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10 THE PHILIP LIEF GROUP, INC.

2008 MAY - 7 PM 2:30  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.  
LOS ANGELES  
BY [Signature]

FILED

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT  
13 WESTERN DIVISION

14 THE PHILIP LIEF GROUP, INC., a  
15 New Jersey Corporation,,  
16  
17 Plaintiff,

Case No. CV08-02996 CAS  
(RCX)

COMPLAINT FOR COPYRIGHT  
INFRINGEMENT (17 USC 101, ET  
SEQ.);

18 vs.

DEMAND FOR JURY TRIAL

19 LEXICO PUBLISHING GROUP,  
20 L.L.C., a California Limited Liability  
21 Company; and DOES 1 through 10,  
22 inclusive,,  
23

24 Defendants.

25 Plaintiff The Philip Lief Group, Inc. ("PLG") complains of Defendant Lexico  
26 Publishing Group, L.L.C. ("Lexico") and Defendants Does 1 through 10 (jointly,  
27 "Defendants").as follows:  
28

SUMMARY OF ACTION

1. Lexico has built an online reference business in substantial part  
on infringement of PLG's copyright in its Roget's 21st Century Thesaurus ("PLG's

Given  
Copyright  
Form

©  
1/5  
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1 Thesaurus”). PLG seeks damages to compensate it for the harm Defendants’  
2 actions have caused, Lexico’s profits from its infringement of PLG’s copyrights,  
3 and injunctive relief to stop Defendants from engaging in this wrongful conduct in  
4 the future.

5 **JURISDICTION AND VENUE**

6 2. This is a civil action arising under the copyright laws of the  
7 United States. This Court has federal question jurisdiction over this action pursuant  
8 to 28 U.S.C. §1331 and §1338(a). Venue is proper in this district under 28 U.S.C.  
9 §1391(b) and §1400 because, *inter alia*, Lexico is located in this district and a  
10 substantial portion of the acts described herein occurred in this district.

11 **PARTIES**

12 3. Plaintiff PLG is a New Jersey corporation. It has its principal  
13 place of business in Princeton, New Jersey.

14 4. Defendant Lexico is a California limited liability company that  
15 has its principal place of business in Long Beach, California.

16 5. Defendants Does 1-10, inclusive, are sued herein under fictitious  
17 names because their true names and capacities are unknown at this time. This  
18 complaint will be amended appropriately when their true names and capacities are  
19 ascertained.

20 6. Upon information and belief, each of such fictitiously named  
21 Defendants is responsible in some manner for the occurrences alleged herein.

22 7. Lexico and Does 1-10, inclusive, are sometimes hereinafter  
23 referred to collectively as “Defendants.”

24 8. Defendants, and each of them, are individuals in business  
25 entities who, upon information and belief, have acted and are acting in concert and  
26 active participation with each other in committing the wrongful acts alleged herein.

27  
28

1                   **COPYRIGHT INFRINGEMENT AGAINST ALL DEFENDANTS**

2                   9.     PLG is a book producer that owns copyrights in a number of  
3 books and other works. In 1990 PLG employed Barbara Ann Kipfer, PhD., to  
4 create a thesaurus for PLG entitled Roget's 21st Century Thesaurus. ("PLG's  
5 Thesaurus" or "the Thesaurus".) Pursuant to that agreement PLG was and is the  
6 author and copyright owner of the Thesaurus on a "work made for hire" basis.  
7 Through her efforts, Dr. Kipfer possessed copies of the Thesaurus.

8                   10.    PLG registered the Thesaurus for copyright in 1992, and  
9 obtained a Certificate of Registration No. TX 3377956 for the Thesaurus.

10                  11.    Dr. Kipfer entered into a contributor agreement to revise the  
11 Thesaurus in 1998 pursuant to which PLG would, again, be the copyright owner in  
12 the revisions on a work made for hire basis. A second edition of the Thesaurus was  
13 registered with the Copyright Office in 1999, and granted Registration No.  
14 TX 5029798. Through her efforts, Dr. Kipfer possessed copies of the revised  
15 Thesaurus.

16                  12.    PLG is informed and believes that Lexico was formed in 1999 to  
17 operate a web based, advertisement supported online reference service. Dr. Kipfer  
18 advised PLG in September 2000 that individuals associated with Lexico wished to  
19 obtain a license for the Thesaurus for use in connection with Lexico's Internet  
20 reference business. Advising PLG in November 2000 that its business was not  
21 profitable, and was meant only to educate people, Lexico offered PLG \$3,000 to  
22 \$5,000 to license the Thesaurus. PLG declined that offer.

23                  13.    Unbeknownst to PLG, Lexico in January 2001 entered into an  
24 agreement with Dr. Kipfer to buy a thesaurus for use on Lexico's website for  
25 \$3,000. In October 2002, Lexico introduced what it called "Roget's New  
26 Millennium Thesaurus" on its website. It allowed the public to view various entries  
27 from that Thesaurus for free from its website, but combined those entries with  
28 advertising on its web pages, and charged advertisers for those ads. Defendants

1 thus used the thesaurus posted on its website to attract visitors to Lexico's website  
2 so they could charge more for advertising posted on their website.

3 14. The thesaurus placed on Lexico's website was copied, almost  
4 verbatim, complete with misspellings and nonsense words, from PLG's Thesaurus.

5 15. From about 2002 through early 2008 Lexico developed a  
6 significant web based, advertising supported business through its use of the  
7 Thesaurus provided by Dr. Kipfer and other reference tools. PLG is informed and  
8 believes that by late 2007, Lexico's websites generated millions of page views per  
9 day, with over 20% of all such web traffic viewing the online thesaurus copied from  
10 PLG's Thesaurus. PLG is further informed and believes that during that same  
11 period Lexico generated millions of dollars a year in revenue and profits from  
12 advertising placed on its websites.

13 16. Lexico entered into an agreement with a prospective buyer to  
14 acquire Lexico for \$100 million dollars in July of 2007. That sale was not  
15 consummated, but PLG is informed and believes that Lexico presently has a value  
16 of somewhere between \$60 and \$80 million dollars.

17 17. On or about March 1, 2008, PLG discovered that the thesaurus  
18 appearing on Lexico's was copied from PLG's Thesaurus.

19 18. PLG did not know of, and had no reason to know of, Lexico's  
20 unauthorized reproduction of its website before March 1, 2008. Its 1990 agreement  
21 with Dr. Kipfer prohibited her from participating in the preparation of another  
22 English language thesaurus without PLG's permission, and PLG was never  
23 approached by Lexico or anyone else about granting permission for Dr. Kipfer to  
24 create a thesaurus for Lexico. PLG had, in fact, entered into another agreement  
25 with Dr. Kipfer to further revise PLG's thesaurus in June 2004. PLG also did no  
26 business with Lexico, and did not view and had no reason to view Lexico's website.

27 19. Defendants' actions as described above infringe PLG's  
28 copyright in its Thesaurus in numerous ways, including but not limited to the

1 following:

2 (A) Defendants’ unauthorized reproduction of the Thesaurus  
3 on their website reproduced PLG’s thesaurus in violation of 17 USC §106(1);

4 (B) Defendants’ creation of an unauthorized derivative  
5 version of PLG’s Thesaurus violates 17 USC §106(2);

6 (C) Defendants’ unauthorized display of portions of PLG’s  
7 Thesaurus violates 17 USC §106(5); and

8 (D) Defendants’ placement of its unauthorized derivative  
9 version of PLG’s Thesaurus on its website so that the public could view that  
10 Thesaurus or portions thereof exposes them to liability for contributory, vicarious  
11 and “inducement” copyright infringement by user’s of Lexico’s website

12 20. Defendants’ wrongful conduct as described above causes PLG  
13 to suffer irreparable harm, including infringement of its copyrights, for all of which  
14 it has no adequate remedy of law.

15 21. Defendants’ use of PLG’s Thesaurus on Lexico’s websites to  
16 promote Lexico’s business is completely unauthorized. In fact, PLG specifically  
17 rejected Lexico’s request for permission to utilize PLG’s thesaurus in Lexico’s  
18 website business. Defendants’ actions are therefore willful, oppressive and  
19 malicious.

20 22. By reason of the foregoing, PLG seeks injunctive and monetary  
21 relief, together with its costs and attorneys fees pursuant to 17 USC §§502-505, in  
22 respect of defendant’s infringement of its copyright Registrations Nos. TX 3377956  
23 and TX 5029798.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, PLG respectfully requests that the Court:

26 (A) Preliminarily and permanently enjoin Defendants and all  
27 those acting in active concert or participation with them from infringing or assisting  
28

1 any other person or entity in infringing PLG's Copyright Registration Nos.  
2 TX 3377956, TX 5029798 or any other copyright belonging to PLG;

3 (B) Order that PLG recover a monetary judgment reflecting  
4 its compensatory and general damages as determined at trial;

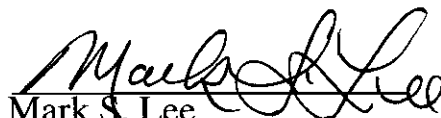
5 (C) Order that Defendants be made to account to PLG for all  
6 profits they have generated from their infringement of PLG's copyrights, including  
7 but not limited to all advertising revenues and the increase in value of Lexico  
8 attributable to Defendants' infringement of PLG's copyrights;

9 (D) Order that Defendants pay PLG's costs of this action,  
10 together with reasonable attorneys fees, and disbursements, pursuant to 17 USC  
11 §505;

12 (E) Award PLG such other and further relief as the Court  
13 deems just and proper.

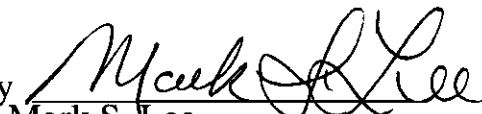
14 Dated: May 7, 2008

MANATT, PHELPS & PHILLIPS, LLP  
MARK S. LEE

17 By   
18 Mark S. Lee  
19 Attorneys for Plaintiff  
20 THE PHILIP LIEF GROUP, INC.

21 **JURY DEMAND**

22 PLG demands a jury trial herein.

23 By   
24 Mark S. Lee  
25 Attorneys for Plaintiff  
26 The Philip Lief Group, Inc.

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