

TG

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

E360INSIGHT, LLC, an Illinois Limited  
Liability Company, and DAVID LINHARDT,  
and individual,

Plaintiffs,

v.

THE SPAMHAUS PROJECT,  
a Company Limited by Guarantee  
and Organized Under the Laws  
of England also known as  
THE SPAMHAUS PROJECT, LIMITED,

Defendants.

Case No. 06-cv-03958

Judge Kocoras

SEP 28 2007  
FILED

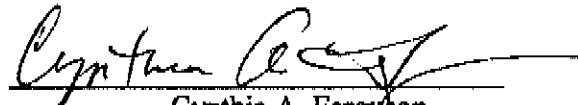
SEP 28 2007

MICHAEL W DOMBINS  
CLERK, U.S. DISTRICT COURT

**NOTICE OF FILING**

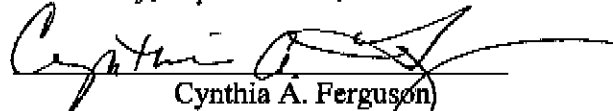
To: SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on Thursday, September 20, 2007, I caused to be filed  
**Mark James Ferguson's Affidavit**, a copy which is attached hereto and hereby served upon  
you.

  
Cynthia A. Ferguson

**CERTIFICATE OF SERVICE**

The undersigned, not an attorney, certifies that she caused a copy of the attached  
**Mark James Ferguson's Affidavit** to be served upon the above named parties, via US mail  
from Bellevue, Washington before 5:00 p.m. on Thursday, September 20, 2007

  
Cynthia A. Ferguson

Mark James Ferguson  
3831 S. Fawcett Ave.  
Tacoma, WA 98418

E360INSIGHT LLC/Dave Linhardt  
c/o SYNERGY LAW GROUP L.L.C.  
730W.RANDOLPH 6TH FL  
CHICAGO IL, 60661  
(312) 454-0301

The Spamhaus Project  
c/o Jenner & Block LLP  
David Jimenez-Ekman  
330 N. Wabash Avenue  
Chicago, IL 60611  
(312) 222-9350

TG

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

E360INSIGHT, LLC, an Illinois Limited  
Liability Company, and DAVID LINHARDT,  
and individual, )

Plaintiffs, )

v. )

THE SPAMHAUS PROJECT,  
a Company Limited by Guarantee  
and Organized Under the Laws  
of England also known as  
THE SPAMHAUS PROJECT, LIMITED, )

Defendants.

Case No. 06-cv-03958

Judge Kocoras

**FILED**

SEP 28 2007

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

AFFIDAVIT OF MARK FERGUSON  
REGARDING 360INSIGHT LLC. V. SPAMHAUS ET, AL

SEP 28 2007

I Mark Ferguson declare and state:

1. My name is Mark Ferguson and I am not a Defendant in this action. The facts set out below are known to me personally and if called on I could testify to those facts under oath.
2. I have no relationship with Plaintiffs Dave Linhardt and or E360 Insight other than them suing me and five others for speaking out about their spamming activities. (Exhibit "1," attached)
3. I have no relationship with Spamhaus but the use of some or parts of their lists to block spam.
4. Dave Linhardt manufactured information to indicate I signed up for his spam on November 29, 2007. (Exhibit "2," attached)

5. At the time Dave Linhardt manufactured this information signup my internet accounts were set up in such a way as to preclude viewing my IP address unless I logged onto a website and the owner of that site had direct access to the log files.

6. I was assigned a static IP address [131.191.13.159] by my current broadband provider Advanced Stream on January 12, 2007 when I signed up. (Exhibit "4," attached)

7. Plaintiff Dave Linhardt took my current information, manufactured a false signup for me and then back dated it to November 29, 2006.

8. Plaintiff Dave Linhardt then presented that manufactured evidence to his attorney Darren Green as fact as seen in his response letter to my Letter of Demand for damages dated March 5, 2007. (Exhibit "3," attached)

9. Plaintiffs filed no less than two separate lawsuits for the same causes in two separate courts in Illinois against me in the last six months. The first case was filed March 7, 2007 (E360 Insight v. Mark James Ferguson) filed in the District Court for the Northern District of Illinois Eastern division. Plaintiffs then requested from the court a voluntary dismissal approximately two months later on May 8, 2007 without any defendants ever being served.

10. Immediately a second suit was launched in the Circuit Court for Cook County for the same exact causes of action on May 11, 2007. Plaintiffs merely dropping one defendant and added Bill Silverstein because Mr. Silverstein filed suit against Plaintiffs for spamming him in Federal Court in California. (WILLIAM SILVERSTEIN vs.E360INSIGHT, LLC)

11. Nevertheless, myself and the other five defendants were required to defend ourselves a second time because Plaintiffs filed again, this time in the Cook County Circuit Court (E360 Insight v. Mark James Ferguson).

12. Plaintiffs' attorneys were informed as to the nature of their primary evidence a second time and ignored my attempts to inform them their client filed a case based on manufactured evidence.

13. In the end and after more bad faith from the Synergy Law Group the case followed the previous case in Federal court and they requested a voluntary dismissal.

14. I was amiable to this and affirmed I would be willing to pay my own cost Mr. Peters informed me he would email me documents outlining his proposal. These documents never arrived and I only found out later Plaintiffs were attempting to remove my and two other defendants from the case.

15. Plaintiffs used this manufactured evidence and other unethical tactics in their attempt to claim Personal Jurisdiction over me falsely claiming I committed these acts in Illinois citing cases from as far away as New Jersey to bolster this claim. (Exhibit "5," attached)

16. Strategically this was a good attempt to gain default judgments against all three defendants but ethically Plaintiff knew there was not a case strong enough to obtain Jurisdiction and any outcome would have been morally and ethically wrong and would not be upheld in a court of Jurisdiction.

17. Furthermore, an injunction was requested in an attempt to use the Illinois Court as a tool to strip away my first amendment right to free speech. Not only was this wrong it was attempted in the Law Division of the Circuit Court which does not have the authority to issue an injunction. This is not merely missteps by their legal team but was intended to chill the free speech of all those that participate in public forums like the Usenet and the Internet.

18. It is this type of unethical behavior I wish to bring to the Court's attention. If Plaintiffs cannot win a case on its merit they resort subterfuge, deception and lies to win. Going so far as to manufacture evidence or in the very least use evidence they know to be manufactured because Plaintiffs manufactured that evidence themselves.

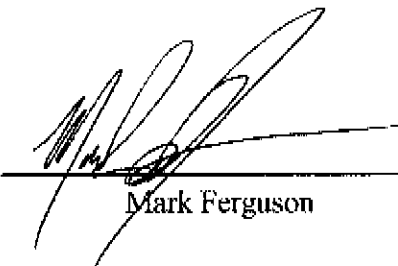
19. On Friday 24, 2007 Synergy Law Group did file a Notice of Filing with the Cook County Court which named me as a recipient of their Response to Defendant Robert Sacker's Motion to Dismiss which I have yet to receive four weeks later.

20. Upon further investigation I found no less than ninety-three [seventy-three presented as evidence] spam from Plaintiffs that were clear violations of the Can Spam Act, Washington's CEMA and Illinois 815 ILCS 511/1, specifically 815 ILCS 511/10 subsections (a-5) and (a-10).

21. All this shows that when Plaintiff Dave Linhardt declared under penalties of perjury that he complied with all federal and state laws he lied to the court in David Linhardt's affidavit in support of e360insight LLC's Motion for Default Judgment.

e360 is an email based marketing company whose business practices have, at all times, complied with federal and state requirements and standards pertaining to the sending of commercial email, including the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, 15 U.S.C. § 7701 (CAN-SPAM).

