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4 San Francisco, CA 94105  
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5 Facsimile: (415)371-2201

6 Attorneys for Defendant  
ELCOMSOFT COMPANY, LTD.

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

12 UNITED STATES OF AMERICA

13 Plaintiff,

14 v.

15 ELCOM LTD.,  
16 a/k/a ELCOMSOFT CO., LTD.,

17 Defendant.

Case No.: CR 01-20138 RMW

**DEFENDANT ELCOMSOFT'S  
LIST OF POTENTIAL WITNESSES  
AND EXHIBITS**

Date: October 21, 2002

Time: 9:00 a.m.

Judge: The Honorable Ronald M. Whyte

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20 Depending upon the nature, scope and substance of the government's case-in-chief,  
21 Elcomsoft may call the following witnesses during its case-in-chief, if any.

22 **1. FACT WITNESSES**

23 A. **Daryl Spano**, Adobe Technical Investigator, Investigations/Anti-Piracy Adobe  
24 Systems. Mr. Spano will testify about his actions during Adobe's investigation of the AEBPR  
25 program.

26 B. **Kevin Nathanson**, Adobe Group Product Manager, eBooks. Mr. Nathanson will  
27 testify about the technical configuration, operation and interaction between PDF documents Adobe  
28 eBook reader programs and the AEBPR program.

1 C. **Cynthia Navarro**, Adobe Anti-Piracy Investigations Manager. Ms. Navarro will  
2 testify about Adobe's investigation of the AEBPR program, and Adobe's referral of the matter to the  
3 FBI and Department of Justice.

4 D. **Daniel J. O'Connell**, F.B.I. Special Agent. Mr. O'Connell will testify about the  
5 investigation of Elcomsoft and the AEBPR program.

6 E. **Tom Diaz**, Adobe Systems Inc. Senior Engineering Manager. Mr. Diaz will testify  
7 about the technical operation and functioning of the AEBPR program and its interaction with PDF  
8 documents and Adobe eBook readers.

9 F. **Dmitry Sklyarov**, Elcomsoft. Mr. Sklyarov will testify about the technical operation  
10 and functioning of the AEBPR program and its interaction with PDF documents and Adobe eBook  
11 readers.

12 G. **Alexander Katalov**, Elcomsoft. Mr. Katalov will testify about the AEBPR program  
13 and Elcomsoft's business operation.

14 H. **Vladimir Katalov**, Elcomsoft. Mr. Katalov will testify about the technical operation  
15 and functioning of the AEBPR program and its interaction with PDF documents and Adobe eBook  
16 readers.

17 I. **Ryan Dewell**, RegNow. Mr. Dewell will testify about the sale of Elcomsoft's  
18 products and its relationship with Elcomsoft.

19 J. **Jessica Dewell**, RegNow. Ms. Dewell will testify about the sale of Elcomsoft's  
20 products and its relationship with Elcomsoft.

21 K. **Jason Boyer**, Adobe Systems Inc. Mr. Boyer will testify about the technical  
22 operation and functioning of the PDF format, Adobe eBook reader programs and the AEBPR  
23 program.

24 L. **David Pitkin**, Adobe Systems Inc. Mr. Pitkin will testify about the technical  
25 operation and functioning of the PDF format, Adobe eBook reader programs and the AEBPR  
26 program.

27 M. **Aaron Mathieson**. Mr. Matheson will testify about the circumstances surrounding  
28 his recommendation to his colleague, Daniel Sarazin, that the purchase of the AEBPR program.

1 N. **Daniel Sarazin.** Mr. Sarazin will testify about the reasons for and circumstances  
2 surrounding his purchase and use of the AEBPR program.

3 O. **Ralph Brooks.** Mr. Brooks will testify about the reasons for and circumstances  
4 surrounding his purchase and use of the AEBPR program.

5 P. **Fernando Palma, Adobe Investigator.** Mr. Palma will testify about his purchase  
6 and use of the AEBPR program.

7 Q. **Phil Clark.** Mr. Clark will testify about the reasons for and circumstances  
8 surrounding his purchase and use of the AEBPR program.

9 R. **Jack Hoffman.** Mr. Hoffman will testify about the reasons for and circumstances  
10 surrounding his purchase and use of the AEBPR program.

11 S. **Martin Schaffer.** Mr. Schaffer will testify about the reasons for and circumstances  
12 surrounding his purchase and use of the AEBPR program.

13 T. **Shahid Najee-ullah.** Mr. Najee-ullah will testify about the reasons for and  
14 circumstances surrounding his purchase and use of the AEBPR program.

15 U. **Lori Mullen.** Ms. Mullen will testify about the reasons for and circumstances  
16 surrounding his purchase and use of the AEBPR program.

17 V. **Marcus Giese.** Mr. Giese will testify about the reasons for and circumstances  
18 surrounding his purchase and use of the AEBPR program.

19 W. **Stephen Richard Levine.** Mr. Levine will testify about the reasons for and  
20 circumstances surrounding his purchase and use of the AEBPR program.

21 X. **Gary Garrett.** Mr. Garrett will testify about the reasons for and circumstances  
22 surrounding his purchase and use of the AEBPR program.

23 It is anticipated that defendant's final witness list will be in large part determined by the  
24 nature and scope of the government's case-in-chief. The defense anticipates that many of the  
25 witnesses identified above will be called by the government in its case-in-chief. If this occurs it may  
26 not be necessary to recall them in the defense case. There may be other witnesses the defense may  
27 want to call depending upon the evidence developed during the government's case-in-chief.

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1 **EXHIBITS**

2 In addition to those documents submitted by the government, defendant Elcomsoft submits,  
3 a list of exhibits it intends to introduce on behalf of the defendant. Defendant Elcomsoft reserves the  
4 right to identify additional exhibits.

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<b>Exhibit Number</b>	<b>Description</b>
1.	Speech titled "eBooks security – theory and practice"
2.	Abode marketing booklet titled "Adobe solutions for the eBook market"
3.	July 19, 2001 Facsimile cover sheet and enclosures re sales information from RegNow to Daniel J. O’Connell
4.	July 23, 2001 Facsimile cover sheet and enclosures re sales information from RegNow to Daniel J. O’Connell
5.	July 24, 2001 Facsimile cover sheet and enclosures re sales information from RegNow to Daniel J. O’Connell
6.	Power Point Presentation titled "Elcomsoft Presentation on DEF CON Nine, July 13 <sup>th</sup> - 15 <sup>th</sup> , 2001, Alexis Park in Las Vegas, Nevada USA, eBooks security - theory and practice"
7.	Printout of <a href="http://elcomsoft.com/aebpr.html">http://elcomsoft.com/aebpr.html</a> on June 26, 2001 at 4:54 pm.
8.	Printout of <a href="http://elcomsoft.com/aebpr.html">http://elcomsoft.com/aebpr.html</a> on June 25, 2001 at 10:09 am.
9.	Elcomsoft.com Site audience report by Mytrix, Inc.
10.	Black Hat Win2K Security binder and materials
11.	May 22, 1998 Letter from Microsoft to Vladimir Katalov
12.	Fort Bend County Sheriff’s Office Honorary Deputy Sheriff Certificate
13.	December 19, 2000 Issue of PC Magazine
14.	Volume 9, Issue 3 of PC Today magazine
15.	July 14, 2001 e-mail from Daniel Bailey to <a href="mailto:ebooks@elcomsoft.com">ebooks@elcomsoft.com</a>
16.	July 5, 2001 e-mail from Barry Rau to <a href="mailto:ebooks@elcomsoft.com">ebooks@elcomsoft.com</a>
17.	July 5, 2001 e-mail from Roberto "Tito" Perez to <a href="mailto:ebooks@elcomsoft.com">ebooks@elcomsoft.com</a>
18.	July 6, 2001 e-mail from Jeff Kraus to <a href="mailto:ebooks@elcomsoft.com">ebooks@elcomsoft.com</a>

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Exhibit Number	Description
19.	July 5, 2001 email from Charlie Valenzuela to <a href="mailto:ebooks@elcomsoft.com">ebooks@elcomsoft.com</a>
20.	December 13, 2001 Pretrial Diversion Agreement
21.	<i>Incident Response, Investigating Computer Crime</i> , by Kevin Mandia & Chris Prosis, The McGraw-Hill Companies (2001)
22.	November 2001 Issue of Government Technology magazine
23.	September 27, 2000 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
24.	November 16, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
25.	June 1, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
26.	September 5, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
27.	September 6, 2000 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
28.	September 21, 2000 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
29.	March 28, 2002 e-mail from State of Idaho Attorney General's Office to <a href="mailto:support@elcomsoft.com">support@elcomsoft.com</a>
30.	October 17, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
31.	August 1, 2000 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
32.	February 18, 2000 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
33.	February 13, 2002 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
34.	July 6, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
35.	November 29, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
36.	September 19, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
37.	March 22, 2002 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>
38.	September 19, 2001 e-mail from RegNow Order Server to <a href="mailto:regnow@elcomsoft.com">regnow@elcomsoft.com</a>

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<b>Exhibit Number</b>	<b>Description</b>
39.	Elcomsoft software trial version CD rom
40.	Elcomsoft software trial version CD rom

Dated: October \_\_, 2002.

DUANE MORRIS LLP

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JOSEPH M. BURTON  
STEPHEN H. SUTRO  
GREGORY G. ISKANDER  
ATTORNEYS FOR DEFENDANT  
ELCOMSOFT COMPANY LTD.

SF-34085

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3 **PROOF OF SERVICE**

4 I am a resident of the state of California, I am over the age of 18 years, and I am not a party to  
5 this lawsuit. My business address is Duane Morris LLP, One Market Plaza, Spear Tower, Suite  
2000, San Francisco, California 94105. On the date listed below, I served the following  
document(s):

6 **DEFENDANT ELCOMSOFT'S LIST OF POTENTIAL WITNESSES AND EXHIBITS**

- 7  
8  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.
- 9  
10  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.

11 I am readily familiar with the firm's practice of collecting and processing correspondence for  
12 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,  
13 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.

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

- 18  by placing the document(s) listed above in a sealed envelope with postage thereon fully  
19 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).
- 20  by causing personal delivery of the document(s) listed above to the person at the address set  
21 forth below.
- 22  by personally delivering the document(s) listed above to the person at the address set forth  
below.

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

25 Dated: October \_\_\_\_, 2002

\_\_\_\_\_  
Lea A. Chase

26 SF-34085