

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

CITY OF COLUMBUS, et al.,

Plaintiff,

Case No. 3:07 CV 2117

-vs-

HOTELS.COM, et al.,

MEMORANDUM OPINION
AND ORDER

Defendant.

KATZ, J.

This case was recently transferred from the docket of Honorable John Holschuch in the Southern District of Ohio and is now on the docket of this judge. It involves claims with respect to failure to collect and/or remit taxes to the cities of Columbus and Dayton, Ohio on hotel lodging by on-line travel companies which are the Defendants in this action. The case is before the Court on Defendants' motion to dismiss Plaintiffs' entire complaint under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted. (Doc. No. 21). The complaint in this case contains allegations and prayers for relief almost identical to that in *City of Findlay v. Hotels.com*, Case No. 3:05 CV 7443, in which a similar motion was considered in a Memorandum Opinion issued July 26, 2006 (Doc. No. 62).

In this Court's previous Memorandum Opinion as applicable to the case at issue, cause of action VI is similar to causes of action II and V in *City of Findlay*, which implicate Ohio Revised Code 1345, and was, in fact, dismissed. All other causes of action survived the 12(b)(6) motion. With respect to the cities of Columbus and Dayton the complaint that would appear to justify this Court's denying the motion to dismiss as it relates to causes of action I, II, III, IV, V and VII.

Causes of action II (unjust enrichment) and III (claim for monies had and received) would appear to this Court to be implicated in cause of action IV, a claim for conversion, and the same result should obtain.

The analysis of the arguments of the parties as set forth in this Court's Memorandum Opinion referenced above with respect to all causes of action in the instant case are hereby incorporated by reference. Defendants' motion to dismiss is granted only as to cause of action VI and denied with respect to all other causes of action.

IT IS SO ORDERED.

S/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE