

BOIES SCHILLER FLEXNER LLP
WASHINGTON D.C.

1 Damien J. Marshall (*pro hac vice forthcoming*)
dmarshall@bsfllp.com

2 BOIES SCHILLER FLEXNER LLP
3 55 Hudson Yards, 20th Floor
4 New York, NY 10001
Telephone: (212) 446-2300
Facsimile: (212) 446-2350

5 Mark C. Mao (SBN 236165)
mmao@bsfllp.com

6 Matthew Chou (SBN 325199)
mchou@bsfllp.com

7 BOIES SCHILLER FLEXNER LLP
8 44 Montgomery Street, 41st Floor
9 San Francisco, CA 94104
Telephone: (415) 293-6800
Facsimile: (415) 293-6899

10 Menno Goedman (SBN 301271)
mgoedman@bsfllp.com

11 BOIES SCHILLER FLEXNER LLP
12 1401 New York Avenue, N.W.
13 Washington, D.C. 20005
Telephone: (202) 237-2727
Facsimile: (202) 237-6131

14 *Attorneys for Plaintiffs Ripple Labs Inc.*
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.

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

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.

BOIES SCHILLER FLEXNER LLP
WASHINGTON D.C.

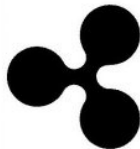
1 20. Ripple offers a suite of enterprise software products to make the Internet of Value a
2 reality. These products facilitate interbank communications and transaction settlement, source liquidity
3 for financial institutions, and offer a payment interface where corporations, payment providers, and
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

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.