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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-liability company,

Plaintiff,

v.

NATIONAL ORGANIZATION FOR THE REFORM OF MARIJUANA LAWS, a District of Columbia domestic nonprofit corporation; MEDIA ACCESS PROJECT, INC., a California corporation,

Defendants.

Case No.: 2:10-cv-0351-PMP

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

Righthaven LLC (“Righthaven”) complains as follows against the National Organization for the Reform of Marijuana Laws (“NORML”) and Media Access Project, Inc. (“MAP”); collectively with NORML, “Defendants”), on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. §501.

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Secretary of State of Nevada.

4. NORML is, and has been at all times relevant to this lawsuit, a District of Columbia domestic nonprofit corporation with its principal place of business in the District of Columbia.

5. MAP is, and has been at all times relevant to this lawsuit, a California corporation with its principal place of business in California.

JURISDICTION

6. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1338(a).

7. This Court has original subject matter jurisdiction over this action pursuant to 28 U.S.C. §1332(a)(1) and §1332(c) because this is a civil action between parties with complete diversity of citizenship and the amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.

8. NORML purposefully directs activities at Nevada residents, which activities have resulted in the copyright infringement alleged herein.

9. MAP purposefully directs activities at Nevada residents, which activities have resulted in the copyright infringement alleged herein.

10. NORML purposefully directs and effectuates the unauthorized reproduction of Righthaven-owned copyrighted works at www.mapinc.org/norml/norml.html (the “NORML.HTML Website”).

11. MAP purposefully directs and effectuates the unauthorized reproduction of Righthaven-owned copyrighted works at www.mapinc.org (“MAP’s Website”).

1 12. NORML’s unauthorized reproduction of Righthaven-owned copyrighted works
2 found on the NORML.HTML Website is purposefully targeted to Nevada residents and to actual
3 and potential visitors to Nevada.

4 13. MAP’s unauthorized reproduction of Righthaven-owned copyrighted works found
5 on MAP’s Website is purposefully targeted to Nevada residents and to actual and potential
6 visitors to Nevada.

7 14. MAP’s contribution to an unauthorized reproduction of Righthaven-owned
8 copyrighted works found on the NORML.HTML Website is purposefully targeted to Nevada
9 residents and to actual and potential visitors to Nevada.

10 15. NORML purposefully directed MAP to reproduce, on an unauthorized basis, the
11 literary work entitled “Dr. Reefer’s business goes to pot,” attached hereto as Exhibit 1 (the “Dr.
12 Reefer Article”), from a source emanating from Nevada.

13 16. MAP reproduced, on an unauthorized basis, the Dr. Reefer Article from a source
14 emanating from Nevada.

15 17. Until on or about March 20, 2010, NORML displayed the Dr. Reefer Article on
16 the NORML.HTML Website.

17 18. Until on or about March 20, 2010, MAP displayed the Dr. Reefer Article on
18 MAP’s Website.

19 19. NORML’s display of the Dr. Reefer Article was purposefully directed at Nevada
20 residents.

21 20. MAP’s display of the Dr. Reefer Article was purposefully directed at Nevada
22 residents.

23 21. NORML purposefully directed MAP to reproduce, on an unauthorized basis, the
24 literary work entitled “Marijuana activists take stand against bill,” attached hereto as Exhibit 2
25 (the “Activist Article”), from a source emanating from Nevada.

26 22. MAP reproduced, on an unauthorized basis, the Activist Article from a source
27 emanating from Nevada.

1 23. Until on or about March 20, 2010, NORML displayed the Activist Article on the
2 NORML.HTML Website.

3 24. Until on or about March 20, 2010, MAP displayed the Activist Article on MAP's
4 Website.

5 25. NORML's display of the Activist Article was purposefully directed at Nevada
6 residents.

7 26. MAP's display of the Activist Article was purposefully directed at Nevada
8 residents.

9 27. NORML's contacts with Nevada are continuous and systematic because NORML,
10 through www.norml.org ("NORML's Home Website"), continually solicits Nevada attorneys
11 willing to provide legal services to NORML constituents.

12 28. NORML's contacts with Nevada are continuous and systematic because
13 NORML's Home Website provides contact information for Nevada attorneys willing to provide
14 legal services to NORML constituents.

15 29. NORML's contacts with Nevada are continuous and systematic because
16 NORML's Home Website provides a mechanism for NORML constituents to send messages
17 directly to specific Nevada newspapers, magazines, television stations, and radio stations.

18 30. NORML's contacts with Nevada are continuous and systematic because
19 NORML's Home Website provides Nevada criminal law information regarding marijuana
20 possession, sales, cultivation and paraphernalia.

