

Dear Friends,

Back in March 2016, just a week or so prior to the Moscow Candidate's Chess tournament, the organizers of the event AGON, announced a new policy: It would sue any chess site relaying the moves of the games played in real time on their website or game servers. This announcement had an instantly chilling effect across the whole of the chess world as numerous sites that had intended to make special promotional efforts for the Moscow Candidate's tournament which would allow fans to follow the moves of the games live were cancelled. Talk about committing a self-inflicted injury.

For example, I was "damaged" in that I had agreed to be a commentator on the "Play Chess" game server for a few rounds of play. When AGON made its legal threats announcement, "ChessBase" subsequently cancelled its planned audio only commentary show. (Previously, ChessBase had been sued for doing exactly the same thing for the 2010 world championship match held in Sofia, Bulgaria. ChessBase convincingly won the case held in a German court but spent a lot of money defending itself. Clearly ChessBase didn't want to go through the whole process yet again. This time in a Moscow Court venue.)

Four chess sites chose to ignore AGON's threats of a lawsuit: The Internet Chess Club (ICC); Chess Bomb; Chess Games and Chess24. After the Candidate's Tournament, AGON followed through on its legal threat and filed a complaint in Moscow, Russia against the latter three sites -- excluding the ICC. (I don't know why the ICC was excluded.)

My expectations about the case were all dismal: Firstly, I strongly felt that AGON had no legal standing at all. That their claim of chess game moves copyright ownership was a stone-cold fraudulent one. (I even briefly considered suing AGON for damages in a Small Claims Court in the USA for my loss.) Secondly, does Moscow, Russia have "jurisdiction" to decide a case when none of the defendants are actually based in Russia? Thirdly, I expected that none of the defendants would actually "show up" in Court. After all they would have to go through the costly process of hiring Russian attorneys, spending time preparing for and finally arguing the case. Fourthly, if a "no show" by the defendants happened, AGON would "win" a judgement -- by default. Fifth, Agon with this "default victory" would beat its chest, having made its point (?) that its fraudulent claim of chess game moves ownership was "genuine". Sixth, the chess world would be cowed into submission for future events by this pyrrhic victory. In short, I wasn't expecting any good whatsoever to come out of all the above and that in fact the chess world would again be back in deep doo-doo, wracked by stupid moves of its own making. My biggest concern was that "interest" in major events would simply die because the fear of being sued would cause game servers not to create shows of the games. Furthermore, they might in turn decide to boycott reporting on them altogether. Can't be sued for that.

Therefore, I was absolutely delighted, over-the-moon really, to read the following article by Peter Doggers:

<https://www.chess.com/news/chess24-wins-court-case-agon-to-appeal-2210>

Chess24 decided to accept AGON's legal challenge and hired attorneys in Moscow to defend itself. Yay! By defending itself, Chess24 did the whole chess world a great favor. The result, as you will read in the link, was an emphatic victory for Chess24. Simply outstanding! My esteem for Russian judges just jumped up from rock bottom!

<https://chess24.com/en/read/news/chess24-win-moscow-case-announce-new-york-line-up>

Whatever "home court advantage" AGON expected with its Moscow venue came to nothing.

<http://www.agonlimited.com/news/2016/11/3/statement-in-response-to-the-first-circuit-court-ruling>

For myself, all of the above is really confusing. I simply do not understand the thinking of chess organizers as typified by AGON's bosses. Chess event organizers have a monopoly on absolutely clear uncontestable copyrightable materials: They have all photography rights; all webcam rights (of the players in action over the board); all audio rights to their own online show; they have all post-game interview rights; including still photography, video and audio; press conference rights; they have all promotional rights that feature the players; they have merchandizing rights to the players images and likenesses; as well as other numerous rights. They have exclusive rights to all these clear uncontestable universally accepted copyrightable materials allowing them to make the very best (online) show of their own event. They could press all these materials into a DVD or another product of their choice. How could any other party "compete" against such a show? Instead, possessing all these rights, what do they decide to do with their time and money? It really is crazy: They spend large sums to go after the one single right they do not have: Copyright of chess moves for a very, very small period of time. Why do they do this? To prevent others from promoting their event? It really is a self-inflicted injury that is plainly stupid. The chess moves of a chess game have been held to be in public domain for decades, even centuries. The recording of a chess move made is held to be a "fact." As in, "On move twenty five, Magnus played: 25.Bxd5!, sacrificing his Bishop." This is a fact. It happened. Today's organizers accept that chess game notation falls into public domain but now they make a new argument: They have the copyrights to the chess moves during an event (only) and that immediately after the game is finished (not the event which is days and weeks long), only then do the moves of the moves of the games played fall into "public domain." It is a staggering argument to make. In my view, it is just plain rubbish. How to argue that "ownership" is granted for hours or possibly even minutes? At which government agency should organizers "register" such "fleeting" ownership claims? How can one trespass a right that is not and cannot be registered anywhere in the world? Stupidity and stubbornness doesn't come close to explaining their actions. It is something else. I don't know what it is. Fear? Fearful that another site, featuring commentary (like that of a radio broadcast) will "cost" them viewers?

I can't explain it. Why do I write this final paragraph? Because unfortunately, AGON has promised to appeal the verdict. Yeesh. Hopefully, the appeal will either be dismissed out of hand or best of all AGON will simply lose again. In the latter case hopefully with a judgement against AGON to pay the legal cost of Chess24 defense as in, "Dismissed with prejudice." Only then (?) perhaps will AGON as well as other organizers finally just concentrate on spending its precious capital to promote chess instead of suing the chess world over a right it does not have.

Sincerely,

Yasser