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12 *Attorneys for Plaintiff WPENGINE, Inc.*

13  
 14 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 WPENGINE, INC., a Delaware corporation,

16  
 17 Plaintiff,

18 vs.

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

21 Defendants.  
 22

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

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

Judge: Honorable Araceli Martínez-Olguín  
 Courtroom: 10  
 Date: March 6, 2025  
 Time: 2:00 p.m.

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1                                   **DECLARATION OF HEATHER BRUNNER IN SUPPORT OF**  
2                                   **WPEENGINE, INC.’S MOTION FOR A PRELIMINARY INJUNCTION**

3           I, Heather Brunner, declare as follows:

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

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

12                                   **WPEngine, Inc.**

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

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

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

16                           **WordPress’ Promises to WPE and the Entire Community**

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

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

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

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

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

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

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

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

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

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

#### 14 **Automattic’s Long-Time Investment in WPE From 2011-2018**

15 13. As part of my role as CEO and Chairwoman, I am familiar with WPE’s former and  
16 current investors. Automattic, Inc. made a strategic investment in WPE in November 2011 in  
17 WPE’s Series A investment round. In connection with this, WPE made a press release  
18 announcing the investment, which can be found at [https://wpengine.com/blog/wp-engine-closes-1-  
19 2m-in-series-a-financing/](https://wpengine.com/blog/wp-engine-closes-1-2m-in-series-a-financing/), a true and correct printout of which is attached hereto as Exhibit D.

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

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



15 Declaration of Jason Teichman in Support of Plaintiff WPEngine, Inc.’s Motion for a Preliminary  
16 Injunction (“Teichman Decl.”), Ex. E

17 (<https://web.archive.org/web/20111115053852/http://wpengine.com/>).

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

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

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

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

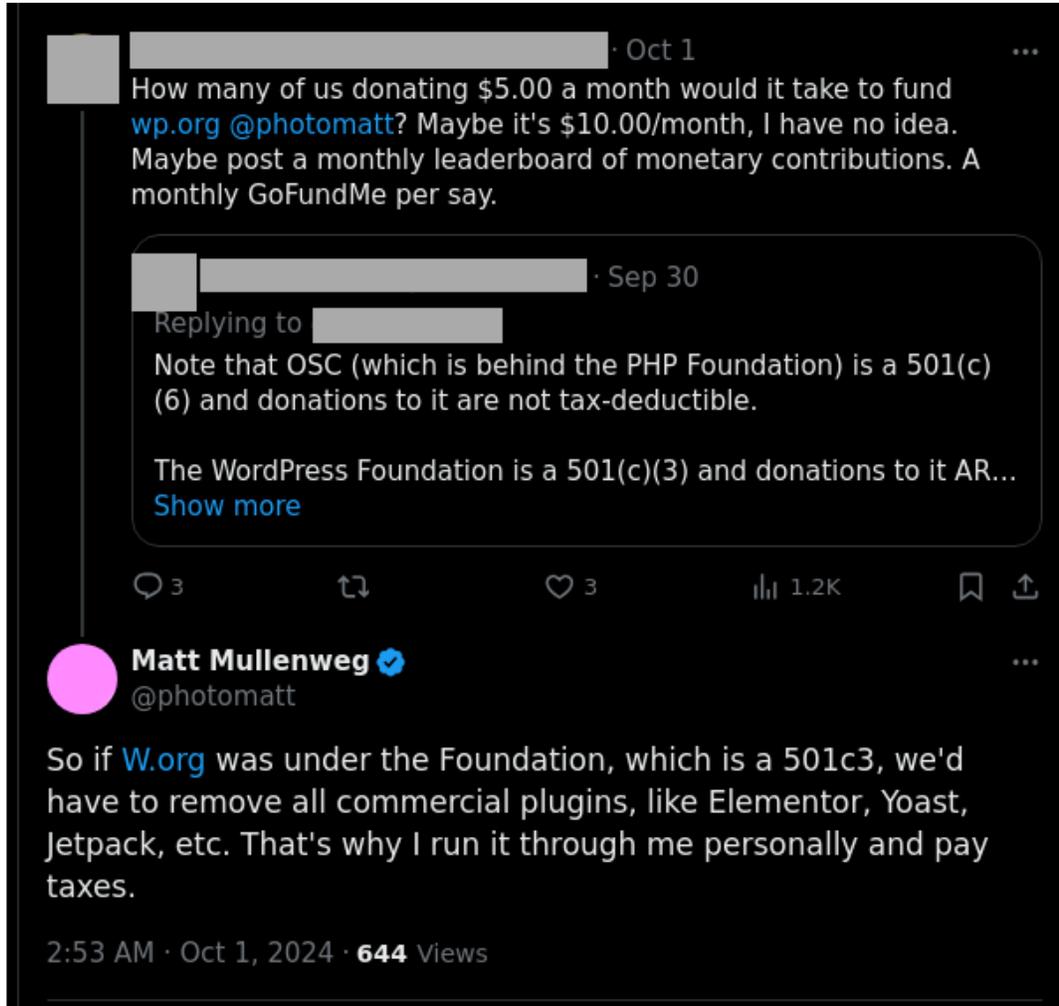
1  
2 19. Automattic is a for-profit company that competes with WPE as a webhost for  
3 WordPress websites. Automattic’s CEO is Matt Mullenweg, who also is one of the original  
4 developers of WordPress. Mr. Mullenweg also claims to be a director of the WordPress Foundation,  
5 which, as I understand it, claims to be a non-profit foundation that owns the WordPress open source  
6 software and trademarks.

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

8 21. In recent weeks, Mr. Mullenweg has publicly stated that he individually owns and  
9 controls wordpress.org, which is the website where the WordPress open source software and related  
10 plugins are hosted for everyone in the WordPress community to access, as shown below:



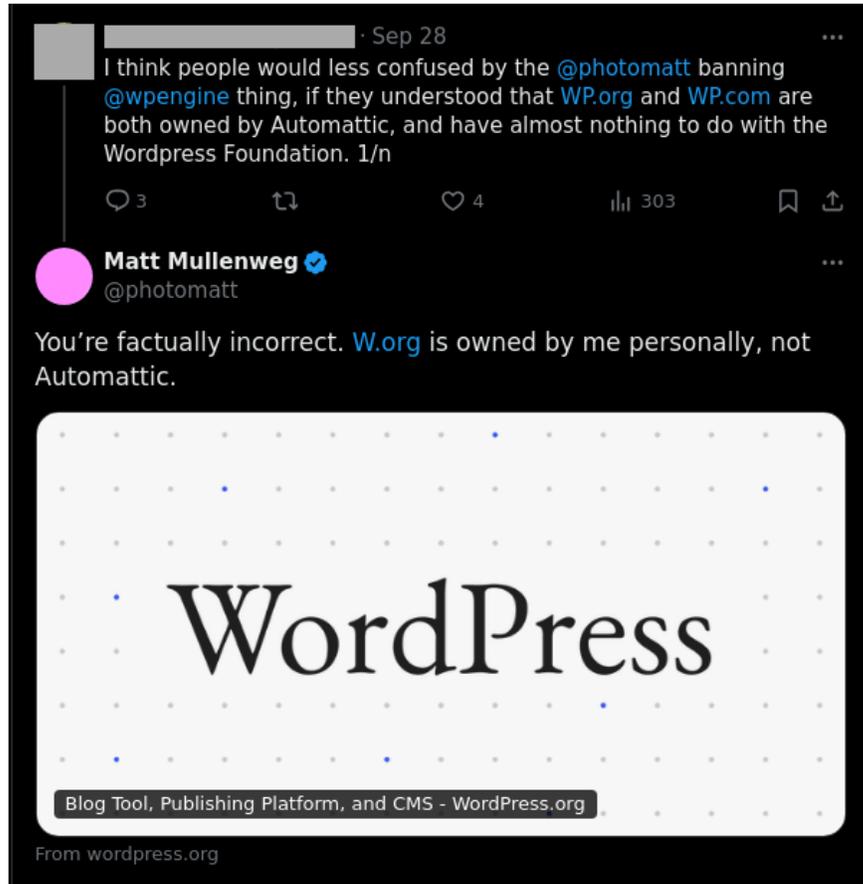
1 See Declaration of Sara Jenkins in Support of Plaintiff WPEngine, Inc.'s Motion for a Preliminary  
2 Injunction ("Jenkins Decl."), Ex. 19 at 2 (<https://x.com/photomatt/status/1841156424631545960>):



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

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

Until very recently, I had been under the impression that wordpress.org was associated with or owned by the WordPress Foundation as is typical for many open source software projects' websites. Given the various social media posts on this issue in recent weeks, it appears that many others held that same belief.

