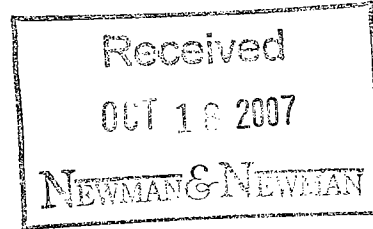


EXHIBIT A

1 THE HON. JOHN C. COUGHENOUR
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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON, SEATTLE

11 OMNI INNOVATIONS, LLC, a
12 Washington Limited Liability
company,

13 Plaintiff,

14 v.

15 ASCENTIVE, LLC, a Delaware
16 limited liability company; ADAM
17 SCHRAN, individually and as part of
his marital community; JOHN
18 DOES,I-X,

19 Defendants,

NO. 06-01284

HEARING ON PLAINTIFF'S
MOTIONS & DECLARATION FOR
A CHANGE OF VENUE AND
MODIFICATION OF ORDER TO
STAY

[JURY DEMANDED]

WITHOUT ORAL ARGUMENT

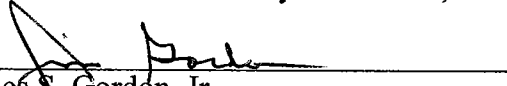
20
21 TO: COURT

22 AND TO: COUNSEL FOR DEFENDANT
23
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1 HEARING ON MOTION TO CHANGE VENUE & TO MODIFY STAY

1 PLEASE TAKE NOTICE that Plaintiffs Motions for Change of Venue & Modification of Order
2 to Stay will be heard on 11/19/07 or as soon thereafter as the Court deems appropriate, without
3 oral argument.
4

5
6
7 EXECUTED this 17th day of October, 2007

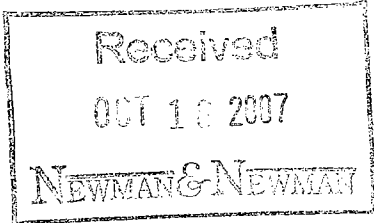
8 
9 _____
10 James S. Gordon, Jr.
11 9804 Buckingham Drive
12 Pasco, WA 99301
13 509-210-1069

14 **Certificate of Service**

15 I, hereby, certify that on October 17th, 2007, I mailed this motion to this Court and to Counsel of
16 Record for Defendant.

17 James S. Gordon, Jr.
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1 THE HON. JOHN C. COUGHENOUR



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9 **UNITED STATES DISTRICT COURT**
10 **WESTERN DISTRICT OF WASHINGTON, SEATTLE**

11 **OMNI INNOVATIONS, LLC, a**
12 **Washington Limited Liability**
13 **company,**

14 **Plaintiff,**

15 **v.**

16 **ASCENTIVE, LLC, a Delaware**
17 **limited liability company; ADAM**
18 **SCHRAN, individually and as part of**
19 **his marital community; JOHN**
20 **DOES,I-X,**

21 **Defendants,**

NO. 06-01284

PLAINTIFF'S MOTIONS &
DECLARATION FOR A CHANGE
OF VENUE AND MODIFICATION
OF ORDER TO STAY

[JURY DEMANDED]

22 **TO: COURT**

23 **AND TO: COUNSEL FOR DEFENDANT**

24 **INTRODUCTION**

25 Plaintiff is requesting a change of venue for the above captioned case due to extraordinary circumstances. The venue that he seeks is in the Eastern Washington District Court at Richland.

Plaintiff is making this request due to possible misconduct by his former attorney, Robert J.

1 **MOTION TO CHANGE VENUE & TO MODIFY STAY**

1 Siegel. Federal courts in both Eastern and Western Washington have noted “missed
2 opportunities” by Mr. Siegel in their respective orders. As a result of Plaintiff’s counsel’s
3 ineffectiveness, failure to exercise his fiduciary duties, and lack of work product, Plaintiff’s
4 rights have been put in jeopardy. These failures by Mr. Siegel have left Plaintiff without an
5 effective voice in this litigation. The following motions and declaration are designed to begin to
6 give a voice to Plaintiff’s legitimate claims against defendant.

7
8 **BACKGROUND**

9 Mr. Douglas E. McKinley, Jr. was Plaintiff’s first attorney in his anti-spam litigation. Mr.
10 McKinley withdrew from Plaintiff’s cases just under two years ago. After he withdrew, Mr.
11 Robert J. Siegel served as Plaintiff’s attorney until August 2007. Within six months of
12 withdrawing from Plaintiff’s cases, Mr. McKinley rejoined the litigation as co-counsel with Mr.
13 Siegel – only to withdraw again with Mr. Siegel in August 2007.

14
15 Plaintiff specifically requested that Mr. Siegel set venue in Richland, WA, i.e. the Eastern
16 Washington District Court. The reason for Plaintiff’s insistence on venue is that he had just
17 experienced being abandoned by counsel to face litigation, pro se, so he was very wary of the
18 prospect of this happening again.

19
20 Plaintiff understood that federal cases, which used the PACER system allowed attorneys to
21 handle cases, from a distance. But, Mr. Siegel apparently wanted the convenience of having
22 Plaintiff’s cases on his home field. So, Mr. Siegel filed the cases in the Western District despite
23 Plaintiff’s objections.

1
2 **FACTS**

- 3 1. Mr. Siegel represented to this Court that venue was proper in Western Washington.
4 However, Plaintiff only does business in Eastern Washington. The harm suffered by
5 Plaintiff was in Benton and Franklin counties in Eastern Washington.
- 6 2. Mr. Siegel, later, claimed that Plaintiff was permitted to have venue in Western
7 Washington because one of Plaintiff's Internet Access Service (IAS) customers, Ms.
8 Emily Abbey, lived in Seattle, WA. The problem with this claim is that Mr. Siegel did
9 not first obtain Ms. Abbey's permission to be included in a lawsuit. He added her name to
10 Plaintiff's lawsuits without Ms. Abbey's knowledge or permission. Mr. Siegel was told
11 that Plaintiff had no claim on a Western Washington venue. **EXHIBIT A**
- 12 3. Ms. Abbey, Plaintiff, Defendant, and this Court were deceived by Mr. Siegel's
13 misrepresentations regarding proper venue.
- 14 4. Plaintiff has been prejudiced by the choice of venue in Western Washington. And with
15 the withdrawals of plaintiff's attorneys, this prejudice is compounded. This prejudice or
16 harm is due to the time and expense of travelling (lodging, parking, and meals) 400+
17 miles roundtrip for legal proceedings. This time and expense will be duplicated for each
18 of plaintiffs' nine lawsuits in Western Washington. Additionally, travel over the Cascade
19 passes can be hazardous as well as protracted by avalanches and accidents during winter
20 months.
- 21 5. Venue in Western Washington means time away from plaintiff's business and Ph.D.
22 studies, which have both been adversely affected by this litigation.
- 23 6. Mr. Siegel's law firm should be held accountable for these deceptions - up to and
24 including paying all the costs that are incurred by Defendants and Plaintiff for the transfer
25 of all of Plaintiff's cases to Eastern Washington.

