

1 JOHN ("JACK") D. WOODEN

2 *pro se*

3 3215 Woodland Ridge

4 Columbus, IN 47201

5 Telephone: (812) 342-4816

6 Appearing *pro se* for Defendant

7 JACK D. WOODEN

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF NEVADA

10 RIGHTHAVEN LLC, a Nevada limited-
11 liability company,

12 Plaintiff,

13 v.

14 JACK D. WOODEN, an individual,

15 Defendant.

CASE NO.: 2:10-CV-00692-LRH-(LRL)

DEFENDANT'S ANSWER

NO JURY TRIAL DEMANDED

16 Defendant JOHN ("JACK") D. WOODEN answers on information and belief the
17 allegations in the like-numbered paragraphs of Plaintiff Righthaven LLC's Complaint, and
18 pursuant to Fed. R. Civ. P. 8(b)(3) hereby **denies** all allegations except as specifically admitted
19 below:

20 NATURE OF ACTION

21 1) Admitted that Plaintiff's Complaint purports to allege copyright infringement
22 pursuant to 17 U.S.C. § 501.

23 PARTIES

24 2) Admitted.

25 3) Admitted.

26 4) Admitted that Defendant owns a company that is, and has been at all times relevant
27

1 to this lawsuit, the owner of the Internet domain found at <madjackssports.com>.

2 **JURISDICTION**

3 5) Admitted that federal district courts have original subject matter jurisdiction over
4 copyright infringement cases pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1338(a).

5 6) Denied. However, this allegation is irrelevant because Defendant is not going to
6 invest in fighting personal jurisdiction and venue in this case because the value of this case is
7 *de minimis, and in any event less than \$86.00.*

8 7) Admitted that a third-party member of the public operating under the user name
9 "illuminati" posted text from a newspaper article entitled "Rebels aim to fatten up on patsies,
10 including Colorado State" (the "Newspaper Article") on a message board located at the Internet
11 address <<http://www.madjackssports.com/forum/showthread.php?p=2579945>> ("the Web Page").
12 The Web Page appeared on a public discussion forum on the website MadJack Sports ("the
13 Website"), which is located at the URL <madjackssports.com>. Specifically, the Web Page
14 appeared on a public forum entitled "Free Throws (NCAA)," which was a sub-forum of a public
15 forum entitled "HANDICAPPING," which itself was one of numerous public forums on the
16 Website.

17 8) Admitted that the Web Page displayed text from the Newspaper Article that was
18 posted on the Web Page on or about February 20, 2010 by a third-party member of the public
19 operating under the user name "illuminati." The text from the Newspaper Article was removed
20 from the Web Page promptly upon receipt of Plaintiff's Complaint, and that text no longer
21 appears on the Website. Receipt of Plaintiff's Complaint in this action was the first time
22 Defendant or his company had ever been notified of any complaint or issue regarding the
23 Newspaper Article.

24 9) Denied. However, this allegation is irrelevant because Defendant is not going to
25 invest in fighting personal jurisdiction and venue in this case because the value of this case is
26 *de minimis, and in any event less than \$86.00.*

1 10)Denied. However, this allegation is irrelevant because Defendant is not going to
2 invest in fighting personal jurisdiction and venue in this case because the value of this case is
3 *de minimis, and in any event less than \$86.00.*

4 11)Denied. However, this allegation is irrelevant because Defendant is not going to
5 invest in fighting personal jurisdiction and venue in this case because the value of this case is
6 *de minimis, and in any event less than \$86.00.*

7 12)Denied. However, this allegation is irrelevant because Defendant is not going to
8 invest in fighting personal jurisdiction and venue in this case because the value of this case is
9 *de minimis, and in any event less than \$86.00.*

10 13)Denied. However, this allegation is irrelevant because Defendant is not going to
11 invest in fighting personal jurisdiction and venue in this case because the value of this case is
12 *de minimis, and in any event less than \$86.00.*

13 14)Denied. However, this allegation is irrelevant because Defendant is not going to
14 invest in fighting personal jurisdiction and venue in this case because the value of this case is
15 *de minimis, and in any event less than \$86.00.*

