

File No. 120094

Committee Item No. _____

Board Item No. 35

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date February 7, 2012

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form (for hearings) |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Ethics Form 126 |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER

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Completed by: Andrea Ausberry Date February 2, 2012

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

1 [Accept and Expend Grant - High Technology Crimes Unit - \$29,250]

2
3 **Resolution authorizing the Department of the District Attorney to retroactively accept**
4 **and expend a grant in the amount of \$29,250 through the State of California,**
5 **Department of Justice, Office of the Attorney General’s Privacy and Piracy Fund, for**
6 **high-tech crime investigation and prosecution for the grant period of July 1, 2011,**
7 **through June 30, 2012.**

8
9 WHEREAS, The City and County of San Francisco desires to create a certain project
10 designated the Intellectual Property Crime Enforcement Program to be funded in part from
11 funds made available through the Attorney General’s Privacy and Piracy Fund (hereafter
12 “OAG”); and

13 WHEREAS, The grant does not require an ASO amendment; and

14 WHEREAS, The Department proposes to maximize use of available grant funds on
15 program expenditures by not including indirect costs in the grant budget; now, therefore, be it

16 RESOLVED, That the Board of Supervisors hereby authorizes the District Attorney of
17 the City and County of San Francisco to accept and expend funds from OAG for the purposes
18 of investigation and litigation of high tech crimes ; and be it

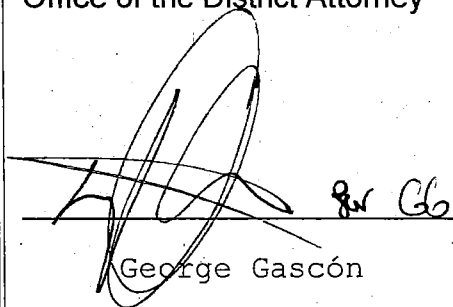
19 FURTHER RESOLVED, That the Board of Supervisors hereby waives inclusion of
20 indirect costs in the grant budget; and be it

21 FURTHER RESOLVED, That the District Attorney is authorized to execute on behalf of
22 the City and County of San Francisco the necessary Grant Award Agreements for High
23 Technology Crimes Unit implementation and operation purposes, including any extensions,
24 augmentations or amendments thereof; and be it

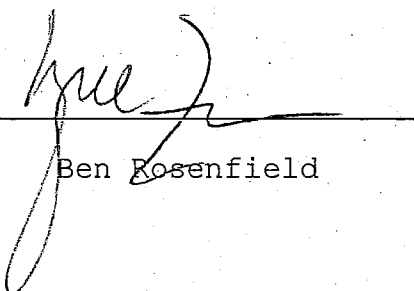
1 FURTHER RESOLVED, That the District Attorney is authorized and empowered to
2 execute, deliver and perform, in the name of the City and County of San Francisco, all
3 applications, contracts, agreements, amendments and payment requests necessary for the
4 purpose of securing the Attorney General's Privacy and Piracy Funds and to implement and
5 carry out the purposes specified in the applicable grant application; and be it

6 FURTHER RESOLVED, That any liability arising out of the performance of the Grant
7 Award Agreement, including civil court actions for damages, shall be the responsibility of the
8 grant recipient and the authorizing agency; and that the grant recipient and the authorizing
9 agency will hold OAG harmless from any claims that may arise from the use of grant funds.
10

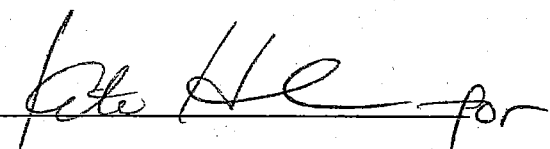
11 APPROVED:
12 Office of the District Attorney

13 
14
15
16
17 George Gascón

18
19 APPROVED:
20 Office of the Controller

21
22 By: 
23 Ben Rosenfield
24
25

APPROVED:
Office of the Mayor

By: 
Edwin M. Lee

File Number: 120094
(Provided by Clerk of Board of Supervisors)

Grant Information Form
(Effective March 2005)

Purpose: Accompanies proposed Board of Supervisors resolutions authorizing a Department to accept and expend grant funds.

The following describes the grant referred to in the accompanying resolution:

1. Grant Title: Attorney General's Privacy and Piracy Fund

2. Department: District Attorney

3. Contact Person: Tara Anderson Telephone: 415-553-1203

4. Grant Approval Status (check one):

Approved by funding agency

Not yet approved

5. Amount of Grant Funding Approved or Applied for: \$ 29,250

6a. Matching Funds Required: \$0

b. Source(s) of matching funds (if applicable):

7a. Grant Source Agency: State of California Department of Justice, Office of the Attorney General

b. Grant Pass-Through Agency (if applicable): n/a

8. Proposed Grant Project Summary:

Funds will enable the High Technology Crimes and Identity Theft Unit successfully investigate and possibly prosecute an alleged theft of patents.

9. Grant Project Schedule, as allowed in approval documents, or as proposed:

Start-Date: July 1, 2011

End-Date: June 30, 2012

10a. Amount budgeted for contractual services: \$0

b. Will contractual services be put out to bid? N/A

c. If so, will contract services help to further the goal s of the department's MBE/WBE requirements? N/A

d. Is this likely to be a one-time or ongoing request for contracting out? N/A

11a. Does the budget include indirect costs?

Yes

No

b1. If yes, how much? \$0

b2. How was the amount calculated?

c. If no, why are indirect costs not included?

Not allowed by granting agency

To maximize use of grant funds on direct services

Other (please explain):

c2. If no indirect costs are included, what would have been the indirect costs? 10% indirect costs would have been \$2,925.00.

12. Any other significant grant requirements or comments:

****Disability Access Checklist****

13. This Grant is intended for activities at (check all that apply):

Existing Site(s)

Existing Structure(s)

Existing Program(s) or Service(s)

Rehabilitated Site(s)

Rehabilitated Structure(s)

New Program(s) or Service(s)

New Site(s)

New Structure(s)

14. The Departmental ADA Coordinator and/or the Mayor's Office on Disability have reviewed the proposal and concluded that the project as proposed will be in compliance with the Americans with Disabilities Act and all other Federal, State and local access laws and regulations and will allow the full inclusion of persons with disabilities, or will require unreasonable hardship exceptions, as described in the comments section:

Comments:

Departmental or Mayor's Office of Disability Reviewer: Martha Knutzen
(Name)

Date Reviewed: 12/14/12

Department Approval: Eugene Clendinen, Chief Administrative and Financial Officer
(Name) (Title)


(Signature)



KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE

300 SOUTH SPRING STREET, SUITE 1702
LOS ANGELES, CA 90013

Public: (213) 897-2000
Telephone: (213) 897-2685

Facsimile:
E-Mail: Catherine.Ysrael@doj.ca.gov

October 21, 2011

Conrad del Rosario
Assistant District Attorney
Office of the District Attorney
City and County of San Francisco
732 Brannan Street
San Francisco, CA 94103

RE: 2011-2012 Disbursements from the Attorney General's Privacy and Piracy Fund

Dear Mr. del Rosario:

We are pleased to inform you that the Office of the District Attorney for the City and County of San Francisco has been selected to receive a disbursement from the Attorney General's Privacy and Piracy Fund for the FY 2011-2012 distribution cycle, in the amount of \$29,250. Specifically, we are granting your request for experts (\$26,250) and litigation expenses (\$3,000), as outlined in your application, and denying your request for training.

These funds will be distributed to you in one lump sum, sometime after November 1, 2011. Please (1) complete the enclosed JUS Form 8765 (make certain that all blanks in the Recipient/Applicant column are completed); and (2) sign below to indicate your acknowledgment that the San Francisco District Attorney's Office has been selected and that your Office will comply with the terms and conditions of the disbursement, as set forth in the application you previously signed and submitted to our Office. After you have signed the form and the letter, please return both signed copies to me.

Thank you for your cooperation. Please feel free to contact me at (213) 897-2685 should you have any questions.

Sincerely,

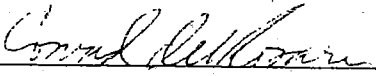
CATHERINE Z. YSRAEL
Deputy Attorney General

For KAMALA D. HARRIS
Attorney General

Conrad del Rosario
October 21, 2011
Page 2

I acknowledge that the San Francisco District Attorney's Office has been awarded the amount of \$29,250 from the Attorney General's Privacy and Piracy Fund. The San Francisco District Attorney's Office will comply with the terms and conditions of this disbursement, as set forth in the application our Office previously signed and submitted to the California Attorney General's Office, including all reporting and self-evaluation requirements.

Dated: 11/22/11



Conrad del Rosario
Assistant District Attorney
Office of the District Attorney
City and County of San Francisco
732 Brannan Street
San Francisco, CA 94103

STATE OF CALIFORNIA
**PRIVACY AND PIRACY
 RECIPIENT AWARD
 AND DISBURSEMENT
 APPROVAL**

JUS 8765 (REV. 4-07)



AWARD NUMBER	AM. NO.
11-#05	
ORIGINAL AMOUNT REQUESTED	
\$33,408	
Award Period	
July 1, 2011 – June 30, 2012	
APPROVED AWARD	
\$29,250	

THIS AGREEMENT, made and entered into this 22 day of November, 2011

TITLE OF OFFICER ACTING FOR STATE ATTORNEY GENERAL	AGENCY DEPARTMENT OF JUSTICE
-------------------------------------------------------	---------------------------------

IMPLEMENTING/RECIPIENT AGENCY(S) / TASK FORCE NAME

San Francisco District Attorney's Office

The recipient signifies acceptance of this award and agrees to administer the project in accordance with the Final Judgment and Permanent Injunction ("Judgment") in the case of *People v. Hewlett-Packard Company*, Case No. 106CV-076081, and the application for distribution from the Privacy and Piracy Fund prepared and submitted by the Implementing/Recipient Agency ("authorized prosecutors" or "Recipient," as defined in the Judgment) and as approved by the Department of Justice.

Catherine Z. Ysrael is designated as the Department of Justice Project Coordinator and X Conrado del Rosario is designated as the Recipient's Representative. The Department of Justice reserves the right to change the Project Coordinator at any given time without Agreement amendment.

STATE OF CALIFORNIA	RECIPIENT/APPLICANT
AGENCY DEPARTMENT OF JUSTICE	Implementing/Recipient Agency / Task Force Representative San Francisco District Attorney's Office
BY (AUTHORIZED SIGNATURE) X	BY (AUTHORIZED SIGNATURE) X <u>Conrado del Rosario</u>
PRINTED NAME OF PERSON SIGNING Catherine Z. Ysrael	PRINTED NAME AND TITLE OF PERSON SIGNING X <u>Conrado del Rosario, Asst District Attorney</u>
TITLE Deputy Attorney General	ADDRESS X <u>732 Broadway St, San Francisco, CA 94111</u>
TELEPHONE (213) 897-2685	TELEPHONE X <u>(415) 551-9571</u>
E-MAIL catherine.ysrael@doj.ca.gov	E-MAIL X <u>conrado.delrosario@sf.dacourts.org</u>

I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.

Signature of Accounting Officer	DATE
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Department of Justice
Use Only

CURRENT YEAR	YEAR 2	YEAR 3
AMOUNT APPROVED FOR PAYMENT \$29,250	AMOUNT APPROVED FOR PAYMENT \$	AMOUNT APPROVED FOR PAYMENT \$
PERIOD OF PAYMENT JULY 1, 2011 THROUGH JUNE 30, 2012	PERIOD OF PAYMENT JULY 1, 20__ THROUGH JUNE 30, 20__	PERIOD OF PAYMENT JULY 1, 20__ THROUGH JUNE 30, 20__

- RECIPIENT DOJ PROJECT COORDINATOR DOJ ACCOUNTING

CONFIDENTIAL LAW ENFORCEMENT
COMMUNICATION

APPLICATION FOR DISTRIBUTION FROM PRIVACY AND PIRACY FUND
ADMINISTERED BY THE CALIFORNIA ATTORNEY GENERAL'S OFFICE
YEAR 2011-2012 CYCLE

I. NAME OF APPLICANT/ LEAD AGENCY: San Francisco District Attorney's Office

Address: Office of the District Attorney
City and County of San Francisco
732 Brannan St.
San Francisco, CA 94103

Phone Number: (415) 551-9571

Fax Number: (415) 551-5403

E-mail (if available): Conrad.delrosdario@sfgov.org

Contact Person(s): Conrad del Rosario, Assistant District Attorney
Eugene Clendinen, Chief Financial Officer

II. STATUS OF APPLICANT (check and provide information as appropriate)

A. Is Applicant an "Authorized Prosecutor" Within the Meaning of Section 17206?

Yes X

No _____

If no, the Applicant is not eligible to receive disbursements from the Privacy and Piracy Fund.

If yes, describe the governmental entity's function and responsibilities.
Please see the attached document.

B. Identify the Program Manager who will oversee the proposed project and who will be the contact person for purposes of the disbursement application. Attach a resume and contact information for the Program Manager. **The Program Manager will be Conrad del Rosario. His resume and contact information are attached.**

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COMMUNICATION**

III. APPLICANT'S PROPOSAL

In a separate document, describe the proposal for which Applicant seeks a disbursement. Please include:

- A. The perceived need for the program and how Applicant identified such need.
- B. The anticipated public benefit to be served by the disbursement, and how the benefit would be achieved. Please explain how the proposed project and any materials developed through disbursement funds may produce benefits extending beyond the specific project for which the disbursement is sought, if there will be such benefits.
- C. Where the application concerns an investigation and/or potential litigation, description of the potential investigation and/or litigation.
- D. A description of all equipment and of all materials, including brochures, pamphlets, and audio, video, and electronic materials, that will be prepared, developed, used, purchased, or rented with disbursement funds in connection with the proposed project. If possible, drafts, detailed descriptions, or copies of content to be used in the Applicant's project should be submitted to provide as much specificity as possible.
- E. Of the materials set forth in response to paragraph D, a description of how those materials may have use or application outside of the proposed project.
- F. A detailed itemization of all costs and expenses related to the proposed project that are expected to be paid from the disbursement. (If applicable, include a description of how other elements such as volunteer labor or collaboration with other agencies will be integrated into the project.)
- G. A detailed description of goods and services, such as personnel, travel and transportation, and materials to be used in connection with the proposed project that are funded from sources other disbursements from the Fund.
- H. The name, address, and telephone number of each provider of funds (other than the Privacy and Piracy Fund) expected to be used in connection with the proposed project.
- I. A statement of whether the Applicant intends to continue with the proposed project after the end of the initial disbursement term and, if so, the Applicant's expected source of funding for continuing the project.
- J. A description of how the proposed project relates to the Applicant's other projects in the program area, e.g., whether the proposed project supplements or duplicates other programs.

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COMMUNICATION**

- K. A description of how the Applicant:
1. will ensure that distribution by the Committee will be used solely for purposes proposed in the application; and
 2. intends to report to the Committee concerning the results of the project, including a discussion of how the Applicant intends to measure the success of the project. Appropriate non-staffing costs for such measurement may be included in the monies sought by the application.
- L. If the application is for continuation of a project approved during a previous Disbursement Cycle, a description of the steps taken by Applicant to determine the efficacy of the program during the prior Disbursement Cycle.

**IV. REPRESENTATIONS BY APPLICANT REGARDING ACCEPTANCE OF
CONDITIONS FOR DISBURSEMENT**

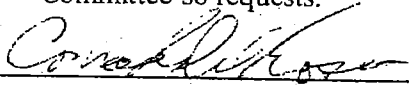
- A. The undersigned is the responsible person for this application, has been duly authorized by the Applicant to act as its agent in connection with this application, and hereby certifies that the information in this application, including attached documents, is true. The undersigned has read the Judgment governing the Privacy and Piracy Fund and understands its terms. The undersigned further represents that the funding requested will not be used to pay for current staff of the Applicant applying for this project, and that the existing budget of Applicant will not be reduced should the application be approved. If a project is accepted, the undersigned further represents that he/she will sign a form(s) that acknowledges that the Applicant's project has been selected for receipt of disbursement, and that the Applicant will comply with the terms and conditions of the disbursement.
- B. The Applicant will comply with each and every order of the Court in connection with the Privacy and Piracy Fund and the disbursement received.
- C. The Applicant will vigilantly safeguard the monies disbursed hereunder and maintain financial controls sufficient to protect such monies and ensure that the use of monies fully comports with the recipient's application for the disbursement, and will provide detailed written description of such financial controls upon request by the Committee.
- D. The undersigned represents that his/her office is authorized to accept disbursement funds under applicable state and local laws and that the budget of the office will not be reduced by the receipt of disbursement funds. Disbursement funds shall be used to augment but not supplant the budget of the disbursement recipient's office/unit.

