

Arlington Man Becomes Focus of Internet Copyright Debate

Year-Long Fued With Church Ends In N. Arlington Raid

by NITA RAO
Staff Writer

U.S. marshals seized computer equipment and files Friday from an Arlington man charged with posting copyrighted materials on the Internet criticizing the Church of Scientology.

The church has filed a lawsuit against Arnaldo Lerma, 44, of 6045 N. 26th Rd., and his Internet access provider, Vienna-based Digital Gateway Systems, claiming copyright infringement.

The controversy which culminated in last week's raid began a year ago after church officials warned both Lerma and DGS to cease posting "confidential and unpublished" Scien-

tology teachings. The teachings are provided to church members only after they have signed a contract agreeing never to disclose the information.

The Internet postings released by Lerma, who left the church on less-than-amicable terms in 1980, include testimony from former church officials who describe the Church of Scientology, which boasts more than eight million members, as a dangerous cult.

According to Lerma, who is a vocal critic of church practices, the information he posted came from a public court document — an affidavit in a California case involving the church.

"I confined all postings to court documents in the public's interest," he states. "I've never had any of their copyright stuff and never have."

Lerma also refutes the church's charge that the Internet postings violate the trade secret

theory, which is a unique corollary to copyright law because it is the only way to legally qualify information as property.

According to a local copyright lawyer who asked not to be named, information may be characterized as a trade secret only if it offers the holder a competitive advantage of some sort, such as knowledge of a secret production process or marketing strategy.

Lerma, who considers the search and seizure of his home that was authorized by U.S. District Judge Leonie M. Brinkema of Alexandria a "travesty" and a "farce," is also angry that the church informed Brinkema that his postings were "stolen property."

Mike Godwin, a lawyer for the San Francisco-based Electronic Frontier Foundation, an Internet civil liberties group, sides with Lerma.

"The church is arguing copy-

right infringement as well as violation of trade secret theory because copyright is the only 'remedy' that gave the marshals the right to come in and do the seizure," explains Godwin, who is considered one of the nation's foremost authorities on computer law.

Godwin also notes that if the church had relied solely upon copyright infringement as the charge against Lerma, the case would not have held up in the court systems.

"If they had only used copyright violation, the judge could have cited the Fair Use Doctrine," says Godwin.

Many area copyright lawyers define the Fair Use Doctrine as a copyright statute that excludes those who use copyrighted material for "legitimate" educational or informational purposes from copyright violation.

According to Godwin, it is likely that Brinkema would have

defined Lerma's postings as "educational and newsworthy" passages released by an Internet publisher.

The Church of Scientology disagrees with the arguments proposed by both Lerma and Godwin and continues to assert that Lerma was never authorized to publish the materials on Internet.

"There's a distinction between his [Lerma] criticism of the church and his postings of copyrighted material. There was enough evidence of copyright infringement that the judge ordered the raid," said church spokeswoman Pat Jones.

Lerma's widespread distribution of the church's upper-level teachings on Internet will cause financial harm to the church, according to church officials, who say that members usually donate funds to learn the same informa-

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tion posted by Lerma.

"The law is clear: if you are going to violate copyrights, you will have to answer for it in court," said church lawyer Earle C. Cooley of Boston.

Jones said that in addition to violating copyright laws, Lerma also disregarded the confidentiality agreement that he signed as a member of the church.

"It's sacred scripture — nobody's allowed to publish that. It's our religion," Jones said.

Jones remains equally unwavering in her opinion about Lerma's assertion that his right to free speech and privacy interests have both been violated by the church's lawsuit.

"This isn't a free speech issue. We support the first amendment. He's violated the privacy and rights that copyright owners are entitled to. It's essentially theft," Jones said.

Cooley also upholds the church as a proponent of free

speech, but hastens to add that "free speech does not mean free theft, and no one has the right to cloak themselves in the First Amendment to break the law."

Currently, Lerma has lost possession of his computer equipment, software, and all related paperwork. U.S. Marshals also served him with a court order forbidding further infringements.

In addition to the restraining order and seizure, the suit also seeks a statutory \$100,000 fine for each of Lerma's infringements.