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EHOSTAR SATELLITE CORP. et al.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

EHOSTAR SATELLITE
CORP., et al.,

Plaintiffs /
Counterclaim
Defendants

v.

NDS GROUP PLC, NDS
AMERICAS, INC., et al.,

Defendants /
Counterclaim
Plaintiffs.

No. SA CV 03-950 DOC(JTLx)

PLAINTIFFS' RESPONSES TO NDS
GROUP PLC AND NDS AMERICAS
INC.'S FIFTH SET OF
INTERROGATORIES (NOS. 27-40)

CASE NO.
SA CV 03-950 DOC (JTLx)
EHOSTAR SATELLITE CORP., et al.

vs.

NDS GROUP PLC, et al.

DEFENDANT'S EXHIBIT 1296

DATE _____ IDEN.

DATE _____ EVID.

BY _____
Deputy Clerk

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17 Attorneys for Plaintiffs
18 ECHOSTAR SATELLITE CORP. et al.

19 UNITED STATES DISTRICT COURT
20 CENTRAL DISTRICT OF CALIFORNIA
21 SOUTHERN DIVISION

22 ECHOSTAR SATELLITE
23 CORP., et al.,

24 Plaintiffs /
25 Counterclaim
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27 v.

28 NDS GROUP PLC, NDS
AMERICAS, INC., et al.,

Defendants /
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GROUP PLC AND NDS AMERICAS
INC.'S FIFTH SET OF
INTERROGATORIES (NOS. 27-40)

1 further objects to this request as overly broad and unduly burdensome, as well as
2 seeking irrelevant information, because it is not limited to the specific version of
3 EchoStar's conditional access system and time period at issue in this action.
4 EchoStar also objects on the basis that this request seeks information protected by
5 privilege.

6 Subject to and without waiving these objections, NDS is referred to the
7 documents produced by EchoStar in this action for all responsive, non-privileged
8 information that identifies the persons or entities believed to be responsible for
9 "known public postings of software code obtained or derived from" the DNASP-II
10 conditional access system.

11 **INTERROGATORY NO. 30:**

12 State all facts, including the existence of any relevant documents, that
13 support your identification of the person(s) or entity(ies) that Plaintiffs contend are
14 responsible for the postings referenced in paragraphs 129 and 131 of Plaintiffs'
15 Fourth Amended Complaint ("4AC").

16 **ANSWER:**

17 EchoStar objects to this request as overly broad, unduly burdensome, vague
18 and ambiguous as to the phrase "all facts . . . that support." EchoStar further
19 objects that this request exceeds the scope of discovery under the Federal Rules of
20 Civil Procedure by imposing an excessive burden on EchoStar to sort through the
21 parties' voluminous document productions and locate the materials that are relevant
22 to this request, when the same can be accomplished by NDS. EchoStar also objects
23 to the extent that this request seeks information protected by privilege.

24 Subject to and without waiving these objections, EchoStar states paragraphs
25 129 and 131 of the Fourth Amended Complaint reference posts made on December
26 23, 2000 and December 24, 2000 by Chris Tarnovsky using the aliases "xbr21" and
27 "Nipper2000," respectively. The documents produced in this litigation, specifically
28 including but not limited to the affidavit testimony attached to the Fourth Amended

1 Complaint, the deposition testimony of Jan Saggiori and Graham James, and the
2 affidavit testimony of Ron Ereiser, Graham James, and Anthony Dionisi, evidence
3 that Tarnovsky made these posts. That Tarnovsky was behind the December, 2000
4 posts is further supported by the materials prepared by Internet Crimes Group and
5 TD International that were also produced in this action. NDS is responsible for the
6 postings made by Tarnovsky under the theories of direct, vicarious, and secondary
7 liability set forth in the Fourth Amended Complaint. (See Fourth Amended Compl.
8 at 47-54.)

9 **INTERROGATORY NO. 31:**

10 If you contend that Christopher Tarnovsky is responsible, in whole or in part,
11 for the December 23 and 24, 2000 postings identified in paragraphs 129 and 131 of
12 the 4AC, state all facts, including the existence of any relevant documents, if any,
13 that support said contention.

14 **ANSWER:**

15 EchoStar objects to this request as overly broad, unduly burdensome, vague
16 and ambiguous as to the phrase "all facts . . . that support." EchoStar further
17 objects that this request exceeds the scope of discovery under the Federal Rules of
18 Civil Procedure by imposing an excessive burden on EchoStar to sort through the
19 parties' voluminous document productions and locate the materials that are relevant
20 to this request, when the same can be accomplished by NDS. EchoStar also objects
21 to the extent that this request seeks information protected by privilege.

22 Subject to and without waiving these objections, EchoStar states paragraphs
23 129 and 131 of the Fourth Amended Complaint reference posts made on December
24 23, 2000 and December 24, 2000 by Chris Tarnovsky using the aliases "xbr21" and
25 "Nipper2000," respectively. The documents produced in this litigation, specifically
26 including but not limited to the affidavit testimony attached to the Fourth Amended
27 Complaint, the deposition testimony of Jan Saggiori and Graham James, and the
28 affidavit testimony of Ron Ereiser, Graham James, and Anthony Dionisi, evidence

1 that Tarnovsky made these posts. That Tarnovsky was behind the December, 2000
2 posts is further supported by the materials prepared by Internet Crimes Group and
3 TD International that were also produced in this action. NDS is responsible for the
4 postings made by Tarnovsky under the theories of direct, vicarious, and secondary
5 liability set forth in the Fourth Amended Complaint. (See Fourth Amended Compl.
6 at 47-54.)

7 **INTERROGATORY NO. 32 :**

8 If you contend that NDS is responsible, in whole or in part, for the December
9 23 and 24, 2000 postings identified in paragraphs 129 and 131 of the 4AC, state all
10 facts, including the existence of any relevant documents, if any, that support said
11 contention.

12 **ANSWER:**

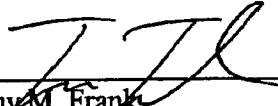
13 EchoStar objects to this request as overly broad, unduly burdensome, vague
14 and ambiguous as to the phrase "all facts . . . that support." EchoStar further
15 objects that this request exceeds the scope of discovery under the Federal Rules of
16 Civil Procedure by imposing an excessive burden on EchoStar to sort through the
17 parties' voluminous document productions and locate the materials that are relevant
18 to this request, when the same can be accomplished by NDS. EchoStar also objects
19 to the extent that this request seeks information protected by privilege.

20 Subject to and without waiving these objections, EchoStar states paragraphs
21 129 and 131 of the Fourth Amended Complaint reference posts made on December
22 23, 2000 and December 24, 2000 by Chris Tarnovsky using the aliases "xbr21" and
23 "Nipper2000," respectively. The documents produced in this litigation, specifically
24 including but not limited to the affidavit testimony attached to the Fourth Amended
25 Complaint, the deposition testimony of Jan Saggiori and Graham James, and the
26 affidavit testimony of Ron Ereiser, Graham James, and Anthony Dionisi, evidence
27 that Tarnovsky made these posts. That Tarnovsky was behind the December, 2000
28 posts is further supported by the materials prepared by Internet Crimes Group and

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DATED: June 1, 2007

T. WADE WELCH & ASSOCIATES

By: 
Timothy M. Frank

ECHOSTAR SATELLITE CORPORATION,
ECHOSTAR COMMUNICATIONS
CORPORATION, ECHOSTAR TECHNOLOGIES
CORPORATION, AND NAGRASTAR L.L.C.