

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

JOHN W. FERRON,	:	
	:	
Plaintiff,	:	Civil Action No. 2:06-cv-322
	:	
vs.	:	Judge Frost
	:	
VC E-COMMERCE SOLUTIONS, INC., <i>et</i>	:	Magistrate Judge Abel
<i>al.</i> ,	:	
	:	
Defendants.	:	

**PLAINTIFF JOHN W. FERRON'S FIRST SET OF INTERROGATORIES
TO DEFENDANT VC E-COMMERCE SOLUTIONS, INC.
AND DEFENDANT OPTINREALBIG.COM, LLC**

PLAINTIFF JOHN W. FERRON, by and through the undersigned counsel, hereby propounds the following First Set of Interrogatories to DEFENDANT VC E-COMMERCE SOLUTIONS, INC. ("Defendant VC") and DEFENDANT OPTINREALBIG.COM, LLC. ("Defendant Opt"). Defendants' responses to these Interrogatories must be served within 30 days hereof, pursuant to Rule 33 of the Federal Rules of Civil Procedure.

DEFINITIONS

Unless otherwise indicated, the following definitions shall be applicable to the following Interrogatories:

1. "Plaintiff" shall refer to Plaintiff John W. Ferron.
2. "Defendant VC" shall refer to Defendant VC E-Commerce Solutions, Inc.
3. "Defendant Opt" shall refer to Defendant OptInRealBig.com, LLC.
4. "Identify" shall, with respect to a person, mean that each answering Defendant shall provide the person's full name, current employer, current work address, current residential address, current work telephone number and current home telephone number.

5. “Identify” shall, with respect to an entity, mean that each answering Defendant shall provide the entity’s full legal name, all trade names and fictitious names used by the entity since January 1, 2005, the entity’s principal business address, and the entity’s current business telephone numbers, including any toll free numbers.

6. “Identify” shall, with respect to a document, mean that each answering Defendant shall provide the date, the author(s), the recipient(s), the nature or type of document (*e.g.*, letter, memorandum, etc.), the title of the document, the number of pages in such document and the identity of any attachments or enclosures.

7. The words “document” and “documents” mean all forms of recorded data or information, including the originals of any nature whatsoever, identical copies and all non-identical copies thereof pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control, regardless of where located; including, but not limited to, minutes, notes, comments, worksheets, summaries, records or other reports concerning meetings, conferences, visits, surveys, inspections, statements, interviews or telephone conversations; inter-office memoranda; books, manuals, pamphlets, bulletins, circulars, instructions, work papers, transcripts, reports, memoranda, summaries, studies, analyses, evaluations, invoices, contracts, purchase agreements, deeds, promissory notes, mortgages, journals, logs, files, statistical records, diaries, calendars, travel and telephone logs, and appointment books, correspondence and telegrams, envelopes and other wrappers and packaging; graphs, charts and maps; transcripts of verbal testimony or statements; checks, check stubs and money orders, travel vouchers, receipts, returns; reports of experts; affidavits; balance sheets, profit and loss statements, books of account, statements of account, and other financial data, analyses, statistical and other forecasts, projections or budgets; teletypes, telefax; printouts

or other stored information on or from computers or other information retrieval systems, as well as all applicable file menus, directories, distribution lists and acknowledgments of receipt, documents sent by electronic mail (e-mail) or any information stored on computer diskette; photographic matter or sound reproduction, however produced or reproduced, including, but not limited to, photographs, microfiche, microfilm, videotapes, recordings, motion pictures, tapes, cassettes, and discs; and any other handwritten, printed, recorded or graphic matter.

8. Documents in each answering Defendant's control include any and all documents in the possession of said Defendant's attorneys, accountants or agents. The term "document" shall also be construed so as to include in each document request a request for every document that revises, amends, changes, modifies, supersedes, replaces or otherwise alters any document identified.

9. The word "communication" means the exchange of ideas, messages or information whether by speech, in writing or electronically.

10. "Relating to" or "referring to" means any document that in whole or in part, constitutes, contains, embodies, reflects, identifies, states, refers to, pertains, or is in any way relevant, directly or indirectly, expressly or implied, to that given subject.

