

## Elon Musk

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## How laughing Elon Musk got serious about ending Twitter deal

Billionaire finds platform he no longer wants to buy useful after termination of \$44bn takeover

[Nils Pratley: Twitter must press case against Elon Musk](#)



News of Elon Musk's offer to buy Twitter broke in April. Photograph: Onur Dogman/Sopa Images/Rex/Shutterstock

**E**lon Musk just couldn't help himself on Monday morning. Having announced the termination of his \$44bn (£37bn) takeover of Twitter, he took to the platform he no longer wants to buy and mocked its likely legal response.

[pic.twitter.com/JcLMee61wj](https://pic.twitter.com/JcLMee61wj)

– Elon Musk (@elonmusk) [July 11, 2022](#)

Musk's tweet to his 100 million followers stated: "They want to force me to buy Twitter in court." Twitter [does indeed have grounds](#) to seek an order requiring Musk to buy the business, despite him pulling out in a dispute over the number of spam or bot accounts on the platform.

But, as has often been the case with the deal itself, the world's richest man doesn't appear to take the threat seriously. "Now they have to disclose bot info in court," says one caption in the tweet, illustrated by a series of photos of Musk laughing uproariously. It was followed by a picture of the vintage action star Chuck Norris at a chessboard, with Musk tweeting under it: "Chuckmate."

[pic.twitter.com/d5tSnoDs5s](https://pic.twitter.com/d5tSnoDs5s)

– Elon Musk (@elonmusk) [July 11, 2022](#)

Despite being surrounded by the best advisers money can buy, Musk has had an erratic relationship with the legal minutiae of his [now abandoned](#) \$44bn Twitter takeover. On the one hand, his legal team has filed tightly argued disclosures against the deal, citing various clauses in the agreement. On the other, he posts poo emojis at the people he is negotiating with.



– Elon Musk (@elonmusk) [May 16, 2022](#)

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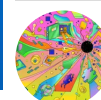
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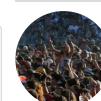
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Indeed, the scatological cartoon directed at Twitter's CEO, Parag Agrawal, probably broke a merger agreement that Musk has now reneged on. More than two months ago, Musk signed an agreement to buy the social media platform that contained a clause where he **pledged not to "disparage"** the company or its employees.

A day later Musk was engaging with criticism of company staff on the platform, including of Twitter's legal head, Vijaya Gadde. Twitter's former CEO, Dick Costolo, accused Musk of bullying Gadde.

what's going on? You're making an executive at the company you just bought the target of harassment and threats.

– dick costolo (@dickc) **April 27, 2022**

It was the first sign that Musk was not taking the deal seriously, or at least was unwilling to curb his behaviour in line with the deal agreement. It probably didn't surprise Twitter, given the clause inserted in the deal and Musk's previous history on Twitter. In 2018, Musk reached a settlement with the US financial watchdog **over a tweet** in which he said he had "funding secured" for a proposal to take Tesla off the stock market.

According to one legal expert, Musk's behaviour breached the agreement but Twitter's desire to do the deal overrode their concerns. "Yes some of his tweets breached the agreement but there's no real remedy here because it doesn't matter how much Musk disparages Twitter. They want to do this deal," said Brian Quinn, an associate professor at Boston College law school.

In a letter disclosed on Monday, Twitter said Musk's termination of the agreement was "invalid and wrongful". It cited the disparagement clause as one of the areas where Musk had **violated the deal**.

Twitter has said it will go to court in Delaware, the US state that has jurisdiction over the deal, in order to "enforce the merger agreement". Its options include seeking a \$1bn break fee from Musk or asking a judge for "specific performance", which means requiring Musk to push ahead with the agreed transaction at \$54.20 a share. Musk certainly presumes that Twitter will choose the latter.

Musk appeared to be serious about buying the business when **news of his offer broke** on 14 April, even if the \$54.20 price hinted at a weed joke, given "420" is slang for marijuana. The billionaire said he wanted to release the platform's "extraordinary potential" to boost free speech and democracy across the world. He told a TED conference: "Having a public platform that is massively trusted and broadly inclusive is extremely important to the future of civilisation."

Even as it became clear that Musk was heading for the exit, he **met Twitter staff** in a Q&A where he said he wanted the platform to contribute to a "better, long-lasting civilisation". He was also interested enough in the business to assemble a financing package that included \$13bn from banks and a commitment of more than \$30bn from his own pocket, although that **included contributions** from the Binance cryptocurrency trading platform and the tech tycoon Larry Ellison.

Nonetheless, his hot-cold behaviour has led some observers to wonder how serious he was about buying the company. If he meant to buy the company at the beginning, a recent rout in tech shares helped change his mind, says Drew Pascarella, a senior lecturer on finance at Cornell University.

“Elon is a bold and controversial public figure. Twitter is a platinum social media platform that Elon himself has used, controversially, for years. Acquisition of the asset, and the ability to control it, is the ultimate boss move,” Drew says. “I do think Elon was serious, and the banks thought so, too. Given what’s happened to equity values since the deal was inked, he risked looking very stupid by paying what is now an outlandish price.”

Twitter shares, which fell 11.3% in New York on Monday to \$32.65, have declined by about 23% so far this year. The tech-heavy Nasdaq index gives an idea of the wider market, having fallen 25% so far this year.

Musk’s lawyers are among the few legal voices who think he has a chance in Delaware. His argument centres on the veracity of Twitter’s statement in its quarterly filings that spam accounts represent less than 5% of its active daily user base, which is 229 million people currently. Twitter has stated this consistently since 2014 and has supplied Musk with public tweet data in an attempt to convince him that its estimate is robust.

Musk’s argument for tearing up the deal is threefold: that Twitter had **breached the agreement** by failing to provide enough information on spam accounts; that Twitter has misrepresented the number of spam accounts in its disclosures to the US financial watchdog; and that the company breached the agreement by failing to consult with Musk when firing senior employees recently.

Quinn, and others, think Musk won’t succeed. “Does Musk have strong legal arguments? In short, no,” Quinn says. Lawyers who are unsympathetic to Musk’s case say his information requests were not reasonable, that it is highly unlikely he will be able to prove the spam estimate is false, and that letting go of senior execs was part of the day-to-day business of running the company.

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However, some legal and corporate experts also believe both sides will reach a settlement in order to avoid a situation where Musk is forced to buy a company he does not want, amid a legal battle that does further damage to the morale and share price of the company.

Whatever happens next, anyone selling a business to Musk in the future is likely to tread warily, according to Anat Alon-Beck, a professor and business law expert at Case Western Reserve University. “I definitely think that his behaviour is going to make it very difficult to buy other companies,” she said.

However, Pascarella said companies would still take notice when an entrepreneur with a \$220bn fortunes comes calling. “No board should ignore overtures from the richest person in the world just because of his erratic behaviour,” he said, although businesses would need to “negotiate for clear and robust deal protections”.

Twitter is about to find out how robust its protections are. In the meantime, Musk will no doubt keep tweeting on a platform he’d now rather use than own.

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