

Robert Hartz

Transcript

State of Connecticut vs Julie Amero

DIRECT EXAMINATION BY MR SMITH



SMITH

Good afternoon, Mr. Hartz.

Good afternoon.

HARTZ





SMITH

I will ask you a few questions. I will ask you to respond verbally, because that microphone doesn't amplify. I am also going to ask you when you give your responses if you will direct them to the jury. Okay?

Sure.

HARTZ





SMITH

What do you currently do for a living?

**I work in the Norwich Public School System.
I am the information services manager.**

HARTZ





SMITH

How long have you been engaged in that capacity with the Norwich Public Schools?

I've worked for the Norwich Public Schools for a little over eight years.

HARTZ





SMITH

And prior to that, what did you do?

Prior to that, I had been involved in computer science from the late '60s, early '70s working for some main frame manufacturers, such as IBM, Edwards Food Stores, CIGNA. I worked a little bit for CHUBB and I did some consulting work, and I've been involved with PCs since the early '90s.

HARTZ





SMITH

Consulting work specifically on computer work?

Yes.

HARTZ





SMITH

What are your duties with the Norwich Public School System?

I'm responsible for just about everything technology wise; personal computers in the classroom, the servers that provide programs and services to the PCs, to the switches, to the network, to the routers, to the firewalls, and making sure that all of that works together.

HARTZ





SMITH

And were you employed in this capacity in October of 2004?

Yes, I was.

HARTZ





SMITH

At some point, do you recall being called in to evaluate a specific PC in the Kelly Middle School?

Yes, I do. I believe it was the day after the incident apparently occurred, I was contacted either by the superintendent, Dr. Frechette, or Scott Fain, the principal of the Kelly Middle School, and I was told there was a report that somebody had accessed inappropriate websites the previous day. And they wanted to know whether I could tell anything from looking at the PC or any of the other logs that we might keep as to whether this really happened.

HARTZ





SMITH

Now, as background to your knowledge, when a person accesses an Internet website on a PC, is that information stored anywhere?

With the firewall we were using at that time, which was a combination of hardware and software, the software was something called Raptor, all Internet access is, whether you are going to Google, wherever, it all goes through the firewall, all accesses from all 2,800 PCs in the system go through this one firewall. And this particular firewall logged who the request came from and where it was going. So if I went to Google, there was an entry in that firewall that said this particular PC went to Google at this particular time.

HARTZ





SMITH

Now, would that information be stored anywhere else other than the firewall?

On the individual PC, there are some files that are stored on the individual PC. Cookies are stored out there which are little things that websites put on your PC to keep track of you and maybe keep things like passwords, and there is also a folder called temporary Internet files. And occasionally, quite often websites will put them in the temporary Internet files folder.

HARTZ





SMITH

That is some of the places this is stored, correct?

Yes. Those are the two places at the Norwich Public Schools where I know that information could have been stored.

HARTZ





SMITH

And information that you would have access to, correct?

Yes.

HARTZ





SMITH

Okay. Now, you were called in to evaluate a specific computer.

I was told that one of our teachers had had a substitute in the previous day and this substitute might have accessed inappropriate websites, and I was to look at what we call the teacher's computer. Each room each classroom in Norwich has approximately seven PCs, six of them are for use by the students, the seventh is for the teacher. It has an e-mail account on it. It's usually in the front of the classroom at the desk, and generally it's not used by the students, although it can be.

HARTZ





SMITH

Now, you mentioned that 2,000 computers go through the same server, correct?

Yes.

HARTZ





SMITH

Is there any way to identify which specific computer left which specific log on the service?

The way that is done is each PC in the system has a unique address. It's called an IP address or Internet protocol. Each PC has a unique address. The firewall, when it records an Internet access, records that particular IP address, it's kind of like, you know, your home address, they know where to send the mail. Because when a website responds, like if Yahoo! will respond, the firewall has to say it comes from that, where did it go. It goes to this Internet address. He has got to know where it came from and where it came from is a personal computer with that address.

HARTZ





SMITH

So based on the information you gleaned basically the IP address, you were able to connect the information on the server and also the specifics as to the specific PC, is that correct?

Yes. We can correspond, watch on the PC Internet by looking at the firewall log.

HARTZ





SMITH

So at some point, you were called to evaluate same activity that may have happened, correct?

Yes.

HARTZ





SMITH

I'm sorry, what day were you called in?

**I believe it was the day after the incident,
which would have been October 20th.**

HARTZ





SMITH

Initially, what did you do when you went to go investigate this?

The first thing I did is I went in to the room and it was during that free period, and I talked to the teacher, Mr. Napp, a little bit, and he basically confirmed what Scott Fain and Dr. Frechette had said. There was concern that some inappropriate sites were accessed. I then went to the teacher's computer in that room, his computer, and the first thing I did was I took the IP address, because I was going to need that later, so I recorded the IP address. And then I went into the cookies file. The cookies didn't show me a whole lot. But then I went into the temporary Internet files, and that is a number of files that were dated the previous day, October 19th, with time stamps starting I believe around 8:30, 8:35, and going through the end of the day. And so I looked at these and I saw certain sites that were accessed from this PC. As I recall, it started out with access to AOL.

HARTZ





SMITH

I will stop you for a second before we get to that part. You indicated there was a time stamp on the computer, is that correct?

There is a time stamp on the computer when this particular file and the temporary Internet files is modified, the date and the time is stuck in the directory.

HARTZ





SMITH

Is that time stamp based --. Let me put this in context. The information you gleaned from the PC, does that time stamp come directly from the PC or does it come from the server?

It actually is the time on the PC.

HARTZ





SMITH

So could the time on the PC be different from the time on the server?

It could.

HARTZ





SMITH

Okay. On this particular computer, this is the computer in Mr. Napp's class, correct?

Correct.

HARTZ





SMITH

Did you notice any discrepancy between the time on the computer and the time on the server?

Yes. We noticed when we went back to the firewall we looked at the logs, there was a ten-minute discrepancy. I forget whether the PC was ten minutes earlier or ten minutes later, but there was about a ten-minute discrepancy.

HARTZ





SMITH

And who enters the information on the server?

The time on the server was entered manually, and it was probably entered when we installed it back around 1999 or 2000. Somebody either had a bad watch or liked to be ahead of time or something like that. It was a manual entry.

HARTZ





SMITH

How is the time entered on the PC?

The PC, all PCs in Norwich, all the Windows '95 or '98 system and the Windows 2000 system get their time from the e-mail server. I was careful on the e-mail server to set the correct time. When you log on one of these machines, you sign onto the network, one of the things the sign on procedure does is go out to the e-mail server and say what time is it, and that is how it gets its time.

HARTZ





SMITH

I will make sure this is clear. Is the e-mail server different?

Yes.

HARTZ





SMITH

The server where the logs are kept?

Yes. The firewall just does firewall processing, contents filtering- type processing. The e-mail is a different vendor that just handles our five or six e-mail accounts.

HARTZ





SMITH

The actual wall, the time could be off on two of them?

Actually, yes. That 's true.

HARTZ





SMITH

When you were investigating the PC that was used here and the firewall server, did you notice a discrepancy in the time?

Yes, I did.

HARTZ





SMITH

Approximately how much was that?

Like I said, it was ten or twelve minutes. I don't remember who was faster and who was slower.

HARTZ





SMITH

Now that we have that said, you went to the room, correct?

Correct.

HARTZ





SMITH

And you spoke with Mr. Napp, correct?

Yes.

HARTZ





SMITH

And then you accessed the logs from the PC, correct?

Yes. I looked at the PC first, temporary Internet files and the cookies.

HARTZ





SMITH

And when you accessed the log from the PC, did you see various websites that had been accessed there?

The temporary Internet files showed on 10/19. On October 19th, there was a number of websites accessed.

HARTZ





SMITH

Okay. And the various websites I believe you mentioned at some point e-mail.

One site that was accessed had, apparently was accessed the first thing in the morning, and that was an AOL. It appeared to me one of the things being done on AOL was to check an e-mail account.

HARTZ





SMITH

Did you see other websites accessed in that time frame?

In the early morning between 8:30 and say somewhere around 9:30, in addition to AOL, I saw Orbitz, www.Orbitz.com accessed. That is a travel-type site where you can buy tickets, make hotel reservations and that type of thing. And I saw a hairstyle site accessed, something like Hairstyles.com.

HARTZ





SMITH

At any point, did you come across some websites that caused you to be concerned that some inappropriate material was being accessed?

After these sites were accessed, it was probably around 9:30 or so, I did see entries in the temporary Internet file folder that caused me to be concerned that, yes, this PC had been used to access pornographic or inappropriate sites.

HARTZ





SMITH

Based on you having the PC and getting that information, did you then print out any of the information?

I tried to get. It's not the easiest thing for me to get the logs from the temporary Internet folder, but I did print out pages from the temporary Internet -- sorry, from that folder that contained the temporary Internet files. Then I printed them in time and date sequence.

HARTZ





SMITH

If I may approach the witness please.



COURT

Yes.



SMITH

I'm showing you what has been premarked as State's Exhibit Number 1 for Identification purposes only at this point. Without telling us what is in that document, can you tell us what that document is?

This is a directory listing of the PC Windows temporary Internet files folder.

HARTZ





SMITH

Have you had a chance to go through that information?

**I did go through it back in 2004. I have
glanced at it since.**

HARTZ





SMITH

Since you glanced at it in the last few days, correct?

Yes, I have.

HARTZ





SMITH

To your knowledge, is that the information that you took off the computer in question from October 19th?

Yes, it is.

HARTZ





SMITH

And you took it off on the 20th, you said, correct?

That would be true.

HARTZ





SMITH

As you go through that information, is that an accurate representation of what you saw on the screen and what you printed out in that computer?

This is actually what I did print out. And looking at it recently in the past few days, it looks like there are some gaps, especially after lunch. I probably did not print the entire folder.

HARTZ





SMITH

What we have there is a fair and accurate copy of what you printed, correct?

Absolutely.

HARTZ





SMITH

At this point, we would ask that it be entered as a full exhibit.



COURT

Any objection?



COCHEO

No objection.

(State's Exhibit 1 marked into evidence)



SMITH

**I will publish that to the jury. I will put it up on the screen,
it's easier to see.**



COURT

For those of us who might need glasses, it would be good to have it on the screen.



SMITH

I will not publish it all, just to get the gist of what is going on.

MR. SMITH CONTINUING.



SMITH

I want to show you what has come in as, I will show you what we just put in as State's 1. I Believe you indicated that initially they started out, and I notice here the time it goes up, is that correct?

That's correct. I printed the newest to the oldest.

HARTZ





SMITH

It goes from 8:39 to 8:47, :48, 8:48, is that correct?

That's what it appears to be, yes.

HARTZ





SMITH

And you initially stated that the computer was accessing the web mail, AOL web mail sites, correct?

Yes.

HARTZ





SMITH

The column that you are pointing to contains the web page that was accessed that put this file or modified this file that might have already been on the computer so you can see in here it's AOL where it says web mail docs, AOL. So I made the assumption that that was accessed to the AOL e-mail account.



SMITH

That is a site that was accessed, correct, not assuming what they were doing on the site, correct?

Correct.

HARTZ





SMITH

On the next page, I believe you indicated also that the computer also accessed an Orbitz site or hairstyle site, correct?

Yes.

HARTZ





SMITH

The hairstyle site is approximately 9:00 a. m., correct, if you can see it?

Yes. That column on the right is the date and time stamp that that file was modified.

HARTZ





SMITH

Various hairstyle sites, and I believe you also say that this computer accessed hairstyling and Orbitz site, that is the site of the travel you stated?

Yes. There is an entry for Orbitz.

HARTZ





SMITH

Around 9:15 or so, correct?

That is what it appears to be, yes.

HARTZ





SMITH

And then at some point you indicated, and I will show this, more Orbitz sites, correct?

Correct.

HARTZ





SMITH

At some point, you indicated that it changed over to some sites that were questionable in nature to you, correct?

And I think on this page is where you see some of that.

HARTZ





SMITH

Approximately 9:24 I see here there is an access to [redacted]. Again, this comes from this computer, correct?

Yes.

HARTZ





SMITH

From Mr. Napp's computer?

Correct.

HARTZ





SMITH

These are various pages listed on the web pages.

It's an indication that that site has been hit and actually when a picture is pulled down, you get another entry in here. But at 9:24, that site was accessed.

HARTZ





SMITH

Various information from that site, various pages from the Internet came from that site, correct?

Yes.

HARTZ





COURT

You said at 9:24 on the 19th?



