

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION – FELONY BRANCH**

**IN THE MATTER OF THE SEARCH
OF WWW.DISRUPTJ20.ORG THAT
IS STORED AT PREMISES OWNED,
MAINTAINED, CONTROLLED, OR
OPERATED BY DREAMHOST**

Special Proceedings Nos. 17 CSW 3438

HEARING REQUESTED

FILED
U.S. DISTRICT COURT
SPECIAL PROCEEDINGS
2017 JUL 28 PM 3:37

UNITED STATES'S MOTION FOR DREAMHOST TO SHOW CAUSE

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, hereby moves the Court to order DreamHost, Inc. ("DreamHost"), to show cause why DreamHost should not be compelled to comply with a warrant issued by this Court on July 12, 2017, No. 17 CSW 3438, pursuant to 18 U.S.C. § 2703(a), and ordered immediately to provide to the government certain records and information specified within Attachment B to that warrant that are within the possession, custody, or control of Dreamhost, regardless of where such records or information may be stored.

BACKGROUND

On July 12, 2017, this Court authorized a search warrant pursuant to 18 U.S.C. § 2703(a), commanding DreamHost to disclose to the government records and information associated with the website www.disruptj20.org, including communications and content associated with the account. (Ex. A.) That website was used in the development, planning, advertisement, and organization of a violent riot that occurred in Washington, D.C., on January 20, 2017. Attachment A to the warrant identified the particular customer account that is the subject of the warrant, which was www.disruptj20.org. (Ex. A.) Attachment B, Subsection I, of the warrant, titled "Information to be disclosed by Dreamhost," ordered Dreamhost to disclose the following information for that account:

- a. all records or other information pertaining to that account or identifier, including all files, databases, and database records stored by DreamHost in relation to that account or identifier;
- b. all information in the possession of DreamHost that might identify the subscribers related to those accounts or identifiers, including names, addresses, telephone numbers and other identifiers, e-mail addresses, business information, the length of service (including start date), means and source of payment for services (including any credit card or bank account number), and information about any domain name registration;
- c. all records pertaining to the types of service utilized by the user;
- d. all records pertaining to communications between DreamHost and any person regarding the account or identifier, including contacts with support services and records of actions taken.

(Ex. A.) Attachment B, Subsection II of the warrant limited the government's seizure to "[a]ll information described above . . . that constitutes fruits, evidence and instrumentalities of violations of D.C. Code § 22-1322[.]"

On Friday, July 14, 2017, the government sent a copy of the Court's search warrant and its attachments to DreamHost by email. (Ex. B.) DreamHost responded that same day acknowledging that it was in receipt of the search warrant but requested that the government personally serve a copy of the Court's search warrant on DreamHost in California. (Ex. B.) On Monday, July 17, 2017, an agent from the Federal Bureau of Investigation personally delivered a copy of the search warrant to DreamHost.¹ (Ex. C.) DreamHost acknowledged being personally served in an email message dated July 18, 2017. (Ex. C.)

¹ The government also sent copies of the Court's search warrant to DreamHost and to DreamHost's registered agent for service of process in California via Federal Express overnight delivery with signature required at delivery. The Federal Express tracking information for each of those packages indicates that they were delivered on July 18, 2017.

On July 19, 2017, the government requested that DreamHost begin an immediate production of materials in response to the Court's search warrant. (Ex. D.) The government also cautioned DreamHost that if DreamHost did not begin to comply with the Court's search warrant, the government may need to seek relief from the Court. (Ex. D.) That same day, the General Counsel for DreamHost replied to the government that DreamHost could not respond to the Court's search warrant at that time because "the entire company" had convened at an "offsite . . . day-long meeting" and "we're all out of the office." (Ex. E.) However, the General Counsel for DreamHost promised that "we will have an update for you (likely tomorrow [July 20]) with production information and instructions." (Ex. E.)

On July 20, 2017, the government again contacted DreamHost to request that the company begin a rolling production of materials responsive to the Court's search warrant. (Ex. F.) Later that day, the government received an email message from Raymond Aghaian, Esq., an attorney representing DreamHost, who requested to have a telephone call with the government to discuss the Court's search warrant. (Ex. F.) Later that day, the government unsuccessfully tried to reach Mr. Aghaian on the telephone to discuss this matter. (Ex. G.) The government also tried to reach Mr. Aghaian—again without success—the next morning, July 21, 2017. (Ex. G.)

