

No. 24-1202

In The
**Supreme Court of the
United States**

JOHN DOE, AN INDIVIDUAL,

Petitioner,

v.

GRINDR INC. AND GRINDR LLC,

Respondents.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Ninth Circuit

**BRIEF OF AMICUS CURIAE
PAVING THE WAY FOUNDATION, INC.
IN SUPPORT OF PETITIONER**

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INTEREST OF THE AMICUS CURIAE.¹

Founded in 2016, PAVING THE WAY FOUNDATION, INC. (“Paving the Way Foundation”) has expertise in cultivating informed and engaged youth leaders throughout Central Florida. In the past nine years, it has educated more than 41,000 youth and parents in Central Florida and across the country, becoming a trusted resource for equipping communities to prevent child exploitation.

Child exploitation is a pervasive and growing threat, affecting millions of children worldwide. While many organizations focus on rescuing and rehabilitating victims, far fewer are dedicated to preventing exploitation before it occurs. With the alarming rise in internet-based sexual abuse, online exploitation, and the use of artificial intelligence to produce abusive material and extort children, prevention education is more critical than ever.

Paving the Way Foundation believes—and has demonstrated through its work—that education and empowerment are essential to preventing child trafficking and online exploitation. Children are our future, and they are continually being targeted and harmed by online predators, facilitated by hundreds of platforms

¹ Under Rule 37.6, *amicus* affirms that no counsel for a party authored this brief in whole or in part, and that no person other than *amicus* or its counsel contributed money intended to fund preparing or submitting this brief. Under Rule 37.2, *amicus* affirms that all parties received timely notice of the intent to file this brief.

that are not being held accountable to remove harmful content when asked, leaving children vulnerable to additional cyberbullying and online exploitation.

SUMMARY OF THE ARGUMENT

Grindr's purpose is to arrange for sexual hookups between strangers. Grindr markets itself to children. Children use the app and inevitably get raped. Grindr shrugs its shoulders and says "not our problem." The 9th Circuit agreed that Grindr should have no responsibility for the harms it causes, because of a ghoulish interpretation of 47 U.S.C. § 230 ("Section 230") of the Communications Decency Act (CDA). Congress, presented with prior misinterpretations of Section 230 created clear liability for those who knowingly profit from sex trafficking in 18 U.S.C. § 1591(a)(1) and 18 U.S.C. § 1591(a)(2). However, in this case, the 9th Circuit also chose to protect Grindr's sex trafficking scheme under those statutes as well.

There are neutral, innocent platforms that deserve some degree of protection under Section 230. Grindr is not one of them in this circumstance. Grindr could have easily prevented the harms it caused – it does not want to. In fact, it affirmatively courts and causes the harms – and it is profitable to do so. John Doe is one of many and stands as a representative of all the children swept into this trauma trap. A trap whose gears are built out of these gross misinterpretations of the law.

This Court should grant certiorari.

ARGUMENT

This case presents a critical opportunity for the Supreme Court to clarify the scope of 47 U.S.C. § 230 (“Section 230”) of the Communications Decency Act (CDA). Despite Congress’s 2018 Allow States and Victims to Fight Online Sex Trafficking Act (“FOSTA”) Amendment to Section 230, courts have failed to apply the statute’s plain text and instead have invented protections for platforms that knowingly commercialize the sexual exploitation of minors. The Ninth Circuit’s decision to extend Section 230 immunity to Grindr, despite the plaintiff’s demonstration that his harm flowed from Grindr’s own misconduct, represents a dangerous misinterpretation of the statute.

Section 230 was passed by Congress in 1996 when the internet was in its infancy. Today’s internet bears little resemblance to the internet of thirty years ago, and technology has advanced by leaps and bounds since then. However, Section 230 has stagnated and degraded into its current condition – a “heads the people lose, tails the tech companies win” statute that shields technology companies from all accountability or responsibility, which they have fully taken advantage of, with no sense of responsibility for the harms they might cause. And in this case, Grindr took advantage of it in a nightmarish manner – serving up children for sexual abuse. Delivering children to rapists, with no conscience at all.

The statute may have served some purpose when the internet industry was in its infancy. Every website has updated its terms of service since 1996.

An industry made up of startups that may have needed some breathing room while the culture caught up to it is now an industry of juggernauts who shrewdly use interpretations of Section 230 to cover their lack of willingness to exercise even a bare minimum of accountability or responsibility.

Their unwillingness to be responsible has been pathological and necessitates reform. Prior misinterpretations of Section 230 protected human traffickers and those who partnered with them. *See e.g., Doe v. MySpace, Inc.*, 528 F.3d 413, 416 (5th Cir. 2008) (affirming dismissal of a negligence claim against MySpace for failing to implement age verification and enabling an adult to sexually assault a thirteen-year-old); *Doe v. Bates*, No. 5:05-CV-91-DF-CMC, 2006 WL 3813758, *1, *20 (E.D. Tex., Dec. 27, 2006) (dismissing plaintiff's negligence claim against Yahoo! for "knowingly host[ing] child pornography.") Yet even when presented with the undeniable truth that their actions were harming children, tech companies cried that it would be the end of the internet as we know it if they had to show even a bare minimum of responsibility. They are being disingenuous. However, even if they are not, if the internet as we know it has a slim and marginal element that we can do without.

Since companies would not take even basic steps to clean up their acts voluntarily, Congress passed FOSTA to prevent Section 230 from shielding them from liability for human trafficking and other foreseeable harm.

Grindr's profit-driven app design is a new iteration on the same illicit business ventures that Congress

passed FOSTA to remedy. Grindr knowingly and willfully markets itself to children and then serves them up to predators. It knows that it does this, but it claims an inability to do anything about it – but “can’t” actually means “won’t” in this case. Section 230 was never intended to create a shield for companies knowingly and intentionally profiting from child sex abuse.

This Court must intervene to ensure Section 230’s proper application: as a protection for platforms hosting third-party content, not as a shield for platforms that profit by seeking out minors to feed predatory users.

I. Congress passed FOSTA to prevent the harms suffered by victims of Backpage and similar platforms, and Grindr is a successor to these illicit victimization enterprises.

After Congress passed Section 230, the Internet blossomed, but victims suffered. Eric Goldman, *The Complicated Story of FOSTA and Section 230*, 17 FIRST AMEND. L. REV. 279, 279-80 (2019). Bad-faith platforms shielded themselves in Section 230’s protections and profited from the sexual abuse and exploitation plaguing their platforms. *Id.* at 280-81. For years, judges reluctantly dismissed victims’ claims as precluded by Section 230 and begged Congress for legislative fixes. *See e.g., Jane Doe No. 1 v. Backpage.com, LLC*, 817 F.3d 12, 29 (1st Cir. 2016) (“If the evils that the appellants have identified are deemed to outweigh the First Amendment values that drive the CDA, the remedy is through legislation, not litigation.”) In 2018, Congress responded to these

calls from victims and the courts by recalibrating Section 230's protections. Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA), Pub. L. No. 115-164, § 4, 132 Stat. 1253 (2018).

Congress's intent in passing FOSTA was to respond to and curtail Section 230 protections for Backpage and similar actors who profited from their assistance in human trafficking. Jeff Kosseff, *The Twenty-Six Words that Created the Internet* 264 (2019). Backpage, one of the largest, online classified advertising websites became known as a marketplace for commercial sex and human trafficking. Specifically, Backpage was found to have facilitated sex trafficking through editorial and website design choices, such as hosting sections for users to post content related to "escorting" and "adult entertainment." *Id.* at 253.

Further, Backpage was aware of its role as a conduit for human trafficking; indeed, forty-five state attorneys general had written to Backpage emphasizing that the webpage was not sufficiently moderating content to prevent human and child sex trafficking. *Id.* But Backpage maintained that its "strict content policies to prevent illegal activity" were sufficient. *Id.* Specifically, Backpage adopted a list of prohibited terms, which users could not include in advertisements. *Id.* at 254. And despite its claim that it was strictly moderating content for these prohibited terms, Backpage adopted policies that only edited posts containing these terms. *Id.* For example, a user who posted an advertisement with the prohibited term "teen" would be given the option to repost without that term. United States Senate, Permanent Subcommittee on Investigations, Staff Report, *Backpage.com's Knowing*

Facilitation of Online Sex Trafficking, at 34-35 (Jan. 10, 2017).

These editorial decisions were motivated not by a goal of protecting victims but instead by a concern that some terms “might attract law enforcement attention.” Kosseff, *supra*, at 254-55.

A. Grindr functions in substantially similar ways to Backpage through knowing misconduct that furthers sexual abuse and human trafficking.

Like Backpage, Grindr publicly claims to have strict content moderation policies but operates under a business model and platform design that knowingly fail to protect minors. It follows Backpage’s tradition of lax enforcement, paired with assertions that it cannot do more. Grindr’s design choices appear calculated to avoid law enforcement scrutiny while sustaining a platform that facilitates, and even encourages, child sexual abuse.

Whereas Backpage edited ads to remove prohibited terms referencing minors, Grindr allows minors to join simply by self-reporting that they are over 18—without any verification. App. 4a. A user under 18 can simply claim a higher age and gain full access. As Backpage’s superficial edits made it no more difficult for predators to find victims, Grindr’s features allow predators to identify potential victims through “tribe” labels, including descriptors such as “twink,” which denotes younger-appearing users. In the words of Grindr’s own blog, “[twinks] are coveted for their youthful appearance and baby-smooth skin.” Grindr

Editorial Team, *What's a Twink? Unpacking the Allure of the Slim & Smooth* (May 13, 2024).² Presumably, John Doe is not “flattered” by this description.

Just like government officials alerted Backpage to the harms occurring on their platform, Grindr has been alerted to the harms that flow from its app. Adam Forrest, Government minister to demand Tinder and Grindr explain what they're doing to protect children, *THE INDEPENDENT* (Feb. 10, 2019).³ Grindr has been, and continues to be, a tool for sexual abusers to identify vulnerable minors. Lawsuits eerily similar to the present Doe complaint continue to materialize, and yet Grindr refuses to implement proper safeguards. Pet. 10.

B. Remedial Statutes should be interpreted in a way that effectuates their meaning.

In applying FOSTA to Grindr's facilitation of sex trafficking, courts should use the “familiar canon of statutory construction that remedial legislation should be construed broadly to effectuate its purposes.” *Tcherepnin v. Knight*, 389 U.S. 332, 336 (1967). Under this canon, courts should apply a meaning to the statute that accomplishes the congressional goal to inhibit sex trafficking enterprises.

Prior district court decisions correctly applied the canon in reading a liberal meaning into FOSTA. *Doe*

² Available at: <https://www.grindr.com/blog/what-is-a-twink>.

³ Available at: <https://www.independent.co.uk/news/uk/politics/jeremy-wright-tinder-grindr-culture-secretary-children-dating-apps-police-protection-a8772116.html>.

v. Twitter, Inc., 555 F. Supp. 3d 889, 921 (N.D. Cal. 2021) (reversed by *Doe #1 v. Twitter, Inc.*, No. 22-15103, 2023 WL 3220912, at *1 (9th Cir. May 3, 2023)). In *Twitter, Inc.*, the district court correctly noted that when a remedial statute is ambiguous, courts should apply a broader meaning. *Id.* at 920.

While this canon has fallen out of favor in recent years, courts should not create an anti-canon whereby they can ignore a statute’s text to undercut a statute’s commands. See Aaron-Andrew P. Bruhl, *Understanding the Mechanisms of Interpretive Change*, 103 N.C. L. Rev. 1083, 1107 (2025). In the years since *Twitter, Inc.*, courts have interpreted FOSTA according to this anti-canon whereby the most “restrictive possible reading” is used to circumvent equally plausible textual requirements that adhere to Congress’s intent. *Twitter, Inc.*, 555 F. Supp. 3d at 920.

II. Despite Congress adopting FOSTA to course correct the broad immunization facilitating sex trafficking and sexual abuse, the Ninth Circuit invented requirements to continue immunizing platforms for their sexual exploitation.

