

EXHIBIT

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8 Attorney for e360Insight, Bargain Depot
9 Enterprises, LLC, a.k.a. Bargaindepot.net, and
10 Moniker Online Services, LLC

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION, LOS ANGELES

14 WILLIAM SILVERSTEIN, an)
15 individual,)
16 Plaintiff,)

17 vs.)

18 E360INSIGHT, LLC, BARGAIN)
19 DEPOT ENTERPRISES, LLC, AKA)
20 BARGAINDEPOT.NET, DAVID)
21 LINHARDT, an individual, MONIKER)
22 ONLINE SERVICES, LLC, And DOES)
23 1-50; inclusive,)
24 Defendants)

Case No.: cv07-2835 CAS (VBKx)

**DECLARATION OF DAVID
LINHARDT IN SUPPORT OF
OPPOSITION TO PLAINTIFF'S
ANTI-SLAPP MOTION TO
STRIKE COUNTERCLAIMS
PURSUANT TO CCP § 424.16.**

25 AND RELATED COUNTERCLAIMS)
26)
27)
28)

29 I, David Linhardt, under oath states as follows:

30 1. I am the President of e360Insight, LLC (e360) and Bargain Depot
31 Enterprises, LLC ("BDE"). I am over the age of 18 and competent to testify. I

1 have personal knowledge of the matters stated in this declaration and can and will
2 truthfully testify as to those matters.
3

4 2. e360 and BDE deliver their messages to their customers at addresses
5 provided by their customers or from partner sites where individuals opt-in to
6 receive email from 360 or BDE.
7

8 3. e360 and BDE are hired by and partner with companies that wish to
9 market their products or services using the internet.
10

11 4. e360's and BDE's customers sign up at websites owned by e360 or
12 BDE or at websites owned by e360's or BDE's marketing partners.
13

14 5. e360's and BDE's custom and practice is to only send email messages
15 to persons who first sign up or opt-in and provide their email address to e360 or
16 BDE or to one of e360's or BDE's marketing partners.
17

18 6. e360 and BDE attempt to verify the desire by such customers to
19 receive emails utilizing a "double opt-in" process. This process involves the
20 customer requesting an email, followed by e360 and BDE sending a confirmatory
21 email allowing the customer to affirm or terminate its decision to receive
22 marketing email. Recipients who do not terminate their registration upon
23 confirmation may be included in subsequent mailings until they voluntarily
24 terminate their registration.
25
26
27
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1 7. The website of Plaintiff's counsel published a statement by Plaintiff
2 refereeing to e360Insight as a "bully" and "liar. (See Exhibit 1 of this Declaration).
3
4 e360 has since reviewed the NANAE message board and discovered numerous
5 other references to e360 as being a "liar" or "lying".
6

7 8. e360 responded on a message board to a tide of negative postings
8 stating that e360 did not send spam.
9

10 9. On June 28, 2007, Plaintiff made the false statement that e360 and
11 BDE send "spam". (See Exhibit 2 of this Declaration).
12

13 10. On June 29, 2007 and July 11, 2007, Plaintiff made a false statement
14 implying e360 and BDE send "illegal spam". (See Exhibits 3 and 4 of this
15 Declaration). e360 and BDE have since reviewed the NANAE message board and
16 discovered numerous other references to e360 and BDE sending "spam" and
17 sending "illegal spam".
18

19 11. Labeling e360 and BDE as "spammers" diminishes their reputations
20 because it implies that e360 and BDE are sending unwanted email.
21

22 12. Labeling e360 and BDE as "spammers" diminishes the value of their
23 recipient lists because it conveys to their potential clients that the email lists
24 maintained by e360 and BDE are not composed of email addresses of individuals
25 opting in to receive emails.
26
27
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1 13. Labeling e360 and BDE as “Illegal spammers” diminishes their
2 reputations because it implies that e360 and BDE are violating applicable state and
3 federal laws.
4

5 14. Labeling e360 and BDE as “Illegal spammers” diminishes their
6 reputations because it implies that e360 and BDE are violating applicable state and
7 federal laws.
8

9 15. Labeling e360 and BDE as “illegal spammers” diminish the value of
10 their recipient list because it conveys to their potential clients that e360 and BDE
11 are violating applicable state and federal laws.
12
13

