

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>DIRECTV, INC.,</b>	)	
<b>a California Corporation,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. CIV-03-674-F</b>
	)	
<b>JOE HURST, ZACHARY K. McLAIN,</b>	)	
<b>TOMMY RONIO, JERRY STULTZ,</b>	)	
<b>and JOHN DOES 1-10,</b>	)	
	)	
<b>Defendants.</b>	)	

**ANSWER OF JOE HURST**

COMES NOW the Defendant, Joe Hurst, by and through his attorney of record, Walter D. Haskins, of the law firm of Atkinson, Haskins, Nellis, Holeman, Phipps, Brittingham & Gladd, Tulsa, Oklahoma, appearing specially and preserving his objections to the venue of this Court, as more fully set forth below, states and avers as follows for his answer to the Complaint of the Plaintiff herein.

I.

This defendant denies generally and specifically each and every material allegation contained in the complaint of the plaintiff except that which may be hereinafter admitted.

II.

For further answer and defense, this Defendant alleges that there has been a misjoinder of Defendants herein in that there has been no allegation that the Defendants named have acted either

in concert or as a group. There is no allegation of any common nexus of facts which would support the joinder of Defendants herein. Plaintiff herein is on actual notice of its inappropriate joinder by virtue of the decision appended hereto and labeled Exhibit "A" from the United States District Court for the Northern District of Ohio wherein its been chastised for doing the same thing. *See also*, Order of the United States District Court for the District of Colorado appended as Exhibit "B." *See also*, Order of the United States District Court for the Northern District of Illinois, *sua sponte* dismissing complaint on the same grounds, attached hereto as Exhibit "C." Further, *see* Order of the United States District Court for the Western District of Oklahoma appended hereto and labeled Exhibit "D." Accordingly, this Defendant requests that this action be dismissed by the Court.

### III.

For further answer and defense, this Defendant states that this Court is an improper venue for the maintenance of this action against him. This Defendant is a resident of the Northern District of Oklahoma. There are no facts alleged which would support venue as against this Defendant in this Court. This Plaintiff has been previously chastised by the United States District Court for the Central District of Illinois for similar impropriety. *See* Exhibit "E" attached hereto.

### IV.

For further answer and defense, this Defendant urges that this Court dismiss or transfer this action to the United States District Court for the Northern District of Oklahoma pursuant to the doctrine of *forum non conviens*.

V.

For further answer and defense, this Defendant denies the allegations of paragraph 1 of the Complaint, as they relate to him. This Defendant states that he has no knowledge as to those allegations relating to other Defendants, and therefore denies the same, and demands strict proof thereof.

VI.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations contained in paragraph 2 of the Complaint, and therefore denies the same, and demands strict proof thereof.

VII.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations contained in paragraph 3 of the Complaint, and therefore denies the same, and demands strict proof thereof.

VIII.

For further answer and defense, this Defendant denies the allegations of paragraph 4 of the Complaint as they relate to him. As they relate to other Defendants, this Defendant states that he has no knowledge, and therefore denies the same, and demands strict proof thereof.

IX.

For further answer and defense, relative to paragraph 5 of the Complaint, this Defendant denies the allegation of this paragraph as they relate to him, and states that he has no knowledge as it relates to the allegations of this paragraph relative to other Defendants, and therefore denies the same.

X.

For further answer and defense, this Defendant states that he has no knowledge of the allegations of paragraph 6 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XI.

For further answer and defense, this Defendant denies the allegations of paragraph 7 of the Complaint, and states that he is a resident of Owasso, Oklahoma, located in the Northern District of Oklahoma.

XII.

For further answer and defense, this Defendant states that he has no knowledge of the allegations of paragraph 8 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XIII.

For further answer and defense, this Defendant states that he has no knowledge of the allegations of paragraph 9 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XIV.

For further answer and defense, this Defendant states that he has no knowledge of the allegations of paragraph 10 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XV.

For further answer and defense, relative to paragraph 11 of the Complaint, this Defendant denies the allegation of this paragraph as they relate to him, and states that he has no knowledge as

it relates to the allegations of this paragraph relative to other Defendants, and therefore denies the same.

XVI.

For further answer and defense, this Defendant, relative to paragraph 12 of the Complaint, states that the claims made by the Plaintiff are alleged to arise by virtue of the statutory citations made therein, but deny that the facts as pled give rise to a cause of action against this Defendant pursuant to those statutes.

XVII.

For further answer and defense, this Defendant denies the allegations of paragraph 13 of the Complaint.

XVIII.

For further answer and defense, this Defendant, relative to paragraph 14 of the Complaint, admits that he is an citizen of the state of Oklahoma and that the federal courts of Oklahoma have jurisdiction over his person, but denies that the United States District Court for the Western District of Oklahoma is a proper venue in which to assert that jurisdiction. To the extent that any of the “JohnDoe” Defendants, whose residence is not described by Plaintiff in the Complaint, are residents of the state of California, or of the state of the principal place of business of Plaintiff (wherever that might be) then jurisdiction is denied.

XIX.

For further answer and defense, this Defendant, relative to paragraph 15 of the Complaint, denies that the United States District Court for the Western District of Oklahoma is a proper venue

for this action, and specifically denies that any portion of the alleged events giving rise to the claims made against him arose within the Western District.

XX.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 16 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXI.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 17 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXII.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 18 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXIII.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 19 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXIV.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 20 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXV.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 21 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXVI.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 22 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXVII.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 23 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXVIII.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 24 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXIX.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 25 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXX.

For further answer and defense, this Defendant states that he has no knowledge as to the allegations of paragraph 26 of the Complaint, and therefore denies the same, and demands strict proof thereof.

XXXI.

For further answer and defense, this Defendant specifically denies the allegations of paragraph 27 of the Complaint as they relate to him, and states that as to the remaining Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XXXII.

For further answer and defense, this Defendant denies the allegations of paragraph 28 of the Complaint as they relate to him, and states as to the remainder of the allegations, he has no knowledge, and demands strict proof thereof.

XXXIII.

For further answer and defense, this Defendant specifically denies the allegations of paragraph 29 of the Complaint as they relate to him, and states that he has no knowledge as to the allegations as they relate to the remaining Defendants, and therefore denies the same, and demands strict proof thereof.

XXXIV.

For further answer and defense, this Defendant denies the allegations of paragraph 30 of the Complaint particularly as they relate to him pertaining to “signal theft devices.” As to the allegations of the Complaint relating to other Defendants, this Defendant states that he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XXXV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 31 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XXXVI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 32 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XXXVII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 33 of the Complaint.

XXXVIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 34 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XXXIX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 35 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XL.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 36 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 37 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 38 of the Complaint.

XLIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 39 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLIV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 40 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 41 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLVI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 42 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLVII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 43 of the Complaint.

XLVIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 44 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

XLIX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 45 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

L.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 46 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 47 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 48 of the Complaint.

LIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 49 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LIV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 50 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 51 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LVI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 52 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LVII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 53 of the Complaint.

LVIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 54 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LIX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 55 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 56 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 57 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 58 of the Complaint.

LXIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 59 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXIV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 60 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 61 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXVI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 62 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXVII.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 63 of the Complaint.

LXVIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 64 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXIX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 65 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 66 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXI.

For further answer and defense, this Defendant restates and realleges each of the defenses in this Answer to paragraph 67 of the Complaint.

LXXII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 68 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 69 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXIV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 70 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXV.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 71 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXVI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 72 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXVII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 73 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXVIII.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 74 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXIX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 75 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXX.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 76 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

LXXXI.

For further answer and defense, this Defendant states that he denies the allegations of paragraph 77 of the Complaint pertaining to this Defendant, and states that to the extent that such allegations address other Defendants, he has no knowledge, and therefore denies the same, and demands strict proof thereof.

**ADDITIONAL DEFENSES**

LXXXII.

For further answer and defense, this Defendant denies that Plaintiff's claims under each of the separate causes of action states facts upon which relief can be granted.

LXXXIII.

For further answer and defense, this Defendant states that to the extent Plaintiff cannot demonstrate an interception of its commercial product, as contrasted with commercial products of others, it has no standing herein.

LXXXIV.

For further answer and defense, this Defendant alleges that Plaintiff's claims herein are barred on their face by the Oklahoma Statute of Limitations contained at 12 O.S. Supp. 2003 § 95.

LXXXV.

For further answer and defense, this Defendant alleges that Plaintiff's lawsuit alleges various violations against several different Defendants with no common nexus of facts, and that the claims against him should be severed from those against other Defendants, and that to do otherwise, prejudices his right to a fair trial.

LXXXVI.

For further answer and defense, to the extent Plaintiff seeks equitable relief, Defendant alleges that Plaintiff is guilty of laches and unclean hands, and is not entitled to the requested relief.

LXXXVII.

For further answer and defense, this Defendant alleges that to the extent Plaintiff sought identical relief in its *mesne* litigations throughout the country and has been denied such relief, it is collaterally estopped from requesting the same relief against this Defendant instanter. By way of

example, and without limitation to other such rulings, appended hereto and labeled Exhibit “F” is a copy of a decision from the United States District Court for the Middle District of Florida, Orlando Division, in the case of *DirecTV, Inc. v. Thacker, et al.*, case no. 6:03-CV-239-Orl-28DAB, specifically find that Plaintiff’s claims made against this Defendant allegedly arising under 18 U.S.C. § 2512 and § 2502 do not plead facts upon which relief can be granted. Further, and again without limitation, the United States District Court for the Eastern District of Michigan, in *DirecTV v. Eugene Karpinsky*, case no. 2002-CV-73929, the Court has determined that possession of the devices of which Plaintiff complains, absent evidence of interception of Plaintiff’s property, is insufficient, as a matter of law, to support a finding of liability under 18 U.S.C. § 2511, 18 U.S.C. § 2512, 47 U.S.C. § 605, or to support a state law claim of conversion. *See* Exhibit “G” appended hereto. To the extent that Defendant has sought identical relief in other courts, including, but not limited to those identified above, and has been denied such relief, it is collaterally estopped and barred from requesting said relief against this Defendant.

LXXXVIII.

For further answer and defense, this Defendant denies that Plaintiff, even under the facts as pled, would be entitled to the relief requested.

LXXXIX.

For further and defense, this Defendant states that to the extent Plaintiff seeks statutory penalties, such statutory penalties are unconstitutionally vague and capricious as no standards are set for the application of such penalties.

XC.

For further answer and defense, this Defendant states that to the extent Plaintiff seeks punitive damages, such damages are in violation of the applicable provisions of the Oklahoma and United States Constitutions, are barred and limited by the applicable provisions of 23 O.S. 2001 § 9.1, et seq., and that such claims for punitive damages bear no rational relationship to the actual damages suffered by Plaintiff.

XCI.

For further answer and defense, this Defendant specifically denies that to the extent Plaintiff attempts to assert claims of violation of 18 U.S.C. §§ 2511 and 2512, that such statutes set forth a right of a private cause of action.

XCII.

For further answer and defense, this Defendant pleads all affirmative defenses available to him which may be supported by the evidence upon the completion of discovery.

XCIII.

For further answer and defense, this Defendant reserves the right to plead additional defenses upon the completion of discovery.

WHEREFORE, premises considered, Defendant, Joe Hurst, prays that the Court enter its order dismissing this action for the reasons set forth above, or in the alternative, and only in the event the Court should fail to dismiss this action, that this matter be severed as to the claims asserted against him, and transferred to the United States District Court for the Northern District of Oklahoma, and that further, should this matter proceed to resolution of the merits as against this Defendant, that judgment be rendered in favor of this Defendant, and against the Plaintiff, together with this Defendant's costs, attorney fees, and such other and further non-affirmative relief to which he may be entitled.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS, HOLEMAN,  
PHIPPS, BRITTINGHAM & GLADD**

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**JURY TRIAL DEMANDED**

*Attorneys for Defendant, Joe Hurst*



**CERTIFICATE OF MAILING**

I hereby certify that on the \_\_\_\_\_ day of July, 2003, a true, correct and complete copy of the above and foregoing instrument was deposited in the U.S. mail, with proper postage affixed thereon, to the following:

Richard C. Ford  
CROWE & DUNLEVY  
20 North Broadway, Suite 1800  
Oklahoma City, Oklahoma 73102

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