

1 LATHAM & WATKINS LLP  
Perry J. Viscounty (SBN 132143)  
2 *perry.viscounty@lw.com*  
505 Montgomery Street, Suite 2000  
3 San Francisco, CA 94111  
(415) 391-0600 / (415) 395-8095 Fax

4 Attorneys for Plaintiff  
5 craigslist, Inc.

6  
7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
11

12 CRAIGSLIST, INC., a Delaware corporation,

13 Plaintiff,

14 v.

15 INSTAMOTOR, INC., a Delaware  
corporation, and DOES 1-10,

16 Defendants.  
17

CASE NO. 3:17-cv-02449-MMC

**STIPULATED JUDGMENT AND  
PERMANENT INJUNCTION AGAINST  
INSTAMOTOR, INC.**

18 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

19 1. Plaintiff craigslist, Inc. (“craigslist”) owns and operates the *craigslist.org* website,  
20 the access to, and use of which, is governed by craigslist’s Terms of Use.

21 2. craigslist’s Terms of Use prohibit, among other things, the use of “[r]obots,  
22 spiders, scripts, scrapers, crawlers” and the transmission of any “misleading, unsolicited,  
23 unlawful, and/or spam postings/email.”

24 3. craigslist’s Terms of Use further prohibit the collection of “users’ personal and/or  
25 contact information.”

26 4. craigslist’s Terms of Use are valid and enforceable against Defendant Instamotor,  
27 Inc. (“Defendant”) and Defendant accepted and agreed to be bound by those terms.  
28

1           5.       craigslist is a provider of Internet access service as defined in 15 U.S.C.  
2 § 7702(11).

3           6.       craigslist’s website and computers are protected computers within the meaning of  
4 15 U.S.C § 7702(13).

5           7.       Defendant owns and operates the Instamotor service located at the  
6 *instamotor.com* website (the “Instamotor Website”).

7           8.       Defendant used automated means to access the craigslist website and scrape  
8 craigslist content, including postings, pictures, and craigslist users’ contact information.

9           9.       Defendant also employed a team of individuals based in the Philippines (the  
10 “Philippines Team”) to (1) access the craigslist website and copy craigslist content—including  
11 postings, pictures, and craigslist users’ contact information; and (2) send emails to craigslist  
12 users seeking to obtain additional information (*e.g.*, the vehicle’s VIN, mileage, or license plate  
13 number) without identifying that the senders were affiliated with Instamotor, which information  
14 Instamotor then used to create unauthorized vehicle advertisements on the Instamotor Website.

15           10.      Instamotor provided the Philippines Team with specific directions about the  
16 information that the Philippines Team should seek to obtain from craigslist users.

17           11.      Defendant harvested craigslist users’ contact information from the craigslist  
18 website and initiated many thousands of electronic mail messages to such users. The primary  
19 purpose of these electronic mail messages was the commercial advertisement or promotion of  
20 Instamotor’s commercial products or services (including content on an Internet website operated  
21 for a commercial purpose).

22           12.      Defendant initiated the transmission of commercial electronic messages that  
23 failed to clearly and conspicuously identify that the messages were advertisements or  
24 solicitations for Instamotor’s services, did not contain clear and conspicuous notice of the  
25 opportunity to decline to receive further commercial electronic mail messages from the sender  
26 (*i.e.*, an unsubscribe button), and did not provide a physical postal address of the sender.

27           13.      Defendant initiated the transmission of commercial electronic mail messages that  
28 contained false and misleading (i) header information, (ii) subject lines, and (iii) content in the

1 body of the messages.

2 14. Defendant sent these unlawful commercial electronic mail messages from what  
3 appeared to be personal Gmail accounts. Defendants used, without authorization, craigslist's  
4 own email relay system to transmit their commercial electronic mail messages.

5 15. Defendant's actions, as described above and more fully in craigslist's Complaint  
6 (*see* Dkt. No. 1), constitute:

7 a. Breach of contract;

8 b. Violations of the CAN-SPAM Act, 15 U.S.C. §§ 7701 *et seq.*; and

9 c. Violations of California Restrictions on Unsolicited Commercial Email  
10 Advertisers, Cal. Bus. & Prof. Code §§ 17529 *et seq.*

11 **I. Final Judgment**

12 Judgment is entered in favor of craigslist against Defendant in the amount of  
13 \$31,052,314, comprised of the following:

14 A. \$25,674,300 for violations of the CAN-SPAM Act based on 85,581 emails at \$100  
15 per email, trebled pursuant to 15 U.S.C. § 7704(b)(1); and

16 B. \$5,378,014 for breach of craigslist's Terms of Use based on collecting personal  
17 information (\$1 for each email address and \$1 for each phone number) from  
18 2,689,007 listings.

19 **II. Injunction**

20 Defendant and its current and future officers, agents, servants, employees, attorneys and  
21 other persons who are in active concert or participation with it or individuals within its control  
22 (collectively, the "Prohibited Parties"), are ordered and enjoined as follows:

23 A. Within one day (1) day of the entry of this Order, the Prohibited Parties will  
24 forever cease access to and/or any use of, including but not limited to  
25 reproducing, transmitting, displaying, framing, including, disseminating,  
26 publishing, distributing, selling, or giving away ("Access and Use"), any content,  
27 including but not limited to user-generated postings, advertisements,  
28 information, data, images, messages, or emails, that has been submitted to,

1 posted on, or transmitted via any craigslist website, service, or computer server,  
2 including, but not limited to *craigslist.org* (“craigslist Content”). For the  
3 avoidance of doubt, this prohibition includes, but is not limited to, craigslist  
4 Content that a third party, including without limitation a third party located  
5 outside U.S. jurisdiction, has obtained from (i) any craigslist website, service, or  
6 computer server, or (ii) any other party, or series of parties, that itself or  
7 themselves obtained craigslist Content from any craigslist website, service or  
8 computer server.

