

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11309 / September 24, 2024

SECURITIES EXCHANGE ACT OF 1934
Release No. 101153 / September 24, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22172

In the Matter of

WM TECHNOLOGY, INC.,

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against WM Technology, Inc. (“WM Technology” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings arise from WM Technology's untrue and misleading reporting of "monthly active users," or "MAU." WM Technology is a public company that operates an online marketplace connecting cannabis users with cannabis businesses. Respondent became a public company through a June 2021 de-SPAC transaction. Until August 2022, WM Technology publicly reported only one metric that measured the strength of the consumer, or user, activity on its online marketplace: MAU, which WM Technology described as a "key operating" metric in its periodic filings with the Commission. Both during the de-SPAC transaction and after WM Technology became public, WM Technology misleadingly reported substantial and continued MAU growth and emphasized the strength and growth of its user base in its public filings and earnings calls.

2. When reporting MAU publicly, WM Technology described "monthly active users" as the number of unique users opening the WM Technology mobile app or accessing the WM Technology website during the course of a calendar month, and further explained that the number of MAU was determined by counting the total number of users that had "engaged with" the company's website during the final calendar month of the given period. In truth, a large and increasing percentage of the users of the WM Technology site were instead persons who visited a third-party site, and who were then automatically shown the WM Technology site by way of a "pop-under" advertisement (which appeared under their browser windows). Consequently, these purportedly "active" users did not volitionally seek out the WM Technology site, and, in most instances, they took no action whatsoever on the site. Despite the reported growth in MAU, WM Technology's user engagement metrics were stagnant or declining. WM Technology's former chief executive officer and its former chief financial officer were advised of the declining user trends on the WM Technology site and the fact that these non-engaging users were making up an increasingly large percentage of WM Technology's total MAU. They understood that only a very small percentage of users acquired by pop-under ads actually interacted with the site, and were told that WM Technology was using paid traffic, and pop-under ads specifically, to hit MAU targets. WM Technology's former CEO and former CFO failed, however, to reasonably follow up on this accelerating trend, failed to disclose that the calculation of MAUs included an increasing percentage of non-engaging users whose only contact with the site consisted of having a pop-under ad open on their device, and negligently continued to sign WM Technology's SEC filings and

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

make public statements that reported inflated MAU numbers touting the company’s growing user base.

3. Based on the foregoing and the conduct described below, WM Technology violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 13(a) and 14(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, 13a-13, 13a-15(a), and 14a-9 thereunder.

Respondent

4. WM Technology is a publicly traded Delaware corporation with its principal place of business in Irvine, California. WM Technology is listed on NASDAQ under the ticker “MAPS,” and its common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act. WM Technology operates an online cannabis marketplace. WM Technology became a public company in June 2021 through a business combination between its private company predecessor entity, WM Holding Company, LLC, and a publicly-traded special purpose acquisition company (the “SPAC”).

Facts

WM Technology’s Business and Origin as a Public Company

5. WM Technology operates an online marketplace connecting members of the public who are interested in purchasing or learning about cannabis (WM Technology’s “users”) with cannabis businesses seeking to promote their cannabis products or brands (WM Technology’s “clients”). WM Technology primarily generates revenue by charging cannabis business clients to list or advertise their cannabis products or brands on the WM Technology site. WM Technology does not charge its consumer users to use the site. A key part of WM Technology’s pitch to its revenue generating business clients is that the WM Technology site has a significant user base of frequent cannabis consumers.

6. WM Technology, which had been in business as a private company since 2008, became a public company in June 2021 via a de-SPAC transaction with the SPAC. The contemplated merger was initially announced on December 10, 2020.

WM Technology’s Relevant MAU Statements During the De-SPAC Process (Spring 2021)

7. Subsequent to the December 2020 merger announcement, the SPAC filed an S-4 registration statement with the SEC, which after being amended three times, was declared effective on May 25, 2021. The SPAC’s resulting May 26, 2021 proxy statement/prospectus, which sought approval from the SPAC’s shareholders for the contemplated merger transaction between the SPAC and the WM Technology target company, contained detailed information regarding WM Technology’s business, including its MAU metric. This information about WM Technology’s business was provided to the SPAC by WM Technology.

8. The SPAC's May 26, 2021 proxy statement/prospectus defined MAU as measuring the number of people who opened the WM Technology app or accessed the WM Technology site and explained that WM Technology determined its MAUs by counting the total number of users who have "engaged with" the WM Technology site in the final calendar month of a given quarter. Using this definition, the SPAC's May 26, 2021 filing stated that WM Technology's MAU was 9.1 million as of March 31, 2021.

9. The SPAC's May 26, 2021 proxy statement/prospectus described MAU as one of seven "Key Operating and Financial Metrics" for WM Technology's business, alongside metrics like revenue, net income, and EBITDA. Of these identified seven key metrics, MAU was the only metric that showed consumer side user traffic or activity on WM Technology's site. The proxy statement/prospectus explained that WM Technology monitored these key metrics "to evaluate [its] business, measure [its] performance, identify trends affecting [its] business, formulate business plans, and make strategic decisions." WM Technology also explained the specific importance of the MAU metric, stating: "We view the number of MAUs as a key indicator of our growth, the breadth and reach of our weedmaps.com site, the value proposition and consumer awareness of our brand, the continued use of our sites by our users and their level of interest in the cannabis industry." The SPAC's May 26, 2021 proxy statement/prospectus highlighted WM Technology's "over nine million MAUs" and that WM Technology had increased its MAUs each year from 2018 to 2020. Various charts reflected consistent year-over-year MAU growth.

10. The SPAC's proxy statement/prospectus further noted that WM Technology intended to disclose MAU on a quarterly basis going forward in its public filings. The business combination between WM Technology's predecessor entity and the SPAC was approved and consummated on June 16, 2021.

WM Technology's MAU Statements as a Public Company (July 2021 to May 2022)

11. WM Technology continued to publicly report monthly active users, or MAU, as its sole consumer user metric after the business combination was approved and it became a public company in June 2021. WM Technology reported MAU in its July 20, 2021 Form S-1 registration statement and associated prospectus. WM Technology also reported MAU in its quarterly and annual reports and in its related earnings releases. In the Management's Discussion and Analysis section for each of these filings, WM Technology continued to identify MAU as one of its seven "Key Operating and Financial Metrics". In each periodic report, WM Technology continued to describe MAU the same way:

We define MAUs as the number of unique users opening our Weedmaps mobile app or accessing our Weedmaps.com website over the course of a calendar month. In any particular period, we determine our number of MAUs by counting the total number of users who have engaged with the weedmaps.com site during the final calendar month of the given period.

12. Other references to MAU in these filings did not explicitly describe these users as having “engaged” with WM Technology’s site, but none of these other references contradicted the claim that a user had to “engage” to be counted towards MAU.

13. From becoming public in June 2021 up to its Form 10-Q filed on May 6, 2022, WM Technology reported consistent quarterly MAU growth and highlighted this growth trajectory in its SEC filings, which included disclosure of its MAU metric relative to the same quarter in the prior year, often disclosing annual MAU growth of over 50% from the prior year period. In four periodic filings between August 13, 2021 and May 6, 2022, WM Technology reported MAU as follows:

Filing Date	Reporting Period	Disclosed MAU
8/13/2021	2Q 2021	12.3 million “monthly active users”
11/12/2021	3Q 2021	13.9 million “monthly active users”
2/25/2022	4Q 2021	15.73 million “monthly active users”
5/6/2022	1Q 2022	16.43 million “monthly active users”

Beyond disclosing this metric, WM Technology’s public filings touted the importance of MAU as an indicator of the company’s breadth and growth, and of the consumer awareness of WM Technology’s brand and consumer use of its site. WM Technology also represented that its “user base and the frequency of consumption of cannabis of that user base is highly valuable to [its] clients and results in clients paying for [its] services.” WM Technology’s former chief executive officer and former chief financial officer signed each of WM Technology’s quarterly and annual filings between August 2021 and May 2022. The former chief financial officer also signed the Forms 8-K that furnished WM Technology’s quarterly earnings releases.

14. WM Technology’s former CEO and former CFO separately highlighted WM Technology’s MAU growth in earnings calls with analysts that took place from August 2021 to May 2022, conveying a narrative of a steadily growing and engaged user base on the WM Technology site. As one example, in WM Technology’s May 4, 2022 earnings call, WM Technology’s former CEO emphasized that WM Technology was driving “user growth” across the WM Technology marketplace, while stating that “users are the core of our value proposition with clients.” WM Technology’s former CFO noted in that same call that WM Technology “continued to grow [its] user base with over 50% growth in monthly active users versus last year.” Analysts at times cited WM Technology’s consistent MAU growth as a positive business trend in their reports on the company.

WM Technology’s Undisclosed and Long-Running Use of Non-Engaging Pop-Under Ads That Inflated Its Publicly Reported MAU Metric

15. True user traffic and activity trends on WM Technology’s site were inconsistent with the growth picture that WM Technology described in its public filings. Starting as early as mid-2020, WM Technology promoted its online marketplace through digital advertising on a

network of third-party sites. WM Technology used several forms of digital advertising on these sites, including pop-under ads where a visitor to a third-party site would have the WM Technology site automatically open under their browser. The individual visiting the third-party site that received the pop-under ad would have made no intentional effort to seek out the WM Technology site. The great majority of those directed involuntarily to the WM Technology site via these pop-under ads did not engage in any way with the WM Technology site. WM Technology internal documents show less than 2% of the pop-under traffic resulted in an engaged user session. WM Technology nevertheless counted these persons as “monthly active users,” or MAU.

16. At the same time, actual engaged user traffic and activity on the WM Technology site was stagnant or declining. Internally, WM Technology used the term “direct traffic” to refer to users who went straight to the WM Technology site or directly opened the WM Technology app, while it used “organic traffic” to refer to users that came to the WM Technology site after doing something like running a search on Google. Another internal term, “paid traffic,” measured the traffic directed to the WM Technology site via WM Technology’s paid digital advertising efforts, including the pop-under ads. WM Technology’s internal records show that its direct and organic traffic did not grow and in fact declined for much of the period between July 2020 and June 2022, while its paid traffic increased dramatically due to WM Technology’s increasing reliance on non-engaging traffic from pop-under ads. Although it disclosed in its filings with the Commission that MAU was determined by counting those “who have engaged with” the company’s site, internally WM Technology calculated MAU simply by looking at visitors to the site, no matter how they arrived there, and did not require that they actually engage in any way. For its internal use, WM Technology measured engagement activity primarily through a different metric, called “active sessions,” which required that the user take one of a set of defined actions on the WM Technology site. WM Technology did not report this metric publicly. WM Technology at times also internally used another metric called “eMAU,” which stood for “engaged MAU.” Like direct and organic traffic, WM Technology’s non-MAU engagement metrics were, with the exception of certain month-over-month periods, stagnant or declining from July 2020 through June 2022. WM Technology did not report these non-MAU engagement metrics publicly.

17. In spite of these declining trends, WM Technology ran pop-under ads and continued to hit internal MAU targets and publicly report MAU growth until August 9, 2022, when it disclosed, in a Form 8-K and its Form 10-Q for the quarter ended June 30, 2022, that its board of directors had received an internal complaint regarding “the calculation, definition, and reporting of our MAUs.” WM Technology’s August 9, 2022 Form 10-Q disclosed that it had formed a special committee of independent directors to conduct an investigation and summarized the committee’s findings as follows:

As we have previously disclosed, one of the ways in which we acquire users is through paid advertising. To an increasing degree over time, growth of our monthly active users, reported as MAUs, has been driven by the purchase of pop-under advertisements, which are marketing advertisements on third party websites that automatically present our platform on users’ screens in certain circumstances. Our internal data suggests that the vast majority of users who are directed to

weedmaps.com via pop-under advertisements close the site without clicking on any links. Based on management's review, users whose access to the website resulted from these pop-under advertisements represented approximately 65% of our MAUs as of June 30, 2022, and 54%, 50% and 54% of our MAUs as of March 31, 2022, December 31, 2021 and September 30, 2021, respectively.

18. WM Technology's internal documents show that the pop-under ads also constituted roughly 41% and 34% of the company's reported MAU for the two quarters ended June 30, 2021 and March 31, 2021, respectively.

19. As such, significant and increasingly material percentages of the MAU that WM Technology reported during these periods were made up of pop-under ad "users" who did not intentionally seek out the WM Technology site, nor take any action on the site once there. This was inconsistent with the statements in WM Technology's public filings that the company calculated MAU by measuring the number of unique users that had "engaged with" the WM Technology site during the relevant period. Moreover, these trends with respect to the pop-under ads and their impact on MAU were not publicly disclosed during these periods.

20. In its August 9, 2022 Form 10-Q, WM Technology described "MAU" in its SEC filings as representing "the total number of unique users who opened the Weedmaps mobile app or gained access to the Weedmaps.com website during the final calendar month of the period," and removed the language that described MAU as reflecting the number of unique users who had "engaged" with the WM Technology site during that period. Then, three months later, WM Technology announced that it would be discontinuing its public reporting of MAU in its November 8, 2022 Form 10-Q.

Former CEO and Former CFO's Awareness of Declining User Trends and the Use of Non-Engaging Pop-Under Ads to Drive MAU Growth, and Failure to Exercise Reasonable Care

21. During the second half of 2020 and early 2021, WM Technology's former CEO and former CFO received information indicating that pop-under traffic was becoming an increasingly large percentage of WM Technology's website traffic and its overall MAU, and that such traffic was "low quality" and did not meaningfully engage with WM Technology's site. Both received various weekly updates throughout the summer and fall of 2021 that contained graphs, charts, and commentary showing that WM Technology's direct and organic traffic, as well as the active sessions on the site, had declined by double digits since mid-2020 and that the company's MAU growth was being driven by low engagement paid traffic. A November 2021 "Weekly Business Review" presentation further highlighted that paid traffic was propping up MAU as direct and organic traffic declined, and that the paid traffic, which increasingly included traffic from pop-under advertisements, had reached roughly 50% or more of WM Technology's total MAU.

22. WM Technology's former CEO and former CFO continued to sign WM Technology's public filings that touted MAU growth despite receiving information about WM Technology's deteriorating user traffic and dependence on paid traffic generally, and pop-under ads specifically, to grow MAU. This conduct was unreasonable because the former CEO and

former CFO did not follow up or take meaningful steps to obtain more information about how the pop-under ads were affecting WM Technology’s MAU, nor did they take measures to ensure that WM Technology was calculating MAU in a way that was consistent with how it defined the term in its SEC filings—as “active” users who “engaged” with the WM Technology site. WM Technology’s former CEO and former CFO further failed to take measures to include additional disclosures in WM Technology’s SEC filings that would be sufficient to make the disclosed MAU figures not misleading. They made no effort to clearly disclose that the MAU metric included pop-under ad “users” who did not volitionally seek out the WM Technology site or engage with it, and the level to which such pop-under ad users were contributing to growth in MAU, which was material to understanding the metric. In addition, WM Technology did not maintain written disclosure controls and procedures designed to ensure that the information that it reported in its SEC filings regarding its user metrics was accurate, although its own disclosure committee charter called for it to maintain such controls and procedures. More specifically, WM Technology lacked disclosure controls or procedures designed to ensure that the way it internally calculated MAU, one of its “key operating” metrics, was consistent with how it described MAU in its SEC filings and that material trends in the types of users comprising MAU were identified and clearly disclosed.

23. WM Technology’s stock was offered and sold throughout the period before the company’s August 9, 2022 disclosure regarding MAU and the pop-under ads, including shares issued as compensation to certain employees under WM Technology’s employee incentive plans.

Violations

24. As a result of the conduct described above, WM Technology violated Section 17(a)(2) of the Securities Act which proscribes, in the offer or sale of a security, obtaining “money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.” In addition, as a result of the conduct described above, WM Technology violated Section 17(a)(3) of the Securities Act which proscribes, in the offer or sale of a security, engaging “in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.” A violation of these provisions does not require scienter and may rest on a finding of negligence. *See Aaron v. SEC*, 446 U.S. 680, 701-02 (1980).

25. Also as a result of the conduct described above, WM Technology violated Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, 13a-13, and 12b-20 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act file with the Commission information, documents, and annual, periodic, and quarterly reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading.

26. In addition, WM Technology violated Exchange Act Rule 13a-15(a), which requires every issuer of a security registered pursuant to Section 12 of the Exchange Act to maintain disclosure controls and procedures designed to ensure that information required to be

disclosed by an issuer in reports it files or submits under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the Commission's rules and forms.

27. Lastly, as a result of the conduct described above, WM Technology violated Section 14(a) of the Exchange Act and Rule 14a-9 thereunder, which prohibit the use of proxy statements containing materially false or misleading statements or omissions of material fact necessary to make statements made not misleading. Negligence suffices to establish a violation of Section 14(a) and Rule 14a-9. *Gould v. American Hawaiian Steamship Co.*, 351 F. Supp. 853, 864–65 (D. Del. 1972).

WM Technology's Remedial Efforts

28. In determining to accept WM Technology's Offer, the Commission considered the cooperation it provided during the staff's investigation. Promptly upon the receipt of an internal complaint notifying the non-executive board members of the allegation about the company's reporting of MAU, the company's board appointed a special committee of independent directors, which engaged counsel to conduct an internal investigation. The company self-reported contemporaneously with its public disclosure regarding the pop-under ads and their impact on MAU, voluntarily provided extensive information to the Commission staff regarding the results of its board's internal investigation, and undertook remedial measures relating to the conduct described in this Order.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent WM Technology's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent WM Technology cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 13(a) and 14(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, 13a-13, 13a-15(a), and 14a-9 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$1,500,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying WM Technology, Inc. as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Gary Y. Leung, Los Angeles Regional Office, Securities and Exchange Commission, 444 South Flower Street Suite 900, Los Angeles, California 90071.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary