

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

DAVID LEE

Criminal Action No.

1:14-CR-227-TCB-RGV

Government's Unopposed Motion for Leave to Dismiss Count Two of the Indictment and to Strike Overt Acts 4ii, 4ll, and 4ss as to Defendant David Lee

The United States of America, by John A. Horn, United States Attorney, Christopher C. Bly, Assistant United States Attorney for the Northern District of Georgia, and John H. Zacharia, Assistant Deputy Chief for Litigation, United States Department of Justice, Criminal Division, Computer Crime and Intellectual Property Section, hereby seeks leave of the Court, under Fed. R. Crim. P. 48(a), to dismiss Count Two of the Indictment, which was filed on June 17, 2014 and which charges a violation of 17 U.S.C. § 506(a)(1)(A) and 18 U.S.C. § 2319(b)(1) and 2, as to Defendant Lee. Additionally, the Government seeks to strike overt acts 4ii, 4ll and 4ss of Count One of that Indictment. *See Thomas v. United States*, 398 F.2d 531, 540 (5th Cir. 1967) (holding that striking overt acts pretrial did not constitute an impermissible amendment because doing so adds nothing to the indictment). The evidence the Government would present at trial would not support a finding of overt acts 4ii, 4ll, and 4ss of Count One, and hence the Government moves to dismiss Count Two. The Government has conferred with Carl Lietz, counsel for Defendant Lee, and he does not oppose this motion.

For the reasons set forth above, the Government respectfully requests that the Court GRANT this motion, DISMISS Count Two of the Indictment, and STRIKE overt acts 4ii, 4ll and 4ss of Count One.

Respectfully submitted,

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Certificate of Service

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W. Carl Lietz, III

May 3, 2016

/s/ CHRISTOPHER C. BLY

CHRISTOPHER C. BLY

Assistant United States Attorney