

Robert Herz

From: Walker, Jonas (USAAK) 5 [Jonas.Walker@usdoj.gov]
Sent: Wednesday, November 20, 2019 1:45 PM
To: Robert Herz
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Herz:

Is the defense requesting testing using the computer already at the OCRCFL?

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Wednesday, November 20, 2019 1:33 PM
To: Walker, Jonas (USAAK) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Walker,

We are trying to get this done, and proceed to trial, while placating your fear of "the wild." If you speak with your own experts, I'm sure they can explain to you how virtual machines work, and I'm even more certain that they can tell you exactly what specifications are necessary to install and run TD. Alternatively, you could provide those to Mr. Fischbach, as I have already requested. If you are informing me that you already have personal knowledge that there is no way for Mr. Fischbach to use the computer at the RCFL to install and operate TD, then please provide a computer either with the specifications that are required by the software, or with the hardware/software specifications you requested from me, that I have already provided to you.

Robert M. Herz
Law Offices of Robert Herz, P.C.
The Seventh and E Building
431 West Seventh Avenue, Suite 107
Anchorage, Alaska 99501
Tel. 907-277-7171
Email: rmherz@gci.net
Website: www.robertherzlaw.com

From: Walker, Jonas (USAAK) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Wednesday, November 20, 2019 11:16 AM
To: Robert Herz
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Herz:

Per your email below, is the defense requesting testing using the computer already at the OCRCFL?

The computer already at the OCRCFL doesn't have internet access. Also, the TD Computer would likely be wiped prior to TD installation.

Thank you,

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Tuesday, November 19, 2019 11:49 AM
To: Walker, Jonas (USAAK) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Walker,

Because Mr. Fischbach was able to observe the vintage of the Mac used for "validation", he believes that the government-supplied Mac already at the RCFL may be able to accommodate TD installation -- thus assuring the government that no copy will be placed on his own equipment. Because his testing protocols do not require any interaction with contraband, he will use his own equipment to interact with TD installed on the computer at the RCFL. Due to the lack of production of any TD documentation, manuals, information pertaining to operating requirements, or any other materials, Mr. Fischbach is only able to render an educated guess as to the ability of the equipment at the RCFL to accommodate both TD versions. If, however, Mr. Erdely can supply such information, or is able to render an opinion regarding the equipment provided to the RCFL by the AUSA, it would certainly save the loss of valuable time if Mr. Fischbach could be made aware of any limitations prior to beginning his tests.

Robert M. Herz
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Website: www.robertherzlaw.com

From: Walker, Jonas (USAAK) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Tuesday, November 19, 2019 9:04 AM
To: Robert Herz
Subject: US v. Schwier: specifications question re: Dkt. 249

Mr. Herz:

Good morning.

In Dkt. 249 at 10, Mr. Fischbach wrote: "Towards that end I am amenable to the government providing to me a computer configured to my specifications. In order to assure scientific results, I have to personally conduct the installation of any software to be tested."

Please promptly advise what "specifications" Mr. Fischbach is requesting.

Thank you,

-Jonas M. Walker
Assistant United States Attorney
District of Alaska
907.271.3983

Robert Herz

From: Robert Herz [rmherz@gci.net]
Sent: Tuesday, November 19, 2019 2:45 PM
To: 'Walker, Jonas (USAAK) 5'
Cc: 'Jeff M. Fischbach, ABFE'
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Walker,

Mr. Fischbach says that because he still has not been provided with any TD documentation and other materials that would be typically provided to a user of TD, he would only be able to specify the most robust desktop equipment available to a forensic professional at this time. If you would like to provide TD documentation materials he may be able to give you a more concise specification, and thus save time and money.

However, at this time, given the ambiguity of the software requirements, he can only specify a currently robust (but by no means server-level) workstation. Again, it would be more productive for all concerned, if we simply had a copy of the software specifications. The specifications below are only minimum estimates for TD -- not for his complete testing. For practical, and defense privileged purposes, he will use his own equipment as a testing component, but will not install or copy TD to any of his own devices.

2.6GHz 6-core 9th-generation Intel Core i7 processor
64GB 2666MHz DDR4 memory
AMD Radeon Pro 5500M with 8GB of GDDR6 memory
512GB storage
Thunderbolt / USB-C
WiFi & RJ45 Ethernet
Mac must have Bootcamp & valid Windows 10 installed.

