

1 Jed Margolin, Pro Se
2 1981 Empire Rd.
3 VC Highlands, NV 89521-7430
4 Telephone: 775-847-7845
5 Email: jm@jmargolin.com
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10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA
12

JED MARGOLIN,)	Case No. 3:09-cv-00421-LRH-(VPC)
)	
Plaintiff,)	RESPONSE TO NASA’s RESPONSE TO
)	MARGOLIN’s MOTION FOR COSTS
vs.)	(#65); DECLARATION
)	
NATIONAL AERONAUTICS AND)	
SPACE ADMINISTRATION,)	
)	
Defendant.)	
)	

13
14 Comes now Plaintiff, Jed Margolin (“Margolin”), appearing pro se, and files his
15 Response to NASA’s Response to Margolin’s Motion for Costs (#65) and accompanying
16 Declaration.

17 **Argument**

18 **A.** The issue of whether or not Margolin has substantially prevailed in this case is not about the
19 single two-page letter (“Calvert Letter”) that NASA was ordered to produce. (#65, page 2, lines
20 4-11 and #62 page 16, lines 11-23). Nonetheless, the Calvert Letter (apparently reproduced in
21 Graham Declaration #65-1) is probative. In it NASA tells Calvert (#65-1 page 6):

22 (1) Prior art has been brought to my attention that was not reported to the United States
23 Patent and Trademark Office by you.

1 However, NASA fails to say how the prior art is relevant. NASA doesn't even name it. This is
2 the same tactic used by Borda (#19-1 page 51):

3 "... numerous pieces of evidence were uncovered which would constitute anticipatory prior
4 knowledge and prior art that was never considered by the U.S. Patent and Trademark Office
5 during the prosecution of the application which matured into Patent No. 5,904,724."

6
7 Borda's threat is, however, more explicit (*Id.*):

8 "... NASA reserves the right to introduce such evidence of invalidity in an appropriate
9 venue, should the same become necessary."

10

11 It is the beginning of a pattern showing how NASA deals with independent inventors.

12 Indeed, in the Graham Declaration (#65-1 ¶5) she states:

13 "The December 4, 2002 draft letter to W. Calvert was provided by Ms. Bayer to Mr. McNutt
14 to use as a template in drafting the final determination in Case I-222, the claim that was the
15 subject of Plaintiff's FOIA request."

16

17 Thus, NASA's template for responding to independent inventors' claims for compensation

18 contain the perfunctory statement that, "Prior art has been brought to my attention that was not

19 reported to the United States Patent and Trademark Office by you."

20

21 An allegation that prior art exists can damage a patent's value, especially when:

22 1. The allegation is made by NASA;

23 2. The allegation fails to provide even the name of the alleged prior art.

24 This is not only bad faith on NASA's part, it is reprehensible and repugnant.

25

26 **B.** The issue of whether or not Margolin has substantially prevailed in this case is not about the

27 Court's decision to allow NASA to withhold the documents they have withheld (for example,

28 #62 page 16, lines 2 - 10). The issue of whether or not Margolin has substantially prevailed in

1 this case is about the approximately 4,000 pages of documents that NASA voluntarily produced
2 in November 2009, and whether the results of this case have given the public a greater
3 understanding of how their Government works.

4 **1.** 5 U.S.C. 552 § (a)(4)(E) states:
5

6 (i) The court may assess against the United States reasonable attorney fees and other
7 litigation costs reasonably incurred in any case under this section in which the complainant
8 has substantially prevailed.
9

10 (ii) For purposes of this subparagraph, a complainant has substantially prevailed if the
11 complainant has obtained relief through either -
12

13 (I) a judicial order, or an enforceable written agreement or consent decree; or
14

15 (II) a voluntary or unilateral change in position by the agency, if the complainant's
16 claim is not insubstantial.
17

18 The production of the approximately 4,000 pages of documents that NASA produced represents
19 a substantial change in NASA's position.

20 **a.** Margolin filed a claim for compensation in June 2003. (See #62, page 1, lines 23-25).

21 **b.** NASA did not respond to the claim until after Margolin filed a FOIA request.

22 (Margolin filed the FOIA request in June 2008 - See #62, page 3, lines 10 - 14; NASA did not
23 respond to Margolin's claim until May 2009 - See #62, page 3, line 15.)

24 **c.** NASA did not respond to Margolin's FOIA administrative appeal until after he filed
25 the present action. (Margolin filed his administrative appeal with NASA in June 2009 - See #62,
26 page 4, lines 25 - 26; He filed the present action on July 31, 2009 - See #1, page 1; NASA
27 responded to Margolin's administrative appeal on August 5, 2009 - See #62, page 4, lines 11 -
28 12.)

1 **d.** NASA's production of the approximately 4,000 pages of documents was a voluntary
2 and unilateral change in NASA's position. Margolin was surprised that NASA produced the
3 documents without an order from this Court.

4
5 NASA has failed to address the issue of the approximately 4,000 pages of documents that it
6 voluntarily and unilaterally produced. Instead they have tried to make the issue about the Calvert
7 Letter.

8
9 **2.** The results of this case have given the public a greater understanding of how their
10 Government works, both by the documents that NASA produced and how NASA has conducted
11 themselves during this case.

12 **a.** The public has learned that NASA's standard answer when independent inventors ask
13 NASA for compensation for infringing their patent includes: (i) NASA does not infringe; and (ii)
14 NASA has found prior art that was not reported to the United States Patent and Trademark
15 Office by you (but they refuse to even name the alleged prior art).

16 **b.** The public has learned that NASA does not take FOIA requests from independent
17 inventors seriously until an action is brought against NASA. From Graham Declaration #42-1 ¶¶
18 27,28:

19 27. On August 12, 2009, I issued a notice to preserve evidence relevant to the lawsuit to
20 NASA Langley Research Center, Johnson Space Center and Dryden Flight Research Center.
21 I also asked the patent attorneys at each Center responsible for reviewing Case Number I-
22 222 to provide me with copies of all documents in their possession so I could review them in
23 connection with the litigation. See E-Mail, ACTION REQUIRED: Margolin FOIA Suit,
24 dated August 12, 2009 (annexed hereto at Exhibit H).

25
26 28. I received over 5600 pages of documents from the NASA Field Centers in response
27 to my request. Many documents were duplicates because the NASA personnel investigating

1 the claims consulted closely with one another by e-mail and telephone while reviewing Case
2 Number I-222, so e-mails and documents were received by multiple people simultaneously.
3

4 While many of the documents were duplicates, many were not. These documents were not given
5 to Margolin as a result of his FOIA request. NASA did not even search for them until he filed the
6 present action.

7 c. One of the documents among the approximately 4,000 pages of documents that NASA
8 produced is an email from NASA attorney Robert Rotella to Courtney B. Graham dated May 5,
9 2009. In it, Margolin's claim was officially denied. By an interesting coincidence the email also
10 contains NASA's decision to wiggle out of their promise to abide by the results of a contest for
11 naming the Node 3 module of ISS. (The comedic political commentator Stephen Colbert had
12 asked his viewers to vote for his name, and they did. He won the contest.) The email is
13 reproduced as Exhibit 1. The part about Stephen Colbert is as follows:

14 1) Node 3 module of ISS online naming contest: Drafted set of rules and entry conditions
15 for participants; the most significant was that the agency was not bound to accept the results
16 of the online voting which avoided having to name Node 3 after Stephen Colbert, who
17 encouraged viewers to nominate him.
18

19 The Colbert Report has a devoted following. The public would not know the details about
20 NASA's bad faith toward Stephen Colbert (and the members of the public who voted for him)
21 without the present lawsuit.
22

23 C. NASA cites *Young v. Dir.*, No. 92-2561, 1993 WL 305970, at *2 (4th Cir. Aug. 10, 1993).
24 (#65, page 2, line 15). NASA's Counsel has misrepresented *Young* by taking her quote out of
25 context. The full context is as follows (*Young* ¶¶10-12):

1 10 Under 5 U.S.C. Sec. 552a(4)(E) of the FOIA, a district court "may assess against the
2 United States reasonable attorney fees and other litigation costs reasonably incurred ... [if]
3 the complainant has substantially prevailed." (emphasis added). Young has the burden of
4 establishing she has met this "substantially prevailed" standard. *Pyramid Lake Paiute Tribe*
5 *v. U.S. Dept. of Justice*, 750 F.2d 117, 119 (D.C. Cir. 1984). **The determination of whether**
6 **a plaintiff has substantially prevailed is largely a question of causation, that is, did the**
7 **litigation cause the agency's surrender of that information.** *Cox v. Department of Justice*,
8 601 F.2d 1, 6 (D.C. Cir. 1979). Causation may be established if "the action could reasonably
9 be regarded as necessary to obtain the information ... and that a causal nexus exists between
10 the action and the agency's surrender of that information."
11

12 11 *Id.*

13
14 12 Even if a plaintiff substantially prevails, however, a district court may nevertheless, in
15 its discretion, deny the fees. The exercise of this discretion is appropriate if the award of
16 attorney's fees "will [not] encourage fulfillment of the purposes of FOIA." *Nix v. United*
17 *States*, 572 F.2d 998, 1007 (4th Cir. 1978) (**holding that where suit is brought to benefit**
18 **the plaintiff's own interests, as opposed to being for the public benefit, a district court**
19 **could not be said to have abused its discretion in denying fees.**)
20

21 {Emphasis added}

22 The issues are:

23 **1.** The determination of whether a plaintiff has substantially prevailed is largely a question of
24 causation, that is, did the litigation cause the agency's surrender of that information?

25 **2.** Whether Margolin's suit was brought to benefit his own interests, as opposed to the public's
26 interest.

27 **a.** As shown *supra*, NASA's production of the approximately 4,000 was voluntary and
28 unilateral and was caused by the present lawsuit.

29 **b.** Now we consider whether Margolin's suit was brought to benefit his own interests, as
30 opposed to the public interest. NASA makes the statement (#65, page 3, lines 13 -15):

31 Applying the second and third factors here, Plaintiff clearly had an incentive to litigate this
32 FOIA action to gather information related to the investigation of his patent infringement
33 claim.

1 When Margolin approached NASA in 2003 it was to offer to sell the patents to NASA. (See
2 Exhibit 2, which is a reproduction of the first five pages of the claim information that Margolin
3 provided in June 2003. The full document was reproduced in #19-1 as Exhibit 1.) NASA told
4 him he could either offer to sell them the patents or he could file a claim for compensation but he
5 could not do both. (*Id.*) So, he filed the claim for compensation. There was only one publicly
6 known flight of the X-38 where the aircraft used synthetic vision. (*Id.*) Thus, there was only one
7 publicly known infringing use of Margolin's patents. As NASA's Alan Kennedy pointed out in a
8 telephone conversation in early February 2004, it would cost Margolin more to sue NASA in
9 Federal Claims Court than he could hope to recover. (See #19-1, Exhibit 8, page 42 - 43)
10 NASA's statement (#65, page 3, lines 13-15) that "Plaintiff clearly had an incentive to litigate
11 this FOIA action to gather information related to the investigation of his patent infringement
12 claim" is ludicrous. The record shows that neither Margolin nor Optima Technology Group has
13 sued NASA for infringement. If, as NASA asserts, Margolin's suit was brought to benefit his
14 own interests it wasn't about money.

