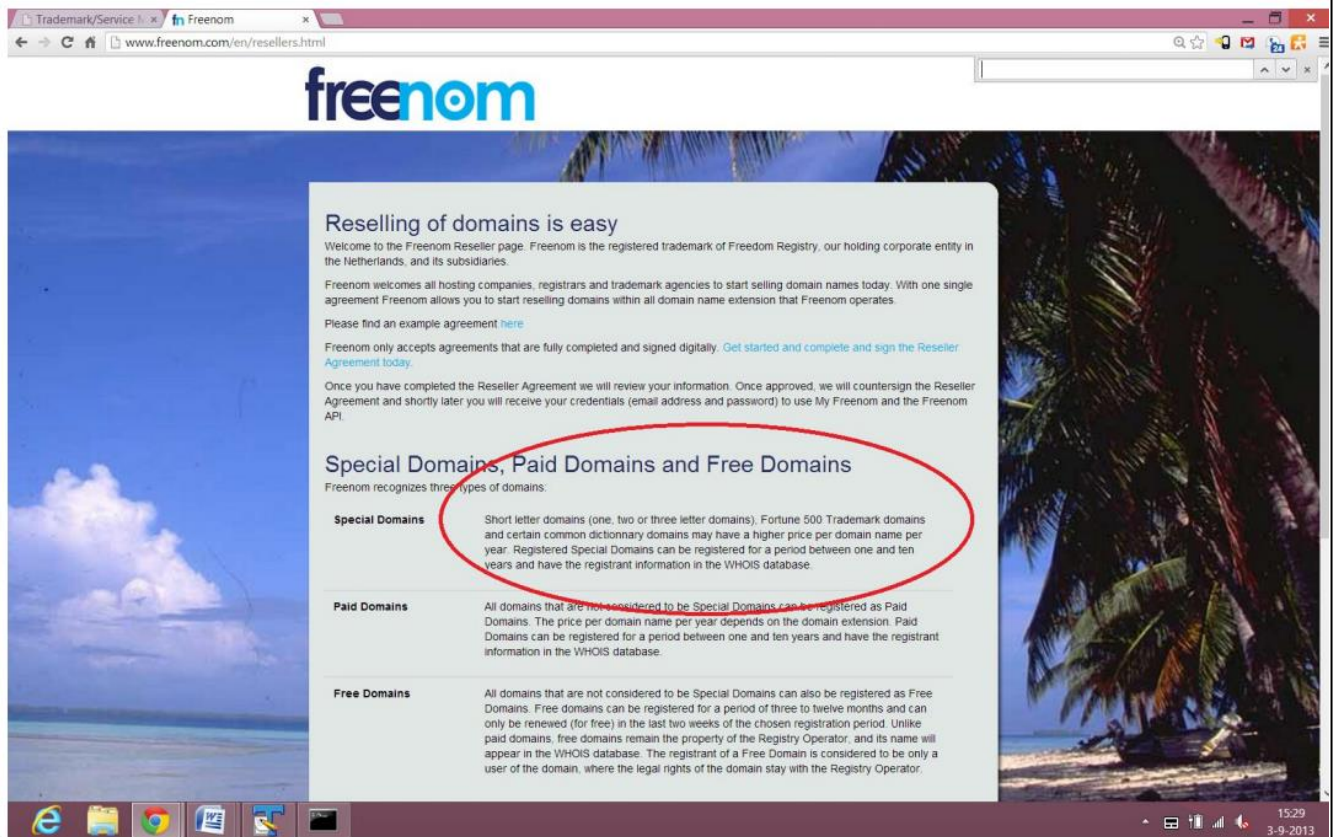
120. Freenom offers three types of domain name registration services, which it refers to as “Free Domains,” “Paid Domains,” and “Special Domains.”

121. According to Freenom’s current website, domain names comprising one, two, or three characters, as well as “common dictionary keywords,” are considered “special” and are only available for purchase.

122. According to a prior version of Freenom’s website,<sup>19</sup> Freenom also categorized domain names consisting of “Fortune 500 Trademarks” as “special domains” available for a “higher price per domain name per year.” A screenshot of Freenom’s website from 2013 appears below:

---

<sup>19</sup> Freenom submitted a screenshot of its website as a specimen to the United States Patent and Trademark Office on September 13, 2013 in connection with its trademark application for FREENOM (U.S. Serial No. 86/053,896).



123. Freenom specifically adopted a business model to target and profit in bad faith from the trademarks of Fortune 500 companies, and by charging a premium for those domain names, Freenom has acknowledged that Fortune 500 companies' trademarks have a greater value to bad actors on the Internet.

124. Despite adopting a policy that Fortune 500 Brand domains would not be available for free, Freenom has allowed domain names that are identical or confusingly similar to those brands to be registered for free.

125. In connection with the five ccTLDs (.tk, .cf, .gq, .ml, and .ga), Freenom offers free domain name registration services.

126. Under Freenom's free domain name model, which is discussed in the screenshot above, when a customer seeks to register a free domain name in one of these ccTLDs, Freenom registers the domain name, as the registrant, and licenses it to the customer. Freenom's Terms and Conditions Agreement that applies to free domain names ("Free Domain Name Agreement") is attached to this First Amended Complaint as Exhibit 6.

127. According to the Free Domain Name Agreement, "[b]y accepting this agreement . . . you

1 have authorized Freenom to register the domain name that you requested.”

2 128. Freenom’s Free Domain Name Agreement also provides: “All domain names registered  
3 through FREE DOMAIN are registered in our name or in the name of one holding [sic] or sister  
4 companies.”

5 129. In documents filed in a 2015 arbitration proceeding between Freenom and ICANN  
6 stemming from ICANN’s suspension of some of Freenom’s registrar services, Freenom admitted that  
7 “when a third party registers a country code domain using [Freenom] free registration services, the  
8 domain is registered in [Freenom’s] name on behalf of the actual registrant, who nonetheless remains the  
9 licensee and user of the domain name.”

10 130. For example, when a domain name is registered within the .tk ccTLD using Freenom’s  
11 domain name registration services, the WHOIS<sup>20</sup> record for that domain name lists Freenom’s alter ego  
12 Dot TK as the registrant, as shown in the screenshot below for the domain name faceb00k.tk:

13 FACEBOOK.TK



14 Your selected domain name is a FREE domain name. That means that, according to the [Terms and Conditions of FREE domain names](#), the registrant is:

15 BV Dot TK  
16 Dot TK administrator  
17 P.O. Box 11774  
18 1001 GT Amsterdam  
19 Netherlands

20 Due to restrictions in [Freenom's Privacy Statement](#) personal information about the user of the domain name cannot be released.

21  
22 131. When a free ccTLD domain name expires or is “cancelled, suspended, refused, or  
23 reserved” Freenom revokes its licensees’ license to use the domain name and transfers the domain name  
24 to “Freedom Registry, Inc.”

25 132. Once the license for the domain name concludes, Freedom Registry, Inc. is listed as the

26  
27 <sup>20</sup> The WHOIS directory contains important information about domain names, including the identity and  
28 contact information for the registrant or owner of the domain name.

1 registrant of the domain name in the WHOIS directory.<sup>21</sup> One such example of a domain name that has  
 2 been “taken back” by Freenom is shown in the screenshot below:

3 SECURITYFACEBOOK.TK



Your selected domain name is a domain name that has been cancelled, suspended, refused or reserved at the Registry. It  
 may be available for re-registration at <http://www.freenom.com>.

5 In the interim, the rights for this domain have been automatically transferred to:

6 Freedom Registry, Inc.

7 2225 East Bayshore Road #290

8 Palo Alto CA 94303

9 United States

Phone: +1 650-681-4172

Fax: +1 650-681-4173

10 E-mail: abuse: abuse@freenom.com, copyright infringement: copyright@freenom.com

11  
 12 133. Freenom’s alter ego, ID Shield, provides a proxy service that is used to hide Freenom’s  
 13 customer and/or the licensee of some of the Infringing Domain Names.

14 134. Defendants registered at least 1,500 Infringing Domain Names that are identical or  
 15 confusingly similar to the Facebook Trademarks. Several examples include: faceb00k.cf, facebo0k.cf,  
 16 accounts-facebook.cf, facbook.ga, facebooklogiin.ga, facebooknet.gq, www-facebook.gq,  
 17 fecebooksupport.ml, facebooksecurelogin.ml, facelboook.tk, and wwwv-facebook.tk. Freenom (as  
 18 Freedom Registry, Inc./VTL), or one of its alter ego ccTLD Service Providers, and/or Freenom’s alter  
 19 ego proxy company, ID Shield, is or was the registrant for each of these Infringing Domain Names  
 20 according to the WHOIS records for each of those domain names. A list of these Infringing Domain  
 21 \_\_\_\_\_

22 <sup>21</sup> This is a legal distinction without a difference because Freedom Registry, Inc. is the former name of  
 23 VTL and is thus merely another alter ego and/or alias for Freenom. Still, by continuing to list Freedom  
 24 Registry, Inc. as the registrant instead of VTL, Defendants are providing inaccurate and misleading contact  
 25 information. Under the RAA, Freenom is, as a gTLD registrar, required to take affirmative steps to ensure  
 26 the accuracy of the contact information provided for the registration of gTLD domain names and to  
 27 investigate allegations of inaccuracy. Upon a registrant’s willful provision of inaccurate information, a  
 28 registrar, such as Freenom, is required under the RAA to terminate or suspend the domain name  
 registration if the false information is not corrected within fifteen days. Freenom’s contractual obligations  
 under the RAA thus render Freenom’s own provision of false and misleading contact information blatant  
 and willful. Further, that Freenom continues to use the name of an entity that it knows ceased existing  
 under that name in November 2017 further highlights that this scheme to provide misleading contact  
 information is intentional.

1 Names is attached to this First Amended Complaint as Exhibit 1. A copy of the WHOIS data for several  
2 representative Infringing Domain Names is attached to this First Amended Complaint as Exhibit 7.

3 135. Defendants registered at least 3,000 Infringing Domain Names that are identical or  
4 confusingly similar to the Instagram Trademarks. Several examples include: instagramsecurity.cf,  
5 Instaqram.cf, password-reset-instagram.ga, login-instagram.ga, www-instagram-com.gq,  
6 www-instagram.gq, www-instagramhelp-com.gq, instaqram.ml, Insta-gram.ml, instagram-com.tk, and  
7 Instaqram.tk. Freenom (as Freedom Registry, Inc./VTL), or one of its alter ego ccTLD Service Providers,  
8 and/or Freenom's alter ego proxy company, ID Shield, is or was the registrant for each of these Infringing  
9 Domain Names. A list of these Infringing Domain Names is attached to this First Amended Complaint  
10 as Exhibit 1. A copy of the WHOIS data for several representative Infringing Domain Names is attached  
11 to this First Amended Complaint as Exhibit 8.

12 136. Defendants registered at least 800 Infringing Domain Names that are identical or  
13 confusingly similar to the WhatsApp Trademarks. Several examples include: whatsapp-messenger.cf,  
14 whatsapp-chat.cf, whatsaap.ga, whaatsapp.ga, chat-whatsap.gq, chats-whatsapp.gq, whatsappchat.ml,  
15 chatwhatsaap.ml, whatsaap.tk, and whetsapp.tk. Freenom (as Freedom Registry, Inc./VTL), or one of its  
16 alter ego ccTLD Service Providers, and/or Freenom's alter ego proxy company, ID Shield, is or was the  
17 registrant for each of these Infringing Domain Names. A list of these Infringing Domain Names is  
18 attached to this First Amended Complaint as Exhibit 1. A copy of the WHOIS data for several  
19 representative Infringing Domain Names is attached to this First Amended Complaint as Exhibit 9.

20 137. Plaintiffs' Facebook Trademarks and Instagram Trademarks were distinctive and famous  
21 when Defendants registered, trafficked in, or used the Infringing Domain Names.

22 138. Plaintiffs' WhatsApp Trademarks were distinctive when Defendants registered, trafficked  
23 in, or used the Infringing Domain Names.

## 24 **2. Defendants and Doe Defendants Trafficked in the Infringing Domain Names**

25 139. For free domain names registered in one of the ccTLDs serviced by Freenom, Freenom or  
26 one of the ccTLD Service Providers registers the domain name and licenses it to the customer to use.  
27 Freenom's Free Domain Name Agreement states, "we grant you a limited, non-exclusive, personal, non-  
28 transferable license to use FREE DOMAIN and the domain name provided to you in connection

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1 therewith.”

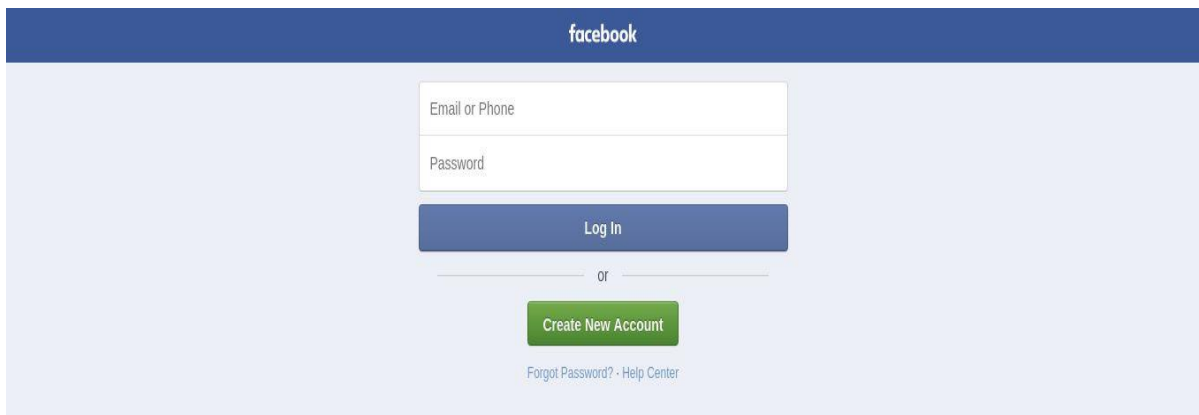
2 140. For domain names using ID Shield’s proxy service, ID Shield registers the domain name  
3 and licenses it to Doe Defendants to use.

4 141. Defendants trafficked in each of the Infringing Domain Names by licensing the Infringing  
5 Domain Names to Doe Defendants to use.

6 **3. Defendants and Doe Defendants Used the Infringing Domain Names**

7 142. Doe Defendants have used many of the Infringing Domain Names to host phishing  
8 websites (the “Phishing Websites”).

