

CR-08 00197

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HRL

UNITED STATES DISTRICT COURT

FILED

NORTHERN DISTRICT OF CALIFORNIA

2008 MAR 26 P 1:32

E-FILING

SAN JOSE DIVISION

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NORTHERN DIST. OF CALIF.

THE UNITED STATES OF AMERICA

vs.

SHAILESHKUMAR JAIN

INDICTMENT

COUNT ONE: 18 U.S.C. § 2319(b)(1) - Criminal Copyright Infringement;

COUNTS TWO - THIRTEEN: 18 U.S.C. § 2320(a) - Trafficking in Counterfeit Goods;

COUNTS FOURTEEN - TWENTY TWENTY TWO: 18 U.S.C. § 1343 - Wire Fraud;

COUNTS TWENTY THREE - THIRTY ONE: 18 U.S.C. § 1341 - Mail Fraud

A true bill.

Remona Wells

Foreperson

Filed in open court this 26th day of March

A.D. 2008

Patricia V. Jumbert
United States Magistrate Judge

Bail. \$ 3/26/2008

No Bail arrest Warrant
PVT

Tom

1 JOSEPH P. RUSSONIELLO (CASBN 44332)
United States Attorney

FILED

2008 MAR 26 P 1:32

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

E-FILING

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

RMW

10 SAN JOSE DIVISION

CR - 08 00197

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 SHAILESHKUMAR JAIN,

15 a/k/a SAM JAIN,

16 Defendant.

VIOLATIONS: 18 U.S.C. § 2319(b)(1) -
Criminal Copyright Infringement; 18 U.S.C.
§ 2320(a) - Trafficking in Counterfeit
Goods; 18 U.S.C. § 1343 - Wire Fraud; 18
U.S.C. § 1341 Mail Fraud; 28 U.S.C.
§ 2461(c) - Criminal Forfeiture

HRL

SAN JOSE VENUE

18 INDICTMENT

19 The Grand Jury charges:

20 Introduction

21 1. At all times relevant to this Indictment:

22 a. Symantec Corporation ("Symantec") was a corporation engaged in the business of
23 the development and sale of consumer computer security software including "Norton AntiVirus"
24 and "SystemWorks," with its world-wide headquarters located in Cupertino, California.

25 b. Defendant SHAILESHKUMAR JAIN, a/k/a SAM JAIN, ("JAIN") was a United
26 States citizen who resided in Mountain View, California, and owned and operated several
27 Internet-based companies including Discount Bob, Shifting Currents Financials, Inc., Innovative
28 Marketing, Inc. Professional Management Consulting Incorporated ("PMMCI") and

INDICTMENT

1 Shopenter.com, LLC.

2 c. Through these and other business entities, JAIN owned and operated several
3 Internet web sites, including but not limited to discountbob.com, shopenter.com, gito.com,
4 MP3U.com, buysmarter.com, and winantivirus.com, which advertised the sale of genuine
5 software developed and manufactured by Symantec.

6 d. Consumers interested in purchasing genuine Symantec computer security software
7 were either, contacted by one of JAIN's Internet-based companies through unsolicited e-mail
8 advertising, known as "Spamming," or lured to those web sites owned and operated by JAIN,
9 through "pop-up" Internet advertising offering the sale of genuine Symantec products.

10 e. Once directed to the Internet web sites owned and operated by JAIN, consumers
11 were induced to purchase products JAIN represented to be genuine Symantec computer security
12 software by displaying pictures of genuine copyrighted Symantec software, bearing the registered
13 trademark of Symantec.

14 f. Consumers paid for the products believing them to be genuine Symantec products,
15 by completing an online order form, requiring the consumer to provide the credit card payment
16 information as well as the name of the consumer and address to which the product was to be
17 delivered.

18 g. Once orders for the genuine Symantec software were placed by the consumers
19 using the Internet web sites owned and operated by JAIN, credit card payments made by the
20 consumers were electronically processed by third party credit card processing services, and funds
21 were deposited into bank accounts held in the name of the business entities owned and operated
22 by JAIN.

23 h. JAIN maintained and exercised full control over the funds deposited into Bancorp
24 Bank Account No. XXX-XX9280, located in the state of Delaware, held in the business name of
25 Shopenter.com, LLC; and Commercial Federal Bank Account No. XXXX9065, located in the
26 state of Nebraska, held in the business name of Shifting Currents Financials, Inc., which were
27 used in part, to receive the funds paid by consumers for the genuine Symantec software.

