

1 Gretchen M. Nelson (112566)
Gabriel S. Barenfeld (224146)
2 Jacob H. Mensch (268006)
KREINDLER & KREINDLER LLP
3 707 Wilshire Boulevard, Suite 4100
Los Angeles, California 90017
4 Telephone: (213) 622-6469
Telecopier: (213) 622-6019
5 gnelson@kreindler.com
gbarenfeld@kreindler.com
6 jmensch@kreindler.com

UNFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

APR 23 2010

John A. Clarke, Executive Officer/Clerk
By SHAURYA WESLEY, Deputy

7 John E. Cone Jr.
Joseph A. Kilbourn
8 CONE & KILBOURN
83 South Bedford Road, # 2
9 Mt. Kisco, New York 10549
Telephone: (914) 481-6249
10 Telecopier: (914) 461-3228
jcone@conekilbourn.com
11 jkilbourn@conekilbourn.com

12 *Attorneys for Plaintiffs*

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16 PERDAN LLC and DANIEL HOGAN,
17 Plaintiffs,

Case No.:

BC 436456

18 v.
19

COMPLAINT FOR DAMAGES AND
EQUITABLE RELIEF

20 RED BULL GmbH, RED BULL NORTH
AMERICA, INC., FELIX
21 BAUMGARTNER, DIETRICH
MATESCHITZ, ARTHUR THOMPSON,
22 SAGE CHESHIRE, INC. and DOES 1
THROUGH 100,

JURY TRIAL DEMANDED

23 Defendants.
24

25
26
27 Plaintiffs PerDan LLC and Daniel Hogan, by and through their attorneys Kreindler &
28 Kreindler LLP and Cone & Kilbourn, hereby allege as follows:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

I. NATURE OF THE CASE

1. In the fall of 2004, Plaintiff Daniel Hogan approached Red Bull, the multi-billion dollar energy drink company, to gauge the company's interest in sponsoring a project that Mr. Hogan called the SpaceDive. This project, which involved a marriage of daredevil, record-breaking stuntsmanship and cutting-edge technology, was designed to culminate in an international media event that would generate hundreds of millions of free advertising dollars for the project's sponsors. For nearly a year after Mr. Hogan approached Red Bull, the two parties engaged in numerous confidential discussions about the Space Dive—discussions involving dozens of emails and phone calls, and several meetings—in which Red Bull repeatedly requested, and Mr. Hogan provided, confidential information concerning the general parameters of the SpaceDive and the details thereof. In the fall of 2005, however, Red Bull informed Mr. Hogan that the company did not intend to pursue the project.

2. On January 22, 2010, without prior notice to the Plaintiffs, Red Bull announced Red Bull Stratos, a project identical to the SpaceDive in all material respects except two: the name, and the fact that Red Bull Stratos does not involve the participation of, or any compensation for, the Plaintiffs.

II. JURISDICTION AND VENUE

3. This Court has personal jurisdiction over Defendants because (i) several of the Defendants reside in and conduct substantial business in California; (ii) all the Defendants have purposefully availed themselves of the benefits of California law by designing and testing in California much of the technology they plan to use in the Red Bull Stratos project; and (iii) Defendants' efforts to publicize the Red Bull Stratos project have emanated from California, and have been and will continue to be directed towards California residents, among others.

4. The amount in controversy is in excess of the jurisdictional minimum of this Court.

5. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to the California Constitution, Article VI, Section 10. Plaintiffs' claims arise under the laws of California, are not preempted by federal law, do not challenge conduct within any federal agency's exclusive domain, and adjudication thereof has not been statutorily assigned to any other

1 court or jurisdiction.

2 6. Venue is proper in this county because several of the Defendants reside in this
3 county.

4 III. PARTIES

5 A. The Plaintiffs

6 7. Plaintiff Daniel Hogan maintains residences in the State of Texas and in The
7 Netherlands. Mr. Hogan conceived the SpaceDive and brought the project to Red Bull's attention.

8 8. Plaintiff PerDan LLC is a Delaware limited liability company formed on or about
9 April 11, 2005 for purposes of, among other things, conducting business related to the SpaceDive,
10 and as such owns the rights and interests in the project.

11 B. The Defendants

12 9. Defendant Red Bull GmbH ("Red Bull GmbH") is a privately-held company
13 organized under the laws of Austria with its principal place of business in Fuschl am See, Austria.
14 Red Bull GmbH markets, sells, and offers to sell various goods and services, including the Red
15 Bull energy drink, in the United States, the State of California, and in Los Angeles County.

16 10. Defendant Red Bull North America, Inc. ("Red Bull NA") is a corporation
17 organized under the laws of California with its principal place of business in Santa Monica,
18 California. Red Bull NA is a wholly-owned subsidiary of Red Bull GmbH. (Unless otherwise
19 noted, Defendants Red Bull GmbH and Red Bull NA will be referred to herein collectively as
20 "Red Bull.")

21 11. On information and belief, Defendant Felix Baumgartner is a resident of Austria.
22 Mr. Baumgartner is a key participant in the Red Bull Stratos project, and is currently participating
23 in the testing of the technology which will be used in the Red Bull Stratos project. Much of this
24 testing is taking place in California.

25 12. On information and belief, Defendant Dietrich Mateschitz is a resident of Austria.
26 Mr. Mateschitz is a co-owner of Red Bull GmbH.

27 13. Defendant Sage Cheshire, Inc. is a corporation organized under the laws of the State
28 of California, with its principal place of business in Lancaster, California. Sage Cheshire, Inc. is

1 currently supervising the technical aspects of the Red Bull Stratos project.

2 14. Defendant Arthur Thompson is the President of Sage Cheshire, Inc. and is a
3 resident of Quartz Hill, California.

4 15. Plaintiffs are as yet unaware of the true names and capacities of defendants sued
5 herein as Does 1 through 100, and therefore sues such defendants by such fictitious names.
6 Plaintiffs will amend the Complaint to allege the true names and capacities of Does 1 through 100
7 when the same are ascertained.

8 16. Plaintiffs are informed and believe and thereon allege that defendants and each of
9 them are, and at all times mentioned herein were, the agents, servants, employees and/or owners of
10 each other, and in doing the acts and following the course of conduct set forth herein, each such
11 defendant was acting within the scope of such agency, employment and/or ownership, and each
12 defendant approved, ratified, or affirmed the acts and conduct of each other defendant.

13 IV. FACTUAL ALLEGATIONS

14 A. The SpaceDive Project

15 17. On August 16, 1960, Air Force pilot Colonel Joe Kittinger donned a space suit,
16 stepped onto a platform hanging from a helium balloon, and ascended into the stratosphere. At
17 102,800 feet above the earth's surface, he jumped. Before his parachute deployed, Col. Kittinger
18 hurtled through space for over four minutes, at one point reaching a speed in excess of 600 miles
19 per hour. When he landed, alive and intact, in the New Mexico desert, Col. Kittinger had achieved
20 the highest parachute jump on record. As of the filing of this complaint, his record still stands.

21 18. Decades later, Plaintiff Daniel Hogan realized that because of technological
22 advances since the 1960's, it was possible not only to beat, but to shatter Col. Kittinger's record.
23 Mr. Hogan also realized that a serious attempt at Col. Kittinger's record represented an extremely
24 lucrative business opportunity, as the attempt would inevitably garner international attention and
25 thus create hundreds of millions of dollars in free media coverage for any company whose name
26 was attached to the project. If he could bring together a team of experts to design and create the
27 necessary technology, and obtain the support of corporate sponsors for funding purposes, Mr.
28 Hogan knew he could contribute to a spectacular and historic human achievement while at the

1 same time making a substantial sum of money for himself and his investors. Mr. Hogan called the
2 project “SpaceDive.”