22. Last month, Automattic's CEO Mr. Mullenweg and Automattic's CFO Mark Davies began threatening me and one of our board members that if WPE did not agree to pay Automattic a very large sum of money before Mr. Mullenweg's September 20<sup>th</sup> keynote address at the WordCamp US Convention ("Keynote Speech"), he was going to embark on a "scorched earth nuclear approach" toward WPE within the WordPress community and beyond.

23. Specifically, during calls on September 17<sup>th</sup> and 19<sup>th</sup>, for instance, I am informed that Automattic CFO Mark Davies told a WPE board member that Automattic would "go to war" if WPE did not agree to pay Automattic large sums of money, on an ongoing basis. Mr. Davies stated

1 that he would send over an agreement that he expected WPE to sign or else the “war” would  
2 commence.

3           24.     On the morning of September 20, only hours before Mr. Mullenweg’s Keynote, Mr.  
4 Davies sent WPE a one-page “trademark license agreement” document we had never seen before,  
5 and which sought to impose an 8% royalty on WPE’s gross revenues (which would amount to tens  
6 of millions of dollars), along with other onerous terms such as “full audit rights” of WPEs internal  
7 records, including “access to employee records and time-tracking.” In return, the “trademark license  
8 agreement” document purported to grant WPE the “right” to use the WordPress trademark to  
9 describe the WordPress open source software. A true and correct copy of this document is attached  
10 as Exhibit N.

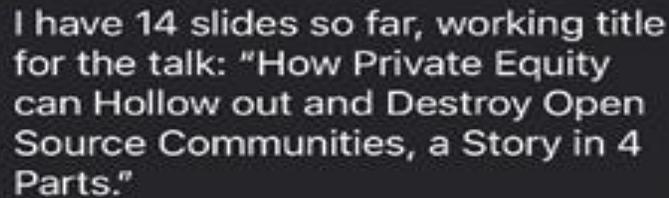
11           25.     As explained in the declaration of Jason Teichman, WPE has been using the  
12 WordPress and WooCommerce marks to accurately and truthfully identify those software products  
13 used by our customers’ websites – as companies in this space do – for many years.

14           26.     I am informed that Automattic’s CFO insisted that WPE provide its response to this  
15 demand immediately. After he sent the “trademark license agreement” document on the morning  
16 of September 20, Mr. Davies followed up with an email to a WPE board member, on which I was  
17 copied, reiterating that they needed WPE to agree to their demands immediately, “before Matt  
18 makes his WCUS keynote at 3:45 p.m. PDT today.” A true and correct copy of this email is attached  
19 as Exhibit E.

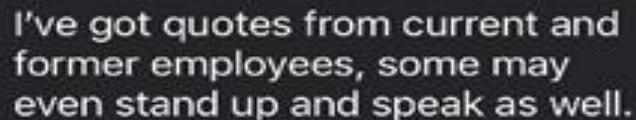
20           27.     In parallel and throughout September 19 and 20, Mr. Mullenweg sent various texts  
21 and made phone calls to me and a WPE board member. Here is one of Mr. Mullenweg’s threatening  
22 texts, which was sent to a WPE board member on September 20 and was then shared with me. A  
23 true and correct copy of these text messages are attached as Exhibit F, and included below.

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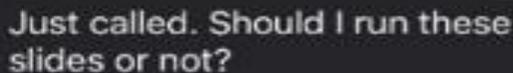


I have 14 slides so far, working title for the talk: "How Private Equity can Hollow out and Destroy Open Source Communities, a Story in 4 Parts."

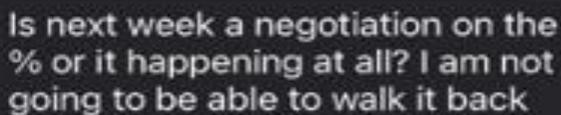


I've got quotes from current and former employees, some may even stand up and speak as well.

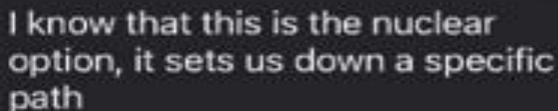
28. Mr. Mullenweg also threatened that if WPE did not agree to pay up prior to the start of Mr. Mullenweg's livestreamed Keynote Speech at 3:45 pm PT on September 20, he would go "nuclear" on WPE, as shown in the text below. A true and correct copy of these text messages are attached as part of Exhibit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



Just called. Should I run these slides or not?



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

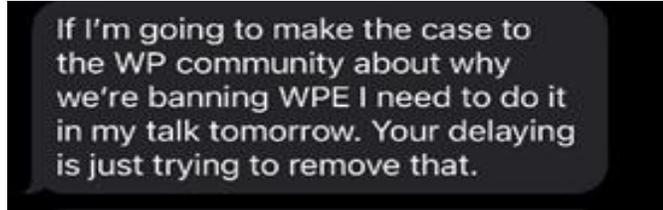


I know that this is the nuclear option, it sets us down a specific path

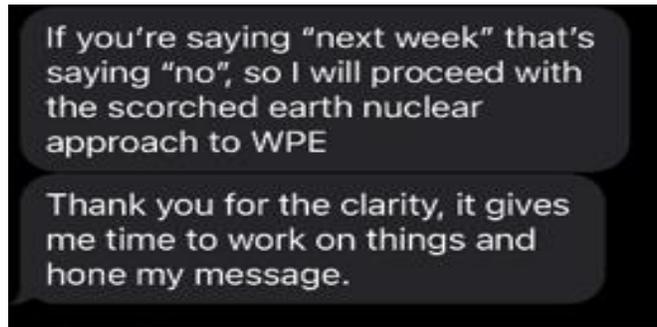
29. While waiting for a response to his text messages, Mr. Mullenweg emailed a WPE board member, who later shared the email with me, making threatening references to his planned Keynote Speech: "We get a few thousand viewers on the livestream, and the videos on YouTube can get millions of views when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

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

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



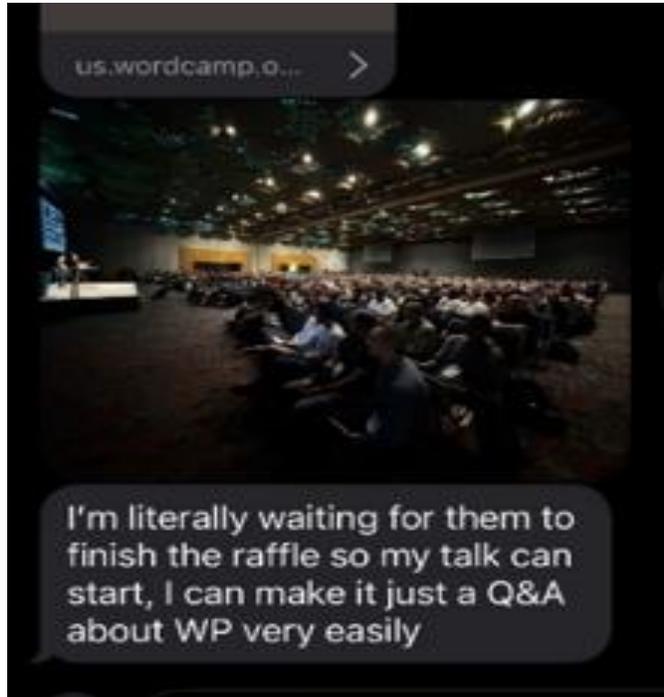
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8 31. In response to these various texts, we offered to speak with Mr. Mullenweg the next  
9 business day, Monday, September 23 to have a business discussion. I personally offered to fly to  
10 San Francisco so that the meeting could be in person.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



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19 32. In the final minutes leading up to his Keynote Speech, Mr. Mullenweg sent one last  
20 message to WPE’s board member which was then shared with me: a photo of the WordCamp  
21 audience waiting to hear his speech, with the message that he could shift gears and turn his talk into  
22 “just a Q&A” if WPE immediately agreed to pay up. A true and correct copy of this text message  
23 is attached as part of Exhibit F and displayed below.

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33. WPE did not agree to Mr. Mullenweg's demands.

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

#### **Automatic and its CEO Carry Out Their Threats**

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

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

1 provide support in finding them new jobs if that were to occur. None of that is true. *See* Jenkins  
2 Decl. Ex. 29 at 3-4.

3 37. Second, following the Keynote Speech, Mr. Mullenweg made additional false and  
4 disparaging public statements about WPE.

