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22 MATT FURIE

23 **UNITED STATES DISTRICT COURT**
24 **CENTRAL DISTRICT OF CALIFORNIA**

25 MATT FURIE

26 Plaintiff,

27 vs.

28 INFOWARS, LLC; FREE SPEECH
SYSTEMS, LLC

Defendants.

CV 18-1830

**COMPLAINT FOR
COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Matt Furie hereby submits his Complaint for Copyright
 2 Infringement pursuant to the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*,
 3 against Defendants Infowars, LLC, and Free Speech Systems, LLC. For his
 4 complaint, Furie alleges on personal knowledge as to matters relating to himself,
 5 and on information and belief as to all other matters, as follows:

6 **NATURE OF ACTION**

7 1. This is an action to end the misappropriation of Pepe the Frog
 8 (“Pepe”) by Defendants Infowars, LLC, and Free Speech Systems, LLC
 9 (collectively “Defendants”), including their sale of a poster copying Pepe through
 10 their website, infowars.com.

11 2. Artist Matt Furie created the Pepe the Frog character in the early
 12 2000s. Pepe is an anthropomorphic frog often depicted with large, rounded,
 13 red/brown lips, bulging eyes (often with multiple white stars in the pupil), puffy
 14 eyelids, and a human-shaped body, as shown below:



20 3. At his creation, Pepe was a “peaceful frog-dude”—a kind and blissful
 21 cartoon character, who lived alongside three animal roommates, and became
 22 famous in part because of his catchphrase, “feels good man.” By 2014, the Pepe
 23 character featured prominently in internet memes.

24 4. But beginning in 2015, various fringe groups connected with the alt-
 25 right attempted to coopt Pepe by mixing images of Pepe with images of hate,
 26 including white supremacist language and symbols, Nazi symbols, and other
 27 offensive imagery. Furie has worked hard to counteract that negative image of
 28

1 Pepe, including collaborating with the Anti-Defamation League on the #SavePepe
 2 campaign to restore Pepe as a character representing peace, togetherness, and fun.

3 5. Despite Furie's efforts, Defendants and others have misused Furie's
 4 Pepe character and copied Pepe images for use in products sold online to promote
 5 messages of hate. In doing so, Defendants not only copied Furie's original
 6 creation, but also freeloading off Pepe's popularity and Furie's labor.

7 6. Defendants sell a poster (the "infringing poster") that contains a copy
 8 of Pepe the Frog, featured alongside an image of Infowars founder Alex Jones,
 9 President Donald Trump, Milo Yiannopoulos, and Ann Coulter, among other
 10 figures, with the text "MAGA"—short for the Trump campaign slogan, "Make
 11 America Great Again"—printed on the bottom:



24 7. Furie did not authorize the use of the Pepe image or character in this
 25 poster, and does not approve of the association of Pepe with Alex Jones or any of
 26 the other figures shown in this poster, or with the "MAGA" slogan.

1 8. This is therefore an action for copyright infringement. Defendants
2 have infringed Furie’s copyright in the Pepe the Frog character and image.

3 **JURISDICTION AND VENUE**

4 9. This action arises under the Copyright Act of 1976, as amended, 17
5 U.S.C. §§ 101 *et seq.* (“Copyright Act”).

6 10. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§
7 1331 and 1338(a).

8 11. This Court has personal jurisdiction over Defendants because, as
9 further alleged below, they have purposefully availed themselves of the benefits
10 and privileges of conducting business in the State of California and this District,
11 and have purposefully directed their activities toward California and this District.

12 12. Defendants Infowars and Free Speech Systems are Texas limited-
13 liability companies. On information and belief, Defendants are managed by radio
14 host Alex Jones. Defendants operate an organization that includes nationwide
15 radio programming and an interactive, commercial website, infowars.com. The
16 website publishes articles, hosts an archive of Defendants’ audio programs, and
17 offers for sale hundreds of products through its online store, including “emergency
18 survival foods,” “outdoor survival gear,” and a range of dietary supplements
19 purporting to—among other things—protect DNA, “defend [] cells,” and cleanse
20 lungs.

21 13. Defendants regularly conduct and solicit business in California and
22 this District. On information and belief, California residents regularly access
23 infowars.com and account for a substantial portion of the website’s visitors.
24 Defendants sell products online, by mail, and by telephone to residents of
25 California and this District and ship those products to buyers in the state.

26 14. Further, Defendants maintain an ongoing relationship with
27 customers—including California customers—via their “Patriot Points” loyalty
28

1 program, in which customers receive reward points for every dollar spent on
2 Defendants' products. Defendants also broadcast programs to California radio
3 stations, including at least five stations in this District. *See* Ex. A (list of stations
4 that run Defendants' program *The Alex Jones Show*). That programming
5 advertises the products that Defendants sell, and thereby directly solicits purchases
6 from customers in California and this District.

7 15. Through their online store, Defendants offer for sale and sell the
8 infringing poster in California and in this District. At least four of the 24
9 customers who reviewed the infringing poster identified themselves as residing in
10 California; two identified themselves as residing within this District. *See* Exs. B1-
11 B3. Defendants have thereby committed acts of direct infringement in California
12 and this District in violation of Plaintiff Furie's intellectual property rights.

13 16. Defendants have further purposefully and voluntarily placed the
14 infringing poster into the stream of commerce with, on information and belief, the
15 expectation and intent that it will be purchased and used by consumers in
16 California and this District.

17 17. Defendants' infringing conduct has caused foreseeable harm in
18 California and in this District, where Furie resides.

19 18. Defendants maintain ongoing and systematic contacts within, and/or
20 have otherwise purposefully directed activities toward, the State of California and
21 this District, including (but not limited to) by: (i) regularly conducting or soliciting
22 business, engaging in other persistent courses of conduct, and/or deriving
23 substantial revenue from goods and services provided to the residents of California
24 and this District, (ii) conducting infringing acts in California and this District,
25 and/or (iii) placing infringing products into the stream of commerce with the
26 purpose, intent and knowledge that they will be used by consumers in California
27 and this District. The Defendants have thus availed themselves of the benefits and
28

1 privileges of conducting business in, and have purposefully directed their activities
2 toward, California and this District.

3 19. The present action arises out of and relates to Defendants' forum
4 contacts, and the exercise of personal jurisdiction over Defendants would not
5 offend traditional notions of fair play and substantial justice.

6 20. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and
7 1400(a). The Defendants have committed acts of infringement in this District and
8 are subject to personal jurisdiction in this District.

9 **THE PARTIES**

10 21. Plaintiff Matt Furie is an artist residing in San Luis Obispo County,
11 California. His art includes "children's book illustrations for adults," that blend
12 child-like characters and adult situations. He is well known for, among other
13 things, his comic book series *Boy's Club* and his wordless children's book *The*
14 *Night Riders*.

15 22. Defendant Infowars is a limited-liability company organized and
16 existing under the laws of Texas. On information and belief, its principal place of
17 business is 100 Congress Avenue, Austin, TX 78701.

18 23. Defendant Free Speech Systems is a limited-liability company
19 organized and existing under the laws of Texas. On information and belief, its
20 principal place of business is 910 West Mary Street, Austin, TX 78704.

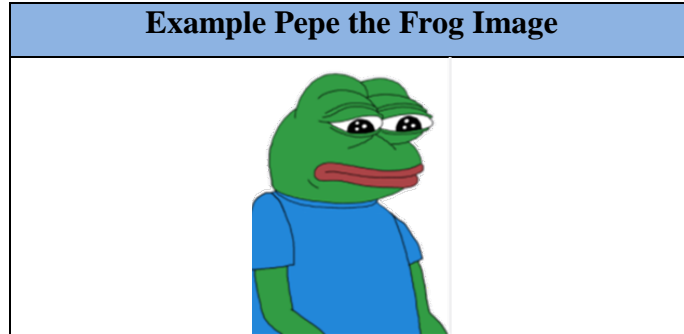
21 24. On information and belief, at all times material to this complaint,
22 Defendants have owned and operated the websites infowars.com and
23 infowarsstore.com.