3 19. The expert that Mr. Hogan chose to supervise the SpaceDive was Per Lindstrand of
4 Lindstrand Technologies Limited (“LTL”). A renowned balloonist, Mr. Lindstrand held the hot air
5 balloon altitude record (65,000 feet) as well as numerous patents for the design of lighter-than-air
6 vehicles. Mr. Lindstrand had also taken part in high-profile ballooning events, including Sir
7 Richard Branson’s much-publicized balloon flights across the Atlantic and Pacific Oceans, and the
8 Virgin Global Challenger attempts to circumnavigate the world by balloon. Mr. Lindstrand’s
9 knowledge and experience, combined with LTL’s state-of-the-art production facilities in Oswestry,
10 England had made LTL a global leader in lighter-than-air technology. Among other things, LTL’s
11 resumé included the manufacture of the parachute for the Beagle 2 Mars Lander, a spacecraft that
12 landed on Mars in 2003. In addition, LTL maintained an excellent safety record—a record that
13 would help alleviate any doubts that corporate sponsors might harbor as to the dangers associated
14 with the SpaceDive.

15 20. At Mr. Hogan’s request, Mr. Lindstrand agreed that LTL would supervise all the
16 technical aspects of the SpaceDive. In addition, Mr. Lindstrand agreed that LTL would design and
17 manufacture two components essential to the project’s success. The first was the “envelope,” a
18 328 foot high, 20 million cubic-foot helium balloon constructed of polyethylene. LTL also agreed
19 to design and manufacture the “gondola,” a platform that was to hang from the base of the
20 envelope, and which was to be equipped with an elaborate ventilation system to provide oxygen
21 and heat to the “SpaceDiver”—Mr. Hogan’s name for the parachutist—during his ascent.

22 21. On or about April 11, 2005, Mr. Lindstrand signed a confidentiality agreement on
23 LTL’s behalf prohibiting LTL from disclosing any information concerning the SpaceDive. And,
24 LTL assigned the rights to technology for the SpaceDive to Plaintiff PerDan LLC.

25 22. The details of “jump day” began to take shape during LTL’s research into the
26 project. The jump was to occur from 130,000 feet, or approximately 24.6 miles above the earth’s
27 surface. At this altitude, the SpaceDive would exceed Kittinger’s record by approximately 27,200
28 feet, or approximately 5 miles. Using mathematical modeling, LTL was able to plan the timeline

1 of the jump down to the second. About 22 seconds into the fall, LTL determined, the
2 SpaceDiver's speed would reach the transonic range, meaning that he would be approaching Mach
3 1.0, the speed of sound. After 35 seconds, the SpaceDiver would go supersonic—i.e., in excess of
4 the speed of sound—and he would remain at a supersonic speed until the 58-second mark. While
5 in the supersonic range, the SpaceDiver would break the world record for the fastest freefall—a
6 record currently held by Col. Kittinger, who reached around Mach 0.9 during his jump in 1960. At
7 58 seconds, the SpaceDiver would decelerate through the transonic range, exiting the transonic
8 range 80 seconds into the jump at approximately 85,000 feet above the earth. The SpaceDiver's
9 parachute would open at 210 seconds, and after 1,170 seconds, the SpaceDiver would land safely
10 in the New Mexico desert, just as Col. Kittinger did in 1960.

11 23. Because of the extreme cold and lack of oxygen in the stratosphere, the SpaceDiver
12 would be required to wear a space suit. In order to provide adequate protection, the suit would
13 have to be pressurized, ventilated, and designed to withstand the vibrations that occur when objects
14 move at transonic speeds. Mr. Hogan and LTL engaged in detailed discussions regarding the
15 development of the space suit with Zvezda, a Russian company, and the David Clark Company,
16 Inc., an American company. Zvezda agreed to put its resources into developing a new space suit,
17 and to provide aerodynamic expertise during wind-tunnel testing of the suit.

18 24. The design of the gondola incorporated a variety of cameras for purposes of
19 capturing the SpaceDiver's ascent, and ultimately, the jump. In addition, LTL planned to attach
20 two cameras to the SpaceDiver himself, one on the right wrist and another near the diver's visor.
21 These cameras would record as nearly as possible the SpaceDiver's experience during his fall to
22 earth. Slim McDonald, a filmmaker, joined the SpaceDive project to provide advice on camera
23 technology and to ensure that the jump yielded the best possible footage.

24 25. The SpaceDive's other experts included Dr. Coy Foster, a ex-NASA flight surgeon
25 and balloonist, and Dr. Steve Lingard, an expert in the aerodynamics of the human body.