SMITH

9:24 on October 19th, correct?

Yes.

HARTZ





COURT

Okay.



SMITH

And after that site at 10:06 approximately, [redacted], again from the same computer, correct?

From the same computer.

HARTZ





SMITH

In going up, I see several entries on this same website, and then on 10:12 I see another website, [redacted], is that correct?

That's correct, also.

HARTZ





SMITH

And that also is from the same computer?

Same computer.

HARTZ





SMITH

And finally, more cheating lesbians until you get to approximately 10:31, I see [redacted], same computer, correct?

Same computer.

HARTZ





SMITH

And going back to 10:39 on [redacted] and various other sites, correct?

That's correct.

HARTZ





SMITH

Now, to be fair, some sites were clearly not pornographic that you took to be pornographic from their titles, correct?

That's correct. I took them to be pornographic from their titles, and suspicious from their titles.

HARTZ





SMITH

Not all the sites?

Not all the sites. AOL and Orbitz.

HARTZ





SMITH

Where people go to check their e-mail?

Yes.

HARTZ





SMITH

After you got the information off the computer, did you go to the server?

Yes. I was concerned. I didn't want to make a judgment right away from this PC -- I wanted to corroborate what I had already seen. I wanted to verify it. I knew if I went back to the central office and accessed the server, then I could access the logs that were kept from the date of the 19th.

HARTZ





SMITH

Did you go back to check the servers approximately on the same day, the 20th?

After I looked at the PC, I went back to see the server, the firewall.

HARTZ





SMITH

How were you able to correlate that computer PC to the specific information that was relevant on the firewall?

Like I said, the firewall --. We kept a log of all Internet accesses from every one of our 2,000 PCs. It's a pretty voluminous file. The first thing I did was I went there and I secured, I got the file from the 19th, at midnight every night that firewall would close down that day's logs. We might have seven or eight logs out there. The first thing I did was I got the log from the 19th and I secured it. I made a copy of it. So now I had a copy to work with, and I ran a filter through it like you have 2,000 PC entries in this potentially, I also ran a filter that only pulled out those entries that were made by actions of the PC that I had gotten the IP address from, Mr. Napp's PC.

HARTZ





SMITH

How did you get that IP address?

I looked at it when I first looked at his PC. There's a command you can use, it's called WIN IPCFG and that will tell you what the IP address of that machine is.

HARTZ





SMITH

You specifically got the IP address?

His computer, 10 dot 2 dot 19 dot something. I don't recall what the something was.

HARTZ





SMITH

Did you go through that server log?

Like I said, I filtered out the server log. I only had those from Mr. Napp's PC, and then I matched those against what I was seeing from his computer, and they did match. So where I saw that this PC had accessed AOL, the firewall log was telling me yes, that accessed AOL. Where it was Orbitz, it accessed Orbitz, where it was [redacted], it had accessed [redacted].

HARTZ





SMITH

Were you able to correlate the computer with what was on the server log?

Taking in account there was a ten-minute difference in time.

HARTZ





SMITH

You said ten to twelve minutes.

Ten to twelve minutes.

HARTZ





SMITH

May I approach, Your Honor?



COURT

Yes.



SMITH

I would like to show you what has been premarked as State's Exhibit 2 for identification purposes only at this point. Without telling us what is in that document, can you tell us what that document is?

This document is a portion of the firewall log relating to the PC in question from October 19th.

HARTZ





SMITH

Okay. And can you locate -- excuse me, is that the information or some of the information you printed up or did you print this information up from the firewall server?

I did print this directly from the file that I had of the firewall.

HARTZ





SMITH

That is after you correlated the IP address on a PC to this specific IP information address, correct?

Yes.

HARTZ





SMITH

Have you had a chance to go through that information?

I really looked at this part of it this morning.

HARTZ





SMITH

Okay. And to your knowledge, is that a fair and accurate copy of what you saw and what you printed out?

Yes. It's a log from the firewall. It covers the times, 10:56 in the morning until about 11:00 o'clock in the morning. It's only a portion of the log.

HARTZ





SMITH

Of the information that was pulled?

Yes.

HARTZ





SMITH

**I would ask that this be entered as a full exhibit at this point,
Your Honor.**



COCHEO

No objection.



COURT

Without objection, it's a full exhibit.



SMITH

I will publish this quickly, and just to get a gist of what the file is, I am sure the jury can look at it. A few portions of this I'm going to put up.

MR. SMITH CONTINUING.



SMITH

This is basically what the logs look like, correct?

Correct.

HARTZ





SMITH

Now, I am going to scroll up to the top here. I notice there is this number, 10.2.19.252.

Right before that number is SRC and that means the source and that is the source of the request. And it's showing that this particular request came from Mr. Napp's PC.

HARTZ





SMITH

And this is information you pulled up, correct?

Correct.

HARTZ





SMITH

And some of the information you said you looked at correlated with the AOL e-mail and the Orbitz and the hair and such, correct?

Yes.

HARTZ





SMITH

I noticed in this stuff that was pulled up, there is information -- some of these websites also I believe caused you concern, concern of a sexual nature, is that correct?

Yes, they did.

HARTZ





SMITH

Specifically to what I am pointing at here, my understanding is this [redacted], specifically this website, again, was accessed to that PC in Mr. Napp's classroom, correct?

Correct. If you go about two or three lines above that, it says October 19th and it's followed by a time stamp. This access was made on October 19th at 10:57. And you see the source, SRC. Again, it's 10.2.19.252. The SRC is what was being accessed, that is the website that was being accessed.

HARTZ





SMITH

Absent the information that was sent, what does that mean?

I'm not familiar with all those fields. They have things to do with the duration, how long did it take the website to respond, how many bytes were sent to the website? How many bytes were received? That is technical information as to how it was done. Yes. More like that.

HARTZ





SMITH

And this was the website that was accessed from the IP address, it was accessed from and the time approximately when it was accessed, correct?

And that is the time on the server or the firewall.

HARTZ





SMITH

You testified it would be different than the PC.

Ten or twelve minutes.

HARTZ





SMITH

This entire area here would cover approximately how long?

I believe it covers about five minutes, four to five minutes.

HARTZ





SMITH

And my understanding, you actually saw more information on this, correct?

I did go through the entire log looking for questionable sites.

HARTZ





SMITH

And to go back just to correlate somewhat the actual PC, I see there was a site accessed from the same IP source to the [redacted] page, which is the same page accessed clearly on the PC, correct?

Yes.

HARTZ





SMITH

Was this PC located, the actual PC located in Norwich, Connecticut?

The PC was in Norwich, Connecticut.

HARTZ





SMITH

Was the server located in Norwich?

Yes, it was.

HARTZ





SMITH

Clearly, there was a question on whether there are filters on the school computers?

Correct.

HARTZ





SMITH

Does the Norwich school system have filters on their PCs?

We do content filtering. It's not typically on the PC, but it's on a server, in our case it was on the firewall server.

HARTZ





SMITH

At the time of this incident, October 19th, 2004, did you have an opportunity to look at the filtering system in place to block out suspect images?

Yes. Mainly because I was concerned how could some of these sites be accessed without being denied. What I did find is our filtering, content filtering software had not been updated correctly.

HARTZ





SMITH

They were able to access unfortunately all the computers, correct?

Yes.

HARTZ





SMITH

Are you familiar with some type of virus protection program that the school system runs?

Yes.

HARTZ





SMITH

Specifically, did you determine whether or not the virus has infected the computers?

We do run --

HARTZ





COCHEO

Objection, State v. Frye.



COURT

So a hearing on what issue?



COCHEO

The exact issue, expertise would be admissible. He hasn't laid the proper foundation.



COURT

For this witness' expertise?



COCHEO

Yes.



COURT

Would you like him to go into that?



SMITH

I think I have laid the expertise based on his background, twenty years experience and the like.



COURT

He did it when he first took the stand. I don't find that sufficient, Mr. Cocheo. It sounded like -- we could hear it back.



COCHEO

I said the U. S. v. Frye standard, but the U.S. v. Porter standard regarding reliability which is a major issue, Your Honor.



COURT

Are you saying the scientific information isn't reliable, or are you saying the witness isn't qualified?



COCHEO

It hasn't been established that other experts in the field have accepted this as a proper form of expertise, expert testimony.



SMITH

To narrow it, I don't know what he is objecting to. My question was whether there was software on it, not how it works.



COURT

Back up, what was your question? Let's go back.



