

PAY TV PIRACY

THE ROAD TO \$US5 BILLION

Continued from previous page



Rolf Deubel in prison in Bangkok

OCT 1999

Ray Adams receives copy of report by Jan Saggiori to Canal Plus linking NDS to piracy, sets out to discredit him

NOV 1999

Avigail Gutman of NDS Operational Security team provides protection for Sydney hacker David Cottle, who is attacking Foxtel Irdeto cards, then sends him a system to pirate Malaysian Astro network to divert him from hacking StarTV's NDS card. Astro later moves to NDS

News floats 20% of NDS on Nasdaq, valuing NDS at \$1bn



EARLY 2000

Murdoch plans to spin off News satellite assets to acquire DirecTV. NDS has software to kill most DirecTV pirate cards but does not use it for 15 months

MAY 2000

OnDigital hit by piracy of its Seca cards



2001

DirecTV sues NDS over unauthorised actions

MAR 2002

Canal Plus Technologies sues NDS for \$US1bn

OnDigital (renamed ITV Digital) collapses

MAY 2002

Ray Adams sacked after his agent, master hacker Oliver Kömmerling, provides testimony supporting Canal Plus. The hard drive from Adams' laptop disappears



Oliver Kömmerling in Monte Carlo

JUN 2002

With Canal Plus and its parent Vivendi a week away from liquidation, News agrees to buy Italian pay TV arm Telepiu for €1bn, on condition that Canal Plus drops lawsuit on completion of the deal



Whistleblower made

They knew they had no case but it didn't stop Operational Security chasing a stubborn hacker through the courts, writes **Neil Chenoweth**.

Senior executives in Rupert Murdoch's media empire mounted a sham multimillion-dollar lawsuit in the United States to silence a whistleblower whose evidence threatened to expose a dirty tricks campaign by News Corp.

A former Metropolitan Police commander who worked for Murdoch, Ray Adams, orchestrated an extraordinary legal campaign to destroy the reputation of a Swiss hacker, Jan Saggiori, who held key evidence that News had sabotaged its competitors' products.

"We ... have no case against Jan," the US executive overseeing the lawsuit, former Army intelligence officer John Norris, told Adams two months after it was served on Saggiori, yet legal proceedings continued for another nine months.

Emails between Adams, Norris and other News executives and lawyers raise questions about whether News was involved in an abuse of process of the US court system.

Saggiori was added to a lawsuit lodged in Montana in February 2000 by a News subsidiary, NDS, against a group of Canadian pay TV pirates after he became a consultant to News' competitors, the French media group Canal Plus and later Nagra, a Swiss technology firm. A secretive NDS unit, Operational Security, had earlier "reverse engineered" the two competitors' products to extract their coding.

To add to the charade, two Bulgarian hackers, who were secretly on the NDS payroll, were also added to the lawsuit even though NDS knew that the legal proceedings against them would never proceed.

The decision to sue the three men was taken at a telephone conference call on November 16, 1999 overseen by News Corporation's deputy general counsel, Genie Gavenchak, who worked with general counsel Arthur Siskind in the Office of the Chairman.

It would emerge later that Saggiori had key records linking NDS Operational Security to the leak of source codes for both Nagra and Canal Plus, which made the Seca card. Such "smartcards" are at the heart of satellite television encryption systems, enabling broadcasters to control who can access their services.

"Just to recap, we included Jan in the lawsuit in hopes it would give you leverage to impact Jan's relationship with Nagra and/or slanderous comments he apparently has made towards NDS, you, Mike, Alex, et al," Norris told Adams on June 8, 1999 in an email copied to their supervisor, Reuven Hasak, in Israel.

The three men worked in Operational Security, a unit within News Corporation and attached to NDS, an Israeli technology company that provided encryption and customer management services to pay TV companies including Murdoch-controlled BSkyB and General Motors' DirecTV.

Lawyers who spoke to *The Australian Financial Review* said

that as soon as a party came to the conclusion that they had no case, it was their legal duty to drop the case immediately.

A senior barrister said that in the Australian legal system, joining a defendant to an action without a genuine belief in the merits of the case would amount to an abuse of process, if this could be demonstrated on the facts.

Instead, the case continued for another nine months as Adams continued to pressure Saggiori to sign a sweeping permanent injunction which was later used by NDS lawyers in a 2008 court case with Echostar, another rival satellite TV company, as proof of his involvement in piracy.

The crisis for the Operational Security team began on October 22, 1999, when Adams received a copy of a four-page report written by Saggiori for Canal Plus that linked Operational Security personnel to piracy of a range of European pay TV companies including Canal Plus.

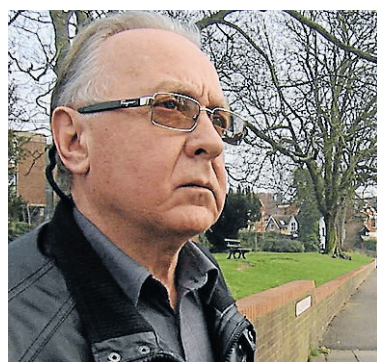
Saggiori was now assisting the security chief of Canal Plus, Gilles Kaehlin, in a major investigation of NDS and Operational Security.

Adams was alarmed. "I can tell you that the French Security Services and the German Police are investigating and that one of them is in touch with one of the agencies in the USA," he wrote to Norris on October 22.

The new Canal Plus security chief wanted to see Adams. "He was until recently a senior member of the French Security Services.

"I met him briefly in Paris a couple of weeks ago. He claimed that he can get anything done anywhere in the world."

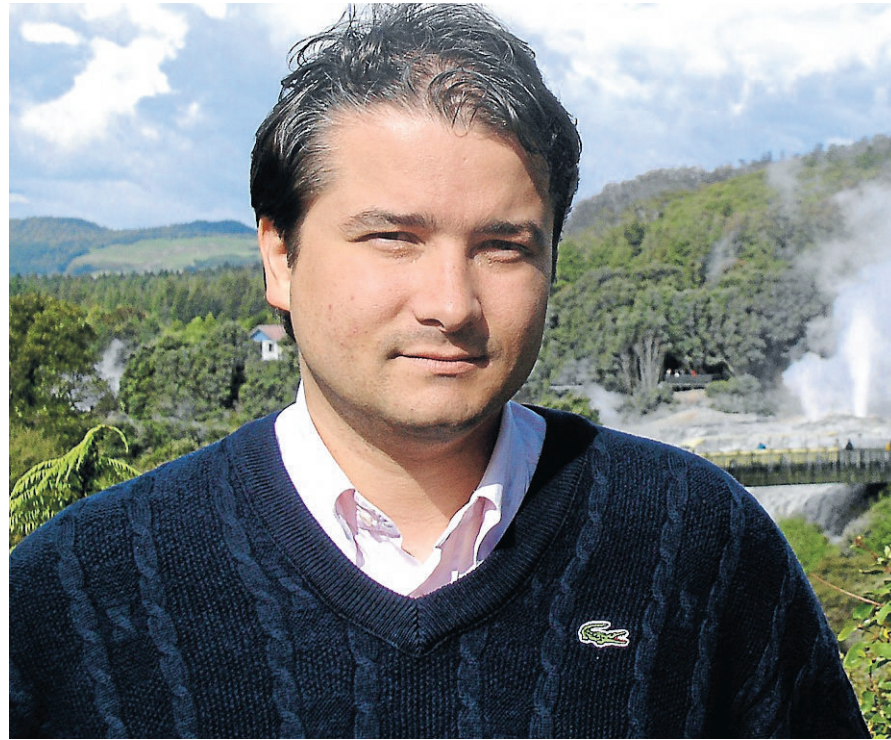
The timing was unfortunate. That same day Adams was involved in the



'[Jan] Saggiori was a bullshitter and on a personal vendetta,' wrote Ray Adams



Gilles Kaehlin, security chief at Canal Plus, was involved in a major investigation of NDS



prosecution in Thailand of Rolf Deubel, a German hacker known as MadMax. Adams was also arranging to send a pirate device to a Sydney hacker to promote piracy in Malaysia. His colleague, Avigail Gutman, who headed Operational Security in Asia, suggested Deubel should be released so that he could continue the hack of the Canal Plus system in Asia.

Meanwhile, NDS was scheduled to float 20 per cent of its stock as an IPO on Nasdaq on November 21 and any hint of the Canal Plus investigation could undermine the stock price.

Adams set out to convince Canal Plus that Saggiori was trying to shift

the blame and that in fact it was Saggiori who was responsible for all of the piracy.

Hopefully they would realise Saggiori was "a bullshitter and a person on a personal vendetta", Adams told Hasak, the head of Operational Security.

"I believe that I should start making use of the inevitable outcome and start influencing the thoughts of Canal+ in this direction. This must be subtle and discreet and come from others."

Having earlier conferred with Norris, Adams wrote to him again on November 3: "Anyway I have a very nice little plan to really shake things up. Can you tell me if you have managed to have Plamen, Vesco and Jan SAGGIORI named in the court case in the USA. This is an important step in my little plan which is all European."

Norris was about to launch the major lawsuit against the Canadian pirate dealers who had reverse engineered NDS's new P2 smartcard designed for US satellite broadcaster DirecTV, NDS's biggest client.

Back in 1997, the Canadians had smuggled the two Bulgarian hackers, Plamen Donev and Vesselin Nedeltchev (known as Vesco) into Canada under false papers, then into the US, where they had hired the University of Montana physics lab to crack the P2 card.

Adams now wanted to add Saggiori to the lawsuit.

By November 12, Adams was writing to Norris, "We have a problem. Jan Saggiori is now known to be working full time with Canal+. He considers that he is on a mission to determine who and where the hack of the SECA system took place."

Norris replied: "What problem? Whoever hacked Canal plus and SEDKA [sic] may have a problem. 'We' don't have a problem."

He went on to say that Scott Wilsdon, an external lawyer at Yarmouth Wilsdon Calfo, was working on the lawsuit that would include Saggiori.

"I'll have more details on Tuesday after a conference call with the lawyers and Genie," Norris said.

Email records show that Genie was Eugenie Gavenchak, News Corp's deputy general counsel. She had worked closely with general



Eugenie Gavenchak, News Corp's deputy general counsel worked on the lawsuit



Chris Tarnovsky was a paid informant for NDS and became a full-time employee