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11 ECHOSTAR COMMUNICATIONS  
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12 TECHNOLOGIES  
CORPORATION, AND NAGRASTAR,  
13 L.L.C.

14 UNITED STATES DISTRICT COURT  
15  
16 CENTRAL DISTRICT OF CALIFORNIA  
17 SOUTHERN DIVISION

18 ECHOSTAR SATELLITE  
CORPORATION, ECHOSTAR  
19 COMMUNICATIONS  
CORPORATION, ECHOSTAR  
20 TECHNOLOGIES  
CORPORATION, AND  
21 NAGRASTAR L.L.C.

22 Plaintiffs,

23 v.

24 NDS GROUP PLC, NDS  
AMERICAS, INC.,

25 Defendants.  
26  
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No. SA CV 03-950 DOC(ANx)

DECLARATION OF  
REGINALD SCULLION

Date:

Time:

Dept: Judge David O. Carter  
Courtroom 9-D

SQUIRE, SANDERS & DEMPSEY L.L.P.  
4150 Wilshire Boulevard, Suite 2000  
Los Angeles, CA 90048

DECLARATION OF REGINALD SCULLION

EXHIBIT 4

1 BEFORE ME, the undersigned notary public, on this day, personally  
2 appeared Reginald "Reg" Scullion, a person whose identity is known to me. After I  
3 administered the oath to him, and being duly sworn, he stated as follows:

4 1. My name is Reginald Scullion. I am over 18 years of age and am duly  
5 competent in all respects to make this affidavit. The facts stated herein are  
6 based upon my own personal knowledge, unless otherwise stated, and are  
7 true, accurate, to the best of my current knowledge, and correct. If called to  
8 testify in the above styled and numbered cause, I would provide sworn  
9 testimony in accordance with the facts stated herein.

10 2. I have been involved in the satellite television business generally since  
11 approximately 1980 owning a satellite installation and receiver repair  
12 business. I temporarily retired from the satellite business in 1994 due my  
13 pursuit of other business opportunities, in addition to personal health issues,  
14 among other reasons. I returned to the satellite business in approximately  
15 July 1996 whereupon I went back into the satellite sales and service industry.

16 3. Upon my return to the satellite sales and service industry in approximately  
17 the middle of 1996, I began selling DBS systems for the DirecTV satellite  
18 system. I purchased my products from distributors such as DSI, New  
19 Advanced Technologies, and Zed Marketing, among others. I sold DirecTV  
20 products locally and over the Internet. I also installed the DBS systems for  
21 my customers and assisted in the activation of the customers' DirecTV  
22 subscription accounts. For activation assistance, I dealt with grey marketers,  
23 specifically New Advanced Technologies in Quebec and Zed Marketing in  
24 Ontario. I was involved in selling systems with both altered and unaltered  
25 Access Cards which were both believed to be legal in Canada due both to the  
26 reading of the law and to Canadian court rulings which constantly said that it  
27 was legal to decode systems that were not those of authorized distributors in  
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1 Canada. I would obtain the hacked cards from my DirecTV distributors  
2 and from grey marketers in Canada. Hacked DirecTV Access Cards were  
3 sold very openly at that time since they were considered to be totally legal.  
4 Since I was quite knowledgeable with computers, I was also writing some of  
5 my own code for the DirecTV Access Cards and was programming my own  
6 DirecTV Access Cards which were purchased directly from DirecTV on my  
7 behalf and for this purpose. I also had manufactured my own "green cards"  
8 and programmers/unloopers, bootstrap writers, and other signal reception  
9 devices, deemed legal in Canada. I had purchased a large quantity of  
10 DirecTV Access Cards through various authorized DirecTV dealers who  
11 were actually Canadians known to DTV such as Z-Marketing and others and  
12 those cards came directly from DirecTV.

