

ORIGINAL

1 James W Morando (State Bar No 087896)  
jmorando@fbm com  
2 Karen P Kimney (State Bar No 173284)  
kkimney@fbm com  
3 Alex Reese  
areese@fbm com  
4 Farella Braun + Martel LLP  
235 Montgomery Street, 17th Floor  
5 San Francisco, CA 94104  
Telephone (415) 954-4400  
6 Facsimile (415) 954-4480  
7 Attorneys for Plaintiffs  
Olivier Wasem and Sammy Wasem  
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SAN MATEO COUNTY

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Clerk of the Superior Court

By   
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9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SAN MATEO

CIV 530869

12 **Olivier Wasem and Sammy  
Wasem, as individuals,**

Case No

13 Plaintiffs,

**COMPLAINT FOR BREACH OF  
PARTNERSHIP AGREEMENT, BREACH  
OF FIDUCIARY DUTY, AIDING AND  
ABETTING BREACH OF FIDUCIARY  
DUTY, CONVERSION, AIDING AND  
ABETTING CONVERSION, BREACH OF  
CONTRACT, BREACH OF COVENANT  
OF GOOD FAITH AND FAIR DEALING,  
AND INTENTIONAL INTERFERENCE  
WITH PROSPECTIVE ECONOMIC  
ADVANTAGE**

14 vs

15 **Facebook, Inc.; Ferrari S.p.A.; and  
Does 1-5,**

16 Defendants.  
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1 Plaintiffs Olivier Wasem and Sammy Wasem (collectively, the “Wasems” or “Plaintiffs”)
2 allege as follows

3 NATURE OF THE ACTION

4 1 This action is about a new technology—Facebook commercial fan pages—but it’s
5 an old story The Wasems spent years and countless hours building something valuable two
6 Facebook fan pages that attracted millions of fans (more than 16 million to date) and generated
7 tremendous exposure for Ferrari Ferrari wanted it So, with Facebook’s knowledge and
8 substantial assistance, Ferrari took it, and they have both profited from what the Wasems created
9 Industry experts have estimated that the value to a company of a commercial Facebook page
10 ranges from an average of \$174 per fan to more than \$1,000 per fan for luxury brands in the
11 automobile industry This action seeks damages against Ferrari and Facebook for their wrongful
12 conduct in taking something that didn’t belong to them

13 THE PARTIES

14 2 Plaintiff Sammy Wasem, an individual, is a citizen of Switzerland He resides at
15 67, Route de Mategnin, 1217 Meyrin, Geneva, Switzerland

16 3 Plaintiff Olivier Wasem, an individual, is a citizen of Switzerland He resides at
17 51, Rue des Paquis, 1201 Geneva, Switzerland

18 4 Plaintiffs are informed and believe, and therefore allege, that Defendant Ferrari,
19 S p A (“Ferrari”) is an Italian corporation with its principal place of business in Modena, Italy
20 Ferrari makes and sells luxury automobiles and a wide range of merchandise associated with its
21 brand and automobiles

22 5 Plaintiffs are ignorant of the true names or capacities of Defendants sued under the
23 fictitious names Does 1–5 Plaintiffs will amend the Complaint to allege their true names and
24 capacities when they are ascertained Plaintiffs are informed and believe, and therefore allege,
25 that each Defendant sued under a fictitious name is in some manner responsible for the control or
26 management of the two Facebook pages that are the subject of this action, or are responsible for
27 the acts that give rise to this Complaint

28 6 Plaintiffs are informed and believe, and therefore allege, that Defendant Facebook,

1 Inc (“Facebook”) is a Delaware corporation with its principal place of business in Menlo Park,  
2 California Facebook offers an online platform that enables people to connect with one another,  
3 share information and ideas, and create and manage online pages containing video, photos, text,  
4 and other content about themselves and their ideas

5 JURISDICTION AND VENUE

6 7 This Court has jurisdiction over this action because the Wasems assert claims that  
7 arise under California law and because the amount in controversy exceeds \$25,000

8 8 This Court has personal jurisdiction over Ferrari because it has purposefully  
9 availed itself of the benefits and protections of the state of California Plaintiffs are informed and  
10 believe, and therefore allege, that Ferrari has entered into at least one contract with Facebook, a  
11 California resident, and the Wasems’ claims arise out of or relate to Ferrari’s contractual  
12 relationship with Facebook Plaintiffs are informed and believe, and therefore allege, that Ferrari  
13 has submitted to jurisdiction in this district because it has entered into a user agreement with  
14 Facebook that requires any lawsuit relating to the user’s rights and responsibilities under the  
15 Facebook user agreement to be filed in state court in San Mateo County or in the Northern  
16 District of California, and this suit relates to the Wasems’ and Ferrari’s relationship with  
17 Facebook and their respective rights to Facebook pages created by the Wasems