26 26. In addition to gathering the foregoing team of experts to handle technical matters,
27 Mr. Hogan sought out companies who would be interested funding the project ("sponsors") or in
28 providing supplemental services for the SpaceDive in the event that Mr. Hogan was able to secure

1 funding for the project (“subsponsors”). For example, Mr. Hogan engaged in extensive
2 confidential discussions with National Geographic about broadcasting the jump, including
3 discussions with the company’s Director of Development for Special Events and Programming,
4 and Director of Development for National Geographic Television and Film. Mr. Hogan also
5 spoke under conditions of confidentiality with numerous additional companies about providing
6 various services for the SpaceDive, including companies that could provide web-based streaming
7 video of the jump, live text and video updates of the jump to mobile phone users, official vehicles
8 for the project, computers and hardware, and official timekeeping.

9 27. Finally, in addition to its entourage of experts and potential sponsors and
10 subsponsors, the SpaceDive project had the endorsement and the support of Col. Kittinger, a long-
11 time friend of Per Lindstrand, who agreed to join the SpaceDive team on an exclusive basis as an
12 expert consultant. As the only person who has ever survived a jump from the stratosphere, Col.
13 Kittinger was able to contribute his own valuable expertise regarding the technical aspects of the
14 SpaceDive. In addition, Mr. Hogan anticipated that Col. Kittinger’s public support for the
15 SpaceDive would bring the historical significance of the project into stark relief, create a clear and
16 compelling narrative for film and television purposes, and imbue the project with legitimacy in the
17 eyes of potential sponsors.

18 28. Once the SpaceDive had reached a mature phase of development, Mr. Hogan
19 approached Interbrand, a world leader in brand valuation and market consulting, to estimate the
20 market value of the project. Interbrand estimated that the project would yield between 300 and 500
21 million Euros worth of free media coverage (approximately \$375 to \$625 million at the time). Mr.
22 Hogan and LTL estimated that it would cost approximately 4 million Euros (approximately \$5
23 million at the time) to bring the SpaceDive to fruition.

24 29. Throughout the development of the SpaceDive, Mr. Hogan maintained the
25 confidentiality of the project by obtaining written or oral confidentiality agreements with sponsors
26 and subsponsors, by including confidentiality notices in communications relating to the SpaceDive,
27 and by advising persons with whom he discussed the project that the discussions were confidential
28 and were to be maintained as such.

1 **B. Mr. Hogan's Discussions With Red Bull**

2 30. In the fall of 2004, Mr. Hogan contacted Defendant Red Bull NA to determine
3 whether the company would be interested in sponsoring the SpaceDive. Mr. Hogan spoke on the
4 phone with Dan Ginsberg, the CEO of Red Bull NA, and after expressly stating that he was
5 providing Mr. Ginsberg with confidential information, explained the SpaceDive project in general
6 terms. Mr. Ginsberg told Mr. Hogan to contact Red Bull GmbH, the company's international
7 headquarters in Fuschl am See, Austria, and stated that Defendant Dietrich Mateschitz, the co-
8 owner of Red Bull, would likely be involved in any decision with respect to the company's
9 participation in the SpaceDive. Mr. Ginsberg also provided Mr. Hogan with the contact
10 information of Gigi Zieglmeier, one of Red Bull's employees in Austria.

11 31. On or about December 10, 2004, Mr. Hogan called Ms. Zeiglmeier, who requested
12 that Mr. Hogan email her an outline of the SpaceDive. Later that day, Mr. Hogan emailed Ms.
13 Zieglmeier an outline of the project, including an animated video of the SpaceDiver's ascent and
14 jump, and requested that she advise him as to Red Bull's interest in participating. Mr. Hogan's
15 email began with the following text:

16 Subject: Re: Conversation about Sponsorship / Marketing

17 Importance: High

18 Sensitivity: Confidential

19 On or about December 12, 2004, Ms. Zieglmeier forwarded Mr. Hogan's email to Christopher
20 Reindl, Red Bull's head of marketing, and to Britta Stadlbauer, another Red Bull employee.

21 32. Mr. Reindl responded to Mr. Hogan's email the next day, December 13, 2004,
22 thanking Mr. Hogan for his email and indicating that Red Bull would "think & talk" about Mr.
23 Hogan's proposal. On or about January 7, 2005, Ms. Stadlbauer also responded to Mr. Hogan's
24 December 12, 2004 email. Ms. Stadlbauer thanked Mr. Hogan for his proposal, asked Mr. Hogan
25 for his contact information, and stated that "We feel great respect about the attempt to break world
26 records and your plans for distribution." Mr. Hogan responded to this email by sending Ms.
27 Stadlbauer his cell phone number, and on or about January 13, 2005, Mr. Hogan received a
28 telephone call from Red Bull employee Andrea Ringdorfer, who called to arrange a meeting

1 between Mr. Hogan and Red Bull.

2 33. On or about January 26, 2005, in accordance with the arrangements made with Ms.
3 Ringdorfer, Mr. Hogan traveled to Red Bull's headquarters in Austria, where he attended a meeting
4 with Mr. Reindl, Ms. Stadlbauer, and Ms. Ringdorfer. At the outset of this meeting, Mr. Hogan
5 informed all participants that all information Mr. Hogan provided concerning the SpaceDive was to
6 be kept confidential by Red Bull. The participants then proceeded to discuss various issues
7 regarding Red Bull's possible participation in the project. During this discussion, Mr. Reindl
8 informed Mr. Hogan that Mr. Mateschitz was an active manager of Red Bull and would be
9 involved in the company's decisions regarding the SpaceDive.

10 34. Immediately following the meeting at Red Bull's headquarters, Mr. Hogan was
11 invited to tour Hangar 7, Red Bull's private hangar at the Salzburg airport, where he met Mr.
12 Mateschitz. In the course of their conversation, Mr. Hogan informed Mr. Mateschitz that he was
13 approaching Red Bull as a potential sponsor for a project called the SpaceDive, and that Col.
14 Kittinger had agreed to join the project as an expert consultant. Mr. Mateschitz told Mr. Hogan
15 that he was aware of the SpaceDive project as a result of a prior conversation with Mr. Reindl. He
16 also told Mr. Hogan that he had a great respect for Col. Kittinger's record.

17 35. Following the January 2005 meeting at Red Bull's headquarters and continuing to
18 August 2005, Mr. Hogan regularly communicated by telephone and email with Mr. Reindl, Ms.
19 Stadlmeier, Ms. Ringdorfer, and a fourth Red Bull employee, Ulrike Hartinger. During these
20 discussions, Mr. Hogan consistently made clear to Red Bull that his discussions with Red Bull
21 were confidential. The emails that Mr. Hogan sent to Red Bull each contained the following
22 statements: "The Information contained in this e-mail message and its attachments is privileged,
23 confidential, may be legally privileged and is protected from disclosure....Unauthorized use,
24 disclosure or copying is strictly prohibited." In addition, Mr. Hogan stated orally on numerous
25 occasions that the information being provided to Red Bull in relation to the SpaceDive was
26 confidential. At no time did Red Bull indicate a contrary understanding.

27 36. In fact, Red Bull's own conduct during this period confirmed the company's
28 understanding that the discussions with Mr. Hogan were confidential. For example, on February 4,

1 2005, Ms. Ringdorfer emailed Mr. Hogan electronic files containing Red Bull's logo so that Mr.
2 Hogan could integrate the logo into a written proposal for the SpaceDive. In her email, Ms.
3 Ringdorfer instructed Mr. Hogan that the logos "are only for the usage in your presentation, which
4 is showed to Red Bull only and no [sic] other of your partners."

5 37. In addition, Red Bull expressly acknowledged Mr. Hogan's concerns about
6 confidentiality, and emphasized that the company's relationship with Mr. Hogan was a
7 "partnership" built on "trust." For example, on or about May 31, 2005, Ms. Hartinger wrote the
8 following in an email to Mr. Hogan: "We understand your concerns about know-how transfer, but
9 we believe we made clear that there is a big interest on our side in this project - still we work on
10 partnership basis, which includes trust and relation [sic]." Ms. Hartinger's email echoed Mr.
11 Reindl's email to Mr. Hogan of May 28, 2005, which stated that "[R]ed [B]ull is a strong partner
12 (we do not act as a sponsor, we prefer a partnership - working together as a team.)" Red Bull
13 frequently reiterated these themes of teamwork, partnership, and trust during telephone calls and
14 meetings with Mr. Hogan.

15 38. Red Bull also repeatedly described itself as having as strong interest in the project,
16 as illustrated by the following statements contained in emails to Mr. Hogan:

- 17 a. January 7, 2005, from Ms. Stadlbauer: "With interest we have been reading
18 about your project."
- 19 b. February 2, 2005, from Mr. Reindl: "that's a unique project - lots of aspects
20 we really like, thats [sic] the reason why we would like to dig deeper,
21 knowing more, getting familar [sic] with all the insights."
- 22 c. May 28, 2005, from Mr. Reindl: "As discussed at our meeting, we are
23 interested and keen to realize this adventure - with all the power we have."
- 24 d. May 31, 2005, from Ms. Hartinger: "We understand your concerns about
25 know-how transfer, but we believe that we made clear that there is a big
26 interest from our side in this project."

27 Red Bull made similar statements during telephone calls and meetings with Mr. Hogan.

28 39. In the wake of the meeting at Red Bull's headquarters in January of 2005, Mr.

1 Hogan's discussions with Red Bull progressed beyond the broad outlines of the SpaceDive as Red
2 Bull began to inquire into more specific details of the project. Encouraged by Red Bull's
3 expressions of interest and its emphasis on trust and partnership, Mr. Hogan revealed more and
4 more information about the SpaceDive in response to Red Bull's inquiries. At the same time, Mr.
5 Hogan continued to convey to Red Bull that the parties' discussions about the SpaceDive were
6 confidential.

7 40. On or about February 8, 2005, approximately one week after Mr. Reindl had stated
8 in an email to Mr. Hogan that he wanted to "dig deeper" and become familiar with Mr. Hogan's
9 "insights," Mr. Hogan emailed Mr. Reindl a document entitled "Red Bull SpaceDive Partner Plan"
10 ("Partner Plan"). The Partner Plan contained an outline of the SpaceDive project, including
11 descriptions of the balloon, the space suit, the time frame for the project, and Mr. Hogan's plans
12 with respect to media coverage. In a section entitled "Project Directors," the Partner Plan
13 identified Col. Kittinger as an "expert consultant" for the SpaceDive. The Partner Plan also
14 contained promotional photographs of helium balloons, skydivers, and equipment that integrated
15 the Red Bull logos previously provided by Ms. Ringdorfer on February 4, 2005.

16 41. The cover letter that accompanied the Partner Plan contained the following
17 statements:

18 This Detailed Project Outline ("the DPO") has been prepared by PerDan
19 LLC/Lindstrand Tech Limited or ("The Company") in relation to securing a
20 partnership necessary for the construction of the Skydive from Space/SpaceDive
21 ("Project") and the production of related TV Series, Documentary & IMAX film
22 projects.

23 ...

24 The sole purpose of this DPO is to assist the Recipient thereof to determine
25 whether it wishes to pursue its investigations in relation to its potential
26 participation in the Project.

27 By accepting this DPO, the Recipient agrees to keep, strictly and
28 permanently, **confidential** the information contained herein or made available to

1 such Recipient in the course of or in connection with further diligence performed
2 on the Company. This DPO has been prepared for information purposes in relation
3 to the Project only and is communicated to the Recipient upon the express
4 understanding that it will not be used for any other purpose than to appraise
5 Recipient's prospective interest to be involved in the Project. The information
6 contained in this DPO may not be disclosed or reproduced in whole or in part for
7 any other purpose or furnished to any other person without the prior written
8 consent of the Company. (Emphasis in the original.)

9 42. On or about May 25, 2005, Mr. Hogan and Mr. Lindstrand traveled to Austria for a
10 second meeting at Red Bull's headquarters. They were then introduced to Defendant Felix
11 Baumgartner and Defendant Arthur Thompson. At this meeting, Red Bull presented Mr.
12 Baumgartner as a good candidate to serve as the SpaceDiver, and presented Mr. Thompson as an
13 expert whose perspective on the matters under discussion would be valuable to all involved. At no
14 time did Red Bull indicate that the company might collaborate with Mr. Baumgartner or Mr.
15 Thompson in an attempt to break Kittinger's record without Plaintiffs' participation or consent, nor
16 did Red Bull mention or discuss Defendant Sage Cheshire, Inc., or its aerospace business as a
17 possible co-venturer.

18 43. On or about July 9, 2005, Ulrike Hartinger sent Mr. Hogan an email requesting
19 additional details regarding the SpaceDive for purposes of Red Bull's "feasibility study." As Ms.
20 Hartinger explained, "our intention is [to] get a better understanding of how you would implement
21 the whole project. We are not talking about the general [sic] idea but about more details in
22 regards to several aspects." Ms. Hartinger then asked a variety of specific questions about the
23 timing of the project, the "key requirements for successful implementation," "the risks and how we
24 can solve them," the budget for the project, Mr. Hogan's suggestions for possible partners, and Mr.
25 Hogan's ideas regarding media production. Ms. Hartinger then suggested that Mr. Hogan "send us
26 the project presentation [by] the middle of August 05 and after that we decide on the next steps."

27 44. On August 19, 2005, Mr. Hogan mailed Red Bull a document entitled "SpaceDive:
28 Detailed Project Outline for Partnership" ("DPO"). This document set forth confidential technical

1 specifications for the gondola, envelope, and space suit; a timeline for developing and testing this
2 equipment; a description of the companies that had expressed interest in the project or would be
3 good candidates to serve as partners; a description of the events that would take place on “jump
4 day”; a variety of charts and diagrams reflect mathematical calculations related to the jump; and
5 other confidential details of the SpaceDive.

6 45. The DPO was accompanied by a cover letter containing language identical to that
7 quoted in paragraph 41 above, including the statements that the information in the DPO was
8 “confidential,” that it was “communicated to the Recipient upon the express understanding that it
9 will not be used for any other purpose than to appraise Recipient’s prospective interest to be
10 involved in the Project,” and that the information would not be disclosed “for any other
11 purpose...without the prior written consent” of Plaintiffs and LTL.

12 46. On or about August 22, 2005, Ms. Hartinger informed Mr. Hogan that she had
13 received the DPO, and would contact him within two weeks. On or about September 16, 2005,
14 Ms. Hartinger told Mr. Hogan that she intended to discuss the DPO with Mr. Baumgartner, and
15 would contact Mr. Hogan by the end of the following week.

16 47. On or about October 13, 2005, Ms. Hartinger wrote Mr. Hogan an email conveying
17 Red Bull’s decision with respect to the SpaceDive: “After a very detailed investigation of your
18 proposal,” Ms. Hartinger wrote, “we finally came to the conclusion that we would not like to
19 continue our joint work on the ‘Space Dive’ project.”

20 48. On or about October 14, 2005, Mr. Hogan responded to Ms. Hartinger’s email,
21 writing on behalf of himself, PerDan LLC and the SpaceDive team that “we are disappointed to
22 hear that you would not like to move forward with the project to break Joe Kittinger’s record.” Mr.
23 Hogan also reminded Red Bull of its obligations of confidentiality, stating as follows: “We do
24 expect to have Red Bull honor the confidentiality notices that we have given at our meetings as
25 well as the confidential notices at the beginning of our project outline documents and partner plan
26 document that we have provided to Red Bull.” This was the last communication between Mr.
27 Hogan and Red Bull.

28 49. Following the end of his discussions with Red Bull, Mr. Hogan continued to meet

1 and negotiate under conditions of confidentiality with other potential subsponsors and one primary
2 sponsor. To date, Plaintiffs have spent thousands of hours and substantial sums of money in
3 originating and developing the SpaceDive, and in marketing the project to potential sponsors and
4 subsponsors.

5 **C. Without Any Prior Notice to Plaintiffs, Red Bull Suddenly Announces Red**
6 **Bull Stratos in January 2010**

7 50. On or about January 22, 2010, Red Bull issued a press release announcing “Red
8 Bull Stratos,” a “mission to the edge of space” in which Felix Baumgartner would “expand the
9 boundaries of aerospace exploration by attempting to become the first person ever to break the
10 speed of sound with the human body.” By jumping from a helium balloon at 120,000 feet above
11 the earth, the press release explained, Mr. Baumgartner would break Colonel Kittinger’s 50-year-
12 old record for the highest parachute jump. The release stated that Art Thompson would serve as
13 the Technical Project Director, and that Mr. Baumgartner’s jump would occur in North America
14 with a target launch date in 2010. The release also quoted Col. Kittinger, who stated that despite
15 numerous failures to break his record in the past, Red Bull Stratos was likely to succeed. Col.
16 Kittinger attributed his optimism in part to “the dedication of Red Bull.”

17 51. Red Bull’s January 22, 2010 press release also announced that National Geographic
18 and the BBC would be producing a documentary about Red Bull Stratos. The feature-length,
19 globally-licensed film would premiere in the US and the UK two weeks after the jump, and would
20 subsequently be aired for a worldwide audience. The title of the film, according to the release, was
21 “Space Dive.”

22 52. On the morning of Red Bull’s press release, Mr. Baumgartner appeared on NBC’s
23 The Today Show with Col. Kittinger at his side. Col. Kittinger fondly recalled his jump in 1960,
24 and generously expressed his support for Baumgartner’s attempt at his record. Baumgartner then
25 described his own jump, explaining to the incredulous anchors that within 30 seconds after
26 jumping from an altitude of 120,000 feet, his body would break the speed of sound.

27 53. The January 22, 2010, announcement started an international buzz in the
28 blogosphere as well as in more traditional news publications. Technically-minded bloggers

1 debated the feasibility of the jump from a scientific point of view, while others discussed the
2 project's implications for the future of advertising. On March 16, 2010, the New York Times'
3 Science section ran an article, "Preparing for a Supersonic Leap, From 23 Miles Up," that
4 described Col. Kittinger's record-making jump in 1960 and the plans of "Fearless Felix" and the
5 "Red Bull Stratos team" to break that record. Red Bull Stratos was also covered by Fox News, by
6 a BBC News science writer (who casually mentioned the BBC/National Geographic documentary)
7 and even by the Dubai Chronicle. And all of these stories and discussions shared one thing in
8 common: they necessarily contained the words "Red Bull." As of the filing of this complaint, a
9 Google search for "Red Bull Stratos" yields approximately 2,310,000 hits.

10 54. Following the January 22, 2010 press release, Red Bull's partners moved quickly to
11 tout their involvement in the project. On January 25, 2010, Nokia's "official blog" announced that
12 the company "supports Red Bull Stratos mission to the edge of space with exclusive app," referring
13 to application that would allow cell phone users to monitor the development of the project and
14 watch the jump via streaming video. The company proclaimed that Red Bull Stratos "neatly
15 resonates with Nokia's ethos towards research and innovation." In a March 5, 2010 press release,
16 Defendant Sage Cheshire announced that it would "make history" with the Red Bull Stratos
17 project, describing itself as "the Prime contractor overseeing all major aspects of the project
18 especially the technical phases of development." And a March 15, 2010 article in Microsoft's
19 "News Center" explained how Silverlight—the company's browser-based streaming video
20 program— would be used to "create the Red Bull Stratos Web experience."

21 55. Despite the fact that Plaintiffs brought Red Bull the idea, the technology, and the
22 marketing plan for a record-breaking parachute jump, Red Bull has never publicly acknowledged
23 Plaintiffs' role in Red Bull Stratos. Red Bull has neither offered to compensate Plaintiffs for their
24 contributions to Red Bull Stratos, nor sought the Plaintiffs' permission to use the information that
25 Plaintiffs disclosed to Red Bull in confidence.

26 56. In fact, Red Bull has constructed a revisionist history of the Red Bull Stratos project
27 that deliberately omits Plaintiffs. On the company's website, under the heading "How Did This
28 Mission Get Started?," Red Bull describes the genesis of Red Bull Stratos as follows:

