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App. 1a

Federal Circuit Order denying Petition for Writ of Mandamus in Appeal No. 20-136
(10/19/20)

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

In re: LAKSHMI ARUNACHALAM,
Petitioner

2020-136

On Petition for Writ of Mandamus to the United States District Court for the District of Delaware in No. 1:14-cv-00091-RGA, Judge Richard G. Andrews.

ON PETITION

PER CURIAM.

ORDER

Lakshmi Arunachalam petitions the court for a writ of mandamus, seeking to vacate various orders of this court, district courts, the United States Court of Federal Claims, and the Patent Trial and Appeal Board. Kronos Incorporated, a defendant in one of the underlying district court matters, moves for leave to file an untimely entry of appearance.

In July 2020, this court denied Dr. Arunachalam's motion to proceed *in forma pauperis* on the ground that the petition appeared frivolous. We explained that the petition largely seeks to pursue arguments that this court

has already repeatedly rejected, that, at a minimum, she lacked a clear and indisputable right to relief in seeking to vacate orders in closed cases listed in the caption, and that for those cases in the caption that were ongoing or recently resolved, Dr. Arunachalam had failed to explain why she lacks an alternative means for obtaining relief through the course of an appeal. Dr. Arunachalam petitioned for rehearing *en banc*, which the court denied. Dr. Arunachalam then paid the filing fee.

Issuance of a writ of mandamus is a "drastic" remedy, "reserved for really extraordinary causes." *Ex parte Fahey*, 332 U.S. 258, 259–60 (1947). To establish mandamus relief, a petitioner must, at a minimum, establish that she has a clear and indisputable right to relief and no adequate alternative legal channels to obtain that relief. *See Cheney v. U.S. Dist. Court for the Dist. of Columbia*, 542 U.S. 367, 380–81 (2004). For the reasons already explained to Dr. Arunachalam in this court's prior order, she has failed to meet that demanding standard.

Accordingly,

IT IS ORDERED THAT:

(1) The petition is denied.

(2) Kronos' motion is granted.

(3) All other pending motions are denied.

FOR THE COURT

October 19, 2020
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

s31

App. 2a

Federal Circuit Order Denying Petition for
En Banc Re-hearing in Appeal No. 20-136
(12/28/20)

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

IN RE: LAKSHMI ARUNACHALAM,
Petitioner

2020-136

On Petition for Writ of Mandamus to the United States District Court for the District of Delaware in No. 1:14-cv-00091-RGA, Judge Richard G. Andrews.

ON PETITION FOR REHEARING EN BANC

Before PROST, *Chief Judge*, NEWMAN, LOURIE, DYK, MOORE, O'MALLEY, REYNA, WALLACH, TARANTO, CHEN, and HUGHES, *Circuit Judges*.*

PER CURIAM.

ORDER

Petitioner Lakshmi Arunachalam filed a petition for rehearing en banc. The petition was first referred as a petition for rehearing to the panel that heard the appeal, and thereafter the petition for rehearing en banc was referred to the circuit judges who are in regular active service.

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* Circuit Judge Stoll did not participate.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en banc is denied.

FOR THE COURT

December 28, 2020
Date

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

App. 3a:
Exhibit A: Stanford's
Dr. Markus Covert's Expert
Opinion in Re-examinations of
Petitioner's Patents

IN THE PATENT AND TRADEMARK OFFICE

In re Patent No. 6,212,556	)	
	)	
Patent Owner: WebXchange, Inc.	)	Art Unit: 3992
	)	
REEXAM Control NO: 90/010,417	)	Examiner: Z. Cabrera
	)	
Re-exam filing date: 2/23/2009	)	
	)	
Patent issue date: 04/03/2001	)	
	)	
Title: CONFIGURABLE VALUE- ADDED NETWORK (VAN) SWITCHING	)	

DECLARATION OF DR. MARKUS W. COVERT

1. My name is Dr. Markus W. Covert of 804 Clark Way, Palo Alto, CA 94304. I have been retained to offer opinions with respect to prior art references cited in this reexamination. I base these opinions on my education and training in informatics, described below.

2. I am currently an Assistant Professor of Bioengineering at Stanford University and teach and do research in computational biology and bioinformatics. My hourly rate in consulting is $250.

3. For three years starting in January 2004, I was a postdoctoral fellow at the California Institute of Technology, working with the Nobel Prize winner and then-President of Caltech, David Baltimore. During that time, I was awarded a highly competitive Damon Runyon postdoctoral fellowship, as well as a fellowship from the National Institutes of Health, for my work in understanding complex biological systems.

I hold a Ph.D. degree in Bioengineering and Bioinformatics from the University of California, San Diego, and was the first graduate of this competitive program.

4. My resume is attached as an exhibit at the end of this declaration. I have published several papers on computational biology and bioinformatics, including in such journals as *Science* and *Nature*. I also have taught a class at Stanford on computational methods for studying biology for three years now.

5. I am familiar with United States patent number 6,212,556 ("the '556 patent") and the current reexamination (control number 90/010,417). In particular, I am familiar with Requester's arguments and Requester's Cited Art:

1. Payne (US 5,715,314);
2. McPartlan (US 5,822,569);
3. Kahn (US 6,135,646);
4. Shwed (US 5,835,726);
5. Braden (RFC 1122 - "Requirements for Internet Hosts – Communication Layers");
6. CORBA ("The Common Object Request Broker: Architecture and Specification Revision 2.0 July 1995, Updated July 1996");
7. Orfali ("The Essential Distributed Objects Survival Guide" - Robert Orfali, Dan Harkey, Jeri Edwards,1996 John Wiley &Sons);
8. Popp (US 6,249,291);
9. Gifford (US 5,724,424; US Ser. No. 08/168,519);
10. Ginter (US 5,910,987);
11. Crandall (US 5,159,632);

12. Elgamal (US 5,671,279);

13. Atkinson (RFC 1825 - "Security Architecture for the Internet Protocol"); and

14. Birrell (Network Objects - SRC Research Report 115, Andrew Birrell, Greg Nelson, Susan Owicki, and Edward Wobber).

6. I have found that all of these documents are missing several critical aspects found in Claims 1-30 of the '556 patent. I will begin with Payne and Gifford. Payne and Gifford are closely related to each other. Both describe a user jumping from one URL to another URL, otherwise known as Web browsing. Payne and Gifford describe a user typing in a URL and browsing the Website of a Merchant, who displays the images of products. They further describe that the Web server serves standard HTML documents (more commonly known as Web pages) to the user. The user may choose to go to another Website. In order to go to another Website, the user must leave the Merchant Website. When the user chooses to hotlink to another URL, there is only one computer system, the Web server, that he browses.

7. The merchant Web server presents a Web page with a hotlink in it. When the user clicks the hotlink, the user leaves the merchant Website. The user is no longer at the merchant Website and is now at the payment Website. In other words, the user's browsing is one-to-one – only the user and the Web server are involved, and not a second computer system. The payment Web server presents the user with a Web page with a Web form, so the user may fill out personal information and hits the submit button. The Web server strips the form and sends one field at a time to CGI using standard I/O, which then forwards it to a Back-office application. There is no Web application, nor one with a data structure in the front-end Web page. Neither Payne nor

Gifford contain any hint, mention of, or use of object-oriented programming techniques. So there is no "object", nor "object identity", nor "networked object", nor "object routing", much less on a "value-added network" atop the Web that offers a Web application as an on-line service atop the Web. There is no data structure, nor an encapsulated data structure, that is transmitted from the Web page through a Web server to the Back-office application. There is no connected Web application or a connected Back-Office application. Gifford's use of a timestamp or "nonce" does not change this. Payment Web server presents a Web page with a hotlink in it. When the user clicks the hotlink, the user leaves the payment Website. The user is no longer at the payment Website and is now at the merchant Website. Again, only the user and the Web server are involved, and not a second computer system. URLs are passed serially as the buyer opens a new account, attempts login, etc.

8. I find that the '556 patent has several aspects that are missing in Payne and Gifford. One is embodied in the mention of an "object identity" with "information entries and attributes." Another aspect missing in Payne and Gifford is the use of an "object" which is a data structure. Payne and Gifford have fields in a database, such as ID, price, etc. These fields are not "object identity" nor "attributes", as they are not related to a data structure or "object", as in the '556 patent. A related aspect that is missing in Payne and Gifford is the notion of a "networked object" that is described in the '556 patent. Payne and Gifford do not automate the flow of a Web transaction over an end-to-end channel, routing encapsulated data structures atop the Internet or Web through a Web server to, for example, a Back-office application, as in the '556 patent. Payne and Gifford are each missing "object routing".

9. "Object routing" leads to dramatic advantages of the '556 and its parent patents over any of the Requester's cited art, such as any-to-any communication, end-to-end seamless automation, n-way transactions on the Web, an intelligent overlay service network across the value-chain from user to provider, Web applications offered as online services, a powerful platform for Web applications and services-on-demand over the Web, cloud computing, and many more advantages.

10. None of the references Requester has cited, discuss the exchange of structured information between the user and transactional application executing for example, at the Back-office of a Web merchant or between the purchaser, payment service, merchant, and/or any other involved parties, nor an end-to-end channel allowing an encapsulated data structure to be transmitted atop the Web through a Web server from a Web page. None of the cited art describe an open channel dynamically created on-demand through a Web server between a Web application and a transactional application.

11. In Payne and Gifford, the application logic is not on the front-end Web page, payment application is local to the Back-office, not on the front-end Web page. Their database does not provide the correlation between front and back-end. There are also several features of the '556 patent that are significantly missing in Payne and Gifford, namely, the automation of the flow of a Web transaction in a Web application, nor is there an intelligent service network atop the Web. Payne and Gifford do not even hint at "object routing", nor do they have a "networked object".

