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Court of Common Pleas

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By: JASON D. WINTER 0076191

Confirmation Nbr. 1282169

ASIAN SUN, INC.

CV 18 891965

vs.

GOOGLE, INC., ET AL.

Judge: JOHN P. O'DONNELL

Pages Filed: 12

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

ASIAN SUN INC.,
300 Ken Mar Parkway
Broadview Heights, Ohio 44147,

Plaintiff,

v.

GOOGLE INC.,
Corporation Service Co.
50 West Broad Street Suite 1330
Columbus, Ohio 43215,

and

JOHN DOES 1 THROUGH 5
whose true names and addresses are
unknown.

JOHN DOE ENTITIES 1 THROUGH 5
whose names and addresses are
unknown,

Defendants.

) **PETITION FOR DISCOVERY**
) **ACTION PURSUANT TO OHIO CIVIL**
) **RULE 34(D) AND OHIO REVISED**
) **CODE §2317.48**

Now comes Plaintiff Asian Sun Inc., (“Plaintiff” or “Petitioner”), by and through undersigned counsel, and for its Petition for Discovery against Google Inc. (“Google”), John Does 1 through 5, and John Doe Entities 1 through 5 (collectively, “Defendants”) states as follows:

PARTIES/VENUE

1. Plaintiff Asian Sun Inc. has been at all relevant times a corporation formed and operating under the laws of the State of Ohio, with its principal place of business located at 300 Ken Mar Parkway, Broadview Heights, County of Cuyahoga, Ohio, and Plaintiff regularly conducts business in the County of Cuyahoga.

2. Defendant Google is a foreign corporation formed and operating under the laws of the State of California and doing business in the State of Ohio.

3. Upon information and belief, Defendants John Does 1 through 5 (whose identities, true names, and addresses are presently unknown) are the individuals who posted a review on Google.com containing false and defamatory statements about Plaintiff.

4. Upon information and belief, Defendants John Doe Entities 1 through 5 (whose identities, true names, and addresses are presently unknown) are the entities who posted or assisted in posting a review on Google.com containing false and defamatory statements about Plaintiff.

5. Venue is proper in Cuyahoga County, Ohio pursuant to Civ. R. 34(D)(1).

FACTUAL ALLEGATIONS

6. Plaintiff is a martial arts school with locations throughout the Cleveland-Akron area that has built a strong reputation and loyal clientele throughout the community.

7. On or about November 14, 2017, a review of Plaintiff's Medina Stonegate location was posted on Google. This review contained false and defamatory statements regarding Plaintiff and its employees of a most vile nature, including, but not limited to, allegations of inappropriate sexual conduct. The review is outrageous in nature and seeks to damage Plaintiff's professional reputation and goodwill, and seeks to interfere with Plaintiff's professional and business relationships.

8. The review was posted by an anonymous person or entity acting under the name and/or account of "Sarah Backham."

9. Plaintiff seeks to pursue an action for defamation, tortious interference with business relationships, and other possible claims against the individuals and/or entities that posted the review on Google, but is unable to determine the identity of these individuals and/or entities.

COUNT ONE

(Petition for Discovery pursuant to Civ. R. 34(D) and R.C. §2317.48)

10. Plaintiff reasserts and realleges each of the prior Paragraphs as if fully restated.

11. Plaintiff has been harmed and will continue to be harmed by the defamatory statements contained in the review on Google.

12. Plaintiff believes that a cause of action for defamation, tortious interference with business relationships, and other claims exists against the individuals and/or entities who posted the review.

13. On December 6, 2017, Plaintiff's counsel sent a letter to Defendant Google, requesting that they produce certain information and documents pursuant to Civ. R 34(D) regarding the identity and contact information for the persons and/or entities responsible for the posting of the defamatory statements. An authentic duplicate of the original letter is attached hereto as **Exhibit A**.

14. On December 14, 2017, Google replied via email to Plaintiff's counsel's letter and denied Plaintiff's request to provide any information sought by Plaintiff's counsel, stating that it is Google's policy to only provide subscriber information pursuant to a properly served, valid third-party subpoena or other appropriate legal process in accordance with those laws. An authentic duplicate of this original email is attached hereto as **Exhibit B**.

15. An affidavit of Plaintiff's counsel describing the efforts taken to obtain the information from Google is attached hereto as **Exhibit C**.

16. In light of Google's response to Plaintiff's counsel's request for information pursuant to Civ. R. 34(D), Plaintiff intends to serve a subpoena upon Google to discover such information.

17. The following Interrogatories and Requests for Production of Documents relating to the subject matter of discovery are hereby being served and are necessary for Plaintiff to be able to adequately present a cause of action.

INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

18. Any information and/or documents which refer, relate, pertain to, concern, or otherwise identify the individuals and/or entities who posted the review on Google regarding Asian Sun Inc., including, but not limited to, the name, address, phone number, e-mail address, Google account number, date of opening and closing of any account, method of payment and billing logs, Internet Protocol (IP) address, Media Access Control (MAC), and any other information that pertains to the status of those persons' or entities' accounts and identity.

19. Any information and/or documents which refer, relate, pertain to, or concern the Google account identified as, or known as, "Sarah Backham." including, but not limited to, the name, address, phone number, e-mail address, Google account number, date of opening and closing of any account, method of payment and billing logs, Internet Protocol (IP) address, Media Access Control (MAC), and any other information that pertains to the status of that person's account and identity.

WHEREFORE, Plaintiff prays this Honorable Court issue an order authorizing Plaintiff to obtain the requested discovery.

Respectfully submitted,

/s/Kyle A. Cramer

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