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FILED-SOUTHERN DIVISION
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NOV 28 2006
CENTRAL DISTRICT OF CALIFORNIA
BY [Signature] DEPUTY

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ADDITIONAL COUNSEL

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FRK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

BY FAX

ECHOSTAR SATELLITE CORP., et al.,

Case No. SA CV 03-950 DOC(ANx)

Plaintiffs and
Counterclaim
Defendants,

NDS'S APPLICATION FOR AN
ORDER FOR THE ISSUANCE
OF LETTERS ROGATORY
AND REQUEST FOR
INTERNATIONAL JUDICIAL
ASSISTANCE IN
COMPELLING TESTIMONY
AND DOCUMENT
PRODUCTION FROM
RON LORNE EREISER AND
REGINALD SCULLION

v.

NDS GROUP PLC, et al.,

Defendants and
Counterclaim
Plaintiffs.

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BY [Signature] 074

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1 **APPLICATION FOR ISSUANCE OF LETTERS ROGATORY**

2 Defendants NDS Group PLC and NDS Americas, Inc. (collectively “NDS”)
3 move the Court for an order issuing letters rogatory directed at two Canadian
4 residents who allegedly support Plaintiffs’ claims against NDS: Ron Ereiser and
5 Reginald Scullion. NDS seeks these letters rogatory, and an associated request for
6 international judicial assistance, so that it may obtain the assistance of the
7 appropriate Canadian courts to order the examination of these witnesses and their
8 production of relevant documents. In support of this Application, NDS states as
9 follows.

10 **I. INTRODUCTION AND ARGUMENT**

11 NDS is entitled to seek discovery from Messrs. Ereiser and Scullion because
12 Plaintiffs EchoStar Satellite Corp. (n/k/a EchoStar Satellite L.L.C.), EchoStar
13 Communications Corp., EchoStar Technologies Corp., (“EchoStar”) and NagraStar
14 L.L.C. (collectively, “Plaintiffs”) have asserted on multiple occasions that
15 testimony from these witnesses supports essential allegations of their Fourth
16 Amended Complaint (“4AC”). Indeed, a declaration from Mr. Scullion is attached
17 as an exhibit to the 4AC and is cited as specific support for numerous allegations
18 therein. (4AC ¶¶ 124, 157-61, 164, 166-67, 169-70, 176.) That declaration, as well
19 as one from Mr. Ereiser, was also submitted by Plaintiffs in support of their
20 opposition to NDS’s Rule 11 motion, filed after Plaintiffs had repeatedly failed to
21 identify any evidentiary support for several key allegations of their complaints.
22 (Opp’n at 6-8.) NDS maintains that the material portions of both declarations are
23 false but cannot demonstrate that falsity without examining Messrs. Ereiser and
24 Scullion.

25 Because they have been identified as witnesses having knowledge that
26 supports essential and specific allegations of Plaintiffs’ 4AC, NDS should be
27 permitted to examine Messrs. Ereiser and Scullion under oath and to obtain relevant
28 documents from them. Yet they both reside in Canada, outside the jurisdiction of

1 the U.S. Courts. Accordingly, NDS can only enforce its right to obtain testimony
2 and documents through the assistance of the courts of Canada. NDS therefore
3 submits this application and asks that this Court issue Letters Rogatory requesting
4 that the appropriate Canadian courts order the examination of Messrs. Ereiser and
5 Scullion and their production of relevant documents.

6 **II. WITNESSES**

7 **A. Ron Lorne Ereiser**

8 Ron Lorne Ereiser ("Ereiser") is, upon information and belief, a Canadian
9 citizen and a resident of Victoria, British Columbia, Canada. (November 8, 2005
10 Declaration of Ron Ereiser in Support of Plaintiffs' Opposition to NDS's Motion
11 for Rule 11 Sanctions ¶¶ 12-20 (attached hereto as Ex. A.)) As noted, Ereiser
12 submitted a declaration in support of Plaintiffs' Opposition to NDS's Rule 11
13 Motion. Therein, among other things, he made numerous claims about NDS
14 employee Chris Tarnovsky's ("Tarnovsky") alleged involvement in satellite piracy,
15 including supposed association with other pirates, use of websites to publicly
16 disseminate EchoStar conditional access system ("CAS") code using various
17 aliases, and receipt of substantial compensation for involvement in satellite piracy.
18 (Ereiser Decl. ¶¶ 2-20.) Ereiser also claims that Tarnovsky "personally confirmed"
19 that he was the person responsible for posting Plaintiffs' CAS code on the internet
20 (*id.* ¶ 18), and that Tarnovsky was approached by NDS to assist in the reverse
21 engineering of Plaintiffs' CAS (*id.* ¶ 25.) These accusations, which NDS
22 strenuously disputes, form the core of Plaintiffs' claims against NDS. Yet Ereiser
23 cannot be subpoenaed by a United States Court.

24 In addition to offering the Declaration as support for their claims,
25 Plaintiffs have listed Mr. Ereiser as an individual having relevant knowledge of
26 "(a) the initiation, formation, support and/or maintenance of the NDS distribution
27 network as alleged in Plaintiffs' 4AC," "(b) NDS's relationships with various
28 hacker or pirates, ... the knowledge by NDS of the acts or omissions of each such

1 individual, and/or NDS's subsequent express or implied ratification of acts of
2 omissions engaged in by each such individual," "(c) the acts or omissions engaged
3 in by Christopher Tarnovsky for or on behalf of NDS," "(d) certain transfers,
4 transmissions and/or publications of code, information or data obtained by NDS
5 through the hack or reverse engineer [*sic*] of the microprocessor used in Plaintiffs'
6 CAS," and "(e) the acts or omissions engaged in by or on behalf of NDS to
7 promote, facilitate, or otherwise provide assistance relating to the compromise of
8 NDS's own CAS as well as the CAS offered by competitors of NDS including
9 NagraStar, Canal+ and Soge Cable [*sic*]." (Plaintiffs' Second Supplemental Rule
10 26(a)(1) Disclosures, pp. 7-8 (attached hereto as Ex. B)).

11 Accordingly, NDS respectfully requests that this Court issue a Letter
12 Rogatory requesting the assistance of the Supreme Court of British Columbia,
13 Canada, and specifically requesting that the Court order Ron Ereiser to appear for
14 examination and to produce documents and provide testimony on the topics
15 specified in the proposed Letter Rogatory submitted herewith, including, but not
16 limited to, the claims made in his declaration, his involvement in satellite piracy,
17 his knowledge of the topics identified by Plaintiffs as ones for which he does or
18 may have knowledge, and any matters tending to show bias against NDS.

19 B. Reginald Scullion

20 Reginald Scullion ("Scullion") is, upon information and belief, a Canadian
21 citizen and a resident of Rigaud, Quebec, Canada. Based at least in part on
22 information obtained from Scullion, Plaintiffs allege that NDS instructed
23 Tarnovsky to set up a distribution network to distribute "reprogrammed" EchoStar
24 Access Cards to the pirating public and that Tarnovsky solicited others to operate
25 that network. (4AC ¶¶ 157-176.) In his declaration, Scullion proclaims that
26 Tarnovsky is his "arch enemy" and describes various purported bad acts allegedly
27 relevant to the 4AC: Tarnovsky's involvement in piracy of Plaintiffs' Access
28 Cards, his use of various internet aliases referenced in the 4AC, his affiliation with

1 other satellite pirates, NDS's protection and control of the alleged distribution
2 network for pirated EchoStar Access Cards, and the identity of the members of the
3 purported network. (February 16, 2004 Declaration of Reginald Scullion ¶¶ 8-18
4 (attached hereto as Ex. C.)) Scullion also claims that Tarnovsky and NDS provided
5 the pirates with a reprogramming device to load the EchoStar code onto the Access
6 Cards, enabling the user of the cards to receive free EchoStar programming. (*Id.* at
7 ¶ 19.) Plaintiffs are using these claims by Scullion—claims that NDS vigorously
8 disputes and believes to be false—to support their central allegations of
9 wrongdoing against NDS. Cross-examination of Scullion is therefore crucial, yet
10 he is not subject to subpoena by a United States Court.

