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SEP 26 1995
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY

01-344

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

KEVIN DAVID MITNICK, and
LEWIS DEPAYNE,
Defendants.

CR 96- 881

I N D I C T M E N T

[18 U.S.C. § 1029: Possession of Unauthorized Access Devices; 18 U.S.C. § 1030(a)(4): Computer Fraud; 18 U.S.C. § 1030(a)(5): Causing Damage To Computers; 18 U.S.C. § 1343: Wire Fraud; 18 U.S.C. § 2511: Interception of Wire or Electronic Communications; 18 U.S.C. § 2(a): Aiding and Abetting; 18 U.S.C. § 2(b): Causing an Act to be Done]

The Grand Jury charges:

COUNTS ONE THROUGH FOURTEEN

[18 U.S.C. §§ 1343, 2a, 2b]

INTRODUCTION

1. Beginning in or around June 1992 and continuing until February 1995, defendant KEVIN DAVID MITNICK, aided and abetted by defendant LEWIS DEPAYNE and others known and unknown to the

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EB EXH 1
6/18/02
BMR

Case No. Official Exhibit No.

01-344 KB-1

Disposition: Identified 6/18/02
Rejected Received 6/18/02

IN THE MATTER OF:

MITNICK

Date: 6/18/02 Witness: _____ Reporter: BMR

No. Pages: 19

1 and Fujitsu Network Transmission Services, Inc. ("FNTS") are
2 American subsidiaries of Fujitsu, Limited with offices in the
3 United States (Fujitsu, Limited, Fujitsu America and FNTS are
4 collectively referred to as "Fujitsu"). Among other things,
5 Fujitsu designs and manufactures computer software used to
6 operate cellular telephone networks. Fujitsu spends substantial
7 sums in developing its computer software and maintains it as
8 highly confidential proprietary information. In some instances,
9 Fujitsu licenses its proprietary software for a fee.

10 5. Novell, Inc. ("Novell") is a computer software company
11 headquartered in Provo, Utah, with offices throughout the United
12 States. Among other things, Novell designs and manufactures
13 proprietary computer software. Novell spends substantial sums in
14 developing its computer software and maintains it as highly
15 confidential proprietary information. Novell also licenses its
16 proprietary software for a fee.

17 6. NEC, Limited is an electronics and computer software
18 manufacturer headquartered in Japan. NEC America, Inc. is the
19 American subsidiary of NEC, Limited, headquartered in Irving,
20 Texas, with offices throughout the United States (NEC, Limited
21 and NEC America, Inc. are hereafter collectively referred to as
22 "NEC"). Among other things, NEC designs and manufactures
23 computer software used to operate cellular telephone networks.
24 NEC spends substantial sums in developing its computer software
25 and maintains it as highly confidential proprietary information.
26 NEC also licenses its proprietary software for a fee.

1 7. Sun Microsystems, Inc. ("Sun") is a computer
2 manufacturer headquartered in Mountain View, California, with
3 offices throughout the United States and Canada. Among other
4 things, Sun designs and manufactures software for computer
5 operating systems. Sun spends substantial sums in developing its
6 computer software and maintains it as highly confidential
7 proprietary information. Sun also licenses its proprietary
8 software for a fee.

9 THE INTERNET SERVICE PROVIDERS AND EDUCATIONAL INSTITUTIONS

10 8. Colorado SuperNet ("CSN") is an Internet Service
11 Provider headquartered in Denver, Colorado. For a fee, CSN
12 provides customers with computer user accounts that customers may
13 use to access other computer systems on the Internet.

14 9. Netcom On-Line Services ("Netcom") is an Internet
15 Service Provider headquartered in San Jose, California. For a
16 fee, Netcom provides customers with computer user accounts that
17 customers may use to access other computer systems on the
18 Internet.

19 10. The University of Southern California ("USC") is an
20 educational institution located in Los Angeles, California.
21 Among other things, USC owns, maintains and operates a number of
22 computers for the authorized use of USC faculty, students,
23 contractors, administrators and other authorized personnel. USC
24 also provides internet access to authorized users.

