

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF VIRGINIA ALEXANDRIA DIVISION**

Baldino's Lock & Key Service, Inc.  
7000-G Newington Road  
Lorton, VA 22079

Plaintiff

Case No.: 1:14-CV-636-CMH-TCB

vs.

Google Inc.  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

Serve on:  
Corporation Service Company  
Bank of America Center, 16<sup>th</sup> Floor  
1111 East Main Street  
Richmond, VA 23219

Google Information, Inc.

Serve on:  
Corporation Service Company  
Bank of America Center, 16<sup>th</sup> Floor  
1111 East Main Street  
Richmond, VA 23219

And

Serve On:  
CT Corporation System  
4701 Cox Road, Suite 285  
Glen Allen, VA 23060

YellowBook Inc. a division of hibu, Inc.  
Attn John Butler- General Counsel  
210 RXR Plaza  
Uniondale NY, 11556

Serve on:

CT Corporation System  
4701 Cox Road, Suite 285  
Glen Allen, VA 23060

Ziplocal, LP

235 E 1600 St, Ste 110  
Provo UT 84606-7353

Serve on:

CT Corporation System  
4701 Cox Road, Suite 301  
Glen Allen, VA 23060

John Doe's 1-25 for spammers  
Addresses Currently Unknown

Defendants

**SECOND AMENDED COMPLAINT FOR DAMAGES, DECLARATORY JUDGMENT, AND  
PERMANENT INJUNCTION – FEDERAL LAW VIOLATIONS INCLUDING RACKETEER  
INFLUENCED AND CORRUPT ORGANIZATION ACT, AND LANHAM ACT  
VIOLATIONS**

**Parties**

1. Baldino's Lock & Key Service, Inc. (hereinafter Baldino's) is a corporation organized under the laws of the State of Virginia and also registered to do business in the State of Maryland and the District of Columbia.
2. Baldino's is a locksmith licensed to provide locksmith services in Virginia and Maryland. It provides locksmith and other security services to businesses and individuals.
3. Defendant Google, Inc. (hereinafter "Google") is a corporation organized under the laws of the State of Delaware and registered to do business in the State of Virginia.
4. Google is an internet service provider, publisher, seller of goods and services and search engine.

5. Google is a publisher of data earning money from advertising sales. It is named a Defendant in this action by reason of its intentional and negligent publishing of: (a) the names, addresses, and telephone numbers of individuals and entities it knows are engaged in criminally fraudulent locksmithing actions without a license and contrary to law, and (b) false locations for these individuals and entities on GoogleMaps.

6. Defendant YellowBook, Inc., a division of hibu, Inc. (hereinafter “YellowBook”), is a corporation organized under the laws of the State of Delaware and registered to do business in the State of Virginia. Defendant YellowBook is licensed to do business in the State of Virginia and is therefore subject to service of process there.

7. YellowBook is a provider of print and online directory advertising. It earns revenue by selling display and banner advertising. It is named a Defendant in this action by reason of its intentional and negligent publication of the names, addresses, and telephone numbers of individuals and entities it knows are engaged in criminally fraudulent locksmithing actions without a license and contrary to law.

8. Defendant Ziplocal, LP (hereinafter “Ziplocal”), is a limited partnership organized under the laws of the State of Delaware and registered to do business in the State of Virginia. Defendant Ziplocal is licensed to do business in the State of Virginia and is therefore subject to service of process there.

9. Ziplocal is a provider of print and online directory advertising. It earns revenue by selling display and banner advertising. It is named a Defendant in this action by reason of its intentional and negligent publication of the names, addresses, and telephone numbers of individuals and entities it knows are engaged in criminally fraudulent locksmithing actions without a license and contrary to law.

10. The John Doe Defendants 1-25 are unlicensed locksmiths who are engaged in illegal activity in the two jurisdictions named by providing fictitious addresses and phone numbers to Google and the other Defendants, as if they were licensed locksmiths.

11. The criminal actions of the John Doe Defendants 1-25 allow them to divert calls and take calls and thus market share from licensed locksmiths in the particular geographic areas where they claim a presence and to utilize bait-and-switch methods to greatly overcharge customers for work that does not comply with the standards of licensed locksmiths.

12. These John Doe Defendants are individuals doing business in the Commonwealth of Virginia and Maryland without license or other regulatory control; they are subject to service in Virginia when their identities are known.

**Notices to Defendants to Cease Tortious and Illegal Activities.**

13. Defendants Google, YellowBook, and Ziplocal have been provided specific notices by Plaintiff and others to cease and desist knowingly publishing the names, addresses and phone numbers of fictitious locksmiths who are unlicensed in Maryland and Virginia.

These Defendants have taken no effective actions to cease and desist from this practice. See examples in Exhibit A, emails, letters, etc. attached.

**Jurisdiction of this Court.**

14. This Court has jurisdiction under Diversity of Citizenship, 28 USC §1332 and because a federal question is involved as well as federal rights of action, under 28 USC §1331. The jurisdictional amount is exceeded as pled herein.

**Venue.**

15. Venue is appropriate in this Court under 28 USC §1391.

**Federal Statutes at Issue in this Case.**

16. The Racketeer Influenced and Corrupt Organizations Act (RICO) 18 U.S.C.A. § 1965(a) et seq.

17. The Lanham Act, 15 U.S.C.A. § 1125(a)(1)(B).

18. 18 U.S.C.A. § 1341 and 18 U.S.C.A. § 1343, the Federal mail and wire fraud statutes.

19. Communications Decency Act of 1996 Section 230, 47 U.S.C.A, §230.

**State Statutes at Issue in this Case.**

20. The State Criminal Statutes for Locksmiths in Maryland and Virginia: VA Code Sec. 9.1-138 et seq; Maryland Code, Business Regulation, §12.5-505.

21. Virginia Code Section 9.1-149.1, which provides as follows:

§ 9.1-149.1. Unlawful advertisement for regulated services; notice; penalty.

A. It shall be unlawful for any person to place before the public through any medium an advertisement for services in the Commonwealth requiring a license, certification, or registration under this article unless the individual who will perform such services possesses the necessary license, certification, or registration at the time of the posting.

B. Whenever the Board receives information that an advertisement has been placed in violation of this section, the Board shall provide notice to the entity publishing the advertisement to the public.

C. Any person who is convicted of a violation of subsection A is guilty of a Class 1 misdemeanor.

Pursuant to this new Virginia Code Section 9.1-149.1, the Virginia Department of Criminal Justice Services either has notified or will be notifying the Defendants that they are publishing improper listings of illegal locksmiths, each of which publication is a Class 1 misdemeanor.

**Facts Specific to Plaintiff and Its Actions.**

22. Plaintiff Baldino's and other similarly situated licensed locksmiths in Maryland and Virginia have made significant investments in their companies in terms of facilities, the training of their personnel, and required licensing. They charge for locksmithing services at fair rates to recover the costs of running their businesses and to earn a fair profit.

23. Plaintiff has, in writing, suggested the following corrective actions to Defendants but has been ignored:

- a. Compare locksmiths whose names they are publishing online with the official lists of licensed locksmiths for Virginia and Maryland provided by the Department of Criminal Justice Services (VA) and Department of Labor, Licensing and Regulation (MD). These official lists of licensed locksmiths for Maryland and Virginia are both available to the general public. All Defendants need do is delete all names they are publishing that are not on the official legal list, and do this at least once a month. That would virtually eliminate the illegal activity of the Defendants in this suit. A simple computer check could do this automatically each month.
- b. Validate that a business is presenting accurate information to be published. This validation may involve something as simple as a phone call asking for an in-person visit to duplicate a key at their location and whether the response is that the location is closed or is a dispatch point.

- c. Validation can also occur by actually sending an employee or representative to a locksmith location to see if the purported locksmith is really located, as claimed, at that location.
- d. Google and the other named Defendants could easily charge a fee to cover verification costs for a listing to be properly published. They are already earning revenue from these listings as described in this suit by charges for advertising to licensed locksmiths.

**Facts Specific to Defendant Google.**

24. Google knows that the names of many of the locksmiths in Maryland and Virginia it is publishing are fraudulent and illegal because Google has been repeatedly put on notice of this (see Exhibit A).

25. Google knows that the names of many of the locksmiths in Maryland and Virginia it is publishing are fraudulent and illegal because Google can independently determine, online and automatically, that it is engaged in publishing the names of illegally operating locksmiths:

26. As of the week before the original Complaint was filed, Defendant Google's online directory showed the following:

- a. Over 400 locksmiths available to call in Maryland, at least 250 of which were unlicensed.
- b. Over 1,000 locksmiths available to call in Virginia, at least 575 of which were unlicensed.

27. As of September 8, 2014, Defendant Google's online directory shows the following:

- a. 35 unlicensed locksmiths available to call in the areas of Maryland serviced by the Plaintiff.
- b. 35 unlicensed locksmiths available to call in the areas of Virginia serviced by the Plaintiff.

28. The publicly available records from Maryland and Virginia licensing authorities show as follows:

- a. 150 registered, licensed locksmiths in Maryland.
- b. 425 registered, licensed locksmiths in Virginia.

29. Thus, Defendant Google knew that it was publishing the names of hundreds of illegal locksmiths in Virginia and Maryland and deriving revenue, directly or indirectly, by doing so. Defendant Google derives revenue from this advertising that it has sold, including to Plaintiff, which has paid Google the sum of \$3,000.00.

30. Google knew full well that it was publishing hundreds of names of locksmiths who are performing those services illegally, and it continues to publish the names of illegal locksmiths.

31. Defendant Google earns revenue by selling Adwords (pay per click), whereby an advertiser can be listed at the top or side of the page prominently before the free listings to gain an advertising advantage.

32. Google earns additional revenue by enticing paying advertisers to counter the falsely placed map pin points or false web pages with purchase of Google's Adwords (pay per click



made to Google) to counter the placed fictional listings allowed by Google's lax validation methods.

33. Exhibit B annexed hereto, relating to Google Adword solicitations, shows Google soliciting advertising revenue for itself from Plaintiff and others similarly situated, having provided incentives for those signing up for Google Adwords to counter fraudulent geographic specific listings of map pin points and web page referrals.

34. Google has been aiding and abetting a fraud by these listings of illegal locksmiths by also providing an enhanced platform far beyond the three line listing submitted – Google is now allowing pictures, reviews, and map locations with pinpoints for the illegal locksmiths, thereby creating a picture of legitimacy for an illegal and fraudulent listing.

35. Google has its own policy and procedure statements, which it is violating by not ridding itself of the illegal locksmiths' listings and advertisements (see Exhibit D).

36. Google's actions (and those of the other Defendants) are damaging to the general public as well. Locksmiths are licensed because they are engaged in security activities and deal with people who are placing in them trust and confidence for providing security services to them and their families. By knowingly aiding and abetting fraudulent locksmiths, Google's and the other Defendants' activities impair the security and financial well-being of members of the public who deal with said locksmiths.

37. Google is knowingly promoting illegal activities on line to gain additional revenue for itself. This is a pattern of activity by Google. In a recent settlement with its shareholders it has agreed to make millions of dollars in payments for similar activities relating to drug companies.

38. Google appears to have taken action in recent weeks to significantly reduce its illegal locksmith listings.

**Facts Specific to Defendant Ziplocal.**

39. As of the week before the original Complaint was filed, Defendant Ziplocal's online directory showed the following:

- a. 2,666 locksmiths available to call in Maryland, of which at least 2516 were unlicensed.
- b. 1,161 locksmiths available to call in Virginia, of which at least 736 were unlicensed.

40. As of September 8, 2014, Defendant Ziplocal's online directory shows the following:

- a. Over 1000 unlicensed locksmiths available to call in the areas of Maryland serviced by the Plaintiff.
- b. Over 1000 unlicensed locksmiths available to call in the areas of Virginia serviced by the Plaintiff.

41. The publicly available records from Maryland and Virginia licensing authorities show as follows:

- a. 150 registered, licensed locksmiths in Maryland.
- b. 425 registered, licensed locksmiths in Virginia.

42. Thus, Defendant Ziplocal knows that it is publishing the names of thousands of illegal locksmiths in Virginia and Maryland and deriving revenue, directly or indirectly, by doing so.

Defendant derives revenue from this advertising that it has sold, including to Plaintiff, which has paid Data National, the predecessor-in-interest to Ziplocal, the sum of \$571,921.26 since 2002.

43. Defendant Ziplocal has been repeatedly advised that it is illicitly earning revenue by publishing the names of individuals who are not licensed as locksmiths. It is aiding and abetting criminals by their lax placement in its directories of illegal listings, many times actually purchasing a list of fictional locksmiths from a data provider such as Acxiom and InfoUSA.

44. Defendant Ziplocal has easy access to lists of licensed locksmiths maintained by both the States of Maryland and Virginia. The chart annexed hereto as Exhibit C shows the small number of licensed locksmiths in the two states.

45. Defendant Ziplocal has been specifically notified of its practice of displaying and publishing lists of unlicensed locksmiths with false locations and has failed to cease and desist from doing so.

46. On October 16, 2007, when Plaintiff signed a contract with Community Phone Books, the predecessor-in-interest to Defendant Ziplocal, the Plaintiff informed Debra Lahr, the account representative for Community Phone Books, about the problem with false listings, and Debra Lahr promised that the problem would be addressed. The problem was not fixed.

47. The Plaintiff again raised the problem of false listings when signing another contract with Community Phone Books on November 7, 2008, by so informing Chris Kopecky, the account representative for Community Phone Books, who also promised the Plaintiff that the problem would be corrected, but it was not.

48. The Plaintiff again raised the problem of false listings when signing another contract with Community Phone Books on April 2, 2010, by so informing Chris Kopecky, the account representative for Community Phone Books, who again promised the Plaintiff that the problem would be corrected, but it was not.

49. In October, 2011, after Ziplocal purchased Community Phone Books, Plaintiff notified Ziplocal of the false listings. Defendant Ziplocal sued the Plaintiff in Fairfax, Virginia, General District Court, Case No. GV11026292-00, for advertising fees, in which the Plaintiff raised the defense that Ziplocal was not entitled to the fees because of the false listings. The case was settled by execution of a Mutual Release which contained the following provisions, among others:

“...WHEREAS, Baldino’s desires that Ziplocal remove from its online directory listings of locksmith phone numbers associated with or placed by persons or entities whose phone numbers are associated with fictitious addresses and non-existent locations (herein after “counterfeit and/or bogus locksmith listings”), that thereby diminish the value of Baldino’s advertising by significantly obscuring the visibility of Baldino’s listing in Ziplocal’s online directory...

...NOW, THEREFORE, in consideration of the mutual relinquishment of their respective legal rights with reference to the above mentioned disputes and differences and in consideration for a cash payment to Ziplocal by Baldino’s of the compromised sum of FIFTEEN THOUSAND FIFTY-THREE AND 00/100 DOLLARS (\$15,053.00) to be paid upon the execution of this Mutual Release, Ziplocal agrees and promises to make a good faith effort to remove from its online directory the aforementioned “counterfeit and bogus locksmith listings” after it has received and verified a list of such entities and/or individuals prepared and provided by Baldino’s. Ziplocal further promises to continue to make a good faith effort to review and remove the aforesaid questionable listings in the future...”

50. Defendant Ziplocal is earning revenue by publishing these names of unlicensed locksmiths. By adding unlicensed and fictional competition, it is able to derive more money for charged advertising, which it does.

