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15 *and Bradley Garlinghouse*

16 **UNITED STATES DISTRICT COURT**

17 **NORTHERN DISTRICT OF CALIFORNIA**

18 RIPPLE LABS INC., a Delaware corporation;
19 and BRADLEY GARLINGHOUSE,
an individual,

20 *Plaintiffs,*

21 v.

22 YOUTUBE, L.L.C., a Delaware company

23 *Defendant.*

No. 3:20-cv-02747

COMPLAINT FOR:

- (1) Violations of the Lanham Act for Trademark Infringement
- (2) Violations of California’s Statutory and Common Law Right of Publicity
- (3) Violations of California’s Unfair Competition Law

DEMAND FOR JURY TRIAL

INTRODUCTION

1
2 Plaintiffs Ripple Labs Inc. and Bradley Garlinghouse, by and through their attorneys, bring this
3 Complaint against Defendant YouTube, L.L.C. for injunctive relief and damages. Plaintiffs allege as
4 follows:

5 1. Over the past several months, Ripple and Mr. Garlinghouse have suffered—and continue
6 to suffer—irreparable harm to their public image, brand, and reputation as a direct consequence of
7 YouTube’s deliberate and inexplicable failure to address a pervasive and injurious fraud occurring on its
8 platform.

9 2. This fraud—often and dubiously named “the XRP¹ Giveaway” (the “Scam”)—is a third-
10 party attack on Ripple’s brand, Mr. Garlinghouse’s reputation, and XRP holders worldwide. To be sure,
11 the Scam—a pervasive and extended course of conduct detailed in the allegations that follow—often
12 relies upon spear phishing attacks, hacked YouTube accounts, and the misappropriation of Mr.
13 Garlinghouse’s likeness and Ripple marks. But it also depends on, and thrives because of, YouTube’s
14 complacency and unwillingness to take seriously Ripple’s repeated demands for action.

15 3. The Scam has been replicated many times over by numerous, unidentified bad actors.
16 Each day that passes brings new iterations of the same essential Scam, each of which leaves countless
17 victims in its wake. While Plaintiffs cannot know the precise number of defrauded individuals, the
18 scope of the harm is vast. Millions of people have viewed the Scam. A single instance of the Scam
19 reportedly resulted in \$15,000 of stolen XRP. To date, Plaintiffs believe and allege that the Scam has
20 defrauded victims out of *millions of XRP* valued at *hundreds of thousands of dollars*.

21 4. The Scam has also irreparably harmed Ripple’s brand and Mr. Garlinghouse’s reputation.
22 By infringing on Ripple’s protected trademarks and misappropriating Mr. Garlinghouse’s image and
23 likeness, the Scam fosters the false belief that Ripple and Mr. Garlinghouse are somehow associated
24 with or to blame for the Scam (they are not), and introduces profound uncertainty and confusion into the
25 broader digital asset market.

26 5. Ripple has repeatedly demanded that YouTube take action to stop the Scam and prevent
27 further harm. Yet YouTube refuses, even where the same scheme is replicated time and again on its

28 ¹ XRP is the digital asset native to the XRP Ledger, an open-source, distributed-ledger technology.

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1 platform. YouTube’s response has been woefully inadequate and incomplete. As a result, Ripple and
2 Mr. Garlinghouse continue to suffer substantial reputational harm.

3 6. YouTube can—and must—do better. YouTube regularly touts its robust tools for self-
4 regulating content on its platform, which purportedly include “cutting-edge machine learning
5 technology” and a sprawling network of human reviewers. But in this case, faced with a pervasive
6 Scam, YouTube chose, and continues to choose, inaction.

7 7. YouTube’s inaction undermines its public commitments. YouTube’s Community
8 Guidelines purport to ban “scams,” which are defined as “[c]ontent offering cash gifts, ‘get rich quick’
9 schemes, or pyramid schemes[.]” Ex. 1. As an example of an impermissible “scam,” YouTube cites
10 content that “make[s] exaggerated promises, such as claims that viewers can get rich fast.” *Id.*
11 YouTube’s Community Guidelines thus bar precisely the sort of content at issue in this case. Yet
12 YouTube has ignored Ripple’s repeated demands for action and instead enabled the Scam to flourish.

13 8. Not only has YouTube failed to stop the Scam, YouTube has also substantially assisted it.

14 9. First, YouTube has profited from the Scam by aiding and abetting the scammers.
15 YouTube, ***after it was informed about the Scam on countless occasions***, sold and helped the scammers
16 disseminate advertisements—so-called “video discovery ads”—to get more YouTube visitors to view
17 and click on videos perpetuating the Scam. Ex. 2. Every such video posted on YouTube generates
18 revenue by providing a vehicle through which YouTube can deliver Scam ads on behalf of the
19 scammers. YouTube maintains its business by maximizing advertising revenue. It has succeeded:
20 YouTube generated more than \$15 billion in revenue last year through ads alone and is growing at a
21 breakneck annual pace of about 36 percent. Ex. 3 at 29.

22 10. Second, YouTube has expressly (but falsely) validated the Scam as legitimate. By
23 awarding a “verification badge” to a hacked channel that was impersonating Plaintiffs in furtherance of
24 the Scam, YouTube communicated to hundreds of thousands of viewers and subscribers that the hacked
25 account was “the official channel of a creator, artist, company, or public figure.” This was completely
26 false and profoundly harmful.

27 11. YouTube’s refusal to take appropriate remedial action compels Ripple to seek relief from
28 the Court. The Court should compel YouTube to fulfill its legal obligations, to discontinue its policy of

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1 willful inaction, and to prevent further irreparable harm to Ripple’s brand and Mr. Garlinghouse’s
2 reputation, which, in turn, will prevent further financial injury to the individuals who are duped by the
3 Scam. Absent a court order obligating YouTube to act, the Scam will undoubtedly continue to flourish
4 and create countless more victims.

