

EXHIBIT A

1
2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
4 **SAN FRANCISCO DIVISION**

5 ELECTRONIC FRONTIER FOUNDATION,) Case No.: 14-cv-03010-RS
6 Plaintiff,)
7 v.)
8 NATIONAL SECURITY AGENCY, OFFICE)
9 OF THE DIRECTOR OF NATIONAL)
10 INTELLIGENCE,)
11 Defendants.)

12 **SUPPLEMENTAL DECLARATION OF JENNIFER L. HUDSON,**
13 **DIRECTOR, INFORMATION MANAGEMENT DIVISION,**
14 **OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

15 Pursuant to 28 U.S.C. § 1746, I, Jennifer L. Hudson, declare the following to be true and
16 correct:

17 1. I offer this declaration as a supplement to the declaration I provided to the Court in
18 this case on October 30, 2015, and I incorporate by reference into this declaration all relevant
19 information contained therein.

20 2. Since my October 30, 2015 declaration, I have reviewed the plaintiff's cross motion
21 for summary judgment and its accompanying exhibits, together with the classified, *ex parte*
22 declaration of the Office of the Director of National Intelligence's (ODNI) National Intelligence
23 Manager for Cyber, James B. Richberg that is being submitted with the Government's reply in
24 support of its summary judgment motion/opposition to plaintiff's summary judgment motion in this
25 case. In preparing this declaration, I have again reviewed the classified version of the document
26 entitled "Commercial and Government Information Technology and Industrial Control Product or
27 System Vulnerabilities Equities Policy and Process" (VEP Document), and I have consulted once
28

1 again with subject matter experts within the ODNI and with representatives of the relevant
2 agencies that contain equities in the information, including the NSA.

3 3. In light of the foregoing, I have determined that a few words in the VEP Document
4 ought to be un-redacted, based on information I have reviewed and my consultation with subject
5 matter experts. I have also decided, in light of the information I reviewed and my consultation
6 with subject matter experts, that a discretionary release of additional information from the VEP
7 Document can also be made. That additional information is contained within the header on each
8 page, as well as Sections 3, 4, 6.1, 6.3, 6.6.2, 6.8.2, and Annex A of the VEP Document. A copy of
9 this new version of the VEP Document is being released to accompany the classified *ex parte*
10 declaration of Mr. Richberg and the Government's reply/opposition motion referenced above. I
11 will refer to this new version of the document as the January 14, 2016 VEP Document.

12 4. The January 14, 2016 VEP document still contains redacted information. This
13 redacted information falls into one of four of the following categories: (1) certain actions taken in
14 response to the identification of a vulnerability; (2) timelines pertaining to the functioning of the
15 VEP; (3) the identities of certain entities involved in particular aspects of the VEP; and (4) the
16 process of addressing cryptographic vulnerabilities. These categories are simply a refinement of
17 the categories of withholdings I set forth in paragraph 32 of my October 30, 2015 declaration.

18 5. I concur with the conclusion of Mr. Richberg in his classified *ex parte* declaration
19 that the redacted information falling within one or more of these categories has not been disclosed
20 by the United States Government.

21 6. For the reasons stated in my October 30, 2015 declaration, as an original
22 classification authority I further concur with Mr. Richberg that much of the remaining redacted
23 information, if disclosed, would reveal information that is currently classified. This information is
24 currently and properly classified at the SECRET level, and its unauthorized release could
25 reasonably be expected to cause serious damage to the national security. It is appropriately
26 withheld pursuant to Executive Order 13526, ¶¶ 1.4(c) and 1.4(g) and exempt from disclosure
27 under FOIA exemption 1 for the reasons I set forth in paragraphs 22-33 of my October 20, 2015
28 declaration.

