

MOTION PICTURE ASSOCIATION OF AMERICA, INC.

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June 10, 2008 ↩ [DATE PRINTED]

Special Agent Kiffa Shirley
Special Agent Lori Jensen
Federal Bureau of Investigation
9797 Aero Drive
Sand Diego, CA 92123

Re: EliteTorrents BitTorrent Tracker

Dear Agents Shirley and Jensen,

I am the Director of United States Anti-Piracy Operations for the Motion Picture Association of America (MPAA)¹ and I write to refer for investigation and possible prosecution members of a massive piracy ring operating in the Southern District of California and elsewhere in the United States. The members of this piracy ring are stealing copyrighted materials on a massive scale in violation of the criminal copyright statutes: Title 17, United States Code, Section 506, and Title 18, United States Code, Section 2319. In addition, the agreement between these subjects to help each other steal copyrighted works is itself a violation of Title 18, United States Code, Section 371 (conspiracy). We hope that you will investigate this piracy ring and bring the most culpable members of the organization to justice.

The piracy ring that is the subject of this referral is a criminal organization called "EliteTorrents." EliteTorrents is an organization dedicated to helping its members steal copyrighted works, and the members are, in fact, rewarded for being the first to make copyrighted works available to the other members of the organization. As of February 12, 2005, there were 133,794 members of the EliteTorrents organization, a wide majority of which had a record of exchanging copyrighted material over the Internet. There are many members of the EliteTorrents organization residing within the Southern District of California, and other members, including some of the most culpable, are scattered throughout the United States. EliteTorrents maintains a web site at <http://www.elitetorrents.org>.

As a preliminary matter, you should know that the MPAA has never before made a criminal referral of this type. Although we actively investigate many cases of online piracy, we routinely pursue our own civil remedies in these matters rather than burden

¹ The Motion Picture Association of America is a trade association representing the interests of Columbia Pictures Industries, Inc., Disney Enterprises, Inc., Metro-Goldwyn-Mayer Studios Inc., Paramount Pictures Corporation, TriStar Pictures, Inc., Twentieth Century Fox Film Corporation, United Artists Pictures, Inc., United Artists Corporation, Universal City Studios LLLP, Universal City Studios Productions LLLP, and Warner Bros Entertainment Inc.

criminal investigators with our complaints. However, the Administrators and Originators for the EliteTorrents organization are some of the most significant and egregious online pirates in the world, and there simply is no adequate civil remedy that would adequately punish these offenders and deter them and others from engaging in piracy on a massive scale. EliteTorrents is world renowned among online pirate communities, and an investigation and prosecution of these criminals by the United States Government would deter millions of similarly situated individuals who engage in large-scale piracy everyday.

The MPAA has been investigating the EliteTorrents organization since August 2004. In late 2004 and early 2005, individuals claiming to run the EliteTorrents site contacted the MPAA to offer a rare opportunity to investigate the EliteTorrents organization from the inside. The two individuals offering this opportunity run the EliteTorrents system by directing two EliteTorrents "System Operators," the individuals with the highest level of technical privileges and access on the system. They directed the System Operators to configure the EliteTorrents servers to log everything occurring on the servers. This wealth of information provided an extremely rare opportunity for the MPAA to investigate the site from the inside, and the scale of piracy we've observed on the site is staggering. The piracy covers not only movies but also television content, software, and music.

In order to evaluate the offer of cooperation from the EliteTorrents directors, the MPAA requested a complete copy of all data contained on the EliteTorrents servers so that the MPAA could evaluate the data. The directors provided the MPAA with a complete copy of all data from the EliteTorrents server as of February 12, 2005, and the MPAA has had that data analyzed and it was genuine. With this data, we have been able to identify and investigate some of the largest scale pirates in the world. This referral focuses on the most culpable leaders and contributors of the EliteTorrents organization.

APPLICABLE STATUTES

The members of the EliteTorrents organization are stealing copyrighted materials in violation of 18 USC 2319 and 17 U.S.C. 506. These criminal statutes provide as follows:

1. Title 18, United States Code, Section 2319: Criminal Copyright Infringement.

(a) Whoever violates section 506(a) (relating to criminal offenses) of title 17 shall be punished as provided in subsections (b) and (c) of this section and such penalties shall be in addition to any other provisions of title 17 or any other law.

(b) Any person who commits an offense under section 506 (a)(1) of title 17—

(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, including by electronic means, during any 180-day period, of at least 10 copies or phonorecords, of 1 or

more copyrighted works, which have a total retail value of more than \$2,500;

(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case. . . .

2. Title 17, United States Code, Section 506:

(a) Criminal Infringement— Any person who infringes a copyright willfully either—

(1) for purposes of commercial advantage or private financial gain, . . .

shall be punished as provided under section [2319](#) of title [18](#), United States Code.

OVERVIEW OF THE ELITETORRENTS FILE SHARING NETWORK

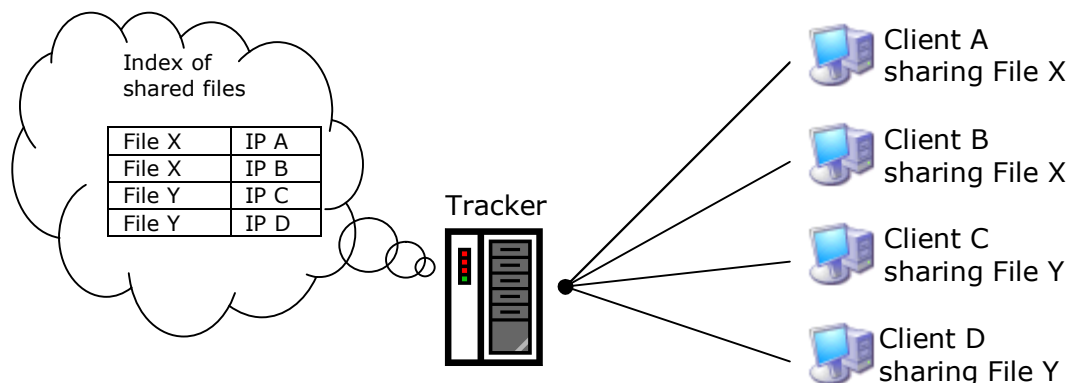
The MPAA has a close working relationship with Dr. Kelly Truelove, PhD, a computer scientist who frequently consults with the MPAA on the MPAA's most important peer-to-peer investigations. Dr. Truelove earned his Ph.D. in physics in 1997 from the University of California, Berkeley, where his research focused on complex computer simulations. He started working on Internet end-user applications immediately thereafter, first as a consultant and then as a venture-capital-backed entrepreneur. Dr. Truelove began technical studies of peer-to-peer systems on behalf of his investors in early 2000, and he wrote and spoke publicly about the technology during that work. Since late 2001, Dr. Truelove has served as an independent consultant to the MPAA, the Recording Industry Association of America, and the National Music Publishers' Association in support of their most important peer-to-peer litigation and related investigations. In this role, Dr. Truelove maintains a detailed familiarity with peer-to-peer technology and piracy, including the BitTorrent system and sites that put that system to an infringing use.

I and other employees at the MPAA directed Dr. Truelove to examine the data from EliteTorrents that had been provided to the MPAA as described above, and to opine on the authenticity of that data. Dr. Truelove found that the data correspond both broadly and specifically with data publicly accessible on the EliteTorrents site, and that the data appear to be the authentic data of a functioning BitTorrent system. Dr. Truelove noted that, although it is technically possible the directors or operators removed some data from the copy produced to the MPAA, it does not seem likely that the data produced was fabricated. I have had many discussions with Dr. Truelove about the EliteTorrents data and during those discussions I learned the following:

1. The technology used by EliteTorrents is called BitTorrent. BitTorrent is a system for locating and transferring files between computers on the Internet. Mechanically, files shared over a BitTorrent system are broken down into separate parts that are separately shared. A user downloading over a BitTorrent network will begin sharing the parts of a file as he acquires them, which is even before he or she has

acquired all of the parts of the larger file. The BitTorrent system is designed so that users will obtain the missing parts of the files they are acquiring faster if they upload the parts they acquire as they acquire them. This combination of partial-sharing and tit-for-tat techniques generally results, especially for larger files such as movies, in BitTorrent providing faster downloads than competing peer-to-peer file transfer systems.

2. There are two sorts of programs that comprise the BitTorrent system: "clients" and "trackers." Clients are programs that users run to download and upload files. Trackers are programs that certain motivated parties run to tell the clients where they can locate the files they want. This file-location service is critical to the functioning of the BitTorrent system. A tracker tracks clients and maintains a list, or index, of which clients are online sharing which files. Trackers do not store or relay the files themselves, but instead introduce clients to one another to make file sharing by individuals easier. A client communicates with a tracker to ask it for the Internet Protocol (IP) addresses of clients sharing the file that the client wishes to download. The client then automatically communicates directly with those other clients to download the desired file from them. The figure below shows the architecture of a BitTorrent system.

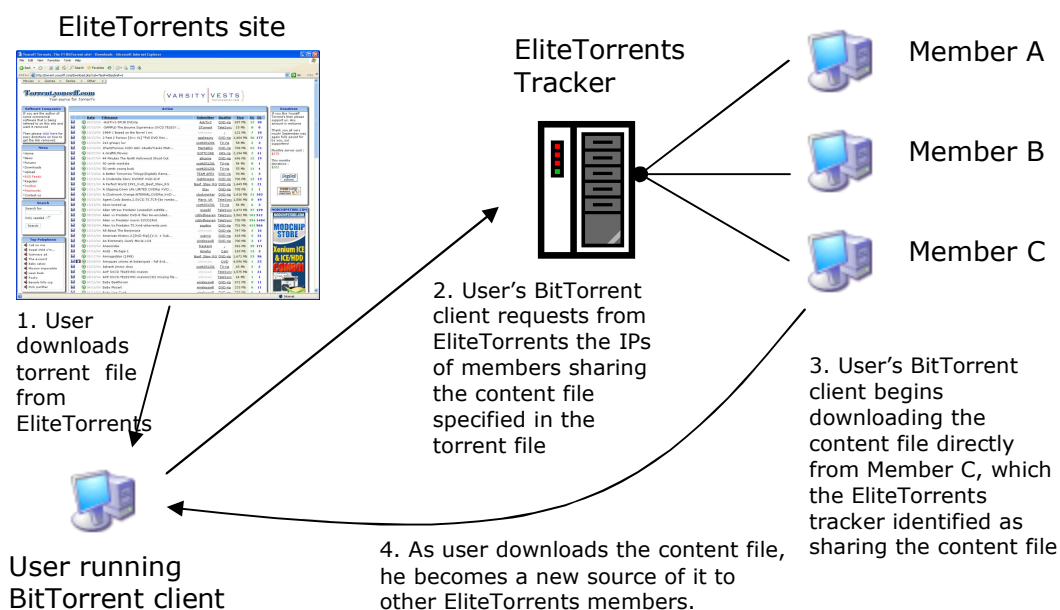


3. The BitTorrent system enables users to download many types of files, including movies, music, and software files, which are called "content" files. In order to download a content file with BitTorrent, a user must first find and download an associated "torrent" file. The EliteTorrents organization operates its own torrent site and its own tracker. Torrent files contain the information BitTorrent clients need to download associated content files. Namely, a torrent file includes the address of a tracker, the name of a content file, the size of the content file, the size of the parts into which the file is divided, and unique file identifiers for each part. Torrent files are small files that essentially tell one computer where and how to get a content file directly from another computer.

4. Applying this technology to the case at hand, members of EliteTorrents use this technology to trade copyrighted works. For example, an EliteTorrents member who wants to download the movie Spider-Man 2 will log onto the EliteTorrents torrent site and type the filename Spider-Man 2 into the search engine. The appropriate torrent file will be located and the member clicks on the name to download the file. After the

torrent file is downloaded, the member's BitTorrent software communicates with the tracker, learns the Internet Protocol (IP) addresses of other EliteTorrents members who have the movie file, and the member will begin to receive the movie file from the other EliteTorrents members.²

5. The details of this process are largely invisible to the user. From an EliteTorrents member's perspective, he or she merely clicked on a Spider-Man 2 link on a website and, with no further action, found a copy of the movie on his computer some time later. From the user's perspective, it is as though the EliteTorrents site itself supplied the movie. The figure below illustrates the process of downloading a file using BitTorrent and the EliteTorrents site.



ELITETORRENTS OPERATIONAL STRUCTURE AND ITS MEMBER CLASSES

6. There are 133,794 members of the EliteTorrents organization, and each of these members has a unique Login ID and password. Every username is unique and

² An IP Address is a unique numeric address used by computers to communicate on the Internet. An IP Address is a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet must be assigned a unique IP Address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. An IP Address acts much like a home or business street address for Internet communications, and enables Internet routers to properly route traffic to each other so that communications reach the intended destination computers. There are two types of IP Addresses, dynamic and static. To assign dynamic IP Addresses, the ISP randomly assigns one of the available IP Addresses in the range of IP Addresses controlled by the provider each time a customer dials in or connects to the provider in order to connect to the Internet. The customer's computer retains that IP Address for the duration of that session (i.e., until the user disconnects), and the IP Address cannot be assigned to another user during that period. Once the user disconnects, however, that IP Address becomes available to other customers who dial in at a later time. Thus, an individual customer's dynamic IP Address may, and almost always will, differ each time he dials into or connects to the ISP. To designate static IP Addresses, the ISP assigns the customer a permanent IP Address. The customer's computer would then be configured with this IP Address every time he or she dials in or connects to the Internet.

constant, and only an individual with the password associated with a particular username can log onto the site as that user. Each user is assigned to a class, and there are 12 different user classes on the EliteTorrents site: (1) Leech, (2) User, (3) Power User, (4) Extreme User, (5) Elite User, (6) VIP, (7) Support, (8) Uploader, (9) FMOD, (10) Moderator, (11) Administrator, and (12) Sysop. The lowest class with the least amount of privilege is the "Leech" class, and the highest class with the most amount of privilege is the "Sysop" class. There are two Sysops on the EliteTorrents site, and these were the two individuals working under the direction of the two individuals who provided the data from the EliteTorrents servers as described above. The highest class other than the Sysops is Administrator, and the Administrators run the day-to-day operations of the EliteTorrents site. There are six Administrators for the site, and all of them have a high degree of control over the site. Three of these Administrators are located in the United States, and these three administrators use the following three usernames: (1) sk0t, (2) prezto, and (3) duffman. All three of the U.S.-based Administrators are being referred to you, each under separate cover. These three Administrators are the most culpable leaders of the EliteTorrents organization that we could identify and refer.

7. The individuals who obtain original content for the EliteTorrents organization are members that we term the "Originators." Originators are an elite class (class "Uploader" from the paragraph above) on the site which are individually selected by the site administrators. In some cases, members had to apply to one of the administrators to be an originator, advising of their capability of getting new releases and having high bandwidth for uploading. Twelve Originators believed to reside in the United States originated 10 or more movies and television episodes to the EliteTorrents organization, which means they were the very first individuals to supply a particular title to the EliteTorrents organization. In our opinion, these Originators are the second most culpable class of individuals in the EliteTorrents organization who have most damaged the movie industry. The EliteTorrents tracker keeps a record of the Originator of each torrent file available on the EliteTorrents site. On February 12, 2005, there were 1,830 torrent files associated with content tracked by the EliteTorrents site. In BitTorrent lingo, the tracker was tracking 1,830 torrents. These 1,830 torrents had 376 different originators between them. The biggest originator was responsible for 208 torrents, the second-biggest was responsible for 84, and the third-biggest, 83. The twelve Originators whose IPs indicate US locations, and who have originated the most movies and television episodes are being referred to you as appendices attached to this document. Interestingly, two of these Originators appear to be the same people as two of the four U.S. Administrators. Specifically, Administrator "sk0t" appears to be the same individual as Originator "MindHunter," and Administrator "duffman" appears to be the same individual as Originator "McCalister." The other 11 U.S.-based Originators that are being referred are usernames "r313007," "stonyvision," "mattb," "cipher," "punker22," "neeksor," "Nick4753," "G," "StanTek," and "bandwith."

8. Dr. Truelove also explained to me the role of seeders on the EliteTorrents site. A "seeder" is a user who shares a full copy of a content item (the item may consist of many different files). A user can become a seeder simply by downloading a full file and keeping his BitTorrent client open for some time afterwards to enable other EliteTorrents member to obtain the file from him or her. EliteTorrents maintains a

database that makes it possible to determine which users are seeding the most files. That is, it is possible to determine which users are sharing the largest number of full files (as opposed to sharing only part of a file, which all users do while downloading files). Out of 133,794 users on record, 93,132 (70%) had uploaded content using the tracker's services as of February 12, 2005. Among that 70%, the average amount of data uploaded was 22 gigabytes.³ The largest Uploader uploaded 28,000 gigabytes, or over 1,000 times the average. Out of the 133,794 members of the EliteTorrents organization on February 12, 2005, 94,418 (71%) had downloaded content. Among that 71%, the average amount of data downloaded was 20 gigabytes.

9. The appendices that follow were written using data extracted from the EliteTorrents database. Appendix 1 is a full template for the administrator registered as Sk0t. Appendices 2-11 cover the probable cause sections for ten additional originators. Full templates for each individual were omitted to prevent redundancy. We will provide additional appendices as they become available or necessary.

Sincerely,

James W. Spertus
Vice President and Director
United States Anti-Piracy Operations
Motion Picture Association of America

³ A single gigabyte of storage space, or 1,000 megabytes, is the equivalent of 500,000 double-spaced pages of text. 1,500 GB of data, if printed on 8.5" x 11" paper, would print out in 750,000,000 pages of text. Infringing copies of movies found on the Internet are often about 1 gigabyte in size.

Appendix 1 –Template for Administrator Sk0t / MindHunter

PROBABLE CAUSE TO BELIEVE THAT ADMINISTRATOR SK0T HAS VIOLATED 18 U.S.C. 2319

10. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents Administrator who uses the username "sk0t" and determined the following:

a. On February 10, 2005, sk0t's IP address was 24.160.220.217 at 04:41 servertime, and his Internet service provider was Road Runner Communications.⁴ Sk0t reports on his website at <http://www.sk0t.com> that he resides in Erie, Pennsylvania, which is consistent with the assigned location for the IP address used by sk0t. Sk0t was added to the EliteTorrents organization on August 15, 2004, and was promoted to Administrator on November 9, 2004.

b. Administrator sk0t described his computer set-up as follows:

- i. AMD ATHLON XP 2600+ PROCESSOR;
- ii. ATI RADEON 9200 128MB GRAPHICS CARD;
- iii. TWO - WESTERN DIGITAL 120GB 7200RPM HARD DRIVES;
- iv. ONE - WESTERN DIGITAL 160GB 7200RPM HARD DRIVE;
- v. LITE-ON SOHW-832S DL DVD RW;
- vi. LITE-ON LTR-52246S CDRW;
- vii. MICROSOFT INTELLIMOUSE OPTICAL;
- viii. GE KEYBOARD;
- ix. VIEWSONIC 19in FLAT PANEL;
- x. SOUNDBLASTER 5.1 LIVE!;
- xi. CREATIVE INSPIRE 5200 5.1;
- xii. ATX SUPERCASE (6-BAYS).

c. Dr. Truelove knows from his training and experience that the computer system described by Administrator sk0t has the storage capacity and quality graphics capabilities typically possessed by high-end consumers of video content.