11. "Control" means actual possession, and/or the power or ability to obtain possession.

INTERROGATORIES

Interrogatory No. 1: Please identify any and all persons and/or entities either residing at, or conducting business at or from, the following addresses at any time between January 1, 2005 and the present date:

- (A) 3250 W. Big Beaver Road
Suite 144
Troy, MI 48084
- (B) 1779 N Congress Avenue
Suite 207
Boynton Beach, FL 33426-8205
- (C) 13900 Jog Road
Suite 203-251
Delray Beach, FL 33446
- (D) 1333 W 120th Avenue
Suite 101
Westminster, CO 80234
- (E) 9301 Peppercorn Place
Largo, MD 20774
- (F) 22647 Ventura Blvd.
Suite 258
Woodland Hills, CA 91364
- (G) 950 Walnut Bottom Road
Suite 15-212
Carlisle, PA 17013
- (H) 111 East 14th St.
#104
New York, NY 10003
- (I) 2533 N. Carson St.
Suite 6029
Carson City, NV 89706
- (J) 4846 N. University Drive
#323
Lauderhill, FL 33351

- (K) 160 International Parkway
Heathrow, FL 32746
- (L) P.O. Box 3858
New Haven, CT 06525
- (M) Osianderstr. 3
Nuernberg, 90443
Bavaria, Germany
- (N) 707 W. 38th Street
#103
Erie, PA 16508
- (O) 5023 W 120th Avenue
#175
Broomfield, CO 80020
- (P) 1254 Davis Street
#225
San Landro, CA 94577
- (Q) 2355 Fairview Avenue
Suite 345
Roseville, MN 55113
- (R) 2637 N. Washington Blvd.
Suite 221
North Ogden, UT 84414
- (S) 2 Wisconsin Circle
Suite 700
Chevy Chase, MD 20815
- (T) 1894 Highway 50E
Suite #4
PMB 472
Carson City, NV 89701
- (U) 499 East Sheridan St.
#205
Dania Beach, FL 33004
- (V) 123 N. Congress Avenue
Suite 351

Boynton Beach, FL 33426

- (W) 244 Madison Avenue
#238
New York, NY 10016-2817
- (X) 999 Skyway Landing Rd.
Suite 200
San Carlos, CA 94070
- (Z) 707 W. 38th Street
#103
Erie, PA 16508
- (AA) 1344 Broadway
New York, NY 10001
- (BB) 303 Park Avenue South
Suite 1117
New York, NY 10010
- (CC) 4 Carmichael Street
#1470
Essex Junction, VT 05452
- (DD) 18565 Soledad Cyn Rd.
#117
Canyon Country, CA 91351
- (EE) 3439 N.E. Sandy Blvd.
#242
Portland, OR 97232
- (FF) 3818 Cedar Springs Road
#101-10
Dallas, TX 75219
- (GG) 5348 Vegas Drive
Suite 472
Las Vegas, NV 89108
- (HH) 23404 W. Lyons Avenue
Box 466
Newhall, CA 91321

- (II) P.O. Box 55246
Valencia, CA 91385
- (JJ) 427 E.17th Street
#142
Costa Mesa, CA 92627
- (KK) 975 Wayne Avenue
Box 204
Chambersburg, PA 17201
- (LL) P.O. Box 390520
Mountain View, CA 94039-0520
- (MM) 4001 Kennett Pike
#527
Greenville, DE 19807-2000

Answer:

Interrogatory No. 2: Please identify the following persons:¹

- (A) Jaz Pester
- (B) Jazette Pester
- (C) Jazete Pester
- (D) Amanda Gomez
- (E) Jocy Kemp
- (F) Caryn Stoll
- (G) Caryn Stolt
- (H) Caryn Stoltz
- (I) Laura Cruz
- (J) Sandy Henderson
- (K) Brian Murry

Answer:

¹ If any of these names is not the name of an actual person, but rather is a fictitious name, please indicate that fact.

