

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS BAY)
TRANSPORTATION AUTHORITY,)
))
Plaintiff,)
))
v.)
))
ZACK ANDERSON, RJ RYAN,)
ALESSANDRO CHIESA, AND THE)
MASSACHUSETTS INSTITUTE OF)
TECHNOLOGY,)
))
Defendants.)

CIVIL ACTION NO. 08-11364-GAO

**DECLARATION OF MARCIA HOFMANN IN SUPPORT OF DEFENDANTS’
RESPONSE TO PLAINTIFF’S “MOTION TO MODIFY TERMS BUT NOT
DURATION OF TEMPORARY RESTRAINING ORDER” AND CROSS
MOTION FOR RECONSIDERATION**

1. The Electronic Frontier Foundation (“EFF”) represents Defendants Anderson, Ryan and Chiesa (hereafter “students”) in this matter. I am a staff attorney with the EFF and a member in good standing of the California State Bar. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.

2. This declaration is submitted in support of the Defendants’ Motion for Reconsideration of Temporary Restraining Order.

3. The DEFCON conference in Las Vegas concluded on August 10, 2008. As a result of the temporary restraining order issued by this Court on August 9, 2008, the students did not present their research on the security of the Boston T fare system at that conference.

4. The students do not intend to give the presentation scheduled for Defcon at any future conference.

5. On August 8, 2008, the students provided the Massachusetts Bay Transportation Authority (“MBTA”) a confidential report containing sensitive information derived from their research. The report disclosed all important aspects of the students’ research into the security of the Boston T fare system, including details that they never intended to make public. This report has now been revealed to the public through the MBTA’s unsealed filings in this case. As a result, the August 9, 2008 temporary restraining order improperly serves to prevent the students from disclosing to the public information that MBTA itself has already made public.

6. As a result of the students’ research and the attention drawn to it by the above-captioned lawsuit, media in Boston and throughout the world are inquiring as to whether the MBTA’s fare system has adequate security. Because of the August 9, 2008 temporary restraining order, the students are unable to participate meaningfully in that debate.

7. Attached hereto as Exhibit A is a true and correct copy of the Department of Justice’s Motion for Reversal of Conviction, Memorandum of Points and Authorities, Declaration of Ronald L. Cheng filed on October 15, 2003 in *United States v. McDanel*, No. 03-50135 (9th Cir. dismissed Dec. 15, 2003).

8. Attached hereto as Exhibit B is a true and correct copy of a letter to the Court from computer science professors and computer scientists concerning the above-captioned case and dated Aug. 11, 2008.

I declare under penalty of perjury of the laws of the State of California that the foregoing

is true and correct to the best of my knowledge and belief. Executed August 12, 2008 in San Francisco, California.

/s/ Marcia Hofmann
Marcia Hofmann