No. 23-904

In The

Supreme Court of the United States

LARRY GOLDEN,

Petitioner,

v.

UNITED STATES,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Federal Circuit

PETITION FOR REHEARING

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April 12, 2024

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PREAMBLE

Pursuant to Rule 44.1 of this Court, Petitioner Larry Golden respectfully petitions for a rehearing of the denial of a writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit.

PETITION FOR REHEARING

The original certiorari petition asked this Court to resolve the issues of what constitutes an unauthorized "takings" of property under the Fifth Amendment clause without due process of law, and what constitutes an illegal "takings" of an exclusive property in the patented invention that is appropriated or used by the government itself, without just compensation.

The Tucker Act is merely a jurisdictional statute and "does not create any substantive right enforceable against the United States for money damages." *United States v. Testan*, 424 U.S. 392, 398 (1976). Instead, the substantive right must appear in another source of law, such as a "money-mandating constitutional provision, statute or regulation that has been violated, or an express or implied contract with the United States." *Loveladies Harbor, Inc. v. United States*, 27 F.3d 1545, 1554 (Fed. Cir. 1994) (en banc).

"The Fifth Amendment prohibits the federal government from taking private property for public use without paying just compensation. U.S. Const. amend. V.

"It is undisputed that the Takings Clause of the Fifth Amendment is a money-mandating source [of law] for purposes of Tucker Act jurisdiction" in the Court of Federal Claims. *Jan's Helicopter Serv., Inc. v. FAA*, 525 F.3d 1299, 1309 (Fed. Cir. 2008).

Petitioner brought an action in the Court of Federal Claims [2013] against the Government for allegedly "taking' Petitioner's property. Petitioner alleged three counts of a government "takings" under the same case no. 13-307C *Golden v. U.S. Takings I* happen before the case no. 13-307C *Golden v. U.S.* was filed in 2013 and is the basis for the claim. *Takings II* happen after the case no. 13-307C *Golden v. U.S.* was filed in 2013, in a USPTO PTAB IPR Trial. *Takings III* happen as a result of the Claims Court adjudicating a dispute between private parties that is outside the Court's jurisdiction in case no. 13-307C *Golden v. U.S.*

As this Court summed up in *James v. Campbell*, 104 U.S. 356, 358 (1882), a case concerning the alleged appropriation of a patent by the Government:

> *"[A patent] confers upon the patentee an exclusive property in the patented invention which cannot be appropriated or used by the government itself, without just compensation . . . "*

In *Hollister v. Benedict Manufacturing Co.*, 113 U.S. 59 (1885), the principles laid down in *James v. Campbell* are recognized and approved.

It is the Petitioner's hope and prayer that history does not repeat itself. In a related case, *Golden v. USA*,

COFC Case No. 13-307C, in a 2016 telephone conference call between Golden, three attorneys from the DOJ and three attorneys from the DHS, the discussion of the U.S. Department of Justice—National Institute of Justice (DOJ-NIJ) allegedly "taking" Petitioner's patented technology for the benefit of the public was brought up. The DOJ denied the claim and the Judge dropped the U.S. Department of Justice—National Institute of Justice (DOJ-NIJ) from the case, stating she has never heard of the National Institute of Justice (DOJ-NIJ).

The National Institute of Justice (NIJ) is the research, development and evaluation agency of the U.S. Department of Justice. As part of its traffic safety efforts, NIJ supports the development of innovative and precise technologies to make high-speed car chases safer. NIJ's goals are:

- To end high-speed pursuits before they endanger life or damage property.
- To catch criminals before they escape.

The different types of pursuit management devices that are covered in Petitioner's patents; being "appropriated or used" by the Government (i.e., NIJ) are:

> *Electronic discharge devices*. "[R]equire very close proximity to the vehicle. They must be placed on the road and, as a result, share many of the same concerns and limitations of tire-deflation devices. These devices work by emitting a series of short-range

electromagnetic (EM) pulses that disrupt or destroy vehicle electronics."

Electromagnetic radiation devices. "In the mid-2000s, NIJ collaborated with the Department of Defense's (DoD) Joint Non-Lethal Weapons Directorate (JNLWP) to support developing and testing a device that uses a microwave source to immobilize a vehicle. The device, developed by Eureka Aerospace, weighed 230 pounds, small enough to be integrated into a police car. The goal was to interfere with microprocessors that controlled critical functions such as ignition control and fuel pump control."

Directed Energy Devices. "[S]end out directed energy to disrupt and stall a vehicle's electrical system. As with electronic discharge devices, directed energy devices use an EM pulse to short a vehicle's electrical system. Unlike the electronic discharge [], however, directed energy devices avoid the operational limitations that come with devices that must be close to the targeted vehicle."

The above information was retrieved from the U.S. Department of Justice—National Institute of Justice (DOJ-NIJ) at: https://nij.ojp.gov/topics/articles/technology-pursuit-management

The U.S. Department of Justice—National Institute of Justice (DOJ-NIJ), "cannot "*appropriate or use*" Petitioner's patented inventions itself, without paying

just compensation" *James v. Campbell*, 104 U.S. 356, 358 (1882).

Claims 11 & 13 of Petitioner's U.S. Patent RE43,891 (the '891 patent), illustrates Petitioner's patented inventions for stopping, stalling, and slowing down a vehicle, that are being "*appropriated or used*" by the DOJ-NIJ:

> 11. A vehicle adapted for receipt of a signal from a remote location to control the vehicle's stall-to-stop means or vehicle slowdown means, comprising: . . .
>
> at least one mobile, portable, or fixed device capable of sending the at least one control signal from the remote location that is of electromagnet pulse, electrostatic discharge, microwave beam or radio frequency, to disable the computer, electrical, fuel and air systems of the vehicle or a combination of the computer, electrical, fuel and air systems that include but are not limited to the brakes, foot peddle, lights, speed controls, ignition, steering, transmission, and horsepower of the motor.
>
> 13. The stall-to-stop disabling and slowdown system of claim 11 wherein the stall-to-stop and slowdown means can be activated by an authorized individual which includes but is not limited to the owner, pilot, conductor, captain, police, highway patrol, security guard, port security and military personnel to the monitoring equipment from a fixed,

portable or mobile communication device for activating the system.

In the April-June 2021 edition of Army Sustainment, Maj. Gen. Rodney Fogg noted, "Distributed sustainment operations require the ability to disconnect and operate independently." The objectives of these interdependent missions, will be synchronized and integrated across air, land, sea, and non-physical domains. Distributed sustainment operations—enabled through an integrated network of autonomous vehicles (AV).

Along the supply lines of Iraq and Afghanistan, the enemy focused on preventing convoys from reaching their destinations through improvised explosives devices (IEDs).

A Congressional Research Service study found that from 2006 to 2021, approximately 46% of service member deaths in Afghanistan resulted from IEDs. Semi-autonomous and autonomous vehicles offer the opportunity to significantly reduce the number of troops required to conduct a convoy.

The Army has developed the leader-follower technology, which allows a manned lead vehicle to travel along a route and have some semi-autonomous vehicles following along in the sequence.

Claims 1 & 2 of Petitioner's U.S. Patent 11, 645,898 (the '898 patent), illustrates Petitioner's patented inventions for stopping, stalling, and slowing down a vehicle, that are being "appropriated or used" by the U.S. Army:

1. A pre-programmed stall, stop, vehicle slow-down system, that comprises at least one central processing unit (CPU), capable of:

processing instructions to stall, stop, or slow-down a vehicle when the vehicle is at least a driverless vehicle; a self-drive vehicle; an autonomous vehicle; a human controlled vehicle; a manned or unmanned convoy vehicle, or a manned or unmanned aerial, land, or sea vehicle;

2. A vehicle, that comprises at least one onboard computer system, electronic system, fuel system, air system, braking system, ignition system, transmission system, or PowerDrive system, capable of:

stalling, stopping, or slowing down a vehicle when the vehicle is at least a driverless vehicle; a self-drive vehicle; an autonomous vehicle; a human controlled vehicle; a manned or unmanned convoy vehicle, or a manned or unmanned aerial, land, or sea vehicle;

In 2007 the Department of Homeland Security released a request: The DHS S&T BAA07-10 *Cell-All Ubiquitous Biological and Chemical Sensing* initiative. *Cell-All* is a program managed by DHS to develop software and hardware that enables smartphones to function as handheld, pervasive environmental sensors. The goal of the project is to embed multiple nanoscale sensors (for environmental chemicals, industrial toxins, radiation, and bioagents) directly into mobile phones.

During the development of second-generation prototypes, chemical sensors were separated from the phones, allowing for initial market deployment of the sensors through third-party products, such as sleeves, that could be added to existing phones (U.S. Department of Homeland Security, 2011a).

Ten years after the release of the *Cell-All* initiative, in 2017 the Department of Homeland Security released a progress report. The Homeland Security Science and Technology Advisory Committee (HSSTAC) *Chemical, Biological, Radiological, and Nuclear Detection White Paper*:

"In addition to computers, smart phones, tablets, game consoles, new categories of connected devices such as fitness wearables, digital fashion accessories, Internet of Things (IOT) appliances, security systems, self-driving cars, robotics, smart toys, industrial control and home automation systems are coming on the market at an accelerating pace. All of these connected devices have sensors of one kind or another (e.g. accelerometers, GPS, RF sensors, cameras & microphones) so that it will be theoretically possible to "instrument" virtually the entire population of the U.S. in one form or another, and to use this synoptic instrumentation to swiftly detect and respond to CBRN events."

> "Sensor activity from cameras, microphones, accelerometers in mobile devices, laptops, computers and "IOT devices (home security/automation, municipal, industrial) can detect, localize and identify CBRN events, including those producing ionizing radiation."

> "Mobile GPS data (and cell/sector handshaking data) can identify handsets that were exposed to pathogens, toxins and radioactive material so that (with suitable civil liberties protections) affected individuals [] can be found and treated."

Although, Petitioner has 26 independent patent claims and 18 dependent patent claims that covers Petitioner's patented invention for a new, improved upon, and useful cell phone, Petitioner will illustrate the above technology with claim 23 of Petitioner's U.S. Patent 9,589,439 (the '439 patent).

> 23. A cell phone comprising:
>
> at least one of a . . . GPS connection
>
> at least one of a chemical sensor, a biological sensor, an explosive sensor, a human sensor, a contraband sensor, or a radiological sensor capable of being disposed within, on, upon or adjacent the cell phone;
>
> at least one of a chemical sensor, a biological sensor, an explosive sensor, a human sensor, a contraband sensor, or a radiological sensor capable of being disposed within, on, upon or adjacent the cell phone;
>
> whereupon a signal sent to the receiver of the cell phone detection device from at least one of the chemical sensor, the biological sensor, the explosive sensor, the human sensor, the contraband sensor, or the radiological sensor, causes a signal that includes at least one

of location data or sensor data to be sent to the cell phone.

THE GOVERNMENT'S HISTORY OF TAKING THE PROPERTY OF BLACKS AND/OR AFRICAN AMERICANS IN COMPUTER SCIENCE HAS SPANNED OVER FIFTY YEARS

Blacks and/or African Americans continue to build the computer science industry and the Government continue taking, appropriating, and using our patented inventions without paying just compensation. The top 28 companies benefiting from the government "takings" between the years 2010-2026 is estimated to earn $60 Trillion in revenue. (Macrotrends LLC)

Thanks to Margot Lee Shetterly's book and its film adaptation, Katherine Johnson, Dorothy Vaughan, and Mary Jackson have become the faces of NASA's *Hidden Figures* era—and for good reason. All three women made so many crucial, trailblazing contributions to the agency.

Dorothy Vaughan served as head of the West Computers until 1958, when NACA was incorporated into the newly created NASA. Vaughan and many other West Computers then joined the NASA Analysis and Computation Division. By then, the space program had begun using electronic computers, and Vaughan became an expert at FORTRAN, a computer programming language used for scientific and algebraic applications.

Another was Annie J. Easley. Easley was one of only four Black employees among the agency's staff of 2,500. "Our jobs were really to do the computations for the engineering side of the house," she said in a 2001 NASA oral history. She learned programming languages FORTRAN and SOAP, eventually developing code essential to operating NASA's *Centaur rocket* and powering early hybrid vehicle battery technology.

In 1961, Mr. Frank S. Green was the first Black cadet to complete the Air Force ROTC program. In 1962, Frank Greene earned a master's in electrical engineering from Purdue University and headed west to work in Fairchild's research and development department. There, he *patented* the integrated circuit that powered the company's semiconductors and helped develop what was, at the time, the world's fastest memory chip—"all of 256 bits," he said in 2009.

In the early 1980s, Dr. Gladys West was a project manager heading a team of five working with Seasat, the first ocean-monitoring satellite. It was there where she programmed an IBM 7030 "Stretch" computer, generating increasingly refined calculations to create a geoid, or an extremely accurate geodetic Earth model, that was ultimately optimized and used as the basis for the Global Positioning System, or GPS, which in turn is the basis for, well, everything in our digital (and analog) lives.

Roy L. Clay was the lead developer on the Hewitt Packard HP 2116A, the company's first minicomputer. "Mr. Clay, who has been called "the Godfather of

Silicon Valley". Leaning on his interest in computing, he taught himself to code and, in 1956, returned to McDonnell Aircraft. Hewlett-Packard hired Mr. Clay in 1965 to lead HP's computer science division and develop and write software for the HP 2116A microcomputer. When it hit the market in 1966 it was the second such machine in the world and a crucial building block in the personal computing revolution.

