

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, D.C. 20268-0001

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REVIEW OF NONPOSTAL SERVICES

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Docket No. MC20008 - 1

SECOND DECLARATION OF RANDALL E. HOOKER IN RESPONSE TO PITNEY  
BOWES, INC.'S MOTION TO COMPEL UNITED STATES POSTAL SERVICE  
TO FILE A COMPLETE LIST OF NONPOSTAL SERVICES

RANDALL E. HOOKER states and declares, under penalty of perjury and upon his personal testimonial knowledge, that he is in all respects competent to testify in this matter and states as follows:

1. I am the Managing Member of Pinpoint, LLC, a Washington State limited liability company located at 16541 Redmond Way, Suite 170, Redmond, Washington 98052 ("Pinpoint").

2. On October 31, 2008, Pitney Bowes filed with the Commission a response to my earlier declaration. In its submission, Pitney Bowes misconstrues much of the information contained in my earlier declaration. I realize that the Commission has issued an order requiring the United States Postal Service to provide certain information to the Commission. In that order, the Commission stated that it welcomes public comment on the issues which remain for Commission decision. With that in mind, and since Pitney Bowes' motion recent submission has muddied the record, I believe it is important for me to clarify some salient points and give the Commission a clear understanding of the issues in the market in which Pitney Bowes and Pinpoint operate.

3. It would be simple to respond to Pitney Bowes in regards to my declaration if Pitney Bowes counsel had actually commented on statements contained therein. Instead, Pitney Bowes counsel had fabricated statements that do not exist. The most glaring example is contained in page 3 of my declaration where I state that “Pitney Bowes sells the vast majority of its ink cartridges directly to the end user, particularly those that are already using Pitney Bowes postage meter machine, with only token availability of one or two items through national office product chains”. Counsel ignores this statement relative to how Pitney Bowes sells ITS products and builds a rebuttal on a misconception of my statement. No statement exists in my declaration relative to the limited availability of compatible ink cartridges. The point of paragraph 7 of my earlier declaration is simple. Pitney Bowes branded postage meter supplies are offered in two forums: either directly from Pitney Bowes or through extremely limited third party vendors. Where the products are sold through third party vendors, the products are often priced substantially higher than when they are sold directly by Pitney Bowes. The very simple point that I make is that the availability for Pitney Bowes branded products is restricted and is not reflective of a competitive market. The manner in which Pitney Bowes restricts the market for its products is more reflective of a monopoly or, in antitrust terms, dominant market position, than it is of a “highly competitive” marketplace.

4. On page 2 of its submission, Pitney Bowes counsel states “Pinpoint further suggests that the Postal Service’s entry into the postage meter supplies market ....” Nowhere in my earlier declaration did I state that the United States Postal Service had entered the postage meter supplies market. In the paragraph to which Pitney Bowes counsel refers, I was

discussing the availability of competitive postage meter supplies products. The paragraph refers to a USPS branded product and not to the USPS as a market participant. The difference is important. The USPS is not manufacturing, distributing, or selling any postage meter supplies products. It is not engaged in any of the activities in which Pitney Bowes and Pinpoint are actively involved in the relevant market. Rather, the USPS is engaged in marketing its trademark. In that respect, the USPS is no different than the numerous private and public entities who have sought to leverage their intellectual property. Pinpoint is the relevant market player in this discussion, not the USPS. I did not suggest otherwise.

5. While I am no attorney, I would like to point out that Pitney Bowes' response to my earlier declaration was not submitted by Peter Wragg (to whose declaration I was responding) or any other Pitney Bowes employee. My understanding is that such a response needs to be based upon personal knowledge and sworn under penalty of perjury. Pitney Bowes' response to my earlier declaration was submitted by what appear to be several attorneys for Pitney Bowes. If Pitney Bowes is submitting facts to the Commission, should these facts not be provided under a sworn declaration?

6. Pitney Bowes claims that its submission "clarifies" the record. It does nothing of the sort. This latest submission by Pitney Bowes' counsel distorts the content of my initial declaration and fabricates statements to support its rebuttal. It also attempts to obscure what Pinpoint believes is a very important issue for the Commission: Pitney Bowes' market dominance.

7. There a number of players in the postage meter supplies market. However, if one excludes Pitney Bowes, the collective market players have less than 6% of the relevant

market. By its submissions, Pitney Bowes is attempting to prevent others from increasing their market share. As both this declaration and my earlier declaration clearly state, the USPS is not a player in the postage meter supplies market. However, Pinpoint is one of the players in this market. As a manufacturer of USPS branded postage meter supplies, Pinpoint sees Pitney Bowes' actions before the Commission as a means to restrict the market.

8. The United States Postal Service and its Sonic Eagle are strong and trusted brands. Licensees of that brand can hope to benefit from the trusted image of the USPS. It is my belief that Pitney Bowes is primarily concerned that any current occupant of the market may contract with the USPS for use of these brands and, thus, increase their share of a market so thoroughly dominated by Pitney Bowes.

9. I would like to thank the Commission for the opportunity to set the record straight.



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Randall E. Hooker  
President  
Pinpoint LLC  
16541 Redmond Way, Suite 170  
Redmond, WA 98052  
Telephone: 425-442-4764  
E-Mail: [randyhooker@pinpointllc.com](mailto:randyhooker@pinpointllc.com)

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