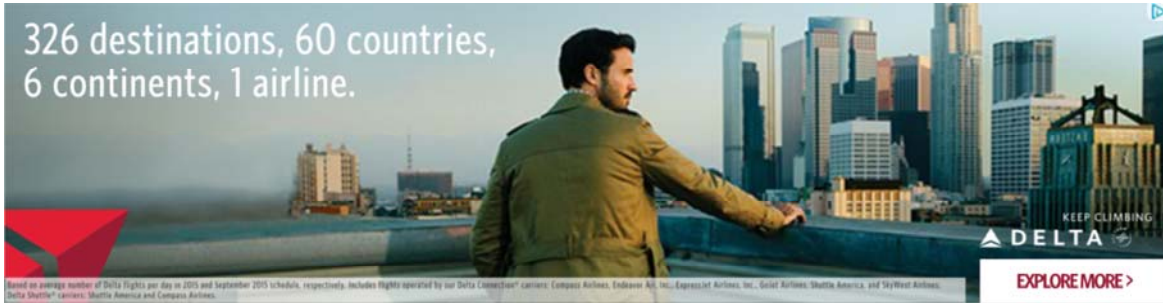


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# FBI would gain new hacking power if search warrant rules change

WASHINGTON | BY [DUSTIN VOLZ](#)



A logo is pictured at Google's European Engineering Center in Zurich April 16, 2015. REUTERS/ARND WIEGMANN

U.S. judges will be able to issue search warrants giving law enforcement agents power to access computers in any jurisdiction, potentially even overseas, under a controversial rule change likely to be approved by the Supreme Court by May 1.

Magistrate judges can normally only order searches within the jurisdiction of their court, which is typically limited to a few counties.

The U.S. Justice Department, which is pushing for the rule change, has described it as a procedural change needed to modernize the criminal code for the digital age, and has said it would not permit searches or seizures that are not already legal.

Google, owned by Alphabet Inc, and civil liberties groups such as the American Civil Liberties Union and Access Now, contend the change would vastly expand the ability of the Federal Bureau of Investigation to hack into computer networks. They say it could run afoul of the U.S. Constitution's protections against unreasonable searches and seizures.

Should the Supreme Court approve the change, it would have to pass both chambers of Congress, a move seen as unlikely given gridlock in the legislature ahead of the U.S. presidential election.



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The proposed amendment is to Rule 41 of the federal rules of criminal procedure, a text governing the judicial branch that is regularly updated. It was at the center of two court opinions issued this month throwing out evidence gathered by FBI sting operations targeting child pornographers who relied on the anonymous Internet browser called Tor network.

Federal courts in Virginia and Oklahoma said the FBI's use of a warrant to deploy a "network investigative technique" on computers outside the geographic bounds of the issuing judge's district was invalid.

A Justice Department spokesman pointed to those cases as reason for why changes to Rule 41 are necessary.

Though it has been several years in the making, the effort to widen warrant jurisdiction has not garnered the level of attention of other recent clashes over government access to digital information, such as the FBI's standoff with Apple over encryption.

Congress would have until December 1 to reject or amend a change to Rule 41.

Senator Ron Wyden, an Oregon Democrat, has vowed to mobilize opposition to the Rule 41 update. Sources familiar with his plans say he is expected to announce he is working on legislation to block the changes if they earn approval from the Supreme Court.

"This rule change could potentially allow federal investigators to use one warrant to access millions of computers, and it would treat the victims of the hack the same as the hacker himself," Wyden said during a speech last month at a digital rights conference in San Francisco.

#### HISTORY OF DEFERENCE

Proposed changes to the criminal procedure rules go through several layers of vetting by committees comprised of lawyers and judges before reaching the Supreme Court.

The review of the Justice Department's Rule 41 proposal, which was first drafted in 2013, led to it being pared back to only apply in situations when a suspect can be shown to be using technology to conceal the location of his or her computer or for an investigation into a network of hacked or infected computers, such as a botnet.

The Supreme Court rarely rejects such proposals to change federal rules, according to lawyers familiar with the process.

Google and other opponents say the Rule 41 proposal amounts to a "substantive" change to the rules, and therefore should be properly debated in Congress.

The change "raises a number of monumental and highly complex constitutional, legal, and geopolitical concerns," Richard Salgado, Google's director for law enforcement and information security, wrote in public comments submitted in February 2015.

(Reporting by Dustin Volz, additional reporting by Joan Biskupic. Editing by Jonathan Weber and Andrew Hay)

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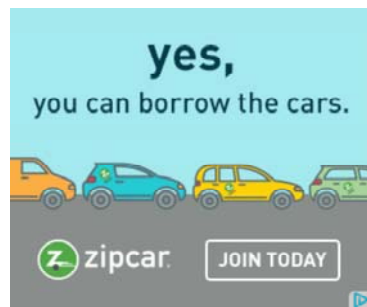
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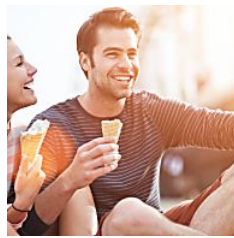
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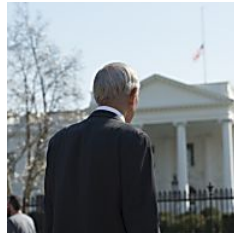
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