



open source and Free Software advocate since the early 1990's. I have extensive experience investigating the use of open source and Free Software by third parties.

3. The Conservancy acts as a fiscal sponsor for many open source and Free Software projects. By joining the Conservancy, projects obtain the benefits of a formal legal structure while keeping themselves focused on software development. These benefits include, most notably, the ability to collect earmarked project donations and protection from personal liability for the developers of the project. Another benefit of joining the Conservancy is that projects can use it to hold assets, which are managed by the Conservancy on behalf of and at the direction of the project. The Conservancy is a tax-exempt 501(c)(3) organization, so member projects can receive tax-deductible donations to the extent allowed by law.

4. The BusyBox open source software program is a member project of the Conservancy. BusyBox is a single computer program that comprises a set of computing tools and optimizes them for computers with limited resources, such as cell phones, PDAs, and other small, specialized electronic devices. BusyBox is extremely customizable, fast, and flexible, and is used in countless products sold by many manufacturers all over the world.

5. In addition to being the fiscal sponsor of its member projects, the Conservancy also serves as copyright enforcement agent for some owners of copyrights in the member projects. The Conservancy acts as copyright enforcement agent for Mr. Erik Andersen, the owner of copyright in significant portions of BusyBox. In this capacity, the Conservancy identifies users of open source software that may not be doing so in compliance with the applicable license terms. The Conservancy, with the assistance of legal counsel, then addresses those issues to help

third parties ensure they are making appropriate use of open source software.

6. Software that is intended to be installed into an electronic device is frequently referred to as “firmware.” In connection with my work in open source and Free Software license monitoring, at some point in 2009, I conducted an investigation to determine whether Westinghouse was distributing the BusyBox program as part of the firmware for its TX-52F480S LCD HDTV product.

7. As part of my investigation, I downloaded a copy of the firmware for the TX-52F480S product by visiting the Westinghouse firmware download webpage at <http://www.westinghousedigital.com/firmware.aspx>. From that webpage, I downloaded the file located at [http://207.38.27.164/firmware/SW/SusanII\\_v1.6.3.rar](http://207.38.27.164/firmware/SW/SusanII_v1.6.3.rar), which was identified as the firmware for the TX-52F480S product. See attached Exhibit 1 (screenshot of Westinghouse webpage indicating Model Number TX-52F480S). I note that the file is still available for download from the Westinghouse website as of today.

8. The ARIN WHOIS database (<http://ws.arin.net/whois>) identifies Westinghouse as the owner of the IP address 207.38.27.164 from which I downloaded the file. See attached Exhibit 2.

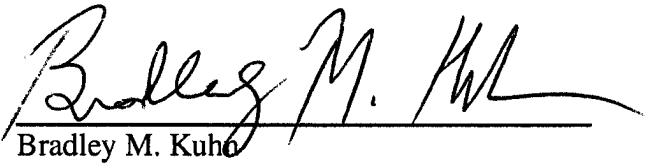
9. Before I downloaded the file, I was prompted to agree to a Westinghouse Digital Electronics, LLC Non-Exclusive Copyright License. See attached Exhibit 3.

10. I analyzed the firmware file and discovered that BusyBox was indeed present therein. In particular, I opened the RAR archive file, which contained a file called “safe-kernel.img1”. Byte location 2601216 of that “safe-kernel.img1” file was a compressed ramdisk (a virtual filesystem). Inside that ramdisk, I found a binary version of BusyBox. Searching that binary

version showed strings of characters that are unique to BusyBox, including the specific version number, identified as v0.60.2.

11. When I downloaded the Westinghouse firmware that contained BusyBox, there was no corresponding source code or offer for corresponding source code for BusyBox provided therewith.

I declare under penalty of perjury that the forgoing is true and correct.

  
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New York, New York