12. Upon examination, it is clear that McPartlan has essentially nothing to do with the '556 patent, Payne, Gifford, Ginter, or Popp. McPartlan focuses on the management of a physical network of physical devices.

13. Unlike the '556 patent, McPartlan does not relate to Web applications, including Internet commerce. The physical device in McPartlan is referred to as an object, but the McPartlan object is not a data structure. Nor is it a data structure upon which methods, operations or transactions can be performed, as one might with the "object" in the '556 patent, such as making a travel reservation on the Web, etc. The McPartlan object is not even related to object-oriented programming. There is no "object routing" in McPartlan. No methods, nor operations upon McPartlan's objects, nor object routing are possible or even mentioned or alluded to in McPartlan.

14. There are also several features of the '556 patent that are significantly missing in Ginter. Ginter describes a digital rights management system, which includes a container with content (for example, a digitized film) and a code key to unlock the content for use. This container is termed an object in Ginter, but has no relationship to the "object" in the '556 patent. The Ginter container has an ID; however, this ID is a field in a database. Furthermore, the control described in Ginter is not the distributed control of the '556 patent, that includes "networked object", "object routing", automation of the flow of a Web transaction in a Web application, nor of an intelligent service network atop the Web.

15. Of all the prior art cited by the Requester, only Popp refers to object-oriented programming. Popp teaches the use of object-oriented programming to create new web pages automatically. The object-oriented programming objects described in

Popp are display elements – in other words, object-oriented programming is used to generate HTML text which can be read as web pages in browsers. Popp does not even hint at "object routing", nor does he have a "networked object". When Popp talks about control, he talks about the control of the template of a Web page, for repetitive elements on a Web page and for varying the display.

16. In November 1995, object-oriented programming was still quite controversial. The few truly object-oriented programming languages were not in widespread use. It was more common to find languages which were adapted to include some object-oriented features. "Controversial" is the antithesis of "obvious".

17. Several features of the '556 patent are missing from the cited art, and are not obvious in any way, even if the cited references were combined in different permutations or taken individually. These include, but are not necessarily limited to, "networked object", and "object routing", as described in detail above. There would have been no motivation or possibility to combine hardware monitoring and diagnostics as in McPartlan with rendering of a Web page as in Popp, or with hotlinking, Web browsing, CGI and HTML as in Payne and Gifford, or with encryption key for protecting from piracy of content as in Ginter, or with transport layer messages via the physical Internet as in CORBA and Orfali, individually or in any permutation of the above. The '556 patent, therefore, makes several substantial, non-intuitive innovative leaps beyond the state of the cited art, all together as well as separately.

18. In Dr. Arunachalam's inventions in the '556 patent, a "value-added network" is a service network atop the Web that offers a Web application connecting to a transactional application. A "value-added network" is a service network over which

real-time Web transactions can be performed from a Web application by accessing a transactional application offered as an on-line service via the Web.

19. A service network offers a service, or an on-line service atop the Web. A service is an application, as stated in the '556 and its parent patents as "a particular type of application or service". An on-line service atop the Web is a Web application. So, a "value-added network" is a service network atop the Web, that offers a Web application as an on-line service. The Web application offered over the service network atop the Web is the value-add in the value-added network.

20. In the '556 patent, a "value-added network" includes "a service network running on top of an IP-based facilities network such as the Internet, the Web ...". This distinction of:

- a service network over a physical network or IP-based facilities network, such as the Internet, the Web or email networks;
- the service network atop the Web versus the physical Internet; and
- the application layer, as in the application layer of the OSI model, as in the '556 patent versus the lower layers such as the transport layer, like TCP/IP, or link layer or network layer or MAC layer

needs to be kept in mind in distinguishing the '556 patent from the Requester's cited art. On-the-wire communication at the transport layer, such as CORBA, Orfali, Birrell, Braden, Kahn, Ginter; physical network like Shwed, Braden, McPartlan, is clearly at a lower layer versus a "value-added network", as in the 556 patent.

21. In the '556 patent, a user specifies a **real-time Web transaction from a Web application** connecting to a transactional application, as opposed to mere Web

browsing. If this were mere Web browsing as described in Payne, Gifford and Popp, one would never get past the Web server to a Back-Office transactional application. They would never make it to a Back-Office in real-time, let alone to a transactional application at the Back-Office. That is one of the reasons they end up with deferred transactions.

22. The '556 patent describes a user value-chain in which real-time Web transactions occur from a user interacting with a Web application. The user value-chain consists of:

- a user,
- a Web server,
- a Web page displaying one or more Web applications,
- a Web application including "object"(s) or data structures specific to the Web application,
- a user transaction request from a Web application,
- object router,
- an open channel over which "objects" are routed through a Web server,
- a transactional application to service the request,
- a service network connecting a Web application to a transactional application, (aka a value-added network), and
- real-time Web transaction.

23. If the Requester's cited art is considered individually or in any combination, no real-time Web transactions occur from a user interacting with a Web application. None of the cited art offers a Web application.

24. In Payne, Gifford and Popp, there is a user, a Web server, and even a Web page, but not a Web page displaying one or more Web applications. Their user value-chain does not result in real-time Web transactions from a user interacting with a Web application, for a simple reason that there is no Web application.

25. In McPartlan, Braden, Shwed, there is a physical network, but no service network and not even a user for there to be a user value chain. No real-time Web transactions occur from a user interacting with a Web application.

26. In CORBA, Orfali, Birrell, there is a transport layer, that is a lower layer than the application layer, and there is no service network. They describe objects, but no Web applications. There is no data structures specific to a Web application. There is no user transaction request from a Web application. There is no object routing. There is no service network connecting a Web application to a transactional application, (aka a value-added network). No real-time Web transactions occur from a user interacting with a Web application.

27. In Kahn, Ginter, Atkinson, Crandall, Elgamal, there is no service network and no Web application. They offer encryption and digital rights' management. Kahn and Ginter describe objects, but not objects that are data structures. Their objects are files, for example, video files, that need to be protected from piracy. Such files may be shared from a network server via a LAN, which is a physical network. There is no user transaction request from a Web application. There is no object routing. There is no service network connecting a Web application to a transactional application, (aka a value-added network). No real-time Web transactions occur from a user interacting with a Web application.

28. By combining these four groups of Requester's cited art, namely:

- the Web server group (Payne, Gifford, Popp),
- the physical network group (McPartlan, Braden, Shwed),
- the transport layer group (CORBA, Orfali, Birrell), and
- the file sharing over a physical network group (Kahn, Ginter, Atkinson, Crandall, Elgamal),

they are still missing the inventive novelty in the '556 patent, namely:

- a Web application,
- "object"(s) or data structures specific to a Web application,
- a user transaction request from a Web application,
- object routing,
- a service network connecting a Web application to a transactional application, and
- an open channel over which "objects" are routed through a Web server.

Therefore, Requester's cited art in any combination cannot re-create Patentee's inventions, namely, a configurable value-added network switch that enables real-time Web transactions on a value-added network atop the Web.

29. In addition, Patentee's inventions enable:

- n-way real-time Web transactions,
- automating a transaction from beginning to end in real-time,
- holding a transaction captive at the network entry point on the Web,
- aggregation of Web application content,
- dynamic virtual packaging,

- remote service partners,
- routing switch within the application layer of the OSI model,
- transactional application selection mechanism,
- PoSvc application list on a Web page,
- user selects a transactional application,
- "user specification from a network application",
- connected Web application,
- "transaction link between network application and transactional application,"
- "connected with the value-added network with the transactional application,"
- service network that offers a Web application,
- "service network on top of an IP-based facilities network,"
- service network control,
- usage-based services,
- enabling service management of the value-added network service, to perform OAM&P functions on the services network,
- automated state management,
- DOLSIB, and
- client-server-client server n-way in n-tier management model.

Terms such as aggregation of content, dynamic virtual packaging, value-added service-specific virtual private network of remote service partners relate to the n-way transactions and co-operating service partners, packaging and aggregating Web applications as content in Applicant's patents. Once again, Requester's cited art lack these features.

30. In the '556 patent, a value-added network switch connects a user with an on-line service in a service network atop the Web that offers a Web application connecting to a transactional application. A value-added network switch links a user with an on-line service in a service network offering a Web-enabled transactional application. A "VAN switch" provides distributed control of the flow of a Web transaction in a Web application in a service network atop the Web. A "VAN switch" is an end-to-end solution that provides the value-added network service or Web application atop the Web. A "VAN switch" includes an "OSI application layer switch in a service network atop the Web". "Exchange and Management Agent constitute a VAN switch." A VAN switch consists of boundary service, switching service, management service and application service. A VAN switch includes the Point-of-Service Web applications on a Web page, connecting through a Web server to a transactional application, executing anywhere across a service network atop the Web, utilizing object routing. A switch in a physical network, as in a Cisco switch or Cisco router in a physical network, is not what the "switch" in the '556 patent is about. Such a physical network switch operates clearly at a lower layer than the "application layer network" or "service network atop the Web", as in the '556 patent.

31. "Real-time transactions" in Applicant's patents are real-time Web transactions from a Web application. Real-time Web transactions are performed by a user accessing an on-line service in a service network offering a Web-enabled transactional application. Real-time Web transactions performed from a Web application by accessing a transactional application offered as an on-line service via the Web. In simple words, real-time Web transactions are performed over a "value-added

network" that is a service network atop the Web that offers a Web application connecting to a transactional application. There is a clear distinction between Web browsing versus **real-time Web transactions from a Web application**, as described in the '556 patent. It is noteworthy that there is an absence of a Web application in each of Requester's cited art. So, no real-time transactions are performed in Requester's cited art, because there are no real-time Web transactions from a non-existent Web application.

32. Requester's cited art may include an application local to the Back-end. It does not necessarily follow that such an application connects to a Web application at the front-end. This leaves behind a disjointed island of information not connected through a Web server to a non-existent front-end Web application.

33. In the '556 patent, for the purposes of clarification, a "transactional application" is a PoSvc application. A "transactional application selection mechanism" is a PoSvc application list on a Web page. A "network application" is a Web application connecting to a transactional application over a service network atop the Web. A "user application" is a PoSvc transactional application or a Web application. A "user specification from a network application" is a Web transaction specified by a user from a Web application connecting to a transactional application over a service network atop the Web. A "user specification from a network application" is a real-time Web transaction specified by a user, a Web transaction that a user desires to perform, to access, for example, a Web merchant's services via the Web, from a Web application connecting to a transactional application over a service network atop the Web.

34. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true.

Signature: Markus W. Covert Date: 2·12·2010

Dr. Markus W. Covert

EXHIBIT A: DR. MARKUS W. COVERT'S RESUME

Positions

2007-	Assistant Professor, Department of Bioengineering, Stanford University.
2004-2006	Postdoctoral Scholar, David Baltimore Lab, Biology Division, Caltech.
2001	Research Scientist Consultant, Genomatica, Inc.
1998-2003	Graduate Student, Palsson Lab, Department of Bioengineering, UCSD.
1997-1998	Engineer, Research and Development, Elesys, Inc.
1996-1997	Research Assistant, Chemical Engineering Department, BYU.

Honors

2007-	National Cancer Institute, Pathway to Independence Award (K99/R00).
2004-2006	Damon Runyon Cancer Research Foundation, Postdoctoral Fellowship.
2004	National Cancer Institute, Postdoctoral Fellowship, 2004 (declined).
2003	University of California, San Diego, First Graduate in Bioinformatics.
1991-1997	Brigham Young University, Ezra Taft Benson Presidential Scholarship.

Professional Societies

2002-2009	Biomedical Engineering Society
1996-2003	American Institute of Chemical Engineers

Peer-reviewed publications (in chronological order)

1. Lee TK, Denny EM, Sanghvi JC, Gaston JE, Maynard ND, and Covert MW. "A stochastic switch determines the cellular response to LPS", in revision.
2. Seok J, Xiao W, Moldawer LL, Davis RW, and Covert MW. "A dynamic network of transcription in LPS-treated human subjects", in review.
3. Hughey JJ, Lee TK, Covert MW. "Modeling Mammalian Signal Transduction Networks" In Press, Wiley Interdisciplinary Reviews: Systems Biology.
4. Terzer M, Maynard ND, Covert MW, and Stelling J."Genome-scale metabolic networks", In Press, Wiley Interdisciplinary Reviews: Systems Biology.
5. Covert MW (Corresponding Author), Xiao N, Chen TJ, and Karr JR. "Integrated Flux Balance Analysis Model of Escherichia coli" Bioinformatics. 2008. Sep15;24(18): 2044-50. PMID: 18621757
6. Covert MW, Leung TH, Gaston JE, Baltimore D. "Achieving stability of lipopolysaccharide-induced NF-κB activation" Science. 2005. 309(5742): 1854-7.
7. Covert MW. "Integrated regulatory and metabolic models" Computational Systems Biology. Academic Press, New York, 2005.
8. Herrgård MJ, Covert MW, Palsson BØ. "Reconstruction of microbial transcriptional regulatory networks" Curr Opin Biotechnol. 2004. 15(1): 70-7.
9. Covert MW, Knight EM, Reed JL, Herrgård MJ, Palsson BØ. "Integrating high-throughput and computational data elucidates bacterial networks" Nature. 2004. 429(6987): 92-6.

10. Covert MW, Palsson BØ. "Constraints-based models: regulation of gene expression reduces the steady-state solution space" J Theor Biol. 2003. 221(3): 309-25.

11. Covert MW, Famili I, Palsson BØ. "Identifying constraints that govern cell behavior: a key to converting conceptual to computational models in biology?" Biotechnol Bioeng. 2003. 84(7): 763-72.

12. Herrgård MJ, Covert MW, Palsson BØ. "Reconciling gene expression data with known genome-scale regulatory network structures" Genome Res. 2003. 13(11): 2423-34.

13. Covert MW, Palsson BØ. "Transcriptional regulation in constraints-based metabolic models of Escherichia coli" J Biol Chem. 2002. 277(31): 28058-64.

14. Schilling CH, Covert MW, Famili I, Church GM, Edwards JS, Palsson BØ. "Genome-scale metabolic model of Helicobacter pylori 26695" J Bacteriol. 2002. 184(16): 4582-93.

15. Covert MW, Schilling CH, Famili I, Edwards JS, Goryanin II, Selkov E, Palsson BØ. "Metabolic modeling of microbial strains in silico" Trends Biochem Sci. 2001. 26(3): 179-86.

16. Covert MW, Schilling CH, Palsson BØ. "Regulation of gene expression in flux balance models of metabolism" J Theor Biol. 2001. 213(1): 73-88.

17. Edwards JS, et al. "Genomic Engineering of Bacterial Metabolism" Encyclopedia of Microbiology. Academic Press, New York, 2000.

Patents

1. Bradshaw, G.L., Covert, M.W., R.Q., Sorensen, M.K., and Unter, J.E., "Radial Printing System and Method," United States Patent 6,264,295 July 2001
2. Palsson, B.O., Covert, M.W., and M.J. Herrgard, "Models and Methods for Determining Systemic Properties of Regulated Reaction Networks". Patent Pending (Application Number 20040072723)
3. Palsson, B.O., Famili, I., and Covert, M.V. and C.H. Schilling, "Human Metabolic Models and Methods," Patent Pending (Application Number 20040029149).
4. Palsson, B.O., Covert, M.W., and C.H. Schilling, "Models and Methods for Determining Systemic Properties of Regulated Reaction Networks," Patent Pending (Application Number 20030059792).

App. 4a: Exhibit B: Dr. Jay Tenenbaum's Expert Opinion in Re-examinations of Petitioner's Patents

IN THE PATENT AND TRADEMARK OFFICE

In re patent No. 7,340,506	)	
	)	
Patent Owner: WebXchange, Inc.	)	Art Unit: 3992
	)	
REEXAM Control NO: 95/001,129	)	Examiner: Z. Cabrera
	)	
Reexam filing date: 12/19/2008	)	
	)	
Patent issue date: 03/04/2008	)	
	)	
Title: VALUE-ADDED NETWORK SWITCHING AND OBJECT ROUTING	)	
	)	

DECLARATION OF DR. JAY M. TENENBAUM

1. My name is Dr. Jay M. Tenenbaum. My address is 169 University Avenue, Palo Alto, CA 94301. I have been asked to offer opinions with respect to prior art references cited in this reexamination. I base these opinions on my experience as a recognized pioneer and visionary in Internet and Web technologies, and my training and education.

2. I am currently Chairman and Chief Scientist of CollabRx, Inc. in Palo Alto, CA. I bring to CollabRx the unique perspective of a world-renowned Internet commerce pioneer and visionary. I was Founder and CEO of Enterprise Integration Technologies, the first company to conduct a commercial Internet transaction (1992), secure Web transaction (1993) and Internet auction (1993). In 1994, I founded CommerceNet, the first industry association for Internet Commerce. In 1997, I co-founded Veo Systems, the company that pioneered the use of XML for automating business-to-business transactions. I joined Commerce One in January 1999, when it acquired Veo Systems.

As Chief Scientist of Commerce One, I was instrumental in shaping the company's business and technology strategies for the Global Trading Web. Post Commerce One, I was an officer and director of Webify Solutions, which was sold to IBM in 2006, and Medstory, which was sold to Microsoft in 2007. Earlier in my career, I was a prominent AI researcher and led AI research groups at SRI International and Schlumberger Ltd. I am a fellow and former board member of the American Association for Artificial Intelligence, and a former consulting Professor of Computer Science at Stanford. I currently serve as a director of Efficient Finance, Patients Like Me, and the Public Library of Science, and am a consulting professor of Information Technology at Carnegie Mellon's new West Coast campus. I hold B.S. and M.S. degrees in Electrical Engineering from MIT, and a Ph.D. from Stanford.

3. At CollabRx, I am applying my knowledge as a pioneer in Internet technologies to personalized genomic medicine. I am working to slash the time and cost of developing personalized therapies for those with rare and neglected diseases by creating virtual biotechs that marry advances in genomics and computational/systems biology with the efficiencies of web-based collaborative research. At CollabRx, I am aiming to transform the life sciences industry—by connecting research labs, biotechs, pharmas and their service providers into a networked ecosystem of interoperable research services that can be rapidly assembled to develop new therapies with unprecedented efficiencies and economies of scale. My mission is finding treatments for rare and orphan diseases within the lifetimes and collective means of current patients. Today there are over 6,000 such diseases identified, afflicting over 25 million people.

4. Attached as Exhibit A is my resume. I have published many papers, been awarded numerous patents, and received many honors during my career on a wide range of topics, from Internet and Web technologies to Web-based collaborative personalized genomic medicine to Internet technologies applied to computational biology and bioinformatics to AI.

5. I have been briefed by the inventor on U.S. Patent 7,340,506 titled Value-Added Network Switching and Object Routing ("'the '506 patent"), the provisional application 60/006634 ("the '634 provisional application"); and the references that have been asserted against the '506 patent in the reexamination proceeding including U.S. Patent 6,249,291 to Popp ("Popp"); U.S. Patent 5,715,314 to Payne ("Payne") and U.S. Patent 5,910,987 to Ginter ("Ginter"), U.S. Patent 5,724,424 to Gifford ("Gifford"), and a set of references directed to the Simple Network Management Protocol including "Structure and Identification of Management Information for TCP/IP-based Internets," Rose and McCloghrie, Network Working Group Requests for Comments No. 1155 ("Rose RFC 1155"), "Management Information Base for Network Management of TCP/IP based Internets: MIB-II," Network Working Group Request for Comments No. 1213 ("McCloghrie RFC 1213"), "Party MIB for version 2 of the Simple Network Management Protocol (SNMPv2)," Network Working Group Request for Comments No. 1447 ("McCloghrie RFC 1447"), and "Managing Internet works with SNMP: the definitive guide to the Simple Network Management Protocol and SNMP version 2" by Mark A. Miller ("Miller").

6. It is my understanding, based on these briefings, that the '506 patent is directed to interactive Web applications and exchange across a service network atop

the Web. More particularly, a Point of Service (PoSvc) application that encapsulates the application logic in a data structure called an "object" is provided at a Web page. This makes it a starting point for the control of the user experience and automation of the transaction flow. The application logic is specific to and associated with the business process of the on-line service offered by a provider atop the Web. The operations that may be performed upon this data structure are the transactions a user may perform in the value-added service or business process. Associating "information entries" input by a user with the "attributes" in the data structure personalizes the transaction. The instantiated data structure, called an "object identity", is transmitted/routed over an open channel across a value-added service network atop the Web. This type of communication between the personalized data structure with the transactional "object" executing in a Back-office application of a Web merchant makes it a "networked object" and is called "object routing" because the personalized data structure is transmitted over the open channel atop the Web through a Web server. The open channel is created on-demand, in real-time, so object routing can be performed when a user transacts.

7. I have been told that numerous examples of these Web applications are described in the '506 patent, such as checking account, savings account, HR applications, payroll applications, and other PoSvc applications on a Web page. These allow users to perform two-way, three-way, extended to n-way transactions and any-to-any communications on the Web, thus facilitating a large, flexible variety of robust, real-time transactions on the Web.

8. Prior to 1995, with the invention of the '506 patent, and the first public demonstrations of the Java programming environment, simple Web publishing storefronts were the norm. An application was local to the Back-office. There were no PoSvc applications on the front-end on a Web page, much less connecting to a transactional application executing, for example, at the Back-office. There was no application logic or business process logic at the front-end on a Web page. A Web form was commonly filled out by a user and submitted to a Web server, but there was no Web application on the Web page. Rather, these publishing storefronts merely automated order-taking on the Web and passed a request from a Web server. The invention in the '506 patent was a leap forward to automating interactive Web applications by creating an open channel for routing objects through a Web server across a service network atop the Web.

9. The invention in the '506 patent represents the evolution of the Web from Web publishing, Web forms, and CGI to automated Web applications and Web transactions. The invention in the '506 patent filled a need for a universal, automated, open solution for Web applications and Web transactions. Communication of structured information specific to online services over the Web provides distributed control of the value-added service network and automation of the transaction flow. Transmitting the application logic encapsulated as an "object" from a Web page to a transactional application executing at the Back-office of a Web merchant serves to connect application logic from a Web page to the Back-end. The inventor of the '506 Patent, in contrast to other approaches at that time, viewed the problem to be solved as a networking problem, advancing from the world of physical networks and lower layers of

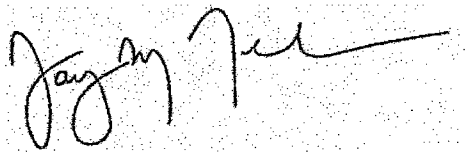
the OSI model, such as TCP/IP, to an intelligent overlay service network atop the Web through a Web server from a PoSvc application on a Web page across an open channel to the Back-office of a Web merchant.

10. I have reviewed documents relating to use of Microsoft .net by companies such as Dell ("New Dell Sales Tool Can Reduce Dell Sales Call Times by 10 Percent or More, Substantially Improve Profitability, Exhibit B); and Allstate ("Allstate Uses Web Services To Quickly Create Insurance Policy Management Solution," Exhibit C and "Allstate Connects With Countrywide Producer Network In Seven Months Using Microsoft Visual Studio .Net And The .Net Framework," Exhibit D). It my opinion based on my knowledge of Web commercial services and my review of documents such as those at Exhibits B, C, and D, that products such as Dell.com's Tax and Shipping web service, Dell.com order status web services, the Allstate Customer Care Center and accessAllstate.com, Fedex Ship Manager@FedEx.com, Fedex Global Trade Manager, and Fedex's Web Services i) have achieved commercial success and ii) have achieved that commercial success because they use concepts covered by the '506 patent. For example, they create objects that are personalized for a user (e.g., a customer) and that can be routed to an application executing on a second computer system anywhere on the network.

11. SNMP is a protocol for monitoring and managing physical devices in a network. As I understand it, SNMP has nothing to do with Web applications and the '506 patent.

12. Based on the briefing I received, it is therefore my opinion that none of the references listed in paragraph 5 disclose the invention of the '506 patent.

13. All statements made herein of my own knowledge are true and all statements made on information received via briefings are believed to be true.



Signature: _____ Date: May 31, 2009

Dr. Jay M. Tenenbaum

EXHIBIT A: DR. JAY M. TENENBAUM'S BIO

Jay M. Tenenbaum, Ph.D., Chairman and Chief Scientist, CollabRx:

Jay M. ("Marty") Tenenbaum is the founder, Chairman and Chief Scientist of CollabRx. Dr. Tenenbaum brings to CollabRx the unique perspective of a world-renowned Internet commerce pioneer and visionary. He was founder and CEO of Enterprise Integration Technologies, the first company to conduct a commercial Internet transaction (1992), secure Web transaction (1993) and Internet auction (1993). In 1994, he founded CommerceNet to accelerate business use of the Internet. In 1997, he co-founded Veo Systems, the company that pioneered the use of XML for automating business-to-business transactions. Dr. Tenenbaum joined Commerce One in January 1999, when it acquired Veo Systems. As Chief Scientist, he was instrumental in shaping the company's business and technology strategies for the Global Trading Web. Post Commerce One, Dr. Tenenbaum was an officer and director of Webify Solutions, which was sold to IBM in 2006, and Medstory, which was sold to Microsoft in 2007. Earlier in his career, Dr. Tenenbaum was a prominent AI researcher and led AI research groups at SRI International and Schlumberger Ltd. Dr. Tenenbaum is a fellow and former board member of the American Association for Artificial Intelligence, and a former consulting professor of Computer Science at Stanford. He currently serves as a director of Efficient Finance, Patients Like Me, and the Public Library of Science, and is a consulting professor of Information Technology at Carnegie Mellon's new West Coast campus. Dr. Tenenbaum holds B.S. and M.S. degrees in Electrical Engineering from MIT, and a Ph.D. from Stanford.

CollabRx is slashing the time and cost of developing personalized therapies for those with rare and neglected diseases by creating virtual biotechs that marry advances in genomics and computational/systems biology with the efficiencies of web-based collaborative research. CollabRx aims to transform the life sciences industry—by connecting research labs, biotechs, pharmas and their service providers into a networked ecosystem of interoperable research services that can be rapidly assembled to develop new therapies with unprecedented efficiencies and economies of scale. Their mission is finding treatments for rare and orphan diseases within the lifetimes and collective means of current patients. Today there are over 6,000 such diseases identified, afflicting over 25 million people. In the coming age of personalized genomic medicine, every disease will be rare and every individual's condition unique.

App. 5a: Exhibit C: Daniel Brune's
Amicus Curiae Brief in Federal Circuit
Case 20-136

20-2196

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

Dr. Lakshmi Arunachalam,
a woman,

v.

CITIGROUP INC.,
CITICORP,
CITIBANK N.A.,
Defendants-Appellees,

DOES 1-100,
Defendants,

Appeal from the United States District Court for the District of Delaware
in Case No. 1:14-cv-00373-RGA, Judge Richard G. Andrews

Amicus Curiae, Daniel Brune's
MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF IN SUPPORT OF PETITIONER'S PETITION FOR *EN BANC* REHEARING

November 12, 2020

Daniel Brune,
1200 Via Tornasol
Aptos, CA 95003
Tel: 831.818.5950; Email:danbrune@me.com
Daniel Brune, Amicus Curiae

I, Daniel Brune, hereby move this Court for leave to file an *amicus curiae* brief in support of Petitioner, Dr. Lakshmi Arunachalam.

A: Movant's Interest:

My interest, as a movant, is in the process of justice, because it appears that this essential ingredient is blocked in all of Dr. Lakshmi Arunachalam's cases. I'm hopeful that this court may eventually achieve justice, as the Petitioner is otherwise left with protected rights and no remedy.

(B) The reason why an *amicus curiae* brief is desirable and why the matters asserted are relevant to the disposition of the case:

An *amicus curiae* brief is desirable, because there has been a denial of due process by the courts which have failed to perform their ministerial duty to uphold their solemn oaths of office to defend the Constitution. The courts have dismissed over 100 of Petitioner's cases without a hearing. It's been proven that some of the judges hearing these cases own direct stock in the Defendants. They are effectively acting as attorneys to the Defendant and ordering the Defendant to go into Default. It does not appear accidental that this has happened in over 100 cases.

