

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC FRONTIER	)	
FOUNDATION, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 08-1599 (RMC)
	)	
OFFICE OF THE UNITED STATES	)	
TRADE REPRESENTATIVE,	)	
	)	
Defendant.	)	
_____	)	

JOINT STATUS REPORT

Plaintiffs commenced this action on September 17, 2008, pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (2006), amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, seeking access to certain records of the Office of the United States Trade Representative pertaining to the Anti-Counterfeiting Trade Agreement (ACTA). (See Pl.'s Compl., filed Sept. 17, 2008.) Defendant filed its Answer on October 30, 2008. (See Def.'s Answer, filed Oct. 30, 2008.)

On January 30, 2009, the parties submitted a Joint Motion to Stay Proceedings and Amend Briefing Schedule to the Court. (See Joint Mot., filed Jan. 30, 2009.) On February 3, 2009, the Court approved the parties' motion to stay proceedings until thirty days after such time as the Attorney General issues guidelines pursuant to the President's January 21, 2009 memorandum on the FOIA, but no later than June 30, 2009. The Court further ordered defendant, upon issuance of the Attorney General's guidelines, to review its determinations on the documents at issue and inform plaintiffs of any changes to its prior determinations. Finally, the Court ordered the parties to confer and advise the Court in a jointly filed status report as to

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the remaining issues to be resolved and proposed amendments to the briefing schedule, to be filed within thirty days of the issuance of the Attorney General's guidelines. The parties now submit their joint status report.

The Attorney General issued new guidelines on the Freedom of Information Act in a memorandum dated March 19, 2009. In accordance with the Court's February 3, 2009 Order, defendant has reviewed its determinations on the documents at issue. Pursuant to its review, defendant has informed plaintiffs that it has identified some previously withheld documents which may now be appropriate for discretionary release, but that defendant must consult with other entities regarding their equities in these documents before a final determination can be made regarding their disclosure. Defendant expects that it will continue to withhold some of the previously withheld documents pursuant to Exemptions 1 and 5 of the FOIA, 5 U.S.C. § 552(b)(1) and (5).

Additionally, pursuant to the Court's February 3, 2009 Order, counsel for plaintiffs and defendant have conferred with respect to the remaining issues to be resolved before the Court and now propose amendments to their briefing schedule. The parties have agreed that, as a preliminary matter, defendant will provide plaintiffs with a final determination on whether any additional documents are appropriate for disclosure in light of the Attorney General's guidelines on the FOIA by April 30, 2009. With respect to the briefing schedule, the parties respectfully propose, subject to the approval of the Court, that: Defendant would file its dispositive motion and Vaughn Index by May 28, 2009; plaintiffs would file their opposition and/or cross-motion by June 18, 2009; defendant would file its reply and/or opposition, if any, by July 9, 2009; and

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plaintiffs would file their reply, if any, by July 23, 2009. A proposed Order is submitted herewith.

Respectfully submitted,

/s/  
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DAVID L. SOBEL  
(D.C. Bar #360418)  
Electronic Frontier Foundation  
1875 Connecticut Ave., N.W.  
Suite 650  
Washington, D.C. 20009  
(202) 797-9009

Counsel for Plaintiffs

\_\_\_\_\_  
JEFFREY A. TAYLOR  
(D.C. Bar #498610)  
United States Attorney

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RUDOLPH CONTRERAS  
(D.C. Bar #434122)  
Assistant United States Attorney

Dated: April 20, 2009

/s/  
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VANESSA R. BRINKMANN  
Attorney-Advisor  
United States Department of Justice  
Office of Information Policy  
1425 New York Ave., N.W., Suite 11050  
Washington, D.C. 20530-0001  
(202) 616-5462

Counsel for Defendant