

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 16-80090-CR-Hurley/Hopkins

UNITED STATES OF AMERICA,

vs.

CLIFFORD ERIC LUNDGREN,

Defendant,

/

STATEMENT OF FACTS

COMES NOW, the United States of America, by and through the undersigned counsel, hereby files this statement of facts as follows:

If this case had proceeded to trial, the United States would have proved the following facts beyond a reasonable doubt:

In or about 2011, Clifford Eric Lundgren was contacted by Robert Wolff about producing multiple copies of Dell Reinstallation CD-ROMs for Microsoft Windows. ("Reinstallation Disk") that could be resold to refurbishers of Dell computers. At that time, Lundgren was living in China. Wolff represented that he had purchased an authorized retail copy of a Reinstallation Disk from Dell for \$5.00. Wolff provided the Reinstallation Disk to Lundgren.

Lundgren arranged for the Reinstallation Disk to be reproduced by a Chinese manufacturer. Lundgren was not authorized by Dell or Microsoft to reproduce these disks. Lundgren knew that he was not authorized to reproduce these disks. As

part of the manufacturing process, labels were affixed by the factory to the CD-ROMs that purported to be labels authorized by Dell and Microsoft and that falsely represented that the disks contained copyrighted software that Dell and Microsoft had authorized to be included on the disk. The labels were substantially indistinguishable from the labels that were affixed to authorized Reinstallation Disks. Lundgren was aware that the labels were misleading and had not been authorized to be used.

On September 3, 2012, U.S. Customs and Border Protection (CBP) officers at San Francisco International Airport detained a shipment of 2,246 Reinstallation Disks that Lundgren had caused to be shipped from China to Wolff's address in Boca Raton, Florida.

The same day, CBP Officers at San Francisco International Airport detained a shipment of 1,444 Reinstallation Disks that Lundgren had caused to be shipped from China to Wolff's father's address in Flushing, New York. On or about September 26, 2012, CBP issued a notice of seizure to Wolff's father relating to the 1,444 disks. The notice stated that CBP believed the disks were subject to forfeiture based on copyright violations. On or about October 5, 2012, Wolff forwarded a copy of the seizure notice to Lundgren by email.

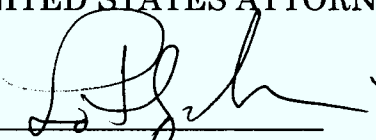
On or about February 28, 2013, Lundgren shipped a package from Chatsworth, California, to Wolff's home address in Boca Raton, Florida. The package contained 1,598 unauthorized Reinstallation Disks that contained

copyrighted Dell and Microsoft software. In return, \$3,400 was deposited into a Wells Fargo Checking Account controlled by Lundgren.

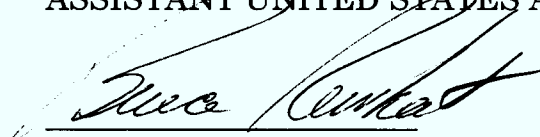
In all, between in or about June 2011 and in or about November 2013, Lundgren caused approximately 28,000 CD-ROMs to be shipped, directly or indirectly, to Wolff.

WIFREDO A. FERRER
UNITED STATES ATTORNEY

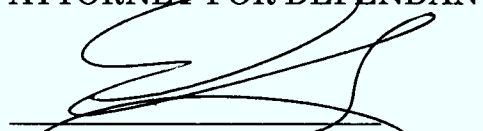
Date: 2/22/17

By: 
LOTHROP MORRIS
ASSISTANT UNITED STATES ATTORNEY

Date: 2/28/17


BRUCE REINHART, ESQ
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR DEFENDANT

Date: 2/29/17


CLIFFORD ERIC LUNDGREN
DEFENDANT