51. Defendant Ziplocal also publishes its list of locksmiths from a list it has purchased from a data provider such as Acxiom or InfoUSA without confirming the accuracy of the list it purchased. Having purchased the list, it is now responsible for the listing's content. In any event, as shown above, it has a ready source of information to screen out the unlicensed locksmiths.

52. Defendant Ziplocal publishes the information concerning the locksmith businesses, in many cases ignoring the fact that the listings violate state laws, such as non-licensure by the state, violation of consumer protection codes (use of false address), no state sales tax ID number (required in order to do business), and no fictional trade name filing. All of the above are punishable by fines and penalties, as they are illegal and in violation of state laws.

53. The listings are inserted on purpose and by design by Defendant Ziplocal in order to create a false sense of competition. This is done in order to prompt advertisers to spend more money to rise above the planted competition.

54. In most cases, Defendant Ziplocal places these listings for illegal locksmiths for free. It thereby participates in the placement of listings, assisting in fraud to meet its own financial goals of creating fictional competition to earn more advertising revenue from licensed locksmiths.

55. In many cases, Defendant Ziplocal is not monitoring changes made to a current legal listing, enabling piracy to occur as a fraudulent locksmith claims the name and address of a legal listing but adds a different number, thus intercepting a call intended for the legal listing.

**Facts Specific to Defendant YellowBook.**

56. As of the week before the original Complaint was filed, Defendant YellowBook's online directory showed the following:

a. 585 locksmiths available to call in Maryland, of which at least 435 were unlicensed.

b. 1,169 locksmiths available to call in Virginia, of which at least 744 were unlicensed.

57. As of September 8, 2014, Defendant YellowBook's online directory shows the following:

a. Over 1000 unlicensed locksmiths available to call in the areas of Maryland serviced by the Plaintiff.

b. Over 1000 unlicensed locksmiths available to call in the areas of Virginia serviced by the Plaintiff.

58. The publically available records to them from Maryland and Virginia licensing authorities show as follows:

a. 150 registered, licensed locksmiths in Maryland.

b. 425 registered, licensed locksmiths in Virginia.

59. Thus, Defendant YellowBook knows that it is publishing the names of hundreds of illegal locksmiths in Virginia and Maryland and deriving revenue, directly or indirectly, by doing so. Defendant derives revenue from this advertising that it has sold, including to Plaintiff, which has paid YellowBook the sum of \$407,244.75 since 2002.

60. Defendant YellowBook has been repeatedly advised that it is illicitly earning revenue by publishing the names of individuals who are not licensed as locksmiths. It is aiding and abetting criminals by its lax placement in its directories of illegal listings, many times actually purchasing a list of fictional locksmiths from a data provider such as Acxiom and InfoUSA.

61. Defendant YellowBook has easy access to lists of licensed locksmiths maintained by both the States of Maryland and Virginia. The chart annexed hereto as Exhibit C shows the small number of licensed locksmiths in the two states.

62. Defendant YellowBook has been specifically notified of its practice of displaying and publishing lists of unlicensed locksmiths with false locations and has failed to cease and desist from doing so.

63. Defendant YellowBook is earning revenue by publishing these names of unlicensed locksmiths. By adding unlicensed and fictional competition, they are able to derive more money for charged advertising, which they do.

64. Defendant YellowBook also publishes its list of locksmiths from a list it has purchased from a data provider such as Acxiom or InfoUSA without confirming the accuracy of the list it purchased. Having purchased the list, it is now responsible for the listing's content. In any event, as shown above, it has a ready source of information to screen out the unlicensed locksmiths.

65. Defendant YellowBook publishes the information concerning the locksmith businesses, in many cases ignoring the fact that the listings violate state laws, such as non-licensure by the state, breaking of consumer protection codes (use of false address), no state sales tax ID number (required in order to do business), and no fictional trade name filing. All of the above are punishable by fines and penalties, as they are illegal and in violation of state laws.

66. The listings are inserted on purpose and by design by Defendant YellowBook in order to create a false sense of competition. This is done in order to prompt advertisers to spend more money to rise above the planted competition.

67. In most cases, the violating Defendant YellowBook places these listings for illegal locksmiths for free. It thereby participates in the placement of listings, assisting in fraud to meet its own financial goals of creating fictional competition to earn more advertising revenue from licensed locksmiths.

68. In many cases, Defendant YellowBook is not monitoring changes made to a current legal listing, enabling piracy to occur as a fraudulent locksmith claims the name and address of a legal listing but adds a different number, thus intercepting a call intended for the legal listing.

**Facts Specific to John Doe Defendants.**

69. The John Doe Defendants in this suit earn revenue by illegally poaching market share from licensed locksmiths by using fraudulent listings published by the search engines and directories, which the search engines and directories continue to publish knowing that these John Does are in violation of state criminal laws. The names and addresses of the John Does are fictional – unfortunately, their phone numbers work. They use those listed phone numbers to steal business from licensed locksmiths.

70. The John Doe Defendants are utilizing Defendants Google, YellowBook, and Ziplocal to lure unsuspecting individuals, in a geographic area that appears to be close to where they need often immediate, emergency, locksmith services, to call them.

71. In fact, the John Doe Defendants are not licensed locksmiths, are not in the geographic area where they claim to be located, and are engaged in tortious and illegal activity to take advantage of the general public by providing, for example, overpriced incompetent services by means of bait-and-switch tactics.



**Non-application of the Communications Decency Act (“CDA”), Section 230.**

72. The CDA provides for immunity to internet service providers in certain circumstances.

73. The CDA does not apply to the activities of the Defendants which are pled in this complaint.

74. Defendants are in violation of federal criminal law, federal law of intellectual property, and they are engaged in a fraud. The following exception to immunity under Section 230 in the CDA therefore applies.

47 USC §230 (e) provides as follows:

**(e) Effect on other laws**

**(1) No effect on criminal law**

Nothing in this section shall be construed to impair the enforcement of section [223](#) or [231](#) of this title, chapter 71 (relating to obscenity) or 110 (relating to sexual exploitation of children) of title 18, or any other Federal criminal statute.

**(2) No effect on intellectual property law**

Nothing in this section shall be construed to limit or expand any law pertaining to intellectual property.

75. In addition, Defendants are originators of published material. They are realizing advertising revenue from publishing the materials on the internet by collecting pay-per-click for individuals who wish to overcome the multitude of illegal listings of locksmiths. In addition, they are collecting revenue by selling banner ads, enhanced listings, and display ads which are larger.

76. Defendants are jointly and severally liable for their violations of federal law and they are not exempt by the CDA from responsibility for their activities.

**Causes of Action.**

***COUNT 1***

***RACKETEER INFLUENCED AND CORRUPT ORGANIZATION ACT ACTION***

77. Plaintiff repeats and realleges each of the allegations above as if fully set forth herein.

**Jurisdiction and Venue For This Count.**

78. This Court has jurisdiction over the subject matter of this Count and action pursuant to Section 1332 of Title 28. The amount in controversy exceeds \$75,000, exclusive of interest and costs. This Court has jurisdiction over the claims under the Racketeer Influenced and Corrupt Organizations Act (RICO) under 18 U.S.C.A. § 1965(a) and the Lanham Act, 15 U.S.C.A. § 1125(a)(1)(B), which involve federal questions, 28 USC §1331.

79. As noted above, none of the Defendants are citizens of this state nor do they have their principal place of business in this state. This Court is the correct venue because the Plaintiff and the Defendants are qualified to do business in the Eastern District of the Commonwealth of Virginia.

80. All Plaintiffs and Defendants did and continue to do business in the Eastern District of the Commonwealth of Virginia, have made contracts to be performed in whole or in part in the said District of the Commonwealth of Virginia, and have performed such acts as were intended to, and did, result in the sale and distribution of information, services and products in the said District of the Commonwealth of Virginia.