d. Members of the EliteTorrents organization have the ability to associate an image with their user name. The image file can be stored either on the EliteTorrents servers, or it can be pulled from another source. Dr. Truelove looked at the user records for Administrator sk0t and determined from them that the image file that Administrator sk0t elected to associate with his user name as

⁴ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

of February 12, 2005, was located on the website:
<http://www.sk0t.com/images/sk0t.jpg>. As of February 9, 2005, the following image was the image file associated with the sk0t user name:



e. 24.160.220.217, which is the IP address recorded by site at last_access time below.

f. last_access > 2005-02-11 04:41:36 servertime.

g. last_login > 2005-02-10 10:12:57 servertime.

h. geocountry > US

i. state > PA

j. city > Erie

k. isp1 > Road Runner

l. Although it is rare for an EliteTorrents Administrator to download movies using his administrator account, Administrator sk0t nonetheless downloaded the following four movies using his administrator account:

i. MOVIE DOWNLOADED = The.Forgotten.SVCD.TELESYNC-maVen (id=1160)

ii. MOVIE DOWNLOADED = Without.A.Paddle.SCREENER-Wastedtime (id=1265)

iii. MOVIE DOWNLOADED = Shark.Tale.SVCD.TELESYNC-VideoCD (id=1311)

iv. MOVIE DOWNLOADED = Team.America.World.Police.SVCD.TS-Centropy (id=1661).

m. Administrator sk0t is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the fact that he himself downloaded four movies, and additionally made comments on the EliteTorrents site to other members of the organization such as the following comment on February 3, 2005:

FOR ALL OF YOU PEOPLE WHO CANNOT READ.

I personally downloaded this torrent from MindHunter, and extracted all the files. There is a CD1 and there is a CD2, CD1 has the beginning of the movies, CD2 has the end of the movie. I will start handing out warnings to anyone who asks again. As I already posted TWO times about this.

Comments such as this evidence control over the site, knowledge that movies are being exchanged over the site, and evidence that Administrator sk0t, himself, is a direct infringer.

n. Although all members of the EliteTorrents organization are motivated by private financial gain, Administrator sk0t stated this directly on several occasions to other members of the EliteTorrents organization by declaring the benefits of getting free content in statements such as the following:

REREAD THE RULES

and if you still think that you are right you have 3 options.

*1: Quit being a baby since you cant cuss and deal with the rules and enjoy the free stuff you get to download.

*2 PM me back and we can discuss this some more

*3 CLOSE YOUR ACCOUNT HERE AND BE GONE.

sk0tcom

Moderator

11. Dr. Truelove believes it is very likely, though not certain, that the Administrator using the username "sk0t" is the same individual who is originating content under the username "MindHunter." Dr. Truelove pulled the user records that existed as of February 12, 2005, for the Originator who uses the username "MindHunter" and determined the following:

a. The IP address in the user record for MindHunter is 24.160.220.217, which is the same IP address that is in the user record for sk0t. MindHunter uploaded 1,545 gigabytes of content, and downloaded 115.5 gigabytes of content. This amount of uploading makes MindHunter the 27th biggest uploader in the EliteTorrents system.

b. Like the avatar for sk0t, the avatar for MindHunter is also pulled from the URL "sk0t.com," and it is "<http://sk0t.com/images/mind.jpg>." The image associated with the username MindHunter is the following:



c. The IP address associated with MindHunter is 24.160.220.217 at the time of MindHunter's last site access of February 10, 2005, at 16:18:40 server time, and the probable location for MindHunter based on this IP is in Erie, Pennsylvania.

d. MindHunter downloaded 23 movies from members of the Elitetorrents organization. Movies MindHunter downloaded include The Incredibles, Christmas with the Kranks, Meet the Fockers, and National Treasure.

e. MindHunter also originated 19 movies for the EliteTorrents organization, each of which was downloaded thousands of times. Specifically, MindHunter originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

- i. King Arthur (uploaded on November 11, 2004), which was subsequently downloaded 1,923 times by other EliteTorrents members;
- ii. The Polar Express (uploaded on November 12, 2004), which was subsequently downloaded 3,790 times by other EliteTorrents members;
- iii. Anacondas Hunt For The Blood Orchid (uploaded on November 12, 2004), which was subsequently downloaded 875 times by other EliteTorrents members;
- iv. The Manchurian Candidate (uploaded on November 28, 2004), which was subsequently downloaded 2,268 times by other EliteTorrents members;
- v. Oceans Twelve (uploaded on December 13, 2004), which was subsequently downloaded 6,361 times by other EliteTorrents members;
- vi. Taxi (uploaded on December 20, 2004), which was subsequently downloaded 1,745 times by other EliteTorrents members;
- vii. Lemony Snicket's A Series Of Unfortunate Events (uploaded on December 23, 2004), which was subsequently downloaded 3,942 times by other EliteTorrents members;
- viii. The Life Aquatic (uploaded on December 23, 2004), which was subsequently downloaded 5,058 times by other EliteTorrents members;
- ix. Meet the Fockers (uploaded on December 28, 2004), which was subsequently downloaded 5,046 times by other EliteTorrents members;

- x. Fat Albert (uploaded on December 28, 2004), which was subsequently downloaded 1,369 times by other EliteTorrents members;
- xi. The Grudge (uploaded on December 31, 2004), which was subsequently downloaded 987 times by other EliteTorrents members;
- xii. Coach Carter (uploaded on January 14, 2005), which was subsequently downloaded 2,732 times by other EliteTorrents members;
- xiii. Shall We Dance (uploaded on January 18, 2005), which was subsequently downloaded 1,900 times by other EliteTorrents members;
- xiv. Hide and Seek (uploaded on January 30, 2005), which was subsequently downloaded 2,750 times by other EliteTorrents members;
- xv. Alone in the Dark (uploaded on January 30, 2005), which was subsequently downloaded 1,978 times by other EliteTorrents members;
- xvi. Riding the Bullet (uploaded on February 2, 2005), which was subsequently downloaded 1,047 times by other EliteTorrents members;
- xvii. Alone in the Dark.TS-Movie (uploaded on February 3, 2005), which was subsequently downloaded 621 times by other EliteTorrents members;
- xviii. Creep (uploaded on February 3, 2005), which was subsequently downloaded 1,538 times by other EliteTorrents members;
- xix. Boogeyman (uploaded on February 7, 2005), which was subsequently downloaded 1,323 times by other EliteTorrents members;

TRUE IDENTITY FOR SK0T AND MINDHUNTER

12. We visited the website <http://www.sk0t.com> on February 15, 2005 and took screenshots of the “home,” “about,” and “contact” pages, and we learned the following:

- a. The “about” page states sk0t’s “hometown” is “erie.”
- b. The “about” page states that sk0t is “working toward a bachelors in genetics and development biology at PSU (behrend in erie).” According to <http://www.pserie.psu.edu>, Behrend College is a unit of Penn State in Erie, PA.
- c. The “about” page states that sk0t is a movie and TV buff.
- d. The “contact” page two AOL Instant Messenger usernames for sk0t: “sk0tcom” and “pleesdontcutme.” As seen in Paragraph 9(n) above, sk0t uses “sk0tcom” in signing messages on EliteTorrents. Further, the EliteTorrents database user record for MindHunter gives his contact as “PleesDontCutMe” on AOL Instant Messenger. This is another item of evidence that sk0t and MindHunter are the same individual.
- e. We obtained the domain registration record for sk0t.com on February 21, 2005, and it provides the following information in two of the contact fields:
- f. sk0t.com,

g. Scott McCausland,
4134 Hoyt St.
Erie, PA 16510
US
Phone: (814) 824-6521
Email: webmaster@sk0t.com

h. I believe this is sk0t's real name and address. The domain registration company Register.com that is the registrar for this name likely has customer data for the registrant of the sk0t.com domain.

i. According to the Google PhoneBook service on February 21, 2005, this phone number belongs to "Russell Mccausland" at the above address.

j. According to Erie County Tax & Assessment records (<http://www.eriepa.us>) as of February 21, 2005, this address corresponds to a residence.

k. On the site <http://forums.elitetorrents.com>, which is a message board for EliteTorrents members, the user profile for sk0t, as reviewed on February 21, 2005, stated his "AOL Messenger Screen Name" was "PleesDontCutMe," the same as in the EliteTorrents database user record for MindHunter, further evidencing they are one individual.

l. The message board user profile also states sk0t is a male with a birthdate of August 17, 1982.

13. If you were to serve a grand jury subpoena on Road Runner Communications for the subscriber information pertaining IP address 24.160.220.217 on February 11, 2005, at 04:41 server time, when Sk0t accessed EliteTorrents, the subscriber for the IP address at that date and time would likely be the true name for sk0t, and the subscriber address sk0t's address.

14. If you were to serve a grand jury subpoena on Road Runner Communications for the subscriber information pertaining IP address 24.160.220.217 on February 10, 2005, at 16:18 server time, when MindHunter accessed EliteTorrents, the subscriber for the IP address at that date and time would likely be the true name for MindHunter, and the subscriber address MindHunter's address.

15. You will likely learn that sk0t and MindHunter are the same people, both located in Eerie, Pennsylvania.

16. If you were to review Pennsylvania Department of Motor Vehicle records, you may determine that the true name for sk0t and MindHunter is registered with the Department of Motor vehicles at the same address as the subscriber to IP address 24.160.220.217 both on February 11, 2005, at 04:41 server time, and on February 10, 2005, at 16:18 server time.

17. If you were to check with the Postmaster at the Post Office responsible for the residence address for the Road Runner IP Address subscriber associated with sk0t and MlndHunter, you may find that the individual has not changed his or her address.

AN ONSITE REVIEW OF COMPUTER EVIDENCE WILL LIKELY NOT BE POSSIBLE

18. Based upon my training and experience, I know that individuals involved in the operation of BitTorrent servers such as EliteTorrents invest a great deal of time and effort in developing these networks and administering them. These individuals are likely to keep evidence of their activities in their homes and on their computers for an extended period of time.

