

Declaration of Jim Buckmaster

I, Jim Buckmaster, declare as follows:

1. I am the President and Chief Executive Officer of Plaintiff craigslist, Inc. ("craigslist"). I have been the President and Chief Executive Officer since 2000. I have personal knowledge of all facts set forth in this Declaration, and I am competent to so testify if called upon as a witness.

2. craigslist operates a popular Internet classified service used by tens of millions of Americans each month, generally free of charge, to find employment, housing, goods and services, friendship, romance, and local community information. Over 50 million Americans use craigslist each month, posting over 40 million classified ads in over 100 categories, generating over 20 billion page views per month. Although used overwhelmingly by well-intentioned, law-abiding citizens, like any means of communication, the craigslist website can be abused by third-parties in connection with crimes including prostitution, despite craigslist's best efforts to prevent such abuse.

3. craigslist originated in San Francisco, California, in 1995. It grew from an email list created by Craig Newmark to share information about events in and around the San Francisco Bay Area with his friends and co-workers. It has steadily gained in popularity and scope as a platform for free local classified ads and discussion forums.

4. craigslist incorporated in 1999. It remains headquartered in San Francisco.

5. craigslist has approximately thirty employees who work out of offices located in the Inner Sunset neighborhood of San Francisco. The computer servers on

which the craigslist website operates are located primarily in San Francisco and Phoenix, Arizona.

6. Today, the craigslist website – www.craigslist.org – is world renowned. It provides largely free, localized, online classified ads and discussion forums in over 570 cities in 50 countries worldwide, and it is one of the most visited websites in the world. It recently ranked 7th overall among internet companies in terms of English-language page views served.

7. The craigslist service is organized into separate websites dedicated to particular localities. Presently, craigslist maintains separate websites for more than 300 cities, towns and regions in the United States. There are six such websites for South Carolina — one each for Charleston, Columbia, Florence, Greenville/Upstate, Hilton Head, and Myrtle Beach. The classified ads and other postings available on craigslist are created entirely by the site’s users. In other words, the people who use the service write the material that they post.

8. Users have a choice of categories and subcategories on the website within which to post an ad or notice, including “community,” “personals,” “discussion forums,” “housing,” “for sale,” “services,” “resumes,” “events,” and “jobs.”

9. In general, users of craigslist do not pay to post ads or notices. The exceptions are (1) job ads in certain cities and broker apartment listings in New York City, for which a per-ad posting fee is charged; (2) ads in the recently terminated erotic services subcategory, for which craigslist, starting in late 2008, required a nominal fee charged to a valid credit card, a fee suggested to craigslist by law enforcement officials as

a way to further encourage compliance with site guidelines and to make it easier for law enforcement officials to identify and apprehend anyone misusing the service in connection with unlawful activity (with 100% of net revenues to be donated to charity); and (3) ads in the newly created adult services category, for which a fee of \$10 per posting is charged, again via valid credit card, to encourage compliance with site guidelines, for law enforcement tracking purposes, and to help defray the costs associated with this new category.

10. craigslist also provides a variety of topical discussion areas which comprise a national forum where users of craigslist throughout the world may participate in dialogues encompassing numerous topics of public interest.

11. The postings on the craigslist website may be viewed entirely for free by any person with Internet access.

12. All usage of craigslist is subject to craigslist's detailed Terms of Use, which are readily available to all users through prominently displayed links throughout the site. To post any ad, a user must first affirmatively declare his or her acceptance of these Terms of Use by clicking an "ACCEPT" button located below a full-text display of the agreement.

13. Among other things, these Terms of Use explicitly prohibit the posting or making available of any content that is "unlawful" or that "advertises any illegal service," including in particular "any offer or solicitation of illegal prostitution." The Terms of Use further explicitly prohibit posting of any material "that is pornographic or depicts a human being engaged in actual sexual conduct."