9 143. The Phishing Websites often display content bearing the Facebook, Instagram, and/or  
10 WhatsApp Trademarks and imitating the look and feel of Plaintiffs’ websites. For example, one of the  
11 Doe Defendants used the domain name facebook-accounts.cf to operate a Phishing Website, as shown in  
12 the screenshot below:



13  
14  
15  
16  
17  
18  
19  
20 144. Screenshots of additional Phishing Websites are attached to this First Amended Complaint  
21 as Exhibit 10.

22 145. The Phishing Websites are intended to mislead Internet users into providing their  
23 Facebook, Instagram, or WhatsApp login credentials, including account IDs and passwords, believing  
24 that they are visiting Plaintiffs’ genuine websites.

25 146. Defendants and Doe Defendants’ use of Plaintiffs’ Trademarks, including stylized  
26 versions of those marks, is without Plaintiffs’ authorization or approval.

27 147. Defendants and Doe Defendants’ use of Plaintiffs’ Trademarks, including stylized  
28 versions of those marks, on the Phishing Websites is intentional and designed to trade on the goodwill of

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1 Plaintiffs’ Trademarks and deceive Plaintiffs’ users and the public.

2 148. Doe Defendants have also used many of the Infringing Domain Names to either host or  
3 redirect to websites that display adult content.

4 149. Defendants generate revenue from domain names, including from the Infringing Domain  
5 Names, after the domain names have expired or been “cancelled, suspended, refused, or reserved.”  
6 According to Freenom, “Domains that are no longer used by the registrant [Freenom’s licensee] or are  
7 expired are taken back by Freenom and the residual traffic is sold to advertisement networks.”

8 150. Additionally, even when Freenom licenses free domain names to its customers, Freenom  
9 uses and profits from the traffic to the domain name. According to the Free Domain Name Agreement,  
10 “all visitors/visits to the domain name provided to [Freenom’s licensee] in connection with FREE  
11 DOMAIN shall be counted solely as traffic to Freenom for all purposes relating to tracking and reporting  
12 audience measurement.”

13 151. Defendants used and continue to use many of the Infringing Domain Names to operate  
14 revenue-generating advertising “parking pages” that divert consumers away from Plaintiffs’ legitimate  
15 websites. Additionally, Defendants have used some of the Infringing Domain Names even after Plaintiffs  
16 sent notice of the infringement.




17 152. One example of Defendants’ use of the Infringing Domain Names is instagramchat.gq.  
18 When Internet users navigate to instagramchat.gq, they are redirected first to domain.dot.tk<sup>22</sup> and then  
19 directed to freenom.link, as shown in the screenshot below:

20  
21  
22  
23  
24  
25  
26  
27 \_\_\_\_\_  
28 <sup>22</sup> The domain name dot.tk (under which domain.dot.tk is hosted) is owned and operated by Defendants.

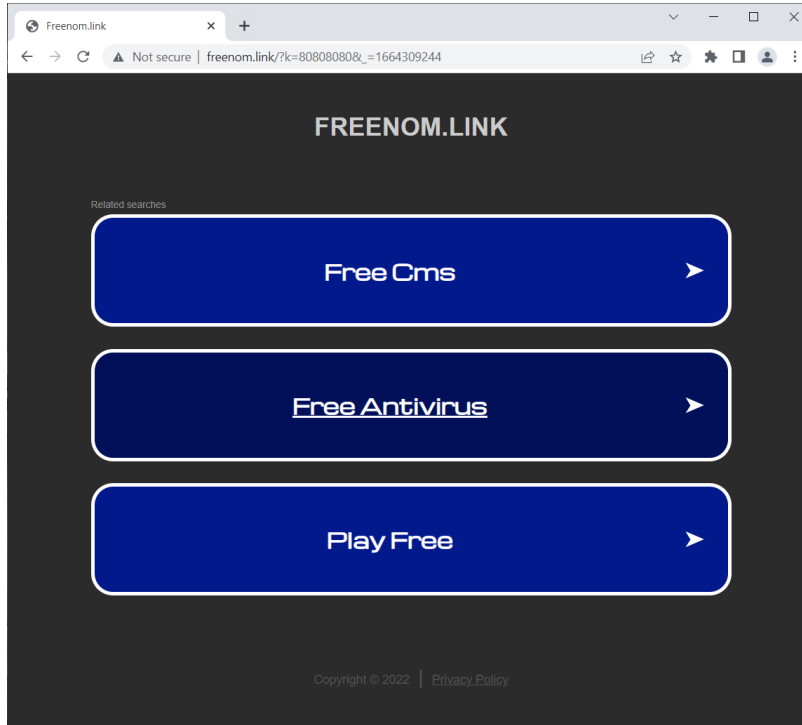


Date Traced: 2022-09-27 00:12:49 GMT

User Agent: Wheresoes.com Redirect Checker/1.0

#	Code	Requested URL
▼	203	<a href="http://instagramchat.gq">http://instagramchat.gq</a> ■ Redirects: 2
1	203	 <a href="http://instagramchat.gq">http://instagramchat.gq</a> <b>Status Code: 203 - Meta-Refresh Redirect</b>
2	301	 <a href="http://domain.dot.tk/p/?d=INSTAGRAMCHAT.GQ&amp;i=167.71.162.214&amp;c=1&amp;ro=0&amp;ref=unknown&amp;_=1664237569628">http://domain.dot.tk/p/?d=INSTAGRAMCHAT.GQ&amp;i=167.71.162.214&amp;c=1&amp;ro=0&amp;ref=unknown&amp;_=1664237569628</a> <b>301 Redirect</b>
3	200	 <a href="http://freenom.link/?k=80808080&amp;_=1664237553">http://freenom.link/?k=80808080&amp;_=1664237553</a> <b>Trace Complete</b>

153. As a result, when Internet users attempt to visit instagramchat.gq, they ultimately land on freenom.link, which displays a revenue-generating parking page, as shown in the screenshot below:



154. On information and belief, Defendants own freenom.link, which was registered using Porkbun, LLC, a registrar based in the United States.

155. Defendants host the freenom.link website on a server provided by Bodis, LLC. Bodis, LLC is a United States-based company that provides Defendants with the commercial links Defendants display on the freenom.link website. Bodis, LLC's General Terms of Service specify that those using the Bodis services irrevocably consent to the exclusive jurisdiction of, and venue in, the state and federal courts located in Tampa, FL as to any disputes arising out of or relating to Bodis' website or the use of Bodis' programs or services.

156. Defendants use freenom.link to display revenue-generating parking pages whenever Internet users are redirected from one or more of the Infringing Domain Names.

157. Other examples of Defendants' use of the Infringing Domain Names include: facebook-instagram-busines.ml, facebookhelpcustomer.cf, facebookloginup.cf, whatsapp.cf, and whatsapp-chat.gq. Screen captures showing Defendants' use of the Infringing Domain Names to host revenue-generating parking pages are attached to this First Amended Complaint as Exhibit 11.

**D. ID Shield's Failure to Disclose Contact Information**

158. Freenom is an ICANN-accredited registrar subject to ICANN's RAA. A copy of the RAA is attached to this First Amended Complaint as Exhibit 12.

