

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

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ECHOSTAR SATELLITE)	
CORPORATION, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. SACV 03-0950-DOC
)	
NDS GROUP PLC, et al.,)	
)	Day 14, Volume III
Defendants.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Jury Trial

Santa Ana, California

Thursday, May 1, 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
08-05-01 EchoStarD14V3

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I N D E X

EXAMINATION

Witness Name	Direct	Cross	Redirect	Recross
HASAK, REUVEN				
By Mr. Hagan		4		38
By Mr. Snyder			28	

EXHIBITS

Exhibit	Identification	Evidence
Plaintiffs' No. 2057		25

1 SANTA ANA, CALIFORNIA, THURSDAY, MAY 1, 2008

2 Day 14 - VOLUME III

3 (1:30 p.m.)

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

6 THE COURT: The jury is back in session.

7 Thank you for your courtesy, Counsel.

8 All counsel are present. The witness is present.

9 This is the continued cross-examination by
10 Mr. Hagan on behalf of EchoStar.

11 MR. HAGAN: Thank you, your Honor.

12 REUVEN HASAK, DEFENDANTS' WITNESS, RESUMED

13 CROSS-EXAMINATION (Continued.)

14 BY MR. HAGAN:

15 Q Good afternoon, Mr. Hasak.

16 Now, you spoke a little bit this morning about the
17 anti-piracy platform that NDS developed, and one of the
18 methods that you would employ is spreading what you called
19 "disinformation"; is that correct?

20 A Yes.

21 Q And what is "disinformation"?

22 A "Disinformation" is an operation where you put away --
23 you give -- you give the pirates some false information that
24 they won't -- that you want them to believe in so they
25 can -- so they would divert their -- their efforts from one

1 side to the other side, or to the other -- to the other
2 direction.

3 Q And part of the disinformation includes legitimate
4 information; is that correct?

5 A Correct.

6 Q So through your network of pirate employees, you would
7 distribute some legitimate information into the pirate
8 community, correct?

9 A Not. When you say "using our pirate community" -- how
10 did you say it?

11 Q Your former pirates, like Mr. Tarnovsky and other
12 agents, that's how you would spread this disinformation into
13 the pirate community?

14 A I would use an agent, not somebody else, and don't
15 misunderstand, it's long -- it's not a daily operation.

16 Q It's a complicated operation?

17 A Yes.

18 Q And part of the reason that it's complicated and
19 difficult to control is because you're actually putting some
20 legitimate information into the pirate community, correct?

21 A Not correct, because I didn't say it's difficult to
22 control, and it's complicated only because you have to -- to
23 find the sophisticated way how to make the pirate believe
24 that it's correct.

25 Q Now, the legitimate information that goes into the

1 disinformation communication into the community, pirate
2 community, that legitimate information comes from the Haifa
3 research team, correct?

4 A No, not correct.

5 Q Where would Mr. Tarnovsky get the disinformation that
6 he posted on piracy websites?

7 A I don't recall any disinformation operation ran by
8 Chris -- ran with Chris Tarnovsky.

9 MR. HAGAN: Your Honor, I would ask permission to
10 play pages 215, line 16 through 18; and 215, 22 through 24
11 of Mr. Hasak's deposition.

12 THE COURT: You'll restate that in just a moment,
13 as soon as I have that in front of me.

14 MS. WILLETTS: 215 of August 17th deposition.

15 MR. HAGAN: 215, line 16 through 18, and 22
16 through 24.

17 MS. WILLETTS: That's August 17th?

18 THE COURT: 215, Counsel, line what?

19 MR. HAGAN: Line 16 through 18 is the question,
20 your Honor, and the answer is line 22 through 24.

21 THE COURT: Line -- what is the answer at?

22 MR. HAGAN: Line -- page 215, line 22 through 24.

23 MS. WILLETTS: I had the wrong date.

24 THE COURT: Thank you.

25 Now, Counsel, I was given the wrong document, so

1 we're going to do that again. Page 215, line 16 through 18?

2 MR. HAGAN: Yes, sir. It's the question.

3 THE COURT: And the answer is at?

4 MR. HAGAN: Page 215, line 22 through 24.

5 THE COURT: You may.

6 (Videotape played of Defendants' witness,
7 Reuven Hasak, and inserted below.)

8 "MR. HAGAN: Where would Mr. Tarnovsky get this
9 disinformation that he posted on piracy-related websites?

10 "MR. HASAK: I would say together with Mr. Norris
11 and the people in the research team in Israel."

12 (Videotape concluded.)

13 BY MR. HAGAN:

14 Q Now, Mr. Hasak, who from the people in Israel would
15 provide Chris Tarnovsky with this disinformation?

16 A First of all, I didn't hear well what was said here on
17 the video.

18 Q If -- if you would like, I can read you the question
19 and the answer.

20 A Yes, yes.

21 Q Question: "Where would Mr. Tarnovsky get this
22 disinformation that he posted on piracy-related websites?"

23 Your answer: "I would say together with Mr. Norris and
24 the people in the research team in Israel."

25 A Yeah, so what the question is?

1 Q Who from the research team would give Mr. Tarnovsky
2 this disinformation that he posted on piracy-related
3 websites?

4 A I think it -- it was a mistake. I was referring to
5 Johnny Walker when he got software. Together with Israel,
6 he developed a software. It was not a posting. It was a
7 software that he used in Johnny Walker.

8 Q Okay. So your testimony today is that Mr. Tarnovsky
9 did not post any disinformation on piracy-related websites?

10 A I don't remember any case like this.

11 Q And you also don't recall whether or not any of this
12 disinformation Mr. Tarnovsky posted on the dr7 website,
13 correct?

14 A Please repeat your question.

15 Q You don't remember whether or not Chris Tarnovsky
16 posted disinformation on Al Menard's dr7 website, correct?

17 A No. To the best of my recollection, he never posted
18 any false -- any disinformation.

19 Q Now, I also asked you in your deposition if
20 Mr. Tarnovsky ever posted disinformation relating to
21 EchoStar's security system, and you said, "I don't
22 remember." Is that still your testimony?

23 A No. My answer is "no."

24 Q Are you aware of all of the postings that Christopher
25 Tarnovsky made on piracy-related websites?

1 A Not me personally. My team.

2 Q Have you ever seen any of the postings that Christopher
3 Tarnovsky made on piracy-related websites?

4 A Maybe once, twice, three times, but otherwise, I would
5 get a report from my team.

6 Q Okay. Were you in charge of instructing Mr. Tarnovsky
7 that he could post a particular batch of disinformation on
8 piracy-related websites?

9 A Disinformation will go only through me. I never
10 instructed him to do it.

11 Q So if someone else within the company instructed him to
12 do it, you wouldn't be aware of that?

13 A No, it would be to break the rule of our company.

14 Q Now, did Mr. Tarnovsky keep any electronic files or --
15 did Mr. Tarnovsky keep any electronic files or records that
16 captured all of his postings on piracy-related websites?

17 A I don't know.

18 Q As someone who is tasked with supervising
19 Mr. Tarnovsky, would you have wanted to see a list of his
20 postings?

21 A We saw it -- I mean, my team saw it on the net in
22 realtime.

23 Q And we established this morning that you've never seen
24 any particular list, comprehensive list, of Mr. Tarnovsky's
25 aliases that he used to post information on these websites,

1 correct?

2 A Correct, not myself.

3 Q And you are not aware of any written document that has
4 those aliases on it, right?

5 A I don't remember. It doesn't mean that I was not
6 aware.

7 Q Now, if I understood your testimony this morning, you
8 were asked at some point in time to get EchoStar access
9 cards for the Haifa team to use in their technical research;
10 is that correct?

11 A Yes.

12 Q Did you know at the time that you were asked to get
13 those cards what they were going to be used for?

14 A For the technical research.

15 Q Now, have you seen a document that captured the results
16 of the Haifa team's technical research into EchoStar's
17 security system?

18 A No.

19 Q Okay. Let's take a look at Exhibit 98.

20 And while we are getting that out, you are familiar
21 with a gentleman named David Mordinson, correct?

22 A Yes, yes.

23 Q And Mr. Mordinson is one of the engineers for the
24 defendants in the Haifa team?

25 A Yes.

1 Q And you are aware that Mr. Mordinson was one of the
2 engineers that conducted this technical research into
3 EchoStar security system?

4 A Yeah, he was at Haifa.

5 Q Now, you have in front of you a copy of Exhibit 98.
6 Mr. Mordinson testified that this is the written report --

7 A Who testified?

8 Q Mr. Mordinson.

9 A Yes.

10 Q Testified that this is the written report that he
11 generated after conducting technical research into
12 EchoStar's security system.

13 Now, Mr. Hasak, I understand that your belief is that
14 the project was just technical research, and based upon your
15 belief, would you expect to see any sections in
16 Mr. Mordinson's report that describe how to hack EchoStar's
17 security system?

18 A No.

19 Q Would you be surprised if there were such sections in
20 Mr. Mordinson's report?

21 A No.

22 Q Would you expect to see sections in Mr. Mordinson's
23 report that describe how to create an E3M pirated EchoStar
24 access card?

25 A Would they be surprised?

1 Q Yes, sir.

2 A No.

3 Q You would expect to see, as part of this technical
4 research, detailed instructions on how to create an E3M
5 pirated EchoStar Smart Card?

6 A I don't know.

7 Q Now, you testified as part of your job for NDS, you're
8 involved in data security?

9 A My job?

10 Q Yes, sir.

11 A In doing what?

12 Q As part of your job for NDS, you're involved in data
13 security?

14 A (No audible response.)

15 Q I believe you said physical security and data security?

16 A Data security, yes.

17 Q Data security.

18 A Yeah, okay. My mistake.

19 Q And what is involved in data security?

20 A Basic principle of me to know compartmentalization,
21 getting passwords, blocking the network from infiltration,
22 firewalls and more.

23 Q Now, would it fit within your requirements for data
24 security for Mr. Mordinson to fly into the United States
25 with detailed instructions on how to hack EchoStar's

1 security system in the United States?

2 A Please repeat your question.

3 Q Yes, sir.

4 Would it fit within your protocols for data security
5 for Mr. Mordinson to fly from Haifa into the United States
6 with detailed instructions on how to hack EchoStar's system
7 in the United States?

8 A It's far easy. Keep these documents secured is okay.

9 Q Now, does it fit within -- oh, let me back up for a
10 second.

11 You testified this morning that these pirate employees,
12 like Chris Tarnovsky, should not have had access to
13 sensitive information about NDS's competitors, correct?

14 A No. Please, clarify your question. I want to be
15 accurate.

16 Q Well, let me ask it open-ended.

17 Would employees who had previously engaged in piracy,
18 like Christopher Tarnovsky, would those employees be allowed
19 access to sensitive information about hacking NDS's
20 competitors?

21 A I don't have a general answer. The answer would be no,
22 but it's, you know --

23 Q Can you think of any reason why Mr. Mordinson would
24 have shared information about hacking EchoStar's security
25 system with Chris Tarnovsky in the United States?

1 A I didn't expect him to share. It would be legitimate
2 for Mordinson to ask questions.

3 Q Now, have you seen any evidence demonstrating that
4 Chris Tarnovsky was e-mailing out portions of EchoStar's
5 security codes to other individuals involved in piracy?

6 A No.

7 Q Let's take a look at Exhibit 2002.

8 Mr. Hasak, did you ever get a list from Chris Tarnovsky
9 of the numerous e-mail addresses that he used when
10 conducting business on the internet?

11 A Me personally?

12 Q Yes, sir.

13 A No.

14 Q Have you -- are you aware of any such list?

15 A Today I don't recall.

16 Q Are you aware that Mr. Tarnovsky ever used the e-mail
17 address von@metro2000.net?

18 A No.

19 Q Are you aware if Mr. Tarnovsky ever used the e-mail
20 address von@m20.net?

21 A No.

22 Q Are you aware if Mr. Tarnovsky ever used the e-mail
23 address von@fumanche.net?

24 A No.

25 Q Are you aware if Chris Tarnovsky ever used the e-mail

1 address ChrisVon@s4interpass.com?

2 A No.

3 Q Safe to say that for all of those e-mail addresses, he
4 could have used them, you just aren't aware?

5 A Not me personally.

6 Q Exhibit 2002, which you have in front of you, is a copy
7 of an e-mail sent from Chris Tarnovsky to Jan Saggiori.
8 Mr. Saggiori testified that this e-mail contained portions
9 of EchoStar security codes. Do you know of any reason why
10 Chris Tarnovsky would have had access to these security
11 codes from the Haifa team?

12 A No.

13 Q Did you ever ask Mr. Tarnovsky if he e-mailed portions
14 of EchoStar security codes to Jan Saggiori?

15 A Specifically to Jan Saggiori?

16 Q Yes, sir.

17 A Maybe I asked him once, and there were some -- no, it
18 was during the lawsuit, so no, I -- no. The answer is no.

19 Q Now, during -- as part of your investigation into
20 Mr. Tarnovsky, you asked him a number of questions about
21 whether or not he was engaged in these different pirate
22 activities, correct?

23 A When do you mean; when we recruited him?

24 Q Well, not -- not when you recruited him, but after the
25 government's investigation in 2001.

1 A What's the question?

2 Q Did you interview Mr. Tarnovsky and ask him whether or
3 not he had engaged in any of this conduct?

4 A Yes. It's more than interview. It's an investigation.

5 Q And you took that investigation seriously?

6 A Very seriously.

7 Q Because it involved one of NDS's competitors?

8 A No. Because it -- it came from a -- from an official
9 agency, and it referred to DirecTV, not to competitors.

10 Q Now, as -- as part of this investigation when you
11 questioned Mr. Tarnovsky, did you record your questions and
12 his answers?

13 A Record, you mean tape-record it?

14 Q Yes, sir.

15 A No.

16 Q Did you record it by typing it out on a computer?

17 A No.

18 Q Did you record it by hand writing out notes?

19 A No.

20 Q So this was an important and serious investigation, but
21 you prepared no documents that reflected the questions you
22 asked Mr. Tarnovsky or the answers he gave?

23 A It was a long conversation of couple of hours, but the
24 polygraph test was recorded on a -- on a document.

25 Q Did you ask Mr. Tarnovsky any questions in your

1 investigation that were not included on the polygraph
2 document?