14 16. Based on my 12 years in internet marketing, it is my opinion that
15 consumers and email systems administrators do not distinguish the label “spam”
16 from “illegal span”, or “spamming” from “illegal spamming”, and these terms are
17 used synonymously to and are perceived as meaning that one so labeled is
18 engaging in illegal activity.
19
20

21 17. Before the original Complaint was filed in this case on March 16,
22 2007, Mr. Silverstein, contacted me and advised me that he was receiving
23 unwanted email that he claimed came from e360 or BDE.
24

25 18. Mr. Silverstein refused to provide his e-mail address and the only way
26 e360 could communicate with Plaintiff was through postings on the message
27 board.
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DAVID LINHARDT

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EXHIBIT

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***Nejadpour
& Associates***
a Professional Law Firm

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October 1, 2007: e360Insight, Bargain Depot, and Moniker's motion to dismiss Silverstein's first amended complaint was denied by the Court. This is the first case, that we are aware of, that a domain name registrar is being held liable for providing anonymous domain name registration services to a spammer. Using false whois information for domain names is a crime under 18 U.S.C. 1037(4).

August 21, 2007: We now represent Sindeelou Thomson against Congressman John Doolittle. Mrs. Thomson was unable to get Congressman John Doolittle to stop spamming her, until she filed suit. Congressman Doolittle removed to federal court, solely to intimidate, and then claimed he is not subject to the law. More information here. Take a survey on John Doolittle and CAN-SPAM.

March 2007: We filed, on behalf of William Silverstein, a new lawsuit against E360Insight ("E360") and David Linhardt for illegal sending illegal unsolicited commercial e-mail ("spam"), asking for \$11.7 million in punitive damages. Silverstein's complaint alleged that E360Insight and David Linhardt sent relayed illegal spam through Mr. Silverstein's server, without authorization, and sent illegal spam to Mr. Silverstein. For those not aware, E360Insight and David Lindhardt obtained a default judgment in the amount of \$11.7 million default against Spamhaus for defamation – for Spamhaus labeling E360Insight and Linhardt as spammers. E360's lawsuit is brought E360's alleged illegal spamming activities to Silverstein's attention. Silverstein decided to this lawsuit when E360 filed suit against individuals calling E360 and Linhardt spammers. *"I don't like bullies or liars,"* said Mr. Silverstein when he said that E360 and Linhardt needs to be sued. Mr. Silverstein is detailing the progress on his web site.

We are a collection of Professional and Aggressive attorneys in Beverly Hills, Los Angeles and Switzerland.

Our extensive divorce experience gives us the needed skill to track spammers and locate assets that they try to hide.

F. Bari Nejadpour & Associates, a Professional Law Corporation

EXHIBIT

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Path:

g2news1.google.com!news1.google.com!border1.nntp.dca.giganews.com!nntp.giganews.com!
local01.nntp.dca.giganews.com!nntp.speakeasy.net!news.speakeasy.net.POSTED!not-for-mail

NNTP-Posting-Date: Thu, 28 Jun 2007 23:31:42 -0500

From: Bill Silverstein <scrapedfromn...@sorehands.com>

Subject: Re: E360 wipes The Courtroom Floor with Silverstein

Date: Thu, 28 Jun 2007 21:31:39 -0600

References: <1183058849.810634.131340@n2g2000hse.googlegroups.com>

Newsgroups: news.admin.net-abuse.email

MIME-Version: 1.0

Content-Type: text/plain; charset="US-ASCII"

Content-Transfer-Encoding: 8bit

X-Newsreader: Internet Adventurer v1.50 for OS/2 - Unregistered

Message-ID: <YMqdnX__eLyzFhbnz2dnUVZ_ternz2d@speakeasy.net>

Lines: 67

X-Usenet-Provider: http://www.giganews.com

NNTP-Posting-Host: 69.17.103.74

X-Trace:

sv3-vVD3ri/zz5k4GvaigZ6IOr8Llrgt1CHJLzF/65wtWBtYlWmhFmsJZwdIMECYb9wIQsbpsrcU3OKXGY?
mTuampA2wSIFzyOxmJtQ60pMk60oAA/AFWHaKccfyQhnyS/17IuRK1lotSmR2w99yyQeNsJsER7zt!e46pliy

ZKmcGpcc484NNjh85X+MkvCHEmfo1csx54QnxOQ==

X-Complaints-To: abuse@speakeasy.net

X-DMCA-Complaints-To: ab...@speakeasy.net

X-Abuse-and-DMCA-Info: Please be sure to forward a copy of ALL headers

X-Abuse-and-DMCA-Info: Otherwise we will be unable to process your complaint properly

X-Postfilter: 1.3.35

On Thu, 28 Jun 2007 19:27:29 -0000, e360Insight wrote:

>Bill I-want-To-Be-Mark-Mumma Silverstein had a tough day in court
>yesterday.

