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 11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF ARIZONA**

13 XCENTRIC VENTURES, L.L.C.,

14 Plaintiff,

15 v.

16 MEDIOLEX LTD., a foreign corporation
 d/b/a/ COMPLAINTSBOARD.COM;
 17 COMPLAINTSBOARD.COM, an
 unregistered business entity; MARK
 18 SCHULTZ, an individual,

19 Defendants.

Case No.

COMPLAINT

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 21 For its Complaint, Plaintiff Xcentric Ventures, L.L.C. alleges as follows:

22 1. This is a civil action seeking monetary damages and injunctive relief for
 23 various acts of copyright infringement under the copyright laws of the United States (17
 24 U.S.C. § 101 *et seq.*) and for various acts of trademark infringement in violation of the
 Lanham Act, 15 U.S.C. § 1051, *et seq.*, and related state law claims.

25 2. This Court has jurisdiction under 15 U.S.C. § 1121 (trademark); 17 U.S.C. §
 26 101 *et seq.* (copyright); 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a)
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1 (copyright). This Court has supplemental jurisdiction over state and common law claims
2 pursuant to 28 U.S.C. § 1367(a).

3 3. Venue in this District is proper under 28 U.S.C. §§ 1391(b) and (c), and/or
4 28 U.S.C. § 1400(a). A substantial part of the acts of infringement complained of
5 occurred in this District, and certain corporate defendants are subject to personal
6 jurisdiction in this District.

7 4. Personal jurisdiction in this District is proper because each defendant,
8 engaged in acts of copyright infringement within the District of Arizona, and/or
9 intentionally directed tortious conduct at Plaintiff knowing such conduct would cause
10 harm within this District.

11 5. Plaintiff XCENTRIC VENTURES, L.L.C. (“Plaintiff”) is an Arizona
12 limited liability company with its principal place of business in Tempe, Arizona and is a
13 citizen of the State of Arizona.

14 6. Plaintiff is the operator of the website located at www.RipoffReport.com
15 (the “Ripoff Report”). The Ripoff Report is widely used by consumers, and works closely
16 with government agencies, attorneys general, federal, state, and local law enforcement,
17 and the news media to help report, identify and prevent consumer fraud and similar
18 conduct.

19 7. Defendant MEDIOLEX LTD d/b/a COMPLAINTSBOARD.COM
20 (“Mediolex”) is a corporation of unknown origin which has registered the domain name
21 www.complaintsboard.com, and which caused the events herein described to occur with
22 knowledge that they would cause harm within the State of Arizona. Upon information
23 and belief, Mediolex also has engaged in continuous, systematic and substantial contacts
24 with the State of Arizona sufficient to confer general and specific personal jurisdiction
25 over it in this District.

26 8. Defendant COMPLAINTSBOARD.COM is an entity of unknown origin
27 which the website WWW.COMPLAINTSBOARD.COM claims to be operated by, and
28 which caused the events herein described to occur with knowledge that they would cause
harm within the State of Arizona. Upon information and belief, complaintsboard.com

1 also has engaged in continuous, systematic and substantial contacts with the State of
2 Arizona sufficient to confer general and specific personal jurisdiction over it in this
3 District.

4 9. Upon information and belief, Defendant MARK SCHULTZ is a resident of
5 the country of Latvia, and claims to be a “part owner” of the website
6 COMPLAINTSBOARD.COM, and caused the events herein described to occur with
7 knowledge that they would cause harm within the State of Arizona. Upon information
8 and belief, Mr. Schultz also has engaged in continuous, systematic and substantial
9 contacts with the State of Arizona sufficient to confer general and specific personal
10 jurisdiction over it in this District.

11 GENERAL ALLEGATIONS

12 10. The Ripoff Report is, among other things, a website upon which consumers
13 may post complaints. Any member of the public with access to a computer and an Internet
14 connection may use the Ripoff Report website to create and publish complaints about
15 companies or individuals who they believe have wronged them in some manner.

16 11. The Ripoff Report was launched in 1998 and was the only website that
17 provided consumers with a forum to post complaints about companies

18 12. When a user posts a complaint on Ripoff Report, the user electronically
19 signs an agreement that grants to Xcentric an irrevocable, perpetual exclusive license to
20 use, copy, perform, display and distribute the content posted.

21 13. Complaints published on the Ripoff Report are automatically indexed by
22 numerous search engines such as Google and such complaints often rank very high in
23 Google’s search results.

24 14. Plaintiff is the owner of various copyrights relating to content appearing on
25 the Ripoff Report website.

26 15. Plaintiff is the owner of the federal copyright issued by the United States
27 Copyright Office Certificate of Registration No. TXu1-574-438 entitled “Rip-off Report
28 Content” dated March 25, 2008.

1 24. The website www.complaintsboard.com (the “ComplaintsBoard site”)
2 generally purports to be a forum for consumers to post and review complaints about
3 businesses and bad business practices, among other things.

4 25. The ComplaintsBoard site copied the concept, style, and the content of the
5 Ripoff Report site.

6 26. On or around December 17, 2008, Plaintiff initiated a lawsuit in this Court
7 similar to the present one against COMPLAINTSBOARD.COM for copyright
8 infringement. The case was captioned *Xcentric Ventures, LLC v. Elizabeth Arden*, Case
9 No. 2:08-cv-02299-HRH (the “2008 Case”).

10 27. In the 2008 Case, the defendants were found to have systematically stolen
11 copyright-protected content from the Ripoff Report website and published it on the
12 Complaintsboard.com website for the benefit of Defendants. On October 22, 2009, the
13 Court entered Judgment against defendants in the 2008 Case, awarding both monetary
14 damages arising from defendant’s infringement of Plaintiff’s copyright, as well as a
15 permanent injunction. *See* Judgment, attached hereto as **Exhibit “A”**.

16 28. Plaintiff has taken numerous affirmative steps to ensure that the
17 Complaintsboard.com website comply with the Permanent Injunction and cease any
18 further copying from the Ripoff Report website.

19 29. Since the judgment was entered in the 2008 Case, Defendants have
20 continued engaging in conduct that violates Plaintiff’s rights.

21 30. Defendants permit user-generated content to be posted on the
22 Complaintsboard.com website.

23 31. In many cases, the user-generated content is content that has been
24 exclusively licensed to Xcentric Ventures, LLC.

25 32. When consumers post content on Ripoff Report, they enter into an exclusive
26 license with Xcentric prohibiting them from posting the same content on other websites.

27 33. Defendants encourage and permit consumers to post content that has been
28 exclusively licensed to Xcentric.

1 34. Despite knowledge and demand, Defendants continue to permit the posting
2 of content that is exclusively licensed to Xcentric.

3 35. In addition, Defendants have used Xcentric's trademarks on the
4 Complaintsboard.com website which has caused and is likely to cause consumer
5 confusion.

6 36. Defendants display the trademark RIPOFF REPORT on the
7 Complaintsboard.com website.

8 37. Defendants display the trademark "DON'T LET THEM GET AWAY
9 WITH IT" on the Complaintsboard.com website.

10 38. Defendants display the trademark CORPORATE ADVOCACY
11 PROGRAM on the Complaintsboard.com website.

12 39. The ComplaintsBoard site's use of Xcentric's trademarks is likely to cause
13 confusion as to source or sponsorship.

14 40. Defendants' unlawful use of Plaintiff's trademarks has caused substantial
15 actual confusion among consumers who have been misled into believing that Plaintiff is
16 the owner and/or operator of the ComplaintsBoard site when, in fact, this is not true.

17 41. As a result of the ongoing and pervasive copying of Xcentric's copyright
18 protected materials and as a result of the ongoing use of Xcentric's trademark on to the
19 ComplaintsBoard site by Defendants, the web traffic to the Ripoff Report website has
20 been greatly reduced.

21 42. Sometime prior to January 19, 2011, Defendants posted the following
22 statement on Complaintsboard.com: "Leanne's Mobile Groom And Board Are you also a
23 victim of the Leanne's Mobile Groom And Board? Submit a complaint to help other
24 consumers to be educated and don't let them get away with it!"

25 43. Defendants also posted the following statement on Complaintsboard.com:
26 "In case you have experienced any problems with Leanne's Mobile Groom and Board
27 please report immediately by filling [sic] a Complaint Form."
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1 44. Defendants posted the solicitations of complaints about Leanne's Mobile
2 Groom and Board for the sole reason of diverting traffic from the Ripoff Report website
3 to the Complaintsboard.com website.

4
5 **COUNT ONE**

6 **(Infringement of Copyright – 17 U.S.C. §§ 106.501(a))**

7 45. Plaintiff incorporates herein by this reference each and every allegation set
8 forth in this Complaint as though fully set forth below.

9 46. Defendants have violated Plaintiff's exclusive rights under 17 U.S.C. §
10 106(3) (distribution) by distributing Plaintiff's works without permission

11 47. Defendants have violated Plaintiff's rights under 17 U.S.C. § 106(5)
12 (display) by publicly displaying Plaintiff's works without permission.

13 48. Plaintiff is informed and believes that the foregoing acts of infringement
14 have been willful, intentional, and in disregard of and with indifference to the rights of
15 Plaintiff.

16 49. Defendants' infringing activities were not authorized by Plaintiff and were
17 performed without Plaintiff's knowledge, consent, or permission.

18 50. Defendants' infringing activities were and are done for Defendants'
19 financial gain.

20 51. Defendants' infringing activities have caused Plaintiff to incur actual
21 damages of not less than \$150,000.

22 52. As the result of Defendants' infringement of Plaintiff's exclusive rights,
23 Plaintiff is entitled to recover from Defendants its actual damages pursuant to 17 U.S.C. §
24 504(b) or statutory damages pursuant to 17 U.S.C. § 504(c), whichever is greater.

25 53. As the result of Defendants' infringement of Plaintiff's exclusive rights,
26 Plaintiff further is entitled to attorneys' fees and costs pursuant to 17 U.S.C. § 505.

27 54. Furthermore, the conduct of each Defendant is causing and, unless enjoined
28 and restrained by this Court, will continue to cause Plaintiff great and irreparable injury
that cannot fully be compensated or measured in money.

1 55. Plaintiff has no adequate remedy at law.

2 56. Pursuant to 17 U.S.C. §§ 502(a) and 503, Plaintiff is entitled to preliminary
3 and permanent injunctive relief prohibiting each Defendant from further infringing
4 Plaintiff's copyrighted works.

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COUNT TWO

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(Contributory Infringement of Copyright)

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57. Plaintiff incorporates herein by this reference each and every allegation set forth in this Complaint as though fully set forth below.

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58. As set forth more fully herein, Defendants, with knowledge of the infringing activity, induced, caused or materially contributed to copyright violations by third parties who posted content exclusively licensed to Plaintiff on the Complaintsboards.com website.

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59. As a direct and proximate cause of Defendants' conduct, Plaintiff suffered harm and damages.

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COUNT THREE

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(Trademark Infringement 15 U.S.C. §§ 1125)

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60. Plaintiff incorporates herein by this reference each and every allegation set forth in this Complaint as though fully set forth below.

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61. Plaintiffs did not give Defendants consent to use its common law trademarks.

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62. Defendants' use of Plaintiff's common law trademarks is likely to cause confusion or to deceive and has caused confusion as to the source or origin of the services.

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63. Defendants' use of Plaintiff's common law trademarks implies sponsorship or affiliation between Plaintiff and Defendants.

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64. Defendants' use of Plaintiff's common law trademarks is a misappropriation of the goodwill that Plaintiff has accumulated in its trademarks.

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1 65. Defendants have infringed upon Plaintiff's common law trademarks through
2 all of the acts previously alleged in this Complaint.