22. I now respectfully request you enter this affidavit into evidence.



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Mark Ferguson



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

E360INSIGHT, LLC, an Illinois Limited  
Liability Company, and DAVID LINHARDT,  
an individual,

Plaintiffs,

v.

MARK JAMES FERGUSON, an individual,  
SUSAN WILSON A.K.A. SUSAN GUNN, an  
individual, ROB SAECKER A.K.A. FUDO,  
an individual, RICH TIETJENS A.K.A.  
MORELY DOTES, an individual, WILLIAM  
SILVERSTEIN, an individual, and TIM  
SKIRVIN A.K.A. SCREWTAPE III, an  
individual

Defendants.

No.:

2007 MAY 11 PM 3:51  
FILED-6  
CIRCUIT COURT OF COOK  
COUNTY ILLINOIS  
LAW DIVISION  
DOUGHTY BROWN CLERK

JURY DEMAND

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND FOR DAMAGES

EXHIBIT II

<b>From</b> ▣	<b>Date</b> ▲	<b>Subject</b> ▣	<b>Size</b>
☐ Handbags by Gucci	Feb 23, 2007	<u>Gucci Handbags are up to 96 percent off.</u>	2.1 k
☐ Designer Sunglasses	Feb 22, 2007	<u>Get 6 pairs of Designer Sunglasses for 48 dollars.</u>	3 k
☐ Rachael R	Feb 22, 2007	<u>We are giving away prizes from Rachael Rays new sh...</u>	4.1 k
☐ Downy Cleaner	Feb 22, 2007	<u>Downy is introducing new Downy Liquid Fabric Softc...</u>	2.6 k
☐ Target Stores	Feb 22, 2007	<u>At Target you get designer looks at a fraction of the ...</u>	2.2 k
☐ Housekeeping	Feb 22, 2007	<u>Swiffer® Sample on us</u>	3.7 k
☐ Housekeeping	Feb 22, 2007	<u>Swiffer® Sample on us</u>	3.7 k
☐ Designer Sunglasses	Feb 21, 2007	<u>Get 6 pairs of Designer Sunglasses for 48 dollars.</u>	4.2 k
☐ Congratulations	Feb 21, 2007	<u>Enter to Win Your own Dream Apartment</u>	3.8 k
☐ Baby Diapers	Feb 20, 2007	<u>Huggies, Luvs, and Pampers are giving away free di...</u>	2.9 k
☐ GladWare vs Ziploc	Feb 20, 2007	<u>GladWare and Ziploc are giving away free food storage ...</u>	2.9 k
☐ Big Lots Sale	Feb 20, 2007	<u>Big Lots would like to give you a complimentary gift ...</u>	2.7 k
☐ Rachael R	Feb 20, 2007	<u>We are giving away prizes from Rachael Rays new sh...</u>	4.1 k
☐ Dial Body Wash	Feb 19, 2007	<u>Would you like to try a no cost sample of Dial Body ...</u>	2.9 k
☐ Auto Vacuum	Feb 19, 2007	<u>Would you like a free automatic Vacuum?</u>	4 k
☐ Enfamil	Feb 18, 2007	<u>Would you like complimentary baby shower gifts?</u>	2.9 k
☐ Quiznos Subs	Feb 18, 2007	<u>Have you tried the delicious subs at Quiznos?</u>	2.7 k
☐ Financial Freedom	Feb 18, 2007	<u>Catch the wave to financial freedom</u>	2.9 k
☐ Remote Helicopter	Feb 18, 2007	<u>Have you checked out the hottest toy to hit the ma...</u>	4.3 k
☐ Costco Wholesale	Feb 17, 2007	<u>Take advantage of Costco's wholesale prices</u>	2.2 k

