



ENTERTAINMENT SOFTWARE RATING BOARD

317 MADISON AVENUE 22ND FLOOR NEW YORK, NY 10017 212 759 0700 | FAX 212 759 2223
WWW.ESRB.ORG

Submitted Electronically

August 15, 2011

Donald S. Clark
Secretary
Federal Trade Commission
Room H-135 (Annex E)
600 Pennsylvania Avenue, NW
Washington D.C. 20580

Re: Aristotle Application for Safe Harbor, Project No. P-114509

Dear Mr. Secretary:

The Entertainment Software Rating Board (ESRB), which operates the ESRB Privacy Online program, submits these comments in response to the Federal Trade Commission's (FTC) notice and request for public comment concerning proposed self-regulatory guidelines submitted by Aristotle International, Inc. ("Aristotle"), under the safe harbor provision of the Children's Online Privacy Protection Act (COPPA). 76 Fed. Reg. 123 (June 27, 2011). As one of the four certified COPPA Safe Harbor programs presently operating, we believe we can provide especially informed insights in this area, given our unique understanding of the environment in which COPPA Safe Harbors operate, and our contemplation of potential changes to that environment as a result of the FTC's ongoing review of the Children's Online Privacy Protection Rule promulgated by the FTC (16 C.F.R. Part 312, hereafter "COPPR"). Having reviewed Aristotle's application and proposed Guideline Requirements, we have specific concerns regarding: Aristotle's business model; its clients' compliance with COPPA; Aristotle's proposed requirements for participating companies; the timing of Aristotle's application for safe harbor certification and the impetus behind Aristotle's determination to seek safe harbor status at this time. We address each of these concerns below.

1. Aristotle's Business Model

As all COPPA Safe Harbors would likely attest, achieving safe harbor status is not destined to transform any organization into a highly profitable venture. Moreover, safe harbors' first and foremost obligation is to uphold the law and enhance protection for consumers. It is, we would submit, more difficult to maintain standards that best fulfill this obligation if a safe harbor is operating a for-profit business. Although non profits, too, must necessarily be concerned with the bottom line (as none were created to lose money), there is greater leeway in connection with that bottom line and the overriding incentive is to dispense a quality service. When operating a for-profit entity, building a profitable customer base must be paramount. That is less of an incentive for a non-profit. Where adding customers and/or maximizing revenue is the overriding incentive, it may begin to dictate interpretations and applications of COPPA and COPPR (especially in the "grey" areas) in a manner that makes it easier to solicit and retain clients.

As evidenced by its websites,¹ two of Aristotle's main sources of profit and revenue are its "Integrity" suite of services and its data mining and sale of "political data"² to political organizations, campaigns, political action committees (PACs), and political consultants and strategists. We discuss each of these in turn.

A. "Integrity" Services

It is this area of Aristotle's business that is front and center in its application to the FTC. Given the focus Aristotle puts on use of its Integrity System as a method for obtaining verifiable parental consent, it seems likely Aristotle's safe harbor business model will rely on the sale of its Integrity products to companies it seeks to attract to its program. We believe Aristotle's thinly-camouflaged desire to utilize its potential COPPA Safe Harbor status as a means to up-sell its suite of products to future program members should be duly considered by the FTC.

Moreover, the reliability and veracity of Aristotle's verification services has at times come under attack. See, e.g., <http://massively.foystiq.com/2008/01/14/linden-lab-no-stated-plans-to-improve-verification-outside-usa/> and <http://massively.foystiq.com/2007/12/09/aristotle-integrity-el-dia-de-los-muertos/> (Second Life users verified by using credentials of famous or dead individuals). Indeed, we were recently able to achieve verification through Aristotle by using the name of a staff member's deceased relative, who had passed away more than two years prior. We suspect that problems of this sort result from not utilizing real time checks of the data collected. Specifically, our research indicates that when a user inputs his or her data on an Aristotle website, that data is not checked, in that moment, against the most current and accurate databases available. Most likely, Aristotle is checking the information against voter registration databases. Although this may be Aristotle's "bread and butter," it could be problematic considering the widely reported inaccuracies with the national voter registration database. A January 28, 2011 article in the Maryland Reporter quotes David Becker, project director with the Pew Center, as stating:

"...Pew research on nationwide voter rolls, [shows] about one in eight voter records is not valid in some way. There are approximately 12 million registrations that go to addresses that don't exist, and nearly 2 million voters who have died are still counted as active voters. Additionally...there are about 3 million people with active voter registrations in more than one state."

If this is in fact the database that Aristotle utilizes to verify a user, then one must question the accuracy of the results. While perhaps fine in other contexts, this could be decidedly more concerning in the COPPA universe.

B. Political Data and Data Mining

Of perhaps greater concern than Aristotle's impetus to up-sell its Integrity services, and the reliability of those services, is the other key area of Aristotle's business, which involves data mining, the sale of individuals' personal data in the political arena, and the development of

¹ <http://integrity.aristotle.com/> and <http://www.aristotle.com/>

² <http://www.aristotle.com/content/blogcategory/22/45/>

relationships with the very legislators who vote on privacy and consumer protection laws, including COPPA. Aristotle's website leaves no doubt that a primary focus of its business is political data mining. As James Verini described it in his December 13, 2007 Vanity Fair article:

"Aristotle can tell its clients more than just the predictable stuff – where you live, your phone number, who lives with you, your birthday, how many children you have. It may also know how much you make, how much your house is worth, what kind of car you drive, what web sites you visit, and whether you went to college, attend church, own guns, have had a sex change, or have been convicted of a felony or sex crime. It can pry into every corner of your life."

The "electronic identities" that make up Aristotle's vast databases certainly have great value to Aristotle, leaving one to wonder what it might do with the information it collects on behalf of those clients who use its Integrity System. Aristotle's data mining and the proffering of electronic identities may serve legitimate business needs for politicians, campaign managers, PACs, political fundraisers, strategists and the like, but an issue that merits due consideration is whether a company, one of whose businesses is to sell individuals' personal information for profit, harmonizes with the mission of COPPA safe harbors and the values underlying privacy protection laws such as COPPA.

For instance, while Aristotle may suggest that these two key areas of its business -- Integrity verification versus so-called "political data" -- are separate and distinct, that analysis is overly simplistic. Does Aristotle keep its voter registration database and/or its drivers license database (with information gleaned from the motor vehicles departments of those 29 States which permit third-party access) separate from the data it sells to a multitude of entities in the political arena? Is there a Chinese wall? Where would the information obtained from parents providing consent under COPPA reside? How long would it be retained in Aristotle's proprietary database? And would there actually be any way of determining whether Aristotle's claims in this regard are true?

These questions serve to highlight the fundamental inconsistency, if not utter disconnect, between the activities which are part of Aristotle's business and the profile of a typical safe harbor under COPPA. Certainly, in these businesses, mistakes can happen, with personal data ending up in the hands of unverified and inappropriate buyers.³ But beyond that, while Aristotle has every right to be in the business of data mining and engage in the commercial distribution of personal data, there is no inherent "right" to be a COPPA safe harbor, and certain entities are just less well-suited to that role than others.

C. Aristotle's Client Base

Another concern with Aristotle's "political data" business is that the potential client base, of necessity, includes the staffs and offices of those very legislators who, at both the State and Federal levels, may be required to vote on new legislation in the areas of privacy, data transfer, data security, etc. or on modifications to existing legislation of this sort, such as COPPA. Were Aristotle to become a COPPA safe harbor, we find it difficult to see how these relationships do not present a conflict of interest. Again, while Aristotle is certainly entitled to service whatever clients it chooses, the fact is that its already established business is fundamentally at odds with the nature of safe harbors, and could create at least the appearance of impropriety.

³ See, e.g., <http://www.wired.com/print/politics/security/news/2003/12/61543>.

We endeavored to examine the nature of Aristotle’s client base outside the political arena, but verifying information concerning Aristotle or its clients has proven challenging in the extreme. Aristotle’s Integrity website (<http://integrity.aristotle.com/>) does not currently provide a list of past or present clients, although there is a video that flashes company logos, leaving the impression that those companies are (or were) clients of Aristotle. But confirming this assumption was exceedingly difficult. Transparency does not appear to be a hallmark of the services Aristotle provides. But transparency is, or should be, a fundamental component of a safe harbor program, including transparency regarding the identity of those entities utilizing the services of a safe harbor. Given Aristotle’s desire to operate as a safe harbor, a greater level of transparency might have been expected, and arguably should have been implemented prior to its submission.

2. Aristotle’s Failure to Ensure COPPA Compliance

A. Aristotle’s Website

One of the factors to consider in certifying any company as a COPPA Safe Harbor is whether that company complies with the very standards it promulgates as requirements for its own safe harbor program. The best approach to assess a company’s dedication to compliance is to review that company’s own online practices. Although Aristotle’s websites are primarily informational (and the only information that appears to be collected is that which a site visitor voluntarily provides when requesting more information), the existing privacy policies⁴ are lacking in several areas, including:

(i) their failure to provide users with sufficient information about the security measures in place to protect information that is collected, particularly in light of the collection of financial information, as referenced in the privacy policy;

(ii) their failure to provide appropriate notice that user information is not sold to third parties (noting that it is not “provided” to third parties is impermissibly vague);

(iii) their failure to indicate how long the collected information is retained;

(iv) the absence of a date indicating when the privacy policy was last updated; and

(v) the presence of a non-operational link through which users can obtain information regarding the U.S. – E.U. Safe Harbor (http://www.export.gov/safeharbor/sh_overview.html.) (*see screen shot #1*)

B. Motion Picture Studio Clients

In reviewing websites for which it appears Aristotle provides services, we noted certain areas of COPPA non-compliance, which we detail below. First, Aristotle’s website blog links to several

⁴ <http://integrity.aristotle.com/about-us/privacy-policy> and <http://www.aristotle.com/content/view/31/152/> (attached as Exhibit A)

promotional sites for MPAA-rated films, including www.dragontattoo.com, www.bridesmaidmovie.com, and www.areyouabadteacher.com. As we assume Aristotle was responsible solely for the age-gating and verification processes on these sites, only those particular areas will be addressed.⁵

- (1) www.dragontattoo.com. On this site, users are asked for first name, last name, zip code and date of birth (mm/dd/yyyy). **(screen shot #2)** The user must click “submit” after appearance of the statement, “I am the person whose name appears here and my information is true and correct. Information gathered here will be used for age verification purposes only.” If a user puts in a date of birth indicating that he/she is under 13, then he/she is initially blocked. The statement “YOUR INFORMATION IS NOT VALID” appears. **(screen shot #3)** The user is then able to simply change the birth year **(screen shot #4)** and click “submit” to view the material. **(screen shot #5)** Additionally, a user can put in false or fake information and still pass through the age-gate (as we discovered when we entered a fictitious name, zip code and birth date). This is inconsistent with Aristotle’s claim that it verifies a user’s identity. Not only does the site fail to block under-age users from accessing restricted content, it is not COPPA compliant. While COPPA may not be applicable in this instance (since we presume information is not being stored), it is still important to note that Aristotle does not currently operate age-gates that would comply with COPPA. COPPR FAQ 38 states, “...we recommend that sites that choose to age-screen employ temporary or permanent cookies to prevent children from back-buttoning to change their age in order to circumvent the parental consent requirement or obtain access to the site.” COPPR FAQ 39 continues, “...we recommend using a temporary or permanent cookie to prevent children from back-buttoning to enter a different age. Note, however, that if you ask participants to enter age information, and then you fail to either screen out or obtain parental consent from those participants who indicate that they are under 13 years old, you may be liable for violating COPPA and the Rule.” Based on this information, this website’s age-gate would not be COPPA compliant.
- (2) <http://www.bridesmaidsmovie.com/restricted/> As with the above-referenced site, users are asked for first name, last name, date of birth and zip code. Under the fields requesting this information it states: “YOU MUST BE 18 OR OVER AND HAVE A US DRIVERS LICENSE TO VIEW”. **(screen shot #6)** There are pull-down menus for users to enter their birth month, day and year. The pull-down field for year only lists years up to 1999, meaning that anyone under the age of 13 would be forced to lie about their age. **(screen shot #7)** If a user enters a birth date indicating that he/she is under 18, the message “YOU MUST BE AT LEAST 18 YEARS OLD TO VIEW THIS CONTENT!” appears on the screen. **(screen shot #8)** The user is then able to change the year of his/her birth and is immediately able to enter the site. The message, “YOUR AGE HAS BEEN VERIFIED” appears and you are brought to the promotional trailer. **(screen shot #9)** Users are never asked for information from their drivers’ licenses or alternative forms of identification. Additionally, users are able to input fake names and receive immediate access to the promotional trailer. For these reasons, this age-gate is not COPPA compliant.

⁵ We would note that these websites’ privacy policies do not make any reference to Aristotle, nor is Aristotle’s logo or other identifying mark located anywhere on the sites. If a 30-year old consumer had trouble with the verification process, it seems unusual to not provide recourse through contact information for the verification provider, or at least supply the identity of the verification provider -- in this case, Aristotle. As a safe harbor, far greater transparency would be required.

Additionally, the age gate is not neutral and may encourage those under 18 to lie. Those under 13 are essentially forced to lie, given the nature of the drop-down menu which stops at 1999. COPPR FAQ 39 states: "...should you choose to block children under 13, it is important that you design your age collection input screens in a manner that does not encourage children to provide a false age in order to gain access to your site." This site does not do so.

- (3) www.areyouabadteacher.com On this site, users are asked for their first name, last name, birth date, state and zip code. Prior to a user clicking "submit," the site states: "I am the person whose name appears here and my information is true and correct. Information gathered here will be used for age verification purposes only." (**screen shot #10**) If users enter a date of birth indicating that they are under age, initially they are not able to see the trailer (**screen shots 11 & 12**). However, users are immediately given the option to "Try Again" and are able to go back, re-enter their birth year, and see the trailer. This site, also, is not fully COPPA compliant.

Aristotle is but one of several providers of verification services to motion picture studios that are members of the Motion Picture Association of America (MPAA). As the FTC observed in its December 2009 report "Marketing Violent Entertainment to Children: A Sixth Follow-up Review of Industry Practices in the Motion Picture, Music Recording and Electronic Game Industries" (the "Report"), the MPAA marketing guidelines require, with respect to "red tag" promotional trailers for films rated or anticipated to be rated "R" or "NC-17," that they be placed behind an age-gate or similar mechanism to ensure that children under the age of 18 will not easily be able to view the material. Additionally, according to the MPAA, a suitable age-gate for the movie's official site must request not only a user's birth date, but additional information (such as a zip code), and must confirm the information using a proprietary database to validate the user's identity. (Report at pp.8-9, n.58)

Yet in the Report, the FTC noted the ease with which users could "circumvent the age gates by hitting the „back' button to the previous page and re-entering his or her age as 17 or older" (at p.9). Almost two years after that 2009 Report, Aristotle has yet to remedy the problem highlighted in the Report, as our foregoing analysis of the three official motion picture sites demonstrates. And while Aristotle's film studio clients may have directed or approved the use of certain "shortcuts" to compliance with MPAA guidelines, the use of shortcuts or work-arounds in the COPPA context could have significantly more far-reaching consequences for the non-compliant participant in Aristotle's safe harbor program.

C. Other Clients

- (1) **Lego:** Aristotle's promotional video on its website (<http://integrity.aristotle.com/#uses>) references Aristotle's relationship with Lego, and our research confirmed that Lego is an Aristotle client. On www.legouniverse.com, users must complete a registration before obtaining access to the massively multiplayer online (MMO) game "Lego Universe." Users are asked to enter a username, password and date of birth (using pull-down menus for month, day and year). (**screen shot #13**) If a user enters a birth date (and clicks "confirm birthday") (**screen shot #14**) indicating that he/she is under 13, the user is then asked to enter a parent's email address (**screen shot #15**). The user is able to close the registration screen (by clicking on the red "x" in the top right corner) and then re-open the registration screen. If a user tries to register using the same username but a different birth date, he or

she is still asked for a parent's email address. But if the user changes the username and re-enters an older date of birth, he/she is not asked for a parent's email address and is able to complete the registration. (**screen shot #16**) Once again, since users are able to back-button and change their registration information, this site is not COPPA compliant.

- (2) **Wild Turkey:** Aristotle's promotional video also references the Wild Turkey website. On this site, users must enter their date of birth and select their country of residence. There is a statement "you must be of legal drinking age to enter this website." Users must enter their date of birth, but the field for the year can only be a birth date starting with "19" (**screen shot #17**). Necessarily, users born in 2000 or later will be forced to enter a false age. Users are also able to back-button and change their birth year if initially denied access to the site. A similar age-gate appears on the Anheuser Busch site (another company referenced in Aristotle's video). (**screen shot #18**) Again, these sites would not be COPPA compliant.

In sum, these examples raise questions about Aristotle's ability to ensure the presence of basic safeguards that would make clients' websites COPPA compliant. We would submit that any company requesting certification as a COPPA Safe Harbor should first be able to show that sites with which it is engaged are substantially COPPA compliant. Unless it does, should it be trusted, as a safe harbor, to ensure its clients' compliance with COPPA and the COPPR?

3. **Aristotle's Proposed "Guideline Requirements"**

A. **Monitoring Process and Communication with Members**

We think Aristotle's intended monitoring practices and the frequency with which it claims this process will be undertaken are beyond ambitious; they seem wholly unrealistic. In **Section III(B)** of its application, under the subheading **Compliance Monitoring**, Aristotle states that "in addition to the quarterly monitoring, member companies must also agree to submit to periodic, unannounced monitoring reviews of their website. Periodic, unannounced monitoring reviews will also be conducted at a minimum of one per quarter or four times per year." This amounts to eight (8) compliance reviews per year. As the only COPPA Safe Harbor presently providing written quarterly compliance reports, we know firsthand the challenges involved in providing detailed compliance reports four times per year. And frequent monitoring is not only a challenge for the safe harbor, it can prove burdensome for the member company as well. That is why monitoring frequency must be calibrated to best serve the ultimate goal of COPPA compliance, based on the nature of the member company and the type of websites being monitored. To assert, right off the bat, that monitoring will be done eight (8) times a year seems rash, and suggests a lack of familiarity with this space.

The "Monitoring Review Report" provided in Aristotle's application looks appropriate for an initial website assessment. But if monitoring is indeed to be done 8 times per year (or even 4), the questions included seem somewhat redundant. That aside, there appear to be several key inquiries missing from the questions included in the report. Inquiries such as:

- Does the website utilize an age-gate? If so, is the language age-neutral?
- Does the website utilize cookies to prevent back-buttoning?
- Does the website have interactive features where a child can publicly disclose personal information?

Since these types of questions are not asked, we are left to assume that Aristotle must not intend to monitor for these features, which are at the heart of COPPA compliance.

Moreover, nowhere in Aristotle's application does it state that member companies actually **receive** any monitoring reports. The application indicates that these monitoring reports will be maintained by Aristotle for a period of time, but the application does not state how, when or in what format Aristotle clients receive their compliance reports or, moreover, what actions must be taken by those clients to address compliance issues cited in the reports. Specifically, in **Exhibit A, Requirement 7: Compliance/Enforcement (C – Compliance Monitoring)**, it states: "if Aristotle determines that a violation of the requirements has occurred the Member is informed of such violation and the corrective actions that must be taken to bring the Member's website into compliance." This suggests that members will receive reports only if there is a violation of the program requirements; if they are in compliance, it appears no communication will be sent to the member.

It seems only logical though that companies joining a safe harbor program and paying fees for the monitoring/auditing of their online privacy practices would want a "paper trail" (i.e., regular monitoring reports) to demonstrate their historical compliance record, particularly should issues subsequently arise with the FTC or other State regulatory authorities. Beyond that, however, if reports are not provided indicating that monitoring has taken place, along with the results of that monitoring, how is a participant to know if their site is fully compliant (and it therefore did not receive any communication from the safe harbor), or if the safe harbor simply has not done any monitoring of its site? The provisions in Aristotle's application relating to its proposed monitoring and reporting are too ambiguous and potentially problematic to warrant its certification as a safe harbor.

B. Member Display of Aristotle's Marks

The materials submitted by Aristotle reference a trademarked logogram, termed the "Children's Mark" (**Exhibit A, Requirement 1 (iii)**). Presumably, this mark serves to designate, for the benefit of consumers, websites that participate in Aristotle's COPPA Safe Harbor, and which are monitored for compliance with COPPA. But there are inconsistencies in the submitted materials when it comes to use of this mark by members. In some places, Aristotle's submission states that members **must** display the mark, and in other places it states that members **may** do so. **Permitting** a participant to display the mark is quite different than requiring that the mark be displayed at designated locations, and the former approach redounds to the detriment of consumers.

C. Requirements for Members' Privacy Policies

Aristotle's application (**Exhibit A, Requirement 1**) outlines the "Notice/Disclosure of Information" which should be included in the privacy policy of each potential member. A strong privacy policy should provide consumers with detailed information about a company's practices with respect to the collection, protection, use and disclosure of users' personally identifiable information. Aristotle's requirements appear to cover only the basics, although as a safe harbor, its requirements for members' privacy policies should reflect best practices under COPPA. We find Aristotle's requirements lacking in this regard, and inconsistent with best practices in the following ways:

- **Submission of Privacy Policy to the Safe Harbor.** When a member's online information practices change, Aristotle does not require that it approve a revised privacy policy, consistent with its member's new practices. Similarly, when a member makes one or more material changes to its privacy policy, there appears to be no requirement that Aristotle review or approve these changes prior to the member posting its new privacy policy.
- **Notice of Participation in Aristotle's Safe Harbor Program.** Aristotle does not require that a member's privacy policy indicate that the company participates in Aristotle's COPPA Safe Harbor program; nor must the privacy policy provide Aristotle's contact information. Since, as previously indicated, Aristotle does not appear to require that its mark be displayed on members' websites, it is unlikely that a consumer will know to contact Aristotle with complaints or concerns about a member's online practices. Indeed, it appears Aristotle's only requirement with regard to members' privacy policies is that the member, prior to changing the URL of its privacy policy, provide notice to Aristotle two days prior to doing so (see **Exhibit A, Requirement 1(ii)**).
- **Disclosure of Third Parties with Whom Personally Identifiable Information is Shared.** A privacy policy should identify and provide information (email address, postal address and phone number) concerning any third party which is collecting personally identifiable information through the member website or with whom the member is sharing such information.
- **Prohibition on Advertisements in Privacy Policies.** Although Aristotle states that a member's privacy policy "must be clear and understandable, and should not contain unrelated, contradictory, or confusing material," it does not clearly state that privacy policies should not contain advertisements, graphics, cartoons or the like, as required by the COPPR.
- **Notice of "Last Update"**. A privacy policy should include a notice clearly stating when it was last updated. To ensure that the notice is conspicuously posted, members should be instructed to place this notice at the top of their privacy policies.
- **Reconciliation with Terms of Use.** While it is unclear how involved Aristotle will be in the actual review of members' privacy policies, it should ensure that these privacy policies are reconciled with each member's Terms of Use, Terms of Service or End User License Agreement, so that activities on a member's website and all posted policies are consistent; an important exercise that is often overlooked.
- **Data Security and Protection.** Aristotle should require that members' privacy policies contain specific information disclosing the manner in which that member intends to protect users' personal information (e.g. use of SSL, firewalls, other encryption methods, etc.).
- **Data Retention.** Members of Aristotle's program would not be required to disclose their data retention policies/practices. Minimally, members should be required to retain only that data which is necessary for ongoing business operations.

Given the absence of these elements from Aristotle's requirements, we question whether this reflects a strong commitment to the principles underlying COPPA, or a determination to meet

simply the “minimum standards.” Notably, in rejecting the application of i-SAFE to be a COPPA safe harbor in June 2010, the FTC premised its determination, at least in part, on the absence of many of these same safeguards in the safe harbor program i-SAFE submitted for certification.⁶

4. Additional Concerns with Aristotle’s Application

A. Timing of This Safe Harbor Application

Beyond the concerns reflected above, it seems a decidedly odd time for Aristotle to apply to become a COPPA safe harbor. Presumably, it is aware of the ongoing review of the COPPR, and recognizes that there could be significant changes to the COPPR, or even the underlying legislation. COPPA might, for instance, be wrapped into a broader federal privacy initiative; certainly legislative proposals addressing privacy concerns are currently not in short supply. New legislation may be passed. Program requirements of the existing safe harbors, and the very nature of the programs each administers, may need to be tweaked, modified, or perhaps significantly altered. While existing safe harbor programs are well-situated to accommodate any changes to the Act or the FTC Rule, and to swiftly advise clients regarding the implementation of changes to their online practices and/or privacy policies necessitated thereby, we do not believe an untried and untested safe harbor is in a position to do likewise.

Furthermore, whether intended or not, changes to the current COPPA environment may have a significant financial impact on the operations of safe harbor programs, necessitating changes to their existing business models. At present, the future is unclear and the COPPA safe harbors now operating already face much uncertainty with respect to the future of their programs and members.

B. Impetus for This Safe Harbor Application

Which raises the question: why does Aristotle wish to operate a COPPA safe harbor program, and why now, in light of the uncertainties referenced above? Review of Aristotle’s application would suggest that a key component is its ability to up-sell its Integrity suite of products, as the preferred method for obtaining prior verifiable parental consent (see, e.g., Section I(B), Requirement 3.B. “Methods for Obtaining Verifiable Parental Consent”).

It does not appear Aristotle has a history of working with child-centric clients or those immersed in the parent/child relationship. While Aristotle does claim, on the first page of its application, that it has worked “to enable companies to create rewarding relationships with children online while meeting the expectations and concerns of parents and government regulators,” no further description or explanation is given. And while Aristotle’s website indicates that its Integrity products are used “to manage the parent/child authorization process,” its application does not provide any details about its experience administering parental authorizations or managing the mechanics of verifiable parental consent. We would suggest that this part of Aristotle’s history and business model is unfamiliar to most, yet Aristotle provides no real details regarding the history it claims in enhancing the online space for children.

⁶ Letter of FTC Secretary Donald S. Clark to i-SAFE COO Dennis R. Shaw, dated June 2, 2010, available at <http://www.ftc.gov/os/2010/06/100608isafecoppa.pdf>.

Its expertise, we would submit, is in weeding out individuals under the age of 17, 18 or 21, as the case may be, but it has no particular expertise in distinguishing a 12 year old from a 15 year old for purposes of COPPA. While Aristotle's impetus for seeking to enter this space, as a for-profit venture, may be pure, and the timing simply an oddity, we respectfully suggest that the FTC thoroughly review Aristotle's application, its websites and its businesses.

5. Conclusion

We submit that due consideration of Aristotle's current business model, its questionable commitment to espouse and enforce not only minimum standards, but best practices, coupled with the specific timing of this application for safe harbor status requires that it be denied at this time.

Respectfully submitted,

ESRB Privacy Online

By: _____
Evie C. Goldstein
Senior Vice-President, Legal Affairs

By: _____
Dona J. Fraser
Director, Privacy Online

EXHIBIT A – Aristotle’s Privacy Policies

1) Aristotle’s Integrity website privacy policy

Privacy Policy

Aristotle, Inc. has created this privacy statement in order to demonstrate our firm commitment to privacy. The following discloses our information gathering and dissemination practices for **Integrity, Aristotle Inc.** and its divisions.

Website

Our site's registration form requires users to give us contact information (like their name and email address). We use customer contact information from the registration form to send the user information about our company. The customer's contact information is also used to contact the visitor when necessary. Our site uses an order form for customers to request information, products, and services. We collect visitor's contact information (like their email address) and financial information (like their account or credit card numbers). Contact information from the order form is used to send orders and information about our company to our customers. The customer's contact information is also used to get in touch with the visitor when necessary. Financial information that is collected is used to bill the user for products and services. This site has security measures in place, including server password and firewalls, to protect the loss, misuse and alteration of the information under our control.

Use of Data for Verification Purposes

Personally identifiable information provided for purposes of age and identity verification to Aristotle and its Integrity unit is used only for that purpose, and is not transferred or retained, except as required by law.

U.S.-EU Safe Harbor Privacy Statement

For personal information of employees, consumers, customers, investors, and government officials that Aristotle receives from the European Economic Area, Aristotle has committed to handling such personal information in accordance with the Safe Harbor Principles. Aristotle's Safe Harbor certification can be found at <http://web.ita.doc.gov/safeharbor/shlist.nsf/webPages/safe+harbor+list>. For more information about the Safe Harbor Principles, please visit the U.S. Department of Commerce's Website at http://www.export.gov/safeharbor/sh_overview.html.

Confidentiality of Information/Correction

This site does not provide visitors' information to third parties. This site gives users the following options for changing and modifying information previously provided: * E-mail to: remove@aristotle.com

Contacting Integrity

If you have any questions about this privacy statement, the practices of this site, or your dealings with this Web site, you can contact Aristotle at: **Integrity** 205 Pennsylvania Avenue, SE Washington, DC 20003 Phone: (202) 543-8345 E-mail address: integrity@aristotle.com

2) Aristotle.com Privacy Policy

Privacy Policy and Data Restrictions



Aristotle, Inc. has created this privacy statement in order to demonstrate our firm commitment to privacy. The following discloses our information gathering and dissemination practices for **Aristotle, Inc.** and its divisions.

Website

Our site's registration form requires users to give us contact information (like their name and email address). We use customer contact information from the registration form to send the user information about our company. The customer's contact information is also used to contact the visitor when necessary.

Our site uses an order form for customers to request information, products, and services. We collect visitor's contact information (like their email address) and financial information (like their account or credit card numbers). Contact information from the order form is used to send orders and information about our company to our customers. The customer's contact information is also used to get in touch with the visitor when necessary. Financial information that is collected is used to bill the user for products and services.

This site has security measures in place, including server password and firewalls, to protect the loss, misuse and alteration of the information under our control.

Copyright Notice

© 1983-2009 Aristotle, Inc. All rights reserved.

Trademarks

ARISTOTLE, the "Digital Fountain" logo, INTEGRITY, the Integrity "Star Burst" logo, and other trademarks are trademarks of Aristotle Incorporated and may not be used without permission.

Political Data Restrictions

Use of and access to voter list data is restricted in some jurisdictions. For information, contact an Aristotle representative. Searching for individual voters is not available, and voter names and addresses are not visible during your searches.

Any information copied, or otherwise obtained, from any FEC report or statement, or any copy, reproduction, or publication thereof, filed under the Act, shall not be sold or used by

any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committees.

Use of Data for Verification Purposes

Personally identifiable information provided for purposes of age and identity verification to Aristotle and its Integrity unit is used only for that purpose, and is not transferred or retained, except as required by law.

U.S.-EU Safe Harbor Privacy Statement

For personal information of employees, consumers, customers, investors, and government officials that Aristotle receives from the European Economic Area, Aristotle has committed to handling such personal information in accordance with the Safe Harbor Principles. Aristotle's Safe Harbor certification can be found at <http://web.ita.doc.gov/safeharbor/shlist.nsf/webPages/safe+harbor+list>. For more information about the Safe Harbor Principles, please visit the U.S. Department of Commerce's Website at http://www.export.gov/safeharbor/sh_overview.html.

Confidentiality of Information/Correction

This site does not provide visitors' information to third parties. This site gives users the following options for changing and modifying information previously provided:

* E-mail to: remove@aristotle.com

Contacting Aristotle

If you have any questions about this privacy statement, the practices of this site, or your dealings with this Web site, you can contact Aristotle at:

Aristotle, Inc.
205 Pennsylvania Avenue, SE
Washington, DC 20003
Phone: (202) 543-8345
E-mail address: info@aristotle.com

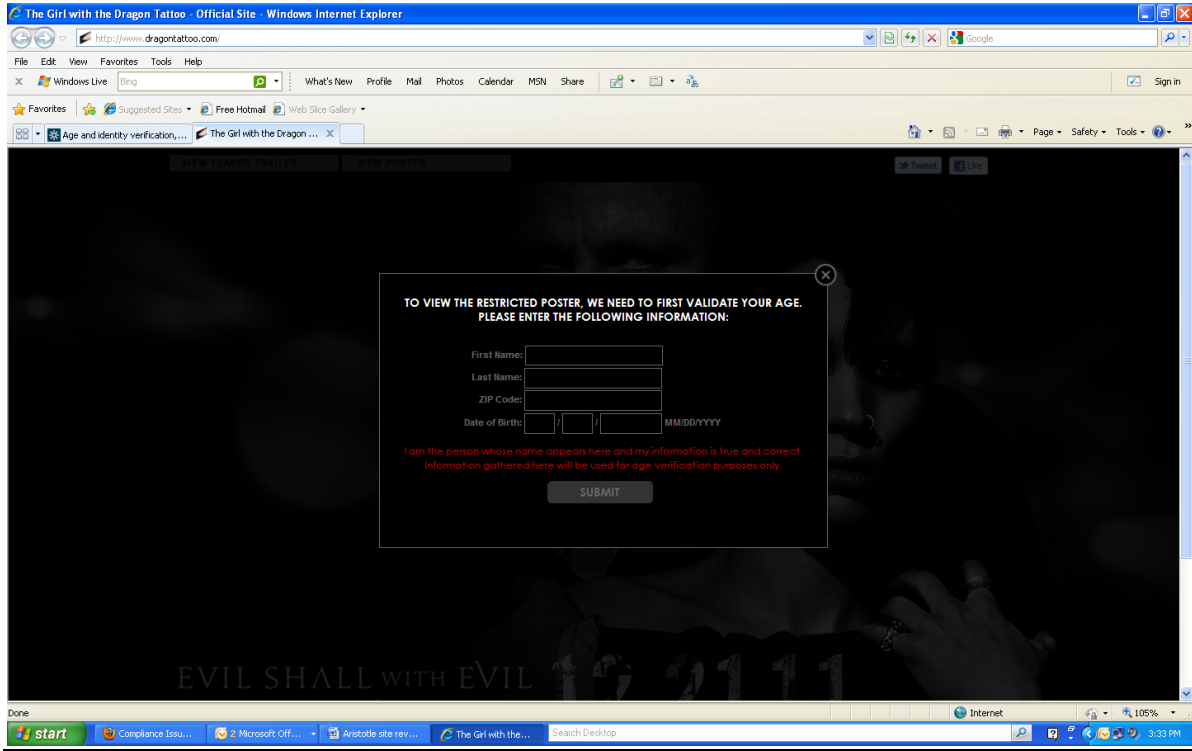
SCREEN SHOTS

Screen shot #1

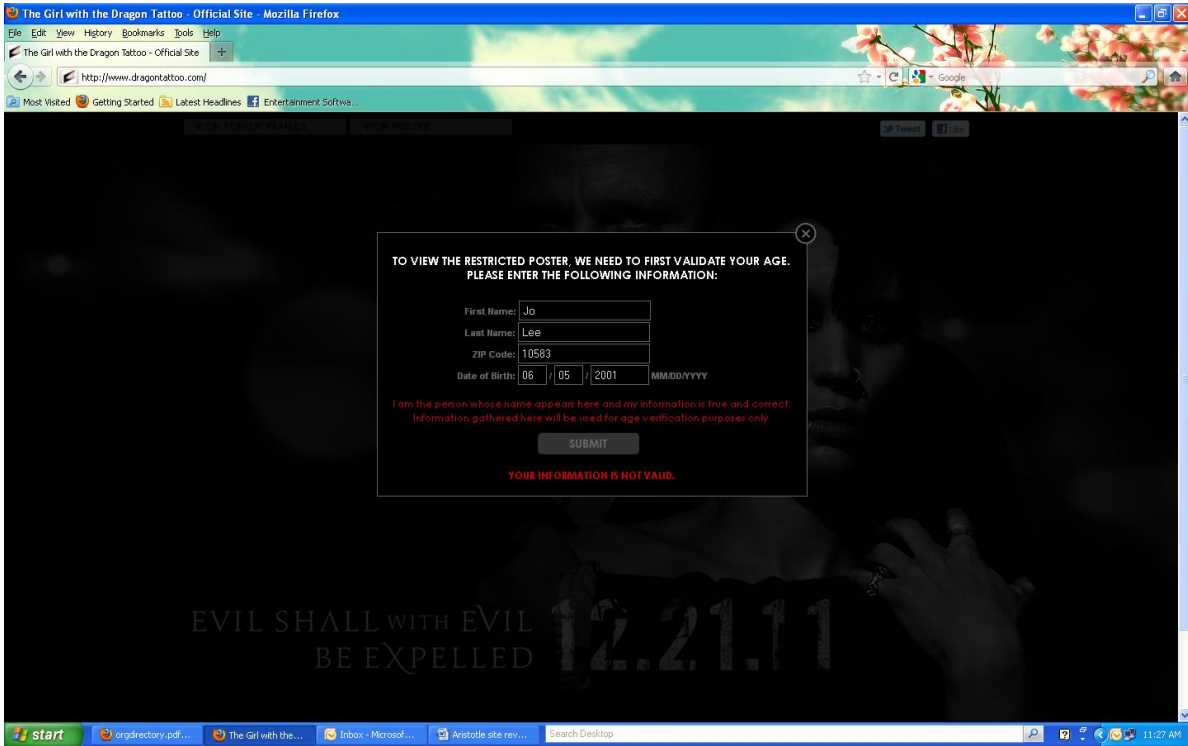
Link to page from Aristotle and Integrity Privacy Policies, in which policy indicates users can obtain more information about Safe Harbor principles by visiting this DOC website