24 **FACTUAL ALLEGATIONS**

25 **A. Furie's Creation of Pepe the Frog**

26 25. Matt Furie conceived of the character of Pepe the Frog in the early
27 2000s.

26. Pepe is an anthropomorphic frog often depicted with large, rounded, red/brown lips, bulging eyes (often with multiple white stars in the pupil), puffy eyelids, and a human-shaped body, as shown below:

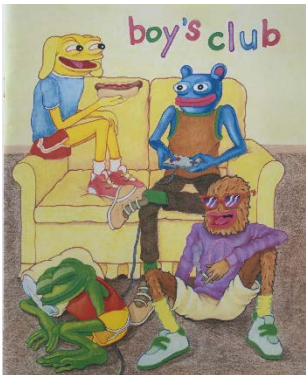
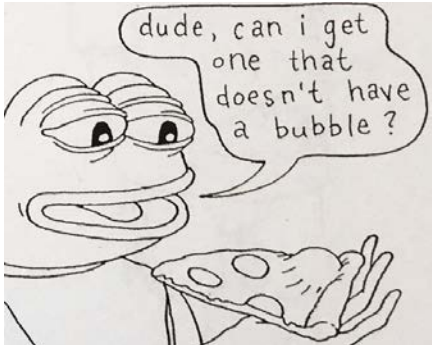
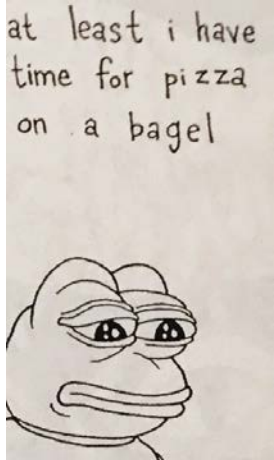


27. The Pepe character was created as a “peaceful frog-dude” and a “blissfully stoned frog”—a kind and blissful cartoon character who lived with three animal roommates.

28. Furie first included Pepe in a publication called *Play Time* in 2003.

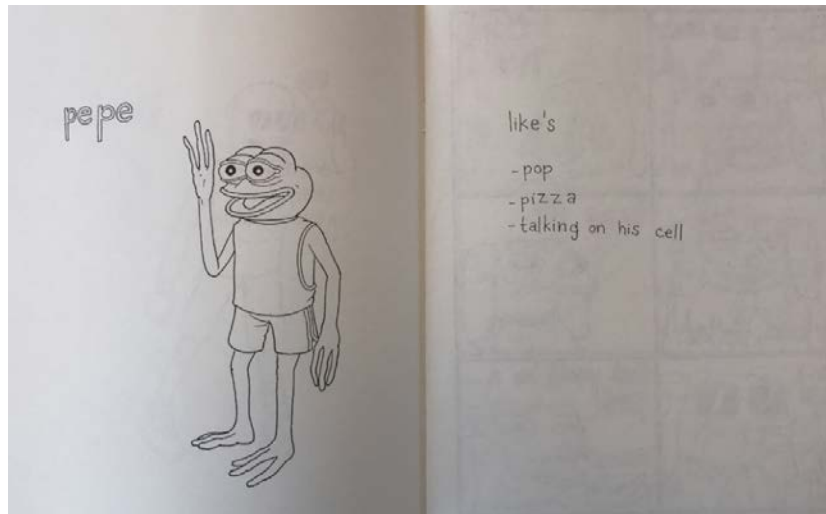
29. Then in 2005, Pepe appeared in the online cartoon *Boy’s Club*. In that appearance, Pepe first uses his most famous catchphrase, “feels good man.”