- 1 7. With Plaintiffs' cases stayed, this is an opportune time to change venue. Plaintiff is
2 amenable to a new schedule order and discovery in the new Eastern Washington venue.
- 3 8. Defendant has the wherewithal to defend this lawsuit in either venue with little or no
4 prejudice. Plaintiff does not have that luxury and risks possible abandonment of a
5 lawsuit(s) solely due to the time and expense hurdles that would be significantly less if
6 venue is moved to Eastern Washington – the courthouse is within 10 miles of his home.
- 7 9. Plaintiff also seeks a modification of the Order to Stay this litigation. The event that
8 triggers the resumption of litigation should be the latter of the 9th Circuit's decision to
9 remand or affirm the Gordon v. Virtumundo decision or the resolution of the Washington
10 State Bar Association (WSBA) grievance against Mr. Siegel.
- 11 10. The relevance of the WSBA matter to this lawsuit is the grievance will likely become a
12 malpractice lawsuit against Mr. Siegel. And, if that event happens, Plaintiff will call or
13 subpoena several opposing counsel as fact witnesses along with at least two defendants.
- 14 11. One of the causes of action against Mr. Siegel is for "Indemnification and Contribution".
15 On current information and belief, defendants' counsel can aid my prospective complaint.
- 16 12. Multiple defendants appear to be trying to "ride the coattails" of the Gordon v.
17 Virtumundo decision. These attempts are misguided due to the myriad misrepresentations
18 and failures of attorneys for defendants and for plaintiff.
- 19 13. Defendant wants to benefit from the apparent greed, arrogance, and/or malice of the
20 counsel for Virtumundo as demonstrated by their many misrepresentations to the court in
21 order to secure a judgment for \$540,000. The court awarded defendant's counsel
22 \$112,000 and gave them a severe chastisement regarding bringing phantom and double-
23 billed charges to the court. (Gordon v. Virtumundo, DKT 148) Defendants' counsel was
24
25

1 even more lax in recounting Plaintiff's deposition testimony. Perhaps, Defendant wishes
2 to ride on the coattails of Virtumundo's counsel in order to exploit (known)
3 misrepresentations by them of Plaintiff's alleged testimony. On the other hand, Plaintiff's
4 counsel was asleep at the wheel, so to speak, and failed to advocate or advise Plaintiff in
5 any meaningful way. Perhaps, it is this failure that Defendant chooses to exploit.

6 14. One key misrepresentation is that Defendant has a "right" to send (unsolicited)
7 commercial email to Plaintiff. Nothing could be further from the truth, as the Internet
8 Service Providers (ISPs) and Network Service Providers (NSPs) for both Plaintiff and
9 Defendant strictly prohibit the use of their networks and services to send unsolicited
10 commercial email or spam. That is why Defendant "contracts out" spamming services or
11 it would run the risk of having its network services terminated without recourse to the
12 courts as Defendant is contractually barred from sending spam from its own servers.
13 Plaintiff's emails are routed through NSPs Charter, AT&T, and/or Sprint. Any spammer
14 who wishes to send plaintiff spam must use one or more of these NSPs to do so – and
15 when defendant sends spam, it must trespass onto networks which prohibit such use –
16 resulting in an apparent theft of service of the Charter et al networks by Defendant's
17 agents. **EXHIBIT B-D**

18
19 15. Defendant is asking this Court to ratify its (agents') theft of services by adhering to the
20 decision in Gordon v. Virtumundo – a case wherein Virtumundo's et al trespass and theft
21 of services did not come to the court's attention due to ineffective counsel. Defendant's
22 contracts for internet or network services preclude the sending of unsolicited commercial
23 email (spam). When Defendant sends spam to Plaintiff, it is sending unsolicited
24
25

1 commercial email in violation of the contracts for both Defendant's and Plaintiff's
2 service providers.

3 16. Defendant has allowed its alleged marketing partners or affiliates to falsely register two
4 or more domains (criminal violation of the Can-Spam Act of 2003), which are used to
5 send spam in violation of federal and state laws. Locating these law-breakers takes a
6 considerable amount of time – burdening the IAS in terms of impairing its ability to find
7 the actual sender, which is a material violation of Can-Spam.

8
9 17. Plaintiff believes the following information helps to illustrate the difference between his
10 Internet Access Service (IAS) and the average email and Internet services that are offered
11 by AOL, Earthlink, or Netzero.

- 12 a. Plaintiff (IAS) pays an annual business license fee to the State of Washington
- 13 b. Plaintiff ...has written by-laws and Articles of Incorporation
- 14 c. Plaintiff ...has a written business plan
- 15 d. Plaintiff ...has a Board of Directors
- 16 e. Plaintiff ...pays \$2,600/yr. to lease a dedicated server and ~\$700/yr. for Internet
17 access.
- 18 f. Plaintiff ...manages mail and access to Internet of web sites for approximately 20
19 households. Recently received confirmation that the 110 new users will be joining
20 the IAS (will slowly assimilate this group).
- 21 g. Plaintiff ...has clients in 6-7 states.
- 22 h. Plaintiff ...has clients who manage their own domains, email, and web pages via
23 their own Plesk control panels on the IAS's server.
- 24 i. Plaintiff ...receives over 5,000 spam emails per day – a number that is 730 times
25 greater than the average household's spam totals – according to the Washington
State AGO. **EXHIBIT E**
- 26 j. Plaintiff ...spends about 14 hours per week downloading and sifting through
spam for legitimate emails. This time entails a loss of productivity for the IAS.
This loss, according to SpamCon Foundation runs between one and two dollars

MOTION TO CHANGE VENUE & TO MODIFY STAY

1 per spam for businesses. Even at 10% of this number, the IAS sustains significant
2 losses – that holds true even at 1% or ~\$18,000/yr in loss of productivity.

3 18. Among the adverse effects experienced by Plaintiff's one-person, home-based IAS are:

- 4 a. I have been plagued by spam for well over eight years. From late 1998 to late
5 2003, I fought spam by deleting, complaining, reporting, and filtering spam. My
6 first lawsuit against a spammer was filed a full five years after the inception of
7 this persistent spam problem, i.e. December 2003.
- 8 b. In January 2005, February 2005, and February 2007, I purchased new business
9 computers to help with the increased load of spam. In May 2005, my monthly
10 service fee increased from approximately \$40/month to about \$65/month. In
11 November 2006, this fee increased to about \$180/month – in Feb 2007 to
12 \$220/month. All to handle the increased burden of managing spam. I added
13 “staff” by way of engaging the Assisted Server Support team at Godaddy for a
14 monthly fee of \$99. The alternative is to pay \$75/hour for independent IT
15 services.
- 16 c. It has been necessary to purchase numerous forensic tools, anti-virus tools, anti-
17 spyware tools, and spam filtering tools over the last four years. I have spent
18 approximately \$2000.00 on these tools and services.
- 19 d. The large volume of spam received has consumed over 25 Gigabytes of hard disk
20 storage space on two computers.
- 21 e. I lost the use of my laptop as its hard drive was “overrun” with spam necessitating
22 the purchases of the two computers in 2005.
- 23 f. My wife, three adult children, and two friends are being sued by a spammer who
24 found their names on a witness list. This specious lawsuit is two years old.
- 25 g. I have suffered a significant loss of time dealing with spam – close to 14 hours per
week. That is time that could be spent on more productive pursuits, such as my
Ph.D. program. Product development efforts in my business have also been
hampered.
- h. I have suffered a loss of control of my intellectual/personal property, i.e. domains
to spammers, and a loss of privacy and loss of peace of mind to enjoy my
domains and the unfettered use of the internet.

