Ramkissoon v. AOL LLC Doc. 131

Case4:06-cv-05866-SBA Document128 Filed10/13/09 Page1 of 4 TONY WEST **Assistant Attorney General** JOSEPH P. RUSŠONIELLO United States Attorney JOHN R. GRIFFITHŠ Assistant Branch Director ALEXANDER K. HAAS (SBN 220932) Trial Attorney U.S. Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Ave. N.W., Room 7142 Washington, D.C. 20001 Tel: (202) 307-3937 — Fax: (202) 616-8470 Email: alexander.haas@usdoj.gov Attorneys for the United States 9 IN THE UNITED STATES DISTRICT COURT 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA 11 **OAKLAND DIVISION** 12 DOE 1, DOE 2, and KASADORE 13 RAMKISSOON, on Behalf of Themselves and Case No. 4:06-cv-05866-SBA all other Persons Similarly Situated, 14 STIPULATION PERMITTING Plaintiffs, THE UNITED STATES TO 15 INTERVENE v. 16 AOL LLC, 17 Defendant. 18 19 The United States and the parties, through their undersigned counsel, hereby stipulate to it 20 to the intervention of the United States, as a matter of right, and limited to defending the 21 constitutionality of an act of Congress. The United States respectfully requests that the Court 22 enter the order below and allow the United States to intervene. 23 RECITALS 24 1. Defendant has challenged in part the constitutionality of Title II of the Electronic 25 Communications Privacy Act of 1986, commonly known as the Stored Communications Act 26 (SCA), Pub. L. 99-508, ch. 121, §§ 201, et. seq., codified as amended at 18 U.S.C. § 2701, et. 27 seq., in its motion for judgment on the pleadings filed June 29, 2009. See Dkt. 100 at 10-12. 28 Defendant has also filed a notice of constitutional challenge, see Dkt. 102. Stipulation Permitting the United States to Intervene, 06-cv-5866 (SBA)

1	2.	Section 2403(a) of Title 28 of the U	.S. Code provides that:	
2		In any action, suit or proceeding in a which the United States or any agen	a court of the United States to cy, officer or employee thereof is	
3		which the United States or any agen not a party, wherein the constitution affecting the public interest is drawn	ality of any Act of Congress in in question, the court shall	
4		permit the United States to intervene evidence is otherwise admissible in	e for presentation of evidence, if	
5		question of constitutionality.	_	
6	3.	3. The Federal Rules of Civil Procedure authorize intervention as of right "when a		
7	statute of the United States confers an unconditional right to intervene." Fed. R. Civ. P. 24(a)(1).			
8	4. By way of this filing, the United States seeks to intervene to address the			
9	constitutionality of the SCA.			
10	5.	The United States' brief supporting	the constitutionality of the SCA is being filed	
11	concurrently herewith.			
12	STIPULATION			
13	The Plaintiffs, Defendant, and the United States, through their attorneys of record, hereby			
14	stipulate and request that the Court make this stipulation an order of the Court:			
15	1. The United States shall be permitted to intervene in the above-captioned action			
16	pursuant to Federal Rule of Civil Procedure 24.			
17	Dated: Octob	per 13, 2009	Respectfully submitted,	
18 19			TONY WEST Assistant Attorney General	
20			JOSEPH P. RUSSONIELLO United States Attorney	
21			JOHN R. GRIFFITHS	
22			Assistant Branch Director	
23			/s/ Alexander K. Haas ALEXANDER K. HAAS (SBN 220932)	
24			Trial Attorney U.S. Department of Justice Civil Division, Federal Programs Prench	
25			Civil Division, Federal Programs Branch 20 Massachusetts Ave. N.W., Room 7142 Washington, D.C. 20001	
26			Tel: (202) 307-3937 — Fax: (202) 616-8470 Email: alexander.haas@usdoj.gov	
27			Attorneys for the United States	
28				

1 DECLARATION PURSUANT TO GENERAL ORDER 45, § X.B 2 I, ALEXANDER K. HAAS, hereby declare pursuant to General Order 45, § X.B, that I have obtained the concurrence in the filing of this document from each of the other signatories 3 listed below. 4 5 I declare under penalty of perjury that the foregoing declaration is true and correct. Executed on October 13, 2009, in the City of Washington, District of Columbia. 6 7 TONY WEST Assistant Attorney General 8 JOSEPH P. RUSSONIELLO United States Attorney 9 JOHN GRIFFITHS Assistant Branch Director 10 /s/ Alexander K. Haas ALEXANDER K. HAAS (SBN 220932) 11 Trial Attorney U.S. Department of Justice 12 Civil Division, Federal Programs Branch 20 Massachusetts Ave. N.W., Room 7142 13 Washington, D.C. 20001 Tel: (202) 307-3937 — Fax: (202) 616-8470 14 Email: alexander.haas@usdoj.gov Attorneys for the United States 15 16 **BERMAN DeVALERIO** Joseph J. Tabacco, Jr. (No. 75484) 17 Christopher T. Heffelfinger (No. 118058) 425 California Street, Suite 2100 18 San Francisco, California 94104 Telephone: (415) 433-3200—Fax: (415) 433-6382 19 20 Manuel J. Dominguez (Pro Hac Vice) C. Oliver Burt, III (Pro Hac Vice) 21 Marc J. Greenspon Daniel A. Bushell 22 4280 Professional Center Drive, Suite 350 Palm Beach Gardens, Florida 33410 23 Telephone: (561) 835-9400—Fax: (561) 835-0322 24 By: /s Manuel J. Dominguez Attorneys for Plaintiffs 25 26 KIRKLAND & ELLIS LLP 27 By: /s/ Joseph Serino. Jr. 28 Joseph Serino, Jr. Andrew G. Horne David S. Flugman

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6	Email: edeeley@kirkland.com Attorneys for AOL LLC			
7	Inverneys jer 1102 BBC			
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12	[PROPOSED] ORDER			
13	Pursuant to the foregoing stipulation, it is hereby ORDERED that:			
14	1. The United States shall be permitted to intervene in the above-captioned action pursuant to Federal Rule of Civil Procedure 24.			
15				
	IT IS SO ORDERED.			
17	10/06			
	Dated: 10/26, 2009.			
19	HON. SAUNDRA BROWN ARMSTRONG United States District Judge			
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