

FILING

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

DAVID FISH, aka x000x

SEALED BY ORDER
OF THE COURT

WARRANT FOR ARREST

CASE NUMBER:

05 70475

RS

YOU ARE HEREBY COMMANDED to arrest

DAVID FISH, aka x000x

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 and Circumvent Copyright Protection Systems, 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; and Circumventing a Technological Measure that Protects a Copyright Work and Aiding and Abetting, in violation of 17 U.S.C. §§ 1201(a)(1)(A), 1204(a)(1), and Title 18 U.S.C. § 2.

Honorable Richard Seeborg

United States Magistrate Judge

Name of Issuing Officer

Title of Issuing Officer

June 28, 2005 San Jose, California

Date and Location

Signature of Issuing Officer

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

DO NOT MAKE RETURN ON THIS COPY
U.S. MARSHALS SAN JOSE
ORIGINAL WARRANT FILED BY
JUN 28 2005

UNITED STATES DISTRICT COURT ORIGINAL FILED

NORTHERN DISTRICT OF CALIFORNIA

oOo

JUN 28 2005

UNITED STATES OF AMERICA

v.

DAVID FISH, aka x000x
245 Cherry Avenue, Unit C11
Watertown, CT 06795

(Name and Address of Defendant)

SEALED BY ORDER
OF THE COURT

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

CRIMINAL COMPLAINT

CASE NUMBER:

05 70475

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), § 1201 (Circumvention of copyright protection systems) and § 1204 (Criminal offenses and penalties), 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

Date

HON. RICHARD SEEBORG
U.S. Magistrate Judge

Name and Title of Judicial Officer

at

San Jose, California

City and State

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: DAVID FISH (aka x000x)
DOB: 6/04/1981
ADDRESS: 245 Cherry Avenue, Unit C11
Watertown, CT 06795

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 17 United States Code, Section 1201 (Circumvention of copyright protection systems) and Section 1204 (Criminal offenses and penalties); 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.

Circumvention of Copyright Protection Systems

6. Title 17, United States Code, Section 1201, provides in pertinent part:

Section 1201. (a) Violations Regarding Circumvention of Technological Measures.—

(1) (A) No person shall circumvent a technological measure that effectively controls access to a work protected under this title. The prohibition contained in the preceding sentence shall take effect at the end of the 2-year period beginning on the date of the enactment of this chapter.

...

(3) As used in this subsection—

(A) to “circumvent a technological measure” means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and

(B) a technological measure “effectively controls access to a work” if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

Penalties For Circumvention Of Copyright Protection Systems

7. The penalties for violations of Title 17, United States Code, Section 1201, are set forth in Title 17 U.S.C. Section 1204, which provides in pertinent part:

(a) In General - Any person who violates Section 1201 or 1202 willfully and for purposes of commercial advantage or private financial gain - (1) shall be fined not more than \$500,000 or imprisoned for not more than 5 years, or both, for the first offense; and (2) shall be fined not more than \$1,000,000 or imprisoned for not more than 10 years, or both, for any subsequent offense.

Conspiracy

8. 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

9. 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

10. 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

11. 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

12. 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

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

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 Site Op, David Fish, aka x000x agreed to script the site and dact would broker introductions with top warez groups.

13. 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

14. 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); **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).

15. 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

16. 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

17. 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 "Killaz420," who is one of the lead suppliers of movies, games and software to the warez site. Based on the search warrant records, investigators discovered that the address book listed, among others, Nate Lovell, nate@cadcoinc.com.

18. 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. Among other things, investigators learned that on February 22, 2005, x000x sent an e-mail to killaz420@hotmail.com asking for the tracking number for a particular game and tracking number for a new one that was expected to arrive.

Copyrighted Movies, Games And Software

19. 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".

20. 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 Devil May Cry 3 - PS2, Burnout 3 - XBOX, Major League Baseball 2006 - PS2, Jade Empire (XBox), among many more.

21. 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, ARCGIS Desktop Volume 9, 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, Redhat Enterprise Linux 4.0, among many more.

Circumventing Technological Measures

22. 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

23. Investigators have concluded that DAVID FISH, aka x000x, has been an active member as a SiteOp, scripter, encoder, and supplier, on the undercover servers. Since March 2004, DAVID FISH has served as the SiteOp of the warez server CHUD. Since February 2005, DAVID FISH has had ratio access to the warez VS server.

24. As the SiteOp of the warez server CHUD, DAVID FISH is responsible for writing the scripts that control the daily operations of the servers. These scripts include manipulating the software package to function on the warez servers controlled by the UCE as well as scripts that enable the commands inputted to the IRC chat channels to control the servers. Since setting up the site, DAVID FISH has been responsible for its daily operations. Most of the servers that have been added to the site have been scripted by FISH. By this conduct, FISH has aided and abetted numerous violations of the criminal copyright infringement laws. FISH also upgrades the sites, as he states in the following chat:

- 2004 December 27 "once im done archiving, im gonna start doin some upgrades"

Media that has been on the racing server, which ususally contains the most up to date movies, games, and software, needs to be moved to another server where the older media gets stored. This ensures that the racing server only has the most up-to-date works on it. Upgrading refers to steps taken by the Site Op to enhance the warez site.

25. A query and examination of the log files of server CHUD for the time period February 2005 to May 2005 indicates that an individual using the nic x000x, and subsequently identified as DAVID FISH, uploaded one (1) computer software program, two (2) video games (Playstation 2) and seven (7) movie titles and downloaded two (2) computer software programs and nineteen (19) movie titles. All of the above listed media was downloaded from Internet Provider address of 67.86.231.139. Some of the recent examples of the computer software, movie and video games that FISH uploaded or downloaded to CHUD included the following titles (with estimated retail value indicated):

03/07/2005	Closer	\$20.00
03/23/2005	Elektra	\$20.00
03/23/2005	Spanglish	\$20.00
03/24/2005	Hotel Rwanda	\$20.00
04/04/2005	Blade Trinity	\$20.00
04/12/2005	Adobe Acrobat Professional V7	\$449.00
04/14/2005	Kinsey	\$ 20.00
04/15/2005	Microsoft Windows 2000 Professional	\$319.00
04/15/2005	Darkness	\$20.00
04/21/2005	Symantec Antivirus Corporate Edition	\$51.60
05/03/2005	Racing Stripes	\$20.00
05/03/2005	Son of the Mask	\$20.00
05/03/2005	White Noise	\$20.00
05/03/2005	Team America World Police	\$20.00
05/15/2005	Monster in Law	\$20.00

26. In addition to the foregoing copyright titles reproduced and distributed by DAVID FISH on his own, investigators have concluded through a review of the site logs, e-mails and other communications with and by DAVID FISH that he has aided and abetted other warez members in infringing many times 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).

27. On March 14, 2005, Google revealed that davefish@gmail.com was DAVID FISH with a secondary e-mail of x000x@earthlink.net. The IP used to log in to the Google account was 67.86.231.139. CSC Holdings/OPTONLINE provided subscriber information for the individual assigned the IP 67.86.231.139 on May 21, 2005. The subscriber information stated: DAVID FISH, 245 Cherry Ave, #C11, Watertown, CT. On April 29, 2005, bank records confirmed that Bank records were obtained on April 29, 2005 which revealed that DAVID FISH has a current account with an address of 245 Cherry Ave., Watertown, CT 06795. On October 13, 2004, Cablevision advised that subscriber account for IP 67.86.231.139 was for DAVID FISH, 245 Cherry Ave., C11, Watertown, CT 06795. A May 2005 records check confirms that FISH owns a residence at 245 Cherry Ave, C#11, Watertown, CT. On March 23, 2005, UCE sent FISH (2) hard-drives. The address FISH requested the drives be sent was 254 Cherry Avenue, C-11, Watertown, CT. A records check confirmed that this address does not exist, hence it is reasonable to believe that the 254 was a typo and should have read 245, based on the subscriber and residential ownership records. Since the IP FISH has been exclusively using has not changed, and the recent information states he is currently at the same address, it is reasonable to believe that FISH continues to engage in his warez activities from 245 Cherry Ave, #C11,

Watertown, CT.

28. DAVID FISH has communicated with the UCE on many occasions regarding this warez activities including by e-mail, telephone, and other online communications. For example, on September 10, 2004, at approximately 3:42 PM PDT, the UCE made a telephone call to FISH, (203) 910-0760. FISH had asked the UCE to return the DVD to another warez coconspirator in the Northern District of California (identified by name and address). FISH told the UCE to place the DVD under the named individual's garbage can. FISH stated that this person was supposed to be home as he needed to return the DVD to work due to a recall. On many other occasions, FISH has also provided updates to the UCE concerning the operations of the warez site and directed that certain actions be taken concerning the operations of the site. The e-mail conversations were with the account davefish@gmail.com. FISH provided his telephone number as a contact number with the UCE on or about September 10, 2004.

