

90010

1 William Silverstein  
2 3540 Wilshire Blvd. #715  
3 Los Angeles, CA 90010  
4 (213) 632-5297

5 *Plaintiff in pro per*

*D30*  
**Case assigned to Judge**  
*Jane O'Donnell*

**FILED**  
LOS ANGELES SUPERIOR COURT

AUG 01 2007

JOHN A. CLARKE, CLERK  
*[Signature]*  
BY D.M. SWAIN, DEPUTY

7 CALIFORNIA SUPERIOR COURT  
8 COUNTY OF LOS ANGELES  
9 CENTRAL DISTRICT - UNLIMITED CIVIL

10 WILLIAM SILVERSTEIN, an individual,

11 Plaintiff,

12 vs.

13 LIQUID MINDS LLC, TECHIE GROUP LLC  
14 EAST GROUP LLC, AXS CHARGE LTD, DEV8  
15 ENTERTAINMENT LIMITED, DATALINE IDEAS  
16 LIMITED,  
17 and DOES 1-50,

18 Defendants,

CASE NO.: B C 375173

**VERIFIED COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF**

1. Violations of the CAN-SPAM ACT ( 15 U.S.C. § 7703 et seq)
2. Violations of Business and Professions Code § 17529.5
3. Penal Code 502
4. Trespass to Chattels

**JURY TRIAL DEMANDED**

19 Plaintiff alleges as follows:

**INTRODUCTION**

20 This is a case where a spammer ignores the judgments and orders of multiple courts,  
 21 ignores the law, and continues to send illegal unsolicited commercial pornographic e-mails  
 22 to parties that have made it clear that it is not welcome. Despite over \$300,000 in monetary  
 23 judgments and two permanent injunctions against Defendants in other cases, Defendant  
 24 continues to foist their pornographic filth to unwilling California citizens. To this day,  
 25 Defendants refuse to cease their illegal activity, but instead move their money processing  
 26 offshore. Shortly after being served with their second lawsuit for illegal spamming,  
 27 Defendants created two new corporations and transferred their web site processing to those  
 28 two corporations in an attempt to evade the Court's judgment. In Defendants' third case for

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 LOS ANGELES, CA 90012

1 the Court has ruled Defendants fraudulently transferred assets to avoid the enforcement of  
2 the judgment of that Court.

3  
4 **HISTORY**

- 5 5. On June 8, 2005, Timothy Walton, an unrelated party, was awarded a judgment of  
6 \$100,299.50 in addition to a permanent injunction against the Defendants for sending  
7 illegal unsolicited commercial e-mail ("spam"). Case number 1-05-CV-035075 Santa  
8 Clara Superior Court.
- 9 6. On February 27, 2006 that Court awarded William Silverstein \$150,000 in damages  
10 addition to a permanent injunction against the Defendants for spam. Additionally, this  
11 judgment ruled that Liquid Minds, LLC, Techie Group, LLC, East Group, LLC,  
12 AXS Charge Ltd, Dev8 Entertainment Limited were alter-egos of each other. Case  
13 number BC340643, Los Angeles Superior Court.
- 14 7. On March 23, 2007 that Court awarded William Silverstein \$48,000.00 in damages  
15 against the Defendants for sending spam. Additionally adjudged was that Liquid  
16 Minds, LLC, Techie Group, LLC, East Group, LLC, Axs Charge Ltd, Dev8  
17 Entertainment Limited were alter-egos of each other. Case number BC351414, Los  
18 Angeles Superior Court.
- 19 8. On June 7, 2007, the Court, in BC351414, ruled that Defendants May 14, 2007  
20 transfer of the money processing account for their web sites to Dataline Idea Limited  
21 "*was fraudulent and done solely to avoid the enforcement of the judgment of this  
22 Court.*"

23 **PARTIES**

- 24 9. Plaintiff WILLIAM SILVERSTEIN is an individual operating as a sole proprietor  
25 under the laws of the State of California and qualified and doing business under his  
26 own name with a principal place of business in Los Angeles, California.
- 27 10. Plaintiff provides registered users the ability to send or receive electronic mail through  
28 equipment located in the State of California, and operates equipment that acts as an  
intermediary in sending and receiving electronic mail.
11. Plaintiff is a provider of "Internet access service" as defined by 15 U.S.C. § 7702(11)  
and an "electronic mail service provider" as defined by California Business and

1 Professions Code § 17529.1(h).

2 12. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto  
3 Liquid Minds, LLC, is a corporation duly organized under the laws of the State of  
4 Nevada.

