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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

INTERNET BRANDS, INC., a Delaware corporation,

Plaintiff,

v.

WILLIAM RYAN HOLLIDAY, an Individual; HOLLIDAY IT SERVICES, INC., a California corporation; and JAMES HEILMAN, an individual; and DOES 1-10, inclusive,

Defendants.

) Case No.

) **COMPLAINT FOR:**

) **1) TRADEMARK
INFRINGEMENT;**

) **2) UNFAIR BUSINESS
PRACTICES UNDER THE
LANHAM ACT;**

) **3) UNFAIR BUSINESS
PRACTICES UNDER
CALIFORNIA BUSINESS
PRACTICES ACT, SECTION
17200; and**

) **4) CIVIL CONSPIRACY**

COMES NOW Plaintiff, INTERNET BRANDS, INC. (“Internet Brands” or “Plaintiff”), and for its claims against WILLIAM RYAN HOLLIDAY, an individual, HOLLIDAY IT SERVICES, INC., a California Corporation, and JAMES HEILMAN, an individual, (collectively, “Defendants”) hereby alleges as follows:

1 **JURISDICTION AND VENUE**

2 1. This Court has personal jurisdiction over Defendants pursuant to the
3 California Code of Civil Procedure, Section 410.10, the California State
4 Constitution, and the United States Constitution, in that Defendants Holliday and
5 Holliday IT Services, Inc. are residents of the State of California and Defendant
6 Heilman has purposefully availed himself of commerce in the State of California,
7 violated a contract entered into in California, and tortuously caused injury within
8 the State of California.

9 2. Venue is proper in this Court pursuant to California Code of Civil
10 Procedure, Section 395, in that Defendants Holliday and Holliday IT Services, Inc.
11 reside in Los Angeles County and the injury occurred in Los Angeles County.

12 **THE PARTIES**

13 1. Internet Brands is a Delaware corporation having its principal place of
14 business at 909 Sepulveda Boulevard, 11th Floor, El Segundo, California, 90245.

15 2. Plaintiff is informed and believes and thereon alleges that Defendant
16 Holliday IT Services, Inc. is a corporation organized and existing pursuant to the
17 laws of the State of California, with its principal place of business located at 4247
18 Neosho Ave., Los Angeles, CA90066-6129.

19 3. Plaintiff is informed and believes and thereon alleges that Defendant
20 William Ryan Holliday (“Holiday”) is an individual who resides in Los Angeles
21 County, State of California.

22 4. Upon information and belief, Defendant Holliday IT Services, Inc. is
23 merely the alter-ego of Defendant Holliday and thus liability against Defendant
24 Holliday and Defendant Holliday IT Services, Inc. should be joint and several,
25 and this Court may appropriately pierce the improper corporate veil to adjudicate
26 personal liability against Defendant Holliday.

27 5. Plaintiff is informed and believes and thereon alleges that Defendant
28 James Heilman (“Heilman”) is an individual who resides in the province of

1 Saskatchewan, Canada.

2 **FACTS GIVING RISE TO CLAIMS**

3 6. Internet Brands restates, re-alleges and incorporates paragraphs 1
4 through 5 as if fully set forth herein.

5 7. Headquartered in El Segundo, California, Internet Brands is a media
6 company that operates various websites and also develops and licenses Internet
7 software and social media applications. Within its Consumer Internet Division,
8 Internet Brands owns and operates more than 200 websites in nine different
9 categories, including travel.

10 8. Within the travel category, Internet Brands owns and operates twenty-
11 seven different travel related websites, including wikitravel.org (the “Wikitravel
12 Website”), which it acquired in 2005 for \$1,700,000 from Evangelo Prodromou
13 and Michele Jenkins (the “Sellers”).

14 9. The Wikitravel Website is a website designed and operated to create a
15 free, complete, up-to-date, and reliable worldwide travel guide. To date, the
16 Wikitravel Website has over 62,000 destination guides and other articles written
17 and edited by travellers from around the globe.

18 10. In addition to owning the Wikitravel Website, Internet Brands owns
19 and has the rights to the trademark “WIKITRAVEL” (the “Trademark”), which it
20 has used consistently and continuously since 2005. Today, Wikitravel is one of the
21 largest and most popular travel information website in the world, known
22 worldwide by its tradename.

