

Supreme Court, U.S.  
FILED  
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22A590

NOS. 22-725 (2D CIR)  
22-840 (2D CIR)  
19-CV-4739 (EDNY)  
06-CV-1202 (SDNY)  
2022-0056 (NY)

IN THE

**Supreme Court of the United States**

IN RE AMY R. GURVEY, *US PATENTEE*,

*Petitioner Pro Se,*

Petition for Emergency Stay  
Individual Justice Petition,  
US Supreme Court Rule 22

To: Hon. Justice Sonya Sotomayor, Associate Justice for the Second Circuit  
Emergency Applications Clerk

**Consolidated Action**

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November 29, 2022  
RESUBMISSION PER CLERK 12/27/22

Hon. Sonya Sotomayor  
US Supreme Court Associate Justice for the Second Circuit  
One First Street NE  
Washington, DC 20543 Attn: Emergency Applications Clerk

**Re: PRO SE US Patentee Petition**  
**Emergency Stay of “Cascading” Orders**  
**To: Associate Justice for the Second Circuit Hon. Sonya Sotomayor**  
**US Supreme Court Rule 22**

**Gurvey US Ticketing Patents 7603321; D647910S; 11403566**

*In re Gurvey*, 2d Cir. Case Nos. 22-725, 22-840  
*Gurvey v. Cowan Liebowitz & Latman, PC, Live Nation, Inc., Instant Live Concerts, LLC, Mike Gordon, et al.* 06cv1202 (SDNY) (2d Cir 22-840)  
*Gurvey v. Garry, Acosta, State of NY, Jorge DoPico, Hinshaw & Culberson, Richard Supple, Squitieri & Fearon, LLP*, 19-cv-4739(EDNY)  
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## I. INTRODUCTION

1. Petitioner Amy R. (Weissbrod) Gurvey, CEO and Senior Architect of LIVE-Fi® Technologies, LLC and sole-named inventor-patentee of standard essential ticketing management patents in the United States<sup>1</sup>, declares to the truth of the following statements under penalty of perjury in respectfully seeking an

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<sup>1</sup> Gurvey US Ticketing Management Patents 7603321 (October 13, 2009); D647910S (November 1, 2011); 11403566 (August 2, 2022)

emergency stay pursuant to US Supreme Court Rule 22 of “cascading orders” entered since 2012 by five New York courts after an illegal order was entered removing Petitioner’s good name from the roster of SDNY attorneys without notice, hearing or due process of law. Petitioner who is a PRO SE patentee, was never served with the order entered *sua sponte* by Circuit Executives (CE) officers D. Friedland and J. Allsman. Petitioner seeks that the US Supreme Court wipe the slate clean of tainted unconstitutional orders since 2012 in the adversely affected lawsuits.

2. Petitioner is only admitted to the State Bar of California and Central District of California since 1979 and remains in excellent standing (#87419). Only one bar is required for SDNY listing and it need not be NYS. *In re Gouiran*, 58 F. 3d 54 (2d Cir 1995); (citing *Selling v. Radford*, 243 US 546 (1917)). Petitioner is entitled to vacate the order removing her good name on its face because it has a loud “ring” insinuating quasi-criminal misconduct in the capacity of an attorney that is fraudulent, false, and defamatory per se having already caused ten years of damage to Petitioner’s professional reputation, career and patent business. Petitioner never appeared as an attorney in a representative capacity before any NY Court. Petitioner is entitled to an order from US Supreme Court wiping the slate clean of tainted orders. There is no other remedy at law. 35 USC§ 271 284, 285, 286. See, e.g., *In re Certain Underwriter Defendants*, 294 F. 3d 297 (2d Cir. 2022); *Liljeberg v. Health Services Acquisition Corp.*, 486 US 847 (1988); *In re*

Asbestos Litigation, Pfizer, Inc., v. Kell, 977 F.2d 764 (3d Cir 1992). Cantero v. Bank of America, 49 F.4th 121 (2d Cir. September 15, 2022)

## II. RELEVANT PATENT FACTS IN SUPPORT OF PETITION

3. CEs' unilateral deletion of Petitioner's good name while she is litigating patent infringement, taking and fraudulent breach of fiduciary claims against NYC attorneys and infringer defendants before the circuit courts is abhorrent. That Petitioner was never notified is more abhorrent. The acts constitute a per se violation of FRAP Rule 46 (b)(1)(A) and Second Circuit law. In re Gouiran, 58 F.3d 54 (2d Cir 1995) (citing Selling v. Radford, 243 US 546 (1917)). Petitioner, still admitted in California on excellent standing, attended graduate and medical school as an ADA-disabled student (42 USC §12101 et seq.) and voluntarily resigned from the Third Dept. in NYS in 1998 - 24 years ago - after returning to California to organize a biotech patent and television production company.

4. Petitioner was admitted to the Third Dept. in NYS and to the SDNY in 1987 but never practiced law in a representative capacity in NYS. No dues were ever charged by the NYS Office of Attorney Membership after 1998 after Denise Rajpal accepted Petitioner's voluntary resignation. There are computer screens in the Third Dept. listing Petitioner as "resigned". However, there have recently been two new computer screens in the NYS Office of Court Administration relisting Petitioner as "retired" and then "suspended" demonstrating unilateral

unnoticed alteration to her confidential state files. The matter is therefore very serious.

5. Because of the state's clear acceptance of Petitioner's voluntary resignation, since 1998, as a matter of law, there is no jurisdiction over Petitioner in favor of NYS in the capacity of an attorney. The USPTO agrees. But the attorney grievance committee (AGC) in the First Dept. does not. Yet AGC officers and staff attorneys continue to withhold their own files in defiance of due process and the law. NY's Judiciary Law Part 1240.2, 1240.7 All evidence shows that a sanction was entered as a sham. If there was any legitimacy to their self-serving allegations, AGC officers would produce the complete state files. They have not done so in 12 years, nor have they produced the responses to Petitioner's USPTO ethics complaints against NY firm of Cowan Liebowitz & Latman and its attorney Richard Supple. Supple was caught entering and corrupting Appellate Division and SDNY files after engaging in ex parte conversations with the SDNY Magistrate Henry Pitman in 2012 while Petitioner was a PRO SE patentee before the court; such that Magistrate's notes ended up in the AGC files and Petitioner was deprived of due process access to see the inserted files.

6. No compelling state interest exists to harass a non-resident out-of-state attorney because the State of NY and companies doing business in NYS are unlawfully taking and infringing her patents. Middlesex County Ethics Committee v. Garden State Bar Association, 457 US 423 (1982). It is no coincidence that the early willful infringers are the clients of the Cowan defendants, defendants Live



Nation, Instant Live Concerts, and MLB/MLB Advanced Media. Petitioner having resigned long ago is outside the circle of attorneys that the State of NY could possibly have an interest in. *Ibid.* There is no immunity available to administrative court officers for targeting an out-of-state attorney who is president of a technology company that is not itself a party ever involved in litigation in NYS. Petitioner is the sole named inventor of US ticketing patents. The patents have not been assigned to LIVE-Fi® Technologies, LLC. As such, LIVE-Fi® cannot sue for infringement or be sued in NYS or any state for infringement. The acts of state officers constitute illegal targeting. *Forrester v. White*, 484 US 219 (1988); (citing *Stump v. Sparkman*, 435 US 349 (1978)); Accord, *Alvarez v. Snyder*, 264 AD 2d 27 (0D 1<sup>st</sup> Dept. 2000). Petitioner has never represented LIVE-Fi® in a representative capacity in NYS.

7. Under unanimous decisions of the NY Court of Appeals, an order entered by a state judicial or quasi-judicial officer without jurisdiction constitutes breach of administrative duty that must be vacated by the same Court that entered the order. *Wilcox v. Supreme Council of Royal Arcanum*, 210 NY 370 (1914) SDNY officers have a non-judicial, purely administrative duty to vacate the order deleting Petitioner's name from the roster of attorneys. Yet, appallingly Petitioner's motions directed to the SDNY Circuit Executive filed and stamped by the SDNY PRO SE Office were returned by hard mail with a big "Red X" signed by the PRO SE Clerk and the SDNY Administrative Judges Laura Taylor Swains and Colleen McMahon. Then the Second Circuit denied mandamus relief and a stay. 22-725 (2d Cir 2022)

8. Moreover, US Supreme Court law is unanimous. No order that adversely affects the constitutional rights of a litigant especially a PRO SE litigant prosecuting federally protected patents before a court of competent jurisdiction can ever be entered *sua sponte*. Link v. Wabash R. R. Co., 370 US 626 (1962). Erickson v. Pardus, 551 US 89 (2007). Petitioner, not being served, never discovered the deletion of her good name until March 2022, ten years too late and long after serious damages was done to her company, professional reputation and patent interests. CE officers now being confronted with their alleged misconduct or “mistakes” as they call it, have been trying to conjure up an excuse and put the blame elsewhere including ludicrously on Petitioner.

9. Petitioner has suffered enough manifest injustice. Petitioner has been prejudiced in being unable to enter courts in NYS to recover strict liability patent taking and infringement damages on a timely basis since her first US patent issued on October 13, 2009 (7603321). That patent was missing claims and was already delayed 8 years because of the abandonment torts and breaches of fiduciary duty by the Cowan lawyer defendants.

10. Petitioner’s strict liability infringement amended complaint first filed, date stamped and docketed on April 22, 2010, was also confirmed as removed by the CE officers from SDNY consideration after it was printed in the 2d Circuit Appendix Vol. III, pp. 671 et seq. in the first appeal, 09-2185;10-4111 (2d. Cir.). There are just too many hocus pocus occurrences to be a coincidence.

11. In addition, Petitioner's professional business reputation and company have been reduced to rubble. The *cascading orders* in four courts have serious negative connotations. They have prevented Petitioner from being appointed executor of her mother's estate in Florida, for example, when Petitioner was the assigned representative in her mother's will and temporary guardianship papers. The negative orders were also posted on the Internet. Supple sent them to Law 360 knowing they were false and tainted, and that he personally had perpetrated a fraud. Prospective venture partners who are the clients with whom the Cowan defendants admitted to a conflict of interest to the USPTO in 2003-2007 - SDNY defendant Live Nation, Inc. and MLB –having expressed interest in “deals” incubating Petitioner's patent and interactive production company, backed out of signed letter contracts.

12. There then occurred an unprecedented and very suspicious ten-year delay before issuance of the continuation patent claims on August 2, 2022 (11403566) after the 7603321 patent was determined to be missing claims owed from the specification based on the torts by the Cowan defendants. The 566 claims in fact should have issued with the 321 patent in 2009 because they were based on the same continuation in part application, 11253912 filed October 18, 2005. The USPTO, however, having opened an investigation into the Cowan defendants' conflict of interest violations before the Office, took the remaining applications out of the queue for prosecution in due course. Revival applications costing \$37,000 in fees had to be filed or Petitioner would have lost her entire portfolio. Now, after 17

years, Petitioner retains the right to sue the original defendants including Cowan defendants for infringement, contributory infringement and patent delay damages even though the value of the patents has diminished considerably and only six years back of delay damages can be recovered. SCA Hygiene Products Aktiebolag v. First Quality Baby Products, 137 S. Ct. 954 (2017); NeuroRepair v. Nath Law Group, 781 F. 3d 1340 (Fed. Cir. 2015) There is no longer any defense of laches properly claimed. SCA Hygiene supra. Petitioner has suffered extreme emotional distress and desperation. Plus, from the negative postings on the Internet, Petitioner has had great difficulty getting a job or venture arrangements even with her vast digital ticketing experience.

13. The Cowan defendants and their defense attorney Supple are the parties at fault, not Petitioner. Supple has a long history of engaging in private meetings with magistrates and judges. Here Petitioner was a PRO SE litigant on remand because her attorney withdrew claiming the case was “rigged”. This Court must see that justice is done and clean the slate.

14. In 2002, the Cowan defendants offered Petitioner an illegal retainer to invest in her patent applications, a retainer proscribed by NY law. Buechel v. Rhodes, 285 AD 2d 274 (1<sup>st</sup> Dept. 1999). When Petitioner declined the offer and paid the firm, the Cowan defendants copied Petitioner’s complete inventorship files and client lists into the firm’s database using night staff (Jacqueline Revander) and filed defective applications under Petitioner’s name insufficient to maintain priority dates. Then the Cowan defendants never let Petitioner back into their offices. They

abandoned the filed applications admitting to conflicts of interest with other clients to the USPTO, failed to fix their mistakes and withdraw the holdings of abandonment and withheld the USPTO files. These acts lost Petitioner three patent applications, valuable priority dates in the ticketing portfolio and 17 years of patent protection. The first continuation in part application filed in 2005 after Petitioner invested \$37,000 into revival services issued as the first 321 patent after a nine-year delay. Petitioner also lost a PCT application in 2003 for global coverage.

15. Petitioner never got one hearing on her US patents in any NY court in 10 years on remand from the Second Circuit <sup>2</sup> in violation of the Fifth Amendment. That includes on the contributory infringement, fraudulent breach of fiduciary duty/conflicts of interest, abandonment and patent delay claims remanded against the Cowan defendants. Also, in defiance of *Gunn v. Minton*, 133 S. Ct. 1059 (USSC Tex.2013)(Roberts J.) and Petitioner's right to equal protection, the claims against the Cowan defendants were never remanded to state Supreme Court in response to Petitioner's motions. According to Chief Justice Roberts, in 2012 there was no arising under claim left on remand to adjudicate in the district court and no diversity of citizenship. The district court, however, kept the case, intending all along to dismiss the Cowan defendants on any ground no matter how illusory and never remanded to the state. The court ordered instead that Petitioner pay \$10,000

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<sup>2</sup> 462 Fed. Appx. 26 (2d Cir. Feb 10, 2012)

into the SDNY for a special patent master and never hired that master. It took almost three years to get the money refunded from the NY Legal Assistance Group.

16. Also significant, the new Judge did not compel withdrawal or disqualification of Supple and Hinshaw & Culbertson from the Cowan's SDNY retainer and allowed Supple to file frivolous summary judgment motions in 2017 when more than 50 genuine issues of facts existed based on the court's defiance of the Second Circuit order and never granting patent discovery. NY's Judiciary Law Part 1240.6d.

17. On June 23 2020 (20-1620), the Federal Circuit found that the Second Circuit had abused discretion in not transferring Petitioner's appeal to the summary judgment orders to its court in response to Petitioner's 28 USC §1631 motion, because it was arising under case by virtue of the denial of Petitioner's cross motion seeking non-joinder and contributory infringement damages.

Christianson v. Colt Industries Operative Corp., 486 US 800 (1988)(Brennan, J.); Carter v. ALK Holdings, 605 F. 3d 1319 (Fed. Cir. 2010) However, the Federal Circuit held that so many other state matters were involved, it was remanding the case. The reference of course was to the illegal orders entered from the domino effect caused by the CE officers. The case was then required to be remanded to the State by the 2d Circuit in 2020 because still none of the federal question claims had been granted in an amended complaint. See, e.g., Grant Williams v. Citicorp., 659 F. 3d 208 (2d Cir. 2011)

18. According to the Commissioner of Patents, the Cowan defendants and Supple continue to be investigated for crimes under Petitioner's retainer and were never granted withdrawal by the USPTO including for additional fraud in court files since the August 2, 2022 patent issued, and still withholding Petitioner's inventorship files.

19. Petitioner being instructed by the USPTO General Counsel James Payne, to send her grievances to the First Dept. attorney grievance committee ("AGC") did so. State AGC officers still never ordered production of the withheld USPTO and inventorship files from the Cowan defendants, the Cowan defenses responses or the unserved files entered *ex parte* by Supple, as Cowan's agent in violation of NY's Judiciary Law (JL) Part 1240.6d, .18.<sup>3</sup> To date, Petitioner's attempts to get her complete patent files have been shut down. There was a long delay in prosecution of the state Article 78 proceedings and state judges keep entering orders that they need not follow the preempting federal statutes that govern the duties of patent practitioners. The Supreme Court finding that the matter involved practitioner discipline, sent the first case to the Appellate Division that sua sponte dismissed the action without notice.<sup>4</sup> Art. 6, Cl. 2 US Constitution; 37 CFR 2.10, 2.19, 10.66, 11.116 (Index No. 2011-110774).

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<sup>3</sup>, It is unclear to Petitioner how the USPTO takes the position that its Office of Enrollment and Discipline (OED) has no authority to compel withheld patent files from a registered practitioner who admits to a conflict of interest and abandonment patent applications, but that is the position taken.

<sup>4</sup> 462 Fed. Appx. 26 (Feb. 10, 2012)

20. Finally, in April 2016, the first viable explanation for these atrocities surfaced. It was discovered that Supple, himself was a concealed executive consultant to First Dept. AGC, and since 2012 had been misusing his undisclosed state post to shuffle papers back and forth from his proscribed ex parte communications with the new SDNY Magistrate Henry Pitman since remand, into the state AGC files containing the Cowan ethics complaints and Petitioner's resignation files from the Third Dept. Supple had no warrant. Petitioner was a PRO SE litigant with issued US patents in the SDNY lawsuit on remand. Supple breached his fiduciary duties as a state officer to Petitioner and in fact breached Petitioner's attorney client privilege to Magistrate and to the CE officers. Supple engaged in Petitioner's unprivileged defamation and abuse of litigation privilege. Edelman, Combs & Lattuner v. Hinshaw & Culbertson, 338 Ill. App.3d 156 (2003). Supple was aided by the SDNY Judge's refusal to disqualify him as mandated by NY statutes (NY's Judiciary Law Part 1240.6d) and AGC officers giving him ex parte access to confidential state files. The Court's clear intent or mission since remand was to dismiss the Cowan defendants without legal justification.

21. By order of the Appellate Division entered April 21, 2016, however, Supple was caught red-handed and with another attorney, O. Lee Squitieri, entering and inserting unserved documents into the state files without a warrant. The SDNY's Magistrate's notes were located in those files. In the same order, however, five Appellate Division justices conceded they considered Supple's ex parte insertions but denied production of the documents in favor of Petitioner, **depriving**



**Petitioner of due process of law, and conflicting out the entire court.** JL

Part 1240.7, 1240.18 Supple's activities are criminal and he knew there was no jurisdiction over Petitioner from his proscribed dual representation of the Cowan defendants. JL Part 1240.18. Yet the Appellate Division still held that based on the Court's ex parte consideration of the unserved documents, it would not vacate a six-month sanction entered by the AGC officers, admittedly, without jurisdiction over Petitioner in 2012. Once the Appellate Division was conflicted out, it had no power or jurisdiction to enter further orders, and the order denying vacatur was void.

22. On appeal as of right to the NY Court of Appeals, the Court found the "*order does not finally determine the action within the meaning of NY's Constitution*". Ergo, not being a final order, it could not be used collaterally by the SDNY CE officers to delete Petitioner's name from the roster of attorneys as evidence of any attorney misconduct. Moreover, the order concedes that the NY Constitution was being applied in a federal patent case where federal law and USPTO statutes preempt the law of the state, making the matter a constitutional issue on its face. Art. 6, Cl. 2 US Constitution

23. Also significant is that Petitioner's First Dept. ethics complaints against the Cowan patent practitioners suffered the same fate as complaints filed against attorneys in state matters. They were ignored or "whitewashed" which is the term used by the AGC justices. *Anderson v. First Dept. AGC, State of NY et al.*, 614 F. Supp. 2d 404 (SDNY 2009)(Headnotes, 15, 16) The SDNY found in *Anderson v. State of NY*, that whenever an AGC officer is defending a reported lawyer in the

officer's private sector capacity, the complaints against the reported attorney are "whitewashed". Preempting patent practitioner statutes must be held by this Court to govern patent cases. An attorney who abandons patent applications must be compelled to produce the complete patent files of a client whether it be in the state or federal court. Art. 6, Cl. 2 of the United States Constitution. 37 CFR 2.10, 2.19, 10.66, 11.116, 1.36, 1.324. The state officers and judicial officers cannot continue to apply conflicting state laws and protocols.

24. On the other hand, NY's Judiciary Law Part 1240.7 mandates that to comply with due process, an attorney who is the victim of retaliatory targeting or harassment by state officers must be given the complete files in possession of the state including the responses from the reported attorney before entry of any order or sanction. JL Part 1240.7. Petitioner was never given her files, that is obvious. The inevitable conclusion is that the planting of fraudulent documents was a retaliatory ploy. However, the sanction order entered without jurisdiction in spite of denial of vacatur by the AGC justices engaging in disqualifying ex parte conversations with Petitioner's adversary is void.

25. Thereafter, Petitioner sought prospective injunctive relief under *Ex parte Young*, 209 US 123 (1908) before the EDNY for continuing improper application of state statutes in her patent infringement litigation and to get mandamus or injunctive relief to compel her files. Art. 6, Cl. 2. 19-cv-4739 (EDNY). Petitioner also sought determinations of the unconstitutionality of the state protocols. Petitioner also sought Article 78 relief in two parallel state mandamus

proceedings, the second that remains pending after five years. The mandamus petition served on the Third Dept. Hon. Elizabeth Garry, in 2017 was transferred sua sponte to the Fourth Dept. based on admitted conflicts of interest and was dismissed sua sponte. 529146 (3d Dept.); 19-01094 (4<sup>th</sup> Dept.). The NY Court of Appeals in response to an appeal as of right found again that the “*order is not final within the meaning of NY’s Constitution*”. Petitioner’s Article 78 petition filed against respondent presiding justice of the First Dept., Hon. Rolando Acosta, including to vacate the six-month sanction as an administrative duty, was also transferred sua sponte but this time to the 2d Dept. where it still remains pending after 5 years (01366-2018)

26. It remains unclear who drafted the six-month state sanction that was inserted into Petitioner’s state resignation file in December 2012. Petitioner never served in the capacity of attorney in any state case. Petitioner has filed complaints with the District Attorney that remain unanswered. However, because the NY Court of Appeals found the order did not finally determine the action, it was unusable by the SNDY CE collaterally to mar Petitioner’s stellar district court record by removing her name. Likewise, whoever altered Petitioner’s resignation designation in the NY Office of Court Administration to change that designation first to “retired” and then “suspended” is guilty of a crime.

27. Mandamus relief was also property sought in the EDNY to compel state officers to discharge their administrative duties and produce the complete state files related to the Cowan patent practitioner ethics complaints and the

corrupted files inserted by Supple as Cowan defendants' agent. The denial of relief by the EDNY is now the subject of an application for stay. Relief was required to be granted. Virginia Office of Protection and Advocacy v. Stewart, 563 US 247 (2011)(Scalia, J.); Sprint Communications v. Jacobs, 571 US 69 (2013)(Ginsburg, J.)

28. The Federal Circuit inferred a negative implication from these corrupt SDNY and state orders. In essence, it would not hear the appeal and instructed Petitioner to revolve her patent matters with the Second Circuit. It is unclear whether the Federal Circuit had this power. Christianson v. Colt Industries Operating Corp., 486 US 800 (1988)(Brennan, J.) However, if the SDNY denies a further Rule 60(b) motion and amended infringement complaint based on the August 2, 2022 new patent, the Federal Circuit could be hard-pressed not to hear the appeal. [Anza Technologies v. Mushkin, 934 F. 3d 1359 (Fed. Cir. 2019)] because every time a new patent issues to an inventor during a patent litigation that was anticipated in a well pleaded complaint, the duty of the court under the liberal pleading rules of the Second Circuit law is to grant the amended complaint against the named defendants even if a prior judgment must be vacated. Metzler Investments, GmbH. v. Chipotle Mexican Grill, 970 F. 3d 133 (2d Cir. 2020). . Bytemark v. Xerox, 2022 WL 94859 (SDNY 2022); Protostorm v. Antonelli, Terry, Stout & Kraus, 673 Fed. Appx. 107 (2d Cir. 2016).

### III. ADDITIONAL IMPORT TO THE PATENT INDUSTRY

29. In *Anderson v. State of NY*, 614 F. Supp. 2d 404 (SDNY 2009), Headnotes, 15, 16, the SDNY cited members of the First Dept. AGC, certain state justices, and Chief Clerk of the Appellate Division Catherine O'Hagan Wolfe (now chief clerk of the Second Circuit) for retaliatory harassment and unlawful termination of Christine Anderson, an AGC triage attorney assisting aggrieved clients file ethics complaints against NYC lawyers. In *Esposito v. State of NY*, 2007 WL 3523910 a client was denied AGC remedial orders against her attorney for sexual assault.

30. In *Anderson*, the SDNY found the plaintiff's claims, i.e., that if Anderson could prove at trial she was retaliated against for protecting the rights of public citizens to file ethics complaints against NYC attorneys, she could recover \$10mil on that claim. The court also agreed with Anderson's other premise, i.e., that if a member of the First Dept. AGC was defending an attorney reported by a client to the AGC, the client's complaint was "*whitewashed*" almost 100% of the time. This order led to a change in the law and enactment to the JL Part 1240 Amendments.

31. JL Section 1240.6d proscribes any attorney serving on the AGC when a complaint against a lawyer is filed from accepting the retainer of the lawyer if the client sues the lawyer. The theory is that AGC officers including appointees like Supple who have the actual and apparent authority to bind the State, owe a fiduciary duty to the aggrieved client and not the attorney. If the AGC officer

accepts retainer for the reported client and switches hats, so to speak, there is a strong likelihood, as occurred here, that the client's attorney client privilege will be breached during litigation. See, e.g., *Spalding Sports Worldwide v. Wilson*, 203 F. 3d 800 (Fed Cir. 2000). In this case, Supple breached Petitioner's attorney client privilege he became bound to hold sacrosanct by combing the AGC ethics complaint files against the Cowan defendants and engaging in Petitioner's unprivileged defamation to Magistrate Pitman in ongoing illegal ex parte conversations while Petitioner was PRO SE before the Court. Petitioner did not learn of Supple's breaches of attorney client privilege with the help of AGC officers until the confidential information was already out in public orders, way too late to apply for an emergency stay. *Von Bulow v. Von Bulow*, 81 F. 2d 136 (2d Cir. 1987); *Spalding Sports Worldwide v. Wilson*, 203 F 3d 800 (Fed. Cir.2000).

32. In this case, based on ongoing unlawful ex parte conversations with Supple, Magistrate was petitioned to recuse himself. Magistrate failed to do so, and the denial of recusal must be reviewed by this Court in the Writ of Certiorari. 28 USC §455(a).

33. Instead, Magistrate left the case and the Court but not without recommending that Petitioner be sanctioned for "bothering" the Cowan defendants! Who would believe this ludicrous statement? Magistrate told Petitioner to leave the Cowan defendants alone in open court on January 3, 2013 and did not record the hearing. Magistrate's mission from the time he was assigned the helm on remand was to blame Petitioner for crimes of the Cowan defendants and their agent Supple,

and never granted the patent discovery or amended complaint ordered by the Second Circuit. Magistrate and the next judge Lorna Schofield then improperly interfered with Petitioner's strict liability patent recoveries against the named defendants that were virtually foolproof. Anza Technology v. Mushkin, 934 F. 3d 1359 (Fed. Cir. 2019); Metzler Investments Gmbh v. Chipotle Mexican Grill, 970 F. 3d 133 (2d Cir. 2020) Grant Williams v. Citicorp., 659 F. 3d 208 (2d Cir. 2011); NeuroRepair v. Nath Law Group, 781 F.3d 1340 (Fed. Cir. 2015); Christianson v. Colt Industries Operating Corp., 488 US 800 (1988)(Brennan, J.); Cold Spring Harbor Laboratories v. Ropes & Gray, 834 F. Supp. 2d 141 (D. Mass 2011); Vaxiion v. Foley & Lardner, 594 F. Supp. 2d 1153 (SD CA 2008); Landmark Screens v. Morgan Lewis & Bockius, 676 F. 3d 1345 (Fed. Cir. 2012); See also, Portus Singapore v. Kenyon and Kenyon, 449 F. Supp. 3d 402 (SDNY 2020); Bytemark v. Xerox, 2022 WL 94859 (SDNY 2022); Protostorm v. Antonelli, Terry, Stout & Kraus, 673 Fed. Appx. 107 (2d Cir. 2016); Carter v. ALK Holdings, 605 F. 3d 1319 (2010). Magistrate and Judge Schofield also did not remand the case to state Supreme Court in defiance of Gunn v. Minton, 133 S. Ct. 1059 (USSC Tex.2013)(Roberts J). It remains unclear how Magistrate got appointed by CE officers on remand without a supervising judge or the consent of both parties in the first instance. His appointment is 180 degrees contra to the protocol of the Court. Per Justice Roberts, without an independent basis for federal district court jurisdiction such as diversity, the case against the Cowan defendants as remanded was not an arising under case, and there was no jurisdiction to continue adjudication in the district court.

34. Petitioner's motion to vacate the 2017 summary judgment order based on the issuance of the delayed 2022 patent claims should be granted as axiomatic under Second Circuit law. The patent is newly discovered evidence of anticipated claims that could not have been discovered earlier with all due diligence. Metzler Investments GMBH v. Chipotle Mexican Grill, 970 F. 3d 133 (2d Cir. 2020). The Court should grant Petitioner equal protection and remand the case to the State after the amended complaint is granted for service. Gunn v. Minton, 133 S. Ct. 1059 (USSC Tex.2013); Grant Williams v. Citicorp. 659 F. 3d 208 (2d Cir. 2011)].

35. The atrocity of this case is no better demonstrated than by the shocking documents inserted by Supple ex parte into the Appellate Division files, admittedly without service on Petitioner. Recently located is a 2009 draft photocopied petition created by Supple with AGC chief counsel Jorge DoPico containing the purported embossed signature of 2002 Chief Counsel Paul Curran. Curran left the AGC in 2002 and was dead of cancer in 2007. He never signed this document. Neither did any reigning member of the AGC. A new address for Petitioner at the time of the World Trade Center disaster has since appeared in the file, PO Box 1523, NYC. Petitioner being injured on 9-11 covering the news for PBS from the Trinity Church, lost her apartment, and being asthmatic was forced to leave mail in a PO Box while she was in forced relocation in Times Square for four months.

36. The question is who drafted the six-month sanction knowing it was false and there was no jurisdiction? Under NYExL 63-1, the NYS Attorney General



is required to provide a defense for AGC staff attorneys, chief counsels and presiding justices. If a staff attorney whips up forged documents and communicates his crimes to AG, they become privileged. If the justice learns of the crimes, his communications with AG become privileged. Ergo, it is impossible for the respondent to ever get his complete state files produced compliant with due process and JL Part 1240.7 to defend even fraudulent sham charges, because the documents necessary for confrontation and a defense become privileged communications of state officers.

37. Petitioner challenged the constitutionality of the promulgated state protocols deployed to deny her access to the courts in NY to protect her US patents and correct her stellar record. A proper challenge was filed in 2019 before the EDNY. (19cv4739) The claims were denied sua sponte. A stay of orders is also sought from this Court. *DC Court of Appeals v. Feldman*, 460 US 462,470 (1983) (Brennan, J.)

38. The SDNY CE order and the six-month sanction however, both being illegally entered, without jurisdiction and void, have nonetheless seen a domino effect in and out of state. The prejudice to Petitioner cannot be calculated in damages and continues. It must stop.

39. There is no other remedy at law. All Petitioner's remedies have been exhausted. Three attempted appeals as of right to the NY Court of Appeals in this matter, always got the same answer that the "order is not final within the meaning of NY's Constitution". Such order is a smokescreen. It does nothing but leave the

door open for a collateral attack and mandamus relief before the federal district courts that in NYS denied relief. Neither the state nor the federal district court can legally deny relief to an inventor in a patent case.

#### IV. MEMORANDUM OF LAW

40. Rule 46(b)(1)(A) provides that “[a] member of the federal court’s bar is subject to suspension or disbarment by the court if the member ... has been suspended or disbarred from practice in any other court.” However, the Court must consider a response from the “attorney”, and the court may impose identical discipline **unless the attorney demonstrates at hearing that:**

- (1) The prior procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process (applies here);
- (2) There was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject (applies here); or
- (3) The imposition of the same discipline by this Court would result in grave injustice (applies here); or
- (4) the misconduct warrants substantially different discipline (N/A).

DC Cir. Rules App. II, Rule IV(c). *Selling v. Radford*, 243 US 46, 51, 37 S. Ct. 377, 61 L. Ed. 585 (1917) establishes the same criteria for reciprocal discipline based on a **final** state court discipline order. However, notice and an opportunity to be heard must be afforded the attorney before any sua sponte deletion of the attorney’s name

See also, In re Sibley, 534 F. 3d 1335 (DC Cir. 2009). Moreover, it is axiomatic that if no final order is entered in the state, no collateral estoppel or res judicata application may be given the order in the circuit.