3 A Yes.

4 Q But you don't have any notes or recordings or typed up
5 memorandums or reports or summaries of any of those
6 questions or answers, correct?

7 A Not the questions, the subjects.

8 Q Now, do you believe that the technical research engaged
9 in by the Haifa team for EchoStar's security system was a
10 completely legitimate operation?

11 A In Haifa team?

12 Q Yes, sir.

13 A Yes.

14 Q And you believe that it was completely legitimate for
15 Mr. Mordinson and Mr. Shkedy to fly into the United States
16 and to use a sniffer to intercept EchoStar's signal and log
17 the data communication between the card and the receiver?

18 A I cannot answer regarding the sniffer, et cetera,
19 because I was not aware of it.

20 Q Do you think that it was a legitimate part of that
21 operation for Mr. Mordinson and Mr. Shkedy to fly back to
22 the United States a second time, drive into Canada and
23 reprogram an EchoStar access card?

24 A It was -- from my point of view, it was legitimate for
25 them to fly to U.S. and Canada to test their research.

1 Q There wasn't any -- anything secretive or improper
2 about this conduct; is that correct?

3 A Is that correct -- that is correct.

4 Q And if Mr. Mordinson testified that he was instructed
5 by Chaim Shenor to keep this conduct secret, that would be
6 inconsistent with what you believe?

7 A No, it's -- it's in -- it is consistent, because it's
8 based on need to know.

9 Q Now, if it was a legitimate aboveboard operation, why
10 did Mr. Mordinson and Mr. Shkedy not go to an official NDS
11 establishment to perform this work?

12 A Because they need to find a place where they can use a
13 card with a legal, legitimate -- how do you call it --
14 subscriber, and to involve NDS offices in buying it or
15 renting, or I don't know what -- it's much too complicated.
16 It's much better to go to a private home where you have a
17 television set and subscription, and test it.

18 Q How many offices, official establishments and offices,
19 does NDS have in the United States?

20 A At those time, I think it was one. I am not sure.

21 Q And that was in California?

22 A This was in California.

23 Q Why didn't Mr. Mordinson or Mr. Shkedy just travel to
24 the official establishment in California to conduct this
25 activity?

1 A I just told you, because they have to find a television
2 set and a subscriber.

3 Q And Mr. Tarnovsky was an EchoStar subscriber at that
4 time, and he had an EchoStar account that the defendants
5 were paying for. Why didn't they just use his subscription?

6 A First of all, I don't remember he was. Secondly, we
7 wanted him to be in other places.

8 Q Now, is there any particular reason that you can think
9 of that Mr. Mordinson and Mr. Shkedy would reprogram an
10 EchoStar Smart Card in a basement of a private residence in
11 Canada?

12 A Basement? Sounds like underground.

13 No, I mean, the only reason they went, as far as I
14 know, is to test the -- the technical research.

15 Q Now, you also testified this morning that NDS tries to
16 help EchoStar investigate piracy or hacking of its system,
17 correct?

18 A Correct.

19 Q And Mr. Norris has been involved in some of those
20 efforts, correct?

21 A It was not an effort. It was an idea, which did not
22 materialize.

23 Q Well, why, sir, then, after Mr. Mordinson and
24 Mr. Shkedy created a report on how to effectuate a
25 commercial hack of EchoStar, if they truly wanted to help

1 him, why didn't they send him a copy of that report?

2 A First of all, it was not a commercial hack, it was a
3 research. And I don't think it would be proper for us to
4 disclose our researchers to anybody.

5 Q And if the Headend Report describes a commercial hack
6 in practice for DISH Network USA, that's just a bad wording
7 choice?

8 A I didn't understand, sorry. I didn't understand you,
9 Mr. Hagan.

10 Q If the Headend Report describes how to hack EchoStar's
11 DISH Network system in the USA, that was just poor wording
12 choice?

13 A It's not a matter of poor wording. It's an internal
14 research.

15 Q Now, did you ever become aware that Chris Tarnovsky had
16 provided a software to Allen Menard for reprogramming access
17 cards?

18 A No.

19 Q Have you ever heard of the Big Gun Version II software
20 that Chris Tarnovsky developed?

21 A Say it again, please.

22 Q Have you ever heard of the Big Gun Version II software
23 that Christopher Tarnovsky developed?

24 A Never, no.

25 Q And if Mr. Tarnovsky had given some of this code to

1 Allen Menard, that's something that you aren't aware of?

2 A No.

3 Q Now, if Mr. -- if Mr. Norris was aware of that, would
4 you have expected him to inform you?

5 A It's difficult to say, now, because I don't know what
6 the meaning of this posting that you are referring to.

7 Q Can you think of any legitimate aboveboard reason for
8 Mr. Tarnovsky to give Allen Menard a pirate card with a Big
9 Gun Version II software on it?

10 A Pirate -- which pirate card? It depends. I mean, I
11 don't know. I -- I was not aware of this operation that you
12 are talking now about, and it's too technical for me what
13 you mentioned before.

14 Q Now, in 2001, am I correct that you had a conversation
15 with Dr. Peled about Chris Tarnovsky's involvement in
16 EchoStar piracy?

17 A 2001? Not that I recall now, but maybe I forgot it.

18 Q And during that conversation, didn't Mr. Peled inform
19 you that Oliver Kommerling admitted Chris Tarnovsky posted
20 EchoStar's code on Mr. Menard's website?

21 A Now I remember what you -- yeah, Dr. Peled called me
22 and told me it was during 2001, and he told me that he heard
23 from Kommerling at NDS. I don't remember saying Tarnovsky,
24 that NDS posted the -- the hack.

25 Q And didn't Mr. Peled also tell you that Kommerling

1 admitted Chris Tarnovsky posted the Canal+ code on
2 Mr. Menard's website?

3 A I'm referring to this, that he -- that he accused NDS
4 posting the Canal+. That's what I'm referring to.

5 Q So in 2001, you were, at least at that point, aware of
6 the allegations into Chris Tarnovsky and posting this code,
7 correct?

8 A Canal+, and it was a story by Kommerling.

9 THE COURT: That's confusing. Make sure the jury
10 and the Court knows which code. Is it Canal+, is it
11 EchoStar? Reask the question. It's not clear.

12 BY MR. HAGAN:

13 Q During the conversation that you had with Dr. Peled in
14 2001, did he -- did he tell you that Mr. Kommerling admitted
15 Chris Tarnovsky posted EchoStar code on Mr. Menard's
16 website?

17 A No.

18 Q Did Dr. Peled tell you that Oliver Kommerling admitted
19 Chris Tarnovsky posted the Canal+ code on Mr. Menard's
20 website?

21 A First of all, the word "admitted" I don't like. I
22 mean, if he admitted. He told -- he told Dr. Peled of
23 this -- of this rumor story, yeah.

24 Q And do you recall which month in 2001, Dr. Peled told
25 you this?

1 A No.

2 Q Was it before or after you gave Chris Tarnovsky the lie
3 detector test?

4 A It was after.

5 Q Do you know which month you gave Chris Tarnovsky the
6 lie detector test?

7 A It was -- I remember it was at the very beginning of
8 the year. I think 2001 or -- I -- but the very beginning of
9 the year.

10 Q Now, you testified this morning that Chris Tarnovsky
11 was allowed to work from his home, correct?

12 A Correct.

13 Q And he was allowed to work on the internet from his
14 home, correct?

15 A It included internet as well, yeah.

16 Q In addition to the NDS lab equipment that he had at his
17 house?

18 A Yes.

19 Q Now, did you install any software on Chris Tarnovsky's
20 computers to monitor his internet activity?

21 A No.

22 Q Did you require that his computers be synced up with
23 the NDS servers run from the NDS office in California?

24 A Please explain your question.

25 Q Was Mr. Tarnovsky's computers that he worked on at his

1 house, were those computers synced up to NDS's servers?

2 A I don't remember.

3 Q Did there come any point in time where you faxed
4 certain information to Ms. Gavencheck (phonetic) at News
5 Corporation related to Chris Tarnovsky and EchoStar piracy?

6 A Please start your question from there.

7 Q Did there come a point in time where you faxed
8 information to --

9 A Did I use what? I did what?

10 Q Faxed.

11 A Fax?

12 Q Yes, sir.

13 A Fax, okay.

14 Q -- information to Ms. Gavencheck at News Corporation
15 relating to Chris Tarnovsky's involvement in piracy?

16 A During this lawsuit, we exchanged information, but
17 everything concerning the lawsuit.

18 Q Let's take a look at Exhibit 2057.

19 Now, if you look at the second page, Mr. Hasak, at the
20 top it's hand written "To Genie, from Reuven."

21 A Yes, I see it.

22 Q Does this refresh your recollection on whether or not
23 you ever faxed information to Ms. Gavencheck about Chris
24 Tarnovsky's involvement in piracy?

25 A I remember sending this fax.

1 MR. HAGAN: Your Honor, I'll move Exhibit 2057
2 into evidence.

3 THE COURT: Any objection?

4 MR. SNYDER: Yes, your Honor. I object. It lacks
5 foundation, and improperly authenticated.

6 THE COURT: Do you recall faxing this?

7 THE WITNESS: (No audible response.)

8 THE COURT: Just a moment.

9 MR. SNYDER: The contents are not communications
10 from Mr. Hasak to Ms. Gavencheck.

11 THE COURT: His answer is, "I remember faxing
12 this," so overruled. It's received.

13 (Plaintiffs' Exhibit No. 2057 is received
14 into evidence.)

