

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2011 FEB -8 P 3:01

IN THE MATTER OF THE § 2703(d) ORDER))	CLERK US DISTRICT COURT
RELATING TO TWITTER ACCOUNTS:)	ALEXANDRIA, VIRGINIA
WIKILEAKS; ROP_G; IOERROR; AND)	Misc. No. 10GJ5793
BIRGITTAJ)	FILED UNDER SEAL
)	ORAL ARGUMENT NOT REQUESTED

TWITTER, INC.'S MOTION FOR CLARIFICATION

Twitter, Inc. ("Twitter") hereby submits this Motion for Clarification with respect to its obligations under this Court's Order of December 14, 2010. See Exhibit 1 hereto.

On December 14, 2010, this Court issued a sealed order pursuant to 18 U.S.C. § 2703(d) seeking subscriber information and all records and other non-content information for Twitter accounts Wikileaks, rop_g, ioerror and birgittaj from November 1, 2009 to the present. *Id.* On January 5, 2011, upon motion by the government made at the behest of Twitter, the Court issued an Order that unsealed the December 14th Order and authorized Twitter to disclose it to its users. See Exhibit 2 hereto.

On or about January 7, 2011, Twitter notified its users of the December 14th Order. The government agreed that those users would have until January 26th to file any motions or pleadings in opposition to the Order. Twitter has been informed by the government that users rop_g, ioerror and birgittaj have filed motions under seal with this Court regarding the December 14th Order, while the Wikileaks user has not. Accordingly, the government has requested that Twitter produce records for the Wikileaks Twitter account. Twitter, however, is concerned that the motions filed by the other three users may address issues related to their association or involvement with the user of the Wikileaks Twitter account, or may otherwise seek to vacate the

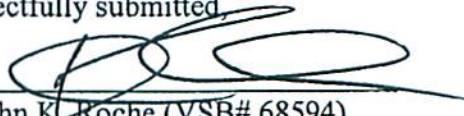
December 14th Order in its entirety. If that is the case, producing records for the Wikileaks Twitter account before the pending motions are resolved would prejudice users rop_g, ioerror and birgittaj. Unfortunately, because the pending motions are sealed, Twitter has no way to determine if or to what extent users rop_g, ioerror and birgittaj may actually be prejudiced by production of the Wikileaks records. Twitter proposed to the government that the parties agree to delay production of the Wikileaks records until after the pending motions are resolved, but the government declined. As an alternative, Twitter requested that the government certify that production of the Wikileaks records would not affect the issues raised by the pending motions, but the government declined to reveal the nature of those motions because they are under seal. Accordingly, Twitter is compelled to seek guidance from the Court.

For these reasons, Twitter requests clarification from the Court as to whether it would best serve the interests of justice for Twitter to withhold production of records for the Wikileaks Twitter account until the pending motions are resolved, or to produce the Wikileaks records forthwith. Twitter has advised the government of its intent to seek this clarification from the Court, and both parties agree there is no need for oral argument at this time.

DATED this 8th day of February, 2011.

Respectfully submitted

By


John K. Roche (VSB# 68594)
Perkins Coie, LLP
700 13th St., N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202-434-1627
Fax: 202-654-9106
JRoche@perkinscoie.com


Attorneys for Twitter, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of February, 2011, the foregoing document was sent via overnight mail and email to the following persons:

John S. Davis
Assistant United States Attorney
United States Attorney's Office
Eastern District of Virginia
600 East Main Street, Suite 1800
Richmond, VA 23219-2447
[REDACTED]

Attorneys for the United States

By 
John K. Roche (VSB# 68594)
Perkins Coie, LLP
700 13th St., N.W., Suite 600
Washington, D.C. 20005-3960
Phone: 202-434-1627
Fax: 202-654-9106
JRoche@perkinscoie.com

Attorneys for Twitter, Inc.