19. Based upon my training, experience I know that computer data can be stored on a variety of systems and storage devices including hard disk drives, floppy disks, compact disks, magnetic tapes and memory chips. I also know that computer evidence must typically be analyzed in a laboratory for a number of reasons, including the following:

a. Searching computer systems is a highly technical process which requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all of the necessary technical manuals and specialized equipment necessary to conduct a thorough search. In addition, it may also be necessary to consult with computer personnel who have specific expertise in the type of computer, software application or operating system that is being searched.

b. Searching computer systems requires the use of precise, scientific procedures which are designed to maintain the integrity of the evidence and to recover hidden, erased, compressed, encrypted or password-protected data. Computer hardware and storage devices may contain booby traps that destroy or alter data if certain procedures are not scrupulously followed. Since computer data is particularly vulnerable to inadvertent or intentional modification or destruction, a controlled environment, such as a law enforcement laboratory, is essential to conducting a complete and accurate analysis of the equipment and storage devices from which the data will be extracted.

c. The volume of data stored on many computer systems and storage devices will typically be so large that it will be highly impractical to search for data during the execution of the physical search of the premises. A single megabyte of storage space is the equivalent of 500 double-spaced pages of text. A single gigabyte of storage space, or 1,000 megabytes, is the equivalent of 500,000 double-spaced pages of text. Storage devices capable of storing fifteen gigabytes of data are now commonplace in desktop computers. Consequently, each non-networked, desktop computer found during a search can easily contain the equivalent of 7.5 million pages of data, which, if printed out, would completely fill a 10' x 12' x 10' room to the ceiling.

d. Computer users can attempt to conceal data within computer equipment and storage devices through a number of methods, including the use of innocuous or misleading filenames and extensions. For example, files with the extension .jpg often are image files; however, a user can easily change the extension to .txt to conceal the image and make it appear that the file contains text. Computer users can also attempt to conceal data by using encryption, which means that a password or device, such as a dongle or keycard, is necessary to decrypt the data into readable form. In addition, computer users can conceal data within another seemingly unrelated and innocuous file in a

process called steganography. For example, by using steganography a computer user can conceal text in an image file which cannot be viewed when the image file is opened. Therefore, a substantial amount of time is necessary to extract and sort through data that is concealed or encrypted to determine whether it is evidence, contraband or instrumentalities of a crime.

ITEMS TO BE SEIZED:

20. Based on the foregoing, I respectfully submit that there is probable cause to believe that the following items, which constitute evidence of violations of 18 U.S.C. 2319 and 17 U.S.C. 506, will be found at the Subject Premises:

- a. A large number of computers and computer storage devices containing copyrighted content such as movies and television content.
- b. Videotaped, recorded, or digitized movies and television programming, or any other form of motion picture on tape, compact disc, hard disk, DVD, diskette, or any other media.
- c. Records, documents, programs, applications and materials relating to the recording, distributing or selling of unauthorized copyrighted motion pictures or television content;
- d. Records, documents, programs, applications and materials relating to the online piracy organization named EliteTorrents;
- e. Accounting and financial records, sales and shipping records, copies of tax returns both personal, business and corporate, federal and state (including schedules, Forms 1099, correspondence, memoranda and another records used in the preparation of the tax returns), general ledgers, cash disbursement and receipt journals, check registers, bank statements, money market funds, investment accounts, cashier's checks (including purchaser copies), cancelled checks, deposited items, deposit tickets, telephone records, rental agreements for self storage units, opened and unopened e-mails, correspondence;
- f. Indicia of occupancy, including: invoices, letters, bills, personal effects, and mortgage and loan agreements tending to show ownership, occupancy, or control of the premises or the above described items;
- g. Diaries, appointment books, calendars, day planners, address and telephone books that reflect scheduled meetings and dates;
- h. Videotapes, DVDs, VCD, materials or copyrighted works belonging to any motion picture studio or authorized distributor;
- i. Video editing and transferring equipment, Digital Video editing kits, FireWire devices, and video/graphics cards;
- j. Machines capable of reproducing copyrighted items, such as DVD's and CD's, as well as materials used in the packaging, reproduction, or distribution of motion pictures in any format, including labels, videotape boxes, CD-ROM/DVD boxes, covers, or shipping materials.

k. As used above, the terms records, documents, programs, applications or materials includes records, documents, programs, applications or materials created, modified or stored in any form.

21. In searching for data capable of being read, stored or interpreted by a computer, law enforcement personnel executing a search warrant may wish to employ the following procedures:

a. Upon securing the premises, law enforcement personnel trained in searching and seizing computer data (the "computer personnel") will make an initial review of any computer equipment and storage devices to determine whether these items can be searched on-site in a reasonable amount of time and without jeopardizing the ability to preserve the data.

b. If the computer personnel determine it is not practical to perform an on-site search of the data within a reasonable amount of time, then the computer equipment and storage devices will be seized and transported to an appropriate law enforcement laboratory for review. The computer equipment and storage devices will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized set forth herein.

c. In searching the data, the computer personnel may examine all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized as set forth herein. In addition, the computer personnel may search for and attempt to recover "deleted," "hidden" or encrypted data to determine whether the data falls within the list of items to be seized as set forth herein.

d. If the computer personnel determine that the data does not fall within any of the items to be seized pursuant to this warrant, that the seized computer equipment was not used as an instrumentality of a crime or is not otherwise legally seized, the government will return these items.

22. In order to search for data that is capable of being read or interpreted by a computer, law enforcement personnel will need to seize and search the following items, subject to the procedures set forth above:

a. Any computer equipment and storage device capable of being used to commit, further or store evidence of the offense listed above.

b. Any computer equipment used to facilitate the transmission, creation, display, encoding or storage of data, including word processing equipment, modems, docking stations, monitors, printers, plotters, encryption devices, and optical scanners;

c. Any magnetic, electronic or optical storage device capable of storing data, such as floppy disks, hard disks, tapes, CD-ROMs, CD-R, CD-RWs, DVDs, optical disks, printer or memory buffers, smart cards, PC cards, memory calculators, electronic dialers, electronic notebooks, and personal digital assistants;

d. Any documentation, operating logs and reference manuals regarding the operation of the computer equipment, storage devices or software.

e. Any applications, utility programs, compilers, interpreters, and other software used to facilitate direct or indirect communication with the computer hardware, storage devices or data to be searched;

f. Any physical keys, encryption devices, dongles and similar physical items that are necessary to gain access to the computer equipment, storage devices or data; and

g. Any passwords, password files, test keys, encryption codes or other information necessary to access the computer equipment, storage devices or data.

23. Based upon the facts as set forth above, and upon my training and experience, I believe there is probable cause to believe that sk0t's residence will contain fruits, evidence and instrumentalities of violations of Title 17, United States Code Section 506, Title 18, United States Code Section 2319 and Title 18, United States Code Section 371.

Sincerely,

James W. Spertus
Vice President and Director
United States Anti-Piracy Operations
Motion Picture Association of America

Appendix 2 – Originator r313007

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR “R313007” HAS VIOLATED 18 U.S.C. 2319

24. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "r313007" and determined the following:

a. On February 10, 2005, r313007's IP address was 141.151.20.28 at 13:53:48 server time, and his Internet service provider was Verizon Internet Services.⁵ R313007 was added to the EliteTorrents organization on September 15, 2004 and was promoted to level "uploader" on the same date.

b. The EliteTorrents database had the following information logged for r313007:

- i. 141.151.20.28, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 04:26:31 server time.
- iii. last_login > 2005-02-10 13:53:48 server time.

c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with r313007 was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

- i. geocountry > US
- ii. state > PA
- iii. city > Blue Bell
- iv. isp1 > Verizon Internet Services
- v. isp2 > Verizon Internet Services

d. In total, r313007 uploaded 2084 gigabytes of content, and downloaded 5.47 gigabytes of content. This amount of uploading makes r313007 the 15th largest uploader in the EliteTorrents system.

e. R313007 originated 21 movies and 181 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. For example, r313007 originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

⁵ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 server time = 13:07:44 EST.

- i. I Robot (uploaded on October 22, 2004), which was subsequently downloaded 600 times by other EliteTorrents members;
 - ii. Alfie (uploaded on October 24, 2004), which was subsequently downloaded 1,051 times by other EliteTorrents members;
 - iii. The Princess Diaries 2 (uploaded on November 16, 2004), which was subsequently downloaded 1,092 times by other EliteTorrents members;
 - iv. House of Flying Daggers (uploaded on November 20, 2004), which was subsequently downloaded 2,276 times by other EliteTorrents members;
 - v. King Arthur (uploaded on December 6, 2004), which was subsequently downloaded 1,108 times by other EliteTorrents members;
 - vi. Flight of the Phoenix (uploaded on February 4, 2005), which was subsequently downloaded 2,204 times by other EliteTorrents members;
- f. R313007 downloaded 2 movies (Shark Tale and Troy) from members of the Elitetorrents organization.
- g. R313007 is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by his the extensive uploading. Additionally, he made several comments on the site to indicate witting participation:
- i. October 1, 2004 – in response to a user who thanked him “for uploading smallville” (TV series), r313007 stated “don’t worry, I love smallville too. . . so you’ll see every new episode on ET when it comes out.”
 - ii. January 27, 2005 – “don’t worry about the speed. .everyone will eventually get it. .i’m trying to pace myself so that the other torrents have enough seeds for me to move on. . so have patience”.
 - iii. January 31, 2005 – a user stated that s/he has noted that r13007 has “been the recent uploader of the tv-shows Joey and Lost” and inquired as to when the next episodes will be uploaded, to which r313007 responded: “go there and look up when those shows are going to play. . the day the play. . is the day I or others will upload them”.
 - iv. January 31, 2005 – responding to a user’s question regarding hardware: “I only upload . . . I don’t do anything else . . .”
 - v. February 10, 2005 – in response to questions regarding episodes of the TV show Desperate Housewives: “keep download the new one. . when the season is over. .we’ll upload the entire season for anyone missing episodes.”

