

1 David L. Sobel (*pro hac vice*)
sobel@eff.org
2 ELECTRONIC FRONTIER FOUNDATION
1875 Connecticut Ave. NW
3 Suite 650
Washington, DC 20009
4 Telephone: (202) 797-9009 x104
Facsimile: (202) 707-9066

5 Kurt Opsahl (191303)
kurt@eff.org
6 Marcia Hofmann (250087)
marcia@eff.org
7 ELECTRONIC FRONTIER FOUNDATION
8 454 Shotwell Street
San Francisco, CA 94110
9 Telephone: (415) 436-9333 x116
Facsimile: (415) 436-9993

10 Attorneys for Plaintiff
11 ELECTRONIC FRONTIER FOUNDATION

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13 **UNITED STATES DISTRICT COURT**
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 ELECTRONIC FRONTIER FOUNDATION,) NO. C 07-5278 SI
17 Plaintiff,)
18 v.) **DECLARATION OF MARCIA**
19 OFFICE OF THE DIRECTOR OF NATIONAL) **HOFMANN IN SUPPORT OF**
20 INTELLIGENCE,) **ADMINISTRATIVE MOTION TO**
21 Defendant.) **CONSIDER WHETHER CASES**
22) **SHOULD BE RELATED**

23 1. I am an attorney of record for Plaintiff Electronic Frontier Foundation (“EFF”) in
24 this matter and a member in good standing of the California State Bar, and am admitted to practice
25 before this Court. I have personal knowledge of the matters stated in this declaration. If called
26 upon to do so, I am competent to testify to all matters set forth herein.

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28 2. This declaration is submitted in support of EFF’s Administrative Motion to

1 Consider Whether Cases Should Be Related.

2 3. On February 20, 2008, I phoned Andrew I. Warden, counsel for Defendant Office of
3 the Director of National Intelligence (“ODNI”) in the above-captioned case. I informed Mr.
4 Warden that EFF had filed the complaint in *Electronic Frontier Foundation v. Office of the*
5 *Director of National Intelligence et al.*, No. 08-1023, earlier that day, and that EFF believed the
6 new action should be related to the above-captioned case.
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8 4. On February 21, 2008, I conferred with Mr. Warden by phone and informed him of
9 my intention to file an administrative motion to consider whether the two cases should be related.
10 Mr. Warden did not agree to stipulate that the cases are related, and stated that ODNI would decide
11 whether to oppose EFF’s motion after the agency had an opportunity to evaluate it. On the same
12 day, I emailed Mr. Warden a courtesy copy of the complaint in the new action.
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14 5. I certify that today I served a copy of EFF’s Administrative Motion to Consider
15 Whether Cases Should Be Related and the accompanying declaration and proposed order on
16 Defendant ODNI via the Court’s Electronic Case Filing System.
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18 I declare under penalty of perjury of the laws of the State of California that the foregoing is true
19 and correct to the best of my knowledge and belief. Executed February 21, 2008 in San Francisco,
20 California.
21

22 /s/ Marcia Hofmann
23 Marcia Hofmann
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