SPC Guiding Case No. 102: Case of Fu Xuanhao and Huang Zichao for Destroying Computer Information Systems

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Discussed and adopted by the Judicial Committee of the Supreme People's Court; issued on December 25, 2018.

Keywords

Criminal / crime of destroying computer information systems / DNS hijacking / serious consequences / especially serious consequences

Holding

1. The act of "DNS hijacking," which, through technical means such as modifying router settings, modifying browser settings, locking the homepage, or popping up new windows, compels network users to access a designated website, constitutes the destruction of a computer information system; where the consequences are serious, it constitutes the crime of destroying computer information systems.

2. For "DNS hijacking," whether it constitutes "serious consequences" or "especially serious consequences" shall be determined on the basis of the number of computer information systems rendered unable to operate normally, the length of time during which the relevant computer information systems were unable to operate normally, and the resulting losses or impact.

Basic Facts

From late 2013 to October 2014, the defendants Fu Xuanhao and Huang Zichao, together with others, leased multiple servers and used malicious code to modify the DNS settings of Internet users' routers, so that when users logged in to navigation websites such as "2345.com," they would be redirected to the "5w.com" navigation website that the defendants had set up. The defendants Fu Xuanhao and Huang Zichao and others then sold the Internet user traffic they had obtained to Hangzhou Jiushang Technology Co., Ltd. (the owner of the "5w.com" navigation website), for a total of RMB 754,762.34 in illegal gains.

On November 17, 2014, after receiving a telephone notification from police officers, the defendant Fu Xuanhao voluntarily went to the public security organ, and the defendant Huang Zichao voluntarily surrendered; both defendants truthfully confessed the above criminal facts after arriving at the public security organ.

Neither the defendants nor their defense counsel raised any objection to the charges or the facts.

Judgment

On May 20, 2015, the Shanghai Pudong New Area People's Court rendered Criminal Judgment (2015) Pu Xing Chu Zi No. 1460: (1) the defendant Fu Xuanhao committed the crime of destroying computer information systems and was sentenced to fixed-term imprisonment of three years, with a suspension of execution of three years; (2) the defendant Huang Zichao committed the crime of destroying computer information systems and was sentenced to fixed-term imprisonment of three years, with a suspension of execution of three years; and (3) the instruments of crime seized in the case and the illegal gains surrendered in the case were confiscated and turned over to the State Treasury. After the first-instance judgment was pronounced, neither of the two defendants appealed, and the public prosecution organ did not protest; the judgment took legal effect.

Reasoning

The court's effective judgment held that, pursuant to Article 286 of the Criminal Law of the People's Republic of China, anyone who destroys the functions of a computer information system, causing the computer information system to be unable to operate normally, and the consequences are serious, commits the crime of destroying computer information systems. In this case, the defendants Fu Xuanhao and Huang Zichao carried out "DNS hijacking," a form of traffic hijacking. DNS is the abbreviation of "Domain Name System" in English, and its function is to provide domain name resolution services. "DNS hijacking" works by modifying domain name resolution so that access to a specific domain name is diverted from the original IP address to a tampered designated IP address, causing users to be unable to access the website corresponding to the original IP address, or to access a false website, thereby achieving the purpose of stealing data or disrupting the original normal services of the website. The two defendants used malicious code to modify the DNS settings of Internet users' routers, hijacking the traffic of users accessing navigation websites such as "2345.com" to the "5w.com" navigation website they had set up, and then sold the Internet user traffic they had obtained. This was clearly the destruction of the functions of the computer information systems of network users, causing the computer information systems to be unable to operate normally, and satisfied the objective act elements of the crime of destroying computer information systems.

Pursuant to the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Cases of Endangering the Security of Computer Information Systems, where a person destroys a computer information system and obtains illegal gains of RMB 25,000 or more, or causes economic losses of RMB 50,000 or more, it shall be determined as causing "especially serious consequences." In this case, the two defendants obtained illegal gains of RMB 754,762.34, which constituted "especially serious consequences."

In summary, the "DNS hijacking" acts carried out by the defendants Fu Xuanhao and Huang Zichao violated state provisions by modifying the data stored in computer information systems, with especially serious consequences, and should be punished with fixed-term imprisonment of five years or more in accordance with the law. In view of the facts that the two defendants surrendered all illegal gains with the help of their families, did not obtain or disclose citizens' personal information, and both had the circumstances of voluntary surrender and no prior criminal record or other misconduct, they were given mitigated punishment and a suspended sentence in accordance with the law.

Relevant Legal Provisions

Article 286 of the Criminal Law of the People's Republic of China.

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