

**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.	:	

State of Ohio)	
County of Franklin)	SS.

**SECOND SUPPLEMENTAL AFFIDAVIT
OF JOHN W. FERRON**

I, John W. Ferron, hereby state under oath as follows:

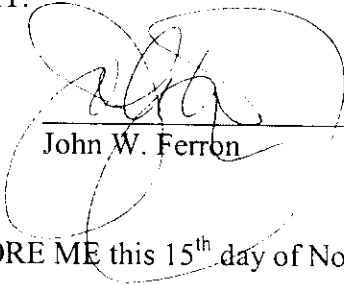
1. I am over 18 years of age, and am otherwise competent to make this affidavit. The matters set forth below are based upon my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. I am providing this affidavit to supplement the Affidavit and Supplemental Affidavit that I have signed, which were filed with the Court, on October 11, 2006 (Document No. 30, Attachment 1), and on October 20, 2006 (Document No. 36), respectively.
3. To the best of my personal knowledge, information and belief, I have never signed up to receive any email messages from Defendant OptInRealBig.com, LLC ("OptIn"), or otherwise requested that OptIn send me its commercial email messages.
4. The more than 2,755 email messages that OptIn has sent to me, which I have been able to identify and which indicate that I will receive "FREE" items, advertise the availability of plasma TVs, cosmetics, gift cards for Subway, Wal-Mart, Starbucks, Nordstrom Outback Steakhouse, Abercrombie, Target, Gucci, JC Penney, Toys-R-Us and many other major retailers and restaurants. In visiting the web sites to which OptIn's emails are hyperlinked, I have made note of the fact that that consumer must purchase several different consumers goods, such as cosmetics, movies on DVD, credit cards, gas cards, music CDs, neckties, Disney children's books, children's reading programs, personalized letters from Santa,

colon cleansing products, magazine subscriptions, wrinkle cream, vacation travel, acne medicine, mortgages, weight loss programs, and menopause potions, in order to receive the "FREE" items described in the emails.

5. Attached hereto as "Exhibit A" (Attachment 2) is a true and correct printout of an email message I received from Defendant OptIn on October 30, 2006, at 8:00 a.m., at my email address of packerboy@aol.com. This email message was sent from the Internet domain name of www.asp060.com by Laura Cruz. Laura Cruz is an employee of OptIn, who has sent me hundreds of commercial email messages offering various "FREE" consumer goods and services that are not actually free.
6. On November 12, 2006, I clicked on the hyperlink of "<http://30.asp060.com/m/l?3od-ics9-1-b4le-j2n1g>", which is contained within "Exhibit A" (Attachment 2), and viewed and printed out the sponsors' three levels of offers appearing on the website to which the October 30, 2006 email message was hyperlinked. Attached hereto as "Exhibit B" (Attachment 3) is a true and correct printout of the first, or "silver", level of sponsors' offers. Attached hereto as "Exhibit C" (Attachment 4) is a true and correct printout of the second, or "gold", level of sponsors' offers. Attached hereto as "Exhibit D" (Attachment 5) is a true and correct printout of the third, or "platinum", level of sponsors' offers. All of the sponsors' offers appearing on the website to which Laura Cruz's October 30, 2006 email message was hyperlinked are offers of goods or services that consumers primarily purchase for their personal use.
7. Attached hereto as "Exhibit E" (Attachment 6) is a true and correct printout of the results of the Internet "WhoIs" search that I personally performed on October 11, 2006, by which I was able to determine that the Internet domain name of "www.asp060.com" is registered to Defendant OptIn.
8. Attached hereto as "Exhibit F" (Attachment 7) is a true and correct printout of the landing page of Defendant OptIn's web site - www.optinrealbig.com - as of October 12, 2006.
9. To my knowledge, I have not "unsubscribed" to any of the unsolicited commercial email messages that OptIn has sent to me because it has been my understanding for several years that: (a) an email recipient may unwittingly encourage even more unsolicited commercial email messages by clicking on the "unsubscribe" button in an email message; (b) by "unsubscribing" to an email, an email recipient may unwittingly enable others to use his computer for malicious purposes, including the transmittal of unsolicited commercial email messages or viruses to third persons; and (c) viruses may be downloaded to the email recipient's computer when the "unsubscribe" button in an unsolicited commercial email message is clicked. I gained these understandings from reading articles like the ones attached as "Exhibit G" (Attachment 8) and "Exhibit H" (Attachment 9).

10. Attached hereto as "Exhibit G" (Attachment 8) is a true and correct printout of an article published by Hewlett-Packard on its website, copyrighted 2006.
11. Attached hereto as "Exhibit H" (Attachment 9) is a true and correct printout of an article published by the University of Texas at Austin on its website, dated April 7, 2004.
12. On October 9, 2006, I directed the Internet browser of my home computer to the website of www.optinrealbig.com. Using my video camera, I videotaped the "Media Kit" multi-media presentation on Defendant's OptIn's website. I then personally copied the videotape of OptIn's Media Kit to a CD-ROM, using a file format that can easily be viewed on a computer by using a current version of Windows Media Player. That CD-ROM, which is being filed manually filed with the Court herewith, is hereby designated as "Exhibit I." Attached hereto as "Exhibit J" (Attachment 10) is a true and correct transcript of the voiceover from OptIn's Media Kit, which I personally prepared while viewing the Media Kit. I have personally verified the accuracy of this transcript.

FURTHER AFFIANT SAYETH NAUGHT.



John W. Ferron

SWORN AND SUBSCRIBED TO BEFORE ME this 15th day of November, 2006.



Notary Public



LISA A. WAFER
Attorney at Law
Notary Public, State of Ohio
My Commission Has No Expiration
Section 147.03 R.C.