

IN THE HIGH COURT OF JUSTICE
KING’S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST

B E T W E E N:-

MR MATTHEW GARRETT

Claimant

-and-

(1) MR ROY SCHESTOWITZ
(2) MRS RIANNE SCHESTOWITZ
(aka RIANNE DIOLA)

Defendants

PARTICULARS OF CLAIM

PARTIES

1. The Claimant is a computer security expert, programmer, free software activist and part-time lecturer at the University of California, Berkeley. He is based in California in the United States of America and has a global reputation (including in this jurisdiction) for his work and activism in free software, in particular Linux, GNOME, Debian, Ubuntu and Red Hat. He regularly speaks at events in the jurisdiction concerning his fields of specialism, and has collaborated on various projects in the jurisdiction including with Arm Limited in Cambridge.
2. The First Defendant operates the website www.techrights.org (“**Techrights**”).
3. The Second Defendant is the editor of the website news.tuxmachines.org (“**Tuxmachines**”), and is an author of articles on Techrights. Techrights and Tuxmachines are websites that focus on free software, in particular the GNU/Linux operating system.
4. The Defendants are married to one another and live in Manchester in the United Kingdom.

Words Complained Of

5. The Claimant brings a claim in libel in relation to 24 publications which are set out in full in the First Appendix attached to these Particulars of Claim, and identified below along with the respective first date of publication and web address, and are to be treated as having been pleaded here in full (“**the Publications**”). All of the Publications complained of, at the time of settling these Particulars of Claim, remain online. The Claimant also brings a claim for breach of the UK General Data Protection Regulation (“**UKGDPR**”) in relation to the Claimant’s personal data in the Publications and 25 further additional publications identified in the Second Appendix. The additional publications also remain online at the point of settling these Particulars of Claim. All publications complained of in both libel and data protection are set out in the continuation sheet to the Claim Form which identifies the webpage URL and date of publication. The continuation sheet is to be treated as having been pleaded here in full.
6. Publications 1 to 2, 4 to 6, 8 to 9, 11 to 13, 15 to 16, 18 to 21 and 23 to 24 were published on Techrights, and publications 3, 7, 10, 14, 17 and 22 were published on Tuxmachines. Both websites (collectively “**the Websites**”) are available to the public-at-large by use of an internet browser, and are available globally including within the jurisdiction of England and Wales.

Extent of Publication

7. The words complained of in the publications set out above (and each of them) were read by a substantial but unquantifiable number of readers. Pending disclosure or further information from the Defendants, the Claimant is unable to state with precision the number of hits or views of the publications complained of, but will rely upon the following facts and matters to draw an inference that there has been substantial publication globally, including substantial publication within the jurisdiction:
 - 7.1. On 7 July 2019 the First Defendant stated in an article on Techrights that the website had nearly five million hits in a single week. It can be inferred that a substantial number of these hits will be unique publishees and that the number of hits on Techrights (and the Publications published on Techrights) at the point of settling these Particulars of Claim continue to be substantial.
 - 7.2. The data aggregation company similarweb.com, which specialises in web analytics and web traffic estimates, that Techrights had around 40,000 visits in March 2024 and Tux Machines had around 27,000 visits in March 2024.

- 7.3. The Techrights website uses analytics, which records the number of unique hits for each of the publications complained of, and accordingly the First Defendant will be able to provide accurate and precise figures for each of the publications complained of.
- 7.4. It can be inferred that individuals searching for the Claimant would be directed to the Publications. In support of this contention, when searching for 'Michael J Garrett' on Google.co.uk (as at the date of settling these Particulars of Claim) the Websites appear prominently, with Publication 13 appearing as the third result and Publication 24 (which includes hyperlinks to other publications complained of on Techrights) appearing as the fourth result. Each of the Publications are and remain publicly accessible and returnable in searches of the internet for the Claimant's name.
- 7.5. There are a large number of people within the jurisdiction and globally who are interested in the GNU/Linux operating systems and similar content covered on the Websites and who would search online for information in relation to news on these matters and/or the Claimant. It can be inferred that a substantial number would be directed to the Publications and each of them.
8. The claims below for libel and breach of the UK General Data Protection Regulation are brought in respect of global publication and processing and use of the Claimant's personal data.

Natural and Ordinary Meanings

9. The words complained of referred to the Claimant and the natural and ordinary meanings are as follows (by reference to the publication number set out in the First Appendix to these Particulars of Claim which also sets out the URLs for each publication):
- 9.1. Publication 1 (published on Techrights on 4 August 2023)
- 9.1.1. The Claimant is guilty of blackmailing and harassing many individuals.
- 9.2. Publication 2 (published on Techrights on August 2023 at 08:06 UTC)
- 9.2.1. The Claimant is a criminal who is guilty of a large number of criminal acts.
- 9.2.2. The Claimant is a habitual and open user of crack-cocaine.
- 9.2.3. The Claimant has sent many death threats to the Defendants.

9.3. Publications 3 and 4 (published on Tuxmachines on 11 August 2023 and Techrights on 11 August 2023 at 11:52 UTC)

9.3.1. The Claimant is guilty of harassment.

9.3.2. The Claimant has published many racist, homophobic and illegal messages anonymously online using fake online aliases.

9.3.3. The Claimant is a habitual user of cocaine.

9.4. Publication 5 (published on Techrights on 11 August 2023 at 13:03 UTC)

9.4.1. The Claimant is a criminal who is guilty of a large number of criminal acts.

9.4.2. The Claimant is a habitual and open user of cocaine.

9.4.3. The Claimant has sent many death threats to the Defendants.

9.5. Publication 6 (published on Techrights on 18 August 2023 at 17:59 UTC):

9.5.1. The Claimant is guilty of a large number of hate crimes, blackmail, and criminal acts online.

9.5.2. The Claimant engages in racism, homophobia and ableism.

9.5.3. The Claimant glorifies terrorism by spreading material relating to the Unabomber online.

9.6. Publications 7 and 8 (published on Tuxmachines on 18 August 2023 and Techrights on 18 August 2023 at 16:46 UTC):

9.6.1. The Claimant is guilty of hate crimes.

9.6.2. The Claimant is guilty of undertaking a sustained online harassment campaign targeting the Defendants using fake online aliases.

9.6.3. The Claimant is a paedophile.

9.7. Publication 9 including the embedded video (a transcript of which appears in the appendix) (published on Techrights on 20 August 2023 at 10:13 UTC):

- 9.7.1. The Claimant is guilty of undertaking a sustained online harassment campaign targeting the First Defendant using fake online aliases.
- 9.7.2. The Claimant engages in hate crimes, homophobia, transphobia, ableism and antisemitism.
- 9.7.3. The Claimant is a habitual user of cocaine.
- 9.8. Publications 10 and 11 (published on Tuxmachines on 21 August 2023 and Techrights on 21 August 2023 at 00:43 UTC)
 - 9.8.1. The Claimant is guilty of sustained harassment of a number of individuals, hate crimes, and breaking the law using the Tor Network.
 - 9.8.2. The Claimant is antisemitic and racist.
 - 9.8.3. The Claimant is a habitual user of cocaine.
- 9.9. Publication 12 (published on Techrights on 22 August 2023 at 14:21 UTC)
 - 9.9.1. The Claimant is guilty of undertaking a sustained online harassment campaign targeting the Defendants using fake online aliases.
- 9.10. Publication 13 including the embedded video (a transcript of which appears in the appendix) (published on Techrights on 22 August 2023 at 15:21 UTC)
 - 9.10.1. The Claimant is guilty of committing a number of very serious crimes including making death threats and hate crimes.
 - 9.10.2. The Claimant is antisemitic.
 - 9.10.3. The Claimant is a habitual user of cocaine.
- 9.11. Publications 14 and 15 (published on Tuxmachines on 27 August 2023 and Techrights on 27 August 2023 at 16:49 UTC)
 - 9.11.1. The Claimant is guilty of undertaking a sustained online harassment campaign targeting the Defendants using fake online aliases.
 - 9.11.2. The Claimant is antisemitic.