FOSTA’s long title emphasizes its purpose as “clarify[ing] that section 230 ... does not prohibit the enforcement against providers...of interactive computer services Federal and State criminal and civil law relating to sexual exploitation of children....” FOSTA § 1, 132 Stat. 1253. To accomplish this clarification, Congress added a new carve out to Section 230 and provided for civil liability under 18 U.S.C. § 1595 for

violations of 18 U.S.C. § 1591(a)(1) or § 1591(a)(2). Pub. L. No. 115-164, §4, 132 stat. 1254 (2018) (codified at 47 U.S.C. 230(e)(5)). 18 U.S.C. § 1595 provides victims of human trafficking with a civil remedy against their “perpetrator” and those who knowingly benefited from their harm, and 18 U.S.C. § 1591 provides the requisite standard for liability. Together, these statutes provide a cause of action for victims against (1) “whoever knowingly recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person;” or (2) “benefits financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1).” 18 U.S.C. § 1591(a). In other words, its plain language clearly subjects Grindr to civil liability for knowingly participating in activities that facilitate the trafficking of minors.

Under 18 U.S.C. § 1591(a)(1), victims can bring claims against a platform for their direct participation in their victimization and, under subsection 18 U.S.C. § 1591(a)(2), for benefitting from their victimization. A platform that knowingly facilitates a predator’s access to a victim cannot shield itself behind Section 230.

But despite Congress’s clear commandment that Section 230 does not protect platforms that choose to profit from sexual exploitation, courts have coalesced around a misreading of FOSTA that empowers, and even encourages, platforms to engage in victimizing minors as a course of business and a source of profit. This misreading creates atextual and additional burdens for a plaintiff to overcome.

A. With regard to Plaintiff's Direct Perpetrator Claim, the Ninth Circuit incorrectly read in additional mens rea and causal relationship requirements, despite the plain text of § 1591(a)(1).

Relying on prior Ninth Circuit precedent, the court below found that Petitioner's direct perpetrator claim failed because "not only must the defendant have actual knowledge of the sex trafficking, but there must be a 'causal relationship between affirmative conduct...and receipt of a benefit.'" *Doe v. Grindr Inc.*, 128 F.4th 1148, 1155 (9th Cir. 2025) (citing *Does v. Reddit, Inc.*, 51 F.4th 1137, 1141 (9th Cir. 2022)).

But Congress knows how to write a *mens rea* and nexus requirement into a statute, and here, the statute provides that knowledge of "recruiting, enticing, harboring..." is sufficient. See 18 U.S.C. § 1591(a)(1). And even if the Ninth Circuit correctly applied the statute's requirements, Petitioner sufficiently alleged both actual knowledge and a causal relationship between Grindr's recruitment of victims and the benefit Grindr received from their victimization.

The Ninth Circuit affirmed dismissal of the plaintiff's claim because it held Grindr merely turned a "blind eye to trafficking that may occur" on their platform, which was insufficient to constitute active participation in sex trafficking." *Grindr Inc.*, 128 F.4th at 1155. But a defendant's willful ignorance of illicit activity can constitute knowledge. See e.g., *United States v. Epstein*, 426 F.3d 431, 440-41 (1st Cir. 2005) (finding that "a conscious course of deliberate

ignorance” could support a jury finding that the defendant had requisite knowledge). Further, Grindr was alleged to have actual knowledge of sexual abuse on their app through their active participation in soliciting minors on the app, prior reports of sexual abuse, and nationwide statistics showing that Grindr was responsible for large percentages of underage sexual acts. Pet. 10. Grindr cannot be allowed to market to minors, depict minors using the app, celebrate their app as a safe and secure environment, and then be described as only “turning a blind eye” to minor usage. Grindr *wants* underage users, and it actively courts them, while giving us a Cheshire smile and feigned ignorance and impotence.

The app’s design infrastructure forbids this “blind eye” conclusion. In signing up for the hookup app, potential users are informed that they must be over the age of 18 and then are presented with the option to self-select into any age, without any verification requirement.⁴ After inviting minors to the app through their advertisements and marketing, Grindr

⁴ As this court held only weeks ago, “age verification, as a practical matter, is necessary for an effective prohibition on minors accessing age-inappropriate sexual content” and “Only an age-verification requirement can ensure compliance with an age-based restriction.” *Free Speech Coalition, Inc. v. Paxton*, 145 S. Ct. 2291, 2297 (2025) While no party claims Grindr’s lack of verification violates a statutory mandate, this court has clarified that age-based requirements are paper shields absent age-verification.

presents no barriers for them to use the app, nor to segregate them from men with pedophilic tendencies.⁵

Further, after signing up, the app permits users to freely alter their age. A user who describes themselves as 18 can continue purporting to be 18 for as long as they want, potentially misleading other users for sexual encounters they would otherwise deem too risky. The app also encourages users to sort themselves into tribes such as “twink,” denoting a younger appearance. Users can go so far as to filter proximate users by self-selected age and tribe. The

⁵ Grindr has claimed that protecting children would be either impossible or simply not its problem, it takes very little to imagine simple steps it could take: Grindr’s very allure is that it geo-locates users, so that they can find sexual hookups with strangers by proximity – with a locational accuracy that is nearly as precise as military smart bomb targeting. *Compare*, Grindr Inc., Grindr Help Center, *What is Grindr?*, (last visited Aug. 17, 2025) <https://help.grindr.com/hc/en-us/articles/1500012478721-What-is-Grindr#:~:text=Grindr%20collects%20your%20location%20info,between%20you%20and%20other%20members> (describing geolocation tracking with “100m radius of accuracy”), *with* U.S. Air Force, *Joint Direct Attack Munition GBU-31/32/38*, (last visited Aug 17, 2025) <https://www.af.mil/About-Us/Fact-Sheets/Display/Article/104572/joint-direct-attack-munition-gbu-313238/#:~:text=In%20its%20most%20accurate%20mode,quality%20handoff%20from%20the%20aircraft>. (describing a category of smart munition as accurate to within 30-meters depending on conditions). If Grindr can tell a user that there is someone ready to have sex with them down to the number of feet away they might be, Grindr could apply the slightest bit of responsibility by (at a minimum) requiring some additional verification if the location is (for example) inside a middle school during school hours. Grindr, however, prefers to be the internet’s bacha bazi marketplace.

app empowers predators to find minors through these filters, misleads the minors into thinking they are about to meet with someone close to their age, and then face life-altering sexual abuse.

Despite these curated features streamlining sexual abuse, the Ninth Circuit below found this was identical to the willful ignorance in *Reddit*. But *Reddit* is inapposite. There, the plaintiffs primary allegation was that Reddit knowingly participated in sex trafficking by “provid[ing] a platform where it is easy to share child pornography, highlight[ing] subreddits that feature child pornography, “allow[ing] users who share child pornography to serve as subreddit moderators, and failing to remove child pornography even when users report[ed] it.” *Reddit, Inc.*, 51 F.4th at 1145.. In rejecting the plaintiffs’ claims in *Reddit*, the court held this passive hosting was insufficient for alleging that Reddit “actively participated in sex trafficking.” *Id.*

Grindr’s design choices are factually different than Reddit. “Making it easy” might not be enough, but “actively encouraging and profiting from it” is different. Unlike Reddit, which plausibly only had a surface-level *awareness* of the Child Sexual Abuse Material (CSAM) on their platform, Grindr has *curated* a platform premised on sexual encounters. Grindr Editorial Team, *How does Grindr Work?* (June 27, 2024)⁶ (“you probably know by now that we’re a gay hookup app.”) And after creating this platform to facilitate sexual encounters, Grindr was not satisfied

⁶ Available at: <https://www.grindr.com/blog/how-does-grindr-work>.

with its profitability by serving up adults to each other. Instead, Grindr solicited minors to participate. Reddit's hosting of third-party content, including CSAM, was incidental and a byproduct of offering a generalized platform hosting a myriad of content categories. But Grindr chooses to seek out minors for a platform designed around sexual encounters.

Comparing Grindr's actions to a traditional brick-and-mortar store helps answer the question of whether a platform is knowingly active in sexual exploitation. If an adults-only store, such as a liquor or sex store, advertised on areas frequented by minors (as Grindr does through in-app ads on Instagram and TikTok) and depicted minors entering the adult store (as Grindr does in depicting school-age users in those ads), it would be strange to say that they did not know or constructively know that minors would attempt to enter the store. Further, if—after soliciting their presence—the brick-and-mortar store permitted entry on the mere promise that a consumer was an adult, it would approach absurdity to claim that the store did not know that minors would enter the store. Physical stores cannot, with one side of their mouth, invite minors in, and then with the other claim they did not know minors actually come in. Similarly, Grindr cannot claim ignorance of minors on their app after seeking them out, ensuring their ease of access, geo-locating them, but ignoring their locations, and asking for their age, but willfully avoiding any actions that might reveal false claims of majority.

B. With regard to Petitioner’s Beneficiary Claim, the Ninth Circuit incorrectly read in a requirement that advertisement revenues are insufficient for liability, despite § 1591(a)(2)’s text that liability attaches whenever one receives “anything of value.”

The Ninth Circuit further held that Doe’s beneficiary liability claim failed because Grindr only “generally benefited from sex traffickers’ use of the App.” *Grindr Inc.*, 128 F.4th at 1156. The Ninth Circuit was concerned that the plaintiff did not sufficiently connect “Grindr’s advertising revenues with any affirmative conduct by Grindr that furthered the sex-trafficking venture alleged in this case.” *Id.* at 1155–56.

In creating this additional requirement, the Ninth Circuit again relied on *Reddit*, this time for the proposition that general benefits are insufficient for a beneficiary claim. *Id.* at 1156. *Reddit* held that plaintiffs must allege a connection between the defendant’s actions and the benefit received. *Reddit, Inc.*, 51 F.4th at 1145-46. The court held that generalized advertisement revenue from CSAM was too attenuated to state a claim because the CSAM revenue was on the same terms as “all popular subreddits.” *Id.*

But the plain text of 18 U.S.C § 1591(a)(2) provides no attenuation or causal relationship inquiry. To the contrary, the text simply requires that a platform “knowingly...benefits, financially or by receiving *anything of value*, from participation in a [human

trafficking] venture,” so long as the defendant also knows that “the person has not attained the age of 18 years and will be caused to engaged in a commercial sex act.” 18 U.S.C § 1591(a) (emphasis added). Under the statute’s plain text, a beneficiary who knows they are a beneficiary of commercial child abuse must abstain from gaining that benefit. Failing to do so by enjoying the resulting advertisement revenue is sufficient to establish liability. Here, Grindr generates millions of dollars in revenue each year from hosting advertisements. Grindr Inc., *Grindr Investor Day 2024 Presentation*, Grindr.com (June 26, 2024).⁷

But even if the Ninth Circuit correctly invents additional requirements, plaintiffs sufficiently alleged a “causal connection” between Grindr’s actions and the sex trafficking on the platform. The plaintiff alleged that Grindr makes its money based on both advertisements and tiered subscriptions. Pet. 10-11. (“The more people who use [Grindr’s app] and the more time they spend on it, the more money Grindr makes.”) Further, Petitioner alleged Grindr seeks out minors to join the app through its **targeted advertisements depicting minors using the app**. Pet. 32. Unlike the generalized benefit received by Reddit for the hosting of CSAM on equal terms as other content, here Grindr is reaping the benefit from their business model of actively cultivating minors to join. This is not a generalized or incidental benefit.

⁷ Available at:

https://s203.q4cdn.com/415221501/files/doc_presentation/2024/06/Grindr-Investor-Day-6-26-2024.pdf.

Instead it is Grindr’s actual mission – to attract minors.

In addition to Grindr’s considerable advertisement revenue, tiered subscriptions represent a substantial portion of Grindr’s profits. Grindr Inc., *Grindr Investor Day 2024 Presentation, supra*. These tiered subscriptions also form a close nexus between sexual exploitation and the benefit. Premium features empower users to utilize enhanced search capabilities, view profiles “incognito,” and unsend photos and messages. Grindr Inc., *Unlimited*, Grindr.com.⁸ (describing premium features and noting that with Grindr Unlimited, “nothing will delay your satisfaction”). Each of these additional features can empower a predator to target minor victims with more precision, while cloaking themselves with protections against getting caught.

⁸ Available at: <https://www.grindr.com/unlimited>.

CONCLUSION

Congress enacted FOSTA to ensure that Section 230 no longer shields platforms that knowingly facilitate or profit from the sexual exploitation of children. The Ninth Circuit's decision misreads that statute, inventing requirements Congress did not enact and granting immunity to conduct Congress meant to deter. This case squarely presents an urgent, recurring question of statutory interpretation with profound consequences for victims, platforms, and the uniform application of federal law. The Court should grant the petition for a writ of certiorari.

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