21 31. NORML's contacts with Nevada are continuous and systematic because
22 NORML's Home Website provides contact information for health services within Nevada.

23 32. NORML's contacts with Nevada are continuous and systematic because
24 NORML's Home Website contains the invitation for a Nevada resident to begin an official
25 NORML affiliate chapter.

26 33. NORML's contacts with Nevada are continuous and systematic because NORML,
27 through the NORML.HTML Website, continually reproduces marijuana-related news articles
28 related to Nevada.

1 51. At all times relevant, NORML and MAP had and have a business relationship
2 with respect to the re-publication of news articles not authored by, but relevant to, both NORML
3 and MAP.

4 52. At all times relevant, NORML and MAP communicated and communicate
5 concerning news articles relevant to both NORML and MAP.

6 53. At all times relevant, MAP provided and provides electronic news feeds and an
7 electronic “clipping” service to MAP business relations, including but not limited to NORML.

8 54. No later than February 18, 2010, MAP provided to NORML electronic news
9 feeds and an electronic “clipping” service at <http://mapinc.org/mapcgi/nnews.pl> (the “MAP-to-
10 NORML Website”).

11 55. No later than February 18, 2010, MAP chose the news articles included in
12 NORML’s news feed (“Clipped Articles”) on the MAP-to-NORML Website.

13 56. No later than February 18, 2010, MAP identified, on the MAP-to-NORML
14 Website, each Clipped Article by title, original publishing date, and publisher, and provided a
15 hyperlink to the text of the Clipped Article as reproduced on the NORML.HTML Website.

16 57. No later than February 18, 2010, MAP chose the topical section on the MAP-to-
17 NORML Website that was appropriate for each Clipped Article.

18 58. No later than February 18, 2010, NORML deleted Clipped Articles from the list
19 provided by MAP on the MAP-to-NORML Website that NORML did not intend to reproduce on
20 the NORML.HTML Website.

21 59. No later than February 18, 2010, NORML approved Clipped Articles from the list
22 provided by MAP on the MAP-to-NORML Website that NORML intended to reproduce on the
23 NORML.HTML Website.

24 60. No later than February 18, 2010, MAP designated the Work as a Clipped Article
25 on the MAP-to-NORML Website.

26 61. No later than February 18, 2010, NORML approved the Work as a Clipped
27 Article, on the MAP-to-NORML Website, for reproduction, display and distribution on the
28 NORML.HTML Website.

1 62. No later than February 18, 2010, MAP provided instructions, on MAP's Website,
2 to allow administrators of any website to reproduce content from MAP's Website, including
3 content constituting infringements of third parties' copyrights, on other Internet domains and
4 websites with custom HyperText Markup Language ("HTML") style sheets and code templates
5 created by MAP.

6 63. At all times relevant, MAP, in cooperation with each MAP business relation
7 subscribing to one or more of MAP's electronic news feeds, created and creates custom HTML
8 code style sheets within a HTML code template to enable MAP to reproduce news articles in a
9 style and format that resembles that business relation's website.

10 64. No later than February 18, 2010, MAP and NORML created custom HTML code
11 style sheets within a HTML code template ("NORML's Code Template") for use on the
12 NORML.HTML Website.

13 65. No later than February 18, 2010, NORML directed MAP to apply NORML's
14 Code Template to the text of the Work on the MAP-to-NORML Website in preparation for
15 display at the NORML.HTML Website.

16 66. No later than February 18, 2010, MAP applied NORML's Code Template to the
17 text of the Work on the MAP-to-NORML Website in preparation for display at the
18 NORML.HTML Website.

19 67. No later than February 18, 2010, MAP applied NORML's Code Template to
20 display a reproduction of the Work in the same font and graphic design format as other content
21 on the NORML.HTML Website and NORML's Home Website.

22 68. No later than February 18, 2010, MAP applied NORML's Code Template to the
23 text of the Work to add a header stating "The National Organization for the Reform of Marijuana
24 Laws."

25 69. No later than February 18, 2010, MAP applied NORML's Code Template to the
26 text of the Work to add hyperlinks to the home page, site map, "contact us" webpage, and media
27 contact webpage of NORML's Home Website.

1 70. No later than February 18, 2010, MAP applied NORML's Code Template to
2 display the Work with a NORML logo and banner as a second header.

3 71. No later than February 18, 2010, MAP applied NORML's Code Template to
4 display the Work with the same color palette as the rest of NORML's Home Website and the
5 NORML.HTML Website.

6 72. No later than February 18, 2010, MAP applied NORML's Code Template to the
7 text of the Work to add JavaScript that provided a hierarchical chain of hyperlinks for the topical
8 classification of the Work among all the news articles republished on the NORML.HTML
9 Website.

