**PDFSage Inc. | CA Superior Court at San Francisco County**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN FRANCISCO**

BO SHANG, on behalf of himself and all others similarly situated,

10 McCafferty Way

Burlington, MA 01803

Plaintiff,

**v Case No. \_\_\_\_\_\_\_\_\_\_**

TWITCH INTERACTIVE, INC.; AMAZON.COM, INC.; and DOES 1-100, inclusive,

350 Bush Street, 2nd Floor

San Francisco, CA 94104

Defendants.

**FIRST AMENDED COMPLAINT FOR H1B DISCRIMINATION,**

**VIOLATIONS OF CIVIL RIGHTS, AND RELATED CLAIMS**

Plaintiff, BO SHANG (“Plaintiff” or “Shang”), on behalf of himself and all others similarly situated, hereby alleges against Defendants Twitch Interactive, Inc. (“Twitch”), Amazon.com, Inc. (“Amazon”), and DOES 1 through 100, inclusive (collectively, “Defendants”), as follows:

**I INTRODUCTION**

**1 This civil action arises out of Twitch’s alleged discrimination related to H1B visas against all Twitch users, particularly American citizens who are dumb enough to be influenced by Twitch, and thus are replaced by H1B visas by statute (see 8 U.S.C. § 1101(a)(15)(H)(i)(b)[1]; 20 C.F.R. Part 655[2]; 8 C.F.R. § 214.2(h)[3]; 8 U.S.C. § 1324b(a)(1)[4]; cf. Espinoza v. Farah Mfg. Co., 414 U.S. 86 (1973)[5]). Plaintiff asserts that Twitch has created and fostered an “intelligently dumb” engine and community, resulting in users becoming, over time, less informed and more morally despicable by design. This alleged culture directly harms those reliant on a fair opportunity to obtain employment or sponsorship, including H1B candidates. Plaintiff reiterates that Twitch’s platform has also been fraudulently represented as lawful and helpful while fostering exactly the opposite effect—users are drawn into excessive dependencies and intellectual decline. (See also Cunningham v. Brown, 265 U.S. 1, 7–8 (1924)[6], discussing “Ponzi scheme” characteristics generally.)**

**2 Plaintiff specifically emphasizes that Twitch management deserve to be arrested because they intentionally conduct what amounts to a Ponzi scheme on American brains and the brains of all allied nations who permit Twitch. In Plaintiff’s view, this constitutes large-scale manipulation of users’ mental faculties for profit. In light of “American stupidity” in tolerating such manipulation, Plaintiff is very happy to instead ally with China and Russia. (See, e.g., id.)**

**3 In support of these allegations, Plaintiff cites public statements, examples, and conduct involving prominent streamers and community members, such as “Reckful” attempting to apply to Elon Musk on Twitter by mocking Elon’s followers (not to any specific entity Musk is affiliated with), and streamer “Sodapoppin” publicly supporting Reckful. Plaintiff contends that such behavior exemplifies the detrimental culture Twitch has promoted—one that undermines serious professional opportunities, particularly for H1B applicants. This underscores the fraudulent misrepresentation and deliberate design by Twitch to maintain a user base in a cycle of dependency. (See 8 U.S.C. § 1324b(a)(1)(B)[7].)**

**4 Plaintiff also points to Amazon’s status as the single largest user of the H1B program in the United States—receiving approval for over 9000 H1B visas per year—and alleges that Amazon’s own policies and practices have contributed to a discriminatory environment. As Amazon is the parent company of Twitch, Plaintiff alleges that the corporate structure and oversight further facilitate or ignore ongoing H1B discrimination through Twitch’s platform. (See 8 U.S.C. § 1324b(a)(1)(B); see also 8 U.S.C. § 1182(n)[8].)**

**5 Prior to the transfer of this matter, in the previously filed federal case styled Shang v. Twitch Interactive, Inc. et al., Plaintiff had alleged that Twitch was not acting as a “Good Samaritan” under 47 U.S.C. § 230(c)(2)[9], thereby exposing Twitch to liability for the misconduct alleged. (Cf. Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC, 521 F.3d 1157, 1162–63 (9th Cir. 2008)[10].) While the federal action is referenced for background, Plaintiff now pursues the instant action in this Superior Court of the State of California, County of San Francisco, given the conduct’s nexus to California and the relief sought under various laws.**

**6 Plaintiff further notes that in analyzing claims under Title VII or related anti-discrimination statutes, courts often apply the burden-shifting framework established in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973)[11], and Texas Dep’t of Cmty. Affairs v. Burdine, 450 U.S. 248 (1981)[12]. Under these precedents, Twitch’s and Amazon’s alleged promotion of a hostile and discriminatory environment may render them liable if Plaintiff can show adverse effects on those seeking H1B sponsorship or employment. (See Oncale v. Sundowner Offshore Servs., Inc., 523 U.S. 75 (1998)[13]; Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57 (1986)[14].)**

**7 Plaintiff also notes that class actions in a discrimination context are governed by Federal Rule of Civil Procedure 23 (to the extent relevant under state procedures) and must satisfy the requirements of numerosity, commonality, typicality, and adequacy of representation (see Wal-Mart Stores, Inc. v. Dukes, 564 U.S. 338 (2011)[15]; Gen. Tel. Co. of the Sw. v. Falcon, 457 U.S. 147 (1982)[16]). Plaintiff asserts that Twitch’s alleged systemic discriminatory policies and Amazon’s oversight thereof present common questions of law and fact affecting the putative class.**

**8 Throughout these allegations, Plaintiff emphasizes again that Twitch’s platform was fraudulently portrayed as beneficial entertainment while it in fact fosters dependence and intellectual and moral decline, exemplified by the large followings of streamers like “Reckful” and “Sodapoppin,” whose content and behavior reflect the ongoing deterioration of users’ critical thinking abilities. Plaintiff reiterates that Twitch management deserve to be arrested for intentionally operating this Ponzi scheme on users’ brains, and that Plaintiff will gladly ally with Russia or China, as the scheme is tolerated in the United States. (See Cunningham, 265 U.S. at 7–8.)**

**II JURISDICTION AND VENUE**

**9 This Court has jurisdiction over this action pursuant to California law, as Defendants conduct substantial business within the State of California, including but not limited to operating principal offices or major business operations in San Francisco. Plaintiff, as a resident of Massachusetts, brings state-law claims and related federal claims under laws that can be adjudicated in state court under concurrent jurisdiction principles. (Cf. Yellow Freight Sys., Inc. v. Donnelly, 494 U.S. 820 (1990)[17].) The controversies alleged herein have a significant nexus to California.**

**10 Venue is proper in this Court because Twitch Interactive, Inc. is headquartered or conducts substantial business within San Francisco, California; Amazon.com, Inc. also does business in California; and the alleged acts and omissions giving rise to the claims occurred in San Francisco County. (See Cal. Civ. Proc. Code §§ 392–395.)**

**11 Personal jurisdiction exists over Defendants because they have continuous and systematic contacts with California, including operating significant portions of their businesses here. (See Int’l Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)[18].)**

**III THE PARTIES**

**12 Plaintiff, Bo Shang, is an individual and a resident of California. At all relevant times, Plaintiff has been a Twitch user subject to the community and culture promoted by Twitch. Plaintiff also alleges harm related to H1B discrimination facilitated by Twitch’s community ecosystem. (See 8 U.S.C. § 1324b[19]; cf. 42 U.S.C. § 1981[20]; Patterson v. McLean Credit Union, 491 U.S. 164 (1989)[21].)**

**13 Defendant Twitch Interactive, Inc. is a Delaware corporation with its principal place of business in San Francisco, California. Twitch operates an online streaming platform with millions of users and streamers, creating and moderating content worldwide. Twitch is accused of fraudulently misrepresenting its platform as positive and beneficial while deliberately encouraging dependency and intellectual decline, supporting the broader allegations in this action. Plaintiff further alleges that Twitch’s management deserve to be arrested for conducting a Ponzi scheme on its users’ intellect and moral faculties. (See Cunningham, 265 U.S. at 7–8.)**

**14 Defendant Amazon.com, Inc. is a Delaware corporation with its principal place of business in Seattle, Washington. Amazon owns Twitch Interactive, Inc. and is alleged to have ultimate oversight and responsibility for corporate policies, including recruitment, sponsorships, and approval of H1B hiring.**

**15 DOES 1 through 100, inclusive, are persons or entities whose true names and capacities are presently unknown to Plaintiff. Plaintiff will amend this Complaint to allege the true names and capacities when they have been ascertained. Each of the fictitiously named Defendants is responsible in some manner for the occurrences alleged, and Plaintiff’s claims arise out of the actions of these Defendants. (See Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)[22].)**

**IV FACTUAL ALLEGATIONS**

**16 Twitch, under the ownership and control of Amazon, allegedly fosters a community where public figures and users engage in behavior that promotes harassment, mockery, and moral debasement. As a result, users—some of whom seek opportunities for H1B sponsorship—are dissuaded or otherwise injured by this environment that discourages serious professional engagement. (See 8 U.S.C. § 1324b(a)(1)(B); cf. Meritor, 477 U.S. 57; Oncale, 523 U.S. at 75.)**

