

ESTTA Tracking number: **ESTTA1375095**
Filing date: **08/02/2024**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	92075375
Party	Defendant Ethan Van Sciver and Antonio J. Malpica
Correspondence address	SCOTT HOUTTEMAN HOUTTEMAN LAW LLC PO BOX 370 MERRIFIELD, VA 22116-0370 UNITED STATES Primary email: scott@houtteman.com Secondary email(s): AntonioJMalpica@gmail.com 202-263-0808
Submission	Opposition/Response to Motion
Filer's name	Scott Houtteman
Filer's email	scott@houtteman.com
Signature	/Scott Houtteman/
Date	08/02/2024
Attachments	SJM_Final.pdf(305282 bytes) Ex1.pdf(930650 bytes) Ex2.pdf(1417213 bytes) Ex3.pdf(832614 bytes) Ex4.pdf(384211 bytes) Ex5.pdf(403964 bytes) Ex6.pdf(100216 bytes) Ex7.pdf(380393 bytes) Ex8.pdf(377159 bytes) Ex9.pdf(162186 bytes) Ex10.pdf(23891 bytes) Ex11.pdf(321664 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

COMMON SENSE PRESS INC
DBA POCKET JACKS COMICS

Petitioner-Plaintiff

v.

ANTONIO J. MALPICA, and
ETHAN VAN SCIVER

Registrants-Defendants

Cancellation No. 92075375

**DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGEMENT AND
OPPOSITION TO PETITIONERS MOTION**

I. STATEMENT OF UNDISPUTED MATERIAL FACTS

The COMICSGATE mark arose organically

1. Registrant Ethan Van Sciver is a 20-year veteran comic book artist with credits including Green Lantern for DC and New X-Men for Marvel. Registrant’s Exhibit 1, Van Sciver Deposition Excerpts “Ex. 1”) at p. 13, lines 1-2; p. 14, lines 9-11, 14-18; p. 15, lines 5-9.
2. In 2017, Mr. Van Sciver became associated with social media discussions about the current state of affairs of the comic book industry, specifically whether the “Big Two” companies—DC and Marvel—had been overtaken by certain parties more interested in promoting “social justice” than producing interesting comic books. These discussions became associated with the term “COMICGATE,” for example twitter discussions were tagged #COMICSGATE. *Id.* at p. 15, lines 14-22; p. 18, lines 17-25.
3. In 2018, Defendant Ethan Van Sciver hosted a YouTube channel. Under the label COMICSGATE, Mr. Van Sciver continued leading discussions of various topics in the comic book industry and began receiving donations from his viewers in the form of “Superchats.” Under the label COMICSGATE, he also began promoting the crowdfunding of independent

comic books. p. 19, line 19 - p.20, line 6; Exhibit 2 (Registrants YouTube Channel using COMICSGATE in commerce to crowdfund comic books; crowdfunding campaigns.)

4. Mr. Van Sciver did NOT put the COMICSGATE mark on his comic books. (He had already established the mark “All Caps Comics” for use on his books.) Ex. 1, p. 97, lines 8-10; p. 98, lines 11-17.

5. Petitioner¹ knew of this platform and described its commercial activity. Exhibit 3, Poulter’s YouTube Channel videos (“When it comes to the Comicsgate crowd, Ethan Van Sciver and Richard C. Meyer kind of define the genre. They are essentially the ones defining Comicsgate and saying what it is.”) (“[Ethan Van Sciver] was able to take a guy who just had an idea for a comic . . . and get him to now \$55,000 on [the crowdfunding site] Indiegogo”).

6. On Sep. 3, 2018, Vox Day, an uninvited third party, announced he would put COMICSGATE on comic books. Exhibit 4.

7. Mr. Van Sciver sent Vox Day a Cease-and-Desist letter. To our knowledge, Vox Day never used the COMICSGATE mark. Exhibit 6.

Antonio Malpica registers COMICSGATE

8. On Sep. 3, 2018, Antonio Malpica, acting *pro se*, applied for the COMICSGATE² trademark for use on comic books with the approval of Ethan Van Sciver. 1 TTABVUE 4, ¶ 2

9. The application proceeded to registration. 1 TTABVUE 4, ¶4.

¹ Petitioner Common Sense Press Inc. (“CSP”) is the sole proprietorship of Preston Poulter. We will use “Petitioner” or “CSP” when referring to legal actions and “Poulter” when referring to private actions, for example Preston Poulter’s social media activity.

² At the time of filing COMICS GATE (two words) was an accepted form of the mark. Now the mark is universally seen as a single word, COMICSGATE, which will be used throughout this motion. Legally, the difference is *de minimus*.

10. To date, Petitioner has not shown Mr. Malpica to have made a false representation of a single fact before the USPTO trademark offices and has not shown Mr. Malpica to have subjectively intended to deceive the USPTO.

CSP/Poulter Attempts to Buy and Attempts to Destroy COMICSGATE

11. At one point, Petitioner CSP attempted to buy the mark from Mr. Malpica and stated to others, “It’s worth money.” Exhibits 5, 7.

12. Failing to buy the COMICSGATE mark, CSP then filed for two applications for the COMICSGATE mark used in comic books. 1 TTABVUE 4, ¶ 1.

13. The CSP applications, which have the “intent to use” basis, contain a declaration that Both of CSP’s trademark application contain the following sworn declaration:

“no other persons . . . have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.”.

14. This declaration is false. In fact, CSP knew others had been using the mark in commerce to crowdfund comic books and so this declaration is false. Ex. 3 (e.g. “He was able to take a guy [Mr. Bryce] who just had an idea for a comic, and you know, just some preliminary artwork and get him to now \$55,000 on Indiegogo.”)

15. Poulter knew the use of the COMICSGATE mark on the comic books is confusingly similar to using the COMICSGATE mark used in YouTube videos. With his purported trademark rights Poulter threatened to strike YouTube videos using COMICSGATE. Ex. 8 (“[My] trademark powers allow me to strike videos from YouTube for claiming that a certain book is Comicsgate. And they understand what a reign of terror that would cause.”)

16. CSP owner Preston Poulter has stated: Comicsgate has a “sociopathic leader” [referring to Registrant Van Sciver] who runs Comicsgate “like a crime boss,” that it is a “hate group” and that he “seeks its destruction:”

[Comicsgate] has degenerated into a cult of personality around a sociopathic leader who runs the operation like a crime boss.

Poulter YouTube video description, Feb. 3, 2020. Ex. 9.

I've been quite vocal in my opinions about Comicsgate as a hate group. Ethan Van Sciver as the sociopathic leader of a hate movement, and the horrible people who follow him. It's more or less part of my brand at this point.

Poulter Text, April 17, 2021. Ex. 8 at 2.

Comicsgate is right to fear my legal designs on them. By the time I am through, I will have made an example of their chief bully before the courts and robbed them of their vary name.

Poulter Text, June 23, 2021. Ex. 8 at 5.

COMICSGATE use in Commerce

17. On or about the spring of 2020, Mr. Malpica licensed the mark to Mr. Anthony Romano.

See e.g. 47 TTABVUE 253, Exhibit E at 5 (Declaration of Antonio Malpica).

18. Mr. Romano used the mark in commerce when he marketed and sold "The Art of Anthony Romano." 47 TTABVUE 281-82, Exhibit G at 9-10 (Declaration of Anthony Romano)

19. The USPTO has acknowledged the COMICSGATE mark was used in commerce. Ex.10 (USPTO notice of termination of Re-examination) ("[R]egistrant has demonstrated use of the mark in commerce . . .").

Quality Control

20. The "quality control" associated with COMICSGATE was that the mark owner would only license the mark to a recognized members of the COMICSGATE community, people who were more or less "regulars" on Van Sciver's YouTube channel and who had established that their values were in line with those of the rest of the community. Ex. 1, Van Sciver Decl. at 32-33, 98-99 (Licensees Mr. Malpica and Mr. Romano know what type of comic books the COMICSGATE community would like)

21. Anthony Romano's books, "The Art of Anthony Romano" and "Wart the Wizard, Sunday Follies" will be of acceptable quality because Mr. Romano knows what type of comic books the community would like. *Id.*

22. Mr. Van Sciver, after taking over ownership of the mark and with the benefit of legal advice, now issues written licenses which include specific “Quality Standards” terms as part of the license agreement. See e.g. 47 TTABVUE 378-80 (Public version of license); 46 TTABVUE Exhibit H at 16-17 (confidential version of license).

23. Currently, the mark is in use on the recently published comic book, “Black Riding Hood,” Story & Art: by Jon Malin, Colors: Jason Wright, Letters: Eric Weathers and published by Registrant Ethan Van Sciver. Ex. 1 at p. 97; Ex. 11.

24. Additional books are currently in production, e.g. “Hunting Alice” and “Detective Dead.” As cited above (¶ 22) the authors of these works have written licenses, including the Quality Standards terms, and have indicated their intentions to use that mark on these books. See ¶ 22; 47 TTABVUE 382-409 (public version of Detective Dead preview); Exhibit H at 20-47 (confidential version of Detective Dead preview).

II. PETITIONERS GROUNDS FOR CANCELLATION

The Petitioner has alleged three grounds for cancellation: Count I: Abandonment and Non-Use; Count II: Fraud; and Count III: No Use of the Mark in Commerce Before the Statement of Use was Filed.

And while these remain the only grounds for cancellation pending in this case, Petitioner’s summary judgment motion is not based on any of them.

A. Petitioner is seeking summary judgment on grounds the Board explicitly denied Petitioner

On June 30, 2023, over two and a half years after filing this Cancellation Proceeding and perhaps because the facts—Registrant’s use of the mark—no longer support Counts I and III, Petitioner moved to add an additional ground for cancellation, that “the mark has been abandoned through naked licensing and a failure to “enforce” or police the mark. 32 TTABVUE 9, lines 13-17 (quoting the Board’s Order, 35 TTABVUE 4) (emphasis added). The Board

DENIED this motion. 35 TTABVUE. Specifically with respect to the naked licensing allegation, the Board held that Petitioner “failed to allege any facts in support thereof, to identify the basis for these new claims of abandonment, or to explain why they were not earlier raised.” *Id.* at 6.

Undaunted, Petitioner simply ignored the Order and filed its summary judgment motion arguing, “the license was a naked license.” 47 TTABVUE 6-7. To be clear, this allegation is frivolous as will be briefly shown below, but Registrant is not waiving the issue of Petitioner’s inequitable behavior. Registrant believes Petitioner’s ignoring this Board’s Order merits sanctions and Registrant moves for DENIAL of Petitioner’s motion for summary judgment as that sanction.

III. PETITIONERS COUNTS I AND III SHOULD BE DISMISSED

As listed above, Counts I and II both depend on the mark not being used in commerce. The first alleges no use at all, the third count alleges no use in the window of time before the “statement of use” in the TM prosecution.

A. There was no abandonment.

The undisputed facts show that the mark was used in commerce prior to the “statement of use” deadline, that the USPTO has recognized this use and, indeed, the mark is still in use to this date. Ex. 10 (Notice of Termination of Re-examination including the USPTO finding that “registrant has demonstrated use of the mark in commerce for all goods, subject to the proceeding.”); Ex. 11 (COMICSGATE comic “Black Riding Hood”)

B. There is no “naked licensing”

While the newly presented grounds of cancellation, abandonment due to naked licensing, is not properly before this Board, it is nonetheless frivolous. Petitioner cannot meet its “heavy burden” merely because the licensor relies on the licensee to control the quality of the marked product.

“Because a finding of inadequate control can result in a forfeiture of trademark rights, courts impose a heavy burden on the person asserting a lack of reasonable

control by a licensor. As a general matter, courts are reluctant to interfere with the marketing arrangements adopted by trademark owners, and minimal control over the quality of a licensee's goods or services is often sufficient to satisfy the requirement imposed under this Section."

Licensing of Trademarks, Restatement (Third) of Unfair Competition § 33 (1995). Also, in similar cases, where the licensor and licensee have a preexisting relationship, courts often allow the licensee to handle quality control. See e.g. *Boss Products, Inc. v. Port-A-Pit Bar-B-Que of Edgerton, Inc.*, No. 3:05-CV-293, 2009 WL 260793 (S.D. Ind., February 27, 2017) and cases cited therein. In *Boss Products* the Court noted that the Seventh Circuit advocates a "flexible approach" to trademark oversight, including allowing the trademark owner to rely on the expertise of licensees where appropriate. *Id.* at *6. Specifically, *Boss Products* involved the trademark "Port-A-Pit" for restaurant products and services. When certain long-standing agreements with Port-A-Pit Bar-B-Que of Edgerton, Inc. ("Edgerton") were terminated, trademark owner Boss Products, Inc. insisted Edgerton stop using the Port-A-Pit mark.

Edgerton argued that the trademark had been abandoned due to "naked licensing." Their agreements with Boss Products did not include terms by which the trademark owner exercised any control over the trademark rights it claimed to assert.

The Court disagreed, noting that Edgerton had not asserted that it was offering a lower quality of products or services than those contemplated by the parties' agreements, or that the sauce(s) it was using constituted a significant deviation from the owner's quality standards, or that Edgerton's actions lessened the significance of the "Port-A-Pit" mark. *Id.* at *5-*6. Finally, the court noted that the parties "close working relationship" justifiably allowed the owner to rely on Edgerton's intimacy with the standards and procedures to ensure consistent quality. Thus, it would depart from the purpose of trademark law to find an abandonment simply for want of inspection and control formalities. *Id.* (citing *Taco Cabana Intern., Inc. v. Two Pesos, Inc.*, 932 F.2d 1113, 1121 (5th Cir.1991))

In the case of the COMICSGATE licensees, there was a preexisting relationship as members of the COMICSGATE community. Ex. 1 (Van Sciver Decl.) at p. 99. Accordingly, the licensee could be trusted to know what type of comic books the community would like.

C. Petitioner Cannot Prove That the Registered Mark Has Lost All Capacity As a Source Indicator

Abandonment cannot be found for another, fundamental reason. Petitioner CSP allegations are faulty and incomplete and do not properly allege all the elements for a finding of abandonment. It merely alleges, “Registrant is not currently using, has discontinued using, and has not used for at least the past three years, and possibly longer, the COMICS GATE mark” and “Registrant’s discontinuance of use of the mark COMICS GATE . . . was accompanied by Registrant’s intent not to resume use of the mark.” 1 TTABVUE 5–6.

But Petitioner leaves out an additional, critical element necessary for finding abandonment. Petitioner must also prove that the mark has lost all capacity as a source indicator for registrant’s comics. *See e.g. Leatherwood Scopes International, Inc. v. Leatherwood*, 63 U.S.P.Q.2d 1699, 1703 (T.T.A.B. 2002); J. Thomas McCarthy on Trademarks and Unfair Competition, § 20:57 (5th ed., 2021 update) (“To state a claim that the registrant’s mark has been abandoned, petitioner must allege that the mark has lost all capacity as a source indicator for registrant’s goods.”)

Moreover, Petitioner’s own actions prove fatal to Petitioner’s abandonment claim; Petitioner offered to buy the mark from the Registrant. See Ex. 5 (Petitioner attempting to purchase Mark from Mr. Malpica); Ex. 7 (Petitioner admitting “it’s worth money”). This is substantial evidence that the mark retains significance as an indication of origin and a symbol of good will. *See Sterling Brewers, Inc. v. Schenley Industries, Inc.*, 441 F.2d 675, 679 (C.C.P.A. 1971). (reservoir of good will remaining in registrant’s mark, after eight years of non-use, revealed by cancellation petitioner’s willingness “to pay a considerable sum for the rights to the

mark.”) Thus, Petitioner’s own behavior shows Petitioner itself believes the mark was not abandoned in that it retains value in the mind of the public.

IV. Petitioner has not shown a single action of Registrant was dishonest.

To prevail on its Fraud, Count II, Petitioner must prove:

1. Registrant made a false representation of a material fact.
2. Registrant knew that the representation was false (“scienter”).
3. Registrant intended to deceive the USPTO.
4. Reasonable reliance on the misrepresentation, and
5. Damage proximately resulting from such reliance.

The Federal Circuit emphasized that proof of intent to deceive is always an essential element of fraud: “subjective intent to deceive, however difficult it may be to prove, is an indispensable element in the analysis.” *In re Bose Corp.*, 580 F.3d 1240, 1245 (Fed. Cir. 2009).

Mr. Malpica’s entire trademark application file has been served on Petitioner, as well as the re-examination proceedings. Petitioner has not, and cannot, show a single false representation, much less subjective intent to deceive the USPTO by Mr. Malpica, a non-lawyer who submitted all his responses to the USPTO in good faith.

V. CONCLUSION

Registrant requests all three counts of this cancellation proceeding be DISMISSED and any other remedy the Board sees fit and proper.

Dated: August 2, 2024

Respectfully Submitted,

/s/ Scott Houtteman
Scott Houtteman, VSB No. 65567
HOUTTEMAN LAW LLC
PO BOX 370
Merrifield, VA 22116-0370
Tel. (202) 263-0808
Fax. (703) 485-1022
scott@houtteman.com
Attorney for Registrant Ethan Van Sciver

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing has been emailed to: Francis John Ciaramella, Esquire at frank@fjcpllc.com on August 2, 2024.

/s/ Scott Houtteman

CONFIDENTIAL PORTIONS

22

25

1 A I'm a comic book publisher, author, writer,
2 artist, and also a YouTuber.

3 Q Okay. So how long have you been in this line
4 of work?

5 A Thirty-one years. I've been -- well, I've
6 been making comic books for thirty-one years.

7 Q Okay.

8 A YouTube since about 2017. I think that's when
9 I started, officially started broadcasting about comics
10 and the culture.

11 Q Okay. More generally not necessarily
12 ComicsGate, which I'll get to, but comics, I guess more
13 broadly, right?

14 A Yeah. I think the first couple of months were
15 -- were mostly about comics more broadly, interviewing
16 my peers, things like that.

17 Q Okay. Everything kind of relating within the
18 comic sphere; is that correct?

19 A Yeah. I think so. You could go back and
20 look. The videos are there, you know?

21 Q Okay. Now do you have any formal education?

22 A No.

23 Q No. Okay. What's -- it seems that you've
24 been doing comics for a very, very long time. What's
25 your job history? How -- I understand that you do your

1 own line of independent work now but what did you do
2 before that?

3 A Before this independent work?

4 Q Yeah.

5 A Okay. Well, I mean, when I was a -- a
6 teenager I -- I worked at the mall drawing caricatures,
7 and I illustrated about a dozen children's books.

8 Q Okay.

9 A And then I started to draw my own comic book
10 called Cyber Frog around 1993, published it in 1994 with
11 a company called Hall of Heroes in Elkhart, Indiana.

12 And from there, I found work with Harris Comics and that
13 was my first paying work in comics. That lasted for

14 about two years, ended up at -- getting hired for -- at
15 DC comics where I worked for them and -- and a little
16 bit for Marvel Comics. For about a-year-and-a-half, I
17 drew the X-Men around 2002, but mostly DC Comics for
18 about 20 years professionally.

19 Q Okay. What were your role in those jobs? I
20 understand -- were you just an artist? Did you write
21 the scripts or the dialogue?

22 A I was just an -- I mean, there were a couple
23 of instances where I wrote, but I mostly drew the comic
24 books. I -- you know, they would offer you an issue
25 with The Flash and you would say yes, please, and you

1 would draw the issue -- I would draw the issue of The
2 Flash. Eventually I got to be pretty well known there
3 and was able to ask for certain characters and jobs at
4 DC Comics.

5 I got to be pretty well known for drawing
6 Green Lantern and creating a lot of characters for Green
7 Lantern restructuring the mythos with the writer Geoff
8 Johns. I did all the designs for these new characters
9 and was very successful there. I had a great time.

10 Q Okay. Very good. Thank you. So we're here
11 today predominantly for the -- for the ComicsGate
12 trademark matter, but more broadly, what does ComicsGate
13 mean to you? What is ComicsGate about?

14 A Well, ComicsGate is -- is two different
15 things. I mean, ComicsGate started out as a conflict, a
16 resistance that happened in the mainstream comic book
17 industry when some political activists found their way
18 into the comic book industry and began making changes to
19 some of the characters and the story lines in order to
20 promote social issues more than -- and -- and make
21 changes with the characters more than to tell great
22 stories like they used to do.

23 And a lot of people got very upset about that.
24 It got even worse when some of the villains in the comic
25 books, like The Red Skull and others were mouthing

1 joined the movement, ComicsGate was a slanderous term,
2 something that was not meant as a compliment, in other
3 words?

4 A So it's hard to say. Some people would --
5 some people would agree with my assessment and others
6 wouldn't. It was a very contentious and a noisy time
7 period. That's -- my -- my view of what ComicsGate was
8 and meant came from my personal experience with it where
9 people who were trying to hurt me were calling me
10 ComicsGate. So it became -- to me, it became clear that
11 it was not a nice thing.

12 Q Fair enough. So I guess before February 2018
13 where DC didn't want to renew your contract, this
14 ComicsGate movement had already begun starting to move
15 or existed even if it was small, it existed before you
16 were let go from DC Comics?

17 A Yeah. It was a hashtag. Yeah. Absolutely.
18 Yeah. It was a hashtag on the Internet that people were
19 -- were using to either denigrate others or to align
20 themselves with a political movement.

21 Q Okay. Understood. So a after you left DC, I
22 -- you said you started ComicsGate Live on YouTube.
23 When about was that?

24 A I think it was in July of 2018 where I called
25 my show ComicsGate Live. I was already live streaming.

1 But I think ComicsGate Live started in 2000 -- in July -
2 - I think July of 2018.

3 Q Okay.

4 A But I could be wrong. If you have a better
5 record -- it could have been June.

6 Q Okay.

7 A But I think -- I think it was July.

8 Q Fair enough. What would you do during these
9 live streams? The ComicsGate Live?

10 A Well, I would invite on my peers who were also
11 suffering from being a -- a kind of unofficial blacklist
12 where if the mainstream comic book industry discovered
13 that you were right leaning or you were a supporter of
14 the president, they -- they sought to gatekeep you from
15 the industry, from getting work. So you had two
16 choices. You could either be quiet and not tell people
17 what your politics were, or you could find yourself
18 unemployed.

19 So I knew who some of these people were, who
20 were finding it difficult to get work, and I brought
21 them on to my show. And together we formed a kind of a
22 -- a talk show fundraiser kind of combination, a little
23 bit like The Howard Stern Show, but we were promoting
24 crowdfunded comics.

25 So watch our show, be entertained. And by the

1 way, this guy has a comic book that he would like to get
2 funded. Maybe give him \$25 to his campaign, and it was
3 incredibly successful. And at the same time, people in
4 the audience were sending me Super Chats which are
5 donations to the channel. So ComicsGate Live got
6 monetized really quickly.

7 MR. CIARAMELLA: Yeah. Perfect. Thank
8 you. So I'll introduce our first exhibit. Okay. Okay.
9 Madam Court Reporter, I'll mark this as Petitioner's
10 Exhibit 1.

11 THE PROCEEDINGS OFFICER: Thank you.
12 (Petitioner's Exhibit 1 marked for identification.)

13 BY MR. CIARAMELLA:

14 Q Perfect. Okay. So Mr. Van Sciver, do you
15 recognize what this document is? You -- take your time
16 and you should be able to scroll through it.

17 A Let me -- oh. Okay. Let me look.

18 Q Take your time. There's no rush.

19 A Well, I mean, it appears to me as a layman to
20 be Anthony Malpica -- Antonio Malpica's registration for
21 the ComicsGate mark.

