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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

CARSON KRUEGER, individually)
and on behalf of a class of similarly)
situated individuals,)
)
 Plaintiff,)
)
 v.)
)
 CHESS.COM, LLC., a Delaware limited)
liability company,)
)
 Defendant.)
)
)
)
 _____)

2024CH05199

CLASS ACTION COMPLAINT

Plaintiff Carson Krueger (“Plaintiff”) brings this Class Action Complaint against Defendant Chess.com, LLC. (“Chess.com” or “Defendant”) to stop Defendant’s unlawful disclosure of its customers’ personally identifiable information and to seek redress for all those who have been harmed by Defendant’s misconduct. Plaintiff alleges as follows based on personal knowledge as to himself and his own acts and experiences and as to all other matters, on information and belief, including an investigation by his attorneys.

INTRODUCTION

1. This is a class action suit brought against Defendant for violations of the Video Privacy Protection Act (“VPPA”), 18 U.S.C. § 2710. *et seq*, which prohibits the disclosure of consumers’ video viewing history without their informed, written consent.

2. Defendant is the operator of an internet chess server boasting one of the largest chess platforms in the world with over 100 million members.¹

¹ <https://www.chess.com/article/view/chesscom-reaches-100-million-members>

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3. In addition to playing chess matches online, Defendant’s website offers various forms of audio-visual materials including prerecorded videos of chess matches and lessons.

4. Defendant’s website has a “freemium” model, meaning some features are available for free and others require a paid subscription in order to gain access, including the various videos offered on Defendant’s website.

5. Critically, Defendant utilizes sophisticated tracking technology that collects its subscribers’ personally identifiable information (“PII”), including information which identifies a person as having viewed specific videos on Defendant’s website. Defendant knowingly discloses this information to third party advertisers so that they can target specific users with specifically tailored advertisements based on their viewing history and their use of the website.

6. However, Defendant discloses its subscribers’ PII without their consent, and in doing so, Defendant has violated the VPPA and Plaintiff’s and the other Class members’ statutory rights.

7. Accordingly, Plaintiff brings this class action for legal and equitable remedies to redress and put a stop to Defendant’s practices of knowingly disclosing its subscribers’ PII to third-parties in violation of the VPPA.

JURISDICTION AND VENUE

8. This Court may assert personal jurisdiction over Defendant pursuant to 735 ILCS 5/2-209 in accordance with the Illinois Constitution and the Constitution of the United States, because Defendant is knowingly doing business within this State such that it has sufficient minimum contacts with Illinois and has purposely availed itself of Illinois markets to make it reasonable for this Court to exercise jurisdiction over Defendant, and because Plaintiff’s claims arise out of or relate to Defendant’s conduct in Illinois, as Defendant illegally discloses the video

viewing information of Plaintiff's and the other putative Class members' in this State.

9. Venue is proper in Cook County, Illinois pursuant to 735 ILCS 5/2-101 because Defendant conducts business in Cook County and thus resides there under § 2-102.

PARTIES

10. Plaintiff Carson Krueger is a natural person and citizen of Illinois.

11. Defendant is a Delaware limited liability company headquartered in Orem, Utah.

COMMON FACTUAL ALLEGATIONS

I. The Video Privacy Protection Act

12. The VPPA prohibits “[a] video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider.” 18 U.S.C. § 2710(b)(1).

13. The VPPA defines PII as “information which identifies a person as having requested or obtained specific video materials or services from a video service provider.” 18 U.S.C. § 2710(a)(3).

14. A video tape service provider is “any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual material.” 18 U.S.C. § 2710(a)(4).

15. Further, the act defines a “consumer” as “any, renter, purchaser, or subscriber of goods or services from a video tape service provider.” 18 U.S.C. § 2710 (a)(1).

16. In 2012, Congress amended the VPPA, and in so doing, reiterated the Act's applicability to “so-called ‘on-demand’ cable services and internet streaming services [that] allow consumers to watch movies or TV shows on televisions, laptop computers, and cell phones.” S. Rep. 112-259, at 2.

17. Thus, the VPPA applies to entities who operate websites that provide videos, such as Defendant, and its online videos which subscribers access watch video chess content.

II. Defendant Discloses its Subscribers' PII to Third Parties

18. Defendant is the operator of an internet chess server boasting one of the largest chess platforms in the world with over 100 million members.

