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 10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 SAN FRANCISCO DIVISION

13 CRAIGSLIST, INC., a Delaware
 14 corporation,

15 Plaintiff,

16 v.

17 3TAPS, INC., a Delaware corporation;
 PADMAPPER, INC., a Delaware
 18 corporation; DISCOVER HOME
 NETWORK, INC., a Delaware
 19 Corporation d/b/a LOVELY; BRIAN R.
 NIESSEN, an individual, and Does 1
 20 through 25, inclusive,

21 Defendants.

Case No. CV 12-03816 CRB

FIRST AMENDED COMPLAINT FOR:

- (1) Breach of Contract
- (2) Trespass
- (3) Misappropriation
- (4) Violations of the Computer Fraud and Abuse Act
- (5) Copyright Infringement
- (6) Contributory Copyright Infringement
- (7) Federal Trademark Infringement
- (8) Federal False Designation of Origin
- (9) Federal Dilution of a Famous Mark
- (10) Federal Cyberpiracy Prevention
- (11) California Trademark Infringement
- (12) Common Law Trademark Infringement
- (13) California Unfair Competition
- (14) California Comprehensive Computer Data Access and Fraud Act
- (15) Aiding and Abetting Trespass
- (16) Aiding and Abetting Misappropriation
- (17) Accounting

DEMAND FOR JURY TRIAL

1 For its First Amended Complaint against Defendants 3Taps, Inc. (“3Taps”), PadMapper,
2 Inc. (“PadMapper”), Discover Home Network, Inc. d/b/a Lovely (“Lovely”) and Brian Niessen,
3 by and through its undersigned counsel, craigslist, Inc. (“craigslist”) asserts as follows.

4
5 **INTRODUCTION**

6 1. craigslist provides local community classifieds, largely without charge and free
7 from third-party advertising and marketing. Many tens of millions of users rely on these unique
8 marketplaces for finding and/or offering basic necessities in their local areas, such as
9 employment, housing, transportation, used goods, services, romance, friendship, and community
10 information.

11 2. For their own commercial benefit, Defendants are unlawfully and unabashedly
12 mass-harvesting and redistributing postings entrusted by craigslist users to their local craigslist
13 sites. This exploitation of craigslist content undermines the integrity of local craigslist
14 communities, ultimately harming both craigslist and its users.

15 3. 3Taps, for example, boasts that it mass copies tens of millions of postings from
16 craigslist in “real time” and stores them in its own database. 3Taps makes this misappropriated
17 content available via an unauthorized and illegitimate “Application Programming Interface”
18 (API) to whomever and on whatever terms 3Taps chooses. All the original and often highly
19 personal content craigslist users entrust to their local craigslist sites, along with their contact
20 information, is thereby made available to all manner of for-profit entities to copy, repurpose,
21 redisplay, redistribute, surround with advertisements, expose to non-local audiences, subject to
22 marketing come-ons, disturb with unsolicited communications, and otherwise exploit
23 commercially.

24 4. Using its illegitimate database and API, 3Taps operates trademark-infringing
25 craiggers.com, which unlawfully redisplay and facilitates national searches of craigslist’s local
26 content, thereby undermining the essential locality of craigslist community sites. 3Taps also
27 developed and distributed an unlicensed craiggers mobile application for the iPhone that
28 redisplay craigslist content.

1 5. In addition, 3Taps actively encourages and enables other companies to unlawfully
2 exploit misappropriated craigslist content. Defendant Lovely, in which 3Taps is an investor, is
3 one example. Lovely operates the website livelovely.com, which provides searchable apartment
4 listings—consisting largely of misappropriated craigslist content unlawfully obtained by 3Taps
5 and distributed via 3Taps’ illegitimate “craigslist API”—and directly competes with craigslist.
6 Lovely also distributes an unlicensed iPhone application that redisplayes craigslist content.

7 6. Defendant PadMapper is another example. Similar to Lovely, it competes with
8 craigslist unfairly by offering an apartment search service at padmapper.com that is primarily
9 based upon misappropriated craigslist postings acquired from 3Taps’ illegitimate store.

10 7. The adage, “no good deed goes unpunished,” is fitting. Because craigslist has
11 worked hard and invested heavily for many years so that its users can use its local community
12 sites largely free of charge, and free from third-party advertising and marketing, opportunists like
13 Defendants now claim craigslist’s content is “free” for them to misappropriate wholesale and
14 commercially exploit, even for the purpose of developing rival businesses.

15 8. Indeed, 3Taps’ founder, Greg Kidd, has openly touted 3Taps’ violation of
16 craigslist’s rights, referring to United States copyright laws—which Defendants each violate—as
17 “artificial confines” from which craigslist’s protected content should be “liberated.”

18 9. Defendants are wrong. craigslist provides a unique and highly valued service to its
19 users, and has every right to limit the copying and distribution of craigslist content. Doing so
20 protects craigslist and its community of users, alike. Defendants cannot usurp or misappropriate
21 that right, particularly for their own commercial gain.

22 10. Since the Defendants are unwilling to cease their infringing and harmful
23 activities—indeed, each is brazenly intent on unlawfully growing its business on the back of
24 craigslist and its users—craigslist had no choice but to commence this action.

25 **JURISDICTION AND VENUE**

26 11. This Court has federal question jurisdiction over this action under 28 U.S.C. §§
27 1331 and 1338, because this action alleges violations of federal statutes, including the Copyright
28 Act (17 U.S.C. § 101, *et seq.*) and the Lanham Act (15 U.S.C. §§ 1114 and 1125(a), (c), (d)).

1 12. This Court has supplemental jurisdiction over the remaining claims under 28
2 U.S.C. § 1367.

3 13. Venue is proper in this District under 28 U.S.C. § 1391, because a substantial part
4 of the events or omissions giving rise to the claims occurred in this District.

5 14. In addition, craigslist's Terms of Use ("TOU") governing all users', and
6 specifically, Defendants', access to and use of the craigslist website and craigslist's services
7 provide that courts located within the county of San Francisco, California, shall have exclusive
8 jurisdiction over the relationship between craigslist and Defendants.

9 15. During all relevant times, Defendants have repeatedly, knowingly, and
10 intentionally accessed or contracted for access to craigslist servers located in this judicial district
11 without craigslist's authorization. While accessing craigslist servers, Defendants made
12 systematic and continuous contacts with this judicial district, and have targeted their wrongful
13 acts at craigslist, which is headquartered in this judicial district.

14 16. This is an intellectual property action to be assigned on a district-wide basis under
15 Civil Local Rule 3-2.

16 **THE PARTIES**

17 17. craigslist, Inc. is a Delaware corporation, with its principal place of business in
18 San Francisco, California.

19 18. 3Taps Inc. is a Delaware corporation, with its principal place of business in San
20 Francisco, California.

21 19. PadMapper, Inc. is a Delaware corporation, with its principal place of business in
22 Mountain View, California.

23 20. Discover Home Network, Inc. d/b/a Lovely is a Delaware Corporation with its
24 principal place of business in San Francisco, California.

25 21. Brian R. Niessen is an individual who, on information and belief, resides in
26 Vancouver, British Columbia and/or Philipsburg, St. Maarten.

27 22. Does 1-25 are persons or entities responsible in whole or in part for the
28 wrongdoing alleged herein ("Doe Defendants"). craigslist is informed and believes, and based

1 thereon, alleges that each of the Doe Defendants participated in, ratified, endorsed, or was
2 otherwise involved in the acts complained of, and that they have liability for such acts. craigslist
3 will amend this Complaint if and when the identities of such persons or entities and/or the scope
4 of their actions become known.

5 23. 3Taps, PadMapper, Lovely, Niessen, the Doe Defendants, and their agents,
6 affiliates, and other co-conspirators are collectively referred to herein as the “Defendants.”

7 FACTS

8 24. Founded in San Francisco, California in 1995 by Craig Newmark, craigslist began
9 as an e-mail list for friends and co-workers to share information about events in and around the
10 San Francisco Bay Area. It grew over time in size and scope, and became the world’s largest
11 online forum for local classified advertising and community discussions.

12 25. Today craigslist ranks third among American Internet companies for web traffic
13 (after Facebook and Google), and is in the top ten worldwide, with hundreds of billions of page
14 views served annually. More than 60 million Americans visit craigslist each month, and they
15 collectively post several hundred million classified ads each year.

16 26. craigslist continues to maintain its headquarters in San Francisco, California. San
17 Francisco is the center of craigslist’s operations.

18 27. The greater Bay Area, and specifically San Francisco, remains one of the largest
19 and most active communities of craigslist users.

20 **A. The craigslist Classified Ad Service.**

21 28. craigslist enables authorized users to post localized classified advertising on its
22 website.

23 29. This classified ad service is organized first by geographic area, and then by
24 category of product or service within that geographic area. The myriad categories provided by
25 craigslist include everything from job postings, buying and selling of used goods, housing
26 opportunities (sale, buy, rent, etc.), personals ads for friendship and romance, and a wealth of
27 community-centric information and advice. It is literally a “one stop shop” for every sort of local
28 classified listing and associated communication that a user may want or need.

1 30. Users post ads on craigslist by first navigating the craigslist website to the
2 homepage for the geographic area in which they wish to post, which is generally the geographic
3 area in which they reside. From that homepage, a user seeking to post an ad must click a link
4 titled “post to classifieds.”