On July 21, 2017, the government received an email message from Mr. Aghaian stating four "concerns" with the Court's search warrant:

1. There is some uncertainty as to the language in [Attachment B] Section II, paragraph 2, that we would like to clarify and get a better understanding of what exactly is requested. Moreover, we need to be able to inform the subscriber about the warrant, but it is difficult to do so without knowing specifically which accounts or domains are at issue.
2. The DC Code is very specific about the Superior Court's jurisdictional limit in issuance of search warrants within DC. Since the servers containing the records at issue here are located in

Portland, Oregon, instead of DC, we would like to ask that you seek the warrants from the appropriate court.

3. Some of the requested information likely falls under the protected category of information under the Privacy Protection Act and is not subject to search and seizure pursuant to a search warrant;

4. Some of the information requested appears overbroad, requesting what amounts to all data without any limitations or a specified timeframe, likely constituting an overseizure [*sic*]. For instance, in one of the requests, the warrant seeks the IP addresses of over 1,000,000 visitors to the website.

(Ex. G.) To date, DreamHost has not produced any materials to the government responsive to the Court's search warrant.

ARGUMENT

I. DreamHost has No Legal Basis for Failing to Produce Materials in Response to the Court's Search Warrant

The Fourth Amendment provides that “no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” A search pursuant to a search warrant is presumed lawful. *Franks v. Delaware*, 438 U.S. 154, 156 (1978). The Court's search warrant in this case is no exception to these legal standards. On July 12, 2017, this Court determined that there was probable cause to believe that “in the premises controlled by DreamHost, Inc., there is now being concealed property, namely stored electronic communications including but not limited to digital files, records, messages, and photographs as set forth more fully in Attachments A and B.” (Ex. A.) The Court specified that “[t]his warrant applies to information associated with www.disruptj20.org that is stored at premises owned, maintained, controlled, or operated by DreamHost[.]” (Ex. A, Attach. A.) The Court also specified the types of information that the

Court ordered DreamHost to produce in response to the search warrant. (Ex. A, Attach. B, Section I.) The Court's search warrant further specified that the government could only seize information that constituted "evidence, contraband, instrumentalities, or fruits of violations of D.C. Code § 22-1322." (Ex. A, Attach. B, Section II.) And the search warrant application was itself supported by the sworn affidavit of Detective Gregory Pemberton of the Metropolitan Police Department. D.C. Code § 23-521(a) (a judicial officer may issue a search warrant upon application of a law enforcement officer or prosecutor). Thus, there should be no dispute that the Court's search warrant was properly issued and that DreamHost must comply with the Court's warrant.

DreamHost's suggestion in Mr. Aghaian's July 20 email message that the Court's search warrant runs afoul of "the Superior Court's jurisdictional limits" is misguided. This Court has jurisdiction to issue search warrants requiring the provider of electronic communication services to produce records because it is "a court of competent jurisdiction" as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is "a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants." 18 U.S.C. § 2711(3)(B). *See* 18 U.S.C. § 2510 (defining "State" to include "the District of Columbia"); 18 U.S.C. § 2711(1) (adopting the definitions of § 2510 for purposes of §§ 2701-2712).

II. DreamHost's Other Objections to Production are without Merit

The other concerns stated in Mr. Aghaian's July 20 email do not afford DreamHost with any justification for refusing to comply with the Court's order. First, DreamHost's claim that there is "uncertainty as to the language . . . of what is requested" in Attachment B, Part II, is wholly irrelevant. That portion of the Court's search warrant sets forth the information to be

seized by the government after DreamHost complies with the Court's order to produce the information described in Attachment B, Part I. Consequently, there is no "uncertainty" with that part of the Court's search warrant that would justify DreamHost in refusing to comply with the warrant.

Second, DreamHost's objection that some of the information that DreamHost must produce pursuant to the Court's order is "protected . . . under the Privacy Protection Act [42 U.S.C. § 2000aa, ("PPA")]," and therefore is "not subject to search and seizure" pursuant to a search warrant also lacks merit. As a factual matter, the Court's search warrant identifies the precise categories of information that DreamHost must provide to the government and precise limitations on the information that the government may seize during its search. (Ex. A, Attach. B.) DreamHost has offered nothing—not even a proffer—to substantiate its concerns that any of the information the Court has required DreamHost to produce would meet the PPA standard of "protected" materials. But even if DreamHost could satisfy that factual threshold, the PPA does not as a factual matter preclude the government from searching and seizing electronic information—even "protected" materials—pursuant to a search warrant. Quite to the contrary, the PPA provides that the exclusive remedy for a person "aggrieved by a search for or seizure of materials in violation of [the PPA]" shall be "a civil cause of action for damages[.]" 42 U.S.C. § 2000aa-6(a). The PPA further provides "[e]vidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of [the PPA]." 42 U.S.C. § 2000aa-6(e). Thus, DreamHost's "concern" regarding the PPA does not provide DreamHost with a proper basis for refusing to comply with the Court's search warrant.

Third, DreamHost has raised a concern that the Court's search warrant is "overbroad" and may result in an "overseizure [*sic*]." This is simply not a sufficient basis for DreamHost to

refuse to comply with the warrant. The Court has already imposed limitations on the materials that DreamHost is required to produce and on the materials that the government may seize. (Ex. A, Attach. B.) Accordingly, DreamHost's opinion of the breadth of the warrant does not provide it with a basis for refusing to comply with the Court's search warrant and begin an immediate production.²

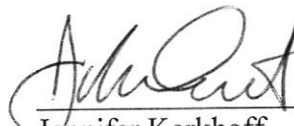
CONCLUSION

For the foregoing reasons, the government asks that the Court issue an order to DreamHost to show cause why DreamHost should not be compelled to comply with the warrant issued by this Court on July 12, 2017, and ordered immediately to provide to the government all of the records and information in Attachment B to the warrant that are within the possession, custody, or control of DreamHost. The government requests that a hearing be schedule in this matter for the week of July 31, 2017.

Respectfully submitted,

CHANNING D. PHILLIPS
UNITED STATES ATTORNEY

By:

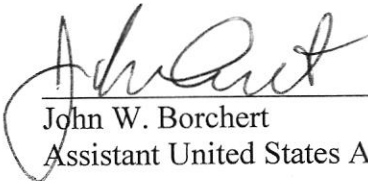

Jennifer Kerkhoff
John W. Borchert (D.C. Bar No. 472824)
Assistant United States Attorneys
United States Attorney's Office for the
District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530
(202) 252-7679

July 28, 2017

² It is worth nothing that DreamHost has already produced documents to the government in response to a separate request that indicate that the domain name www.disruptj20.org was registered in or about October 2016—less than a year ago.

CERTIFICATE OF SERVICE

I hereby certify that copy of the foregoing was delivered to counsel for DreamHost this
28th day of July 2017.



John W. Borchert
Assistant United States Attorney

EXHIBIT A

17 CSW 3438

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
SEARCH WARRANT

TO: CHIEF OF POLICE OR ANY OTHER LAW ENFORCEMENT OFFICER
(Specific Law Enforcement Officer or Classification of Officer of the Metropolitan Police Department or other Authorized Agency)

AFFIDAVIT, herewith attached, having been made before me by Detective Gregory Pemberton (D2-1645) that he has probable cause to believe that in the premises controlled by DreamHost Inc., there is now being concealed property, namely stored electronic communications including but not limited to digital files, records, messages, and photographs as set forth more fully in Attachments A and B, attached hereto and incorporated herein.

WHICH IS in violation of D.C. Code § 22-1322 and as I am satisfied that there is probable cause to believe that the property so described is being concealed in the above designated electronic storage and remote computing service and that the foregoing grounds for issuance of the warrant exist,

YOU ARE HEREBY AUTHORIZED, within 10 days of the date of issuance of this warrant, to execute this warrant by emailing or faxing this warrant to the designated electronic storage and remote computing service for execution of a search of its electronic files for the electronic data specified, and if the electronic data be found there,

DreamHost, IS ORDERED TO ASSIST LAW ENFORCEMENT AND PRODUCE SUCH ELECTRONIC DATA, as detailed in Attachments A and B, to Detective Gregory Pemberton, and AUSA John Borchert

YOU ARE FURTHER COMMANDED to file a copy of this warrant and return with the Court on the next Court day after its execution.

Issued this 12th day of July, 2017

R. W. [Signature]
Judge, Superior Court of the District of Columbia

Q-6 C [Signature] AUSA
7/12/17

RETURN

I received the above warrant on _____, 20____ and have executed it as follows:

On _____, 20____ at _____ M., I electronically submitted the warrant to DreamHost, and requested that the provider execute a search of its electronic files and produce the requested information and electronic data (as detailed in the Attachments, attached herewith, to the undersigned law enforcement officer on or before _____.

