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November 26, 2008

Hon. Marilyn Hall Patel  
United States District Court  
Northern District of California  
450 Golden Gate Avenue  
San Francisco, CA 94102

**RE: U.S. Chess Federation v. Polgar, et. al., Case No. 3:08-CV-05126-MHP**

Dear Judge Patel:

This letter is a response to the letter filed by counsel for Defendant Susan Polgar ("Polgar") this morning. Plaintiffs submit to the Court that all, or substantially all, of the matters addressed in Polgar's letter could be resolved in a personal meeting between counsel, in accordance with Local Rules 1-5(n) and 37-1. However, Polgar's counsel has refused to meet and confer personally or even telephonically about these issues, despite multiple requests to do so by Plaintiffs.

As background, this is a serious case about the defendants gaining unauthorized access to the email account of a board member of Plaintiff, stealing data (including privileged information), and distributing that data to third parties. Plaintiff did not know the identities of the defendants when it filed its prompt action in state court. As a result, Plaintiffs obtained a discovery order permitting Plaintiffs to serve early discovery before data identifying defendants had been destroyed due to the varying document retention policies of the relevant ISPs. Thereafter, the state court issued another discovery order, validating Plaintiffs' subpoena and ordering the interim preservation of information.

After removal to federal court, these two discovery orders remain in full force and effect, pursuant to 28 USC §1450 ("All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court."). Due to concerns that data may be automatically destroyed, Plaintiffs did serve some additional subpoenas after removal, pursuant to this discovery order.

When Polgar's counsel objected to the subpoenas, Plaintiff twice offered to meet and confer about "all of the outstanding discovery issues before you [Polgar's counsel] go to the court." Counsel refused to meet and confer personally or telephonically about these issues, which likely could be resolved by counsel without the intervention of the Court. Polgar's counsel has cited a nebulous "impermissible conflict of interest" for not wanting to cooperate with Plaintiff's counsel.

For the foregoing reasons, Plaintiffs request that the Court order counsel for Plaintiffs and Polgar to meet and confer, in person, in accordance with Local Rules 1-5(n) and 37-1, to resolve the outstanding discovery disputes.

Respectfully submitted,

KRONENBERGER BURGOYNE, LLP

/s/ Karl S. Kronenberger

Karl S. Kronenberger