IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN W. FERRON,	:	
	:	
Plaintiff,	:	Civil Action No. 2:07CV 01193
	:	
vs.	:	Judge Sargus
	:	
E360Insight, LLC, *et al.*,	:	Magistrate Judge King
	:	
Defendants.		

AFFIDAVIT OF JOHN W. FERRON IN SUPPORT OF MEMORANDUM IN OPPOSITION TO DEFENDANTS MOTION TO DISMISS COMPLAINT (Doc. 5)

STATE OF OHIO	:	
	:	SS:
COUNTY OF FRANKLIN	:	

Now comes John W. Ferron, being duly sworn and cautioned, states as follows:

1. I am over the age of eighteen, am of sound mind, and I have personal knowledge of the facts and matters stated herein.

2. I am the Plaintiff in the above captioned matter of litigation.

3. At all times relevant to the facts set forth in my civil Complaint, which is part of these proceedings, I have been a resident of the State of Ohio.

4. Since May 1, 2006, I have received about nine hundred (900) unsolicited commercial emails from the Defendants, which were delivered to me in a seemingly continuous and systematic manner at either my "jferron@ferronlaw.com" email address or my "jferron@columbus.rr.com" email addresses. True and correct electronic versions of

these emails are being filed with the Court contemporaneously herewith on a CD-ROM.

5. The Defendants' emails referenced above have been delivered to me through my computers and servers that have been located, maintained, and operated in the State of Ohio.

6. The emails referenced above solicited me to purchase consumer good and/or services, and included invitations for me to view the contents of a number of websites.

7. It is my contention that the above referenced emails violate certain laws which have been enacted by Ohio's General Assembly; including provisions of the Ohio Consumer Sales Practices Act, R.C. §§ 1345.01, *et seq.*, and the Ohio Electronic Mail Advertisement Act, R.C. §§ 2307.64, *et seq.*

8. On or about June 2007, I received a communication in response to a communication that I had previously sent to Defendants and/or their representative, Attorney Darren M. Green. The response I received is attached hereto as Exhibit 1. Attorney Green and Defendant David Linhardt have both indicated to me that Attorney Green is a duly authorized representative and agent of Defendants. Within Exhibit 1, Attorney Green indicated that certain of my identifying information, including my residential address, is associated with my email addresses and this information was accessible to Defendants.

9. I have reviewed the content of the Defendants' emails which were sent to me and which advertise consumer products. More than 115 of the emails directed to me

advertised products from well known national companies that are based in Ohio, including Bath & Body, Big Lots, JoAnne Fabrics, Proctor & Gamble, and Wendy's.

10. After a review of the content of the Defendants' emails which were sent to me, not fewer than 290 of those emails targeted me specifically as they made mention of a pseudonyms that I have used on occasion -- "Jaco" -- in the subject line of the commercial email message. "Jaco" is a name that I often use when I am completing an online form and also asking the online advertiser not to send me any more emails.

11. After a review of the message identification numbers in the emails that the Defendants sent to me, I was able to calculate that, for the period of time between November 25 and December 26, 2006, Defendants have sent approximately 25,000,000,000 (25 billion) emails.

12. I systematically and continuously received emails from Defendants from May 1, 2006 through April 12, 2007.

13. I have visited the website at BargainDepot.net, which Defendants claim is affiliated with them. That website is an interactive website which offers Ohio State College Football Memorabilia for sale through an online ordering system. The checkout section on the webpage permits a user to select Ohio in a drop-down address select box for a customer's state.

14. The internet domain name "ferronlaw.com" is registered with Internic as having a physical location in Columbus, Ohio. A copy of the ferronlaw.com publicly available WHOIS information is attached hereto as Exhibit 2. That registration is viewable at

www.networksolutions.com at the following website link: http://www.networksolutions.com/whois/results.jsp?domain=ferronlaw.com.

15. Exhibit 3 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, is a true and accurate copy of a webpage of BargainDepot.net which depicts Ohio State University memorabilia for sale.

