

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
HONORABLE DAVID O. CARTER, JUDGE PRESIDING

- - - - -

ECHOSTAR SATELLITE	)	
CORPORATION, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. SACV 03-0950-DOC
	)	
NDS GROUP PLC, et al.,	)	
	)	Day 8, Volume III
Defendants.	)	
_____	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Jury Trial

Santa Ana, California

Tuesday, April 22, 2008

Jane C.S. Rule, CSR 9316  
Federal Official Court Reporter  
United States District Court  
411 West 4th Street, Room 1-053  
Santa Ana, California 92701  
(714) 558-7755  
08-04-22 EchoStarD8V3

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APPEARANCES OF COUNSEL:

FOR PLAINTIFFS ECHOSTAR SATELLITE CORPORATION, et al.:

T. WADE WELCH & ASSOCIATES  
Attorneys at Law  
BY: CHAD M. HAGAN  
T. WADE WELCH  
DAVID M. NOLL  
CHRISTINE D. WILLETTS  
Attorneys at Law  
2401 Fountainview  
Suite 700  
Houston, Texas 77057  
(713) 952-4334

FOR DEFENDANTS NDS GROUP PLC, et al.:

O'MELVENY & MYERS, LLP  
Attorneys at Law  
BY: DARIN W. SNYDER  
NATHANIEL L. DILGER  
DAVID R. EBERHART  
MICHAEL O'DONNELL  
Attorneys at Law  
Embarcadero Center West  
275 Battery Street  
Suite 2600  
San Francisco, California 94111-3305  
(415) 984-8700

- AND -

HOGAN & HARTSON, LLP  
Attorneys at Law  
BY: RICHARD L. STONE  
KENNETH D. KLEIN  
Attorneys at Law  
275 Battery Street  
Suite 2600  
San Francisco, California 94111-3305  
(415) 984-8700

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## I N D E X

## EXAMINATION

Witness Name	Direct	Cross	Redirect	Recross
EREISER, RONALD				
By Mr. Noll	9			
By Mr. Snyder		24		

## EXHIBITS

Exhibit	Identification	Evidence
Defendants' No. 302-15		70
Defendants' No. 302-52		75
Defendants' No. 438		66
Defendants' No. 439		69
Defendants' No. 813		28
Defendants' No. 1137		42

1 SANTA ANA, CALIFORNIA, TUESDAY, APRIL 22, 2008

2 DAY 8 - VOLUME I

3 (1:24 p.m.)

4 (The following proceedings is taken outside  
5 the presence of the jury.)

6 THE COURT: We are on the record.

7 And I understand last evening, Counsel informed me  
8 informally that you had a deposition --

9 MR. SNYDER: Yes.

10 THE COURT: -- or the start of a deposition.

11 MR. SNYDER: Yes.

12 THE COURT: And describe to me what happened last  
13 night.

14 MR. NOLL: I'll go ahead and do that, your Honor,  
15 David Noll --

16 THE COURT: No, no. Mr. Snyder will, so -- but  
17 Mr. Noll first.

18 MR. NOLL: Okay. What happened last night was Ron  
19 Ereiser was deposed at O'Melveny & Myers' offices in Newport  
20 Beach. The deposition lasted for about 55 minutes. The  
21 first 30 minutes of questioning of Mr. Ereiser were on  
22 issues unrelated to the CDs that are in issue as part of the  
23 counterclaim made by the defendants.

24 THE COURT: Just a moment.

25 Mr. Ereiser, will you step outside for just a

1 moment so you don't hear the conversation?

2 THE WITNESS: Sure.

3 THE COURT: Because I don't know what's going to  
4 be said for a moment.

5 THE WITNESS: No problem.

6 THE COURT: And keep going.

7 MR. NOLL: Okay. So the first 30 minutes of  
8 questioning were issues that were asked before in the two  
9 depositions that have already been taken of Mr. Ereiser for  
10 approximately 14 hours by the defendants in this case.  
11 Approximately 15 minutes of questions were asked of  
12 Mr. Ereiser concerning the CDs and who he received them  
13 from. The Court will recall the issue --

14 THE COURT: Did he answer the question --

15 MR. NOLL: Yes.

16 THE COURT: -- of who he received them from?

17 MR. NOLL: Yes, he did, your Honor, consistent  
18 with exactly what he's testified to here today.

19 THE COURT: He gave the name?

20 MR. NOLL: Yes, sir.

21 THE COURT: Now, what happened next?

22 MR. NOLL: After that, a break was taken -- they  
23 spent approximately 15 minutes on the issue of who he got  
24 the CDs from, a break was taken. We came back on the  
25 record. We indicated to counsel that the Court had given

1       them 30 to 45 minutes to answer the questions on who the CDs  
2       had come from. We believe that that was sufficiently  
3       answered, but that if there were some questions that would  
4       continue in that regard, fine. We said we were intending on  
5       adjourning the deposition if the questions did not continue  
6       in that regard.

7               Questions then started coming out about certain  
8       DirecTV documents, other documents that were not in issue on  
9       the CDs, and at that point in time, plaintiffs adjourned the  
10      deposition.

11             THE COURT: Okay. And what time was that?

12             MR. NOLL: I don't know the exact time, your  
13      Honor.

14             THE COURT: Well, how about an approximate time?

15             MR. NOLL: 8:15, somewhere between --

16             THE COURT: Have a seat. Just a moment.

17             Mr. Snyder?

18             MR. SNYDER: Your Honor, I disagree with several  
19      of the characterizations about Mr. Ereiser's previous  
20      deposition, but I do agree that they departed at 8:15.

21             THE COURT: Okay. Now, what time did we depart?  
22      Where's my -- he's not here.

23             MR. SNYDER: It was about 8:30, I believe.

24             THE COURT: Oh, no, no, no, no, no, no, no.

25             Where is the other gentleman? I captured one of

1 you last night and let the rest of you go out of kindness so  
2 you could conduct the deposition.

3 MR. WELCH: It was about 8:00.

4 THE COURT: No, no, no, no. I didn't leave here  
5 until 9:30.

6 Christine, come up here. Identify yourself.

7 You must have been asleep.

8 Now, what time did you leave the courthouse last  
9 night?

10 MS. WILLETS: I believe it was perhaps around --  
11 oh, goodness --

12 THE COURT: You left at 8:45.

13 MS. WILLETS: 8:30, 8:45 or so.

14 THE COURT: 8:45 is when you walked out.

15 Now, we were working on some of these issues until  
16 9:30 or 10:00. Did it occur to anybody about 8:00 to call  
17 the Court to say you had a problem?

18 MR. SNYDER: No, your Honor.

19 THE COURT: Who gave you permission to walk out,  
20 and who gave you permission to extend the extent of the  
21 questions?

22 Remember, you've been pleading with me to go to  
23 different law offices when I've been saying conduct the  
24 depositions in this courthouse so that if you had these  
25 problems, you could come down the hallway. And each of you

1 said, "No, no, Judge. Let me go back to a respective law  
2 office," and I paid you that courtesy. So I have to know  
3 better by now. I mean, this has been a constant between the  
4 two of you.

5 So how are we going to resolve this with  
6 Mr. Ereiser tonight?

7 MR. SNYDER: Your Honor, I anticipate that I'll be  
8 able to cross-examine Mr. Ereiser today.

9 THE COURT: Okay, but I want it clear. I'm not  
10 trying to place either one of you at a disadvantage, but all  
11 this last-minute haggling over the last three years is  
12 coming home to roost. This trial is going forward, but for  
13 the half-hour I've expended, and if you can't, and you find  
14 that at a disadvantage, and if you need Mr. Ereiser, you  
15 tell me, but tell me why. But now all of the depositions  
16 are in this courthouse from this point forward, and that way  
17 I'll be right down the hall. And since I'm not leaving  
18 until 10:00, or 9:30 last night, which was early, frankly,  
19 I'm stunned that you couldn't pick up the phone and tell me  
20 you had a problem. I would have immediately ordered you  
21 back into this court at 9:30 last night. We would have  
22 found out what the problem was informally. You don't need  
23 videotape depositions. These can be simple depositions,  
24 now, because people are appearing.

25 So all further depositions are in this courthouse,



1 okay, but we won't say anything further at this point.

2 Let's get this jury going again.

3 Nancy, will you get the jury, please.

4 (The following proceedings is taken in the  
5 presence of the jury.)

6 THE COURT: Well, the jury is back in session.

7 Counsel, thank you for your courtesy.

8 Let me make sure that you know that any delays is  
9 completely the Court's responsibility, and it was not  
10 because of neither counsel, and the last half-hour was  
11 totally my responsibility, and I apologize.

12 Counsel on behalf of the --

13 MR. NOLL: Plaintiff.

14 THE COURT: -- plaintiff? Okay.

15 MR. NOLL: David Noll for the plaintiff, your  
16 Honor.

17 THE COURT: Mr. Noll.

18 RONALD EREISER, PLAINTIFFS' WITNESS, RESUMED

19 DIRECT EXAMINATION (Continued.)

20 BY MR. NOLL:

21 Q Good afternoon, Mr. Ereiser.

22 A Good afternoon.

23 Q Before we took our break for lunch, we were talking  
24 about the second main topic that I wanted to speak to you  
25 about, which was Chris Tarnovsky; do you recall that?

1 A Yes.

2 Q Now, I asked if you knew that Mr. Menard owned the DR7  
3 website, and we were just getting into that.

4 A Yes.

5 Q So my understanding is correct, you did know that Al  
6 Menard owned the DR7 website?

7 A Yes, I did know that.

8 Q Did you ever have a discussion with Chris Tarnovsky  
9 about the EchoStar hack?

10 A Well, we had a few discussions. You know, at that  
11 point we weren't really getting along all that well, so it  
12 was a bit of a banter as much as anything. You know, in one  
13 of the discussions I claimed that I had the ROM to the  
14 NagraCard, and, you know, in a cocky way he came back to me  
15 and said, "Well, give me a line of code, and I'll verify it  
16 for you," you know, to prove that I had it, or whatever, or  
17 that I was correct. I never did have it. I was just  
18 playing with him, more or less.

19 You know, there were other things that were said back  
20 and forth, nothing with any significance, really. At one  
21 point I think he said something like -- it was almost kind  
22 of an inside joke when we were working together on the  
23 Version I card or the Version II, we're talking about other  
24 systems. When he said "hack the hack," what it meant -- one  
25 of his rivalries was Red Scullion when he was working on the

1 P1 card. When he came home with a B3 bootstrap, for  
2 example, Red Scullion copied it, and he referred to it as  
3 "hack the hack." Meaning you weren't the original. You  
4 were the guy that hacked the good stuff and got whatever.

5 And then we were talking about EchoStar once in a --  
6 we'll call it in a jokingly way, he says, "Well, I did it.  
7 Now you can go hack the hack." It was kind of stuff like  
8 that. Nothing really more than that.

9 Q Okay. And the impression that you were left with was  
10 that he was behind it or not, or do you recall any  
11 impression that you got at that time?

12 A No. I had the impression that he was behind it. I  
13 couldn't say for sure, but I was under the impression, and  
14 especially when the fix came out on DR7's website using the  
15 B3 bootstrap, which he was one of the only guys that was  
16 working with that particular software, you know, for him --  
17 for somebody to be able to rework that so it would work in  
18 a battery card from the P1 days, the original battery  
19 card --

20 (Interruption in the proceedings.)

21 THE WITNESS: I lost my thought there, now.

22 Yeah, he had made this B3 bootstrap for the  
23 original battery card. So when the hack came out for  
24 EchoStar, it was on this same B3 bootstrap but modified to  
25 work on EchoStar. So the suspicion amongst everybody in the

1 community was it's him.

2 BY MR. NOLL:

3 Q Okay. Now let's shift gears for a moment, and we're  
4 going to go into the third area that I want to speak with  
5 you about, and that is the certain e-mails that you received  
6 from Dave Dawson.

7 A Sure.

8 Q Who is Dave Dawson, Mr. Ereiser?

9 A Dave Dawson is a fellow I've known since about 1986 out  
10 of Edmonton, Alberta.

11 Q And do you know whether Mr. Dawson was involved in  
12 satellite piracy?

13 A Yes, he was.

14 Q Do you know whether Mr. Dawson was selling pirated dish  
15 networks, Smart Cards?

16 A Yes, he was.

17 Q Did you ever have any e-mail communications with  
18 Mr. Dawson?

19 A Yes, I have.

20 Q And what occasion did you have to correspond via e-mail  
21 with Mr. Dawson?

22 A Well, I would phone, you know, telephone calls with him  
23 as well. You know, I've known Dave for a long time, and,  
24 you know, we'd e-mail back and forth once in a while,  
25 talking about the -- you know, whether it be the EchoStar

1 fix or what's going on in his life, whatever, because Dave  
2 runs a pretty crazy life. It's just kind of interesting  
3 listening to him once in a while.

4 Yeah, I would keep in touch with Dave quite often, even  
5 though I wasn't doing business with him, you know, whatever.

6 Q Now, Dave, is he -- he's kind of crazy. Is he a member  
7 of an organization --

8 A Well, the talk is that he's a member of a bike  
9 organization. He drinks a lot, has a lot of girlfriends and  
10 a wife, that kind of thing. He's leads a complicated life,  
11 you might say.

12 Q Now, did Mr. Dawson ever indicate to you that any  
13 belief that Mr. Tarnovsky was behind the EchoStar hack?

14 MR. SNYDER: Objection. Hearsay.

15 THE COURT: Overruled.

16 You can answer the question.

17 THE WITNESS: Yes, he mentioned that to me on more  
18 than one occasion.

19 BY MR. NOLL:

20 Q How did that come up?

21 A I don't know the first time. I can tell you there was  
22 a meeting out in Toronto one time where Menard was going  
23 out, Chris Tarnovsky was going out, quite a few of the guys  
24 were going out to meet in Toronto for some reason. I don't  
25 know what the reason was. And I was talking to Dave about

1 it, and I said, "Well, are you going out?" He said, "No,  
2 but Menard has gathered up all the money because he's got to  
3 meet Tarnovsky out there," you know, all of the money for  
4 the cards that he's done. And I said, "Oh, you mean for the  
5 EchoStar stuff?" He said, "Yeah, yeah."

6 MR. SNYDER: Your Honor, this is all hearsay. May  
7 I have continuing objection?

8 THE COURT: This is not for the truth of the  
9 matter asserted. Remember that we don't have the ability at  
10 the present time to have examination and cross-examination  
11 of Mr. Dawson. He's not here. But it goes to the opinion  
12 that the gentleman casts of this witness, that Tarnovsky was  
13 the person behind the hack.

14 So Counsel, you may continue.

15 MR. NOLL: Thank you, your Honor.

16 BY MR. NOLL:

17 Q Do you know if --

18 A Excuse me. And I'll mention another time that Dave had  
19 expressed concern to me that he had put up 2- or \$3,000, or  
20 something, to Menard to make a pick card. It's a small PCB  
21 card with a microprocessor on it that he said that Tarnovsky  
22 promised to get working for EchoStar. It would be a cheap  
23 way to make a card for EchoStar. And he had put the money  
24 up, and they never developed it, and he was kind of mad  
25 about it.

1 Q Do you know whether Mr. Dawson was working with Chris  
2 Tarnovsky and Al Menard?

3 A I know he was working with Al Menard, from what he told  
4 me, and, you know, he did tell me that he received e-mails  
5 directly from Chris Tarnovsky as far as fixes for the  
6 EchoStar.

7 Q Okay. And we know "fixes" from your earlier testimony  
8 to be patches that would get around ECMs, correct?

9 A Patches -- when they would shut the card down, a patch  
10 would be sent to them, and they would load that back on and  
11 be running again.

12 Q Let me focus your attention to Exhibit 988. This is a  
13 document that's already been admitted through Mr. Al  
14 Menard's videotape deposition testimony.

15 A Everyone I admit I need glasses, but this is very small  
16 writing.

17 Q Flip to the second page, sir. It probably will be a  
18 little more clear.

19 A Okay.

20 Q Okay.

21 MR. SNYDER: Your Honor, may I have an objection  
22 to these exhibits as well? They are all hearsay and lack  
23 foundation.

24 THE COURT: A continuing objection, thank you.

25

1 BY MR. NOLL:

2 Q Before I ask you anything about it, is this Exhibit 988  
3 a document or a printout of an e-mail that you received from  
4 Dave Dawson?

5 A Yes, I received an e-mail from Dave Dawson. What he  
6 did was include a bunch of e-mails that he had copied out of  
7 whatever e-mail program he was using, so they weren't  
8 forwarded to me. They were basically built in text files  
9 and sent to me.

10 Q Okay. And do you recall when this was?

11 A I can't give you an exact date, no.

12 Q All right. So have you done anything to change the  
13 e-mail, Exhibit 988, in any way?

14 A No.

15 Q It's your testimony that this is a printout of exactly  
16 what Mr. Dawson sent you?

17 A This is a printout of exactly what Mr. Dawson sent me.

18 Q So if you look at the date, it says "Tuesday,  
19 October 19th, 1999"; do you see that, sir?

20 A Yes.

21 Q And it's to d-i-s-c-s-a-t at CompuSmart dot AB dot CA;  
22 do you see that?

23 A Yes, discsat@compusmart.ab.ca.

24 Q Do you know whose e-mail address that is?

25 A That would be Dave Dawson.



1 Q Okay. And it's from dr7@v-wav.com; do you see that?

2 A Correct.

3 Q Do you know whose e-mail address that is?

4 A DR7.

5 Q And DR7 is who?

6 A Al Menard.

7 Q And you would communicate with Dave Dawson at the  
8 e-mail address that he's got listed here in the "to" line;  
9 is that correct?

10 A Excuse me, yes. There was about three e-mail addresses  
11 I communicate with Dave, and this is one of them.

12 Q And the e-mail says, "This info has been forwarded to  
13 him, and I called Von, the phone, and mention the  
14 problem...he told me that he is sending another box, and we  
15 should have it this week...he's happy...thinks I killed this  
16 one from overuse, hey-hey, DR7"; do you see that?

17 A Yes, I do.

18 THE COURT: Just a moment. This is from Menard to  
19 Dawson?

20 THE WITNESS: This is from Menard to Dawson,  
21 correct.

22 THE COURT: How did you get this?

23 THE WITNESS: Dave Dawson sent it to me.

24 THE COURT: Sent it to you?

25 THE WITNESS: Sent it to me. And he didn't --

1 I'll explain it again.

2 He didn't forward that e-mail to me. He grabbed a  
3 certain amount of e-mails. I don't know how many you have  
4 there, but there's --

5 BY MR. NOLL:

6 Q I have four.

7 A Four?

8 Q Right.

9 A And he sent them in a text file in the body of an  
10 e-mail to me, so to suggest, you know, that somebody made up  
11 the UIDL numbers and the other stuff, I would say, is  
12 impossible.

13 Q Now --

14 A They are not touched.

15 Q Thank you, Mr. Ereiser.

16 In the body of the e-mail, the word "Von" is mentioned.  
17 Who did you understand that to be?

18 A Chris Tarnovsky, "Von" is for "Von Rat," and "Von Rat"  
19 spelled backwards is "Tarnov."

20 Q Now, let's focus your attention on Exhibit 989, please,  
21 sir. This is also one that was admitted in Al Menard's  
22 videotape deposition.

23 A Okay.

24 Q Now identify 989, sir.

25 A Okay. Again, this is an e-mail from Al Menard, DR7, to

1 Discsat, which is Dave Dawson, at CompuSmart.ab.ca.

2 (Interruption in the proceedings.)

3 THE COURT: Again, slowly.

4 THE WITNESS: Yep, sorry.

5 It's an e-mail from Dave Dawson -- or sorry, from  
6 Al Menard, DR7, to Dave Dawson, which is  
7 discsat@compusmart.ab.ca.

8 BY MR. NOLL:

9 Q And for the record and for the jury, this is another  
10 e-mail that you received in a text file from Dave Dawson.

11 A That's -- that's correct.

12 Q And this one says, "Load this, and we'll run for about  
13 one week or more. Be sure to tell them when this dies, you  
14 should just load the AVR2E3M.E3M again until you hear from  
15 us. Vonnie is on the job, so we should be fine soon."

16 Did I read that correctly?

17 A Yes, you did.

18 Q Who is "Vonnie"?

19 A Chris Tarnovsky, Von Rat, Von.

20 Q Do you know what the AVR2E3M.E3M is?

21 A No, I don't.

22 Q Did you ever have an understanding of what the term  
23 "E3M" means?

24 A 3M means "Three Musketeers," all for one, one for all.  
25 You load the code on the card, and it will open up all the

1 channels.

2 Q Now, the "E" in front of it, did that signify anything  
3 to you, the E3M?

4 A Possibly "EchoStar," E3M.

5 Q Let's go to Exhibit 990, please, another exhibit that  
6 was admitted. Mr. Menard's videotape deposition.

7 Can you identify 990, Mr. Ereiser?

8 A Sure. Again, it is from DR7, which is Al Menard. It  
9 is to discsat@compusmart.ab.ca, which would be Dave Dawson.

10 Q And is this another one of the e-mails that Dave Dawson  
11 sent you as a text file?

12 A Yes, it is.

13 Q And the date here is Wednesday, March 1st -- March 1st,  
14 2000; do you see that, sir?

15 A Yes, I do.

16 Q It says, "Things are ready for you...install PGP or  
17 call me, selly...also get some koin together. I gotta ship  
18 to Von this week yet. DR7."

19 Do you see that, sir?

20 A Yes.

21 Q "Von," is that Mr. Tarnovsky, sir?

22 A Yes, that would be one of his nicknames.

23 Q And is this further -- in your mind, did this further  
24 what Mr. Dawson had told you, that is that Chris Tarnovsky  
25 was behind the EchoStar hack?

1 A Yes, from asking, you know, from the other e-mail where  
2 he's talking about files and shipping them money, I would  
3 have to assume that he would be correct in saying that.

4 Q Okay. I'm going --

5 THE COURT: I want to make certain also. You got  
6 this in text also?

7 THE WITNESS: Yes. All of them are exactly the  
8 same. They all came in text.

9 BY MR. NOLL:

10 Q Let's go forward to 991, please. This is also a  
11 document that was admitted through Mr. Menard's testimony.  
12 I ask that you take a look at it, Mr. Ereiser, and let us  
13 know if you can identify it.

14 A Okay. It says, "to someone at staff@dsscanada.com."  
15 DSSCanada.com was Dave Dawson's website, and it's from  
16 members@dr7.com, which is Al Menard's website.

17 Q Do you know if Mr. Menard ever used that particular  
18 e-mail address?

19 A I can't -- I can't remember if he ever did, but it's --  
20 it's -- it's his website. I mean, he's the administrator.  
21 He's the only one that can answer that address.

22 Q Okay. I am going to focus your attention to the fourth  
23 line down in the body of the e-mail, and I'll start where it  
24 says, "Sorry, but no longer will I risk my safety with an  
25 idiot who goes around threatening, blabbing and thinking

1 he's some big shot and putting everybody at risk. Even Von  
2 is worried, man;" do you see that?

3 A Yes, I do.

4 Sorry, yes, I do.

5 Q And did you understand that this "Von" that's  
6 referenced in this e-mail to be Christopher Tarnovsky?

7 A Yes, I do.

8 Q Okay. If we skip from that, two more lines down, it  
9 says, mid-part, it says, "Besides, I've gotta to pay Von for  
10 the cards"; do you see that?

11 A Yes.

12 Q Did you understand that to be Chris Tarnovsky?

13 A Yes.

14 Q Okay. Do you know who a gentleman named Stan Frost is?

15 A Yes, I -- I knew of him.

16 Q Who is Stan Frost?

17 A Stan Frost lives in the United States somewhere. I am  
18 not exactly sure where. He used to -- he was involved with  
19 piracy with the P1 card of DirecTV, the P2 card, and later  
20 on when he was selling EchoStar, he had a company that was  
21 called "New Frontier," which a fellow by the name of Dan  
22 Kavanaugh from Nova Scotia was basically the foot soldier  
23 for who used to do all the work, but basically all the money  
24 went to Stan.

25 Q Now, I believe you just testified that your

1 understanding was that Mr. Frost was selling EchoStar pirate  
2 cards?

3 A Yes, he was.

4 Q Do you have any understanding where Mr. Frost was  
5 getting his EchoStar cards reprogrammed?

6 MR. SNYDER: Objection. Hearsay. Foundation.  
7 Speculation.

8 THE COURT: Yeah, I am going to sustain the  
9 objection. It's way too broad.

10 MR. NOLL: Okay.

11 BY MR. NOLL:

12 Q Do you know?

13 A No, I couldn't say for sure.

14 Q All right. Have you ever heard of a device called a  
15 "Stinger"?

16 A Yes. I heard it from Chris Tarnovsky.

17 Q And what is -- what is a Stinger?

18 A At the time he told me it was a programmer that would  
19 program many different kinds of cards because the baud rate  
20 was adjustable, and it was a logger as well. That's  
21 basically all he told me about it.

22 Q Did he ever tell you anything about using the Stinger  
23 on EchoStar cards?

24 A No, no.

25 MR. NOLL: Pass the witness at this time. No

1 further questions.

2 THE COURT: Just a moment. As you are getting set  
3 up, Counsel, just a minute.

4 Nancy?

5 (No audible response.)

6 THE COURT: Just a moment.

7 I'll be right with you, ladies and gentlemen.

8 Just a moment.

9 Okay. This is cross-examination by Mr. Snyder on  
10 behalf of NDS of Mr. Ereiser.

11 MR. SNYDER: Thank you, your Honor.

12 CROSS-EXAMINATION

13 BY MR. SNYDER:

14 Q Good afternoon, Mr. Ereiser.

15 A Good afternoon.

16 Q When you participated in satellite piracy in the  
17 1990's, it was your understanding that intercepting a  
18 satellite signal for a U.S. system was legal; is that right?

19 A Yes, that's correct.

20 Q And it was your understanding that intercepting a  
21 satellite signal intended for the United States was legal  
22 until sometime in about April 2002?

23 A I'm not exactly sure when it was -- became illegal.

24 Q That was -- but it became illegal as a result of a  
25 decision by the Supreme Court of Canada?



1 A That's correct.

2 Q And until that decision, intercepting, for example,  
3 DirecTV in Canada was legal?

4 A Yes.

5 Q And until that decision --

6 A Excuse me. I think it was legal in -- in most  
7 provinces, but not all.

8 Q In British Columbia was it legal?

9 A I'm not too sure.

10 Q In Ontario was it legal?

11 A I'm not sure. I lived in Saskatchewan.

12 Q But the systems that we are talking about are EchoStar  
13 and DirecTV, correct?

14 A That's right.

15 Q And in those provinces where it was legal, it was legal  
16 to intercept those systems until this Canadian Supreme Court  
17 decision?

18 A I believe so, yes.

19 Q It's not your testimony, though, that it was legal in  
20 the United States, is it?

21 A No.

22 Q And you understood at the time that intercepting the  
23 DirecTV signal in the United States was a violation of  
24 United States laws?

25 A That's correct.

1 Q And you understood in the 1990's, when you were  
2 participating in piracy, that intercepting the EchoStar  
3 signal in the United States was a violation of the United  
4 States law?

5 A That's correct.

6 Q Now, you mentioned several names during your testimony,  
7 Mr. Ereiser, and I think it would be useful for the jury  
8 to -- to -- to understand the context of some of them.

9 Are you familiar with a person named Tony Dionisi?

10 A Yes, I am.

11 Q Mr. Dionisi participated with you in DirecTV piracy,  
12 correct?

13 A In Canada, yes.

14 Q And Mr. Dionisi is now a consultant for NagraStar,  
15 correct?

16 A That's correct.

17 Q You are also familiar with a gentleman named Chris  
18 Gerlinsky?

19 A Yes, I am.

20 Q And Mr. Gerlinsky participated with you in piracy of  
21 the DirecTV system, correct?

22 A Very little, but, yes.

23 Q And Mr. Gerlinsky is now a consultant for NagraStar?

24 A Yes, he is.

25 Q And you are also familiar with a person named Charles

1 Pearlman, correct?

2 A Yes, I am.

3 Q Mr. Pearlman was involved in piracy, correct?

4 A Yes, he was.

5 Q And Mr. Pearlman is now a consultant for NagraStar?

6 A I have no idea.

7 Q And aren't you aware, though, Mr. Ereiser, that  
8 Mr. Pearlman has at least in the past been a consultant for  
9 NagraStar?

10 A I was never sure, no. No idea. I can't say that I  
11 knew that.

12 MR. SNYDER: Can you hand the witness Exhibit 813,  
13 please.

14 BY MR. SNYDER:

15 Q Do you recognize Exhibit 813, Mr. Ereiser?

16 A I don't recognize it, but it's from me it looks like.

17 Q Okay. It's an e-mail from you to Mr. Guggenheim?

18 A Okay.

19 Q Is that right?

20 A Yes, that's what it appears to be.

21 Q And this is the message that you sent -- Mr. Guggenheim  
22 at the time was the CEO of NagraStar?

23 A That's correct.

24 MR. SNYDER: I move the admission of Exhibit 813,  
25 please, your Honor.

1 THE COURT: Any objection?

2 MR. NOLL: I don't have a copy of that. Is that  
3 one on the list?

4 MR. SNYDER: I believe so.

5 MR. NOLL: No objection.

6 THE COURT: It's on the list from Saturday.  
7 Received.

8 (Defendants' Exhibit No. 813 is received in  
9 evidence.)

10 MR. SNYDER: Thank you, your Honor.

11 BY MR. SNYDER:

12 Q Could you please turn to the second page, the third  
13 paragraph that starts "when I thought through all this."

14 A Uh-huh.

15 Q Do you see that, Mr. Ereiser?

16 A Yes.

17 Q And then the next sentence says, "One more thing to add  
18 is Nagra/Echo has more informants, one being me, and for  
19 sure, one being Charles Pearlman, and a few others which  
20 don't need to be named here yet"; do you see that?

21 A Yes, I do.

22 Q Okay. And the date of this e-mail is October 2001?

23 A Yes, that's correct.

24 Q And so at least as of October 2001, you were aware that  
25 Mr. Pearlman was an informant for NagraStar?

1 A No. If you take the whole e-mail in context, I am not  
2 sure that Pearlman is. Pearlman had said something that  
3 revealed me. So I suspected that he was an informant, and  
4 I'm -- I'm trying to call Guggenheim on it to see if he is  
5 or not.

6 Q Let me make sure that I've read this correctly.

7 A Sure.

8 Q "One more thing to add is Nagra/Echo has more  
9 informants, one being me, and for sure one being Charles  
10 Pearlman, and a few others which don't need to be named here  
11 yet." Did I read that correctly?

12 A Yes.

13 Q Okay. Thank you. Now, Mr. Ereiser --

14 A But as I said, if you take it in context, how did I  
15 know for sure that Charles Pearlman was an informant unless  
16 I was paying him or something? They don't tell me who their  
17 informants are, who their other informants are. I was just  
18 guessing at it.

19 Q You guessed right, didn't you, Mr. Ereiser?

20 A Well, I don't know. Did I? I don't --

21 Q Mr. Ereiser --

22 THE COURT: Just a moment. The two of you are  
23 talking over each other.

24 THE WITNESS: Yes, I am.

25 THE COURT: Stop. We can't get a record.

1 THE WITNESS: Okay, sir.

2 THE COURT: Question.

3 THE WITNESS: Answer. Got it.

4 THE COURT: Counsel, reask the question.

5 MR. SNYDER: Thank you, your Honor.

6 BY MR. SNYDER:

7 Q You are familiar with someone by the name of Dean Love?

8 A Yes, I am.

9 Q Mr. Love participated in piracy as well, didn't he?

10 A Yes, he did.

11 Q Mr. Love became a consultant or informant for  
12 NagraStar; isn't that right?

13 A I have no idea.

14 Q You are familiar with someone named Marty Mullen?

15 A Yes.

16 Q Mr. Mullen also participated in piracy?

17 A Yes, he did.

18 Q Mr. Mullen also became a consultant or informant for  
19 NagraStar?

20 A I can't say that he was.

21 Q Are you familiar with someone named Dave Romano?

22 A Kind of familiar name.

23 Q Mr. Romano was also involved in piracy; isn't that  
24 right?

25 A I'll take your word for it.

1 Q Well, I'm not testifying, Mr. Ereiser. We want your  
2 testimony.

3 A I don't know. The name sounds familiar, but I don't  
4 know exactly who Dave Romano is.

5 Q You are familiar with someone named Dave Dawson, right?

6 A Yes.

7 Q Mr. Dawson was involved in piracy?

8 A Yes, he was.

9 Q I think a few moments ago you said that Mr. Dawson was  
10 reputed to be involved in, I think you called it a  
11 motorcycle organization?

