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ELECTRONIC FRONTIER FOUNDATION
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Counsel for JEREMY RUBIN D/B/A TIDBIT

JEREMY RUBIN D/B/A TIDBIT,)	SUPERIOR COURT OF NEW JERSEY
)	LAW DIVISION
Plaintiff,)	ESSEX COUNTY
)	DOCKET NO. _____
v.)	
)	CIVIL ACTION
STATE OF NEW JERSEY DIVISION)	
OF CONSUMER AFFAIRS,)	CERTIFICATION OF HANNI M.
)	FAKHOURY IN SUPPORT OF ORDER TO
Defendant.)	SHOW CAUSE SEEKING TO QUASH
)	SUBPOENA AND INTERROGATORIES
)	

1. I am an attorney licensed to practice in the State of California and a Staff Attorney with the Electronic Frontier Foundation. I have applied to appear *pro hac vice* as counsel for Plaintiff in this action.

2. I submit this certification to attest to the validity of certain documents attached to this Certification. The following facts are based on my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

3. Attached to this Certification as Exhibit A is a true copy of the subpoena and interrogatories issued to Plaintiff Jeremy Rubin d/b/a Tidbit on December 4, 2013.

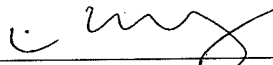
4. Attached to this Certification as Exhibit B is a true copy of the January 7, 2014 letter sent by myself as counsel to Mr. Rubin to Deputy Attorney General Glenn Graham.

5. Attached to this Certification as Exhibit C is a true copy of the January 9, 2014 letter sent by Mr. Graham to myself as counsel for Mr. Rubin.

6. Attached to this Certification as Exhibit D is a true copy of a January 9, 2014 email from Mr. Graham to myself as counsel for Mr. Rubin extending the subpoena compliance deadline to January 21, 2014.

7. I certify that the foregoing statement made by me are true. I understand that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: January 21, 2014

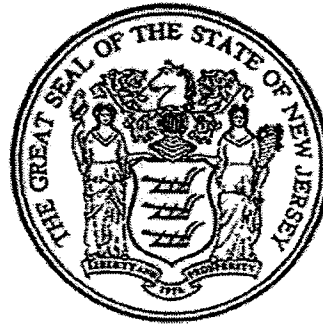


Hanni M. Fakhoury

EXHIBIT

A

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for New Jersey Division of Consumer Affairs



By: Glenn T. Graham
Deputy Attorney General
(973) 648-4846

ADMINISTRATIVE ACTION
SUBPOENA DUCES TECUM

THE STATE OF NEW JERSEY to: Jeremy Rubin d/b/a Tidbit
229 Commonwealth Avenue
Boston, Massachusetts 02116
AND
410 Memorial Drive
Cambridge, Massachusetts 02139

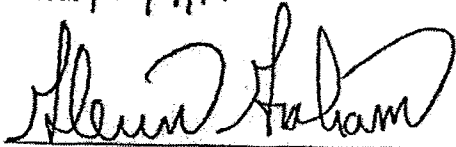
YOU ARE HEREBY COMMANDED to produce to the New Jersey Division of Consumer Affairs, Office of Consumer Protection ("Division") through Glenn T. Graham, Deputy Attorney General, Consumer Fraud Prosecution Section, at 124 Halsey Street, 5th Floor, Newark, New Jersey 07102, on or before December 20, 2013 at 10:00 a.m., the following:

See Attached Schedule

In lieu of your appearance, you may produce the documents and information identified in the attached Schedule on or before the return date at the address listed above by Certified Mail, Return Receipt Requested, addressed to the attention of Glenn T. Graham, Deputy Attorney General. You may, at your option and expense, provide certified, true copies in lieu of the original documents identified in the attached Schedule by completing and returning the Certification attached hereto.

This Subpoena is issued in connection with an official investigation conducted by the New Jersey Division of Consumer Affairs, Office of Consumer Protection. You have an obligation to retain, and continue to maintain the requested Documents. Failure to do so as well as to otherwise comply with this Subpoena may render you liable for contempt of Court and such other penalties as are provided by law.

