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10 AZKAR CHOUDHRY and Defendant
PAK.ORG.

11 UNITED STATES DISTRICT COURT
12 DISTRICT OF NEVADA

13
14 RIGHTHAVEN LLC, a Nevada limited liability
company,

15 Plaintiff,

16 v.

17 AZKAR CHOUDHRY, an individual; and
18 PAK.ORG, a corporation of unknown origin
and nature,

19 Defendants.
20

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22 AZKAR CHOUDHRY, an individual,

23 Counterclaimant,

24 v.

25 RIGHTHAVEN LLC, a Nevada limited
liability company,

26 Counter-defendant.
27
28

Case No. 2:10-cv-02155-JCM-PAL

**DEFENDANTS' AND
COUNTERCLAIMANT'S REQUEST
FOR JUDICIAL NOTICE**

1 Defendant and Counterclaimant Azkar Choudhry and Defendant Pak.org (collectively,
2 “Mr. Choudhry”) request that the Court take judicial notice, pursuant to Rule 201 of the Federal
3 Rules of Evidence, of Righthaven’s Opposition to Defendants’ Motion to Dismiss for Lack of
4 Personal Jurisdiction With Certificate of Service, filed on May 16, 2011, by Plaintiff Righthaven
5 LLC (“Righthaven”) in the matter of *Righthaven v. Tripso, Inc., et al.* (Case No. 1:11-cv-00146-
6 JLK), currently pending before the Federal Court for the District of Colorado. A true and correct
7 copy of Righthaven’s filing is attached hereto as Exhibit A. This request is made in connection
8 with Mr. Choudhry’s Reply in support of his Motion for Reconsideration of the Court’s May 3,
9 2011, Order denying Mr. Choudhry’s motion for summary judgment.

10
11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 The Court may take judicial notice of facts that are “capable of accurate and ready
13 determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R.
14 Evid. 201(b)(2). Courts “shall take judicial notice if requested by a party and supplied with the
15 necessary information.” Fed. R. Evid. 201(d). Courts may take judicial notice “at any stage of the
16 proceeding.” Fed. R. Evid. 201(f).

17 Courts may take judicial notice of proceedings in other courts. *See, e.g., U.S. ex rel*
18 *Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (citing
19 *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169 (10th Cir. 1979)) (“[W]e ‘may take notice
20 of proceedings in other courts, both within and without the federal judicial system, if those
21 proceedings have a direct relation to matters at issue.’”).

22 Righthaven’s filing is a public record, filed in a proceeding before the United States
23 District Court for the District of Colorado, and its contents are “capable of accurate and ready
24 determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R.
25 Evid. 201(b)(2). Exhibit A reflects a proceeding before another federal court, and so is
26 appropriate for judicial notice as set forth in *U.S. ex rel Robinson Rancheria Citizens Council v.*
27 *Borneo, Inc.* Mr. Choudhry requests that the Court take judicial notice of Exhibit A solely to
28

1 demonstrate the existence and content of the arguments advanced by Righthaven, and not for the
2 truth of its contents.

3 Righthaven's Colorado filing is directly related to the matters at issue because, as
4 discussed in Mr. Choudhry's Reply memorandum in support of his Motion for Reconsideration,
5 filed concurrently herewith, Righthaven's argument to the Colorado court (1) acknowledges
6 Righthaven's understanding that content appearing on a defendant's website through
7 subscription to an RSS feed, or other service engaged to provide content, does not give rise to
8 direct copyright infringement liability and (2) demonstrates that Righthaven is capable of making
9 determinations regarding the presence of absence of volitional conduct as a defense to copyright
10 infringement without the need for discovery and without the need for expert analysis.

11
12 **CONCLUSION**

13 For the foregoing reasons, Mr. Choudhry requests that the Court consider Righthaven's
14 Colorado filing in connection with his Motion for Reconsideration.

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16 Dated: June 13, 2011.

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27 Attorneys for Defendant and Counterclaimant AZKAR
28 CHOUDHRY and Defendant PAK.ORG.

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I hereby certify that I am a representative of Azkar Choudhry and Pak.org and that on this 13th day of June, 2011, I caused the DEFENDANTS' AND COUNTERCLAIMANT'S REQUEST FOR JUDICIAL NOTICE to be served by the Court's CM/ECF system.

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