

August 30, 2013, 8:01 pm

# Judge Says Search Warrants for E-mails Must Be ‘Limited’

By [SOMINI SENGUPTA](#)

Can law enforcement obtain a search warrant to dig through a vast trove of e-mails, instant messages and chat logs because they have reasonable suspicion that the owners of those accounts robbed computer equipment from a private company?

No, according to a ruling by a federal judge in Kansas earlier this week.

The case is significant in that it limits what constitutes unreasonable search and seizure, as protected by the Fourth Amendment, in the age of big data. The magistrate judge, David J. Waxse, denied the government’s search warrant requests on the grounds that it has to be particular and [“reasonable in nature of breadth.”](#)

Orin Kerr, a law professor at George Washington University and an expert on surveillance law, [interpreted it this way on Twitter](#): “You can’t look through the kitchen sink to get the evidence, as you do with physical searches.”

Prosecutors sought search warrants to extract information from Verizon, an Internet service provider, GoDaddy, a Web site hosting company, along with Web communications companies Google, Skype and Yahoo on account holders suspected of having stolen \$5,000 in computer equipment from Sprint.

The government believed that the suspects used e-mail and instant-message accounts to “facilitate the purchase, receipt and transportation of the equipment” from Kansas to New Jersey. The government sought “contents of all emails, instant messages and chat logs/sessions — and other account-related information” for the named suspects.

The judge balked.

If the authorities are looking for a stolen lawn mower in a garage, he wrote, citing a previous case involving search warrants of physical property, they can’t get a search warrant that covers the upstairs bedroom.

“The manifest purpose of the Fourth Amendment particularity requirement is to prevent general searches. By limiting the authorization to search the specific areas and things for which there is probable cause to search, the particularity requirement ensures that the search will be carefully tailored to its justifications, and will not become a wide-ranging, exploratory search prohibited by the Fourth Amendment.”

The judge went on to say that the government's search order ought to have "sufficient limits or boundaries" to the communications that law enforcement officials can rifle through. He suggested that the search order be limited to certain keywords or that an independent vendor be asked to automate the process of finding relevant material.

That is to say, use data-mining techniques to not rummage through everything.