5 38. For example, on September 21, the day after the Keynote Speech, Mr. Mullenweg  
6 authored an article and posted it on wordpress.org, entitled “WP Engine is not WordPress.” In  
7 that post he made the following statements:

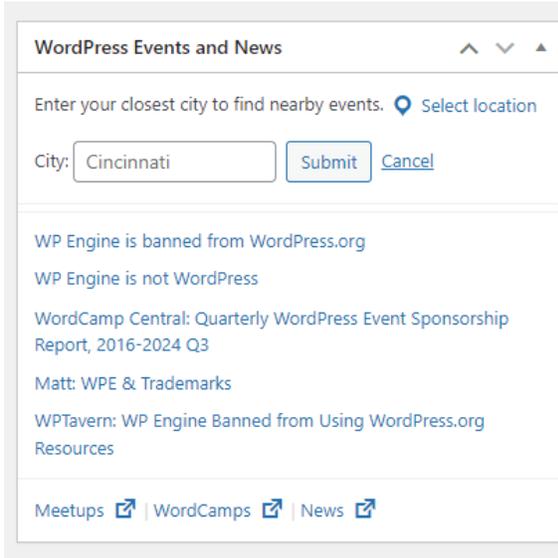
8 **What WP Engine gives you is not WordPress**, it's something that they've chopped up,  
9 hacked, butchered to look like WordPress, but actually they're giving you a cheap knock-  
10 off and charging you more for it.

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

14 *See* Jenkins Decl. Ex. 6 at 3 (<https://wordpress.org/news/2024/09/wp-engine/>). Mr. Mullenweg  
15 also claimed that WPE’s disabling of revisions was setting a poor standard for WordPress.

16 39. It is not true that what WPE gives its customers “is not WordPress,” nor is it a “cheap  
17 knockoff “ of WordPress. As for disabling revisions, this is a standard practice that Automattic’s  
18 wordpress.com does as well, so Mr. Mullenweg’s suggestion that this jeopardizes the “integrity” of  
19 user content or fails to protect that content is false.  
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1           40.     On September 21, 2024, Mr. Mullenweg began pushing his anti-WPE posts to all  
2 WPE customers, and the entire WPE community, by putting them on the news feed on the WP  
3 Admin Panel, an online interface for WordPress community members. The WP Admin Panel can  
4 be seen in Exhibit 31 to the Declaration of Sara Jenkins, as shown below:



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14 See Jenkins Decl. Ex. 31 (<https://x.com/Krylann/status/1839429540554174683>).

15           41.     This meant that all users of WPE services or plugins were barraged with Defendants’  
16 false and defamatory statements about WPE.

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

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

25  
26 See Jenkins Decl. Ex. 7 at 1 (<https://wordpress.org/news/2024/09/wp-engine-banned/>). This was  
27 false as WPE had not filed litigation against wordpress.org.  
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1           43.     The next day, on September 25, 2024, Mr. Mullenweg banned WPE customers who  
2 host their WordPress installations on WPE servers from accessing wordpress.org resources  
3 through the administration panel.

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

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

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

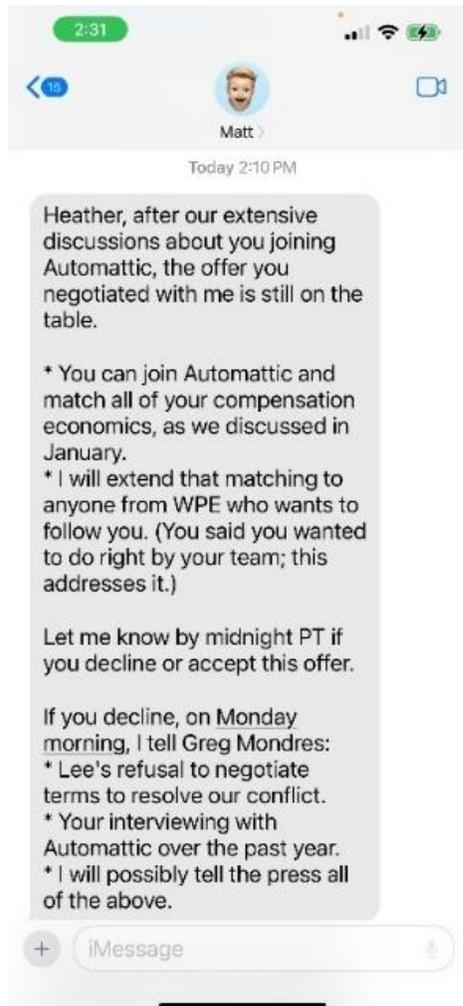
15          47.     Mr. Mullenweg's attacks against me have also continued in private. First, on  
16 September 28, 2024, Mr. Mullenweg attempted to poach me from WPE. A true and correct copy  
17 of this text is attached as Exhibit G.

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48. When I did not immediately respond to his message, Mr. Mullenweg followed up the next day, September 29, 2024, with more threats. Specifically, Mr. Mullenweg gave me until midnight that day to “accept” his job “offer” with Automattic. If I did not agree, Mr. Mullenweg threatened to tell the press, and WPE’s investor, that I had interviewed with Automattic. A true and correct copy of this text is attached as Exhibit G.



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

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

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

25           52.     Despite the WordPress community uproar about the harm Mr. Mullenweg is  
26 inflicting upon WPE (and the entire ecosystem), Mr. Mullenweg has shown no signs of stopping  
27 his “war” against WPE any time soon.  
28

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

7  
 8 In an interview with **The Repository**, Mullenweg said **Automattic** now wanted more than 8%  
 9 of **WP Engine’s** annual revenue, or an equivalent of resources invested into the **WordPress**  
 10 project—or a combination of both—in exchange for the use of its “**WordPress**” and  
 11 “**WooCommerce**” trademarks.

12  
 13 “That deal’s not on the table anymore. We’re seeking more, not 8%,” Mullenweg said. “I don’t  
 14 want to speculate on what the deal might be... In July it was less than 8%, it was smaller. In  
 15 September it was 8%. The deal they have to do next could be taking over the company,  
 16 they have no leverage.”

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

16 Mullenweg said his public attacks would continue, adding “I have a lot to work with.”

17  
 18 “**Silver Lake** used to hold this asset (**WP Engine**) on their books for \$2 billion... They stand  
 19 to lose billions [in the event of a corporate takeover].”

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

21           54. On that same day, Mr. Mullenweg made a public post, pictured below, expressing  
 22 that WPE’s customers were “leaving in droves” because of the block he instituted against WPE  
 23 and its customers. He further stated that the value of WPE’s company was only “a fraction” of  
 24 what it was before, in response to a tweet that provided the opinion that Mr. Mullenweg’s attacks  
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1 on WPE were motivated by a desire to reduce WPE’s value so that he could acquire it for a  
 2 cheaper price.



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

20 55. WPE filed a complaint against Mr. Mullenweg on October 2, 2024. Since then, his  
 21 attacks on WPE’s business, employees, customers and users has only worsened. Mr. Mullenweg  
 22 has repeatedly made new threats about future acts he intends to take to harm and devalue WPE.

23 56. One of those attacks occurred on October 4, 2024, when Automattic sent WPE a  
 24 security alert about ACF, a plugin that WPE develops and contributes for use by the open source  
 25 community. A true and correct copy of this email is attached as Exhibit H. Both Mr. Mullenweg  
 26 and myself were cc’d on the email, which is without precedent. As the CEO, I never get copied  
 27 on such routine security patch emails for minor security issues.  
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From: **Automattic Security Team** <[security@automattic.com](mailto:security@automattic.com)>  
Date: Fri, Oct 4, 2024 at 7:38 PM  
Subject: Responsible Disclosure - Vulnerability in Advanced Custom Fields  
To: <[acf-security@wpengine.com](mailto:acf-security@wpengine.com)>  
CC: Matt Mullenweg <[matt@automattic.com](mailto:matt@automattic.com)>, <[security@automattic.com](mailto:security@automattic.com)>, <[heather.brunner@wpengine.com](mailto:heather.brunner@wpengine.com)>

Howdy,

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

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

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



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

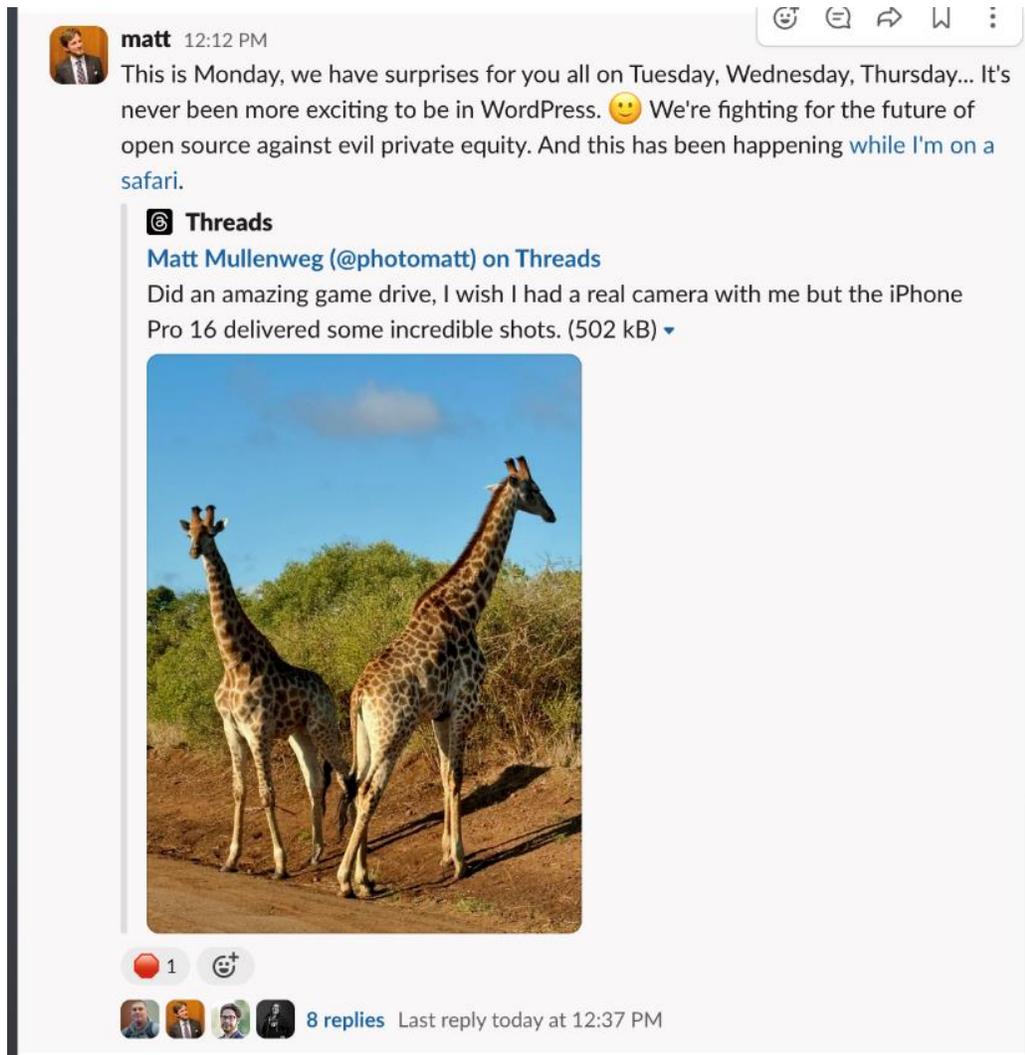
25  
 26           58.     When someone asked why developers would invest time moving away from ACF,  
 27 Mullenweg responded in a Slack message in the Post Status Slack that the person will “have to  
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1 wait and see why people might not trust ACF as much going forward.” A true and correct copy of  
2 this post is attached as Exhibit I and pictured below:



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26 59. As another example, on Monday, October 7, Mr. Mullenweg stated in a Slack  
27 message in the Post Status Slack that there would be more “surprises for you all on Tuesday,  
28

1 Wednesday, Thursday” in connection with the “fight[] . . . against evil private equity.” A true and  
2 correct copy of this message is attached as Exhibit J and also shown below:



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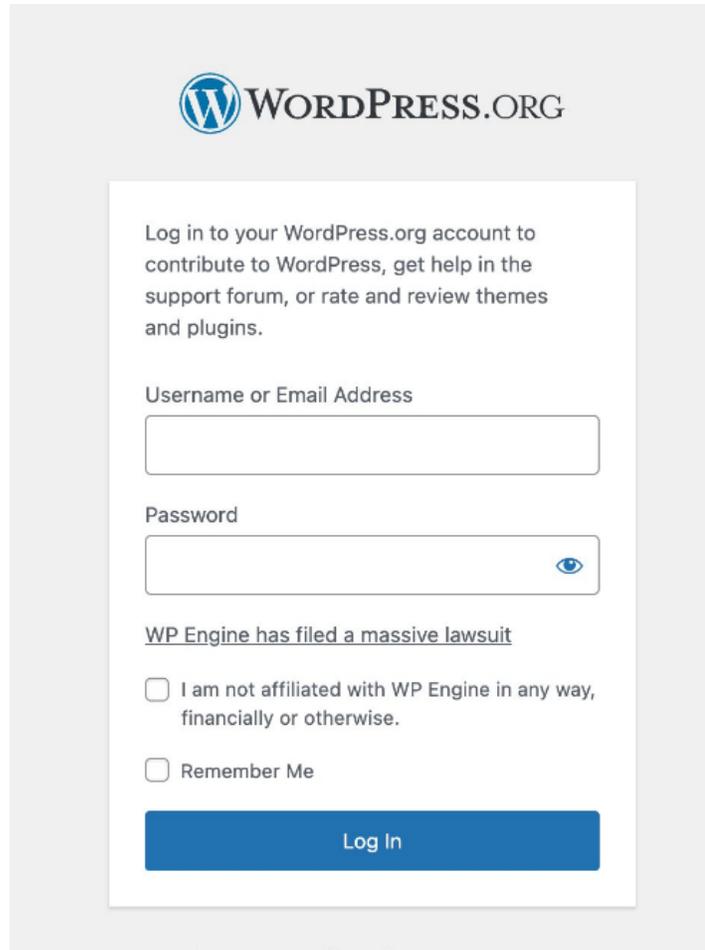
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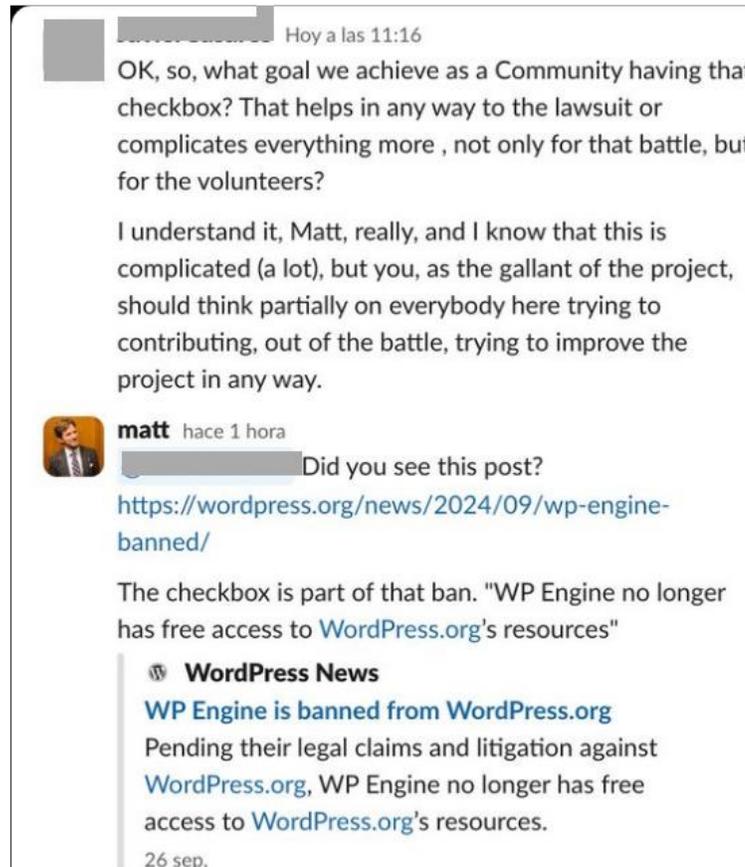
60. On October 8, it appears that Mr. Mullenweg caused the wordpress.org login screen to require all WordPress users to check a box to agree that “I am not affiliated with WP Engine in any way, financially or otherwise.” Without checking the box, users cannot login to wordpress.org. A true and correct screenshot, taken from the webpage located at <https://login.wordpress.org>, is attached hereto as Exhibit L<sup>1</sup> and also pictured below:

<sup>1</sup> Exhibit K was omitted intentionally.

