

1 MELINDA HAAG (CSBN 132612)
United States Attorney
2 JOANN M. SWANSON (CSBN 88143)
Chief, Civil Division
3 NEILL T. TSENG (CSBN 220348)
Assistant United States Attorney

4
5 450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-7155
6 FAX: (415) 436-6927
neill.tseng@usdoj.gov

7 Attorneys for Defendant
8 U.S. CUSTOMS AND BORDER PROTECTION

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 EDWARD HASBROUCK,) No. C 10-03793 RS
14 Plaintiffs,)
15 v.) **DEFENDANT’S ANSWER TO**
16 U.S. CUSTOMS AND BORDER PROTECTION) **COMPLAINT**
17 Defendant.)
18

19 Defendant U.S. CUSTOMS AND BORDER PROTECTION hereby answers the complaint
20 filed by plaintiff EDWARD HASBROUCK as follows:

21 1. The allegations in paragraph 1 constitute plaintiff’s characterization of this action to
22 which no answer is required. To the extent an answer may be required, defendant admits that
23 paragraph 1 reflects plaintiff’s characterization of this action, and defendant denies all other
24 allegations in paragraph 1.

25 2. The allegations in paragraph 2 state legal conclusions regarding this court’s venue to
26 which no answer is required.

27 3. Defendant admits the allegations in paragraph 3.

28 4. The allegations in paragraph 4 constitute plaintiff’s characterization of this action to

1 which no answer is required. To the extent an answer may be required, defendant denies the
2 allegations.

3 5. The allegations in paragraph 5 constitute plaintiff's characterization of this action to
4 which no answer is required. To the extent an answer may be required, defendant denies the
5 allegations, except defendant admits that it received an unsigned and undated letter in 2007 titled
6 Privacy Request in which plaintiff requested all records about himself in the Automated Targeting
7 System ("ATS"). Defendant denies that plaintiff represented himself as a member of the "news
8 media" or "consultant to the Identity Project." Defendant further denies plaintiff's characterization
9 that the Automated Targeting System was not in compliance with the Privacy Act.

10 6. Defendant denies the allegations in paragraph 6.

11 7. The allegations in Paragraph 7 constitute plaintiff's characterization of this action to
12 which no answer is required. To the extent an answer may be required, defendant denies the
13 allegations.

14 8. Defendant does not have sufficient information to admit or deny the allegations in
15 paragraph 8 and on that basis denies the allegations.

16 9. The allegations in Paragraph 9 constitute plaintiff's characterization of the
17 defendant's mission to which no answer is required. To the extent an answer may be required,
18 defendant denies the allegations.

19 10. Defendant admits the allegations in paragraph 10.

20 11. Defendant does not have sufficient information to admit or deny the allegations in
21 paragraph 11 and on that basis denies the allegations.

22 12. Defendant does not have sufficient information to admit or deny the allegations in
23 paragraph 12 and on that basis denies the allegations.

24 13. Defendant does not have sufficient information to admit or deny the allegations in
25 paragraph 13 and on that basis denies the allegations.

26 14. The allegations in paragraph 14 constitute plaintiff's characterization of this action
27 to which no answer is required. To the extent an answer may be required, defendant denies the
28 allegations.

1 15. In answer to paragraph 15, defendant admits that it received an undated and
2 unsigned letter in 2007 from plaintiff titled Privacy Act Request, and that plaintiff's Exhibit A is a
3 true and correct copy of that letter. Defendant denies that a signed declaration accompanied that
4 letter. Defendant denies all other allegations in paragraph 15 and states that the letter speaks for
5 itself.

6 16. In answer to paragraph 16, defendant admits that plaintiff's Exhibit B is a true and
7 correct copy of the letter that defendant sent to plaintiff. Defendant denies the remaining
8 allegations in paragraph 16.

9 17. Defendant does not have sufficient information to admit or deny the allegations in
10 paragraph 17 and on that basis denies the allegations. The office identified in paragraph 17 has no
11 record of having received plaintiff's letter dated September 13, 2007.

12 18. In answer to paragraph 18, defendant admits that plaintiff's Exhibit E is a true and
13 correct copy of the letter defendant received. Defendant does not have sufficient information to
14 admit or deny the remaining allegations in paragraph 18 and on that basis denies the allegations.

15 19. In answer to paragraph 19, defendant admits that plaintiff's Exhibit F is a true and
16 correct copy of the letter defendant received. Defendant does not have sufficient information to
17 admit or deny the remaining allegations in paragraph 19 and on that basis denies the allegations.

18 20. In answer to paragraph 20, defendant admits that plaintiff's Exhibit G is a true and
19 correct copy of the letter defendant received. Defendant does not have sufficient information to
20 admit or deny the remaining allegations in paragraph 20 and on that basis denies the allegations.

21 21. In answer to paragraph 21, defendant admits that it received a letter titled
22 "FOIA/PRIVACY ACT REQUEST" dated October 15, 2009. Defendant does not have sufficient
23 information to admit or deny the remaining allegations in paragraph 21 and on that basis denies the
24 allegations.

25 22. In answer to paragraph 22, defendant admits that plaintiff's Exhibit H is a true and
26 correct copy of the letter that defendant received. Defendant does not have sufficient information
27 to admit or deny the remaining allegations in paragraph 22 and on that basis denies the allegations.

28 23. In answer to paragraph 23, defendant admits that plaintiff's Exhibit I is a true and

1 correct copy of the letter that defendant received. Defendant denies the remaining allegations in
2 paragraph 23.

3 24. In answer to paragraph 24, defendant admits that it issued a letter with file number
4 H089016. Defendant denies the remaining allegations in paragraph 24 and states that the
5 document speaks for itself.

6 25. In answer to paragraph 25, defendant admits that plaintiff's Exhibit J is a true and
7 correct copy of the letter defendant issued. Defendant denies the remaining allegations in
8 paragraph 25 and states that the document speaks for itself.

9 26. In answer to paragraph 26, defendant admits that it received a letter titled
10 "FOIA/PRIVACY ACT REQUEST" dated October 15, 2009 and that plaintiff's Exhibit K is a true
11 and correct copy of the letter that defendant received. Defendant denies the remaining allegations
12 in paragraph 26.

13 27. Defendant does not have sufficient information to admit or deny the allegations in
14 paragraph 27 and on that basis denies the allegations.

15 28. In answer to paragraph 28, defendant admits that it received a letter dated December
16 10, 2009 titled "FOIA APPEAL (Appeal of constructive denial)." Defendant admits that plaintiff's
17 Exhibit L is a true and correct copy of the letter that defendant received. Defendant denies the
18 remaining allegations in paragraph 28.

19 29. Defendant denies the allegations in paragraph 29.

20 30. Defendant does not have sufficient information to admit or deny the allegations in
21 paragraph 30 and on that basis denies the allegations.

22 31. Defendant denies the allegations in paragraph 31

23 32. The remainder of plaintiff's complaint constitutes plaintiff's prayer for relief to
24 which no answer is required. To the extent an answer may be required, defendant denies that
25 plaintiff is entitled to the relief prayed for in this action or to any relief whatsoever.

26 33. Defendant denies any and all allegations not expressly admitted in this answer.

27 In further answer to the complaint and as separate affirmative defenses, defendant alleges
28 as follows:

FIRST AFFIRMATIVE DEFENSE

The court lacks subject matter jurisdiction over the complaint.

SECOND AFFIRMATIVE DEFENSE

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

THIRD AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust administrative remedies.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff was provided all documents that he is entitled to by law.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff has not alleged sufficient factual and/or legal bases for his request for costs and/or attorney's fees.

SIXTH AFFIRMATIVE DEFENSE

The Freedom of Information Act does not authorize the injunctive relief requested.

Wherefore, defendant requests the following:

1. That plaintiff's complaint be dismissed with prejudice with costs of suit awarded to defendant;
2. That plaintiff take nothing in this action; and
3. That this court grant such other and further relief as it may deem appropriate.

Dated: October 12, 2010

Respectfully submitted,

MELINDA HAAG
United States Attorney

/s/
NEILL T. TSENG
Assistant United States Attorney