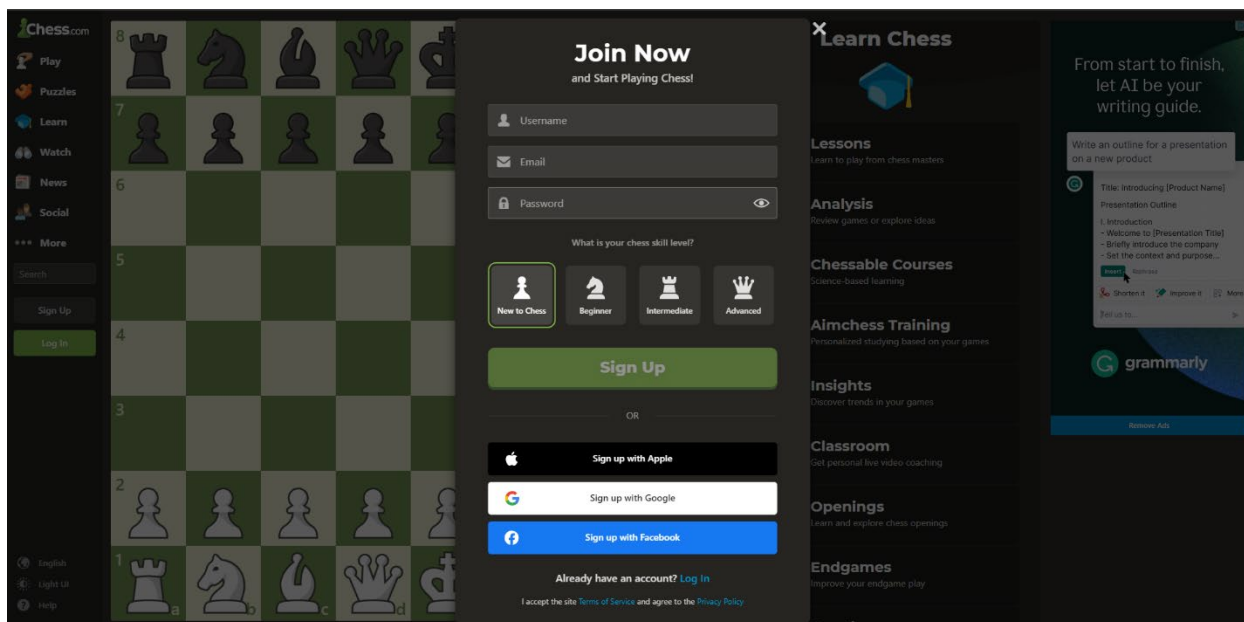
19. In addition to playing chess matches online, Defendant's website offers various forms of audio-visual materials including prerecorded videos of chess matches and lessons.

20. Thus, through its website, Defendant creates, hosts, and provides hundreds of videos to its online users.

21. Defendant's website has a "freemium" model, meaning some features are available for free and others require a paid subscription in order to gain access. Importantly, Defendant requires a paid subscription to unlock access to its video library and lessons, as well as to obtain the ability to watch unlimited lessons. Thus, Defendant creates exclusive video content in an effort to increase its number of paid subscribers.

22. As a result, Defendant is engaged in the business of the rental, sale, and delivery of audio visual materials to its customers who pay to subscribe to its website (hereinafter "Subscribers").

23. Importantly, as shown below, while creating their accounts, Subscribers are not specifically asked to consent to Defendant sharing and disclosing their PII to third parties, including information which identifies them as having viewed specific video content.



24. However, despite not obtaining informed, written consent from its Subscribers which is distinct and separate from any form setting forth other legal obligations, Defendant discloses its Subscribers' PII to various third parties.

25. Specifically, Defendant's website shows that Defendant discloses its Subscribers' PII by utilizing tracking pixels and similar tracking technologies.

26. One tracking technology utilized by Defendant, the Meta Pixel, is a piece of code that hosts, like Defendant, can integrate into their website. Once activated, the Meta Pixel tracks the people and the type of actions they take and disseminates that information to Facebook. Therefore, when one of Defendant's Subscribers requests to watch a video on Defendant's website, the Meta Pixel sends that video request, along with the Subscribers' identity, to Facebook.