5 **PARTIES**

6 12. Plaintiff Ripple Labs Inc. is a leading enterprise blockchain company founded on a
7 simple but powerful idea: to enable financial institutions to instantly and reliably send money across
8 borders for fractions of a penny. Ripple’s global payments network has over 300 enterprise customers
9 across 40 countries. Ripple employs more than 450 individuals in nine global offices. Ripple is a
10 Delaware corporation with its principal place of business in San Francisco, California.

11 13. Plaintiff Bradley Garlinghouse is the CEO of Ripple and resides in California.

12 14. Defendant YouTube is a Delaware limited liability company with its principal place of
13 business in San Bruno, California.

14 **JURISDICTION**

15 15. The Court has federal question jurisdiction, pursuant to 28 U.S.C. § 1331, over Ripple’s
16 first cause of action for contributory liability for trademark infringement in violation of the Lanham Act,
17 15 U.S.C. § 1114(1).

18 16. The Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over Ripple’s
19 second and third state law causes of action—for misappropriating the right of publicity and for violating
20 California’s Unfair Competition Law—because each of these claims arises out of the same nucleus of
21 operative fact as Ripple’s federal claim.

22 17. Venue is proper in the Northern District of California pursuant to 28 U.S.C. § 1391(b).

23 18. The Court has general personal jurisdiction over YouTube because the company’s
24 principal place of business is at 901 Cherry Ave., San Bruno, California, 94066.

25 **FACTS**

26 **A. Ripple’s success and the value of its marks.**

27 19. Ripple was created in 2012 to realize its founders’ vision of a world where money can
28 move as quickly and securely as information—a concept referred to as the Internet of Value.

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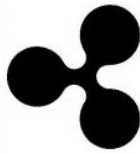
1 20. Ripple offers a suite of enterprise software products to make the Internet of Value a
2 reality. These products facilitate interbank communications and transaction settlement, source liquidity
3 for financial institutions, and offer a payment interface where corporations, payment providers, and
4 banks can seamlessly and transparently make global payments. As of 2020, Ripple counts more than
5 300 financial institutions as customers.

6 21. XRP is the digital asset native to the XRP Ledger, an open-source, distributed-ledger
7 technology. Ripple’s customers can use XRP for sourcing liquidity in cross-border transactions, thereby
8 ensuring instant settlement, lower exchange fees, and more efficient use of working capital.

9 22. Mr. Garlinghouse became CEO of Ripple in 2017. In this role, Mr. Garlinghouse serves
10 as the public face of Ripple. He is a trusted and respected voice on Ripple and is a public thought leader
11 on issues relating to financial technology and digital assets.

12 23. As Ripple has grown, so too has the value of Ripple’s brand. Ripple owns trademarks
13 that include, but are not limited to, “Ripple,” “Ripple Labs,” and the company’s distinctive triskelion
14 logo, which consists of three connected circles.

15 24. These marks are registered as follows:



RIPPLE

Serial: 86577810
Registration: 4850428
Date: Nov. 10, 2015

Serial: 85774758
Registration: 4453543
Date: Dec. 24, 2013



RIPPLE LABS

Serial: 86052926
Registration: 4528771
Date: Aug. 30, 2013

Serial: 86581262
Registration: 4841452
Date: Oct. 27, 2015

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1 25. The terms “Ripple” and “Ripple Labs” are registered as standard character marks, such
2 that the single word mark protects the phrase regardless of the font, size, or color used. The triskelion
3 logo trademark is registered and protected without regard to color. All of Ripple’s registered trademarks
4 are distinctive, non-functional, and have no secondary meaning.

5 26. Ripple’s brand and marks define its identity and are at the core of how the company
6 represents itself to the public.

7 **B. YouTube has the means to stop the Scam, but refuses to do so.**

8 27. YouTube is a video-sharing platform that generates \$15 billion in annual revenue,
9 making it one of the internet’s largest publishers. YouTube’s primary source of revenue comes from
10 selling ads to third parties. Although these ads come in several varieties, the source of revenue is
11 essentially the same: YouTube profits from its users and creators.

12 28. YouTube enables its users to view, post, and comment on video content. All of this
13 occurs on YouTube’s platform, hosted at www.YouTube.com.

14 29. YouTube “creators”—the term for users who post videos—can also set up their own
15 “channel,” which makes it easier for users to find all of a creator’s content in one place. These channels
16 allow creators to develop a following. The most popular YouTube channels have amassed more than
17 one hundred million subscribers worldwide. Because of this reach, YouTube is a valuable tool for
18 reaching vast audiences.

19 30. YouTube has robust tools to self-regulate content on its platform. There is no doubt that
20 YouTube is capable of identifying, flagging, and removing fraudulent content, including content similar
21 to the kinds of videos at issue in the Scam. YouTube regularly touts these capabilities and, in particular,
22 highlights its ability to use these tools to detect misleading and fraudulent scams. Ex. 4.

23 31. YouTube’s Community Guidelines purport to bar “scams” and “other deceptive practices
24 that take advantage of the YouTube community.” Ex. 1. Included in YouTube’s definition of “scams”
25 is “content offering cash gifts, ‘get rich quick’ schemes, or pyramid schemes (sending money without a
26 tangible product in a pyramid structure).” *Id.* As an example of a prohibited scam, YouTube cites
27 content that makes “exaggerated promises, such as claims that viewers can get rich fast,” promotes
28

1 “cash gifting or other pyramid schemes,” or is “dedicated to cash gifting schemes.” YouTube claims
2 (falsely, it seems) that if content violates this policy, they will “remove the content.” *Id.*

3 32. In YouTube’s own words, it uses and relies upon “a combination of people and
4 technology to flag inappropriate content and enforce these guidelines.” Ex. 4. YouTube’s people
5 include “over 150 academics, government partners, and NGOs.” Ex. 5. And its technologies include
6 “cutting-edge machine learning.” Ex. 6.

7 33. YouTube is also a “core product[] and platform[]” of Google, Ex. 3 at 5, which employs
8 a “global team of over a hundred PhDs, data scientists, engineers, and researchers” that “constantly
9 monitor[] and analyze[] traffic” on behalf of YouTube. Ex. 7.

10 **C. The Scam thrives on YouTube.**

11 34. Since at least November 2019, certain popular YouTube creators have been targeted by
12 spear-phishing attacks. These attacks, when successful, enable the attackers to take control of popular
13 YouTube accounts and their channels. These hacked accounts are one of the ways through which the
14 Scam is perpetrated.

15 35. One widely reported version² of the Scam proceeds as follows:

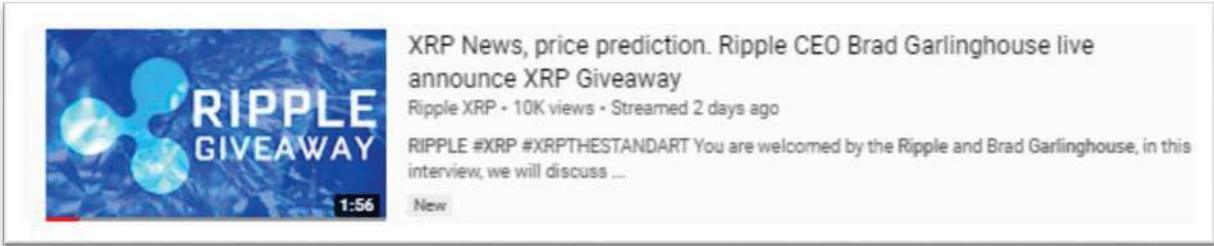
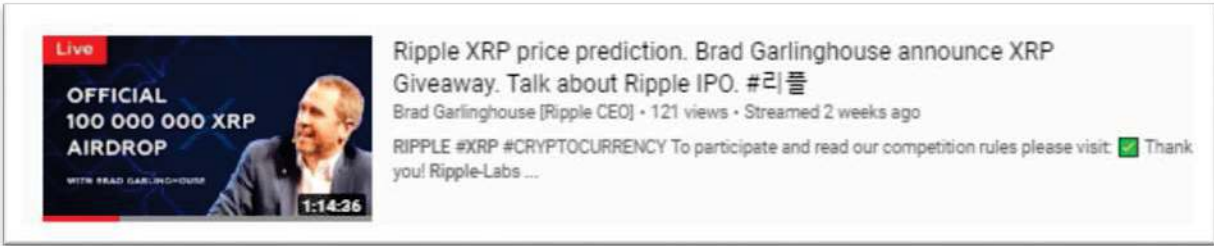
- 16 • A legitimate and popular YouTube creator—often with many thousands of subscribers—is
17 targeted via an email spear-phishing attack.
- 18 • By responding to this email, the creator unknowingly and unintentionally shares his or her
19 YouTube credentials with the attacker.
- 20 • These credentials are then used to strip the creator’s YouTube channel(s) of its content
21 (including all videos) and to transform it into a channel that impersonates Ripple’s and/or Mr.
Garlinghouse’s official channel. For example:



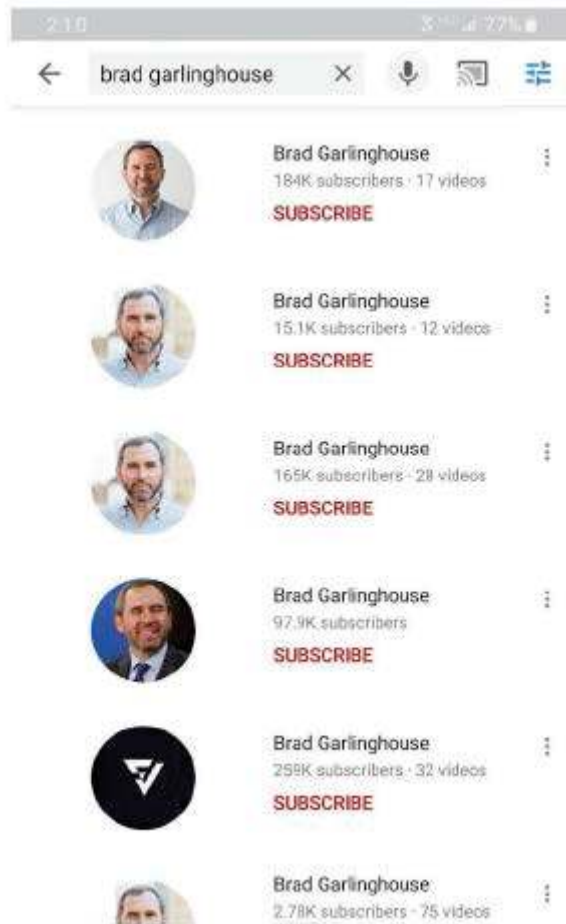
26 _____
27 ² As a result of YouTube’s lack of cooperation, Plaintiffs have been unable to verify whether each
28 instance of the Scam—of which there are many—occurred in precisely the same manner. However,
Plaintiffs investigation to date suggests that each instance of the Scam is substantially similar to all the
others.

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- By using the hacked channels to impersonate the “official” channels of Ripple and Mr. Garlinghouse, the YouTube accounts infringe upon Ripple’s protected trademarks, including its logo and name. Likewise, these accounts misappropriate Mr. Garlinghouse’s image, name, and likeness.



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- The hacked accounts then begin to run publicly available content related to Ripple, often an interview with Mr. Garlinghouse or other members of Ripple’s leadership team. These videos often prominently display Ripple’s protected trademarks, including its logo and name.
- Superimposed across these videos is a message instructing viewers on how to learn more about the fake “giveaway.” For example, one message stated: “Details About The Giveaway Are In The Description.”