5 13. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto  
6 Techie Group, LLC, is a corporation duly organized and recognized under the laws of  
7 the State of Delaware.

8 14. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto  
9 East Group, LLC, is a corporation duly organized and recognized under the laws of  
10 the State of Delaware.

11 15. AXS Charge LTD is an entity of unknown type or organization.

12 16. DEV8 Entertainment Limited is an entity of unknown type or organization.

13 17. It has been adjudged that Liquid Minds, LLC., East Group LLC., Techie Group, LLC.,  
14 DEV8 Entertainment Limited , and AXS Charge LTD are alter egos of each other.

15 18. Dataline Idea Limited is an entity of unknown type or organization.

16 19. Plaintiff is informed and believes and therefore alleges that Dataline Idea Limited is  
17 another alter-ego for Liquid Minds, LLC., East Group LLC., Techie Group, LLC.,  
18 DEV8 Entertainment Limited , and AXS Charge LTD.

19 20. Defendants operate an affiliate program called “PerfectGonzo” which has a website  
20 located at the domain name perfectgonzo.com.

21 21. Defendants operate the website “AssTraffic” which operates at the domain names  
22 asstraffic.com and asstraffic.net.

23 22. Defendants operate the website “SpermSwap” which operates at the domain names  
24 spermswap.com and spermswap.net.

25 23. Defendants operate the website “Give Me Pink” which operates at the domain names  
26 givemepink.com and givemepink.net.

27 24. Defendants operate the website “AllInternal” which operates at the domain names  
28 allinternal.com and allinternal.net.

25. Defendants operate the website named “Tamed Teens” which operates at the domain  
names tamedteens.com and tamedteens.com.

26. Defendants operate the website named “Cum for Cover” which operates at the domain  
names comforcover.com and comforcover.net.

- 1 27. Defendants operate the website named “MoreGonzo” which operates at the domain  
2 names moregonzo.com and moregonzo.net.
- 3 28. Defendants operate the website named “Pure POV” which operates at the domain  
4 names purepov.net and purepov.com.
- 5 29. Defendants’ web sites offer sexually explicit content to the public.
- 6 30. Plaintiff is informed and believes and thereupon alleges that at all times relevant, the  
7 Defendants’ operate the aforementioned web sites offering pornographic content to  
8 their members for a monthly fee.

9

10 **JURISDICTION AND VENUE**

- 11 31. Plaintiff brings this action pursuant to Section 17529.5 of the California Business and  
12 Professions Code, and pursuant to 15 U.S.C.A. § 7706(g)(1). This Court has  
13 concurrent jurisdiction over the federal claims.
- 14 32. The harm occurred within the jurisdiction of this Court as the email messages  
15 complained of herein were received by Plaintiff in Los Angeles, California.
- 16 33. The harm occurred within the jurisdiction of this Court as the emails complained of  
17 herein were unlawfully relayed through Plaintiff’s servers located in Los Angeles,  
18 California.
- 19 34. Defendants were aware that the complained of harm would occur in California.
- 20 35. Plaintiff is informed and believes and thereon alleges that all Defendants regularly  
21 solicit business from residents of the State of California.
- 22 36. Plaintiff is informed and believes and thereon alleges that all Defendants regularly  
23 conduct business with residents of the State of California and businesses domiciled  
24 within the State of California.