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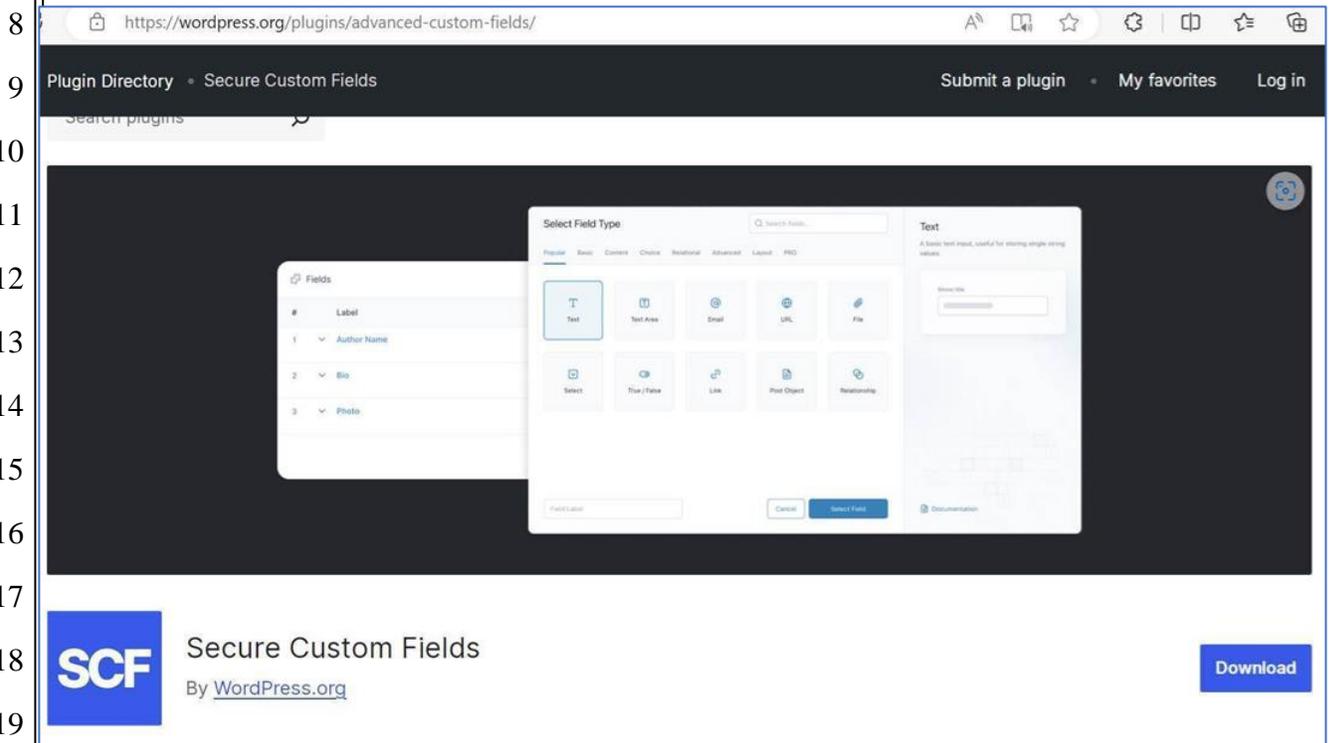
1           61.       On October 9, Mr. Mullenweg stated in a in a Slack message in the Making  
 2 WordPress Slack, (displayed below) that the checkbox is part of Mr. Mullenweg’s efforts to ban  
 3 all WPE customers from accessing wordpress.org’s resources.



19 See Jenkins Decl. Ex. 21 at 1 (<https://x.com/JavierCasares/status/1843963071183880345>).

20           62.       I have heard from multiple sources and understand that Defendants will soon  
 21 demand that agency partners must choose between doing business with WPE, or doing business  
 22 with Automattic, and if they chose WPE, they would similarly be cut off from the WordPress  
 23 community by the Defendants. In the context of our business, an agency is an organization that  
 24 builds websites, stores and publications on behalf of multiple clients, using WPE tools and  
 25 products. Losing an agency relationship would mean that WPE would lose both the agency  
 26 partner as well as many customers all at once. If Defendants carry out this threat, it will cause  
 27 irreparable harm to our business in for form of lost customers and reputational harm.

1           63.       On October 12, 2024, Mr. Mullenweg forcibly took over WPE’s Advanced Custom  
2 Fields (ACF) plugin and renamed it Secure Custom Fields. As described in the Prabhakar  
3 Declaration, the ACF plugin extends the functionality of WordPress by allowing WordPress to  
4 store additional types of information. WPE acquired the team and business line associated with  
5 the ACF plugin in 2022 for a substantial sum of money. As shown below, the page for ACF on  
6 wordpress.org’s “Plugin Directory” now shows a new name, “Secure Custom Fields,” even though  
7 the URL is still listed as “wordpress.org/plugins/advanced-custom-fields/”.



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21 A true and correct copy of a screen shot from this webpage located at  
22 <https://wordpress.org/plugins/advanced-custom-fields/> is attached hereto as Exhibit M.

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

4	🔒 The best custom fields plugin ★★★★★ Started by: <a href="#">MisterR</a>	1	0	11 years, 11 months ago <a href="#">MisterR</a>
5	🔒 Very nice and neat. ★★★★★ Started by: <a href="#">jayarjo</a>	1	1	11 years, 11 months ago <a href="#">jayarjo</a>
6	🔒 Gold! ★★★★★ Started by: <a href="#">dj.cowan</a>	1	0	11 years, 11 months ago <a href="#">dj.cowan</a>
7	🔒 The best ★★★★★ Started by: <a href="#">niekdegreef</a>	1	0	11 years, 11 months ago <a href="#">niekdegreef</a>
8	🔒 First plugin to install with new WP ★★★★★ Started by: <a href="#">Leon Harris</a>	1	0	11 years, 11 months ago <a href="#">Leon Harris</a>
9	🔒 Awesome plugin Started by: <a href="#">bridgetwes</a>	1	0	11 years, 11 months ago <a href="#">bridgetwes</a>
10	🔒 A must for custom UI's ★★★★★ Started by: <a href="#">yopraag</a>	1	0	11 years, 11 months ago <a href="#">yopraag</a>

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

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

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

1 all of these attacks stop right now, if we just paid Defendants the tens of millions of dollars they  
2 demanded of us.

3 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
4 October 17, 2024, in Austin, Texas.

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Heather Brunner

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**ATTESTATION**

I, Rachel Herrick Kassabian, am the ECF user whose ID and password are being used to file the above Declaration. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Heather Brunner has concurred in the aforementioned filing.

By /s/ Rachel Herrick Kassabian  
Rachel Herrick Kassabian

# **EXHIBIT A**



About

The technology **▼** The details **▼** The people **▼**

our mission:

# democratize

# publishing



the freedom to build.  
the freedom to change.  
the freedom to share.

## our story

WordPress started in 2003 when Mike Little and Matt Mullenweg created a fork of [b2/cafelog](#). The need for an elegant, well-architected personal publishing system was clear even then. Today, WordPress is built on PHP and MySQL, and licensed under the GPLv2. It is also the platform of choice for over 43% of all sites across the web.

The WordPress open source project has evolved in progressive ways over time—supported by skilled, enthusiastic developers, designers, scientists, bloggers, and more. WordPress provides the opportunity for anyone to create and share, from handcrafted personal anecdotes to world-changing movements.

People with a limited tech experience can use it “out of the box”, and more tech-savvy folks can customize it in remarkable ways.

## our mission



WordPress is designed for everyone. We believe great software should work with minimum set up, emphasizing accessibility, performance, security, and ease of use. The basic WordPress software is simple and predictable, offering powerful features for growth and success.



6

emphasizing accessibility, performance, security, and ease of use. The basic WordPress software is simple and predictable, offering powerful features for growth and success.

WordPress is open source software.

Supporting the idea of democratizing publishing and the freedoms that come with open source, is a large community of people collaborating on and contributing to this project.

WordPress is welcoming and inclusive.

Our contributors' passion drives the success of WordPress which, in turn, helps you reach your goals. WordPress contributors work around the globe, and have dedicated countless hours to build a tool that offers anyone a voice.

# the four freedoms

WordPress is licensed under the [General Public License](#) (GPLv2 or later) which provides four core freedoms:

0

The freedom to run the program for any purpose.

1

The freedom to study how the program works and change it to make it do what you wish.

2

The freedom to redistribute.

3

The freedom to distribute copies of your modified versions to others.



0

The freedom to run the program for any purpose.

1

The freedom to study how the program works and change it to make it do what you wish.

2

The freedom to redistribute.

3

The freedom to distribute copies of your modified versions to others.

the technology

Learn about WordPress, where it's been, and where it's going.

[Requirements ↗](#)

[Features ↗](#)

[Security ↗](#)

[Roadmap ↗](#)

[History ↗](#)

the details

Dive into the background details, like the GPL and other policies.

[Domains ↗](#)

[License ↗](#)

[Accessibility ↗](#)

[Privacy Policy ↗](#)

[Statistics ↗](#)

the people

Learn about the community, how we get along and show our pride.

[Philosophy ↗](#)

[Etiquette ↗](#)

[Logos ↗](#)

[People of WordPress ↗](#)

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# **EXHIBIT B**



# Philosophy

## Out of the box

Great software should work with little configuration and setup. WordPress is designed to get you up and running and fully functional in no longer than five minutes. You shouldn't have to battle to use the standard functionality of WordPress.

We work hard to make sure that every release is in keeping with this philosophy. We ask for as few technical details as possible during the setup process as well as providing full explanations of anything we do ask.

