

~~TOP SECRET//COMINT [REDACTED] ORCON//NOFORN//MR~~

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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3 TASH HEPTING, GREGORY HICKS,)
4 CAROLYN JEWEL, and ERIK KNUTZEN)
5 On Behalf of Themselves and All Others)
6 Similarly Situated,)
7 Plaintiffs,)
8 v.)
9 AT&T CORP., AT&T INC., and)
10 DOES 1-20, inclusive,)
11 Defendants.)

Case No. C-06-0672-VRW

CLASSIFIED DECLARATION OF WILLIAM B. BLACK, ACTING DIRECTOR, NATIONAL SECURITY AGENCY

SUBMITTED IN CAMERA, EX PARTE

Hon. Vaughn R. Walker

IN CAMERA, EX PARTE DECLARATION OF WILLIAM B. BLACK, ACTING DIRECTOR, NATIONAL SECURITY AGENCY

I, William B. Black, do hereby state and declare as follows:

(U) INTRODUCTION

16 1. ~~(S)~~ I am the Deputy Director of the National Security Agency (NSA), an intelligence
17 agency within the United States Department of Defense (DoD). Pursuant to the NSA's Order of
18 Succession, I am also currently the Acting Director because the Director is outside the United
19 States. As Acting Director, I am responsible for directing the NSA, overseeing the operations
20 undertaken to carry out its mission and, by specific charge of the President and the Director of
21 National Intelligence, protecting NSA activities and intelligence sources and methods. I have been
22 designated an original TOP SECRET classification authority under Executive Order No. 12958, as
23 amended. In the course of my official duties, I have been informed about this lawsuit, the issues
24 raised by the Plaintiffs' claims and new facts relevant to this lawsuit.¹

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¹ ~~(S)~~ Pursuant to the standards in Executive Order No. 12958, as amended by Executive
CLASSIFIED SUPPLEMENTAL DECLARATION OF WILLIAM B. BLACK,
ACTING DIRECTOR, NATIONAL SECURITY AGENCY, CASE NO. C-06-0672-VRW

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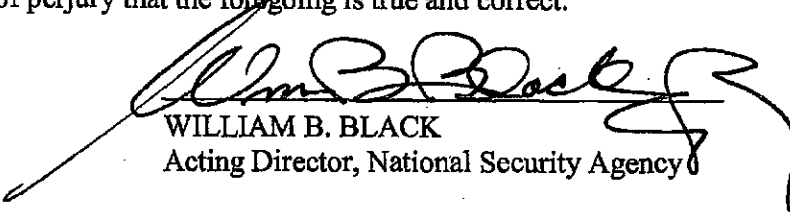
2. ~~(TS//SI~~ [REDACTED] ~~OC/NF)~~ In a supplemental *in camera, ex parte* declaration

dated June 16, 2006, the Director of National Intelligence, John D. Negroponte, has asserted the military and state secrets privilege and a statutory privilege over new facts related to a May 24, 2006 Order of the Foreign Intelligence Surveillance Court (FISC). [REDACTED]

[REDACTED] I have reviewed the FISC's Order and Director Negroponte's supplemental declaration, and I agree with Director Negroponte that the disclosure of information related to the FISC's Order would cause exceptionally grave damage to the national security. I also note that the FISC has prohibited the disclosure of information related to the Order except pursuant to narrow exceptions not applicable here. Accordingly, I support Director Negroponte's privilege assertions and likewise assert the NSA's statutory privilege, set forth in section 6 of the National Security Agency Act of 1959, Public Law No. 86-36 (codified as a note to 50 USC. § 402), over the same information.

I declare under penalty of perjury that the foregoing is true and correct.

DATE: 16 JUN 06


WILLIAM B. BLACK
Acting Director, National Security Agency

Order No. 13292, this declaration is classified as: TOP SECRET//COMINT [REDACTED] TSP//ORCON/NOFORN. The details concerning these classification markings are set forth in the May 12, 2006 *In Camera, Ex Parte* Declaration of Keith B. Alexander, Director, National Security Agency ("*In Camera* Alexander Decl."), at ¶¶ 5-8.
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