

Latita M. Huff  
United States Secret Service  
Freedom of Information Request  
950 H Street, NW  
Suite 3000  
Washington, DC 20223

July 27, 2005

Dear Ms. Huff:

On behalf of the Electronic Frontier Foundation (EFF), I am writing to request all agency records, including policy statements, correspondence, technology descriptions, contracts, and memoranda, concerning the Secret Service's efforts to promote the development and implementation of machine identification code (MIC) technology in color laser printers and color photocopiers. For the purposes of this request, MIC technology is defined as any software and/or hardware implemented or designed to be implemented in either color laser printers or color photocopiers that is intended to cause the machines to print in output documents a representation of machine-specific information such as a machine's serial number and manufacturer's name.

### 1. Background

On Nov. 22, 2004, *PC World* published an online article entitled "Government Uses Color Laser Printer Technology to Track Documents," which stated that "several printer companies quietly encode the serial number and the manufacturing code of their color laser printers and color copiers on every document those machines produce. Governments, including the United States, already use the hidden markings to track counterfeiters." The article quoted Lorelei Pagano, a counterfeiting specialist at the Secret Service, as saying that the markings are used only to investigate counterfeiting cases: "The only time any information is gained from these documents is purely in [the case of] a criminal act."

EFF's research indicates that Xerox and Canon color laser printers, among others, mark documents with minuscule yellow dots invisible to the unaided human eye, the arrangement of which likely encodes information such as a machine's serial number and manufacturer's name. On documents printed by Xerox printers, the markings consisted of yellow dots arranged in a 0.5 inch by 1.0 inch rectangular space. The arrangement of dots was repeatedly printed over an entire page. On documents printed by Canon printers, the markings also consisted of tiny yellow dots, but they were not arranged within a rectangular space. At first glance, the dots appear to be without rigid structure, but close examination reveals that they are merely arranged within a non-rectangular polygon. Since these yellow dots are small and blend easily with a white paper background, the unaided eye cannot distinguish the dots from the background.

The U.S. government is apparently not the only national government using the marking technology to deter counterfeiting activities. An Oct. 26, 2004, *PC World* article entitled “Dutch Track Counterfeits Via Printer Serial Numbers” explained that Dutch railway law enforcement officials were employing MIC technology to investigate a large-scale railway ticket counterfeiting operation. According to the article, since information about a user is not encoded directly into the arrangement of yellow dots, law enforcement agencies work with manufacturers to obtain the identities of the persons to whom the printers were sold. In a typical scenario, when a distributor sells a printer, it obtains information about the purchaser, which is maintained in a database. The purchaser’s identity is then associated with the serial number and the manufacturer’s name of the machine. A document whose author a government agency wants to discover contains only the serial number and manufacturer’s name of the machine on which it was printed, so, upon extracting this information from a document, the agency must consult the manufacturer or distributor responsible for selling the machine. The manufacturer or distributor then performs a database query to match the serial number to a purchaser’s name.

Xerox confirms the role of governments in requesting the deployment of this technology. The manufacturer writes in a German product information sheet:

Das digitale Farbdrucksystem DocuColor 5252 ist entsprechend der Forderung zahlreicher Regierungen mit einem fälschungssicheren Kennzeichnungs- und Banknotenerkennungssystem ausgerüstet. Jede Kopie wird mit einer Kennzeichnung versehen, die nötigenfalls die Identifizierung des Drucksystems ermöglicht, mit dem sie erstellt wurde. Dieser Code ist unter normalen Bedingungen nicht sichtbar.

(Translation: The DocuColor 5252 digital color printing system complies with the standards of numerous governments, equipped with a counterfeit protection marker system and currency recognition system. Each copy is tagged with a marker, that, if necessary, enables identification of the printing system with which it was created. This code is not visible under normal conditions.)

Additional information can be found on EFF’s website <http://www.eff.org/Privacy/printers>. Copies of the articles mentioned above, with relevant portions highlighted, are enclosed; they can also be found online at <http://www.pcworld.com/news/article/0,aid,118664,00.asp> and <http://www.pcworld.idg.com.au/index.php/id;1002274598>, respectively. The Xerox product information sheet is at <http://www.xerox.com/downloads/deu/de/7/708P87460DED.pdf>.

## 2. Specific Record Requests

Among the records that I am seeking, I request the following:

1. History
  - a. Records showing how and when the Secret Service or any other agency decided to promote the development and implementation of MIC technology in color laser printers and color photocopiers.

- b. Records identifying any employees of the Secret Service or any other agency who decided or helped decide to promote the development and implementation of MIC technology in color laser printers and color photocopiers.
  - c. Records of correspondences or meetings with manufacturers concerning the development and/or implementation of MIC technology or lack thereof.
  - d. Records of visits and travel by employees of the Secret Service or any other agency to offices or other facilities of color laser printer, color photocopier, software, or hardware manufacturers.
  - e. Records describing what contracts were made with which manufacturers, and when these contracts were created.
  - f. Records describing the reaction of manufacturers to the Secret Service's or any other agency's decision to promote the development and implementation of MIC technology.
  - g. Records describing the inducements and/or incentives offered by the Secret Service or any other agency to the manufacturers to ensure cooperation in developing and implementing MIC technology.
  - h. Records of proposals soliciting, or contracts procuring, the research and/or development of digital watermarking or other forensic marking technology or systems suitable for MIC technology.
  - i. Records naming the individual(s) who invented, modified, or adapted MIC technology for each manufacturer that implements MIC technology in its color laser printers and color photocopiers and when these individuals invented, modified, or adapted the technology.
  - j. Records of participation by employees of the Secret Service or any other agency or contractors in printing, imaging, or graphics conferences or fora, designed for participants in industry and/or academia, for the purpose of planning or encouraging the development and/or implementation of MIC technology.
  - k. Records describing the specifications to which all implementations of MIC technology had or have to conform.
  - l. Records describing attempts (or deliberations thereon) by the Secret Service or any other agency to have other design changes made to color laser printers and color photocopiers apart from MIC technology.
  - m. Records of correspondences or meetings between other national and international standards committees, legislative or regulatory bodies, and law enforcement officials concerning the development and implementation of MIC technology in color laser printers and color photocopiers.
2. Technology
- a. Records describing how to encode and/or to decode the machine identification codes of all implementations of MIC technology into meaningful, human-understandable values.
  - b. Records describing what information manufacturers encode into the markings produced by their MIC technology.
  - c. Records listing the individuals, agencies, and/or corporations who know how to encode and decode the markings produced by an implementation of MIC technology.

- d. Records describing whether the Secret Service or any other agency pays anyone or any organization to develop and/or implement MIC technology.
  - e. Records describing any system of records or databases created by the Secret Service or by another entity at the request of or in cooperation with the Secret Service or any other agency to facilitate the use of MIC technology.
3. Usage
- a. Records describing the purpose of developing and implementing MIC technology in color laser printers and color photocopiers.
  - b. Records describing specific situations in which MIC technology was used for counterfeiting investigations.
  - c. Records describing specific situations in which this technology was used for purposes other than the investigation of counterfeiting activities, such as identifying anonymous letters, pamphlets, memoranda, posters, and other paper items not related to counterfeiting activities.
  - d. Records describing specific situations in which this technology could potentially be used, especially for purposes other than the investigation of counterfeiting activities.
  - e. Memoranda discussing whether or explaining why the existence of MIC technology, how it works, and how to decode markings created thereby should not be publicized by the Secret Service.
  - f. Memoranda describing the measures that have been taken and/or will be taken to promote secrecy of MIC technology and implementations thereof.
  - g. Memoranda describing the potential consumer privacy issues related to MIC technology or public opinion of or reaction to the presence of MIC technology in color laser printers or color photocopiers.
  - h. Records showing deliberation on whether any or all aspects of MIC technology should be held secret, when such deliberation occurred and among whom, and under what authority the decision to keep any or all aspects thereof secret was made.
  - i. Records listing the color laser printers and color photocopiers that contain an implementation of MIC technology and when the implementation was first introduced into these particular machines.
  - j. Records listing the manufacturers who develop and/or implement MIC technology in their products.
  - k. Records listing or identifying any manufacturers that have fulfilled or agreed to fulfill document identification requests or related information requests submitted by the Secret Service or any other agencies.
4. Involvement of other agencies
- a. Records describing whether another local, state, or federal agency, department, or law enforcement agency:
    - i. Was or is involved in the use, development, or implementation of MIC technology;
    - ii. Possesses substantial number of records related to the use, development, or implementation of MIC technology; or

- iii. Has used or uses MIC technology for purposes other than deterring and investigating counterfeiting activities.