5 31. Users choose the type of posting they want to place from a list designed and
6 presented by craigslist for that geographic area (for example, job offered, housing offered,
7 housing wanted, for sale, item wanted, personal/romance, or community). A yellow highlighted
8 notice at the top of this webpage reminds users, as stated in the TOU, that “cross-posting to
9 multiple cities or categories is not allowed.” craigslist requires this in its TOU in order to keep
10 craigslist as user-friendly as possible—otherwise identical postings would appear numerous times
11 throughout the site in categories and in geographic locations that do not really apply, clogging the
12 site with postings that users do not want to view.

13 32. After selecting the type of posting, the user is presented with a list of categories for
14 posting ads in that geographic area (for example, categories under “for sale” ads include, without
15 limitation, auto parts, bicycles, boats, collectibles, electronics, jewelry, musical instruments, and
16 tools), and must select the appropriate category for his or her ad.

17 33. After selecting the appropriate category, the user specifies from a list the nearest
18 location within the geographic area, but a notice at the top of this webpage also alerts the users
19 that “there is no need to cross-post to more than one area - doing so may get you flagged and/or
20 blocked - thanks!”

21 34. On the subsequent page, the user creates a unique classified ad. Ads typically
22 include a title, description and other relevant details about whatever the user placing the ad may
23 be offering or seeking, and often include an e-mail address for replies. Most e-mail addresses are
24 supplied by craigslist with a unique, anonymizing proxy address to protect user anonymity.
25 craigslist’s servers automatically forward e-mails sent to the unique proxy e-mail address to the
26 poster’s actual e-mail account, which users provide during the posting process.

27 35. The classified ads on craigslist are highly time-sensitive. Individual ads are live
28 on the site for periods ranging from minutes to weeks, often achieving their goal and becoming

1 irrelevant within hours to days. Apartment rental listings, for example, become useless once the
2 property is rented, which can happen within hours of being listed. Likewise, for sale listings are
3 worthless once the item advertised has sold, which again often happens very quickly. Job listings
4 are also of no use once the job has been filled. The most recent listings are therefore highly
5 sought after by users, and this rule of thumb applies to a wide variety of craigslist's categories.

6 36. Before a posting can be made to the craigslist website, the user is required
7 affirmatively to accept craigslist's TOU.

8 37. If the user chooses not to accept the TOU, the ad is not posted.

9 38. For the period starting July 16, 2012—before craigslist commenced this action—
10 through August 8, 2012, users confirmed that craigslist was the exclusive licensee for all of the
11 copyrights in their ads before completing the posting process.

12 39. Posted ads are listed in a product or service category by a descriptive title created
13 by the user that posted the ad. craigslist includes a copyright notice in every post.

14 40. craigslist registers its intellectual property, including its website and the posts
15 contained within, under United States and foreign law to protect against unauthorized copying or
16 distribution.

17 41. craigslist has a program pursuant to which its user-generated content may be
18 licensed by third-party companies that facilitate craigslist access from mobile devices. Each of
19 these mobile application providers agrees to and is bound by important and substantial restrictions
20 on the manner in which craigslist may be accessed and its content used. Defendant PadMapper
21 was offered a license to such content, but did not accept the terms.

22 **B. The craigslist Terms of Use.**

23 42. craigslist's TOU explain that users are granted a limited and revocable license to
24 access and use craigslist in accordance with its terms. They state that if users "access craigslist or
25 copy, display, distribute, perform or create derivative works from craigslist webpages or other
26 [craigslist] intellectual property in violation of the TOU or for purposes inconsistent with the
27 TOU, [that] access, copying, display, distribution, performance or derivative work is
28 unauthorized."

1 43. The TOU identify specific types and examples of access and use that are
2 unauthorized.

3 44. Any copying, aggregation, display, distribution, performance or derivative use of
4 craigslist or any content posted on craigslist whether done directly or through intermediaries
5 (including but not limited to by means of spiders, robots, crawlers, scrapers, framing, iframes or
6 RSS feeds) is prohibited. Although craigslist allows a very limited exception to these
7 prohibitions for general purpose Internet search engines and noncommercial public archives, the
8 exception applies only if (a) they provide a direct hyperlink to the relevant craigslist website,
9 service, forum or content; (b) they access craigslist from a stable IP address using an easily
10 identifiable agent; and (c) they comply with craigslist's robots.txt file.

11 45. Any access to or use of craigslist to design, develop, test, update, operate, modify,
12 maintain, support, market, advertise, distribute or otherwise make available any program,
13 application or service that enables or provides access to, use of, operation of or interoperation
14 with craigslist is prohibited.

15 46. Any activities (including but not limited to posting voluminous content) that are
16 inconsistent with use of craigslist in compliance with the TOU or that may impair or interfere
17 with the integrity, functionality, performance, usefulness, usability, signal-to-noise ratio or quality
18 of all or any part of craigslist in any manner are expressly prohibited.

19 **C. The craigslist Copyrights.**

20 47. The craigslist website is uniquely distinctive in its simplicity and efficiency.
21 Among the significant original elements of the craigslist website are the simple and uncluttered
22 page layout and organization, the account registration, log-in and posting features, and the clear
23 and straightforward design of craigslist postings.

24 48. The originality, simplicity, and clarity of the craigslist website are fundamental to
25 craigslist's reputation and garner substantial and valuable goodwill with users.

26 49. In addition, each user-generated posting on the craigslist website is itself an
27 original work of creative expression, as it includes unique written descriptions of the goods or
28 services offered for sale, for example, and often include photographs or other creative works.

1 50. craigslist either owns or has exclusive rights in its website and all portions thereof,
2 including, but not limited to, the database underlying the website and the user-generated postings
3 on its website (collectively, the “Copyrighted Works”).

4 51. craigslist’s U.S. copyright registrations include Reg. Nos., TX0006866657,
5 TX0006866658, TX0006866660, TX0006866661, and TX0006866662.

6 52. On July 19 and 20, 2012, craigslist submitted additional applications to the
7 Copyright Office for copyright registration.

8 53. On July 20, 2012, prior to the filing of this Complaint, the Copyright Office
9 confirmed its receipt of craigslist’s applications.

10 **D. The craigslist Trademarks.**

11 54. craigslist is the owner of U.S. Registrations Nos. 2395628, 2905107, 2985065, and
12 3008562 for the CRAIGSLIST mark, covering, *inter alia*, “[a]dvertising and information
13 distribution services,” “online interactive bulletin boards for transmission of messages among
14 computer users concerning classified listings,” and “on-line computer data bases and on-line
15 searchable databases featuring information, classified listings and announcements.” craigslist has
16 also registered the CRAIGSLIST mark in many other countries throughout the world.

17 55. The CRAIGSLIST mark has been used in commerce by craigslist since 1995.
18 craigslist’s use has been substantially continuous and exclusive. craigslist therefore owns
19 common law rights in the CRAIGSLIST mark.

20 56. craigslist has attained strong name recognition in the CRAIGSLIST mark. The
21 mark has come to be associated with craigslist and identifies craigslist as the source of
22 advertising, information, bulletin board, database, and other services offered in connection with
23 the mark.

24 57. The CRAIGSLIST mark appears repeatedly in every single craigslist post, and
25 throughout nearly every page on its websites, worldwide.

26 58. craigslist has also developed substantial goodwill in the CRAIGSLIST mark.

27 59. The CRAIGSLIST mark is among craigslist’s most important and valuable assets.

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1 **E. The Defendants' Unlawful Activities.**

2 **a. 3Taps.**

3 60. 3Taps' sole business appears to be misappropriating and capitalizing upon all of
4 craigslist's protected content.

5 61. 3Taps apparently formed initially with the idea of creating a resource to aggregate
6 data from a variety of sources. Its original website, for example, identifies craigslist as just one of
7 the companies whose data 3Taps intended to misappropriate:



13 Figure 1
14 (3taps.com, July 2011)

15 62. Recently, however, 3Taps changed its entire focus to profiting from the unlawful
16 distribution of content from craigslist, and has modified its website accordingly:



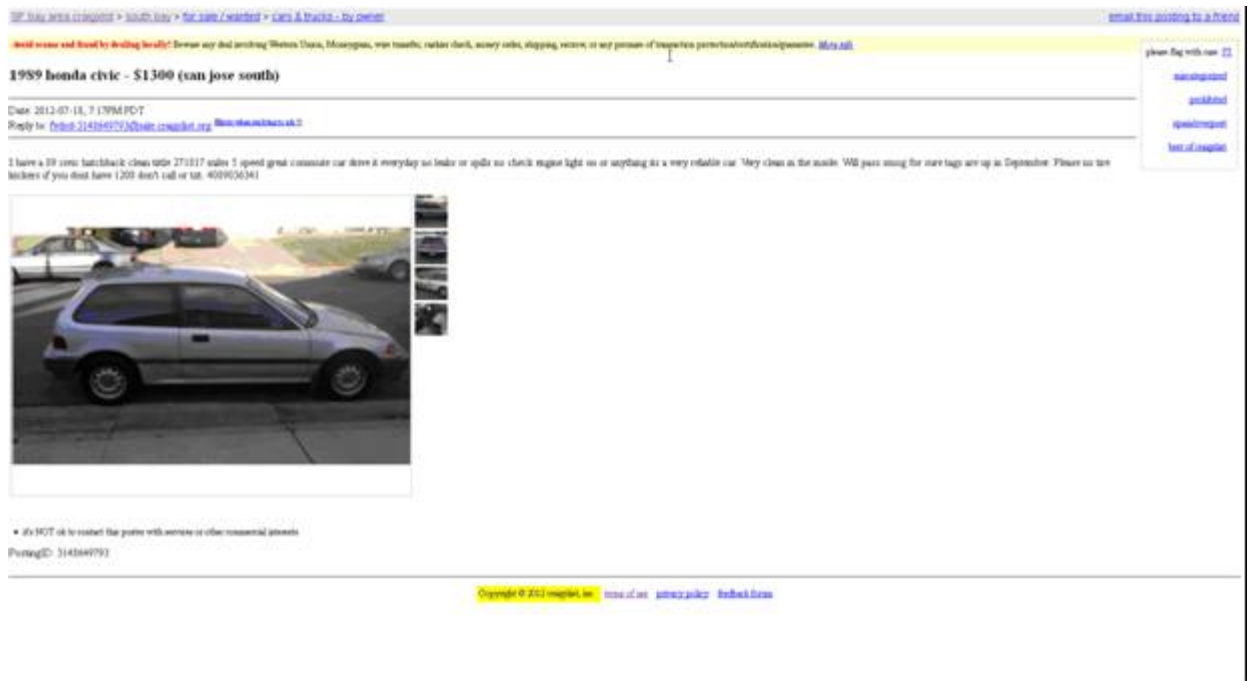
23 Figure 2
24 (3taps.com, July 19, 2012)

25 63. As suggested by its website, 3Taps copies all of craigslist's content—including
26 time stamps and unique craigslist user ID numbers—stores it in a database copied from craigslist,
27 and makes it available to third parties for use in competing websites or, for whatever other
28 purpose they wish.

1 64. 3Taps expressly claims to offer a “One-Stop Craigslist API” for third parties to
 2 access craigslist content, where craigslist has specifically chosen not to do so, thus usurping
 3 craigslist’s exclusive right to offer an API and control the distribution of its content.

4 65. In addition, 3Taps built and operated a website, craiggers.com, upon the API
 5 created by 3Taps. Craiggers.com essentially replicated the entire craigslist website.

6 66. The craiggers website displays craigslist’s copyrighted content in virtually
 7 identical visual fashion to the manner in which they appear on craigslist:



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18 Figure 3
19 (craigslist, July 18, 2012)
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Figure 4
(craiggers.com, July 18, 2012)

67. The one distinguishable feature between craigslist’s postings and the postings displayed by craiggers is the deletion of craigslist’s copyright notice and insertion in its place of a blithe and false declaration that the content misappropriated from craigslist is *not* copyrighted and is “powered by 3Taps”:



Figure 5
(craigslist ad)



Figure 6
(craiggers.com ad)

68. craiggers does not only copy all of craigslist’s posts. The craiggers website also copies key design elements of the craigslist website. Examples include the following:

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Figure 7
(craigslist, July 18, 2012)



Figure 8
(craiggers.com, July 18, 2012)

69. 3Taps also offered a craiggers mobile phone application that displays copied craigslist content.

70. As illustrated above, 3Taps has also used the famous CRAIGSLIST mark on its website without authorization to promote its products and services on the internet in a manner likely to confuse consumers as to its association, affiliation, endorsement or sponsorship with or by craigslist and to cause dilution by blurring of the CRAIGSLIST mark by impairing the mark's distinctiveness.

71. 3Taps also makes unauthorized use of the famous CRAIGSLIST mark in its competing craiggers website in a manner likely to confuse consumers as to its association, affiliation, endorsement or sponsorship with or by craigslist and to cause dilution by blurring of the CRAIGSLIST mark by impairing the mark's distinctiveness.

1 72. Examples of 3Taps' unauthorized use of the CRAIGSLIST mark on the craiggers
2 website include the following:



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7 Figure 9
(craiggers.com, July 18, 2012)

8 73. At no time has craigslist authorized or consented to 3Taps' use of the
9 CRAIGSLIST mark or any other craigslist intellectual property.

10 74. Shortly after craigslist filed its original complaint in this action, 3Taps suspended
11 operation of craiggers.com.

12 **b. 3Taps' Unauthorized Scraping.**

13 75. 3Taps has repeatedly and consistently stated publicly that it obtains craigslist
14 content from publicly-available sources, such as the Google and Bing search engines, and not by
15 "scraping"—i.e., remotely accessing and extracting content from the craigslist website. These
16 public statements, however, are utterly belied by 3Taps' actual conduct.

17 76. craigslist allows general internet search engines—Google and Bing—to index the
18 craigslist website so as to allow users of those search engines to access the craigslist website
19 through hyperlinks. Notwithstanding 3Taps' announcement on August 7 that "At approximately
20 noon on Sunday August 5, Craigslist instructed all general search engines to stop indexing CL
21 postings," craigslist has never instructed general internet search engines to stop indexing its
22 website, and in fact has not changed its instructions for general search engines in recent years.

23 77. craigslist does not, however, authorize search engines to make cached versions of
24 craigslist's content available for others to harvest wholesale. For example, craigslist specifically
25 includes a "NOARCHIVE" instruction in its in-line HTML content to inform search engines that
26 they are not to make available cached copies of craigslist postings. This instruction has been
27 present in craigslist postings for many years, and remains unchanged.

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1 78. Although 3Taps has gone to great lengths to mislead the public regarding the
2 manner in which it harvests craigslist's content, craigslist's investigation shows that 3Taps is not
3 obtaining craigslist content from authorized third-party sources, as it has consistently and
4 voluminously proclaimed. Instead, 3Taps has misappropriated craigslist's content by unlawfully
5 scraping it directly from craigslist on a massive scale.

6 79. In particular, 3Taps, acting on its own behalf and/or through its agents, affiliates,
7 and/or other co-conspirators, harvests craigslist's content by accessing craigslist's servers with
8 web crawlers that scrape craigslist's content directly from craigslist. A web crawler, also known
9 as a "robot," "bot," or "spider" is a computer program that browses and gathers information from
10 the internet.

11 80. The web crawlers that 3Taps, its agents, affiliates, and/or other co-conspirators use
12 to scrape content from craigslist's website operate by accessing, entering, and searching the
13 craigslist website on craigslist's servers and then extracting the content—craigslist postings—and
14 copying that content into the 3Taps database.

15 81. As part of its investigation into 3Taps' improper conduct, craigslist identified
16 various IP addresses from which these web crawlers operated. Once craigslist identified such an
17 IP address, craigslist blocked that IP address from accessing craigslist's servers.

18 82. Every time craigslist blocked an IP address from which one of 3Taps' web
19 crawlers was operating, however, the crawlers were moved to another IP address. Indeed,
20 craigslist's investigation revealed that 3Taps' web crawlers often operated from multiple IP
21 addresses simultaneously.

22 83. On information and belief, 3Taps, either directly or through its agents, affiliates,
23 and/or other co-conspirators, eventually discovered that craigslist was able to identify and block
24 the IP addresses from which its scraping web crawlers were operating.

25 84. Thereafter, 3Taps, either directly, or through its agents, affiliates, and/or other co-
26 conspirators, began using anonymous proxies to hide the true origination address of its scraping
27 web crawlers.

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1 85. craigslist has no business relationship with 3Taps and craigslist does not endorse
2 or approve of 3Taps' activities in any way. 3Taps knows that access to, copying of, and
3 distribution of craigslist's content by 3Taps, its agents, affiliates, and/or other co-conspirators is
4 not authorized by craigslist.

5 86. 3Taps' illegal scraping activities continue, notwithstanding craigslist's time
6 consuming and burdensome efforts to develop technological means to stop it.

7 **c. Brian R. Niessen: One of 3Taps' "Scrapers."**

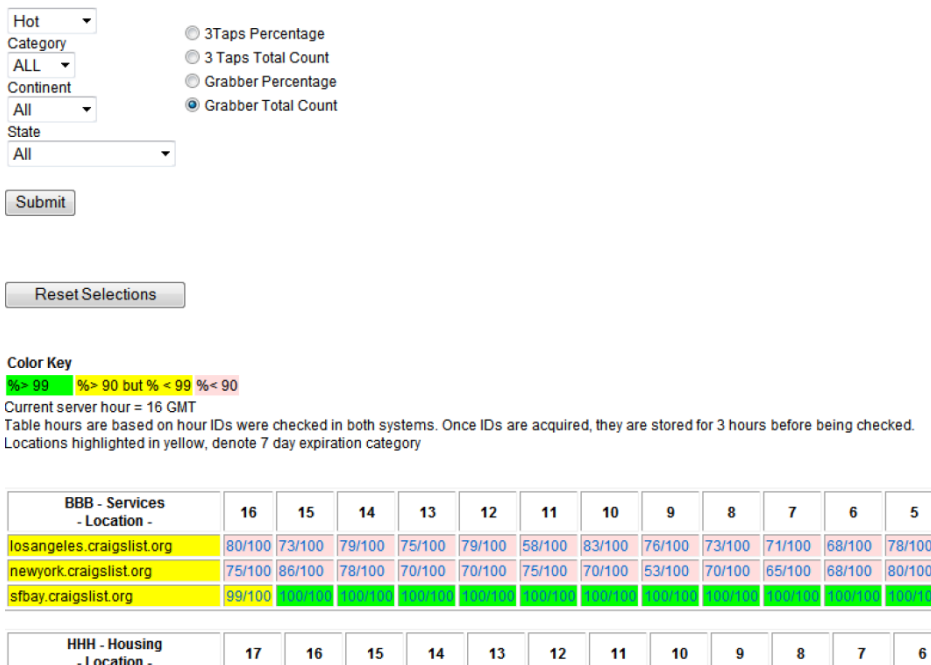
8 87. Some of 3Taps' unlawful scraping is conducted by an individual named Brian R.
9 Niessen.

