

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:14-CR-0276
)	
HAMMAD AKBAR,)	
)	
Defendant.)	

STATEMENT OF FACTS

The parties stipulate that the allegations in Counts 2 and 3 of the Indictment and the following facts are true and correct, and that had the matter gone to trial, the United States would have proven them beyond a reasonable doubt.

1. The defendant, HAMMAD AKBAR, is the Chief Executive Officer of Invocode Pvt. Limited, registered in Pakistan, and Cubitium Limited, registered in Hong Kong. The defendant, through these entities, advertised and sold a mobile software application (“app”) named StealthGenie which surreptitiously intercepts wire and electronic communications made using smartphones. StealthGenie was designed to run on a variety of smartphone platforms, including Google Inc.’s Android platform, Blackberry Limited’s Blackberry platform, and Apple Inc.’s iPhone platform.

2. StealthGenie had numerous functionalities that permitted it to intercept a variety of both outgoing and incoming wire and electronic communications to and from the smartphone on which it was installed. These functionalities included the interception of the following types of wire and electronic communications: telephone calls, electronic mail, text messages, voicemail, and photographs. The wire and electronic communications intercepted by the app

were interstate or foreign communications, and/or communications affecting interstate or foreign commerce.

3. In order to install the app, the purchaser needed at least temporary possession of the phone to be monitored. During the installation process on an Android smartphone, the person installing the app was required to affirmatively grant a series of permissions that allowed the application to access privileged information. Once the app was activated, it was started as a “background” (i.e., hidden) service and set up to launch, automatically, when the phone was powered on. The only time that the application interacted with the screen was during activation, and the icon for the application was removed from the phone’s application menu. The defendant admits that these characteristics made the app surreptitious, as a typical smartphone user would not know that StealthGenie had been installed on his or her smartphone.

4. The defendant controlled a domain name, stealthgenie.com. The defendant advertised StealthGenie on the World Wide Web at subdomain www.stealthgenie.com (hereinafter “StealthGenie website”). The StealthGenie website was hosted at a domestic provider, Amazon Web Services, Inc. (hereinafter “AWS”). AWS provided its web hosting services for the defendant from a data center located in Ashburn, Virginia, which is in the Eastern District of Virginia.

5. On or about November 5, 2011, the defendant, HAMMAD AKBAR, disseminated by electronic means an advertisement for StealthGenie. The defendant did so knowing the content of the advertisement and knowing and having reason to know that the design of StealthGenie rendered it primarily useful for the purpose of the surreptitious interception of wire and electronic communications. The defendant disseminated the advertisement for StealthGenie over the World Wide Web via AWS’s web servers in Ashburn,

Virginia. The defendant knew that, by advertising the app over the World Wide Web, the advertisement for StealthGenie would be transported in interstate or foreign commerce.

6. On or about December 14, 2012, the defendant, HAMMAD AKBAR, through the operation of the StealthGenie website, sold StealthGenie to an undercover agent of the Federal Bureau of Investigation. The defendant did so knowing and having reason to know that the design of StealthGenie rendered it primarily useful for the purpose of the surreptitious interception of wire and electronic communications. The defendant sold StealthGenie over the World Wide Web via AWS's web servers in Ashburn, Virginia. The defendant knew that, by selling the app over the World Wide Web, StealthGenie would be transported in interstate or foreign commerce.

7. The defendant managed and supervised several employees in the advertisement and sale of StealthGenie.

8. During calendar year 2014 – after the dissemination of the advertisement and the sale described above had taken place – the defendant sought advice from a prominent attorney in the United States not affiliated in any way with current counsel in the instant case. The defendant sought guidance on a variety of issues, including whether the advertisement and sale of StealthGenie violated United States law. After reviewing information supplied by the defendant, including information about the application and the content of the StelathGenie website, counsel informed the defendant that United States law did not absolutely prohibit the sale of the app. Counsel further noted that he was not aware of any United States statute under which the sale of software such as defendant's application or mobile phone tracking software was per se illegal. Notably, counsel failed to inform the defendant even of the existence of Title 18, United States Code, Section 2512. The defendant was also advised of several minor remedial

measures to limit litigation risk that he could undertake in terms of the wording of language on the StealthGenie website, many of which he already had in place, and others which he later implemented.


9. The defendant acknowledges that the foregoing statement of facts does not describe all of the defendant's conduct relating to the offenses charged in this case nor does it identify all of the persons with whom the defendant may have engaged in illegal activities.

Respectfully submitted,

Dana J. Boente
United States Attorney

By:


Jay V. Prabhu
Assistant United States Attorney


William A. Hall, Jr.
Senior Trial Attorney
Criminal Division
United States Department of Justice

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, Hammad Akbar, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.



Hammad Akbar
Defendant

I am Hammad Akbar's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.



J. Patrick Rowan, Esq.
Counsel for Hammad Akbar