12 A I said there was talk of it. I don't know if it's true  
13 or not.

14 Q He's a Hells Angel; isn't that right, Mr. Ereiser?

15 A I don't know.

16 Q Have you met Dave Dawson?

17 A Yes, I have met Dave --

18 Q Has he ever told you that he was a member of the Hells  
19 Angels motorcycle gang?

20 A No, he's never told me that.

21 Q You understand him to be a member of that gang, though,  
22 don't you, Mr. Ereiser?

23 A No. I told you once, twice, three times now. I don't  
24 know if he's a member of a gang. He rides a motorcycle. If  
25 every guy that rides a motorcycle is supposedly in a gang,

1 you've got a lot of gang members. I don't know if he is or  
2 not, and that's all I can tell you about it.

3 Q He rides a motorcycle and lives, I believe you said an  
4 interesting life?

5 A That's what I said.

6 Q Okay. You are familiar with Norm Dick?

7 A Yes.

8 Q Mr. Dick participated with you in satellite piracy,  
9 correct?

10 A Yes.

11 Q You are familiar with Herb Huddleston?

12 A Yes, I am.

13 Q Mr. Huddleston participated with you in satellite  
14 piracy?

15 A Yes.

16 Q You are familiar with Gary Tocholke?

17 A Yes.

18 Q That's T-o-c-h-o-l-k-e.

19 A Yes, Tocholke. Yes.

20 Q Mr. Tocholke participated with you in satellite piracy?

21 A Yes, he did.

22 Q You are familiar with someone named David Truthwaite,  
23 T-r-u-t-h-w-a-i-t-e, correct?

24 A Yes.

25 Q Mr. Truthwaite participated with you in satellite



1 piracy?

2 A Yes, he did.

3 Q Now, you mentioned earlier, Mr. Ereiser, that you were  
4 involved with selling pirate devices for the DirecTV P1  
5 system?

6 A Correct.

7 Q And you were sued by NDS and DirecTV in the United  
8 States for piracy of that system, correct?

9 A Correct.

10 Q You were sued in the United States District Court in  
11 the district of -- of one of the districts of Washington  
12 State?

13 A I believe so.

14 Q And that was in 1996?

15 A I believe so.

16 Q And DirecTV and NDS obtained a judgment against you in  
17 that case, correct?

18 A Yes, they did.

19 Q That was a -- I don't believe you mentioned, though,  
20 how large the judgment was when you were talking about it  
21 earlier. It was a substantial judgment, wasn't it?

22 A It could have been one dollar or 55 million. Canada  
23 wouldn't accept the judgment.

24 Q The amount of the judgment was \$14,460,000; isn't that  
25 correct?

1 A Sounds right.

2 Q That sounds right to you?

3 A Sure.

4 Q And that judgment also included an injunction against  
5 you, correct?

6 A Sorry? I'm not --

7 Q An --

8 A An injunction for?

9 Q An order, a court order prohibiting you from doing  
10 certain things, a permanent injunction?

11 A I don't remember.

12 Q You don't remember that?

13 A No, I don't remember the injunction.

14 MR. SNYDER: Would you show the witness  
15 Exhibit 1123, please.

16 THE WITNESS: Thank you.

17 BY MR. SNYDER:

18 Q Have you seen Exhibit 1123 before today?

19 A Possibly.

20 Q Okay. This is a copy of the default judgment and  
21 permanent injunction against Canadian defendants Norm Dick,  
22 et al. Do you see that?

23 A Okay. Yes.

24 Q And you were one of the defendants in this case, right?

25 A Yes, yes.

1 Q And part of this is the entry of a permanent injunction  
2 against you?

3 A Yes, that's what it appears like.

4 Q Mr. Ereiser, you were also indicted by a federal grand  
5 jury in the United States; isn't that correct?

6 A I don't remember. But if you say so, I'll take your  
7 word for it.

8 Q Weren't you indicted in the District of Montana in  
9 1997?

10 A Like I say, if you say so, I'll -- I'll agree with it.

11 MR. SNYDER: Could you please show the witness  
12 Exhibit 1124, please.

13 THE WITNESS: Okay.

14 BY MR. SNYDER:

15 Q Do you recognize Exhibit 1124?

16 A I don't recognize it, but I see what it is.

17 Q It's in a court -- it says, "The United States District  
18 Court for the District of Montana, Billings Division" at the  
19 top.

20 A Yes.

21 Q And it's the United States of America, Plaintiff,  
22 versus Paul Edward Rippeon, Jr., Ronald L. Ereiser, Randy  
23 Eickler and Russell Kanerdi.

24 A Right.

25 Q And you're Ronald Ereiser?

1 A Yes, I am.

2 Q And this Indictment was against you?

3 A Yes, it appears so.

4 Q Now, you were also involved in piracy of the DirecTV P2  
5 system, correct?

6 A Correct.

7 Q And I believe you mentioned earlier this morning, or  
8 earlier today that you would need some engineering to hack  
9 the P2 system?

10 A That's right.

11 Q And to accomplish that, you worked with two gentlemen  
12 from Bulgaria, Plamen Donev and Vesseline Nedeltchev?

13 A Nedeltchev, yes.

14 Q Nedeltchev.

15 A Yes.

16 Q And did you work with them in hacking the P2 system?

17 A No. They were the engineers, so they would have hacked  
18 it. And, yes, we would have sold it.

19 Q And where did they do the hacking of the P2 cards?

20 A There are mixed stories. I was never with them when  
21 they did it. But the story was that they came to Canada and  
22 then crossed the border over into the United States and then  
23 did it in some university or something is where they  
24 extracted the code.

25 THE COURT: Excuse me.

1           It's too quick between counsel and the defendant.  
2           If there was a break between the question and the answer or  
3           the answer and the question, the court reporter would be  
4           able to take this testimony.

5           THE WITNESS: Okay. I'll take better care.

6           Okay. The Bulgarians came to Canada, and I  
7           believe they crossed the border from Canada into the United  
8           States. And I was told at a university in Montana, they  
9           extracted the code out of the original card, came back to  
10          Canada and then flew to the Cayman Islands where he worked  
11          on building a loader and a device to program cards with.

12          BY MR. SNYDER:

13          Q       And then you were able to use that loader and device to  
14          sell pirated P2 DirectTV cards, correct?

15          A       Yes.

16          Q       And you also distributed those cards to other people so  
17          that they could sell them, correct?

18          A       Yes.

19          Q       And you were eventually sued by DirectTV and NDS for  
20          your participation in P2 piracy; is that right?

21          A       Yes, yes.

22          Q       And you were sued in District Court, Federal Court in  
23          Montana, in the year 2000; isn't that right?

24          A       Yes.

25          Q       And that lawsuit was based on your participation in P2

1 piracy?

2 A Correct.

3 Q Now, you mentioned this morning that there were these  
4 lawsuits, but you didn't mention the outcome of those  
5 lawsuits, Mr. Ereiser. You eventually reached an agreement  
6 with DirectTV and NDS; isn't that right?

7 A On the first lawsuit, no. The first lawsuit was thrown  
8 out of Canada. They had no jurisdiction on it. The second  
9 one, yes, there was a settlement reached on it.

10 Q Didn't you reach a settlement, Mr. Ereiser, that  
11 covered both of the lawsuits?

12 A I'm not sure if it did or not. I just know that when  
13 you tried to enforce your first lawsuit, it was not accepted  
14 in Canada.

15 Q Could you show the exhibit to the witness --

16 A And I don't think the Indictment that was in the United  
17 States was there anymore either.

18 MR. SNYDER: Would you show the witness, please,  
19 Exhibit 1138.

20 THE WITNESS: Okay.

21 BY MR. SNYDER:

22 Q Is this a copy of the settlement agreement that you  
23 entered into with DirectTV and NDS?

24 A I assume so by looking at the first page, yes.

25 Q Okay. If you'd look at the very last page,

1 Mr. Ereiser --

2 A Yes.

3 Q -- that's your signature?

4 A Yes, it is.

5 Q And that's your signature over the heading "Ron  
6 Ereiser"?

7 A Yes, that would be me.

8 Q And it's your signature under the label "Kerrobert  
9 Satellite and Cellular, Ltd."?

10 A Yes, that would be me.

11 Q Kerrobert Satellite and Cellular, Limited, was your  
12 company?

13 A Yes, it was.

14 Q And you sold, among other things, pirate devices at  
15 that location?

16 A That's correct.

17 THE COURT: All right.

18 Counsel?

19 BY MR. SNYDER:

20 Q Looking at the first page of that exhibit,

21 Mr. Ereiser --

22 A Uh-huh.

23 Q -- does it refer to the 1996 lawsuit against you in the  
24 Western District of Washington brought by DirecTV and NDS?

25 A Yes, it does refer to it.

1 Q And in the second -- next paragraph, it refers to the  
2 February 2000 lawsuit against you in the District of  
3 Montana?

4 A Yes, it does.

5 THE COURT: Just a moment. Wait for the question,  
6 because if you answer too quickly, I can't get a record.

7 THE WITNESS: Okay. Sorry.

8 THE COURT: Now, reask the question.

9 MR. SNYDER: Okay.

10 BY MR. SNYDER:

11 Q The last paragraph on the first page of this document  
12 refers to the February 2000 lawsuit against you and others  
13 by NDS and DirectTV in the District of Montana; is that  
14 right?

15 A Yes, that's correct.

16 Q And as part of this agreement, you agreed to the entry  
17 of a consent judgment against you; is that right?

18 A That's correct.

19 Q And you agreed to a permanent injunction against you,  
20 as well; isn't that right?

21 A What is a permanent injunction?

22 Q A permanent order prohibiting you from doing certain  
23 things.

24 A Yes, I did enter into that.

25 Q You also agreed as part of this agreement that NDS



1 would have a lien on your house; isn't that right?

2 A Yes.

3 Q And you agreed that if you violated this agreement, you  
4 would be liable to NDS for \$700,000?

5 A That's correct.

6 Q And you agreed that if you were aware of other people's  
7 violation of this agreement, you would be liable for  
8 \$100,000?

9 A That's correct. Other people that were involved in the  
10 agreement. Correct?

11 Q Could you show the witness --

12 A Right? Just to make that clear --

13 THE COURT: Just a minute. There is no question  
14 pending. You'll have another opportunity from this side  
15 that's going to ask you questions.

16 THE WITNESS: I know, but I was just trying to  
17 make clear on my answer and then he started talking. So I  
18 just want to make clear when he mentioned that it was  
19 \$100,000, it wasn't from just anybody. It was \$100,000 from  
20 anybody else that was entered into that contract, as well,  
21 correct?

22 MR. SNYDER: Could you show the witness please  
23 Exhibit 1137.

24 BY MR. SNYDER:

25 Q Mr. Ereiser, is Exhibit 1137 the permanent injunction

1 that you agreed to?

2 A I assume so, yes.

3 Q Could you look at the last page, please.

4 A Yes.

5 Q That's your signature?

6 A Yes, it is.

7 Q And at the top of the first page, over the name  
8 Donald W. Malloy, United States District Judge, there is a  
9 signature?

10 A On the first page -- sorry?

11 Q I'm sorry. The top of the last page. I may have  
12 misspoke.

13 A It's okay.

14 Q The top of the last page, over the name Donald W.  
15 Malloy, there is a signature?

16 A Yes, there is.

17 MR. SNYDER: Your Honor, I move Exhibit 1137.

18 THE COURT: Any objection?

19 MR. NOLL: No objection.

20 THE COURT: Received.

21 (Defendants' Exhibit No. 1137 is received in  
22 evidence.)

23 MR. SNYDER: Could you display just the top of the  
24 caption, please.

25

1 BY MR. SNYDER:

2 Q This is the permanent injunction that was entered  
3 against you in United States District Court for the District  
4 of Montana, correct?

5 A Yes.

6 Q And that was entered on March 19th, 2001?

7 A That's correct.

8 Q And this injunction in the first paragraph on the  
9 bottom of page 1, says, "Defendant Ron Ereiser and any  
10 person or entities controlled directly or indirectly by him  
11 are hereby permanently enjoined and restrained from, A,  
12 receiving or assisting others in receiving DirecTV's  
13 satellite transmission of television programming without  
14 authorization by and payment to DirecTV." Do you see that?

15 A Yes.

16 Q And the rest of the injunction goes on to include other  
17 prohibitions?

18 A Yes.

19 Q And if you'd look at the second page on paragraph 4, it  
20 says, "Plaintiffs shall be entitled to judgment in the  
21 amount of \$700,000" -- I'm sorry -- "700,000 United States  
22 dollars upon proof to the Court of any violations by  
23 defendant Ron Ereiser of the terms of this permanent  
24 injunction."

25 A That's correct.

1 Q And then in the last sentence on the third page, you  
2 specifically agree to personal jurisdiction in United States  
3 District Court of Montana, correct?

4 A That's correct.

5 Q Mr. Ereiser, you litigated with DirecTV and NDS for a  
6 long time; isn't that right?

7 A Yes, that's true.

8 Q You developed some pretty strong feelings about NDS in  
9 the course of those litigations, didn't you?

10 A Yes. They are not my favorite people.

11 Q In fact, it's a little more than that, isn't it,  
12 Mr. Ereiser? Haven't you told people that you hate NDS?

13 A I suppose I've said something like that, yes.

14 Q And haven't you said that you have it in for NDS big  
15 time?

16 A I don't know if I ever said those exact words.

17 Q It's possible that you said those exact words --

18 A It's possible I could have -- sorry.

19 Q It's possible that you said the exact words "I have it  
20 in for NDS big time"?

21 A I guess it's possible.

22 Q And isn't it also true that you said you hate John  
23 Norris?

24 A Yes, I'm sure I've said that.

25 Q And it's, in fact, true? You don't like John Norris,

1 do you?

2 A No, I don't. Possibly because of the -- started off  
3 from the very first meeting and then learning some of the  
4 tactics he used, I don't care if he'd be a neighbor down the  
5 street, I would hate him also. Nobody likes a liar.

6 Q Mr. Ereiser, you're right; nobody likes a liar.

7 Now, when you spoke this morning about your consulting  
8 arrangements, you mentioned that you're a consultant for  
9 NagraStar?

10 A That's correct.

11 Q And I believe you mentioned that that started in about  
12 2004?

13 A No, it did not.

14 Q I'm sorry. March --

15 Go ahead. I didn't mean to cut you off, sir.

16 A Go ahead.

17 Q I believe you said it started in March of 2007?

18 A Yes, roughly.

19 Q You left out a couple of your consulting agreements,  
20 didn't you?

21 A I left out one.

22 Q Well, let's -- let's see. You started consulting for  
23 Canal+; is that correct?

24 A That's correct.

25 Q And you started consulting for them sometime in the

1 year 2003?

2 A Yes, I believe that's correct.

3 Q You started consulting for them after they had filed a  
4 lawsuit against NDS?

5 A I don't know if the lawsuit was filed yet or not, but  
6 yes, it was during that time period.

7 Q And you understand it was in connection with that  
8 lawsuit?

9 A Yes.

10 Q You worked for Canal+ for about a year and a half?

11 A Yes, roughly.

12 Q And it was sometime until late 2004, right?

13 A That's correct.

14 Q And during that time, the smart card business of Canal+  
15 was actually sold; isn't that right?

16 A I'm not sure. I didn't follow that.

17 Q You had no knowledge of that?

18 A No.

19 Q Okay. How much were you paid under your consulting  
20 agreement with Canal+?

21 A It was \$6,000 a month with my agreement with Titus.

22 Q Now, of that 6,000 -- that \$6,000 a month was paid to  
23 you every month from sometime in 2003 for about a year and a  
24 half until when?

25 A Until sometime around mid 2004.

1 Q All right. And about mid --

2 A Maybe a little bit -- sorry.

3 Q Please, go ahead.

4 A Maybe a little longer. I can't be exactly sure of the  
5 date.

6 Q And in mid 2004, you started consulting with another  
7 company, correct?

8 A Yes.

9 Q That was Jan Saggiori's company, SSL?

10 A That is correct.

11 Q And you've been consulting with Jan Saggiori's company,  
12 SSL, from mid 2004 until today?

13 A That is correct.

14 Q And you are still consulting for them?

15 A That is correct.

16 Q And you get paid \$6,000 a month for consulting with  
17 them, as well?

18 A That is correct.

19 Q And the \$6,000 a month that you are paid by SSL comes  
20 from NagraStar?

21 A You'd have to ask Jan Saggiori where it comes from.

22 Q You have no idea where that money comes from?

23 A He's never told me.

24 Q Okay. You just work for Jan Saggiori and the money  
25 magically appears there and then gets sent to you?

1 A Well, I don't know if it magically appears. I don't  
2 think money magically appears anywhere.

3 Q It comes from somewhere, doesn't it?

4 A Correct.

5 Q But you've never asked him where it comes from?

6 A No, that's not my business.

7 Q Just as long as you get your \$6,000 a month?

8 A Absolutely.

9 Q Now, I believe you did mention this morning that you  
10 started consulting for NagraStar in March of 2007; is that  
11 right?

12 A Yes, I think that's accurate.

13 Q And plaintiff's counsel was careful to draw a  
14 distinction between you working for NagraStar, but not  
15 working for EchoStar; do you recall those questions?

16 A Yeah, kind of. I don't remember if there was a big  
17 distinction, but I, you know --

18 Q Have you ever inquired about doing work with EchoStar?

19 A No.

20 Q Has EchoStar ever refused to hire you as a consultant  
21 or informant?

22 A I've never tried to be a consultant with EchoStar.

23 Q Did you understand that when you were working with  
24 NagraStar, you were also assisting EchoStar?

25 A I assume that. It's their system.



1 Q When did you first make contact with NagraStar?

2 A Probably somewhere in 2000.

3 Q Okay. And you started working or serving as an  
4 informant from them in mid 2000; is that right?

5 A Yes. I wouldn't necessarily say informant, but I had a  
6 talk or a meeting with an Alan Guggenheim around that time.

7 Q And when you had information that you thought would be  
8 useful to them, you shared it with Mr. Guggenheim or later  
9 with Mr. Gee?

10 A On occasion.

11 Q You wouldn't necessarily call it an informant, but when  
12 you had information, you would pass it on to them?

13 A On occasion.

14 Q You were also occasionally paid for some of the tasks  
15 you performed for them, correct?

16 A Yes, I think a couple of times.

17 Q One of the things you did was purchase a pirate device  
18 for them?

19 A Yes, I did.

20 Q And you were paid \$10,000 for that?

21 A No. I believe the pirate device was \$67,000, which I  
22 paid -- I must have paid out myself in advance and they paid  
23 me back for it.

24 Q Okay. But you made money on that transaction?

25 A I must have made a little something. I wouldn't have

1 done it for nothing.

2 Q And you also then set up a meeting with people from  
3 NagraStar and Al Menard; isn't that correct?

4 A Correct.

5 Q You lured Mr. Menard to a meeting, and then you sent  
6 him in to speak with people from NagraStar, correct?

7 A No. I dialed him on his cell phone and asked him to  
8 come over. I didn't lure him.

9 Let me speak.

10 I didn't lure him. He came to the hotel. I said,  
11 "These people are up in the room if you'd like to meet with  
12 them. I think they would like to ask you some questions,  
13 there they are. If not, walk out the door." He chose to  
14 meet with them.

15 Q And for that service, Mr. Ereiser, you were paid  
16 \$10,000?

17 A Yes.

18 Q So calling him on the cell phone and sending him in was  
19 worth \$10,000?

20 A I guess to them it was. I never asked for anything.  
21 It just came up and I was told that they were very happy  
22 with the meeting.

23 Q Before you were hired as a consultant for NagraStar,  
24 did they ever offer you a percentage of this lawsuit?

25 A No.

1 Q Did you ever tell anybody that they had offered you a  
2 percentage of this lawsuit?

3 A No.

4 Q Now, you said that you became a consultant for  
5 NagraStar in March of 2007; is that right?

6 A Yes, that sounds right.

7 Q And at that point, this law -- you'd been aware of this  
8 lawsuit for quite some time; isn't that right?

9 A Yes.

10 Q And among other things, you were aware of this lawsuit  
11 because of your consulting with SSL?

12 A Yes.

13 Q And that had been going on for years?

14 A Yes.

15 Q When was your deposition taken; do you recall?

16 A No, I don't recall.

17 Q Was that in July of 2007?

18 A It could have been. I don't recall, I just said, so  
19 I'm not sure.

20 Q And 90 days or so before that deposition was taken,  
21 when you gave sworn testimony in this case, you were hired  
22 as a consultant to NagraStar?

23 A If that's what works out, yes.

24 Q So up to that point, you'd been getting paid \$6,000 a  
25 month from SSL, and then about 90 days or so before your

1 deposition, your compensation got increased to \$12,000 a  
2 month; is that right?

3 A Well, I don't know if you call it compensation.

4 Q The money you are being paid isn't compensation,  
5 Mr. Ereiser?

6 A No. I'm doing work for my money.

7 Q And you get paid \$12,000 a month for that?

8 A Yes, I do.

9 Q You also get expenses, right?

10 A If there is any, but it's very seldom.

11 Q Who is your main point of contact at NagraStar?

12 A For what?

13 Q When you need to communicate with NagraStar, do you  
14 talk to JJ Gee?

15 A Yeah. If it has things to do with piracy, it's JJ Gee.

16 Q Okay. And when you talk to Mr. Gee, do you send him  
17 e-mails at his EchoStar account?

18 A Yes. I may send them there, or I may send him straight  
19 text messages to his cell phone, or I may call him.

20 Q Sometimes you also send him messages to a Hushmail  
21 account?

22 A No, not recently. Not in a long time.

23 Q But you have previously sent him messages --

24 A I think -- sorry.

25 Q You have previously sent him messages to a Hushmail

1 account?

2 A Yeah, I think in about 2002 or something.

3 Q And he sent you messages at a Hushmail account,  
4 correct?

5 A Yes, five years ago, before we had an agreement.

6 Q Hushmail account when you were working as an informant?

7 A Well, I wasn't necessarily an informant. I did a  
8 couple of things for them.

9 Q And you'd send them some messages on a Hushmail account  
10 and they would send you some messages on a Hushmail account,  
11 correct?

