

No. 13-1816

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

UNITED STATES)	
)	
v.)	United States' Motion for a Word
)	Limit Extension to 26,500 Words &
ANDREW AUERNHEIMER,)	A Stay of the Briefing Schedule
Appellant)	

Marcia M. Waldron, Clerk
 United States Court of Appeals
 for the Third Circuit
 U.S. Courthouse
 601 Market Street, Room 21400
 Philadelphia, PA 19106-1790

Dear Ms. Waldron and Counsel:

The United States respectfully requests permission to file a brief containing 26,500 words in the above-entitled matter. The United States also requests that the briefing schedule be stayed pending disposition of this motion. In support of this request, undersigned counsel, on behalf of appellee United States represents:

1. I am the attorney who has been assigned principal responsibility for preparing the Government's brief in this matter.
2. Appellant Andrew Auernheimer has filed his opening brief in the above-captioned matter. That brief contains 13,899 words, and raises five issues on appeal. The brief raises serious substantive challenges to the Government's

prosecution of Mr. Auernheimer, and several of the legal issues raised are questions of first impression in this Circuit.

3. This appeal has received considerable attention in the legal community, and as a result, four amicus briefs on defendant's behalf have been filed. The National Association of Criminal Defense Lawyers has filed a brief containing 6,882 words. A group of professional security researchers has filed a brief containing 4,983 words. A brief on behalf of the Mozilla Foundation and others, written by the Center for Internet and Society at Stanford Law School, contains 6,399 words. Finally, a brief on behalf of the Digital Media Law Project, written by the Berkman Center for Internet and Society at Harvard Law School, contains 6,757 words. In total, the amicus briefs supporting Auernheimer's position total 25,021 words. (No amicus briefs have been submitted supporting the Government's positions.)

4. The Government is aware of this Court's concern about the frequent requests from parties to exceed the word limit. With that in mind, the Government is not seeking permission to match the total number of words submitted in all of the briefs seeking reversal of the judgment below. Many, but not all, of the arguments and details presented in the four amicus briefs will need to be addressed by the Government when defending the judgment below. This case presents serious issues that have been well briefed by capable counsel, and just as the Court

will benefit from the additional briefing provided by the amici, the Court will benefit from additional responsive briefing from the Government. The 26,500 words requested by the Government represents the 14,000 words automatically permitted by the rules, plus 12,500 words, which is one-half of the more than 25,000 words submitted by the amici seeking reversal.

5. Undersigned counsel is, at present, only beginning to formulate his responses to the issues raised by the appellant and further developed by the amici. If, in the course of briefing, the Government finds that it can address adequately the issues raised with fewer than 26,500 words, it will certainly do so.

6. Finally, the Government requests that the briefing schedule be stayed pending disposition of this motion.

WHEREFORE, the United States respectfully requests that it be permitted to file a brief containing 26,500 words, and that the briefing schedule be stayed pending disposition of this motion.

Respectfully submitted,

PAUL J. FISHMAN
United States Attorney

By: s/ Glenn J. Moramarco
GLENN J. MORAMARCO
Assistant United States Attorney

Dated: August 5, 2013

CERTIFICATION OF SERVICE

I hereby certify that on **August 5, 2013**, I caused the attached motion to be filed with the Clerk of the United States Court of Appeals for the Third Circuit and served on the relevant parties via the Court's ECF filing system.

/s/ Glenn J. Moramarco
GLENN J. MORAMARCO

Dated: August 5, 2013