13 4. On or about November 4, 1998, my business (Avantec, Inc.) was raided by  
14 the Royal Canadian Mounted Police ("RCMP"). As a result of the raid, the  
15 RCMP seized (1) satellite and non-satellite equipment, (2) approximately  
16 \$5.5 million dollars in my bank accounts and safety deposit boxes belonging  
17 to me and several other members of my family, and (3) approximately 12,000  
18 new DirecTV Access Cards purchased from DTV. The Canadian  
19 government is still in possession of these seized items.

20 5. I am currently the owner and operator of a website named www.legal-  
21 rights.org, which focuses primarily on the anti-piracy of satellite television  
22 systems in Canada and the United States in addition to general news,  
23 publications, commentaries, and updates on the battle against satellite piracy.

24 6. I am also currently an Administrator on several other websites including  
25 www.piratesden.com, www.outermatrix.com, www.dsschat.com,  
26 www.freedomfight.ca, and www.digital-law.org, among others. My  
27 responsibilities as an Administrator include reviewing, controlling, deleting,  
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1 and banning certain persons and/or posts on the websites which may contain  
2 offensive, illegal, and/or inappropriate material.

3 7. Due to my status as an Administrator on these websites, among others, I have  
4 and/or had complete access to the control panels on all of these websites,  
5 among others, which enables me to view all of the information that members  
6 and other Administrators post in their registration sheets, as well as, all  
7 related information obtained on these people which is stored in the websites'  
8 databases. A member's personal information provided in their registration  
9 sheet is also often useful in obtaining additional information related to that  
10 person from other websites since people are often members of several  
11 different website forums at the same time and members often use the same  
12 password from website to website. Accordingly, members' IP addresses, real  
13 names, and much other information can be obtained by cross-referencing the  
14 members' information in different forums. In this way I can be sure that a  
15 person on one web site is the same person as uses a different Nick on a  
16 different website.

17 8. Through my work as an Administrator on pirate websites and forums, I  
18 initially became familiar with Christopher Tarnovsky ("Tarnovsky") in  
19 approximately middle of 1996 and engaged in numerous telephone and email  
20 correspondence exchanges regarding satellite piracy.

21 9. In or about late 1996, Tarnovsky was working with Ron Ereiser ("Ereiser")  
22 in Kerrobert Manitoba developing and distributing "battery cards." Shortly  
23 after the "battery card" release, Tarnovsky and Ereiser abandoned their  
24 customers and refused to provide support for the "battery cards" for a few  
25 months. At some time thereafter, "L-cards" and "T-cards" were released to  
26 compensate for this lack of support in the battery cards. I decided to provide  
27 support for the "L-cards" and "T-cards" in terms of coding and programming,  
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1 in part, because Tarnovsky and Ereiser had abandoned people and were not  
2 providing technical support for these cards. In fact, Tarnovsky accused me of  
3 stealing his code from the "battery card" because Tarnovsky knew that the  
4 DS5000 DALLAS chip on the "L-Card" could be pulled, and thus a good  
5 programmer could reprogram the file to support "battery cards" he had  
6 designed by Norman Dick; however, this was not the case and I did not steal  
7 Tarnovsky's code. As a result of Tarnovsky and Ereiser abandoning people  
8 and not providing technical support for the "L-cards" and "T-cards," and my  
9 subsequent decision to support these persons and devices, Tarnovsky and I  
10 became arch enemies starting in approximately October 1996. Accordingly,  
11 Tarnovsky spent a lot of time on the Internet chat rooms and forums  
12 criticizing me and calling me names thinking I was dumping his cards.

13 10. As a result of my providing support and my disagreements with Tarnovsky,  
14 on or about January 29, 1997, Tarnovsky, using the nickname "biggun," sent  
15 me an email from "[bg@wbn.ca](mailto:bg@wbn.ca)" wherein he threatened me and established  
16 his relationship with NDS, formerly NDC. (Attached hereto as Exhibit A.)  
17 Tarnovsky's email stated, among other things, "[i]f I am against you, you  
18 will not have happy customers under your side. I give you the tv and I can  
19 remove the tv." Concerning my failure to respond to his offer, Tarnovsky  
20 stated that if he did not hear back from me, he would "consider you  
21 [Scullion] a threat to me [Tarnovsky] and commence something very drastic  
22 soon after. I may just give the source to NDC. I am sure they will purchase  
23 it from me and if I agree to stop, then your world stops also . . . You could  
24 have been a distro. point for us . . . Instead you are a thefe." Tarnovsky then  
25 signs off, "bye! biggun." At this time, I came to believe that Tarnovsky had a  
26 relationship with NDC and/or NDS.

