

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

John Doe,)	Case No. 3:07CV604
)	
)	DEFENDANTS’ JOINT OPPOSITION
Plaintiff,)	TO MOTION TO STRIKE REPLY
)	AND JOINT REPLY IN SUPPORT
)	OF REQUEST FOR JUDICIAL
v.)	NOTICE
)	
)	
SexSearch.com, et al.,)	
)	
)	
Defendants.)	
)	

Defendants hereby jointly submit this joint (1) opposition to Plaintiff’s motion to strike Defendants’ reply in support of their motion to dismiss the complaint and (2) reply in support of their request for judicial notice.

Plaintiff’s recent filings are nothing more than disguised sur-replies, which the rules do not allow. Simply put, there is no basis to strike the reply or to deny judicial notice. Defendants cited all the applicable and well-settled law in their moving and reply papers. Specifically, in considering a motion to dismiss the Court may consider “materials in addition to the complaint if such materials are public records or are otherwise appropriate for the taking of judicial notice.” *New England Health Care Employees Pension Fund v. Ernst & Young, LLP*, 336 F.3d 495, 501 (6th Cir. 2003); accord, *Blackburn v. Fisk University*, 443 F.2d 121, 123 (6th Cir. 1971).

Among the materials otherwise appropriate for judicial notice are documents outside the pleadings that are ”referred to in the complaint and [] central to plaintiff’s claim.” *Jackson v. City of Columbus*, 194 F.3d. 737, 745 (6th Cir. 1999), *abrogated on other grounds*, 534 US 506;

and *New England Health Care Employees Pension Fund* 336 F.3d at 501. In this case, Plaintiff's complaint is replete with references to the sexsearch.com and related websites and the content posted on that website, including the terms and conditions upon which Plaintiff's claims are based. Judicial notice is therefore appropriate and proper in this case.

It is respectfully submitted that the reply should not be stricken and judicial notice is appropriate for the reasons set forth in Defendants' moving and reply papers.

Respectfully submitted,

/s/ Richard M. Kerger
Richard M. Kerger (0015864)

/s/ Dana Milmeister
Gary Jay Kaufman (*pro hac vice*)
Counsel for Specially Appearing Defendants
Experienced Internet.com, Inc. , Patricia Quesada
and Mauricio Bedoya

/s/ Michael D. Dortch
Max Kravitz (0023765)
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KRAVITZ, BROWN & DORTCH, LLC
Counsel for CYTEK, LTD. and for
Specially Appearing Defendants
STALLION.COM FSC LIMITED, DNR, MANIC
MEDIA (AKA MANIC MEDIA, INC.), FIESTA
CATERING INTERNATIONAL INC., MR.
DAMIAN CROSS, MR. ED KUNKEL, MS.
CAMELIA FRANCIS and MR. ADAM SMALL

/s/ William D. Adams
Scott R. Torpey (0081561)
William D. Adams *pro hac vice*
JAFFE RAITT HEUER & WEISS, P.C.
Counsel for Specially Appearing Defendants
CYBER FLOW SOLUTIONS, INC. and
RICHARD LEVINE

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing has been electronically filed this 13th day of June, 2007. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's System.

/s/ Dana Milmeister_____