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13
14 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 RIGHTHAVEN LLC, a Nevada limited-
17 liability company,

18
19 Plaintiff,

20 v.

21 DANIEL BARHAM, an individual; and
22 URBAN NEIGHBOURHOOD, an entity of
unknown origin and nature,

23 Defendants.
24

Case No.: 2:10-cv-02150

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

25
26 Righthaven LLC (“Righthaven”) complains as follows against Daniel Barham (“Mr.
27 Barham”) and Urban Neighbourhood (“Urban Neighbourhood”; collectively with Mr. Barham
28 known herein as the “Defendants”) on information and belief:

1 **NATURE OF ACTION**

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

3
4 **PARTIES**

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

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

9 4. Urban Neighbourhood is, and has been at all times relevant to this lawsuit, an
10 entity of unknown origin and nature.

11 5. Attempts to find evidence of the formal organizational status in the respective
12 Secretary of State offices of California, Delaware, Illinois, Nevada, New York, Tennessee and
13 Texas demonstrate that, at least with respect to these states, Urban Neighbourhood is not a
14 formally organized business entity.

15 6. Mr. Barham is, and has been at all times relevant to this lawsuit, identified by the
16 current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant, administrative contact and
17 technical contact of the Internet domain found at <urbanneighbourhood.com> (the “Domain”).

18 7. Urban Neighbourhood is, and has been at all times relevant to this lawsuit, the
19 self-proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible
20 through the Domain, as evidenced by a copyright notice displayed on the Website: “Copyright ©
21 Urban Neighbourhood”.

22
23 **JURISDICTION**

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

26 9. Righthaven is the owner of the copyright in the illustration entitled: “Vdara death-
27 ray” (the “Work”), attached hereto as Exhibit 1.

FACTS

1
2 21. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
3 102(a)(5).

4 22. Righthaven is the owner of the copyright in and to the Work.

5 23. The Work was originally published on or about September 25, 2010.

6 24. On November 24, 2010, the United States Copyright Office (the “USCO”)
7 received Righthaven’s official submittal for the registration to the Work, including the
8 application, the deposit copy, and the registration fee (the “Complete Application”), Service
9 Request No. 1-524088592, and attached hereto as Exhibit 3 is the official USCO application
10 submittal for the Work depicting the occurrence of the Complete Application.

11 25. On or about October 2, 2010, the Defendants displayed, and continue to display,
12 the Infringement on the Website.

13 26. The Defendants did not seek permission, in any manner, to reproduce, display, or
14 otherwise exploit the Work.

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

17
18 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

19 28. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
20 27 above.

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

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

25 31. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
26 17 U.S.C. § 106(3).

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

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

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

5 35. The Defendants distributed, and continue to distribute, an unauthorized
6 reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under
7 17 U.S.C. § 106(3).

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

11 37. Mr. Barham has willfully engaged in the copyright infringement of the Work.

12 38. Urban Neighbourhood has willfully engaged in the copyright infringement of the
13 Work.

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

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

21
22 **PRAYER FOR RELIEF**

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

24 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
25 Defendants' officers, agents, servants, employees, attorneys, parents, subsidiaries, related
26 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
27 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
28

1 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
2 directing, participating in, or assisting in any such activity;

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

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

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

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

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

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

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

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

21 7. Grant Righthaven such other relief as this Court deems appropriate.
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DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated this tenth day of December, 2010.

RIGHTHAVEN LLC

By: /s/ J. Charles Coons

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