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Russian Man Charged with Sending Thousands of Spam Emails

The Office of the United States Attorney for the Eastern District of Wisconsin announced that Oleg Nikolaenko (23) of Moscow, Russia, was arraigned today on a one-count indictment alleging a violation of the CAN-SPAM Act, Title 18, United States Code, Section 1037(a)(3) and 2.

The grand jury returned the indictment on November 16, 2010, after Mr. Nikolaenko's arrest in Las Vegas, Nevada, on November 4, 2010. Mr. Nikolaenko was detained today by Magistrate Judge Patricia J. Gorence pending trial.

The indictment alleges that Mr. Nikolaenko knowingly and materially falsified header information in email messages to disguise the emails' true origin. The indictment alleges that the volume of electronic mail messages transmitted in furtherance of the offense exceeded 250,000 during a one-year period. The maximum possible penalty for this offense is imprisonment for not more than three years, a fine of not more than $250,000, and up to one year of supervised release. A restitution order also may be issued. A scheduling conference has been set for December 21, 2010, before Magistrate Judge William E. Callahan.

The affidavit in support of the criminal complaint previously filed against Mr. Nikolaenko alleges that he sent billions of spam emails on behalf of individuals who were selling counterfeit Rolexes, non-FDA approved herbal remedies, and counterfeit prescription medications. In return, Mr. Nikolaenko was paid hundreds of thousands of dollars. Mr. Nikolaenko is alleged to have initiated the sending of these messages by use of his botnet, which had been dubbed the "Mega-D" botnet. As detailed in the complaint, the director of malware research at a private internet security firm estimated that at various times, the Mega-D botnet was capable of sending ten billion spam email messages a day, all of which contained materially falsified header information.

As described in the complaint, a botnet is a collection of compromised computers running programs under a common command and control structure. A botnet's originator can control the group remotely and usually for nefarious purposes. Botnets serve various purposes, including launching and controlling denial-of-service attacks, creating and misusing email for spam, and the theft of personal identifying information.

An indictment is a formal charging document. Mr. Nikolaenko is considered innocent until proven guilty in a court of law.

The FBI is investigating this case, with assistance from the FTC. This case is assigned to Assistant United States Attorneys Brian J. Resler and Erica N. O'Neil, and Trial Attorney William Hall of the Computer Crime and Intellectual Property Section, Criminal Division, U.S. Department of Justice.