16 15)Denied. However, this allegation is irrelevant because Defendant is not going to
17 invest in fighting personal jurisdiction and venue in this case because the value of this case is
18 *de minimis, and in any event less than \$86.00.*

19 16)Denied. However, this allegation is irrelevant because Defendant is not going to
20 invest in fighting personal jurisdiction and venue in this case because the value of this case is
21 *de minimis, and in any event less than \$86.00.*

22 17)Denied. However, this allegation is irrelevant because Defendant is not going to
23 invest in fighting personal jurisdiction and venue in this case because the value of this case is
24 *de minimis, and in any event less than \$86.00.*

25 18)Denied. However, this allegation is irrelevant because Defendant is not going to
26 invest in fighting personal jurisdiction and venue in this case because the value of this case is
27

1 *de minimis, and in any event less than \$86.00.*

2 19)Denied. However, this allegation is irrelevant because Defendant is not going to
3 invest in fighting personal jurisdiction and venue in this case because the value of this case is
4 *de minimis, and in any event less than \$86.00.*

5 20)Denied. However, this allegation is irrelevant because Defendant is not going to
6 invest in fighting personal jurisdiction and venue in this case because the value of this case is
7 *de minimis, and in any event less than \$86.00.*

8 21)Denied. However, this allegation is irrelevant because Defendant is not going to
9 invest in fighting personal jurisdiction and venue in this case because the value of this case is
10 *de minimis, and in any event less than \$86.00.*

11 22)Denied. However, this allegation is irrelevant because Defendant is not going to
12 invest in fighting personal jurisdiction and venue in this case because the value of this case is
13 *de minimis, and in any event less than \$86.00.*

14 23)Denied. However, this allegation is irrelevant because Defendant is not going to
15 invest in fighting personal jurisdiction and venue in this case because the value of this case is
16 *de minimis, and in any event less than \$86.00.*

17 24)Denied. However, this allegation is irrelevant because Defendant is not going to
18 invest in fighting personal jurisdiction and venue in this case because the value of this case is
19 *de minimis, and in any event less than \$86.00.*

20 25)Denied. However, this allegation is irrelevant because Defendant is not going to
21 invest in fighting personal jurisdiction and venue in this case because the value of this case is
22 *de minimis, and in any event less than \$86.00.*

23 26)Denied. However, this allegation is irrelevant because Defendant is not going to
24 invest in fighting personal jurisdiction and venue in this case because the value of this case is
25 *de minimis, and in any event less than \$86.00.*

26 27)Denied. However, this allegation is irrelevant because Defendant is not going to
27

1 invest in fighting personal jurisdiction and venue in this case because the value of this case is
2 *de minimis, and in any event less than \$86.00.*

3 28)Denied. However, this allegation is irrelevant because Defendant is not going to
4 invest in fighting personal jurisdiction and venue in this case because the value of this case is
5 *de minimis, and in any event less than \$86.00.*

6 29)Denied. However, this allegation is irrelevant because Defendant is not going to
7 invest in fighting personal jurisdiction and venue in this case because the value of this case is
8 *de minimis, and in any event less than \$86.00.*

9 30)Denied. However, this allegation is irrelevant because Defendant is not going to
10 invest in fighting personal jurisdiction and venue in this case because the value of this case is
11 *de minimis, and in any event less than \$86.00.*

12 31)Denied. However, this allegation is irrelevant because Defendant is not going to
13 invest in fighting personal jurisdiction and venue in this case because the value of this case is
14 *de minimis, and in any event less than \$86.00.*

15 32)Denied. However, this allegation is irrelevant because Defendant is not going to
16 invest in fighting personal jurisdiction and venue in this case because the value of this case is
17 *de minimis, and in any event less than \$86.00.*

18 33)Denied. However, this allegation is irrelevant because Defendant is not going to
19 invest in fighting personal jurisdiction and venue in this case because the value of this case is
20 *de minimis, and in any event less than \$86.00.*

21 **VENUE**

22 34)Denied. However, Defendant is not going to invest in fighting personal jurisdiction
23 and venue in this case because the value of this case is *de minimis, and in any event less than*
24 *\$86.00.*

25 35)Denied. However, Defendant is not going to invest in fighting personal jurisdiction
26 and venue in this case because the value of this case is *de minimis, and less than \$86.00.*
27

FACTS

36)Admitted.

