

4. Virtually anyone with Internet access can create an online Twitter profile on a web page, a.k.a. a Twitter account, by signing up on www.Twitter.com and provided that they agree to abide by the Twitter terms of service.

5. Once a Twitter account is created, the user of that account may “follow” other Twitter users and other Twitter users may “follow” the user such that Twitter users receive in their individualized Twitter feed any tweet of any Twitter user they follow. Additionally, persons who do not use Twitter are able to visit a page on the Internet that contains all of the tweets of any particular Twitter user which, unless they are removed by Twitter for violation of Twitter’s terms of service, are preserved or deleted by the account holder in his/her/its own and absolute discretion. Thus, when set up to have the widest reach, the reach of each tweet is limited only by the number of people who use the Internet.

6. In creating a Twitter account, Twitter grants all applicants who agree to abide by the terms of service a non-transferrable license to use the Twitter software that creates the Twitter services described above, while acknowledging that all of the content distributed over the Twitter platform by users of the Twitter service remains the property of each individual Twitter user.

7. Twitter protects the security of each Twitter account so created by providing each person creating such an account with a password that, together with their chosen Twitter user name, allows the user to secure his/her/its account such that only he/she/it may tweet from such Twitter account.

8. Plaintiff is the owner of a certain Twitter account known as @OccupyWallStNYC and www.twitter.com/OccupyWallStNYC (hereinafter “the Twitter Account”).

9. AdBusters Media Foundation (“AdBusters”) is a not-for-profit corporation organized and with a principal place of business located in the province of British Columbia, Canada.

10. In the summer of 2011, in preparation for the peaceful protest that came to be known as “Occupy Wall Street” and that took place in New York City commencing on September 17, 2011, AdBusters created the Twitter account “OccupyWallStNYC” by having one of its employees sign up on the Twitter web site for accounts bearing that name and agreeing to abide by the Twitter terms of service.

11. As September 17, 2011 drew near, and in responding to the intense interest on the Internet to its plans for a protest on Wall Street on September 17, AdBusters determined that in order to be most effective for activists on the ground in New York City, it would be most prudent to transfer the Twitter Account to a local New York activist it could trust to set it up and operate it to serve the communication needs of local New York City activists that were active organizing the Occupy Wall Street protest.

12. On September 15, 2011, and in furtherance of its plans for the “Occupy Wall Street” protest of September 17, 2011, AdBusters, by one of its key employees, Micah White, transferred all of its right, title, and interest in the Twitter Account to Marisa Holmes (“Holmes”).

13. From September 15, 2011 until September 16, 2014, Holmes was the owner of the Twitter Account.

14. On and after September 15, 2011, Holmes invited others to assist her in administering the Twitter Account, to help develop content for distribution thereon, to help grow the base of followers of the Twitter Account, and to otherwise use the Twitter Account to advance to goals of the Occupy Wall Street direct action.

15. Since the time that Holmes accepted AdBusters transfer to her of the Twitter Account, she has endeavored to see that it was utilized in an egalitarian manner as one of the voice pieces of the Occupy Wall Street movement. To that end she worked with other loosely organized groups, including “Global Revolution TV,” “OccupyNYC,” “Tweetboat” and the “OWS Media Working Group,” to broadcast many messages from many different groups and individuals using the Twitter Account.

16. Between September 15, 2011 and August 8, 2014, Holmes allowed others, including defendant Justin Wedes (“Wedes”), to use the Twitter account.

17. Between September 15, 2011 and November 15, 2011, Holmes worked with others, including Wedes, to organize a democratic way to administer the use of the Twitter account to best further the goals of the Occupy Wall Street movement.

18. On and after October 1, 2011, Occupy Wall Street became a world-famous protest, the web sites and social media pages associated with the name “Occupy Wall St.” became famous and popular, and the number of followers of the Twitter Account increased exponentially.

19. The Twitter Account grew exponentially and then progressively over the next several months, and even long after Occupy Wall Street as a direct action ended and it more or less morphed into both a movement and a mantra, the Twitter Account continued to grow followers.

20. As recently as July 2014, the Twitter Account had more than 175,000 followers. Whenever a tweet was sent out, more than 175,000 people could possibly see it on their Twitter feed, and it was made available for viewing by anyone in the world with unrestricted Internet access.

21. Wedes was one of the individuals that Holmes invited to assist her in administering the Twitter Account.

22. On or about September 15, 2011, Wedes was given authorization to be one of several account administrators and was given the password associated with the Twitter Account.

23. With the password in his possession, Wedes was authorized and empowered to perform all authorized administrative functions in connection with the maintenance and administration of the Twitter Account.

24. One of the many administrative functions that account administrators with the permissions held by Wedes may perform is to change the password on the account. However, if an administrator changes the password on the account without distributing the new password to the other administrators, he or she may lock all of the other administrators out of the account.

