

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA :  
 : No.  
 v. :  
 :  
 STEVEN FIATARONE, MICHAEL :  
 USZAKOW, WILLIAM PARROTT, :  
 DOMINIC TYMOREK, ROBERT HARDICK, : VIOLATION: 18 U.S.C. § 371  
 : (conspiracy)  
 Defendants. :  
 :

I N D I C T M E N T

The Grand Jury charges that, at all times relevant to this Indictment:

GENERAL ALLEGATIONS

1. As used herein, "warez" refers to computer software, games, and other copyrighted materials that have been reproduced and distributed on the Internet without authorization, in violation of federal copyright law. A "warez site" is a computer that serves as an archive for warez. The term "upload" means to reproduce and distribute warez to a warez site, i.e., to add material to the archive. The term "download" means to reproduce and distribute warez from a warez site, i.e., to copy material from the archive.

The Defendants

2. STEVEN FIATARONE, a defendant herein, was a resident of Spring Hill, Florida. When accessing warez sites, FIATARONE used the account name, or nickname, "kidzap."

3. MICHAEL USZAKOW, a defendant herein, was a resident of Oakdale, Minnesota. When accessing warez sites, USZAKOW used the account name, or nickname, "iced."

4. WILLIAM PARROTT, a defendant herein, was a resident of Roanoke Rapids, North Carolina. When accessing warez sites, PARROTT used the account name, or nickname, "niterangr."

5. DOMINIC TYMOREK, a defendant herein, was a resident of Woodstock, Georgia. When accessing warez sites, TYMOREK used the account name, or nickname, "tcut."

6. ROBERT HARDICK, a defendant herein, was a resident of Getzville, New York. When accessing warez sites, HARDICK used the account name, or nickname, "tcut."

#### The Warez Scene

7. On the Internet, the "warez scene" is an underground community comprised of individuals and organized groups, *i.e.*, "warez groups," who engage in the large-scale modification, reproduction, and distribution of copyrighted software, computer games, and other copyrighted materials.

8. Each warez group specializes in one or more different types of warez, such as computer games. The leading warez groups compete with one another to attain the reputation as the fastest, highest-quality provider of "pirated" materials -- that is, software, computer games, or other copyrighted materials that have been illegally reproduced and distributed.

9. Individuals in the warez scene participate in different ways. A "supplier" is responsible for obtaining and uploading new copyrighted material to a warez site. A "cracker" is responsible for circumventing technological copyright protections. A "courier" is responsible for distributing warez from one warez site to other warez sites. Other individuals are responsible for testing or re-packaging the warez, to make it easier and faster to distribute over the Internet. In particular, each item of pirated software, a computer game, or other copyrighted material is typically broken down and archived as one or more smaller computer files.

10. A warez site is typically affiliated with one or more warez groups. The "owner" of a warez site is the individual (or individuals) with physical access and control of the computer where the site resides. The "site operator" of a warez site is the individual (or individuals) who has the authority to administer the site, including the authority to determine who may access the site and on what terms. The owner of a warez site is not necessarily the same as the site operator.

11. Individuals in the warez scene are rewarded by receiving access to one or more warez sites, from which they can download pirated software, computer games, and other copyrighted materials.

**COUNT ONE**  
**(Conspiracy)**

12. Each allegation set forth in paragraphs 1 through 11 is incorporated as if fully set forth herein.

13. From in or about July, 2002 through in or about April, 2003, in the District of Connecticut and elsewhere, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown to the Government, did knowingly and willfully conspire, combine, confederate, and agree to commit an offense against the United States -- to wit, to willfully infringe the copyright of a copyrighted work, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1) -- by operating, administering, uploading to, and downloading from the warez site known as TEN ("The Ether Net").

The TEN Site

14. The warez site TEN ("The Ether Net") was located in New Haven, Connecticut.

15. From in or about December, 2002 through in or about April, 2003, MICHAEL USZAKOW, a defendant herein, uploaded approximately 1,983 files and downloaded approximately 493 files from the TEN site.

16. From in or about September, 2002 through in or about April, 2003, DOMINIC TYMOREK, a defendant herein, downloaded approximately 3,311 files from the TEN site.

