

Untitled

PLAINTIFF'S
EXHIBIT

Date: Thu, 6 May 2004 22:25:42 -0700
From: NobleSwiss <NobleSwiss@COX.NET>
Subject: Database Theft, I need your help - long

Just received this, with permission to cross-post.
It is despicable

Melody
Multiple BISS CH. Nugget, Tank, CH.'s Miss Mazey, TJ, & Tango
Legacy Greater Swiss Mountain Dogs

(11)

From: Roxians <roxy@roxians.com>
Reply-To: COLPedigrees@yahoogroups.com
Date: Thu, 06 May 2004 05:58:40 -0400
To: COLPedigrees@yahoogroups.com
Subject: [COLPedigrees] Database Theft, I need your help - long

On April 21, 2004, MBFS (The Breeders Standard pedigree software) purposefully and willfully stole the Pedigree Databases of many breeds, including my 40,100 Cavalier King Charles Spaniels, using a data mining robot. They are now offering access to the data for use at \$9.95/month from their site.=20

Many of us database owners have spent over 5 years keying this data in. MBFS stole it in a few hours.

If you have submitted info to the Cavaliers Online database over the years and resent the fact that someone would steal your information and publish it on a paid website without your permission, please complain by email or phone to MBFS owner:

John F Tamburo, johntam@mbfs.com
Versity Corporation
655 N. LaGrange Rd.
Frankfort, IL 60423 US
or call
815-806-2130 fax: 8158062134

*IMPORTANT Please insist that he remove all entries that include your kennel name.

Below is what he sent out justifying what he did. Please pay special attention to paragraph three.

--

Roxy Hayes

~~~~~  
Cavalier Pedigrees Online  
pedigrees@cavaliersonline.com  
<http://cavaliersonline.com/search.html>  
~~~~~

I am including this in its entirety as per this Copyright statement:

=93Permission to repost and reuse this article is granted provided that the entire article is reprinted verbatim in its entirety. Excerpting is

prohibited per US Copyright law.=94

Please pay special attention to paragraph three.

---Begin article---

Building the TBS .NET Database

APRIL 29, 2004, FRANKFORT, ILLINOIS=A0- Here at Man's Best Friend Software, w=

e
are committed to adding the maximum possible value to The Breeder's
Standard(tm) .NET, our new web-based program.=A0 Right now, we've got over 2.=

1
Million dogs in the program, representing 200 breeds.=A0 Some breeds have ove=

r
100,000 animals in them.=A0 Why are we putting these dogs into the database?=A0
Because we're trying to save you the effort of typing these dogs in from
other sources.=A0 Typing adds the chance of errors in transcription, and
frankly, you have better things to do with your time.=A0 You have dogs to
breed and show, and we want you to be able to maximize your time doing just
that.

We have obtained data from many sources.=A0 One source we'd especially like t=

o
thank is the Orthopedic Foundation for Animals at <http://www.offa.org>, a
truly fine organization run by the very best people anywhere.=A0 In the near
future, our present OFA data will be extended by hundreds of thousands of
certifications (we have about 250,000 right now), and OFA-numbered animals
will have links directly to the OFA "Vertical Pedigree" engine.=A0 As new OFA
certifications come through, they will be added to the database.

Another source of data is free web-based pedigree databases.=A0 We have
developed a robot program that is able to acquire dogs from these sources,
strip out the HTML, and put them into TBS.NET.=A0 We have used this robot to
acquire a large number of dogs of many different breeds.=A0 As a precaution
against "stepping on toes," we checked for a robots.txt and for HTML META
tags that tell robots to go away.=A0 This is the Internet version of a "no
trespassing" sign.=A0 If either of these things were found, we went away.=A0 As
for copyright concerns, in the same way that one cannot copyright the names
and addresses and phone numbers in a telephone directory, one cannot
copyright the names or vital statistics of dogs.=A0 So, doing this was lawful
and ethical, and we want you to know that we did it.

We would like to thank the proprietors of these sites for keeping them open
and, by doing so, making it easier for you to do your vital work.=A0 We have
extended offers to some to host their sites at no cost on the TBS.NET
engine, as an additional way of saying thanks.=A0 Their generosity, made
manifest by their refusal to "hoard" the databases to themselves, will make
not only our customers, but dog lovers everywhere happier, as breeds improv=

e
by the sharing of information.

We will continue to locate and acquire data for our customers, so that
TBS.NET will remain what it is: historically powerful and easy to use, with
the best pedigree library anywhere.

Permission to repost and reuse this article is granted provided that the
entire article is reprinted verbatim in its entirety.=A0 Excerpting is
prohibited per US Copyright law.

--End article---

As for this: "As a precaution against "stepping on toes," we checked for a
Page 2

Untitled

robots.txt and for HTML META tags that tell robots to go away. This is the Internet version of a "no trespassing" sign. If either of these things were found, we went away."

Of course I had a robot meta tag that gives permission to index all. I don't know any general interest/educational website that does NOT want to be indexed in the search engines. For them to use that as their excuse to steal is despicable to say the least. Furthermore the part about not copyrighting is total bull. If the information came straight from a registry maybe, but not those records that are hand entered into on my own custom made submission form and then compiled into my own list.

Permission to crosspost granted to all.

Roxy Hayes

~~~~~  
Cavalier Pedigrees Online  
pedigrees@cavaliersonline.com  
<http://cavaliersonline.com/search.html>  
~~~~~20

PLAIN TIEF'S
EXHIBIT
(12)

johnftamburo · johntam@mbfs.com

Schipperke · All about schipperkes. Show people discuss everything to do with the breed.

Start a Group - My Groups

Group Member [Edit My Membership]



Messages

Messages Help

Reply | Forward | View Source | Unwrap Lines

Search Archive

Message 7992 of 8002 | Previous | Next [Up Thread] Message Index

Msg #

Go

From: "Kristen Henry" <klhnry@b...>

Date: Tue May 4, 2004 9:54 pm

Subject: My Schipperke Database has been stolen, and The Breeders Standard is the thief.

?xml version="1.0" ?>

Hi,

Breeders Standard has stolen my Schipperke database and is offering it as a perk if you buy their software. Schipperke people, you don't need that perk, as you already have my site to use for free.

Steve, I too noticed that the 23900 dogs that I keyed in all by myself to chronicle the history of the Schipperke breed have been stolen. I am the only one with that many Schipperke entries for the fancier to use, and that is the number of entries that the Breeders Standard suddenly have on their site. I feel frustrated and violated.

I am asking the Schipperke fancy to complain loudly to MBFS. Why should I do all this work so MBFS can steal it and sell their software with this stolen perk?

I will add a statement to my website about MBFS deceitful practice. Steve, you have my permission to link to my site. Perhaps if we contact news service who would be interested in a story on intellectual capital rights and the Internet. I offer my data free for use to the Schipperke fancy, not for a price, or to be held hostage by MBFS.

Permission to cross post...

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☆ = Owner

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☺ = Online

Kristen Henry

Bonchien Schipperkes

Bonchien Pedigree Database

-----Original Message-----

From: Steve Dworkin [mailto:steve@thedworkins.com]

Sent: Tuesday, May 04, 2004 8:44 PM

To: Alfirin Database

Subject: Alfirin Database Programs

Hi;

An issue has arisen and I have taken the liberty of contacting users of Jim Trethway's pedigree database program. As some of you may or may not be aware, a commercial enterprise has been <mining> pedigree information for use on their commercial, site.

John Tamburo of MBFS (their product list includes The Breeders Standard), in order to gather data quickly for a new commercial enterprise, has, by use of a mining robot, harvested well over 35,000 names from my website Keeshonden database. (<http://www.keesdog.com>)

He is now including this data at his site for use by "customers" that are being charged a monthly fee to use his site and access this data.

Most of us using the Alfirin programs have spent many long years accumulating data and discovered that we now could share this data with our various breeds in the hope that by making this data easily available FREELY to breeders, the data would help promote ethical, responsible, healthy breeding that in the long run would help ensure a healthy future for our breed(s). By making this data FREELY available, breeders are able to look at many breeding combinations and choose a breeding that will produce a healthy litter as well as further the healthy development of their breed within their national breedclubs and AKC/CKC or their National breedclubs guidelines.

As most of us link to other breed specific sites, by use of these programs, potential purchasers of puppies, have a chance to explore bloodlines and learn more about their chosen breeds.

To have many years of dedicated work "stolen", "mined", harvested" by an individual/company for commercial use, feels like

personal vilolation. This individual/company has in a span of a day or two taken many, many years of hard work for his own financial gain.

Apparently, Mr Tamburo and his company have done this with a "clear concience" Mr Tamburo has replied to my requests to please remove this data by saying that :

(A) All of this data is in the public domain, therefore I have a right to take/use it.

(B) Since I did not have an extensive disclaimer as well as extensive Meta tags and robot txt files, that he had a legal right to "mine" this data.

Tamburo is an amateur lawyer who fancies himself as the next Perry Mason or Columbo. Just reading the "disclaimer" on his program website is an adventure. He tells us all that by merely accessing his site we are agreeing to give up all of our rights to anything (and I would infer also our "firstborn" and all rights to discuss anything with anyone).

In view of all of the above I have a number of requests and suggestions and conclusions...

1)- It is my feeling that in order to promote a healthy future for our breed(s), pedigree data must ALWAYS BE FREELY AVAILABLE.

2)- By keeping this data on a FREE website with entries supervised by a dedicated individual or group, the data will in most cases be kept up to date and most important accurate. I know that in my case, rather than just merge data sent to me, I verify each and every name and title/award wherever possible.

3)- I strongly suggest that if you do not already have some sort of disclaimer both on your website and as well embedded in the HTML code that you do so immediately.

4)- If not already in your HTML code that you at a "Robots" Meta tag as well as put a robots.txt file into your top level directory. Information on implementing these procedures can be found at <http://www.robotstxt.org/wc/exclusion.html>

Jim T.also said that in his next update he will include the meta tag headers.

The above 3 & 4 will not guarantee protection against harvesters like Tamburo, but at least it's a start.

I plan to put an opening page on the keesdog.com site telling users that this is a FREE site dedicated to the ethical and healthy improvement of our breed and will ALWAYS remain FREE.

I will add a paragraph (carefully, factually) documenting what has taken place and that John Tamburo has freely admitted that he/his company "mined" from this site.

I will also add a disclaimer that although much of the data is an exact duplicate, Keesdog.com and myself have no association with the commercial enterprise MBFS or John Tamburo.

I will also ask the question as to why anyone would want to pay a fee to access data that is freely available and in most cases more accurate.

Lastly, I would like to say that the the groups using the Alfirin database programs are dedicated to keeping this information freely available and that FREE pedigree information for various breeds, assembled and maintained by dedicated breed fanciers, may be found at:

I WOULD LIKE YOUR PERMISSION TO LIST YOUR BREED AND A LINK TO YOUR PEDIGREE WEBSITE

Please forgive me if I sound upset and have have rambled on, but as an early user of Jim's program, (5+ years now), I view what John Tamburo is doing as a personal violation as well as a scheme to make money from the efforts of others...

There must be some way that we all can "band together" to stop this "theft" and commercial use of our data...

--

Steve & the Furbeasts

Chipper Jones, Gypsy Rose

Ottawa, Ontario

Pedigree/Littermate/Breeding website database

Message

Additionally, we have entered other information, such as OFA clearances, to these animals, and it is technically impossible to separate this information. You presently have the only Schipperke database on the Internet, and the person who told you that we spidered your site has already contacted an attorney, who has issued an opinion that your site competes with ours. Assuming for argument that is true, there is an antitrust defense to the copying that you cannot "hoard" the data to yourself.

Therefore, we will not remove the data from TBS .NET. In addition, if legal action is brought (since you visited TBS. NET, you have agreed to submit all disputes to arbitration in Chicago per the TBS .NET web site terms of use), we will present a defense and ask for our costs and attorney fees to be reimbursed, plus an exemplary sanction, since the case would be frivolous based on long standing law.

Now, in an effort to assist you, we make you an offer: We offer to host your database for no charge and open a perpetually zero-cost portal, saving you the money you presently spend on a web server. You would be granted zero-cost perpetual access to TBS.NET. Should you accept this offer, it would take five to seven days to set up the front end.

We are not making a profit off "your" data, but rather, we are serving our customers who need accurate data. We are careful about that which we do, and we made triply sure that we violated no law when we obtained that which our customers need.

Please consider our offer and respond accordingly. Best wishes.

