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12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION
16

17 CRAIGSLIST, INC., a Delaware
corporation,
18
19 Plaintiff,
20 v.
21 3TAPS, INC., a Delaware corporation;
PADMAPPER, INC., a Delaware
corporation; and Does 1 through 25,
22 inclusive,
23 Defendants.
24

Case No. CV 12-03816 CRB

**PLAINTIFF CRAIGSLIST, INC.’S ANSWER
TO DEFENDANT 3TAPS, INC.’S
COUNTERCLAIM**

1 Plaintiff craigslist, Inc. (“craigslist”) answers Defendant 3Taps, Inc.’s (“3Taps”)
2 Counterclaim as follows:

3 1. craigslist admits that 3Taps filed a Counterclaim purporting to allege antitrust,
4 unfair competition, and interference with economic advantage claims. craigslist denies the
5 remaining allegations in paragraph 1 of the Counterclaim.

6 2. craigslist denies the allegations in paragraph 2 of the Counterclaim.

7 3. craigslist denies the allegations in paragraph 3 of the Counterclaim.

8 4. craigslist admits that numerous entities compete with craigslist, but denies that the
9 “marketplaces” defined by 3Taps exist. craigslist does not have knowledge or information
10 sufficient to form a belief as to the truth of the remaining allegations of paragraph 4 and,
11 therefore, denies the same.

12 5. craigslist denies the allegations in paragraph 5 of the Counterclaim.

13 6. craigslist does not have knowledge or information sufficient to form a belief as to
14 the truth of the allegations of paragraph 6 and, therefore, denies the same.

15 7. craigslist denies the allegations in paragraph 7 of the Counterclaim.

16 8. craigslist admits that 3Taps developed craiggers.com. craigslist does not have
17 knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph
18 8 regarding “JeBoom” and, therefore, denies the same. craigslist denies the remaining allegations
19 in paragraph 8 of the Counterclaim.

20 9. craigslist admits that in July 2010, Craig Newmark posted a comment on
21 quora.com. craigslist denies the remaining allegations in paragraph 9 of the Counterclaim.

22 10. craigslist admits that on March 7, 2012, craigslist sent 3Taps a cease and desist
23 letter. That cease and desist letter speaks for itself. craigslist admits that it received a letter dated
24 March 13, 2012 purporting to be from 3Taps. 3Taps’ letter speaks for itself. craigslist denies the
25 remaining allegations in paragraph 10 of the Counterclaim.

26 11. craigslist admits that airbnb.com provides an online service for vacation rentals
27 with search and payment features. craigslist does not have knowledge or information sufficient to
28

1 form a belief as to the truth of the remaining allegations of paragraph 11 and, therefore, denies the
2 same.

3 12. craigslist admits that padmapper.com uses craigslist content obtained from 3Taps'
4 illegitimate store and aggregates that content with content from other websites. craigslist does not
5 have knowledge or information sufficient to form a belief as to the truth of the remaining
6 allegations of paragraph 12 and, therefore, denies the same.

7 13. craigslist admits that livelovely.com allows users to search for apartments, uses
8 craigslist content misappropriated by 3Taps, and directly competes with craigslist. craigslist
9 denies the remaining allegations in paragraph 13 of the Counterclaim.

10 14. craigslist denies the allegations in the last sentence of paragraph 14 of the
11 Counterclaim. craigslist does not have knowledge or information sufficient to form a belief as to
12 the truth of the remaining allegations of paragraph 14 and, therefore, denies the same.

13 15. craigslist denies the allegations in paragraph 15 of the Counterclaim.

14 16. craigslist admits that it sent cease and desist letters to 3Taps and PadMapper, Inc.
15 (“PadMapper”) and to other 3Taps users. craigslist admits that it filed suit against 3Taps and
16 PadMapper for, among other things, copyright infringement, breach of craigslist’s Terms of Use,
17 and trademark infringement. craigslist allows general internet search engines—Google and
18 Bing—to access the craigslist website to facilitate their search functionality. craigslist includes a
19 “NOARCHIVE” instruction in its HTML headers to inform search engines that they are not to
20 make available cached copies of craigslist postings. This instruction has been present, and
21 unchanged, in craigslist postings for many years. craigslist admits that its Terms of Use provide
22 that “Any access to or use of craigslist to design, develop, test, update, operate, modify, maintain,
23 support, market, advertise, distribute or otherwise make available any program, application or
24 service (including, without limitation, any device, technology, product, computer program,
25 mobile device application, website, or mechanical or personal service) that enables or provides
26 access to, use of, operation of or interoperation with craigslist (including, without limitation, to
27 access content, post content, cross-post content, re-post content, respond or reply to content,
28 verify content, transmit content, create accounts, verify accounts, use accounts, circumvent and/or

1 automate technological security measures or restrictions, or flag content) is prohibited.” craigslist
2 takes steps to minimize “spam” and other inappropriate postings, including omitting postings
3 from Table of Contents (“TOC”) pages and search results. craigslist denies the remaining
4 allegations in paragraph 16 of the Counterclaim.

5 17. craigslist denies the allegations in paragraph 17 of the Counterclaim.

6 18. craigslist admits that the allegations in the Counterclaim purport to plead claims
7 under Sections 4 and 16 of the Clayton Act (15 U.S.C. §§ 15, 26) and purport to seek damages
8 and injunctive relief against craigslist for alleged violations of Section 2 of the Sherman Act (15
9 U.S.C. § 2). craigslist denies the remaining allegations in paragraph 18 of the Counterclaim.

10 19. Paragraph 19 states legal conclusions, to which no response is required.

11 20. Paragraph 20 states legal conclusions, to which no response is required.

12 21. The first sentence of paragraph 21 states a legal conclusion, to which no response
13 is required. craigslist admits that its headquarters are in San Francisco, California. craigslist
14 denies the remaining allegations in paragraph 21 of the Counterclaim.

