

## U.S. Steps Into Wiretap Suit Against AT&T

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SAN FRANCISCO, April 28 — The government asked a federal judge here Friday to dismiss a civil liberties lawsuit against the AT&T Corporation because of a possibility that military and state secrets would otherwise be disclosed.

The lawsuit, accusing the company of illegally collaborating with the National Security Agency in a vast surveillance program, was filed in February by the Electronic Frontier Foundation, a civil liberties group.

The class-action suit, which seeks an end to the collaboration it alleges, is based in part on the testimony of Mark Klein, a retired technician for the company who says Internet data passing through an AT&T switching center in San Francisco is being diverted to a secret room. There, Mr. Klein says, the security agency has installed powerful computers to eavesdrop without warrants on the digital data and forward the information to an undisclosed place.

The foundation has filed documents obtained by Mr. Klein that ostensibly show detailed technical information on N.S.A. technology used to divert Internet data. He has also said in a deposition that employees of the agency went to the switching center to oversee special projects.

The company has declined to address the suit publicly, saying it will have no comment on matters of national security or customer privacy.

In its action Friday, the government filed a statement of interest asserting military and state secret privilege in asking the judge, Vaughn R. Walker, to dismiss the suit. Separately on Friday, AT&T also filed two motions to dismiss.

The government's filing said the authorities "cannot disclose any national security information that may be at issue in this case." The document went on to say that the filing should not be construed as either a confirmation or a denial of any of the claims made by the civil liberties group about government surveillance activities.

Elsewhere in the document, however, the government said President Bush had explained that after the attacks of Sept. 11, 2001, he authorized the security agency to intercept communications into and out of the United States by people linked to [Al Qaeda](#) and related organizations. The agency is ordinarily prohibited from intercepting the telephone and digital communications of American citizens without a warrant from a special intelligence court.

Responding to the filing, Cindy Cohn, legal director for the Electronic Frontier Foundation, said, "We think the government's right to conduct this program should be considered separately from the issue of whether a telecommunications firm has the right to break the law."

The government's interest, Ms. Cohn said, is an indication that the lawsuit is not frivolous.

The court plans to hear the various motions on May 17.

Earlier this year, the foundation asked the government to examine the documents that the group was preparing to submit to the court related to Mr. Klein's testimony. At the time, the government chose not to

intervene, and the documents were filed under seal.

The documents, which include affidavits, lists of equipment and technical specifications related to tapping fiber-optic network links, have been obtained independently by a number of news organizations. They refer to a similar installation in an AT&T facility in Atlanta, and Mr. Klein has said he believes there are related eavesdropping facilities attached to AT&T centers in San Jose, Los Angeles, San Diego and Seattle.

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