

# Muscovite Denies Spam Charges in U.S.

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MILWAUKEE, Wisconsin — A 23-year-old Moscow resident accused of masterminding a vast worldwide spamming network pleaded not guilty Friday in a U.S. court to violating a U.S. anti-spam law.

A federal judge in Wisconsin ordered Oleg Nikolaenko held without bond, saying he was a flight risk because of his access to cash and his lack of ties to the state and United States.

Nikolaenko was brought into court wearing bright orange prison pants and matching sweatshirt and shackled at the ankles. His attorney entered the plea as a Russian interpreter translated for his client.

Prosecutors say Nikolaenko ran a network that involved placing malicious code on unsuspecting users' computers and then hijacking the infected machines to blast out billions of e-mails.

Internet security experts say the network was so massive that on some days it accounted for one of every three unwanted e-mails in the world.

Nikolaenko is charged with violating the CAN-SPAM act by intentionally falsifying header information in commercial e-mail messages and sending at least 2,500 spam e-mails per day, the minimum threshold for the charge. Prosecutors say his network was capable of sending up to 10 billion messages per day.

The charge carries a maximum penalty of three years in prison and a \$250,000 fine.

Nikolaenko, unshaven with disheveled hair, sat silent and expressionless during the 20-minute proceedings.

His attorney, Christopher Van Wagner, said he intended to mount a vigorous defense and would examine whether broad pretrial publicity might jeopardize his client's ability to receive a fair trial.

"Some people still harbor Cold War images of people from Russia," he told reporters on the courthouse steps. "You take one look at Oleg, he looks like a kid you find in a basement munching nachos and playing Wii" video games.

Assistant U.S. Attorney Erica O'Neil said the prosecution's case would hinge on "voluminous" records including e-mails Nikolaenko purportedly sent and information gleaned from computer hard drives. She said a computer-crimes expert from the U.S. Justice Department is assisting because of the complexity of the case.

Van Wagner hinted that he may try to cast doubt on the validity of the e-mail records.

"When you respond to an e-mail you don't know who's typing it," he said.

Nikolaenko was arrested last month at the Bellagio Hotel while he was in Las Vegas for a car show. He is being tried in Milwaukee because that's where an undercover FBI investigator ordered Viagra through an e-mail distributed by Nikolaenko's alleged operation and received bogus herbal pills instead, an FBI spokesman said.

O'Neil said Nikolaenko is being held at a U.S. Marshal detention facility in Milwaukee.

In arguing that Nikolaenko should be granted release on bail, Van Wagner noted that his client's wife and young daughter were in the process of requesting travel visas in Russia so they could be with Nikolaenko in Milwaukee for the trial. They would not be doing that if Nikolaenko were planning to flee, he said.

But U.S. Magistrate Judge Patricia Gorence wasn't convinced, saying Nikolaenko had two passports and a sizeable amount of cash when he was arrested. She said Van Wagner could request a new bond hearing once the defense arranged for a place for Nikolaenko to live, a request Van Wagner said he would "absolutely" make.

O'Neil said the amount of cash was about \$4,000.

Prosecutors say they sniffed out Nikolaenko's trail during the prosecution of another man convicted in Missouri of conspiring to traffic in counterfeit Rolex watches. The say details emerged that led them on a far-flung investigation, one that eventually helped them tie Nikolaenko to one of the most sophisticated spamming networks in the world — "Mega-D,"

which investigators said accounted for 32 percent of all worldwide spam.

Investigators say Mega-D was a botnet, short for "robot network," in which users' computers are infected with so-called malware that allows someone to remotely hijack the computer and have it send out spam e-mails. The Mega-D network included more than half a million infected computers.

Nikolaenko is due in court Dec. 21 for a scheduling conference. Gorence said his trial must start no later than Feb. 11.

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