11 In addition to offering the Declaration as support for their claims,
12 Plaintiffs have listed Mr. Scullion in their Rule 26(a)(1) Disclosures as an
13 individual having relevant knowledge of the same topics for which Plaintiffs have
14 identified Mr. Ereiser as having relevant knowledge. (*See supra*; Plaintiffs' Second
15 Supplemental Rule 26(a)(1) Disclosures, pp. 7-8)

16 Accordingly, NDS respectfully requests that this Court issue a Letter
17 Rogatory requesting the assistance of the Superior Court of Quebec, Canada, and
18 specifically requesting that the Court order Reginald Scullion to appear for
19 examination and to produce documents and provide testimony on the topics
20 specified in the proposed Letter Rogatory submitted herewith, including, but not
21 limited to, the claims made in his declaration, his involvement in satellite piracy,
22 his knowledge of the topics identified by EchoStar as ones for which he does or
23 may have knowledge, and any matters tending to show bias against NDS.

24 **III. LEGAL ANALYSIS**

25 This Court unquestionably has authority to grant NDS's request for letters
26 rogatory. 28 U.S.C. § 1781; Fed. R. Civ. P. 28(b) (providing that a letter rogatory
27 "shall be issued on application and notice and on terms that are just and
28 appropriate"); *see also B&L Drilling Electronics v. Totco*, 87 F.R.D. 543, 545

1 (W.D. Okla. 1978) (noting that “courts have inherent authority to issue letters
2 rogatory”) (citing *United States v. Staples*, 256 F.2d 290 (9th Cir. 1958)); *United*
3 *States v. Reagan*, 453 F.2d 165 (6th Cir. 1971) (federal courts have power to
4 transmit letters rogatory to foreign tribunals). Where the discovery, as here, is
5 directed at issues central to an allegation or defense, courts routinely have exercised
6 their discretion to grant the request.

7 For example, in *B&L Drilling*, the court was faced with allegations of breach
8 of contract and fraud in connection with an agreement granting exclusive rights to
9 market oil field electronic products in Canada. 87 F.R.D. at 544. The court granted
10 the defendant's motion to issue letters rogatory directed to the appropriate authority
11 in Canada, requesting oral examination of persons who allegedly knew facts
12 material to the defense and whose depositions were vital to supporting it. *Id.* at
13 545. The court noted that “[o]rdinarily on [an application] for the issuance of a
14 letter rogatory, the Court will not weigh the evidence that is to be adduced by
15 deposition and will not attempt to predict, whether, in fact, the witnesses will be
16 able to give the testimony which is sought” and further explained that “there must
17 be some good reason for the Court to deny a party the judicial assistance requested
18 by means of a letter rogatory.” *Id.* at 545; *see also Security Ins. Co. of Hartford v.*
19 *Trustmark Ins. Co.*, 218 F.R.D. 24, 27 (D. Conn. 2003) (“In determining whether to
20 issue a letter rogatory, evidence sought from the proposed discovery will not be
21 weighed and no attempt will be made to predict whether such evidence will
22 ultimately be obtained through discovery.”). The defendants in *B&L Drilling*
23 claimed that the discovery was necessary and material to their defense; the court
24 found no reason to deny the request, and letters rogatory were issued. 875 F.R.D. at
25 545. *See also United States v. Paraffin Wax*, 2255 Bags, 23 F.R.D. 289 (E.D.N.Y.
26 1959) (court granted request for the issuance of letters rogatory under Rule 28(b)).

27 In short, courts have routinely issued letters rogatory to appropriate judicial
28 bodies in foreign countries, including Canada, when the discovery sought is

1 directed at information necessary and material to the case. The Court should issue
2 Letters Rogatory here because the testimony and documents sought thereby are
3 necessary and material to NDS's defense of this action.

4 **IV. CONCLUSION**

5 For the foregoing reasons, NDS respectfully requests that the Court issue the
6 Letters Rogatory submitted with this Application.

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8 Dated: November 14, 2006

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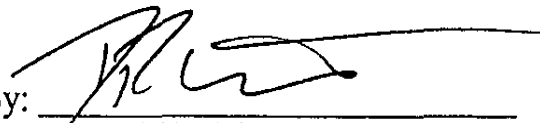
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By: 

David R. Eberhart
Attorneys for Defendants
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NDS AMERICAS, INC.

Dated: November ²⁸~~14~~, 2006



UNITED STATES DISTRICT COURT JUDGE

SF1:649641.3

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PROOF OF SERVICE

I, Paulina Kanbar, declare:

I am a citizen of the United States and employed in San Francisco, California, at the office of a member of the bar of this Court at whose direction this service was made. I am over the age of eighteen years and not a party to the within action. My business address is 275 Battery Street, Suite 2600, San Francisco, California 94111. On November 14, 2006, I served the following documents:

- **NDS'S APPLICATION FOR AN ORDER FOR THE ISSUANCE OF LETTERS ROGATORY AND REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE IN COMPELLING TESTIMONY AND DOCUMENT PRODUCTION FROM RON LORNE EREISER AND REGINALD SCULLION, AND EXHIBITS A-C**
- **[PROPOSED] LETTER ROGATORY AND REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE RE: RON LORNE EREISER**
- **[PROPOSED] ORDER FOR ISSUANCE OF LETTER ROGATORY RE: RON LORNE EREISER**
- **[PROPOSED] LETTER ROGATORY AND REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE RE: REGINALD SCULLION**
- **[PROPOSED] ORDER FOR ISSUANCE OF LETTER ROGATORY RE: REGINALD SCULLION**

by placing the above document(s) in a sealed envelope with postage thereon fully prepaid, in the **United States mail** at San Francisco, California, addressed to the persons set forth in the Service List below. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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- by putting a true and correct copy thereof, together with an unsigned copy of this declaration, in a sealed envelope designated by the carrier, with delivery fees paid or provided for, for delivery the next business day to the persons set forth in the Service List below, and placing the envelope for collection today by the overnight courier in accordance with the firm's ordinary business practices. I am readily familiar with this firm's practice for collection and processing of overnight courier correspondence. In the ordinary course of business, such correspondence collected from me would be processed on the same day, with fees thereon fully prepaid, and deposited that day in a box or other facility regularly maintained by **Federal Express**, which is an express carrier.
- by transmitting via facsimile machine the above document(s) to the fax number(s) set forth in the Service List below. The outgoing facsimile machine telephone number in this office is (415) 984-8701.
- by personally causing the above document(s) to be hand-delivered to the persons set forth in the Service List below.
- by sending courtesy copies of the above document(s) in PDF format to the following e-mail addresses: EchoStar-Service@twlwlaw.com, EchoStar-Service@ssd.com, and NDS-Service@yarmuth.com.

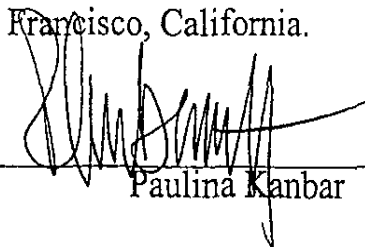
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Counsel for Plaintiffs
EHOSTAR SATELLITE
CORP., EHOSTAR
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EHOSTAR TECHNOLOGIES,
AND NAGRASTAR, L.L.C.

I declare under penalty of perjury under the laws of the United States that the above is true and correct.