159. When a domain name is registered in a gTLD using Freenom's registrar services, the terms of the RAA apply. Specifically, the RAA requires that certain terms be incorporated into Freenom's registration agreement for these gTLD domain names. Freenom's Terms and Conditions Agreement that applies to paid domain names (including domain names in a gTLD) ("Paid Domain Name Agreement") is attached to this First Amended Complaint as Exhibit 13.

160. One such ICANN requirement included in Freenom's registration agreement provides that ID Shield (as the registrant of the domain names) "shall accept liability for harm caused by wrongful use of the Registered Name, unless it discloses the current contact information provided by the licensee and the identity of the licensee within seven (7) days to a party providing [ID Shield] reasonable evidence of actionable harm." *See* Exhibits 12 & 13.

161. Freenom and ID Shield's service agreements anticipate that they will be sued for misuse of domain names, including for trademark infringement and cybersquatting, and require parties to their respective agreements to indemnify against such claims. *See* Exhibits 13 & 6.

162. ID Shield has registered one or more of the Infringing Domain Names, as the registrant and in its own name, and then licenses these domain names to Freenom and to Freenom's customers for their use. For example, the Infringing Domain Name fecebookiyat.info was registered by ID Shield, as the registrant and in its own name. A copy of the WHOIS record listing Stichting OpenTLD WHOIS Proxy (ID Shield) as the registrant is attached to this First Amended Complaint as Exhibit 14.

163. Plaintiffs' authorized representatives sent communications to Defendants with evidence the Infringing Domain Names, including fecebookiyat.info, caused actionable harm, including by infringing on the Facebook Trademarks, Instagram Trademarks, and WhatsApp Trademarks, and requesting that Defendants disclose the identities of the registrant(s).

164. Defendants failed to timely disclose the identity or any contact information of the licensee when presented with reasonable evidence of actionable harm by Plaintiffs or their authorized representatives. In fact, ID Shield did not respond at all to one or more of the Plaintiffs' notices.

**E. Defendants’ and Doe Defendants’ Bad Faith Intent to Profit**

165. Neither Defendants nor Doe Defendants have any trademark or other intellectual property rights in the Infringing Domain Names.

166. The Infringing Domain Names do not consist of the legal name of Defendants or Doe Defendants, nor do they consist of a name that is otherwise commonly used to identify Defendants or Doe Defendants.

167. Neither Defendants nor Doe Defendants have made any prior use of the Infringing Domain Names in connection with a bona fide offering of any goods or services.

168. Neither Defendants nor Doe Defendants have made any a bona fide noncommercial or fair use of Plaintiffs’ Trademarks on a website accessible at any of the Infringing Domain Names.

169. Defendants intend to divert consumers by selecting and using domain names that are phonetically identical or confusingly similar to Plaintiffs’ trademarks for Defendants’ commercial gain.

170. As demonstrated by numerous UDRP decisions, Defendants registered large numbers of domain names that are identical or confusingly similar to the trademarks of others, including those of Fortune 500 companies. In fact, as Freenom’s 2013 website indicates, Defendants recognize that domain names that are identical or confusingly similar to the trademarks of Fortune 500 companies have a higher value than other domain names based on the fact that Freenom charges more for those types of domain names.

171. On information and belief, as part of their unlawful scheme, Defendants specifically target Fortune 500 brands, such as those of Plaintiffs, as demonstrated by their registration of, use of, and trafficking in the Infringing Domain Names and domain names confusingly similar to the marks of other Fortune 500 companies.

172. On information and belief, Defendants profit from their provision of domain names for free because the free registration services prompt customers to use Freenom’s registrar services and other fee-based related services. Thus, even Defendants’ free domain name registration services result in a profit to Defendants because, on information and belief, those free services draw in customers who ultimately also use other related fee-based services.

173. Defendants also profit when free domain names are registered and subsequently expire,

1 or are cancelled, suspended, or refused, because Freenom revokes the license to the licensee and uses  
2 those domain names for its own benefit.

3 174. Defendants and Doe Defendants monetize their domain names by operating revenue-  
4 generating parking pages and redirecting visitors to other commercial websites, websites with  
5 pornographic content, and websites used for malicious activity like phishing.

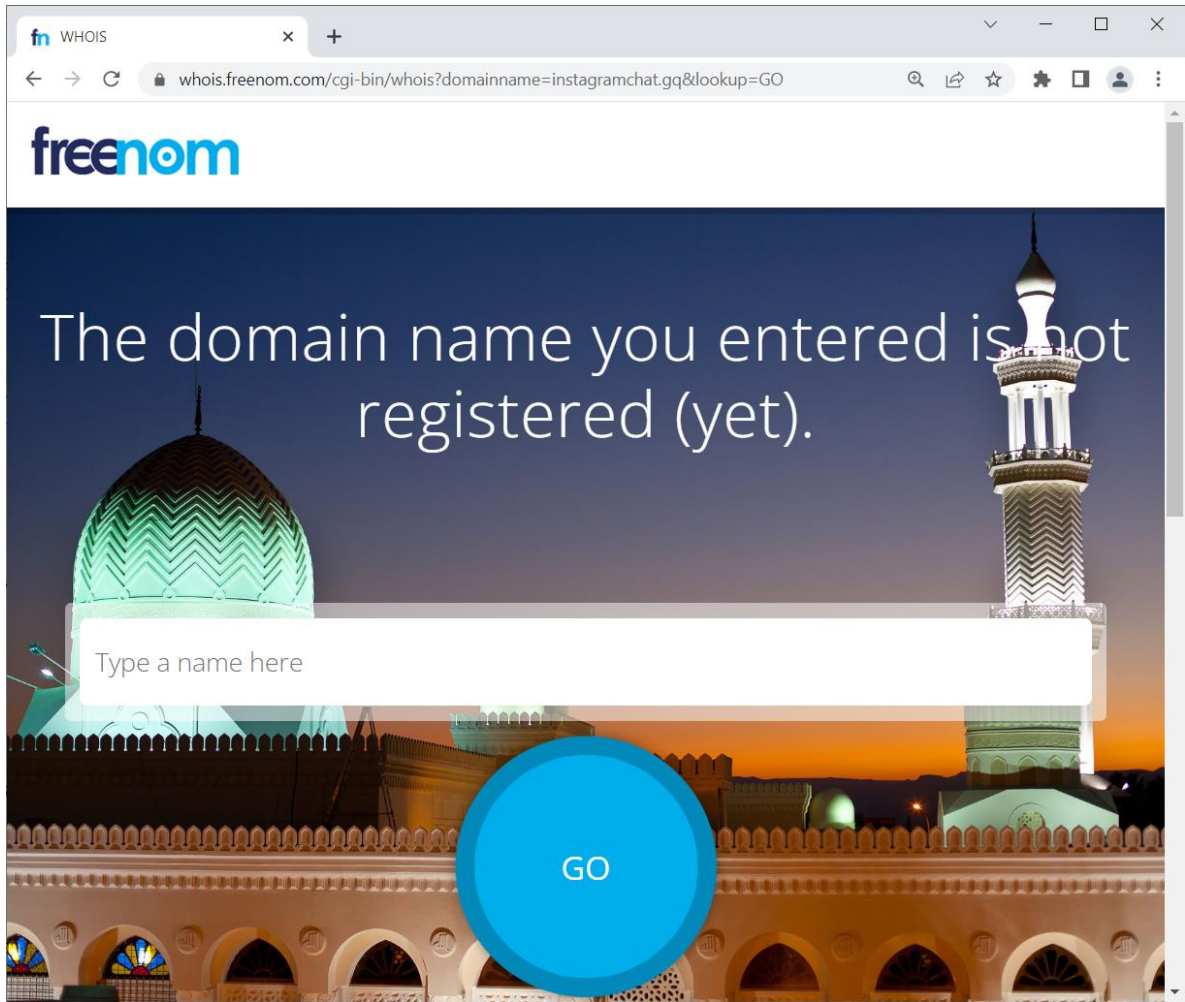
6 175. The ID Shield proxy service is part of a deliberate scheme by Defendants to shield the  
7 identity of Defendants and Doe Defendants and thus aid in cybersquatting, including cybersquatting on  
8 Plaintiffs' Trademarks.

9 176. Defendants also use false or misleading contact information because Defendants list  
10 Freedom Registry, Inc. as the registrant in multiple WHOIS records; however, Freedom Registry, Inc.  
11 ceased to exist as an entity in November 2017 when it changed its name to VTL Merchant Support, Inc.

12 177. For many Infringing Domain Names, Defendants intentionally omit any WHOIS record,  
13 falsely stating that a domain name has not been registered when in fact the domain name has been  
14 registered and is being used by Defendants or Doe Defendants. For example, as discussed above,  
15 instagramchat.gq is registered and is actively used by Defendants to operate a revenue-generating parking  
16 page. Despite this, when a visitor attempts to query Freenom's website for the WHOIS record of  
17 instagramchat.gq, the following webpage results:

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178. Defendants have an economic incentive to resist attempts to expose the identities of Doe Defendants using their proxy services even when presented with reasonable evidence of actionable harm by Plaintiffs and other trademark owners.

179. Defendants knowingly and intentionally shield the identities of Doe Defendants, who are cybercriminals, including those who infringe and cybersquat on Plaintiffs' Trademarks.

180. Freenom has a history of cybersquatting on famous and distinctive trademarks.

181. Defendants have received multiple inquiries, non-compliance notices, and contractual breach letters from ICANN regarding their failure to provide registration data and failure to investigate and correct WHOIS inaccuracies, to validate and verify WHOIS data for their customers, and to publish required information about its ultimate parent entity.

182. Freenom has also been named in numerous administrative complaints filed under the

1 Uniform Domain-Name Dispute-Resolution Policy (“UDRP”), resulting in the transfer of the domain  
2 name(s) to the trademark owners bringing the complaint.

3 183. On or about June 23, 2015, ICANN suspended Freenom’s ability to create new domain  
4 names or initiate inbound transfers of domain names for 90 days. The suspension was premised on  
5 ICANN’s determination that, “[p]ursuant to Section 5.5.2.4 of the RAA, ... [Freenom] has engaged in a  
6 pattern and practice of trafficking in or use of domain names identical or confusingly similar to a  
7 trademark or service mark of a third party in which the Registered Name Holder has no rights or  
8 legitimate interest.”

9 184. In the 2015 arbitration proceeding between ICANN and Freenom conducted in the Los  
10 Angeles, California resulting from Freenom’s suspension, Freenom admitted that its free registration  
11 services “prove appealing to unscrupulous third parties engaged in abusive registration practices.”

12 185. The arbitrator agreed with ICANN’s suspension, noting that Freenom had engaged in a  
13 pattern of abusive registration conduct, specifically targeting trademarks of competing registrars,  
14 calculated to deliberately divert name registration business from other registrars to Freenom by inducing  
15 consumer confusion.<sup>23</sup> In particular, the arbitrator referenced a finding that Freenom intentionally deleted  
16 the disputed domain name registrations, where it was both the registrar and the registrant, during the  
17 pendency of the UDRP proceedings instead of placing the names on registrar lock, in direct contravention  
18 to Paragraph 8 of the Uniform Domain Name Dispute Resolution Policy. The arbitrator concluded that  
19 if this pattern were allowed to continue, it would inflict increasing harm through the illicit exploitation  
20 of third-party trademark rights by escalating consumer confusion in the marketplace to the detriment of  
21 not only the rights holders but also consumers and the public in general.

22 186. Defendants are aware that the domain names they register and traffic in are used to  
23 infringe the trademark rights of trademark owners because Freenom and/or the ccTLD Service Providers,  
24 as the registrant and/or registrar, receive notices of infringement by trademark owners (including  
25 Plaintiffs) and their agents, and receive notices of every UDRP complaint and decision against a domain  
26 name registered using Defendants’ services.

27 \_\_\_\_\_  
28 <sup>23</sup> The arbitrator’s opinion is available at <https://www.icann.org/en/system/files/files/emergency-award-24aug15-en.pdf>.

1 187. Despite Defendants' awareness of the infringement, they continue to refuse to disclose  
 2 identifying information for licensees when presented with evidence of actionable harm caused by domain  
 3 names.

4 188. By refusing to identify the licensees when presented with evidence of actionable harm,  
 5 even after being subject to numerous UDRP complaints and having received multiple Notice of Breach  
 6 letters from ICANN, Defendants have demonstrated that they are knowingly disregarding their legal and  
 7 contractual obligations, the rights of those being harmed by cybercriminals who use their services to  
 8 register domain names to infringe the marks of others, and the harm caused to third parties who fall victim  
 9 to cybercrime such as phishing attacks that are facilitated through domain names registered with  
 10 Defendants on behalf of their cybercriminal customers. These cybercrimes rely on deceptive domain  
 11 names, like the Infringing Domain names, registered with Defendants to harvest users' personal and  
 12 financial information.

13 189. Defendants and Doe Defendants intended to divert consumers to websites using domain  
 14 names that were confusingly similar to the Facebook Trademarks, Instagram Trademarks and WhatsApp  
 15 Trademarks. In some instances, the Infringing Domain Names have been used in connection with  
 16 phishing attacks, pornographic content, and to operate revenue-generating parking pages and to redirect  
 17 visitors to other commercial websites.

18 190. This history of conduct also demonstrates Defendants' and Doe Defendants' bad faith  
 19 intent to profit from Plaintiffs' Trademarks, as well as the marks of others, by earning revenue from  
 20 cybercriminals who exploit those marks for unlawful purposes.

## 21 **FIRST CAUSE OF ACTION**

### 22 **[Cybersquatting on Plaintiffs' Trademarks Under 15 U.S.C. § 1125(d)]**

23 191. Plaintiffs reallege and incorporate by reference all of the preceding paragraphs.

24 192. Plaintiffs' Trademarks were distinctive or famous and federally registered at the United  
 25 States Patent and Trademark Office at the time Defendants registered, used, and trafficked in the  
 26 Infringing Domain Names.

27 193. Each of the Infringing Domain Names is confusingly similar to Plaintiffs' Trademarks.

28 194. Each of the Infringing Domain Names is dilutive of the Facebook Trademarks or



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1 Instagram Trademarks.

2 195. Defendants registered (as the registrant<sup>24</sup>), used, or trafficked in, each of the Infringing  
3 Domain Names with a bad faith intent to profit from Plaintiffs’ Trademarks.

4 196. Doe Defendants used, or trafficked in, each of the Infringing Domain Names with a bad  
5 faith intent to profit from Plaintiffs’ Trademarks.

6 197. Neither Defendants nor Doe Defendants have any trademark or other intellectual property  
7 rights in the Infringing Domain Names.