25 **FACTS COMMON TO ALL CLAIMS**

- 26 37. Plaintiff is informed and believes and thereupon alleges that at all times relevant, the  
27 herein mentioned Defendants knew that their activities were in violation of the law.
- 28 38. “Spam” is a term commonly used to refer to unsolicited commercial e-mail, which is a  
method of Internet advertising that involuntarily shifts the cost onto the ISP, the email  
service provider, and the recipient.

- 1 39. The practice of sending spam, also known as spamming, is so reviled on the Internet  
2 that the people sending spam (“spammers”) go to great lengths to hide their identities  
3 to avoid complaints made by recipients, Internet service providers, and government  
4 agencies.
- 5 40. In an effort to evade detection, spammers use hijacked machines (also known as  
6 “zombies”) to transmit their illegal spam. Spammers use hidden software that allows  
7 them to hijack consumers’ home computers and route spam through them. By routing  
8 their emails through “zombie” computers, the spammers are able to hide the true  
9 origin of the spam from consumers and trick sophisticated heuristic based spam filters.  
10 See <http://www.ftc.gov/opa/2005/05/zombies.htm> for more information on zombies.
- 11 41. Zombies are also used to host redirection web sites. Redirection web sites contain a  
12 single page that directs the viewer to the true target web site. The use of redirection  
13 web sites makes it more difficult to detect, filter, or attribute a particular e-mail to a  
14 particular Defendants’ spam. One may think of a redirection web site as call  
15 forwarding, but for web sites.
- 16 42. Plaintiff is informed and believes and thereon alleges that Defendants, either directly  
17 or through their agents, used zombies to send illegal spam to be sent to Plaintiff.
- 18 43. Plaintiff is informed and believes and thereon alleges that Defendants, either directly  
19 or through their agents, cause illegal spam to be sent to Plaintiff.
- 20 44. Prior to Defendants sending, or causing illegal spam to be, sent to Plaintiff, he did not  
21 have a pre-existing or current business relationship with Defendants.
- 22 45. Plaintiff successfully prosecuted two lawsuits against Defendants for their violation of  
23 California Business & Professions Code § 17529.5 and the CAN-SPAM. Act.
- 24 46. Timothy Walton, another California, resident successfully prosecuted a lawsuit against  
25 Defendants for their violation of California Business & Professions Code § 17529.5.
- 26 47. Defendants stream of illegal spam being sent to Plaintiff has not abated, despite three  
27 judgments against Defendants for the same type of activity. In fact, the amount of  
28 spam received from Defendants has increased.
48. Plaintiff provided Defendants, on multiple occasions, actual notice that Plaintiff is a  
California mail service provider using servers in California with a policy prohibiting  
unsolicited commercial e-mail.
49. Plaintiff is complaining of 1,164 spams advertising Defendants’ web sites.

- 1 50. Plaintiff has identified approximately 764 spams e-mails sent advertising Defendants  
2 web sites received between May 20, 2006 and July 31, 2007
- 3 51. Plaintiff expects to receive and identify an additional 400 spams advertising  
4 Defendants' web sites between August 2, 2007 and date that an answer is due in this  
5 complaint.
- 6 52. Each of the complained of spam contains sexually explicit language or sexually  
7 explicit images.
- 8 53. Defendants failed to prefix the subject line of their spam with  
9 "SEXUALLY-EXPLICIT: " as required by 16 C.F.R. Part 316 and 15 U.S.C. §  
10 7705(d)(1)(A).
- 11 54. Defendants failure to include the aforementioned legally required subject line prefix  
12 makes each the subject line deceptive per se.
- 13 55. Plaintiff's spam filter depends on aforementioned legally required labeling as  
14 Plaintiff's server deletes all emails containing "SEXUALLY-EXPLICIT:" in the  
15 subject line. This test takes minimal computing power.
- 16 56. Plaintiff is informed and believes and therefore alleges many of the subject lines of the  
17 spam contained intentional misspellings so as to bypass spam filters.
- 18 57. Plaintiff is informed and believes and therefore alleges that many of the spam  
19 contained intentional misspellings so as to bypass spam filters.
- 20 58. Plaintiff is informed and believes and therefore alleges that Defendants that the  
21 complained of spam contained a "from" line that did not accurately identify the person  
22 initiating the message.
- 23 59. Plaintiff is informed and believes and therefore alleges that most if not all the e-mails  
24 contained materially false and misleading headers.
- 25 60. Plaintiff is informed and believes and therefore alleges that Defendants sent the  
26 complained of spam messages knowing that the spam were not welcome, not wanted,  
27 and in violation of the law.
- 28 61. All of the complained of spam advertised at Defendants' defendants in some manner.
62. Many of the complained of spams contain a link to a web page on a "throw-away  
domain" which automatically forwards, or redirects, the resulting Internet traffic to the  
web sites.
63. Many of the complained of spams contain a link to a web page on a "throw-away