## Design for the majority

Many end users of WordPress are non-technically minded. They don't know what AJAX is, nor do they care about which version of PHP they are using. The average WordPress user simply wants to be able to write without problems or interruption. These are the users that we design the software for as they are ultimately the ones who are going to spend the most time using it for what it was built for.

## Decisions, not options

When making decisions these are the users we consider first. A great example of this consideration is software options. Every time you give a user an option, you are asking them to make a decision. When a user doesn't care or understand the option this ultimately leads to frustration. As developers we sometimes feel that providing options for everything is a good thing, you can never have too many choices, right? Ultimately these choices end up being technical ones, choices that the average end user has no interest in. It's our duty as developers to make smart design decisions and avoid putting the weight of technical choices on our end users.

## Clean, lean, and mean

The core of WordPress will always provide a solid array of basic features. It's designed to



# Clean, lean, and mean

The core of WordPress will always provide a solid array of basic features. It's designed to be lean and fast and will always stay that way. We are constantly asked "when will X feature be built" or "why isn't X plugin integrated into the core". The rule of thumb is that the core should provide features that 80% or more of end users will actually appreciate and use. If the next version of WordPress comes with a feature that the majority of users immediately want to turn off, or think they'll never use, then we've blown it. If we stick to the 80% principle then this should never happen.

We are able to do this because we have a very capable theme and plugin system and a fantastic developer community. Different people have different needs, and having the sheer number of quality WordPress plugins and themes allows users to customize their installations to their taste. That should allow all users to find the remaining 20% and make all WordPress features those they appreciate and use.

# Striving for simplicity

We're never done with simplicity. We want to make WordPress easier to use with every single release. We've got a good track record of this, if you don't believe us then just take a look back at some older versions of WordPress!

In past releases we've taken major steps to improve ease of use and ultimately make things simpler to understand. One great example of this is core software updates. Updating used to be a painful manual task that was too tricky for a lot of our users. We decided to focus on this and simplified it down to a single click. Now anyone with a WordPress installation can perform one click upgrades on both the core of WordPress and plugins and themes.

We love to challenge ourselves and simplify tasks in ways that are positive for the overall WordPress user experience. Every version of WordPress should be easier and more enjoyable to use than the last.

# Deadlines are not arbitrary

Deadlines are not arbitrary, they're a promise we make to ourselves and our users that helps us rein in the endless possibilities of things that could be a part of every release. We aspire to release three major versions a year because through trial and error we've found that to be a good balance between getting cool stuff in each release and not so much that we end up breaking more than we add.

Good deadlines almost always make you trim something from a release. This is not a bad thing, it's what they're supposed to do.



much that we end up breaking more than we add.

Good deadlines almost always make you trim something from a release. This is not a bad thing, it's what they're supposed to do.

The route of delaying a release for that one-more-feature is a rabbit hole. We did that for over a year once, and it wasn't pleasant for anybody.

The more frequent and regular releases are, the less important it is for any particular feature to be in this release. If it doesn't make it for this one, it'll just be a few months before the next one. When releases become unpredictable or few and far between, there's more pressure to try and squeeze in that one more thing because it's going to be so long before the next one. Delay begets delay.

## The vocal minority

There's a good rule of thumb within internet culture called the 1% rule. It states that “the number of people who create content on the internet represents approximately 1% (or less) of the people actually viewing that content”.

So while we consider it really important to listen and respond to those who post feedback and voice their opinions on forums, they only represent a tiny fraction of our end users. When making decisions on how to move forward with future versions of WordPress, we look to engage more of those users who are not so vocal online. We do this by meeting and talking to users at WordCamps across the globe, this gives us a better balance of understanding and ultimately allows us to make better decisions for everyone moving forward.

## Our bill of rights

WordPress is licensed under the General Public License (GPLv2 or later) which provides four core freedoms, consider this as the WordPress “bill of rights”:

- The freedom to run the program, for any purpose.
- The freedom to study how the program works, and change it to make it do what you wish.
- The freedom to redistribute.
- The freedom to distribute copies of your modified versions to others.

Part of those licensing requirements include licensing derivative works or things that link core WordPress functions (like themes, plugins, etc.) under the GPL as well, thereby passing on the freedom of use for these works as well.

Obviously there are those who will try to get around these ideals and restrict the freedom of their users by trying to find loopholes or somehow circumvent the intention of the WordPress licensing which is to ensure freedom of use. We believe that the community

of understanding and ultimately allows us to make better decisions for everyone moving forward.

## Our bill of rights

WordPress is licensed under the General Public License (GPLv2 or later) which provides four core freedoms, consider this as the WordPress “bill of rights”:

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Obviously there are those who will try to get around these ideals and restrict the freedom of their users by trying to find loopholes or somehow circumvent the intention of the WordPress licensing, which is to ensure freedom of use. We believe that the community as a whole will reward those who focus on supporting these licensing freedoms instead of trying to avoid them.

The WordPress community should emphasize that the freedoms in the GPL help provide high quality software.

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[WordPress.tv](#)

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[Donate](#)

[Five for the Future](#)

[WordPress.com](#)

[Matt](#)

[bbPress](#)

[BuddyPress](#)



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# **EXHIBIT C**



Search resources 🔍

### Chapters

- Plugin Handbook
- › Introduction to Plugin Development
- › Plugin Basics
- › Plugin Security
- › Hooks
- › Privacy
- › Administration Menus
- › Shortcodes
- › Settings
- › Metadata
- › Custom Post Types
- › Taxonomies
- › Users
- HTTP API
- › REST API
- › JavaScript
- › Cron
- › Internationalization
- ▼ **The WordPress.org Plugin Directory**
  - Add Your Plugin to the Block Directory
  - Alerts and Warnings
  - Block Specific Plugin Guidelines
  - Common issues
  - Compliance Disclaimers
  - Detailed Plugin Guidelines
  - How Your Plugin Assets Work
  - › Managing Your Plugin's Security
  - Planning, Submitting, and Maintaining Plugins
  - Plugin Developer FAQ
  - Plugin Readmes
  - Preventing WordPress from Updating Your External Plugin

# The WordPress.org Plugin Directory

In this article >

WordPress.org offers free hosting to anyone who wishes to develop a plugin in our directory.

All plugins hosted here have access to:

- Monitor statistics (see also the [WordPress.org Plugin API](#))
- Receive feedback and reviews from users
- Provide support via a free forum

🔗 Make sure you review the [Developer FAQ!](#)

And make sure that you've reviewed the [common issues](#) that the Plugin Review Team typically encounters when reviewing plugins.

If you require assistance with your hosting on WordPress.org, you can contact the plugin team via Slack in [#pluginreview](#).

## Requirements

A brief overview:

- Plugins must be compatible with the [GNU General Public License v2](#) or later. If a license is not specified, code will be considered "GPLv2 or later."
- The provided [Subversion](#) repository must be used for functional WordPress plugins only.
- Copyright and Trademark law must be respected.
- The plugin and developer must not do anything illegal, dishonest, or morally offensive. This includes spamming or harassment.

⚠️ All plugins and developers must comply with our [Detailed Plugin Guidelines](#).

## How to ...

- Planning, Submitting, and Maintaining Plugins
- Plugin Developer FAQ
- Plugin Readmes
- Preventing WordPress from Updating Your External Plugin
- Previews and Blueprints
- Release Confirmation Emails
- Special User Roles and Capabilities
- Take Over an Existing Plugin
- Transferring Your Plugin to a New Owner
- Using Subversion
- Using the Forums
- > Developer Tools
- Creating Tables with Plugins
- Credits

ⓘ All plugins and developers must comply with our [Detailed Plugin Guidelines](#).

## How to ...

If you're just getting started, it helps to know how to submit your plugin, use SVN, and so on.

- [... plan, submit, and maintain your plugin](#)
- [... use SVN \(aka Subversion\)](#)
- [... manage your readme.txt](#)
- [... write proper plugin headers](#)
- [... use plugin assets \(header images and icons\)](#)
- [... take over an existing plugin](#)
- [... use the support forums](#)
- [... grant users special roles \(contributor, supporter, committer, etc\)](#)
- [... transfer your plugin to a new owner](#)
- [... add your plugin to the block directory](#)
- [... manage your plugin's security](#)
- [... report an insecure plugin](#)

First published	Last updated
October 19, 2014	August 3, 2024

[Previous](#) · [Localization](#)

[Add Your Plugin to the Block Directory](#) · [Next](#)

- |                         |                          |                                |                                     |                                 |
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CODE IS POETRY



# **EXHIBIT D**

## Blog

🏠 BLOG / WP ENGINE CLOSES \$1.2M IN SERIES A FINANCING

# WP Engine closes \$1.2m in Series A financing

November 16, 2011 by Jason Cohen

You might have heard by now that WP Engine just closed a Series A. Here's the official press release:

Austin, Texas (PRWEB) November 15, 2011

[WP Engine](#), the WordPress hosting and security service for bloggers and small businesses, today announced the closing of their Series A round of venture financing.