37)Admitted.

38)Admitted.

39)Admitted.

40)Admitted.

41)Admitted.

42)Admitted.

43)Admitted.

44)Admitted that Defendant owns a company that has controlled and controls the URL <madjacksports.com> as well as the marks / names Mad Jack Sports and Mad Jack Sports, Inc.

45)Admitted that Defendant owns a company that is, and has been at all times relevant to this lawsuit, the owner of the Internet domain found at <madjacksports.com>.

46)Admitted.

47)Admitted that Defendant, among others, handles certain administrative and technical aspects of the Website. However, the content of the Website is largely provided by third parties acting independently without pre-approval by the Defendant or anyone else; i.e., the Website comprises public forums populated by members of the public, like the Web Page at issue here.

48)Admitted that on or about February 20, 2010, a third-party member of the public operating under the user name "illuminati" posted text from the Newspaper Article ("Rebels aim to fatten up on patsies, including Colorado State") on a message board on the Web Page (<<http://www.madjacksports.com/forum/showthread.php?p=2579945>>). The Web Page appeared on a public discussion forum on the website MadJack Sports ("the Website"), which is located at the URL <madjacksports.com>. Specifically, the Web Page appeared on a public forum entitled "Free Throws (NCAA)," which was a sub-forum of a public forum entitled "HANDICAPPING," which itself was one of numerous public forums on the Website. The Web

1 Page was only visited twenty-nine (29) times before the text from the Newspaper Article was
2 deleted from the Web Page. And the text from the Newspaper Article was removed from the
3 Web Page promptly upon receipt of Plaintiff's Complaint; it no longer appears on the Website.
4 Receipt of Plaintiff's Complaint in this action was the first time Defendant or his company had
5 ever been notified of any complaint or issue regarding the Newspaper Article.

6 49)Admitted.

7 50)Admitted.

8 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

9 51)Defendant repeats and realleges its Answers set forth in Paragraphs 1 through 50
10 above.

11 52)Admitted.

12 53)Admitted.

13 54)Admitted.

14 55)Admitted.

15 56)Admitted that text from the Newspaper Article entitled "Rebels aim to fatten up on
16 patsies, including Colorado State" was reproduced on the public message board located on the
17 Web Page located at the Internet address
18 <<http://www.madjacksports.com/forum/showthread.php?p=2579945>> in derogation of
19 Plaintiff's exclusive rights under 17 U.S.C. §106(1).

20 57)Denied. In order to qualify as a derivative work, the second work must be
21 sufficiently different from the original work to be separately copyrightable. Here the
22 reproduction of the newspaper article entitled "Rebels aim to fatten up on patsies, including
23 Colorado State" at the at the Internet address
24 <<http://www.madjacksports.com/forum/showthread.php?p=2579945>> is alleged to be identical
25 or essentially identical to the original the newspaper article of that name. Since they are
26 essentially identical, the reproduction of the newspaper article would not be separately
27

1 copyrightable over the original publication of that article, and thus the reproduction could not
2 possibly constitute a derivative work in violation of 17 U.S.C. § 106(2).

3 58)Denied. The Website did not email or otherwise "distribute" the Newspaper Article
4 entitled "Rebels aim to fatten up on patsies, including Colorado State" to anyone. Rather, the
5 Web Page located at the Internet address
6 <<http://www.madjacksports.com/forum/showthread.php?p=2579945>> simply displayed, among
7 other things, the text of the newspaper article to whoever visited that Web Page. And as of the
8 date that the offending Newspaper Article was deleted from that Web Page, there had been a
9 total of 29 visits to that Web Page--ever. Such transient displays do not qualify as "distributing"
10 the work in violation of 17 U.S.C. § 106(3).