Appendix 3 – Originator stonyvision

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR “STONYVISION” HAS VIOLATED 18 U.S.C. 2319

25. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "stonyvision" and determined the following:

a. On January 29, 2005, stonyvision's IP address was 24.160.240.215 at 13:34:37 server time, and his Internet service provider was Road Runner.⁶ Stonyvision was added to the EliteTorrents organization on August 15, 2004, and was promoted to level "uploader" on September 15, 2005.

b. The EliteTorrents database had the following information logged for stonyvision:

- i. 24.160.240.215 which is the IP address recorded by site at last access time below.
- ii. last_access > 2005-02-11 05:09:27 server time.
- iii. last_login > 2005-01-29 13:34:37 server time.
- iv. Avatar: <http://home.wi.rr.com/arepp/newava.JPG>

c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with stonyvision was likely from the following location listed below. It should be noted that geo-location software is only an approximation and should be corroborated.

- i. geocountry > US
- ii. state > WI
- iii. city > Germantown
- iv. isp1 > Road Runner
- v. isp2 > Road Runner

d. EliteTorrents also had a record listing stonyvision as using an additional IP address for uploading and downloading. In some cases, hardcore users place their infringing content on either a witting (i.e. paid hosting at an ISP) or unwitting (i.e. hacked computer) server to take advantage of higher transfer rates which are required for "uploader" status on EliteTorrents. The information logged by EliteTorrents for stonyvision's additional IP is:

- i. 216.32.85.178
- ii. last_access > 2005-02-11 00:10:10 server time

⁶ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 server time = 13:07:44 EST.

iii. By using publicly available geo-location software, Dr. Truelove advised that the additional IP address associated with stonyvision was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

iv. geocountry > US

v. state > North Carolina

vi. city > Cary

vii. isp1 > Savvis

viii. isp2 > Savvis

e. In total, stonyvision uploaded 2180 gigabytes of content, and downloaded 35 gigabytes of content. This amount of uploading makes stonyvision the 13th largest uploader in the EliteTorrents system.

f. Stonyvision originated 41 movies and 17 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. For example, Stonyvision originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

i. Sky Captain and the World of Tomorrow (uploaded on November 22, 2004), which was subsequently downloaded 2,018 times by other EliteTorrents members;

ii. Collateral (uploaded on November 28, 2004), which was subsequently downloaded 2,195 times by other EliteTorrents members;

iii. Finding Neverland (uploaded on December 24, 2004), which was subsequently downloaded 3,890 times by other EliteTorrents members;

iv. Million Dollar Baby (uploaded on January 7, 2005), which was subsequently downloaded 7,422 times by other EliteTorrents members;

v. The Phantom of the Opera (uploaded on January 11, 2005), which was subsequently downloaded 640 times by other EliteTorrents members;

vi. Elektra (uploaded on January 15, 2005), which was subsequently downloaded 2,367 times by other Elite Torrents members;

vii. Assault on Precinct 13 (uploaded on January 21, 2005), which was subsequently downloaded 1,963 times by other EliteTorrents members;

viii. Sideways (uploaded on January 22, 2005), which was subsequently downloaded 1,797 times by other EliteTorrents members;

ix. Raise Your Voice (uploaded on February 1, 2005), which was subsequently downloaded 538 times by other EliteTorrents members;

- x. Boogeyman (uploaded on February 6, 2005), which was subsequently downloaded 1,970 times by other EliteTorrents members;
- xi. Suspect Zero (screener) (uploaded on February 5, 2005, 2005), which was subsequently downloaded 949 times by other EliteTorrents members;

g. Stonyvision downloaded six movies and one television episode from members of the Elitetorrents organization. Movies stonyvision downloaded include King Arthur (director's cut), Sky Captain and the World of Tomorrow, and Dazed and Confused.

h. Stonyvision is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:

- i. September 19, 2004 – In response to a message posted by a user “just wondering when you were gonna do some uploads”, Stonyvision stated “I got something in the works, it'll be up by tonight”.
- ii. November 23, 2004 – acknowledging a user's “thanks for sharing” by stating “glad to have ya meh, hope u keep one enjoying it :)” (spellings as appeared).
- iii. November 24, 2004 – responding to a question as to how long his computer stays on once The Ninth Gate (Johnny Depp movie) gets to a tracker: “well it depends on how many people leech for how long I seed it. . .”, and noting that his computer is “on 24/7 365 and almost always has transfers of fxps going on.”
- iv. November 28, 2004 – responding “thanks man” to a user who stated: “good job seeding man I must clap for u I mean u gotta be one of the most tharl [sic; likely “thorough”] seeders around with that speed good job keep it up.”
- v. November 30, 2004 – asking whether a user would “have any interest in becoming an uploader?”
- vi. February 6, 2005 – in responding to the following user question and comment: “hello stonyvision I just wanted to thank you for getting such great movies and tv programs on to eilte [sic] torrents. Also I see that you have updownloaded suspect zero in VCD format. I was wondering if you had it . . . in dvd . . . dvd format. . .”, stonyvision stated as follows: “well the quality isent [sic] good enough to release in dvd format”, and then going on to explain how the user can decompress the image in order to burn it to a dvd.

Appendix 4 – Originator mattb

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR “MATTB” HAS VIOLATED 18 U.S.C. 2319

26. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "mattb" and determined the following:

a. On February 10, 2005, mattb's IP address was 216.17.131.130 at 09:59:17 server time, and his Internet service provider was Front Range Internet.⁷ mattb was added to the EliteTorrents organization on November 27, 2004, and was promoted to level "uploader" on December 29, 2005.

b. Mattb provided the email address, matt.b@myrealbox.com, at or subsequent to registration on EliteTorrents. Dr. Truelove advised that whenever an email address was provided to the EliteTorrents site, a confirmation of email account validity was required. This indicates that to complete registration, a validation email was sent to the email address provided and the user had to confirm receipt of that email before he was granted access to EliteTorrents.

c. The EliteTorrents database had the following information logged for mattb:

- i. 216.17.131.130, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 00:30:06 server time.
- iii. last_login > 2005-02-09 09:59:17 server time.
- d. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with mattb was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > CO
 - iii. city > Windsor
 - iv. isp1 > Front Range Internet
 - v. isp2 > ASP Technologies
- 1. EliteTorrents also had a record listing mattb as using an additional IP address for uploading and downloading. In some cases, hardcore users place their infringing content on either a witting (i.e. paid hosting at an ISP) or unwitting (i.e. hacked computer) server to take advantage of higher transfer rates

⁷ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 server time = 13:07:44 EST.

which are required for "uploader" status on EliteTorrents. The information logged by EliteTorrents for mattb's additional IP is 70.84.34.98.

- e. By using publicly available geo-location software, Dr. Truelove advised that the additional IP address associated with mattb was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

- i. geocountry > US
- ii. state > TX
- iii. city > Dallas
- iv. isp1 > THEPLANET.COM INTERNET SERVICES

- f. mattb was listed in the EliteTorrents database as being a donor, indicating that he/she donated money to the site.

- g. In total, mattb uploaded 4183 gigabytes of content, and downloaded over 135 gigabytes of content. This amount of uploading makes mattb the 5th largest uploader in the EliteTorrents system.

- h. mattb originated 33 movies and 9 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. For example, mattb originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

- i. The Forgotten (uploaded on December 30, 2004), which was subsequently downloaded 3,048 times by other EliteTorrents members;
- ii. The Grudge (uploaded on December 31, 2004), which was subsequently downloaded 3,962 times by other EliteTorrents members;
- iii. First Daughter (uploaded on January 1, 2005), which was subsequently downloaded 911 times by other EliteTorrents members;
- iv. In Good Company (DVD screener) (uploaded on January 4, 2005), which was subsequently downloaded 3,350 times by other EliteTorrents members;
- v. The Aviator (uploaded on January 8, 2005), which was subsequently downloaded 3,368 times by other EliteTorrents members;
- vi. Flight of the Phoenix (uploaded on January 15, 2005), which was subsequently downloaded 1,076 times by other EliteTorrents members;
- vii. Sideways (DVD screener) (uploaded on January 29, 2005), which was subsequently downloaded 571 times by other EliteTorrents members;
- viii. The Incredibles (uploaded on February 7, 2005), which was subsequently downloaded 1,025 times by other EliteTorrents members.

- i. mattb downloaded 34 movies and 31 television episodes from members of the Elitetorrents organization. Movies mattb downloaded include Blade Trinity,

Coach Carter, Collateral, Spiderman 2ays, Fahrenheit 911, Catwoman, Ladder 49, and Dude Where's My Car.

j. mattb is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:

- i. January 18, 2005 – “You leechers better seed after downloading”.
- ii. January 29, 2005 – message to one user: “Thanks for the hit and run, would it really kill you to seed that for a little while?”
- iii. January 25, 2005 – responding “You're welcome! :)” to a user comment regarding “impressive download speed”.