16. Exhibit 4 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, is a true and accurate copy of an internet newsgroup posting in news.admin.net-abuse.email of David Linhardt which has a date of September 21, 2006. This post is available from the Google newsgroup archives.

17. Exhibit 5 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, is a true and accurate copy of a web page published by the United States Census Bureau. Said web page is viewable at the following link: http://quickfacts.census.gov/qfd/states/39000.html.

18. Exhibit 6 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, is a true and accurate copy of a web page which appeared at the Defendants' website at the following link: http://www.e360data.com/solutions.php.

19. Exhibit 7 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, are true and accurate copies of archived web pages that are searchable under the Defendants' internet domains of e360data.com and e360insight.com; said web pages are archived at the website http://archive.org.

20. Exhibit 8 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, are true and accurate copies of page excerpts from the

StrongMail® Business Manager End User Guide Release 3.1.0 produced by the Defendants as part of their discovery responses in this case.

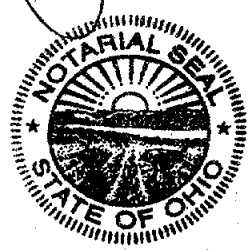
21. Exhibit 10 attached Plaintiff's Memorandum in Opposition to Motion of Defendants to Dismiss Complaint, is a true and accurate copy of a web page which appeared at the Defendants' website at the following link: http://www.e360data.com/about-us.php.

FURTHER AFFIANT SAYETH NOT.

John W. Ferron

John W. Ferron did personally appear before me this 22nd day of April, 2008, and he did swear and attest to the facts contained herein and acknowledge that he signed this document as his voluntary free act and deed.

Notary Public – My commission has no expiration



JESSICA G. FALLON
Attorney At Law
Notary Public, State of Ohio
My commission has no expiration date
Sec. 147.03 R.C.

Darren M. Green, Esq.
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Chicago, Illinois 60640
Ph: (312) 925-8870
Fax: (773) 506-6538
dgreen@dgattorney.com

June 5, 2007

VIA FEDEX
Ferron & Associates
580 North Fourth Street
Suite 450
Columbus, OH 43215-2125
Attn: John W. Ferron

Re: Correspondence dated May 31, 2007

Dear Mr. Ferron:

I serve as legal counsel to e360Insight, LLC, and as such, am in receipt of your correspondence dated May 31, 2007. This letter responds to such correspondence.

According to our records, the email addresses listed below were registered at our partner websites to be included in our email newsletter:

1. Email: jferron@ferronlaw.com - First_name:JACO; Last_name:FERONSKI; Address1:6262 DEESIDE DR; Address2: City:DUBLIN State_code:OH Zipcode:43017; Opt-in date:8/17/2004; Opt-in domain: Peel.com Ip address:24.123.60.33.

2. Email: jferron@ferronlaw.com - First_name:jaco; Last_name:ferroni; Address1:6262 Deeside Dr; Address2: City:Dublin State_code:OH Zipcode:43017; Opt-in date:9/22/2006; Opt-in domain: paydayjunction.com; Ip address:24.210.132.126.

Please note that my client has added both email addresses to its master suppression file, and as such, my client will not send any more email messages to these addresses. Please allow 24 to 48 hours for these changes to take effect.

Please let me know if I can be of any further assistance.

Very truly yours,

Darren M. Green, Esq.

Cc: e360Insight, LLC

NetworkSolutions

Call us 1-800-333-7680
Login | Help

Shopping Cart

JOHN W. FERRON AFFIDAVIT EXHIBIT 2

WHOIS Search Results

Available **ferronlaw** extensions:

.net	.org	.us	.mobi	.info	.biz	.de	.tv	.co.uk	.eu	.bz
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Order Selected Domain(s)

Your WHOIS Search Results

ferronlaw.com
Services from Network Solutions:

- Certified Offer Service - Let us help you get this domain name!
- Backorder - Try to get this name when it becomes available.
- Private Registration - Keep personal information for this domain private.
- SSL Certificates - Get peace of mind with a secure certificate.
- Enhanced Business Listing - Promote your business to millions of viewers for only $1 a month!

Visit AboutUs.org for more information about FERRONLAW.COM AboutUs: FERRONLAW.COM

Make this info private

Registrant:
Ferron & Associates
580 N. 4th Street, Suite 450
Columbus, OH 43215
US

Domain Name: FERRONLAW.COM

Promote your business to millions of viewers for only $1 a month!

Learn how you can get an Enhanced Business Listing here for your domain name.

Learn More

Administrative Contact :
Ferron & Associates
infofa@ferronlaw.com
580 N. 4th Street, Suite 450
Columbus, OH 43215
US
Phone: 999 999 9999
Fax: 999 999 9999

Technical Contact :
NetWalk,
tech@NETWALK.COM
1801 OBRIEN RD
COLUMBUS, OH 43228-3866
US
Phone: (614) 621-9255
Fax: (614) 621-5808

Record expires on 16-Dec-2014
Record created on 16-Dec-1998
Database last updated on 09-Oct-2006

Domain servers in listed order: Manage DNS

NS1.NETWALK.COM 216.69.192.11
NS2.NETWALK.COM 216.69.192.12

Show underlying registry data for this record

Current Registrar: NETWORK SOLUTIONS, LLC.
IP Address: 216.69.192.126 (ARIN & RIPE IP search)
IP Location: US(UNITED STATES)-OHIO-COLUMBUS
Record Type: Domain Name
Server Type: Apache 2
Lock Status: clientTransferProhibited
Web Site Status: Active
DMOZ 1 listings
Y! Directory: see listings

Thousands of great domain names expire everyday...
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NEW RSS feed!
Subscribe

DOMAIN OPTIONS

Premium Names

- ☐ fers.net **$4,088**
- ☐ ohio-laws.com **$2,150**
- ☐ chicago-law.net **$1,840**
- ☐ ronron.net **$1,888**
- ☐ columbuslaws.com **$1,050**
- ☐ wag-law.com **$300**
- ☐ ferrule.net **$2,488**

Misspellings

- ☐ feronlaw.com
- ☐ ferrronlaw.com
- ☐ f3rronlaw.com
- ☐ frronlaw.com
- ☐ ferrenlaw.com
- ☐ ferranlaw.com
- ☐ ferr0nlaw.com
- ☐ ferrnlaw.com

Similar Names

- ☐ ferron-law.com
- ☐ ferronlawyer.com
- ☐ ferron-lawyer.com
- ☐ blogferronlaw.com
- ☐ ferron-regulation.com
- ☐ ferronregulation.com
- ☐ blogferronlawyer.com
- ☐ ferronrule.com

Add Domain(s) to Cart

SEARCH AGAIN

Web Site Title:	Ferron & Associates
Secure:	No
E-commerce:	No
Traffic Ranking:	Not available
Data as of:	25-Feb-2008

e.g. networksolutions.com

Search by:

- Domain Name
- NIC Handle
- IP Address

Search

Need to get your business online?
Our professional designers can build a custom Web site for your business.
$11.95/month, plus a $499.00 design fee

Go

PerformanceClicks™ from Network Solutions
Create and manage your pay per click advertising from as low as **$125/month** plus **$99 one time set-up fee**

Go

SOLUTIONS TO GET ONLINE
- Domain Names
- Web Hosting
- Web Site Builder
- Professional Web Design
- Email Hosting

SOLUTIONS TO SELL ONLINE
- Ecommerce Hosting
- Ecommerce Web Design
- Merchant Accounts

SOLUTIONS TO GET CUSTOMERS
- Online Marketing
- PPC Advertising
- SEO Services

SOLUTIONS FOR ONLINE SECURITY
- SSL Certificates
- Private Domain Registration
- Email Security

SOLUTIONS TO SAVE MONEY
- Promotions & Free Offers
- Earn Airline Offers

COMPANY INFORMATION
- Reseller Programs
- Affiliates
- SEO Training
- Resources and Learning Center
- Small Business Blog
- About Us
- Jobs
- WHOIS Search
- Site Map
- Privacy Policy
- Terms of Use

100% Secure Transaction
For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

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