10 88. On information and belief, Mr. Niessen operates many websites, including but not
11 limited to instantinternetpornstar.com, diaperclub.us, tampaxclub.com, tamponclub.com,
12 agentsonly.net, atenaschilicookoff.com, atenaslife.com, brianniessen.com, curocorp.com,
13 designtechsoftwarelabs.com, icravecrave.com, instantinternetstar.com, nefrotec.com,
14 nefroteconline.com. qatro.com, serviciosdered.net, smir.info, telassistech.com,
15 telassistgroup.com, telassisttech.com, viproom.me, worldslargestbingo.com,
16 carambolaexplorations.com, impenetrate.com, and xstartups.com.

17 89. Mr. Niessen is also the founder and chairman of a company named Startup Stock
18 Exchange. Mr. Kidd, 3Taps' founder and CEO, is an investor in Startup Stock Exchange and
19 recently led a financing round for Startup Stock Exchange.

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1 90. One of Mr. Niessen’s websites, qatro.com, is linked to prominently from the 3Taps
 2 website and contains what appear to be real time statistics regarding 3Taps’ craigslist scraping
 3 activity:



12 Figure 10
 13 (3taps-statistics.qatro.com/craigslist, October 18, 2012)

14 91. craigslist content scraped on behalf of 3Taps can be traced directly to Mr. Niessen.

15 92. For example, since August 2012, craigslist content has been scraped for 3Taps
 16 from at least the following IP addresses: 216.245.197.146, 74.63.192.162, 74.208.14.7, and
 17 69.162.76.42. Each of these IP addresses either currently host, or have hosted, domains
 18 connected to Mr. Niessen.

19 93. IP address 216.245.197.146 is hosted by the domain vip-api.com. The registrant e-
 20 mail address for vip-api.com is 1cheapdomains@curocorp.com. Curocorp.com is located at the
 21 same IP address as qatro.com, which is registered to Brian Niessen.

22 94. IP address 74.63.192.162 hosts the domain carambolaexplorations.com.
 23 carambolaexplorations.com is registered to “NiessenBrian” and has registrant e-mail, Admin e-
 24 mail, and Tech e-mail addresses as carambola@curocorp.com. Curocorp.com is located at the
 25 same IP address as qatro.com, which is registered to Brian Niessen.

1 95. IP address 74.208.14.7 hosts the domains miferta.com and
 2 islandlifeproperties.com. Mr. Niessen has identified Miferta.com as one of his “startup”
 3 companies. The registrant Admin and Technical contact information for islandlifeproperties.com
 4 is cheap-registrat-com@curocorp.com. Curocorp.com is located at the same IP address as
 5 qatro.com, which is registered to Brian Niessen.

6 96. IP address 69.162.76.42 hosts the domain fb-app-sprii, which is subordinate to
 7 sprii.com. Mr. Niessen purports to be the Chief Technology Officer of Sprii.com.

8 97. In addition, Mr. Niessen maintains on his qatro.com website a log that details these
 9 scraping activities. The log uses telling phrases like “Deciding what to scrape,” “Waiting for
 10 scrape,” and “Scraping.” It also lists the URLs and/or IP addresses from which the scraping
 11 occurs and notes when the “Last Good” scrape occurred from each of them:

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QUEUES: 12/08/15 13:58:35		PROXIES: 12/08/15 14:02:12			
Item	Count	Num	Lat	Last Good	URL
Deciding what to scrape	0	14	1	2012/08/15 14:04:07	http://districtgold.com/1.php?url=
Waiting for scrape	1	4	0	2012/08/15 14:04:07	http://64.31.49.104/1.php?url=
Scraping	164	2	0	2012/08/15 14:04:06	http://fb-app.sprii.com/1/1.php?url=
Waiting to go O.T.W.	21	6	1	2012/08/15 14:04:06	http://www.startupstockexchange.net/1/1.php?url=
In Transit O.T.W.	12	8	0	2012/08/15 14:04:05	http://companies.startupstockexchange.net/1/1.php?url=
Waiting for Stats	65	9	1	2012/08/14 10:43:12	http://www.islandlifeproperties.com/1/1.php?url=
Waiting for Archive	0	7	0		http://investors.startupstockexchange.net/1/1.php?url=
Waiting for Purge	0	5	0		http://www.gmodules.com/ig/proxy?url=
Scrape Failed	148	3	0		http://www.carambolaexplorations.com/1/1.php?url=
		1	0		http://vip-api.com/1/1.php?url=
		10	90	2012/06/15 12:42:31	http://www.icravectave.com/1/1.php?url=
		13	90	2012/06/14 11:54:58	http://64.31.49.107/1.php?url=
					http://www.islandlifeproperties.com/1/1.php?url=

PROGRAMS: 12/08/15 14:01:38	
Item	Last Run (Age/Sec)
cc1_events.pl	12/08/15 14:04:10 (28648)
cc1_multibottom.pl	12/08/15 13:30:44 (30654)
cc1_multibottom2.pl	12/08/15 14:04:14 (28644)
cc1_multimiddle.pl	12/08/15 14:04:10 (28648)
cc1_multi_CLS9.pl	12/08/15 14:04:13 (28645)
cctop50.pl	12/08/15 12:48:33 (33185)
mm325-602.pl	12/08/15 14:04:13 (28645)
mm50-325.pl	12/08/15 14:04:08 (28650)
Deduper	12/08/15 14:02:44 (28734)
Detail Scraper	12/08/15 14:04:14 (28644)
Over the Wall	12/08/15 14:04:13 (28645)
Archiver	12/08/15 14:04:09 (28649)
Stats to 3taps	12/08/15 14:04:01 (28657)
craig_inbound_clear.pl	12/08/15 14:04:13 (28645)
Immortal Image	11/12/15 10:11:45 (21120593)
v3_reporting.pl	12/08/15 14:01:31 (28807)
Archive Expiry Checker	12/05/10 19:21:10 (8390428)
Processor Optimizer	11/12/18 23:00:01 (20815297)

Figure 11
 (3taps-stats.qatro.com/show_stats.php August 15, 2012)

1 98. These logs had been publicly available, but Mr. Niessen made them password
2 protected after craigslist commenced this action.

3 **d. PadMapper.**

4 99. PadMapper is a direct competitor to craigslist's real estate listings services. It
5 provides searchable real estate rental listings for cities all over the United States and in the United
6 Kingdom. The vast majority of PadMapper's content, however, is real estate ads misappropriated
7 from craigslist by 3Taps' unlawful scrapers and distributed via 3Taps' illegitimate "craigslist
8 API."

9 100. PadMapper also aggregates craigslist posts with content from other sites, and
10 facilitates cross-posting of listings to craigslist.

11 101. On information and belief, like 3Taps, PadMapper initially populated the
12 padmapper.com website by scraping craigslist's content directly from the craigslist website.
13 craigslist sent PadMapper a cease and desist letter explaining that PadMapper's conduct violated
14 the law and craigslist's TOU.

15 102. PadMapper initially complied with the cease and desist request and stopped
16 populating its website with craigslist content for several weeks beginning in late June 2012. The
17 padmapper.com site traffic plummeted drastically, reflective of the fact that the vast majority of
18 PadMapper's traffic is owed to craigslist's content.

19 103. Recently, however, PadMapper decided to resume utilizing craigslist content. On
20 July 9, 2012, PadMapper announced it was "Bringing Craigslist Back" to the site.

21 104. Since that time padmapper.com has been populated largely with misappropriated
22 craigslist content, at least some of which is provided by 3Taps.