Executed November 14, 2006, at San Francisco, California.



Paulina Kanbar

EXHIBIT A

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TECHNOLOGIES
13 CORPORATION, AND NAGRASTAR,
L.L.C.

14 UNITED STATES DISTRICT COURT

15 CENTRAL DISTRICT OF CALIFORNIA

16 SOUTHERN DIVISION

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19 EHOSTAR SATELLITE
20 CORPORATION *et al*

21 Plaintiffs,

22 v.

23 NDS GROUP PLC *et al*

24 Defendants.

No. SA CV 03-950DOC(Anx)

DECLARATION OF
RON LORNE EREISER

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DECLARATION OF
RON LORNE EREISER

1 I, Ron Lorne Ereiser hereby declare as follows:

2 1. My name is Ron Lorne Ereiser. The facts stated in this declaration are
3 true and correct, are within my personal knowledge and if called to testify
4 concerning them, I could and would testify consistently thereto. I reside
5 at 4679 Deerwood Terrace, Victoria, B.C., Canada. Although it has
6 recently been shut down, while living in Saskatchewan, Canada, I owned
7 and operated an audio-visual business known as Kerrobert's Satellite and
8 Cellular for approximately twenty (20) years. The sales of satellite
9 receivers and related equipment made up the majority of sales for
10 Kerrobert's Satellite and Cellular.

11 2. While running Kerrobert's Satellite and Cellular I became personally
12 acquainted with Christopher [Chris] Tarnovsky (hereinafter
13 "Tarnovsky"). Specifically, I met Tarnovsky in approximately August or
14 September of 1996. During that time Kerrobert's Satellite and Cellular
15 was dealing in the sales of P1 smart cards (or "access cards") for the
16 DirecTV satellite system. A smart card is what allows or prevents the end
17 user's access to a particular satellite provider's television programming,
18 such as DirecTV or DISH Network.

19 3. After initially being provided with Tarnovsky's email address through my
20 connections on various websites, I emailed Chris directly at
21 jon@metro2000.net. Using this same email address, Chris Tarnovsky
22 communicated with me on several occasions until Chris and his wife
23 Sylvia came to meet me personally approximately four (4) to six (6)
24 weeks after my initial email to Tarnovsky. This meeting took place in
25 Calgary, Alberta.

26 4. The purpose for me contacting Tarnovsky was to discuss the possibility of
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him coming to work with me as a software-code engineer in connection with the P1 DirecTV cards that Kerrobert's Satellite and Cellular was dealing in at that time. Once I contacted Tarnovsky, he told me that he was experienced in the areas of satellite encryption/decryption as well as being versed in analyzing code and writing software regarding same. Specifically, Tarnovsky told me that he conducted extensive work in connection with the hack of the D2Mac system in Europe, among other systems.

5. During my initial meeting with Tarnovsky I supplied him with as much information code as I had on the P1 DirecTV access cards and corresponding "battery cards." A battery card is a hardware satellite pirating device with similar design specifications as an Access Card which allows the user to obtain unauthorized decryption and reception of an encrypted satellite signal. The code provided to Tarnovsky came from the Dallas 5002 processor and the Atmel 89C52 chip utilized by the P1 DirecTV microprocessors. Although it was not necessary to have both the Atmel chip and Dallas processor, Tarnovsky wanted the codes from both so that he could incorporate the code from the Atmel chip into the Dallas processor making the battery cards cheaper to build and give Tarnovsky more control over supporting them. At this time Tarnovsky requested twenty thousand dollars (\$20,000) to provide support in the form of a 'fix' or 'patch' for the battery cards distributed by Kerrobert's Satellite and Cellular to be paid in the form of "donations" for Tarnovsky to continue to support these cards.

6. A couple of months after Tarnovsky wrote the software code for the P1 DirecTV battery card fix he decided to write a new piece of software code

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referred to as a "bootstrap." A bootstrap is a master program version for the system being pirated. The purpose of Tarnovsky's bootstrap software was that it would allow him to load updates onto the P1 DirecTV battery cards which Tarnovsky would also write to combat future electronic counter measures ("ecm") undertaken by DirecTV to disable the P1 battery cards. Tarnovsky requested additional monetary compensation for each bootstrap in addition to his initial fix of the P1 battery cards. Specifically, Tarnovsky demanded approximately \$1,500 for each bootstrap code he provided to Kerrobert's Satellite and Cellular.

7. Tarnovsky continued to provide support for Kerrobert's Satellite and Cellular P1 battery cards until they were rendered impotent by the swap out to the P2 cards. I believe this was in approximately October or November of 1997.

8. After the P2 DirecTV cards came out Tarnovsky informed me that he could provide me contact information for engineers that could assist in successfully hacking the P2 smart cards. Specifically, Tarnovsky provided me with the name and contact information of Jan Saggori. Saggori introduced me and Herb Huddleston, a business acquaintance of mine, to two Bulgarian hackers identified as Plamen Donev and Vesselin (Vesco) Nedelchev. Subsequently, Huddleston traveled to Bulgaria to meet personally with Plamen and Vesco. Following this meeting, Plamen and Vesco agreed to travel to Winnipeg, Manitoba, Canada, and then to get assisted across the border to the United States, specifically, Montana - to begin work on hacking the P2 cards. At this time Tarnvosky indicated that he would temporarily relocate to the Cayman Islands where he would write software to support the eventual P2 hack. Tarnovsky advised that

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the Cayman Islands would be a safer environment for him to work on this software support as he was concerned with the piracy laws in the United States.

9. Ultimately, Tarnovsky decided not to relocate to the Cayman Islands to work on the initial software support for the P2 hack. As an explanation for deciding against moving, Tarnovsky indicated that he did not want to leave his father in the United States. Plamen and Vesco agreed to travel to the Cayman Islands in order to write the software codes to the P2 cards. Plamen and Vesco completed this stage in approximately one week after traveling to the Cayman Islands. After Plamen and Vesco successfully wrote the software to the P2 cards, they traveled back to Canada to attempt to work on a stand-alone programmer for the P2 cards. Subsequently, Plamen and Vesco returned to Bulgaria.

10. Following Plamen and Vesco's return to Bulgaria, Tarnovsky agreed to write software fixes and offer support for the then compromised P2 cards. Tarnovsky then traveled back to Calgary, Canada to meet with myself, Gary Toscholke, David Truthwaite and Gwen Farrel. Upon agreeing to write the software and provide support for the P2 cards, Tarnovsky was paid an initial amount of \$10,000 at the conclusion of the aforementioned Calgary meeting. At this time Tarnovsky was also provided with the ROM dump of the P2 code which was emailed to David Truthwaite in Calgary from Herb Huddleston in the Cayman Islands.

11. After approximately one week from the meeting in Calgary between myself, Tarnovsky, Truthwait, Toscholke and Farrel, Tarnovsky had already found a 'back door' into the P2 card and was successfully writing the software to load onto same. At this time, Tarnovsky also developed a

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method to load a unique identifying signatory mark onto the cards Kerrobert's Satellite and Cellular was distributing. During this same time period, Tarnovsky also attempted, unsuccessfully, to solicit my help with hacking the ASIC chip of the P2 card as well as obtaining the dump of another conditional access system's card employed by Galaxy Latin America ("GLA").

12. Shortly after Tarnovsky wrote the initial code for the P2 hack he informed me that an individual named Norman Dick had developed another hack on the P2 card which was referred to as the combo card. Subsequently, Tarnovsky was able to break apart this combo card and eventually sent me the schematics and software for same to build my own combo cards and load similar software onto same. Tarnovsky demanded additional payment for this endeavor.

