

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

TALK FUSION, INC., a Florida corporation,

Plaintiff,

Case No. 8:11-cv-01134-VMC-AEP

v.

J.J. ULRICH, an individual, JOE READ, an  
individual, and I WOW WE, LLC, a Texas  
limited liability company,

Defendants.

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**NOTICE OF FILING AMENDED AFFIDAVIT OF ROBERT REINA  
IN SUPPORT OF EMERGENCY MOTION FOR TEMPORARY  
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff, Talk Fusion, Inc., hereby gives notice of filing the Amended Affidavit of Robert Reina, with attached Exhibits A through I, in support of the Emergency Motion for Temporary Restraining Order and Preliminary Injunction filed on May 23, 2011, in the above-styled case.

**SIVYER BARLOW & WATSON, P.A.**

401 East Jackson Street, Suite 2225

Tampa, Florida 33602

Telephone: (813) 221-4242

Facsimile: (813) 227-8598

Attorneys for Plaintiff

/s/ Edward J. Kuchinski

Mahlon H. Barlow

Florida Bar No. 871117

Edward J. Kuchinski

Florida Bar No. 373745

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**AMENDED AFFIDAVIT OF ROBERT REINA**

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

BEFORE ME, the undersigned authority, personally appeared Robert Reina, who, being first duly sworn, deposes and states as follows:

1. My name is Robert ("Bob") Reina, I am over eighteen (18) years of age, and make this Affidavit based on personal knowledge.

2. I am the founder and President of Talk Fusion, Inc. ("Talk Fusion"). Talk Fusion is a Florida corporation with its principal place of business in Brandon, Hillsborough County, Florida. Talk Fusion is a direct sales company that markets its products through independent associates ("Associates"). Talk Fusion markets and sells various video communication products for personal and business use, including a web-based software that allows a customer to create video e-mails and send them to friends, family, and customers; all without attachments or special

software to install. Associates are customers of Talk Fusion's services, but also sell Talk Fusion's products, recruit other Associates, and earn commissions.

3. Talk Fusion uses a direct marketing business model. Direct marketing involves the selling of products by Associates who build their own sales force. Associates can develop exponentially expanding organizations for which they have oversight. These organizations are referred to as "downlines," or in Talk Fusion's case, "genealogies."

4. Each Associate's genealogy structure or information is highly confidential and password protected.

5. On or about October 21, 2010, J.J. Ulrich ("Ulrich") became a Talk Fusion Associate. *See* Exhibit A.

6. On or about February 9, 2011, Joe Read ("Read") became a Talk Fusion Associate. *See* Exhibit B.

7. Ulrich and Read registered electronically to become Talk Fusion Associates and in so doing agreed to comply with Talk Fusion's Policies and Procedures, Terms and Conditions, Compensation Plan, Income Disclaimer, Terms of Service, and Refund and Cancellation Policy. A true and correct copy of Talk Fusion's Statement of Policies and Procedures is attached as Exhibit C, and a true and correct copy of the Terms of Service is attached as Exhibit D.

8. Talk Fusion Associates are prohibited from soliciting or marketing to other Talk Fusion Associates.

9. Ulrich is experienced in internet-based marketing, and Read is a computer programmer. My understanding is that they frequently work together on projects.

10. On or about March 15 and 16, 2011, Ulrich requested approval for a website entitled [www.TalkFusionService.com](http://www.TalkFusionService.com). I reviewed this proposed website, and it was simply a

collection of existing Talk Fusion videos that already appeared on the Talk Fusion website. So, the website was presented to me as a collection of videos that were already approved by Talk Fusion. I approved the use of this website, and this website only.

11. Without the knowledge or consent of Talk Fusion, Ulrich and Read marketed this website to all Talk Fusion Associates, including those Associates who were not part of their Talk Fusion team. Ulrich and Read requested, without the knowledge or consent of Talk Fusion, that other Talk Fusion Associates provide their Talk Fusion identification number and password to Ulrich and Read.

12. By obtaining other Talk Fusion Associates' identification numbers and passwords, Ulrich and Read gained access to confidential, proprietary, and trade secret information such as:

- a. The names, e-mail addresses, and telephone numbers of Talk Fusion Associates;
- b. The names, e-mail addresses, and telephone numbers of Talk Fusion customers;
- c. Access to Talk Fusion Associates' and customers' genealogy structure showing placement, sales volume, commission amounts and history, rank, and status; and
- d. Copies of every video e-mail that an Associate has sent to anybody and the address book, including e-mail addresses of Talk Fusion Associates.

13. Subsequent to the startup of the [www.TalkFusionService.com](http://www.TalkFusionService.com) website by Ulrich and Read, I discovered that Ulrich and Read were selling a number of sales aids without Talk Fusion's consent. These sales aids included auto dialers. Talk Fusion's procedures prohibit the sale of sales aids and specifically prohibit the sale of auto dialers.

14. Ulrich and Read were selling these sales aids and claiming that Talk Fusion Associates could earn up to \$50,000 per week in a very short time using these sales aids. *See* Exhibit E: e-mail from Tony Cannuli to myself dated May 3, 2011.

15. On April 25, 2011, I started receiving complaints from Talk Fusion Associates regarding Ulrich and Read and their “system.” Talk Fusion Associates were concerned about Ulrich and Read having their confidential information and using it for purposes other than Talk Fusion.

16. Also on April 25, 2011, I became aware of Ulrich and Read accessing Talk Fusion’s computer system to copy Talk Fusion’s genealogy information. One of Talk Fusion’s servers had been experiencing spikes in activity. *See* Exhibit F.

17. I called Ulrich on April 25, 2011, and informed him of my concern on someone trying to access our system. Ulrich stated that he had asked Read, the computer programmer, to create a program which accessed Talk Fusion’s genealogy information. Ulrich also stated that he did not see anything wrong with his system and acknowledged that he did not ask me for approval.

18. I subsequently contacted Read, and Read confirmed Ulrich had instructed him to prepare a program to access Talk Fusion’s confidential genealogy information and transfer this confidential information to Ulrich’s and Read’s servers.

19. After discovering that Ulrich and Read accessed Talk Fusion’s confidential information, I did for a short time maintain a dialogue with Ulrich and Read to discover more information on what they had done. In these conversations, Ulrich indicated as many as 3,000 Talk Fusion Associates signed up for his service. Therefore, these 3,000 Associates and their downline genealogy would have unwittingly disclosed confidential information.

20. Subsequent to April 25, 2011, the spiking on Talk Fusion's server stopped.

21. On May 9, 2011, Read resigned as a Talk Fusion Associate.

22. On May 9, 2011, Talk Fusion began receiving reports that Ulrich and Read were promoting "I Wow We" and were targeting Talk Fusion Associates. I have heard audiotapes of sales presentations by Ulrich wherein he promotes I Wow We and instructs any Talk Fusion Associates to sign up with I Wow We through John Gillardi.

23. On May 9, 2011, I terminated Ulrich's position as a Talk Fusion Associate.

24. Since his termination as a Talk Fusion Associate, Ulrich has continued to solicit Talk Fusion Associates to join Talk Fusion's competitor, I Wow We. Ulrich has solicited Talk Fusion Associates who were not personally sponsored by him. *See* the e-mails and tweets attached as Exhibit G. It also appears that Ulrich and Read are using Talk Fusion's confidential information (Associate and customer lists) to market I Wow We. *See* Exhibit H.

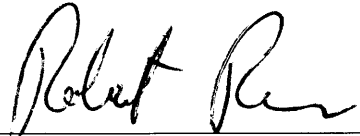
25. Ulrich is also sending tweets disparaging Talk Fusion and stating "Talk Fusion is dead." *See* Exhibit I.

26. Ulrich's marketing activities are internet-based and Ulrich could not perform his activities aimed at soliciting Talk Fusion Associates without the assistance of his programmer, Read.

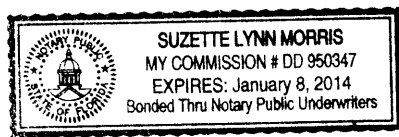
27. Talk Fusion will be irreparably harmed if Ulrich, Read, and I Wow We are allowed to continue their solicitation and recruitment of Talk Fusion Associates.


28. Talk Fusion will be irreparably harmed if Ulrich, Read, and I Wow We are allowed to use Talk Fusion's confidential, proprietary, and trade secret information, including the above-referenced genealogy information.

FURTHER AFFIANT SAYETH NAUGHT.

  
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ROBERT REINA

SWORN TO AND SUBSCRIBED before me this 24<sup>th</sup> day of May, 2011, by Robert Reina, who is personally known to me and who did take an oath.



  
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NOTARY PUBLIC  
Print name: Suzette Lynn Morris  
My commission expires: 1/8/2014