Dated: 12/4/13



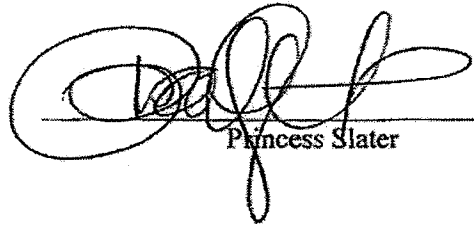
Glenn T. Graham
Deputy Attorney General

PROOF OF SERVICE

I, Princess Slater, being of full age, certify that on December 4th, at approximately 10:08 a.m., I caused to be served the within Interrogatories on Jeremy Rubin at 229 Commonwealth Avenue, Boston, Massachusetts 02116 and at 410 Memorial Drive, Cambridge, Massachusetts 02139, via Certified and Regular mail.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12-4-13



Princess Slater

SCHEDULE

INSTRUCTIONS AND DEFINITIONS

A. Instructions:

1. This Request is directed to Jeremy Rubin, individually and d/b/a Tidbit, as well as his owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, attorneys, corporations, subsidiaries, affiliates, successors, assigns or any other individual or entity acting or purporting to act on his behalf.

2. Unless otherwise specifically indicated, the period of time encompassed by this Request shall be from January 1, 2012, to the date of Your response to this Subpoena.

3. Unless otherwise specifically indicated, each and every Document produced shall be Bates-stamped or Bates-labeled.

4. If one or more Documents or any portions thereof requested herein are withheld under a claim of privilege or otherwise, identify each Document or portion thereof as to which the objection is made, together with the following information:

- a. Each author or maker of the Document;
- b. Each addressee or recipient of the Document or Person to whom its contents were disclosed or explained;
- c. The date thereof;
- d. The title or description of the general nature of the subject matter of the Document and the number of pages;
- e. The present location of the Document;
- f. Each Person who has possession, custody or control of the Document; and
- g. The basis on which the objection is made.

5. In the event that any Document which would have been responsive to this Request has been destroyed or discarded, identify that Document and also include:

- a. The date of the Document's destruction or discard;
- b. The reason for the destruction or discard; and

c. The Persons authorizing and/or carrying out such destruction or discard.

B. Definitions:

1. "Tidbit" and "Rubin" mean Jeremy Rubin, individually and d/b/a Tidbit, as well as his owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, attorneys, corporations, subsidiaries, affiliates, successors, assigns or any other individual or entity acting or purporting to act on his behalf.

2. "Any" includes "all" and vice versa.

3. "Access" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

4. "Bitcoin code" means the software code distributed and/ or developed by Tidbit that uses and/or causes users' computers to mine for bitcoins.

5. "Breach of security" means unauthorized access to electronic files, media or data that compromises the security, confidentiality or integrity of data when access to the data has not been secured by encryption or by any other method or technology that renders the data unreadable or unusable. Good faith acquisition of data by an employee or agent of Tidbit for a legitimate business purpose is not a breach of security, provided that the data is not used for a purpose unrelated to the business or subject to further unauthorized disclosure.

6. "Computer" shall be defined in accordance with N.J.S.A. 2A:38A-1.

7. "Concerning" means relating to pertaining to, referring to, describing, evidencing or constituting.

8. "Correspondence" means any Document intended to transmit information including letters, memoranda, electronic mail, faxes, "instant messages," "text messages," voice mail messages and notes.

9. "Document" includes all writings, correspondence, recordings, drawings, graphs, charts, photographs, phone records, compact discs, video cassettes, computer files, electronic/magnetic files of any type and any other data compilations from which information can be obtained and translated, if necessary, by use of detection devices into reasonably usable form.

10. "Include" and "Including" shall be construed as broadly as possible and shall mean "without limitation".

11. "New Jersey" and "State" shall refer to the State of New Jersey.

12. "Person[s]" means any natural person, individual, any business entity (whether partnership, corporation, limited liability company or corporation, trust, estate, incorporated or unincorporated association or cooperation), any governmental agency or entity and any other legal or commercial entity however organized.

13. "You" and "Your" mean Tidbit and Rubin.

14. "User" means any person who uses a computer or mobile device.

