

CASE NO. 21-157

IN THE SUPREME COURT OF
THE UNITED STATES

NAGUI MANKARUSE
Plaintiff and Petitioner

v.

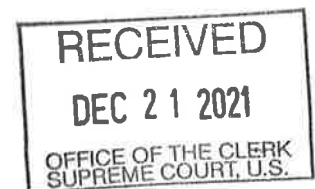
INTEL CORPORATION, ET AL,
Defendants and Respondents,

RE-HEARING PETITION FOR
WRIT OF CERTIORARI

After Final Decision of the United States Court
of Appeals for the Federal Circuit Denial of the
Petition of the Panel Rehearing and Rehearing
En Banc, Docket Case Number 2020-2297, July 8,
2021

After Order of The United States Court of the
Central District of California, Southern Division,
The Honorable David O. Carter Presiding
Docket Case Number 8:19-cv-01902-DOC-JDEx

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QUESTIONS PRESENTED

I.

Whether the Honorable United States Supreme Court must defend our Great United States Constitution?

II.

Whether the Honorable United States Supreme Court must defend American Citizens rights to equally live under the United States Constitution of all its provisions?

III.

Whether the Honorable United States Supreme Court will allow the serious violations and the following direct attack on the Bill of Rights and the First, Fifth, Eighth, and Fourteenth Amendments all in the same time to one American Citizen in the two related Patent cases after petition denied Rehearing Petitioned for Review after only seven Justices, and two Justices took no part or decision in the consideration, not to be strong precedence to all following Actions of any American "Individual or Entity" and Ignore Our Great American Constitution?

1. Whether the United States Supreme Court must defend the Bill of Rights of our Great Unites "...It guarantees civil rights and liberties to the individual-like freedom of speech, press, and religion. It sets the rules for due process of the law

and serves all powers not delegated to the Federal Government to the people of the States...”

2. Whether the United States Supreme Court must defend the First Amendment of our Great United States Constitution? “...Or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

3. Whether the United States Supreme Court must defend the Fifth Amendment of our Great United States Constitution? “...when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; ... nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation....”

4. Whether the United States Supreme Court must defend the Eighth Amendment nor our Great United States Constitution? “...nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb;... nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. [The United States Constitution prohibits the federal government from imposing excessive bail, excessive fines, or cruel and unusual punishments.]”

5. Whether the United States Supreme Court must defend the Fourteenth Amendment of Our

Great United States Constitution? “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

6. Whether the United States must respect the Great State of California Declaration of Rights defend its California State Constitution; Article One? “Article I is part of the Great United States Constitution of the Fourteenth Amendment.” “...defending life and liberty. Acquiring, possessing, and protecting property, and pursuing happiness and privacy.”

The above are important questions of law where it appears necessary to secure uniformity of decisions and or the settlement and seriously the important issues that all Americans must be treated EQUALLY “individuals or entities” under the United States Constitution are presented here in this ACTION for the review by the Honorable Supreme Court Justices of the United States of America.

This Petitioner is crying for JUSTICE in the land of law and justice, please rescue. This Honorable Court is the last Resort on Earth.

CASE NO. 21-15 3

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DECLARAION OF NAGUI MANKARUSE

The Supreme Court of the United States Petition for Rehearing after Justices Breyer and Alito took no part in the Petition discussion or consideration.

I, Nagui Mankaruse declares s follow:

I am an American Engineer Invertor and Innovator has contacted Intel corporation in 2004 and 2007 encounters and signed Corporate Non-Disclosure Agreement (“CNDA”) in 2004 before disclosing any patented technologies and its trade secrets to cool computer central processing unit(s) (CPUs), using my innovative patented technology.

The United States Supreme Court decided on the non-acceptance of this case without legal principal or grounds that discussed in the brief. The court’s opinion avoided the main issues which are the non-constitutionality of the District Court Orders and the gross errors that supported by the Federal Circuit in their opinion’s fundamental mistakes of the law that district court relied on the faulty reasoning the circuit court built their opinion on. It is believed the chance that the US Supreme Court will correct the errors.

The VIOLATED United States Constitution Amendments by the District Court and Affirmed by the Federal Circuit:

1. The Bill of Rights

The United States Bill of Rights comprises the first ten amendments (I) through (X) to the United States Constitution. “It guarantees civil rights and liberties to the individual-like freedom of speech, press, and religion. It sets the rules for due process of the law and serves all powers not delegated to the Federal Government to the people of the States.”

2. The First Amendment

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

3. The Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. [On March 19, 2001, the United States Supreme Court handed down a per curiam opinion in *Ohio v. Reiner*, holding that the Fifth Amendment right

against self-incrimination protects the innocent as well as the guilty.]

4. The Eight Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. *[The United States Constitution prohibits the federal government from imposing excessive bail, excessive fines, or cruel and unusual punishments. This amendment was adopted on December 15, 1791, along with the rest of the United States Bill of Rights.]*

5. The Fourteenth Amendment

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

It is very much believed that the Supreme Court will find interest in these two cases where there is a real strong legal claim here. In every situation where I have raised a claim of federal

CASE NO. 21-153

constitutional errors and as plaintiff, I deserve relief in the Federal District Court with Supreme Court opinion that can correct the grave problems with the Federal Circuit Court of appeals analysis in this case where multiple constitutional amendments have been violated including our fundamental Bill of Rights and granting the petition.

The district Erred in its ruling to deny, dismiss the two case because I don't have \$50K to post two Bond in the two cases and ERRED again by the Federal Circuit affirm the Wrong District Court ruling for the first time in its history as stated in its opinion.

The Federal Circuit Court application of State Court Statutes is Un-constitutional by the California State and the US Constitution by allowing for the first time ever in that Court to issue an opinion on ("Vexatious Litigant"). State Court Statute ("CCP 391-391.8") where vexatious litigant statute is unconstitutional by State of California Constitution and certainly is a serious violation of the US Constitution as determined by the U.S. Supreme Court. (U.S.C.2254(d)(1)) (explain how errors were prejudicially under the controlling standard in such a way the Federal Circuit Court stated rightly that this is the first case of its kind in this court. As such the Federal Circuit opinion omits or misstates an issue of material fact. There is fundamental error(s) in the Federal Circuit Court ruling which skews the analysis and results, or an erroneous findings or procedural default by the Court, and now there is reasonable possibility of a cure by the means of this re-hearing.

The decision in this case by the US Supreme Court will correct a defective area in this vexatious litigant statute that conciliatory with the US constitution and some States including the State of California. The Supreme Court is in unique position to enforce uniformity by resolving the conflict through a decision applicable to all the courts below it.

This case is of national importance. Granting this petition affects large numbers of non-parties, substantial portions of the economy and individuals' self-represented

where the law particularly seeks to protect. This issue of importance since it is regularly occurs and mostly used by defendants' large entities with its unlimited resources against individuals mostly has very limited or has no resources at all as in this situation.

In this incident(s) the issue arises in the Federal Circuit Court is the only appellate court with specialized jurisdiction over certain subjects such as patent law which is the case here. It might be impossible to argue that the decision below agrees or conflicts with a decision from another court of appeals, however in this case the Federal Circuit have this case subject as stated in their non-published opinion is the first in its kind which made the decision here of national importance. Issues arising from patent law often have profound dimension that would benefit from an authoritative Supreme Court decision. For that reason, the Supreme Court

routinely takes cases from those Circuits even in the absence of Circuit conflicts.

However, this issue of vexatious litigant is originally coming from California state statute [391-391.8], Mankaruse was already cleared as not vexatious litigant on 8/1/2019 ruling by the California State Court. This patent infringement case in the United States Supreme Court now comes up from Federal District Court and the Federal Circuit where both Courts right clear have violated multiple U.S. constitutional amendments including the Bill of Rights.

This Supreme Court opinion if decided to take the case there are no factors that might impede the square resolution of the issues in the lower court.

The petitioner Mankaruse hereby respectfully petitions for re-hearing of this case before the full nine-Members of the United States Supreme Court.

When this Court has conducted plenary review and then affirmed by vote without Justice Breyer and Justice Alito took no part in the consideration or decision of this petition, the Court has not infrequently granted rehearing before a full Bench.

Stephen M. Shapiro et al., Supreme Court Practice § 15.6(a), at 838 (10th ed. 2013). “The small number of cases in which a full Bench can rehear a case decided by an equal division probably amounts to the largest class of cases in

which a petition for rehearing after decision on the case with less than full court has any chance of success.” Id. at 839.

For example, the government petitioned for rehearing in *United States v. One 1936 Model Ford V-8 Deluxe Coach*, 305 U.S. 666 (1938), after this Court divided equally in a case when there was a vacancy due to Justice Cardozo’s death, but before the vacancy was filled. This Court granted the petition, *ibid.*, then heard the case after Justice Frankfurter was confirmed. 307 U.S. 219 (1939). This Court similarly granted petitions for rehearing before a full Bench in a series of cases decided 4-4 after Justice McReynolds’ retirement caused a vacancy in 1941;¹ after a leave of absence by Justice Jackson caused a temporary vacancy in 1945;² and after Justice Jackson’s death caused a vacancy in 1954. ³ See also, e.g., *Pollock v. Farmers’ Loans & Trust Co.*, 158 U.S. 617 (1895) (similar for absence due to illness); *id.* at 601-606 (reproducing petition for re-hearing discussing earlier cases); *id.* at 606-607 (granting rehearing).

In such situations, the Court has not infrequently held the case over the Court’s summer recess, holding oral arguments months later. For example, in *Halliburton Oil Well Cementing Co. v. Walker*, 327 U.S. 812, the Court granted rehearing in February 1946, *ibid.*, and heard re-argument 240 days later in October 1946, see 329 U.S. 1 (1946). See also, e.g., *MacGregor v.*

CASE NO. 21-15 3

Westinghouse Elec. & Mfg. Co., 329 U.S. 402 (1947) (re-argument 248 days after rehearing granted); Baltimore & Ohio R.R. v. Kepner, 313 U.S. 597 (1941); Toucey v. New York Life Ins. Co., 313 U.S. 596 (1941); New York, Chi. & St. Louis R.R. v. Frank, 313 U.S. 596 (1941); Commercial Molasses Corp. v. New York Tank Barge Corp., 313 U.S. 596 (1941).

See MacGregor v. Westinghouse Elec. & Mfg. Co., 327 U.S. 812 (1946); Bruce's Juices, Inc. v. American Can Co., 327 U.S. 812 (1946).

Indian Towing Co. v. United States, 349 U.S. 926 (1955); Ryan Stevedoring Co. v. Pan-Atl. Corp., 349 U.S. 926 (1955).

Baltimore & Ohio R.R. v. Kepner, 314 U.S. 44 (1941) (175 days later). In a few earlier cases, several years elapsed between the grant of rehearing and argument. See Home Ins. Co. v. New York, 122 U.S. 636 (1887) (granting rehearing February 7, 1887), and 134 U.S. 594 (1890) (re-argument March 18-19, 1890); Selma, Rome & Dalton R.R. v. United States, 122 U.S. 636 (1887) (granting rehearing March 28, 1887), and 139 U.S. 560 (1891) (re-argument March 25-26, 1891).

The need for rehearing is pressing here in the case of Mankaruse v. Intel due to the fact the Federal Circuit erred in describing the current case of Patent Infringement in the Federal Circuit is like the trade-secrets misappropriation

Action in the California State Court. The error(s) here are California State court has no jurisdiction over patent infringements, and the patent infringement Action has different dimensions than trade misappropriation and controlled by different Statute. The fact that Intel infringed the two patents (“US Patent 6,411,512 and CA 2,389,458”) are true, Intel also infringed the trade-secrets are also true. For some reasons Intel was able to get away from the patent infringement by frivuious procedural methods nonrelated to merits while we never passed the complaint phase like getting away from the trade-secret misappropriation which we have only one valid case against Intel in the State Court two years litigated frivuious demurrers on the complaint until frivolously dismissed. The merit of the case is clear and never discussed in both the State Court trade-secrets Action or District Court patent infringement Action. If I am looking for Justice, we shouldn’t stop until Justice prevails on the merits of the Federal Circuit stated that security bond of \$25,000 should be posted to get justice with intel, it was just tailored to kill the case before discussion of the merits start. Intel and Raytheon are coordinating their efforts to get away everyone with his free prize of acquired technologies and applications that made each entity flourish in the marketplace for years and still are to this day.

The Federal Circuit affirmed the District Court for two \$25K bonds one for each case, which again is the fruit of their strategies together and now they think they can run away for free with my valuable inventions. Defending my constitutional rights getting my properties back needs this Honorable Supreme Court listen only to the US Constitution, but I have the faith not the fear that the conscious honesty of the full nine Justices members of this Court will side with our great Constitution and defend the truth in the merits of these Actions. I have no \$25K each or any part of it, I cannot defend my property due to the false use of the unconstitutional statute by Raytheon and Intel of the unconstitutional Vexatious litigant rule [391-391.8] which I have been cleared by California State Court ruling on 8/1/2019.

The bottom line here is the merits of the issues (“Did Intel Infringed or Not? Acquired my properties and used it without permission for free?”).

If we can follow our Constitution, then the honorable Justices and Judges can live with peace of mind. Not wrongly stated the complaint in the District Court is similar to the Complaint in the State Court or not! The action of acquiring my properties without permission for free is unconstitutional, and also can be unfair if the United States Supreme Court allows Intel to get away with their intentional wrongdoing. I doubt that the Justices will allow any damage to our Constitution which their main reasons are to protect our Constitution doing that in good faith

they automatically protecting America and everything in America as intended by the Founders of this great land, and never allows wrongdoing of that sort to happen to any American under their watch.

The Federal Circuit speaking on merits of the vexation determination! However, the Federal Court never mentioned anything about the merits of the case itself. Unfortunately, Intel tried to get away with the acquired technologies for free by diverting the attention of the courts with side issues non-related to the subject matter including vexatious law which is even doesn't apply here because the number of counted cases is less than five with even applying unconstitutional law [CCP 391-391.8] indicate the threshold is not here to be applied.

MERITS OF THE CASE

However, the Supreme Court is not designed merely to correct errors but the merits of the case here matter since this Case has Merits as explained below, which is main concern in the Federal law.

The defendant's Intel has agreed to examine the technologies of the US Patent 6,411,612 on June 8, 2004, by signing the Non-Disclosure Agreement along with the accompanying Confidential Letter of Understanding and limitations.

Intel Central Processing Units CPU's ("CPU Cooler") until today are in every computer in the world while speaking of merits of the vexatious law and even if it was solved by the California State Court on its ruling by the defendants Raytheon on 8/1/2019, and even it is Unconstitutional while ("desktops, work stations, super computers,...") are using this valuable inventions technologies by the billions every year. Simply no Computer in the world can function without this Delta CPU Cooler.

Petitioner Nagui ("Nagy") Mankaruse had two encounters with Intel Senior Directors / Managers in 2004 for about six months with communications by emails ("documented") ("Supporting evidence").

On 2007 after contacting Dr. Craig Barret, Intel Chairman and CEO he was asked to reveal any advancements of the CPU Cooler technology, where I have presented complete analysis and even (hardware prototype of a CPU Cooler to group of senior Managers, Directors and Executives...in two hours at Intel large Campus in Chandler, Arizona in 2007.

Intel Senior Director in 2007 told me after the presentation and the Q &A session, ("What you presented is too good to be true") and asked me to prove that by testing, which I responded that a test in outside Lab. can cost around \$100K, but we can complete the test here at Intel Lab with my supervision and under your watch, then he said we don't have time.

I have another solution completed thermal analysis within few days sent INTEL connection appointed by Dr. Craig Barrett, then received a letter that there is one value of thermal conductivity of (“glue”) is missing which been added however didn’t change any value in the analysis. The case was rested and left at that point. Intel councils have told me in the District Court that Intel started to use the (“Delta“) CPU Cooler technology in 2010.

I have one CPU Cooler deposited in the Federal District Court and several pictures of this device in the Complaint with Intel Logo on it in different locations on the device.

CONCLUSION

Justice is not for sale, who have the money can hire Councils, never need a bond, defendant INTEL even can get away with my properties for free. This is not America, and it will never be with entire our great Justices or our great American Constitution.

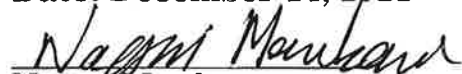
The founding fathers of this great nation have included everything in our great Constitution for all Americans and must be defended by all Americans, by our Judiciary and at the top of it by the United State Supreme Court, by our brave military and by our elected officials.

I respectfully ask the Honorable nine Justices of this Honorable Court to Grant this petition for the sake of our Constitution with all circumstances presented above.

I declare under the penalty of perjury that the above is true and correct to the best of my knowledge, under the laws of the United States of America.

Respectfully submitted.

Date: December 14, 2021



Nagu Mankaruse,
Petitioner In Pro Se