Sincerely,
John F. Tamburo
CEO

JFT:ww

-----Original Message-----

From: Kristen Henry [mailto:klhnry@bonchien.com]

Sent: Wednesday, May 05, 2004 1:52 AM

To: John F. Tamburo

Cc: klhnry@bonchien.com

Subject: Stolen Pedigree Databases

John Tamburo and MBFS.com,

Please remove the stolen Schipperke data from your database. You have data mined several Alfirin based pedigree database applications and one of them was MINE!

I spent almost 5 years keying that data in. Now you are offering my data for sale. If you do not remove the 23,900 entries from your application that you stole from my site, we will be considering legal action.

Kristen Henry
Bonchien Schipperkes
Bonchien Schipperke Pedigree Database

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5/10/2004

John F. Tamburo

PLAINTIFFS EXHIBIT

From: Kristen [klhnr@bonchien.com]
Sent: Wednesday, May 05, 2004 12:56 PM
To: John F. Tamburo; SchipBreeder@yahoogroups.com; schipperke@yahoogroups.com; schipperkes@yahoogroups.com; schipbreeder@yahoogroups.com
Cc: steve@thedworkins.com; support@breedmate.com; doglaw@akc.org; info@akc.org; publiced@akc.org; flamer@alfirin.net; webmaster
Subject: Re: [SchipBreeder] RE: Stolen Pedigree Databases

16

You keep saying that you aren't charging for the data on your site that you took from mine. Your perspective is such a Joke because without the data on your site you would not have any value that people would want to charge for.

Will you also be using a Robot to mine data from the AKC.org site? I am sure they won't appreciate that either.

I remember when Mike Tyson was so sure that he didn't cause assault to Robin Givens because it was his PERSPECTIVE.

Well, I feel violated and your perspective escapes me you alleged unethical dolt.

Kristen Henry

At 10:40 AM 05/05/2004, John F. Tamburo wrote:

>
> You are not entitled to the endless hours I spent compiling
> the data relationships. You cannot simply copy my database
> into yours without permission and start charging money for
> it. I have copyright statements on my site to boot. I do
> not give you permission to use that which you took from my
> domain without my permission. Again, shame on you MBFS.

2. We are not charging anyone for the data. We don't own it, you don't own it, nobody owns it. We charge to use the program, not the data.

3. Our customers have a right to use this data since it is in the public domain. One person said we should have typed it in, but I ask: What's the difference? Speed and accuracy. We'd still be accused of theft.

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5/10/2004

John F. Tamburo

PLAINTIFF'S EXHIBIT

(17)

From: John F. Tamburo
Sent: Wednesday, May 05, 2004 12:49 PM
To: Kristen; schipbreeder@yahoogroups.com; schipperke@yahoogroups.com; schipperkes@yahoogroups.com
Cc: steve@thedworkins.com; doglaw@akc.org; info@akc.org; publiced@akc.org; flamer@alfirin.net; webmaster
Subject: [Schipperke] We did not Steal the Schipperke database.

> To put this in perspective, here is the link to a site that
> shows the pedigree databases that have been amassed by individuals:
> <http://www.alfirin.net/pedigree-central/>

This is true.

> MBFS has written an agent robot to go to these individual
> sites and steal certain files (Alfirin pedigree database
> files) that were not offered to them except through a query
> user interface for page by page query of a single dog's
> pedigree at a time.

We stole no files.

Any allegation or insinuation that we grabbed the Alfirin pedigree database files is patently untrue. We ran our robot and did a page by page query of the entire database. Our program then removed the HTML. Ms. Henry's web usage logs will prove this. So by the clear language of this paragraph, the data was offered it.

>
> John is focusing on the dog information. He did not have and
> still does not have my permission to take or use the set of
> Schipperke data that I compiled for a specific type of
> manipulation and distribution on my web site. MBFS has
> targeted and stolen my personal data files from non public
> areas of my website domain.

This is again patently untrue...

Our robot passed this URL to the site:
<http://www.bonchien.com/cgi-bin/geneal.pl?op=tree&index=@&gens=2>

And we replaced the @ with a sequential number starting at 1 and going until we got to the end of the database. This is in fact a page by page query. The statement that we "stole" data files form a non-public section of the domain is a complete falsehood. We have our own logs to prove the exact manner in which we spidered the site. In alleging that we "hacked" her site, Ms. Henry has now accused me of a criminal act. We have NEVER done this. Ever. Moreover, I am sure that if one were to try to get to her database file, that person would get a 403 (Forbidden) error.

I am sorry if I seem angry, but now I am being accused of computer tampering, which is a crime, and it NEVER happened.

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5/10/2004



Yahoo! Groups Links

- To visit your group on the web, go to:
<http://groups.yahoo.com/group/Schipperke/>
- To unsubscribe from this group, send an email to:
Schipperke-unsubscribe@yahoogroups.com
- Your use of Yahoo! Groups is subject to the [Yahoo! Terms of Service](#).

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(18)

Untitled

Date: Wed, 5 May 2004 13:21:52 -0400
 From: Steve Dworkin <steve@THEDWORKINS.COM>
 Subject: (Fwd) MBFS - remove my stolen Schipperke Database from your we

----- Forwarded message follows -----

Date sent: Wed, 05 May 2004 10:17:21 -0700
 To: johntam@mbfs.com, schipbreeder@yahoogroups.com,
 schipperke@yahoogroups.com,
 schipperkes@yahoogroups.com
 From: Kristen <klhnry@bonchien.com>
 Subject: MBFS - remove my stolen Schipperke Database from your web
 site
 Copies to: steve@thedworkins.com;; doglaw@akc.org, info@akc.org,
 publiced@akc.org,
 flamer@alfirin.net, info@mbfs.com

Note,

To put this in perspective, here is the link to a site that shows the
 pedigree databases that have been amassed by individuals:
<http://www.alfirin.net/pedigree-central/>

MBFS has written an agent robot to go to these individual sites and
 steal
 certain files (Alfirin pedigree database files) that were not offered to
 them except through a query user interface for page by page query
 of a
 single dog's pedigree at a time.

John is focusing on the dog information. He did not have and still
 does not
 have my permission to take or use the set of Schipperke data that I
 compiled
 for a specific type of manipulation and distribution on my web site.
 MBFS
 has targeted and stolen my personal data files from non public
 areas of my
 website domain.

Kristen Henry

The definition of Copyright:

(n.) A set of specific rights to content use, manipulation, and
 distribution that the law grants content creators, leaving all other
 rights
 to the public.

(v.) To obtain the legal rights to control the use and distribution of
 content.

Permission to cross post

----- End of forwarded message -----

Steve and the Furbeasts
 Chipper Jones, Gypsy Rose
 Ottawa, Ontario
 Pedigree/Littermate/Breeding website database
<http://www.keesdog.com>

Untitled

++++
To unsubscribe, send email to listserv@apple.ease.lsoft.com
with only the words SIGNOFF KEESHOND-L in the body of the email
++++

11

PLAINTIFF'S
EXHIBIT

Untitled

Date: Fri, 7 May 2004 09:18:16 -0500
From: Karen Mills <karenmills@PATRIOTGOLD.COM>
Subject: Concerned about the "free" data harvested by MBFS???

(P)

I call on anyone who has used and appreciated the efforts of those of us who maintain FREE online pedigree databases to email the owner of The Breeders Standard at johntam@mbfs.com and demand he stand by his statement that this data is FREE.

Since he believes this to be true he should make this data available as a PUBLIC SERVICE.

Not as a perk of paying for use of his software.

Karen Mills

Untitled

PLAINTIFF'S
EXHIBIT

Date: Sat, 8 May 2004 01:01:21 -0400
From: fujawa <fujawa@SBCGLOBAL.NET>
Subject: Pedigree Database Theft

20

I would venture to say that people who breed and show dogs make up a significant portion of the customer base of a company that markets Pedigree Products and Services. I can't understand why someone would deliberately engage in actions which clearly enrage the very customer base that is essential to his/her company being a success???

There has been much discussion about a man who has publicly acknowledged the fact that he has gone out to virtually every on-line breed pedigree database available on the internet and has extracted and utilized the entire content, organization and index structure to construct a database that he, in-turn, is charging customers to access. He claims that "data can not be owned". How useful would that "data" be to him and his pocketbook if hundreds of individuals didn't donate hours, years of their time to format, organize and index into something he feels people will pay for? Ok.... he can have the "data"..... dump the data in a big-old text file.... no indexing.... nothing to indicate how each little piece of data relates to each other....

So many of us are blessed to have people in our breed clubs ---- who have dedicated so much effort and love to take all of these bits of data.....and to apply and maintain the relationships between these pieces of data ---- so that we have a source of information available to us.... to enable us to make better breeding decisions.... essential to the betterment of our breeds.