The undersigned officer will supplement this return with an inventory of the information and electronic data produced by DreamHost, within _____ days.

Subscribed and sworn to before me this _____ day of _____, 20____

Executing Officer

Judge, Superior Court of the District of Columbia

2017 JUL 12 PM 1:53

1 10-11-17

ATTACHMENT A

Property to Be Searched

This warrant applies to information associated with **www.disruptj20.org** that is stored at premises owned, maintained, controlled, or operated by DreamHost, a company headquartered at 707 Wilshire Blvd., Suite 5050, Los Angeles, California 90017.

Q&A C. E. J. 4/11/17

1 AP 7/12/17

ATTACHMENT B

Particular Things to be Seized

I. Information to be disclosed by DreamHost

To the extent that the information described in Attachment A is within the possession, custody, or control of DreamHost, including any messages, records, files, logs, or information that have been deleted but are still available to DreamHost, or have been preserved pursuant to a request made under 18 U.S.C. § 2703(f), DreamHost is required to disclose the following information to the government for each account or identifier listed in Attachment A:

- a. all records or other information pertaining to that account or identifier, including all files, databases, and database records stored by DreamHost in relation to that account or identifier;
- b. all information in the possession of DreamHost that might identify the subscribers related to those accounts or identifiers, including names, addresses, telephone numbers and other identifiers, e-mail addresses, business information, the length of service (including start date), means and source of payment for services (including any credit card or bank account number), and information about any domain name registration;
- c. all records pertaining to the types of service utilized by the user,
- d. all records pertaining to communications between DreamHost and any person regarding the account or identifier, including contacts with support services and records of actions taken.

II. Information to be seized by the government

All information described above in Section I that constitutes fruits, evidence and instrumentalities of violations of D.C. Code § 22-1322 involving the individuals who participated, planned, organized, or incited the January 20 riot, relating to the development, publishing, advertisement, access, use, administration or maintenance of any website enumerated in Attachment A, including:

1. Files, databases, and database records stored by DreamHost on behalf of the subscriber or user operating the website, including:
 - a. programming code used to serve or process requests made via web browsers;
 - b. HTML, CSS, JavaScript, image files, or other files;

9/6/08
11/12/17
J. C. [unclear]
1/20/18

1 AP 7/12/17

7

c. HTTP request and error logs;
d. SSH, FTP, or Telnet logs showing connections related to the website, and any other transactional information, including records of session times and durations, log files, dates and times of connecting, methods of connecting, and ports;

- e. MySQL, PostgreSQL, or other databases related to the website;
f. email accounts and the contents thereof, associated with the account;

2. Subscriber information related to the accounts established to host the site enumerated in Attachment A, to include:

a. Names, physical addresses, telephone numbers and other identifiers, email addresses, and business information;

b. Length of service (including start date), types of service utilized, means and source of payment for services (including any credit card or bank account number), and billing and payment information;

c. If a domain name was registered on behalf of the subscriber, the date that the domain was registered, the domain name, the registrant information, administrative contact information, the technical contact information and billing contact used to register the domain and the method of payment tendered to secure and register the Internet domain name.

DreamHost shall deliver the information set forth above via United States mail, courier, or email to the following:

John W. Borchert
Assistant U.S. Attorney
U.S. Attorney's Office for the District of Columbia
555 Fourth Street, N.W.
Washington, D.C. 20530
Email: John.Borchert@usdoj.gov
Telephone: 202-252-7679

EXHIBIT B

Borchert, John (USADC)

From: Karl Fry <karl.fry@dreamhost.com>
Sent: Friday, July 14, 2017 7:56 PM
To: Borchert, John (USADC); legal@dreamhost.com
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

Just as a reminder -- DreamHost does not accept substituted service for production orders. We respectfully request that such orders be served either in person at our downtown Los Angeles location, or with our registered service agent CT Corporation. The addresses for both can be found on our website, here:

<https://www.dreamhost.com/legal/government-requests/>

If you already intend to serve in person as well, please disregard.

Thanks,
Karl Fry
DreamHost Compliance Team
<http://www.dreamhost.com>

On 7/14/17 1:49 PM, Borchert, John (USADC) wrote:

Hello, Karl –

I have attached a search warrant that we have obtained for the disruptj20 website. Our preservation for this account dates back to January 17. I am also attaching an additional preservation letter dated today. Please let me know if you have any questions.

Regards,

John

John W. Borchert
Deputy Chief -- Felony Major Crimes Trial Section
Misdemeanor Trial Unit
U.S. Attorney's Office for the
District of Columbia
Desk: 202-252-7679 Mobile: 202-870-6071
john.borchert@usdoj.gov

EXHIBIT C

Borchert, John (USADC)

From: Karl Fry <karl.fry@dreamhost.com>
Sent: Tuesday, July 18, 2017 8:31 PM
To: Borchert, John (USADC); legal@dreamhost.com
Cc: Kerkhoff, Jennifer (USADC)
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

We are in receipt of the warrant that was served yesterday; thank you. We have quite a bit going on this week, but I will be in touch as soon as I have more information for you.

We do appreciate your patience in the meantime.

Sincerely,
Karl Fry
DreamHost Compliance Team
<http://www.dreamhost.com>

On 7/18/17 10:45 AM, Borchert, John (USADC) wrote:

Hello, Karl –

You were personally served by the FBI yesterday. Can you please make a production to us today?

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From: Karl Fry [<mailto:karl.fry@dreamhost.com>]
Sent: Friday, July 14, 2017 7:56 PM
To: Borchert, John (USADC) <JBorchert@usa.doj.gov>; legal@dreamhost.com
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

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john.borchert@usdoj.gov

EXHIBIT D

Borchert, John (USADC)

From: Borchert, John (USADC)
Sent: Wednesday, July 19, 2017 9:05 AM
To: legal@dreamhost.com
Cc: Kerkhoff, Jennifer (USADC)
Subject: RE: Search Warrant and Preservation (LGL-74338)

Hello, Karl -

Thanks for your response. I sent a courtesy copy of the warrant to you last week, and you've had the data preserved since January. Can you please provide the materials to us today? If not, we may need to seek relief from the Court.

Regards,

John

From: Karl Fry [mailto:karl.fry@dreamhost.com]
Sent: Tuesday, July 18, 2017 8:31 PM
To: Borchert, John (USADC) <JBorchert@usa.doj.gov>; legal@dreamhost.com
Cc: Kerkhoff, Jennifer (USADC) <JKerkhoff@usa.doj.gov>
Subject: Re: Search Warrant and Preservation (LGL-74338)

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john.borchert@usdoj.gov

EXHIBIT E

Borchert, John (USADC)

From: Christopher Ghazarian <christopher.ghazarian@dreamhost.com>
Sent: Wednesday, July 19, 2017 1:57 PM
To: Borchert, John (USADC)
Cc: legal@dreamhost.com; Kerkhoff, Jennifer (USADC)
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

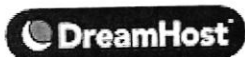
DreamHost is having its annual "All Hands" meeting; the entire company gathers offsite for a day-long meeting, and we're all out of the office in order to attend.

You asked Karl about producing the data immediately since it has been "preserved since January." After reviewing the warrant, it looks like you are requesting *additional* data that wasn't included in the preservations ("any messages, records, files, logs, or information that have been deleted but are still available to DreamHost...."). Thus, in order for us to comply with your warrant, Karl is pulling all of the new information from our database.

We kindly request additional time to put together what you're asking for once we're back in the office, and we will have an update for you as soon as possible (likely tomorrow) with production information and instructions.

Best,

Chris Ghazarian | General Counsel
213.787.4401 | chris@dreamhost.com | chris.law
707 Wilshire Blvd, Suite 5050, Los Angeles, CA 90017



On Jul 19, 2017, at 6:04 AM, Borchert, John (USADC) <John.Borchert@usdoj.gov> wrote:

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To: Borchert, John (USADC) <JBorchert@usa.doj.gov>; legal@dreamhost.com

Cc: Kerkhoff, Jennifer (USADC) <JKerkhoff@usa.doj.gov>
Subject: Re: Search Warrant and Preservation (LGL-74338)

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Desk: 202-252-7679 Mobile: 202-870-6071
john.borchert@usdoj.gov

EXHIBIT F

Borchert, John (USADC)

From: Aghaian, Raymond <RAghaian@kilpatricktownsend.com>
Sent: Thursday, July 20, 2017 6:22 PM
To: Borchert, John (USADC)
Subject: RE: RE: Search Warrant and Preservation (LGL-74338)

Hi John,

I represent DreamHost and I have just been retained in the above referenced matter. I have a number questions regarding the search warrant that I would like to discuss with you. Can you please let me know your availability to discuss for either tomorrow afternoon or sometime on Monday? Thank you.