15 22. craigslist admits that 3Taps is a Delaware corporation with its principal place of
16 business in San Francisco, California. craigslist admits that 3Taps purports to operate an
17 application program interface (“API”). craigslist does not have knowledge or information
18 sufficient to form a belief as to the truth of the remaining allegations of paragraph 22 and,
19 therefore, denies the same.

20 23. craigslist admits that 3Taps created the website located at craiggers.com. craigslist
21 denies the remaining allegations in paragraph 23 of the Counterclaim.

22 24. craigslist does not have knowledge or information sufficient to form a belief as to
23 the truth of the allegations of paragraph 24 and, therefore, denies the same.

24 25. craigslist admits that it provides online classifieds for local communities, and that
25 its principal place of business is in San Francisco, California. craigslist denies the remaining
26 allegations in paragraph 25 of the Counterclaim.

27 26. craigslist denies the allegations in paragraph 26 of the Counterclaim.

28 27. craigslist denies the allegations in paragraph 27 of the Counterclaim.

1 28. craigslist denies the allegations in paragraph 28 of the Counterclaim.

2 29. craigslist denies the allegations in paragraph 29 of the Counterclaim.

3 30. craigslist denies the allegations in paragraph 30 of the Counterclaim.

4 31. craigslist does not have knowledge or information sufficient to form a belief as to
5 the truth of the allegations of the second, third, and fourth sentences of paragraph 31 and,
6 therefore, denies the same. craigslist denies the remaining allegations in paragraph 31 of the
7 Counterclaim.

8 32. craigslist denies the allegations in paragraph 32 of the Counterclaim.

9 33. craigslist denies the allegations in paragraph 33 of the Counterclaim.

10 34. craigslist denies the allegations in paragraph 34 of the Counterclaim.

11 35. craigslist denies the allegations in paragraph 35 of the Counterclaim.

12 36. craigslist denies the allegations in paragraph 36 of the Counterclaim.

13 37. craigslist denies the allegations in paragraph 37 of the Counterclaim.

14 38. craigslist denies the allegations in paragraph 38 of the Counterclaim.

15 39. craigslist admits that PadMapper competes with craigslist, but denies that the
16 markets and submarkets defined by 3Taps exist. craigslist denies the remaining allegations in
17 paragraph 39 of the Counterclaim.

18 40. craigslist admits that the entities that own backpage.com, ebayclassifieds.com,
19 oodle.com, and olx.com compete with craigslist, but denies that the markets and submarkets
20 defined by 3Taps exist. craigslist denies the remaining allegations in paragraph 40 of the
21 Counterclaim.

22 41. craigslist does not have knowledge or information sufficient to form a belief as to
23 the truth of the allegations of paragraph 41 and, therefore, denies same.

24 42. craigslist does not have knowledge or information sufficient to form a belief as to
25 the truth of the allegations of paragraph 42 and, therefore, denies the same.

26 43. craigslist admits it is a privately-held company that does not publish statistics
27 regarding traffic and postings for many of the classified ad categories offered on its website.
28 craigslist admits that padmapper.com, livelovely.com, and other websites compete with craigslist,

1 but denies that the markets and submarkets defined by 3Taps exist. craigslist denies the
2 remaining allegations in paragraph 43 of the Counterclaim.

3 44. craigslist denies the allegations in paragraph 44 of the Counterclaim.

4 45. craigslist denies the allegations in paragraph 45 of the Counterclaim.

5 46. craigslist denies the allegations in paragraph 46 of the Counterclaim.

6 47. craigslist denies the allegations in paragraph 47 of the Counterclaim.

7 48. craigslist denies the allegations in paragraph 48 of the Counterclaim.

8 49. craigslist denies the allegations in paragraph 49 of the Counterclaim.

9 50. craigslist denies the allegations in paragraph 50 of the Counterclaim.

10 51. craigslist admits that it does not currently provide an application programming
11 interface (“API”). craigslist denies the remaining allegations in paragraph 51 of the
12 Counterclaim.

13 52. craigslist admits that it offers RSS feeds to its users, subject to certain conditions
14 of use. craigslist denies the remaining allegations in paragraph 52 of the Counterclaim.

15 53. craigslist denies the allegations in paragraph 53 of the Counterclaim.

16 54. craigslist denies the allegations in paragraph 54 of the Counterclaim.

17 55. craigslist denies the allegations in paragraph 55 of the Counterclaim.

18 56. craigslist does not have knowledge or information sufficient to form a belief as to
19 the truth of the allegations of paragraph 56 and, therefore, denies the same.

20 57. craigslist does not have knowledge or information sufficient to form a belief as to
21 the truth of the allegations of paragraph 57 and, therefore, denies the same.

22 58. craigslist does not have knowledge or information sufficient to form a belief as to
23 the truth of the allegations of paragraph 58 and, therefore, denies the same.

24 59. craigslist does not have knowledge or information sufficient to form a belief as to
25 the truth of the allegations of paragraph 59 and, therefore, denies the same.

26 60. craigslist denies the allegations in paragraph 60 of the Counterclaim.

27 61. craigslist denies the allegations in the first, second, and third sentences of
28 paragraph 61 of the Counterclaim. craigslist does not have knowledge or information sufficient

1 to form a belief as to the truth of the remaining allegations of paragraph 61 and, therefore, denies
2 the same.

3 62. craigslist denies the allegations in paragraph 62 of the Counterclaim.

4 63. craigslist denies the allegations in paragraph 63 of the Counterclaim.

5 64. craigslist denies the allegations in paragraph 64 of the Counterclaim.

6 65. craigslist denies the allegations in paragraph 65 of the Counterclaim.

7 66. craigslist denies the allegations in paragraph 66 of the Counterclaim.

8 67. craigslist denies the allegations in paragraph 67 of the Counterclaim.

9 68. craigslist denies the allegations in paragraph 68 of the Counterclaim.

