

[US] US Law only applicable in the US

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The US Court of Appeals for the 2nd Circuit in New York issued a ruling on 14 July 2016 that quashed a warrant issued under Section 2703 of the Stored Communications Act (“SCA” or the “Act”) by the United States (US) Government against Microsoft. The warrant directed Microsoft to produce the contents of an email account it maintains for a customer who uses the company’s electronic communications services. Although the data requested is stored in the US, to comply with the warrant Microsoft must access customer content that it stores in Ireland and import the data into the US. The Court agreed with Microsoft’s contention that the Act does not authorise the US Government to require the production of information stored overseas.

The Court explained that warrants traditionally carry territorial limitations, citing the long held dictate that law enforcement officers may only be directed by a court-issued warrant to seize items at locations in the US and in US-controlled areas. It thus explained that Congress neither explicitly nor implicitly envisioned the application of its warrant provision overseas because it passed the Act three decades ago, at a time when international boundaries were not as routinely crossed as they are today and service providers were not as reliant on worldwide networks.

Ruling of the US Court of Appeals for the 2nd Circuit of New York of 14 July 2016

<https://www.justsecurity.org/wp-content/uploads/2016/07/Microsoft-Ireland-2d-Cir-Opinion-20160714.pdf>