15. As used herein, the terms "all" and "each" shall be construed as all and each.

16. As used herein, the conjunctions "and" and "or" shall be interpreted conjunctively and shall not be interpreted disjunctively to exclude any information otherwise within the scope of this Request.

17. References to the singular include the plural and references to the plural include the singular.

DOCUMENT REQUESTS

1. All documents in support of your responses to Interrogatories.
2. All of your privacy policies and user agreements, past and present.
3. All documents and correspondence concerning all breaches of security and/or unauthorized access to computers by you.
4. All documents and correspondence concerning the Bitcoin code.
5. All codes, source codes, control logs, and installation logs concerning the Bitcoin code.
6. All documents, correspondence and agreements between you and any website publisher, affiliate, advertiser and/or any other third party concerning the Bitcoin code.
7. All documents concerning the Bitcoin accounts associated with the Bitcoin code, including account information and account statements for each website that contains the Bitcoin code.
8. All documents concerning the Bitcoin wallet addresses used and/or associated with the Bitcoin code.

9. All document concerning users of the Bitcoin code, including all agreements, correspondence and account information.

10. All documents concerning complaints filed against you through any governmental office, agency, sub-division, or the Better Business Bureau, and the resolution thereof, concerning the unauthorized access of computers and/ or the Bitcoin code.

11. All consumer and user complaints received by you concerning the Bitcoin code.

12. All documents concerning any lawsuits filed against you in any state or federal court, and the resolution thereof, concerning the unauthorized access of computers.

13. Any settlement documents, consent decrees, or consent judgments concerning your unauthorized access of computers.

14. All documents, correspondence and/or responses to any governmental inquiries.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street - 5th Floor
P.O. Box 45029
Newark, New Jersey 07101
Attorney for New Jersey Division of Consumer Affairs

By: Glenn T. Graham
Deputy Attorney General
973-648-4846

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC
SAFETY
DIVISION OF CONSUMER AFFAIRS

In the Matter of

Jeremy Rubin, individually
and d/b/a Tidbit

Administrative Action

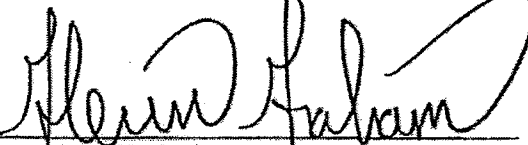
INTERROGATORIES

TO: Jeremy Rubin d/b/a Tidbit
229 Commonwealth Avenue
Boston, Massachusetts 02116
AND
410 Memorial Drive
Cambridge, Massachusetts 02139

PLEASE TAKE NOTICE THAT the New Jersey Division of Consumer Affairs, Office of Consumer Protection ("Division"), demands answers of Jeremy Rubin, individually and d/b/a Tidbit, to the following Interrogatories in the above-entitled investigation, pursuant to N.J.S.A. 56:8-3 and 56:8-4 of the New Jersey Consumer Fraud Act ("CFA") under oath or certification and on or before December 20, 2013.

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:



Glenn T. Graham
Deputy Attorney General

Dated: December 4, 2013
Newark, New Jersey

PROOF OF SERVICE

I, Princess Slater, being of full age, certify that on December 4th, at approximately 10:08 a.m., I caused to be served the within Interrogatories on Jeremy Rubin at 229 Commonwealth Avenue, Boston, Massachusetts 02116 and at 410 Memorial Drive, Cambridge, Massachusetts 02139, via Certified and Regular mail.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12-4-13


Princess Slater

INSTRUCTIONS AND DEFINITIONS

A. Instructions:

1. The Interrogatories are directed to Tidbit as well as its owners, officers, directors, shareholders, founders, agents, employees, representatives, attorneys, corporations, subsidiaries, affiliates, successors, assigns or any other person acting or purporting to act on its behalf.
2. Unless otherwise specifically indicated, the period of time encompassed by these Interrogatories shall be from January 1, 2012 up to and including the date of your answers.
3. Unless specifically indicated, each and every responsive document produced must be Bates-stamped, Bates-labeled or otherwise consecutively numbered and the person making the production shall identify the corresponding Interrogatory Number to which each document or group of documents responds.
4. Whenever in these Interrogatories you are asked to "Identify" or to provide an "Identity", you are requested:
 - a. When referring to a person, "Identify" or "Identity" means to give, to the extent known, the person's full name, present or last known address and telephone number, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
 - b. When referring to a document, "Identify" or "Identity" means to give, to the extent known, the: (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author[s], addressee[s] and recipient[s].
5. If information requested herein are withheld under a claim of privilege or otherwise, identify the Interrogatory as which the objection is made, and set forth with particularity the basis upon and the extent to which the information is being withheld.
6. To the extent you assert any objection to these Interrogatories, state with particularity the basis for the objection.

