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April 23, 2007

Magistrate Judge Joseph C. Spero
United States District Court, Northern District
450 Golden Gate Avenue
San Francisco, CA 94102

RE: ASIS Internet Services v Optin Global, Inc., et al
USDC, Northern District of California, CV-05-5124 JCS

Results of Parties Meet and Confer of March 20, 2007

Dear Judge Spero:

After the parties met and conferred in your Jury Room on March 20th, the Court requested a letter summarizing the results of the parties meeting. Following the meeting, Plaintiff's counsel prepared a draft of a letter and forwarded same to defense counsel for his input. After many days, Mr. Burgoyne sent back his own letter and after further discussions, it was apparent counsel had very different opinions about what should be included therein. The following is Plaintiff's summary of the meet and confer. Attached hereto and included herewith is the letter proposed by Mr. Burgoyne.

The following is Plaintiff's summary outlining the results of the parties meet and confer to resolve discovery disputes.

It should be pointed out that Azoogole has not produced even the material it has agreed to produce, nor even stated by which date it would be produced. (see Plaintiff's letter to the Court dated April 16, 2007 [Doc. 204])

**PLAINTIFF'S RESPONSES TO DEFENDANT'S
FIRST DOCUMENT DEMAND**

In general Defendant sought a supplemental statement in Plaintiff's response to Request for Production that all responsive documents known to exist have been produced. Consequently, as to Items 1, 2, 3, 4, 5, 6-11, 12, 13, 15, 16, & 17 Plaintiff has submitted a supplemental response that states that all known documents have been produced that are in Plaintiff's possession except those documents which are privileged.

As to Defendant's Request for Production of Documents #14 which reads: "All DOCUMENTS constituting or RELATING TO CORRESPONDENCE between the parties to this action." Plaintiff did not agree to supplement its response to produce all letters, emails, and correspondence between all of the various Defendants to the action.

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Plaintiff stands on its objection that Defendant's request does not discretely request a specific category of documents, is overbroad, and does not identify material that is relevant to the subject matter of the action.

PLAINTIFF'S RESPONSES TO INTERROGATORIES

Plaintiff agreed to, (and now has) supplement Plaintiff's response to Defendant's Interrogatories to add a paragraph explaining the knowledge of each person listed in interrogatory 1. Defendant has withdrawn Interrogatories Nos. 3 and 4 based upon an agreement that Defendant can submit an additional 30 interrogatories to specifically identify discrete elements of Plaintiff's claims and information relevant thereto.

Plaintiff has agreed to supplement response Interrogatory No. 5 to set out a basic core statement as is found in Plaintiff's opposition to the motions to dismiss and the complaint.

Plaintiff has agreed to supplement Plaintiff's response to Interrogatory No. 11 to make clear that Plaintiff is not seeking to recover actual economic damages, only statutory penalties.

Plaintiff has agreed to supplement Interrogatory response No. 12 to set out some additional information showing that Defendant consciously avoids knowing that its affiliates are spammers. The same is true of Interrogatory No. 13.

The parties agreed that Plaintiff would not supplement responses to interrogatories nos. 14, 15, and 16.

DEFENDANT'S RESPONSES TO PLAINTIFF'S DEMAND FOR PRODUCTION OF DOCUMENTS, SET ONE

Plaintiff's request No. 1 was for a printed copy of all websites owned or operated by Defendant Azoogleads during the incident period. Defendant did not offer to produce all such pages even though Plaintiff offered to limit the pages all externally accessible static pages and URL's. Defendant continues to limit the production to those categories identified in Defendant's response, which is unacceptable to Plaintiff. A dispute continues to exist. In general, Plaintiff seeks all of Defendant's web pages, static and dynamic, and domain names and operable URL's during the relevant incident period to cross-reference those domain names against the domains from which the subject emails in the lawsuit were sent.

Plaintiff's request No. 2 again requested all the domain names and IP addresses owned by Defendant Azoogole during the incident period. Defendant agreed to supplement the response only to state that no responsive documents exist. Essentially

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Defendant contends that Plaintiff has requested a list that doesn't exist. Plaintiff contends that obviously Defendant has documents that show the domain names and IP addresses owned and operated by Defendant Azoogleads during the incident period and Defendant should produce those documents or electronic data. A dispute continues to exist.

Plaintiff's request No. 3 requested a list of all email accounts owned or used by Defendant Azoogleads during the incident period. Plaintiff sought this information to compare such email accounts against the various subject emails to see if any of the subject emails came from any of the accounts used by Defendant Azoogle. Defendant refused to produce a list of those of those email accounts. Plaintiff agreed to limit this list to non-internal employee emails – that is emails not used only for internal email by employees. A dispute continues to exist.

Plaintiff's request for production of documents No. 4 sought all of the contracts between Azoogle and its subject affiliates or alternatively, proof of an electronic signature of the various affiliates. As a matter of compromise, Plaintiff was willing to limit it to Defendant's email affiliates (as opposed to banner or search affiliates). Defendant is unwilling to produce. A dispute continues to exist.

It should be noted here that many of the document requests are designed to show that Defendant Azoogle does business with known spammers, eg. the Defendant's affiliates; that Defendant knew or consciously avoided knowing that its affiliates were likely to violate the CAN SPAM Act. Defendant deemed such information irrelevant to the subject matter of the action; which is the proposed advisory opinion the parties seek from the Court.