30. In 2006, *Boy’s Club* 1 was released in print. Pepe appeared on the cover of *Boy’s Club* 1, as well as in several comic panels in the book. Examples are reprinted here:

Cover of <i>Boy’s Club</i> 1	Selected Images of Pepe from <i>Boy’s Club</i> 1	
		

31. In addition, *Boy's Club 1* included a profile of the Pepe character:

Profile of Pepe from *Boy's Club 1*

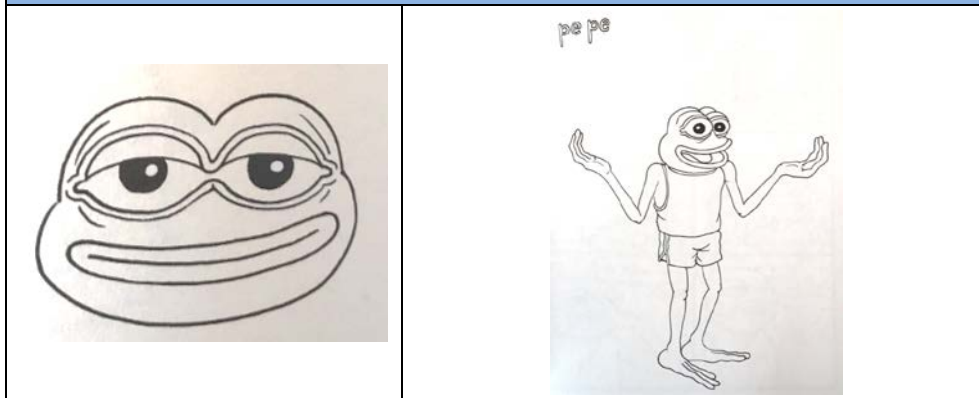


32. In June 2008, through Buenaventura Press, Furie published *Boy's Club 2*, again featuring Pepe prominently on the cover, back jacket, and interior panels, examples of which are illustrated below:

Cover of *Boy's Club 2*

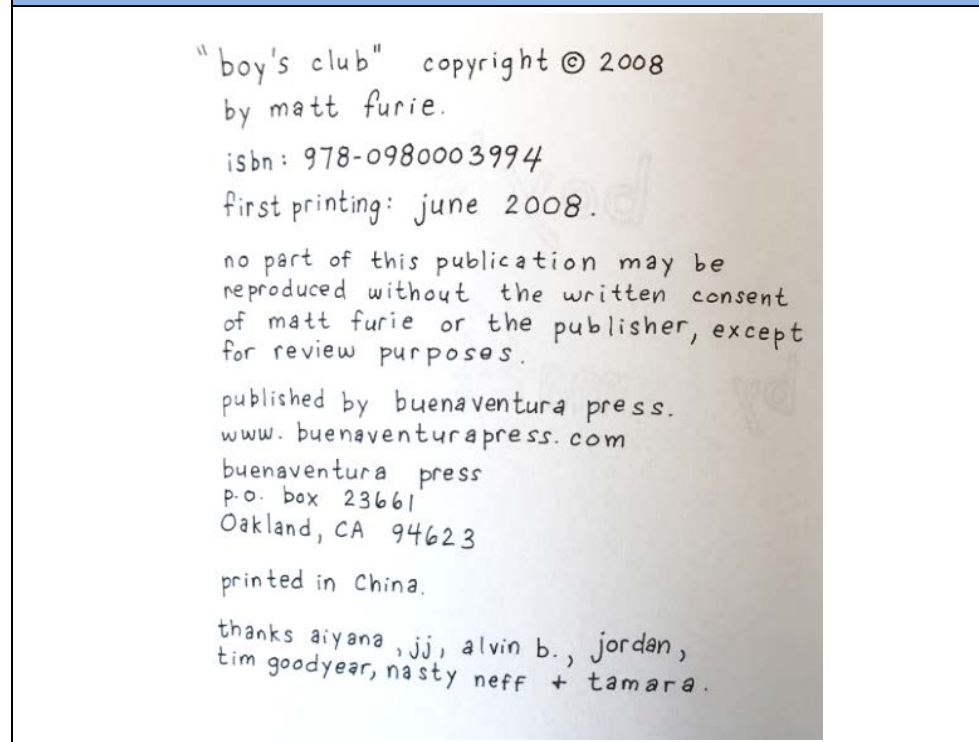


Selected Images of Pepe from *Boy's Club 2*



33. *Boy's Club 2* also included a copyright page, making clear that Furie owned the copyright in the work:

Copyright Page from *Boy's Club 2*



34. *Boy's Club* continued in publication through 2016.

35. From 2005 to 2016, Furie created other depictions of Pepe, including each of the following examples, which Furie drew:



9 36. Furie is the sole legal owner of the character and images of Pepe the
 10 Frog—an original, creative work in which Furie owns protectable copyright
 11 interests. Furie has registered a number of his copyrights with the U.S. Copyright
 12 Office and has other copyright applications pending. *See* Exs. C–J.

13 **B. Licensing of Pepe**

14 37. Furie has expressly licensed his intellectual property rights in Pepe to
 15 certain licensees, including Bored Teenager, Hashtag Collectables, Yesterdays, and
 16 the creators of the What Do You Meme? card game. Licensed Pepe merchandise
 17 includes, for example, “Pepe the Frog - official stuffed doll,” sold by Hashtag
 18 Collectables, illustrated below:



1 **C. Popularity of Pepe**

2 38. Over time, Pepe grew in popularity, and became a popular internet
3 meme.

4 39. In August 2014, singer Katy Perry tweeted an image of Pepe, and in
5 December 2014, rapper Nicki Minaj posted an image of Pepe to Instagram.

6 40. By May 2015, the website BuzzFeed had posted over 1,200 Pepe
7 images. Likewise, in 2015, Pepe was the most retweeted meme on Twitter.

8 **D. Fringe “Alt Right,” Neo-Nazis, and White Supremacists “Reclaim”**
9 **Pepe**

10 41. On information and belief, in late 2015, in reaction to Pepe becoming
11 mainstream, some users of the Internet imageboard 4chan began a campaign
12 designed to “reclaim” Pepe, by mixing him with offensive material—for example,
13 Nazi propaganda images. Throughout 2015 and during the 2016 U.S. Presidential
14 campaign, the number of memes juxtaposing Pepe with racist, anti-Semitic, and
15 other bigoted imagery and themes grew.

16 42. On or about October 13, 2015, an unauthorized image of Pepe dressed
17 as Donald Trump and standing behind the Presidential seal appeared on Twitter:



24 43. On or about September 10, 2016, Donald Trump Jr. posted to
25 Instagram an image that was a modified version of the movie poster for the film
26 “The Expendables,” labeled “The Deplorables,” and featured Pepe standing behind
27 Trump and alongside other supporters of Trump’s presidential campaign:
28



44. Shortly after “The Deplorables” image was posted, news outlets began referring to Pepe as a “white nationalist symbol,” and Hillary Clinton’s campaign website posted an “explainer” stating that Pepe has been coopted by the alt-right and other white supremacists as a symbol associated with anti-Semitism and white supremacy.

45. On September 27, 2016, the Anti-Defamation League added Pepe the Frog to their database of General Hate Symbols.

46. The association of Pepe with symbols of hate and with the alt-right movement has been a nightmare for Furie.

E. Furie’s Efforts to Disassociate Pepe from Hateful Causes

47. Furie was dismayed by Pepe’s association with white supremacy, anti-Semitism, and the alt-right. In October 2016, Furie partnered with the Anti-Defamation League to launch the #SavePepe campaign, to “reclaim” Pepe as a symbol for peace, love, and acceptance.

48. On May 6, 2017, disappointed with the continued unauthorized use of Pepe in connection with hateful imagery and themes, Furie posted an online comic in which Pepe has died and is shown at his funeral. At that time, Furie hoped that use of the Pepe character in connection with hateful speech would diminish and eventually cease.

1 **F. Defendants Infowars and Free Speech Systems**

2 49. On information and belief, both Defendant companies were founded
3 in 2007 and are managed by Alex Jones. Jones, host of Defendants' *The Alex*
4 *Jones Show*, has been described as "America's leading conspiracy theorist,"¹ a
5 member of "an anti-government far right that blames the world's ills on a grand
6 global conspiracy."²

7 50. *The Alex Jones Show* is syndicated to over 100 radio stations
8 nationwide, and is simulcasted via YouTube and Defendants' website,
9 infowars.com. Jones has claimed that he has 5 million daily radio listeners and has
10 topped 80 million video views in a month.³

11 51. Defendants' website infowars.com publishes what various sources
12 have deemed "fake news."⁴ It also posts episodes of Defendants' radio programs
13 and sells products through its online store. The site attracted 10 million unique
14
15
16
17
18

