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11
 12 **UNITED STATES DISTRICT COURT**
 13 **DISTRICT OF NEVADA**

14
 15 RIGHTHAVEN LLC, a Nevada limited-
 liability company,

16
 17 Plaintiff,

18 v.

19 BUSINESS INSIDER, INC., a Delaware
 corporation; and GUS LUBIN, an individual,

20
 21 Defendants.

Case No.: 2:11-cv-XXXX

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

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 23
 24 Righthaven LLC (“Righthaven”) complains as follows against Business Insider, Inc.
 25 (“Business Insider”) and Gus Lubin (“Mr. Lubin”; collectively with Business Insider known
 26 herein as the “Defendants”) on information and belief:
 27
 28

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. Business Insider is, and has been at all times relevant to this lawsuit, a Delaware
10 corporation.

11 5. Business Insider is, and has been at all times relevant to this lawsuit, the owner of
12 the Internet domain found at <businessinsider.com> (the “Domain”).

13 6. Business Insider, is, and has been at all times relevant to this lawsuit, the self-
14 proclaimed owner of the copyright(s) in the work(s) posted as part of the content accessible
15 through the Domain (said content accessible through the Domain and the Domain itself known
16 herein as the “Website”), as evidenced by a copyright notice displayed on the Website:
17 “Copyright © 2010 Business Insider, Inc. All rights reserved.”

18 7. Mr. Lubin is, and has been at all times relevant to this lawsuit, identified as the
19 “features editor of Business Insider” on the Website.

20 8. Mr. Lubin reproduced an unauthorized copy of the Righthaven-owned illustration
21 entitled: “Vdara death-ray” (the “Work”), attached hereto as Exhibit 1, and posted said
22 unauthorized copy (the “Infringement”), attached hereto as Exhibit 2, on the Website.

23
24 **JURISDICTION**

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

27 10. Righthaven is the owner of the copyright in the Work.

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

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

5 13. On or about September 29, 2010, the Defendants displayed, and continue to
6 display the Infringement on the Website.

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

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

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

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

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

17 19. The Defendants' display of the Infringement was and is purposefully directed at
18 Nevada residents.

19
20 **VENUE**

21 20. The United States District Court for the District of Nevada is an appropriate
22 venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to
23 the claim for relief are situated in Nevada.

24 21. The United States District Court for the District of Nevada is an appropriate
25 venue, pursuant to 28 U.S.C. § 1391(c), because Business Insider is subject to personal
26 jurisdiction in Nevada.

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

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

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

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

37. 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).

38. 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).

39. Business Insider has willfully engaged in the copyright infringement of the Work.

40. Mr. Lubin has willfully engaged in the copyright infringement of the Work.

41. 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.

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

PRAYER FOR RELIEF

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

- 1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants’ officers, agents, servants, employees, attorneys, parents, subsidiaries, related

1 companies, partners, and all persons acting for, by, with, through, or under the Defendants, from
2 directly or indirectly infringing the Work by reproducing the Work, preparing derivative works
3 based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering,
4 directing, participating in, or assisting in any such activity;

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

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

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

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

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

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

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

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

23 7. Grant Righthaven such other relief as this Court deems appropriate.
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1 **DEMAND FOR JURY TRIAL**

2 Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil
3 Procedure.

4 Dated this twelfth day of January, 2011.

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