

CR 06 00 129 JF RMW

UNITED STATES DISTRICT COURT RS

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs.

SEALED BY ORDER OF COURT

David Teves, Tim Burns, Kyle Arcand, Richard Jones and Neil Makhlof

FILED JUN 15 2006

RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE

INDICTMENT

COUNT ONE:

Title 18, U.S.C. Section 371 - Conspiracy to Commit Criminal Copyright Infringement; Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a Technological Measure that Protects Copyright Work, and use Audiovisual Recording Devices to Make Unauthorized Copies of Audiovisual Works.

COUNTS TWO THROUGH SIX:

Title 17, U.S.C. Section 506(a)(1)(B), 18 U.S.C. §§ 2319(c)(1) and 2- Criminal Copyright Infringement By Electronic Means, and Aiding and Abetting.

COUNTS SEVEN THROUGH TEN:

17 U.S.C. § 506(a)(1)(C), 18 U.S.C. §§ 2319(d)(2) and 2- Criminal Copyright Infringement By Distributing A Copyrighted Work on a Computer Network, and Aiding and Abetting.

A true bill.

[Handwritten signature]

Foreperson

Filed in open court this 15 day of June A.D. 2006

[Handwritten signature] United States Magistrate Judge

DOCUMENT NO. CSA's INITIALS 1 DISTRICT COURT CRIMINAL CASE PROCESSING

Bail. \$ Arrest warrants each defendant - no bail

1 KEVIN V. RYAN (CASBN 118321)  
United States Attorney

~~SEALED BY ORDER  
OF COURT~~

2  
3  
4  
5  
6  
7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA

FILED  
JUN 15 2006

9 SAN JOSE DIVISION

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

10  
11 UNITED STATES OF AMERICA,

CR

NO. CR 06 00429 JF

12 Plaintiff,

VIOLATIONS: 18 U.S.C. § 371 -  
Conspiracy to Commit Criminal Copyright  
Infringement, Infringement By Electronic  
Means, Infringement By Distributing A  
Commercial Distribution Work, Traffic in  
Devices to Circumvent a Technological  
Measure that Protects a Copyright Work,  
Circumvent a Technological Measure that  
Protects a Copyright Work, and Use  
Audiovisual Recording Devices to Make  
Unauthorized Copies Of Audiovisual  
Works; 17 U.S.C. § 506(a)(1)(B), 18 U.S.C.  
§ 2319(c)(1) - Criminal Copyright  
Infringement By Electronic Means; 17  
U.S.C. § 506(a)(1)(C), 18 U.S.C. §  
2319(d)(2) - Criminal Copyright  
Infringement By Distributing a Copyrighted  
Work on a Computer Network; 18 U.S.C. §  
2 - Aiding and Abetting

RS

13 v.

14 DAVID TEVES,  
a/k/a killaz,  
15 a/k/a killaz420,  
a/k/a dunno,  
16 TIM BURNS,  
a/k/a dact,  
17 a/k/a daconnect,  
a/k/a bigcockedman,  
18 KYLE ARCAND,  
a/k/a korax,  
19 a/k/a despair,  
RICHARD JONES,  
20 a/k/a fatboy,  
a/k/a vaio,  
21 NEIL MAKHLOUF,  
a/k/a bigpoppa,  
22 a/k/a zumborro,  
a/k/a crazyarab,

23 Defendants.  
24

SAN JOSE VENUE

25  
26 INDICTMENT  
27  
28

1 The Grand Jury charges:

2 A. INTRODUCTION

3 At all times relevant to this Indictment:

4 1. Defendants conspired and were knowingly and willfully engaged in the  
5 unauthorized reproduction and duplication of copyrighted movies, games, music, and software in  
6 violation of federal copyright laws. The defendants participated in a “warez conspiracy” – that  
7 is, individuals and organized groups of individuals who engaged in the duplication, modification,  
8 reproduction, and distribution of copyrighted software over the Internet, in violation of federal  
9 law. “Warez” typically includes software that has been cracked, or stripped of its copy  
10 protection, and made freely available for downloading in violation of its copyright license.  
11 “Warez site” refers to an online presence used by warez conspirators to upload and download  
12 copyrighted works without permission of the copyright holders and for other warez  
13 communications.

14 Distinct Warez Conspiracy Roles

15 2. The “warez conspiracy” consisted of a highly structured, hierarchal organizations  
16 of individuals organized for the purpose of reproducing and distributing copyrighted movies,  
17 games, and software in violation of federal copyright law. The conspirators fulfilled distinct  
18 roles and contributions to promote the success of the warez conspiracy. While some members  
19 held multiple roles, other members were responsible for one role each. Some of the distinct roles  
20 included, but were not limited to, the following:

21 a. “Founders” or “Leaders” originally formed the warez group and looked  
22 for additional members who could provide something of value to the warez group. Warez  
23 leaders operated and controlled the sites and established terms of membership and conditions  
24 governing and restricting access.

25 b. “Site Operators” (SiteOps) served as site managers responsible for  
26 maintaining, administering and supporting the warez site and controlling the daily operations of  
27 the site and server. The SiteOp typically granted access to the server for warez individuals and  
28 groups, supported the servers by purchasing, installing, and setting up hardware and site scripts,

1 and held root access to the warez site.

2 c. "Scripters" created, programmed, and helped build the warez site.

3 d. "Suppliers" provided an unauthorized copyrighted movie, game or  
4 software.

5 e. "Cammers" used an audiovisual recording device (such as a camcorder) to  
6 make an unauthorized copy of a motion picture or other audiovisual work that is protected by the  
7 copyright laws.

8 f. "Equipment Suppliers" provided hardware (such as hard drives, computer  
9 parts, and computer servers) to the warez site.

10 g. "Brokers" found groups to participate on the warez site.

11 h. "Couriers" charged with gathering computer software programs, games,  
12 and movies and uploading them to the warez site.

13 i. "Encoders" (sometimes referred to as "rippers" and "crackers") were  
14 responsible for circumventing the technological measures and protections of copyrighted works  
15 on the DVDs to prevent unauthorized access and copying.

16 j. "Leeches" included warez members who were permitted site access based  
17 on friendship, not group affiliation.

18 k. "Ratio" included a warez member who was required to fulfill a  
19 contribution requirement in order to download copyright works; e.g., the most common ratio is  
20 one upload to three downloads, permitting the warez member to download pirated material under  
21 a one to three ratio.

22 l. "Affil" included a warez group that agreed to provide its first release of  
23 movies, games, or software to a particular top warez site.

24 "Warez" Sites: "LAD" and "CHUD"

25 3. Defendants communicated about and transferred pirated movies, games, music,  
26 and software almost exclusively over the Internet, including at certain "warez" sites, consisting  
27 of one or more computers connected to the Internet for the purpose of receiving, storing, and  
28 distributing pirated software. The first warez site, originally known as HOT and later named

1 LAD, eventually became an archive site, holding older pirated movies, games, and software.  
2 The second warez site, called CHUD, had more storage and was significantly faster than the  
3 LAD warez site.

4 Additional Servers: "SNOWCAVE," "VS" and "VS2"

5 4. Overtime, the defendants sought to expand, and did expand, the size, capacity and  
6 ability of the warez sites. For example, warez members provided equipment to enhance the  
7 warez sites and to store pirated movies, games, and software. Some of the equipment included  
8 hard drives, computer parts, and computer servers. Three of the servers, among others, were  
9 known as "SNOWCAVE," and "VS" (a/k/a Victoria Secret), and "VS2". The combined servers,  
10 CHUD, LAD, VS, VS2 and SNOWCAVE, expanded to include approximately 27 terabytes of  
11 pirated movies, games, and software.

12 Defendants

13 5. Defendant DAVID TEVES, a/k/a killaz, a/k/a killaz420, a/k/a dunno, served as a  
14 supplier and leech user on the warez site CHUD.

15 6. Defendant TIM BURNS, a/k/a dact, a/k/a daconnect, a/k/a bigcockedman, served  
16 as a site-op on the warez sites CHUD and LAD and a ratio access user on the warez sites VS and  
17 SNOWCAVE.

18 7. Defendant KYLE ARCAND, a/k/a korax, a/k/a despair, served as a site-op on the  
19 warez site SNOWCAVE and a ratio access user on the warez sites CHUD, LAD, and VS.

20 8. Defendant RICHARD JONES, a/k/a fatboy, a/k/a vaio, served as a site-op on the  
21 warez site SNOWCAVE and a leech access user on the warez site CHUD.

22 9. Defendant NEIL MAKHLOUF, a/k/a bigpoppa, a/k/a zumborro, a/k/a crazyarab  
23 served as a leech access user on the warez site LAD.

24 Copyrighted Movies, Games and Software

25 10. During the warez conspiracy, more than 750 pirated movie titles were uploaded to  
26 the CHUD and LAD sites.

27 a. Some examples of the infringed movie titles included: "Closer," "Elektra,"  
28 "Hotel Rwanda," "Kinsey," "Mr. and Mrs. Smith," "Monster in Law," "The Pacifier,"

1 “Spanglish,” “Star Wars: Episode III - Revenge of the Sith,” and “Son of the Mask.”

2 b. Many of the infringed movies were uploaded to the warez site either  
3 before or at about the same time that they were being shown in U.S. theaters, or were otherwise  
4 publically available. Some prerelease examples include the movie “Star Wars: Episode III -  
5 Revenge of the Sith” which was uploaded on the warez site on or about May 18, 2005, within  
6 hours of its theatrical release to the public; the movie “Batman Begins” which was uploaded on  
7 June 15, 2005, the same day it was released to the public in the theaters; the movie “Bewitched”  
8 which was uploaded on the warez site on June 26, 2005, after being released in the theaters to the  
9 public June 24, 2005.

10 11. During the warez conspiracy, more than 1,250 copyrighted games were uploaded  
11 to the CHUD and LAD sites. Some examples of the infringed game titles included: “Air Force  
12 Delta Storm,” “American Chopper,” “Bionicle, Doom 3,” “Grand Theft Auto: San Andreas,”  
13 and “Rally Sport Challenge 2,” among many more.

14 12. During the warez conspiracy, more than 180 copyrighted software applications  
15 were uploaded to the CHUD and LAD sites. Some examples of the infringed software titles  
16 included: “Adobe Photoshop,” “Adobe Workshop CS2,” “ADOBE Creative Suite  
17 Premium,” “Adobe Acrobat Professional V7,” “Autodesk Discreet 3D Studio.Mac.V7,”  
18 “Microsoft.Office.System Professional,” “Microsoft Office XP Professional SP3,” “Microsoft  
19 Windows XP x64 Pro,” “Apple DVD Studio PRO.V4,” “Apple soundtrack pro mac,” “Sony  
20 Vegas plus DVD Production Suite,” “Norton 2005,” “VMware ESX Server,” “Autodesk  
21 Autocad mechanical V2006,” “Autodesk Revit Volume 7,” “Autodesk Autocad Volume 2006,”  
22 “ARCGIS Desktop Volume 9,” “Symantec Antivirus Corporate Edition,” among many more.