29. Based on my training and experience, and based on information obtained during the course of the investigation, the following chats and information highlight FISH's participation in the warez scene.

a. For example, on April 29, 2004, the UCE, during a chat, stated that CHUD is a new FTP server, currently being scripted by x000x. On April 3, 2004, FISH discussed with the UCE the status of the warez site:

- 4/3/2004 07:00:47 <X000X>,the racing part of script is just about complete
- 4/3/2004 07:01:04 <X000X>,gonna add all the rest of the goodies today and tomorrow

The racing script allows members to upload parts of the media from individual accounts. Allowing media to be uploaded faster. The script would also allow members that race to gain credits for future downloading.

b. On June 30, 2004, FISH, during an IRC with the UCE, stated:

- 6/30/2004 10:09:31 <X000X>,<X000X> first off, i'm the one who setup "covering tracks"
- 6/30/2004 10:09:37 <X000X>,<X000X> and its not to cover any tracks
- 6/30/2004 10:09:41 <X000X>,<X000X> its for security
- 6/30/2004 10:09:45 <X000X>,<X000X> i also disabled alot of logs
- 6/30/2004 10:09:51 <X000X>,<X000X> that keep ip's logged
- 6/30/2004 10:10:05 <X000X>,reminde me i still need to do it on chud
- 6/30/2004 10:10:13 <X000X>,its all about security bro

Based on training and experience, a warez member would turn off the IP log features on the server to ensure no one can track the activities of the logged users. Furthermore, x000x's admission that it is for security purposes confirms he is aware of the unlawful nature of his

conduct.

c. On August 20, 2004, at approximately 10:11 AM PDT, DAVID FISH used account davefish@gmail.com and sent the Undercover Agent an e-mail inquiring about a DVD that was sent to the Undercover Agent. The subject of the e-mail was "hey bro"; the e-mail read as follows: "You happen to get the latest vid?"

d. On August 27, 2004, at approximately 8:03 AM PDT, the Undercover Agent received an e-mail, with a subject of "Hey Bro", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "Hey. I tried reaching you on irc. There is supposed to be a movie coming this morning. -X"

e. On September 13, 2004, at approximately 1:57 PM PDT, the Undercover Agent received an e-mail, with a subject of "scheudle", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "Should be 2(1 thats taking long) flicks tomorrow and an anime on wednesday. -X"

f. On September 19, 2004, at approximately 1:23 PM PDT, the Undercover Agent received an e-mail, with a subject of "Re: gige", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "niceness haha, gettin a good deal =P Yeh actually a new dvd arrived yesterday, its a 2-disc dvd, so one in chud one in encode box. Thnx bro. Talk to yah l8a"

g. On September 23, 2004, at approximately 7:27 AM PDT, the UCE received an e-mail, with a subject of "Thnx Bro", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "Thanks for getting the box up. I think it crashed or something though. Is there anyway you can get the first box online somewhere? I need to grab some tools off it. Catch yah later. -X" Based on information obtained from the UCE, DAVID FISH was referring to the computer system being installed.

h. On October 19, 2004, at approximately 12:34 AM PDT, the Undercover Agent received an e-mail, with a subject of "Re: Thnx Bro", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "Hey got a package comin to you tomorrow, before noon, was overnighted. This a nice one :) Hit me on the txt, pz X"

i. On November 24, 2004, the Undercover Agent received a text message from DAVID FISH, (203) 910-0760, that read as follows: "The vids arrived, were u able to grab them?" In this chat, FISH inquires whether the videos he sent had arrived.

j. On December 11, 2004, at approximately 11:36 PM PST, the Undercover Agent received an e-mail, with a subject of "Re: hey bro", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "Hey bro, Hope your visit to NC was cool :) I actually got a new vid comin to you on monday. Should arrive in the AM. Hahaha, mullets, lol. -x" In this chat, FISH advises of another anticipated arrival..

k. On December 17, 2004, at approximately 6:49 AM PST, the Undercover Agent received an e-mail, with a subject of "new", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "Hey bro, Sorry I forgot to mention to yah, another vid is coming in this a.m, friday. If your around today, and can do it?.. u know what to do :) Thnx a mill, Dave p.s We're working on gettin the xbox games a'flowin, so get ready hah" In this communication, FISH confirmsthat he identified a source for Xbox games for the warez site.

l. On December 17, 2004, at approximately 7:55 PM PST, the Undercover Agent received an e-mail, with a subject of "new", from DAVID FISH, davefish@gmail.com. The e-mail read as follows: "No problemo, when u do make sure u put it in the rackmount encode box. dvd is possibly protected like Anaconda's was.. hahia, yeh i talked to neb a bit, he was saying 5tb? pretty sweet start.. welp have fun ttyl, dave" In this communication, FISH refers to a new server that is five terabytes. FISH also confirms his discussions with neb (or nebula), identified as Chirayu patel, another warez coconspirator.

m. In the following chat, DAVID FISH informs the UCE that a release was sent for the warez site:

- 12/27/2004 2:33:06 PM <X000X>,tomorrow, First Daughter and Alien Vs. Predator are arriving

n. On February 2, 2005, the UCE had the following IRC chat with DAVID FISH, a.k.a. x000x, who acknowledges that next movie that was being sent to the UCE:

"2005 Feb 01 20:05:31 <X000X>	hey bro around?
2005 Feb 01 20:05:41 <X000X>	got a vid coming to you on thursday
2005 Feb 01 20:08:06 <griffen>	which one
2005 Feb 01 20:08:13 <griffen>	better be good
2005 Feb 01 20:08:31 <griffen>	=)
2005 Feb 01 20:16:51 <X000X>	Flight.Of.The.Phoenix"

30. In furtherance of the conspiracy, and to effectuate its objects, DAVID FISH committed overt acts, in the Northern District of California, and elsewhere, including:

a. On July 3, 2004, in an on-line conversation, DAVID FISH asked the UCE if he was "interested in ps2 games". The UCE responded that he was interested, FISH replied "cool well ur gonna be hooked up lol, you have an address I can start sending shit to, gonna get the first box out on Tuesday."

b. On August 5, 2004, the Undercover Agent received a Federal Express package from DAVID FISH. The package contained a computer system for the warez site (known as SYS1), which was to serve as an encode box for purposes of reformatting warez in various formats.

c. On November 8, 2004, the UCE was instructed by x000x to install a floppy disk drive in the server provided by x000x. X000x uploaded a file for the UCE to use to "re-flash" a DVD drive in the server. The UCE then downloaded file, "v5015g002.exe" onto a floppy disk and inserted this into the floppy disk drive on SYS1. Once executed, this program updated the flash memory in SYS1's Hitachi DVD drive, allowing x000x to read Microsoft XBOX games and copy them to SYS1's hard drive.

```
Nov 07 00:11:06 <X000X> i'll put the diskette maker in the same dir /groups/private
Nov 07 00:11:50 <X000X> v5015g002.exe
Nov 07 00:12:08 <X000X> command is:
Nov 07 00:12:22 <X000X> flashup v5015g002.dld 3 /a
Nov 07 00:14:22 <griffen> coo coo
Nov 07 00:20:20 <X000X> let me know if it works
Nov 07 00:20:38 <X000X> i have a feeling i might need to get another drive
Nov 07 00:20:42 <X000X> cause this one was ibm branded
Nov 08 01:51:59 <X000X> yo bro
Nov 08 01:52:02 <X000X> around?
Nov 08 05:18:58 <griffen> sup
Nov 08 05:19:48 <griffen> will do ur drive in the am, tired, out runnign around all day
Nov 08 16:07:41 <griffen> dude, updated ur flash and put xbox game in
Nov 08 17:28:50 <X000X> it worked?
Nov 08 17:28:50 <X000X> nice
Nov 08 17:31:22 <X000X> oh shit!
Nov 08 17:31:22 <X000X> it works :)
Nov 08 17:46:35 <griffen> sweet!
Nov 08 19:19:40 <X000X> hey bro
Nov 08 19:19:52 <X000X> that was a retail xbox disc that you put in the drive?
Nov 08 19:21:14 <griffen> yep
Nov 08 19:21:38 <X000X> which game?
Nov 08 19:21:46 <griffen> rainbow 6
Nov 08 19:25:04 <griffen> rainbow six 3 - black arrow
Nov 08 19:25:10 <griffen> had to check which one i put in =p
Nov 08 19:53:54 <X000X> hehe
Nov 08 19:54:16 <X000X> wanna try burning this image im building?
Nov 08 19:54:18 <X000X> and test it
Nov 08 19:56:24 <X000X> do \\69.226.129.210\d$
Nov 08 19:56:34 <X000X> administrator:sonofabitch
Nov 08 19:56:46 <X000X> and grab xboximage.iso, i'll tell u when its finished
Nov 08 19:58:52 <X000X> ok its done
Nov 08 19:59:19 <griffen> do u have dvd burn software on ur box, ill just plug my dvd burner on ur usb
Nov 08 20:00:44 <X000X> aight do that
Nov 08 20:00:48 <X000X> yeh i'll get some installed
Nov 08 20:01:37 <griffen> lol, i cant get 2 ur box, i dont run windows anyway =)
Nov 08 20:05:28 <X000X> oh yeh lol
Nov 08 20:05:32 <X000X> i forgot
Nov 08 20:06:12 <X000X> plug her in
Nov 08 20:06:14 <X000X> :)
Nov 08 20:08:20 <X000X> ove usb 2.0
Nov 08 20:08:22 <X000X> hehe
Nov 08 20:08:22 <X000X> love*
Nov 08 20:15:11 <griffen> ok, its all ready
Nov 08 20:15:16 <griffen> dvd-r is in the drive too
Nov 08 20:15:20 <griffen> let her rip
Nov 08 20:24:12 <X000X> kewl thnx
Nov 08 20:25:32 <griffen> saw u on, its all urs =p
Nov 08 20:26:00 <X000X> word :)
Nov 08 20:26:04 <X000X> burnin
Nov 08 20:29:22 <X000X> hopefully this works
Nov 08 20:44:30 <X000X> ejected
Nov 08 20:48:07 <griffen> shit, u the man, works great!
Nov 08 20:49:52 <X000X> it works?
Nov 08 20:49:58 <X000X> nice!
```

