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## [AT&T loses bid for a closed court](#) [At issue are papers the company calls trade secrets](#)

- Bob Egelko, Chronicle Staff Writer

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AT&T was turned down by a federal judge Tuesday in its 11th-hour attempt to bar the public from a San Francisco court hearing today about documents that allegedly show the company's involvement in a secret government electronic surveillance program.

The telecommunications company opposes disclosure of the documents, which a former employee supplied to a privacy-rights group suing the firm, and wants them back. An AT&T lawyer sent a letter by fax to Chief U.S. District Judge Vaughn Walker on Tuesday asking that the courtroom be closed "during any discussion of its trade secrets or confidential information."

Less than an hour later, Walker notified the company's lawyer that the request was denied and that today's hearing would remain open, said the judge's court clerk, Cora Delfin.

AT&T spokesman Marc Bien said the company's lawyers may still seek to close the hearing after it starts.

The hearing is the first in a lawsuit filed in January by the Electronic Frontier Foundation on behalf of AT&T customers. The suit accuses the company of illegally giving the National Security Agency access to its voice and data network and its databases of customers' calls and e-mails, without a court warrant or evidence of wrongdoing.

President Bush has acknowledged ordering the agency shortly after the terrorist attacks of Sept. 11, 2001, to intercept phone calls and e-mails between U.S. residents and terrorist suspects abroad without seeking court approval, as required by a 1978 federal law.

The lawsuit, which seeks damages and a ban on AT&T participating in the program, was accompanied by documents obtained by Mark Klein, a technician with the company for 22 years. Klein said in a statement through his lawyers that while he was assigned to a San Francisco Internet facility in 2003, he saw equipment installed that would allow the National Security Agency to sweep up huge amounts of data from the company's worldwide network and scan it for selected information.

AT&T says the documents, which have been filed under seal at the company's request, contain trade secrets and should be returned. Bien said AT&T's effort to close the courtroom was consistent with that position.

"The subject matter (of the hearing) gets into proprietary and confidential information," he said. "In the wrong hands, (the documents) could help hackers or potential terrorists who would want to injure our communications network, or commercial competitors who would want to obtain an unfair advantage."

The Electronic Frontier Foundation opposed closing the courtroom. "It's important that people who are interested in this case should be able to hear about it," spokeswoman Rebecca Jeschke said. "We believe the hearing can be held without putting any trade secrets in jeopardy."

Bush administration lawyers have asked Walker to dismiss the suit, saying it could expose military secrets and endanger national security if allowed to proceed. The judge will consider that request at a future



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