The matters asserted in this case are relevant to the disposition of the case because the courts, clerks and the USPTO/PTAB failed to perform their ministerial duty to uphold their solemn oaths of office to enforce the Constitution — the Law of the Case and Law of the Land. In doing my research, I was the first to discover the

Supreme Court precedents that apply to this case and must be enforced by this Court— *Trustees of Dartmouth College v. Woodward*, 17 U.S. 518 (1819); *Grant v. Raymond*, 31 U.S. 218 (1832); *U.S. v. American Bell Telephone Company*, 167 U.S. 224 (1897); *Ogden v. Saunders*, 25 U.S. 213 (1827) and affirmations thereof. Chief Justice Marshall declared the sanctity of patent grant contracts between the Federal Government and the inventor, in accordance with the Contract Clause, IP Clause and Separation of Powers Clause of the Constitution and ruled that any Orders that failed to uphold the obligation of contracts in accord with the Constitution are void and unconstitutional. This constitutes denial of due process. The Courts have oppressed Dr. Arunachalam, who has not had her day in court in over 100 cases.

CONSENT: Opposed.

CONCLUSION: ***Wherefore,*** I request that the Court grant my Motion.

November 12, 2020

Respectfully submitted,

Daniel Brune
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Tel. 831-818-5950
Email: danbrune@me.com
Daniel Brune, Amicus Curiae

20-2196

IN THE
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Amicus Curiae, Daniel Brune's
AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER'S PETITION FOR *EN BANC* REHEARING

November 12, 2020

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STATEMENT OF THE IDENTITY OF THE *AMICUS CURIAE*, ITS INTEREST IN THE CASE, AND THE SOURCE OF ITS AUTHORITY TO FILE

I, Daniel Brune, the *amicus curiae* in this case, live in California at 1200 Via Tornasol, Aptos, CA 95003.

I am a former U.S. Air Force Major and Senior Pilot who served over 12 years on active duty. I was awarded two Air Medals for flying potentially hazardous surveillance missions over the Middle East that were ordered by the Joint Chiefs of Staff. After an honorable discharge from the U.S. Air Force, I was hired by a major international airline, retiring in 2017. My service to this country began when I solemnly swore that I "will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God". To this day, I still abide by that oath. Likewise, I expect our judges to abide by their solemn oath to "administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as a judge under the Constitution and laws of the of the United States. So help me God." Attorneys also swear an oath to support the Constitution, which I expect them to honor as well. My question is: why is this not

happening in the cases of Dr. Lakshmi Arunachalam? Was she not to expect the same treatment of other citizens of this country? Was this elderly, disabled, female of color, who continually works night and day to convince a court to give her the same considerations as those with more money and power, somehow lesser in stature or importance in the eyes of the law? I think not, and I am appalled that this is even an issue. I cannot think of any inventor who has provided the world with such a ground-breaking invention - the actual first step to every technological thing we enjoy today - who has been so ignored by the courts. Primarily, she has not had her day in court in over 100 cases! She has been denied her due process and right to trial by jury. I was always under the impression that the courts would listen to every aspect of a case and not deny the landmark Supreme Court precedents that have endured for over two hundred years.

AMICUS CURIAE'S INTEREST IN THIS CASE: is in the process of justice, because it appears that this essential ingredient is blocked in all of Dr. Lakshmi Arunachalam's cases. It is hopeful that this court may eventually achieve justice, as the Petitioner is left with protected rights and no remedy.

SOURCE OF *AMICUS CURIAE*'S AUTHORITY TO FILE: I sent an email on November 12, 2020 to Appellees in this case for consent to file this *amicus curiae* brief. Appellees oppose. I further filed a Motion for Leave to file this *Amicus Curiae* Brief.

STATEMENT OF *AMICUS CURIAE* ON WHO AUTHORED THE BRIEF AND WHO CONTRIBUTED MONEY TO AUTHOR THE BRIEF:

1. I, Daniel Brune, declare that I authored this brief.

2. Neither Petitioner or Appellees nor their counsel authored the brief in whole or in part.

3. No party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and

4. No person, - other than the *amicus curiae*, who is an individual, (there are no members, and no counsel) - contributed money that was intended to fund preparing or submitting the brief.

November 12, 2020

Respectfully submitted,

Daniel Brune,
1200 Via Tornasol
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Tel: 831.818.5950; Email:danbrune@me.com
Daniel Brune, Amicus Curiae

AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER DR. LAKSHMI ARUNACHALAM'S PETITION FOR *EN BANC* REHEARING

I, Daniel Brune, an *amicus curiae,* hereby file this *Amicus Curiae* Brief in support of Petitioner, Dr. Lakshmi Arunachalam.

SUMMARY OF ARGUMENT: I served this country because I believe in its ideals, and the opportunities it makes available to anyone with the knowledge, skill, and determination to realize their dreams. It should go without saying that "liberty and justice" is expected to be afforded to all. I have followed Dr. Arunachalam's cases because it became increasingly obvious that she somehow didn't matter to the judiciary. When I find the number of cases where her due process has been denied her, some where the judges themselves held some type of stock ownership in the defendants, I am nearly speechless. How can this occur in the United States of America with a Constitution that has served us well for so long? This is a shameful example of how public officials have failed to perform their ministerial duties, thus denying Petitioner due process by ignoring their solemn oaths of office to defend the Constitution.

ARGUMENT: Dr. Arunachalam has done everything by the book. The Law of the Case and the Law of the Land are firmly in her favor. Ignoring Supreme Court precedents and other similar behavior should have been identified and stopped long ago, by judges who had earlier knowledge of her cases, their strength, and their veracity. This brilliant inventor, forced to act as her own attorney due to financial

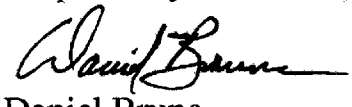
hardships caused by this apparently flawed system, deserves to have her due process restored.

This is undoubtedly an extraordinary situation, where Dr. Lakshmi Arunachalam, an American citizen, has continually been denied due process by the courts. Court officials' ministerial duties to enforce the Constitution have been ignored in over 100 cases, requiring this Court to reverse the District Court and allow Dr. Arunachalam to have her day in Court. Numerous legal precedents have also been ignored, which cannot be allowed to continue in a legal system long considered to be the best in the world.

CONCLUSION: It should be evident to all who read this brief that there is something wrong with the egregious treatment endured by Dr. Arunachalam over the course of her many cases brought before the judiciary. Please give this brilliant, gifted inventor the chance to have her "day in court" and the opportunity to present her cases completely - not ignoring the entirety of the record. I believe that if this examination is made, any reasonable person will see Dr. Arunachalam's invention is, fundamentally and foundationally, the technology which we know as the Internet of Things - Web Applications Displayed on a Web Browser. Without her technology, literally trillions of dollars of market capitalization would not exist. Dr. Arunachalam deserves to claim her rightful ownership of what she alone has created. To ignore this request to restore due process for one inventor will harm

innovation. It will be a signal to other inventors that there is no incentive to put the time, effort, and money into a potentially lifesaving or life-altering invention, due to the probability that large corporations with more money, power, and influence will take it as their own.

November 12, 2020 Respectfully submitted,



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Daniel Brune, Amicus Curiae

App. 6a: Exhibit D: Fred Garcia's
Amicus Curiae Brief in Federal Circuit
Case 20-136 withheld
by the Clerks

20-136

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

In Re: Dr. Lakshmi Arunachalam, *a woman,*
Petitioner

On Petition for Writ of Mandamus to the United States District Court for the District of Delaware in Case No. 1:14-cv-00091-RGA, Judge Richard G. Andrews, and other cases listed in my Petition for Writ of Mandamus filed 6/22/20, which this Court has omitted, namely:
U.S. District Court for the District of Delaware, Case Nos. 14-373-RGA; 12-282-RGA; 14-490-RGA; 13-1812-RGA; 15-259-RGA; 16-281-RGA; 12-355-RGA;
United States District Court for the Northern District of California, Case Nos. 3:12-cv-4962-TSH; 5:18-cv-1250-EJD; 17-3325-EJD; 17-3383-EJD; 5:16-cv-6591-EJD; 4:13-CV-1248 PJH; 15-23-EDL;
United States District Court for the Western District of Texas, Waco, Case Nos. 6:19-cv-171; 6:19-cv-172; 6:19-cv-349; 6:19-cv-350; 6:19-cv-351; 6:19-cv-352;
United States District Court for the Eastern District of Texas, Texarkana, Case Nos. 5:19-cv-18; 5:19-cv-19;
United States Court of Federal Claims, Case No. 16-358-RTH (COFC);
United States Patent Trial and Appeal Board PTAB Case Nos. CBM2016-00081; IPR2013-00194; IPR2013-000195; CBM2013-00013; CBM2014-00018; PATO-1: 90/010,417; *Ex Parte* Re-Exam Control No. 90/010,346; *Inter Partes* Re-Exam Control No. 95/001,129; in Re-Examination of U.S. Patent Nos. 6,212,556 B1; 5,778,178; 7,340,506; and IPR Reviews of U.S. Patent Nos. 8,108,492; 5,987,500; and CBM Reviews of U.S. Patent Nos. 8,037,158; and 7,340, 506 C1.

Amicus Curiae, Fred Garcia's
MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF IN SUPPORT OF PETITIONER'S PETITION FOR *EN BANC* REHEARING

November 15, 2020

Fred Garcia
60258 La Mirada Trail
Joshua Tree, CA 92252
Tel: 760.974.9401; Email: fredgarcia@justice.com
Fred Garcia, Amicus Curiae

I, **Fred Garcia**, hereby move this Honorable Court for leave to file an *amicus curiae* brief (with all due respect) in support of Petitioner, **Dr. Lakshmi Arunachalam's** Petition for Mandamus and Petition for *En Banc* Rehearing.

A: MOVANT'S INTEREST:

Request is made: In the interest(s) of 'Substantive and Procedural Due Process' and 'Equal Protection(s)'of fundamental rights. Currently, Congress has estopped both due process and the equal protection of the 5th and 14th Amendment restrictions on the Power of Eminent Domain '...taking(s) for public use' under color of 'Police Power' — Depriving Petitioner (and Inventors similarly situated) of liberty and property taken (even if compensated). Where the taking(s) promote anti-trust and diminish national security interest(s); as well as the 'Contractual Right' owed the Public for 'Beneficial Use' expectation(s) — currently enjoyed by the Corporate Defendant and Government, Infringers as a direct result. Predicated, more on Failure(s) of Ministerial Duty to Act, necessarily, requiring Breach(s) of Solemn Oath(s) by the three (3) Branches of Government, sharing the same vested interests in quashing Petitioner's patents and guaranteed rights.

This state of corruption warrants mandamus redress.

My interest, as a movant, in this case is:

—**To Give Notice:** To all the Court(s) and Administrative Tribunal(s) compromised in this case [Including, the Supreme Court of the United States.] of the

SHORTCOMINGS in their *operative* 'SOLEMN OATH & MINISTERIAL DUTY TO ENFORCE, PROTECT, AND DEFEND' — *[t]*he Constitution of the United States of America [THE REPUBLIC,], the 'Laws of the Land'; ***and,*** here the 'Law of the Case'. ***Specifically,*** the Supreme Court's ***'Mandated Prohibition'*** — from repudiating government issued contract grants. **'Above all Else!**

REGARDLESS, of distinctions in the wording(s) thereof and consistent with the trust(s) and real expectation(s) and interest(s) bestowed upon the three *(3)* Branches of Government, granted ***'By the People' and 'For The People'!***

Concertedly, these Branches, compromised by the ***'AMERICA INVENTS ACT OF 2012'***; ***necessarily,*** in violation of the ***'SEPARATION OF POWERS AND CONTRACT CLAUSES'***. Are patently ***designed,*** specifically to avoid both the ***'Equal Protection(s) Clause'*** of the 14th Amendment; ***and,*** the ***'Due Process Clause'*** of the 5th Amendment, imposing *'Just Compensation'* — for the taking of private property or interests therein; **'Under color of Regulation' — Police Power**; subversively, invalidating Government-Issued Patent Contract Grants under color of law and authority without compensation or due process involved in this case.

'EQUITY FOLLOWS THE LAW [EXCEPT HERE.]

Both the 5th and 14th Amendment(s) protect against the deprivation of life, liberty, or property without due process of law. Certain procedural safeguards

require notice and hearing that limit government actions that affect 'liberty and property' interests.

THESE INTERESTS INCLUDE IN THIS CASE: 'Liberty' — which includes the right to contract with the government (and not be defrauded) and the right to be free of defamation by government; and 'Property' — respecting ownership and entitlements by statutes and 'just compensation(s)' for taking(s) thereof — for legitimate economic public use.

FURTHERMORE: The 'Procedural Due Process' deprivation(s) of 'Liberty and Property'; *herein,* complained of, exceed negligent conduct; *constituting,* more than mere preparation and tending by Congressional enactment of the America Invents Act of 2012 [Coloring the existing [Executive.] Agency's on-going; 1.] Continuing *'Corrupted Reexamination Process'*; 2.] The continuing *'Erroneous and Fraudulent Decision'* therefrom; 3.] The continuing, *'Breach of Contract(s)'*; 4.] Denying Petitioner a *'Fair Administrative Hearing'* (entitling Petitioner to Constitutional Redress — ignored to date); ***and,*** 5.] The denial of 'Remand Rehearing' (in contempt of this Circuit's Remand).; *in concert,* on venue, to this [Judiciary.] Circuit Court, created in 1982, specifically, to adjudicate repudiation(s) of Government Issued Patent Contract Grants. In conflict, with the '*Mandated Prohibition*' — 'Law of the Case'. Which, the Congress knew or should have known when they created the

Circuit and the AIA, along with the Judiciary; and, the Executive Agency (and its Certified Patent Attorneys).

Subsequently, Judge Andrews admitted he had purchased stock in Defendant, JPMorgan Chase & Co., during the pendency of the action.

NOTICE

1. —**To assist:** By requesting the Courts to **FUNDAMENTALLY** focus on the ***'Constitutional Redress Entitlements(s)'***; ***picked-up,*** *(automatically)* from the *(systematic) malfeasanced* processes and procedures *themselves* imposed upon Petitioner.

[*NOTWITHSTANDING,* the ***'MATERIAL CONTRACT RIGHT(S) TO ROYALTIES'***, the ***'20-YEAR PERIOD OF OWNERSHIP'*** before ***'RELEASE OF ALL RIGHT(S) TO THE PUBLIC — FOR BENEFICIAL USE'***.], ***'HISTORY ESTOPPEL PROTECTION(S)'***; denied, in Agency 'Breach of Contract.'

Keep in Mind: That SAP had Petitioner's patents reexamined sixteen (16) times, to quash all Petitioner's patents and claims.

(B) THE REASON WHY AN *AMICUS CURIAE* BRIEF IS DESIRABLE AND WHY THE MATTERS ASSERTED ARE RELEVANT TO THE DISPOSITION OF THE CASE:

AN *AMICUS CURIAE* BRIEF IS DESIRABLE, BECAUSE the Amicus Brief can throw light upon latent details and equitable concerns overlooked by the court; that, justice necessarily requires to ensure impartiality — overshadowed (at times)

by human nature itself; reinforced, by 'Judicial Notice.' Keep in mind, the courts have concertedly dismissed Petitioner's (over 100) cases without a hearing at the very beginning of a case, after ordering the Defendant(s) to not answer the Complaint.

THE MATTERS ASSERTED IN THIS CASE ARE RELEVANT TO THE DISPOSITION OF THE CASE BECAUSE:

Courts and clerks and the USPTO/PTAB have been denying the Petitioner fundamental due process by not performing their basic ministerial duties. The Courts have failed to enforce precedent Supreme Court rulings by Chief Justice Marshall that prohibit the rescinding of patent grants by the highest authority, ignoring the Contract Clause of the Constitution, in breach of solemn oaths.

THE DESIRABILITY OF THE AMICUS BRIEF: is that it tends to throw light upon the material facts propounded by the litigants. [Normally, more honest as to the 3rd Party Interests and concern; than learned in the technicalities of the law.]. Where a litigant has an abundance of briefs filed to her credit; and, opposing litigants propounding the 'Name Calling Defense.' The *Amicus* throws light [Inherently.] on the credibility of the former and the potential merits of her case.

It does not get more corruptly despicable than the malfeasanced process against Petitioner. I always thought the facts of a case are reserved for the jury and the law to the appellate court. In other words, the appellate court looks for defects in the process itself. If this is true, didn't this Circuit notice Defendant's defaults?

If so, would it naturally follow that Petitioner did not receive a fair hearing to respond to on appeal prejudiced by the defaults themselves?

My question is: Why would these inferior court judges tell defendants not to answer the complaint? In the absence of a reasonable (or for that matter an unreasonable) answer, it seem pretty obvious to me. [Notwithstanding frustrating the proceedings.]; because, all the law being on Petitioner's side, the judges [The true defendants] did not want the attorneys putting their foot in their mouths.

Finally: Perhaps, this Circuit can shed some light on the subject because, it adjudicated Petitioner's appeal; even, before Respondents had a chance to respond. Seems to me the cards were stacked against Petitioner from the start; and, I can understand why. Suffice it to say, that this process and procedure cannot exist without a willful and wanton breach of solemn oaths.

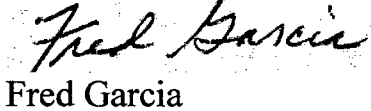
THE FINAL NOTE: Several things making this case unique in this century; THROWING, light on the compromising process and procedures is 1) That, the lower court Judges Andrews and Davila arrogantly have failed to prove jurisdiction and continued decision in the case. 2) The arrogance of Judge Andrews refusing to recuse in this case; when, the Supreme Court Chief Justice stepped down in Petitioner's case. 3) That 6 Supreme Court Justices were named defendants in Petitioner's case, without one word from the press. 4) That the intimidations and abuses of process were patently obstructions of justice and extortion(s); and, 5) It is

clear, by their 'Name-Calling Defense,' the entire judiciary from the constitutional tortfeasors in the lower court all the way up to the Supreme Court, the same berating (unprofessional) libel words and intimations appear plagiarized. With all due respect, undeserved, you people should be ashamed judicially beating up a 72-year aged Woman fighting for her rights and the Constitution; which, all of you have chosen not to do!

CONSENT: I sent an email to the Respondents to ask whether they would consent to my filing an *amicus curiae* brief. They oppose.

CONCLUSION: At least for the foregoing reasons, I request that the Court grant me leave to file the accompanying *Amicus Curiae* Brief, in the interest of justice and in the public's best interest.

