

EXHIBIT A-1

The Honorable John C. Coughenour

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**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;

Plaintiff,

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 his marital community; and JOHN DOES, 1-X,

Defendants.

No. CV06-0204JCC

DEFENDANT SCOTT LYNN'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO PLAINTIFF GORDON

TO: James S. Gordon, Jr., d/b/a 'GORDONWORKS.COM'; and

AND TO: Robert J. Siegel, Attorney for James S. Gordon, Jr.

Defendant Scott Lynn hereby propounds the following requests for production and interrogatories to Plaintiff, pursuant to Fed. R. Civ. P. 26, 33 and 34. The requests should be answered in full and the original returned to this office (Newman & Newman, Attorneys at Law, LLP, 505 Fifth Avenue S., Suite 610, Seattle, Washington 98104) within 30 days after the date of service. The requested documents should be produced for inspection and copying at the offices

1 of Newman & Newman, Attorneys at Law, LLP, 505 Fifth Avenue S., Suite 610, Seattle,
2 Washington 98104. You should respond to each discovery question in accordance with the
3 instructions and definitions set forth below. The requests for production are continuing in nature
4 within the meaning of Fed R. Civ. P. 26.

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6 **I. INSTRUCTIONS/DEFINITIONS**

7 1. In answering these requests for production, You are required to furnish all
8 information that is available to You, not merely such information as You know of Your own
9 personal knowledge, including information in the possession of Your attorneys, or other persons
10 directly or indirectly employed by or connected with You or Your attorneys, or anyone acting on
11 Your behalf or otherwise subject to Your control.

12 2. In answering these requests for production, You are requested to make a diligent
13 search of Your records and of other papers and materials in the possession, custody or control of
14 You or Your representatives.

15 3. The documents requested are not privileged and are reasonably calculated to lead
16 to the discovery of admissible evidence. If any document is withheld from production on the
17 ground that its production is privileged due to the attorney-client privilege, work-product rule or
18 other legally recognized standard preventing its disclosure to a requesting party, then state
19 separately for each such document: (1) the legal basis on which You claim protection against
20 discovery; (2) the date of the document; (3) the nature of the document (*e.g.* letter); (4) the full
21 name, job title and employer for each author of the document; (5) the full name, job title, and
22 employer or principal of each addressee and named recipient of the document; (6) the full name,
23 job title, and employer of each person who to Your knowledge has knowledge of the
24 communication; and (7) in general, the substance of the document.

25 4. These discovery requests shall, to the fullest extent permitted by law, be deemed
26 continuing, so as to require You, without further request, to provide supplemental responses
27 within **15 days** of acquiring any additional material pertaining to the subject matter of any of these
28 requests.

1 5. Unless otherwise specified, You are instructed to answer for the period from
2 January 1, 2003 to the present.

3 6. If You cannot answer any of the following discovery requests in full after
4 exercising due diligence to secure the full information to do so, so state and answer to the extent
5 possible, specifying Your inability to respond in full, stating whatever information or knowledge
6 You have concerning the unanswered portion and detailing what You did in attempting to secure
7 the unknown information. If You do know the name of a person or entity that may have such
8 information, the name, address and telephone number and the nature of the information known by
9 such person or entity shall be disclosed in Your response.

10 7. The singular form of a noun or pronoun shall be considered to include within its
11 meaning the plural form of the noun or pronoun so used and vice versa; the use of the masculine
12 form of a pronoun shall be considered to include within its meaning the feminine form of the
13 pronoun so used and vice versa; and the use of any tense of any verb shall be considered to
14 include within its meaning all other tenses of the verb.

15 8. The lower case form of a defined word shall be considered to include within its
16 meaning the capitalized form of the word and vice versa.

17 9. Whenever it is necessary to bring within the scope of these requests information
18 that otherwise might be construed to be outside their scope, “any” should be understood to
19 include and encompass “all”; and “all” should be understood to include and encompass “any”; and
20 “or” should be understood to include and encompass “and,” and “and” should be understood to
21 include and encompass “or.”

22 10. **AOMs** shall refer to the e-mails with respect to which You seek damages from
23 Defendants in this lawsuit.

24 11. **Communications** means any written communication, conversation, note, SMS,
25 instant message, email, letter, correspondence or exchange of document. When identifying or
26 referencing a communication, identify the date of the communication, the location or means of
27 communication, the parties and witnesses to the communication, and the substance of the
28 communication. When identifying or referencing an exchange of more than one communication,

1 include each document in the exchange.