17. From in or about September, 2002 through in or about April, 2003, ROBERT HARDICK, a defendant herein, downloaded approximately 5,130 files from the TEN site.

18. Files from the TEN site were distributed to other warez sites, including NRH ("Nite Ranger Hideout") and TBR ("The Boxer Rebellion").

Objects of the Conspiracy

19. From in or about July, 2002 through in or about April, 2003, in the District of Connecticut and elsewhere, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown, knowingly did conspire, combine, confederate, and agree to commit offenses against the United States, to wit:

- a. willfully to infringe the copyright of a copyrighted work for purposes of commercial advantage and private financial gain, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1)(A); and
- b. willfully to infringe the copyright of a copyrighted work by the reproduction and distribution, including by electronic means, during a 180-day period, of one or more copies of one or more copyrighted works, which have a total retail value of more than \$1,000, in violation of Title 18, United States Code, Section

2319(a), and Title 17, United States Code, Section 506(a)(1)(B).

Manner and Means of the Conspiracy

20. It was a part of the conspiracy that MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown:

- a. uploaded software, computer games, and other copyrighted materials to the TEN site without authorization;
- b. downloaded software, computer games, and other copyrighted materials from the TEN site for distribution to other warez sites; and
- c. downloaded software, computer games, and other copyrighted materials from the TEN site for private financial gain.

Overt Acts

21. In furtherance of the conspiracy, and in order to effectuate the object thereof, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown, committed the following overt acts, among others, within the District of Connecticut and elsewhere:

- a. On or about September 17, 2002, TYMOREK downloaded from the TEN site "Maya 4.5 Unlimited," a copyrighted

software package published by Alias Systems Corp., now known as Autodesk, Inc.

- b. On or about February 13, 2003, HARDICK downloaded from the TEN site "Symantec AntiVirus, Corporate Edition, version 8.0.1," a copyrighted software package published by Symantec Corp.
- c. On or about April 4, 2003, USZAKOW uploaded to the TEN site "MasterCam, version 9.1," a copyrighted software package published by CNC Software Inc.
- d. On or about April 7, 2003, a co-conspirator not named as a defendant herein, whose identity is known to the grand jury, uploaded to the TEN site "Windows Server 2003, Enterprise Edition," a copyrighted software package published by Microsoft Corp.
- e. On or about April 30, 2003, USZAKOW maintained an account on the TEN site.
- f. On or about April 30, 2003, TYMOREK maintained an account on the TEN site.
- g. On or about April 30, 2003, HARDICK maintained an account on the TEN site.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO  
(Conspiracy)

22. Each allegation set forth in paragraphs 1 through 21 is incorporated as if fully set forth herein.

23. From in or about July, 2002 through in or about April, 2003, in the District of Connecticut and elsewhere, DOMINIC TYMOREK, ROBERT HARDICK, and STEVEN FIATARONE, all defendants herein, and others known and unknown to the Government, did knowingly and willfully conspire, combine, confederate, and agree to commit an offense against the United States -- to wit, to willfully infringe the copyright of a copyrighted work, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1) -- by operating, administering, uploading to, and downloading from the warez site known as TBR ("The Boxer Rebellion").

The TBR Site

24. The warez site TBR was located in Buffalo, New York.

25. From in or about May, 2002 through in or about April, 2003, DOMINIC TYMOREK, a defendant herein, uploaded approximately 12,968 files and downloaded approximately 1,525 files from the TBR site.

26. From in or about June, 2002 through in or about April, 2003, ROBERT HARDICK, a defendant herein, uploaded

approximately 62,318 files and downloaded approximately 310 files from the TBR site.

27. From in or about September, 2002 through in or about April, 2003, STEVEN FIATARONE, a defendant herein, uploaded approximately 6,269 files and downloaded approximately 8,901 files from the TBR site.

Objects of the Conspiracy

28. From in or about May, 2002 through in or about April, 2003, in the District of Connecticut and elsewhere, DOMINIC TYMOREK, ROBERT HARDICK, and STEVEN FIATARONE, all defendants herein, and others known and unknown, knowingly did conspire, combine, confederate, and agree to commit offenses against the United States, to wit:

- a. willfully to infringe the copyright of a copyrighted work for purposes of commercial advantage and private financial gain, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1)(A); and
- b. willfully to infringe the copyright of a copyrighted work by the reproduction and distribution, including by electronic means, during a 180-day period, of one or more copies of one or more copyrighted works, which have a total retail value of more than \$1,000, in violation of Title 18, United States Code, Section

2319(a), and Title 17, United States Code, Section 506(a)(1)(B).