81. All Defendants have violated federal and state statutes and have caused tortious injury by acts or omissions in the Eastern District of the Commonwealth of Virginia. All Defendants have transacted their affairs in this district for the purposes of the venue provision of RICO, 18 U.S.C.A. § 1965(a).

**Additional Facts Specific to RICO Count**

82. With reference to the four categories of unlawful conduct specified in 18 U.S.C. 1962, they are set out below with specific factual allegations as to the Defendants in this suit.

83. Section 1962(a): Investment of income. This subsection makes it unlawful for "any person who has received any income derived . . . from a pattern of racketeering activity... to invest . . . any part of such income . . . in acquisition of an interest in, or the establishment or operation of, any enterprise."

84. Plaintiff here has specifically lost income as alleged above and thus been damaged as a result of the fraudulent acts of the three named Defendants, Google, YellowBook, and Ziplocal, as well as the John Doe locksmiths. Plaintiff can prove this loss of income and damage at trial and that it resulted specifically from the actions of all these Defendants since 2008.

85. Plaintiff alleges that all the Defendants herein have taken the money that they have realized from their illegal activities, in both knowingly listing illegal locksmiths and deriving advertising revenue from those actions. They have all invested these illegally obtained monies in their organizations to Plaintiff's detriment to continue and expand their activities earning advertising revenue from knowingly illegal advertisements. They have used that advertising revenue to invest in other corporate organizations that they control.

86. Section 1962(b): Interest/control. This subsection makes it unlawful for a person "to acquire or maintain . . . any interest in or control of any enterprise" through a pattern of racketeering activity.

87. Defendants Google, YellowBook and Ziplocal have maintained and controlled their interest in their enterprise of placing knowingly misleading and illegal advertisements through a pattern of racketeering activity. They know well that the ads they are placing are illegal under federal law and that they are earning money which they reinvest in their organizations and others they control to perpetuate this process. Plaintiff has been directly injured in his locksmith business as a result of these activities as have other legal locksmiths. Those facts are alleged above.

88. Section 1962(c): Conduct of an enterprise. This section makes it unlawful to "conduct or participate, directly or indirectly, in the conduct" of an enterprise through a pattern of racketeering activity. The four primary elements of this subsection are "(1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity."

89. "Conduct." Liability for "participat[ing]" in the "conduct" of the enterprise extends only to those who "have some part in directing [the enterprise's] affairs," adopting the "operation or management" test.

90. Plaintiff here alleges that each of the three named Defendants - Google, YellowBook and Ziplocal - operates their business through their agents, knowing full well that they have hundreds of illegal listings being placed on their website so as to gain advertising revenue. Defendants' agents are all well aware of the illicit actions that they are taking, continue to take them, and have continued to inform their corporate management that they are gaining additional advertising

revenue by using them. These individuals are also gaining additional compensation for themselves personally by realizing the additional advertising revenue through bonuses and stock options and the like.

91. "Enterprise" and "Person." Courts have ruled that 1962(c) was designed to punish only the persons who run an enterprise illegally and not the enterprise itself, which often will be an innocent victim of the racketeering activity. Therefore, 1962(c) requires pleading and proof of two separate entities a "person" and an "enterprise" with only the "person" being liable for damages.

92. The advertising sections of each of the three named Defendants Google, YellowBook and Ziplocal, contain both the enterprise and the persons who are conducting these racketeering activities. The individuals in the advertising section know exactly what they are doing and they are the corporate agents of each of the three named Defendants. The senior management of each Defendant knows how its additional advertising revenue is being gained through illicit listings of locksmiths and others in a similar situation. Therefore, the persons in the advertising sections of each of these enterprises and the enterprises themselves are jointly and severally liable for the damages Plaintiff has experienced.

93. "Pattern." This requires that the racketeering acts "are related" and "amount to or pose the threat of continued criminal activity." Related acts as those "that have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events."

94. The foregoing situations have all occurred in this case. The actions of the three named Defendants Google, YellowBook and Ziplocal, complained of are all related -- they involve the

same advertising which is repeated every day, 365 days per year, on their published websites. They are repeatedly performing exactly the same actions despite being advised that they are illegal. These actions affect all legal locksmiths, not just Plaintiff. It is a continuing activity and not a series of isolated events. They are part of an ongoing pattern to gain advertising revenue with complete disregard of the consequences of the legality of their actions.

95. The RICO Act requires allegations of either "a closed period of repeated conduct" or "past conduct that by its nature projects into the future with a threat of repetition." In this case, these illegal actions have taken place since at least 2008. The actions continue to this date. All legal locksmiths and other licensed professions are threatened by the same illegal activities of Defendants which are continuing in nature, despite notice to the Defendants to discontinue their conduct.

**The Standing and Proximate Cause Issue**

96. Plaintiff here states that the predicate acts and their continuation caused the monetary injury that it alleges in terms of damages.

97. The three named Defendants' continued refusal to recognize that they were publishing a multitude of illegal locksmith listings, and their continuous actions in doing so to gain additional advertising revenue caused Plaintiff's injury.

98. The three named Defendants have continued to take these actions and they have continued to cause Plaintiff injury that is direct and real.

99. The Plaintiff alleges that each action of publishing an illegal locksmith listing, knowing that they were illegal by a simple mechanical check of publicly available records, are multiple

predicate acts under the RICO statute which caused the injury to Plaintiff. Every publication and every placing before unknowing consumers are the acts of a predicate in a continuing nature which caused Plaintiff's injury.

100. The injuries that Plaintiff complains of in this complaint were both the preconceived purpose of the three named Defendants' actions and were the specifically intended consequences of their racketeering activities. Defendants took these actions in publishing the illegal listings so that they could gain more advertising revenue. They knew specifically that the harm of the illegal listings would do to legally listed and performing locksmiths -- they knew that the legal locksmiths would directly experience a decrease in their business and, in turn, income to pay their expenses. Plaintiff was the specifically intended target of this scheme by the three named Defendants.

101. The three named Defendants knew exactly what they were doing. They were placed on notice of their actions. They continued with the actions of illegal advertising aimed at harming Plaintiff. Their actions had the natural and probable consequence of injuring the Plaintiff by causing it to lose business to the illegal locksmiths who were being published by the three named Defendants.

102. The three named Defendants are the proximate cause of Plaintiff's injury resulting from their continuous publication of these illegal locksmith listings. The three named Defendants knew exactly what they were doing, and used the illegal locksmith listings to gain additional advertising revenue for themselves.

103. These injuries of Plaintiff are not speculative in nature. They were the expected and intended consequences of the three named Defendants publishing the listings of companies and

individuals that they knew were not legal locksmiths.

104. The three named Defendants knew they were publishing illegal listings that would damage Plaintiff's business because they had been given notice by Plaintiff and others, and they knew these illegal locksmith listings existed on their websites by simply consulting the publicly available records of legal locksmith listings.

105. Plaintiff was the intended target of the three named Defendants' conduct. The three named defendants knew this and exploited it by the continued publication of a large volume of illegal locksmith listings, which would give the three named Defendants additional opportunities to sell distinguishing advertising to Plaintiff.

106. The amount of damages suffered by Plaintiff, \$8 million or more since 2008, is substantial, and were fully foreseeable by the three named Defendants. Their action in publishing illegal listings had one specific consequence – the deprivation of business to legal locksmiths such as Plaintiff.

**Mail and Wire Fraud**

107. In mail or wire fraud cases such as this, the cases state that plaintiff should specifically allege the time, place, and content of the fraudulent communications, as well as the parties to the communications. Those allegations follow for the three named Defendants.

108. Time. These fraudulent communications have taken place every day for 365 days per year since 2008, and they continue to this date.

109. Place. These fraudulent communications are published on the three named Defendants' websites so as to gain advertising revenue.