☐	Applebees	Feb 17, 2007	<a href="#">Have you been to Applebees lately?</a>	2.2 k
☐	Dr. Phil	Feb 17, 2007	<a href="#">Would you like to see Dr. Phil live?</a>	2.2 k
☐	America's Candle	Feb 17, 2007	<a href="#">Have you been to the Yankee Candle?</a>	3.5 k
☐	Crest Brush	Feb 17, 2007	<a href="#">Have you tried brushing with new Crest Wild Express...</a>	3.4 k
☐	Circuit City	Feb 16, 2007	<a href="#">How would you like a no cost gift card from Circuit ...</a>	2.2 k
☐	GladWare and Ziploc	Feb 16, 2007	<a href="#">Have you tried GladWare or Ziploc storage containe...</a>	2.3 k
☐	Baby Supplies	Feb 16, 2007	<a href="#">Would you like complimentary diapers from Huggies, Luv...</a>	2.5 k
☐	Rachael Ray	Feb 16, 2007	<a href="#">Would you like to cook like Rachael Ray?</a>	3.6 k
☐	Home Remodeling	Feb 16, 2007	<a href="#">Have you been thinking about fixing up your kitche...</a>	3.7 k
☐	GladWare and Ziploc	Feb 15, 2007	<a href="#">Have you tried GladWare or Ziploc storage containe...</a>	2.3 k
☐	Baby Supplies	Feb 15, 2007	<a href="#">Would you like complimentary diapers from Huggies, Luv...</a>	2.5 k
☐	Prada Handbags	Feb 15, 2007	<a href="#">Save up to 98 percent on Prada Handbags.</a>	2.4 k
☐	Jergens Skin	Feb 15, 2007	<a href="#">Put your best skin out there with a no cost sample of ...</a>	3.5 k
☐	Covergirl and Maybelline	Feb 15, 2007	<a href="#">Which do you prefer, Covergirl or Maybelline?</a>	3.3 k
☐	Sears with Kmart	Feb 14, 2007	<a href="#">Who gives you more for you money, Sears or K-Mart?</a>	2.3 k
☐	Big Lots	Feb 14, 2007	<a href="#">Start shopping at Big Lots with your no cost gift ...</a>	2.2 k
☐	Dove Lotion	Feb 12, 2007	<a href="#">Have you tried Dove Calming Night?</a>	3.3 k
☐	Burberry Handbags	Feb 12, 2007	<a href="#">Save up to 95 percent on Burberry Handbags.</a>	4.5 k
☐	Madonna Clothing	Feb 12, 2007	<a href="#">What do you think of Madonna's new clothing line?</a>	2.3 k
☐	Gucci Handbags	Feb 8, 2007	<a href="#">Save up to 96 percent on Gucci Handbags.</a>	5.4 k
☐	New Designer Handbags	Feb 5, 2007	<a href="#">Get New Designer Handbags for up to 96 percent les...</a>	3.8 k