23 COUNT ONE: (18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright  
24 Infringement, Infringement By Electronic Means, Infringement By  
25 Distributing A Commercial Distribution Work, Traffic in Devices to  
26 Circumvent a Technological Measure that Protects a Copyright Work,  
and Use Audiovisual Recording Devices to Make Unauthorized Copies Of  
Audiovisual Works)

27 13. The allegations in paragraphs one through twelve are re-alleged and incorporated  
28 herein as if set forth in full.

1           14.     Beginning at a time unknown, but not later than in or about July 2001, and  
2 continuing thereafter up to and including the date of the Indictment, in the Northern District of  
3 California, and elsewhere, the defendants

4                             DAVID TEVES,  
5                             a/k/a killaz,  
6                             a/k/a killaz420,  
7                             a/k/a dunno,  
8                             TIM BURNS,  
9                             a/k/a dact,  
10                            a/k/a daconnect,  
11                            a/k/a bigcockedman,  
12                            KYLE ARCAND,  
13                            a/k/a korax,  
14                            a/k/a despair,  
15                            RICHARD JONES,  
16                            a/k/a fatboy,  
17                            a/k/a vaio,  
18                            NEIL MAKHLOUF,  
19                            a/k/a bigpoppa,  
20                            a/k/a zumborro,  
21                            a/k/a crazyarab,

22 and others known and unknown to the Grand Jury, did knowingly agree, combine, and conspire  
23 to commit offenses against the United States, that is:

- 24           A.     Criminal copyright infringement of a copyright by reproducing and distributing at  
25                    least ten infringing copies of one or more copyrighted works, with a total retail  
26                    value of more than \$2,500, during a 180-day period, for purposes of private  
27                    financial gain, in violation of Title 17, United States Code, Section 506(a)(1)(A),  
28                    and Title 18, United States Code, Section 2319(b);
- B.     Criminal copyright infringement of a copyright by reproducing and distributing,  
                  including by electronic means, at least ten infringing copies of one or more  
                  copyrighted works, with a total retail value of more than \$2,500, during a 180-day  
                  period, in violation of Title 17, United States Code, Section 506(a)(1)(B), and  
                  Title 18, United States Code, Section 2319(c);
- C.     Criminal copyright infringement of a copyright by the distribution of a work  
                  being prepared for commercial distribution, by making it available on a computer  
                  network accessible to members of the public, if such person knew or should have  
                  known that the work was intended for commercial distribution, in violation of  
                  Title 17, United States Code, Section 506(a)(1)(C), and Title 18, United States  
                  Code, Section 2319(d);
- D.     Circumventing a technological measure that protects a copyright work, by  
                  willfully, and for purposes of private financial gain, circumventing a  
                  technological measure that effectively controls access to a work protected under  
                  Title 17 of the United States Code, in violation of Title 17, United States Code,  
                  Sections 1201(a)(1)(A), and 1204(a)(1);

1 E. Trafficking in a technology, product, service, and device, by willfully, and for  
2 purposes of private financial gain, knowing that the technology, product, service,  
3 and device was primarily designed and produced for the purpose of circumventing  
4 a technological measure that effectively controlled access to a copyrighted work,  
5 in violation of Title 17, United States Code, Sections 1201(a)(2)(A), and  
6 1204(a)(1); and

7 F. Using, or attempting to use, an audiovisual recording device to transmit or make  
8 an unauthorized copy of a motion picture and other audiovisual work protected  
9 under Title 17, or any part thereof, from a performance of such work in a motion  
10 picture exhibition facility, in violation of Title 18, United States Code, Section  
11 2319B.

12 II. WAYS AND MEANS OF THE CONSPIRACY

13 15. In furtherance of the conspiracy, defendants and others known and unknown to  
14 the Grand Jury employed among others, the following ways and means:

15 Copyright Infringement

16 16. It was a part of the conspiracy that the conspirators obtained unauthorized copies  
17 of copyrighted works, including movies, games, and software; did not own the copyrighted  
18 works uploaded and downloaded on the warez sites; and did not have license, permission, or  
19 other authority from the owners of those copyrighted works to reproduce and distribute them or  
20 to make them available for downloading from the warez sites.

21 Obtaining and Encoding Copyrighted Works For Distribution

22 17. It was further part of the conspiracy that a "supplier" would provide a copyrighted  
23 work which would ultimately be encoded and uploaded to the site controlled by the warez  
24 release group. "Suppliers" included company and industry insiders who provided final versions  
25 of a new product before its release to the public. Another supply source included unauthorized  
26 copies of a motion picture or other audiovisual work made through the use of audiovisual  
27 recording devices (such as camcorders).

28 18. It was further part of the conspiracy that once the new supply was posted to the  
"drop" or "drop site," another individual, known as an "encoder," retrieved the copyrighted  
material and removed its copyright protection controls (including technological measures  
designed to protect the copyrighted works), and other security and identification controls  
(including serial numbers, tags, duplication controls, and security locks). Once successfully



1 cracked, the copyrighted material was posted to the “drop” site, where it was distributed to  
2 others from the warez site. A user with privileged access to the warez site, copied and  
3 duplicated (by downloading) pirated material for personal or other uses.

#### 4 Security Features

5 19. It was further part of the conspiracy that the warez sites were protected by a  
6 variety of sophisticated security mechanisms to ensure that only authorized users could gain  
7 access to the movies, games, and software titles stored on the warez sites. Authorization and  
8 authentication of users occurred using a combination of screen name verification, password  
9 authentication, port variation (usually non-standard port numbers), and IP address verification.  
10 To be permitted access to either the CHUD or LAD sites, a warez member had to be invited to  
11 the site. For example, the warez sites were only accessible to authorized users entering the  
12 site(s) through known Internet Protocol (IP) addresses with pre-established IDs, log-in names,  
13 and passwords. The warez site operators carefully limited the usage of its sites, which were not  
14 available to the general public. No two users held the same FTP username. Only IP addresses  
15 that the SiteOp included were able to access the system.

16 20. It was further part of the conspiracy that defendants would and did conceal the  
17 nature and purposes of the conspiracy and the acts done in furtherance of it, in part by using, in  
18 most of their communications, screen names instead of their true names.

#### 19 Communication Channels

20 21. It was further part of the conspiracy that some warez members communicated  
21 about the warez conspiracy’s illegal activities with other warez members through the use of “real  
22 time” software applications. These methods of communication included, and were not limited  
23 to, Instant Messenger (“IM”) and password-only Internet relay chat (“IRC”). Individuals using  
24 the IRC channels were permitted access by invitation only. The following network channels  
25 were created by the users of CHUD and LAD and used a secure socket layer (SSL)  
26 communication (a protocol for securely transmitting documents via the Internet) which would  
27 encrypt communications across all of the IRC channels. The IRC channels were referred to as:  
28 #chud, #chudincorporated, #donottell, #?vs, #!vs, #laddy, #!\_\_---!!!, #snowcave, #whoresrus,

1 and #itv.

2 22. It was further part of the conspiracy that some of the warez conspirators  
3 communicated through various e-mail accounts, including but not limited to Google, Yahoo, and  
4 Hotmail accounts, all located and accessed in the Northern District of California.

5 23. It was further part of the conspiracy that some of the warez conspirators  
6 communicated through the use of the telephone, private carriers and the mails.

7 Private Financial Compensation

8 24. It was further a part of the conspiracy that some warez members received credits  
9 for every upload, allowing them to download from the warez site based on the size of the upload.  
10 For example, individuals used a credit ratio of one upload amount equal to three downloads (i.e.  
11 one gigabyte/three gigabytes) as a means of private financial gain. In other words, an individual  
12 who uploaded one movie could download three movies.

13 25. It was further a part of the conspiracy that some individuals were paid money for  
14 supplying movies, games, or software, including prereleases that were not available to the  
15 public.

16 26. It was further a part of the conspiracy that some warez members provided  
17 financial compensation to some individuals for pirated movies, games and software through  
18 PayPal, located in the Northern District of California.

19 Circumvention Tools And Products

20 27. It was further part of the conspiracy that some warez members trafficked in  
21 technologies, products, services, and devices which were primarily designed and produced for  
22 the purpose of circumventing the access control and copy prevention systems embedded on  
23 digital copies of copyrighted works. For example, many DVDs contained an access control and  
24 copy prevention system, including a "Content Scramble System" (CSS), which served as a  
25 technological measure to protect the contents of a DVD from unauthorized access and copying.  
26 Some warez members trafficked in technologies, products, services, and devices that were used  
27 to circumvent the access control and copy prevention systems protecting the copyrighted content  
28 on the DVDs.

1           28.     It was further part of the conspiracy that some of the circumvention tools and  
2 products placed and used on the warez servers and used to circumvent CSS, included, but were  
3 not limited to: (a) AnyDVD; (b) Gordian Knot; (c) DVD2SVCD; (d) DVD Decrypter; (e) DVD  
4 Shrink; (f) DVD2AVI; and (g) VirtualDubMod.

5           29.     It was further part of the conspiracy that some warez members circumvented  
6 technological measures designed to protect or limit access to copyrighted materials, including  
7 but not limited to new releases for movies, software and games. Once the technological measure  
8 was circumvented, unauthorized access and copying was enabled.

9                   Removal Of Identification Markings

10           30.     It was further part of the conspiracy that some warez members removed  
11 identification markings and other features from movies to conceal the origination and identities  
12 of the copyrighted materials.

13                   Computer Access To Works Prepared For Commercial Distribution

14           31.     It was further part of the conspiracy that defendants distributed copyrighted  
15 movies, games and software that were being prepared for commercial distribution for sale to the  
16 public, by making it available before their release on a computer network accessible to members  
17 of the public. For example, the movie "Hide and Seek" was received on or about June 1, 2005  
18 and released on video to the public on or about July 5, 2005; the movie "Hitch" was received on  
19 or about May 23, 2005 and released on video to the public on or about June 14, 2005;  
20 the movie "The Pacifier" was received on or about June 15, 2005 and released on video to the  
21 public on or about June 28, 2005; and the movie "Imaginary Heroes" was received on or about  
22 May 23, 2005 and released on to the public video on or about June 7, 2005.

23                   Unauthorized Theatrical Recordings

24           32.     It was further part of the conspiracy that defendants used, or attempted to use,  
25 audiovisual recording devices to transmit or make an unauthorized copy of a motion picture and  
26 other audiovisual copyrighted works from a performance of the copyrighted work in a motion  
27 picture theater. For example, the movie "The Perfect Man," which was uploaded to the site on  
28 or about June 21, 2005, was verified by the Motion Picture Association of America to be a copy

1 of a movie that was filmed in a specific movie theater.

