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ENDORSED
FILED
SAN FRANCISCO COUNTY
SUPERIOR COURT
2008 JUN 25 PM 3:41
GORDON PARK - LI. CLERK
BY: D. STEPPE
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NO SUMMONS ISSUED

**COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

**UNITED STATES OF AMERICA
CHESS FEDERATION, INC., an Illinois
not-for-profit corporation,**

Plaintiff,
v.

DOES 1-10, inclusive,
Defendants.

CASE NO. **CGC-08-476777**

COMPLAINT

JURY TRIAL DEMANDED

CASE MANAGEMENT CONFERENCE SET

NOV 26 2008 - 9⁰⁰AM

DEPARTMENT 212

BY FAX

1 Plaintiff UNITED STATES OF AMERICA CHESS FEDERATION, INC. brings this
2 Complaint against Defendants DOES 1 - 10 ("DOES").

3 INTRODUCTION

4 1. This matter involves highly confidential and sensitive communications of
5 Executive Board members of the sixty-nine year old UNITED STATES OF AMERICA
6 CHESS FEDERATION, INC., *aka* United States Chess Federation ("USCF"). On or
7 about June 23, 2008, unknown Doe Defendants gained unlawful access to confidential
8 emails of USCF Executive Board members and viewed, copied and distributed such
9 confidential communications. The USCF brings this action against said Doe Defendants
10 for damages and injunctive relief.

11 PARTIES

12 2. Plaintiff USCF is an Illinois not-for-profit corporation in good standing with
13 its principal place of business in Crossville, Tennessee.

14 3. Plaintiff does not know the true names and capacities, whether individual,
15 associate, corporate or otherwise, of Defendants sued herein as DOES 1-10, inclusive,
16 and Plaintiff therefore sues said Defendants by such fictitious names pursuant to Section
17 474 of the California Code of Civil Procedure.

18 4. Plaintiff will amend this Complaint to state the true names and capacities of
19 these Defendants once they have been discovered. Plaintiff is informed and believes,
20 and, on that basis, alleges that each Defendant sued herein by a fictitious name is in
21 some way liable and responsible to Plaintiff on the facts herein alleged for Plaintiff's
22 damages.

23 GENERAL ALLEGATIONS

24 5. The USCF is the official, not-for-profit U.S. membership organization for
25 chess players and chess supporters of all ages and strengths, from beginners to
26 Grandmasters. The USCF represents the United States in the World Chess Federation
27 (FIDE), linking U.S. members to chess players around the world. Founded in 1939 with
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1 the merger of the American Chess Federation and the National Chess Federation, the
2 USCF has grown to over 80,000 members and 2,000+ affiliated chess clubs and
3 organizations today. The USCF sanctions thousands of tournaments with over half a
4 million officially rated games annually. Twenty five USCF-sanctioned National
5 Championship events award titles to both amateurs and professionals, ranging from
6 elementary school students to senior citizens. Over fifty USCF-member Grandmasters
7 (one out of every eight Grandmasters in the world) represent the U.S. internationally, and
8 USCF supports the participation of Americans in official FIDE championship events at all
9 levels. USCF also publishes the award-winning monthly magazine Chess Life and the
10 bimonthly Chess Life for Kids.

11 6. USCF is governed by a Board of Delegates, composed of a seven-member
12 Executive Board, Delegates at Large, and 125 Delegates apportioned among U.S.
13 states. The seven-member Executive Board functions as a “board of directors,” tasked
14 with managing the affairs of the USCF.

15 7. Due to current federal litigation in which USCF is a party, the Executive
16 Board designated a “Litigation Committee” in January 2008 that could communicate
17 internally in a confidential manner, including on matters covered under the attorney client
18 privilege.

19 8. On June 22, Litigation Committee member Bill Goichberg sent a
20 confidential email (the “Email”) to Litigation Committee members Randy Hough and Jim
21 Berry.

22 9. On information and belief, on or about June 22 or June 23, 2008,
23 Defendants gained unauthorized access to the email accounts of Goichberg, Hough
24 and/or Berry and, without permission or privilege, viewed, copied and distributed the
25 Email.

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FIRST CAUSE OF ACTION

***Computer Fraud Under the Comprehensive Computer Data and Access Act,
California Penal Code Section 502(c)&(e)***

10. USCF repeats, realleges and incorporates each and every allegation set forth in paragraphs 1 through 9 of this Complaint.

11. Defendants knowingly accessed and without permission used the computer, computer systems, computer networks or data of USCF with the intent of executing a scheme or artifice to defraud, deceive, or extort, or to wrongfully control or obtain money, property or data of USCF. For the purpose of California Penal Code Section 502(c)&(e), USCF was and is an owner of email data wrongfully viewed, copied and distributed in this action.

12. Defendants knowingly accessed and without permission took or copied or made use of the information from USCF’s computer, computer systems, computer networks or data.

13. Defendants knowingly and without permission accessed, caused to be accessed, or provided or assisted in providing a means of accessing, USCF’s computer, computer system, computer network or data in violation of California Penal Code §502(c)&(e).

14. As a direct and proximate result of the actions, conduct, and practices of Defendants’ alleged above, USCF has suffered, and will continue to suffer, damages and irreparable harm.

15. USCF has no adequate remedy at law.

SECOND CAUSE OF ACTION

Violation of the Computer Fraud and Abuse Act, 18 U.S.C. § 1030

16. USCF repeats, realleges and incorporates each and every allegation set forth in paragraphs 1 through 9 of this Complaint.

17. The email servers of USCF’s Executive Board members are used in

1 interstate commerce and/or interstate communication and constitutes a protected
2 computer under 18 U.S.C. § 1030.

3 18. Defendants have intentionally accessed USCF's protected computers
4 without authorization, or in excess of the scope of authorized access, and by doing so
5 and through interstate communication, have improperly obtained information.

6 19. Defendants have knowingly, and with the intent to defraud, accessed
7 USCF's protected computers without authorization, or in excess of authorized access,
8 and by means of such conduct have furthered their intended fraud and obtained
9 confidential information of USCF.

10 20. Defendants have intentionally accessed USCF's protected computers
11 without authorization and by doing so have caused a loss to USCF aggregating at least
12 \$5,000 in value.

13 21. As a direct and proximate result of the actions, conduct, and practices of
14 Defendants' alleged above, USCF has suffered, and will continue to suffer, damages and
15 irreparable harm.

16 **THIRD CAUSE OF ACTION**

17 **Conversion**

18 22. USCF repeats, realleges and incorporates herein the allegations set forth in
19 paragraphs 1 through 9 of this Complaint.

20 23. USCF and its Executive Board take and have taken reasonable steps to
21 maintain the confidentiality of its email communications.

22 24. On or about June 22 or June 23, 2008, Defendants, through unlawful
23 means, gained dominion and control over confidential Email belonging to USCF and/or
24 its Executive Board. Defendants had no authorization or privilege to gain such dominion
25 and control over the Email.

26 25. As a consequence, USCF has suffered and will continue to suffer
27 damages.

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FOURTH CAUSE OF ACTION

Violation of California Constitutional Right to Privacy

26. USCF repeats, realleges and incorporates herein the allegations set forth in paragraphs 1 through 9 of this Complaint.

27. USCF and its Executive Board had and continue to have privacy rights in their email communications, pursuant to Article One, Section One of the California Constitution.

28. On or about June 22 or June 23, 2008, Defendants, through unlawful means, violated the California constitutional privacy rights of USCF in its email communications, by Defendants' unauthorized access, copying and distribution of USCF's confidential email communications. Defendants had no authorization or privilege to gain access, copy or distribute the USCF email.

29. As a consequence, USCF has suffered and will continue to suffer damages.

PRAYER FOR RELIEF

WHEREFORE, USCF prays that this Court enter judgment in its favor on each and every cause of action set forth above and award it relief including, but not limited to, the following:

1. An injunction permanently restraining the Defendants from unlawfully accessing the email accounts of USCF and its employees, officers and directors;
2. An award of compensatory damages in an amount to be determined at trial;
3. An award of punitive damages, in an amount to be determined at trial, to serve as a punishment and deterrent in light of Defendants' substantial wrongful acts;
4. An award of pre- and post-judgment interest on all compensatory damages;
5. An award of reasonable costs and attorneys' fees incurred by UCSF in connection with litigation concerning Defendant's wrongful acts as alleged herein;

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and

6. Such other further relief to which USCF may be entitled as a matter of law or equity, or which the Court determines to be just and proper.

DEMAND FOR JURY TRIAL

USCF hereby demands a trial by jury of all issues so triable in this action.

Respectfully Submitted,

DATED: June 25, 2007.

KRONENBERGER BURGoyNE, LLP



By: _____

Karl S. Kronenberger
Attorneys for Plaintiff
UNITED STATES OF AMERICA
CHESS FEDERATION