18 9 Plaintiffs are informed and believe, and therefore allege, that this Court also has  
19 personal jurisdiction over Ferrari because Ferrari has placed its products into the stream of  
20 commerce with the knowledge and intent that the products be sold and used in California,  
21 including products sold by Ferrari through its Facebook page During the weekend of October  
22 11–12, 2014, Ferrari celebrated sixty years of selling cars into the United States by sending the  
23 company chairman and over 1,000 Ferraris to a parade in Beverly Hills, California, according to  
24 news accounts of the event According to the USA Today, Ferrari “officials repeatedly said the  
25 USA is the largest market for Ferrari, and California is the most popular state for Ferraris ” In  
26 addition, Ferrari maintains an interactive website, and Plaintiffs are informed and believe, and  
27 therefore allege, that California residents can and do purchase Ferrari products through that  
28 website

1           10     Plaintiffs are informed and believe, and therefore allege, that this Court has  
2 personal jurisdiction over Facebook because it is a California resident. In addition, Facebook has  
3 submitted to jurisdiction in this district because it has entered into user agreements with the  
4 Wasems and with Facebook that require suits relating to the rights and responsibilities under the  
5 Facebook user agreement to be filed in state court in San Mateo County or in the Northern  
6 District of California.

7           11     Venue is proper in this district under California Code of Civil Procedure § 395  
8 because Facebook resides in this county, and because the injury to the Wasems' personal property  
9 occurred in this county. In addition, Plaintiffs are informed and believe, and therefore allege, that  
10 at all the times relevant to this action, the contract between Facebook and its users required that  
11 any suit against Facebook relating to the user's rights and responsibilities under the Facebook  
12 user agreement to be filed in state court in San Mateo County or in the Northern District of  
13 California.

14                               **FACTS**

15     **I.     The Wasems Create Two Wildly Popular Ferrari Facebook Pages**

16           12     Sammy Wasem is an aspiring Formula 1 racecar driver and has loved Ferrari cars  
17 since he was a boy. In 2007, relatively few people knew about Facebook and it had just a small  
18 fraction of the users it does today. Sammy and his father, Olivier, realized that Facebook could  
19 become a forum where people with similar interests could share their passion and ideas.  
20 Together, they created several Facebook "groups" for fellow Ferrari and racing enthusiasts.

21           13     Sammy's passion for racing and Ferrari drew many fellow fans together—so  
22 many, in fact, that Sammy's first Facebook page was cancelled because it quickly exceeded the  
23 maximum number of users that could associate themselves with the page, which at the time was  
24 5,000.

25           14     Later in 2007 or early 2008, Facebook introduced a new feature, called "Facebook  
26 Pages," that allowed a user to create a Facebook page dedicated to a particular topic and gather a  
27 community of other people interested in that topic, who are called "fans" of the page. Such pages  
28 function as communal message boards where users can post comments, photos, and engage in

1 discussions about a page's topic. A Facebook user can become a fan of a page by clicking on a  
2 button on the page indicating that they "like" the page. Normally, once a user becomes a fan of  
3 any particular Facebook Page, that user will receive an update whenever a new comment, photo,  
4 or discussion is added to the page.

5 15 Unlike the previous "groups" feature, Facebook Pages had no limit to the number  
6 of users that could connect with each other by becoming fans of a page. Sammy and Olivier  
7 immediately realized that a Facebook Page for Ferrari enthusiasts could become very popular.  
8 They created a Ferrari Facebook Page in June 2008, referred to throughout the Complaint as the  
9 "Ferrari Fan Page." Because of Sammy's love of Formula 1 racing, they also created a Facebook  
10 Page called "Formula 1 Vision" to share their passion for the Ferrari Formula 1 racing team,  
11 referred to throughout the Complaint as the "Formula 1 Fan Page."

12 16 The Wasems spent countless hours adding content and managing the two pages.  
13 This included generating content, organizing content, creating different sections on the pages, and  
14 moderating comments to ensure that the pages did not have any spam or inappropriate comments.

15 17 Under the Facebook user agreement applicable at the time that the Wasems created  
16 the Ferrari Fan Page and the Formula 1 Fan Page, the Wasems had absolute administrative  
17 control over the pages, including the ability to decide what content would be added to the pages,  
18 what would be deleted, and who else could gain administrative rights to the pages.

19 18 When the Wasems created the Ferrari Fan Page and the Formula 1 Fan Page, there  
20 were already dozens of competing pages for Ferrari enthusiasts, but because of their passion and  
21 efforts, the Wasems' pages became by far the most popular Facebook pages for Ferrari  
22 enthusiasts. By February 2009, the Ferrari Fan Page had over 500,000 fans. The Formula 1 Fan  
23 Page was also very successful with over 25,000 fans in 2009.

24 **II. With Facebook's Help, Ferrari Obtains Administrative Rights to the Ferrari Fan**  
25 **Page**

26 19 Plaintiffs are informed and believe, and therefore allege, that during this same time  
27 period, Ferrari attempted to create its own Facebook fan page, but it was unsuccessful in  
28 attracting a significant number of fans to its page. Plaintiffs are informed and believe, and

1 therefore allege, that the page created by Ferrari had only a few thousand fans at its height

2           20       Plaintiffs are informed and believe, and therefore allege, that in or around 2009,  
3 Ferrari recognized the enormous commercial potential of building a robust community of fans on  
4 Facebook. Plaintiffs are informed and believe, and therefore allege, that Ferrari saw that the  
5 Ferrari Fan Page created by the Wasems was incredibly popular, so in or around March 2009, it  
6 unilaterally asked Facebook to give it administrative control over the Ferrari Fan Page.

7           21       On March 10, 2009, Ferrari's employee Claudio Russo contacted Olivier Wasem  
8 by email and informed him that "legal issues force us [Ferrari] in taking over the formal  
9 administration of" the Ferrari Fan Page. Before that time, Olivier and Sammy Wasem were the  
10 only people authorized as administrators of the Ferrari Fan Page. Neither Olivier nor Sammy  
11 Wasem ever granted Ferrari or Claudio Russo the right to act as an administrator of the page.

12           22       After receiving Russo's email, the Wasems found that, without their permission  
13 and without any prior notification from Facebook, Russo had indeed been added as a co-  
14 administrator of the Ferrari Fan Page. Plaintiffs are informed and believe, and therefore allege,  
15 that Facebook granted Russo administrative rights to the Ferrari Fan Page at Ferrari's request.

16           23       Although the Wasems never authorized Russo or anyone else at Ferrari to become  
17 a co-administrator of the Ferrari Fan Page, the March 10, 2009 email promised that Ferrari would  
18 collaborate with the Wasems in managing the page. Specifically, Russo's email promised to  
19 "preserve the administrators who did so big job" in creating various Ferrari fan pages. He also  
20 stated that Ferrari wanted thank the Wasems by "includ[ing] you as promising resource of our  
21 new web development strategy." Ferrari promised to "provide you an active role in" its web  
22 development strategy and to "preserve and even enhance your role in the Ferrari web presence  
23 and communities."

24           24       Based on Russo's March 10, 2009 email, the Wasems became excited by the  
25 prospect of partnering with Ferrari, a company they had long admired.

26           25       Olivier quickly got in touch with Ferrari, and he spoke with Marco Ciacchi, the  
27 head of online commerce at Ferrari. They discussed a partnership since the Ferrari Fan Page that  
28 Olivier and Sammy had created was by far the most popular page for Ferrari enthusiasts, it would

1 become the official Facebook page for the Ferrari company, but Olivier and Sammy would  
2 continue to collaborate with Ferrari to manage the page. At no time were the Wasems asked to  
3 transfer control over the page to Ferrari.

4 26 In a March 12, 2009 email, Ciacchi confirmed the partnership with the Wasems,  
5 stating “Your page could become the **Ferrari Official Page** and you could collaborate with us to  
6 manage it” and that Olivier could “start NOW to take content from our official page (that we are  
7 going to switch off soon) and website,” including adding links to the online Ferrari store on the  
8 Ferrari Fan Page.

