

Class 21: Pen Register Act

Administrative

- Next Time
 - 500-19
 - statutory sections
 - Read section 2703 carefully

Last Time

Text: 18 USC 2511(2)(a)(i) 

Rights or Property

Auler

Facts

Wisconsin telephone security officers detecting blue boxes on network
Monitoring using "2600 cycle detector"

Some contacts with FBI intertwined

- TelCo uses detector
- Notify FBI
 - Warrant
 - Search, but he has moved to Wisconsin Dells
- TelCo uses detector again
- TelCo starts recording all tones and conversations on suspect's line 3 - 4 days
- Notifies FBI again
- TelCo records 2-3 more days
- Warrant
- TelCo records 4 more days
 - Mid-way: search
 - TelCo employee accompanies on search

Held

Reasoning

What are "rights" and "property"?

- Copyright monitoring?
- Congestion relief?

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Last Time

Rights or Property

McClelland

Facts

"Definition of chutzpah"

Kidnaping investigation

Ransom demands made by phone

TelCo does trace

Cell phone

Cloned

Police asked for continued monitoring

Phone detected in call to lifeguard station:
"Not coming to work today"

Identified employee as Michael McClelland

Victim found and released

McClelland arrested

Never prosecuted

McClelland sued

Sued officers and police dept, but not TelCo

Held

Reasoning

Do Burglars have rights? +

Pen Register Act

History

A. Criminal Prohibitions

18 U.S.C. 3121

"Pen Register"

"Trap and Trace Device"

B. Definitional Boundaries

Content / Non-content +

Prospective / Retrospective

C. Exceptions

D. Rules permitting government access

18 USC 3122

18 USC 3123

Role of Judges

In re application of the USA

None

Facts

Application (in full) on 489-90

Magistrate Judge

District court judge

Reasoning

E. Remedies +