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June 14, 2005

Mr. Ed Falk
600 Fairmont Avenue
Mountain View, California 94041

Re: *Sierra Corporate Design, Inc. v. David Ritz*

Dear Mr. Falk:

Enclosed and served upon you via United States mail please find the following in regard to the above-referenced matter:

1. Summons;
2. First Amended Complaint;
3. Order to Preserve Evidence and Shorten Time for Motion; and
4. [Revised Proposed] Order for Expedited Discovery signed by Judge Irby.

Sincerely yours,

A handwritten signature in cursive script, reading "Chris Harristhal".

Christopher J. Harristhal, for
Larkin Hoffman Daly & Lindgren Ltd.

Enclosures

1016188.1

14 June

IN DISTRICT COURT, COUNTY OF CASS, STATE OF NORTH DAKOTA

Sierra Corporate Design, Inc., Plaintiff, v. David Ritz and Ed Falk, Defendants.	File No. 09-05-C-01660 FIRST AMENDED COMPLAINT
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Plaintiff Sierra Corporate Design, Inc. ("Sierra"), for its complaint against Defendant David Ritz ("Ritz") and Ed Falk ("Falk"), alleges and states as follows:

NATURE OF ACTION

1. This is an action for computer crime pursuant to North Dakota Century Code § 12.1-06.1-08. This cause of action arises from Defendant Ritz's efforts to damage Sierra's business and its ability to conduct business in North Dakota. Ritz has unlawfully accessed Sierra's computer system and stolen and published confidential and proprietary information secured from Sierra's server on the Internet. The result of this access and publication was to expose Sierra's computer system to an increased risk of hacking and damage from third parties. Accordingly, Sierra seeks compensatory damages to redress the injuries inflicted upon it by the wrongful conduct of Ritz.

PARTIES

2. Plaintiff Sierra is incorporated under the laws of Nevada with its primary place of business in the City of Fargo, County of Cass, State of North Dakota. Sierra is a specialized Internet service provider and web hosting provider.

3. Defendant Ritz is an individual who, upon information and belief, resides at 5259 North Mohawk Avenue, Milwaukee, Wisconsin.

4. Defendant Ed Falk is an individual, and upon information and belief, resides at 600 Fairmont Avenue in the City of Mountain View, County of Santa Clara, California.

5. This Court has personal jurisdiction over Ritz pursuant to North Dakota State Long Arm Statute, N.D.R.Civ.P. 4(b)(2)(C). By way of example, and without limitation, Ritz's specific contact with the State of North Dakota giving rise to this action includes his intentional conduct of accessing Sierra's servers located in Fargo, North Dakota and publishing confidential information about Sierra's computer system and network in a fashion calculated to cause injury to Sierra in the State of North Dakota.

FACTUAL BACKGROUND

6. Sierra's servers all include the following warning at log-in:

"You are hereby warned that all access to and use of Sierra Corporate Designs' computer network and resources is logged, including users' IP addresses and other identifying information. Your access to and use of the Sierra Corporate Designs computer resources (including without limitation keystrokes and mouse clicks) may be monitored or recorded without notice. By accessing and/or using the system you expressly consent to any such logging, monitoring, and recording. You are further warned that any attempt to access and/or use any of Sierra Corporate Designs' computer network and resources without authorization is **ILLEGAL** and may subject you to civil and criminal penalties and liability. Sierra Corporate Design will immediately contact the appropriate authorities with any evidence of such improper access and/or use and will prosecute to the fullest extent of the law."

7. Upon information and belief, Ritz intentionally and without authorization accessed either directly or through a proxy, Sierra's Fargo ND computer and computer system on or about February 27, 2005.

8. Upon information and belief, Ritz intentionally accessed Sierra's Fargo ND mail server without authorization via telnet located at mail.jam.net on or about February 27, 2005. While accessing that server, Ritz issued multiple commands without authorization and gathered information in the form of valid private and unpublished e-mail addresses for users of Sierra's mail server.

9. Upon information and belief, Ritz deliberately and intentionally accessed Sierra's DNS servers in Fargo ND on or about February 27, 2005, without authorization. The servers accessed by Ritz include, but are not limited to, those set out below.

10. Upon information and belief, while accessing the aforementioned DNS servers, Ritz deliberately and intentionally gained access to Sierra's private DNS/Internet Protocol ("IP") address database located in Fargo ND. The IP addresses accessed by Ritz include, but are not limited to, those set out below.

11. While accessing those servers, Ritz issued multiple state of authority commands without authorization, and gathered information in the form of internal network configurations and IP addresses for Sierra's network.

12. Without authorization, Ritz made zone transfers on the Sierra's DNS servers.

13. Without authorization, Ritz intentionally took possession of, copied and then published private domain name/IP address/company information, specifically publishing "BACKUP.sierracorporatedesign.com has address 10.1.202.140."

14. Without authorization, Ritz intentionally took possession of, copied and then published private domain name/IP address/company information, specifically publishing "sql-midcoast.sierracorporatedesign.com has address 10.1.202.3."

15. Without authorization, Ritz intentionally took possession of, copied and then published private domain name/IP address/company information, specifically publishing "surge18-east.usenet.com has address 38.119.106.59."

16. Thereafter, Ritz published the aforementioned information on his own website ("the Ritz Website").

17. The Ritz Website may be viewed, and allows readers in the State of North Dakota to read its contents, 24 hours a day, 7 days a week. Upon information and belief, numerous third parties in North Dakota and elsewhere have viewed the Ritz Website in North Dakota.

18. Armed with information gathered from the Sierra mail server, anyone seeking to send unsolicited commercial email can utilize those email addresses published by Ritz for that purpose, as upon information and belief Ritz utilized the Sierra mail server to verify the validity of such email addresses and published both the email addresses and the verification of the valid status of those email addresses. The foregoing addresses were private and confidential.

19. Armed with information gathered from the Sierra DNS servers, anyone seeking to hack into the Sierra computer system and network in order to cause damage to that system can much more readily damage the system by utilizing the confidential and private information gathered to specifically target internal network workstations and servers and other portions of the network located inside Sierra's firewall by using the specific domain name and IP addresses published by Ritz.

COMPUTER CRIME

20. Sierra repeats and realleges the allegations contained in paragraphs 1 through 19 as though fully set forth herein.

21. Ritz intentionally and without authorization attempted to and indeed succeeded in gaining access to Sierra's computer and computer system and various parts of that system.

22. Without authorization and with malice, Ritz intentionally gained access to Sierra's computer network located in Fargo, ND.

23. Without authorization and with malice, Ritz intentionally gained access to Sierra's DNS server software located in Fargo, ND.

24. Without authorization and with malice, Ritz intentionally gained access to Sierra's private DNS/IP address database located in Fargo, ND.

25. Without authorization and with malice, Ritz intentionally altered and manipulated the computer system by sending commands to Sierra's DNS servers located in Fargo, ND.

26. Without authorization and with malice, Ritz intentionally copied from, among others, Sierra's SierraCorporateDesign.com Fargo, ND private domain name /IP address/company information.

27. Without authorization and with malice, Ritz intentionally took possession of, among others, Sierra's SierraCorporateDesign.com private domain name /IP address/company information.

28. Without authorization and with malice, Ritz intentionally disclosed via the web Sierra's SierraCorporateDesign.com private domain name /IP address/company information.

29. Without authorization and with malice, Ritz intentionally copied from, among others, Sierra's SierraCorporateDesign.com Fargo, ND private domain name /IP address/company information.

30. Without authorization and with malice, Ritz intentionally took possession of, among others, Sierra's Newsgroups.com private domain name /IP address/company information.

31. Without authorization and with malice, Ritz intentionally disclosed via the web Sierra's Neswsgroup.com's private domain name /IP address/company information.

