

Apple: Feds want to circumvent security on other phones, too

February 23 2016, by Larry Neumeister

Apple is challenging government efforts to overcome encryption on at least 14 electronic devices nationwide in addition to the phone of a San Bernardino, California, shooter, its lawyers say.

Lawyers told U.S. Magistrate Judge James Orenstein in Brooklyn that Apple is opposing relinquishing information on at least 15 devices in a dozen court cases in California, Illinois, Massachusetts and New York.

In a Feb. 17 letter unsealed Tuesday, the Cupertino, California-based company described fighting the government in criminal cases after first opposing the government in a request to extract information from the phone of a drug dealer in Brooklyn federal court in October.

Before that, the government says, Apple had helped it retrieve information from at least 70 devices since 2008.

Apple's opposition began after Orenstein invited the company to challenge the government's use of a 1789 law, the All Writs Act, which the government cited in the Brooklyn case.

Apple said the government was trying to use the law more aggressively in its effort to look inside the iPhone of a shooter in the Dec. 2 massacre in San Bernardino that killed 14 people.

In the California case, Apple was being asked "to perform even more burdensome and involved engineering ... to create and load Apple-signed

software onto the subject iPhone device to circumvent the security and anti-tampering features of the device in order to enable the government to hack the passcode to obtain access to the protected data," the letter signed by Apple attorney Marc Zwillinger said.

Zwillinger said the California case was proof that "the issue remains quite pressing" since Orenstein first raised questions about the applicability of the All Writs Act.

Apple and the U.S. government have asked Orenstein to continue to rule in the case even though the defendant whose phone was at issue has since pleaded guilty.

At an October hearing, Zwillinger said Apple feared the government would try "pushing the law to a new frontier" by forcing the company to modify software or change its products.

"We're being forced to become an agent of law enforcement, and we cannot be forced to do that with our old devices or with our new devices," he said.

In a letter Monday to Orenstein, federal prosecutors noted that numerous judges nationwide have found it appropriate under the All Writs Act to require Apple, when presented with a search warrant, to assist in extracting information from its products.

Prosecutors said Apple was being misleading in the list submitted to Orenstein by claiming it objected to the court orders.

They said Apple "simply deferred complying with them, without seeking appropriate judicial relief."

"Apple's position has been inconsistent at best," prosecutors wrote. They

suggested in a footnote that Apple was even cooperating in the Brooklyn case until Orenstein made its cooperation public with an October court order.

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