William Silverstein

Counterclaim-Defendant in pro per

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

WILLIAM SILVERSTEIN, an individual, Plaintiff, vs. E360INSIGHT, LLC, BARGAIN DEPOT ENTERPRISES, LLC AKA BARGAINDEPOT.NET, DAVID LINHARDT, MONIKER ONLINE SERVICES, LLC, and DOES 1-50; Defendants.	Case No.: CV07-02835-CAS (VBKx) **DECLARATION OF WILLIAM SILVERSTEIN IN SUPPORT OF COUNTER-DEFENDANT'S SPECIAL MOTION TO STRIKE COUNTERCLAIM PURSUANT TO CALIFORNIA RULES OF CIVIL PROCEDURE § 425.16 ANTI-SLAPP STATUTE**
E360INSIGHT, LLC and BARGAIN DEPOT ENTERPRISES, LLC, Counterclaim-Plaintiffs, vs. WILLIAM SILVERSTEIN, Counterclaim-Defendant.	Date: January 28, 2007 Time: 10:00 am Location: Courtroom 5 Honorable Christina A. Snyder

I, William Silverstein, declare:

1. I am over eighteen years of age and competent to testify. I have personal knowledge

of the facts stated herein.

2.   I am a software professional with over twenty-five years of experience, including the development of mail handling programs, mail processing servers, mail servers, and internet servers.

3.   I have the expertise and knowledge to operate internet servers, to analyze email headers and to competently analyze and testify to all issues contained within this declaration.

4.   On August 27, 2007 at 3:08 am, per my attorney's instructions, I e-mailed samples of the complained of spam to Joseph Kish, counsel for Counter-Plaintiff.

5.   On February 6, 2008 at 8:03 pm, I resent the aforementioned samples to Mr. Kish.

6.   On February 7, 2008, in a telephone conversation with Mr. Kish, I explained how e-mail works, how e-mail headers work, and how e-mail is typically displayed.

7.   The samples I sent Mr. Kish had internal account information redacted. These redactions do not impact Counter-Plaintiffs' ability to analyze the samples.

8.   In the aforementioned telephone call, I further explained to Mr. Kish that the redactions in the samples I sent him only refer to internal account information, and does not impact Counter-Plaintiffs' ability to analyze the samples

9.   I require all of the Defendants' domain names so that I can create custom software to scan all millions of e-mails contained on three different computer systems. This is the most efficient way to definitively identify them.

10. "Exhibit A" is a true and accurate copy of e360Insight's news release page along with a true and accurate copy of e360Insight's May 20, 2007 news release page. This was printed from e360's web site on February 18, 2008.

11. "Exhibit B" is a true and accurate copy of an e-mail I received from David Linhardt January 26, 2007.

12. "Exhibit C" is a true and accurate copy of one of the sample e-mails that I provided to counter-Plaintiffs. This sample is referenced on line 23, of Exhibit A of the First Amended Complaint ("FAC").

13. "Exhibit D" is a true and accurate copy of one of the sample e-mails that I provided to counter-Plaintiffs. This sample is referenced on line 45, of Exhibit A of the FAC.

14. Before the Spamhaus lawsuit, I had never heard of David Linhardt.

15. Before the Spamhaus lawsuit, I had never heard of e360Insight.

16. Before the Spamhaus lawsuit, I had never heard of Bargain Depot Enterprises.

17. I never subscribed my e-mail address with Counter-Plaintiffs.

18. I never subscribed my e-mail address with any party that indicated that they explicitly indicated that Counter-Plaintiffs were affiliated with them.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed February 19, 2008, at Los Angeles, California.

William Silverstein

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News

E360 Forces Spamhaus To Remove SBL Listings

Spamhaus Forced To Comply With Permanent Injunction

Wheeling, IL — May 20, 2007 — e360Insight announced today it has forced Spamhaus to remove Spamhaus BlackList (SBL) listings establishing the effectiveness of the permanent injunction against improper blacklisting without evidence. For several weeks, Spamhaus refused to comply with e360's request to remove SBL listings for two of e360's affiliated entities, even though they were clearly covered by the court's injunction. After E360 provided supporting documentation and filed a motion to find Spamhaus in contempt, Spamhaus removed the listings blocking e360's email messages.

On September 15, a U.S. Federal Judge ordered Spamhaus.org to pay $11.7 million in compensatory damages and issued a permanent injunction against Spamhaus' email blocking technology. The permanent injunction explicitly prohibits Spamhaus from interrupting e360's email messages in any way without providing supporting evidence. "Spamhaus shall not take any action to cause email sent by Plaintiffs or their affiliates, subsidiaries, or related companies owned or controlled by Plaintiffs to be blocked, delayed, altered, or interrupted in any way," according to injunction language granted by the court. Spamhaus is currently appealing the judgment, acknowledging the importance of the court's ruling.

Ms. Carrie Fino, attorney for Spamhaus, stated in court Spamhaus is willing to come forward with evidence of e360 spam, provided e360 can show the relationship with its affiliated entities. e360 produced corporate documents within 24 hours of Spamhaus' request made in court. To date, Spamhaus has failed to provide any evidence to the court, not even a single email address, to back up their claim that e360 is a spammer.

"I applaud Mr. Linford for finally deciding to follow U.S. law while conducting business in the United States," said David Linhardt, President & CEO of e360. "For years, Spamhaus has operated in this country with blatant disregard for its laws and for the rights of legitimate companies to conduct lawful business. Finally, Mr. Linford and his gang of irrational Spamhaus vigilantes are being held accountable for their improper actions."

E360's position is that Spamhaus.org is a fanatical, vigilante organization operating in the United States with blatant disregard for U.S. law. In addition, E360 has proven Spamhaus routinely exposes their customers and volunteers to extreme legal risk by continuing to engage in improper blacklisting, defamation, extortion and blackmail in the name of fighting spam.

In response to the court's judgment, Spamhaus posted several responses on its website and on usenet message boards. "The Illinois ruling, although meaningless for Spamhaus, which as a British organization not subject to Illinois court orders is continuing to list Linhardt's IP addresses on its SBL spam blocklist as usual, the Illinois ruling shows that U.S. courts can be bamboozled by spammers with great ease," says Steve Linford, Chief Executive of Spamhaus.

Currently, Spamhaus does not list any of e360's ip addresses on its SBL blacklist.

Mr. Linford hired Hinshaw & Culbertson, LLC to represent Spamhaus when the claim was filed by e360. Mr. Linford's attorney's then moved the case from state to federal court. On the day Spamhaus was required to provide discovery materials in the case, Mr. Linford, in a panic, fired his attorneys and withdrew from the proceedings. Now, Spamhaus is back in the case trying to appeal the judgment.

"Mr. Linford continues to claim the judgment is meaningless. Yet, he is appealing the judgment, is abiding by the permanent injunction, is disclosing assets for Spamhaus Project LTD and is being forced to disclose assets for Spamhaus Technology LTD," says Linhardt. "At long last, Mr. Linford is starting to understand the implications of the court's ruling in this matter."

E360Insight, LLC (E360) is a permission marketing company focused on cost effective customer acquisition solutions. E360 provides consumers with notification, choice and control as it relates to the receipt of marketing messages. Consumers opt-in to E360's programs and must meet E360's confirmation standards in order to receive marketing messages. Once entered, consumers can opt-out to cancel their subscription at any time for any reason. E360's lines of business include performance email, multi-channel list rental, data licensing and lead generation. By using E360's marketing solutions, companies can dramatically increase revenue and lower customer acquisition costs.

Contact us to learn how to verify permission and remove Spamhaus SBL listings

Return to News Page

"Direct Marketing is evolving every day; in some cases, it seems that we have come full circle. A few years ago, there was the rush to telemarketing, and then came the rush to the Internet. Now marketers are starting to understand that all of these - telephone, mail, internet, e-mail, so-called 'new media' - are simply alternative channels that enable direct contact with a customer."

e360 insight

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"Direct Marketing is evolving every
day; in some cases, it seems that
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are starting to understand that all
of these - telephone, mail,
internet, e-mail, so-called 'new
media' - are simply alternative
channels that enable direct contact
with a customer."

08.30.07   **E360 Wins Appeal Against Global Vigilante Organization Spamhaus**

e360Insight (e360) announced today it won its appeal hearing against international
vigilante blacklist organization, Spamhaus.org. This ruling marks the first time
Spamhaus is to be held accountable for its actions in disrupting legitimate commerce
in the United States. (more)

06.21.07   **E360 Launches Permission Verification Services (PVS™) For Legitimate Email Marketers**

e360Insight (e360) announced today the launch of Permission Verification Services
(PVS™), the first industry solution that addresses the root cause of consumer
complaints in email marketing. (more)

05.20.07   **E360 Forces Spamhaus To Remove SBL Listings**

e360Insight announced today it has forced Spamhaus to remove Spamhaus BlackList
(SBL) listings establishing the effectiveness of the permanent injunction against
improper blacklisting without evidence. (more)

04.20.07   **E360 Exposes Spamhaus Technology LTD, For-profit Alter Ego of The Spamhaus Project**

e360Insight announced today it has uncovered Spamhaus' for-profit alter ego used to
collect payment from U.S. companies for using the Spamhaus blacklist. After issuing
subpoena's to seventeen of Spamhaus U.S.-based customers, e360 obtained copies of
invoices issued by Spamhaus Technology LTD and The Spamhaus Project LTD, proving
Spamhaus does business in the United States. (more)

02.20.07   **Judge Grants e360's Motion To Enter Spamhaus Judgment In Mississippi**

Judge Charles P. Kocoras granted e360's motion to enter its judgment against
Spamhaus in the U.S. District Court of Northern Mississippi. This ruling is significant
because it enables e360 to potential seize control of spamhaus.org, one of
Spamhaus' assets. (more)

10.31.06   **Court Rules In Favor Of e360 In Spamhaus Lawsuit**

U.S. Federal Judge denied all of Spamhaus' motions today in open court. In addition,
Judge Kocoras ordered Spamhaus to comply with e360's motion for a citation to show
assets. Spamhaus must present its assets to the court in order to satisfy its financial
obligation to pay e360 $11.7 million in damages for improper blacklisting. (more)

10.04.07   **e360 Reports Spamhaus Receives $1.8 million Per Year For Improperly Blocking Its Email Messages**

e360Insight announced today it submitted an affidavit to the U.S. Circuit Court in
Illinois stating Spamhaus receives an estimated $1.8 million in annual fees for
improperly blocking e360's email messages. This affidavit was submitted under oath
by David Linhardt, e360's President and Founder. (more)

09.20.06   **Spamhaus Thumbs Its Nose At U.S. Federal Court**

Today, Spamhaus violated a U.S. Federal Court order to remove e360Insight from its
blacklist. On September 13, a U.S. District Court in Illinois issued a permanent
injunction against Spamhaus prohibiting them from taking any action that would
cause e360's email messages "to be blocked, delayed, altered, or interrupted in any
way." (more)

09.15.06   **Federal Court Orders Spamhaus To Pay $11.7 Million For Improper Blacklisting**

A U.S. Federal Judge ordered Spamhaus.org to pay $11.7 million in compensatory damages and issued a permanent injunction against their email blocking technology. The permanent injunction specifically prohibits Spamahaus.org from interrupting e360Insight's email messages in any way without providing supporting evidence. The order also requires Spamhaus.org to post a message on its website indicating e360 was wrongly listed on its blacklist. (more)

e360 Statement On Spamhaus Lawsuit

Complete Case History On e360Insight v. The Spamhaus Project

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EXHIBIT B

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EXHIBIT B

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Return-Path: <e360insight@gmail.com>
Delivered-To: scrapedfromnews@sorehands.com
Received: (qmail 16536 invoked by uid 511); 26 Jan 2007 09:13:41 -0800

