

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 11 2025

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

JAIME ROGOZINSKI,

Plaintiff - Appellant,

v.

REDDIT, INC.,

Defendant - Appellee.

No. 24-735

D.C. No.

3:23-cv-00686-MMC

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Maxine M. Chesney, District Judge, Presiding

Argued and Submitted May 19, 2025  
San Francisco, California

Before: FRIEDLAND, BRESS, and MENDOZA, Circuit Judges.

Plaintiff-Appellant Jaime Rogozinski appeals the district court's order granting Defendant-Appellee Reddit, Inc.'s motion to dismiss for failure to state a claim. We review de novo the district court's dismissal of a complaint under Rule 12(b)(6). *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890 (9th Cir. 2019). We review for abuse of discretion the district court's denial of leave to

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

amend. *Telesaurus VPC, LLC v. Power*, 623 F.3d 998, 1003 (9th Cir. 2010). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

1. Rogozinski failed to state a trademark claim because he failed to adequately plead ownership over the WALLSTREETBETS mark. “To acquire ownership of a trademark[,] it is not enough to have invented the mark first or even to have registered it first; the party claiming ownership must have been the first to actually use the mark in the sale of goods or services.” *Hana Fin., Inc. v. Hana Bank*, 735 F.3d 1158, 1163 (9th Cir. 2013), *aff’d*, 574 U.S. 418 (2015) (quoting *Brookfield Commc’ns. Inc. v. W. Coast Ent. Corp.*, 174 F.3d 1036, 1047 (9th Cir. 1999)). Here, the core of the services at issue are the provision and hosting of r/WallStreetBets—an online forum-based community in which Reddit users exchange financial information. Rogozinski does not allege that he had previously used WALLSTREETBETS in commerce prior to its use on the r/WallStreetBets subreddit; and by Rogozinski’s own allegations, it was Reddit that created and provided the services that enabled Reddit’s many users to contribute to the discussion on the r/WallStreetBets subreddit by, for example, posting and engaging with one another about various trading strategies. Even if Rogozinski played a prominent role among those users, he has not stated a valid ownership claim over the WALLSTREETBETS mark.

2. Rogozinski also failed to state a claim under state law. To the extent that

Rogozinski’s right-of-publicity claim seeks to hold Reddit liable for third-party content to which Rogozinski objects, that claim is barred by 47 U.S.C. § 230, unless Rogozinski specifically alleged that Reddit “is itself responsible, in whole or in part, for the creation or development of the offending content.” *Est. of Bride by & through Bride v. Yolo Techs., Inc.*, 112 F.4th 1168, 1176 (9th Cir. 2024) (quotation marks omitted), *cert. denied sub nom., Est. of Bride v. Yolo Techs., Inc.*, No. 24-864, 2025 WL 889177 (U.S. Mar. 24, 2025). Here, the only allegation in the Complaint suggesting that Reddit was even partially responsible for content posted on r/WallStreetBets after Rogozinski’s suspension is that Reddit once “partnered” with r/WallStreetBets moderators to provide users with digital artwork. But that is not enough to state a right-of-publicity claim because nothing in that artwork is alleged to have had any “uniquely distinguishing features” that made the offending content “peculiar to” Rogozinski. *Motschenbacher v. R. J. Reynolds Tobacco Co.*, 498 F.2d 821, 827 (9th Cir. 1974).

Rogozinski’s breach-of-contract and violation-of-duty-of-good-faith-and-fair-dealing claims also fail. During the relevant period, Reddit’s User Agreement provided that it “reserve[d] the right to revoke or limit a user’s ability to moderate *at any time and for any reason or no reason.*” None of the policies to which Rogozinski refers in his Complaint create enforceable promises to the contrary. Reddit therefore did not violate any contractual obligation or other duty—let alone

in bad faith—when it removed Rogozinski’s moderator privileges or when it refused to reinstate Rogozinski as the moderator of r/WallStreetBets.

Rogozinski has likewise failed to state a claim under any of the three prongs of California’s Unfair Competition Law (“UCL”). The Complaint alleges that Reddit acted in an unlawful, unfair, or fraudulent manner by “seeking to obtain trademark protection over” the WALLSTREETBETS mark and by “block[ing] Mr. Rogozinski from controlling his brands.” But whether Reddit acted in an unlawful, unfair, or fraudulent manner by asserting trademark ownership over the WALLSTREETBETS mark rises and falls with the merits of Rogozinski’s trademark ownership claim; and, as explained above, Rogozinski has failed to state a valid trademark ownership claim. And the Complaint does not contain sufficient allegations explaining how either Reddit’s contesting Rogozinski’s ownership over the WALLSTREETBETS mark or Reddit’s “block[ing] Mr. Rogozinski from controlling his brands” by suspending Rogozinski’s moderator privileges on Reddit.com constituted unlawful, unfair, or fraudulent conduct within the meaning of the UCL.

3. The district court did not abuse its discretion in denying leave to amend. “[T]he ‘general rule that parties are allowed to amend their pleadings . . . does not extend to cases in which any amendment would be an exercise in futility or where the amended complaint would also be subject to dismissal.’” *Novak v. United*

*States*, 795 F.3d 1012, 1020 (9th Cir. 2015) (second alteration in original) (quoting *Steckman v. Hart Brewing, Inc.*, 143 F.3d 1293, 1298 (9th Cir.1998)). Rogozinski argues that he could plead “myriad additional facts” that would cure the deficiencies in his Complaint, but he provides no examples of facts that would be material to the legal issues presented. Giving Rogozinski leave to amend would therefore be an exercise in futility.

**AFFIRMED.**