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NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

DOROTHY M. HARTMAN,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2022-1955

Appeal from the United States Court of Federal
Claims in No. 1:21-cv-02214-MCW, Senior Judge Mary
Ellen Coster Williams.

ON MOTION

PER CURIAM.

ORDER

(Filed Nov. 9, 2022)

Dorothy M. Hartman submits a document challenging the court's September 16, 2022, notice that her opening brief and appendix are not compliant with the court's rules. The document further argues that she is

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“owed a Default Judgment by law.” ECF No. 15 at 2. Ms. Hartman has since moved to withdraw ECF No. 15, but continues to challenge the notice of non-compliance, ECF No. 17. We construe Ms. Hartman’s filings as a motion to accept her non-conforming opening brief and appendix. We accept Ms. Hartman’s non-conforming opening brief and appendix for filing and, after careful review of her submissions, conclude that summary affirmance is appropriate.

The United States Court of Federal Claims dismissed, concluding that Ms. Hartman’s “complaint [in this case] is substantively identical to the complaint in her 2020 case that the Court of Federal Claims dismissed ‘without leave to replead’ and [we] affirmed” in *Hartman v. United States*, No. 2021-1535 (Fed. Cir. Sept. 3, 2021), and any claims that the judges and Government attorneys involved in her 2020 case defamed and discredited her were outside of the court’s limited jurisdiction. Dkt. No. 16 at 2–3.

Ms. Hartman’s submissions provide no cognizable, non-frivolous argument that the Court of Federal Claims erred in dismissing her complaint. The trial court correctly recognized that she is precluded from relitigating claims previously raised (and resolved) in *Hartman*, No. 20211535, ECF No. 44. And the trial court was clearly correct that it generally lacks jurisdiction over tort claims, 28 U.S.C. § 1491(a)(1), and claims “against individual federal officials,” *Brown v. United States*, 105 F.3d 621, 624 (Fed. Cir. 1997).

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We therefore summarily affirm. *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994) (holding that “summary disposition is appropriate, *inter alia*, when the position of one party is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists”).

Accordingly,

IT IS ORDERED THAT:

(1) Ms. Hartman’s opening brief and appendix, ECF No. 12, are accepted for filing.

(2) The Court of Federal Claims’ judgment dismissing Ms. Hartman’s claims is summarily affirmed.

(3) Any other pending motions are denied as moot.

(4) Each party shall bear its own costs.

FOR THE COURT

November 9, 2022
Date

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

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**In the United States Court of Federal Claims
No. 21-2214
(Filed: May 18, 2022)**

* * * * *
DOROTHY M. HARTMAN, *
Plaintiff, *
v. *
THE UNITED STATES, *
Defendant. *
* * * * *

ORDER OF DISMISSAL

WILLIAMS, Senior Judge.

This matter comes before the Court on Defendant's motion to dismiss for lack of subject matter jurisdiction. For the reasons stated below, Defendant's motion to dismiss is granted.

Plaintiff pro se Dorothy Hartman alleges that the Government misappropriated her intellectual property, "the Internet 2" and avers that the Government has "for 30 years been using it as its own internet" since she invented it in 1989-1990. Compl. at 3-4; 27. Plaintiff alleges that she submitted her proposal called "The Feasibility of Accessing Accessibility" to the Pennsylvania Department of Commerce and the United States Small Business Innovation Research Program.

Compl. at 4. Plaintiff alleges that her "Accessing Accessibility Process" was "new and revolutionary when she submitted [it] in proposals," and that the invention was misappropriated by the Benjamin Franklin Technology Center, the U.S. Small Business Administration, and the Pennsylvania Department of Commerce. Compl. at 4.

Plaintiff further claims that the Government violated her privacy during proceedings in her recent case before this Court, Case No. 20-00832, by "allowing the Defense attorneys to monitor, track, and literally electronically tap phone conversations of the Plaintiff," and that she "has been deliberately defamed by the misconduct of federal judges who perjured and published falsified public records." *Id.* Plaintiff alleges that the Government's "acts of defamation and discrediting her character" were "deliberately carried out in order to take her personal real estate property and intellectual property by fraud." Compl. at 5. Plaintiff claims that the Government's actions caused her to lose two homes and personal possessions, amounting to over \$600,000 in damages, and that "her personal intellectual property now in use and being copied everyday by the Federal Government is valued at trillions of dollars." Compl. at 9. In support of her claims, Plaintiff invokes the Fourth, Fifth, and Eighth Amendments of the Constitution as well as 28 U.S.C. §§ 1491, 1498, and 1499.

Legal Standards

The filings of pro se litigants are held to “less stringent standards than formal pleadings drafted by lawyers.” Naskar v. United States, 82 Fed. Cl. 319, 320 (2008) (quoting Haines v. Kerner, 404 U.S. 519, 520 (1972)). However, pro se plaintiffs still bear the burden of establishing the Court’s jurisdiction and must do so by a preponderance of the evidence. Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 748 (Fed. Cir. 1988); Tindle v. United States, 56 Fed. Cl. 337, 341 (2003).

Plaintiff has the burden of establishing subject-matter jurisdiction in this Court. Reynolds, 846 F.2d at 748. The Court must dismiss the action if it finds subject-matter jurisdiction to be lacking. Adair v. United States, 497 F.3d 1244, 1251 (Fed. Cir. 2007). The Court assumes all factual allegations as true and will construe the Complaint in a manner most favorable to Plaintiff when ruling on a motion to dismiss pursuant to Rule 12(b)(1). Pennington Seed, Inc. v. Produce Exch. No. 299, 457 F.3d 1334, 1338 (Fed. Cir. 2006).

The Tucker Act grants this Court jurisdiction over “any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1) (2012). The Tucker Act is not money-mandating, but rather is a jurisdictional statute. United States v. Testan, 424 U.S.

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392, 398 (1976). To establish jurisdiction, “a plaintiff must identify a separate source of substantive law that creates the right to money damages.” Jan’s Helicopter Serv., Inc. v. Fed. Aviation Admin., 525 F.3d 1299, 1306 (Fed. Cir. 2008) (internal citation and quotation marks omitted).

Discussion

Plaintiff’s complaint is substantively identical to the complaint in her 2020 case that the Court of Federal Claims dismissed “without leave to replead” and the United States Court of Appeals for the Federal Circuit affirmed in *Hartman v. United States*. Fed. Cl. No. 20-0832, Dkt. No. 29 at 2 (Order Granting Motion to Dismiss), aff’d, 2021 U.S. App. LEXIS 26666 (Fed. Cir. Sept. 3, 2021, Case No. 2021-1535). Specifically, Plaintiff’s claims in the instant litigation and in her 2020 action are based on her alleged invention of the “Internet 2” and the “Accessing Accessibility Process,” the Patent and Trademark Office’s erroneous rejection of her patent application, and the Government’s misappropriation of her intellectual property. Because Plaintiff litigated these claims in Hartman v. United States, No. 20-00832, and Hartman v. United States, 2021 U.S. App. LEXIS 26666 (Fed. Cir. Sept. 3, 2021, Case No. 2021-1535), she is precluded from relitigating them again in this action under well-established principles of stare decisis.

To the extent the Complaint alleges additional claims that the judges and Government attorneys

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involved in her 2020 case defamed and discredited her, this Court does not have jurisdiction to hear claims against individual federal government officials, prosecutors, or judges. Fullard v. United States, 78 Fed. Cl. 294, 300 (2007). Frank's Livestock & Poultry Farm, Inc. v. United States, 17 Cl. Ct. 601, 607 (1989) (recognizing that the Court of Federal Claims does not have jurisdiction over claims against federal officials); see generally Stump v. Sparkman, 435 U.S. 349, 355-56 (1978) (recognizing federal judges are immune from suit when, "at the time [the judge] took the challenged action," the judge had the authority to act). This Court also lacks jurisdiction over these claims because they sound in tort. See Rothing v. United States, 132 Fed. Cl. 387, 390 (2017).

Conclusion

Defendant's motion to dismiss is **GRANTED**.¹ The Clerk is directed to dismiss this action with prejudice.

/s/ Mary Ellen Coster Williams
MARY ELLEN COSTER
WILLIAMS
Senior Judge

¹ Plaintiff's motion for default judgment is denied as moot. Plaintiff submitted 34 emails which do not comply with court rules, asking the Clerk of Court to effect various clerical amendments to her filings. The Court construes these requests as a motion. This motion is denied.

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NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

DOROTHY M. HARTMAN,
Plaintiff-Appellant

v.

UNITED STATES,
Defendant-Appellee

2022-1955

Appeal from the United States Court of Federal
Claims in No. 1:21-cv-02214-MCW, Senior Judge Mary
Ellen Coster Williams.

ON PETITION FOR REHEARING EN BANC

PER CURIAM.

ORDER

(Filed Feb. 7, 2023)

Dorothy M. Hartman filed a petition for rehearing
en banc. The petition was first referred as a petition for
rehearing to the panel that issued the order, and

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thereafter the petition for rehearing en banc was referred to the circuit judges who are in regular active service.

Upon consideration thereof,

IT IS ORDERED THAT:

The petition for panel rehearing is denied.

The petition for rehearing en Banc is denied.

The mandate of the court will issue on February 14, 2023.

February 7, 2023

Date

FOR THE COURT

/s/ Peter R. Marksteiner

Peter R. Marksteiner

Clerk of Court

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EXHIBIT A

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

IN RE DOROTHY M. HARTMAN

2013-1070
(Serial No. 11/003,123)

Appeal from the United States Patent and Trade-
mark Office, Patent Trial and Appeal Board.

Decided: March 8, 2013

DOROTHY M. HARTMAN, of Philadelphia, Pennsyl-
vania, pro se.

RAYMOND T. CHEN, Solicitor, Office of the Solicitor,
United States Patent and Trademark Office, of Alexan-
dria, Virginia, for appellee. With him on the brief were
NATHAN K. KELLEY, Deputy Solicitor, BENJAMIN T. HICK-
MAN, Associate Solicitor and SYDNEY O. JOHNSON, JR.,
Associate Solicitor.

Before NEWMAN, DYK, and PROST, *Circuit Judges*.

PER CURIAM.

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Dorothy M. Hartman filed Patent Application No. 11/003,123 for a business method called the “Accessing Accessibility Process.” In essence, Hartman claimed to have invented the Internet. The examiner rejected all thirty-five claims of Hartman’s amended application as indefinite under 35 U.S.C. § 112, ¶ 2. The Board of Patent Appeals and Interferences (“Board”)¹ affirmed. We *affirm*.

BACKGROUND

Section 112 of title 35 requires that a patent “conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his [or her] invention.” 35 U.S.C. § 112, ¶ 2 (2006). “The statutory requirement of particularity and distinctness in claims is met only when [the claims] clearly distinguish what is claimed from what went before in the art and clearly circumscribe what is foreclosed from future enterprise.” *United Carbon Co. v. Binney & Smith Co.*, 317 U.S. 228, 236 (1942). Indefiniteness is a question of law, which we review de novo. *Exxon Research & Eng’g Co. v. United States*, 265 F.3d 1371, 1376 (Fed. Cir. 2001).

¹ The Leahy-Smith America Invents Act renamed the Board the Patent Trial and Appeal Board. See Pub. L. No. 112-29, § 7(a)(1), 125 Stat. 284, 313 (2011). The Act also amended paragraph 2 of section 112 and redesignated it as subsection 112(b). See *id.* § 4(c)(a)(A), 125 Stat. at 296. No substantive changes were made of relevance to this appeal. For consistency with the decisions on review, we use the prior designations.

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In December 2004, Hartman filed a patent application entitled "Accessing Accessibility Process." The specification described the invention as "a new and revolutionary business process in which the computer by way of a modem is used to access, retrieve, and exchange goods, services, and information." Supp'l App. 85. Hartman asserted that her "introduction of this invention in 1990 . . . led to the formation of the INTERNET [sic]." *Id.* at 91.