41. Petitioner is not subject to the jurisdiction of the State of NY in the capacity of an attorney since 1998. There was never any disciplinary action taken against Petitioner in California. And there was no jurisdiction to enter any order against Petitioner in the State of NY. Ergo if a six-month sanction in the capacity of an attorney was entered into Petitioner's otherwise stellar record by the State of NY, it was entered without jurisdiction and void. The NY Court of Appeals being petitioned for an appeal as of right on clear constitutional grounds including Art. 6, Cl. 2 found the relevant orders related to US patents non-final without the meaning of NY's Constitution. Index No. 2022-0056. Ergo per the highest court in New York, there was no final state order that could be applied collaterally that would have allowed Executive (CE) officers to legally remove Petitioner's name from the SDNY roster of attorneys.

42. The acts of state AGC officers and then CE officers targeting Petitioner without jurisdiction are deemed breaches of purely administrative, non-judicial functions not protected by immunity. Forrester v. White, 484 US 219 (1988); Stump v. Sparkman, 435 US 349 (1978); accord, Alvarez v. Synder, 264 AD 2d 27 (AD 1<sup>st</sup> Dept. 2000). The illegal targeting had and continues to have the cascading effect of causing forfeiture of Petitioner's strict liability infringement and patent taking recoveries in the SDNY, NY Court of Claims. (135611) and before other courts.

43. The burden of showing why a federal court should not impose identical discipline rests with the attorney. *Ibid; In re Calvo*, 88 F. 3d 962, 967 (11<sup>th</sup> Cir. 1996); *In re Thies*, 662 F. 2d 771, 772 (DC Cir. 1980) (noting that *Selling* found state disbarment gives rise to rebuttable presumption that attorney lacks character to remain member of federal bar).

44. Here, because collateral estoppel was never legally applied and Petitioner, a California attorney, was denied notice, hearing and service of the order, she was intentionally deprived of the right to respond to an entered order she knew nothing about.

45. In her petition seeking a writ of certiorari, Petitioner will argue that the US Supreme Court must wipe the slate clean for reasons including:

(1) The SDNY CE order was not legally entered because there was no final order from the state from which collateral estoppel or res judicata could be properly applied.

(2) The Third Dept. Dan Brennan accepted Petitioner's voluntary resignation in 1998 as did the NYS Office of Court Administration (Denise Rajpal). Ergo, there was no jurisdiction over Petitioner in favor of the State of NY in the capacity of an attorney since 1998 that could legally allow entry of a six-month sanction order in 2012 - 14 years after voluntary resignation was accepted. The SDNY CE officers could not rely on a void state order that was determined non- final by the NY Court of Appeals without notice and hearing.

(3) As conceded by the Appellate Division First Dept. in its order entered

April 21, 2016 in response to its administrative duty to vacate the six-month sanction [See, *Wilcox v. Supreme Council of Royal Arcanum*, 210 NY 370 (1914), the court never ordered production of the state files including those entered and corrupted by Supple in violation of due process and JL Part 1240.7. The proceeding was so lacking in due process as to be considered a joke.

(4) NY's Judiciary Law Part 1240.7 separately mandates production of the complete AGC files to a respondent in an AGC proceeding prior to entry of any sanction or disciplinary order. No files were produced including those demonstrating retaliatory harassment for the filing of ethics complaints against the Cowan patent practitioners.

(5) As a coverup, the state refers to a 2000 HUD housing matter while Petitioner was in medical school wherein Petitioner was represented by an attorney at all times, was not an attorney in the case, and had already voluntarily resigned from the Third Dept. The US Supreme Court requires that an attorney is practicing in a representative capacity to be subject to disciplinary jurisdiction by a state.

(6) The Appellate Division was conflicted out after conceding to considering the ex parte documents inserted by Supple that Petitioner never saw and could not legally enter any further orders. Magistrate was also immediately required to recuse based on ex parte conversations with Supple.

(7)The state officers who targeted Petitioner without jurisdiction are not protected by immunity, demonstrating a motive for continued harassment and ex parte crimes in her files. *Forrester v. White*, 484 US 219 (1988); *Stump v. Sparkman*, 435 US 349 (1978); *Alvarez v. Snyder*, 264 AD 2d 27 (AD 1<sup>st</sup> Dept. 2000)

(8) Even if discipline could have been identically applied which in this case it could not, only a six-month sanction was permitted by the SDNY CEs until 2013. That time expired and no permanent removal was legally permitted.

(9) The AGC officers in the First Dept. have been cited for retaliatory harassment and illegal targeting of individuals who file ethics complaints against their lawyers and character and past instances of conduct are admissible at a hearing. A hearing was denied Petitioner.

(10) US patent practitioner statutes dictate the remedies to be afforded an inventor-client before in the state grievance panels, and state AGC orders based on conflicting state laws and protocols must be reversed.

(11) The order of the SDNY CE officers was a ploy and part of a continuing sham. Petitioner's previous amended complaint post first patent issuance date stamped on April 22, 2010 was also removed from SDNY adjudication without notice or hearing, losing Petitioner her attorney and proving corruption within the court. Ergo, Petitioner's attorney's statement that the case was "rigged" appears to have been accurate. However, the court should not have granted unilateral withdrawal to Petitioner's attorney and left her PRO SE in the court on remand with issued patents and a biased Magistrate.

46. Petitioner demonstrates clear success on the merits and meets the four criteria hands down to be granted both a stay and mandamus relief.

As held by Justice Roberts in *Nken v. Holder*, 556 US 418 (2009):

"An appellate court's power to hold an order in abeyance while it assesses the legality of the order has been described as "inherent," preserved in the grant of authority to federal courts to "issue all writs necessary or appropriate in aid of their

respective jurisdictions and agreeable to the usages and principles of law,” All Writs Act, 28 USC §1651(a); *In re McKenzie*, 180 US 536, 551, 21 S. Ct. 468, 45 L. Ed. 657 (1901) The Court highlighted the historic pedigree and importance of the power in *Scripps-Howard*, 316 US 4, 62 S. Ct. 857, 86 L. Ed. 1229 holding in that case that Congress’s failure to expressly confer the authority in a statute allowing appellate review should not be taken as an implicit denial of that power...

The authority to hold an order in abeyance pending review allows an appellate court to act responsibly. A reviewing court must bring considered judgment to bear on the matter before it, but that cannot always be done quickly enough to afford relief to the party aggrieved by the order under review. The choice for a reviewing court should not be between justice on the fly or participation in what may be an “idle ceremony.” *Id.*, at 316 US 10, 62 S. Ct. 857. The ability to grant interim relief is accordingly not simply “[a]n historic procedure for preserving rights during the pendency of an appeal,” *Id.*, at 15, 62 S. Ct. 875. but is also a means of ensuring that appellate courts can responsibly fulfill their role in the judicial process...

The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion. See, e.g., *Clinton v. Jones*, 520 US 681, 708, 117 S. Ct. 1636, 137 L. Ed. 2d 945 (1997) *Landis v. North American Co.*, 229 US 248, 255, 57 S. Ct. 163, 81 L. Ed. 153 (1936)

‘[A] motion to [a court’s] discretion is a motion, not to its inclination, but to its judgment; and its judgment is to be guided by sound legal principles.’ ” *Martin v. Franklin Capital Corp.*, 546 US 132, 139, 126 S. Ct. 704, 163 L. Ed. 2d 547 (2005)(quoting *United States v. Burr*, 25 F. Cas. 30, 35 (No. 14,692d) (CC Va. 1807)). The legal principles to be considered have been distilled into the weighing of four factors: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured

absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Hilton, supra* at 777, 107 S. Ct. 2113. There is substantial overlap between these and the factors governing preliminary injunctions, see *Winter v. Natural Resources Defense Council, Inc.*, 555 US 7, 24, 129 S. Ct. 365, 376-377, 172 L. Ed. 2d 249 (2008); not because the two are one and the same, but because similar concerns arise whenever a court order may allow or disallow anticipated action before the legality of that action has been conclusively determined. *Nken v. Holder, supra*, at 556 US 434.

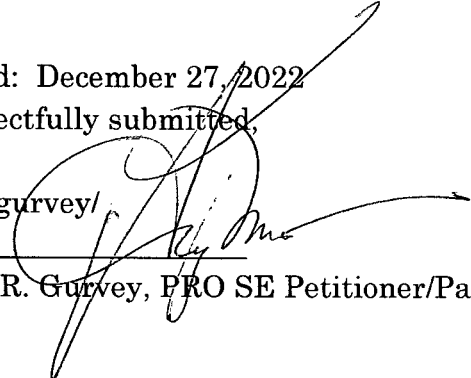
## V. CONCLUSION

**WHEREFORE**, based on the foregoing Petition and the supporting orders and documents printed in the Appendix hereto, Petitioner respectfully prays that an Emergency Stay issue against the Second Circuit, SDNY and EDNY on all *cascading orders* pending determination of Petitioner’s Writ of Certiorari.

Dated: December 27, 2022

Respectfully submitted,

/amygurvey/

  
\_\_\_\_\_  
Amy R. Gurvey, PRO SE Petitioner/Patentee



# EXHIBIT 1

# *State of New York*

## *Court of Appeals*

*Decided and Entered on the  
eighth day of September, 2022*

**Present**, Hon. Jenny Rivera, *Senior Associate Justice, presiding.*

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SSD 24

In the Matter of Amy R. Gurvey,  
Appellant,

v.

Elizabeth A. Garry, &c. et al.,  
Respondents.

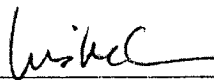
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Appellant having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

ORDERED, that the appeal is dismissed without costs, by the Court *sua sponte*,  
upon the ground that the order appealed from does not finally determine the proceeding  
within the meaning of the Constitution.

Acting Chief Judge Cannataro took no part.



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Lisa LeCours  
Clerk of the Court

SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

OP 19-01094

PRESENT: SMITH, J.P., CENTRA, PERADOTTO, LINDLEY, AND CURRAN, JJ.

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IN THE MATTER OF AMY R. GURVEY, PETITIONER,

V

ELIZABETH A. GARRY, PRESIDING JUSTICE, NEW YORK STATE  
SUPREME COURT, APPELLATE DIVISION, THIRD DEPARTMENT, ET  
AL., RESPONDENTS.

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Petitioner having moved for renewal in this CPLR article 78 proceeding transferred to this Court by an order of the Appellate Division, Third Department, entered June 6, 2019,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon,

It is hereby ORDERED that the motion is denied.

*Ann Dillon Flynn*

Entered: May 10, 2022

Ann Dillon Flynn  
Clerk of the Court

Supreme Court  
APPELLATE DIVISION  
Fourth Judicial Department  
Clerk's Office, Rochester, N.Y.



*I, ANN DILLON FLYNN, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original document, now on file in this office.*



*IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this*      **DEC 28 2022**

*Ann Dillon Flynn*  
\_\_\_\_\_  
Clerk

# EXHIBIT 2

# *State of New York*

## *Court of Appeals*

*Decided and Entered on the  
fourteenth day of October, 2021*

**Present**, Hon. Jenny Rivera, *Senior Associate Judge, presiding.*

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Mo. No. 2021-613

In the Matter of Amy R. Gurvey,  
Appellant,

v.

Rolando T. Acosta, &c.,  
Respondent.

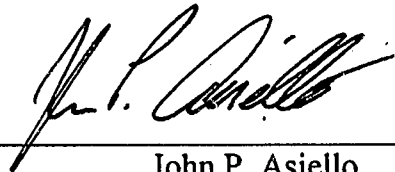
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Appellant having moved for leave to appeal to the Court of Appeals in the above  
cause;

Upon the papers filed and due deliberation, it is

ORDERED, that the motion is dismissed upon the ground that the order sought to  
be appealed from does not finally determine the proceeding within the meaning of the  
Constitution.

Chief Judge DiFiore took no part.



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John P. Asiello  
Clerk of the Court

# EXHIBIT 3

# *State of New York*

## *Court of Appeals*

*Decided and Entered on the  
twenty-sixth day of June, 2018*

**Present**, Hon. Jenny Rivera, *Senior Associate Judge, presiding.*

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SSD 34

In the Matter of Amy R. Gurvey,  
Appellant,

v.

Rolando T. Acosta, &c.,  
Respondent.

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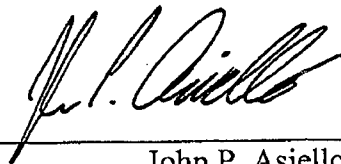
Appellant having appealed to the Court of Appeals in the above title;

Upon the papers filed and due deliberation, it is

ORDERED, that the appeal is dismissed without costs, by the Court sua sponte,

upon the ground that no substantial constitutional question is directly involved.

Chief Judge DiFiore took no part.



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John P. Asiello  
Clerk of the Court



# EXHIBIT 4

# *State of New York*

## *Court of Appeals*

*Decided and Entered on the  
twenty-sixth day of November, 2019*

**Present**, Hon. Jenny Rivera, *Senior Associate Judge, presiding.*

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Mo. No. 2019-880

In the Matter of Amy R. Gurvey,  
Appellant,

v.

Elizabeth A. Garry, &c. et al.,  
Respondents.

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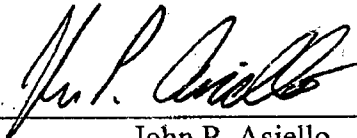
Appellant having appealed and moved for ancillary relief in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, on the Court's own motion, that the appeal is dismissed, without costs, upon the ground that no substantial constitutional question is directly involved; and it is further

ORDERED, that the motion for ancillary relief is dismissed as academic.

Chief Judge DiFiore took no part.



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John P. Asiello  
Clerk of the Court

# EXHIBIT 5

amyg@live-fi.com  
NEW: 7302 Woodstone Circle  
Princeton, NJ 08540  
October 25, 2022

CONFIDENTIAL

Chief Judge Debra Livingston  
US Court of Appeals for the Second Circuit  
40 Foley Square  
New York, NY 10007

Re: Petition for Writ of Mandamus *In re Gurvey* 22-725 (2d Cir. 2022)  
Administrative Grievance against SDNY Circuit Executive

Dear Judge Livingston:

I am a US Patentee, CEO of LIVE-Fi® Technologies, LLC and sole named inventor of the standard essential patents in ticketing management in the United States. [Gurvey US Patent Nos. 11403566 (August 2, 2022), D647910S (November 1, 2011), 7603321 (October 13, 2009).]

I am sorry to file this serious grievance against SDNY Circuit Executive officers. But in violation of mandates of the US Supreme Court, *Erickson v. Pardus*, 551 US 89 (2007), I was unlawfully discriminated against and denied PRO SE access to the SDNY for 12 years to enforce my US patents against infringers residing in or doing business in this district in a previous lawsuit, 06cv1202. In March 2022, six months ago after investigation, I finally discovered the reason, i.e., that SDNY Circuit Executive officers removed my good name from the roster of attorneys in 2013 without notice, hearing and due process of law after engaging in unnoticed conversations with former Magistrate Henry Pitman. Investigation confirmed that since 2012, Magistrate was engaging in unlawful *ex parte* conversations with my previous adversary, Richard Supple, Esq., who was defaming me to the court while I was a pro se litigant, and shuffling unserved and forged papers into state files. Magistrate left the case and the court, but not after doing serious damage to my stellar reputation and marring my record in the SDNY CE Office. Documents found in the state files entered and corrupted by Supple included a 2009 photocopied petition affirmation purporting to contain the signature of 2002 AGC Chief Counsel Paul Curran, who was dead of cancer in 2007.

My letters to reinstate my name for CE officers to discharge their administrative duties and order a hearing on reinstatement remained ignored for six months. I had and retain the absolute right under law to have my name reinstated to the attorney roster. I am in excellent standing in the State of CA and admission in NYS is not required. *In re Gouiran*, 58 F. 3d 54 (2d Cir. 1995); *Selling v. Radford*, 243 US 46 (1917).

A petition seeking a writ of mandamus was filed in this Court to compel SDNY CE administrative officers to discharge their duties. **I have no other remedy at law.** Plus extreme manifest injustice was caused to me in the previous litigation.

My mandamus petition was timely. It was accompanied by check for \$500 that was cashed on May 16, 2022. The check was hand delivered to the clerk, Richard Alcantara. However, the 22-725 docket incorrectly says in Entries 1-14 that "no appeal fee was paid" and default was entered based on non-payment of the fee". Based thereon, I believe there may have been a mix-up with a motion for reconsideration to the dismissal of the previous SDNY lawsuit after the delayed, essential 566 anticipated patent issued on August 2, 2022. That patent constitutes new evidence sufficient to vacate the previous order of the SDNY granting summary judgment to the patent lawyers under Rule 60(b)(6) after the court lost jurisdiction. (22-840). However, there is no order entered on the mandamus docket, 22-725, specifically denying reinstatement of my name to the SDNY docket. The exhibits appended to the motion establish absolutely proper ground for reconsideration and that the August 11, 2022 order was unresponsive to the motion to reinstate my name demonstrating clear abuse of discretion. Had an order denied reinstatement of my name to the roster, it would be immediately appealed to the US Supreme Court and sent to the USPTO Commissioner of Patents, as further evidence that my Fifth Amendment rights were defied by judicial officers during the previous lawsuit.

**Contrary to the orders entered on the 2d Circuit docket, the 22-725 mandamus petition is not an appeal.** The petition was based on a verbal statement made to me personally by CE attorney, Julie Allsman, Esq., i.e., that former Magistrate Pitman told her that I was sanctioned as an attorney for six months by a judge in NYS. Even if that statement were true which is not, it does not permit sua sponte removal of my name from the SDNY docket without a hearing. In fact the state judge, who is no longer serving on the state bench just happened to be Supple's immediate supervisor at the First Dept. attorney grievance committee ("AGC"). AGC is where since 2004, Supple was holding a concealed dual post without disclosing conflicts of interest, and in fact could never accept representation of the Cowan patent attorneys because he was serving when I sought return of my withheld patent files from state officers. Judiciary Law Part 1240.7.

In addition, per an order entered by the Appellate Division First Dept. on April 21, 2016, Supple was found to have entered and corrupted the state files containing these ethics complaints and my 1998 retirement bar files from the Third Dept. Investigation confirmed that Supple removed the ethics complaints and also inserted notes from his illegal conversations with Magistrate Pitman, causing the ludicrous sanction to be entered without jurisdiction. When the AD admitted in the same order it considered Supple's inserted notes without giving me access in further violation of due process, the entire court was conflicted out and prevented from further entering orders including vacating the 2012 order. Wilcox v. Supreme Council of Royal Arcanum, 210 NY 370 (1914). This matter is before the NY Court of Appeals.

My written requests to reinstate my name addressed to CE attorney Allsman, SDNY Chief Judges Laura Taylor Swain and Colleen McMahon, were ignored. Other than seeking an injunction under Ex parte Young, 209 US 123 (19098), I have no other remedy to abort continued violations of my constitutional rights and prevent further manifest injustice to my patents and reputation. At the very least, a hearing must be ordered on Supple's in-court fraud and deceit, abuse of litigation privilege and unprivileged defamation and sanctions awarded to me. Amalfitano v. Rosenberg, 12 NY 3d 8 (2009); 533 F. 3d 117 (2d Cir 2007)

In addition, I did suffer serious manifest injustice. My docketed motion to file an infringement amended complaint post patent issuance in 2009 was date stamped on April 22, 2010, printed in Vol. III of pp. 671 et seq. of the first appeal, 09-2185;10-4111 (2d Cir), but "somehow" removed sua sponte from the docket by the CE Office by the time the case was remanded in 2012. The infringement amended complaint was never reinstated or granted for service as required both by Federal Circuit and Second Circuit law in the previous lawsuit. The complaint was never granted. Anza Technologies v. Mushkin, 934 F. 3d 1359 (Fed Cir. 2019); Grant Williams v. Citicorp., 659 F. 3d 208 (2d Cir 2011); Metzler Investments GmbH v. Chipotle Mexican Grill, 970 F. 3d 133 (2d Cir 2020). In addition, I never got the patent and fraudulent breach of fiduciary duty discovery ordered by the 2d Circuit. 462 Fed. Appx. 26 (2012). Judge Schofield, who took over for Magistrate in 2015m did not disqualify Supple as mandated by JL Part 1240.6d. Unbelievably, the Judge ordered that I pay \$10,000 into the SD Cashier for a special patent master who was never hired. It took 2 ½ years to get the money refunded with the assistance of the NY Legal Assistance attorneys.

Moreover, without an infringement amended complaint granted, US Supreme Court mandates required that the state claims against the sued patent lawyers be remanded to the state Supreme Court because there was no diversity of citizenship to confer an independent basis for federal jurisdiction. Gunn v. Minton, 133 S. Ct. 1059 (USSC Tex. 2013). My motion to remand was improperly denied. Instead, the lawsuit against the patent lawyers was dismissed based on erroneous tabulation of the statutes of limitations. Fraudulent breach of fiduciary duty, non-joinder torts and defiance of conflict of interest mandates before the USPTO have a 6-year statute in NYS. 37 CFR 2.10, 2.19, 10.66, 11.116, 1.36, 1.324.

The essential 566 patent that just issued on August 2, 2022 continues to be willfully infringed by Cowan clients, MLB/MLB Advanced Media, a resident of NYC, and Live Nation Entertainment, another Supple client. My name must be reinstated to the SDNY roster of attorneys so as not to further prejudice my strict liability infringement rights against these and other entities guaranteed by the Fifth Amendment.

Respectfully submitted,  
Amy R. Gurvey  
US Patentee PRO SE

Office of SDNY Circuit Executive, Hon. P. Kevin Castel



Adv Plus Banking - 9834 : Account Activity

Transaction details

Posting date	May 19, 2022
Description	Check
Type	Check
Status	Cleared
Check #	277
Amount	-\$500.00
Description	Check
Merchant name	Check
Transaction category	Cash, Checks & Misc: Checks

# 22-725 (2d) Mercedes Mercedes 277  
 AMY R WEISSBROD-GURVEY (20-1986) - Jacate Mercedes 277  
 Date May 6, 2022 55-33/212 NJ 2986

Pay To The Order Of

US Custody Appeals 2d Cir. | \$500.00  
 Five Hundred 00/100 Dollars



ACH R/T 021200339

For # 22-725 (2d Cir.) [Signature]

⑆021200339⑆ 381045879834⑆02??

[re-fi.com](mailto:re-fi.com)

917-733-9981

October 21, 2022

Clerk's Office

US Court of Appeals for the Second Circuit

40 Foley Square, Room 150

New York, NY 10007

Attn: Richard Alcantara, Chief Clerk; Yana Segal, Case Manager

Re: In re Gurvey, US Patentee PRO SE Case No. 22-725 (2d Cir.)

Gurvey v. Cowan Liebowitz & Latman, Live Nation, Instant Live Concerts, LLC, Mike Gordon, 06cv1202, 22-840 (2d Cir.), 462 Fed. Appx. 26 (2d Cir 2012), M-5775( AD 1<sup>st</sup> Dept)(April 21, 2016)

To the Honorable Court:

This is a motion for this Court to take judicial notice of additional public dockets and a related infringement action, Front Row v. MLB Advanced Media, 2012 WL 6736301 (D N. Mex.) that contain evidence of further conflicts of interest violations and corruption before the United States Patent and Trademark Office and Appellate Division First Dept. attorney grievance committee ("AGC") undertaken by partners at the NYC IP law firm of Cowan Liebowitz & Latman and their agent/defense attorney Richard Supple (formerly of insurance defense firm Hinshaw & Culbertson, LLP ) to protect the Cowan firm from strict liability aiding and abetting willful infringement of Gurvey patents by other clients.

The principal takers and infringers of Gurvey ticketing management patents are NYC residents MLB and MLB Advanced Media that are trademark clients of SDNY defendant and Cowan partner Midge Hyman. <sup>1</sup> In addition, Gurvey must now sue SDNY defendant Live Nation, Inc. for the second time for willful infringement because Gurvey's first infringement amended complaint docketed on April 22, 2010 post patent issuance was removed from the SDNY docket in 2011 without notice, hearing or due process. The amended complaint with Rule 60(b) motion was located in the SDNY Cashier's files and with full affidavits of service in the Chambers of former Judge Barbara S. Jones. The motions were also printed in the 2d Circuit Appendix Vol. III, pp. 671 et seq., 09-2185;104111 (462 Fed. Appx. 26)(2012). At this time, the

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<sup>1</sup> US Patent Nos. 11403566, D647910S, 7603321; US Copyright Reg. No. TXu001265644



American Invents Act was not yet enacted and the standards for recovering infringement damages were less stringent than they became after enactment of the AIA.

Now, however, it was also discovered for the first time in March 2022 that Gurvey's name was unlawfully removed from the SDNY roster of attorneys in 2013 without notice, hearing and in contumacious defiance of due process of law by Officers of the SDNY Circuit Executive based on ex parte conversations with former Magistrate Henry Pitman and Supple. Supple was dually serving as a concealed executive officers dually serving on the First Dept. attorney grievance committee ("AGC"), and was found by the AD First Dept. in an order entered April 21, 2016 to be shuffling forged papers including Magistrate's notes from unlawful ex parte conversations. At this time, Gurvey was a PRO SE Patentee left by a withdrawn attorney, O. Lee Squitieri, Esq., in the SDNY lawsuit who was also cited by the Appellate Division in its order. However, by statute, Supple and with his firm Hinshaw & Culbertson could never lawfully accept the Cowan firm's SDNY retainer because Supple and Hinshaw partner Hal Lieberman were serving as executive AGC members and chief counsels when Gurvey filed patent practitioner ethics complaints against the Cowan defendants beginning in 2004. JL Part 1240.6d.

The Appellate Division admitted in its 2016 order, it considered Supple's inserted ex parte papers while Gurvey was a PRO SE litigant and never gave Gurvey access to the state files, conflicting out the entire court. A former constitutional challenge was filed by Gurvey before the EDNY in 2019 to the innate discrepancy between Judiciary law Part 1240.7 that requires all attorneys in a disciplinary proceeding to be served with the complete files and NY's Executive Law subd. 63-1 that designates AG as the defense attorney for AGC staff attorneys and the presiding AGC justice, making all communications including admission of forgery of documents and acts against an attorney without jurisdiction, privileged. DC Court of Appeals v. Feldman, 460 US 462, 470 (1983)(Brennan, J.)

#### NEW EVIDENCE

In 2019, investigation at the USPTO revealed that a company, Front Row, had in 2012 filed for US patents for the transmission of pro sports video to mobile devices. These patents were invalidated during that lawsuit as abstract ideas. Relevant to the instant matter, however, is that Front Row's infringement complaint listed as defendants MLB Advanced Media, Cowan's principal client, and three other residents of 1133 Avenue of the Americas where the Cowan firm had its offices, which is suspicious.

The patent applications filed by Front Row after Gurvey's patents issued also did not cite to the Gurvey patent filings as prior art. Front Row patents would have been the subject of

reexamination and interference proceedings had its patents not been invalidated; but Gurvey was never notified.

In the interim, MLB Advanced Media, Hyman's client, developed its own ticketing system in which all 32 team owners share ownership. MLB's system uses ticket data and sub-distributor data to transmit replays and highlights of baseball games, and by such acts have been infringing and continue to willfully infringe the Gurvey issued patents after notice.

GURVEY'S RIGHT TO ENFORCE HER US PATENTS AGAINST LIVE NATION AND MLB WAS EXPUNGED BY ATTORNEY FRAUD AND DECEIT UNDERTAKEN BY THE COWAN LAWYERS AND SUPPLE; AND THESE ATTORNEYS MUST BE CITED AND SANCTIONED. Amalfitano v. Rosenberg, 12 NY 3d 8 (2009); 533 F. 3d 117 (2d Cir 2007)

#### HISTORY OF LITIGATION RELEVANT TO THIS MOTION

In 2006, Gurvey sued the Cowan firm and its lawyers with Live Nation, Inc., Phish's Mike Gordon and Live Nation subsidiary Instant Live Concerts, LLC before the SDNY for antitrust violations of the Clayton Act, 15 USC § 1-15, fraudulent breaches of fiduciary duty, misappropriation of patentable trade secrets, USPTO practitioner conflicts of interest violations, filing defective patent applications under Gurvey's name unilaterally abandoning Gurvey's patent applications, failing to withdraw the holding of abandonment causing expiration of patent applications and valuable priority dates, tortious interference, breaches of contract, and offering Gurvey an illegal retainer to invest in her patent applications. Gurvey declined the offered "investment for services" retainer offer and chose instead to pay for services that were never performed. 35 USC §271, 284, 285, 286; Buechel v. Rhodes, 285 AD 2d 274 (1<sup>st</sup> Dept. 1999). Once her first US patent issued after an unprecedented 8-year delay on October 13, 2009, the claims for misappropriation of patentable trade secrets elevated to strict liability infringement based on the claims of which constitutional notice was given in the earlier complaint, and for aiding and abetting infringement by its clients by the Cowan defendants. 35 USC §271, 284, 285, 286

There is no dispute that in 2003, Cowan practitioners harbored conflicts of with clients Live Nation, Inc., subsidiary Instant Live Concerts, LLC, Phish's Mike Gordon. **The sources and nature of the additional conflicts harbored by partner Midge Hyman with client/primary takers, MLB and MLB Advanced Media, however, were never disclosed.** Additional conflicts existed with Legend Films of San Diego in whose May 6, 2002 PCT application, Gurvey's proprietary content editing technology was incorporated without notice or consent (PCT 02 US 14192) by patent Of Counsel R. Lewis Gable. Gurvey's name and name of another inventor,

Lawrence Husick, referenced in Legend's 2001 provisional application filed in the name of Barry Sandrew and Husick, were omitted from the formal PCT application. Investigation revealed that a fraudulent declaration of inventorship had been filed by Gable "at the clients' instructions".

The Legend PCT issued as a US patent on Feb 20, 2007 (7181081). This is the date Cowan lawyers unsuccessfully attempted unilaterally withdrawal from Gurvey's USPTO representation a second time, and still did not return her files. The Legend patent gave Gurvey six years to file for non-joinder strict liability damages and for aiding and abetting infringement after Gurvey's first delayed patent issued on October 13, 2009 (7603321). These non-joinder claims arise under the patent laws because they are defined by patent statutes. Carter v. ALK Holdings, 605 F. 3d 1319 (Fed. Cir. 2010).

Gurvey filed a motion to amend her complaint post patent issuance and it was denied by the SDNY Barbara Jones in 2010. However, on remand from the 2d Circuit in 2012, an amended complaint was also denied Magistrate Pitman and Judge Lorna Schofield in defiance of Federal Circuit and 2d Circuit law. Anza Technologies v. Mushkin, 934 F. 3d 1359 (Fed. Cir 2019); Grant Williams v. Citicorp, 659 F. 3d 208 (2d Cir 2011); Metzler Investments GmbH v. Chipotle Mexican Grill, 970 F. 3d 133 (2d Cir 2020). Without the amended complaint there was no jurisdiction over the Cowan defendants to maintain the case against them because there was no diversity of citizenship. The fraud and state claims were required to be remanded to the Supreme Court because the SDNY lost jurisdiction to dismiss the claims. Gunn v. Minton, 133 S. Ct. 1059 (USSC Tex. 2013). The claims were never remanded, patent discovered ordered by the 2de Circuit was never granted, the court ordered Gurvey to pay \$10,000 into the SD Cashier for a special patent master who was never hired and it took 2 ½ years to get the money refunded.

Investigation by the USPTO examiners confirmed that Hyman's concealed conflicts with MLB and MLB Advanced Media are what induced the Cowan partners to send Gurvey to California to work with her client Legend Films, to lock Gurvey out of the offices, and mail unprotected and edit patent files to her home. The first US patents should have issued to Gurvey in 2005 instead of in 2009 and been immediately enforceable against Live Nation in the 2006 lawsuit long before the Alice line of cases were decided in the aftermath of the AIA in September 2013.

In the interim, in 2004, 2008 and 2011, the Appellate Division First Dept. attorney grievance committee (AGC) was petitioned to compel the withheld patent files from the Cowan lawyers under their disciplinary jurisdiction and responses to Gurvey's ethics complaints. The files were never compelled by the state AGC officers. They were never compelled in an Article 78 action. 110774-2011, that was transferred to the AD and dismissed sua sponte. Gurvey lost three patent applications and both an early US patent and EPO patent that required the filing of

continuation in part applications to attempt to preserve certain valuable priority dates. Two priority dates were lost on select claims.

It is ludicrous that the Cowan lawyer William Borchard admitted during SDNY arbitration in 2009 the partners believed they were was doing Gurvey a favor by filing defective applications to attempt to preserve priority dates in the face of conflicts of interest. Emails admit the firm "was following the clients' instructions". The retainer should never have been accepted or any money taken by the firm.