SMITH

I believe it is, is there virus protection software installed on the computers in the school?



COURT

Do you have an objection to that?



COCHEO

Not to that.



COURT

You can answer that question.



SMITH

And I believe you stated that it was not on the individual PCs necessarily, but on the servers.

Virus protection goes on all the individual PCs. Content filtering is done from the server firewalls.

HARTZ





SMITH

And what type of virus protection were on the various PCs?

**We were running this product from
Computer Associates called Inoculate IT.**

HARTZ





SMITH

You have access to that information, correct, whether if on the PC and such, correct?

Yes.

HARTZ





SMITH

To your knowledge, was the PC in question, Mr. Napp's PC, to your knowledge at the time infected with any viruses?

Not to my knowledge.

HARTZ





SMITH

Okay. And as a person involved in the computer field, do you know of viruses that would allow a computer to be infected and to cause those computers to access random websites against the user's wishes?

I haven't seen anything like that, nor have I heard of anything like that.

HARTZ





SMITH

No further questions. Thank you.



COCHEO

May I approach the bench, please.



COURT

Yes.



COURT

Before we have cross examination of this witness, we are going to break for lunch. You will have a little bit of a longer lunch break, fifteen minutes extra. Don't discuss the case with anyone, and I would like to start promptly at 2:00 o'clock with this witness for cross examination. Obviously, don't discuss the case with anyone. Have a nice lunch.



SMITH

Good afternoon, sir. I will probably sit most of the time, please forgive me.

That's okay.

HARTZ





SMITH

You mentioned in your testimony today that you have content filtering on your computer, your firewall wasn't updated, is that correct?

That is correct. It had not been updated, I would say, for a few weeks.

HARTZ





SMITH

Can you tell me why that happened, why it hadn't been updated?

The update on that particular firewall was supposedly done automatically every night, somewhere around midnight. For some reason, it began failing. There was a problem with activating the license for that when we renewed in, I believe some time late September. And so when we went out to do the update, the company which was Symantec was saying no, you are not authorized to update.

HARTZ





SMITH

Can you tell me how often it is normally updated?

That firewall was updated every twenty-four hours.

HARTZ





SMITH

If there were two virus protections -- is there a virus protection on the computer?

On the computer in question, yes, the Computer Associates' Inoculate IT.

HARTZ





SMITH

Excuse me?

The product was called Inoculate IT.

HARTZ





SMITH

Thank you very much. Can you tell me what the difference between adware, spyware, parasites and viruses are?

I can define some of them, yes.

HARTZ





COURT

That is kind of compound. Could you ask specifically one at a time.



SMITH

Start with adware please.

I define adware as being something that gets installed in your computer, quite often not to your knowledge, and can track what you are doing, and it tracks what you are doing so that it can actually allow some other, some outside site to customize ads for you.

HARTZ





SMITH

And what about spyware?

Spyware is likely the same, it tracks what you are doing. In some cases, it tries to pick up personal information about maybe passwords, user IDs, things like that.

HARTZ





SMITH

Parasites?

I really can't identify, give you a definition for that.

HARTZ





SMITH

What about viruses?

Viruses are pieces of software, programs or so on that get into your computer by e-mail, maybe from an infected file, from another PC, something like that and do malicious things to the PC. maybe they destroy files, maybe they add files to your computer, maybe they delete files. Some of them are just annoyances. Maybe they access your address book in e-mail and just send junk mail to everybody there.

HARTZ





SMITH

Was there any protection from these things on the computer?

The Inoculate IT would have protected against --. No. Let me rephrase that. As far as viruses go, yes, there was protection. The Computer Associates' Inoculate IT would have prevented viruses from entering the machine via diskette from home or something like that. In addition, we had another anti-virus program for e-mail, it was from Trend Micro. The name was Scan Mail. And every piece of mail that came into the system would be checked for viruses. If there was a virus there, the mail would be deleted, or the virus would be deleted.

HARTZ





SMITH

Thank you. Were any of the items mentioned, adware, spyware or parasites or viruses updated on or before October 19th?

Pardon me, I didn't hear the question.

HARTZ





SMITH

Were any of the adware, spyware, parasite and viruses updated on or before October 19th?

Anti-virus updates, Inoculate IT was updated I want to say weekly. It would have been updated no later than October 12th, the week before that and probably sometimes towards the middle of the week. Trend Microscan Mail, that was updated nightly.

HARTZ





SMITH

I may have misspoken. My question is were any of these items uploaded, not updated, uploaded?

You mean just installed?

HARTZ





SMITH

I believe, excuse me one moment.

(Pause)

HARTZ





SMITH

Let me rephrase the question. Was anything added to the computer, adware, spyware, parasites or viruses or any of those on the computer?

Are you asking was anything added?

HARTZ





SMITH

Yes.

No. There was no new software or protection in those areas added prior -- the week prior to October 19th.

HARTZ





SMITH

Excuse me one moment please.

(Pause)

HARTZ





SMITH

Were any of these viruses on the computer?

I don't know of any viruses that were on the computer nor do I know if any adware or spyware was on the computer.

HARTZ





SMITH

Does spyware and adware generate pornography?

Not to the best of my knowledge.

HARTZ





SMITH

Did you notice any access to the dating sites on the computer on or before October 19th?

When I investigated the computer and firewall logs all I did was look on the October 19th date.

HARTZ





COCHEO

Excuse me one moment, Your Honor.

(Pause)

HARTZ





SMITH

Was there any adware, spyware or virus found on the computer?

I did not find any of that, although I did not look for adware or spyware.

HARTZ





SMITH

Thank you. It seems like we are focusing on, only on October 19th. Did you notice what happened before or after the 19th?

No, I did not.

HARTZ





SMITH

Do you understand what a pop-up does?

I understand what a pop-up is.

HARTZ





SMITH

You understand what it does though?

What it does, usually it is in the form of an advertisement or something that gets you to do something, maybe to go to a website.

HARTZ





SMITH

Is it possible for a pop-up to have misleading categories to trick users on clicking onto it?

I would suspect that's possible.

HARTZ





SMITH

Is it possible to have pornography references in a temporary Internet file in cache?

I don't know.

HARTZ





SMITH

Is it possible to click on an innocent link to lead you to a porn site?

That would be possible.

HARTZ





SMITH

Could we approach for one second.

(Conference at the bench)



COURT

You can continue, Mr. Cocheo.



SMITH

Is it possible to click on an innocent link that can take you to a porn site?

The names of sites don't need to bear any relationship to their content. Something that did appear innocent could be a porn site.

HARTZ





SMITH

Thank you. Is it possible to be in an endless loop of pornography?

I've never seen that, so I would have to say probably not.

HARTZ





SMITH

Is there any way Julie Amero could have accessed these files unintentionally?



SMITH

Objection, calls for the ultimate issue of fact.



COURT

How is this witness going to answer that question?



COCHEO

Excuse me?



COURT

**The issue of intent is not something that would be with in
the witness' --**



COCHEO

If I may.



COURT

I think you asked the question could there be an inadvertent link to pornography, and I think the witness said that's possible.



COCHEO

Thank you, Your Honor. I withdraw my question.



COURT

Thank you.



SMITH

Does spyware and adware generate pornography?

I'm not aware that they do.

HARTZ





COCHEO

If I may approach the witness, Your Honor.



COURT

Yes.



SMITH

Mr. Hartz, I would just like to show you this and ask you if somebody clicked onto this site, could it lead them to a pornography site?



SMITH

Objection, speculative.



COURT

First of all, this is a document that is for identification. There is a lack of foundation. And I suppose the answer -- the truth is it's speculative, unless this witness is aware of it, I suppose he can answer the question. If you don't know, you don't know.



SMITH

I also would object on foundation.



COURT

My problem is there is no foundation. I don't know what that document is and if you are trying to --



COCHEO

If you could approach the bench with me.



SMITH

Sure.

(Conference at the bench)



COURT

It's for identification, you're not trying to put it in as a full exhibit.



COURT

I am sustaining objection to that document. You don't have to answer that question.



COCHEO

Thank you, Your Honor. Your Honor, if I may, I understand now this is a website that my client went to.



SMITH

Judge, objection, move to strike. If Counsel is going to testify, he can take the stand.



COURT

You have a witness to testify to that website at some point.



COURT

I'm not sure where you're going.



COCHEO

Well, I'll wait until she gets on the witness stand.



COURT

You will still have the ability if it is relevant at the time to talk about that.



COCHEO

Yes. Thank you, Your Honour.



COURT

But not with this witness.



COCHEO

Nothing further.



COURT

Redirect.

REDIRECT EXAMINATION BY MR. SMITH



SMITH

Mr. Hartz, I'm going to go over a couple of issues that I believe the defense spoke on. You had a filter to filter out specifically pornographic material, correct?

And inappropriate websites which include porn, violence, hate crimes and those types of sites.

HARTZ





SMITH

That was to have been automatically updated on a specific time frame?

Every night at 2:00 a.m.

HARTZ





SMITH

I believe you said there was an issue with the updating of that, is that correct?

Yes.

HARTZ





SMITH

If I heard you right, that issue was basically a licensing issue?

We did not activate the license in September, so there had been several weeks when it had not been updated.

HARTZ





SMITH

Were you aware of that not being updated?

Not until this incident.

HARTZ





SMITH

And it was obviously brought to your attention and it was corrected after the fact?

Correct.

HARTZ





SMITH

What were the various virus programs you had on there?

Specifically Inoculate IT, that was the virus program that was on our servers and also on the individual PCs.

HARTZ





SMITH

And that was updated how often?

I want to say weekly. It was updated every week.

HARTZ





SMITH

Okay. So you didn't have an issue with the license renewal, that was separate, correct?

Yes.

HARTZ





SMITH

To your knowledge, at the time of this incident you were not, and you didn't learn subsequently or at the time you did not know of -- there was no viruses, adware or spyware or viruses I think you said on that computer in question, correct?

To the best of my knowledge, there was none of that on the PC.

HARTZ





SMITH

And we are talking obviously about Mr. Napp's PC, the one in question here.

Correct.

HARTZ





SMITH

No further questions. Thank you.



COURT

Recross?



COCHEO

Please.

**RECROSS EXAMINATION BY
MR. COCHEO.**



SMITH

Mr. Hartz, when did you realize that these pornographic websites were still on the computer?

Days after the incident. I'm sorry, I don't quite understand the question.

HARTZ





SMITH

Did you realize that these pornographic websites were still on the computer days after the incident?

In a temporary Internet file and so on, yes.

HARTZ





SMITH

Any reason the computer wasn't removed?

To the best of my recollection, it was removed from the classroom I believe on the 20th, maybe not until the 21st and brought down to Mr. Fain's office for subsequent pickup by the police.

HARTZ





COCHEO

Nothing further, Your Honor. Thank you.

**FURTHER REDIRECT EXAMINATION BY
MR SMITH**



SMITH

Mr. Hartz, you don't know when that computer was picked up, do you?

As indicated, when it was picked up by the police, no.

HARTZ





SMITH

It could have been at any point, you just don't know when it was taken out of the classroom?

It was taken out of the classroom the week, between the 20th and I would say the 22nd. It was definitely removed from the classroom up to Mr. Fain's office.

HARTZ





SMITH

How do you know that?

**Because I did it and I got Mr. Napp another
PC.**

HARTZ





SMITH

You took that computer out?

**Just to put it down in the principal's office
because we were aware that somebody
might want to look at it.**

HARTZ





SMITH

Thank you. One more question. But you don't know when the police picked it up and removed it?

No, I don't know that.

HARTZ





SMITH

Thank you.



COURT

Anything further?



COCHEO

May I have a moment, Your Honor.



COURT

Yes.

**FURTHER RECROSS EXAMINATION BY
MR. COCHEO.**



SMITH

Mr. Hartz ; can you tell me why the computer was not removed on the 20th?

If it was not removed on the 20th, it was because I didn't think of it or no one requested that I remove it.

HARTZ





COCHEO

Thank you very much.



SMITH

I have another question based on that. Sorry, Judge.



COURT

All right.

**FURTHER REDIRECT EXAMINATION BY
MR SMITH**



SMITH

When the computer is removed and a new computer is brought in, does the IP address change?

Yes. Because the new computer would not have an IP address at this point in time.

HARTZ





SMITH

If the person were to access the Internet through a new computer, the IP, would the I P address be the same as the old computer?

Probably not.

HARTZ





SMITH

Do you know what the new IP address is?

No, I do not.

HARTZ





SMITH

Thank you. No further questions.



COCHEO

No further questions. Thank you.

END