

ELECTRONIC FRONTIER FOUNDATION

# Annual Report

2009-2010



**EFF 20**

# About the Electronic Frontier Foundation

The Electronic Frontier Foundation (EFF) is a nonprofit 501(c)(3) membership organization that fights to protect civil liberties in the digital age. Since our founding in 1990 – when most people had no idea how pervasively digital communications would impact their everyday lives and their basic rights – EFF has achieved significant victories for the public interest in the areas of privacy, free speech, copyright, transparency, and innovation. EFF is a member-supported organization based in San Francisco, California.

Blending the expertise of lawyers, policy analysts, activists, and technologists, EFF fights for freedom primarily in the courts, bringing and defending lawsuits even when that means taking on the U.S. government or large corporations. By mobilizing more than 83,000 individuals through our database of concerned citizens, more than 27,000 Twitter followers, and nearly 15,000 Facebook friends, EFF beats back bad legislation. In addition, EFF advises policymakers, educates the press and public on issues related to law and technology, and develops technological tools that enhance digital freedom.

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# Support EFF!

The important work EFF does would not be possible without the generous support of individuals like you. Here are some ways you can help:

- Sign up for EFFector.
- Buy things from EFF's swag shop.
- Become a member at [eff.org/join](https://eff.org/join)
- Name EFF as your designated charity in your employer's automatic payroll deduction plan.
- Set up automatic monthly distributions to EFF from your credit card.
- Take advantage of your employer's matching gifts program.
- Donate stock and receive special tax deductions.
- Include EFF in your will.

Contact [development@eff.org](mailto:development@eff.org) to learn more about how you can support EFF.

# Letter from the Director

## Dear Friend of Freedom,

Over the past year, EFF achieved victories and overcame challenges in the fight for our digital rights. Intellectual property rights holders tried to hold intermediaries such as YouTube, Google and eBay liable for copyright and trademark violations committed by their users. Courts held that the NSA and cohort AT&T could spy on innocent Americans without warrants. And the right to speak anonymously was challenged (again).

But we scored a few big victories, such as the Copyright Office and Librarian of Congress granting all three of EFF's DMCA exemptions, affirming your rights to "rip" DVDs for video remixes and other fair uses, to "jailbreak" your cell phone to run applications of your choice, and to "unlock" your phone so you can use it on the network of your choice.

We continued our important work using the Freedom of Information Act to learn what the government has been up to. And we created a tracker to let Internet users know what companies are up to as they change their terms of service agreements.

All in all, we've been quite busy. Thanks for your support!

Sincerely,



Shari Steele, Executive Director  
Electronic Frontier Foundation  
[eff.org/join](http://eff.org/join)



**EFF Staff:** *Top row:* Michael Barclay, Eddan Katz, Rainey Reitman, Shari Steele, Lori McCoy, Kellie Brownell, Rebecca Jeschke, Katina Bishop, Richard Esguerra, Stuart Matthews, Corynne McSherry, Tim Wayne, Rebecca Reagan, Aaron Jue, Chris Palmer, Mark Rumold; *2nd Row:* Lee Tien, Cindy Cohn, Matt Zimmerman, Jennifer Lynch, Kevin Bankston, Leticia Perez; *Bottom Row:* Gwen Hinze, Eva Galperin, Andrea Chiang, Cheresé Logan, Katitza Rodriguez. (*Not pictured:* Peter Eckersley, Marcia Hoffman, Kurt Opsahl, Abigail Phillips, Julie Samuels, Seth Schoen, David Sobel); photo by Quinn Norton

