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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ASIA ECONOMIC INSTITUTE, a
California LLC; RAYMOND
MOBREZ an individual; and ILIANA
LLANERAS, an individual,

Plaintiffs,

vs.

XCENTRIC VENTURES, LLC, an
Arizona LLC, d/b/a as BADBUSINESS
BUREAU and/or
BADBUSINESSBUREAU.COM
and/or RIP OFF REPORT and/or
RIPOFFREPORT.COM; BAD
BUSINESS BUREAU, LLC, organized
and existing under the laws of St.
Kitts/Nevis, West Indies; EDWARD
MAGEDSON an individual, and DOES
1 through 100, inclusive,

Defendants.

Case No.: 2:10-cv-01360-SVW-PJW

The Honorable Stephen V. Wilson

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

Date: November 1, 2010

Time: 1:30 p.m.

Courtroom: 6

1 Pursuant to Federal Rule of Evidence 201 and the inherent authority of this
2 Court, Plaintiffs Asia Economic Institute, LLC, Raymond Mobrez, and Iliana
3 Llaneras (“Plaintiffs”) respectfully request that the Court take judicial notice of the
4 public records attached hereto as Exhibits 1 through 4.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6
7 The Federal Rules of Evidence mandate that judicial notice be taken
8 where it is “requested by a party and supplied with the necessary information,”
9 Fed. R. Evid. 201(d), and authorizes judicial notice “at any stage of the
10 proceeding.” Fed. R. Evid. 201(f). Moreover, “a judicially noticed fact must be one
11 not subject to reasonable dispute in that it is either (1) generally known within the
12 territorial jurisdiction of the trial court or (2) capable of accurate and ready
13 determination by resort to sources whose accuracy cannot reasonably be
14 questioned.” Fed. R. Evid. 201(b). Here, the requested fact is “not subject to
15 reasonable dispute” in that it is “capable of accurate and ready determination by”
16 referring to public records dockets, sources “whose accuracy cannot reasonably be
17 questioned.” FRE 201(b). Thus, the documents are readily verifiable and the
18 proper subject to judicial notice.

19 Courts may take judicial notice of court filings and other matters of
20 public record. See Reyn’s Pasta Bella, LLC v. Visa USA, Inc., 442 F.3d 741, 746
21 n. 6 (9th Cir. 2006); see also Allen v. City of Los Angeles, 92 F.3d 842, 850 (9th
22 Cir. 1992) (federal courts may take judicial notice of proceedings in other courts,
23 both within and without federal judicial system, if those proceedings have a direct
24 relation to matters at issue) (overruled on other grounds); Bryant v. Carleson, 444
25 F.2d 353, 357 (9th Cir. 1971) (court took judicial notice of proceedings and filings
26 in other courts).

27 Plaintiffs respectfully request that this Court take judicial notice of the
28 following:

1 **Exhibit 1:** The transcript of the November 11, 2009 proceeding before the
2 Honorable James F. Holderman in the Northern District of Illinois in the civil
3 action Blockowicz v. Williams, 09-CV-3955 (N. D. Ill. Nov. 11, 2009) [DN-44].

4 The relevance of the November 11, 2009 transcript in **Exhibit 1** is the
5 statement made by Defendants' counsel as follows:

6
7 THE COURT: Good afternoon. Thank you for coming.
8 We have this dilemma that has resulted from the
9 continuing display of the information that the plaintiffs seek
10 to have taken down.
11 I have read the response to the motion, the response
12 by non-party Xcentric Ventures, L.L.C. to the motion. I was
13 hoping that, perhaps, we might be able to reach a resolution in
14 this case in some way to accommodate everyone.
15 Let me just ask Xcentric's lawyers, is there any way
16 that you could agree to remove the material?

17 MS. SPETH: Because of the enormous amount of
18 information on the website and because of sort of a floodgate
19 problem that we're worried about, the client is concerned that
20 if the client does it for one person, then everybody will want
21 him to do it. And so the client has, over the ten years that I
22 represented this client, never, ever agreed to take down a
23 report. This client has spent over a million dollars in legal
24 fees protecting the rights of reports to stay posted, and, you
25 know, perhaps that's why we call it Xcentric Ventures, Your
26 Honor.

27 You know, perhaps that might not be the most -- it
28 may not sound like the most reasonable approach, but the client
is pretty passionate and pretty adamant. I have never been
able to succeed in convincing him to take down a report
voluntarily. And any time that a court has ordered it, we have
taken it up on appeal and fought it until it couldn't be fought
anymore. That's just his mentality, Your Honor.

Exhibit A at 2:14-3:25 (emphasis added).

1 The relevance of the quoted passage is that it creates a genuine issue, inter
2 alia, as to the accuracy of the allegations in the First Amended Complaint ¶ 172,
3 concerning whether Defendants do or do not take down reports, whether they
4 perpetuate a false impression that they never take down or remove reports, and
5 whether they made these statements with knowledge of their falsity.

6 **Exhibit 2:** The September 23, 2010 order of the Court of Appeals for the
7 Ninth Circuit in Xcentric Ventures v. Bird, No. 10-15460 (9th Cir. Sept. 23, 2010)
8 [DN-12] dismissing Xcentric’s appeal from an adverse decision in the District of
9 Arizona in Xcentric’s suit against blogger Sarah Bird.

10 The relevance of **Exhibit 2** is that it supports the allegation in the First
11 Amended Complaint at ¶13 and elsewhere that Defendants are more interested in
12 protecting their business model than preserving the right of all to exercise their
13 First Amendment rights of free expressive speech, and therefore sued blogger
14 Sarah Bird among other critics, and unreasonably pursued an appeal despite the
15 case having been disposed of on jurisdictional grounds.

16 **Exhibit 3:** The transcript of the proceedings on Xcentric’s motion for a
17 preliminary injunction in Xcentric v. Richeson, 10-cv-1931 (D. Ariz. Sept. 21,
18 2010).

19 The relevance of **Exhibit 3**, among other things, is that constitutes an
20 admission by Defendant Xentric that Google, Bing and Yahoo Search results are
21 harmful in themselves, as asserted by Defendants’ counsel at, inter alia, 18:21-19:6
22 of Ex. 3. Defendants also admit that under the facts of that case, Xcentric Ventures
23 made redactions to Reports under threats. See Ex. 3 at 15:1-3.

24 **Exhibit 4:** The Declaration of Justin Crossman submitted by the Defendants
25 in Russo v. Xcentric, 10-cv-398 (N. D. Ga. Oct. 4, 2010) [DN-48-4] (“Crossman
26 Dec.”).

27 The relevance of the Crossman Dec. is that it is an admission by Defendants’
28 agent that they, inter alia, create the HTML code for Reports, which HTML code is

1 alleged by Plaintiffs in this action to determine the appearance of Google Search
2 results and contribute to the harm to Plaintiffs in this case. See Ex. 4 at. ¶¶5, 6
3 (“the . . . HTML code . . . was created by Xcentric”).
4

5 **CONCLUSION**
6

7 Pursuant to these rules, Plaintiffs request that this Court take judicial
8 notice of the documents attached hereto as **Exhibits 1, 2, 3 and 4**, and the contents
9 thereof in connection with Plaintiffs’ Opposition to Defendants’ Motion for
10 Summary Judgment.
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12 Dated: October 4, 2010

Respectfully Submitted,

13
14 /s/ Lisa J. Borodkin
15 Lisa J. Borodkin
16 Daniel F. Blackert
17 Attorneys for Plaintiffs
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