

IN THE Bogton County Court

Case ref:.....

Between

Josephine Bloggs

Claimant

(a child, by their litigation friend James Arthur Bloggs)

- and -

MegATech, Inc

Defendant

PARTICULARS OF CLAIM

Note for the Court

1. *These Particulars were drafted TODAY for (specifically) the Claimant qua litigant in person. Below the Statement of Truth is appended an attribution statement and several aids to construction and explanations apropos Annex ROC, references to the evidential bases for the pleadings. (Superscripted) end-notes are references to a separate document including case-specific written submissions, generic written submissions, and further references/hyperlinks to sources of law.*

Parties and Status

2. The Claimant is Josephine Bloggs, a child who is a citizen of Bermuda, Greenland and United States, a domiciliary of England and Wales, presently (at date of these Particulars) located in Sweden, residing at 1 Cabbage Tree Lane, Fairy Meadow, Bogshire, BG1 2AA, England and Wales, evidenced by the "record of conference" annexed to these Particulars as Annex ROC.

3. Despite Bermuda and Greenland not being Member State(s) of the European Union, by virtue of the Claimant's citizenship of Greenland the Claimant is a citizen of the European Union (as material to paragraph 10.6 *post*). [roc 13]

4. The Defendant is MegATech, Inc, of 1109 Ropiff Road,, Scampton, Californ-i-ay 12345, registered as company number 12345678, and established *inter alia* in North Carolina, Aruba, Bermuda, Greenland, Jamaica and Mayotte. The Defendant processes or at material times processed the Claimant's personal data.

5. In respect of each of its processes (evaluated separately) processing the Claimant's data the Defendant is a controller, alternatively a processor, within the legal meanings set out in the General Data Protection Regulation 2016/679 ("GDPR"), an instrument of the European Union ("Union", "EU") enacted into UK law for declarative and all other purposes except enforceability 25th May 2016 and re-enacted into UK law 23rd May 2018 (data subject rights enforceable from 25 May 2018).

6. Further or alternatively, the Defendant processed the Claimant's law enforcement-related data between 6 May 2018 and 22 May 2018 ¹², and is a 'controller' alternatively 'processor' within the meanings defined by the Law Enforcement Directive 2016/680 ("the LED"), directly effective in the UK from 6th May 2018 to 22nd May 2018 and accordingly actionable as set out in Annex LED separately annexed to these Particulars by reference. [roc 27, 28]

Engagement of the Defendant

7. The Defendant maintains a physical establishment in a Member State of the Union alternatively in Outermost Region jurisdiction(s) (Mayotte) which necessarily are part of the Union *de jure*, and operates a web site <https://www.megtech.com> which is accessible to data subjects in the Union, further or alternatively rendered in at least one of the Official Languages of the Union. Accordingly the Defendant has an establishment in the Union.

8. Further or alternatively, the Defendant offers goods and services (whether or not at financial cost) to data subjects in the Union. [roc 26]

9. Further or alternatively, the Defendant expressly alternatively impliedly processes data categories such as profiling (inclusive of (actual) profiling, alternatively potential subsequent... profiling), from which as a matter of law the Defendant monitors data subjects in the Union. [roc 27]

10. Further or alternatively, the Defendant is established in Mayotte, Aruba, Bermuda and Greenland, jurisdictions formerly part of Member States. By virtue of public international law Member State law applies in such places, in that they (variously):

(a) are members of the 9 Outermost Region jurisdiction(s) (Mayotte) which necessarily are part of the Union *de jure*, and for whom further special provisions are made in the European Union Treaties.

(b) are members of the 22 OCTA member jurisdiction(s) (Aruba, Bermuda, Greenland and Mayotte) for which special provisions are made in the European Union Treaties including but not limited to TFEU Articles 198-204 and Articles 349-355 as subsequently amended from time to time by Council Decision as empowered by Articles 201, 203, 349, 352, and 354.

(c) are determined by the United Nations to be Non-Self-Governing Territories (Bermuda).

(d) lack full domestic autonomy (Mayotte).

(e) fall within the non-subject-matter persuasive scope of the interminable *Polisario* jurisprudence (Mayotte, Aruba, Bermuda and Greenland).

(f) are places within which the Claimant's EU citizenship alternatively potential eligibility for or legal entitlement to EU citizenship, further engages *Polisario* principles (Greenland, Aruba and Mayotte).

11. As a result of any or all of the matters set out from paragraph 7 above, the Defendant's processing of the Claimant's personal data is engaged by the GDPR, further or alternatively by the LED.

12. Further, the Defendant shall be responsible for, and be able to demonstrate compliance with, its statutory obligations ("Accountability Principles") to ensure personal data are:

- (a) ('**Lawfulness, Fairness and Transparency**') - processed lawfully, fairly and in a transparent manner in relation to the data subject;
- (b) ('**Purpose Limitation**') - collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
- (c) ('**Data Minimisation**') - adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
- (d) ('**Accuracy**') - accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
- (e) ('**Storage Limitation**') - kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed...;
- (f) ('**Integrity and Confidentiality**') - processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

13. Further, as a result of paragraphs 11 and 12 above , as a matter of law the legal burdens of proof associated with the remainder of these Particulars fall upon the Defendant whenever any of the Accountability Principles are engaged.