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From: Walker, Jonas (USAAK) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Tuesday, November 19, 2019 12:14 PM
To: Robert Herz
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Herz:

I appreciate the prompt response.

Other than agreeing to use the existing computer, what "specifications" does Mr. Fischbach require, per Dkt. 249 at par. 34?

Thank you,

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Tuesday, November 19, 2019 11:49 AM
To: Walker, Jonas (USAAK) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: RE: US v. Schwier: specifications question re: Dkt. 249

Mr. Walker,

Because Mr. Fischbach was able to observe the vintage of the Mac used for "validation", he believes that the government-supplied Mac already at the RCFL may be able to accommodate TD installation -- thus assuring the government that no copy will be placed on his own equipment. Because his testing protocols do not require any interaction with contraband, he will use his own equipment to interact with TD installed on the computer at the RCFL. Due to the lack of production of any TD documentation, manuals, information pertaining to operating requirements, or any other materials, Mr. Fischbach is only able to render an educated guess as to the ability of the equipment at the RCFL to accommodate both TD versions. If, however, Mr. Erdely can supply such information, or is able to render an opinion regarding the equipment provided to the RCFL by the AUSA, it would certainly save the loss of valuable time if Mr. Fischbach could be made aware of any limitations prior to beginning his tests.

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From: Walker, Jonas (USAAK) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Tuesday, November 19, 2019 9:04 AM
To: Robert Herz
Subject: US v. Schwier: specifications question re: Dkt. 249

Mr. Herz:

Good morning.

In Dkt. 249 at 10, Mr. Fischbach wrote: "Towards that end I am amenable to the government providing to me a computer configured to my specifications. In order to assure scientific results, I have to personally conduct the installation of any software to be tested."

Please promptly advise what "specifications" Mr. Fischbach is requesting.

Thank you,

-Jonas M. Walker
Assistant United States Attorney
District of Alaska
907.271.3983

Robert Herz

From: Robert Herz [rmherz@gci.net]
Sent: Thursday, December 19, 2019 7:25 PM
To: 'Walker, Jonas (USAAK) 5'
Subject: RE: Hardware and software Specifications

Mr. Walker,

The defense will respond *seriatim* to your several factually inaccurate statements in your Dec.7 email.

You wrote: On 11/19/2019, your email (attached) indicated that Mr. Fischbach "believes that the government-supplied Mac already at the RCFL may be able to accommodate TD installation."

First, the defense in the Nov.19 email was trying to work cooperatively, and point out that a *possible* option *might* be to use the existing machine on site; hence the use of the conditional phrase that [the existing machine] "may" be able to accommodate TD installation. You ignore the conditional nature of this statement. Moreover, your quote above is taken out of context and ignores the rest of the email which states: "Due to the lack of production of any TD documentation, manuals, information pertaining to operating requirements, or any other materials, **Mr. Fischbach is only able to render an educated guess as to the ability of the equipment at the RCFL to accommodate both TD versions.**"

You wrote: Then, on 12/6/2019, your email (attached) indicated that the original computer was inadequate, and requested the government "allow Mr. Fischbach to use the machine that was recently sent to the RCFL."

This part of your email is even more troublesome, as the Dec.6 email has nothing to do with the defense wanting to use the newly provided machine to test TD. The defense request was in reference to not being able to run on the existing machine the VMWare software that Det. Erdely used to run his "validation." The defense was requesting the ability to use the newly provided machine to see if we could run the VMWare software on the new machine so the defense could begin finally to evaluate the data generated by the government "validation." Mr. Fischbach had traveled several hours to the RCFL to begin a review of the government validation. The defense was trying use precious time and resources already committed to being at the RCFL for the day, and the government had already previously instructed Joe Monroe that the defense could not have access to the new machine at all; because the government had apparently just realized that day it had released the TD software into the wild by including it along with the validation that had been sent to the RCFL. This was the second time the government had released sensitive information concerning the TD software without so much as a protective order in place, and again had to depend on the honesty of Mr. Fischbach to maintain security over your software that the government does not seem able to keep secure.

You wrote: Now, however, in your email, below, you are requesting a third computer and identifying additional requirements.