15 BY MR. HAGAN:

16 Q Now, Mr. Hasak, if you'll look at page 2 of
17 Exhibit 2057, the following text was included in your fax
18 from Dan Kavanaugh.

19 A Uh-huh.

20 Q "In April of 2000, I was approached by Stanley Frost
21 from New York who was a chat friend of mine on the MIRC chat
22 channel satellite. He informed me he had a deal going with
23 one, dr7, Al Menard, to sell the hacked EchoStar code. I
24 was supposed to receive cards and money from customers who
25 were sent to me from Stanley Frost's website, the New

1 Frontier Group, he had set up overseas through a friend of
2 his.

3 "Once I received a card and money, I was to send a
4 portion of the money to dr7 for payment for programming the
5 EchoStar cards that we sent, and also a portion to Stanley
6 Frost. I did this for about two-and-a-half months where we
7 were then told by dr7 that our sales were not high enough,
8 and they wanted to concentrate on the bigger dealers doing
9 larger volumes."

10 Do you recall receiving this information?

11 A No.

12 Q It says there are two attachments, one, "Waybills sent
13 to X-Factor Design, dr7's address," and two, "Old programmed
14 EchoStar cards, now dead, with dr7 stickers on them, that
15 they were received back from dr7."

16 Do you recall receiving those Waybills or those
17 EchoStar cards?

18 A No. And all these papers were given to me by Giles
19 Kaehlin, and I have related to our lawyers. It came,
20 according to him, from Ron Ereiser.

21 (Interruption in the proceedings.)

22 THE WITNESS: Ron Ereiser.

23 BY MR. HAGAN:

24 Q And Mr. Kaehlin was the head of security for Canal+ at
25 that time?

1 A I don't know he's the head of security, but he was at
2 that time Canal+, I guess -- I assume.

3 Q Now, if you'll go to page 5 of Exhibit 2057, there is a
4 copy of a FedExed Waybill.

5 Did you do anything to investigate whether there was a
6 link between this FedEx Waybill shipped to Vancouver, Canada
7 and the FedEx Waybills that were intercepted at Chris
8 Tarnovsky's e-mail account in Texas?

9 A When I got these papers from Giles Kaehlin, I just gave
10 it to our lawyers. I didn't deal with it, because it was in
11 the middle of the lawsuit. I didn't do nothing, and it came
12 from Ron Ereiser.

13 Q Now, if you'll look at the last two pages of
14 Exhibit 2057, at the top it says "To Genie, from Reuven."

15 This is an e-mail from the address g-e-s -- sorry,
16 g e s@shawmail.com. This is one of the documents that you
17 faxed to Ms. Gavencheck; is that correct?

18 A It looks like, yes, yes.

19 Q And in this e-mail it states as follows:

20 "Hello, Giles. This is a list of people that will have
21 lawsuits against them from Nagra if they are told to keep
22 quiet and not help Nagra. They will have to be protected."

23 And then if you go down, halfway down it says "Dave
24 Dawson will want money for lawyers to fight civil suit, plus
25 extra money for keeping his mouth shut."

1 Did you ever interview Dave Dawson and ask him if he
2 had evidence linking Chris Tarnovsky and Al Menard to
3 reprogrammed EchoStar access cards?

4 A I never met him.

5 MR. HAGAN: Thank you, Mr. Hasak.

6 Pass the witness, your Honor.

7 THE COURT: This would be redirect examination by
8 Mr. Snyder on behalf of NDS.

9 MR. SNYDER: Thank you, your Honor.

10 REDIRECT EXAMINATION

11 BY MR. SNYDER:

12 Q Mr. Hasak, Mr. Hagan asked you about the News Corp
13 purchase of some shares of DirectTV. Did you have any
14 involvement in that transaction?

15 A No.

16 Q Do you have any involvement in NDS corporate
17 transactions?

18 A No.

19 Q Were you -- were you involved in the News Corporation
20 transaction with Vivendi?

21 A No.

22 Q Were you involved in the contract renegotiation with
23 DirectTV?

24 A No.

25 Q Other than procuring devices, cards -- other than

1 procuring devices for cards, cards or boxes for the Haifa
2 research center, do you have any involvement with the Haifa
3 research center?

4 A No, only arming their security.

5 Q Do you give them instructions on what to do?

6 A No.

7 Q Do they report to you?

8 A No.

9 Q Do they give you information about the work that they
10 are doing?

11 A No, they are not supposed to.

12 Q They are not supposed to, because that part of the
13 security is that they don't share that information with you?

14 A Yes, and because I'm not their superior.

15 Q Now, let's try and -- let me just take a few minutes,
16 Mr. Hasak, and ask you some questions about things that are
17 within your responsibility.

