

JUDGE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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| 6 | UNITED STATES OF AMERICA, |) | No. CR15-5351RJB |
| 7 | |) | |
| 8 | Plaintiff, |) | RESPONSE TO MOZILLA’S MOTION |
| 9 | |) | TO INTERVENE OR APPEAR AS |
| 10 | v. |) | AMICUS CURIAE |
| 11 | JAY MICHAUD, |) | |
| 12 | |) | |
| 13 | Defendant. |) | |

I. ARGUMENT

Jay Michaud, through his attorneys Colin Fieman and Linda Sullivan, hereby notes its opposition to Mozilla’s Motion to Intervene or Appear as *Amicus Curiae*. The defense believes (pending further research) that the motion is untimely and that Mozilla has no right or standing to intervene in a criminal proceeding.

Mozilla notes that it is “not opposed to disclosure to the Defendant” (dkt. 195 at 2), and that it is primarily concerned with the Government’s continued use of an “exploit” (one of the NIT components) that is placing Mozilla customers at risk. Mozilla is also concerned about the terms of the protective order for disclosure to the defense. Dkt. 195 at 12.

Mr. Michaud has no stake in Mozilla’s dispute with the Government. Further, the defense has no intention of disclosing any NIT discovery to Mozilla, a third party, or the public in general under any circumstances. To the extent that Mozilla is concerned that the existing NIT protective order does not provide “adequate safeguards” (dkt. 195 at 12), the defense has stated that it is amenable to any and all

1 additional security measures and modifications to the existing NIT protective order that
2 the Court deems appropriate.

3 DATED this 11th day of March, 2016.

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5 Respectfully submitted,

6 *s/ Colin Fieman*

7 *s/ Linda Sullivan*

8 Attorneys for Jay Michaud
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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties registered with the CM/ECF system.

s/Carolynn Cohn
Paralegal