8 198. The Infringing Domain Names do not consist of the legal name of any of Defendants or  
9 Doe Defendants, nor do they consist of a name that is otherwise commonly used to identify them.

10 199. Neither Defendants nor Doe Defendants have any prior use of any of the Infringing  
11 Domain Names in connection with the bona fide offering of any goods or services.

12 200. Neither Defendants nor Doe Defendants have made any bona fide noncommercial or fair  
13 use of Plaintiffs’ Trademarks on a website accessible at any of the Infringing Domain Names.

14 201. Defendants and Doe Defendants intended to divert consumers from Plaintiffs’ legitimate  
15 websites to a website accessible under the Infringing Domain Names for their commercial gain by  
16 creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of their  
17 websites.

18 202. Defendants and Doe Defendants provided material and misleading false contact  
19 information when applying for the registration of the Infringing Domain Names and/or intentionally  
20 failed to maintain accurate contact information. Defendants and Doe Defendants have demonstrated a  
21 pattern of such conduct. For instance, Defendants list Freedom Registry, Inc. as the registrant for many  
22 of the Infringing Domain Names; however, Freedom Registry, Inc. underwent a name change and became  
23 VTL Merchant Support, Inc. in November 2017. Defendants, however, have continued to falsely list  
24 Freedom Registry, Inc.—an entity that no longer exists—as the registrant for these Infringing Domain  
25 Names. Freenom does so despite its ICANN-imposed obligations to ensure the accuracy of registrant  
26

27 <sup>24</sup> The WHOIS record for each of the Infringing Domain Names lists or has listed at least one of Freenom  
28 (as Freedom Registry, Inc./VTL), or one of its alter ego ccTLD Service Providers, and/or Freenom’s alter  
ego proxy company, ID Shield, as the registrant.

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1 data.

2 203. Defendants’ registration, use, and/or trafficking in the Infringing Domain Names  
3 constitutes cybersquatting in violation of 15 U.S.C. § 1125(d), entitling Plaintiffs to relief.

4 204. Doe Defendants’ registration, use and/or trafficking in the Infringing Domain Names  
5 constitutes cybersquatting in violation of 15 U.S.C. § 1125(d), entitling Plaintiffs to relief.

6 205. Defendants and Doe Defendants have registered multiple domain names which they knew  
7 were identical or confusingly similar to marks of others that were distinctive at the time of registration  
8 of such domain names.

9 206. Defendants and Doe Defendants have provided material and misleading false contact  
10 information for the Infringing Domain Names.

11 207. Plaintiffs’ remedy at law is not adequate to compensate it for the injuries Defendants and  
12 Doe Defendants inflicted on Plaintiffs. Accordingly, Plaintiffs are entitled to preliminary and permanent  
13 injunctive relief pursuant to 15 U.S.C. § 1116.

14 208. Defendants and Doe Defendants have irreparably harmed Plaintiffs and, if not enjoined,  
15 will continue to irreparably harm Plaintiffs and their federally registered trademarks and service marks.

16 209. Defendants and Doe Defendants have irreparably harmed the general public and, if not  
17 enjoined, will continue to irreparably harm the general public, which has an interest in being free from  
18 confusion, mistake, and deception.

19 210. Plaintiffs are entitled to recover Defendants’ and Doe Defendants’ profits, Plaintiffs’  
20 actual damages, and the costs of this action. Instead of actual damages and profits, Plaintiffs may  
21 alternatively elect to an award of statutory damages under 15 U.S.C. § 1117(d) in an amount of \$100,000  
22 per Infringing Domain Name. Plaintiffs are also entitled to have their damages trebled under  
23 15 U.S.C. § 1117.

24 211. This is an exceptional case, entitling Plaintiffs to an award of reasonable attorneys’ fees  
25 under 15 U.S.C. § 1117.

26 **SECOND CAUSE OF ACTION**

27 **[Trademark and Service Mark Infringement of Plaintiffs’ Trademarks Under 15 U.S.C. § 1114]**

28 212. Plaintiffs reallege and incorporate by reference all of the preceding paragraphs.

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1 213. Defendants and Doe Defendants have used Plaintiffs’ Trademarks in interstate commerce.  
2 Defendants’ and Doe Defendants’ use of Plaintiffs’ Trademarks is likely to cause confusion, mistake, or  
3 deception as to the origin, sponsorship, or approval by Plaintiffs of Defendants’ and Doe Defendants’  
4 websites.

5 214. The above-described acts of Defendants and Doe Defendants constitute trademark and  
6 service mark infringement in violation of 15 U.S.C. § 1114(1) and entitle Plaintiffs to relief.

7 215. Defendants and Doe Defendants have unfairly profited from the alleged trademark and  
8 service mark infringement.

9 216. By reason of Defendants’ and Doe Defendants’ acts of trademark and service mark  
10 infringement, Plaintiffs have suffered damage to the goodwill associated with Plaintiffs’ Trademarks.

11 217. Defendants and Doe Defendants have irreparably harmed Plaintiffs and, if not enjoined,  
12 will continue to irreparably harm Plaintiffs and their federally registered trademarks and service marks.

13 218. Defendants and Doe Defendants have irreparably harmed the general public and, if not  
14 enjoined, will continue to irreparably harm the general public, which has an interest in being free from  
15 confusion, mistake, and deception.

16 219. Plaintiffs’ remedy at law is not adequate to compensate them for the injuries inflicted by  
17 Defendants and Doe Defendants. Accordingly, Plaintiffs are entitled to preliminary and permanent  
18 injunctive relief pursuant to 15 U.S.C. § 1116.

19 220. Plaintiffs are entitled to recover Defendants’ and Doe Defendants’ profits, Plaintiffs’,  
20 actual damages, and the costs of this action. Plaintiffs are also entitled to have their damages trebled  
21 under 15 U.S.C. § 1117.

22 221. This is an exceptional case, making Plaintiffs eligible for an award of reasonable  
23 attorneys’ fees pursuant to 15 U.S.C. § 1117.

24 **THIRD CAUSE OF ACTION**

25 **[Trademark and Service Mark Infringement of Plaintiffs’ Trademarks**  
26 **and False Designation of Origin Under 15 U.S.C. § 1125(a)]**

27 222. Plaintiffs reallege and incorporate by reference all of the preceding paragraphs.

28 223. Plaintiffs’ Trademarks are distinctive marks that are associated with Plaintiffs and

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1 exclusively identify their respective businesses, products, and services.

2 224. Defendants’ and Doe Defendants’ use in commerce of Plaintiffs’ Trademarks, and  
3 variations thereof, is likely to cause confusion, or to cause mistake, or to deceive the relevant public that  
4 Defendants’ and Doe Defendants’ goods and services are authorized, sponsored, or approved by, or are  
5 affiliated with, Plaintiffs.

6 225. Defendants’ and Doe Defendants’ acts constitute trademark and service mark  
7 infringement of Plaintiffs’ Trademarks, as well as false designation of origin, in violation of  
8 15 U.S.C. § 1125(a), entitling Plaintiffs to relief.

9 226. Defendants and Doe Defendants have unfairly profited from their conduct.

10 227. By reason of the above-described acts of Defendants and Doe Defendants, Plaintiffs have  
11 suffered damage to the goodwill associated with Plaintiffs’ Trademarks.