15
16 When the Media gets an exemption of fees for its FOIA requests it is recognized that reporters
17 receive a personal benefit. They get paid to write stories using the FOIA material. Their
18 employers are frequently profit-making organizations. In *Davy v. CIA*, 550 F.3d 1155, 1159
19 (D.C. Cir. 2008) William Davy filed a FOIA request with the CIA to obtain information about
20 individuals allegedly involved in President Kennedy's assassination. At least one of the
21 requested documents was not previously available to the public. (See *Davy* at 1159.) Davy had
22 planned to use that information in his research to write a book. (See *Davy* at 1161.) From *Davy* at
23 1160:

1 First, the mere intention to publish a book does not necessarily mean that the nature of the
2 plaintiff's interest is "purely commercial." *See* S. REP. No. 93-854, at 19. Surely every
3 journalist or scholar may hope to earn a living plying his or her trade, but that alone cannot
4 be sufficient to preclude an award of attorney's fees under FOIA. "If newspapers and
5 television news shows had to show the absence of commercial interests before they could
6 win attorney's fees in FOIA cases, very few, if any, would ever prevail." [Tax Analysts, 965](#)
7 [F.2d at 1096](#). Yet their activities often aim to ferret out and make public worthwhile,
8 previously unknown government information — precisely the activity that FOIA's fees
9 provision seeks to promote. Furthermore, a conclusion that using information obtained under
10 FOIA in connection with research for purposes of writing a book necessarily makes fees
11 unavailable is inconsistent with the distinction that underlies this court's analysis of the
12 relevant factors. *Cf. Nationwide, 559 F.2d at 713* (discussing [Goldstein v. Levi, 415 F.Supp.](#)
13 [303, 305 \(D.D.C.1976\)](#)).
14

15 Note that NASA did not ask Margolin for any fees regarding his FOIA request. The issue of fees
16 never came up during the FOIA request that led to the present action.

17
18 Margolin is not planning to write a book. He has been blogging this case on his Web site since
19 the beginning of the case. The article/blog is entitled **How NASA Treats Independent**

20 **Inventors**. In it Margolin has posted:

- 21 1. All of the Court documents;
- 22 2. Margolin's difficulties as a newbie;
- 23 3. Margolin's difficulties getting NASA to accept mail that they do not want to receive;
- 24 4. Some commentary on the process;
- 25 5. A discussion of *stare decisis*;
- 26 6. Copies of most of the cases cited by both parties and links to where he got the cases so
27 others can find them;
- 28 7. All of the approximately 4,000 pages of documents that NASA produced;

1 8. The results of Margolin's second FOIA request to NASA where he asked for specific
2 documents relating to NASA's treatment of independent inventors.

3 9. The results of Margolin's third FOIA request which NASA has completely ignored.

4
5 See Exhibit 3 for the most current version of Margolin's blog/article as of April 24, 2011.

6
7 On April 20, 2011 Margolin did a Google search for the terms: **NASA FOIA lawsuit**.

8 Google reported about 133,000 hits. Margolin's blog/article was ranked number 12 (or 13 if you
9 count the videos separately). See Exhibit 4. (Google ranking is based on several factors. One of
10 them is how often the Web page is clicked on by Googlers, i.e. its popularity.)

11
12 People are reading Margolin's blog/article. A printout of Margolin's server logs just for the
13 blog/article (which started in September 2009) would require more than 500 pages. (To save
14 space Margolin will refrain from submitting it as an Appendix here.)

15
16 Margolin's Web site is non-commercial. He does not make money from people going to his Web
17 site.

18
19 NASA knew that Margolin was going to blog the case. He told them he was going to blog the
20 case in a fax to NASA Acting Administrator Scolese in April 2009. See Exhibit 5 last paragraph,
21 also reproduced as Exhibit 8 in #19-1. NASA has periodically visited Margolin's Web site and
22 read Margolin's blog. They have also read some of Margolin's other articles. See Appendix 6 for
23 NASA's visits to Margolin's Web site from January 1, 2011 to April 20, 2011. (To save space
24 Margolin has deleted hits to graphic images.)

1 Thus, whatever personal benefit Margolin received from the present case is the same personal
2 benefit that journalists receive for their work.

3

4 **D.** NASA makes the argument (#65, page 2, lines 10-11):

5 As Plaintiff himself readily concedes, he “basically lost this lawsuit.” (#64 at p. 3). Under
6 the circumstances, he is not entitled to costs.

7

8 NASA has taken the quote out of context by omitting the second part of the sentence (#64, page

9 3, lines 17-18):

10 Thus, although Margolin basically lost this lawsuit, at the same time he substantially
11 prevailed and deserves his costs.

12

13 That sentence is a summary of the preceding ten paragraphs in #64.

14

15 **E.** NASA’s citation of *Read v. FAA*, 252 F. Supp. 2d 1108, 1110-11 (W.D. Wash. 2003) is

16 relevant, but not the way they intended it to be. (#65, page 3, lines 16-19):

17 As for the fourth factor, there is no evidence that NASA acted in bad faith in withholding
18 the two-page letter. See *Read v. FAA*, 252 F. Supp. 2d 1108, 1110-11 (W.D. Wash. 2003)
19 (“[r]ecalcitrant and obdurate behavior ‘can make the last factor dispositive without
20 consideration of any of the other factors.’”).

21

22 NASA’s reference to the two-page letter is to the Calvert Letter, *supra*. And, rather than being

23 inconsequential, it shows the pattern of how NASA deals with independent inventors. But, as

24 shown *supra*, NASA’s recalcitrant and obdurate behavior is that NASA does not take FOIA

25 requests from independent inventors seriously until an action is brought against NASA.

26

1 **F.** In arguing the Fourth Point NASA also cites *Church of Scientology v. USPS*, 700 F.2d 486,
2 492 (9th Cir. 1983) “whether the government’s withholding had a reasonable basis in law.” (#65,
3 page 2, lines 20-22).

4
5 The issue is not about the Calvert Letter. The issue is about the approximately 4,000 pages of
6 responsive documents that NASA produced in November 2009, approximately three months
7 after the commencement of the present action. NASA should have produced these documents in
8 response to Margolin’s FOIA request. NASA’s withholding of these documents had no basis in
9 law. NASA’s withholding of these documents constitute bad faith. NASA’s withholding of these
10 documents necessitated a large expenditure of Margolin’s time and a modest expenditure of
11 money. Margolin deserves his costs.

12
13 **Conclusion**

14
15 For the foregoing reasons, Margolin respectfully requests that the Court:

- 16 1. Grant his Motion For Costs;
17 2. Grant such other relief as the Court may deem just and proper.

18
19 Respectfully submitted,

20 /Jed Margolin/

21 Jed Margolin, plaintiff pro se
22 1981 Empire Rd.
23 VC Highlands, NV 89521-7430
24 775-847-7845
25 jm@jmargolin.com

26 Dated: April 25, 2011

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 JED MARGOLIN,)

Plaintiff,)

vs.)

NATIONAL AERONAUTICS AND)
SPACE ADMINISTRATION,)

Defendant.)
_____)

Case No. 3:09-cv-00421-LRH-(VPC)

DECLARATION OF JED MARGOLIN

4
5
6 I, Jed Margolin, declare as follows:

7
8 **A.** I am the plaintiff in this case.

9
10 **B.** For my Response to NASA's Response to Margolin's Motion For Costs:

11
12 **1. Exhibit 1** (Email from NASA attorney Robert Rotella to Courtney B. Graham dated
13 May 5, 2009) This exhibit is a true and accurate copy of the document contained in the
14 approximately 4,000 pages of documents that NASA sent me in November 2009.

15 **2. Exhibit 2** (First five pages of the claim information I sent NASA in June 2003)
16 This exhibit is a true and accurate copy of the first five pages of the claim information I sent
17 NASA in June 2003. It is also a true and accurate copy of the first five pages of the document
18 contained in the approximately 4,000 pages of documents NASA sent me in November 2009.
19 This version was used as a reference (Reference 5) in a later document; NASA has redacted
20 some information and added Bates numbers.

1 **3. Exhibit 3** (Web blog/article **How NASA Treats Independent Inventors**)

2 This exhibit is a true and accurate representation of my blog/article on my Web site at
3 www.jmargolin.com/nasa/nasa.htm as of April 24, 2011.

4 **4. Exhibit 4** (Google ranking of my blog/article on April 20, 2011)

5 This exhibit is a true and accurate representation showing the Google ranking for my article **How**
6 **NASA Treats Independent Inventors** produced on April 20, 2011. I produced it by performing
7 a Google search using the terms: **NASA FOIA lawsuit**.

8 **5. Exhibit 5** (Fax/Letter to NASA Acting Administrator Scolese in April 2009)


9 This exhibit is a true and accurate copy of the Fax/Letter I sent to NASA Acting Administrator
10 Scolese in April 2009.

11 **6. Exhibit 6** (Server logs for NASA hits) I produced this exhibit from the server logs for

12 my Web site at www.jmargolin.com by culling out hits from IP addresses that resolve to
13 nasa.gov in the DNS system and limiting them to dates between January 1, 2011 and April 20,
14 2011. I have removed entries for graphic images in order to save space.

15
16
17 I hereby declare under the penalty of perjury that the foregoing is true and correct to the best of
18 my knowledge and belief.

19
20 Dated: 4-25-2011

_____

Jed Margolin

Exhibit 1

Exhibit 1

[REDACTED]

From: Rotella, Robert F. (HQ-MC000)
Sent: Tuesday, May 05, 2009 2:14 PM
To: Graham, Courtney B. (HQ-MC000)
Subject: CIPLG Practice Group

1) Node 3 module of ISS online naming contest: Drafted set of rules and entry conditions for participants; the most significant was that the agency was not bound to accept the results of the online voting which avoided having to name Node 3 after Stephen Colbert, who encouraged viewers to nominate him.

2) Administrative Claims for Patent Infringement:

- a) Delta Engineers' allegation of infringement of its U.S. patent covering a "High Performance Cold Plate." Claim was denied in a final agency decision following extensive review;
- b) Margolin/Optima allegation of patent infringement by X-38 Project, based on patent covering "Synthetic Vision." Claim was denied in a final agency decision following extensive review and coordination with Center patent staffs.

3) NASA trademarks: agency will pursue formal trademark registration in US and European Community for NASA brands, including: meatball, NASA seal, NASA acronym, "National Aeronautics and Space Administration.

Robert F. Rotella
Senior Patent Attorney
Office of the General Counsel

[REDACTED]

b(6)

This document, including any attachments, contains information that is confidential, protected by the attorney-client or other applicable privileges, or constitutes non-public information. It is intended only for the designated recipient(s). If you are not an intended recipient of this information, please take appropriate steps to destroy this document in its entirety and notify the sender of its destruction. Use, dissemination, distribution, or reproduction of this information by unintended recipients is not authorized and may be unlawful.

Exhibit 2

Exhibit 2

(b)(6)

Reference 5 (14 pages)

Jed Margolin

June 17, 2003

Mr. Alan J. Kennedy
Director, Infringement Division
Office of the Associate General Counsel
National Aeronautics and Space Administration
Headquarters

(b)(6)

Attn: GP(02-37016)

Dear Mr. Kennedy,

I have received your letter dated June 11, 2003.