Of more concern that the SDNY did not ever grant patent conflicts of interest discovery ordered by the 2d Circuit in 2012 (462 Fed. Appx. 26) or an amended complaint post patent issuance in defiance of Federal Circuit law and 2d Circuit law. Plus in 2009, SDNY Judge Hon. Barbara S. Jones dismissed the Live Nation defendants based on fraudulent jurisdictional papers that the company had no NY contacts. These sworn averments were proven false in the 2010 merger proceedings with Ticketmaster before the DC District Court. 2010 975407, 975408.

In October 13, 2009 after the first delayed patents finally issued to Gurvey, Gurvey's infringement complaint - docketed and filed on April 22, 2010 – somehow vanished from the docket allegedly by order of the SDNY Circuit Executive. The motions were found in Judge Jones' Chambers and in the SDNY Cashier's microfiche files.

In March 2022, Gurvey learned for the first time that in in 2013, her name had been unilaterally removed from the roster of SDNY attorneys by order of the Circuit Executive based on ex parte conversations with former Magistrate Pitman and Supple. Gurvey's name was removed without notice, hearing and in contumacious defiance of due process. Gurvey has been admitted to the State Bar of California since 1979 and remains in excellent standing and admission to only one bar is required to maintain standing. *In re Gouiran*, 58 F. 3d 54 (2d Cir 1995); *Selling v. Radford*, 243 US 46 (1917)

Based on these sua sponte orders and mysterious hocus pocus occurrences, for 12 years, Gurvey remains denied access to the SDNY to prosecute infringers of her issued patents. The most recent, delayed, ticketing management patent issued on August 2, 2022, and Gurvey still remains denied access to this court in violation of the Fifth Amendment.

#### MEMORANDUM OF LAW

Amy R. Weissbrod (Gurvey), COO and Senior Architect of **LIVE-Fi® Technology Holdings, LLC**, was admitted to the State Bar of California in 1979, remains in excellent standing and was retired by the Appellate Division Third Dept. in 1998, four years before the Cowan lawyers

offered Gurvey an illegal retainer to invest in her patent applications because they “missed out on the Internet bubble”.

Gurvey is the sole named inventor of standard essential patents (“SEP”s) in ticketing management in the United States, US software copyrights and 18 trademarks.<sup>2</sup> The first principal willful infringers of Gurvey patents are several clients of the Cowan firm including MLB and MLB Advanced Media (headquartered in NYC), and Live Nation Entertainment, Inc. (merged with Ticketmaster) that owns and operates several NYC event venues including House of Blues, Irving Plaza and Roseland Ballroom at least February 2008. Live Nation’s admissions of NYC venue ownership are found in the competitive impact statement and consent decree signed in proceedings brought the US Dept. of Justice by the DC District Court in 2009. The venues owned in 2008 are stated to include House of Blues, Irving Plaza and Roseland Ballroom. US v. Ticketmaster and Live Nation, 2010 WL 975407, 975408. Judge Barbara S. Jones having signed several ex parte orders sought by Supple, somehow dismissed Live Nation in 2009 based on fraudulent jurisdictional papers that it had no NY contacts to answer for infringement or Clayton antitrust violations found by the DC District Court. Then the infringement amended complaint post patent issuance and Rule 60(b) motion based on new evidence vanished from the docket before Judge Jones retired in 2012, and was never granted in 10 years. Gurvey never got patent discovery ordered by the 2d Circuit. 462 Fed. Appx. 26 (2012)

In 2004, Gurvey had also sought orders from the First Dept. attorney grievance committee (“AGC”) for state officers to compel production of withheld USPTO and inventorship files from Cowan partners Midge Hyman, Simon Gerson, Christopher Jensen and William Borchard. Plaintiff did not know that Hyman was principal trademark attorney for MLB or MKLB Advanced Media and her patentable ideas were being used to develop a new ticketing system for all 32 MLB teams.

The insurance defense law firm of Hinshaw & Culbertson, LLP retained by Cowan defendants always had equity partners serving as chief counsels and executive committee members on the AD First Dept. AGC. However, by statute and conflicts of interest. H&C was precluded from ever accepting Cowan firm’s SDNY defense because its partners were serving as chief counsels and executive consultants to staff attorneys when Gurvey’s ethics complaints were filed and processed. JL Part 1240.6d. H&C partners including Supple and Hal Lieberman dually serving as AGC officers had apparent and actual authority to bind the state. Instead, Supple, per the order of the AD entered on April 21, 2016, breached his fiduciary duties to Gurvey as a member of the aggrieved public, entered and corrupted the ethics files and Gurvey’s retirement bar files by inserting forged and unserved documents. Documents from Supple’s ex parte conversations with former SDNY Magistrate Pitman were recently found in

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<sup>2</sup> US Patent Nos. 11403566, D647910S, 7603321; US Copyright Reg. No. TXu001265644.

the state files. A 2009 affirmation photocopy purported signed by 2002 AGC chief counsel Paul Curran entered by Supple was determined a forgery. Curran left the AGC in 2002 and was dead of cancer in 2007. This petition was forged and inserted to obtain jurisdiction over Gurvey that never existed to retaliate against Gurvey for filing ethics complaints against the Cowan lawyers who were H&C clients. See Anderson v. First Dept. Disciplinary Committee, 614 F. Supp. 2d 404 (SDNY 2009)(Headnotes 15, 16)(Scheindlin, J.); Esposito v. State of NY, 2007 WL 3523910(SDNY)

Relevant is that First Dept. never had jurisdiction over Gurvey in the capacity of an attorney. Gurvey was never admitted to the First Dept., never had an office for the practice of law in the First Dept., and was never charged dues by NYS Attorney Membership after 1998 when voluntary retirement was granted by the Third Dept. JL Part 1240.2. Gurvey never appeared on behalf of any client in the First Dept.

Further investigation confirmed that Midge Hyman, Cowan's trademark attorney for MLB is the partner who along with administrative partner Simon Gerson withheld Gurvey's patent files and locked Gurvey out of the office after the firm abandoned Gurvey's patent applications. It was also confirmed that Jacqueline Revander, a secretary, was paid to copy Gurvey's inventions into the firm database on night shift.

The instant 22-725 mandamus matter before the 2d Circuit is based on the confirmed facts that Gurvey's name was unlawfully removed from the roster of SDNY attorneys without notice or due process to prevent PRO SE enforcement of her patents in this district, Supple engaged in ex parte conversations with former Magistrate Henry Pitman and Judges Barbara Jones and Lorna Schofield to deprive Gurvey of access to the court so that the Cowan defendants could be dismissed without further jurisdiction in favor of the district court. The state investigation revealed that Supple in fact shuffled papers back and forth between the AGC office and the SDNY file room. Gurvey's motions seeking signed subpoenas against the USPTO General Counsel James Payne, Esq. to produce Cowan's files during the full period of retainer as duly filed before Magistrate Pitman were ripped out of the SDNY file room by Supple.

Judges Lorna Schofield and Colleen McMahon, Chief Adm. judge of the SDNY at times relevant, knew that Magistrate and Supple had gotten the SDNY Circuit Executive to remove Gurvey's name from the roster of SDNY attorneys without notice, hearing and in contumacious defiance of due process of law, and that Gurvey did not know.

The State of California has recently enacted legislation effective January 1, 2023 requiring all companies doing business in the State to disclose on their websites the uses to be made of customer data. With respect to ticketing, the proscriptive mandates specifically target Ticketmaster, its merged partner Live Nation Entertainment, Inc. and their owned and serviced venues. Per the Clayton Antitrust consent decrees and competitive impact statements signed by Ticketmaster and Live Nation, Inc. in 2010 and 2020 as a condition of the merger [15 USC §1,

15], event ticketing data cannot be withheld to prevent non-ticketing businesses from entering the merged entity's hosting venues without violating the antitrust laws and allowing recovery of treble damages. US v. Ticketmaster and Live Nation, 2010 WL 975407, 975408 (DDC January 25, 2010). The decrees have been violated resulting in significant sanctions and lawsuits. In addition, the merger of Ticketmaster and Live Nation continues to be vehemently opposed by 18 attorneys general as per se violative of antitrust tying proscriptions, the public interest and the financial interests of other venues who continue to be denied access to Live Nation artists if Ticketmaster's software is not licensed.

More recently, Ticketmaster has been allowing StubHub and scalpers to purchase tickets at reduced prices and resell the tickets to the public at exorbitant profits in exchange for commissions. For imposing spiders on competitors' websites, Ticketmaster has been criminally prosecuted while the merged entity now known as Live Nation Entertainment, Inc., continues to be sanctioned by the US Dept. of Justice. (21-cr-22, 24 (EDNY)) (DOJ antitrust sanctions were assessed on January 8, 2020).

MLB Advanced Media has created its own ticketing systems inclusive of dynamic pricing and scalper allowances that are owned in tandem by individual team owners. These systems that enable replay transmissions and edited highlights transmissions are per se infringing *LIVE-Fi*® patents. Weissbrod having been awarded three US Patent Nos. 7603321, D647910S and 11403566 must be permitted access to this Court and awarded sanctions against the Cowan lawyers and their defense attorneys for in-court fraud and deceit in both state and federal courts during the SDNY lawsuit. Amalfitano v. Rosenberg, 12 NY 3d 8 (2009), 533 F. 3d 117 (2d Cir. 2007).

The parallel lawsuit seeking mandamus relief and damages against Supple, Hinshaw & Culbertson and AGC First Dept officers remains pending without hearing for 3 years before the EDNY. 19cv4739(EDNY)

In response to this mandamus petition, Gurvey must have her name reinstated to the roster of SDNY attorneys by mandamus order of this Court, that Gurvey be granted her attorney's fees and costs against SDNY Circuit Executive officers. In addition, sanctions must be awarded against the Cowan firm and its partners, Hinshaw & Culbertson, LLC and Hinshaw former attorney Richard Supple for in-court fraud and deceit, ex parte conversations with judges while Gurvey was a PRO SE patentee, unprivileged defamation and abuse of litigation privilege before the SDNY and First Dept. attorney grievance committee. Gurvey seeks that her complaints against Richard Supple, Midge Hyman, Simon Gerson, Christopher Jensen and R. Lewis Gable be sent to the SDNY Attorney Grievance Panel for disciplinary action.

Case 22-725, Docun

406613, Page9 of 10

Dated: October 21, 2022

Amy R. Gurvey  
US Patentee PRO SE



# EXHIBIT 6



US011403566B2

(12) **United States Patent**  
**Gurvey**

(10) **Patent No.:** US 11,403,566 B2  
 (45) **Date of Patent:** \*Aug. 2, 2022

(54) **ELECTRONIC TICKET MANAGEMENT AND LIVE EVENT MAXIMIZATION SYSTEM COUPLING EVENT TICKETING, ADMISSION DATA AND PLACED BETS, ACCESSIBLE FROM USER DEVICES AND LOCATION BASED INTELLIGENT APPARATUS MACHINES**

(58) **Field of Classification Search**  
 None  
 See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

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6,650,903 B2 *	11/2003	Inselberg .....	G06Q 30/0242 455/3.06
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7,363,497 B1 *	4/2008	Ferguson .....	G10L 19/018 704/E19.009
7,945,935 B2 *	5/2011	Stonedahl .....	G06Q 30/0601 725/86

(Continued)

Primary Examiner — Scott A Zare

(57) **ABSTRACT**

The present disclosure provides a ticketing management system accessible by apparatus terminals (separately claimed). Disclosed is a system and method of electronically associating one or any combination of the production, packaging, order, transmission and distribution of live and event content "Recordings" with issuance or sale of a "ticket" or other event viewing rights ["ticket" defined to include any admission/registration data, payment, receipt, tournament entrance fee or logged placed bet] such that both an audience ticket holder and a non-ticketed holder such as a viewer or end user are able to automatically acquire a Recording and get other benefits separate from admission or viewing from and delivered to a terminal when connected to the Internet or other network. The systems disclosed also allow for authenticated event interaction to generate more content into the system. Distribution and/or retrieval of Recordings may occur when the Recordings are embodied in a fixed medium of expression, in digital format or other encoded format.

5 Claims, 21 Drawing Sheets

(76) **Inventor:** Amy R. Gurvey, Upper Montclair, NJ (US)

(\* ) **Notice:** Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

This patent is subject to a terminal disclaimer.

(21) **Appl. No.:** 12/587,759

(22) **Filed:** Oct. 11, 2009

(65) **Prior Publication Data**  
 US 2018/0114147 A1 Apr. 26, 2018

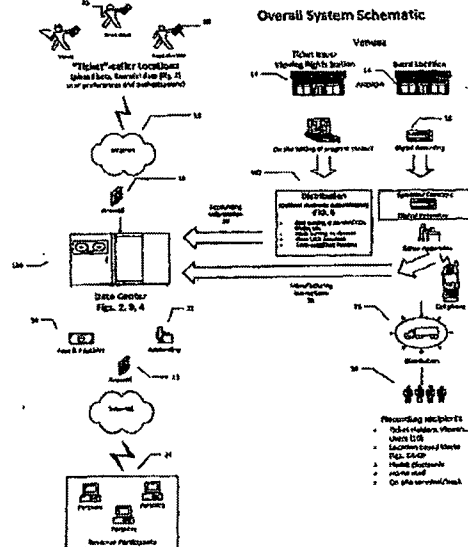
**Related U.S. Application Data**

(63) Continuation of application No. 11/253,912, filed on Oct. 15, 2005, now Pat. No. 7,603,321, which is a (Continued)

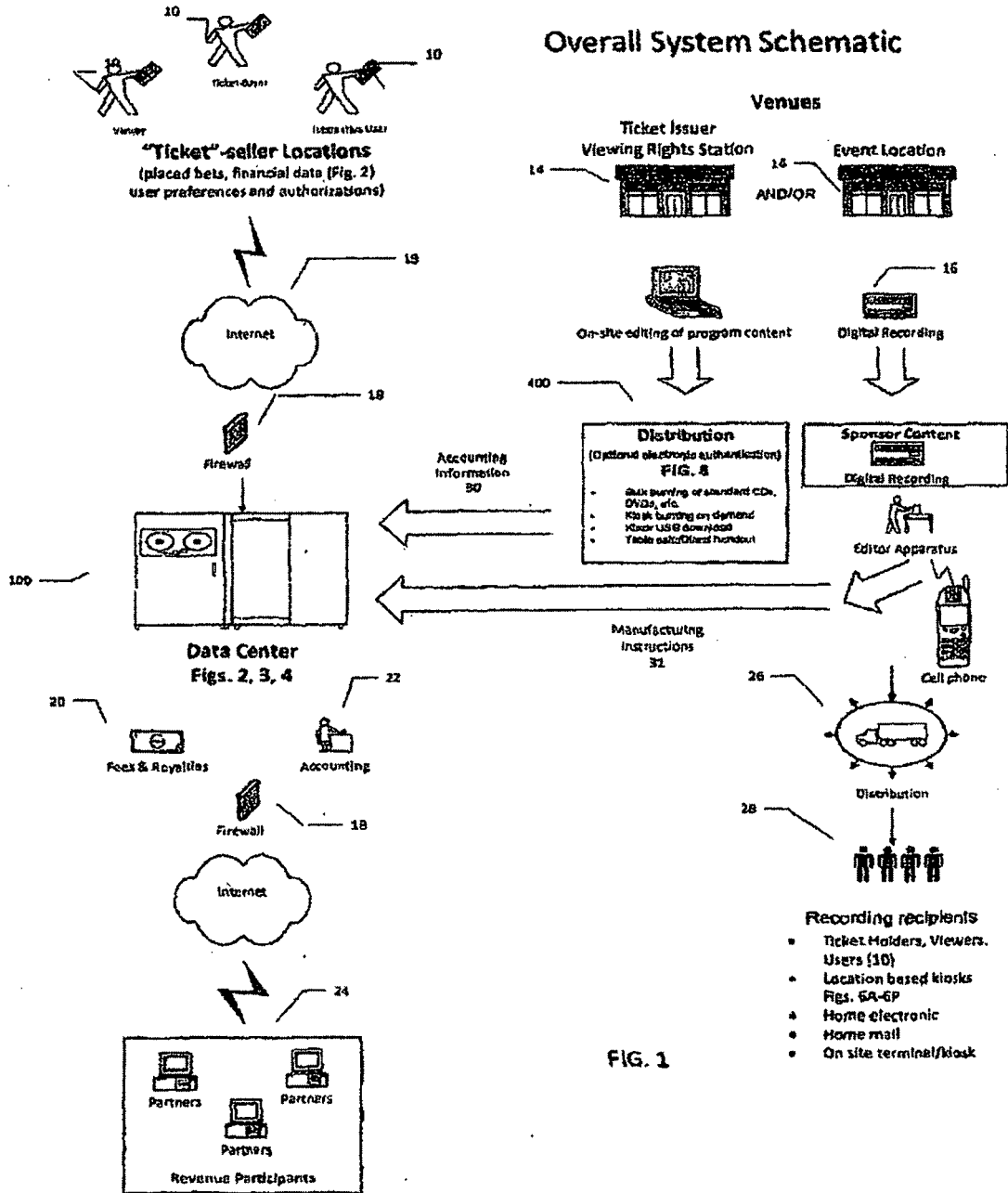
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 G06Q 10/02 (2012.01)  
 G06Q 20/04 (2012.01)

(Continued)

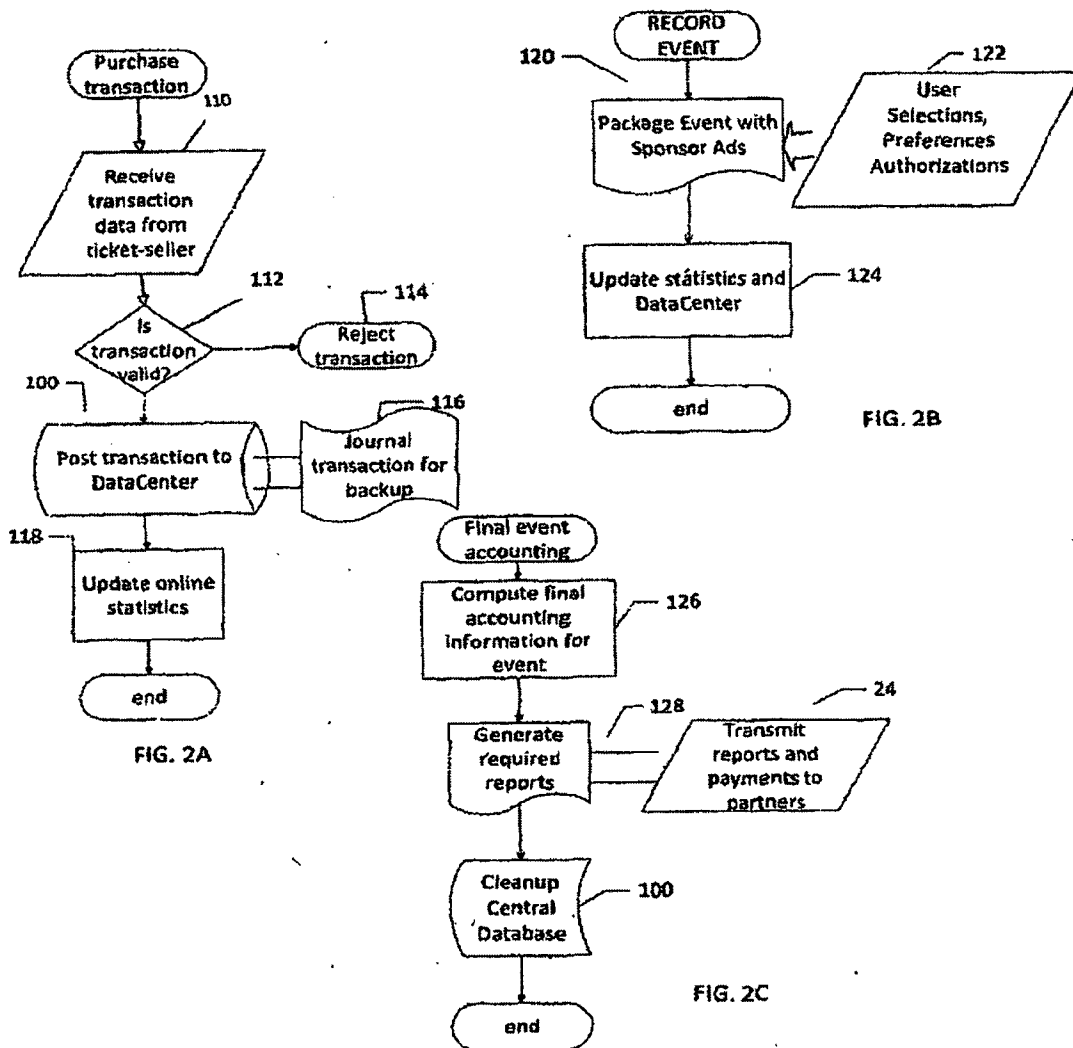
(52) **U.S. Cl.**  
 CPC ..... G06Q 10/02 (2013.01); G06Q 20/045 (2013.01); G06Q 20/367 (2013.01); (Continued)







Transaction Processing



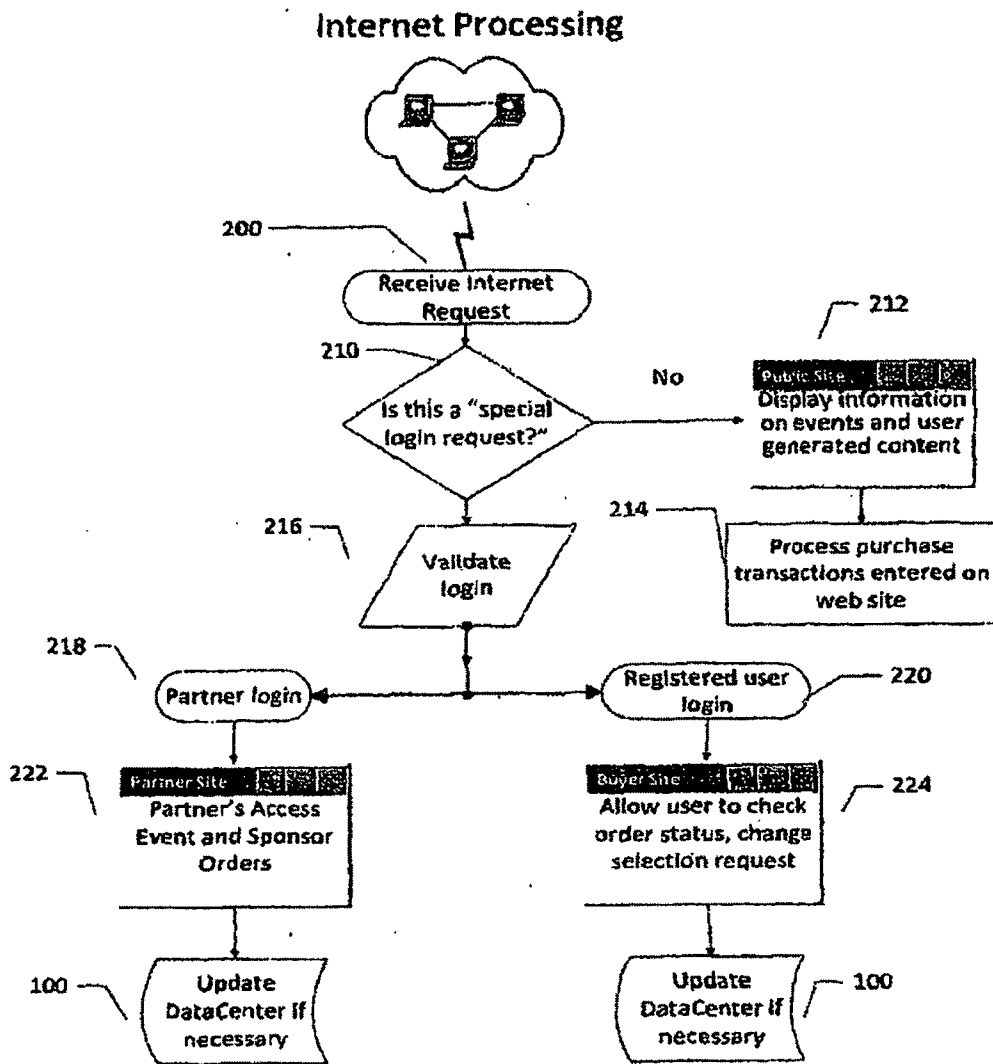


FIG. 3

### Manufacturing Process

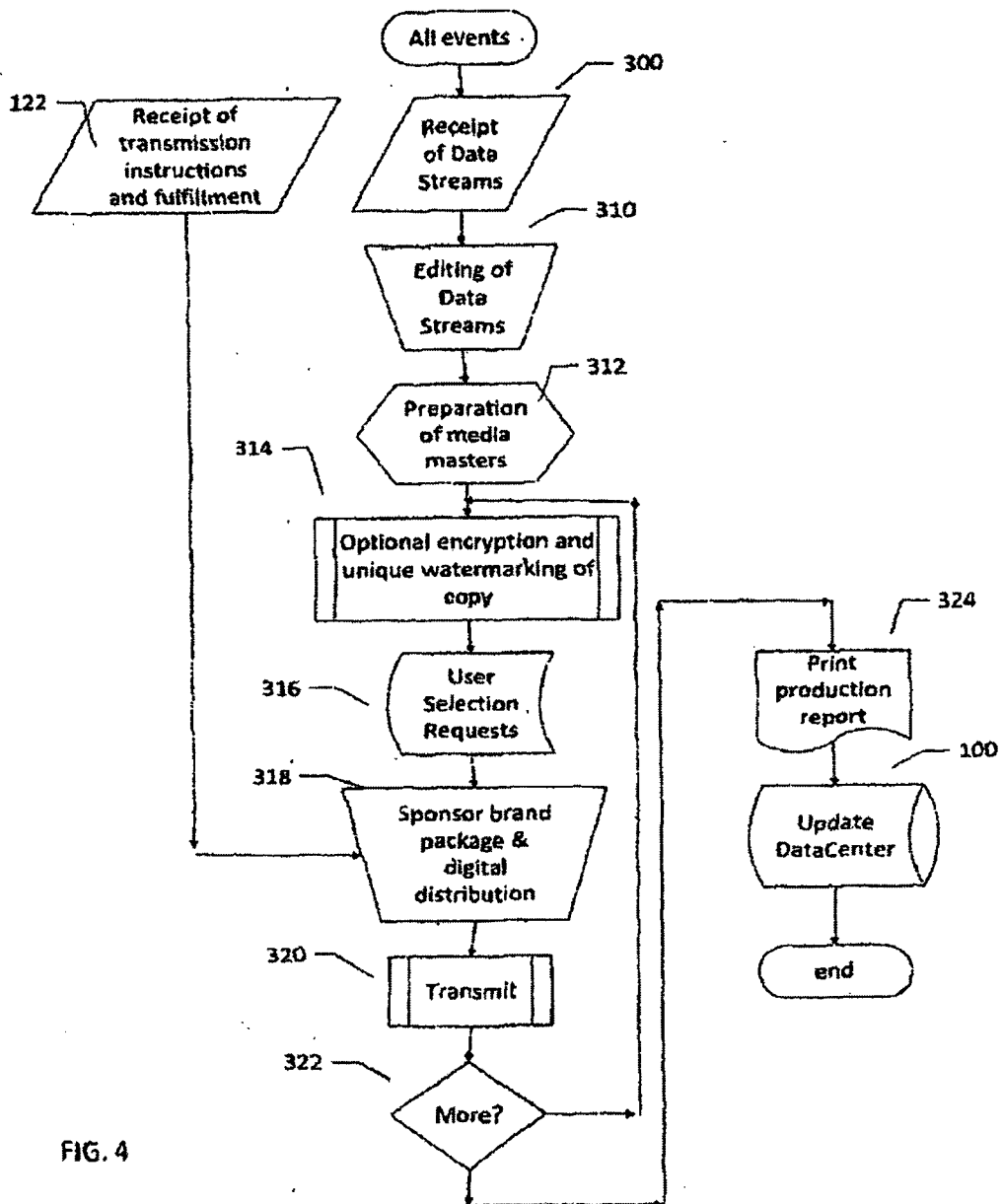
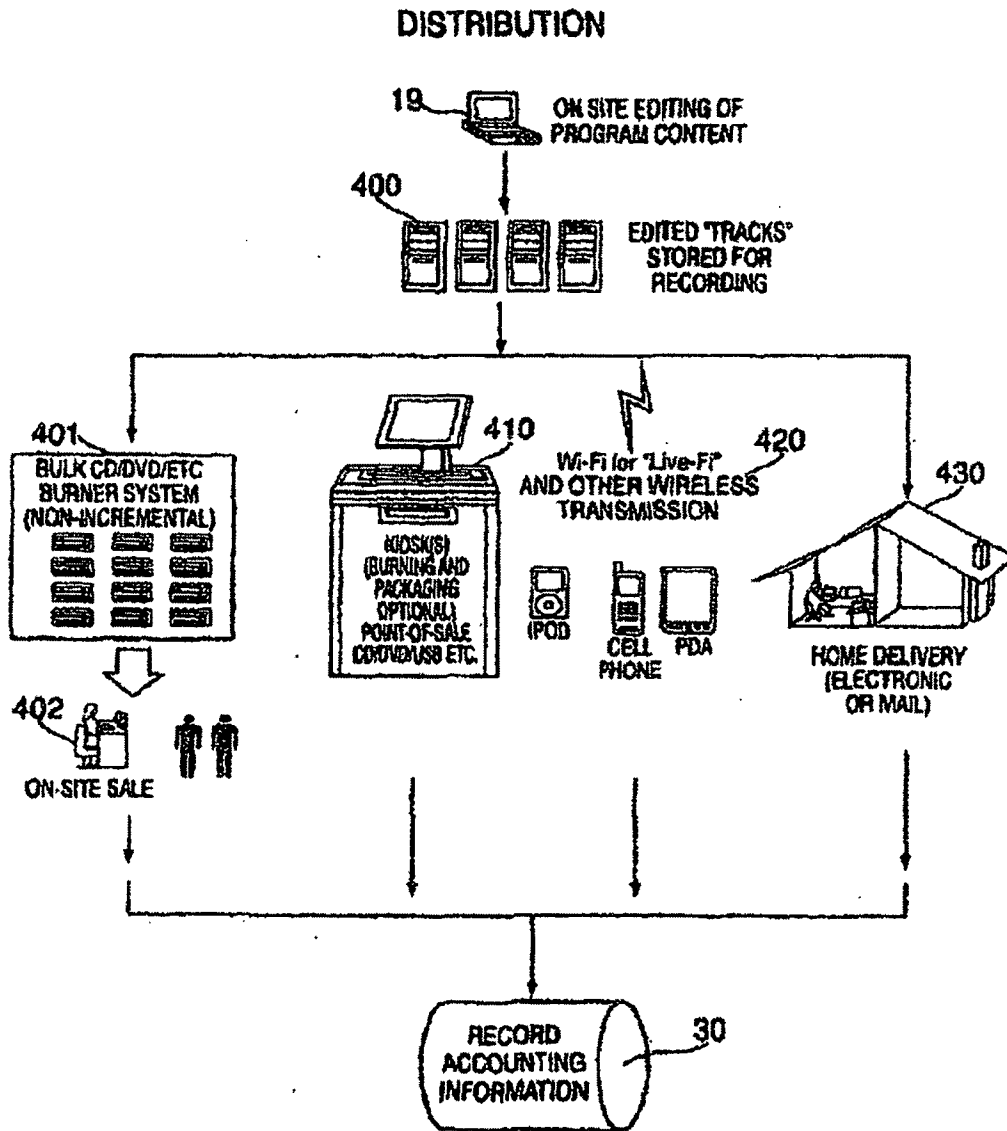


FIG. 4



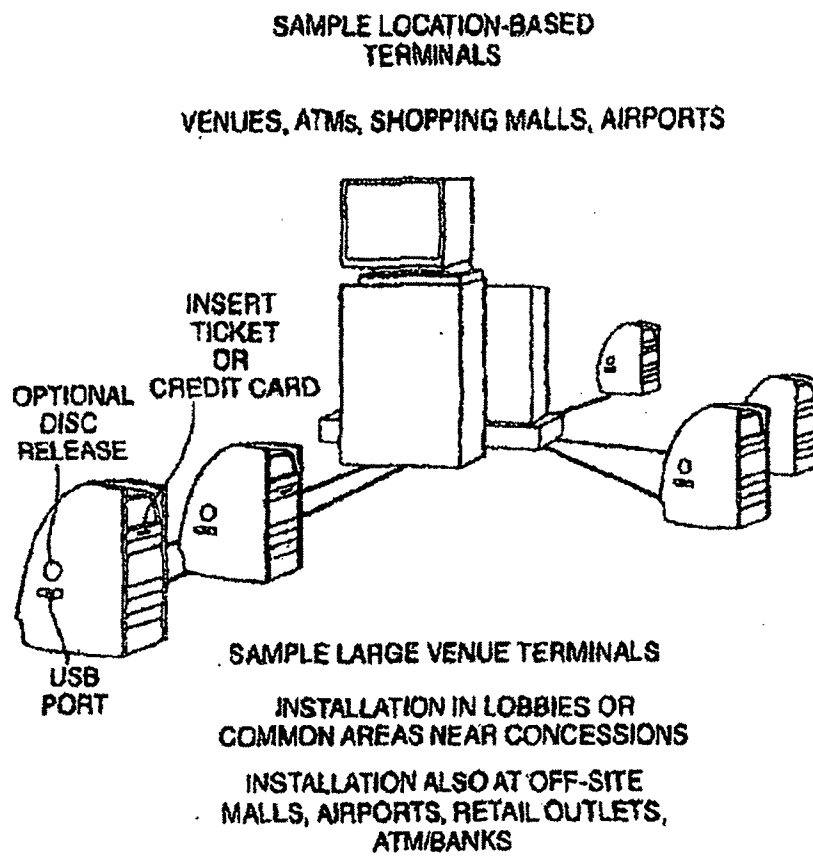


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**FIG. 6A**

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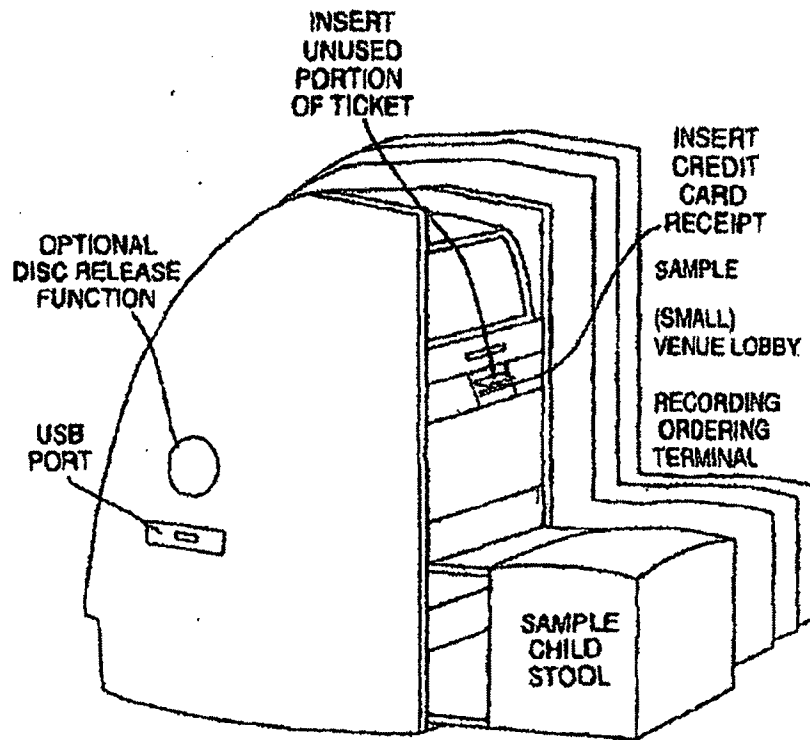


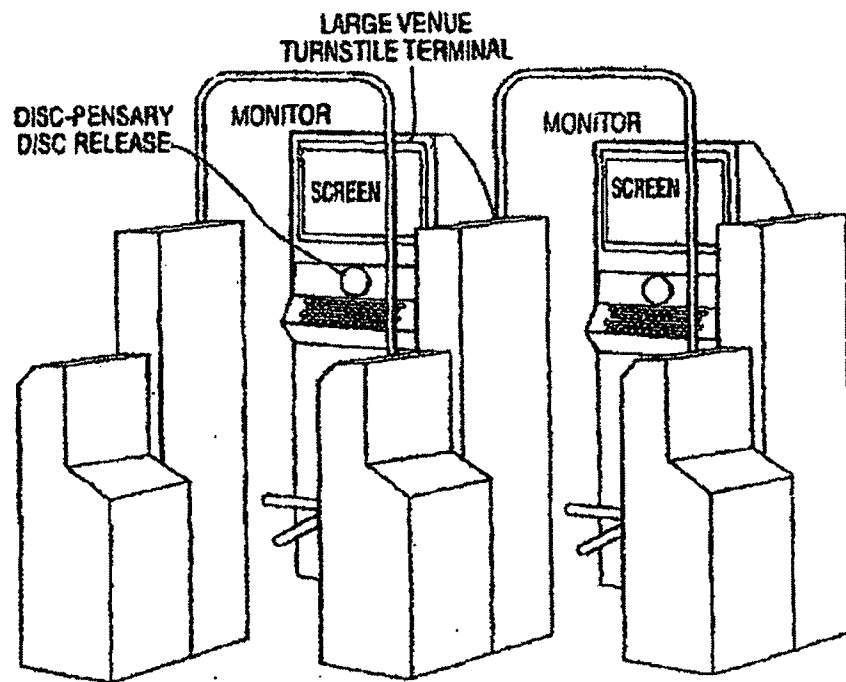
FIG. 6B

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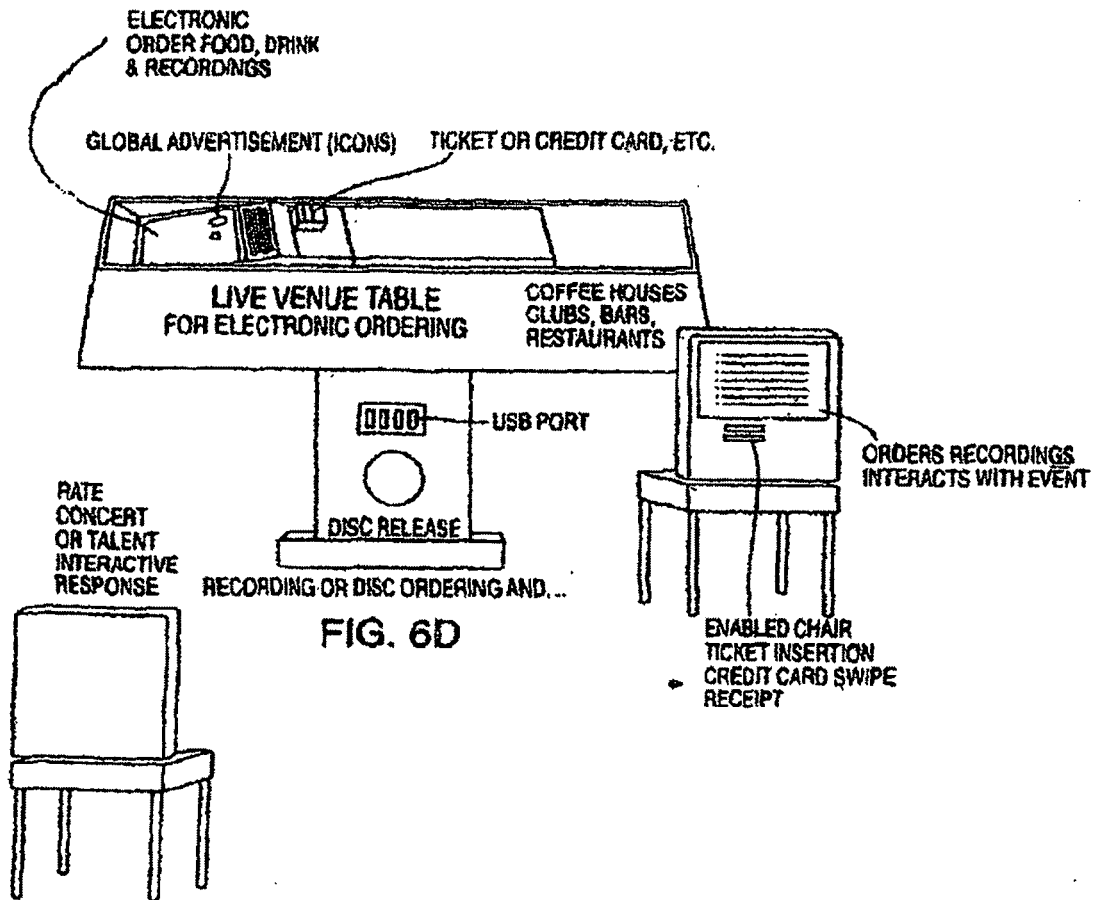
**FIG. 6C**

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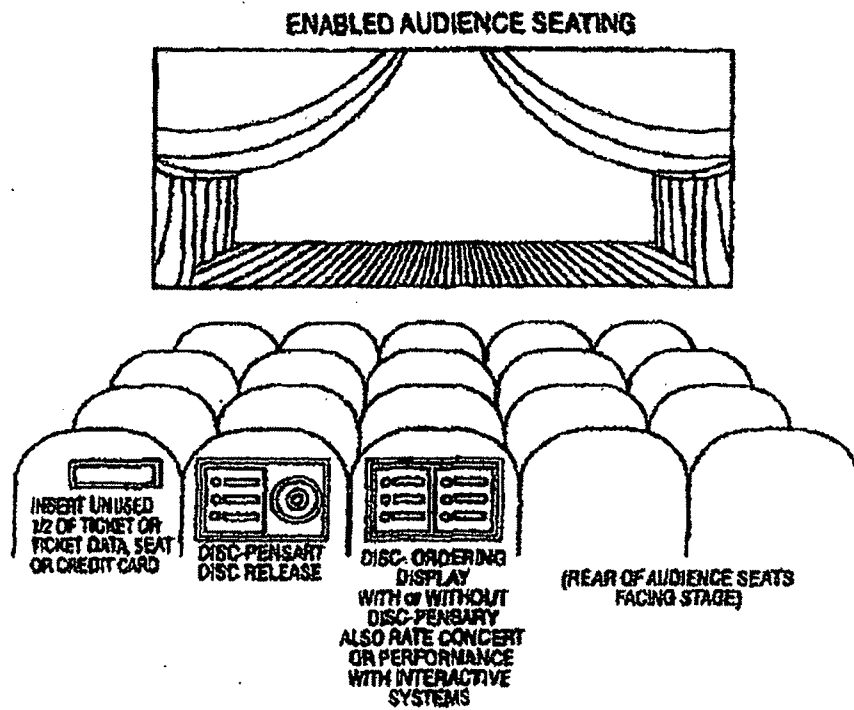


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**FIG. 6E**

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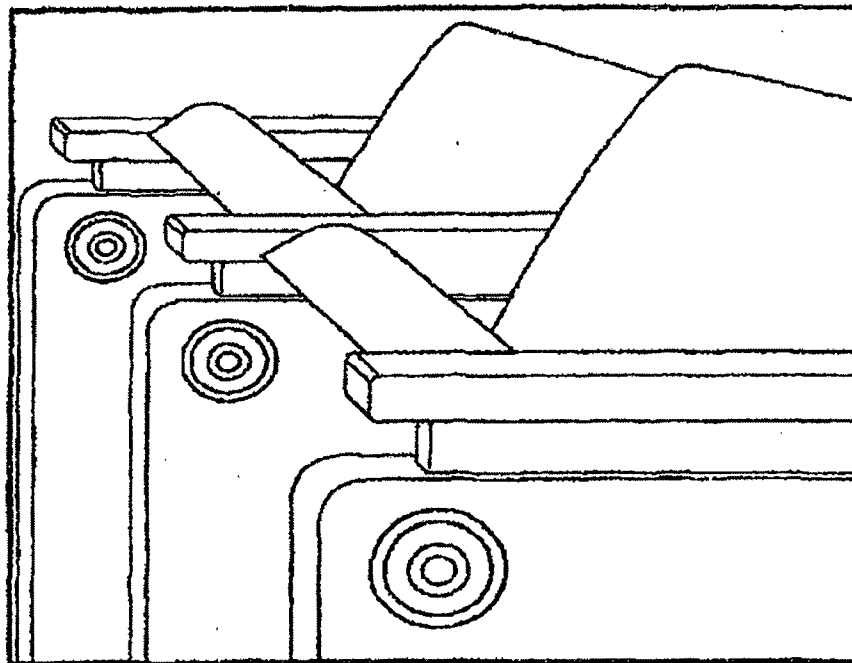
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**ENABLED AUDIENCE OR AIRLINE SEAT**

**LARGE AUDIENCE SEATING TERMINALS**



**ALTERNATIVE AISLE DISC RELEASE**

**FIG. 6F**

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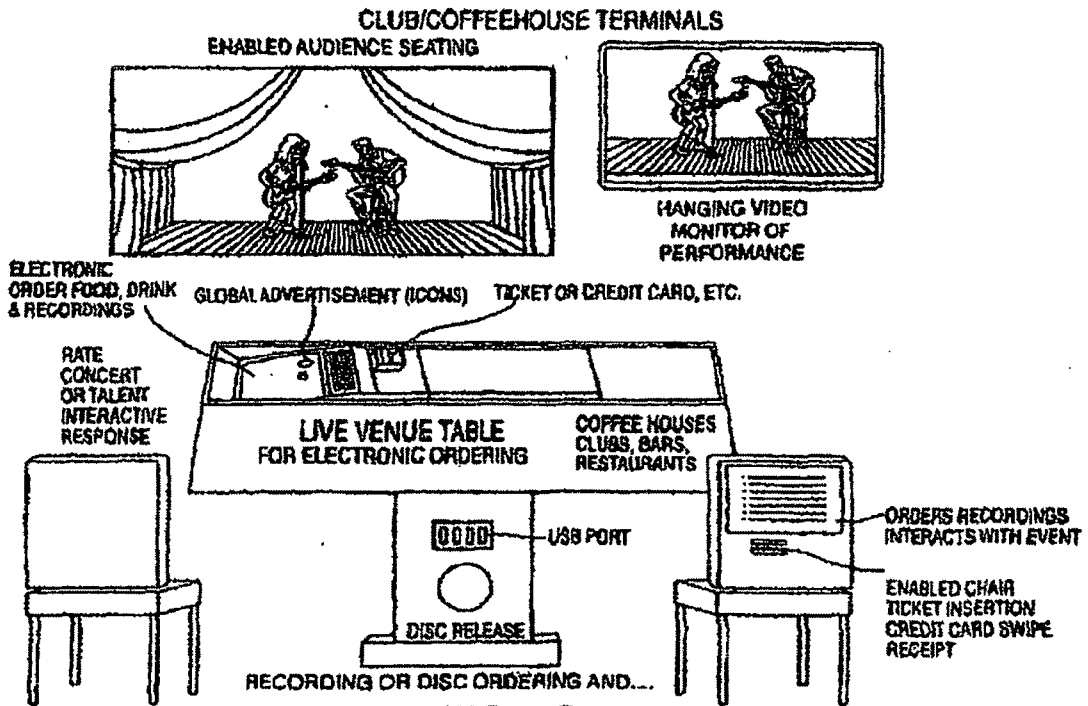


FIG. 6G

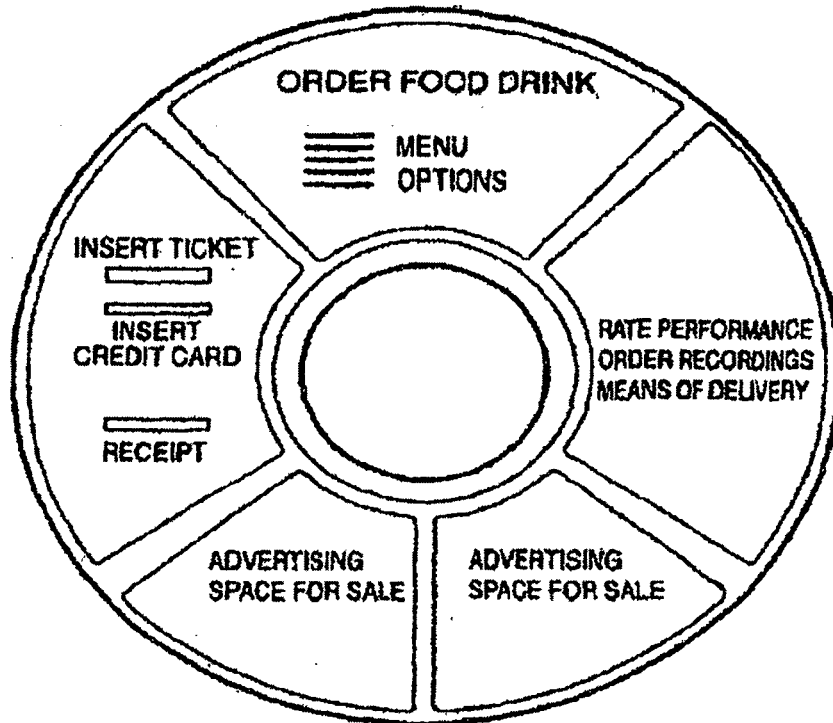
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BIRDSEYE VIEW  
CLUB/COFFEEHOUSE RESTAURANT  
TABLE TOP COMPUTER SCREEN



OPTIONAL DISC OR USB PORT  
RECORDING RELEASE ON BASE

FIG. 6H



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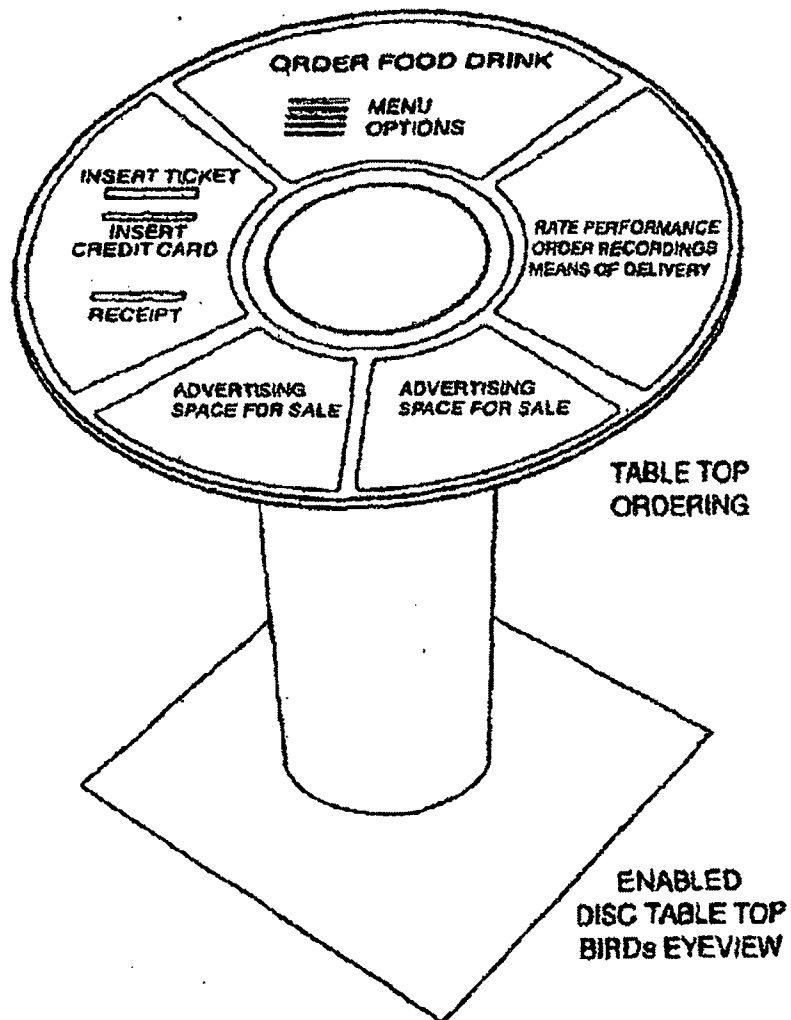


FIG. 61

ENABLED AUDIENCE OF AIRLINE SEAT  
SEAT-TO-SEAT INTERACTIVE CAPABILITY  
PC OR MOBILE PHONE DEVICE

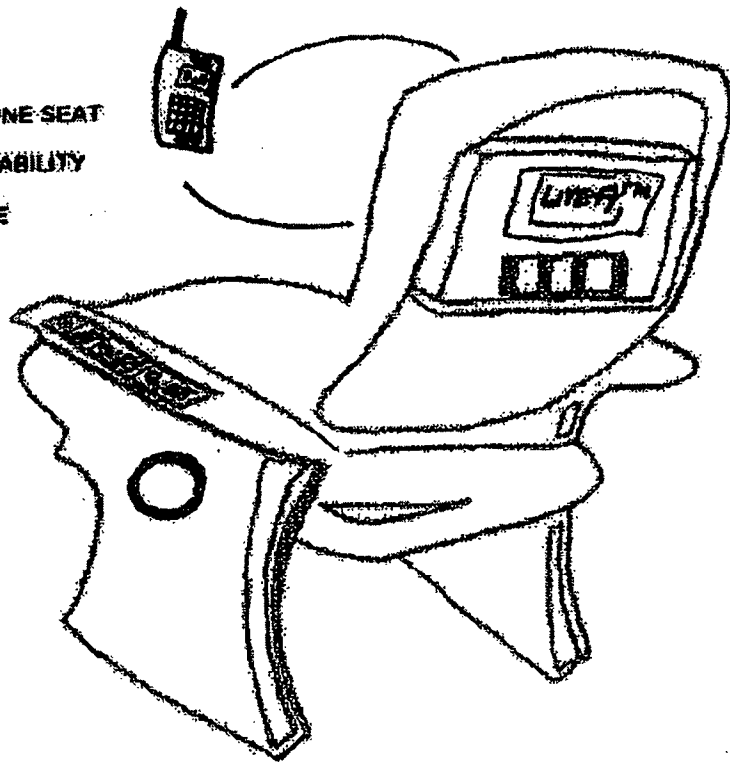


FIG. 6J

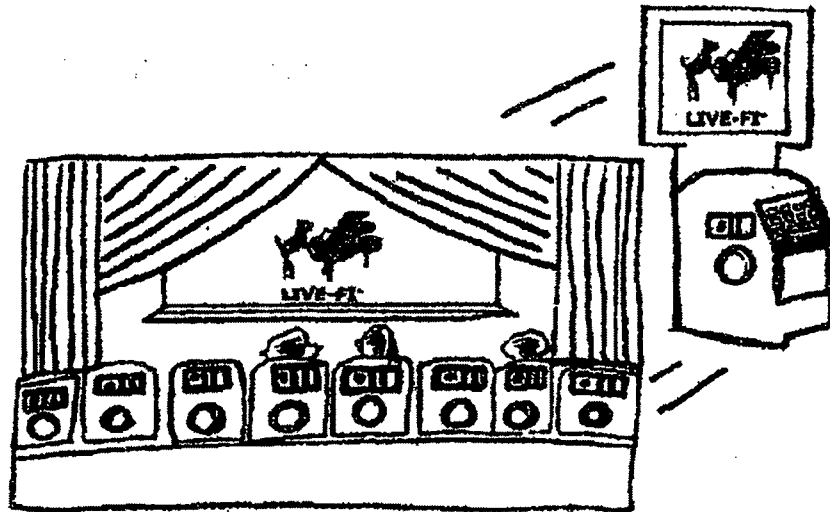
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**STAGE FOR PERFORMANCE OR CONFERENCE  
WITH ENABLED SEATS**



**FIG.6K**

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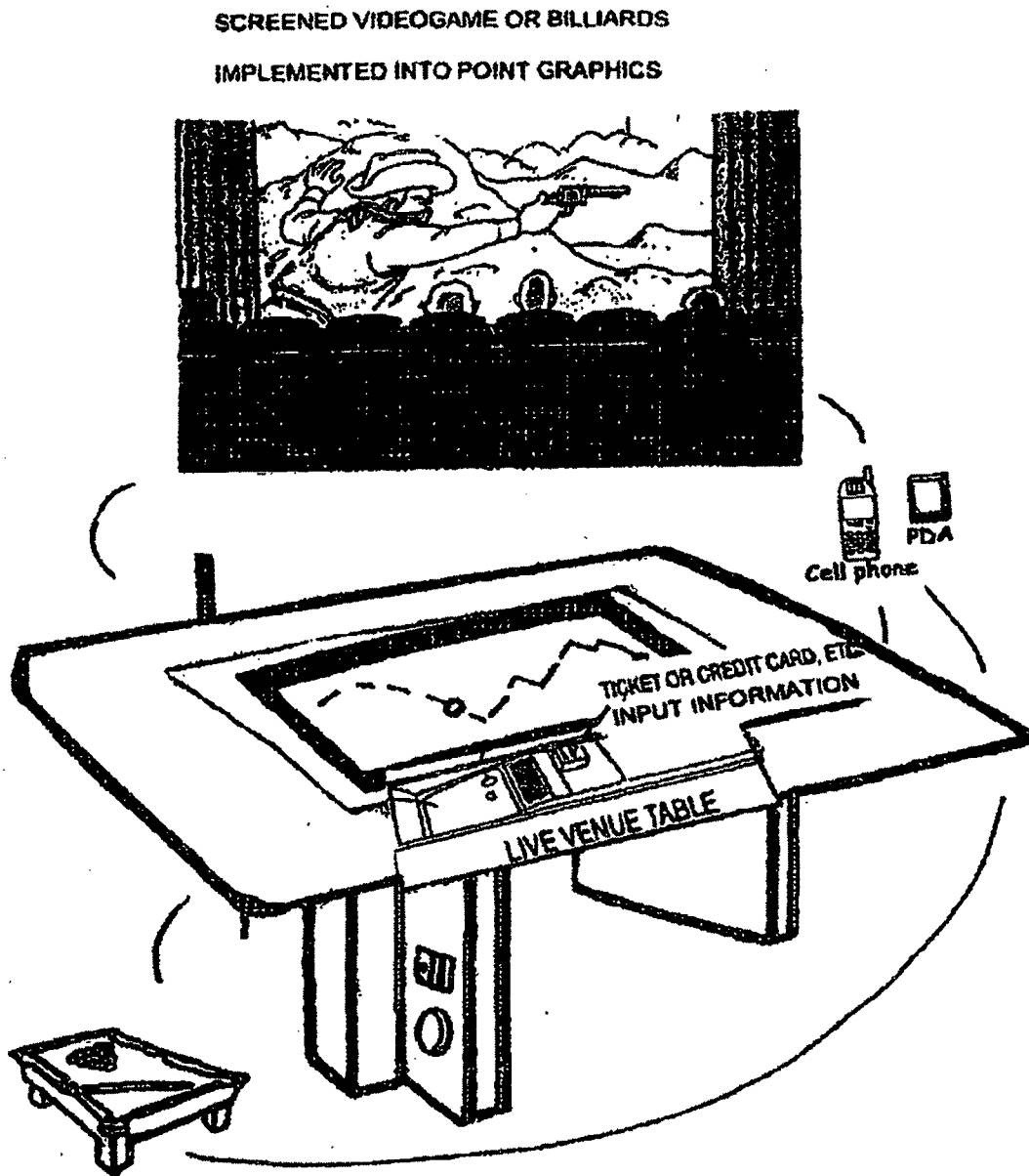


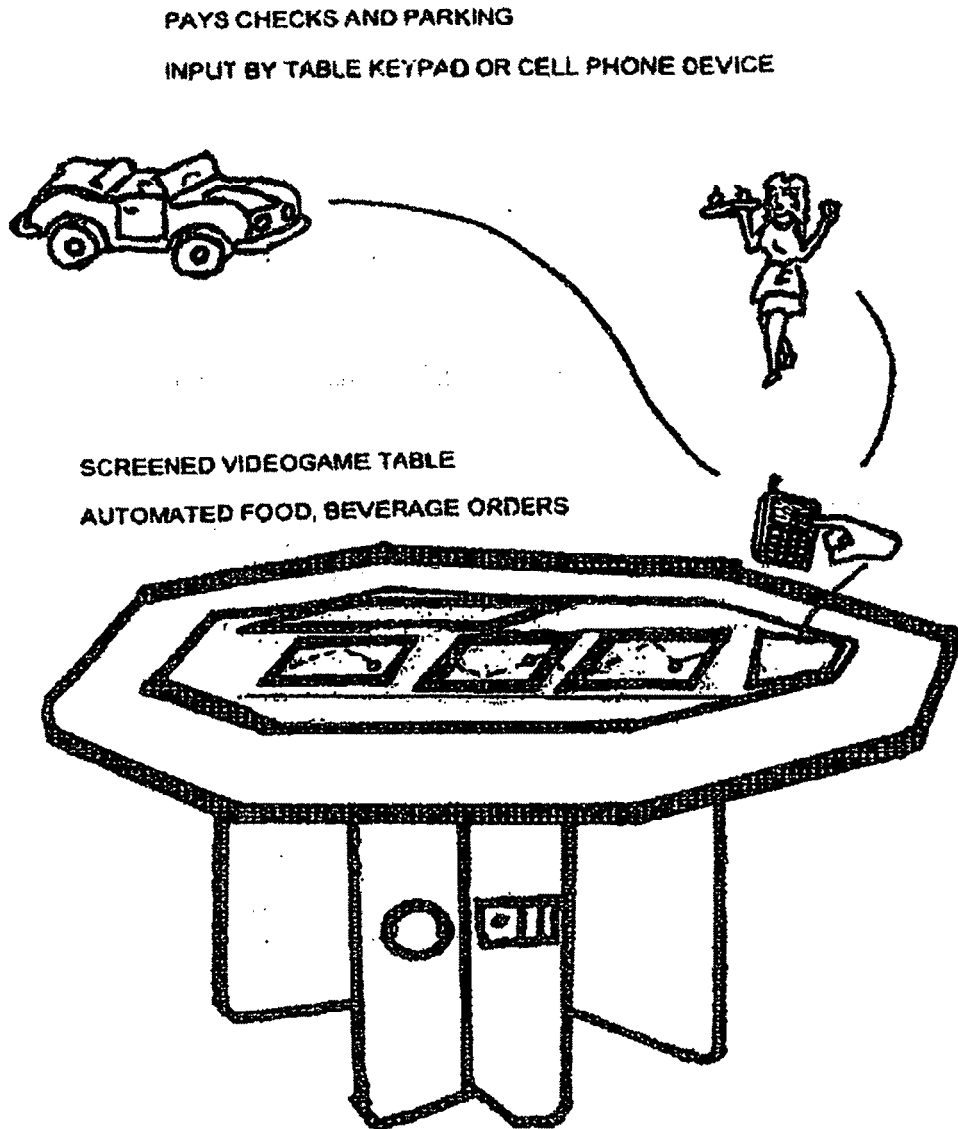
FIG. 6L

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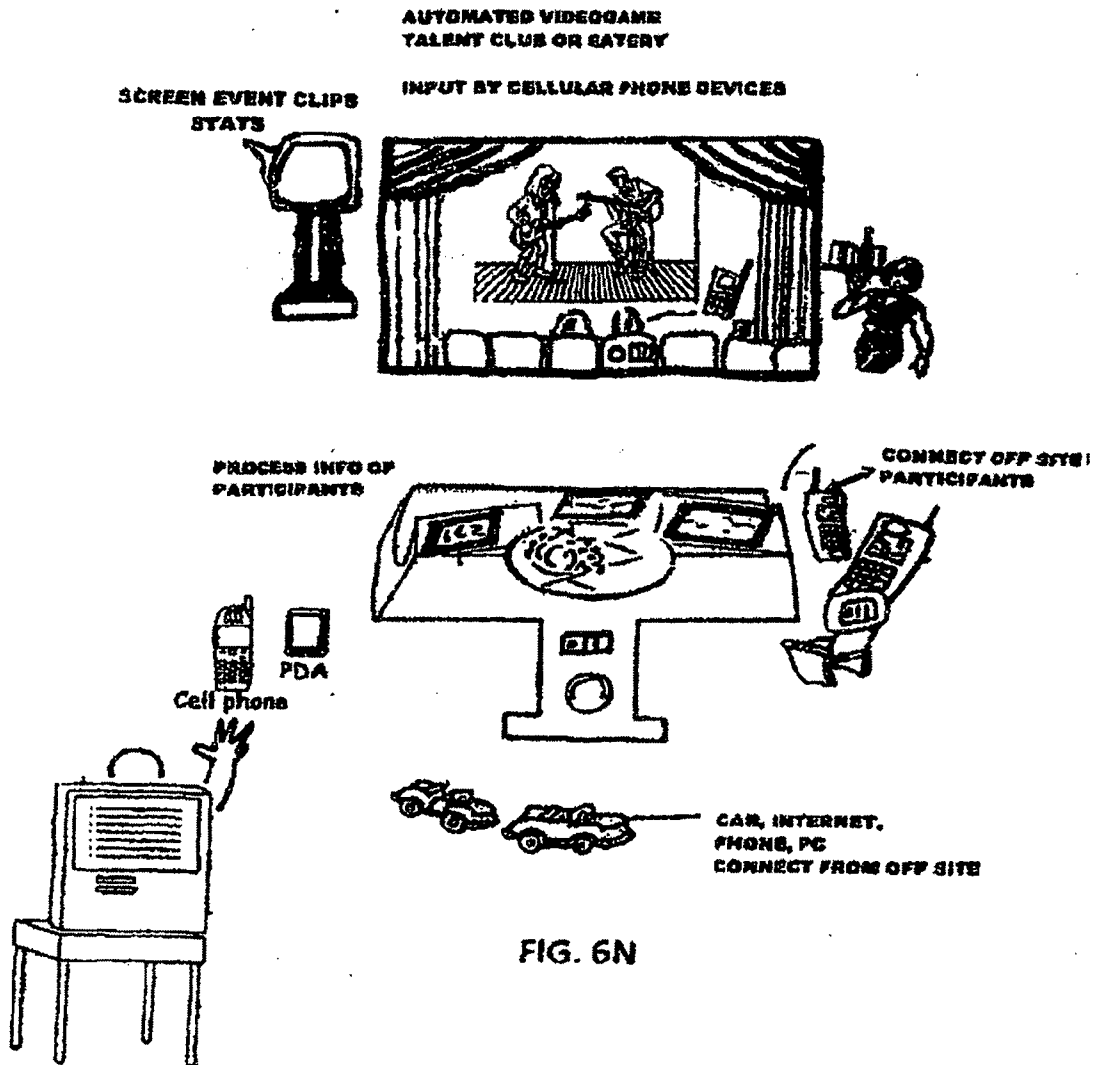
**FIG. 6M**