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1 THE SCHEME TO OBTAIN THE VICTIM COMPANIES' PROPRIETARY COMPUTER
2 SOFTWARE

3 11. Between June 1992 and February 1995, defendant MITNICK,
4 aided and abetted by defendant DEPAYNE and others known and
5 unknown to the Grand Jury, in the Central District of California
6 and elsewhere, carried out a scheme to fraudulently obtain
7 proprietary computer software belonging to the victim companies.
8 Defendant MITNICK, aided and abetted by defendant DEPAYNE and
9 others known and unknown to the Grand Jury, carried out the
10 scheme, in part, as follows:

11 12. During the time relevant to this indictment, the victim
12 companies developed computer software that they maintained as
13 highly confidential proprietary information. The proprietary
14 computer software was stored in computers belonging to the victim
15 companies.

16 13. In order to circumvent computer security measures
17 employed by the victim companies to safeguard their proprietary
18 computer software, defendant MITNICK needed to obtain user
19 accounts and corresponding passwords on victim companies'
20 computers so that he could then access these computers as part of
21 the scheme to obtain the victim companies' proprietary software.

22 14. Defendant MITNICK, aided and abetted by defendant
23 DEPAYNE and others known and unknown to the Grand Jury, obtained
24 confidential computer user accounts and corresponding secret
25 passwords on victim companies' computers through the following
26 means.

1 15. Defendants MITNICK and DEPAYNE, using aliases, deceived
2 employees of the victim companies into providing them with user
3 accounts and corresponding passwords by falsely representing that
4 they were employees of the victim companies. In some instances,
5 defendant MITNICK, using aliases, called the computer department
6 of a victim company, posed as an employee of the victim company
7 working on a special project, and then deceived computer
8 department personnel into creating a new user account on the
9 victim company's computers. Often, defendant MITNICK asked the
10 computer department personnel for a user account which he could
11 access from remote locations by dialing into the victim company's
12 computers using a telephone and a computer "modem" (a device that
13 allows computers to communicate over telephone lines). On other
14 occasions, defendant MITNICK called employees of a victim
15 company, impersonated computer department personnel, and then
16 deceived the unsuspecting employees into providing him with their
17 secret computer passwords.

18 16. To conceal his identity and avoid detection when making
19 these fraudulent telephone calls, defendant MITNICK used stolen
20 electronic serial numbers and mobile identification numbers to
21 create numerous "clone" cellular telephones that allowed him to
22 place unauthorized cellular telephone calls that were billed to,
23 and hence appeared to have been placed by, legitimate cellular
24 telephone subscribers.

25 17. Defendant MITNICK, aided and abetted by others known
26 and unknown to the Grand Jury, obtained other user accounts and
27 corresponding passwords for victim companies' computers by: (a)

1 using a computer program that intercepted and captured user
2 account information and passwords of authorized users as they
3 logged onto the computers of a victim company; (b) copying
4 "encrypted" (or coded) electronic password files maintained on a
5 victim company's computer to his own computer and then using
6 computer software programs to "decrypt" (or decode) the
7 information contained in the password files so that the passwords
8 could be identified and used; and (c) intercepting or reading
9 private electronic mail ("E-Mail") communications containing user
10 account, password, and computer security information.

11 18. Defendant MITNICK used the fraudulently obtained user
12 accounts and corresponding passwords to gain unauthorized access
13 to the computers of the victim companies, and to computers
14 belonging to Internet Service Providers and educational
15 institutions. In order to conceal his identity, and to further
16 avoid detection, defendant MITNICK used "clone" cellular
17 telephones, computer modems, Internet connections from other
18 victim companies, or stolen long distance calling card numbers to
19 access the computers of the victim companies, the Internet
20 Service Providers, and the educational institutions.