7 **MOTION TO CHANGE VENUE & TO MODIFY STAY**

- 1 i. I have been “joe-jobbed” by spammers whereby spammers subvert my domains
2 by “stealing” my identity, which makes it appear that my domains are sending
3 spam. As a result of this subterfuge, my domains are being blocked from sending
4 legitimate email communications (non-commercial) - this spam consumes
5 valuable bandwidth.
- 6 j. I have been subjected to dictionary attacks wherein a spammer uses automated
7 means to guess at possible names and sends spam to these newly created names at
8 gordonworks.com, thereby again increasing the volume of spam received and
9 resulting consequences. All of this spam consumes valuable bandwidth.
- 10 k. Spammers have sold my personal profile for profit to other spammers.
11 Apparently, the buying and selling of personal profiles is a prime means of
12 remuneration for online marketers – this unauthorized activity places personally
13 identifying data into the hands of the criminal elements on the Internet.
- 14 l. Each email address one owns must be de-listed from the hundreds or thousands of
15 “host names” owned and controlled by each spammer. And once this is
16 accomplished, spammers and their affiliates create new host names to spam from
17 – making successful de-listing virtually impossible. Global de-listing is not
18 available from the majority of spammers and from spammer domains not yet
19 created.
- 20 m. I receive 20-100 viruses/malware emails each week. This number has been as
21 high as 500-600 per week. This has resulted in seven computer crashes (three so
22 far in 2007) that necessitated the purchases of new hard drives or computers since
23 January 2005. These crashes resulted from malware infections. These infections
24 have also caused the loss of business data including tax and banking files.
- 25 n. I spend considerable time dealing with spam problems of customers, including
malware removal, recovering and replacing hard drives, installing virus and
adware programs, etc.
- o. I have changed Internet Service Providers four times since 2000 as none were
able to provide effective anti-spam solutions.
- p. I have sent approximately 14,000 separate and distinct complaints to ISPs,
spammers’ network service providers, Richland and Kennewick Police Depts.,

1 Federal Trade Commission, Securities and Exchange Commission, Washington
2 State Attorney General's Office, and four state and federal legislators.

- 3 q. I spend considerable time locating, writing, and mailing dozens of certified cease
4 and desist letters to spammers.
- 5 r. I have used the automated un-subscription program, SpamFire with SpamCrime
6 Reporter, created by Matterform Media to unsubscribe from over one hundred
7 thousand spammers' offers. This tool uses the methods available in the email and
8 web site it points to - to automatically opt-out of each email received. This
9 includes email received from defendants during the approximate time period of
10 2004-6.
- 11 s. My server has been burdened by spam which features images in the place of text -
12 text is easier to filter. Image spam is necessarily 10-50 times larger than text
13 messages, which are the norm of email communications, which significantly
14 increases the use of bandwidth and usurps hard-drive capacity.
- 15 t. For over two years, I have been unable to add 110 new interested customers to my
16 IAS, because spamming has been out-of-control. The fee paid to me would cover
17 the base cost of Omni's server, but the added work due to spam made this
18 endeavor too costly. [I will soon begin to add these people]
- 19 u. I have had to increase bandwidth capacity from less than 10GB/month to
20 500GB/month in the past 2 years to handle the prospect of adding 110 new
21 customers.
- 22 v. All of the 200+ reciprocal links hosted on Plaintiff's web sites between 1996-
23 2003 have been lost due to lack of maintenance of my web site resulting from the
24 above-described burden of dealing with the spam problem.

25 19. The foregoing statements by Plaintiff are facts that defendants do not want on the record
as these statements 1) tend to show that Plaintiff does clearly have standing as an IAS
2) are indicative of Defendants disregard for the law 3) indicate that not even a lawsuit
will stop Defendant from continuing to send Plaintiff spam 4) will lead the court and a

1 jury to understand that Defendant must first engage in the “theft of service” of the
2 networks of Charter, AT&T, and/or Sprint in order to send spam to Plaintiff.

3 20. Plaintiff is a bona-fide IAS that is adversely affected by violations of and patterns and
4 practices which violate Can-Spam. Standing to pursue this lawsuit is based on the
5 following:

6 a. The Can-Spam Act of 2003 (The Act) under Section 2(a)(6), the Congressional
7 Findings and Policy states, “the growth in unsolicited commercial electronic mail
8 imposes *significant* (emphasis added) monetary costs on providers of Internet
9 access services, businesses, and educational and nonprofit institutions that carry
10 and receive such mail...” [‘Significant’ is only used once in The Act]

11 b. District Court’s order in Gordon v. Virtumundo, dated May 15, 2007, stated that
12 “Omni is an Internet Access Service...”(DKT. 121, p.13, lines 10-12)

13 c. Therefore, Omni had *significant* monetary costs as a provider of Internet access
14 services. IASs are not differentiated in The Act.

15 d. It only takes one email to trigger an adverse effect in The Act...Section (g)

16 (g) ACTION BY PROVIDER OF INTERNET ACCESS SERVICE.—

17 (1) ACTION AUTHORIZED.—A provider of Internet access service

18 adversely affected by **A VIOLATION** [emphasis added] of section

19 5(a)(1), 5(b), or 5(d), or a pattern or practice that violates paragraph (2),

20 (3), (4), or (5) of section 5(a), may bring a civil action in S. 877—17 any

21 district court of the United States with jurisdiction over the defendant—

22 e. Plaintiff is adversely affected by thousands of violations as well as a pattern or
23 practice which violates The Act.

24 f. The word “Material(ly) is explained twice in The Act:
25

(2) MATERIALLY.—For purposes of paragraphs (3) and (4) of subsection (a), header information or registration information is materially falsified if it is altered or concealed in a manner that would **impair the ability of** a recipient of the message, **an Internet access service** processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency **to identify, locate, or respond to a person** who initiated the electronic mail message or to investigate the alleged violation. [emphasis added]

AND

(6) MATERIALLY.—For purposes of paragraph (1), the term “materially”, when used with respect to false or misleading header information, includes the alteration or concealment of header information in a manner that would **impair the ability of an Internet access service** processing the message on behalf of a recipient, a person alleging a violation of this section, or a law enforcement agency **to identify, locate, or respond to a person** who initiated the electronic mail message or to investigate the alleged violation, or the ability of a recipient of the message to respond to a person who initiated the electronic message [emphasis added]

21. Materiality attaches to the **process of impairing** the ability of an IAS. Impairing an IAS is, in fact, the concept behind the significant monetary costs, above. The increased time needed to find the person who sent an email translates into significant monetary costs for the IAS. This loss of productivity (with its concomitant cost) by an IAS is what Congress intended to prevent. These IAS-specific costs are borne by Plaintiff.

22. Said another way, to require an IAS to conduct a forensic search for the sender = impairment of an IAS = imposition of significant monetary costs = a material violation of The Act = standing for plaintiffs.

23. Suggesting or requiring an IAS to look up senders of emails in the Whois databases is an admission that the information is not in the email. Section 5(a)(1)(A)(B) of The Act requires that contact information be put in the email. Omitting this contact information in

1 the email is evidence of a prima facie violation of The Act and this omission impairs the
2 IAS in terms of finding a person...