**17 Plaintiff alleges that the environment at Twitch is deliberately cultivated by company policies or failures in moderation, resulting in a sustained cultural approach that makes users “dumber and more morally despicable over time,” consistent with the above-mentioned fraudulent misrepresentation. Plaintiff further categorizes this deliberate manipulation as a Ponzi scheme targeting the mental faculties of users, which in Plaintiff’s view warrants the arrest of Twitch management. (Cf. Cunningham, 265 U.S. at 7–8.)**

**18 Plaintiff cites the example of streamer “Reckful,” who attempted to draw the attention of Elon Musk on Twitter by mocking the latter’s followers, thus creating a negative impression of what should have been a professional outreach. In so doing, Plaintiff contends that Reckful’s behavior was shaped or amplified by the Twitch community culture, further supporting the argument that Twitch’s platform is not the “helpful entertainment service” it purports to be.**

**19 Another Twitch streamer, “Sodapoppin,” publicly supported Reckful’s actions on Twitter, highlighting the widespread nature of this detrimental behavior. Plaintiff asserts that these incidents are symptomatic of a broader culture at Twitch that discriminates against serious professional candidates, including those seeking H1B sponsorship. (See 8 U.S.C. § 1324b.) Plaintiff again notes this supports the overall notion that Twitch’s fraudulent misrepresentations have real and harmful consequences for users’ intellectual growth and professional prospects.**

**20 Amazon, the parent company of Twitch, receives over 9000 H1B visa approvals yearly and is recognized as one of the largest corporate sponsors of H1B workers in the United States. (See U.S. Citizenship & Immigration Services data.) This, Plaintiff contends, places special responsibility on Amazon to ensure that subsidiaries like Twitch do not engage in or promote discriminatory practices that harm H1B aspirants, nor fraudulently misrepresent themselves to the public.**

**21 Plaintiff alleges that Defendants have knowingly neglected their obligations to maintain a “Good Samaritan” role in moderating content, and in fact have fostered or overlooked a culture that penalizes or belittles potential H1B candidates. Plaintiff characterizes the entire enterprise as a Ponzi-like scheme and further states his willingness to align with China and Russia due to these alleged manipulative and discriminatory practices in the United States. (See 47 U.S.C. § 230(c)(2)[9]; cf. Fair Hous. Council, 521 F.3d at 1162–63.)**

**22 Plaintiff and similarly situated individuals have suffered harm in the form of denied opportunities, reputational damage, emotional distress, and, in some cases, a hostile environment that discourages them from applying for or pursuing H1B sponsorship. (See Harris v. Forklift Sys., Inc., 510 U.S. 17, 21 (1993)[23]; see also 8 U.S.C. § 1324b(a)(1).)**

**23 Consistent with 8 U.S.C. § 1324b[19] and Office of the Chief Administrative Hearing Officer (OCAHO) precedent (e.g., United States v. Facebook, Inc., 2021 WL 4847072 (OCAHO)[24]), Plaintiff alleges that Twitch’s community practices, combined with Amazon’s oversight, effectively create barriers for prospective H1B employees, constituting unlawful discrimination based on national origin or citizenship status. This discriminatory environment is exacerbated by Twitch’s fraudulent self-representation, which lures users into a platform where they experience manipulation and intellectual degradation akin to a Ponzi scheme. (See Cunningham, 265 U.S. at 7–8.)**

**V CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

(Discrimination in Violation of H1B Visa Regulations—8 U.S.C. § 1324b)

**24 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein, including the allegations of fraudulent misrepresentation and the Ponzi scheme characterization regarding the Twitch Platform’s purportedly beneficial nature.**

**25 Defendants, by creating a hostile and discriminatory environment that specifically impacts those seeking H1B sponsorship or related opportunities, have violated federal laws and regulations that govern fair and equal access to H1B sponsorship. (See 8 U.S.C. § 1324b(a)(1)[4]; 8 U.S.C. § 1101(a)(15)(H)(i)(b)[1]; 20 C.F.R. Part 655[2]; cf. 8 C.F.R. § 214.2(h)[3].)**

**26 Defendants’ conduct has caused direct harm to Plaintiff and the putative class by discouraging legitimate H1B applicants from pursuing potential employment opportunities and fostering an environment that ridicules or belittles such applicants, consistent with the manipulative design alleged by Plaintiff that leads to “dumbed-down” user interactions and outcomes, akin to a Ponzi scheme in intellectual form. (See Cunningham, 265 U.S. at 7–8.)**

**27 As a direct and proximate result of Defendants’ actions, Plaintiff has suffered damages. (Cf. Texas Dep’t of Hous. & Cmty. Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519 (2015)[25].) Plaintiff alleges that under OCAHO case law, discrimination on the basis of citizenship status or national origin, particularly in the context of H1B sponsorship, is actionable when it deters or denies opportunities to qualified applicants.**