10 69. craigslist does not have knowledge or information sufficient to form a belief as to
11 the truth of the allegations in the first sentence of paragraph 69 and, therefore, denies the same.
12 craigslist denies the remaining allegations in paragraph 69 of the Counterclaim.

13 70. craigslist does not have knowledge or information sufficient to form a belief as to
14 the truth of the allegations of paragraph 70 and, therefore, denies the same.

15 71. craigslist does not have knowledge or information sufficient to form a belief as to
16 the truth of the allegations of paragraph 71 and, therefore, denies the same.

17 72. craigslist does not have knowledge or information sufficient to form a belief as to
18 the truth of the allegations of paragraph 72 and, therefore, denies the same.

19 73. craigslist does not have knowledge or information sufficient to form a belief as to
20 the truth of the allegations of paragraph 73 and, therefore, denies the same.

21 74. craigslist admits that it provides users that post ads with anonymized e-mail
22 addresses. craigslist denies the remaining allegations in paragraph 74 of the Counterclaim.

23 75. craigslist denies the allegations in paragraph 75 of the Counterclaim.

24 76. craigslist denies the allegations in paragraph 76 of the Counterclaim.

25 77. craigslist admits that PadMapper competes with craigslist, but denies that the
26 markets defined by 3Taps exist. craigslist admits that internet traffic to padmapper.com
27 plummeted once PadMapper stopped populating its website with misappropriated craigslist
28

1 content. The allegations in paragraph 73 of craigslist’s Complaint speak for themselves.

2 craigslist denies the remaining allegations in paragraph 77 of the Counterclaim.

3 78. craigslist denies the allegations in paragraph 78 of the Counterclaim.

4 79. craigslist denies the allegations in paragraph 79 of the Counterclaim.

5 80. craigslist does not have knowledge or information sufficient to form a belief as to
6 the truth of the allegations in paragraph 80 of the Counterclaim and, therefore, denies the same.

7 81. craigslist does not have knowledge or information sufficient to form a belief as to
8 the truth of the allegations in paragraph 81 of the Counterclaim and, therefore, denies the same.

9 82. craigslist does not have knowledge or information sufficient to form a belief as to
10 the truth of the allegations in paragraph 82 of the Counterclaim and, therefore, denies the same.

11 83. craigslist denies the allegations in paragraph 83 of the Counterclaim.

12 84. craigslist denies the allegations in paragraph 84 of the Counterclaim.

13 85. craigslist denies the allegations in paragraph 85 of the Counterclaim.

14 86. craigslist admits that the entities that own backpage.com and ebayclassifieds.com
15 compete with craigslist, but craigslist denies that the markets defined by 3Taps exist. craigslist
16 denies the remaining allegations in paragraph 86 of the Counterclaim.

17 87. craigslist admits that eBay, Inc. competes with craigslist, but denies that the
18 “Relevant Markets” defined by 3Taps exist. craigslist denies the remaining allegations in
19 paragraph 87 of the Counterclaim.

20 88. craigslist admits that it offers RSS feeds to its users, subject to certain conditions
21 of use. craigslist denies the remaining allegations in paragraph 88 of the Counterclaim.

22 89. craigslist does not have knowledge or information sufficient to form a belief as to
23 the truth of the allegations in the first sentence of paragraph 89 and, therefore, denies the same.

24 craigslist admits that in 2009, Craig Newmark received emails purporting to be from Romy
25 Maxwell. On or about December 1, 2009, craigslist temporarily suspended Yahoo! Pipes’s
26 access to craigslist’s RSS feed. On or about December 16, 2009, craigslist restored Yahoo!
27 Pipes’s access to craigslist’s RSS feed. craigslist denies the remaining allegations in paragraph
28 89 of the Counterclaim.

1 90. craigslist denies the allegations in paragraph 90 of the Counterclaim.

2 91. craigslist admits that it began as an e-mail list for sharing information about events
3 in the San Francisco Bay Area and that users began sharing information about other topics.
4 craigslist denies the remaining allegations in paragraph 91 of the Counterclaim.

5 92. craigslist admits that it expanded its services to the web, and to allow users to post
6 classified ads in various categories. craigslist denies the remaining allegations in paragraph 92 of
7 the Counterclaim.

8 93. craigslist admits that craigslist provides users that post ads with unique,
9 anonymized e-mail addresses. craigslist denies the remaining allegations in paragraph 93 of the
10 Counterclaim.

11 94. craigslist admits that it expanded to other cities, and that its website requires a user
12 to select a geographic area within which to post an ad or search for ads. craigslist's Terms of Use
13 speak for themselves. craigslist denies the remaining allegations of paragraph 94 of the
14 Counterclaim.

15 95. craigslist denies the allegations of paragraph 95 of the Counterclaim.

16 96. craigslist denies the allegations of paragraph 96 of the Counterclaim.

17 97. craigslist admits that it sent cease and desist letters regarding "HuntSmartly" and
18 snapstore.me. craigslist denies the remaining allegations in paragraph 97 of the Counterclaim.

19 98. craigslist denies the allegations in paragraph 98 of the Counterclaim.

20 99. Paragraph 20 of the craigslist Complaint speaks for itself. craigslist denies the
21 remaining allegations in paragraph 99 of the Counterclaim.

22 100. craigslist denies the allegations in paragraph 100 of the Counterclaim.

23 101. craigslist admits that 60 million Americans visit the craigslist website each month.
24 craigslist admits that the entities that own backpage.com and ebayclassifieds.com compete with
25 craigslist, but craigslist denies that the markets and submarkets defined by 3Taps exist. craigslist
26 denies the remaining allegations in paragraph 101 of the Counterclaim.

27 102. craigslist does not have knowledge or information sufficient to form a belief as to
28 the truth of the allegations of paragraph 102 and, therefore, denies the same.

