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6 Attorneys for NOAH KRAVITZ

7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9
10 PHONEDOG, LLC, a Delaware

11 Plaintiff,

12 v.

13 NOAH KRAVITZ, an individual,

14 Defendants.

) CASE NO. C11-03474

)
) SUPPLEMENTAL
) DECLARATION OF NOAH
) KRAVITZ IN SUPPORT OF
) DEFENDANT'S RELY TO
) PLAINTIFF'S OPPOSITION TO
) MOTION TO DISMISS
) PLAINTIFF PHONEDOG, LLC'S
) COMPLAINT FOR LACK OF
) SUBJECT MATTER
) JURISDICTION UNDER FED. R.
) CIV. PROC. RULE 12(b)(1) AND
) FOR FAILURE TO STATE A
) CLAIM UNDER FED. R. CIV.
) PROC. RULE 12(b)(6)

) Date: September 15, 2011

) Time: 10:00 a.m.

) Dept.: Courtroom B – 15th Floor

) Judge: Maria-Elena James

23
24 I, Noah Kravitz, declare as follows:

25 1. I am the Defendant in this case. I have personal knowledge of the matters set
26 forth herein and if called upon to testify, I could and would do so competently.

27 2. This supplemental declaration is submitted in support of Defendant's Reply to
28 Plaintiff's Opposition to Motion to Dismiss Plaintiff PhoneDog, LLC's Complaint For Lack of

1 Subject Matter Jurisdiction Under Fed. R. Civ. Proc. Rule 12(b)(1) and For Failure to State a
2 Claim Under Fed. R. Civ. Proc. Rule 12(b)(6).

3 3. Throughout my tenure with PhoneDog, LLC (“PhoneDog”), I was always an
4 independent contractor and never an “employee”.

5 4. PhoneDog never requested that I maintain a Twitter account for the benefit of
6 PhoneDog.

7 5. I created the Twitter account “@PhoneDog_Noah” (the “Account”) on my own
8 initiative to use for personal and work-related purposes. I have always used the Account to
9 promote my personal and professional work.

10 6. After I created the Account and informed PhoneDog, PhoneDog then decided to
11 request its “employees” use their existing Twitter accounts or create such accounts for similar
12 reasons.

13 7. PhoneDog never requested and I never agreed to maintain the Account for the
14 benefit of PhoneDog.

15 8. Despite no agreement with PhoneDog, I have responded to all of PhoneDog’s
16 requests, to my knowledge, to tweet publish articles and promotions on the Account.

17 9. To my knowledge, I have been the only person to ever have knowledge of the
18 password to the Account. I never provided the password to the Account to PhoneDog.

19 10. To my knowledge, I have always been the only person to ever use, access and
20 maintain the Account.

21 I declare under penalty of the laws of the state of California that the foregoing is true
22 and correct and that this declaration was executed on this ___ day of August 2011, in San
23 Mateo, California.
24

25 _____
26 NOAH KRAVITZ
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28

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21 I declare under penalty of the laws of the state of California that the foregoing is true
22 and correct and that this declaration was executed on this 25th day of August 2011, in San
23 Mateo, California.

24 
25 _____
26 NOAH KRAVITZ