3 24. Defendants now rely on the 4th Circuit's Omega World Travel v. Mummagraphics
4 decision to somehow give validity to their errors and/or false from names. The term
5 "immaterial error" is used to deflect... The words "immaterial error" do not appear in
6 The Act, neither does the word, "immaterial" nor the word "error". What makes the so-
7 called immaterial error a violation of The Act is whether or not that "error" impaired the
8 IAS ability to find the person, because then and only then is the concept of imposing
9 significant monetary cost to the IAS, operative. Again, this fact is due to the increased
10 time to find the person, increased cost, and the loss of productivity which ensues.

11
12 25. Defendant has actual knowledge of Plaintiff's desire to be left alone as it received a
13 certified cease and desist letter to which it responded in mid-2005. Hence, each email
14 sent to Plaintiff on or after July 1, 2005 violates the notification provision of The Act.

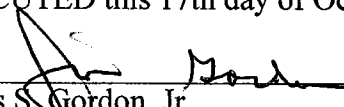
15 26. I continue to assert my right to a jury trial in this case.

16 27. I, James S. Gordon, Jr., am the Plaintiff in the above captioned lawsuit. I am over the age
17 of 18, of sound mind, and am otherwise competent to testify.

18 28. I am owner of the domain name Gordonworks.com, which I registered on or about May
19 1998. And I am the owner of Omni Innovations, LLC.

20
21 I declare under penalty of perjury under the laws of the United States that the foregoing is true
22 and correct.
23
24
25

1 EXECUTED this 17th day of October, 2007

2 
3 _____
4 James S. Gordon, Jr.
5 9804 Buckingham Drive
6 Pasco, WA 99301
7 509-210-1069

8 **Certificate of Service**

9 I, hereby, certify that on October 17th, 2007, I mailed this motion to this Court and to Counsel of
10 Record for Defendant.

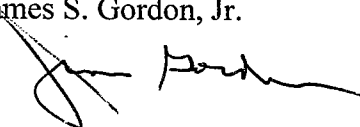
11 James S. Gordon, Jr.
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EXHIBIT A

From: "Bob Siegel" <bob@msfseattle.com>
To: "Jim Gordon" <Kamau@charter.net>
Subject: RE: Virtumundo

that's fine, but if needed, could we show that your network received emails either in King County, or which were routed to or through King County?

From: Jim Gordon [mailto:Kamau@charter.net]
Sent: Thursday, January 26, 2006 11:05 AM
To: bob@msfseattle.com
Subject: Re: Virtumundo

Bob, I have one client presently in King County and she is not prepared to initiate an action at this time, Jim

At 02:56 PM 1/25/2006 -0800, you wrote:

Jim,

Sizing up options re where best to file this action:

do you and/or your network have any routing through King County?, customers here?, or other involvement with any locations in Western Washington?

If not, we may want to file this in the Federal Eastern

District Court, and include Can-Spam allegations,

which is fine, but I just wanted to assess

options.

bob

Jim Gordon
9804 Buckingham Drive
Pasco, WA 99301

509-210-1069 (home)
509-845-1870 (cell)
jim@gordonworks.com

**"Get What You Want By Giving Others What They Want"
Dr. Tony Alessandra & Michael J. O'Connor...from "The Platinum Rule"**



- Products
- Customer Help
- My Charter Account
- About Us
- Contact Us

EXHIBIT B

Charter En Español | Search

What's in my area?

View and Pay My Bill | Check My Email | PRINT

Home » Policies and Agreements » Commercial AUP

Policies

- Overview
- Web Use & Terms
- Abuse Web Form
- Commercial AUP
- Commercial Terms
- Elect. Bill Terms
- Copyright Notice
- Residential AUP
- Residential Terms
- Contact Webmaster
- 30 Day Guarantee
- Phone Tariff Info

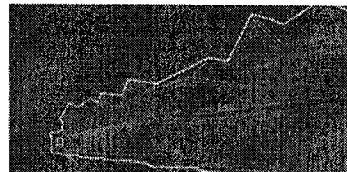
See What's on TV?

Visit Charter Connect Movies, Digital Music, and more at Charter Connect.

Stay in the Loop

For updates on special offers, new services, and great savings, join our email list.

Commercial AUP



Acceptable Use Policy – Commercial Customers

IN ORDER TO PROVIDE HIGH QUALITY CUSTOMER SERVICE AND TO ENSURE THE INTEGRITY OF CHARTER COMMERCIAL HIGH-SPEED INTERNET ACCESS ("SERVICE"), CHARTER HAS ADOPTED THIS ACCEPTABLE USE POLICY.

PLEASE READ THIS ACCEPTABLE USE POLICY PRIOR TO ACCESSING THE SERVICE. THE WORD CUSTOMER IS USED HEREIN TO REFER TO ANY PERSON, ENTITY OR BUSINESS ORGANIZATION THAT SUBSCRIBES TO THE SERVICE. BY USING THE SERVICE, CUSTOMER AGREES TO THE TERMS OF THIS ACCEPTABLE USE POLICY. CHARTER RESERVES THE RIGHT TO IMMEDIATELY TERMINATE THE CUSTOMER'S SERVICE WITHOUT NOTICE, AT CHARTER'S SOLE DISCRETION, IF CUSTOMER OR OTHERS WHO USE CUSTOMER'S SERVICE, VIOLATE THIS ACCEPTABLE USE POLICY. CHARTER ALSO RESERVES THE RIGHT TO IMMEDIATELY REMOVE ANY MATERIAL OR INFORMATION THAT VIOLATES THIS POLICY FOR ANY REASON WHATSOEVER AT CHARTER'S SOLE DISCRETION WITHOUT PRIOR NOTICE.

1. USE

The commercial high-speed Internet access service provided to the Customer is being provided solely for use in Customer's business and any unauthorized access by a third party to e-mail, Internet access, or any other function of the Service is in violation of this Policy and relieves Charter of any affirmative obligations it may have.

Customer will not resell or redistribute, nor allow others to resell or redistribute, access to the Service in any manner, except as expressly provided in any contract for service. The limitation on resale or redistribution of access includes, but is not limited to, hosting applications such as the provision of e-mail, FTP and Telnet access.

Charter reserves the right to disconnect or reclassify the Service for failure to comply with any portion of this provision or this Policy.

Any violation of these policies may lead to prosecution under state and/or federal law and/or termination of Customer's Service.

2. END USERS

Customer is responsible for ensuring that all end users of the Service comply with this AUP. Charter may disconnect Service if an end user violates this AUP. The Customer must make contact information publicly available, and must respond in a timely manner to any complaints. Charter shall consider any complaints regarding the Customer's end users to apply to the Customer. Customer is responsible for any and all e-mail addresses associated with the Customer's account.

The Customer is responsible for any misuse of the Service, whether by authorized or unauthorized end users. Therefore, the Customer must take steps to ensure that others do not gain unauthorized access to the Service. Customer is solely responsible for the security of (i) any device Customer chooses to connect to the Service, including any data stored or shared on that device and (ii) any access point to the Service.

If the Customer sells or resells advertising or web space to a third party, then the Customer will be responsible for the content of such advertising or on such web space and the actions of such third party.

3. NO ILLEGAL OR FRAUDULENT USE

Customer will not use, nor allow others to use, the Service to violate any applicable federal, state, local or international laws (including, but not limited to, the Children's Online Privacy Protection Act). Customer will not use, nor allow others to use, the Service to commit a crime, act of terrorism, or fraud, or to plan, encourage or help others to commit a crime or fraud, including but not limited to, acts of terrorism, engaging in a pyramid or ponzi scheme, or sending chain letters.

