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FOR ENGINEERING AND SCIENCE

# Statement of Defendant's Legal Counsel Concerning the U.S. Attorney's decision not to appeal the decision in United States v. David M. LaMacchia

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## Description

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## Body

**ATTENTION** - the FORMAT of the following article has been modified from its original appearance for ease of reading. No content or information has been removed from this article.

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David M. LaMacchia, his family, and his legal counsel, are very pleased at the decision of the government not to appeal Judge Stearns' dismissal of the wire fraud conspiracy indictment. David and his family can now get back to something approaching a normal life.

We are pleased that U. S. Attorney Donald Stern has come to agree with our position that this is a matter for resolution by the Congress, not by the Department of Justice nor the Courts. We hope and trust that when Congress takes up the question that the U. S. Attorney is posing -- that is, whether copying of computer programs without a profit motive should be a criminal violation of the Copyright statute -- the Congress be sensitive to the important civil liberties question posed by the LaMacchia prosecution: Whether a Systems Operator ("SYSOP") of a Computerized Bulletin Board System ("BBS"), such as David LaMacchia, who does not himself upload, download, copy, nor distribute software, but who merely operates the system, should be designated as a criminal. The need to protect SYSOPS from excessively harsh liability for the actions of others who log onto their BBS, is at least as important as the need to protect copyright holders from unfair losses of revenue. Given the explosive growth of the Internet, more and more ordinary computer users will be falling into the category of SYSOPS. Congress should be very careful before it seeks to hold them criminally liable for the actions of others who use the BBS but over whom the SYSOP does not have control.

We hope that reason and liberty will be given their due in the Congressional deliberations that will ensue.

## **Notes**

Boston, Massachusetts; 27 January 1995.

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