

FILED IN UNITED STATES DISTRICT  
COURT, DISTRICT OF UTAH

APR 09 2010

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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

PUBLIC ENGINES, INC., a Delaware  
Corporation,

Plaintiff,

vs.

REPORTSEE, INC., a Delaware  
Corporation,

Defendant.

**COMPLAINT AND JURY DEMAND**

Case: 2:10cv00317  
Assigned To : Campbell, Tena  
Assign. Date : 4/9/2010  
Description: Public Engines v.  
Reportsee

Plaintiff Public Engines, Inc., through counsel, hereby complains of defendant  
ReportSee, Inc., and for cause of action alleges:

## **PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Public Engines, Inc. (“Public Engines”) is a Delaware corporation whose headquarters and principal place of business are located in Salt Lake County, State of Utah. Public Engines owns and operates a website called CrimeReports.com.

2. Defendant ReportSee, Inc. (“ReportSee”) is a Delaware corporation whose principal place of business is located in Baltimore, Maryland. ReportSee owns and operates a collection of websites and services related to crime information, including SpotCrime.com.

3. Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331. The Court has personal jurisdiction over ReportSee because, as alleged below, it has transacted business in Utah, contracted to supply services in this state, and caused injury in this state, all within the meaning of the Utah Long-Arm Statute, Utah Code Ann. §78B-3-205.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

## **NATURE OF THE ACTION**

5. Public Engines is a service provider to law enforcement agencies across the United States. It has developed a comprehensive suite of software and associated electronic services that enable law enforcement agencies to make available to the communities they serve incident-level crime reports in near real time. Its proprietary software, which is used in conjunction with the law enforcement agency’s dispatch and records systems, generates crime reports that are limited to information the agencies have determined may properly be publicly released. Public Engines’ employees and its software products then further refine that data so they can be displayed on Public Engines’ webpage, CrimeReports.com, thereby providing an “official” site from which members of the public can obtain this information for free. The information is presented in a unique format that enables members of the public to understand it. Public Engines currently employs more than 35 employees at its facilities in Draper, Utah. Over the last three years, Public Engines has invested more than \$3 million to develop, maintain, and license technology and supporting services.

6. ReportSee operates SpotCrime.com and other websites and services, which make commercial use of incident-level crime reports, though not in conjunction with law enforcement agencies. ReportSee claims that it gathers the information reported on its websites from various public sources. In reality, however, much of the information on SpotCrime.com and other of its websites has been misappropriated directly from CrimeReports.com. In 2008, Public Engines learned that ReportSee was misappropriating crime report data from CrimeReports.com using a “scraper” – an automated software tool that queries webpages, gathers data, and downloads them for subsequent use. ReportSee did so in violation of the explicit terms of use for CrimeReports.com, and in violation of federal and state law. After Public Engines demanded that ReportSee immediately stop, the latter confirmed in writing that it would do so, and for a time appeared to honor that commitment.

7. In late 2009, however, ReportSee surreptitiously resumed the misappropriation of data from CrimeReports.com using an automated scraper. When Public Engines modified its webpage so ReportSee’s computer could not access it, ReportSee changed to a different computer identified only by an IP address, which is effectively anonymous. Public Engines then attempted to deploy other technical measures and roadblocks to prevent ReportSee from misappropriating Public Engines’ data. Each time, however, ReportSee modified its scraper to circumvent Public Engines’ roadblocks. Despite its earlier commitment to refrain from scraping data from CrimeReports.com, ReportSee continued through March 2010 to misappropriate the information, and continues to display it on SpotCrime.com and perhaps other websites and through other services it maintains, and sell that information to third parties, all without the consent of Public Engines and its law enforcement customers.

8. ReportSee also has contacted Public Engines’ law enforcement customers and demanded that they provide ReportSee with the data created from Public Engines’ software programs. ReportSee has made unfounded claims that these agencies must disclose this information pursuant to public records access laws, and it has disparaged these agencies’

relationships with Public Engines, all in an effort to obtain information for free that Public Engines has developed at great expense. ReportSee also demands that agencies provide access to Public Engines' data, which the agencies may not technically or lawfully disclose under the terms of their agreements with Public Engines.

9. ReportSee's conduct must be stopped. By its deceptive conduct, ReportSee has demonstrated that it will not stop misappropriating data from CrimeReports.com unless and until a court orders it to do so. Public Engines therefore requests preliminary and permanent injunctive relief in this case. Additionally, by misappropriating this information and selling it to third parties, ReportSee has demonstrated the value of such information, and should be ordered to pay both compensatory and punitive damages to Public Engines.

### **FACTUAL BACKGROUND**

#### **A. Crime Report Data and Databases.**

10. Law enforcement agencies in the United States use a variety of sophisticated Computer Aided Dispatch Systems ("CAD") and Records Management Systems ("RMS") for the purpose of dispatching officers to the scene of crimes or accidents and for tracking all of the information related to those crimes or accidents. These CAD and RMS systems exist in a wide variety of forms and operate from disparate operating systems and platforms. The information contained in these CAD and RMS systems includes basic information about the type of crime involved and where it occurred, but also includes personal information about the victim, the specifics of the crime, details concerning the ongoing investigation, the identity of suspects, and other types of information that law enforcement agencies generally do not share with the public.

11. Law enforcement agencies have a keen interest in making available to the communities they serve current and accurate information about crimes and criminal activity in the communities they serve, balanced by their desire to maintain control over the information that is released to the public. At the same time, law enforcement agencies must ensure that certain types of information, such as information about suspects, victims, and on-going

investigations, remain strictly confidential. The CAD and RMS systems are designed for internal use by the law enforcement agency and do not to separate out confidential information that is unsuitable for public dissemination.

**B. Public Engines and Its CrimeReports.com Website.**

12. To assist law enforcement agencies in making important information and statistics available to the public, while at the same time protecting confidential information contained in the CAD and RMS systems, Public Engines developed its CrimeReports.com website and associated technology beginning in 2007.

13. At present, Public Engines has entered contracts with more than 800 law enforcement agencies nationwide. Public Engines provides these agencies a unique package of software and services that enables the agencies to make available incident-level (as opposed to statistical) crime data in near real time, on a publicly accessible, user-friendly website whose content is limited to information approved and controlled by the agencies themselves. This information is provided at no cost to the public, with no advertising.

14. Public Engines' package of software and associated services enable its clients' CAD and RMS systems to be queried so data may then be extracted in a designated manner, organized, processed, and optimized. Public Engines then displays the resulting information in a user friendly format on its CrimeReports.com website for access by the public.

15. Public Engines currently employs more than 35 employees at its facilities in Draper, Utah. Over the last three years, Public Engines has invested more than \$3 million to develop, maintain, and license technology and supporting services. In addition to developing its own unique software, Public Engines expends significant funds in licensing software from third parties for purposes of providing these services. For example, Public Engines licenses software from Google in order to geocode and permit crime report data to be displayed on interactive street-level maps for tens of millions of people throughout the nation.

16. As part of its agreements with Public Engines, each law enforcement agency pays a fee for the CrimeReports.com service, which includes a license to Public Engines' proprietary CrimeReports Publisher (the "Publisher") software. That software is installed on the agency's internal computer networks and interfaces with the agency's CAD and/or RMS systems. Public Engines' staff works directly with the technical staff of each law enforcement agency to customize queries and filters, and to parse technology, effectively creating a "wrapper" for the Publisher program to perform its tasks.

17. Once the installation and configuration are completed by Public Engines staff and the law enforcement agency, the Publisher program processes the data contained in those systems to organize them, separate them from confidential information, assign unique categories to the crimes reported as defined by Public Engines, and replace the exact street addresses with more general coordinates.

18. The resulting processed data, known as "De-Identified Data," are then sent electronically by the Publisher program itself to Public Engines' servers in Utah. The Publisher program repeats the process at least once in every 24-hour period. The agencies that license the Publisher and associated services from Public Engines do not have the right or technical ability to access the De-Identified Data that is sent by the Publisher to Public Engines servers in Utah. In fact, the De-Identified Data would not even exist without Public Engines' proprietary software. Under the terms of the license agreement between Public Engines and the law enforcement agency, and as part of the value exchange, the agency owns all of the data contained in the CAD and RMS systems, and Public Engines is required by contract to keep that information strictly confidential. Public Engines, on the other hand, owns the Publisher and associated services, as well as the De-Identified Data generated from the operation of the Publisher. The agency is prohibited from disclosing the intellectual property associated with the Publisher and associated services, as well as the De-Identified Data. A copy of Public Engines' Terms of Service is appended hereto as Exhibit 1.

19. After the De-Identified Data are sent to Public Engines' servers in Utah, they are further modified by Public Engines' CrimeReports.com application in order to enable it to be displayed in a user-friendly graphical form. The CrimeReports.com application scrubs the address using rules that Public Engines defines for each agency. The application then sends the processed data to Google for geocoding which, if successful, enables the placement of location icons on the CrimeReports.com map interface.

20. Ultimately, after going through all of these processes, the data (a) are limited to information that the law enforcement agency can properly disclose, (b) have been re-structured and re-formatted in a unique way, and (c) have been encoded with other data to permit it to be de-identified for public display and located on a map, searched, and accessed on CrimeReports.com. The computer servers that operate the CrimeReports.com website are located in Utah.

21. As part of its agreements with agency customers, Public Engines agrees to publish this information on CrimeReports.com for the benefit of the agency and the community. Pursuant to its agreements, CrimeReports.com does not add commentary to this data, does not charge a fee for anyone to use its site, does not advertise on its site, and does not solicit business from users of its site. It also agrees to keep the data up to date and accurate, satisfying the agency's desire to maintain a measure of control over what is presented to the public. As a result, CrimeReports.com is able to serve as an "official" crime information portal for the law enforcement agencies.

22. Users of CrimeReports.com click on a particular geographic area or neighborhood and the site displays a street level map. The map is populated with coded "pins" showing the locations of reported crimes and incidents. Clicking on a particular pin brings up a window that provides more specific information about the reported crime, including the date of the crime or incident and a general description. A log appears on the left side of the screen with an inventory of the crimes reported in the area; clicking on a particular crime then highlights a position on the

map where the crime occurred. Users may search for different types of crimes, over different time periods, in different areas. Users also may download an application to permit access to this information on mobile phones. Users may also access the data on approved third party websites through a “widget”.