13. Following Tarnovsky's initial work on the P2 hack he continued to provide technical support and periodic fixes for subsequent ecm's aimed at disabling the hacked P2 cards. During this time period Tarnovsky continued to be paid for his services. Pursuant to Tarnovsky's request, he was paid by shipping various electronic components (e.g., Compact Disk players and Digital Video Devices) filled with varying amounts of cash up to and including \$20,000 to his residence in Manassas, Virginia. There was also at least one occasion when Tarnovsky requested that his cash payment be shipped inside of a Playstation PS2 for his father. There was additionally one occasion when Tarnovsky requested payment in the amount of \$5,000 to be shipped to his Father's address and another \$5,000 to be shipped to his mother's address. It is my understanding that both Tarnovsky's father and mother resided in or around the Manassas,

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Virginia area at the time these payments were shipped.

14. In late 1998 Tarnovsky's support for the P2 hack began to suffer and it became obvious that his efforts were being concentrated elsewhere. Tarnovsky informed me in an IRC chat that he was working on "another system". During this same IRC chat I advised Tarnovsky, jokingly, that I was considering possibly dumping the EchoStar code and that I already had the ROM code ready. Although I was not in fact in possession of any part of the EchoStar code, because in late 1998 to my then existing knowledge EchoStar's code had not been hacked, I made these statements to Tarnovsky in an effort to incite his over inflated ego-driven personality. To my complete surprise, Tarnovsky indicated that he was, in fact, in possession of the EchoStar code and that if I forwarded him a portion of my code he had the ability to verify its authenticity.

15. In late 1998 freeware for the P2 hack became increasingly available via the internet. The onset of this freeware virtually eliminated Tarnovsky's role in providing software support for the P2 cards. Subsequently, through correspondence I had with Tarnovsky I learned that he was working with an individual named Allen Menard through Menard's website www.dr7.com.

16. I originally became acquainted with Menard through an IRC channel called #satellite, which was initially accessible through the EFNET servers. Shortly thereafter, I learned from Tarnovsky that Menard had set up his www.dr7.com website.

17. Tarnovsky used this venue, as well as the website www.piratesden.com to publicly disseminate the EchoStar code that he possessed using the alias "nIpPeR," "nIpPeR cLaUsE" or substantially similar pseudonyms, as

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well as various posts providing technical support (e.g., commands, fixes, patches and updates, among others) for use in circumventing EchoStar's encryption technology. During the course of my communications with Tarnovsky I am also personally aware that he used other aliases including, von, vonrat, arthur, arthur von neuman, and coleman to communicate within the satellite pirate community.

18. Tarnovsky personally confirmed the fact that he was the one responsible for the posting of the EchoStar hack when I spoke with him shortly after his December 2000 internet postings. As a related matter, I learned from a personal meeting I had with John Luyando and a phone conversation I had with Tarnovsky in early to mid-2000, that Oliver Kommerling was in possession of the EchoStar ROM code prior to Tarnovsky's posting of same.

19. Additionally, soon after Tarnovsky posted the initial hack on Menard's dr7 website, Tarnovsky requested that I send approximately one hundred battery cards that Tarnovsky had previously provided to me for use in the DirecTV P2 hack to Al Menard for reprogramming for the EchoStar hack. It is my understanding from communications with Tarnovsky that Tarnovsky was the one who provided Menard with this EchoStar card reprogrammer. This reprogrammer was commonly referred to by Tarnovsky by the nickname "the stinger" and was used to reprogram plastic access cards.

20. In order for Tarnovsky and Menard to distribute the pirated EchoStar access cards that had been reprogrammed by Menard using the "stinger" provided to him by Tarnovsky, Menard used a select group of individuals or "dealers". Specifically, through personal conversations with each of

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these dealers, I am aware that Tarnovsky and Menard used, among others, Dave Dawson, Sean Quinn, Andy Sergei, Stan Frost, Todd Dales and Brian Sommerfield to distribute Menard's and Tarnovsky's reprogrammed EchoStar access cards.

21. With regards to Dave Dawson, I was informed by him that he was present on several occasions where Menard reprogrammed numerous EchoStar smart cards and loaded Tarnovsky's original software fix onto them. I was also informed by Dawson that he was provided reprogrammed EchoStar smart cards by Menard with the modified B3 bootstrap developed by Tarnovsky loaded onto them. I have also seen several email communications from Menard discussing these reprogrammed and bootstrap loaded EchoStar smart cards and the accompanying payment for these.

22. With regards to Sean Quinn, I was personally informed by him that he was also selling the Menard/Tarnovsky reprogrammed EchoStar access cards which he obtained from Menard. Additionally, at one point Quinn sent me some files that he was provided by Menard. Upon review of the files, I was able to determine that these files were Menard's own personal dealer files. Significantly, Dawson informed me that they knew the EchoStar fix was provided to Menard by Tarnovsky. I am also aware that certain individuals have email communications from both Menard and Tarnovsky that establishes the relationship between Tarnovsky providing the EchoStar fix via Menard and his dr7 website.

23. I am also aware, by way of an email sent to me from Oliver Kommerling, that Menard, as well as Kommerling, had personal knowledge that Tarnovsky was working for or at the direction of NDS during the time

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starting in late 1998 when Tarnovsky was pirating EchoStar's smart cards and conditional access system and that Tarnovsky was providing Menard with the EchoStar hack and fixes.

24. During this same time period Stan Frost and Dan Kavanaugh operated a website known as "The New Frontier." During conversations with Kavanaugh, I was informed that the "new frontier group" would send their EchoStar smart cards to Menard for reprogramming with the latest Tarnovsky fix that would combat the most recent ecm disseminated by NagraStar. Kavanaugh further informed me that after Menard reprogrammed these cards, Kavanaugh would redistribute to the new frontier's customers and Kavanaugh would collect a commission from Frost.

25. Prior to Tarnovsky posting the initial EchoStar hack and subsequent EchoStar fixes and other technical support, it is my understanding that he was approached by John Norris of NDS to assist NDS in the reverse engineering of the EchoStar access card. I know Norm Dick from my dealings in the DirecTV P1 and P2 cards.

26. With regards to Norm Dick, when I was approached by NDS's head of security John Norris in late 1996, Norris requested that I provide NDS with testimony concerning any information I had relating to Norm Dick. In exchange for this testimony, Norris represented to me that I would receive compensation, that NDS and DirecTV would drop their then pending suit against me, and that I could continue engaging in the hack of the DirecTV signal. More disturbingly, however, also during this meeting Norris attempted to persuade me to initiate hacking efforts on the EchoStar signal. Also present during this meeting was an NDS employee

1 in Israel named Roni Segoly. I declined Norris' offer on all counts.
2 Accordingly, NDS continued to pursue their civil suit against myself and
3 others.

4 27. I am also aware, and have seen a video taped recording of NDS
5 employees John Norris and Reuven Hasak holding an outdoor meeting
6 with Gary Toscholke, a former satellite pirate, at a restaurant wherein
7 Norris and Reuven Hasak (Security personnel for NDS in the USA and
8 Israel) unequivocally threatened Toscholke in the event that NDS ever
9 caught him in Mexico again, they would apprehend him, bound him, put
10 him in the trunk of a vehicle and haul him across the border.