Ray

Raymond O. Aghaian
Kilpatrick Townsend & Stockton LLP
9720 Wilshire Blvd PH | Beverly Hills, CA 90212-2018
office 310 310 7010 | fax 310 388 1198
raghaian@kilpatricktownsend.com | [My Profile](#) | [vCard](#)

From: "Borchert, John (USADC)" <John.Borchert@usdoj.gov>
Date: Jul 20, 2017 4:05 AM
Subject: RE: Search Warrant and Preservation (LGL-74338)
To: "Christopher Ghazarian" <christopher.ghazarian@dreamhost.com>
Cc: "legal@dreamhost.com" <legal@dreamhost.com>, "Kerkhoff, Jennifer (USADC)" <Jennifer.Kerkhoff@usdoj.gov>

Thanks, Chris. Please go ahead and begin a "rolling" production of what you have ready now. I would expect you have some materials that you could produce today, but let me know if I have that wrong.

Regards,

John

From: Christopher Ghazarian [mailto:christopher.ghazarian@dreamhost.com]
Sent: Wednesday, July 19, 2017 1:57 PM
To: Borchert, John (USADC) <JBorchert@usa.doj.gov>
Cc: legal@dreamhost.com; Kerkhoff, Jennifer (USADC) <JKerkhoff@usa.doj.gov>
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

DreamHost is having its annual "All Hands" meeting; the entire company gathers offsite for a day-long meeting, and we're all out of the office in order to attend.

You asked Karl about producing the data immediately since it has been "preserved since January." After reviewing the warrant, it looks like you are requesting *additional* data that wasn't included in the preservations ("any messages, records, files, logs, or information that have been deleted but are still available to DreamHost..."). Thus, in order for us to comply with your warrant, Karl is pulling all of the new information from our database.

We kindly request additional time to put together what you're asking for once we're back in the office, and we will have an update for you as soon as possible (likely tomorrow) with production information and instructions.

Best,

Chris Ghazarian | General Counsel
[213.787.4401](tel:213.787.4401) | chris@dreamhost.com | chris.law
707 Wilshire Blvd, Suite 5050, Los Angeles, CA 90017



On Jul 19, 2017, at 6:04 AM, Borchert, John (USADC) <John.Borchert@usdoj.gov> wrote:

Hello, Karl -

Thanks for your response. I sent a courtesy copy of the warrant to you last week, and you've had the data preserved since January. Can you please provide the materials to us today? If not, we may need to seek relief from the Court.

Regards,

John

From: Karl Fry [<mailto:karl.fry@dreamhost.com>]
Sent: Tuesday, July 18, 2017 8:31 PM
To: Borchert, John (USADC) <JBorchert@usa.doj.gov>; legal@dreamhost.com
Cc: Kerkhoff, Jennifer (USADC) <JKerkhoff@usa.doj.gov>
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

We are in receipt of the warrant that was served yesterday; thank you. We have quite a bit going on this week, but I will be in touch as soon as I have more information for you.

We do appreciate your patience in the meantime.

Sincerely,
Karl Fry
DreamHost Compliance Team
<http://www.dreamhost.com>

On 7/18/17 10:45 AM, Borchert, John (USADC) wrote:

Hello, Karl –

You were personally served by the FBI yesterday. Can you please make a production to us today?

Regards,

John

John W. Borchert

Deputy Chief -- Felony Major Crimes Trial Section

Misdemeanor Trial Unit

U.S. Attorney's Office for the

District of Columbia

Desk: 202-252-7679 Mobile: 202-870-6071

john.borchert@usdoj.gov

From: Karl Fry [<mailto:karl.fry@dreamhost.com>]
Sent: Friday, July 14, 2017 7:56 PM
To: Borchert, John (USADC) <JBorchert@usa.doj.gov>; legal@dreamhost.com
Subject: Re: Search Warrant and Preservation (LGL-74338)

Hi John,

Just as a reminder -- DreamHost does not accept substituted service for production orders. We respectfully request that such orders be served either in person at our downtown Los Angeles location, or with our registered service agent CT Corporation. The addresses for both can be found on our website, here:

<https://www.dreamhost.com/legal/government-requests/>

If you already intend to serve in person as well, please disregard.

Thanks,
Karl Fry
DreamHost Compliance Team
<http://www.dreamhost.com>

On 7/14/17 1:49 PM, Borchert, John (USADC) wrote:

Hello, Karl –

I have attached a search warrant that we have obtained for the disruptj20 website. Our preservation for this account dates back to January 17. I am also attaching an additional preservation letter dated today. Please let me know if you have any questions.

Regards,

John

John W. Borchert

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john.borchert@usdoj.gov

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EXHIBIT G

Borchert, John (USADC)

From: Aghaian, Raymond <RAghaian@kilpatricktownsend.com>
Sent: Friday, July 21, 2017 1:43 PM
To: Borchert, John (USADC)
Cc: Kerkhoff, Jennifer (USADC)
Subject: RE: Search Warrant and Preservation (LGL-74338)

John,

Sorry I missed your call this morning, busy morning. There are a few concerns and we would like to resolve as expeditiously as possible to get you the production. My concerns consist of the following:

1. There is some uncertainty as to the language in Section II, paragraph 2, that we would like to clarify and get a better understanding of what exactly is requested. Moreover, we need to be able to inform the subscriber about the warrant, but it is difficult to do so without knowing specifically which accounts or domains are at issue.
2. The DC Code is very specific about the Superior Court's jurisdictional limit in issuance of search warrants within DC. Since the servers containing the records at issue here are located in Portland, Oregon, instead of DC, we would like to ask that you seek the warrants from the appropriate court.
3. Some of the requested information likely falls under the protected category of information under the Privacy Protection Act and is not subject to search and seizure pursuant to a search warrant;
4. Some of the information requested appears overbroad, requesting what amounts to all data without any limitations or a specified timeframe, likely constituting an overseizure. For instance, in one of the requests, the warrant seeks the IP addresses of over 1,000,000 visitors to the website.

My suggestion would be to resolve concerns 1 and 2 first and then allow DreamHost to begin expeditiously making the rolling production to either the Court or a special master for the records at issue so we can resolve the concerns before making the production to the government. Please let me know your thoughts and we can proceed accordingly. Thank you.

Ray

Raymond O. Aghaian
Kilpatrick Townsend & Stockton LLP
9720 Wilshire Blvd PH | Beverly Hills, CA 90212-2018
office 310 310 7010 | fax 310 388 1198 raghaian@kilpatricktownsend.com | www.kilpatricktownsend.com

-----Original Message-----

From: Borchert, John (USADC) [mailto:John.Borchert@usdoj.gov]
Sent: Friday, July 21, 2017 10:04 AM
To: Aghaian, Raymond
Cc: Kerkhoff, Jennifer (USADC)
Subject: RE: Search Warrant and Preservation (LGL-74338)

Hello, Ray - I just tried again to reach you on the phone and left another message. Can a rolling production start today?

Regards,

John

-----Original Message-----

From: Borchert, John (USADC)

Sent: Friday, July 21, 2017 6:59 AM

To: Aghaian, Raymond <RAghaian@kilpatricktownsend.com>

Cc: Kerkhoff, Jennifer (USADC) <JKerkhoff@usa.doj.gov>

Subject: Re: Search Warrant and Preservation (LGL-74338)

Great. I'm not certain I'll be out of court at that time. What are the concerns? A rolling production of whatever they have ready now is fine.

Sent from my iPhone

> On Jul 21, 2017, at 1:37 AM, Aghaian, Raymond <RAghaian@kilpatricktownsend.com> wrote:

>

> John - Thanks for the response. They would like to comply and produce, but I have a few concerns I would like discuss. I can call you at 11:30 a.m. PST, if you are available then. Thanks.

>

> Ray

>

> Raymond O. Aghaian

> Kilpatrick Townsend & Stockton LLP

> 9720 Wilshire Blvd PH | Beverly Hills, CA 90212-2018

> office 310 310 7010 | fax 310 388 1198 raghaian@kilpatricktownsend.com

> | www.kilpatricktownsend.com

>

>

>

> -----Original Message-----

> From: Borchert, John (USADC) [mailto:John.Borchert@usdoj.gov]

> Sent: Thursday, July 20, 2017 4:57 PM

> To: Aghaian, Raymond

> Cc: Kerkhoff, Jennifer (USADC)

> Subject: Re: Search Warrant and Preservation (LGL-74338)

>

> Hello, Ray-

>

> I just tried to reach you. Please call me as soon as possible at either of my numbers below. If your client is unwilling to begin an immediate rolling production, I will need to seek relief from the Court.

>

> Regards,

>

> John

>

>

> Sent from my iPhone

>

> On Jul 20, 2017, at 6:22 PM, Aghaian, Raymond
 <RAghaian@kilpatricktownsend.com<mailto:RAghaian@kilpatricktownsend.com>> wrote:
 >
 > Hi John,
 >
 > I represent DreamHost and I have just been retained in the above referenced matter. I have a number questions
 regarding the search warrant that I would like to discuss with you. Can you please let me know your availability to
 discuss for either tomorrow afternoon or sometime on Monday? Thank you.
 >
 > Ray
 >
 > Raymond O. Aghaian
 > Kilpatrick Townsend & Stockton LLP
 > 9720 Wilshire Blvd PH | Beverly Hills, CA 90212-2018 office 310 310
 > 7010 | fax 310 388 1198
 > raghaian@kilpatricktownsend.com<mailto:raghaian@kilpatricktownsend.com>
 > > | My
 > Profile<[http://www.kilpatricktownsend.com/en/Who%20We%20Are/Profession](http://www.kilpatricktownsend.com/en/Who%20We%20Are/Professionals/A/AghaianRaymondO16681.aspx)
 > als/A/AghaianRaymondO16681.aspx> |
 > vCard<[http://www.kilpatricktownsend.com/_assets/vcards/professionals/A](http://www.kilpatricktownsend.com/_assets/vcards/professionals/AghaianRaymondO.vcf)
 > ghaianRaymondO.vcf>
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 > <John.Borchert@usdoj.gov<mailto:John.Borchert@usdoj.gov>>
 > Date: Jul 20, 2017 4:05 AM
 > Subject: RE: Search Warrant and Preservation (LGL-74338)
 > To: "Christopher Ghazarian"
 > <christopher.ghazarian@dreamhost.com<mailto:christopher.ghazarian@dream
 > mhost.com>>
 > Cc: "legal@dreamhost.com<mailto:legal@dreamhost.com>"
 > <legal@dreamhost.com<mailto:legal@dreamhost.com>>, "Kerkhoff, Jennifer
 > (USADC)"
 > <Jennifer.Kerkhoff@usdoj.gov<mailto:Jennifer.Kerkhoff@usdoj.gov>>
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 > Regards,
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 > Jennifer (USADC) <JKerkhoff@usa.doj.gov<mailto:JKerkhoff@usa.doj.gov>>
 > Subject: Re: Search Warrant and Preservation (LGL-74338)
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> Hi John,
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> DreamHost is having its annual "All Hands" meeting; the entire company gathers offsite for a day-long meeting, and we're all out of the office in order to attend.
>
> You asked Karl about producing the data immediately since it has been "preserved since January." After reviewing the warrant, it looks like you are requesting additional data that wasn't included in the preservations ("any messages, records, files, logs, or information that have been deleted but are still available to DreamHost...."). Thus, in order for us to comply with your warrant, Karl is pulling all of the new information from our database.
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>
> Best,
>
> Chris Ghazarian | General Counsel
> 213.787.4401<tel:(213)%20787-4401> |
> chris@dreamhost.com<mailto:chris@dreamhost.com> |
> chris.law<https://www.linkedin.com/in/christopher-ghazarian-6917a528>
> 707 Wilshire Blvd, Suite 5050, Los Angeles, CA 90017
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> <image001.png>
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> We do appreciate your patience in the meantime.

> Sincerely,

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> DreamHost Compliance Team

> <http://www.dreamhost.com><<http://www.dreamhost.com>/>

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> John

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> John W. Borchert

> Deputy Chief -- Felony Major Crimes Trial Section Misdemeanor Trial

> Unit U.S. Attorney's Office for the District of Columbia

> Desk: 202-252-7679<tel:(202)%20252-7679> Mobile:

> 202-870-6071<tel:(202)%20870-6071>

> john.borchert@usdoj.gov<<mailto:john.borchert@usdoj.gov>>

>

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> Sent: Friday, July 14, 2017 7:56 PM

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> DreamHost Compliance Team

> <http://www.dreamhost.com><<http://www.dreamhost.com>/>

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> John
>
> John W. Borchert
> Deputy Chief -- Felony Major Crimes Trial Section Misdemeanor Trial
> Unit U.S. Attorney's Office for the District of Columbia
> Desk: 202-252-7679<tel:(202)%20252-7679> Mobile:
> 202-870-6071<tel:(202)%20870-6071>
> john.borchert@usdoj.gov<mailto:john.borchert@usdoj.gov>

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> _____
>

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