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ELCOMSOFT COMPANY, LTD.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

<p>UNITED STATES OF AMERICA</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>ELCOM LTD., a/k/a ELCOMSOFT CO., LTD.,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No.: CR 01-20138 RMW</p> <p>NOTICE OF MOTION TO DISMISS INDICTMENT FOR VIOLATION OF DUE PROCESS</p> <p>Date: April 1, 2002 Time: 9:00 a.m. Judge: The Honorable Ronald M. Whyte</p>
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NOTICE

___ **TO THE UNITED STATES ATTORNEY, PLEASE TAKE NOTICE** that at 9:00 a.m. on April 1, 2002 or as soon thereafter as the matter can be heard, in Courtroom 6 of this court, located at 280 South 1st Street, San Jose, California 95113, defendant Elcomsoft Company, Ltd., (“Elcomsoft”) will move this court for an order dismissing the indictment brought against it on the grounds that it violates due process under the Fifth Amendment of the Constitution of the United States.

Said motion is based on this Notice, a Memorandum of Law in Support of Motion, the Declarations of Alexander Katalov and Joseph M. Burton, the files and records of the case, and such other argument as may be offered at the time of the motion.

Dated: January 28, 2002

DUANE MORRIS LLP

By:

JOSEPH M. BURTON
Attorneys for Defendant
ELCOMSOFT COMPANY, LTD.

SF-28625

*United States of America v. Elcom Ltd.,
a/k/a Elcomsoft Co., Ltd.*
Case No.: CR 01-20138 RMW

PROOF OF SERVICE

I am a resident of the state of California, I am over the age of 18 years, and I am not a party to this lawsuit. My business address is Duane Morris LLP, 100 Spear Street, Suite 1500, San Francisco, California 94105. On the date listed below, I served the following document(s):

NOTICE OF MOTION TO DISMISS INDICTMENT FOR VIOLATION OF DUE PROCESS

_____ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date during normal business hours. Our facsimile machine reported the "send" as successful.

_____ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Francisco, California, addressed as set forth below.

I am readily familiar with the firm's practice of collecting and processing correspondence for mailing. According to that practice, items are deposited with the United States mail on that same day with postage thereon fully prepaid. I am aware that, on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing stated in the affidavit.

John Keker
Keker & Van Nest
710 Sansome Street
San Francisco, CA 94111

_____ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, deposited with Federal Express Corporation on the same date set out below in the ordinary course of business; to the person at the address set forth below, I caused to be served a true copy of the attached document(s).

Scott H. Frewing
Assistant United States Attorney
United States District Court
Northern District of California
280 South First Street
San Jose, CA 95113

_____ by causing personal delivery of the document(s) listed above to the person at the address set forth below.

_____ by personally delivering the document(s) listed above to the person at the address set forth below.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: January ____, 2002 _____

SF-28625

Lea A. Chase