23. Without Public Engines’ technology, few law enforcement agencies would be able to make this information available in this form. To do so, they would be required to develop technology like the Publisher, in which Public Engines has devoted substantial time and resources, and would be required to employ computer programmers and other employees to process and geocode the information, and then maintain a website on which the information could conveniently be displayed.

24. Anyone is free to access the information on CrimeReports.com, provided they comply with the website’s Terms of Use. Those Terms of Use provide that individuals may access the site for their own personal, non-commercial use, and businesses may access the website for the business’s internal business use. Users are not permitted to use the site for unauthorized commercial purposes or for commercial communications; they are expressly prohibited from collecting information or data from the site by automated means. Users may not sell CrimeReports.com data to third parties. The requirements for use of the website are set forth in the Terms of Use for CrimeReports.com, a copy of which is appended hereto as Exhibit 2 and incorporated by this reference.

**C. ReportSee and Its SpotCrime.com Website.**

25. ReportSee also operates a website that purports to provide information about crimes in various communities in the United States, Spotcrime.com. Like CrimeReports, SpotCrime displays that information on a map. Like CrimeReports, particular crimes are displayed with a “pin” coded to represent different types of crimes; and dragging a cursor over a particular pin displays additional information about the crime. SpotCrime.com also offers a mobile application and a “widget” that allows the data to be displayed on third party websites.



26. Unlike CrimeReports, however, SpotCrime.com is not an official crime information site for law enforcement agencies. Instead, SpotCrime.com sometimes adds editorial commentary to crime reports, advertises for products and services on its website, and is generally geared toward providing media outlets, like television stations, with crime report information. Law enforcement agencies have no ability to control the content of the data that appear on SpotCrime.com and no ability to ensure that information is accurate. SpotCrime.com includes data collected from non-official sources and provides commentary and criticism on the data it displays.

27. ReportSee has entered into contracts with news or media organizations to provide this crime mapping data to them for a fee. ReportSee has entered into such contracts with one or more news or media outlets in Utah. Specifically, ReportSee has entered contracts with Newport Television's affiliate ABC4 TV, pursuant to which ReportSee sells the content contained on SpotCrime.com. The website for ABC4 TV contains a link to SpotCrime.com and a "widget" provided by SpotCrime.com.

28. ReportSee claims that it obtains the information displayed on the SpotCrime website by employing persons who read news accounts and police blotters and monitor police scanner traffic. ReportSee claims that its users submit information regarding crimes as well. According to ReportSee, its employees then identify the longitude and latitude of the incident to plot its location on a map.

29. Public Engines is informed and believes, however, that in reality, SpotCrime.com obtains much of the information displayed on its webpage by misappropriating it from Public Engines. ReportSee routinely "scrapes" the information from CrimeReports.com, as explained below. In other words, much of the data that appear on SpotCrime.com, including data that ReportSee sells to media outlets, have been misappropriated from CrimeReports.com.

**D. ReportSee's Scraping of Data from CrimeReports.com.**

30. Web scraping is a computer software technique used to extract information from websites. Among other methods, scraping software programs are designed to mimic a human user operating a web browser to gain access to the website. The program then collects and downloads, or scrapes, the information displayed on the webpage for later use.

31. The Terms of Use for CrimeReports.com state that users shall not "collect content or information, or otherwise access any Public Engines Sites, using automated means (such as harvesting bots, robots, spiders, or scrapers) or by bypassing the site's user interface without our permission...."

32. Like most websites, CrimeReports maintains an automated log of users who access the website. This log includes the Internet Protocol ("IP") address of all computers that are used by users who access the website. The log also includes information about what information in particular was accessed and when.

33. Beginning in the spring of 2008, Public Engines noticed an unusual pattern of user activity on CrimeReports.com. Upon investigation, Public Engines discovered that its crime report information was being systematically scraped.

34. Public Engines also received a complaint from one of its customers that the data it was providing to Public Engines were showing up on the SpotCrime.com website. The customer demanded to know why the information it understood was being sourced and improved by Public Engines was being displayed on a different, unauthorized website.

35. The IP address for the computer that was scraping its site was 208.109.126.144. By typing the IP address into a browser, the site that loaded was "spotcrime.com." In this way, Public Engines determined that the user associated with that IP address was "spotcrime.com." Public Engines also determined that this scraping started around March 19, 2008, if not earlier, and continued through early June 2008.

36. On June 16, 2008, Public Engines, through its attorney, sent a letter to ReportSee demanding that it immediately cease and desist from any scraping of CrimeReports.com website. Among other things, Public Engines specifically advised ReportSee that scraping was a violation of the Terms of Use of the CrimeReports.com website. A copy of that letter is appended hereto as Exhibit 3 and incorporated by this reference.

37. In response, ReportSee's attorney contacted Public Engines' attorney, first by voice mail and later by email, and confirmed that ReportSee would immediately cease any scraping of the CrimeReports.com website. A copy of the email dated June 30, 2008 from ReportSee's counsel to Public Engines' counsel is appended hereto as Exhibit 4 and a transcription of the voice mail is appended hereto as Exhibit 5.

38. After that exchange, ReportSee's scraping of CrimeReports.com appeared to be temporarily suspended.

**E. ReportSee's Interference with Public Engines' Customers.**

39. ReportSee, however, then resorted to other methods to obtain Public Engines' proprietary information. ReportSee began contacting Public Engines' agency customers demanding that they provide the data feed from Public Engines' Publisher software directly to ReportSee.

40. Starting in the spring of 2009 and continuing to the present, ReportSee has repeatedly contacted at least 30 different law enforcement agencies who are customers of Public Engines, including the Salt Lake City Police Department, the Salt Lake County Sheriff's Office and the Utah Attorney General's office and demanded that they provide ReportSee with the De-Identified Data that constitutes the output of the Publisher program from the agencies.

41. In making these demands, ReportSee has insisted that it is entitled to this information on an ongoing basis under public records access laws when, in fact, those laws do not require the agencies to provide this information. They have demanded that the agencies provide this information even though the agency does not have the technical capability to do so,

and reverse engineering of the Publisher program to accomplish this would be a breach of the agency's license agreement with Public Engines. ReportSee also has threatened to sue some of the agencies if they do not provide the requested information.

42. ReportSee stepped up these demands in the fall of 2009. Public Engines received complaints from its customers about these contacts, and Public Engines has been required to devote substantial time and resources to managing these complaints from its customers. Some agencies have advised Public Engines that ReportSee has threatened to sue them to get access to this information; some have reported that they have had to obtain legal counsel in order to respond to ReportSee's demands. At least one Public Engines customer terminated its agreement as a result of ReportSee's demands.

43. In October 2009, Public Engines' Chief Executive Officer, Greg Whisenant, contacted ReportSee's CEO, Colin Drane, to discuss ReportSee's inappropriate contacts with Public Engines' customers and interference with Public Engines' business. Public Engines advised ReportSee that these contacts were seriously injuring Public Engines' business relationships and that Public Engines had lost at least one customer as a result of them. Public Engines explained that the data ReportSee was demanding were unique to Public Engines, were not publicly available, and were not something the agencies could provide through use of the Publisher program. Public Engines also advised ReportSee that the agency was not required to disclose this data under public records laws or otherwise.

44. Mr. Drane acknowledged that ReportSee had made these contacts to obtain Public Engines' information, and that ReportSee would pursue all means to get it. Mr. Drane ultimately told Public Engines that ReportSee would not desist from contacting Public Engines' customers would not stop using the tactics it had been using, and that Public Engines should "do what you need to do" and hung up the phone. Following this phone call, Public Engines' attorney sent a letter to Mr. Drane demanding that ReportSee stop interfering with Public Engines' business relationships, but Mr. Drane did not respond.

45. Public Engines continues to receive complaints from its customers about harassment from ReportSee and demands it is making to obtain the data extracted and uniquely improved by Public Engines as part of its contractual services for its customers.

**F. ReportSee's Resumption of Scraping.**

46. In early December 2009, Public Engines again noticed unusual activity on the CrimeReports.com website and determined that ReportSee had again started scraping data. Starting at least as early as December 2009, ReportSee again deployed an automated scraper to collect crime data from CrimeReports.com. The scraper used by ReportSee is designed to mimic a web browser's interaction with the website.

47. Since that time, nearly every day at around 1:00 a.m. Mountain Time, ReportSee scrapes CrimeReports.com. The scraper operates by making a series of orderly, electronic requests for information contained within a particular rectangular geographic area defined by longitude and latitude, followed by another request for an adjacent rectangular area, and so on until all of the information sought by ReportSee has been downloaded and saved by ReportSee.

48. Initially, the IP address for these requests was 208.109.126.144, which is an IP address for SpotCrime.com. In an effort to prevent SpotCrime.com from scraping this data, Public Engines modified the CrimeReports.com website and associated firewalls and routers to prevent that IP address from accessing CrimeReports.com.

49. ReportSee quickly circumvented this measure by using a new IP address, 174.129.243.60. That IP address did not resolve directly to "spotcrime.com." After further investigation, however, Public Engines determined that the new IP address belonged to "SpotCrime.com," as shown in the screen capture annexed as Exhibit 6. Using this new IP address, ReportSee continued to scrape CrimeReports.com.

50. Public Engines took additional steps to verify that the address was associated with ReportSee and to establish that ReportSee was using data taken from CrimeReports.com. Public Engines' seeded its official De-Identified data with dummy crime reports in various locations.

After the scraping occurred, Public Engines then examined SpotCrime.com and found each of these dummy reports posted on ReportSee's SpotCrime.com webpage the next day.

51. Public Engines has continued to employ various technical measures to prevent ReportSee from scraping the data. And while there are a variety of technical measures that can be deployed to prevent scraping of a website, those measures are necessarily limited. Because the most recent versions of ReportSee's scraper poses as a computer using a browser, it has become increasingly difficult to distinguish it from a legitimate user. As Public Engines takes increasingly aggressive technical steps to prevent ReportSee's scraper from accessing its website, there is an increased risk that its actions will also eliminate the general public's ability to access the site, in a user friendly manner.