23 11. The content on the Wikitravel Website can be created, deleted,
24 modified, and otherwise edited by anyone, and is done so under a Creative
25 Commons Attribution – ShareAlike License (the “License”).

26 12. The License essentially provides that every contributor to the
27 Wikitravel Website gives the right to anyone else to copy the content, so long as
28 the copier gives attribution to the original content creator and retains the work and

1 any derivative works under the same License.

2 13. Internet Brands employs a strong team of technology, management,
3 and other business personnel to oversee, operate, and improve the Wikitravel
4 Website.

5 14. In addition, Internet Brands relies on its staff and dozens of volunteer
6 administrators (the “Administrators”) to protect the quality of the content posted,
7 to remove spam, and to otherwise oversee the Wikitravel Website.

8 15. Defendant Holliday was an Administrator on Wikitravel from June
9 27, 2005 until August 21, 2012.

10 16. The Wikimedia Foundation is the organization that operates
11 Wikipedia.org and other “sister projects.”

12 17. The Wikimedia Foundation has raised tens of millions of dollars,
13 some of, which it intends to use for the benefit of “sister projects” including other
14 Wiki sites.

15 18. Heilman is a Board member of Wikimedia Canada, which is the
16 thirty-third local chapter of the Wikimedia Foundation.

17 19. On February 23, 2012, Heilman signed up for an account on
18 Wikitravel, and, for the first time, posted on that site.

19 20. Heilman’s February 23rd and subsequent posts were not for the benefit
20 of the Wikitravel users or its broad community, but were specifically for the
21 benefit of the Wikimedia Foundation. Specifically, he began a course of conduct
22 intended to usurp the Wikitravel community; these actions included deliberately
23 misleading statements, and Trademark infringement and violation of Internet
24 Brands’ intellectual property rights.

25 21. His plan was simple: create the illusion that Wikitravel Website was
26 substantially “broken” and that the Wikimedia Foundation, out of generosity and
27 benevolence, would be “bringing together,” “integrating” or “migrating”
28 Wikitravel to its control for the benefit and betterment of the Wiki community.

1 22. Heilman announced that the “new” site, which would combine the
2 Wikitravel Website through a straw-man transaction with Wikivoyage.org (the
3 “Wikivoyage Website”) into a Wikimedia Foundation website that would be
4 called “Wiki Travel Guide” (the “Infringing Website”).

5 23. In order to help effectuate this plan, Heilman offered to assist the
6 formation of the Infringing Website, spearheading and organizing certain planning
7 and logistics of the infringing activity, and playing a broad and substantive role in
8 “carrying the water” for the Infringing Website including the infringing acts.

9 24. Heilman was heavily involved in recruiting the support of others for
10 various aspects of the development of the Infringing Website, the violation of the
11 Trademark, and violation of the License.

12 25. In April, Heilman and Ryan engaged in an email thread with several
13 others involved in the scheme in which the parties specifically discussed keeping
14 the matter private for fear that Internet Brands would “get wind of it” and begin
15 “actively resisting.”

16 26. On July 12, 2012, Heilman met at the Wikimania convention with a
17 number of Administrators and others to reach a further meeting of the minds as to
18 the unlawful acts to be undertaken.

19 27. On July 14, 2012, more clearly revealing their true intent of
20 converting the Wikitravel Website to its own project, the Wikimedia Foundation
21 asked Internet Brands to “donate” the Wikitravel Website, domain name, and the
22 trademark rights to WIKITRAVEL.

23 28. When Internet Brands refused, the defendants escalated their efforts to
24 trade on the Trademark, confuse the marketplace, misrepresent the origin, and
25 violate the License.

26 29. For example, on August 18, 2012, Holliday improperly and
27 wrongfully emailed at least several hundred of Wikitravel members, purporting to
28 be from Wikitravel and informing members that the Wikitravel Website was

1 “migrating” to the Wikimedia Foundation. Upon information and belief, the
2 number emailed is far greater.

3 30. Specifically, Holliday’s email contained the Subject Line, “Important
4 information about Wikitravel” and its body stated, “This email is being sent to you
5 on behalf of the Wikitravel administrators since you have put some real time and
6 effort into working on Wikitravel. We wanted to make sure that you are up to
7 date and in the loop regarding big changes in the community that will affect the
8 future of your work! As you may already have heard, Wikitravel’s community is
9 looking to migrate to the Wikimedia Foundation.”

10 31. Holliday and Heilman clearly intended to confuse Wikitravel Website
11 participants into thinking the Wikitravel Website is migrating to Wikimedia, in
12 order to gain, through improper and illegal means, all the traffic and content
13 creators currently contributing to Wikitravel.

14 32. Holliday not only violated trademark laws, he violated the
15 administrative access given to him by Internet Brands by improperly using
16 personal information stored on Internet Brands’ servers about users and writing to
17 them by name, in an attempt to bolster the appearance of a direct communication
18 from the owners of the Wikitravel Website.

19 33. The defendants pride themselves in operating in a transparent fashion,
20 when in actuality, the defendants have deliberately misrepresented facts and
21 conspired with each other and many more to violate several laws in order to gain
22 personally.

23 34. Worse still, the creation of “Wiki Travel Guide” has been done
24 without proper attribution to the original content creators, in clear violation of the
25 Attribution-Share License and the rights of the original creators.

26 35. The defendants Heilman and Holliday clearly have not acted alone.
27 Further investigation continues to reveal additional co-conspirators and additional
28 tortious and improper conduct. Additional defendants and causes of action are

1 expected through amendment, potentially including other Administrators that have
2 been most corrupt in this scheme and any entity or individuals that provided them
3 support or otherwise participated in these wrongful acts. This potentially includes
4 the Wikimedia Foundation, members of its Board, other individual members of
5 the Foundation, or anyone else who acted tortiously.

6 **COUNT I**

7 **COMMON LAW TRADEMARK INFRINGEMENT**

8 36. Internet Brands re-alleges and incorporates the allegations set forth in
9 paragraph 1 through 35 herein

10 37. Internet Brands owns and uses the Wikitravel trademark and enjoys
11 common law rights to the trademark as set forth above and thus these rights are
12 superior and senior to any rights that Defendants or anyone else may claim to the
13 Trademark.

14 38. Defendants' use of the Trademark is intentionally designed to
15 replicate the Trademark owned by Plaintiff so as to likely cause confusion in the
16 marketplace as to the source of the Infringing Website, and designed to create the
17 illusion as to the affiliation with or creation by Internet Brands' Wikitravel
18 Website.

19 39. Defendants' actions are to the detriment of Plaintiff.

20 40. As a result of the infringing acts by Defendants, Plaintiff has been and
21 continues to be injured and damaged.

22 **COUNT II**

23 **FEDERAL UNFAIR COMPETITION, FALSE DESIGNATION OF ORIGIN**

24 **AND TRADE NAME INFRINGEMENT**

25 **(Lanham Act, §43(a), 15 U.S.C. §1125)**

26 41. Internet Brands re-alleges and incorporates the allegations set forth in
27 paragraph 1 through 40 herein.

28 42. Defendants' unauthorized use of a mark confusingly similar to

1 Internet Brands' Wikitravel trade name and trademarks for identical and related
2 products, i.e., an informational travel website, falsely indicates that Defendants'
3 and their website are connected with, sponsored by, affiliated with or related to
4 Wikitravel.

5 43. Defendants' unauthorized use of a mark confusingly similar to
6 Internet Brands' Wikitravel trade name and trademarks for an identical and related
7 website is likely to cause confusion, mistake or deception as to the source,
8 business affiliation, connection or association of Defendants and their website.

9 44. Defendants' unauthorized use of a mark confusingly similar to
10 Internet Brands' Wikitravel trade name and trademarks for identical and related
11 website allows Defendants to receive the benefit of Internet Brands' Wikitravel
12 goodwill, which Internet Brands has established at great labor and expense, and
13 further allows Defendants to expand its business, based not on its own qualities,
14 but on the reputation and goodwill of Internet Brands' Wikitravel.