11 59)Admitted that text from the Newspaper Article entitled "Rebels aim to fatten up on
12 patsies, including Colorado State" was displayed 29 times on the public message board on the
13 Web Page located at the Internet address
14 <<http://www.madjacksports.com/forum/showthread.php?p=2579945>> in derogation of Plaintiff's
15 exclusive rights under 17 U.S.C. § 106(5).

16 60)Denied. Until receipt of Plaintiff's Complaint, neither Defendant nor anyone in his
17 company had any knowledge of the Newspaper Article or that a third party had posted text from
18 the Newspaper Article on the Web Page (which neither Defendant nor his company ever
19 received any financial benefit from). Defendant goes to great lengths to avoid copyright
20 infringement, and has seen to it that his company has and follows a published policy of deleting
21 any material from the Website that is claimed to infringe someone's rights, and blocking users
22 who repeatedly post problem material, consistent with the safe harbor provisions of the Digital
23 Millennium Copyright Act, 17 U.S.C. § 512(c) ("DMCA"). Congress established the safe harbor
24 provisions of the DMCA precisely for protection of public web board operators like Defendant's
25 company. And at the time of the alleged infringement here, Defendant and his company that
26 operates the Website located at <<http://www.madjacksports.com>> were fully in compliance with
27

1 the requirements to qualify for that safe harbor protection, with the exception of having
 2 submitted a designated agent form to the Copyright Office. Now that Defendant's company has
 3 been advised of this additional technical requirement of 17 U.S.C. § 512(c)(2), Defendant's
 4 company has submitted the required designated agent form, and is now in full compliance with
 5 the letter of the safe harbor provisions of the DMCA, though Defendant and his company have
 6 always operated wholly consistently with the spirit of the DMCA safe harbor; i.e., *always in*
 7 *good faith* and *never* to willfully infringe anyone's copyright.

8 61) Denied. As of the date that the offending Newspaper Article was deleted from the
 9 Web Page (which was promptly upon receipt of initial notice--i.e., Plaintiff's Complaint), there
 10 had been a total of 29 visits to that Web Page--ever. And according to the website of the
 11 newspaper that was the original holder of the copyright in the subject Newspaper Article--the
 12 *Las Vegas Review-Journal*--fully authorized copies of the subject article (or any other article)
 13 can be purchased for two dollars and ninety-five cents (\$2.95) a piece.¹ Thus, even if each of
 14 those 29 visits were from unique individuals (which they were not), and even not deducting the
 15 visits from the parties and counsel in connection with this suit, the total maximum theoretical
 16 damages associated with posting that Newspaper Article would be 29 multiplied by \$2.95, or
 17 \$85.55. Thus, far from being irreparable and unascertainable, the damages here are fixed and
 18 incredibly *de minimis*, and in any event less than \$86.00. Moreover, pursuant to Defendant's
 19 company's policy and common sense, this entire federal lawsuit could have easily been avoided
 20 with a simple phone call or email.

21 62) Denied. As noted above, the subject Newspaper Article was immediately taken down
 22 from the Website located at <<http://www.madjacksports.com>>. Further, that Website is now
 23 fully in compliance with the safe harbor provisions of the DMCA, 17 U.S.C. § 512(c).
 24 Accordingly, if Plaintiff or anyone else discovers allegedly infringing material on the Website, a
 25 simple phone call or email is all that will be required (or permitted) to resolve the matter.

26 ¹ See <http://www.lvrj.com/search/archive.html>
 27

1 Plaintiff plainly has not justified an injunction in these circumstances.

2 **SEPARATELY PLED DEFENSES**

3 **I) Innocent Infringement:**

4 Defendant "was not aware and had no reason to believe that [his] acts constituted an
5 infringement of copyright," because neither he nor anyone at his company, which runs the
6 Website in question, had any knowledge of the existence of the offending material until
7 Defendant received the present Complaint. *Accord*, 17 U.S.C. § 504(c)(2). As soon as they
8 were made aware of it, they took it down. Accordingly, the minimum statutory damages of \$200
9 should apply. *Id.*

10 **II) Maximum Possible Actual Damages Here Are Just \$85.55:**

11 The Web Page that featured text from the offending Newspaper Article received a total of
12 29 visits--ever--before the offending text was removed. And according to the website of the
13 newspaper that was the original holder of the copyright in the subject Newspaper Article--the
14 *Las Vegas Review-Journal*--fully authorized copies of the subject article (or any other article)
15 can be purchased for two dollars and ninety-five cents (\$2.95) a piece.² Thus, even if each of
16 those 29 visits were from unique individuals (which they were not), and even not deducting the
17 visits from the parties themselves and counsel in connection with this suit, or deducting for the
18 fact the not everyone (if anyone) would have actually paid \$2.95 to see that article, the total
19 maximum theoretical damages associated with posting the presently complained-of Newspaper
20 Article would be, at the very most, 29 multiplied by \$2.95, or \$85.55. Thus, the maximum
21 possible damages here are fixed and incredibly *de minimis*, and in any event less than \$86.00.
22 Accordingly, the minimum statutory damages of \$200 should apply. *Accord*, 17 U.S.C. §
23 504(c)(2).

24 ///

25 ///

26 ² See <http://www.lvrj.com/search/archive.html>

1 **III) Defendant Should Be Entitled To His Costs and Fees:**

2 This lawsuit was entirely unnecessary and is an abuse of this Court's resources and
3 power. But more importantly, this is not the only such case pending before this Court. In fact,
4 Plaintiff is a newly-formed corporate shell designed solely for Plaintiff's counsel to use as a
5 litigation machine to extort outrageous multi-thousand dollar settlements from far-flung
6 "innocent infringers" like Defendant where actual damages, if any, are in the \$3 to \$100 range
7 and could be cured with a phone call or an email.

8 Plaintiff Righthaven LLC was formed in 2010 by Plaintiff's attorney, Steven A. Gibson³
9 for the apparent sole purpose of searching the Internet for appearances of any portions of
10 newspaper articles originating from the *Las Vegas Review-Journal* newspaper, then
11 purportedly obtaining copyright assignments for such articles, filing to register the copyrights,
12 and then filing suit in this Court against the websites owners without regard for their
13 geographic location, seeking \$75,000 or more in statutory damages for these \$3 newspaper
14 articles. As of May 25, 2010, PACER showed that Plaintiff had already filed eighteen (18)
15 such cases in this Court (and it is Defendant's understanding that Plaintiff has continued to file
16 approximately *four new cases per day* since then):⁴

17 1) 2:10-cv-00350-PMP-RJJ *Righthaven LLC v. MoneyReign, Inc.*

18 filed 03/13/10 closed 05/19/10 - Nature of Suit: 820 (Copyright)

19 2) 2:10-cv-00351-LDG-PAL *Righthaven LLC v. National Organization for the Reform of*
20 *Marijuana Laws* filed 03/15/10 - Nature of Suit: 820 (Copyright)

21
22 ³ The public records of the Nevada Secretary of State, available online at nvsos.gov,
23 indicate that Plaintiff Righthaven LLC was formed on January 14, 2010, that its sole
24 Officer/Manager is Net Sortie Systems, LLC, and that the sole Officer/Manager of Net Sortie
25 Systems, LLC is Steven A. Gibson. Courts may take judicial notice of information on state
26 websites. FRE 201. *Accord, Hall v. Virginia*, 385 F.3d 421, 424 n.3 (4th Cir. 2004) (taking
27 judicial notice of website of Virginia Division of Legislative Services).

⁴ Courts may take judicial notice of docket information on PACER. FRE 201. *Elder v.*
 Grounds, Not Reported in F.Supp.2d, 2010 WL 1876877, *1, fn. 3 (C.D. Cal. 2010) ("Pursuant
 to Rule 201 of the Federal Rules of Evidence, the Court also takes judicial notice of the
 electronic dockets for the Ninth Circuit available through the PACER system.")

