

1 Craig S. Mende, admitted *pro hac vice*
 David A. Donahue, admitted *pro hac vice*
 2 Betsy Judelson Newman, admitted *pro hac vice*
 Grace W. Kang, admitted *pro hac vice*
 3 FROSS ZELNICK LEHRMAN & ZISSU, P.C.
 866 United Nations Plaza
 4 New York, New York 10017
 Telephone: (212) 813-5900
 5 Facsimile: (212) 813-5901

6 James H. Berry, Jr. (State Bar No. 075834)
 Kevin R. Lussier (State Bar No. 143821)
 7 BERRY & PERKINS
 A Professional Corporation
 8 2049 Century Park East, Suite 950
 Los Angeles, California 90067-3134
 9 Telephone: (310) 557-8989
 Facsimile: (310) 788-0080

10 Counsel for Defendant Ernst & Young Advisory Inc.

11 **THE UNITED STATES DISTRICT COURT**
 12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13 ENTREPRENEUR MEDIA, INC.,
 14 Plaintiff,

15 vs.

16 EYGN Limited, ERNST & YOUNG
 17 LLP and ERNST & YOUNG
 18 ADVISORY INC.,
 19 Defendants.

Case No. SACV08-0608 DOC
 (MLGx)

**NOTICE OF ERNST & YOUNG
 ADVISORY INC.'S MOTION FOR
 JUDGMENT ON THE PLEADINGS
 FOR LACK OF SUBJECT
 MATTER JURISDICTION**

20 EYGN Limited and ERNST &
 21 YOUNG LLP,

22 Counterclaim-Plaintiffs,

23 vs.

24 ENTREPRENEUR MEDIA, INC., a
 New York corporation,

25 Counterclaim-Defendant.
26

Date: December 22, 2008
 Time: 8:30 a.m.
 Courtroom: 9D
 Judge: Honorable David O. Carter

1 **TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on December 22, 2008, at 8:30 a.m. or as soon
3 thereafter as may be heard, defendant Ernst & Young Advisory Inc. (“EYAI”) will move
4 for judgment on the pleadings for lack of subject matter jurisdiction pursuant to Rule
5 12(c) of the Federal Rules of Civil Procedure dismissing Plaintiff’s complaint in its
6 entirety before the Honorable David O. Carter, in Courtroom 9D of the United States
7 District Court for the Central District of California, 411 West Fourth Street, Santa Ana,
8 California 92701. The grounds for the motion are that there is no actual controversy
9 between Plaintiff and EYAI pleaded on the face of the complaint or on the undisputed
10 facts, as required for the Court to exercise subject matter jurisdiction under Article III of
11 the United States Constitution and the Declaratory Judgment Act, 28 U.S.C. § 2201.

12 This motion is based on this notice; the accompanying Memorandum of Points and
13 Authorities in Support of EYAI’s Motion; the declarations and other evidence filed in
14 support of EYAI’s motion, including the declarations of Doris Stamml and Craig S.
15 Mende; all prior pleadings and proceedings in this matter; and all oral and written
16 evidence to be presented at the hearing, if any, on this motion.

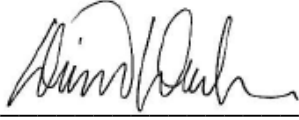
17 On August 1, October 21 and October 29, 2008, counsel for the parties met and
18 conferred concerning this motion pursuant to Local Rule 7-3.

19 DATED: November 12, 2008

20 BERRY & PERKINS,
21 A Professional Corporation

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

22 By:  _____

23 Craig S. Mende
24 cmende@frosszelnick.com
25 David A. Donahue
26 ddonahue@frosszelnick.com
27 Betsy Judelson Newman
28 bnewman@frosszelnick.com
Grace W. Kang
gkang@frosszelnick.com
Phone: (212) 813-5900

*Counsel for Defendant Ernst & Young
Advisory Inc.*