9 27 The next day, on March 13, 2009, Olivier Wasem wrote an email to Ciacchi with  
10 suggestions for how to best manage Ferrari’s presence on Facebook. He recommended keeping a  
11 separate page dedicated to Ferrari’s Formula 1 racing team and suggested that the Formula 1 Fan  
12 Page that he and Sammy created could become the official page for Ferrari’s Formula 1 team. He  
13 also specifically asked Ciacchi to “reach an official agreement of my status there.” He continued  
14 that “taking into consideration the huge amount of work, past, present and future it deserves the  
15 setup of something official to make all parties comfortable.”

16 28 On April 24, 2009, Ciacchi sent an email to Olivier regarding what Ciacchi called  
17 “our official partnership.” The email included a draft agreement, which Olivier immediately  
18 rejected as “one way” because the compensation was “very light.”

19 29 Olivier discussed compensation for his and Sammy’s efforts with Ferrari many  
20 times in the following years. They never reached a compensation agreement, but they did move  
21 forward with their partnership to manage the Ferrari Fan Page and the Formula 1 Fan Page jointly  
22 and to promote the Ferrari brand and drive Facebook users to make purchases through the Ferrari  
23 online store.

24 **III. At Facebook’s Suggestion, the Wasems Allow Ferrari To Become a Co-**  
25 **Administrator of the Formula 1 Fan Page**

26 30 Ferrari agreed with Olivier’s proposal to keep a separate page for the company’s  
27 Formula 1 racing team and to use the Wasems’ Formula 1 Fan Page for that purpose. To further  
28 that partnership, sometime before November 2009, Olivier asked Facebook to change the official

1 name of the page from “Formula 1 Vision” to “SF Scuderia Ferrari ”

2 31 Initially, Facebook refused to change the name of the Formula 1 Fan Page Then,  
3 on or about November 11, 2009, Olivier again contacted Facebook by email and explained that he  
4 was the authorized administrator of Ferrari’s Facebook network, and he included Claudio Russo  
5 on the email Russo confirmed to Facebook that Olivier was working with Ferrari on the page  
6 and that Ferrari agreed that the name of the page should be changed to reflect that it was the  
7 official Facebook page for Ferrari’s Formula 1 team

8 32 On or about November 11, 2009, an employee in Facebook’s User Operations  
9 department wrote an email to Olivier confirming that Facebook would change the name of the  
10 Formula 1 Fan Page Facebook further recommended that Olivier add a Ferrari representative as  
11 a co-administrator of the Formula 1 Fan Page

12 33 Based on Facebook’s suggestion, Olivier later added Ferrari’s Claudio Russo as a  
13 co-administrator of the Formula 1 Fan Page

14 **IV. Ferrari Takes the Ferrari Fan Page from the Wasems**

15 34 The Wasems and Ferrari collaborated on the Ferrari Fan Page and the Formula 1  
16 Fan Page from 2009 into 2012 Ferrari at times posted content to the pages or made  
17 recommendations to the Wasems, but the Wasems did the vast majority of the work updating the  
18 page with new content, and they did all the work maintaining the page and moderating improper  
19 comments and content

20 35 The Wasems spent thousands of hours developing and maintaining the pages

21 36 The parties never agreed on how the Wasems should be compensated, although  
22 they had frequent discussions about compensation Between 2009 and 2012, Ferrari employees  
23 made many statements to the Wasems that led them to believe that Ferrari would compensate  
24 them for their work and creativity

25 37 Both pages became enormously popular By mid-2012, the Ferrari Fan Page had  
26 about 9 million fans, and the Formula 1 Page had about 200,000 fans

27 38 An online study released in June 2012 noted that the Ferrari Fan Page put the  
28 company far ahead of any other carmaker in terms of engagement on Facebook



1           39       On July 31, 2012, without warning, the Wasems received a notice from Facebook  
2 that their rights to the Ferrari Fan Page had been downgraded from co-administrators to “content  
3 creators” While this still allowed them to post information to the page, they could no longer add  
4 or remove other parties as co-administrators Ferrari now had superior rights to access and  
5 control the Ferrari Fan Page than the Wasems, who had created the page in the first place and  
6 owned it

7           40       Olivier wrote an email to Claudio Russo the same day demanding that the Wasems  
8 be reinstated as co-administrators He reminded Russo that “Sammy and myself created it  
9 over 4 years ago and developed it since with great success”

10          41       The parties attempted to resolve their disagreement over the Ferrari Fan Page but  
11 were unable to do so On February 13, 2013, the Wasems initiated legal proceedings in  
12 Switzerland against Ferrari