Plaintiff's request for production No. 5 requested Defendant's Opt-in list used to send commercial electronic mail messages. Defendant is willing to enter into a stipulation that Azoogle does not have any opt-in list for the subject emails. Upon execution of that stipulation, Request for Production of Documents No. 5 will be withdrawn. In the event no such stipulation is effected within a month, Plaintiff will demand production of any opt-in list.

Plaintiff has withdrawn requests for production nos. 6 and 7.

Plaintiff's request for production No. 8 requested all correspondence, including emails, with any affiliate during the incident period. Plaintiff offered to limit the request to emails to and from Azoogle's email affiliates that would be flagged using software which searched with a boolean operand search, using search terms such as spam, can spam, Rokso, Spamhaus, and the like and also to communications regarding specific affiliates, namely, Seamless, Media, and John Strothers. Defendant refused to produce the limited request. A dispute continues to exist.

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Plaintiff's Request for production No. 9 requested all correspondence regarding spam abuse management during the incident period at Azoogle, including all correspondence with ISP's, federal and state agencies, and spam prevention groups. Plaintiff still makes this demand as written as it shows whether Defendant knew or consciously avoided knowing that its affiliates were spamming. Defendant refused to supplement its response. A dispute continues to exist.

As to Request for Production No. 10, no further information is required from Defendant by Plaintiff.

Request for Production No. 11 requested all correspondence, including emails, with any mortgage brokers with whom Defendant Azoogleads did business during the incident period. Plaintiff offered to limit it to emails to and from where such emails are searched electronically for search terms such spam, Spamhaus, Spamcop, Rokso, etc. from the period July 1, 2005, to August 31, 2006. Defendant agreed to produce such emails.

Request for Production of Documents No. 12 is withdrawn.

Plaintiff's Request for Production of Documents No. 13 requested all contracts and agreements between Defendant Azoogleads and Mortgage Brokers during the incident period. Defendant agreed to produce those contracts in effect during the incident period.

Plaintiff's Request for Production of Documents No. 14 is withdrawn.

No further information is needed from Defendant in response to request No. 15.

Defendant has agreed to supplement its response to Plaintiff's request No. 16, but limiting its response to those sample and actual electronic email messages regarding Azoogle's mortgage vertical during the incident period and relation to marketing leads.

Plaintiff's Request for Production of Documents No. 17 is withdrawn.

Defendant agreed to supplement its response to Plaintiff's request No. 18 and will produce any other entities owned or controlled by Azoogle.

Defendant agreed to supplement its request to Plaintiff's request No. 19 to state that no further documents exist and also to state the title of documents not produced under Defendant's objection.

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Plaintiff's Request for Production of Documents No. 20 is withdrawn.

Plaintiff's Requests for Production of Documents Nos. 21, 22, and 23 requested production of Azoogleads marketing plans regarding email affiliates. Plaintiff offered to limit it to Defendant's mortgage vertical. Defendant refused to produce the documents. A dispute currently exists.

Defendant has agreed to supplement its response to Plaintiff's Request No. 24 to state if it has such documents, it will produce them, if not, Defendant shall so state.

Plaintiff's Request for Production of Documents No. 25 is withdrawn.

Defendant objected to Plaintiff's requests for production nos. 26 and 27 in that it did not request a document, but the name of the software used by Defendant to track its affiliates. Defendant refused to produce the name of the software that it uses to tract affiliates and suggested that Plaintiff submit interrogatories. Defendant agreed to increase the number of interrogatories allowed to Plaintiff and consequently, Plaintiff will submit interrogatories to request that information. The same is true of Plaintiff's request for production of documents No. 28.

As to Plaintiff's Request for Production of Documents No. 29, 30 and 31, Defendant will supplement to produce what documents it has or include a statement that it has no such documents. The same is true as to Plaintiff's Requests 32-39 (misnumbered as a second 24-31).

Defendant's responses to Plaintiff's Interrogatories, Set One, were not discussed at this meet and confer and are still and outstanding issue.

Plaintiff noticed the Deposition of Ryan McVey for May 7. Mr. Burgoyne categorically stated he would not produce Mr. McVey on that date. Mr. Burgoyne offered to produce Mr. McVey on May 23. Plaintiff would have preferred an earlier date since the discovery cut off is not far off, but since it is the only date to which Azoogle will apparently provide, Plaintiff will take Mr. McVey's deposition on that date.

Plaintiff also requested of Mr. Burgoyne a date to take the Deposition of Alex Zhardanovsky. Mr. Zhardanovsky, Plaintiff believes, is the founder of Azoogle. Mr. Zhardanovsky was cc'd on several emails to and from Quicken Loans regarding the subject emails, prior to this lawsuit being filed. Mr. Zhardanovsky has also written fairly extensively on blogs on the net about the spam complaints generated by his company, Azoogle's spam policies, and Mr. Zhardanovsky's thoughts on spam generally. The buck stops with Mr. Zhardanovsky on spam policies at Azoogle. A review of the pending motions for summary adjudication reveals the relevance of the final decision maker on spam policies under the CAN SPAM Act.

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Mr. Burgoyne has stated categorically that he will not produce Mr. Zhardanovsky for deposition. Plaintiff requested that Mr. Burgoyne travel to Eureka, California to allow counsel to meet and confer in person, as is required by standing order, in an effort to resolve this dispute. Mr. Burgoyne refused to travel to Eureka to meet in person. Plaintiff requests the Court hold a telephonic, or in person, hearing to provide counsel some direction.

Respectfully submitted,

SINGLETON LAW GROUP

/s/ Jason K. Singleton

Jason K. Singleton

Attachment: Letter by Henry Burgoyne