12 A Whatever account it came from, I would reply to. It  
13 wasn't like specifically "let's talk by Hushmail" or  
14 something like that. No, that was never the agreement.

15 Q Hushmail is an anonymous e-mail account?

16 A No, it's not anonymous. What it is is it's encrypted.

17 Q It's encrypted?

18 A It's encrypted.

19 Q Now, you've also operated websites from time to time or  
20 chat channels?

21 A I had one.

22 Q And what was the name of that?

23 A Stackattack.ca.

24 THE COURT: Can you spell that?

25 THE WITNESS: Stack, S-t-a-c-k, attack.ca.

1 BY MR. SNYDER:

2 Q Stack attack refers to overflowing the buffer?

3 A That's correct.

4 Q So it was essentially a website devoted to buffer  
5 overflow?

6 A No. You just said a chat channel, now you call it a  
7 website. It wasn't a website.

8 Q It was a chat channel?

9 A It was a piracy channel, yes, of about eight or ten  
10 people on it.

11 Q And the name referred to discussions about overflowing  
12 the buffers on smart cards?

13 A It referred to overflowing the buffer overflow, but not  
14 discussions. It talked about hockey, how to fertilize your  
15 lawn, just friends.

16 Q Okay. And that's why it was called stack attack,  
17 correct?

18 A It was just a name because it was a lot of people that  
19 we've known for 10 years and they would understand that.  
20 Some of them did, some of them didn't.

21 Q And the people that you are referring to having known  
22 for 10 years, these are mostly people you were involved with  
23 in piracy, correct?

24 A Not mostly, but some. Those are the guys that would  
25 get it. The others wouldn't have a clue.

1 Q The ones involved in piracy would get the stack attack?

2 A The guys that were involved in piracy, not are.

3 THE COURT: Now, I want to stop you for just a  
4 moment.

5 All right. Counsel.

6 MR. SNYDER: Thank you, your Honor.

7 BY MR. SNYDER:

8 Q You mentioned this morning that you have a business  
9 called GES?

10 A Correct.

11 Q One of the -- you're one of the employees of GES?

12 A That's correct.

13 Q So you're paid through GES?

14 A Yes, I am.

15 Q One of the employees of GES is Chris Gerlinsky?

16 A That's correct.

17 Q Mr. Gerlinsky was involved with you in satellite  
18 piracy?

19 A Yes, he was.

20 Q And now he is being paid through GES by NagraStar?

21 A Yes.

22 Q And one of the other employees of GES is Tony Dionisi?

23 A That's correct.

24 Q Mr. Dionisi was involved with you in satellite piracy?

25 A Somewhat; very little.

1 Q And now he's being paid through GES as a NagraStar  
2 consultant, as well?

3 A That's correct.

4 Q So let me see if I have all of these numbers right,  
5 Mr. Ereiser. Since sometime in 2004, mid 2004, you've been  
6 getting \$6,000 a month from SSL, correct?

7 A That's correct.

8 Q And since March 2007, you've been getting \$6,000 a  
9 month, you personally, from NagraStar, correct?

10 A That's correct. My company, yes.

11 Q And that adds up to somewhere around \$350,000; is that  
12 right?

13 A Yeah, let me correct you, though. When you said  
14 personally, it's my company that gets that money.

15 Q But the \$6,000, then, goes to you?

16 A It can, yes, or it can go to doing things in the lab.

17 Q The total amount that's paid to your company each month  
18 by NagraStar is actually much larger; isn't that right?

19 A It's for three people. I believe it's around \$18,000.

20 Q So NagraStar sends your company, GES, about \$18,000 a  
21 month?

22 A That's correct.

23 Q And \$6,000 of that every month goes to you?

24 A It could.

25 Q And so of that \$6,000 a month that you've been sent by



1     SSL every month, and the \$6,000 a month that you've been  
2     sent since March of 2007 by NagraStar, that totals about  
3     \$350,000; isn't that right?

4     A     If you've added the numbers, I'll agree with you.

5     Q     Now, since 2004, when you started working for SSL, have  
6     you had any sources of income other than SSL and your  
7     consulting for NagraStar?

8     A     No.

9     Q     Now, one of the things you mentioned, Mr. Ereiser, is  
10    that NagraStar paid for you to build a lab; is that right?

11    A     No, they didn't pay for me to build a lab. They bought  
12    the equipment for the lab. I actually built the wood walls,  
13    et cetera, lights, myself with my own expense. They bought  
14    equipment for the lab.

15    Q     That lab's in your house?

16    A     Yes, it is.

17    Q     It's in the basement of your house?

18    A     Yes, it is.

19    Q     Did NagraStar install video cameras to watch you in the  
20    lab?

21    A     No, they did not.

22    Q     Did they install key loggers or something to keep track  
23    of everything that you do in the lab?

24    A     No, they did not.

25    Q     Did NagraStar require that you move so that you would

1 be closer to their facilities in Denver?

2 A No.

3 Q Did NagraStar relocate one of their employees so they  
4 would be close to you?

5 A No.

6 Q Did NagraStar arrange it so they could visit your lab  
7 almost daily?

8 A I don't know how they could arrange it. They can come  
9 any day they'd like, though.

10 Q But they haven't come any day, have they? They --

11 A They have been there one time, but they can come any  
12 day they'd like.

13 Q When was the lab completed, Mr. Ereiser?

14 A Well, it's a work in progress. It was workable, you  
15 know, shortly thereafter we started. We keep adding  
16 equipment, and I wouldn't say that it's -- to use the word  
17 completed. It's still not completed. It's a work in  
18 progress.

19 Q Okay. Didn't you testify, Mr. Ereiser, that but for a  
20 few small things, the lab was completed in July last year?

21 A Yeah, but I thought about that, and that's not correct.  
22 If we still want more equipment, I guess one can only assume  
23 that the word completed is not the correct word to use.

24 Q So by that standard, it's still not completed?

25 A Correct.

1 Q But --

2 A But it's workable.

3 Q Except for a few small things, it was completed in July  
4 of 2007?

5 A Well, we'd still like to have a chemical lab, too. So  
6 that's not a small thing.

7 Q Mr. Ereiser, did you testify as recently as last night  
8 that but for a few small things, the lab was completed in  
9 July of 2007?

10 A Yes, I did. And as I thought about it after, I  
11 figured, well, that wasn't really the right word to use  
12 because it still is a work in progress. There is still  
13 other stuff that we need. So sometimes when lawyers push  
14 questions at you, they want to get the answer they want to  
15 hear. So maybe I felt they wanted to get a "yes" on that or  
16 something. But it's not completed. We are still getting  
17 more equipment. So will it ever be completed? I don't  
18 know, but it's workable. We use it.

19 Q So if somebody testified that Mr. Gee came to visit the  
20 lab because it was recently completed, that would be wrong  
21 because it's still not completed, right?

22 THE COURT: Hold on.

23 (Laughter.)

24 THE COURT: Let's move on from the completed and  
25 uncompleted lab. Because I don't think the lawsuit will

1 turn on this.

2 (Laughter.)

3 THE COURT: Your next question.

4 BY MR. SNYDER:

5 Q Does your lab have a microscope, Mr. Ereiser?

6 A Yes, it does. It has an Axiotron microscope. We also  
7 have a microscope, FS60, sitting on the needle station.

8 Q It has a probing station?

9 A Yes.

10 Q It has a bonder?

11 A Yes.

12 Q It has a laser cutter?

13 A Yes.

14 Q It has a logic analyzer?

15 A Yes.

16 Q It has an oscilloscope?

17 A Yes.

18 Q Was any of that equipment purchased after July of 2007?

19 A I can't tell you for sure -- yes, there was some stuff  
20 purchased after 2007. The Axiotron, some laser goggles.  
21 Yeah, there was some stuff bought after.

22 Q When was the first time that anyone from NagraStar came  
23 to visit your lab?

24 A I believe it was when JJ Gee came, roughly a month or  
25 six weeks ago, whatever it was.

1 Q And has NagraStar installed any kind of monitoring  
2 equipment whatsoever in your lab?

3 A No. He should have learned off what NDS did. They  
4 didn't have any either, and it didn't turn out so well.

5 Q Other than the reports that you make to NagraStar, do  
6 they have any way of knowing what you do in that lab?

7 A No, they do not.

8 Q Now, let's talk about Mr. Tarnovsky for a few minutes.  
9 You mentioned a handful of the things that Mr. Tarnovsky has  
10 done, and I want to make sure that the chronology is clear  
11 for everyone.

12 A Sure.

13 Q You mentioned that Mr. Tarnovsky was involved in  
14 battery cards?

15 A That's correct, sir.

16 Q And those battery cards related to the DirectTV P1  
17 system?

18 A That's right.

19 Q Those were not EchoStar cards?

20 A No. The battery cards were for the P1 DirectTV system.

21 Q And that was in 1996, correct?

22 A '96 and '97, I believe.

23 Q And then I believe you also mentioned that  
24 Mr. Tarnovsky was -- wanted you to provide some -- or gotten  
25 some cheap Dalas cards?

1 A He had gotten some cards from Europe that didn't -- the  
2 original battery cards that were used on the P1 card or  
3 Version I card, sorry, they had an at-mail microprocessor --  
4 I'll try to make this simple because I don't understand it,  
5 really -- an at-mail processor and a Dalas processor, two  
6 microprocessors. The code was split up into both of them.  
7 So if another hacker was trying to hack your hack, kind of  
8 thing, they had to get the information out of both of them.  
9 It was harder. So the cards that Chris brought from Europe  
10 only had the Dalas on it. So I was able to provide him code  
11 that I had gotten from Norman that all of the code that was  
12 in both of these processors was extracted and could be put  
13 into one Dalas chip, and those are the cards that he bought  
14 from Europe that just had a single Dalas chip on them. And  
15 he bought them very cheaply, like five bucks a piece or  
16 something.

17 Q And those related to the DirectTV P1 --

18 A Well, they did at the time. He bought them just before  
19 the P1 was finished and he wanted me to sell them. I  
20 couldn't sell them because the stream was over and the P2  
21 was on line.

22 Q Mr. Ereiser, I need to ask you to wait until I finish  
23 asking my question before you answer. Could you please do  
24 that?

25 A Okay. Sorry, thought I did.

1 Q The cards, the Dalas processor cards that Mr. Tarnovsky  
2 purchased were for the DirecTV P1 system, correct?

3 A It was for the P1 system, you are saying?

4 Q Yes.

5 A Yes.

6 Q But you don't -- other than being for the P1 system,  
7 you don't recall when he purchased those cards?

8 A Yes. I just said about three weeks before the stream  
9 went to P2 is when he sent them to me.

10 Q Now, you also testified about Mr. Tarnovsky providing  
11 software related to devices for the DirecTV P2 system, P2  
12 cards?

