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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14

15 TASH HEPTING, GREGORY HICKS,) No. C-06-00672-VRW
CAROLYN JEWEL and ERIK KNUTZEN, on)
16 Behalf of Themselves and All Others Similarly) CLASS ACTION
Situating,)
17 Plaintiffs,) DECLARATION OF KEVIN S. BANKSTON
18 vs.) IN SUPPORT OF PLAINTIFFS'
19 AT&T CORP., et al.) OPPOSITION TO MOTION OF
20 Defendants.) DEFENDANT AT&T CORP. TO COMPEL
21) RETURN OF CONFIDENTIAL
DOCUMENTS

Date: May 17, 2006
Time: 10:00 a.m.
Courtroom: 6, 17th Floor
Judge: Honorable Vaughn R. Walker

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1 I, Kevin S. Bankston, hereby declare:

2 1. I am an attorney of record for plaintiffs in this action and a member of good standing
3 of the California State Bar, and am admitted to practice before this Court. I have personal knowledge
4 of the matters stated in this declaration. If called upon to do so, I am competent to testify to all
5 matters set forth herein.

6 2. On the afternoon of Friday, January 20, 2006, Shari Steele, the Executive Director of
7 the Electronic Frontier Foundation (EFF), came to my office and informed me that a gentleman had
8 walked into EFF's lobby unsolicited, saying that he had information linking AT&T to the National
9 Security Agency's ("NSA") domestic surveillance program that he wanted to disclose to EFF,
10 including several documents which he carried with him in a manila envelope.

11 3. I escorted the gentleman, who identified himself as Mark Klein, to my office for a
12 private interview.

13 4. In my office, Mr. Klein informed me that he was a former AT&T employee with
14 evidence of AT&T's collaboration with the NSA in its domestic spying program.

15 5. Mr. Klein handed to me excerpts of AT&T documents that he said described the
16 technology behind AT&T's participation in the program, whereby the NSA had been given complete
17 access to the Internet traffic transiting through at least one, and probably more, AT&T Internet
18 facilities. At this point, I asked Senior Staff Attorney Lee Tien to come to my office and join the
19 discussion with Mr. Klein.

20 6. In our conversation with Mr. Klein, Mr. Tien and I found him to be credible, and the
21 document excerpts that he provided to us appeared to contain authentic and valuable information
22 relevant to a potential case we were investigating.

23 7. After EFF filed the current class action against AT&T for its illegal participation in
24 the NSA program on January 31, 2006, Mr. Klein, represented by counsel, agreed to serve as a
25 declarant for plaintiffs' preliminary injunction motion regarding the AT&T Internet surveillance of
26 which he had evidence, and provided complete copies of the AT&T documents to EFF on February
27 28, 2006.

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1 8. The AT&T documents attached as exhibits to the declaration of Mr. Klein are the
2 only AT&T documents provided to EFF by Mr. Klein.

3 9. Prior to January 20, 2006, no one at EFF had met or communicated with Mr. Klein in
4 any way.

5 I declare under penalty of perjury under the laws of the United States that the foregoing is
6 true and correct. Executed this 1st day of May, 2006, at San Francisco, California.

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/s/ Kevin S. Bankston
KEVIN S. BANKSTON

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I, Maria V. Morris, am the ECF User whose ID and password are being used to file this
12 Declaration of Kevin S. Bankston in Support of Plaintiffs' Opposition to Motion of Defendant
13 AT&T Corp. to Compel Return of Confidential Documents. In compliance with General Order 45,
14 X.B., I hereby attest that Kevin S. Bankston has concurred in this filing.

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DATED: May 1, 2006

/s/ Maria V. Morris
MARIA V. MORRIS

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

/s/ Maria V. Morris
MARIA V. MORRIS

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Manual Notice List

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