2 **III. OVERT ACTS**

3 33. In furtherance of the conspiracy, and to effectuate its objects, defendant DAVID  
4 TEVES, a/k/a killaz, a/k/a dunno, committed overt acts, in the Northern District of California, and  
5 elsewhere, including but not limited to:

6 a. Between in or about July 2001 and October 2005, defendant DAVID TEVES  
7 used e-mail account killaz420@hotmail.com to communicate with others known and unknown to  
8 the Grand Jury concerning warez activities, including a network of suppliers who provided him with  
9 pre-release and other pirated works. TEVES used e-mail communications to request specific  
10 pre-release and other pirated works.

11 b. Between in or about July 2001 and October 2005, defendant DAVID TEVES  
12 used PayPal accounts, located in the Northern District of California, to compensate his suppliers,  
13 known and unknown to the Grand Jury, for providing prerelease movies and other pirated materials.  
14 Typically, TEVES provided his suppliers a negotiated price over the normal retail amount, including  
15 but not limited to the following:

	Approximate Dates	PayPal Payments
16		
17	(1) May 2002 to June 2005	Defendant DAVID TEVES paid an individual, known to the Grand Jury, through a PayPal account for approximately 117 DVD movie titles totaling approximately \$6,252.80 using the account <u>killaz420@hotmail.com</u>
18		
19	(2) December 2002 to June 2005	Defendant DAVID TEVES paid an individual Known to the Grand Jury, through a PayPal account for approximately 41 DVD movie titles totaling approximately \$3,350 using the account <u>killaz420@hotmail.com</u>
20		
21	(3) October 2002 to March 2005	Defendant DAVID TEVES paid an individual, known to the Grand Jury, through a PayPal account for approximately 43 titles totaling approximately \$3,110 using the account <u>killaz420@hotmail.com</u>
22		
23	(4) July 2001 to May 2005	Defendant DAVID TEVES paid an individual, known to the Grand Jury, through a PayPal account for approximately 16 titles totaling approximately \$4645.47 using the account <u>killaz420@hotmail.com</u>
24		
25	(5) July 2004 to February 2005	Defendant DAVID TEVES paid an individual, known to the Grand Jury, through a PayPal account for approximately 12 Sony PS2 titles totaling approximately \$1,137 using the account <u>killaz420@hotmail.com</u>
26		
27	(6) September 2004 to March 2005	Defendant DAVID TEVES paid an individual, known to the Grand Jury, through a PayPal account for approximately 16 titles totaling approximately \$568.47 using the account <u>killaz420@hotmail.com</u>
28		

1  
2 c. Between in or about July 2001 and October 2005, once one of the suppliers  
3 of defendant DAVID TEVES agreed to provide a prerelease or other pirated work in exchange for  
4 compensation, TEVES typically directed the shipment of the pre-release work to another individual  
5 with instructions to upload the pre-release work to the warez site, or to otherwise make the work  
6 available to others.

7 d. In or about May 2002, defendant DAVID TEVES contacted an individual  
8 known to the Grand Jury and requested and subsequently paid for the movie DVD "Out Cold."  
9 Shortly afterwards, defendant DAVID TEVES asked the same individual for specific DVD movies  
10 to supply to TEVES on a regular basis. Defendant DAVID TEVES expressed a particular interest  
11 in receiving and paying for pre-release copies of movies.

12 e. Between in or about May 2002 and June 2005, defendant DAVID TEVES  
13 communicated with an individual known to the Grand Jury, typically using this individual's  
14 yahoo.com e-mail account, and requested specific titles of recent theatrical movies being released  
15 on DVD that TEVES wanted. If the individuals had the specific movie TEVES was interested in,  
16 TEVES sent payment via PayPal for the DVD and Express Mail postage. The individuals would  
17 send the DVD based on the mailing directions TEVES provided (typically to addresses in Ithaca,  
18 New York or Oakland, California, or elsewhere) and TEVES was furnished with the shipping  
19 tracking number.

20 f. On or about and before the dates listed below, defendant DAVID TEVES  
21 contacted a supplier, known to the Grand Jury, and requested and subsequently paid for the listed  
22 copyrighted movies:

	Date	Copyrighted Work
23	(1) June 24, 2002	Time Machine
24	(2) April 22, 2003	Dark Angel
25	(3) August 30, 2004	Eternal Sunshine of the Spotless Mind
26	(4) September 20, 2004	Aladdin
27	(5) November 24, 2004	The Door in the Floor
28		

1	(6)	December 27, 2004	Cellular
2	(7)	January 15, 2005	Vanity Fair
3	(8)	April 6, 2005	Birth
4	(9)	June 10, 2005	Pacifier
5	(10)	June 23, 2005	King's Ransom
6	(11)	June 23, 2005	The Upside Of Anger

7 g. On or about the dates listed below, defendant DAVID TEVES, directed  
8 others to send to an individual known to the Grand Jury, and caused to be uploaded, the listed  
9 copyrighted works to warez sites, including computer servers located in the Northern District of  
10 California:

	Date Received	Public CD/DVD Release Date	Copyrighted Work
11			
12			
13	(1)	8/16/2004	8/17/2004 Astro Boy
14	(2)	8/16/2004	8/17/2004 Hot Shots Golf Fore
15	(3)	8/18/2004	8/24/2004 Viewtiful Joe
16	(4)	8/25/2004	9/7/2004 The Punisher
17	(5)	8/30/2004	10/1/2004 Eternal Sunshine of the Spotless Mind
18	(6)	9/1/2004	10/12/2004 Fahrenheit 9/11
19	(7)	9/3/2004	9/21/2004 Mean Girls
20	(8)	9/10/2004	9/14/2004 Sly 2
21	(9)	9/10/2004	9/14/2004 Asterix & Obelix Kick Buttix
22	(10)	9/15/2004	9/28/2004 My Dear Marie
23	(11)	9/17/2004	1/4/2005 Breakin' All the Rules
24	(12)	9/20/2004	12/21/2004 Aladdin
25	(13)	9/29/2004	10/5/2004 White Chicks
26	(14)	10/19/2004	10/25/2004 Grand Theft Auto, San Andreas
27	(15)	10/28/2004	11/2/2004 WWE Smackdown! vs Raw!
28	(16)	11/18/2004	12/21/2004 Anacondas, The Hunt for the Blood Orchid
	(17)	11/22/2004	1/18/2005 VF Quest
	(18)	11/22/2004	2/15/2005 Xenosaga II
	(19)	11/24/2004	12/21/2004 Napoleon Dynamite
	(20)	11/24/2004	2/1/2005 The Door in the Floor
	(21)	12/4/2004	12/6/2004 Star Wars II Knights of the Old Republic

1	(22)	12/13/2004	12/28/2004	Garden State
2	(23)	12/15/2004	1/18/2005	Full Metal Alchemist and the Broken Angel
3	(24)	12/15/2004	2/22/2005	Ys Ark of Napishtim
4	(25)	12/17/2004	1/4/2005	Superbabies, Baby Geniuses 2
5	(26)	12/27/2004	1/18/2005	Cellular
6	(27)	12/28/2004	1/25/2005	AVP Alien vs Predator
7	(28)	12/28/2004	1/18/2005	The Forgotten
8	(29)	12/28/2004	1/18/2005	Superbabies, Bay Geniuses 2
9	(30)	1/4/2005	1/18/2005	Friday Night Lights
10	(31)	1/4/2005	1/18/2005	The Cookout
11	(32)	1/5/2005	1/25/2005	Sky Captain and the World of Tomorrow
12	(33)	1/15/2005	2/1/2005	Ray
13	(34)	1/15/2005	2/1/2005	Vanity Fair
14	(35)	1/19/2005	2/1/2005	Mr. 3000
15	(36)	1/26/2005	2/15/2004	Taxi
16	(37)	1/28/2005	2/22/2005	I Heart Huckabees
17	(38)	2/25/2005	3/15/2005	Alfie
18	(39)	2/25/2005	3/22/2005	Being Julia
19	(40)	2/28/2005	3/1/2005	Devil May Cry 3
20	(41)	3/3/2005	3/22/2005	Fat Albert
21	(42)	3/3/2005	3/22/2005	Bridget Jones the Edge of Reason
22	(43)	3/4/2005	3/29/2005	Closer
23	(44)	3/14/2005	3/15/2005	Samurai Legen Musashi
24	(45)	3/23/2005	4/12/2005	Hotel Rwanda
25	(46)	3/23/2005	4/5/2005	Spanglish
26	(47)	4/5/2005	4/19/2005	A Love Song for Bobby Long
27	(48)	4/6/2005	4/19/2005	Birth
28	(49)	5/23/2005	6/14/2005	Hitch
	(50)	6/10/2005	6/28/2005	Pacifier

h. On or about February 23, 2005, defendant DAVID TEVES caused to be sent to an individual known to the Grand Jury a package containing a Sony Playstation2 game, titled "Virtua Quest." At the direction of defendant DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.

i. On or about February 21, 2005, defendant DAVID TEVES paid an individual, known to the Grand Jury, for obtaining a DVD entitled "Being Julia."

j. On or about February 25, 2005, defendant DAVID TEVES caused to be sent to an individual known to the Grand Jury, a package containing a DVD entitled "Being Julia" via priority mail. At the direction of defendant DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.

k. On or about February 23, 2005, defendant DAVID TEVES paid an individual,

1 known to the Grand Jury, for obtaining the copyrighted work "Alfie." At the direction of defendant  
2 DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.

3 l. On or about March 21, 2005, defendant DAVID TEVES paid an individual,  
4 known to the Grand Jury, for obtaining the copyrighted work "Hotel Rwanda." At the direction of  
5 defendant DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.

6 m. On or about February 25, 2005, defendant DAVID TEVES paid an individual,  
7 known to the Grand Jury, for obtaining the copyrighted work Sony Playstation 2 game "Devil May  
8 Cry 3." At the direction of defendant DAVID TEVES, this copyrighted work was subsequently  
9 uploaded to the warez site.

10 n. On or about December 13, 2004, defendant DAVID TEVES paid an  
11 individual, known to the Grand Jury, for obtaining the copyrighted Sony Playsation 2 games "Ys  
12 Ark of Napishtim," and "Full Metal Alchemist and the Broken Angel." At the direction of defendant  
13 DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.

14 o. On or about October 26, 2004, defendant DAVID TEVES paid an individual,  
15 known to the Grand Jury, for obtaining the copyrighted Sony Playstation 2 game "WWE RAW VS  
16 SMACKDOWN." At the direction of defendant DAVID TEVES, this copyrighted work was  
17 subsequently uploaded to the warez site.

18 p. On or about August 16, 2004, defendant DAVID TEVES paid an individual,  
19 known to the Grand Jury, for obtaining the copyrighted DVD "Viewtiful Joe PS2 SEALED." At the  
20 direction of defendant DAVID TEVES, this copyrighted work was subsequently uploaded to the  
21 warez site.