I can't think of one person... who thinks it is ethically or legally right for someone to commercially profit from all of the time these breed lovers have donated to making sure each and every little piece of data is organized, formatted and accurately related to all the other little pieces of data available out there in the "public domain". The data --- by itself has no value.... and this man knows that.... it had no value until it was organized and indexed in a very distinct way.

Pedigrees are at the heart of what we do and what we love.

Please - discuss this issue with the people in your breed clubs..... discuss this issue in your all-breed clubs..... discuss this issue on your other e-mail lists!! when it comes time for individuals or clubs to purchase pedigree products and services or to accept advertising from these companies, or when it comes time for someone to recommend a pedigree product or service..... reward the companies who really value the knowledge that is integral to the betterment of our breeds.

Michele

Remember the "no naming names" (or companies) rule on this list!

For List Commands, email SHOWDOGS-L-REQUEST@APPLE.EASE.LSOFT.COM
Leaving SD-L? Send SIGNOFF SHOWDOGS-L to LISTSERV@APPLE.EASE.LSOFT.COM
SD-L website (list rules, whiteners, surveys...) <http://SHOWDOGS-L.COM>
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breedmate

05-14-04 10:46 RCVD

Home

Join This Group!

(Already receiving group email?)

Members Only

Description

Category: Other

Group Info
Members: 484
Founded: Sep 26, 2001
Language: English

Messages

Anything to do with BreedMate pedigree software or the areas of breeding, genetics, pedigree research or showing.
Please note this is a moderated group.

Group Settings

Links

Database

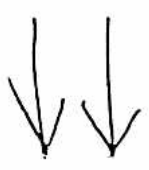
Polls

Members

Calendar

Most Recent Messages

| | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec |
|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 2004 | 97 | 79 | 84 | 118 | 45 | | | | | | | |
| 2003 | 100 | 51 | 89 | 122 | 237 | 65 | 77 | 75 | 50 | 101 | 137 | 94 |
| 2002 | 114 | 50 | 203 | 41 | 91 | 50 | 125 | 130 | 93 | 95 | 68 | 81 |
| 2001 | | | | | | | | | | 20 | 13 | 25 |



Group Email Addresses

For more information: www.breedmate.com
Post message: breedmate@yahoogroups.com
Subscribe: breedmate-subscribe@yahoogroups.com
Unsubscribe: breedmate-unsubscribe@yahoogroups.com
List owner: breedmate-owner@yahoogroups.com

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PLAINTIFF'S EXHIBIT

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};

John F. Tamburo

From: NAUVOO66@aol.com
Sent: Tuesday, May 18, 2004 7:09 AM
To: John F. Tamburo
Subject: Re: (sans sujet)

Dear Sir

With reference to your reply to my request for the removal of my dogs pedigrees from your data base I am the owner of those pedigrees and not you there for as long as my dogs names are on your data base you will be charged at the rate of \$100 per month per dog and you are very welcome to keep the 22 dogs on there as long as you like. My dogs pedigrees are my private concern and are not open to theives who steal the details without paying. There for your first payment is due 1st July this is in advance I have been very kind and let you have the exsisting run free of charge. I am informing my friends of your attitude some of whom have over 500 dogs on your data base and I am sure they will be interested in your Customers. I will inform you wwhere you may pay your fees

Your sincerely
Mavis Taylor.

All dogs of the Nauvoo Prefix must be removed or pay up

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05-18-04 12:36 RCVD

PLAINTIFF'S EXHIBIT
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John F. Tamburo

From: mark hagelin [markhagelin@hotmail.com]
Sent: Wednesday, May 19, 2004 2:53 PM
To: John F. Tamburo
Cc: → breedmate@yahoogroups.com
Subject: Public data

PLAINTIFF'S
EXHIBIT

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Mr. Tamburo

Since you allege that the data is public data, then it belongs to the public, not 1 private individual or 1 private company.

As such, as I understand the public has a right to keep you from gaining financially for information which belongs to them.

I have, after contacting a United States senator's office recommended that amongst other things that a class action lawsuit be brought against your company to keep data which was meant to be free for non-commercial use from be commercialized. Any currensnt lawsuits against your company can be turned into class action.

The fruits of the labor of the people involved MUST be returned to them.

I have also recommended that complaints be made to the Department of Justice-Anti-Trust division regarding your use of "spidering" technology to try to gain an unfair advantage and/or a monopoly in the pet database industry.

Not forgetting the Europeans involved, complaints similar to the ones made against Microsoft can be made against your company and it can be FINED or PROHITED from being sold within the European market if it can be shown that you are not adhered to the laws of the EC.

I STRONGLY reccommend that your site to compensate all of the known and unknown parties whose data you have acquired from websites by allowing FREE access to them and to everybody.

The data belongs to EVERYBODY, not just 1 company.

Already your actions are working contrary to your best interests as PUBLIC POSTINGS calling for a BOYCOTT of your products are already popping out and are going to numerous canine groups and I seriously doubt that you are a member of ALL of them.

Just the information I have gained on what is happening has gone out to over 3,000 people. As one who has an interest in canine origins and genetics and various breeds, I am a member of various groups and I have encouraged and given permission to others to forward the information.

I doubt very seriously whether you can afford to sue everyone who takes a stand against your company and its behavior.

"Word of mouth can either MAKE or BREAK a business."

If the "war of words" continues, you will, in the long run, be the loser.

People are more likely to trust a friend that they know vs a company that they don't know.

You can cut your loses by 1) Stop collecting the data other people have worked hard to collect/update and/or 2) offer ALL DATA collected by your

John F. Tamburo

From: Steve Dworkin [steve@thedworkins.com]
Sent: Tuesday, April 27, 2004 12:32 AM
To: John F. Tamburo
Subject: RE: Att'n John Tamburo

PLAINTIFF'S
EXHIBIT
(24)

John..

I will reply to this point by point and then tell you EXACTLY what must happen...

- > You have agreed to the TBS license agreement, which contains a forum
- > selection clause by which you consent to Illinois and USA jurisdiction
- > over your person.

Utter B.S. !! And in any case what we are discussing has nothing whatsoever to do with TBS

- > I have enforced that forum selection clause before. Also, 735 ILCS
- > 5/2-209(A)(2), part of the Illinois long-arm statute, confers personal
- > jurisdiction over you to Illinois. Tortious action directed at an
- > Illinois resident confers personal jurisdiction to Illinois. The site
- > where the injury is suffered determines where the tort occurred.

That is the problem with you pompous Americans. You assume that your laws control everyone. John ... you are not listening ... your laws in this matter HAVE NO JURISDICTION over me !! This HAS BEEN verified!

- > Since you voluntarily clicked YES on the license agreement, which says
- > that ALL business between the company and you is governed by the
- > license agreement's choice of law and forum selection clauses, you have
- > voluntarily given up all other fora to hear this dispute.

What utter pompous bullshit I clicked on NOTHING re your web based program...

- > I find it to be projection for you to accuse me of intimidation in any
- > way. You threaten me with defamation.

I threatened you with nothing other the the truth !!

- > Now you say that I admitted (I NEVER DID SO) that "one time sold a
- > version of TBS that on installation crashed and damaged owners
- > operating systems." That is a lie. A pure lie. As to your other
- > accusations, such as fraud, you are trodging over the edge into libel
- > per se.

Trodging ?.. can't find that one in Websters! In any case I have the DOCUMENTED proof of this incident as well as statements from two former customers.

- > You are without legal recourse.

I always have legal recourse. Does your egocentric mind believe that only YOU have recourse to the courts?

- > Your continued threats constitute extortion in violation of the
- > criminal and civil laws of Illinois, to which you voluntarily submitted
- > yourself.

Am not impressed with that nonsense. The state of Illinois has NO

jurisdiction over me in a civil matter !

However Mr T. if you will send me return airfare, pre-paid hotel reservations plus \$500.00 per day expenses, I will voluntarily travel to the great sovereign state of Illinois to defend myself against your frivolous accusations.

> Moreover, you have accessed our tbsxp.com web site either by tampering
> or fraudulent means.

Oh I understand, you, John Tamburo are free to access and tamper with other peoples websites, but yours is sacred.. Talk about large ego's.. Who appointed you God ?

> Both are criminal violations of the law, on a site whose terms of
> service clearly state that Illinois law governs their use, and that all
> users submit to the personal jurisdiction of Illinois. These are valid
> even if you do not read the usage agreement (see Carnival Cruise Lines
> v. Shute, 499 U.S. 585, 595). Every page has a "terms of service" link
> that puts you on notice of the terms, as required by law.

