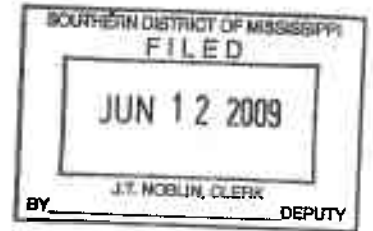


ORIGINAL



UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

JOE HAND PROMOTIONS, INC., as
Broadcast Licensee of the **December 27, 2008,**
UFC #92 Program,

Plaintiff,

CIVIL ACTION NO. L.09CV357H50-JMR

VERSUS

STEPHEN R. COLSON, Individually, and as officer,
director, shareholder and/or principal of RED EYE
GRILL OF BILOXI, LLC d/b/a RED EYE GRILL
a/k/a RED EYE GRILL OF BILOXI a/k/a THE RED
EYE GRILL, and RED EYE GRILL OF BILOXI,
LLC d/b/a RED EYE GRILL a/k/a RED EYE GRILL
OF BILOXI a/k/a THE RED EYE GRILL,

Defendants.

COMPLAINT

Plaintiff, **JOE HAND PROMOTIONS, INC.** (hereinafter referred to as "Plaintiff"), by its attorneys, LONSTEIN LAW OFFICE, P.C., complaining of Defendants herein, respectfully sets forth and alleges, upon information and belief, as follows:

JURISDICTION AND VENUE

1. This action is brought pursuant to 47 U.S.C. §§ 553 and 605.
2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. § 1331, which states that the district courts shall have original jurisdiction of all civil actions arising

under the Constitution, laws or treaties of the United States.

3. Upon information and belief, venue is proper in this Court, pursuant to 28 U.S.C. § 1391(b) and 28 U.S.C. § 104(b)(4) because, *inter alia*, all Defendants reside within the State of Mississippi.

4. This Court has personal jurisdiction over the parties in this action as a result of Defendants' wrongful acts, complained of herein, which violated Plaintiff's rights as distributor of the transmission signal of the fight as hereinafter set forth at length. Defendants' wrongful acts consisted of the interception or tortious conversion of Plaintiff's property, while said property was in Plaintiff's the control in the State of Mississippi.

THE PARTIES

5. Plaintiff is a Pennsylvania Corporation with its principal place of business located at 407 East Pennsylvania Boulevard, Feasterville, Pennsylvania 19053.

6. Upon information and belief, Defendant, STEPHEN R. COLSON, resides at 2466 Provence Place, Biloxi, MS 39531-2291.

7. Upon information and belief, Defendant, STEPHEN R. COLSON, is an officer, director, shareholder and/or principal of RED EYE GRILL OF BILOXI, LLC, doing business as RED EYE GRILL, also known as RED EYE GRILL OF BILOXI, also known as THE RED EYE GRILL.

8. Upon information and belief, Defendant, STEPHEN R. COLSON, was the individual with supervisory capacity and control over the activities occurring within the establishment on December 27, 2008.

9. Upon information and belief, Defendant, STEPHEN R. COLSON, received a financial benefit from the operations of RED EYE GRILL OF BILOXI, LLC, d/b/a RED EYE GRILL, a/k/a RED EYE GRILL OF BILOXI, a/k/a THE RED EYE GRILL, on December 27, 2008.

10. Upon information and belief, Defendant, RED EYE GRILL OF BILOXI, LLC, d/b/a RED EYE GRILL, a/k/a RED EYE GRILL OF BILOXI, a/k/a THE RED EYE GRILL, is a business entity, the exact nature of which is unknown, having its principal place of business at 921 Cedar Lake Road, Biloxi, MS 39532, and also has a *Registered Agent for Red Eye Grill of Biloxi, LLC* of Stephen R. Colson, located at 925 Tommy Munro Drive, Suite D, Biloxi, MS 39532, and *Also having an address for Stephen R. Colson, Esq.*, located at 15476 Dedeaux Road C, Gulfport, MS 39503-2637.

11. Upon information and belief, Defendant, RED EYE GRILL OF BILOXI, LLC, d/b/a RED EYE GRILL, a/k/a RED EYE GRILL OF BILOXI, a/k/a THE RED EYE GRILL, is a Domestic Corporation, incorporated and licensed to do business in the State of Mississippi.

12. Upon information and belief, Defendant, RED EYE GRILL OF BILOXI, LLC, d/b/a RED EYE GRILL, a/k/a RED EYE GRILL OF BILOXI, a/k/a THE RED EYE GRILL, is a partnership licensed to do business in the State of Mississippi.

13. Upon information and belief, Defendant, RED EYE GRILL OF BILOXI, LLC, d/b/a RED EYE GRILL, a/k/a RED EYE GRILL OF BILOXI, a/k/a THE RED EYE GRILL, is a sole proprietorship licensed to do business in the State of Mississippi.

COUNT I

14. Plaintiff hereby incorporates by reference all of the allegations contained in paragraphs

"1" through "13," inclusive, as though set forth herein at length.

15. By contract, Plaintiff was granted the right to distribute the **UFC #92** program, including all undercard bouts and the entire television broadcast, scheduled for **December 27, 2008** (hereinafter referred to as the "Program"), via closed circuit television and via encrypted satellite signal. The Program originated via satellite uplink, and was subsequently re-transmitted to cable systems and satellite companies via satellite signal.

16. Pursuant to the contract, Plaintiff entered into subsequent agreements with various entities in the State of Mississippi, allowing them to publicly exhibit the Program to their patrons.

17. In consideration of the aforementioned agreements, Plaintiff expended substantial monies to transmit the Program to those entities in the State of Mississippi.

18. Upon information and belief, with full knowledge that the Program was not to be received and exhibited by entities unauthorized to do so, Defendants and/or their agents, servants, workmen and/or employees unlawfully intercepted, received and/or de-scrambled said satellite signal, and did exhibit the Program at the above-captioned address and/or addresses at the time of its transmission willfully and for purposes of direct or indirect commercial advantage or private financial gain.

19. Upon information and belief, Defendants and/or their agents, servants, workmen and/or employees used an illegal satellite receiver, intercepted Plaintiff's signal and/or used a device to intercept Plaintiff's broadcast, which originated via satellite uplink and then re-transmitted via satellite or microwave signal to various cable and satellite systems. There are multiple illegal methods of accessing programing, including, (1) splicing an additional coaxial cable line or redirecting a wireless signal from an adjacent residence into a business establishment; (2)

commercially misusing cable or satellite by registering same as a residence when it is, in fact, a business; or (3) taking a lawfully obtained box or satellite receiver from a private residence, into a business. In addition, emerging technologies, such as broadband or internet broadcast, as well as “slingbox” technology (which allows a consumer to literally sling programing from his personal home cable or satellite systems into his computer), can allow commercial misuse of residential broadcasting feeds through the internet from anywhere in the world. Each of these methods would allow Defendants to access programming unlawfully. Prior to Discovery, Plaintiff is unable to determine the manner in which Defendants obtained the programing. However, it is logical to conclude that Defendants either used an illegal satellite receiver, misrepresented their business establishment as a residence or engaged in “mirroring” by taking a legitimate receiver from their home to their business establishment in order to intercept Plaintiff’s broadcast.

20. 47 U.S.C. § 605(a) prohibits the unauthorized reception and publication or use of communications such as the transmission herein, to which Plaintiff held the distribution rights.

21. By reason of the aforementioned conduct, Defendants herein willfully violated 47 U.S.C. § 605(a).

22. By reason of Defendants’ violation of 47 U.S.C. § 605(a), Plaintiff has a private right of action pursuant to 47 U.S.C. § 605.

23. As a result of Defendants’ willful violation of 47 U.S.C. § 605(a), Plaintiff is entitled to damages in the discretion of this Court, under 47 U.S.C. § 605(e)(3)(C)(i)(II) and (ii), of up to \$110,000.00 as to each Defendant herein.

24. Pursuant to 47 U.S.C. § 605, Plaintiff is also entitled to an award of full costs, interest and reasonable attorney’s fees.

COUNT II

25. Plaintiff hereby incorporates paragraphs "1" through "24," inclusive, as though fully set forth herein at length.

26. Upon information and belief, with full knowledge that the Program was not to be received and exhibited by entities unauthorized to do so, Defendants and/or their agents, servants, workmen and/or employees did exhibit the Program at the above-captioned address or addresses at the time of its transmission willfully and for purposes of direct or indirect commercial advantage or private financial gain.

27. 47 U.S.C. § 553 prohibits the unauthorized reception, interception and exhibition of any communications service offered over a cable system, such as the transmission herein, to which Plaintiff had the distribution rights.

28. Upon information and belief, Defendants individually, willfully and illegally intercepted said Program when it was distributed and shown by cable television systems.

29. By reason of the aforementioned conduct, Defendants herein willfully violated 47 U.S.C. § 553, thereby giving rise to a private right of action.

30. As a result of Defendants' violation of 47 U.S.C. § 553, Plaintiff is entitled to damages in an amount in the discretion of this Court, of up to \$60,000.00, plus the recovery of full costs, interest and reasonable attorney's fees.

31. Without further discovery from and/or admission by Defendants, Plaintiff cannot determine if Defendants intercepted Plaintiff's signal via a cable system, in violation of 47 U.S.C. § 553, or via a satellite transmission, in violation of 47 U.S.C. § 605. As such, Plaintiff is alleging

two (2) counts in its Complaint, alleging that Defendants violated 47 U.S.C. § 553 and 47 U.S.C. § 605. However, Plaintiff recognizes that Defendants can only be liable for only one (1) of these statutes.

WHEREFORE, Plaintiff requests that judgment be entered in its favor and against each Defendant herein, granting to Plaintiff the following:

(a) A finding that each Defendant's unauthorized exhibition of the **December 27, 2008, UFC #92 Program** violated the Federal Communications Act and that such violations were committed willfully and for purposes of each Defendant's direct or indirect commercial advantage or for private financial gain.

(b) On the first cause of action, statutory penalties in an amount, in the discretion of this Court, of up to \$110,000.00 as to each Defendant for its willful violation of 47 U.S.C. § 605(a);

(c) On the third cause of action, statutory penalties in an amount, in the discretion of this Court, of up to \$60,000.00 as to each Defendant for its violation of 47 U.S.C. § 553;

(d) Attorney's fees, interest, costs of suit as to each Defendant pursuant to 47 U.S.C. § 605(e)(3)(B)(iii) and § 553(c)(2)(C), together with such other and further relief as this Court may deem just and proper.

RESPECTFULLY SUBMITTED, this the 9th day of June, 2009.

Dated: June 2, 2009
Ellenville, New York

JOE HAND PROMOTIONS, INC.

By: 

Jason B. Purvis, Esq.
Mississippi Bar No. 100 873
Resident Counsel
Logan & Purvis, PLLC
P.O. Box 4207
Gulfport, MS 39502
Telephone: (228) 864-3666
Facsimile: (228) 864-3672
Email: jasonbpurvis@gmail.com

JOE HAND PROMOTIONS, INC.

By: 

JULIE COHEN LONSTEIN, ESQ.
Attorney for Plaintiff
Attorney in Charge
LONSTEIN LAW OFFICE, P.C.
Office and P.O. Address
1 Terrace Hill : P.O. Box 351
Ellenville, NY 12428
Telephone: (845) 647-8500
Facsimile: (845) 647-6277
Email: Info@signallaw.com
Our File No. 08-24MS-S03V
SDMS Bar Number 42761