The \$1.2 M investment was led by Silverton Partners from Austin, TX, and includes angels Eric Ries, Loic Le Meur, Dharmesh Shah, Jeremy Benken, Bill Boebel, Rob Walling and others. [Automatic](#), the company behind WordPress.com, also participated with a strategic investment.

Automatic today also announced [VIP Support for Web Hosts](#), a new partner program for web hosts that excel at hosting WordPress sites and blogs. WP Engine is the launch partner for the program.

Kip McClanahan, a partner at Silverton, joins WP Engine's board of directors.

This round of funding allows WP Engine to further recruit for and scale its product and customer happiness teams, which are comprised of the very best WordPress developers and consultants. The company also plans to ramp partner relations with other elite WordPress service

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Hey there! What can we help you with today?



its product and customer happiness teams, which are comprised of the very best WordPress developers and consultants. The company also plans to ramp partner relations with other elite WordPress service providers.

WP Engine has grown rapidly since its launch in 2010 and now has an install base of over 30,000 personal and professional WordPress blogs.

WP Engine leads the managed WordPress hosting segment with fastest page-load times, scalability, security and a staff of WordPress experts. Additionally, WP Engine provides all customers with a managed CDN for static content delivery, full daily backups, a complimentary staging area, and consultation on themes and plugins.

“We’re devoted to providing the absolute best customer service and the investment from Silverton allows us to expand the WP Engine platform with the right people to support our growing customer base,” said Jason Cohen, founder and CEO of WP Engine. “Our roadmap balances building out the features, add-on services and high-touch support teams that customers ask for the most, while avoiding services creep, which is critical. We want to remain the fastest and simplest WordPress hosting company, period. Trust in this business is everything.”

Because of the one-stop approach, WP Engine works closely with a network of top WordPress consultants to provide them with the tools they need to get client sites up and running faster than they could alone.

“We’re excited to add WP Engine to our portfolio of leading Texas technology companies,” said Kip McClanahan, a Partner at Silverton. “WP Engine is helping to build out a high-touch platform and services ecosystem for bloggers and consultants, so everyone can focus on what they do best. There is a big opportunity between the plethora of lightweight, downstream hosting companies that casually talk about WordPress on their marketing pages, and Automatic’s VIP program, which is for only the largest sites and services. WP Engine is for anyone who is serious about WordPress, but not yet ready for VIP.”

WP Engine was founded to be the fastest and easiest way to keep your content or commerce-based blog up and running at optimal

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Hey there! What can we help you with today?



WP Engine was founded to be the fastest and easiest way to keep your content or commerce-based blog up and running at optimal speed. Key [features](#) include:

- Page-load acceleration
- Top-tier security and immediate resolution of any breach
- Scaling through spikes
- Theme and plugin consulting
- One-click staging and backup
- Month to month payment without lock-in

New users with any size blog (even into millions of page views) can sign up for a 15-day free WP Engine trial at <https://wpengine.com/plans/>. Monthly plans start at \$50 per month.

About WP Engine:

WP Engine is the premier, fully-managed WordPress hosting company. We serve 100,000,000 requests daily, each one carefully and continuously tuned for speed, scalability, and security. We're beloved by hundreds of bloggers from huge, popular sites down to small company home pages who care about their SEO ranking and their users' experience. Best of all is our tech support, where only WordPress experts answer questions.

For more information, visit <https://wpengine.com/>.

About Silverton Partners:

We are an early-stage venture capital firm focused on Texas-based companies. Our culture is people-driven which leads us to partner with exceptional entrepreneurs who are committed to attacking growth markets with proprietary products or services. We are typically the first institutional and lead investor in the companies we back.

For more information, visit <http://www.silvertonpartners.com/>

###

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Hey there! What can we help you with today?



### More WordPress News from WP Engine

< [Now have SFTP access to your staging server](#)

[Self-serve error logs now available!](#) >

## Start the conversation.

### Leave a Comment.

Comment \*\*

Name \*

Email \*

Post Comment

Hey there! What can we help you with today?



Name \*

Email \*

Post Comment

### WP Engine

504 Lavaca Street, Suite 1000  
Austin, TX 78701

### Sales

+1-512-273-3906  
sales@wpengine.com  
24 Hours

### Billing

billing@wpengine.com

### Solutions

Managed WordPress  
Hosting  
WooCommerce Hosting  
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Affiliate  
Our Platform

### Insights

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Torque  
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Leadership Team  
Careers  
Contact  
Customer Stories  
Legal  
Newsroom  
Privacy Policy

### Resources

Resource Center  
Support Center  
Solution Center  
Partner Programs  
Agency Directory  
System Status  
Brand Assets

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Hey there! What can we help you with today?



# **EXHIBIT E**

On Sep 20, 2024, at 10:23 AM, Mark Davies <mark.davies@automattic.com> wrote:

Lee,

Attached is the agreement that Matt has agreed. Please take a look and let us know if this is something you can work with.

We'd like to get this resolved before Matt makes his WCUS keynote at 3:45 p.m. PDT today.

Thanks,

Mark

--

**Mark Davies**

CFO, Automattic

801.319.9120

<Term Sheet WP Engine, Inc. - Automattic - Trademark License\_09.19.2024.pdf>

# **EXHIBIT F**

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

I've got quotes from current and former employees, some may even stand up and speak as well.

Just called. Should I run these slides or not?

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

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

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

Thank you for the clarity, it gives me time to work on things and hone my message.

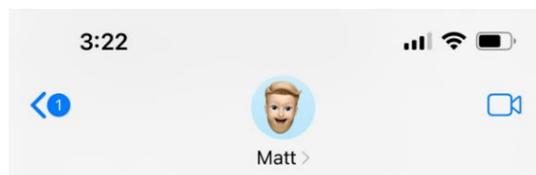
If I'm going to make the case to the WP community about why we're banning WPE I need to do it in my talk tomorrow. Your delaying is just trying to remove that.

us.wordcamp.o... >



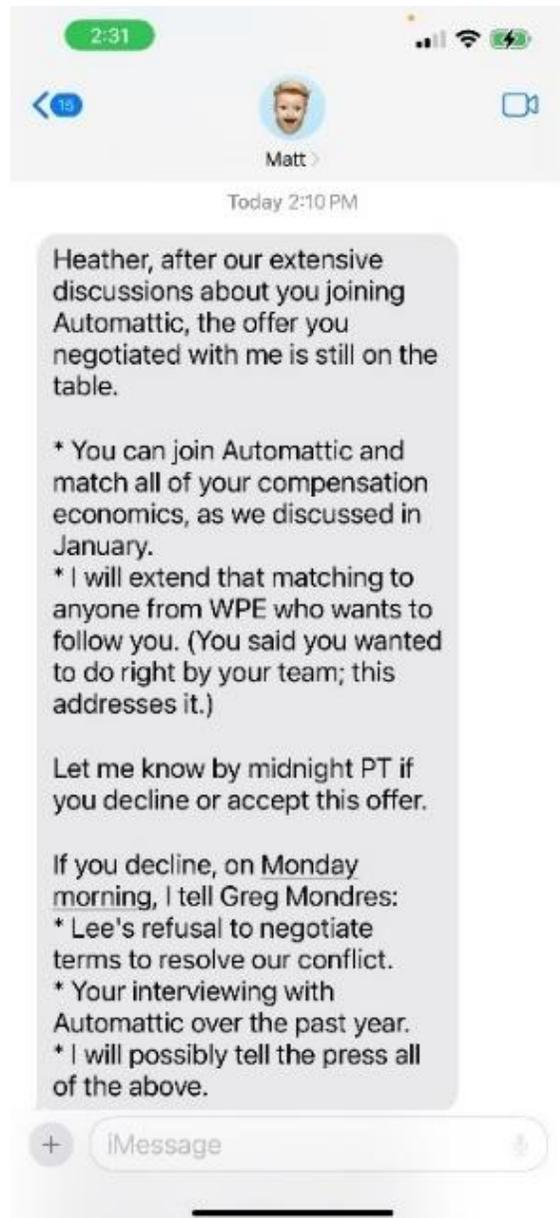
I'm literally waiting for them to finish the raffle so my talk can start, I can make it just a Q&A about WP very easily

# **EXHIBIT G**



Today 2:57 PM

Heather, I'm so sorry for what Silver Lake is making you do. If you want to use this as an opportunity to jump ship my previous offer of matching all their economics still stands.