Appendix 5 – Originator cipher

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR CIPHER HAS VIOLATED 18 U.S.C. 2319

27. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "cipher" and determined the following:

a. On February 11, 2005, cipher's IP address was 67.184.126.182 at 04:56 servertime, and his Internet service provider was Comcast Cable.⁸ Cipher was added to the EliteTorrents organization on August 5, 2004, and was promoted to level "uploader" on two occasions: September 8, 2004 and October 19th, 2004.

b. The EliteTorrents database had the following information logged for cipher:

- i. 67.184.126.182, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 04:56:01 servertime.
- iii. last_login > 2005-02-07 17:44:48 servertime.
- c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with cipher was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > IL
 - iii. city > Chicago
 - iv. isp1 > Comcast Cable
 - v. isp2 > Comcast Cable

d. EliteTorrents also had a record listing cipher as using an additional IP address for uploading and downloading. In some cases, hardcore users place their infringing content on either a witting (i.e. paid hosting at an ISP) or unwitting (i.e. hacked computer) server to take advantage of higher transfer rates which are required for "uploader" status on EliteTorrents. The information logged by EliteTorrents for cipher's additional IP is:

- i. 67.167.87.102 which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 00:10:41 servertime

⁸ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

- e. By using publicly available geo-location software, Dr. Truelove advised that the additional IP address associated with cipher was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

- i. geocountry > US
- ii. state > IL
- iii. city > Elk Grove Village
- iv. isp1 > Comcast Cable
- v. isp2 > Comcast Cable

f. In total, cipher uploaded 460 gigabytes of content, and downloaded 315 gigabytes of content. This amount of uploading makes cipher the 245th biggest uploader in the EliteTorrents system.

g. Cipher originated 7 movies and 9 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, cipher originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

- i. Rat Race (uploaded on December 15, 2004), which was subsequently downloaded 306 times by other EliteTorrents members;
- ii. Bad Santa (uploaded on December 17, 2004), which was subsequently downloaded 2,321 times by other EliteTorrents members;
- iii. Euro Trip (uploaded on January 6, 2005), which was subsequently downloaded 1704 times by other EliteTorrents members;
- iv. 13 Going on 30 (uploaded on February 6, 2005), which was subsequently downloaded 880 times by other EliteTorrents members;
- v. 40 Days and 40 Nights (uploaded on February 6, 2005), which was subsequently downloaded 675 times by other EliteTorrents members;
- vi. Dickie Roberts Former Child Star (uploaded on February 7, 2005), which was subsequently downloaded 520 times by other EliteTorrents members;
- vii. Blade 2 (uploaded on February 7, 2005), which was subsequently downloaded 605 times by other EliteTorrents members;

h. Cipher downloaded 59 movies and 71 television episodes from members of the Elitetorrents organization. Movies cipher downloaded include Bourne Supremacy, Hotel Rwanda, The Chronicles of Riddick, Finding Neverland, and Sideways.

i. Cipher is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:

- i. September 12, 2004 – “Hey Deviant. My username: cipher. Pass: nothingmuch. For the uploades ftp line, I will be uploading mostly episodes and movies. Thank you. Cipher” *NOTE: (this message exchange is an “application” to be given uploader (originator) status)*
- ii. October 19, 2004 – “Hello, Prezto This PM is regarding Uploader status. I would like to apply to reinstate my uploader status. My Bandwith Status is i have two SDSL with upstream 768kps with thoroughput 130kbs+ and a T1 line as a backup, which i can utilize time to time for major releases. I would prefer to release Mp3 files and TV-shows. I am planning to release original connan o brien and triumph the insult dog dvd-r version. Upto my knowledge no other torrent site have those, which will make elite quite invaluable and exquisite as it would be the first site to have those. I pledge to be a regular member in the IRC channel, (as that was the reason for my uploader status to be snatched). Please respond or take appropriate action. kindly, cipher” *NOTE: (this message exchange is an “application” to be given uploader (originator) status)*
- iii. January 6, 2005 – “Really Funny Movie. You can thank me later. Cipher”
- iv. January 18, 2005 – “just one request make sure you guys keep seeding for more ppl so i can start uploading more episodes expect season 2 & 3 in next couple weeks. Cipher p.s: once i have 8-10 seeders for first 1-4 episodes i can upload next episodes.”
- v. January 21, 2005 – “i am going to do a major upload all of season 2 all the episodes in one big package in 2 days almost 5GB worth starting from episode 5 to 22 of season 2, better seed. Cipher”
- vi. January 26, 2005 – “Good luck all downloading Season 3 i hope it doesn't give u the same trouble as season 2. cipher. p.s: if you still having problem watching some season2 episodes let me know & i will be happy to reupload them.”
- vii. February 6, 2005 – “Extremely Funny movie, should watch it. You can thank me later. If you don't like it don't shoot the messenger. p.s: I had it, I found it, I saw it, I uploaded”

Appendix 6 – Originator punker22

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR PUNKER22 HAS VIOLATED 18 U.S.C. 2319

28. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "punker22" and determined the following:

a. On February 11, 2005, punker22's IP address was 66.0.170.81 at 03:40 servertime, and his Internet service provider was ITC^Deltacom.⁹ Punker22 was added to the EliteTorrents organization on December 10, 2004, and was promoted to level "uploader" on December 30, 2004.

b. Punker22 provided the email address, punker22@wowway.com, at or subsequent to registration on EliteTorrents. Dr. Truelove advised that whenever an email address was provided to the EliteTorrents site, a confirmation of email account validity was required. This indicates that to complete registration, a validation email was sent to the email address provided and the user had to confirm receipt of that email before they were granted access to EliteTorrents.

c. The EliteTorrents database had the following information logged for punker22:

- i. 66.0.170.81, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 03:40:50 servertime.
- iii. last_login > 2005-02-08 21:19:37 servertime.
- d. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with punker22 was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > MS
 - iii. city > Biloxi
 - iv. isp1 > ITC^Deltacom
 - v. isp2 > Biloxi Best Hotel

⁹ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

e. In total, punker22 uploaded 1,269 gigabytes of content, and downloaded 90 gigabytes of content. This amount of uploading makes punker22 the 42nd biggest uploader in the EliteTorrents system.

f. Punker22 originated 12 movies and 4 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, punker22 originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

- i. First Daughter (uploaded on December 31, 2004), which was subsequently downloaded 198 times by other EliteTorrents members;
- ii. Friday Night Lights (uploaded on December 31, 2004), which was subsequently downloaded 1,410 times by other EliteTorrents members;
- iii. The Simpsons The Complete Fifth Season Disc 4 (uploaded on January 1, 2005), which was subsequently downloaded 892 times by other EliteTorrents members;
- iv. 72 Metres (uploaded on January 4, 2005), which was subsequently downloaded 714 times by other EliteTorrents members;
- v. Bridget Jones The Edge of Reason (uploaded on January 28, 2005), which was subsequently downloaded 765 times by other EliteTorrents members;
- vi. National Treasure (uploaded on January 5, 2005), which was subsequently downloaded 3,719 times by other EliteTorrents members;
- vii. Being Julia (uploaded on January 5, 2005), which was subsequently downloaded 896 times by other EliteTorrents members;
- viii. Shark Tale (uploaded on January 9, 2005), which was subsequently downloaded 328 times by other EliteTorrents members;
- ix. Team America World Police (uploaded on January 9, 2005), which was subsequently downloaded 2,645 times by other EliteTorrents members;
- x. Vanity Fair (uploaded on January 18, 2005), which was subsequently downloaded 648 times by other EliteTorrents members;
- xi. Cheech and Chongs Next Movie (uploaded on February 5, 2005), which was subsequently downloaded 344 times by other EliteTorrents members;
- xii. Final Destination 2 (uploaded on February 7, 2005), which was subsequently downloaded 287 times by other EliteTorrents members;

g. Punker22 downloaded 27 movies and 1 television episode from members of the Elitetorrents organization. Movies punker22 downloaded include The Aviator, Meet the Fockers, Taxi, Napoleon Dynamite, and The Life Aquatic with Steve Zissou.

h. Punker22 is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:

- i. December 26, 2004 – “Hey guys I’m going to set my 200mbit on this and hopefully that will improve everyones dl speed ;) enjoy folks :D Update: Current upstream: 716.53kb/s should be a nice speed boost everyone is seeing now”
- ii. December 29, 2004 – “Dawg no worrys man I got my beastly upload on it, shouldn’t take too long ;) Current upstream 1041.52kb/s”
- iii. January 5, 2005 – “Wow great response to this, I’m laying some more BW onto this, bumping from 10mbit outbound to 100mbit, hope that helps the speed!! :D”
- i. Members of the EliteTorrents organization have the ability to associate an image with their user name. The image file can be stored either on the EliteTorrents servers, or it can be pulled from another source. Dr. Truelove looked at the user records for punker22 and determined from them that the image file that punker elected to associate with his user name as of February 12, 2005, was located on the website:
<http://radiofusion.org/images/fanbyte/fusion-button.jpg>

A cursory review of this website found a “punker22” listed as part of the website staff (<http://www.radiofusion.org/index.php?inc=crew>) with this picture attached:



In the picture profile, Ohio is listed as the user location.

- j. A cursory review of punker22’s email lead to Wide Open West (WOW) Cable which stated this on their website:
“Welcome to WOW!, a different kind of Internet and cable company. We offer genuine, long-term value on high-speed Internet and cable TV, a variety of money-saving bundles, as well as friendly, helpful customer care. As a result, hundreds of thousands of customers in Illinois, Ohio and Michigan have chosen us”
- k. Punker22 appears to be very active in the BitTorrent culture, posting several messages on various Internet forums. As an example, this message was found on:
<http://slashdot.org/comments.pl?sid=134349&cid=11215518>

Torrent files (Score:3, Interesting)

by [Punker22 \(844641\)](#) on Wednesday December 29, @10:11PM ([#11215518](#))
(<http://www.fusednetwork.com/>)

hosting .torrent files is in no way illegal and therefor neither is lokitorrent, we are glad to see Lowkee standing up for torrent sites everywhere that are crumbling due to the MPAA interference, we[radiofusion.org] will be helping Loki with the donation drive as well, don't let the MPAA take down another great site.

- I. Based on comments listed in section h. above, it is likely that punker22 is using systems located at hosting facilities to upload his infringing files. Google searches of [punker22@wowway.com](#) lead to two sites in particular that support this assumption:

<http://www.fdcservers.net/vbulletin/archive/index.php/t-205.html>

and

<http://www.fusednetwork.com/>

It is likely that punker22 is either an employee or part owner of at least one of these sites.

