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 15 THOMAS SMITH

16 UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

18 ONLINE POLICY GROUP, NELSON CHU
 19 PAVLOSKY, and LUKE THOMAS SMITH,

20 Plaintiffs,

21 v

22 DIEBOLD, INCORPORATED, and DIEBOLD
 23 ELECTION SYSTEMS, INCORPORATED,

24 Defendants

No. C-03-4913 JF

SECOND SUPPLEMENTAL
 DECLARATION OF LUKE THOMAS
 SMITH IN SUPPORT OF ORDER TO
 SHOW CAUSE RE: PRELIMINARY
 INJUNCTION

25 I, Luke Thomas Smith, declare

26 I am Luke Thomas Smith, a plaintiff in the above-captioned case.

27 2 On November 4, 2003, Nelson Pavlosky, Online Policy Group, and I had requested
 28 an injunction against Diebold ordering it to stop sending cease-and-desist letters to Internet service

1 providers of websites publishing the Diebold email archive. I understand that my lawyers
 2 submitted with the injunction request an attached set of emails that they referred to as the "e-mail
 3 archive" and represented that those documents were the Diebold emails published on the SCDC
 4 website.

5 3. The documents submitted to this court were a subset of the entire archive of Diebold
 6 emails published on the SCDC website. The entire e-mail archive, if printed out, would fill an
 7 entire banker's box with paper. However, the entire archive is not materially different from the
 8 subset presented to the Court. It is just more e-mails among Diebold employees during the same
 9 timeframe.

10 4. On the SCDC website, the entire Diebold email archive was available in a
 11 downloadable computer archive format known as a .tar file, and also in a searchable HTML format
 12 on the web page. HTML is the computer language in which many web pages are written.

13 5. In response to Diebold's cease-and-desist letter to Swarthmore, the college blocked
 14 access to the SCDC-hosted email archive in both the downloadable .tar format and the searchable
 15 HTML format.

16 6. Thus, since I am currently prevented from publishing the entire archive, not just the
 17 subset, I hope to republish the entire e-mail archive. Accordingly, I ask this court to grant relief as
 18 to the entire archive.

19 I declare under penalty of perjury under the laws of the State of Pennsylvania that the
 20 foregoing is true and correct and that this declaration was executed in SWARTHMORE,
 21 Pennsylvania.

22 Date: 12 Nov 2003


 LUKE THOMAS SMITH

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