Manner and Means of the Conspiracy

29. It was a part of the conspiracy that DOMINIC TYMOREK, ROBERT HARDICK, and STEVEN FIATARONE, all defendants herein, and others known and unknown:

- a. uploaded software, computer games, and other copyrighted materials to the TBR site without authorization;
- b. downloaded software, computer games, and other copyrighted materials from the TBR site for distribution to other warez sites; and
- c. downloaded software, computer games, and other copyrighted materials from the TBR site for private financial gain.

Overt Acts

30. In furtherance of the conspiracy, and in order to effectuate the object thereof, DOMINIC TYMOREK, ROBERT HARDICK, and STEVEN FIATARONE, all defendants herein, and others known and unknown, committed the following overt acts, among others, within the District of Connecticut and elsewhere:

- a. On or about November 2, 2002, TYMOREK downloaded from the TEN site "Solid Edge, version 12," a copyrighted

software package published by UGS Corp, now known as Siemens AG.

- b. On or about November 2, 2002, TYMOREK uploaded to the TBR site "Solid Edge, version 12," a copyrighted software package published by UGS Corp, now known as Siemens AG.
- c. On or about December 5, 2002, FIATARONE uploaded to the TBR site "Pro/CONCEPT," a copyrighted software package published by Parametric Technology Corp.
- d. On or about April 2, 2003, TYMOREK uploaded to the TBR site "Envisioneer, version 1.0," a copyrighted software package published by Cadsoft Corp.
- e. On or about April 3, 2003, HARDICK uploaded to the TBR site "EnSight Gold, version 7.4.1," a copyrighted software package published by Computational Engineering International.
- f. On or about April 30, 2003, FIATARONE maintained an account on the TBR site.
- g. On or about April 30, 2003, TYMOREK maintained an account on the TBR site.
- h. On or about April 30, 2003, HARDICK maintained an account on the TBR site.

All in violation of Title 18, United States Code, Section 371.

**COUNT THREE**  
**(Conspiracy)**

31. Each allegation set forth in paragraphs 1 through 30 is incorporated as if fully set forth herein.

32. From in or about July, 2002 through in or about April, 2003, in the District of Connecticut and elsewhere, STEVEN FIATARONE, WILLIAM PARROTT, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown to the Government, did knowingly and willfully conspire, combine, confederate, and agree to commit an offense against the United States -- to wit, to willfully infringe the copyright of a copyrighted work, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1) -- by operating, administering, uploading to, and downloading from the warez site known as NRH ("Nite Ranger Hideout").

The NRH Site

33. The warez site NRH was located in Emporia, Virginia.

34. From in or about November, 2002 through in or about April, 2003, STEVEN FIATARONE, a defendant herein, uploaded approximately 23,572 files and downloaded approximately 40,487 files from the NRH site.

35. From in or about November, 2002 through in or about April, 2003, WILLIAM PARROTT, a defendant herein, uploaded

approximately 1,477 files and downloaded approximately 13,109 files from the NRH site.

36. From in or about December, 2002 through in or about April, 2003, MICHAEL USZAKOW, a defendant herein, uploaded approximately 3,195 files and downloaded approximately 7,296 files from the NRH site.

37. From in or about November, 2002 through in or about April, 2003, DOMINIC TYMOREK, a defendant herein, downloaded approximately 3,172 files from the NRH site.

38. From in or about November, 2002 through in or about April, 2003, ROBERT HARDICK, a defendant herein, downloaded approximately 57,039 files from the NRH site.