14. To promote compliance with its Terms of Use, craigslist employs various additional self-regulatory measures, including automated filters that block ads containing words or phrases that are associated with problematic content and a community flagging system that encourages users to “flag” inappropriate ads for removal. In addition, as described below, for certain particular categories, including the now-terminated “erotic” services subcategory and the newly-created “adult services” category, craigslist has implemented additional, targeted deterrent measures.

15. Until very recently, one of the “services” subcategories of the craigslist website was titled “erotic.” That subcategory was established several years ago at the request of craigslist users so that legal escort services, massage workers, exotic dancers, erotic phone lines and other services whose ads often contain adult content (and who also advertise in many other media outlets in South Carolina and elsewhere) would have a dedicated area in which to post their ads, and so that they would no longer post such ads in various other sections of the site.

16. Besides being common practice among all manner of classifieds services for decades, there are multiple advantages to having such a specially-zoned area for this class of lawful ads. Before the erotic services subcategory was established, craigslist users had been posting such ads to craigslist’s “personal” categories, to various other “services” categories, and to other sections of the website. Having a separate subcategory for such ads insulates those in the community who are not interested in reading them. It also allows craigslist to target special measures at persons who post ads

of this nature, in order to deter them from crossing the line between legal and illegal content.

17. Newspaper classifieds, alternative weeklies, the telephone yellow pages, and many other print media regularly feature escort and sensual massage ads similar to those on craigslist and have done so for decades.

18. Popular mainstream search engines with “image” search features, which, unlike craigslist, are intended for persons of all ages, can search the worldwide web and rapidly locate extensive graphic materials with explicit pornographic content. Further, such search engines typically host these images on their own servers, and then make them available to anyone typing in a relevant query, and in fact will sometimes serve up such images in response to queries that are wholly unrelated.

19. Over time, craigslist adopted a series of special measures to attempt to prevent misuse of its website for the purpose of posting ads to the site’s erotic services subcategory that violate craigslist’s Terms of Use. One of these measures was a detailed warning screen for the “erotic” subcategory. The warning screen required all users wishing to view the third-party content posted in this category to confirm that the following five items were true before being allowed access to the subcategory, as follows:

“Unless **all** of the following points are true, please use your “back” button to exit this part of craigslist:

- 1) I am at least 18 years old.
- 2) I understand ‘erotic services’ may include adult content.

- 3) I agree to flag as “prohibited” anything illegal or in violation of the craigslist terms of use. This includes, but is not limited to, offers for or the solicitation of prostitution.
- 4) I agree to report suspected exploitation of minors to the appropriate authorities. [This sentence included a “link” to contact information for the National Center for Missing & Exploited Children, National Human Trafficking Resource Center, National Child Exploitation Coordination Centre (Canada), and various law enforcement agencies in several different states.]
- 5) By clicking on the links below, I release craigslist from any liability that may arise from my use of this site.”

20. The warning screen for the now-terminated erotic services subcategory further stated, “Human trafficking and exploitation of minors are not tolerated - any suspected activity will be reported to law enforcement.”

21. Although craigslist as a whole is designed for adult users, the warning screen went on to state that “craigslist has implemented the PICS content labeling system to assist parents and others who may be interested in content filtering,” and provided a link to information about how to use such filtering.

22. In addition, in order to post any ad to the erotic services category, users were first required to read and affirmatively agree to a special set of guidelines. These guidelines read as follows:

**"YOU MUST OBSERVE THE FOLLOWING GUIDELINES
WHEN POSTING IN EROTIC SERVICES**

ADS IN VIOLATION OF THESE GUIDELINES OR OUR TERMS OF USE ARE SUBJECT TO REMOVAL WITHOUT REFUND

1. "Erotic Services," like all categories on craigslist, may be used only for advertising **LEGAL** services.

When using craigslist, you agree to abide by the craigslist Terms of Use, which forbid posting, emailing or otherwise making available content that is unlawful, obscene, or which advertises illegal services.

2. Do NOT suggest or imply an exchange of sexual favors for money – ads that do so are subject to removal without refund. . . .

3. Do NOT attempt to avoid detection of forbidden language by using spelling variations or text in images – ads that do so are subject to removal without refund. . . .

4. Do NOT include obscene images with your posting – ads containing obscene images are subject to removal without refund.

If you're not sure whether or not a particular image is obscene, do not post it.

If you are unable to follow these guidelines, do not post on craigslist.

Ads in violation of our Terms of Use or these guidelines are subject to removal without refund.

craigslist may supply information about your identity to law enforcement officers in response to legal subpoena.

I have read these guidelines and will abide by them – proceed with erotic services."

23. Beginning in March of 2008, craigslist has consulted extensively with U.S. state attorneys general, including South Carolina Attorney General Henry McMaster, as well as with other local law enforcement officials, concerning abuse of the craigslist website by persons attempting to solicit or offer prostitution. During such consultations, craigslist has repeatedly reaffirmed that it deplors such abuse and reiterated its continuing commitment to provide law enforcement officials with information upon appropriate request for the prosecution of persons engaging in and facilitating criminal activity.

24. In November 2008, craigslist voluntarily implemented still more special measures in an effort to deter wrongdoers from posting ads soliciting or offering prostitution in the erotic services subsection. These additional voluntary measures grew out of cooperative discussions between craigslist and representatives of 40 State attorneys general (including Mr. McMaster) and the National Center for Missing and Exploited Children (NCMEC) and were announced in a joint statement, dated November 6, 2008, that was signed by craigslist and 40 other State attorneys general, and NCMEC.

25. These additional special measures for the erotic services subcategory included the following:

A. Telephone Number Verification: In order to post in the “erotic” subcategory, a user was required to provide a working phone number. This phone number was verified by having craigslist systems automatically transmit a numeric code to the user via telephone call or text message to the telephone number provided by the user. To complete the posting process, the user had to type that numeric code into a form on the craigslist website. Thereafter, craigslist retained in its records such user-provided telephone number so that they could be (a) used by craigslist to block subsequent postings by users found to have violated the Terms of Use, and (b) made available to law enforcement personnel pursuant to proper legal process in conjunction with actual or suspected unlawful third-party conduct relating to particular postings.

B. Credit Card Verification: craigslist also required users to submit a valid credit card credential and pay a \$5 fee in order to post an ad in the “erotic” subcategory. craigslist kept this information on file as well so that it could be made available to law enforcement pursuant to proper legal process.

C. Keyword Filtering: craigslist also used electronic filtering to identify and block certain inappropriate words that it considered more likely to be associated with inappropriate postings to the “erotic” subcategory. During the week of April 23, 2009, keyword filters blocked 26% of ads submitted to the “erotic” subcategory in U.S. cities. craigslist voluntarily continued to develop, test and implement new technologies designed to identify and address attempts by abusive third parties to circumvent keyword filters.

26. In addition, in or about April of 2009, craigslist implemented measures to facilitate blocking inappropriate pornographic images from being posted to the erotic services subcategory in violation of its Terms of Use. These measures provided for preventing images that come to the attention of craigslist and found to be in violation of craigslist’s Terms of Use from being re-posted.

27. Based upon the measures that craigslist jointly announced with Mr. McMaster and other attorneys general, the overall number of ads that users posted to the erotic subcategory on the craigslist website for U.S. cities decreased by over 80%.

28. All of the foregoing measures directed at deterring abuse of the erotic services subcategory remained in effect until that subcategory was shuttered on May 12, 2009.

29. On May 12, 2009, craigslist voluntarily undertook still further measures to deter abuse of its website by persons posting ads in violation of its Terms of Use. In particular, on that date, craigslist announced and took the following steps:

A. craigslist immediately stopped accepting new postings to the erotic services subcategory on all portions of its website directed at localities within the United States, including the six local websites provided for areas in South Carolina. It further announced that the erotic services category would be terminated altogether within seven days (i.e., by May 20, 2009) after all ads previously posted to that subcategory reached their normal seven-day expiration date.

B. craigslist introduced and opened a new subcategory, called "Adult Services" within the services section of its local websites in the United States, including those for South Carolina. While this new subcategory operates with many of the special deterrent measures craigslist previously employed for the erotic services subcategory (including special warnings, automatic filtering mechanisms, telephone verification, and credit card verification), it also employs one key additional measure: Each new proposed posting to the Adult Services subcategory is manually reviewed

before it can appear on the website in order to ensure compliance with craigslist's posting guidelines and Terms of Use.

30. The cumulative effect of all of these measures has been dramatic, such that on May 18, 2009, for the "adult services" and soon-to-be-retired "erotic services" sections combined, across all cities in South Carolina, there were a total of 40 ads, all of which complied with our Terms of Use. That's 40 ads out of a total of 334,180 listed on craigslist's South Carolina websites. The rest of those 334, 180 ads comprise a thriving marketplace for South Carolinians, offering jobs, housing, automobiles, for sale items, local services, community information, event listings, and just about everything else they may need in their everyday lives.

31. Despite craigslist's numerous voluntary actions and extensive cooperation with the State attorneys general and other law enforcement agencies, all aimed at the common goal of curtailing third-party abuse of craigslist's website, Mr. McMaster has recently threatened, and at this moment is continuing to threaten, to prosecute craigslist and its management based on allegedly unlawful content that third parties have posted on the craigslist website.

32. In particular, Mr. McMaster's May 5, 2009 letter to me stated "please be advised that the craigslist management may be subject to criminal investigation and prosecution by this office if the portions of [craigslist's] site dedicated to South Carolina and its municipal regions and which contain categories for and functions allowing for the solicitation of prosecution and the dissemination and posting of graphic pornographic

material are not permanently removed on or before 5:00pm EST, the close of business Friday, May 15, 2009.”

33. As a practical matter, the only way for craigslist to assure compliance with Mr. McMaster’s demands would be to shut down completely all portions of its website dedicated to the State of South Carolina. This is so because Mr. McMaster has demanded that, in order to avoid criminal investigation and prosecution, craigslist must prevent third parties from posting ads or notices that may contain material Mr. McMaster has identified as illegal, and the only way to assure that such material is not posted would be to shut down entirely all portions of the site dedicated to the state of South Carolina.

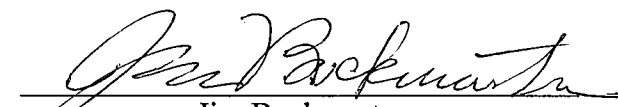
34. In fact, given the generally open architecture of the craigslist website, which open architecture is manifestly one of the greatest success stories across the entire Internet, and from which open architecture the people of South Carolina have greatly benefited and continue to benefit, it is possible today, despite craigslist's best efforts, for any person with Internet access, whether inside or outside of South Carolina, to create and successfully post to any category or subcategory available on the South Carolina portions of the website (other than the new adult services category, which is subject to manual review) an ad that solicits prostitution or contains a graphic pornographic image. Accordingly, the only way for craigslist to assure that material of that sort is not posted on the South Carolina craigslist websites would be to shut down those websites entirely.

35. The craigslist South Carolina websites provide a thriving free marketplace for South Carolinians in search of jobs, housing, automobiles, for sale items, local services, community information, event listings, and just about everything else they may

need in their everyday lives. Mr. McMaster is threatening to criminally prosecute craigslist if it does not shut down all services for South Carolina, so as to physically prevent local craigslist users or anyone else from posting an ad that he might allege to be illegal.

36. Given the specter of criminal prosecution of craigslist and its management arising from McMaster's threats, and given the persistence of those threats notwithstanding craigslist's recent announcement and implementation of new measures — including termination of the "erotic" subcategory and establishment of a new "adult services" category in which all postings are being subjected to advance manual review — craigslist is presently faced with the choice of either shutting down completely all portions of its website upon which the people of South Carolina depend for their everyday needs, or putting itself and its management at risk of criminal prosecution by Mr. McMaster.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and this Declaration is executed on May 19, 2009, in San Francisco, California.


Jim Buckmaster