

DEC 23 2014

LeeAnn Flynn Hall, Clerk of Court

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

IN RE DIRECTIVES PURSUANT TO SECTION)
105B OF THE FOREIGN INTELLIGENCE)
SURVEILLANCE ACT.)
_____)

Docket No. 105B(g) 07-01

ORDER REGARDING SCOPE OF DECLASSIFICATION REVIEW

The Court has reviewed the “The United States’ Supplemental Response to the Court’s November 5, 2014 Order” (“Government Response”), filed on December 12, 2014, and “Yahoo! Inc.’s Response to the United States’ Supplemental Response to the Court’s November 5, 2014 Order” (“Yahoo Response”), filed on December 18, 2014. The parties disagree about the scope of the declassification review to be conducted in this matter.

The Government’s position is that documents “subject to the recent classification review in the [Foreign Intelligence Surveillance Court of Review (FISCR)] should not have to be re-reviewed by the Government as part of the parallel classification review ordered by this Court.” Government Response at 2. Yahoo disputes this position, insofar as it pertains to documents that were subject to the FISCR-supervised review only in redacted form. Yahoo Response at 1-2. The Court understands that, as applicable to documents created by or submitted to this Court, the recent FISCR-supervised review encompassed only those documents in the form they appeared as attachments to the parties’ filings to the FISCR. Some documents, including the Memorandum Opinion of this Court issued on April 25, 2008, in this matter, were attached to the parties’ filings in redacted form. As a result, it is the Court’s understanding that the recent FISCR-supervised review did not encompass the entire text of such documents.

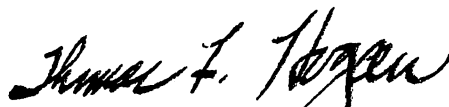
The Court has ordered the Government to “conduct a declassification review of . . . this Court’s Memorandum Opinion of April 25, 2008,” and “the legal briefs submitted by the parties to the Court in this matter.” Order issued on July 15, 2013, at 2. That language unambiguously refers to the full text of those documents as created or received by this Court, not to partially-redacted copies. Yahoo has requested that this Court “order the Government to review all documents in their original, unredacted form as part of this classification review, including this Court’s Memorandum Opinion . . . and any other previously-redacted documents it did not fully review in their original, unredacted form as part of the FISCR declassification process.” Yahoo Response at 2 (emphasis in original). The Court agrees that such an order is warranted.

Accordingly, it is HEREBY ORDERED as follows:

(1) As contemplated by the July 25, 2013 Order of this Court, the Government shall conduct a declassification review of the full text of the documents listed in Appendix A to the Government's submission filed in this matter on July 29, 2013; provided, however, that the government need not re-review any document for which the full text was subject to the recent FISCR-supervised review; and,

(2) No later than January 9, 2015, the Government shall provide to the Court and Yahoo a statement regarding whether it can provide its proposed redactions to the documents by January 30, 2015, as originally stated in "The United States' Response to the Court's November 5, 2014 Order," filed November 18, 2014, at 2, and proposing a new deadline if it is now unable to provide the documents by this date.

SO ORDERED, this 23rd day of December, 2014.



THOMAS F. HOGAN
Judge, United States Foreign
Intelligence Surveillance Court