

Kenneth R. Davis, II, OSB No. 97113
davisk@lanepowell.com
William T. Patton, OSB No. 97364
pattonw@lanepowell.com
LANE POWELL PC
601 SW Second Avenue, Suite 2100
Portland, Oregon 97204-3158
Telephone: 503.778.2100
Facsimile: 503.778.2200

Thomas M. Mullaney, *Admitted Pro Hac Vice*
tmm@mullaw.org
Law Offices of Thomas M. Mullaney
708 Third Avenue, Suite 2500
New York, New York 10017
Telephone: 212.223.0800
Facsimile: 212.661.9860

Attorneys for Defendant SafeNet, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

TANYA ANDERSEN,

Plaintiff,

v.

**ATLANTIC RECORDING
CORPORATION, et al.,**

Defendants.

Case No. 3:07-CV-934-BR

Defendant SafeNet, Inc.'s
**ANSWER TO PLAINTIFF'S
FOURTH AMENDED
COMPLAINT**

Defendant SafeNet, Inc. (“SafeNet”) for its answer to the Fourth Amended Complaint of Plaintiff Tanya Andersen individually and as representative of others similarly situated (“Andersen”), states as follows:

1. States that the allegations of paragraph 1.1 constitute legal conclusions to which no response is required, but denies that Andersen would be an adequate class representative.

2. States that the allegations of paragraph 1.2 constitute legal conclusions to which no response is required, but denies that it was engaged in a conspiracy of any sort.

3. States that the allegations of paragraph 1.3 constitute legal conclusions to which no response is required.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.4 of the Complaint, and therefore denies the same.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.5 of the Complaint, and therefore denies the same.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.6 of the Complaint, but would respectfully refer the Court to the text of the documents referred to herein as the best evidence concerning Plaintiff’s allegations.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.7 of the Complaint, but would respectfully refer the Court to the text of the documents referred to herein as the best evidence concerning Plaintiff’s allegations.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.8 of the Complaint, but would respectfully refer the Court to the text of the documents referred to herein as the best evidence concerning Plaintiff’s allegations.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.9 of the Complaint, but would respectfully refer the Court to the text of the documents referred to herein as the best evidence concerning Plaintiff's allegations.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.10 of the Complaint, but would respectfully refer the Court to the text of the documents referred to herein as the best evidence concerning Plaintiff's allegations.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.11 of the Complaint, and therefore denies the same.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.1 of the Complaint, and therefore denies the same.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.2 of the Complaint, and therefore denies the same.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2.3 of the Complaint, and therefore denies the same.

15. States that the allegations of paragraph 3.1 constitute legal conclusions to which no response is required.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.1 of the Complaint, and therefore denies the same.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.2 of the Complaint, and therefore denies the same.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.3 of the Complaint, and therefore denies the same.

19. Admits that it is a Delaware corporation with its principal place of business in Maryland, states that the allegation that it is or was an agent of any other entity is a legal

conclusion to which no response is required, and denies the remainder of the allegations in paragraph 4.4 of the Complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4.5 of the Complaint, and therefore denies the same.

21. Admits the allegations contained in paragraph 5.1 of the Complaint.

22. Denies knowledge or information sufficient to form a belief as to the citizenship of the other parties to this action, and denies that the amount in controversy exceeds \$5,000,000.00.

23. Denies the allegations of paragraph 5.3 of the Complaint.

24. States that the allegations of paragraph 6.1 constitute legal conclusions to which no response is required.

25. States that the allegations of paragraph 6.2 constitute legal conclusions to which no response is required.

26. States that the allegations of paragraph 6.3 constitute legal conclusions to which no response is required.

27. Denies the allegations of paragraph 6.4 of the Complaint.

28. Denies the allegations contained in paragraph 6.5 of the Complaint, and states that whether plaintiff or her counsel are committed vigorously prosecuting this action states a legal conclusion to which no response is required.

29. Denies the allegations contained in paragraph 6.6 of the Complaint, except states that whether plaintiff or her counsel are committed vigorously prosecuting this action states a legal conclusion to which no response is required.

30. Denies the allegations contained in paragraph 6.7 of the Complaint.

31. Denies the allegations contained in paragraph 6.8 of the Complaint.

32. Denies the allegations contained in paragraph 7.1 of the Complaint,

33. Denies the allegations contained in the first and third sentences of paragraph 7.2 of the Complaint, admits the allegations of the second sentence of that paragraph.

34. Denies the allegations contained in paragraph 7.3 of the Complaint.

35. Denies the allegations contained in the first, penultimate and last sentences of paragraph 7.7 of the Complaint, admits that it does not have a private investigators license issued by the State of Oregon and that it received correspondence from the Massachusetts State police, and refers the Court and jury to the text of the documents and statutes cited therein as the best evidence of their contents.

36. Denies the allegations of paragraph 7.5 of the Complaint.

37. Denies the allegations of paragraph 7.6 of the Complaint.

38. Denies the allegations of paragraph 7.7 of the Complaint

39. Denies the allegations of paragraph 7.8 of the Complaint

40. Denies the allegations in the first sentence of paragraph 7.9 of the Complaint, and answers that the second sentence constitutes a legal conclusion to which no response is required.

41. Denies the allegations of paragraph 7.10 of the Complaint

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.11 of the Complaint, and therefore denies the same.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning Verizon, a non-party to this action, and denies the remainder of the allegations contained in paragraph 7.12 of the Complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning Mitchell Silverberg & Knupp, LLP, a non-party to this action.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.14 of the Complaint.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.15 of the Complaint, and therefore denies the same.

PAGE 5 - ANSWER TO PLAINTIFF'S FOURTH AMENDED COMPLAINT

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.16 of the Complaint, and therefore denies the same.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.17 of the Complaint, and therefore denies the same.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.18 of the Complaint, but denies that it identified Plaintiff by name.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.19 of the Complaint, and therefore denies the same.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.20 of the Complaint, and therefore denies the same.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.21 of the Complaint, and therefore denies the same.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.22 of the Complaint, and therefore denies the same.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.23 of the Complaint, and therefore denies the same.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.24 of the Complaint, and therefore denies the same.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.25 of the Complaint, but denies the allegations of the first sentence of that paragraph.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.26 of the Complaint, but denies the allegations of the last sentence of that paragraph.

58. Denies the allegations of the first and second of that paragraph, and denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.27 of the Complaint, and therefore denies the same.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.28 of the Complaint, and therefore denies the same.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.29 of the Complaint, and therefore denies the same.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.30 of the Complaint, and therefore denies the same.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.31 of the Complaint, and therefore denies the same.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.32 of the Complaint, and therefore denies the same.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.33 of the Complaint, and therefore denies the same.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.34 of the Complaint, and therefore denies the same.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.35 of the Complaint, but refers the Court and jury to the text of the documents referred to therein as the best evidence of their contents.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7.36 of the Complaint, and therefore denies the same.

68. Answering paragraph 8.1 of the Complaint, SafeNet repeats its responses of paragraphs 1-67 above as if fully set forth herein.

69. Denies the allegations contained in paragraph 8.2 of the Complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8.3 of the Complaint, but denies the last two sentences of that paragraph.

71. Denies the allegations contained in paragraph 8.4 of the Complaint.

72. Denies the allegations contained in paragraph 8.5 of the Complaint

73. Answers that the allegations contained in paragraphs 8.6-8.30 are not directed at it, and no so further response is required

74. Answering paragraph 8.31 of the Complaint, SafeNet repeats its responses of paragraphs 1-72 above as if fully set forth herein.

75. Denies the allegations contained in paragraph 8.32 of the Complaint.

76. Denies the allegations contained in paragraph 8.33 of the Complaint.

77. Denies the allegations contained in paragraph 8.34 of the Complaint.

78. Denies the allegations contained in paragraph 8.35 of the Complaint.

79. Denies the allegations contained in paragraph 8.36 of the Complaint.

80. Denies the allegations contained in paragraph 8.37 of the Complaint, although admits the qualifications of Cary Sherman.

81. Answers that the allegations contained in paragraphs 8.38-46 are not directed at it, and no so further response is required

82. Denies the allegations contained in paragraph 8.47-8.49, but refers the Court and jury to the text of the Complaint as the best evidence of its contents.

FIRST AFFIRMATIVE DEFENSE

83. The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

84. The Complaint is barred by the equitable doctrines of estoppel and unclean hands.

THIRD AFFIRMATIVE DEFENSE

85. The damage alleged to have been sustained by plaintiff was caused in whole or in part by her own culpable conduct.

FOURTH AFFIRMATIVE DEFENSE

86. Venue is not proper in this jurisdiction.

WHEREFORE, having answered plaintiff's Fourth Amended Complaint and having asserted affirmative defenses, SafeNet prays for judgment as follows:

1. For dismissal of plaintiff's Fourth Amended Complaint with prejudice;
2. For SafeNet's costs, disbursements, and attorneys' fees in an amount to be determined at the time of trial; and
3. For such other and further relief as the Court deems just and equitable.

Respectfully submitted: May 21, 2008

LANE POWELL PC

By /s/ William T. Patton

Kenneth R. Davis, II, OSB No. 97113
William T. Patton, OSB No. 97364
(503) 778-2100

Thomas M. Mullaney, *Admitted Pro Hac Vice*
tmm@mullaw.org
Law Offices of Thomas M. Mullaney
708 Third Avenue, Suite 2500
New York, New York 10017
Telephone: (212) 223-0800
Facsimile: (212) 661-9860

Attorneys for Defendant SafeNet, Inc.