

# UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

CHIRAYU PATEL **SEALED BY ORDER OF THE COURT**  
aka nebula, aka nebwrk, aka aluben  
aka notneb, aka aluben

WARRANT FOR ARREST

CASE NUMBER:

YOU ARE HEREBY COMMANDED to arrest CHIRAYU PATEL  
and bring him or her forthwith to the nearest magistrate to answer a(n)

**05 70478 RS**

Indictment  Information  Complaint  Order of Court  Violation Notice

RECEIVED  
JUN 28 11:27  
NORTH DISTRICT OF CALIFORNIA

charging him or her with (brief description of offenses)

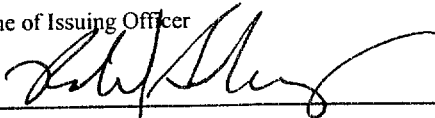
Conspired to Commit Criminal Copyright Infringement, in violation of 18 U.S.C. § 371; and Criminal Copyright Infringement and Aiding and Abetting, in violation of 17 U.S.C. § 506(a)(1), and 18 U.S.C. §§ 2, 2319.

Honorable Richard Seeborg

United States Magistrate Judge

Name of Issuing Officer

Title of Issuing Officer



June 28, 2005 San Jose, California

Signature of Issuing Officer

Date and Location

Bail fixed at \$ No Bail by Honorable Richard Seeborg

Name of Judicial Officer

### RETURN

This warrant was received and executed with the arrest of the above-named defendant at \_\_\_\_\_

ORIGINAL WARRANT FILED BY  
U.S. MARSHALS, SAN JOSE  
NOTIFY ABOVE OFFICE UPON ARREST  
DO NOT MAKE RETURN ON THIS COPY

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

UNITED STATES DISTRICT COURT

ORIGINAL FILED

NORTHERN DISTRICT OF CALIFORNIA

JUN 28 2005

SEALED BY ORDER OF THE COURT  
RICHARD W. WIEKING  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

UNITED STATES OF AMERICA

v.

CHIRAYU PATEL  
aka nebula, aka nebwrk, aka aluben,  
aka notneb, aka aluben  
38244 Hastings Street  
Fremont, California 94536  
(Name and Address of Defendant)

CRIMINAL COMPLAINT

CASE NUMBER:

05 70478 RS

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. Between in or about June 2003, to the present, in the Northern District of California and elsewhere, defendant(s) did, (Track Statutory Language of Offense)

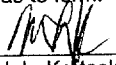
See Attachment A, which is incorporated herein by reference, which alleges Conspiracy to Commit Criminal Copyright Infringement and Circumvent Copyright Protection Systems; Criminal Copyright Infringement and Aiding and Abetting; and Circumventing a Technological Measure that Protects a Copyright Work and Aiding and Abetting

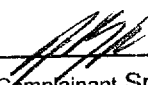
in violation of Title 18, United States Code, § 2319 (criminal copyright infringement), Title 17, United States Code, § 506 (copyright infringement), Title 18, United States Code, § 371 (conspiracy) and § 2 (aiding and abetting). I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

- See Attached Affidavit in Support of Issuance of Criminal Complaint and Arrest Warrant

X Continued on the attached sheet and made a part hereof.

Approved as to form:

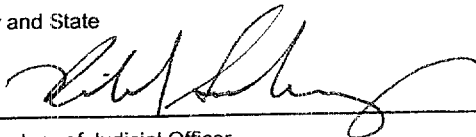
  
AUSA Mark L. Krotoski

  
Signature of Complainant Special Agent Julia Jolie  
Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence  
June 28, 2005

at San Jose, California  
City and State

Date  
HON. RICHARD SEEBORG  
U.S. Magistrate Judge  
Name and Title of Judicial Officer

