

SBSW 6643

**FILED**  
SAN MATEO COUNTY

IN THE SUPERIOR COURT OF THE COUNTY OF SAN MATEO APR 29 2010

STATE OF CALIFORNIA

Clerk of the Superior Court  
By [Signature]  
DEPUTY CLERK

**REQUEST FOR EX-PARTE ORDER TO SEAL DOCUMENTS**

San Mateo County Sheriff's Office Detective Matthew Broad, the affiant of the search warrant and affidavit for 40726 Greystone Terrace, Fremont, CA, requests that the search warrant, the affidavit in support of the search warrant, and the return of the search warrant when filed be sealed unless ordered unsealed by further order of this court.

Based on my experience and training it is my belief that release of the information to the media or to the public in general would hinder the progress of the investigation, as it may alert involved parties as to the direction of the investigation and the identity of witnesses and witness statements to investigators.

I declare, under penalty of perjury, that the above information is true and correct to the best of my knowledge.

[Signature]

Matthew Broad

**ORDER**

**IT IS ORDERED THAT:** The search warrant, the affidavit in support of the search warrant and the return to said search warrant described above be sealed unless ordered unsealed by further order of this court.

Dated: 4/28/10

[Signature]

JUDGE OF THE SUPERIOR COURT

County of San Mateo, State of California



SBSW 6663

**FILED**  
SAN MATEO COUNTY

APR 29 2010

**RETURN TO SEARCH WARRANT**

IN THE  
SUPERIOR COURT FOR THE SAN MATEO COUNTY JUDICIAL DISTRICT  
COUNTY OF SAN MATEO, STATE OF CALIFORNIA

Clerk of the Superior Court  
By [Signature]  
DEPUTY CLERK

The property taken from the premises located at 40726 Greystone Terrace, Fremont, state of California, and occupied by Jason Chen, by virtue of the search warrant dated 4/23/2010, and signed by Judge Cretan, Judge of the Superior Court, San Mateo County Judicial District, county of San Mateo, state of California, is described in the attached "Search Warrant Inventory," attached hereto and by reference made a part hereof as fully as though set forth herein.

I, Matthew Broad, by whom this warrant was executed, do swear that the inventory set forth in the attached, "Search Warrant Inventory," contains a true and detailed account of all the property taken by me under the warrant.

[Signature]  
Detective Matthew Broad

Subscribed and sworn before me  
this April 28, 2010

[Signature]  
Judge of the Superior Court



SBSW 6643



R.E.A.C.T.  
Rapid Enforcement Allied Computer Team  
1919 South Bascom Ave, 4th floor  
Campbell, Ca 95008  
408-558-1198

Case # 2010-0034  
**FILED**  
SAN MATEO COUNTY

APR 29 2010

Clerk of the Superior Court  
By   
DEPUTY CLERK

# Search Warrant Inventory

I, TFA Matt Broad, make this inventory to the attached Search Warrant. Said Search Warrant was issued on 4/23/10 and on its authority I, on 4/23/2010, diligently searched the person(s) and place described as follows, to wit:

**Chen Residence** 40726 Greystone Terrace, Fremont, CA

Item No.	Qty	Description	Serial Number	Sub-location
			None	
1	1	one box of business cards for suspect chen	None	rm.1 desk cab.
2	1	one apple macbook white w/power cord	W8719986YA2	rm.1 desk area
3	1	seagate external 250 GB hard drive	2GJ1003J	rm. 1 desk area
4	1	Samsung digital camera	none	room 1
5	1	Seagate external 500 GB HDD	2HCR002K	room 1
6	1	Motorola model A855 google cellular	msn K376LS5TN3	room 1
7	1	1 pg doc. Signed by Gaby Darbyshire pertaining to invalid search warrant.	None	room 1
8	1	indicia Calif. Berk. ID Card, Amex bill, check carbons for B of A acct ending in 0351	None	room 1
9	2	USB flash drives	None	room 1
10	1	HP MediaSmart searver	CN290201BS-new	room 1
11	1	black western digital external HD	WCANU1558384	room 1
12	1	Dell XPS410 desktop computer	ST:8K95KC1	room 1
13	1	Canon rebel XTi digital camera	620301380	room 1
14	1	Apple Ipad 32 GB with power cord	GB010CHZZ39	room 2 kitchen counter
15	1	IBM Think Pad with power cord	R0-0KM6P	room 2 kitchen counter top
16	1	Apple MacBook Pro e/ power cable	W86504S0W0L	Room 2 coffee table
17	1	Iphone 16 GB	A1241	room 2 living room
18	1	Macbook Pro with power cord	W8011197AGW	room 2 on coffee table

I, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

  
\_\_\_\_\_

Officer's Signature

Magistrate of the county of Santa Clara  
State of California

Subscribed and sworn



R.E.A.C.T.  
Rapid Enforcement Allied Computer Team  
1919 South Bascom Ave, 4th floor  
Campbell, Ca 95008  
408-558-1198

Case # 2010-0034

## Search Warrant Inventory

19	1	1 GB thumbdrive Kingston brand	None	room 2 of coffee tabel
20	1	Apple airport exstream base station with power cord	6F731HLNYCP	room 1
21	1	Ioemega stor Center IX2 with power cord	K1A941198A	room 4 workout room
22	1	Dell demension 2400	ST JHQ4Q71	trunk of Nissan in gar. 6HJB720

I, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Officer's Signature

Magistrate of the county of Santa Clara  
State of California

Subscribed and sworn

SBSW 6643

IN THE SUPERIOR COURT OF THE COUNTY OF SAN MATEO  
STATE OF CALIFORNIA  
SEARCH WARRANT

**FILED**  
SAN MATEO COUNTY

APR 29 2010

Clerk of the Superior Court

By [Signature]  
DEPUTY CLERK

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN THE COUNTY OF SAN MATEO: proof by affidavit having been made before me by Detective Matthew Broad, San Mateo County Sheriff's Office demonstrates that there is probable cause to believe that the property described herein may be found at the locations set forth herein and that it is lawfully sizeable pursuant to Penal Code Section 1524 as indicated below by "x"(s) in that it:

- it was stolen or embezzled;
- it was used as the means of committing a felony;
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- it tends to show that a felony has been committed or that a particular person has committed a felony;
- it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- there is a warrant to arrest the person;
- a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a felony/public offense, or that property or things are in possession of any person with intent to use them as a means of committing a felony/public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

**YOU ARE THEREFORE COMMANDED TO SEARCH:**

**Premise(s):** The premises, structure, rooms, receptacles, outbuildings, storage areas, and safes situated at the residence located at:

40726 Greystone Terrace  
Fremont, Alameda County, CA

See Appendix A for description – attached hereto and incorporated herein

**Person(s):** The persons described as: Jason Shao Chen, DOB 2/16/1981, CDL B8607050, Male, 5-11, 150 lbs

**Vehicles(s):** In the vehicles described as: Any vehicle that is at the location of the search warrant and under the dominion and control of Jason Chen.

**FOR THE FOLLOWING PROPERTY:**

See Appendix B – attached hereto and incorporated herein

**AND TO SEIZE IT IF FOUND** and to retain the same in your custody pending disposition according to law. Return of this search warrant shall be to the above entitled court.

Or

The court further orders that, upon adjudication of the case(s) against all defendant(s) in this action, including the resolution of any and all appeals, and with the written concurrence of the District Attorney's Office, the property may be disposed of in accordance with the procedures set forth in California Penal Code §1407 to 1422, without the necessity of a further Court Order issued pursuant to California Penal Code §1536.

NIGHT SEARCH APPROVED: YES ( ) NO (X)

GIVEN MY HAND and dated this 23 day of April, 2010, at 7<sup>00</sup> A.M./P.M.

