

THE JAMES ROSEN AFFIDAVIT WAS THE 20TH DOCUMENT IN THE DOCKET

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weedy point.

Item Filed	Number	Document Date
1/18/2013	19	APPLICATION FOR A SEARCH WARRANT by USA, et al vs JAMES ROSEN, ACCUSED OF CONSPIRING TO OBTAIN AND DISSEMINATE INFORMATION FROM GOOGLE, INC. (REDACTED) AT 180 AMPHIBITHE PARKWAY, MOUNTAIN VIEW, CALIFORNIA. (Attachments: # 1 Affidavit, # 2 Affidavit, # 3 Affidavit, # 4 Affidavit, # 5 Affidavit, # 6 Affidavit, # 7 Affidavit, # 8 Affidavit, # 9 Affidavit, # 10 Affidavit, # 11 Affidavit, # 12 Affidavit, # 13 Affidavit, # 14 Affidavit, # 15 Affidavit, # 16 Affidavit, # 17 Affidavit, # 18 Affidavit, # 19 Affidavit)
1/18/2013	20	ORDER granting certain nonconfidential material of APPLICATION FOR SEARCH WARRANT of JAMES ROSEN, ACCUSED OF CONSPIRING TO OBTAIN AND DISSEMINATE INFORMATION FROM GOOGLE, INC. (REDACTED) AT 180 AMPHIBITHE PARKWAY, MOUNTAIN VIEW, CALIFORNIA, signed by Magistrate Judge Frederick J. 1/18/13 and returned BY ROSEN

But if you look at the docket associated with DOJ's attempt to get James Rosen's communications, you'll see it is listed as document 20 in the docket.

Yet no other documents – aside from the order approving the warrant – appear, unsealed, in the docket.

We can't be sure, but I wonder whether the 19 earlier, still-sealed documents in the docket constitute unsuccessful efforts to get this material. For example, I wonder whether Google initially balked at supplying the material based on the Privacy Protection Act, so DOJ invented the language claiming Rosen was a co-conspirator in Espionage which (at pages 4-5) exempted the materials in question from privacy protection.

In addition, the return associated with the affidavit shows how Google would narrow the search to just those communications between Rosen and Stephen Jin-Yoo Kim. Which suggests some of those 19 earlier documents may have been Google's successful attempt to limit an earlier much broader request including all of Rosen's communications.

Particularly given Kim's quoted blame for being snookered on Rosen, I wonder whether DOJ initially really was going to claim he was responsible for the leak?

In any case, if I were Fox News, I would move to unseal the docket.