Dr. Marian R. Croak's Voice Over Internet Protocol, or VoIP does exactly what it says: allows us to communicate verbally via the Internet. Dr. Croak said in 2014, "I realized I had to advocate for that technology if AT&T was going to maintain its leadership position. The key was finding a few coworkers who shared my conviction." Dr. Croak and her team pioneered the technology and science that makes VoIP possible. Dr. Croak, holds more than 100 patents related to VoIP.

When it came to developing IBM's personal computer, it leaned hard on Mark Dean. Mark Dean is an African American computer scientist. For all his smarts and technical acumen, though, Dean confronted bigoted views of what he was capable of as a young Black man. Mr. Dean was put in charge of PC design in 1982 and was chief engineer of the team that developed the IBM PC, with Dean holding three of the nine patents associated with the computer. He has been credited with helping to revolutionize the personal computer industry.

Henry T. Sampson is an African American inventor, best known for creating the world's very first cell

phone. Information about him on Wikipedia states: "On July 6, 1971, he was awarded a patent for a gamma-electrical cell, a device that produces a high voltage from radiation sources, primarily gamma radiation, with proposed goals of generating auxiliary power from the shielding of a nuclear reactor." On April 3, 1973, using the patented technology he created, Motorola engineer Marty Cooper placed the first public call from a cell phone, a real handheld portable cell phone.

Jesse Russell is a Black inventor and IT entrepreneur. Russell's innovations in wireless communication systems, architectures, and technology related to radio access networks, end-user devices, and in-building wireless communication systems have fundamentally changed the wireless communication industry. Known for his patented invention of the digital cellular base station. He holds patents and pioneered the field of digital cellular communication in the 1980s through high-power linear amplification and low-bit-rate voice encoding technologies. He received a patent in 1992 (US patent #5,084,869) for his digital cellular base station design work.

Larry Golden, a Black and/or African American inventor, holds 10 patents for technology designed to stimulate the Nation's economy and prevent terrorism. The patented devices are in the field of detection systems, communication devices, and vehicle operating systems.

We are just beginning to push for "Reparations in Real Time", which means if we receive 15% of the $60 Trillion (Macrotrends LLC) for our contributions, the Black and/or African American community will receive $9 Trillion in reparations.

CONCLUSION

For the reasons set forth in this Petition, Larry Golden respectfully requests this Honorable Court grant rehearing and his Petition for a Writ of Certiorari.

This is not the first time Petitioner has tried to get this Court to clarify the "Takings" provisions (*Larry Golden v. The United States*, Case No. 20-5532; filed 08/13/20).

The Government is appropriating and using Petitioner's patented inventions in abundance. Petitioner is hoping this is the last filing.

Respectfully submitted this 12th day of April, 2024.

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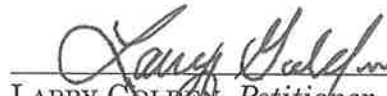
CERTIFICATE OF GOOD FAITH

The undersigned hereby certifies that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.

Respectfully submitted this 12th day of April, 2024.



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AFFIDAVIT OF SERVICE

SUPREME COURT OF THE UNITED STATES

No. 23-904

----------X

LARRY GOLDEN,

Petitioner,

v.

UNITED STATES,

Respondent,

----------X

STATE OF NEW YORK)

COUNTY OF NEW YORK)

I, Mathew Planalp, being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

I am retained by the Petitioner, Larry Golden.

That on the 12th day of April, 2024, I served the within *Petition for Rehearing* in the above-captioned matter upon:

Elizabeth Prelogar
Solicitor General of the United States
U.S. Department of Justice
Room 5616
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
(202) 514-2217
supremectbriefs@usdoj.gov

by sending three copies of same, addressed to each individual respectively, through United States Postal Service, by Priority mail.

That on the same date as above, I sent to this Court forty copies of the within *Petition for Rehearing* and two hundred dollar filing fee check through the Overnight Next Day Federal Express, postage prepaid.

All parties required to be served have been served.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12th day of April, 2024.

Mathew Planalp

Mathew Planalp

Sworn to and subscribed before me
this 12th day of April, 2024.

Mariana Braylovskiy

MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026

SUPREME COURT OF THE UNITED STATES

No. 23-904

----------X

LARRY GOLDEN,

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UNITED STATES,

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----------X

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the document contains 2930 words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 12th day of April, 2024.

Mathew Planalp

Mathew Planalp

Sworn to and subscribed before me
on this 12th day of April, 2024.

Mariana Braylovskiy

MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026