27 11. In or about fall 1998, Al Menard ("Menard"), owner and operator of  
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1 www.dr7.com, first approached me wherein he informed me that he was  
2 involved in a plan to be the Canadian leader in distributing Pirated EchoStar  
3 Access Cards. Menard inquired as to whether I was interested in participating  
4 in his distribution network. I declined his offer.  
5

- 6 12. Shortly thereafter, Tarnovsky disappeared entirely from the IRC forums. In  
7 approximately September 1998, I noticed that Tarnovsky had reemerged and  
8 began posting and chatting on www.dr7.com website under the nickname  
9 "Swiss Cheese Productions" ("SCP"). The "SCP" consisted of Tarnovsky  
10 and Menard who had sub-distributors acting at the direction and supervision  
11 of Menard. The "SCP" initially posted certain EchoStar "freeware" (which is  
12 software that people do not need to pay for as it is offered "free" on the  
13 Internet on the website www.dr7.com. I did not pay much attention to  
14 "SCP's" operations and the freeware posts because they were directed at the  
15 EchoStar system, a system that I was not interested in and/or involved with,  
16 and a system that no known hack was available for at that time, even though  
17 Tarnovsky and Menard were promising a release of the hack shortly.
- 18 13. On or about early 1999, Menard personally contacted me by telephone  
19 wherein he invited me to become a moderator on his website, www.dr7.com.  
20 Shortly thereafter, I was made an Administrator. Consistent with my current  
21 responsibilities as an administrator on the current websites that I am an  
22 Administrator on, my responsibilities as both a Moderator and an Administer  
23 on Menard's website, www.dr7.com, included reviewing, controlling,  
24 deleting, and banning certain persons and/or posts on the website. At or  
25 about the same time, I was also an Administrator on both a DSS chat  
26 (www.risestar.com) and Sean Quinn's website (www.hitecsat.com). As a  
27 result of my Administrator position, I had possession of certain users'  
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1 passwords and could access their accounts. For example, I had passwords  
2 that belonged to Tarnovsky, Sean Quinn, and Dave Dawson.

3 14. Shortly thereafter, on or about early 1999, I verified that Tarnovsky was part  
4 of the "SCP." I initially discussed particular chat posts made by "SCP" with  
5 other administrators on a private forum chat on the DR7 website wherein I  
6 commented about the similarities between "SCP" and Tarnovsky's previous  
7 posts he made as using other nicknames including, but not limited to,  
8 "Scatman Cran," "Von," "Vonrola," "Big Gun," "Shrimp," and "Nipper."  
9 Shortly thereafter, I also reviewed the information on "SCP's" profile and  
10 compared the passwords and IP addresses of "SCP" with that of Tarnovsky's  
11 other nicknames including, but not limited to, "Scatman Cran," "Von,"  
12 "Vonrola," "Big Gun," "Shrimp," and "Nipper." The results of such a search  
13 revealed that "SCP's" and Tarnovsky's other nicknames' and IP addresses  
14 were identical and that the same anonymizer was used for both when they  
15 differed.

16 15. Tarnovsky also registered the nicknames Von, Vonrola, and Nipper on the  
17 DR7 website on the same day. I have personal knowledge of this fact  
18 because, due to my status as administrator which allowed me to access  
19 particular files and databases on the DR7 website, I had full access to the  
20 Control Panel which showed all registrations, IP addresses, and complete  
21 information on all of the members of the DR7 website. Although these files  
22 do not contain specific "CHRISTIAN " names, one can confirm the identity  
23 of certain users by cross-referencing email addresses and passwords  
24 contained in users' registration profiles. Moreover when people post, the IP  
25 address they use can be determined and traced back to the actual person.  
26 Examples of registration profiles of Tarnovsky's aliases include, but are not  
27 limited to, the following information: (a) Von | phoenix  
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1 | |von@fumanche.net|http:// Write| |3| Junior Member||no|; (b) VONrola  
 2 | |hello| vonrola@fumanche.net| http://www.vegetablesRus.com| W rite  
 3 | |Lowlife dweeb on drugs| |1|Junior Member |Fucking with Vegetable  
 4 | Scallion||yes|; and (c) nipper |nipper |charlie@dicknetwork.sux|  
 5 | http://Write||16|Junior Member||yes|. As a result of my investigation, it was  
 6 | revealed that Tarnovsky was using the nickname Nipper.

- 7
- 8 | 16. My investigation as to the identity of Tarnovsky being the same person who  
 9 | was using the nicknames "SCP," "Scatman Cran," "Von," "Vonrola," "Big  
 10 | Gun," "Shrimp," and "Nipper," among others, was further strengthened once  
 11 | Menard instructed me to no longer perform my administration duties,  
 12 | including monitoring, with respect to any posts made by Tarnovsky, "SCP,"  
 13 | "Scatman Cran," "Von," "Big Gun," "Shrimp," or "Nipper," among other  
 14 | known nicknames used by Tarnovsky.
- 15 | 17. On or about April 1999, Menard approached me a second time to solicit my  
 16 | participation in his distribution network to sell Pirated EchoStar Access  
 17 | Cards. During this conversation, Menard informed me that he was "close to  
 18 | receiving a full hack of the EchoStar system" and, because of the pirate  
 19 | community's past interest in Swiss Cheese Production's products, Menard's  
 20 | distribution plan was a guaranteed money maker. Menard also informed me  
 21 | that the distribution network was going to have something special attached  
 22 | with its operation: the protection and control of NDS. Menard informed me  
 23 | that NDS was the entity whom had ordered the hack and the distribution of  
 24 | Pirated EchoStar Access Cards through Menard's distribution network via  
 25 | Tarnovsky. Menard informed me that NDS had an arrangement with  
 26 | Tarnovsky to provide the support and facilitation of the hacked EchoStar  
 27 | ROM Code to be sent to Menard to be used in the distribution network.  
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1 Menard also informed me that I had nothing to worry about with respect to  
2 being raided by the RCMP due to the fact that NDS would be running  
3 interference in the distribution network and that NDS was connected and had  
4 a solid relationship with the RCMP. Menard then instructed me to get over  
5 my prior disagreements with Tarnovsky because this was such a good deal  
6 that I should not pass up.

7  
8 18. On or about November 1999, I spoke with Menard wherein he informed me  
9 that the Pirated EchoStar Access Cards were "ready to be distributed to the  
10 public," he had certain vendors in place, and that he wanted me to be one of  
11 those vendors. Menard informed me that the vendors who had agreed to  
12 participate in the distribution network included Sean Quinn (a/k/a "Hitec"  
13 d/b/a [www.hitecsat.com](http://www.hitecsat.com)), Andre Sergei (a/k/a "Koin" d/b/a  
14 [www.koinvizion.com](http://www.koinvizion.com)), Dave Dawson (a/k/a "JD," "Jack Daniels," "John  
15 Gotti," and "Teflon Don" d/b/a [www.discountsatellite.com](http://www.discountsatellite.com) and  
16 [www.dsscanada.com](http://www.dsscanada.com)), and Stan Frost (a/k/a "Frosty" and "Wheels" d/b/a  
17 [www.thenewfrontiergroup.com](http://www.thenewfrontiergroup.com)).

18 19. During this November 1999 discussion, Menard informed me that his role in  
19 the distribution network was that of the reprogrammer and that he had four  
20 vendors (Quinn, Sergei, Dawson, and Frost, among others) who agreed to be  
21 the persons responsible for delivering EchoStar Access Cards to Menard.  
22 Once received, Menard would use the equipment he was provided with and  
23 received from NDS via Tarnovsky to reprogram, update, and otherwise load  
24 EchoStar's Code onto the Access Cards (which resulted in the Access Card  
25 becoming "hacked" or "pirated" thus enabling the user to receive  
26 unauthorized DISH Network television programming). I specifically recall  
27 other Administrators on Menard's DR7 website requesting from Menard that  
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he reprogram EchoStar Access Cards for them. Menard would respond by requesting that the Administrators send the cards to him and, once the Access Cards had been reprogrammed, Menard would return the Pirated EchoStar Access Cards to the vendor who, in turn, would return the card to the customer to complete the transaction. These transactions occurred between Canada and the United States, among other places. Customers were charged approximately \$300-400 USD which payment was sent from the United States to Canada, among other places.

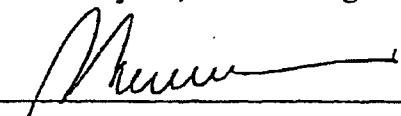
20. In fact, Quinn ("Hitec") told me on numerous occasions that he was traveling to Menard's place of business in order to deliver EchoStar Access Cards for reprogramming in furtherance of their distribution network.

21. Although I did not want to tell Menard ("DR7") much about my personal affairs, I was not interested in working in his distribution network because I had sold my business and was no longer interested in selling any products in the satellite piracy business. As a result, I respectfully declined his offer.

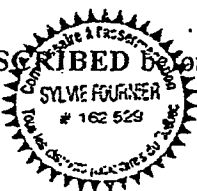
22. I have received approximately 20 emails from Tarnovsky and approximately 50-100 emails from Menard that support the facts as stated herein.

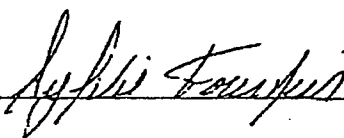
Further Affiant sayeth not.

Sworn, subscribed to, and executed on February 16, 2004 in Rigaud, Quebec Canada.

  
\_\_\_\_\_  
Reginald Scullion

SWORN TO and SUBSCRIBED before me by  
on February 17, 2004.



  
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Notary Public in and for the  
 Town of Rigaud, Province of Quebec,  
 Country of Canada

My commission expires: December 8, 2006

QML SANDERS L.L.P.  
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 78111

DECLARATION OF REGINALD SCULLION

Message-ID: <32EF6D4E.403B@wbm.ca>  
Date: Wed, 29 Jan 1997 10:31:26 -0500  
From: bg <bg@wbm.ca>  
X-Mailer: Mozilla 3.01Gold (WinNT; I)  
MIME-Version: 1.0  
To: Reg Scullion <regs@total.net>  
Subject: No response. Time finished..  
References: <v03007800af0dd2ed8fcd@[205.236.86.22]>  
Content-Transfer-Encoding: 7bit  
Content-Type: text/plain; charset-us-ascii  
X-UIDL: 2481db0946cb23d4aea057df26818398  
Reg,

You have chosen to ignore me an no reply since your last message. I begin to think you accept my proposititon to you and make things nice for both of us. If I am against you, you will not have happy customers under your side. I give you the tv and I can remove the tv. I have been very patient with you and my patient is now expireing. You have until 1800hrs my time! (This is 1200 for you.) If I do not hear from you before I go to my school, I will consider you a threat to me and commence something very drastic soon after. I may just give the source to NDC. I am sure they will purchase it from me and if I agree to stop, then your world stops also. You leave me no other choice. I also know one of people with the .hex file has given this to you. Perhaps for some money. I am not sure. This is not fair to me. You could have been a distro. point for us.. Instead you are there.

je attendre sur toi alors!  
bye!

biggun

p.s.- I have my Sky TV to enjoy! So, DSS is a simple part time work!

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EXHIBIT

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