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Clerk, U.S. District & Bankruptcy  
Courts for the District of Columbia

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**IN RE THE APPLICATION OF  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS FOR ACCESS  
TO CERTAIN SEALED COURT  
RECORDS**

1156 15th Street NW  
Suite 1250  
Washington, D.C. 20005

Case: 1:16-mc-02183  
Assigned To : Kollar-Kotelly, Colleen  
Assign. Date : 10/21/2016  
Description: Misc.

Related to:  
Criminal No. 1:10-cr-00225-CKK

**Oral Argument Requested**

**APPLICATION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE  
PRESS FOR PUBLIC ACCESS TO CERTAIN SEALED COURT RECORDS**

1. Pursuant to Local Criminal Rule 57.6, the Reporters Committee for Freedom of the Press (the “Reporters Committee” or “Applicant”) respectfully moves this Court for an Order unsealing certain court records related to the United States government’s completed criminal investigation and prosecution of Stephen Jin-Woo Kim (“Kim”), Criminal No. 1:10-cr-00225-CKK (the “Kim Prosecution”). Specifically, the Reporters Committee seeks to unseal any and all applications and supporting documents, including affidavits, seeking any of the following, any court orders granting or denying any of the following, and any other court records related to the following, such as returns, motions to seal, miscellaneous dockets and docket entries, that relate to the Kim Prosecution:

- (a) any search warrant, regardless of whether the warrant was issued or executed, and including warrants under the Stored Communications Act (“SCA”), *see* 18 U.S.C. §§ 2703, (collectively, the “Search Warrant Materials”);

(b) authorization for the use of any pen register or trap and trace device pursuant to 18 U.S.C. §§ 3121–3127, regardless of whether such authorization was granted or a pen register or trap and trace device was used (collectively, the “PR/TT Materials”); and  
(c) any order pursuant to 18 U.S.C. § 2703(d) of the SCA, regardless of whether or not the order was issued or executed (collectively, the “Section 2703(d) Materials”).

### **INTEREST OF THE APPLICANTS**

2. The Reporters Committee is an unincorporated nonprofit association of reporters and editors dedicated to safeguarding the First Amendment rights and freedom of information interests of the news media and the public. The Reporters Committee has participated as a party and as *amicus curiae* in First Amendment and freedom of information litigation since 1970. The Reporters Committee frequently represents the interests of the press and the public in court cases involving access to judicial proceedings and court records.

3. The Reporters Committee, like all members of the public and the press, has a strong interest in observing and understanding the consideration and disposition of matters by federal district courts. That interest is heightened when the federal government is a party.

4. The public and the press also have a powerful interest in obtaining access to court documents concerning judicial authorization for the use of law enforcement tools that allow the government to collect or otherwise obtain electronic communications and/or electronic communications records. Where the government obtains a search warrant allowing it to collect or obtain such information, and especially where—as in the case of orders pursuant to 18 U.S.C. § 2703(d) of the SCA and orders authorizing the use of pen register and trap and trace devices—no warrant is required for the government to collect or obtain such information, judicial

oversight and, in turn, public oversight of the judicial process, is necessary to guard against government overreach.

5. In addition, the public and the press have a particularly strong interest in access to court records related to the government's prosecution of Kim, a former State Department contractor who, in 2014, pled guilty to the unauthorized disclosure of national defense information to journalist James Rosen ("Rosen") of Fox News.

#### **STATEMENT OF FACTS**

6. Applicant is informed and believes that Kim is a former Senior Advisor in the State Department who held a top secret security clearance. *See* Statement of Offense, *United States v. Kim*, No. 1:10-cr-00225-CKK ("*Kim*") at 1–2 (D.D.C. filed Feb. 7, 2014), ECF No. 273. In June 2009, Kim worked in the Bureau of Verification, Compliance, and Implementation, which oversaw various aspects of international agreements related to arms control, nonproliferation, and disarmament. *Id.*

7. On or about June 11, 2009, Fox News published an article by Rosen on its website, foxnews.com, entitled "North Korea Intends to Match U.N. Resolution with New Nuclear Test" (the "Rosen Article"). Statement of Offense at 3; Memorandum Opinion, *Kim* at 3 (D.D.C. filed July 24, 2013), ECF No. 133. The Rosen Article stated that U.S. intelligence officials believed that North Korea planned to respond to a United Nations Security Council resolution by conducting additional nuclear tests, among other actions. *See* James Rosen, *North Korean Intends to Match U.N. Resolution with New Nuclear Test*, Fox News, June 11, 2009, at <http://www.foxnews.com/politics/2009/06/11/north-korea-intends-match-resolution-new-nuclear-test.html>.

8. Applicant is informed and believes that individuals within the government concluded that the Rosen Article included national defense information that had been classified as “Top Secret/Special Compartmented Information” (“TS/SCI”). See Application for Search Warrant, Exhibit 1, *Application for E-Mail Account [redacted] Maintained on Computer Servers Operated by Google, Inc., Headquartered at 1600 Amphitheatre Parkway, Mountain View, CA*, No. 1:10-mj-00291-AK at 7 (D.D.C. filed Nov. 7, 2011), ECF No. 20-1 (“Rosen Search Warrant Affidavit”). Following its publication, the FBI began an investigation to determine the source of the information contained in the Rosen Article. *Id.* The FBI determined that information reflected in the Rosen Article was first made available in an intelligence report disseminated on June 11, 2009 to certain individuals, including Kim. *Id.* at 7–8.

9. On or about November 9, 2009, the government obtained two search warrants to search two Yahoo! email accounts used by Kim (collectively, the “Kim Yahoo! Search Warrants”). Order, *Application for Search Warrant for Email Account [redacted] Maintained on Computer Servers Operated by Yahoo!, Inc. Headquartered at 701 First Avenue, Sunnyvale, CA*, No. 1:09-mj-00616-AK at Exhibit E (D.D.C. May 23, 2013), ECF No. 11 (“First May 2013 Unsealing Order”); Order, *Application for Search Warrant for Email Account [redacted] Maintained on Computer Servers Operated by Yahoo!, Inc. Headquartered at 701 First Avenue, Sunnyvale, CA*, No. 1:09-mj-00619-AK at Exhibit E (D.D.C. May 23, 2013), ECF No. 10 (“Second May 2013 Unsealing Order”). Upon the government’s motion, both search warrants and all attachments thereto, the applications for the search warrants, the affidavits in support of the search warrants, the memoranda in support thereof, the subsequent returns of the search warrants, and the government’s motions to seal and proposed orders were filed under seal. First May 2013 Unsealing Order, Exhibit C; Second May 2013 Unsealing Order, Exhibit C.

10. On or about May 28, 2010, the government obtained a search warrant under the SCA to search a Google Mail (“Gmail”) account (the “Rosen Gmail Search Warrant”). Application for Search Warrant, Exhibit 3, *Application for E-Mail Account [redacted] Maintained on Computer Servers Operated by Google, Inc., Headquartered at 1600 Amphitheatre Parkway, Mountain View, CA*, No. 1:10-mj-00291-AK (D.D.C. filed Nov. 7, 2011), ECF No. 20-3. The application for that search warrant stated that the target Gmail account was one used by “a national news reporter” who was later revealed to the public to be Rosen. *See* Rosen Gmail Search Warrant Affidavit at 2. Upon the government’s motion, the search warrant and all attachments thereto, the application for the search warrant, the affidavit in support of the search warrant, the memorandum in support thereof, the subsequent return of the search warrant, and the government’s motion to seal and proposed order were filed under seal. Order, *Application for E-Mail Account [redacted] Maintained on Computer Servers Operated by Google, Inc., Headquartered at 1600 Amphitheatre Parkway, Mountain View, CA*, No. 1:10-mj-00291-AK at Exhibit C (D.D.C. May 23, 2013), ECF No. 24 (“Third May 2013 Unsealing Order”).

11. On or about August 19, 2010, Kim was indicted in this Court on charges of unauthorized disclosure of national defense information in violation of 18 U.S.C. § 793(d) for allegedly providing TS/SCI information to Rosen and making false statements in violation of 18 U.S.C. § 1001(a)(2) for having denied contact with Rosen in an interview with the FBI. *See* Indictment, *Kim* at 1-2 (D.D.C. filed Aug. 19, 2010), ECF No. 3.

