

CONTINUANCE IN MALWARETECH'S CASE

I thought that while I was out traveling the continent last week, I'd miss a key hearing on Thursday in MalwareTech's (Marcus Hutchins') case. This thread lays out the government's responses to his challenges to his indictment; the short version is, while the government would likely defeat his Miranda challenge, they still had to put their Agents on the stand for discovery. On the other issues, the government seems to have more serious problems (notably with trying him on charges for which there are no victims). So I thought it might be a really interesting hearing that would provide a glimpse of whether the judge thinks the government has a case.

That didn't happen. After he and his lawyers got out to Milwaukee for the hearing, they asked for and got a one month continuance.

In light of new information, defendant requests a continuance of the evidentiary hearing. Parties agree to conduct evidentiary hearing on May 16, 2018 at 1:30 P.M.

So something's up in his case, but it's totally unclear what it is. All of the following are possibilities:

- As noted, the government has been going back and forth about whether they'd get a superseding indictment. Last week they said they would. That's probably the worst case scenario to explain the new information that would lead to a continuance: new charges that might pose a

more serious risk.

- In one of last week's filings, the government revealed that he shared a binary with someone in CA (alleging, dangerously, that that amounts to wiretapping). That must be the informant the government has been trying to hide by calling a tipster. It may be the government provided information on this guy, and the defense wants a year to research him.
- The government had finally found the dark web materials related to the sale of the malware. They may have provided that or more details on Hutchins' alleged co-conspirator.
- Defendants that the government might have been trying to coerce Hutchins to share information on – most notably Peter Levashov, who was arrested for making Kelihos (which uses a successor to Kronos) – are now in US custody. That may change the status of his case somehow.
- The government may finally realize that it's got real problems with its case, and

is finally offering a plea
that better reflects the
potential legal pitfalls of
their case.

As I said, it could be any of these issues, or a
combination of them. All we know is something's
up in his case, and we may not find out for
another month.