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10 Attorneys for Plaintiffs Legend-Morphy
and Laura Sperber

11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE DISTRICT OF ARIZONA**
14

15
16 LEGEND-MORPHY, a general
partnership, and LAURA SPERBER, an
17 individual,

18 Plaintiffs,

19 vs.

20 XCENTRIC VENTURES, LLC, an
Arizona Limited Liability Company;
21 and DOES 1-10,

22 Defendants.

CASE NO. 2:12-cv-02260-ROS

**FIRST AMENDED COMPLAINT
FOR:**

**1. COPYRIGHT INFRINGEMENT
(17 U.S.C. §§ 501 et seq.)**

**2. FALSE ADVERTISING/
DESIGNATION (15 U.S.C. § 1125)**

DEMAND FOR JURY TRIAL

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1 Plaintiffs Legend-Morphy and Laura Sperber (collectively, “Plaintiffs”)
2 allege as follows:

3 **THE PARTIES**

4 1. Plaintiff Legend-Morphy (“Legend-Morphy”) is a general partnership
5 with its principal place of business in Denver, Pennsylvania. Legend-Morphy is an
6 auction company specializing in rare coins.

7 2. Plaintiff Laura Sperber (“Sperber”) is a resident of the State of New
8 Jersey, County of Monmouth. Sperber is President of Legend Numismatics, one of
9 the premier high-end coin dealerships in the United States. Sperber is also a co-
10 owner of Legend-Morphy.

11 3. Plaintiffs are informed and believe that Defendant Xcentric Ventures,
12 LLC (“Xcentric”) is an Arizona limited liability company with its principal place of
13 business in Tempe, Arizona. Plaintiffs are informed and believe, and based thereon
14 allege, that Defendant operates the website www.RipoffReport.com (“Ripoff
15 Report”).

16 4. The true names and capacities of defendants named as Does 1 through
17 10, inclusive, are unknown to Plaintiffs, who therefore sue said defendants by such
18 fictitious names (“Doe Defendants”). Plaintiffs will amend this Complaint to show
19 their true names and capacities when the same have been ascertained. Plaintiffs are
20 informed and believe, and based thereon allege, that Does 1 through 10, inclusive,
21 were responsible in some manner for the acts and transactions hereinafter alleged
22 and are liable to Plaintiffs therefor.

23 5. Defendant Xcentric Ventures, LLC and DOES 1 through 10, inclusive,
24 are at times referred to herein collectively as “Defendants.”

25 **JURISDICTION AND VENUE**

26 6. This complaint alleges copyright infringement arising under the
27 Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*, and violation of the Lanham Act
28 arising under 15 U.S.C. § 1125(a). This Court has subject matter jurisdiction over

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1 these federal question claims pursuant to 17 U.S.C. §§ 101 *et seq.*, 15 U.S.C. §
2 1125(a) and 28 U.S.C. §§ 1331 and 1338.

3 7. This Court has personal jurisdiction over Defendants in that the acts
4 complained of herein occurred in the District of Arizona. In addition, Plaintiffs are
5 informed and believe, and based thereon allege, that Xcentric has its principal place
6 of business in the State of Arizona and in this judicial district.

7 8. Venue is proper in this district under 28 U.S.C. §§ 1391(a), (b) and (c).

8 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

9 **Ripoff Report**

10 9. Ripoff Report is a for-profit website, which describes itself as a
11 “worldwide consumer reporting Web site and publication, by consumers, for
12 consumers, to file and document complaints about companies or individuals.”
13 Ripoff Report permits anyone over the age of 14 to post free, unedited and
14 unsubstantiated complaints known as “reports” which contain details of the user’s
15 experience with the company or individual listed in the report.