- 1 3) 2:10-cv-00484-RCJ-LRL *Righthaven LLC v. MajorWager.Com Inc.*
2 filed 04/07/10 - Nature of Suit: 820 (Copyright)
- 3 4) 2:10-cv-00485-KJD-RJJ *Righthaven LLC v. Citizens for Responsibility and Ethics in*
4 *Washington, Inc.* filed 04/07/10 - Nature of Suit: 820 (Copyright)
- 5 5) 2:10-cv-00539-LDG-RJJ *Righthaven LLC v. Farnham et al.*
6 filed 04/14/10 closed 05/20/10 - Nature of Suit: 820 (Copyright)
- 7 6) 2:10-cv-00584-RLH-LRL *Righthaven LLC v. Chavez*
8 filed 04/22/10 closed 05/19/10 - Nature of Suit: 820 (Copyright)
- 9 7) 2:10-cv-00600-RCJ-RJJ *Righthaven LLC v. Vegas Marketing Group et al.*
10 filed 04/27/10 - Nature of Suit: 820 (Copyright)
- 11 8) 2:10-cv-00601-RLH-PAL *Righthaven LLC v. Industrial Wind Action Corp et al.*
12 filed 04/27/10 - Nature of Suit: 820 (Copyright)
- 13 9) 2:10-cv-00635-LDG-PAL *Righthaven LLC v. KillerFrogs.com Inc.*
14 filed 05/04/10 - Nature of Suit: 820 (Copyright)
- 15 10) 2:10-cv-00636-RLH-RJJ *Righthaven LLC v. Dr Shezad Malik Law Firm P.C.*
16 filed 05/04/10 - Nature of Suit: 820 (Copyright)
- 17 11) 2:10-cv-00637-RLH-RJJ *Righthaven LLC v. Progressive Leadership Alliance of*
18 *Nevada et al.* filed 05/04/10 - Nature of Suit: 820 (Copyright)
- 19 12) 2:10-cv-00691-RCJ-PAL *Righthaven LLC v. Ecological Internet Inc.*
20 filed 05/13/10 - Nature of Suit: 820 (Copyright)
- 21 13) 2:10-cv-00692-LRH-LRL *Righthaven LLC v. Jack D. Wooden*
22 filed 05/13/10 - Nature of Suit: 820 (Copyright)
- 23 14) 2:10-cv-00706-RCJ-RJJ *Righthaven LLC v. Enterprise Funding, LLC, et al.*
24 filed 05/14/10 - Nature of Suit: 820 (Copyright)
- 25 15) 2:10-cv-00734-PMP-RJJ *Righthaven LLC v. Real Money Sports, Inc. et al.*
26 filed 05/19/10 - Nature of Suit: 820 (Copyright)
- 27

1 16) 2:10-cv-00740-RLH-PAL *Righthaven LLC v. Portside, Inc. et al.*

2 filed 05/19/10 - Nature of Suit: 820 (Copyright)

3 17) 2:10-cv-00741-RCJ-LRL *Righthaven LLC v. Klerks et al.*

4 filed 05/19/10 - Nature of Suit: 820 (Copyright)

5 18) 2:10-cv-00742-JCM-RJJ *Righthaven LLC v. Goff Associates et al.*

6 filed 05/20/10 - Nature of Suit: 820 (Copyright)

7 Defendant is informed and believes that Plaintiff / Plaintiff's counsel has already been
8 successful in extracting thousands of dollars in nuisance settlements from just a few of these
9 other defendants, and that Plaintiff / Plaintiff's counsel intends that this is just the beginning:
10 Plaintiff hopes to make a law practice out of extorting nuisance copyright settlements from far-
11 away website operators that happen to have someone post text from a \$3 newspaper article on
12 their site. The entire foundation for this dubious business model is the attorney fee shifting
13 provision of 17 U.S.C. § 505: Plaintiff can extract thousands of dollars from far-away
14 defendants for what should be \$100 cases, because the defendants are afraid that this Court
15 might reward Plaintiff with its attorney fees. Plaintiff's business model is precisely the type of
16 abusive, needlessly litigious behavior that gives lawyers a bad name, and it should be stopped,
17 here and now (at the present rate of four new lawsuits per day, Plaintiff could clog this Court
18 with 1,000 of these unnecessary nuisance lawsuits per year). This Court is not obligated to
19 award Plaintiff its fees or costs, and respectfully, it should not. Instead, this Court should put
20 an end to this rapidly-escalating waste of resources and send a clear signal to Plaintiff by
21 awarding Defendant his costs and attorney fees.