If EFF's request is denied in whole or part, we ask that you justify all deletions by reference to specific exemptions of the FOIA. EFF expects you to release all segregable portions of otherwise exempt material.

We further ask that all responsive records be produced as they are identified and gathered, rather than delaying production until all responsive records are found. EFF is open to negotiating a modification to this request where production of all responsive documents would be unreasonably voluminous. However, EFF reserves the right to appeal a decision to withhold any information or to deny a waiver of fees.

### 3. About EFF

The Electronic Frontier Foundation is the leading civil liberties organization working to protect rights in the digital world. Founded in 1990, EFF actively encourages and challenges industry and government to support free expression and privacy online. EFF is a member-supported non-profit organization and maintains one of the most linked-to websites in the world at <http://www.eff.org/>. It is engaged in disseminating information to the public, and records obtained through this request will be used to inform individuals of the Secret Service's involvement in the development, implementation, and regulation of this technology.

### 4. Request for Fee Waiver

Paragraph 6 CFR § 5.11(k) enumerates two requirements for a fee waiver, and the intended use of records responsive to this request fulfills these requirements and qualifies this request for a fee waiver. The first requirement ("Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government") is fulfilled because records pertaining to the counterfeiting deterrence code technology will show consumers the extent to which the Secret Service is potentially affecting their privacy for the sake of precluding the successful use of color machines for counterfeiting purposes. The first factor used to consider whether the first requirement is fulfilled ("The subject of the requested records must concern identifiable operations or activities of the federal government, with a connection that is direct and clear, not remote or attenuated") is met because the Secret Service's policies in encouraging manufacturers to implement this technology in their products is directly and clearly connected to the agency's interest in deterring counterfeiting activities and investigating counterfeiting cases.

The second factor ("The disclosable portions of the requested records must be meaningfully informative about government operations or activities in order to be 'likely to contribute' to an increased public understanding of those operations or activities") is met because the disclosed records will more than likely contribute to an increased public understanding of the Secret Service's operations or activities related to counterfeiting deterrence. The technology can be used to trace a document to its printer or photocopier, a potential danger that could prevent users

from creating anonymous documents. Records specifically related to color machines are not available in the public domain, so disclosure of such records is necessary.

The third factor (“The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester”) is met because the disclosed records will be understandable to members of the general public and because they will increase the public’s awareness about the potential danger to anonymity that color machines could pose. Given that it frequently issues press releases and maintains a popular website, EFF can effectively convey information to the public about this subject. It is committed to educating the public on legal and legislative issues that could potentially infringe on its civil liberties related to technology use.

Lastly, the fourth factor (“The public’s understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, must be enhanced by the disclosure to a significant extent”) is met because to our knowledge no record concerning the Secret Service’s policies on this counterfeiting deterrence technology has ever been disclosed. Disclosure of such records would significantly enhance the public’s understanding of the Secret Service’s involvement in the development of MIC technology.

The second requirement (“Disclosure of the information is not primarily in the commercial interest of the requester”) is fulfilled because the records responsive to this request will not be used for the commercial interest of EFF, which is a non-profit, non-commercial, and public interest organization.

## 5. Appeals

In the event that the request for expedited processing is denied, EFF reserves the right to appeal the denial pursuant to paragraph 6 CFR § 5.5(d)(4). In the event that the fee waiver application is denied in whole or in part, EFF agrees to pay the minimum applicable fees. Furthermore, in the event that this records request is denied in whole or in part, please justify all deletions by reference to specific exemptions of the FOIA. Please note that we expect you to release all segregable portions of otherwise exempt material and reserve the right to appeal your decision to withhold any of the information we have requested pursuant to paragraph 6 CFR § 5.9(a).

Thank you for your assistance.

Sincerely,

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