11 28. I am also aware, and have heard an audio recording of a conversation
12 wherein NDS employee John Norris was conversing with Herb
13 Huddleston's secretary Lisa concerning NDS providing her payment in
14 the amount of \$25,000 if she were to steal proprietary information from
15 Huddleston's computer files. Moreover, Norris even went so far as to
16 advise Lisa on the steps she could take to avoid income tax liability on her
17 receipt of these funds by setting up a temporary account in Canada, which
18 NDS would open for her, under her maiden name and then immediately
19 withdrawing same.
20

21 29. In closing, I find it important to note that I had a debriefing with the
22 attorneys for DirecTV and NDS in approximately 2000. Present at this
23 meeting were myself, Scott Wilsdon, John Norris and Larry Rissler.
24 Following the debriefing I spoke in private with Mr. Wilsdon regarding
25 the compromise of EchoStar's encryption system. During that
26 conversation, Mr. Wilsdon stated unequivocally that he would not be
27 surprised that NDS was behind the EchoStar hack. Mr. Wilsdon further
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stated that the difference between DirecTV and NDS was that Mr. Rissler was formerly employed by the federal government and conducted himself accordingly whereas Mr. Norris was basically a "mercenary" who did not operate by conventional rules, and that he had no intention of continuing to provide legal representation to NDS going forward.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Signed and executed on November 8th, 2005.

/s/ Ron Lorne Ereiser 

EXHIBIT B

1 SQUIRE, SANDERS & DEMPSEY L.L.P.
Cynthia A. Ricketts (*pro hac vice*)
2 Michael T. Purleski (State Bar No. 216307)
555 South Flower St., 31st Floor
3 Los Angeles, California 90071
Telephone: (213)624-2500
4 Facsimile: (213)623-4581

5 T. WADE WELCH & ASSOCIATES
Joseph H. Boyle (*pro hac vice*)
6 Chad M. Hagan (*pro hac vice*)
2401 Fountainview, Suite 700
7 Houston, Texas 77057
Telephone: (713) 952-4334
8 Facsimile: (713) 952-4994

9 Attorneys for Plaintiffs

10 ECHOSTAR SATELLITE CORP. et al.

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **SOUTHERN DIVISION**

14 ECHOSTAR SATELLITE
15 CORPORATION, et al.

16 Plaintiffs,

17 v.

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

19 Defendants.

No. SA CV 03-950 DOC(ANx)

PLAINTIFFS' SECOND
SUPPLEMENTAL RULE 26(a)(1)
DISCLOSURES

Date: September 28, 2006

21 Plaintiffs EchoStar Satellite Corporation (n/k/a EchoStar Satellite L.L.C.),
22 EchoStar Communications Corporation, EchoStar Technologies Corporation, and
23 NagraStar L.L.C. (for convenience Plaintiffs are sometimes collectively referred to
24 as "Plaintiffs" or "EchoStar") hereby submit their Second Supplemental Rule
25 26(a)(1) Disclosures to Defendants NDS Group PLC and NDS Americas, Inc.
26 (collectively referred to as "Defendants" or "NDS"). EchoStar makes the following
27 Rule 26 Disclosures based upon information presently known and EchoStar hereby
28

1 expressly reserves the right to supplement its disclosures should it be required to do
2 so at a later time.

3 **A. Individuals Likely to Have Discoverable Information that**
4 **EchoStar May Use to Support its Claims.**

5 **NDS Group PLC and NDS Americas, Inc. Officers, Directors, Employees and**
6 **Representatives:**

7 1. The following individuals may have relevant knowledge of: (a) NDS's
8 goals, motivations and/or intentions behind the hack or reverse engineer of the
9 microprocessor used in Plaintiffs' Conditional Access System ("CAS") and/or the
10 extraction of the proprietary ROM and EEPROM codes and related data contained
11 therein; (b) the methods employed by or on behalf of NDS to hack or reverse
12 engineer the microprocessor used in Plaintiffs' CAS and/or the extraction of the
13 proprietary ROM and EEPROM codes and related data contained therein; (c) the
14 individuals involved and locations or facilities utilized by or on behalf of NDS to
15 hack or reverse engineer the microprocessor used in Plaintiffs' CAS and/or the
16 extraction of the proprietary ROM and EEPROM codes and related data contained
17 therein; (d) each transfer, transmission and/or publication by or on behalf of NDS
18 of codes, information or data obtained by NDS through the hack or reverse engineer
19 of the microprocessor used in Plaintiffs' CAS and/or the extraction of the
20 proprietary ROM and EEPROM codes and related data contained therein both
21 within and outside of NDS, and the intent and/or purpose behind each such transfer,
22 transmission and/or publication, including any alleged authority or lack thereof
23 relating to each such transfer, transmission and/or publication; (e) NDS's
24 relationships with various satellite hackers or pirates, the extent and nature of each
25 such relationship, the knowledge by NDS of the acts or omissions of each such
26 individual, and/or NDS's subsequent express or implied ratification of acts or
27 omissions engaged in by each such individual; (f) the initiation, formation, support
28 and/or maintenance of the NDS distribution network as alleged in Plaintiffs' Fourth
Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 Amended Complaint ("4AC"), including the activities engaged in by or on behalf of
2 NDS's employees or agents such as creating an unlawful reprogramming device,
3 using same to unlawfully modify legitimate EchoStar Access Cards or produce
4 altered or unauthorized EchoStar Access Cards, the advertisement, sale, distribution
5 or other trafficking in unlawfully modified or unauthorized EchoStar Access Cards
6 and/or the subsequent providing of technical support for same; and/or (g) the acts
7 or omissions engaged in by Christopher Tarnovsky for or on behalf of NDS, upon
8 NDS's request, direction, instruction or control, either in whole or in part, relating
9 to the assistance provided by NDS and/or Tarnovsky to the NDS distribution
10 network in furtherance of the assistance to or facilitation of individuals
11 compromising Plaintiffs' CAS, including all revenues received by or on behalf of
12 Tarnovsky and/or NDS's knowledge of same.

13 Ray England Adams: His contact information is unknown at this time.

14 Reuven Elbaum: 7 Got Levin Street, Haifa, Isreal.

15 Doni Falik: His contact information is unknown at this time.

16 Ginny Gavenchak: His contact information is unknown at this time.

17 Avigail Gutman: Her contact information is unknown at this time.

18 Reuven Hasak: He may be contacted via counsel O'Melveny & Myers, 610
19 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429, (949)
20 823-6927. (51 Tzahal Street, Tel Aviv, Israel)

21 Oliver Kommerling: He may be contacted via counsel, Ben Walmsley at
22 (01)1442074052000. (66484 Riedelberg, Mohlstr, Germany; 31 Avenue des
23 Papalins - Monte Marina, Monaco, 98000)

24 David Mordinson: He may be contacted via counsel O'Melveny & Myers,
25 610 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429,
26 (949) 823-6927. (7 Sokolov Street, Haifa, Israel)

27 Rupert Murdoch: He may be contacted via counsel O'Melveny & Myers,
28 610 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429,

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 (949) 823-6927.

2 Vesselin Nedeltchev: He may be contacted via counsel O'Melveny &
3 Myers, 610 Newport Center Drive, 17th Floor, Newport Beach, California 92660-
4 6429, (949) 823-6927.

5 John Norris: He may be contacted via counsel O'Melveny & Myers, 610
6 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429, (949)
7 823-6927. (2129 Glasgoe Avenue, CA; 760.419.7799)

8 John Odonnell: His contact information is unknown at this time.

9 Abraham Peled: His contact information is unknown at this time.

10 Chaim Shen-Orr: 16 Kiryat Sefer Street, Jaifa, Israel

11 Adi Shamir: His contact information is unknown at this time.

12 Roni Segoly: He may be contacted via counsel O'Melveny & Myers, 610
13 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429, (949)
14 823-6927.

15 Zvi Shkedy: He may be contacted via counsel O'Melveny & Myers, 610
16 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429, (949)
17 823-6927. (Hafia, Israel)

18 Arthur Siskind: His contact information is unknown at this time.

19 Perry Smith: He may be contacted via counsel O'Melveny & Myers, 610
20 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429, (949)
21 823-6927.