1 domain” that contain a link to at least one of Defendants’ web sites.

2 64. Many of the complained of spams did not have a link to a web page, but instead a  
3 sexually explicit image with graphical representation of the URL. This URL, if typed  
4 in to a browser would take the viewer to a page with a link to Defendants’ web sites.

5 65. Plaintiff defines a “throw-away domain” as one which a spammer registers with the  
6 intent to use the domain for only a short time. These throw-away domains are typically  
7 registered with false “whois” information.

8 66. “Whois information” is the publically accessible ownership and administrative contact  
9 about an Internet domain name. The whois information are statements made by the  
10 registrant of the domain.

11 67. Plaintiff inspected whois the whois information for many of the e-mails and found that  
12 the whois information was clearly and obviously false.

13 68. Defendants violated 18 U.S.C. 1037(a)(4) by using two or more domain names with  
14 false registration information in sending SPAM .

15 69. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto,  
16 Defendants went to great lengths in hiding their identities.

17 70. The threat of \$3,000,000.00 in punitive damages did not deter Defendants from their  
18 illegal spamming activity.

19 71. Having been assessed over \$300,000 in judgments did not deter Defendants from their  
20 illegal spamming activity.

21 72. Two separate court enjoining Defendants from violating e-mail marketing laws did not  
22 deter Defendants from their illegal spamming activity.

23 **FIRST CAUSE OF ACTION**  
24 **(Violation of CAN-SPAM Act of 2003)**

25 73. Plaintiff hereby incorporates by reference paragraphs 1 through 72, inclusive, as if the  
26 same were fully set forth herein.

27 74. Defendants are each a “Sender” of commercial electronic mail messages because each  
28 is “a person who initiates such a message and whose product, service, or Internet Web  
site is advertised or promoted by the message.” 15 U.S.C. § 7702(16)(B).

75. Plaintiff is informed and believe that and therefore alleges that Defendants “initiated”  
the emails complained of herein as that term is defined by 15 U.S.C. § 7702(9).

76. Plaintiff’s servers and personal computers are “protected computers” as that term is

1 defined in section 18 U.S.C. 1030(e)(2)(B).

2 77. Defendants sent spam to Plaintiff that contains, or was accompanied by, header  
3 information that is materially false or materially misleading.

4 78. Defendants engaged in a pattern and practice of sending spam that is accompanied by,  
5 header information that is materially false or materially misleading.

6 79. Defendants engaged in a pattern and practice of sending spam containing subject lines  
7 intended to, and likely to, mislead recipients, acting reasonably under the  
8 circumstances, about a material fact regarding the contents or subject matter of the  
9 message.

10 80. Defendants knowingly relayed their spam through Plaintiff's servers, without  
11 authorization.

12 81. Defendants engaged in a pattern and practice of sending spam that failed to contain  
13 senders' physical postal address.

14 82. Plaintiff objected to Defendants sending spam to Plaintiff.

15 83. Plaintiff is informed and believes and therefore alleges that Defendants engaged in a  
16 pattern and practice of sending spam to Plaintiff more than 10 days after objections.