☐ Kitchen Makeover	Feb 5, 2007	<a href="#"><u>Would you like a dream kitchen makeover?</u></a>	3.9 k
☐ Super Bowl Blankets	Feb 4, 2007	<a href="#"><u>Amazing savings on Super Bowl Blankets.</u></a>	3.1 k
☐ 2007 Mini Helicopter	Feb 4, 2007	<a href="#"><u>Have you checked out the Mini Helicopter?</u></a>	3.6 k
☐ Deal or No Deal	Feb 4, 2007	<a href="#"><u>Do you like to watch Deal or No Deal?</u></a>	2.2 k
☐ Neutrogena kits	Feb 3, 2007	<a href="#"><u>Would you like a complimentary Neutrogena travel k...</u></a>	3.6 k
☐ Yankee Candle	Feb 3, 2007	<a href="#"><u>Have you been to the Yankee Candle</u></a>	3.7 k
☐ Quiznos Subs	Feb 3, 2007	<a href="#"><u>Have you tried the delicious subs at Quiznos?</u></a>	2.2 k
☐ Burt's Lip Balm	Feb 2, 2007	<a href="#"><u>Sooth your lips with Burt's Lip balm</u></a>	3.8 k
☐ Coach Handbags	Feb 2, 2007	<a href="#"><u>Up to 96 percent off Coach Handbags.</u></a>	2.9 k
☐ Crest Wild Expressions	Feb 2, 2007	<a href="#"><u>Have you tried new Crest Wild Expressions?</u></a>	3.6 k
☐ Sears with Kmart	Feb 2, 2007	<a href="#"><u>Sears and K-mart gift certificate giveaway</u></a>	2.2 k
☐ Burberry Handbags	Jan 28, 2007	<a href="#"><u>Save up to 95 percent on Burberry Handbags.</u></a>	3.2 k
☐ Ticketmaster	Jan 28, 2007	<a href="#"><u>Here is your ticket from Ticketmaster</u></a>	2.9 k
☐ JCPenny	Jan 26, 2007	<a href="#"><u>Discover the enormous savings at JCPenny</u></a>	2.9 k
☐ Congratulations	Jan 25, 2007	<a href="#"><u>Win the View's favorite things on us</u></a>	4.5 k
☐ Gucci Handbags	Jan 25, 2007	<a href="#"><u>Up to 96 percent off Gucci Handbags.</u></a>	3.2 k
☐ Detergent Bonus	Jan 24, 2007	<a href="#"><u>Tide sample on us</u></a>	4 k
☐ Nikon Camera	Jan 24, 2007	<a href="#"><u>Nikon is giving away complimentary digital cameras</u></a>	3.1 k
☐ Mini Helicopter	Jan 23, 2007	<a href="#"><u>This mini toy helicopter is this year's best toy</u></a>	2.7 k
☐ Designer Handbags	Jan 23, 2007	<a href="#"><u>Get designer handbags for up to 97 percent less.</u></a>	3.1 k
☐ Congratulations	Jan 22, 2007	<a href="#"><u>Free 1 year membership to Curves on us</u></a>	4.1 k
☐ Louis Vuitton Handbags	Jan 22, 2007	<a href="#"><u>Save up to 96 percent on Louis Vuitton handbags.</u></a>	4.8 k

<input type="checkbox"/>	Celeb Bonus	Jan 21, 2007	<a href="#">Win tickets to see Ellen Live</a>	3.8 k
<input type="checkbox"/>	New Coach Handbags	Jan 21, 2007	<a href="#">Up to 96 percent off Coach Handbags.</a>	4.5 k
<input type="checkbox"/>	Apple MacBook	Jan 21, 2007	<a href="#">Would you like a new laptop for the New Year?</a>	4.4 k
<input type="checkbox"/>	NFL Bargains	Jan 21, 2007	<a href="#">NFL merchandise up to 63 percent off.</a>	4.3 k
<input type="checkbox"/>	Detergent Bonus	Jan 20, 2007	<a href="#">Pick your favorite detergent and get \$10</a>	3.9 k
<input type="checkbox"/>	Personal Care	Jan 20, 2007	<a href="#">Burt's Bees hand repair kit on us</a>	3.7 k
<input type="checkbox"/>	Fresh Scents	Jan 19, 2007	<a href="#">Yankee Candles sample on us</a>	3.5 k
<input type="checkbox"/>	New Designer Handbags	Jan 19, 2007	<a href="#">Save up to 97 percent on New Designer Handbags.</a>	4.7 k
<input type="checkbox"/>	Congratulations	Jan 18, 2007	<a href="#">Free 1 year membership to Curves on us</a>	3.6 k
<input type="checkbox"/>	Congratulations	Jan 17, 2007	<a href="#">Win the View's Favorite Things on us</a>	4 k
<input type="checkbox"/>	Yankee Candle	Jan 15, 2007	<a href="#">America's most popular candles are from Yankee Can...</a>	3.8 k
<input type="checkbox"/>	The Views	Jan 13, 2007	<a href="#">What do you think of the ladies of The View?</a>	2.3 k
<input type="checkbox"/>	Wal-Mart Superstore	Jan 12, 2007	<a href="#">Wal-Mart would like to present you with a complimentary ...</a>	4.5 k
<input type="checkbox"/>	Mini Helicopter	Jan 12, 2007	<a href="#">The mini helicopter is the hottest toy of 2007</a>	3.7 k

