

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

FILED  
NOV - 3 2014  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

IN RE ORDER REQUIRING APPLE, INC.  
TO ASSIST IN THE EXECUTION OF A  
SEARCH WARRANT ISSUED BY THIS  
COURT

Case No.

CR 14-90812 MISC

APPLICATION

KAW

INTRODUCTION

The United States of America, by and through Melinda Haag, United States Attorney, and Garth Hire, Assistant United States Attorney, hereby moves this Court under the All Writs Act, 28 U.S.C. § 1651, for an order requiring Apple, Inc. to assist in the execution of a federal search warrant by facilitating the un-locking of an iPhone.

FACTS

The Federal Bureau of Investigation currently has in its possession an iPhone that is the subject of a search warrant issued by the Honorable Bernard Zimmerman, United States Magistrate Judge, on October 24, 2014. Initial inspection of the iPhone reveals that it is locked. Because the iPhone is locked, law enforcement agents are not able to examine the iPhone as commanded by the search warrant.

The iPhone has the following characteristics:

- Black and silver iPhone S, model A1533, FCC ID: BCG-E2642A, IC: 579C-E2642B, IMEI: 013847007082778.

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Apple, Inc., the manufacturer of the iPhone, may have the capability of bypassing the iPhone's lock. This Application seeks an order requiring Apple to use any such capability, so as to assist agents in complying with the search warrant.

### DISCUSSION

The All Writs Act provides that “[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). As the Supreme Court explained, “[t]he All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute.” *Pennsylvania Bureau of Correction v. United States Marshals Service*, 474 U.S. 34, 43 (1985). “The power conferred by the Act extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice... and encompasses even those who have not taken any affirmative action to hinder justice.” *United States v. New York Tel. Co.*, 434 U.S. 159, 174 (1977). Specifically, in *United States v. New York Tel. Co.*, the Supreme Court held that the All Writs Act permitted district courts to order a telephone company to effectuate a search warrant by installing a pen register. Consequently, this Court has the authority to order Apple, Inc., to use any capabilities it may have to unlock the iPhone.

The government is aware, and can represent, that in other cases, courts have ordered the unlocking of an iPhone under this authority. Additionally, Apple has routinely complied with such orders.



This court should issue the order because doing so would enable agents to comply with this Court's warrant commanding that the iPhone be examined for evidence identified by the warrant. Examination of the iPhone without Apple's assistance, if it is possible at all, would require significant resources and may harm the iPhone. Moreover, the order is not likely to place any unreasonable burden on Apple.

Respectfully submitted,



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GARTH HIRE

Assistant United States Attorney

Date: October 31, 2014



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Case No.

**CR 14-90812 MISC** *KAM*

**ORDER**

Before the Court is the Government's motion for an order requiring Apple Inc. to assist law enforcement agents in the search of an Apple iPhone. Upon consideration of the motion, and for the reasons stated therein, it is hereby

*C* ORDERED that Apple Inc. assist law enforcement agents TO conduct the search of one Black and silver iPhone S, model A1533, FCC ID: BCG-E2642A, IC: 579C-E2642B, IMEI: 013847007082778; It is hereby further ordered that Apple shall provide reasonable technical assistance to enable law enforcement agents to obtain access to unencrypted data ("Data") on the Device.

It is further ordered that, to the extent that data on the iOS device is encrypted, Apple may provide a copy of the encrypted data to law enforcement but Apple is not required to attempt to decrypt, or otherwise enable law enforcement's attempts to access any encrypted data.

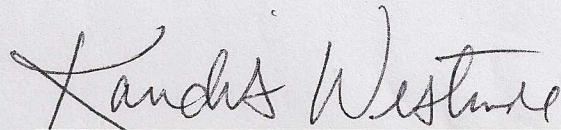
Apple's reasonable technical assistance may include, but is not limited to, bypassing the iOS Device's user's passcode so that the agents may search the device, extracting data from the Device and copying the data onto an external hard drive or other storage medium that law enforcement agents may search, or otherwise circumventing the Device's security systems to

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allow law enforcement access to Data and to provide law enforcement with a copy of encrypted data stored on the iOS Device.

Although Apple shall make reasonable efforts to maintain the integrity of data on the Device, Apple shall not be required to maintain copies of any user data as a result of the assistance ordered herein; all evidence preservation shall remain the responsibility of law enforcement agents.



KANDIS A. WESTMORE

UNITED STATES MAGISTRATE JUDGE

Date:

10/31/14