17 84. Defendants profited from their wrongful conduct.

18 85. Plaintiff suffered damages as a result of Defendants' wrongful conduct.

19 86. WHEREFORE, Plaintiff prays for judgment against all Defendants herein for  
20 damages as set forth in the Prayer for relief.

21 **SECOND CAUSE OF ACTION**  
22 **(VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE § 17529.5)**

23 87. Plaintiff hereby incorporates by reference paragraphs 1 through 72, inclusive, as if  
24 the same were fully set forth herein.

25 88. Defendants are "advertisers" pursuant to Cal. Bus. & Prof. Code § 17529.1(a)  
26 because they are persons or entities that advertise through the use of commercial  
27 e-mail advertisements.

28 89. Plaintiff's email addresses are "California email addresses" pursuant to Cal. Bus. &

1 Prof. Code § 17529.1(b).

2 90. Pursuant to Cal. Bus. & Prof. Code § 17529.1(m), Plaintiff is a “recipient” of  
3 unsolicited commercial email advertisements initiated by Defendants.

4 91. Defendants sent commercial electronic mail to Plaintiff containing or accompanied  
5 by falsified, misrepresented, obscured, or forged header information.

6 92. Plaintiff is informed and believes and therefore alleges that Defendants'  
7 commercial electronic mail contained subject lines that were intended to, and were  
8 likely to, mislead recipients, acting reasonably under the circumstances, about a  
9 material fact regarding the contents or subject matter of the message.

10 93. Defendants profited from their wrongful conduct.

11 94. Plaintiff suffered damages as a result of Defendants’ wrongful conduct.

12 95. Plaintiff is informed and believes and thereon alleges that Defendants have  
13 willfully engaged in, and are willfully engaging in, the acts complained of with  
14 oppression, fraud, and malice, and in conscious disregard of the rights of Plaintiff.  
15 Plaintiff therefore is entitled to and demands exemplary damages in an amount  
16 sufficient to deter the Defendants,  
17  
18

19 and others, from behaving in such egregious behavior.

20 WHEREFORE, Plaintiff prays for judgment against all Defendants herein for damages as  
21 set forth in the Prayer for relief.  
22  
23

24  
25 **THIRD CAUSE OF CAUSE OF ACTION**  
26 **(TRESPASS TO CHATTEL)**

27 96. Plaintiff hereby incorporates by reference paragraphs 1 through 72, inclusive, as if  
28 the same were fully set forth herein.

97. Plaintiff is informed and believes and therefore alleges that Defendants took

1 control of Plaintiff's servers and work stations without authorization.

2 98. During the periods that Plaintiff's systems were following the instructions sent by  
3 the Defendants, Plaintiff was unable to access, read, or send desired e-mail.

4 99. During the time that Defendants controlled Plaintiff's server, Plaintiff's computers  
5 were required to devote resources to processing Defendants' instructions.

6 100. As a result of the Defendants' intermeddling, Plaintiff's systems allocated memory  
7 and disk storage to the Defendants's requests.

8 101. During Defendants' unauthorized possession and control of Plaintiff's computers,  
9 Plaintiff's computers was unable to perform the tasks that Plaintiff desired.

10 102. Defendants' alleged actions requires Plaintiff to perform more computer system  
11 maintenance and increased monitoring of Plaintiff's systems to reduce the risk of  
12 data loss.

13 103. Plaintiff suffered damages as the result of Defendants' wrongful conduct.

14 104. If Defendants' behavior is allowed to continue unchecked, it would encourage  
15 others to engage in similar intermeddling with Plaintiff's systems causing Plaintiff's  
16 systems to become entirely unusable.

17 105. Plaintiff suffered damages as a result of Defendants' wrongful conduct.

