

1 SHAWN A. MANGANO, ESQ.  
Nevada Bar No. 6730  
2 [shawn@manganolaw.com](mailto:shawn@manganolaw.com)  
SHAWN A. MANGANO, LTD.  
3 9960 West Cheyenne Avenue, Suite 170  
Las Vegas, Nevada 89129-7701  
4 Tel: (702) 683-4788  
Fax: (702) 922-3851

5 J. CHARLES COONS, ESQ.  
Nevada Bar No. 10553  
6 [ccoons@righthaven.com](mailto:ccoons@righthaven.com)  
7 *Assistant General Counsel at Righthaven LLC*  
JOSEPH C. CHU, ESQ.  
8 Nevada Bar No. 11082  
[jchu@righthaven.com](mailto:jchu@righthaven.com)  
9 *Staff Attorney at Righthaven LLC*  
Righthaven LLC  
10 9960 West Cheyenne Avenue, Suite 210  
Las Vegas, Nevada 89129-7701  
11 (702) 527-5900

12 *Attorneys for Plaintiff Righthaven LLC*

13  
14 **UNITED STATES DISTRICT COURT**  
15 **DISTRICT OF NEVADA**

16 RIGHTHAVEN LLC, a Nevada limited-  
17 liability company,

18  
19 Plaintiff,

20 v.

21 PETER MAY-OSTENDORP, an individual,

22 Defendant.  
23

Case No.: 2:10-cv-02175

24  
25 **COMPLAINT AND DEMAND**  
26 **FOR JURY TRIAL**

27 Righthaven LLC (“Righthaven”) complains as follows against Peter May-Ostendorp  
28 (“Mr. May-Ostendorp”) on information and belief:

1 **NATURE OF ACTION**

2 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

3  
4 **PARTIES**

5 2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-  
6 liability company with its principal place of business in Nevada.

7 3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing  
8 with the Nevada Secretary of State.

9 4. Mr. May-Ostendorp is, and has been at all times relevant to this lawsuit, identified  
10 by the current registrar, Automattic (“Automattic”), as the registrant, administrative contact and  
11 technical contact of the Internet domain found at <posthumancondition.com> (the “Domain”).

12  
13 **JURISDICTION**

14 5. This Court has original subject matter jurisdiction over this copyright  
15 infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

16 6. Righthaven is the owner of the copyright in the illustration entitled: “Vdara death-  
17 ray” (the “Work”), attached hereto as Exhibit 1.

18 7. At all times relevant to this lawsuit, the Work has depicted and depicts the  
19 original source publication as the *Las Vegas Review-Journal*.

20 8. Mr. May-Ostendorp willfully copied, on an unauthorized basis, the Work from a  
21 source emanating from Nevada.

22 9. On or about September 29, 2010, Mr. May-Ostendorp displayed, and continues to  
23 display, an unauthorized reproduction of the Work (the “Infringement”), attached hereto as  
24 Exhibit 2, as part of the content accessible through the Domain (said content accessible through  
25 the Domain and the Domain itself collectively known herein as the “Website”).

26 10. At all times relevant to this lawsuit, the Infringement has depicted and depicts the  
27 original source publication as the *Las Vegas Review-Journal*.



1 application, the deposit copy, and the registration fee (the “Complete Application”), Service  
2 Request No. 1-524088592, and attached hereto as Exhibit 3 is the official USCO application  
3 submittal for the Work depicting the occurrence of the Complete Application.

4 23. On or about September 29, 2010, Mr. May-Ostendorp displayed, and continues to  
5 display, the Infringement on the Website.

6 24. Mr. May-Ostendorp did not seek permission, in any manner, to reproduce,  
7 display, or otherwise exploit the Work.

8 25. Mr. May-Ostendorp was not granted permission, in any manner, to reproduce,  
9 display, or otherwise exploit the Work.

10  
11 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

12 26. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through  
13 25 above.

14 27. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17  
15 U.S.C. § 106(1).

16 28. Righthaven holds the exclusive right to prepare derivative works based upon the  
17 Work, pursuant to 17 U.S.C. § 106(2).

18 29. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to  
19 17 U.S.C. § 106(3).

20 30. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17  
21 U.S.C. § 106(5).

22 31. Mr. May-Ostendorp reproduced the Work in derogation of Righthaven’s  
23 exclusive rights under 17 U.S.C. § 106(1).

24 32. Mr. May-Ostendorp created an unauthorized derivative of the Work in derogation  
25 of Righthaven’s exclusive rights under 17 U.S.C. § 106(2).

26 33. Mr. May-Ostendorp distributed, and continues to distribute, an unauthorized  
27 reproduction of the Work on the Website, in derogation of Righthaven’s exclusive rights under  
28 17 U.S.C. § 106(3).

1 34. Mr. May-Ostendorp publicly displayed, and continues to publicly display, an  
2 unauthorized reproduction of the Work on the Website, in derogation of Righthaven’s exclusive  
3 rights under 17 U.S.C. § 106(5).

4 35. Mr. May-Ostendorp has willfully engaged in the copyright infringement of the  
5 Work.

6 36. Mr. May-Ostendorp’s acts as alleged herein, and the ongoing direct results of  
7 those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount  
8 Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

9 37. Unless Mr. May-Ostendorp is preliminarily and permanently enjoined from  
10 further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus  
11 entitled to preliminary and permanent injunctive relief against further infringement by Mr. May-  
12 Ostendorp of the Work, pursuant to 17 U.S.C. § 502.

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14 **PRAAYER FOR RELIEF**

15 Righthaven requests that this Court grant Righthaven’s claim for relief herein as follows:

16 1. Preliminarily and permanently enjoin and restrain Mr. May-Ostendorp, and Mr.  
17 May-Ostendorp’s agents, servants, employees, attorneys, parents, subsidiaries, related  
18 companies, partners, and all persons acting for, by, with, through, or under Mr. May-Ostendorp,  
19 from directly or indirectly infringing the Work by reproducing the Work, preparing derivative  
20 works based on the Work, distributing the Work to the public, and/or displaying the Work, or  
21 ordering, directing, participating in, or assisting in any such activity;

22 2. Direct Mr. May-Ostendorp to preserve, retain, and deliver to Righthaven in hard  
23 copies or electronic copies:

24 a. All evidence and documentation relating in any way to Mr. May-  
25 Ostendorp’s use of the Work, in any form, including, without limitation, all such  
26 evidence and documentation relating to the Website;

1           b.       All evidence and documentation relating to the names and addresses  
2 (whether electronic mail addresses or otherwise) of any person with whom Mr. May-  
3 Ostendorp has communicated regarding Mr. May-Ostendorp's use of the Work; and

4           c.       All financial evidence and documentation relating to Mr. May-  
5 Ostendorp's use of the Work;

6           3.       Direct the current registrar, Automattic, and any successor domain name registrar  
7 for the Domain, to lock the Domain and transfer control of the Domain to Righthaven;

8           4.       Award Righthaven statutory damages for the willful infringement of the Work,  
9 pursuant to 17 U.S.C. § 504(c);

10          5.       Award Righthaven costs, disbursements, and attorneys' fees incurred by  
11 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

12          6.       Award Righthaven pre- and post-judgment interest in accordance with applicable  
13 law; and

14          7.       Grant Righthaven such other relief as this Court deems appropriate.  
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