Nov 08 20:50:00 <X000X> :)
 Nov 08 20:50:58 <X000X> think were in business then
 Nov 08 20:51:00 <X000X> =P
 Nov 08 20:55:40 <X000X> xbox comin ur way now
 Nov 08 20:55:42 <X000X> hehehe
 Nov 08 21:13:59 <griffen> right on bro, u r the man

d. On November 24, 2004, FISH instructed the UCE to install FISH's computer server SYS1 into a leased computer server cabinet for access to the Internet. The UCE received a phone call from FISH, (203) 910-0760, and told FISH that the network drivers would need to be re-installed. As directed, the UCE re-installed FISH's network drivers and FISH was then able to access SYS1.

e. On July 6, 2004, x000x told the UCE that he "got a PS2 game on the way." DAVID FISH told the UCE to put the game into the DVD player on the server. FISH continued by explaining what was necessary to encode the game. From July 2004 to the present, FISH has enabled the supply of 68 movies, PS2 and XBOX games to be released from CHUD. All items received are placed in an encoder "box" provided by FISH. FISH would then encode the media to allow it to be viewed and transferred on the Internet. When questioned about the suppliers of the media on February 24, 2005, FISH stated that "they are all distributors, who we have known for a long time at the level we work at, its impossible to trace anything." This statement again exhibits FISH's desire to ensure none of his warez activities are traced back and demonstrates his willful conduct to infringe the copyrighted works. FISH told the UCE to put the game into the DVD player on the server. FISH continued by explaining what was necessary to encode the game.

2004 Jul 02 23:00:31 <X000X> sup bro
 2004 Jul 02 23:01:33 <X000X> got another flow for you =P
 2004 Jul 02 23:01:51 <X000X> between u and me
 2004 Jul 02 23:01:54 <X000X> interested in ps2 games?
 2004 Jul 03 07:46:10 <griffen> u bet, funny, just decided to et a ps2, played socom2 and loved it!
 2004 Jul 03 11:23:41 <X000X> cool, well ur gonna be hooked up lol
 2004 Jul 03 11:23:57 <X000X> you have an address I can start sendin shit to?
 2004 Jul 03 11:24:13 <X000X> gonna get the first box out on tuesday
 2004 Jul 03 15:38:59 <griffen> sweet, pretty stoked =)
 2004 Jul 03 15:39:29 <griffen> send it to me at 360 grand ave, #127, oakland, ca, 94612
 2004 Jul 03 15:39:47 <griffen> oh yeah, and my name, doh, andrew johnson
 2004 Jul 04 01:40:27 <-- X000X has quit (Ping timeout: 180 seconds)
 2004 Jul 05 13:46:56 <X000X> hey bro

2004 Jul 05 13:47:08 <X000X> can u give methat address again

2004 Jul 05 13:47:20 <X000X> i closed the pm accidentally

2004 Jul 05 14:29:36 <griffen> np, a johnson

2004 Jul 05 14:29:42 <griffen> 360 grand ave, #127

2004 Jul 05 14:29:59 <griffen> oakland, ca 94612

2004 Jul 05 14:30:15 <griffen> im sure if u address it to oaktown it still get there =p

2004 Jul 06 11:22:54 <X000X> hey bro

2004 Jul 06 11:23:00 <X000X> got a ps2 game on its way

2004 Jul 06 11:23:24 <X000X> u have a dvd drive hooked up somewhere in the cage?

2004 Jul 06 11:23:28 <X000X> or in a laptop

2004 Jul 06 11:23:46 <X000X> i'm gettin my box sent out tonight or tomorrow morning

2004 Jul 06 11:24:15 <griffen> yep, u bet, got a dvdr in chud

2004 Jul 06 11:25:09 <griffen> u just need me to throw it in there

2004 Jul 06 11:26:12 <X000X> nice yeh that'd work

2004 Jul 06 11:26:44 <griffen> coo coo, how long it take for u to encode the game

2004 Jul 06 11:26:52 <griffen> do i need it in there overnight

2004 Jul 06 11:27:08 <X000X> just matter of making image of irt

2004 Jul 06 11:27:14 <X000X> should be fairly quick

2004 Jul 06 11:27:29 <griffen> coo

2004 Jul 06 11:27:47 <griffen> never done one, wondered how long theyd take, even a full dvd is quick?

2004 Jul 06 11:27:56 <X000X> yeh

2004 Jul 06 11:28:02 <X000X> maybe 10 mins

2004 Jul 06 11:28:09 <griffen> sweet

2004 Jul 07 07:28:05 <X000X> hey bro

2004 Jul 07 07:28:21 <X000X> you should be gettin that ps2 game this morning

2004 Jul 07 07:28:29 <X000X> let me know if yah do

2004 Jul 07 07:28:31 <X000X> :)

2004 Jul 07 09:08:37 <X000X> if u do get it you know what to do with it :) and let me know if you were able to, so i can image it, thnx