In May 2011, Hartman replaced the original claims with thirty-five new claims, of which the first (designated claim 26) is representative:

Claims a novel business method whereby the computer with its communicable devices is the focal point of the business and transactions occur online or in cyberspace. Herein cyberspace is referred to as that virtual space within which transactions and exchanges occur and that exists between the interconnection(s) of the communicable devices with remote websites. Cyberspace is infinite and thus an infinite number of transactions or interactions is possible. A website(W) is herein referred to as pages that are received from the host or recipient computer and that display on the monitor of the user's computer once the connection is established. See Figs[.] 1-6.

Supp'l App. 1818.

The examiner rejected all thirty-five claims in a June 2011 final action, concluding that each claim was indefinite under paragraph 2 of section 112. The

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examiner observed that the claims “fail[] to define the invention in the manner required by” the statute, “are narrative in form and replete with indefinite and functional or operational language,” and are not limited to a single sentence per claim. Supp’l App. 1966.

Hartman appealed to the Board, which affirmed the examiner’s indefiniteness rejection. The Board found that Hartman had failed to address the substance of the examiner’s rejection in her brief on appeal, and therefore had not “contest[ed]” the rejection sufficiently to allow the Board to review it. *See Ex Parte Hartman*, No. 2012-8681, at *5-6 (B.P.A.I. July 25, 2012).

DISCUSSION

Hartman makes no effort to distinguish between the claims in her briefs on appeal, or to address individually the grounds on which the examiner rejected each of the claims. Nonetheless, we have reviewed each of the thirty-five claims, and we conclude that each one is indefinite.

The majority of the claims are denominated as method claims.² Many of these method claims

² The few claims that defy classification as method claims appear to consist of nothing more than descriptions of benefits allegedly flowing from Hartman’s invention. These claims recite “a revolutionary way of doing business wherein the term cyberspace is used interchangeably as a ‘marketplace,’ warehouse,’ [and] ‘clearinghouse,’” claim 36; “teaching the concept of the infinity of cyberspace as a tool to improve commerce and to grow the economy,” claim 38; and “aiding small businesses and entrepreneurs

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(specifically, claims 26, 30, 33, 35, 37, 39, 43, 44, 48, 51, 52, and 57) fail to recite any specific steps, instead merely stating the existence of a "novel business method" (or an "innovative business method") and describing the benefits that flow from its use. Supp'l App. 1818-28. Hartman's failure to recite any required steps renders these claims indefinite, since it leaves the claims without any meaningful limitations. The remaining method claims (claims 27, 28, 29, 31, 32, 34, 40, 41, 42, 45, 46, 47, 49, 50, 53, 54, 56, 58, 59, and 60) fare no better. These claims recite what appear to be individual steps of a method, in various permutations. The specification discloses that these steps are similar to those taken by users of prior-art online databases. Because Hartman has not "clearly distinguish[ed] what is claimed from what went before in the art and clearly circumscribe[d] what is foreclosed from future enterprise," *see Union Carbon Co.*, 317 U.S. at 236, the examiner properly rejected these claims as indefinite.

We have considered Hartman's other arguments, including her allegations of misconduct by the Patent and Trademark Office, and find them to be without merit.

AFFIRMED

[by] mak[ing] startups easier and more affordable," claim 55. *See* Supp'l App. 1821, 1826.

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EXHIBIT B

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Bibliographic Data - Application - Patent Center - USPTO



UNITED STATES
PATENT AND TRADEMARK OFFICE

11/003,123 | -:

Accessing Accessibility Process

Application #	Attorney Docket # Patent #	Status	Filing or 371 (c) date
11/003,123	-	Abandoned -- After Examiner's Answer or Board of Appeals Decision - 12/21/2019	03/07/2005

Application type	Utility	Earliest publication #	US 2006-0200386 A1	Intl. registration # (Hague)
Examiner	JEFFREY A SMITH	Earliest publication date	09/07/2005	Intl. registration publication date
Group art unit	3625	Assignee for publication	-	
Class/subclasses	705/026.000	Confirmation #	4653	
AIA (first inventor to file)	No			
Entity status	Small			

Correspondence address Inventors

- Dorothy M. Hartman
#W105
2200 Benjamin Franklin Parkway
Philadelphia, PA
UNITED STATES