November 15, 2020 Respectfully submitted



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20-136

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

In Re: Dr. Lakshmi Arunachalam, *a woman,*
Petitioner

On Petition for Writ of Mandamus to the United States District Court for the District of Delaware in Case No. 1:14-cv-00091-RGA, Judge Richard G. Andrews, and other cases listed in my Petition for Writ of Mandamus filed 6/22/20, which this Court has omitted, namely:
U.S. District Court for the District of Delaware, Case Nos. 14-373-RGA; 12-282-RGA; 14-490-RGA; 13-1812-RGA; 15-259-RGA; 16-281-RGA; 12-355-RGA;
United States District Court for the Northern District of California, Case Nos. 3:12-cv-4962-TSH; 5:18-cv-1250-EJD; 17-3325-EJD; 17-3383-EJD; 5:16-cv-6591-EJD; 4:13-CV-1248 PJH; 15-23-EDL;
United States District Court for the Western District of Texas, Waco, Case Nos. 6:19-cv-171; 6:19-cv-172; 6:19-cv-349; 6:19-cv-350; 6:19-cv-351; 6:19-cv-352;
United States District Court for the Eastern District of Texas, Texarkana, Case Nos. 5:19-cv-18; 5:19-cv-19;
United States Court of Federal Claims, Case No. 16-358-RTH (COFC);
United States Patent Trial and Appeal Board PTAB Case Nos. CBM2016-00081; IPR2013-00194; IPR2013-000195; CBM2013-00013; CBM2014-00018; PATO-1: 90/010,417; *Ex Parte* Re-Exam Control No. 90/010,346; *Inter Partes* Re-Exam Control No. 95/001,129; in Re-Examination of U.S. Patent Nos. 6,212,556 B1; 5,778,178; 7,340,506; and IPR Reviews of U.S. Patent Nos. 8,108,492; 5,987,500; and CBM Reviews of U.S. Patent Nos. 8,037,158; and 7,340, 506 C1.

Amicus Curiae, Fred Garcia's
AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER'S PETITION FOR *EN BANC* REHEARING

November15, 2020

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STATEMENT OF THE IDENTITY OF THE *AMICUS CURIAE*, ITS INTEREST IN THE CASE, AND THE SOURCE OF ITS AUTHORITY TO FILE

I, Fred Garcia, the *amicus curiae* in this case, live in California at 60258 La Mirada Trail, Joshua Tree, CA 92252.

PERSONAL AND PROFESSIONAL BACKGROUND INTEREST

In matters of protecting and defending the Constitution of the United States of America, [The Republic.], from encroachments and against all enemies, foreign and domestic, I am duty-bound by 'Military and Civilian Oath' to notice the Appellate Circuit of (patently, constitutional) oversight concerns [Predicated on my training and work experience as a 'Special Agent, Criminal Justice and Public Administration Educator.]. The lack of concern by Congress, the indifference by the Supreme Court to concern itself [With enforcing its own (res judicata) precedent decisions, its improper ruling in its ***Oil States and Alice cases****; **and,** the continuing 'erroneous and fraudulent decisions, processes,' and oppressive procedures' infringing Petitioner's rights and fundamental guarantees substantively propounded in the Constitution.* ***Concertedly,*** *by failing to carry out the same ministerial duty imposed upon this Court by solemn oath. This case (in my judgment) is constitutionally concerning; because, it involves a (strong) compromising appearance (beyond the facts and circumstances propounded) in the Separation of Powers; the fair and proper Interests of the Administration of (Public) Justice itself;*

and, *Public Trust. The compromises encroach upon the National (Economic) Security of this country for the corporate good;* ***and,*** *for no other good cause showing;* ***other,*** *than ensuring the nonfeasance failures to act upon ministerial duty to enforce 'The Law of The Land and Case' in this matter.*

AMICUS CURIAE'S INTEREST IN THIS CASE: My interest in this case is in untying the knot in the flow of justice, which is blocked in Dr. Lakshmi Arunachalam's cases, so that this Court may achieve justice, as the Petitioner is left with rights with no remedy.

SOURCE OF *AMICUS CURIAE*'S AUTHORITY TO FILE: I sent an email on November 3, 2020 to Respondents in this case for consent to file this *amicus curiae* brief. I further filed a Motion for Leave to file this *Amicus Curiae* Brief.

STATEMENT OF *AMICUS CURIAE* ON WHO AUTHORED THE BRIEF AND WHO CONTRIBUTED MONEY TO AUTHOR THE BRIEF:

1. I, Fred Garcia, declare that I authored this brief.

2. Neither Petitioner or Respondents nor their counsel authored the brief in whole or in part.

3. No party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and

4. No person, - other than the *amicus curiae*, who is an individual, (there are no members, and no counsel) - contributed money that was intended to fund preparing or submitting the brief.

November 15, 2020 Respectfully submitted,

Fred Garcia

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Fred Garcia, Amicus Curiae

AMICUS CURIAE BRIEF IN SUPPORT OF PETITIONER Dr. Lakshmi Arunachalam's PETITION FOR *EN BANC* REHEARING

I, Fred Garcia, an *amicus curiae,* hereby file this *Amicus Curiae* Brief in support of Dr. Lakshmi Arunachalam's Petition for Mandamus *En Banc* Rehearing.

SUMMARY OF ARGUMENT:

"EXTRAORDINARY 'SITUATION(S)" UPON WHICH MANDAMUS MUST/SHOULD ISSUE:

I. THE *'EXTRAORDINARY SITUATION'* UPON WHICH MANDAMUS *MUST* ISSUE [AS A MATTER OF SOUND PUBLIC POLICY.] IS WHERE A MINISTERIAL ACT IS SIMPLY NOT PERFORMED [AS IN THE INSTANT CASE(S).].

In *re Converse,* 137 U.S., 624.(1891); *Jordan v. Mass.,* 225 U.S. 167 (1912);

1. **IF A MINISTERIAL ACT IS *NOT* PERFORMED, THEN A COURT *MUST* ISSUE A WRIT OF MANDAMUS TO COMPEL THE PUBLIC OFFICIAL TO PERFORM SAID ACT.**

See Virginia Land Use law, citing *Phillips v. Telum, Inc.*, 223 Va. 585 (1982). "Absolute or sovereign immunity does **not** apply to the performance or non-performance of ministerial acts." *Bogan v. Scott-Harris*, 523 U.S. 44 (1998). The Court knew this, willfully ignored its duty to compel/enforce.

ARGUMENT: ***Amicus Brief,*** *is made to this Appellate Circuit because of its demonstrated concern and judicial courage* ***['Aqua Products' (2017)'; throwing light upon the AIA authorizing the USPTO to continue unfettered with the same corrupted process.]*** *causing this Court to 'opt-out' of the USPTO's corrupted*

reexamination process. A scheme, ignoring the relevant (contractual) provision ***['Patent Prosecution History Estoppel' terms and conditions attaching to the invention itself.]***. ***Effectually,*** *constituting no examination — on venue — to this appellate circuit* ***[To repudiate government-issued patent contract grants; contrary, to the law of the case — prohibition — in reliance upon the 'Judicial Notice' applicable to the venue process itself.]*** *warranting reversal of the decades long (corrupted) reexamination process;* ***only,*** *to be revived in Supreme Court's* ***'Oil States' (post-2017).*** *In so much as, the inferior courts ignored this Court's reversal of its orders, the administration in concert with the inferior courts;* ***contemptuously,*** *refused to comply with this Court's command [In addition, to its ministerial duty, in breach of solemn oath.];* ***denying,*** *Petitioner, the equal protection of this Court's command order. This contempt only fueled Petitioner's quest to protect and secure her property and fundamental rights;* ***resulting,*** *in subsequent disparaging comments diminishing her character and quest [To influence the interests of and consideration(s) of other courts; successfully, to include the Supreme Court.].* ***Likewise,*** *the unprofessional* ***'Name-Calling and Disparity Defense'*** *has also diminished the contempt overshadowing this Court's reversal command in* ***Aqua Products;*** ***finally,*** *exposing the (unmeritorious) corrupted process used to get around* ***[t]****he mandated provision against the object sought by the process itself* ***[Initially, propounded (conflictingly) by agency and government representation***

for Corporate Infringers.]. *This Court should, equally consider* ***[t]****his when deciding to issue Mandamus pursuant to Petitioner's 'En Banc Rehearing' prayer,* ***if,*** *for no other reason.*

[T]*his, with all due respect, must be noticed — in order to fulfill my solemn oath duty to this Appellate Circuit.* ***However,*** *the following* ***'Extraordinary Situation(s)'*** *might be better suited for this Court to grant rehearing;* ***and,*** *issue Mandamus, accordingly.*

'THE FLETCHER CHALLENGE'

RES ACCENDENT LUMINA REBUS
ONE THING THROWS LIGHT UPON OTHERS

The first contract law *(interpretation)* case brought before the United States Supreme Court was the famous case of '***FLETCHER V. PECK (1810)***. This precedent settled the question *(res judicata)*: '***WHETHER A GRANT IS A CONTRACT?***' The Federal Supreme Court upheld this contention. Chief Justice Marshall said in part: ***"A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right. A party is, therefore, always estopped by his own grant"*** [6 Cranch, 87, 136—37.]... ***"The ruling of the majority...has never been altered...and executed grants are treated as contracts which cannot be repudiated."***

"Contracts are property **[*Long Island Water Co. v. Brooklyn*, 166 U.S., 685, 690—91.]** ***and the Fifth Amendment forbids the United States to take property***

without due process of law. Any act of sheer confiscation, or of unreasonable abrogation of contracts would doubtless fall within this guarantee."

Chief Justice Marshall went further stating: *"Circumstances have not changed it. In reason, in justice, and in law, it is now what was in 1769...* ***The law of this case is the law of all****... The opinion of the Court, after mature deliberation, is that this is a contract the obligation of which cannot be impaired without violating the Constitution of the United States... It results from this opinion that the acts of" the Judiciary "are repugnant to the Constitution of the United States, and that the judgment on this special verdict ought to have been for the Petitioner."* If, then, **a grant be a contract within the meaning of the Constitution of the United States,** Chief Justice Marshall declared: *"**these principles and authorities prove incontrovertibly that" a patent grant "is a contract**."* Chief Justice Marshall further declared: ***"that any acts and Orders by the Judiciary that impair the obligation of the patent grant contract within the meaning of the Constitution of the United States "are consequently unconstitutional and void."***

DUE PROCEESS & EQUAL PROTECTION OF LAW: POWERS OF REGULATION—POLICE POWER.

