

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MICROSYSTEMS SOFTWARE, INC., a Massachusetts corporation,
and MATTEL, INC., a Delaware corporation,

Plaintiffs,

vs.

SCANDINAVIA ONLINE AB, a Swedish corporation; ISLANDNET.COM, a Canadian
corporation; EDDY L. O. JANSSON, a Swedish citizen; and MATTHEW SKALA, a Canadian
citizen,

Defendants.

VERIFIED COMPLAINT

INTRODUCTION

Plaintiffs Microsystems Software, Inc. and Mattel, Inc. (together, "Microsystems") develop, market, and license the "Cyber Patrol" software program, which is designed to filter out certain designated material on the Internet. Defendants Eddy L. O. Jansson and Matthew Skala ("Jansson and Skala") willfully and knowingly violated the copyright laws (17 U.S.C. §101 et. seq.) and wrongfully converted Cyber Patrol, by reverse engineering the software, developing source code and binaries to bypass its protections and then posting that bypass information on the Internet in downloadable form. Jansson and Skala bragged about their unlawful conduct in a March 11, 2000 press release that they circulated widely on the Internet, including through web sites in Massachusetts and elsewhere in the United States. Defendants Scandinavia Online AB ("Scandinavia Online") and Islandnet.Com ("Islandnet") host Jansson's and Skala's Web sites that contain links to download the illegally-created source code and binaries.

Microsystems seeks in this action, among other things, immediate injunctive relief ordering defendants to take down Jansson's and Skala's Web-site links posting the Cyber Patrol bypass source code and binaries, and to enjoin defendants from further disseminating such information. The need for injunctive relief is critical: (1) Microsystems will prevail on the merits of their copyright and other claims; (2) without injunctive relief, Microsystems will continue to suffer irreparable harm; and (3) no public interest is served by defendants' continued distribution of illegally-produced source code and binaries to bypass Cyber Patrol, which program is designed to otherwise prevent sexually explicit or other inappropriate material from getting into the hands of children.

PARTIES

1. Plaintiff Microsystems Software, Inc. is a Massachusetts corporation with its principal place of business at 600 Worcester Road, Framingham, Massachusetts.

Microsystems is the developer and distributor of the Cyber Patrol software program, which is the most widely-used Internet filtering software. America Online uses Microsystems' technology for its parental controls and hundreds of thousands of families have purchased Cyber Patrol software to help protect children from Web sites such as those that advocate violence or hate, or post sexually explicit content meant for adults.

2. Plaintiff Mattel, Inc. is a Delaware corporation with its world headquarters and principal place of business in El Segundo, California. Mattel owns Microsystems.

3. Defendant Eddy L. O. Jansson is an individual who, upon information and belief, resides in Sweden.

4. Defendant Matthew Skala is an individual who, upon information and belief, resides in British Columbia, Canada.

5. Defendant Scandinavia Online AB is, upon information and belief, a Swedish company. Scandinavia Online's own Web site identifies its mailing address as Box 1388, S-111 93 Stockholm, Sweden. Scandinavia Online hosts Jansson's Web site.

6. Defendant Islandnet.Com is, upon information and belief, a Canadian company. Islandnet's own Web site identifies a mailing address of 1412 Quadra Street, Victoria, British Columbia V8V 2L1, Canada. Islandnet hosts Skala's Web site.

JURISDICTION 7. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331. This Court also has jurisdiction over this case under 28 U.S.C. §§ 1332 in that there is diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.

FACTS

8. Microsystems develops, markets and licenses Cyber Patrol software, which is designed to filter sexually explicit or other materials not appropriate for children (e.g. material advocating drugs, violence, bombmaking, cults, etc.) posted on the World Wide Web. Microsystems holds registered copyrights in the Cyber Patrol software program.

9. The Cyber Patrol license agreement expressly prohibits reverse engineering or decompiling the software:

This is a legal agreement between you (either as an individual or an entity) and Mattel, Inc. **BY INSTALLING OR USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, AND YOU ARE THE ORIGINAL PURCHASER OF THE SOFTWARE, PROMPTLY UNINSTALL THE SOFTWARE FROM YOUR HARD DRIVE OR RETURN THE SOFTWARE (INCLUDING PRINTED MATERIALS) TO THE PLACE WHERE YOU PURCHASED IT FOR A FULL REFUND.**

COPYRIGHT. All intellectual property rights in the Software (including all animations, audio, images, maps, music, photographs, video, and text incorporated into the Software) are owned by Mattel, Inc. and its affiliates, suppliers, and licensors, and are protected by United States copyright laws and international treaty provisions . . . You may not reverse engineer, decompile, or disassemble the Software, except to the extent that this restriction is expressly prohibited by applicable law.

(emphasis added).

10. Jansson and Skala obtained a copy of Cyber Patrol software either by piracy or under the Cyber Patrol license agreement.

11. Piracy of the Cyber Patrol software by use of an unlicensed copy violates copyright law.

12. Even if Jansson and Skala lawfully obtained a copy of Cyber Patrol, they admit that they then reverse engineered the software, which is expressly prohibited by the Cyber Patrol license agreement.