## Privacy

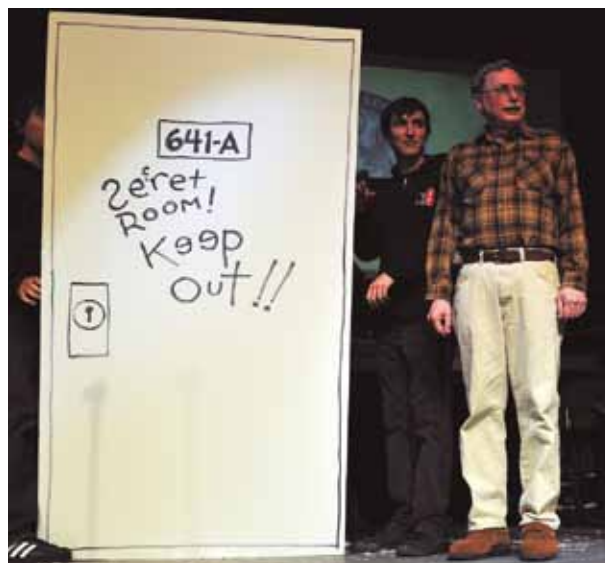
**Spying on Everyone Doesn't Make it Okay** – On March 19, 2010, EFF appealed the dismissal of *Jewel v. NSA* to the 9th Circuit Court of Appeals. EFF had brought the *Jewel* case on behalf of AT&T customers to stop the National Security Agency's illegal, unconstitutional, and ongoing mass surveillance of their communications and communications records. Earlier in the year, the District Court had dismissed the case based on the convoluted reasoning that because so many people had been impacted by the widespread surveillance, no individual person had a "particularized injury." This ruling is not only wrong – the NSA's interception of your private emails with your doctor, spouse or child is an individual harm to you regardless of whether it happened to other people, as well – but it is also extremely dangerous, because it would have the courts blind themselves to massive violations of the law and the Constitution on the grounds that they impact too many people.

[www.eff.org/jewel](http://www.eff.org/jewel)

**It's Also Not Okay to Spy on Your Customers** – EFF also appealed *Hepting v. AT&T*, the class action lawsuit accusing the telecom giant of violating the law and the privacy of its customers by collaborating with the NSA in its massive, illegal program to wiretap and data-mine Americans' communications. That case had been dismissed in June of 2009 after Congress had granted the telecoms immunity for their role in spying on their customers.

[www.eff.org/hepting](http://www.eff.org/hepting)

**No Warrantless GPS Tracking** – EFF submitted an amicus brief in *U.S. v. Maynard*, where the DC Court of Appeals firmly rejected government claims that federal agents have an unfettered right to install Global Positioning System (GPS) location-tracking devices on anyone's car without a search warrant. The case arose when FBI agents planted a GPS device on a car while it was on private property and then used it to track the position of the automobile every ten seconds for a full month, all without securing a search warrant. As the court recognized, "It is one thing for a passerby to observe or even to follow someone during a single journey as he goes to



AT&T whistleblower Mark Klein acted out his story at EFF's 20th Anniversary Party. (photo by Johnny Grace)

the market or returns home from work. It is another thing entirely for that stranger to pick up the scent again the next day and the day after that, week in and week out, dogging his prey until he has identified all the places, people, amusements, and chores that make up that person's hitherto private routine."

[www.eff.org/us-v-jones](http://www.eff.org/us-v-jones)

**You Are Being Watched** – EFF published a two-part series on how pervasively users are followed on the web today through online behavioral tracking. The first post highlighted new "cookie" technologies that are harder to detect, harder to remove, and more invasive than their primitive predecessors. The series continued with a post on how social networks are helping online tracking companies collect consumer behavioral data through the widespread use of third party web bugs and tracking scripts that enable companies to build up longterm profiles of most of the things we do with our web browsers.

[www.eff.org/remove-cookies](http://www.eff.org/remove-cookies)

**Google Books Must Respect User Privacy** – EFF represented a coalition of authors and publishers – including best-sellers Michael Chabon, Jonathan Le-

them, and technical author Bruce Schneier – who, acting on behalf of their readers (i.e., consumers), urged a court to reject the proposed settlement in *Authors' Guild v. Google* until Google Books ensures better reader privacy. Google Books currently retains data on what books consumers search for and access, which pages they read, how long they stay on each page, what books they accessed before, and which books they access next.

[www.eff.org/authors-v-google](http://www.eff.org/authors-v-google)

### **Real Patriots Want a Better PATRIOT Act** –

EFF spent a good part of this past year fighting for USA PATRIOT Act reform. Despite months of vigorous debate, the government's dangerously broad authority to conduct roving wiretaps of unspecified or "John Doe" targets, to secretly wiretap people without any connection to terrorists or spies under the so-called "lone wolf" provision, and to secretly access a wide range of private business records without warrants were all renewed without any new checks and balances to prevent abuse.