15 45. The acts of Defendants complained of herein constitute unfair
16 competition, false designation of origin, and trade name infringement in violation
17 of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

18 46. Internet Brands is informed and believes and thereon alleges that
19 Defendants' acts complained of herein have been deliberate, willful and
20 intentional, with full knowledge and in conscious disregard of Internet Brands'
21 rights in its Wikitravel trademark and with intent to trade off of Internet Brands'
22 vast goodwill in its mark.

23 47. As a result of the foregoing alleged actions of Defendants, Defendants
24 have been unjustly enriched and Internet Brands has been injured and damaged.

25 **COUNT III**

26 **UNFAIR COMPETITION**

27 **(Cal. Bus. Prof. Code §17200)**

28 48. Internet Brands re-alleges and incorporates the allegations set forth in

1 paragraph 1 through 47 herein.

2 49. Defendants are offering Administrators, contributors and other users a
3 competitive website by trading on Internet Brands' Wikitravel Trademark.

4 50. Internet Brands is informed and believes and thereon alleges that
5 Defendants are profiting, directly or indirectly, through the use of Internet Brands'
6 Wikitravel Trademark in a deliberate, willful, intentional and wrongful attempt to
7 trade off of Internet Brands' goodwill, reputation and financial investment in its
8 Wikitravel trademark.

9 51. By reason of the conduct described above, Defendants have engaged
10 in unlawful, unfair and/or fraudulent business practices, and is in violation of Cal.
11 Bus. & Prof. Code Section 17200 because it is likely to deceive and mislead the
12 public.

13 52. As a direct result of Defendants' unfair competition, Defendants have
14 unlawfully acquired, and continue to acquire on an ongoing basis, an unfair
15 competitive advantage and have engaged, and continue to engage, in wrongful
16 business conduct to their advantage and to the detriment of Internet Brands.

17 53. As a result of the foregoing alleged actions of Defendants, Defendants
18 have been unjustly enriched and Internet Brands has been injured and damaged.

19

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COUNT IV

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CIVIL CONSPIRACY

22

23 54. Internet Brands re-alleges and incorporates the allegations set forth in
24 paragraph 1 through 53 herein.

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26 55. Two or more persons, including both Defendants, had an agreement
27 or meeting of the minds to commit numerous tortious acts.

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56. Two or more persons, including both Defendants did in fact commit
numerous tortious acts, as agreed.

57. The commission of those tortious acts caused Plaintiff injury and

1 damages.

2 58. As a result, Defendants have been unjustly enriched and Internet
3 Brands has been injured and damaged.

4 **JURY DEMAND**

5 Plaintiffs request a jury trial on all claims so triable.

6
7 **PRAYER FOR RELIEF**

8 WHEREFORE, Internet Brands prays that:

9 1. Judgment be entered for Internet Brands on all claims.

10 2. Defendants, their agents, servants, employees, attorneys, and all others in
11 active concert or participation with any of them, be enjoined and restrained
12 permanently from:

13 (a) making visible use of the Internet Brands' Wikitravel mark or any other
14 mark confusingly similar thereto;

15 (b) making any other trademark use of Internet Brands' Wikitravel trade
16 name or trademark; and

17 (c) doing any other act or thing likely to confuse, mislead, or deceive others
18 into believing that Defendants or their affiliates, employers, contractors, or agents
19 are providing a website service that comes from, is affiliated with, connected with,
20 sponsored or approved by, or associated with Internet Brands' Wikitravel Website;

21 3. Defendants be required to pay:

22 (a) damages, according to proof at trial;

23 (b) Internet Brands' attorneys' fees and costs of this action, as a result of
24 Defendants' willful infringement of Internet Brands' trademark; and

25 (c) punitive damages in an amount to be determined at trial as a result of
26 Defendant's willful conspiracy to commit unlawful business practices.

27 4. Any other relief this Court deems just and appropriate.

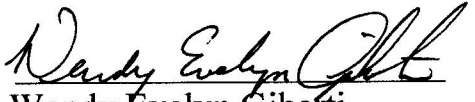
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1 DATED: August 24, 2012

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Respectfully submitted,

iGENERALCOUNSEL, P.C.

By: 
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Attorney for Plaintiff INTERNET
BRANDS, INC., a Delaware
Corporation