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- E. The funds, except as otherwise expressly agreed by the Committee in writing, will only be used for the purposes described in this application, as approved or modified by the Committee.
- F. If the project is for the purpose of investigation or litigation, any civil settlement the Applicant enters will provide for full reimbursement of the amount of the disbursement to the Privacy and Piracy Fund. The Fund shall be reimbursed before any settlement funds are used for any other purpose.
- G. In the event the Applicant is the prevailing party after trial, the Applicant will use its best efforts to reimburse the Privacy and Piracy Fund in full from any monetary recovery ordered by trial and appellate courts and paid by the defendant(s).
- H. The Applicant will notify the Committee in writing of litigation results, including any settlement, judgment or other resolution, within 60 days of such settlement, judgment or other resolution.
- I. The Applicant will submit a self-evaluation report within six months after receipt of disbursement funds, and, for funds used for a specific project, litigation, or investigation, a final report to the Committee within 60 days of completing the project. For projects, litigations, or investigations that are not completed within a year, or for multi-year projects, applicants shall also submit annual progress reports (at, i.e., 12, 24 and 36 months after receipt of disbursement funds) and a final report to the Committee within 60 days of completing the project, litigation or investigation. These reports shall specify how disbursement funds were used, as well as a description of the progress and/or outcome of the project for which the disbursements were awarded. All reports submitted to the Committee pursuant to the reporting requirements of these instructions shall be treated by the Attorney General's Office as confidential law enforcement communications.
- J. All correspondence with the Committee shall be directed to Deputy Attorney General Catherine Z. Ysrael, Office of the California Attorney General, 300 South Spring Street, First Floor, Los Angeles, CA 90013; phone: (213) 897-2685; fax: (213) 897-4951; e-mail: Catherine.Ysrael@doj.ca.gov.
- K. The Applicant will cooperate with the Committee and its agents in providing all information and documents concerning the use of disbursement funds as the Committee reasonably requests and will maintain sufficient records for auditing purposes to substantiate any expenditure. In the event of a multi-agency project, the initial Applicant shall be solely responsible for complying with this paragraph, except as otherwise expressly agreed by the Committee in writing.
- L. The Applicant will comply with all additional requirements the Committee imposes, including but not limited to completing and promptly returning the JUS 8765 form to acknowledge selection as a disbursement recipient.

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- M. Approval of this application does not constitute Committee or California Attorney General endorsement of this project.
- N. Except as otherwise expressly agreed by the Committee in writing, within 60 days after the conclusion of the investigation, litigation, or training for which the disbursement was requested, the Applicant will return unused or excess funds to the Committee by check made payable to the California Attorney General's Office, with the notation "Privacy and Piracy Fund Reimbursement."
- O. Except as otherwise expressly agreed to by the Committee in writing, if the project is for the purchase of non-case specific goods or services, the Applicant will return any excess or unused funds to the Committee within 60 days after purchase of such goods or services by check made payable to the California Attorney General's Office, with the notation "Privacy and Piracy Fund Reimbursement."
- P. If an application is for the production of any materials, the Applicant agrees to permit the California Attorney General's Office and other authorized prosecutors to use those materials, without restriction, for their intended purposes, if the Committee so requests.

Signed: 

Title: Assistant District Attorney

Date: 7/29/11

Return Four Copies of Applications and Attachments to:
Privacy and Piracy Fund Committee
Attention: Catherine Ysrael, Deputy Attorney General
Office of the California Attorney General
300 South Spring Street, First Floor
Los Angeles, CA 90013

For additional information, please contact:
Catherine Ysrael, Deputy Attorney General
Office of the California Attorney General
phone: (213) 897-2685
fax: (213) 897-4951
e-mail: Catherine.Ysrael@doj.ca.gov

CONRAD B. DEL ROSARIO, Jr.

San Francisco, California 94103

EXPERIENCE

ASSISTANT DISTRICT ATTORNEY - High Technology Crimes Unit August 2005 - Present
Office of the District Attorney, San Francisco, CA

Investigate, advise, and review cases involving crimes where high technology is the target of the crime or the vehicle to commit the crime. Draft and file felony and misdemeanor criminal complaints and informations for vertical prosecution of crimes involving identity theft, network intrusion, digital software and entertainment piracy, credit card fraud, and computer cargo thefts. Assist and counsel local, state, and federal law enforcement agencies in investigations, search and arrest warrants, and arrests. Vertically handle all stages of felony criminal prosecutions including arraignments, preliminary hearings, motions to suppress, motions to revoke probation, jury trials, and sentencing. Interview and prepare testimony of witnesses including computer forensic and system network experts.

ASSISTANT DISTRICT ATTORNEY - Sexual Assault Unit November 2001 - 2005
Office of the District Attorney, San Francisco, CA

Review and file felony and misdemeanor criminal complaints and informations. Assist and advise law enforcement in investigations, warrants, and arrests relating to crimes involving sexual assault, domestic violence, elder and child abuse. Handle all stages of felony criminal prosecutions including grand jury proceedings, preliminary hearings, jury trials, and sentencing. Litigate and try sexually violent predator commitments pursuant to Welfare and Institutions Code §6604. Contact, interview, and prepare victims of violent crimes for courtroom testimony. Create supplemental investigative forms for law enforcement officers responding to domestic violence and sexual assault calls.

DEPUTY DISTRICT ATTORNEY - Felony Trial Unit February 1994 - 1998
Office of the District Attorney, Solano, CA

Draft felony and misdemeanor complaints. Try felony and misdemeanor cases by jury and court, conduct preliminary hearings, and research and argue felony and misdemeanor motions. Handle felony sentencing and probation revocation hearings. Prosecute criminal cases arising from the California Department of Corrections Facilities. File petitions and conduct jury trials on mental health extensions pursuant to Penal Code §§2970 and 1026.5. Conduct juvenile arraignments, negotiations, contests, and dispositions. Appear as a representative for the office at Board of Prison Term hearings.

MEMBERSHIPS

HIGH TECHNOLOGY CRIMES CONSORTIUM 2006 - present
HIGH TECHNOLOGY CRIMES INVESTIGATOR ASSOCIATION 2005 - present
RAPID ENFORCEMENT ALLIED COMPUTER TEAM TASK FORCE 2005 - present

EDUCATION

CITY COLLEGE OF SAN FRANCISCO

Introduction to Networks, Network Security, Internet Safety, WiFi basics, Computer Hardware, Operating Systems, Ethical Hacking and Network Security

UNIVERSITY OF SAN FRANCISCO SCHOOL OF LAW

Juris Doctor Degree, 1991
Honors: Saint Thomas Moore Scholarship

UNIVERSITY OF CALIFORNIA, DAVIS

Bachelor of Arts Degree, Rhetoric and Communications
Minor in Political Science, 1988.

NOTABLE CASE

People of the State of California vs. Terry Childs (2008-2010)

Successfully investigated and prosecuted a government network engineer who implemented, maintained, and administered a multimillion dollar fiber network system for the city of San Francisco that utilized Cisco devices and Multi Protocol Layer Switching technology but who refused to provide the passwords to city officials. Secured a \$5 million bail and litigated a six month jury trial resulting in his conviction.

A. Perceived need for the program

The San Francisco District Attorney's Office (SFDA) is requesting funds to enable us to investigate and possibly prosecute a case involving alleged theft of patents potentially worth millions of dollars. The case was brought to our High-Technology Crimes Unit by the alleged victim. It is the first case of this type that the SFDA will investigate.

The value of the patents in question is central to the SFDA's determination of whether the alleged conduct was criminal. But patents, like all intellectual property, are intangible assets, difficult to value. Economists and others have developed highly technical and complex methods to value patents, looking at a variety of factors such as market share, profitability, growth projections, and competing technologies.

With the explosion of digital technologies in the marketplace – and in our daily lives – criminal intellectual property theft is a growing threat that has become a top priority for federal and state law enforcement, such as the FBI's Cyber Program. The requested disbursement will empower the SFDA to play our part in ensuring that victims of intellectual property theft find justice in San Francisco.

B. Anticipated public benefit

The San Francisco Bay Area, from San Francisco down to Silicon Valley, is the leading hub for high-tech innovation and development in both the US and the world. The area has been home to the rapid formation, funding, and expansion of high-tech companies, initially in semiconductor & computers, and more recently in computer operating systems, software, and user interfaces. A 2008 study by the American Electronics Association found that the Bay Area had 386,000 high-tech jobs.¹

The role that intellectual property – and specifically patents – plays in the region's economy cannot be understated. A 2006 *The Wall Street Journal* story found that 13 of the 20 most inventive towns in America were in California, and 12 of those were in the Bay Area, including San Francisco, in which 1,022 patents were filed.² The state of California accounts for about 15% of the patents issued in the U.S.³ Moreover, the proliferation of these valuable, but intangible, assets has spawned an entire industry of middlemen who make their living buying and selling inventions in much the same way that others trade stocks or bonds.

A common perception of patent-related disputes is that they are handled by posh law firms in civil courtrooms. But where there is theft – of patents or any other property – criminals must be held accountable and victims must be made whole. Vigorous investigation and prosecution of this case, and others like it, sends a clear and enduring message in San Francisco and beyond that the justice system will not tolerate criminal conduct in the high-tech industry.

¹ <http://www.marketwatch.com/story/silicon-valley-and-ny-still-ride-high-in-cybercities-rankings>

² <http://online.wsj.com/article/SB115352188346314087.html>

³ *Ibid.*

C. Potential investigation and/or litigation

All requested funds will be used to investigate and potentially prosecute an alleged theft of the intellectual property of a high-tech company. This company had secured over 50 patents involving wireless network technology. More specifically, this company had learned to configure commonly used internet network devices so that these devices could be used to identify the general location of the users of the Internet so that important information relevant to the users could be transmitted to the users. For example, other than obvious advertising advantages, it could also be used to send important safety alerts and hazard warnings to individuals in those locations via their computers or smartphones.

This investigation involves the holder of the patents, who was also the Chief Technology Officer (CTO), who was forced out by the Chief Executive Officer (CEO) of the company, since the CTO didn't own the majority of shareholder stocks. After the CTO's forced departure, the company subsequently lost money and went into a form of bankruptcy where another trustee company was to secure its assets, sell them for highest value, and then pay off the company's creditors. According to the CTO, the CEO had in fact valuated some of the patents into the millions of dollars; however, the CEO formed another company, which bought the assets (which included the IP of all the patents) for \$60k from the trustee company. The CEO now is trying to sell these patents under his newly formed company.

In order to complete our investigation of the alleged conduct and determine whether crime(s) were committed, the SFDA's Economic Crimes Unit needs to secure experts to help our investigators examine the corporate transactions, to value the patents, and to testify to such if we charge the case.

D & E. Equipment and materials in connection with proposed project

We anticipate two potential materials that will be generated in connection with the proposed project; however, both will be created at the conclusion of the investigation in preparation of trial. First, the Assistant District Attorney trying the case will prepare powerpoint presentations for use with the jury. Second, the SFDA may contract with a digital media company to produce a movie explaining wireless network technology. At this juncture we are not requesting that disbursement funds be used to pay for either of these materials.

**F. Itemization of expected costs and expenses to be paid from disbursement –
TOTAL REQUEST \$33,408**

1. Expert Witness Expenses

\$26,250

Description	Computation	Cost
Patent Valuation Expert	\$450 per hour x approximately 25 hours	\$11,250
Forensic Auditor	\$250 per hour x approximately 60 hours	\$15,000

2. Training Expenses

\$4,158

Description	Computation	Cost
Electronics & Computer Patent Law Training, American Intellectual Property Law Association (AIPLA), 1 day training in MN	\$175 registration fee x 2 attorneys	\$350
	\$450 per person airfare x 2 attorneys	\$900
	\$184 hotel rate per night x 2 attorneys	\$368
	\$64 per diem x 1 day x 2 attorneys	\$128
	\$25 ground transportation each way	\$50
	Total	\$1,796
Patent Law Prosecution Training, AIPLA, 2 day training in VA	\$320 registration fee x 2 attorneys	\$640
	\$350 per person airfare x 2 attorneys	\$700
	\$179 hotel rate per night x 2 attorneys	\$716
	\$64 per diem x 2 days x 2 attorneys	\$256
	\$25 ground transportation each way	\$50
	Total	\$2,362

3. Litigation Expenses

\$3,000

Description	Computation	Cost
Certified transcripts, copies of patents, contracts, etc	(estimated) \$75 per document for 40 documents	\$3,000

G. Itemization of good and services funded from other sources

If the AG Privacy and Piracy fund provides the requested disbursement, other expenses related to the project will be paid from the City & County of San Francisco General Fund, including SFDA personnel salaries, benefits, office space and equipment necessary to complete the investigation and potential prosecution of the case.

F. Amended Itemization of expected costs and expenses to be paid from disbursement- TOTAL APPROVED REQUEST-\$29, 250

1. Expert Witness Expenses

\$26,250

Description	Computation	Cost
Patent Valuation Expert	\$450 per hour x approximately 25 hours	\$11, 250
Forensic Auditor	\$250 per hour x approximately 60 hours	\$15,000

2. Litigation Expenses

\$3,000

Description	Computation	Cost
Certified transcripts, copies of patents, contracts, etc.	(estimated) \$75 per documents for 40 documents	\$3,000

H. Other provider of funds for project

Eugene Clendinen
Chief Administrative and Financial Officer
Office of the District Attorney
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Phone: (415) 553-1895
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I. Plans to continue proposed project

The SFDA is committed to completing the investigation and, if warranted, the prosecution of the case. Moreover, once we have completed this case our Managing Attorney of the Economic Crimes Unit, Chief of the Special Operations Division and Chief Assistant District Attorney will assess the process and outcomes and determine how we will secure the resources necessary to investigate and prosecute these types of cases going forward.

J. How proposed project relates to Applicant's other projects in the program area,

The proposed project will enable the SFDA to supplement the work of our High-Tech Crimes investigations and prosecutions, which was created in 2003 to handle cases involving identity theft and crimes that utilize or target computer technology. Since its creation, the attorneys assigned to High-Tech Crimes have prosecuted several multi-defendant identity theft rings using computers, scanner, printers, and encoders to clone hundreds of victims' credit card information onto counterfeit credit cards. We have also prosecuted *People v. Terry Childs*, a high profile network administrator who withheld all the passwords to the City's main network system thereby locking out all the administrators from their own system. The 6 month trial resulted in a guilty verdict, the Defendant being sentenced to 4 years in prison, and the court ordering 1.4 million dollars in restitution. Currently, our office is currently prosecuting an individual who was a former network consultant who used his prior knowledge of the victim company's network to gain access and change systems data information on the victim's network to cause a disruption of services. The investigation and prosecution of High-Tech Crimes is a component of the Economic Crimes Unit, which is part of the White Collar Crimes Division, which investigates and prosecutes various types of corruption and white-collar crime committed within San Francisco.

The proposed project, if funded, will be the first time that the Economic Crimes Unit takes on a case of intellectual property theft. The project does not duplicate existing SFDA activities or operations.

K. Grant oversight

Fiscal oversight: Upon receiving funds, the SFDA Finance Division sets up grants in the accounting system with unique grant codes. Expenditures appropriate to the grant are directly charged to the grant. Expenditures are monitored monthly with cost reimbursement requests no less than once a quarter. The project will be managed by the Managing Attorney of the Economic Crimes Unit, who will work with the SFDA Finance Division to ensure that disbursed funds are used in accordance with the proposed budget itemized in Section F above.

Project reporting and evaluation: The SFDA, and specifically the SFDA's Special Operations Division, has a demonstrated history of collecting and analyzing outcome data to assess project effectiveness.

Measurable outcomes for this project will include the following:

1. The SFDA will secure expert consultant(s) who will examine and report on the details of the relevant corporate transactions;
2. The SFDA will secure patent valuation expert(s) to examine and report on the valuation of the relevant patents;
3. The SFDA will execute search warrants and evaluate the seized evidence as a result of those warrants.

Depending on the results of outcomes 1-3, the SFDA may complete the following two measurable outcomes. However, we anticipate that these outcomes will be beyond the timeframe for the proposed project:

4. The SFDA will determine whether to file charges related to the case.
5. The secured experts will testify, as needed, during hearings that result from the prosecution of the case.

The SFDA will provide written reports to the California Attorney General's Office of each of the above outcomes and on the complete results of the project.

L. N/A – this application is not for continuation of a previously funded project.

Status of Applicant – Function and Responsibilities

I. Grant-specific function and responsibilities: The San Francisco District Attorney's Office is authorized to prosecute violations of California Business and Professions Code 17200 et seq., as set forth in section 17206.

II. General function and responsibilities: The SFDA office investigates and prosecutes crime in San Francisco and supports victims of crime. We also bring actions involving consumer fraud, including real estate fraud, insurance fraud and financial fraud against elders; and we bring actions to ensure environmental protection. Our office contains four major divisions: the Criminal Division, the Investigations Bureau, the Special Operations Division, and the Victim Services Division.

Brady, Appellate & Training Division: The Brady, Appellate & Training Division handles writs and appeals, trial integrity (Brady), staff training and intern training.

Criminal Division: This division prosecutes felony and misdemeanor crimes, including homicide, sexual assault/mental health, child sexual assault, domestic violence/elder physical violence, general felonies, gangs, preliminary hearings and misdemeanors and juvenile.

White Collar Division: The White Collar Division investigates and prosecutes various types of corruption and white-collar crime committed within San Francisco, including high tech crimes, mortgage/investment fraud, real estate fraud, welfare fraud, insurance fraud, financial elder abuse, public integrity, justice integrity, consumer protection, environment and workplace safety.

Collaborative Courts Division: The Collaborative Courts Division includes nine problem-solving courts, including Back on Track (for young adult first-time felony drug sales offenders), Community Courts, Community Justice Center, Truancy Court, Parole Reentry Court, Drug Court, Behavioral Health Court, Prop 36 Court and Probation Alternatives Court (PAC).

Investigations Division: The District Attorney's Bureau of Investigations (DAI) is composed of sworn peace officers who work closely with our prosecutors to fully develop documentary, physical, and testimonial evidence for trial in both our Criminal and White Collar Divisions.

Victim Services Division: The Victim Services Division provides comprehensive services and support to victims of crime and witnesses to crime, including victim advocacy, victim witness assistance, claims and victim compensation.

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee:
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee:
- 4. Request for letter beginning "Supervisor inquires"
- 5. City Attorney request.
- 6. Call File No. from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):


Cohen

Subject:

Accept and Expend (\$29,250) - State Grant for High Technology Crimes Unit

The text is listed below or attached:

Attached

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: