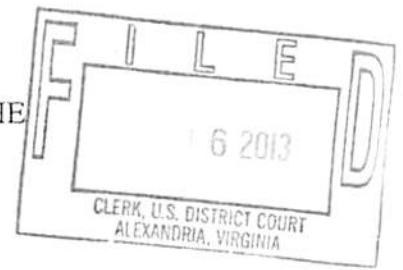


DOCKET 7

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

Alexandria Division



IN THE MATTER OF THE)	FILED UNDER SEAL
APPLICATION OF THE UNITED)	
STATES OF AMERICA FOR AN ORDER)	No. 1:13EC297
AUTHORIZING THE USE OF A PEN)	
REGISTER/TRAP AND TRACE DEVICE)	
ON AN ELECTRONIC MAIL ACCOUNT)	
)	
IN THE MATTER OF THE SEARCH AND)	
SEIZURE OF INFORMATION)	
ASSOCIATED WITH)	No. 1:13SW522
ed_snowden@lavabit.com THAT IS)	
STORED AT PREMISES CONTROLLED)	
BY LAVABIT LLC)	
)	
In re Grand Jury)	No. 13-1

**MOTION OF THE UNITED STATES TO PLACE
GRAND JURY SUBPOENA UNDER SEAL**

The United States, through the undersigned counsel, moves to place under seal the grand jury subpoena served on Ladar Levison, the owner and operator of Lavabit LLC. In support of this motion, the government submits:

1. The captioned proceedings have been placed under seal. The underlying investigation to which these matters relate is ongoing, and the public disclosure of the pen register order and the search warrant would undermine that investigation.
2. Mr. Levison was served with a grand jury subpoena for an appearance related to the matters under seal, namely the implementation of the pen register order issued in No. 1:13EC297 and the warrant to seize certain information from Lavabit LLC to implement the pen register in No. 1:13SW522. A copy of that subpoena is attached.

3. The same issues raised by the subpoena were discussed at the under seal hearing held today before this Court. At the hearing, Mr. Levison moved to unseal certain aspects of these proceedings so that the issues could be litigated publicly. That motion was denied.

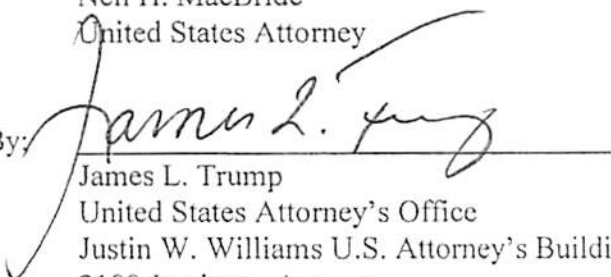
4. The grand jury subpoena specifically refers to Lavabit LLC and the pen register order. Hence, public disclosure of the subpoena would alert the target of the investigation that the government has sought a pen register order and search warrant to obtain information about his email communications, thus defeating the purpose of utilizing those investigative methods.

5. The government and the Court are under an obligation to maintain the secrecy of the grand jury, and an order compelling the government to place the grand jury subpoena under seal is unnecessary. Mr. Levison, however, is under no such obligation. Accordingly, consistent with the Court's denial of Mr. Levison's motion to unseal the pen register proceedings, the United States asks the Court to enter an order placing the grand jury subpoena under seal.

Respectfully submitted,

Neil H. MacBride
United States Attorney

By:


James L. Trump
United States Attorney's Office
Justin W. Williams U.S. Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314
Phone: 703-299-3700

AO 110 (Rev. 01/09) Subpoena to Testify Before a Grand Jury

13-1 / 13GJ2527 / 13-2451

United States District Court
for the

Eastern District of Virginia

SUBPOENA TO TESTIFY BEFORE THE GRAND JURY

TO: Ladar Norman Levison

[REDACTED]

 Dallas, TX 75204

YOU ARE COMMANDED to appear and testify before the United States district court at the time, date, and place shown below to testify before the court's grand jury. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: UNITED STATES DISTRICT COURT 401 Courthouse Square Alexandria, Virginia 22314	Date and Time: July 16, 2013 9:30 AM
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You must also bring with you the following documents, electronically stored information, or objects (blank if not applicable):

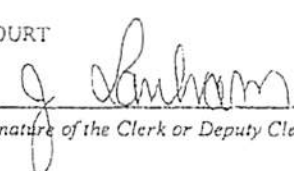
In addition to your personal appearance, you are directed to bring to the grand jury the public and private encryption keys used by lavabit.com in any SSL (Secure Socket Layer) or TLS (Transport Security Layer) sessions, including HTTPS sessions with clients using the lavabit.com web site and encrypted SMTP communications (or Internet communications using other protocols) with mail servers;

Any other information necessary to accomplish the installation and use of the pen/trap device ordered by Judge Buchanan on June 28, 2013, unobtrusively and with minimum interference to the services that are accorded persons with respect to whom the installation and use is to take place;

If such information is electronically stored or unable to be physically transported to the grand jury, you may provide a copy of the information to the Federal Bureau of Investigation. Provision of this information to the FBI does not excuse your personal appearance.

Date: July 11, 2013

CLERK OF COURT


 Signature of the Clerk or Deputy Clerk

The name, address, email, and telephone number of the United States attorney, or assistant United States attorney, who requests this subpoena, are:

Andrew Peterson, AUSA ^R
 Office of the United States Attorney
 Justin W. Williams United States Attorney's Building
 2100 Jamieson Avenue
 Alexandria, Virginia 22314 (703) 299-3700

AO 110 (Rev. 01/09) Subpoena to Testify Before a Grand Jury (Page 2)

PROOF OF SERVICE

This subpoena for (name of individual or organization) Ladar Norman Levinson
was received by me on (date) July 11, 2013.

- ☒ I personally served the subpoena on the individual at (place) [REDACTED]
Dallas, Texas on (date) July 11, 2013; or
- ☐ I left the subpoena at the individual's residence or usual place of abode with (name) _____, a person of suitable age and discretion who resides there, on (date) _____, and mailed a copy to the individual's last known address; or
- ☐ I served the subpoena on (name of individual) _____, who is designated by law to accept service of process on behalf of (name of organization) _____ on (date) _____; or
- ☐ I returned the subpoena unexecuted because _____; or
- ☐ Other (specify): _____

I declare under the penalty of perjury that this information is true.

Date: July 11, 2013

[Signature]
Server's signature

Robert Smith, Special Agent
Printed name and title

FBI - Dallas
Server's address

Additional information regarding attempted services, etc: