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*Court Use only above this line.*

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK FERGUSON, a married individual,  
d/b/a WHEW.COM,

Plaintiff,

vs.

ACTIVE RESPONSE GROUP, a New York  
company; THE BRADFORD EXCHANGE,  
LTD., an Illinois corporation; QUINSTREET,  
INC., a California corporation; VISION CARE  
HOLDINGS, LLC, a Florida Limited Liability  
Company; NAUTILUS, INC., a Washington  
corporation; and JOHN DOES, I-CC,

Defendant.

NO. C07-5378 RJB

**NAUTILUS’S ANSWER AND  
AFFIRMATIVE DEFENSES**

Nautilus, Inc. (“Nautilus”), by and through its undersigned attorneys, hereby answers  
plaintiff’s complaint as follows:

**PARTIES, JURISDICTION, VENUE**

1. Answering paragraph 1 of the complaint, Nautilus lacks knowledge or  
information sufficient to form a belief as to the truth of plaintiff’s allegations regarding who he  
does business as, his marital status, and his place of residence, and on that basis denies the  
same.

GARVEY SCHUBERT BARER  
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS  
*eighteenth floor*  
*1191 second avenue*  
*seattle, washington 98101-2939*  
*(206) 464-3939*



1 information sufficient to form a belief as to the truth of plaintiff's allegations and therefore  
2 denies the same.

3 13. Answering paragraph 13 of the complaint, Nautilus lacks knowledge or  
4 information sufficient to form a belief as to the truth of plaintiff's allegations and therefore  
5 denies the same.

6 14. Answering paragraph 14 of the complaint, Nautilus lacks knowledge or  
7 information sufficient to form a belief as to the truth of plaintiff's allegations and therefore  
8 denies the same.

9 15. Answering paragraph 15 of the complaint, Nautilus lacks knowledge or  
10 information sufficient to form a belief as to the truth of plaintiff's allegations and therefore  
11 denies the same.

12 16. Answering paragraph 16 of the complaint, Nautilus denies the allegations  
13 contained therein.

14 17. Answering paragraph 17 of the complaint, Nautilus denies the allegations  
15 contained therein.

16 18. Answering paragraph 18 of the complaint, Nautilus denies the allegations  
17 contained therein.

18 **First Cause of Action – Can-Spam Act**

19 19. Answering paragraph 19 of the complaint, Nautilus denies the allegations  
20 contained therein.

21 20. Answering paragraph 20 of the complaint, Nautilus denies the allegations  
22 contained therein.

23 **Second Cause of Action – CEMA**

24 21. Answering paragraph 21 of the complaint, Nautilus denies the allegations  
25 contained therein.

26



1 DATED this 20th day of August, 2007.

2 GARVEY SCHUBERT BARER

3  
4 By s/ Justin E. Dolan

5 Justin E. Dolan, WSBA #33000  
6 Attorneys for Defendant Nautilus, Inc.  
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1 **CERTIFICATE OF SERVICE**

2 I, Fred Schmidt, certify under penalty of perjury under the laws of the State of Washington  
3 that, on August 20, 2007, I filed the foregoing document with the Clerk of Court using the CM/ECF  
4 system which will send notification of the filing to the persons listed below:

5  
6 Douglas E McKinley  
McKinley Law Firm  
PO Box 202  
7 Richland, WA 99352  
Email: doug@mckinleylaw.com  
8 Attorney for Plaintiff

Robert J. Siegel  
I. Justice Law PC  
1325 4th Avenue, Suite 940  
Seattle, WA 98101-2509  
Email: bob@ijusticelaw.com  
Attorney for Plaintiff

9  
10 Dated at Seattle, Washington this 20th day of August, 2007.

11  
12 s/ Fred Schmidt  
13 Fred Schmidt

14 SEA\_DOCS:859738.2