

January 26, 2015

Eric E. Schmidt Chairman Kent Walker Senior Vice President & General Counsel 1600 Amphitheatre Parkway Mountain View, CA 94043 <u>eric.schmidt@google.com</u> <u>kentwalker@google.com</u>

By Electronic and Certified Mail

Mr. Schmidt,

On December 23, 2014 Google sent notifications to our clients Sarah Harrison, Kristinn Hrafnsson and Joseph Farrell, journalists and editors for the publishing organization WikiLeaks, that pursuant to search and seizure warrants Google provided federal law enforcement officials all of their Google e-mail content, subscriber information, metadata, and other content.

According to the warrants the investigation concerns espionage (18 U.S.C. § 793(d)), conspiracy to commit espionage (18 U.S.C. § 793(g)), the theft or conversion of property belonging to the United States government (18 U.S.C. § 641), violation of the Computer Fraud and Abuse Act (18 U.S.C. § 1030), and conspiracy (18 U.S.C. § 371).

We are astonished and disturbed that Google waited over two and a half years to notify its subscribers that a search warrant was issued for their records.

The failure to notify followed a conversation you had with our client Julian Assange on April 19, 2011 in which he informed you of previous orders issued to Twitter seeking records regarding affiliates of WikiLeaks.

"Julian Assange: So we're fighting this case now, with Twitter, we've done three court hearings now, trying to get the names of the other companies that fulfilled the subpoenas for the grand jury in the US. Twitter resisted and so that's how some of us became aware. They argued that we should be told that there was a subpoena...

Eric Schmidt: I can certainly pass on your request to our general counsel.

Julian Assange: Tell them to argue that we should be told.

Eric Schmidt: So your specific request is that Google argue legally that WikiLeaks as an organization should be informed... OK. I'll pass that along."



Twitter challenged the government so it could notify its subscribers of the orders, and prevailed. Mr. Assange requested that Google, like Twitter, argue for WikiLeaks to receive notice if Google received similar orders. We are surprised that Google appears to have failed to act upon this request, causing notice to our clients to be delayed more than two and a half years.

Nor, among other failures, did Google provide our clients with a list of all materials provided to law enforcement, or the pendency of any legal proceedings.

Had Ms. Harrison, Mr. Hrafnsson, or Mr. Farrell been aware of such proceedings they could have intervened and protected their interests including their rights to privacy, association and freedom from illegal searches. While it is too late for our clients to have the notice they should have had, they are still entitled to a list of Google's disclosures to the government and an explanation why Google waited more than two and a half years to provide any notice.

Set forth below is a list of materials that are necessary to protect their rights.

I. MATERIALS REQUESTED

We ask that you provide us with the following:

** A list of all materials Google disclosed or provided to law enforcement in response to these search warrants;

** A copy of the court order referenced in Google's e-mails to our clients; and

** Any other legal process or communications involving Google, law enforcement, and/or the Eastern District of Virginia relating to these warrants.

II. INFORMATION REQUESTED

We request the following information:

Notice

** What was the basis for Google not notifying our clients immediately that a search warrant was issued for their records?

** What was the basis for Google not notifying our clients immediately when it released information to the government in response to search warrants?

Challenges

** Did Google initiate any legal challenge to the search warrants before complying with them? ** Did Google initiate any legal challenge in order to notify our clients during the more than two-and-a-half year period that Google was aware of these warrants?



Compliance

** When was Google notified by the Eastern District of Virginia that it could release the above search warrants to our clients?

** Have any other government information requests, including but not limited to search warrants, subpoenas, or 2703(d) orders, been submitted for our clients?

** What other Google subscribers affiliated with WikiLeaks received search warrants for their records in connection with this matter?

We appreciate your cooperation in this matter and hope to hear from you soon. Please respond via e-mail to <u>mratner@ccrjustice.org</u>, <u>careyshenkman@riseup.net</u> and <u>ratnerkunstler@riseup.net</u>.

Michal Rohm

Michael Ratner President Emeritus, Center for Constitutional Rights

Carey Shenkman

Counsel for WikiLeaks Julian Assange Sarah Harrison Kristinn Hrafnsson Joseph Farrell

CC: Kent Walker

Google Reference Numbers: 0-5929000005525 2-3042000005569 7-1557000005686

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