13          42       Four days later, in apparent retaliation, Ferrari alleged in a proceeding in Italy that  
14 the Wasems had violated the company’s trademark rights, even though Ferrari had collaborated  
15 with the Wasems in operating the two pages and had expressly asked the Wasems to use the  
16 Ferrari logo and make the Ferrari Fan Page the company’s official Facebook page

17          43       Later in February 2013, Ferrari took the Ferrari Fan Page away from the Wasems  
18 permanently, removing them from even having “content creator” access to the page The  
19 Wasems lost all rights to control or manage the page that they had created and that had gained  
20 about 11 million fans by that time

21           V   **Ferrari Takes the Formula 1 Fan Page from the Wasems**

22          44       The Wasems still had rights as co-administrators to the Formula 1 Fan Page To  
23 protect their rights over that page, they downgraded Russo’s right to that of “content creator,” as  
24 Ferrari had done to the Wasems

25          45       On February 21, 2013, the Wasems received a notice from Facebook that they no  
26 longer had any rights to the Formula 1 Fan Page, either The same day, the Wasems lost any  
27 rights to access Sammy Wasem’s personal fan page, which had no connection to Ferrari  
28 whatsoever

1           46       On February 22, 2013, the Wasems sent a certified letter to Facebook in which  
2 they recounted in detail the history of the creation of both the Ferrari Fan Page and the Formula 1  
3 Fan Page, Ferrari's agreement to "preserve and enhance [the Wasems'] role in the Ferrari web  
4 presence and communities," and the actions Ferrari had taken to breach their partnership  
5 agreement and to take the Facebook pages from the Wasems. The Wasems demanded that  
6 Facebook register them as exclusive administrators of the Ferrari Fan Page, the Formula 1 Fan  
7 Page, and the Sammy Wasem personal page, and that Facebook provide them with information  
8 relating to the takeover of their Facebook pages.

9           47       The Wasems repeated the history of the two pages and their demands to be  
10 reinstated as administrators in a letter from their attorney to Facebook's CEO on February 27,  
11 2013.

12           48       An in-house attorney for Facebook responded to the Wasems' February 22 letter  
13 on February 28, 2013 requesting a phone call to discuss "additional facts" regarding the  
14 deactivation of the Formula 1 Fan Page and Sammy's personal page. Through later conversations  
15 between the Wasems' attorney and Facebook's in-house attorney, the Wasems were told that the  
16 Formula 1 Fan Page and Sammy's personal page had been taken over by hackers. Facebook  
17 restored the Wasems' rights as administrators to the Formula 1 Fan Page and to Sammy's  
18 personal page on or around February 28, 2013.

19           49       In the several days during which the Wasems had no administrator rights or access  
20 to the Formula 1 Fan Page or to Sammy's personal page, and when those pages supposedly were  
21 in the control of unidentified hackers, several posts with identical content appeared on the Ferrari  
22 Fan Page (then controlled by Ferrari), the Formula 1 Fan Page, and Sammy's personal page.

23           50       To further prevent Ferrari from taking control of the Formula 1 Fan Page, the  
24 Wasems decided to change the name of the page from "SF Scuderia Ferrari" back to its original  
25 name, "Formula 1 Vision." Page administrators are unable to unilaterally change a page name.  
26 So on March 1, 2013, the Wasems asked Facebook to make the name change. In that  
27 communication, the Wasems again reminded Facebook of the pertinent facts relating to the  
28 creation of the Facebook pages, the agreement with Ferrari, and Ferrari's illegal conduct. The

1 Wasems, through their attorney, also requested information about how Ferrari originally came to  
2 be a co-administrator of the Ferrari Fan Page in 2009 without the Wasems' consent

3 51 Facebook refused to change the name of the Formula 1 Fan Page back to its  
4 original name

5 52 Plaintiffs are informed and believe, and therefore allege, that on April 30, 2013,  
6 Ferrari submitted a complaint to Facebook alleging that the Wasems' Formula 1 Fan Page  
7 violated Ferrari's intellectual property rights

8 53 Despite its knowledge that the Wasems had been operating the Formula 1 Fan  
9 Page in partnership with Ferrari for many years, and in violation of Facebook's Terms of Use,  
10 Facebook deactivated the Formula 1 Fan Page The Wasems' Formula 1 Fan Page had about  
11 320,000 fans at that time

12 54 The Wasems contacted Ferrari in April 2013 requesting that the Formula 1 Fan  
13 Page be reactivated Again in violation of its Terms of Use, Facebook refused and instead  
14 instructed the Wasems to contact Ferrari directly

