



FERRON & ASSOCIATES

A Legal Professional Association

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February 20, 2007

**VIA EMAIL & REGULAR U.S. MAIL**

Christina J. Marshall  
SUTTER, O'CONNELL & FARCHIONE  
3600 Erieview Tower  
1301 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44114

**Re: John W. Ferron v. VC E-Commerce Solutions, Inc., et al.  
U.S. Dist Ct., S. Dist. Ohio, E. Div., Case No. 2:06-cv-322  
Judge Frost, Magistrate Judge Abel**

Dear Christina:

Pursuant to S.D. Ohio Civ. R. 37.1, I am writing to bring to your attention to our serious concerns regarding Defendants' obviously inadequate and incomplete answers to PLAINTIFF'S SECOND SET OF INTERROGATORIES, and to request that Defendants immediately agree to supplement its previous answers so that Plaintiff will have Defendants' complete answers to his Interrogatories.

**Interrogatory No. 1**

Interrogatory No. 1 properly asks Defendants to identify which of the email messages, which were contained on the SanDisk Cruzer Micro 2.0G USB Drive served therewith, they sent to Plaintiff.

Defendants' answers only indicate that they are "in the process of investigating the facts, conducting discovery, and analyzing the evidence surrounding the allegation that [Defendants] transmitted e-mail messages to Plaintiff."

As you know, Plaintiff produced these emails to Defendants on a SanDisk Cruzer Micro 2.0G USB Drive (the "thumb drive") more than six months ago. Therefore, Defendants have now had more than enough time to investigate the emails to determine which ones they sent to Plaintiff.

Accordingly, Plaintiff insists that Defendants immediately agree to supplement their answers to Interrogatory No. 1 in this respect.

**Interrogatory Nos. 2, 3, 4 and 5**

Interrogatory Nos. 2, 3, 4 and 5 appropriately request identifying information about the persons or entities, if any, on whose behalf Defendants have transmitted email messages to Plaintiff.

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Defendants have flatly refused to respond to these Interrogatories on the asserted basis that such information constitutes confidential trade secret and/or proprietary information. These objections are wholly inappropriate. As you know, the Court recently considered this same argument in *Ferron v. Search Cactus, LLC, et al.*, Civil Action No. 06-327, and determined that this type of information does **not** constitute "trade secret" information barring its discovery in civil litigation. Therefore, Plaintiff insists that Defendants reconsider their unfounded objections to these Interrogatories, and immediately agree to produce this information.

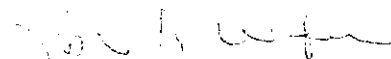
As you know, Plaintiff's Complaint identifies several "Doe" defendants that Plaintiff has always planned to add as parties defendant in this case because of their role in sending the emails and/or causing them to be sent to Plaintiff. Under Ohio law, in order for a supplier to be found liable for violations of the Consumer Sales Practices Act, the supplier need only have "some connection" to the consumer transaction. If Defendants have sent email messages to Plaintiff on behalf of other persons or entities, as Defendant OptinRealBig.com, LLC has asserted, those persons or entities may be named as parties defendant and held accountable for any violations of the law arising from the emails. Therefore, the information Plaintiff seeks is clearly relevant and discoverable, and must be produced.

Given the Court's current case scheduling order, which requires that Plaintiff seek leave to include additional parties by March 5, 2007, we must insist that you advise us no later than February 27, 2007, as to whether your clients will agree to produce the above-requested information within the next week. In the event that we are not able to resolve these discovery issues by that time, I will be obliged to bring Plaintiff's concerns to the attention of the Court through a Motion to Compel, and Plaintiff will also move for an extension of time to seek leave to include additional parties in this case.

I look forward to hearing from you very soon. Thank you.

Very truly yours,

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