

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY

_____)	
IN RE APPLICATION OF THE)	
UNITED STATES OF AMERICA FOR)	Case No. 5:23-MJ-5078-MAS
AN ORDER PURSUANT TO)	
18 U.S.C. § 2703(d))	<u>Filed Under Seal</u>
_____)	

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

The United States of America, moving by and through its undersigned counsel, respectfully submits under seal this *ex parte* application for an Order pursuant to 18 U.S.C. § 2703(d). The proposed Order would require Google LLC (Google), an Internet service provider located in Mountain View, California, to disclose certain records and other information pertaining to the accounts described in Part I of Attachment A to the proposed Order. The records and other information to be disclosed are described in Part II of Attachment A to the proposed Order. In support of this application, the United States asserts:

LEGAL BACKGROUND

1. Google offers a free video streaming site called YouTube, and as such, is a provider of an electronic communications service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Accordingly, the United States may use a court order issued under § 2703(d) to require Google to disclose the items described in Part II of Attachment A. *See* 18 U.S.C. § 2703(c)(2) (Part II.A of Attachment A); 18 U.S.C. § 2703(c)(1) (Part II.B of Attachment A).

2. This Court has jurisdiction to issue the proposed Order because it is “a court of competent jurisdiction,” as defined in 18 U.S.C. § 2711. *See* 18 U.S.C. § 2703(d). Specifically,

the Court is a district court of the United States that has jurisdiction over the offense being investigated. *See* 18 U.S.C. § 2711(3)(A)(i).

3. A court order under § 2703(d) “shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.” 18 U.S.C. § 2703(d). Accordingly, the next section of this application sets forth specific and articulable facts showing that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation.

THE RELEVANT FACTS

4. The United States is investigating the moniker “elonmuskwhm” (ELM), which has advertised a service on multiple peer-to-peer cryptocurrency exchanges and dark web marketplaces to provide cash by mail within the United States in exchange for cryptocurrency. The investigation concerns possible violations of, inter alia, 18 U.S.C. §§ 371 (Conspiracy), 1956 (Money Laundering, Conspiracy), and 1960 (Unlicensed Money Transmitting Business).

5. The United States has conducted multiple, undercover transactions with the ELM moniker, in which the United States provided bitcoin (BTC) to an address specified by ELM, and cash was mailed to a name and address specified by the United States. While arranging one such transaction, the United States told ELM that the BTC originated from the proceeds of drug sales.

6. While communicating about this transaction, ELM sent a link to a YouTube video, <https://youtu.be/lRQu71VPl2s>, on January 3, 2023, at approximately 3:22 PM UTC. In response, the United States sent links to two additional YouTube videos, <https://www.youtube.com/watch?v=nI2Y9pQIqIA> and

<https://www.youtube.com/watch?v=G2OE7I4vQqs>, on January 4, 2023, at approximately 2:52 PM UTC and 3:12 PM UTC, respectively.

7. Google operates YouTube. In order to send a link to a YouTube video, it is likely that the user operating the ELM moniker accessed the video on the YouTube site. Additionally, if the user accessed the links sent by the United States, the user would have connected to the YouTube site in order to view the videos.

8. As of February 28, 2023, the video hosted at URL <https://youtu.be/IRQu71VPI2s> had been posted for approximately three years and had been viewed approximately 24,000 times. The video hosted at URL <https://www.youtube.com/watch?v=G2OE7I4vQqs> had been posted for approximately one year and had been viewed approximately 1,400 times. The video hosted at URL <https://www.youtube.com/watch?v=nI2Y9pQIqIA> had been posted for approximately one year and had been viewed approximately 2,000 times. This application requests an order commanding Google to provide records and information associated with Google accounts or IP addresses accessing YouTube videos for a one week period, between January 1, 2023, and January 8, 2023. There is reason to believe that these records would be relevant and material to an ongoing criminal investigation, including by providing identification information about the perpetrators.

REQUEST FOR ORDER

9. The facts set forth in the previous section show that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation. Specifically, these items will help the United States to identify and locate the individual(s) who are responsible for the events described above, and to determine the nature and scope of their activities. Accordingly, the United States

requests that Google be directed to produce all items described in Part II of Attachment A to the proposed Order.

10. The United States further requests that the Order require Google not to notify any person, including the subscribers or customers of the account(s) listed in Part I of Attachment A, of the existence of the Order for a time period of one year. *See* 18 U.S.C. § 2705(b). This Court has authority under 18 U.S.C. § 2705(b) to issue “an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order.” *Id.* In this case, such an order would be appropriate because the requested Order relates to an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation, and its disclosure may alert the targets to the ongoing investigation. Accordingly, there is reason to believe that notification of the existence of the requested Order will seriously jeopardize the investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, or change patterns of behavior. *See* 18 U.S.C. § 2705(b)(2), (3), (5). Some of the evidence in this investigation is stored electronically. If alerted to the investigation, the subjects under investigation could destroy that evidence, including information saved to their personal computers.

11. The United States further requests that the Court order that this application and any resulting order be sealed until further order of the Court. As explained above, these documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

Respectfully submitted,

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ATTACHMENT A

I. The Account(s)

The Order applies to certain records and information associated with any Google account(s) or IP addresses accessing the following URLs between 01/01/2023 and 01/08/2023:

<https://youtu.be/IRQu71VPI2s>
<https://www.youtube.com/watch?v=nI2Y9pQIqIA>
<https://www.youtube.com/watch?v=G2OE7l4vQqs>

II. Records and Other Information to Be Disclosed

Google is required to disclose the following records and other information, if available, to the United States for each account listed in Part I of this Attachment (“Accounts”), for the period between 01/01/2023 and 01/08/2023:

A. For all IP addresses accessing the YouTube URLs not associated with a Google

Account:

1. Any identification information about the accessing party; and
2. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol (“IP”) addresses) associated with those sessions.

B. For all IP addresses accessing the YouTube video using a Google account:

1. Names (including subscriber names, user names, and screen names);
2. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
3. Local and long distance telephone connection records;
4. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol (“IP”) addresses) associated with those sessions;
5. Length of service (including start date) and types of service utilized;
6. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Equipment Identifier (“MEID”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), Mobile Subscriber Integrated Services Digital Network Number (“MSISDN”), International

Mobile Subscriber Identifiers (“IMSI”), or International Mobile Equipment Identities (“IMEI”));

7. Other subscriber numbers or identities (including the registration Internet Protocol (“IP”) address);
8. Means and source of payment for such service (including any credit card or bank account number) and billing records;
9. Records of user activity for each connection made to or from the Account, including log files; messaging logs; the date, time, length, and method of connections; data transfer volume; user names; and source and destination Internet Protocol addresses;
10. Information about each communication sent or received by the Account, including the date and time of the communication, the method of communication, and the source and destination of the communication (such as source and destination email addresses, IP addresses, and telephone numbers); and
11. Identification of any accounts that are linked to the Accounts by cookies, recovery e-mail addresses, or telephone numbers.

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ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2703(d), requesting that the Court issue an Order requiring Google LLC (Google), an electronic communications service provider and/or a remote computing service located in Mountain View, California, to disclose the records and other information described in Attachment A to this Order.

The Court finds that the United States 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.

The Court determines that there is reason to believe that notification of the existence of this Order will seriously jeopardize the ongoing investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence, or change patterns of behavior. *See* 18 U.S.C. § 2705(b)(2), (3), (5).

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2703(d), that Google shall, within ten days of the date of this Order, disclose to the United States the records and other information described in Attachment A to this Order.

IT IS FURTHER ORDERED under 18 U.S.C. § 2705(b) that Google shall not disclose the existence of the application of the United States, or the existence of this Order of the Court, to the subscribers of the account(s) listed in Attachment A, or to any other person, for a period of

one year, except that Google may disclose this Order to an attorney for Google for the purpose of receiving legal advice.

IT IS FURTHER ORDERED that the application and this Order are sealed for a period of one year from the date of this Order.

Entered this 6th day of March, 2023.



Matthew A. Stinnett
MATTHEW A. STINNETT
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF KENTUCKY