4. NO COPYRIGHT OR TRADEMARK INFRINGEMENT

Customer will not use, nor allow others to use, the Service to send or receive any information which infringes the patents, trademarks, copyrights, trade secrets or proprietary rights of any other person, entity or business organization. This includes, but is not limited to, digitization of music, movies, photographs or other copyrighted materials or software.

Charter is registered under the Digital Millennium Copyright Act of 1998 (DMCA). Under the DMCA, copyright owners have the right to notify Charter if they believe a Charter customer has infringed the copyright owner's work(s). If Charter receives a notice from a copyright owner alleging a Customer has committed copyright infringement, Charter will notify the Customer of the alleged infringement. If Charter receives more than one notice alleging copyright infringement on the Customer's part, Customer may be deemed a "repeat copyright infringer." Charter reserves the right to terminate the accounts and access to the Service of repeat copyright infringers.

5. NO THREATS OR HARASSMENT

Customer will not use, nor allow others to use, the Service to transmit any material that threatens or encourages bodily harm or destruction of property or which harasses, abuses, defames or invades the privacy of any other person or entity.

6. NO HARM TO MINORS

Customer will not use, nor allow others to use, the Service to harm or attempt to harm a minor, including but not limited to using the Service to send pornographic, obscene or profane materials.

7. NO "SPAMMING"

Customer will not use, nor allow others to use, the Service to send unsolicited messages or materials, bulk e-mail, or other forms of solicitation ("spamming"). Charter reserves the right, in Charter's sole discretion, to determine whether such posting or transmission constitutes unsolicited messages or materials. This prohibition against spamming is applicable to mass mailings by Customers in conjunction with third parties and is designed to maintain Service quality for all Customers. Mass mailings are those sent to more than 150 recipients by Customer or in conjunction with a third party to any group of recipients. Customer is responsible for maintaining confirmed opt-in records and must provide them to Charter upon request. The term "opt-in" means that recipient has signed up for mailings voluntarily.

8. NO "HACKING"

Customer will not use, nor allow others to use, the Service to access the accounts of others or to attempt to penetrate security measures of the Service or other computer systems ("hacking") or to cause a disruption of the Service to other on-line users. Customer will not use, nor allow others to use, tools designed for compromising network security, such as password-guessing programs, cracking tools, packet sniffers or network probing tools.

9. NO SYSTEM DISRUPTION

Customer will not use, nor allow others to use, the Service to disrupt Charter's network or computer equipment owned by other Charter customers. Any static IP address must be authorized and provisioned by Charter. Customer also agrees that Customer will not use, nor allow others to use, the Service to disrupt other Internet Service Providers or services, including but not limited to e-mail bombing or the use of mass mailing programs.

10. NO IMPERSONATION OR FORGERY

Customer will not impersonate, nor allow others to impersonate, another user, falsify one's user name, company name, age or identity in e-mail or in any post or transmission to any newsgroup or mailing list or other similar groups or lists. Customer will not, nor allow others to, forge any message header of any electronic transmission, originating or passing through the Service.

11. NO ABUSE OF NEWSGROUPS

Customer will not post, nor allow others to post, a similar item to more than six (6) newsgroups or mailing lists. Customer will not, nor allow others to, post or transmit any private, third party e-mail to any newsgroup or mailing list without the explicit approval of the sender.

12. NO EXCESSIVE USE OF BANDWIDTH

If Charter determines, in Charter's sole discretion, that Customer is using an excessive amount of bandwidth over the Charter network infrastructure for Internet access or other functions using public network resources, Charter may at any time and without notice, suspend excessive bandwidth capability, suspend Customer's access to the Service, require Customer to pay additional fees in accordance with Charter's then-current, rates for such service, or terminate Customer's account.

13. NO "VIRUSES"

Customer will not use, nor allow others to use, the Service to transmit computer "viruses," worms, "Trojan horses" or other harmful software programs. Customer will use standard practices to prevent the transmission of such viruses or other harmful software.

14. NO WAIVER

The failure by Charter or its affiliates to enforce any provision of this AUP shall not be construed as a waiver of any right to do so at any time.

15. REVISIONS TO POLICY

Charter reserves the right to update or modify this Policy at any time and from time to time with or without prior notice. Continued use of the Service will be deemed acknowledgment and acceptance of the policy. Notice of modifications to this Policy may be given by posting such changes to Charter's homepage (www.charter.com and www.CharterBusinessNetworks.com), by electronic mail or by conventional mail.

Acceptable Use Policy, Version 4.1

[About Us](#) | [Site Map](#) | [Your Privacy Rights](#) | [Policies & Agreements](#) | [News Releases](#)
[Digital Cable](#) | [DVR](#) | [High Speed Internet](#) | [HDTV](#) | [Telephone Service](#)

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EXHIBIT C

[Home](#) > Enterprise

Acceptable Use Policy

Policy Introduction

Unlike in the area of regulated common carrier services, certain activities of Customers and Users of, Internet services, including Hosting (collectively referred to herein as "IP related Services") may expose providers of those Services, such as AT&T, to claims of civil or criminal liability or other legal sanctions. These activities may also disrupt or degrade AT&T's IP related Services. Moreover, because of various conventions used in the industry (including blocking, filtering and blacklisting) these activities may impair AT&T's ability to interconnect with other IP related Service providers. These activities may relate to the content stored by Customers or Users, to content of the messages transmitted by Customers or Users or to the nature of the transmissions themselves such as sending large numbers of unsolicited messages (Spam).

While AT&T does not normally monitor the stored content or transmissions of its Customers, we must be able to respond to complaints by governmental authorities, affected parties and other Internet Service Providers. AT&T has adopted this "Acceptable Use Policy" ("AUP") in an attempt to balance interference or risk of harm arising from its Customers' use of AT&T's IP related Services with the interests of those who may be affected by such use. Because the rules in this area are in a state of development, this AUP may change from time to time; any such changes will be posted at this site and shall be applied prospectively only.

AUP Coverage

The AUP applies to all Customers and Users of AT&T's IP related Services. If a Customer violates the AUP or permits its Users to do so, AT&T may, depending on the nature and severity of the violation, suspend or terminate service, as provided below. If a User (other than a Customer) violates the AUP, AT&T may suspend service for so long as necessary for steps to be taken which, in AT&T's reasonable judgment, will prevent the violation from continuing or reoccurring.

Notice

When feasible, AT&T shall provide Customers with written notice via e-mail or otherwise of an AUP violation so that such violation may be corrected without impact on service. AT&T reserves the right, however, to act immediately and without notice to suspend or terminate service in response to a court order or government notice that certain conduct must be stopped or when AT&T reasonably determines (1) that it may be exposed to sanctions or prosecution, (2) that such violation may cause harm to or interfere with the integrity or normal operations or security of AT&T's network or networks with which AT&T is interconnected or interfere with another Customer's use of AT&T Services or the Internet; (3) that such violation otherwise presents imminent risk of harm to AT&T or AT&T's Customers or their respective employees. **In other situations, AT&T will use reasonable efforts to provide, at least 5 business days notice before suspending or terminating service.**

PROHIBITED ACTIONS

AT&T is committed to remaining in compliance with laws and regulations governing use of the Internet and e-mail transmissions, and to preserving for all of its Customers the ability to use AT&T's network and the Internet without interference or harassment from other users. AT&T prohibits use of its IP related Services in any ways that are unlawful, interfere with use of AT&T's network or the Internet, infringe intellectual property rights, result in the publication using AT&T Services of threatening or offensive material, constitute Spam/E-mail/Usenet abuse, or present security or privacy risks.