2 12. The term “**Defendants**” means the above-captioned defendants in this lawsuit.

3 13. The terms “**document**” and “**documents**” mean and include any kind of written,
4 typewritten, or printed material whatsoever, any kind of graphic material, and any computer
5 readable media including, without limitation, and papers, agreements, contracts, notes,
6 applications, memoranda, correspondence, instant message exchange, SMS communications,
7 studies, working papers, letters, telegrams, invoices, personal diaries, journals, reports, records,
8 books, forms, indexes, transcriptions and recordings, magnetic tapes, video tapes, wire
9 recordings, disks and printed cards, data sheets, data processing cards, calendars, interoffice
10 memoranda, minutes and records of any sorts of meetings, financial statements, financial
11 calculations, estimates, reports of telephone or other oral conversations, appointment books,
12 maps, drawings, charts, graphs, photographs, and all other writings and recordings of every kind,
13 however produced or reproduced, whether signed or unsigned. The terms “document” and
14 “documents” include, without limitation, originals and all file copies and other copies that are not
15 identical to the original no matter how or by whom prepared, and all drafts prepared in connection
16 with any documents, whether used or not. If the original of any document is not in Your
17 possession, custody or control, a copy of that document should be produced.

18 14. The term “**identify**,” when used in connection with a document, means to state the
19 date on which the document was prepared, the author of the document, and any and all
20 recipient(s) of the document.

21 15. The term “**identify**,” when used in connection with an individual, means to state
22 the individual’s full current name, to state the individual’s full current residential address, full
23 current business address, email address, instant messaging name, and the individual’s telephone
24 numbers.

25 16. The use of the words “**include(s)**” and “**including**” should be construed to mean
26 without limitation.

27 17. The term “**person**” includes both individuals and business entities.

28 18. The term “**Plaintiffs**” means the above-captioned plaintiffs in this lawsuit..

1 19. The terms “**present**” or “**presently**” refer to the date of service of these
2 interrogatories and shall continue through resolution of this litigation.

3 20. The term “**Responses**” refers to Your responses and/or answers to interrogatories
4 and/or requests for production.

5 21. The phrase “**relating to**” means consisting of, summarizing, describing, reflecting,
6 or referring to in any way.

7 22. “**You**” means JAMES S. GORDON, Jr., d/b/a ‘GORDONWORKS.COM,’ Your
8 agents, affiliates and subsidiaries.

9 23. Defendants will move to preclude You from presenting evidence regarding
10 responsive matters You have failed to set forth in Your responses.

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12 **II. INTERROGATORIES**

13 **INTERROGATORY NO. 1:** Identify each and every e-mail address to which
14 You contend (as alleged in Paragraph 4.1.3 of Your First Amended Complaint) that
15 “[D]efendants sent at least one (1) separate item of electronic mail to the Plaintiffs to an
16 address most likely harvested from domain name registration and/or by other means of
17 anonymous internet information harvesting.”

18 ANSWER:

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21 **INTERROGATORY NO. 2:** Identify each and every web hosting service,
22 internet service provider, or other provider of online services from whom You have
23 purchased, leased, or otherwise obtained services in relation to Your operation of the
24 ‘GORDONWORKS.COM’ domain.

25 ANSWER:
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1 **INTERROGATORY NO. 3:** Please identify all internet domain names
2 registered in Your name or on Your behalf since January 1, 2003 as well as the dates of
3 such registration and, if applicable, the dates on which such registrations expired.

4 ANSWER:
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7 **INTERROGATORY NO. 4:** Please explain the purpose and scope of Your
8 “doctoral studies” (as referred to in Paragraph 9 of Your Answers to Interrogatories) and
9 their relation to Your use of the ‘GORDONWORKS.COM’ domain.

10 ANSWER:
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13 **INTERROGATORY NO. 5:** Please identify any filters, software, or other
14 system used by You to prevent or reduce the receipt of unsolicited commercial email.

15 ANSWER:
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18 **INTERROGATORY NO. 6:** Please identify the type(s) and/or brand(s) of
19 “auto-responder” software applications that You used to generate the complaint messages
20 contained in the mailbox files produced in Your First Supplemental Responses to
21 Defendant’s First Discovery Requests on September 11, 2006. Please identify any service
22 you provide that enables users to access content, information, electronic mail, or other
23 services offered over the Internet. For each such service, please identify the users to
24 whom you provide that service (including their address, email and phone number), the
25 nature of the service, the consideration paid for the service.