§ 144.Fundamental guarantees apply to rights as well as procedure.

USPTO encroached upon Petitioner's

1.) ***'Royalty Rights'*** by USPTO's conflicting representation on behalf of the Infringers [Corruptly on venue before this Court, in ***'Breach of Contract,***

Solemn Oath, and Ministerial Duty' to enforce — The Law of the Land and Case.].

2.) Constitutional '***DUE PROCESS AND EQUAL PROTECTION RIGHTS TO REDRESS***' for the 'Erroneous and Fraudulent' USPTO decisions predicated upon a corrupted reexamination process; ***causing,*** reversal by this Court—Denied to Petitioner.

3.) ***'Right to Constitutional Redress'*** by USPTO, inferior courts and clerks making it dangerous, hazardous, and expensive to gain access to the court itself upon the question of due process itself, by failing to act upon their ministerial duty to protect, defend, and enforce the Constitution of the United States and Laws of the Land and Case.

PROCEDURAL POSTURE

PETITIONER *INITIALLY* MOVED THIS APPELLATE CIRCUIT TO ISSUE MANDAMUS UPON REASONABLE BELIEF OF COMPLIANCE WITH THE **THREE** ***(3)*** ELEMENTS REQUIRED FOR MANDAMUS TO ISSUE; TO WIT, ***[1.]*** THE SHOWING THAT, A MINISTERIAL DUTY TO ACT EXISTED. ***[2.]*** THE SHOWING THAT, RIGHTS OF PETITIONER ARE DIMINISHED BY THE FAILURE TO ACT ***AND, [3.]*** THE SHOWING THAT, NO OTHER ADEQUATE OR APPROPRIATE AUTHORITY OR REMEDY EXISTS TO COMPEL PERFORMANCE.

THIS AMICUS BRIEF IS PROVIDED TO DISCLOSE NOTICE OF THE 'EXTRAORDINARY SITUATION(S),' THAT WILL CORROSIVELY PREVAIL UNFETTERED,

ABSENT MANDAMUS ISSUING; ***DESIGNED,*** TO AVOID THE MINISTERIAL DUTIES IMPOSED UPON ALL JUDICIAL AND ADMINISTRATIVE OFFICIALS (OFFICERS, CLERKS, AND ATTORNEYS) REFUSING TO PERFORM THIS DUTY, COMPLAINED OF; ***COMPROMISED,*** IN BREACH OF SOLEMN OATH(S) WHICH THIS COURT CAN NOW CORRECT. THIS COURT CAN ENFORCE THE 'SUPREME COURT PROHIBITION' — AGAINST REPUDIATING GOVERNMENT-ISSUED PATENT CONTRACT GRANTS DELINEATED IN THE FAMOUS *RES JUDICATA* CASE OF *FLETCHER V. PECK* (1810). THIS CASE, NEVER REVERSED *(ALONG WITH SUPPORTING SUPREME COURT (RES JUDICATA) DECISIONS* STANDS ALONGSIDE THE UNITED STATES CONSTITUTION AS 'THE LAW OF THE LAND AND CASE.' IT STOOD MINISTERIALLY UNENFORCED FOR DECADES BY BREACH OF SOLEMN OATH. UPON DISCOVERY AND NOTICE BY PETITIONER; ***COLLECTIVELY,*** THE ENTIRE 'PATENT LAW ENTERPRISE' MOVED AGAINST HER ***'IN FORCE'*** TO AVOID ACKNOWLEDGEMENT, LET ALONE ENFORCEMENT OF THE PROHIBITION. THIS PROHIBITION WILL CONTINUE NON-ENFORCED AND CONTEMPTUOUSLY IGNORED (TO DATE) BY WANT OF MANDAMUS ISSUING UPON THESE *(WANTON)* 'CONSTITUTIONAL TORTFEASORS' [MOVING UNDER COLOR OF LAW AND AUTHORITY.]; ***CONCERTEDLY,*** OPERATING WITHIN THE THREE BRANCHES OF GOVERNMENT. THIS COURT CAN STOP THE INFERIOR COURTS' NONFEASANCE; ***ALONG,*** WITH THE EXECUTIVE AGENCY, AND CONGRESSIONAL OFFICIALS; ***WHO,*** EQUALLY HAVE FAILED TO PERFORM IN THESE RESPECTS, BY MANDAMUS.

THERE IS NO CASE OR CONTROVERSY HERE FOR RESPONDENTS TO ARGUE ABOUT OR ADJUDICATE; ***WHEN,*** THERE IS NOTHING TO ADJUDICATE OTHER THAN THEIR MINISTERIAL DUTY TO PERFORM; ***WHICH,*** IS AN 'EXTRAORDINARY SITUATION' ITSELF, IN ADDITION TO, AN ESSENTIAL ELEMENT FOR MANDAMUS TO ISSUE. AS TO THE PROCESS AND PROCEDURES MANUFACTURED UNDER COLOR OF DISCRETION; IF OUTSIDE THE PURVIEW OF MANDAMUS; IS, REASONABLY IN WANT OF ORDERING A FORMAL INVESTIGATION; BECAUSE, LIKE THE ***'CORRUPTED REEXAMINATION PROCESS'*** CURRENTLY USED TO REPUDIATE GRANTED PATENTS; ***AMOUNTING,*** TO ***'NO EXAMINATION'*** AT BEST. THE ***'HEARING PROCESS'*** AMOUNTS TO ***'NO PROCESS'*** AT ALL. SEVERABLY, EACH PROCESS ITSELF ENTITLES PETITIONER TO ***'CONSTITUTIONAL REDRESS'; ESTOPPED,*** BY WANT OF MANDAMUS; ***REQUIRING,*** AN ABUNDANCE OF JUDICIAL INTEGRITY AND PROFESSIONAL SOUL SEARCHING TO DO THE RIGHT AND JUST THING.

Another *'Extraordinary Situation'* warranting 'Mandamus to Issue' is the shared *'Silence as Fraud-Avoidance'* of *[t]*he *'Ministerial Duty to Act'* [Even after notice.]; *predicated,* on *dishonest* belief system propounded by defendants that *'Fletcher'*: *'only applies to land grants'*; *or, 'A Patent is not a Contract.'* Mandamus will curtail such faulty logic [Unless the court shares in such beliefs.].

III. A significant *'Extraordinary Situation'* upon which Mandamus should issue, manifests itself *'to off-set'* the [*Ultra vires*.] adjudicative mission attaching to the creation of the Federal Circuit Court itself, by Congress. Regarding the repudiation of government issued grants. *Directly,* in violation of the Supreme Court prohibition; *and,* a proximate cause of the inferior courts' failure to act; *and,* are corruptly acting in violation of the Separation of Powers and Contract Clauses in the Constitution itself, warranting Mandamus.

IV. For the same reasons: Mandamus must issue on the Supreme Court to reverse its *'Oil States'* and disavow the AIA in light of this Court's 'Reversal' from the AIA's reexamination process [Unfettered to date.] in conflict with *'The Fletcher Challenge'* judicially suppressed for want of Mandamus to issue. Not reversing, under color of discretion to *'not enforce'* the 'Law of the Land and Case' would constitute a 'Breach of Solemn Oath' outside the discretionary purview.

V. Finally, Mandamus must issue upon the 'Extraordinary Situation' warranting 'Non-discretionary Show Cause' as to the procedures used did not impair Petitioner's guaranteed rights as well as *[t]*he procedure used by the court and clerks; where, docketing, filings, and orders disclose (non-discretionary) irregularities; *to wit*:

a) Petitioner files Complaint.

b) Court issues (non-hearing) Order for Defendants *'Not to Respond'* [Moving Defendants into Default.].

c) Court dismisses the Complaint.

There is something wrong with this process.

d) Petitioner Appeals.

e) Defendants 'Respond to Appeal' — <u>In Default</u>.

f) Petitioner loses appeal without comment.

Clerk refused to enter default, a ministerial duty.

g) Supreme Court denies Petition for Writ of Certiorari

Whether discretion waives the ministerial duty to act in Breach of solemn oath.

h) 18 months later, lower court reopens the closed case and solicits [By order in the same RICO Case.] Defendants to 'Move for Attorneys' Fees in the amount of $148,000 for work regarding their default; now, on appeal to this Court.

Since attorneys did not file a response, no work was accomplished by Order of the court [Acting as counsel (incompetently) putting them in default.].

<u>CONCLUSION</u>:

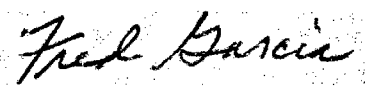
We all know why the entire judiciary and patent law enterprise moved in dishonor against Petitioner. To avoid disclosure of the Public Trust contempt for the Breach

of Contract(s) entertained by the courts to take property without just compensation [Breaching the Separation of Powers, IP and Contract Clauses in the Constitution.].

How can so many judicial and administrative Officers and governmental Officials sustain their failure(s) to enforce the ***'Law of the Land and Case'*** in this matter [Necessarily, requiring a conscious ***'Breach of Solemn Oath(s)'***.].

This ***'Extraordinary Situation'*** itself commands Mandamus to issue; ***especially,*** after notice of the duty to act and is adamantly ignored; ***where,*** the failure directly wars on the Constitution itself; ***and,*** the simplest defense to thwart the collusive attacks, is to issue Mandamus. ***Reminding,*** these 'Constitutional Tortfeasors' where their loyalties should rest and of their duty to remain loyal to their oath(s); ***and,*** 'Do the Right Thing' — ***as,*** should this Court to issue Mandamus and set the Constitutional standard for others to follow.

November 15, 2020 Respectfully submitted,



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