

IN THE UNITED STATES DISTRICT COURT  
FOR THE 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 SOLUTIONS, INC., et al.	)	
	)	
Defendants.	)	
	)	
	)	

**DEFENDANT OPTINREALBIG.COM, LLC'S RESPONSES TO  
PLAINTIFF'S SECOND SET OF INTERROGATORIES TO DEFENDANTS**

Defendant Optinrealbig.com, LLC makes the following responses to Plaintiff's Second Set of Interrogatories.

**Preliminary Statement**

Optinrealbig.com, LLC ("OPTIN") is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegations contained in Plaintiff's First Amended Complaint. OPTIN reserves the right to amend or supplement its responses in accordance with the rules of court and any discovery orders entered in this matter.

These responses are made solely for the purpose of this action. Each response is made under all objections as to competence, materiality, relevance or other objection as to admissibility that may apply in the event that any such response, or the information contained, is sought to be used in court. OPTIN expressly reserves all such objections.

OPTIN objects to Plaintiff's instructions to the extent they seek to impose discovery obligations beyond those required by the applicable statutes and rules of court and to the extent that they attempt to ascribe meaning to certain words or phrases other than their customary and ordinary meanings.

## INTERROGATORIES

**Interrogatory No. 1:** In regard to the email messages contained on the SanDisk Cruzer Micro 2.0G USB Drive that Plaintiff forwarded to counsel for Defendants simultaneously with this Second Set of Interrogatories, please identify by date, time and name of sender each email message that was sent to Plaintiff by Defendant VC, Defendant Opt, and/or some other person or entity on behalf of either Defendant VC or Defendant Opt.

**Answer:**

OPTIN is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegation that it transmitted e-mail messages to Plaintiff. On August 7, 2006, this Defendant was provided over 62,000 e-mails to review and analyze, which Plaintiff asserts were sent by OPTIN. There is no reasonable and adequate means to search for and produce the requested information without manually reviewing each of these e-mails, requiring an undue and unreasonable amount of manpower, time, burden and expense.

OPTIN objects to this request because it is overly broad, unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. OPTIN further objects to the request because the information is more readily available to Plaintiff as the "date, time and name of sender" is contained within each email message produced by Plaintiff.

Subject to, and without waiver of, the foregoing objections, OPTIN states that after conducting an exhaustive search into the matter, OPTIN has not located any emails sent by or on behalf of OPTIN to Plaintiff.

OPTIN reserves the right to amend or supplement its response to this request after it has sufficient time to review this information, and in accordance with the rules of court and any discovery orders entered in this matter.

**Interrogatory No. 2:** As to each email message identified in Defendant's answer to Interrogatory No. 1, please identify each and every person and/or entity who participated in developing or sending each email to Plaintiff.

**Answer:**

OPTIN is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegation that it transmitted e-mail messages to Plaintiff. On August 7, 2006, this Defendant was provided over 62,000 e-mails to review and analyze, which Plaintiff asserts were sent by OPTIN. There is no reasonable and adequate means to search for and produce the requested information without manually reviewing each of these e-mails, requiring an undue and unreasonable amount of manpower, time, burden and expense.

OPTIN objects to this request because it is overly broad, unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. OPTIN objects to the term "developing," which is vague and undefined.

Subject to, and without waiver of, the foregoing objections, OPTIN states that after conducting an exhaustive search into the matter, OPTIN has not located any emails sent by or on behalf of OPTIN to Plaintiff.

OPTIN reserves the right to amend or supplement its response to this request after it has sufficient time to review this information, and in accordance with the rules of court and any discovery orders entered in this matter.

**Interrogatory No. 3:** As to each email message identified in Defendant's answer Interrogatory No.1, please identify each and every person and/or entity who received any monetary compensation for the transmittal of such email to Plaintiff and/or Plaintiff's clicking on such email or any web site to which said email is linked, and identify the amount of such monetary compensation.

**Answer:**

OPTIN objects to this request because it is overly broad, unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing objections, OPTIN states that it does not receive monetary compensation related to the transmittal of a particular email, nor does it receive monetary compensation for a individual's clicking on a particular email or linked web site within the that email.

OPTIN reserves the right to amend or supplement its response to this request after it has sufficient time to review this information, and in accordance with the rules of court and any discovery orders entered in this matter.

**Interrogatory No. 4:** As to each email message identified in Defendant's answer to Interrogatory No.1, please indicate how many other email addresses to which the same email message was also sent by Defendant VC, Defendant Opt, and/or some other person or entity on behalf of either Defendant VC or Defendant Opt.

**Answer:**

OPTIN is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegation that it transmitted e-mail messages to Plaintiff. On August 7, 2006, this Defendant was provided over 62,000 e-mails to review and analyze, which Plaintiff asserts were sent by OPTIN. There is no reasonable and adequate means to search for and produce the requested information without manually reviewing each of these e-mails, requiring an undue and unreasonable amount of manpower, time, burden and expense.

OPTIN objects to this request because it is overly broad, unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing objections, OPTIN states that after conducting an exhaustive search into the matter, OPTIN has not located any emails sent by or on behalf of OPTIN to Plaintiff. Therefore, OPTIN is without knowledge to adequately respond.

OPTIN reserves the right to amend or supplement its response to this request after it has sufficient time to review this information, and in accordance with the rules of court and any discovery orders entered in this matter.

**Interrogatory No. 5:** As to each email message identified in Defendant's answer to Interrogatory No.1, please provide all email addresses to which the same email message was also sent by Defendant VC, Defendant Opt, and/or some other person or entity on behalf of either Defendant VC or Defendant Opt.

**Answer:**

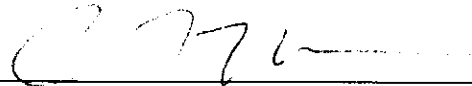
OPTIN is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegation that it transmitted e-mail messages to Plaintiff. On August 7, 2006, this Defendant was provided over 62,000 e-mails to review and analyze, which Plaintiff asserts were sent by OPTIN. There is no reasonable and adequate means to search for and produce the requested information without manually reviewing each of these e-mails, requiring an undue and unreasonable amount of manpower, time, burden and expense.

OPTIN objects to this request because it is overly broad, unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing objections, OPTIN states that after conducting an exhaustive search into the matter, OPTIN has not located any emails sent by or on behalf of OPTIN to Plaintiff. Therefore, OPTIN is without knowledge to adequately respond.

OPTIN reserves the right to amend or supplement its response to this request after it has sufficient time to review this information, and in accordance with the rules of court and any discovery orders entered in this matter.

Respectfully Submitted,



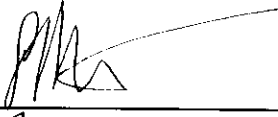
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Attorney for Defendants,  
VC E-Commerce Solutions, Inc. and  
Defendant OplnRealBig.com, LLC

**VERIFICATION**

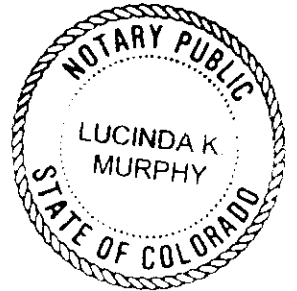
I hereby certify that I am authorized to answer "Plaintiff John W. Ferron's Second Set of Interrogatories to Defendant VC E-Commerce, Inc. and Defendant OptInRealBig.com, LLC" on behalf of Defendant Optinrealbig.com, LLC and that the foregoing answers to are each truthful, correct and complete to the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

Signature:   
Name/Title: Steven S. Richter, Pres.  
(Please type or print legibly)

Sworn to and subscribed before me this 31<sup>st</sup> day of September, 2006.

Lucinda K. Murphy  
Notary Public

Expires 12-27-08



**CERTIFICATE OF SERVICE**

A copy of the foregoing was forwarded via regular mail this 25<sup>th</sup> day of September, 2006

to the following:

Lisa A. Wafer  
Ferron & Associates  
580 North Fourth Street  
Suite 450  
Columbus, Ohio 13215-2125

Attorney for Plaintiff



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Christina J. Marshall (0069963)