27. Defendant's invasive use of tracking technologies and the disclosure of its Subscribers' PII is further evidenced in Defendant's Privacy Policy² which discloses that

² <https://www.chess.com/legal/privacy>

Defendant collects a slew of information from its Subscribers including but not limited to:

- A. Personal Information, including information that “identifies, related to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.” Personal Information is collected by Defendant and third-party providers directly from Subscribers in the form of the actions they take and the activities they complete when using the services. Such information can include: email, phone number, first and last name, and location.
- B. Usage Data, which includes pages of the website that Subscribers visit, geolocation, unique device identifiers, and IP address.
- C. Cookies Data, including analytics and performance cookies, which track how Subscribers use the website, the pages visited, and whether the user has visited the website before, and marketing cookies that assist serving advertisements relevant to subscribers’ interests.

28. Further, Defendant admits that it has collected and shared all of the information listed below with its affiliates, partners, service providers and advertising networks within the past 12 months:

- A. Real names, IP addresses, email addresses, browsing history, and information on Subscribers’ interactions with Chess.com services.

29. Therefore, the compilation of data that Defendant itself admits it collects and discloses to third parties identifies specific Subscribers, and the specific video and audio visual materials that they viewed.

30. Critically, at no point does Defendant obtain its Subscribers’, including

Plaintiff's, prior written consent as required under the VPPA to share their PII and video viewing history with such third parties and its Subscribers remain unaware that their PII and other sensitive data is being disclosed and/or collected by such third parties.

31. Defendant's Subscribers are unaware of the status of their PII and viewing history, to whom it has been disclosed, and who has possession and retained such information as a result of Defendant's illegal disclosures.

32. By disclosing its Subscribers' PII, which undeniably reveals both an individual's identity and the video materials they have requested from Defendant's services, Defendant has intentionally and knowingly violated the VPPA.

FACTS SPECIFIC TO PLAINTIFF

33. Plaintiff Carson Krueger is a paid subscriber to Defendant's website.

34. Plaintiff has used his account with Defendant to view video materials through his subscription including watching prerecorded video materials such as chess lesson videos.

35. Defendant knowingly and intentionally disclosed Plaintiff's PII, including specifically his viewing history or PII, to third parties and affiliates.

36. Plaintiff never specifically and separately consented, agreed, authorized, or otherwise permitted Defendant to collect his PII, including specifically information that could be used to identify him as an individual who has requested to view a specific video(s), and disclose his PII to third-parties. Plaintiff did not provide his informed written consent to such disclosures in a form distinct and separate from any form setting forth his other legal obligations.

37. To this day, Plaintiff is unaware of the status of his PII, to whom it has been disclosed, and who has possession and retained his PII as a result of Defendant's illegal disclosures.

38. By disclosing Plaintiff's PII, which reveals both his identity and the video materials he has requested from Defendant's services to third-parties, Defendant has intentionally and knowingly violated the VPPA and Plaintiff's privacy rights.

CLASS ALLEGATIONS

39. Plaintiff brings this action on his own behalf and on behalf of a nationwide class (the "Class"), pursuant to 735 ILCS 5/2-801 defined as follows:

The Class: All persons in the United States who subscribed to chess.com that also viewed prerecorded video materials from June 3, 2022 to the present.

40. Excluded from the Class are any members of the judiciary assigned to preside over this matter; any officer or director of Defendant; and any immediate family member of such officers or directors.

41. Upon information and belief, there are at least hundreds, if not thousands, of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiff, the members can be easily identified through Defendant's records.

42. Plaintiff's claims are typical of the claims of the members of the Class Plaintiff seeks to represent, because the factual and legal bases of Defendant's liability to Plaintiff and the other members are the same, and because Defendant's conduct has resulted in similar injuries to Plaintiff and to the Class. As alleged herein, Plaintiff and the Class have all suffered damages as a result of Defendant's VPPA violations.

43. There are many questions of law and fact common to the claims of Plaintiff and the other Class Members, and those questions predominate over any questions that may affect

individual members of the Class. Common questions for the Class include, but are not limited to, the following:

- (a) Whether Defendant disclosed Class members' PII;
- (b) Whether the information disclosed to third parties concerning Class Members PII constitutes personally identifiable information under the VPPA;
- (c) Whether Defendant knowingly disclosed the Class Members' PII to third-parties;
- (d) Whether Class members provided written informed consent to Defendant's disclosure of their PII to third parties as required by the VPPA;
- (e) Whether the Class is entitled to damages and other relief as a result of Defendant's conduct.