12. Applicant is informed and believes that, following Kim’s indictment, the parties engaged in discovery. Following an October 11, 2010 status hearing before the Court with respect to outstanding discovery issues, the government filed with the Court certain

correspondence, including two letters dated October 15, 2010 and October 29, 2010 from the government to Kim's counsel regarding the government's first and second production of unclassified discovery, respectively. Notice of Filing, Exhibit 2 and Exhibit 3, *Kim* (D.D.C. filed Oct. 13, 2011), ECF No. 58-2, 58-3. True and correct copies of the October 10, 2010 letter and the October 29, 2010 letter are attached hereto as Exhibits 1 and 2, respectively. The letters list items produced by the government to Kim's counsel, including certain records related to Internet subscriptions, email accounts, phone numbers, and IP addresses, as well as emails recovered from specified email accounts, "[p]en register and trap trace order results" for specified telephone numbers and email addresses, and "18 U.S.C. §2703(d) order results" for specified email addresses, among other items. *See* Exhibits 1 and 2.

13. In or around November 2011, the government moved to unseal the Kim Yahoo! Search Warrants, the Rosen Gmail Search Warrant, and certain related materials. *See* First May 2013 Unsealing Order, Exhibit F; Second May 2013 Unsealing Order, Exhibit F; Third May 2013 Unsealing Order, Exhibit R. On or about November 7, 2011, the Court granted the government's motions to unseal and entered three orders requiring that redacted versions of the Kim Yahoo! Search Warrants and Rosen Gmail Search Warrant, as well as the related applications, supporting affidavits, and attachments thereto be placed on the public docket. First May 2013 Unsealing Order, Exhibit G; Second May 2013 Unsealing Order, Exhibit G; Third May 2013 Unsealing Order, Exhibit S.

14. Applicant is informed and believes, however, that as a result of an administrative error in the Clerk's office those materials ordered to be unsealed by the Court in November of 2011 were not placed on the public docket until in or around May of 2013. Memorandum and Order at 2-3, *Application for Search Warrant for E-Mail Account [redacted] Maintained on*

*Computer Servers Operated by Google, Inc., Headquartered at 1600 Amphitheatre Parkway, Mountain View, CA*, No. 1:10-mj-00291-AK (filed May 23, 2013), ECF No. 25, *Application for Search Warrant for E-Mail Account [redacted] Maintained on Computer Servers Operated by Yahoo!, Inc., Headquartered at 701 First Avenue, Sunnyvale, CA*, No. 1:09-mj-00616-AK (filed May 23, 2013), ECF No. 12, *Application for Search Warrant for E-Mail Account [redacted] Maintained on Computer Servers Operated by Yahoo!, Inc., Headquartered at 701 First Avenue, Sunnyvale, CA*, , No. 1:09-mj-00619-AK (filed May 23, 2013), ECF No. 11.

15. Also in May of 2013, in response to further motions to unseal filed by the government, the Court unsealed “all remaining miscellaneous materials” related to the Kim Yahoo! Search Warrants and the Rosen Gmail Search Warrant. *See* First May 2013 Unsealing Order; Second May 2013 Unsealing Order; Third May 2013 Unsealing Order.

16. In or around February of 2014, the government and Kim entered into a plea agreement pursuant to which Kim pled guilty to the unauthorized disclosure of national defense information in violation of 18 U.S.C. § 793(d). *See* Plea Agreement, *Kim* (D.D.C. filed Feb. 7, 2014), ECF No. 274.

17. On or about April 2, 2014, the Court accepted Kim’s guilty plea, sentenced him to thirteen months of imprisonment and twelve months of supervised release, and ordered him to pay a \$100 assessment. Amended Judgment, *Kim* (D.D.C. filed Apr. 8, 2014), ECF No. 291. The second count of the indictment charging Kim with making false statements in violation of 18 U.S.C. § 1001(a)(2) was dismissed on the government’s motion. *Id.*

18. The filed discovery correspondence between the government and Kim indicates that a number of search warrants, orders authorizing the use of pen registers and/or trap and trace devices, and orders pursuant to 18 U.S.C. §2703(d) were obtained in connection with the Kim

Prosecution. *See* Exhibits 1 and 2. To Applicant's knowledge, however, only the Kim Yahoo! Search Warrants, the Rosen Gmail Search Warrant, and records related to those warrants have been unsealed and placed on the public docket.

