

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED
2007 DEC -5 AM 8:41
CITY OF AUSTIN, TEXAS
BY _____

STATE OF TEXAS,

Plaintiff,

vs.

THE DOLL PALACE CORPORATION,
AND ALEX SYROV, INDIVIDUALLY AND
D/B/A "THE DOLL PALACE.COM,"

Defendants.

§
§
§
§
§
§
§
§
§
§

Civil Action No. A07CA 988SS

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Plaintiff, the STATE OF TEXAS, acting by and through the Attorney General of Texas, GREG ABBOTT, files this Original Complaint against Defendants The Doll Palace Corporation and Alex Syrov Individually and d/b/a "thedollpalace.com," (collectively "Defendants") and for causes of action would respectfully show the Court as follows:

JURISDICTION AND VENUE

1. This action is brought by Attorney General Greg Abbott, through his Consumer Protection & Public Health Division, in the name of the STATE OF TEXAS and in the public interest pursuant to the Children's Online Privacy Protection Act of 1998 ("COPPA"), 15 U.S.C. §§ 6501-6506, and the Children's Online Privacy Protection Rule, 16 C.F.R. Part 312 ("the Rule").
2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b) and 56(a). This action arises under 15

U.S.C. §§ 45(a)(1) and 6502(c).

3. Venue of this suit lies in the Western District of Texas, Austin Division, pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to the claims alleged herein occurred within the Western District of Texas, as more specifically described below.

PUBLIC INTEREST

4. Courts have long recognized that consumers have a right to privacy. Specifically, this right provides consumers the option to keep their personal information private, because allowing the unauthorized collection and distribution of personal information not only intrudes on a person's desire to be left alone, but also subjects the person to increased security risks and a greater risk of identity theft, one of the fastest growing crimes in the United States. Because of technological advancements that allow web site operators and others to secretly collect almost unlimited information about visitors, online privacy protections are particularly important. Moreover, because children rarely comprehend the importance of privacy and the risks that disclosure of their personal information may expose them to (e.g. sexual predators, targeted behavioral advertising), it is essential that parents be involved in their children's decision about what information is appropriate to share.
5. In 1998, in order to help protect the safety and privacy interests of children, Congress enacted COPPA, which generally prohibits the unauthorized or unnecessary collection of children's personal information by Internet Web site operators.
6. In this cause, Plaintiff alleges that Defendants are causing harm to the safety and privacy of

¹See, e.g., Protection of Children's Privacy on the World Wide Web, 1998: Hearings on S. 2326 Before the Subcomm. on Communications of the Senate Comm. on Commerce, Science & Transportation, 105th Cong., 2nd Reg. Sess. (1998) (statement of Robert Pitofsky, Chairman of the Federal Trade Commission).

children online, and as such Plaintiff has reason to believe that an interest of the residents of Texas has been or is threatened or adversely affected by Defendants' practices as alleged herein. Plaintiff further has reason to believe that Defendants have engaged in and will continue to engage in a pattern or practice of unlawful practices as set forth below. Therefore, this action is in the public interest.

ACTS OF AGENTS

7. Whenever it is alleged in this petition that the Defendants did any act, it is meant that Defendants performed or participated in the act, or that Defendants' officers, agents, representatives, or employees performed or participated in the act on behalf of and under the authority of Defendants.

DEFENDANTS

8. Defendant The Doll Palace Corporation is a foreign business corporation incorporated in New York engaging in trade and commerce in Texas, however, it has not registered to do business in Texas, it does not maintain a regular place of business in Texas, nor has it designated an agent for service of process in Texas. This suit arises out of Defendant's business in this state as more specifically described below. Pursuant to FED. R. CIV. P. 4(e) and (h) and TEX. CIV. PRAC. & REM. CODE § 17.044, Defendant can be served by certified mail, return receipt requested, directed to Defendant through the Texas Secretary of State as an agent for service of process at Defendant's home office at the following address: 48 Bergen Beach Place, Brooklyn, New York 11230.
9. Defendant Alex Syrov is an individual engaging in trade and commerce in Texas who can be served at his home, 1856 East 13th Street, Apartment 2B, Brooklyn, New York 11229.

Defendant Syrov is the sole officer and member of The Doll Palace Corporation since its creation in 2003, and directly did business as The Doll Palace prior to that time.

