

**CR - 09 00648 JW RS**

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

*E-filing*

**SAN JOSE DIVISION**

2009 JUN 24 P 2:01  
ROBERT W. VIEYING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CALIF.

**THE UNITED STATES OF AMERICA**

**vs.**

**THOMAS J. KLINE**

**INDICTMENT**

COUNTS ONE THROUGH FIVE: Title 18, United States Code, Section 1341- Mail Fraud

*A true bill.*

*[Handwritten Signature]*

**Foreperson**

*Filed in open court this 24<sup>th</sup> day of June*

**A.D. 2009**

**Clerk**

*Bail. \$ Issue Summons*

*[Handwritten Signature]*  
**Magistrate Judge**

1 JOSEPH P. RUSSONIELLO (SCBN 9990)  
United States Attorney

FILED

2009 JUN 24 P 2:07

E-filing

EDWARD W. VIEKING  
CLERK  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

JW

10 UNITED STATES OF AMERICA,

CR - 09 00648

No.

11 Plaintiff.

VIOLATIONS: 18 U.S.C. § 1341 - Mail  
Fraud

12 v.

SAN JOSE VENUE

13 THOMAS J. KLINE,

14 Defendant.

15 INDICTMENT

16 The Grand Jury charges:

17 BACKGROUND

18 1. At all times relevant to this Indictment:

19 a. SonicWALL, Inc. ("SonicWALL") was a company based in Sunnyvale,  
20 California and engaged in the business of manufacturing and selling hardware used to establish  
21 firewalls for computer networks. SonicWALL's warehouse was located in Fremont, California.

22 b. SonicWALL generated and loaded large batches of serial numbers in its  
23 database. SonicWALL assigned serial numbers to all of the firewall devices it manufactured and  
24 sold. However, not all serial numbers generated by SonicWall were assigned to firewall devices.  
25 These "unassigned" serial numbers remained active in the SonicWALL database.  
26  
27  
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INDICTMENT  
U.S. v. KLINE

RS

1 c. SonicWALL possessed a warranty program for its firewall devices,  
2 whereby the owner of the device linked the serial number of his or her device with his or her  
3 SonicWALL account. When the owner of a registered SonicWALL firewall device reported a  
4 problem with the device that could not be resolved, SonicWALL technical support personnel  
5 issued a "return merchandise authorization" ("RMA") and shipped a new firewall device to the  
6 owner, who was responsible for the returning the defective device to SonicWALL.

7 c. Defendant Thomas J. Kline ("Kline"), who was a resident of Mount  
8 Pleasant, Pennsylvania, was in the business of purchasing and selling used SonicWall firewall  
9 devices.

10 2. Beginning in or about January 2005 and continuing through January 2009, in the  
11 Northern District of California and elsewhere, defendant Kline did knowingly and intentionally  
12 devise and execute a scheme and artifice to defraud SonicWALL and others as to material  
13 matters, and to obtain money by means of materially false and fraudulent pretenses,  
14 representations, promises, and omissions.

#### 15 THE SCHEME AND ARTIFICE TO DEFRAUD

16 3. The gist of the scheme and artifice to defraud was that defendant Kline registered  
17 serial numbers that were not assigned to any SonicWALL firewall devices and reported problems  
18 with non-existent firewall devices, causing SonicWALL to ship him new devices pursuant to its  
19 RMA program. In this way, defendant fraudulently obtained firewall devices to which he was  
20 not entitled. After SonicWALL shipped the firewall devices to him, the defendant would and  
21 did sell those devices on the eBay website.

22 4. As part of his scheme and artifice to defraud, Kline represented to SonicWALL  
23 that he was the owner of hundreds of SonicWALL devices that did not exist by entering  
24 unassigned SonicWALL serial numbers on SonicWALL's web site, all the while knowing that  
25 such representation was false and fraudulent.

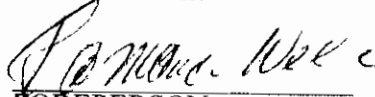
26 5. Based on defendant's false and fraudulent representation that he was the owner of  
27 these nonexistent SonicWALL firewall devices, SonicWALL shipped two hundred and twenty-  
28 six (226) new firewall devices from its warehouse in Fremont, California to Mount Pleasant,



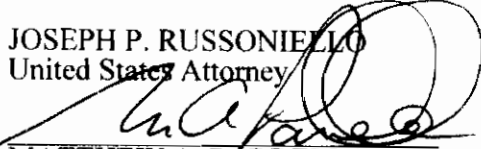
All in violation of Title 18, United States Code, Section 1341.

DATED: 6/24/09

A TRUE BILL.

  
FOREPERSON

JOSEPH P. RUSSONIELLO  
United States Attorney

  
MATTHEW A. PARRELLA  
Chief, CHIP Unit

(Approved as to form:

  
AUSA HANLEY CHEW

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AO 257 (Rev. 6/78)

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

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

**OFFENSE CHARGED**

18 U.S.C 1341 - Mail Fraud

- Petty
- Minor
- Misdemeanor
- Felony

**PENALTY:**

- 20 year term of imprisonment
- \$250,000 or twice the amount involved in the offense
- 3 year period of supervised release
- \$100 mandatory special assessment

*E-filing*

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)  
FBI Special Agent Scott Helman

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 reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y  Defense

this prosecution relates to a pending case involving this same defendant

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

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on THIS FORM

Joseph P. Russoniello

U.S. Att'y  Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

Hanley Chew

Name of District Court, and/or Judge/Magistrate Location  
NORTHERN DISTRICT OF CALIFORNIA

**FILED**

DEFENDANT - U.S.

2009 JUN 24 P 2:01

THOMAS J. KLINE

DISTRICT COURT NUMBER

**CR - 09 00648 JW**

**DEFENDANT**

**RS**

**IS NOT IN CUSTODY**

- 1)  Has not been arrested, pending outcome this proceeding. 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
  - 6)  Awaiting trial on other charges
- }  Fed'l  State
- 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

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

**PROCESS:**

SUMMONS  NO PROCESS\*  WARRANT Bail Amount: \_\_\_\_\_

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:

Thomas J. Kline  
c/o Assistant Federal Defender Nicholas Humy  
160 West Santa Clara Street, Suite 575  
San Jose, California 95113

Date/Time: August 20, 2009/9:30 a.m.

Before Judge: Richard Seeborg

Comments: Please have United States Marshal's Service deliver summons