>
>"The Court continues for 45 days defendants Moniker and Linhardt's
>motion to dismiss for lack of personal jurisdiction to enable parties
>to conduct limited jurisdictional discovery. The Court GRANTS
>defendants' motion to dismiss the Complaint for failure to plead with
>sufficient particularity, but GRANTS plaintiff leave to amend the
>Complaint. The Court GRANTS with leave to amend the defendants'
>motion to dismiss the Complaint against Moniker and Linhardt.
>Additionally, the Court GRANTS defendants' motion to strike
>plaintiff's request for punitive damages. Finally, the Court DENIES
>plaintiff's motion to strike defendants' Notice of Interested Parties
>and plaintiff's motion to remand the action to state court. IT IS SO
>ORDERED."

>
>Score In This Case:
>Legitimate Marketer = 4
>Criminal Vigilante = 1
>

I am not a criminal vigilante!

What laws have I broken? What criminal statutes did I violate???????

>Judge's Tentative Ruling
>http://www.e360insight.com/Judges_Tentative_Ruling_for_6_25_07_hearing.pdf
>

>Although the case is not over, we are looking to forward to opening up
>another can of whoop ass in 45 days should Mumma-Silverstein decide to
>amend his complaint.

>
>Once the case is over, we will be filing to recover our legal fees and
>we will be seeking punitive damages against the parties responsible.

>
>In response to the ruling, Mumma-Silverstein's attorney advised him to
>settle his divorce by offering 90% of everything he owns to his ex-
>wife.

>
>To all legitimate system administrators who are trying to stop
>unwanted email - e360's stated policy is to not send any email
>messages to any one who does not want to receive them. If you have
>any concerns about email messages coming from our network, please feel
>free to contact me directly at dlinha...@gmail.com. All reasonably
>requests will be handled fairly and amicably.

Then how come I got spam from you? I never signed up with you! I never
signed up with a partner of yours! Unless you define a partner that
someone who you pay money to buy a list!

>To all criminal vigilantes who choose to make ridiculous claims in
>court - we will send you packing with a lien on your assets and your
>financial future, however dismal it may be. If you are interested in
>spam-fighting, you would be better served by directing your attention
>to someone who is actually doing something wrong.
You are doing things wrong. I received spam from you, therefore you
must be a spammer. You file SLAPP suits!

EXHIBIT

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Path:
g2news1.google.com!news2.google.com!border1.nntp.dca.giganews.com!nntp.giganews.com!
local01.nntp.dca.giganews.com!nntp.speakeasy.net!news.speakeasy.net.POSTED!not-for-m
ail
NNTP-Posting-Date: Fri, 29 Jun 2007 16:23:58 -0500
From: Bill Silverstein <scrapedfromn...@sorehands.com>
Subject: Re: E360 Wipes The Courtroom Floor with Silverstein
Date: Fri, 29 Jun 2007 14:23:55 -0600
References: <1183058849.810634.131340@n2g2000hse.googlegroups.com>
Newsgroups: news.admin.net-abuse.email
MIME-Version: 1.0
Content-Type: text/plain; charset="US-ASCII"
Content-Transfer-Encoding: 8bit
X-Newsreader: Internet Adventurer v1.50 for OS/2 - Unregistered
Message-ID: <D60dnSct87Pz5RjbnZ2dnUVZ_uejnZ2d@speakeasy.net>
Lines: 21
X-Usenet-Provider: http://www.giganews.com
NNTP-Posting-Host: 69.17.103.74
X-Trace:
sv3-fwsJxNVKZXUECAs1kv4P3LgmadAgtGfus9ZLaUWLqAWJ30sGsScUBhI29fpk+e0qpfo1si3nJBzivzV!
x6jb7NjCd1hckH3y/RzC7fqwP+wyjA0upHiwZTEdEGj801izH+pnXfTswk015i6OQR2WR56BvzRk!QPb1CIh
RTQZAfdwdaMBbB/MF/NKBnqqu/+F/pw2UM5N/Eg==
X-Complaints-To: abuse@speakeasy.net
X-DMCA-Complaints-To: ab...@speakeasy.net
X-Abuse-and-DMCA-Info: Please be sure to forward a copy of ALL headers
X-Abuse-and-DMCA-Info: Otherwise we will be unable to process your complaint
properly
X-Postfilter: 1.3.35