18 Mr. Hagan showed you an e-mail from Ms. Gutman,
19 Exhibit --

20 A From who?

21 Q From Ms. Gutman, Exhibit 610, dealing with the Astro
22 system?

23 A (No audible response.)

24 Q Avigail Gutman?

25 A Avigail Gutman, yeah.

1 Q Dealing with the Astro system?

2 A Yes.

3 Q And she proposed sending a box to Australia?

4 A Yeah.

5 Q Did that ever happen?

6 A I -- if her idea?

7 Q Yes.

8 A No, never.

9 Q Did you approve that?

10 A Never.

11 Q Would you have to approve that for that to happen?

12 A Oh, yes.

13 Q Now, Mr. Hagan also asked you some questions about one
14 of the NDS employees, Yossi Tzuria?

15 A Yes.

16 Q Mr. Tzuria still works for NDS?

17 A He is a CTO.

18 Q Now, did you know Mr. Tzuria when he was a young man?

19 A Yes.

20 Q How did you become aware of Mr. Tzuria several years
21 ago?

22 A I didn't understand the question.

23 Q Sure. Let me ask a better question.

24 When did you first become involved with Mr. Tzuria?

25 A Involved, what do you mean involved?

1 Q Know about him, have anything to do with him.

2 A I was at his wedding. He was married to a doctor
3 friend of ours.

4 Q Mr. Tzuria -- or Mr. Hasak, when you were in the
5 Israeli Security Service, were you involved in prosecuting
6 Mr. Tzuria?

7 A Yes.

8 Q What for?

9 A He was aware of -- as a Jewish underground trying to
10 demolish -- Mosque of Omar in Jerusalem, he was aware of it.

11 Q He was aware of -- of that organization?

12 A Yes.

13 Q And he was aware of some plot involving the Mosque of
14 Omar?

15 A Yes.

16 Q And he went to jail for his knowledge of that plot?

17 A Yes.

18 Q Has Mr. Tzuria or that organization ever had any
19 involvement in activities that were against the United
20 States?

21 A No.

22 Q Did it have -- have any activities or make any
23 statements that were against America?

24 A No.

25 Q While Mr. -- Mr. Tzuria went to prison for that,

1 though, correct?

2 A In a -- how do you called it, unwalled prison, yes.

3 Q An unwalled prison?

4 A Yeah.

5 Q What does that mean?

6 A It means that he could study, got to come back during
7 the evening, things like that.

8 Q Did you visit Mr. Tzuria while he was in this unwalled
9 prison?

10 A I visited a few of the members, and he was one of them,
11 yes.

12 Q Okay. Why did you visit him?

13 A To see how he -- to try to understand their way of
14 thinking after the trial was done.

15 Q Okay. What did you learn?

16 A I visited four or five, except one of the four, they
17 renounce, and they regretted being part of it.

18 Q What did Mr. Tzuria say?

19 A He regretted the renounce of being aware and not
20 informing the -- the police or whatever.

21 Q Now, did later -- he's now an NDS employee, correct?

22 A Yes.

23 Q When did he become an NDS employee?

24 A I -- I don't know, beginning of the '90s.

25 Q And was that several years after he had served time for

1 his knowledge of this planned attack?

2 A About six, seven years later.

3 Q Now, when did you join NDS?

4 A Me?

5 Q Yes.

6 A 1996.

7 Q Okay. And after you joined NDS, did Dr. Peled, the
8 chairman and CEO, ask you whether it was appropriate for
9 Mr. Tzuria to remain as an NDS employee?

10 A Yes.

11 Q What did you tell him?

12 A Yes, the answer -- the answer -- my answer to Dr. Peled
13 was it's appropriate.

14 Q Why?

15 A Because I -- I know Yossi Tzuria. I met him before, I
16 talked to him, and he regretted, he renounced. He was not a
17 terrorist, he was not a criminal.

18 Q And do you still believe that, Mr. Hasak?

19 A Absolutely, yes.

20 Q Now, Mr. Hagan also asked you if you believe that Ray
21 Adams may have taken his hard drive because he was a
22 whistle-blower; do you recall that?

23 A I remember the question.

24 Q Have you seen any documents from that hard drive that
25 would indicate NDS's involvement in piracy of the EchoStar

1 system?

2 A No.

3 Q Have you seen any documents from that hard drive that
4 would indicate NDS's involvement in piracy of the Canal+
5 system?

6 A No.

7 Q Have you seen any documents from that hard drive that
8 would indicate misconduct by NDS?

9 A No.

10 Q Now, one of the documents that Mr. Hagan showed you
11 that happens to come from that hard drive was document 2009,
12 which relates to Oliver Kommerling?

13 A I have to see it. I don't remember.

14 Yes, yes.

15 Q Can you describe for the jury, generally, the purpose
16 of this operation involving Mr. Kommerling?

17 A To get -- to get information from Marty Mullen about
18 himself and about other pirates that he was in touch with.

19 Q Okay. And to be clear, who was supposed to get that
20 information?

21 A Who?

22 Q Who was supposed to get that information?

23 A Our team.

24 Q Mr. Kommerling?

25 A No, no. Our team.

1 (Interruption in the proceedings.)

2 MR. SNYDER: He said "our team."

3 THE WITNESS: Our team, yeah.

4 BY MR. SNYDER:

5 Q Who was supposed to obtain the information from
6 Mr. Mullen?

7 A Kommerling.

8 Q Okay. And how was Mr. Kommerling supposed to obtain
9 that information from Mr. Mullen?

10 A By approaching him and play with him what we called
11 "show me, I'll show you."

12 Q What was Mr. Kommerling supposed to show him?

13 A To tell him that he can use the 3M very effectively,
14 the 3M hack on DirecTV very effectively.

15 Q And just so there isn't any misunderstanding, did that
16 operation involve -- what conditional access system did that
17 operation involve?

18 A DirecTV.

19 Q Did it involve EchoStar in any way?

20 A No, in any way, no.

21 Q Was that operation a success?

22 A No.

23 Q What happened?

24 A At the meeting between Kommerling and Marty Mullen,
25 there was another person who happened to be an informer of

1 Larry Rissler, who was the head of the security of DirecTV.
2 He informed Larry Rissler about the meeting. Larry Rissler
3 called John Norris, John Norris called Ray Adams, Ray Adams
4 called Oliver Kommerling, that everything is blown up, and
5 he is exposed.

6 Q So at this meeting, NDS has an undercover agent, and
7 DirecTV has an undercover agent, and they don't know about
8 each other?

9 A Right.

10 Q And so they both go back and report, and I think you
11 said everything blows up?

12 A Oh, yeah, it was a failure.

13 Q Okay. And is that why Mr. Adams sent that memo
14 describing how Mr. Kommerling was going to leave the United
15 States?

16 A Yeah, I don't know if this -- if this was the reason,
17 but the fact that he sent it, this was the operation.

18 Q Did NDS eventually sue Mr. Mullen?

19 A Say it again, please.

20 Q Did NDS eventually sue Mr. Mullen?

21 A Yes.

22 Q And it sued Mr. Mullen with Bell ExpressVu in Canada?

23 A Yes.

24 Q And did NDS eventually assist in a criminal prosecution
25 of Mr. Mullen?

1 A Yes.

2 Q Where is Mr. Mullen now?

3 A In jail.

4 Q As a result of that prosecution that NDS assisted?

5 A Yes.

6 Q Mr. Hasak, this litigation has been going on for a long
7 time?

8 A Yeah.

9 Q Have you ever seen any indication, credible evidence
10 that NDS was involved in EchoStar piracy?

11 A Restate --

12 Q Have you ever seen any evidence that NDS was involved
13 in EchoStar piracy?

14 A No.

15 Q Now, Mr. Hagan, at the end, showed you an Exhibit 2057.
16 This is the -- the material you said you received from Giles
17 Kaehlin?

18 A Yes.

19 Q What were the circumstances of Mr. Kaehlin giving you
20 those documents?

21 A He wanted two things. He wanted to work for me, and he
22 wanted to convince me to give Ron Ereiser or himself --
23 maybe for himself money in order to keep Ron Ereiser and his
24 friends quiet. I mean, he wanted me to give money, NDS, I
25 mean, not me personally.

1 Q And did Mr. Kaehlin tell you at that time that Ron
2 Ereiser was working as a consultant for NagraStar?

3 A Yes, he was on the payroll.

4 Q And he wanted you, NDS, to give money to Ron Ereiser to
5 keep him quiet, correct?

6 A Yes, yes.

7 Q And Ron Ereiser was promising that he would keep other
8 people quiet as well?

9 A He told me that Ron -- that when -- when you pay -- I
10 will pay to Ron Ereiser, Ron Ereiser would keep quiet and
11 keep his people quiet.

12 Q And did you understand that Mr. Kaehlin was threatening
13 that if NDS did not pay those people, that they would make
14 false accusations against NDS?

15 A Yes.

16 MR. SNYDER: No more questions. Thank you.

17 THE COURT: Recross by Mr. Hagan.

18 RE CROSS EXAMINATION

19 BY MR. HAGAN:

20 Q Mr. Hasak, looking back at the exhibit that Mr. Snyder
21 just questioned you on, there are page -- they are Bates
22 labeled on the bottom of it, the bottom right-hand corner.

23 Christine, maybe you can help him find it.

24 BY MR. HAGAN:

25 Q It should be -- it should be the last two pages.

1 A Exhibit 98?

2 THE COURT: And the Exhibit Number, again, is that
3 2057?

4 MR. HAGAN: 2057, your Honor.

5 MR. O'DONNELL: Christine, it's the very last
6 document on the bottom of the stack.

7 (Live reporter switch with Sharon Seffens.)

8 -oOo-

9 CERTIFICATE

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

17
18 Date: May 2, 2008

19

20

21

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

22

CSR NO. 9316

23

24

25

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