110. Content of fraudulent communications. The communications are the statements on the website that are being published purporting to show licensed locksmiths in the states of Virginia and Maryland. As the three named Defendants know, these locksmiths are not licensed and are criminal scam artists violating state statutes.

111. Parties to the communication. The parties to the communication are the three named Defendants and the public to whom they publish the illegal locksmiths' listings on their website.

112. Defendants Google, YellowBook, and Ziplocal know that their websites contain numerous illegal advertisements by locksmiths who are not licensed in Virginia or Maryland. This is knowledge that they have every day in their business operations. Yet they take that knowledge and leverage it against Plaintiff and similarly situated locksmiths who are licensed, who are told that they can distinguish themselves from the illegal locksmiths by paying the Defendants advertising revenue. This is an ongoing and continuous practice since 2008. It is racketeering activity.

113. The three named Defendants do manage or operate a separate enterprise, under Section 1962(c). All three named Defendants operate separate businesses as well as the one publishing the illegal ads. They use those separate business operations to transfer funds and maintain their financial strength to conduct similar operations to gain advertising revenue.

114. The elements of mail or wire fraud are (1) a plan or scheme to defraud, (2) intent to defraud, (3) reasonable foreseeability that the mail or wires will be used, and (4) actual use of the mail or wires to further the scheme.

115. The object of the fraud must be property in the victim's hands. Here the three named

Defendants seek to gain money from Plaintiff and other similarly situated locksmiths.

116. The three named Defendants specifically intend to use their false ads to gain additional advertising revenue.

117. The three named Defendants specifically use the mail and wires to solicit advertising revenue, and they actually do use the mails and wires every day to accomplish this fraud.

118. As to the pattern of the racketeering activity and its continuous repetitive nature, Plaintiff alleges as follows: RICO reaches defendants who, acting either within or without the scope of corporate authority, use their company to conduct racketeering activity -- gaining advertising revenue illegally.

119. RICO complaints proceed where the defendants are among the members of a separate association-in-fact enterprise. Here the three named Defendants are operation within and outside of their corporations to gain advertising revenue illegally.

**As to Defendants Google, YellowBook and Ziplocal.**

120. From at least January, 2008, and continuing to date, Defendants have engaged in a pattern of activity to mislead, deceive, and confuse the public as to locksmith services in Maryland and Virginia, resulting in damage to the Plaintiff. The services, products and advertising of all Defendants are distributed in trade or commerce.

121. Plaintiff seeks both economic damages and injunctive and declaratory relief for the conduct alleged in this Count of the Complaint.

122. Each Defendant is sued individually as a primary violator and as an aider and abettor.

123. Defendants Google, YellowBook and Ziplocal are aware of their conduct by the notices they have received from Plaintiff. They each continue to publish false and misleading advertisements through their search engines, on their websites, and in their directories to gain advertising revenue as described above. This advertising revenue is greater because of the fraudulent listings they knowingly publish than would be the case if they ridded their published listings of all illegal locksmiths.

124. In acting to aid and abet the commission of the fraud and other wrongful conduct of the John Doe Defendants, Defendants Google, YellowBook and Ziplocal acted with an awareness of that fraud and other wrongful conduct of the John Doe Defendants. This is shown by the notices of this conduct that have been given to them by Plaintiff and others. This is further shown by the listings of legal versus illegal locksmiths shown above which are available to these Defendants.

125. Defendants Google, YellowBook and Ziplocal in this suit have been told of the presence of the illegal locksmiths – the John Doe Defendants – who are infiltrating and using their websites and directories for illegal purposes and to commit fraud.

126. Defendants Google, YellowBook and Ziplocal rendered substantial assistance or encouragement to the accomplishment of that fraud by the John Doe Defendants and were aware of their overall contribution to the conspiracy, scheme, and common course of wrongful conduct alleged in this complaint, in order to gain additional advertising revenue. They each individually and in concert used these illegal listings to solicit more advertising from Plaintiff and other locksmiths

127. Defendants Google, YellowBook and Ziplocal have been placed on specific notice of their wrongful acts, and have refused to take the simplest actions available to delete the illegal locksmith listings from their websites containing the published advertising materials.

128. Defendants Google, YellowBook and Ziplocal are sued as a co-conspirator with the John Doe Defendants. The liability of each Defendant arises from the fact that each such Defendant entered into an agreement, commerce and transactions, with the John Doe Defendants to knowingly pursue the common course of conduct to commit or participate in the commission of all or part of the unlawful acts, plans, schemes, transactions, and artifices to defraud alleged in this complaint.

129. The purpose of this conspiracy by Defendants Google, YellowBook and Ziplocal has been to use the presence of the volume of illegal locksmiths on their listings to pressure numerous companies, including Baldino's, to buy increased advertising so as to "shout over" the illegal locksmith listings.

130. Defendants did and continue to do business throughout the States of Maryland and Virginia and co-extensively with areas serviced by the Plaintiff, and Defendants have performed such acts as were intended to, and did, result in the sale and distribution of erroneous data from which Defendants derived substantial advertising revenue.

131. By virtue of Defendants' affirmative misconduct, as more specifically described in the paragraphs above, diverting business away from it, Plaintiff has suffered loss of business revenue from January, 2008, to date of \$8,834,869.

132. As a direct and proximate result of Defendants' actions diverting business away from it, Plaintiff has suffered and will continue to suffer substantial injuries and damages for which Plaintiff is entitled to recovery and for which Defendants are jointly and severally liable. This claim for relief is asserted against each of the Defendants, and arises under 18 U.S.C.A. § 1962(c) and 18 U.S.C.A. § 1962(d) of the Federal Racketeer Influenced and Corrupt Organizations Act ("RICO"). Plaintiff can show that each year since 2008 it lost business due to Defendant's actions

133. At all relevant times, each of the Defendants was a "person" within the meaning of 18 U.S.C.A. § 1961(3), as each of the Defendants was "capable of holding a legal or beneficial interest in property." Defendants Google, YellowBook, and Ziplocal do in fact own substantial property, cash, securities and real estate. This property has been gained and added to because of their wrongful acts set forth in this Second Amended Complaint.

134. At all relevant times, all Defendants, among themselves and individually, each constituted an "enterprise" within the meaning of 18 U.S.C.A. § 1961(4). Each enterprise is an ongoing organization. Each enterprise has an ascertainable structure and purpose beyond the scope of Defendants' predicate acts and their conspiracy to commit such acts. The purpose and function of each enterprise – for Defendants Google, YellowBook, and Ziplocal – is to maximize sales of advertising for Defendants Google, YellowBook, and Ziplocal by utilizing the listings of unlicensed and illegal locksmith services. The John Doe Defendants are each enterprises which pose as legal locksmiths when they know they are not, and are thereby violating criminal statutes in Maryland and Virginia. Plaintiff knows at this time that Defendants Google, YellowBook and Ziplocal act within their corporate organizations in concert to maximize advertising revenue by illegal locksmith listings. Plaintiff does not know whether these three Defendants through their

corporate organizations act in concert – other than the fact that Defendant Google grosses up listings of illegal locksmiths from other sources which likely include YellowBook and Ziplocal.

135. Defendants Google, YellowBook, and Ziplocal are enterprises with significant staff and assets.

136. The purpose and function of each of these three enterprises is to maximize sales of advertising revenue. In the case of this Complaint and with respect to licensed locksmiths, the enterprises use listings of unlicensed and illegal locksmith services to increase their advertising revenue from honest businesses.

137. Defendants Google, YellowBook, and Ziplocal to know exactly how they are using their illegal listings to further promote their advertising revenue. They know that there are only several hundred licensed locksmiths in Maryland and Virginia, yet they blatantly continue to list thousands of illegal locksmiths. They know they can sell more advertising to legal locksmiths in this improper environment they have created, as legal locksmiths attempt to distinguish themselves from illegal ones. Each of the three Defendants has complete knowledge of this situation: they know that their advertising system is based upon the illegality of the listings they publish.

138. Each enterprise of each of the named Defendants has engaged in, and its activities have affected, interstate and foreign commerce. The advertising of YellowBook, Google and Ziplocal is sold by these individuals interstate and throughout the United States.

139. Defendants YellowBook, Google, and Ziplocal have been associated with each of these enterprises through the corporate structures and functional elements it has created to publish advertising that it knows is false. Each of these three named Defendants helped to direct each

enterprise's actions and manage its affairs. Each of these three named Defendants conducted or participated, directly or indirectly, in the conduct of each enterprise's affairs through a pattern of racketeering activity in violation of 18 U.S.C.A. § 1962(c) as described in detail above.

140. The three named Defendants' pattern of racketeering activity dates from at least 2008 and continues to the present, and threatens to continue in the future. The three named Defendants' multiple predicate acts of racketeering are set forth above.

141. Mail and wire fraud, in violation of 18 U.S.C.A. § 1341 and 18 U.S.C.A. § 1343, has been committed by Defendants Google, YellowBook and Ziplocal and the John Does.

142. The three named Defendants have engaged in a scheme to defraud members of the public by continued use of the mails and wire as a fundamental part of the racketeering activity. The use of the mails and wires are almost their entire mechanism for conducting this scheme to defraud.

143. Those mail and wire fraud schemes have involved suppression of information regarding truthful business names and addresses before and after notification, as well as fraudulent misrepresentations and omissions reasonably calculated to deceive persons of ordinary prudence and comprehension.

144. The three named Defendants executed or attempted to execute these schemes through the use of the United States mails and through transmissions by wire, radio, and television communications in interstate commerce. The three named Defendants have each day since at least 2008 knowingly included the illegal locksmith listings in all of their published Internet material.

145. Information was and is still being disseminated or transmitted by the three named Defendants and their agents as part of a fraudulent scheme to mislead the public as to who are licensed locksmiths in Virginia and Maryland. On information and belief, the three named Defendants used the mails and wires to disseminate and transfer information. Plaintiff has itself seen advertisements from the three named Defendants to solicit additional revenue from Plaintiff for ads. Plaintiff has itself seen the illegal locksmith listings throughout the materials that Defendants publish in hard copy and on the Internet.

146. The three named Defendants' marketing and promotional activities, communicated to the public nationwide in newspapers, magazines, and other periodicals, as well as over the internet, were designed to deceive the public into thinking that all of their listings were of legal locksmiths, when, in fact, the three named Defendants knew well that the vast majority of the listings were illegal scammers.

147. Defendant Google has, since the filing of this lawsuit, without explanation, taken action to significantly decrease the number of illegal locksmiths on the website listings it publishes. Defendant Google has therefore confirmed and admitted the issues that Plaintiff has raised in this Complaint.

148. The three named Defendants are engaging in interstate or foreign travel in aid of racketeering activities, in violation of 18 U.S.C.A. § 1952.

149. The acts of the three named Defendants form a "pattern" of racketeering activity. These acts have had the same or similar purposes, results, participants, victims, and methods of commission. The acts have been consistently repeated and are capable of further repetition.



150. Each Defendant also conspired to violate 18 U.S.C.A. § 1962(c), in violation of 18 U.S.C.A. § 1962(d).

**Additional Facts Specific to the John Doe Defendants**

151. Plaintiff knows that the John Doe Defendants are individuals and some have corporate structures as well. Plaintiff knows that some of the John Doe Defendants are not located in the United States and upon information and belief, states that some of them operate out of the State of Israel. Plaintiff knows no more specific information about these individuals, will add that information as it becomes available in this suit.

152. Plaintiff has been injured in its business and property by reason of the three named Defendants' violations of 18 U.S.C.A. § 1962(c) and 18 U.S.C.A. § 1962(d), because Plaintiff has suffered a significant loss of business to the fraudulent locksmiths. As stated above, when the three named Defendants publish illegal locksmith listings, the Plaintiff loses business as a licensed locksmith.

153. Plaintiff can show the exact amount of decrease in its business income since 2008. It can show the exact amount of decrease in its number of calls for services. This diminution in Plaintiff's business and operations was directly caused by the increase in the three named Defendants' illegal locksmith listings. The more illegal locksmith listings the three Defendants publish, the more Plaintiff's business is decreased.

154. In the absence of the three named Defendants' violations described above of 18 U.S.C.A. § 1962(c) and 18 U.S.C.A. § 1962(d), these business losses of Plaintiff would have been avoided.

155. Under the provisions of 18 U.S.C.A. § 1964(c), Plaintiff is entitled to bring this action and to recover damages of three times the actual damages of \$8,834,869, the costs of bringing this suit, and reasonable attorney's fees.

*Google.*

156. Defendant Google sells advertising to the public to appear at various locations and to be prioritized in its listings on its website. Defendant derives significant revenue from publishing this advertising that it has sold.

157. Defendant Google has been paid \$3,000.00 in advertising revenue by Plaintiff since January of 2008. Defendant Google receives billions of dollars of advertising revenue each year from businesses and the general public.

158. Google sells its advertising to plaintiff and other similarly situated companies by repeated use of the mails and wires. It has solicited plaintiff and other locksmiths continuously since January of 2008 to pay Google for advertising on its search engine through solicitation in the US mails and in email transmissions.

159. Defendant Google has specifically misrepresented to the Virginia Legislature that it is taking action to solve these fraudulent locations of locksmith services, knowing that it has done no such thing. It has acted to deceive the Legislature to perform its public functions (See letter to Delegate Massie, Exhibit A).

160. Google's practice and pattern of publishing fraudulent advertisements despite being told that the advertisements were fraudulent and were hurting the general public continues in other areas to this date. In a recent settlement in a case involving false drug advertising brought by

Google shareholders, Google has agreed to pay \$250 million in damages, plus remediation costs and \$9 million in legal fees. All of these payments are the result of Google publishing false and misleading drug advertisements by scammers, to the great detriment of honest drug companies. These practices and patterns of activity continue in the actions complained of in this suit relating to illegal locksmith listings.

161. Google has solicited Plaintiff specifically for additional advertising so as to overcome the illegal locksmith listings it publishes. It has done this principally by utilizing the US mail and e-mail.

162. Defendant Google has since January 2008 repetitively published each day, 365 days per year, illegal locksmith listings which it knows full well are illegal. It continues to publish the listings to this day despite the protest.

163. Defendant Google operates Google maps in concert with its published listings of locksmiths. Those Google maps show locations that are deceptive and untruthful. These listings show, by utilizing an algorithm, whatever address the legal or illegal locksmith has given. As with the initial address, there is no effort to screen out the deceptive listings on Google's of illegal locksmiths. Defendant Google can easily determine by consulting the Maryland and Virginia listings of legal locksmiths that the great majority of locksmiths it has been listing in its displays and in Google maps are not legal locksmiths.

164. Google has or will be noticed by Virginia regulatory authorities for committing state law violations by undertaking and publishing the listings of illegal locksmiths. It remains to be seen how Google will respond to those actions of state officials in Virginia.

**As to Defendants YellowBook and Ziplocal.**

165. Both of these Defendants publish printed and online directories of Virginia and Maryland locksmiths.

166. Plaintiff knows that other locksmiths similarly situated to it in Virginia and Maryland have paid large amounts of advertising fees to both of these Defendants.

167. Both Defendants have sent salespeople to Plaintiff's office to solicit advertising and fees associated with said advertising.

168. These salespeople are well aware of the problem with illegal locksmiths and have at various times represented that they would take corrective action, but that in the meantime advertising in larger blocks would overcome those illegal locksmiths.

169. Both Defendants purchased their information from list providers such as Acxiom and InfoUSA.

170. Both Defendants undertake no individual action to screen out illegal locksmiths, which they can readily do by conducting a simple comparison with the legal locksmith listings for Maryland and Virginia.

171. Both Defendants know that they are gaining significant advertising revenue by increasing the number of listings of all locksmiths so that they can tell legal locksmiths they should advertise more to overcome the illegal listings.

172. These activities described in the paragraphs above are part of an ongoing fraud on the public and on legal locksmiths. This fraudulent action takes place every day of the week, 365

days per year, as these lists of illegal locksmiths are published, and advertising is demanded to overcome them from legal locksmiths. This is a scheme and device that is repeated many times every day.

**Defendant YellowBook.**

173. Between 2002 and this date, Plaintiff Baldino's has paid to YellowBook advertising fees in the amount of \$407,244.75. Baldino's has been advertising with YellowBook for over 20 years. Baldino's was dependent on the Yellow Book to bring it business.

174. Leads resulting in service calls were a means by which Baldino's earned a substantial portion of its revenue.

175. Although the Yellow Pages had been inserting false locksmith addresses in every Yellow Pages edition entries including YellowBook, in 2009 it mushroomed to extraordinary numbers. Over 5,000 false locksmith companies, illegally placed, caused Baldino's booking of business to drop dramatically.

176. Baldino's had no idea this drop in business was coming, as the time for the drop to manifest was up to six months from the time Baldino signed a contract with Yellowbook to the time its listing was published.

177. Baldino's employees tasked to acquire advertising were Mark Baldino and Sarah Baldino, head of marketing. Each time contracts were signed, both Mark and Sarah Baldino were present. Many times they signed under deadline pressure, but, most importantly, they asked two different YellowBook sales representatives - Carla Eggert and Scott Dudzik - for YellowBook to remove the false advertising listings which were an ever-growing problem.

178. Baldino's had seen the previous print editions and internet services all containing a multitude of listings of false locksmiths.

179. The YellowBook representatives both assured Sarah and Mark Baldino they would notify YellowBook management of the false listing problems as long as Baldino's would sign the next batch of contracts or miss the deadline to renew.

180. Baldino's was dismayed to find that the print directories and Internet services were riddled with thousands of false listings, diminishing the value of Baldino's advertising.

181. This was compounded by YellowBook and Ziplocal both conducting the same illegal activity, putting Baldino's means of acquiring service calls in jeopardy. Baldino's service calls dropped from 19,000 per year to 13,000 per year currently, and all the time YellowBook has aided and abetted the illegal locksmith ads and listings.

182. YellowBook itself placed and purchased these illegal locksmith ads. It purchased the list from ACXIOM, a data provider, and placed them in both its print and Internet directories, so the listings are not free advertising.

183. For example, YellowBook had 616 locksmiths listed for Arlington, Virginia. There are only four legal locksmith locations in Arlington.

**Defendant ZipLocal.**

184. Between 2002 and this date, Plaintiff Baldino's has paid to Data National, the predecessor-in-interest to Ziplocal, advertising fees in the amount of \$577,921.26. A substantial portion of those fees were paid through renewal of advertising in Ziplocal's directory in response to Ziplocal's promise to purge its directory of unlicensed locksmiths.

**As to John Doe Defendants.**

185. The John Doe Defendants are the illegal locksmiths who are placing names and addresses to divert business from Baldino's and other legal locksmiths.

186. The other named Defendants know full well that the John Doe Defendants exist and that they are misusing and circumventing any regulatory system by placing bogus listings in Defendants' directories and search engines.

187. Plaintiff does not know without discovery whether there are any further connections of the named Defendants with the John Doe Defendants. Plaintiff does not know whether the John Doe Defendants are paying the other three named Defendants, for example, to take blocks of listings and not eliminating the illegal listings within the block. Those factual determinations must await discovery.

188. On information and belief, Plaintiff believes that the John Doe Defendants are part of an international criminal conspiracy. Bogus listings are placed, revenue that is completely inappropriate for the service is gained, and international criminals who have been in charge of placing the listings get a share of the revenue realized.

***COUNT 2***

***INVESTMENT OF PROCEEDS OF RACKETEERING ACTIVITY***

**As to Defendants Google, YellowBook and Ziplocal,**

189. Plaintiff restates and incorporates all the preceding paragraphs of this Complaint herein.

190. This claim for relief is asserted against each of the three named Defendants, and arises under 18 U.S.C.A. § 1962(a) and 18 U.S.C.A. § 1962(d) of RICO.

191. At all relevant times herein and, particularly, between January, 2008, and this date, each of the three named Defendant was a “person” within the meaning of 18 U.S.C.A. § 1961, as each Defendant was “capable of holding a legal or beneficial interest in property.” Each of these three named Defendants held substantial assets – cash, personal property and real estate – within their corporate or partnership structure.

192. At all relevant times, each of the three named Defendants Google, YellowBook and Ziplocal, together with the John Doe Defendants, have constituted an enterprise within the meaning of 18 U.S.C.A. § 1961(4) or, in the alternative, each of the three named Defendants has constituted an enterprise within the meaning of 18 U.S.C.A. § 1961(4). Each enterprise is an ongoing organization. Each enterprise and its activities have an affect on interstate commerce, in that the enterprise is engaged in the business of maximizing the sales of illegal locksmith services, often carried on across state lines.

193. The three named Defendants have engaged in a pattern of racketeering activity which dates from 2008 through the present, and threatens to continue in the future. Defendants' multiple predicate acts of racketeering are set forth in Count 1.

194. These racketeering acts generated income for the three named Defendants because of the perceived relevancy of all the information they publish being all-encompassing and complete. In fact, the information published is riddled with false information. The search engines and directories propagate this information so that the public will use their products and services and



so that businesses would advertise to counter the competition and create an income stream for Defendants at the expense of consumers and advertisers.

195. On information and belief, the three named Defendants have used or invested their illicit proceeds gained from advertising generated through the pattern of racketeering activity, directly or indirectly, in the acquisition of an interest in, or the establishment or operation of, each enterprise in violation of 18 U.S.C.A. § 1962(a). The three named Defendants' use and investment of these illicit proceeds in each enterprise is for the specific purpose and has the effect of controlling the material information distributed to the public concerning locksmith services.

196. Each of the three named Defendants also conspired to violate 18 U.S.C.A. § 1962(a), in violation of 18 U.S.C.A. § 1962(d).

197. Plaintiff has been injured in its business and property by reason of the three named Defendants' violations of 18 U.S.C.A. § 1962(a) and 18 U.S.C.A. § 1962(d), in that Plaintiff has suffered a substantial loss of business revenue. Under the provisions of 18 U.S.C.A. § 1964(c), Plaintiffs are entitled to bring this action and to recover treble damages, the costs of bringing this suit, and reasonable attorney's fees.

198. Each of the three named Defendants in the suit is earning significant amounts of revenue from the publication of the illegal locksmith listings and the advertising that is generated by it. From Plaintiff alone, since January of 2008, Defendants Google, YellowBook, and Ziplocal have received almost \$1 million in advertising revenue. This figure of illicit gains from advertising revenue is multiplied many times over every day, by receipts from other legal locksmiths, and other businesses similarly situated such as drug companies.

199. Each of those Defendants conducts an ongoing corporate business each day in which these advertising revenues are received, deposited in accounts and utilized to expand their business operations.

200. The three named Defendants reinvest a portion of their business revenue derived from the illegal locksmith listings, both to expand their business operations, and to provide profits to their owners. These are RICO violations.

**As to John Doe Defendants.**

201. Plaintiff has alleged its current knowledge with respect to the John Doe Defendants in the above paragraphs of this Complaint. Plaintiff believes those Defendants are reinvesting money in their ongoing operations to increase revenue by their fraudulent actions in not only the locksmith area, but in other service and product sales over the internet.

***COUNT 3***

***DECEPTIVE AND FRAUDULENT ADVERTISING UNDER THE LANHAM ACT***

202. Plaintiff repeats and realleges each of the allegations above as if fully set forth herein.

203. The three named Defendants are offering locksmith services in a deceptive and fraudulent manner, causing Internet users to falsely believe that the John Doe Defendants and similarly situated parties are offering licensed locksmith or legal business services in Maryland, and Virginia.

204. The three named Defendants are making these offerings of locksmith services through advertisements both online and through printed directories. These advertisements are deceptive and fraudulent under the Lanham Act because they recite information that the three named

Defendants know is wrong. The three named Defendants know that most of the locksmiths they have been listing in their advertisements for which they receive payment are erroneous because they have been provided specific notice of that since January of 2008 and have ignored it.

205. Plaintiff seeks relief from the three named Defendants' willful and continuing violations of the law which are impacting its business and diminishing it. In response to Plaintiff's objections, the three named Defendants have continued to engage in these violations in blatant disregard of Plaintiff's established rights.

206. The true names and capacities of Defendants sued in this Complaint as DOES 1 through 25, inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by such fictitious names. Each of the Defendants designated in this Complaint as a DOE is legally responsible in some manner for the unlawful acts referred to in this Complaint. Plaintiff will seek leave of the Court to amend this Complaint to reflect the true names and capacities of the Defendants designated as DOES 1 through 25 when such identities become known.

207. On information and belief, Defendants operate an online Web directory via the Internet.

208. Defendants are all providing listings for thousands of locksmith services providers, when, in fact, there are only 150 licensed locksmith services providers in the State of Maryland and 425 licensed locksmith services providers in the State of Virginia.

209. Upon information and belief, Defendants profit from their use of the names of unlicensed locksmiths.

210. Upon information and belief, at the time that Defendants utilized the names of unlicensed locksmiths, they did so in bad faith to the detriment of the reputation and goodwill of licensed locksmiths in Maryland, and Virginia.

211. Upon information and belief, Defendants intentionally, knowingly and willfully misrepresented to the public that the names it was providing were legitimate locksmiths, when they were not.

212. Defendants' use of the listings of unlicensed locksmiths, knowingly and intentionally, if permitted to continue, will irreparably injure Plaintiff and its reputation and goodwill associated with being a licensed locksmith.

213. Defendants' actions have already caused, and are likely to continue to cause confusion, falsely suggest or use deception as to the source or origin of Defendants' goods and services, and are likely to suggest falsely a sponsorship, connection, location, license, or association with Plaintiff's goods and services.

214. Defendants' actions described above have diluted and tarnished, and will continue to dilute and tarnish, the distinctiveness of Plaintiff's licensed locksmith services.

215. By engaging in the above described activities, Defendants have made false and misleading representations of fact to the public, all in violation of § 43(a)(1)(B) of the Lanham Act, 15 U.S.C.A. § 1125(a)(1)(B).

216. As a direct and proximate result of the actions, conduct, and practices of Defendants alleged above, Plaintiff has been damaged and will continue to be damaged.

217. Plaintiff has no adequate remedy at law.

218. Defendant's actions in this suit individually and together are false and misleading misrepresentations with the intent to deceive the public and are thereby violations of the Lanham Act. Defendants have all engaged in false advertising practices.

219. There is no requirement in the Lanham Act that a Defendant, as here, have specific knowledge or specific intent to harm an individual victim or defraud that individual victim. Intent to harm specific individuals is not an element of proof for false advertising under the Lanham Act.

220. The advertising being conducted by all Defendants here is done on a very large scale, and those personnel involved in producing and authorizing the false advertising alleged herein are largely unknown, until discovery is commenced.

221. Defendant Google publishes its deceptive advertising materials in two forms – listings of websites of illegal locksmiths and exhibitions of actual physical locations through pinpoints on Google maps. Both of these types of data being published by Google contain fraudulent and deceptive materials without regard to whether websites or maps are involved. They are all deceptive and actionable under the Lanham Act.

222. All Defendants are responsible for violations of the Lanham Act as alleged in this suit. It is no defense to false advertising under Lanham to argue that false advertising is not done by a direct competitor. All false advertising is prohibited in interstate commerce under Lanham in accordance with the Supreme Court's decision in *Tafflin v. Levitt*, 493 US 455 (1990).

223. In any event, the actions that the Defendants are taking to earn money and gain revenue are done by exploiting their position and the competition between legal and illegal locksmiths. They are responsible for that conduct under Lanham.

224. Plaintiff has no adequate remedy at law.

**The Claims Against Defendants YellowBook and Ziplocal are Not Barred by Res Judicata and Collateral Estoppel.**

**YellowBook.**

225. A judgment has been entered in a case in Maryland between the Plaintiff and YellowBook. That case is on appeal in Maryland.

226. The issues in that earlier case are very specific and tied to defenses at one point in time to the payment for advertising fees of Defendant. They do not cover the current situation in which Defendant has taken additional actions that give rise to independent causes of action. Moreover, they do not deal with the new Virginia statute and Defendant's liability thereunder, and the causes of action that grow out of that statute for Baldino's and other licensed locksmiths.

**Ziplocal.**

227. Ziplocal has previously sued Baldino's for advertising fees in Fairfax County General District Court, Case No. GV11026292, resulting in a settlement between the parties memorialized in a Mutual Release providing, inter alia, that Ziplocal was to make a good faith effort to remove from its directory "counterfeit and bogus locksmith listings". Baldino's subsequently sued Ziplocal in the same Court, Case No. GV13020553, for the amount paid to Ziplocal pursuant to the Mutual Release, alleging that Ziplocal breached the Mutual Release by

not removing the “counterfeit and bogus locksmith listings”. That case was decided in favor of Ziplocal after a bench trial. That case does not preclude the causes of action asserted herein. In addition, if the Mutual Release is in effect, Ziplocal has a continuing obligation thereunder to purge its directory of illegal locksmiths.

228. The issues in those earlier cases are very specific and tied to defenses at one point in time to the payment of advertising fees claimed by Defendant Ziplocal. They do not cover the current situation in which Defendant Ziplocal has taken additional actions that give rise to independent causes of action. Moreover, they do not deal with the new Virginia statute and Ziplocal’s liability thereunder, and the causes of action that grow out of that statute for Baldino's and other licensed locksmiths.

229. In this case before the Court, Plaintiff raises specific violations of federal law and state law which have occurred since the original settlement and subsequent release action. These are new causes of action, not affected by the release, and not affected by the prior court judgment.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff requests relief and a judgment against Defendants, jointly and severally, as follows:

1. For injunctive and declaratory relief:
  - a. Ordering removal of all false and fraudulent locksmith listings from their search engines/directories in the State of Virginia, State of Maryland, and the District of Columbia.

- b. Declaring that Defendants have violated the provisions of the Racketeering Influenced Corrupt Organizations Act, 18 U.S.C.A. §§ 1961 et seq.
  - c. Enjoining Defendants and their respective successors, agents, officers, directors, employees, and all persons acting in concert with them, directly or indirectly, from engaging in conduct violative of 18 U.S.C.A. §§ 1961 et seq.
2. Awarding damages and compensation to Plaintiffs for past and future damages, including but not limited to, expenditures and lost profits caused by Defendants' actions in violation of any laws, together with interest and costs.
3. Ordering prejudgment and post judgment interest, as provided by law.
4. Awarding punitive damages in an amount to punish Defendants and to deter future conduct.
5. Order treble damages pursuant to 18 U.S.C.A. § 1964(c).
6. Awarding Plaintiff reasonable attorney's fees and costs.
7. Granting such other and further relief as this Court may deem equitable, just, and proper.

**Jury Demand.**

Plaintiff demands a trial by jury on all issues and all counts to the extent permitted by law.

Respectfully submitted,

/s/ Donald C. Holmes  
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