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14 UNITED STATES DISTRICT COURT
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 16 NORTHERN DISTRICT OF CALIFORNIA
 17
 18 SAN FRANCISCO DIVISION

18 TASH HEPTING, GREGORY HICKS,)
 19 CAROLYN JEWEL, and ERIC KNUTZEN)
 20 On Behalf of Themselves and All Others)
 21 Similarly Situated,)
 22 Plaintiffs,)
 23 v.)
 24 AT&T CORPORATION, AT&T)
 25 INCORPORATED, and DOES 1-2,)
 26 Inclusive,)
 27 Defendants.)

Case No.: C 06-0672-VRW

**APPLICATION AND [PROPOSED]
 ORDER RE: PARTICIPATION OF
 AMICUS CURIAE LAW PROFESSORS
 REGARDING MOTION TO DISMISS,
 OR IN THE ALTERNATIVE FOR
 SUMMARY JUDGMENT BY THE
 INTERVENOR UNITED STATES OF
 AMERICA**

Hearing Date: June 21, 2006
 Judge: The Hon. Vaughn R. Walker
 Courtroom: 6, 17th Floor

1 **REQUEST FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE**

2 Applicants *Amici Curiae* Law Professors (“*Amici*”) are law professors whose
3 scholarship, teaching, and practice focus on electronic surveillance and constitutional
4 law.

5 *Amici* wish to submit this brief to the Court to highlight the historical role the
6 judicial branch has played in regulating surveillance and to show that the information
7 necessary to prove or defend against Plaintiffs interception claims is publicly known and
8 not protected by the state secrets privilege.

9 Therefore, *Amici* hereby request the Court’s permission to submit an amicus brief
10 on the issue of whether this Court should dismiss the above-captioned case on state
11 secrets grounds asserted by the Intervenor United States in its Motion to Dismiss, or in
12 the Alternative for Summary Judgment.

13 On June 9, 2006, Lauren Gelman, Attorney for *Amici*, spoke with Anthony
14 Coppolino, attorney for the United States of America. The United States of America,
15 through its counsel Mr. Coppolino, informed *Amici* that it does not object to the
16 participation of *Amici* in briefing on the Motion to Dismiss, or in the Alternative for
17 Summary Judgment by the Intervenor United States of America provided that such
18 participation is acceptable to the Court.

19 On June 15, 2006, Jennifer Granick, Attorney for *Amici*, spoke with Kurt Opsahl,
20 attorney for Plaintiffs. Plaintiffs informed *Amici* that they do not object to the
21 participation of *Amici* in briefing on the Motion to Dismiss, or in the Alternative for
22 Summary Judgment by the Intervenor United States of America, provided that such
23 participation is acceptable to the Court.

24 On June 15, 2006, Jennifer Granick, Attorney for *Amici*, received an email from
25 Bruce A. Ericson attorney for Defendants AT&T Corp. and AT&T Inc. Defendants,
26 through their counsel, informed *Amici* that the do not object to the participation of *Amici*
27 in briefing on the Motion to Dismiss, or in the Alternative for Summary Judgment by the
28 Intervenor United States of America provided that such participation is acceptable to the
Court, the United States and that the brief is filed on June 16, 2006.

1 **CONCLUSION**

2 In view of there being no opposition to the instant application, *Amici* hereby
3 request that this Court issue an order stating that *Amici* Law Professors be permitted to
4 participate in the hearing on the above-referenced Motion by filing the Brief attached to
5 this Application.

6
7 Dated: June 16, 2006

Respectfully submitted,

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9 **By:** /S/ Susan Freiwald
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