In my contacts with NASA personnel I have repeatedly stressed my desire that this matter be resolved in a friendly manner. However, since NASA has rejected my request to consider a license proffer and in view of your letter of June 11, it is clear that NASA has decided to handle this in an adversarial manner.

Before I respond to your letter in detail, I want to make things easier for me by withdrawing my U.S. Patent **5,566,073 Pilot Aid Using a Synthetic Environment** from this administrative claim in order to focus more directly on NASA's infringement of my U.S. Patent **5,904,724 Method and Apparatus For Remotely Piloting an Aircraft**. However, I reserve the right to file a claim concerning the '073 patent at a later time.

(1) The identification of all claims of the patent(s) alleged to be infringed.

As I stated in my email of May 13, 2003 to Mr. Hammerle of LARC and in my fax of June 7, 2003 to you, I have no way of determining exactly which claims the X-38 project may have infringed unless NASA makes a full and complete disclosure to me of that project. I also have no way of determining if NASA has (or has had) other projects that also infringe on my patent unless NASA makes a full and complete disclosure of those projects as well.

Therefore, in order to answer your question, I must request that NASA make a full and complete disclosure to me of the X-38 project as well as any other current or past projects that may infringe on my patent.

If this information requires a security clearance (I have none) I suggest you start the required security investigation immediately. If there is further information that you require in this regard feel free to contact me.

00200

- (2) *The identification of all procurements known to the claimant or patent owner which involve the alleged infringing item or process, including the identity of the vendor or contractor and the Government procuring activity.*

As I stated in my fax to you of June 7, 2003, I became aware that NASA was using synthetic vision in the X-38 project in the January 2003 issue of NASA Tech Briefs, page 40, "**Virtual Cockpit Window for a Windowless Aerospacecraft**". The article is available at: <http://www.nasatech.com/Briefs/Jan03/MSC23096.html>

This led me to Rapid Imaging Software, Inc. and their press release (<http://www.landform.com/pages/PressReleases.htm>) which states:

"On December 13th, 2001, Astronaut Ken Ham successfully flew the X-38 from a remote cockpit using LandForm VisualFlight as his primary situation awareness display in a flight test at Edwards Air Force Base, California. This simulates conditions of a real flight for the windowless spacecraft, which will eventually become NASA's Crew Return Vehicle for the ISS. We believe that this is the first test of a hybrid synthetic vision system which combines nose camera video with a LandForm synthetic vision display. Described by astronauts as 'the best seat in the house', the system will ultimately make space travel safer by providing situation awareness during the landing phase of flight."

The RIS press release provided a link to an article in *Aviation Week & Space Technology*: http://www.aviationnow.com/avnow/news/channel_space.jsp?view=story&id=news/sx381211.xml

As a result of more searching I discovered a link to a Johnson Space Center SBIR Phase II award to Rapid Imaging Systems at <http://sbir.gsfc.nasa.gov/SBIR/successes/ss/9-058text.html>.

It includes a particularly relevant paragraph:

The Advanced Flight Visualization Toolkit (VisualFlight™) project is developing a suite of virtual reality immersive telepresence software tools which combine the real-time flight simulation abilities with the data density of a Geographic Information System (GIS). This technology is used for virtual reality training of crews, analysis of flight test data, and as an on-board immersive situation display. It will also find application as a virtual cockpit, and in teleoperation of remotely piloted vehicles.

The emphasis on *virtual reality immersive telepresence* and *teleoperation of remotely piloted vehicles* is mine.

A search of the SBIR archive shows the following entries.




For 2001 Phase I:
Rapid Imaging Software, Inc.

[REDACTED]
[REDACTED]
Mike Abernathy [REDACTED]
01 H6.02-8715 JSC
Integrated Video for Synthetic Vision Systems

(b)(6)

For 2001 Phase II:

Rapid Imaging Software, Inc.



Carolyn Galceran 
01-2-H6.02-8715 JSC

(b)(6)

Since my sources of information are limited to those available to the public (magazines such as *Aviation Week & Space Technology* as well as whatever I can find on the Internet) I have no way of knowing if there are other procurements, vendors, contractors, and Government procuring activity related to Claim I-222.

I believe that NASA is in a better position to know what it is (or has been) working on than I am.

- (3) *A detailed identification of the accused articles or processes, particularly where the article or process relates to a component or subcomponent of the item procured, an element by element comparison of the representative claims with the accused article or process. If available, this identification should include documentation and drawings to illustrate the accused article or process in suitable detail to enable verification of the infringement comparison.*

I believe I have answered this in section (2) as much as I am able to without NASA's cooperation.

- (4) *The names and addresses of all past and present licenses under the patent(s), and copies of all license agreements and releases involving the patent.*

There are no past licenses for this patent, and as of this date there are no present licenses for this patent. Naturally, I reserve the right to license this patent in the future as I see fit.

- (5) *A brief description of all litigation in which the patent(s) has been or is now involved, and the present status thereof.*

There has been no past litigation involving this patent, and as of this date there is no present litigation regarding this patent.

- (6) *A list of all persons to whom notices of infringement have been sent, including all departments and agencies of the Government, and a statement of the ultimate disposition of each.*

As of this date NASA is the only agency or department of the Government against which I have filed a claim.

5/11/03 – sent email to comments@hq.nasa.gov

*I believe that NASA may have infringed on one or more of my U.S. Patents.
How do I file a claim and whom do I contact?*

5/11/03 – Received reply:

*Date: Sun, 11 May 2003 17:48:46 -0400 (EDT)
From: "PAO Comments" <comments@bolg.public.hq.nasa.gov>
Message-ID: <200305112148.h4BLmkhJ011314@bolg.public.hq.nasa.gov>
To: <jm@jmargolin.com>
Subject: Thank you for your email.*

Thank you for your message to the NASA Home Page. The Internet Service Group will attempt to answer all e-mail regarding the site, but cannot guarantee a response by a particular time. The group will not be able to answer general inquiries regarding NASA, which should instead be sent to public-inquiries@hq.nasa.gov

5/11/03 – Sent email to <public-inquiries@hq.nasa.gov>

*I believe that NASA may have infringed on one or more of my U.S. Patents.
How do I file a claim and whom do I contact?*

Jed Margolin

As far as I can tell I did not receive a response.

(b)(6)

5/12/03 – Sent email to [REDACTED] (found on Web site)

*I believe that NASA may have infringed on one or more of my U.S. Patents
How do I file a claim and whom do I contact?
(Or is my only recourse to sue in Federal Court?)*

Jed Margolin

00293

5/12/03 – Received reply:

Mr. Margolin,

Thank you for contacting NASA with your concerns. I have referred this matter to the Patent Counsel Office, and they will be contacting you to work with you on this issue.

*Best wishes,
Jesse Midgett*

5/12/03 – Given my experience with trying to contact Government officials via email (or mail, or fax) I hadn't waited for the reply from J. Midgett. I had found the web site for the LARC (NASA Langley) Patent Counsel Office, and called up. I was connected to Kurt Hammerle and we had a nice talk. I sent him an email the next day (May 13, 2003).

I received a phone call from Barry Gibbens [REDACTED] (b)(6) who, apparently, was calling because of my email to J.C. Midgett and hadn't seen the email I sent to K. Hammerle. (I explained to him what I had done.) We had a nice talk. He said he had already sent me a letter.

I received his letter and sent a reply on May 18, 2003 (USPS), adding to the email I had sent K. Hammerle.

Thursday, June 5, 2003 – Received message from B. Gibbens, asking me to call him because I should contact Alan Kennedy at NASA Headquarters [REDACTED] (b)(6)

Friday, June 6, 2003 - I called B. Gibbens. Then I called A. Kennedy but he was out.

Saturday, June 7, 2003 – Sent a fax to A. Kennedy. The first number I tried [REDACTED] only accepted 4 pages (out of 13). I tried a few times. Then I tried [REDACTED] It turned out that 4341 was the correct number and that 2741 was another group. As a result, A. Kennedy initially only got 4 pages.] (b)(6)

Monday, June 9, 2003 – Received message from A. Kennedy and called him back.

He had not gotten the fax so he went and found it. I learned the next day that he had only gotten 4 pages.

We had a "free and frank" discussion. I stressed that I wanted to resolve it in a friendly manner and that I preferred to have NASA buy the patent for the Government.

Tuesday, June 10, 2003 – Received a message from A. Kennedy and called him back.

He said that his Manager has turned down my request that NASA consider a license proffer and has decided to handle it as a Claim, and that the investigation would take 3-6 months.

Exhibit 3

Exhibit 3

How NASA Treats Independent Inventors

Jed Margolin

Are you an Independent Inventor?

Have you had any dealings with NASA?

How did they treat you?

I am an independent inventor and I have had dealings with NASA.

They have acted very badly towards me.

That is why I am suing them.

I am going to blog this, so at this point I don't know how it is going to turn out.

As the process unfolds I expect we will learn a great deal about how Government works.

For a direct index to the Court documents [click here](#).

Blog Index

[January 1, 2010 - Introduction](#)

[July 31, 2009 - I file the Complaint in U.S. District Court for the District of Nevada](#)

[August 1, 2009 - The Complaint appears in Pacer right away](#)

[August 5, 2009 - Summons issued as to USA; Judges assigned; My Motion to be allowed to file electronically](#)

[August 22, 2009 - Certificate of Interested Parties; Federal Rules of Civil Procedure; Local Rules; NASA responds \(late\) to my FOIA Appeal](#)

[August 28, 2009 - I file a Motion to correct the Docket Report \(which says I haven't served the U.S. Attorney\)](#)

[September 4, 2009 - My Motion to be allowed to file electronically is granted](#)

[September 13, 2009 - NASA will be defended by U.S. Attorney for the District of Nevada \(DOJ\). Actually, NASA's Champion will be Assistant U.S. Attorney Holly Vance. Holly files a Motion to Dismiss because I named *Charles F. Bolden, NASA Administrator* as Defendant instead of *NASA*.](#)

[September 25, 2009 - The Court issues a Klingele Minute Order. It's like a One Minute Drill in football. I have to scramble. I](#)

respond and also file a Motion for Leave to File an Amended Complaint as well as the Amended Complaint (First Amended Complaint)

September 26, 2009 - I discuss *stare decisis*. The full phrase is *stare decisis et non quieta movere*. You will see it translated in various ways. My favorite is, "stand by the decision and do not disturb what is settled."

I provide a list of the cases cited so far.

October 9, 2009 - Holly filed a Response to my Opposition to Motion to Dismiss. She also filed a Non-Opposition to my Motion for Leave to File an Amended Complaint.

November 9, 2009 - The Court granted my Motion to Correct the Docket Report

December 21, 2009 - In November 2009 I received about 4,000 pages of documents from NASA. Although many are redacted (some completely) they tell a very different story about what NASA has been doing since I filed the Claim for Compensation in 2003. It's mind boggling and my mind is appropriately boggled.

December 22, 2009 - I filed a Motion for Leave to File an Amended Complaint. This will be my Second Amended Complaint.

December 23, 2009 - I have posted the approximately 4,000 pages of documents that NASA sent me in November. Do you know how long it takes to scan 4,000 pages?

January 21, 2010 - Holly's Motion to Dismiss was still pending. Motions have to be ruled on even if they are moot. A telephone conference was scheduled to work it out (the Judge, Holly, and myself), and we did.

March 5, 2010 - I dropped *Charles F. Bolden, NASA Administrator* as a Defendant and added *National Aeronautics and Space Administration*.

March 10, 2010 - NASA 4,000 pages of documents show they were interested in the Universal Avionics Systems Corporation (UASC) lawsuit. The NASA documents included one of the UASC documents. I don't think it was the best one. [I originally posted all of the publicly available documents in the UASC case. Now I am just posting the best ones].

March 12, 2010 - I filed a second Freedom of Information Act request with NASA. Their response was inadequate. I appealed. Later, they will deny my Appeal. I didn't sue them over this one.

April 21, 2010 - Holly and I agreed to a schedule, and she finally Answered the Complaint (the Second Amended Complaint).

April 23, 2010 - I received NASA's denial of my second FOIA request. It was denied by Thomas S. Luedtke. Luedtke is like your high school's Vice-Principal. He is NASA's Hatchet Man. Nonetheless, this FOIA request produced some useful information.

June 9, 2010 - I filed my Motion for Summary Judgment.

September 9, 2010 - On September 7 NASA filed their Opposition to Motion for Summary Judgment and Cross-Motion for Summary Judgment.

[October 4, 2010 - I filed my Reply to NASA's Opposition to my Motion for Summary Judgment and my Opposition to NASA's Cross-Motion for Summary Judgment](#)

[November 9, 2010 - On November 1 NASA filed a Motion to Strike and the Government's Reply. On November 8 I filed a Motion Requesting Leave For Excess Pages, an Opposition to Motion to Strike and Motion Requesting Leave to File Declaration, and a Motion to Strike the Government's Reply.](#)

[November 24, 2010 - Holly's REPLY TO OPPOSITION TO MOTION TO STRIKE AND OPPOSITION TO MOTION REQUESTING LEAVE TO FILE DECLARATION.](#)

[December 3, 2010 - Holly filed a Notice of Errata. I filed my Reply to Holly's Opposition to my Motion to Strike.](#)

[April 21, 2011 - The Court's Decision \(March 31, 2011\), My Motion for Costs \(April 3, 2011\), Holly's Response \(Opposition\) to my Motion for Costs \(April 20, 2011\)](#)

January 1, 2010

I contacted NASA in May 2003 because I thought they had infringed one of my patents in their X-38 project. I wanted a friendly conversation because I thought they should buy the patent in order to control the technology.

NASA did not want a friendly conversation. They suggested I file a claim for compensation, so I did that.

Then they told me that they would conduct an investigation (expected to last three to six months) and that the purpose of the investigation would be to find prior art to invalidate my patent.

After six months I contacted them to find out the results of the investigation. They said it hadn't been done yet. They also said that since I was an independent inventor my patent had to be crap anyway. They said some other things, too.

After that, they refused to talk to me.

Afterwards, I assigned the patent to Optima Technology Group, and the claim went with it.

I still wanted to know what had happened with the investigation so in July 2008 I filed a FOIA Request with NASA.

They asked for an extension of 90 days to respond and I said ok. Still, it wasn't until May 2009 that they sent me any documents. Most of the documents they sent me were documents I already had because they were documents I had sent to NASA.

I filed an Appeal with NASA. After their deadline for responding to the Appeal had passed they asked me for an extension. This time I said no, and in July 2009 I filed a lawsuit in U.S. District Court for the District of Nevada.

As of January 2010 the case has not yet gotten off the ground but in November 2009 NASA gave me about 4,000 pages of documents. Until then I thought NASA had been ignoring me all those years. The documents tell a very different story. It's a story of deception, conspiracy, and criminal misconduct by a rogue group within NASA. And we learn that the humble Peanut Butter and Jelly Sandwich is a good metaphor for Patents.

If you want to skip ahead to the most interesting part so far [click here](#).

July 31, 2009

It's a long story, but can be summarized in the Complaint I have filed against NASA in the U.S. District Court for the District of Nevada. I have added active links to the exhibits and references.

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, [5 U.S.C. § 552](#) (2007) ("FOIA"), for injunctive and other appropriate relief seeking the disclosure and release of agency records improperly withheld from plaintiff by defendant Charles F. Bolden, Administrator of the National Aeronautics and Space Administration.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to [5 U.S.C. § 552\(a\)\(2\)\(A\)](#), [5 U.S.C. § 552\(a\)\(2\)\(C\)](#), [5 U.S.C. § 552\(a\)\(3\)\(A\)](#), [5 U.S.C. § 552\(a\)\(3\)\(C\)](#), [5 U.S.C. § 552\(a\)\(6\)\(A\)\(ii\)](#), and [5 U.S.C. § 552\(a\)\(6\)\(F\)](#).

3. Venue is proper in this district pursuant to [Section 552\(a\)\(4\)\(B\)](#), as this is the district in which plaintiff resides.

Parties

4. Plaintiff Jed Margolin ("Margolin") is an engineer and independent inventor who resides at 1981 Empire Rd., VC Highlands, Nevada.

5. Defendant Charles F. Bolden is the Administrator for the National Aeronautics and Space Administration ("NASA"), which is an independent administrative agency within the Executive Branch of the United States. NASA is an agency within the meaning of [5 U.S.C. § 552\(f\)\(1\)](#).

Statement of Facts - Background

6. Margolin is the named inventor on U.S. Patent 5,904,724 **Method and apparatus for remotely piloting an aircraft** issued May 18, 1999 (the '724 patent). The front page of the patent is in [Exhibit 1, Appendix A12](#). The patent teaches the use of what is now called *synthetic vision* for controlling an unmanned aerial vehicle (UAV).

7. Margolin contacted NASA in May 2003 after he became aware that NASA had used synthetic vision in the X-38 project. Because the use of synthetic vision for controlling a UAV can be used to the detriment of this country by unfriendly entities he wanted a friendly conversation because he thought NASA should buy the patent in order to control the technology.

8. In June 2003 Margolin was turned over to Mr. Alan Kennedy in the Office of the General Counsel. This is what Margolin recorded in his Contact Log:

Summary: He basically said that what most independent inventors have is junk and that since I am an independent inventor what I have is probably junk. If NASA evaluates it as a license proffer it will give it a pro forma rejection and I will file a claim anyway, so the same people who rejected it as a proffer will reject it as a claim, but in the process will have had to do more work, so to save them some work they will ignore the proffer and handle it as a claim.

9. As a result, Margolin filed a claim, completely answering all the questions on NASA's claim form. See [Exhibit 1, Appendix A2](#). Then Mr. Kennedy informed him that NASA would conduct an investigation (expected to last 3-6 months) and that the purpose of the investigation would be to find prior art to invalidate the patent.
10. After six months Margolin did not hear from NASA so he called Mr. Kennedy, who said:
- a. The investigation had not been done.
 - b. NASA had a Research Exemption for using the patent. Margolin advised him this was not true. [See *Madey v. Duke*](#) 307 F.3d 1351 (Fed. Cir. 2002).
 - c. "The X-38 never flew." Margolin informed him of the video on NASA's web site showing the X-38 flying.
 - d. The Statute of Limitations gives NASA 6 years to respond to his claim.
 - e. It would cost Margolin more to sue NASA in Federal Claims Court than he could hope to recover from NASA.
11. After that, Mr. Kennedy refused to talk to Margolin or respond to his letters. Then, various things came up and Margolin was unable to pursue his claim against NASA.
12. Subsequently, Margolin assigned the patent to Optima Technology Group, a Delaware Corporation. The claim against NASA went with the patent.

Statement of Facts - Current Case

13. Although Margolin no longer owned the claim against NASA he still wanted to know the results of NASA's investigation so, on July 1, 2008 he filed a FOIA request. [See Exhibit 2, Appendix A17](#). It was assigned FOIA HQ 08-270. For some reason it was turned over to Mr. Jan McNutt in the Office of the General Counsel. Mr. McNutt's response is [Exhibit 3, Appendix A19](#). In his response Mr. McNutt admitted that no investigation had been done and asked Margolin to give NASA a 90-day extension to his FOIA request.
14. Margolin agreed to the extension. See [Exhibit 4, Appendix A21](#). However, despite being told several times that the requested documents were being sent out, NASA did not send any documents to Margolin until May 18, 2009. It is likely that the reason NASA finally responded to Margolin's FOIA Request is the fax he sent to Acting Administrator Christopher Scolese where he asked Mr. Scolese to confirm that he had exhausted all the administrative remedies that NASA had to offer. See [Exhibit 5, Appendix A23](#). Margolin had previously sent the letter to Mr. Scolese by Certified Mail, but USPS did not deliver it and still has no explanation how or where it was lost.
15. NASA's response to Margolin's FOIA Request is in [Exhibit 6, Appendix A27](#). The documents themselves have been omitted from this Complaint due to their length. The NASA Response states:

It has been determined that portions of the records found responsive to your request contain information which is exempt from disclosure under the deliberative process privilege of Exemption 5. This privilege covers advisory opinions, recommendations, and deliberations, which are part of the government decision-making process, 5. U.S.C. § 552(b)(5).

It should be noted that [5 U.S.C. § 552\(b\)\(5\)](#) actually states, referring to Section (a) which requires agencies to make information available to the public:

(b) This section does not apply to matters that are -

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.

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an

agency in litigation with the agency;

16. Although [5 U.S.C. § 552\(a\)\(6\)\(F\)](#) requires agencies to give an estimate of the volume of the documents being withheld, NASA failed to do so.

17. One of the documents that NASA withheld from Margolin is a letter dated March 19, 2009 that was sent by Gary G. Borda (“Borda”) NASA Agency Counsel for Intellectual Property to Optima Technology Group (“OTG”). See [Exhibit 7, Appendix A30](#). This document was given to Margolin by OTG. In this letter Borda denies Claim I-222 regarding NASA’s infringement of U.S. Patent 5,904,724 (‘724) in the X-38 project. Margolin’s FOIA 08-270 request to NASA was to produce documents relating to Claim I-222 and NASA withheld the most material document so far. The Borda letter asserts:

“... numerous pieces of evidence were uncovered which would constitute anticipatory prior knowledge and prior art that was never considered by the U.S. Patent and Trademark Office during the prosecution of the application which matured into Patent No. 5,904,724.”

And states, “... NASA reserves the right to introduce such evidence of invalidity in an appropriate venue, should the same become necessary.”

The exemption claimed by NASA in their FOIA Response was for:

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

Optima Technology Group is not an agency under [5 U.S.C. § 552\(f\)\(1\)](#). It is a private company. And circulating the Borda patent report solely within NASA or among other federal agencies is not an appropriate venue for NASA to use to have a patent declared invalid. The only appropriate venues for NASA to challenge the validity of a U.S. Patent are in the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit. A Court will not accept NASA’s word that a patent is invalid due to prior art. NASA would be required to produce the evidence. Thus the Borda patent report would be available by Law to a party other than an agency in litigation with the agency.

