

1 ELECTRONIC FRONTIER FOUNDATION
 2 CINDY COHN (145997)
 3 cindy@eff.org
 4 LEE TIEN (148216)
 5 tien@eff.org
 6 KURT OPSAHL (191303)
 7 kurt@eff.org
 8 KEVIN S. BANKSTON (217026)
 9 bankston@eff.org
 10 CORYNNE MCSHERRY (221504)
 11 corynne@eff.org
 12 JAMES S. TYRE (083117)
 13 jstyre@eff.org
 14 454 Shotwell Street
 15 San Francisco, CA 94110
 16 Telephone: 415/436-9333
 17 415/436-9993 (fax)

18 Attorneys for Plaintiffs

19 [Additional counsel appear on signature page.]

20 UNITED STATES DISTRICT COURT
 21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 22 SAN FRANCISCO DIVISION

23 TASH HEPTING, GREGORY HICKS,)
 24 CAROLYN JEWEL and ERIK KNUTZEN, on)
 25 Behalf of Themselves and All Others Similarly)
 26 Situated,)
 27)
 28 Plaintiffs,)
 29)
 30 v.)
 31)
 32 AT&T CORP., et al.,)
 33)
 34)
 35 Defendants.)
 36)
 37)
 38)
 39)
 40)
 41)
 42)
 43)
 44)
 45)
 46)
 47)
 48)
 49)
 50)
 51)
 52)
 53)
 54)
 55)
 56)
 57)
 58)
 59)
 60)
 61)
 62)
 63)
 64)
 65)
 66)
 67)
 68)
 69)
 70)
 71)
 72)
 73)
 74)
 75)
 76)
 77)
 78)
 79)
 80)
 81)
 82)
 83)
 84)
 85)
 86)
 87)
 88)
 89)
 90)
 91)
 92)
 93)
 94)
 95)
 96)
 97)
 98)
 99)
 100)

No. C-06-0672-VRW
CLASS ACTION
**[PROPOSED] ORDER DENYING AT&T
 CORP.'S MOTION TO DISMISS
 PLAINTIFFS' AMENDED COMPLAINT
 (DKT 86)**
 Courtroom: 6, 17th Floor
 Judge: Hon. Vaughn Walker

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

On April 28, 2006, Defendant AT&T Corp. moved (Dkt 86) pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) to dismiss Plaintiffs' Amended Complaint (Dkt 8) for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted. Defendant AT&T Inc. joined in this motion.

On June 23, 2006, the motion duly came on for hearing, the Hon. Vaughn R. Walker, United States District Chief Judge, presiding. Having considered AT&T Corp.'s moving and reply papers, Plaintiffs' opposition papers and the oral arguments by counsel, and good cause appearing, Defendants' motion to dismiss is hereby DENIED.

Date: _____

Hon. Vaughn R. Walker
United States District Chief Judge

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on June 6, 2006, I electronically filed the foregoing with the Clerk of
3 the Court using the CM/ECF system which will send notification of such filing to the e-mail
4 addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have
5 mailed the foregoing document or paper via the United States Postal Service to the following non-
6 CM/ECF participants:

7 David W. Carpenter
8 Sidley Austin Brown & Wood LLP
9 Bank One Plaza
10 10 South Dearborn Street
11 Chicago, IL 60600

12 David L. Lawson
13 Sidley Austin Brown & Wood
14 172 Eye Street, N.W.
15 Washington, DC 20006

16 By _____ /s/
17 Cindy A. Cohn, Esq. (SBN.145997)
18 ELECTRONIC FRONTIER FOUNDATION
19 454 Shotwell Street
20 San Francisco, CA 94110
21 Telephone: (415) 436-9333 x108
22 Facsimile: (415) 436-9993
23 cindy@eff.org
24
25
26
27
28