

**Jed Margolin**

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**From:** "Mcconnell, Stephen (HQ-NB040)" <stephen.mcconnell-1@nasa.gov>  
**To:** "Jed Margolin" <jm@jmargolin.com>  
**Cc:** "Young, Denise (HQ-NB040)" <denise.young-1@nasa.gov>  
**Sent:** Tuesday, February 16, 2010 1:30 PM  
**Attach:** 10-00285 (final) v2.docx; 10-00285 (docs).pdf  
**Subject:** 10-00285

Our initial release determination is provided below.

February 11, 2010

10-HQ-F-00285

Mr. Jed Margolin  
1981 Empire Road  
Reno, NV 89521-7430

Dear Mr. Margolin:

This is our final initial release determination to your Freedom of Information Act request, dated December 15, 2009, subject: *FOIA Request – Take 2*.

We have conducted a search of the office specifically responsible for ‘patent infringements’; which is our Office of General Counsel. Even though you posed your request for agency records as questions, under the FOIA, federal agencies are provided guidance “that they are not required to answer questions posed as FOIA requests.”<sup>i</sup>

However, in an affirmative action towards seeking the records to your request we conducted a search which could answer those questions.<sup>ii</sup>

- Question #1: can be answered by providing you a copy of the log the Office of General Counsel maintains.
- Questions # 2-8 and 10: found ‘no records’, which would specifically provide you with a responsive answer to your questions.
- Question # 9: is seeking records not kept or maintained by this agency. However, you may wish to contact the General Accounting Office, which could have records relating to that specific question. The following is a link to their agency’s FOIA office.  
<http://www.gao.gov/foia.html>
- Question #11: Procurement Information Circular 08-12 The Federal Acquisition Regulations has internal standards of conduct, which is responsive to your request.

<http://www.hq.nasa.gov/office/procurement/regs/pic08-12.html>

You may appeal this initial determination to the NASA Administrator. Your appeal must be addressed to: Administrator, National Aeronautics and Space Administration, Mail Stop: 9Q42, 300 E Street, SW, Washington, DC 20546, and be identified clearly on the envelope and in the letter as an “Appeal under the Freedom of Information Act (FOIA). Also, include a copy of the request for the agency record, and a copy of the adverse initial determination and state, to the extent possible, the reasons why you believe the initial determination should be reversed. This must be sent to the Administrator with thirty (30) calendar days of the date of the receipt of this initial determination.

I trust this will be of assistance to you.

Sincerely,

*Original Signed*

Denise Young  
Headquarters, Freedom of Information Act Officer

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<sup>i</sup> Department of Justice, Office of Information Policy's *Guide to the Freedom of Information Act*. See e.g. Zemansky v. EPA, 767 F.2d 569, 574 (9<sup>th</sup> Cir. 1985); DiViao v. Kelley, 571 F.2d 538, 542-43 (10<sup>th</sup> Cir. 1978); Barber v. Office of Info. & Privacy, No. 02-1748, slip op. At 4 (D.D.C. Sept. 4, 2003)(holding that the agency "had no duty to conduct research or to answer questions"...; Higgins, 620 F. Suppl. At 21("[The] FOIA creates only a right of access to records, not a right to personal services.")

<sup>ii</sup> Department of Justice *FOIA Update*, Vol. V, No. 1 at 5 (advising that "while agencies do not have to create or compile new records in response to FOIA requests (whether formulated in question form or not), they should make good faith efforts to assist requesters in honing any requests for readily accessible records which are 'inartfully presented in the form of questions' (quoting Ferri, 645 F.2d at 1220)).











INFRINGING PATENT CLAIMS

2001

#	DATE REC'D.	CLAIMANT/COMPANY	DATE LTR SENT	GP#	STATUS	DATE CLOSED
221	7/10	Barry Herbert	7/10	02-37037	Acknowledgement Letter Sent	

INFRINGE MENT CLAIMS

2001

<u>I#</u>	<u>DATE REC'D.</u>	<u>CLAIMANT/COMPANY</u>	<u>DATE LTR SENT</u>	<u>GP#</u>	<u>STATUS</u>	<u>DATE CLOSED</u>
219	2/5	Douglas E. Pittman/U.S. Controls and Services			Acknowledgement Letter Sent	
220	8/16	Ramsey M. Al-Salam/Perkins Co				

INFRINGE PATENT CLAIMS

2000

#	DATE	CLAIMANT/COMPANY	DATE	GP#	STATUS	DATE
	REC'D.		LTR SENT			CLOSED
216	1/19	Lemelson Foundation Partnership	1/27	00-37007	Acknowledgement Letter Sent	
			1/27	00-37008	Letter Sent to T.Byrnes (DOJ) for review and advice	
217	5/22	W. Calvert	5/23	00-37052	Letter Sent to EF for his signature	
218	8/4	Po Kee Wong			Ordered Two Patents on 8/9	

INFRINGEMENT CLAIMS

1999

I#	DATE	CLAIMANT/COMPANY	DATE	GP#	STATUS	DATE
	REC'D.		LTR SENT			CLOSED
214	2/11	S. Chapman of Clemson U	4/14	99-37025	Acknowledgement Letter Sent	
			4/14		Patent Ordered from PTO	
			4/26		Patent Received from PTO	
			6/24	99-37045	Investigation Memo sent to Guy; Respond by 08/20/99	
215	10/14	Louis Birbas/Ulysses Corporation	2/7	00-37005	Investigation Completed Letter sent to Birbas	