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

11 RIGHTHAVEN LLC, a Nevada limited-
 liability company,

13 Plaintiff,

14 v.

15 NATIONAL WIND WATCH, INC., a
 16 Massachusetts nonprofit corporation,

17 Defendant.

Case No.: 2:10-cv-01675

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

19
 20 Righthaven LLC (“Righthaven”) complains as follows against National Wind Watch, Inc.
 21 (“National Wind Watch”) on information and belief:

22
 23 **NATURE OF ACTION**

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

25
 26 **PARTIES**

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

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

3 4. National Wind Watch is, and has been at all times relevant to this lawsuit, a
4 Massachusetts nonprofit corporation.

5 5. National Wind Watch is, and has been at all times relevant to this lawsuit,
6 identified by the current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant of the
7 Internet domain found at <wind-watch.org> (the “Domain”).

8 6. National Wind Watch is, and has been at all times relevant to this lawsuit, the
9 self-proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible
10 through the Domain (said content accessible through the Domain known herein as the
11 “Website”), as evidenced by a copyright notice displayed on the Website: “© National Wind
12 Watch, Inc.”

13
14
15 **JURISDICTION**

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

18 8. Righthaven is the owner of the copyright in the literary work entitled: “Wind
19 power project’s impact on bats studied” (the “Work”), attached hereto as Exhibit 1.

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

22 10. National Wind Watch willfully copied, on an unauthorized basis, the Work from a
23 source emanating from Nevada.

24 11. On or about August 22, 2010, National Wind Watch displayed, and continues to
25 display, an unauthorized copy of the Work (the “Infringement”), attached hereto as Exhibit 2, on
26 the Website.

27 12. The subject matter, at least in part, of the Work and the Infringement, is the
28 environmental impact of a Nevada-based wind farm project.

1 13. At all times relevant to this lawsuit, National Wind Watch knew that the Work
2 was originally published in the Las Vegas *Review-Journal*.

3 14. At all times relevant to this lawsuit, National Wind Watch knew that the Work
4 emanated from a Nevada-based publication.

5 15. At all times relevant to this lawsuit, National Wind Watch knew that the
6 Infringement was and is of specific interest to Nevada residents.

7 16. National Wind Watch's display of the Infringement was and is purposefully
8 directed at Nevada residents.

9
10 **VENUE**

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

14 18. The United States District Court for the District of Nevada is an appropriate
15 venue, pursuant to 28 U.S.C. § 1391 (c), because National Wind Watch is subject to personal
16 jurisdiction in Nevada.

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

20
21 **FACTS**

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

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

25 22. The Work was originally published on or about August 16, 2010.

26 23. On September 21, 2010, the United States Copyright Office (the "USCO")
27 received Righthaven's official submittal for the registration to the Work, including the
28 application, the deposit copy, and the registration fee (the "Complete Application"), Service

1 Request No. 1-490417823, and attached hereto as Exhibit 3 is the official USCO application
2 submittal for the Work depicting the occurrence of the Complete Application.

3 24. On or about August 22, 2010, National Wind Watch displayed, and continues to
4 display, the Infringement on the Website.

5 25. National Wind Watch did not seek permission, in any manner, to reproduce,
6 display, or otherwise exploit the Work.

7 26. National Wind Watch was not granted permission, in any manner, to reproduce,
8 display, or otherwise exploit the Work.

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

12 27. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
13 26 above.

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

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

18 30. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
19 17 U.S.C. § 106(3).

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

22 32. National Wind Watch reproduced the Work in derogation of Righthaven's
23 exclusive rights under 17 U.S.C. § 106(1).

24 33. National Wind Watch created an unauthorized derivative of the Work in
25 derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).

26 34. National Wind Watch distributed, and continues to distribute, an unauthorized
27 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
28 17 U.S.C. § 106(3).

1 35. National Wind Watch publicly displayed, and continues 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 36. National Wind Watch has willfully engaged in the copyright infringement of the
5 Work.

6 37. National Wind Watch's acts as alleged herein, and the ongoing direct results of
7 those 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 38. Unless National Wind Watch is preliminarily and permanently enjoined from
10 further 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 National
12 Wind Watch of the Work, pursuant to 17 U.S.C. § 502.

13
14 **PRAYER 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 National Wind Watch, and
17 National Wind Watch's officers, agents, servants, employees, attorneys, parents, subsidiaries,
18 related companies, partners, and all persons acting for, by, with, through, or under National Wind
19 Watch, from directly or indirectly infringing the Work by reproducing the Work, preparing
20 derivative works based on the Work, distributing the Work to the public, and/or displaying the
21 Work, or ordering, directing, participating in, or assisting in any such activity;

22 2. Direct National Wind Watch to preserve, retain, and deliver to Righthaven in hard
23 copies or electronic copies:

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