B. Definitions:

1. "Tidbit" and "Rubin" mean Jeremy Rubin, individually and d/b/a Tidbit, as well as his owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, attorneys, corporations, subsidiaries, affiliates, successors, assigns or any other individual or entity acting or purporting to act on his behalf.

2. "Any" includes "all" and vice versa.

3. "Access" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, or computer network.

4. "Bitcoin code" means the software code distributed and/ or developed by Tidbit that uses and/or causes users' computers to mine for bitcoins.

5. "Breach of security" means unauthorized access to electronic files, media or data that compromises the security, confidentiality or integrity of data when access to the data has not been secured by encryption or by any other method or technology that renders the data unreadable or unusable. Good faith acquisition of data by an employee or agent of Tidbit for a legitimate business purpose is not a breach of security, provided that the data is not used for a purpose unrelated to the business or subject to further unauthorized disclosure.

6. "Computer" shall be defined in accordance with N.J.S.A. 2A:38A-1.

7. "Concerning" means relating to pertaining to, referring to, describing, evidencing or constituting.

8. "Correspondence" means any Document intended to transmit information including letters, memoranda, electronic mail, faxes, "instant messages," "text messages," voice mail messages and notes.

9. "Document" includes all writings, correspondence, recordings, drawings, graphs, charts, photographs, phone records, compact discs, video cassettes, computer files, electronic/magnetic files of any type and any other data compilations from which information can be obtained and translated, if necessary, by use of detection devices into reasonably usable form.

10. "Include" and "Including" shall be construed as broadly as possible and shall mean "without limitation".

11. "New Jersey" and "State" shall refer to the State of New Jersey.

12. "Person[s]" means any natural person, individual, any business entity (whether partnership, corporation, limited liability company or corporation, trust, estate, incorporated or

unincorporated association or cooperation), any governmental agency or entity and any other legal or commercial entity however organized.

13. "You" and "Your" mean Tidbit and Rubin.

14. "User" means any person who uses a computer or mobile device.

15. As used herein, the terms "all" and "each" shall be construed as all and each.

16. As used herein, the conjunctions "and" and "or" shall be interpreted conjunctively and shall not be interpreted disjunctively to exclude any information otherwise within the scope of this Request. References to the singular include the plural and references to the plural include the singular.

INTERROGATORIES

1. Identify all person[s] (other than attorneys) with whom the person[s] executing the Certification accompanying these Interrogatory answers consulted in the preparation of such answers. As to each identified person[s], identify the Interrogatory for which that person[s] furnished information.

2. State the full name of Tidbit (including corporate name and d/b/a's), as well as its address, telephone number, date and state of incorporation (or organization).

3. Describe Tidbit's corporate structure and state the names of all parents, subsidiaries, divisions, affiliates, branches, joint ventures, franchises, operations under assumed names, websites, and entities over which it exercises supervision or control. For each such entity, describe its function or business purpose, and the nature of its relationship to Tidbit.

4. Identify all officers, directors, principals and owners of Tidbit, and all shareholders with a 5% or more ownership of Tidbit, stating each shareholder's percentage of ownership.

5. Identify your total number of employees and state your total annual revenue.

6. Describe the services and products offered by you.

7. Identify all customers of Tidbit and the services or products they purchased from you. Attach a copy of all contracts and/or agreements.

8. Describe the method, manner, and process in which the Bitcoin code was developed and deployed.

9. Describe the method, manner and process your customers use the Bitcoin code, including the benefit(s) of the Bitcoin code to customers.

10. Describe the benefit(s) of the Bitcoin code to users.

11. Describe the benefit(s) you receive from having customers and/or websites utilize the Bitcoin code, including transaction fees and newly minted bitcoins.

12. Identify the person(s) who developed the Bitcoin code and produce all versions of the code.

13. Provide contact information, including full name, address, e-mail address, and telephone numbers for the following individuals and/or handles:
 - (a) Oliver Song;
 - (b) Carolyn Z;
 - (c) Kcking;
 - (d) Rubin; and
 - (e) any other person(s) associated with Tidbit and/or the Bitcoin code.

14. How many websites utilized and/or were affected by the Bitcoin code? Identify all websites by URL and provide copies of all contracts and/ or agreements with all website providers.

15. Identify all persons whose computers were caused to mine for Bitcoins through the Bitcoin code, including:
 - (a) First and last name;
 - (b) IP address; and
 - (c) Contact information.

16. Identify all Bitcoin wallet addresses associated with the Bitcoin code. For each Bitcoin account, further identify all account information, including: (a) first and last name; (b) username, alias or shortlink; (c) e-mail address; and (d) account identifier. Produce all documents in support of your response to this interrogatory.

17. Identify all website publishers, advertisers, affiliates and/or other third-parties with whom you have a contractual relationship. Attach a copy of all contracts.

18. Does Tidbit review the privacy policies of websites utilizing the Bitcoin code? If so, describe the process and produce all documents and correspondence in support of your response to this Interrogatory.

19. Does Tidbit conduct quality control, compliance and/or other reviews prior to permitting customers and/or websites from utilizing the Bitcoin code? If so, describe the process for all reviews and produce all documents and correspondence in support of your response to this Interrogatory.

20. Identify all instances where Tidbit, its employees and/or websites utilizing the Bitcoin code accessed consumer computers without express written authorization or accessed consumer computers beyond what was authorized. For each instance:
 - (a) Describe the nature and purpose of the access; and
 - (b) Identify the source of the unauthorized access.

21. Set forth and attach a copy of all your past and present privacy policies.

22. Set forth and attach a copy of all your past and present data retention policies.

23. Set forth and attach a copy of all your past and present record destruction policies.

24. Set forth and attach a copy of all your past and present data collection policies.

25. Set forth and attach a copy of your past and present breach of security policies.

26. What disclosures did Tidbit provide website publishers and/or Bitcoin code users concerning Bitcoin mining?

27. Identify any state or federal inquiries or investigations, of which you are aware, concerning Tidbit. Attach a copy of all documents and correspondence in support of your answer to this Interrogatory.

CERTIFICATION

I hereby certify that the statements made by me in the foregoing answers to Interrogatories are true and correct to the best of my knowledge, information and belief.

I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment for contempt of Court.

Signature

Dated: _____

Name printed

EXHIBIT

B



ELECTRONIC FRONTIER FOUNDATION
Protecting Rights and Promoting Freedom on the Electronic Frontier

January 7, 2014

VIA OVERNIGHT DELIVERY

Glenn T. Graham
Deputy Attorney General
Consumer Fraud Prosecution Section
124 Halsey Street, 5th Floor
Newark, New Jersey 07102

RE: In re: Jeremy Rubin, individually and d/b/a/ Tidbit

Dear Mr. Graham,

The Electronic Frontier Foundation ("EFF") represents Mr. Rubin and Tidbit in connection with the December 4, 2013 *subpoena duces tecum* and interrogatories you issued requesting information about Tidbit. Thank you for extending the time for Tidbit to produce the requested records. While we are hopeful we can resolve this matter, there is an initial concern we'd like to bring to your attention.

As you know, the Dormant Commerce Clause prohibits New Jersey from using state law to regulate interstate commercial activity, regardless of whether the state legislature intended the extraterritorial reach. *Healy v. Beer Institute, Inc.*, 491 U.S. 324, 336 (1989). Indeed, numerous courts have struck down state laws that purport to restrict Internet activity occurring in other states. *See, e.g., PSINet, Inc. v. Chapman*, 362 F.3d 227, 240-41 (4th Cir. 2004); *American Booksellers Foundation v. Dean*, 342 F.3d 96, 104 (2d Cir. 2003); *ACLU v. Johnson*, 194 F.3d 1149, 1161-63 (10th Cir. 1999).

