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9/22/10*

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

ACHTE/NEUNTE BOLL KINO
BETEILIGUNGS GMBH,
Plaintiff,

v.

DOES 1-4,577,

Defendants.

Case No.: 1:10-cv-00453-RMC

DECLARATION OF ERNIE MITCHELL IN
SUPPORT OF AND JOINDER WITH
OMNIBUS MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(B)(2)
(Dkt #77)

Declaration of Ernie Mitchell in Support of and Joinder With Omnibus Motion to Dismiss¹ Pursuant to Fed. R. Civ. P. 12(b)(2)(Dkt.#77)

¹ Mr. Mitchell would have joined the Omnibus Motion to Quash (Dkt #77) but for the fact that he is informed and believes that Cox Communications has already turned over his identifying information to the Plaintiffs in response to their subpoena. However, since the Court lacks personal jurisdiction over him pursuant to D.C. 13-423, a Motion to Dismiss remains ripe.

COMES NOW ERNIE MITCHELL and hereby declares:

1. I am Ernie Mitchell, a customer of Cox Communications (“Cox Communications”) who received a letter from Cox Communications on or about August 12, 2010 advising me that Cox Communications would release my personal information associated with IP address 68.5.11.223 to the Plaintiff in this action in response to Plaintiff’s subpoena unless I filed a Motion to Quash by September 10, 2010.

2. I am a resident of Lake Forest, California where I have lived since August 2000.

3. I have not transacted any business in the District of Columbia

4. I have contracted to supply services in the District of Columbia

5. I have no interest in any real property located in the District of Columbia.

6. I do not use any real property located in the District of Columbia.

7. I have not agreed to act as surety for or on any person, property, risk, contract obligation or agreement located or executed or to be performed in the District of Columbia.

8. I do not regularly do or solicit business in the District of Columbia.

9. I do not derive any income, much less substantial income, from the District of Columbia.

10. I do not engage in any other persistent course of conduct in the District of Columbia.

11. Accordingly, I hereby join in the Omnibus Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(2) which is presently pending before this Court as Docket Number 77.

I declare under the laws of the United States that the foregoing is true and correct.

DATE:09/16/2010

/S/Ernie Mitchell
Ernie Mitchell

CERTIFICATE OF SERVICE

I am Christina A. DiEdoardo. On September 16,, 2010 I sent a true and complete copy of the foregoing DECLARATION OF ERNIE MITCHELL IN SUPPORT OF AND JOINDER WITH OMNIBUS MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(B)(2) (Dkt #77)

to the following parties and/or their attorneys of record via United States Mail:

Mr. Nicholas A. Kurtz, Esq.,
Dunlap, Grubb & Weaver PLLC
199 Liberty Street S.W.
Leesburg, VA 20175

I also sent a courtesy copy to:

The Hon. Rosemary M. Collyer
United States District Judge
333 Constitution Avenue N.W.
Washington D.C. 20001

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/s/Christina A. DiEdoardo
Christina A. DiEdoardo, Esq.