## **EXHIBIT A**

1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION 3 4 ELECTRONIC FRONTIER FOUNDATION, Case No.: 14-cv-03010-RS 5 Plaintiff, 6 V. 7 NATIONAL SECURITY AGENCY, OFFICE 8 OF THE DIRECTOR OF NATIONAL INTELLIGENCE, 9 10 Defendants. 11 12 SUPPLEMENTAL DECLARATION OF JENNIFER L. HUDSON, DIRECTOR, INFORMATION MANAGEMENT DIVISION. 13 OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE 14 Pursuant to 28 U.S.C. § 1746, I, Jennifer L. Hudson, declare the following to be true and 15 correct: 16 1. I offer this declaration as a supplement to the declaration I provided to the Court in 17 this case on October 30, 2015, and I incorporate by reference into this declaration all relevant 18 information contained therein. 19 Since my October 30, 2015 declaration, I have reviewed the plaintiff's cross motion 2. 20 for summary judgment and its accompanying exhibits, together with the classified, ex parte 21 declaration of the Office of the Director of National Intelligence's (ODNI) National Intelligence 22 Manager for Cyber, James B. Richberg that is being submitted with the Government's reply in 23 support of its summary judgment motion/opposition to plaintiff's summary judgment motion in this 24 case. In preparing this declaration, I have again reviewed the classified version of the document 25 entitled "Commercial and Government Information Technology and Industrial Control Product or 26 System Vulnerabilities Equities Policy and Process" (VEP Document), and I have consulted once 27 28

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again with subject matter experts within the ODNI and with representatives of the relevant agencies that contain equities in the information, including the NSA.

- 3. In light of the foregoing, I have determined that a few words in the VEP Document ought to be un-redacted, based on information I have reviewed and my consultation with subject matter experts. I have also decided, in light of the information I reviewed and my consultation with subject matter experts, that a discretionary release of additional information from the VEP Document can also be made. That additional information is contained within the header on each page, as well as Sections 3, 4, 6.1, 6.3, 6.6.2, 6.8.2, and Annex A of the VEP Document. A copy of this new version of the VEP Document is being released to accompany the classified ex parte declaration of Mr. Richberg and the Government's reply/opposition motion referenced above. I will refer to this new version of the document as the January 14, 2016 VEP Document.
- 4. The January 14, 2016 VEP document still contains redacted information. This redacted information falls into one of four of the following categories: (1) certain actions taken in response to the identification of a vulnerability; (2) timelines pertaining to the functioning of the VEP; (3) the identities of certain entities involved in particular aspects of the VEP; and (4) the process of addressing cryptographic vulnerabilities. These categories are simply a refinement of the categories of withholdings I set forth in paragraph 32 of my October 30, 2015 declaration.
- 5. I concur with the conclusion of Mr. Richberg in his classified ex parte declaration that the redacted information falling within one or more of these categories has not been disclosed by the United States Government.
- 6. For the reasons stated in my October 30, 2015 declaration, as an original classification authority I further concur with Mr. Richberg that much of the remaining redacted information, if disclosed, would reveal information that is currently classified. This information is currently and properly classified at the SECRET level, and its unauthorized release could reasonably be expected to cause serious damage to the national security. It is appropriately withheld pursuant to Executive Order 13526, ¶¶ 1.4(c) and 1.4(g) and exempt from disclosure under FOIA exemption 1 for the reasons I set forth in paragraphs 22-33 of my October 20, 2015 declaration.

- 7. I further concur with Mr. Richberg that much of the remaining redacted information, if disclosed, would reveal intelligence sources and methods. This information is protected from disclosure pursuant to 50 U.S.C. § 3024(i) and is thus exempt from disclosure under FOIA exemption 3 as set forth in paragraphs 34-39 of my October 30, 2015 declaration. Also, my reasons for asserting FOIA exemption 3 over information discussing the functions of the NSA and its activities remain as set forth in paragraph 40 of my October 30, 2015 declaration. Finally, my reasons for asserting FOIA exemption 5 over the balance of the redactions in the January 14, 2016 VEP Document remains as set forth in paragraphs 41-45 of my prior declaration.
- The markings on the January 14, 2016 VEP Document reflect the correct application of these exemptions.
- 9. As before, I have again conducted a line-by-line review of the VEP Document to ensure that all reasonably segregable, non-exempt information has been released. Evidence of the line-by-line review undertaken for the January 14, 2016 VEP Document may be seen in Sections 6.6.2 and Annex A. In the prior version of the VEP Document, full paragraphs in Section 6.6.2 and Annex A had previously been redacted; in the January 14, 2016 version, however, redactions have been lifted of certain section titles, partial sentences, and whole sentences within those previously fully redacted paragraphs.

## CONCLUSION

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 14th day of January, 2016

Jennifer L. Hudson

Director, Information Management Division Office of the Director of National Intelligence