

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

JOE HAND PROMOTIONS, INC.,

Plaintiff,

v.

**RPM MANAGEMENT COMPANY
LLC, d/b/a Ozone Sports Bar,**

Defendant.

Case No. 2:09-cv-862

JUDGE EDMUND A. SARGUS, JR.

**MAGISTRATE JUDGE ELIZABETH
PRESTON DEAVERS**

ORDER

On July 2, 2009, Plaintiff, Joe Hand Promotions, Inc., filed a complaint in this Court alleging three causes of action against Defendant, RPM Management Company LLC, doing business as Ozone Sports Bar. Count I alleges violation of the Communications Act of 1934, as amended, 47 U.S.C. § 605, et seq. Count II alleges violation of the Cable & Television Consumer Protection and Competition Act of 1992, as amended, 47 U.S.C. § 553, et seq. Count III alleges a common-law claim of conversion. Specifically, Plaintiff alleges that Defendant intentionally intercepted and exhibited the transmission of the July 7, 2007 professional prize fight billed as “Ultimate Fight Championship 73: Stacked” (“UFC program”) and that Defendant did so without license or permission from Plaintiff. Plaintiff seeks statutory damages, recovery of costs and attorneys’ fees.

This matter comes before the Court on Plaintiff’s motion for summary judgment. Although Plaintiff’s complaint alleges causes of action under both 47 U.S.C. § 605 and 47 U.S.C. § 553, Plaintiff may recover under only one section. *See Int’l Cablevision, Inc. v. Sykes*, 75 F.3d 123, 129 (2d Cir 1996), *cert. denied*, 519 U.S. 929 (1997); *Kingvision Pay-Per-View Ltd. v. Autar*, 426 F. Supp.2d 59, 62 (E.D.N.Y.2006); *Joe Hand Promotions, Inc. v. Orim, Inc.*,

No. 1:10 CV 00743, 2010 WL 3931108, at *2 (N.D. Ohio Oct. 5, 2010); *Joe Hand Promotions, Inc. v. Willis*, No. 5:08 CV 2786, 2009 WL 369511, at *1 (N.D. Ohio Feb. 11, 2009). Plaintiff concedes this point in its brief supporting its motion for summary judgment (see Doc. 14-1 at 5) but has not elected the provision under which it seeks recovery.¹ Moreover, Plaintiff has not presented sufficient evidence for the Court to determine whether the alleged interception was of satellite communications or of cable service. See *Joe Hand Promotions v. Easterling*, No. 4:08CV1259, 2009 WL 1767579 (N.D. Ohio June 22, 2009) (Section 605(a) “prohibits unauthorized interception of satellite communications” whereas § 553 “governs the unauthorized interceptions of cable service”). Accordingly, Plaintiff is directed to supplement its motion for summary judgment to address the above matters by no later than **Monday, February 14, 2011**.

IT IS SO ORDERED.

1-28-2011
DATED


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE

¹ The deadline for Defendant’s response was May 6, 2010. To date, Defendant has not filed a response.