25. On or about August 8, 2014, Wedes, without authority or permission, changed the account password on the Twitter Account without providing the password to any other administrator thereby locking out all of the other administrators from accessing the Twitter Account and making himself the sole person in control of the Twitter Account.

26. Upon information and belief the reason that Wedes seized the Twitter Account and appropriated it to his own use is that he was unhappy with some of the content of the speech that was being disseminated from the Twitter Account.

27. Shortly after appropriating the Twitter Account and locking out all of the other administrators, Wedes posted a written statement on the web site "justinweddes.com" attempting to explain his reasons and justify his actions.

28. On September 16, 2014, Holmes assigned all right, title, and interests that she had in the Twitter Account to Plaintiff.

29. Wedes now controls the Twitter Account. For several days after seizing control of the Twitter Account, the Twitter Account was quiet. However, since on or about August 20, 2014 Wedes is tweeting from the Twitter Account without the permission or authority of Holmes or Plaintiff.

30. Wedes has no right, title, or interest in the Twitter Account.

31. Wedes has appropriated the Twitter Account and hijacked its audience for his own personal use without the authorization or permission of Holmes or Plaintiff.

32. As a tool for the communication of ideas, ideals, and the vision of the Occupy Wall Street movement, the Twitter Account represents several years of irreplaceable work by Holmes, Global Revolution TV, OccupyNYC, the OWS Media Working Group, the Tweetboat collective, and others building the audience of the Twitter Account.

33. Absent a court order directing Wedes to return control of the Twitter Account to Plaintiff, all of the time, labor and money invested in growing the number of followers will be lost.

34. Each and every day that goes by while Wedes remains in control of the Twitter Account is another day of Plaintiff's lost opportunity to speak to the Twitter audience that they worked to cultivate and rightly should control.

35. Money damages cannot adequately compensate for Plaintiff's lost opportunity to speak.

36. Plaintiffs have no adequate remedy at law.

AS AND FOR A FIRST CAUSE OF ACTION

(Conversion)

37. Plaintiff is the owner of the Twitter Account.

38. Wedes, intentionally and without authority of either Holmes or Plaintiff, seized custody, dominion, and control of the Twitter Account by changing the password associated with the Twitter Account thereby locking out the other administrators, including Holmes and Plaintiff.

39. Wedes' assumption and exercise of custody, dominion, and control of the Twitter Account interferes with the possessory rights of Plaintiff in the Twitter Account.

**AS AND FOR A SECOND CAUSE OF ACTION
(Trespass to Chattel)**

40. By withholding the account password from the other administrators, Wedes is intentionally interfering with Plaintiff's possession of the Twitter Account.

41. Plaintiff, by its loss of an opportunity to speak, is harmed by the aforesaid conduct of Wedes.

**AS AND FOR A THIRD CAUSE OF ACTION
(Declaratory Judgment)**

42. Pursuant to CPLR § 3001 plaintiff requests that this court declare Plaintiff to be the owner of the Twitter Account entitled to exclusive use thereof.

**AS AND FOR A FOURTH CAUSE OF ACTION
(Injunctive Relief)**

43. Plaintiff has no adequate remedy at law.

44. Plaintiff requests that this Court issue a preliminary injunction and order requiring Wedes to secure the Twitter account by changing the password so that, during the pendency of this proceeding, only he has it;

45. Plaintiff requests that this Court issue a preliminary injunction ordering Wedes, during the pendency of this proceeding, to NOT tweet using the Twitter Account.

46. Plaintiff requests the Court to issue a permanent injunction directing Wedes to surrender to Plaintiff possession, custody and control of the Twitter Account; and

47. Granting Plaintiff any such other and further injunctive and equitable relief that to the Court seems just and proper.

WHEREFORE Plaintiffs demand the following relief:

- a. A declaration that Plaintiff is the owner of the Twitter Account;
- b. A declaration that Plaintiff is entitled to exclusive use of the Twitter Account;
- c. An order compelling Wedes to immediately provide Plaintiff with the password for the Twitter Account to permit Plaintiff to access the administrative dashboard of the Twitter Account and change the password for the Twitter Account.
- d. An order barring Wedes from interfering with the possessory rights of Plaintiff in connection with the Twitter Account;
- e. A money judgment in the amount of Five Hundred Thousand Dollars (\$500,000.00) for compensatory damages; and
- f. Granting Plaintiff any such other and further relief that to the Court seems just and proper.

DATED: Jamaica, New York
September 17, 2014

THOMAS J. HILLGARDNER, ESQ.

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VERIFICATION

STATE OF NEW YORK)
) ss,:
COUNTY OF KINGS)

MARISA HOLMES, being duly sworn, deposes and says: I am one of the directors of the Plaintiff, a New York not-for-profit corporation; I have read the foregoing COMPLAINT and I know the contents thereof; the same is true to my knowledge except as to matters alleged therein to be based upon information and belief; and that as to those matters I believe them to be true.

MARISA HOLMES

SUBSCRIBED AND SWORN to before me on this ____ day of September 2014.

Notary Public / State of New York