

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA : 14 Cr. 68 (KBF)

- against - :

ROSS ULBRICHT, :

Defendant. :

-----X

**DECLARATION OF  
JOSHUA L. DRATEL, ESQ.  
IN SUPPORT OF DEFENDANT  
ROSS ULBRICHT'S  
POST-TRIAL MOTIONS**

Joshua L. Dratel, Esq., pursuant to 28 U.S.C. §1746, hereby affirms under penalty of perjury:

1. I am an attorney, and I represent defendant Ross Ulbricht in the above-captioned case. I make this Declaration in support of Mr. Ulbricht's post-trial motions for a new trial, pursuant to Rule 33, Fed.R.Crim.P., and to renew his motion(s) to suppress the fruits of certain searches and seizures performed by the government.

2. The bases for these motions are set forth in detail in the accompanying Memorandum of Law. Also, it is respectfully requested that the facts set forth within the Memorandum of Law be incorporated by reference in this Declaration.

3. Attached as Exhibits to this Declaration, and relevant to Mr. Ulbricht's motions, are the following:

- (a) a catalogue of exculpatory 3500 material relevant to the motions, attached as Exhibit 1;
- (b) a chart of the additions, deletions and modifications of government exhibits, attached as Exhibit 2; and

- (c) January 8, 2015, email from AUSA Serrin Turner to Lindsay A. Lewis,  
attached as Exhibit 3.

WHEREFORE, it is respectfully requested that the Court grant Mr. Ulbricht's Motions in their entirety.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. 28 U.S.C. §1746. Executed March 6, 2015.

/S/ Joshua L. Dratel  
JOSHUA L. DRATEL

# EXHIBIT 1

**Exhibit 1 to Ross Ulbricht's Rule 33, Fed.R.Crim.P., Motion for a New Trial**

- 3505-14-22<sup>1</sup> – JDY<sup>2</sup> Affidavit 5/29/2013 for NDIII search of MK e-mail accounts;
- 3505-24-25 – JDY e-mail 05/05/13 re: suspicious Dwolla accounts;
- 3505-34 – JDY email 11/08/12 re: “username that DPR uses on several other sites[,]”<sup>3</sup> referring to AA.<sup>4</sup>
- 3505-205 – email 08/15/13 from AUSA ST<sup>5</sup> to JDY re: warrant application affidavit
- 3505-206-33 – JDY draft Affidavit 8/15/2013 for SDNY search of MK<sup>6</sup> e-mail accounts
- 3505-334-35 – AUSA ST Sealing Order application DATE re: “target of this investigation” (referring to MK)
- 3505-236-39 – JDY 10/12/2012 email re: subpoenas re: MK (German companies)
- 3505-250-51 – JDY 8/3/2012 email re: MK and Ashley Barr “running the Silk Road”
- 3505-265 – JDY 9/10/2012 email re: MLAT<sup>7</sup> to Germany
- 3505-267 – JDY 7/11/2012 email re: “We think we found out who’s behind the SR.”

---

<sup>1</sup> 3505 is the prefix designation for 3500 material for Homeland Security Investigations Special Agent Jared Der-Yeghiayan. 3501 is the prefix designation for 3500 material for Internal Revenue Service Special Agent Gary Alford.

<sup>2</sup> “JDY” refers to Homeland Security Investigations Special Agent Jare Der-Yeghiayan.

<sup>3</sup> “DPR” refers to “Dread Pirate Roberts.”

<sup>4</sup> “AA” refers to Anand Athavale.

<sup>5</sup> “AUSA ST” refers to Assistant United States Attorney Serrin Turner.

<sup>6</sup> “MK” refers to Mark Karpeles.

<sup>7</sup> “MLAT” refers to Mutual Legal Assistance Treaty.

- 3505-273-75 – JDY 5/15/2013 email re: MK investigation and internecine law enforcement agency conflict, seizure of MK account, and criminal 1960 violations
- 3505-285-87 – JDY memo re: Operation Dime Store and MK “administering the Silk Road website with the assistance of multiple other associates.”
- 3505-295-301 – JDY memo re: internecine law enforcement agency conflict and MK attorney meeting, etc.
- 3505-302-06 – JDY memo re: accounts controlled by JDY and others, including four pages of redactions
- 3505-315-16 – JDY email 11/13/2012 re: AA internet presence
- 3505-316-18 – JDY emails 11/13/2012 re: AA
- 3505-334 – JDY email 8/18/2013 re: MK and MediaWiki version 1.17.0
- 3505-355 – JDY email 9/16/2013 re: weird bitcoin movement in August 2013
- 3505-537 – JDY email 4/20/2012 re: “going right for the admin and his money. We have a few of the silk road’s account numbers identified.”
- 3505-539 – JDY email 4/18/2012 re: “We’ve identified a few of Silk Road’s bitcoin account numbers and are working to further identify the people behind them.”
- 3505-588-90 – JDY emails 11/13/2012 re: AA (“Vancouver target”)
- 3505-591-600 – JDY November 2012 report re: AA
- 3505-626-28 – JDY emails 5/22/2013 re: AA investigation
- 3505-630 – JDY email 11/2/2012 re: AA & MK investigation re: DPR writings
- 3505-632 – JDY email 5/8/2013 re: MK and Mt. Gox/Dwolla accounts
- 3505-671 – JDY email 11/26/2013 re: MK the purchaser for silkroadmarket.org
- 3505-673 – JDY email 9/9/2013 re: German registry company records
- 3505-707 – JDY email 10/7/2013 re: MK “purging everything after his arrest . . .”

and GA<sup>8</sup> email re: hacking of bitcoin forum shortly after RU's arrest.

- 3505-709-10 – JDY email 7/12/2012 re: grand jury subpoena to PayPal re: MK activity
- 3505-712 – JDY email 7/16/2012 re: “I think we figured out who’s behind the SR.”
- 3505-735 – JDY email 2/27/2013 re: MK and German companies and servers.
- 3505-738-39 – JDY emails November 19, 2012 re: AA investigation
- 3505-775 – JDY emails 9/29/2013 re: “peaceloveharmony” “sitting on DPR’s profile for a few hours.”
- 3505-787 – JDY emails 8/2/2013 re: “inlightof” and “it’s my opinion he was the previous DPR. Current DPR is new as of appx April we think.”
- 3505-835-36 – JDY emails 1/15/2013 re: “should have an indictment and arrest warrant by the end of March.” “I do have actual plans on doing something very large in the next month or so, . . .” “we’re likely to see this site fall soon.”
- 3505-846 – JDY email 11/13/2012 re: AA investigation
- 3505-895 – JDY email 10/15/2013 to AUSA ST re: Excel spreadsheet of “Karpeles Dwolla Transactions”
- 3505-00902-02916 – spreadsheet of MK’s Dwolla transaction history
- 3505-2925 – JDY email with respect to Ross Ulbricht’s Mt. Gox account(s), “just heard that information was passed from MK’s atty’s to Baltimore[,]” and that MK remained under investigation by HSI Chicago.
- 3505-2933 – JDY email 7/14/2013 re: “Cirrus is scout, insight of might be dread according to scout.”
- 3505-2935-36 – GA email 9/17/2013 to AUSA ST re: Richard Bates and “[c]ould be worth looking into this guy . . .”
- 3505-2954 – JDY email 8/15/2013 to AUSA ST commenting, upon reading the interview of DPR in *Forbes*, “Yeah, it sounds very much like MK.”

---

<sup>8</sup> “GA” refers to Internal Revenue Service Special Agent Gary Alford.

- 3505-2961 – JDY email 2/11/2014 re: bitcointalk.org administrators, including MK.
- 3505-2991-92 – JDY email 8/28/2012 re: interference from other agencies and jurisdictions
- 3505-3002 – JDY email 4/3/2013 re: “there has been a little movement from Vancouver on the suspect there.”
- 3505-3006 – JDY email 4/10/2013 re: AA investigation
- 3505-3020 – JDY email 10/2/2013 re: “after reviewing some notes from [Mr. Ulbricht’s] computer last night/this morning there appears to be some inferences to MK’s involvement and associations to SR.”<sup>9</sup>
- 3505-3045 – JDY email 7/17/2012 re: “[t]he main target (Mark Karpeles) has been in Japan I believe since 2009 . . .” and Ashley Barr and the investigation.
- 3505-3057-58 – JDY emails 4/3/2013 & 4/4/2013 re: investigation of AA
- 3505-3063-65 – JDY emails 5/23/2013 & 5/24/2013 re: AA investigation
- 3505-3068-85 – JDY report re: AA personal profile and language analysis
- 3505-3122-24 – JDY report re: “Agents have discovered strong ties between those controlling the bitcoin markets and those operating the Silk Road.” “Over the last few months, HIS O’Hare has made several breakthroughs in identifying high priority targets believed to be the backbone of the website.” “HSI O’Hare has also identified multiple financial accounts belonging to the Silk Road operators which contain bitcoins equal in value to millions of U.S. dollars.”
- 3505-3086 – JDY email 4/16/2013 re: draft affidavit for search warrant for MK emails
- 3505-3087-92 – JDY draft search warrant affidavit for MK email accounts
- 3505-3447-50 – JDY email 10/12/2012 re: subpoena to API GmbH re: MK
- 3505-3472-74 – JDY email 7/11/2012 re: MLAT request to Germany re: MK
- 3505-3475-80 – JDY report re: investigation and MK

---

<sup>9</sup> “SR” refers to Silk Road.

- 3505-3512 – JDY email 9/30/2013 re: looking for connections to MK in DPR private messages
- 3505-3703-10 – JDY Report 36 08/06/12 re: MK investigation
- 3505-3722 – JDY Report 39 11/14/12 re: AA investigation with redactions, *including AA's name and identifying information*
- 3505-3762-67 – JDY Report 45 03/07/13 re: MK investigation (and redactions)
- 3505-3809-23 – JDY Report 54 05/01/13 re: AA investigation with redactions on information gathered by JDY regarding AA (3505-3817-23)
- 3505-3825 – JDY Report 55 05/06/13 re: missing paragraphs from Report 54 (but redacted)
- 3505-3869 – JDY Report 63 10/17/2013 re: search warrant served on Google for MK's email addresses
- 3505-3900-03 – JDY Report 75 11/27/2013 re: Customs Mutual Assistance Treaty request and return from Frankfurt, Germany re: MK (with redactions)
- 3501-43 – GA email 9/25/2013 to PayPal re: “the subject identified in the request we have reason to believe may work for eBay/Paypal or have a significant connection to your company.”
- 3501-83 – GA report 10/12/2013 re: SR investigation noting “FBI tech specialist who said that the server did not reveal any identifying information as to the identity of DPR and was not the ‘home run’ that FBI was seeking.”
- 3501-153 – GA emails 10/18/2013 to AUSA ST re: a bitcoin account related to “Justin's” account that was “emptied shortly at the end of July”
- 3501-157 – GA emails 10/16/2013 re: evidence that Mr. Ulbricht was a bitcoin trader for years
- 3501-206 – GA report 9/27/2013 re: “Interviews were obtained after the takedown of SR in various parts of the country by IRS and DEA counterparts upon the direction of SA Alford.”



# EXHIBIT 2

**GOVERNMENT EXHIBIT ADDITIONS,  
MODIFICATIONS, AND DELETIONS**

12/03/14	Deadline for Government Exhibits. The government provides an initial exhibit list and a disk containing its exhibits.
12/05/14	<p>The government provides updated an exhibit list and disk with the following changes:</p> <p><u>Additional Exhibits:</u>  113((A)(D) - Demonstrative of SR Payment System Ex.  201(G) - Photo Depicting DPR Icon on Chat  Ex. 294 - SSH Auth. Keys found on SR Marketplace Server  4 Exhibits in the 500 series  801 and 801(A) — Chart of Chicago UC purchases and lab test stip.</p> <p><u>Removed Exhibits:</u>  310A Email from Ulbricht to Rene Pinnell re: character references  310B Email from Priceline.com to Ulbricht re: Priceline Itinerary for Marigot, Dominica  310C Email from Ulbricht to Rene Pinnell re: waves</p>
1/02/14	The government provides new Rule 16 discovery: voicemails from Ross Ulbricht to Richard Bates (one of which later becomes GX 1005).
1/07/15	The government makes major revisions to exhibits, which are too numerous to be provided by email. The government does not provide any indication by email, phone or otherwise indicating which exhibits have been deleted, which have been modified or renumbered, and/or which descriptions were changed in the exhibit list.
1/08/15	The government provides new disk with 900 series added.
1/08/15	<p>At defense counsel's request, AUSA Serrin Turner sends an email explaining changes made to the exhibits contained in the new disks provided to counsel on 1/07/15 and 1/08/15, which are as follows:</p> <p><u>New exhibits:</u>  100A  100B  106(D)  107(D)  117A  118A-C</p>

121A  
124  
128B-J  
129A  
131  
132  
201B, I, & J  
213  
214  
242  
290  
291  
301  
304  
311  
316  
500A  
501D  
600  
603/603A  
604/604A  
700-704 are new (703 is an updated version of what was formerly 700)  
804

900 series is all new except for 920A-936. However, the gist of the new exhibits is the same as the exhibits formerly in the latter half of the 200 series (which have been removed and replaced with these) – i.e., screenshots and transactional data taken from the SR server.

1000 series consists of google chats formerly in 300 series, except 1000 is new

Other changes:

Metadata has been added to many of the exhibits in the 100 & 200 series  
Some of the exhibits have simply been renumbered

Torchat changes:

The torchats in the new list (222-232D) largely overlap with (and replace) the torchats that were included in the prior exhibit list. However, the chats have been broken up into smaller excerpts (or related sets of excerpts), with each made into a separate exhibit. Additionally, some material has been deleted from the chats; and some exhibits contain new chat excerpts not included in our earlier set of

	<p>exhibits.</p> <p>Defense counsel also discovers that the government has removed 31 exhibits contained in their initial exhibit list, as follows:</p> <p><u>Removed Exhibits:</u></p> <ul style="list-style-type: none"> <li>111(D) — Example of BTC address and example of Private Key</li> <li>116(D) — Bestselling jewelry</li> <li>116(E) — bestselling apparel</li> <li>116(F) — pill press.</li> <li>116(G) — book on silencers etc.</li> <li>116(H) Book excerpts on making c-4,</li> <li>122 — 4 steps to get customer help</li> <li>123 — A few words from DPR — now just DPR profile</li> <li>125EE — SR gets a new look</li> <li>125F — SR Forum Post : withdrawal problems;</li> <li>125M — Stealth mode feature for vendors</li> <li>125O — response to bitfool claiming DPR is doing this for the money</li> <li>126B — private messages between DPR, Cirrus, SSBD re: mod powers</li> <li>210 — removal of screenshot of Root directory on Ulbricbht laptop</li> <li>217 —Screenshot backup coin folder</li> <li>220 — Torchat buddy list</li> <li>240D — 1-1-12 journal entry from Laptop</li> <li>243 — Log of detected efforts of LE to investigate SR</li> <li>252 — Document regarding planned SR upgrades</li> <li>258 — Statement of DPR to SR community regarding DDOS attack on website</li> <li>259 — Document detailing user purchase process on SR</li> <li>276 A-F</li> <li>277 A-D</li> </ul> <p>Defense counsel also discovers that the government has added the following additional exhibits, not noted by the government in the summary provided:</p> <p><u>Additional Exhibits:</u></p> <ul style="list-style-type: none"> <li>200A — screenshot of Hash for Ross’s laptop</li> <li>201 series — chosen a few new</li> <li>222 — Complete log file of SSH torchat</li> <li>231A-C — Torchats with Smed</li> <li>602 — Server photograph</li> </ul>
1/10/15	Government adds 3 new exhibits (GXs 226F, 125G and 212A), modifies and

	makes additions to 3 others (GX 113: page added; GX 118B: metadata corrected; GX 936: messages from Silk Road forum added), and adds stickers to two existing exhibits (GXs 240C and 914)
1/12/15	<p>Emails from Serrin Turner include 5 new exhibits and 13 modified exhibits:</p> <p><u>New Exhibits:</u></p> <p>GX 111 (screenshot of crack cocaine page, which is the same as the first page of GX 103B)</p> <p>GX 133 (a screenshot of the DPR public key listed on the Silk Road website)</p> <p>3 demonstratives:</p> <p>GX 106A - who.is lookup of nfl.com</p> <p>GX 106B - who.is lookup of .onion site</p> <p>GX 107A - close up of screen from end of GX 107 video)</p> <p><u>Modified Exhibits:</u></p> <p>GX 102D: pages added</p> <p>GX 212A: pages deleted</p> <p>GX 291: redactions removed</p> <p>GX 201B, 201H, 201I: timezone of metadata changed</p> <p>GX 930 - 936: time zone changed to GMT</p>
1/14/15	<p>The government adds GXs 123, 228, 940H, and 940I, and provides digital copies to counsel at 10pm that night.</p> <p>Other exhibits were handed to counsel that morning in hard copy, with digital copies to be provided the following day by disk. We do not have a record of which exhibits were provided in hard copy only that day.</p>
1/16/15	The government provides an updated exhibit disk, containing several exhibits not included in the government's exhibit list prior to 1/14/15.
1/20/15	<p>12:10 a.m.: The government provides defense counsel with 17 new exhibits (GXs 205A, 212A, 212B, 226G, 226H, 226I, 227E, 227F, 227G, 227H, 228, 240D, 241, 280, 295, 296 and 502), and notifies counsel that it will be reformatting the metadata for all of the exhibits in the 200 series, provided on a disk reflecting changes to all of those exhibits the morning of 1/21/15, in court.</p> <p>During court, the government provides defense counsel with two new exhibits (GX 149 and GX 150), both of which were admitted in court that same day, and a modified version of GX 296. Electronic copies of these exhibits and an updated exhibit list are provided to counsel <i>post</i> court, at 6:21 p.m.</p>
1/21/15	9:38 a.m. (after the court day has commenced): Government provides defense

	<p>counsel by email with 20 new exhibits (GXs 297, 298, 318-327, 1006-1008, 806, 808, and 809A), and two modified exhibits (GXs 228 and 314). The original email was apparently sent the night before but defense counsel did not receive it, possibly due to the size of the attachments.</p> <p>9:31 p.m.: The government adds an exhibit (GX 328) and adds metadata to an additional four exhibits (GXs 501A through 501D).</p>
1/25/15	<p>The government produces to defense counsel 23 entirely new or modified exhibits (GXs 227I, 264, 312, 312C, 320, 321, 322, 324, 325, 329, 330, 331, 333A, 333B, 334, 340A, 340B, 703, 808, 936, 950, 960, and 961), including a 348KB excel spreadsheet (GX 703).</p> <p>10:17 p.m.: The government provides an additional 3MB excel spreadsheet containing a wallet analysis conducted by Former Special Agent Yum, that the government intended to produce as 3500 material and from which it was first preparing a series of summary exhibits that it intended to introduce during former SA Yum's testimony.</p>
1/26/15	<p>8:30 a.m.: The government emails defense counsel a new exhibit (GX 311) and a modified version of GX 334.</p>
1/28/15	<p>8:56 a.m.: The government sends, by email, an additional 18 new exhibits (GXs 606, 607, 608, 609, 610, 620, 620A, 620B, 620C, 630, 631, 1100, 1101, 1102, 1200, 1201, 1202 and 1203)</p> <p>9:20 a.m.: The government provides, by email, two new exhibits (GXs 1204 and 1205) and a modified version of GX 1203, first provided to defense counsel earlier that morning.</p> <p>10:59 p.m.: The government provides, by email, an additional exhibit (GX 605A) and a modified version of GX 620A, and advises counsel that it is adding GX 650 and 651, copies of which were only provided to Joshua Horowitz, Esq., by disk, that Sunday, January 25, 2015.</p>

# EXHIBIT 3

## Lindsay Lewis

---

**From:** Turner, Serrin (USANYS) <Serrin.Turner@usdoj.gov>  
**Sent:** Thursday, January 08, 2015 6:20 PM  
**To:** Joshua Dratel; Lindsay Lewis; joshua.horowitz@techlawny.com  
**Cc:** Howard, Timothy (USANYS) 1; Evert, Nicholas (USANYS); Rosen, Molly (USANYS)  
**Subject:** summary of new/modified exhibits

Here is our summary of the changes that have been made to the exhibits.

### New exhibits

- 100A
- 100B
- 106(D)
- 107(D)
- 117A
- 118A-C
- 121A
- 124
- 128B-J
- 129A
- 131
- 132
- 201B, I, & J
- 213
- 214
- 242
- 290
- 291
- 301
- 304
- 311
- 316
- 500A
- 501D
- 600
- 603/603A
- 604/604A
- 700-704 are new (703 is an updated version of what was formerly 700)
- 804
- 900 series is all new except for 920A-936. However, the gist of the new exhibits is the same as the exhibits formerly in the latter half of the 200 series (which have been removed and replaced with these) – i.e., screenshots and transactional data taken from the SR server.
- 1000 series consists of google chats formerly in 300 series, except 1000 is new

### Other changes:

- Metadata has been added to many of the exhibits in the 100 & 200 series



- Some of the exhibits have simply been renumbered
- The torchats in the new list (222-232D) largely overlap with (and replace) the torchats that were included in the prior exhibit list. However, the chats have been broken up into smaller excerpts (or related sets of excerpts), with each made into a separate exhibit. Additionally, some material has been deleted from the chats; and some exhibits contain new chat excerpts not included in our earlier set of exhibits.

Serrin Turner  
Assistant United States Attorney  
U.S. Attorney's Office, Southern District of New York  
1 St. Andrew's Plaza  
New York, New York 10007  
Desk: 212-637-1946  
Cell: 646-660-4815  
Fax: 212-637-2429  
Email: [serrin.turner@usdoj.gov](mailto:serrin.turner@usdoj.gov)