

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

)
In the matter of:)
)
Jerk, LLC, a limited liability company,) DOCKET NO. 9361
)
Also d/b/a JERK.COM, and) PUBLIC
)
John Fanning,)
Individually and as a member of)
Jerk, LLC,)
)
Respondents.)
_____)

**RESPONDENT JOHN FANNING’S ANSWERS TO COMPLAINT COUNSEL’S
FIRST SET OF INTERROGATORIES**

Pursuant to Rule 3.35 of the Federal Trade Commission’s Rules of Practice, 16 C.F.R. § 3.35, and the Court’s Scheduling Order dated May 28, 2014, Respondent John Fanning provides the following answers to Complaint Counsel’s First set of Interrogatories:

1. Identify all current and past members, officers, directors, principals, owners, shareholders, employees, agents, consultants, volunteers, unpaid or paid developers, project managers, collaborators, and other persons working for or on behalf of Jerk, LLC.

Answer to Interrogatory No. 1

Objection. The question seeks a legal conclusion, as the determination as to whether an individual is an employee, consultant, agent or maintains other status involves issues of law. Further, the question seeks information that is not reasonably calculated to lead to the discovery of admissible evidence or irrelevant and immaterial matters in violation of the FTC rules of procedure. Also, the question is vague and ambiguous, as the terms collaborator or working on behalf of Jerk are indefinite.

Without waiving and subject to said objection, Fanning responds as follows:

I do not specifically recall any employees of Jerk or know whether Jerk had any employees. Yosi Amram and Joe Abrams may have made funds available to Jerk, but I do not recall specifically.

2. Identify all persons who, acting for or on behalf of Jerk, LLC, have met or communicated with Jerk, LLC's legal counsel about this matter.

Answer to Interrogatory No. 2

Objection. The question seeks a legal conclusion, as the determination as to whether counsel was serving as legal counsel, and whether any person was acting on behalf of Jerk. Further, the question seeks information that is not reasonably calculated to lead to the discovery of admissible evidence or irrelevant and immaterial matters in violation of the FTC rules of procedure.

Without waiving and subject to said objection, Fanning responds as follows:

I have communicated with Maria Speth, counsel for Jerk.

3. Identify all persons who, acting for or on behalf of Jerk, LLC, have made, agreed to, or promised to make any payment or other consideration to Jerk, LLC's legal counsel for services relating to this matter.

Answer to Interrogatory No. 3

Objection. The question seeks a legal conclusion, as the determination as to whether counsel was serving as legal counsel, and whether any person was acting on behalf of Jerk. Further, the question seeks information that is not reasonably calculated to lead to the discovery of admissible evidence or irrelevant and immaterial matters in violation of the FTC rules of procedure.

4. State the dates during which Jerk.com, Jerk.org, and Jerk.be (collectively, the "Jerk websites") were publicly accessible.

Answer to Interrogatory No. 4

The answer to this question is unknown to me.

5. State the dates during which the Jerk websites permitted users to upload photographs or other pictorial representations when creating profiles on the Jerk websites.

Answer to Interrogatory No. 5

The answer to this question is unknown to me.

6. State the total number of annual unique visitors to the Jerk websites for the years 2009 to 2013.

Answer to Interrogatory No. 6

The answer to this question is unknown to me.

7. State the total number of profiles displayed on the Jerk websites during the years 2009 through 2013, and the number of these profiles that have (i) featured a photograph or other pictorial representation of the profiled person; (ii) depicted or indicated that the profiled person is under 13 years of age; or (iii) reflected a 0/0 vote for the Jerk/Note a Jerk votes tally.

Answer to Interrogatory No. 7

The answer to this question is unknown to me.

8. Identify and describe in detail all methods by which profiles on the Jerk websites have been created or displayed, and state the number of profiles created by each such method during the years 2009 through 2013.

Answer to Interrogatory No. 8

The answer to this question is unknown to me.

9. Identify all sources, including, but not limited to, websites or social media platforms from which Jerk, LLC or the Jerk websites have obtained content, information, or images that have been displayed in profiles on the Jerk websites, and state the number of profiles containing such content from each identified source.

Answer to Interrogatory No. 9

The answer to this question is unknown to me.

10. State how the Facebook Directory, identified in Respondents' Initial Disclosures section II.A, is relevant to this case.

Answer to Interrogatory No. 10

Objection. The question seeks information protected by the attorney-client privilege or as attorney work product.

Without waiving the objection, Fanning states as follows:

I believe that the Facebook Directory shows that it can be accessed by the public without agreeing to Facebook's terms of service thereby making the content publicly available.

11. Describe in detail each company, server, and person where Jerk, LLC, John Fanning, or any persons or entities acting at either Respondent's direction or on its behalf, has stored content, including web development content such as code as well as images and other depictions, displayed in profiles on the Jerk websites.

Answer to Interrogatory No. 11

Objection. The question seeks information that is not reasonably calculated to lead to the discovery of admissible evidence or irrelevant and immaterial matters in violation of the FTC rules of procedure.

Without waiving the objection, Fanning states as follows:

The answer to this question is unknown to me.

12. Describe in detail each service, product, feature, or benefit that Jerk, LLC has provided to consumers who paid for a monthly membership offered by or through the Jerk websites that was not made available to consumers who did not make such payment.

Answer to Interrogatory No. 12

I did not personally provide consumers with any service, product, feature or benefit.

13. Describe in detail all Jerk, LLC's policies, procedures, and practices relating to consumers' requests to remove content from profiles displayed on the Jerk websites, including, but not limited to, requests to remove copyrighted content.

Answer to Interrogatory No. 13

I have no specific recollection of any such policies, procedures or practices. I do recall hearing or reading that Jerk removed content when requested, including all requested by the FTC and all properly noticed DMCA notices.

14. Identify all persons with authority or ability to remove from the Jerk websites profiles or information, images, or depictions in profiles displayed on the Jerk websites.

Answer to Interrogatory No. 14

The answer to this question is unknown to me.

15. Describe John Fanning's past and present title(s), function(s), and responsibilities at or in connection with Jerk, LLC and the Jerk websites.

Answer to Interrogatory No. 15

I served as an advisor concerning Jerk.

16. Identify all companies, business, ventures, or other entities that relate to the electronic creation, collection, storage, display, or use of information about persons, including, but

not limited to, profiles of persons, with which John Fanning has been involved or connected in any capacity since 2009.

Answer to Interrogatory No. 16

Objection. The question seeks information that is not reasonably calculated to lead to the discovery of admissible evidence or irrelevant and immaterial matters in violation of the FTC rules of procedure. The question is also harassment and an abuse of governmental and regulatory authority, and impinges upon constitutional rights.

17. State all categories listed on Complaint Counsel's May 29, 2014 Deposition Notice to Jerk, LLC for which Jerk, LLC can provide responsive testimony, and for each such category identify the person(s) who can provide responsive testimony on behalf of Jerk, LLC.

Answer to Interrogatory No. 17

The answer to this question is unknown to me.

18. State Jerk, LLC's annual revenue and profit for the years 2009 through 2013.

Answer to Interrogatory No. 18

The answer to this question is unknown to me, but my understanding is that any amounts were nominal.

SWORN TO AND SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY
THIS 31ST DAY JULY, 2014.

/s/ John Fanning
John Fanning

AS TO OBJECTIONS,

/s/ Peter F. Carr II
Peter F. Carr, II
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Date: July 31, 2014

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2014, I caused a true and accurate copy of the foregoing document entitled Respondent John Fanning's Answers to Complaint Counsel's First Set of Interrogatories to be served electronically through the FTC's e-filing system and I caused a true and accurate copy of the foregoing to be served as follows:

One electronic copy electronic courtesy copy to the Office of the Secretary:

Donald S. Clark, Secretary
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room H-159
Washington, DC 20580
Email: secretary@ftc.gov

One paper copy and one electronic copy to the Office of the Administrative Law Judge:

The Honorable D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Avenue, N.E., Room H-110
Washington, DC 20580
Email: oalj@ftc.gov

One paper copy and one electronic copy to the Office of the Counsel for the Federal Trade Commission:

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One paper copy and one electronic copy to counsel for Jerk, LLC:

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/s/ Peter F. Carr, II
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Dated: July 31, 2014