

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No: _____

RAANAN KATZ,

Plaintiff,

v.

GOOGLE INC., a Delaware corporation,
and IRINA CHEVALDINA, an individual,

Defendants.
_____ /

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff, Raanan Katz, an individual (“Katz”), by and through undersigned counsel, hereby sues Google Inc., a Delaware corporation (“Google”) and Irina Chevaldina, an individual (“Chevaldina”) (Google and Chevaldina will be collectively referred to herein as “Defendants”), and alleges:

Nature of Suit

1. This is an action seeking injunctive relief and damages arising from Defendants’ unauthorized use of Katz’s copyrighted image. The Complaint alleges: direct copyright infringement (Count I) and contributory copyright infringement (Count II).

Subject Matter Jurisdiction, Venue and Personal Jurisdiction

2. This Court has subject matter jurisdiction over the federal copyright cause of action under 28 U.S.C. §§ 1331 and 1338.

3. Defendant Google is subject to personal jurisdiction of this Court under Fla. Stat. §§48.193(1)(a), 48.193(1)(b), and §48.193(2) because it: (i) operates, conducts, engages in, or carries on a business or business venture in Florida or has an office or agency in Florida; (ii)

committed the tortious conduct alleged herein in the State of Florida; and (iii) engages in substantial and not isolated business activity in the State of Florida.

4. Defendant Chevaldina is subject to personal jurisdiction of this Court because she resides in Florida. Chevaldina is also subject to personal jurisdiction of this Court under Fla. Stat. §§48.193(1)(a), 48.193(1)(b), and §48.193(2) because she: (i) operates, conducts, engages in, or carries on a business or business venture in Florida or has an office or agency in Florida; (ii) committed the tortious conduct alleged herein in the State of Florida; and (iii) engages in substantial and not isolated business activity in the State of Florida.

5. Venue is proper in this District under 28 U.S.C. §1391(b) and (c) because: (i) each Defendant resides or can be found in this District and is subject to personal jurisdiction in this District; and (ii) a substantial part of the events or omissions giving rise to the claims occurred in this District.

The Parties

6. Plaintiff Katz is an individual who resides in Miami-Dade County, Florida.

7. Defendant Google Inc. is a corporation organized and existing under the laws of the Delaware, with its principal place of business at 1600 Amphitheatre Parkway, Mountain View, CA 94043.

8. Upon information and belief, Defendant Chevaldina is an individual residing at 19508 East Country Club Drive, Aventura, Florida 33180.

Facts

9. Katz is the owner, by assignment, of all right, title and interest, including all copyright rights, in and to the following image (the “Image”), which has been partially distorted due to its unflattering nature:



10. The Image was photographed and first published in Israel on or about February 22, 2011, and is considered a foreign work, protected in the United States under 17 U.S.C. § 104(b)(2) through International Treaties. Registration of the Image with the copyright office is not a prerequisite to filing a claim for copyright infringement under 17 U.S.C. § 411(a) because the Image is not a United States work.

Defendants' Conduct

11. Defendant Chevaldina operates various web sites on the Internet under the names “Always True,” “alwaytrue” and others, which display unauthorized copies of the Image.

12. Defendant Chevaldina uses Google’s blogspot and blogger platforms to host some of the web sites.

13. An agent of Katz submitted a Digital Millennium Copyright Act (“DMCA”) take-down request to Google for the Image on May 24, 2012. Google responded to the DMCA notice indicating that it would not take such action.

14. Counsel for Katz sent another DMCA take-down notice to Google on June 4, 2012 demanding that each copy of the Image be removed from its servers. Google again responded to the DMCA notice indicating that it would not take such action.

Conditions Precedent and Attorneys' Fees

15. All conditions precedent to the bringing and maintenance of this action have been performed, waived, or have occurred.

16. Katz has retained the undersigned counsel to represent him in this action and is obligated to pay them a reasonable fee for their services.

COUNT I
DIRECT COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. § 501

The allegations contained in paragraphs 1-16 above are hereby realleged as if fully set forth herein.

17. As previously alleged, registration of the Image with the copyright office is not a prerequisite to filing a claim for copyright infringement under 17 U.S.C. § 411(a) because the Image is not a United States work.

18. Without Katz's authorization or approval, Chevaldina knowingly, intentionally and willfully copied and publicly displayed the Image in violation of Katz's exclusive rights in the Image.

19. Katz has been and will likely continue to be damaged by Chevaldina's violation of his rights.

20. Upon information and belief, as a result of its conduct, Chevaldina has realized and continues to realize profits or other benefits rightly belonging to Katz.

WHEREFORE, Katz respectfully requests that the Court enter judgment against Chevaldina:

- (A) Preliminarily and permanently enjoining Chevaldina from copying, displaying or otherwise using the Image, or any other images in which Katz owns the copyright;
- (B) Requiring Chevaldina to destroy any images, including electronic versions thereof, in which Katz owns the copyright that remain in her possession, custody or control;
- (C) Awarding Katz his actual damages and any profits of Chevaldina;
- (D) Requiring Chevaldina to file a notice detailing all of the actions taken to comply with the Court's judgment; and
- (E) Granting Katz any other and further relief this Court deems just and proper.

COUNT II
CONTRIBUTORY COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. § 501

The allegations contained in paragraphs 1-16 above are hereby realleged as if fully set forth herein.

21. As previously alleged, registration of the Image with the copyright office is not a prerequisite to filing a claim for copyright infringement under 17 U.S.C. § 411(a) because the Image is not a United States work.

22. Defendant Google materially contributes to Chevaldina's direct copyright infringement by hosting Chevaldina's web sites and numerous copies of the infringing Image on its servers through its blogspot service.

23. Google knowingly, intentionally and willfully refused to remove the Image from its servers after being put on notice of Chevaldina's infringement by DMCA take-down notices sent on behalf of Katz and is a contributory infringer who is not protected by the DMCA safe-harbor.

24. Katz has not authorized or approved the use of the Image.

25. Katz has been and will likely continue to be damaged by Google's violation of its rights.

26. Upon information and belief, as a result of its conduct, Google has realized and continues to realize profits or other benefits rightly belonging to Katz.

WHEREFORE, Katz respectfully requests that the Court enter judgment against Google:

(A) Preliminarily and permanently enjoining Google from copying, displaying or otherwise using the Image;

(B) Requiring Google to destroy the Image, including electronic versions thereof, which remain in its possession, custody or control;

(C) Awarding Katz his actual damages and any profits of Google;

(D) Requiring Google to file a notice detailing all of the actions taken to comply with the Court's judgment; and

(E) Granting Katz any other and further relief this Court deems just and proper.

Dated: June 12, 2012

Respectfully submitted,

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