13. Such reverse engineering violates copyright law.

14. Thereafter, again by their own admission, Jansson and Skala used the information they obtained by reverse engineering the Cyber Patrol software to develop source code and binaries that enable a user to bypass the protections built into the Cyber Patrol software program (the "Bypass Code").

15. Jansson and Skala then posted links on their respective Web sites to enable Internet users to download the Bypass Code.

16. On March 11, 2000, Jansson and Skala issued a press release bragging that they had reverse engineered the Cyber Patrol software and announcing that they had posted Bypass Code on Jansson's Web site. Skala's Web site posted links to Jansson's Web site. In their press release, Jansson and Skala expressly admitted to reverse engineering the Cyber Patrol software:

CyberPatrol(R)4, a "censorware" product intended to prevent users from accessing undesirable Internet content has been reverse engineered by youth rights activists Eddy L. O. Jansson and Matthew Skala. . . . A detailed report of their findings, titled, "The Breaking of Cyber Patrol(R)4", with commentary on the reverse engineering process and cryptographic attacks against the product's authentication system, has been posted on the World Wide Web . . . A package of source code and binaries implementing the attacks is included.

(A redacted copy of the press release is attached as Exhibit A)1.

17. Jansson and Skala then forwarded their press release via E-mail to individuals and organizations throughout the United States and the world, including web-hosting services in Acton, Massachusetts, Minnesota and Washington.

18. The practical effect of Jansson's and Skala's conduct is that, through links posted on Jansson's and Skala's Web sites, children may obtain the Bypass Code and thereby defeat parents' efforts to screen inappropriate material.

19. From a commercial perspective, Microsystems has suffered and continues to suffer immediate and irreparable harm through the violation of its copyrights as well as the distribution of the illegally-created Bypass Code designed to render the Cyber Patrol software program worthless.

COUNT I

(Copyright Infringement against Jansson and Skala)

20. Microsystems repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1-19 above.

21. Jansson's and Skala's reverse engineering of the Cyber Patrol software program constitutes knowing, intentional and deliberate violation of Microsystems' copyrights.

22. As a result, Microsystems has suffered and continues to suffer damages and irreparable injury.

COUNT II

(Copyright Infringement Against Islandnet and Scandinavia Online)

23. Microsystems repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1-22 above.

24. Islandnet's and Scandinavia Online's posting of material obtained and created in violation of Microsystems' copyrights also violates Microsystems' copyrights.

25. As a result, Microsystems has suffered and continues to suffer damages and irreparable injury.

COUNT III

(Breach of Licensing Agreement against Jansson and Skala)

26. Microsystems repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1-25 above.

27. To the extent that Jansson and Skala properly obtained a copy of the Cyber Patrol software program, Jansson and Skala breached the express terms of the Cyber Patrol licensing agreement.

28. As a result, Microsystems has suffered and continues to suffer damages and irreparable injury.

COUNT IV

(Interference with Advantageous Business Relations against Jansson and Skala)

29. Microsystems repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1-29 above.

30. Defendants Jansson and Skala intentionally or recklessly interfered with Microsystems' relationships with third party users of Cyber Patrol.

31. As a result, Microsystems has suffered and continues to suffer damages and irreparable injury.

COUNT V

(Conversion against Jansson and Skala)

32. Microsystems repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1-31 above.

33. Defendants Jansson and Skala tortiously and unjustifiably converted Cyber Patrol for their own use.

34. As a result, Microsystems has suffered and continues to suffer damages and irreparable injury.

COUNT VI

(Theft of Trade Secrets against Skala and Jansson)

35. Microsystems repeats, realleges and incorporates by reference herein the allegations set forth in paragraphs 1-34 above.

36. The Cyber Patrol software program constitutes and contains proprietary and confidential trade secrets owned by Microsystems.

37. By reverse engineering the Cyber Patrol software program, Jansson and Skala stole such trade secrets and used them for their own use without Microsystems' permission.

38. As a result, Microsystems has suffered and continues to suffer damages and irreparable injury.

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a temporary restraining order, and preliminary and permanent injunctions ordering defendants, their employees, agents and assigns to take down the links posted on Jansson's and Skala's Web sites to the Cyber Patrol bypass source code and binaries, and to enjoin defendants from further disseminating such information.

B. Enter judgement in favor of Plaintiffs on Counts I-VI in an amount to be determined at trial.

C. Impose penalties for willful violation of the copyright laws.

D. Order such further relief as the Court deems just and proper.

PLAINTIFFS HEREBY REQUEST A JURY ON ALL ISSUES SO TRIABLE.

Microsystems Software, Inc.

and Mattel, Inc

By their attorneys,

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Dated: March 15, 2000

VERIFICATION

David McEvoy hereby states:

1. I am Vice President and Assistant General Counsel for Mattel, Inc. and Microsystems Software, Inc.

2. I have read the foregoing complaint, which I declare to be true and correct to the best of my knowledge, information and belief.

SWORN TO UNDER THE PAINS AND PENALTIES OF PERJURY UNDER THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS AND THE UNITED STATES.

Executed on March 15,2000 at El Segundo, California.

David McEvoy

1The offending web site address is redacted herein to prevent further irreparable harm, but will be provided in camera.