[Paginate](#)

[Toggle All](#)

Viewing Messages: 1 to 77 (77 total)

EXHIBIT III

Path:  
g2news2.google.com!postnews.google.com!n33g2000cwc.googlegroups.com!not  
-for-mail  
From: "e360Insight" <e360insight@gmail.com>  
Newsgroups: news.admin.net-abuse.email  
Subject: Re: The Truth About e360 v Spamhaus  
Date: 4 Mar 2007 18:11:08 -0800  
Organization: http://groups.google.com  
Lines: 87  
Message-ID: <1173060668.210258.253180@n33g2000cwc.googlegroups.com>  
References: <1172860780.999678.184350@h3g2000cwc.googlegroups.com>  
<linford-E9DBE3.20492802032007@news.supernews.com>  
<1172872904.337872.158270@j27g2000cwj.googlegroups.com>  
<MPG.2052959c43ff60c9989685@news.sonic.net>  
<1172897102.100912.202850@64g2000cwx.googlegroups.com>  
<MPG.20529fb81f9be0cc989688@news.sonic.net>  
NNTP-Posting-Host: 67.36.188.22  
Mime-Version: 1.0  
Content-Type: text/plain; charset="iso-8859-1"  
X-Trace: posting.google.com 1173060673 7729 127.0.0.1 (5 Mar 2007  
02:11:13 GMT)  
X-Complaints-To: groups-abuse@google.com  
NNTP-Posting-Date: Mon, 5 Mar 2007 02:11:13 +0000 (UTC)  
In-Reply-To: <MPG.20529fb81f9be0cc989688@news.sonic.net>  
User-Agent: G2/1.0  
X-HTTP-UserAgent: Mozilla/4.0 (compatible; MSIE 7.0; Windows NT  
5.1),gzip(gfe),gzip(gfe)  
Complaints-To: groups-abuse@google.com  
Injection-Info: n33g2000cwc.googlegroups.com; posting-  
host=67.36.188.22;  
posting-account=SAFEMQ0AABxNhwYoNEOT-5PNijQ0K1U

On Mar 2, 10:55 pm, Mark Ferguson <washington\_resid...@whew.com>  
wrote:  
>  
> Too little, too late After I sent my LOD you kept spamming me  
> so now I have 75 spam and each violate the federal and state  
> law.  
>  
> --  
> Mark Ferguson  
> whew.com Site Map[http://www.whew.com/site\\_map.php](http://www.whew.com/site_map.php)- Hide quoted text -  
>  
> - Show quoted text -

From: e360Insight [mailto:e360Insi...@gmail.com]  
Sent: Sunday, March 04, 2007 8:09 PM  
To: 'washington\_resident@whew.com'  
Subject: Your address has been removed  
Importance: High

Mr. Ferguson,

We are preparing our response to your letter dated February 9, 2007. However, I feel compelled to respond to you in advance of our attorney's letter based on the message posting you created recently.

Below is the source information of where you signed up and when.

email: washington\_resident@whew.com  
first\_name: MARK  
last\_name: FERGUSON  
address\_1: 3831 FAWCETT AVE  
city: TACOMA  
state: WA  
zip: 98418  
zip+4: 98418-6734  
opt-in site: 123FreeTravel.com  
opt-in date: 2006-11-29 00:00:00.000  
ip address: 131.191.13.159

123freetravel.com is a partner site that runs signup offers for our promotional offers. Our promotional banner was displayed on their site with an offer that you accepted upon your registration. Your registration with 123freetravel.com is subject to their privacy policy, as stated on their website.

[http://www.123freetravel.com/privacy\\_policy.php](http://www.123freetravel.com/privacy_policy.php)

After you signed up to receive our email messages, we provided you with an opportunity to unsubscribe on every email message sent. We have not received any record of a removal request from you prior to receipt of your letter dated February 9, 2007. Since your original registration and lack of removal requests, we could only assume you wanted your subscription to our newsletter to continue.

Upon receipt of your letter, we immediately removed your email address from our mailing list. We also added your email address to our master suppression file so that we will not mail you again, even if you sign up again.

We recommend to all of our customers that they read all terms and conditions carefully before signing up for any offer on any website. Failure to do so may lead to a misunderstanding of the terms and conditions that govern the relationship between the website and the registrant.

Your message below indicates you are still receiving email messages from us. I have verified that your email is not included in our mailing list, so it is not possible that you are still receiving email messages from us to washington\_resident@whew.com. Please send me a recent copy of a message you believe is coming from us. Given the attention paid to these matters lately, it is possible someone is spoofing our email header. We have seen examples of spoofed emails before. There is an example of a spoofed header currently posted on [www.spamhaus.org](http://www.spamhaus.org).

We apologize for any inconvenience this has caused you. Our stated policy is to not send email messages to anyone who does not want to receive them. Please feel free to contact me again if I can be of any

assistance to you in this matter.

Regards,

Dave Linhardt  
President  
e360Insight, LLC

[Create a group](#) - [Google Groups](#) - [Google Home](#) - [Terms of Service](#) -  
[Privacy Policy](#)

EXHIBIT III

Darren M. Green, Esq.  
4852 North Magnolia, 2<sup>nd</sup> Floor  
Chicago, Illinois 60640  
Ph: (312) 925-8870  
Fax: (773) 506-6538  
dgreen@dgattorney.com

March 5, 2007

VIA FEDEX  
Mr. Mark James Ferguson  
3831 Fawcett Avenue  
Tacoma, WA 98418

**Re: DEMAND FOR DAMAGES – Reference 2007/0210**

Dear Mr. Ferguson:

I serve as legal counsel to e360Insight, LLC, and as such, am in receipt of your correspondence dated February 9, 2007. This letter responds to such correspondence.

First, it appears that the Washington State law you cite in your letter – RCW 19.190 – has been pre-empted by the Federal Can Spam Act. As such, my client's actions should be viewed under the requirements set forth in the Can Spam Act rather than the Washington statute (which was passed a number of years before the Federal law). My client's e-mail policies are in full compliance with the restrictions set forth in the CAN SPAM Act, and, incidentally, the pre-empted Washington State law.

Your letter seems to be predicated on the assumption that certain e-mails sent by my client were somehow illegal, but you never substantiate this allegation. My client's records clearly illustrate that you signed up to receive each and every e-mail you included with your letter at one of my client's partner web sites. Confirmation e-mails were sent to you, each offering an opportunity to opt out if you changed your mind. You chose not to unsubscribe within any of these e-mails, and continued to choose not to unsubscribe via the one-click option offered in all subsequent e-mails to you. Finally, none of my client's e-mails contained illegal (deceptive) header or address information.

In addition, the cases you cite in your letter are not relevant to the situation at hand. Both Heckel and Khuri were initiated prior to the passage of the CAN SPAM Act, and as such, have no bearing on my client's actions in the State of Washington. Furthermore, the fact pattern in the cases you cite bears no resemblance whatsoever to the actions of my client. For example, in Heckel the "spammer" stole a third party's domain name to send e-mail messages (13.com), opened accounts for the sole purpose of sending unsolicited commercial e-mail and closed such accounts within 2 days of each bulk mailing, and used deceptive e-mail headers such as "Did I get this e-mail right". My client has done none of these things.

