

# The Security Risks Posed by the Protect America Act

**Susan Landau**

Sun Microsystems

# The Foreign Intelligence Surveillance Act (FISA)

- Delineates under what circumstances a “U.S. person” can be wiretapped.
- Warrants required whenever a U.S. person is wiretapped.
- No warrants needed if tapping a wireless communication of non U.S. persons.

# Why The Wireless Exemption Didn't Work So Well

- Optical fiber (antennas don't help).
- U.S. is a transit for many communications: Europe to Asia, South America, Asia to Asia, South America to South America.
- These communications are not U.S. person to U.S. person, so no constitutional protections --- just fiber optic ones.

# What the Protecting America Act Did

- No warrant needed for any electronic communication involving one party believed to be outside the United States.

# RISKS

- Greek wiretapping case.
- Titan Rain
- Has there been any situation in which intelligence agencies lost control?