15 55 About one month later, a new page with the same name as the Formula 1 Fan Page  
16 ("SF Scuderia Ferrari") appeared on Facebook under Ferrari's control Even though the page was  
17 new and had only a few thousand fans at the beginning, it suddenly jumped to have hundreds of  
18 thousands of fans

19 56 Plaintiffs are informed and believe, and therefore allege, that at Ferrari's request,  
20 and without the Wasems' consent, Facebook deactivated the Wasems' Formula 1 Fan Page and  
21 migrated all its existing fans to the new page with the same name under Ferrari's control

22 57 Plaintiffs are informed and believe, and therefore allege, that Ferrari and Facebook  
23 acted in concert and with malice to remove the Wasems as administrators from both pages and to  
24 transfer the control of the pages to Ferrari, and that they did so despite their knowledge of the  
25 Wasems' rights in the pages and with a conscious disregard of the Wasems' rights and with the  
26 intent to injure the Wasems Plaintiffs are further informed and believe, and therefore allege, that  
27 beginning in or around 2009, Facebook embarked on a series of unilateral changes to the terms of  
28 administrative rights to pages in its agreements with users with the knowledge and intent that the

1 changes would allow corporations such as Ferrari to gain administrative rights to pages that they  
2 did not create and to eventually gain exclusive control of pages that they did not create

3 58 Plaintiffs are informed and believe, and therefore allege, that Ferrari has earned  
4 millions of dollars in revenue directly through the Ferrari Fan Page and Formula 1 Fan Page,  
5 including by placing links to Ferrari's online store on the pages, which fans of the pages then  
6 click on to make purchases For example, in a February 18, 2012 statement, Ferrari confirmed  
7 that its "e-commerce revenues were in excess of seven million euro (+31 per cent) Ferrari enjoys  
8 a particularly extensive presence on the various web channels and social networking sites, having  
9 recently passed the 10 million fan mark on Facebook " Similarly, on August 1, 2013, Ferrari  
10 released a statement confirming that the company's "e-commerce has increased by 21% Social  
11 networks have now become our main communications channel and our Facebook page now  
12 has over 12 million fans " Furthermore, Marco Ciacchi has stated on the Internet that Ferrari's  
13 online commerce increased by 40% year-over-year in 2010, another 25% year-over-year in 2011,  
14 and 35% year-over-year in 2012

15 59 Plaintiffs are informed and believe, and therefore allege, that Ferrari receives the  
16 equivalent of millions of dollars of advertising value by exposing its brand to fans of the Ferrari  
17 Fan Page and Formula 1 Fan Page For example, an independent study released in 2013  
18 estimated that a "fan" of a Facebook page promoting any particular brand is worth an average of  
19 \$174 to the brand owner, ranging up to more than \$1,000 per fan for luxury automobile  
20 companies

21 60 Plaintiffs are informed and believe, and therefore allege, that Facebook earns  
22 substantial revenues based on the Ferrari Fan Page and Formula 1 Fan Page, including by selling  
23 advertisements to be placed alongside the content of the pages Plaintiffs are informed and  
24 believe, and therefore allege, that Facebook earns substantial revenue directly from Ferrari,  
25 including by selling space on Facebook pages for Ferrari to place its ads and by charging Ferrari  
26 for communications to Facebook users

27 61 To create Facebook Pages, a user must enter a contract with Facebook that  
28 includes Terms of Use Plaintiffs are informed and believe, and therefore allege, that at all times

1 during 2013, the Facebook Terms of Use provided users the right to appeal any claim that the  
2 user's Facebook Page violated another user's intellectual property rights. Furthermore, Plaintiffs  
3 are informed and believe, and therefore allege, that at all times during 2013, the Facebook Terms  
4 of Use provided that the Facebook user is the owner of all content and information posted on  
5 Facebook's platform by the user.

### 6 **Claim 1**

#### 7 **Breach of Written and Oral Partnership Agreement (Against Ferrari)**

8 62 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
9 through 61 of the Complaint.

10 63 The Wasems and Ferrari entered into a partnership agreement in 2009 with both  
11 written and oral terms to collaboratively operate and manage the Ferrari Fan Page and the  
12 Formula 1 Fan Page.