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PRAYER FOR RELIEF

WHEREFORE, Defendant respectfully requests that:

A) Plaintiff's Prayer for Relief be denied in its entirety, except that Defendant hereby stipulates that Judgment be had in Plaintiff's favor against Defendant for non-willful copyright infringement of the one newspaper article at issue, and Plaintiff be awarded \$200 in statutory damages pursuant to 17 U.S.C. § 504(c)(2).⁵

B) Furthermore, in view of the entirely unreasonable and abusive nature of this case (namely, Plaintiff's filing a federal lawsuit and demanding \$75,000 and transfer of Defendant's domain name, when the total possible actual damages are less than \$86 dollars and the offending material was posted by a third-party on a public web board that could have been immediately removed if Plaintiff had simply picked up the phone or sent an email prior to filing a federal lawsuit and dragging an individual Defendant across the Country to defend himself), and especially in view of Plaintiff's pattern of abusive behavior in numerous recently-filed cases, Defendant seeks an award of his full costs under 17 U.S.C. § 505. *Accord*, 17 U.S.C. § 505; *Nevadans for Sound Government v. Nevada*, 2007 WL 1202824, *3 (D. Nev. 2007) (factors that may support denying costs to a technically prevailing plaintiff include the losing party's limited financial resources, the prevailing party's misconduct, the substance of the prevailing party's recovery, and the losing party's good faith). Here, evidence of Plaintiff's bad-faith and abusive tactics is shown right in its Complaint, which requests as relief that Defendant's domain name be locked and transferred to Plaintiff. Prayer for Relief, ¶ 3. There is no basis whatsoever for that relief here. Rather, Plaintiff is using that baseless threat of taking away a website's very domain name to further its plan of extorting nuisance settlements from the little guy.

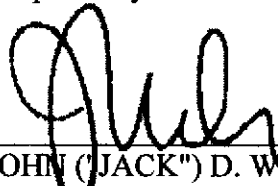
⁵ See 17 U.S.C. § 504(c)(2):

In a case where the infringer sustains the burden of proving, and the court finds, that such infringer was not aware and had no reason to believe that his or her acts constituted an infringement of copyright, the court in its discretion may reduce the award of statutory damages to a sum of not less than \$200.

1 C) Additionally, in view of the special circumstances of this case and to prevent this
2 Court's process from being used again-and-again to unreasonably harass similar innocent
3 "infringers" over *de minimis* damages that could be resolved with a simple phone call or an
4 email, Defendant respectfully seeks a determination that it is effectively the prevailing party
5 here, and thus an award to Defendant of reasonable attorney's fees under 17 U.S.C. § 505.
6 *Accord, Florentine Art Studio, Inc. v. Vedet K. Corp.*, 891 F. Supp. 532, 541 (C.D. Cal. 1995)
7 (awarding Defendant its attorney fees as the "prevailing party" where Plaintiff technically
8 prevailed on two infringement counts, because the infringement was innocent and the Plaintiff
9 was awarded minimum statutory damages).

10
11
12
13 Dated: June 1, 2010

Respectfully submitted,



JOHN ("JACK") D. WOODEN
3215 Woodland Ridge
Columbus, IN 47201
Telephone: (812) 342-4816

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17 Appearing *pro se* for Defendant
JACK D. WOODEN
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CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that on this date, I served a true and correct copy of the foregoing document:

DEFENDANT'S ANSWER

upon Plaintiff's counsel by causing it to be placed in United States mail, first-class postage prepaid, addressed to the following individuals:

STEVEN A. GIBSON, ESQ.


J. CHARLES COONS, ESQ.

Righthaven LLC

9960 West Cheyenne Avenue, Suite 210

Las Vegas, Nevada 89129-7701

Dated: June 1, 2010



JOHN D. WOODEN