22 q. On or about March 1, 2005, defendant DAVID TEVES paid an individual,  
23 known to the Grand Jury, for obtaining the copyrighted DVDs "Fat Albert," and "Bridget Jones the  
24 Edge of Reason." At the direction of defendant DAVID TEVES, this copyrighted work was  
25 subsequently uploaded to the warez site.

26 r. On or about January 18, 2005, defendant DAVID TEVES paid an individual,  
27 known to the Grand Jury, for obtaining the copyrighted DVD titled "Mr. 3000." At the direction of  
28 defendant DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.



1           s.       On or about January 14, 2005, defendant DAVID TEVES paid an individual,  
2 known to the Grand Jury, for obtaining the copyrighted DVD "Ray." At the direction of defendant  
3 DAVID TEVES, this copyrighted work was subsequently uploaded to the warez site.

4           t.       On or about January 3, 2005, defendant DAVID TEVES paid an individual,  
5 known to the Grand Jury, for obtaining the copyrighted DVD "Sky Captain and the World of  
6 Tomorrow." At the direction of defendant DAVID TEVES, this copyrighted work was subsequently  
7 uploaded to the warez site.

8           u.       On or about December 30, 2004, defendant DAVID TEVES paid an  
9 individual, known to the Grand Jury, for obtaining the copyrighted DVD's titled "The Cookout," and  
10 "Friday Night Lights." At the direction of defendant DAVID TEVES, this copyrighted work was  
11 subsequently uploaded to the warez site.

12           v.       On or about December 16, 2004, defendant DAVID TEVES paid an  
13 individual, known to the Grand Jury, for obtaining the copyrighted DVD "Superbabies, Baby  
14 Geniuses 2." At the direction of defendant DAVID TEVES, this copyrighted work was  
15 subsequently uploaded to the warez site.

16           w.       On or about April 12, 2005, defendant DAVID TEVES caused to be sent to  
17 an individual known to the Grand Jury, an Air Mail package from "P LEADBEATER," Castle  
18 Cottage, 5 The Bar, Richmond, North Yorkshire, DL10 4RS, United Kingdom, using a reference  
19 e-mail address of killaz420@hotmail.com. The package contained an XBOX game entitled  
20 "Splinter Cell Chaos Theory." At defendant DAVID TEVES direction, this copyrighted work was  
21 subsequently uploaded to the warez site.

22           x.       Between on or about April 8, 2005, and on or about May 21, 2005, defendant  
23 DAVID TEVES received updates from a supplier, an individual known to the Grand Jury, on his  
24 killaz420@hotmail.com e-mail account concerning the fact that the supplier may be losing her  
25 source for prerelease movies and copyrighted works. Defendant TEVES learned the supply source  
26 was lost but the supplier was in the process of looking for another source who could supply new  
27 games and DVD movies before the release date.

28           y.       On or about May 31, 2005, defendant DAVID TEVES provided an update

1 concerning his supply sources and informed an individual known to the Grand Jury that TEVES lost  
 2 a good source for DVDs (using the name "Patty") but she was looking for a new distributor so she  
 3 could continue to supply movie titles to TEVES and receive compensation from TEVES.

4 z. On or about May 30, 2005, defendant DAVID TEVES provided an update  
 5 on his supply of copyrighted works (including concerning "Hide and Seek," and "A Dirty Shame")  
 6 to an individual known to the Grand Jury. TEVES also discussed providing prerelease Sony  
 7 Playstation 2 and Microsoft XBox games to the same individual.

8 aa. On or about May 30, 2005 defendant DAVID TEVES provided an individual  
 9 known to the Grand Jury with an update that a Sony Playstation 2 game that TEVES had provided  
 10 had been internally recalled by Sony prior to its public release.

11 bb. On or about May 31, 2005 defendant DAVID TEVES provided an individual  
 12 known to the Grand Jury with an update that a DVD entitled "Hide and Seek" was being sent to the  
 13 individual and a shipping tracking number would be provided after the number became available.

14 cc. On or about the dates listed in Count Two, defendant DAVID TEVES  
 15 downloaded the listed copyrighted works from the warez sites.

16 dd. On or about the following dates, defendant DAVID TEVES downloaded one  
 17 or more copyrighted works as follows:

	Date	Conduct/Copyrighted Works
18		
19	(1) April 21, 2005	Accessed CHUD and downloaded the software Ulead Videostudio
20	(2) April 21, 2005	Accessed CHUD and downloaded the software Symantec Antivirus Corporate Edition
21	(3) April 21, 2005	Accessed CHUD and downloaded the movie Alien Abduction
22	(4) April 23, 2005	Accessed CHUD and downloaded the software Symantec Client Security Corporate Edition
23	(5) April 27, 2005	Accessed CHUD and downloaded the movie Alone in the Dark
24	(6) April 28, 2005	Accessed CHUD and downloaded the software Mac OSX
25	(7) April 29, 2005	Accessed CHUD and downloaded the software Metrowerks CodeWarrior
26	(8) April 29, 2005	Accessed CHUD and downloaded the software Sonic MyDVD Studio Deluxe Suite
27		
28	(9) May 14, 2005	Accessed CHUD and downloaded the software Adobe Acrobat Professional

1	(10)	May 14, 2005	Accessed CHUD and downloaded the software Microsoft Office System Professional
2	(11)	May 14, 2005	Accessed CHUD and downloaded the movie Are We There Yet
3	(12)	May 15, 2005	Accessed CHUD and downloaded the software Ahead Nero
4	(13)	June 1, 2005	Accessed CHUD and downloaded the movie A Dirty Shame
5	(14)	June 3, 2005	Accessed CHUD and downloaded the software Adobe Creative Suite Premium
6	(15)	June 25, 2005	Accessed CHUD and downloaded the movie 7 Seconds

7  
8 ee. On or about the following dates, defendant DAVID TEVES uploaded, or  
9 caused to be uploaded, one or more copyrighted works as follows:

10		Date	Conduct/Copyrighted Works
11	(1)	March 3, 2005	Accessed CHUD and uploaded Fat Albert
12	(2)	March 6, 2005	Accessed CHUD and uploaded Closer
13	(3)	May 7, 2005	Accessed CHUD and uploaded Capture
14	(4)	May 8, 2005	Accessed CHUD and uploaded House of Wax
15	(5)	May 23, 2005	Accessed CHUD and uploaded Imaginary Heroes
16	(6)	May 24, 2005	Accessed CHUD and uploaded Hitch
17	(7)	May 31, 2005	Accessed CHUD and uploaded Constantin
18	(8)	June 1, 2005	Accessed CHUD and uploaded A Dirty Shame
19	(9)	June 3, 2005	Accessed CHUD and uploaded Hide and Seek
20	(10)	June 27, 2005	Accessed CHUD and uploaded Kings Ransom
21	(11)	June 27, 2005	Accessed CHUD and uploaded The Upside of Anger
22	(12)	June 28, 2005	Accessed CHUD and uploaded WWE. Vengeance
	(13)	June 28, 2005	Accessed CHUD and uploaded WWE. Raw 06.27.05

23 34. In furtherance of the conspiracy, and to effectuate its objects, defendant TIM  
24 BURNS, a/k/a dact, a/k/a daconnect, a/k/a bigcockedman, committed overt acts, in the Northern  
25 District of California, and elsewhere, including but not limited to:

26 a. On or about January 6, 2004, defendant TIM BURNS discussed the operation  
27 of the warez sites and directed an individual known to the grand jury to another individual known  
28 to the Grand Jury to assist with the installation, maintenance, and operation of the warez servers

1 CHUD and LAD.

2 b. On or about January 8, 2004, defendant TIM BURNS discussed the operation  
3 of the warez sites and directed an individual known to the grand jury to another individual known  
4 to the Grand Jury to assist with the installation, maintenance, and operation of the warez server  
5 LAD, formerly referred to as HOT.

6 c. On or about December 23, 2004, defendant TIM BURNS provided an  
7 individual known to the Grand Jury with a list of IP addresses and directed that the list of IP address  
8 be banned and rejected from accessing the warez sites CHUD and LAD. Among other things, by  
9 banning these IP addresses, the warez sites would be better protected from being discovered by  
10 uninvited warez participants.

11 d. On or about February 24, 2005, defendant TIM BURNS told an individual  
12 known to the Grand Jury that BURNS was providing site operation access and permission for the  
13 warez site CHUD to another individual known to the Grand Jury. According to defendant TIM  
14 BURNS, another individual known to the Grand Jury was busy and unavailable to assist with the  
15 warez site operations.

16 e. On or about February 24, 2005, defendant TIM BURNS told an individual  
17 known to the Grand Jury that BURNS planned to change the structure of the warez site CHUD and  
18 connect the warez site CHUD and the warez site VS xbox archives together. Among other things,  
19 by connecting these warez servers there is more media available to the participants and instead of  
20 allowing an entire site to be available, it can be scripted so that only specific directories can be  
21 accessed to limit what media members of other sites have access.

22 f. On or about May 30, 2005, defendant TIM BURNS directed an individual  
23 known to the Grand Jury to add another individual known to the Grand Jury as a site operator on the  
24 warez servers CHUD and LAD. As the site operator, he had control over who had access to the  
25 warez site and could deny a person access at any time.

26 g. On or about June 20, 2005, defendant TIM BURNS directed an individual  
27 known to the Grand Jury to communicate with other individuals known and unknown to the Grand  
28 Jury concerning the process for making an unauthorized filming, or camming, of a theatrical

1 recording and preparing the unauthorized copy to be made available to others on warez servers.  
 2 Defendant TIM BURNS advised that another individual known to the Grand Jury was "camming"  
 3 one or two movies on or about the same day after the movie theater was closed and others would  
 4 need to be prepared to remove "dots" or identifiers from the movies to avoid identifying the source  
 5 and location of the "cammed" movies. According to defendant TIM BURNS, up to four movies  
 6 were expected to be "cammed" and processed during the week.

7 h. On or about June 24, 2005, defendant TIM BURNS discussed with an  
 8 individual known to the Grand Jury the payment, including the amount and timing of payments, to  
 9 another individual known to the Grand Jury for his role in "camming" theatrical releases in movie  
 10 theaters. Defendant TIM BURNS also mentioned that one of the "cammed" movies was  
 11 "Bewitched."

12 i. On or about June 20, 2005, defendant TIM BURNS discussed with an  
 13 individual known to the Grand Jury specific movies that were being "cammed," including but not  
 14 limited to "The Perfect Man," "Bewitched." Defendant TIM BURNS stated that an individual  
 15 known to the Grand Jury would demonstrate how to use a program to remove identification and  
 16 other markings from "cammed" movies.

17 j. On or about June 21, 2005, defendant TIM BURNS instructed an individual  
 18 known to the Grand Jury about the process of removing "dots" or identification and other markings  
 19 from "cammed" movies.

20 k. On or about the dates listed in Count Three, defendant TIM BURNS  
 21 uploaded or downloaded the listed copyrighted works from the warez sites.

