

Yahoo, ACLU Pressing Government to Release Surveillance Orders

By Yifan Yang, LLM Candidate 2017 | November 2, 2016

On October 26, 2016, Yahoo made a request to US Director of National Intelligence James Clapper to declassify a surveillance order received by Yahoo in 2015. In early October, [Reuters](#) broke news that Yahoo had built a special software to scan customer emails at the direction of the National Security Agency or FBI. The program ran briefly in 2015 before Yahoo's internal security was able to locate and remove it.

The [ACLU has filed a motion](#) with regards to this particular order, as well as 20 other rulings of similar nature with respect to customer privacy. Yahoo in particular has been criticized for collaborating too closely with federal officials, and Yahoo is thus requesting the order to show the public that the search criteria were specific, and that, in general, the emails were not searched. Yahoo has further stated that the earlier report by Reuters regarding the software search tool was “misleading” but that they could not give further details without declassification of the initial order.

There is increasing pressure from both US and European officials to declassify the order, and government sources say officials were considering whether to release additional justification regarding the order. The ACLU has assisted in the filings, and has generally stated that secret laws and/or unreleased rulings violate the First Amendment and interfere with the functions of the judicial and executive branches.

Yahoo is attempting to declassify the order to dissuade future orders from the US Government, and more importantly improve its standing with its customers and shareholders. The news of Yahoo's scan of user email accounts has come at troubling time for the company. The company recently discovered a 2014 security breach that could jeopardize their \$4.83 billion deal to have Verizon acquire the struggling company. Verizon's General Counsel has stated that the breach could be considered a [“material”](#) event which could lead Verizon to either renegotiate the deal or back out completely, leaving Yahoo particularly vulnerable in light of the recent email-scanning controversy.