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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

17  
18 In re:  
19 NATIONAL SECURITY AGENCY  
TELECOMMUNICATIONS RECORDS  
20 LITIGATION  
21  
22 This Document Relates To:  
23 *TASH HEPTING, et al. v. AT&T CORP.*,  
24 No. C-06-0672-VRW  
25

MDL Dkt. No. 06-1791-VRW

**RESPONSE OF AT&T CORP. TO  
HEPTING PLAINTIFFS'  
ADMINISTRATIVE MOTION TO  
RELATE JEWEL TO HEPTING  
[Docket Nos. 383-84]**

[Civ. L.R. 3-12(e)]

Courtroom: 6, 17th Floor  
Judge: Hon. Vaughn R. Walker

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1 This is the response of **AT&T CORP.** (“AT&T”) to the “Administrative Motion by  
2 Plaintiffs to Consider Whether Cases Should Be Related; Declaration of Kevin Bankston,”  
3 MDL Docket No. 383, filed Oct. 21, 2008.

4 *Jewel* is a case brought solely against the federal government and various  
5 government officials. *Hepting* is a case brought solely against AT&T and its parent  
6 (although the federal government intervened to assert the state secrets defense).

7 *Jewel* asserts 17 claims, at least nine of which do not appear in *Hepting*. *Hepting*  
8 asserts seven claims, only three of which appear in *Jewel*. (The numbers do not add up  
9 because some legal theories asserted as one count in *Hepting* appear in as many as four  
10 counts in *Jewel*.) Despite some “subject matter” overlap, the two cases raise different legal  
11 issues and may be met by very different defenses.

12 AT&T does not object to relating *Jewel* to *Hepting* so long as relating the two cases  
13 does not affect in any way the Court’s briefing schedule (MDL Docket No. 381) for  
14 dispositive motions pursuant to the FISA Amendments Act of 2008, Pub. L. No. 110-261.  
15 The principal purpose of Title II of the FISA Amendments Act is to achieve a prompt  
16 dismissal of cases such as *Hepting* filed against carriers. It would frustrate congressional  
17 intent to let a procedural device such as a related-case motion delay the Court’s  
18 consideration of dispositive motions filed pursuant to the FISA Amendments Act.

19 Dated: October 23, 2008.

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