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Judge issues split decision in AT&T privacy lawsuit

Posted 5/17/2006 10:46 PM ET

By Edward Iwata, USA TODAY

SAN FRANCISCO — In a major lawsuit that challenges the Bush administration's domestic spying program and the role of telecommunications firms, a federal judge here Wednesday refused to order a privacy-rights group to return confidential documents to AT&T.

The class-action lawsuit, filed in January by the Electronic Frontier Foundation, says AT&T illegally gave the National Security Agency the telephone and Internet records of millions of customers, without a court order or warrant.

Some of the lawsuit's allegations are based on documents held by retired AT&T technician Mark Klein, who has disclosed some of the papers to attorneys and media organizations. Legal filings allege that the NSA can monitor electronic data from AT&T offices.

The foundation praised the action Wednesday by U.S. District Judge Vaughn Walker. But AT&T also scored an early win, when the judge rebuffed requests by the plaintiffs, joined by media companies including the Associated Press, Bloomberg News and USA TODAY, to unseal the documents for the public.

"I think the best course of action is to preserve the status quo," Walker said.

He ordered the Electronic Frontier Foundation and its consultants not to give the documents to anyone pending further court review. He will hear arguments June 23 by AT&T and the Justice Department to dismiss the case.

The Justice Department, which filed a motion Saturday seeking to classify the documents as military secrets, also sought to keep the papers sealed.

Justice Department attorney Carl Nichols said that public disclosure of the documents would harm national security. He urged the judge to review the materials in the privacy of his chambers and said the government could fly the documents to San Francisco for him.

Attorneys for AT&T argued that the documents hold sensitive trade secrets that would hurt its business if disclosed.

Cindy Cohn, legal director for the Electronic Frontier Foundation, told the judge that the privacy of millions of Americans is at stake and that AT&T is guilty of "a massive violation of the law."

Maria Morris, an attorney for the privacy group, told Walker that AT&T — in seeking the return of the documents — is asking the judge "to suppress evidence of AT&T's criminal activity."

AT&T attorney David Anderson objected, saying, "We of course completely deny that sort of allegation."

USA TODAY reported last week that the NSA has collected call records of tens of millions of Americans using data from AT&T and other telecoms.

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