32. By the foregoing conduct, and other similar acts as to other IP addresses and domains, Ritz engaged in computer crime in violation of North Dakota Century Code § 12.1-06.1-08 with regard to BACKUP.sierracorporatedesign.com.

33. By the foregoing conduct, Ritz engaged in computer crime in violation of North Dakota Century Code § 12.1-06.1-08 with regard to sql-midcoast.sierracorporatedesign.com.

34. By the foregoing conduct, Ritz engaged in computer crime in violation of North Dakota Century Code § 12.1-06.1-08 with regard to surge18-east.usenet.com.

35. The foregoing list of websites and addresses is only a partial listing of those websites and addresses of Sierra as to which Ritz has engaged in computer crime.

36. By the foregoing conduct, Ritz has intentionally damaged the security of Sierra's computer system for the purpose of allowing others to inflict further injury and fraud upon Sierra by allowing further unauthorized access to Sierra's servers.

37. By the foregoing conduct, Ritz has damaged and exposed Sierra's computer system to grave risks of hacking and further injury. If anyone succeeds in hacking into Sierra's computer system while armed with the information provided by Ritz, Sierra could be put out of business for some indeterminate period of time.

38. Falk was aware of Ritz's unauthorized access to Sierra's computers and computer systems as described above.

39. Falk assisted in the publication of Sierra's private computer system information. Falk posted a link to Ritz's announcement on Usenet where Sierra's private domain information was published by Ritz. The Usenet announcement of Ritz then linked to the Ritz Website and otherwise announced and published Sierra's private computer network information.

40. Falk copied data from Sierra's computers and computer system in violation of North Dakota Century Code § 12.1-06.1-08.

41. Falk took possession of data from Sierra's computers and computer system in violation of North Dakota Century Code § 12.1-06.1-08.

42. Falk disclosed data from Sierra's computers and computer system in violation of North Dakota Century Code § 12.1-06.1-08.

43. Falk has intentionally contributed to the damage to Sierra's computers and computer system. Falk thereby violated North Dakota's computer crime statute as described above.

44. Pursuant to North Dakota law, Sierra is entitled to damages, restitution, and attorneys fees.

TRESPASS TO CHATTELS

45. Sierra repeats and re-alleges the allegations contained in paragraphs 1 through 44 as though fully set forth herein.

46. Ritz invaded, took possession of, intermeddled and seriously interfered with Sierra's rights in, and enjoyment of, its chattels, e.g., its computer and computer system.

47. Ritz's conduct was unlawful and a physical invasion of Sierra's property.

48. Ritz had a deleterious impact upon Sierra's chattels.

49. Ritz harmed and impaired the condition, quality, and value of Sierra's chattels by, among other things, rendering them less secure.

50. Ritz impaired the functioning of Sierra's chattels.

51. Ritz increased the risk that others would replicate his unlawful accessing of Sierra's chattels, thereby causing furnish damage.

52. Ritz's trespass necessitated additional security precautions so as to mitigate the risk of further injury caused by Ritz's conduct.

53. By his conduct described above, Falk assisted, conspired and aided in the trespass to chattels of Sierra.

54. Sierra has suffered damage flowing from injury to its possessory interest in its chattels.

WHEREFORE, Plaintiff prays for the order and judgment of this court granting the following relief in favor of Plaintiff and against Defendants:

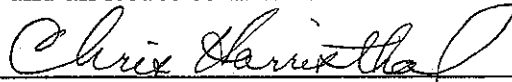
1. For an injunction prohibiting the unauthorized access of Sierra's computer systems by Defendants and distribution of information gathered from Sierra and posted on the Ritz Website and Falk's websites;
2. For money damages in an amount to be determined at trial;
3. For costs and disbursements in this action;
4. For attorneys' fees; and
5. For such other and further relief as the court may deem just and proper.

JURY DEMAND

Plaintiff demands a trial by jury and all issues so triable.

Dated:

6/14/05



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