19 ¹ "An Interview With Alex Jones, America's Leading (and Proudest) Conspiracy
20 Theorist," <http://nymag.com/daily/intelligencer/2013/11/alex-jones-americas-top-conspiracy-theorist.html>

21 ² "Alex Jones, Pizzagate booster and America's most famous conspiracy theorist,
22 explained," <https://www.vox.com/policy-and-politics/2016/10/28/13424848/alex-jones-infowars-prisonplanet>

23 ³ "How Alex Jones, conspiracy theorist extraordinaire, got Donald Trump's ear,"
24 https://www.washingtonpost.com/lifestyle/style/how-alex-jones-conspiracy-theorist-extraordinaire-got-donald-trumps-ear/2016/11/17/583dc190-ab3e-11e6-8b45-f8e493f06fcd_story.html?utm_term=.66c2c7098827

25 ⁴ "Want to keep fake news out of your newsfeed? College professor creates list of
26 sites to avoid," <http://www.latimes.com/nation/politics/trailguide/la-na-trailguide-updates-want-to-keep-fake-news-out-of-your-1479260297-htmlstory.html>; "Don't
27 get fooled by these fake news sites," <https://www.cbsnews.com/pictures/dont-get-fooled-by-these-fake-news-sites/4/>.
28

visitors in one month in 2016, more than mainstream sites such as the Economist and Newsweek,⁵ and had 476 million views in all of 2016.⁶

52. Defendants' online store sells, among other things, dietary supplements, toiletries, apparel, media, and "preparedness" items—such as "emergency survival foods," "outdoor survival gear," gun holsters, water filters, and face masks. One recent estimate placed Defendants' revenue from online sales at upwards of \$15 million over a two-year period.⁷

53. On information and belief, Defendants' online store is the primary source of funding for Defendants' online and radio content. At the top of the store webpage, infowarsstore.com, a message from Alex Jones reads: "Thank you for supporting the infowar!"

54. Defendants' products are heavily advertised on their radio programming, with one source calling Jones' radio show "a nationwide, daily, four-hour infomercial for" Defendants' merchandise.⁸

G. Defendants' Infringing Activities

55. Among the items offered for sale on Defendants' website is the infringing poster, prominently featuring a copy of Pepe. In the image, Pepe appears alongside Jones, President Donald Trump, conservative political commentator Matt Drudge, strategist Roger Stone, and other individuals associated with the Trump 2016 campaign. On information and belief, two of those remaining individuals are Paul Joseph Watson, editor-at-large of infowars.com,

⁵ "Alex Jones, Pizzagate booster and America's most famous conspiracy theorist, explained," <https://www.vox.com/policy-and-politics/2016/10/28/13424848/alex-jones-infowars-prisonplanet>

⁶ "How Does Alex Jones Make Money?," <http://nymag.com/selectall/2017/05/how-does-alex-jones-make-money.html>

⁷ *Id.*

⁸ *Id.*

and Milo Yiannopoulos, former editor of Breitbart News—both of whom have been associated with alt-right and nativist or white nationalist viewpoints.⁹

56. The poster is offered for \$17.76, and the product description on Defendants’ website explains that purchases of the poster will “[h]elp support Infowars in the fight for free speech.”

57. Multiple reviewers enthusiastically noted Pepe’s presence in the photo:

★★★★★ 5 Beautifully colored poster! Love Pepe the frog in it !

This is by far the best poster on my wall and I have like 15. It makes a huge statement and really stands out. Everyone who comes in is immediately attracted to it lol. Already had one friend triggered! But overall beautiful art love pepe in it he makes the whole thing.

Submitted 9 months ago
By Elijah47
From Las Vegas

✓ Verified Reviewer

[More Details](#) ▾

Bottom Line Yes, I would recommend to a friend

Was this review helpful to you?

👍 2

👎 0

[Flag this review](#)

★★★★★ 5 Make America Great Again!

All the people fighting for your freedom are on this poster. Everyone who helped Trump become President are on this poster, that includes Pepe! But, where's Michael Savage? I know, he's your competitor (hehe). As soon as I got this poster, I went out and got a frame and hung this up in my gaming room. It's an excellent addition, and right next to my MAGA hat. I also got inspired to buy an American flag too.

Submitted 9 months ago
By Louise T.
From 410

✓ Verified Reviewer

[More Details](#) ▾

Bottom Line Yes, I would recommend to a friend

Was this review helpful to you?

👍 4

👎 0

[Flag this review](#)

⁹ “Here’s How Breitbart And Milo Smuggled Nazi and White Nationalist Ideas Into The Mainstream,” https://www.buzzfeed.com/josephbernstein/heres-how-breitbart-and-milo-smuggled-white-nationalism?utm_term=.lcYOxgzr#.lfxGJ9rDW; “For the New Far Right, YouTube has Become the New Talk Radio,” <https://www.nytimes.com/2017/08/03/magazine/for-the-new-far-right-youtube-has-become-the-new-talk-radio.html>; “Alt-right editor challenges journalists to visit Sweden,” <http://www.bbc.com/news/world-europe-39033165>

COUNT ONE
Copyright Infringement

58. Plaintiff repeats and re-alleges the allegations of paragraphs 1–57 above as if fully set forth herein.

59. Plaintiff Matt Furie is the sole and exclusive owner of the copyright of the image and character of Pepe the Frog. A number of Furie’s works are registered with the Copyright Office; applications for additional registrations are pending. Attached hereto as Exhibits C–J are true and correct copies of the registrations and applications, with evidence that Furie has paid the required fees and made the required deposit, as follows:

Exhibit	Title of Work	Date of Completion	Registration Number	Application Number (if pending)
C	<i>Play Time</i>	2003	VA0002073601	
D	<i>Boy’s Club 1</i>	2006	VA0002073597	
E	<i>Boy’s Club 1 Zine</i>	2006	VA0002073600	
F	<i>Boy’s Club 2</i>	2008	VA0002073603	
G	<i>Boy’s Club 3</i>	2009	VA0002073598	
H	<i>Boy’s Club 4</i>	2010		1-5772648437
I	<i>Boy’s Club Collective Edition</i>	2016		1-5772648492
J	<i>Pepe in Blue Shirt</i>	2016	VA0002074461	

60. As the owner of the copyrighted Pepe the Frog character and image, Plaintiff owns the exclusive rights, among others, to copy the original work, to prepare derivative works based on the original, and to distribute copies of the work by sale or other transfer of ownership, or by rental, lease, or lending.

61. Defendant has used Pepe the Frog, created derivative works based on the original, and sold such works without Plaintiff’s authorization.

1 62. Defendant's acts constitute infringement of Plaintiff's copyrighted
2 work in violation of the Copyright Act, 17 U.S.C. § 101 *et seq.*

3 **DAMAGES**

4 63. Plaintiff is entitled to recover from Defendant his actual damages
5 and/or Defendants' unlawful profits, or, at his election, statutory damages as
6 provided by 17 U.S.C. § 504(c).

7 **INJUNCTION**

8 64. Defendant's conduct has caused Plaintiff irreparable harm. Unless
9 restrained and enjoined, Defendant will continue to commit acts of infringement,
10 and cause Plaintiff to suffer substantial injuries, loss, and irreparable damage to his
11 proprietary and exclusive rights to his copyright. Plaintiff's remedy at law is
12 inadequate to fully compensate him for these inflicted and threatened injuries.

13 65. Plaintiff is entitled to a permanent injunction, as provided for in 17
14 U.S.C. § 502, enjoining Defendant and all others acting in concert with him from
15 engaging in further acts of infringement.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff respectfully requests that the following relief be
18 granted:

- 19 a. Award Plaintiff his actual damages for Defendant's infringement, or other
20 damages on all Counts, in an amount to be determined at trial;
- 21 b. Grant a permanent injunction enjoining Defendant and anyone acting in
22 concert with Defendant from copying or distributing any unauthorized copy
23 of, or derivative work based on, Pepe the Frog;
- 24 c. Grant to Plaintiff any and all such other relief as the Court deems just and
25 proper, including all applicable costs and attorneys' fees.

26 ///