Therefore, the exemption NASA claims under [5 U.S.C. § 552\(b\)\(5\)](#) does not apply.

There is another reason NASA needs to produce the Borda patent report. Although Margolin no longer owns the ‘724 patent he is still the named inventor. By asserting it has evidence to invalidate the patent, and then withholding that evidence, NASA has defamed Margolin’s reputation as an inventor. It smacks of 1950s McCarthyism (making damaging accusations without providing proper evidence).

18. Margolin filed a FOIA Appeal on June 10, 2009. The Margolin Appeal is [Exhibit 8, Appendix A36](#). The Appendices in the appeal have been omitted due to their length. Margolin’s FOIA Appeal was received at NASA Headquarters on June 12, 2009. See [Exhibit 9, Appendix A57](#).

19. On Monday, July 21, 2009, Margolin called the NASA Office of the General Counsel to inform NASA that they had failed to respond by the 20 day statutory deadline required by [5 U.S.C. § 552\(a\)\(6\)\(A\)\(ii\)](#), and to ask what NASA’s intentions were. Margolin spoke to Mr. Randolph Harris who said he would look into the matter and call him back later that day. Mr. Harris did not call Margolin back that day, so the next day Margolin called Mr. Harris. Mr. Harris said that NASA would be sending Margolin a bunch of documents but he did not know what the documents were or when they would be sent. He guessed seven days. Margolin also asked whether NASA would waive legal service and accept a Complaint by USPS Express Mail. Mr. Harris said, “No.” Only Certified mail. After Margolin told him about the problem when he had sent NASA the letter of April 6, 2009 to Acting Administrator Scolese (USPS never delivered it) Mr. Harris still said, “No.” Margolin emailed Mr. Harris a letter asking him to confirm what he had said in the telephone conversation. See [Exhibit 10, Appendix A59](#).

20. Margolin did not receive a reply from Mr. Harris. Instead he received an email from Mr. Jan McNutt, who asked for a 20-day extension for NASA to respond to Margolin’s FOIA Appeal. See [Exhibit 11, Appendix A61](#). Whereas Mr. Harris had promised NASA would be sending more documents, Mr. McNutt did not. Since NASA had been acting in bad faith

toward Margolin for over six years and Mr. McNutt had already taken improper advantage of the number of courtesies Margolin had extended to him regarding Mr. McNutt's actions in the FOIA request, Margolin said, "No" to Mr. McNutt's request for an extension. See [Exhibit 12, Appendix A63](#). NASA had failed to respond to his FOIA Appeal (or ask for an extension) within the 20 day statutory period required by FOIA, and there was no reason to believe NASA had changed course and was suddenly going to start acting in good faith.

21. It is possible that Mr. Borda was being mendacious in his letter of March 19, 2009 when he said that NASA had prior art to invalidate the '724 patent. See [Exhibit 7, Appendix A30](#). Otherwise he would have produced the patent report, or at least listed the evidence, to prove his point. It is possible that Mr. McNutt's request for an extension is to give NASA time to look for some. Therefore, time is of the essence in compelling NASA to respond now.

22. Mr. Mike Abernathy of Rapid Imaging Software co-authored an article in AUVSI's *Unmanned Systems Magazine* which presented a spurious history of synthetic vision (**Synthetic Vision Technology for Unmanned Systems: Looking Back and Looking Forward** by Jeff Fox, Michael Abernathy, Mark Draper and Gloria Calhoun). See [Exhibit 13, Appendix A66](#). Margolin responded with the article **Synthetic Vision – The Real Story**. See [Exhibit 14, Appendix A69](#). Although the editor of AUVSI Magazine had promised Margolin the opportunity to respond in the magazine, he later refused to even mention the controversy about the Abernathy article. See [Exhibit 15, Appendix A127](#). As result, Margolin posted his response on his personal web site at www.jmargolin.com.

Mr. Abernathy's company provided the synthetic vision software for the X-38 project ([Exhibit 1, Appendix A3](#)) which is why NASA should disclose their contacts with Mr. Abernathy and his company regarding the I-222 claim, the '724 patent, and NASA's allegation that it has prior art to invalidate the '724 patent.

Requested Relief

WHEREFORE, plaintiff respectfully requests that this Court:

- A. Order defendant to disclose requested records in their entireties and provide copies to plaintiff, said records to include the patent report alleged to exist, but not provided in the Borda letter, and contacts between NASA and Mike Abernathy (and/or Rapid Imaging Software and/or its employees and/or agents);
- B. Issue an Order finding that defendant's actions were in bad faith, arbitrary, capricious, and contrary to law;
- C. Provide for expeditious proceedings in this action;
- D. Award plaintiff his costs incurred during the administrative proceedings and in this action; and
- E. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

/Jed Margolin/

Jed Margolin, plaintiff pro se
1981 Empire Rd.
VC Highlands, NV 89521-7430
775-847-7845
jm@jmargolin.com

Dated: July 31, 2009

I filed the Complaint on Friday morning July 31, 2009. It was immediately given the case number 3:09-cv-00421.

As a non-attorney I have to file a motion to use the Court's electronic filing system (CM/ECF). In order to file a motion you have to first file a Complaint. As a result, I filed the Complaint on paper.

August 1, 2009

The complaint was scanned and appeared in Pacer the next day. (That was fast.) Anyone can search Pacer (<http://dockets.justia.com>) but you need a Pacer account to download documents. The good news is that anyone can get a Pacer account. The bad news is that it costs money to download documents.

Pacer:

[doc001_1.pdf](#)
[doc001-2.pdf](#)
[doc001-3.pdf](#)

The Pacer files might not look great when viewed on-screen, but if you print them out they look good. Indeed, considering the amount of data compression that was used, they look very good.

These are higher quality PDFs (with some color picture) made from the files I used to write the Complaint:

Complaint: [jm_nasa_complaint.pdf](#)
Appendix: [jm_nasa_appendix.pdf](#) (3 MBytes)

I also split the appendix into two smaller files, each less than 2 MBytes:

[jm_nasa_appendix_1.pdf](#)
[jm_nasa_appendix_2.pdf](#)

If you want to see my NASA FOIA Appeal [click here](#). It includes the FOIA Appeal Appendix which contains all of the documents NASA produced in response to my FOIA request.

August 5, 2009

From Pacer:

Document 2 Filed & Entered: 07/31/2009 Summons Issued as to USA [doc002.pdf](#)

Filed & Entered: 08/03/2009 Assign Judges in Civil Case

Document 3 Filed: 08/03/2009 Entered: 08/05/2009 Motion for Pro Se Litigant to File Electronically
[doc003.pdf](#)

August 22, 2009

It was a busy week.

On Monday, August 17, I went down to the Reno Post Office to get proof of delivery of the copies of the Summons and Complaint that I sent to NASA and the Attorney General by Registered Mail. Although I paid for a Return Receipt (green postcard) I did not get one returned from NASA and the one that was returned from the Attorney General was not signed. It was stamped. The stamp is illegible except for the date: August 7. It was not delivered on August 7. The USPS official records for the delivery of the documents show the signatures of the persons receiving the documents and the date the mail was delivered. They were delivered on August 6. Something here smells.

On Tuesday, August 18, I went down to the Federal Building in Reno to file the Proof of Service. See [doc004.pdf](#)

The reason I had to make the trip is because my motion to allow me to register for the Court's CM/ECF system (the Court's electronic filing system) has not been acted on.

On Wednesday morning, August 19, I was checking Pacer to see if there were any new entries and I clicked on the wrong box. Instead of clicking on *History/Documents* I clicked on *Docket Report*.

Docket Report contains more information than *History/Documents*.

The entry for the day I filed the Complaint says:

Date Filed	#	Docket Text
07/31/2009	1	COMPLAINT against Charles F. Bolden, filed by Jed Margolin. (\$350.00 FILING FEE PAID 7/31/2009: RECEIPT #21577) Certificate of Interested Parties due by 8/10/2009. Proof of service due by 11/28/2009. (Attachments: # 1 Exhibits, # 2 Civil Cover Sheet)(PM) Modified on 7/31/2009 to clarify text(PM). (Entered: 07/31/2009)

My attention was drawn to the part that says, "Certificate of Interested Parties due by 8/10/2009." Oops.

The Federal Rules of Civil Procedure (<http://www.uscourts.gov/rules/CV2008.pdf>) Rule 7.1. **Disclosure Statement** says:

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file 2 copies of a disclosure statement that:

- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
- (2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
- (2) promptly file a supplemental statement if any required information changes.

(As added Apr. 29, 2002, eff. Dec. 1, 2002; amended Apr. 30, 2007, eff. Dec. 1, 2007.)

I am not a corporate party, so I did not file one.

However, in the Local Court Rules for the District Court for the District of Nevada, Rule LR 7.1-1 says:

LR 7.1-1. CERTIFICATE AS TO INTERESTED PARTIES.

(a) Unless otherwise ordered, in all cases except *habeas corpus* cases counsel for private (nongovernmental) parties shall identify in the disclosure statement required by Fed. R. Civ. P. 7.1 all persons, associations of persons, firms, partnerships or corporations (including parent corporations) which have a direct, pecuniary interest in the outcome of the case.

The disclosure statement shall include the following certification:

"The undersigned, counsel of record for _____, certifies that the following have an interest in the outcome of this case: (here list the names of all such parties and identify their connection and interests). These representations are made to enable judges of the Court to evaluate possible disqualification or recusal.

Signature, Attorney of Record for _____ "

(b) If there are no known interested parties other than those participating in the case, a statement to that effect will satisfy this rule.

(c) A party must promptly file a supplemental certification upon any change in the information that this rule requires.

(Local Court Rules are at: <http://www.nvd.uscourts.gov/Files/NVUSDistCtRules06Supp.pdf>)

I still don't think I needed to file a Certificate of Interested Parties, but it was either that or file a motion to correct the *Docket Report*.

So, on Wednesday, August 19 I went down to the Federal Building in Reno (again) to file CERTIFICATE AS TO INTERESTED PARTIES. See [doc005.pdf](#)

Before going to the Courthouse I went to the U.S. Attorneys Office (located a block away from the Federal Building) to give them their copy.

I did not send copies to NASA or the Attorney General. The reasons I did not send them copies are:

1. Both NASA and the Attorney General's Office have told me they will not accept delivery of documents other than by mail. And they will not accept USPS Express Mail;
2. The Post Office can no longer be relied upon to do its job. They lose Certified Mail and are not able to track it. They lose Return Receipts from Registered Mail. Getting Proof of Delivery for Registered Mail requires another trip to the Post Office, and when the staff at the Post Office see that I am next in line they close their windows and hide in the back room;
3. There is only one Defendant (Charles F. Bolden, NASA Administrator) and, until I am told otherwise, the U.S. Attorney in Reno is his attorney.

By the way, since both NASA and the Attorney General refused to waive Service and insisted that I use USPS to deliver the Summons and Complaint to them (except by Express Mail), it can be argued that both NASA and the Attorney General have designated USPS to be their Agent. Therefore, the Summons and Complaint can be considered as having been served when I handed them to USPS on August 1, not when USPS delivered them on August 6.

Something interesting happened the week before last.

NASA responded to my FOIA Appeal. It was dated August 5, mailed August 6, and I received it August 10. They denied my Appeal.

Here is a PDF scan of the letter: [nasa_foia_appeal_response.pdf](#)

I have used OCR to convert it to text and make an html file: [nasa_foia_appeal_response.htm](#)

Here is the timeline for NASA's letter:

July 31, 2009 Friday I filed the Complaint. The Pacer entry that I had filed the Complaint appeared later that same day.

August 1, 2009 Saturday The Complaint appeared in Pacer; I mailed the Summons and Complaint to NASA and the Attorney General.

August 3, 2009 Monday I filed the Motion to file electronically. I also personally delivered the Summons and Complaint to the Office of the U.S. Attorney for the District of Nevada.

August 5, 2009 Wednesday The date on the letter from NASA denying my FOIA Appeal.

August 6, 2009 Thursday NASA mails their letter.

August 10, 2009 Monday I receive NASA's letter.

It is entirely reasonable to assume that NASA knew I had filed the Complaint -either from Pacer or by being informed by the U.S. Attorney for the District of Nevada- and had read the Complaint **before** they mailed their letter denying my FOIA Appeal. Their letter was too little and too late.

There is one more thing that is interesting about NASA's letter. My FOIA Appeal was denied by Thomas S. Luedtke, Associate Administrator for Institutions and Management. A Google search for Mr. Luedtke ("Thomas S. Luedtke") produces a large number of hits. Many of them relate to this story from CBS dated October 22, 2007: <http://www.cbsnews.com/stories/2007/10/22/travel/main3390456.shtml> which starts out:

(AP) Anxious to avoid upsetting air travelers, NASA is withholding results from an unprecedented national survey of pilots that found safety problems like near collisions and runway interference occur far more frequently than the government previously recognized.

NASA gathered the information under an \$8.5 million safety project, through telephone interviews with roughly 24,000 commercial and general aviation pilots over nearly four years. Since ending the interviews at the beginning of 2005 and shutting down the project completely more than one year ago, the space agency has refused to divulge the results publicly.

Just last week, NASA ordered the contractor that conducted the survey to purge all related data from its computers.

The Associated Press learned about the NASA results from one person familiar with the survey who spoke on condition of anonymity because this person was not authorized to discuss them.

A senior NASA official, associate administrator Thomas S. Luedtke, said revealing the findings could damage the public's confidence in airlines and affect airline profits. Luedtke acknowledged that the survey results "present a comprehensive picture of certain aspects of the U.S. commercial aviation industry."

The AP sought to obtain the survey data over 14 months under the U.S. Freedom of Information Act.

"Release of the requested data, which are sensitive and safety-related, could materially affect the public confidence in, and the commercial welfare of, the air carriers and general aviation companies whose pilots participated in the survey," Luedtke wrote in a final denial letter to the AP. NASA also cited pilot confidentiality as a reason, although no airlines

were identified in the survey, nor were the identities of pilots, all of whom were promised anonymity.

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Here is the NASA FOIA file for AP's request for the NAOMS (National Aviation Operations Monitoring Service) study: http://www.governmentattic.org/docs/Track-info-FOIARequest_NASAAirSafetySurvey_2006-07.pdf. Mr. Luedtke's denial of AP's appeal starts on PDF page 182.

NASA produced a redacted version of the study on December 31, 2007 and was criticized for redacting it so heavily, such as in this blog by Christopher Elliott: <http://www.elliott.org/blog/redacted-nasa-airline-safety-study-released-sorta/>. Mr. Elliott is a journalist who writes about travel. Among other things he is *National Geographic Traveler* magazine's reader advocate and writes the nationally syndicated [Travel Troubleshooter column](#), which appears in more than 50 U.S. newspapers and Web sites.

NASA's web page for the NAOMS documents is here: <http://www.nasa.gov/news/reports/NAOMS.html>

I don't know how many of the documents are still redacted. There are **lots** of documents. The documents I have looked at seem to be complete. If NASA had released these documents and not tried to hide them, I doubt there would have been a political firestorm.

The question is, what did NASA learn from this fiasco?

1. Did they learn not to withhold information?
2. Did they learn to withhold information better?
3. Did they develop a bunker mentality?

So far, it looks like the answers are: No, Yes, and Yes.

August 28, 2009

On Monday, August 24, I filed a Motion to Correct the Docket Report. The Docket Report says that the U.S. Attorney was not served. Yes, he was. See [doc006.pdf](#)

My Motion appeared on Pacer on August 27.

According to the Docket Report Bolden/NASA has until September 11 to respond. According to Local Rules, Parties have 15 days to respond to a Motion but it isn't clear how this is calculated. September 11 is 15 calendar days from August 27. It is 15 calendar days from August 26 if we give them Labor Day off. If we give them Labor Day and weekends off (thus counting only business days) it is 15 business days from August 20. It looks like the 15 days are from when it appeared in Pacer, except I personally delivered the Motion to the U.S. Attorney's Office on August 24. Since my Motion to be allowed to file electronically has not been heard yet, the U.S. Attorney gets two extra days to respond.

Presumably, Bolden/NASA will be represented by the U.S. Attorney. If the U.S. Attorney objects to having the Docket Report corrected I will know that I am in for a very dirty fight.

September 4, 2009

My Motion for permission to register for and use the Court's CM/ECF system was granted. on August 31. See [doc007.pdf](#)

September 13, 2009

It looks like I *am* in for a very dirty fight, but not for the reason I thought.

The U.S. Attorney for the District of Nevada will be defending NASA. This is not a big surprise but it is disappointing. The U.S. Attorney is supposed to work for the People of the United States. Instead, he (she) is defending an Agency which refuses to follow the Law. I say "he (she)" because, although the U.S. Attorney for the District of Nevada is Gregory A. Brower, the case is being handled by Assistant U.S. Attorney Holly A. Vance.

The U.S. Attorney did not oppose my motion to correct the Docket Report. See [doc008.pdf](#)

However, he (she) filed a Motion to Dismiss based on the theory that:

A. This action should be dismissed because individual agency officials are not proper defendants in actions under the Freedom of Information Act ("FOIA").

See [doc009.pdf](#)

Hmmm.

September 25, 2009

As a result of the U.S. Attorney's Motion to Dismiss, the Court issued a Klingele Minute Order informing me of the requirements of *Klingele v. Eikenberry*. See [doc010.pdf](#)

The second paragraph appears to apply to this case:

Pursuant to the last sentence in Fed. R. Civ. P. 12(b), if evidence is submitted with a motion to dismiss and considered by the court, then the motion will be treated as a motion for summary judgment. The same is true regarding a motion for judgment on the pleadings. See Fed. R. Civ. P. 12(c). **This notice is issued, in part, to alert the plaintiff that if defendants have submitted evidence in support of a motion to dismiss or a motion for judgment on the pleadings, then the court may treat the pending motion as a motion for summary judgment. If the court grants summary judgment, then judgment may be entered against plaintiff and this lawsuit will end without trial.** This notice contains important information about what you need to do to oppose the motion. Please read it carefully.

It looks like the U.S. Attorney's Motion to Dismiss must also be treated as a Motion For Summary Judgment.

However, since the U.S. Attorney hasn't Answered the Complaint yet, it put me in the awkward position of having to respond to legal arguments that, technically, had not yet been made.

When life hands you lemons, make lemonade. So I did.

I filed a **Memorandum of Points and Authorities In Support of Plaintiff's Opposition to Motion to Dismiss**.

See [doc011-1.pdf](#) Memo of Opposition

See [doc011-2.pdf](#) Memo of Opposition Appendix

I also filed a **Motion For Leave to File an Amended Complaint**. If amending the Defendant makes everyone happy, fine.

Since NASA sent me their Denial of my Appeal only after I filed the Complaint I added that, too.

And I corrected a few minor things in my Complaint, like I forgot to add the section **Cause of Action**. (Actually, that was a **major** thing.)

A Motion for Leave to File an Amended Complaint must be accompanied by the proposed Amended Complaint.

See [doc012-1.pdf](#) Motion For Leave to File an Amended Complaint

See [doc012-2.pdf](#) First Amended Complaint

See [doc012-3.pdf](#) Appendix-1 (1.6 MBytes)

See [doc012-4.pdf](#) Appendix-2 (2 MBytes)

It was necessary to split the Appendix into two files because there was a file size limitation of 2 MBytes. I have since been told that the file size limitation has been increased to 5 MBytes.

I used the Court's CM/ECF system. It's a good, easy-to-use system. However, as a non-attorney I had to file a Motion to get permission to use it. (My Motion was granted in [doc007.pdf](#).)

The court's CM/ECF system added the header to each page but did not do anything else to the files. The files in Pacer are essentially the files I uploaded. That's good because I took special care to produce high quality files. I have written about making PDF files in a separate article: [MakingPDF.htm](#)

September 26, 2009

When you read legal briefs and Court opinions they always have those cryptic references to other cases.

The reason is *stare decisis*.

I talk about *stare decisis* in the introduction to a page of cases I have posted because they have either been cited in my FOIA case or because I found them useful or interesting.

Most of the cases listed are downloadable.

[Click here for FOIA Cases and Statutes.](#)

October 9, 2009

On October 7, the U.S. Attorney filed a Response to my Opposition to Motion to Dismiss ([doc011-1.pdf](#))

See [doc013.pdf](#)

On October 9, the U.S. Attorney filed a Non-Opposition to my Motion For Leave to File an Amended Complaint ([doc012-1.pdf](#))

See [doc014.pdf](#)

November 9, 2009

On November 3 the Court issued an order granting my Motion to Correct the Docket Report ([doc006.pdf](#)).

See [doc015.pdf](#)

December 21, 2009

On November 16, 2009 I received two boxes of documents from NASA.



According to NASA there are about 4,000 pages of documents.

NASA originally said that only 100 pages of documents were being withheld.

They are not in any particular order. There is no index. There are many duplicates. Although the pages are numbered the numbers are frequently illegible. There are gaps in the numbers indicating that sections were entirely withheld, usually in the most interesting parts. Is NASA really this disorganized?

The pages run from 00017 to 05605 indicating that around 1600 pages were entirely withheld. Many of the emails are redacted. Sometimes the entire body of the email is redacted under § 552 (b)(5) [Deliberative Process, etc.]. That is what this

entire case is about. However, by providing the documents (such as they are) it probably means NASA does not have to provide a Vaughn Index or provide them to the Court for in-camera inspection (or appoint a Special Master to review them). This places the entire burden on me. I might have to place all 4,000 pages in an Appendix for a Motion to Amend my Complaint.

The documents were in roughly equal sections, held together by what appear to be the secret (but long rumored to exist) Advanced Propulsion Unit Prototypes (APUPs) left over from a cancelled (but really, now black) project. I hope NASA has filed for patent protection for the APUPs lest someday someone knock on their door claiming to have invented them first. For a picture [click here](#).

I have scanned all the documents and expect to post them here eventually.

December 22, 2009

I filed my MOTION FOR LEAVE TO FILE AMENDED COMPLAINT today.

This is for my Second Amended Complaint which is necessary because of the documents NASA sent me.

see [doc016.pdf](#) Motion For Leave to File Amended Complaint

see [doc016-1.pdf](#) Second Amended Complaint

see [doc016-2.pdf](#) Appendix Volume 1

see [doc016-3.pdf](#) Appendix Volume 2_1

see [doc016-4.pdf](#) Appendix Volume 2_2

see [doc016-5.pdf](#) Appendix Volume 3

I have made an html version of the Second Amended Complaint for easy online reading. The Pacer PDF is the controlling document.

[2ndAmendedComplaint.htm](#)

Some people will be angry at NASA because of how they have acted.

Some people will be angry at me for shining a light on them.

December 23, 2009

I am posting the 4,000 or so pages I received from NASA on November 16.

In order to make the documents more manageable I have separated them into volumes. Sometime I separated them at a natural break in the material. Sometimes I had to separate them because of sheer size.

The following is not a complete index, just what caught my attention.

[Click here for the index.](#)

January 21, 2010 - Status Report

Defendant's Motion to Dismiss ([doc009.pdf](#)) was still pending. Motions have to be ruled on even when they are moot.

Notice of Electronic Filing

The following transaction was entered on 1/13/2010 at 2:56 PM PST and filed on 1/13/2010

Case Name: Margolin v. Bolden
Case Number: 3:09-cv-00421-LRH-VPC
Filer:
Document Number: 20 (No document attached)

Docket Text:

MINUTE ORDER IN CHAMBERS of the Honorable Judge Larry R. Hicks on 1/13/2010. By Deputy Clerk: Rosemarie Miller. RE: [9] MOTION to Dismiss. A telephonic status conference with regard to defendant's motion to dismiss is scheduled on January 19, 2010 at 1:30 PM in Reno Courtroom 5 before Judge Larry R. Hicks. The Court will initiate the call. If the parties wish to be contacted at telephone numbers other than those listed on the docket sheet, they should contact Rosemarie Miller at 775-686-5829 no later than 24 hours prior to the hearing. (no image attached) (Copies have been distributed by NEF - RM)

And it was worked out.

Notice of Electronic Filing

The following transaction was entered on 1/19/2010 at 3:57 PM PST and filed on 1/19/2010

Case Name: Margolin v. Bolden
Case Number: 3:09-cv-00421-LRH-VPC
Filer:
Document Number: 21 (No document attached)

Docket Text:

MINUTES OF PROCEEDINGS - Status Conference held on 1/19/2010 before Judge Larry R. Hicks. Crtrm Administrator: Rosemarie Miller; Pla Counsel: Jed Margolin, In Pro Per; Def Counsel: Holly Vance; Court Reporter/FTR #: Donna Davidson; Time of Hearing: 1:31 p.m. - 1:39 p.m.; Courtroom: 5. Court convenes. The parties are present telephonically. The Court and the parties confer with regard to the status of the pending Motion to Dismiss [9] filed by defendants. With no objection by either party, IT IS ORDERED that the Motion to Dismiss is considered moot and is dismissed without prejudice to renew. Court adjourns. (Copies have been distributed by NEF - RM)

March 5, 2010 - Status Report

After the Status Conference on January 19 I had a nice conversation with Assistant U.S. Attorney Holly Vance. Afterwards I filed WAIVER OF SERVICE BY DEFENDANTS OF PLAINTIFF'S SECOND AMENDED COMPLAINT.

See [doc022.pdf](#) Waiver of Service by Defendants of Plaintiff's Second Amended Complaint

On March 1, 2010 I received DEFENDANTS' MOTION TO DISMISS.

COME NOW Defendants National Aeronautics and Space Administration ("NASA") and NASA Administrator Charles

F. Bolden (“Bolden”) and move to dismiss Bolden from this action. This motion is made pursuant to Fed. R. Civ. Proc. 12(b)(1).

See [doc023.pdf](#)

This was followed shortly afterwards by a MINUTE ORDER IN CHAMBERS REGARDING THE REQUIREMENTS OF *Klinge v. Eikenberry and Rand v. Rowland*.

See [doc024.pdf](#)

The requirements of *Klinge v. Eikenberry and Rand v. Rowland* are that if the Motion to Dismiss contains evidence, it must also be treated as a Motion for Summary Judgment.

On March 5, I filed a RESPONSE TO MINUTE ORDER IN CHAMBERS REGARDING THE REQUIREMENTS OF *Klinge v. Eikenberry and Rand v. Rowland* (#24), where I said:

Defendants' Motion to Dismiss raised only a legal issue – a jurisdictional challenge; the motion did not include the submission of any evidence. Therefore, it should not be considered a Motion for Summary Judgment.

See [doc025.pdf](#)

I also filed NON-OPPOSITION TO DEFENDANTS' MOTION TO DISMISS BOLDEN (#23):

While Margolin continues to believe that the Head of a Federal Agency, in his or her official capacity as the Head of that Agency, is the proper party to name as the Defendant in any action against the Agency as a way to emphasize that the people of an Agency are the Agency, and that Agencies should not be allowed to be faceless, Margolin does not oppose Defendants' Motion to Dismiss Charles F. Bolden, in his official capacity as Administrator, National Aeronautics and Space Administration, from this action (#23).

This leaves the National Aeronautics and Space Administration as the remaining Defendant.

See [doc026.pdf](#)

The reason I am not fighting to keep General Bolden in the case is because that is not what this case is about. It's about how NASA treats Independent Inventors.

I discussed what an *agency* is in [doc011-1.pdf](#) (Memo of Opposition) and [doc011-2.pdf](#) (Memo of Opposition Appendix).

This thing about having to name the *agency* and not the Head of the agency in a Freedom of Information Act action is a trap for the inexperienced. Now I know better.

March 10, 2010

The 4,000 (or so) pages of documents that NASA sent me in November 2009 show that after I gave NASA a 90 day extension to respond to my FOIA Request in July 2008 they spent some of it getting Court documents in the following lawsuit:

NO. CV-00588-RC

UNIVERSAL AVIONICS SYSTEMS CORPORATION
vs.
OPTIMA TECHNOLOGY GROUP, INC., ET AL.

Why NASA thought the Court documents in this case were relevant to my FOIA Request is a mystery. I had not asked NASA for the Court documents. I didn't need to. I already had them because I had been a Defendant.

By the time NASA became interested in the case some of the documents had been sealed but many were still available.

NASA chose to include only one material Court document in the 4,000 (or so) pages they sent me: Universal Avionics Systems Corporation's SECOND AMENDED COMPLAINT.

[This section revised 10/20/2010]:

Originally I posted all of the Pacer documents in the case so people could see both sides. However, it has been brought to my attention that people aren't looking at both sides. They are reading only UASC's Second Amended Complaint, and that's not fair. They should see our side (I was a Co-Defendant), so now I am being more selective.

1. See **Amended Answer, Counterclaims, Cross-Claims, and Third Party Claims of Optima Technology Group**. If you want to know what the case was really about see paragraph 93 on page 30. [Click here](#). (Our attorneys at Chandler & Udall, especially Ed Moomjian, have a gift for turning a phrase.)
2. Note that the paragraph refers to "OTC". OTC is Optima Technology Corporation, who tried to steal the patents. This is not Optima Technology Group (referred to as "Optima"), whom I assigned the patents to.

The Court set things straight in Document 31: ([Click here](#)):

Final Judgment is entered against Cross-Defendants Optima Technology Corporation, a California corporation, and Optima Technology Corporation, a Nevada corporation, as follows:

1. Optima Technology Corporation has no interest in U.S. Patents Nos. 5,566,073 and 5,904,724 ("the Patents") or the Durable Power of Attorney from Jed Margolin dated July 20, 2004 ("the Power of Attorney");
2. The Assignment Optima Technology Corporation filed with the USPTO is forged, invalid, void, of no force and effect, and is hereby struck from the records of the USPTO;
3. The USPTO is to correct its records with respect to any claim by Optima Technology Corporation to the Patents and/or the Power of Attorney; and
4. OTC is hereby enjoined from asserting further rights or interests in the Patents and/or Power of Attorney; and
5. There is no just reason to delay entry of final judgment as to Optima Technology Corporation under Federal Rule of Civil Procedure 54(b).

DATED this 18th day of August, 2008.

One of the threads that run through my FOIA case with NASA is that they continue to assert that Optima Technology Corporation owns the patents, in defiance of the Court's order.

3. The UASC case opened a new chapter in TomCat history. [Click here](#).

March 12, 2010

In view of my Non-Opposition ([doc026](#)) to Defendants' Motion to Dismiss Bolden as a Defendant ([doc023](#)) their Motion to Dismiss Bolden as a Defendant was granted.

[See doc027.pdf](#)

That leaves NASA as the Defendant.

In other news:

I filed another Freedom of Information Act Request with NASA in December. They tried to ignore it but I was persistent.

They eventually responded.

Their response was woefully inadequate so I filed an Appeal with NASA.

[NASA Appeal for Second FOIA Request](#)

[Appendix for NASA Appeal for Second FOIA Request](#)

I mailed it on Tuesday (March 9) and it was delivered yesterday (Thursday).

The (second) FOIA Request is not directly related to the current lawsuit, but it is related to how NASA treats Independent Inventors.

If it becomes necessary to sue NASA over this second FOIA Request I will probably blog it separately to avoid confusion. Since the Appeal will be decided by the same people who decided not to send me any material documents in response to my FOIA Request, a second lawsuit is likely.

April 21, 2010

Filed March 19, 2010

Stipulated Schedule For Filing Answer and Dispositive Motions

[See doc028.pdf](#)

Filed March 23, 2010

Ordered - Stipulated Schedule For Filing Answer and Dispositive Motions

[See doc029.pdf](#)

Filed April 12, 2010

NASA's Answer to Second Amended Complaint

[See doc030.pdf](#)

I have converted it to html to make it easier to read online:

[See doc030.htm](#)

I have created an html file that matches the Answers to the paragraphs in my Second Amended Complaint. I have made a substantial effort to accurately match the sections in the paragraphs to the sections in the Second Amended Complaint.

[See doc030_answer_match.htm](#)

Here are some of the items in NASA's Answer that jump out at me:

1. My good friend Jan S. McNutt (NASA attorney) has left NASA.

As a result, he does not have to cooperate with the NASA Inspector General if the Inspector General wanted to ask him some questions.

Does anyone know where Jan went?

I would also like to know where Alan J. Kennedy went after he left NASA.

2. The Borda Report asserted that:

“... numerous pieces of evidence were uncovered which would constitute anticipatory prior knowledge and prior art that was never considered by the U.S. Patent and Trademark Office during the prosecution of the application which matured into Patent No. 5,904,724.”

and threatened:

“... NASA reserves the right to introduce such evidence of invalidity in an appropriate venue, should the same become necessary.”

NASA now admits there is no patent report.

From NASA Answer Paragraph 16:

"Defendant denies the allegations contained at page 7, lines 4-5 of this paragraph and denies that any document that could constitute a "Borda Patent Report" was ever prepared, much less withheld."

Simplified: In order to invalidate a patent using prior art you have to show that all of elements in a claim are present in the prior art. You are allowed to use more than one reference if you can show it would be obvious to combine the references. If you knock out all of the claims in a patent, then you have invalidated the patent.

That is what a patent report is. If you don't have that, then you are full of beans. NASA is full of beans.