1 103. craigslist admits that it currently charges (1) \$25 for job postings in selected cities,
2 and \$75 for job postings in the San Francisco Bay Area; (2) \$10 for brokered apartment listings in
3 New York City; and (3) \$10 for posting therapeutic services ads in the United States. craigslist
4 does not have knowledge or information sufficient to form a belief as to the truth of the remaining
5 allegations of paragraph 103 and, therefore, denies the same.

6 104. craigslist denies the allegations in paragraph 104 of the Counterclaim.

7 105. craigslist denies the allegations in paragraph 105 of the Counterclaim.

8 106. craigslist denies the allegations in paragraph 106 of the Counterclaim.

9 107. craigslist denies the allegations in the first sentence of paragraph 107 of the
10 Counterclaim. craigslist does not have knowledge or information sufficient to form a belief as to
11 the truth of the allegations in the second and third sentences of paragraph 107 and, therefore,
12 denies the same. On or about December 1, 2009, craigslist temporarily suspended Yahoo! Pipes's
13 access to craigslist's RSS feeds. On or about December 16, 2009, craigslist restored Yahoo!
14 Pipes's access to craigslist's RSS feeds. craigslist denies the remaining allegations in paragraph
15 107 of the Counterclaim.

16 108. craigslist does not have knowledge or information sufficient to form a belief as to
17 the truth of the allegations in the first sentence of paragraph 108 and, therefore, denies the same.
18 craigslist admits that it offers RSS feeds to its users, subject to certain conditions of use.
19 craigslist denies the remaining allegations in paragraph 108 of the Counterclaim.

20 109. craigslist denies the allegations in paragraph 109 of the Counterclaim.

21 110. craigslist denies the allegations in the first and second sentences of paragraph 110
22 of the Counterclaim. craigslist does not have knowledge or information sufficient to form a belief
23 as to the truth of the remaining allegations of paragraph 110 and, therefore, denies the same.

24 111. craigslist denies the allegations in paragraph 111 of the Counterclaim.

25 112. craigslist does not have knowledge or information sufficient to form a belief as to
26 the truth of the allegations of the first sentence in paragraph 112 and, therefore, denies the same.
27 craigslist denies the remaining allegations of paragraph 112 of the Counterclaim.

28

1 113. craigslist admits that its website does not allow users to search other websites, nor
2 does it have features titled “saved searches,” “favoriting” or “safe search.” craigslist does not
3 have knowledge or information sufficient to form a belief as to the truth of the remaining
4 allegations of paragraph 113 and, therefore, denies the same.

5 114. craigslist does not have knowledge or information sufficient to form a belief as to
6 the truth of the allegations of paragraph 114 and, therefore, denies the same.

7 115. craigslist admits that padmapper.com uses craigslist content obtained from 3Taps’
8 illegitimate store, and that PadMapper competes with craigslist. craigslist denies that the markets
9 and submarkets defined by 3Taps exist. craigslist does not have knowledge or information
10 sufficient to form a belief as to the truth of the remaining allegations of paragraph 115 and,
11 therefore, denies the same.

12 116. The content of the domain cited in paragraph 116 speaks for itself. craigslist
13 denies the remaining allegations in paragraph 116 of the Counterclaim.

14 117. craigslist does not have knowledge or information sufficient to form a belief as to
15 the truth of the allegations of paragraph 117 and, therefore, denies the same.

16 118. craigslist denies the allegations in the first sentence of paragraph 118 of the
17 Counterclaim. craigslist admits that its Terms of Use provide: “Any access to or use of craigslist
18 to design, develop, test, update, operate, modify, maintain, support, market, advertise, distribute
19 or otherwise make available any program, application or service (including, without limitation,
20 any device, technology, product, computer program, mobile device application, website, or
21 mechanical or personal service) that enables or provides access to, use of, operation of or
22 interoperation with craigslist (including, without limitation, to access content, post content, cross-
23 post content, re-post content, respond or reply to content, verify content, transmit content, create
24 accounts, verify accounts, use accounts, circumvent and/or automate technological security
25 measures or restrictions, or flag content) is prohibited.” craigslist does not have knowledge or
26 information sufficient to form a belief as to the truth of the remaining allegations of paragraph
27 118 and, therefore, denies the same.
28

1 119. craigslist denies the allegation that “[d]espite craigslist’s hopes to exist in the
2 internet of the past.” craigslist does not have knowledge or information sufficient to form a belief
3 as to the truth of the remaining allegations of paragraph 119 and, therefore, denies the same.

4 120. craigslist does not have knowledge or information sufficient to form a belief as to
5 the truth of the allegations of paragraph 120 and, therefore, denies the same.

6 121. craigslist denies the allegations in paragraph 121 of the Counterclaim.

7 122. craigslist admits that airbnb.com provides an online service for vacation rentals
8 with search and payment features craigslist does not have knowledge or information sufficient to
9 form a belief as to the truth of the allegations in the first, second and third sentences of paragraph
10 122 and, therefore, denies the same. craigslist denies the remaining allegations in paragraph 122
11 of the Counterclaim.

12 123. craigslist does not have knowledge or information sufficient to form a belief as to
13 the truth of the allegations of paragraph 123 and, therefore, denies the same.

14 124. craigslist denies the allegations in paragraph 124 of the Counterclaim.

15 125. craigslist allows general internet search engines—Google and Bing—to access the
16 craigslist website to facilitate their search functionality. craigslist includes a “NOARCHIVE”
17 instruction in its HTML headers to inform search engines that they are not to make available
18 cached copies of craigslist postings. This instruction has been present, and unchanged, in
19 craigslist postings for many years. craigslist denies the remaining allegations in paragraph 125 of
20 the Counterclaim.

21 126. craigslist does not have knowledge or information sufficient to form a belief as to
22 the truth of the allegations of paragraph 126 and, therefore, denies the same.

23 127. craigslist does not have knowledge or information sufficient to form a belief as to
24 the truth of the allegations of paragraph 127 and, therefore, denies the same.