22 Q Okay. So this is actually Mr. Malpica's
23 trademark application. So this is what's filed at the
24 very beginning of the trademark process. So if you want
25 to have a trademark, you file an application and you go

1 Mr. Malpica, anyone could be a member of that community
2 so long as you shared the values; is that correct?

3 MR. HOUTTEMAN: I'm going to object. If
4 you want to read back Mr. Malpica's testimony, that's
5 fine. I am not going to accept your characterization of
6 his testimony. Now if you want to say hypothetically,
7 if he may have said this, I suppose I could let that go,
8 but I am not going to let you speak for Mr. Malpica.

9 MR. CIARAMELLA: That's fine. I'll
10 rephrase it differently.

11 BY MR. CIARAMELLA:

12 Q Would it be fair to say that there are two
13 different types of ComicsGate? There's the community of
14 ComicsGate and then the use of the term "ComicsGate" as
15 a brand for a comic book that someone would put out.

16 A Yeah. That -- that's my understanding. Yes.

17 Q Okay. So could anyone just be a member of
18 ComicsGate? Was there -- I'm talking about the
19 community now. Could anyone just be a member of that
20 community and call themselves ComicsGate?

21 A Calling yourself ComicsGate would come with a
22 lot of negative ramifications. It's not something that
23 people did lightly. You would have to really be ready
24 for some social isolation. And it wasn't something that
25 people wanted to do unless they really, really believed

1 in it.

2 And so yeah. I mean, anybody who -- who
3 believed that social justice warriors were harming
4 comics and that there shouldn't be political
5 discrimination and gatekeeping from radical leftists in
6 order to make art and comic books, people who were
7 against that kind of -- that kind of blacklisting, and
8 people that just believed in creative freedom in general
9 were -- would -- would consider calling themselves
10 ComicsGate and being a part of the community. Yeah.

11 Q Okay. So if someone wanted to be a member of
12 that community, I understand it can have its
13 ramifications, maybe socially or economically if that's
14 how people make a living, but nonetheless, people could
15 decide to be part of the ComicsGate community, correct?

16 A Yes.

17 Q Okay. How would that work? Did -- does
18 someone have to ask permission to be part of that
19 community or do they just join voluntarily?

20 A They would join voluntarily. It's a social
21 club. So you would make friends with other comics
22 gaters, you would use the hashtag, suffer the
23 consequences for using the hashtag, you might follow the
24 -- there were several people who did live streams
25 associated with ComicsGate, you might be a part of

1 So with the record clear that now we're into the cross
2 examination section.

3 EXAMINATION

4 BY MR. HOUTTEMAN:

5 Q Mr. Van Sciver, you said you held the common
6 law mark, correct?

7 A Yes.

8 Q Did you put ComicsGate on comic books while
9 you held the common law mark?

10 A No.

11 Q I believe you have what's called an imprint
12 laughing boy if I'm correct or --

13 A Laughing man. I -- well, now I do. Now I
14 have a -- a new ComicsGate-branded comic book series
15 called ComicsGate Arena.

16 Q And this ComicsGate Arena, do you intend to
17 put that on comic books?

18 A Yeah. It already is. It's already on comic
19 books. It's on a book called Red -- Black Riding Hood.

20 Q Okay. I want to focus now back around the
21 time that Anthony Malpica came to you and asked for
22 permission to register the mark.

23 A Yes.

24 Q To your knowledge -- okay. You had said you
25 hadn't put ComicsGate on comics. To your knowledge, had

1 anyone put the word ComicsGate on comic books at that
2 time?

3 A I seem to remember -- are you referring to
4 Vestige, that comic book?

5 Q No. I'm saying -- we can check the dates.

6 A Okay.

7 Q But I'm saying to your knowledge, when Malpica
8 asks you -- asked you for permission, do you know if
9 anybody had put --

10 A Oh. Not to my knowledge. No.

11 Q Okay. So just let me answer the question and
12 we'll make a clear record. So you said you hadn't put
13 ComicsGate on comics, and to your knowledge at the time,
14 Malpica asked for permission to trademark the ComicsGate
15 on comic books, had anybody put ComicsGate on comic
16 books?

17 A No.

18 Q All right. At the time, Mr. Malpica had
19 registered the mark and before he assigned it to you,
20 during that period, did Mr. Malpica have a good idea
21 about what ComicsGate stood for?

22 A Yes.

23 Q And did he know as well as anybody what kind
24 of comic books the ComicsGate community would like?

25 A Yes.

1 Q All right. I want to ask similar questions
2 about Mr. Romano. Does Mr. Romano, DarkGift, know what
3 ComicsGate stands for?

4 A Yes.

5 Q And would Mr. Romano know as well as anybody
6 what type of comic books the ComicsGate community would
7 like?

8 A Yes.

9 Q At any time did you and Mr. Malpica come to a
10 disagreement about who owned the mark ComicsGate?

11 A No.

12 Q I want to ask you a series of legal questions.
13 Did a lawyer ever tell you whether or not the ComicsGate
14 group formed a proprietorship?

15 A No.

16 Q Do you know as a legal matter whether the
17 ComicsGate group was a proprietorship?

18 A No.

19 Q At any time did the lawyer tell you that the
20 ComicsGate group was a partnership?

21 A No.

22 Q Would you know as a legal matter whether the
23 ComicsGate group was a partnership?

24 A No.

25 Q Do you know the difference between a

EXHIBIT 2

JULY 12, 2018 - COMICSGATE used to promote Indiegogo crowdfunding campaigns of five (5) independent comic books:

- Specimen, Defendant's U.S. Trademark Application Ser. No. 90648096 (supplemented by reference to associated public record on YouTube; Current version, see YouTube Channel, COMICARTISTSPRO SECRETS, 2 hr, 57.11 min livestream entitled "THE SINGULAR COMICSGATE LIVE CHAT, EVERY1whoisANY1!" broadcast on July 12, 2018, <<https://www.youtube.com/watch?v=nepXQKPQKjY>>, last visited on July 26, 2021 (screenshot, at 1:44.37, below, emphasis added).

Google

YouTube

Search

Top chat replay

Lola Lovelace This world is garbage

Cridious lol

Joe Maurone remember the ads for new saturday morning cartoon ads in the comics? need a retro ad for comicgate

Iwazaru Dragtots????????

Major D. They are coming for the kids

Logan Lorn Sounds like child abuse....

rafinha_o_loko brazil hello

Jay Hamilton Dragtots. Bahahahahaha

JohnnyinCLE LMAO @ dragtots

The Gold Spirit Netflix has less quality control then Hentai LMAO

Artificial DISGUSTED EDWIN

Howz Yerfather DRAG THOTS LOL

Sweet Tooth Nerkish is just mad cause that was his dream as a child

Brent Eason Farms lol

Derek de Flaam the lights are going out

HIDE CHAT REPLAY

THE SINGULAR COMICSGATE LIVE CHAT, EVERY1whoisANY1!

12,229 views • Streamed live on Jul 12, 2018

902 37 SHARE SAVE

ComicArtistPro Secrets 145K subscribers

JOIN SUBSCRIBED

ORDER RED ROOSTER HERE: <https://igg.me/at/REDROOSTER/x>

ORDER TRUMP SPACE FORCE HERE: <https://www.indiegogo.com/projects/tr...>

RAVAGE KILL ALL MEN: <https://igg.me/at/ravage/x>

CYBERFROG BLOODHONEY: <https://igg.me/at/Cyberfrog/x>

JAWBREAKERS: <https://igg.me/at/jawbreakers/x>

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82 Comments SORT BY

Each link, above, connects to the Indiegogo crowdfunding campaign of an independent comic book creator, as shown on the following pages (advertising material removed) along with the final total funds raised, shown immediately below:

(1) RED ROOSTER	\$197,434
(2) TRUMP'S SPACE FORCE	\$72,517
(3) RAVAGE KILL ALL MEN	\$47,881
(4) CYBERFROG BLOODHONEY	\$538,456
(5) JAWBREAKERS	\$404,913
TOTAL	\$1,261,201

EXHIBIT 2

JULY 28, 2018, COMICSGATE used to promote Indiegogo crowdfunding campaign on Twitter

-Specimen, Defendant's U.S. Trademark application No. 90648096

(Current version, <https://twitter.com/EthanVanSciver/status/1023268999231164419>)

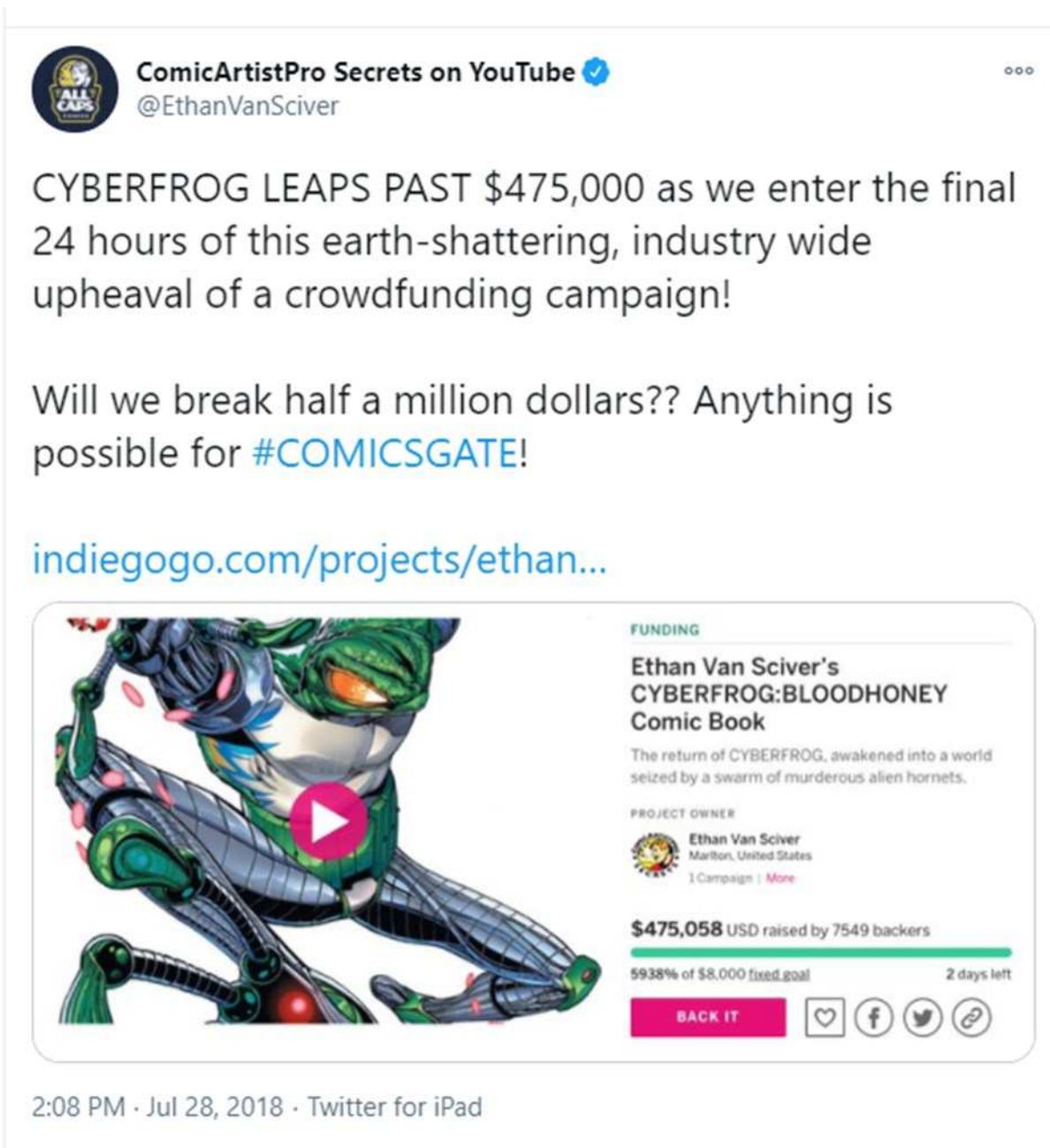


EXHIBIT 2

(1) RED ROOSTER: <https://www.indiegogo.com/projects/red-rooster-golden-age#/>

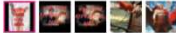

INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

RED ROOSTER: Golden Age


ABOUT THIS CAMPAIGN



CLOSED


RED ROOSTER: Golden Age




A vigilante folk hero barnstorms a cabal of villains hellbent on leaving him totally plucked!

 **Mitch & Elizabeth Breitweiser**
2 Campaigns | Little Rock, United States

\$197,434 USD by 3,582 backers

\$163,515 USD by 2,819 backers on Aug 24, 2018

 FOLLOW

STORY FAQ UPDATES 41 COMMENTS 801

(2) TRUMP SPACE FORCE: <https://www.indiegogo.com/projects/trump-s-space-force#/>


INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

TRUMP'S SPACE FORCE


ABOUT THIS CAMPAIGN



CLOSED


TRUMP'S SPACE FORCE

President Trump launches the Space Force to confront an ancient enemy and Make Space Great Again!

 **TIMOTHY LIM**
10 Campaigns | Little Rock, United States

\$72,517 USD 1,605 backers

483% of \$15,000 Fixed Goal

 FOLLOW




  

EXHIBIT 2

(3) RAVAGE KILL ALL MEN: <https://www.indiegogo.com/projects/ravage-kill-all-men#/>


INDIEGOGO Explore ▾ What We Do 🔍


For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED


RAVAGE - KILL ALL MEN!

ABOUT THIS CAMPAIGN










CLOSED
RAVAGE - KILL ALL MEN!
Two Army Veterans crash in a mystical jungle populated by a lost tribe of Women that hunt MEN!

 **Big Ben Henderson**
2 Campaigns | Jacksonville, United States

\$47,881 USD by 1,738 backers
\$36,808 USD by 1,314 backers on Jul 16, 2018

 FOLLOW

STORY FAQ UPDATES 44 COMMENTS 284 

(4) CYBERFROG BLOODHONEY: <https://www.indiegogo.com/projects/ethan-van-sciver-s-cyberfrog-bloodhoney-comic-book#/>


INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up


THIS CAMPAIGN IS CLOSED

Ethan Van Sciver's CYBERFROG:BLOODHONEY Comic Book


ABOUT THIS CAMPAIGN






CLOSED
Ethan Van Sciver's CYBERFROG:BLOODHONEY Comic Book
The return of CYBERFROG, awakened into a world seized by a swarm of murderous alien hornets.

 **Ethan Van Sciver**
18 Campaigns | Marilton, United States

\$538,456 USD by 8,566 backers
\$531,521 USD by 8,431 backers on Jul 30, 2018

 FOLLOW


STORY FAQ UPDATES 35 COMMENTS 1382 

EXHIBIT 2

(5) JAWBREAKERS: https://www.indiegogo.com/projects/jawbreakers-lost-souls-graphic-novel#


INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

JAWBREAKERS- LOST SOULS graphic novel


ABOUT THIS CAMPAIGN




CLOSED




JAWBREAKERS- LOST SOULS graphic novel

A team of ex-superheroes attempt to save a "monster" from a vicious warlord who wants to exploit it!

 **Richard Meyer**
17 Campaigns | Austin, United States

\$404,913 USD by 10,619 backers
\$193,279 USD by 5,362 backers on May 10, 2018

 FOLLOW

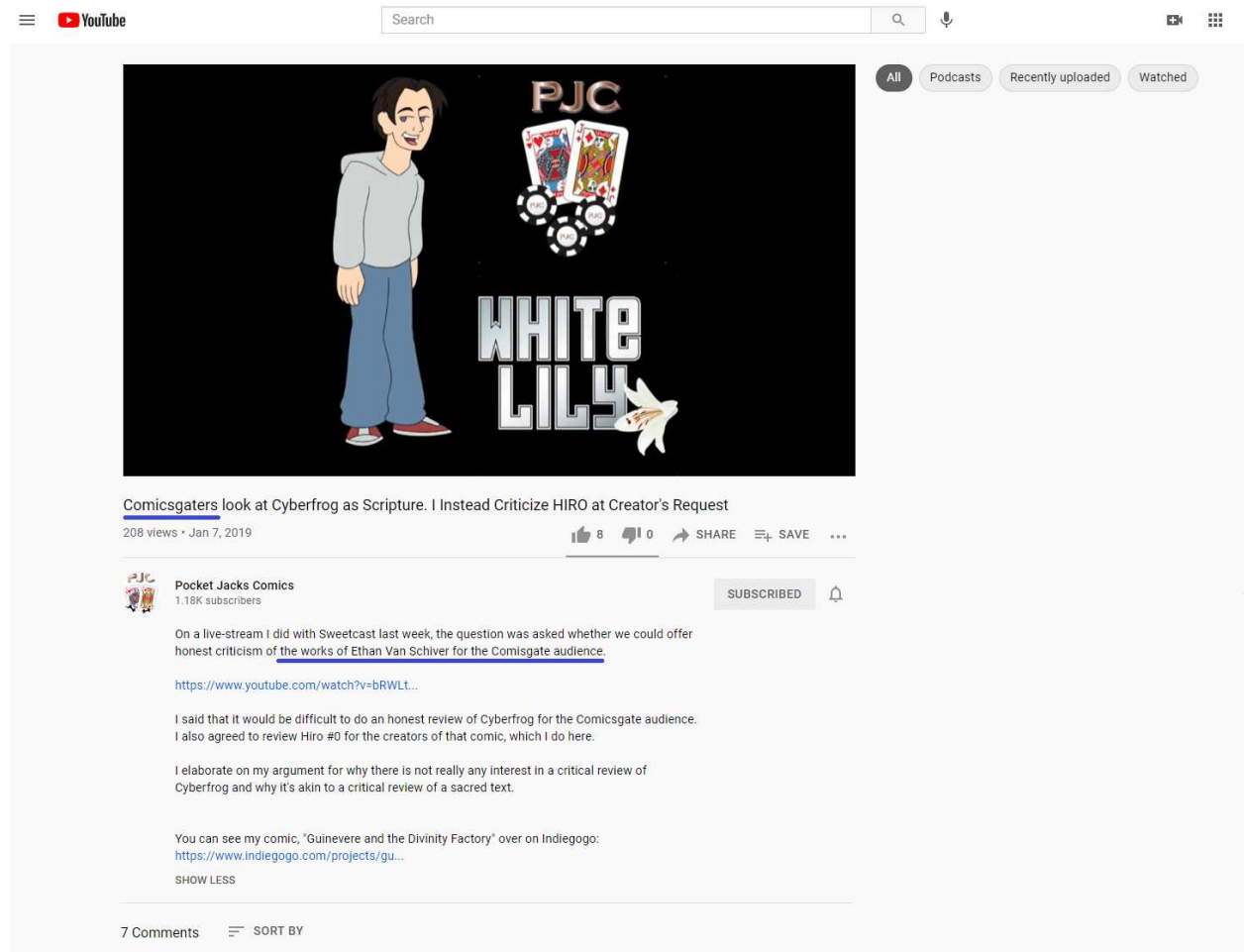
  

STORY FAQ UPDATES 35 COMMENTS 1743 ⓘ

EXHIBIT 3

JAN. 7 and JAN. 8, 2019 – PETITIONER CSP - PRESTON POULTER’S ADMISSIONS THAT “COMICSGATE” IS A SERVICE MARK USED IN COMMERCE TO PROMOTE CROWDFUNDING OF COMIC BOOKS.

JAN. 7, 2019 - YouTube Channel, POCKET JACKS COMICS, 11.16 min livestream entitled “Comicsgaters look at Cyberfrog as Scripture I Instead Criticize HIRO at Creators Request,” broadcast on January 7, 2019, <<https://www.youtube.com/watch?v=vuyZP3tslRI&t=53s>>, last visited on July 28, 2021 (emphasis added).



YouTube

Search

All Podcasts Recently uploaded Watched

Comicsgaters look at Cyberfrog as Scripture. I Instead Criticize HIRO at Creator's Request

208 views · Jan 7, 2019

8 0 SHARE SAVE ...

Pocket Jacks Comics
1.18K subscribers

SUBSCRIBED

On a live-stream I did with Sweetcast last week, the question was asked whether we could offer honest criticism of the works of Ethan Van Schiver for the Comicsgate audience.

<https://www.youtube.com/watch?v=bRWLT...>

I said that it would be difficult to do an honest review of Cyberfrog for the Comicsgate audience. I also agreed to review Hiro #0 for the creators of that comic, which I do here.

I elaborate on my argument for why there is not really any interest in a critical review of Cyberfrog and why it's akin to a critical review of a sacred text.

You can see my comic, "Guinevere and the Divinity Factory" over on Indiegogo:
<https://www.indiegogo.com/projects/gu...>

SHOW LESS

7 Comments SORT BY

Transcription from 0:33 to 1:52 (emphasis added)

00:00:33 Preston Poulter (“Poulter”)

But if we're doing a review to a Comicsgate audience, which let's face it, like the Non Comicsgaters are just going to hate it regardless because they can't separate the art from the artist necessarily.

EXHIBIT 3

00:00:45 Poulter

So they take the artist so they're not. They're not going to like the art. So now who we do interview for. It's probably the people who simply are Comicsgaters, and that would be like doing a critical review of the Bible, uh, for Christians.

00:00:59 Poulter

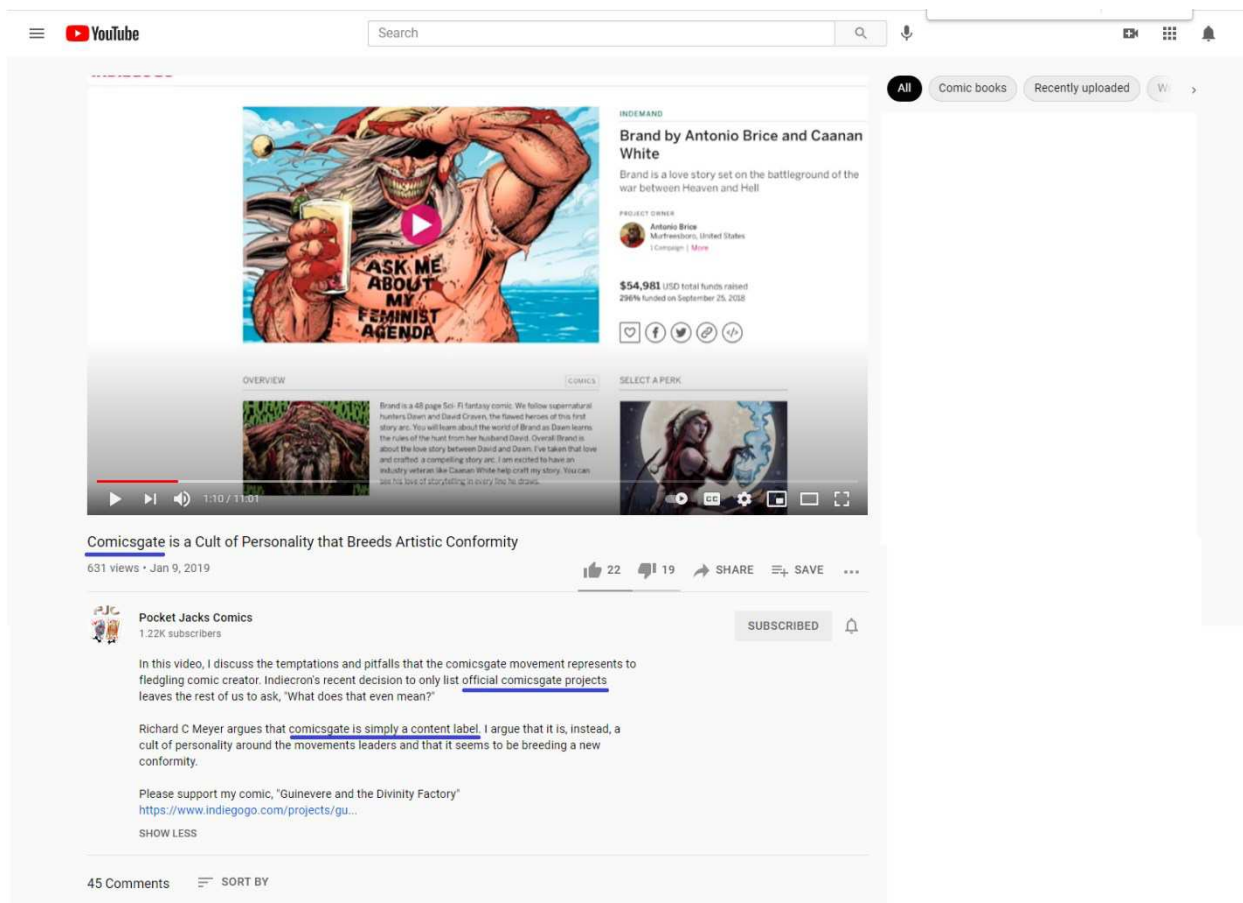
When it comes to the Comicsgate crowd, Ethan Van Sciver and Richard C. Meyer kind of define the genre. They are essentially the ones defining Comicsgate and saying what it is.

00:01:09 Poulter

And if this is their work, then how could we possibly criticize the work of what is defining the genre? I mean, all the works would basically need to be compared to those two, right? And that's why I say as a consumer to almost mind saying hey, I like Comicsgate because I, I want to be consuming things which are free from social justice but as a producer I have no idea like how I'm supposed to be able to say my project is a Comicsgate project because, uh, I'm not even really sure what that means. Like I'm, I'm, I'm just putting out there what I feel is a good comic.

EXHIBIT 3

JAN 9, 2019 - POCKET JACKS COMICS, 11.01 min livestream entitled “Comicsgate is a Cult of Personality that Breeds Artistic Conformity,” broadcast on January 9, 2019, <<https://www.youtube.com/watch?v=qKaLO1F9fCg&t=83s>>, last visited on July 28, 2021.



YouTube

Search

Brand by Antonio Brice and Caanan White

Brand is a love story set on the battleground of the war between Heaven and Hell

PROJECT OWNER

Antonio Brice
Murfreesboro, United States
(Consign) | More

\$54,981 USD total funds raised
296% funded on September 25, 2018

OVERVIEW

Brand is a 48 page Sci-Fi fantasy comic. We follow supernatural hunters Dawn and David Crown, the flawed heroes of this first story arc. You will learn about the world of Brand as Dawn learns the rules of the hunt from her husband David. Overall Brand is about the love story between David and Dawn. I've taken that love and crafted a compelling story arc. I am excited to have an industry veteran like Caanan White help craft my story. You can see his love of storytelling in every line he draws.

SELECT A PERK

Comicsgate is a Cult of Personality that Breeds Artistic Conformity

631 views · Jan 9, 2019

22 19 SHARE SAVE ...

Pocket Jacks Comics
1.22K subscribers

IN this video, I discuss the temptations and pitfalls that the comicsgate movement represents to fledgling comic creator. Indiecron's recent decision to only list official comicsgate projects leaves the rest of us to ask, "What does that even mean?"

Richard C Meyer argues that comicsgate is simply a content label. I argue that it is, instead, a cult of personality around the movements leaders and that it seems to be breeding a new conformity.

Please support my comic, "Guinevere and the Divinity Factory"
<https://www.indiegogo.com/projects/gu...>

SHOW LESS

45 Comments SORT BY

Transcription from 0:24 to 1:46

00:00:24 Poulter

I want to talk about Comicsgate for a bit and I'm putting this under the series I'm doing for comic creators because these are the decisions you're having to make. As a small comic creator, you're going to naturally kind of find yourself, ah, either falling in with or having to actively reject the Comicsgate crowd. Because if you're looking at, you know, the biggest numbers put up on the scoreboard for indie comics.

00:00:48 Poulter

They are going to be dedicated Comicsgate people such as you know Ethan Van Sciver and Richard C. Myers.

EXHIBIT 3

00:00:57 Poulter

And Ethan Van Sciver has gone on record as saying, hey, if you're a comic creator and your Comicsgate friendly, come on my platform and you know he's put some impressive numbers up there, not only for himself but also Antonio Bryce with Brand.

00:01:11 Poulter

He was able to take a guy [Mr. Bryce] who just had an idea for a comic, and you know, just some preliminary artwork and get him to now \$55,000 on Indiegogo. And so you know there's certainly that temptation to go OK I am all on board with Comicsgate.

00:01:28 Poulter

So I want to discuss you know what is it and what does that mean? And for me this question has gone beyond theoretical because IndieCron, the website where I listed Guinevere and the Divinity Factory's Indiegogo page, has now come out and said all future submissions must be official Comicsgate projects.

EXHIBIT 3

AUG 8, 2019 - POCKET JACKS COMICS, 17.26 min livestream entitled “Ethan Van Sciver has a long history of cyberbullying fans / Rap Battle Challenge,” broadcast on August 8, 2019, <<https://www.youtube.com/watch?v=YAAqrlbNvTY&t=258s>>, last visited on July 28, 2021.

The screenshot shows a YouTube video player interface. The video is titled "Ethan Van Sciver has a long history of cyberbullying fans / Rap Battle Challenge" and has 2,483 views. The video player shows a man speaking. Overlaid on the video is a tweet from "ComicArtistPro Secrets" (@EthanVanSciver) dated 11:01 AM - Jul 27, 2019. The tweet discusses the #ComicsGate controversy and mentions "DIVERSITY & COMICS days". To the right of the video player is a description box containing text about Ethan Van Sciver's history of ostracizing fans and links to related content, including Alfred Norris's account, Ethan's response, and Jeff Hartz's thread.

Transcript from 0.00 to 1.02:

00:00:00

Hey everybody, Preston Poulter here for Pocket Jacks comics. Oh my God the host OV mad on Twitter! Woo. You'd a think I'd a robbed a bank or something.

00:00:11

Man, they're all coming after me, including Ethan Van Sciver himself, who seems to have expressed a little bit or disapproval on Twitter.

00:00:20

And kind of in a few tweets. Kind of labeled me "stalker-ie" because I sent a series of tweets back when I was running the campaign for Guinevere and the Divinity Factory asking to be on his show, which as I responded to him well, Ethan, that was what you were saying to do at the time on your live streams. You're like, "Look, I'm super busy. I'm a big celebrity. I get all these DMS and messages. I can't possibly wade through them all. Just keep tagging me in posts and eventually I'll see you."

00:00:54

So I did. And now I'm gettin' blamed for it. Just following directions, Sir. Very sorry, but. . . .

EXHIBIT 4

[MOVIES](#)[TELEVISION](#)[CELEBRITY](#)[THE DAILY STUPID](#)[COMIC BOOKS +](#)[ANIME](#)[CENSORSHIP](#)[VIDEO GAMES](#)[BREAKING](#) → [LEGENDARY ANNOUNCES RACE SWAP OF HISTORICAL FIGURE ELIZABETH WILKINSON IN CHA...](#)[YOUTUBE](#)[FACEBOOK](#)[TWITTER](#)[NEWSLETTER](#)[CONTACT US](#)[MEET THE TEAM](#)[ADVERTISE](#)[Home](#) > [Comic Books](#) > [Industry News](#)

Exclusive: Vox Day Announces New ComicsGate Imprint!

John F. Trent • September 3, 2018 • Industry News • 5

Vox Day continues to expand his comic book business as he exclusively announced his brand new comic imprint, ComicsGate, with us. This imprint joins Arkhaven Comics as well as Dark Legion.

Take a look at the brand new logo for the imprint:



We talked to Vox about the upcoming imprint to get better insight into it.

Bounding Into Comics (BIC): What kind of stories do you plan on featuring under this imprint?

Vox Day (Vox): We plan on featuring any comics and graphic novels brought to us by ComicsGate-affiliated creators who wish to make public their support for ComicsGate.

BIC: Will this be a shared universe imprint like what you are doing with Arkhaven Comics and Alt-Hero?

Vox: No, this is not a shared universe. We set it up as a means of giving ComicsGaters a means of broad and reliable distribution that cannot be shut down by SJWs in the comics industry.

BIC: Do you have any creators already lined up? Who are they?

Vox: Will Caligan is the first. We do have others lined up, but I prefer not to identify them until their comics or graphic novels are ready for publication. As you know, we don't talk much about our future products, we prefer to wait until things are ready to go before we announce them, as we have done here.

BIC: What will the first title from Will Caligan be? Can you give us any details on the story?

Vox: The [print edition of *Gun Ghoul*](#). It has done [very well in digital](#), and we expect the graphic novel will also be successful.

BIC: Will you be actively courting ComicsGate creators or will their be a submittal process?

Vox: We're extremely busy, so we'll be more inclined to wait to hear from interested creators.

BIC: Will there be a vetting process for creators? For example, if a ComicsGate critic wants to embrace the movement and publish under this new label will they be able to?

Vox: Yes. No.

BIC: Will you be planning any crowdfunding around this new imprint?

Vox: I expect we will do so, yes.

BIC: When can we expect the first crowdfunder?

Vox: Not for at least two months. We're running one now for [Alt-Hero: Q](#).

BIC: How will you differentiate this imprint from Arkhaven and Dark Legion?

Vox: Arkhaven is for the original material that we create. Dark Legion is what other creators bring to us for publishing. ComicsGate is similar to Dark Legion, but it is specifically for creators and fans who wish to make public their support for ComicsGate. We don't claim to define ComicsGate, we don't claim to be the official publisher of ComicsGate, and there will certainly be ComicsGaters who will utilize other publishers and distribution channels, this is merely our way of offering our structural support for the people and philosophy of ComicsGate.

BIC: Will there be any difference in how you handle ComicsGate imprint financially with creators over your other imprints?

Vox: The publishing arrangement will be the same as it is with Dark Legion.

BIC: Is there any significance to the green and purple colors chosen for the logo?

Vox: The ride never ends.

Are you all excited for this new imprint? Who would you like to see join this new imprint?

ABOUT THE AUTHOR



John F. Trent → Founder and Editor-in-Chief



John is the Editor-in-Chief here at Bounding Into Comics. He is a massive Washington Capitals fan, lover of history, and likes to dabble in economics and philosophy.

