

1 J. CHARLES COONS, ESQ.
 Nevada Bar No. 10553
 2 casons@righthaven.com
Assistant General Counsel at Righthaven
 3 JOSEPH C. CHU, ESQ.
 Nevada Bar No. 11082
 4 jchu@righthaven.com
Staff Attorney at Righthaven
 5 Righthaven LLC
 9960 West Cheyenne Avenue, Suite 210
 6 Las Vegas, Nevada 89129-7701
 (702) 527-5900
 7 *Attorneys for Plaintiff*

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

11 RIGHTHAVEN LLC, a Nevada limited-
 liability company,

12 Plaintiff,

14 v.

15 KIRVIN DOAK COMMUNICATIONS, a
 Nevada corporation; DAVID KIRVIN, an
 16 individual; and WILLIAM DOAK, an
 17 individual,

18 Defendants.

Case No.: 2:10-cv-01482

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

21 Righthaven LLC (“Righthaven”) complains as follows against Kirvin Doak
 22 Communications (“Kirvin Doak”), David Kirvin (“Mr. Kirvin”) and William Doak (“Mr. Doak”);
 23 collectively with Kirvin Doak and Mr. Kirvin known herein as the “Defendants”), on
 24 information and belief:

26 **NATURE OF ACTION**

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

PARTIES

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

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

7 4. Kirvin Doak is, and has been at all times relevant to this lawsuit, a Nevada
8 corporation.

9 5. Mr. Kirvin is, and has been at all times relevant to this lawsuit, a resident of
10 Nevada.

11 6. Mr. Doak is, and has been at all times relevant to this lawsuit, a resident of
12 Nevada.

13 7. Kirvin Doak is, and has been at all times relevant to this lawsuit, identified by the
14 current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant, administrative contact and
15 technical contact for the Internet domain found at <kirvindoak.com> (the “Domain”; the content
16 accessible through the Domain and the Domain itself known herein as the “Website”).

17 8. Mr. Kirvin is, and has been at all times relevant to this lawsuit, identified as the
18 president and secretary of Kirvin Doak, as evidenced by the Nevada Secretary of State entity
19 database, attached hereto as Exhibit 1.

20 9. Mr. Doak is, and has been at all times relevant to this lawsuit, identified as the
21 treasurer of Kirvin Doak, as evidenced by the Nevada Secretary of State entity database, attached
22 hereto as Exhibit 1.

23 10. Mr. Kirvin is, and has been at all times relevant to this lawsuit, identified as a
24 “partner” of Kirvin Doak, attached hereto as Exhibit 2, on the Website.

25 11. Mr. Doak is, and has been at all times relevant to this lawsuit, identified as a
26 “partner” of Kirvin Doak, attached hereto as Exhibit 2, on the Website.

JURISDICTION

12. 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).

13. Righthaven is the owner of the copyright in the literary work entitled: “Dion plans ‘extraordinary’ song mix” (the “Work”), attached hereto as Exhibit 3.

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

15. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

16. On or about February 11, 2010, the Defendants displayed, and continue to display, an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 4, on the Website.

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

18. The subject matter, at least in part, of the Work and the Infringement, is Celine Dion’s return to the Colosseum at Caesars Palace, located in Las Vegas, Nevada.

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

20. At all times relevant to this lawsuit, the Defendants knew that the Infringement was and is of specific interest to Nevada residents.

21. The Defendants’ display of the Infringement was and is purposefully directed at Nevada residents.

VENUE

22. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(1), because Mr. Kirvin is a resident of Nevada.

1 23. The United States District Court for the District of Nevada is an appropriate
2 venue, pursuant to 28 U.S.C. § 1391(b)(1), because Mr. Doak is a resident of Nevada.

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

6 25. The United States District Court for the District of Nevada is an appropriate
7 venue, pursuant to 28 U.S.C. § 1391(c), because Kirvin Doak is subject to personal jurisdiction
8 in Nevada.

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

12
13 **FACTS**

14 27. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
15 102(a)(1).

16 28. Righthaven is the owner of the copyright in and to the Work.

17 29. The Work was originally published on February 11, 2010.

18 30. On May 10, 2010, the United State Copyright Office (the “USCO”) received
19 Righthaven’s official submittal for the registration of the Work including the application, the
20 deposit copy, and the registration fee (the “Complete Application”), Service Request No. 1-
21 397197902, attached hereto as Exhibit 5.

22 31. On or about February 11, 2010, the Defendants displayed, and continue to
23 display, the Infringement on the Website.

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

26 33. The Defendants were not granted permission, in any manner, to reproduce,
27 display, or otherwise exploit the Work.
28

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

34. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 33 above.

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

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

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

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

39. The Defendants reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).

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

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

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

43. Kirvin Doak has willfully engaged in the copyright infringement of the Work.

44. Mr. Kirvin has willfully engaged in the copyright infringement of the Work.

45. Mr. Doak has willfully engaged in the copyright infringement of the Work.

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

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

8
9 **PRAYER FOR RELIEF**

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

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

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

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

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

25 c. All financial evidence and documentation relating to the Defendants' use
26 of the Work;

27 3. Direct GoDaddy and any successor domain name registrar for the Domain to lock
28 the Domain and transfer control of the Domain to Righthaven;

