

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN W. FERRON,)	Case No.: 2:06-cv-322
)	
Plaintiff,)	JUDGE FROST
vs.)	MAGISTRATE JUDGE ABEL
)	
VC E-COMMERCE)	ANSWER OF DEFENDANT
SOLUTIONS, INC., et al.,)	VC E-COMMERCE
)	SOLUTIONS, INC.
Defendants.)	
)	“Jury Demand Endorsed Hereon”

NOW COMES the Defendant, VC E-Commerce Solutions, Inc., and for its Answer to Plaintiff's First Amended Complaint states as follows:

IN RESPONSE TO “THE PARTIES”

1. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 1 of the Plaintiff's First Amended Complaint.

2. This Defendant admits that VC E-Commerce Solutions, Inc. was and remains a California corporation, with its principal place of business located at 30699 Russell Ranch Road, Suite 250, Westlake Village, CA 91632. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the remaining allegations contained in Paragraph 2 of the Plaintiff's First Amended Complaint.

3. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 3 of the Plaintiff's First Amended Complaint.

4. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 4 of the Plaintiff's First Amended Complaint.

IN RESPONSE TO "JURISDICTION AND VENUE"

5. This Defendant lacks sufficient information to admit or deny that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332 (diversity jurisdiction).

6. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 6 of the Plaintiff's First Amended Complaint.

IN RESPONSE TO "THE CLAIMS"

7. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraphs 7, 7(a), 7(b) and 7(c) of the Plaintiff's First Amended Complaint. Further answering, VC E-Commerce Solutions, Inc. states that determinations made by Ohio courts, including those referenced in Paragraphs 7(a) through 7(c) of Plaintiff's First Amended Complaint, speak for themselves and require no response by this answering Defendant.

8. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 8 of the Plaintiff's First Amended Complaint.

9. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 9 of the Plaintiff's First Amended Complaint.

10. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 10 of the Plaintiff's First Amended Complaint.

11. This Defendant denies for want of knowledge or information sufficient to state the truth or veracity of the allegations contained in Paragraph 11 of the Plaintiff's First Amended Complaint.

12. This Defendant denies the allegations contained in Paragraphs 12, 12(a), 12(b), 12(c), 12(d), 12(e), 12(f), 12(g), 12(h), 12(i), 12(j), 12(k), 12(l), 12(m), 12(n), 12(o) and 12(p) of the Plaintiff's First Amended Complaint.

FIRST DEFENSE

13. This Defendant incorporates by reference, the admissions and denials as set forth in all other paragraphs of this Answer as if fully rewritten herein.

14. This Defendant denies the allegations contained in Paragraph 14 of the Plaintiff's First Amended Complaint.

15. This Defendant denies the allegations contained in Paragraph 15 of the Plaintiff's First Amended Complaint.

16. This Defendant denies the allegations contained in Paragraph 16 of the Plaintiff's First Amended Complaint.

17. This Defendant denies the allegations contained in Paragraph 17 of the Plaintiff's First Amended Complaint. Further answering, this Defendant denies Plaintiff is entitled to any remedies, whether specified herein or as otherwise alleged in his First Amended Complaint.

SECOND DEFENSE

18. This Defendant incorporates by reference, the admissions and denials as set forth in all other paragraphs of this Answer as if fully rewritten herein.

19. This Defendant denies the allegations contained in Paragraphs 19, 19(a), 19(b), 19(c), 19(d), 19(e), 19(f), 19(g), 19(h), 19(i), 19(j), 19(k), 19(l), 19(m), 19(q), 19(r) and 19(s) of the Plaintiff's First Amended Complaint.

AFFIRMATIVE DEFENSES

1. The Plaintiff's First Amended Complaint fails to state a cause of action against this answering Defendant upon which relief can be granted.

2. Plaintiff's claims are preempted by the federal CAM SPAM Act, which does not afford this Plaintiff a private cause of action.

3. Plaintiff's claims are barred by the dormant Commerce Clause.

4. Plaintiff's claims are barred by the doctrines of waiver, estoppel, laches or by the applicable statute of limitations.

5. Plaintiff may have failed to join the necessary and/or indispensable parties to this lawsuit, whereby relief cannot be afforded without the joining of these parties.

6. Plaintiff has failed to mitigate damages, if any.

7. Plaintiff has failed to comply with all conditions precedent prior to bringing this lawsuit.

8. Plaintiff's claim against VC E-Commerce Solutions, Inc. is barred, in whole or part, because it lacks privity of contract with VC E-Commerce Solutions, Inc.

9. VC E-Commerce Solutions, Inc. asserts that Plaintiff did not reasonably rely on any act, omission or representation of this Defendant.

10. Plaintiff's claims are limited and/or barred by the doctrines of comparative and/or contributory negligence.

11. Plaintiff's claims, in whole or in part, are barred because plaintiff lacks standing.

12. The Plaintiff's Complaint fails for insufficiency of process.

13. The Plaintiff's Complaint fails for insufficiency of service of process.

14. Venue may be improper.

15. Defendant specifically reserves the right to add additional affirmative defenses after reasonable opportunity for discovery.

WHEREFORE, Defendant prays that the Plaintiff's First Amended Complaint be dismissed with prejudice and that Plaintiff be ordered to pay all costs and reasonable attorney's fees sustained by this Defendant.

Respectfully submitted,

Sutter, O'Connell & Farchione Co. L.P.A.

/s/ Christina J. Marshall
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Attorney for Defendant,
VC E-Commerce Solutions, Inc.

JURY DEMAND

Now comes Defendant VC E-Commerce Solutions, Inc. and hereby requests a jury to hear all of the issues of this case.

/s/ Christina J. Marshall
CHRISTINA J. MARSHALL (0069963)

CERTIFICATE OF SERVICE

A copy of the foregoing Answer has been forwarded this 21st day of June, 2006

to:

Lisa A. Wafer
Ferron & Associates
580 North Fourth Street, Suite 450
Columbus, Ohio 43215-2125

Attorney for Plaintiff

/s/ Christina J. Marshall
CHRISTINA J. MARSHALL (0069963)