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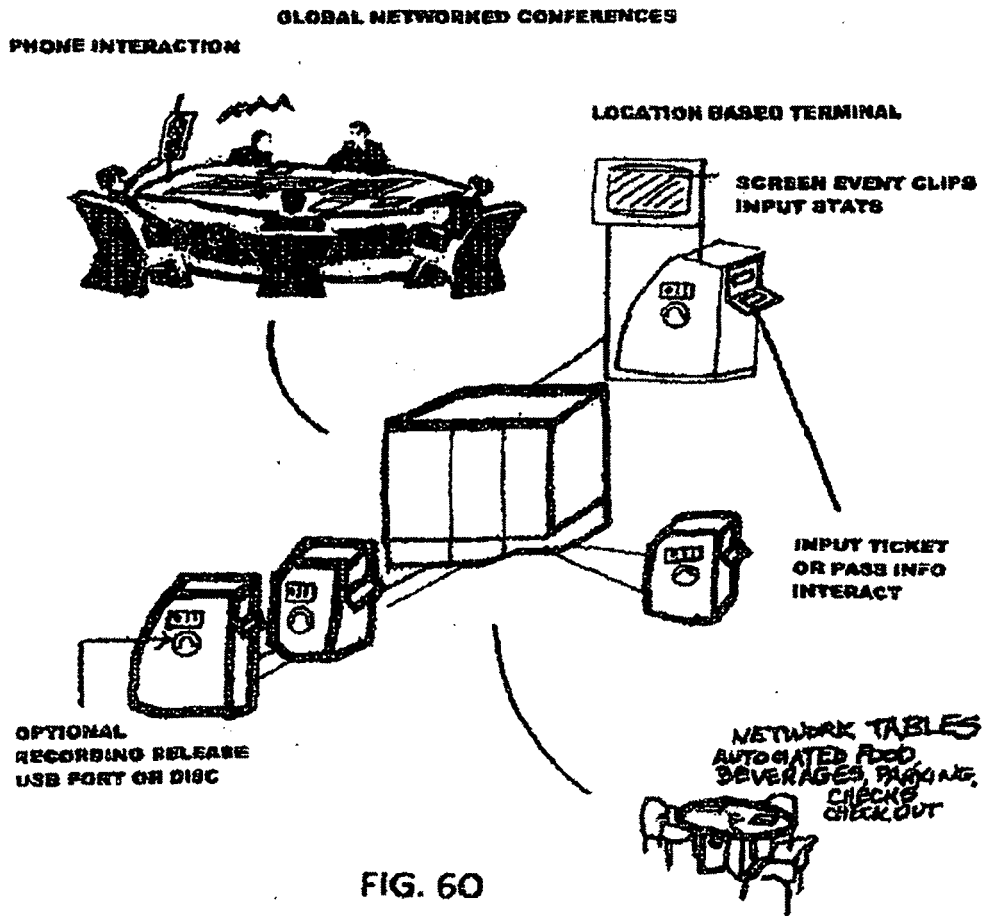


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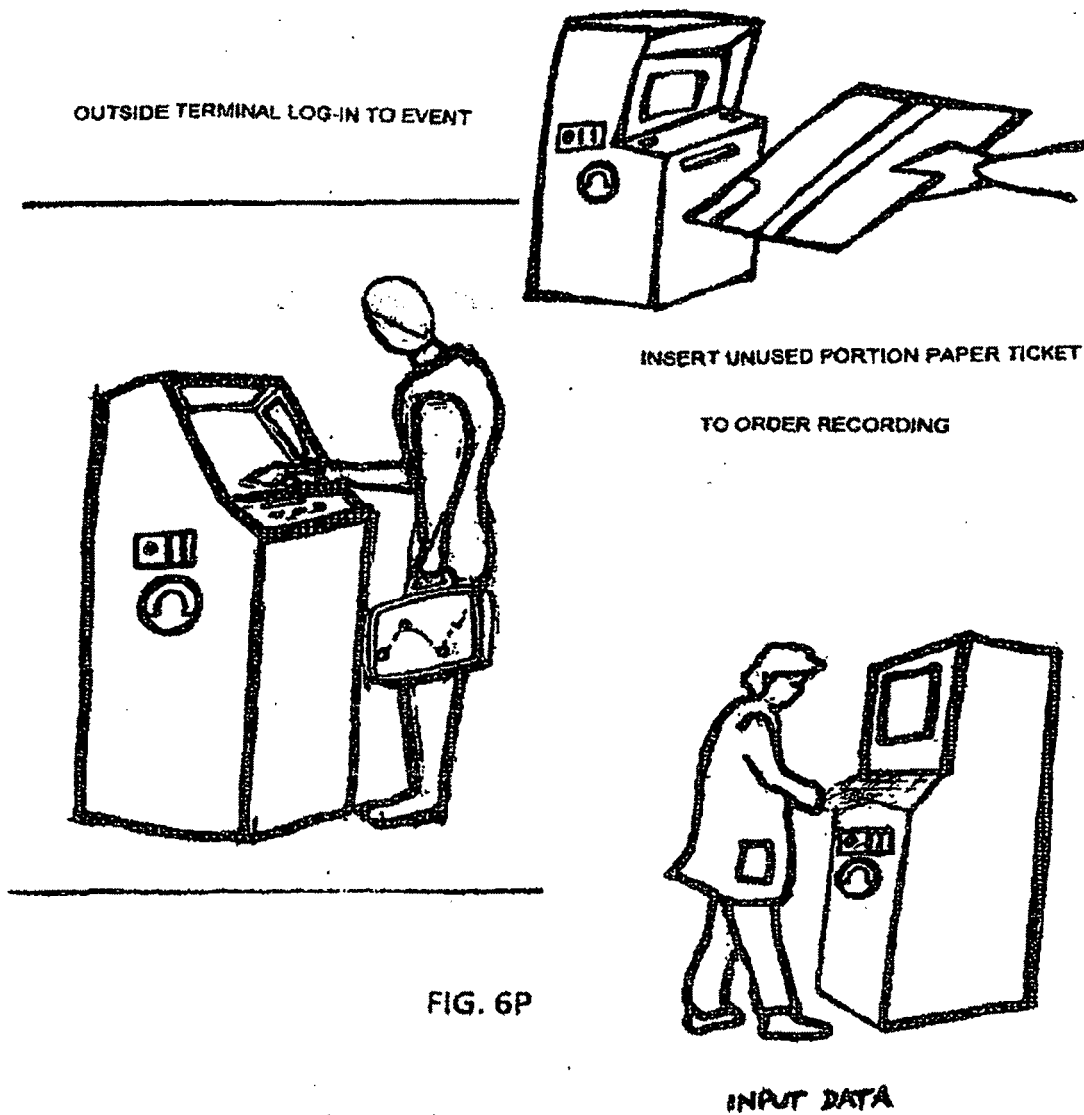


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**ELECTRONIC TICKET MANAGEMENT AND  
LIVE EVENT MAXIMIZATION SYSTEM  
COUPLING EVENT TICKETING,  
ADMISSION DATA AND PLACED BETS,  
ACCESSIBLE FROM USER DEVICES AND  
LOCATION BASED INTELLIGENT  
APPARATUS MACHINES**

**RELATED APPLICATIONS**

This application is a continuation of application Ser. No. 11/253,912 which claims the benefit of continuation-in-part of application Ser. No. 10/442,468 filed May 20, 2003 which claims the benefit of U.S. Provisional Application No. 60/382,710 filed May 22, 2002 and U.S. Provisional Application No. 60/382,949 filed May 24, 2002, all incorporated herein by reference. This application also claims priority to provisional application Ser. No. 60/619,754 filed Oct. 18, 2004.

**FIELD OF INVENTION**

This invention pertains to a system and method of producing and distributing recordings of live performances.

**BACKGROUND OF THE INVENTION**

The advent of the digital age has demonstrated that any content or event (including live as performed content) that can be recorded and transformed into "bits" is a valuable, marketable commodity. In the past, major studios, record labels and production companies controlled what live content would be produced for distribution to the public. Except for live or tape-delayed grandiose television/cable productions, certain news coverage and special radio broadcasts, the live experience was limited to ticket holders/audience members.

Now, however, live content is inexpensive to digitally record. Virtually any lay person can create a quality digital live recording of any event of public or private interest on simple equipment and then upload the recording over a telecommunications network. Such upload will result in free content ownership not only for the recorder, but also for any other interested user. Telecom-connected third parties can then, for example, burn their own CD's on home components or store the content onto a hand held music player. Once the recording is uploaded, then, it is game for others to copy and own it without payment.

The unauthorized digital transmission and retransmission Peer to Peer ("PtoP") or Business to Business ("BtoB") of pre-recorded studio titles, albums, and other derivative tie-in merchandise over the Internet since 1998 has virtually crippled the music industry. "Wi-Fi" now enables hook up to the Internet without a wire. Podcasts carried through Wi-Fi or satellite radio may not be far off. Clipcasts (transmissions of content to mobile phones) will shortly follow.

In spite of the spiraling decline in retail CD sales since 1998, the live concert market is surging. Concert ticket prices have skyrocketed. Coincident market penetration of hand-held music players has necessitated a change within the music industry from an album to a singles oriented business model and the proliferation of on-line subscription services. With use of the instant disclosure, it is anticipated that concerts and recording from live events as well as interactive tournaments will be coveted by consumers and subscription services that reach the global audience.

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In spite of this, to date, the full recording impulse buying potential of the live concert audience remains untapped. Concert hall shops still only offer an artist's pre-released studio product usually only in CD disc form and not the performance just attended. At the core are the continuing limitations on technology, the huge cost of recording and packaging productions for immediate on site and multimedia delivery, and the monetary and time constraints including for onsite personnel and staff needed for quality mastering and editing. In addition, for more grandiose live productions that feature multiple performers and whole orchestras, there is an impasse among the creative factions as to the proper royalties payable upon release. Musicians' unions and performing rights societies that collect royalties on behalf of composers and publishers contend that a digital encoded recording transmission over any telecommunications network is a separate "performance" triggering additional payments.

For these reasons, a necessary premise of the instant disclosure is that any viable market solution for live recording release must be inextricably associated with full royalty accounting, rights clearance and the equitable allocation of recording revenues among all those involved in production of the live event. The royalty accounting systems revealed in this disclosure do just this and will be independently licensed by the inventor for the management and administration of concert venues around the world.

At the same time, the present invention foresees that heightening anti-terrorism security systems are shortly to be installed by law or electively in public venues—newly constructed and existing—including Olympic sports arenas, international concert halls and airports. DNA fingerprint systems will be enabled to read the iris of an entrant's eye thumb print, etc., upon ingress or egress from and through the instant disclosure, can be simultaneously used at a venue to process audience recording orders separate from ticketing information.

The present invention further anticipates that with the advent of increasing bandwidth, live events, tournaments and performances as they are recorded and packaged will be electronically transmitted to businesses and computer users with increasing speed. This will help raise the market value of the live recording that is expected to surge immediately after the event ends particularly if it is publicized with pre-event ads issued, ordered and placed by the producers.

The instant disclosure is also premised on the fact that ticket holders will demonstrate a high proclivity for impulse buys if recordings are offered for sale immediately after final curtain at the hosting venue itself. In addition, it is anticipated that even greater sales will result if audience members and global non-audience fans can select their respective preferred means of retrieval. The instant disclosure predicts that adoring fans—regardless of geographic location—will always covet a complete repertoire particularly of a unique or special event. And while the CD is on its way out, for established patrons of the classical arts, it is still very much the preferred recording format.

The current trend in the music and entertainment industries is toward online subscription services. Web sites like iTunes, MSN, CNN, Yahoo, Amazon, AOL and Napster now offer content of all kinds—music, films, TV shows, sports replays, news clips and stock quotes for a fixed fee per month. Some of these sites are contracting with telecom companies to effect content delivery to cell phones. The recent institution of podcasts demonstrates that these sites will also offer live events, single titles and other tie-in merchandise like posters, T-shirts and pin-ups if packaging

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can be expedited and delivery effected BtoB or PtoP. They will also offer interactive gaming, response options and tournaments that are related to a live event.

Just by way of example—what if the global advertising campaign for release of a new “Harry Potter” book or movie was associated with an online tournament or offer? What if the coveted prize was an authenticated J. K. Rowling autographed poster? Further, what if the Indianapolis 500 could be instantaneously virtualized such that both audience members and interested fans from around the globe could steer their own cars along with the pack? In each instance, the global response would be huge. Fans would flock to any one or combination of location-based enabled intelligent terminals or enter from hand-held devices, home computers and mobile phones thereby maximizing the geographic influence and market power of even a local event.

#### BRIEF DESCRIPTION AND SUMMARY OF THE INVENTION

Methods, systems and intelligent apparatuses.sup.1 are disclosed for the immediate multimedia and electronic global ordering, sale, management, and authenticated distribution of live event content recordings by all means of delivery, transmission and retrieval now known or hereafter devised both on and off site from where the live event takes place. Methods and systems are also disclosed for the global solicitation and processing of authenticated electronic responses at live talent competitions, sporting events, and interactive games including from worldwide non-audience participants through enabled devices. .sup.1 (individually claimed but enabled to be integrated)

With respect to distribution of live music, entertainment and event “Recordings” (as herein defined), the methods and systems disclosed reveal means that expedite and associate necessary and value added steps in the production, packaging, broadcasting and administration process. These include: (i) association of recording orders to ticket sales, subscriptions and/or uniquely identifying information of the holder including credit card number, phone/mobile phone number, subscription or podcast address; for example; (ii) methods for content mastering, balancing and editing; (iii) methods for splicing and packaging single titles, action stills and other unique derivative works; (iv) methods for creating director’s cuts, “best of” versions and other derivative works; (v) methods for automated copyright accounting including calculation of statutory and contractual royalties from the point of every sale; (vi) integration of standard content security systems [e.g., encryption, watermarking and digital rights management (“DRM”)]; (vii) integration of new venue anti-terrorism security systems; and (viii) solicitation and processing of recording orders from non-audience purchasers using any uniquely identifying information that helps directs transmission of content including, without limitation, home or mobile phone number, URL, e-mail or street address, credit card or banking number, personal account, podcast or satellite radio account, Blackberry or text messaging account, Social Security Number, date of birth, mother’s maiden name, and most significantly, a DNA fingerprint.

In the sports and gaming field, entrant’s fees and bets placed are to be used in this disclosure in lieu of or in addition to “tickets”.

The disclosed systems and methods are optimally and immediately designed for use by classical artists, unsigned talent, “E-label” bands, their producers and arts institutions that are permitted to release live recordings without addi-

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tional clearances. These groups need strong promotional tools and established distribution channels to test the market for new titles and contemporary works.

The instant invention will allow for the economical production, packaging and multi-media distribution of any live event recording no matter how small (recitals, benefits and special performances, for example) that with the previous art were not made available for release because it was not cost effective to do so at low sales volumes. This content was therefore previously “lost” after performance and could not be re-enjoyed by members of the public at large.

The systems disclosed are also designed for use by interactive game, sports television, film and convergence producers to assist with the solicitation and tabulation of audience and non-audience responses. Such responses serve to expand the types of entertainment experiences offered to the public and geographic influence and promotional value of a particular competition or event.

In addition, the systems are designed for podcast and satellite radio producers, suppliers and consumers who offer and covet audio programming for downloading onto computers or portable music players.

By the means herein described secured and authenticated ordering, packaging, delivery and retrieval of any live performance or event can be effected anywhere in the world at cost low enough to make it economically feasible even at low volumes. This includes release of a recording immediately at the hosting venue as soon as the event ends.

With the instant disclosure, packaging will be in either fixed or encoded format with delivery over any available telecommunications network, by hand or regular mail. By such means, audience members can order recordings either pre-concert with their tickets or after in any desired format including standard CD format by onsite handout or mail or by using a venue-based intelligent terminal, a portable hand-held music, media player, Blackberry or other test messaging device, a land line, mobile phone, other wireless device, or a home computer. With the instant disclosure, non-audience members can independently order the performance or a derivative recording and their orders will be integrated with those from ticket holders.

The present disclosure further describes independent methods that immediately account for and calculate all statutory and contractual royalties due upon release from each point of sale such that the job and expense of payment administration is removed from those individuals and entities authorized to release recordings. For ticket holders, concert venues and arts institutions, this would also include calculation of bonus or promotional discounts if recordings are purchased in advance with tickets or subscriptions. More importantly, the disclosed accounting methods are independent and provide a quick, easy and foolproof method for ensuring proper rights clearances and the equitable allocation of recording revenues among all associated with the live event. These systems will be independently licensed to concert and sports venues around the world.

The instant disclosure further provides wholly independent but integrated means for digitally mastering and balancing live recordings via storage of a plurality of content analysis algorithms that analyze and manipulate audio information with or without video in a database and/or on a “live” basis as additional information is received.

By the means disclosed, a flexible multimedia information analysis apparatus stores a database that includes both audio and video information. At the same time, also stored are a plurality of content analysis algorithms for analyzing the digital information, which can be manipulated by a

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mouse. A selected algorithm can then be used to analyze and edit the audio, video or audiovideo data including on a "live" basis as additional information is received. Further content analysis algorithms can be applied in tandem to manipulate the information including splicing out singles titles from a whole concert, for example. By such means, digitized readings that are optimal for audience listening and enjoyment can be automatically converted to optimal readings for a selected recording format. In addition, the disclosed methods will assist in the incorporation of additional content (narration tracks, for example), to produce further purchase options for the consumer including derivative works, "best of", director's cut versions and event-related stills, posters, pin-ups, artist bios, karaoke insertions and playbills. These systems are optionally enabled to be associated with ticketing and independently with non-audience orders. They can also process single title and derivate "best of" and director's cuts orders that incorporate supplementary material, including narration tracks, for example, in addition to whole concerts as performed, from any purchaser.

The present disclosure provides additional means for integrating anti-terrorism security systems anticipated to be installed at large sports/Olympic arenas, concert halls, auditoriums and public venues, e.g., airports and shopping malls and to take positive supplementary advantage of these systems by using them to order recordings.

It provides supplemental means for integrating standard content security methods including encryption, watermarking and DRM that track a recording as it is transmitted to an end user PtoP or BtoB. It further describes integrated systems for soliciting and processing audience and non-audience response information (also optionally associated with ticketing, subscriptions and podcast information) to allow for new forms of live interactive entertainment at a particular venue. The responses tabulated by the present invention will include ratings of live competitions without the need for open telephone land lines and will allow for the staging of both real and virtual competitions.

If betting is to be permitted, the systems further describe means of blocking responses from territories where gaming for profit is not permitted by law.

Finally the instant disclosure reveals the inventor's creative designs for venue and public space intelligent terminals that include without limitation, enabled audience seats/chairs, enabled security turnstiles, recording ordering kiosks targeted for arts institutions (lobbies and promenades), and enabled computerized tables that are to be installed at showcase cafes, clubs and gaming bistros. All terminals permit hook up of hand-held music players to USB or equivalent portals, USB keys, etc., take food and beverage orders, and pay checks and parking fees electronically. They also allow the purchaser to order and buy a recording in any desired format with a designated means of retrieval.

For example, a purchaser-ticket holder can insert the unused portion of the audience ticket or swipe a credit card to order a recording for home mail or computer delivery, to start an onsite disc engraving, release an already engraved disc from a machine, or enable immediately hook up of a hand-held music player. In addition, the terminals authorize transmission of follow-up and demographic information back to the recording purchaser, tournament/competition participant, or other individual/entity authorized to receive the information collected at the time of ticket issuance or recording sale.

The present invention discloses methods, systems and apparatuses that electronically associate any one or combination of the global ordering, authentication, sale, recording,

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production, mastering/balancing/editing, single title splicing, packaging, transmission, distribution, engraving, optional tracking, protection, and retrieval of "live event Recordings" (as herein defined) with the sale of an event ticket, subscription order and/or other uniquely identifying information of a recording purchaser such as credit card number, phone/mobile phone number or Internet subscription account. In the case of live sports competitions and tournaments when gambling is or may be permitted, the present invention alternatively associates live event recordings with entrance fees and/or placed bets in lieu of or in addition to "tickets" and describes integrated methods that block out responses from territories where gaming for profit is not permitted by law.

The present disclosure reveals wholly separate but optionally integrated methods for processing worldwide live Recording orders that are independent of ticketing.

It further reveals integrated systems for ordering and/or delivering the live Recordings in any format including, by way of example, by hard mail, e-mail, over the Internet, to home and portable computers, hand-held music/media players, cellular phones, text messaging devices, podcast addresses and new Wi-Fi devices.

In addition, the instant disclosure reveals independent mastering, balancing, editing and splicing methods that assign numerical values to console and instrument feeds. As herein disclosed, a flexible multimedia information analysis apparatus stores a database that includes both audio and video information including the transposed console and instrument readings. At the same time, also stored are a plurality of content analysis algorithms for analyzing the digital information, which can be manipulated by a mouse. A selected algorithm can then be used to analyze and edit the audio, video or audiovideo data including on a "live" basis as additional information is received. Further content analysis algorithms can be applied in tandem to manipulate the information including splicing out singles titles from a whole concert, and packaging additional derivative tie-in merchandise.

Further, the instant disclosures describes systems and methods that allow both ticket holders and non-audience members to electronically rate and/or participate in a live staged event over any telecommunications network. The disclosed systems optionally authenticate entries and responses with ticketing or other uniquely identifying information that assists with directing transmission of the content.

Finally, the instant disclosure reveals the inventor's patented designs for intelligent terminals that take recording orders, are enabled to release recordings in fixed and unfixed formats and reroute authorized information back to the purchaser. These are targeted for arts institutions, hosting venues and public and private spaces including airports, banks and shopping malls.

## Definitions

"Recording" or "Live Recording" as used in the present disclosure is defined to mean any audio, video, or audiovisual material or data based on signals or content emanating, derived from or representative of the live event or any part thereof, or an occurrence pre or post event that is related to it including, without limitation, as it is packaged for sale and distribution in any medium.

Without limitation, Recordings may contain/include as examples: audio, music, video, audiovideo, concert feed, recital, sports competition (baseball game, soccer tournament,

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ment, etc.), stageplay or showcase presentation, press interview, mime production, literary work, theme park amusement, arcade tournament, game, videogame, display, art exhibition, artwork, autograph, photograph, clip, still, spoken dialogue, soliloquy, reading, lectures, speeches, seminars, classes and sermons, etc.

Typically, a "Recording" is stored, thereafter balanced, edited or otherwise revised in digital, analog or other format, and transmitted by a means of distribution e.g., broadcast signal, radio, over-the-air television, scrambled signal, cable, Internet, text messenger, podcast, satellite radio broadcast, clipcast, regular mail, hand delivery, wire, cellular/wireless (so-called "Wi-Fi"), or by any other means now known or to be hereafter devised.

At some time, a "Recording" may become embodied or stored on a fixed, tangible medium of expression such as film, VCR tape, optical disc (CD, DVD, dual disc, etc.), magnetic cassette, reel-to-reel, LP, local or remote hard drive, mobile music player, or other storage medium, etc., or alternatively may be received, displayed, stored and re-performed without physical embodiment. For purposes of this disclosure, Recordings will be receivable in either a fixed medium of expression or unfixed format by a third-party to include without limitation a consumer, purchaser, third-party seller or licensee in analog or digital format [digital data (if necessary)]. Notwithstanding the foregoing, nothing contained herein is meant to limit the scope of the inventor's claims should other recording formats be made available in the future.

Retrieval of a Recording in any format for purposes of this disclosure will occur on or off site from where the live event takes place including, without limitation, immediately after the event ends at enabled location-based intelligent terminals/kiosks, home terminals (a home PC, media player, Web TV, etc.), portable personal devices (hand-held music/media players, Blackberry or other text messaging device, e.g.), from a third-party distributor such as an online subscription service, producer or podcaster and on mobile phones. To the extent that order and/or retrieval of a Recording is to be over a telephone wire, cable or cellular telephone or any telecommunications network, the instant disclosure is deemed to work with or incorporate any phone number, address, or other uniquely identifying data including without limitation, a DNA fingerprint, URL, e-mail, podcast or satellite radio address, mobile phone or other account number that assists in directing transmission of the content.

## Utility

The utility of the present disclosure is apparent. The systems, individually and collectively, are designed:

(i) For use by arts institutions, performing artists and their production teams, sports organizations, concert venues, and public and private spaces (airports, shopping malls, banks, etc.) to offer a one-stop shop for the worldwide ordering, packaging and/or release of live content recordings in all media;

(ii) To provide new forms of interactive live entertainment experiences in close proximity and time with a live event, regardless of the geographical location of the interested consumer;

(iii) For use by arts institutions, performing artists and producers to assist in the immediate on and off site release of live event recordings;

(iv) To associate recording orders with ticket sales thereby allowing authentication and authenticated retrieval of recordings transmitted and released on and off site;

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(v) To allow recordings to be ordered from the time of first ticket issuance thereby offering promotional bonuses and discounts to venue subscribers and global fans;

(vi) To provide a true litmus and market indicator of new talent, a contemporary composer, composition, title or premiered work both from audience members and from the non-attending global market;

(vii) To afford artists and producers additional feedback on an event and optional demographic information on recording purchasers in all media and territories, if authorized;

(viii) To ensure rights clearance and the foolproof equitable allocation of recording revenues in all media;

(ix) To assist with all newly instituted means of audio, video and audiovideo content ordering and transmission methods (including podcasting, for example);

(x) To anticipate heightened anti-terrorism security measures incorporated within public and private venues and to take positive advantage of those systems by using them to assist with the ordering of recordings;

(xi) To record, capture and distribute otherwise lost live content including of smaller, local events that traditionally would not have been released to the mass media or the public at large and with the prior arts, were never capable of being enjoyed by those who were not in actual attendance (either locally or around the world).

Using the instant disclosure virtually all live content can be now be efficiently and effectively preserved, packaged, automatically accounted for and immediately offered for distribution to the adoring audience as well as to fans worldwide. Audience members can now fulfill their need for instant gratification and at cost low enough to make it economical even at low volumes. Ticket holders can either order recordings pre-concert or immediately after it ends at venue-based intelligent terminals, or in the alternative, retrieve and take home a recording in one of several formats right then and there. In addition, those who did attend the event as well as to those who did not, can now own copies virtually in minutes. Discounted recordings can be offered as added perks associated with subscriptions and early ticket purchasers. Those who pre-buy can also be offered the added benefit of the right to receive promo information on future events and releases. After the performance or event, Recordings can also be bought at any intelligent terminal installed at the venue or other public spaces that include airports, shopping malls, retail outlets and banks. In addition, any interested purchaser can order a recording from a home computer, land line, cellular telephone, Blackberry, text messenger or other enabled hand-held device by using a credit card or other unique identifying information of the purchaser including an online subscription account number or mobile phone.

To benefit from the instant disclosure are all parties involved in production of both the Recording and the live event as well as adoring fans that always covets a complete repertoire and new entertainment options. Aside from added revenues, the artists and copyright holders can now have access to what in hindsight proved to be a great or unique performance. And the public at large gets the option to expand its listening library of a favorite artist.

By the means herein described, for the first time, Recordings can be offered for sale by any known means from the time of first ticket issuance.

When physical discs are ordered at any location-based terminal, the systems are designed to work with the latest capacity standard CDR engraving technology (whether incremental or non-incremental) either to start the engraving

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of a disc or in the alternative, to release an already burned disc or the signaled information embodying same. If a particular venue elects to install a combination ordering and disc engraving intelligent terminal, with CDR technology now between 40.times. and 52.times., this will allow for authenticated release of even disc formatted Recordings to authorized retrievers immediately at the venue after final curtain. Audience members who have CD players in their cars can then re-experience a concert on the way home.

Global orders from those who did not attend the event can likewise be independently and immediately fulfilled by integration of appropriate systems. This will serve to maximize the market potential and promotional value of the event regardless of the geographic location of the purchaser.

Artists and composers who premier new works at a recital in a smaller locale will realize the added benefit of having these works optimally and quickly marketed particularly if they were not selected for release by a recording label. New bands and other "start-up" talent are likewise afforded the means to get their material immediately out into the marketplace and receive rapid feedback on their original compositions in actual dollars.

With increasing advents in technology that continue to compress the time and physical space needed to record and transmit audience responses to a live event, it is anticipated that at some time in the future, the present disclosure will allow for tabulation of on and off site ratings and responses as well as the public's participation in staged tie-in tournaments including from hand-held devices and cellular telephones. As the interactive response time becomes smaller and smaller over time with increasing bandwidth, both audience spectators and non-attending fans should be able to participate in virtually automatic ratings both from their venues seats and from enabled home computers, hand-held devices and cellular telephones.

The current trend towards reality television demonstrates that interactive viewing is a coveted by the entertainment industry. Shows like Fox's "American Idol" have already proven that there is a premium on interactive response programming because it performs advance market research on new talent. Moreover, because the major TV program suppliers and producers are no longer willing to pay a sitcom star \$1 million per episode, there is increasing demand for less expensive distributable content of any kind particularly that which can be distributed to wireless telephones. This trend will continue to grow as more interactive television, radio devices and offerings (now including podcasts and clipcasts) penetrate the marketplace and the viewing audience can more easily fast forward through a sponsor's commercials.

Submitted for separate patent protection is the inventor's original intelligent terminal designs including, without limitation, those in the form of an enabled venue audience seat, an enabled venue turnstile, an enabled eating or beverage table and chair, and an expanded ATM ordering kiosk targeted for public spaces, concert venues, airports, banks, malls and retail stores. The table terminals are seen for installation in the next wave of restaurants/media clubs/gaining cafes/coffeehouses, etc. They are designed to take food and beverage orders and pay checks and parking electronically without a human waiter or waitress in addition to fulfilling Recording orders. The turnstile version is expected to be a big seller as tightened security systems at Olympic stadiums, venues and airports are installed including those that read DNA fingerprints of audience entrants.

All terminals will incorporate credit card and smart card swipes, rating/interactive systems, disc dispensaries, USB

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and equivalent portals for hook up of music players and storage devices, all of which are electronically authenticated and linked to entrance tickets, seat assignments, food and beverage checks, a cellular phone number, URL, e-mail, podcast address, other account, or other identifying information of the purchaser.

The systems herein disclosed are further enabled to process special purchase orders. For example, individual titles (singles) from a live performance with or without accompanying video will be spliced out, specially formatted, accounted for at competitive pricing on the order of \$1.00 per title and offered for sale over the Internet for storage on hand held music players. Live singles will also be offered for sale on Internet subscription services along with event-related interactive games and tournaments. Also to be made available are director's cuts, narrated tracks, "best of" selections from a particular artist's tour and personalized compilations inclusive of audience noise, monologues, artist soliloquies and narration tracks.

All Recordings especially the spliced singles tracks—expected to be a big Internet seller—can be optionally watermarked, encrypted and protected with available DRM systems by integrating standard methods. These new live sound recordings of even old titles are expected to compete with the pre-released digital studio recordings that are now being freely shared over the Internet and crippling the recording industry. The inventor believes release of live singles presents one means to reverse spiraling losses attributable to the unauthorized sharing of digital files over the Internet in that it will offer alternative and fresh versions of a favorite artist's titles. Integration of screened video feeds after digitization present an inexpensive means to produce music video downloads at much lower cost that can be transmitted to cellular phones.

The inventor's disclosed accounting systems are key to keeping administration costs low. They are enabled to automatically calculate the statutory and contractual royalties payable to all involved in production of the live event and its Recordings. Labels, managers and producers can select any accounting format compatible with their current systems. Each participant's confidential accounting statements will be available 24/7 by secured key over the Internet and will offer information from every point of sale. Singles delivered to a cellular telephone will be accounted for by these same systems.

#### B. History of the Field

Historically, live entertainment events when recorded for live or tape-delay distribution to the mass media were relatively expensive productions. They were designed with high quality processes and formatted to meet broadcast standards. Originally, live recordings were made on film and/or tape but are now recorded by digital technology, and often with modest equipment. Now, even with advents in technology, tie-in merchandise like T-shirts, autographed pin-ups and cups that are being offered for sale to the public in on-site venue stores and retail outlets are generic, i.e., they do not relate to or symbolize the specific event attended.

In the traditional music industry business model, live performance revenues were reserved in standard label contracts by the artist for their own exploitation. This meant that venues, event producers and promoters made their revenues only from audience ticket sales, commissions from on-site concession and sales of tie-in merchandise as related to the artist's reserved rights, and the artist's label did not share in these sales.

Conversely, the decision as to whether to release an audio or audiovideo recording of the live performance remained in

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the exclusive control of the artist's record label. Because the costs associated with broadcast-quality productions were so high and there was an additional concern that new releases might interfere with stable revenue streams from previously released whole albums, very few live events were made available for home release including for those who did not attend the live performance. The on-site stores at the Continental Arena at the Meadowlands, Tanglewood or the Metropolitan Opera, for example, sell only the artists' pre-recorded studio albums, not the CD of the performance actually attended.

In a similar fashion, concerts in smaller municipalities or those given by new, unsigned bands just building a following, solo recitals of classical artists, local stage productions, sporting competitions like horse racing, NASCAR and major/minor league baseball, educational seminars, speeches, etc., have almost never been produced for the mass media or home distribution. The live experience has been limited to the actual audience and spectators, i.e., those lucky enough to get "tickets". One exception is OTB where the live event is televised in specific networked locations for the benefit of all who place bets.

Basic recordings were, however, made of most live performances and sporting events, using simple equipment of modest quality, for reference, study or promotional purposes. Additionally, the press would cover highlights of certain local events (college competitions, e.g.) and archive footage for future stories or ancillary licensing. In the sports field, this business model works because once a competition is over, most of the commercial value of the event is lost.

Such is not the same for the music industry, however. When a great performance or concert has taken place, in hindsight the entire world may relish the chance to see it and even own it.

But even in the music business, tie-in videogames never became a standard part of the business model because of the limitations on technology and the prohibitive costs of production. With the instant disclosure, however, this will change. Any concert can now be the focus of an interactive promotional campaign that is tied to ticket sales and subscriptions. Certainly this advertising strategy is a lot cheaper and will expand geographic interest in the event.

What does this mean in dollars? In a nutshell, it means that with the prior art, most live events—even unique and quality performances and competitions as they continued to be staged around the globe everyday—had the fate of becoming "lost content". Live events are still not being exploited to their maximum potential because the systems in place were designed only to generate revenue from ticket sales and keep venue revenue sources separate from those belonging to the record labels.

In the music field, starting March, 2003 ten months after the preliminary application for the instant disclosure was filed, a handful of disc burning concerns attempted non-automated, non-authenticated physical CD handouts at small performing venues by incrementally transferring single titles onto a master as they were tracked. These companies conceded that with this method they could not fulfill the Recording demand of a large concert audience or any immediate outside orders.

In addition, standard CDR burning technology is now available at 30.times.-52.times. (one CD in little over a minute) even for home components. With standard technology as it may be updated, the on-site methods and systems disclosed herein do not require incremental track transfer to cut disc compression and duplication time (for those that

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want discs) and thereby can satisfy any size audience as well as outside orders all at the same time.

With the increasing costs of TV programming and the trend towards reality TV, basic digital recordings are now recognized as valuable, marketable content. Now, depending on the particular event, even the most basic recording can increase in value over time. TV shows and theatrical films like "American Idol", "The Apprentice" and "The Truman Show" demonstrate just how valuable even raw content has become. The announcement heard at the beginning of virtually every live event that cameras and recording devices are strictly prohibited, is definitive proof of the value of live Recordings even if they are not optimum quality.

With fast-forwarding options becoming more prevalent on home media players that bypass commercial advertisements, networks are no longer willing to pay a sitcom star \$1 million per episode as they did in the final seasons of "Friends". In January, 2004, Mezzo-soprano Marilyn Horne told a seminar class that she was only able to incorporate a particular song on her 70.sup.th Birthday Album because it had been unlawfully recorded at a concert by an audience pirate. Norah Jones' early primitive recording sessions in solitude are now extremely valuable as background material not only for her own albums but also for the hot selling DVD releases of the Grammy Awards.

The analysis is no different for professional and amateur sports. Wouldn't at least some fans still want to watch Don Larsen's perfect game or receive a clip from a Yankee rally during the post-season superimposed on a T-shirt or autographed poster? If a fan didn't tape a game he attended, isn't it also likely that he may still want to buy a copy for reference or study?

In the music field, statistics show that many find live or "recorded as live" concerts far more satisfying than highly edited and planned "studio" recordings. The audience cheers, applause and artist monologues make the live recording far more exciting and have not been shown to cut into revenues generated by the original album.

Also, fans of an artist usually also covet a complete repertoire. In July, 2004, Business Week reported that 20-30% of an attending audience will order a CD of a concert attended on their way out the door. Whether that should be a physical engraved disc, a download direct to an iPOD or an order for home delivery is a decision this inventor will leave to the purchasers and venue owners to decide for themselves. Both are claimed in this disclosure.

Master classes, seminars and lectures by an adored artist also have inherent value.

And how many unsigned bands have downloaded their original material in hopes that get one of the "illegal" file sharing companies to pick it up even for listening by pirating teenagers? New acts will do almost anything to get free publicity. Now many avoid signing with a label because it has become increasingly clear that the labels are no longer in optimal control of the buying market.

It is not unusual that a great talent, artist, contemporary composer, or ensemble of great talents may appear or premiere works in a unique performance as in a benefit concert, gala, limited tour or opening and/or perform in a smaller market for a particular function or celebration. Many view the failure to offer these concerts as depriving the public of an artist's complete repertoire and/or interfering with a new artist's right to publicity. The May 15, 1999 Carnegie Hall recital of the "New Goldberg Variations" performed by cellist Yo-Yo Ma with a single piano accompanist is such an example. Royalties and guild residuals would have been minimal for release of this recital because



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a full orchestra was not involved. Yet it was never released by SONY Classical. Why not?

Renee Fleming and Ruth Ann Swenson, now probably the most marketed American sopranos in the world, formerly appeared on the 1998 program of the Marilyn Home "New Artist Series" at Carnegie Hall. International classical music fans as well as patrons and subscribers would love to own a copy of this event. Yet the union and creative factions there continue to wrangle over royalties, regardless of the value of the recording.

#### C. Utility/Marketability

That there is a clear positive market for live recordings, even if of less than optimal quality, therefore, is a given. The proof can be found in the "warning" message to the audience heard before virtually every live performance or professional sports competition informing patrons that recording is illegal and strictly forbidden. Only in the rarer instances when the artist, celebrity or producer has already licensed grander broadcast rights for live or tape delay production will the basic digital recording serve less than an absolute useful purpose, but as demonstrated above, a commercial purpose nonetheless even if only to fulfill tie-in merchandise orders.

Start-up bands are in desperate need of fast and efficient distribution channels for their original material in hopes of discovery. Now, even many veteran artists elect to negotiate with labels and concert venues so that they can offer their live performance recordings for sale in multiple formats.

Within the artistic community are certain rules and mores that using the prior art prevented capitalization of the live content market when the preliminary application for the instant disclosure was first filed in 2002. As aforementioned, the major labels and producers own the exclusive rights to the releases of their signed and featured artists including live performances. Moreover, the standard artist-label contract usually prohibits distribution of a recording without the artist's prior approval. Whether a label may have negotiated an "out clause" for live concert feeds must be analyzed on a case-by-case basis, another expensive administrative hassle for the label.

The only present exception is in the field of classical music because studio releases have never sold as well. Because of this, for the last few years, classical artists have been given "out clauses" to release their live recordings that were not given any artists five years ago. But even with these new contracts, the labels have remained reluctant to share of any part of live Recording sales with the hosting venues because they in turn do not participate in ticket and concession revenues. To help solve the impasse and the continuing decline of the recording industry, both parties along with musicians' unions, performing rights societies and digital rights management organizations may now have to negotiate if they want to keep consumers happy and keep pace with advents in technology.

While in the past the labels feared that new live releases would interfere with their long-standing relationships with retailers and in turn stable revenue streams from classic pre-recorded albums, they affirmatively avoided placing competing releases including live sound recordings into the marketplace. Now, with disc retailers becoming less significant with the marked increase in free digital file sharing and paid downloads to hand-held music players, these prior concerns have no rational basis in dollars.

Royalties, however, remain especially high upon ancillary release of a concert when a full orchestra is involved particularly in a top union house. Royalty payments are a sticky negotiation point for every grandiose music special

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packaged for multi-media release. Union engineering contracts make live production costs even more prohibitive at certain major venues like Carnegie Hall. Now we have podcasts and clipcasts where audio programs classically carried only on radio are made available via special software for download to home computers and mobile phones.

Special live concerts broadcast from a Wi-Fi hotspot is almost certain to become the next genre of podcast series and quality systems of management and administration as presented in the instant disclosure will be sorely needed. Whether a digital transmission is a "performance" as defined in the US Copyright Act, will not ultimately prevent a buy-out price per event by each of creative factions. Even other administrative nightmares like paying mechanical royalties when a concert is to include material composed by an individual other than the featured artist or one signed to a different label, are managed by the instant invention.

In 2002, when the preliminary application for the instant disclosure was filed, the news from the Recording Industry was unanimous that labels and copyright holders were avidly searching for new ways to replenish recording revenues lost to Internet piracy and file sharing. Motion picture studios also reported becoming increasingly concerned about digital piracy of theatrical films. The answer, as proven by the subsequent exponential surge in ticket sales and new forms of interactive entertainment, may well be active pursuit of the live content market with implementation of the systems herein disclosed.

Statistics continue to confirm that a significant number of concert goers (20%-30%+) will buy a Recording of an attended event if delivery can be expedited. Further statistics show that there is a premium on being able to offer instant gratification to an audience on the way out of the venue. A higher percentage will purchase if a preferred method of retrieval can be designated. A cup or T-shirt is far less attractive than the performance itself. The instant disclosure provides the most comprehensive recording purchase options to the consumer. In addition, the venue selects whether the inventor's intelligent terminals installed onsite will offer authenticated recording ordering, encoded delivery to hand-held devices and also actual CD burning and engraving.

In sports, the videogame industry is itself a multi-billion dollar business. Interactive game(s) are a natural supplement order for a sports entry ticket. If fans in the audience and elsewhere could all participate in a staged virtual tournaments related in time and space to the live competition, the promotional value could be huge. The end result would be broadened geographic interest even in a local event and a ring side seat on a cell phone.

A sport celebrity's and/or artist's pin-ups, posters and T-shirts sell extremely well and may even appreciate over time. Making a still or autographed photograph of a short-stop's great play immediately available would be a certain "hit" almost like catching a foul ball in the stands. All such orders are most efficiently fulfilled when linked to ticketing operations.

The present invention and disclosure conquers these and many other problems traditionally associated with the immediate marketing of live event Recordings. These include but are not limited to: The technological and speed limitations on on-site live recording ordering, balancing/editing, fulfillment, physical disc engraving and authorized retrieval of the live content in fixed, analog, digital and/or other encoded format; The cost of manually gathering the information associated with the sale(s); The huge prototype costs including costs of on-site intelligent terminals; The technological

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limitations on authentication; [0102] The technological limitations on editing and balancing; [0103] Integration of technology that ensures confidentiality to purchasers; [0104] Integration of technology that ensures protection of the live content; [0105] The lack of systems that associate mobile phone and other electronic live recording orders with ticketing and/or immediate and subsequent live sales around the world; [0106] The lack of systems that integrate all recording orders pre and post event in all media; [0107] The job of securing clearances of all parties necessary to effect live recording release [0108] The job of securing the artist's prior approval to the live release particularly if required by contract; [0109] The cost of separately producing and advertising; [0110] The cost of high engineering fees particularly in union houses; The cost of the residuals and both statutory and contractual royalties owing to all performers, copyright holders and participants upon ancillary distribution; The cost and clearances required for multimedia of recording delivery including Wi-Fi, satellite radio, podcasting and clip casting; The overhead of music and live recording publishing administration; The overhead of royalty accounting including calculation of participations, copyright royalties and payments to guilds and performing rights societies, and generation of statements as may be audited; The cost of litigation and insuring against it particularly in the gray area of digital distribution; The cost of updating to keep pace with advents in technology; The costs of servicing all systems, terminals and equipment; The loss of impulse business if the customer has to wait a long time to receive a Recording or tie-in merchandise from the event; The technology and speed limitations of already attempted methods of onsite disc burning because the customer must wait for discs to be balanced, edited, burned and physically handed out, rendering the tried methods insufficient to accommodate a large concert or sports audience; Potential losses from unauthorized uploads and digital piracy of the live content including from a previous performance during a particular tour; The technology limitation on integration of all methods and systems needed for financial success; and The lack of systems that organize and process demographic information from purchasers so that future events and releases can be better marketed while still maintaining the confidentiality of those purchasers who so designate; The cost of insurance to guard against infringement and misappropriation.

#### SUMMARY OF THE INVENTION

The instant disclosure presents novel, useful and unobvious systems, methods and intelligent apparatuses that efficiently, quickly and economically capture and exploit otherwise lost live content. Methods, systems and intelligent apparatuses are disclosed for the immediate multimedia and electronic global ordering, sale, management, and authenticated distribution of live event content recordings by all means of delivery, transmission and retrieval now known or hereafter devised both on and off site from where the live event takes place. Methods and systems are also disclosed for the global solicitation and processing of authenticated electronic responses at live talent competitions, sporting events, and interactive games including from worldwide non-audience participants through enabled devices.

With respect to distribution of live music, entertainment and event "Recordings" (as herein defined), the methods and systems disclosed reveal means that expedite and associate necessary and value added steps in the production, packaging, broadcasting and administration process. These include: (i) association of recording orders to ticket sales, subscrip-

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tions, podcast address and/or uniquely identifying information given by the holder at the time of issuance; (ii) methods for content mastering, balancing and editing; (iii) methods for splicing and packaging single titles, action stills and other unique derivative works; (iv) methods for creating director's cuts, "best of" versions and other derivative works; (v) methods for automated copyright accounting including calculation of statutory and contractual royalties from the point of every sale; (vi) integration of standard content security systems [e.g., encryption, watermarking and digital rights management ("DRM")]; (vii) integration of new venue anti-terrorism security systems; and (viii) solicitation and processing of recording orders from non-audience purchasers using any uniquely identifying information that helps directs transmission of content including, without limitation, home or mobile phone number, URL, e-mail or street address, credit card or banking number, personal account, podcast or satellite radio account, Social Security Number, date of birth, mother's maiden name, and most significantly, a DNA fingerprint.

In the sports and gaming field, entrant's fees and bets placed are to be used in this disclosure in lieu of or in addition to "tickets".

The systems disclosed include but are not limited to coupling "ticket" sales with orders for event content Recordings that also specify the preferred method and/or location of retrieval and can be optionally authenticated and/or protected by the integrated methods herein described. They describe wholly new ticketing/ordering operating systems that can be integrated including without limitation an interface to work with existing ticketing software (even when orders are placed over a phone) which converts the ticketing data into a readable language, XML for example, thereby creating an overlay and allowing for the authentication of information already input. Such coordinate systems equally apply to data input for tournament entrance fees or placed bets as well as or in lieu of "tickets". They further apply to methods authenticating orders to delivery codes including assigned land lines, cellular telephone numbers, URL's, e-mail, text messaging, subscription, podcast and clipcast accounts, DNA fingerprints or any other uniquely identifying information that directs transmission of the content. The term "Tickets" and as used in the instant disclosure, therefore, relates not only to the entrance receipt resulting from the ticket sale transaction but also to tournament entrance fees, bets placed or other information of the ordering or receiving terminal including as example a land or cellular phone number which can be authenticated and/or receipted to uniquely identify the buyer/placer by any electronic or other means now known or hereafter devised.

The present invention incorporates systems and methods of assigning numerical values to live audience feeds and then converting the digital reading(s) balanced for an audience to those for a CD track mix.

The present invention incorporates methods for placing special orders for audio-balanced, spliced, edited and other derivative event Recordings including without limitation single music tracks with our without accompanying video including without limitation from installed video screens at the event, those with and without audience noise and/or artist monologues, sports highlights, "best of" compilations, director's cuts, narration tracks, photographs, stills and tie in merchandise, posters, pin-ups, T-shirts, cups, celebrity endorsed games or videogames, etc., —and associating these with the "ticketing" and other systems herein disclosed.



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The present invention also incorporates systems wherein the purchaser is given the option to receive promotional material for other subsequent event announcements and merchandise.

With the systems herein disclosed, purchase and retrieval of Recordings embodied in a fixed tangible medium of expression (CD, DVD, VCR tape, etc.), or in non-fixed analog, digital or other signaled format may take place at the venue itself, at location based intelligent terminal kiosks including enabled tables at eateries, coffee houses and showcases and terminals at any other location including airports, malls, and retail stores, at an ATM machine, or at a home personal computer, cellular telephone or other apparatus.

Further disclosed are independent methods and systems for processing outside orders for the live events Recordings from those who did not attend the event and/or who have no access to on-site points of sale. These orders may be placed over the Internet, by regular land line or wireless phone number that pursuant to the instant disclosure may be linked herein to the ticketing operations.

The instant disclosure presents a technological solution to deter the unauthorized sale and/or upload of shared digital files by offering downloaders fresh content of featured artists to compete with their previous studio Recordings that are now being shared for free and crippling the Recording industry.

The present invention discloses integrated methods and systems for prompt, accurate and virtually automatic calculation and payment of statutory, guild and contractual royalties to copyright holders and participants alike by managing accounting from the point and moment of sales. This allows for the immediate equitable allocation of revenues and the tremendous lowering of the overall costs of production and distribution. Disclosed is a system for protected key access by all copyright holders to their royalty accounts and demographic information to the extent that purchasers authorized its disclosure.

The present invention is a complete system and method providing a legal, efficient way to maximize the revenue and the promotional value of the live event, track the content sales, gather the required information and transmit that information to all parties involved in the production, manufacture and fulfillment of sales as well as to those entitled to share in revenues and at cost low enough to make it practical even at low volumes.

Equally important, by returning control of content releases to the copyright holders (which in turn will allow for the offer of discount and promotional tie-in pricing concurrent with ticket sales), the present invention will serve to encourage new and established talent to remain within the structure of the existing system, thereby providing a win-win-solution to all—studios, labels, and participants alike.

Further, the present disclosure offers the public the opportunity for instant gratification and impulse buys at comparatively lower cost to the suppliers without the need for "hand out" sales or additional sales personnel.

The system incorporates rating and interactive systems to enhance the live experience and its geographic influence and also to allow for participation staged tournaments and contests by ticket holders and non-audience members alike.

Optionally, Recordings including single tracks may be separately encrypted, watermarked, formatted and/or rendered destructible by known industry means, integrated with other systems described and offered to consumers over the Internet for a download fee and transfer to hand held players.

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Other special purchase orders including "best of" compilations, director's cuts and narration track versions are anticipated to be especially attractive when multiple performances of a live event take place at the same or different venues, as during a revival or artist's concert tour. To the extent that pre-event disc production may incorporate already approved performances of certain titles from a prior concert of a current tour, the systems integrate those balanced, edited and production systems as well.

Separate integrated methods and systems are disclosed for automated mastering and editing including digitizing console and instrument feeds through the use of algorithms. These systems and other editing and disc burning/engraving technology that may currently exist or hereafter be devised, are described as to be integrated with the ticketing and Recording ordering systems herein described and/or the system as a whole.

In total, these methods individually and collectively comprise the collection and input of purchaser information starting optimally at the time of first ticket sales, the optional integration and processing of mastering, editing and digitized balancing data, and secured transmittal of that information to all parties responsible for the fulfillment, manufacture and distribution of the Recordings, as well as to those entitled to payment by statute or contract.

In the instance where the Recordings are to be delivered by immediate and/or electronic transmission directly at the venue or devices including a land or cellular telephone or other enabled appliance, methods and systems of authentication of the ticket holder's or outside purchaser's information including his assigned phone/cellular numbers, e-mail address and/or bank account are incorporated and disclosed to ensure authenticated delivery to the proper party at the time and/or location of retrieval. Integration of standard secured credit card technologies will allow on and off site sales at any enabled terminal location including without limitation at a home computer or cellular telephone to all who did not pre-buy Recordings. All purchasers and can elect to receive promotional information for upcoming releases, games and other live events. In the systems disclosed, the buyer/orderer will maintain the right to have such information transmitted to the copyright owners as part of an overall demographic package or to keep such information confidential.

Optionally to be added to the system are integrated methods to handle the purchase and/or license of grander scale broadcast productions and home distribution versions. For those cases where the pre-approval of the artists is required prior to release of a Recording, integrated are disclosed systems to block sales until and only if such consent is secured.

Systems for audience participation and ratings, videogame or interactive tournament play or live content merchandise auctions or stock markets, can be optionally integrated into the systems disclosed to enhance the complete live experience and encourage participation by spectators and non-audience members alike.

#### BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 depicts an overall schematic or block diagram of a system constructed in accordance with the present invention.

FIGS. 2A-C depict the transaction flow including processing and administration of Recording orders—claimed both from ticket holders and independently from non-ticket

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holders—payments and accountings to all copyright holders and participants (or “partners”).

FIG. 3 shows a flow chart for processing transactions and information requests.

FIG. 4 depicts the method and system of manufacturing/ fulfillment including orders for complete, spliced or special purchase Recordings including derivative or edited versions, singles tracks and personalized compilations in fixed, encoded and any other format.

FIG. 5 depicts the methods and systems of On and Off-Site Production and Distribution and authenticated retrieval associated with identifying ticketing information and other uniquely identifying information of a Recording purchaser.

FIG. 6(a)-(p) depict the inventor’s original intelligent terminal designs separately submitted for patent protection.

#### DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT

While the instant invention is susceptible of embodiment in many different forms, there is shown in the drawings and herein described in detail preferred embodiments of the invention with the understanding that the present disclosure is to be considered an exemplification of the principles of the invention and is not intended to limit the principles or scope of the invention to the embodiment.

As is now standard in the industry and in referring to FIG. 1, the system architecture of the preferred embodiment of the present invention is implemented using a Data Center, a plurality of venues using standard point of sale equipment and a plurality of terminals. The Data Center is in communication with each venue and each purchaser or licensee terminal through the Internet or any wireless application. The terminal can be any device through which a user can access a Website, e.g., a personal computer, a personal digital assistant, an Internet-through-television device, a cellular telephone, or any type of many available wireless devices available in the market; or any updates as may now or hereafter be devised.

Referring to FIG. 1, the Data Center (100) preferably comprises database servers, Web servers, a load balancing router and a firewall (18) connected to the Internet (19). The firewall (18) receives messages from the Internet (19) and forwards the messages to the load balancing router and likewise receives messages from the load balancing router and forwards them to the Internet (19) or other similar distributed computer network. The firewall (18) preferably performs a number of filtering functions and network address translations in order to safeguard the Data Center from unauthorized access. The firewall (18) also preferably encrypts and/or watermarks the message using known public key/private key encryption and standard methods and may also integrate Digital Rights Management (“DRM”) tracking. The load balancing router forwards messages received from the firewall (18) to one of the plurality of Web servers. The load balancing router also forwards messages received from the Web servers to the firewall (18) for transmission to other sites through the Internet. In this manner, the load balancing router distributes tasks to be performed to one of the plurality of Web servers in order to distribute processing demands. The Web servers access the database servers (100) to retrieve and store information in response to received messages from the terminals (not shown). The database servers store data tables which contain information about various venues, events, accounting, royalties payable, fixed payment allocations, ticket resources, ticketing software,

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user rules, ticket status, ticket holders and tournament entrance fees and bets placed (if applicable).

An end user (10) can access the Data Center (100) by using a standard Web browser on a terminal (not shown). However, non-standard, custom software can also be implemented or Web browser software on the wireless device such as a personal digital assistant or cellular telephone. Terminals (10, FIGS. 6A-P) can log into the Data Center (100) to view events which will take place in the future and purchase tickets, allow patrons to access Recordings from the just-completed live event, interact to rate a new act or the event itself, and/or to buy interactive games to participate in the event itself or is staged tournaments with other users or spectators.

Moreover, other information including user roles, options for Recording retrieval including location, means of retrieval and incorporating burning, engraving, mastering balancing, editing technology as may now exist or hereafter devised including through the use of algorithms as herein disclosed, may be implemented. Choices may include venue, management, artist, record label, team owner, event management, ticket buyer/ancillary purchaser, retrieval immediately at venue by CD or DVD, or for delivery by digital transmission/USB port at a location-based kiosk, at home by mail or by home computer access, on a cellular telephone, or those that order derivative works or elect to input other demographic information for dissemination, i.e., ‘best of’ versions, director’s cuts, narration tracks, and request upload of demographic information and promos for upcoming events and other releases, etc.

More particularly, referring to FIG. 1, the system further includes one or more entertainment venues (14), a fulfillment or manufacturing center (FIG. 4), a plurality of information fee recipients (24) and a plurality of Recording recipients (28). The transaction flow is depicted in FIGS. 2A-C.

A ticket buyer makes a purchase transaction in step (110). See FIG. 2A. During this step, the ticket buyer (10) is presented with the option of pre-buying a tie-in Recording. The price of the Recording is added to the price of his ticket purchase to the live event (or other logged entrance fee or bet). In the event the purchaser desires to retrieve his Recording at the venue immediately upon completion of the performance (or prior to in the case of interactive games), standard authentication methods may be employed, including, but not limited to, bar coding and or information authentication.

The ticket seller, who is already making various allocations for taxes, fees, etc., from the gross receipts, treats the price of the value added Recording similarly. He subtracts his fee, whether fixed or contingent (his incentive to provide this service), and forwards the remainder to the Recording supplier (Recording-seller). Because this is still a single transaction, with the ticket serving as the customer’s receipt, the added cost is minimal.

The ticket seller at locations transmits the transaction data over a PC or other standard point-of-sale equipment well known in the art (not shown), which includes the information gathered from the charge card transaction, which identifies the buyer and specifies the address (the charge card address or other address selected by the buyer (10)) to which the Recording is to be sent, to the Data Center (100). This transmission is done in real time, through the Internet (19), using industry standard protocols such as XML and is properly secured using one of many industry standard encryption methods.

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Upon receipt at the Data Center (100), the transaction information is immediately loaded into the master system database. The data base system is capable of Recording a multitude of transactions involving a multitude of events simultaneously, while at the same time providing all of the required reporting and processing functions and maintaining both the physical and logical security of the information which is critical to the successful implementation of the method.

The preferred embodiment preferably uses an industry standard database system, e.g., Oracle, Microsoft SQL Server, IBM DB2, XML, etc., which is scalable, and of an industry standard set of server hardware, which is also scalable to ensure that it can handle whatever transaction load is required.

In step (112) the Data Center (100) checks if the transaction is valid. Invalid transactions are discarded (step 114). In step (100) the Data Center transaction is posted with database. In step (116) the transaction is backed up. Next, various data files containing statistical information are updated in the data base (100) to reflect the latest transaction(s) (step 118).

As indicated above, the Data Center also encompasses a series of Web servers providing as Web sites and/or Web services points of access for various interested parties to retrieve information required for their operation. FIG. 2B shows the process for generating the Recordings in fixed media of expression (CD, DVD, USB, e.g.) on site using a suitable Recording subsystem including at location-based kiosks and terminals. (FIG. 1, 28). During or immediately after the event, the Recording subsystem generates a Recording on an appropriate medium using preferably non-incremental methods. In the alternative, Recordings are available to be retrieved on or off site through enabled terminals in digital format through USB port or other methods including hook-up of media players and other storage devices, also authenticated using cellular telephones and Internet subscription accounts. Booklets (if any) are prepared for the buyer together with labels that are affixed to the Recording.

The completed Recording is delivered to the buyer. Finally, the manufacturing and fulfillment details are sent to the Data Center (100) and fulfillment center for accounting and statistical analysis. Using this data, various statistical data bases are updated with the latest transaction(s). FIG. 2C illustrates the final accounting process. Thereafter, the transactions for the event are reconciled and finalized and reports are generated. The reports and payments to various partners are calculated and transmitted. In the last step, temporary data in the central data base is cleaned out and the central data base is readied for the next event.

As discussed above and illustrated in FIG. 1, if a user or buyer wants to take home or receive a live Recording directly at the venue upon completion of the event, standard authentication methods, including but not limited to bar coding, may be used. Referring to FIG. 5, the Recordings from the editor apparatus are stored as tracks on servers. Next, the Recordings are transmitted or "burned" on site by updated non-incremental CDR technology generating media (401) in bulk. The media (401) (that may include DVDs, CDs, etc.) are sold by either users or buyers (10), who have prepaid for the media when they bought their tickets, or alternatively to buyers (10) who have not prepaid and pay for the media at a subsequent time including at the end of the event. The bulk Recordings (401) may be sold by a clerk (402).

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Alternatively, however, a kiosk or other enabled terminal (410, FIGS. 6A-P) receives the Recording data from servers. FIG. 5. The kiosk (410, FIGS. 6A-P) is an automated kiosk, "vending machine" or enabled table in a nightclub/eatery that either burns or spits out a Recording on demand when presented with authenticating information that may be information on the ticket itself and/or prerecords the tracks on a selected media and provides labels, booklets and other materials associated therewith. The media and associated item(s) are then dispensed when the user/attendee inserts his ticket or inputs other identifying authentication information into the kiosk (410.) Alternatively, the kiosk receives the ticket or other input information from a user and, in response, starts the burning of the media or takes order for the mailing or desired home electronic retrieval. In this configuration, the user may be given the choice of customizing his Recording by selecting specific portions or songs of the event that should be burned on the media, their sequence, etc. or may even order "singles". This will be the preferred method if a kiosk is in the form of a patron's audience chair, table or seat at an eatery, nightclub or showcase.

Orders can also be taken at enabled turnstiles or ATM machines at banks, airports, malls and other public venues. (FIGS. 6 A-P).

A user (10) who has not prepaid for the Recording may also obtain one using a kiosk and charging the purchase to his credit card or by using other payment means.

The kiosk (FIG. 5, 410) may also deliver a Recording as a data file that becomes available for downloading by the user (to a PDA, IPOD or other similar device) through a data port (such as USB port) on the kiosk (410).

Finally, after the event is finished, the Recording can be delivered or distributed electronically as a digital file to the home computer of the user and the point-of-sale site may be bypassed. Communications between the various elements of the systems can be implemented over wired or wireless networks. Typical wireless networks that may be employed include Wi-Fi, Bluetooth, etc.

The ticket/Recording buyer (10) can from any terminal, for example, check on the status of his order and perform a limited range of functions, such as changing the delivery address for his order, order additional Recordings, or order that promo information of upcoming concerts and other future releases be sent to him.

Similarly, the entertainment companies and record labels can, for example, check, in real time, to see how many Recordings for their artist have been requested and sold for any event, track the royalty and other payments through the system, and, for example, receive survey responses from those who elected to participate in "new band" ratings. If the buyer opts to allow dissemination of other demographic information including, for example, his order for promos, tickets for upcoming events or releases and other merchandise, the system will accommodate those requests. By integrated methods and systems, it will also allow for ordering and purchase of "best of" releases, director's cuts, narration tracks, and single tracks and compilations emanating from the live event.

The Data Center (100) maintains security and confidentiality through the system. The entertainment entities and "Partners" are issued specific password credentials which are authenticated through standard industry techniques (FIG. 3, 218). In the case of the ticket/Recording buyer, his ticket number along with information not printed on the ticket, such as his billing address or other identifying information

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(mother's maiden name, e.g.) is used for verification before he can gain access to the privileged areas of the processing Web site.

