



Mary Claire Fischer  
Attorney at Law

February 21, 2006  
Via First Class Mail

Mr. Andrew D. Kirch  
SOSDG/AHBL  
5707 Indianola Ave  
Indianapolis, IN 46220

RE: CAUSE NO. 2005-CI-19492; RICHARD M. SCOVILLE, ET AL., VS. BRIAN J. BRUNS, ET AL, IN THE  
45TH JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS

Dear Andrew:

We enclose copies of the following correspondence, pleadings and documents in the above-referenced case:

- 1) Correspondence from Mr. Scoville enclosing Request for Findings of Fact and Conclusions of Law;
- 2) Correspondence to District Clerk for filing of Defendants' Response to Plaintiffs' Request for Findings of Fact and Conclusions of Law;
- 3) Correspondence to Judge John J. Specia Jr. enclosing Defendants' Response to Plaintiffs' Request for Findings of Fact and Conclusions of Law; and
- 4) Correspondence to Mr. Scoville enclosing Defendants' Response to Plaintiffs' Request for Findings of Fact and Conclusions of Law.

Please call if you have any questions.

Sincerely,

Juli M. Tanner  
Paralegal to Mary Claire Fischer

# FAX TRANSMISSION

**RICHARD M. SCOVILLE**  
P.O. Box 120442  
San Antonio, Texas 78212-9474  
210-265-1679  
Fax: 207-510-9474

**To:** Ms. Mary Claire Fischer/Attorney      **Date:** January 25, 2006  
At law

**Fax #:** 541-3906      **Pages:** One (3), including this cover  
sheet.

**From:** Richard M. Scoville

**Subject:** 2005-CI-19492

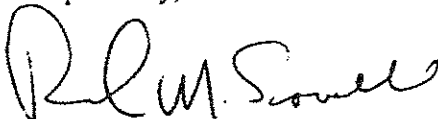
## COMMENTS:

Dear Ms. Fischer:

Enclosed you will find my "REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW" filed with the clerk of said Court today.

I appreciate your cooperation and attention to this matter.

Respectfully,

  
Richard M. Scoville

FILED  
DISTRICT CLERK  
TEXAS  
CAUSE NO: 2005-CI-19492

06 JAN 25 PM 2:33

RICHARD M. SCOVILLE,  
INDIVIDUALLY and on behalf of  
Free Speech Store also known as FSS,  
FreeSpeechStore.com BY \_\_\_\_\_

IN THE DISTRICT COURT

VS.

45th JUDICIAL DISTRICT

BRIAN J. BRUNS, AKA ABUSIVE  
HOSTS BLOCKING LISTS, AHBL.ORG,  
THE SUMMIT OPEN SOURCE  
DEVELOPMENT GROUP, SOSDG.ORG;  
ANDREW D. KIRCH, AKA  
D&K CONSULTING, TRELANE.NET

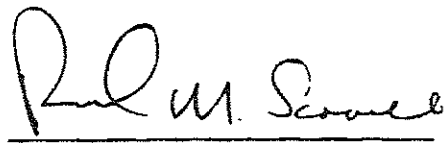
BEXAR COUNTY, TEXAS

**REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW RICHARD M. SCOVILLE, Plaintiff, Individually, and on behalf of Free Speech Store, AKA freespeechstore.com, and FSS , in the above-referenced cause, in which judgment was rendered on January 6, 2006, requests that you state, in writing, the facts found by you, and that you separately state, in writing, your conclusions of law with the clerk of this Court so that they shall be part of the record of the cause, all in accordance with Rule 297 of the Texas Rules of Civil Procedure.

Respectfully submitted,



RICHARD M. SCOVILLE  
P.O. Box 120442  
San Antonio, Texas 78212  
Phone: 1-207-510-9474  
Facsimile: 1-207-510-9474  
**PLAINTIFF, PRO SE**

CERTIFICATE OF SERVICE

I hereby certify that I have forwarded a true and correct copy of the PLAINTIFFS' REQUEST FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW, to Defendants counsel in accordance with the Texas Rules of Civil Procedure, on this 25<sup>th</sup> day of January 2006.

  
RICHARD M. SCOVILLE



Mary Claire Fischer  
Attorney at Law

February 21, 2006  
CMRRR#70042510000723547883

Ms. Margaret G. Montemayor,  
Bexar County District Clerk  
Bexar County Courthouse  
100 Dolorosa Street  
San Antonio, Texas 78205

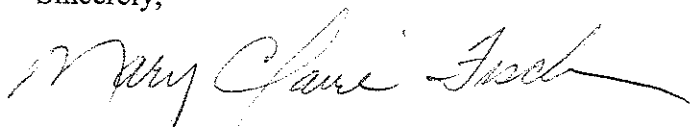
RE: CAUSE NO. 2005-CI-19492; RICHARD M. SCOVILLE, ET AL., VS. BRIAN J. BRUNS, ET AL, IN THE 45TH  
JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS.

Dear Ms. Montemayor:

We enclose the original and two copies of Defendants' Response to Plaintiffs' Request for Findings of Fact and Conclusions of Law.

Please file the original pleading among the papers of the Court and return the file stamped copies in the enclosed post-paid envelope.

Sincerely,



Mary Claire Fischer

MCF/jt



Plaintiffs sued Defendants for:

- 1) Tortious Interference with Contract;
- 2) Restraint of Trade;
- 3) Libel, Slander, Business Disparagement and Defamation of Credit;
- 4) Intentional Infliction of Emotional Distress;
- 5) Fraud;
- 6) Nuisance;
- 7) Nuisance Per Se;
- 8) Trespass to Personal Property; and
- 9) Negligence.

Plaintiffs also sought and obtained a Temporary Restraining Order on December 14, 2005. Plaintiffs further sought to have the Temporary Restraining Order made into a permanent injunction pending trial on the merits. Plaintiffs further sought actual and punitive damages.

Defendants filed their Special Appearance, supported by the Affidavit of Andrew D. Kirch on December 28, 2005. The Court heard Defendants' Special Appearance on January 5 and 6, 2006, during which Plaintiffs called five witnesses, Detective Brian Padier, Manuel Oblitas, Brandon Zumwalt, Javier Oblitas, and Richard M. Scoville, who all presented testimony under direct and cross-examination ("Plaintiffs' witnesses").

The Court signed its Order on Defendants' Special Appearance on January 6, 2006, granting Defendants' Special Appearance and dismissing the case with prejudice to re-filing in Texas.

## 2. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Defendants attach proposed Findings of Fact and Conclusions of Law to this Response and ask that the Court sign and file them.

## 3. PRAYER

Based upon the pleadings on file and the attachments thereto, the Affidavit of Andrew D. Kirch, and the testimony and evidence presented to the Court by Plaintiffs' witnesses and the cross-examination of Plaintiffs' witnesses, Defendants ask the Court to file Findings of Fact and Conclusions of law, as set forth in the attachment hereto.

Defendants further seek such other and further relief in law or equity, to which they may be entitled.

MARY CLAIRE FISCHER  
ATTORNEY AT LAW  
9311 SAN PEDRO AVENUE,  
SUITE 700  
SAN ANTONIO, TEXAS 78216  
(210) 541-3905  
(210) 541-3906 (FACSIMILE)

  
MARY CLAIRE FISCHER

ATTORNEY FOR DEFENDANTS,  
ANDREW D. KIRCH, ABUSIVE HOSTS  
BLOCKING LISTS, AHBL.ORG,  
THE SUMMIT OPEN SOURCE  
DEVELOPMENT GROUP,  
SOSDG.ORG, D&K CONSULTING  
AND TRELANE.NET

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendants' Response to Plaintiffs' Request for Findings of Fact and Conclusions of Law has been served by Certified Mail on February 21, 2006, to:

Richard M. Scoville, Individually,  
And on behalf of FREE SPEECH STORE  
a/k/a FSS, FreeSpeechStore.com.  
P.O. Box 120442  
San Antonio, Texas 78212

  
MARY CLAIRE FISCHER



## FINDINGS OF FACT

1. Andrew D. Kirch is one of the Defendants in this lawsuit.
2. “SOSDG.ORG” and “AHBL.ORG” are named as separate Defendants in the instant case. “SOSDG.ORG” and “AHBL.ORG” are the same entities as named Defendants The Summit Open Source Development Group, and Abusive Hosts Blocking List, respectively.
3. Plaintiffs named TRELANE.NET (hereinafter “trelane.net”) as a Defendant herein. “trelane.net” is not a business entity of any kind, “trelane.net” is the Internet domain name Mr. Kirch uses to send and receive emails.
4. Mr. Kirch is a resident of, lives in, and works in Indianapolis, Indiana. Mr. Kirch has never lived in, traveled to, visited, traveled through or done business in the State of Texas.
5. AHBL and SOSDG are separate Internet domains located on the same web-server. That web-server is located in Mr. Kirch’s home office in Indianapolis, Indiana.
6. Mr. Kirch does not, nor has he ever, individually, or through AHBL, SOSDG or trelane.net owned any personal property or real estate in Texas.
7. Mr. Kirch has never invested in any companies located in Texas.
8. Mr. Kirch has never employed anyone in the State of Texas, nor has Mr. Kirch been employed by any individual living in, or by any company located in the State of Texas.
9. Mr. Kirch has never, individually, or through AHBL, SOSDG or trelane.net, signed, entered into or performed any contract in the State of Texas (with the exception of attorney’s fees paid for the representation of Mr. Kirch, AHBL, SOSDG and trelane.net in the instant case).
10. Mr. Kirch does not, individually, or through AHBL, SOSDG or trelane.net, sell any products. Accordingly, no products sold by Mr. Kirch, AHBL, SOSDG or trelane.net have entered into Texas, or have been sold in Texas.
11. Mr. Kirch has never, individually, or on behalf of AHBL, SOSDG or trelane.net placed or received any telephone calls to or from anyone in the State of Texas for the purpose of soliciting any kind of business.

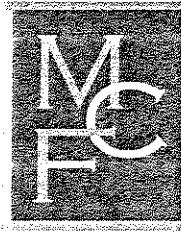
12. Mr. Kirch has never made payments to anyone in the State of Texas under any contract or agreement, or for the purchase or sale of any goods or services (with the exception of attorneys' fees paid for the representation of Mr. Kirch, AHBL, SOSDG, and trelane.net in the instant case).
13. Mr. Kirch has never received payments from anyone in the State of Texas under any contract or agreement, or for the purchase or sale of any goods or services.
14. Mr. Kirch has never, individually, nor through AHBL, SOSDG or trelane.net, loaned money to anyone living in or located in the State of Texas.
15. Mr. Kirch has never, individually, nor through AHBL, SOSDG or trelane.net, secured any loan made to him, AHBL, SOSDG or trelane.net, or by him, AHBL, SOSDG or trelane.net, with any property located in the State of Texas.
16. Mr. Kirch does not now, nor has he ever had a bank account in the State of Texas. None of AHBL, SOSDG or trelane.net now has, nor has any of them ever had a bank account in the State of Texas.
17. Mr. Kirch is the sole proprietor, owner and operator of the AHBL and SOSDG domains. Neither of these domains are incorporated companies as alleged by Plaintiffs.

#### CONCLUSIONS OF LAW

1. Plaintiffs failed to overcome the evidence set forth by Mr. Kirch in his affidavit.
2. Plaintiffs failed to establish through their pleadings and the attachments thereto, and through the testimony and evidence presented either general or specific jurisdiction over Abusive Hosts Blocking Lists, AHBL.org, The Summit Open Source Development Group, Inc., SOSDG.org, Andrew D. Kirch a/k/a D&K Consulting and Trelane.net in the State of Texas.
3. Plaintiffs cannot, therefore maintain their suit against Defendants in the State of Texas.

SIGNED on February \_\_\_\_, 2006.

\_\_\_\_\_  
JUDGE JOHN J. SPECIA, JR.



Mary Claire Fischer  
Attorney at Law

February 21, 2006

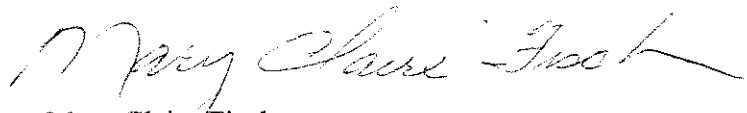
The Honorable John J. Specia, Jr.  
45<sup>th</sup> Judicial Court  
Bexar County Courthouse  
100 Dolorosa Street  
San Antonio, Texas 78205

RE: CAUSE NO. 2005-CI-19492; RICHARD M. SCOVILLE, ET AL., VS. BRIAN J. BRUNS, ET AL, IN THE 45TH  
JUDICIAL DISTRICT COURT OF BEXAR COUNTY, TEXAS.

Dear Judge Specia:

We enclose a courtesy copy of Defendants' Response to Plaintiffs' Request for Findings of Fact and Conclusions of Law, which was sent to the District Clerk for filing today.

Sincerely,



Mary Claire Fischer

MCF/jt

Cc: Via Certified Mail  
Richard M. Scoville



Mary Claire Fischer  
Attorney at Law

February 21, 2006  
CMRRR#70042510000723547890

Mr. Richard M. Scoville  
P.O. Box 120442  
San Antonio, Texas 78212

RE: CAUSE NO. 2005-CI-19492; RICHARD M. SCOVILLE, ET AL., VS. BRIAN J. BRUNS, ET AL, IN THE 45TH  
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Sincerely,

Mary Claire Fischer

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