

E-FILING

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

NATE LOVELL,
aka pestilenc, aka pest

05 70477 RS
SEALED BY ORDER OF THE COURT
WARRANT FOR ARREST
CASE NUMBER:
RECEIVED
JUN 28 01:21
U.S. MARSHALS

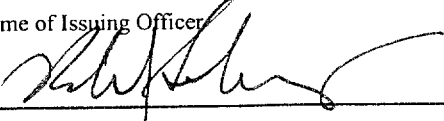
YOU ARE HEREBY COMMANDED to arrest NATE LOVELL
and bring him or her forthwith to the nearest magistrate to answer a(n)

Indictment Information Complaint Order of court Violation Notice

charging him or her with (brief description of offenses)

Conspired to Commit Criminal Copyright Infringement, in violation of 18 U.S.C. § 371; 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

Name of Issuing Officer

Signature of Issuing Officer

United States Magistrate Judge

Title of Issuing Officer
June 28, 2005 San Jose, California
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 _____		
DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

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

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

CRIMINAL COMPLAINT

UNITED STATES OF AMERICA
v.

NATE LOVELL,
aka pestilenc, aka pest
52 Genesee Court
Boulder, Colorado 80303
(Name and Address of Defendant)

CASE NUMBER:

05 70477 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), and Title 18, United States Code, § 371 (conspiracy) & § 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

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

Date

City and State

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 participated 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: NATE LOVELL
aka pestilenc, aka pest
DOB: 3/02/1983
ADDRESS: 52 Genesee Court
Boulder, Colorado 80303

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), (b) provide, 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 of 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, Unites States Code, Section 2(a) states, in pertinent part:

(a) whoever commits an offense against the United States or aids, abets, counsels, commands, induces of procures it 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).¹ 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

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

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); **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. Under the e-mail search warrant for x000x, the address book listed, among others, NATE LOVELL as nate@cadcoinc.com.

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 NATE LOVELL, aka pestilenc, aka pest, has been an active member on the undercover servers since November 3, 2004. LOVELL had leech access on CHUD added November 3, 2004 and leech access on February 27, 2005. LOVELL provided equipment in furtherance of continuing illegal warez activity for the purpose of private financial gain. By donating hardware, LOVELL has leech rights to download an unlimited amount of media. SYSOP (System Operation) Logs from the undercover servers revealed that an account exists for an individual using IP Mask 24.8.191.*, member FTP username - pest, has access to download warez media from the site. An individual using the above listed FTP account usernames has used the following the IRC nickname pestilenc during IRC conversations. As of June 15, 2005, undercover logs show that user account pest downloaded over 470 gigabytes of computer software, games, and movies.

22. NATE LOVELL has been identified based on his subscriber account information for the IP Address used for the warez communications and infringement activities, the address he has used to send equipment to the UCE for the warez sites, and public records. For example, the copyrighted works, noted below, have been downloaded from the same IP address 24.8.191.188. On June 8, 2005, Comcast revealed that NATE LOVELL has a subscriber account for 52 Genessee Court, Boulder, Colorado. The phone number LOVELL used in sending the UCE a package, noted below, [(303) 549-7327] has been confirmed by Verizon Wireless to be subscribed by NATHANIEL E LOVELL, 52 Genessee Ct, Boulder, CO 80303. Department of Motor Vehicle records show that LOVELL has received a Colorado driver's license using 52

Genesee Ct, Boulder, CO.

23. Investigators have determined that LOVELL continues to upload and download warez. On the following dates, pest, using IP address 24.8.191.188 downloaded the following copyrighted works:

3/19/2005	Autodesk Autocad mechanical V2006	\$4,195.00
3/20/2005	Autodesk Revit Volume 7	\$4,695.00
3/20/2005	Autodesk Autocad Volume 2006	\$3,750.00
4/26/2005	The Village	\$ 20.00
4/28/2005	Adobe Photoshop CS	\$ 599.00
4/28/2005	Windows XP x64 Pro	\$ 299.00
5/02/2005	Jade Empire (XBox game)	\$ 20.00
5/05/2005	ARCGIS Desktop Volume 9	\$1,400.00
5/01/2005	The Wedding Date	\$ 20.00
5/24/2005	StarWars Episode III	\$ 20.00

Based on the foregoing copyright titles reproduced and distributed by NATE LOVELL, 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. Investigators have determined that LOVELL has communicated on warez matters with David Fish, another warez coconspirator. On March 29, 2005, the UCE shipped LOVELL one (1) server adapter to address: 1278 Trail Ridge Drive, Longmont, CO 80501 (determined to be a "drop" location). The UCE was advised in a conversation with Dave Fish, another subject in the case, that Fish instructed LOVELL to send a server to the UCE. On March 29, 2005, the UCE participated in an on-line Internet communication via e-mail with e-mail address: pestilence_x@hotmail.com. During the conversation, pestilence advised:

"Why don't you go ahead and send i had a raid card die so i have another on order and at least X is working on the box now. Send to N. Lovell, 1278 Trail Ridge Drive, Longmont, CA 80501 that is my drop send there and I'll get the card install so literally all you need to do is plug in hehe Pest." Based on training and experience, and information obtained during the course of the undercover investigation, pest is asking the UCE to send some equipment (raid card) that he needs to place into the warez server so that it will be ready to be installed into the undercover warez when it arrives. This e-mail is another piece of evidence connecting pest to Nate Lovell.

25. On April 28, 2005, UCE received an e-mail from pest that said the following. "Hey we are good to go with this box. Why don't you get me some shipping info. I was just going to load it up with some archive stuff for people to leech for a week or something"

Pest

In this communication, Pest advised the UCE that he had completed building the server for the

warez site and was ready to ship it to the UCE.

26. On May 3, 2005, Lovell e-mailed UCE the following message:

"I shipped today here is tracking number 1ze594260369863484
I sent ground the is heavy so be ware lol."

27. On or about May 5, 2005, the UCE received the server on. The return address stated: N Lovell (303) 549-7327. On May 27, 2005, Verizon Wireless confirmed that the owner of the phone number (303) 549-7327 was Nathaniel E Lovell, 52 Genessee Ct, Boulder, CO 80303. Department of Motor Vehicle records show that Lovell has received a Colorado driver's license using 52 Genessee Ct, Boulder, CO.

28. As a warez leech, LOVELL does not have to upload any warez he is free to download any warez needed. The following chat is an example of LOVELL asking anyone in the chat if they have a certain PS2 game:

- 2005 Mar 06 07:09:18 <Pestilenc> Gran_Turismo_4_USA_PS2DVD-JEI
- 2005 Mar 06 07:09:20 <Pestilenc> anyone got that

In two other chats:

- 2005 Mar 05 04:20:25 <Pestilenc> anyone know a pc program that will burn toast images
2005 Apr 09 16:25:02 <Pestilenc> anyone know if disk keeper 9 been released
2005 Apr 09 16:28:14 <Pestilenc> yah
2005 Apr 09 16:28:18 <Pestilenc> it work with server?

Based on training and experience, including information obtained during the course of the investigation, it is common for individuals in the warez scene to ask if a product works or if has been released first. If LOVELL does not have the particular media he will request that another member place it on the site.

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

a. On or about June, 2005, defendant NATE LOVELL accessed CHUD and VS and downloaded one or more copyrighted works, including, June 20, 2005 National Treasure, June 20, 2005 Hitch, June 17, 2005 Cinderella Man, June 18, 2005 Windows 2003 Small business Server, to name a few.

b. On or about April 28, 2005, defendant NATE LOVELL sent an e-mail to the UCE discussing the shipment of a server for the UCE to place into the UCO.

c. On or about May 3, 2005, defendant NATE LOVELL shipped a server to

the UCE who received the server on May 5, 2005. The server was from N Lovell.

d. On or about June 25, 2005, defendant NATE LOVELL had an Instant Message conversation with the UCE advising how LOVELL used to burn everything in 2000 and 2001 and that he only burns DVDR now.

30. Based on all of the facts and circumstances described above, I believe that probable cause exists that NATE LOVELL, aka pestilenc, aka pest, conspired to commit criminal copyright infringement and circumvent copyright protection systems, in violation of 18 U.S.C. § 371; and committed criminal copyright infringement and aided and abetted criminal copyright infringement, in violation of 17 U.S.C. § 506(a)(1), and 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 NATE LOVELL, aka pestilenc, aka pest.

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.

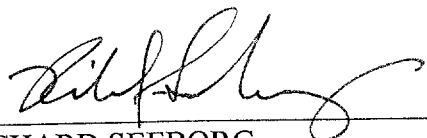


JULIA B. HOLIE

Federal Bureau of Investigation

SWORN AND SUBSCRIBED TO BEFORE ME

THIS 28th 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, **NATE LOVELL, aka pestilenc, aka pest**, 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, **NATE LOVELL, aka pestilenc, aka pest**, 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).

1 KEVIN V. RYAN (CASBN 118321)
United States Attorney
2
3 EUMI L. CHOI (WVBN 0722)
Acting Chief, Criminal Division
4 MARK L. KROTOSKI (CASBN 138549)
Assistant United States Attorney
5
6 150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-5035
7 Facsimile: (408) 535-5066

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

8 Attorneys for Plaintiff

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

NO. 05 70477

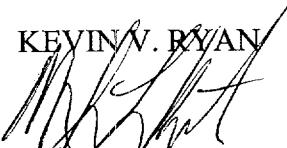
RS

12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 vs.)
15 NATE LOVELL,)
16 aka pestilenc, aka pest,)
17 Defendant.)

MOTION TO SEAL

18
19 The United States of America respectfully requests the Court to seal the complaint,
20 (including the affidavit in support of the complaint and accompanying documents), and this
21 motion in the above-referenced case, until the defendant's initial appearance or further order of
22 the Court, for the reasons set forth in the Affidavit.

23 DATED: June 28, 2005

Respectfully submitted,
24 KEVIN V. RYAN

25 MARK L. KROTOSKI
26 Assistant U.S. Attorney
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
NATE LOVELL,)
)
aka pestilenc, aka pest,)
)
Defendant.)

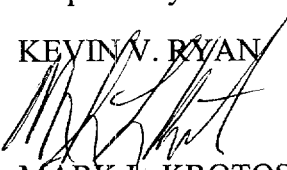
NO. 05 70477

RS

MOTION TO SEAL

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

DATED: June 28, 2005

Respectfully submitted,
KEVIN V. RYAN

MARK L. KROTOSKI
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

ORIGINAL FILED

JUN 28 2005

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

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

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)
15 Plaintiff,)
16 vs.)
17 NATE LOVELL,)
18 aka pestilenc, aka pest,)
Defendant.)


05 70477
NO. _____

RS
[Proposed]
ORDER GRANTING MOTION TO SEAL

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

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

24 DATED: June 28, 2005

25 
26 RICHARD SEEBORG
United States Magistrate Judge