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22 **UNITED STATES DISTRICT COURT**

23 **DISTRICT OF NEVADA**

24 RIGHTHAVEN LLC, a Nevada limited-
liability company,

25 Case No.: 2:10-cv-02179

26 **COMPLAINT AND DEMAND
FOR JURY TRIAL**

27 Plaintiff,

28 v.

29 JUSTMEANS, an entity of unknown origin
30 and nature; MARTIN SMITH, an individual;
31 and ANDREA BRENNEN, an individual,

32 Defendants.

33
34 Righthaven LLC (“Righthaven”) complains as follows against Justmeans (“Justmeans”),
35 Martin Smith (“Mr. Smith”) and Andrea Brennen (“Ms. Brennen”; collectively with Justmeans
36 and Mr. Smith known herein as the “Defendants”) on information and belief:

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NATURE OF ACTION

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

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5

PARTIES

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

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

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4. Justmeans is, and has been at all times relevant to this lawsuit, an entity of unknown origin and nature.

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5. Attempts to find evidence of the formal organizational status in the respective Secretary of State offices of California, Delaware, Illinois, Nevada, New York, Tennessee and Texas demonstrate that, at least with respect to these states, Justmeans is not a formally organized business entity.

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6. Mr. Smith is, and has been at all times relevant to this lawsuit, identified by the current registrar, GoDaddy.com, Inc. (“GoDaddy”) as the registrant, administrative contact and technical contact of the Internet domain found at <justmeans.com> (the “Domain”).

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7. Mr. Smith is, and has been at all times relevant to this lawsuit, identified by the content accessible through the Domain (said content accessible through the Domain and the Domain itself collectively known herein as the “Website”) as the “Founder and CEO” of Justmeans.

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8. Ms. Brennen is, and has been at all times relevant to this lawsuit, identified on the Website as a “staff writer for Sustainable Development” for Justmeans.

20

21

9. Justmeans is, and has been at all times relevant to this lawsuit, the self-proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible on the Website, as evidenced by a copyright notice displayed on the Website: “Copyright © 2010 Justmeans. All rights reserved”.

22

10. Ms. Brennen reproduced an unauthorized copy of the Righthaven-owned illustration entitled: "Vdara death-ray" (the "Work"), attached hereto as Exhibit 1, and posted said unauthorized reproduction (the "Infringement"), attached hereto as Exhibit 2, on the Website.

JURISDICTION

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

12. Righthaven is the owner of the copyright in the Work.

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

14. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

15. On or about September 30, 2010, the Defendants displayed, and continue to display, the Infringement on the Website.

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

17. The subject matter, at least in part, of the Work and the Infringement, is the magnification of the sun's rays off the surface of the Vdara Hotel, located in Las Vegas, Nevada.

18. At all times relevant to this lawsuit, the Defendants knew that the Work was originally published in the *Las Vegas Review-Journal*.

19. At all times relevant to this lawsuit, the Defendants knew that the Infringement was and is of specific interest to Nevada residents.

20. At all times relevant to this lawsuit, the Infringement, as publically displayed on the Website was and is accessible in Nevada.

21. At all times relevant to this lawsuit, the Infringement occurred and continues to occur in Nevada.

1 22. The Defendants' display of the Infringement was and is purposefully directed at
2 Nevada residents.

3

4 **VENUE**

5 23. The United States District Court for the District of Nevada is an appropriate
6 venue, pursuant to 28 U.S.C. § 1331(b)(2), because a substantial part of the events giving rise to
7 the claim for relief are situated in Nevada.

8 24. The United States District Court for the District of Nevada is an appropriate
9 venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendants are subject to personal
10 jurisdiction in Nevada.

11

12 **FACTS**

13 25. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
14 102(a)(5).

15 26. Righthaven is the owner of the copyright in and to the Work.

16 27. The Work was originally published on or about September 25, 2010.

17 28. On November 24, 2010, the United States Copyright Office (the "USCO")
18 received Righthaven's official submittal for the registration to the Work, including the
19 application, the deposit copy, and the registration fee (the "Complete Application"), Service
20 Request No. 1-524088592, and attached hereto as Exhibit 3 is the official USCO application
21 submittal for the Work depicting the occurrence of the Complete Application.

22 29. On or about September 30, 2010, the Defendants displayed, and continue to
23 display, the Infringement on the Website.

24 30. The Defendants did not seek permission, in any manner, to reproduce, display, or
25 otherwise exploit the Work.

26 31. The Defendants were not granted permission, in any manner, to reproduce,
27 display, or otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

32. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 31 above.

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

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

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

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

37. The Defendants reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).

38. The Defendants created an unauthorized derivative of the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).

39. The Defendants distributed, and continue to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).

40. The Defendants publicly displayed, and continue to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

41. Justmeans willfully engaged in the copyright infringement of the Work.

42. Mr. Smith willfully engaged in the copyright infringement of the Work.

43. Ms. Brennan willfully engaged in the copyright infringement of the Work.

44. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

1 45. The Defendants are preliminarily and permanently enjoined from further
2 infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus
3 entitled to preliminary and permanent injunctive relief against further infringement by the
4 Defendants of the Work, pursuant to 17 U.S.C. § 502.

5 **PRAYER FOR RELIEF**

6 Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

7 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
8 Defendants' agents, servants, employees, attorneys, parents, subsidiaries, related companies,
9 partners, and all persons acting for, by, with, through, or under the Defendants, from directly or
10 indirectly infringing the Work by reproducing the Work, preparing derivative works based on the
11 Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing,
12 participating in, or assisting in any such activity;

13 2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies
14 or electronic copies:

15 a. All evidence and documentation relating in any way to the Defendants'
16 use of the Work, in any form, including, without limitation, all such evidence and
17 documentation relating to the Website;

18 b. All evidence and documentation relating to the names and addresses
19 (whether electronic mail addresses or otherwise) of any person with whom the
20 Defendants have communicated regarding the Defendants' use of the Work; and

21 c. All financial evidence and documentation relating to the Defendants' use
22 of the Work;

23 3. Direct the current registrar, GoDaddy, and any successor domain name registrar
24 for the Domain, to lock the Domain and transfer control of the Domain to Righthaven;

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

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

6. Award Righthaven pre- and post-judgment interest in accordance with applicable law; and
7. Grant Righthaven such other relief as this Court deems appropriate.

DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

Dated this sixteenth day of December, 2010.

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