

# **EXHIBIT A**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

e360 INSIGHT, LLC, an Illinois Limited Liability Company, and DAVID LINHARDT, an individual,	)	
	)	06 CV 3958
	)	
Plaintiffs,	)	Judge Kocoras
	)	Magistrate Judge Brown
v.	)	
	)	
THE SPAMHAUS PROJECT, a company limited by guarantee and organized under the laws of England, a/k/a THE SPAMHAUS PROJECT, LTD.,	)	
	)	
Defendant.	)	

**STATUS REPORT ON SUGGESTED DEPOSITION**

Defendant The Spamhaus Project (“Project”)<sup>1</sup> files this status report to advise Your Honor, prior to the status hearing scheduled for August 24, 2007, that the parties agreed that the voluntary telephonic deposition of Steve Linford should not proceed because Plaintiffs’ counsel was not interested in taking the deposition within the scope of Steve Linford’s offer to provide testimony.

Mr. Linford’s offer to provide deposition testimony, which remains open, was purely voluntary. Mr. Linford:

- is not a party to this action;
- is not a United States citizen;
- has never traveled to the United States;

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<sup>1</sup> Defendant expressly objects to this Court’s jurisdiction over The Spamhaus Project because Defendant is based solely in the United Kingdom and does not conduct or transact business in Illinois. Moreover, Defendant reserves its arguments based on Plaintiffs’ failure to properly effect service of process.

- does not transact any business in his personal capacity in the United States; and
- has not been served with any process in connection with this action.

Consequently, Mr. Linford is not producible on notice, or even on subpoena, to give deposition testimony in this case. Rather, in order to obtain compelled deposition testimony from him, plaintiffs would be required to effect proper international service of process via the Hague Convention, which plaintiffs have not done or attempted to do.

Nonetheless, as Your Honor noted at the status hearing on August 8, 2007, Mr. Linford previously offered to voluntarily provide telephonic deposition testimony in this case on a specific topic. That offer was formally made in a pleading on March 19, 2007. However, that offer was *not* made in the context of plaintiffs' current motion to compel the production of documents related to Spamhaus Technology, LTD and Ultradesign, LTD; the current motion was not even filed until about three months later, on June 11, 2007. Rather, Mr. Linford made that offer to resolve a motion over a dispute regarding the assets of the defendant in this case – The Spamhaus Project, Ltd. – and was specifically limited to that topic. Specifically, Mr. Linford “expressed his willingness to sit for a telephonic deposition *relating to the assets of The Spamhaus Project.*” (Ex. A, Resp. to Mot. R. Show Cause ¶ 3 (emphasis supplied).) Mr. Linford remains willing to provide deposition testimony on that topic – “the assets of The Spamhaus Project.” And, after counsel for The Spamhaus Project reported Your Honor’s observations at the August 8, 2007 status conference to Mr. Linford, Mr. Linford *also* agreed to provide deposition testimony limited to the affirmative statements he made in his declaration opposing plaintiffs’ current motion.

However, because of severe security concerns, Mr. Linford is *not* willing to answer questions beyond the scope of his original offer or the affirmative statements in his declaration –

e.g., questions relating to the names of volunteers for The Spamhaus Project, or any information about the entities that are not defendants in this action, Spamhaus Technology, LTD or Ultradesign, LTD. The business and personal safety risks of The Spamhaus Project, which is devoted to eliminating internet spam, are well-publicized. In addition to creating the SBL and ROKSO list of known spammers and fighting for anti-spam legislation, Project also assists law enforcement agencies in an attempt to prevent and stop deceptive and criminal internet schemes. These criminal internet schemes often involve “gangs” or organized crime outfits. (Ex. B.) As a result of this work, Mr. Linford has received many death threats, was under the protection of the Scotland Yard for a period of time, and has been advised not to open any unexpected packages. (*Id.*)

Consequently, while Mr. Linford remains willing to provide testimony regarding the assets of Project, and the lack of any control relationship between Project and the entities at issue in plaintiffs’ current motion, Mr. Linford will *not* provide the names or addresses of any of Project’s volunteers. Moreover, Mr. Linford, sitting solely in his capacity as the Director of Project, is unwilling to answer questions regarding the non-defendant entities (Spamhaus Technology, LTD and Ultradesign, LTD). Those answers would essentially provide the information sought in the motion to compel that is currently before this Court, and are not within the control of Project (the only defendant before this Court) as an entity, even though Mr. Linford may have personal knowledge on those topics acquired in his capacity as an officer of those other entities.

During two telephone conversations on August 16, 2007, plaintiffs’ counsel advised counsel for Project that plaintiffs are not interested in proceeding with a deposition within the scope of Mr. Linford’s offer. During those conversations, counsel for plaintiffs, Bartly Loethen,

acknowledged that Mr. Linford could not be compelled to provide any testimony. Mr. Loethen also stated that he was not interested in proceeding with a deposition concerning the “assets of The Spamhaus Project” because he had “little doubt” that few, if any, assets were titled in that name. Mr. Loethen also stated that he did not desire to ask Mr. Linford questions regarding the declarations he submitted in connection with this motion, regarding the lack of a control relationship between Project and the two non-defendant entities (Spamhaus Technology and Ultradesign), unless Mr. Linford would provide additional information: the names of Project’s volunteers, and specific information regarding those non-defendant entities, such as their revenues, the names of their employees and officers and the location of their servers. Because of the security concerns identified above, Mr. Linford is not willing to do that as part of his voluntary offer to provide testimony. Consequently, the parties mutually agreed that the deposition should not proceed, as memorialized in an e-mail from David Jiménez-Ekman to Mr. Loethen.

Because Your Honor suggested that plaintiffs accept Steve Linford’s prior offer to sit for a telephonic deposition, Project desired to advise the Court, prior to the continued hearing date, that the deposition did not proceed and the reasons why it did not proceed.

Respectfully submitted,

THE SPAMHAUS PROJECT

Dated: August 21, 2007

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