Unlawful Activities

AT&T IP related Services shall not be used in connection with any criminal or civil violation of any applicable local, state, provincial, federal, national or international law, treaty, court order, ordinance, regulation or administrative rule.

Interference

AT&T IP related Services shall not be used in a manner that interferes with any communications network or the usage or enjoyment of services received by others.

Intellectual Property

AT&T IP related Service shall not be used to transmit, re-transmit, or store any content or to engage in any activity that infringes the intellectual property rights or privacy rights of AT&T or any individual, group or entity, including but not limited to any rights protected by any copyright, patent, trademark, trade secret, trade dress, right of privacy, right of publicity, moral rights or other intellectual property right now known or later recognized by statute, judicial decision or regulation. While AT&T reserves the right to restrict any actions alleged to violate the intellectual property rights of another party, it is not AT&T's policy to decide whether claimed infringements are valid or not. Thus, while Customers consent to AT&T's right to suspend service if Customer is alleged to be violating another's rights, AT&T may also permit the continuing activity of its Customer

despite allegations of an infringement where Customer in writing (1) fully assumes responsibility for its activity and (2) agrees to fully indemnify AT&T for all damages, claims, expenses and attorneys fees as a result of the alleged infringement. Should AT&T choose to permit the continued activity of its Customer at Customer's request, AT&T may require a bond securing it for the full amount of potential indemnification, which amount shall be determined in AT&T's reasonable judgment.

Offensive or Threatening Material or Content

AT&T IP related Services shall not be used to host, post, transmit, or re-transmit any content or material that is threatening, harassing, obscene, indecent, pornographic, hateful, malicious, racist, defamatory, libelous, treasonous, excessively violent or promotes the use of violence, or provides instruction, information or assistance in causing or carrying out violence against any government, organization, group or individual, or provides guidance, information or assistance with respect to causing damage or security breaches to AT&T's network or to the network of any other IP related Service provider.

Spam/E-mail/Usenet Abuse

Spam/E-mail/Usenet Abuse is prohibited on AT&T IP related Services. Examples of Spam/E-mail/Usenet Abuse include but are not limited to the following activities:

- using another site's mail server to relay mail without the express permission of the site;
- using IP addresses that the Customer does not have a right to use
- collecting the responses from unsolicited electronic messages;
- maintaining a site that is advertised via unsolicited electronic messages, regardless of the origin of the unsolicited electronic messages;
- sending electronic messages with petitions for signatures, or any chain mail related materials;
- sending unsolicited electronic messages with charity requests;
- sending messages that are harassing or malicious, or otherwise could reasonably be predicted to interfere with another party's quiet enjoyment of the AT&T IP related Services or the Internet (e.g., through language, frequency, size or otherwise);
- sending bulk (i.e., twenty-five or more recipients) electronic messages without identifying, within the message, a reasonable means of opting out from receiving additional messages from the sender;
- sending electronic messages that do not accurately identify the sender, the sender's return address, the e-mail address of origin, or other information contained in the subject line or header.
- distributing or using software designed to promote the sending of unsolicited bulk electronic messages;
- using distribution lists containing addresses that include those who have opted out;
- posting a single message, or messages similar in content, that could reasonably be expected to provoke complaints, to more than 10 online forums or newsgroups; and
- posting messages to or canceling or superseding messages on an online forum or newsgroup in a manner that violates the rules of the forum or newsgroup or that contain forged header information.
- sending bulk electronic messages in quantities that exceed standard industry norms or that create the potential for disruption of the AT&T network or of the networks with which AT&T interconnects

Security Violations

AT&T Services may not be used to interfere with, to gain unauthorized access to or otherwise violate the security of AT&T's or another's server, network, personal computer, network access or control devices, software or data, or other system, or to attempt to do any of the foregoing. Examples of Security Violations include but are not limited to:

- intercepting, interfering with or redirecting e-mail intended for third parties, or any form of network monitoring, scanning or probing, or other action for the unauthorized interception of data or harvesting of e-mail addresses;
- attempting to attack, breach, circumvent or test the vulnerability of the user authentication or security of any host, network, server, personal computer, network access and control devices, software or data (except in the case of authorized legitimate network security operations);
- using any program, file, script, command or the transmission of any message or content of any kind, designed to interfere with a terminal session or the access or use of the Internet or any other means of communication;
- distributing or using tools designed to compromise security, including cracking tools, password guessing programs, packet sniffers or network probing tools (except in the case of authorized legitimate network security operations);
- falsifying packet header, sender, or User information whether in whole or in part to mask the identity of the sender, originator or point of origin; and
- distributing viruses, worms, trojan horses or other harmful software.

Customer Responsibilities

Customers remain solely and fully responsible for their Content.

Customers are responsible for maintaining the basic security of their systems, including implementation of necessary patches and operating systems updates, to prevent use by others in a manner that violates this AUP. Examples of failure to provide basic security include but are not limited to improperly securing a mail server so that it may be used by others to distribute Spam and improperly securing an FTP server so that it may be used by others to illegally distribute copyrighted material. Customers are responsible for taking corrective actions on vulnerable or exploited systems to prevent abuse.

Incident Reporting

Any complaints (other than claims of copyright or trademark infringement) regarding the violation of this AUP by an AT&T

Customer or User should be directed to abuse@att.net. Where possible, include details that would assist AT&T in investigating and resolving the complaint (i.e. expanded headers and a copy of the offending transmission).

All copyright and trademark infringement claims should be made in accordance with the process detailed at <http://www.att.net/general-info/claims.html> and directed to the designated agent listed below:

Designated Agent: Jerry J. Gonzales
Address: 1800 Perimeter Park Drive, Suite 100, Morrisville, NC 27560
Telephone Number of Designated Agent: (919) 319-5737
Facsimile Number of Designated Agent: (919) 319-8154
E-mail Address of Designated Agent: copyright@att.com

Revisions to this AUP

AT&T may modify this AUP at any time, effective when posted to AT&T's AUP web site (<http://www.att.com/aup/>). Notice of any change to this AUP may also be provided via electronic or regular mail.

Last updated 15-Mar-2004

[Terms & Conditions](#) [Privacy Policy](#) [Contact Us](#)

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EXHIBIT D

[Sprint.com](#) | [Personal](#) | [Business](#) | [About Us](#) | [Contact Us](#)

Acceptable Use Policy and Visitor Agreement

Effective September 1, 2005

Welcome to Sprint Nextel's website, a service of Sprint Nextel, together with its subsidiaries, affiliates, agents and licensors (collectively "Sprint Nextel"). The following terms apply to your use of and access to any Sprint or Nextel (collectively "Sprint Nextel") owned or operated website ("Website"), as well as any electronic transmission sent, received, posted, accessed, or stored via any Sprint Nextel network ("Network"), including without limitation its wireless web, data, and messaging services; Internet services; and internal email network for communicating with Sprint Nextel employees. Certain products or services offered through our Website may have additional terms and conditions, which govern in the event of any inconsistency with the terms below.