  
Signature of Judicial Officer

**AFFIDAVIT IN SUPPORT OF ISSUANCE OF  
CRIMINAL COMPLAINT AND ARREST WARRANT**

I, Julia B. Jolie, Special Agent of the Federal Bureau of Investigation (FBI), being duly sworn, depose, and state:

INTRODUCTION

1. I am an FBI Special Agent, currently assigned to the Oakland Resident Agency, San Francisco Division. I have been employed by the FBI since April 1995. As a Special Agent of the FBI, I am authorized to investigate violations of the laws of the United States, and I am a law enforcement officer with authority to execute arrest and search warrants under the authority of the United States. I have participate in a variety of criminal investigations, including criminal copyright infringement, Internet fraud, computer fraud, wire fraud, and mail fraud.

2. I make this affidavit in support of the issuance of a criminal complaint and arrest warrant against the following individual:

NAME: CHIRAYU PATEL  
aka nebula, aka nebwrk, aka aluben,  
aka notneb, aka aluben  
DOB: 11/10/1981  
ADDRESS: 38244 Hastings Street  
Fremont, California 94536

3. As set forth more fully herein, there is probable cause to believe that the above defendant has committed violations of Title 18, United States Code, Section 2319 and Title 17, United States Code, Section 506(a)(1) (Criminal copyright infringement); Title 18 United States Code, Section 371 (Conspiracy to commit the foregoing offenses), and Section 2 (Aiding and Abetting the foregoing offenses).

RELEVANT STATUTES

*Criminal Copyright Infringement*

4. Title 17, United States Code, Sections 506(a), provides, in pertinent part:

(a) Criminal Infringement.—(1) In general.--Any person who willfully infringes a copyright shall be punished as provided under section 2319 of title 18, if the infringement was committed —

(A) for purposes of commercial advantage or private financial gain;

(B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000;

*Penalties For Criminal Copyright Infringement*

5. The penalties for violations of Title 17, United States Code, Sections 506, are set forth in Title 18, United States Code, Sections 2319(b), (c), (d), which provide in pertinent part:

(b) Any person who commits an offense under section 506(a)(1)(A) of title 17—

(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or more copyrighted works, which have a total retail value of more than \$2,500;

(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.

(c) Any person who commits an offense under section 506(a)(1)(B) of title 17, United States Code—

(1) shall be imprisoned not more than 3 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution of 10 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of \$2,500 or more;

(2) shall be imprisoned not more than 6 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$1,000.

### *Conspiracy*

6. Title 18 United States Code, Section 371 states, in pertinent part:

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

### *Aiding and Abetting*

7. Title 18, United States Code, Section 2(a) states, in pertinent part:

(a) whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

### SOURCES OF INFORMATION USED IN THIS AFFIDAVIT

8. The facts set forth below are based upon my own personal observations, my own training and experience, reports, e-mails, on-line communications, other information provided to me by the undercover employee (UCE) conducting the undercover investigation, and from my conversations with other law enforcement agents knowledgeable in computer disciplines, and records I have obtained, and my conversations with other private companies who investigate copyright violations and have assisted in this investigation. This affidavit is intended to show that there is probable cause for the issuance of criminal complaints and arrest warrants, and does not purpose to set forth all of my knowledge of or investigation into this matter.

### BACKGROUND CONCERNING WAREZ INVESTIGATION

9. In summary, this case involves an undercover investigation of organized groups of individuals and coconspirators – also known as "warez groups" or "warez coconspirators" – engaged in the illegal reproduction and distribution of copyright protected software over the Internet, including the illegal copying of movies, games, and software, in violation of federal copyright laws. The investigation stemmed from a Group II Undercover Operation (UCO) initiated in June 2003 by the Federal Bureau of Investigation (FBI), San Francisco Division and U.S. Attorney's Office, Northern District of California, San Jose Division. During the course of the investigation, investigators identified a number of large-scale software piracy groups, also known as "warez groups" or "warez coconspirators," engaged in the uploading, copying, duplication, reproduction, and distribution of copyright-protected computer software, games, and movies by way of the Internet, in violation of federal copyright and conspiracy laws.

