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6 *for and on behalf of Arizona State University*

7  
8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 Arizona Board of Regents, a body  
11 corporate, for and on behalf of  
Arizona State University,

12 Plaintiff,

13 v.

14 John Doe aka “asu\_covid.parties”, an  
15 individual, and Facebook, Inc., a  
Delaware corporation

16 Defendants.

Case No.

**VERIFIED COMPLAINT FOR  
DIRECT AND CONTRIBUTORY  
FEDERAL TRADEMARK  
INFRINGEMENT, FALSE  
DESIGNATION OF ORIGIN AND  
FALSE ADVERTISING UNDER  
LANHAM ACT SECTION 43(a),  
STATE TRADEMARK DILUTION  
UNDER A.R.S. 44-1448.01, AND  
UNFAIR COMPETITION**

(Jury Trial Demanded)

17  
18  
19  
20 **INTRODUCTION**

21 This action involves the unauthorized use of Plaintiff’s ASU and ARIZONA STATE  
22 UNIVERSITY federally registered trademarks as well as ASU’s school colors trade dress by an  
23 Instagram account – “asu\_covid.parties” – to promote a so-called “Hoax-19” Covid party,  
24 claiming that Covid-19 is “a big fat hoax,” and spreading dangerous misinformation about Covid-  
25 19 just as students are returning to ASU’s campuses to begin classes on August 20, 2020.

1 Plaintiff Arizona Board of Regents, a body corporate, for and on behalf of Arizona State  
2 University (“ASU”) brings this action to stop this unauthorized use of the ASU Marks and trade  
3 dress and to shut down the “asu\_covid.parties” Instagram account. This unauthorized use of  
4 ASU’s trademarks and trade dress not only harms ASU, but if not enjoined is also likely to  
5 endanger the health of the university community. There is already evidence of at least one instance  
6 of actual confusion regarding ASU’s affiliation with this Instagram account, with an alumnus  
7 threatening to cut off all support for ASU because of the apparent misperception that this account  
8 and its messaging comes from or has been sanctioned by ASU.

9 ASU also seeks relief against Facebook, Inc., the owner and operator of the Instagram  
10 platform and service, as a contributory infringer of ASU’s federal intellectual property rights.  
11 Before filing this action, ASU first filed a trademark infringement report with Instagram  
12 requesting that Instagram remove or alter the offending account but Instagram has refused to  
13 remove or otherwise require any modifications of the account or its posts. Despite actual  
14 knowledge of the infringement, and the ability to control and monitor the “asu\_covid.parties”  
15 account on its platform – and contrary to its own terms, policies and community guidelines –  
16 Facebook continues to provide its Instagram service to “asu\_covid.parties,” which in turn provides  
17 the means of infringement.

18 Further worsening this situation, the initial investigation indicates that the parties behind  
19 this account may be located in Russia and are using the account to sow confusion and conflict and  
20 to interfere with the health of the Arizona State University community by trying to worsen the  
21 pandemic here. This lawsuit is also necessary in part to discover the true identity of the parties  
22 behind this account.

23 Because of the serious public health issues involved here, ASU is seeking expedited  
24 discovery, as well as a temporary restraining order, preliminary injunction, and permanent  
25 injunction to enjoin “asu\_covid.parties” from using ASU’s trademarks and trade dress and to  
26 enjoin Facebook from continuing to provide the Instagram service to the “asu\_covid.parties”

1 account owner, as set forth in its accompanying motion for temporary restraining order and  
2 preliminary injunction.

3 For its Complaint, Plaintiff ASU specifically alleges:

4 **PARTIES**

5 1. Plaintiff is an Arizona body corporate that oversees three public universities in  
6 Arizona, including Arizona State University, the State of Arizona's largest university whose  
7 largest campus is located in Tempe, Arizona.

8 2. John Doe is the account holder of the Instagram social media account with the  
9 username "asu\_covid.parties." Upon information and belief, John Doe is intending to host  
10 one or more "Covid Parties" in Arizona in the coming days or weeks.

11 3. Facebook, Inc., a Delaware corporation with its principal place of business at  
12 1601 Willow Road, Menlo Park CA 94025, owns and operates the Instagram social media  
13 platform and service.

14 **JURISDICTION AND VENUE**

15 4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.  
16 §§1331 and 1338 because it arises under the federal Lanham Act, 15 U.S.C. §1051 et seq.

17 5. This Court has supplemental jurisdiction over ASU's state law claims pursuant  
18 to 28 U.S.C. §1367 because they form part of the same case or controversy.

19 6. This Court has personal jurisdiction over John Doe aka "asu\_covid.parties" on  
20 Instagram because, among other things, (a) the account holder has engaged in infringing  
21 activities in Arizona, including but not limited to the promotion of a "Covid Party" event in  
22 Tempe, Arizona using the ASU Marks; and (b) the account holder has knowingly and  
23 purposefully directed their activities at Arizona causing harm to ASU in Arizona.

24 7. This Court has personal jurisdiction over Facebook because, among other things,  
25 it has purposefully availed itself of the privilege of conducting business in Arizona, its actions  
26 giving rise to ASU's contributory infringement claim are purposefully directed at Arizona, and

1 the effects of its continuing to provide its Instagram account service to “asu\_covid.parties”  
 2 despite being apprised of the infringement are knowingly caused by Facebook and felt by ASU  
 3 in Arizona.

4 8. Venue is proper in this District pursuant to 28 U.S.C. §1391(b).

#### 5 GENERAL ALLEGATIONS

6 9. Founded in 1885, ASU became known as Arizona State University in 1958 and  
 7 has continuously operated under the ASU and ARIZONA STATE UNIVERSITY trademarks  
 8 ever since then.

9 10. ASU is the owner of numerous ASU, ARIZONA STATE UNIVERSITY, and  
 10 ARIZONA STATE federal trademark registrations for a variety of different goods and  
 11 services, including but not limited to:

12 MARK	REGISTRATION NO.	GOODS/SERVICES
13 ASU	1462309	14 Educational and entertainment services namely, offering 15 undergraduate, graduate, post-graduate and 16 continuing adult instruction; sponsoring 17 athletic events; and presenting cultural, 18 dramatic and musical entertainment events
19 ASU	5525349	20 Making hotel reservations for others; hotel services; 21 restaurant services; bar services; catering services; 22 providing hotel accommodations; hotels; 23 arranging and providing temporary 24 accommodations for others

MARK	REGISTRATION NO.	GOODS/SERVICES
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13 ARIZONA STATE UNIVERSITY</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>1499947</p>	<p>Educational and entertainment services, provided both on and off campus, namely, producing and creating classroom instruction, seminars, field trips, lectures, discussions, individual tutoring and counseling, laboratories, films, slide shows and other special programs, both independently of and as a part of accredited graduate and undergraduate degree programs, post degree programs, and continuing adult education; presenting cultural, dramatic, musical, intellectual and entertaining exhibitions, programs and events for students, faculty and general public; planning and presenting intramural, intercollegiate and exhibition athletic and sporting events including football, basketball, track and field, gymnastics, baseball, wrestling, volleyball, badminton, golf, tennis, archery, softball, swimming and diving, cross-country, and the like</p>
<p>25 ARIZONA STATE UNIVERSITY</p> <p>26</p>	<p>1449597</p>	<p>Publications namely, handbooks pamphlets, manuals, brochures,</p>

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