COVERAGE OF THIS POLICY AND AGREEMENT

In addition to other agreements between you and Sprint Nextel, these terms explain the policies that govern your access to and use of our Website and Network, including the actions that we may take, within our sole discretion, for any use that we deem unacceptable.

By accessing or using our Website or Network, you agree to these terms (collectively the "Policy and Agreement"), as Sprint Nextel may modify it from time to time. If you do not agree to accept and comply with the Policy and Agreement, do not access or use our Website or Network.

LINKS TO THIRD-PARTY SITES

The Website may contain links to other websites that are maintained by third parties over which Sprint Nextel has no control. These links are provided for convenience only. Use of these links will cause you to leave this Site and use of third-party websites is entirely at your own risk. Sprint Nextel makes no representation or warranty concerning any other site or the information, products or services offered or appearing on or through these sites. Sprint Nextel does not sponsor or endorse the operators of the sites or the content, products or services they provide, and Sprint Nextel is not responsible or liable for the conduct of the sites' operators, the content, availability, accuracy, quality, advertising, products, services or other materials offered at the sites.

ILLEGAL OR HARMFUL USE

You may access and use our Website and Network only for lawful purposes. You are responsible for any transmission you send, receive, post, access, or store via our Network, including the content of any communication. Transmitting, distributing, or storing any material that violates any applicable law is prohibited. Additionally, the following non-exhaustive list details the kinds of illegal or harmful conduct that are prohibited:

- **Infringement:** Infringement of intellectual property rights or other proprietary rights including, without limitation, material protected by copyright, trademark, patent, trade secret or other intellectual property right. Infringement may result from the unauthorized copying, distribution and/or posting of pictures, logos, software, articles, musical works, and videos.
- **Offensive Materials:** Disseminating or posting material that is unlawful, libelous, defamatory, obscene, indecent, lewd, harassing, threatening, harmful, invasive of privacy or publicity rights, abusive, inflammatory or otherwise objectionable.
- **Export Violations:** Including, without limitation, violations of the Export Administration Act and the Export Administration Regulations administered by the Department of Commerce.
- **Fraudulent Conduct:** Offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, chain letters, and pyramid schemes).
- **Failure to Abide by Third-Party Website Policies:** Violating the rules, regulations, or policies that apply to any third-party network, server, computer database, or website that you access.
- **Harmful Content:** Disseminating or posting harmful content including, without limitation, viruses, Trojan horses, worms, time bombs, zombies, cancelbots or any other computer programming routines that may damage, interfere with, secretly intercept or seize any system, program, data or personal information.

ELECTRONIC COMMUNICATIONS

You may not distribute, publish, or send through our Network: (1) unsolicited advertisements, solicitations, commercial e-mail messages or promotional messages of any kind (commonly referred to as "spam"); (2) unsolicited informational announcements; (3) chain mail; (4) numerous copies of the same or substantially similar messages; (5) empty messages; (6) messages which contain no substantive content; or (7) very large messages or files that disrupt a server, account, newsgroup, or chat service.

Likewise, you may not (1) participate in collecting e-mail addresses, screen names, or other identifiers of others (without Sprint Nextel's prior written consent), a practice sometimes known as spidering or harvesting; (2) participate in using software (including "spyware") designed to facilitate such activity; (3) collect responses from unsolicited messages; or (4) use any of our mail servers or another site's mail server to relay mail without the express permission of the account holder or the site.

NETWORK SECURITY AND INTEGRITY

You may not violate the security of our Website or Network in any way. Such violations may result in criminal or civil liability. Sprint Nextel may, but is not obligated to, investigate any violation of our Network. Sprint Nextel may cooperate with law enforcement where criminal or unauthorized activity is suspected. By using Sprint Nextel products services or sending, receiving, posting, accessing, or storing any electronic transmission via our Network, you agree to cooperate, as well, in any such investigation. Examples of Network security violations include, without limitation:

- **Hacking:** Unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without the express prior authorization of the owner of the system or network.
- **Interception:** Unauthorized monitoring of data or traffic on any network or system without the express prior authorization of the owner of the system or network.
- **Intentional Interference:** Interference with service to any user, host or network including, without limitation, denial-of-service attacks, mail bombing, news bombing, other flooding techniques, deliberate attempts to overload a system, and broadcast attacks.
- **Falsification of Origin or Routing Information:** Using, selling, or distributing in conjunction with the Services, any computer program designed to conceal the source or routing information of electronic mail messages in a manner that falsifies an Internet domain, header information, date or time stamp, originating e-mail address, or other identifier.
- **Avoiding System Restrictions:** Using manual or electronic means to avoid any limitations established by Sprint Nextel or attempting to gain unauthorized access to, alter, or destroy any information that relates to any Sprint Nextel customer or other end-user. Sprint Nextel may, but is not obligated to, take any action it deems necessary to protect its Website and Network, its rights or the rights of its customers or third parties, or (2) optimize or improve its Website, Network, services, systems, and equipment. You acknowledge that such action may include, without limitation, employing methods, technologies, or procedures to filter or block messages sent through the Website or Network. Sprint Nextel may, in its sole discretion, at any time, filter "spam" or prevent "hacking," "viruses" or other potential harms without regard to any preference you may have communicated to us.

INVESTIGATION AND ENFORCEMENT OF THE POLICY AND AGREEMENT

All users of the Services must adhere to the terms of this Policy and Agreement. We have the right, but are not obligated, to strictly enforce this Policy and Agreement through self-help, active investigation, litigation and prosecution.

We may also access and disclose any information (including transactional information) related to your access and use of our Website or Network for any lawful reason, including but not limited to: (1) responding to emergencies; (2) complying with the law (e.g., a lawful subpoena); (3) protecting our rights or property and those of our customers; or (4) protecting users of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, such services. INDIRECT OR ATTEMPTED BREACHES OF THIS POLICY AND AGREEMENT, AND ACTUAL OR ATTEMPTED BREACHES BY A THIRD PARTY ON BEHALF OF A COMPANY, CUSTOMER, OR USER, MAY BE CONSIDERED BREACHES OF THIS POLICY AND AGREEMENT BY SUCH COMPANY, CUSTOMER OR USER.