- 9.11.3. The Claimant is a habitual user of cocaine.
- 9.12. Publication 16 (published on Techrights on 27 August 2023 at 18:48 UTC)
- 9.12.1. The Claimant is guilty of undertaking a sustained online harassment campaign targeting the Second Defendant using fake online aliases and there are reasonable grounds to suspect that he engages in the same conduct in relation to other people.
- 9.13. Publications 17 and 18 (published on Tuxmachines on 29 August 2023 and Techrights on 29 August 2023 at 22:05 UTC)
- 9.13.1. The Claimant is antisemitic.
- 9.13.2. The Claimant is guilty of committing hate crimes and a sustained online harassment campaign targeting the Defendants.
- 9.14. Publication 19 (published on Techrights on 30 August 2023)
- 9.14.1. The Claimant is guilty of committing criminal acts including cybercrime.
- 9.15. Publication 20 including video (a transcript of which appears in the appendix) (published on Techrights on 7 September 2023)
- 9.15.1. The Claimant is guilty of committing hate crimes against the First Defendant.
- 9.16. Publication 21 (published on Techrights on 7 September 2023)
- 9.16.1. The Claimant is guilty of committing online harassment against the First Defendant including blackmail.
- 9.17. Publication 22 (published on Tuxmachines on 18 September 2023)
- 9.17.1. The Claimant is antisemitic.
- 9.17.2. The Claimant is guilty of undertaking a sustained online harassment campaign targeting the Second Defendant using fake online aliases.
- 9.18. Publication 23 (published on Techrights on 16 January 2024)
- 9.18.1. The Claimant is guilty of committing sick and deviant behaviour including indecent exposure and transphobia.

9.19. Publication 24 (published on Techrights published on or around 7 September 2023)

9.19.1. The Claimant is guilty of committing hate crimes, racism, homophobia, antisemitism, ableism, classism, drug abuse, and misogyny.

Responsibility for Publication

10. The responsibility for publication in relation to each of the publications set out in the First Appendix to these Particulars of Claim are identified below:

Publication Number	Responsibility for publication
1 (Techrights)	First Defendant (qua author, editor and/or publisher)
2 (Techrights)	First Defendant (qua author, editor and/or publisher)
3 (Tuxmachines)	Second Defendant (qua author and/or editor)
4 (Techrights)	First Defendant (qua editor and/or publisher) and Second Defendant (qua author)
5 (Techrights)	First Defendant (qua author, editor and/or publisher)
6 (Techrights)	First Defendant (qua author, editor and/or publisher)
7 (Tuxmachines)	Second Defendant (qua author and/or editor)
8 (Techrights)	First Defendant (qua editor and/or publisher) and Second Defendant (qua author)
9 (Techrights)	First Defendant (qua author, editor and/or publisher)
10 (Tuxmachines)	Second Defendant (qua author and/or editor)
11 (Techrights)	First Defendant (qua editor and/or publisher) and Second Defendant (qua author)
12 (Techrights)	First Defendant (qua author, editor and/or publisher)
13 (Techrights)	First Defendant (qua author, editor and/or publisher)

Publication Number	Responsibility for publication
14 (Tuxmachines)	Second Defendant (qua author and/or editor)
15 (Techrights)	First Defendant (qua editor and/or publisher) and Second Defendant (qua author)
16 (Techrights)	First Defendant (qua author, editor and/or publisher)
17 (Tuxmachines)	Second Defendant (qua author and/or editor)
18 (Techrights)	First Defendant (qua editor and/or publisher) and Second Defendant (qua author)
19 (Techrights)	First Defendant (qua author, editor and/or publisher)
20 (Techrights)	First Defendant (qua author, editor and/or publisher)
21 (Techrights)	First Defendant (qua author, editor and/or publisher)
22 (Tuxmachines)	Second Defendant (qua author and/or editor)
23 (Techrights)	First Defendant (qua author, editor and/or publisher)
24 (Techrights)	First Defendant (qua author, editor and/or publisher)