10 73. No later than February 18, 2010, MAP applied NORML's Code Template to the
11 text of the Work to add hyperlinks to enable any viewer to share the unauthorized reproduction
12 of the Work, as reproduced on the NORML.HTML Website, through online services such as
13 Del.icio.us, Digg.com, StumbleUpon.com, Facebook.com, and Twitter.com.

14 74. No later than February 18, 2010, MAP applied NORML's Code Template to the
15 text of the Work to add a hyperlink to NORML's electronic commerce webpage, through which
16 any viewer may purchase NORML "gear," which included NORML-branded and NORML-
17 related T-shirts, DVDs, books, and other merchandise.

18 75. No later than February 18, 2010, MAP applied NORML's Code Template to the
19 text of the Work to add text identifying NORML as the copyright holder with respect to the
20 Work.

21 76. No later than February 18, 2010, MAP applied NORML's Code Template to the
22 text of the Work to add a graphic design containing the slogan "Powered by MAP Inc."
23 underneath the unauthorized reproduction of the Work.

24 77. No later than February 18, 2010, MAP applied NORML's Code Template to the
25 text of the Work to add the NORML logo and website hyperlinks as a footer to the unauthorized
26 reproduction of the Work.

1 78. No later than February 18, 2010, MAP applied NORML's Code Template to the
2 text of the Work to add NORML's mailing address and contact information as the final footer to
3 the unauthorized reproduction of the Work.

4 79. No later than February 18, 2010, NORML and MAP effectuated the NORML
5 Infringement by applying, or causing to be applied, NORML's Code Template to the text of the
6 Work, and reproducing, displaying, and republishing the Work, on the NORML.HTML Website.

7 80. MAP's volitional acts effectuated the NORML Infringement.

8 81. NORML's volitional acts effectuated the NORML Infringement.

9 82. At all times relevant, NORML provided and provides an index of marijuana-
10 related news articles at www.norml.org/index.cfm ("NORML's News Index").

11 83. No later than February 18, 2010, NORML chose the news articles displayed at
12 NORML's News Index.

13 84. No later than February 18, 2010, NORML's News Index was divided into two
14 categories "From the Wire" and "News from NORML."

15 85. No later than February 18, 2010, NORML chose the appropriate category for each
16 news article on NORML's News Index.

17 86. No later than February 18, 2010, the news articles in the "From the Wire" section
18 of NORML's News Index were MAP-provided Clipped Articles.

19 87. No later than February 18, 2010, the title of the Work was listed in the "From the
20 Wire" section of NORML's News Index.

21 88. No later than February 18, 2010, a hyperlink to a reproduction of the Work was
22 included in NORML's News Index.

23 89. The hyperlink to the Work in NORML's News Index did not route viewers to the
24 original source or publisher of the Work.

25 90. The hyperlink to the Work in NORML's News Index routed viewers to an
26 unauthorized reproduction of the Work on the NORML.HTML Website.

27 91. No later than February 18, 2010, NORML effectuated, in part, the NORML
28 Infringement by providing a hyperlink in NORML's News Index to the NORML.HTML

1 Website which displayed an unauthorized reproduction of the Work with NORML's Code
2 Template applied to the text of the Work.

3 92. NORML's volitional acts of providing a hyperlink, on the NORML News Index,
4 to an unauthorized reproduction of the Work on the NORML.HTML Website effectuated, in
5 part, the NORML Infringement.

6
7 **FIRST CLAIM FOR RELIEF:**
8 **DIRECT COPYRIGHT INFRINGEMENT**
9 **(Against NORML and MAP)**

10 93. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
11 92 above.

12 94. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
13 U.S.C. §106(1).

14 95. Righthaven holds the exclusive right to prepare derivative works based upon the
15 Work, pursuant to 17 U.S.C. §106(2).

16 96. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
17 17 U.S.C. §106(3).

18 97. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
19 U.S.C. §106(5).

20 98. NORML reproduced the Work, in derogation of Righthaven's exclusive rights
21 under 17 U.S.C. §106(1).

22 99. MAP reproduced the Work, in derogation of Righthaven's exclusive rights under
23 17 U.S.C. §106(1).

24 100. NORML created an unauthorized derivative of the Work, in derogation of
25 Righthaven's exclusive rights under 17 U.S.C. §106(2).

26 101. MAP created an unauthorized derivative of the Work, in derogation of
27 Righthaven's exclusive rights under 17 U.S.C. §106(2).

1 102. NORML distributed unauthorized reproductions of the Work in derogation of
2 Righthaven's exclusive rights under 17 U.S.C. §106(3).

