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The Honorable John C. Coughenour

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

JAMES S. GORDON, Jr., a married individual, d/b/a 'GORDONWORKS.COM'; OMNI INNOVATIONS, LLC., a Washington limited liability company,

Plaintiffs,

v.

VIRTUMUNDO, INC, a Delaware corporation d/b/a ADKNOWLEDGEMAIL.COM; ADKNOWLEDGE, INC., a Delaware corporation, d/b/a ADKNOWLEDGEMAIL.COM; SCOTT LYNN, an individual; and JOHN DOES, 1-X,

Defendants.

NO. CV06-0204JCC

**DECLARATION OF SCOTT MOORE IN SUPPORT OF DEFENDANTS' MOTION FOR ATTORNEYS' FEES AND COSTS**

**NOTE ON MOTION CALENDAR:**

July 6, 2007

I, Scott Moore, declare and testify as follows:

1. I am over eighteen years of age, competent to testify to the matters stated in this declaration, and make this declaration from personal knowledge of those matters.
2. I am the president of defendant Virtumundo, Inc. ("Virtumundo"), and have been an officer of Virtumundo for six (6) years. Before I became the

1 company's president, I served as its Chief Operating Officer, Vice President  
2 of Operations, and Director of Information Technology. I am very familiar  
3 with Virtumundo's business practices and standard operating procedures.

4 3. I have reviewed the email (Email")which Plaintiff James Gordon  
5 ("Gordon") attached as Exhibit B to his July 2, 2007 declaration filed in the  
6 above-captioned lawsuit (Dkt. #136). In paragraph 4 of his declaration,  
7 Gordon incorrectly refers to the Email as a "recent spam from Defendant  
8 Virtumundo". In truth, Virtumundo did not send the Email.

9 4. The Email purports to advertise the services of Charter Communications.  
10 However, Charter Communications is not, and has never been, a customer  
11 of Virtumundo. Virtumundo has never sent any emails on behalf of Charter  
12 Communications. Further, the Email does not include Virtumundo's  
13 standard header or footer, and its "from line" is styled differently from the  
14 "from lines" in emails sent by Virtumundo.

15 5. The Email purports to have been delivered to <faye@gordonworks.com>.  
16 However, at least one year ago, Virtumundo suppressed the transmission of  
17 any emails to addresses in the <gordonworks.com> domain. Accordingly,  
18 it would have been impossible for <faye @gordonworks.com> or anyone  
19 else with a <gordonworks.com> email address to have received email from  
20 Virtumundo for at least the past year. Virtumundo is not sending any email  
21 to Plaintiffs and has no plans to do so.

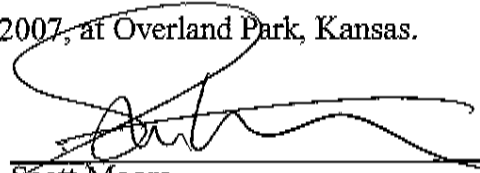
22 6. The Email purports to have been sent from an address in the  
23 <deployimedia.com> domain. According to publicly available WHOIS  
24 records, the registrar for <deployimedia.com> is Tucows, Inc., whose  
25 services Virtumundo has never used. WHOIS records also indicate that the  
26 registrant is "InfoUSA", an entity which is unrelated to Virtumundo, and  
27 that InfoUSA's servers hosting facility is Rackspace.com, whose services  
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Virtumundo has never used. Further, InfoUSA's address is in Omaha, Nebraska, where Virtumundo has never resided, incorporated or conducted business. Plaintiffs or their counsel could have checked WHOIS records with two minutes of effort and determined that Virtumundo did not transmit the Email to them.

I certify and declare under the penalty of perjury under the laws of the State of Washington and the United States that to my knowledge the foregoing is true and correct.

Executed on this 6th day of July, 2007, at Overland Park, Kansas.

  
\_\_\_\_\_  
Scott Moore