

STATE OF MICHIGAN JUDICIAL DISTRICT 20th JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. <i>Hon. Calvin L. Boman</i> 07-59739-CZ
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Court address *Room 301-A*
414 Washington Street, Grand Haven, Michigan 49417

Court telephone no.
(616) 846-8315

Plaintiff name(s), address(es), and telephone no(s).
 Quixtar Inc.
 5101 Spalding Plaza
 Ada, MI 49355

v

Defendant name(s), address(es), and telephone no(s).
 John Doe 1 through John Doe 30
 unknown address

Plaintiff attorney, bar no., address, and telephone no.
 Edward J. Bardelli (P53849)
 Warner Norcross & Judd LLP
 111 Lyon Street NW, Suite 900
 Grand Rapids, Michigan 49503-2487

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:
 1. You are being sued.
 2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). MCR 2.111(C)
 3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued <i>Oct 8, 2007</i>	This summons expires <i>Jan 7, 2008</i>	Court clerk <i>Daniel C. Krueger</i>
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by Dandra Vanders Bosch
 This document must be sealed by the seal of the court.
Dee Clerk

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

Family Division Cases

There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

The action remains is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (include city, township, or village) Ada, Michigan	Defendant(s) residence (include city, township, or village) unknown
Place where action arose or business conducted Throughout Michigan, including Ottawa County.	

Date 10/8/07

[Signature]
 Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE

SUMMONS AND COMPLAINT
Case No. _____

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

OFFICER CERTIFICATE

OR

AFFIDAVIT OF PROCESS SERVER

I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notarization not required)

Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

- I served personally a copy of the summons and complaint,
- I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with _____
List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

- I have personally attempted to serve the summons and complaint, together with any attachments on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

Service fee	Miles traveled	Mileage fee	Total fee
\$		\$	\$

Signature _____
Title _____

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Date Signature: _____
Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ Attachments

_____ on _____
Day, date, time

Signature _____ on behalf of _____

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

QUIXTAR INC.,

Plaintiff

v.

JOHN DOE 1 THROUGH JOHN DOE 30,

Defendants.

Case No. 07-59739-CZ

HON. *Calvin L. Bosman*

WARNER NORCROSS & JUDD LLP
Attorneys for Plaintiff
Edward J. Bardelli (P53849)
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(616) 752-2000

BRINKS HOFER GILSON & LIONE
Attorneys for Plaintiff
Bradley L. Smith (P48138)
James K. Cleland (P68507)
524 S. Main Street
Ann Arbor, MI 48104
(734) 302-6032

COMPLAINT

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

1. Plaintiff Quixtar Inc. is a Virginia corporation with its principal place of business in Ada, Michigan.
2. Defendant John Doe 1 is an unknown person who anonymously operates and posts information to the website www.freetheibo.com, as well as forums and web logs ("blogs") linked and closely relating to that website. John Doe 1 registered the www.freetheibo.com website anonymously through the Domains By Proxy, Inc., a subsidiary corporation of GoDaddy.com, Inc.
3. Defendant John Doe 2 is an unknown person who anonymously operates and posts information to the web log <http://forums.freetheibo.info/index.php>, on information and belief through a web log hosted by GoDaddy.com, Inc.

4. Defendant John Doe 3 is an unknown person who anonymously operates and posts information to the website www.drinkxs.biz, as well as forums and web logs (“blogs”) linked and closely relating to that website. John Doe 3 registered the www.drinkxs.biz website anonymously through the Domains By Proxy, Inc., a subsidiary corporation of GoDaddy.com, Inc.

5. Defendant John Doe 4 is an unknown person who anonymously operates and posts information to the web log <http://theiborebellion.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

6. Defendant John Doe 5 is an unknown person who anonymously operates and posts information to the web log <http://qreilly.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

7. Defendant John Doe 6 is an unknown person who anonymously operates and posts information to the web log <http://freetheiboblog.typepad.com>, through the web log service Six Apart, Ltd., doing business as Typepad.

8. Defendant John Doe 7 is an unknown person who anonymously operates and posts information to the web log <http://quixtarlostmycents.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

9. Defendant John Doe 8 is an unknown person who anonymously operates and posts information to the web log <http://saveusdickdevos.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

10. Defendant John Doe 9 is an unknown person who anonymously operates and posts information to the web log <http://Teamfoundingfathers.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

11. Defendant John Doe 10 is an unknown person who anonymously operates and posts information to the web log <http://chrismestu.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

12. Defendant John Doe 11 is an unknown person who anonymously operates and posts information to the web log <http://Quixtartoday.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

13. Defendant John Doe 12 is an unknown person who anonymously operates and posts information to the web log <http://integrityisteam.blogspot.com>, through the web log service Blogspot, a subsidiary of Google, Inc.

14. Defendant John Doe 13 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called H.A.M (Hooded Angry Man) available at <http://www.youtube.com/watch?v=PRVi3FRYXw8>.

15. Defendant John Doe 14 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called H.A.M 2 (Hooded Angry Man 2) available at <http://www.youtube.com/watch?v=kC7NiVKEeMk>.

16. Defendant John Doe 15 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called The New Amway High Life available at <http://www.youtube.com/watch?v=dWCx7DB678Q>.

17. Defendant John Doe 16 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called Stevie Goes to China, available at <http://www.youtube.com/watch?v=wGv7y8gj2cQ>.

18. Defendant John Doe 17 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called Shameus McSteeley Quixtar vs. Meijer, available at <http://www.youtube.com/watch?v=tvj-jLqqq3c&NR=>.

19. Defendant John Doe 18 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called Rich DeVos Who's [sic] Running Your Company, available at <http://www.youtube.com/watch?v=vo-AaSHbUIo>.

20. Defendant John Doe 19 is an unknown person operating under the pseudonym theiborebellion, who anonymously posted a video called Amway Yesterday, available at <http://www.youtube.com/watch?v=B2pFmXWyDV0>.

21. Defendant John Doe 20 is an unknown person operating under the pseudonym quixtarisascam, who anonymously posted a video called Quixtar - Tell Me Sweet Little Lies, available at http://www.youtube.com/watch?v=NAwJrP1_ZeE.

22. Defendant John Doe 21 is an unknown person operating under the pseudonym BostonTeaBerry, who anonymously posted a video called Return to Sender, available at <http://www.youtube.com/watch?v=cHlBc4ibOa0>.

23. John Doe 22 through John Doe 30 are other unknown parties who, on information and belief, have anonymously posted defamatory material on the Internet about Quixtar and its principals under various pseudonyms.

24. Quixtar has attempted to identify the various defendants by reviewing the offending websites, blogs, and videos. Due to the policies of the Internet service providers which host the various websites, blogs and videos, Quixtar has been unable to identify the responsible parties. An affidavit attesting to Quixtar's efforts to identify defendants is attached hereto as Exhibit A.

25. The amount in controversy exceeds \$25,000. This Court has subject matter jurisdiction pursuant to MCL §§ 600.601, 600.605.

26. Defendants caused their Internet postings to be published throughout the State of Michigan, including Ottawa County. Venue is properly laid in this Court pursuant to MCL § 600.1627.

COUNT 1
TORTIOUS INTERFERENCE WITH EXISTING CONTRACTS

27. Quixtar incorporates paragraphs 1-26.

28. On information and belief, each of the John Doe defendants is aware that Quixtar has valid contractual relationships with Quixtar Independent Business Owners (“IBOs”) who purchase and distribute Quixtar products.

29. On information and belief, each of the John Doe defendants currently has an interest in a multi-level marketing company that competes with Quixtar.

30. Defendants have, either individually or in concert, intentionally and improperly interfered with Quixtar’s contracts with its IBOs through the Internet postings and websites identified above, including but not limited to:

- (a) encouraging Quixtar IBOs to resign from the Quixtar business;
- (b) telling Quixtar IBOs to stop building their Quixtar business;
- (c) telling Quixtar IBOs not to purchase certain Quixtar products;
- (d) encouraging Quixtar IBOs to improperly compete with the business of Quixtar or its IBOs in breach of their contracts with Quixtar;
- (e) causing one or more Quixtar IBOs to improperly solicit other IBOs in breach of their contracts with Quixtar;
- (f) causing one or more Quixtar IBOs to improperly use Quixtar’s confidential and proprietary line of sponsorship information in breach of their contracts with Quixtar; and
- (g) disparaging Quixtar, its products and prices.

31. Defendants have knowingly propagated false or misleading descriptions of fact, or false or misleading representations of fact, which misrepresent the nature, characteristics, or qualities of Quixtar' goods, services, and commercial activities.

32. Defendants' actions are per se wrongful, or if lawful, were undertaken with malice and without legal justification for the purpose invading Quixtar's contractual rights and/or business relationships. There are no legitimate business reasons to justify or motivate Defendants' actions.

33. Quixtar has been damaged by such actions of Defendants, and is likely to suffer irreparable injury if Defendants are not enjoined from their wrongful acts.

COUNT 2

TORTIOUS INTERFERENCE WITH ADVANTAGEOUS BUSINESS RELATIONSHIPS

34. Quixtar incorporates paragraphs 1-33.

35. Quixtar expects future business relationships with prospective IBOs who may participate in the Quixtar business.

36. Defendants have knowledge of those relationships and/or expectancies between Quixtar and its prospective IBOs.

37. Defendants intentionally and improperly interfered with Quixtar's relationships and/or expectancies with prospective IBOs through the actions described above, including but not limited to encouraging prospective Quixtar IBOs not to join Quixtar, and unfairly disparaging Quixtar, its products and prices.

38. Defendants' actions are per se wrongful, or if lawful, were undertaken with malice and without legal justification for the purpose invading Quixtar's current and/or prospective business relationships. There are no legitimate business reasons to justify or motivate Defendants' actions.

39. Quixtar has been damaged by such actions of Defendants, and is likely to suffer irreparable injury if Defendants are not enjoined from their wrongful acts.

COUNT 3

UNFAIR COMPETITION

40. Quixtar incorporates paragraphs 1-39.

41. Defendants' conduct intentionally deceives or misleads current and prospective IBOs about Quixtar's business, including but not limited to misleading current and prospective IBOs into believing that Quixtar business practices are unethical, that its products are not competitively priced, and even that Quixtar is operating contrary to law.

42. Defendants, either individually or in concert, have engaged in massive effort to falsely disparage Quixtar as a means to drain support from existing Quixtar IBOs, and to encourage IBOs to resign from Quixtar and to associate with a competing business. Defendants' conduct is manifestly unfair, unethical, and improper.

43. Quixtar has been damaged by such actions of Defendants, and is likely to suffer irreparable injury if Defendants are not enjoined from their wrongful acts.

PRAYER FOR RELIEF

THEREFORE, Plaintiff Quixtar Inc. requests that this Court enter judgment in its favor i) enjoining defendants' wrongful and disparaging conduct; ii) awarding Quixtar damages in excess of \$25,000 plus its costs and attorney fees, and iii) granting Quixtar any other relief the Court deems equitable and just.

DATED: October 8, 2007

WARNER NORCROSS & JUDD LLP



Edward J. Bardelli (P53849)
Attorneys for Plaintiff

EXHIBIT A

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OTTAWA

Quixtar Inc.,

Plaintiff

Case No.

CZ

v.

Hon.

John Doe 1 through John Doe 30,

Defendants.

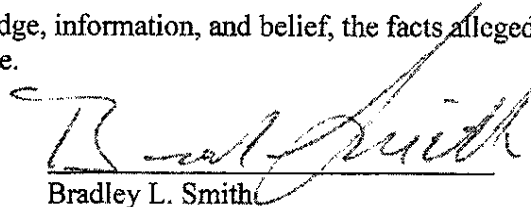
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Ann Arbor, MI 48104
(734) 302-6032

AFFIDAVIT OF BRADLEY L. SMITH

1. My name is Bradley L. Smith. I have personal knowledge of the following and am competent to testify thereto.


2. In connection with this action, I reviewed the Internet websites, video postings, and web logs ("blogs") described in the Complaint to identify and locate the anonymous John Doe defendants. I was unable to discover the identities of defendants due to the policies of the Internet service providers which host the various websites, blogs and videos.

3. To the best of my knowledge, information, and belief, the facts alleged in paragraphs 2-22 of the Complaint are true.


Bradley L. Smith

STATE OF MICHIGAN)
)
COUNTY OF WASHTENAW)

On October 8, 2007, appeared before me Bradley L. Smith, who attested to the foregoing statements.


Notary Public
My Commission Expires 6-18-13