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Baristers and Solicitors

(Incorporating Charles Tan & Co)
Commissioners for Affidavits
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Our Ref: 20th Sept 2002

Your Ref:

Date: Mr Jeremy Malcolm
P.O. Box 7586
Cloisters Square WA 6850

By Fax: 9213 0808

9221 0935

Dear Sir

T3 DIRECT V MCNICHOL DISTRICT COURT NO. 1317 OF 2002

We enclose herewith a copy of the supplementary affidavit of Mr Mansfield filed today.

Yours faithfully


TAN & TAN
RT
cc. client

Bc/trinet/jomacclaim/corr

IN THE DISTRICT COURT)
OF WESTERN AUSTRALIA)
HELD AT PERTH)

No. 1317 of 2002

BETWEEN:

THE WHICH COMPANY PTY LTD

ACN 091 728 620

trading as T3 DIRECT

Plaintiff

- and -

JOSEPH JOHN MCNICOL

Defendant

FURTHER AFFIDAVIT OF WAYNE MANSFIELD

Date of Document : 20 September 2002

Date of Filing : 20 September 2002

Filed on behalf of : The Plaintiff

Prepared by:

TAN & TAN

Barristers & Solicitors

5th Floor

326 Hay Street

PERTH WA 6000

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Ref: R1:13 DIRECT/02

I, Wayne Mansfield, Director, of care of Unit 42 Wickham St East Perth in the State of Western Australia, Director, being duly sworn MAKE OATH and say as follows:

1. I am the director of the Plaintiff company and I have actual knowledge of the matters sworn herein unless stated otherwise. I am authorised by the Plaintiff to swear this affidavit on the Plaintiff's behalf. All the statements made herein are true to the best of my knowledge. Where I have relied on information obtained from others, I believe that information to be true.
2. I refer to the affidavit of the defendant sworn on 1 August 2002. I seek leave to respond to some of the issues raised in the said affidavit.
3. I refer in particular to paragraphs 13 to 14 of the said affidavit. I annex herewith and marked as "WM 15" a letter from Terry Parsons c/ Corridors College in respect of the issue of the IP ranges.
4. I also annex herewith and marked as "W16" a letter signed by Alan Campbell, the Chief Executive of Swan Christian Education Association Inc confirming that Swan Christian Education Association Inc do not claim ownership of the IP ranges.
5. I refer to paragraph 16 of the affidavit. I say that the original list of all IP ranges referred to in exhibit "WM8" of my affidavit dated 2 July 2002 confirms that the Defendant listed all my IP addresses as previously stated. Further I say that the exhibit JJM9 is an amended record to the original Reynolds site. I further say that as evidenced in "WM5" of my said affidavit dated 2 July 2002, the Defendant acknowledged that his postings are being watched. I verily believe that upon



finding that he was being traced by the Plaintiff , the Defendant attempted to remove the records of his postings.

6. I also refer to exhibit JJM10 whereby the Defendant posted a message on the internet to ask if any postings by an irate spam receiver could be traced. This was following receipt of the Plaintiff's summons.
7. I have also instructed my counsel to consider action against the following persons who have supported the defendant:
 - (a) Mark Reynolds.
 - (b) Glen Barry
 - (c) Michael Harrison.
 - (d) Swiftel.
8. The above 3rd parties have been instrumental in assisting the Defendant in their objective of damaging the business of the Plaintiff Company. There is a substantial amount of information on the world wide web linking the above parties to the current action. I have engaged a consultant to collate all the relevant information in furtherance of the proposed claim.
9. Upon my consultant giving me a final report in relation to the information on the world wide web, I intend to instruct my counsel to prepare documents seeking an order under order 26A of the Supreme Court rules as applied in the District court in order to obtain from the aforesaid 3rd parties production of documents that are relevant to the action hereto.

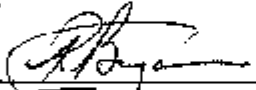


10. My damages have also been increased and I intend to include the increased damages claim when leave is granted for the filing of the Amended Statement of Claim.

SWORN by the deponent)
at Perth in the State of Western Australia)
this)
20th day of September 2002)



Before me:



~~A Justice of the Peace/~~ A Commissioner
of the Supreme Court of Western
Australia for the taking of affidavit

ROBIN E. BENJAMIN
A Commissioner of the Supreme Court
of Western Australia for taking Affidavits

IN THE DISTRICT COURT)
OF WESTERN AUSTRALIA)
HELD AT PERTH)

No. 1317 of 2002

BETWEEN:

THE WHICH COMPANY PTY LTD

ACN 091 728 620

trading as T3 DIRECT

Plaintiff

- and -

JOSEPH JOHN MCNICOL

Defendant

EXHIBIT

This is the exhibit referred to as "WM 16" referred to in the affidavit of Wayne Mansfield sworn on 20 day of September 2002.