52. To date, Public Engines has deployed a series of escalating technical measures to stop ReportSee's scraper. While some of these have worked temporarily, ReportSee on each occasion has modified its scraper to circumvent each of these measures. Through the placement of dummy reports and other technical measures, Public Engines has been able to confirm that the scraper is being operated by ReportSee. ReportSee has made it abundantly clear that it will not stop scraping CrimeReports.com unless a Court enjoins it from doing so.

**G. ReportSee's False Representations to the Public.**

53. ReportSee claims that it obtains the information displayed on the SpotCrime website from police departments, news reports, and other third party sources. ReportSee has publicly stated that it draws 90% of its data from local police records and in cities where that information is not released, ReportSee gathers the crime reports from local news sources.

54. ReportSee also claims that its own employees plot the locations of crime reports on Google maps to permit them to be displayed.

55. These statements, and others, are false and are known by ReportSee to be false. ReportSee does not draw all of its crime report information from local police or news sources.

Instead, ReportSee misappropriates much of this information from CrimeReports.com, its competitor, through the daily scraping of the CrimeReports.com website.

56. ReportSee's claim that its employees plot locations of crime reports on Google maps to permit them to be displayed is equally false. ReportSee scrapes from CrimeReports.com not only the reports themselves, but also the embedded geocoding created under contract between Google and Public Engines that permits the crimes to be displayed on Google maps.

57. Having falsely represented the sources and origin of its data, and presumably its intellectual property rights to distribute this data, ReportSee then sells that data to third parties through agreements with media companies. ReportSee has recently announced a transaction with DirecTV, called "Crime Reports," pursuant to which ReportSee apparently will make this misappropriated data available to DirecTV subscribers. It also has announced recent transactions with a number of other media companies. Upon information and belief, ReportSee intends to make available to these new customers crime report data that it represents has been developed by it when, in reality, much of that information has been misappropriated from CrimeReports.com.

### **FIRST CLAIM FOR RELIEF**

#### **(Computer Fraud and Abuse Act)**

58. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

59. ReportSee has intentionally accessed a computer or a computer server owned by or under the control of Public Engines.

60. ReportSee also has knowingly or intentionally transmitted a program, code or command to a Public Engines computer or server.

61. ReportSee's access to Public Engines' computer or server has been without authorization. To the extent ReportSee had authorization to access the computer or server, ReportSee has exceeded the authorization granted.

62. ReportSee has done so with the intent to defraud or otherwise commit wrongdoing and for the purposes of obtaining information from Public Engines' computer or server, and has obtained information from Public Engines' computer or server.

63. The Public Engines' computers and servers from which this information has been obtained are connected to the internet and used in interstate commerce.

64. Public Engines has suffered damage or loss exceeding \$5,000.00 in aggregate value in a one year period as a result of such access. These damages or losses include, without limitation, the costs of responding to and monitoring ReportSee's unauthorized access, conducting damage assessments, and undertaking various measures to attempt prevent ReportSee's unauthorized access.

65. Pursuant to 18 U.S.C. § 1030(g), Public Engines is entitled to damages in an amount to be established at trial together with injunctive and other equitable relief.

## **SECOND CLAIM FOR RELIEF**

### **(Breach of Contract)**

66. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

67. Public Engines' Terms of Use constitute a legally binding and valid contract applicable to ReportSee and any other user of CrimeReports.com.

68. ReportSee is aware of and assented to the terms of this contract by, among other things, accessing the CrimeReports.com website. The Terms and Conditions for use of CrimeReports.com appear as a link on every page in the website. The Terms and Conditions are also embedded directly in the data stream that is accessed and downloaded by the ReportSee scraper. In addition, Public Engines specifically advised ReportSee of its obligations under the Terms and Conditions in a demand letter sent to ReportSee and in telephone communications with ReportSee's chief executive officer. SpotCrime.com, itself, contains its own Terms and Conditions of use, as do most websites.



69. ReportSee has breached the terms of this contract by, among other things, making commercial use of the data contained on CrimeReports.com, copying and modifying the data contained on CrimeReports.com for its own business purposes, and employing an automated scraper to obtain information from CrimeReports.com.

70. Public Engines has been damaged and harmed by ReportSee's breach of contract in an amount to be determined at trial.

71. Additionally, by assenting to the Terms of Use, ReportSee has agreed to the entry of preliminary and permanent injunctive relief.

### **THIRD CLAIM FOR RELIEF**

#### **(Utah Anti-Cyberterrorism Act)**

72. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

73. ReportSee has repeatedly and willfully communicated, delivered, or caused to be communicated or delivered, a computer program, code, or command to Public Engines' CrimeReports.com website, in the form of an automated scraper.

74. ReportSee has done so without the authorization of Public Engines. ReportSee also has accessed the CrimeReports.com website in a manner that is inconsistent with or exceeds the authorized means and manner of access for that website.

75. ReportSee has done so for the purposes of obtaining from CrimeReports.com intellectual property in the form of data scraped by ReportSee from the CrimeReports.com website.

76. ReportSee's conduct has led to a material diminution in the value of Public Engines' intellectual property. ReportSee also has caused Public Engines to suffer irreparable harm.

77. Public Engines is entitled to preliminary and permanent injunctive relief, to an award of damages in an amount to be established at trial, punitive damages, and its attorneys' fees and costs pursuant to Utah Code Ann. § 13-5a-103(1)(b).

**FOURTH CLAIM FOR RELIEF**

**(Lanham Act – False Advertising)**

78. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

79. ReportSee's SpotCrime.com website is a competitor of Public Engines' CrimeReports.com website.

80. ReportSee has made material false or misleading statements in connection with the commercial advertising or promotion of its SpotCrime.com website, in violation of provisions of 15 U.S.C. § 1125(a) of the Lanham Act.

81. ReportSee has made these statements in interstate commerce.

82. The representations and statements by ReportSee are likely to cause confusion or mistake as to the origin, association, or approval of ReportSee's products or services, or the characteristics of those goods or services.

83. ReportSee has caused and continues to cause damage to Public Engines. ReportSee's conduct also has Public Engines to suffer caused irreparable harm.

84. Public Engines is therefore entitled to a preliminary and permanent injunction and to an award of damages in an amount to be determined at trial.

**FIFTH CLAIM FOR RELIEF**

**(Hot News Misappropriation)**

85. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

86. Public Engines gathers crime data from law enforcement agencies across the United States through its contracts with those agencies. Public Engines has devoted substantial

time and resources in developing and maintaining the technology to enable it to do so and to display that information in a user friendly form. It has also spent considerable time and resources developing and maintaining relationships with individual agencies to allow it to do so.

87. The information Public Engines gathers is time sensitive. One of the main purposes of the CrimeReports.com website is to make information about crimes available in near real time.

88. By scraping this data from CrimeReports.com, ReportSee obtains this same information for use by it in near real time, thereby free-riding on Public Engines' investment.

89. ReportSee's SpotCrime.com website competes with CrimeReports.com for the service of providing near real time crime reports to the public. It also competes with Public Engines in selling that information to news media outlets.

90. If ReportSee and others are permitted to free-ride on the substantial efforts undertaken by Public Engines to make this information available, it will reduce Public Engines' incentive to produce this product or service, and the existence or quality of the information reported on CrimeReports.com will be substantially threatened.

91. ReportSee has caused and continues to cause damage to Public Engines. ReportSee's conduct also has Public Engines to suffer caused irreparable harm.

92. Public Engines is therefore entitled to a preliminary and permanent injunction and to an award of damages in an amount to be determined at trial.

### **SIXTH CLAIM FOR RELIEF**

#### **(Interference with Contract)**

93. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

94. Public Engines has an existing contractual relationship with its customer law enforcement agencies.

95. ReportSee is aware or reasonably should be aware of the existence of these contracts.

96. ReportSee has intentionally and unjustifiably interfered with these contracts through improper means and with an improper motive. ReportSee has, among other things, solicited Public Engines' customer agencies in an effort to persuade them to violate what ReportSee knows or reasonably should know to be the agencies' contractual obligations. In addition, ReportSee has knowingly misrepresented to the agencies their obligations under the law. And ReportSee has engaged in deceptive conduct, as explained herein. ReportSee has done all of this with the goal and intent of obtaining proprietary information belonging to Public Engines, and then using that information for its own personal gain and to compete with Public Engines.

97. ReportSee's conduct has damaged Public Engines' relationships with its customers and harmed its business reputation. ReportSee's conduct also has resulted in irreparable harm to Public Engines' relationships with its customers and its business in general.

98. Public Engines is therefore entitled to preliminary and permanent injunctive relief and to damages in an amount to be determined at trial.

#### **SEVENTH CLAIM FOR RELIEF**

##### **(Preliminary and Permanent Injunction)**

99. Public Engines incorporates by this reference the preceding allegations of the Complaint as if fully set forth herein.

100. ReportSee has engaged in and continues to engage in conduct that has caused and will continue to cause Public Engines to suffer immediate and irreparable harm.

101. An injunction preventing ReportSee from scraping data from CrimeReports.com and interfering with Public Engines' customers will not cause ReportSee any injury or harm. To the extent it does cause ReportSee any injury or harm, that harm is outweighed by the harm to Public Engines of allowing ReportSee's conduct to continue.

102. The issuance of an injunction preventing ReportSee from scraping data from CrimeReports.com and interfering with Public Engines' customers is not adverse to the public interest.

103. There is substantial likelihood that Public Engines will prevail on its claims that ReportSee's conduct is improper and unlawful.