21 19. Once he obtained initial unauthorized access to a
22 computer by using fraudulently obtained user accounts and
23 passwords, defendant MITNICK circumvented internal computer
24 security measures installed on victim companies' computers for
25 the purpose of preventing regular users from accessing
26 information stored in protected parts of the computer systems or
27 in other authorized user's accounts. Specifically, defendant

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1 MITNICK ran unauthorized computer "hacking" programs on the
2 computers of some of the victim companies, Internet Service
3 Providers, and educational institutions that altered or replaced
4 the existing legitimate programs installed on the computers of
5 these entities.

6 20. Defendant MITNICK used unauthorized "hacking" programs
7 to: (a) circumvent computer security to obtain unrestricted
8 access to other user accounts and confidential information,
9 including E-Mail, stored on the computers of the victim
10 companies, Internet Service Providers, and educational
11 institutions; (b) disable computer logs that ordinarily provide a
12 record of the dates and times when a computer is accessed; and
13 (c) make his unauthorized entries into victim companies' computer
14 systems invisible to computer department personnel responsible
15 for maintaining and securing the computers of the victim
16 companies, Internet Service Providers, and educational
17 institutions.

18 21. By running unauthorized "hacking" programs, defendant
19 MITNICK was able to obtain undetected "Superuser" status on the
20 computers of the victim companies, Internet Service Providers and
21 educational institutions. "Superuser" status permits a user to
22 access all areas of a computer.

23 22. Defendant MITNICK used his "Superuser" status to: (a)
24 obtain access to proprietary computer software and other
25 confidential information stored in otherwise inaccessible areas
26 of the computers of the victim companies; and (b) copy,
27 misappropriate and transfer proprietary computer software, E-

1 Mail, passwords, and personal information about victim company
2 personnel.

3 23. Using computers and modems, defendant MITNICK
4 electronically transferred the proprietary software from the
5 victim companies' computers through misappropriated Internet user
6 accounts, and then to computers belonging to USC, which he used
7 to store the stolen proprietary software.

8 24. Defendant MITNICK, aided and abetted by defendant
9 DEPAYNE and others known and unknown to the Grand Jury, also
10 obtained proprietary computer software by: (a) deceiving victim
11 company employees into transferring proprietary computer software
12 to victim company computers and Internet Service Provider
13 accounts that had been compromised by defendant MITNICK; and (b)
14 deceiving victim company employees into mailing computer tapes
15 and disks containing proprietary computer software to defendants
16 MITNICK and DEPAYNE, posing as other victim company employees or
17 authorized recipients of the proprietary computer software.

18 25. Defendant DEPAYNE aided and abetted defendant MITNICK
19 through various means, including, but not limited to: (a)
20 providing defendant MITNICK with cellular telephones; (b)
21 assisting defendant MITNICK in converting cellular telephones
22 into "clone" cellular telephones by programming them with stolen
23 electronic serial numbers and mobile identification numbers; (c)
24 maintaining an Internet account that defendant MITNICK used to
25 transfer some of the fraudulently obtained proprietary computer
26 software; (d) placing at least one pretext telephone call to a
27 victim company posing as an employee of the victim company; and

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1 (e) attempting to have computer tapes containing proprietary
2 computer software sent via express delivery to a hotel in
3 Compton, California.

4 26. Through the means described above, defendant MITNICK,
5 aided and abetted by defendant DEPAYNE, gained unauthorized
6 access to numerous computer systems, and obtained, or attempted
7 to obtain, proprietary computer software worth millions of
8 dollars.

9 USE OF INTERSTATE AND FOREIGN WIRES

10 27. On or about the dates set forth below, in the Central
11 District of California and elsewhere, defendant KEVIN DAVID
12 MITNICK, aided and abetted by defendant LEWIS DEPAYNE and others
13 known and unknown to the Grand Jury, for the purpose of executing
14 the above described scheme to defraud and to obtain property by
15 means of false and fraudulent pretenses, representations and
16 promises, caused the following transmissions by wire
17 communication in interstate and foreign commerce:

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COUNT	VICTIM	DATE	WIRE TRANSMISSION
ONE	Novell	1/4/94	Telephone call from defendant MITNICK aka "Gabe Nault" in Colorado to San Jose, California
TWO	Nokia	1/26/94	Unauthorized electronic transfer of Nokia proprietary software from Salo, Finland to USC in Los Angeles, California
THREE	Nokia	2/4/94	Telephone call from defendant MITNICK aka "Mike" in the United States to Nokia in Finland
FOUR	Novell	2/13/94	Unauthorized electronic transfer of Novell proprietary software from Sandy, Utah through CSN in Denver, Colorado to USC in Los Angeles, California
FIVE	Motorola	2/19/94	Telephone call from defendant MITNICK aka "Earl Roberts" in Colorado to Motorola in Libertyville, Illinois
SIX	Motorola	2/20/94	Telephone call from defendant MITNICK in Colorado to Libertyville, Illinois
SEVEN	Motorola	2/21/94	Unauthorized electronic transfer of Motorola proprietary software from Libertyville, Illinois through CSN in Denver, Colorado and then to USC in Los Angeles, California

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COUNT	VICTIM	DATE	WIRE TRANSMISSION
EIGHT	Fujitsu	4/15/94	Telephone call from defendant MITNICK aka "Chris Stephenson" in Colorado to Richardson, Texas
NINE	Fujitsu	4/15/94	Unauthorized electronic transfer of Fujitsu proprietary software from Richardson, Texas through CSN in Denver, Colorado to USC in Los Angeles, California
TEN	Nokia	4/21/94	Telephone call from defendant MITNICK aka "Adam Gould" in the United States to Nokia in Finland
ELEVEN	Fujitsu	4/26/94	Telephone call from defendant MITNICK in the United States to Fujitsu in Japan
TWELVE	Nokia	5/9/94	Telephone call by defendant DEPAYNE aka "K.P. Wileska" from Los Angeles, California to Nokia in Largo, Florida
THIRTEEN	NEC	5/9/94	Telephone call from defendant MITNICK aka "Greg" in the United States to NEC in Japan
FOURTEEN	NEC	5/10/94	Unauthorized electronic transfer of NEC proprietary software from Irving, Texas to USC in Los Angeles, California

COUNT FIFTEEN

[18 U.S.C. § 1030(a)(4)]

28. The grand jury repeats and realleges paragraphs 1 through 26 as if fully set forth herein.

29. On or about February 21, 1994, within the Central District of California and elsewhere, defendant KEVIN DAVID MITNICK knowingly, and with the intent to defraud, accessed a Federal interest computer without authorization in order to carry out a scheme to defraud and obtained an object of value.

Specifically, defendant MITNICK: (a) knowingly, and without Motorola's authorization, used computers in one state to access computers in another state belonging to Motorola; (b) duplicated and transferred proprietary computer software belonging to Motorola; and, (c) electronically transferred the proprietary software stolen from Motorola in Illinois, across state lines to computers located in Denver, Colorado, and then to computers located at USC, in Los Angeles, California.

COUNT SIXTEEN

[18 U.S.C. § 1030(a)(5)]

30. The grand jury repeats and realleges paragraphs 1 through 26 as if fully set forth herein.

31. Between June 1993 and June 1994, in the Central District of California and elsewhere, defendant KEVIN DAVID MITNICK, using computers located outside California, knowingly, and without authorization, altered, damaged and destroyed information contained in, and prevented authorized use of, the computers of USC, located in Los Angeles, California. In altering, damaging, and destroying information contained in, and preventing authorized use of, the computers of USC, defendant MITNICK caused losses to one or more persons and entities aggregating more than \$1,000.

COUNT SEVENTEEN

[18 U.S.C. § 2511]

32. The grand jury repeats and realleges paragraphs 1 through 26 as if fully set forth herein.

33. In or around December 1993, in the Central Division of the District of Utah and elsewhere, defendant KEVIN DAVID MITNICK knowingly and intentionally intercepted an electronic communication. Specifically, through the use of a computer and a computer modem, defendant MITNICK installed a program on the computers of Novell which permitted defendant MITNICK to capture electronic communications in the form of computer passwords being transmitted to the computers of Novell. Thereafter, defendant MITNICK used the unauthorized computer program to intercept electronic communications; namely, authorized computer passwords being transmitted to Novell computers by authorized users of Novell computers.