22 l. On or about the following dates, defendant TIM BURNS uploaded or  
 23 downloaded one or more copyrighted works as follows:

	Date	Conduct/Copyrighted Works
24	(1) March 5, 2005	Accessed CHUD and downloaded the movie Be Cool
25	(2) March 10, 2005	Accessed VS and downloaded the software Alias Maya Unlimited
26	(3) March 10, 2005	Accessed VS and downloaded the software Redhat Enterprise Linux WS V4.0
27	(4) March 13, 2005	Accessed CHUD and downloaded the software Propellerheads Reason V3.0
28		

1	(5)	March 14, 2005	Accessed VS and uploaded the movie Robots
2	(6)	March 22, 2005	Accessed VS and uploaded the movie Ice Princess
3	(7)	March 26, 2005	Accessed VS and downloaded the movie Coach Carter
4	(8)	March 26, 2005	Accessed VS and downloaded the movie Boogeyman
5	(9)	April 1, 2005	Accessed VS and downloaded the movie Hitch
6	(10)	April 2, 2005	Accessed CHUD and downloaded the movie Beauty Shop
7	(11)	April 25, 2005	Accessed LAD and downloaded the movie A Lot Like Love
8	(12)	May 3, 2005	Accessed CHUD and uploaded the software Adobe Creative Suite Premium
9	(13)	May 4, 2005	Accessed CHUD and downloaded the software Legato Networker
10	(14)	May 8, 2005	Accessed VS and downloaded the software Aldec Active HDL
11	(15)	May 8, 2005	Accessed VS and downloaded the software Autodesk Architectural Desktop 2006

12           35. In furtherance of the conspiracy, and to effectuate its objects, defendant KYLE  
13 ARCAND, a/k/a korax, a/k/a despair, committed overt acts, in the Northern District of California,  
14 and elsewhere, including but not limited to:

15           a. On or about April 13, 2005, defendant KYLE ARCAND provided an update  
16 on the operations of the warez server and instructed an individual known to the Grand Jury about  
17 the operations of the warez server and the process to repair a hard drive on the warez server  
18 SNOWCAVE.

19           b. On or about May 13, 2005, defendant KYLE ARCAND provided an update  
20 on the operations of the warez server, including the equipment for the warez server, and instructed  
21 an individual known to the Grand Jury about the process to repair the network connection for the  
22 warez server SNOWCAVE.

23           c. On or about May 14, 2005, defendant KYLE ARCAND provided an update  
24 on the operations of the warez server and instructed an individual known to the Grand Jury about  
25 process to repair a network connection and network card for the warez server SNOWCAVE.

26           d. On or about April 21, 2005, defendant KYLE ARCAND provided an update  
27 on the operations of the warez server and explained to an individual known to the Grand Jury how  
28 ARCAND banned IP addresses and changed the root password for the warez server SNOWCAVE

1 to improve security on the site. Additionally, defendant ARCAND discussed with an individual  
 2 known to the Grand Jury about how to restart services that allowed ARCAND to maintain and  
 3 operate the warez server SNOWCAVE.

4 e. On or about June 7, 2005, defendant KYLE ARCAND provided an update  
 5 on the operations of the warez server and explained to an individual known to the Grand Jury how  
 6 to purchase a network connection card for the warez server SNOWCAVE and stated that a PayPal  
 7 account would be used for providing money to purchase the card.

8 f. On or about the dates listed in Count Four, defendant KYLE ARCAND  
 9 uploaded or downloaded the listed copyrighted works from the warez sites.

10 g. On or about the following dates, defendant KYLE ARCAND uploaded or  
 11 downloaded one or more copyrighted works as follows:

	Date	Conduct/Copyrighted Works
12	(1) February 7, 2005	Accessed SNOWCAVE and downloaded the movie Club Dread
13	(2) February 18, 2005	Accessed SNOWCAVE and downloaded the movie Ladder 49
14	(3) February 28, 2005	Accessed CHUD and downloaded the software Adobe After Effects Pro 6
15	(4) February 28, 2005	Accessed SNOWCAVE and uploaded the software Adobe Premier Elements
16	(5) February 28, 2005	Accessed SNOWCAVE and uploaded the software Microsoft Office Professional Enterprise
17	(6) February 28, 2005	Accessed CHUD and uploaded the software Ulead DVD Workshop
18	(7) March 4, 2005	Accessed SNOWCAVE and downloaded the movie Blade Trinity
19	(8) April 1, 2005	Accessed CHUD and downloaded the software Microsoft Windows XP Professional x64
20	(9) April 30, 2005	Accessed CHUD and downloaded the software MAC OSX V10
21	(10) May 2, 2005	Accessed CHUD and downloaded the software Propellerhead Reason
22	(11) May 5, 2005	Accessed CHUD and downloaded the software Adobe Photoshop CS2
23	(12) May 10, 2005	Accessed SNOWCAVE and downloaded the movie Racing Stripes
24	(13) May 14, 2005	Accessed VS and downloaded the movie Sahara
25	(14) May 14, 2005	Accessed VS and downloaded the movie D.E.B.S.
26	(15) May 25, 2005	Accessed CHUD and downloaded the software Microsoft Windows XP Corporate Edition
27		
28		

1           36.    In furtherance of the conspiracy, and to effectuate its objects, defendant RICHARD  
2 JONES, a/k/a fatboy, a/k/a vaio, committed overt acts, in the Northern District of California, and  
3 elsewhere, including but not limited to:

4           a.    On or about March 15, 2005, defendant RICHARD JONES instructed an  
5 individual known to the Grand Jury to deliver a computer server to another individual known to the  
6 Grand Jury. The server was intended to be built and used for further warez activities and to connect  
7 with warez sites located in the Northern District of California.

8           b.    On or about March 15, 2005, defendant RICHARD JONES provided an  
9 update on the operations of the warez server and told an individual known to the Grand Jury that he  
10 was shipping the warez server SNOWCAVE to the individual known to the Grand Jury.

11           c.    On or about April 1, 2005, defendant RICHARD JONES provided an  
12 individual known to the Grand Jury with the UPS tracking numbers and the root password for the  
13 warez server SNOWCAVE.

14           d.    On or about April 18, 2005, defendant RICHARD JONES provided an  
15 individual known to the Grand Jury with the telephone number for another person known to the  
16 Grand Jury and requested that contact be made concerning the computer server.

17           e.    On or about April 22, 2005, an individual known to the Grand Jury, at the  
18 request of defendant RICHARD JONES, contacted another individual known to the Grand Jury and  
19 discussed over the telephone the computer server the individual known to the Grand Jury was  
20 delivering, discussed details about the installation of the computer server, and noted steps that may  
21 be taken to avoid detection by authorities and others after the computer server was installed.

22           f.    On or about April 27, 2005, defendant RICHARD JONES provided an update  
23 on the operations of the warez server and asked another individual known to the Grand Jury to  
24 deliver the computer server to another person known to the Grand Jury.

25           g.    On or about April 27, 2005, defendant RICHARD JONES provided an update  
26 on the operations of the warez server and told an individual known to the Grand Jury that JONES  
27 had several other warez sites and wanted to link the other warez sites to the warez site  
28 SNOWCAVE.



1           h.       On or about April 28, 2005, an individual known to the Grand Jury, at the  
2 request of defendant RICHARD JONES, met with another individual known to the Grand Jury to  
3 install the computer server. During this meeting, the issue of preventing overheating of the server  
4 was discussed.

5           i.       On or about May 2, 2005, defendant RICHARD JONES instructed another  
6 individual known to the Grand Jury to contact another person known to the Grand Jury about the  
7 status of the delivered server. Defendant RICHARD JONES provided contact e-mails for the  
8 individual known to the Grand Jury, including at zeropings.com and yahoo.com.

9           j.       On or about May 12, 2005, defendant RICHARD JONES defendant  
10 RICHARD JONES provided an update on the operations of the warez activities, asked about the  
11 delivery of the computer server to an individual known to the Grand Jury, discussed equipment for  
12 the warez sites, and stated that he had shipped computer hardware to an individual known to the  
13 grand jury to repair a warez server.

14           k.       On or about June 7, 2005, defendant RICHARD JONES instructed an  
15 individual known to the Grand Jury to purchase hard drives and deliver them to an individual known  
16 to the Grand Jury for use on a warez server.

17           l.       On or about the dates listed in Count Five, defendant RICHARD JONES  
18 uploaded or downloaded the listed copyrighted works from the warez sites.

19           m.       On or about the following dates, defendant RICHARD JONES uploaded or  
20 downloaded one or more copyrighted works as follows:

	Date	Conduct/Copyrighted Works
21	(1) February 3, 2005	Accessed SNOWCAVE and uploaded the movie Peter Pan
22	(2) March 9, 2005	Accessed SNOWCAVE and uploaded the software Macromedia Fireworks MX
23	(3) March 9, 2005	Accessed SNOWCAVE and uploaded the software Macromedia Dreamweaver MX
24	(4) March 9, 2005	Accessed SNOWCAVE and uploaded the software Macromedia Director MX
25	(5) March 10, 2005	Accessed SNOWCAVE and uploaded the movie National Treasure
26	(6) March 10, 2005	Accessed SNOWCAVE and uploaded the movie Sideways
27	(7) March 11, 2005	Accessed SNOWCAVE and uploaded the software Microsoft Virtual PC
28		

1	(8)	April 18, 2005	Accessed SNOWCAVE and uploaded the software Alias Maya Unlimited MAC OSX
2	(9)	April 18, 2005	Accessed SNOWCAVE and uploaded the software Adobe After Effects Professional
3	(10)	April 18, 2005	Accessed SNOWCAVE and uploaded the software Apple DVD Studio
4	(11)	May 2, 2005	Accessed SNOWCAVE and uploaded the software Adobe Photoshop CS2
5	(12)	May 9, 2005	Accessed SNOWCAVE and downloaded the software Adobe Acrobat Professional
6	(13)	May 9, 2005	Accessed SNOWCAVE and downloaded the software Adobe Creative Suite Premium
7	(14)	May 9, 2005	Accessed SNOWCAVE and uploaded the software Adobe Encore DVD
8	(15)	May 18, 2005	Accessed SNOWCAVE and downloaded the software Microsoft Windows 2000 Professional
9			
10			

11           37. In furtherance of the conspiracy, and to effectuate its objects, defendant NEIL  
 12 MAKHLOUF, a/k/a bigpoppa, a/k/a zumborro, a/k/a crazyarab committed overt acts, in the Northern  
 13 District of California, and elsewhere, including but not limited to:

14           a. On or about October 3, 2004, defendant NEIL MAKHLOUF discussed the  
 15 uploading of a copyrighted work to the warez server LAD, formerly referred to as HOT, with an  
 16 individual known to the Grand Jury.

17           b. On or about October 8, 2004, defendant NEIL MAKHLOUF discussed the  
 18 uploading of a copyrighted work to the warez server LAD, formerly referred to as HOT, with an  
 19 individual known to the Grand Jury.

20           c. On or about October 19, 2004, defendant NEIL MAKHLOUF discussed with  
 21 an individual known to the Grand Jury making more space available on the warez server LAD,  
 22 formerly referred to as HOT, for new uploads.

23           d. On or about February 14, 2004, defendant NEIL MAKHLOUF discussed with  
 24 an individual known to the Grand Jury how to start the Internet Relay Chat (IRC) bot, allowing users  
 25 to be invited into the IRC channel, as well as checking warez server statistics, for the warez server  
 26 LAD, formerly referred to as HOT.

27           e. On or about August 17, 2004, defendant NEIL MAKHLOUF discussed with  
 28

1 an individual known to the Grand Jury how to allow the Internet Relay Chat (IRC) bot to login to  
2 the IRC channels for the warez server LAD, formerly referred to as HOT.

3 f. On or about September 9, 2004, defendant NEIL MAKHLOUF asks an  
4 individual known to the Grand Jury to change MAKHLOUF's login account information for the  
5 warez server LAD, formerly referred to as HOT. Additionally, MAKHLOUF informs an individual  
6 known to the Grand Jury that another individual known to the Grand Jury is responsible for running  
7 an unauthorized Internet Relay Chat bot from the warez server LAD.

8 g. On or about the dates listed in Count Six, defendant NEIL MAKHLOUF  
9 downloaded the listed copyrighted works from the warez sites.

10 COUNT TWO: (17 U.S.C. § 506(a)(1)(B), 18, U.S.C. §§ 2319(c)(1) and 2 - Criminal  
11 Copyright Infringement By Electronic Means, and Aiding and Abetting)

12 38. On or about the dates set forth below, in the Northern District of California,  
13 and elsewhere, defendant

14 DAVID TEVES,  
15 a/k/a killaz,  
a/k/a dunno,

16 did willfully infringe the copyrights of copyrighted works, that is, movies, games and software, by  
17 the reproduction and distribution by electronic means, including via the Internet, during a 180-day  
18 period, of ten (10) or more copies of one or more of the copyrighted works, which had a retail value  
19 of \$2,500 or more, including but not limited to the following:

	Date	Conduct/Copyrighted Works
20		
21	(1) April 21, 2005	Accessed CHUD and downloaded the movie Alien Abduction
22	(2) April 21, 2005	Accessed CHUD and downloaded the software Ulead Videostudio
23	(3) April 21, 2005	Accessed CHUD and downloaded the software Symantec Antivirus Corporate Edition
24	(4) April 23, 2005	Accessed CHUD and downloaded the software Symantec Client Security Corporate Edition
25	(5) April 27, 2005	Accessed CHUD and downloaded the movie Alone in the Dark
26	(6) April 28, 2005	Accessed CHUD and downloaded the software Mac OSX
27	(7) April 29, 2005	Accessed CHUD and downloaded the software Metrowerks CodeWarrior
28		

1	(8)	April 29, 2005	Accessed CHUD and downloaded the software Sonic MyDVD Studio Deluxe Suite
2	(9)	May 14, 2005	Accessed CHUD and downloaded the movie Are We There Yet
3	(10)	May 14, 2005	Accessed CHUD and downloaded the software Adobe Acrobat Professional
4	(11)	May 14, 2005	Accessed CHUD and downloaded the software Microsoft Office System Professional
5	(12)	May 15, 2005	Accessed CHUD and downloaded the software Ahead Nero
6	(13)	June 1, 2005	Accessed CHUD and downloaded the movie A Dirty Shame
7	(14)	June 3, 2005	Accessed CHUD and downloaded the software Adobe Creative Suite Premium
8	(15)	June 25, 2005	Accessed CHUD and downloaded the movie 7 Seconds

9  
10 All in violation of Title 17, United States Code, Section 506(a)(1)(B), Title 18, United States  
11 Code, Sections 2319(c)(1) and 2.

12 COUNT THREE: (17 U.S.C. § 506(a)(1)(B), 18, U.S.C. §§ 2319(c)(1) and 2 - Criminal  
13 Copyright Infringement By Electronic Means, and Aiding and Abetting)

14 39. On or about the dates set forth below, in the Northern District of California, and  
15 elsewhere, defendant

16 TIM BURNS,  
17 a/k/a dact,  
a/k/a daconnect,  
a/k/a bigcockedman,

18 did willfully infringe the copyrights of copyrighted works, that is, movies, games and software, by  
19 the reproduction and distribution by electronic means, including via the Internet, during a 180-day  
20 period, of ten (10) or more copies of one or more of the copyrighted works, which had a retail value  
21 of \$2,500 or more, including but not limited to the following:

22	Date	Conduct/Copyrighted Works
23	(1) March 5, 2005	Accessed CHUD and downloaded the movie Be Cool
24	(2) March 10, 2005	Accessed VS and downloaded the software Redhat Enterprise Linux WS V4.0
25	(3) March 10, 2005	Accessed VS and downloaded the software Alias Maya Unlimited
26	(4) March 13, 2005	Accessed CHUD and downloaded the software Propellerheads Reason V3.0
27	(5) March 14, 2005	Accessed VS and uploaded the movie Robots
28	(6) March 22, 2005	Accessed VS and uploaded the movie Ice Princess

1	(7)	March 26, 2005	Accessed VS and downloaded the movie Coach Carter
2	(8)	March 26, 2005	Accessed VS and downloaded the movie Boogeyman
3	(9)	April 1, 2005	Accessed VS and downloaded the movie Hitch
4	(10)	April 2, 2005	Accessed CHUD and downloaded the movie Beauty Shop
5	(11)	April 25, 2005	Accessed LAD and downloaded the movie A Lot Like Love
6	(12)	May 3, 2005	Accessed CHUD and uploaded the software Adobe Creative Suite Premium
7	(13)	May 4, 2005	Accessed CHUD and downloaded the software Legato Networker
8	(14)	May 8, 2005	Accessed VS and downloaded the software Aldec Active HDL
9	(15)	May 8, 2005	Accessed VS and downloaded the software Autodesk Architectural Desktop 2006

10 All in violation of Title 17, United States Code, Section 506(a)(1)(B), Title 18, United States  
11 Code, Sections 2319(c)(1) and 2.

12 COUNT FOUR: (17 U.S.C. § 506(a)(1)(B), 18, U.S.C. §§ 2319(c)(1) and 2 - Criminal  
13 Copyright Infringement By Electronic Means, and Aiding and Abetting)

14 40. On or about the dates set forth below, in the Northern District of California, and  
15 elsewhere, defendant

16 KYLE ARCAND,  
17 a/k/a korax,  
18 a/k/a despair,

19 did willfully infringe the copyrights of copyrighted works, that is, movies, games and software, by  
20 the reproduction and distribution by electronic means, including via the Internet, during a 180-day  
21 period, of ten (10) or more copies of one or more of the copyrighted works, which had a retail value  
22 of \$2,500 or more, including but not limited to the following:

	Date	Conduct/Copyrighted Works	
23	(1)	February 7, 2005	Accessed SNOWCAVE and downloaded the movie Club Dread
24	(2)	February 18, 2005	Accessed SNOWCAVE and downloaded the movie Ladder 49
25	(3)	February 28, 2005	Accessed CHUD and downloaded the software Adobe After Effects Pro 6
26	(4)	February 28, 2005	Accessed CHUD and uploaded the software Ulead DVD Workshop
27	(5)	February 28, 2005	Accessed SNOWCAVE and uploaded the software Adobe Premier Elements
28	(6)	February 28, 2005	Accessed SNOWCAVE and uploaded the software Microsoft Office Professional Enterprise

1	(7)	March 4, 2005	Accessed SNOWCAVE and downloaded the movie Blade Trinity
2	(8)	April 1, 2005	Accessed CHUD and downloaded the software Microsoft Windows XP Professional x64
3	(9)	April 30, 2005	Accessed CHUD and downloaded the software MAC OSX V10
4	(10)	May 2, 2005	Accessed CHUD and downloaded the software Propellerhead Reason
5	(11)	May 5, 2005	Accessed CHUD and downloaded the software Adobe Photoshop CS2
6	(12)	May 10, 2005	.Accessed SNOWCAVE and downloaded the movie Racing Stripes
7	(13)	May 14, 2005	Accessed VS and downloaded the movie Sahara
8	(14)	May 14, 2005	Accessed VS and downloaded the movie D.E.B.S.
9	(15)	May 25, 2005	Accessed CHUD and downloaded the software Microsoft Windows XP Corporate Edition

10 All in violation of Title 17, United States Code, Section 506(a)(1)(B), Title 18, United States  
 11 Code, Sections 2319(c)(1) and 2.

12 COUNT FIVE: (17 U.S.C. § 506(a)(1)(B), 18, U.S.C. §§ 2319(c)(1) and 2 - Criminal  
 13 Copyright Infringement By Electronic Means, and Aiding and Abetting)  
 14

15 41. On or about the dates set forth below, in the Northern District of California,  
 16 and elsewhere, defendant

17 RICHARD JONES,  
 18 a/k/a fatboy,  
 a/k/a vaio,

19 did willfully infringe the copyrights of copyrighted works, that is, movies, games and software, by  
 20 the reproduction and distribution by electronic means, including via the Internet, during a 180-day  
 21 period, of ten (10) or more copies of one or more of the copyrighted works, which had a retail value  
 22 of \$2,500 or more, including but not limited to the following:

23	Date	Conduct/Copyrighted Works
24	(1) February 3, 2005	Accessed SNOWCAVE and uploaded the movie Peter Pan
25	(2) March 9, 2005	Accessed SNOWCAVE and uploaded the software Macromedia Fireworks MX
26	(3) March 9, 2005	Accessed SNOWCAVE and uploaded the software Macromedia Dreamweaver MX
27	(4) March 9, 2005	Accessed SNOWCAVE and uploaded the software Macromedia Director MX
28	(5) March 10, 2005	Accessed SNOWCAVE and uploaded the movie National Treasure

1	(6)	March 10, 2005	Accessed SNOWCAVE and uploaded the movie Sideways.
2	(7)	March 11, 2005	Accessed SNOWCAVE and uploaded the software Microsoft Virtual PC
3	(8)	April 18, 2005	Accessed SNOWCAVE and uploaded the software Alias Maya Unlimited MAC OSX
4	(9)	April 18, 2005	Accessed SNOWCAVE and uploaded the software Apple DVD Studio
5	(10)	April 18, 2005	Accessed SNOWCAVE and uploaded the software Adobe After Effects Professional
6	(11)	May 2, 2005	Accessed SNOWCAVE and uploaded the software Adobe Photoshop CS2
7	(12)	May 9, 2005	Accessed SNOWCAVE and downloaded the software Adobe Acrobat Professional
8	(13)	May 9, 2005	Accessed SNOWCAVE and downloaded the software Adobe Creative Suite Premium
9	(14)	May 9, 2005	Accessed SNOWCAVE and uploaded the software Adobe Encore DVD
10	(15)	May 18, 2005	Accessed SNOWCAVE and downloaded the software Microsoft Windows 2000 Professional

13 All in violation of Title 17, United States Code, Section 506(a)(1)(B), Title 18, United States  
14 Code, Sections 2319(c)(1) and 2.

