Feds Now Want Your Online Passwords - Running Into Some Opposition

July 30, 2013 - If Knowledge is power, then the federal government wants more than what it already has. As if the NSA domestic spying scandal wasn't bad enough, there are now reports that the government has been demanding user password information from ISPs. But they are apparently running into some opposition from the companies involved, and there is reason to believe that they may have some trouble gaining widespread access in the federal court system.

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CNET is reporting that the Federal Government is demanding that large ISP's turn over user account information including user names and passwords. There is currently no information to indicate whether or not these demands target specific individuals or if they are of the same scope as the NSA's demands to cellular phone carriers. In the case of cell phone providers, the NSA has been using court orders to make the carriers turn over records of every single phone call their clients make or receive.

The CNET report is based on two separate sources that were not named. The company did contact a number of ISPs and while many of them stated that they had received this type of demand, they normally pushed back; asking for a court order. But Apple, Facebook, AOL, Verizon, AT&T, Time Warner Cable, and Comcast didn't respond to requests for information and that is a concern. Most of these companies have been participating in the NSA's PRISM system; a system that monitors all forms of electronic communication. And of course, Verizon was the company named in the leaked FISA court order pertaining to cell phones.

The fact that these companies hadn't responded to information requests is of some real concern. Since they have shown a willingness to turn over information to the government with minimal challenges, one has to question whether or not they would protect password information any more vigorously.

Regardless of this, there is some reason to hope that other companies and the federal courts will curtail some of these programs. Microsoft and Yahoo both publically stated that they would resist such efforts and there is an active court case concerning cell phone data which has not gone the way of the Justice Department.

In that case, the First Circuit Court of Appeals refused to issue a stay on ruling issued in May that requires police to obtain a search warrant before searching the cell phone of someone that they arrest. The court specifically noted that the various federal court circuits have issued conflicting opinions on the matter and it would leave the issue to the Supreme Court to decide. While the government has not issued such an appeal yet, the conflicting rulings make such an appeal likely in the near future.

Given the Supreme Court's ruling last year that prohibited police from using a GPS device on a car without a warrant, and a prior ruling limiting the police's ability to search a vehicle they pull over unless there is an immediate threat to the officers, there is real reason to believe that any ruling may not come down in favor of the government.

There are also two separate cases that have been filed in federal courts regarding NSA domestic spying activities. At this point though, it is difficult to predict which way the Supreme Court will rule on these; and that is assuming that they agree to hear the cases at all.

byJim Malmberg

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