### Two Warez Sites: LAD and CHUD

10. During the undercover investigation, two warez sites were established in the

Northern District of California, known as LAD and CHUD. The first was originally known as HOT and later named LAD. LAD was a smaller site (approximately 700 megabytes early on) and eventually became an archive site, holding older movies, games, and software (which is currently approximately 3.5 terabytes).<sup>1</sup> The second undercover warez site, CHUD, became an eleven terabyte site. In total, the two warez sites, combined with two servers (called VS and SNOWCAVE) which were provided by warez members, includes approximately 27 terabytes of pirated movies, games, and software, making this one of the largest undercover warez investigations. David Fish (aka x000x) and dact, among others, were instrumental in establishing CHUD. Acting as a siteop, David Fish, aka x000x agreed to script the site and dact would broker introductions with top warez groups.

11. Numerous warez groups and coconspirators came to the undercover sites to store a large number of movies, games, and software that could be uploaded and downloaded by hundreds of individuals. Warez leaders operated and controlled the sites and established terms of membership and conditions governing and restricting access. Some warez members were compensated under a credit ratio (also known as "ratio access") of one upload amount equal to three downloads (i.e. one gigabyte/three gigabytes) as a means of private financial gain. In other words, an individual who uploaded one movie could download three movies. In addition, other members paid money to other individuals suppliers to obtain early releases of movies, games, or software. Under this large conspiracy, involving multiple individuals and warez groups, hundreds of individuals obtained free, unauthorized access to pirated movies, games, and software. Investigators discovered numerous pre-released movies, which were placed onto the undercover warez site before the scheduled DVD release to the general public.

#### Distinct Conspiracy Roles

12. The success of any warez conspiracy depends on the roles and contributions of many coconspirators. Based on information obtained in the investigation, and based on my training and experience, I have formed the opinion that the Warez scheme and conspiracy were committed by individuals having distinct roles. While some members may handle multiple roles, other members may only be responsible for one role. Investigators learned that all members hold some responsibility in keeping their warez group and site up and running. In this investigation, the distinct roles have included but were not limited to: **Founders or Leaders** (originally formed the warez group and look for additional members who could provide something of value to the warez group); **Scriptors** (responsible for creating, programing, building the warez site); **Site Operators** (SiteOps) (site manager holding root access to the warez site); **Suppliers** (providing an unauthorized copyrighted movie, game or software); **Cammer** (uses an audiovisual recording device (such as a camcorder) to make an unauthorized copy of a motion picture or other audiovisual work that is protected by the copyright laws); **Equipment Suppliers** (provides hardware (such as hard drives, computer parts, and computer servers) to the warez site);

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<sup>1</sup> One terabyte equals approximately one trillion bytes, or approximately 700,000 3.5-inch floppy diskettes.

**Brokers** (found groups to participate on the warez site); **Couriers** (charged with gathering computer software programs, games, and movies and uploading them to the warez site); **Encoder** (sometimes referred to as “ripper” and “cracker”, is responsible for circumventing the technological measures and protections of copyrighted works on the DVDs to prevent unauthorized access and copying); **Leech** (a member based on friendship, not group affiliation with leech access to the movies, games, and software on the warez site); **Ratio** (a member who was required to fulfill a contribution requirement in order to download copyright works; e.g., the most common ratio is one upload to three downloads, permitting the warez member to download pirated material under a one to three ratio); **Affil** (a warez group that agreed to provide its' first release of movies, games, or software to a particular top site).

13. Warez members took numerous steps to conceal and protect the conspiracy to violate federal copyright laws. For example, the SiteOps group adopted security measures for the warez site; limited access to the warez site to specific members; established separate channels for private communications between members; and used a barter/credit system designed to reward members and provide access to the site based on the contributions of the members.

