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Richard K. Mahrle #005166  
Rachel R. Weiss #016080  
**GAMMAGE & BURNHAM**  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
ATTORNEYS AT LAW  
TWO NORTH CENTRAL AVENUE  
18TH FLOOR  
PHOENIX, AZ 85004  
TELEPHONE (602) 256-0566  
[RMAHRLE@GBLAW.COM](mailto:RMAHRLE@GBLAW.COM); [RWEISS@GBLAW.COM](mailto:RWEISS@GBLAW.COM)

Attorneys for Plaintiff Schwam

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

Matthew Schwam,  
  
Plaintiff,  
  
vs.  
Xcentric Ventures, LLC;  
Ripoffreport.com; and John Doe,  
  
Defendants.

NO.  
**COMPLAINT**

Plaintiff, by undersigned counsel, hereby files this Complaint against Xcentric Ventures, LLC, Ripoffreport.com and an as-yet unidentified John Doe Defendant (“Defendants”), and in support thereof, state as follows:

NATURE OF ACTION

1. This civil action is brought by the above-named individual plaintiff who seek redress for violations of his rights under U.S. Copyright laws, 17 U.S.C. § 101, *et seq.*

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PARTIES

2. Plaintiff is an individual residing in the State of New York.

3. Defendant Xcentric Ventures, LLC, upon information and belief, is an LLC formed under the laws of the State of Arizona and is the owner of Ripoffreport.com

4. Ripoffreport.com is a website, upon information and belief, owned by Xcentric Ventures, LLC that permits anonymous posters to post unverified information about individuals and companies with the goal of harming those individuals and companies personally and professionally.

5. Defendant John Doe is an unidentified anonymous poster that provided the copyrighted image to the other defendants for publication on Ripoffreport.com.

JURISDICTION

6. This Court has Jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 1338 as it is an action arising under Acts of Congress relating to copyrights, namely, the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

7. Venue is proper in the District of Arizona pursuant to 28 U.S.C. §§ 1400 and 1391(b) and (c) as Defendant is an LLC subject to personal jurisdiction in this district and is therefore deemed to reside here for purposes of venue.

GENERAL ALLEGATIONS

8. Defendants Xcentric Ventures, LLC (Xcentric) and Ripoffreport.com are in the business of publishing information submitted by anonymous posters about individuals

1 and companies who seeks to harm these individuals and companies' reputations  
2 personally and in whatever industries these individuals and companies operate in.  
3

4 9. On April 3, 2010, Xcentric and Ripoffreport.com published information  
5 provided by John Doe, an anonymous individual named herein as a defendant, that was  
6 directed at Holiday Image, Inc. and Matthew Schwam.  
7

8 10. In addition to posting fabricated, untrue statements about Mr. Schwam,  
9 Defendants also published a picture, titled herein as "the Family Photo," which copyright  
10 is owned by Mr. Schwam, which included images of Mr. Schwam, his wife, infant child,  
11 and minor child. Copy of posting on ripoffreport.com is attached hereto as Exhibit A.  
12

13 11. Defendants did not have permission of Mr. Schwam to use this picture in  
14 any way, especially in any way that subjected Mr. Schwam's wife and minor children to  
15 public ridicule.  
16

17 12. On April 29, 2010, Plaintiff sent Defendant a correspondence, in  
18 compliance with Section 512(c) of the Digital Millennium Copyright Act, demanding that  
19 Defendants cease their improper use of Plaintiff's copyrighted material and remove the  
20 image from their servers. A true and accurate copy of the correspondence and proof of  
21 service is attached as Exhibit B.  
22

23 13. Defendants have not removed the copyrighted image from their servers and  
24 have not corresponded with Plaintiff regarding the use of the image.  
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COUNT 1 – COPYRIGHT INFRINGEMENT

14. Plaintiff incorporates Counts 1-13 as if fully set forth herein.

15. At all times relevant hereto, Matthew Schwam has been and still is the owner and proprietor of all right, title and interest in and to “the Family Photo.”

16. The Family Photo containing material wholly original with Matthew Schwam are copyrightable subject matter under the copyright laws of the United States.

17. With full knowledge of Plaintiff’s rights herein, Defendant has infringed and continues to infringe Matthew Schwam’s copyrights by directly copying the Family Photo onto its server and then presenting and distributing said materials throughout the United States and other countries. Such copying was done by Defendants without the consent, approval or license of Matthew Schwam.

18. Defendants’ willful acts as aforesaid violate Matthew Schwam’s exclusive rights under § 106 of the Copyright Act of 1976, 17 U.S.C. § 106, and constitute infringement of his copyrights. Defendants’ past and continuing copying and distribution of the Family Photo constitutes a willful and deliberate infringement of Matthew Schwam’s copyrights and is causing irreparable harm and damage to Plaintiff.

19. Defendants’ acts were willful in that Defendants continued to post the offending image after being made aware of the ownership rights of Plaintiff.

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WHEREFORE, Plaintiff Matthew Schwam respectfully requests:

A. Defendants be enjoined during the pendency of this action and permanently thereafter from appropriating and using Matthew Schwam’s copyrighted works;

B. Defendants be ordered to pay to Matthew Schwam all damages suffered by Matthew Schwam or, in the alternative, statutory damages, with prejudgment interest, all costs and attorneys’ fees. At present, Matthew Schwam cannot ascertain the full extent of his damages; and

C. Such other relief as the equities of the case may require and as this Court may deem just and proper under the circumstances.

DATED this 26<sup>th</sup> day of May, 2010.

GAMMAGE & BURNHAM P.L.C.

By s/ Rachel R. Weiss  
Richard K. Mahrle  
Rachel R. Weiss  
Two North Central Avenue, 18<sup>th</sup> Floor  
Phoenix, Arizona 85004  
Attorneys for Plaintiff Schwam