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Prayer

AND the Claimant claims:

103. (see also draft Order)

- (a) an Order pursuant to Article 18(1)(c) GDPR alternatively CPR r 31.17 alternatively *Norwich Pharmacal* alternatively equity THAT the Defendant do **preserve and retain** the specified personal data or other data as the Court may see fit until judgment or final Order.
- (b) an Order pursuant to GDPR Articles 12-14 alternatively 79 THAT the Defendant its directors servants and agents forthwith do provide a GDPR-compliant Notification to the Claimant and in particular remedy all defects pleaded by the Claimant and sustained by the Court;
- (c) an Order pursuant to GDPR Articles 12,15 alternatively 79 alternatively equity THAT the Defendant its directors servants and agents forthwith do provide to the Claimant access to the Claimant's personal data;
- (d) Declaratory relief pursuant to CPR r 40.20 and GDPR Article 21 alternatively Article 79 THAT the Claimant's exercise of the right to Objection is sustained and accordingly THAT the Defendant's processing of the Claimant's personal data is unlawful, at the discretion of the Court;
- (e) an Order pursuant to GDPR Articles 12,18 alternatively 79 THAT the Defendant its directors servants and agents forthwith do restrict processing of the Claimant's personal data, in such terms the Court may direct;

- (f) an Order pursuant to GDPR Articles 12,16 alternatively 79 THAT the Defendant its directors servants and agents forthwith do rectify the Claimant's personal data it holds and/or otherwise processes, in terms the Court may direct;
- (g) an Order pursuant to GDPR Articles 12, 17 alternatively 79 THAT the Defendant its directors servants and agents erase all Claimant personal data processed by them and associated with the Claimant whether or not "anonymised" or "pseudonymised", or otherwise as the Court may direct;
- (h) an Order pursuant to GDPR Article 17 alternatively 79 THAT the Defendant its directors servants and agents preserve all personal data specified by the Claimant until Judgment or final Order of the instant case or satellite case or otherwise as the Court may direct;
- (i) an Order pursuant to GDPR Article 22 alternatively 79 THAT the Defendants its directors servants and agents forthwith do cease to profile the Claimant;
- (j) an Order pursuant to GDPR Article 19 alternatively 79 alternatively equity THAT the Defendant its directors servants and agents forthwith do notify the Claimant of all identity and contact details known to the Defendant of all Recipients to whom the Defendant communicates shares or otherwise transfers the Claimant's personal data whether currently or in the past.
- (k) an Order pursuant to GDPR Article 19 alternatively 79 THAT the Defendant its directors servants and agents forthwith do notify all Recipients of erasure, restriction, rectification;
- (l) an Order pursuant to GDPR Article 14 alternatively 79 alternatively equity THAT the Defendant its directors servants and agents forthwith do notify the Claimant of all identity and contact details known to teh Defendant of all Sources from which it collects the Claimant's personal data
- (m) in respect of any and all injunctive remedies prayed for above in respect of the Claimant's rights to rectify, erase, object, and nonprofiling in particular, or otherwise as the Court may think fit, interim injunctive relief protecting the Claimant's position until judgment or final Order;
- (n) in respect of any point or points of Union law whose domestic application the instant Court may be minded to consider not entirely clear in domestic law: reference to the Court of Justice of the European Union for resolution of any such points, at the sole discretion of the instant Court;
- (o) in respect of any point or points of public international law breaches or of private international law / conflicts of law breaches or of international comity or recognition or enforcement, that the first instance or instant Court may be minded to consider raises issues of competent jurisdiction, especially in respect of issues the Court thinks might engage Recital 115 or Article 48 or Article 96 or the law of an EEA member state: reference to an appropriate domestic Court of competent jurisdiction for resolution of any such domestic points or to the EFTA Court for resolution of EEA-EU points, at the sole discretion of the first instance or instant Court;
- (p) Damages of 100 for the Breach, pursuant to Articles 26(3), 79, and 82 GDPR ;
- (q) Damages for other direct economic loss, pursuant to Article 79 GDPR as the Court may think fit;
- (r) Compensation for non-pecuniary loss or damage pursuant to Article 79 GDPR , alternatively in equity, in the sum of GBP 2,500 per year of injury or part thereof;
- (s) Exemplary damages as the Court may think fit, quantum assessed at the sole discretion of the Court and payable to the Access to Justice Foundation;
- (t) should the Claimant acquire professional pro bono representation, professional legal costs under section 51 Senior Courts Act 1981 payable to the Access to Justice Foundation per s.194 Legal Services Act 2007 ; alternatively,
- (u) litigant in person costs at the Practice Direction 46.5 3.4 rate of 19 per hour;

- (v) Disbursement costs as may have arisen, as the Court thinks fit;
- (w) Interest per s.69 County Courts Act 1984, at the discretion of the Court;
- (x) Such other remedy or remedies that, under GDPR Article 79 alternatively in equity alternatively to further the overriding objective, the Court may think fit.

Statement of Truth

I the Claimant's litigation friend believe that the facts stated in these Particulars of Claim are true. [roc 5]

SIGNED:

DATED:

<< Annex ROC (Record of Conference) redacted / truncated in full (circa 111 design patterns) >>

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