CLAIM IN LIBEL

11. Paragraphs 1 to 10 above are repeated. In respect of any publication in a jurisdiction other than England and Wales, if and insofar as necessary, the Claimant will rely upon the presumption that the foreign law of the relevant jurisdiction(s) is the same as English law (such a presumption being fair and reasonable taking into account the nature of the activities complained of and the fundamental rights protected) and that the publication of the words is actionable both by English law and the law of the place of the foreign publication.
12. The words published in Publication 1 to Publication 24 and each of them, as set out in full in the First Appendix to these Particulars of Claim and referred to above, referred to the Claimant and were defamatory of him at common law in the respective natural and ordinary meanings set out at paragraph 9 above, and the relevant sub-paragraphs therein.

Serious Harm

13. The publication of the words complained of in relation to the Publications and each of them referred to above and set out in the First Appendix to these Particulars of Claim have caused or are likely to cause serious harm to the Claimant's reputation. In support of this contention the Claimant will rely, amongst other things, on the following facts and matters:
- 13.1. the allegations against the Claimant made in the words complained of are self-evidently serious, including grave criminality and attack his personal and professional integrity;
 - 13.2. paragraphs 7 to 8 above are repeated. The words complained of were published to a substantial audience both in this jurisdiction and worldwide;
 - 13.3. each of the statements complained of would likely have been published to an audience that would be interested in the fields in which the Claimant works, and in circumstances where the Claimant is a prominent individual in such fields (paragraph 1 above is repeated) the harm to his reputation would be accordingly increased. The Claimant works in and has been a major contributor to the free software community. Paragraph 1 above is repeated. He has worked hard over many years to build up a good reputation in this sphere both professionally and personally. The defamatory allegations and each of them have damaged the Claimant's reputation in this community;
 - 13.4. the Publications and each of them have created a highly damaging permanent 'digital footprint' about the Claimant which is beyond his control and is likely to continue to cause serious harm to the Claimant's reputation in the future; and
 - 13.5. it can be inferred that the allegations complained of have inevitably spread amongst others, and the Claimant relies on the 'grapevine effect'.
14. In addition to the serious reputational harm suffered as set out above, the publications and each of them have caused the Claimant distress and embarrassment. Paragraphs 23 to 23.7 below are repeated, including in support of his claim for general and aggravated damages.

CLAIM IN DATA PROTECTION

15. The Claimant is a data subject within the meaning of article 4(1) of the UK GDPR and the Data Protection Act 2018 ("**DPA 2018**"). Paragraph 1 above is repeated.

16. Paragraphs 2 and 3 above are repeated. The First and Second Defendants are data controllers within the meaning set out in the UK GDPR and DPA 2018 in respect of personal data processed by the Publications for which they are responsible: paragraph 10 above is repeated.
17. The Defendants are established within the jurisdiction for the purposes of Article 3(1) of the UK GDPR and section 207 of the Data Protection Act 2018. Paragraph 4 above is repeated.
18. The Defendants and each of them are required to comply with the principles for processing personal data set out in Article 5(1) of the UK GDPR (“**the Principles**”) and, *inter alia*, Article 9 and Article 10.
19. Paragraphs 5 to 10 above are repeated. The information in the Publications about the Claimant set out in the First Appendix to these Particulars of Claim, namely the meanings set out at paragraphs 9 above, constituted the Claimant’s personal data as well as the references to him on the webpages set out on the Second Appendix to these Particulars of Claim (“**the Additional Publications**”) (together “**the Personal Data**”). The Defendants are responsible for the processing of the Personal Data from the Publications insofar as they are identified as being responsible at paragraph 10 above in relation to those publications in the First Appendix in their capacity as data controllers. Further, the First Defendant is responsible for all of the publications in the Second Appendix published on Techrights (publications 25 to 43 and 45 to 49 as identified in the continuation sheet to the Claim Form) in his capacity as data controller and the Second Defendant is responsible for the publication on Tuxmachines dated 7 September 2023 and the publication on Techrights dated 7 September 2023 (publications 44 and 45 as identified in the continuation sheet to the Claim Form) in the Second Appendix in her capacity as data controller.
20. The obtaining, editing, storing and publishing of the Publications and the Additional Publications and each of them constituted the processing of the Personal Data by the Defendants (insofar as they are responsible for the Personal Data, paragraphs 10 and 19 above are repeated) in breach of the UK GDPR.