16 10. Plaintiffs are informed and believe that Ripoff Report takes active
17 measures to deliberately increase the visibility of its “reports” in the results of
18 various Internet search engines, such as Google, Bing, Yahoo, etc. Indeed, Ripoff
19 Report often ranks high on major search engines for any given brand or company
20 mentioned, usually showing up in the top few positions on Google, and sometimes
21 even ahead of a brand’s official website. Ripoff Report touts this very feature on its
22 website: “Your Ripoff Report will be discovered by millions of consumers! Search
23 engines will automatically discover most reports, meaning that within just a few
24 days or weeks, your report may be found on search engines when consumers search,
25 using key words relating to your Ripoff Report.” As a result, being listed on Ripoff
26 Report has the strong potential to be detrimental to any business or individual.

27 **Submitting a Report**

28 11. In order to submit a “report,” users must first create a Ripoff Report

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1 account, which process includes selecting a “Display Name.” Users are at liberty to
 2 select any Display Name they wish provided it is has not already been selected by
 3 another user on the site. Ripoff Report does not verify the identities of its users.
 4 Instead, after a user submits his or her account information, Ripoff Report sends a
 5 link to an email address identified by the user, which “verifies” the email address
 6 only.

7 12. Unlike most sites, once a user posts a “report” on the Ripoff Report, the
 8 report is there forever. Specifically, Ripoff Report does not allow users to take
 9 down their own reports, and the site will not remove reports upon request. All
 10 complaints remain public.

11 Responding to and Resolving a Disputed Report

12 13. Anyone with a Ripoff Report user account may respond to a report by
 13 submitting a “rebuttal.” Posting a rebuttal results in the report achieving a higher
 14 position in online search results. Unfortunately for the targeted business or
 15 individual, however, the reports are configured to display the complaint in the
 16 search result summary, not the rebuttal.

17 14. Notwithstanding the above, there are options available through Ripoff
 18 Report to resolve a disputed report – *for a substantial fee*. The first of these options
 19 is the Ripoff Report Corporate Advocacy Program. By signing up for the program,
 20 Ripoff Report will perform an “investigation” into the report and post its findings
 21 above of the original report. The original report remains on the Internet, but the
 22 positive content appears above the negative report. Alternatively, Ripoff Report
 23 offers a “VIP Arbitration Program.” For a fee of \$2,000, Ripoff Report allows a
 24 targeted company or individual to contest the truthfulness of the report made against
 25 them before an arbitrator. Ripoff Report does not disclose how the fee of \$2,000 is
 26 allocated between itself and the arbitrator.

27 The False Report Regarding Sperber And The Impersonation of Sperber

28 15. On September 24, 2012, an anonymous user posted the following

1 “report” about Laura Sperber on Ripoff Report ([http://www.ripoffreport.com/laura-](http://www.ripoffreport.com/laura-sperber-of-leg/computer-fraud/internet-internet-03130.htm)
2 [sperber-of-leg/computer-fraud/internet-internet-03130.htm](http://www.ripoffreport.com/laura-sperber-of-leg/computer-fraud/internet-internet-03130.htm)):

3 Laura Sperber from Legend Numismatics was indicted on charges of
4 racketeering and money laundering on Monday. A grand jury handed down
5 the indictment Monday afternoon. This capped a year long investigation in to
6 her alleged criminal activity helping many well-known organized crime
7 family launder money through the front of coin collecting. She is a well
8 known loud mouthed PCGS coin dealer.

9 16. This “report” is completely false. Sperber has never been indicted of
10 racketeering and money laundering by a grand jury. Sperber has never been
11 investigated for “helping many well-known organized crime family launder money
12 through the front of coin collecting.”

13 17. Notwithstanding the blatant falsehoods contained in the September 24,
14 2012 report, on October 3, 2012, a user purporting to be “Laura Sperber” posted a
15 response to the September 24, 2012 post stating the following:

16 This is Laura Sperber of Legend Coins. We sell only PCGS /CAC coins and
17 only the highest quality. Some people are reported i was a under
18 investigation. This is not true these charges of money laundering were
19 dismissed by a judge three years ago. I only sell the best quality coin PCGS
20 and CAC only and have not been convicted recently of any crimes. This is
21 old news and i won the case!!!