COUNTS EIGHTEEN THROUGH TWENTY-FIVE

[18 U.S.C. § 1029]

34. The grand jury repeats and realleges paragraphs 1 through 26 as if fully set forth herein.

35. On or about the dates set forth below, in the Central District of California, the Western District of Washington and elsewhere, defendant KEVIN DAVID MITNICK, knowingly and with intent to defraud possessed more than fifteen unauthorized access devices; namely, electronic files containing in excess of 15 names and corresponding passwords for accounts on the computers of the companies described below:

COUNT	DATE	UNAUTHORIZED PASSWORD FILES POSSESSED
EIGHTEEN	7/10/93	computer file containing in excess of 100 user names and corresponding passwords for accounts on Sun computers
NINETEEN	7/23/93	computer file containing in excess of 100 user names and corresponding passwords for accounts on Sun computers
TWENTY	12/1/93	computer file containing in excess of 20 user names and corresponding passwords for accounts on USC computers
TWENTY-ONE	12/20/93	computer file containing in excess of 50 user names and corresponding passwords for accounts on Novell computers
TWENTY-TWO	12/24/93	computer file containing in excess of 900 user names and corresponding passwords for accounts on Novell computers

COUNT	DATE	UNAUTHORIZED PASSWORD FILE POSSESSED
TWENTY-THREE	2/22/94	computer file containing approximately 212 user names and corresponding passwords for accounts on Motorola computers
TWENTY-FOUR	4/16/94	computer file containing in excess of 50 user names and corresponding passwords for accounts on Fujitsu computers
TWENTY-FIVE	6/12/94	computer file containing in excess of 30 user names and corresponding passwords for accounts on NEC computers

A TRUE BILL

FOREPERSON

NORA M. MANELLA
United States Attorney
Central District of California

RICHARD E. DROOYAN
Assistant United States Attorney
Chief, Criminal Division

SEAN E. BERRY
Assistant United States Attorney
Chief, Major Frauds Section

I hereby attest and certify on 2/13/97
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

[Signature]
DEPUTY CLERK



0153

1 RICHARD G. SHERMAN, ESQ.
Calif. State Bar No. 31098
2115 Main Street
3 Santa Monica, CA 90405
(310) 399-3259

4 Attorney for Defendant
Lewis DePayne

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 UNITED STATES OF AMERICA,) CASE NO. CR 96-881-MRP
12 Plaintiff,) ORDER REDUCING BAIL
13 vs.) [Proposed]
14 LEWIS DEPAYNE,)
15 Defendant.)
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17
18 The Court having considered the Motion of Lewis DePayne for
19 an order reducing his bail, and good cause appearing therein, IT
20 IS HEREBY ORDERED that the motion is granted and Defendant Lewis
21 DePayne may remain out-of-custody pending trial upon execution of
22 a personal appearance bond, and, it is further ordered that the
23 Clerk's Office release the \$100,000 cash presently on deposit on
24 behalf of said defendant.

25 Dated: December __, 1996.
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UNITED STATES DISTRICT JUDGE

1 RICHARD G. SHERMAN, ESQ.
Calif. State Bar No. 31098
2 2115 Main Street
Santa Monica, CA 90405
3 (310) 399-3259

4 Attorney for Defendant
Lewis DePayne
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7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 vs.)
14 LEWIS DEPAYNE,)
15 Defendant.)
16

CASE NO. CR 96-881-MRP
ORDER REDUCING BAIL
[Proposed]

17
18 The Court having considered the Motion of Lewis DePayne for
19 an order reducing his bail, and good cause appearing therein, IT
20 IS HEREBY ORDERED that the motion is granted and Defendant Lewis
21 DePayne may remain out-of-custody pending trial upon execution of
22 a personal appearance bond, and, it is further ordered that the
23 Clerk's Office release the \$100,000 cash presently on deposit on
24 behalf of said defendant.