12 228. Defendants and Doe Defendants have irreparably harmed Plaintiffs and, if not enjoined,  
13 will continue to irreparably harm Plaintiff and Plaintiffs’ Trademarks.

14 229. Defendants and Doe Defendants have irreparably harmed the general public and, if not  
15 enjoined, will continue to irreparably harm the general public, which has an interest in being free from  
16 confusion, mistake, and deception.

17 230. Plaintiffs’ remedy at law is not adequate to compensate it for the injuries inflicted by  
18 Defendants and Doe Defendants. Accordingly, Plaintiffs are entitled to preliminary and permanent  
19 injunctive relief pursuant to 15 U.S.C. § 1116.

20 231. Plaintiffs are entitled to recover Defendants’ and Doe Defendants’ profits, Plaintiffs’  
21 actual damages, and the costs of this action. Plaintiffs are also entitled to have their damages trebled  
22 under 15 U.S.C. § 1117.

23 232. This is an exceptional case, making Plaintiffs eligible for an award of reasonable  
24 attorneys’ fees pursuant to 15 U.S.C. § 1117.

25 **FOURTH CAUSE OF ACTION**

26 **[Dilution of the Facebook Trademarks and Instagram Trademarks Under 15 U.S.C. § 1125(c)]**

27 233. Meta and Instagram reallege and incorporate by reference all of the preceding paragraphs.

28 234. The Facebook Trademarks and Instagram Trademarks are famous, as that term is used in

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1 15 U.S.C. § 1125(c), and they were famous before Defendants’ and Doe Defendants’ use of them and  
2 variations of the trademarks in commerce. This fame is based on, among other things, the inherent  
3 distinctiveness and federal registration of each of the Facebook Trademarks and Instagram Trademarks  
4 as well as the extensive and exclusive worldwide use, advertising, promotion, and recognition of them.

5 235. Defendants’ and Doe Defendants’ use of the Facebook Trademarks and Instagram  
6 Trademarks, and variations thereof, in commerce is likely to cause dilution by blurring or dilution by  
7 tarnishment of these trademarks.

8 236. Defendants’ and Doe Defendants’ acts constitute willful dilution by blurring and dilution  
9 by tarnishment in violation of 15 U.S.C. § 1125(c), entitling Meta and Instagram to relief.

10 237. Defendants and Doe Defendants have unfairly profited from their conduct.

11 238. Defendants and Doe Defendants damaged the goodwill associated with the Facebook  
12 Trademarks and the Instagram Trademarks and they will continue to cause irreparable harm.

13 239. Meta’s and Instagram’s remedy at law is not adequate to compensate them for the injuries  
14 inflicted by Defendants and Doe Defendants. Accordingly, Meta and Instagram are entitled to  
15 preliminary and permanent injunctive relief pursuant to 15 U.S.C. § 1116.

16 240. Defendants and Doe Defendants have irreparably harmed Meta and Instagram and, if not  
17 enjoined, will continue to irreparably harm them and their federally registered trademarks and service  
18 marks.

19 241. Defendants and Doe Defendants have irreparably harmed the general public and, if not  
20 enjoined, will continue to irreparably harm the general public, which has an interest in being free from  
21 confusion, mistake, and deception.

22 242. Because Defendants and Doe Defendants acted willfully, Meta and Instagram are entitled  
23 to damages, and those damages should be trebled pursuant to 15 U.S.C. § 1117.

24 243. This is an exceptional case, making Meta and Instagram eligible for an award of attorneys’  
25 fees pursuant to 15 U.S.C. § 1117.

26 **FIFTH CAUSE OF ACTION**

27 **[Violation of the Anti-Phishing Act Under Cal. Bus. & Prof. Code § 22948]**

28 244. Plaintiffs reallege and incorporate by reference all of the preceding paragraphs.

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1 245. By using some of the Infringing Domain Names to operate Phishing Websites, Doe  
2 Defendants falsely represented themselves to be Facebook, Instagram, or WhatsApp, without Plaintiffs’  
3 authorization

4 246. Doe Defendants’ Phishing Websites were intended to, and on information and belief did  
5 in fact, solicit, request, and induce users of Facebook, Instagram, and WhatsApp to provide identifying  
6 information, including account credentials.

7 247. Plaintiffs were adversely affected by Doe Defendants’ phishing scheme and suffered,  
8 without limitation, damage to the goodwill associated with Plaintiffs’ Trademarks, harm to their users,  
9 and monetary losses in an amount to be determined.

10 248. Doe Defendants’ conduct constitutes a violation of Cal. Bus. & Prof.  
11 Code § 22948.3(a)(1).

12 249. As a result, Plaintiffs are entitled to recover the greater of their actual damages or five  
13 hundred thousand dollars (\$500,000) per each phishing website pursuant to Cal. Bus. & Prof.  
14 Code § 22948.3(a)(1).

15 250. Further, because Doe Defendants engaged in a pattern and practice of violating the  
16 Anti-Phishing Act, Plaintiffs request the trebling of their actual damages pursuant to Cal. Bus. & Prof.  
17 Code § 22948.3(c)(1).

18 251. Plaintiffs further seek an award of their attorneys’ fees and costs of suit pursuant to Cal.  
19 Bus. & Prof. Code § 22948.3(c)(2).

20 **REQUEST FOR RELIEF**

21 **WHEREFORE**, Plaintiffs request:

22 252. That the Court find that:

23 a. Defendants registered, trafficked in, or used one or more of the Infringing Domain  
24 Names with a bad faith intent to profit from Plaintiffs’ Trademarks in violation of 15 U.S.C. § 1125(d);

25 b. Doe Defendants registered, trafficked in or used one or more of the Infringing  
26 Domain Names with a bad faith intent to profit from Plaintiffs’ Trademarks in violation of  
27 15 U.S.C. § 1125(d);  
28

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1 c. Defendants infringed the rights of Plaintiffs in the federally registered Facebook  
2 Trademarks, Instagram Trademarks, and WhatsApp Trademarks in violation of 15 U.S.C. § 1114(1);

3 d. Doe Defendants infringed the rights of Plaintiffs in the federally registered  
4 Facebook Trademarks, Instagram Trademarks, and WhatsApp Trademarks in violation of  
5 15 U.S.C. § 1114(1);

6 e. Defendants infringed the rights of Plaintiffs in Plaintiffs' Trademarks in violation  
7 of 15 U.S.C. § 1125(a);

8 f. Doe Defendants infringed the rights of Plaintiffs in Plaintiffs' Trademarks in  
9 violation of 15 U.S.C. § 1125(a);

10 g. Defendants have willfully diluted the federally registered Facebook Trademarks  
11 and Instagram Trademarks in violation of 15 U.S.C. § 1125(c);

12 h. Doe Defendants have willfully diluted the federally registered Facebook  
13 Trademarks and Instagram Trademarks in violation of 15 U.S.C. § 1125(c);

14 i. Doe Defendants have solicited, requested, or taken action to induce another person  
15 to provide identifying information by representing themselves as Plaintiffs without the authority or  
16 approval of Plaintiffs in violation of Cal. Bus. & Prof. Code § 22948.2;

17 j. Defendants did not timely and accurately disclose the current contact information  
18 provided by Doe Defendants and the identity of Doe Defendants in response to one or more of Plaintiffs'  
19 notices;

20 k. Defendants are liable for the harm to Plaintiffs caused by those Doe Defendants'  
21 wrongful use of the Infringing Domain Names.

