

Apple counters government demands as White House expands NSA data sharing

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In a filing Thursday, US tech giant Apple laid out its case against a court order to bypass the security features of a phone used by one of the San Bernardino shooters. The company claims that its First Amendment rights are being violated and accuses the government of attempting to “conscript” the company into spying on the population, a move it called “unprecedented.”

While government officials have claimed that the court order is narrowly focused only on Syed Farook’s phone, in reality the case has been seized upon by the federal government to renew its offensive against encryption technology, which it views as an intolerable restraint on its spying powers. Even the San Bernardino police chief has admitted to the press that Farook’s iPhone, a work phone issued to him by the county, probably contains “nothing of any value.”

“This is not a case about one isolated iPhone.” the court document filed by Apple reads. “Rather, this case is about the Department of Justice and the FBI seeking through the courts a dangerous power that Congress and the American people have withheld: the ability to force companies like Apple to undermine the basic security and privacy interests of hundreds of millions of individuals around the globe.”

Apple lawyers accused US officials of lying by claiming that the court order is limited in scope. “The government says: ‘Just this once’ and ‘Just this phone.’ But the government knows those statements are not true,” the filing states. “If this order is permitted to stand, it will only be a matter of days before some other prosecutor, in some other important case, before some other judge, seeks a similar order using this case as precedent. Once the floodgates open, they cannot be closed.”

Apple revealed in an earlier filing on Tuesday that it is facing requests from the US Justice Department to

unlock twelve other phones.

Apple CEO Tim Cook defended the company’s position in an interview with ABC News, arguing that the FBI was asking it to develop the “software equivalent of cancer.” “This case is about the future. Can the government compel Apple to write software that we believe would make hundreds of millions of customers vulnerable around the world?”

Government claims of “restraint” are further belied by the fact, reported by the *New York Times* on the same day as Apple’s filing, that the Obama administration is planning to make it easier for the National Security Administration to share communications gleaned from dragnet surveillance with other spy agencies. The move would relax previous internal restrictions on sharing raw, unprocessed data containing the names and personal information of US citizens which the NSA is, at least in theory, required to scrub before passing along to other agencies such as the FBI or CIA.

“The new system would permit analysts at other intelligence agencies to obtain direct access to raw information from the N.S.A.’s surveillance to evaluate for themselves,” the *Times* wrote.

The move exposes as a fraud the cosmetic “reforms” of government spying, billed as restraining the size and scope of dragnet surveillance, that were enacted after the revelations by Edward Snowden in 2013. Moreover, the administration reserves the right to make these proposed rule changes secret.

Robert Litt, the general counsel for the Director of National Intelligence, declined to provide the *Times* with a copy of the proposed rule changes and declared that they would only be released “to the extent consistent with national security.”

Apple’s opposition to the court ruling, based on the

18th century All Writs Act, is motivated by business considerations. The company has made clear that it is perfectly willing to work with the government in providing data, including the massive amount of information stored in “iCloud” backups. It is concerned that a public requirement that it program a backdoor to its security features will severely undermine its customer base, both in the US and internationally.

A group of major technology firms including Facebook, Google and Twitter plan to file *amicus curiae* briefs in support of Apple’s court case. While Microsoft has not announced whether it will file an *amicus* brief, Microsoft president Brad Smith told a congressional hearing yesterday that the company “wholeheartedly supports Apple” in its court fight. However, Microsoft founder Bill Gates came out publicly on the side of the FBI in a recent interview with the *Financial Times* .

“This is a specific case where the government is asking for access to information,” Gates told the leading newspaper of world finance. “It is no different than [the question of] should anybody ever have been able to tell the phone company to get information, should anybody be able to get at bank records.” Gates later partially walked back his statements after they produced a public backlash.

However, given that not only Microsoft but all of the corporations planning to file *amicus* briefs, in addition to Apple itself, have cooperated for years with other government spying initiatives, as revealed by Edward Snowden, no confidence can be placed in their ability or willingness to carry out a defense of their customers’ basic democratic right to privacy.

The political and media establishment continued to press for Apple to back down from their legal challenge. Thursday’s Republican presidential debate provided the occasion for bellicose rhetoric directed at the multinational corporation, with Marco Rubio declaring that Apple’s “brand is not superior to the United States of America.”

Washington Post columnist David Ignatius penned a column on Wednesday that argued that Apple is fighting a futile battle that would erode “both privacy protections and global market share [of US technology companies].”

The real aim of the government’s burgeoning surveillance apparatus is not “terrorism,” but incipient

social opposition to the policies of the ruling class. As the United States prepares for a massive escalation of military violence, it is at the same time intensifying the assault on democratic rights at home.



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