25 Dated: December __, 1996.
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28 _____
UNITED STATES DISTRICT JUDGE

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for the Northern District of California

CL 96-506

United States of America

v.

Kevin Mitnick

Criminal No. CR 96-20042-RMW

Consent to Transfer of Case

for Plea and Sentence

(Under Rule 20)

FILED
MAY 2 3 10 PM '96
RICHARD W. WIERING
CLERK COURT
U.S. DIST. OF CA. S.J.

I, Kevin Mitnick, defendant, have been informed that a Information (indictment, information, complaint) is pending against me in the above designated cause. I wish to plead guilty (guilty, nolo contendere) to the offense charged, to consent to the disposition of the case in the Central district of California in which I am also charged (am under arrest, am held) and to waive trial in the above captioned District.

Dated: April 25, 1996 at LA, CA.

Kevin Mitnick
(Defendant) KEVIN MITNICK

(Witness) Richard Steingard
(Counsel for Defendant) JOHN YZURDIAGA, ESQ.
RICHARD STEINGARD, ESQ.

ENTERED OFFICES
MAY 28 1996

Christopher M.E. Painter approved

Albert S. Glenn 5/1/96
ALBERT S. GLENN

EBERHARDT
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PMM

CHRISTOPHER M.E. PAINTER
Asst. United States Attorney for the

Asst. United States Attorney for the

CENTRAL District of
CALIFORNIA

NORTHERN District of
CALIFORNIA

Case No. Official Exhibit No.

Q-3111 EPJZ

Disposition: Identified 6/18/02

Rejected 6/18/02

IN THE MATTER OF:

Kevin David Minkide

Date: Witness: Reporter:

6/19/02 PMR

No. Pages:

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CR 96-506

FILED

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RICHARD W. WICKING
CLERK
U. S. DISTRICT COURT
NO. DIST. OF CAL. S.J.

RMW

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MICHAEL J. YAMAGUCHI
United States Attorney

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA)
Plaintiff,)

v.)

KEVIN MITNICK,)
Defendant.)

CR 96 20042 RMW

Violations: Title 18, United States Code, Section 2511 -- INTERCEPTION OF ELECTRONIC COMMUNICATIONS; Title 18, United States Code, Section 1030 -- COMPUTER FRAUD. (San Jose Venue)

I N F O R M A T I O N

COUNT ONE: (18 U.S.C. § 2511(1)(a))

The United States Attorney charges:

On or about November 29, 1994, in the City of San Jose, County of Santa Clara, State and Northern District of California, and elsewhere,

KEVIN MITNICK,

defendant herein, did intentionally intercept and endeavor to intercept electronic communications, that is, through the use of a computer and a computer modem defendant KEVIN MITNICK did acquire computer passwords, which were electronic communications, being transmitted to a computer owned by Netcom, an internet service

RECEIVED ON 10/13
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1 provider, all in violation of Title 18, United States Code, Section
2 2511(1)(a).

3 COUNT TWO: (18 U.S.C. § 1030(a)(4))

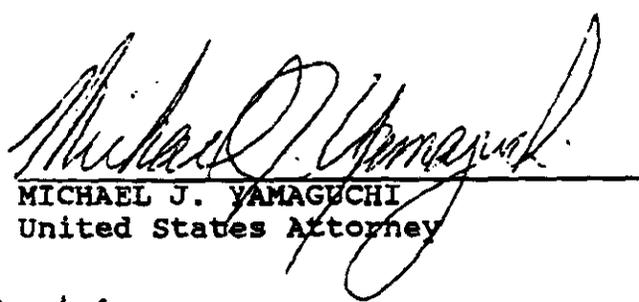
4 The United States Attorney further charges:

5 On or about February 5, 1995, in the City of Sausalito,
6 County of Marin, State and Northern District of California, and
7 elsewhere,

8 KEVIN MITNICK,

9 defendant herein, did knowingly and with intent to defraud, access
10 a computer within the Northern District of California belonging to
11 The Well, an internet service provider, from a computer outside
12 California, without authorization, and by means of such conduct
13 furthered an intended fraud, that is, furthered a scheme to
14 fraudulently obtain valuable proprietary computer software
15 belonging to "F" corporation by using a computer to electronically
16 transfer such stolen proprietary computer software from the
17 computer at "F" corporation, outside California, to the computer at
18 The Well within the Northern District of California and storing
19 such software on The Well's computer, all in violation of Title 18,
20 United States Code, Section 1030(a)(4).