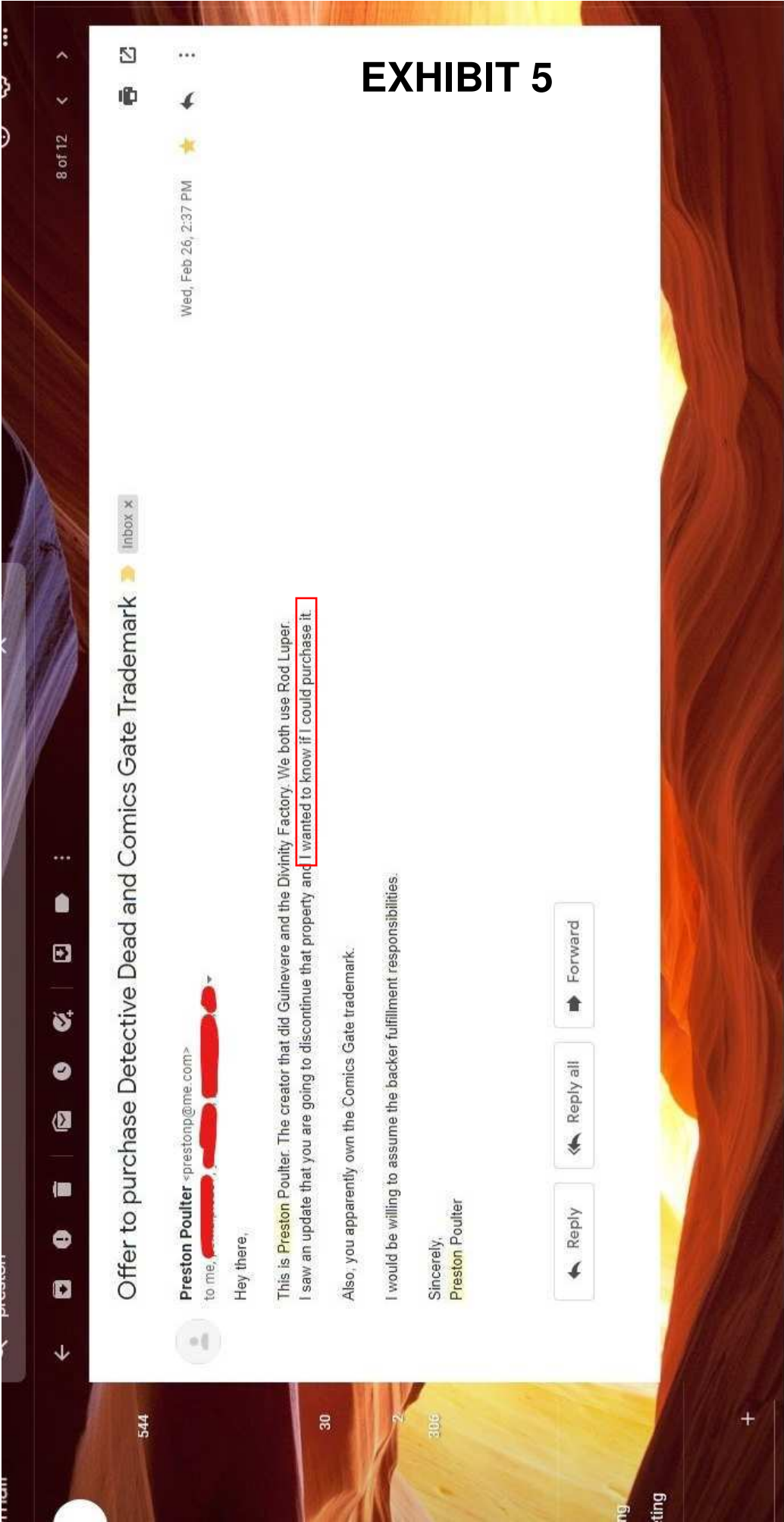
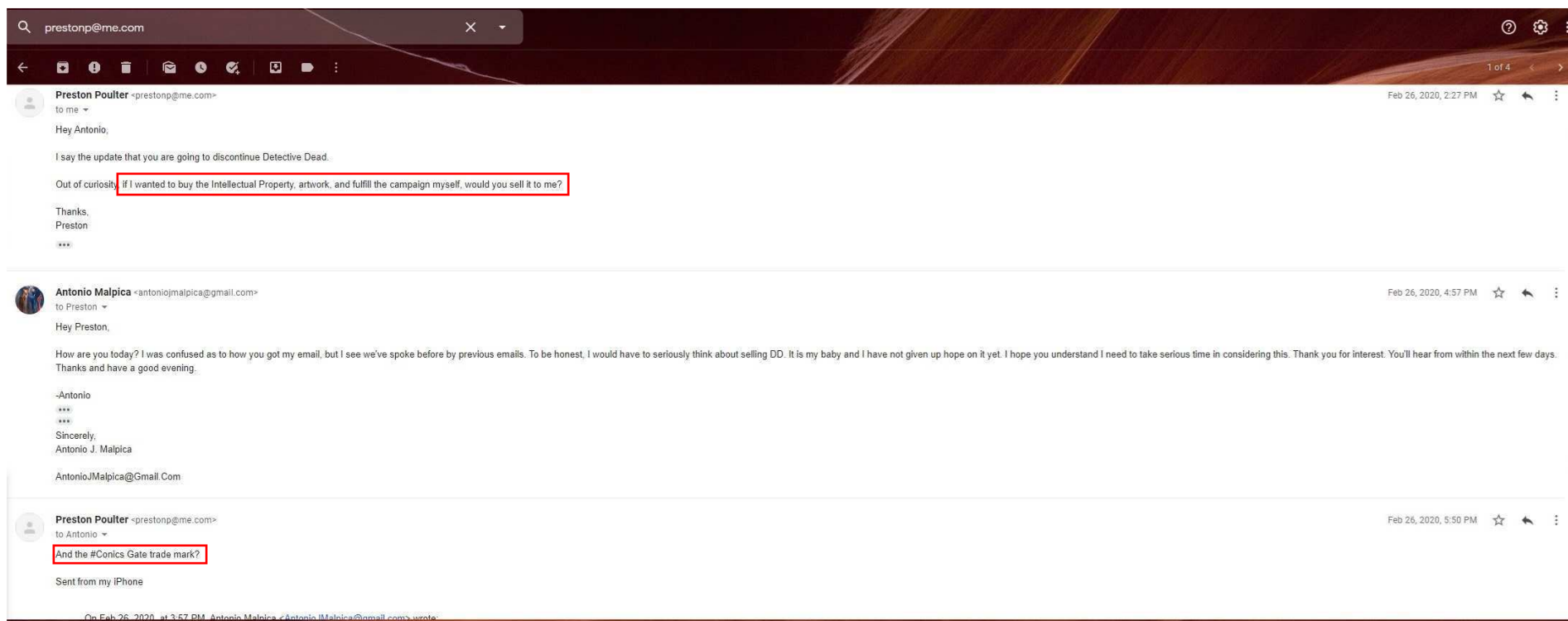
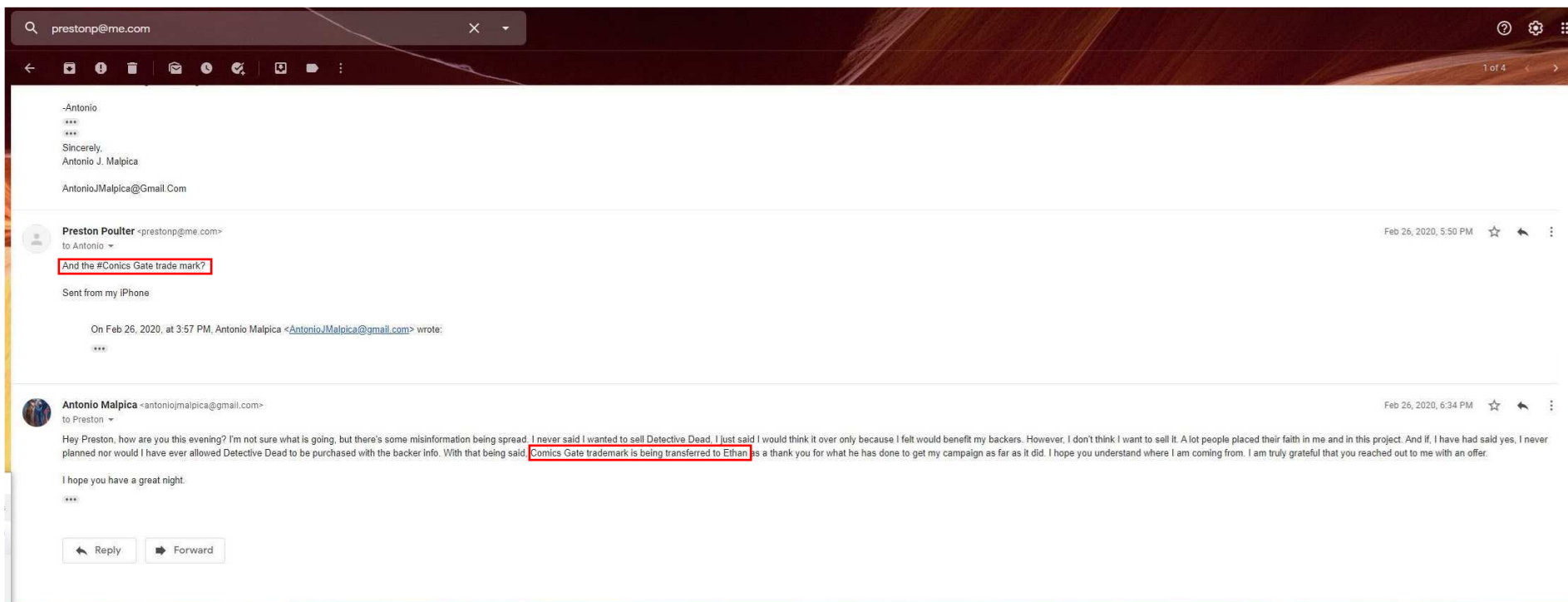


EXHIBIT 5



EVS000135



EVS000136

EXHIBIT 6

LEONARD, SCIOLLA,
HUTCHISON, LEONARD
& TINARI, LLP
ATTORNEYS AT LAW

Two Penn Center, Suite 1910
1500 John F. Kennedy Blvd.
Philadelphia, Pennsylvania 19102
(215) 567-1530
Fax: (215) 564-4611

John J. Leonard
Gregory E. Sciollo *†
Keith N. Leonard *
Michael V. Tinari *
Stephen J. Labroli *
Heidi E. Anderson *
Paul H. Schultz *
Anthony J. Leonard *
Christopher P. Fleming *
Marisa B. Ciarrocki *
Benjamin E. Smith *

Of counsel

Hugh J. Hutchison
Joana Gaizelyte-Lacy *

* Also admitted in New Jersey
† Also admitted in New York
‡ Certified by the Supreme Court of
New Jersey as a Civil Trial Attorney

72 East Main Street
Moorestown, New Jersey 08057
(856) 273-6679
Fax: (856) 273-0109

Westtown Business Center
1517 McDaniel Drive
West Chester, Pennsylvania 19380
(610) 701-6455

www.leonardsciollo.com
Email: kleonard@leonardsciollo.com

September 7, 2018

BY EMAIL
EMAIL: voxday@gmail.com

Mr. Theodore Robert Beale/Vox Day

Re: Ethan Van Sciver -- ComicsGate
Our File No. 6076-00

Dear Mr. Beale:

This firm represents Ethan Van Sciver who owns and has been maintaining and broadcasting for an extended period of time a YouTube Channel under the ComicsGate name and in which he holds and maintains a common law trademark and service mark. It has come to my client's attention that you intend to, and/or have already begun to, circulate a stamp, imprint or other printed material for use by third parties and which contains Mr. Van Sciver's ComicsGate mark, without any authorization or other form of consent by Mr. Van Sciver.

Neither you nor any business in which you have an interest or which you manage has any right whatsoever to use the mark ComicsGate in the fashion which you are doing and/or propose to do in some manner. Your attempt to do so is clearly an effort by you to use the mark in a manner which is confusingly similar to Mr. Van Sciver's mark in the same industries as Mr. Van Sciver's mark already exists and is disseminated in interstate commerce. Any such use of the ComicsGate mark is therefore improper, misleading and illegal. Such unauthorized trademark and service mark uses by you is obviously intended to draw consumers of Mr. Van Sciver's mark to you for commercial gain in violation of a number of laws of the United States and other nations.

EVS000207

Demand is therefore being made on you on behalf of Mr. Van Sciver that you and any other persons or organizations with which you have an interest or are affiliated and which are using ComicsGate immediately and permanently cease and desist the unauthorized copying and distribution of that mark, including but not limited to any uses of it on any stamp, imprint, sticker, etc. intended for distribution in any manner on a comic book or other printed material, on a website, or elsewhere. Further, in no way may you suggest that you are in any way sponsored by, approved by or affiliated with Mr. Van Sciver or ComicsGate.

You should confirm immediately in writing that you have ceased any and all such uses, worldwide, in any and all languages. Unless I receive written confirmation from you or someone representing you within the next ten (10) days, we shall assume you intend to willfully refuse to stop your infringement of the ComicsGate mark. The cease and desist demand in this letter is being made without prejudice to, and without waiving any of Mr. Van Sciver's rights or remedies, all of which are being expressly reserved by him. Should you continue to infringe upon Mr. Van Sciver's proprietary rights, he may proceed with legal action seeking injunctive relief and other remedies available to him due to the infringement. In that event, legal action may be commenced without any further notice from this office.

Sincerely,

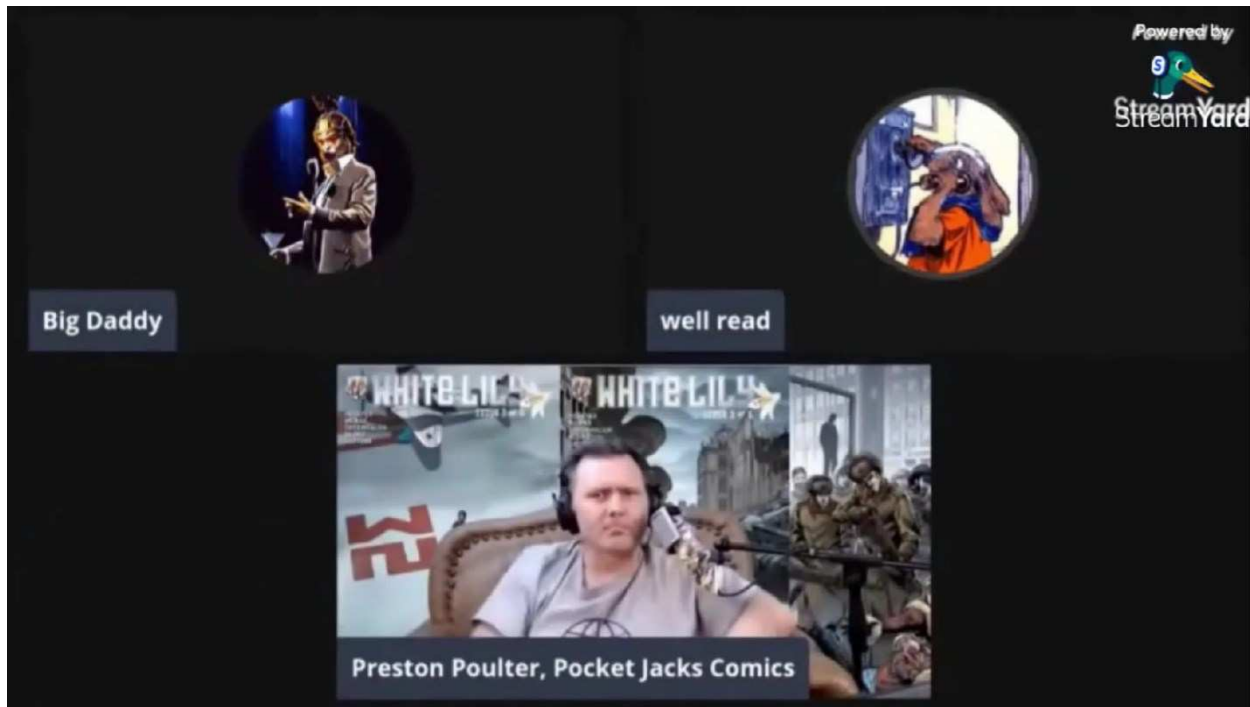


Keith N. Leonard

KNL:cm

cc: Mr. Ethan Van Sciver

EXHIBIT 7



Excerpt from the YouTube channel “Big Daddy:”

Well read: “Why do you have the CG license? What was the point of that if you think CG is such a tainted brand?”

Preston Poulter: “Well, I think it’s worth money. So, that’s why I got it.”

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

COMMON SENSE PRESS INC
DBA POCKET JACKS COMICS
Petitioner-Plaintiff

v.

ANTONIO J. MALPICA, and
ETHAN VAN SCIVER
Registrants-Defendants

Cancellation No. 92075375

DECLARATION OF VICTORIA KUNDERT

I, Victoria Kundert, declare as follows:

1. I am a co-host of a YouTube channel that specializes in the COMICSGATE community. I am knowledgeable of a livestream excerpt from a YouTube channel “Big Daddy” featuring a short conversation between Preston Poulter and Well Read User, a screen shot of which is attached to this declaration as “Exhibit 7.”
2. I am familiar with the voices of both Preston Poulter and Well Read User.
3. I was watching the original livestream broadcast of this conversation, and I broadcast this excerpt on my YouTube channel, D & V Investigations on Aug. 8, 2021
4. The following is a true and correct transcript of the beginning of the excerpt:
Well read: “Why do you have the CG license? What was the point of that if you think CG is such a tainted brand?”
Preston Poulter: “Well, I think it’s worth money. So, that’s why I got it.”

I declare under penalty of perjury that the foregoing is true and correct and, if sworn as a witness, I could and would testify thereto.

Dated this 2nd day of August 2024 at Wallace, NC, USA.

/Victoria Kundert/
Victoria Kundert


EXHIBIT 8

 **pocketjackscomics** 17-Apr-21 10:57 AM
They use this nebulous term which means whatever they want to mean, and none of them are ever willing to define. So I decided to force them to define it be trademarking it myself.
At which point, I set the definition. They understand, I will force them to stop using the term. They have tried everything to stop me. I'm still here.


 **scorecrazy69** 17-Apr-21 10:59 AM
Well I love what you're doing from everything I understand so far.

 **pocketjackscomics** 17-Apr-21 10:59 AM
Two days ago, Ethan Van Sciver himself made an official appearance in my case for the CG trademark. [\(edit\)](#)
So he has now had to step forward and say, "I own Comicsgate It's my trademark. I alone determine who is and isn't CG." Which forces a great deal of clarity. Because all the comic nerds would just make up whatever definition they felt like using at the time. "CG just means we want quality comics."

 **scorecrazy69** 17-Apr-21 11:01 AM
But it won't stop them from their crazy beliefs. Even if you win, and the term has to be let go, their belief systems won't change at all, and they'll just be adrift without the identifier, which is actually kind of helpful.

 **pocketjackscomics** 17-Apr-21 11:01 AM
By trademark powers allow me to strike videos from YouTube for claiming that a certain book is Comicsgate. And they understand what a reign of terror that would cause.

 **scorecrazy69** 17-Apr-21 11:02 AM
Yes, that is true. That would be a very powerful weapon.

 **pocketjackscomics** 17-Apr-21 11:02 AM
And here we are.

 **scorecrazy69** 17-Apr-21 11:03 AM
Well I wish you the best of luck. I think what you're doing is great. More power to you.

EVS000210



pocketjackscomics 17-Apr-21 11:05 AM

Thank you. I do my best.



scorecrazy69 17-Apr-21 11:05 AM

You've got to be a little nuts to invest so much energy, time, and money on this fight, but in the end, if you succeed, you'll be a hero to many, that's for sure.



pocketjackscomics 17-Apr-21 11:05 AM

Well, I recognized that a hategroup needs a villain. I was willing to be theirs.



scorecrazy69 17-Apr-21 02:51 PM

@pocketjackscomics - I get that you have to use it to get that legal claim, but the fact that you're willing to put it on your comics raises its own set of questions. Surely you understand that it immediately associates you work everything connected to that movement. Do you put a huge disclaimer in your comic detailing your beliefs on the subject? That you consider them a hate group?



pocketjackscomics 17-Apr-21 02:52 PM

No one seems to notice or care.

I've been quite vocal in my opinions about Comicsgate as a hate group, Ethan Van Sciver as the sociopathic leader of a hate movement, and the horrible people who follow him.

It's more or less part of my brand at this point.





scorecrazy69 17-Apr-21 02:54 PM


Because it's one thing for comicsgate people to know they hate you, but it's another thing entirely for people outside of comicsgate to know what you're doing. I'd never heard of any of this, for example. I may not be the best example, I admit, but what is the greater comic book reading community?


@pocketjackscomics - Okay. I guess that people who know you would definitely know this, sure, but people who don't, who might be interested in possibly reading your comics, might be scared, or turned off, by seeing that title/icon on your cover.


scorecrazy69 @pocketjackscomics - Okay. I guess that people who know you would definitely know this, sure, but people who don't, who ...


 **pocketjackscomics** 17-Apr-21 02:56 PM
And that's the beautiful thing about trademark.
If there exists enough confusion in the marketplace that people look at my book and think hategroup, and I can document exactly that, then it now provides the next plank of my legal enforcement argument.
That is to say, I can now start making estimate for how my brand has been damaged.


 **scorecrazy69** 17-Apr-21 02:59 PM
@pocketjackscomics - Ah. Very interesting. Fascinating, I admit. You clearly care more about fighting them than about your own comic brand. That's admirable.


 **pocketjackscomics** 17-Apr-21 02:59 PM
I consider it a fascinating aspect of human psychology and mass marketing.


 **scorecrazy69** 17-Apr-21 02:59 PM
Yeah.

 **pocketjackscomics** 17-Apr-21 03:00 PM
Look at them. They almost never promote their own work. They instead speak about what they are against.

 **scorecrazy69** 17-Apr-21 03:00 PM
True.

 **pocketjackscomics** 17-Apr-21 03:00 PM
I do find it sad that people consider the work far second to the guy who made it and his crazy crusade.

 **pocketjackscomics** If there exists enough confusion in the marketplace that people look at my book and think hategroup, and I can docume...

 **Pao** 17-Apr-21 03:00 PM
Never thought of it like that. You've obviously put alot of thought into this. I hope it all works out for you.

EVS000212



pocketjackscomics 17-Apr-21 03:01 PM

Well, it has worked out a bit. A couple of days ago, Ethan Van Sciver made a formal appearance in the trademark case claiming the market for himself.



1

He has been operating to use the term as a nebulous shield. "What does it even mean? Who is CG? I don't know nothing." Well, I have made him abandon the position. *(edited)*

Now, he has legally said, "CG is my personal trademark. I am the owner of it. Things that happen under that name happen under my supervision."



pocketjackscomics 06/23/2021

Comicsgate is right to fear my legal designs on them. By the time I am through, I will have made an example of their chief bully before the courts and robbed them of their very name.



#Comicsgate

Deplatform Ethan Van Sciver

3,102 views • Feb 3, 2020

198 186 SHARE SAVE ...



Pocket Jacks Comics
1.15K subscribers

SUBSCRIBED



#Comicsgate presents itself as a casual place of existence where comic fans and creators can associate and freely express themselves. Ethan Van Sciver, the de facto leader of the group, has said that comic creators who have his blessing and come on his stream will receive over \$25,000 towards their amateur project completion.

Why then would anyone seek to upset this apple cart? Surely, I must be deranged with jealousy and out to hurt other creators. Far from it. I simply recognize that what was ostensibly started as a consumer movement demanding better comic books has degenerated into a cult of personality around a sociopathic leader who runs the operation like a crime boss.

Ethan Van Sciver uses War Campaign as a club to silence dissension or any critical analysis of #Comicsgate campaigns or creators. This sort of tribalism has provided a safe have for a whole host of mentally off bad actors to enter the picture and be encouraged to attack the enemies of #Comicsgate.

Here are some of the higher profile incidents that have occurred in the last 18 months:

Cal of Shinobi Sasquatch fame asked that Ashcan comics no longer utilize Skinny because he referred to Edwin with "salad memes."
CG mass refunded Will Caligan's Vox Popoli

WC labeled Brad Ashford a doxxer and tried to destroy his Handyman IGG campaign simply because Crypto helped him set the page up. George Alexopolous objected and was subjected to a War Campaign tribunal which caused him to leave. Doug TenNapel also left over this incident. All three figures have been constantly harassed ever since.

- Doug Garrett was similarly labeled a doxxer after he failed to thank Jon Malin and refused to denounce Jon Del Arroz after the conclusion for his campaign for "Legends of the Lone Wolf."

- TUG called Hasbro to get Aibrey Sitterson fired for a tweet.

EXHIBIT 10

To: SCOTT HOUTTEMAN(scott@houtteman.com)
CC: DarkGiftComics@outlook.com; AntonioJMalpica@gmail.com
Subject: Proceeding No. 2022-100062R in U.S. Trademark Registration No. 6102744 -
Sent: January 06, 2023 06:06:10 PM EST
Sent As: tmng.notices@uspto.gov

Attachments

United States Patent and Trademark Office (USPTO) Office Action (Official Letter) About Expungement and/or Reexamination Proceeding

Proceeding No. 2022-100062R

U.S. Registration No. 6102744

Mark: COMICS GATE

Correspondence Address:

SCOTT HOUTTEMAN
HOUTTEMAN LAW LLC
PO BOX 370
MERRIFIELD VA 22116-0370 UNITED STATES

Registrant: Malpica, Antonio J.

Reference/Docket No. N/A

Correspondence Email Address: scott@houtteman.com

NOTICE OF TERMINATION OF PROCEEDING

The USPTO has terminated the proceeding as explained below. No response is required.

Issue date: January 6, 2023

Upon review of the evidence of record, the USPTO determined that registrant has demonstrated use of the mark in commerce for all goods, subject to the proceeding. 37 C.F.R. §2.93(c)(3)(i).

The evidence and arguments provided by the registrant demonstrates valid use of the relevant goods in interstate commerce. Registrant has also established that the relevant goods were provided through trade channels that directly affect interstate commerce during the period of time relevant to this proceeding.

Accordingly, no change is required to the registration, and the proceeding is terminated. 37 C.F.R. §2.94.

/Renee Servance/
USPTO
Attorney Advisor
Office of the Dep. Commissioner for TM Examination Policy
(571) 272-6596
Renee.Servance@USPTO.GOV

United States Patent and Trademark Office (USPTO)

USPTO OFFICIAL NOTICE

**Reexamination and/or Expungement
Proceeding No. 2022-100062R**

Office Action (Official Letter) issued
on January 6, 2023 for
U.S. Trademark Registration No. 6102744

The USPTO has issued an Office action in a proceeding involving your registration. No response is required.

(1) [Read the Office action](#). This email is NOT the Office action.

(2) **Direct general questions** about using [USPTO electronic forms](#), the USPTO [website](#), the proceeding process, the status of your registration, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examiner identified in the Office action.

GENERAL GUIDANCE

- [Check the status](#) of your registration periodically in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.

- **[Update your correspondence email address](#)**, if needed, to ensure you receive important USPTO notices about your registration.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. And all official USPTO correspondence will only be emailed from the domain "@uspto.gov." Verify the correspondence originated from us by using your registration number in our database, [TSDR](#), to confirm that it appears under the "Documents" tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the expungement and/or reexamination proceeding process.

EXHIBIT 11

#1

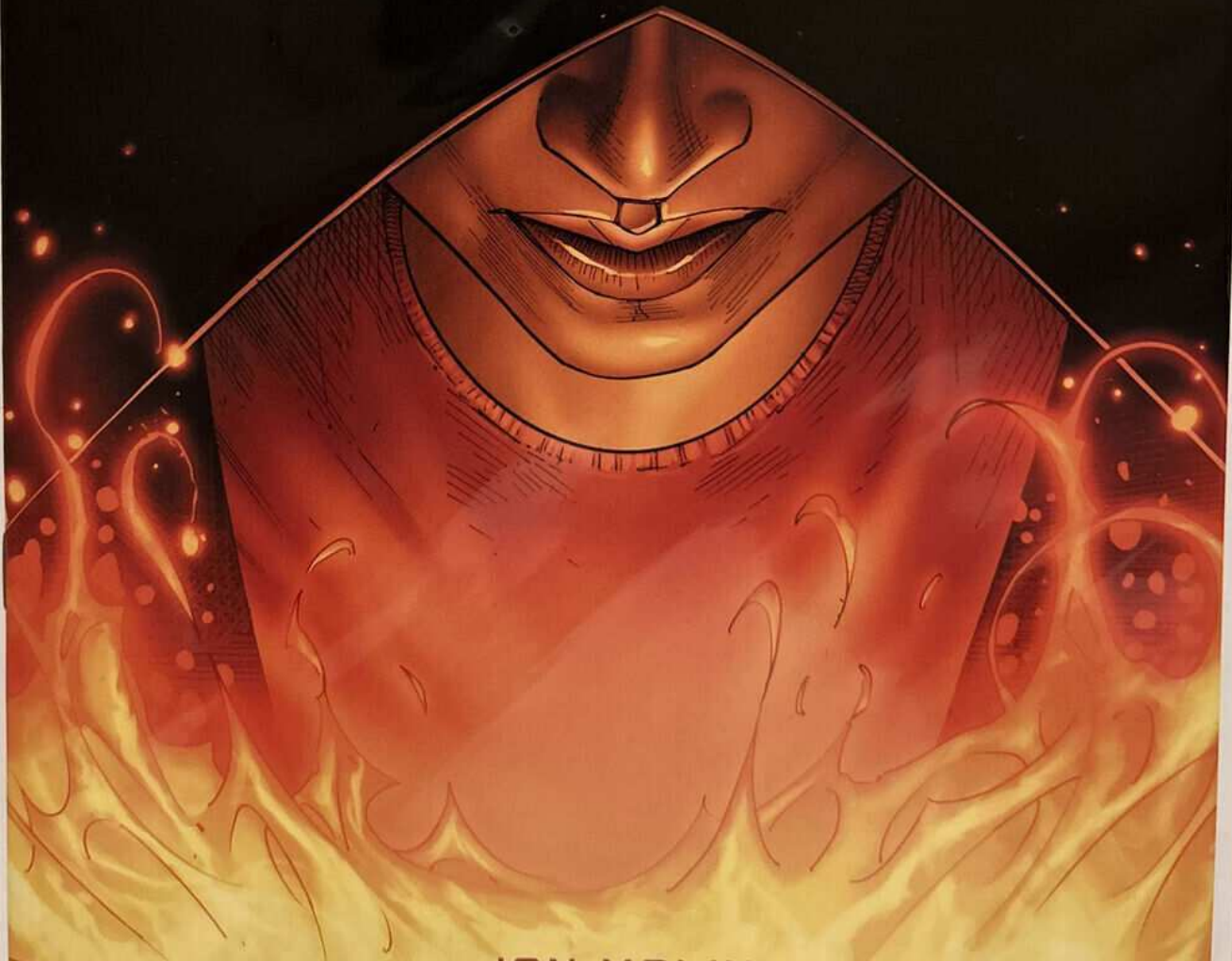
CONTAINS
ADULT
LANGUAGE,
VIOLENCE &
SITUATIONS

CG
COMICSGATE
ARENA

BLACK

RIDING HOOD

THE MALIN CUT



JON MALIN

EVS000263



WOLFEN

RIDING HOOD

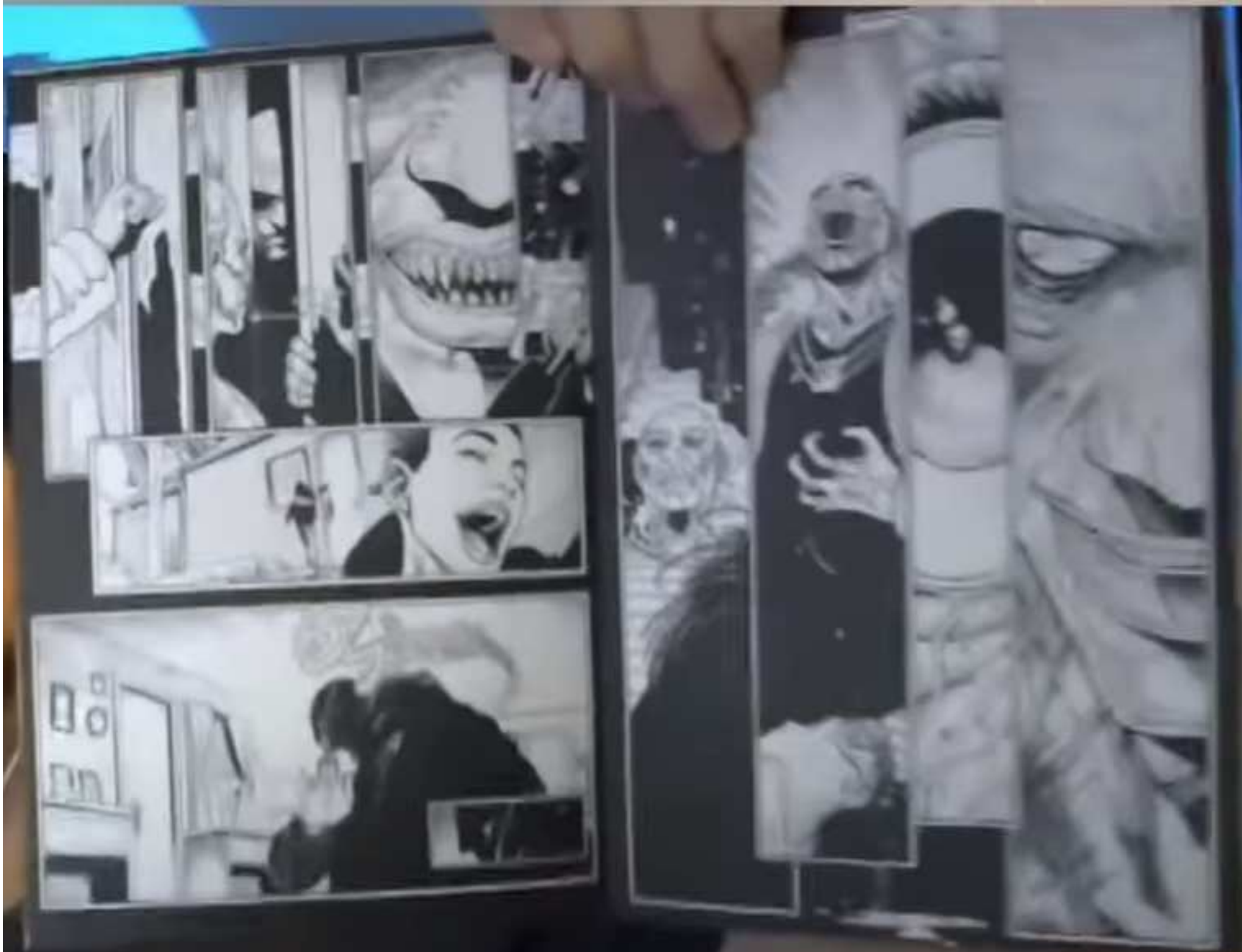
SMALL TALK

JOHN WILLIAMS

EVS000264

COMICSGATE
ARENA

EVS000265



EVS000266

**I WAS
RAISED
BY THE
WOLVES.**

COMICSGATE
ARENA

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[Faint, illegible text]

...the ... of ...

...the ... of ...

...the ...
...the ...
...the ...

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...the ... of ...

A close-up photograph of a person's hand, with the index finger pointing at a specific line of text on a document. The text is printed in a serif font and appears to be a list or a set of instructions. The background is dark and out of focus, emphasizing the hand and the text being pointed at.

... ..

... ..

[Illegible text]

1. *Staphylococcus aureus*

1. *Journal of the American Medical Association*, 1997; 277: 1033-1037.

1998

Hi, COMICSGATE.

BLAKE
RIDING
HOOD



EVS000268