3 66. Plaintiff has suffered damages as a result of Defendants' infringing activities
4 in an amount to be proved at trial.

5 67. Plaintiff is entitled to injunctive relief to prohibit Defendant from
6 committing any further or additional infringement.

7 68. Plaintiff is entitled to recover statutory damages and also general, special,
8 consequential, and incidental damages, including but not limited to lost profits and cost of
9 corrective advertising, and injunctive relief.

10 69. Defendants' acts were committed in bad faith entitling Plaintiff to a
11 recovery of treble damages and attorneys' fees.

12
13 **COUNT FOUR**

14 **(Trademark Infringement 15 U.S.C. §§ 1114)**

15 70. Plaintiff incorporates herein by this reference each and every allegation set
16 forth in this Complaint as though fully set forth below.

17 71. Plaintiffs did not give Defendants consent to use its registered trademarks.

18 72. Defendants' use of Plaintiff's registered trademarks is likely to cause
19 confusion or to deceive and has caused confusion as to the source or origin of the services.

20 73. Defendants' use of Plaintiff's registered trademarks implies sponsorship or
21 affiliation between Plaintiff and Defendants.

22 74. Defendants' use of Plaintiff's registered trademarks is a misappropriation of
23 the goodwill that Plaintiff has accumulated in its trademarks.

24 75. Defendants have infringed upon Plaintiff's registered trademarks through all
25 of the acts previously alleged in this Complaint.

26 76. Plaintiff has suffered damages as a result of Defendants' infringing activities
27 in an amount to be proved at trial.

28 77. Plaintiff is entitled to injunctive relief to prohibit Defendant from
committing any further or additional infringement.

1 78. Plaintiff is entitled to recover statutory damages and also general, special,
2 consequential, and incidental damages, including but not limited to lost profits and cost of
3 corrective advertising, and injunctive relief.

4 79. Defendants' acts were committed in bad faith entitling Plaintiff to a
5 recovery of treble damages and attorneys' fees.

6
7 **COUNT FIVE**
8 **(Unfair Competition)**

9 80. Plaintiff incorporates herein by this reference each and every allegation set
10 forth in all paragraphs as though fully set forth below.

11 81. The acts of Defendant amount to an unauthorized interference with the
12 normal operation of Plaintiff's business in order to divert a material portion of the profit,
13 with special advantage to Defendant in the competition because of the fact that Defendant
14 has avoided the time and expense of building its own content and generating its own
15 traffic.

16 82. As a direct and proximate result of Defendants' unfair competition, Plaintiff
17 has suffered damages.

18 83. 41. Defendants' unfair competition has caused, and continues to cause,
19 Plaintiff to sustain irreparable damages, loss and injury, for which Plaintiff has no
20 adequate remedy at law.

21 84. 42. Plaintiff is entitled to preliminary and permanent injunctive relief
22 enjoining Defendants from further unfair competition with Plaintiff.

23 **WHEREFORE**, Plaintiff requests that judgment be entered in its favor and against
24 each Defendant as follows:

25 1. For Plaintiff's actual damages and Defendants' profits, or statutory
26 damages, as Plaintiff may elect, for infringement of each copyrighted work pursuant to 17
27 U.S.C. § 504;
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2. For Plaintiff’s damages for trademark infringement pursuant to 15 U.S.C. §1117;
3. For injunctive relief pursuant to 17 U.S.C. §§ 502(a) and 503 and 15 U.S.C. §1116;
4. For Plaintiff’s costs in this action pursuant to 17 U.S.C. § 504 and/or 15 U.S.C. § 1117(a);
5. For Plaintiff’s reasonable attorneys’ fees incurred pursuant to 17 U.S.C. § 504 and 15 U.S.C. §1117; and
6. For such other and further relief as the Court may deem just and proper.

DATED this 20th day of January, 2012.

JABURG & WILK, P.C.

s/Maria Crimi Speth

Maria Crimi Speth
Attorneys for Plaintiff