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11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **OAKLAND DIVISION**

15
16 ELECTRONIC FRONTIER FOUNDATION,)

17 Plaintiff,)

18 v.)

19 DEPARTMENT OF HOMELAND)
20 SECURITY,)

21 Defendant.)

Case No.: 12-cv-5580 PJH

22)
23)
24) **DECLARATION OF JENNIE L.**
25) **KNEEDLER IN SUPPORT OF**
26) **DEFENDANT'S MOTION FOR**
27) **SUMMARY JUDGMENT**

28)
Date: December 11, 2013
Time: 9:00 a.m.
Place: Courtroom 3, 3rd floor
Judge: Hon. Phyllis J. Hamilton

1 I, Jennie L. Kneedler, declare and state as follows:

2 1. I am a trial attorney in the Federal Programs Branch of the Civil Division of the
3 United States Department of Justice, in Washington, D.C. I am the trial attorney representing the
4 defendant in the case entitled *Electronic Frontier Foundation v. United States Department of*
5 *Homeland Security*, 12-cv-05580 (PJH). In that capacity, I have personal knowledge of the
6 following facts and, if called as a witness, I could and would testify competently thereto.

7 2. After this lawsuit was filed, counsel for plaintiff, Jennifer Lynch, and I conferred
8 numerous times regarding the processing of plaintiff's FOIA request.

9 3. In particular, I explained to Ms. Lynch by telephone the records that Customs &
10 Border Protection ("CBP") had located that were responsive to category 2 of EFF's FOIA request.

11 4. EFF agreed to receive records responsive to category 2 of its FOIA request in the
12 form of portions of Daily Reports to the Assistant Commissioner of the Office of Air and Marine
13 reflecting unmanned aircraft systems ("UAS") support to other agencies.

14 5. After CBP completed its releases of responsive records to plaintiff, Ms. Lynch and I
15 conferred by telephone and email in an effort to narrow the areas of dispute.

16 6. Further to these efforts, on July 12, 2013, CBP produced to plaintiff a sample draft
17 *Vaughn* index covering certain agreed-upon portions of those documents released in response to
18 categories 2 and 3 of plaintiff's FOIA request. CBP then released a supplementary sample draft
19 *Vaughn* index covering additional pages from the report identified in category 3 of plaintiff's FOIA
20 request.

21 7. Pursuant to further conferral efforts, the parties have narrowed the areas of dispute
22 to the following withholdings: (1) all redactions of information from the report identified in
23 category 3 of plaintiff's FOIA request made pursuant to exemption (b)(7)(E); and (2) redactions of
24 the following categories of information from the daily reports made pursuant to exemption
25 (b)(7)(E): (a) location of operation; (b) map of location of operation; (c) supporting agency when
26 the name is also the location of operation; (d) operational capabilities; and (e) type of operation.

27 8. Ms. Lynch confirmed for me in writing that plaintiff does not anticipate challenging
28 the adequacy of CBP's searches, but expected the declaration in support of defendant's motion for
summary judgment to include a couple of paragraphs describing the searches conducted.

1 9. Ms. Lynch confirmed for me in writing that plaintiff does not intend to challenge
2 information in the documents produced pursuant to categories 2 and 3 of EFF's FOIA request that
3 is withheld pursuant to Exemptions (b)(6) and (b)(7)(C).

4 10. Ms. Lynch and I agreed that, for purposes of evaluating defendant's exemption
5 claims, CBP will submit to the Court a representative sample of the excerpts from the Daily
6 Reports that were produced in response to category 2 of plaintiff's FOIA request. The sample
7 includes those agreed-upon portions that were covered in the sample draft *Vaughn* index provided
8 to plaintiff on July 12, 2013, as well as other Daily Reports excerpts requested by plaintiff. These
9 excerpts, as well as *Vaughn* indices that identify and explain each redaction in the excerpts, are
10 attached as Exhibit 1 to the Eckardt Declaration.

11 11. Earlier today, CBP provided to plaintiff a list of agencies that received UAS support
12 from CBP based on the information in the Daily Reports. The list is broken out by year and
13 includes the number of times per year that the agency was supported. The list includes the full
14 names of each entity supported, with the exception of county sheriff's offices. In those cases, the
15 name of the county must remain redacted to preserve the locations of the operations. EFF
16 continues to challenge the redaction of the names of those counties on the list, under the category
17 "location of operation."

18 I declare under penalty of perjury under the laws of the United States of America that the
19 foregoing is true and correct.

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21 Executed on September 25, 2013 at Washington, D.C.

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24 JENNIE L. KNEEDLER
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