9 B. The prohibition on Access and Use of craigslist Content includes: 1) direct  
10 Access and Use by the Prohibited Parties; and 2) indirect Access and Use via a  
11 third party, intermediary, or proxy, including but not limited to any search engine  
12 or participant in crowd sourcing of craigslist Content. The prohibition covers all  
13 Access and Use by the Prohibited Parties and provides no exceptions, including  
14 but not limited to a claim of fair use or implied license.

15 C. The Prohibited Parties are also permanently prohibited from:

16 (1) sending or transmitting, or paying, directing, aiding, or conspiring with  
17 others to send or transmit (i) any commercial electronic mail or electronic  
18 communication to any craigslist email address, user, member or poster,  
19 bearing any false, fraudulent, anonymous, inactive, deceptive, or invalid  
20 return information, or otherwise using any other artifice, scheme or  
21 method of transmission that would prevent the automatic return of  
22 undeliverable electronic mail to its original and true point of origin or that  
23 would cause the email return address to be that of anyone other than the  
24 actual sender or by any other means in violation of the CAN-SPAM Act,  
25 15 U.S.C. § 7701, et seq. or (ii) any commercial electronic mail message  
26 to email addresses known to have been acquired or harvested from any  
27 craigslist website;

- 1 (2) directly or indirectly downloading, harvesting, obtaining, or copying  
2 craigslist Content by any means whatsoever, including but not limited to  
3 robots, spiders, scrapers, or crawlers;
- 4 (3) directly or indirectly displaying, framing, including, disseminating,  
5 publishing, distributing, selling, giving away, or otherwise presenting or  
6 making available to any person or entity, or facilitating same, any  
7 craigslist Content;
- 8 (4) representing, on their websites, in their mobile apps, or otherwise, that  
9 they are in any way affiliated with craigslist, or that any of their products  
10 or services contain or include any craigslist Content;
- 11 (5) directly or indirectly circumventing technological measures that control  
12 access to any craigslist website or any portions thereof, including but not  
13 limited to, measures that: monitor and/or block activity associated with  
14 particular IP addresses or provide a set of instructions to any automated  
15 technologies visiting the craigslist website that prohibit automated  
16 programs (*e.g.*, a robots.txt file), whether through use of multiple IP  
17 addresses or any other means; and
- 18 (6) engaging in the purchase, acquisition, collection, harvest, sale, transfer,  
19 transmission, distribution, trade, or display of craigslist users' postings,  
20 names, locations, addresses, email addresses, phone numbers, contact  
21 information, screen names or other user information, taken from any  
22 craigslist website, service, or computer server, including, but not limited to  
23 *craigslist.org*, or lists thereof.

24 D. Within ten (10) days of the entry of this Order, the Prohibited Parties shall  
25 permanently delete or destroy any craigslist Content, regardless of whether  
26 obtained directly or indirectly, whether stored in electronic form or otherwise, in  
27 their possession, custody, or control.  
28

1 **III. Monitoring Compliance**

2 It is further ORDERED that the Prohibited Parties shall:

- 3 A. Take reasonable steps sufficient to monitor and ensure that all persons within their
- 4 control or past or present employment (whether as independent contractors,
- 5 employees, agents, partners or in some other capacity) comply with this Order,
- 6 including but not limited to providing a copy of this Order to any person within
- 7 their control or past or present employment and requesting that such person
- 8 adhere to its terms; and
- 9 B. Take all reasonable corrective action with respect to any individual within their
- 10 control or employment whom any Prohibited Party determines is not in
- 11 compliance with the terms of this Order, which may include training, disciplining,
- 12 and/or terminating such individual, and notifying craigslist promptly in writing of
- 13 the underlying conduct.

14 **IV. Retention of Jurisdiction**

15 It is further ORDERED that this Court shall retain jurisdiction of this matter in law and  
 16 equity for purposes of (1) enforcing and/or adjudicating claims of violations of this Order or of  
 17 disputes arising in connection with the Settlement Agreement executed concurrently herewith,  
 18 with any such dispute being raised by noticed motion; and (2) permitting craigslist to pursue its  
 19 claims against the Doe Defendants, including by conducting relevant discovery from current and  
 20 former Instamotor directors, officers, employees, investors, and/or other third parties. For the  
 21 avoidance of doubt, this Order resolves craigslist’s claims solely against Instamotor, and does  
 22 not resolve any potential claims against the Doe Defendants or former officers, agents, servants,  
 23 employees, or affiliates of Instamotor, Inc.

24 **IT IS SO STIPULATED.**

25 Dated: August 3, 2017

LATHAM & WATKINS LLP

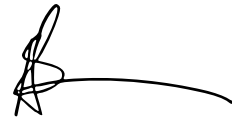
26 By:   
 27 \_\_\_\_\_  
 Perry J. Viscouny

28 Attorneys for Plaintiff  
 CRAIGSLIST, INC.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: August 3, 2017

FOCAL PLLC



By: \_\_\_\_\_  
Venkat Balasubramani

Attorneys for Defendant  
INSTAMOTOR, INC.

**ORDER**

IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
Hon. Maxine M. Chesney  
U.S. District Court Judge