The defense has not requested a "third" computer with "additional requirements." As you well know, the defense did not request the first government supplied machine, a "vintage" out of date Mac that was sent from Anchorage-FBI to the RCFL. That was a machine supplied by the government without any input from the defense. The defense also did not

request the newly provided machine either. That again was supplied by the government *by fiat* even before any specifications had been provided by the defense, in seeming defiance of the court's order at Doc. 254 and Doc 262.

The defense has repeatedly requested the government comply with the court's order that the government supply documentation, software specifications, and installation instructions. The court order at Doc. 262 only relieved the government of supplying a computer by Dec4. Yet, the government sent a computer to the RCFL anyway, and pre-loaded it with software the government used to run its validation. The defense recognizes that it is the government's goal to limit defense testing to only running the government validation. The defense has made clear that it does not intend to run the government "validation" again, as it has no scientific validity.

Other than being relieved of the duty to supply a computer by Dec.4, no other portion of the court's order at Doc. 254 was stayed or vacated. The government is not in compliance with the court's order, as the defense has never received any TD software specifications or installation instructions. The defense, again in an attempt to accommodate the government, save time, and work cooperatively, nevertheless took time to at least analyze the new machine's system specifications by having the RCFL's Joseph Monroe "boot" it up, again after seeking permission from you. The defense did this to see if the new machine sent by the government without any input from the defense could potentially be used to run the defense tests. It was not adequate.

I don't mind a "hard fight," but you seem quite comfortable playing fast and loose with the facts, as exemplified in the above email from you dated Dec7. It's not the first time this has happened in this case. I find it disturbing. In that regard, your "out of office" email response that I received on Dec. 4 says you "may have limited opportunity to read or respond to your email during December 2 - 13, 2019." On Nov.26 at the hearing you did not indicate to the court you would be out of the office from Dec.2 to Dec. 13, presumably on leave, and that's why you could not meet the court's earlier set deadline to respond to the defense motion for reconsideration. Instead you indicated that FBI technical experts needed all that time until December 13 to advise you and respond to the technical issues raised by Mr. Fischbach. Perhaps it's just coincidence that the technical experts needed the same amount of time to respond that coincided with your time out of the office. It would appear that is why you then requested an additional 7 days after your returned to the office to file a response. The coincidence is striking, and I wonder whether the FBI technical experts that were telephonic for that hearing, if they were called to testify, if they would testify that they were the ones who needed more time, as opposed to you. If the real reason for the delay was your vacation, that would represent a serious lack of candor with the court.

Your wrote: In the event that a government-owned computer with Mr. Fischbach's requirements is not available, is the defense offering to provide such a computer, which would remain at the OCR CFL, and which the government and Mr. Fischbach would confirm is "wiped" after the case is complete? If such an arrangement is consistent with the to-be-ordered protective protocols, then that may be best way for the defense to use exactly the computer it wants.

As you learned from your invasive contact with Joseph Monroe regarding the Defense examinations at the RCFL, as well as Mr. Monroe's testimony, the RCFL isn't secure. The Defense has already had equipment stolen or gone missing from the RCFL. While the court has not obligated us to do so, the Defense is not inclined to leave a defense machine worth thousands of dollars there if it cannot be secure and the RCFL will not take responsibility for securing it. Mr. Monroe himself has testified that the RCFL does not have the level of security necessary, and it will not be held accountable for

securing Defense property. It seems questionable if it is even capable of securing the VMWare images, containing TD software that has already been copied to the Defense-privileged Government-owned Mac Tower, currently in the RCFL's civilian workspace, where other civilians sit within inches of the machine, and even utilize some of the same hardware. Even Mr. Monroe himself admitted that the RCFL civilian exam room does not have the level of security of other locations, such as the LA SCIF. Indeed, the court asked the government to address use of the LA SCIF as a location for additional and further defense examinations in this case.

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From: Walker, Jonas (USAAK) 5 [mailto:Jonas.Walker@usdoj.gov]
Sent: Saturday, December 07, 2019 4:48 PM
To: Robert Herz
Cc: 'Jeff M. Fischbach, ABFE'; Arce, Charisse (USAAK) 1
Subject: RE: Hardware and software Specifications

Mr. Herz:

Good evening.

On 11/19/2019, your email (attached) indicated that Mr. Fischbach “believes that the government-supplied Mac already at the RCFL may be able to accommodate TD installation.”

Then, on 12/6/2019, your email (attached) indicated that the original computer was inadequate, and requested the government “allow Mr. Fischbach to use the machine that was recently sent to the RCFL.”

Now, however, in your email, below, you are requesting a third computer and identifying additional requirements.

The court has allowed the government to file additional briefing by December 20, 2019, regarding protective protocols. That filing may, also, respond to the latest defense request.

In the event that a government-owned computer with Mr. Fischbach's requirements is not available, is the defense offering to provide such a computer, which would remain at the OCRCFL, and which the government and Mr. Fischbach would confirm is “wiped” after the case is complete? If such an arrangement is consistent with the to-be-ordered protective protocols, then that may be best way for the defense to use exactly the computer it wants.

Thank you, and have a nice weekend,

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Friday, December 6, 2019 5:04 PM
To: Walker, Jonas (USAAK) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: RE: Hardware and software Specifications

Mr. Walker,

I would agree that Mr. Fischbach is in the best position to know what his needs are in order to conduct defense testing of the TD software. As such, Mr. Fischbach has concluded his inspection of the system requirements of the laptop supplied by the FBI, and it will not be sufficient to meet defense testing needs. It is a 2014 vintage A1398 MacBook Pro, with minimal speed and memory, and outdated hardware and port specifications. Similar to the machine currently in use at the RCFL, it is unlikely that this laptop also will not support running the Virtual Machines supplied by Mr. Erdely. This machine was the least powerful configuration of MacBook Pro produced in 2014. But, is far slower than the minimum requirements of today's Macs. Notably, at this juncture the Government is seeking an order that Mr. Fischbach only use an Ethernet port. This machine does not have an Ethernet port.

The following are the *minimum requirements* needed in a government supplied machine necessary to conduct defense testing of the TD software. Defense specifications are in black, corresponding specifications of the computer supplied by the government are in red:

2.6GHz 6-core 9th-generation Intel Core i7 processor (4-core 4th generation processor discontinued in 2015 nearly five years ago)

64GB 2666MHz DDR4 memory (16GB 1600 MHz DDR3 -- incapable of additional RAM)

AMD Radeon Pro 5500M with 8GB of GDDR6 memory (2GB discontinued graphics processor)

512GB SSD storage (Unknown)

Thunderbolt / USB-C (No USB-C)

WiFi & RJ45 Ethernet (No Ethernet)

The Mac laptop also must have Bootcamp & **valid** Windows 10 installed.

Please let me know when a machine with these minimum requirements will be supplied and available for Mr. Fischbach's use.

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Website: www.robertherzlaw.com

From: Walker, Jonas (USAAC) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Friday, December 06, 2019 3:31 PM
To: Robert Herz
Cc: 'Jeff M. Fischbach, ABFE'; Arce, Charisse (USAAC) 1; Russo, Frank (USAAC); Allison, Daryl (AN) (FBI)
Subject: RE: Hardware and software Specifications

Mr. Herz:

Thank you for contacting me regarding your concerns.

Per my email of 12/4 below, the government believes that the computer provided is sufficient to run TD as it would be used in an investigation.

The government does not know what tests Mr. Fischbach intends to run, as the defense has withheld that information from the government. Without knowing what tests Mr. Fischbach intends to run, and the technical requirements of those tests, the government is not in a position to opine regarding what technical specifications are necessary to meet Mr. Fischbach's needs.

Because Mr. Fischbach has access to the technical specifications of the computer, as described below, Mr. Fischbach is the person best situated to answer your question regarding whether the computer is sufficient to run Mr. Fischbach's tests.

Thank you,

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Friday, December 6, 2019 2:56 PM
To: Walker, Jonas (USAAC) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: RE: Hardware and software Specifications

Mr. Walker,

I agree the court stayed the requirement that the government does not need to provide the TD computer. But the court did not stay the entire order at Doc. 254. As such, the requirement that the government provide all software documentation related to TD is still binding on the government.

Moreover, I believe this was in recognition that the defense needs the TD software specifications in order to provide a tailored request for computer specifications for the computer that the defense needs to run its tests. Nevertheless, the government prior to knowing what the defense specifications would be, "selected" a computer that the *government believes* the defense should use. This was not the process the court envisioned by its order at Doc.254 and seems a bit "cart before the horse." Given that Doc.254 was not stayed in its entirety, I disagree that the government has complied

with the court's orders, or that the court's orders have been exceeded. That Mr. Fischbach is attempting to ascertain the system requirements of the computer the government provided, prior to defense input, only means we are evaluating what has been sent to see if it will meet defense needs. Our preliminary review suggests that it will not be adequate. When Mr. Fischbach completes his work at the RCFL later today, I will provide the government notice of what specifications are, in fact, needed, and whether the computer sent prematurely will meet defense needs. However, the lack of TD software specifications has significantly hampered the defense in this evaluation.

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Email: rmherz@gci.net
Website: www.robertherzlaw.com

From: Walker, Jonas (USAAC) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Thursday, December 05, 2019 5:44 AM
To: Robert Herz
Cc: 'Jeff M. Fischbach, ABFE'; Monroe, Joseph; Allison, Daryl (AN) (FBI); Steeves, Holly J. (AN) (FBI); Arce, Charisse (USAAC) 1
Subject: RE: Hardware and software Specifications

Mr. Herz:

Good morning. I replied in a separate email chain regarding the defense request for Mr. Monroe to show Mr. Fischbach the computer settings. As indicated, I don't object to that request, and I appreciate Mr. Fischbach's suggestion that he see the settings in person to get the data he needs. That seems like an efficient way to get the data directly to Mr. Fischbach.

At Dkt. 262, the court vacated the order at Dkt. 254 in that the government does not have to provide the TD computer to Mr. Fischbach at this time.

Also in Dkt. 262, the court ordered the defense to provide specifications by 12/6. To assist the defense in this process, I provided the specifications of the selected computer in a prior email chain yesterday; see below, immediately prior to your email.

Accordingly, the government has complied with the Court's orders, and, in fact, has exceeded them, in that Mr. Monroe will be showing the computer details to Mr. Fischbach, which is what Mr. Fischbach requested.

The Court will, no doubt, appreciate the parties' cooperation regarding these technical details.

Thank you,

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Wednesday, December 4, 2019 2:49 PM
To: Walker, Jonas (USAAK) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: RE: Hardware and software Specifications

Mr. Walker,

Unfortunately, this is insufficient information to allow the defense to make a determination whether this machine will be adequate for defense testing purposes. Will you allow Joe Monroe to boot up the computer on Friday in Mr. Fischbach's presence so that more specific information can be obtained about what has been sent?

In addition, does the government intend to provide more and complete information regarding TD software specifications before this Friday, and as required by the court's order at Doc.254?

Thank you for your attention to these requests.

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Email: rmherz@gci.net
Website: www.robertherzlaw.com

From: Walker, Jonas (USAAK) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Wednesday, December 04, 2019 12:41 PM
To: Robert Herz
Cc: 'Jeff M. Fischbach, ABFE'; Allison, Daryl (AN) (FBI)
Subject: RE: Hardware and software Specifications

Mr. Herz:

I am advised that a computer with the following characteristics has been identified, which the government expects to be sufficient:

Apple MacPro laptop with Windows 10 Pro loaded on Bootcamp partition Laptop has 16GB of RAM, 64-bit Operating System x64 based processor with a 250GB Hard Drive

Thank you;

-AUSA Jonas M. Walker
907.271.3983

From: Robert Herz <rmherz@gci.net>
Sent: Tuesday, December 3, 2019 11:41 AM

To: Walker, Jonas (USAAC) 5 <JWalker5@usa.doj.gov>
Cc: 'Jeff M. Fischbach, ABFE' <jeff@secondwave.com>
Subject: Hardware and software Specifications

Mr. Walker,

At Doc. 262 the court ordered the defense to provide the government with the computer specifications the defense deems necessary to allow defense testing of the TD Software on a computer the government will provide for defense testing. Based on information provided to the government in email correspondence, pleadings, and declarations, the defense has made it clear that hardware specifications are predicated in part on the software the computer will run, meaning that it is important to know the specifications of the TD software. Ultimately, defense computer hardware specifications will be based on TD specifications as well as the various software Mr. Fischbach will install and that are needed for defense testing. The court ordered the government at Doc. 254 to provide the defense “with all applicable TD software documentation for versions 1.15 and 1.23, including installation instructions and minimum operating requirements.” To date, the government has provided only a user manual for TD version 1.23, and it was redacted. This does not comply with the court order, and prevents the defense from more meaningfully providing computer specifications to the government by this Friday. The defense has provided the government with specifications recently in Mr. Fischbach’s declaration at Doc. 261 para.8. The defense believes that the court intends for the parties to refine these specifications which is why the court changed the defense deadline to December 6. If the parties are to refine the specifications as the court intends, then the government must provide TD software specifications as directed in the court’s order at 254, which in turn will allow the defense to make a more refined and tailored request concerning computer specifications. If the government is not willing to fully disclose software specifications to both TD versions in a timely manner and *before* Friday, which is necessary to allow for defense review and evaluation, then the defense will be unable to refine the specifications previously provided to the government, and those previously provided specifications will stand as to what the defense will be requesting.

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Website: www.robertherzlaw.com

Robert Herz

From: Walker, Jonas (USAAK) 5 [Jonas.Walker@usdoj.gov]
Sent: Friday, December 06, 2019 3:25 PM
To: Robert Herz
Cc: Monroe, Joseph; Russo, Frank (USAAK); Allison, Daryl (AN) (FBI)
Subject: RE: Schwier: Confirming that virtual machine will not be copied

Mr. Herz:

I appreciate the quick response. My understanding is that Mr. Fischbach is requesting access to the Apple MacPro laptop.

Before I respond, I will request that Mr. Monroe confirm that TD software is not currently loaded onto the Apple MacPro Laptop.

Mr. Monroe: Can you please review the Apple MacPro Laptop and confirm that TD is not currently loaded onto it?

Thank you,

-AUSA Jonas M. Walker
907.271.3983

-----Original Message-----

From: Robert Herz <rmherz@gci.net>
Sent: Friday, December 6, 2019 2:31 PM
To: Walker, Jonas (USAAK) 5 <JWalker5@usa.doj.gov>
Subject: FW: Schwier: Confirming that virtual machine will not be copied

More accurately, I should say, that the machine from Anchorage DOJ will not open the VMs using the VMware software that Mr. Erdely used to create the VMs, i.e. the machine will not run the VMware software.

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-----Original Message-----

From: Robert Herz [<mailto:rmherz@gci.net>]
Sent: Friday, December 06, 2019 2:11 PM
To: 'Walker, Jonas (USAAK) 5'
Cc: 'Jeff M. Fischbach, ABFE'
Subject: RE: Schwier: Confirming that virtual machine will not be copied

Confirmed.

In full disclosure, prior to knowing that TD may be on the VMs Mr. Fischbach in the presence of Mr. Monroe had copied the flash drive contents onto the computer previously sent to the RCFL from DOJ-Anchorage/FBI-Anchorage.

However, in speaking with Mr. Fischbach, the computer sent from Anchorage that Mr. Fischbach has been using does not have system requirements sufficient to open the flash drive containing the packet capture data or the VMs. Will you allow Mr. Fischbach to use the machine that was recently sent to the RCFL?

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-----Original Message-----

From: Walker, Jonas (USAAC) 5 [<mailto:Jonas.Walker@usdoj.gov>]
Sent: Friday, December 06, 2019 1:37 PM
To: Robert Herz
Cc: Robert Erdely; Allison, Daryl (AN) (FBI); Arce, Charisse (USAAC) 1; jeff@secondwave.com; Joseph Monroe; Russo, Frank (USAAC); Cook, Brian J. (WF) (FBI)
Subject: Schwier: Confirming that virtual machine will not be copied

All:

Per email traffic, Mr. Fischbach is accessing a flash drive containing packet capture data and virtual machines (VM) from the validation testing that occurred with Det. Erdely in Anchorage. The VMs may contain TD software.

It is the government's understanding that Mr. Fischbach will not be copying the VMs onto his own media (computer, flash drive, etc) or in any way removing the VMs from the OCRCFL.

Mr. Herz, please reply in writing to confirm this correct.

Thank you,

-Jonas Walker
AUSA, District of Alaska

Sent from my iPhone