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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF INDIANA
3 HAMMOND DIVISION

4 **JOE HAND PROMOTIONS, INC.,**

Case No.: 2:15-CV-460

5 **Plaintiff,**

COMPLAINT

6 vs.

7 **WHITNEY CHAPMAN, INDIVIDUALLY,**
8 **AND D/B/A SHOWTIME BAR AND**
9 **GRILL AND SHOWTIME LOUNGE**
10 **& GRILL LLC, AN UNKNOWN BUSINESS**
11 **ENTITY, D/B/A SHOWTIME BAR AND**
12 **GRILL**

13 **Defendants.**

14 **PLAINTIFF ALLEGES:**

15 **JURISDICTION**

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

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

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

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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 Hammond Division of the Northern District is proper because a substantial part of the events or omissions giving rise to the claim occurred in Lake 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 Pennsylvania corporation with its principal place of business located at 407 E. Pennsylvania Blvd., Feasterville, Pennsylvania 19053.

7. Defendant Whitney Chapman is an officer of Showtime Lounge & Grill LLC, which owns and operates the commercial establishment doing business as Showtime Bar and Grill. Showtime Bar and Grill operates at 5126 Broadway, Gary IN 46408.

8. Plaintiff is informed and believes, and alleges thereon that on December 28, 2013 (the night of the *Program* at issue herein, as more specifically defined in paragraph 16), Defendant Whitney Chapman had the right and ability to supervise the activities of Showtime Bar and Grill, which included the unlawful interception of Plaintiff's *Program*.

9. Plaintiff is informed and believes, and alleges thereon that on December 28, 2013 (the night of the *Program* at issue herein, as more specifically defined in paragraph 14), Defendant Whitney Chapman specifically directed the employees of Showtime Bar and Grill to unlawfully intercept and broadcast Plaintiff's *Program* at Showtime Bar and Grill or that the actions of the employees of Showtime Bar and Grill are directly imputable to Defendant Whitney Chapman by virtue of her acknowledged responsibility for the actions of Showtime Bar and Grill.

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10. Plaintiff is informed and believes, and alleges thereon that on December 28, 2013, Defendant Whitney Chapman as managing member of Showtime Lounge & Grill LLC, had an obvious and direct financial interest in the activities of Showtime Bar and Grill, which included the unlawful interception of Plaintiff's *Program*.

11. Plaintiff is informed and believes, and alleges thereon that the unlawful broadcast of Plaintiff's *Program*, as supervised and/or authorized by Defendant Whitney Chapman resulted in increased profits for Showtime Bar and Grill.

12. Plaintiff is informed and believed, and alleges thereon that Defendant, Showtime Lounge & Grill LLC, is an owner, and/or operator, and/or licensee, and/or permittee, and/or person in charge, and/or an individual with dominion, control, oversight and management of the commercial establishment doing business as Showtime Bar and Grill operating at 5126 Broadway, Gary IN 46408.

COUNT I

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

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

14. Pursuant to contract, Plaintiff Joe Hand Promotions, Inc., was granted the exclusive nationwide commercial distribution (closed-circuit) rights to Ultimate Fighting Championship 168: Chris Weidman v. Anderson Silva, telecast nationwide on Saturday, December 28, 2013 (this included all under-card bouts and fight commentary encompassed in the television broadcast of the event, hereinafter referred to as the "*Program*").

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

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

17. With full knowledge that the *Program* was not to be intercepted, received, published, divulged, displayed, and/or exhibited by commercial entities unauthorized to do so, each and every one of the above named Defendants, either through direct action or through actions of employees or agents directly imputable to Defendants (as outlined in paragraphs 7-14 above), did unlawfully intercept, receive, publish, divulge, display, and/or exhibit the *Program* at the time of its transmission at their commercial establishment in Gary Indiana, at 5126 Broadway Gary IN 46408.

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

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

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

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

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

(a) Statutory damages for each willful violation in an amount to

1 \$100,000.00 pursuant to Title 47 U.S.C. 605(e)(3)(C)(ii), and also

2 (b) the recovery of full costs, including reasonable attorneys' fees,
3 pursuant to Title 47 U.S.C. Section 605(e)(3)(B)(iii).

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

6 **COUNT II**

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

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9 23. Plaintiff's hereby incorporates by reference all of the allegations contained in paragraphs 1-
10 22, inclusive, as though set forth herein at length.

11 24. The unauthorized interceptions, reception, publication, divulgence, display, and/or
12 exhibition of the *Program* by the above named Defendants was prohibited by Title 47 U.S.C.
13 Section 553, *et seq.*

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

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

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

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22 (a) Statutory damages for each violation in an amount to
23 \$10,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(A)(ii); and also

24 (b) Statutory damages for each willful violation in an amount to
25 \$50,000.00 pursuant to Title 47 U.S.C. § 553(c)(3)(B); and also

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27 (c) the recovery of full costs pursuant to Title 47 U.S.C. Section 553
28 (c)(2)(C); and also

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(d) and in the discretion of this Honorable Court, reasonable attorneys' fees, pursuant to Title 47 U.S.C. Section 553 (c)(2)(C).

WHEREFORE, Plaintiff prays for judgment as set forth below.

COUNT III
(Conversion)

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

29. 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.

30. 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.

31. 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

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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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Respectfully submitted,

Date: December 23, 2015

/s/ Charlie W. Gordon

GREENE & COOPER, LLP

By: Charlie W. Gordon

Attorneys for Plaintiff

Joe Hand Promotions, Inc.