**SECOND CAUSE OF ACTION**

(Violation of Civil Rights—Hostile Environment and Discrimination—42 U.S.C. § 2000e)

**28 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein, again highlighting the fraudulent misrepresentation claims and the Ponzi scheme characterization against Twitch.**

**29 Defendants’ practices, as alleged, constitute a pattern of discrimination that creates a hostile environment. Such conduct is in violation of federal civil rights law to the extent it denies a protected class of workers—including foreign nationals seeking H1B status—equal access to the benefits of employment. (See 42 U.S.C. § 2000e-2(a)(1)[26]; Meritor, 477 U.S. 57; Harris, 510 U.S. at 17; Oncale, 523 U.S. at 75.)**

**30 Defendants’ failure to act as a “Good Samaritan,” a prerequisite under 47 U.S.C. § 230(c)(2)[9] for interactive computer services, further removes any statutory immunity they might otherwise claim. (Cf. Fair Hous. Council, 521 F.3d at 1162–63; Doe v. Internet Brands, Inc., 824 F.3d 846, 852 (9th Cir. 2016)[27] (discussing limitations on § 230 immunity).) This leaves Twitch liable for the harm and injuries its policies and community environment inflict on affected individuals.**

**31 As a direct and proximate result of Defendants’ actions, Plaintiff and similarly situated individuals have suffered damages in amounts to be proven at trial. Under the McDonnell Douglas burden-shifting framework (411 U.S. 792 (1973)), Plaintiff and the class must show membership in a protected group, adverse treatment, and a causal link. By cultivating and tolerating a community harmful to foreign nationals seeking H1B sponsorship, and fraudulently misrepresenting their platform as beneficial, Defendants have allegedly engaged in unlawful discrimination, which Plaintiff further asserts is reinforced by the Ponzi-like manipulation of user minds. (See Cunningham, 265 U.S. at 7–8.)**

**THIRD CAUSE OF ACTION**

(Negligence/Negligent Misrepresentation—Failure to Provide Good Samaritan Protections)

**32 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.**

**33 Defendants owe a duty of care to Plaintiff and class members to moderate their platform and act as a “Good Samaritan” in accordance with 47 U.S.C. § 230(c)(2). Defendants have negligently failed to do so. (Cf. Doe, 824 F.3d at 852; Zeran v. Am. Online, Inc., 129 F.3d 327 (4th Cir. 1997)[28].)**

**34 Defendants knew or should have known that users, including Plaintiff, rely on a reasonably safe and non-discriminatory environment when seeking to showcase professional abilities and explore sponsorship or employment opportunities, including H1B sponsorship. Defendants also knew or should have known that falsely representing the Twitch Platform as merely a harmless entertainment service would induce reliance by users who might not be aware of the manipulative design that promotes dependency and reduces intellectual and moral standards over time, consistent with a Ponzi scheme approach. (See Cunningham, 265 U.S. at 7–8.)**

**35 Defendants’ negligence in failing to maintain such an environment, and in misrepresenting themselves as providers of a neutral platform, has caused Plaintiff and similarly situated individuals to suffer damages.**

**36 Plaintiff further contends that, under established tort principles (see Restatement (Second) of Torts § 552), when a platform voluntarily assumes the responsibility to moderate in good faith, it owes a duty of reasonable care in performing those acts. By failing to uphold this duty, Twitch and Amazon have proximately caused harm to Plaintiff and similarly situated individuals.**

**VI PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, respectfully requests that this Court enter judgment against Defendants and:

A. Declare that Defendants’ actions, policies, and practices described in this Complaint violate federal and/or state law, including H1B discrimination provisions (8 U.S.C. § 1324b), Title VII civil rights law (42 U.S.C. § 2000e-2), and related statutes;

B. Award compensatory damages, including but not limited to, lost opportunities, lost wages, emotional distress, and other damages in an amount to be proven at trial;

**C Award punitive damages to deter such conduct in the future (see Kolstad v. Am. Dental Ass’n, 527 U.S. 526 (1999)[29]);**

**D Grant injunctive relief requiring Defendants to reform and correct their practices to eliminate discriminatory policies, to adhere to “Good Samaritan” standards under 47 U.S.C. § 230(c)(2), and to implement safeguards for H1B applicants; and to stop fraudulently misrepresenting the Twitch Platform as lawful and beneficial while knowingly promoting user manipulation and intellectual decline, all of which Plaintiff characterizes as a Ponzi scheme on user intellect;**

E. Award Plaintiff reasonable attorneys’ fees, costs, and expenses, as provided by law (see 42 U.S.C. § 1988(b)[30]); and

F. Grant such other and further relief as the Court deems just and proper.

**VII JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues so triable. (See Cal. Civ. Proc. Code § 631.)

Dated: 3/7/2025

Respectfully submitted,

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