Tidbit and its developers have no connection to New Jersey at all. All of Tidbit's developers, including Mr. Rubin, are MIT students who reside in Massachusetts. Tidbit's servers are not physically located in New Jersey. Tidbit is aware of recent settlements your office has reached with out-of-state Internet companies E-Sports Entertainment and PulsePoint for conduct impacting New Jersey residents. But unlike E-Sports, Tidbit did not take control of over 140,000 computers in New Jersey to mine for bitcoins.¹ And unlike PulsePoint, Tidbit did not place 215 million targeted ads on web browsers used by New Jersey consumers.²

That's because Tidbit's code has never been functional and is incapable of mining for bitcoins.

¹ *Acting Attorney General Announces \$1 Million Settlement Resolving Consumer Fraud, Unlawful Access Claims Against Online Gaming Company*, November 19, 2013, <http://nj.gov/oag/newsreleases13/pr20131119a.html>.

² *New Jersey Division of Consumer Affairs Obtains Million-Dollar Settlement With Online Advertising Company Accused of Overriding Consumers' Privacy Settings Without Consent*, July 25, 2013, <http://nj.gov/oag/newsreleases13/pr20130725a.html>.

815 Eddy Street • San Francisco, CA 94109 USA

voice +1 415 436 9333 x117 fax +1 415 436 9993 web www.eff.org email hanni@eff.org

Tidbit was developed for the 2013 Node Knockout hackathon. At its core, Tidbit allows users to mine for bitcoins using the computing power of a client's computer. It was envisioned as a replacement for advertising.

But Tidbit was presented as a proof of concept, with its developers clearly stating on the Node Knockout website that "Tidbit isn't fully ready for production use, but 98% of the infrastructure is in place. We believe this is a very strong proof of concept for the idea."³ The lack of functionality was not an accident; Tidbit wanted time to not only refine the code but also come up with terms of service. This would be important because even Mr. Rubin himself understood that in order for Tidbit to be used online, there would need to be a mechanism for users to opt-in to the service.⁴


Since the code was never functional, it cannot and has not been used to mine for bitcoins. Tidbit has already publicly explained that "[w]e have left out the final interaction with P2Pool while we put together a Terms and Conditions, so we currently do not receive any Bitcoins."⁵

Tidbit certainly appreciates New Jersey's concern that citizens in the Garden State would, without their knowledge or control, have their computers compromised. But Tidbit has not engaged in any illicit behavior comparable to E-Sports or PulsePoint. And in any event, Tidbit's code is not functional and unable to mine for bitcoins at all.

In sum, while Tidbit doubts New Jersey's ability to use state law to regulate interstate online commercial activity, even if it could regulate Tidbit, since its code is not functional and no bitcoins have been mined, it appears there is no need to respond to the subpoena or the interrogatories. We believe that this letter resolves the matter.

Should you have any questions or concerns, please don't hesitate to call, email or write.

Sincerely,



Hanni M. Fakhoury, Esq.
Staff Attorney

Nathan D. Cardozo, Esq.
Staff Attorney

³ <http://nodeknockout.com/teams/shoop-team>.

⁴ <https://news.ycombinator.com/item?id=6714396>.

⁵ <http://nodeknockout.com/teams/shoop-team>.

EXHIBIT

C



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
PO Box 45029
Newark, NJ 07101

JOHN J. HOFFMAN
Acting Attorney General

CHRISTOPHER S. PORRINO
Director

January 9, 2014

VIA E-MAIL (hanni@eff.org)

Hanni M. Fakhoury, Esq.
Electronic Frontier Foundation
815 Eddy Street
San Francisco, California 94109

Re: In the Matter of Jeremy Rubin, individually and d/b/a Tidbit

Dear Mr. Fakhoury:

I am in receipt of your letter, dated January 7, 2014, and sent on behalf of Jeremy Rubin, individually and d/b/a Tidbit ("Tidbit"). Please be advised that the Subpoena Duces Tecum and Interrogatories served on Tidbit were issued by the State of New Jersey Division of Consumer Affairs on behalf of the Acting Attorney General of New Jersey ("Attorney General") to determine whether Tidbit engaged in conduct in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA").