PARTICULARS OF BREACH

- 20.1. In breach of Article 5(1)(a) of the UK GDPR, the Defendants’ processing of the Personal Data was unlawful in that it did not meet any of the conditions under Article 6 of the UK GDPR and further in relation to the data in the Publications, was also unfair, and unlawful in that the publication of the Publications and each of them constituted libel, as set out above. Further, the way the data were processed, in terms of the nature, subject and

frequency of the Publications was inherently unfair processing of the Claimant's personal data;

- 20.2. In breach of Article 5(1)(b) of the UK GDPR, for the reasons set out at paragraph 20.1 above;
- 20.3. In breach of Article 5(1)(c) of the UK GDPR the Defendant's processing was excessive, in that it was not adequate, relevant or limited to what was necessary in relation to the purposes for which the data were processed
- 20.4. In breach of Article 10 of the UK GDPR, the Defendants' processing of the following Personal Data (insofar as they are identified as being responsible in paragraph 10 above) was unlawful as it amounted to criminal conviction data within the meaning of section 11(2) of the Data Protection Act 2018:
 - 20.4.1. the data in Publication 1 as identified at paragraph 9.1.1 above;
 - 20.4.2. the data in Publication 2 as identified at paragraphs 9.2.1 and 9.2.3 above;
 - 20.4.3. the data in Publication 3 as identified at paragraphs 9.3.1 and 9.3.2 above;
 - 20.4.4. the data in Publication 4 as identified at paragraphs 9.3.1 and 9.3.2 above;
 - 20.4.5. the data in Publication 5 as identified at paragraphs 9.4.1 and 9.4.3 above;
 - 20.4.6. the data in publication 6 as identified at paragraph 9.5.1 above;
 - 20.4.7. the data in Publication 7 as identified at paragraph 9.6.1 and 9.6.2 above;
 - 20.4.8. the data in Publication 8 as identified at paragraphs 9.6.1 and 9.6.2 above;
 - 20.4.9. the data in Publication 9 as identified at paragraph 9.7.1 and 9.7.2 above;
 - 20.4.10. the data in Publication 10 as identified at paragraph 9.8.1 above;
 - 20.4.11. the data in Publication 11 as identified at paragraph 9.8.1 above;
 - 20.4.12. the data in Publication 12 as identified at paragraph 9.9.1 above;
 - 20.4.13. the data in Publication 13 as identified at paragraph 9.10.1 above;

20.4.14.the data in Publication 14 as identified at paragraph 9.11.1 above;

20.4.15.the data in Publication 15 as identified at paragraph 9.11.1 above;

20.4.16.the data in Publication 16 as identified at paragraph 9.12.1 above;

20.4.17.the data in Publication 17 as identified at paragraph 9.13.2 above;

20.4.18.the data in Publication 18 as identified at paragraph 9.13.2 above;

20.4.19.the data in Publication 19 as identified at paragraph 9.14.1 above;

20.4.20.the data in Publication 20 as identified at paragraph 9.15.1 above;

20.4.21.the data in Publication 21 as identified at paragraph 9.16.1 above;

20.4.22.the data in Publication 22 as identified at paragraph 9.17.2 above;

20.4.23.the data in Publication 23 as identified at paragraph 9.18.1 above; and

20.4.24.the data in Publication 24 as identified at paragraph 9.19.1 above.

(Collectively, the “**Criminal Data**”).

There was no lawful basis for processing under Article 10 of the UK GDPR of the Criminal Data set out above.

