

17 MAG 5207

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re Grand Jury Subpoena to Google, Inc., Regarding:



and USAO Reference No. 2017R00550

**Application for § 2705(b)  
Grand Jury Non-Disclosure  
Order to Service Provider**

**SEALED**

**Docket No.** \_\_\_\_\_

STATE OF NEW YORK    )  
                                  ) ss.  
COUNTY OF NEW YORK )

 pursuant to Title 28, United States Code, Section 1746, hereby affirms under penalty of perjury the truth of the facts set forth herein:

1. I am an Assistant United States Attorney in the Office of the United States Attorney for the Southern District of New York and am familiar with the investigation underlying this request. I respectfully submit this application under 18 U.S.C. § 2705(b) for an order to Google, Inc., (the "Service Provider"), headquartered at 1600 Amphitheatre Parkway, Mountain View, CA 94043, not to notify any person (including the subscribers or customers of the account(s) listed in the attached subpoena) of the existence of the attached subpoena for a period of 180 days from the date of the non-disclosure order herein requested.

2. The Service Provider is a provider of an electronic communication service or a remote computing service within the meaning of 18 U.S.C. §§ 2510(15) & 2711(2). Section 2703(c)(2) of Title 18 authorizes the Government to obtain enumerated subscriber information and certain other non-content information from a provider of an electronic communication service or a remote computing service via grand jury subpoena. The Government is preparing to serve a grand jury subpoena, in the form attached to the accompanying proposed Non-Disclosure Order, on the Service Provider directing it to disclose information within those categories.

3. When the Government seeks such information via grand jury subpoena, 18 U.S.C. § 2705(b) authorizes the Court to issue an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in--

- (1) endangering the life or physical safety of an individual;
- (2) flight from prosecution;
- (3) destruction of or tampering with evidence;
- (4) intimidation of potential witnesses; or
- (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

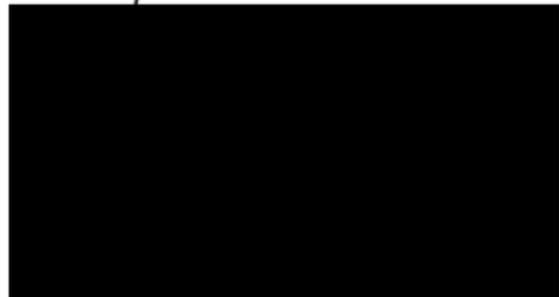
4. In this case, such an order would be appropriate because the attached subpoena relates to an ongoing criminal investigation that is neither public nor otherwise known to all targets of the investigation, the account holder is suspected of being involved in or associated with persons involved in the conduct under investigation, and disclosure of the subpoena to the account owner or to any other person may alert subjects or targets of the ongoing investigation. Accordingly, there is reason to believe that notification of the existence of the attached subpoena will seriously jeopardize the investigation, including by giving targets an opportunity to flee or avoid prosecution, or tamper with evidence, including electronically stored information that is easily tampered with. The Government anticipates that these circumstances will continue for the next 180 days. Accordingly, the Government believes that 180 days is an appropriate delay of notice period for the Court to order, subject to extension upon further application if necessary.

5. For the reasons set forth above, the Government further requests that the Court order that this Application and any resulting order be sealed until further order of the Court, except that the Government may provide copies of the application and order as need be to personnel assisting the Government in the investigation and prosecution of this matter, and may disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

6. No prior request for the relief set forth herein has been made.

WHEREFORE the Government respectfully requests the Court to enter the accompanying proposed 2705(b) Non-Disclosure Order.

Dated: New York, New York  
July 11, 2017





U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

July 13, 2017

**BY EMAIL**

Google, Inc.  
Attn: Legal Department  
1600 Amphitheatre Parkway  
Mountain View, CA 94043  
[REDACTED]

To whom it may concern:

Please be advised that the accompanying grand jury subpoena has been issued in connection with an official criminal investigation of a suspected felony being conducted by a federal grand jury. **Pursuant to the accompanying non-disclosure order issued under 18 U.S.C. § 2705(b), you are prohibited from notifying any subscriber or other third-party of the existence of this subpoena for a period of 180 days from the date of the order. If you ever plan to notify the relevant subscriber(s) of the existence of this subpoena, even after the 180-day period, please advise me before you do so, in case the investigation remains ongoing and the order needs to be renewed.**

**You are hereby directed to preserve, under the provisions of 18 U.S.C. § 2703(f)(1) any and all information, including, if applicable, all emails/attachments or other content information, as well as any backup copies of such data or data designated for deletion, pertaining to the domain(s) and account(s) referenced in the accompanying subpoena, for a period of 90 days. This letter applies only retrospectively; it does not obligate you to capture and preserve new information that arises after the date of this letter.**

Thank you for your cooperation in this matter.

Sincerely,

JOON H. KIM  
Acting United States Attorney

By: [REDACTED]

Assistant United States Attorney  
Southern District of New York  
[REDACTED]

United States District Court  
SOUTHERN DISTRICT OF NEW YORK

TO: Google, Inc.  
Attn: Legal Department  
1600 Amphitheatre Parkway  
Mountain View, CA 94043

GREETINGS:

WE COMMAND YOU that all and singular business and excuses being laid aside, you appear and attend before the GRAND JURY of the people of the United States for the Southern District of New York, at the United States Courthouse, 40 Foley Square, Room 220, in the Borough of Manhattan, City of New York, New York, in the Southern District of New York, at the following date, time and place:

Appearance Date: July 21, 2017 Appearance Time: 10:00 a.m.

to testify and give evidence in regard to an alleged violation of :

18 U.S.C. §§ 1341, 1343

and not to depart the Grand Jury without leave thereof, or of the United States Attorney, and that you bring with you and produce at the above time and place the following:

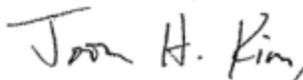
See Attached Rider

Personal appearance is not required if the requested records are (1) produced by on or before the return date to Investigator [REDACTED]

[REDACTED] and (2) accompanied by an executed copy of the attached Declaration of Custodian of Records. **PLEASE PROVIDE IN ELECTRONIC FORMAT IF POSSIBLE.**

Failure to attend and produce any items hereby demanded will constitute contempt of court and will subject you to civil sanctions and criminal penalties, in addition to other penalties of the Law.

DATED: New York, New York  
July 13, 2017

  
JOON H. KIM  
Acting United States Attorney for the  
Southern District of New York

[REDACTED]  
Assistant United States Attorney  
One St. Andrew's Plaza  
New York, New York 10007  
Telephone: [REDACTED]



RIDER

(Grand Jury Subpoena to Google, Inc., dated July 13, 2017)

Please provide all records for any accounts registered to or associated with the following identifiers:

- [REDACTED]

- As well as any other accounts associated with the domain "helpfulexperts.com"

All records should include, but are not limited to, the following:

1. All email accounts hosted by Google using the domain name "helpfulexperts.com" and the below information for any such accounts, in addition to the above-listed accounts;
2. All subscriber identifying information, including, but not limited to:
  - a. name
  - b. username or other subscriber identity or number
  - c. address
  - d. primary and alternate telephone numbers
  - e. primary and alternate email addresses
  - f. date of birth
  - g. social security number
  - h. any temporarily assigned network address
  - i. MAC address
  - j. Browser and operating system information
3. Records of session times and durations and any IP addresses used by the subscriber at the beginning, end, and at any time during these sessions;
4. Length of service (including start date) and types of service utilized;
5. Means and source of payment for services (including any credit card or bank account number);
6. Account notes and logs, including any customer-service communications or other correspondence with the subscriber; and
7. Investigative files or user complaints concerning the subscriber, account, or email address.

N.B.: Personal appearance is not required if the requested records are (1) produced by on or before the return date to Investigator [REDACTED]; and (2) accompanied by an executed copy of the attached Declaration of Custodian of Records. PLEASE PROVIDE IN ELECTRONIC FORMAT IF POSSIBLE.

**IMPORTANT: REQUEST FOR NON-DISCLOSURE**

Due to the ongoing nature of the investigation, it is requested that you do not disclose any information relating to this Grand Jury subpoena request to any third party.

Declaration of Custodian of Records

Pursuant to 28 U.S.C. § 1746, I, the undersigned, hereby declare:

My name is \_\_\_\_\_  
(name of declarant)

I am a United States citizen and I am over eighteen years of age. I am the custodian of records of the business named below, or I am otherwise qualified as a result of my position with the business named below to make this declaration.

I am in receipt of a Grand Jury Subpoena, dated July 13, 2017, and signed by Assistant United States Attorney [REDACTED], requesting specified records of the business named below. Pursuant to Rules 902(11) and 803(6) of the Federal Rules of Evidence, I hereby certify that the records provided herewith and in response to the Subpoena:

- (1) were made at or near the time of the occurrence of the matters set forth in the records, by, or from information transmitted by, a person with knowledge of those matters;
- (2) were kept in the course of regularly conducted business activity; and
- (3) were made by the regularly conducted business activity as a regular practice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
(date)

\_\_\_\_\_  
(signature of declarant)

\_\_\_\_\_  
(name and title of declarant)

\_\_\_\_\_  
(name of business)

\_\_\_\_\_  
(business address)

Definitions of terms used above:

As defined in Fed. R. Evid. 803(6), "record" includes a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses. The term, "business" as used in Fed. R. Evid. 803(6) and the above declaration includes business, institution, association, profession, occupation, and calling of every kind, whether or not conducted for profit.

17 MAG 5207

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In Re Grand Jury Subpoena to Google, Inc., Regarding:

[REDACTED]

and USAO Reference No. 2017R00550

2705(b) Non-Disclosure Order

SEALED

Docket No. \_\_\_\_\_

Upon the application of the United States pursuant to 18 U.S.C. § 2705(b):

1. The Court hereby determines that there is reason to believe that notification of the existence of the attached subpoena will result in one or more of the following consequences, namely, endangering the life or physical safety of an individual; flight from prosecution; destruction of or tampering with evidence; intimidation of potential witnesses; or otherwise seriously jeopardizing an investigation or unduly delaying a trial.

Accordingly, it is hereby ORDERED:

2. Google, Inc. (the "Service Provider") shall not, for a period of 180 days from the date of this Order (and any extensions thereof), disclose the existence of this Order or the attached subpoena, to the listed subscriber of the accounts referenced in the subpoena, or to any other person, except that the Service Provider may disclose the attached subpoena to an attorney for the Service Provider for the purpose of receiving legal advice.

3. This Order and the Application upon which it was granted are to be filed under seal until otherwise ordered by the Court, except that the Government may without further order provide copies of the Application and Order as need be to personnel assisting the Government in the investigation and prosecution of this matter, and disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

Dated: New York, New York

JUL 12 2017

S/Andrew J. Peck

UNITED STATES MAGISTRATE JUDGE

ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK