

EXHIBIT 12

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GHASSAN ALASAAD, NADIA
ALASAAD, SUHAIB ALLABABIDI, SIDD
BIKKANNAVAR, JÉRÉMIE
DUPIN, AARON GACH, ISMAIL ABDEL-
RASOUL aka ISMA'IL KUSHKUSH,
ZAINAB MERCHANT, MOHAMMED
AKRAM SHIBLY, MATTHEW WRIGHT,
and DIANE MAYE ZORRI,

Plaintiffs,

v.

KEVIN McALEENAN, Secretary of the U.S.
Department of Homeland Security, in his
official capacity; JOHN SANDERS, Acting
Commissioner of U.S. Customs and Border
Protection, in his official capacity; and
MATTHEW T. ALBENCE, Acting Director
of U.S. Immigration and Customs
Enforcement, in his official capacity,

Defendants.

Civil Action No. 17-cv-11730-DJC

Hon. Denise J. Casper

DECLARATION OF SOPHIA COPE
IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, Sophia Cope, a member of the Bar of the State of California and admitted *pro hac vice* to the Bar of this Court, declare under penalty of perjury as follows:

1. I am an attorney with the Electronic Frontier Foundation, and represent all Plaintiffs in this matter.
2. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.
3. Filed as Exhibits 1–47 attached to Plaintiffs' Statement of Undisputed Material Facts in Support of Their Motion for Summary Judgment, are true and correct copies of the following documents, or true and correct copies of excerpts of such documents:

No.	Exhibit
1	Declaration of Ghassan Alasaad
2	Declaration of Nadia Alasaad
3	Declaration of Suhaib Allababidi
4	Declaration of Sidd Bikkannavar
5	Declaration of Jérémie Dupin
6	Declaration of Aaron Gach
7	Declaration of Ismail Abdel-Rasoul aka Isma'il Kushkush
8	Declaration of Zainab Merchant
9	Declaration of Mohammed Akram Shibly
10	Declaration of Matthew Wright
11	Declaration of Diane Maye Zorri
12	Declaration of Sophia Cope
13	Deposition Transcript of U.S. Customs and Border Protection ("CBP") pursuant to Fed. R. Civ. P. 30(b)(6)
14	Deposition Transcript of U.S. Immigration and Customs Enforcement ("ICE") pursuant to Fed. R. Civ. P. 30(b)(6)
15	Answer
16	Amended Complaint
17	Detention Notice and Custody Receipt received by Plaintiff Suhaib Allababidi
18	CBP Senate Homeland Security Committee Briefing, April 30, 2018 (pp. 281, 282)
19	CBP 2018 Directive
20	ICE Broadcast
21	ICE 2009 Directive

22	CBP 2018 Privacy Impact Assessment
23	CBP 2017 Automated Targeting System Privacy Impact Assessment
24	Emails from Marsha Stelson Edney, counsel for Defendants
25	Documents received by Plaintiff Matthew Wright under Freedom of Information Act and Privacy Act
26	Defendants' Interrogatory and Document Request Responses
27	Department of Homeland Security Office of Inspector General 2018 Report
28	Defendants' Privilege Log
29	DHS 2009 Privacy Impact Assessment
30	ICE 2007 Memorandum
31	Pilot Program for CBP 2018 Directive Documents
32	Memorandum in Support of Defendants' Motion to Dismiss
33	CBP "Tear Sheet"
34	CBP Written Statement for the Record for Senate Homeland Security Committee, July 11, 2018
35	CBP Instructor Guide-P180C
36	ICE/Homeland Security Investigations Priority Requests
37	CBP Senate Homeland Security Committee Briefing, April 30, 2018 (pp. 281, 288)
38	Border Patrol 2018 Digital Forensics Program Privacy Impact Assessment
39	2001 International Mail Handbook
40	CBP 2004 Personal Search Handbook
41	CBP Air and Marine Operations Guidance
42	CBP 2017 Air and Marine Cyber Investigations Team Memorandum
43	ICE Homeland Security Investigations 2012 Search and Seizure Handbook

44	Memorandum of Understanding Between ICE/HSI and U.S. Postal Service
45	CBP 2015 Memorandum on <i>Cotterman</i>
46	Joint Stipulations
47	TECS records, including Electronic Media Reports and other records (filed under seal)

4. In 2016, the Electronic Frontier Foundation represented Plaintiff Matthew Wright in seeking all documents, pursuant to the Freedom of Information Act (“FOIA”) and the Privacy Act (“PA”), regarding the confiscation of his electronic devices (a smartphone, laptop, and camera) at Denver International Airport on April 21, 2016, and their subsequent search. Defendants U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement produced 34 pages of documents, an excerpt of which is included as Exhibit 25, listed above. None of the documents produced in response to Wright’s FOIA/PA request showed that the data retained from the search of his devices, which the documents stated were stored on three thumb drives, was destroyed.

5. As part of civil discovery in the instant case, Plaintiffs requested “[a]ll documents regarding any information or data retained from the searches and confiscations of Plaintiffs’ electronic devices” None of the documents produced by Defendants in civil discovery in the instant case showed that the information retained from the search of Wright’s electronic devices was destroyed.

6. Exhibit 47, listed above, comprises excerpts of records from the TECS database provided by CBP and from a Homeland Security Investigations Digital Forensic Report provided by ICE. These records are subject to the protective order in this case, *see* ECF No. 69, and therefore Exhibit 47 is being filed under seal, via hand delivery to the Clerk of this Court, along with an assented-to motion to file under seal. Pursuant to an agreement with opposing counsel,

the characterizations of the contents of these records that appear in the Plaintiffs' Statement of Undisputed Material Facts ("SUMF") and Plaintiffs' Memorandum in Support of Their Motion for Summary Judgment ("MSJ Brief") are not subject to the protective order, and therefore the SUMF and MSJ Brief are not being filed under seal.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 29, 2019



Sophia Cope