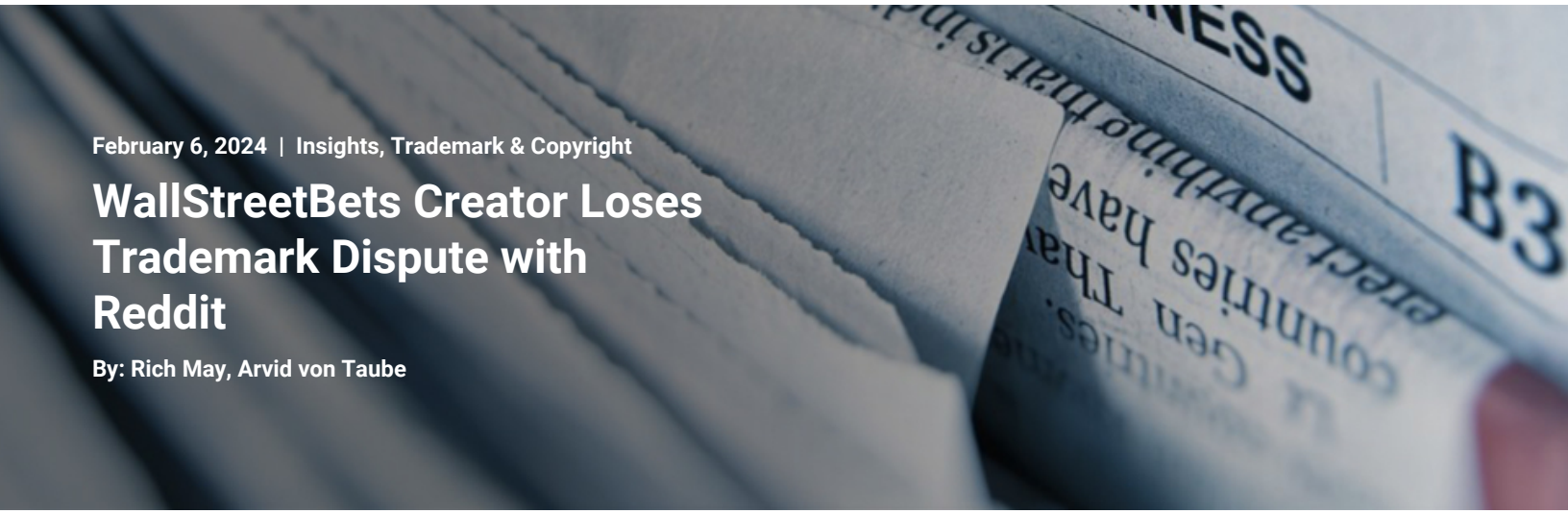
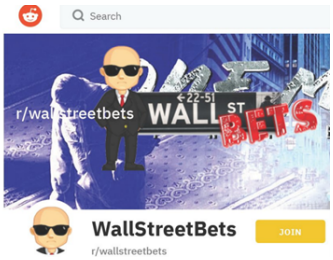


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WallStreetBets Creator Loses Trademark Dispute with Reddit

By: Rich May, Arvid von Taube

When the popularity of the GameStop short squeeze spread worldwide in January 2021 thanks in large part to the subreddit community hosted by Reddit at r/WallStreetBets, its creator and moderator, Jaime Rogozinski, sought to monetize this newfound fame and applied for a trademark with the United States Patent and Trademark Office (USPTO). Reddit opposed such registration, arguing that Mr. Rogozinski's use of the WallStreetBets name was actually first use by Reddit, and therefor it had superior rights. A lawsuit was filed and a judge just agreed with Reddit (Jaime Rogozinski v. Reddit, Inc., 23-cv-00686-MMC N.D. Cal. (January 12, 2024)).



The subreddit r/WallStreetBets was launched by Jaime Rogozinski on the Reddit platform on January 31, 2012 with the purpose of providing a forum for members to exchange information and content related to the financial industry. According to the court's findings, Mr. Rogozinski spent several weeks prior to launching the subreddit creating the logo and developing the overall look, feel and design of the subreddit using code to modify Reddit's template page. By 2020, the r/WallStreetbets subreddit had over 1 million subscribers.

On March 24, 2020, Mr. Rogozinski applied for a trademark in the name WALLSTREETBETS with the USPTO for providing an online forum for securities trading and information, apparel, newsletters and securities-based competitions. As evidence of his use of the mark in connection with these services and goods, Mr. Rogozinski submitted a screenshot of the now-infamous background image of that subreddit, featured extensively in news reports and the Hollywood movie *Dumb Money*.

In January 2021, individual investors and personal day traders flocked to r/WallStreetBets for the excitement of the GameStop short squeeze and the subsequent AMC and BlackBerry short squeezes.

Fast forward to 2022, when Mr. Rogozinski filed a lawsuit against Reddit alleging that he was wrongfully removed as the moderator of r/WallStreetBets for attempting to monetize the subreddit by promoting his book and securities competition. In that lawsuit, Mr. Rogozinski alleged that the real reason for his ouster was his filing of the trademark

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application for WALLSTREETBETS in the prior year. As part of the lawsuit, Mr. Rogozinski asked the court to determine that he was the rightful owner of the *WallStreetBets* trademark.

In determining contested ownership of a trademark, the key question is who established the first use of the mark. Although filing before others with the USPTO can be strategically and procedurally advantageous, the United States is not a "first to file" jurisdiction, rather the first to establish use of the mark in commerce that can be regulated by the U.S. Congress will be deemed to have superior rights. This is an ornate way of saying that the first to demonstrate active and continuous use of the mark through offering services or selling products in interstate commerce, will have the best case of establishing ownership of the trademark. Here, the court rejected Mr. Rogozinski's argument that he had established first use (as opposed to Reddit), and therefore ownership, of the WALLSTREETBETS trademark when the subreddit was created in 2012.

As many people create and grow companies exclusively on social media platforms, the WallStreetBets case is a warning that the brand, community and content created on a social media platform—no matter how much valuable time has been invested by the creator—may not be owned by the creator of it.

We recommend consulting with an attorney in advance of launching your brand to help avoid issues like those that Mr. Rogozinski faced in this case. Properly establishing your ownership and use of a brand before launching and growing on social media can help avoid issues like those experienced by the r/WallStreetBets subreddit creator. In this case, the judge almost certainly would have weighed favorably in Mr. Rogozinski's side, evidence of his prior use of the WALLSTREETBETS trademark outside of just the r/WallStreetBets subreddit.

We are happy to answer any questions that you may have as you begin to build your brand and company, or in connection with a possible trademark application or maintenance of your existing trademark portfolio. Please reach out to the author of this post or any member of the Rich May team that you are currently working with.

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