

FILED

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

Alexandria Division

2014 SEP 26 P 4:18

UNITED STATES OF AMERICA)

v.)

HAMMAD AKBAR,)

Defendant.)

Civil No. 1:14-cv-

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

1273 (LMB/IDD)

FILED EX PARTE AND UNDER SEAL¹

COMPLAINT

Plaintiff, the United States of America, by and through its undersigned counsel, alleges the following:

1. This is a civil action brought under Title 18, United States Code, Section 2521, and Federal Rule of Civil Procedure 65, to enjoin the Defendants from continuing to engage in violations of Title 18, United States Code, Sections 2512(1)(b) (sale of an interception device), 2512(1)(c)(i) (advertisement of a known interception device), and 2512(1)(c)(ii) (advertising a device as an interception device), by means of marketing, advertising, and selling a mobile spyware application ("app") that illegally intercepts wire and electronic communications made using smartphones.

2. StealthGenie is an app designed to run on a variety of mobile smartphone platforms, including Google Inc.'s Android platform, Blackberry Limited's Blackberry platform, and Apple Inc.'s iPhone platform. It surreptitiously intercepts a variety of both outgoing and incoming wire and electronic transmissions to and from the smartphone on which it is installed.

¹ This filing is accompanied by a Motion to Seal and a Memorandum in Support, as required by Local Civil Rule 5(D).

Parties

3. Plaintiff is the United States of America.

4. Defendant Hammad Akbar is a citizen of Pakistan believed to be residing at 48 D-1a Gulberg III, off MM Alam Road, Lahore, 54660, PAKISTAN. Akbar is the Chief Executive Officer of InvoCode Pvt Ltd (“InvoCode”), the company that sells the StealthGenie app. He is a leader of the criminal conspiracy responsible for StealthGenie.

Jurisdiction and Venue

5. Subject matter jurisdiction lies pursuant to Title 18, United States Code, Sections 1345(a)(1) and 2521 and Title 28, United States Code, Sections 1331 and 1345.

6. Defendant is subject to the personal jurisdiction of this Court, having sold and advertised StealthGenie using a computer server located at an Amazon Web Services, Inc. data center located in Ashburn, Virginia, which is in the Eastern District of Virginia.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2).

Sale and Advertisement of StealthGenie

8. Akbar and his employees and agents created StealthGenie. The app was designed with numerous functionalities that permitted it to intercept a variety of both outgoing and incoming wire and electronic transmissions to and from the smartphone on which it was installed. These functionalities included the interception of the following types of wire and electronic communications:

- a. Call Recording: Records all incoming/outgoing voice calls or those specified by the purchaser of the app (hereinafter “purchaser”);

- b. Call Interception: Allows the purchaser to intercept calls on the phone to be monitored while they take place, without the knowledge of the monitored smartphone user (hereinafter “user”);
 - c. Recorded Surroundings: Allows the purchaser to call the phone and activate it at any time to monitor all surrounding conversations within a fifteen (15)-foot radius without the knowledge of the user;
 - d. Electronic Mail: Allows the purchaser to monitor the incoming and outgoing e-mail messages of user, read their saved drafts, and view attachments;
 - e. SMS: Allows the purchaser to monitor the user’s incoming and outgoing SMS messages;
 - f. Voicemail: Allows the purchaser to monitor incoming voicemail messages;
 - g. Contacts: Allows the purchaser to monitor the entries in the user’s address book;
 - h. Photos: Allows the purchaser to monitor the photos on the user’s phone;
 - i. Videos: Allows the purchaser to monitor the videos on the user’s phone; and
 - j. Appointments: Allows the purchaser to monitor the user’s calendar entries.
9. Akbar and his employees and agents created a website to advertise StealthGenie,

www.stealthgenie.com, and hosted this website at a U.S.-based provider, Amazon Web Services, Inc. headquartered in Seattle Washington (hereinafter “AWS”). AWS provides web hosting services in the United States, including at a data center located in Ashburn, Virginia, which is in the Eastern District of Virginia. Language and testimonials on this website focused significantly on potential purchasers who did not have any ownership interest in the phone to be monitored, including those suspecting a spouse or romantic partner of infidelity.

10. The domain name stealthgenie.com is registered at Verisign, Inc. located in Reston, Virginia 20190. Akbar and his employees and agents developed the testimonials for the website advertising StealthGenie, meaning they appear to be fictitious.

11. Akbar and his employees and agents sell StealthGenie at this website to purchasers both inside and outside of the United States.

12. Akbar and his employees and agents operate an online portal, located at subdomain cp.stealthgenie.com, that allows purchasers to review the wire and electronic communications intercepted from smartphone users. The intercepted communications, which included volumes of sensitive and personal information, are stored at AWS.

13. Akbar and his employees and agents programmed StealthGenie to permit the app to synchronize the wire and electronic communications intercepted by the app with the server hosting the StealthGenie website in close-to-real time. This allows users to, at their option, review intercepted communications almost immediately, from any computer with access to the Internet.

