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7 UNITED STATES DISTRICT COURT
8 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10	ERICK DEBANFF, an individual;)	Case No.: 5:16-cv-403
11)	
12	Plaintiff,)	COMPLAINT FOR
13	vs.)	COPYRIGHT INFRINGEMENT
14	GOOGLE, INC.; and DOES 1-10, inclusive,)	
15	Defendants.)	JURY TRIAL DEMANDED

16
17 Plaintiff Erick DeBanff, by and through counsel, hereby complains of Defendant as follows:

18 **PARTIES**

- 19 1. Mr. DeBanff is an individual residing in San Bernardino County, California.
- 20 2. Upon information and belief, Defendant GOOGLE, INC. ("Google") is a Delaware
21 Corporation with a principle place of business at 1600 Amphitheatre Parkway, Mountain View, CA
22 94043.
- 23 3. Upon information and belief, Google is engaged in the business of providing computer and
24 internet-related services and products. This includes online advertising, search services, cloud
25 computing, desk-top and mobile applications or "apps" that cause the computer to perform games or
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1 useful tasks, retail Internet sales of various products including books in both paper and electronic
2 format, to customers throughout the world including within this judicial district.

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4 **JURISDICTION AND VENUE**

5 4. This action arises out of the U. S. Copyright Laws, 17 U.S.C. §501 et seq.

6 5. This Court has subject matter jurisdiction over the action pursuant to 17 U.S.C. § 501(a) and
7 28 U.S.C. § 1331.

8 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400 because the
9 Defendant conducts business within this judicial district, Defendant or its agents or affiliates can be
10 found in this judicial district, and acts giving rise to this complaint are believed to have occurred
11 within this judicial district.

12
13 **FACTS**

14 7. Mr. DeBanff is a talented and recognized author and lecturer.

15 8. Mr. DeBanff's talents have been recognized by many sources in the industry.

16 9. Erick DeBanff is the author of the book "Vie Max: How to Live the Next 2 Billion
17 Heartbeats of Your Life to the Max." Mr. DeBanff obtained copyright registration of his book in
18 2012. A true and correct copy of Mr. DeBanff's copyright registration on "Vie Max: How to Live
19 the Next 2 Billion Heartbeats of Your Life to the Max." is attached as Exhibit A.

20 10. In his book he explores and explains his philosophy of living life to the fullest and living
21 every heartbeat as if it was your last.

22 11. Defendant Google has created a national commercial and ad campaign for Google Play,
23 Google's online electronics and digital media store, that is confusingly similar to excerpts from Mr.
24 DeBanff's book.

25 12. The Google video and television advertisement and the Google Play campaign uses the
26 words "Play Your Heart Out" and states, "There are about 2 billion 5 hundred million heartbeats in
27 a lifetime. You should feel every one of them." These words are essentially a direct copy of the
28

1 words and philosophy in Mr. DeBanff's book and is a violation of the U.S. Copyright Act (17 USC
2 §101 et seq. — the "Copyright Act").

3 13. Mr. DeBanff has not authorized Google to use his intellectual property.

4 14. Mr. DeBanff believes that using the idea, words and philosophy of his book in the Google
5 Play advertising campaign infringes the Copyright Act.

6 15. Mr. DeBanff has never authorized any entity to publish a derivative of his work.

7 16. The Defendant in this action maintains websites and/or online stores that are accessible by
8 and available to users throughout the United States including in this District.

9 17. The Defendant has published the words and philosophy of Mr. DeBanff's book on television
10 and video commercials throughout the United States including in this District.

11 18. Defendant has, without the permission of Mr. DeBanff, copied, duplicated, and distributed
12 words and excerpts from Mr. DeBanff's book in violation of his exclusive rights as a copyright
13 owner.
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16 **CAUSES OF ACTION**

17 **COUNT I**

18 **COPYRIGHT INFRINGEMENT [17 U.S.C. § 101 et. seq.]**

19 (Against Defendant Google and Does 1-10)

20 19. Mr. DeBanff incorporates the allegations made in paragraphs 1-18 as if fully set forth herein.

21 20. Defendant has willfully committed copyright infringement under 17 U.S.C. § 501 et. seq.,
22 directly, by inducement, or by way of contributory liability, by knowingly aiding, causing, or
23 committing, the unauthorized practice or execution of one or more exclusive rights owned by Mr.
24 DeBanff as set forth in 17 U.S.C. § 106, said exclusive rights having been perfected by U.S.
25 Copyright Service Request as identified in Attached Exhibit A.
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27 **PRAYER FOR RELIEF**

28 WHEFORE, Plaintiff, Erick DeBanff, prays for the following relief:

1 A. An order entering judgment in favor of Mr. DeBanff and awarding damages to Mr. DeBanff
2 in the amount of Mr. DeBanff's actual damages and any profits of Defendants attributable to the
3 infringing acts alleged herein at an amount meeting or exceeding \$100,000.00, or, at his election, an
4 award of statutory damages.

5 B. An order entering judgment in favor of Mr. DeBanff and enjoining any further acts of
6 infringement of Mr. DeBanff's copyright and further ordering the destruction of all medium used
7 (such as master disks, computer files, film or data models) in the acts of infringement, consistent
8 with remedies available under 17 U.S.C. § 503.

9 C. An award of full costs and reasonable attorney's fees against Defendant and in favor of Mr.
10 DeBanff pursuant to 17 U.S.C. § 505.


11 D. Such other further relief as the Court may deem just and proper.
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14 **JURY DEMAND**

15 Mr. DeBanff demands a trial by jury on all issues presented in this Complaint.
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18 Dated: March 4, 2016

Respectfully submitted,

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21 _____
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