15 COUNT SIX: (17 U.S.C. § 506(a)(1)(B), 18, U.S.C. §§ 2319(c)(1) and 2 - Criminal Copyright  
16 Infringement By Electronic Means, and Aiding and Abetting)

17 42. On or about the dates set forth below, in the Northern District of California,  
18 and elsewhere, defendant

19 NEIL MAKHLOUF,  
20 a/k/a bigpoppa,  
21 a/k/a zumborro,  
22 a/k/a crazyarab,

23 did willfully infringe the copyrights of copyrighted works, that is, movies, games and software, by  
24 the reproduction and distribution by electronic means, including via the Internet, during a 180-day  
25 period, of ten (10) or more copies of one or more of the copyrighted works, which had a retail value  
of \$2,500 or more, including but not limited to the following:

	Date	Conduct/Copyrighted Works	
26	(1)	November 21, 2003	Accessed LAD and downloaded the movie Alex and Emma
27	(2)	November 29, 2003	Accessed LAD and downloaded the movie Alien Directors Cut

1	(3)	November 30, 2004	Accessed LAD and downloaded the movie Out of Time
2	(4)	November 30, 2003	Accessed LAD and downloaded the movie The Order
3	(5)	December 1, 2003	Accessed LAD and downloaded the movie Caspers Haunted Christmas
4	(6)	December 2, 2003	Accessed LAD and downloaded the movie Shattered Glass
5	(7)	December 2, 2003	Accessed LAD and downloaded the Armed and Dangerous
6	(8)	December 3, 2003	Accessed LAD and downloaded the movie Pieces of Time
7	(9)	December 3, 2003	Accessed LAD and downloaded the movie The Medallion
8	(10)	December 5, 2003	.Accessed LAD and downloaded the movie Devils Pond
9	(11)	December 5, 2003	Accessed LAD and downloaded the movie Anything else
10	(12)	December 6, 2003	Accessed LAD and downloaded the movie Seabiscuit
11	(13)	December 6, 2003	Accessed LAD and downloaded the movie Viva Las Vegas
12	(14)	December 7, 2003	Accessed LAD and downloaded the movie Matchstick Men
13	(15)	December 8, 2003	Accessed LAD and downloaded the software Adobe Illustrator
14	(16)	December 9, 2003	Accessed LAD and downloaded the movie Street Fighter Alpha
15	(17)	December 11, 2003	Accessed LAD and downloaded the movie Ice Age
16	(18)	December 11, 2003	Accessed LAD and downloaded the movie Sinbad Legend of the Seven Seas
17	(19)	December 28, 2003	Accessed LAD and downloaded the software Cyberlink PowerDVD
18	(20)	January 4, 2004	Accessed LAD and downloaded the software Adobe Premiere Pro
19	(21)	January 5, 2004	Accessed LAD and downloaded the movie Once Upon a time in Mexico
20	(22)	January 7, 2004	Accessed LAD and downloaded the movie Cheerleader Ninjas
21	(23)	January 8, 2004	Accessed LAD and downloaded the movie The Wiggles Space Dancing
22	(24)	January 8, 2004	Accessed LAD and downloaded the movie Marci X
23	(25)	January 9, 2004	Accessed LAD and downloaded the movie The Savage
24	(26)	January 16, 2004	Accessed LAD and downloaded the software QuickTax
25	(27)	January 24, 2004	Accessed LAD and downloaded the movie Romeo Must Die
26	(28)	January 27, 2004	Accessed LAD and downloaded the movie Old School
27	(29)	February 1, 2004	Accessed LAD and downloaded the movie Matchstick Men
28	(30)	February 5, 2004	Accessed LAD and downloaded the movie Dickie Roberts Former Child Star
	(31)	February 8, 2004	Accessed LAD and downloaded the movie Slayers Great
	(32)	February 9, 2004	Accessed LAD and downloaded the software McAfee Virusscan Professional
	(33)	February 20, 2004	Accessed LAD and downloaded the movie Blade 2



1	(34)	February 21, 2004	Accessed LAD and downloaded the movie Blade
2	(35)	February 22, 2004	Accessed LAD and downloaded the movie Slayers Gorgeous
3	(36)	February 24, 2004	Accessed LAD and downloaded the movie Harry Potter The Chamber of Secrets
4	(37)	February 24, 2004	Accessed LAD and downloaded the movie Harry Potter The Sorcerers Stone
5	(38)	February 26, 2004	Accessed LAD and downloaded the Bad Boys 2
6	(39)	February 28, 2004	Accessed LAD and downloaded the movie Matrix Revolutions
7	(40)	February 29, 2004	Accessed LAD and downloaded the movie La Blue Girl
8	(41)	March 5, 2004	Accessed LAD and downloaded the movie Lion King 3
9	(42)	March 5, 2004	Accessed LAD and downloaded the movie The Lord of the Rings The Return of the King
10	(43)	March 7, 2004	Accessed LAD and downloaded the movie Matrix Revolutions
11	(44)	March 10, 2004	Accessed LAD and downloaded the movie The Matrix Reloaded
12	(45)	March 12, 2004	Accessed LAD and downloaded the movie Super Troopers
13	(46)	March 19, 2004	Accessed LAD and downloaded the movie The Last Samurai
14	(47)	March 19, 2004	Accessed LAD and downloaded the movie Legends of the Fall
15	(48)	March 20, 2004	Accessed LAD and downloaded the movie Master and Commander
16	(49)	March 22, 2004	Accessed LAD and downloaded the movie Kill Bill Volume 1
17	(50)	March 23, 2004	Accessed LAD and downloaded the movie Dragonball Z Broly
18	(51)	March 24, 2004	Accessed LAD and downloaded the software Simply Accounting
19	(52)	March 29, 2004	Accessed LAD and downloaded the movie Training Day
20	(53)	March 30, 2004	Accessed LAD and downloaded the movie Ali
21	(54)	March 28, 2004	Accessed LAD and downloaded the movie Starsky and Hutch
22	(55)	March 28, 2004	Accessed LAD and downloaded the movie Tupac Ressurrection
23	(56)	March 25, 2004	Accessed LAD and downloaded the movie The Haunted Mansion
24	(57)	March 24, 2004	Accessed LAD and downloaded the movie Welcome to Mooseport
25	(58)	March 25, 2004	Accessed LAD and downloaded the movie Kill Bill Volume 1
26	(59)	March 22, 2004	Accessed LAD and downloaded the movie Master and Commander
27	(60)	March 22, 2004	Accessed LAD and downloaded the movie The Last Samurai
28	(61)	March 21, 2004	Accessed LAD and downloaded the game Heros of Might and Magic IV

All in violation of Title 17, United States Code, Section 506(a)(1)(B), Title 18, United States Code, Sections 2319(c)(1) and 2.

1 COUNTS SEVEN AND EIGHT: (17 U.S.C. § 506(a)(1)(C), 18, U.S.C. §§ 2319(d)(2) and 2 -  
 2 Criminal Copyright Infringement By Distributing A  
 3 Copyrighted Work on a Computer Network, and Aiding and  
 4 Abetting)

5 43. On or about the dates set forth below, in the Northern District of California, and  
 6 elsewhere, the defendant

7 DAVID TEVES,  
 8 a/k/a killaz,  
 9 a/k/a dunno,

10 did willfully, and for purposes of commercial advantage and private financial gain, infringe the  
 11 copyright of a copyrighted work, by distributing a work being prepared for commercial distribution,  
 12 by making it available on a computer network accessible to members of the public, when defendant  
 13 knew, and should have known, that the work was intended for commercial distribution, as set forth  
 14 below:

Count	Date Received	Release Date	Copyrighted Work
7	May 23, 2005	June 14, 2005	Hitch
8	June 10, 2005	June 28, 2005	Pacifier

15 All in violation of Title 17, United States Code, Section 506(a)(1)(C), and Title 18, United  
 16 States Code, Sections 2319(d)(2) and 2.

17 COUNTS NINE AND TEN: (17 U.S.C. § 506(a)(1)(C), 18, U.S.C. §§ 2319(d)(2) and 2 - Criminal  
 18 Copyright Infringement By Distributing A Copyrighted Work on a  
 19 Computer Network, and Aiding and Abetting)

20 44. On or about the dates set forth below, in the Northern District of California, and  
 21 elsewhere, the defendant

22 TIM BURNS,  
 23 a/k/a dact,  
 24 a/k/a daconnect,  
 25 a/k/a bigcockedman,

26 did willfully, and for purposes of commercial advantage and private financial gain, infringe the  
 27 copyright of a copyrighted work, by distributing a work being prepared for commercial distribution,  
 28 by making it available on a computer network accessible to members of the public, when defendant  
 knew, and should have known, that the work was intended for commercial distribution, as set forth

1 below:

Count	Date Received	Release Date	Copyrighted Work
9	June 21, 2005	June 19, 2005	Movie The Perfect Man
10	June 28, 2005	June 26, 2005	Movie Bewitched

5 All in violation of Title 17, United States Code, Section 506(a)(1)(C), and Title 18, United  
 6 States Code, Sections 2319(d)(2) and 2.

7 DATED: *6-15-06*

A TRUE BILL

*[Signature]*  
 Grand Jury Foreperson

11 KEVIN V. RYAN  
 12 United States Attorney

13 *[Signature]*  
 14 MATTHEW A. PARRELLA  
 15 Chief, San Jose Branch Office

16  
 17 (Approved as to form: *[Signature]*)  
 18 AUSA MARK L. KROTOSKI

19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA

**OFFENSE CHARGED**

SEE ATTACHMENT

Petty  
 Minor  
 Misdemeanor  
 Felony

**SEALED BY ORDER OF COURT**  
**FILED**  
JUN 15 2006

DEFENDANT - U.S.