26 ANSWER:
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1 **INTERROGATORY NO. 7:** Please identify (including date, subject line, sender
2 email and recipient email) any AOM that you contend was initiated by Defendants that
3 contained, or were accompanied by header information that was materially false or
4 misleading. For each such AOM, please explain how the header information was
5 materially false or misleading.

6 ANSWER:
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9 **INTERROGATORY NO. 8:** Please identify (including date, subject line, sender
10 email and recipient email) any AOM that you contend was initiated by Defendants that
11 did not contain a clearly and conspicuously displayed functioning return email address or
12 Internet-based mechanism that a recipient may have used to submit, in a manner specified
13 in the message, a reply email message or other form of Internet-based communication
14 requesting not to receive future commercial email messages at the email address where
15 the message was received. For each such AOM, please explain the basis upon which you
16 make such contention.

17 ANSWER:
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20 **INTERROGATORY NO. 9:** Please identify (including date, subject line,
21 sender email and recipient email) any AOM that you contend was initiated by Defendants
22 that the Defendants had actual or fairly implied knowledge that the subject headings of
23 the messages would be likely to mislead a reasonable recipient, under the circumstances,
24 about a material fact regarding the subject or content matter of the message. For each
25 such AOM, please explain how the subject headings are likely to mislead a reasonable
26 recipient.

27 ANSWER:
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INTERROGATORY NO. 10: Please identify (including date, subject line, sender email and recipient email) any AOM that you contend was initiated by Defendants that Your users attempted to request, using a mechanism specified in the AOM, to not receive some or any commercial email from the Defendant and subsequent transmission by that Defendant was made to that user more than 10 business days after the receipt of such request. For each such AOM, please explain the basis upon which you make such contention.

ANSWER:

INTERROGATORY NO. 11: Please identify (including date, subject line, sender email and recipient email) any AOM that you contend was initiated by Defendants that did not provide clear and conspicuous identification that the message was an advertisement or solicitation. For each such AOM, please explain the basis upon which you make such contention.

ANSWER:

INTERROGATORY NO. 12: Please identify (including date, subject line, sender email and recipient email) any AOM that you contend was initiated by Defendants that did not provide clear and conspicuous identification of the opportunity to decline to receive further commercial emails from the message's sender via the methods specified in the message. For each such AOM, please explain the basis upon which you make such contention.

ANSWER:

1 **INTERROGATORY NO. 13:** Please identify (including date, subject line,
2 sender email and recipient email) any AOM that you contend was initiated by Defendants
3 that did not include the valid physical postal address of either the person who initiated the
4 message or the person whose product, service, or Internet website is advertised in the
5 message. For each such AOM, please explain the basis upon which you make such
6 contention.

7 ANSWER:
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10 **INTERROGATORY NO. 14:** Please identify (including date, subject line,
11 sender email and recipient email) any AOM that you contend was initiated by Defendants
12 that were sent to email addresses obtained using an automated means of generating email
13 addresses by combining names, letters, or numbers into numerous permutations. For each
14 such AOM, please explain the basis upon which you make such contention.

15 ANSWER:
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18 **INTERROGATORY NO. 15:** Please identify (including date, subject line,
19 sender email and recipient email) any AOM that you contend was initiated by Defendants
20 that used a third party's Internet domain name without permission of the third party, or
21 otherwise misrepresented or obscured any information in identifying that message's point
22 of origin or transmission path. For each such AOM, please explain the nature of the
23 alleged misrepresentation or obscured information.

24 ANSWER:
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27 **INTERROGATORY NO. 16:** Please identify (including date, subject line,
28 sender email and recipient email) any AOM that you contend was initiated by Defendants

1 that contained false or misleading information in the subject line. For each such AOM,
2 please explain how the subject line is false or misleading.

3 ANSWER:
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6 **INTERROGATORY NO. 17:** Please identify (including date, subject line,
7 sender email and recipient email) any AOM that you contend was initiated by Defendants
8 that sought to solicit, request, or take any action to induce a person to provide personally
9 identifying information by representing oneself, either directly or by implication, to be
10 another person, without that person's approval or authority. For each such AOM, please
11 explain the basis upon which you make such contention.

12 ANSWER:
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15 **INTERROGATORY NO. 18:** Please identify (including date, subject line,
16 sender email and recipient email) any AOM that you contend was initiated by Defendants
17 that were sent to email addresses obtained using an automated means from an Internet
18 website or proprietary online service operated by another person that included, at the time
19 the address was obtained, a notice stating that the website or service would not give, sell,
20 or transfer addresses maintained by such website or online service to any other party for
21 the purposes of initiating email messages. For each such AOM, please explain the basis
22 upon which you make such contention.