28 i. JAIN also exercised full control over funds deposited into Commercial Federal

1 Bank Account No. XXXX8217, located in the state of Nebraska, held in the name of
2 Shopenter.com, which was used in part, to receive funds paid by consumers for what they
3 believed would be genuine Symantec software, and to pay J.R. for mailing the counterfeit
4 software to the consumers.

5 j. After funds were received into Bancorp Bank Account No. XXX-XX9280, those
6 funds were further moved to Bancorp Bank Account No. XXX-XX9298, which JAIN also
7 maintained signature and full authority over and was held in the business name of
8 Shopenter.com, d/b/a gito.com.

9 k. After funds were received into Bancorp Bank Account No. XXX-XX9298, those
10 funds were further moved to Global Investor Services Investment Account No. XXX-XX4968,
11 located in the state of Florida, which was caused to be established and controlled by JAIN, but
12 placed in the names of a nominee business entity called Rivonal Corporation and a nominee
13 owner called Claudio Ferreira Dos Santos.

14 l. After funds were received into Commercial Federal Bank Account No.
15 XXXX9065, located in the state of Nebraska, those funds were also further moved to Global
16 Investor Services Investment Account No. XXX-XX4968, located in the state of Florida.

17 m. After funds were received into Global Investor Services Investment Account No.
18 XXX-XX4968, those funds were further moved to Merrill Lynch Account No. XXX-X7731
19 located in the state of New York; Merrill Lynch Account located in Switzerland; and Interactive
20 Brokers Account No. XXX3380, located in Connecticut, which were all caused to be established
21 and controlled by JAIN, but placed in the names of a nominee business entity called Rivonal
22 Corporation and a nominee owner called Claudio Ferreira Dos Santos.

23 The Scheme and Artifice to Defraud

24 2. The scheme and artifice to defraud was that JAIN, using the Internet web sites he owned
25 and operated, would and did advertise for sale, new and genuine copies of Symantec computer
26 security software including "Norton AntiVirus" and "SystemWorks," when in truth and fact, as
27 the defendant well knew, the software was counterfeit, and bore counterfeit trademarks of
28 Symantec.

1 3. As part of his scheme and artifice to defraud, once consumers placed orders for genuine
2 Symantec software products, and after JAIN received payment for what the consumer believed to
3 be new and genuine Symantec software, JAIN then instructed J.R., located in Amelia, Ohio to
4 mail the counterfeit copies to the unsuspecting consumers.

5
6 COUNT ONE: (18 U.S.C. § 2319(b)(1) - Criminal Copyright Infringement)

7 4. Paragraphs 1 through 3 are hereby realleged and incorporated by reference as if set forth
8 in full herein.

9 5. On or about and between April 2, 2003 and September 2, 2003, in the Northern District
10 of California, and elsewhere, the defendant,

11 SHAILESHKUMAR JAIN, a/k/a SAM JAIN,

12 did willfully and for the purpose of commercial advantage and private financial gain infringe the
13 copyright of copyrighted works, to wit: Symantec Norton AntiVirus 2003 and Symantec
14 SystemWorks 2003, by reproducing and distributing during a 180-day period at least ten (10)
15 unauthorized copies of copyrighted works which have a total retail value of more than \$2,500, in
16 violation of Title 17, U.S.C. § 506(a)(1) and Title 18, U.S.C. § 2319(b)(1).

17
18 COUNT TWO - THIRTEEN: (18 U.S.C. § 2320(a) - Trafficking In Counterfeit Goods)

19 6. Paragraphs 1 through 3 are hereby realleged and incorporated by reference as if set forth
20 in full herein.

21 7. On or about the dates set forth in the separate counts below, in the Northern District of
22 California, and elsewhere, the defendant,

23 SHAILESHKUMAR JAIN, a/k/a SAM JAIN,

24 did intentionally traffic in goods and knowingly use counterfeit marks on and in connection with
25 those goods, by knowingly transporting, transferring, and disposing of for value, the following

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27 ///

28 ///

1 packages of the below-listed counterfeit computer software that contained counterfeit marks:

Count	Date	Counterfeit Item
2	03/27/03	"Symantec Norton SystemWorks 2003"
3	03/27/03	"Symantec Norton SystemWorks 2003"
4	03/27/03	"Symantec Norton SystemWorks 2003"
5	03/28/03	"Symantec Norton SystemWorks 2003"
6	03/28/03	"Symantec Norton SystemWorks 2003"
7	03/28/03	"Symantec Norton SystemWorks 2003"
8	03/29/03	"Symantec Norton SystemWorks 2003"
9	03/31/03	"Symantec Norton SystemWorks 2003"
10	04/10/03	"Symantec Norton SystemWorks 2003"
11	09/18/03	"Symantec Norton SystemWorks 2003"
12	10/26/03	"Symantec Norton AntiVirus 2003"
13	12/10/03	"Symantec Norton AntiVirus 2003"

14 All in violation of Title 18, United States Code, Section 2320(a).

16 COUNTS FOURTEEN - TWENTY TWO: (18 U.S.C. § 1343 - Wire Fraud)

17 8. Paragraphs 1 through 3 are hereby realleged and incorporated by reference as if set forth
18 in full herein.

19 9. On or about the dates set forth in the separate counts below, in the Northern District of
20 California, and elsewhere, the defendant,

21 SHAILESHKUMAR JAIN, a/k/a SAM JAIN,

22 having devised and intending to devise a scheme and artifice to defraud and obtain money by
23 means of materially false and fraudulent pretenses and representations, and promises, as
24 described above, and for the purpose of executing said scheme and artifice and attempting so to
25 do, did cause to be transmitted by means of wire communication in interstate and foreign
26 commerce, the credit and debit card information of customers associated with the purchases of

27 //

28 //

1 the below-listed counterfeit goods:

Count	Invoice Date	Recipient Address	Product	Approximate Payment Amount
14	5/7/03	2616 Roosevelt Avenue, Petaluma, CA	Symantec AntiVirus	\$39.95
15	5/07/03	53 Bella Vista Avenue, San Anselmo, CA	Symantec AntiVirus	\$39.95
16	5/07/03	1777 N. California Street, Walnut Creek, CA	Symantec AntiVirus	\$39.95
17	5/07/03	859 Canada Drive, Milpitas, CA	Symantec AntiVirus	\$39.95
18	5/21/03	24169 Summit Woods Drive, Los Gatos, CA	Symantec AntiVirus	\$39.95
19	7/9/03	5141 Harvest Estates, San Jose, CA	Symantec AntiVirus	\$39.95
20	7/23/03	1019 61 Street, Oakland, CA	Symantec AntiVirus	\$39.95
21	8/6/03	38740 Tyson Lane #209, Fremont, CA	Symantec AntiVirus	\$39.95
22	10/26/03	5255 Stevens Creek Blvd. #167, Santa Clara, CA	Symantec AntiVirus	\$39.95

22 All in violation of Title 18, United States Code, Section 1343.

24 COUNTS TWENTY THREE - THIRTY ONE: (18 U.S.C. § 1341 - Mail Fraud)

25 10. Paragraphs 1 through 3 are hereby realleged and incorporated by reference as if set
26 forth in full herein.

27 11. On or about the dates set forth in the separate counts below, in the Northern District of
28 California, and elsewhere, the defendant,

SHAILESHKUMAR JAIN, a/k/a SAM JAIN,

having devised a scheme and artifice to defraud and obtain money by means of materially false and fraudulent pretenses, representations, and promises, as described above, and for the purpose of executing said scheme and artifice and attempting to do so, did utilize the U.S. Postal Service to further the fraudulent activity with each delivery of the below-listed counterfeit goods:

Count	Invoice Date	Recipient Address	Product	Approximate Payment Amount
23	5/7/03	2616 Roosevelt Avenue, Petaluma, CA	Symantec AntiVirus	\$39.95
24	5/07/03	53 Bella Vista Avenue, San Anselmo, CA	Symantec AntiVirus	\$39.95
25	5/07/03	1777 N. California Street, Walnut Creek, CA	Symantec AntiVirus	\$39.95
26	5/07/03	859 Canada Drive, Milpitas, CA	Symantec AntiVirus	\$39.95
27	5/21/03	24169 Summit Woods Drive, Los Gatos, CA	Symantec AntiVirus	\$39.95
28	7/9/03	5141 Harvest Estates, San Jose, CA	Symantec AntiVirus	\$39.95
29	7/23/03	1019 61 Street, Oakland, CA	Symantec AntiVirus	\$39.95
30	8/6/03	38740 Tyson Lane #209, Fremont, CA	Symantec AntiVirus	\$39.95
31	10/26/03	5255 Stevens Creek Blvd. #167, Santa Clara, CA	Symantec AntiVirus	\$39.95

All being a violation of Title 18, United States Code, Section 1341.

