

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant to Search a  
Certain E-Mail Account Controlled and  
Maintained By Microsoft Corporation

Case Nos. 13-MAG-2814; M9-150

**STIPULATION REGARDING CONTEMPT ORDER**

In response to the Court's order of August 29, 2014, lifting the stay in execution of the July 31, 2014 order, the parties to this proceeding, Microsoft Corporation and the United States of America, hereby jointly stipulate:

1. Microsoft has not fully complied with the Warrant, and Microsoft does not intend to so comply while it in good faith seeks further review of this Court's July 31 decision rejecting Microsoft's challenge to the Warrant.
2. While Microsoft continues to believe that a contempt order is not required to perfect an appeal, it agrees that the entry of an order of contempt would eliminate any jurisdictional issues on appeal. Thus, while reserving its rights to appeal any contempt order and the underlying July 31 ruling, Microsoft concurs with the Government that entry of such an order will avoid delays and facilitate a prompt appeal in this case.
3. The parties further agree that contempt sanctions need not be imposed at this time. The Government, however, reserves its right to seek sanctions, in

addition to the contempt order, in the case of (a) materially changed circumstances in the underlying criminal investigation, or (b) the Second Circuit's issuance of the mandate in the appeal, if this Court's order is affirmed and Microsoft continues not to comply with it.

Accordingly, to facilitate appellate review of this Court's July 31 ruling, the parties jointly request that the Court enter the attached order.

Dated: September 4, 2014  
New York, New York

Respectfully submitted,

PREET BHARARA  
United States Attorney

By: 

JUSTIN ANDERSON  
SERRIN TURNER  
Assistant United States Attorneys  
(212) 637-1035 / -1946

Counsel for the United States of America

/s/ Guy Petrillo  
Guy Petrillo  
Nelson A. Boxer  
PETRILLO KLEIN & BOXER  
LLP  
655 Third Avenue  
New York, NY 10017  
Tel: 212.370.0330  
gpetrillo@pkbllp.com  
nboxer@pkbllp.com

/s/ E. Joshua Rosenkranz  
E. Joshua Rosenkranz  
Robert M. Loeb  
Brian P. Goldman\*  
ORRICK, HERRINGTON  
& SUTCLIFFE LLP  
51 West 52nd Street  
New York, NY 10019-6142  
Tel: 212.506.5380  
jrosenkranz@orrick.com  
rloeb@orrick.com  
brian.goldman@orrick.com

Bradford L. Smith  
David Howard  
John Frank  
Jonathan Palmer  
Nathaniel Jones  
MICROSOFT CORPORATION

/s/ James Garland  
Nancy Kestenbaum SDNY Bar # NK9768  
Claire Catalano SDNY Bar # CC7432  
COVINGTON & BURLING LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
Tel: 212-841-1000  
Fax: 212-841-1010  
nkestenbaum@cov.com  
ccatalano@cov.com

James M. Garland\*  
Alexander A. Berengaut\*  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue, NW  
Washington, DC 20004-2401  
Tel: 202.662.6000  
Fax: 202.662.6291  
jgarland@cov.com  
aberengaut@cov.com

*\*Admitted pro hac vice*

*Counsel for Microsoft Corporation*

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

In the Matter of a Warrant to Search a  
Certain E-Mail Account Controlled and  
Maintained By Microsoft Corporation

Case Nos. 13-MAG-2814; M9-150

**ORDER**

In accord with the parties' joint stipulation, and to permit prompt appellate review of this Court's July 31 ruling, this Court holds Microsoft Corporation in contempt for not complying in full with the Warrant, and imposes no other sanctions at this time. The Government may seek sanctions in the case of (a) materially changed circumstances in the underlying criminal investigation, or (b) the Second Circuit's issuance of the mandate in the appeal, if this Court's order is affirmed and Microsoft continues not to comply with it.

SO ORDERED.

Dated: \_\_\_\_\_

New York, New York

\_\_\_\_\_  
LORETTA A. PRESKA  
Chief United States District Judge

**CERTIFICATE OF SERVICE**

Justin Anderson affirms, under penalty of perjury, that he is employed in the Office of the United States Attorney for the Southern District of New York, and that, on today's date, he caused a copy of this submission to be served by this Court's electronic filing system on counsel of record in this matter.

Dated: September 4, 2014  
New York, New York

  
\_\_\_\_\_  
JUSTIN ANDERSON  
Assistant United States Attorney  
Tel: (212) 637-1035