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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, )  
 )  
 v. )  
 AT&T CORP., et al., )

No. C-06-0672-VRW  
**CLASS ACTION**  
**PLAINTIFFS' NOTICE OF MOTION  
 AND MOTION TO FILE THE  
 DEMONSTRATIVE PRESENTATION  
 PRESENTED AT THE JUNE 23, 2006  
 HEARING UNDER SEAL**  
 Courtroom: 6, 17th Floor  
 Judge: The Hon. Vaughn R. Walker,  
 Chief Judge

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1 PLEASE TAKE NOTICE that plaintiffs Tash Hepting, Gregory Hicks, Carolyn Jewel and  
2 Erik Knutzen will and hereby do move the Court, pursuant to Civil Local Rules 7-11 and 75-9(b),  
3 for an order allowing Plaintiffs to file the demonstrative exhibits presented to the Court, and served  
4 on Defendants, at the June 23, 2006 hearing on the Government’s Motion to Dismiss, under seal.

5 Plaintiffs seek this administrative order based on this Notice of Motion and Motion, the  
6 Memorandum of Points and Authorities below, the Declaration of Elena M. DiMuzio filed  
7 herewith, and all associated papers.

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 Plaintiffs seek leave to file the demonstrative presentation, labeled “Plaintiffs’  
10 Demonstrative Presentation” and presented to the Court at the June 23, 2006 hearing, under seal.  
11 Plaintiffs make that request in good faith to protect information that Defendant AT&T Corp.  
12 alleges to be trade secret which is quoted in the demonstrative presentation.

13 **I. ARGUMENT**

14 As discussed in Plaintiffs’ motion to file documents under seal in connection with the  
15 preliminary injunction motion pending in this matter, Defendant AT&T Corp. (“AT&T”) asserts  
16 that evidence developed by Plaintiffs includes AT&T’s confidential trade secrets. While Plaintiffs  
17 contest AT&T’s characterization and reserve all rights to dispute whether particular information  
18 rises to the level of a trade secret (or other information that should be subject to sealing), Plaintiffs  
19 nevertheless seek to proceed in good faith to address AT&T’s concerns.

20 Plaintiffs made a demonstrative presentation to the Court at the June 23, 2006 hearing. The  
21 Court has instructed Plaintiffs to file a copy with the Court. It is Plaintiffs’ understanding that the  
22 presentation discussed information that AT&T asserts constitutes proprietary trade secrets. The  
23 material set forth in the presentation has already been filed under seal in the Marcus and Klein  
24 Declarations, which were submitted to the Court with Plaintiffs’ Motion for Preliminary Injunction.

25 Plaintiffs make this request without suggesting that any material in the demonstrative  
26 exhibits are trade secrets, state secrets, or otherwise confidential, and without waiver to Plaintiffs’  
27 right to argue that any of the materials in these documents are non-confidential. Plaintiffs are  
28 awaiting a response to the proposed protective order they have submitted to Defendants, and

1 anticipate that the parties can reach an agreement regarding a protective order governing  
2 documents in this case.

3 **II. CONCLUSION**

4 For the foregoing reasons, Plaintiffs request leave to file the Demonstrative Presentation  
5 under seal.

6  
7 DATED: June 28, 2006

Respectfully submitted,

8 HELLER EHRMAN LLP

9 By /s/Elena M. DiMuzio

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