

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 VC E-COMMERCE SOLUTIONS, INC.'S RESPONSES TO
PLAINTIFF'S SECOND SET OF INTERROGATORIES TO DEFENDANTS**

Defendant VC E-Commerce Solutions, Inc. makes the following responses to Plaintiff's Second Set of Interrogatories.

Preliminary Statement

VC E-Commerce Solutions, Inc. ("VCES") is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegations contained in Plaintiff's First Amended Complaint. VCES 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. VCES expressly reserves all such objections.

VCES 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:

VCES 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 VCES. 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.

VCES 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. VCES 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.

VCES 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:

VCES 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 VCES. 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.

VCES 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. VCES objects to the term "participated," which is vague and undefined.

VCES 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:

VCES objects to this request in that it can be read to seek information constituting confidential or proprietary business information and/or trade secrets, disclosure of which would cause substantial competitive and economic harm to this Defendant and is also potentially invasive of the attorney-client privilege and/or attorney work product doctrine.

VCES further 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.

VCES 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:

VCES 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 VCES. 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.

VCES 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.

VCES 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:

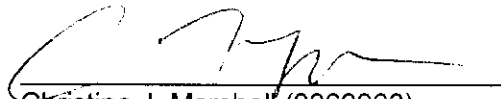
VCES is in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegation that it transmitted e-mail messages to Plaintiff. On August 7, 2006, this Defendant was provided over 62,000 e-mails to review and analyze, which Plaintiff asserts were sent by VCES. 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.

VCES 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.

If this request is intended to require that this Defendant search for and produce email addresses for persons and entities other than Plaintiff, VCES objects as this request seeks confidential and privileged information concerning individuals that are not a party to this litigation the disclosure of which may be restricted by VCES' privacy policy, state rights of privacy and state and federal internet privacy laws.

VCES 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,

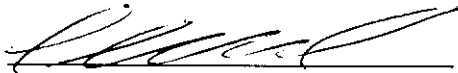
A handwritten signature in black ink, appearing to read 'C. Marshall', written over a horizontal line.

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E-Mail: cmarshall@sutter-law.com

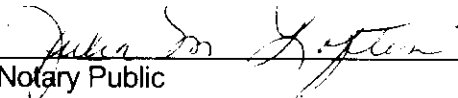
Attorney for Defendants,
VC E-Commerce Solutions, Inc. and
Defendant OpInRealBig.com, LLC

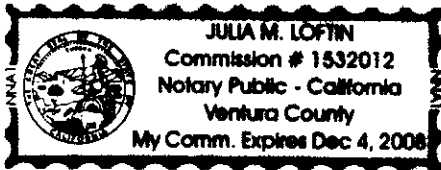
VERIFICATION

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 VC E-Commerce Solutions, 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: *John W. Ferron*
(Please type or print legibly)

Sworn to and subscribed before me this 26th day of September, 2006.


Notary Public



CERTIFICATE OF SERVICE

A copy of the foregoing was forwarded via regular mail this 26th 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



Christina J. Marshall (0069963)