# **EXHIBIT H**

From: Automattic Security Team <[security@automattic.com](mailto:security@automattic.com)>

Date: Fri, Oct 4, 2024 at 7:38 PM

Subject: Responsible Disclosure - Vulnerability in Advanced Custom Fields

To: <[acf-security@wpengine.com](mailto:acf-security@wpengine.com)>

CC: Matt Mullenweg <[matt@automattic.com](mailto:matt@automattic.com)>, <[security@automattic.com](mailto:security@automattic.com)>, <[heather.brunner@wpengine.com](mailto:heather.brunner@wpengine.com)>

Howdy,

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

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

]

One is able to specify any callback for `register_meta_box_cb` (it actually needs something that doesn't use type hinting because the first parameter is a `WP_Post` object) which will be executed when you navigate to `/wp-admin/post-new.php?post_type=demo`. If one performs a CSRF attack against another user that has the `unfiltered_html` capability (i.e. a superadmin in a multisite context), the snippet above will allow to create a post using the current user capabilities by doing a POST request to `/wp-admin/post-new.php?post_type=demo`.

Remediation:

We recommend limiting access to the import features to Super Administrators when in multisite context, which can be done using the `is_super_admin()` function in WordPress Core.

We kindly request your acknowledgment of the identified vulnerability as outlined in our Responsible Vulnerability Disclosure process available at <https://wpscan.com/vulnerability-disclosure-policy>. Please note the disclosure policy has a 30 day timeline before public disclosure. Please also share an estimated timeline for when the fix might be deployed. If we don't receive a response from you within the next 5 business days, we may need to reach out to the Marketplace where your extension is published for further assistance in fixing the issues we have found. Please let us know if you have any questions or if you would like us to verify the fix before releasing a new version.

When you release a fix for this security issue, please credit the "Automattic Security Team" for finding and disclosing it responsibly. CVE-2024-9529 has been reserved for this issue.

Thank you for your attention!  
Automattic Security Team

# **EXHIBIT I**



## Thread

#club



[Redacted name]

Today at 3:27 PM

Who are these developers taking time to migrate away from ACF?! I've never heard a comment that is more out of touch with how professional websites are built on WordPress. It doesn't work like that lol



**Matt Mullenweg**



What are the best alternatives to Advanced Custom Fields @wp\_acf for people who want to switch away? Is there an easy way to migrate?

I suspect there are going to be millions of sites moving away from it in the coming weeks.

5:40 AM · Oct 5, 2024 · 14.4K Views



1 reply



**matt** 4 mins

Hmm, I guess you'll have to wait to see why people might not trust ACF as much going forward

# **EXHIBIT J**



**matt** 12:12 PM



This is Monday, we have surprises for you all on Tuesday, Wednesday, Thursday... It's never been more exciting to be in WordPress. 😊 We're fighting for the future of open source against evil private equity. And this has been happening while I'm on a safari.

**Threads**

**Matt Mullenweg** (@photomatt) on Threads

Did an amazing game drive, I wish I had a real camera with me but the iPhone Pro 16 delivered some incredible shots. (502 kB) ▾



**8 replies** Last reply today at 12:37 PM

# **EXHIBIT L**



Log in to your WordPress.org account to contribute to WordPress, get help in the support forum, or rate and review themes and plugins.

Username or Email Address

Password

I am not affiliated with WP Engine in any way, financially or otherwise.

Remember Me

[Lost password?](#) • [Create an account](#)

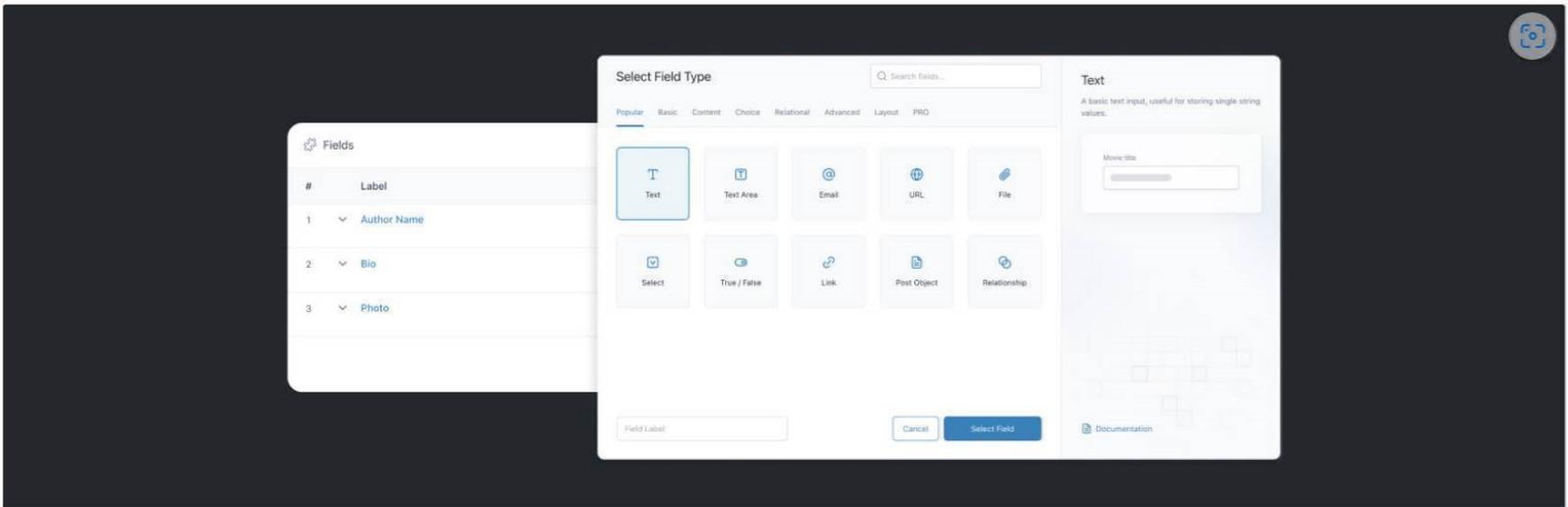


English 



# **EXHIBIT M**

Search plugins



# Secure Custom Fields

By [WordPress.org](https://WordPress.org)

Download

# **EXHIBIT N**

### Trademark License Agreement

This term sheet outlines the principal terms of a trademark license agreement between Automattic Inc. ("**Automattic**") and WP Engine, Inc. ("**WP Engine**").

1. **License Grant.** Automattic will license to WP Engine use of the WordPress and WooCommerce trademarks and branding ("**Brand Features**") to market and sell commercial services related to WordPress and WooCommerce. WP Engine will adhere to all current and future brand guidelines provided by Automattic with respect to using such Brand Features.
2. **Fee.** In exchange for the License Grant, WP Engine shall do one of the following:
  - (a) Pay Automattic a royalty fee equal to 8% of its Gross Revenue on a monthly basis, within fifteen days of the end of each month. "**Gross Revenue**" means all revenue generated by WP Engine from the sale of its services, calculated without deductions for taxes, refunds, or other costs. WP Engine will also provide Automattic a detailed monthly report of its Gross Revenue within fifteen days of the close of each calendar month, including a product line breakdown of all revenues generated. Automattic will have full audit rights.
  - (b) Commit 8% of its revenue in the form of salaries of WP Engine employees working on WordPress core features and functionality to be directed by WordPress.org. WP Engine will provide Automattic a detailed monthly report demonstrating its fulfillment of this commitment. WordPress.org and Automattic will have full audit rights, including access to employee records and time-tracking.
  - (c) Some combination of the above two options.
3. **Prohibition on "Forking."** WP Engine will cease and desist from forking or modifying any of Automattic's, WooCommerce's, or its affiliates' software (including, but not limited to plugins and extensions) in a manner that disrupts any partnership between Automattic and its commercial partners. For example, WP Engine will refrain from changing attribution codes included in any software by Automattic.
4. **Community.** WP Engine will be able to participate in WordCamps and WordPress community events. If you choose the royalty fee, we will attribute a portion of Automattic's Five for the Future contributions to WP Engine in a public way so the community understands your commitment to the long-term flourishing of WordPress.
5. **Term and Termination.** The term of the Agreement is 7 years, automatically renewing for one-year periods unless either party provides written notice of non-renewal at least 90 days before the end of the then-current term. Either party may terminate for material breach after a 10-day cure period.

The parties agree to the terms of this Agreement by signing below. The parties agree to enter into a subsequent more detailed agreement further explaining the terms of the license and responsibilities.

**Automattic Inc.**

By: \_\_\_\_\_  
Name:     Matt Mullenweg      
Title:     CEO      
Date:     2024-09-20    

**WP Engine, Inc. and WP Engine Board**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date:     2024-09-20