23 105. The craigslist postings displayed by PadMapper are identical to the craigslist
24 postings as they appear on craigslist's website, except for the addition of a "PadMapper Bar" to
25 the left of the ad:
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Figure 12
(craigslist, July 18, 2012)

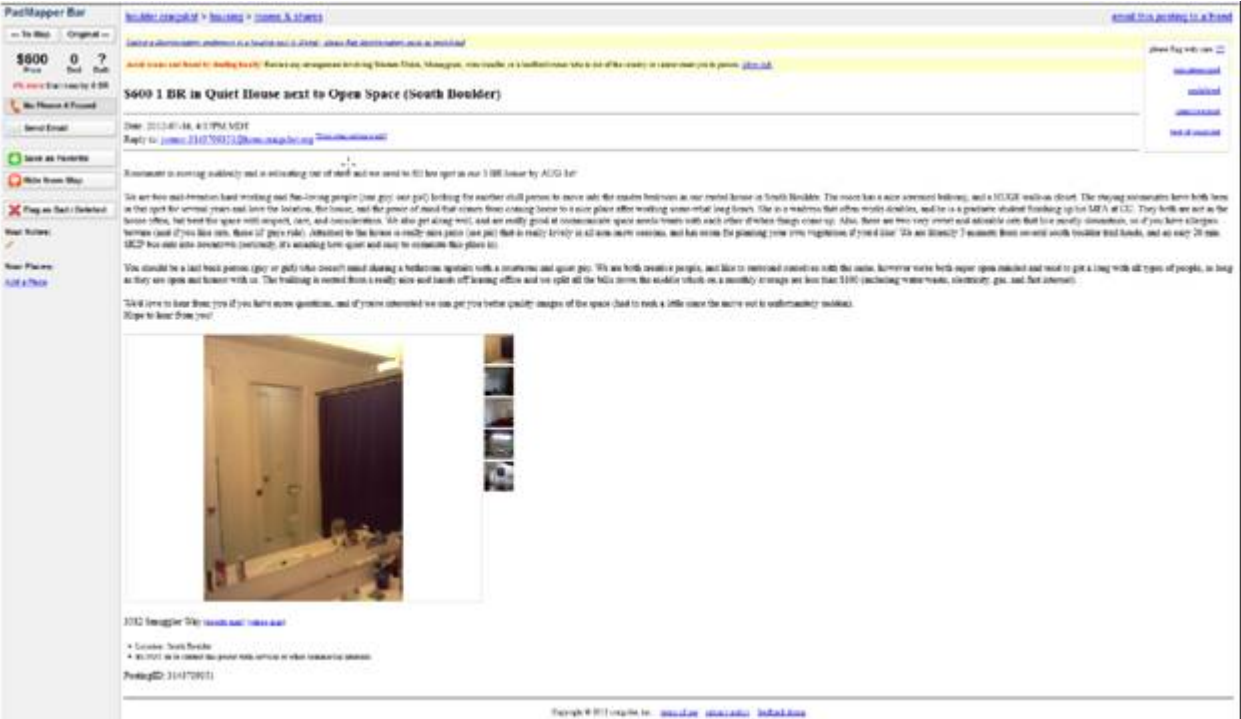


Figure 13
(padmapper.com, July 18, 2012)

106. As the above example illustrates, the craigslist copyrighted content displayed by PadMapper includes craigslist's copyright notice.

1 107. PadMapper, like 3Taps, has used and continues to use the famous CRAIGSLIST
2 mark in commerce on its website at padmapper.com, without authorization, to promote its
3 products and services on the internet in a manner likely to confuse consumers as to its association,
4 affiliation, endorsement or sponsorship with or by craigslist and to cause dilution by blurring of
5 the CRAIGSLIST mark by impairing the mark's distinctiveness.

6 108. At no time has craigslist authorized or consented to PadMapper's use of the
7 CRAIGSLIST mark or any other craigslist intellectual property.

8 109. On information and belief, PadMapper derives revenue from real estate listings
9 through its PadLister service that originate separate and apart from craigslist. PadLister charges
10 some fees now for its real estate listings service and "reserve[s] the right to charge for things that
11 are currently free in the future."

12 110. The only reason PadMapper is able to generate revenue from its PadLister service
13 is the traffic that it generates on PadMapper from unlawfully using misappropriated craigslist ads.

14 **e. Lovely**

15 111. Lovely is also a direct competitor to craigslist's real estate listings services.

16 112. It operates a website at livelovely.com, as well as a mobile iPhone application, that
17 provide searchable real estate rental listings for cities all over the United States. Like PadMapper,
18 the majority of Lovely's content is misappropriated from craigslist by 3Taps' unlawful scrapers
19 and distributed to Lovely via 3Taps' illegitimate "craigslist API."
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24 [Remainder of page left intentionally blank.]
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1 113. The Lovely website allows users to review craigslist postings on its site, view the
 2 craigslist's user's contact information, and directly e-mail or telephone the craigslist user, all
 3 without leaving the Lovely site:

The screenshot shows the Lovely website interface. At the top, there is a search bar with the text "Enter an address, neighborhood, city, or zip" and a "Filter" button. Below the search bar, the main listing is for a "\$4,500 1bd / 1.5ba" apartment at "207 King St. San Francisco, CA 94107". The listing includes a large photo of the apartment interior, a description, amenities, and listing details. On the right side, there is a "Contact this property" section with a phone number (415) 998-3203 and an email address hfvrc-3380467606@hous.craigslist.org. Red arrows point to these contact details.

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Figure 14
(Livelovely.com, November 5, 2012)

114. Lovely also advertises what it calls "Lovely Exclusives," which purport to be real
 estate listings that are "exclusive" to Lovely and appear only on the Lovely site. Lovely
 advertises that through this service its users can "[G]et access to apartments before they're posted
 to Craigslist and beat the rush!":

The screenshot shows the Lovely Renter Center website. At the top, there is a search bar with the text "Search thousands of apartment listings, visually displayed on a map." Below the search bar, there are navigation links: "Home", "Concierge Program", "Renter Resume & Application Form", "Exclusive Pre-Craigslist Listings", and "About". The main content area is titled "Exclusive Pre-Craigslist Listings" and features a promotional message: "Get access to apartments before they're posted to Craigslist and beat the rush!". Below this message, there is a sign-up button for "JOIN THE MAILING LIST".

Figure 15
(Livelovely.com, November 5, 2012)

1 115. craigslist sent Lovely a cease and desist letter explaining that Lovely's conduct
2 violated the law and craigslist's TOU. Lovely responded that it had no intention of abiding by
3 craigslist's TOU or otherwise stopping its unlawful craigslist-related activities.

4 116. On information and belief, Lovely obtains craigslist content that it displays on
5 livelovely.com from 3Taps' illegitimate store, which is populated by 3Taps' unlawful scrapers.

6 **f. Other 3Taps Subscribers.**

7 117. On information and belief, the number of entities accessing and utilizing 3Taps'
8 misappropriated craigslist content is growing.

9 118. At least the following 3Taps users appear to be accessing craigslist's content
10 through 3Taps: cmscommander.com, coinzilla.com, craigsalert.com, corvairproject.com,
11 jaxed.com, rentvalet.us, searchtempest.com, sittingaround.com, and snapstore.me. In addition, a
12 number of mobile applications also appear to be accessing craigslist's misappropriated content
13 through 3Taps' illegitimate "craigslist API," including the HuntSmartly mobile application.

14 119. If 3Taps' unauthorized and illegal misappropriation and distribution of craigslist's
15 content does not stop, then the list of entities illicitly using craigslist's content will continue to
16 grow to the further detriment of craigslist, its website, and its users.

17 **FIRST CLAIM FOR RELIEF**
18 **Trespass as to all Defendants**

19 120. craigslist realleges and incorporates by reference all of the preceding paragraphs.

20 121. Defendants have intentionally, and without authorization, accessed and interacted
21 with craigslist, including without limitation, craigslist's website, computer systems and servers.
22 Access to craigslist and the proprietary information contained in it is granted only to those users
23 who abide by the TOU. By disregarding the TOU, and craigslist's express objections to their
24 activities, Defendants have unlawfully gained access to and interfered and intermeddled with
25 craigslist, its website, computer systems, and its servers. Defendants' unauthorized interference,
26 intermeddling, and access with craigslist, its website, computer systems, and its servers, among
27 other harms, reduces craigslist's capacity to service its users because it occupies and uses
28 craigslist's resources.

1 122. Defendants' conduct constitutes trespass that has harmed and will continue to
2 harm craigslist. As a result, craigslist has been and will continue to be damaged.

3 123. In addition, Defendants have engaged in a civil conspiracy to commit trespass by
4 engaging agents, licensees, and/or affiliates to obtain unauthorized access by robot, spider, or
5 other automatic device, to craigslist's computer system, including its servers, the craigslist
6 website, and the content contained within. Defendants have acted in concert with each other, as
7 well as with other agents, licensees, and/or affiliates for this unauthorized and unlawful purpose.
8 This conduct, as well, has harmed and will continue to harm craigslist, and craigslist has been and
9 will continue to be damaged.

10 124. craigslist has suffered and will continue to suffer irreparable harm, and its remedy
11 at law is not itself adequate to compensate it for injuries inflicted by Defendants. Accordingly,
12 craigslist is entitled to injunctive relief.

13 **SECOND CLAIM FOR RELIEF**
14 **Breach of Contract as to all Defendants**

15 125. craigslist realleges and incorporates by reference all of the preceding paragraphs.

16 126. Use of the craigslist website and use of craigslist services are governed by and
17 subject to the TOU.

18 127. At all relevant times, the main craigslist homepage and the homepage for each
19 geographic region have provided links to the TOU that are prominently displayed.

20 128. craigslist users are presented with the TOU and must affirmatively accept the TOU
21 to register for a craigslist account to post ads.

22 129. craigslist users are presented with the TOU and must affirmatively accept the TOU
23 before they can post an ad without an account.

24 130. Defendants affirmatively accepted and agreed to be bound by the TOU by creating
25 accounts and/or posting ads to craigslist.

26 131. Defendants regularly accessed the craigslist website and affirmatively accepted
27 and agreed to the TOU to, among other things, test, design, and/or use the software that allows
28 Defendants to provide their services.

1 132. On March 7, 2012, craigslist sent 3Taps a letter demanding that it cease and desist
2 all of its craigslist-related activities. A copy of craigslist's TOU was enclosed with that letter.

3 133. On June 18, 2012, craigslist sent PadMapper a letter demanding that it cease and
4 desist all of its craigslist-related activities. A copy of craigslist's TOU was enclosed with that
5 letter.

6 134. On June 29, 2012, craigslist sent Lovely a letter demanding that it cease and desist
7 all of its craigslist-related activities. A copy of craigslist's TOU was enclosed with that letter.

8 135. On information and belief, Defendants regularly accessed the craigslist website
9 with knowledge of the TOU and all of its prohibitions. Despite their knowledge of the TOU and
10 their prohibitions, Defendants regularly accessed and continue to access the craigslist website to,
11 among other things, design, develop, test, update, operate, modify, maintain, support, market,
12 advertise, distribute and/or otherwise make available the Defendants' programs, applications, and
13 services, and to copy, aggregate, display, distribute, and/or make derivative use of the craigslist
14 website and the content posted therein.

15 136. The TOU are binding on Defendants.

16 137. Defendants' actions, as described above, have willfully, repeatedly and
17 systematically breached the TOU.

18 138. craigslist has performed all conditions, covenants, and promises required of it in
19 accordance with the TOU.

20 139. Defendants' conduct has damaged craigslist, and caused and continues to cause
21 irreparable and incalculable harm and injury to craigslist.

22 140. In addition, Defendants have engaged in a civil conspiracy to commit breach of
23 contract by engaging agents, licensees, and/or affiliates to obtain unauthorized access by robot,
24 spider, or other automatic device, to craigslist's computer system, including its servers, the
25 craigslist website, and the content contained within. Defendants have acted in concert with each
26 other, as well as with numerous other agents, licensees, and/or affiliates for this unauthorized and
27 unlawful purpose. This conduct, as well, has harmed and will continue to harm craigslist, and
28 craigslist has been and will continue to be damaged.

1 141. craigslist is entitled to injunctive relief, compensatory damages, liquidated
2 damages under the TOU, attorneys' fees, costs and/or other equitable relief.

3 **THIRD CLAIM FOR RELIEF**
4 **Misappropriation as to all Defendants**

5 142. craigslist realleges and incorporates by reference all of the preceding paragraphs.

6 143. craigslist has invested substantial time, labor, skill, and financial resources into the
7 creation and maintenance of craigslist, its computer systems and servers, including system and
8 server capacity, as well as the content on the craigslist website, which is time sensitive.

9 144. Without authorization, Defendants wrongfully access craigslist's website,
10 computer systems and servers, and its content without having to make the substantial investment
11 in time, labor, skill, and financial resources made by craigslist. Defendants compete with
12 craigslist and have made craigslist's content and other services available to their customers and
13 other third parties. As such, Defendants' use of craigslist's computer systems and servers,
14 including system and server capacity, as well as craigslist's content constitutes free-riding on
15 craigslist's substantial investment of time, effort, and expense.

16 145. As a result of this misappropriation, Defendants wrongfully compete, and / or
17 enable others to compete, with craigslist, and craigslist has been forced to expend additional time
18 and resources, including but not limited to, investigating Defendants' activities and attempting to
19 technologically prevent such misappropriation.

20 146. craigslist has been and will continue to be damaged as the result of Defendants'
21 misappropriation of craigslist's valuable information and property.

22 147. In addition, Defendants have engaged in a civil conspiracy to commit
23 misappropriation by engaging agents, licensees, and/or affiliates to obtain unauthorized access by
24 robot, spider, or other automatic device, to craigslist's computer system, including its servers, the
25 craigslist website, and the content contained within. Defendants have acted in concert with each
26 other, as well as with numerous other agents, licensees, and/or affiliates for this unauthorized and
27 unlawful purpose. This conduct, as well, has harmed and will continue to harm craigslist, and
28 craigslist has been and will continue to be damaged.

1 148. craigslist has suffered and will continue to suffer irreparable injury, and its remedy
2 at law is not itself adequate to compensate it for injuries inflicted by Defendants.

3 **FOURTH CLAIM FOR RELIEF**
4 **Copyright Infringement as to all Defendants**
5 **17 U.S.C. § 101, *et seq.***

6 149. craigslist realleges and incorporates by reference all of the preceding paragraphs.

7 150. Each of the Copyrighted Works constitutes an original work of authorship and
8 copyrightable subject matter under the laws of the United States.

9 151. craigslist either owns or has exclusive rights to all right, title, and interest in and to
10 each of the Copyrighted Works.

11 152. Defendants had and have access to the Copyrighted Works.

12 153. Defendants have copied, reproduced, prepared derivative works from, distributed
13 copies to the public and/or displayed publicly the Copyrighted Works without the consent or
14 authority of craigslist, thereby directly infringing craigslist's copyrights.

15 154. Defendants' copies, reproductions, derivative works, distributions, and displays
16 are identical and/or substantially similar to the Copyrighted Works.

17 155. The foregoing acts of Defendants constitute copyright infringement of craigslist's
18 exclusive rights in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and
19 501.

20 156. Defendants' actions were and are intentional, willful, wanton and performed in
21 disregard of craigslist's rights.

22 157. craigslist has been and will continue to be damaged, and Defendants have been
23 unjustly enriched, by Defendants' unlawful infringement of craigslist's website in an amount to
24 be proven at trial.

25 158. Defendants' conduct also has caused irreparable and incalculable harm and
26 injuries to craigslist, and, unless enjoined, will cause further irreparable and incalculable injury,
27 for which craigslist has no adequate remedy at law.
28

1 159. craigslist is entitled to the relief provided by 17 U.S.C. §§ 502-505, including, but
2 not limited to, injunctive relief, an order for the impounding and destruction of all Defendants’
3 infringing copies and/or derivative works, compensatory damages (including, but not limited to
4 actual damages and/or Defendants’ profits), statutory damages, punitive damages, and craigslist’s
5 costs and attorneys’ fees in amounts to be determined at trial.

6 **FIFTH CLAIM FOR RELIEF**

7 **Contributory Copyright Infringement as to Defendant 3Taps**

8 160. craigslist realleges and incorporates by reference all of the preceding paragraphs.

9 161. 3Taps provides its users with copies and/or derivative works of the Copyrighted
10 Works without craigslist’s consent.

11 162. 3Taps’ users then copy, reproduce, prepare derivative works from, distribute
12 copies to the public and/or display publicly the Copyrighted Works without the consent or
13 authority of craigslist, thereby directly infringing craigslist’s copyrights.

14 163. 3Taps has engaged and continues to engage in the business of knowingly and
15 systematically inducing, causing, and/or materially contributing to unauthorized copying,
16 reproduction, preparation of derivative works from, distribution of copies to the public and/or
17 public display of the Copyrighted Works by 3Taps users and thus to the direct infringement of the
18 Copyrighted Works.

19 164. 3Taps’ conduct constitutes contributory infringement of craigslist’s copyrights and
20 exclusive rights under copyright in the Copyrighted Works in violation of Sections 106 and 501
21 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

22 165. 3Taps’ actions were and are intentional, willful, wanton and performed in
23 disregard of craigslist’s rights.

24 166. craigslist has been and will continue to be damaged, and 3Taps has been unjustly
25 enriched, by 3Taps’ unlawful infringement of the Copyrighted Works in an amount to be proven
26 at trial.

1 167. 3Taps' conduct also has caused irreparable and incalculable harm and injuries to
2 craigslist, and, unless enjoined, will cause further irreparable and incalculable injury, for which
3 craigslist has no adequate remedy at law.

4 168. craigslist is entitled to the relief provided by 17 U.S.C. §§ 502-505, including, but
5 not limited to, injunctive relief, an order for the impounding and destruction of all Defendants'
6 infringing copies and/or derivative works, compensatory damages (including, but not limited to
7 actual damages and/or Defendants' profits), statutory damages, punitive damages, and craigslist's
8 costs and attorneys' fees in amounts to be determined at trial.

9 **SIXTH CLAIM FOR RELIEF**

10 **Federal Trademark Infringement as to Defendants 3Taps and PadMapper**
11 **15 U.S.C. § 1114**

12 169. craigslist realleges and incorporates by reference all of the preceding paragraphs.

13 170. craigslist owns U.S. Registrations Nos. 2395628, 2905107, 2985065, and 3008562
14 for the CRAIGSLIST mark.

15 171. Defendants' use of the CRAIGSLIST mark is without the permission of craigslist.

16 172. Defendants' use of the CRAIGSLIST mark in interstate commerce constitutes a
17 reproduction, counterfeit, copy, or colorable imitation of a registered trademark of craigslist in
18 connection with the sale, offering for sale, distribution, or advertising of goods or services on or
19 in connection with which such use is likely to cause confusion or mistake, or to deceive. For
20 example, users of Defendants' websites are likely to be confused as to whether Defendants'
21 websites and services are associated or approved by craigslist.

22 173. As a direct and proximate result of Defendants' misconduct, craigslist has been,
23 and will continue to be irreparably harmed, injured and damaged, and such harm will continue
24 unless enjoined by this Court. craigslist has no adequate remedy at law and is therefore entitled
25 to injunctive relief as set forth herein.

26 174. As a direct and proximate result of Defendants' misconduct, craigslist has suffered
27 and is entitled to monetary relief in an amount to be proven at trial.

1 175. Defendants' misconduct has been and is knowing, deliberate, and willful.
2 Defendants' willful use of the CRAIGSLIST mark without excuse or justification renders this an
3 exceptional case and entitles craigslist to its reasonable attorneys' fees.