20.5. The Claimant provided formal notice by way of letter from the Claimant’s solicitors to each of the Defendants on 8 February 2024, pursuant to Articles 17 and 21 of the UK GDPR, that he objects to the processing of his personal data and requested that his personal data be erased from the Publications and the Additional Publications. The Defendant has failed to comply with these notices.

21. In the premises, by holding and/or recording and/or disclosing and/or publishing the Personal Data and the Criminal Data to the world at large the Defendants have infringed the Claimant’s rights as a data subject, in contravention of the UK GDPR.

22. As a consequence of the Defendants’ infringement of the Claimant’s rights under the UK GDPR, the Claimant has suffered damage and distress. Paragraphs 23 to 23.7 below are repeated.

Damage

23. In support of his claim for damages and/or aggravated damages the Claimant will rely on the following facts and matters:

- 23.1. the matters set out at paragraphs 9 to 9.19.1 above. The allegations are self-evidently extremely serious and their publication on the Websites in the manner and form they have been published are designed to damage the Claimant which has caused distress to the Claimant;
- 23.2. the Publications and each of them have caused serious harm to the Claimant. Paragraph 13 to 13.5 above are repeated;
- 23.3. each of the Publications have been published to a substantial number of people. Paragraphs 7 to 7.5 above are repeated;
- 23.4. the Claimant has worked hard over many years to build up a good reputation in the free software community and is particularly distressed to be targeted on the Websites, which are likely to be read by others in the community;
- 23.5. the Defendants have failed to comply with the demands made in the pre-action protocol letters dated 8 February 2024. Indeed, the Defendants have entirely failed to engage;
- 23.6. the Defendants have failed to apologise or undertake not to continue to publish further defamatory statements; and
- 23.7. the vindictive campaign of Publications against the Claimant has also caused the Claimant great personal distress and embarrassment. That distress has been compounded by the fact that the Claimant has informed the Defendants that he is not behind the aliases (the conduct of which are the premise the Defendants' allegations against the Claimant). Despite being informed on a number of occasions of this fact, the Defendants have continued to published the Publications. In the circumstances, the Claimant's distress has been justifiably heightened by the Defendants' conduct which he reasonably believes was malicious.

Injunction

24. Unless restrained by injunction the Defendants will further publish the words and images complained of or words and images with similar defamatory meanings.
25. The Claimant will rely in support of his claim for an injunction on the Defendants' failure to cease publishing defamatory allegations concerning the Claimant and the failure to cease processing the Claimant's personal data unfairly and without his consent, despite requests by the Claimant's solicitors that they do so.

AND THE CLAIMANT CLAIMS

- (1) damages, including aggravated damages, for libel;
- (2) compensation for damage and/or distress pursuant to Article 82(1) of the UK GDPR and section 168 Data Protection Act 2018, against the Defendants and each of them for breach of the statutory duty to process the Claimant's personal data in accordance with Articles 5, 6 and 10 of the UK GDPR in respect of the relevant Publications;
- (3) an injunction to restrain the Defendants and each of them, whether by themselves, their servants or agents or otherwise howsoever, from publishing or continuing to publish or causing or authorising the publication or continued publication of any words or images bearing the same or similar defamatory meanings as those complained of above;
- (4) an order under Articles 17 and 21 of the UK GDPR and/or section 167 of the Data Protection Act 2018 prohibiting the unlawful processing of the Claimant's personal data and requiring the destruction/erasure of the same;
- (5) an order pursuant to section 12(1) of the Defamation Act 2013 that the Defendants publish a summary of any judgment in the Claimant's favour; and
- (6) an order pursuant to section 13(1) of the Defamation Act 2013 for the Court to order the operators of websites on which the Publications are posted or republished to remove the statements complained of.

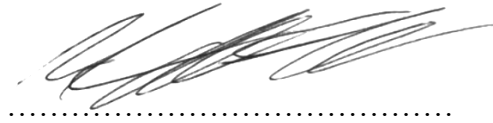
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STATEMENT OF TRUTH

I believe that the facts stated in these Particulars of Claim are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:



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Name:

Matthew Garrett

Dated this 24th day of April 2024