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 7 YELP! INC.

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA

10
 11 BORIS Y. LEVITT, on behalf of himself
 and all others similarly situated,

12 Plaintiff,

13 v.

14 YELP! INC.; and DOES 1 through 100,
 15 inclusive,

16 Defendants.

No. CV 10-01321 MHP

**YELP! INC.'S ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES SHOULD BE
 RELATED (CIVIL L.R. 3-12(b) AND 7-11)**

Courtroom: 15

Judge: Honorable Marilyn Hall Patel

Trial Date: None Set

17
 18 Defendant Yelp! Inc. ("Yelp"), by and through its undersigned counsel of record, hereby
 19 files this Administrative Motion to Consider Whether Cases Should be Related pursuant to Civil
 20 Local Rules 3-12(b) and 7-11, to consider whether the action entitled *Boris Y. Levitt v. Yelp! Inc.*,
 21 Case No. CV 10-01321 MHP ("*Levitt*"), and the action entitled *Cats and Dogs Animal Hospital,*
 22 *Inc, et al. v. Yelp! Inc.*, Case No. CV 10-02351 MEJ ("*Cats and Dogs*") should be related. This
 23 motion is supported by the stipulation, filed herewith, of all parties to the two cases.

24 The *Levitt* action was filed on March 12, 2010 in the Superior Court of the State of
 25 California, County of San Francisco, and was entitled *Boris Y. Levitt, on behalf of himself and all*
 26 *other similarly situated v. Yelp! Inc.; and Does 1 through 100, inclusive*, Case No. CGC-10-
 27 497777. Yelp removed the action to this Court pursuant to 28 U.S.C. § 1453(b) on March 29,
 28

1 2010. A true and correct copy of the Complaint in the *Levitt* action is attached hereto as **Exhibit**
2 **A**.

3 The *Cats and Dogs* action was filed in the United States District Court for the Central
4 District of California on February 24, 2010. It was assigned to the Honorable Valerie Baker
5 Fairbank. A true and correct copy of the First Amended Complaint in the *Cats and Dogs* action is
6 attached hereto as **Exhibit B**. On May 4, 2010, on Yelp's motion to transfer venue pursuant to 28
7 U.S.C. § 1404(a), Judge Fairbank ordered *Cats and Dogs* transferred to this Court. A true and
8 correct copy of the Order transferring the case is attached as **Exhibit C**. On May 28, 2010, the
9 case was opened on this Court's docket.

10 On April 7, 2010, Yelp filed a Notice of Pendency of Other Actions or Proceedings
11 pursuant to Northern District Civil Local Rule 3-13 in the *Levitt* action¹ and a Notice of Pendency
12 of Other Actions or Proceedings pursuant to Central District Local Rule 83-1.4 in the *Cats and*
13 *Dogs* action.

14 **The *Cats and Dogs* and *Levitt* Actions Are Related**

15 The *Cats and Dogs* and *Levitt* actions are related under Civil Local Rule 3-12(a), since the
16 actions concern substantially the same parties, property, transaction, or event and would result in
17 an unduly burdensome duplication of labor and expense and increase the likelihood of conflicting
18 results if the cases are conducted before different judges.

19 Yelp operates a website (www.yelp.com) that allows consumers to find local businesses,
20 and to read and write reviews about them. The website features information on and reviews of
21 businesses throughout the United States and is visited by approximately 30 million people per
22 month. Yelp makes money by, *inter alia*, selling ads to local businesses, which appear as
23 "Sponsored Results" on Yelp's website.

24
25 ¹ Yelp's Notice of Pendency included notice of a second related case pending in the Central
26 District entitled *LaPausky v. Yelp! Inc.*, Case No. CV 10-01578 VBF (SSx). Plaintiff LaPausky
27 had originally been represented by separate counsel. On April 16, 2010, counsel for plaintiffs in
28 the *Cats and Dogs* action filed a Notice of Substitution of Counsel notifying the court and parties
that such counsel was substituting in for LaPausky's previous counsel. On April 29, 2010,
LaPausky's new counsel filed a Notice of Voluntary Dismissal dismissing the *LaPausky* action.

1 Plaintiffs in both actions seek to represent nearly identically defined putative classes in
2 lawsuits against the same defendant, Yelp. (*Compare* Ex. A ¶ 36 with Ex. B ¶ 171.) Plaintiffs in
3 both actions are businesses that allege that, based on whether a business chooses to advertise with
4 Yelp or not, the display of reviews of such business on www.yelp.com is either positively or
5 negatively affected. (*Compare, e.g.,* Ex. A ¶¶ 6-13 with Ex. B ¶¶ 91-93.) Plaintiffs in both
6 actions assert claims for violation of California’s Unfair Competition Law, Business and
7 Professions Code Section 17200 *et seq.* Plaintiff in *Levitt* includes additional claims for (a)
8 violation of California Business and Professions Code Section 17500, (b) negligent
9 misrepresentation, and (c) intentional misrepresentation. Plaintiffs in *Cats and Dogs* include
10 additional claims for (a) violation of Cal. Penal Code §§ 518-19 (extortion), (b) violation of Cal.
11 Penal Code § 524 (attempted extortion), and (c) intentional interference with prospective
12 economic advantage.

13 Thus, the factors specified in Local Civil Rule 3-12(a) are met. The actions concern
14 substantially the same parties, and they concern substantially overlapping subject matter, namely
15 Yelp’s advertising and review display policies and practices. If the cases were not related and
16 conducted before the same judge, there would be an unduly burdensome duplication of labor and
17 expense by Yelp, eventual class counsel, and the Court. There would also be a risk of conflicting
18 results.

19 **Conclusion**

20 For the foregoing reasons, Yelp, supported by the stipulation of the plaintiffs in each
21 action, respectfully submits that the *Levitt* and *Cats and Dogs* actions are related and should be
22 conducted before the same judge.

23 Dated: June 2, 2010

COOLEY LLP

24 /s/ Matthew D. Brown
25 Matthew D. Brown (196972)

26 Attorneys for Defendant YELP! INC.

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