23 ANSWER:
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26 **INTERROGATORY NO. 19:** Please identify (including date, subject line,
27 sender email and recipient email) any AOM that you contend was initiated by Defendants
28 that contained offers or promotions for prizes which the promoter knew or had reason to

1 know would not be available in a sufficient quantity based on the reasonably anticipated
2 response to the offer. For each such AOM, please explain the basis upon which you
3 make such contention.

4 ANSWER:
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7 **INTERROGATORY NO. 20:** Please identify (including date, subject line,
8 sender email and recipient email) any AOM that you contend was initiated by Defendants
9 that contained offers or promotions for prizes which were not available for immediate
10 delivery to the recipient for which the recipient was given a rain check which could not
11 be honored within thirty days and the promoter or sponsor failed to mail the recipient a
12 valid check for the verifiable retail value of the prize. For each such AOM, please
13 explain the basis upon which you make such contention.

14 ANSWER:
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17 **INTERROGATORY NO. 21:** Please identify (including date, subject line,
18 sender email and recipient email) any AOM that you contend was initiated by Defendants
19 that contained offers or promotions for prizes for which a rain check was issued and the
20 person named as being responsible for the rain check failed to honor and the sponsor then
21 failed to fulfill the rain check within thirty days. For each such AOM, please explain the
22 basis upon which you make such contention.

23 ANSWER:
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26 **INTERROGATORY NO. 22:** Please identify (including date, subject line,
27 sender email and recipient email) any AOM that you contend was initiated by Defendants
28 that contained offers or promotions for prizes which failed to state, clearly and

1 conspicuously, printed in type at least as large as the typeface used in the standard text of
2 the offer: "If you receive a rain check in lieu of the prize, you are entitled by law to
3 receive the prize, an item of equal or lesser value, or the cash equivalent of the offered
4 prize within thirty days of the date on which you claimed the prize." For each such
5 AOM, please explain the basis upon which you make such contention.

6 ANSWER:
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9 **INTERROGATORY NO. 23:** Please identify (including date, subject line,
10 sender email and recipient email) any damages alleged by you as a result of an AOM you
11 contend was initiated by Defendants that violated RCW 19.170 *et seq.* For each such
12 AOM, please explain the basis upon which you make such contention.

13 ANSWER:
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17 **III. REQUESTS FOR PRODUCTION**

18 **REQUEST FOR PRODUCTION NO. 1: REQUEST FOR PRODUCTION NO.**

19 1: Please produce for inspection all documents evidencing notices included on websites
20 or online services from which You allege that Defendants obtained e-mail addresses for
21 recipients at your domain using automated means which stated at the time the address
22 was obtained that the operator of such website or online service will not give, sell, or
23 otherwise transfer addresses maintained by such website or online service to any other
24 party for the purposes of initiating, or enabling others to initiate, electronic messages.

25 RESPONSE:
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VERIFICATION

I, _____, have read the foregoing Responses to DEFENDANT LYNN'S FIRST INTERROGATORIES & REQUESTS FOR PRODUCTION, know the contents thereof, and believe the same to be true.

Dated this _____ day of _____, 2006.

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 2006.

Printed Name:
NOTARY PUBLIC in and for the State of
_____, residing at
My Commission Expires:

CERTIFICATION

The undersigned attorney for Plaintiff has reviewed the foregoing Responses to DEFENDANT LYNN'S FIRST INTERROGATORIES & REQUESTS FOR PRODUCTION, and certifies that they are in compliance with Civil Rules 26 and 34.

DATED: _____, 2006.

By: _____
Attorneys for James S. Gordon, Jr.

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CERTIFICATE OF SERVICE

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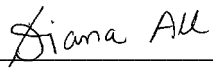
The undersigned hereby certifies that on this 15th day of November, 2006, I caused the foregoing **DEFENDANT SCOTT LYNN’S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO PLAINTIFF GORDON AND CERTIFICATE OF SERVICE** to be served via the methods listed below on the following party

Via Email and Fax to:

Robert Siegel, Esq.
Merkle Siegel & Friedrichsen, P.C.

Email: bob@msfseattle.com
Fax: 206-624-0717

I declare under penalty of perjury under the laws of the United States and the State of Washington that the forgoing is true and correct and that this declaration was executed on November 15th, 2006, at Seattle, Washington.



Diana Au