13 A What did I say? Just refresh my memory on what I said  
14 on that.

15 Q Sure. Didn't you testify that Mr. Tarnovsky provided  
16 you with software?

17 A He did on the combo card, yes. And he also did supply  
18 a software to do original plastic cards, and he had the  
19 software built into a dongle.

20 Q And so he provided you with the software for those  
21 cards built into a dongle?

22 A Correct, sir.

23 Q The dongle was a device that you attached to the back  
24 of your computer?

25 A Parallel port, yes.

1 Q And that dongle controlled, among other things, the  
2 number of cards that could be created with that software?

3 A That's correct.

4 Q And if you reached a certain limit, then the dongle  
5 would prevent you from making any more cards; is that  
6 correct?

7 A Correct.

8 Q And those -- was that in late 1997, and early 1998?

9 A It was with the P2 cards. So I can't -- can't give you  
10 an exact date. I would have to guess it's '98.

11 Q Now, you -- for the assistance that Mr. Tarnovsky  
12 provided you, you sent him some money; isn't that correct?

13 A Yes, that's correct.

14 Q You sent him money -- one time you sent him money  
15 hidden inside of a receiver?

16 A That's correct.

17 Q You sent him about \$20,000 hidden inside of a receiver,  
18 correct?

19 A Something like that, yes.

20 Q Okay. That wasn't the only time that you sent him  
21 money inside of electronics devices, was it?

22 A No, it wasn't.

23 Q You also sent him about \$5,000 hidden inside of a Sony  
24 PlayStation?

25 A I believe so, yes.



1 Q In fact, you did that twice?

2 A I think so, yes. One to his father and one to him.

3 Q So on at least three occasions, you sent money inside  
4 electronics devices to Mr. Tarnovsky?

5 A Correct.

6 Q Now, so far, Mr. Ereiser, we've been talking primarily  
7 about the piracy of the DirectTV system.

8 A Uh-huh.

9 Q But you've also discussed with people piracy of the  
10 EchoStar system; isn't that right?

11 A Yeah, I've discussed it.

12 Q Okay. In fact, you've indicated that you were  
13 interested in hacking the EchoStar system; isn't that right?

14 A I think once when it first came out, I asked somebody.  
15 But there was never a lot of interest in it, no.

16 MR. SNYDER: Could you show the witness Exhibit  
17 439, please. I'm sorry, let's start with Exhibit 438.

18 BY MR. SNYDER:

19 Q Mr. Ereiser, is Exhibit 438 the transcript of an IRC  
20 chat between you and other people starting on October 5th,  
21 1998?

22 A It looks like it's between myself and Chris Tarnovsky.

23 Q And if you'd look at the second page, there is a  
24 discussion --

25 A Yes.

1 Q -- between you and -- well, one person named Traun and  
2 a person named Arthur.

3 A Okay.

4 Q And you are Traun, correct?

5 A That is correct.

6 Q And Arthur was Chris Tarnovsky?

7 A That is correct.

8 Q And if you'd look about 10 lines down.

9 A Okay.

10 Q It's actually the 16th line, it says, "Traun, I know  
11 you are trying Echo"; do you see that?

12 THE COURT: Counsel, I'm going to receive this.  
13 Why don't you pull this up on the board.

14 MR. SNYDER: Thank you.

15 (Defendants' Exhibit No. 438 is received in  
16 evidence.)

17 MR. SNYDER: Could you show the second page,  
18 please. And if you go down to the 16th line where it says,  
19 "I know you are trying Echo."

20 THE COURT: While they are doing that, let me  
21 explain to the jury, I probably can shorten the case by two  
22 days really if you weren't seeing these documents. But to  
23 follow the case, my value judgment was -- and I hope I'm  
24 right -- it's easier to see the documents as you go rather  
25 than just sitting there. Then when you go back to the jury

1 room, you really have a better understanding and hopefully a  
2 good understanding of what's occurred on both sides. So we  
3 could shorten the case by probably two days, but I don't  
4 think that's wise.

5 Counsel.

6 MR. SNYDER: Thank you, your Honor.

7 THE WITNESS: Yes, I follow where you said that.

8 BY MR. SNYDER:

9 Q Okay. It says, "I know you are trying Echo. No big  
10 deal. The race is on."

11 A Right.

12 Q That's you, isn't it?

13 A That's correct.

14 Q And if you go down nine lines, again, it says, "I will  
15 be the guy with the dump." Do you see that line?

16 A Yes, I do.

17 Q And that's by Traun?

18 A Yes.

19 Q And that's you?

20 A Yes.

21 Q It says, "I will be the guy with the dump. Yes, my  
22 lab, my gig this time."

23 A Yes. This is --

24 Q If you could go down 10 lines where it says, "This one  
25 is being done." Do you see that line?

1 A Yes. "This one is being done in Canada and Thailand."

2 Q And again, that's you?

3 A That's correct.

4 THE COURT: I'm sorry. Did you say Canada and  
5 Thailand?

6 THE WITNESS: Yes, sir.

7 BY MR. SNYDER:

8 Q And you were referring to dumping the EchoStar card?

9 A Yes.

10 Q Could you look, please, at Exhibit 439.

11 A Can I explain this?

12 Q Your attorney will have an opportunity to answer you  
13 question, Mr. Ereiser.

14 A Okay, sure. Go ahead.

15 Q Do you have Exhibit 439?

16 A Yes, I do.

17 Q And this is an exchange between you, using the name  
18 Traun, and Chris Tarnovsky, using the name Artie?

19 A Yes, I assume so.

20 Q And this is on October 29th, 1998?

21 A Okay.

22 THE COURT: I'm going to receive 438, 439, and you  
23 can put up 439.

24 MR. SNYDER: Thank you, your Honor.

25

1                   (Defendants' Exhibit Nos. 438 and 439 are  
2                   received in evidence.)

3 BY MR. SNYDER:

4 Q     If you'd look down about 15 lines, I'm guessing, where  
5 it says, "How is the Echo thing going?"

6 A     Yes.

7 Q     Do you see that?

8 A     Yes.

9 Q     And again, Traun is you, correct?

10 A    Yes. It says, "How is the Echo thing going? Heard you  
11 got the EPROM. I have the ROM now."

12 Q    "He said it was pretty easy," correct? That's the  
13 line --

14 A    Correct.

15 Q    And you are referring to you having the EchoStar ROM?

16 A    That's correct.

17 Q    And Chris Tarnovsky's response is, "I am not doing  
18 anything on Echo," correct?

19 A    That's correct.

20                   MR. SNYDER: All right. Could you show the  
21 witness Exhibit 302, please.

22 BY MR. SNYDER:

23 Q    Could you look, please, at Exhibit 302-15.

24 A    Okay.

25 Q    That's an e-mail from sparkyl@hushmail.com?

1 A That's correct.

2 Q That's you?

3 A Yes.

4 Q And this is to auto30099@hushmail.com?

5 A That's correct.

6 Q That's Don Nance?

7 A That's correct.

8 MR. SNYDER: Your Honor, I move Exhibit 302-15.

9 THE COURT: Any objection?

10 MR. NOLL: No objection.

11 THE COURT: Received.

12 (Defendants' Exhibit No. 302-15 is received  
13 in evidence.)

14 BY MR. SNYDER:

15 Q Could you look, please, at the first paragraph,  
16 Mr. Ereiser?

17 A Sure.

18 Q It says, "We are actually making a bit of headway on  
19 new one. Since the P3 info is all out now, maybe Brian  
20 could explain how he dumped the P3. Did he just glitch it?  
21 The P4 is very hard to glitch with all of the protection  
22 they built in, but there is some info coming out with a deep  
23 cycle digital glitcher." Do you see that?

24 A Yes, I do.

25 Q And this is an e-mail that you sent to Don Nance in

1 December of 2002?

2 A That's correct.

3 Q And the P3 is referring to the DirectTV P3 card?

4 A That's correct.

5 Q That was supplied by NDS?

6 A That's correct.

7 Q And the P4 is referring to the latest generation of  
8 DirectTV card also supplied by NDS?

9 A That's correct.

10 Q And you are referring to glitching that card, correct?

11 A Yes.

12 Q If you'd look at the last -- I'm sorry, the next  
13 paragraph that says "also don't believe."

14 A Yes.

15 MR. SNYDER: And I'm sorry, the language in here  
16 is a little bit strong, your Honor.

17 THE COURT: That's all right. You know, ladies  
18 and gentlemen, instead of the appropriate formality of  
19 federal court, I am going to let counsel read it in the  
20 record, the exact language. If it gets a little rough, so  
21 be it. These are the words that were spoken.

22 Counsel, you have the Court's permission.

23 MR. SNYDER: Thank you, your Honor.

24 BY MR. SNYDER:

25 Q So these are your words to Mr. Nance, correct,

1 Mr. Ereiser?

2 A Yes.

3 Q In that paragraph, you say, "Also don't believe any of  
4 the shit on the net Hitech (phonetic) is flapping about,  
5 pure bullshit. Both Chris and I have an agreement not to  
6 hack NDS, but this new card is completely controlled by  
7 DirecTV. NDS is out of the picture."

8 Do you see that?

9 A Yes, I do.

10 Q And by that, you are saying you understand it's okay  
11 for you to hack the P4 card?

12 A No. What I'm doing here in this e-mail, if you know,  
13 you guys -- or NDS, DirecTV, were able to bust Don Nance on  
14 the information that I gave them. I am gaining information.  
15 This e-mail, it was forwarded to Larry Rissler. All these  
16 e-mails that discuss anything with P3, P4, or whatever,  
17 Larry Rissler was made aware of all of them, just about, if  
18 not all of them, and they had no substance. What is a deep  
19 cycle digital glitcher? Does anybody on the planet know  
20 what that is?

21 Q Mr. Ereiser, the Chris that you are referring to in  
22 this paragraph is Chris Gerlinsky, correct?

23 A Yes, it is.

24 Q It's not Chris Tarnovsky?

25 A That's correct.



1 Q So you are not suggesting that Mr. Tarnovsky was  
2 involved in hacking the P3 or P4 card, are you?

3 A Not at all. I thought you were suggesting I was trying  
4 to hack the P3 or P4 card.

5 Q According to you, you are operating undercover for  
6 DirecTV?

7 A I had talked to Larry Rissler about Don Nance and I  
8 don't think anybody from NDS or DirecTV can deny they did  
9 not know who was responsible for the P3 hack until I told  
10 them. So I'm not saying I was undercover for anybody. I  
11 told them that Don Nance was responsible, and that's exactly  
12 how you caught him and why today he is under house arrest.  
13 So when I made -- when I'm talking to him like this, how do  
14 you talk to a guy that's doing it other than like this? You  
15 just don't say "I'm coming to your house to have you  
16 arrested."

17 Q If you want to get information out of a pirate, you  
18 have to pretend to be a pirate?

19 A Exactly.

20 Q So you understood that if you wanted to get information  
21 about Mr. Nance participating in piracy, you'd have to act  
22 like a pirate; is that right?

23 A Not necessarily act, but talk the talk.

24 Q You would have to talk like you were a pirate?

25 A Yes.

1 Q You would have to talk like you were actively involved  
2 in piracy?

3 A Yes.

4 Q And you would expect that anyone who was trying to get  
5 information about the pirate activities of others would  
6 probably have to do the same thing; isn't that right,  
7 Mr. Ereiser?

8 A Sometimes yes; sometimes no.

9 Q Now, in your communications with Mr. Nance, you didn't  
10 limit them to DirectTV cards, though, did you?

11 A I'm not sure.

12 Q Could you look, please, at Exhibit 302-52.

13 A Okay.

14 Q This is an e-mail by you using the pseudonym  
15 sparkyl@hushmail.com?

16 A Okay.

17 Q Is that right?

18 A Yes.

19 Q And this, again, is to auto30099@hushmail.com?

20 A Yes, Don Nance.

21 Q That's an e-mail you sent to Mr. Nance?

22 A Yes.

23 Q And this was two years later, in June of 2004?

24 A I guess so. I don't remember it, but if that's what it  
25 is, I guess so.

1 MR. SNYDER: Your Honor, I move Exhibit 302-52.

2 MR. NOLL: No objection.

3 THE COURT: Received.

4 (Defendants' Exhibit No. 302-52 is received  
5 in evidence.)

6 MR. SNYDER: Thank you.

7 BY MR. SNYDER:

8 Q If you look at the text of the e-mail, Mr. Ereiser, it  
9 says, "Well, the P4 and the ROM 104 are looking very  
10 appealing at this point. I have some really nice fib  
11 pictures of the ROM 104, but have mostly had someone just  
12 try glitching P4. Have to glitch ATR and also need  
13 different glitcher"; do you see that?

14 A Yes, I do.

15 Q ROM 104 is an EchoStar card, isn't it?

16 A Yes, it is. But I can also tell you I've never had  
17 pictures -- fib pictures of the 104 or the P4 in my life.

18 Q So you told someone who you believed to be  
19 participating in piracy that you had fib pictures of a smart  
20 card when you actually didn't?

21 A That's right. Just touching bases with him, keeping in  
22 touch.

23 Q And you told him that in part of your hope that you  
24 could get information from him?

25 A Correct.

1 Q And you think it would be perfectly natural for someone  
2 who is trying to get information out of a pirate to pretend  
3 that they had information that they might not actually have?

4 A I think it would be perfectly natural for me to  
5 approach him this way, is all I know.

6 Q Now, Mr. Ereiser, you also purchased a file related to  
7 EchoStar for Mr. Nance, didn't you? A bootstrap file?

8 A No. Actually, I purchased the bootstrap file from Dave  
9 Dawson or Al Menard, whoever one you want to say, right when  
10 it was first out, when the P3 bootstrap came out, and sold  
11 it to Don Nance.

12 Q And you purchased that from Dave Dawson; isn't that  
13 right?

14 A That's correct.

15 Q You didn't purchase that from Al Menard?

16 A It was Dave, but Dave said from Al. Al didn't want to  
17 deal with me directly.

18 Q You purchased it from Dave Dawson?

19 A Because Al didn't want to sell it to me directly is  
20 what Dave said.

21 Q And Mr. Dawson is also the person that you claim sent  
22 you these so-called e-mails that have been marked as  
23 Exhibit 988 through 991?

24 A Yes.

25 Q When did he send you those e-mails?

1 A I am not exactly sure, and I don't even know if there  
2 is a copy somewhere where the e-mail came.

3 Q Now, you testified after lunch that these were all sent  
4 to you in the body of an e-mail?

5 A That's correct, in a text file, maybe a zip file and I  
6 open it up, and they are all text files.

7 Q Now, isn't it right that each one of these so-called  
8 e-mails was in a separate text file?

9 A From memory, I assume so. That sounds logical.

10 Q You are familiar with a text file, aren't you?

11 A Yes, I am.

12 Q Text file is just like a low-level word processing  
13 file?

14 A Yes.

15 Q You type characters in and it creates a text file; is  
16 that correct?

17 A That's correct.

18 Q A text file is not a form of an e-mail, is it?

19 A You can copy and paste an e-mail into a text editor and  
20 it's an e-mail file.

21 Q You can also type anything you want into --

22 A I suppose you could, sure.

23 Q Let me finish my question, Mr. Ereiser.

24 You can type anything you want into a file and create a  
25 text file; isn't that right?

1 A Sure.

2 Q And what Mr. Dawson sent you were four text files,  
3 correct?

4 A Yes.

5 Q He didn't send you any actual e-mails; isn't that  
6 right?

7 A That's correct.

8 Q Now, each of these text files that he sent you was  
9 separately named; isn't that right?

10 A Yes.

11 Q DR7 followed by a number, then .txt?

12 A Correct.

13 Q So there's DR71, DR72, DR73 and DR74?

14 A Yes.

15 Q Did you notice, Mr. Ereiser, that for some reason, the  
16 file marked DR71 is actually the most recent file in the  
17 e-mail string?

18 A No. And why does that matter?

19 Q Well, isn't it true, Mr. Ereiser, that the file DR74 --  
20 I'm sorry -- DR73.txt is actually the earliest file, it's  
21 dated October 19, 1999?

22 A I don't know, maybe he's dyslexic. I don't know.

23 Q Because he could have just changed those, correct?

24 A No, he named the text file. So he can name them  
25 whatever he wants. I don't understand what you are trying

1 to get at here, that he named the oldest file the newest  
2 number. He can name them whatever he wants.

3 Q You can name a text file anything you want; isn't that  
4 right?

5 A Sure you can.

6 Q Just like you can type anything you want into the  
7 contents of a text file; isn't that right?

8 A You could, yes, but in something like this that has  
9 this e-mail headers and stuff like this, I think you could  
10 probably go to the server and see that this e-mail went  
11 through the server at that particular time.

12 THE COURT: Let's stop for a moment.

13 Okay.

14 THE WITNESS: So as I was saying --

15 THE COURT: Counsel.

16 BY MR. SNYDER:

17 Q Mr. Ereiser, your testimony is that these documents --  
18 you've never seen these in e-mail form, have you?

19 A No. I've never seen them in an e-mail program, no.

20 Q Mr. Dawson never sent them to you in an e-mail form,  
21 correct?

22 A No. He sent them to me in a zip file that came out in  
23 text files.

24 Q Now, your testimony is that these appear to be e-mails  
25 involving the DR7 site; is that right?

1 A That are involving the DR7 site?

2 Q They come to or from DR7.com?

3 A I believe some of them did, yeah, if not all. Whatever  
4 was said, yes.

5 Q Okay. Are you aware that Mr. Menard is not the only  
6 person who had system administrator privileges on DR7.com?

7 A No, I'm not aware of that.

8 Q Aren't you aware that Mr. Pearlman for a time had  
9 administrative privileges on DR7.com?

10 A He could have, I guess.

11 Q He could have?

12 A I don't know. I just answered your question before  
13 that I didn't know anybody else had administrative rights to  
14 the e-mail program. There are a lot of people who have  
15 administrative rights to web pages, but that does not mean  
16 they have rights to the e-mail.

17 Q But anybody can type a text file; isn't that right,  
18 Mr. Ereiser?

19 A Sure. Anybody can type a text file, but if they can  
20 copy an e-mail with the headers like this and the times that  
21 it went through the servers and everything that can be  
22 verified, you'll want to hire that guy.

23 (Laughter.)

24 BY MR. SNYDER:

25 Q Mr. Ereiser, let's talk about NDS stolen documents for



1 a few moments.

2 A Okay.

3 Q You received those documents from Giles Kaehlin?

4 A Giles Kaehlin.

5 Q Giles Kaehlin. And when you received those documents,  
6 your understanding was Mr. Kaehlin was the CEO of Canal+?

7 A Yes, or --

8 Q When did you receive those documents?

9 A It would have been in mid 2004, somewhere in there.

10 Q Okay. In mid 2004, you were working for Canal+ at the  
11 time, correct?

12 A Correct -- no, I was working for Titus.

13 Q Titus was a company that Mr. Kaehlin also ran?

14 A Bernard ran Titus.

15 Q You understood that Mr. Kaehlin was also in control of  
16 Titus?

17 A Yeah, I understood that he had something to do with  
18 Titus for sure.

19 Q And you were working with them?

20 A Yes.

21 Q And that's how you were getting paid by Canal+?

22 A That's correct, sir.

23 Q And in mid 2004, you were also consulting for SSL; is  
24 that right?

25 A I believe it was just shortly after.

1 Q Just shortly after you received these documents?

2 A No. Shortly after I was done with Titus, I was working  
3 with SSL.

4 Q And this is about the time you received the documents  
5 from Mr. Kaehlin?

6 A Shortly before.

7 Q Now, your testimony today was that you understand that  
8 these documents were connected with the Canal+ litigation  
9 against NDS?

10 A Giles Kaehlin had told me at one time that he had a  
11 court order or Canal+ had a court order to download the NDS  
12 servers, all the e-mail off the NDS servers. I didn't ask  
13 questions. I was just new to them at that point. I didn't  
14 ask questions, I just assumed. I mean, who was going to  
15 second-guess the CEO of a big company like that? I just  
16 assumed that was what it was.

17 Q You didn't ask questions, you just thought this was  
18 good stuff?

19 A Good stuff, bad stuff, green stuff, yellow stuff. I  
20 didn't ask questions. It just didn't matter.

21 Q But then you looked at the material, right?

22 A At the very beginning, he was just showing me pieces  
23 and parts and --

24 Q Let's be specific, Mr. Ereiser.

25 A Sure.

1 Q After you received these 26,000-some pages of  
2 e-mails --

3 A Okay.

4 Q -- looked at some of them, right?

5 A Absolutely.

6 Q Because you were interested in what they contained?

7 A I -- yeah, mostly for my own personal, you know --

8 Q And you noticed that all of those e-mails were internal  
9 to NDS; isn't that right?

10 A Not right away. Eventually, I did.

11 Q Maybe not right away, but eventually you figured out  
12 that all of those 26,000 pages of documents were internal to  
13 NDS?

14 A Yes, eventually I figured it out.

15 Q And, in fact, you figured out that they all appeared to  
16 come from a single computer?

17 A Eventually, it appeared that way. I didn't know.  
18 Maybe NDS has -- the way they run their servers, maybe  
19 everybody dumps their mail in one spot on that server for  
20 each particular guy. I don't know.

21 Q Mr. Ereiser, it's not a particularly complicated  
22 question. I'm just asking about what you understood.

23 THE COURT: No. Stop.

24 You are admonished not to discuss this matter  
25 amongst yourselves, nor to form or express any opinion

1 concerning the case.

2 Have a nice recess. I'll come and get you in 20  
3 minutes.

4 Counsel, we will see you in 20 minutes.

5 (Recess.)

6 -oOo-

7 CERTIFICATE

8  
9 I hereby certify that pursuant to Section 753,  
10 Title 28, United States Code, the foregoing is a true and  
11 correct transcript of the stenographically reported  
12 proceedings held in the above-entitled matter and that the  
13 transcript page format is in conformance with the  
14 regulations of the Judicial Conference of the United States.

15  
16 Date: April 23, 2008

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JANE C.S. RULE, U.S. COURT REPORTER

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CSR NO. 9316

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