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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10
11 RIGHTHAVEN LLC, a Nevada limited-
12 liability company,

13
14 Plaintiff,

15 v.

16 THE ABOVE NETWORK, LLC., a Delaware
domestic limited liability company; and
17 WILLIAM IRVINE, an individual,

18 Defendants.
19

Case No.: 2:10-cv-01159

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

20
21 Righthaven LLC (“Righthaven”) complains as follows against The Above Network, LLC
22 (“Above Network”) and William Irvine (“Mr. Irvine”; collectively with Above Network known
23 herein as the “Defendants”), on information and belief:
24

25 **NATURE OF ACTION**

26 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
27
28

PARTIES

1
2 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-
3 liability company with its principal place of business in Nevada.

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

6 4. Above Network is, and has been at all times relevant to this lawsuit, a Delaware
7 domestic limited liability company.

8 5. Above Network is, and has been at all times relevant to this lawsuit, identified by
9 the current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant, administrative contact,
10 and technical contact for the Internet domain found at <abovetopsecret.com> (the “Domain”).

11 6. Mr. Irvine is, and has been at all times relevant to this lawsuit, identified by
12 GoDaddy as an administrative contact and technical contact for the Domain.

13 7. Mr. Irvine is, and has been at all times relevant to this lawsuit, identified by the
14 content accessible through the Domain (said content accessible through the Domain known
15 herein as the “Website”) as the owner, partner, community director, and chief executive officer
16 of the Website.

17 8. Mr. Irvine is, and has been at all times relevant to this lawsuit, identified by the
18 “Management” section of the Above Network website as the Chief Executive Officer of Above
19 Network, evidence of which is attached hereto as Exhibit 1.

20
21 **JURISDICTION**

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

24 10. Righthaven is the owner of the copyright in the literary work entitled: “Exxon
25 Valdez oil risks spur warning for gulf cleanup crews” (the “Work”), attached hereto as Exhibit 2.

26 11. At all times relevant to this lawsuit, the Work has depicted and depicts the
27 original source publication as the Las Vegas *Review-Journal*.

1 12. The Defendants willfully copied, on an unauthorized basis, a substantial and
2 significant portion of the Work from a source emanating from Nevada.

3 13. On or about May 10, 2010, the Defendants displayed, and continue to display, an
4 unauthorized reproduction of the Work (the "Infringement"), attached hereto as Exhibit 3, on the
5 Website.

6 14. At all times relevant to this lawsuit, the Defendants knew that the Work was
7 originally published in the *Las Vegas Review-Journal*.

8 15. The Defendants' display of the Infringement was and is purposefully directed at
9 Nevada residents.

10 16. The Defendants' contacts with Nevada are continuous and systematic because the
11 Defendants published and publish, on the Website, advertisements for discount vacations to Las
12 Vegas, Nevada, evidence of which is attached hereto as Exhibit 4.

13 17. The Defendants' contacts with Nevada are continuous and systematic because the
14 Defendants published and publish, on the Website, an advertisement for Las Vegas, Nevada-
15 based activities entitled: "Things to Do in Las Vegas," as evidenced by Exhibit 4, attached
16 hereto.

17 18. The Defendants' contacts with Nevada are continuous and systematic because the
18 Defendants published and publish, on the Website, advertisements for coupons for Las Vegas,
19 Nevada-based restaurants, spas, salons, and shows, evidence of which is attached hereto as
20 Exhibit 5.

21 19. The Defendants' contacts with Nevada are continuous and systematic because the
22 Defendants posted and post, on the Website, a promotional contest offering the chance to win a
23 trip to Las Vegas, Nevada, evidence of which is attached hereto as Exhibit 6.

24 20. The Defendants' contacts with Nevada are continuous and systematic because the
25 Defendants published and publish, on the Website, information of specific interest to Nevada
26 residents about Las Vegas, Nevada-based UFO sightings and activity, and such contacts have
27 been in existence at least in excess of two years.
28

1 “Registration”) and attached hereto as Exhibit 7 is evidence of the Registration in the form of a
2 printout of the official USCO database record depicting the occurrence of the Registration.

3 30. On or about May 10, 2010, the Defendants displayed, and continue to display, the
4 Infringement on the Website.

5 31. The Defendants did not seek permission, in any manner, to reproduce, display, or
6 otherwise exploit the Work.

7 32. The Defendants were not granted permission, in any manner, to reproduce,
8 display, or otherwise exploit the Work.

9
10 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

11 33. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
12 32 above.

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

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

17 36. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
18 17 U.S.C. § 106(3).

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

21 38. The Defendants reproduced the Work in derogation of Righthaven’s exclusive
22 rights under 17 U.S.C. § 106(1).

23 39. The Defendants created an unauthorized derivative of the Work in derogation of
24 Righthaven’s exclusive rights under 17 U.S.C. § 106(2).

25 40. The Defendants distributed, and continue to distribute, an unauthorized
26 reproduction of the Work on the Website, in derogation of Righthaven’s exclusive rights under
27 17 U.S.C. § 106(3).
28

1 41. The Defendants publicly displayed, and continue to publicly display, an
2 unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive
3 rights under 17 U.S.C. § 106(5).

4 42. Above Network has willfully engaged in the copyright infringement of the Work.

5 43. Mr. Irvine has willfully engaged in the copyright infringement of the Work.

6 44. The Defendants' acts as alleged herein, and the ongoing direct results of those
7 acts, have caused and will continue to cause irreparable harm to Righthaven in an amount
8 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

9 45. Unless the Defendants are preliminarily and permanently enjoined from further
10 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
11 entitled to preliminary and permanent injunctive relief against further infringement by the
12 Defendants of the Work, pursuant to 17 U.S.C. § 502.

13
14 **PRAAYER FOR RELIEF**

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

16 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
17 Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related
18 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
19 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
20 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
21 directing, participating in, or assisting in any such activity;

22 2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies
23 or electronic copies:

24 a. All evidence and documentation relating in any way to the Defendants'
25 use of the Work, in any form, including, without limitation, all such evidence and
26 documentation relating to the Website;

