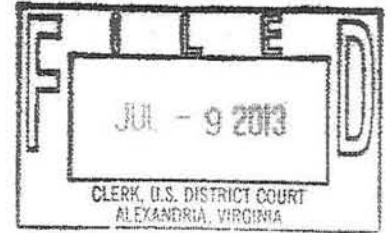


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA


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)

**MOTION OF THE UNITED STATES
FOR AN ORDER TO SHOW CAUSE**

The United States, through the undersigned counsel, pursuant to Title 18, United States Code, Section 401, hereby moves for the issuance of an order directing Ladar Levison, the owner and operator of Lavabit LLC, an electronic communications service provider, to show cause why Lavabit LLC has failed to comply with the orders entered June 28, 2013, in this matter and, as a result, why this Court should not hold Mr. Levison and Lavabit LLC in contempt for its disobedience and resistance to these lawful orders. The United States further requests that the Court convene a hearing on this motion on July 16, 2013, at 10:00 a.m., and issue a summons directing Mr. Levison to appear before this Court on that date. In support of this motion, the United States represents:

1. The United States is conducting a criminal investigation of 

A large rectangular area of the document is completely redacted with black ink, covering several lines of text.

[REDACTED]

2. [REDACTED]

[REDACTED]

On June 10, 2013, the United States obtained an order pursuant to 18 U.S.C. § 2703(d) directing Lavabit LLC to provide, within ten days, additional records and information about [REDACTED] email account. Mr. Levison received that order on June 11, 2013. Mr. Levison responded by mail, which was not received by the government until June 27, 2013. Mr. Levison provided very little of the information sought by the June 10, 2013 order.

3. On June 28, 2013, the United States obtained a pen register/trap and trace order on [REDACTED] email account, a copy of which is attached together with the application for that order.

4. On June 28, 2013, FBI special agents met Mr. Levison at his residence in Dallas, Texas, and discussed the prior grand jury subpoena served on Lavabit LLC and the pen register order entered that day. Mr. Levison did not have a copy of the order when he spoke with the agents, but he received a copy from the FBI within a few minutes of their conversation. Mr. Levison told the agents that he would not comply with the pen register order and wanted to speak to an attorney. It was unclear whether Mr. Levison would not comply with the order because it was technically not feasible or difficult or because it was not consistent with his business practice of providing secure, encrypted email service for his customers.

5. On June 28, 2013, after this conversation with Mr. Levison, the United States obtained an Order Compelling Compliance Forthwith, which directed Lavabit to comply with the pen register order. Copies of that motion and order are attached.

6. Since June 28, 2013, the FBI has made numerous attempts, without success, to speak and meet directly with Mr. Levison to discuss the pen register order and his failure to provide "all information, facilities, and technical assistance necessary to accomplish the installation and use of the pen/trap device" as required by that order. As of this date, Lavabit LLC has not complied with the order.

7. The United States requests that the Court enter the attached proposed order directing Mr. Levison to show cause why Lavabit LLC has failed to comply with the pen register order and why, therefore, he should not be held in contempt. The United States requests that this show cause hearing be scheduled for July 16, 2013, at 10:00 a.m., and that a summons be issued directing Mr. Levison to appear before this Court on that date.

8. The June 10, 2013 Section 2703(d) Order and the June 28, 2013 pen register order remain under seal. In addition, these orders provide that Lavabit LLC shall not disclose the existence of the government's applications and the orders to the subscriber [REDACTED] or to any other persons unless otherwise authorized to do so by court order, except that Lavabit LLC may disclose the orders to an attorney for the purpose of obtaining legal advice regarding these orders. The United States requests that these documents remain under seal, that the non-disclosure

provisions of the orders remain in effect, and that this motion and order and any subsequent pleadings and/or proceedings regarding this motion also be sealed.

Respectfully submitted,

Neil H. MacBride
United States Attorney

By: 

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**PROPOSED
ORDER TO SHOW CAUSE**

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

Alexandria Division

IN THE MATTER OF THE) **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)

ORDER TO SHOW CAUSE

Upon motion of the United States pursuant to Title 18, United States Code, Section 401,
good cause having been shown, IT IS HEREBY ORDERED:

1. Ladar Levison, the owner and operator of Lavabit LLC, an electronic
communications service provider, shall appear before this Court on July 16, 2013, at 10:00 a.m.,
at which time he shall show cause why Lavabit LLC has failed to comply with the orders entered
June 28, 2013, in this matter and why this Court should not hold Mr. Levison and Lavabit LLC in
contempt for its disobedience and resistance to these lawful orders;

2. The Clerk's Office shall issue a summons for the appearance of Mr. Levison on
July 16, 2013, at 10:00 a.m. The Clerk's Office shall provide the Federal Bureau of Investigation
with a certified copy of the summons for service on Mr. Levison and Lavabit LLC.

3. The Federal Bureau of Investigation shall serve the summons on Mr. Levison
together with a copy of the Motion of the United States for an Order to Show Cause and a
certified copy of this Order to Show Cause.

4. The sealing and non-disclosure provisions of the June 10, 2013 Section 2703(d)
order and the June 28, 2013 pen register order shall remain in full force and effect. Mr. Levison

and Lavabit LLC shall not disclose the existence of these applications, motions, and court orders, including this Order to Show Cause, to the subscriber or to any other persons unless otherwise authorized to do so by court order, except that Lavabit LLC may disclose the orders to an attorney for the purpose of obtaining legal advice regarding these orders.

5. This Order, the Motion of the United States for an Order to Show Cause, and any subsequent pleadings and proceedings regarding this matter shall be placed under seal until further order of this Court.

Entered in Alexandria, Virginia, this ____ day of July, 2013

Claude M. Hilton
United States District Judge