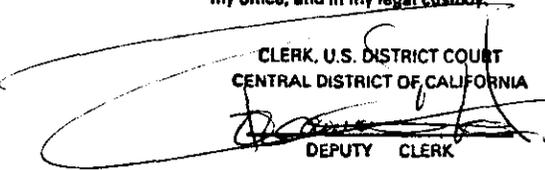
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22 DATED: March 15, 1996


MICHAEL J. YAMAGUCHI
United States Attorney

23
24
25 (Approved as to Form: ASS WPA)
26 AUSAs: ALTSCHULER, /GLENN)

I hereby attest and certify on 2/13/02
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA


DEPUTY CLERK



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United States District Court
Central District of California

Enforcement
Bureau Ex-3

UNITED STATES OF AMERICA vs.
Defendant KEVIN DAVID MITNICK
akas:

Docket No. CR 96-506-MRP ✓
CR 96-881-MRP

Social Security No. 550-39-5695

Mailing Address:

Metropolitan Detention Center
535 North Alameda St.
L.A., Ca. 90012

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person, on August 9, 1999.

COUNSEL: x WITH COUNSEL Donald C. Randolph (Appointed)
(Name of Counsel)

PLEA: x GUILTY, and the Court being satisfied that there is a factual basis for the plea. NOLO CONTENDERE NOT GUILTY

FINDING: There being a finding/verdict of GUILTY, defendant has been convicted as charged of the offense(s) of: Interception of electronic communications; computer fraud in violation of 18 USC 2511(1)(a); 18 USC 1030(a)(4) as charged in counts 1 and 2 of the Information in case CR 96-506-MRP; Wire fraud, aiding and abetting, causing an act to be done, and causing damage to computers in violation of 18 USC 1343, 2a, 2b, and 18 USC 1030(a)(5) as charged in counts 1,5,8,10 and 16 of the Indictment in case CR 96-881-MRP.

JUDGMENT AND PROBATION/COMMITMENT ORDER:

The Court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court the defendant is hereby committed to the Bureau of Prisons to be imprisoned for a term of:

Pursuant to Section 5E1.2(e) of the Guidelines, all fines are waived as it is found that the defendant does not have the ability to pay a fine in addition to restitution.

It is ordered that the defendant shall pay to the United States a special assessment of \$350.00, which is due immediately.

SEP 26 1999
EBEM3
6/18/02
POMR

United States District Court
Central District of California

UNITED STATES OF AMERICA

Docket No. CR 96-506-MRP ✓
CR 96-881-MRP

vs.

KEVIN DAVID MITNICK

JUDGMENT AND PROBATION/COMMITMENT ORDER

continued from page 1

It is ordered that the defendant shall pay restitution in the total amount of \$4,125.00 pursuant to 18 USC 3663 to Fujitsu Network \$742.50; Motorola, Inc. \$453.75; Nokia Mobile Phones \$288.75; Novell, Inc. \$495.00; University of Southern California \$288.75; Quest Comm. Corp. \$577.50; The Well, \$330.00; U.S. West/Airtouch \$123.75; NPACI/SDSC MC 0505 \$41.25; MCI/USLD \$41.25; Pacific Bell \$41.25; Sun Microsystems \$330.00 and ICG-PST \$371.25.

If the defendant makes a partial payment, each payee shall receive approximately proportional payment unless another order is entered by the Court.

Restitution shall be due during the period of imprisonment, as directed by the Court or the United States Attorney, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, monthly payments of \$125.00 shall be made during the period of supervised release as directed and approved by the Probation Officer. These payments shall begin 30 days after the commencement of supervision. Partial restitution is ordered as the court finds that the defendant's economic circumstances do not allow for either immediate or future payment of the full amount of restitution outstanding.