44. Absent a class action, most members of the Class would find the cost of litigating their claims to be prohibitively expensive and would thus have no effective remedy. The class treatment of common questions of law and fact is superior to multiple individual actions in that it conserves the resources of the courts and the litigants and promotes consistency of adjudication.

45. Plaintiff will adequately represent and protect the interests of the members of the Class. Plaintiff has retained counsel with substantial experience in prosecuting complex litigation and class actions. Plaintiff and Plaintiff's counsel are committed to vigorously prosecuting this action on behalf of the other members of the Class and have the financial resources to do so. Neither Plaintiff nor Plaintiff's counsel have any interest adverse to those of the other members of the Class.

46. Defendant has acted and failed to act on grounds generally applicable to Plaintiff and the other members of the Class, requiring the Court's imposition of uniform relief to ensure

compatible standards of conduct toward the members of the Class and making injunctive or corresponding declaratory relief appropriate for the Class as a whole.

COUNT I
Violations of the Video Privacy Protection Act
(On behalf of Plaintiff and the Class)

47. Plaintiff hereby incorporates the above allegations by reference as though fully set forth herein.

48. The VPPA prohibits a “video tape service provider” from knowingly disclosing “personally-identifying information” of any subscriber to their services to a third party without their “informed, written consent[.]” 18 U.S.C. § 2710.

49. As defined in 18 U.S.C. § 2710 (a)(4), a “video tape service provider” is “any person, engaged in the business, in or affecting interstate commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audiovisual materials.”

50. As defined in 18 U.S.C. § 2710 (a)(3), “personally-identifiable information” is defined to include “information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider.”

51. As defined in 18 U.S.C. § 2710 (a)(1), a “consumer” means “any renter, purchaser, or subscriber of goods or services from a video tape service provider.”

52. Defendant is a “video tape service provider” as defined in 18 U.S.C. § 2710 (a)(4) because it provides prerecorded videos and lesson videos to subscribers such as Plaintiff and the other Class members through its website.

53. Plaintiff, like the other Class members were “consumers” under the VPPA as they were subscribers to Defendant’s website and viewed prerecorded videos through its service.

54. Defendant knowingly caused Plaintiff’s and the other Class members’ PII,

including information that can be used to identify them as having requested or obtained specific video materials or services, to be disclosed to third parties. This information constitutes PII under 18 U.S.C. § 2710 (a)(3) because it identified each Plaintiff and Class Members to third parties as an individual who viewed specific video materials requested from Defendant.

55. As set forth in 18 U.S.C. § 2710 (b)(2)(B), “informed, written consent” must be (1) in a form distinct and separate from any form setting forth other legal or financial obligations of the consumer; and (2) at the election of the consumer, is either given at the time the disclosure is sought or given in advance for a set period of time not to exceed two years or until consent is withdrawn by the consumer, whichever is sooner.”

56. Defendant did not obtain informed, written consent from Plaintiff and the Class Members under the VPPA before disclosing their PII, including specifically their viewing history, to third parties.

57. Defendant knew that these disclosures identified Plaintiff and Class Members to third parties. By knowingly and intentionally disclosing Plaintiff’s and Class Members’ PII without their written consent, Defendant violated Plaintiff’s and Class Members’ statutorily protected right to privacy under the VPPA.

58. As a result of the above-mentioned violations, Defendant is liable to Plaintiff and the other Class Members for damages related to their loss of privacy in an amount to be determined at trial.

59. On behalf of himself and the Class, Plaintiff seeks: (i) declaratory relief; (ii) injunctive and equitable relief as it is necessary to protect the interests of the Plaintiff and Class by requiring Defendant to comply with the VPPA; (iii) statutory damages of \$2,500 for each violation of the VPPA pursuant to 18 U.S.C. § 2710 (c); and (iv) reasonable attorneys’ fees and

costs and other litigation expenses.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for the following relief:

1. An order certifying the Class as defined above;
2. For all forms of relief set forth above;
3. An order enjoining Defendant from continuing to engage in the unlawful conduct and practices described herein;
4. An award of attorney's fees and costs;
5. Award such further relief as the Court deems reasonable and just.

JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

DATED: June 3, 2024

Respectfully submitted,

CARSON KRUEGER, individually and on behalf
of similarly situated individuals

By: /s/ Jordan R. Frysinger
One of Plaintiff's Attorneys

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