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

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

16
 17 Plaintiff,

18 v.

19 SEVAAN FRANKS, an individual; and A
 20 BLOG ABOUT HISTORY, an entity of
 unknown origin and nature,

21 Defendants.
 22

Case No.: 2:11-cv-XXXX

**COMPLAINT AND DEMAND
 FOR JURY TRIAL**

23
 24
 25 Righthaven LLC (“Righthaven”) complains as follows against Sevaan Franks (“Mr.
 26 Franks”) and A Blog About History (the “History Blog”; collectively with Mr. Franks known
 27 herein as the “Defendants”) on information and belief:
 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. Mr. Franks is, and has been at all times relevant to this lawsuit, identified by the
10 current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant of the Internet domain
11 found at <ablogabouthistory.com> (the “Domain”).

12 5. Mr. Franks is, and has been at all times relevant to this lawsuit, identified by
13 GoDaddy as the administrative contact and technical contact for the Domain (the content
14 accessible through the Domain and the Domain itself known herein as the “Website”).

15 6. Mr. Franks is, and has been at all times relevant to this lawsuit, identified as the
16 editor and owner of the Website, as evidenced by the “About This Blog” section of the Website.

17 7. The History Blog is, and has been at all times relevant to this lawsuit, an entity of
18 unknown origin and nature.

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

23 9. Attempts to find evidence of the formal organizational status in the business entity
24 registration office of Canada demonstrate that, at least with respect to Canada, the History Blog
25 is not a formally organized business entity.

26 10. The History Blog is, and has been at all times relevant to this lawsuit, the self-
27 proclaimed owner of the copyright(s) in the work(s) posted on the Website, as evidenced by a
28 copyright notice displayed on the Website: “© 2009-2010, A Blog About History.”

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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 and to the photograph entitled: “Vandals spray-paint prehistoric rock art in Red Rock Canyon” (the “Work”), attached hereto as Exhibit 1.

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

14. On or about November 30, 2010, the Defendants displayed, and continue to display, an unauthorized copy of the Work (the “Infringement”) on the Website, attached hereto as Exhibit 2.

15. The composition, at least in part, of the Work and the Infringement, is the graffiti on prehistoric rocks located in the historic Red Rock Canyon, adjacent to Las Vegas, Nevada.

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

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

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

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

20. The Defendants display of the Infringement was and is purposefully directed at Nevada residents.

VENUE

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

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

4
5 **FACTS**

6 23. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. §
7 102(a)(5).

8 24. Righthaven is the owner of the copyright in and to the Work.

9 25. The Work was originally published on or about November 29, 2010.

10 26. On December 30, 2010, the United States Copyright Office (the “USCO”)
11 received Righthaven’s official submittal for the registration to the Work, including the
12 application, the deposit copy, and the registration fee (the “Complete Application”), Service
13 Request No. 1-541173288, and attached hereto as Exhibit 3 is the official USCO application
14 submittal for the Work depicting the occurrence of the Complete Application.

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

17 28. The Defendants did not seek permission, in any manner, to reproduce, display, or
18 otherwise exploit the Work.

19 29. The Defendants were not granted permission, in any manner, to reproduce,
20 display, or otherwise exploit the Work.

21
22 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

23 30. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
24 29 above.

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

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

1 1. Preliminarily and permanently enjoin and restrain the Defendants, and the
2 Defendants' officers, agents, servants, employees, attorneys, related companies, partners, and all
3 persons acting for, by, with, through, or under the Defendants, from directly or indirectly
4 infringing the Work by reproducing the Work, preparing derivative works based on the Work,
5 distributing the Work to the public, and/or displaying the Work, or ordering, directing,
6 participating in, or assisting in any such activity;

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

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

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

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

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

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

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

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

25 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 seventeenth day of January, 2011.

5 SHAWN A. MANGANO, LTD.

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7 By: /s/ Shawn A. Mangano

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