22 Matt Stone: His contact information is unknown at this time.

23 Christopher Tarnovsky: He may be contacted via counsel O'Melveny &
24 Myers, 610 Newport Center Drive, 17th Floor, Newport Beach, California 92660-
25 6429, (949) 823-6927. (2339 Carioca Place, Vista, CA)

26 George Tarnovsky: He may be contacted via counsel O'Melveny & Myers,
27 610 Newport Center Drive, 17th Floor, Newport Beach, California 92660-6429,
28 (949) 823-6927. (8314 Morningside Drive, Manassas, VA, 20112; 703.791.3833)

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 Yossi Tsuria: 14 Rabenu Politi Street, Jerusalem, Israel)

2 **The NDS Distribution Network:**

3 2. The following individuals may have relevant knowledge of: (a) the
4 initiation, formation, support and/or maintenance of the NDS distribution network
5 as alleged in Plaintiffs' 4AC, including some or all of the participants in said
6 Distribution Network and/or their role therein, the activities engaged in by or on
7 behalf of NDS's employees or agents such as creating an unlawful reprogramming
8 device, using same to unlawfully modify legitimate EchoStar Access Cards or
9 produce altered or unauthorized EchoStar Access Cards, the advertisement, sale,
10 distribution or other trafficking in unlawfully modified or unauthorized EchoStar
11 Access Cards and/or the subsequent providing of technical support for same; (b)
12 NDS's relationships with various satellite hackers or pirates, the extent and nature
13 of each such relationship, the knowledge by NDS of the acts or omissions of each
14 such individual, and/or NDS's subsequent express or implied ratification of acts or
15 omissions engaged in by each such individual; (c) the acts or omissions engaged
16 in by Christopher Tarnvosky for or on behalf of NDS, upon NDS's request,
17 direction, instruction or control either in whole or in part relating to the assistance
18 provided by NDS and/or Tarnovsky to the NDS distribution network in furtherance
19 of the assistance to or facilitation of individuals compromising Plaintiffs' CAS,
20 including all revenues received by or on behalf of Tarnovsky and/or NDS's
21 knowledge of same; (d) acts or omissions engaged in by or on behalf of NDS to
22 promote, facilitate or otherwise provide assistance relating to the compromise of
23 NDS's own CAS as well as the CAS offered by competitors of NDS including
24 NagraStar, Canal+ and Soge Cable; and/or (e) certain transfers, transmissions
25 and/or publications of codes, information or data obtained by NDS through the
26 hack or reverse engineer of the microprocessor used in Plaintiffs' CAS and/or the
27 extraction of the proprietary ROM and EEPROM codes and related data contained
28 therein, including potential knowledge of all individuals involved in each such

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1 transfer, transmission and/or publication and NDS's knowledge of same.

2 Edwin Bruce: He may be contacted at 33610 East Broadway, Mission, BC
3 V2V4M4.

4 Sandra Cuthbertson: 12907 143rd Ave. NW, Edmonton, AB, T6V 1E1.

5 Todd Dale: 8947 147th Street, NW, Edmonton, AB, T5R 0Y4.

6 David Dawson: 10532 178th Street, Edmonton, AB, T5S 2K4 or 10545 170th
7 Street NW, Edmonton; 780.439.0900).

8 Stan Frost: He may be contacted via counsel Anthony Gordon, 5550
9 Topanga Canyon Blvd., Ste. 200, Woodland Hills, CA 91367-6478, (818) 887-
10 5155. (9 Keltic Drive #105, Sydney, NS, B1S 1P4, or 3001 Brighton 1st Street,
11 Brooklyn, NY, 11235; 718.769.4677 H; 917.815.2416 C)

12 Lawrence Harmon: He may be contacted via counsel Michael Chwok, 780-
13 917-6925. (10643 161st Ave. NW, Edmonton, AB, T5X 4Z9, or 12404 161st Ave,
14 #305, Edmonton, AB, T5X 4W6)

15 Dan Kavanaugh: 202 High Timber Drive, Tantallon, NS, B3Z 1P7;
16 902.830.9891 or 902.826.1099.

17 Mervin Main: He may be contacted via counsel Michael W. Fitzgerald,
18 Corbin and Fitzgerald, L.L.P., 601 West Fifth Street, Ste. 1150, Los Angeles,
19 California 90071-2024, (213) 612-0001. (126 Marlborough Place, Edmonton, AB
20 T5T 1Y5; 780.498.6090 M, 780.467.3971 W, 780.487.4150 R.)

21 Allen Menard: He may be contacted via counsel Michael W. Fitzgerald,
22 Corbin and Fitzgerald, L.L.P., 601 West Fifth Street, Ste. 1150, Los Angeles,
23 California 90071-2024, (213) 612-0001. (930 Cambie Street, Vancouver, BC, V6B
24 5X6, or 11020 Jasper Ave. NW # 1912, Edmonton, AB T5K 2N1; 780.466.6485,
25 780.990.1699 R, 780.990.1279, 780.990.6485, 604.808.3672 M.)

26 Lee Menard: His contact information is unknown at this time.

27 Sheila Menard: Her contact information is unknown at this time.

28 Sean Quinn: 34843 Ferndale Ave., Mission. BC

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 Andre Sergi: His contact information is unknown at this time.

2 Igal Sharon: His contact information is unknown at this time.

3 Tara LNU: Edmonton and Nainaimo.

4 Linda Wilson: She may be contacted via counsel Michael W. Fitzgerald,
5 Corbin and Fitzgerald, L.L.P., 601 West Fifth Street, Ste. 1150, Los Angeles,
6 California 90071-2024, (213) 612-0001. (10320 115th St., #7, Edmonton, AB, T5K
7 1V1; 780.452.3136 R; 780.469.1784 W.)

8 **Other Individuals Involved Directly or Indirectly in Satellite Piracy Activities:**

9 3. The following individuals may have relevant knowledge of: (a) the
10 initiation, formation, support and/or maintenance of the NDS distribution network
11 as alleged in Plaintiffs' 4AC, including some or all of the participants in said
12 Distribution Network and/or their role therein, the activities engaged in by or on
13 behalf of NDS's employees or agents such as creating an unlawful reprogramming
14 device, using same to unlawfully modify legitimate EchoStar Access Cards or
15 produce altered or unauthorized EchoStar Access Cards, the advertisement, sale,
16 distribution or other trafficking in unlawfully modified or unauthorized EchoStar
17 Access Cards and/or the subsequent providing of technical support for same; (b)
18 NDS's relationships with various satellite hackers or pirates, the extent and nature
19 of each such relationship, the knowledge by NDS of the acts or omissions of each
20 such individual, and/or NDS's subsequent express or implied ratification of acts or
21 omissions engaged in by each such individual; (c) the acts or omissions engaged
22 in by Christopher Tarnovsky for or on behalf of NDS, upon NDS's request,
23 direction, instruction or control either in whole or in part relating to the assistance
24 provided by NDS and/or Tarnovsky to the NDS distribution network in furtherance
25 of the assistance to or facilitation of individuals compromising Plaintiffs' CAS,
26 including all revenues received by or on behalf of Tarnovsky and/or NDS's
27 knowledge of same; (d) certain transfers, transmissions and/or publications of
28 codes, information or data obtained by NDS through the hack or reverse engineer of
Plaintiffs' Second Supplemental Rule 26(a)(1)

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1 the microprocessor used in Plaintiffs' CAS and/or the extraction of the proprietary
2 ROM and EEPROM codes and related data contained therein, including potential
3 knowledge of all individuals involved in each such transfer, transmission and/or
4 publication and NDS's knowledge of same; (e) acts or omissions engaged in by or
5 on behalf of NDS to promote, facilitate or otherwise provide assistance relating to
6 the compromise of NDS's own CAS as well as the CAS offered by competitors of
7 NDS including NagraStar, Canal+ and Soge Cable.

8 Donald Best: His contact information is unknown at this time.

9 Ron Ereiser: 4679 Deerwood Terrace, Victoria, BC, V8Y 1C8 or 746
10 Saskatchewan Ave., P.O. Box 732, Kerrobert, SK, S0L 1R0; 250.727.9492 R,
11 250.213.9296 M.

12 Christopher Iannello: His contact information is unknown at this time.

13 Markus Kuhn: 37 George Street, Cambridge, UK, CB4 1AL

14 Rod Lemcke: 54 Joyce Crescent, Regina, SK; 306.789.0961.

15 Dean Love: Mr. Love may be contacted via counsel William Haight (204-
16 942-3361), 1900-155 Carlton St., Winnipeg, Manitoba, Canada R3C, 3H8.

17 Warren Melnick: 15 Bolan Drive, Huntington Station, NY, 11746;
18 631.421.2680 R.

19 Marty Mullins: He may be contact via counsel John Judson (519)-672-4510.
20 (1510 Woodcock St., Unit 8, London, ON N6H 5S1; 519.471.5433 B,
21 519.702.0361 M)

22 Gary Pavel: BC, Canada.

23 Jan Saggiore: Mr. Saggiore may be contacted via counsel Me. Vincent Spira
24 (Tel : 0041 22 320 10 60), 5, rue Saint-Ours, CH-1205, Geneva, Switzerland.

25 Reginald Scullion: P.O. Box 1470 Rigaud, QC J0P 1P0, Canada;
26 514.451.5704 B, 450.451.0954 H.

27 Archie Truviak: His contact information is unknown at this time.

28

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 **Public or Private Individuals and/or Entities Involved in the Investigation of**
2 **Satellite Piracy:**

3 4. The following individuals may have relevant knowledge of: (a)
4 investigative efforts and results thereof concerning the unlawful circumvention
5 and/or assistance thereof of Plaintiffs', Canal+'s, Soge Cable's or other CAS's
6 providers technology, including all links or relationships or evidence thereof
7 between NDS and any of the individuals targeted by or identified through all such
8 investigative efforts; and (b) transfers of monies by, between, on behalf of, or at the
9 direction or request of Christopher Tarnovsky and Allen Menard relating to the
10 circumvention of Plaintiffs', Canal+'s or Soge Cable's CAS including any assistance
11 or facilitation of others in any such circumvention, including all such transfers
12 occurring through Mailboxes & More in San Marcos, Texas via the account set up
13 by or on behalf of Christopher Tarnovsky.

14 Daniel Babin: He may be contacted at (514)-939-8636.

15 Tony Caughell: Edmonton, AB; 780.412.5217 B, 780.918.4814 M.

16 AUSA Richard Cheng: Federal Office Bldg., 880 Front St., 5th Fl., San
17 Diego, CA, 92101; 619.557.7136.

18 Dave Edwards: He may be contacted at (780) 412-5184.

19 Michael Flanigan: His contact information is unknown at this time.

20 Dennie Huot: He may be contacted at (780) 412-5215.

21 Gilles Kaehlin: 33.1.490.70.05.40 R, 33.6.1102.1111 M.

22 Dave Johnston: He may be contacted at (780) 421-3576.

23 Jerry Lubeck: 28-51526 Range Road, P.O. Box 273, Spruce Grove, AB, T71
24 1H7; 780.968.2394 B, 780.951.2455 M

25 Larry Rissler: He may be contacted via counsel Megan McNulty 310-964-
26 2590.

27 Ruben Romero: 814 Lakeway Dr. Suite 112, Bellingham, WA 98226;
28 360.756.0064 B.

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 Christopher Schmitt: His contact information is unknown at this time.

2 Thomas Smith: Blaine, WA; 360.332.2670 B, 360.410.7012 M.

3 Agent McKay Spears: His contact information is unknown at this time.

4 Agent Spurtis: His contact information is unknown at this time.

5 **EchoStar/NagraStar:**

6 5. The following individuals may have relevant knowledge of: (a) the
7 CAS or any part thereof provided by Plaintiff NagraStar to Plaintiff EchoStar for
8 use in regulating access to the encrypted signals transmitted by EchoStar in
9 connection with its operation of its DBS services; (b) efforts engaged in by
10 Plaintiffs to combat, thwart or otherwise control the unlawful circumvention of its
11 CAS; (c) investigative efforts and results thereof concerning the initial extraction
12 of the proprietary codes, data and other information contained in the
13 microprocessor embedded in Plaintiffs' Access Cards; (d) investigative efforts and
14 results thereof concerning the unlawful circumvention of Plaintiffs' CAS
15 subsequent to the initial extraction of the proprietary codes, data or other
16 information contained in the microprocessor embedded in Plaintiffs' Access Cards;
17 and/or (e) damages and injuries suffered by Plaintiffs as a result of the acts and
18 omissions alleged in Plaintiffs' 4AC.

19 Renee Coltharp: She may be contacted via counsel T. Wade Welch &
20 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

21 Russ Densmore: He may be contacted via counsel T. Wade Welch &
22 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

23 JJ Gee: He may be contacted via counsel T. Wade Welch & Associates, 2401
24 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334..

25 Alan Guggenheim: He may be contacted via counsel T. Wade Welch &
26 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

27 Kranti Kilaru: He may be contacted via counsel T. Wade Welch &
28 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 Dave Kummer: He may be contacted via counsel T. Wade Welch &
2 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

3 Germar Schaeffer: He may be contacted via counsel T. Wade Welch &
4 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

5 **Kudelski Entities:**

6 Henri Kudelski: He may be contacted via counsel T. Wade Welch &
7 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

8 Christophe Nicolas: He may be contacted via counsel T. Wade Welch &
9 Associates, 2401 Fountainview, Suite 700, Houston, Texas 77057, (713) 952-4334.

10 **Other Individuals:**

11 Employees of Mail & More, San Marcos, Texas 78666: These individuals
12 may have relevant knowledge of the packages and monies sent to Christopher
13 Tarnovsky by various pirates, hackers, and distributors of pirated EchoStar access
14 cards. They may be contacted at (703)-850-2337.

15 Sylvia Tarnovsky: Mrs. Tarnovsky may have relevant knowledge of the
16 following: NDS's initial compromise of Plaintiffs' CAS; the publication of
17 Plaintiffs' proprietary information to third parties including, but not limited to,
18 various publications on the internet; the design, manufacture, sale and subsequent
19 providing of technical support of and for unlawful reprogramming or other
20 circumvention devices used by Christopher Tarnovsky, Allen Menard and the NDS
21 distribution network to compromise and assist others in compromising Plaintiffs'
22 CAS; the employment, agency or other relationship between NDS and various
23 satellite hackers and pirates, including Allen Menard and the NDS distribution
24 network; and all directions, ratifications, or instructions from NDS relating to the
25 compromise of Plaintiffs' CAS. Her contact information is unknown at this time.

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Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

1 **B. Description by Category and Location of Documents, Data**
2 **Compilations, and Tangible Things.**

3 The following documents are in the possession, custody, or control of
4 Plaintiffs:

- 5 • Witness statements related to the allegations in the 4AC;
- 6 • Emails related to the allegations in the 4AC;
- 7 • Documents related to the *Canal+ v. NDS* litigation, *Direct TV v. NDS*
8 litigation, and *Soge Cable v. NDS* litigation;
- 9 • Documents related to the electronic countermeasures utilized by
10 Plaintiffs to counter piracy;
- 11 • Posts and threads regarding hack of EchoStar's Access Cards;
- 12 • Posts and threads regarding Al Menard and DR7 website;
- 13 • Posts and threads regarding Christopher Tarnovsky;
- 14 • Promotional material of NDS;
- 15 • Print advertising of NDS;
- 16 • Correspondence from NDS to EchoStar;

17 Upon information and belief, the following documents are in the possession,
18 custody, or control of Defendants:

- 19 • Documents concerning the reverse engineering of EchoStar's Access
20 Cards;
- 21 • Documents concerning Defendants' relationship with other pirates;
22 hackers, and distributors of pirated EchoStar Access cards;
- 23 • Documents concerning Governmental Agency Investigations of
24 Defendants and their employees;
- 25 • Documents concerning the *Canal+ v. NDS* litigation, *Direct TV v.*
26 *NDS* litigation, and *Soge Cable v. NDS* litigation;
- 27 • Documents concerning payments to Defendants and their employees
28 from pirates, hackers, and distributors of pirated EchoStar Access

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

- 1 cards;
- 2 • Any and all software, hardware, equipment, and/or other devices used
- 3 by Defendants in connection with the reverse engineering of
- 4 EchoStar's Access Cards;
- 5 • Documents concerning patches, software, updates, codes, repair
- 6 commands, fixes, or other technical support relating to legitimate or
- 7 pirated EchoStar Access Cards;
- 8 • Any documents listed by Defendants in their Rule 26(a)(1)
- 9 Disclosures.

10 Discovery may reveal the existence of additional documents relevant to this
 11 litigation.

12 **C. Computation of any Category of Claimed Damages.**

13 EchoStar is still in the process of calculating its damages. EchoStar will
 14 disclose a completed damage model at a later time after all computations have been
 15 completed. EchoStar anticipates that its damage model will include, but not be
 16 limited to, the following:

17 Damages for loss of subscription and pay per view revenue for each pirated
 18 access card created/manufactured by Defendants.¹

19 Damages for loss of subscription and pay per view revenue for each pirated
 20 access card created as a result of Defendants' posting of Plaintiffs' code on or about
 21 December 2000.

22 Damages for research and development costs associated with updating
 23 Plaintiffs' technology to prevent the unauthorized decryption of programming.

24 Damages for investigative expenses associated with piracy.

25 Damages for costs associated with the swap out of over 7 million of
 26 Plaintiffs' access cards.

27 ¹On or about July 23, 1999, Christopher Tarnovsky sent an email from epr126@webtv.net to Alan Guggenheim,
 28 President of NagraStar, at guggenheim@nagra.com wherein Tarnovsky openly acknowledged that NDS was
 responsible for the creation of at least 50,000 cards.
 Plaintiffs' Second Supplemental Rule 26(a)(1)
 Disclosures

- 1 Damages for legal expenses and costs.
- 2 Statutory damages pursuant to 15 U.S.C. § 1117.
- 3 Statutory damages pursuant to 17 U.S.C. § 1203.
- 4 Statutory damages pursuant to 18 U.S.C. § 2520.
- 5 Statutory damages pursuant to 47 U.S.C. § 605.
- 6 EchoStar hereby reserves its right to amend its Rule 26 disclosures.

7 **D. Insurance Agreements:**

8 None that EchoStar is presently aware of.

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DATED: September 28, 2006

T. WADE WELCH & ASSOCIATES


T. Wade Welch (*pro hac vice*)

Ross W. Wooten (*pro hac vice*)

Joseph H. Boyle (*pro hac vice*)

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Attorneys for Plaintiffs

ECHOSTAR SATELLITE CORPORATION,

ECHOSTAR COMMUNICATIONS

CORPORATION, ECHOSTAR TECHNOLOGIES

CORPORATION, AND NAGRASTAR, L.L.C.

Plaintiffs' Second Supplemental Rule 26(a)(1)
Disclosures

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PROOF OF SERVICE

I, Melissa Gaunt, declare:

I am a resident of the State of Texas and over the age of eighteen years, and not a party to the within action; my business address is 2401 Fountainview, Suite 700, Houston, Texas 77057.

On September 28, 2006, I served the foregoing documents described as: **Plaintiffs' Second Supplemental Rule 26(a)(1) Disclosures.**

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date.

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Houston, Texas addressed as set forth below.

by causing personal delivery by **Federal Express** of the of the document(s) listed above to the person(s) at the address(es) set forth below.

by causing personal delivery via **MESSENGER** of the document(s) listed above to the person(s) at the address(es) set forth below.

PLEASE SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the arty served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of Texas that the above is true and correct.

Executed on September 28, 2006, at Houston, Texas.


Melissa Gaunt

EXHIBIT C

1 SQUIRE, SANDERS & DEMPSEY L.L.P.
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9 Attorneys for Plaintiffs
10 ECHOSTAR SATELLITE
CORPORATION,
11 ECHOSTAR COMMUNICATIONS
CORPORATION, ECHOSTAR
12 TECHNOLOGIES
CORPORATION, AND NAGRASTAR,
13 L.L.C.

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

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
27
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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

W. Squire, Sanders & Dempsey L.L.P.
is a limited liability partnership
under the laws of the State of California.

DECLARATION OF REGINALD SCULLION

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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Notary Public
for the State of New York

DECLARATION OF REGINALD SCULLION

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Canada. I would obtain the hacked cards from my DirecTV distributors and from grey marketers in Canada. Hacked DirecTV Access Cards were sold very openly at that time since they were considered to be totally legal. Since I was quite knowledgeable with computers, I was also writing some of my own code for the DirecTV Access Cards and was programming my own DirecTV Access Cards which were purchased directly from DirecTV on my behalf and for this purpose. I also had manufactured my own "green cards" and programmers/unloopers, bootstrap writers, and other signal reception devices, deemed legal in Canada. I had purchased a large quantity of DirecTV Access Cards through various authorized DirecTV dealers who were actually Canadians known to DTV such as Z-Marketing and others and those cards came directly from DirecTV.

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

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

6. I am also currently an Administrator on several other websites including www.piratesden.com, www.outermatrix.com, www.dsachat.com, www.freedomfight.ca, and www.digital-law.org, among others. My responsibilities as an Administrator include reviewing, controlling, deleting,

Signature L.P.P.
of the Plaintiff
L.P.P.

DECLARATION OF REGINALD SCULLION

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,
28

DECLARATION OF REGINALD SCULLION

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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@wbm.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 signa 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
 28

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 www.wolfscullion.com

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- 4 -

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 Administrator
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.risestart.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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101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

DECLARATION OF REGINALD SCULLION

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 sliases include, but are not
27 limited to, the following information: (a) Von | phoenix
28

not Swartz L.A.
of South County
of L.A.

DECLARATION OF REGINALD SCULLION

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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.

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 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 Tamovsky 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.hitecast.com), Andre Sergei (a/k/a "Koin" d/b/a
14 www.koinvizion.com), Dave Dawson (a/k/a "JD," "Jack Daniels," "John
15 Gotti," and "Teflon Don" d/b/a www.discountsatellite.com and
16 www.dsscana.com), and Stan Frost (a/k/a "Frosty" and "Wheels" d/b/a
17 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 Tamovsky 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
28

not a contract
of any kind

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1 he reprogram EchoStar Access Cards for them. Menard would respond by
2 requesting that the Administrators send the cards to him and, once the Access
3 Cards had been reprogrammed, Menard would return the Pirated EchoStar
4 Access Cards to the vendor who, in turn, would return the card to the
5 customer to complete the transaction. These transactions occurred between
6 Canada and the United States, among other places. Customers were charged
7 approximately \$300-400 USD which payment was sent from the United
8 States to Canada, among other places.


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


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

16 22. I have received approximately 20 emails from Tarnovsky and approximately
17 50-100 emails from Menard that support the facts as stated herein.

18
19 Further Affiant sayeth not.

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

22 
23 _____
24 Reginald Scullion

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



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DECLARATION OF REGINALD SCULLION

Notary Public, Quebec, Canada

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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*

Notary Public in and for the Province of Quebec

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