  (clamdscan: 0.80/678. spamassassin: 3.0.1. perlscan: 1.24-st-qms.
  Clear:RC:0(64.233.162.241):SA:0(-2.5/5.0):.
  Processed in 6.162563 secs); 26 Jan 2007 17:13:41 -0000
X-Spam-Status: No, hits=-2.5 required=5.0
X-Spam-Report: SA TESTS
   0.1 RCVD_BY_IP            Received by mail server with no name
  -2.6 BAYES_00             BODY: Bayesian spam probability is 0 to 1%
                            [score: 0.0000]
X-Antivirus-MATTELABUSE-Mail-From: e360insight@gmail.com via mail.sorehands.com

Received: from unknown (HELO nz-out-0708.google.com) (64.233.162.241)
   by mail.sorehands.com with SMTP; 26 Jan 2007 09:13:35 -0800
Received: by nz-out-0708.google.com with SMTP id q60so695416nzb
        for <scrapedfromnews@sorehands.com>; Fri, 26 Jan 2007 09:13:34 -0800 (PST)
DomainKey-Signature: a=rsa-sha1; c=nofws;
        d=gmail.com; s=beta;


Received: by 10.35.18.4 with SMTP id v4mr248168pyi.1169831613967;
        Fri, 26 Jan 2007 09:13:33 -0800 (PST)
Received: from 67.36.188.22 by s48g2000cws.googlegroups.com with HTTP;
        Fri, 26 Jan 2007 17:13:32 +0000 (UTC)
From:  "e360Insight" <e360insight@gmail.com>
To: "Bill Silverstein" <scrapedfromnews@sorehands.com>
Subject: Re: E360INSIGHT, LLC are spammers and I can now sue them
Date: Fri, 26 Jan 2007 09:13:32 -0800
Message-ID: <1169831612.750645.48840@s48g2000cws.googlegroups.com>
In-Reply-To: <v4CdnU7d8IniPyXYnZ2dnUVZ_u-unZ2d@speakeasy.net>
References: <NjRsh.3543$O02.1113@newssvr11.news.prodigy.net>
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   <12rdk4c6q3968e4@corp.supernews.com>
   <1169649075.725882.298980@q2g2000cwa.googlegroups.com>
   <v4CdnU7d8IniPyXYnZ2dnUVZ_u-unZ2d@speakeasy.net>
User-Agent: G2/1.0
X-HTTP-UserAgent: Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1),gzip(gfe),gzip(gfe)
MIME-Version: 1.0
Content-Type: text/plain; charset="iso-8859-1"

>
> There is no spam welcome at the sorehands.com domain!
>

Mr. Silverstein,

I have investigated this further.  There was one record in our database
with a sorehands.com domain.  We have not been mailing this record
because it looks like someone was trying to set a trap in our system
with this email address.  Nevertheless, I have added the record to our
master do-not-email file and I have added sorehands.com to our master
domain suppression file.  I hope that these steps will help address
whatever concerns you may have.

Please feel free to contact me again in the future if you have any
other questions or concerns.

Regards,

Dave Linhardt
e360Insight@gmail.com
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EXHIBIT C