22 l. Defendants are alter egos each individually and collectively liable for others'  
23 unlawful acts;

24 m. Frenom is the direct participant in the unlawful acts of Freedom Registry, Fintag,  
25 Cervesia, the ccTLD Service Providers, ID Shield, Yoursafe, VTL, and Joost Zuurbier Management  
26 Services B.V. and thus is liable for the harm caused; and

27 n. each of the above acts was willful.

28 253. That the Court enter a judgment against Defendants that Defendants have infringed the

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1 rights of Plaintiffs in Plaintiffs’ Trademarks in violation of 15 U.S.C. § 1125(d).

2 254. That the Court enter a judgment against Doe Defendants that Doe Defendants have  
3 infringed the rights of Plaintiffs in the federally registered Facebook Trademarks, Instagram Trademarks,  
4 and WhatsApp Trademarks in violation of 15 U.S.C. § 1125(d).

5 255. That the Court enter a judgment against Defendants that Defendants have infringed the  
6 rights of Plaintiffs in the federally registered Facebook Trademarks, Instagram Trademarks, and  
7 WhatsApp Trademarks in violation of 15 U.S.C. § 1114(1).

8 256. That the Court enter a judgment against Doe Defendants that Doe Defendants have  
9 infringed the rights of Plaintiffs in Plaintiffs’ Trademarks in violation of 15 U.S.C. § 1114(1).

10 257. That the Court enter a judgment against Defendants that Defendants have infringed the  
11 rights of Plaintiffs in Plaintiffs’ Trademarks in violation of 15 U.S.C. § 1125(a).

12 258. That the Court enter a judgment against Doe Defendants that Doe Defendants have  
13 infringed the rights of Plaintiffs in Plaintiffs’ Trademarks in violation of 15 U.S.C. § 1125(a).

14 259. That the Court enter a judgment against Defendants that Defendants have infringed the  
15 rights of Meta and Instagram in the federally registered Facebook Trademarks and Instagram Trademarks  
16 in violation of 15 U.S.C. § 1125(c).

17 260. That the Court enter a judgment against Doe Defendants that Doe Defendants have  
18 infringed the rights of Meta and Instagram in the federally registered Facebook Trademarks and  
19 Instagram Trademarks in violation of 15 U.S.C. § 1125(c).

20 261. That the Court enter a judgment against Doe Defendants that Doe Defendants have  
21 solicited, requested, or taken any action to induce another person to provide identifying information in  
22 violation of Cal. Bus. & Prof. Code § 22948.2.

23 262. That the Court enter a judgment against Defendants that Defendants are liable for the harm  
24 caused to Plaintiffs by Doe Defendants cybersquatting, trademark infringement and dilution of Plaintiffs’  
25 Trademarks for each instance in which Defendants did not timely and accurately disclose the current  
26 contact information provided by Doe Defendants and the identity of Doe Defendants in response to one  
27 or more of Plaintiffs’ notices regarding an Infringing Domain Name.

28 263. That Plaintiffs be awarded Defendants’ profits and Plaintiffs’ actual damages, or, in the



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1 alternative, \$100,000 in statutory damages per infringing domain name by reason of Defendants’  
2 cybersquatting, in accordance with the provisions of 15 U.S.C. § 1117(d).

3 264. That Plaintiffs be awarded Doe Defendants’ profits and Plaintiffs’ actual damages, or, in  
4 the alternative, \$100,000 in statutory damages per infringing domain name by reason of Doe Defendants’  
5 cybersquatting, in accordance with the provisions of 15 U.S.C. § 1117(d).

6 265. That Plaintiffs be awarded Defendants’ profits and Plaintiffs’ actual damages, and costs  
7 of the action, by reason of Defendants’ trademark infringement, false designation of origin and willful  
8 dilution, and that these damages be trebled in accordance with the provisions of 15 U.S.C. § 1117.

9 266. That Plaintiffs be awarded Doe Defendants’ profits and Plaintiffs’ actual damages, and  
10 costs of the action, by reason of Doe Defendants’ trademark infringement, false designation of origin and  
11 willful dilution, and that these damages be trebled in accordance with the provisions of 15 U.S.C. § 1117.

12 267. That Defendants and Doe Defendants be ordered to account for and disgorge to Plaintiffs  
13 all amounts by which Defendants and Doe Defendant have been unjustly enriched by reason of the  
14 unlawful acts complained of.

15 268. That Plaintiffs be awarded an amount sufficient to reimburse Plaintiffs for the costs of  
16 corrective advertising.

17 269. That Plaintiffs be awarded prejudgment interest on all infringement damages.

18 270. That Plaintiffs be awarded Plaintiffs’ actual damages, or, in the alternative, \$500,000 in  
19 statutory damages per violation of California’s Anti-Phishing Act of 2005 by Doe Defendants and that  
20 these damages be trebled in accordance with the provisions of Cal. Bus. & Prof. Code § 22948.3.

21 271. That Plaintiffs be awarded their reasonable attorneys’ fees pursuant to 15 U.S.C. § 1117,  
22 Cal. Bus. & Prof. Code § 22948.3(c)(2), and any other applicable provision of law.

23 272. That the Court award Plaintiffs their costs of suit incurred herein.

24 273. That the Court order each of the Infringing Domain Names be transferred to Plaintiffs.

25 274. That Defendants, Doe Defendants, and their agents, employees, successors, and assigns,  
26 and all other persons acting in concert with or in conspiracy with or affiliated with Defendants or Doe  
27 Defendants, be permanently enjoined and restrained from:  
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a. Registering, using, or trafficking in any domain name that is identical or confusingly similar to the Facebook Trademarks, Instagram Trademarks, and WhatsApp Trademarks;

b. Engaging in any use, including advertising, promoting, marketing, franchising, selling, and offering for sale any goods or services, on or in connection with Plaintiffs’ Trademarks, or any similar mark or designation, that is likely to cause confusion, or to cause mistake as to the affiliation of that use with Plaintiffs; and

c. Engaging in any activity which lessens the distinctiveness or tarnishes the Facebook Trademarks and Instagram Trademarks.

275. That Doe Defendants and their agents, employees, successors, and assigns, and all other persons acting in concert with or in conspiracy with or affiliated with Defendants, be permanently enjoined and restrained from:

a. Soliciting, requesting, or taking action to induce another person to provide identifying information by representing themselves as Plaintiffs without the authority or approval of Plaintiffs.

276. That the Court award such other or further relief as the Court may deem just and proper.

DATED: March 3, 2023

Tucker Ellis LLP

By: /s/David J. Steele  
David J. Steele  
Howard A. Kroll  
Steven E. Lauridsen  
Dina Roumiantseva

Attorneys for Plaintiffs,  
META PLATFORMS, INC.,  
INSTAGRAM, LLC, AND  
WHATSAPP LLC

**DEMAND FOR TRIAL BY JURY**

Plaintiffs Meta Platforms, Inc., Instagram, LLC, and WhatsApp LLC hereby demand a trial by jury to decide all issues so triable in this case.

DATED: March 3, 2023

Tucker Ellis LLP

By: /s/David J. Steele  
David J. Steele  
Howard A. Kroll  
Steven E. Lauridsen  
Dina Roumiantseva

Attorneys for Plaintiffs,  
META PLATFORMS, INC.,  
INSTAGRAM, LLC, AND  
WHATSAPP LLC

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