

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Charles P. Kocoras	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	06 C 3958	DATE	October 15, 2008
CASE TITLE	e360 Insight et al vs. The Spamhaus Project		

DOCKET ENTRY TEXT

Defendant’s motion [157] to dismiss pursuant to Rule 37(B)(2)(A) for plaintiffs’ failure to obey orders of this Court is denied. We order stricken the 16 new names provided in e360 Insight’s Supplemental Amended Responses to Interrogatories 2 and 3 as well as any amounts stated in the Supplemental Amended Responses to Interrogatories 16 and 17 in excess of \$11.7 million. In addition, pursuant to Rule 37(b)(2)(C), we order Plaintiffs to pay the reasonable expenses, including attorneys’ fees, incurred in connection with the instant motion [157]. Status hearing set for 10/30/2008 at 9:30 a.m.

■ [For further details see text below.]

Docketing to mail notices.

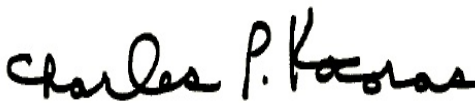
ORDER

This matter comes before the court on the motion of Defendant The Spamhaus Project (“Spamhaus”) for relief pursuant to Fed. R. Civ. P. 37(B)(2)(A). The motion comes after a long and involved discovery battle revolving around responses to interrogatories. Spamhaus initially propounded the interrogatories to Plaintiffs e360 Insight, LLC, and David Linhardt on November 30, 2007. Plaintiffs did not comply with their discovery obligations with respect to these interrogatories until September 12, 2008.

Plaintiffs’ delay and the resultant wrangling have caused a significant expenditure of time and effort on the part of Spamhaus and this court. The relief Spamhaus has primarily requested, dismissal of the entire action with prejudice, is in our view too onerous a remedy for the wrong it seeks to correct. However, the fact remains that the course of action Plaintiffs have pursued is unacceptable. Moreover, the September 12 responses identify 16 new parties as having knowledge or information pertinent to the case and contend that the level of damages at issue is not the initial \$11.7 million Linhardt claimed but instead various amounts totaling over \$135 million. Discovery closed more than a month before Plaintiffs provided their interrogatory responses, preventing Spamhaus from being able to probe further into this new information. Accordingly, we order stricken the 16 new names provided in e360 Insight’s Supplemental Amended Responses to Interrogatories 2 and 3 as well as any amounts stated in the Supplemental Amended Responses to Interrogatories 16 and 17 in excess of \$11.7 million.

In addition, pursuant to Rule 37(b)(2)(C), we order Plaintiffs to pay the reasonable expenses, including attorneys’ fees, incurred in connection with the instant motion [157].

Dated: October 15, 2008



CHARLES P. KOCORAS
U.S. District Court Judge