Oh.... I see.. The State of Illinois gives John Tamburo the right to penetrate, data mine and steal from sites as long as they are not in Illinois, but no one may touch or search through his site...

If you spent as much time in the meaningful pursuit of legitimate business affairs as you do playing super-lawyer, maybe you would be successful in the business world and others would respect you. You do neglect to mention your FAILED threats and lawsuits....

> DON'T YOU GET IT? IT IS NOT ***YOUR*** DATA, except for the 32 phony
> dogs you put into the database for the purpose of browbeating other
> Keeshond breeders who dare actually transcribe the database. Pedigree
> data have already been ruled by courts in the USA AND CANADA to be
> collections of facts, and are as uncopyrightable as a telephone
> directory.

Matter of fact, the telephone directory IS under copyright !! How about that!

AND... John you didn't "transcribe" my data, you openly in an e-mail admitted to me that you used a data miner to harvest the data..

Now, since you feel that all of this data is free and open to the public, I'm sure that you will not object if I go into your site with a data mining spider. Don't yell "foul" and "lawsuit" ... John...fair is fair...

Oh... in case you're wondering, .. yes ... I do have the technical ability to do it...

By the way, aside from the 32 non-registered animals in the database, there are many pedigrees from both Canada, USA and Europe that were never published. Strange, the data from these shows in your database.

Would be very interesting to hear you explain how you obtained Canadian pedigrees from 1955 to 1980 as the stud book data was actually destroyed in an accident when the CKC moved. (No I will not give you my data source)

As well, the Keeshond data from South Africa is NOT on file at the SA Kennel Club, and was obtained from private records which I know were only released to myself.

Also, many of the British records were destroyed during WWII, and some of the data that I have came from breeders archives. I am 100% certain that they did not release them to you.

Now why don't you explain all of that to your lawyers and then answer the question as to where you obtained the data from, and is all of it really in the public domain? Do NOT make the foolish

assumption that everything is public domain. I have written releases for much of the privately obtained data...do you?

Now here's a thought.... since you feel you can freely enter into any database that you choose, why not "mine" the AKC database!

> You are asking for a messy and expensive legal fight in the USA, where
> we really know how to have a messy legal fight. That statement in and
> of itself is tortious interference with business for future customers,
> and tortious interference with a contract for our present Kees
> customers.

Stop with the legal threats this is bordering on harrassment!. You and the State of Illinois have no jurisdiction over me in a civil matter. To even intimate that you can force me to come to your country is complete nonsense. I am more than willing enter a legal battle with you, but it will be under MY terms and conditions.

Now John we come to the crux of this whole issue.

As I mentioned in previous e-mails, I have consulted with an International lawyer. He referred me to a colleague who deals in intellectual property. Bottom line is that what we are involved in is a grey area issue, but, my case does have merit. However, it was pointed out to me that I am in fact being a bit stubborn. You see, I have nothing to loose... I don't sell my data, rather I give it away. It was pointed out that this makes me as well as all of the other dog fanciers who freely give their time to website databases, competitors of your company..

So, what I propose to do by this week-end if you do not remove the data that you "mined", "harvested" , "stole" from my website is the following.

I have contacted Jim Trethway as well as the users of his database program. There are some pretty clever programmers in that list. All have been advised of your devious hrvesting of data for your own COMMERCIAL use.

They will be asked to post on their pedigree websites, a notice similar to what I intend to put on mine...

To the effect that:

=====

Why pay for pedigrees? The pedigree information on this website has been and always will be available free of charge.

MBFS and John Tamburo have by means of a data harvester, gone into websites and taken data. He is now selling the product of all of our hard work and efforts for his own financial gain.
=====

The above is a true, just statement of documented, provable fact.....

The combined number of hits on all of our sites is close to 100,000 hits per month.
By next week the same notice will appear on many of the larger canine e-mail lists...

John, this is NOT a threat, but if you continue to try and profit by what you have in your e-mail admitted is the work of others, then you leave me no choice.
I have absolutely no desire to interfere with your company or it's efforts to generate income by moral, ethical means. How you treat and deal with your customers is of no concern to me... BUT I ask you for the last time to PLEASE remove the data that you