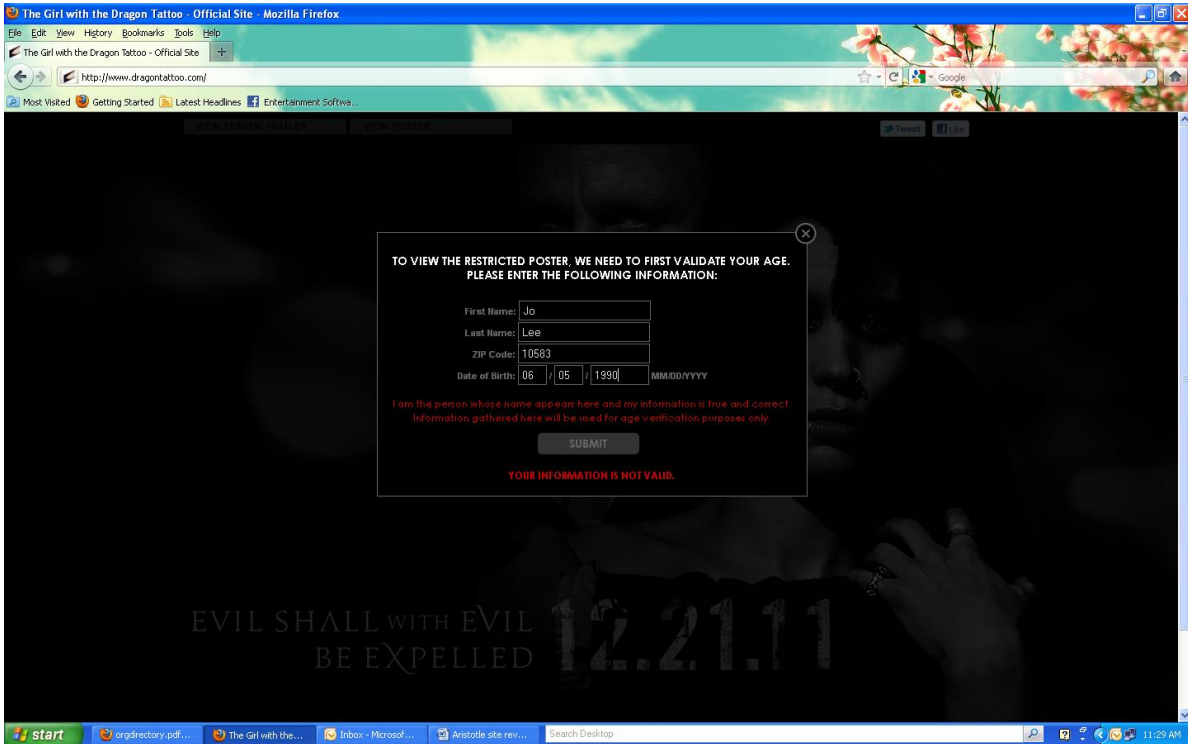
Screen shot #2



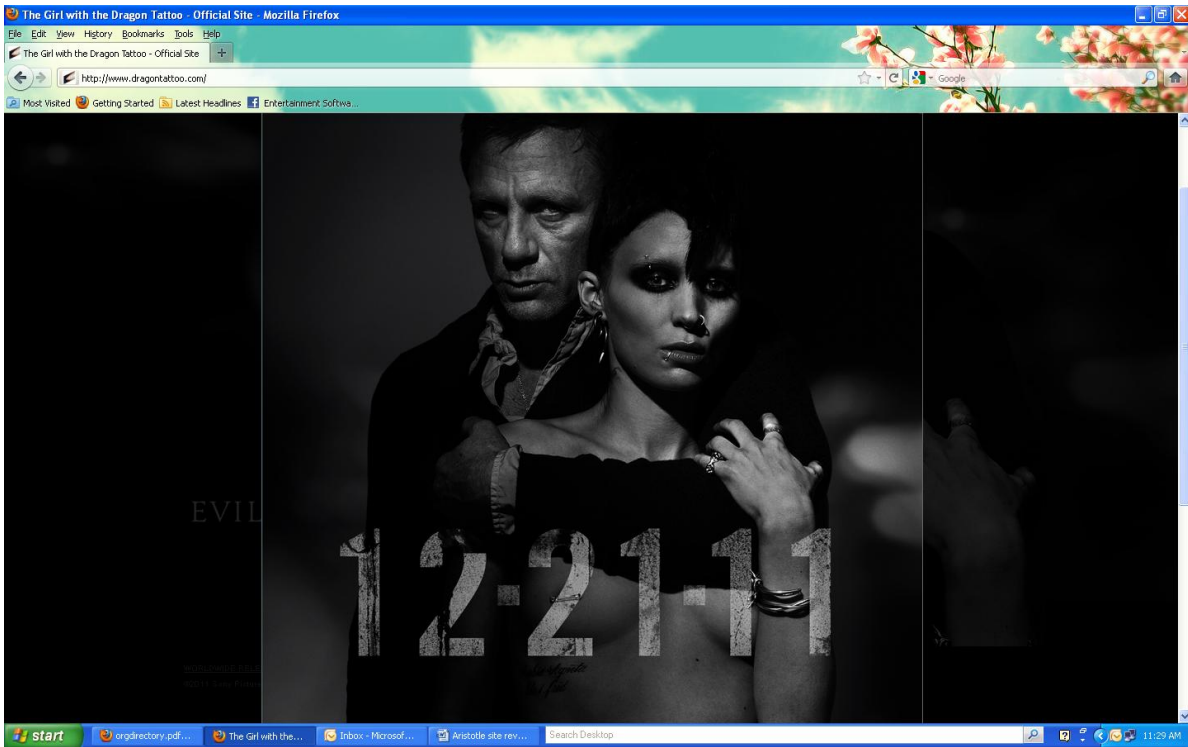
Screen shot #3



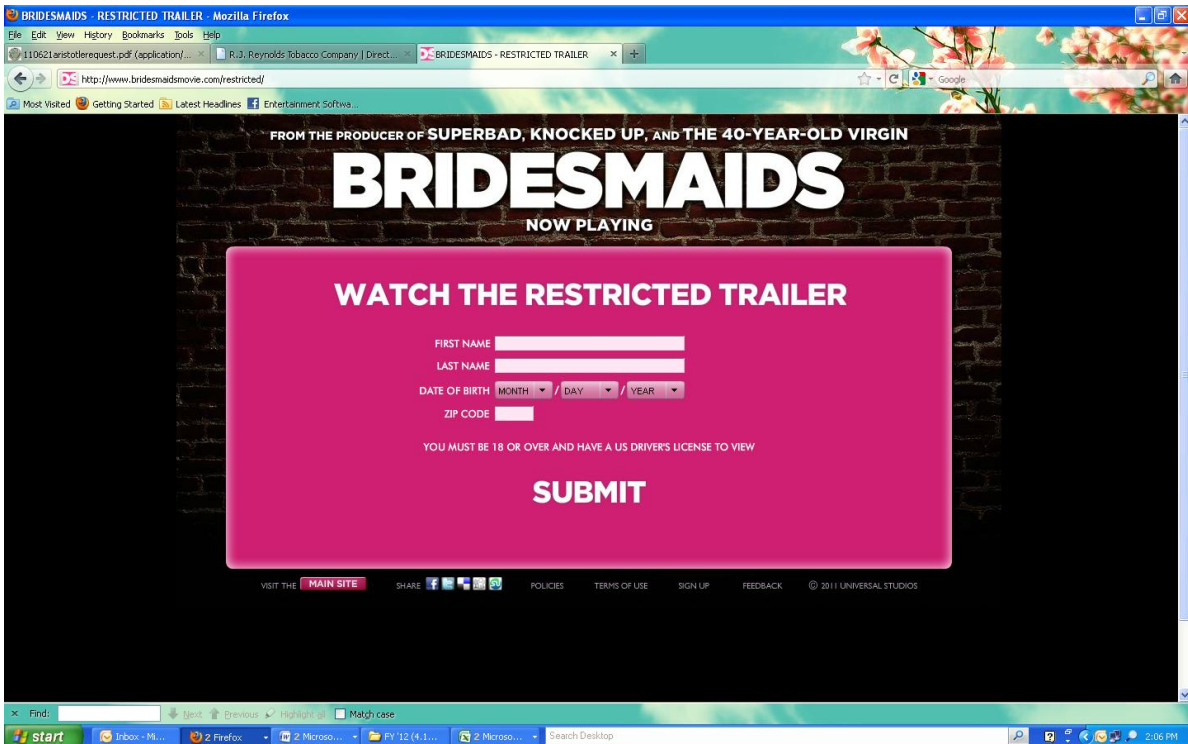
Screen shot #4



Screenshot #5



Screen shot #6



Screen shot #7

BRIDESMAIDS - RESTRICTED TRAILER - Mozilla Firefox

FROM THE PRODUCER OF SUPERBAD, KNOCKED UP, AND THE 40-YEAR-OLD VIRGIN

BRIDESMAIDS

NOW PLAYING

WATCH THE RESTRICTED TRAILER

FIRST NAME

LAST NAME

DATE OF BIRTH MONTH / DAY / YEAR

ZIP CODE

YOU MUST BE 18 OR OVER AND HAVE A US DRIVERS LICENSE TO VIEW

SUBMIT

VISIT THE [MAIN SITE](#) SHARE [f](#) [t](#) [g+](#) [v](#) POLICIES TERMS OF USE SIGN UP FEEDBACK © 2011 UNIVERSAL STUDIOS

Find: Next Previous 192/201 Match case

start 2 Firefox Annotate site reviews ... Inbox - Microsoft Out... Search Desktop 2:58 PM

Screen shot #8

BRIDESMAIDS - RESTRICTED TRAILER - Mozilla Firefox

FROM THE PRODUCER OF SUPERBAD, KNOCKED UP, AND THE 40-YEAR-OLD VIRGIN

BRIDESMAIDS

NOW PLAYING

WATCH THE RESTRICTED TRAILER

FIRST NAME

LAST NAME

DATE OF BIRTH 04 / 06 / 1989

ZIP CODE

YOU MUST BE 18 OR OVER AND HAVE A US DRIVERS LICENSE TO VIEW

SUBMIT

YOU MUST BE AT LEAST 18 YEARS OLD TO VIEW THIS CONTENT!

VISIT THE [MAIN SITE](#) SHARE [f](#) [t](#) [g+](#) [v](#) POLICIES TERMS OF USE SIGN UP FEEDBACK © 2011 UNIVERSAL STUDIOS

Find: Next Previous 192/201 Match case

start Inbox - Mi... 2 Firefox 2 Microso... FY 12 (4.1... 2 Microso... Search Desktop 2:09 PM

Screen shot #9

BRIDESMAIDS - RESTRICTED TRAILER - Mozilla Firefox

File Edit View History Bookmarks Tools Help

110621aristotlerequest.pdf (application/... R.J. Reynolds Tobacco Company | Direct... BRIDESMAIDS - RESTRICTED TRAILER

http://www.bridesmaidsmovie.com/restricted/

Most Visited Getting Started Latest Headlines Entertainment Softwa...

BRIDESMAIDS
NOW PLAYING

WATCH THE RESTRICTED TRAILER

FIRST NAME:
LAST NAME:
DATE OF BIRTH: 04 / 06 / 1990
ZIP CODE: 10017

YOU MUST BE 18 OR OVER AND HAVE A US DRIVER'S LICENSE TO VIEW

SUBMIT
YOUR AGE HAS BEEN VERIFIED.

VISIT THE [MAIN SITE](#) SHARE [f](#) [t](#) [g+](#) [v](#) POLICIES TERMS OF USE SIGN UP FEEDBACK © 2011 UNIVERSAL STUDIOS

Find: Next Previous 192/825 Match case

start Inbox - Mi... 2 Firefox - 2 Microso... FY '12 (4.1... 2 Microso... Search Desktop 2:11 PM

Screen shot #10

BAD TEACHER - Official Site - Mozilla Firefox

http://www.areyouabteacher.com/site/

BAD TEACHER
Now Playing

RESTRICTED CONTENT

VIDEOS GALLERY ABOUT DODGEBALL GAME

Bad Teacher
Restricted Trailer

RETURN TO CLIPS

Age Validation

First Name:
Last Name:
Birthdate: MM / DD / YYYY
State: Zip Code:

I am the person whose name appears here and my information is true and correct. Information gathered here will be used for age verification purposes only.

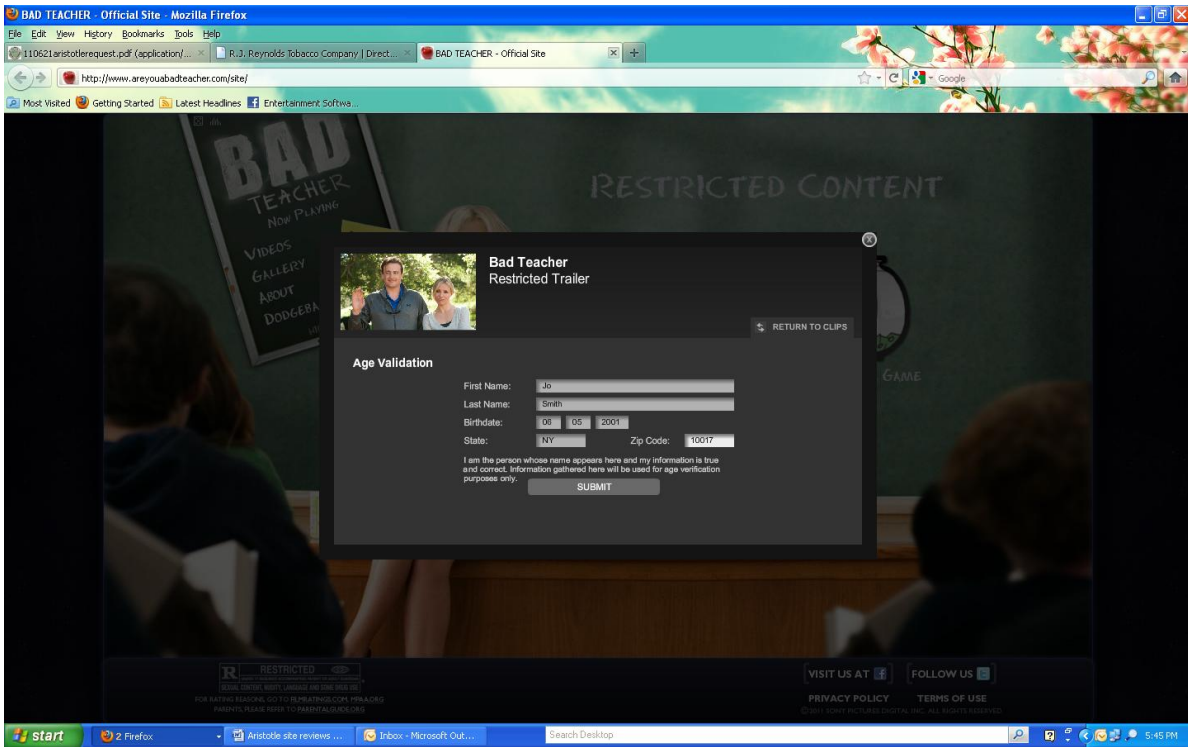
SUBMIT

RESTRICTED
PARENTS STRONGLY CAUTIONED AGAINST VIEWING
FOR RATING REASON: GO TO RATEDMOVIES.COM FOR RATING
PARENTS PLEASE REFER TO RATEDMOVIES.COM

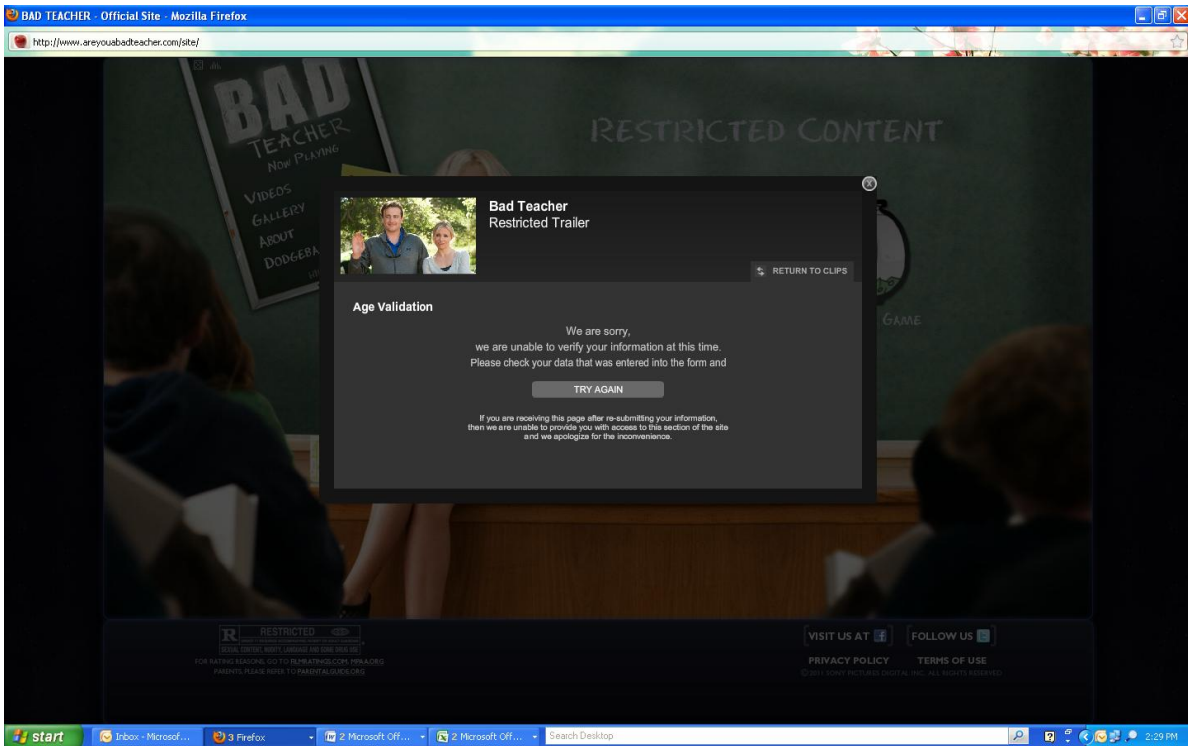
VISIT US AT FOLLOW US
PRIVACY POLICY TERMS OF USE
© 2011 SONY PICTURES DIGITAL, INC. ALL RIGHTS RESERVED.

start Inbox - Mi... 3 Firefox - 2 Microso... FY '12 (4.1... 2 Microso... Search Desktop 2:25 PM

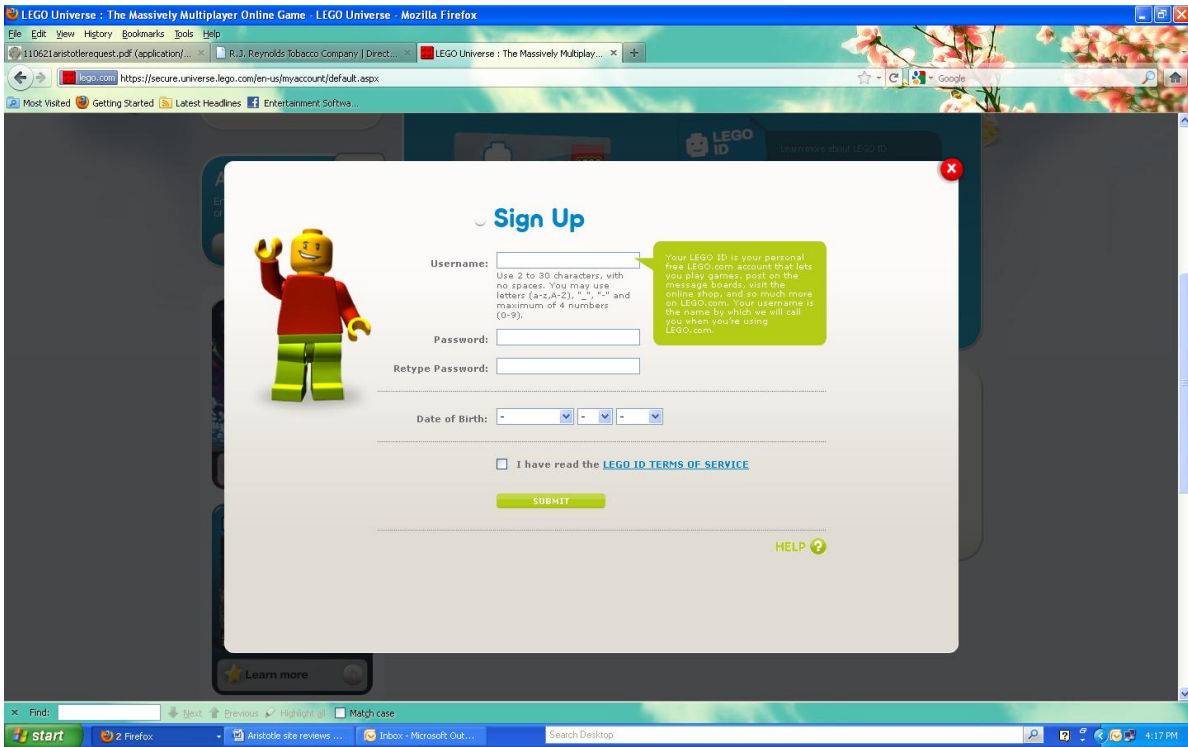
Screen shot #11



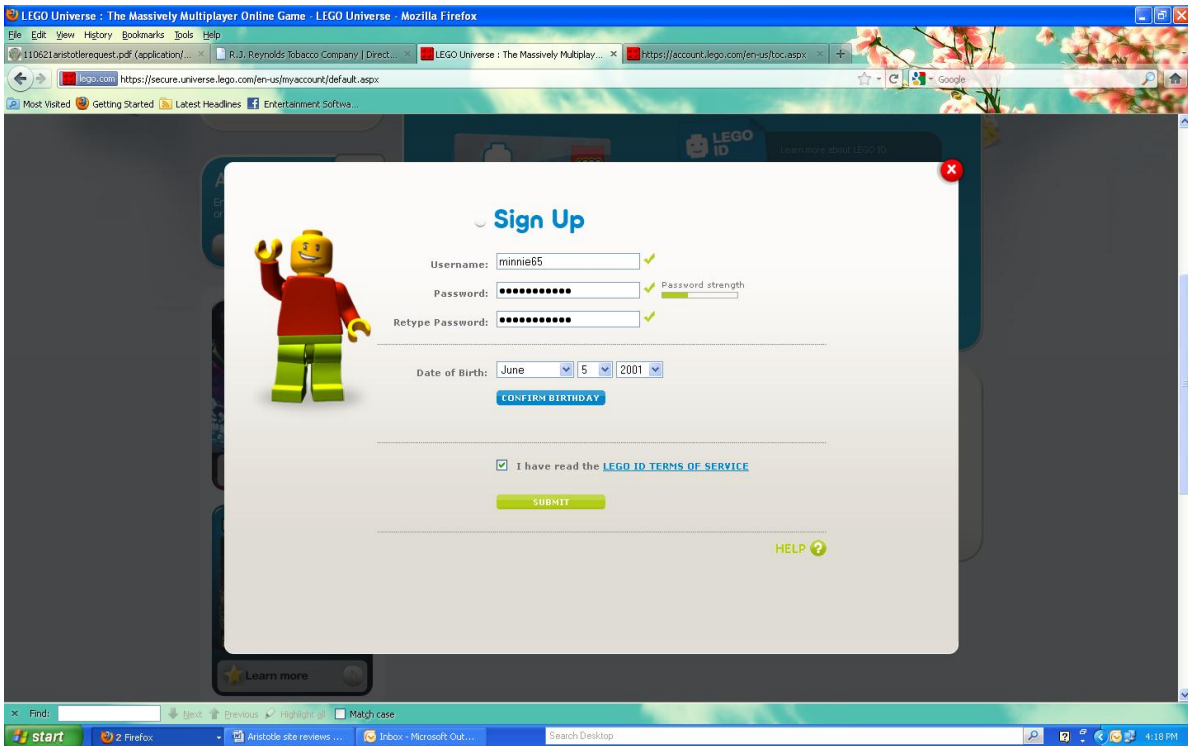
Screen shot #12



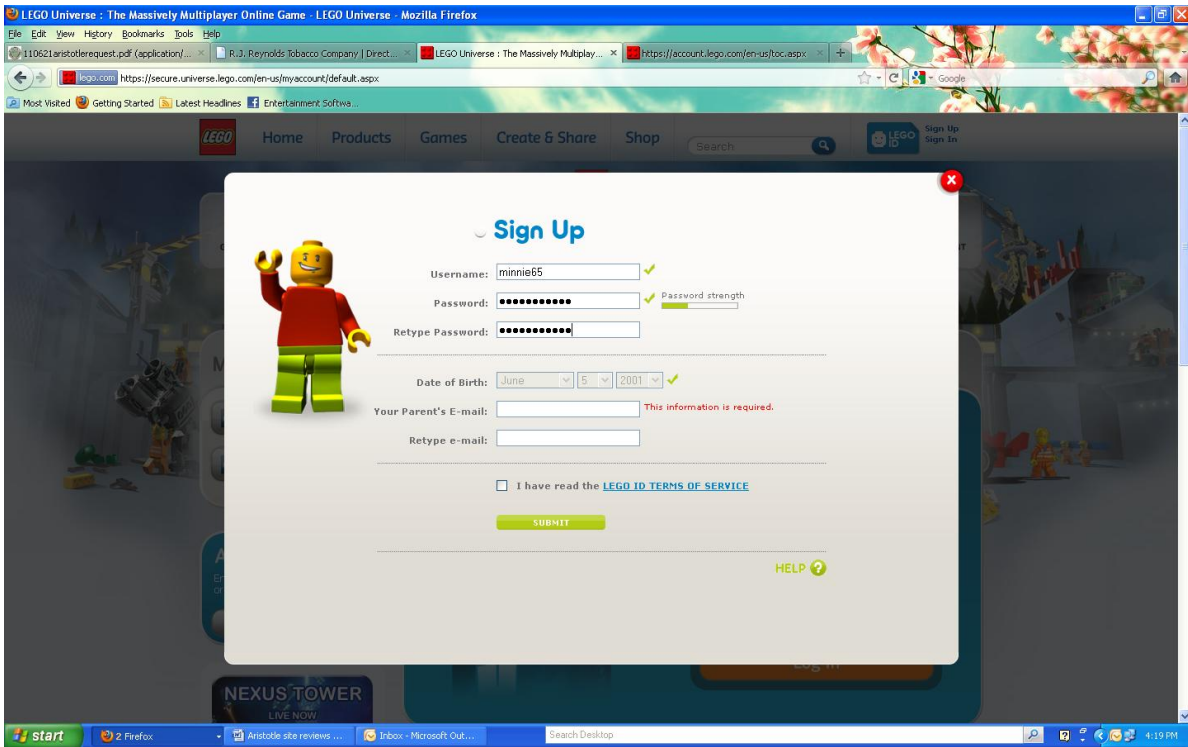
Screen shot #13



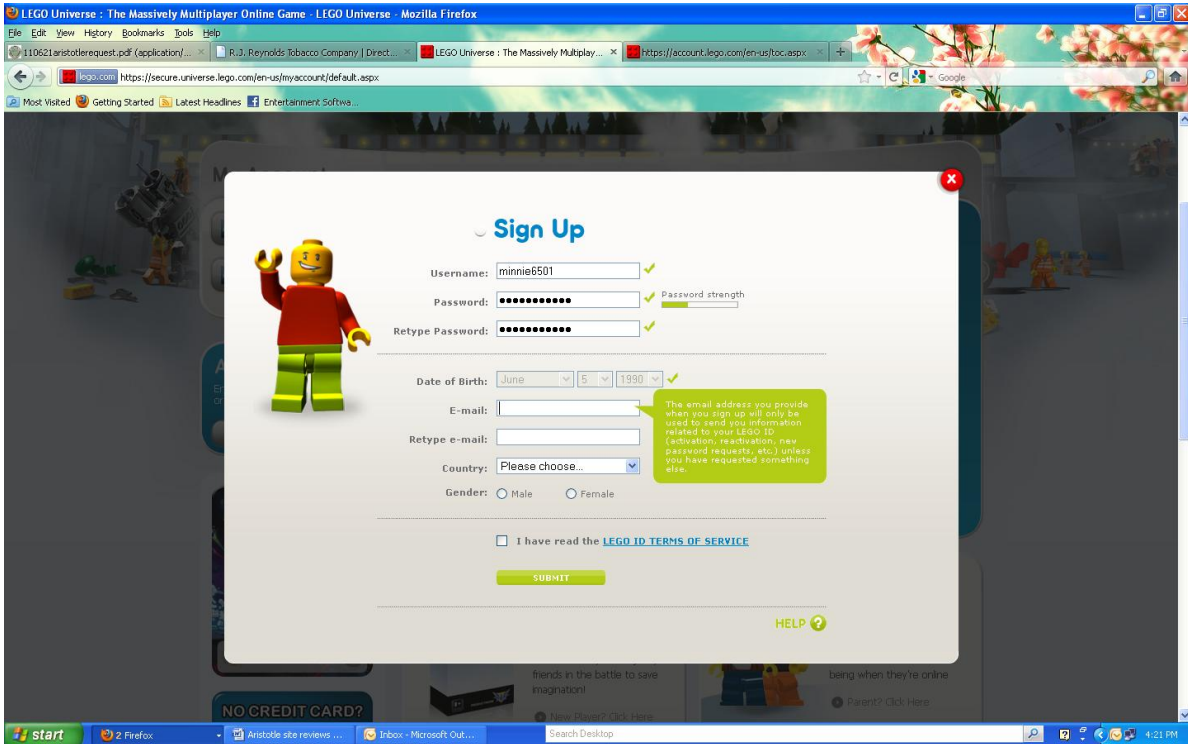
Screen shot #14



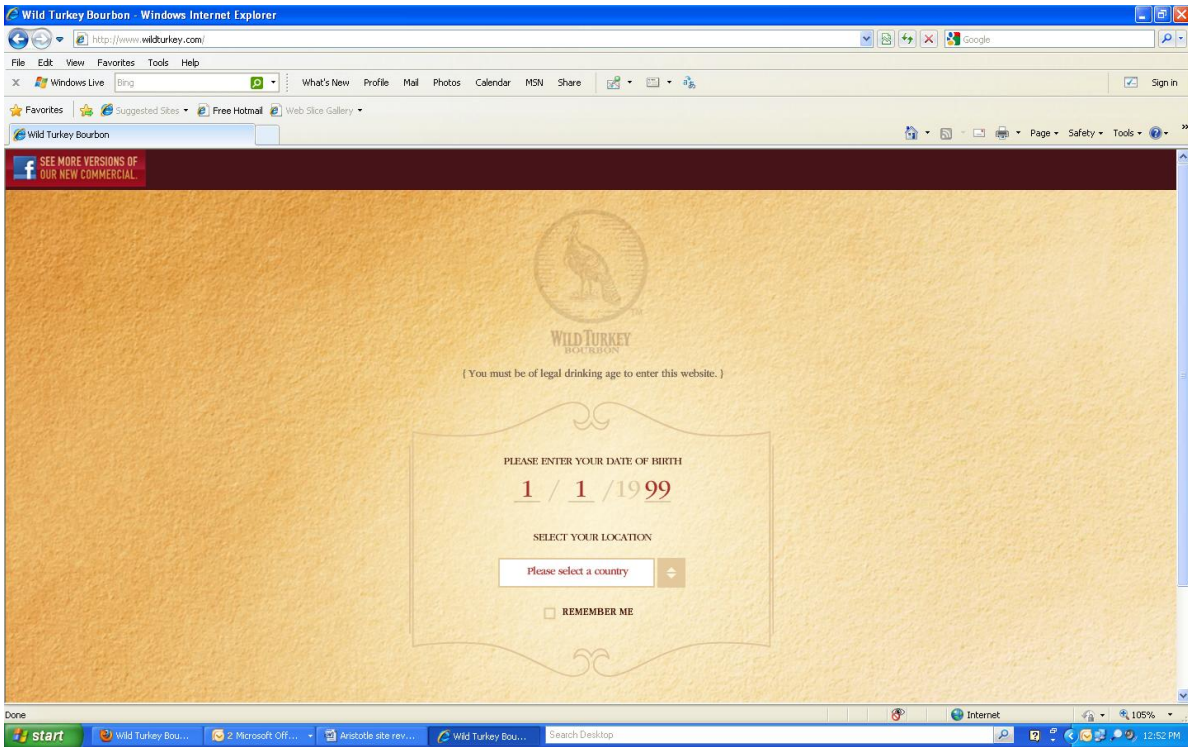
Screen shot #15



Screen shot #16



Screen shot #17



Screen shot #18