If any amount of restitution ordered remains unpaid after the termination of supervision, the balance shall be paid as directed by the United States Attorney's Office.

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Kevin David Mitnick, is hereby committed on counts 1 and 2 of the Information in Case No. CR 96-506-MRP, and counts 1,5,8,10 and 16 of the Indictment in Case No. CR 96-881-MRP, to the custody of the Bureau of Prisons to be imprisoned for a term of 46 months.

This term consists of 46 months on each of counts 1 and 2 of the Information in Case No. CR 96-506-MRP, and counts 1,5,8,10 and 16 of the Indictment in Case No. CR 96-881-MRP, all to be served concurrently to each other, and consecutively to the sentence of 8 months previously imposed in Case No. CR 95-603-MRP and 14 months previously imposed in Case No. CR 88-1031-MRP.

United States District Court
Central District of California

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Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years.

This term consists of 3 years on each of counts 1 and 2 of the Information in Case No. CR 96-506-MRP, and 3 years on each of counts 1,5,8,10 and 16 of the Indictment in Case No. CR 96-881-MRP, all such terms to run concurrently, on the following terms and conditions: (1) the defendant shall comply with the rules and regulations of the U.S. Probation Office and General Order 318; (2) The defendant shall abstain from using illicit drugs during the period of supervision; (3) during the period of community supervision the defendant shall pay the special assessment and restitution in accordance with this judgment's orders pertaining to such payment; (4) the defendant shall not obtain or possess any driver's license, Social Security number, birth certificate, passport or any other form of identification without the prior written approval of the Probation Officer; further, the defendant shall not use, for any purpose or in any manner, any name other than his true legal name. The defendant shall not legally change his name during the term of community supervision without the expressed approval of the Court; (5) without the prior expressed written approval of the Probation Officer: 1. the defendant shall not possess or use, for any purpose, the following: (a) any computer hardware equipment; (b) any computer software programs; (c) modems; (d) any computer-related peripheral or support equipment; (e) portable laptop computers, "personal information assistants," and derivatives; (f) cellular telephones; (g) televisions or other instruments of communication equipped with online, Internet, world-wide web or other computer network access; (h) any other electronic equipment, presently available or new technology that becomes available, that can be converted to or has as its function the ability to act as a computer system or to access a computer system, computer network or telecommunications network (except defendant may possess a "land line" telephone);

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2. The defendant shall not be employed in or perform services for any entity engaged in the computer, computer software, or telecommunications business and shall not be employed in any capacity wherein he has access to computers or computer-related equipment or software; 3. the defendant shall not access computers, computer networks or other forms of wireless communications himself or through third parties; 4. the defendant shall not act as a consultant or advisor to individuals or groups engaged in any computer-related activity; 5. the defendant shall not acquire or possess any computer codes (including computer passwords), cellular phone access codes or other access devices that enable the defendant to use, acquire, exchange or alter information in a computer or telecommunications database system; 6. the defendant shall not use or possess any data encryption device, program or technique for computers; 7. the defendant shall not alter or possess any altered telephone, telephone equipment or any other communications-related equipment; and 8. the defendant shall only use his true name and not use any alias or other false identity.

It is recommended that the defendant not serve this sentence at a Half-Way House, but the Court does recommend Nellis Federal Prison Camp in Las Vegas. It is further ordered that on motion of the U.S. Attorney counts 2-4,6,7,9, 11-15 and 17-25 in Case No. 96-881-MRP are dismissed.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release set out on the reverse side of this judgment be imposed. the Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

Signed by: District Judge Mariana R. Pfaelzer
MARIANA R. PFAELZER

It is ordered that the Clerk deliver a certified copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

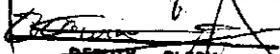
Sherri R. Carter, Clerk

Dated/Filed AUG 16 1999
Month / Day / Year

By Robert J. Flores
Deputy Clerk
Robert J. Flores

I hereby attest and certify on 2/13/02
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA


DEPUTY CLERK



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