

UNITED STATES  
FOREIGN INTELLIGENCE SURVEILLANCE COURT  
WASHINGTON, D.C.



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ORDER

On [REDACTED] the United States filed a Return on Use of Roving Electronic Surveillance (the "Return") in the above-captioned docket. For the reasons that follow, the Court is concerned that some of the conduct described in the Return may exceed the scope of the Court's authorization.

The Court's [REDACTED] in this matter (the [REDACTED] authorized the United States to conduct [REDACTED]. Among other things, the Court authorized [REDACTED]. The Primary Order also contained [REDACTED] authority permitting coverage of [REDACTED].

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In addition, the Primary Order authorized so-called "roving" electronic surveillance of "[REDACTED] requiring the assistance of heretofore unidentified persons within the meaning of 50 U.S.C. § 1805(c)(2)(B)." *Id.* at 5; see also *id.* at 11 (stating that the Court was issuing a "roving" [REDACTED] to "one or more persons within the meaning of 50 U.S.C. § 1805(c)(2) who have not yet been identified and whose assistance will be necessary").

According to the Return, the Federal Bureau of Investigation ("FBI") learned through [REDACTED]. The Return reports that on [REDACTED] the FBI, relying upon the roving authority granted by the Court, initiated [REDACTED].

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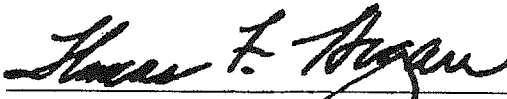
Because the Primary Order identified [REDACTED] as a "specified person" (see p. 10), it is

difficult to understand how [REDACTED] could simultaneously qualify as a "heretofore unidentified person[]" for purposes of the roving authority granted by the Court pursuant to Section 1805(c)(2).<sup>1</sup>

Accordingly, it is hereby ORDERED that the government file a memorandum no later than [REDACTED] explaining the basis for its belief that the roving authority granted by the Court permitted the FBI to initiate [REDACTED]

[REDACTED] The memorandum should also describe the government's proposed disposition of any communications acquired from "roving" coverage of that facility in the event the Court concludes that such coverage was not authorized.

SO ORDERED, this [REDACTED]

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

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<sup>1</sup> The government acknowledges that the [REDACTED]

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[REDACTED] Deputy Clerk,  
FISC, certify that this document  
is a true and correct copy of  
the original [REDACTED]

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