18 106. Plaintiff is informed and believes and thereon alleges that Defendants have  
19 willfully engaged in, and are willfully engaging in, the acts complained of with  
20 oppression, fraud, and malice, and in conscious disregard of the rights of Plaintiff.  
21 Plaintiff therefore is entitled to and demands exemplary damages in an amount  
22 sufficient to deter the Defendants, and others, from behaving in such egregious  
23 behavior.  
24  
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28

WHEREFORE, Plaintiff prays for judgment against all Defendants herein for damages as

1 set forth in the Prayer for relief.  
2

3  
4 **FOURTH CAUSE OF ACTION**  
5 **(CALIFORNIA PENAL CODE § 502)**

6 107. Plaintiff hereby incorporates by reference paragraphs 1 through 72, inclusive, as if  
7 the same were fully set forth herein.

8 108. Defendants were not authorized to access Plaintiff's computer systems.

9 109. Defendants were not authorized to use Plaintiff's servers to relay spam.

10 110. Defendants knowingly and without permission used or causes to be used computer  
11 services of Plaintiff's computers.

12 111. Defendants knowingly and without permission accessed and without permission  
13 added data to Plaintiff's computer systems.

14 112. Defendants have willfully engaged in, and are willfully engaging in, the acts  
15 complained of with oppression, fraud, and malice, and in conscious disregard of  
16 the rights of Plaintiff. Plaintiff therefore is entitled to and demands exemplary  
17 damages, as permitted under California Penal Code § 502(e)(4), in an amount  
18 sufficient to deter the Defendants, and others, from behaving in such egregious  
19 behavior.  
20

21 WHEREFORE, Plaintiff prays for judgment against all Defendants herein for damages as  
22 set forth in the Prayer for relief.  
23

24  
25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them  
27 as follows:

28 A. An Order of this Court enjoining Defendants, and each of them, and their agents,

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them  
3 as follows:

- 4
- 5 A. An Order of this Court enjoining Defendants, and each of them, and their agents,  
6 affiliates, servants, employees, and all persons acting under, in concert with them,  
7 from sending commercial e-mail to Plaintiff or to Plaintiff's servers;
- 8 B. Statutory damages, under Cal. Bus. & Prof. Code § 17529.5 of \$1,000 each for the  
9 1,164 illegal spams received from Defendants;
- 10 C. Statutory Damages, under the CAN-SPAM Act of \$150.00 for each of the 1,164  
11 spams received from Defendants;
- 12 D. Aggravated damages of \$450.00 for each of the 1,164 spams received from  
13 defendants pursuant to 15 U.S.C. § 7706(g)(3)(c);
- 14 E. General damages in an amount to be determined at trial;
- 15 F. Punitive damages in an amount to be determined by this Court, but not less than  
16 \$8,000,000.00;
- 17 G. Attorney's fees and costs including expert fees incurred, as allowed by law; and;
- 18 H. For such other and further relief as the Court may deem just and proper.
- 19  
20  
21

22  
23 Dated: August 1, 2007

24  
25 Respectfully submitted

26  
27  
28   
William Silverstein, Plaintiff

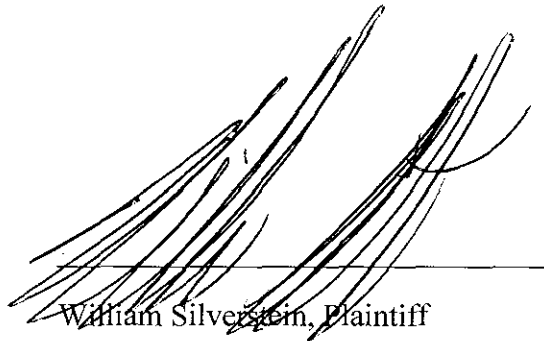
VERIFICATION

The undersigned, for himself, declares:

I am Plaintiff in the above-entitled action. I have read the foregoing complaint and know the contents thereof. With respect the causes of action alleged by me, the same is true of my own knowledge, except as those matters which are therein stated on information and belief, and, to those matters, I believe them to be true.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on August 1, 2007 in Los Angeles, California.



William Silverstein, Plaintiff