22 The October 3, 2012 post is accompanied by a copyrighted photo of Sperber.

23 18. On October 5, 2012, the same user submitted a second post on Ripoff
24 Report stating the following:

25 “I am posting documents this week showing that all criminal charges were
26 settled via plea bargain [sic]. I was never found guilty.”

27 Copies of the September 24, October 3 and October 5, 2012 postings are
28 attached hereto as Exhibit 1 and are incorporated herein by reference.

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1 property rights occurring on Ripoff Report, instead, on October 13, 2012, the
 2 founder of Ripoff Report, Ed Magedson, published a comment on the “report”
 3 regarding Sperber in which he “cut and pasted” what he described as a “lovely email
 4 from [a] supporter of Laura Sperber” It is apparent that Ripoff Report and its
 5 founder have no intention of protecting the intellectual property rights of Plaintiff.
 6 Accordingly, Plaintiffs have been forced to file this action in order to enforce and
 7 protect their intellectual property rights under the United States’ copyright laws and
 8 trademarks.

9 **FIRST CLAIM FOR RELIEF**

10 **Copyright Infringement (17 U.S.C. §§ 501 *et seq.*)**

11 **(By Plaintiff Legend-Morphy Against All Defendants)**

12 24. Plaintiffs refer to paragraphs 1 through 23 of this Complaint and
 13 reallege each and every allegation as though fully set forth herein.

14 25. On October 3, 2102, a user falsely claiming to be Sperber posted a
 15 copyrighted photo of Sperber (the “Photo”) at the following link on Xcentric’s
 16 website, Ripoff Report: [http://www.ripoffreport.com/laura-sperber-of-leg/computer-](http://www.ripoffreport.com/laura-sperber-of-leg/computer-fraud/internet-internet-03130.htm)
 17 [fraud/internet-internet-03130.htm](http://www.ripoffreport.com/laura-sperber-of-leg/computer-fraud/internet-internet-03130.htm). The photo remained on the Ripoff Report until
 18 approximately November 8, 2012 despite Plaintiff’s specific request to Xcentric to
 19 take it down.

20 26. Legend-Morphy is the copyright owner of the Photo. Legend-Morphy
 21 filed a registration for copyright in the Photo with the United States Copyright
 22 Office on October 15, 2012. At no time has Legend-Morphy authorized Xcentric or
 23 Doe Defendants to publish, display, distribute, or utilize in any way the Photo.

24 27. Xcentric and Doe Defendants distributed and displayed the Photo to the
 25 public on Ripoff Report without Legend-Morphy’s authorization and in violation of
 26 its copyright.

27 28. Does Defendants’ infringing acts were committed willfully and
 28 knowingly. Upon receiving Plaintiff’s takedown notice on October 8, 2012,

1 Xcentric became aware of the copyright infringement occurring on its website.
 2 Nonetheless, Xcentric did nothing to remove the copyrighted photo until
 3 approximately November 8, 2012, when the copyrighted photo of Sperber was
 4 finally removed.

5 29. As a result of Defendants' copyright infringement as alleged above,
 6 Legend-Morphy has suffered and will continue to suffer injury and damage in an
 7 amount to be determined at trial. Further, Legend-Morphy is informed and believes,
 8 and based thereon allege, that Defendants have received or will receive profits,
 9 gains, or other benefits from their infringing activities, all of which should be
 10 disgorged to Legend-Morphy. Alternatively, Legend-Morphy reserves the right to
 11 seek statutory damages for Defendants' intentional infringement of its copyrighted
 12 work.

SECOND CLAIM FOR RELIEF

False Advertising and False Designation (15 U.S.C. § 1125(a))

(By Plaintiff Sperber Against All Defendants)

16 30. Plaintiffs refer to paragraphs 1 through 23 of this Complaint and
 17 reallege each and every allegation as though fully set forth herein.

18 31. Beginning in October 2012 and continuing to present, Xcentric's
 19 website, Ripoff Report, published posts from a user named "Laura Sperber" falsely
 20 claiming to be Sperber. At least one such post was accompanied by a copyrighted
 21 portrait of Sperber until November 8, 2012. The false posts using Sperber's name
 22 and identity are available to Ripoff Report's "worldwide" audience.