1 FORFEITURE ALLEGATION: Title 18, United States Code, Sections 981(a)(1)(c) and
2 982(a)(2), and Title 28, United States Code, Section 2461(c) - Criminal Forfeiture)

3 12. As a result of committing the offenses alleged in Counts 1 through 31 of this
4 Indictment (trafficking in counterfeit goods, wire fraud, mail fraud, and criminal copyright
5 infringement), defendant

6 SHAILESHKUMAR JAIN, a/k/a SAM JAIN,

7 shall forfeit to the United States, pursuant to 18 U.S.C. §§ 981(a)(1)(c) and 982(a)(2) and 28
8 U.S.C. § 2461(c), approximately \$13,522,080 in United States currency or after acquired assets
9 traceable thereto, in that such sum in aggregate was proceeds of the trafficking in counterfeit
10 goods and criminal copyright offenses.

11 13. If any of the above described forfeitable property, as a result of any act or omission of
12 the defendant:

13 (1) cannot be located upon the exercise of due diligence;

14 (2) has been transferred or sold to, or deposited with, a third person;

15 (3) has been placed beyond the jurisdiction of the Court;

16 (4) has been substantially diminished in value; or

17 (5) has been commingled with other property which cannot be subdivided without
18 difficulty; it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture
19 of any other property of said defendants up to the value of the above forfeitable property,

20 ///

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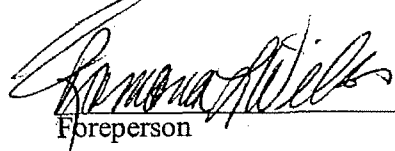
27 ///

28 ///


1 pursuant to Title 18, United States Code, Sections 981(a)(1)(c) and 982(a)(2), and Title 28,
2 United States Code, Section 2461(c).

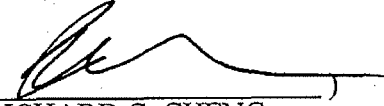
3 DATE: 3/26/08

A TRUE BILL:

4 
5
6 Foreperson

7 JOSEPH P. RUSSONIELLO
8 United States Attorney

9 
10 KYLE WALDINGER
11 Acting Chief, Computer Hacking and Intellectual Property Unit

12 (Approved as to form: )
13 RICHARD C. CHENG
14 Assistant U.S. Attorney

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

OFFENSE CHARGED

Counts 1-18 U.S.C. § 2319(b)(1)-Copyright Infringement;
 Counts 2-13 U.S.C § 2320(a) -Trafficking in Counterfeit Goods;
 Counts 14-22 U.S.C. § 1343 -Wire Fraud;
 Counts 23-31 U.S.C. § 1341 - Mail Fraud

- Petty
- Minor
- Misdemeanor
- Felony

PENALTY: SEE ATTACHMENT

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FILED
 2008 MAR 26 P 1:32

RICHARD W. WIEGING
 CLERK
 U.S. DISTRICT COURT
 NO. 1 SHREEESHKUMAR JAIN, a/k/a SAM JIAN

RMW

DISTRICT COURT NUMBER

CR-08 00197 HRL

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Special Agent Rick Cortez - ICE

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on this form JOSPEH P. RUSSONIELLO

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) RICHARD CHENG

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1) If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction } Federal State
- 6) Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... If Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: No Bail

If Summons, complete following:

Arraignment Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: Before Judge:

Comments:

PENALTY ATTACHMENT

Jain Indictment Maximum Penalties

Count 1: 18 U.S.C. § 2319(a) and 17 U.S.C. § 506(a) -
Criminal Infringement of a Copyright

Class D Felony

- A. Five years custody
- B. \$250,000.00 fine
- C. 3 years supervised release

Counts 2 - 13: 18 U.S.C. § 2320(a) -
Trafficking in Counterfeit Goods or Services

Class C Felony

- A. Ten years custody
- B. \$2,000,000 fine
- C. 3 years supervised release

Counts 14 -22: 18 U.S.C. § 1343 - Wire Fraud

Class C Felony

- A. Twenty years custody
- B. \$250,000 fine
- C. 3 years supervised release

Counts 23 - 31: 18 U.S.C. § 1341 - Mail Fraud

Class C Felony

- A. Twenty years custody
- B. \$250,000 fine
- C. 3 years supervised release