4 **SEVENTH CLAIM FOR RELIEF**

5 **Federal False Designation of Origin as to Defendants 3Taps and PadMapper**
6 **15 U.S.C. § 1125(a)**

7 176. craigslist realleges and incorporates by reference all of the preceding paragraphs.

8 177. The general consuming public of the United States widely recognizes the
9 CRAIGSLIST mark as designating craigslist as the source of services.

10 178. Defendants' unauthorized use of the CRAIGSLIST mark in interstate commerce is
11 likely to cause confusion, deception, and mistake by creating the false and misleading impression
12 that Defendants' products or services are provided by craigslist, associated or connected with
13 craigslist, or have the sponsorship, endorsement, or approval of craigslist, in violation of 15
14 U.S.C. § 1125(a). For example, users of Defendants' websites are likely to be confused as to
15 whether Defendants' websites and services are associated or approved by craigslist.

16 179. Defendants' misconduct resulting in such likelihood of confusion, deception, and
17 mistake will continue unless enjoined by this Court.

18 180. As a direct and proximate result of Defendants' misconduct, craigslist has been,
19 and will continue to be irreparably harmed, injured and damaged, and such harm will continue
20 unless enjoined by this Court. craigslist has no adequate remedy at law and is therefore entitled
21 to injunctive relief as set forth herein.

22 181. As a direct and proximate result of Defendants' misconduct, craigslist has suffered
23 and is entitled to monetary relief under 15 U.S.C. § 1117, including profits, damages, and costs of
24 the action.

25 182. Defendants' misconduct has been and is knowing, deliberate, and willful.
26 Defendants' willful use of the CRAIGSLIST mark without excuse or justification renders this an
27 exceptional case and entitles craigslist to its reasonable attorneys' fees.
28

EIGHTH CLAIM FOR RELIEF

**Federal Dilution of a Famous Mark as to Defendant 3Taps
15 U.S.C. § 1125(c)**

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3 183. craigslist realleges and incorporates by reference all of the preceding paragraphs.

4 184. The CRAIGSLIST mark is a famous and distinctive mark, and is widely
5 recognized by the general consuming public of the United States as a designation of source of
6 craigslist's services.

7 185. The CRAIGSLIST mark was famous prior to the time 3Taps commenced use of
8 the CRAIGSLIST mark and its marks in commerce.

9 186. 3Taps' websites display the CRAIGSLIST mark and craigslist website within its
10 websites.

11 187. 3Taps' use of the CRAIGSLIST mark is likely to cause dilution by blurring, by
12 impairing the distinctiveness of the CRAIGSLIST mark, thereby damaging craigslist's goodwill
13 and disparaging craigslist's rights in the CRAIGSLIST mark. For example, 3Taps' use of the
14 CRAIGSLIST mark in its websites is likely to reduce the distinctiveness of the CRAIGSLIST
15 mark by reducing the general consuming public's association of the mark with craigslist's
16 services. 3Taps' acts and conduct are in violation of 15 U.S.C. § 1125(c).

17 188. In addition, 3Taps' use of the CRAIGGERS mark is likely to cause an association
18 arising from the similarity between the CRAIGGERS mark and CRAIGSLIST mark that impairs
19 the distinctiveness of the CRAIGSLIST mark. 3Taps' use of the CRAIGGERS mark in
20 commerce is likely to cause dilution by blurring of the famous CRAIGSLIST mark in violation of
21 the Lanham Act, 15 U.S.C. § 1125(c).

22 189. As a direct and proximate result of 3Taps' misconduct, craigslist has been, and
23 will continue to be irreparably harmed, injured and damaged, and such harm will continue unless
24 enjoined by this Court. This harm includes a reduction in the distinctiveness of the CRAIGSLIST
25 mark and injury to craigslist's reputation that cannot be remedied through damages, and craigslist
26 has no remedy at law. craigslist is therefore entitled to injunctive relief as set forth herein.

1 190. 3Taps willfully intended to trade on craigslist's reputation or to cause dilution of
2 the famous CRAIGSLIST mark and, therefore, craigslist is entitled to monetary relief under 15
3 U.S.C. § 1117, including profits, damages, and costs of the action.

4 191. 3Taps' misconduct has been and is knowing, deliberate, and willful. 3Taps'
5 willful use of the CRAIGSLIST mark without excuse or justification renders this an exceptional
6 case and entitles craigslist to its reasonable attorneys' fees.

7 **NINTH CLAIM FOR RELIEF**
8 **Federal Cyberpiracy Prevention as to Defendant 3Taps**
9 **15 U.S.C. § 1125(d)**

10 192. craigslist realleges and incorporates by reference all of the preceding paragraphs.

11 193. The CRAIGSLIST mark was famous and distinctive at the time craiggers.com was
12 registered.

13 194. 3Taps, without regard to the products or services provided by craigslist and with a
14 bad faith intent to profit from the CRAIGSLIST mark, has registered, trafficked in, and continues
15 to use its domain name that is identical or confusingly similar to or dilutive of the CRAIGSLIST
16 mark, in violation of the Lanham Act, 15 U.S.C. § 1125(d).

17 195. 3Taps' use of CRAIGGERS is likely to cause an association arising from the
18 similarity between CRAIGGERS and CRAIGSLIST that impairs the distinctiveness of
19 craigslist's famous mark.

20 196. As a direct and proximate result of 3Taps' misconduct, craigslist has been, and
21 will continue to be irreparably harmed, injured and damaged, and such harm will continue unless
22 the Court orders that the craiggers.com domain be forfeited or cancelled, or transferred to
23 craigslist.

24 197. As a direct and proximate result of Defendants' misconduct, craigslist has suffered
25 and is entitled to monetary relief under 15 U.S.C. § 1117, including profits, damages, and costs of
26 the action.
27
28

1 198. Defendants' misconduct has been and is knowing, deliberate, and willful.
2 Defendants' willful use of the CRAIGSLIST mark without excuse or justification renders this an
3 exceptional case and entitles craigslist to its reasonable attorneys' fees.

4 **TENTH CLAIM FOR RELIEF**

5 **California Trademark Infringement as to Defendants 3Taps and PadMapper**
6 **Cal. Bus. & Prof. Code § 14245**

7 199. craigslist realleges and incorporates by reference all of the preceding paragraphs.

8 200. Defendants' unauthorized use of the CRAIGSLIST mark in connection with the
9 sale, offering for sale, distribution or advertising of their products or services is likely to cause
10 confusion, deception, and mistake by creating the false and misleading impression that
11 Defendants' products or services are provided by craigslist, associated or connected with
12 craigslist, or have the sponsorship, endorsement, or approval of craigslist, in violation of
13 California Business & Professions Code Section 14245.

14 201. craigslist is informed and believes, and on that basis alleges, that Defendants' acts
15 were, and are, in conscious and willful disregard of craigslist's trademark rights.

16 202. As a direct and proximate result of Defendants' misconduct, craigslist has been,
17 and will continue to be irreparably harmed, injured and damaged, and such harm will continue
18 unless enjoined by this Court.

19 **ELEVENTH CLAIM FOR RELIEF**

20 **Common Law Trademark Infringement as to Defendants 3Taps and PadMapper**

21 203. craigslist realleges and incorporates by reference all of the preceding paragraphs.

22 204. Defendants' unauthorized use of the CRAIGSLIST mark is likely to cause
23 confusion, deception, and mistake by creating the false and misleading impression that
24 Defendants' products or services are provided by craigslist, associated or connected with
25 craigslist, or have the sponsorship, endorsement, or approval of craigslist, in violation of the
26 common law.

27 205. Defendants' misconduct resulting in such actual and likelihood of confusion,
28 deception, and mistake will continue unless enjoined by this Court.

1 206. As a direct and proximate result of Defendants' misconduct, craigslist has been,
2 and will continue to be irreparably harmed, injured and damaged, and such harm will continue
3 unless enjoined by this Court. Such harm includes damage to craigslist's rights in its marks, and
4 to the business, positive reputation and goodwill of craigslist, which cannot be adequately
5 compensated solely by monetary damages. craigslist therefore has no adequate remedy at law
6 and seeks permanent injunctive relief.

7 207. As a direct and proximate result of Defendants' misconduct, craigslist has suffered
8 and is entitled to monetary damages in an amount to be determined at trial.

9
10 **TWELFTH CLAIM FOR RELIEF**
11 **California Unfair Competition**
12 **Cal. Bus. & Prof. Code § 17200, *et seq.* as to all Defendants**

13 208. craigslist realleges and incorporates by reference all of the preceding paragraphs.

14 209. By the acts described herein, Defendants have engaged in unlawful and unfair
15 business practices that have injured and will continue to injure craigslist in its business and
16 property, in violation of California Business and Professions Code Section 17200, *et seq.*

17 210. Defendants' acts alleged herein have caused monetary damages to craigslist in an
18 amount to be proven at trial, and have caused and will continue to cause, irreparable injury to
19 craigslist and its business, reputation, and trademarks, unless and until Defendants are
20 permanently enjoined.

21 211. As a direct and proximate result of Defendants' conduct alleged herein,
22 Defendants have been unjustly enriched and should be ordered to disgorge any and all profits
23 earned as a result of such unlawful conduct.

24 **THIRTEENTH CLAIM FOR RELIEF**
25 **Computer Fraud and Abuse Act as to Defendants 3Taps and Niessen**
26 **18 U.S.C. §1030 *et seq.***

27 212. craigslist realleges and incorporates by reference all of the preceding paragraphs.

28 213. craigslist's computers and servers are involved in interstate and foreign commerce
and communication, and are protected computers under 18 U.S.C. §1030(e)(2).

1 214. On information and belief, Defendants knowingly and intentionally accessed
2 craigslist's computers without authorization or in excess of authorization as defined by
3 craigslist's TOU.

4 215. On information and belief, after gaining unauthorized access to craigslist's servers,
5 Defendants obtained and used valuable information from craigslist's protected computers and
6 servers in transactions involving interstate or foreign communications. This information includes,
7 among other things, craigslist posts and other content, and the use includes, among other things,
8 distributing that content to others.

9 216. Defendants knowingly, willfully, and with an intent to defraud accessed
10 craigslist's computers and servers without authorization or in excess of authorization and
11 obtained valuable information from craigslist's computers and servers that, on information and
12 belief, Defendants used to obtain something of value.

13 217. craigslist has suffered damage and loss by reason of these violations, including,
14 without limitation, harm to craigslist's content, programs, and computer systems, expenses
15 associated with being forced to investigate the unauthorized access and abuse of its computers
16 and servers, and other losses and damage in an amount to be proven at trial, and well in excess of
17 \$5,000 aggregated over a one year period.

18 218. In addition, Defendants have engaged in a civil conspiracy to commit the above-
19 described activities by engaging agents, licensees, and/or affiliates to obtain unauthorized access
20 by robot, spider, or other automatic device, to craigslist's computer system, including its servers,
21 the craigslist website, and the content contained within. Defendants have acted in concert with
22 each other, as well as with numerous other agents, licensees, and/or affiliates for this
23 unauthorized and unlawful purpose. This conduct, as well, has harmed and will continue to harm
24 craigslist, and craigslist has been and will continue to be damaged.

25 219. In addition, craigslist has suffered and will continue to suffer irreparable harm, and
26 its remedy at law is not itself adequate to compensate it for injuries inflicted by Defendants.
27 Accordingly, craigslist is entitled to injunctive relief.

28

FOURTEENTH CLAIM FOR RELIEF

**California Comprehensive Computer Access and Fraud Act as to
Defendants 3Taps and Niessen
Cal. Penal Code §502**

220. craigslist realleges and incorporates by reference all of the preceding paragraphs.

221. Defendants have violated California Penal Code §502(c)(2) by knowingly and fraudulently, and without permission, accessing, taking, copying, and making use of programs, data, and files from craigslist's computers, computer systems, and/or computer networks.

222. Defendants have violated California Penal Code §502(c)(3) by knowingly, fraudulently, and without permission accessing and using craigslist's computers and servers.

223. Defendants have violated California Penal Code §502(c)(6) by knowingly, fraudulently, and without permission providing, or assisting in providing, a means of accessing craigslist's computers, computer systems, and/or computer networks.

224. Defendants have violated California Penal Code §502(c)(7) by knowingly, fraudulently, and without permission accessing, or causing to be accessed, craigslist's computers, computer systems, and/or computer networks.

225. craigslist owns certain data that comprises information obtained by Defendants as alleged above.

226. As a direct and proximate result of Defendants' unlawful conduct within the meaning of California Penal Code §502, Defendants have caused damage to craigslist in an amount to be proven at trial. Craigslist is also entitled to recover its reasonable attorney's fees pursuant to California Penal Code §502(e).

227. In addition, Defendants have engaged in a civil conspiracy to violate sections 502(c)(2)-(7) by engaging agents, licensees, and/or affiliates to obtain unauthorized access by robot, spider, or other automatic device, to craigslist's computer system, including its servers, the craigslist website, and the content contained within. Defendants have acted in concert with each other, as well as with numerous other agents, licensees, and/or affiliates for this unauthorized and

1 unlawful purpose. This conduct, as well, has harmed and will continue to harm craigslist, and
2 craigslist has been and will continue to be damaged.

3 228. craigslist is informed and believes that the aforementioned acts of Defendants were
4 willful and malicious in that Defendants' acts described above were done with the deliberate
5 intent to injure craigslist's business and improve its own. Craigslist is therefore entitled to
6 punitive damages.

7 229. In addition, craigslist has suffered and will continue to suffer irreparable harm, and
8 its remedy at law is not itself adequate to compensate it for injuries inflicted by Defendants.
9 Accordingly, craigslist is entitled to injunctive relief.

10 **FIFTEENTH CLAIM FOR RELIEF**
11 **Aiding and Abetting Trespass as to Defendant 3Taps**

12 230. craigslist realleges and incorporates by reference all of the preceding paragraphs.

13 231. craigslist is informed and believes and thereon alleges that Defendant 3Taps has
14 and had specific knowledge of, and actively encourages and encouraged, Defendant Niessen to
15 intentionally and without authorization access and interact with craigslist, including without
16 limitation, craigslist's website, computer systems and servers. This conduct by Niessen, which
17 3Taps has and continues to have knowledge of and actively encourage, constitutes unlawful
18 access to and interference and intermeddling with craigslist, its website, computer systems, and
19 its servers.

20 232. 3Taps substantially assisted and encouraged Niessen's conduct described above
21 by, among other things, facilitating and supporting the collection, transfer, and storage of
22 craigslist content.

23 233. 3Taps' conduct in this regard constitutes aiding and abetting trespass that has
24 harmed and will continue to harm craigslist. As a result, craigslist has been and will continue to
25 be damaged.

26 234. craigslist has suffered and will continue to suffer irreparable harm, and its remedy
27 at law is not itself adequate to compensate it for injuries inflicted by 3Taps. Accordingly,
28 craigslist is entitled to injunctive relief.

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SIXTEENTH CLAIM FOR RELIEF

Aiding and Abetting Misappropriation as to Defendants Niessen and 3Taps

235. craigslist realleges and incorporates by reference all of the preceding paragraphs.

236. Defendant Niessen has actual knowledge that Defendant 3Taps uses time-sensitive “scraped” craigslist content to compete with craigslist. Defendant Niessen encourages and substantially assists 3Taps in those activities by, among other things, providing “scraped” time-sensitive craigslist content to 3Taps.

237. Likewise, Defendant 3Taps has actual knowledge that Defendants PadMapper and Lovely each uses time-sensitive “scraped” craigslist content to compete with craigslist. Defendant 3Taps encourages and substantially assists Defendants PadMapper and Lovely in those activities by, among other things, providing “scraped” time-sensitive craigslist content to PadMapper and Lovely.

238. Defendants Niessen and 3Taps have thus aided and abetted the misappropriation of craigslist’s content. As a result, craigslist has been and will continue to be damaged.

239. craigslist has suffered and will continue to suffer irreparable harm, and its remedy at law is not itself adequate to compensate it for injuries inflicted by 3Taps and Niessen. Accordingly, craigslist is entitled to injunctive relief.

SEVENTEENTH CLAIM FOR RELIEF

Accounting as to all Defendants

240. craigslist realleges and incorporates by reference all of the preceding paragraphs.

241. Since at least April 2010, Defendants have obtained business through the use of unlawful conduct, as alleged elsewhere in the complaint.

242. Defendants have received money as a result of their misconduct, at craigslist’s expense, and some or all of such money is rightfully due to craigslist.

1 243. The amount of money due from Defendants to craigslist cannot be ascertained
2 without an accounting of the income and gross profits Defendants have obtained through their
3 wrongful and unlawful conduct. craigslist is entitled, therefore, to a full accounting.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, craigslist prays that judgment be entered in its favor and against
6 Defendants, as follows:

7 1. A preliminary injunction and permanent injunction enjoining and restraining all
8 Defendants, their employees, representatives, agents, and all persons or entities acting in concert
9 with them during the pendency of this action and thereafter perpetually from:

10 (a) Copying, reproducing, preparing derivative works from, distributing copies
11 to the public, and/or publicly displaying the Copyrighted Works;

12 (b) Knowingly and systematically inducing, causing, and/or materially
13 contributing to unauthorized copying, reproduction, preparation of derivative works from,
14 distribution of copies to the public, and/or publicly displaying the Copyrighted Works;

15 (c) Using, authorizing the use of, copying, reproducing or imitating the
16 CRAIGSLIST mark, or any confusingly similar or colorable imitation thereof;

17 (d) Accessing or using craigslist's website for any commercial purpose
18 whatsoever.

19 2. An order requiring Defendants to destroy all documents, data, and other items,
20 electronic or otherwise, in their possession, custody, or control, that infringe the copyrights and
21 trademarks of craigslist.

22 3. An order requiring that the craiggers.com domain be forfeited or cancelled, or
23 transferred to craigslist.

24 4. An award to craigslist of restitution and damages, including, but not limited to,
25 liquidated, compensatory, statutory, treble damages, and punitive damages, as permitted by law;

26 5. An award to craigslist of its costs of suit, including, but not limited to, reasonable
27 attorneys' fees, as permitted by law;

28 6. For such other relief as the Court deems just and proper.

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November 20, 2012

PERKINS COIE LLP

By /s/ Chris Kao
CHRISTOPHER KAO

Attorneys for Plaintiff craigslist, Inc.

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DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial of all issues in the above-captioned action that are triable to a jury.

November 20, 2012

PERKINS COIE LLP

By: /s/ Chris Kao
CHRISTOPHER KAO

Attorneys for Plaintiff craigslist, Inc.