13 64 Ferrari breached that agreement by, among other things, downgrading the  
14 Wasems' administrative rights to control the Ferrari Fan Page, removing the Wasems from  
15 having any administrative control over the Ferrari Fan Page, falsely claiming to Facebook that the  
16 Formula 1 Fan Page violated Ferrari's trademark rights, requesting that Facebook "migrate" the  
17 fans of the Formula 1 Fan Page to a new page controlled by Ferrari.

18 65 Ferrari's breach of the partnership agreement directly damaged the Wasems. The  
19 Wasems entered into the partnership agreement with Ferrari with the expectation that they would  
20 be compensated for at least half the value of the two pages.

21 Wherefore, the Wasems pray for relief as set forth below.

### 22 **Claim 2**

#### 23 **Breach of Fiduciary Duty (Against Ferrari)**

24 66 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
25 through 61 of the Complaint.

26 67 The Wasems and Ferrari entered into a partnership agreement in 2009 with both  
27 written and oral terms to collaboratively operate and manage the Ferrari Fan Page and the  
28 Formula 1 Fan Page. This agreement imposed a fiduciary duty to the Wasems on Ferrari.

1 68 Ferrari breached its fiduciary duty to the Wasems by taking control of both pages  
 2 69 Ferrari knew of the Wasems' rights in the Ferrari Fan Page and the Formula 1 Fan  
 3 Page and acted with malice and with a conscious disregard of those rights

4 70 Ferrari's conduct damaged the Wasems  
 5 Wherefore, the Wasems pray for relief as set forth below

6 **Claim 3**

7 **Aiding and Abetting Breach of Fiduciary Duty (Against Facebook)**

8 71 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
 9 through 61 of the Complaint

10 72 The Wasems and Ferrari entered into a partnership agreement in 2009 with both  
 11 written and oral terms to collaboratively operate and manage the Ferrari Fan Page and the  
 12 Formula 1 Fan Page

13 73 Facebook knew that Ferrari was engaged in a partnership with the Wasems In  
 14 communications between Ferrari, Facebook, and the Wasems, Ferrari made it clear that it was  
 15 collaborating with the Wasems to manage the pages as partners The Wasems also repeatedly  
 16 communicated to Facebook that they were the creators of the Ferrari Fan Page and the Formula 1  
 17 Fan Page and that they had partnered with Ferrari with respect to those pages Facebook  
 18 therefore knew that Ferrari owed fiduciary duties to the Wasems

19 74 Facebook knew that Ferrari was breaching its fiduciary duties to the Wasems by  
 20 eliminating their administrative rights to the Ferrari Fan Page and by asserting a false trademark  
 21 infringement complaint against the Formula 1 Fan page

22 75 Facebook nonetheless aided and abetted Ferrari in breaching its fiduciary duties  
 23 by, among other things refusing to reinstate the Wasems as administrators of the Ferrari Fan  
 24 Page, deactivating the Formula 1 Fan Page, and "migrating" the fans of the Formula 1 Fan Page  
 25 to a new page controlled by Ferrari

26 76 Facebook's conduct substantially assisted Ferrari in breaching its fiduciary duties  
 27 Without Facebook's assistance, Ferrari could not have taken both pages from the Wasems

28 77 Facebook knew of the Wasems' rights in the Ferrari Fan Page and the Formula 1

1 Fan Page and acted with malice and with a conscious disregard of those rights

2 78 Facebook's conduct was a substantial factor in damaging the Wasems The  
3 Wasems entered into the partnership agreement with Ferrari with the expectation that they would  
4 be compensated for at least half the value of the two pages

5 Wherefore, the Wasems pray for relief as set forth below

6 **Claim 4**

7 **Conversion (Against Ferrari)**

8 79 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
9 through 61 of the Complaint

10 80 The Wasems had a right to possess the Ferrari Fan Page and the Formula 1 Fan  
11 Page and all content on them, which included the right to communicate with the fans of those  
12 pages through the pages

13 81 Ferrari intentionally and substantially interfered with the Wasems' right to possess  
14 the pages by taking possession of them and by preventing the Wasems from having access to  
15 them

16 82 The Wasems did not consent to Ferrari taking the pages

17 83 Ferrari knew of the Wasems' rights in the Ferrari Fan Page and the Formula 1 Fan  
18 Page and acted with malice and with a conscious disregard of those rights

19 84 Ferrari's conduct directly damaged the Wasems The Wasems entered into the  
20 partnership agreement with Ferrari with the expectation that they would be compensated for at  
21 least half the value of the two pages