As shown in FIG. 1, in addition to users or buyers (10), other entities may also have access to the Data Center (100), including revenue participants (24) that may include several Partners. In addition, specialized servers may also be provided as part of the system. For example, server (20) is used to determine fees and royalties for the various Partners (24). The server (22) provides standard accounting services. These servers can communicate with each other and with other components of the system through standardized networks, such as Internet (19).

Of course, the whole purpose of the system is to manage ordering, packaging and multimedia distribution of live event recordings and to organize and run new types of live events at venues including those to be constructed with new technology regardless of whether they have outside ticketing service companies or their own and help take maximize advantage of the impulse buying potential of the adoring audience and fans. As part of this process, buyers (10) can receive or buy Recordings of the event and other items associated with the event. These materials are available immediately at a point of sale station (or store) (402), as discussed in detail below and shown in FIG. 5. The event is recorded and edited by on-site editing equipment (FIG. 5) to provide the immediate Recording at a station (402). Non-incremental or other burning technology compatible with updated standard CDR technology is preferentially to be used.

In addition, or alternatively, the event is recorded by digital Recording equipment 16. The recorded data inclusive of mastering, editing and balancing data is then sent to an offsite manufacturing site (300) where the Recordings are generated (on CDs, DVDs and other similar media) and then packaged and distributed to the users (10), as discussed in more detail below and illustrated in FIG. 4. Manufacturing instructions (31) to both sites [i.e., station (FIG. 5) and manufacturing site (300)] are provided by the Data Center (100). Moreover, the Data Center (100) receives inventory and accounting information (22) from both sites.

Details of how requests for transactions and information are handled by the Data Center (100) are provided in FIG. 3. A request is received by the Data Center (100) in step (200) via the Internet. In step (210) a check is performed to determine if the request is a special request for information (available only to certain subscribers and partners). If it is not, then in step (212) information is retrieved and sent to the requester indicating what services are available, including lists of future events for which tickets, Recordings, and/or other items can be purchased. Lists of other items related, for example, to Recordings from past events, may also be displayed. In step (214) a request for tickets, Recordings or other items is received from a user (10). The request is processed, the user (10) is issued a ticket and the resulting transaction is processed as described in the flow charts of FIGS. 2A-2C.

If in step (210) a special request is identified, then in step (216), the requester is asked to provide a password and the password is validated. If the requester is identified in step (218), then in step (222) he is directed to a special partner web site where he can access data on various events, including their status, number of orders for received for the events, fees collected, royalties due to the partner, etc. Subsequently, data related to the partners is updated in the Data Center (100), if necessary.

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If the requester is identified as a registered buyer, then in step (220) the buyer logs in and is directed to a buyer site in step 224. At this site, the buyer is allowed to check on the status of his order, he is allowed to change his order, provide information for shipping, etc. The information or changes entered by the registered buyer is stored in the Data Center (100).

After a particular event has concluded, the Data Center sends to the fulfillment house (122) information specifying the number of complete and derivative or special order Recordings (120) to produce and the addresses to which those designated to be mailed, should be mailed.

Off-site Recording is performed by manufacturing station or site (FIG. 1, 400). As shown in FIG. 4, after the event, the performance data is received in step (300). This data may be streamed or may be sent electronically in a batch. Alternatively, the data may be recorded on a data storage medium and sent to site.

In step (310) the data is edited. Editing may optionally incorporate the disclosed method of digitized conversion from an audience balanced to disc balanced reading. In step (312) the data is prepared for Recording on a master. In step (314) the data is optionally encrypted, and, if desired, a unique watermark is added for copy protection. In step (316) multiple copies are made from the master by burning or other means. In step (318) labels are applied to the media and the labeled media is boxed and packaged together with other materials, such as booklets, pictures, etc. In step (320) the packaged media are shipped.

In step (322) additional copies of the Recordings are made, if necessary. In step (324) a production document is generated. In step (326) the data files at the Data Center (100) are updated to reflect the Recording produced and shipped.

The Data Center 100 also handles all tasks of reporting and accounting for copyright, and other participants and generates detailed statements and accounts including the amounts of statutory and contractual royalties (20).

To summarize, a Recording live event or any part of a live (including spliced, edited and/or derivative special order versions thereof) is ordered before, during or after the buy a buyer who has attended the event or by a non-attendant buyer by any available means including, but not limited to, by using an appropriate Website or enabled hand-held device including a cellular telephone.

While the specific embodiments have been illustrated and described, numerous modifications come to mind without significantly departing from the spirit of the invention and the scope of protection is only limited by the scope of the accompanying claims.

I claim:

1. A method of providing content and additional benefits to ticketholders and event registrants separate from admission to an event, comprising: providing a data center, the data center comprising database servers that are in communication with a customer terminal and a ticket issuer point-of-sale terminal;

storing venue data, event data, accounting data, and ticketholder and registrant information in data tables stored within the database servers;

providing the customer terminal access to the data center to purchase or order tickets, place bets, view and order additional events, order event content recordings and other offered benefits;

selling or issuing via the ticket issuer point-of-sale terminal, a ticket or other transaction receipt to a customer or user, wherein the ticket or other transaction receipt

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enables a right to attend the event, place a bet or otherwise participate in the event, experience the event, and get transmission of content related to the event and other offered benefits;

receiving by the ticket seller point-of-sale terminal, during or after the purchase of the ticket to attend the event or experience the event, a transaction from the user or customer to order at least one of a content recording and other event benefits, and storing transaction data related to the transaction, wherein the transaction data includes user or customer information, the ticket information, or placed bet information;

transmitting, by the ticket issuer point-of-sale terminal, the transaction data to the data center, wherein the transmitted transaction data includes the user or customer information, the ticket information, or placed bet information;

upon the data center receiving the transaction data, the data center recording the transaction data, including the user and customer information, the ticket information, the placed bet information, or other order and registration information into the data tables stored within the database servers of the data center;

recording at least a portion of the event as packaged for distribution using an audio recorder, a video recorder or both;

generating a digital recording of at least a portion of the event or the event as packaged and storing the digital recording in the data center on a non-transitory computer readable medium;

receiving at the datacenter or at a location-based networked kiosk, from the user or customer using the customer terminal or the location-based kiosk, the user or customer information, the ticket information, or the placed bet information to authenticate the user or customer;

authenticating, by either the datacenter or the location based networked kiosk, the user or customer using the user or customer information, placed bet information or other transaction data or ticket information received at the datacenter or at the location-based kiosk;

upon authenticating the user or customer, distributing to the user or customer either (1) the digital recording or (2) a receipt to redeem other benefits, in accordance with a retrieval method chosen by the user or customer.

2. The method of claim 1 where the location-based kiosk is any one of an ATM kiosk, a mobile phone, an enabled audience seat, an enabled turnstile, or an enabled hospitality table.

3. An apparatus for providing content and additional benefits to ticket holders, event registrants, customers and those placing bets at an event separate from addition to the event, comprising:

a data center comprising database servers that are in communication with a customer terminal and ticket issuer point-of-sale terminals;

wherein the data center is configured to store venue data, event data, accounting data, and ticketholder and registrant information in data tables stored within the database servers;

wherein the data center is configured to provide the customer terminal access to the data center to purchase or order tickets, place bets, view and order additional events, order event content recordings and other offered benefits;

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a ticket issuer point-of-sale terminal configured to sell or issue a ticket or other transaction receipt to a customer or user, wherein the ticket or other transaction receipt enables a right to attend the event, place a bet or otherwise participate in the event, experience the event, and get transmission of content related to the event and other offered benefits;

the ticket seller point-of-sale terminal configured to:

receive during or after the purchase of the ticket to attend the event or experience the event, a transaction from the user or customer to order at least one of a content recording and other event benefits, and storing transaction data related to the transaction, wherein the transaction data includes user or customer information, the ticket information, or placed bet information;

transmit the transaction data to the data center, wherein the transmitted transaction data includes the user or customer information, the ticket information, or placed bet information;

the data center configured to:

upon receiving the transaction data, recording the transaction data, including the user and customer information, the ticket information, the placed bet information, or other order and registration information into the data tables stored within the database servers of the data center;

an audio recorder, video recorder, or both an audio recorder and video recorder configured to record at least a portion of the event as packaged for distribution;

an editing computer comprising editing software for generating a digital recording of at least a portion of the event or the event as packaged and storing the digital recording in the data center on a non-transitory computer readable medium;

the datacenter further configured to:

receive from the user or customer using the customer terminal or the location-based kiosk, the user or customer information, the ticket information, or the placed bet information to authenticate the user or customer;

authenticate the user or customer using the user or customer information, placed bet information or other transaction data or ticket information received at the data center or at the location-based kiosk;

upon authenticating the user or customer, distributing to the user or customer either (1) the digital recording or (2) a receipt to redeem other benefits, in accordance with a retrieval method chosen by the user or customer.

4. The apparatus claim 3, wherein the location-based kiosk is any one of an ATM kiosk, a mobile phone, an enabled audience seat, an enabled turnstile, a conference table, or an enabled hospitality table.

5. The apparatus of claim 3, wherein the editing computer is operably connected to the data center and to a customer or user terminal for editing the recorded event as packaged for distribution in response to user or customer selection requests.

\* \* \* \* \*

# EXHIBIT 7

S.D.N.Y. – N.Y.C.  
06-cv-1202  
Schofield, J.  
Pitman, M.J.

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 11<sup>th</sup> day of August, two thousand twenty-two.

Present:

Eunice C. Lee,  
Beth Robinson,  
Myrna Pérez,  
*Circuit Judges.*

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In Re: Amy R. Gurvey,

22-725

*Petitioner.*

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Amy R. Gurvey,

*Plaintiff-Appellant,*

v.

22-840

Cowan, Liebowitz and Lathman, P.C., et al.,

*Defendants-Appellees,*

Does, 1-X Inclusive, et al.,

*Defendants.*


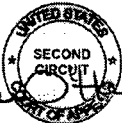
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Petitioner, pro se, moves to reinstate the mandamus petition in 22-725 and the appeal in 22-840. She also moves to supplement the record on appeal in these matters. Upon due consideration, it is hereby ORDERED that the reinstatement motions are DENIED because Petitioner has not shown manifest injustice warranting the reinstatement of these matters. *See Lattanzio v. COMTA*, 481 F.3d 137, 139 (2d Cir. 2007). Specifically, as to the mandamus petition in 22-725, Petitioner has not demonstrated that she has “a clear and indisputable right to the issuance of the writ.” *In*

*re Steinhardt Partners, L.P.*, 9 F.3d 230, 233 (2d Cir. 1993). Further, the appeal in 22-840 “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *see also Pillay v. INS*, 45 F.3d 14, 17 (2d Cir. 1995) (per curiam) (holding that this Court has “inherent authority” to dismiss a frivolous appeal). It is further ORDERED that the motion to supplement the record on appeal is DENIED as moot.

In light of Petitioner’s litigation history since this Court affirmed the judgment in 2018, *see Gurvey v. Cowan, Liebowitz & Latman, P.C.*, 757 F. App’x 62, 64–65 (2d Cir. 2018), she is hereby warned that the continued filing of duplicative, vexatious, or clearly meritless appeals, motions, or petitions could result in the imposition of a sanction that would require Petitioner to obtain permission from this Court prior to filing any further submissions in this Court (a “leave-to-file” sanction). *See In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993); *Sassower v. Sansverie*, 885 F.2d 9, 11 (2d Cir. 1989) (per curiam).

FOR THE COURT:  
Catherine O’Hagan Wolfe, Clerk of Court



**UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 16<sup>th</sup> day of September, two thousand twenty-two.

Before: Eunice C. Lee,  
Beth Robinson,  
Myrna Pérez,  
*Circuit Judges,*

---

Amy R. Gurvey,  
Plaintiff - Appellant,

**ORDER**

Docket No. 22-840

v.

Cowan, Liebowitz and Lathman, P.C.,  
William Borchard, Midge Hyman, Baila  
Celedonia, Christopher Jensen,


Defendants – Appellees.


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Appellant moves to recall the mandate and vacate the dismissal of 22-840 and 20-1986.

IT IS HEREBY ORDERED that the motion is DENIED. Appellant is warned that the continued filing of duplicative, vexatious, or clearly meritless appeals, motions or petitions could result in the imposition of a leave-to-file sanction against Appellant.

For the Court:  
Catherine O'Hagan Wolfe,  
Clerk of Court

  
Catherine O'Hagan Wolfe



# EXHIBIT 8

Court of Appeals  
For The Second Circuit  
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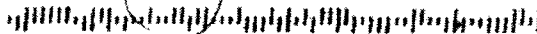


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*Hon. Judge Taylor Jaramin*  
*Chief Trial Judge*  
*US District Court SDNY*  
*500 Pearl Street*  
*New York, NY 10007*

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amygurvey@gmail.com  
M/T 917-733-9981  
August 18, 2022

Hon. Laura Taylor Swain, Chambers  
Chief Adm. Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

RE: SDNY Circuit Executive Grievance 06cv1202  
*Gurvey v. Cowan Liebowitz & Latman, Live Nation, Inc. et al.*

Dear Judge Taylor Swain:

I write in Your Honor's capacity as Chief Administrative Judge of the SDNY. I respectfully request that Your Honor order SDNY Circuit Executive (CE) Officers to immediately reinstate my good name to the roster of SDNY attorneys. I have written previously and my grievance was returned with a big red "X" by the PRO SE office. Since 2013, I never received a constitutionally-mandated due process hearing nor did I receive notice or service of the order. The acts and omissions of the CE officers constitute an abhorrent breach of administrative duty.

My issued US ticketing and ticketing management patents, 11/403566, 7,603321; D647910S were delayed for enforcement 6 years by the Cowan Liebowitz & Latman defendant attorneys in the above litigation. Cowan defendants undertook fraudulent breaches of fiduciary duty before the USPTO commencing in 2003 and had their defense attorney Richard Supple engage in ex parte conversation with judges and magistrate Henry Pitman in 2008 and then in 2012 on remand from the 2d Circuit (462 Fed. Appx. 26). Hinshaw & Culbertson and Supple could never legally represent the Cowan defendants because H&C partners including Supple were serving on the First Dept. attorney grievance committee (AGC) when my ethics complaints were filed in 2004-5. NY's Judiciary

Law Part 1240.6d; 1240.18. The First Dept. AGC has disciplinary jurisdiction over the Cowan lawyers and Supple.

Because I invented and own standard essential patents in ticketing and ticketing management for live events, most of the large firms harbor disqualifying conflicts of interest with infringers as the Cowan defendants did all along. The Cowan defendants admitted to a conflict of interest to the USPTO in 2003 and then abandoned my applications, losing me priority dates, valuable claims that would have been enforceable in 2006 when this lawsuit was filed, and 17 years of patent protection.

In March 2022, investigation confirmed that SDNY CE officers Ed Friedland and Julie Allsman, then under the auspices of Chief Adm. Judge Hon. Colleen McMahon, had in fact unlawfully defied my right to due process of law when they removed my name sua sponte without notice, hearing or service from the roster of SDNY attorneys in defiance of *In re Gourian*, 58 F. 3d 54 (2d Cir. 1995)(citing *Selling v. Radford*, 243 US 46 (1917)). I have been admitted to the State Bar of California and CD Cal since 1979 and remain on excellent standing. (CA State Bar No. 87419). Only admission to one bar is required to retain status on the SDNY roster and it does not have to be New York State. Magistrate Pitman told me he had duty to protect the Cowan attorneys. That is not his job and is an admission of bias. He was engaging in ex parte conversations with Supple since remand from the 2d Circuit in 2102, requiring recusal and cessation of the entry of orders in response to my motion filed in 2013. *Liljeberg v. Health Services Acquisition Corp.*, 486 US 847 (1988).

The Cowan defendants deserved no help from Magistrate. They offered me an of counsel position and paid for my bar dues in California in April 2002 to bring California clients into the firm. They were in dire financial straits and blatantly lied to me and defrauded me. They also offered me a retainer to invest in my patent applications illegal in NYS. *Buechel v. Rhodes*, 285 AD 2d 274 (1<sup>st</sup> Dept. 1999). I declined this offer that was a fraud and never consummated; but one of my California clients, Legend Films, accepted it. The Cowan defendants hired night staff (Jacqueline Revander) to photocopy my proprietary inventions and insert my inventions and client lists into the firm's database and into Legend's PCT application filed on May 6, 2002 (02 US PCT 14192). The two veteran patent

partners, William Dippert and Michael Wolfson, assigned my patent applications, exited the firm. Of counsel, R. Lewis Gable, helping the Legend officers, took my inventions and ultimately said he did not think I would mind because I was owed Legend stock for services to the founders in California since 1999.

The Cowan defendants' intentional torts then involved filing defective applications under my name. Gable and an associate Mark Montague filed these defective applications when they had full length applications that could have been filed immediately. Then Cowan defendants abandoned the defective applications, causing them to expire in 2003, did not fix or perfect them. Then after defendants inserted certain of my digital editing my inventions into Legend's PCT application (02 US 14192), they did not move to withdraw the holdings of abandonment on my inventions. Managing partner Christopher Jensen's email say that Cowan was "following the clients' instructions".

The Cowan defendants then withheld my files. The First Dept. AGC officers where Supple was a concealed executive officer, did not compel these files in spite of a duty to do so. Defendants and Supple have since marred my good name all over NYC and the United States and my career has been reduced to rubble.

It was then confirmed that Magistrate Henry Pitman, no longer serving on this court, was engaging in ex parte with Supple since 2012. Supple was representing both the Cowan Liebowitz & Latman and Live Nation defendants since remand from the 2d Circuit. 462 Fed. Appx. 26. I was then a PRO SE patentee before the Court because my attorney, O. Lee Squitieri, left the case during the stay of appeal. My infringement motion was date stamped and docketed on April 22, 2010 and removed by CE officers from the docket illegally. It was found in the SDNY Cashier's files on microfiche. Squitieri claimed the case was "rigged" and while he had no conflict with Live Nation, he claimed not to know enough about patent law.

Defendant Live Nation has been willfully infringing my patents pending since 2005. I had the absolute right to an amended complaint against them based on the issued patents in 2009 and 2011. There has always been a question whether I had *Walker Process* antitrust claims against defendant Live Nation for attempting to enforce a bogus concert recording patent that was invalidated by

the USPTO in 2007. *Walker Process Equip, Inc. v. Food Mach. & Chem. Corp.*, 382 US 172, 86 S.Ct. 347 (1965).

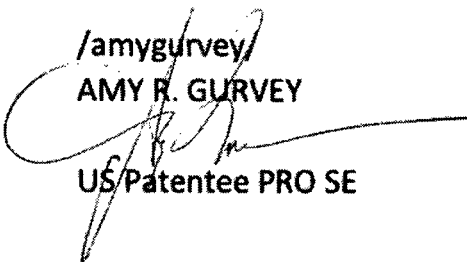
On remand, I was never granted patent discovery on breach of fiduciary duty claims ordered by the 2d Circuit because of Magistrate's ongoing ex parte conversations with Supple. Based on these conversations, Magistrate could not enter any orders and was required to recuse himself. *Liljeberg v. Health Services Acquisition Corp.*, 486 US 847 (1988). He did not recuse or vacate orders. The next Judge Hon. Lorna Schofield had a duty to vacate Magistrate's orders, grant patent discovery and an amended complaint post patent issuance and disqualify Supple and Hinshaw & Culbertson. JL Part 1240.6d; 1240.18. Judge Schofield defied the law and failed to do so. Instead Judge Schofield ordered that I pay \$10,000 into the SD Casher for a special patent master who was never hired. It took me 2 ½ years to get that money refunded; and allowed Supple to file frivolous summary judgment motions without discovery when 50 genuine issues of fact existed.

The orders removing my name from the roster of SDNY attorney must be vacated immediately along with the orders of Magistrate after his recusal was mandatory.

Seven agencies of the State of NY are using my patents without payment of just compensation. Both Supple and the Cowan lawyers are under the disciplinary jurisdiction over the First Dept. and I am not and never was. JL Part 1240.2.

The SDNY and EDNY have each heard malpractice cases against patent lawyers, far less compelling than mine. *Portus Singapore v. Kenyon & Kenyon*, 449 F. Supp. 3d 402 (SDNY 2020)(Koeltl, J.); *Protostorm v. Antonelli*, 2014 WL 12788845 (EDNY 2014). The NY Court of Appeals is hearing an appeal as of right on the Appellate Division's failure to compel my complete files including the ethics complaint files against the Cowan defendants by mandamus. *Virginia Office of Protection and Advocacy v. Stewart*, 563 US 247 (2011)(Scalia, J.); *Gunn v. Minton* 133 S. Ct. 1059 (USSC Tex. 2013).

In the interim, my name must be reinstated to the roster of SDNY attorneys immediately and all the CE files that were considered in removing my name, compelled by Chambers for my inspection. If the CE office is going to sanction an attorney, please make sure it targets the correct individuals.

*/amygurvey/*  
AMY R. GURVEY  
  
US Patentee PRO SE

cc: Hon. Colleen McMahon

Hon. Keven Castel

Hon. John G. Koeltl

Ed Friedland, Circuit Executive SDNY

Julie Allsman, Esq.

2d Cir Case Manager, Yana Segal





NYU Langone Orthopedic Center  
333 East 38th Street  
New York, NY 10016

*Handwritten:*  
Dr. [unclear]  
10 [unclear]  
[unclear] 07052

*Handwritten:*  
125 [unclear] Westchester (filed)

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*Handwritten:*  
[unclear]  
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118 County of [unclear] 2nd Cir  
Room 558 [unclear] Office  
[unclear] 10007

Court of Appeals  
For The Second Circuit  
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SEP - 8 2022

CERTIFICATION OF SERVICE

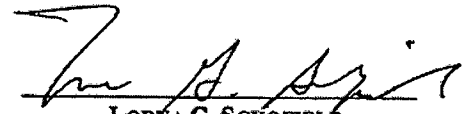
BY: \_\_\_\_\_

I Amy R. Gurvey, Plaintiff Pro Se and a US patentee duly admitted to practice law in California but on inactive status, certify that on March 8, 2022, I served a true and accurate copy of the within Motion to Vacate and Reconsider and to Disqualify Judge upon attorneys of record in this lawsuit.

The envelopes were addressed as follows:

Furman, Kornfeld and Brennan  
62 Broadway, New York, NY 10006

Hinshaw & Culbertson, LLP  
800 Third Avenue, 13<sup>th</sup> Fl New York, NY 10022

  
LORNA G. SCHOFIELD  
UNITED STATES DISTRICT JUDGE

Plaintiff's application for reconsideration of the Court's December 2, 2021, Order denying Plaintiff's prior motion for reconsideration is denied for the reasons stated in the December 29, 2021, Order. Plaintiff was advised that there is no basis for requesting reconsideration ad infinitum. The remainder of Plaintiff's arguments in this application are without merit.

The December 29, 2021, Order advised Plaintiff for the second time that if Plaintiff files baseless materials, an injunction may be imposed, requiring Plaintiff to seek permission first before filing anything further on the docket. The Second Circuit has identified five factors relevant to the decision to impose a filing injunction: '(1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation," including whether the litigant has "an objective good faith expectation of prevailing[]; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties." *Vassel v. Firststorm Props. 2 LLC*, 750 F. App'x 50, 52 (2d Cir. 2018) (summary order) (quoting *Safir v. U.S. Lines Inc.*, 792 F.2d 19, 24 (2d Cir. 1986) (internal quotation marks omitted)). Though the Court is reluctant to impose an injunction, each factor counsels in favor of imposing a filing bar. Plaintiff has a history of meritless litigation, in this case and others. See *Gurvey v. DiFiore*, No. 19 Civ. 4739, 2021 WL 1480553, at \*6 (E.D.N.Y. Sept. 30, 2021). Second, Plaintiff has already been instructed not to file motions for reconsideration of orders denying a motion for reconsideration. Third, Plaintiff, an attorney, is not entitled to any special solicitude as a pro se litigant. See *id.* Fourth, Plaintiff's repeated meritless lawsuits are a needless imposition on defendants and burden on the courts. Fifth, other sanctions cannot adequately protect the courts and the other parties.

Plaintiff is barred from filing without prior leave of the Court (1) any further documents in this case except for those captioned for the Second Circuit and (2) any further actions in the Southern District of New York against the Defendants arising out of the events alleged in the Third Amended Complaint.

Dated: March 17, 2022  
New York, New York

RECEIVED  
SDNY PRO SE OFFICE

2022 MAR 15 AM 10: 07

315 Highland Avenue  
Upper Montclair, NJ 07043  
amygurvey@gmail.com  
March 6, 2022

cc: Hon. Lorna G. Schofield  
Hon. P. Kevin Castel

PRO SE OFFICE

Attn: Hon. Lorna G. Schofield  
United States District Court  
Southern District of NY  
500 Pearl Street  
New York, NY 10007

cc: Hon. P. Kevin Castel  
SDNY Attorney Grievance Panel  
500 Pearl Street  
New York, NY 10007

Re: 06cv1202 (LGS)(HBP)  
*Guurvey v. Cowan Liebowitz & Latman, PC, Live Nation, Inc.,*

Motion to Vacate or Reconsider Order entered 12-2-21  
Denying a Repleaded Amended Complaint Post  
Judgment and Patent Issuance, to Recuse Judge and  
Vacate Orders Retroactive to 2016

Dear Judge Schofield:

This letter motion seeks that this Court grant vacatur or reconsideration of its previous order entered 12-2-21 denying a repleaded amended complaint post judgment and patent issuance, vacate its orders retroactive to 2016, and now recuse itself retroactively and transfer this litigation to another judge.

During an essential hearing on November 29, 2016, the court failed to order withdrawal of the defendant Cowan law firm and Live Nation's defense attorney, Richard Supple, Esq. who along with his firm, Hinshaw & Culbertson, LLP were unlawfully continuing to represent the Cowan defendants when withdrawal was mandatory no later than October 1, 2016 (the effective date of the Judiciary Part 1240 amended statutes). JL Part 1240.6d is the relevant section. All times relevant, Supple and another Hinshaw & Culbertson partner, Hal Lieberman, Esq., were serving as chief counsels and executive committee members at the First Dept. attorney grievance committee ("AGC") and Supple was an undisclosed executive aide to formerly presiding justice, Hon. Luis Gonzalez. Supple and H&C were never allowed to accept the Cowan firm's SDNY defense retainer because they were serving on the AGC when Plaintiff's ethics complaints were filed complaining that the reported Cowan firm unlawfully withheld Plaintiff's federally protected USPTO and inventorship files after twice moving unilaterally to

withdraw from Plaintiff's patent applications based on admitted conflicts of interest to the USPTO. The USPTO never granted withdrawal to the Cowan defendants based on defiance of practitioner mandates. This court never ordered patent discovery or an amended complaint in the past 10 years.

I have just received now, after two months, a returned date-stamped check with the date imprinted of December 31, 2021 that was tendered to pay for Plaintiff's notice of appeal to the Federal Circuit, in response to this Court's 12-2-21 order. The first appeal 09-2185; 10-4111 had notice of appeal filed by Plaintiff's former attorney, O. Lee Squitieri, Esq., in May 2009 after which an arbitration award was entered in Plaintiff's favor in August 2009 on certain contract counts against the Cowan defendants. These claims have zero to with Petitioner's right to infringement discovery that should never have been stayed or denied by this Court. Squitieri was granted unilateral withdrawal in September 2010 after Plaintiff's amended complaint seeking infringement damages pursuant to 35 USC §271 was date stamped and docketed on April 22, 2010. However, because the notice of appeal was filed prior to first patent issuance, the 2d Circuit did not hear strict liability infringement claims in the first appeal. However, on remand for 8 years, the new magistrate, Henry Pitman and Your Honor denied an amended complaint post patent issuance in defiance of Federal Circuit law and US Supreme Court mandates.

The reason that Your Honor must now recuse herself retroactive to 2016 is based on my very recent discovery that somehow my name was unilaterally removed from the roster of SDNY lawyers without notice or any opportunity to be heard during Your Honor's time presiding over the case. Your Honor improperly ordered in 2015 that I pay for a special patent master who was never hired and knew I did not know my name was removed from the SDNY roster. I deposited \$10,000 check into the SDNY cashier in September 2016 that was accepted and it took more than two years for that money to be refunded while the court admittedly continued to deny withdrawal of Supple and H&C from the case, and an amended complaint post patent issuance absolutely owed to me. Because the check was accepted, my name was likely still listed on the SDNY roster in 2015.

Your Honor then entertained summary judgment motions from attorneys who were required to be disqualified as a matter of state law, dismissed the case in favor of willfully infringing defendants and railroad me out of the court based on the crimes of the attorneys. The court was more interested in protecting Cowan, Supple and H&C, who should have been sanctioned for unlawful ex parte activities while I was forced into pro se status before the court.

I am a pro se litigant. Ex parte communications and documents were inserted into my confidential state files by Supple as found by the AD First Dept. on April 21, 2016. The First Dept. admittedly considering Supple's ex parte documents, also demonstrating unlawful and parallel ex parte violations by state judges when I was pro se, that ruined my stellar reputation, career, business and ability to make a living to retain another lawyer. I could not possibly

afford another lawyer to reverse the improper decisions entered by this court that defy the prevailing patent law. I will not tolerate any further threats from Chambers.

The return of my stamped check for notice of appeal to the Federal Circuit after two months is but another example of this Court's harassment, defiance of law and attempt to prejudice my patent interests.

I therefore request that the court recuse itself and transfer the case to hear this motion. Considering the manifest injustice and astronomical Plaintiff unjustly suffered at the hands of this court, vacatur and/or reconsideration should be granted.

Respectfully submitted,

/amygurvey/

Amy R. Gurvey

US Patentee Pro se

# EXHIBIT 9

462 Fed.Appx. 26  
This case was not selected for publication in West's  
Federal Reporter.  
United States Court of Appeals,  
Second Circuit.

Amy R. GURVEY, Plaintiff–Appellant,  
v.  
COWAN, LIEBOWITZ & LATMAN, P.C.,  
Clear Channel Communications, Inc.,  
Live Nation, Inc., Instant Live Concerts,  
LLC, NexTicketing, Inc., William  
Borchard, Midge Hyman, Baila  
Celedonia, Christopher Jensen, Dale  
Head, Steve Simon, Michael Gordon, and  
Susan Schick, Defendants–Appellees.<sup>1</sup>  
Nos. 09–2185–cv(L), 10–4111(Con).  
Feb. 10, 2012.

**Synopsis**

**Background:** Client brought action against law firm, among others, alleging, inter alia, attorney malpractice and breach of fiduciary duty. The United States District Court for the Southern District of New York, Barbara S. Jones, J., 2009 WL 1117278, dismissed the complaint. Client appealed.

**Holding:** The Court of Appeals held that client stated a plausible claim against law firm for attorney malpractice and breach of fiduciary duty.

Affirmed in part, vacated in part, and remanded.

West Headnotes (1)

- [1] **Attorneys and Legal Services** ⇌ Maintaining and returning records and files
- Attorneys and Legal Services** ⇌ Concurrent clients
- Attorneys and Legal Services** ⇌ Pleadings

Client stated a plausible claim against law firm for attorney malpractice and breach of fiduciary duty, by alleging that law firm used information given to them as part of a confidential attorney-client relationship to their own advantage by disclosing it to other clients who then profited therefrom to plaintiff's detriment.

10 Cases that cite this headnote

\*27 Appeal from a judgment of the United States District Court for the Southern District of New York (Barbara S. Jones, Judge).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of the District Court be **AFFIRMED in part and VACATED and REMANDED in part.**

**Attorneys and Law Firms**

Amy R. Gurvey, pro se, Upper Montclair, N.J.

J. Richard Supple, Jr., Hinshaw & Culbertson LLP, New York, N.Y., for Cowan, Liebowitz & Latman PC, William Borchard, Midge Hyman, Baila Celedonia, and Christopher Jensen; Samara L. Kline (Melissa Armstrong, on the brief), Baker Botts LLP, Dallas, TX, for Live Nation, Inc., InstantLive Concerts, LLC, NexTicketing, LLC, and Clear Channel Communications, Inc., for Appellees.

PRESENT: AMALYA L. KEARSE, JOSÉ A. CABRANES, and ROBERT D. SACK, Circuit Judges.

**SUMMARY ORDER**

\*\*1 Plaintiff-appellant Amy R. Gurvey appeals from the District Court's April 23, 2009 judgment dismissing her third amended complaint ("TAC") pursuant to Fed.R.Civ.P. 12(b)(6). We assume the parties' familiarity with the underlying facts and the procedural history of the case, some of which we briefly reiterate here.

## BACKGROUND

In February 2006 Gurvey filed her initial complaint in this action, principally asserting claims of misappropriation of trade secrets against all defendants named in the complaint, fraud and breach of fiduciary duty against her attorney, Cowan, Liebowitz & Latman LLC (“Cowan”), and unfair competition and interference with prospective economic advantage against Cowan, Clear Channel Communications (“CCC”), InstantLive, and Live Nation, Inc. (“Live Nation”). Gurvey did not serve the complaint on the defendants at that time.

\*28 Four months later, in June 2006, Gurvey filed an amended complaint, which added a subsidiary of CCC as a defendant, as well as, *inter alia*, claims of malpractice against Cowan. Gurvey served the first amended complaint on all defendants, and attached a copy of the original complaint.

Later, on March 4, 2008, Gurvey filed her third<sup>2</sup> amended complaint, which forms the basis of this appeal. The TAC added as defendants several partners of and one associate employed by Cowan (together with Cowan, the “Cowan Defendants”), several executives of the corporate defendants, and Michael Gordon, the bass guitarist for the rock band “Phish.” The TAC also asserted numerous claims against various defendants for, *inter alia*, misappropriation of trade secrets, unfair competition, breach of fiduciary duty, tortious interference with a contract, tortious interference with prospective economic relations, attorney malpractice, violations of Section 2 of the Sherman Act,<sup>3</sup> violations of state antitrust laws, and violations of the Lanham Act.<sup>4</sup>

On April 23, 2009, the District Court dismissed the TAC in its entirety.<sup>5</sup> *Gurvey v. Cowan, Liebowitz & Latman, P.C.*, No. 06 Civ. 1202, 2009 WL 1117278 (S.D.N.Y. Apr.24, 2009) (“*Gurvey II*”). The court determined that Gurvey’s claims of misappropriation of trade secrets, unfair competition, and tortious interference with contract claims were time-barred. The court also determined that her state and federal antitrust claims, as well as her unjust enrichment claim, had been inadequately pleaded. It further found that Gurvey’s false advertising claims under the Lanham Act were related to the authorship of her allegedly proprietary ideas and therefore were not properly the subject of an action under the Lanham Act.

With respect to Gurvey’s claims for tortious interference

with prospective economic relations, the court concluded that Gurvey’s allegations—that, because Cowan illegally revealed her proprietary information and trade secrets to CCC and Live Nation, she lost the opportunity to complete a private placement offering of securities to be issued by her own company—were too vague to give rise to a plausible claim for relief. The court determined that the TAC neglected to allege that defendants knew of Gurvey’s private placement opportunity when they allegedly wrongfully interfered with the opportunity, and therefore dismissed the tortious interference claim.

\*29 \*\*2 Finally, with respect to Gurvey’s legal malpractice claims against the Cowan defendants, the court concluded that Gurvey had offered only “vague and non-actionable challenges” to defendants’ legal representation. Gurvey’s allegation that defendants had failed to protect the confidentiality of her trade secrets was not premised on “anything more than speculation” and did not present a challenge to the actual quality of defendants’ legal representation. In addition, Gurvey’s allegation of a conflict of interest did not include any detail as to the supposed conflict. Moreover, the court determined that Gurvey had failed to identify the precise damages she had suffered or how defendants’ legal representation had actually caused these damages. Gurvey’s breach of fiduciary duty claims against the Cowan defendants were dismissed for similar reasons.<sup>6</sup>

On appeal Gurvey argues that the District Court abused its discretion by (1) failing to adjudicate her April 2010 Rule 60(b) motion which, *inter alia*, sought leave to file a fourth amended complaint; (2) dismissing her claims against the defendants for misappropriation of her trade secrets, violation of the federal and state unfair competition and antitrust laws, tortious interference with her contractual and business relations, and attorney malpractice and breach of fiduciary duty; (3) not issuing a formal order with respect to the Cowan defendants’ motion to compel arbitration and stay all proceedings pending arbitration; (4) failing to enter on the docket and adjudicate her requests to “reinstate” discovery; (5) granting Live Nation’s and CCC’s motions to dismiss for lack of personal jurisdiction; (6) finding that defendants did not engage in unfair competition by issuing false and misleading press releases; and (7) dismissing her claims against Cowan for ongoing malpractice and breach of fiduciary duty before the United States Patent and Trademark Office and for tortious interference with her contract with her previous employer, Legend Films.<sup>7</sup> Gurvey has also moved to correct the record on appeal, requesting that we order the District Court to docket various documents she has unsuccessfully attempted to file with the District Court during the pendency of this



appeal, including a record of a state arbitration proceeding and a motion filed pursuant to Fed.R.Civ.P. 60(b), and that we order the District Court to permit her to file a fourth amended complaint (which she has also unsuccessfully attempted to file with the court). The Cowan defendants have petitioned for fees and costs, requesting that Gurvey be required to pay their expenses associated with the defense of the instant appeal.

### \*30 DISCUSSION

We review *de novo* a dismissal of a complaint under Federal Rule of Civil Procedure 12(b)(6), “construing the complaint liberally, accepting all factual allegations in the complaint as true, and drawing all reasonable inferences in the plaintiff’s favor.” *Chambers v. Time Warner, Inc.*, 282 F.3d 147, 152 (2d Cir.2002). The complaint must plead “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). Although all allegations contained in the complaint are assumed to be true, this tenet is “inapplicable to legal conclusions.” *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009). A claim will have “facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*

\*\*3 Having conducted an independent and *de novo* review of the record in light of these principles, and for substantially the reasons stated by the District Court in its thorough and well-reasoned opinion and order of April 2009, *Gurvey II*, 2009 WL 1117278, we affirm the judgment to the extent that it dismissed Gurvey’s claims for misappropriation of trade secrets, unfair competition, and tortious interference with contract as time-barred, and to the extent that it dismissed her claims for false advertising, violations of state and federal antitrust laws, and tortious interference with prospective economic relations, for failing to sufficiently plead claims upon which relief may be granted. However, we vacate the District Court’s judgment to the extent that it dismissed Gurvey’s claims for attorney malpractice and breach of fiduciary duty against the Cowan defendants. Construing

the TAC liberally, accepting all the factual allegations in the complaint as true, and drawing all reasonable inferences in Gurvey’s favor, *see Bell Atl. Corp.*, 550 U.S. at 570, 127 S.Ct. 1955, we conclude that Gurvey stated a plausible claim by alleging that the defendants used the information given to them as part of a confidential attorney-client relationship to their own advantage by disclosing it to other clients who then profited therefrom to Gurvey’s detriment, *see Ulico Cas. Co. v. Wilson, Elser, Moskowitz, Edelman & Dicker*, 56 A.D.3d 1, 10, 865 N.Y.S.2d 14 (1st Dep’t 2008).<sup>8</sup> We therefore remand the cause for further proceedings before the District Court on these claims.

We deny Gurvey’s motion to correct the record on appeal, having found that the documents she asks this Court to consider either were not properly filed with the District Court or concern events that occurred subsequent to the District Court’s dismissal of her claims. *See generally* Fed. R.App. P. 10(e) (setting forth procedure for correction of record on appeal). We also deny the request of the Cowan defendants for an award of appellate costs and fees. *See* Fed. R.App. P. 38; *Schiff v. United States*, 919 F.2d 830, 834 (2d Cir.1990).

We have reviewed Gurvey’s remaining arguments and find them to be without merit.

### CONCLUSION

For the foregoing reasons, the judgment of the District Court is hereby AFFIRMED in part and VACATED in part as specified above. The cause is REMANDED to the District Court for further proceedings consistent with this order, \*31 including discovery on the remaining claims and any possible dispositive motions that may thereafter ensue.

### All Citations

462 Fed.Appx. 26, 2012 WL 414762, 2012-1 Trade Cases P 77,794

### Footnotes

<sup>1</sup> The Clerk is directed to amend the official caption as indicated above.

- 2 Gurvey, who filed her initial complaint *pro se*, moved on October 10, 2006 to file a second amended complaint. While that motion was still pending, Gurvey retained counsel and requested leave to file a third amended complaint. The District Court granted permission to file a third amended complaint, deeming the *pro se* motion moot. *Gurvey v. Cowan, Liebowitz & Latman*, No. 06 Civ. 1202, Docket No. 41, at 2 (S.D.N.Y. Jan. 23, 2008) (order granting permission to file third amended complaint).
- 3 15 U.S.C. § 2, *et seq.*
- 4 15 U.S.C. § 1051, *et seq.*
- 5 On March 16, 2009, the District Court dismissed the action against CCC and Live Nation for lack of personal jurisdiction under Fed.R.Civ.P. 12(b)(2). *See Gurvey v. Cowan, Liebowitz & Latman, P.C.*, No. 06 Civ. 1202, 2009 WL 691056 (S.D.N.Y. Mar.17, 2009) ("*Gurvey I*"). Although Gurvey claims that this dismissal constituted reversible error, she failed to include in her Notice of Appeal her intent to appeal from this order. *See Gurvey*, No. 06 Civ. 1202, Docket No. 83 (S.D.N.Y. Sept. 23, 2010) (Notice of Appeal). We therefore do not have jurisdiction to decide her claim that the District Court erred by dismissing her claims against CCC and Live Nation for lack of personal jurisdiction. *See Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 256 (2d Cir.1995).
- 6 The District Court also dismissed Gurvey's claim for an accounting because an accounting is a remedy, not a separate claim.
- 7 Gurvey also appeals from the District Court's denial of her motion for reconsideration of dismissal pursuant to Fed.R.Civ.P. 59(a). *See Gurvey*, No. 06 Civ. 1202, Docket No. 80 (S.D.N.Y. Sept. 20, 2010) (order denying motion to reconsider). In adjudicating Gurvey's Rule 59 motion, the District Court found that several of the arguments she made in her motion were newly raised. The court accordingly refused to consider those arguments. *Gurvey*, No. 06 Civ. 1202, Docket No. 80 (S.D.N.Y. Sept. 20, 2010) (order denying motion to reconsider); *see Nat'l Union Fire Ins. Co. of Pittsburgh v. Stroh Cos., Inc.*, 265 F.3d 97, 115 (2d Cir.2001) (noting that under Local Rule 6.3 of the Southern District of New York, a plaintiff may not raise a new argument for the first time in a motion for reconsideration). Because the arguments were not properly presented to the District Court, they are not before us now. *See Nat'l Union Fire Ins. Co.*, 265 F.3d at 115-16. To the extent the District Court rejected any earlier-raised arguments in its denial of Gurvey's motion for reconsideration, those arguments are addressed in tandem with, and subsumed by, our discussion of the court's dismissal of Gurvey's complaint on the merits.
- 8 The plausibility of this argument is bolstered by Gurvey's allegation that Cowan withdrew from representing Gurvey before the United States Patent and Trademark Office due to what Cowan allegedly termed a "conflict of interest."

# EXHIBIT 10

NOTE: This order is nonprecedential.

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

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**AMY R. GURVEY,**  
*Plaintiff-Appellant*

v.

**COWAN LIEBOWITZ AND LATMAN, P.C., CLEAR  
CHANNEL COMMUNICATIONS, INC., LIVE  
NATION, INC., INSTANT LIVE CONCERTS, LLC,  
NEXTICKETING, INC., WILLIAM BORCHARD,  
MIDGE HYMAN, BAILA CELEDONIA,  
CHRISTOPHER JENSEN, DALE HEAD, STEVE  
SIMON, SUSAN SCHICK,**  
*Defendants-Appellees*

**DOES, 1-X Inclusive, MICHAEL GORDON,**  
*Defendants*

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2020-1620

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Appeal from the United States District Court for the  
Southern District of New York in No. 1:06-cv-01202-LGS-  
HBP, Judge Lorna G. Schofield.

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**ON MOTION**

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PER CURIAM.

## ORDER

Amy R. Gurvey petitions for a writ of mandamus and moves for various relief, including a stay of this appeal pending a decision on her mandamus petition. Responding to this court's show cause order, Cowan Liebowitz and Latman, P.C. ("CLL"), William Borchard, Midge Hyman, Baila Celedonia, and Christopher Jensen (collectively, "the CLL attorneys") urge dismissal of the appeal. Ms. Gurvey also responds to the show cause order and replies to the CLL attorneys' response to the same order.

Ms. Gurvey sued the CLL attorneys, Live Nation Inc., and other defendants in the United States District Court for the Southern District of New York. Her operative complaint asserted, *inter alia*, that the defendants misappropriated trade secrets contained in two provisional patent applications that CLL filed on her behalf and that CLL had committed legal malpractice. After the district court dismissed all of the claims, she appealed to the United States Court of Appeals for the Second Circuit.

The Second Circuit concluded that it rather than the Federal Circuit had jurisdiction to decide the matter because it was "not from a final decision of a district court in an action arising under any Act of Congress relating to patents." *Gurvey v. Cowan, Liebowitz & Latman, P.C.*, No. 17-2760, slip op. at 2 (2d Cir. May 29, 2018), ECF No. 183 (quoting 28 U.S.C. § 1295(a)(1)). The Second Circuit ultimately affirmed the judgment in December 2018.

On February 6, 2020, Ms. Gurvey moved the district court to vacate an order it had previously entered in 2009 dismissing Ms. Gurvey's claims as to Live Nation. The district court denied that motion as untimely. Ms. Gurvey moved for reconsideration, which the district court also denied. Ms. Gurvey then filed this notice of appeal, seeking review of those orders by the Federal Circuit.

The Second Circuit has already held that it has jurisdiction over this case. Under the doctrine of the law of the case, we must follow that determination unless it is shown to be clearly wrong. *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 817 (1988). Ms. Gurvey has not shown that the Second Circuit was wrong, let alone clearly so.

The problem for Ms. Gurvey in seeking to establish this court's jurisdiction is that she never amended the complaint to assert infringement of an issued patent that could give rise to a non-frivolous claim arising under the patent laws. See *Gayler v. Wilder*, 51 U.S. 477, 493 (1850); *Abbey v. Mercedes Benz of N. Am., Inc.*, 138 F. App'x 304, 307 (Fed. Cir. 2005) ("A patent application cannot be infringed."); see also *Jang v. Boston Sci. Corp.*, 767 F.3d 1334, 1338 (Fed. Cir. 2014) (explaining that this court's jurisdiction "is predicated on the cause of action and the basis of the facts as they existed at the time the complaint . . . was filed").

Ms. Gurvey suggests that she had an absolute right to amend her complaint to include infringement once her patents issued and should be allowed to do so. But the district court denied Ms. Gurvey leave to amend her complaint after the patents issued, and that ruling survived the Second Circuit's abuse of discretion review. See *Gurvey v. Cowan, Liebowitz & Latman, P.C.*, 757 F. App'x 62, 65 (2d Cir. 2019), *cert. denied*, 140 S. Ct. 161 (2019). We lack jurisdiction to review the Second Circuit's decision or to grant leave to amend her complaint.

We likewise lack jurisdiction to grant Ms. Gurvey's request for mandamus. "The All Writs Act is not an independent basis of jurisdiction, and the petitioner must initially show that the action sought to be corrected by mandamus is within this court's statutorily defined subject matter jurisdiction." *Baker Perkins, Inc. v. Werner & Pfleiderer Corp.*, 710 F.2d 1561, 1565 (Fed. Cir. 1983) (citation omitted). Because subject matter jurisdiction over an

appeal in this case lies exclusively in the Second Circuit, any request for mandamus relief also lies exclusively with that court.

While the CLL attorneys argue that we should dismiss, we deem it the better course to transfer the matter and all filings to the Second Circuit pursuant to 28 U.S.C. § 1631.

Accordingly,

IT IS ORDERED THAT:

(1) The court accepts Ms. Gurvey's reply (ECF No. 29) for filing.

(2) The appeal and all filings are transferred to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631.

FOR THE COURT

June 23, 2020  
Date

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

NOTE: This order is nonprecedential.

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

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**AMY R. GURVEY,**  
*Plaintiff-Appellant*

v.

**COWAN LIEBOWITZ AND LATMAN, P.C., CLEAR  
CHANNEL COMMUNICATIONS, INC., LIVE  
NATION, INC., INSTANT LIVE CONCERTS, LLC,  
NEXTICKETING, INC., WILLIAM BORCHARD,  
MIDGE HYMAN, BAILA CELEDONIA,  
CHRISTOPHER JENSEN, DALE HEAD, STEVE  
SIMON, SUSAN SCHICK,**  
*Defendants-Appellees*

**DOES, 1-X Inclusive, MICHAEL GORDON,**  
*Defendants*

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2020-1620

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Appeal from the United States District Court for the  
Southern District of New York in No. 1:06-cv-01202-LGS-  
HBP, Judge Lorna G. Schofield.

---

**ON MOTION**

---

PER CURIAM.



## ORDER

Amy R. Gurvey petitions for a writ of mandamus and moves for various relief, including a stay of this appeal pending a decision on her mandamus petition. Responding to this court's show cause order, Cowan Liebowitz and Latman, P.C. ("CLL"), William Borchard, Midge Hyman, Baila Celedonia, and Christopher Jensen (collectively, "the CLL attorneys") urge dismissal of the appeal. Ms. Gurvey also responds to the show cause order and replies to the CLL attorneys' response to the same order.

Ms. Gurvey sued the CLL attorneys, Live Nation Inc., and other defendants in the United States District Court for the Southern District of New York. Her operative complaint asserted, *inter alia*, that the defendants misappropriated trade secrets contained in two provisional patent applications that CLL filed on her behalf and that CLL had committed legal malpractice. After the district court dismissed all of the claims, she appealed to the United States Court of Appeals for the Second Circuit.

The Second Circuit concluded that it rather than the Federal Circuit had jurisdiction to decide the matter because it was "not from a final decision of a district court in an action arising under 'any Act of Congress relating to patents.'" *Gurvey v. Cowan, Liebowitz & Latman, P.C.*, No. 17-2760, slip op. at 2 (2d Cir. May 29, 2018), ECF No. 183 (quoting 28 U.S.C. § 1295(a)(1)). The Second Circuit ultimately affirmed the judgment in December 2018.

On February 6, 2020, Ms. Gurvey moved the district court to vacate an order it had previously entered in 2009 dismissing Ms. Gurvey's claims as to Live Nation. The district court denied that motion as untimely. Ms. Gurvey moved for reconsideration, which the district court also denied. Ms. Gurvey then filed this notice of appeal, seeking review of those orders by the Federal Circuit.

The Second Circuit has already held that it has jurisdiction over this case. Under the doctrine of the law of the case, we must follow that determination unless it is shown to be clearly wrong. *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 817 (1988). Ms. Gurvey has not shown that the Second Circuit was wrong, let alone clearly so.

The problem for Ms. Gurvey in seeking to establish this court's jurisdiction is that she never amended the complaint to assert infringement of an issued patent that could give rise to a non-frivolous claim arising under the patent laws. *See Gayler v. Wilder*, 51 U.S. 477, 493 (1850); *Abbey v. Mercedes Benz of N. Am., Inc.*, 138 F. App'x 304, 307 (Fed. Cir. 2005) ("A patent application cannot be infringed."); *see also Jang v. Boston Sci. Corp.*, 767 F.3d 1334, 1338 (Fed. Cir. 2014) (explaining that this court's jurisdiction "is predicated on the cause of action and the basis of the facts as they existed at the time the complaint . . . was filed").

Ms. Gurvey suggests that she had an absolute right to amend her complaint to include infringement once her patents issued and should be allowed to do so. But the district court denied Ms. Gurvey leave to amend her complaint after the patents issued, and that ruling survived the Second Circuit's abuse of discretion review. *See Gurvey v. Cowan, Liebowitz & Latman, P.C.*, 757 F. App'x 62, 65 (2d Cir. 2019), *cert. denied*, 140 S. Ct. 161 (2019). We lack jurisdiction to review the Second Circuit's decision or to grant leave to amend her complaint.

We likewise lack jurisdiction to grant Ms. Gurvey's request for mandamus. "The All Writs Act is not an independent basis of jurisdiction, and the petitioner must initially show that the action sought to be corrected by mandamus is within this court's statutorily defined subject matter jurisdiction." *Baker Perkins, Inc. v. Werner & Pfleiderer Corp.*, 710 F.2d 1561, 1565 (Fed. Cir. 1983) (citation omitted). Because subject matter jurisdiction over an

appeal in this case lies exclusively in the Second Circuit, any request for mandamus relief also lies exclusively with that court.

While the CLL attorneys argue that we should dismiss, we deem it the better course to transfer the matter and all filings to the Second Circuit pursuant to 28 U.S.C. § 1631.

Accordingly,

IT IS ORDERED THAT:

(1) The court accepts Ms. Gurvey's reply (ECF No. 29) for filing.

(2) The appeal and all filings are transferred to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 1631.

FOR THE COURT

June 23, 2020  
Date

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

# EXHIBIT 11

At a Term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 21, 2016.

Present - Hon. Peter Tom, Justice Presiding,  
David Friedman  
David B. Saxe  
Rosalyn H. Richter  
Sallie Manzanet-Daniels, Justices.

-----x  
In the Matter of Amy R. Gurvey  
(admitted as Amy Rebecca Weissbrod),  
a suspended attorney:

Departmental Disciplinary Committee  
for the First Judicial Department,  
Petitioner,

M-5775

Amy R. Gurvey,  
(OCA Atty. Reg. No. 1994516),  
Respondent.

**FILED**  
**APR 21 2016**  
SUP COURT, APP. DIV.  
FIRST DEPT.

-----x  
An order of this Court having been entered on December 4, 2012 (M-667/M-1340), inter alia, suspending respondent (who, as Amy Rebecca Weissbrod, was admitted to practice as an attorney and counselor-at-law in the State of New York at a Term of the Appellate Division of the Supreme Court for the Third Judicial Department on June 4, 1985) from the practice of law in the State of New York for a period of six months, effective January 3, 2013, and until further order of this Court,

And respondent pro se having moved this Court on December 17, 2015 (M-5775), for an order vacating the order of suspension entered December 4, 2012, directing that a retraction order be published in relevant legal publications, compelling the Committee to make certain files available to her, and for other relief,

And the Departmental Disciplinary Committee for the First Judicial Department, by Jorge Dopico, its Chief Counsel (Orlando Reyes, of counsel), having submitted an affirmation in opposition to the motion, and requesting that this Court grant further relief as it deems just and proper,

And Hinshaw & Culbertson, LLP (Richard Supple, of counsel), having submitted an affirmation in opposition to the motion,

And Squitieri & Fearon, LLP (Olimpio Lee Squitieri, of counsel), having submitted an affirmation in opposition to the motion,

And respondent having submitted a reply affirmation,

Now, upon reading and filing the papers with respect to the motion, and due deliberation having been had thereon, it is unanimously,

Ordered that the motion is denied. It is further directed, sua sponte, that the Clerk of the Court not accept further filings from respondent without prior leave of this Court.

ENTER:

  
CLERK

APPELLATE DIVISION SUPREME COURT FIRST DEPARTMENT  
STATE OF NEW YORK

I, SUSANNA ROJAS, Clerk of the Appellate Division of the Supreme Court First Judicial Department, do hereby certify that I have compared this copy with the original thereof filed in said office on 4/21/16 and that the same is a correct transcript thereof, and of the whole of said original.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of this Court on 4/21/16

  
CLERK

# EXHIBIT 12

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BC: 11201183299  
NEW YORK NY 100

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NEW YORK NY 100  
NEW YORK NY 100

10/17/2022  
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OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE, \$300

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PRO SEC OFFICE

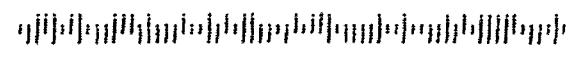
Amy R. Gurvey  
315 Highland Avenue  
Upper Montclair, NJ 07043

**UTF**  
**LEGAL MAIL**

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07043-102615





**U.S. District Court**

**Eastern District of New York**

**Notice of Electronic Filing**

The following transaction was entered on 10/14/2022 at 11:03 AM EDT and filed on 10/14/2022

**Case Name:** Gurvey v. Garry et al

**Case Number:** 1:19-cv-04739-LDH-ST

**Filer:**

**WARNING: CASE CLOSED on 09/30/2021**

**Document Number:** No document attached

**Docket Text:**

**ORDER: In direct contravention of this Court's memorandum and order [70] dated September 30, 2021 (Dismissal Order), Plaintiff filed three new motions [77], [80] and [81] seeking to relitigate its claims that have already been resolved. This Court made clear in its Dismissal Order that Plaintiff's amended complaint was dismissed in its entirety sua sponte and denied Plaintiff's motion to file a second amended complaint. This Court further ordered that Plaintiff is barred from filing any civil action in the Eastern District of New York against the State and Hinshaw Defendants arising out of the events alleged in the amended complaint without prior leave of the Court. Plaintiff's motions [77], [80] and [81] are DENIED. Plaintiff may not attempt to circumvent this Courts prior Orders and relitigate its claims in a case that was deemed close. Ordered by Judge LaShann DeArcy Hall on 10/14/2022. (EW)**

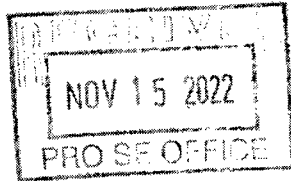
**1:19-cv-04739-LDH-ST Notice has been electronically mailed to:**

Michael A. Berg michael.berg@ag.ny.gov, oaglitd@ag.ny.gov

Nicole Feder nfeder@lbcclaw.com, jsculley@lbcclaw.com

**1:19-cv-04739-LDH-ST Notice will not be electronically mailed to:**

Amy R. Gurvey  
315 Highland Avenue  
Upper Montclair, NJ 07043



New Temp Address:  
7302 Woodstone Circle  
Princeton, NJ 08540  
amyg@live-fi.com  
November 9, 2022

*Handwritten:*  
Original  
Court Copy

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ NOV 15 2022 ★

**BROOKLYN OFFICE**

PRO SE CLERK  
Attn: Hon. LeShann DeArcy Hall  
US District Court Eastern District of NY  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Gurvey v. Garry, Hinshaw & Culbertson, Richard Supple, et al.  
19-cv-4739 (EDNY)(LDH)  
Second Request for Conference on Amended Complaint Post Judgment Based  
on Issuance of US Patent 11403566 on August 2, 2022

Dear Judge DeArcy Hall:

Earlier this year, Petitioner, a PRO SE US Patentee, moved to vacate the previous judgment in this mandamus and damages lawsuit that concerns organized corruption by state officers to prevent enforcement of Petitioner's US patents and damages against USPTO practitioner attorneys and their agents under the disciplinary jurisdiction of the First Dept. attorney grievance committee ("AGC"). Judgment by this court, non-final by order of the NY Court of Appeals, is contended to have been improperly entered without mandamus order to compel production of federally-mandated patent files from AGC state defendant officers. 37 CFR 2.10, 2.19, 10.66, 11.116; *Virginia Office of Protection and Advocacy v. Stewart*, 563 US 247 (2011)(Scalia, J.) Investigation established that the judgment was induced by fraud and fraudulent concealment of discoverable documents by defendants Hinshaw & Culbertson, LLP, Richard Supple, unlawfully serving as defense attorneys for Petitioner's patent practitioners at Cowan Liebowitz & Latman in a parallel SDNY lawsuit. Defendant Supple and other H&C partners were serving on the First Dept. attorney grievance committee ("AGC") at all times relevant when Petitioner sought state orders to compel withheld USPTO files from Cowan Liebowitz & Latman patent practitioners, H&C's clients, who along with defendant Supple are under the AGC's disciplinary jurisdiction. 37 CFR 2.10, 2.19, 10.66, 11.116.

Petitioner now reinstates her request for a hearing on additional grounds. Petitioner properly moved to file an amended complaint post judgment in full

compliance with the standards iterated by the Second Circuit in Metzler Investments GmbH v. Chipotle Mexican Grill, 970 F. 3d 133 (2d Cir 2020). **Now an amended complaint post judgment is properly granted based new evidence, i.e., issuance to Petitioner of the standard essential patent in ticketing management in the United States on August 2, 2022. Gurvey US Patent 11403566 was delayed an unprecedented 12 years based on conflict of interest torts and crimes in the relevant SDNY and state files by the Cowan SDNY defendants and defendant Supple as their agent.**

Petitioner never got the patent files and complete state files ordered from AGC defendants herein but instead was retaliated against without jurisdiction. Defendant Supple was aided and abetted in his crimes in the relevant confidential state records by the AGC staff attorney defendants. Supple was then found in an order entered April 21, 2016 by the First Dept. Appellate Division justices to have inserted unserved and forged documents into the files. The AD justices supervising the AGC staff attorney defendants admitted to ex parte consideration of Supple's inserted documents when the files remained and continue to remain withheld from Petitioner in violation of due process, conflicting out the entire court.

To date, the files have still not been produced. An order entered by Supple's AGC supervisor, former AD presiding justice Luis Gonzalez in December 2012, was entered without jurisdiction over Petitioner, and has still been vacated in defiance of law. Wilcox v. Supreme Council of Royal Arcanum, 210 NY 370 (1914). That order was held not to be a final order by the NY Court of Appeals in 2022, and therefore may be vacated by mandamus order of this Court and damages awarded for continuing torts.

Now it has also been proven that at the same time, Supple was engaging in ex parte conversations with Magistrate Pitman in the parallel SDNY lawsuit, 06cv1202 seeking damages against the Cowan defendants. Supple, engaging in ex part conversations with Magistrate Pitman, played a significant role in getting Petitioner's good name removed sua sponte from the roster of SDNY attorneys in 2013 without notice, hearing or due process of law guaranteed by the Fifth Amendment. Notes from Supple's conversations with Magistrate have been discovered in the state files withheld from Petitioner.

The SDNY Circuit Executives admitted to ex parte communications with Magistrate Pitman in 2013 when Petitioner's good name was deleted from the roster of attorneys. Petitioner was a pro se litigant in the SDNY at this time because her previous attorney, O. Lee Squitieri, Esq., had been granted unilaterally withdrawal from the litigation in 2010 after Petitioner's first US patent issued in

October 2009. Squitieri and his firm, Squitieri & Fearon, are named defendants in this lawsuit. Defendant Squitieri is listed in the AD April 21, 2016 order as having entered and corrupted the state files with defendant Supple. Discovery on this order while the files remain unlawfully withheld from Petitioner, is essential to proper resolution of this lawsuit and which defendants should be held liable for damages.

Petitioner, a PRO SE patentee, is entitled to a conference to vacate the prior judgment and grant service of the amended complaint post judgment under several subsections of Rule 60(b).

A copy of the pending US Supreme Court Petition seeking a stay of an August 11, 2022 order of the 2d Circuit pursuant to Rule 22 is appended in support of Petitioner's application for a hearing.

Petitioner who is permanently disabled as defined under the Americans with Disabilities Act, 42 USC§ 12101 et seq., resubmits her previous application filed in 2019 seeking ECF filing privileges in this lawsuit ECF privileges were granted by the 2d Circuit in 2011 during the first appeal in the parallel SDNY patent conflicts of interest litigation.

Please note that all defendants have been properly served including Squitieri & Fearon that has defaulted.

**To the PRO SE Clerk:** Petitioner notices the change of address on the pp. 1 of this application.

Yours truly,

/amygurvey/

Amy R. Gurvey

US Patentee/Petitioner PRO SE

## VI. CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a)(7)(C), I certify that this Petition to Individual Justice pursuant to Rule 22 brief complies with the typeface requirements of Fed. R. App. 32(a)(5)(A), because it is written in 12-point Century Schoolbook Font, and with the type-volume limitations of Fed. R. App. 32(a)(7)(B), because it contains 7,858 words, excluding the portions excluded under Fed R. App. P. 32(a)(7)(iii). This count is based on the word count feature of Microsoft Word.

*/amygurvey/*

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AMY R. GURVEY

## VII. CERTIFICATION OF SERVICE

Amy R. Gurvey, a US Patentee and sole named inventor of US ticketing patents 7603321; D647910S, 11403566 declares under penalty of perjury that on December 27, 2022, she served a true and accurate copy of the within Petition Seeking an Emergency Stay to Individual Justice for the Second Circuit, Hon. Sonya Sotomayor, by mailing a copy of said papers, postage prepaid, as follows:

Emergency Applications Clerk [Original +2]  
Supreme Court of the United States  
One First Street NE  
Washington, DC 20543

Clerk US Court of Appeals for the Second Circuit  
40 Foley Square Room 150  
New York, NY 10007

SDNY Circuit Executive  
USDC SDNY Room 820  
500 Pearl Street  
New York, NY 10007

Clerk, NY Court of Appeals  
20 Eagle Street  
Albany, New York 12207

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225 Cadman Plaza East  
Brooklyn, New York 11201

Clerk, US Court of Appeals  
Federal Circuit  
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Furman, Kornfeld & Brennan  
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A. Michael Furman, Esq.

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3 Huntington Quadrangle #102S  
Melville, NY 11747  
Marian Rice, Esq.

/amygurvey/

AMY R. GURVEY