25 128. craigslist does not have knowledge or information sufficient to form a belief as to
26 the truth of the allegations of paragraph 128 and, therefore, denies the same.

27 129. craigslist does not have knowledge or information sufficient to form a belief as to
28 the truth of the allegations of paragraph 129 and, therefore, denies the same.

1 130. craigslist allows general internet search engines—Google and Bing—to access the
2 craigslist website to facilitate their search functionality. craigslist includes a “NOARCHIVE”
3 instruction in its HTML headers to inform search engines that they are not to make available
4 cached copies of craigslist postings. This instruction has been present, and unchanged, in
5 craigslist postings for many years. craigslist denies the remaining allegations in paragraph 130 of
6 the Counterclaim.

7 131. craigslist denies the allegations in paragraph 131 of the Counterclaim.

8 132. craigslist denies the allegations in paragraph 132 of the Counterclaim.

9 133. craigslist does not have knowledge or information sufficient to form a belief as to
10 the truth of the allegations of paragraph 133 and, therefore, denies the same.

11 134. craigslist does not have knowledge or information sufficient to form a belief as to
12 the truth of the allegations of paragraph 134 and, therefore, denies the same.

13 135. craigslist admits that an article at
14 <http://www.bankrate.com/brm/news/investing/20040430a1.asp> purports to memorialize what
15 Craig Newmark said to Bankrate. craigslist denies the remaining allegations in paragraph 135 of
16 the Counterclaim.

17 136. craigslist denies the allegations in paragraph 136 of the Counterclaim.

18 137. craigslist admits that 3Taps and craiggers.com compete with craigslist due to
19 3Taps’ unlawful misappropriation and redistribution of craigslist content, but craigslist denies
20 that the markets defined by 3Taps exist. craigslist does not have knowledge or information
21 sufficient to form a belief as to the truth of the remaining allegations of paragraph 137 and,
22 therefore, denies the same.

23 138. craigslist admits that 3Taps competes directly with craigslist due to its unlawful
24 misappropriation and redistribution of craigslist content, but denies that the markets defined by
25 3Taps exist. craigslist denies the remaining allegations in paragraph 138 of the Counterclaim.

26 139. craigslist denies the allegations in paragraph 139 of the Counterclaim.

27 140. craigslist does not have knowledge or information sufficient to form a belief as to
28 the truth of the allegations of paragraph 140 and, therefore, denies the same.

1 141. craigslist does not have knowledge or information sufficient to form a belief as to
2 the truth of the allegations of paragraph 141 and, therefore, denies the same.

3 142. craigslist admits that craiggers.com, padmapper.com, and livelovely.com compete
4 directly with craigslist's website, but craigslist denies that the markets defined by 3Taps exist.
5 craigslist admits that craiggers.com, padmapper.com, and livelovely.com use craigslist content
6 obtained from 3Taps. craigslist does not have knowledge or information sufficient to form a
7 belief as to the truth of the remaining allegations of paragraph 142 and, therefore, denies the
8 same.

9 143. craigslist does not have knowledge or information sufficient to form a belief as to
10 the truth of the allegations of paragraph 143 and, therefore, denies the same.

11 144. craigslist does not have knowledge or information sufficient to form a belief as to
12 the truth of the allegations of paragraph 144 and, therefore, denies the same.

13 145. craigslist does not have knowledge or information sufficient to form a belief as to
14 the truth of the allegations of paragraph 145 and, therefore, denies the same.

15 146. craigslist admits that Airbnb Inc. has sent messages to craigslist users soliciting
16 business for its airbnb.com website. craigslist does not have knowledge or information sufficient
17 to form a belief as to the truth of the remaining allegations of paragraph 146 and, therefore, denies
18 the same.

19 147. craigslist denies that it has filed, or has threatened to file, sham lawsuits as alleged
20 in the fourth sentence of paragraph 147. craigslist does not have knowledge or information
21 sufficient to form a belief as to the truth of the allegations in the first and fourth sentences of
22 paragraph 147 and, therefore, denies the same. craigslist denies the remaining allegations in
23 paragraph 147 of the Counterclaim.

24 148. craigslist does not have knowledge or information sufficient to form a belief as to
25 the truth of the allegations of paragraph 148 and, therefore, denies the same.

26 149. craigslist denies the allegations in paragraph 149 of the Counterclaim.

27 150. craigslist denies the allegations in paragraph 150 of the Counterclaim.

28 151. craigslist denies the allegations in paragraph 151 of the Counterclaim.

1 152. craigslist admits that padmapper.com, craiggers.com, and livelovely.com compete
2 with craigslist’s website, but craigslist denies that the “Relevant Markets” defined by 3Taps exist.
3 craigslist denies the remaining allegations in paragraph 152 of the Counterclaim.

4 153. craigslist denies the allegations in paragraph 153 of the Counterclaim.

5 154. craigslist admits that it sent cease and desist letters to 3Taps and PadMapper and
6 sued them for, among other things, copyright infringement, breach of craigslist’s Terms of Use,
7 and trademark infringement. craigslist admits that it sent cease and desist letters regarding
8 livelovely.com, “HuntSmartly,” “Inventory,” searchtempest.com, and snapstore.me. craigslist
9 denies the remaining allegations in paragraph 154 of the Counterclaim.

10 155. craigslist denies the allegations in paragraph 155 of the Counterclaim.

11 156. craigslist denies the allegations in paragraph 156 of the Counterclaim.

12 157. craigslist allows general internet search engines—Google and Bing—to access the
13 craigslist website to facilitate their search functionality. craigslist includes a “NOARCHIVE”
14 instruction in its HTML headers to inform search engines that they are not to make available
15 cached copies of craigslist postings. This instruction has been present, and unchanged, in
16 craigslist postings for many years. craigslist admits that it sent cease and desist letters regarding
17 “HuntSmartly,” “Inventory,” searchtempest.com, and snapstore.me. craigslist admits that it
18 received a letter dated March 13, 2012 purporting to be from 3Taps. craigslist admits that in July
19 2010, Craig Newmark posted a comment on quora.com. craigslist denies the remaining
20 allegations in paragraph 157 of the Counterclaim.