EXHIBIT C

Return-Path: <gfi22tcyna8t7· ˉiagrxktfzlgzq@GRACEFULLEST.ORG>
Delivered-To: [redacted]
Received: (qmail 12908 invoked by uid 509); 21 Jun 2005 23:00:43 -0700
Delivered-To: [redacted]
Received: (qmail 12904 invoked by uid 511); 21 Jun 2005 23:00:43 -0700
Received: from 222.111.92.244 by server.mattelabuse.com (envelope-from <
gfi22tcyna8t7w8jagrxktfzlgzq@gracefullest.org>, uid 509) with qmail-scanner-1.24-st-qms
 (clamdscan: 0.80/678. spamassassin: 3.0.1. perlscan: 1.24-st-qms.
 Clear:RC:0(222.111.92.244):SA:1(22.9/5.0):.
 Processed in 2.835671 secs); 22 Jun 2005 06:00:43 -0000
X-Spam-Status: Yes, hits=22.9 required=5.0
X-Spam-Level: ++++++++++++++++++++++
X-Antivirus-MYDOMAIN-Mail-From: gfi22tcyna8t7w8jagrxktfzlgzq@gracefullest.org via server.
mattelabuse.com
X-Antivirus-MYDOMAIN: 1.24-st-qms (Clear:RC:0(222.111.92.244):SA:1(22.9/5.0):. Processed in 2.
835671 secs Process 12895)
Received: from unknown (HELO ijvanhavvjjd4gqsey.GRACEFULLEST.ORG) (222.111.92.244)
  by server.sorehands.com with SMTP; 21 Jun 2005 23:00:39 -0700
Errors-To: ge62bx2tkp8f5w8glexj6ll62lvi@GRACEFULLEST.ORG
Message-ID: <if7d77qha5b3ppo-oozjbeqs22i@GRACEFULLEST.ORG>
Received: by ijvanhavvjjd4gqsey.GRACEFULLEST.ORG (ijvanhavvjjd4gqsey.GRACEFULLEST.ORG [222.111.
92.22]) with mail pro
        Wed, 22 Jun 2005 06:51:44 -0500
Date: Wed, 22 Jun 2005 06:51:44 GMT
MIME-Version: 1.0
X-Mailer: mail pro
Sensitivity: Normal
Importance: Normal
Subject: :SPAM:
From: "Designer Handbag Discounts" <eddycounty@GRACEFULLEST.ORG>
To: none@sorehands.com
Reply-To: eddycounty@GRACEFULLEST.ORG
Content-Type: text/html;
        charset="ISO-8859-1"

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48366667<br>
</body>
</html>
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EXHIBIT D

EXHIBIT D

```
Return-Path: <qefawf2ex.78jc dzhb77jb5nxky@liriosbarrio.org>
Delivered-To: [redacted]
Received: (qmail 4256 invoked by uid 509); 27 Jul 2005 12:17:55 -0700
Delivered-To: [redacted]
Received: (qmail 4254 invoked by uid 511); 27 Jul 2005 12:17:55 -0700
Received: from 67.140.31.172 by server.mattelabuse.com (envelope-from <qefawf2ex.
78jotdzhb77jb5nxky@liriosbarrio.org>, uid 509) with qmail-scanner-1.24-st-qms
 (clamdscan: 0.80/678. spamassassin: 3.0.1. perlscan: 1.24-st-qms.
 Clear:RC:0(67.140.31.172):SA:1(18.6/5.0):.
 Processed in 3.944314 secs); 27 Jul 2005 19:17:55 -0000
X-Spam-Status: Yes, hits=18.6 required=5.0
X-Spam-Level: +++++++++++++++++
X-Antivirus-MYDOMAIN-Mail-From: qefawf2ex.78jotdzhb77jb5nxky@liriosbarrio.org via server.
mattelabuse.com
X-Antivirus-MYDOMAIN: 1.24-st-qms (Clear:RC:0(67.140.31.172):SA:1(18.6/5.0):. Processed in 3.
944314 secs Process 4245)
Received: from unknown (HELO kiqgvcco7bjpawegjy.liriosbarrio.org) (67.140.31.172)
  by server.sorehands.com with SMTP; 27 Jul 2005 12:17:51 -0700
Sensitivity: Normal
MIME-Version: 1.0
Errors-To: qeowopbn6.z8kphq4xts7bv653bm@liriosbarrio.org
Importance: Normal
Date: Wed, 27 Jul 2005 20:12:59 GMT
Message-ID: <sfsmfbkf2nfv5da-yqhlxccspcu@liriosbarrio.org>
X-Mailer: super duper v99.9
Received: by kiqgvcco7bjpawegjy.liriosbarrio.org (kiqgvcco7bjpawegjy.liriosbarrio.org [67.140.31
.172]) with super duper v99.9
        Wed, 27 Jul 2005 20:12:59 -0500
Subject: :SPAM: none@sorehands.com, six for $48 compare to Oakley sunglasses
From: "6 pairs for $48" <eastlackawannocktownship@liriosbarrio.org>
To: none@sorehands.com
Reply-To: eastlackawannocktownship@liriosbarrio.org
Content-Type: text/html;
        charset="ISO-8859-1"


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<br><br>
<a href="http://ifb4ius5b.y8ky2vnwxpynrsayym.liriosbarrio.org/38/default.bao?id=3838"><img
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