22 Wherefore, the Wasems pray for relief as set forth below

23 **Claim 5**

24 **Aiding and Abetting Conversion (Against Facebook)**

25 85 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
26 through 61 of the Complaint

27 86 Facebook knew that the Wasems were the creators of the pages

28 87 Facebook knew that Ferrari was committing an act of conversion by taking the

1 pages from the Wasems

2 88 Facebook gave Ferrari substantial assistance in taking the Formula 1 Fan Page  
3 from the Wasems, including by deactivating the Formula 1 Fan Page, refusing to reinstate the  
4 Wasems as administrators of the Formula 1 Fan Page, and “migrating” fans of the Formula 1 Fan  
5 Page to a new page controlled by Ferrari

6 89 Facebook knew of the Wasems’ rights in the Ferrari Fan Page and the Formula 1  
7 Fan Page and acted with malice and with a conscious disregard of those rights

8 90 Facebook’s actions were a substantial factor in causing the harm The Wasems  
9 entered into the partnership agreement with Ferrari with the expectation that they would be  
10 compensated for at least half the value of the two pages

11 Wherefore, the Wasems pray for relief as set forth below

12 **Claim 6**

13 **Breach of Contract (Against Facebook)**

14 91 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
15 through 61 of the Complaint

16 92 The Wasems and Facebook entered into written contracts when the Wasems first  
17 became Facebook users The terms of those contracts were updated from time to time by  
18 Facebook

19 93 The Wasems performed all their obligations under their agreements with Facebook  
20 and never breached any term of the agreements

21 94 At all times in 2013, the contracts between the Wasems and Facebook included  
22 “Terms of Use” that gave the Wasems the right to appeal any claim by another user that a page  
23 created by the Wasems violated the other user’s intellectual property rights

24 95 Facebook breached its contracts with the Wasems, including by giving Ferrari  
25 administrative rights to the Ferrari Fan Page without the Wasems’ consent, deactivating the  
26 Formula 1 Fan page when it knew or should have known that Ferrari’s notice of intellectual  
27 property infringement was baseless, and refusing to give the Wasems any meaningful ability to  
28 appeal Ferraris’ claim



1 96 Facebook's conduct directly damaged the Wasems

2 Wherefore, the Wasems pray for relief as set forth below

3 **Claim 7**

4 **Breach of Covenant of Good Faith and Fair Dealing (Against Facebook)**

5 97 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
6 through 61 of the Complaint

7 98 The Wasems and Facebook entered into written contracts when the Wasems first  
8 became Facebook users. The terms of those contracts were updated from time to time by  
9 Facebook

10 99 The Wasems performed all their obligations under their agreements with Facebook  
11 and never breached any term of the agreements

12 100 Facebook unfairly interfered with the Wasems' right to receive the benefits of the  
13 contracts, including by giving Ferrari administrative rights to the Ferrari Fan Page without the  
14 Wasems' consent, unilaterally changing its Terms of Use in such a way that Ferrari gained the  
15 ability to remove the Wasems from all administrative control of the Ferrari Fan Page, refusing to  
16 rename the Formula 1 Fan Page when the Wasems requested it, deactivating the Formula 1 Fan  
17 Page when it knew or should have known that Ferrari's notice of intellectual property  
18 infringement was baseless, and "migrating" fans of the Formula 1 Fan Page to a new page  
19 controlled by Ferrari

20 101 Facebook's conduct directly damaged the Wasems

21 Wherefore, the Wasems pray for relief as set forth below

22 **Claim 8**

23 **Intentional Interference with Prospective Economic Advantage (Against Facebook)**

24 102 Plaintiffs incorporate by reference and reallege all the allegations in paragraphs 1  
25 through 61 of the Complaint

26 103 The Wasems and Ferrari entered an economic relationship and partnership  
27 agreement to manage the Ferrari Fan Page and the Formula 1 Fan Page as partners

28 104 Facebook knew of the economic relationship between the Wasems and Ferrari

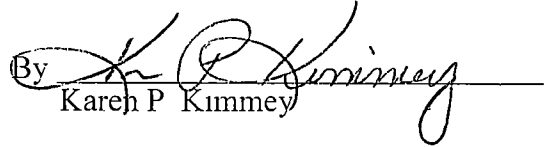


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7 Such other relief as the Court deems appropriate

Dated October 14, 2014

FARELLA BRAUN + MARTEL LLP

By   
Karen P. Kimmey

Attorneys for Plaintiffs Olivier Wasem and  
Sammy Wasem