3 103. MAP distributed unauthorized reproductions of the Work in derogation of
4 Righthaven's exclusive rights under 17 U.S.C. §106(3).

5 104. NORML publicly displayed an unauthorized reproduction of the Work in
6 derogation of Righthaven's exclusive rights under 17 U.S.C. §106(5).

7 105. MAP publicly displayed an unauthorized reproduction of the Work in derogation
8 of Righthaven's exclusive rights under 17 U.S.C. §106(5).

9 106. NORML has willfully engaged in the copyright infringement of the Work.

10 107. MAP has willfully engaged in the copyright infringement of the Work.

11 108. At all times relevant, NORML obtained a direct financial benefit from NORML's
12 and MAP's copyright infringement of the Work and had the right and ability to control the
13 infringing conduct.

14 109. At all times relevant, MAP obtained a direct financial benefit from NORML's and
15 MAP's copyright infringement of the Work and had the right and ability to control the infringing
16 conduct.

17 110. NORML's acts as alleged herein, and the ongoing direct results of those acts,
18 have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven
19 cannot ascertain, leaving Righthaven with no adequate remedy at law.

20 111. MAP's acts as alleged herein, and the ongoing direct results of those acts, have
21 caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven
22 cannot ascertain, leaving Righthaven with no adequate remedy at law.

23 112. Unless NORML is preliminarily and permanently enjoined from further
24 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
25 entitled to preliminary and permanent injunctive relief against further infringement by NORML
26 of the Work, pursuant to 17 U.S.C. §502.

27 113. Unless MAP is preliminarily and permanently enjoined from further infringement
28 of the Work, Righthaven will be irreparably harmed, and Righthaven is thus entitled to

1 preliminary and permanent injunctive relief against further infringement by MAP of the Work,
2 pursuant to 17 U.S.C. §502.

3 **SECOND CLAIM FOR RELIEF:**

4 **CONTRIBUTORY COPYRIGHT INFRINGEMENT**

5 **(Against NORML and MAP)**

6 114. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
7 113 above.

8 115. NORML had knowledge that MAP was engaging in activity constituting
9 copyright infringement of the Work.

10 116. NORML engaged in conduct that induced, caused, and materially contributed to
11 MAP's activity that constituted copyright infringement of the Work, specifically, operating the
12 NORML.HTML Website in a manner so as to cause copyright infringement, originally
13 committed by MAP, to be reproduced, republished, and displayed directly on the
14 NORML.HTML Website.

15 117. MAP had knowledge that NORML was engaging in activity constituting
16 copyright infringement of the Work.

17 118. MAP engaged in conduct that induced, caused, and materially contributed to
18 NORML's activity that constituted copyright infringement of the Work, specifically, providing
19 functionality to allow the NORML.HTML Website to reproduce, republish, and display
20 copyright infringement, originally committed by MAP.

21 119. NORML's acts as alleged herein, and the ongoing direct results of those acts,
22 have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven
23 cannot ascertain, leaving Righthaven with no adequate remedy at law.

24 120. MAP's acts as alleged herein, and the ongoing direct results of those acts, have
25 caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven
26 cannot ascertain, leaving Righthaven with no adequate remedy at law.

27 121. Unless NORML is preliminarily and permanently enjoined from further
28 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus

1 entitled to preliminary and permanent injunctive relief against further infringement by NORML
2 of the Work, pursuant to 17 U.S.C. §502.

3 122. Unless MAP is preliminarily and permanently enjoined from further infringement
4 of the Work, Righthaven will be irreparably harmed, and Righthaven is thus entitled to
5 preliminary and permanent injunctive relief against further infringement by MAP of the Work,
6 pursuant to 17 U.S.C. §502.

7
8 **PRAYER FOR RELIEF**

9 Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

10 1. Preliminarily and permanently enjoin and restrain Defendants, and Defendants'
11 officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies,
12 partners, and all persons acting for, by, with, through, or under either or both Defendants, from
13 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
14 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
15 directing, participating in, or assisting in any such activity;

16 2. Direct Defendants to preserve, retain, and deliver to Righthaven in hard copies or
17 electronic copies:

18 a. All evidence and documentation relating in any way to either or both Defendants'
19 use of the Work, in any form, including, without limitation, all such evidence and
20 documentation relating to NORML's Home Website, MAP's Website, the
21 NORML.HTML Website, NORML's News Index, and the MAP-to-NORML
22 Website;

23 b. All evidence and documentation relating to the names and addresses (whether
24 electronic mail addresses or otherwise) of any person with whom either or both
25 Defendants have communicated regarding either or both Defendants' use of the
26 Work; and

27 c. All financial evidence and documentation relating to either or both Defendants'
28 use of the Work;