#### Nic Identification

14. In order to limit the number of members on the servers (and as an extra security feature), an individual must be invited to the site by a SiteOp. In order to gain access, the member will give his username, IP mask and password to the SiteOp. The username and password are given by the member (it is not issued). No two users can have the same FTP username. The IP mask acts as a filter, allowing the user to only use predetermined IPs to enter the site. The mask offers security for two reasons. First, only IPs that the SiteOp inputed will be able to access the system. Second, a user will not be able to log into the system using another users FTP user account name. When an individual invites himself into the IRC channel from the FTP server, a broadcast message is sent to the IRC channel that states the warez user invited himself and gives his IRC nic name. The IRC nic associated with the FTP user account is stored in a log file, allowing the association to be made between different FTP user accounts and IRC nic names. The UCE is then able to associate the different nics to FTP user accounts by checking the SySOp (system operation) logs.

#### Recent NDCA Search Warrants For E-Mail Accounts

15. On May 10, 2005, the Honorable Patricia V. Trumbull, Chief United Magistrate Judge, Northern District of California, signed search warrants for the e-mail accounts x000x@earthlink.net and davefish@gmail.com, both of which are known to be used by David Fish. The information obtained from the search warrants confirmed that David Fish had numerous warez communications with warez coconspirator Nate Lovell (aka Pest), a hardware supplier for the warez site, and warez coconspirator known as “Killiz420,” who is one of the lead suppliers of movies, games and software to the warez site.

16. On June 2, 2005, the Honorable Richard Seeborg, United States Magistrate Judge, Northern District of California, signed a search warrant for the e-mail accounts of killaz420@hotmail.com, used account used by warez coconspirator known as "Killaz420." The results confirmed communications between Teves, Fish and others concerning the criminal infringement of copyrighted works on the warez sites. Based on online communications with the UCE, killaz420 has indicated that he has five or six sources for pirated DVDs. Killaz420 has provided several unauthorized copyrighted works to the warez sites during this investigation.

#### Copyrighted Movies, Games And Software

17. Investigators compiled a directory list from the log of new movie titles that had been uploaded to CHUD and LAD as part of the warez conspiracy, and provided the list to the Motion Picture Association of America (MPAA) for analysis. MPAA confirmed in writing that its member organizations held copyrights to 766 of these movies. Many of these movies were uploaded to CHUD either before or at the time that the movie was being shown in U.S. theaters. As one recent example, the movie "Star Wars: Episode III - Revenge of the Sith (2005)" was placed on the warez site within hours of its theatrical release to the public. Some other examples of the infringed movie titles include Batman Begins (movie) uploaded on the UCO CHUD June 15, 2005 (released in the theaters on June 15, 2005) by an individual known as "OTR," Bewitched (movie) uploaded on the UCO CHUD June 26, 2005 (released in the theaters June 24, 2005) by an individual known as "c2".

18. Directory lists from the uploaded games to CHUD and LAD during the warez conspiracy were provided to the Entertainment Software Association (ESA) for confirmation that copyrights existed for the titled games. ESA confirmed in writing that its member organizations held copyrights to 1, 283 of the games, totaling approximately \$20,981.69. Some examples of the infringed game titles include, Air Force Delta Storm, American Chopper, Bionicle, Doom 3, among many more.

19. Directory lists of the logs of uploaded software to CHUD and LAD during the warez conspiracy were provided to the Business Software Alliance (BSA) for confirmation that copyrights existed for the titled software applications. BSA confirmed in writing that its member organizations held copyrights to 188 of the software applications, totaling approximately \$389,101.82. Some examples of the infringed software titles include Adobe Photoshop, Adobe Workshop CS2, ADOBE Creative Suite. Premium, Adobe Acrobat Professional V7, Autodesk Discreet 3D Studio.Mac.V7, Microsoft.Office.System Professional, Microsoft Office XP Professional SP3, Microsoft Windows XP x64 Pro, Apple.DVD.Studio.PRO.V4, Apple.soundtrack.pro.mac, Sony Vegas plus Dvd Production Suite, Norton 2005, VMware ESX Server, Autodesk Autocad mechanical V2006, Autodesk Revit Volume 7, Autodesk Autocad Volume 2006, ARCGIS Desktop Volume 9, Symantec Antivirus Corporate Edition, among many more.



## Circumventing Technological Measures

20. Many new releases for movies, software and games include technological measures designed to protect or limit access to copyrighted materials. For example, many DVDs contain an access control and copy prevention system, including a "Content Scramble System" (CSS). CSS serves as a technological measure to protect the contents of a DVD from unauthorized access and copying, which are thwarted by a scrambled image. Some warez members have developed abilities to circumvent these technological measures protecting the copyrighted content on the DVDs. Once the technological measure is circumvented, unauthorized access and copying can be permitted. For example, in this investigation the MPAA made a preliminary determination that circumvention tools were being used to bypass the technological measures designed to protect the copyrighted works, or movies. After conducting a preliminary analysis of some the products that had been placed on a server used by x000x that was located in the UCO ISP to encode movies and games, the MPAA confirmed that the following products enabled the circumvention of CSS, (a) AnyDVD; (b) Gordian Knot; (c) DVD2SVCD; (d) DVD Decrypter; (e) DVD Shrink; (f) DVD2AVI; and (g) VirtualDubMod.

## DESCRIPTION OF CRIMINAL ACTIVITY

21. Investigators have concluded that CHIRAYU PATEL, aka nebula, aka nebwrk, aka aluben, aka notneb, aka aluben, has been an active member on the warez servers CHUD for more than one year (leech access, user added on May 25, 2004) and VS for more than four months (leech access, added on February 18, 2005). PATEL is one of the SiteOps on the undercover servers known as VS, allowing him to grant access to the server for warez groups and individuals. As the SiteOp of the warez server VS, PATEL is responsible for administering the site and controlling the daily operations of the server. PATEL supports the servers by purchasing, installing, and setting up hardware and site scripts. By this conduct, PATEL has aided and abetted numerous violations of the criminal copyright infringement laws. Through on-line investigations, chats, and in person conversations the UCE has been able learn that Patel is a member of the warez groups Boozers (a DVDR release group) and TCF (a VCD telesync and cam group). nebula has uploaded and downloaded over 1.4 terabytes of computer software, games, and movies from the CHUD and VS.

22. A check of the SYSOP (System Operation) logs in combination with the undercover investigation revealed that an account exists for an individual using IP Mask 67.188.134.197, FTP user account names nebula, aka nebwrk, aka aluben which has access to download warez media from the site. An individual using the above listed FTP account usernames has used the following nicknames while on IRC: nebula, notneb, nebwrk, aluben.

23. Investigators have determined that Patel continues to upload and download warez from his residence, located at 38244 Hastings Street, Fremont, California, 94538. According to the warez server logs, on or about the following dates, an individual using FTP user account names nebula, aka nebwrk, aka aluben downloaded the following media:

06/02/2005	Be Cool	\$ 20.00
06/02/2005	Team America World Police	\$ 20.00
06/03/2005	Hide and Seek	\$ 20.00
06/04/2005	Hostage	\$ 20.00
06/04/2005	Star Wars Episode 3	\$ 20.00
06/06/2005	Grand Theft Auto San Andreas	\$ 20.00
06/07/2005	Rallisport Challenge 2	\$ 20.00
06/07/2005	Robotech Battlecry	\$ 20.00
06/08/2005	Ms Congeniality 2	\$ 20.00
06/08/2005	Coach Carter	\$ 20.00
06/11/2005	SONY VEGAS PLUS DVD PRODUCTION SUITE	\$ 799.00
06/12/2005	The Pacifier	\$ 20.00
06/14/2005	Nortor. 2005	\$ 49.99
06/16/2005	VMware ESX Server	\$4350.00
06/19/2005	Microsoft Office XP Professional SP3	\$ 469.00

The undercover server log files captured the IP address 67.170.253.151 which was assigned to the computer from which the accounts downloaded files. Comcast confirmed the subscriber information for the individual assigned the IP 67.170.253.151 on June 24, 2004, at 16:49:11 GMT, during which time the nic nebula logged on to the server using this IP address. Comcast indicated the IP address is registered to Raj Patel, 38244 Hastings Street, Fremont, California, 94538. Patel has had the Comcast service for some time. On December 16, 2004, Patel provided in an IRC chat, a web address that contained a picture of himself on his motorcycle. The picture was consistent with the individual investigators have identified as Patel (including during meetings Patel had with the UCE, as noted below). The web address Patel provided is <http://home.comcast.net/~chirayu/pics/chirayu6r.jpg>. On January 8, 2005, Nebula stated that he has a 10MB Comcast connection at home. Based on the foregoing copyright titles reproduced and distributed by CHIRAYU PATEL, he has infringed more than ten (10) copyrighted works, during a 180-day period, which have a total retail value of more than \$2,500.00, including by the reproduction or distribution via the Internet and for the purpose of commercial advantage or private financial gain, in violation of Title 18, United States Code, Section 2319 and Title 17, United States Code, Section 506(a)(1).

24. PATEL has been further identified in meetings that PATEL and the UCE have had on several occasions. After having a face to face meeting, the UCE was able to identify nebula from a Department of Motor Vehicle photograph as being CHIRAYU PATEL. Patel has told the UCE that he lives just down the road from Hurricane Electric, a server co-location facility in Fremont, CA, with his family. Investigators have confirmed that Patel's residence is near Hurricane Electric, as PATEL has represented. On November 2, 2004, he stated that he lived in downtown Fremont by Washington High School.

25. Patel has used the same Hastings Street address in other warez communications since last year. For example, on September 27, 2004, the UCE received a United States Postal

Service priority mail package from Patel, with a return address of 38244 Hastings Street, Fremont, California, 94536. The package contained four (4) DVD's of motorcycle tricks. The UCE asked to see the videos so that Patel would use the mail to send a package with his name and address.

26. On December 21, 2004, Patel and the UCE met at Hurricane Electric to make repairs to Patel's server VS. Patel stated that he received the server VS from IRC nic guyzzz (aka William Veyna), another warez coconspirator in the case. Patel stated that he would write all the scripts and bots for the new server to work on the IRC channel. Patel stated that Boozers, videoCD and Phase would be on the server (all are known warez groups). During the conversation Patel stated that he would be a courier for releases on VS (the new server), and write a script that will automatically upload new releases from VS onto CHUD. Patel stated the same in a chat room on December 23, 2004 when he stated "i am going to setup autotraders to chud/lad for vcd as well." During other face-to face meetings between PATEL and the UCE, PATEL advised the UCE that he was previously very active in encoding and making cam movies for TCR. This meeting was just so that nebula could get access to the UCO site to place his server into the UCE's leased space.

27. In online conversations, PATEL has discussed his warez activities. For example, on November 26, 2004, Patel asked the UCE, ",bro, I have a 3 TB box, want to put it up for LAD?" Based on my training and experience, and based on experience obtained during the course of the investigation, in the prior statement PATEL indicates that he is willing to provide equipment to assist the site LAD in being bigger, which would make it a better site to its members. However, instead of adding it to LAD, it was decided to create VS.

28. PATEL has discussed his warez activities, including the encoding of movies, with the UCE, during face to face meetings and online. These admissions are a good example of Nebula's willingness to begin the warez process by illegally encoding a movie.

a. On or about April 21, 2004, IRC nic nebula stated to the UCE that nebula used to encode movies from telesync, DVDR, and VHS formats.

b. On or about April 21, 2004, Nebula admitted to the UCE, in an IRC chat, that he ripped telesync and cams occasionally and told the UCE, ",you know one of my rip made it to cnn", ",i was in this group called leechasf", ",my rip "The whole 9 yards" the screenshot was on cnn", and ",i encoded it from ts to asf :)".

c. On or about December 21, 2004, PATEL told the UCE in an IRC chat, ",I ripped dvdr and dvdscr", ",in the bottom it said ripped by nebula@leechasf", and ",i started with ripping asfs". An asfs is another type of movie file.

29. In furtherance of the conspiracy, and to effectuate its objects, CHIRAYU PATEL committed overt acts, in the Northern District of California, and elsewhere, including:

a. On or about September 27, 2004, defendant CHIRAYU PATEL caused to be delivered by the United States Postal Service, according to the directions thereon, a package addressed to the UCE, with a return address of 38244 Hastings Street, Fremont, California, 94536, containing four (4) pirated DVD's of motorcycle tricks.

b. On or about February 15, 2005, defendant CHIRAYU PATEL met with the UCE to upgrade the warez server VS. PATEL installed a 3Ware RAID card and six hard drives to increase the disk space of VS.

c. On or about May 27, 2005, defendant CHIRAYU PATEL accessed CHUD or VS and uploaded one or more copyrighted works, including Domination Playstation 2 same and on or about June 10, 2005 uploaded Spiderman.

d. On or about May 25, 2005, defendant CHIRAYU PATEL accessed CHUD or VS and downloaded one or more copyrighted works, including Autodesk Architectural Desktop software, on or about June 19, 2005 downloaded Microsoft Office XP Professional software and Mr and Mrs Smith.

e. On or about December 21, 2004, defendant CHIRAYU PATEL had a meeting with the UCE to place a server, known as VS into the UCO. This server was used to create another warez site used by the subjects to upload and download media.

f. In or about April 2004, defendant CHIRAYU PATEL communicated with the UCE on IRC and advised that he used to encode movies from telesync, DVDR, and VHS formats. In addition, nebula advised the UCE that one of his ripped media was played on CNN and that he had encoded it from ts to asf.

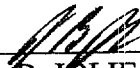
30. Based on all of the facts and circumstances described above, I believe that probable cause exists that CHIRAYU PATEL, aka nebula, aka nebwrk, aka aluben, aka notneb, aka aluben, conspired to commit criminal copyright infringement and circumvent copyright protection systems, in violation of 18 U.S.C. § 371; committed criminal copyright infringement and aided and abetted criminal copyright infringement, in violation of 17 U.S.C. § 506(a)(1), and title 18 U.S.C. §§ 2, 2319.

31. Based on all of the facts and circumstances described above, I request the issuance of an arrest warrant for CHIRAYU PATEL, aka nebula, aka nebwrk, aka aluben, aka notneb, aka aluben.

#### REQUEST FOR SEALING

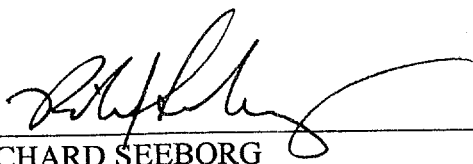
32. The affiant respectfully requests that this affidavit be sealed until the first arrest of the defendant in this case or until such time as the Court directs. Disclosure of the affidavit in support of a complaint and arrest warrant at this time would seriously jeopardize the ongoing

investigation, as such disclosure may provide an opportunity to destroy evidence, change patterns of behavior, notify any confederates, or allow the defendant or any confederates to flee or continue flight from prosecution. It may also take some time to locate the defendant prior to his arrest.

  
\_\_\_\_\_  
JULIA B. JOLIE  
Federal Bureau of Investigation

SWORN AND SUBSCRIBED TO BEFORE ME

THIS 28<sup>th</sup> DAY OF June, 2005

  
\_\_\_\_\_  
RICHARD SEEBORG  
United States Magistrate Judge

**CRIMINAL COMPLAINT  
ATTACHMENT A**

18 U.S.C. § 371 - Conspiracy to Commit Criminal Copyright Infringement and Circumvent Copyright Protection Systems

Beginning at a time unknown, but not later than in or about June 2003, and continuing thereafter up to and including the present, in the Northern District of California, and elsewhere, the defendant, **CHIRAYU PATEL, aka nebula, aka nebwrk, aka aluben, aka notneb, aka aluben**, and others known and unknown, did knowingly agree, combine and conspire to commit offenses against the United States, that is:

- A. Criminal Infringement of a Copyright, by reproducing and distributing at least ten infringing copies of one or more copyrighted works, with a total retail value of more than \$2,500.00, during a 180-day period, for purposes of private financial gain, in violation of Title 17, United States Code, Section 506(a)(1)(A), and Title 18, United States Code, Section 2319(b)(1);
- B. Criminal 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 \$2,500.00, 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)(1).

All in violation of Title 18, United States Code, Section 371.

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

Between in or about January 2005 and June 2005, in the Northern District of California, and elsewhere, the defendant, **CHIRAYU PATEL, aka nebula, aka nebwrk, aka aluben, aka notneb, aka aluben**, did willfully, and for the purpose of private financial gain, infringe the copyrights of copyrighted works, that is, copyrighted movies, games and software, by reproducing and distributing via the Internet, ten (10) or more copies of one or more of the copyrighted works, during a 180-day period, which had a retail value of \$2,500 or more, all in violation of Title 17, United States Code, Section 506(a)(1)(B), and Title 18, United States Code, Sections 2, 2319(c)(1).

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United States Attorney

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3 Acting Chief, Criminal Division

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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN JOSE DIVISION

12 UNITED STATES OF AMERICA, )

13 Plaintiff, )

14 vs. )

15 CHIRAYU PATEL, )  
16 aka nebula, aka nebwrk, )  
17 aka aluben, aka notneb, )  
18 aka aluben, )

19 Defendant. )

~~05-70478~~ RS

MOTION TO SEAL

20 The United States of America respectfully requests the Court to seal the complaint,  
21 (including the affidavit in support of the complaint and accompanying documents), and this  
22 motion in the above-referenced case, until the defendant's initial appearance or further order of  
23 the Court, for the reasons set forth in the Affidavit.

24 DATED: June 28, 2005

Respectfully submitted,

25 KEVIN V. RYAN

26   
27 MARK L. KROTOSKI  
28 Assistant U.S. Attorney

**ORIGINAL FILED**

JUN 28 2005

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

SEALED BY ORDER  
OF THE COURT

1 KEVIN V. RYAN (CASBN 118321)  
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9 Attorneys for Plaintiff

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

SEALED BY ORDER  
OF THE COURT

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )

15 vs. )

16 CHIRAYU PATEL, )  
17 aka nebula, aka nebwrk, )  
18 aka aluben, aka notneb, )  
19 aka aluben, )

20 Defendant. )

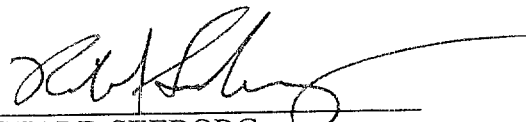
NO. 05 70478 RS

~~Proposed~~  
ORDER GRANTING MOTION TO SEAL

21 Upon motion of the government, and good cause appearing,

22 IT IS HEREBY ORDERED that the complaint in this matter (including the affidavit in  
23 support of the complaint and accompanying documents), the government's motion to seal, and  
24 the declaration in support of the government's motion to seal, shall be sealed until the  
25 defendant's initial appearance or further order of the Court.

26 DATED: June 28, 2005

27   
RICHARD SEEBORG  
United States Magistrate Judge