Dorothy M. Hartman
Philadelphia, PENNSYLVANIA

Applicants

Data not available

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EXHIBIT C

9/24/22, 1:04 PM

Global Dossier - United States Patent and Trademark Office

(<http://www.uspto.gov>)

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Global Dossier

Office

US

Type

Application

11003123

Q

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No Patent Family Found

	Office	Application	Applicant	Title	App. Date	Priority #	Pub. #	Pub. Date
IP Office Type	US	11003123	1) Hartman, Dorothy M.	Accessing Accessibility Process	03/07/2005	US 11003123	US 20060200386 A1	09/07/2006
		View Dossier						
All IPS Offices								
<input checked="" type="checkbox"/> EPO								
<input checked="" type="checkbox"/> SIPO								
<input checked="" type="checkbox"/> KIPO								
<input checked="" type="checkbox"/> JPO								
<input checked="" type="checkbox"/> USPTO								
<input type="checkbox"/> Non-IPS Offices								

(<http://www.uspto.gov>)

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ABOUT THIS SITE

USPTO BACKGROUND

FEDERAL GOVERNMENT

<https://globaldossier.uspto.gov/#result/application/US/11003123/103507>

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EXHIBIT D



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1418
Alexandria, Virginia 22304-1418
www.uspto.gov

APPLICATION NUMBER	FILING or 37(c) DATE	GR PART UNIT	FIL FILE RLCTD	ATTY DOCKET NO	TOT CLAIMS	IND CLAIMS
11/003,123	03/07/2005	3625	2240		4	4

CONFIRMATION NO. 4653

CORRECTED FILING RECEIPT



0000000032946695

Dorothy M. Hartman
#W105
2200 Benjamin Franklin Parkway
Philadelphia, PA 19130-3830

Date Mailed: 03/05/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections.

Applicant(s)

Dorothy M. Hartman, Philadelphia, PA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications (You may be eligible to benefit from the Patent Prosecution Highway program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 03/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/003,123**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

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EXHIBIT E

Title

Accessing Accessibility Process

Preliminary Class

705

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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EXHIBIT F

To: William Allen Art Unit 3625, BPAI Page 12 of 17

2012-06-17 21:31:52 (GMT)

From: Dorothy Hartman

RECEIVED
CENTRAL FAX CENTER
SEP 17 2012

Ex-201

Claims

61. The Accessing Accessibility Process is an innovative business method which comprises using the computer as the medium for conducting business transactions. These transactions include the exchange of data, goods, and services online.
62. It comprises logging on to a computer to access remote websites for the purpose of transacting goods, information, or services.
63. It comprises using cyberspace as a marketplace or area where goods, information, or services can be transacted or exchanged.
64. The invention comprises a computer user being able to access a single database herein referred to as a website or multiple websites.
65. The invention comprises a novel method whereby goods, data, or services may be downloaded and stored or transacted for profit.
66. The invention comprises a novel method whereby goods, services, data may be resold or delivered to a customer for a fee.
67. Comprises an innovation to use the computer to broker goods, services, and data.
68. This invention comprises users connecting with each other and / or databases to form an interconnected web like structure.
69. Single or multiple users may participate in similar or multiple transactions simultaneously as cyberspace allows multiple users which is transformative over prior art.
70. This invention comprises development of a inter connecting web like structure which is transformative over prior art leading to the development of an internet.
71. This invention introduces doing business online in using computers to conduct business.
72. This invention is transformative over prior art in that it commercializes telecommunications.
73. This innovative business method increases commerce as accessibility to goods, services, and information is increased.
74. This innovative business method is transformative over prior art in that it enables consumers and businesses to find each other more easily and therefore be more accessible.
75. The user having access to a computer, phone, modem, databases and a service provider can carry out the primary steps as follows:
 - a) user logs on to the computer
 - b) connects with remote databases or other users

PAGE 12/17 * RECEIVED AT 07/20/12 0:22:25 PM (Eastern Daylight Time) * ORIGINAL PAGE 40232 * DNR: 273646 * CREDIT * DURATION 00:00:00-00:00

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