(SEAL)

*one available*

*[Handwritten Signature]*

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT  
COUNTY OF SAN MATEO, STATE OF CALIFORNIA

*cu*

## Appendix "A"

### **Description of Items to be searched:**

40726 Greystone Terrace, Fremont, Alameda County, California is a townhouse located in a three-story structure located at the intersection of Westerly Common and Greystone Terrace. The building has a green painted exterior with white trim. There is a gray concrete patio with three concrete steps leading to the front door. The door is a brown wooden door with two square glass windows in the upper portion. Black metal numerals depicting the number "40726" are affixed on the front of the building to the right of the brown wooden door. There is a two-pane sliding window in the front wall to the right of the metal numerals. The front door to 40726 Greystone Terrace is between 40734 Greystone Terrace and 40718 Greystone Terrace.

*Car*

## Appendix "B"

### **Description of property to be seized:**

1. Computer systems, digital storage devices, computer hardware (including peripherals and cables), and data, including but not limited to central processing units (CPUs), hard disk drives, thumb drives, flash drives, digital cameras, digital video cameras, floppy disk drives, tape drives, removable media drives, optical/CD-ROM drives, servers, workstations, display screens, thumb drives, memory cards, cellular telephones, digital cameras, input devices (including but not limited to keyboards, mice, and trackballs), printers, modems, peripherals, floppy disks, magnetic tapes, cassette tapes, removable storage media, and/or optical CD-ROM disks or cartridges, found together or separately from one another. Such systems also commonly include cables linking computer systems to other systems or phone lines.
2. Documentation or other material describing the operation of any computer systems, computer hardware, software, and/or computer peripherals found at the premises, including instructions on how to access disks, files, or other material stored within same, including but not limited to computer manuals, printouts, passwords, file name lists, "readme" and/or "help files."
3. All records and data **located and/or stored on** any computers, hard drives, or memory storage devices, located at the listed location including digital photographs and/or video of the Apple prototype 4G iPhone, email communications pertaining to the sale of photographs of the prototype phone and/or the sale of the physical prototype 4G Apple iPhone, internet history, cache files, and/or Internet pages pertaining to searches and/or research conducted on Apple employee Gray Powell, call records, contact lists, text messages related to the sale of photographs of the prototype iPhone and/or physical prototype iPhone, and indicia that identifies the owner and/or operators of the computer or electronic device. I further request that the above items be allowed to be examined by a forensic computer examiner and that the examination be conducted at an offsite facility due to the need for special equipment to properly conduct the examination and preserve the evidence and



that said search may be continued beyond the ten-day period beginning upon issuance of this Search Warrant, to the extent necessary to complete the search on the computer systems.

4. Printed documents, images, and/or notations pertaining to the sale and/or purchase of the stolen iPhone prototype and/or the sale and/or transfer of trade secret information pertaining to the iPhone prototype.
5. Any article of personal property tending to establish the identity of persons who have dominion and control over the premises and vehicles to be searched, including all keys to the described location and vehicles, rent receipts, utility bills, telephone bills, addressed mail, purchase receipts, sales receipts, and articles of personal property tending to show ownership of vehicles including, but not limited to vehicle pink slips and vehicle registration. All personal property and documents used by the persons named as means of identification, including but not limited to driver's licenses, credit cards, passports, social security cards, and photographs relative to the person(s) described.

*cu*

SBSW 6643

**FILED**  
**SAN MATEO COUNTY**  
APR 29 2010

**IN THE SUPERIOR COURT OF THE COUNTY OF SAN MATEO**  
**STATE OF CALIFORNIA**

**AFFIDAVIT FOR SEARCH WARRANT**

Clerk of the Superior Court  
By   
DEPUTY CLERK

The undersigned, being first duly sworn, deposes and says: That on or about 3/18/2010, in the County of San Mateo, State of California, the crime(s) of

496(a) PC – Buy or receive stolen property (a felony)

499c(b)(3) PC – Theft; Without authority make or cause to be made a copy (definition includes photograph) of any article representing a trade secret (a felony)

594(b)(1) – Maliciously damages property of another valued over \$400 (a felony)

was/were committed by **Jason Shao Chen, DOB 2/16/1981, CDL B8607050, Male, 5-11, 150**

That there is probable cause to believe that certain articles and property, consisting of:

See Appendix B – attached hereto and incorporated herein

are now concealed on the person(s) of **Jason Shao Chen, DOB 2/16/1981, CDL B8607050, Male, 5-11, 150**

in the vehicle(s) described as any vehicle that is at the location of the search warrant and under the dominion and control of Jason Chen.

and in and upon the premises and building known and designated as, and commonly called,

40726 Greystone Terrace  
Fremont, CA

in said county and state described as Alameda, CA

That the following facts established the existence of grounds for the issuance of a Search Warrant for the search of the person(s), vehicle(s), and premises above described:

I, Detective Matthew Broad, am your affiant. I have been a peace officer in the State of California since July of 1996 and am in possession of an Advanced POST Certificate. I have been employed by the San Mateo County Sheriff's Office since August of 2001 and I am currently assigned to the Rapid Enforcement Allied Computer Team (REACT) as of July 2005.

From 1999 through 2001, I held the position of Special Agent with the United States Secret Service (USSS). During my tenure with the USSS, I attended a 12-week Criminal Investigators Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia. I also attended a 12-week training course at the John J. Rowley Training Center in Beltsville, Maryland. During my training, I received blocks of instruction concerning financial crimes investigations including (but not limited to) theft, internet fraud, identity theft, credit card fraud,



check fraud, counterfeit currency, bank fraud, wire fraud, money laundering, access device fraud, cellular telephone fraud, and organized crime. During my tenure as a Special Agent assigned to the San Jose Resident Office, I conducted numerous investigations regarding the above-mentioned crimes.

From 1996 through 1998, I held the position of Police Officer with the San Carlos Police Department. During my tenure at the department, I attended an 18-week basic police academy that was sanctioned by the California Commission for Peace Officer Standards and Training (POST). Portions of the academy's curriculum included blocks of instruction concerning the investigation of theft, credit card fraud, burglary, identity theft, forged checks, cellular telephone fraud, and access device fraud. As a police officer and as a deputy, I have conducted numerous investigations in the areas of Internet fraud, credit card fraud, access device fraud, forged financial instruments, counterfeit software, and identity theft.

While assigned to the REACT Task Force, I have received approximately 480 hours of specialized training in the preservation and examination of digital and computer related evidence and I have conducted approximately 110 forensic examinations on criminal cases. I was also certified as an Encase Certified Examiner (EnCE) through Guidance Software in 2008.

I have learned the following information through my own investigative efforts and through official law enforcement channels:

### **Summary:**

Suspect Brian Hogan found or stole a prototype iPhone 4G that was accidentally left at a restaurant by Apple employee Robert "Gray" Powell. Hogan identified the owner of the phone as Apple Engineer Gray Powell through the contents of the phone and through Internet searches. Rather than return the prototype phone to Powell and/or Apple, Hogan subsequently sold the iPhone to Jason Chen in Fremont for \$5000. Upon receiving the stolen property, Chen disassembled the iPhone, thereby causing it to be damaged. Chen created copies of the iPhone prototype in the form of digital images and video, which were subsequently published on the Internet based magazine Gizmodo.com.

This search warrant seeks authorization to search the residence of Jason Chen for evidence related to the purchase of the iPhone prototype, copying (photographic images and video), and publishing of the iPhone prototype by Jason Chen who is residing at 40726 Greystone Terrace in Fremont, CA.

### **Facts:**

On 4/20/2010, I met with representatives from Apple regarding the theft and/or loss of an Apple iPhone 4G prototype iPhone. I met with Rick Orloff (Director, Information Security), Bruce Sewell (Senior Vice President, General Counsel and Secretary), and George Riley (O'Melveny and Myers, LLP) regarding the theft of an unreleased Apple iPhone 4G.

The above Apple representatives told me that on or about 3/25/2010, Apple employee Robert Gray Powell (known as Gray Powell) lost a prototype iPhone 4G cellular device while he was at the Gourmet Haus Staudt restaurant located at 2615 Broadway in Redwood City, San Mateo County, CA. At the time the phone was lost, it possessed a case that was intended to make it look like an Apple iPhone 3GS. At the time of the theft, the 3GS was a consumer product that



