

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

_____)	
LIBERTY MEDIA HOLDINGS,LLC)	
)	
<i>Plaintiff,</i>)	CIVIL ACTION
)	CASE NO. 1:11-cv-11789
v.)	
)	
RYAN FRAGA)	
)	
<i>Defendant.</i>)	
_____)	

AMENDED COUNTERCLAIM

In accordance with Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure, Defendant, Ryan Fraga, through his counsel, Timothy Cornell, hereby amends his counterclaim filed on February 6, 2012, and alleges as follows:

COUNTS ONE AND TWO

Violations of Electronic Communications Privacy Act (18 U.S.C. § 2520)

1. Upon information and belief, Liberty Media obtained the internet address associated with the Raga’s internet service account prior to engaging in legal action pursuant to 17 U.S.C. § 512.

2. Upon information and belief, this information was shared among Liberty Media and other parties for the purposes of contacting Fraga and other defendants and demanding and procuring settlements.
3. Liberty Media could only obtain these addresses under two conditions. Either Liberty Media was part of the conspiracy it alleges or it eavesdropped on communications to which it was not a party.
4. In the course of its unlawful investigation of the case, Liberty Media intercepted or endeavored to have another party intercept these wire, oral or electronic communications in violation of 18 U.S.C. § 2511(1)(a).
5. Liberty Media disclosed to another person the contents of the wire, oral or electronic communication, knowing or having reason to know that the information was obtained through the interception of the wire, oral or electronic communication, in violation of 18 U.S. C. § 2511(1) in its unlawful investigation of the case.
6. Liberty Media used the information or endeavored to use the information obtained through the interception of the wire, oral or electronic communication, in violation of 18 U.S.C. § 2511(1).
7. These violations of federal law occurred on or about December 3, 2010 at 02:51:59 UTC.
8. These violations of federal occurred on or about December 4, 2010 at 5:25:22 UTC.

COUNTS THREE AND FOUR

Civil Conspiracy to Violate the Electronic Communications Privacy Act (18 U.S.C. § 2520)

9. Fraga realleges and incorporates the allegations made in the paragraphs above.

10. Through concerted action and agreement with other parties, Liberty Media committed a tortious act to violate 18 U.S.C. § 2520.
11. Liberty Media and the other parties committed the tortious acts in concert with a common design and purpose of investigating the above-captioned case.
12. Liberty Media provided substantial assistance to the other parties, knowing that the other parties' conduct would constitute a breach of duty in that their conduct violated the law.
13. These violations of federal law occurred on or about December 3, 2010 at 02:51:59 UTC.
14. These violations of federal occurred on or about December 4, 2010 at 5:25:22 UTC.

COUNT FIVE

15. Fraga counterclaims to recover the full costs, including reasonable attorney's fees, in the event Fraga is the prevailing party, as provided by 17 U.S.C. § 505.

WHEREFORE, Fraga requests the following relief for the claims stated above:

1. Statutory damages in the amount to be determined, according to 18 U.S.C. § 2520, in the amount of \$100 a day for each violation, or \$10,000 for each violation.
2. Recovery of full costs, including attorney's fees.
3. Such other relief as the court finds just and proper.

DEMAND FOR A JURY TRIAL

The Plaintiff in counterclaim demands a jury trial on each count submitted by the plaintiff and on each of the counterclaims submitted above.

Respectfully submitted,

/s/ Timothy Cornell

Boston, Massachusetts
February 26, 2012

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CERTIFICATION OF SERVICE

I, Timothy Cornell, certify that this document filed through the ECF system will be sent electronically to the opposing counsel on the Notice of Electronic Filing.

Respectfully submitted,

/s/ Timothy Cornell

Boston, Massachusetts
February 26, 2012

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