On Thu, 28 Jun 2007 19:27:29 -0000, e360Insight wrote:

>Bill I-Want-To-Be-Mark-Mumma Silverstein had a tough day in court
>yesterday.
>
>Score In This Case:
>Legitimate Marketer = 4
>Criminal Vigilante = 1
>
>
>Dave Linhardt
>President
>e360Insight, LLC

I want an appology from you for your false statements. Not only posted here, put posted on every page of your web sit in the same font size as the text of your logo. Addionally, I want it to link to <http://www.ca1spam.com> so that your customers can see that you are being sued for sending illegal spam.

EXHIBIT

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Path:
g2news1.google.com!news2.google.com!border1.nntp.dca.giganews.com!nntp.giganews.com!
local01.nntp.dca.giganews.com!nntp.speakeasy.net!news.speakeasy.net.POSTED!not-for-m
ail
NNTP-Posting-Date: Wed, 11 Jul 2007 23:01:57 -0500
From: Bill Silverstein <scrapedfromn...@sorehands.com>
Subject: Re: E360 Wipes The Courtroom Floor With Silverstein
Date: Wed, 11 Jul 2007 21:01:56 -0600
References: <1183058849.810634.131340@n2g2000hse.googlegroups.com>
<060dnSct87Pz5RjbnZ2dnUVZ_uejnz2d@speakeasy.net>
<1184113692.862082.202070@p39g2000hse.googlegroups.com>
Newsgroups: news.admin.net-abuse.email
MIME-Version: 1.0
Content-Type: text/plain; charset="US-ASCII"
Content-Transfer-Encoding: 8bit
X-Newsreader: Internet Adventurer v1.50 for OS/2 - Unregistered
Message-ID: <goqdnVf044AoOgjbnZ2dnUVZ_sytnZ2d@speakeasy.net>
Lines: 44
X-Usenet-Provider: http://www.giganews.com
NNTP-Posting-Host: 69.17.103.74
X-Trace:
sv3-rw7OrhuP5m4AimggQGUn4RkRrioc/nKnEUi0jwyQZhi9pQc2fVdGvQXm6ogWcmx9Euz1bv/lgFswwwH!
UzfnIhes5Ltx80p91uoy8byy1mPHrTe0oZeNsk47VCao0dyHfCPkGAWGmnCPW2PH5JP1NRu9I6Iy!a83xijy
rLwSrmFeG5uJYkQfQkw9r43qPX1v4YnVHqzfIzg==
X-Complaints-To: abuse@speakeasy.net
X-DMCA-Complaints-To: ab...@speakeasy.net
X-Abuse-and-DMCA-Info: Please be sure to forward a copy of ALL headers
X-Abuse-and-DMCA-Info: Otherwise we will be unable to process your complaint
properly
X-Postfilter: 1.3.35

On wed, 11 Jul 2007 00:28:12 -0000, e360Insight wrote:

>On Jun 29, 3:23 pm, Bill Silverstein <scrapedfromn...@sorehands.com>
>wrote:

>> On Thu, 28 Jun 2007 19:27:29 -0000, e360Insight wrote:
>> >Bill I-Want-To-Be-Mark-Mumma Silverstein had a tough day in court
>> >yesterday.

>>
>> >Score In This Case:
>> >Legitimate Marketer = 4
>> >Criminal Vigilante = 1

>>
>> >Dave Linhardt
>> >President
>> >e360Insight, LLC

>>
>> I want an appology from you for your false statements. Not only posted
>> here, put posted on every page of your web sit in the same
>> font size as the text of your logo. Additionally, I want it to link
tohttp://www.calspam.comso that your customers can see that you are being
>> sued for sending illegal spam.

>
>>No thanks. I'd prefer to counter sue you and take your pick up truck
>and your double wide.

>
Based on what? Because I have received spam? Because I sued you for
illegal spamming?

You still have not stated ANY crime that I have committed. That is because I have not.

You full of shit. You falsely state that I committed a crime, but when asked what crime you are silent. It is because I HAVE NOT COMMITTED A CRIME!

E360Insight gets sued for spamming.
Ain't irony wonderful?
<http://www.ca1spam.com>