The CFA describes the investigative powers and duties of the Attorney General:

When it shall appear to the Attorney General that a person has engaged in, is engaging in, or about to engage in any practice declared to be unlawful by this act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

(a) Require such person to file on such forms as are prescribed a statement or report in writing under oath or otherwise, as to all the facts and circumstances concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;

.....



(c) Examine any merchandise or sample thereof, record, book, document, account or paper as he may deem necessary.

[N.J.S.A. 56:8-3(a), (c).]

Additionally, N.J.S.A. 56:8-4 expressly states that:

To accomplish the objectives and to carry out the duties prescribed by [the CFA], the Attorney General, in addition to other powers conferred upon by [the CFA], may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, promulgate such rules and regulations, and prescribe such forms as may be necessary, which shall have the force of law.

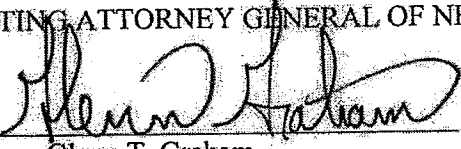
[N.J.S.A. 56:8-4.]

Accordingly, the Attorney General is authorized to investigate whether any person, whether located in New Jersey or elsewhere, has engaged in, is engaging in or is about to engage in any unlawful practice in violation of the CFA that affects New Jersey consumers.

Thus, Tidbit is required to fully respond to the Subpoena Duces Tecum and Interrogatories by January 13, 2014, so that the Attorney General may continue to fulfill its responsibility of protecting the public interest. The Subpoena and Interrogatories seek documents and information about Tidbit's practices, including, but not limited to, whether the Bitcoin code was present on websites owned and/or operated in the State or visited by New Jersey consumers. Please be guided accordingly. I thank you for your anticipated cooperation.

Sincerely yours,

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW JERSEY

By: 
Glenn T. Graham
Deputy Attorney General

cc: Nathan D. Cardozo, Esq.
Kevin R. Jespersen, Assistant Attorney General
Edward J. Mullins III, Deputy Attorney General

EXHIBIT

D

Subject: Re: In re: Subpoena Duces Tecum to Tidbit
From: "Glenn Graham" <Glenn.Graham@dol.lps.state.nj.us>
Date: 1/9/14 2:20 PM
To: "hanni" <hanni@eff.org>
CC: "Edward Mullins" <Edward.Mullins@dol.lps.state.nj.us>, "Kevin Jespersen" <Kevin.Jespersen@dol.lps.state.nj.us>, "Nate D. Cardozo" <nate@eff.org>

Hanni,

Thank you for your time. This e-mail shall confirm that Tidbit will supply a list of all websites that utilized the Tidbit code by Tuesday 1/21/14 and will provide responses to the State's interrogatories by Monday 1/27/14. I thank you for your cooperation.

PRIVILEGED & CONFIDENTIAL

Glenn T. Graham
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Division of Law
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phone: (973) 648-4846
fax: (973) 648-4887
glenn.graham@dol.lps.state.nj.us
| | | hannu <hanni@eff.org> 1/9/2014 5:02 PM >>>
Mr. Graham,

Looks like I just missed your call. I called back and left you another message on your voicemail. Apologies for the phone tag. I should be in my office the rest of the day. Feel free to call at your convenience.

Hanni Fakhoury
Staff Attorney
Electronic Frontier Foundation
415 436 9333 x. 117

On 09.01.2014 12:45, Glenn Graham wrote:

Mr. Fakhoury:

Please see the attached correspondence. Please do not hesitate to contact me should you have any questions.

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Newark, New Jersey 07101
phone: (973) 648-4846
fax: (973) 648-4887
| | | Hanni Fakhoury <hanni@eff.org> 1/7/2014 7:32 PM >>>
Mr. Graham,

The Electronic Frontier Foundation ("EFF") represents Jeremy Rubin and Tidbit in connection with the subpoena duces tecum and interrogatories you issued on December 4, 2013. As the attached letter explains, Tidbit is unable to respond to the subpoena or interrogatories at this time. But, as explained in the letter, that is because Tidbit's code has never been functional and no bitcoins have been mined.

Should you have any questions or concerns, please feel free to call or email at your convenience.

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