2004 Jul 07 13:56:23 <griffen> right on, will check mail tonight and let you know

2004 Jul 07 14:18:14 <X000X> kewlness bro thnx

2004 Jul 07 18:49:48 <griffen> dude, got it, will put it in drive in chud tomorrow morn

2004 Jul 08 06:36:25 <X000X> hey bro, u should be gettin an anime dvd too

2004 Jul 08 06:36:55 <X000X> is there any way you can get these into the drive, when they arrive?

2004 Jul 08 06:37:37 <X000X> timing is gonna be an issue on some releases

2004 Jul 08 07:04:36 <griffen> hmm, when is anime comin?

2004 Jul 08 07:04:47 <griffen> im running down to box this morning

2004 Jul 08 07:04:54 <griffen> but am going to tahoe this weekend

2004 Jul 08 07:05:27 <griffen> i could have qok toss anime in drive

2004 Jul 08 07:05:41 <griffen> but i make that ur call

2004 Jul 08 07:06:20 <griffen> if u send em fedex, and they get to me in the am, i can put them in the drive that day

2004 Jul 08 07:06:38 <griffen> but if they come in the afternoon, i gotta go the next am since traffic heading south is the shit

2004 Jul 08 08:23:39 <X000X> sup sup

2004 Jul 08 08:23:41 <X000X> aighty

2004 Jul 08 08:24:03 <X000X> who is qok?

2004 Jul 08 08:25:27 <X000X> still throwing in that ps2 game this morning? :)

2004 Jul 08 08:25:45 <X000X> luckily hasn't been released still =P

2004 Jul 08 08:26:17 <X000X> yeh everything is gonna come fedex next day, so should arr

f. On November 2, 2004, during an IRC conversation with the UCE, x000x advises that the has some insider information about encoding XBox games. He advised that he would be shipping a hard drive on that he purchased off ebay and some firmware that would allow for the XBox game to be circumvented.

2004 Nov 02 19:16:43 <X000X> yo!!!!

2004 Nov 02 19:16:51 <X000X> i got some insider info, for xbox ripping

2004 Nov 02 19:17:03 <X000X> very very private shit

2004 Nov 02 19:24:03 <X000X> i have a dvd-rom drive shipping to you, i just bought off ebay

2004 Nov 02 19:24:17 <X000X> part of the project ;)

2004 Nov 02 21:44:28 <griffen> sweet, whats the dvd for?

2004 Nov 02 21:44:40 <X000X> dvd drive

2004 Nov 02 21:44:50 <X000X> i have someone who has a special firmware for it

2004 Nov 02 21:45:06 <griffen> coo, so we dont need xbox then?

2004 Nov 02 21:45:10 <X000X> that reverses the disc access, allowing one to copy a xbox disc

2004 Nov 02 21:45:30 <X000X> cause normal a disc is read from inner track to outter track

2004 Nov 02 21:45:50 <X000X> microsoft's trick is the discs start on outter track and end at inner track

2004 Nov 02 21:49:50 <griffen> sweet, how the fuk u find this shit out =) u must work there or somethin

2004 Nov 02 21:50:08 <X000X> hahaha

2004 Nov 02 21:50:27 <griffen> nice bro, so u want me to put that in ur black box here

2004 Nov 02 21:50:28 <X000X> nah, i have connections :!

2004 Nov 02 21:50:33 <griffen> u the man bro

2004 Nov 02 21:50:58 <X000X> yeh well we can test it out first

2004 Nov 02 21:51:02 <X000X> make sure we get a success

2004 Nov 02 21:51:04 <X000X> =P

g. On November 4, 2004, the UCE received a United Parcel Service package from Elliot Lichtmaher, ONS LLC, 962 South Mintwood Lane, Anaheim, California. On November 4, 2005, x000x advised "i just checked tracking, that drive should be there today via UPS." The package contained a DVD drive that the UCE placed into a server that x000x had sent to be placed into the UCO which would allow him to encode movies and games.

h. On November 5, 2004, x000x had the following conversation with the UCE showing how sophisticated and knowledgeable the Site Op had to be to perform changes to the warez site to allow the encoding of media so that it can be uploaded onto the UCO servers. Once executed, this program updated the flash memory in SYS1's Hitachi DVD drive, allowing FISH to read Microsoft XBOX games and copy them to SYS1's hard drive.

Nov 05 16:29:29 <X000X> hey bro

Nov 05 16:29:32 <X000X> :)

Nov 05 16:29:34 <griffen> sup

Nov 05 16:29:42 <griffen> so did ur dvd drive work?

Nov 05 16:29:44 <X000X> lad almost fully operational

Nov 05 16:29:53 <X000X> yeh its working

Nov 05 16:30:03 <X000X> my friend was too drunk to help me last night though with firmware
Nov 05 16:30:06 <X000X> haha
Nov 05 16:30:11 <X000X> he's gonna hit me up today though
Nov 05 16:30:23 <X000X> u can throw away those 2 discs that came with the drive
Nov 05 16:31:05 <griffen> k
Nov 05 16:31:18 <griffen> gj on lad, u tying it to chud archives too?
Nov 05 16:31:48 <griffen> saw u linked it
Nov 05 16:32:07 <X000X> just to tvdvdr and mp3
Nov 05 16:32:08 <griffen> u want me to toss an xbox game in now
Nov 05 16:32:24 <griffen> coo
Nov 05 16:32:39 <X000X> nah drive needs to be empty
Nov 05 16:32:41 <X000X> to flash it
Nov 05 16:32:53 <griffen> k
Nov 05 16:35:35 <X000X> after though :)
Nov 05 16:36:09 <griffen> right on
Nov 05 16:37:57 <griffen> ur friend was too drunk last night, shit, thats when i get all my best work done =)
Nov 05 16:38:20 <griffen> my woman broke up with me yesterdeay, so i got hanmmmered last night and got
Nov 05 16:38:26 <griffen> a whole lot of shit done!
Nov 05 16:40:28 <X000X> damn really?
Nov 05 16:45:11 <griffen> yep, but knew it was gonna happen
Nov 05 16:45:22 <griffen> just a matter of time
Nov 05 17:23:11 <X000X> hey bro
Nov 05 17:23:15 <X000X> around still?
Nov 05 17:29:42 <griffen> yep
Nov 05 17:34:37 <X000X> is there a floppy drive in that box?
Nov 05 18:02:25 <griffen> nope
Nov 05 18:07:27 <X000X> got any lying around?
Nov 05 18:07:37 <X000X> need to boot from a floppy disk to flash the drive
Nov 05 18:08:13 <X000X> i'll bbiab, need some food

31. Based on all of the facts and circumstances described above, I believe that probable cause exists that DAVID FISH, aka x000x, conspired to commit criminal copyright infringement and circumvent copyright protection systems, in violations 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; and circumvented a technological measure that protects a copyright work and sided and abetted such.

32. On November 8, 2004, during an IRC conversation, the UCE was instructed by DAVID FISH to install a floppy disk drive into FISH's computer server SYS1. FISH instructed the Undercover Agent to copy the computer file, "v5015g002.exe" onto a floppy disk and insert this into the floppy disk drive on SYS1. Once executed, this program updated the flash memory in SYS1's Hitachi DVD drive, allowing FISH to read Microsoft XBOX games and copy them to SYS1's hard drive. This would allow the encoding of Xbox games in violation of

Sections 1201(a)(1)(a), 1204 and Section 2319B.

Nov 07 00:11:06 <X000X>	i'll put the diskette maker in the same dir /groups/private
Nov 07 00:11:50 <X000X>	v5015g002.exe
Nov 07 00:12:08 <X000X>	command is:
Nov 07 00:12:22 <X000X>	flashup v5015g002.dld 3 /a
Nov 07 00:14:22 <griffen>	coo coo
Nov 07 00:20:20 <X000X>	let me know if it works
Nov 07 00:20:38 <X000X>	i have a feeling i might need to get another drive
Nov 07 00:20:42 <X000X>	cause this one was ibm branded
Nov 08 01:51:59 <X000X>	yo bro
Nov 08 01:52:02 <X000X>	around?
Nov 08 05:18:58 <griffen>	sup
Nov 08 05:19:48 <griffen>	will do ur drive in the am, tired, out runnign around all day
Nov 08 16:07:41 <griffen>	dude, updated ur flash and put xbox game in
Nov 08 17:28:50 <X000X>	it worked?
Nov 08 17:28:50 <X000X>	nice
Nov 08 17:31:22 <X000X>	oh shit!
Nov 08 17:31:22 <X000X>	it works :)
Nov 08 17:46:35 <griffen>	sweet!
Nov 08 19:19:40 <X000X>	hey bro
Nov 08 19:19:52 <X000X>	that was a retail xbox disc that you put in the drive?
Nov 08 19:21:14 <griffen>	yep
Nov 08 19:21:38 <X000X>	which game?
Nov 08 19:21:46 <griffen>	rainbow 6
Nov 08 19:25:04 <griffen>	rainbow six 3 - black arrow
Nov 08 19:25:10 <griffen>	had to check which one i put in =p
Nov 08 19:53:54 <X000X>	hehe
Nov 08 19:54:16 <X000X>	wanna try burning this image im building?
Nov 08 19:54:18 <X000X>	and test it
Nov 08 19:56:24 <X000X>	do \\69.226.129.210\d\$
Nov 08 19:56:34 <X000X>	administrator:sonofabitch
Nov 08 19:56:46 <X000X>	and grab xboximage.iso, i'll tell u when its finished
Nov 08 19:58:52 <X000X>	ok its done
Nov 08 19:59:19 <griffen>	do u have dvd burn software on ur box, ill just plug my dvd burner on ur usb
Nov 08 20:00:44 <X000X>	aight do that
Nov 08 20:00:48 <X000X>	yeh i'll get some installed
Nov 08 20:01:37 <griffen>	lol, i cant get 2 ur box, i dont run windows anyway =)
Nov 08 20:05:28 <X000X>	oh yeh lol
Nov 08 20:05:32 <X000X>	i forgot
Nov 08 20:06:12 <X000X>	plug her in
Nov 08 20:06:14 <X000X>	:)
Nov 08 20:08:20 <X000X>	ove usb 2.0
Nov 08 20:08:22 <X000X>	hehe
Nov 08 20:08:22 <X000X>	love*
Nov 08 20:15:11 <griffen>	ok, its all ready
Nov 08 20:15:16 <griffen>	dvd-r is in the drive too
Nov 08 20:15:20 <griffen>	let her rip
Nov 08 20:24:12 <X000X>	kewl thnx
Nov 08 20:25:32 <griffen>	saw u on, its all urs =p
Nov 08 20:26:00 <X000X>	word :)
Nov 08 20:26:04 <X000X>	burnin
Nov 08 20:29:22 <X000X>	hopefully this works
Nov 08 20:44:30 <X000X>	ejected
Nov 08 20:48:07 <griffen>	shit, u the man, works great!
Nov 08 20:49:52 <X000X>	it works?
Nov 08 20:49:58 <X000X>	nice!
Nov 08 20:50:00 <X000X>	:)
Nov 08 20:50:58 <X000X>	think were in business then
Nov 08 20:51:00 <X000X>	=P
Nov 08 20:55:40 <X000X>	xbox comin ur way now
Nov 08 20:55:42 <X000X>	hehehe
Nov 08 21:13:59 <griffen>	right on bro, u r the man

33. Based on all of the facts and circumstances described above, I believe that probable cause exists that DAVID FISH, aka x000x, 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)(b), and title 18 U.S.C. §§ 2, 2319(c)(1); and circumvented a technological measure that protects a copyright work and aided and abetted such circumvention, in violation of 17 U.S.C. §§ 1201(a)(1)(A), 1204(a)(1), and Title 18 U.S.C. § 2.

34. Based on all of the facts and circumstances described above, I request the issuance of an arrest warrant for DAVID FISH, aka x000x.

REQUEST FOR SEALING

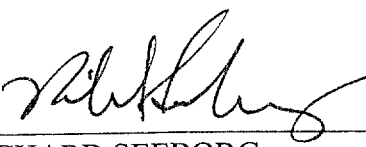
35. The affiant respectfully requests that this affidavit be sealed until the first arrest of the defendant in this case or until such time as the Court directs. Disclosure of the affidavit in support of a complaint and arrest warrant at this time would seriously jeopardize the ongoing investigation, 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 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, **DAVID FISH, aka x000x**, 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);
- C. Circumvent 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).

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, **DAVID FISH, aka x000x**, 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).

17 U.S.C. §§ 1201(a)(1)(A), 1204(a)(1), and Title 18 U.S.C. § 2 – Circumventing a Technological Measure that Protects a Copyright Work and Aiding and Abetting

Between in or about January 2005 and June 2005, in the Northern District of California, and elsewhere, the defendant, **DAVID FISH, aka x000x**, did willfully, and for purposes of private financial gain, circumvent a technological measure that effectively controls access to a work protected under Title 17 of the United States Code, all in violation of Title 17, United States Code, Sections 1201(a)(1)(A), and 1204(a)(1) and Title 18, United States Code, Section 2.

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)
United States Attorney

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3 Acting Chief, Criminal Division

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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 Plaintiff,)

15 vs.)

16 DAVID FISH,)
17 aka x000x,)

18 Defendant.)

05 70475

NO.

RS

MOTION TO SEAL

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 __, 2005

Respectfully submitted,

24 KEVIN V. RYAN

25 
26 MARK L. KROTOSKI
27 Assistant U.S. Attorney
28

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11 Attorneys for Plaintiff

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN JOSE DIVISION

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 vs.

18 DAVID FISH,
19 aka x000x,

20 Defendant.

NO. 05-70475 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 
28 RICHARD SEEBORG
United States Magistrate Judge

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