14. Akbar and his employees and agents programmed StealthGenie to make the app undetectable to average smartphone users, once operational. To install the app, a purchaser needs only to obtain physical control over the phone to be monitored for a few minutes. The

purchaser can then review communications intercepted from the monitored phone without ever again having physical control over the phone.

15. Akbar and his employees and agents developed a business plan for the development, sale, and advertisement of StealthGenie. This document explained that “StealthGenie application [once] installed on the phone is 100% undetectable and starts to upload onto the online server instantly.” The document also noted that “[o]nce installed, the [S]tealth[G]enie application is completely undetectable and runs in the background of the mobile phone without disturbing any of the other functions running. . . . User only needs access to the target phone one time. Once installed, everything can be controlled from the online interface.”

16. This business plan also stated that the first target population for the marketing of the app was “[s]pousal cheat: Husband/Wife of boyfriend/girlfriend suspecting their other half of cheating or any other suspicious behaviour or if they just want to monitor them.” The document further explained that this “[s]pousal cheat” market would likely constitute sixty-five percent (65%) of total StealthGenie purchasers, and noted, “According to our market research[,] the majority chunk of the sales will come from people suspecting their partners to be cheating on them or just wanting to keep an eye on then [sic].”

17. On or about December 14, 2012, via www.stealthgenie.com, hosted by AWS, Akbar and his employees and agents sold the Android version of StealthGenie to an undercover agent of the Federal Bureau of Investigation in the Eastern District of Virginia.

18. On or about December 17, 2012, Akbar and his employees and agents made available wire and electronic communications intercepted from a smartphone transmitting such communications in the Eastern District of Virginia, to wit, by intercepting wire and communications from an Android smartphone operated by an undercover agent of the Federal

Bureau of Investigation and then making such communications available on the StealthGenie website.

19. As of the date of this Complaint, the StealthGenie website and its associated domain name remain active and operational. The website continues to be hosted by AWS.

COUNT I
(Injunctive Relief under 18 U.S.C. § 2521)

20. The United States of America alleges and incorporates by reference the preceding paragraphs of this Complaint as if fully set forth herein.

21. Defendant is engaging in violations of Title 18, United States Code, Sections 2512(1)(b) (sale of an interception device), 2512(1)(c)(i) (advertisement of a known interception device), and 2512(1)(c)(ii) (advertising a device as an interception device), by means of marketing, advertising, and selling StealthGenie.

Pursuant to Title 18, United States Code, Section 2521, the United States of America requests the issuance of a temporary restraining order, preliminary injunction, and permanent injunction against the defendants and their agents in order to prevent a continuing and substantial injury to unknowing smartphone users whose communications are being surreptitiously intercepted by StealthGenie.

PRAYER FOR RELIEF

WHEREFORE, the United States of America prays that the Court:

A. Pursuant to Title 18, United States Code, Section 2521, enter a preliminary injunction and permanent injunction against the Defendant and his agents, servants, employees, and all persons and entities in active concert or participation with him from engaging in any of the activity complained of herein or from causing any of the injury complained of herein and

from assisting, aiding or abetting any other person or business entity from engaging in or performing any of the activity complained of herein or from causing any of the injury complained of herein;

B. Order such other relief that the Court deems just and proper.

Respectfully submitted,

Dana J. Boente
United States Attorney

By:


Kevin J. Mikolashek
Jay V. Prabhu
Assistant United States Attorneys
United States Attorney's Office
Counsel for the United States
2100 Jamieson Avenue
Alexandria, VA 22314
Phone: (703) 299-3700
Fax: (703) 299-3981
Email: jay.prabhu@usdoj.gov
Kevin.mikolashek@usdoj.gov

William A. Hall, Jr.
Trial Attorney
Criminal Division, U.S. Department of Justice
1301 New York Ave., NW, Ste. 600
Washington, DC 20530
Phone: (202) 353-4249
Fax: (202) 514-6113
Email: william.a.hall@usdoj.gov

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

Hammad Akbar

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Unknown

(c) Attorneys (Firm Name, Address, and Telephone Number)

AUSAs Kevin Mikolashek and Jay Prabhu, U.S. Attorney's Ofc., 2100 Jamieson Avenue, Alexandria, Virginia 22314 703.299.3700

Attorneys (If Known)

Unknown

2014 SEP 26 P 4:18

CIVIL DISTRICT COURT
ALEXANDRIA, VIRGINIA

1:14-CV-1273

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice	PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☒ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education	PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. sec. 2512, 2521

Brief description of cause:

Request for injunctive relief to prevent defendant from selling or marketing an illegal surveillance product.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE T.S. Ellis

DOCKET NUMBER 1:14-cr-276

DATE

9/26/2014

SIGNATURE OF ATTORNEY OF RECORD

Kevin J. Mikolashek, AUSA

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____