- Beneath the video, the mechanics of the Scam are described in greater detail: To “participate” in the “Giveaway,” the viewer is instructed “to send between 5000 XRP to 1,000,000 XRP” to a specific virtual currency wallet; in return, the post promises, the sender will receive “between 25,000 XRP to 5,000,000 XRP to the address you sent it from.”



- After the victim sends XRP to the stated address, their XRP is gone and they never receive anything in return. They become another victim of the Scam. Ex. 8.

36. In addition to serving as a primary platform host for the Scam, YouTube has also substantially assisted the Scam and accelerated its reach.

1 37. For example, YouTube profits from the Scam by knowingly selling paid ads on behalf of
 2 the fraudsters who are impersonating Ripple and Mr. Garlinghouse. These ads—so-called “video
 3 discovery ads”—are designed by YouTube to appear at the top of its search result page alongside
 4 organic search results. Such ads were presented to YouTube by the scammers, as ad units and creatives
 5 showing the fraud and pointing to the Scams, after YouTube was repeatedly informed of the schemes.
 6 YouTube then approved them, uploaded them, endorsed them, and optimized them to attract as many
 7 YouTube users and clicks as possible, based on its algorithms and search engine optimization
 8 techniques. These advertisements are presented to YouTube users who search for terms such as, among
 9 others, “Ripple” and “Brad Garlinghouse”:



15 38. When a YouTube user clicks on the ad, the user is taken directly to a YouTube channel
 16 running the Scam, usually some permutation of what is discussed herein. YouTube is paid to optimize
 17 the ads by revenue share. Here, YouTube sought to yield as many clicks as possible for the fraudsters,
 18 and to optimize its own revenue. YouTube thus knowingly aids the Scam and profits from it.

19 39. YouTube has also actively promoted the Scam through its use of “verification badges.”

20 40. Take the case of popular YouTube creator MarcoStyle, who at the time of the incident
 21 owned a channel with approximately 361,000 subscribers. MarcoStyle’s YouTube account was hacked
 22 on November 3, 2019. Ex. 9. Thereafter, the name of his YouTube channel was changed from
 23 “MarcoStyle” to “Edwinskyah,” and the channel’s profile image was modified to feature a picture of Mr.
 24 Garlinghouse. Several days later—*with hackers still in control*—YouTube inexplicably awarded the
 25 channel a verification badge, which YouTube purports to reserve for channels that are “authentic.” Ex.
 26 10. This one instance of the Scam resulted in at least \$15,000 of stolen XRP.



41. By doing so, YouTube communicated to its massive user base that YouTube had “verified” the channel as the “official channel” of the creator. As YouTube itself states, “[v]erified channels help distinguish official channels from other channels with similar names[.]”

42. YouTube’s verification of MarcoStyle’s hacked channel is all the more surprising given the company’s representation to the public that it “won’t verify channels that are trying to impersonate another creator or brand.”

43. Another example of YouTube’s assistance is its verification of YouTube *accounts*, which is separate from its awarding of verification *badges* to channels. Ex. 11. To verify an account, one enters a verification code sent by text or voice call. A verified account can live stream, upload videos longer than 15 minutes, and add custom thumbnails to videos. Scammers have used all three of these privileges to promote the Scam.

44. Plaintiffs do not know the actual number of defrauded victims. But on information and belief, Plaintiffs allege that thousands of people have likely been defrauded out of hundreds of thousands of dollars of XRP to date (if not substantially more). Moreover, the Scam continues to cause widespread harm, including by irreparably harming Ripple’s brand and Mr. Garlinghouse’s reputation.

D. YouTube refuses to stop the Scam.

45. As the threat posed by the Scam grew towards the end of 2019, Ripple enlisted the company’s third-party cybersecurity vendor to prevent further damage to Ripple’s brand and Mr. Garlinghouse’s reputation.

1 46. At Ripple's direction, its vendor utilized a proprietary platform to rapidly detect, verify,
2 and respond to new occurrences relating to the Scam.

3 47. Since November 2019, Ripple has submitted 49 takedown demands to YouTube that
4 relate directly to the Scam. An additional 305 takedown demands were served on YouTube in
5 connection with accounts and channels that were impersonating Mr. Garlinghouse or infringing on
6 Ripple's brand, likely for the purpose of monetizing the Scam.

7 48. YouTube ignored or otherwise failed to address many of these takedown demands.
8 Where YouTube took action, it did so belatedly. The following is a representative sample of YouTube's
9 deficient responses:

- 10 • On November 12, 2019, Ripple submitted a takedown notice to YouTube regarding a hacked
11 YouTube channel with 21,600 subscribers that falsely claimed to be "Brad Garlinghouse [Ripple
12 CEO]" and actively promoted the Scam. Ripple sent **13 additional takedown notices** to
13 YouTube in connection with this channel. The channel remained active **for more than two**
months until finally being taken down on or around February 19, 2020.
- 14 • On January 2, 2020, Ripple submitted a takedown notice to YouTube in connection with a
15 hacked YouTube channel belonging to YouTube creator Festinha do Rodil with 327,000
16 subscribers. Ex. 12 at 5. YouTube took corrective action **three weeks later** on January 22, 2020.
- 17 • On January 21, 2020, Ripple submitted a takedown notice to YouTube regarding a channel that
18 promoted the Scam. Ripple submitted **8 additional takedown notices** to YouTube in connection
19 with this channel. The channel remained active on YouTube until on or around March 18, 2020.
- 20 • On January 27, 2020, Ripple submitted a takedown notice to YouTube in connection with a
21 hacked YouTube channel belonging to verified YouTube creator BestGuyEver with 96,400
22 subscribers. Ex. 13. The channel posted several videos promoting the Scam. YouTube delayed
23 until February 3, 2020 to take corrective action.

24 49. Meanwhile, new iterations of the Scam continue to appear on YouTube, often amassing
25 thousands of views and creating more victims by the day. For example, in the lead up to filing this
26 Complaint, the following content was visible on YouTube:

- 27 • Content posted on March 19, 2020 by YouTube user "Ripple Inc" promoting the Scam.³ As of
28 April 20, 2020, the video had been viewed 14,761 times.

³ Available at: <https://www.youtube.com/watch?v=v60eXopL3yI> (last visited Apr. 20, 2020).



Brad Garlinghouse CEO RIPPLE - 50 000 000 XRP GIVEAWAY AIR-DROP!
Ripple Inc • 15K views • 2 weeks ago
Ripple #XRP #XRPNEWS Competition period: 2020/03/23 0:00 AM to 2020/03/27 0:00 AM (UTC).
Ripple company celebrates a ...

- Content posted on April 11, 2020 by YouTube user “XRP Official” promoting the Scam.⁴ Three days later, the video had been viewed 1,710 times.



Ripple's CEO live interview & price prediction 2020
XRP Official • 1.4K views • Streamed 3 days ago
Ripple #COVID-19 #StayHome Great news! Morning interview by Brad Garlinghouse. Future plans + XRP price prediction and the ...
New

- Content posted on April 19, 2020, by YouTube user “Ripple Labs” promoting the Scam.⁵ As of April 20, 2020, the video had been streamed 20,385 times.



Ripple halving , XRP Price Pump , Crypto News
Ripple Labs • 20K watching
Ripple is a real-time gross settlement system, currency exchange and remittance network created by #Ripple Labs Inc., ...
LIVE NOW New

50. In addition to these specific remedial failures, YouTube has also failed entirely to take proactive steps to *prevent* the fraud from continuing to occur. As a result, new iterations of the Scam appear on YouTube almost every day.

51. A recent instance of the Scam—which occurred months after YouTube was put on notice—involves the YouTube channel of popular creator Mesa Sean. Mesa Sean controls a YouTube channel that had, at the time, 282,000 subscribers. On March 31, 2020, hackers took control of Mesa Sean’s YouTube channel, changed the name of the channel to “Ripple Foundation,” misappropriated Mr. Garlinghouse’s image, and began posting videos falsely promoting a fictitious XRP giveaway.⁶

52. In another recent instance of the Scam in late March, a scammer hacked or created a YouTube channel named “Brad Garlinghouse” that misappropriated Mr. Garlinghouse’s name and

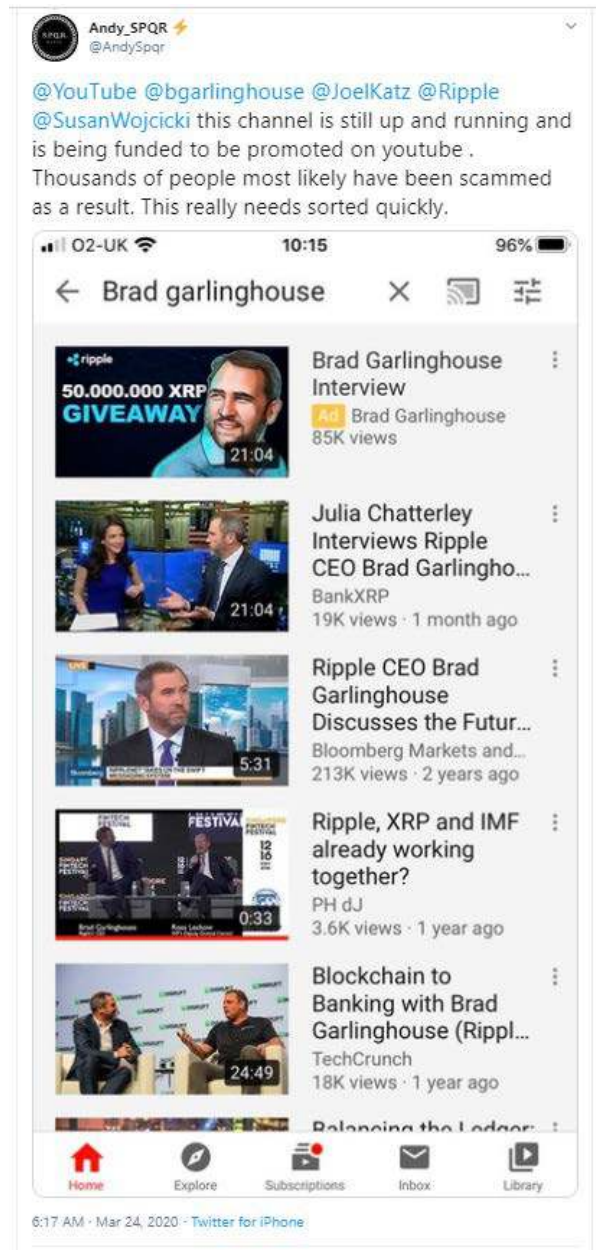
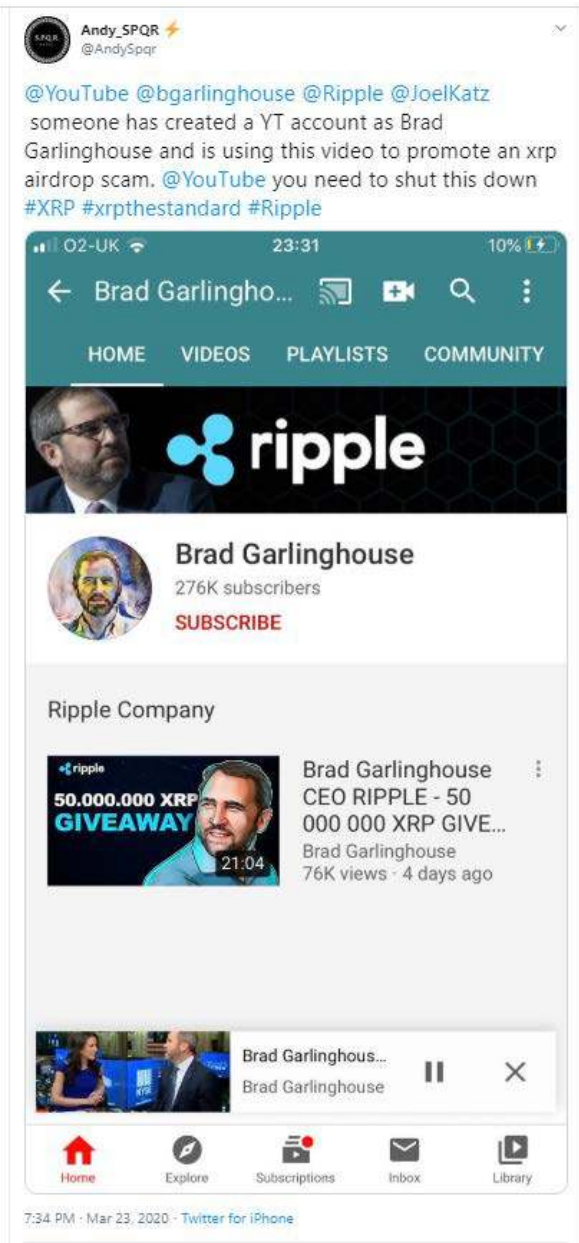
⁴ Available at: <https://www.youtube.com/watch?v=J5cLQvEGE1k> (last visited Apr. 20, 2020).

⁵ Available at: <https://www.youtube.com/watch?v=svt-bmZeOto> (last visited Apr. 20, 2020).

⁶ Mesa Sean (@MesaSean), Twitter (Mar. 31, 2020, 12:32 PM), available at <https://twitter.com/MesaSean/status/1245026128638730241> (last visited Apr. 14, 2020).

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1 image, and began posting videos promoting the Scam. One concerned YouTube user attempted to
 2 notify YouTube of this instance of the Scam. Despite this notification, YouTube did not immediately
 3 take down the channel, and the next day the same YouTube user was receiving ads—promoted by
 4 YouTube through its “video discovery ads”—for a video on this fraudulent channel that already had
 5 85,000 views.



26 53. Each instance of the Scam is substantially similar. The hacked YouTube accounts adopt
 27 a name that incorporates Ripple and/or Mr. Garlinghouse; they misappropriate Ripple trademarks or Mr.
 28 Garlinghouse’s likeness as their user “image”; they post video content relating to Ripple and/or Mr.

1 Garlinghouse; and they use the terms “XRP” and “Giveaway” prominently throughout the videos.
 2 There is no question that YouTube has the capacity to take down any and all accounts that carry the
 3 indicia of the Scam. What YouTube lacks is the will to do so.

4 **E. YouTube’s deliberate inaction irreparably harms Ripple’s brand and Mr.
 5 Garlinghouse’s reputation, and victimizes countless others.**

6 54. YouTube’s deliberate inaction has irreparably harmed—and continues to irreparably
 7 harm—Ripple’s brand and Mr. Garlinghouse’s reputation. YouTube’s inaction has also injured
 8 countless individuals who fell victim to the Scam. These harms will continue to grow in scope and
 9 severity absent intervention by the Court.

10 55. For the past several months, Ripple has received an onslaught of correspondence from
 11 victims demanding that Ripple take responsibility for the Scam, including by making them whole.
 12 Many of these messages ascribe culpability for the Scam to Ripple and Mr. Garlinghouse, and otherwise
 13 demonstrate the reputational harm at stake:

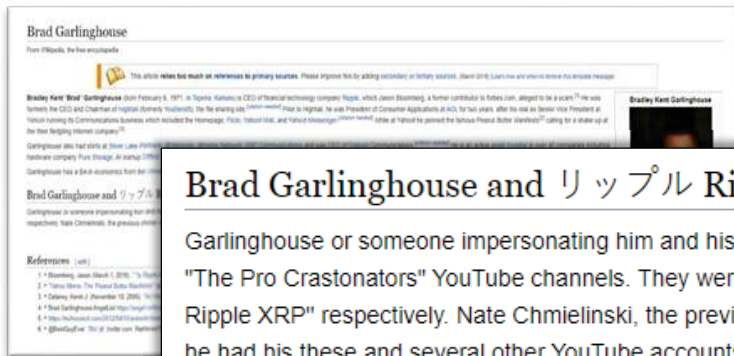
- 14 • A message asserting that the Scam involves “a youtube page made by Ripple” and that “[o]ur
 15 trust over [Ripple] is questioned”;
- 16 • A message emphasizing the threat of “a big SCAM” and warning to “be carefull [sic] [of] your
 17 reputation”;
- 18 • A message stating “that these kind of actions and pages [are] hurting your reputation as a
 19 company” and that “you as a company should prevent these fraudulences”;
- 20 • A message stating the Scam “is becoming an epidemic,” warning that the Ripple name will get
 21 “hurt,” and accusing that “[n]othing is getting done about it, as more victims pile up”;
- 22 • A message reporting a loss of XRP, noting that the Scam “cannot be good for the brand,” and
 23 demanding Ripple “take corrective action”;
- 24 • A message asking if Ripple “tolerate[s] false accounts” before proclaiming that “Ripple itself is
 25 not reliable”;
- 26 • A message notifying Ripple of a hacked YouTube channel and stating that “many people are
 27 blaming your company for hacking other user’s accounts”; and
- 28 • A message accusing Ripple and Mr. Garlinghouse of being the entities responsible for the
 hacking of popular YouTube channels.

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1 56. There are many more examples of similar messages. There are messages threatening
2 legal action against Ripple and others contacting Ripple to confirm whether the fictional “giveaway” is
3 legitimate.

4 57. Regrettably, the Scam’s collateral damage extends far beyond Ripple’s brand and
5 reputation. The Scam has also inflicted a substantial reputational injury on Mr. Garlinghouse, which
6 grows worse by the day.

7 58. For example, in February, Mr. Garlinghouse’s Wikipedia page prominently featured a
8 discussion of the Scam, a fact that at once illustrates and reinforces to Wikipedia’s billions of users the
9 false notion that Mr. Garlinghouse is associated with the Scam.



Brad Garlinghouse and リップル Ripple XRP YouTube Channels
Garlinghouse or someone impersonating him and his company recently took over the "BestGuyEver" and "The Pro Crastonators" YouTube channels. They were renamed as "Brad Garlinghouse" and "リップル Ripple XRP" respectively. Nate Chmielinski, the previous owner of the two channels, alleged on twitter that he had his these and several other YouTube accounts hacked.^[8]

17 59. Separately, Mr. Garlinghouse has also received numerous personal inquiries from
18 individuals asking him to confirm or clarify his affiliation with the Scam. These requests and false
19 associations became so typical that Mr. Garlinghouse was compelled to address them publicly:



60. The harm to Ripple’s brand and Mr. Garlinghouse’s reputation is irreparable and unquantifiable. YouTube’s continued refusal to timely address the fraud perpetrated on its platform can and must be stopped.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Contributory Trademark Infringement

15 U.S.C. § 1114(1)

61. Plaintiffs repeat and re-allege all allegations contained in paragraphs 1 through 60, inclusive, as though fully set forth herein.

62. Scammers have created fake accounts and/or used hacked accounts to infringe Ripple’s valid and protected trademarks. These fake and/or hacked accounts and their channels prominently display Ripple’s trademarks, so that the accounts falsely and misleadingly present to YouTube users as official Ripple accounts.

63. These fake and/or hacked accounts display and use—and therefore infringe upon—several of Ripple’s protected trademarks, including “Ripple,” “Ripple Labs,” and Ripple’s triskelion logo. The trademarks often accompany CEO Brad Garlinghouse’s name and likeness and Ripple-related videos, such as interviews of Mr. Garlinghouse or other Ripple executives. The use of Ripple’s trademarks and Mr. Garlinghouse’s likeness in these accounts has caused customer confusion. This confusion has led individuals to fall victim to the Scam because they (erroneously) understood these accounts to be legitimate and formally affiliated with Ripple. This confusion will continue absent a court order.

64. YouTube also generates revenue from the infringing conduct, including after it was informed of the Scam. YouTube has sold—and will continue to sell—paid ads to the fraudsters engaged in the infringing conduct. When a YouTube user clicks on such a “video discovery ad,” he or she is taken directly to a YouTube channel that is running the Scam. YouTube thus profits from the infringement of Ripple’s marks.

65. YouTube knew, or had reason to know, that the hacked accounts infringed on Ripple’s trademarks. YouTube had actual knowledge of many fake and/or hacked accounts that were engaged in

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1 the Scam by virtue of Ripple’s repeated takedown notices. Moreover, YouTube had and currently has
2 constructive knowledge of the Scam because each iteration of the Scam was and is substantially similar
3 to all the others, and Ripple alone has sent hundreds of takedown notices to YouTube dating back to
4 November 2019.

5 66. Ripple, its security vendor, and/or Plaintiffs’ other agents have reported to YouTube that
6 the hacked accounts are infringing on Ripple’s marks. Yet many accounts continue to infringe on
7 Ripple’s protected marks while perpetuating and profiting from the Scam.

8 67. Many media sources have publicly reported that YouTube hosts fake Ripple accounts that
9 perpetuate, promote, and profit from the Scam.

10 68. Owners of hacked YouTube accounts have publicized their plight on platforms such as
11 Twitter and received responses from YouTube staff.

12 69. YouTube directly controls and monitors the instrumentality used by Scammers to
13 infringe Ripple’s trademarks. That instrumentality is the YouTube platform, which hosts, displays,
14 filters, and develops in part the infringing accounts and videos.

15 70. YouTube can and regularly does remove accounts, channels, and videos from its platform
16 for trademark infringement.

17 71. YouTube monitors its platform for trademark infringement through algorithms and
18 human review.

19 72. Despite its knowledge and ability to ban trademark infringers and remove infringing
20 content, YouTube continues to provide its platform and services to the Scammers.

21 73. YouTube thus is liable for contributory trademark infringement under Lanham Act § 32,
22 15 U.S.C. § 1114(1).

23 74. Plaintiff seeks injunctive relief to halt YouTube’s contributory infringement, which
24 irreparably harms Plaintiffs and has no adequate remedy at law. Plaintiffs also request any and all
25 available damages.

26 SECOND CLAIM FOR RELIEF

27 *Statutory and Common Law Misappropriation of the Right of Publicity*

28 **Cal. Civil Code § 3344**

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1 75. Plaintiffs repeat and re-allege all allegations contained in paragraphs 1 through 74,
2 inclusive, as though fully set forth herein.

3 76. Many hacked accounts purport to be official accounts of Ripple’s CEO, Plaintiff Brad
4 Garlinghouse. They appropriate his identity by displaying his name, photo, likeness, and videotaped
5 interviews of him.

6 77. Scammers use Mr. Garlinghouse’s identity to solicit people to transfer XRP or other
7 cryptocurrencies in furtherance of the Scam.

8 78. Moreover, YouTube itself uses these accounts—and the videos they post—to increase
9 traffic to its platform and to serve advertisements that generate revenue for YouTube. YouTube has also
10 sold advertising space directly to the bad actors perpetrating the Scam.

11 79. Mr. Garlinghouse has not consented to YouTube’s use of his likeness on the hacked
12 accounts and their channels. And Mr. Garlinghouse and/or his agents have informed YouTube of his
13 non-consent.

14 80. Many media sources have publicly reported that hacked YouTube accounts have
15 appropriated Mr. Garlinghouse’s likeness.

16 81. YouTube thus knows that the operators of hacked accounts are violating Mr.
17 Garlinghouse’s right to publicity.

18 82. YouTube also gives these hacked accounts substantial assistance or encouragement by
19 hosting, displaying, recommending, and developing in part the accounts and their videos.

20 83. For example, YouTube awarded a verification badge to at least one hacked channel that
21 appropriated a photo portrait of Mr. Garlinghouse for its profile picture (a.k.a. channel icon). A
22 verification badge communicates, among other things, that a channel “represent[s] the real creator,
23 brand, or entity it claims to be” because YouTube has “check[ed] different factors to help verify [the
24 channel owner’s] identity.” Ex. 10. Through this communicative conduct, YouTube is responsible for
25 the creation, development, and presentation of new content and information to its users.

26 84. YouTube has thus violated, and continues to violate, Mr. Garlinghouse’s right of
27 publicity under both California Civil Code § 3344(a) and the common law.

28

1 85. This ongoing violation irreparably harms Mr. Garlinghouse’s reputation and Ripple’s
2 goodwill, which Plaintiffs have been committed to protecting and developing.

3 86. The irreparable harm to Mr. Garlinghouse’s reputation is evidenced by victim
4 complaints, news articles, and false associations suggested on Wikipedia, amongst other sources.

5 87. Plaintiffs thus seek injunctive relief to halt this irreparable harm, for which there is no
6 adequate remedy at law.

7 88. Plaintiffs also request any and all available damages.

8 THIRD CLAIM FOR RELIEF

9 *Violations of California’s Unfair Competition Law*

10 **California Business & Professions Code § 17200**

11 89. Plaintiffs repeat and re-allege all allegations contained in paragraphs 1 through 88,
12 inclusive, as though fully set forth herein.

13 90. YouTube engages in contributory trademark infringement and violations of the statutory
14 and common law rights of publicity. These are each unlawful business practices under California
15 Business and Professions Code § 17200.

16 91. By providing substantial assistance and encouragement to hacked accounts perpetrating
17 the Scam, YouTube also engages in fraudulent business practices under § 17200.

18 92. The hacked accounts commit fraud by soliciting people to send XRP to a virtual currency
19 wallet in exchange for a benefit that does not materialize.

20 93. YouTube knows these accounts commit fraud because it has seen media reports and
21 received takedown demands from Plaintiffs, owners of hacked accounts, and Scam victims.

22 94. YouTube gives substantial assistance or encouragement to the fraud by hosting,
23 displaying, recommending, and developing in part the hacked accounts and their videos.

24 95. YouTube also gives substantial assistance or encouragement to the Scam by selling
25 “video discovery ads” to the bad actors who control and operate the hacked and/or fake accounts
26 impersonating Ripple and/or Mr. Garlinghouse. By selling such ads, YouTube ensures that more
27 YouTube users will engage with the hacked and/or fake accounts, thereby increasing the Scam’s reach.
28

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1 96. For example, YouTube has vouched for at least one hacked account by awarding its
2 channel a verification badge. This communicated to YouTube’s vast viewership that the channel was an
3 authentic and official channel belonging to Ripple and/or Mr. Garlinghouse. This promoted the false
4 belief that the hacked YouTube accounts could be trusted.

5 97. YouTube’s conduct also constitutes unfair business practices under § 17200.

6 98. YouTube’s unlawful, fraudulent, and unfair business practices irreparably harm
7 Plaintiffs, who seek injunctive relief because there is no adequate remedy at law, and because an
8 injunction “may be necessary to prevent the use or employment by any person of any practice which
9 constitutes unfair competition.” Cal. Bus. & Prof. Code § 17203.

10 99. Plaintiffs further seek any and all available damages awards, including restitution.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiffs pray for the following relief:

13 A. For injunctive relief, as follows: A preliminary and permanent injunction enjoining and
14 restraining Defendant YouTube, and all persons or entities in concert with them, during the pendency of
15 this action and perpetually thereafter from:

- 16 1. Violating and providing assistance in violation of the Lanham Act, in connection
17 with Ripple’s protected marks;
 - 18 2. Refusing to apply its content regulation and moderation screening tools to prevent
19 the Scam from being perpetuated;
 - 20 3. Ignoring and delaying its response(s) to takedown notices concerning the Scam;
 - 21 4. Profiting off of the Scam in any manner, including through the receipt of monies
22 for paid advertisements and/or through the delivery of advertisements to accounts and channels that
23 infringe on Ripple’s marks;
 - 24 5. Verifying accounts perpetuating the Scam;
 - 25 6. Awarding fraudulent channels verification badges; and
 - 26 7. Violating and providing assistance in the violation of Mr. Garlinghouse’s right of
27 publicity, in connection with accounts or channels perpetuating the Scam.
- 28

1 B. An award to Plaintiffs of damages, including but not limited to, compensatory, statutory,
2 and punitive damages, as permitted by law and in such amounts to be proven at trial.

3 C. For a recovery in restitution equal to any unjust enrichment enjoyed by Defendant
4 YouTube.

5 D. An award to Plaintiffs of reasonable costs, including reasonable attorneys' fees.

6 E. For pre- and post-judgment interest as allowed by law.

7 F. For any such other relief as the Court may deem just and proper.
8

9 Dated: April 21, 2020

Respectfully Submitted,

10
11 By: /s/ Mark C. Mao

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