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14 APR 17 AM 11:54
ROBERT N. TREGOVICH
U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT
OF INDIANA

Attorneys for Plaintiff
Joe Hand Promotions, Inc.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOE HAND PROMOTIONS, INC.,

Case No.:

Plaintiff,

COMPLAINT

3:14cv1420

vs.

JEFFREY M. ABBOTT, INDIVIDUALLY
and d/b/a AWESOME PLACE BAR &
GRILL; and AWESOME PLACE BAR AND
GRILL, LLC, an unknown business entity
d/b/a AWESOME PLACE BAR & GRILL,

Defendants.

PLAINTIFF ALLEGES:

JURISDICTION

1. Jurisdiction is founded on the existence of a question arising under particular statutes. This action is brought pursuant to several federal statutes, including the Communications Act of 1934, as amended, Title 47 U.S.C. 605, *et seq.*, and The Cable & Television Consumer Protection and Competition Act of 1992, as amended, Title 47 U.S. Section 553, *et seq.*

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2. This Court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. Section 1331, which states that the District Courts shall original jurisdiction of all civil actions arising under the Constitution, laws, or treaties, of the United States. This Court has subject matter jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367 (supplemental jurisdiction).

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3. This Court has personal jurisdiction over the parties in this action as a result of the Defendants' wrongful acts hereinafter complained of which violated the Plaintiff's rights as the exclusive commercial domestic distributor of the televised fight *Program* hereinafter set forth at length. The Defendants' wrongful acts consisted of the interception, reception, publication, divulgence, display, exhibition, and tortious conversion of said property of Plaintiff within the control of the Plaintiff in the State of Indiana.

VENUE

4. Pursuant to Title 47 U.S.C. Section 605, venue is proper in the Northern District, because a substantial part of the events or omissions giving rise to the claim occurred in this District.

INTRADISTRICT ASSIGNMENT

5. Assignment to the South Bend Division of the Northern District is proper because a substantial part of the events or omissions giving rise to the claim occurred in Saint Joseph County and/or the United States District Court for the Northern District has decided that suits of this nature, and each of them, are to be heard by the Courts in this particular Division.

THE PARTIES

6. Plaintiff, Joe Hand Promotions, Inc. is, and at all relevant times mentioned was, a California corporation with its principal place of business located at 407 E Pennsylvania Boulevard, Feasterville, Pennsylvania 19053.

7. Defendant Jeffrey M. Abbott is an officer of Awesome Place Bar and Grill, LLC, which owns and operates the commercial establishment doing business as Awesome Place Bar & Grill. Awesome Place Bar & Grill operates at 1123 South Spring Street, Mishawaka, Indiana 46544.

8. Defendant Jeffrey M. Abbott is also an individual specifically identified by the Department of Liquor License issued for Awesome Place Bar & Grill (License # RR4502587).

9. Plaintiff is informed and believes, and alleges thereon that on April 21, 2012 (the night of the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant Jeffrey M.

1 Abbott had the right and ability to supervise the activities of Awesome Place Bar & Grill, which
2 included the unlawful interception of Plaintiff's *Program*.

3 10. Plaintiff is informed and believes, and alleges thereon that on April 21, 2012 (the night of
4 the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant Jeffrey M.
5 Abbott, as an individual specifically identified on the liquor license for Awesome Place Bar &
6 Grill, had the obligation to supervise the activities of Awesome Place Bar & Grill, which included
7 the unlawful interception of Plaintiff's *Program*, and, among other responsibilities, had the
8 obligation to ensure that the liquor license was not used in violation of law.

9 11. Plaintiff is informed and believes, and alleges thereon that on April 21, 2012 (the night of
10 the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant Jeffrey M.
11 Abbott specifically directed the employees of Awesome Place Bar & Grill to unlawfully intercept
12 and broadcast Plaintiff's *Program* at Awesome Place Bar & Grill or that the actions of the
13 employees of Awesome Place Bar & Grill are directly imputable to Defendants Jeffrey M. Abbott
14 by virtue of their acknowledged responsibility for the actions of Awesome Place Bar & Grill.

15 12. Plaintiff is informed and believes, and alleges thereon that on April 21, 2012, Defendant
16 Jeffrey M. Abbott as managing member of Awesome Place Bar and Grill, LLC and as an
17 individual specifically identified on the liquor license for Awesome Place Bar & Grill, had an
18 obvious and direct financial interest in the activities of Awesome Place Bar & Grill, which
19 included the unlawful interception of Plaintiff's *Program*.

20 13. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of
21 Plaintiff's *Program*, as supervised and/or authorized by Defendant Jeffrey M. Abbott resulted in
22 increased profits for Awesome Place Bar & Grill.

23 ///

24 14. Plaintiff is informed and believed, and alleges thereon that Defendant, Awesome Place Bar
25 and Grill, LLC is an owner, and/or operator, and/or licensee, and/or permittee, and/or person in
26 charge, and/or an individual with dominion, control, oversight and management of the commercial
27 establishment doing business as Awesome Place Bar & Grill operating at 1123 South Spring
28 Street, Mishawaka, Indiana 46544.

COUNT I

(Violation of Title 47 U.S.C. Section 605)

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3 15. Plaintiff Joe Hand Promotions, Inc., hereby incorporates by reference all of the allegations
4 contained in paragraphs 1-14, inclusive, as though set forth herein at length.

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6 16. Pursuant to contract, Plaintiff Joe Hand Promotions, Inc., was granted the exclusive
7 nationwide commercial distribution (closed-circuit) rights to *Ultimate Fighting Championship*
8 *145: Jon Jones v. Rashad Evans*, telecast nationwide on Saturday, April 21, 2012 (this included all
9 under-card bouts and fight commentary encompassed in the television broadcast of the event,
hereinafter referred to as the "*Program*").

10
11 17. Pursuant to contract, Plaintiff Joe Hand Promotions, Inc., entered into subsequent
12 sublicensing agreements with various commercial entities throughout North America, including
13 entities within the State of Indiana, by which it granted these entities limited sublicensing rights,
14 specifically the rights to publicly exhibit the *Program* within their respective commercial
15 establishments in the hospitality industry (i.e., hotels, racetracks, casinos, bars, taverns, restaurants,
social clubs, etc.).

16
17 18. As a commercial distributor and licensor of sporting events, including the *Program*,
18 Plaintiff Joe Hand Promotions, Inc., expended substantial monies marketing, advertising,
19 promoting, administering, and transmitting the *Program* to its customers, the aforementioned
20 commercial entities.

21 19. With full knowledge that the *Program* was not to be intercepted, received, published,
22 divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every
23 one of the above named Defendants, either through direct action or through actions of employees
24 or agents directly imputable to Defendants (as outlined in paragraphs 7-14 above), did unlawfully
25 intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the time of its
26 transmission at their commercial establishment in Mishawaka, located at 1123 South Spring
Street, Mishawaka, Indiana 46544.

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1 20. Said unauthorized interception, reception, publication, exhibition, divulgence, display,
2 and/or exhibition by each of the Defendants was done willfully and for purposes of direct and/or
3 indirect commercial advantage and/or private financial gain.

4 21. Title 47 U.S.C. Section 605, *et seq.*, prohibits the unauthorized publication or use of
5 communications (such as the transmission of the *Program* for which Plaintiff Joe Hand
6 Promotions, Inc., had the distribution rights thereto).

7
8 22. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of
9 them, violated Title 47 U.S.C. Section 605, *et seq.*

10 23. By reason of the Defendants' violation of Title 47 U.S.C. Section 605, *et seq.*, Plaintiff
11 Joe Hand Promotions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section 605.

12
13 24. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 605,
14 and pursuant to said Section 605, Plaintiff Joe Hand Promotions, Inc., is entitled to the following
15 from each Defendant:

- 16 (a) Statutory damages for each willful violation in an amount to
17 \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also
18
19 (b) the recovery of full costs, including reasonable attorneys' fees,
20 pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

21 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

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24 **COUNT II**

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26 **(Violation of Title 47 U.S.C. Section 553)**

27 25. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-
28 24, inclusive, as though set forth herein at length.

1
2 26. The unauthorized interceptions, reception, publication, divulgence, display, and/or
3 exhibition of the *Program* by the above named Defendants was prohibited by Title 47 U.S.C.
4 Section 553, *et seq.*

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6 27. By reason of the aforesaid mentioned conduct, the aforementioned Defendants, and each of
7 them, violated Title 47 U.S.C. Section 553, *et seq.*

8
9 28. By reason of the Defendants' violation of Title 47 U.S.C. Section 553, *et seq.*, Plaintiff Joe
10 Hand Promotions, Inc., has the private right of action pursuant to Title 47 U.S.C. Section 553.

11 29. As the result of the aforementioned Defendants' violation of Title 47 U.S.C. Section 553,
12 Plaintiff Joe Hand Promotions, Inc., is entitled to the following from each Defendant:

- 13 (a) Statutory damages for each violation in an amount to
14 \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also
15
16 (b) Statutory damages for each willful violation in an amount to
17 \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also
18
19 (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553
20 (c)(2)(C); and also
21
22 (d) and in the discretion of this Honorable Court, reasonable attorneys' fees,
pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).

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24 **WHEREFORE, Plaintiff prays for judgment as set forth below.**

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26 **COUNT III**

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28 **(Conversion)**

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30. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-29, inclusive, as though set forth herein at length.

31. By their aforesaid acts of interception, reception, publication, divulgence, display, and/or exhibition of the *Program* at their commercial establishment at the above-captioned address, the aforementioned Defendants, and each of them, tortuously obtained possession of the *Program* and wrongfully converted same for their own use and benefit.

32. The aforesaid acts of the Defendants were willful, malicious, egregious, and intentionally designed to harm Plaintiff Joe Hand Promotions, Inc., by depriving Plaintiff of the commercial license fee to which Plaintiff was rightfully entitled to receive from them, and in doing so, the Defendants subjected the Plaintiff to severe economic distress and great financial loss.

33. Accordingly, Plaintiff Joe Hand Promotions, Inc., is entitled to both compensatory, as well as punitive and exemplary damages, from aforementioned Defendants as the result of the Defendants' egregious conduct, theft, and conversion of the *Program* and deliberate injury to the Plaintiff.

WHEREFORE, Plaintiff prays for judgment as set forth below.

As to the First Count:

1. For statutory damages in the amount of \$110,000.00 against the Defendants, and each of them, and
2. For reasonable attorneys' fees as mandated by statute, and
3. For all costs of suit, including but not limited to filing fees, service of process fees, investigative costs, and
4. For such other and further relief as this Honorable Court may deem just and proper;

As to the Second Count:

1. For statutory damages in the amount of \$60,000.00 against the Defendants, and each of them, and;
2. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to statute, and;
3. For all costs of suit, including but not limited to filing fees, service of process fees, investigative costs, and;
4. For such other and further relief as this Honorable Court may deem just and proper.

As to the Third Count:

1. For compensatory damages in an amount according to proof against the Defendants, and each of them, and;
2. For exemplary damages against the Defendants, and each of them, and;
3. For punitive damages against the Defendants, and each of them, and;
4. For reasonable attorneys' fees as may be awarded in the Court's discretion pursuant to statute, and;
5. For all costs of suit, including but not limited to filing fees, service of process fee, investigative costs, and;
6. For such other and further relief as this Honorable Court may deem just and proper.

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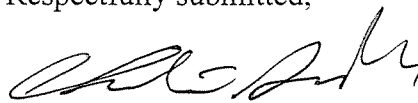
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Respectfully submitted,



GREENE & COOPER LLP

By: Charlie W. Gordon
Attorneys for Plaintiff
Joe Hand Promotions, Inc.

Date: 4-11-14