A Commissioner for Affidavits

Mr A J Campbell
Chief Executive
Swan Christian Education Association
9 Sayer St
Midland WA 6056

COPY



Dear Mr Campbell

Re: Class C Internet Numbers – Swan Christian College

Recent pronouncements in the press concerning the 'theft' of the Class C set of Internet Addresses previously used by Swan Christian High School over the past few weeks has caused me some concern.

I have knowledge of a set of IP numbers used by Swan some seven years ago. It seems that these are the IP's in question and I believe that the reported events do not match my recollection. There seems that some confusion has arisen as to the sequence of events and whether Swan actually 'owned' the IP numbers.

You will recall that since my move to Corridors College I have had several conversations with staff at Swan Christian College as well as yourself in attempting to gain access to them for Corridors as they were no longer in use by Swan since they had moved to use the general dummy set, 192.168.1.1 (behind a firewall) following their move to Telstra ISDN. However, my requests were to no avail.

Background

In late 1995 Karl Videmanis, IT Coordinator at the time and I wanted Swan to join the internet community.

Our strategy was to approach a local ISP, T-Net, for a connection which allowed for multiple dial ups into the school as we wanted staff to access the internet from home. To achieve this we required an internet address for each dial in line, web servers, router, internal email address etc. Hence, a set of addresses were thought advantageous.

Gaining use of IP addresses was some what different then. Educational institutions and Associations could have access to their own Class C set of 255 unique IP numbers for free.

To facilitate the acquisition process we were given access to a set of numbers from T-Net which we registered against Swan Christian High School with INFERRNIC so that all the DNS look ups would point to our web server which we hosted in the school and to route all our internet traffic to our email server also hosted within the school.

Throughout all of this I don't believe that Swan Christian High School ever became the 'owners' or 'administrators' of the IP set of numbers - rather they

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were on loan from T-Net and assigned and registered to Swan for DNS routing purposes only.

Swans ISP changed from T-Net to OIS to Saturn over the next few years but our IP range remained constant. This was due to Michael Slater being the technical consultant to each of these ISPs and the registered administrator of the Ip numbers and hence 'owner' of them.

Further investigation has revealed that Saturn became TriNet then T3 and again Michael has had formal association with each of those organizations.

Use by Swan of this IP set ceased when it moved to Telstra ISDN where a new set was issued by that provider and the old set reverted back into Michael Slater's pool of addresses.

Summary

It seems somewhat unfortunate that this process was not more fully documented overtime and more widely available to you and new members of the IT staff at Swan. Hind site can give such wonderful clarity to historical events.

I apologise for any misunderstanding and resulting embarrassment that this may have caused to you, other Swan staff and the reputation of the Association on one hand and to Michael Slater, Wayne Mansfield and their respective entities on the other.

My goal in this process is to see damaged relationships restored between people and that the professional and personal support of Michael Slater to Swan Christian High School in the early internet years be affirmed.

Please feel free to contact me with any query that you may have.

Warmest regards



Terry Parsons
Principal
27 June 2002
cc Wayne Mansfield
cc Michael Slater
cc Karl Videmanis

COPY

10-08 '02 MON 11:26 FAX 61 6 9274 8998

SCBA

001

Swan Christian Education Association Inc

9 Syde Street, Mitchell WA 6050
PO Box 254, Mitchell WA 6056
Tel: (08) 9274 6611
Fax: (08) 9274 6899

IP Addresses


In the mid 1990s the Swan Christian Education Association obtained, for no cost, a Class C Set of 255 unique IP numbers.

In the period since then the Association has not used the numbers and they became surplus to our requirements when we moved to Telstra a few years ago.

It has been alleged that these IP addresses have been used in the past year by a Perth company to send SPAM emails and this has led to a dispute which is due to go before the court.

In the process of trying to identify ownership of the IP addresses the Association has found that it has no evidence of transfer of the IP numbers to any other party.

My investigations make clear that due to changes in our personnel it is not possible to state categorically what understanding or arrangements we entered into in the past. We therefore make no claims about what has happened and also make clear that we have no interest in or relationship with either party in dispute. Current ownership of the IP numbers is of no interest to us.



Alan J Campbell
Chief Executive

July 2002

IN THE DISTRICT COURT)
OF WESTERN AUSTRALIA)
HELD AT PERTH)

No. 1317 of 2002

BETWEEN:

THE WHICH COMPANY PTY LTD

ACN 091 728 620

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Plaintiff

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A Commissioner for Affidavits