Finally, please be advised that my client takes all attempts to interfere with its legal and legitimate business practices quite seriously. As you are likely aware, my client has recently received a favorable judgment against Spamhaus from United States District Court case number 06 C 3958. Among other things, the Court issued a permanent injunction against Spamhaus

requiring Spamhaus to remove my client's ip addresses from its blacklist. It appears, from a number of your recent online posts at various usenet message boards (including NANAE), that you are on something of a crusade against unsolicited e-mail, and in particular, my client. To wit, you recently posted that "[t]hese spammers are going to be funding my semi-retirement and with what e360Insight will be paying with the other spammers; this is going to be a good year and I am already buying a second home." While you are certainly entitled to take appropriate actions against illegal "Spammers", my client will not, under any circumstance, tolerate attempts to profit from its legal e-mail activities by threat of lawsuit.

Based on your letter my client will, however, suppress all further e-mails to your account.

If you have any questions regarding the foregoing, please feel free to call me at (312) 925-8870.

Very truly yours,



Darren M. Green, Esq.

Cc: e360Insight, LLC

EXHIBIT IV

Account Number		Residence Phone		Business Phone	
120183		475-53167			
Service Name and Address					
DINDY FERGUSON **DUAL ACCOUNT** 3831 S FAWCETT AVE TACOMA WA 98418					
Node	Seg	Dwelling	OB/UG	Conduit	Other
		RES			
Notes to technicians					
AS/DATA/DINDY FERGUSON/EX 475-5316168					
*ALL EQUIPMENT ISSUES REQUIRE ID* ISP COMPLEX #					

WORK ORDER



Work Order #	16871
Field Tech ID	ID
Work Order Type	SPCL REQ
Schedule	
Date	Time
01/12/07	ISP 9-11
Service Ref/ID	Issue Ref/ID
	12/28/06

DROP:    
 Customer ID #

Code	Description	Charge	Task	Points	Serial Numbers
			ISP INSTALL - S1	6	
<p><i>CF</i> <i>CD-58</i></p>					

CH#2 CH#13 CH#54 CH#78 CH#104 CH#105 CH#106 No. of outlets: <input type="checkbox"/> DATA <input checked="" type="checkbox"/> VIDEO	Technician Comments: <i>Jan 19 5:11 133</i> <i>16/12375 HR 220</i> LAST VISIT: 01/09/07 TYPE: SPCL <input type="checkbox"/> TECH <input checked="" type="checkbox"/> Temporary Drop
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**CLICK! NETWORK Service Agreement**  
 As a Click! Network customer, you agree to take responsible care of Click! Network equipment in your home. In signing this agreement, you also agree to policies and practices as explained in your Customer Handbook received at initial installation. You are responsible for all damage to equipment beyond reasonable wear and tear in normal use. You agree to use Click! Network equipment only at the address stated above or at a transferred address if authorized and served by Click! Network. See price list for equipment cost for receiver and remotes. Leaving a television on while a receiver DVR (Digital Video Recorder) is paused for extended periods of time can cause screen damage to your television. A Click! Network representative trained me on setting up passwords and pin numbers on my account. It is unlawful to connect to a cable system and/or to sell or possess a device designated to receive subscription television services without authority from the cable company. Theft of cable services is a gross misdemeanor under RCW 9A 56.220. Unlawful sale of services is a class C felony. Individuals found to have violated state law will be prosecuted to the full extent of the law.

Customer Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Technician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## EXHIBIT V

Excerpts from Plaintiffs' response to my Motion to Dismiss making it painfully clear they had no jurisdiction yet chose to continue the case.

4. Jurisdictions other than Illinois have justified exercising jurisdiction over non-resident defendants based on internet activity, illustrating the emerging precedent of

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allowing plaintiffs to file suit where the effects of a defendant's internet activity are felt.  
*See Goldhaber v. Kohlenberg*, --- A.2d ----, 2007 WL 2198181 (N.J.Super.A.D.).