DAVID TEVES

DISTRICT COURT NUMBER

**SEALED BY ORDER OF COURT**  
**CR 06 00429**

PENALTY:

SEE ATTACHMENT

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

DEFENDANT

**IS NOT IN CUSTODY**

- 1)  Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges **JF RS**
- 2)  Is a Fugitive
- 3)  Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4)  On this charge
  - 5)  On another conviction
  - 6)  Awaiting trial on other charges }  Fed'l  State
- If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No } If "Yes" give date filed  
Month/Day/Year

DATE OF ARREST

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

This report amends AO 257 previously submitted

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

KEVIN V. RYAN

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

MARK KROTOSKI

**ADDITIONAL INFORMATION OR COMMENTS**

**PROCESS:**

SUMMONS  NO PROCESS\*  WARRANT Bail Amount: None

If Summons, complete following:

Arraignment  Initial Appearance

Defendant Address:

*\*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment*

Date/Time: \_\_\_\_\_

Before Judge: \_\_\_\_\_

Comments:

**ATTACHMENT PENALTY SHEET**

**David Teves, Tim Burns, Kyle Arcand, Richard Jones, and Neil Makhoul**

18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright Infringement, Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a Technological Measure that Protects a Copyright Work, and Criminal Copyright Infringement By Distributing a Copyrighted Work on a Computer Network [**Count One**]

Charged collectively against each defendant

Penalty: Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(B), 18 U.S.C. §§ 2319(1)(1) and 2 - Criminal Copyright Infringement By Electronic Means and Aiding and Abetting [**Counts Two through Six**]

Charged individually against each defendant

Penalty: Maximum 3 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 2 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(C), 18 U.S.C. §§ 2319(d)(2) and 2 - Criminal Copyright Infringement By Distributing A Copyrighted Work on a Computer Network, and Aiding and Abetting [**Counts Seven through Ten**]

Counts 7 and 8 charged against defendant David Teves

Counts 9 and 10 charged against defendant Tim Burns

Penalty Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY:  COMPLAINT  INFORMATION  INDICTMENT  SUPERSEDING

OFFENSE CHARGED

SEE ATTACHMENT

- Petty
 Minor
 Misdemeanor
 Felony

PENALTY: SEE ATTACHMENT

SEALED BY ORDER OF COURT

06 00429

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

TIM BURNS

DISTRICT COURT NUMBER

FILED JUN 15 2006 RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

IS NOT IN CUSTODY

- 1) [X] Has not been arrested, pending outcome of this proceeding. If not detained give date any prior summons was served on above charges
2) [ ] Is a Fugitive
3) [ ] Is on Bail or Release from (show District)

JF RS

IS IN CUSTODY

- 4) [ ] On this charge
5) [ ] On another conviction
6) [ ] Awaiting trial on other charges
If answer to (6) is "Yes", show name of institution

Has detainer been filed? [ ] Yes [ ] No If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

[ ] This report amends AO 257 previously submitted

PROCEEDING Name of Complainant Agency, or Person (&Title, if any)

[ ] person is awaiting trial in another Federal or State Court, give name of court

[ ] this person/proceeding is transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

[ ] this is a reprosecution of charges previously dismissed which were dismissed on motion of:

SHOW DOCKET NO.

[ ] U.S. Att'y [ ] Defense

[ ] this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

[ ] prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on THIS FORM

KEVIN V. RYAN

[X] U.S. Att'y [ ] Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

MARK KROTOSKI

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

[ ] SUMMONS [ ] NO PROCESS\* [X] WARRANT Bail Amount: None

If Summons, complete following:

[ ] Arraignment [ ] Initial Appearance

Defendant Address:

\*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

**ATTACHMENT PENALTY SHEET**

**David Teves, Tim Burns, Kyle Arcand, Richard Jones, and Neil Makhlouf**

18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright Infringement, Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a Technological Measure that Protects a Copyright Work, and Criminal Copyright Infringement By Distributing a Copyrighted Work on a Computer Network [**Count One**]

Charged collectively against each defendant

Penalty: Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(B), 18 U.S.C. §§ 2319(1)(1) and 2 - Criminal Copyright Infringement By Electronic Means and Aiding and Abetting [**Counts Two through Six**]

Charged individually against each defendant

Penalty: Maximum 3 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 2 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(C), 18 U.S.C. §§ 2319(d)(2) and 2 - Criminal Copyright Infringement By Distributing A Copyrighted Work on a Computer Network, and Aiding and Abetting [**Counts Seven through Ten**]

Counts 7 and 8 charged against defendant David Teves

Counts 9 and 10 charged against defendant Tim Burns

Penalty Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

**OFFENSE CHARGED**

SEE ATTACHMENT

- Petty
- Minor
- Misdemeanor
- Felony

**SEALED BY ORDER OF COURT**

PENALTY: SEE ATTACHMENT

**FILED JUN 15 2006**

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**PROCEEDING**

Name of Complainant Agency, or Person (& Title) \_\_\_\_\_

person is awaiting trial in another Federal or State Court, give name of court \_\_\_\_\_

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District \_\_\_\_\_

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO. \_\_\_\_\_

MAGISTRATE CASE NO. \_\_\_\_\_

Name and Office of Person Furnishing Information on THIS FORM

KEVIN V. RYAN

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

MARK KROTOSKI

Name of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S. \_\_\_\_\_

KYLE ARCAND

DISTRICT COURT NUMBER \_\_\_\_\_

**CR 06-00429**

**IS NOT IN CUSTODY**

- 1)  Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2)  Is a Fugitive
- 3)  Is on Bail or Release from (show District) \_\_\_\_\_

**IS IN CUSTODY**

- 4)  On this charge
  - 5)  On another conviction
  - 6)  Awaiting trial on other charges }  Fed'l  State
- If answer to (6) is "Yes", show name of institution \_\_\_\_\_

Has detainer been filed?  Yes  No

If "Yes" give date filed \_\_\_\_\_

DATE OF ARREST

Month/Day/Year \_\_\_\_\_

Or... if Arresting Agency & Warrant were not

Month/Day/Year \_\_\_\_\_

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

**PROCESS:**

SUMMONS  NO PROCESS\*  WARRANT Bail Amount: None

If Summons, complete following:

Arraignment  Initial Appearance

Defendant Address: \_\_\_\_\_

\*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: \_\_\_\_\_

Before Judge: \_\_\_\_\_

3

Comments: \_\_\_\_\_



**ATTACHMENT PENALTY SHEET**

**David Teves, Tim Burns, Kyle Arcand, Richard Jones, and Neil Makhlouf**

18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright Infringement, Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a Technological Measure that Protects a Copyright Work, and Criminal Copyright Infringement By Distributing a Copyrighted Work on a Computer Network [**Count One**]

Charged collectively against each defendant

Penalty: Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(B), 18 U.S.C. §§ 2319(1)(1) and 2 - Criminal Copyright Infringement By Electronic Means and Aiding and Abetting [**Counts Two through Six**]

Charged individually against each defendant

Penalty: Maximum 3 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 2 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(C), 18 U.S.C. §§ 2319(d)(2) and 2 - Criminal Copyright Infringement By Distributing A Copyrighted Work on a Computer Network, and Aiding and Abetting [**Counts Seven through Ten**]

Counts 7 and 8 charged against defendant David Teves

Counts 9 and 10 charged against defendant Tim Burns

Penalty Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

**OFFENSE CHARGED**

SEE ATTACHMENT

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY:

SEE ATTACHMENT

**SEALED BY ORDER OF COURT**

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on THIS FORM

KEVIN V. RYAN

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

MARK KROTOSKI

Name of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

RICHARD JONES

DISTRICT COURT NUMBER

**FILED 06 00429**

**JUN 15 2006**

DEFENDANT

JF

RS

RICHARD W. WELKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE, CALIFORNIA

**IS IN CUSTODY**

1)  If not detained give date any prior summons was served on above charges

2)  Is a Fugitive

3)  Is on Bail or Release from (show District)

**IS IN CUSTODY**

4)  On this charge

5)  On another conviction

6)  Awaiting trial on other charges

Fed'l  State

If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

PROCESS:

SUMMONS  NO PROCESS\*  WARRANT Bail Amount: None

If Summons, complete following:

Arraignment  Initial Appearance

Defendant Address:

\*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

4

Comments:

**ATTACHMENT PENALTY SHEET**

**David Teves, Tim Burns, Kyle Arcand, Richard Jones, and Neil Makhoulf**

18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright Infringement, Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a Technological Measure that Protects a Copyright Work, and Criminal Copyright Infringement By Distributing a Copyrighted Work on a Computer Network [**Count One**]

Charged collectively against each defendant

Penalty: Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(B), 18 U.S.C. §§ 2319(1)(1) and 2 - Criminal Copyright Infringement By Electronic Means and Aiding and Abetting [**Counts Two through Six**]

Charged individually against each defendant

Penalty: Maximum 3 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 2 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(C), 18 U.S.C. §§ 2319(d)(2) and 2 - Criminal Copyright Infringement By Distributing A Copyrighted Work on a Computer Network, and Aiding and Abetting [**Counts Seven through Ten**]

Counts 7 and 8 charged against defendant David Teves

Counts 9 and 10 charged against defendant Tim Burns

Penalty Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY:  COMPLAINT  INFORMATION  INDICTMENT  SUPERSEDING

OFFENSE CHARGED

SEE ATTACHMENT

- Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

SEE ATTACHMENT

SEALED BY ORDER OF COURT

PROCEEDING

Name of Complainant Agency, or Person (&Title, if any)

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on THIS FORM

KEVIN V. RYAN

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

MARK KROTOSKI

Name of District Court, and/or Judge/Magistrate Location NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

NEIL MAKHLOUF

DISTRICT COURT NUMBER

FILED 06 00429 CR 15 2006

DEFENDANT

JF

IS NOT IN CUSTODY

- Has not been arrested, pending outcome this proceeding.
1)  If not detained give date any prior summons was served on above charges
2)  Is a Fugitive
3)  Is on Bail or Release from (show District)

RS

IS IN CUSTODY

- 4)  On this charge
5)  On another conviction
6)  Awaiting trial on other charges
If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS  NO PROCESS\*  WARRANT Bail Amount: None

If Summons, complete following:

Arraignment  Initial Appearance

Defendant Address:

\*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

**ATTACHMENT PENALTY SHEET**

**David Teves, Tim Burns, Kyle Arcand, Richard Jones, and Neil Makhoul**

18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright Infringement, Infringement By Electronic Means, Infringement By Distributing A Commercial Distribution Work, Traffic in Devices to Circumvent a Technological Measure that Protects a Copyright Work, Circumvent a Technological Measure that Protects a Copyright Work, and Criminal Copyright Infringement By Distributing a Copyrighted Work on a Computer Network [**Count One**]

Charged collectively against each defendant

Penalty: Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(B), 18 U.S.C. §§ 2319(1)(1) and 2 - Criminal Copyright Infringement By Electronic Means and Aiding and Abetting [**Counts Two through Six**]

Charged individually against each defendant

Penalty: Maximum 3 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 2 years supervised release;  
Mandatory \$100 Special Assessment.

17 U.S.C. § 506(a)(1)(C), 18 U.S.C. §§ 2319(d)(2) and 2 - Criminal Copyright Infringement By Distributing A Copyrighted Work on a Computer Network, and Aiding and Abetting [**Counts Seven through Ten**]

Counts 7 and 8 charged against defendant David Teves

Counts 9 and 10 charged against defendant Tim Burns

Penalty Maximum 5 years imprisonment;  
Maximum \$250,000 or twice the value of the property involved in the transaction, whichever is greater;  
Maximum 3 years supervised release;  
Mandatory \$100 Special Assessment.