STATEMENT OF FACTS

Defendants' Website and Privacy Implications

10. Defendants operate a commercial Web site called "The Doll Palace," (thedollpalace.com), which is directed to and appeals to children. This Web site, which is described by Defendants as "where cartoon dolls live," allows children to create and play with web-based dolls. For example, children can use the dolls they create by dressing them, and through the children, interacting with other dolls in Internet "chat" rooms. Children can also search for other users through a "friends" section.
11. To use the basic features of The Doll Palace, including the chat and "friends" functions, Defendants require potential members to register by providing personal information including: first and last name, electronic mail ("e-mail") address, date of birth, state, zip code, country, and gender.
12. To use the "friends" feature of The Doll Palace, Defendants require registered members to provide additional personal information in the form of a "profile." The "profile" consists of ten pages of questions including detailed personal information (height, weight, eye color, etc.), details about personal habits, and access to the Internet (including whether or not the user has their own computer or has to access the Internet in a public location). The user is further asked extensive questions about the type of person they are interested in meeting (e.g. "Age Importance," including the option: "I would like to meet someone older than myself").
13. The "friends" section allows members to search for other Doll Palace members and allows

the member/searcher to specify the characteristics of the “friends” they are interested in - including age ranges, gender, and those “within 5 miles” from your location. Prominently displayed in the search results provided to the member/searcher are links to the new “friend’s” profile, including contact information (e-mail address and instant message identifiers), age and location of the friend, as well as some, but not all, of the information from the friend’s ten page questionnaire described above. *See Exhibit 1.* Many of the users identified through this process are under the age of thirteen, and many of them are located in Texas, including Austin, Texas.

14. Doll Palace members are invited to participate in traditional “chat” rooms, and also in “avatar chats” - in which users can assign particular dolls to their screen name, and engage in an interactive animated chat. As part of the chat, users can easily access the personal information of other users, including age and location of the users, and can access multiple dolls which they created on the Doll Palace - including sexually explicit dolls.
15. The Doll Palace also offers “forums,” which are a series of message boards on which members can post comments to certain threads. As part of forum participation, members can create a profile (separate from the “friends” profile described above) - which includes the member’s hobbies, interests, favorite music and movies, location, date of birth, and various instant message identifiers. *See Exhibit 2.* Users can also join clubs or other groups, including some specifically directed towards Texans.
16. Defendants promote and encourage participation in these social networking and chat room activities. For example, the Doll Palace promotes and offers “Doll Points” to its members. Doll Points are a type of online currency, specific to the Doll Palace, which are used to

purchase a variety of dolls or accessories. Members are encouraged to earn points through “playing games, making dolls, [and] participating in many other site activities,” such as creating a profile as described above. Doll Points are also awarded for referrals, encouraging members to recruit their friends to join the Doll Palace.

17. As described above, Defendants’ Web site welcomes children under the age of 13 and allows them to register for membership. Moreover, many users are clearly identified as under the age of thirteen. The privacy implications and danger posed by this site, especially for users under the age of 13, are self-evident.
18. Ironically, in an August, 2007 article Defendant Syrov was quoted as warning parents to monitor the activity of their children on doll sites, and further described how the Doll Palace requires parental permission, keeps names and email addresses private, and moderates forums.² In truth and in fact, Defendant Syrov’s site fails to properly obtain parental consent before collecting a child’s personal information, does not keep personal identifying information private, and in general raises the very concerns about which he has warned the public.

Defendants’ Failure to Obtain Parental Consent

19. As described above, Defendants require Doll Palace users to register by providing personal information. During the registration process, if the potential member states that she is under the age of thirteen, she is met with the message: “You need a parent’s permission to continue. Is a parent with you right now?” *See Exhibit 3*. If the child then selects “Yes,” she is directed to a “permission” page merely requiring her to click “OK” to complete

² See <http://www.dailycamera.com/news/2007/aug/03/mini-me/>

registration. The permission page fails to provide any specific information regarding the type of information collected, does not provide contact information for the Doll Palace, and does not give parents any option to later review and revoke their consent. *See Exhibit 4.*

20. The ease in which a child can circumvent the “parental” consent requirements is clear - the directed question and lack of detailed information suggest to a child the way in which she can falsify consent. Once the user simply clicks “OK,” the account is registered and activated. No attempt is made to verify parental consent.
21. If the user selects “No” to the question “Is a parent with you right now?” then she is prompted to submit her parent’s e-mail address for activation. The child can input any e-mail address, including the same one she provided as her own during the initial registration page. Defendants then send an e-mail, which includes an activation link that takes the user to a web page with the same information as if the child had answered “yes.” Again, the user must merely click “OK” to complete registration. No attempt is made to verify parental consent. *See Exhibit 5.*
22. Once a potential participant has successfully completed the registration process, Defendants continue to gather personal information by offering the new member a way to obtain “free” stickers. Defendants instruct the member in great detail how to send a self-addressed stamped envelope to a public mailbox in New York in exchange for free doll stickers. *See Exhibit 6.* Despite the promise of free stickers, Defendants fail to send the stickers in response to the offer.
23. Defendants both fail to gain parental consent *before* the collection of a child’s personal information and to obtain verifiable parental consent. The consent process can easily be

circumvented, and fails to follow the processes required by COPPA and the Rule. Moreover, Defendants fail to properly disclose information practices as required by COPPA, including what specific information has already been collected from the child, what information will be collected from the child, or the intended uses of such information.

Defendants' Privacy Policy

24. During the registration process, potential users are asked to agree to the Doll Palace's "Terms of Use and Notices," which are cumbersome to review because they are displayed in a text box that reveals only six lines of text at a time. *See Exhibit 7.* In smaller text beneath this text box is a link to the Doll Palace's "privacy statement." A similar link appears on Defendants' home Web page. The link is neither clearly labeled nor placed in a clear and prominent location. Rather, the link is in the same font style and size as other links found at the bottom of the screen. *See Exhibit 8.*
25. The Doll Palace's privacy statement fails to disclose all information required by COPPA and the Rule regarding Defendants' collection and use of personal information. *See Exhibit 9.* Specifically, the privacy policy:
 - a. Fails to clearly state the type of information collected from users and whether it is collected actively or passively and how that information is used.
 - b. Fails to disclose that The Doll Palace may not collect more personal information than is reasonably necessary as a condition to a child's participation in any of the online activities.
 - c. Fails to mention parental consent or how parents can review or request to delete their child's personal information, or prevent future collection of such information.

- d. Fails to publish the website operator's contact information, including a name, address, e-mail address, and phone number.

COPPA and the Rule require each of the above to be disclosed in the privacy statement.

VIOLATIONS OF THE CHILDREN'S ONLINE PRIVACY PROTECTION ACT

- 26. Plaintiff re-alleges paragraphs one through twenty-five in this Complaint and incorporates them here as if set forth in full. In numerous instances, including the acts and practices described above, Defendants have collected personal information from children in violation of COPPA and the Rule, including:
 - a. Failing to provide sufficient notice on the website of what information it collects online from children, how it uses such information, its disclosure practices, and all other required content, in violation of 16 C.F.R. § 312.4(b) and 15 USC § 6502;
 - b. Failing to provide notice to parents of what information it collects online from children, how it uses such information, its disclosure practices, and all other required content, in violation of 16 C.F.R. § 312.4(c) and 15 USC § 6502;
 - c. Failing to obtain verifiable parental consent before any collection, use, and/or disclosure of personal information from children, in violation of 16 C.F.R. § 312.5 and 15 USC § 6502; and,
 - d. Conditioning children's participation in an activity on their disclosing more personal information than is reasonably necessary to participate in such activity, in violation of 16 C.F.R. § 312.7 and 15 USC § 6502.

PRAYER

- 27. Because Defendants have engaged in the acts and practices described above, Defendants

have violated the law as alleged in this Complaint and, unless restrained by this Honorable Court, Defendants will continue to violate the laws of the UNITED STATES OF AMERICA and the STATE OF TEXAS.

28. WHEREFORE, Plaintiff requests this Court, pursuant to 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b) and 57b, and the Court's own equitable powers to:
- a. Award Plaintiff such preliminary and ancillary relief as may be necessary to prevent the likelihood of consumer injury during the pendency of this action, and
 - b. Permanently enjoin the Defendants from continuing to violate COPPA and the Rule, specifically by enjoining Defendants, their employees, agents, officers, successors, and assigns from:
 - i. Failing to comply with proper collection, use, or disclosure practices required by the Rule and COPPA;
 - ii. Failing to make all necessary disclosures in its privacy policy as required by the Rule and COPPA;
 - iii. Failing to obtain verifiable parental consent before collecting personal information from children;
 - iv. Failing to properly notify parents of its collection, use, and disclosure practices of personal information relating to children and of their rights to access such information;
 - v. Failing to obtain verifiable parental consent of its collection, use, and disclosure of personal information relating to children;
 - vi. Failing to provide a means for parents to review the personal information

collected from their children and the ability to refuse to permit its further use or maintenance;

vii. Conditioning children's participation in an activity upon children disclosing more personal information than is reasonably necessary to participate in that activity; and

viii. Failing to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

29. Plaintiff further prays that this Court award damage, restitution, or other compensation on behalf of residents of the State pursuant to 15 USC § 6504.

30. The Plaintiff further prays that the Court grant all other relief to which the Plaintiff may show itself entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

JEFF L. ROSE
Deputy First Assistant Attorney General

PAUL D. CARMONA
Chief, Consumer Protection and Public Health

A handwritten signature in black ink, appearing to read "Paul Singer", written over a horizontal line.

PAUL SINGER
C. BRAD SCHUELKE
Assistant Attorneys General
Consumer Protection and Public Health
State Bar No. 24033197
State Bar No. 24008000
P. O. Box 12548
Austin, Texas 78711
(512) 463-2185 (Telephone)
(512) 473-8301 (Facsimile)