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Of Attorneys for Defendant The City of Ashland

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

AMERICAN BUDDHA, an Oregon Nonprofit Corporation,)	No. 06-CV-3054-PA
)	
Plaintiff,)	DEFENDANT THE CITY OF ASHLAND’S CONCISE STATEMENT OF FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT
v.)	
)	
THE CITY OF ASHLAND AND THE WASHINGTON POST COMPANY,)	
)	
Defendants.)	

Pursuant to Local Rule 56.1, defendant The City of Ashland offers the following concise statement of facts in support of its motion for summary judgment.

1. Defendant The City of Ashland operates the Ashland Fiber Network (herein “AFN”). (Holbo Aff., ¶ 2).
2. Ashland Fiber Network in turn enters into contracts with internet service providers permitting access to AFN’s telecommunications system. (Holbo Aff., ¶ 2). The internet service providers then contract with individual end-users. (Holbo Aff., ¶ 2).
3. At no time did The City of Ashland have a contract with American Buddha to provide internet access. (Holbo Aff., ¶ 3). The only contracts that AFN has are with internet service providers, not with the internet service providers’ customers. (Holbo Aff., ¶ 3).

4. On August 1, 2006, Richard Holbo of AFN received an email from Kathleen Parker, a syndicated columnist, complaining that a website known as American-Buddha.com had taken her column picture and “doctored” it to create a pornographic image she claimed was a copyright infringement (Holbo Aff., ¶ 4, Ex. 2).

5. Holbo then contacted the internet service provider hosting that particular website, a company known as Infostructure. (Holbo Aff., ¶ 5). Holbo informed Infostructure about the copyright infringement claim by Parker and the name of the website about which Parker was complaining. (Holbo Aff., ¶ 5).

6. On August 2, 2006 at 4:15 p.m., Holbo spoke with John Dowd, an Infostructure employee. After speaking with Dowd, Holbo disconnected the modem which provided internet access to the American-Buddha website. At 5:15 p.m. that same day, the modem was turned back on. (Holbo Aff., ¶ 5).

7. The disconnection of the service provided by Infostructure was due to the copyright infringement claim, and not due to the content of the image. The contracts between AFN and the internet service providers do not include any content-based limitations. (Holbo Aff., ¶ 6, Ex. 1).

Dated this 1st day of December, 2006.

HOFFMAN, HART & WAGNER, LLP

By: /s/ Karen O’Kasey
Karen O’Kasey, OSB No. 87069
Of Attorneys for Defendant The City of Ashland

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2006, I served the foregoing
DEFENDANT THE CITY OF ASHLAND'S CONCISE STATEMENT OF FACTS IN
SUPPORT OF MOTION FOR SUMMARY JUDGMENT on the following party:

Charles Carreon
Online Media Law, PLLC
1131 Barrington Circle
Ashland, OR 97520

by electronic means through the Court's Case Management/Electronic Case File system.

/s/ Karen O'Kasey
Karen O'Kasey