[www.eff.org/patriot-act](http://www.eff.org/patriot-act)

### **Your Web Browser Gives You Away** –

EFF created a tool called Panopticlick to research web browser tracking and learned that web browsers can pretty easily distinguish individual users. Collecting data from nearly 500,000 volunteers who visited our research site, EFF found that 84% of web browser configuration combinations were unique and identifiable, creating unique and identifiable browser "fingerprints." Browsers with Adobe Flash or Java plug-ins installed were 94% unique and trackable.

[panopticlick.eff.org/](http://panopticlick.eff.org/)

**Browse the Web Securely** – EFF released a Firefox web browser plug-in called HTTPS Everywhere that automatically encrypts web searches whenever possible. HTTPS protects consumers from eavesdroppers and third parties that can access unencrypted information transmitted online. While we don't store download information for more than 48 hours, we estimate that more than half a million consumers downloaded the beta version of HTTPS Everywhere. We've also heard that consumers have begun pressuring popular sites that don't offer privacy-protecting HTTPS to make the switch.

[www.eff.org/https-everywhere](http://www.eff.org/https-everywhere)



A frame from EFF's instructional video teaching Facebook users how to take back their privacy.

## Social Networking Privacy

On April 19, 2010, social networking giant Facebook suddenly removed its users' ability to control who could see the personal information they had entered in their user profiles, including their "current city, hometown, education and work, and likes and interests." These settings were transformed into "connections" literally overnight, meaning they became publicly shared. If a user didn't want those parts of her profile to be made public, her only option was to delete them. The blow to privacy was severe.

On the day of Facebook's announcement, EFF posted to our website an explanation of exactly what was being shared and how users could regain control of their personal information. When Facebook made additional changes three days later, we edited our posting and, within a couple hours, released a video explanation of the specific steps users could take to reinstate their privacy. Over the next week, we posted a history of Facebook's privacy policy changes and a Facebook-to-English translator.

Most important, we worked with other privacy groups to develop a Social Networking Bill of Rights, which was reported on extensively in the press and on Facebook. Our response to the controversy, which included multiple meetings with top Facebook personnel, was instrumental in Facebook's decision to step back some of its changes.

[www.eff.org/social-networks](http://www.eff.org/social-networks)



# Free Speech

**Parody Is Protected Speech** – EFF has been defending the Yes Men in federal court in a trademark infringement lawsuit brought by the U.S. Chamber of Commerce. In mid-October 2009, the Yes Men held a "press conference" where, posing as representatives of the Chamber, the activists announced that the Chamber had reversed its position and promised to stop lobbying against climate change legislation. The Chamber's lawsuit followed close on the heels of an improper takedown notice to the Yes Men's upstream provider, which had demanded the parody website be removed immediately and resulted in the temporary shutdown of hundreds of other sites.

[www.eff.org/chamber-commerce](http://www.eff.org/chamber-commerce)

**EFF Defends Anonymity** – EFF successfully argued that the First Amendment shields the identity of anonymous speakers who engage in lawful speech when we defended Yahoo! user "Stokklerk," who drew attention to plummeting stock prices, high compensation rates for executives, and a consistent lack of profitability at electronics manufacturer U.S. Technologies.

[www.eff.org/usa-technologies](http://www.eff.org/usa-technologies)

**More Defense of Anonymity** – EFF successfully fought to protect the identities of local residents who had filed a lawsuit in state court against the city of Chicago and local developers challenging the legality of a development project in the city's Uptown neighborhood. The city had issued subpoenas to Google and a local association, hoping to unmask anonymous online critics who had discussed the project. However, the defendants withdrew their subpoenas after EFF argued that the identities of the critics had no bearing on the issue before the court – a lawsuit that concerned land-use ordinances.

[www.eff.org/chicago](http://www.eff.org/chicago)

**Users Get to Choose Their Tools** – EFF filed an amicus brief on behalf of Power Ventures, which makes a web-based tool users can set up to log into their multiple social networking accounts to aggregate messages, friend lists, and other data. Facebook claimed that Power's tool violated criminal law, because Facebook's terms of service ban users from accessing their information through "automatic means."



By using Power's tool, Facebook argued that its users were accessing Facebook "without permission" under the California penal code. Our brief argued that users have the right to choose how they access their data, and turning any violation of terms of use into a criminal law violation would leave millions of Facebook users unwittingly vulnerable to prosecution.

[www.eff.org/facebook-v-power](http://www.eff.org/facebook-v-power)

**Bloggers Are Journalists** – EFF helped a transportation industry blogger respond to an administrative subpoena issued by the Transportation Security Administration (TSA) that unreasonably demanded all documents concerning a controversial security directive that was implemented immediately after a December 2009 bomb attempt. EFF objected to the subpoena, because it improperly sought to require a journalist to reveal his sources and materials. Upon receipt of the objection, TSA withdrew the subpoena. This incident reinforces the need for a federal reporter shield law that fully embraces the new era of blogs, tweets and other nontraditional journalism tools.

[www.eff.org/eff-helps-blogger](http://www.eff.org/eff-helps-blogger)

### **Blogger and Flickr Protect Speech** – EFF

worked with Blogger and Flickr to suggest improvements to their DMCA takedown policies to minimize the collateral damage to free speech caused by copyright claims. Blogger unveiled a forms-based takedown process that makes it easier for the service to parse what, exactly, in a blog post is allegedly infringing. In addition, bloggers can now edit out allegedly infringing links and restore the remainder of the post. When a photo is removed from Flickr, its title, description, comments, tags, and notes will remain available, preserving the discussion about the allegedly infringing material. Flickr will also restore the original image to its original context in response to a DMCA counter-notice.

[www.eff.org/improving-dmca-takedowns](http://www.eff.org/improving-dmca-takedowns)

### **Encouraging Corporations to Behave Responsibly**

– In support of Secretary of State Hillary Clinton's statement encouraging American technology companies to take a "proactive role in challenging foreign governments' demands for censorship and surveillance" and Google's refusal to censor its services in China, EFF compiled a list of seven corporations that were reportedly selling surveillance technology to the Chinese government and related entities. We also worked with our partners at the Global Network Initiative (GNI) to help establish principles and implementation guidelines for technology companies that support international free expression and privacy.

[www.eff.org/selling-china-surveillance](http://www.eff.org/selling-china-surveillance)

### **"Hot News" Must Respect the First Amendment**

– EFF filed an amicus brief urging the Second Circuit Court of Appeals to construe the "hot news" misappropriation doctrine as narrowly as possible to avoid impeding free speech and public expression. Theflyonthewall.com was a financial news service accused of misappropriating analyst recommendations published by Barclays Capital, Merrill Lynch and other financial services firms by re-posting them minutes (sometimes seconds) after they are released. A trial court issued a permanent injunction requiring the news site to wait until 10 a.m. Eastern Time before publishing the facts associated with analyst research released before the market opens and to postpone publication for at least two hours for research issued after the opening bell.

[www.eff.org/barclays](http://www.eff.org/barclays)



Little Holden Lenz was the subject of an improper takedown.

## **Fair Use in Peril**

More than three years ago, Stephanie Lenz used her digital camera to create a 29-second video of her 13-month-old son bouncing along to the Prince song "Let's Go Crazy" in the family's kitchen. Little did she know that her short recording, which she posted on YouTube to share with family and friends, would come to symbolize the dangerous state of fair use rights in the digital age.

Whether you are quoting someone on your blog, inserting clips of CNN into your own video news report, or using a song sample in a musical parody, your free speech often depends on incorporating and referencing other people's creations as part of your own. The courts call this "fair use," and strong legal precedents exist to protect the limited use of copyrighted material in your work when you do so for expressive purposes.

Unfortunately, copyright owners often object to these uses and use laws like the Digital Millennium Copyright Act (DMCA) to get your web host to take them offline, even when the legal claims are obviously bogus. Trademark owners can also censor critics online by claiming that any domain name or website referencing their product is an infringement.

YouTube removed Stephanie Lenz's video after Prince's record label made a bogus copyright claim. EFF helped her fight back by suing the record label for copyright abuse.

[www.eff.org/cases/lenz-v-universal](http://www.eff.org/cases/lenz-v-universal)



# Innovation

**Fixing DMCA Wrongs** – EFF won three critical exemptions to the Digital Millennium Copyright Act (DMCA) anticircumvention provisions, carving out new legal protections for consumers who modify their cell phones and artists who remix videos. Until now, anyone wanting to jailbreak their iPhones, unlock their cell phones, or rip clips for commentary from DVDs could have been sued for these non-infringing activities. While the DMCA still chills competition, free speech, and fair use, these exemptions make unprecedented strides towards protecting more consumers and artists from its extensive reach.

[www.eff.org/dmca-rulemaking](http://www.eff.org/dmca-rulemaking)

**Support for DMCA Safe Harbors** – EFF and a coalition of public interest and industry groups filed an amicus brief supporting YouTube in a lawsuit that attempted to hold YouTube and Google responsible for the copyright infringements committed by YouTube users. The district court agreed with us and granted summary judgment to YouTube in June 2010, rejecting Viacom's effort to undermine the DMCA safe harbors.

[www.eff.org/viacom-v-youtube](http://www.eff.org/viacom-v-youtube)

**Website Hosts Are Not Liable for Trademark Violations of Their Users** – EFF filed an amicus brief in *Tiffany v. eBay*, arguing that eBay should not be liable for trademark violations on its site based on general knowledge that such infringement is happening (but no specific knowledge of a specific infringement). In April, a federal appeals court agreed and rejected jewelry-maker Tiffany's attempt to rewrite trademark law and create new barriers for online commerce and communication.

[www.eff.org/tiffany-v-ebay](http://www.eff.org/tiffany-v-ebay)

**You Bought It, You Own It** – EFF filed an amicus brief in *Vernor v. Autodesk*, a case testing whether the "first sale doctrine" in copyright law – which makes it legal to resell, lend, or give away books, CDs, DVDs, and software that you own – will survive in the digital age of "licensed" content. EFF argues that copyright owners should not be able to trump the first sale doctrine by claiming that the end-user license agreement does not give users ownership rights to software they have purchased. The decision is on appeal in the Ninth Circuit. [www.eff.org/vernor-v-autodesk](http://www.eff.org/vernor-v-autodesk)



**Reverse Engineering Is Not a Crime** – EFF represented three calculator hobbyists who blogged about potential modifications to Texas Instruments (TI)'s programmable graphing calculators. TI had sent demand letters to the bloggers and many others, claiming the anti-circumvention provisions of the DMCA required that they take down commentary about and links to reverse-engineered "signing keys" that allowed tinkers to install custom operating systems and unlock new functionality in the calculators' hardware. EFF responded with a letter explaining that the DMCA explicitly allows reverse engineering to create interoperable custom software like the programs the hobbyists were using. TI did not respond to EFF's letter, and so the posts are now back online.

[www.eff.org/texas-instruments](http://www.eff.org/texas-instruments)

**Ringtones Are Not Public Performance** – EFF filed an amicus brief in *U.S. v. ASCAP*, where the music licensing organization outlandishly claimed that every time an individual's musical ringtone rang in public, she was violating copyright law by "publicly performing" copyrighted works without a license. In October of 2010, the court for the Southern District of New York sided with EFF, AT&T and Verizon against ASCAP, concluding that public ringing does not infringe



copyright and that the phone companies were not liable for "performing" the ringtones.

[www.eff.org/us-v-ascap](http://www.eff.org/us-v-ascap)

**Patenting VoIP? No Way!** – EFF's Patent Busting Project won reexamination of an illegitimate patent on voice-over-Internet protocol (VoIP) that could have crippled the adoption of new VoIP technologies. Acceris (now C2) Communications Technologies had been awarded the bogus patent for hardware, software, and processes for implementing VoIP using analog telephones as endpoints – covering many telephone calls made over the Internet.

[www.eff.org/voip-patent](http://www.eff.org/voip-patent)

**Practical Advice for Music Bloggers** – EFF published a blog post offering practical advice to people who blog about the music industry and are afraid of DMCA takedown censorship. Some of our suggestions for avoiding getting sued included getting a domain name, performing backups, giving up-to-date contact information to your hosting provider, choosing a service provider with clear DMCA policies, and learning about your rights.

[www.eff.org/mp3-bloggers](http://www.eff.org/mp3-bloggers)

**Fighting the UK's Digital Economy Bill** – EFF called for UK citizens to fight the Secretary of State's attempt to grant himself (and future politicians) the power to re-write Britain's core copyright legislation with almost no Parliamentary debate using fast-track secondary legislation. Despite our efforts (and the efforts of many other activists and ISPs in the UK and throughout the world), the Digital Economy Act became law in April 2010.

[www.eff.org/pirate-finder-general](http://www.eff.org/pirate-finder-general)

**Keeping an Eye on International Copyright Laws** – EFF, along with other international copyright experts, launched Copyright Watch in November 2009. The first of its kind, Copyright-watch.org is an up-to-date online repository of copyright laws from more than 184 nations. Copyright Watch will help document how legislators around the world are coping with the challenges of new technology. Local monitors update the site to include proposed amendments, commentary and context from national copyright experts.

[www.copyright-watch.org/](http://www.copyright-watch.org/)



## ACTA: A Wolf in Sheep's Clothing

EFF fought against the Anti-Counterfeiting Trade Agreement (ACTA), a secretly-negotiated international treaty ostensibly designed to reduce the flow of fake physical goods across borders. In reality, ACTA would set up a global framework to give the entertainment industry its wishlist of copyright regulations and enforcement power. ACTA would set up a global framework that could:

- Require Internet service providers (ISPs) to disconnect individuals accused (not convicted) of repeated copyright infringement;
- Require ISPs to hand over their subscribers' identities to copyright owners without any due process or judicial oversight;
- Require ISPs to make potentially expensive modifications to their networks in an effort to prevent copyright infringement;
- Require all countries to implement DMCA-like laws for their own populations, without the benefit of fair use or other legal exceptions that provide a modicum of protection for speech;
- Threaten potential innovators with outrageous financial penalties for copyright infringement; and
- Criminalize even noncommercial uses of copyrighted materials.

[www.eff.org/issues/acta](http://www.eff.org/issues/acta)



# Transparency

**Government Using False SSL Certificates?** – In April of 2010, EFF sent FOIA requests to the FBI and a number of other federal agencies seeking information about whether the U.S. government has been using the legal process to compel Internet security companies to issue SSL certificates with false names that could enable law enforcement to easily break the encryption used by secure websites, as some recent reporting suggests. If certificate authorities are issuing false certificates, the security of encrypted communications falls apart, as man-in-the-middle attacks go undetected.

[www.eff.org/SSL-abuse](http://www.eff.org/SSL-abuse)

**U.S.-EU Negotiations on Data Sharing** – In November of 2009, EFF submitted a FOIA request to the Department of Justice (DoJ) for information concerning the deliberations of the High Level Contact Group, a bilateral working group that developed principles to govern exchanges of personal information for law enforcement purposes between the United States and the European Union. After the agency failed to respond to the request six months after it was submitted, we filed suit in May of 2010. The DoJ has begun to release responsive documents and expects to complete processing and release all non-exempt material no later than January 2011, when the parties are scheduled to appear before the court for a status conference.

[www.eff.org/data-sharing](http://www.eff.org/data-sharing)

**Reports to the Intelligence Oversight Board Released** – In June of 2009, EFF filed suit against the Central Intelligence Agency (CIA) and a half-dozen other federal agencies involved in intelligence gathering, demanding the immediate release of the required periodic reports they had submitted to the Intelligence Oversight Board (IOB) of any intelligence activities that "may be unlawful or contrary to Executive order or Presidential directive." Included in the releases we have received are revelations that intelligence officers had investigated the U.S.-based religious organization the Nation of Islam, Planned Parenthood and an anti-war group called Alaskans for Peace and Justice. In addition, high-level Pentagon officials had given false information to Congress about al-Qaeda and the 9/11 attacks.



EFF lawyers Marcia Hoffman and Nate Cardozo with FOIA docs.  
(photo by Hugh D'Andrade)

[www.eff.org/IOB](http://www.eff.org/IOB)

**IRS and FBI Use Social Media** – In December of 2009, EFF filed suit with students from the Samuelson Law, Technology, and Public Policy Clinic at the University of California, Berkeley School of Law against a half-dozen government agencies for refusing to disclose their policies for using social networking sites for investigations, data-collection, and surveillance. The lawsuit demanded that the agencies release information about how the government collects and uses this sensitive information. As a result of these requests, the government began to release records in March of 2010. The first batch included IRS agent training materials that describe how they may use social networking to investigate taxpayers and a presentation from the DoJ noting that Facebook was "often cooperative with emergency requests" while complaining about Twitter's short data retention policies and refusal to preserve data without legal process. We expect to continue to receive additional documents throughout the rest of the year.

[www.eff.org/foia-social-network](http://www.eff.org/foia-social-network)

### **FBI Releases Heavily Redacted Domestic Surveillance Guidelines**

EFF requested and received the FBI's controversial Domestic Investigations and Operations Guidelines (DIOG). The document clearly allows for the use of intrusive techniques to surreptitiously collect information on people suspected of no wrongdoing and no connection with any foreign entity. Additionally disturbing, large portions of the publicly accessible version had been blacked out by the FBI and were released only after a further request and subsequent lawsuit by EFF.

[www.eff.org/foia-fbi](http://www.eff.org/foia-fbi)

**PATRIOT Act Reauthorization** – EFF filed a FOIA lawsuit against the DoJ demanding records on three controversial PATRIOT Act surveillance provisions that expire early next year unless Congress renews them. EFF sought the immediate release of FBI reports on the provisions' effectiveness, lawfulness, and potential misuse. These controversial PATRIOT provisions give the FBI expanded powers to seize electronic records and property and to wiretap phone conversations, and are set to expire in February of 2011. The agency filed its answer in June and began to release responsive documents.

[www.eff.org/foia-patriot](http://www.eff.org/foia-patriot)

### **Government Releases Telecom Lobbying Documents**

After months of delay by the agencies, in November of 2009, EFF won our FOIA case against the Office of the Director of National Intelligence (ODNI) and the DoJ for disclosure of the agencies' records detailing briefings, discussions, or other contacts with representatives of telecommunications companies or members of Congress lobbying for immunity for their participation in the illegal government electronic surveillance of millions of ordinary Americans. In February of 2010, EFF claimed another victory when a federal appeals court rejected a government claim of "lobbyist privacy" to hide the identities of individual lobbyists for the telcos. The appeals court sent part of the case back down to the district court for further consideration, including whether disclosure of the lobbyists' identities would reveal intelligence sources and methods and whether communications between the agencies and the White House can be withheld under the presidential communications privilege or other grounds. We recently reached a settlement, which included attorneys' fees for EFF.

[www.eff.org/foia-telecom](http://www.eff.org/foia-telecom)



A frame from artist-activist Nina Paley's animated cartoon created to celebrate EFF's 20th anniversary.

### **TOSBack: Tracking Website Policies**

"Terms of Service" (TOS) policies on websites define how Internet businesses interact with and use your personal information. Terms of Service policies are contracts and are often used to rewrite consumer protection laws, resulting in you giving up rights you might not have even realized you have with a document you never actually read!

Many terms of service policies are long, and when changes are made, it can be very difficult to identify exactly what changes had been made. EFF developed TOSBack to help you understand the changes to the policies of the websites you use most often.

TOSBack monitors changes to the TOS agreements of 56 of the Internet's most popular websites. Since its release, TOSBack has become an important archive that documents changes to terms of service over time and flags changes so consumers can determine if an agreement strays beyond industry norms. First, TOSBack identifies the exact time a TOS policy at one of the monitored sites is changed. If you would like to see the exact changes that occurred, you can click on a site's icon to get a side-by-side comparison of what has been added to and removed from a policy.

[www.tosback.org](http://www.tosback.org)

# EFF in the News

EFF is proud to participate in media conversations about issues that affect digital civil liberties. EFF's work has been reported in the mainstream media, in publications directed towards technological and legal audiences, and in high-profile blogs. EFF lawyers, technologists and activists are quoted in the press approximately two or three times a day! Here is a small sampling of 100 stories that featured EFF in 2009 and early 2010. See our website at [www.eff.org/press/mentions](http://www.eff.org/press/mentions) for a whole lot more.



PRIVACY

## **Chips in official IDs raise privacy fears**

ASSOCIATED PRESS, JULY 11, 2009

## **Advocates Ask Google for Privacy Guarantees in Online Library**

NEW YORK TIMES, JULY 23, 2009

## **A Casualty of the Technology Revolution: 'Locational Privacy'**

NEW YORK TIMES, SEPTEMBER 1, 2009

## **Password Hackers Are Slippery To Collar**

WASHINGTON POST, SEPTEMBER 7, 2009

## **Getting bugged by e-mail subpoenas**

CHICAGO TRIBUNE, OCTOBER 20, 2009

## **Digital Bread Crumbs: Following Your Cell Phone Trail**

NPR, OCTOBER 28, 2009

## **Web Site Says Justice Dept. Demanded It Secretly Turn Over Readers' Info**

FOXNEWS, NOVEMBER 12, 2009

## **Even without cookies, a browser leaves a trail of crumbs**

ARS TECHNICA, JANUARY 28, 2010

## **It's been 10 years: Why won't people pay for privacy?**

CNET NEWS, JANUARY 28, 2010

## **Grandma endures wrongful ISP piracy suspension**

CNET NEWS, JANUARY 29, 2010

## **Office Copiers Can Present Identity Theft Risk**

CBS 5, FEBRUARY 5, 2010

## **Justice Dept. wants phone locales without warrant**

ASSOCIATED PRESS, FEBRUARY 12, 2010

## **Suit: School used its laptops to spy on students at home**

ASSOCIATED PRESS, FEBRUARY 18, 2010

## **Web Posts May Make You Vulnerable To Crime**

NPR, FEBRUARY 25, 2010

## **Military Monitored Planned Parenthood, Supremacists**

WIRED NEWS, FEBRUARY 25, 2010

## **Impact of Italy's ruling on Google**

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NBC BAY AREA, MAY 18, 2010

# Profit and Loss Standard

July 2009 through June 2010 — Ordinary Income/Expense

## Ordinary Income

Corporate Contributions	468,589.07
<b>Foundation Grants</b>	<b>962,488.08</b>
Individual Major Donations	603,138.55
<b>Membership Income</b>	<b>1,002,481.50</b>
Interest Income	20.33
<b>Litigation</b>	<b>109,247.95</b>
Honorarium/Awards/Consulting	10,036.00
<b>Matching Gifts</b>	<b>71,668.02</b>
Event Income	73,360.03
<b>Minor Donations</b>	<b>8,892.54</b>
Investment Income	10,000.00
<b>Personnel Related Income</b>	<b>1,479.02</b>
Miscellaneous Income	947.73
<b>Total Ordinary Income</b>	<b>3,322,348.82</b>

## Other Income

Unrealized Gain or Loss	353,738.94
<b>Total Income</b>	<b>3,676,087.76</b>

## Expense

Salaries & Benefits	2,647,224.39
<b>Building Expenses</b>	<b>200,718.72</b>
Corporate Insurance	48,898.29
<b>Office Expenses</b>	<b>105,450.44</b>
Membership Expenses	50,795.97
<b>Court Filings, Service &amp; Fees</b>	<b>5,100.00</b>
Bank & Merchant Fees	53,665.96
<b>Consultants</b>	<b>41,714.69</b>
Special Projects	100,000.00
<b>Staff &amp; Board Enrichment</b>	<b>14,003.92</b>
Grassroots Campaigning	65,382.66
<b>Taxes</b>	<b>652.00</b>
EFF Events	20,972.41
Travel & Entertainment	28,458.63
<b>Total Expense</b>	<b>3,383,038.08</b>
<b>Net Income</b>	<b>293,049.68</b>

**Note:** EFF shifted its fiscal year to run from July 1 to June 30 starting in July 2009.

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