EXHIBIT 1



U.S. Department of Justice

United States Attorney

Eastern District of Virginia

Justin W. Williams United States Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314-5794
(703) 299-3700

FACSIMILE TRANSMISSION
COVER PAGE

DATE: 12/14/10

TO: Twitter Attn: Trust & Safety

PHONE:

TO FAX NO.: (415) 222-9958

SENDER: Vivian Ha, Assistant to Tracy McCormick

SENDER'S PHONE NO.: 703 299 3859

SENDER'S FAX NO.: 703 299 3981

NUMBER OF PAGES: 4

Not Including Cover Page

Level of Transmitted Information:

- Non-Sensitive Information
- Sensitive But Unclassified (SBU)
- Limited Official Use (LOU)
- Grand Jury Information
- Tax Information
- Law Enforcement Information
- Victim Witness Information

CONTENTS:

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

IN RE APPLICATION OF THE)
UNITED STATES OF AMERICA FOR)
AN ORDER PURSUANT TO)
18 U.S.C. § 2703(d))
_____)

MISC. NO. 10GJ3793

Filed Under Seal

ORDER

This matter having come before the Court pursuant to an application under Title 18, United States Code, Section 2703, which application requests the issuance of an order under Title 18, United States Code, Section 2703(d) directing Twitter, Inc., an electronic communications service provider and/or a remote computing service, located in San Francisco, California, to disclose certain records and other information, as set forth in Attachment A to this Order, the Court finds that the applicant has offered specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

IT APPEARING that the information sought is relevant and material to an ongoing criminal investigation, and that prior notice of this Order to any person of this investigation or this application and Order entered in connection therewith would seriously jeopardize the investigation;

IT IS ORDERED pursuant to Title 18, United States Code, Section 2703(d) that Twitter, Inc. will, within three days of the date of this Order, turn over to the United States the records and other information as set forth in Attachment A to this Order.

IT IS FURTHER ORDERED that the Clerk of the Court shall provide the United States Attorney's Office with three (3) certified copies of this application and Order.

IT IS FURTHER ORDERED that the application and this Order are sealed until otherwise ordered by the Court, and that Twitter shall not disclose the existence of the application or this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, unless and until authorized to do so by the Court.

/s/

Theresa Carroll Buchanan
United States Magistrate Judge

12/14/10
Date

ATTORNEY
CLERK, U.S. DISTRICT COURT
BY [Signature]
DEPUTY CLERK

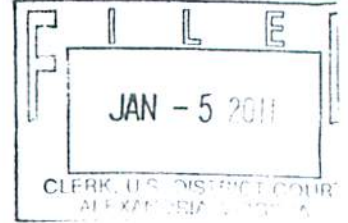
ATTACHMENT A

You are to provide the following information, if available, preferably as data files on CD-ROM, electronic media, or email (tracy.mccormick@usdoj.gov) or otherwise by facsimile to 703-299-3981:

- A. The following customer or subscriber account information for each account registered to or associated with Wikileaks; rop_g; ioerror; birgittaj; Julian Assange; Bradley Manning; Rop Gongrijp; Birgitta Jonsdottir for the time period November 1, 2009 to present:
 1. subscriber names, user names, screen names, or other identities;
 2. mailing addresses, residential addresses, business addresses, e-mail addresses, and other contact information;
 3. connection records, or records of session times and durations;
 4. length of service (including start date) and types of service utilized;
 5. telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and
 6. means and source of payment for such service (including any credit card or bank account number) and billing records.

- B. All records and other information relating to the account(s) and time period in Part A, including:
 1. records of user activity for any connections made to or from the Account, including the date, time, length, and method of connections, data transfer volume, user name, and source and destination Internet Protocol address(es);
 2. non-content information associated with the contents of any communication or file stored by or for the account(s), such as the source and destination email addresses and IP addresses.
 3. correspondence and notes of records related to the account(s).

EXHIBIT 2



IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

IN THE MATTER OF THE)
§2703(d) ORDER RELATING TO) MISC. NO. 10GJ3793
TWITTER ACCOUNTS:)
WIKILEAKS, ROP_G; IOERROR;)
AND BIRGITTAJ)

ORDER TO UNSEAL THE
ORDER PURSUANT TO 18 U.S.C. §2703(D)

This matter having come before the Court pursuant to an application under Title 18, United States Code, §2703(d), it appearing that it is in the best interest of the investigation to unseal the Court's Order of December 14, 2010 and authorize Twitter to disclose that Order to its subscribers and customers, it is hereby ORDERED that the above-captioned Order of December 14, 2010 pursuant to 18 U.S.C. §2703(d) be UNSEALED and that Twitter is authorized to disclose such Order. In all other respects, the Court's Order of December 14, 2010 remains in effect.

_____/s/_____
Theresa Carroll Buchanan
United States Magistrate Judge

Date: 1/5/11
Alexandria, Virginia