19. As explained more fully in the accompanying Memorandum of Points and Authorities, the press and the public have a right of access to these judicial records under both the First Amendment and common law. No compelling government interest justifies the continued sealing of such records concerning the Kim Prosecution, particularly now that the government's investigation and prosecution of Kim has concluded.

#### **REQUEST FOR RELIEF**

20. The Reporters Committee seeks an Order unsealing any and all Search Warrant Materials relating to the Kim Prosecution. Upon information and belief, each search warrant application subject to this Application was assigned a unique docket number, but no listing of these docket numbers is publicly available. Accordingly, in addition to seeking unsealing of the relevant dockets, and to facilitate the Court's resolution of this Application, the Reporters Committee also requests that the United States Attorney be directed to provide a list of the docket numbers associated with the Search Warrant Materials that fall within the scope of this Application.

21. The Reporters Committee also seeks an Order unsealing any and all PR/TT Materials relating to the Kim Prosecution. Upon information and belief, each application for an order authorizing the use of a pen register or trap and trace device subject to this Application was assigned a unique docket number, but no listing of these docket numbers is publicly available. Accordingly, in addition to seeking unsealing of the relevant dockets, and to facilitate the Court's resolution of this Application, the Reporters Committee also requests that the United States

Attorney be directed to provide a list of the docket numbers associated with the PR/TT Materials that fall within the scope of this Application.

22. The Reporters Committee seeks as well an Order unsealing any and all Section 2703(d) Materials relating to the Kim Prosecution. Upon information and belief, each application for an order pursuant to 18 U.S.C. § 2703(d) subject to this Application was assigned a unique docket number, but no listing of these docket numbers is publicly available. Accordingly, in addition to seeking unsealing of the relevant dockets, and to facilitate the Court's resolution of this Application, the Reporters Committee also requests that the United States Attorney be directed to provide a list of the docket numbers associated with the Section 2703(d) Materials that fall within the scope of this Application.

23. The Reporters Committee seeks any further relief that the Court deems just and proper.

**ORAL ARGUMENT REQUESTED**

24. The Reporters Committee respectfully requests oral argument.

Dated: October 21, 2016

Respectfully submitted,

/s/ Katie Townsend

Katie Townsend

DC Bar No. 1026115

Bruce Brown

DC Bar No. 457317

THE REPORTERS COMMITTEE FOR  
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Committee for Freedom of the Press*

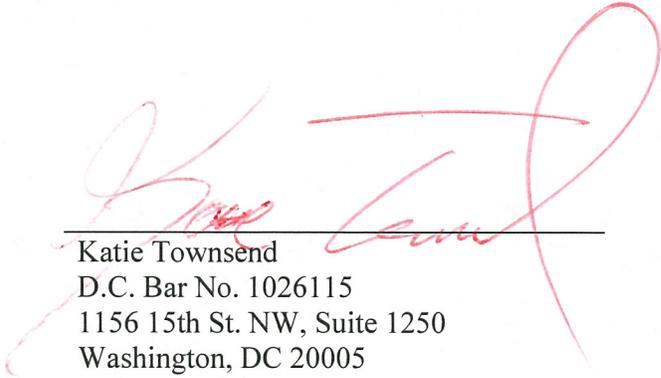
CERTIFICATE OF SERVICE

I hereby certify that this 21<sup>st</sup> day of October, 2016, I have served a copy of the foregoing Application for Public Access to Certain Sealed Court Records as well as the Memorandum of Points and Authorities and Proposed Order by Certified Mail on:

Abbe David Lowell  
Keith M. Rosen  
Scott William Coyle  
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Washington, DC 20036  
*ATTORNEYS TO BE NOTICED*  
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*Counsel for Applicant the Reporters  
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# EXHIBIT 1



U.S. Department of Justice

Ronald C. Machen Jr.  
United States Attorney

*District of Columbia*

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*Judiciary Center  
555 Fourth St., N.W.  
Washington, D.C. 20530*

October 15, 2010

**VIA E-MAIL AND FEDEX (with attachments)**

Abbe D. Lowell, Esq.  
McDermott, Will & Emery, LLP  
600 Thirteenth St., NW  
Washington, D.C. 20005-3096  
202-756-8001

Ruth Wedgwood, Esq.  
1619 Massachusetts Ave., NW  
Washington, D.C. 20036  
202-663-5618

**Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)**

Dear Mr. Lowell and Ms. Wedgwood,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find one disk labeled "U.S. v. Stephen Kim, Discovery Disc # 1, US-0000001 to US-0002111," containing the Government's first production of unclassified discovery in the above-captioned matter.<sup>1</sup> We anticipate producing additional unclassified discovery to you on a rolling basis and will get those materials to you as soon as they become available.

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<sup>1</sup>As mentioned orally at your client's initial appearance on August 27, 2010, we note here that prior to the indictment of your client and his arraignment in this case, the Government shared and reviewed with you substantial classified and unclassified documents and information.

**CONTENTS SUBJECT TO PROTECTIVE ORDER  
ISSUED BY U.S. DISTRICT COURT ON OCTOBER 13, 2010**

**I. Unclassified Documents and Videos**

To assist you in your review of the enclosed documents and items, we assigned Bates numbers to them and provide the following index:

1. Federal Reserve Bank of New York records (US-0000001 to US-0000234);
2. Hanmi Bank records (US-0000235 to US-0000248);
3. JP Morgan Chase Bank records (US-0000249 to US-0000502);
4. Department of State (DoS) Federal Credit Union records (US-0000503 to US-0000631);
5. American Express records (US-0000632 to US-0000946);
6. Comcast subscriber and call detail records for (202) 506-██████████ (US-0000947 to US-0001007);
7. Comcast Internet subscriber records for Stephen Kim (US-0001008)
8. Yahoo! subscriber and IP address records for ██████████@yahoo.com (US-0001009 to US-0001114);
9. Yahoo! subscriber and IP address records for ██████████@yahoo.com (US-0001115 to US-0001119);
10. Google subscriber and IP address records for ██████████@gmail.com (US-0001120 to US-0001121);
11. AT&T subscriber and call detail records for (202) 777-██████████ (US-0001122 to US-0001125);
12. AT&T subscriber records for (212) 601-██████████ (US-0001126);
13. AT&T Wireless subscriber records for (202) 549-██████████ (US-0001127 to US-0001128);
14. AT&T Wireless subscriber and call detail records for (202) 549-██████████ (US-0001129 to US-0001137);
15. AT&T Wireless subscriber records for (202) 615-██████████ (US-0001138 to US-0001139);
16. AT&T Wireless subscriber and call detail records for (202) 213-██████████ (US-0001140 to

- US-0001155);
17. TracFone subscriber records for (202) 213-████ (US-0001156 to US-0001159);
  18. T-Mobile subscriber and call detail records for (703) 342-████ (US-0001160 to US-0001219);
  19. Security video from the American Red Cross (US-0001220 to US-0001222);
  20. Verizon subscriber records for (202) 824-████, (202) 861-████ and (202) 861-████ (US-0001223 to US-0001224);
  21. Verizon subscriber and call detail records for (703) 883-████ (US-0001225 to US-0001230);
  22. Verizon IP address records for 71.163 █████ (US-0001231);
  23. Verizon call detail records for (202) 824-████, (202) 861-████, and (202) 861-████ (US-0001232 to US-0001239);
  24. Verizon subscriber records for the following phone numbers:
    - a. (202) 293-████
    - b. (202) 728-████
    - c. (202) 824-████
    - d. (202) 456-████
    - e. (202) 456-████
    - f. (202) 824-████
    - g. (202) 824-████
    - h. (202) 824-████
    - i. (202) 824-████
    - j. (202) 547-████
    - k. (202) 647-████
    - l. (202) 647-████
    - m. (718) 720-████
    - n. (703) 979-████
    - o. (202) 628-████
- (US-0001240 to US-0001248);
25. Verizon Wireless subscriber and call detail records for (202) 577-████ (US-0001249 to US-0001430);

26. Verizon Wireless subscriber records for (202) 329-████ (US-0001431 to US-0001432);
27. Verizon Wireless subscriber records for (703) 472-████ (US-0001433 to US-0001434);
28. Passport applications for Stephen Kim (US-0001435 to US-0001437);
29. Security banner for Stephen Kim's Unclassified and SECRET DoS computer systems (US-0001438);
30. Security banner for Stephen Kim's TOP SECRET DoS computer system (US-0001439);
31. DoS Bureau of Verification, Compliance and Implementation rotation duty rosters (US-0001440 to US-0001447);
32. Security briefing forms for Stephen Kim (US-0001448 to US-0001480);
33. Security debriefing forms for Stephen Kim (US-0001481 to US-0001482);
34. Acknowledgment for Acceptable Use of Government-Issued Personal Digital Assistants (PDAs) for Stephen Kim (US-0001483 to US-0001484);
35. Personal Custody Property Receipt for Stephen Kim (US-0001485);
36. COMSEC Material Report form for Stephen Kim (US-0001486);
37. DoS badge records for Stephen Kim (US-0001487 to US-0001579);
38. DoS badge records (US-0001580 to US-0001582);
39. DoS call detail records for (202) 316-████ (US-0001583 to US-0001609);
40. Computer screen shots of Stephen Kim's unclassified DoS computer system (US-0001610 to US-0001625);
41. Excerpts from the DoS Foreign Affairs Manual (FAM) (US-0001626 to US-0001946);
42. Paperwork regarding Sony Vaio computer (US-0001947 to US-0001950);
43. Paperwork regarding Apple computer (US-0001951 to US-0001953);
44. Video surveillance camera screen shots and badge records (US-0001954 to US-0001956);

45. DoS call detail records for (202) 647- [REDACTED] (US-0001957 to US-0001975);
46. DoS video from 9/15/09 and associated badge records (US-0001976 to US-0001977);
47. DoS video from 9/15/09 - 9/16/09 and associated badge records (US-0001978 to US-0001979);
48. DoS video from 9/18/09 and associated badge records (US-0001980 to US-0001982);
49. DoS video from 9/24/09 - 9/25/09 and associated badge records (US-0001983 to US-0001984);
50. Classified Information Non-disclosure Statement (US-0001985);
51. Consent to Search (US-0001986 to US0001987);
52. Emails recovered from Stephen Kim's DoS unclassified computer (US-0001988 to US-0001998);
53. Emails recovered from [REDACTED]@gmail.com account (US-0001999 to US-0002012);
54. Screenshots of emails from Stephen Kim's DoS unclassified computer (US-0002013 to US-0002030);
55. Emails and records recovered from [REDACTED]@yahoo.com and [REDACTED]@yahoo.com accounts (US-0002031 to US-0002108);
56. DoS floor plans (US-0002109 to US-0002111).

Prior to the production to the prosecution team of the emails recovered from the [REDACTED]@yahoo.com and [REDACTED]@yahoo.com accounts (US-0002031 to US-0002108), those emails were reviewed for potentially-privileged material by a Federal Bureau of Investigation (FBI) Special Agent and an Assistant United States Attorney (AUSA) with no involvement in the criminal investigation and prosecution of your client. If you have any questions concerning the privilege review, please contact AUSA John Borchert at (202) 353-2442.

## **II. Unclassified Hard Drives**

We have also enclosed one 1 TB hard drive and one 500 GB hard drive with duplicate images of your client's Sony and Apple computer hard drives which he provided to the FBI on

March 29, 2010. We are also in possession of three separate images of your client's unclassified DoS hard drive as of August 31, 2009, September 22, 2009, and September 30, 2009, respectively. Please provide us with three 80 GB hard drives, and we will have those three images duplicated and produced to you when they have been scrubbed for classified information. We are also in possession of your client's unclassified Department of Energy (DoE) computer. We will have an image made of that computer and produce it to you when the DoE computer has been scrubbed for classified information.

**III. Defendant's Rule 16 Statements**

The Government provides notice to you of any statements made by your client contained in the attached discovery materials. Further, FBI Form 302s of your client's statements to the FBI on September 24, 2009 and March 29, 2010, respectively, will be provided to you in classified discovery.

**IV. Expert Witnesses/Reports of Examinations and Tests**

The Government has not yet determined which, if any, expert witnesses it may call at trial. When the Government has done so, it will so inform the defense and comply with its obligations under Rule 16(a)(1)(G).

**V. Criminal Record**

The Government is unaware of any prior convictions for your client.

**VI. Classified Discovery**

As we have discussed, the Government is also preparing for your review of classified discovery. Once other defense counsel have obtained the necessary clearances, and you are prepared to review the classified materials in an approved SCIF, we can arrange for your inspection of those materials on a rolling basis as they become available for production.

**VII. Reciprocal Discovery Demands**

The United States formally requests full reciprocal discovery pursuant to Fed. R. Crim. P. 16(b), including but not limited to the disclosure of any documents, photos, tangible objects, and reports of examinations or tests you intend to use at trial.

Should you have any questions, please contact us.

Very truly yours,

RONALD C. MACHEN JR.  
UNITED STATES ATTORNEY



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Enclosures

# EXHIBIT 2



U.S. Department of Justice

Ronald C. Machen Jr.  
United States Attorney

*District of Columbia*

---

*Judiciary Center  
555 Fourth St., N.W.  
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October 29, 2010

**VIA E-MAIL AND FEDEX (with attachments)**

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Ruth Wedgwood, Esq.  
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**Re: United States v. Stephen Jin-Woo Kim, Crim. No. 10-255 (CKK)**

Dear Mr. Lowell and Ms. Wedgwood,

To assist you in preparing for trial in this case, and pursuant to your request for Rule 16 discovery, enclosed please find a disc labeled "U.S. v. Stephen Jin Kim, Discovery Disc # 2, US-0002112 to US-0014567," containing the following items representing the Government's second production of unclassified discovery in the above-captioned matter:

**I. Unclassified Documents**

1. Pen register and trap trace order results for (202) 577-██████ (US-0002112 to US-0005253);
2. Pen register and trap trace order results for (703) 342-██████ (US-0005254 to US-0006335);
3. Pen register and trap trace order results for (703) 883-██████ (US-0006336 to US-0006818);
4. Pen register and trap trace order results for ██████@gmail.com (US-0006819 to US-0006821);

5. Pen register and trap trace order results for [REDACTED]@yahoo.com (US-0006822 to US-0006824);
6. Pen register and trap trace order results for [REDACTED]@yahoo.com (US-0006825 to US-0009402);
7. 18 U.S.C. §2703(d) order results for [REDACTED]@gmail.com (US-0009403 to US-0009470);
8. 18 U.S.C. §2703(d) order results for [REDACTED]@yahoo.com (US-0009471 to US-0014532);
9. Copy of Stephen Kim's passport (US-0014533 to US-0014548); and
10. Department of State (DoS) badge records (US-0014549 to US-0014567).

II. Electronic Media

We have also enclosed the following additional electronic media:

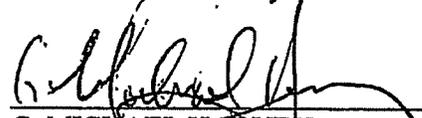
1. A 250 GB hard drive marked "U.S. v. Stephen Jin Kim, Three DoS Open Net Workstation Images, (US-0014568)," which contains three separate images of your client's DoS Open Net workstation computer taken as of August 31, 2009, September 22, 2009, and September 30, 2009; and
2. Three discs entitled "U.S. v. Stephen Jin Kim, Discovery Disc #3, US-0014569," "U.S. v. Stephen Jin Kim, Discovery Disc #4, US-0014570," and "U.S. v. Stephen Jin Kim, Discovery Disc #5, US-0014571," which contain copies of your client's DoS Open Net workstation email.

The Government used keyword searches to attempt to identify classified information on this electronic media. Those searches did not reveal any classified information. Keyword searching for classified information on electronic media has its limitations; nevertheless, processing classified information on the DoS Open Net system was prohibited. Because the keyword searches did not identify any such classified information, and because a byte-by-byte review of the voluminous data on this electronic media was impractical, we are providing this electronic media to you in unclassified discovery pursuant to the Rule 16 protective order entered in this case. We reserve the right to protect any classified information that may later be identified on this electronic media under the Classified Information Procedures Act protective order.

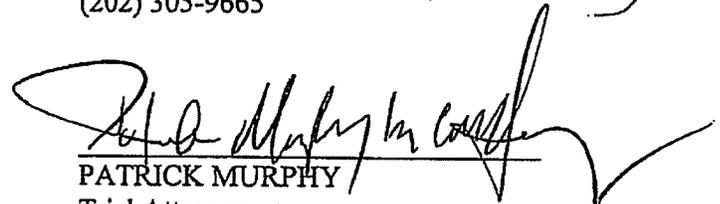
Should you have any questions, please contact us.

Very truly yours,

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Enclosures