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

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

13
14 Plaintiff,

15 v.

16 EZEKIEL KENNARD, an individual; MARC
17 LEE, an individual; and SERKADIS.COM, an
entity of unknown origin and nature,

18 Defendants.
19

Case No.: 2:10-cv-01276

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

20
21 Righthaven LLC (“Righthaven”) complains as follows against Ezekiel Kennard (“Mr.
22 Kennard”), Marc Lee (“Mr. Lee”), and Serkadis.com (“Serkadis”; collectively with Mr. Kennard
23 and Mr. Lee known 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. Mr. Kennard is, and has been at all times relevant to this lawsuit, identified by the
7 current registrar, HostGator.com (“HostGator”), as a registrant, administrative contact, and
8 technical contact for the Internet domain found at <serkadis.com> (the “Domain”).

9 5. Mr. Lee is, and has been at all times relevant to this lawsuit, identified by the
10 content accessible through the Domain (said content accessible through the Domain known
11 herein as the “Website”) as the editor for the Website.

12 6. Serkadis is, and has been at all times relevant to this lawsuit, an entity of
13 unknown origin and nature.

14 7. Attempts to find evidence of formal organizational status in the respective
15 Secretary of State offices of Delaware, California, Illinois, New York, Texas, Tennessee,
16 Nevada, and the District of Columbia demonstrate that, at least with respect to these states,
17 Serkadis is not a formally organized business entity.

18 8. Serkadis is, and has been at all times relevant to this lawsuit, identified by
19 HostGator as a registrant, administrative contact, and technical contact for the Domain.

20 9. Serkadis is, and has been at all times relevant to this lawsuit, the self-proclaimed
21 owner of the copyright(s) in the work(s) posted on the Website, as evidenced by a copyright
22 notice displayed on the Website: “© 2009 Serkadis.”

23
24 **JURISDICTION**

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

27 11. Righthaven is the owner of the copyright in the literary work entitled: “The TSA’s
28 mini ‘Watch List’” (the “Work”), attached hereto as Exhibit 1.

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

3 13. The Defendants willfully copied, on an unauthorized basis, a substantial and
4 significant portion of the Work from a source emanating from Nevada.

5 14. On or about May 26, 2010, the Defendants displayed, and continue to display, an
6 unauthorized reproduction of the Work (the "Infringement"), attached hereto as Exhibit 2, on the
7 Website.

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

10 16. The Defendants' display of the Infringement was and is purposefully directed at
11 Nevada residents.

12
13 **VENUE**

14 17. The United States District Court for the District of Nevada is an appropriate
15 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
16 the claim for relief are situated in Nevada.

17 18. The United States District Court for the District of Nevada is an appropriate
18 venue, pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal
19 jurisdiction in Nevada.

20
21 **FACTS**

22 19. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
23 102(a)(1).

24 20. Righthaven is the owner of the copyright in and to the Work.

25 21. The Work was originally published on May 25, 2010.

26 22. On July 14, 2010, the United States Copyright Office (the "USCO") granted
27 Righthaven the registration to the Work, copyright registration number TX0007173597 (the
28

1 “Registration”) and attached hereto as Exhibit 3 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 23. On or about May 26, 2010, the Defendants displayed, and continue to display, the
4 Infringement on the Website.

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

7 25. 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 26. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
12 25 above.

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

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

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

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

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

23 32. 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 33. 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).

1 34. 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 35. Mr. Kennard has willfully engaged in the copyright infringement of the Work.

5 36. Mr. Lee has willfully engaged in the copyright infringement of the Work.

6 37. Serkadis has willfully engaged in the copyright infringement of the Work.

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

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

14
15 **PRAYER FOR RELIEF**

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

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

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

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

1 b. All evidence and documentation relating to the names and addresses
2 (whether electronic mail addresses or otherwise) of any person with whom the
3 Defendants have communicated regarding the Defendants’ use of the Work; and

4 c. All financial evidence and documentation relating to the Defendants’ use
5 of the Work;

6 3. Direct HostGator and any successor domain name registrar for the Domain to lock
7 the Domain and transfer control of the Domain to Righthaven;

8 4. Award Righthaven statutory damages for the willful infringement of the Work,
9 pursuant to 17 U.S.C. § 504(c);

10 5. Award Righthaven costs, disbursements, and attorneys’ fees incurred by
11 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

12 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
13 law; and

14 7. Grant Righthaven such other relief as this Court deems appropriate.

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16
17 **DEMAND FOR JURY TRIAL**

18 Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

19 Dated this twenty-ninth day of July, 2010.

20
21 RIGHTHAVEN LLC

22
23 By: /s/ Joseph C. Chu
24 STEVEN A. GIBSON, ESQ.
25 Nevada Bar No. 6656
26 J. CHARLES COONS, ESQ.
27 Nevada Bar No. 10553
28 JOSEPH C. CHU, ESQ.
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