23 32. The posts using Sperber's name and identity falsely suggest that
 24 Sperber uses, endorses or otherwise approves of Ripoff Report. In truth, Sperber
 25 does not endorse or otherwise approve of that site.

26 33. In addition, Xcentric has made unauthorized use of Sperber's name and
 27 identity in "teasers" for Ripoff Report. Indeed, when performing an Internet search
 28 of Sperber's and company, Ripoff Report's site presently appears as the fifth "hit"

1 on Google. On information and belief, Xcentric's unauthorized use of Sperber's
2 name and identity in this manner have deceived customers into believing that
3 Sperber uses and endorses the site.

4 34. Furthermore, Xcentric seeks to capitalize on Sperber's name and
5 reputation by using her name and reputation within the coin collecting industry to
6 attract page views and to generate revenues through advertising companies that
7 compete with Sperber. For example, the "report" about Laura Sperber on Ripoff
8 Report has featured advertisements for Goldline International, a seller of gold coins
9 and other rare coins, which is a competitor of Sperber's. Sperber is therefore
10 suffering a competitive injury as a result of Xcentric's conduct in posting competing
11 advertisements on the report concerning Sperber.

12 35. Defendants' unauthorized use of Sperber's name and identity in the
13 above manner alleged constitutes false designation of origin and false advertising
14 within the meaning of 15 U.S.C. § 1125(a).

15 36. The actions of Defendants have caused and will continue to cause
16 Sperber to suffer great and irreparable injury through (1) likelihood of confusion,
17 mistake, and deception among the relevant public; and (2) the loss of valuable
18 goodwill and business reputation symbolized by Sperber's name and identity.
19 Sperber is therefore entitled to equitable relief in the form of a temporary restraining
20 order, a preliminary injunction, and a permanent injunction against further violations
21 of her rights.

22 37. As a direct and proximate result of the above actions, Sperber has been
23 damaged in a sum or sums presently unknown, but which will be proven at the time
24 of trial. Accordingly, Sperber is entitled to the full range of relief under the 15
25 U.S.C. § 1125(a).

26 38. On information and belief, Defendants had actual knowledge of
27 Sperber's rights in her name and identity when they commenced infringing activity.
28 Thus, Defendants have willfully, knowingly, and maliciously infringed Sperber's

1 rights. Accordingly, pursuant to 15 U.S.C. § 1117(a), Sperber is entitled to an
2 award of treble damages and attorney's fees against Defendants.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

5 **On The First Claim for Relief**

- 6 A. For compensatory damages in an amount to be determined at trial;
- 7 B. For attorneys' fees and costs.

8 **On The Second Claim for Relief**

- 9 A. For compensatory damages in an amount to be determined at trial;
- 10 B. For specific performance and/or injunctive relief.
- 11 C. For attorneys' fees and costs.

12 **On All Claims for Relief**

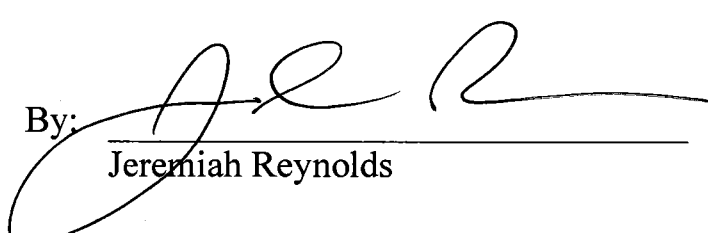
- 13 A. For pre-judgment and post-judgment interest as provided for by law;
- 14 and
- 15 B. For all such other and further relief as the Court deems just and proper.

16 **DEMAND FOR JURY TRIAL**

17 In accordance with the provisions of Rule 38(b) of the Federal Rules of Civil
18 Procedure, Plaintiffs hereby demand a jury trial on all issues so triable.

19 DATE: November 29, 2012 RYLEY CARLOCK & APPLEWHITE

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23
24 By: 
25 Jeremiah Reynolds
26
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