

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re: Chapter 7
BKY No. 01-45284-NCD
Xtratyme Technologies, Inc.,
Debtor.

John R. Stoebner, Trustee, ADV. No. 04-4095-NCD
Plaintiff,

vs. **ANSWER TO COMPLAINT**
TO AVOID PREFERENTIAL
TRANSFER
Brian Hagen,
Defendant.

Defendant, Brian Hagen, answers the Complaint of Plaintiff, John R. Stoebner,
Trustee, as follows:

FIRST DEFENSE

1. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Defendant answers the specific allegations of Plaintiff's Complaint as follows:

1. Admits the allegations of paragraph 1.
2. Admits the allegations of paragraph 2.
3. Admits the allegations of paragraph 3.
4. Admits the allegations of paragraph 4.

5. Admits the allegations of paragraph 5.
6. Denies the allegations of paragraph 6.
7. Denies the allegations of paragraph 7.
8. Denies the allegations of paragraph 8.
9. Defendant restates his answers to the allegations in paragraphs 1 through 8, inclusive.
10. Denies the allegations of paragraph 10.
11. Denies the allegations of paragraph 11.
12. Denies the allegations of paragraph 12.
13. Denies the allegations of paragraph 13.
14. Denies the allegations of paragraph 14.
15. Denies the allegations of paragraph 15.

THIRD DEFENSE

The Plaintiff's Complaint is barred by the following affirmative defenses:

1. The doctrines of waiver, estoppel and laches.
2. The Defendant at all times has provided new value for any transfers to the Defendant.
3. Any payments made by the Debtor to the Defendant for contemporaneous exchange for new value.
4. The payments by the Defendant to the Debtor were in good faith and received by the Defendant in good faith.
5. The doctrine of accord and satisfaction.

6. The transfers at issue were not property of the Debtor or property in which the Debtor had an interest.

WHEREFORE, Defendant, Brian Hagen, prays that the Plaintiff's Complaint be dismissed with prejudice and on the merits, and that Defendant be entitled to recover his reasonable costs and attorneys' fees in defending this action, and for such other relief as the Court deems just and equitable.

Dated this 6th day of July, 2004.

/e/ Thomas P. Melloy
Thomas P. Melloy
I.D. No. 191425
GRAY, PLANT, MOOTY, MOOTY &
BENNETT, P.A.
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Suite 600
St. Cloud, MN 56301
(320) 252-4414
Attorneys for Defendant, Brian Hagen

GP:1601926 v1

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In re:

Chapter 7
BKY No. 01-45284-NCD

Xtratyme Technologies, Inc.,

Debtor.

John R. Stoebner, Trustee,

Plaintiff,

ADV. No. 04-4095-NCD

vs.

AFFIDAVIT OF SERVICE

Brian Hagen,

Defendant.

STATE OF MINNESOTA }
 } ss.
COUNTY OF STEARNS }

Jean M. Eisenschenk of the City of St. Cloud, County of Stearns, State of Minnesota, being duly sworn, that on the 6th day of July, 2004, she served the following document:

Answer to Complaint to Avoid Preferential Transfer

on the following by enclosing a true and correct copy of said document in an envelope, postage prepaid, and by depositing, and mailing same in the post office at St. Cloud, Minnesota, addressed to said individual:

JOHN R. STOEBNER
TRUSTEE
ONE FINANCIAL PLAZA SUITE 2500
120 SOUTH SIXTH STREET
MINNEAPOLIS MN 55402

/e/ Jean M. Eisenschenk
Jean M. Eisenschenk

Subscribed and sworn to before me
this 6th day of July, 2004.

/e/ Emily A. Legatt
Notary Public

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