

DISCLAIMER: The following document is a **fictionalized indictment** used as the basis for a mock trial at the Black Hat 2007 conference. The events described did not occur. The characters are fictional and any resemblance to any person, living or dead, is purely coincidental.

Before: HONORABLE RICHARD SALGADO
 Chief United States District Court Judge
 District of Nevada, by designation

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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)	
UNITED STATES OF AMERICA)	
)	<u>INDICTMENT</u>
v.)	
)	18 U.S.C. § 1029(a)(1)
DAVID NELSON aka)	(Unlawful interception);
“Crimson Knight”)	18 U.S.C. § 1030(a)(4)
)	(Unauthorized Access to
)	Computers);
)	18 U.S.C. § 1030(a)(5)(A)
)	(Unauthorized Transmission
)	of a Program)
)	
)	
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BACKGROUND

1. At various times relevant to this Indictment:
 - a. Defendant DAVID NELSON a/k/a “The Crimson Knight” resided in Las Vegas, Nevada and was employed as a computer software engineer. Defendant was proficient in various computer languages designed to operate and instruct computer servers.

b. Masters of Mayhem, Inc. was a United States corporation with its principle place of business in Sunnyvale, California. Masters of Mayhem, Inc. owns and operates over the internet a subscription-based multiplayer online computer game called “Masters of Mayhem” or MoM. Subscribers to MoM agree to its Terms of Service before being allowed to play the game. The MoM Terms of Service states, in part...”

" You agree that you will not (i) modify or cause to be modified any files that are a part of the Program or the Service; (ii) create or use cheats, bots, "mods", and/or hacks, or any other third party software designed to modify the Masters of Mayhem experience; or (iii) use any third-party software that intercepts, "mines" or otherwise collects information from or through the Program or Service; or (iv) Use or exploit errors in design, features which have not been documented, and/or "program bugs" to gain access that is otherwise not available, or to obtain a competitive advantage over other players.

Notwithstanding the Foregoing, you may update the Program with authorized patches and updates distributed by Getta Entertainment In, (GEI) and GEI may, at its sole and absolute discretion, allow the use of certain third party interfaces."

At all times herein, MoM servers were protected computers under federal law in that they were used in interstate or foreign commerce or communication.

COUNT ONE
(Counterfeit Access Devices)

2. Between on or about June 2, 2006, and on or about June 23, 2006, in the District

of Nevada and elsewhere,

DAVID NELSON,

Defendant herein, knowingly and with intent to defraud produced, used, or trafficked in one or more counterfeit access devices.

3. Specifically, Defendant knowingly used unapproved software to obtain a strategic and tactical advantage in a multiplayer online game called “Masters of Mayhem” or MoM. Defendant maintained a paid subscription to play MoM, but subscribed and continued to subscribe with the intention of cheating the game and other players. Defendant created software programs designed to cheat, and possessed other programs he found on internet message boards and websites where cheating software is distributed. Defendant downloaded counterfeit access tools from these message boards and also uploaded and distributed copies of his own tools. These software tools were counterfeit access devices in that they were not approved for use in playing the game, were specifically prohibited by the Terms of Service, were used surreptitiously and allowed improper and unauthorized access to the computer system operating the game. Defendant used these tools with the intent to defraud the creators and owners of the game, as well as other players. Defendant accumulated unearned experience points and unearned gold, and receiving unfair advantages in battles by creating new and powerful spells, weapons, and non-player characters to support him, thereby building a large and growing kingdom in the game. (All in violation of Title 18, United States Code Section 1029(a)(1))

COUNT TWO
(Unauthorized Access to Computers)

4. Between on or about June 2, 2006, and on or about June 23, 2006, in the District of Nevada and elsewhere, Defendant herein knowingly and with intent to defraud, accessed the

protected computers owned and operated by MoM without authorization, or exceeded authorized access, and by means of such conduct furthered his intended fraud and obtained items of value.

5. Specifically, Defendant knowingly accessed and/or exceeded authorized access to the MoM computer systems by using software cheat tools to gain improper advantage against other players in the game and to circumvent the rules of the game. Use of this software was not authorized by MoM, and violated specific provisions of the Terms of Service for the game. By means of this access, Defendant furthered his fraud against the game and other players and obtained items of value, including unearned MoM experience points, unearned gold, new and powerful spells, weapons, and non-player character assistance, and the weapons and gold of other characters that were defeated as a result of the unauthorized access and fraud.

(All in violation of Title 18, United States Code Section 1030(a)(4)).

COUNT THREE
(Unauthorized Transmission of a Program)

6. Between on or about June 2, 2006, and on or about June 23, 2006, in the District of Nevada and elsewhere, Defendant herein knowingly transmitted a program, information, code, or command, and as a result of such conduct, intentionally caused damage without authorization, to a protected computer and such damage comprised loss aggregating at least \$5,000 in value to 1 or more persons during any 1-year period.

7. Specifically, Defendant intentionally transmitted codes, information and commands that unearned MoM experience points, unearned gold, new and powerful spells, weapons, and non-player character assistance, and the weapons and gold of other characters that were defeated. These transmissions were not authorized by MoM, and violated specific provisions of the Terms of Service for the game. As a result of such conduct, the defendant intentionally caused damage without authorization by impairing the integrity and availability of

data, programs, a system and information, and that damage caused loss aggregating more than \$5,000 in value during a one-year period to MoM.

(All in violation of Title 18, United States Code Section 1030(a)(5)(A)(i) and (B)(i).)

DATED:

A TRUE BILL

FOREPERSON

JENNIFER GRANICK
Assistant United States Attorney