104. Public Engines is therefore entitled to a preliminary and permanent injunction restraining ReportSee and its officers, directors, employees and agents, from (a) accessing or making any commercial use of the De-Identified Data generated from Public Engines' Publisher software; (b) making any commercial use whatsoever of any information from CrimeReports.com including, without limitation, crime reporting data that appears or has ever appeared on its website or on associated "widgets" and other services, and (c) contacting or communicating with any of Public Engines' customers for the purpose or with the result of interfering with Public Engines contractual relationships with those customers or misrepresenting the agencies' obligation to provide this data under open records laws. Public Engines is also entitled to an order directing ReportSee to permanently delete from its collection of websites, including SpotCrime.com, all information previously misappropriated from Public Engines, and to contact all third parties to whom this data has been provided, demanding that the information be permanently deleted.

WHEREFORE, Public Engines prays for relief and demands judgment against ReportSee as follows:

(a) On its First Cause of Action, for preliminary and permanent injunctive relief, for damages in an amount to be determined at trial, and for costs and attorneys' fees incurred herein;

(b) On its Second Cause of Action, for preliminary and permanent injunctive relief and for damages in an amount to be determined at trial and for attorneys' fees and costs incurred herein;

(c) On its Third Cause of Action, for preliminary and permanent injunctive relief, for damages in an amount to be established at trial, punitive damages, and its attorneys' fees and costs pursuant to Utah Code Ann. § 13-5a-103(1)(b);

(d) On its Fourth Cause of Action, for preliminary and permanent injunctive relief and for damages in an amount to be determined at trial;

(e) On its Fifth Cause of Action, for preliminary and permanent injunctive relief and for damages in an amount to be determined at trial;

(f) On its Sixth Cause of Action, for preliminary and permanent injunctive relief and for damages in an amount to be determined at trial;

(g) On its Seventh Cause of Action, a preliminary and permanent injunction restraining ReportSee and its officers, directors, employees and agents, from (a) accessing or making any commercial use of the De-Identified Data generated from Public Engines' Publisher software; (b) making any commercial use whatsoever of any information from CrimeReports.com including, without limitation, crime reporting data that appears or has ever appeared on its website or on associated "widgets" and other services, and (c) contacting or communicating with any of Public Engines' customers for the purpose or with the result of interfering with Public Engines contractual relationships with those customers or misrepresenting the agencies' obligation to provide this data under open records laws; and further directing ReportSee to permanently delete from its collection of websites, including SpotCrime.com, all information that was previously misappropriated from Public Engines and contacting all third parties to whom this data has been provided, directing them to permanently delete this data.

(h) On each Cause of Action, for an award of costs and attorneys' fees incurred herein; and

(i) On each Cause of Action, for such other and further relief as the Court deems appropriate in the circumstances.

**JURY DEMAND**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Public Engines hereby demands a jury on all issues triable to a jury.

DATED this 9th day of April, 2010.

Snell & Wilmer L.L.P.

A handwritten signature in black ink, appearing to read 'A. Sullivan', written over a horizontal line.

Alan L. Sullivan  
Todd M. Shaughnessy  
Attorneys for Plaintiff

Plaintiff's address:  
Public Engines, Inc.  
Crime Reports  
11781 South Lone Peak Parkway, Suite 200  
Draper, UT 84020





PUBLIC ENGINES, INC.

## **TERMS OF SERVICE**

This Terms of Service agreement (the "Agreement") is between Public Engines, Inc. ("Public Engines") and the entity or organization ("Customer") named on one or more Order Forms (as defined below) for purchasing various Licensed Products and associated support or other professional services from Public Engines, including, but not limited to, certain computer programs, documentation, and other proprietary material that belong to Public Engines and its suppliers (collectively, "the Services"). Customer's use of the Services is subject to Customer's acceptance of the terms and conditions of this Agreement.

PLEASE READ THIS AGREEMENT CAREFULLY. BY CHECKING THE BOX INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, AND: 1) CLICKING SUBMIT; OR, 2) SIGNING THE ORDER FORM, OR OTHERWISE ACCESSING OR USING THE SERVICES. THE PERSON PERFORMING SUCH ACTION (THE "INSTALLER") REPRESENTS AND WARRANTS THAT HE/SHE: (I) HAS READ THIS AGREEMENT AND UNDERSTANDS IT; AND, (II) IS AUTHORIZED TO ENTER INTO THIS AGREEMENT ON BEHALF OF CUSTOMER AND BIND CUSTOMER TO THE TERMS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO ANY OF THE TERMS BELOW, OR INSTALLER DOES NOT HAVE THE REQUISITE AUTHORITY TO ENTER INTO THIS AGREEMENT, THEN PUBLIC ENGINES IS NOT WILLING TO GRANT A LICENSE TO USE THE SERVICES TO CUSTOMER, AND THE INSTALLER SHOULD CLICK ON THE "CANCEL" BUTTON AND MUST NOT ACCESS OR USE THE SERVICES.

1. BACKGROUND. Public Engines has developed Services (as further described below). Customer wishes to utilize the Services, and Public Engines desires to make the Services available to Customer subject to the following terms and conditions. In connection with this Agreement, Customer shall execute one or more Public Engines order forms that will contain provisions regarding fees, payment process, and other business terms (the "Order Form"). Once executed by the parties, any Order Form becomes part of this Agreement, and is incorporated by reference herein.

2. DEFINITIONS. All definitions below or elsewhere in this Agreement apply to both their singular and plural forms, as the context may require. The terms "herein", "hereunder", and "hereof" and similar expressions refer to this Agreement. Notwithstanding anything to the contrary express or implied herein, all references in this Agreement to the "sale" or "purchase" of software or Intellectual Property (defined below) shall only mean the sale or purchase of a license or sublicense, as the case may be, to use such software or Intellectual Property pursuant to this Agreement. Capitalized terms shall have the meanings set forth in this Section 2, or in the section where they are first used.

- 2.1 Administrator means Customer's designated system administrator who receives administrative logins for the Services and issues access rights to Customer's Users.
- 2.2 Customer Data means Customer's data that is provided by Customer to Public Engines hereunder to be processed via the Services.
- 2.3 De-Identified Data means a copy of the Customer Data that has been incorporated into Public Engines' Systems, modified to remove the following information with respect to any particular victim, suspect, witness, officer or perpetrator: names, specific street addresses, criminal histories or arrest or investigative information.
- 2.4 Documentation means the technical materials provided by Public Engines to Customer in hard copy or electronic form describing the use and operation of the Software, including any technical manuals, but excluding any sales, advertising or marketing materials or proposals.
- 2.5 Effective Date is the "Effective Date" as indicated on the first Order Form executed by Customer, or as explicitly amended in writing by the parties hereto thereafter.
- 2.6 Error means a failure of the Software to substantially conform to the Documentation that is reported to Public Engines by Customer and which Public Engines can replicate.
- 2.7 Error Corrections means bug fixes or workarounds intended to correct Errors in the Software and provided by Public Engines to Customer.
- 2.8 Fees has the meaning set forth in Section 6.
- 2.9 Help Resources means any resources, including online guides, documentation, tutorials or other services, which may be provided by Public Engines hereunder to support the System.
- 2.10 Intellectual Property or Intellectual Property Rights means any and all now known or hereafter existing: (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout-design rights, design rights, and other proprietary rights of every kind and nature; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.
- 2.11 Licensed Products means the various Software (whether hosted or installed at Customer's site), including, as applicable, the Documentation, proprietary CrimeReports Publisher, associated user interfaces, Help Resources (as defined above), and any related technology or other services Public Engines makes available via the System (as defined below) and the Internet, and all Updates and Upgrades thereto, if any, all as further described in the Order Form(s).
- 2.12 Software means the software programs delivered as part of the Licensed Products, and all Updates and Upgrades thereto, if any.
- 2.13 Supported Environment means the minimum hardware, software, and connectivity configuration specified from time to time by Public Engines as required for use of the Services. The current requirements are detailed online at [www.crimereports.com/requirements](http://www.crimereports.com/requirements).
- 2.14 System means, collectively, the Software, servers and any other hardware or equipment operated by Public Engines and used in conjunction with the Services.
- 2.15 Term has the meaning given in Section 7.1.

2.16 Updates means Error Corrections, and improvements or additions to the Software that Public Engines may make available to Customer from time to time. Updates do not include Upgrades and will not result in the payment of additional fees by the Customer.

2.17 Upgrades means improvements or enhancements that add new features or substantial additional functionality to the Software which Public Engines determines, in its sole discretion, to provide to Customer subject to the payment of additional license fees and/or agreement on alternative licensing terms as approved by the Customer.

2.18 Users means Customer's employees who are authorized to utilize the Services and who will be provided access to the Services by virtue of a password or the equivalent thereof. Users may be required to acknowledge and accept terms of use as a condition to and prior to access or use of Services. Users do not include any of Customer's independent contractors, agents, consultants, former employees, or any other individuals that are not current employees of Customer under applicable law.

### 3. INTELLECTUAL PROPERTY.

3.1 License Grant. Subject to the terms and conditions of this Agreement, Public Engines grants to Customer a limited, non-exclusive, non-transferable, revocable license during the Term, solely for Customer's internal business purposes and in accordance with the limitations set forth in the Order Form(s), (a) to use, perform, and digitally display the Software solely as required for use of the Services and in accordance with the Documentation; (b) to access, display, search, analyze, reformat, download, and print reports of any results generated by the authorized use of the Software solely as provided through the Services, and once downloaded, to modify the downloaded results for analysis purposes; and (c) to use and reproduce a reasonable number of copies of the Documentation solely to support Customer's use of the Services.

3.2 Usernames and Passwords. Public Engines will provide each User a unique username and password to enable such Users to access the Licensed Products pursuant to this Agreement. As applicable to certain Licensed Products, Public Engines may alternatively provide an Administrator with a unique username and password, which such Administrator will use to create and issue additional unique usernames and passwords for Customer's additional Users. Public Engines reserves the right to change or update these username and passwords in Public Engines' sole discretion from time to time, with notice to Customer. Each username and password may only be used to access the Licensed Products during one (1) concurrent login session. Customer acknowledges and agrees that only Users are entitled to receive a username and password and to access the Services. Customer will provide to Public Engines information and other assistance as necessary to enable Public Engines to establish usernames for Users, and Customer will verify all User requests for account passwords. Customer will ensure that each username and password issued to a User will be used only by that User. Customer is responsible for maintaining the confidentiality of all Users' usernames and passwords, and is solely responsible for all activities that occur under these usernames. Customer agrees (a) not to allow a third party to use its account, usernames or passwords at any time, and (b) to promptly notify Public Engines customer support in writing of any actual or suspected unauthorized use of its account, usernames or passwords, or any other breach or suspected breach of the obligations contained in this Section 3. Public Engines reserves the right to terminate any username and password which Public Engines reasonably determines may have been

used by an unauthorized third party or by any User or individual other than the User to whom such username and password was originally assigned.

3.3 Restrictions on Use. Customer acknowledges that the Services, the structure, organization and source code of the foregoing, and the selection, compilation, and analysis of all data in the Licensed Products constitute valuable Intellectual Property of Public Engines. Customer agrees that it will not, and will not permit any User or other third party to: (a) permit any third party to access the Licensed Products or use the Services, other than the Users authorized under this Agreement; (b) modify, adapt, alter or translate the Services, except as expressly allowed herein; (c) sublicense, lease, rent, loan, distribute, or otherwise transfer the Services to any third party; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Services; (e) use or copy the Services (including any Documentation) except as expressly allowed under this Section 3; or (f) disclose or transmit any data contained in the Services to any individual other than a User, except as expressly allowed herein. The copyright and all other Intellectual Property Rights in the Services are the sole and exclusive property of Public Engines or its suppliers. Customer acknowledges that the Services are extremely valuable, are confidential and proprietary to Public Engines, and have been compiled by Public Engines through the expenditure of considerable time, effort and expense. Customer shall prevent the disclosure, dissemination, copying and use of the Licensed Products or any portion thereof in violation of the terms of this Agreement. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Services, or any part thereof, including any right to obtain possession of any source code, data or other technical material relating to the Services. All rights not expressly granted to Customer are reserved to Public Engines.

4. DELIVERY, INSTALLATION, ACCEPTANCE. Public Engines will make the Services available to Customer via an online user interface within five (5) business days after the Effective Date. The Licensed Products will be deemed accepted upon the delivery of usernames and passwords to Customer as set forth in Section 3.2, provided that such acceptance will not affect the warranties in Section 9. If usernames and passwords have been issued to Customer prior to the Effective Date, the Licensed Products will be deemed accepted on the Effective Date. Customer shall provide the Customer Data to Public Engines in the form and format specified by Public Engines, or as otherwise agreed upon by the parties. From time to time during the Term, Customer may provide Public Engines with updates to the Customer Data (which may include revised data files or directions regarding corrections of inaccuracies and/or required deletions) as Customer deems appropriate; whereupon Public Engines will use reasonable efforts to promptly implement Customer's requested changes and update the appropriate Public Engines' database(s) accordingly. Additional charges may apply when Public Engines' staff time is required for such corrections.

5. SUPPORT. Subject to Customer's payment of the Fees (as defined in Section 6), Public Engines will provide commercially reasonable support services for the Services as specified in the Order Form(s).

6. PAYMENT. Customer will pay to Public Engines the fees set forth in the Order Form(s) ("Fees"). In the event the number of Customer's employees exceeds the maximum number of Users for the organization size set forth in the Order Form(s) for which Fees have been paid, Customer shall be required to pay additional fees associated with the increased organizational size, prorated for the remainder of the Term. Except as otherwise provided in the Order Form(s), all Fees and other charges are due and payable to Public Engines within thirty (30) days after the date of Public Engines' invoice to Customer. The Fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Public Engines' income in the United States), fees, duties, and charges and any related penalties and interest, arising from the payment of the Fees or the delivery or license of the Licensed Products to Customer, except where exempted by applicable Federal and/or State law. All costs and expenses incurred by Customer in connection herewith are the sole responsibility of Customer. An administrative fee of \$35.00 per invoice will be charged for any electronic transaction that is declined and any returned checks. In addition, any amounts not paid when due shall bear interest at a nominal rate of one and one half percent (1.5%) per month, or the maximum legal rate if less. Public Engines shall be entitled to withhold performance and discontinue service until all amounts due are paid in full. Customer shall have ninety (90) days from receipt of an invoice to dispute any portion of the invoice, and any issue not raised by Customer in writing within ninety (90) days from receipt of the invoice is hereby irrevocably waived by Customer.

#### 7. TERM AND TERMINATION.

7.1 Term. This Agreement commences on the Effective Date and remains in effect for the time period indicated in the Order Form(s), or, if no specific period is set forth in the Order Form(s), then for a period of one (1) year thereafter (the "Initial Term") unless earlier terminated in accordance with Section 7.2. This Agreement shall be automatically renewed for consecutive one (1) year terms at then current rates unless either party provides written notice to the other of its intention not to renew at least one (1) day prior to the expiration of the term then in effect; provided that in the event that Public Engines provides written notice to Customer prior to the end of the Initial Term or any subsequent term (which notice may take the form of the last invoice sent to Customer prior to the end of the applicable term then in effect) of an increase in the Fees to be charged to Customer, such increase shall automatically take effect for the subsequent term unless Customer notifies Public Engines of its intention not to renew prior to the expiration of the term then in effect (in any such event Customer shall have at least fifteen (15) days following any such notice of an increase in Fees to notify Public Engines of its intention not to renew for such additional period even if such additional period would have otherwise commenced). The Initial Term and any renewals thereof shall be collectively referred to as the "Term."

#### 7.2 Termination.

(a) For Convenience. This Agreement may be terminated by Customer at any time for any reason upon: (i) thirty (30) days written notice to Public Engines and (ii) the payment to Public Engines of fifty percent (50%) of the then remaining Fees due during the Initial

Term, or the then-current renewal term, as applicable, based on the then existing number of Users ("Termination Charge").

(b) For Cause. This Agreement may be terminated immediately by either party: (i) upon the material breach by the other party of any of such other party's obligations hereunder, which breach has not been cured within thirty (30) days after the breaching party has received notice thereof; (ii) if all or a substantial portion of the assets of the other party are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, a proceeding is commenced by or against the other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or the other party is adjudged bankrupt; or (iii) immediately upon written notice if Customer (a) fails to make the payments specified under Section 6 when due for a second time in any calendar year or (b) violates the restrictions in Sections 3 or 8. Public Engines may terminate this Agreement immediately upon written notice to Customer if Customer undergoes a change in control, or sells all or substantially all of its assets or shares to a third party without the written consent of Public Engines.

(c) For Discontinuation of the Services. This Agreement may be terminated by Public Engines, without liability to Customer, upon thirty (30) days' written notice to Customer, if Public Engines discontinues offering the Services on a general commercial basis. Customer shall not owe Public Engines a Termination Charge if Public Engines terminates this Agreement for discontinuation of the Services. In the event of such termination, Public Engines shall reimburse Customer for the Fees prepaid by Customer for the remaining portion of the applicable term, if any.

7.3 Effect of Termination. Upon termination of this Agreement for any reason, any amounts owed to Public Engines under this Agreement before such termination (which shall include all fees for the remaining portion of the Initial Term or then-current renewal Term except if this Agreement is terminated: (i) for cause by Customer, (ii) pursuant to Section 7.2(a) in which case solely the applicable Termination Charge shall apply or (iii) pursuant to Section 7.2(c)) will be immediately due and payable, all licenses (except licenses granted pursuant to Section 8.4, which shall continue as set forth in such Section) granted herein shall immediately terminate, and each party shall return to the other all property (including any Confidential Information) of the other party in its possession or control. Public Engines will promptly cease performing all Services (and all other services which may have been agreed upon by the parties) and all Customer and User access to the Services shall be immediately terminated by Public Engines.

Notwithstanding the foregoing, provided that Customer is not in breach and has made all payments required under Section 6, Customer may request and receive from Public Engines a text file copy of all Customer Data in an "as is and with all faults" condition. All payment obligations of Customer, and Sections 2, 3.3, 8.2, 8.3, 8.4, 9, 10 and 11 shall survive any termination or expiration of this Agreement.

## 8. CONFIDENTIALITY AND NON-DISCLOSURE.

8.1 Confidential Information. During the Term of this Agreement, each party (the "Disclosing party") may provide the other party (the "Receiving party") with certain information regarding the Disclosing party's business, technology, products, or services or other confidential or proprietary information (collectively, "Confidential Information"). The Disclosing party will mark all Confidential Information in tangible

form as "confidential" or "proprietary" or other similar legend and identify all Confidential Information disclosed orally as confidential at the time of disclosure and provide a written summary of such Confidential Information within thirty (30) days after such oral disclosure. Regardless of whether so marked or identified, the Services and all enhancements and improvements thereto will be considered Confidential Information of Public Engines, and all Customer Data (excluding De-Identified Data) will be considered Confidential Information of Customer.

8.2 Protection of Confidential Information. The Receiving party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing party, except as expressly permitted under this Agreement. The Receiving party shall use the Disclosing party's Confidential Information solely for the purpose of performing such party's obligations hereunder, or receiving the benefits of this Agreement as expressly set forth herein. The Receiving party will limit access to the Confidential Information to Users (with respect to Customer) or to those employees who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information (with respect to Public Engines). In addition, the Receiving party will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as it protects its own proprietary information of a similar nature, and in no event with less than reasonable care. At the Disclosing party's request or upon termination of this Agreement, the Receiving party will return to the Disclosing party or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information that the Receiving party does not have a continuing right to use under this Agreement, and the Receiving party shall provide to the Disclosing party a written affidavit certifying compliance with this sentence.

8.3 Exceptions. The confidentiality obligations set forth in Section 8.2 will not apply to any information that the Receiving party can demonstrate: (a) becomes generally available to the public through no fault of the Receiving party; (b) is lawfully provided to the Receiving party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving party at the time of disclosure; or (d) and can prove, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving party who had no access to the Confidential Information. In addition, the Receiving party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving party to (i) enforce its rights under this Agreement or (ii) as required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving party promptly notifies the Disclosing party in writing of such required disclosure and cooperates with the Disclosing party to seek an appropriate protective order.

8.4 Ownership. The Services, Licensed Products, Public Engines' Confidential Information, and all other materials provided to Customer by Public Engines hereunder, including all manuals, reports, records, programs, data and other materials, and all Intellectual Property Rights in each of the foregoing are the exclusive property of Public Engines and its suppliers. Customer acknowledges that Public Engines owns or has the right to license use of the Services in accordance with the terms hereof, and all right (including all Intellectual Property Rights), title, and interest in and to are and shall remain vested in Public Engines or its third party licensors. Except for the limited license

granted herein, Customer does not claim and shall not assert any right, title, or interest, or other ownership or proprietary rights, in or to the Services or Licensed Products. Customer shall take no action that jeopardizes Public Engines' rights, and shall keep the Services and Licensed Products free and clear of all claims, liens, and encumbrances. Customer shall at all times exclusively own all right, title, and interest in and to its Confidential Information, including all original Customer Data (but not including the De-Identified Data), and nothing in this Agreement shall be construed as limiting or restricting Customer's ability to make further use of such Customer Data as Customer deems appropriate. Customer understands and agrees that Public Engines will include the De-Identified Data in the Public Engines' database(s) which form part of the Services, and that all such De-Identified Data shall be owned solely and exclusively by Public Engines without any limitation or restriction whatsoever. For avoidance of doubt, Public Engines' ownership rights shall only extend to the De-Identified Data, not to Customer Data as it is originally provided to Public Engines hereunder. To the extent any De-Identified Data is not owned solely and exclusively by Public Engines following the Effective Date and without limiting the generality of this Section 8.4, Customer hereby grants to Public Engines a non-exclusive, worldwide, perpetual, royalty-free, fully paid-up and irrevocable right and license to incorporate such De-Identified Data into Public Engines' applications and databases (the "Incorporated Customer Data"), and to use, reproduce, display, modify, create derivative works of, distribute (through multiple tiers), and sublicense such Incorporated Customer Data, for any purpose (including, without limitation, purposes outside the scope of this Agreement) without any limitation or restriction whatsoever.

9. LIMITED WARRANTY. Public Engines warrants to Customer that, during the Term, the Services will operate substantially in accordance with the Documentation. This limited warranty shall not apply to problems that result from: (i) factors outside of Public Engines' reasonable control; (ii) any failure by Customer to comply with this Agreement; (iii) any failure by Customer to use the Services in accordance with the Documentation or other instructions provided to Customer by Public Engines; (iv) any unauthorized use of the Services; (v) Customer's or any third party's hardware, software, and equipment; (vi) Customer errors in entering, analyzing, or reporting data; (vii) the fault or negligence of Customer, Users, operator error, improper use or misuse of the Services, or any other causes external to the Services or Public Engines; or (viii) downtime as a result of scheduled maintenance performed by or for Public Engines. In the event of a breach of the foregoing warranty, Customer's sole and exclusive remedy, and Public Engines' only obligation, at Public Engines' discretion, will be to repair or replace the nonconforming Software within thirty (30) days after Public Engines receives Customer's written notice of the material nonconformity, or if Public Engines determines that it is not commercially feasible to repair or replace the Software, Public Engines will refund the amount of any Fees actually paid by Customer to Public Engines under this Agreement for the previous three (3) months. Any Updates or Upgrades provided to Customer hereunder shall be warranted to the same extent as the Software.

10. DISCLAIMERS AND LIMITATION OF LIABILITY.



10.1 Disclaimer. THE LIMITED WARRANTY SET FORTH IN SECTION 9 IS MADE FOR THE BENEFIT OF CUSTOMER ONLY. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9, THE LICENSED PRODUCTS AND SERVICES ARE PROVIDED "AS IS," AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, PUBLIC ENGINES MAKES NO (AND HEREBY DISCLAIMS ALL) OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AGAINST INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE LICENSED PRODUCTS OR SERVICES (IN WHOLE OR IN PART) OR ANY OTHER PRODUCTS OR SERVICES PROVIDED TO CUSTOMER BY PUBLIC ENGINES, WITH RESPECT TO ANY UNAUTHORIZED USE OR MISUSE OF ANY DATA OR INFORMATION GENERATED OR COMMUNICATED PURSUANT TO THIS AGREEMENT, OR OTHERWISE UNDER THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, PUBLIC ENGINES DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE LICENSED PRODUCTS AND SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE.

10.2 Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, EXCEPT FOR ANY BREACH BY CUSTOMER OF THE LICENSE RESTRICTIONS HEREUNDER, OR TO SATISFY CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL PUBLIC ENGINES OR CUSTOMER, OR ANY PARENT, SUBSIDIARY, AFFILIATE, OR SUPPLIER OF THE FOREGOING BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES OR COSTS DUE TO LOSS OF PROFITS, DATA, USE OR GOODWILL, PERSONAL OR PROPERTY DAMAGE REGARDING THIS AGREEMENT OR RESULTING FROM OR IN CONNECTION WITH PUBLIC ENGINES' PERFORMANCE HEREUNDER OR THE USE, MISUSE, OR INABILITY TO USE THE LICENSED PRODUCTS OR SERVICES OR OTHER PRODUCTS OR SERVICES HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, EVEN IF THE LIABLE PARTY HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW: (I) IN NO EVENT SHALL PUBLIC ENGINES BE LIABLE FOR PROCUREMENT COSTS OF SUBSTITUTE PRODUCTS OR SERVICES; (II) IN NO EVENT SHALL PUBLIC ENGINES BE LIABLE FOR ANY UNAUTHORIZED USE OR MISUSE OF ANY DATA OR INFORMATION GENERATED OR COMMUNICATED PURSUANT TO THIS AGREEMENT, EXCEPT IN CASES OF PUBLIC ENGINES' GROSS NEGLIGENCE WITH RESPECT TO SUCH USE OR MISUSE; AND (III) THE CUMULATIVE LIABILITY OF PUBLIC ENGINES, ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, REGARDLESS OF THE THEORY OF LIABILITY OR CAUSE OF ACTION, SHALL NOT EXCEED THE FEES PAID BY CUSTOMER TO PUBLIC ENGINES FOR THE PREVIOUS THREE (3) MONTHS.

THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THIS AGREEMENT WILL NOT INCREASE A PARTY'S LIABILITY IN EXCESS OF THE FOREGOING.

10.3 Basis of the Bargain. The parties agree that Section 9 shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the prices have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

11. INDEMNIFICATION. To the extent permitted by applicable law, Customer will defend at its expense any suit brought against Public Engines and will pay any settlement Customer makes or approves or any damages finally awarded in such suit insofar as such suit is based on a claim by any third party based upon, resulting from or related to: (a) Customer's and its Users' use of the Services, including any search, analysis, report or conclusion generated from the Services; or (b) any improper or unauthorized use of the Services by Customer, including its Users. Customer's obligation as set forth in the foregoing sentence is expressly conditioned upon each of the foregoing: (i) Public Engines shall promptly notify Customer in writing of any threatened or actual claim or suit; (ii) Customer shall have sole control of the defense or settlement of any claim or suit, except that Customer may not, without Public Engines' prior written consent, enter into any settlement that does not unconditionally release Public Engines from liability; and (iii) Public Engines shall cooperate with Customer to facilitate the settlement or defense of any claim or suit.

## 12. GENERAL PROVISIONS.

12.1 Compliance With Laws. Customer will comply with all applicable export and import control laws and regulations in its use of the Licensed Products and, in particular, Customer will not export or re-export the Licensed Products without Public Engines' prior written consent, and, if such consent is granted, without Customer first obtaining all required United States and foreign government licenses. Customer further agrees to comply with all applicable laws and regulations in providing the Customer Data to Public Engines, and Customer warrants and represents to Public Engines that Customer has all rights necessary to provide such Customer Data to Public Engines for the uses as contemplated hereunder. Customer shall obtain at its expense all necessary licenses, permits and regulatory approvals required by any and all governmental authorities as may from time to time be required in connection with its activities related to this Agreement. To the extent permitted by applicable law, Customer will defend, indemnify, and hold harmless Public Engines from and against any violation of such laws or regulations by Customer or any of its agents, officers, directors, or employees.

12.2 Assignment. Customer may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party, or transfer any of the license rights granted hereunder, without the prior written consent of Public Engines, which consent shall not be unreasonably withheld or delayed. Any attempted assignment or transfer in violation of the foregoing will be void. Public Engines may freely assign this Agreement, or subcontract or otherwise delegate its obligations hereunder, in whole or in part, to any third party, provided that such third party assignee agrees in writing to be bound by the terms hereof; and further provided, with respect to any such delegation or

subcontracting of any of Public Engines' duties hereunder, Public Engines shall remain obligated to Customer for performance of such duties as set forth herein. Subject to the foregoing, this Agreement shall inure to the benefit of each party's successors and permitted assigns.

12.3 Counterparts, Fax Signatures. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to constitute one and the same instrument. The parties hereby agree that signatures transmitted and received via facsimile or other electronic means shall be treated as original signatures for all purposes of this Agreement.

12.4 Force Majeure. Except for obligations of payment, neither party shall be liable for any delay or failure in performing hereunder if such failure arises, directly or indirectly, out of causes beyond the reasonable control of such party, including acts of strike, shortages, failure of suppliers, riots, insurrection, fires, floods, storms, earthquakes, acts of God, war, government action, labor conditions, lightning, power surges or failures, terrorism, failure of telecommunications services (including the Internet), or acts or omissions of communications carriers. Performance shall be deferred until such cause of delay is removed, provided that the delayed party shall notify the other party of such occurrence.

12.5 Notices. All notices or other communications required hereunder shall be made in writing and shall be deemed to be effectively given if made as follows: (a) if hand delivered, when received; (b) if mailed, three (3) days after being deposited postage prepaid in the United States mail or its equivalent, and sent via certified mail, return receipt requested, or its equivalent; (c) if faxed, on the date of the sending party's receipt of confirmation of transmission; or (d) if mailed for overnight delivery, when delivered by the overnight carrier. Each party may change its notices address by giving notice in the manner set forth herein. Customer agrees to promptly notify Public Engines in writing of any breach or suspected breach of this Agreement.

12.6 Press Releases, Joint Marketing, Advertising. Either party shall be free to advertise and publicize the existence of this Agreement and the general nature of the parties' relationship.

12.7 Construction. The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word "including" means "including but not limited to". This language of this Agreement shall not be construed in favor of or against either party.

12.8 Governing Law. This Agreement will be governed by the laws of the State of Utah without regard to conflict of laws principles, or any other principles that would result in the application of a different body of law. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

12.9 Remedies. Customer acknowledges that the Licensed Products contain valuable trade secrets and proprietary information of Public Engines, that any actual or threatened breach of Section 3 will constitute immediate, irreparable harm to Public Engines for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach. Notwithstanding anything in this Agreement to the contrary, Public Engines reserves the right to obtain injunctive relief and any other appropriate remedies from any court of competent jurisdiction in connection with any actual, alleged, or suspected breach of Section 3, infringement, misappropriation or

violation of Public Engines' Intellectual Property Rights, or the unauthorized use of Public Engines' Confidential Information. Any such action or proceeding may be brought in any court of competent jurisdiction. Except as otherwise expressly provided in this Agreement, the parties' rights and remedies under this Agreement are cumulative.

12.10 Inspections. Customer will permit Public Engines or its representatives to review Customer's relevant records and inspect Customer's facilities to ensure compliance with this Agreement. Public Engines will give Customer at least twenty (20) days advance notice of any such inspection and will conduct the same during normal business hours in a manner that does not unreasonably interfere with Customer's normal operations. If any such audit should disclose any underpayment of fees, Customer shall promptly pay Public Engines such underpaid amount, together with interest thereon at the rate specified in Section 6. In addition to the foregoing, if the amount of such underpayment exceeds five percent (5%) of fees actually paid, then Customer shall immediately reimburse Public Engines for Public Engines' expenses associated with such audit.

12.11 Independent Contractors. Public Engines and Customer are independent contractors under this Agreement, which shall not be construed to create any employment relationship, partnership, joint venture, franchisor-franchisee or agency relationship, or to authorize any party to enter into any commitment or agreement binding on the other party except as expressly stated herein. The parties have no authority to make statements, warranties, or representations or to create any liabilities on behalf of the other.

12.12 Severability; Waiver. If any provision of this Agreement is found to be invalid or unenforceable, the remaining provisions shall remain in full force and effect, and this Agreement shall be deemed amended to replace, to the extent legally permitted, the rights and obligations contained in such invalid or unenforceable provision. Except as otherwise provided, any failure or delay by either party hereto to detect, protest, or remedy any breach of this Agreement, or to exercise (or any single or partial exercise of) any right or remedy shall not constitute a waiver or impairment of any such term or condition, or be deemed a waiver of any further, prior, or future right or remedy hereunder. Except as otherwise provided, a waiver may only occur pursuant to the prior written express permission of an authorized officer of the other party. The parties agree and acknowledge that the restrictions contained in this Agreement are: (i) inherently reasonable in all respects; (ii) material and bargained for terms of this Agreement; (iii) material inducement for each party's decision to enter into this Agreement and each party is relying thereon; (iv) necessary to protect each party's legitimate interests in this arm's length commercial transaction; (v) necessary to prevent the inevitable disclosure and improper use of each party's Confidential Information; (vi) reasonable in geographic scope given that the scope of business activities contemplated under this Agreement; and (vii) if enforced, will not cause any undue hardship to either party nor prevent either party from continuing its business operations generally. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

12.13 Updates to Terms of Service. This Agreement may be modified by Public Engines as needed, upon written notice to Customer via presentation of such updated terms (the "Updated Terms") in connection with Customer's use of the Services and acceptance of such Updated Terms by Customer, which acceptance shall be deemed to have been given

by Customer by Customer's continuing to use the Services. In the event that Customer does not accept the Updated Terms, Customer shall notify Public Engines within ten (10) days of receiving notice of Updated Terms from Public Engines, provided that in such event Public Engines shall have a right to terminate this Agreement in the manner set forth in Section 7.2(c) regardless of actual discontinuation of Services.

12.14 Prior Agreements. In the event Customer has previously executed a Master Subscription Agreement or equivalent agreement ("Previous Agreement"), this Agreement replaces and supersedes any Previous Agreement, and incorporates by reference any Order Forms previously executed by Customer into this Agreement, upon acceptance of this Agreement by Customer.

12.15 Entire Agreement. This Agreement and the Order Form(s) together are a binding contract and constitute the entire agreement and understanding of the parties, whether oral or written, relating to the subject matter hereof; are intended as the parties' final expression and complete and exclusive statement of the terms hereof, superseding all prior or contemporaneous agreements, representations, communications, promises and understandings, whether written or oral; and may be amended or modified only by an instrument in writing signed by both parties.



## **Terms Of Use**

### **Agreement between User and Public Engines, Inc. SCHEDULE A**

Welcome to Public Engines' web site. Public Engines' web site is comprised of various web sites and web pages operated by Public Engines or its business partners ("Partners"). These include: [www.crimereports.com](http://www.crimereports.com), [www.publicengines.com](http://www.publicengines.com) as well as other web sites we may add in the future (collectively the "Public Engines Sites").

With respect to your access and use of the Public Engines Sites, Public Engines provides its services to you, subject to the following Terms of Use ("TOU"), which may be updated by Public Engines from time to time without notice to you, and which updates become effective when posted. You are responsible for regularly reviewing these terms and conditions.

In addition, when using particular Public Engines web sites or services, you and Public Engines shall be subject to any posted guidelines or rules applicable to such sites or services which may be posted from time to time. All such guidelines or rules are hereby incorporated by reference into these TOU. In the event that any of the terms, conditions, and notices contained herein conflict with such guidelines or rules, then these terms shall control.

You agree to be bound by these TOU, and indicate such agreement by any access or use of Public Engines Sites and services. Your use of any Public Engines Site or service demonstrates and manifests your assent to this Agreement. If you do not agree to this Agreement, do not access and use the Public Engines Sites and services.

1. **PERMITTED USE.** Subject to these TOU, Public Engines hereby grants you the right to access and use the Public Engines Sites solely for the following purposes: (i) if you are accessing the Public Engines Sites as an individual, then any and all use of the Public Engines Sites is for your personal, non-commercial use only; or (ii) if you are accessing the Public Engines Sites on behalf of a business entity, then any and all use of the Public Engines Sites must be for such business entity's internal business purposes in connection with the establishment or continuation of a business relationship with Public Engines. You shall not (iii) send or otherwise post unauthorized commercial communications (such as spam) on any Public Engines Site; (iv) collect content or information, or otherwise access any Public Engines Sites, using automated means (such as harvesting bots, robots, spiders, or scrapers) or by bypassing the site's user interface without our permission; (v) upload viruses or other malicious code to any Public Engines Site; (vi) do anything that could disable, overburden, or impair the proper working of any Public Engines Site, such as a denial of service attack; or (vii) facilitate or encourage any violations of this Agreement. Public Engines retains all rights with respect to the Public Engines Sites except those expressly granted to you in this Agreement. Except as expressly permitted hereunder, you agree not to duplicate, publish, modify, or otherwise distribute the material on the Public Engines Sites

publish, modify, or otherwise distribute the material on the Public Engines Sites unless specifically authorized in writing by Public Engines to do so. You agree not to frame, or assist third parties in framing, any of the web pages contained in the Public Engines Sites. Such framing is strictly prohibited under this Agreement. The content and software on the Public Engines Sites are the proprietary property of Public Engines and/or its suppliers and Partners and are protected by U.S. and international copyright and other intellectual property laws. Public Engines and CrimereReports.com are the trademarks of Public Engines. The names of actual companies and products listed on the Public Engines Sites may be the trademarks of their respective owners.

2. **LINKS TO THIRD PARTY SITES.** The Public Engines Sites may contain links or produce search results that reference links to third party web sites ("Linked Sites"). Public Engines has no control over these Linked Sites or the content within them. Public Engines cannot and does not guarantee, represent, or warrant that the content contained in the Linked Sites, including, without limitation other links, is accurate, legal, and/or inoffensive. Public Engines does not endorse the content of any Linked Site, nor do we warrant that a Linked Site will not contain computer viruses or other harmful code that can impact your computer or other web access device. By using the Public Engines Sites to search for or link to another site, you agree and understand that such use is entirely at your own risk, and that you may not make any claim against Public Engines for any damages or losses whatsoever resulting from such use. However, if you experience a problem with a Linked Site, please let us know at [legal@publicengines.com](mailto:legal@publicengines.com), and we will investigate the link and take appropriate action.
3. **NO UNLAWFUL OR PROHIBITED USE.** As a condition of your use of the Public Engines Sites, you warrant to Public Engines that you will not use the Public Engines Sites for any purpose that is unlawful or prohibited by these TOU. You agree not to use the Public Engines Sites in any manner which could damage, disable, overburden, or impair the Public Engines Sites or interfere with any other party's use and enjoyment of the Public Engines Sites. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Public Engines Sites.
4. **PRIVACY AND DISCLOSURE OF INFORMATION.** We believe that your privacy and the privacy of all our users is important. Please review our Privacy Policy. If you post any content to the Public Engines Sites, by electronic mail or otherwise, we will treat it as non-confidential and non-proprietary to you. By posting any content on the Public Engines Sites, you authorize us to use and allow others to use, distribute, and reproduce the content. Public Engines reserves the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post, or to remove any information or materials, in whole or in part, in Public Engines's sole discretion.



5. **OWNERSHIP OF USER SUBMITTED CONTENT.** You agree that any and all information and content that you provide to the Public Engines Sites becomes the exclusive property of Public Engines, and you irrevocably assign all rights of ownership, including, without limitation, intellectual property rights, to Public Engines upon submission of the information and content. You represent and warrant that you are the owner of such information and content and are authorized to make such assignment of rights.
6. **OWNERSHIP OF LAW ENFORCEMENT AGENCY SUBMITTED CONTENT.** All information provided by a law enforcement agency is offered and owned by that law enforcement agency. Unless otherwise indicated by the law enforcement agency, all data will be retained by Public Engines, Inc. and remain accessible by the general public in accordance with the provisions of this Agreement. However, the law enforcement agency shall have the right to cause Public Engines, Inc. to archive (remove from view) and purge (remove from database) all of its agency data at the agency's request.
7. **WARRANTY DISCLAIMER.** Public Engines does not promise that the Public Engines Sites will be error-free, uninterrupted, nor that the Public Engines Sites will provide specific results from your use of any content, search or link on them. The Public Engines Sites and all content contained within them are delivered on an "AS IS" and "AS AVAILABLE" basis. Public Engines does not warrant or represent that files you download from the Public Engines Sites will be free of viruses or other harmful features. Public Engines **DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.**
8. **LIMITATION OF LIABILITY. UNDER NO CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, TORT OR NEGLIGENCE, WILL Public Engines, OR ITS AFFILIATES AND PARTNERS, BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) THAT ARISE OUT OF OR ARE RELATED TO YOUR USE OF THE Public Engines SITES. IN NO EVENT SHALL Public Engines'S AGGREGATE LIABILITY, OR THE AGGREGATE LIABILITY OF Public Engines'S AFFILIATES AND PARTNERS, TO YOU FOR ANY LOSS, DAMAGE OR CLAIM RELATED TO OR ARISING OUT OF THE Public Engines SITES EXCEED THE GREATER OF THE FOLLOWING: (A) TOTAL AMOUNTS PAID BY YOU TO Public Engines FOR ACCESSING THIS SITE; OR (B) TEN U.S. DOLLARS (\$10.00).**
9. **ADDITIONAL REPRESENTATIONS AND WARRANTIES** You represent, warrant, and covenant that (a) you have the power and authority to enter into this Agreement; (b) you are at least eighteen (18) years of age; and, (c) you will only use the Public Engines Sites in accordance with these TOU.

10. INDEMNITY. You agree to indemnify and hold Public Engines and its Partners, affiliates, officers, directors, agents, and employees harmless from any liability to third parties, including reasonable attorney's fees, arising from or related to your breach of this Agreement, or the documents it incorporates by reference, or your violation of any law or the rights of a third party.
  
11. IRREPARABLE HARM AND INJUNCTIVE RELIEF. The Public Engines Sites and the information and content made available through such Sites is the result of enormous investment by Public Engines in collecting, formatting, organizing and presenting a wide range of information in the public interest for its users under the terms of this Agreement. By using the Public Engines Sites, you hereby acknowledge and recognize the uniqueness of the services provided by the Public Engines Sites and Public Engines's substantial investments in such Sites as described herein, such that a violation of Section 1 of this Agreement by you will result in irreparable harm to Public Engines for which money damages or other legal remedies may not adequately compensate. Accordingly, in the event of a violation of Section 1, Public Engines shall be entitled to equitable remedies, including without limitation preliminary and permanent injunctive relief, and you explicitly agree that Public Engines will not be required to make a showing of irreparable harm or to post or secure a bond in order to obtain such relief.
  
12. DESIGNATED AGENT FOR ALLEGED COPYRIGHT INFRINGEMENT.  
Public Engines respects the intellectual property of others, and we ask you to do the same. If you believe some content on the Public Engines Sites has been copied in such a way to constitute copyright infringement, please contact our Designated Agent below:  
  
Public Engines, Inc  
11781 S. Lone Peak Parkway, Suite 200  
Draper, Utah 84020  
(801) 828-2700  
legal@publicengines.com
  
13. GENERAL. This Agreement shall be governed in all respects by the laws of the State of California, USA without giving effect to its conflict of laws provisions, or any other provisions that would result in the application of a different body of law. Both parties submit to personal jurisdiction by and venue in the state and federal courts in the State of Utah, County of Salt Lake, USA, and further agree that any cause of action arising under or relating to this Agreement or your use of any Public Engines Site shall be brought exclusively in such venue.  
Notwithstanding the foregoing, Public Engines may, at any time, seek injunctive or other equitable relief, wherever it deems appropriate, to protect or enforce its rights under this Agreement. In the event of any dispute between you and Public Engines arising under or relating to this Agreement or your use of any Public Engines Site, in which Public Engines is the prevailing party, you agree that you

will pay Public Engines' reasonable attorneys' fees in connection with Public Engines' commencement and prosecution of the action, and, if applicable, its defense of claims you may bring against Public Engines. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Public Engines's failure to act with respect to a breach by you or others does not waive its right to act with respect to subsequent or similar breaches. This Agreement and the terms and conditions contained herein sets forth the entire understanding and agreement between us with respect to the subject matter hereof, and supersedes any prior or contemporaneous understanding whether in written or oral form.





June 16, 2008

Benjamin F. Chapman

VIA FEDERAL EXPRESS

T: (858) 550-6033  
bchapman@cooley.com

Colin Drane  
ReportSee, Inc.  
300 E. Lombard St.  
Suite 840  
Baltimore, MD 21202

**Re: Your Unauthorized Access and Use of Public Engines, Inc.'s  
www.crimereports.com Web Site**

Dear NAME:

It has come to Public Engines, Inc.'s ("Public Engines") attention that you have accessed its www.crimereports.com web site, and taken information off their web site (or scraped information), which you have used for your own purposes in connection with your www.spotcrime.com web site. For example, starting on at least March 19, 2008, and continuing through at least June 2, 2008, you have accessed, from the IP address 208.109.126.144, Public Engines' www.crimereports.com web site, and taken information off that site, without authorization, and posted that information on your www.spotcrime.com web site.

By this letter, Public Engines demands that you cease and desist any further efforts to access the www.crimereports.com web site, and take, scrape, and/or gather the information contained on that web site for use in conjunction with your www.spotcrime.com web site. Failure to heed this demand may expose you to substantial liability.

Your unauthorized access to Public Engines' web site directly contravenes the Terms of Use for the www.crimereports.com web site, which you agreed to abide by when you accessed the web site. The Terms of Use states, among other things, that "you agree not to duplicate, publish, modify, or otherwise distribute the material on the Public Engines Sites unless specifically authorized in writing by Public Engines to do so." See http://www.crimereports.com/company/tou.

Further, the Terms of Use specifically provides that your access to and use of the www.crimereports.com web site is limited to "personal, non-commercial use only; or (ii) if you are accessing the Public Engines Sites on behalf of a business entity, then any and all use of the Public Engines Sites must be for such business entity's internal business purposes in connection with the establishment or continuation of a business relationship with Public Engines." See http://www.crimereports.com/company/tou.

The Terms of Use also provides that "[t]he content and software on the Public Engines Sites are the proprietary property of Public Engines and/or its suppliers and Partners and are protected by

June 16, 2008  
Page Two

U.S. and international copyright and other intellectual property laws." See <http://www.crimereports.com/company/tou>.

Unauthorized access to Public Engines' web site violates various federal and state laws. For example, 47 U.S.C. §§ 1030 *et seq.*, the Computer Fraud and Abuse Act (the "CFAA"), outlaws intentionally accessing a computer used in interstate commerce without authorization. Violations of the CFAA give rise to both civil and criminal penalties.

Public Engines takes very seriously your unauthorized access to its web site. Public Engines is continuing to investigate the matter and reserves the right to institute litigation against you to seek injunctive relief to force you to stop accessing its [www.crimereports.com](http://www.crimereports.com) web site if you fail to comply with this letter. Public Engines will also seek to recover its attorneys' fees, costs and any other economic harm caused thereby.

This letter is not intended to be a complete statement of Public Engines' position in this matter, and Public Engines reserves all rights and remedies with respect to it.

If you would like to discuss this matter further, please contact me immediately. Your immediate response to this letter will be crucial in determining whether this matter can be resolved short of litigation.

Sincerely,

COOLEY GODWARD KRONISH LLP



Benjamin F. Chapman

Attorney for Public Engines, Inc.

cc: Public Engines, Inc.



**From:** Michael D. Oliver <[oliver@bowie-jensen.com](mailto:oliver@bowie-jensen.com)>  
**Date:** Monday, June 30, 2008 10:00 AM  
**To:** Chapman, Ben <[bchapman@cooley.com](mailto:bchapman@cooley.com)>  
**Subject:** RE: Letter dated June 16th 2008 to Colin Drane

▼ Attachments:

 image001.jpg

15.54 KB

Open

Save

Remove

Ben: This email will serve as my follow-up.

Without confirming or denying the statements in your letter (including but not limited to whether the IP address you mention is controlled by ReportSee), and without agreeing (or disagreeing) with your legal analysis or conclusions, I confirm on behalf of ReportSee and Colin Drane that they are not and will not be scraping your client's site for data.

Best regards,

Michael D. Oliver, Esq.  
Member,  
Bowie & Jensen, LLC  
29 W. Susquehanna Ave.  
Suite 600  
Towson, MD 21204  
(410) 583-2400 x-125  
(410) 583-2437 fax  
[oliver@bowie-jensen.com](mailto:oliver@bowie-jensen.com)

**From:** Chapman, Ben [<mailto:bchapman@cooley.com>]  
**Sent:** Tuesday, June 24, 2008 12:39 PM  
**To:** Michael D. Oliver  
**Subject:** RE: Letter dated June 16th 2008 to Colin Drane

Thank you Michael, I look forward to your response.

Sincerely, Ben





## MEMORANDUM

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**TO:** File  
**FROM:** Benjamin F. Chapman  
**DATE:** June 24, 2008  
**RE:** VM message from Mike Oliver

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Benjamin,

This is Mike Oliver, I am a lawyer here in Baltimore, Maryland, we're counsel to Collin Drane & Reportsee, Inc. He's got your letter dated June 16, 2008 and I'm just letting you know that he's stopped any scraping of the website, we'll get a more formal response to your letter and I'm guessing that you and I are gonna have more conversations cause this probably won't be the end of it, but anyway, just want to let you know that the actual act of going in and scraping the site there for information if it did occurred, he's not doing that anymore. So, I'll get a letter to you if not today, tomorrow and if you need to call me the number is 410-583-2400, again Mike Oliver. I'll also send you an email with my vcard and all that jazz. Thanks, bye.



