Righthaven LC v. Sieber

Doc. 1

- 4. Mr. Sieber is identified by the current registrar, GoDaddy.com ("GoDaddy"), as the registrant of the Internet domain found at <atomicbobs.com> (the "Domain").
- 5. Mr. Sieber is identified by GoDaddy as the administrative contact of the Domain (the content accessible through the Domain and the Domain itself known herein as the "Website").

JURISDICTION

- 6. 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).
- 7. Righthaven is the owner of the copyright in the literary work entitled, "Finding winners among penny stocks can be tricky" (the "Work"), attached hereto as Exhibit 1.
- 8. On or about April 17, 2011, Mr. Sieber displayed an unauthorized reproduction of the Work (the "Infringement"), attached hereto as Exhibit 2, on the Website.
- 9. The Work has depicted and depicts the original source publication as the Las Vegas *Review-Journal*.
- 10. Mr. Sieber willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.
- 11. The Infringement depicted the original source publication as the Las Vegas *Review-Journal*.
- 12. Mr. Sieber knew that the Work was originally published in the Las Vegas *Review-Journal*.
- 13. Mr. Sieber knew that the Infringement was of specific interest to Nevada residents.
- 14. The Infringement, as publically displayed on the Website, was accessible in Nevada.
 - 15. The Infringement occurred in Nevada.
- 16. Mr. Sieber's display of the Infringement was purposefully directed at Nevada residents.

VENUE

- 17. 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.
- 18. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1400 (a), because Mr. Sieber is subject to personal jurisdiction in Nevada.

FACTS

- 19. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).
 - 20. Righthaven is the owner of the copyrights in and to the Work.
 - 21. The Work was originally published on April 17, 2011.
- 22. On or about April 29, 2011, the United States Copyright Office (the "USCO") received Righthaven's official submittal for the registration of the Work, including the application, the deposit copy, and the registration fee (the "Complete Application"), Service Request No. 1-602631518, and attached hereto as Exhibit 3 is the official USCO application submittal for the Work depicting the occurrence of the Complete Application.
- 23. On or about April 17, 2011, Mr. Sieber displayed the Infringement on the Website.
- 24. Mr. Sieber did not seek permission, in any manner, to reproduce, display or otherwise exploit the Work.
- 25. Mr. Sieber was not granted permission, in any manner, to reproduce, display, or otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

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

- 27. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17 U.S.C. § 106(1).
- 28. Righthaven holds the exclusive right to prepare derivative works based upon the Work, pursuant to 17 U.S.C. § 106(2).
- 29. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to 17 U.S.C. § 106(3).
- 30. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17 U.S.C. § 106(5).
- 31. Mr. Sieber reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).
- 32. Mr. Sieber created an unauthorized derivative of the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).
- 33. Mr. Sieber distributed an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).
- 34. Mr. Sieber publicly displayed an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).
 - 35. Mr. Sieber has willfully engaged in the copyright infringement of the Work.
- 36. Mr. Sieber's 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.
- 37. Unless Mr. Sieber is 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 Mr. Sieber of the Work, pursuant to 17 U.S.C. § 502.

SECOND CLAIM FOR RELIEF: VICARIOUS

COPYRIGHT INFRINGEMENT

- 38. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 37 above.
 - 39. Mr. Sieber directly profited from infringement of the Work.
- 40. Mr. Sieber has the right to stop or limit infringement of the Work by contributors to the Website, but has declined to meaningfully exercise that right.
- 41. Mr. Sieber's 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 Mr. Sieber is 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 Mr. Sieber 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 Mr. Sieber, and Mr. Sieber's officers, agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under Mr. Sieber, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;
- 2. Direct Mr. Sieber to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:
 - a. All evidence and documentation relating in any way to Mr. Sieber's use of the Work, in any form, including, without limitation, all such evidence and documentation relating to the Website;

- b. All evidence and documentation relating to the names and addresses (whether electronic mail addresses or otherwise) of any person with whom the Mr. Sieber has communicated regarding Mr. Sieber's use of the Work; and
- c. All financial evidence and documentation relating to Mr. Sieber's use of the Work;
- 3. Order the surrender to Righthaven of all hardware, software, electronic media and domains, including the Domain used to store, disseminate and display the unauthorized versions of any and all copyrighted works as provided for under 17 U.S.C. § 505(b) and/or as authorized by Federal Rule of Civil Procedure 64;
- 4. Award Righthaven statutory damages for the willful infringement of the Work, pursuant to 17 U.S.C. § 504(c);
- 5. Award Righthaven costs, disbursements, and attorneys' fees incurred by 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 Rule 38 of the Federal Rules of Civil Procedure. Dated this 6th day of May, 2011. SHAWN A. MANGANO, LTD. By: /s/ Shawn A. Mangano SHAWN A. MANGANO, ESQ. SHAWN A. MANGANO, ESQ. Nevada Bar No. 6730 shawn@manganolaw.com 9960 West Cheyenne Avenue, Suite 170 Las Vegas, Nevada 89129-7701 Tel: (702) 304-0432 Fax: (702) 922-3851 Attorney for Plaintiff Righthaven LLC