

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

SI03, INC.	:	MISC. CASE NO. 07-6311-EJL
	:	
Movant,	:	
	:	(Civil Case No. 07 C 3266 Northern
v.	:	District of Illinois)
	:	
BODYBUILDING.COM, LLC	:	
	:	
Respondent.	:	

DECLARATION OF L. GARY DAVIS

I, L. Gary Davis, being duly sworn according to law, hereby declare and state as follows:

1. I am the Chief Financial Officer and Vice President for Bodybuilding.com, LLC.

2. Bodybuilding.com, LLC ("Bodybuilding.com") is an Idaho company operating the website www.bodybuilding.com, and featuring an online forum (the "Forum") open to the public, where members and those with shared and similar interests can exchange thoughts, ideas, comments, recommendations, advice, etc., on issues affecting the bodybuilding community.

3. On July 23, 2007 my company received a letter from Charles Lee Mudd, Esquire of the Mudd Law Firm, requesting that Bodybuilding.com ensure that it preserves all information relating to a total of 265 pseudonymous speakers appearing on the bodybuilding.com forum. All information has been preserved pending the outcome of this litigation. A true and correct copy of the July 23, 2007 letter is attached hereto as Bodybuilding.com Ex "A-1."

4. The registration process on the www.bodybuilding.com user's Forum does not require the user to supply their name or any identification information. Any contact information provided to Bodybuilding.com is provided strictly on a voluntary basis.

5. Under my direction, employees of Bodybuilding.com searched the registration records of all members of the bodybuilding.com Forum site. I instructed that the identity and contact information for all 22 pseudonyms listed in Plaintiff's Motion to Compel be located. This search returned nine (9) of the twenty-two (22) pseudonyms without any identification or contact information in our records. Specifically, no information exists for pseudonyms "Androgenic," "BuckeyeMuscle," "canadaBBOY," "ditto," "Ephedra," "Indenium," "jkeithc82," "RobW," and "uhockey."

6. The document attached hereto as Bodybuilding.com Exhibit "A-2" is a true and correct posting made on bodybuilding.com Forum message board on July 9, 2007 by pseudonym "SI03 Board Rep."

7. The document attached hereto as Bodybuilding Ex "A-3" is the Terms and Services appearing on the www.bodybuilding.com website which govern use of the bodybuilding.com users Forum.

8. If forced to disclose the identities of any of the pseudonymous speakers from the bodybuilding.com Forum, the result will be catastrophic to the Forum and to our business, as other members will become fearful of posting any negative comment about any supplement company or its products, on account of a fear of litigation. I believe Forum members will ultimately abandon the site, thereafter seeking out a location where they can exchange in open and honest non-biased discussions about issues affecting the bodybuilding community.

9. As a company, Bodybuilding.com, LLC has an obligation to the Forum members to protect their anonymity from unauthorized disclosure. Our company's reputation

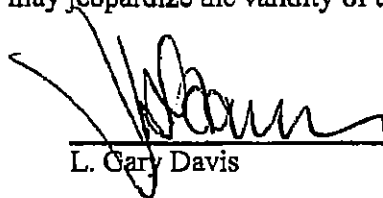
and business relies on the ability of visitors to speak openly and honestly, and anonymously about issues affecting the bodybuilding community.

10. Bodybuilding.com, LLC as a business relies heavily on the internet traffic which enters and posts messages on the Forum site. Any loss of traffic to the Forum will ultimately result in fewer visitors to the business site and thus the existence of our company as a whole may be severely prejudiced by being forced to disclose the identities of anonymous speakers.

11. I understand that on page 10, footnote 2 of Plaintiff's Memorandum in Support of Motion to Compel, SI03, Inc. claims that "Bodybuilding.com took it upon itself to inform its forum members of SI03, Inc.'s Complaint and the subpoenas issued upon Bodybuilding.com." This statement is false, as neither notice of the Complaint nor the Subpoenas was made by Bodybuilding.com to its Forum members.

I declare that all facts and allegations contained in this Declaration are true to the best of my own knowledge; that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like, so made, are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this Declaration.

Dated: November 15, 2007



L. Gary Davis

EXHIBIT “A-1”

MUDD LAW OFFICES

A PROFESSIONAL CORPORATION

REPRESENTING INDIVIDUALS AND BUSINESS ORGANIZATIONS

23 July 2007

**BY FACSIMILE, ELECTRONIC MAIL, and
FIRST CLASS MAIL**

3114 West Irving Park Road
Chicago, Illinois 60618
www.muddlawoffices.com

Charles Lee Mudd Jr.
Attorney at Law
Principal
Admitted in Illinois, Indiana and Connecticut
773.588.5410 Fax: 773.588.5440
cmudd@muddlawoffices.com

IRNEYS

lpa
Lee Mudd Jr.
ates
Schmid**
unset
Christy Mudd ***

Mr. Ryan DeLuca
bodybuilding.com, LLC
305 Steelhead Way
Boise, Idaho 83704

Without Prejudice

mitted in IL, IN, CT
submitted in IL

**Re: Supplement to Notice of Duty to Preserve Data
SI03, Inc. v. John Does 1-31, et al.
07 C 3266**

Dear Mr. DeLuca:

This letter follows the initial Notice of Duty to Preserve Data and should be treated as a supplement thereto.

Please find attached a list of usernames for which electronic data should be preserved, as discussed in the initial Notice of Duty to Preserve Data dated July 18, 2007.

Should any future subpoena issued on behalf of SI03, Inc. identify some, but not all, of the attached usernames, SI03 does not intend such limited identification to waive any duty regarding preservation with respect to the usernames not so identified therein.

Please contact me if you have any questions regarding this Notice.

Sincerely,



Charles Lee Mudd, Jr.

CLM/mms
Enc.

SI03, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

Names To Be Preserved

Aeternitatis
Androgenic
BuckeyeMuscle
browndustin
cakedonkey
canadaboy
dvsness
cxm
deserusan
dito
Doughboy
dwm230000
EIMariachi
EMISGOD
envythahustla
Ephedra
Flagg3
getbustered
INGENIUM
jkeithc82
Nathan1
NATHAN518
nni
OneBetter
robboe
Supa Freek 420
TheUnlikelyToad
UberBerzerker
uhockey
391rippy
40-yard dash 2
adoniscomplex
1stoked
aoba
avian
b-baldy
beer 20
billy B
blap blaow
Bloute
Estopell

SI03, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

CHUCK DIESEL

Chuck RD
Coulaid
theomega
customizer
Dahooligan
dan6781
DR.P
dtrain13
robw
guard pass
halleluyah
jmil
meat eater
Millenium 1
Muza
Nailbomb9
par deus
patrick arnold
phosphate bond
proverbs413
pu12en12g
sawastea
scheizekopf
Jason pegg
Seth25
Sixpack
skigazzi
Slated
Sldgehr
stonecoldtruth
storm shadow
Sword_
tinyman
trans isomer
unionhooligan
warriors
xxghostxx
young Squater
ZacharyMills
daveburton
gfriedel
J-Rod
leohen_gadol
chlaxman
carcinogen

ron jon
twin peak
<^>
4amworkouts
6oxo user
bastilla
abe the cop
aceman0920
albinogerbil
ashla
awa320pilot
bammy
bane
bernie
big spaz
bignorwegian
bobburn
eric burton
bosox1362
boyscout
brandon9134
brotherhood
canvas assasin
cervasa1977
chevymetal
chris95
c-los21
cmurder123
colinballin23
controled labs
da main man
david4zero8
dbish
ddawg91
dexterium
dimitar
dinoiii
dontrevme
drewkowsky
bringnit
ecto-Monkey
eightpak
epstein
ericgonzalez
ericthered
forcelinebacker

SI03, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

freak aleak
GeordieArtois
greenwinds
gresh
iced integra97
theconqueror
jaymdubbs
jdiritto
jer @h2o
jets806
johnsbod
kraft
lando33
lax891122
lift603
lok7y
lostdaytomorrow
lurker 501
madlaw
matt5387
mike83
mj1331
MR. Aries
my whey
myeviltwin
natural guy
nc2315
nick912
nics1246
no strain no gain
nukedukem
nycste
onchawaiian
pammiejoe6
panic66
peter ledrew
procta
pumpedgator
rage (So Cal)
rb12
rush
segansational
sep
seroph4x
sethva
SF Muscle

SI03, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

skyline1731
smoker
sns8778
sonicology
sothrowedmex
spaceclown
spyvox2
stuart rudolph
sword
team enzyte
the godfatha
the pope
thebigtexan
tommytuffguy
vegas lord
wanderlei
webgem
workoutmd
NoNameNecessary
warbird00
Madden Muscle
Serpens Aeon
Leonidas300
Blueboy22
Justdragit
Cboesger
Forcelinebacker
Fitnecise
The Gootz
Lax891122
Tee45pecoib
Fratboi850
Guym
Sluuug
Fleshka
MattyH7988
Rawb
AConrad00
The iron junkie
Darik
Bombers
Xetenor
TYLER 82
Ericgonzalez
MarcTonk
Pmtaf

SIO3, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

Caporegime
Eldawg
Ewh228
Ronin
Grant D
Vanilla Thunder
PSU08
Nyg99
Thedevastator54
U5711
Cal62887
No Nrg
Lhp21
Quijibo
Sonicology
Lj57
Knightowl
BuffMedic
Billydakid
NHBBareKnuckker
MarlboroMan
TTewell
Cuchulanin
Flex500
AtomicLee
Shuc008
JD21
eazyMango
Beejis60
ProWrestleFan
Let me bench
Bigrobbierob
Blackjackcat
Msmith19
El Pena
BestNameEver
Saku
Scott Widyn
Ladymystique80

SIO3, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

ron jon
twin peak
<^>
4amworkouts
6oxo user
bastilla
abe the cop
acernan0920
albinogerbil
ashla
awa320pilot
bammy
bane
bernie
big spaz
bignorwegian
bobbum
eric burton
bosox1362
boyscout
brandon9134
brotherhood
canvas assasin
cervasa1977
chevymetal
chris95
c-los21
cmurder123
colinballin23
controled labs
da main man
david4zero8
dbish
ddawg91
dexterium
dimitar
dinoiii
dontrevme
drewkowsky
bringnit
ecto-Monkey
eightpak
epstein
ericgonzalez
ericthered
forcelinebacker

SI03, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

freak aleak
GeordieArtois
greenwinds
gresh
iced integra97
theconqueror
jaymdubbs
jdiritto
jer @h2o
jets806
johnsbod
kraft
lando33
lax891122
lift603
lok7y
lostdaytomorrow
lurker 501
madlaw
matt5387
mike83
mj1331
MR. Aries
my whey
myeviltwin
natural guy
nc2315
nick912
nics1246
no strain no gain
nukedukem
nycste
onehawaiian
pammiejoe6
panic66
peter ledrew
procta
pumpedgator
rage (So Cal)
rb12
rushhi
segansational
sep
seroph4x
sethva
SF Muscle

SI03, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

skyline1731
smoker
sns8778
sonicology
sothrowedmex
spaceclown
spyvox2
stuart rudolph
sword
team enzyte
the godfatha
the pope
thebigtexan
tommytuffguy
vegas lord
wanderlei
webgem
workoutmd
NoNameNecessary
warbird00
Madden Muscle
Serpens Aeon
Leonidas300
Blueboy22
Justdragit
Cboesger
Forcelinebacker
Fitnecise
The Gootz
Lax891122
Tee45peeolb
Fratboi850
Guym
Sluuug
Fleshka
MattyH7988
Rawb
AConrad00
The iron junkie
Darik
Bombers
Xetenor
TYLER 82
Ericgonzalez
MarcTonk
Pmtaf

SIO3, Inc. v. Does, et al.

Supplement to Notice of Duty to Preserve Data

Caporegime
Eldawg
Ewh228
Ronin
Grant D
Vanilla Thunder
PSU08
Nyg99
TheDevastator54
U5711
Cal62887
No Nrg
Lhp21
Quijibo
Sonicology
Lj57
Knightowl
BuffMedic
Billydakid
NHBBareKnuckker
MarlboroMan
TTewell
Cuchulanin
Flex500
AtomicLee
Shuc008
JD21
eazyMango
Beejis60
ProWrestleFan
Let me bench
Bigrobbierob
Blackjackcat
Msmith19
El Pena
BestNameEver
Saku
Scott Widyn
Ladymystique80

EXHIBIT “A-2”

View Single Post

Thread: SI03 Sues BB.COM Members/MOD for Slander

07-09-2007, 03:43 PM

#373

SI03 Board Rep


SI03/Syntrax Board Rep

Join Date: Dec 2005

Posts: 2,298

BodyBlog Entries: 0

BodyPoints: 4957

Rep Power: 638 



BODYSPACE

I just want to make this clear that we are not going after the average consumer. We are only interested in the people affiliated with other supplement companies. We are not trying to infringe on first amendment rights; the average consumer that is unaffiliated has every right to speak his or her opinion within reason. The people we are targeting are those that have said defamatory statements, and are affiliated with other supplement companies.

SI03/Syntrax Board Rep.



Close this window

EXHIBIT "A-3"

Terms of Service - Bodybuilding.com

COPPA Policy

All users under the age of 13 must seek permission from their parent or guardian in order to gain membership of the Bodybuilding.com Forums forums. While we welcome participation from members under 13, we require that a parent or guardian fax or mail back a signed permission form before we grant membership.

If you would like to start the registration process prior to us receiving a permission form, Please click the 'I Agree' button below.

A copy of the permission form can be downloaded [here](#).

For more information about the registration process, or the Bodybuilding.com Forums in general, please send email to ceo@bodybuilding.com.

Forum Rules

Registration to this forum is free! We do insist that you abide by the rules and policies detailed below.

Although the administrators and moderators of Bodybuilding.com Forums will attempt to keep all objectionable messages off this forum, it is impossible for us to review all messages. All messages express the views of the author, and neither the owners of Bodybuilding.com Forums, nor Jelsoft Enterprises Ltd. (developers of vBulletin) will be held responsible for the content of any message.

By agreeing to these rules, you warrant that you will not post any messages that are obscene, vulgar, sexually-oriented, hateful, threatening, or otherwise violative of any laws.

The owners of Bodybuilding.com Forums reserve the right to remove, edit, move or close any thread for any reason.