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April 27, 2004

**VIA FACSIMILE
CONFIRMATION BY FEDEX
AND U.S. MAIL**

Google, Inc.
Attn: Customer Support, DMCA Complaints
[REDACTED] Parkway
Mountain View, CA 94043

**Re: AirTran Airways
Copyright Infringement**

Dear Sirs:

This firm is counsel to airline carrier AirTran Airways, Inc. ("AirTran") on intellectual property matters. AirTran is the owner of various copyrights in its promotional materials, including but not limited to its artwork, media announcements, and other materials used on its current and former web pages having the domain names "airtran.com" and "valujet.com." AirTran uses these materials and other intellectual property to advertise and promote its air transportation services, travel agency services and related services which are sold to customers throughout the world. As a result, AirTran's valuable goodwill in its intellectual property extends throughout the world.

It has come to our attention that unauthorized versions of AirTran's web pages dating to September 1997 are presently accessible via the domain name "2600.com." Because AirTran does not operate these web pages nor have any relationship with the owner, operator, or poster of this material, these parties are engaged in the unauthorized and infringing use of AirTran's copyrighted materials. 17 U.S.C. § 501. These web pages purport to provide information regarding a computer hacking occurrence. However, AirTran's web pages are reproduced in their entirety or in substantial, verbatim excerpts and therefore such unauthorized use constitutes copyright infringement. *See Harper & Row, Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 557-58 (1985).

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It has also come to our attention that the infringing web pages are accessible via links provided by Google, Inc. ("Google") through (1) its Internet search engine services available at "google.com" and (2) its "site search" services used by 2600 Magazine at "2600.com." The Google search engine lists these pages as "Welcome to AirTran Airlines" or "Welcome to AirTran Online." A copy of the results of a search for "AirTran site:2600.com" from the Google search engine available at "google.com" showing links to the unauthorized web pages is attached as "Exhibit A." Copies of the "2600.com" web page, showing a search field, and the results of a search for the name "AirTran," "provided by Google," from the "2600.com" web page showing links to the unauthorized web pages are attached hereto as "Exhibit B."

Please be advised that this letter serves to put Google on notice of these infringing activities and to inform you that Google may be held liable to AirTran for contributory copyright infringement should it knowingly refer or link users to an online location containing material in violation of our client's rights through its search engine services available at "google.com" or its "site search" services available at "2600.com." See *A&M Records, Inc. v. Napster, Inc.*, 239 F.3d 1004, 1019 (9th Cir. 2001) ("[O]ne who, with knowledge of the infringing activity, induces, causes or materially contributes to the infringing conduct of another, may be held liable as a 'contributory' infringer.").

Pursuant to 17 U.S.C. § 512 of the Digital Millennium Copyright Act, a list of the infringing web pages and other relevant information is provided below:

1. The copyrighted work at issue includes, but is not limited to, the text, artwork, and other materials included on AirTran's original web pages from "valujet.com," representative archived copies of which are attached hereto as "Exhibit C."
2. Copies of the infringing web pages, listed below, are attached hereto as "Exhibit D."

Search Query: "AirTran site:2600.com"

Infringing Web Pages:

http://www.2600.com/hackedphiles/value_jet/valujet_original/
http://www.2600.com/hackedphiles/value_jet/valujet_original/docs/home.html
http://www.2600.com/hackedphiles/value_jet/valujet_original/docs/frame.html
http://www.2600.com/hackedphiles/value_jet/valujet_original/docs/routes.html
http://www.2600.com/hackedphiles/value_jet/hacked/
http://www.2600.com/hackedphiles/value_jet/hacked/html/home.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/top.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/routes.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/media.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/frame.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/whywefly.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/whywefly_03.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/whywefly_04.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/whywefly_05.html
http://www.2600.com/hackedphiles/value_jet/hacked/html/whywefly_06.html

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3. Agent of Complaining Party:

[REDACTED]
SMITH, GAMBRELL & RUSSELL, LLP
Suite [REDACTED]
[REDACTED] Street, N.E.
Atlanta, GA 30309-3592
[REDACTED]
Email: [REDACTED]@[REDACTED].com

4. Web Page Owner/Administrator:

2600 Magazine
P.O. Box [REDACTED]
Middle Island, NY 11953

Administrative Contact, Technical Contact:

[REDACTED]
P.O. Box [REDACTED]
Middle Island, NY 11953
[REDACTED]
Email: [REDACTED]@[REDACTED].com

5. AirTran has a good faith belief that use of the copyrighted materials described above on the allegedly infringing web pages is not authorized by AirTran, its agent, or the law.
6. The undersigned swears, under penalty of perjury, that the information in this notification is accurate and that the undersigned is authorized to act on behalf of AirTran, the owner of an exclusive right that is allegedly infringed.

AirTran considers these infringing activities to be a serious matter and will take those steps necessary to protect its rights. Please be advised that, in the event of litigation, our client would be entitled not only to injunctive relief enjoining Google's infringement, but also to damages, lost profits, and attorneys' fees. 17 U.S.C. §§ 502-505.

Based on the foregoing, we demand that Google (1) immediately remove, disable access to, and de-index the infringing web pages from the Google search engine, (2) take those steps necessary to ensure that Google's automated indexing process does not re-index the infringing web pages in the future, and (3) immediately cease and desist from providing its site search services to AirTran's copyrighted materials for "2600.com." To avoid being subject to a suit for copyright infringement, we also demand your written assurance that you have complied with our demands **by the close of business on Monday, May 10, 2004**. Absent the prompt written assurance, we will advise our client to take that action necessary to recover all remedies to which it may be entitled.

Sincerely,

[REDACTED]

EJH/csn

Attachments

cc: [REDACTED], Esq.
[REDACTED], Esq.