Appendix 7 – Originator neeksor

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR NEEKSOR HAS VIOLATED 18 U.S.C. 2319

29. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "neeksor" and determined the following:

a. On February 9, 2005, neeksor's IP address was 68.104.37.34 at 23:25 servertime, and his Internet service provider was Cox Communications.¹⁰ Neeksor was added to the EliteTorrents organization on December 18, 2004, and was promoted to level "uploader" on January 22, 2005.

b. Neeksor provided the email address, neeksor@yahoo.com, at or subsequent to registration on EliteTorrents. Dr. Truelove advised that whenever an email address was provided to the EliteTorrents site, a confirmation of email account validity was required. This indicates that to complete registration, a validation email was sent to the email address provided and the user had to confirm receipt of that email before they were granted access to EliteTorrents.

c. The EliteTorrents database had the following information logged for neeksor:

- i. 68.104.37.34, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 04:57:03 servertime.
- iii. last_login > 2005-02-09 23:25:05 servertime.
- d. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with neeksor was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > AZ
 - iii. city > Cave Creek
 - iv. isp1 > Cox Communications
 - v. isp2 > Cox Communications

e. EliteTorrents also had a record listing neeksor as using an additional IP address for uploading and downloading. In some cases, hardcore users place their infringing content on either a witting (i.e. paid hosting at an ISP) or unwitting (i.e. hacked computer) server to take advantage of higher transfer rates which

¹⁰ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

are required for “uploader” status on EliteTorrents. The information logged by EliteTorrents for neeksor’s additional IP is:

- i. 208.53.170.210 which is the IP address recorded by site at last_access time below.
 - ii. last_access > 2005-02-10 23:58:41 servertime
- f. By using publicly available geo-location software, Dr. Truelove advised that the additional IP address associated with neeksor was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > IL
 - iii. city > Chicago
 - iv. isp1 > FDCservers.net LLC
 - v. isp2 > FDCservers.net LLC
- g. In total, neeksor uploaded 2014 gigabytes of content, and downloaded 71.5 gigabytes of content. This amount of uploading makes neeksor the 16th biggest uploader in the EliteTorrents system.
- h. Neeksor originated 15 movies and 1 television episode for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, neeksor originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:
 - i. Assault on Precinct 13 (uploaded on January 23, 2005), which was subsequently downloaded 3,896 times by other EliteTorrents members;
 - ii. Saw (uploaded on January 27, 2005), which was subsequently downloaded 2,252 times by other EliteTorrents members;
 - iii. Saw (fixed version) (uploaded on January 27, 2005), which was subsequently downloaded 1729 times by other EliteTorrents members;
 - iv. NightStalker (uploaded on January 27, 2005), which was subsequently downloaded 209 times by other EliteTorrents members;
 - v. The Clearing (uploaded on January 28, 2005), which was subsequently downloaded 765 times by other EliteTorrents members;
 - vi. SpongeBob Squarepants the Movie (uploaded on January 28, 2005), which was subsequently downloaded 1,097 times by other EliteTorrents members;
 - vii. Oceans 12 (uploaded on January 29, 2005), which was subsequently downloaded 1,899 times by other EliteTorrents members;
 - viii. Taxi (uploaded on January 30, 2005), which was subsequently downloaded 1,202 times by other EliteTorrents members;

- ix. I Heart Huckabees (uploaded on January 30, 2005), which was subsequently downloaded 3,036 times by other EliteTorrents members;
- x. The Woodsman (uploaded on January 30, 2005), which was subsequently downloaded 811 times by other EliteTorrents members;
- xi. Raise Your Voice (uploaded on January 31, 2005), which was subsequently downloaded 1717 times by other EliteTorrents members;
- xii. Robot Stories (uploaded on February 2, 2005), which was subsequently downloaded 1577 times by other EliteTorrents members;
- xiii. Mallrats (uploaded on February 3, 2005), which was subsequently downloaded 1536 times by other EliteTorrents members;
- xiv. Flight of the Phoenix (screener) (uploaded on February 3, 2005), which was subsequently downloaded 1,225 times by other EliteTorrents members;
- xv. Flight of the Phoenix (DVD) (uploaded on February 7, 2005), which was subsequently downloaded 884 times by other EliteTorrents members;

i. Neeksor downloaded 24 movies and 7 television episodes from members of the Elitetorrents organization. Movies neeksor downloaded include Alexander, The Aviator, Meet the Fockers, Coach Carter, and Sideways.

j. Neeksor is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:

- i. January 29, 2005 – “again, if you’re not downloading DO NOT COMMENT”
 - ii. January 31, 2005 – In response to a message posted by user CkDead stating “Damn, 3 movies in a row, good job”, neeksor replied “lol. thanks. enjoy”
 - iii. February 4, 2005 – “im back to seed for 2+ hrs, noticed low speed seeds ☹”
 - iv. February 7, 2005 – “... I have a dedicated server that I upload from.”
- k. A google search on Neeksor’s email address revealed a hit for an apparent SPAM report which links back to neeksor as the culprit:

<http://www.websvertalk.com/archive154-2004-7-331522.html>

The registrant information lists Anthem, AZ for neeksor@yahoo.com. Anthem is approximately 20 miles from Cave Creek, AZ which the geo-location software in bullet (d.) listed as a probable IP address location.

Checking server [whois.000domains.com]
Results:

Domain: PORN-REMOVE.COM

Registrant/Owner: 000-CS59683
ContentCleaner
3655 W. Anthem Way, Suite A-109
PMB# 306
ANTHEM AZ, 85086
US

Administrative Contact: 000-CS59683
Content Cleaner Support
3655 W. Anthem Way, Suite A-109
PMB# 306
ANTHEM AZ, 85086
US
+1.6023574237
neeksor@yahoo.com

Additionally, an individual using the handle neeksor appears to be active in a gun club in Anthem, AZ.

Appendix 8 – Originator Nick4753

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR NICK4753 HAS VIOLATED 18 U.S.C. 2319

30. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "nick4753" and determined the following:

a. On February 4, 2005, nick4753's IP address was 24.145.195.191 at 16:37 servertime, and his Internet service provider was Earthlink.¹¹ Nick4753 was added to the EliteTorrents organization on October 7, 2004, and was promoted to level "Elite User" on February 3, 2005.

b. The EliteTorrents database had the following information logged for nick4753:

i. 24.145.195.191, which is the IP address recorded by site at last_access time below.

ii. last_access > 2005-02-06 17:51:18 servertime.

iii. last_login > 2005-02-04 16:37:03 servertime.

c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with nick4753 was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

i. geocountry > US

ii. state > WI

iii. city > Milwaukee

iv. isp1 > Earthlink

v. isp2 > Earthlink

d. In total, nick4753 uploaded 1208 gigabytes of content, and downloaded 87 gigabytes of content.

e. Nick4753 originated 3 movies and 9 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, nick4753 originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

i. Fahrenheit 911 (uploaded on October 14, 2004), which was subsequently downloaded 845 times by other EliteTorrents members;

¹¹ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

- ii. Back to the Future Trilogy (uploaded on October 17, 2004), which was subsequently downloaded 647 times by other EliteTorrents members;
- iii. The Forgotten (uploaded on December 30, 2004), which was subsequently downloaded 1224 times by other EliteTorrents members;
- f. Nick4753 downloaded 16 movies and 3 television episodes from members of the Elitetorrents organization. Movies nick4753 downloaded include The Incredibles, Harry Potter and the Prisoner of Azkaban, The Aviator and Ray.
- g. Nick4753 is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:
 - i. October 14, 2004 – In response to a message posted by user duffman stating “hey could you jump on In living color S2 Disk 2 of 4. this guy has a slow upload. it will take awhile for there to be any seeders because his limit is 75kB/sec. if not its cool but the help would be appreciated.. thanks man” nick3753 replied “Done.”
 - ii. October 30, 2004 – In response to a message posted by user cipher stating “hey Nick4753 .. i have a formal request is it possible for you to turn on Angels in America just seed it enough for me to download it or @ least speed up the process.. any help will be appreciated. sincerely cipher”, nick4753 replied “Don’t have it anymore. Sorry.”

Appendix 9 – Originator G

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR G HAS VIOLATED 18 U.S.C. 2319

31. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "G" and determined the following:

a. On February 9, 2005, G's IP address was 151.199.14.93 at 15:57 servertime, and his Internet service provider was Verizon Internet Services.¹² G was added to the EliteTorrents organization on November 2, 2004, and was promoted to level "Moderator" on January 20, 2005.

b. The EliteTorrents database had the following information logged for G:

- i. 151.199.14.93, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 05:09:01 servertime.
- iii. last_login > 2005-02-09 15:57:29 servertime.

c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with G was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

- i. geocountry > US
- ii. state > MA
- iii. city > West Roxbury
- iv. isp1 > Verizon Internet Services
- v. isp2 > Verizon Internet Services

d. In total, G uploaded 490 gigabytes of content, and downloaded 197 gigabytes of content.

e. G originated 8 movies and 4 television episodes for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, G originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

- i. The Up In Smoke Tour (uploaded on December 8, 2004), which was subsequently downloaded 311 times by other EliteTorrents members;

¹² We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

- ii. Without a Paddle (uploaded on December 23, 2004), which was subsequently downloaded 1797 times by other EliteTorrents members;
 - iii. Kinsey (uploaded on January 10, 2005), which was subsequently downloaded 1137 times by other EliteTorrents members;
 - iv. Christmas with the Kranks (uploaded on January 14, 2005), which was subsequently downloaded 475 times by other EliteTorrents members;
 - v. Shark Tale (uploaded on January 19, 2005), which was subsequently downloaded 2974 times by other EliteTorrents members;
 - vi. Flashback (uploaded on January 19, 2005), which was subsequently downloaded 166 times by other EliteTorrents members;
 - vii. Are We There Yet? (uploaded on January 25, 2005), which was subsequently downloaded 2331 times by other EliteTorrents members;
 - viii. Big (uploaded on February 7, 2005), which was subsequently downloaded 112 times by other EliteTorrents members;
- f. G downloaded 40 movies and 11 television episodes from members of the Elitetorrents organization. Movies G downloaded include The Incredibles, Meet the Fockers, Finding Neverland and The Forgotten.
- g. G is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:
- i. January 23, 2005 – G stated “the dvd is untouched...All menus, everthing is there.”
 - ii. January 15, 2005 – G stated “Thanks for the help seeding, had some PC problems near the beginning of the seed that I didn’t notice. But should be resolved now..... k I got 100mbit on it now.”
 - iii. February 11, 2005 – In response to a message from user chris05 asking “how do I get this are we there yet to work on my dvd player vcd help,” G replied “just burn it on a cd.”

Appendix 10 – Originator StanTek

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR StanTek HAS VIOLATED 18 U.S.C. 2319

32. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "StanTek" and determined the following:

- a. On February 11, 2005, StanTek's IP address was 68.230.42.83 at 04:46:50 servertime, and his Internet service provider was Cox Communications.¹³ StanTek was added to the EliteTorrents organization on August 10, 2004.
- b. The EliteTorrents database had the following information logged for StanTek:
 - i. 68.230.42.83, which is the IP address recorded by site at last_access time below.
 - ii. last_access > 2005-02-11 04:46:50 servertime.
 - iii. last_login > 2005-01-24 17:57:04 servertime.
- c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with StanTek was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > AZ
 - iii. city > Phoenix
 - iv. isp1 > Cox Communications
 - v. isp2 > Cox Communications
- d. In total, StanTek uploaded 501 gigabytes of content, and downloaded 256 gigabytes of content.
- e. StanTek originated 11 movies for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, StanTek originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:
 - i. Juice (uploaded on October 4, 2004), which was subsequently downloaded 211 times by other EliteTorrents members;

¹³ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

- ii. Walking Tall (uploaded on October 5, 2004), which was subsequently downloaded 456 times by other EliteTorrents members;
 - iii. The Alamo (uploaded on October 15, 2004), which was subsequently downloaded 527 times by other EliteTorrents members;
 - iv. The Last Dragon (uploaded on October 21, 2004), which was subsequently downloaded 198 times by other EliteTorrents members;
 - v. The Best of Triumph Insult Comic Dog (uploaded on December 5, 2004), which was subsequently downloaded 669 times by other EliteTorrents members;
 - vi. Cellular (uploaded on December 28, 2004), which was subsequently downloaded 1956 times by other EliteTorrents members;
 - vii. Weird Science (uploaded on January 7, 2005), which was subsequently downloaded 544 times by other EliteTorrents members;
 - viii. Airplane 2 The Sequel (uploaded on January 17, 2005), which was subsequently downloaded 406 times by other EliteTorrents members;
 - ix. They Live (uploaded on January 24, 2005), which was subsequently downloaded 557 times by other EliteTorrents members;
 - x. Deep Cover (uploaded on February 1, 2005), which was subsequently downloaded 443 times by other EliteTorrents members;
 - xi. Carry Me Home (uploaded on February 5, 2005), which was subsequently downloaded 299 times by other EliteTorrents members;
- f. StanTek downloaded 61 movies and from members of the Elitetorrents organization. Movies StanTek downloaded include The Incredibles, Meet the Fockers, Finding Neverland and The Forgotten.
- g. StanTek is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:
- i. September 27, 2004 – StanTek asked “Hey Stanp, how can I boost up my upload ration like yours.”
 - ii. September 27, 2004 – StanTek also wrote “This is what is on your Faq page for uploading: "You must be able to provide releases that:
 - have all files in original format (usually 14.3 MB RARs),
 - you'll be able to seed, or make sure are well-seeded, for at least 48 hours.Also, you should have at the very least 1MBit (125kps) upload bandwidth, and preferably substantially more.
- If you think you can match all these criteria do not hesitate to contact one of the administrators."

Hello Bonez. I'm StanTek. I would like to get permission to upload movies, games and apps to the Torrents. I upload at 768kps and download at 5megabits. All of my movies are in .iso format. All you have to do is burn it directly to a dvd. I will conmpress to .rar format for uploads. I've created 20 torrent files ready to go. All I need is your help in getting this process going. Please let me know as soon as you can. Thanks.

StanTek.”

- iii. November 28, 2004 – StanTek wrote “Jerry, you have to give me some time. I have other requests that I have to do. I will get to it as soon as I can. Just keep a watch for it. I will get to it soon.

----- Jerryrab wrote: -----

I am sorry to keep asking for Your help but is there any chansen that You could repost THE LEGEND it has been removed from the torrents .

I WOULD really appreciate it as would a number of other people that wanted it but deleted it after they could not get the fixed 008.rar file

I dled the 008.rar file and I am seeding it

also dled Dragon and will seed it for at least a week

Thanks for all of the movies that you POST I have dled all of them and seed them .

Jerry

aka Jerryrab.”

Appendix 11 – Originator bandwidth

PROBABLE CAUSE TO BELIEVE THAT ORIGINATOR BANDWIDTH HAS VIOLATED 18 U.S.C. 2319

33. Dr. Truelove pulled the user records that existed as of February 12, 2005, for the EliteTorrents member using the username "bandwith" and determined the following:

a. On February 5, 2005, bandwidth's IP address was 69.76.203.111 at 12:56 servertime, and his Internet service provider was Road Runner.¹⁴ Bandwith was added to the EliteTorrents organization on September 13, 2004, and was promoted to level "uploader" on September 14, 2004.

b. The EliteTorrents database had the following information logged for bandwidth:

- i. 69.76.203.111, which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-10 04:25:51 servertime.
- iii. last_login > 2005-02-05 12:56:50 servertime.
- c. By using publicly available geo-location software, Dr. Truelove advised that the IP address associated with bandwidth was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.
 - i. geocountry > US
 - ii. state > KS
 - iii. city > Leavenworth
 - iv. isp1 > Road Runner
 - v. isp2 > Road Runner

d. EliteTorrents also had a record listing bandwidth as using an additional IP address for uploading and downloading. In some cases, hardcore users place their infringing content on either a witting (i.e. paid hosting at an ISP) or unwitting (i.e. hacked computer) server to take advantage of higher transfer rates which are required for "uploader" status on EliteTorrents. The information logged by EliteTorrents for bandwidth's additional IP is:

- i. 207.44.153.89 which is the IP address recorded by site at last_access time below.
- ii. last_access > 2005-02-11 00:10:46 servertime

¹⁴ We cannot be certain of the accurate calibration of the server system clock that was used in creating the timestamps on the data provided to us. On February 21, 2005, the clock on the server that generated the data reported times in Eastern Standard Time that were 1 hour 7 minutes and 44 seconds slow. Thus, to the best of our knowledge, 12:00:00 servertime = 13:07:44 EST.

- e. By using publicly available geo-location software, Dr. Truelove advised that the additional IP address associated with bandwidth was likely from the following location. It should be noted that geo-location software is only an approximation and should be corroborated.

- i. geocountry > US
- ii. state > TX
- iii. city > Houston
- iv. isp1 > Everyones Internet, Inc
- v. isp2 > Everyones Internet, Inc

f. In total, bandwidth uploaded 3,138.4 gigabytes of content, and downloaded 77.6 gigabytes of content. This amount of uploading makes bandwidth the 6th biggest uploader in the EliteTorrents system.

g. Bandwidth originated 10 movies and for the EliteTorrents organization, each of which was downloaded hundreds or thousands of times. Specifically, bandwidth originated the following movies, which were subsequently downloaded by other EliteTorrents members the following number of times:

- i. The Forgotten (uploaded on September 28, 2004) which was subsequently downloaded 3,447 times by other EliteTorrents members;
- ii. Johnson Family Vacation (uploaded on October 2, 2004) which was subsequently downloaded 212 times by other EliteTorrents members;
- iii. Ren and Stimpy The Complete First and Second Seasons -disk 1 (uploaded on October 17, 2004) which was subsequently downloaded 538 times by other EliteTorrents members;
- iv. Ren and Stimpy The Complete First and Second Seasons - disk 2 (uploaded on October 18, 2004) which was subsequently downloaded 425 times by other EliteTorrents members;
- v. Ren and Stimpy The Complete First and Second Seasons - disk 3 (uploaded on October 24, 2004) which was subsequently downloaded 538 times by other EliteTorrents members;
- vi. Two Brothers (uploaded on December 2, 2004) which was subsequently downloaded 355 times by other EliteTorrents members;
- vii. Taxi (uploaded on December 18, 2004), which was subsequently downloaded 380 times by other EliteTorrents members;
- viii. Shaun Of The Dead (uploaded on December 18, 2004), which was subsequently downloaded 1,813 times by other EliteTorrents members;
- ix. Harold And Kumar To To White Castle Extreme Unrated (uploaded on December 23, 2004) which was subsequently downloaded 2,217 times by other EliteTorrents members;

x. Finding Neverland (uploaded on December 24, 2004), which was subsequently downloaded 1,241 times by other EliteTorrents members;

h. Bandwith downloaded 24 movies and 9 television episodes from members of the Elitetorrents organization. Movies bandwith downloaded include The Bourne Supremacy, Shark Tale, Oceans 12, Coach Carter, Meet The Fockers and The Aviator.

i. Bandwith is clearly aware that the EliteTorrents site facilitates the uploading and downloading of copyrighted content as evidenced by the extensive uploading and downloading he participated in. Additionally, he made several comments on the site to indicate witting participation:

- i. December 24, 2004 – “you wait for the seed to connect to you”
- ii. December 28, 2004 – “too many people hate that we beat VCDquality on these ;) just wait a few mins until they get it too.