1 2 3 4 5 6	DANIEL J. BERNSTEIN Department of Mathematics, Statistics, and Computer Science University of Illinois at Chicago Mail Code 249 Science and Engineering Offices, Room 322 851 S. Morgan Street Chicago, IL 60607–7045 (312) 996–3041 Best address: djb-legal@cr.yp.to Plaintiff <i>Pro Se</i>		
7 8 9	IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA		
10	DANIEL J. BERNSTEIN,	C 95–00582 MHP	
11 12	Plaintiff, v.	DECLARATION OF DANIEL J. BERNSTEIN RE GOVERNMENT POLICY	
131415	UNITED STATES DEPARTMENT OF COMMERCE, et al., Defendants.	Date: October 7, 2002 Time: 2:00 p.m. Place: Courtroom 15, 18th Floor	
161718	17		
19	1. I am the plaintiff in the above-entitled action. I currently reside in Berkeley,		
20	California. Except as expressly stated below, I have personal knowledge of the facts stated		
21	herein. If called upon to testify, I would competently testify to these facts.		
22	Current Prior-Review Policy		
23	2. The defendants have published a document dated June 6, 2002, titled "U.S.		
24	Encryption Export Control Policy Frequently Asked Questions." I saw this document on the		
25	defendants' web page http://www.bis.doc.gov/Encryption/		
26	EncFAQs6_17_02.html. Exhibit A is a true and correct printout of that web page as		
27	downloaded on 29 August 2002.		
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- According to the defendants' document (question 1), the government policy "continues to rest on three tenets," the first tenet being "a review of encryption products in advance of sale."
- Furthermore, according to the defendants' document (question 5), with certain exceptions, "export and reexport outside the United States and Canada" of "software and technology for the encryption of data" generally requires prior government review. This statement is not limited to "sale."

The Gregg Proposal

- The Congressional Record contains a proposal by Senator Judd Gregg concerning cryptography, dated September 19, 2001, on pages S9468 and S9469. Exhibit B is a true and correct printout of those pages as downloaded from the Government Printing Office.
- Senator Gregg stated that "we need to have a new regime" concerning encryption. 6. His proposed regime targeted the "community that is building the software" to ensure that the "law enforcement community" would have "access to the [encryption] keys."
- As far as I know, Senator Gregg has refrained from introducing any bills along these lines.

Discovery

- 8. Discovery has been on hold in this case since 1995. My attorneys filed declarations several years ago (docket nos. 26, 68) concerning my desired use of discovery to respond to the defendants' factual assertions.
- I would like to use discovery to investigate, among many other things, the defendants' internal policy discussions: for example, whether the defendants plan to unilaterally implement Senator Gregg's "new regime" through their existing export-control framework, and whether they are delaying such implementation in an attempt to evade judicial review.

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10. I believe that the Court can deny the defendants' motions, and grant my motion for summary judgment, without further evidence. However, if my belief turns out to be incorrect, I will request discovery.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on this 3rd day of September, 2002.

DANIEL J. BERNSTEIN