#### Objects of the Conspiracy

39. From in or about May, 2002 through in or about April, 2003, in the District of Connecticut and elsewhere, STEVEN FIATARONE, WILLIAM PARROTT, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown, knowingly did conspire, combine, confederate, and agree to commit offenses against the United States, to wit:

- a. willfully to infringe the copyright of a copyrighted work for purposes of commercial advantage and private financial gain, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1)(A); and

- b. willfully to infringe the copyright of a copyrighted work by the reproduction and distribution, including by electronic means, during a 180-day period, of one or more copies of one or more copyrighted works, which have a total retail value of more than \$1,000, in violation of Title 18, United States Code, Section 2319(a), and Title 17, United States Code, Section 506(a)(1)(B).

Manner and Means of the Conspiracy

40. It was a part of the conspiracy that STEVEN FIATARONE, WILLIAM PARROTT, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown:

- a. uploaded software, computer games, and other copyrighted materials to the NRH site without authorization;
- b. downloaded software, computer games, and other copyrighted materials from the NRH site for distribution to other warez sites; and
- c. downloaded software, computer games, and other copyrighted materials from the NRH site for private financial gain.

Overt Acts

41. In furtherance of the conspiracy, and in order to effectuate the object thereof, STEVEN FIATARONE, WILLIAM PARROTT, MICHAEL USZAKOW, DOMINIC TYMOREK, and ROBERT HARDICK, all defendants herein, and others known and unknown, committed the following overt acts, among others, within the District of Connecticut and elsewhere:

- a. On or about March 18, 2003, USZAKOW downloaded from the TEN site "AutoCAD 2004," a copyrighted software package published by AutoDesk, Inc.
- b. On or about March 19, 2003, USZAKOW uploaded to the NRH site "AutoCad 2004," a copyrighted software package published by AutoDesk, Inc.
- c. On or about April 7, 2003, FIATARONE uploaded to the NRH site "ColdFusion MX, version 6.0.1," a copyrighted software package published by Macromedia Inc., now known as Adobe Systems Inc.
- d. On or about April 8, 2003, HARDICK downloaded from the NRH site "ColdFusion MX, version 6.0.1," a copyrighted software package published by Macromedia Inc., now known as Adobe Systems Inc.
- e. On or about April 10, 2003, USZAKOW uploaded to the NRH site "BEA WebLogic Server, version 8.1," a copyrighted software package published by BEA Systems, Inc.

- f. On or about April 14, 2003, a co-conspirator not named as a defendant herein, whose identity is known to the grand jury, uploaded to the NRH site "Anger Management," a copyrighted motion picture.
- g. On or about April 20, 2003, TYMOREK downloaded from the NRH site "Anger Management," a copyrighted motion picture.
- h. On or about April 28, 2003, PARROTT downloaded from the NRH site "Paint Shop Pro, version 8.0," a copyrighted software package published by Jasc Software, Inc., now known as Corel Corp.
- i. On or about April 30, 2003, FIATARONE maintained an account on the NRH site.
- j. On or about April 30, 2003, USZAKOW maintained an account on the NRH site.
- k. On or about April 30, 2003, PARROTT maintained an account on the NRH site.
- l. On or about April 30, 2003, TYMOREK maintained an account on the NRH site.
- m. On or about April 30, 2003, HARDICK maintained an account on the NRH site.

All in violation of Title 18, United States Code, Section 371.

**FORFEITURE ALLEGATION**

42. Upon conviction of one or more of the offenses alleged in Counts One through Three of this Indictment, STEVEN FIATARONE, MICHAEL USZAKOW, WILLIAM PARROTT, DOMINIC TYMOREK, and ROBERT HARDICK, defendants herein, shall forfeit to the United States, pursuant to 17 U.S.C. § 506(b), all right, title, and interest in any infringing copies of copyrighted works and all implements, devices, and equipment used in the manufacture of such infringing copies.

43. If any of the above-described forfeitable property, as a result of any act or omission of the defendants, cannot be located upon the exercise of due diligence, has been transferred, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States to seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

All in accordance with Title 17, United States Code,  
Section 506(b), and Rule 32.2(a) of the Federal Rules of Criminal  
Procedure.

A TRUE BILL

---

FOREPERSON

UNITED STATES OF AMERICA

---

KEVIN J. O'CONNOR  
UNITED STATES ATTORNEY

---

ANTHONY KAPLAN  
SUPERVISORY ASSISTANT  
UNITED STATES ATTORNEY

---

EDWARD CHANG  
ASSISTANT UNITED STATES ATTORNEY