Interrogatory No. 3: Please identify all persons who and/or entities that employed the following persons² at any time between January 1, 2005 and the present date:

- (A) Jaz Pester
- (B) Jazette Pester
- (C) Jazete Pester
- (D) Amanda Gomez
- (E) Joey Kemp
- (F) Caryn Stoll
- (G) Caryn Stolt
- (H) Caryn Stoltz
- (I) Laura Cruz
- (J) Sandy Henderson
- (K) Brian Murry

Answer:

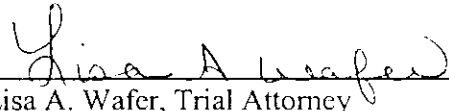
² If any of these names is not the name of an actual person, but rather is a fictitious name, please indicate that fact.

Interrogatory No. 4: Please identify any and all companies that have given either Defendant permission to use their logos, brands, service marks, trademarks or names in commercial email messages sent by or on behalf of either Defendant to Plaintiff in 2005 and/or 2006, and please also indicate whether such permission was given in writing.³

Answer:

³ Plaintiff notes that the following companies' trademarks, service marks, brands and/or names appear in commercial email messages sent by Defendant or on its behalf to Plaintiff: Abercrombie, American Airlines, Amazon.com, Apple, Banana Republic, Best Buy, Bose, Bowflex, Burger King, Canon, Chili's, Circuit City, Coach, Coca-Cola, Dell, Delta Airlines, Disney, eBay, Gateway, Gucci, Home Depot, Kmart, Lowe's, MasterCard, McDonald's, Motorola, Nordstrom, Old Navy, Omaha Steaks, Outback Steakhouse, Overstock.com, Palm, Panasonic, Pepsi, Prada, Sam's Club, Sirius Radio, Sony, Starbucks, T-Mobile, Target, Toshiba, Toys R Us, TurboTax, United Airlines, U.S. Airway, Victoria's Secret, Visa, Wal-Mart and Wendy's.

Respectfully submitted,



Lisa A. Wafer, Trial Attorney
Oh. Sup. Ct. Reg. No. 0074034
lwafer@ferronlaw.com
FERRON & ASSOCIATES
A Legal Professional Association
580 North Fourth Street, Suite 450
Columbus, Ohio 43215-2125
(614) 228-5225, 228-3255 fax

Attorney for Plaintiff,
John W. Ferron

Of Counsel to Plaintiff:

Marisa Bartlette Willis
Oh. Sup. Ct. Reg. No. 0076536
mwillis@ferronlaw.com
FERRON & ASSOCIATES
A Legal Professional Association
580 North Fourth Street, Suite 450
Columbus, Ohio 43215-2125
(614) 228-5225, 228-3255 fax

VERIFICATION

I hereby certify that I am authorized to answer "Plaintiff John W. Ferron's First Set of Interrogatories to Defendant VC E-Commerce, Inc. and Defendant OptInRealBig.com, LLC" on behalf of Defendant VC E-Commerce, Inc., and that the foregoing answers to are each truthful, correct and complete to the best of my own personal knowledge, information and belief.

Signature: _____

Name/Title: _____
(Please type or print legibly)

Sworn to and subscribed before me this ____ day of _____, 200__.

Notary Public

VERIFICATION

I hereby certify that I am authorized to answer "Plaintiff John W. Ferron's First Set of Interrogatories to Defendant VC E-Commerce, Inc. and Defendant OptInRealBig.com, LLC" on behalf of Defendant VC OptInRealBig.com, and that the foregoing answers to are each truthful, correct and complete to the best of my own personal knowledge, information and belief.

Signature: _____

Name/Title: _____
(Please type or print legibly)

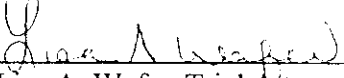
Sworn to and subscribed before me this ____ day of _____, 200__.

Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing pleading was served this 1st day of August, 2006 upon the below-named Trial Attorney for Defendants VC E-Commerce Solutions, Inc. and OptinRealbig.com, LLC, via fax (courtesy copy via regular U.S. mail):

Christina J. Marshall (0069963)
SUTTER, O'CONNELL & FARCHIONE
3600 Erieview Tower
1301 E. 9th Street
Cleveland, Ohio 44114
(216) 928-2200, 928-4400 (fax)
Trial Attorney for Defendants,
VC E-Commerce Solutions, Inc. and
Defendant OptInRealBig.com, LLC



Lisa A. Wafer, Trial Attorney