DISCLAIMER OF WARRANTIES AND LIABILITY

YOU UNDERSTAND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM ANY MATERIAL DOWNLOADED FROM OR OTHERWISE PROVIDED THROUGH A SPRINT NEXTEL WEBSITE OR NETWORK. ANY CONTENT OR INFORMATION ACCESSED BY OR PROVIDED TO YOU THROUGH A SPRINT NEXTEL NETWORK OR WEBSITE IS PROVIDED "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE." SPRINT NEXTEL, ITS AGENTS, AND ITS LICENSORS DO NOT WARRANT THE ACCURACY, COMPLETENESS, CURRENTNESS, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY CONTENT OR INFORMATION AVAILABLE THROUGH ITS WEBSITE OR NETWORK. YOU ACCESS SUCH CONTENT OR INFORMATION AT YOUR OWN RISK. SPRINT NEXTEL DOES NOT GUARANTEE THAT ITS NETWORK OR WEBSITES WILL BE ERROR-FREE, OR CONTINUOUSLY AVAILABLE, OR THAT IT WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. UNDER NO CIRCUMSTANCES WILL SPRINT NEXTEL, ITS AFFILIATES, ITS AGENTS OR ITS LICENSORS BE LIABLE TO YOU OR ANYONE ELSE FOR ANY DAMAGES THAT ARISE FROM THE USE OF ITS NETWORK OR WEBSITE. THIS IS A COMPREHENSIVE LIMITATION OF LIABILITY THAT APPLIES TO ALL DAMAGES OF ANY KIND-FOR EXAMPLE, COMPENSATORY, SPECIAL, DIRECT, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOSS OF DATA, INCOME OR PROFIT, LOSS OF OR DAMAGE TO PROPERTY AND CLAIMS OF THIRD PARTIES-EVEN IF WE ARE ADVISED BEFOREHAND OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT THE AGGREGATE LIABILITY OF SPRINT NEXTEL, ITS AGENTS, AND ITS LICENSORS, IF ANY, ARISING OUT OF ANY KIND OF LEGAL CLAIM IN ANY WAY CONNECTED TO ANY SPRINT NEXTEL NETWORK OR WEBSITE WILL NOT EXCEED \$100.00. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN CATEGORIES OF DAMAGES OR IMPLIED WARRANTIES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. IN SUCH STATES, THE LIABILITY OF SPRINT NEXTEL, AND ITS AFFILIATES, AGENTS AND LICENSORS IS LIMITED TO THE FULLEST EXTENT PERMITTED BY SUCH STATE LAW.

GOVERNING LAW

This Policy and Agreement is governed by and must be construed under the laws of the Commonwealth of Virginia. The federal and state courts of Fairfax County, Virginia, have exclusive jurisdiction over and venue of any suit that relates to this Policy and Agreement.

INDEMNIFICATION

You agree to indemnify, defend and hold harmless Sprint Nextel from and against all claims, liabilities, losses, expenses, damages and costs (including reasonable attorneys' fees) that arise from: (1) any violation of this Policy and Agreement by you; (2) any violation of any rights of a third party by you; (3) any violation of applicable law; (4) information or content that you submit, post, transmit or make available through our Website or Network; or (5) your use of our Website or Network.

MODIFICATION OF THE POLICY AND AGREEMENT

We reserve the right to modify this Policy and Agreement at any time, effective upon its posting, as modified, on www.sprint.com. You agree to the Policy and Agreement by accessing or using our Website, products or services, or by sending any electronic transmission through our Network.

PRIVACY POLICY

Sprint Nextel Communications respects the privacy of visitors to our site. Please take a few minutes to review our Privacy Policy.

MISCELLANEOUS

Any failure to insist upon or enforce performance of any provision in this Policy and Agreement will not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice will act to modify any provision in this Policy and Agreement. Sprint Nextel may assign its rights and duties under these terms to any party at any time without notice to you. If any provision of this Agreement is deemed unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these terms and conditions so that it does not affect the validity and enforceability of any remaining provisions.

QUESTIONS AND COMMENTS

We invite you to send in your questions or comments about our site, or to bring to our attention any material you believe to be inaccurate. Please send such comments, including a copy of any material you wish to discuss, to Customer Care.

We hope you enjoy using our Services and we welcome suggestions for improvements.

[Your Privacy Rights](#) | [Acceptable Use Policy and Visitor Agreement](#) | [Copyright Notices](#) | [Find a Store](#) | [Contact Us](#)

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EXHIBIT E

[Safeguarding Consumers](#) > [Internet Safety](#) > Spam

Spam

Nearly everyone who uses e-mail has received unsolicited commercial messages at one time or another. These e-mails, often referred to as "spam," are an irritating fact of life for people who use the Internet to communicate with friends, do research, or purchase goods and services on line.

In Washington State, the number one consumer complaint reported over the last 2 years is spam. On average our office receives between 1,000 - 1,600 spam complaints per month. The Federal Trade Commission reports receiving over 130,000 junk email complaints a day. Almost 45 percent of all email is now spam and that number is growing each year. Nearly three trillion spam messages are sent each year — 13 times the total snail mail delivered by the U.S. Postal service. The average wired American is hit with nearly 2,200 spam messages annually — this after most ISPs have filtered 80-90 percent of the junk messages. Some reports indicate that these numbers could increase by five times in the near future. Junk email is an issue not only reserved for individuals — it is estimated that spam costs legitimate businesses \$9 billion dollars a year.

Spam can be divided into two categories — legal and illegal.

A Washington law passed in 1998 and upheld by the state Supreme Court in 2001 makes it **illegal** to send unsolicited commercial e-mail that has been addressed in a false or misleading way. This type of spam is especially troubling because it can cheat consumers out of their money, undermine consumer confidence in online commerce and harm legitimate Internet marketers. One example of illegal spam, sometimes referred to as "Joe job" spam, purports to come from reputable business firms and is intended to harass those firms or to elicit personal information from recipients.

In 2003, the federal government also passed an anti-spam law, called the CAN Spam Act. Among other regulations, the CAN Spam Act requires that unsolicited commercial email be clearly identified as such and that consumers be able to opt-out of receiving more emails. The Federal Trade Commission is also charged with investigating the viability of a do-not-spam registry, similar to the do-not-call registry already in place.

While many unsolicited e-mail messages are annoying, only some fall into the illegal category. But even if a message does not violate federal or state anti-spam laws, it should still be viewed with caution. Messages may contain advertisements for pornography, get-rich-quick schemes and other ploys that violate state law, are offensive or inappropriate for viewing by children. Clicking on links contained in spam messages can also expose Internet users to computer viruses.

Pop-Up Advertising

Another increasingly annoying problem for many Internet users is unsolicited pop-up advertising that appears on computer screens while surfing the net. Although pop up ads can be as annoying as unsolicited e-mail, they are not illegal and are not covered by Washington's anti-spam law. However, there are steps you can take to eliminate unwanted pop up ads.

In 2003, the law outlining jurisdiction for Washington district courts was amended to specifically allow these courts to hear spam cases.

The links on above and to the left of this page will take you to more detailed information about unsolicited commercial e-mail, Washington's law, and steps you can take to reduce the amount of spam—legal and illegal—in your computer mailbox.

1 THE HON. JOHN C. COUGHENOUR

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

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**OMNI INNOVATIONS, LLC, a
Washington Limited Liability
company,**

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Plaintiff,

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v.

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**ASCENTIVE, LLC, a Delaware
limited liability company; ADAM
SCHRAN, individually and as part of
his marital community; JOHN DOES,
I-X,**

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Defendants,

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TO: COURT

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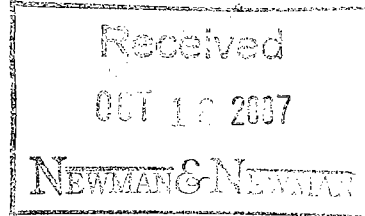
AND TO: COUNSEL FOR DEFENDANT

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NO. 06-01284

PROPOSED ORDER ON

**PLAINTIFF'S MOTIONS &
DECLARATION FOR A CHANGE
OF VENUE AND MODIFICATION
OF ORDER TO STAY**

[JURY DEMANDED]

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PROPOSED ORDERS

The Court having considered Plaintiff's Motion for Change of Venue and Defendant's Reply,
said Order is hereby (granted) _____ (denied) _____.

The Court having considered Plaintiff's Motion for Modification of Order to Stay and
Defendant's Reply, said Order is hereby (granted) _____ (denied) _____.

Dated this _____ day of _____, 2007

JUDGE