

United States Courts
Southern District of Texas
FILED

MAY 24 2006

Michael N. Milby, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN THE MATTER OF THE APPLICATION OF THE §
UNITED STATES OF AMERICA FOR AN ORDER §
AUTHORIZING (1) INSTALLATION AND USE OF A §
PEN REGISTER AND TRAP AND TRACE DEVICE § MAGISTRATE NO. H-06-356M
OR PROCESS, (2) ACCESS TO CUSTOMER §
RECORDS, AND (3) CELL PHONE TRACKING §

ORDER

The Court has issued an Order in this case as well as cases H-06-357M, H-06-358M, and H-06-359M, granting in part applications by the Government seeking orders pursuant to Title 18, United States Code §§ 3123 and 2703(d). In its Orders, the Court denied requested access to any post-cut-through dialed digits which could possibly reveal call contents. Post-cut-through dialed digits can represent call content, such as bank account numbers, Social Security numbers etc. By definition, the information obtainable by a pen register “shall not include the contents of any communication.” 18 U.S.C. § 3127(3).

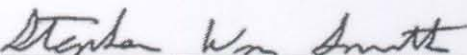
The Court has agreed, at the Government’s informal request, to reconsider the issue of law enforcement’s entitlement to post-cut-through dialed digits under the Pen/Trap Statute. To assist in its determination, the Court will consider in-depth briefing on the issue from the Government, and other interested parties. It is therefore

ORDERED, that the Government shall file on or before June 16, 2006 a brief addressing the following matters:

1. All legal authority supporting its contention that post-cut-through dialed digits are obtainable under the Pen/Trap Statute, including statutes, regulations, case law, legislative history, and secondary legal authorities;

2. Whether technology is reasonably available to separate content from non-content in post-cut-through dialed digits. If not, please explain why currently available technologies are inadequate or infeasible from the perspective of law enforcement.

Signed on May 24, 2006, at Houston, Texas.



Stephen Wm Smith
United States Magistrate Judge