21 158. craigslist denies the allegations in paragraph 158 of the Counterclaim.

22 159. craigslist admits that it received a letter dated March 13, 2012 purporting to be
23 from 3Taps. craigslist admits that it filed suit against 3Taps alleging trademark infringement,
24 among other causes of action. craigslist denies the remaining allegations in paragraph 159 of the
25 Counterclaim.

26 160. craigslist denies the allegations in paragraph 160 of the Counterclaim.

27 161. craigslist denies the allegations in paragraph 161 of the Counterclaim.

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1 162. craigslist does not have knowledge or information sufficient to form a belief as to
2 the truth of the allegation that “several of 3taps’ search engine partners exited the downstream
3 market” and, therefore, denies the same. craigslist denies the remaining allegations in paragraph
4 162 of the Counterclaim.

5 163. craigslist denies the allegations in paragraph 163 of the Counterclaim.

6 164. craigslist admits that it sent cease and desist letters to 3Taps and PadMapper and
7 filed suit against them. craigslist admits that it sent cease and desist letters regarding
8 livelovely.com, “HuntSmartly,” “Inventory,” searchtempest.com, and snapstore.me. craigslist
9 denies the remaining allegations in paragraph 164 of the Counterclaim.

10 165. craigslist admits that 3Taps unlawfully obtains craigslist content and provides that
11 content to others, such as PadMapper. craigslist denies the remaining allegations in paragraph
12 165 of the Counterclaim.

13 166. craigslist denies the allegations in paragraph 166 of the Counterclaim.

14 167. craigslist denies the allegations in the first and last sentences of paragraph 167 of
15 the Counterclaim. craigslist admits that in 2012, it sent a cease and desist letter regarding
16 “Craigslist Helper.” craigslist admits that after filing suit against 3Taps, craigslist sent cease and
17 desist letters regarding livelovely.com, “HuntSmartly,” “Inventory,” searchtempest.com, and
18 snapstore.me. craigslist does not have knowledge or information sufficient to form a belief as to
19 the truth of the remaining allegations in paragraph 167 and, therefore, denies the same.

20 168. craigslist denies the allegations in paragraph 168 of the Counterclaim.

21 169. craigslist admits that its Terms of Use provide: “Any access to or use of craigslist
22 to design, develop, test, update, operate, modify, maintain, support, market, advertise, distribute
23 or otherwise make available any program, application or service (including, without limitation,
24 any device, technology, product, computer program, mobile device application, website, or
25 mechanical or personal service) that enables or provides access to, use of, operation of or
26 interoperation with craigslist (including, without limitation, to access content, post content, cross-
27 post content, re-post content, respond or reply to content, verify content, transmit content, create
28 accounts, verify accounts, use accounts, circumvent and/or automate technological security

1 measures or restrictions, or flag content) is prohibited.” craigslist does not have knowledge or
2 information sufficient to form a belief as to the truth of the remaining allegations of paragraph
3 169 and, therefore, denies the same.

4 170. craigslist does not have knowledge or information sufficient to form a belief as to
5 the truth of the allegations of the second sentence of paragraph 170 and, therefore, denies the
6 same. craigslist denies the remaining allegations in paragraph 170 of the Counterclaim.

7 171. craigslist denies the allegations in paragraph 171 of the Counterclaim.

8 172. craigslist admits that it takes steps to minimize “spam” and other inappropriate
9 postings, including omitting postings from TOC pages and search results. craigslist denies the
10 remaining allegations in paragraph 172 of the Counterclaim.

11 173. craigslist admits that it takes steps to minimize “spam” and other inappropriate
12 postings, including omitting postings from TOC pages and search results. craigslist does not have
13 knowledge or information sufficient to form a belief as to the truth of the remaining allegations of
14 paragraph 173 and, therefore, denies the same.

15 174. craigslist denies the allegations in the first sentence of paragraph 174 of the
16 Counterclaim. craigslist does not have knowledge or information sufficient to form a belief as to
17 the truth of the remaining allegations of paragraph 174 and, therefore, denies the same.

18 175. craigslist admits that it takes steps to minimize “spam” and other inappropriate
19 postings, including omitting postings from TOC pages and search results. craigslist denies the
20 allegations in the first sentence of paragraph 175 of the Counterclaim. craigslist does not have
21 knowledge or information sufficient to form a belief as to the truth of the remaining allegations of
22 paragraph 175 and, therefore, denies the same.

23 176. craigslist denies the allegations in paragraph 176 of the Counterclaim.

24 177. craigslist denies the allegations in paragraph 177 of the Counterclaim.

25 178. craigslist allows general internet search engines—Google and Bing—to access the
26 craigslist website to facilitate their search functionality. craigslist includes a “NOARCHIVE”
27 instruction in its HTML headers to inform search engines that they are not to make available
28 cached copies of craigslist postings. This instruction has been present, and unchanged, in

1 craigslist postings for many years. craigslist denies the remaining allegations in paragraph 178 of
2 the Counterclaim.

3 179. craigslist allows general internet search engines—Google and Bing—to access the
4 craigslist website to facilitate their search functionality. craigslist includes a “NOARCHIVE”
5 instruction in its HTML headers to inform search engines that they are not to make available
6 cached copies of craigslist postings. This instruction has been present, and unchanged, in
7 craigslist postings for many years. craigslist denies the remaining allegations in paragraph 179 of
8 the Counterclaim.

9 180. craigslist has introduced new, innovative features to its website. craigslist denies
10 the remaining allegations in paragraph 180 of the Counterclaim.

11 181. craigslist admits that it introduced a map feature to some of its ads after this
12 lawsuit was filed. craigslist denies the remaining allegations in paragraph 181 of the
13 Counterclaim.

14 182. craigslist denies the allegations in paragraph 182 of the Counterclaim.

15 183. craigslist denies the allegations in paragraph 183 of the Counterclaim.

16 184. craigslist denies the allegations in paragraph 184 of the Counterclaim.

17 185. craigslist does not have knowledge or information sufficient to form a belief as to
18 the truth of the allegations of paragraph 185 and, therefore, denies the same.

19 186. craigslist denies the allegations in paragraph 186 of the Counterclaim.

20 187. craigslist denies the allegations in paragraph 187 of the Counterclaim.

21 188. craigslist denies the allegations in paragraph 188 of the Counterclaim.

22 189. craigslist denies the allegations in paragraph 189 of the Counterclaim.

23 190. craigslist denies the allegations in paragraph 190 of the Counterclaim.

24 191. craigslist admits that 3Taps and craiggers.com are direct competitors of craigslist
25 due to 3Taps’ unlawful misappropriation and redistribution of craigslist content, but craigslist
26 denies that the markets defined by 3Taps exist. craigslist does not have knowledge or
27 information sufficient to form a belief as to the truth of the allegations of the second sentence of
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1 paragraph 191 regarding “JeBoom,” and, therefore, denies the same. craigslist denies the
2 remaining allegations in paragraph 191 of the Counterclaim.

3 192. craigslist does not have knowledge or information sufficient to form a belief as to
4 the truth of the allegations of the second sentence of paragraph 192, and, therefore, denies the
5 same. craigslist denies the remaining allegations in paragraph 192 of the Counterclaim.

6 193. craigslist does not have knowledge or information sufficient to form a belief as to
7 the truth of the allegations of the third sentence of paragraph 193 and, therefore, denies the same.
8 craigslist denies the remaining allegations in paragraph 193 of the Counterclaim.

9 194. craigslist does not have knowledge or information sufficient to form a belief as to
10 the truth of the allegations of the third, fourth, and fifth sentences of paragraph 194 and, therefore,
11 denies the same. craigslist denies the remaining allegations in paragraph 194 of the
12 Counterclaim.

13 195. craigslist denies the allegations in paragraph 195 of the Counterclaim.

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

15 197. Paragraph 197 states legal conclusions, to which no response is required.

16 198. craigslist denies the allegations in paragraph 198 of the Counterclaim.

17 199. craigslist denies the allegations in paragraph 199 of the Counterclaim.

18 200. craigslist denies the allegations in paragraph 200 of the Counterclaim.

19 201. craigslist denies the allegations in paragraph 201 of the Counterclaim.

20 202. craigslist denies the allegations in paragraph 202 of the Counterclaim.

21 203. craigslist denies the allegations in paragraph 203 of the Counterclaim.

22 204. craigslist denies the allegations in paragraph 204 of the Counterclaim.

23 205. craigslist denies the allegations in paragraph 205 of the Counterclaim.

24 206. craigslist admits that 3Taps competes with craigslist due to its unlawful
25 misappropriation and redistribution of craigslist content, but craigslist denies that the markets
26 defined by 3Taps exist. craigslist denies the remaining allegations in paragraph 206 of the
27 Counterclaim.

28 207. craigslist denies the allegations in paragraph 207 of the Counterclaim.

- 1 208. craigslist denies the allegations in paragraph 208 of the Counterclaim.
- 2 209. craigslist denies the allegations in paragraph 209 of the Counterclaim.
- 3 210. craigslist realleges and incorporates by reference all of the preceding paragraphs.
- 4 211. Paragraph 211 states legal conclusions, to which no response is required.
- 5 212. craigslist denies the allegations in paragraph 212 of the Counterclaim.
- 6 213. craigslist denies the allegations in paragraph 213 of the Counterclaim.
- 7 214. craigslist denies the allegations in paragraph 214 of the Counterclaim.
- 8 215. craigslist denies the allegations in paragraph 215 of the Counterclaim.
- 9 216. craigslist denies the allegations in paragraph 216 of the Counterclaim.
- 10 217. craigslist denies the allegations in paragraph 217 of the Counterclaim.
- 11 218. craigslist denies the allegations in paragraph 218 of the Counterclaim.
- 12 219. craigslist denies the allegations in paragraph 219 of the Counterclaim.
- 13 220. craigslist denies the allegations in paragraph 220 of the Counterclaim.
- 14 221. craigslist admits that 3Taps is a direct competitor of craigslist due to its unlawful
- 15 misappropriation and redistribution of craigslist content, but craigslist denies that the markets
- 16 defined by 3Taps exist. craigslist denies the remaining allegations in paragraph 221 of the
- 17 Counterclaim.
- 18 222. craigslist denies the allegations in paragraph 222 of the Counterclaim.
- 19 223. craigslist denies the allegations in paragraph 223 of the Counterclaim.
- 20 224. craigslist denies the allegations in paragraph 224 of the Counterclaim.
- 21 225. craigslist realleges and incorporates by reference all of the preceding paragraphs.
- 22 226. Paragraph 226 states legal conclusions, to which no response is required.
- 23 227. craigslist denies the allegations in paragraph 227 of the Counterclaim.
- 24 228. craigslist denies the allegations in paragraph 228 of the Counterclaim.
- 25 229. craigslist denies the allegations in paragraph 229 of the Counterclaim.
- 26 230. craigslist denies the allegations in paragraph 230 of the Counterclaim.
- 27 231. craigslist denies the allegations in paragraph 231 of the Counterclaim.
- 28 232. craigslist denies the allegations in paragraph 232 of the Counterclaim.

1 233. craigslist denies the allegations in paragraph 233 of the Counterclaim.

2 234. craigslist denies the allegations in paragraph 234 of the Counterclaim.

3 235. craigslist admits that 3Taps is a competitor of craigslist due to its unlawful
4 misappropriation and redistribution of craigslist content, but craigslist denies that the markets
5 defined by 3Taps exist. craigslist denies the remaining allegations in paragraph 235 of the
6 Counterclaim.

7 236. craigslist denies the allegations in paragraph 236 of the Counterclaim.

8 237. craigslist denies the allegations in paragraph 237 of the Counterclaim.

9 238. craigslist denies the allegations in paragraph 238 of the Counterclaim.

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

11 240. Paragraph 240 states legal conclusions, to which no response is required.

12 241. Paragraph 241 states legal conclusions, to which no response is required.

13 242. craigslist denies the allegations in paragraph 242 of the Counterclaim.

14 243. craigslist denies the allegations in paragraph 243 of the Counterclaim.

15 244. craigslist denies the allegations in paragraph 244 of the Counterclaim.

16 245. craigslist denies the allegations in paragraph 245 of the Counterclaim.

17 246. craigslist denies the allegations in paragraph 246 of the Counterclaim.

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

19 248. Paragraph 248 states legal conclusions, to which no response is required.

20 249. craigslist denies the allegations in paragraph 249 of the Counterclaim.

21 250. craigslist denies the allegations in paragraph 250 of the Counterclaim.

22 251. craigslist denies the allegations in paragraph 251 of the Counterclaim.

23 252. craigslist denies the allegations in paragraph 252 of the Counterclaim.

24 **AFFIRMATIVE DEFENSES**

25 **First Affirmative Defense**

26 253. 3taps' counterclaims fail to state a claim against craigslist upon which relief can be
27 granted.

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Second Affirmative Defense

254. 3Taps' counterclaims are barred, in whole or part, by applicable statutes of limitations.

Third Affirmative Defense

255. 3Taps' counterclaims are barred, in whole or part, because 3Taps lacks standing to assert its claims and/or to seek some or all of the requested relief.

Fourth Affirmative Defense

256. 3Taps' counterclaims are barred, in whole or part, because 3Taps suffered no injury in fact as a result of the alleged conduct.

Fifth Affirmative Defense

257. 3Taps' counterclaims are barred, in whole or part, because 3Taps suffered no antitrust injury as a result of the alleged conduct.

Sixth Affirmative Defense

258. 3Taps' counterclaims are barred, in whole or part, because competition has not been harmed.

Seventh Affirmative Defense

259. 3Taps' counterclaims are barred, in whole or part, because 3Taps' alleged conduct is protected by the Noerr-Pennington doctrine and under the Constitution of the United States.

Eighth Affirmative Defense

260. 3Taps' counterclaims are barred, in whole or part, because injuries alleged were caused in whole or in part by the conduct of third parties for whom craigslist was not responsible, through forces in the marketplace over which craigslist had no control, or through acts or omissions on the part of 3Taps.

Ninth Affirmative Defense

261. 3Taps' counterclaims are barred, in whole or part, because the alleged conduct is permissible under the rights and privileges afforded craigslist under the intellectual property laws of the United States.

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Tenth Affirmative Defense

262. 3Taps' counterclaims are barred, in whole or in part, under the doctrine of unclean hands.

Eleventh Affirmative Defense

263. 3Taps' counterclaims are barred, in whole or in part, under the doctrine of laches.

Twelfth Affirmative Defense

264. 3Taps' counterclaims are barred, in whole or part, under the doctrines of waiver and/or estoppel.

Thirteenth Affirmative Defense

265. 3Taps' counterclaims are barred, in whole or part, because any and all of craigslist's alleged actions or omissions challenged by 3Taps were justified, constituted bona fide business competition, and were carried out in furtherance of craigslist's legitimate business interests.

Fourteenth Affirmative Defense

266. 3Taps' counterclaims are barred, in whole or part, because the alleged activities of craigslist did not result in adverse effects on competition or, in the alternative, any such effects were outweighed by the pro-competitive benefits of the activities.

Fifteenth Affirmative Defense

267. 3Taps' counterclaims are barred, in whole or part, because 3Taps insufficiently alleged product and geographic markets.

Sixteenth Affirmative Defense

268. 3Taps' counterclaims are barred, in whole or in part, because the alleged damages sought are too speculative and uncertain.

Seventeenth Affirmative Defense

269. 3Taps failed to mitigate its damages, if any.

Eighteenth Affirmative Defense

270. 3Taps is not entitled to injunctive or other equitable relief because any injury to it is not immediate and/or irreparable, and because 3Taps has an adequate remedy at law.

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Nineteenth Affirmative Defense

271. To the extent that under applicable choice of law rules, the laws of other jurisdictions apply to 3Taps’ claims asserted under California state law, craigslist reserves each and every defense available to it under the laws of any such other states, the United States, or foreign countries.

272. craigslist reserves the right to raise additional defenses that may become available or appear during discovery proceedings or otherwise in this case and hereby reserves its right to amend this Answer to include any such defense.

PRAYER FOR RELIEF

craigslist denies that 3Taps is entitled to any relief whatsoever on its counterclaims, including the specific relief requested in paragraphs (a) – (d) of its Prayer for Relief.

WHEREFORE, craigslist prays for judgment against 3Taps on its counterclaims as follows:

- (a) Dismissing 3Taps’ counterclaims with prejudice;
- (b) Granting such other and further relief as the Court deems just and proper.

November 20, 2012

PERKINS COIE LLP

By: /s/ Jason Yurasek
Jason Yurasek (SBN 202131)
JYurasek@perkinscoie.com

Attorneys for Plaintiff
craigslist, Inc.

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I, Christopher Kao, hereby attest, pursuant to N.D. Cal. Local Rule 5-1(i)(3), that the concurrence to the filing of this document has been obtained from each signatory hereto.

November 20, 2012

PERKINS COIE LLP

By: /s/ Christopher Kao
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craigslist, Inc.