

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MERKLE SIEGEL & FRIEDRICHSEN, P.C.
Robert J. Siegel
1325 Fourth Ave., Suite 940
Seattle, WA 98101
(206) 624-9392

THE HON. JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, SEATTLE

JAMES S. GORDON, Jr., a married individual; OMNI INNOVATIONS, LLC., a Washington limited liability company,

Plaintiffs,

v.

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

Defendants.

NO. CV06-0204JCC

DECLARATION OF ROBERT J. SIEGEL IN REPLY RE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

I Robert J. Siegel state and declare as follows:

- 1. I am counsel of record for Plaintiffs in this matter.

DECLARATION OF ROBERT J. SIEGEL IN REPLY
RE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT
GORDON v. VIRTUMUNDO GROUP, INC.

MERKLE SIEGEL & FRIEDRICHSEN
1325 Fourth Ave., Suite 940
Seattle, WA 98101
Phone: 206-624-9392
Fax: 206-624-0717

1 2. In response to Mr. Newman's representations concerning his request for an
2 extension of time to respond to this Motion, I agree that the email exchange
3 attached to his declaration accurately reflect the sum and substance of our
4 discussions in that regard.

5 3. The Court should note that the email exchange belies Mr. Newman's own
6 testimony. Nowhere in the email exchange was the issue of the taking of
7 Plaintiffs' depositions mentioned, nor was any other issue related to the litigation
8 discussed.

9 4. Mr. Newman and I did speak on the phone about his request for an extension, and
10 at no time did he mention the issue of the taking of Plaintiffs' depositions, or any
11 other litigation-related issues. He most certainly did not "request me to "stipulate
12 to move the motion for summary judgment back one week to permit Plaintiffs'
13 depositions to be taken before Defendants' opposition to the Motion was due." In
14 fact, as the email exchange indicates, Mr. Newman represented as the sole basis
15 for his request his personal "family" vacation plans.

16 5. In light of the foregoing I consider Mr. Newman's representations regarding his
17 request for an extension to be blatant misrepresentations, wholly unprofessional,
18 and can only assume that the paucity of his client's defense has led him to, what
19 can only be characterized as a desperate, and transparent attempt to smear
20 Plaintiff's counsel.

21 6. Attached hereto as **Exhibit "A"** is a true and correct copy of the Federal Register
22 for Thursday, May 12, 2005, Federal Trade Commission's ("FTC") Definitions,
23
24

1 Implementation, and Reporting Requirements Under the CAN-SPAM Act,
2 Proposed Rule, with the relevant sections highlighted.

3
4 I declare under penalty of perjury under the laws of the State of Washington that the
5 foregoing is true and correct.

6 SIGNED this 12th day of January, 2007, at Seattle, Washington.

7 **MERKLE SIEGEL & FRIEDRICHSEN, P.C.**

8
9 /s/ Robert J. Siegel
10 ROBERT J. SIEGEL, WSBA #17312
Attorney for Plaintiff

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
DECLARATION OF ROBERT J. SIEGEL IN REPLY
RE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT
GORDON v. VIRTUMUNDO GROUP, INC.

MERKLE SIEGEL & FRIEDRICHSEN
1325 Fourth Ave., Suite 940
Seattle, WA 98101
Phone: 206-624-9392
Fax: 206-624-0717

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Certificate of Service

I, hereby, certify that on January 12, 2007, I filed this document with this Court via approved electronic filing, and served the following:

Attorney for Defendants: Derek A. Newman, Newman & Newman .


Adana Lloyd

DECLARATION OF ROBERT J. SIEGEL IN REPLY
RE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT
GORDON v. VIRTUMUNDO GROUP, INC.

MERKLE SIEGEL & FRIEDRICHSEN
1325 Fourth Ave., Suite 940
Seattle, WA 98101
Phone: 206-624-9392
Fax: 206-624-0717