3. NASA admits that it does not know what Synthetic Vision is.

4. NASA's Answer ends with:

WHEREFORE, Defendant prays for judgment as follows:

1. That judgement be entered in favor of Defendant and against Plaintiff;
2. That Plaintiff take nothing by way of his complaint;
3. For costs of suit; and
4. For such other relief as may be proper.

NASA wants me to pay their legal expenses.

Is there any precedent for this in a Freedom of Information Act lawsuit, or for any other Government lawsuit?

The Government already has an unlimited amount of money to spend to defend NASA. (They get it from you and me.)

I don't see anything in the Freedom of Information Act that tells you if you sue the Government and lose, then you will probably lose everything you have.

April 23, 2010

Yesterday, April 22, I received NASA's decision on my appeal of their response to my second FOIA Request.

Their response to my Second FOIA Request was woefully inadequate so I filed an Appeal with NASA.

[NASA Appeal for Second FOIA Request](#)

[Appendix for NASA Appeal for Second FOIA Request](#)

They denied my Appeal.

[Second FOIA Request - NASA Denial of Appeal](#)

I used OCR to convert it to html.

[Click here for an html version of Second FOIA Request - NASA Denial of Appeal](#)

The decision was made by Thomas S. Luedtke ("Luedtke"), NASA Assistant Administrator for Agency Operations.

Luedtke's name has come up before.

1. He denied my Appeal in my First FOIA Request but only after I filed the current lawsuit.
2. He denied the Associated Press's FOIA Request for the results of a national survey of pilots that found safety problems like near collisions and runway interference occur far more frequently than the government previously recognized. NASA had withheld the report in order to avoid upsetting air travelers. I discussed this previously. [Click Here](#).

At the end of that section I asked:

The question is, what did NASA learn from this fiasco?

1. Did they learn not to withhold information?
2. Did they learn to withhold information better?

3. Did they develop a bunker mentality?

The answers are definitely: No, Yes, Yes.

Here are some of the highlights from Luedtke's denial of my appeal in my Second FOIA Request.

1. NASA does not know what an Independent Inventor is.

NASA: There are no responsive records to items 3, 4, 5 and 8 because the search revealed no Agency records which refer to Agency use of the category "Independent Inventors."

When I talked to Alan J. Kennedy in June 2003 he knew what an Independent Inventor is. (He had some very unkind things to say about us.) Mr. Kennedy has since retired from NASA and has apparently taken that knowledge with him.

2. NASA does not know how many patent claims filed against it were affirmed or denied.

NASA: Items 2 and 6 request the number of patent claims affirmed and denied by NASA respectively during the relevant period. As you note in your appeal, the log provided as item 1 is incomplete as to the disposition of the claims identified therein. The log was provided as it is maintained by the Agency. Because the Agency is not required to create new records in response a FOIA request, there are no Agency records which enumerate the information requested in items 2 and 6.

3. NASA does not know how many times it has been sued for patent infringement.

NASA: There are no responsive records to item 7 because the search revealed no records which enumerate Court actions resulting from claims for patent infringement denied by NASA.

NASA should remember at least this one involving Boeing: <http://www.uscfc.uscourts.gov/sites/default/files/ALLEGRA.Boeing040209.pdf>

In The United States Court of Federal Claims, No. 00-705C (Filed Under Seal: March 16, 2009) Reissued: April 2, 2009

THE BOEING COMPANY, Plaintiff, v. THE UNITED STATES, Defendant.

Trial; 28 U.S.C. § 1498; Damages owing to infringement of patent by NASA in developing super lightweight external tank for Space Shuttle; Hypothetical licensing agreement; Georgia Pacific factors; Reasonable royalty rate; Impact of prior licensing agreements involving same patent; Royalty base; Entire market value rule; Reliance on prior licensing agreements; Prejudgment interest; Compounding of interest.

NASA lost.

4. NASA does not have a written procedure for administratively reviewing a claim of patent infringement. They had one at one time but now they can't find it.

NASA: Although in item 9 you failed to identify a particular GAO report, NASA Headquarters Office of General Counsel identified GAO Administrative Review B-285211, NASA's Administrative Review of a Patent Infringement Claim, dated August 8, 2000, which states that the GAO reviewed NASA's procedures for administratively reviewing a claim of patent infringement as attached to a September 29, 1987 letter. As confirmed by the document quoted at page 13 of your appeal, the NASA Headquarters Office of General Counsel did not have a copy of the attachment as of January, 2009. The search revealed that no copy of the attachment has been located since that time.

Apparently, if you file a claim against NASA for patent infringement the NASA attorney handling your case acts according to his/her own whims. Or perhaps there is a short unwritten policy that just says, "Deny the Claim."

Also, when I filed my Second FOIA Request I attached the GAO Report. When NASA refused to read it I sent it again. Thinking that perhaps NASA's mail servers reject emails with attachments I sent it without the attachment. I included the GAO Report "NASA's Administrative Review of a Patent Infringement Claim, August 8, 2000 in the Appendix to my Appeal.

NASA seems to lose lots of things. For example, in my article **NASA's Continuing Lack of Accounting Controls** (http://www.jmargolin.com/nasa/actn/nasa_accounting.htm) we learn that in 2008 NASA was unable to account for capital assets with an acquisition cost of about \$32 Billion (with a net value of about \$18.6 Billion).

5. The above referenced GAO Report referred to NASA's Director of Patent Infringement so I asked who that person is. It appears that either NASA doesn't have one or he is practicing how not to be seen.

NASA: There are no responsive records to item 10. In your appeal, you make a new request and state that if no one has the title of Director of the Infringement Division, you request the identity of the person who performs that function. The current functional structure of the Commercial and Intellectual Property Law Practice Group in the NASA Headquarters Office of General Counsel is available at <http://www.nasa.gov/offices/ogc/commercial/index.html>.

This is what that link produces:

The Commercial and Intellectual Property Law Practice Group is responsible for providing legal advice in support of NASA's commercial, commercialization and intellectual property related programs. The Practice Group provides functional leadership in negotiating, drafting, and interpreting NASA Space Act Agreements, and partnering arrangements with commercial organizations. It also develops, coordinates, implements, and administers NASA's Intellectual Property Program, and provides functional leadership to all Offices of Chief Counsel at NASA Centers in the areas of patents, copyrights, trade secrets, technical data in contracts, grants, cooperative agreements, and the distribution of computer software. The Practice Group also provides legal advice and counsel involving issues related to commercialization of NASA activities, and coordinates such matters in the international arena with the International Law Practice Group.

Space Act Agreements are authorized by the National Aeronautics and Space Administration Act of 1958, a Federal statute. The Practice Group has primary responsibility for the NASA policy implementing this unique authority, as well as for maintenance of the NASA Space Act Agreements Manual. Space Act Agreements include mutually beneficial activities that further NASA missions where there are no exchange of funds ("non-reimbursable" agreements) or undertakings for the benefit of the non-NASA party, and where NASA costs are borne by the non-NASA party ("reimbursable" agreements).

The Intellectual Property division of the Practice Group performs under the direct cognizance of the Agency Counsel for Intellectual Property. It provides functional guidance with respect to patent solicitation to ensure application of uniform criteria Agency-wide relative to invention reporting, patent application preparation, and filing and conduct of proceedings before the United States Patent and Trademark Office. In addition, the division develops and supports the implementation of policies and procedures related to patent and copyright licensing so that uniform criteria are applied NASA-wide and to ensure the maximum beneficial use of patented and copyrighted technology. The Intellectual Property division supports Department of Justice litigation efforts, licensing, handling infringement-related administrative claims, review of Freedom of Information Act requests concerning technical data and computer software, trademark applications, and handles negotiation and review of intellectual property provisions for Space Act Agreements.

Associate General Counsel (Acting)	Courtney Graham
Agency Lead IP Attorney	Gary G. Borda Tel: 202-358-2424 Fax: 202-358-4341

Legal Technician:	Kathy Bayer
Attorney Staff:	Jan McNutt Margaret Roberts Robert Rotella

For more information about the Office of the General Counsel Organization visit: > OGC Organization

OGC Disclaimer: The materials within this website do not constitute legal advice. For details read our disclaimer.

I don't see anyone with the title **Director of the Infringement Division** or anyone who might perform that function.

I don't see an **Infringement Division**.

Luedtke blew me off.

And note that the page still lists Jan McNutt as Attorney Staff even though Mr. McNutt has left NASA.

Either NASA's OGC practices incredibly sloppy record-keeping or they are lying.

June 9, 2010

I filed my **Motion For Summary Judgment and Memorandum of Points and Authorities** today.

[Motion For Summary Judgment and Memorandum of Points and Authorities \(doc032.pdf\)](#)

[Appendix Volume 1 - Part 1 \(doc032-1.pdf\)](#)

[Appendix Volume 1 - Part 2 \(doc032-2.pdf\)](#)

[Appendix Volume 2 \(doc033.pdf\)](#)

[Appendix Volume 3 \(doc034.pdf\)](#)

[Appendix Volume 4 \(doc035.pdf\)](#)

[Appendix Volume 5 \(doc036.pdf\)](#)

[Appendix Volume 6 \(doc037.pdf\)](#)

[Appendix Volume 7 \(doc038.pdf\)](#)

If you are pressed for time, these are the documents to read in the case. At least for now.

For an html version of the **Motion For Summary Judgment and Memorandum of Points and Authorities** [click here](#).

There are some formatting differences from the PDF version. The html file was made from my original MS Word

documents. Also, the PDF version is the Pacer version.

September 9, 2010

On September 7 Holly filed her Opposition to Motion for Summary Judgment and Cross-Motion for Summary Judgment. There are a lot of documents.

[Opposition to Motion for Summary Judgment and Cross-Motion for Summary Judgment \(doc042.pdf\)](#)

[I have used OCR to convert it to text for this html version. I have formatted it for online reading. \(doc042.htm\)](#)

[Declaration of Courtney B. Graham \(doc042-1.pdf\)](#)

[I have used OCR to convert it to text for this html version. I have formatted it for online reading \(doc042-1.htm\)](#)

[List of Exhibits for Graham Declaration \(doc043.pdf\)](#)

[Exhibit I - Margolin FOIA Withheld Index \(doc044.pdf\)](#)

[Exhibit J - Exhibit L \(doc045.pdf\)](#)

There is a duplicate set of documents. I was told it was because Holly combined her **Opposition to Motion for Summary Judgment** with her **Cross-Motion for Summary Judgment** and the Court's system has separate categories for each type of document.

[Opposition to Motion for Summary Judgment and Cross-Motion for Summary Judgment \(doc046.pdf\)](#)

[Declaration of Courtney B. Graham \(doc046-1.pdf\)](#)

[List of Exhibits for Graham Declaration \(doc046-2.pdf\)](#)

[Exhibit I - Margolin FOIA Withheld Index \(doc046-3.pdf\)](#)

[Exhibit J - Exhibit L \(doc046-4.pdf\)](#)

Exhibit I (Margolin FOIA Withheld Index) is especially interesting. I am amazed by how much time and effort NASA has spent on this over the years. This must have cost NASA a bundle. They probably could have bought the patents from me in 2003 for less than what they have spent trying to destroy the patents (and me). But they never asked how much I wanted for the patents.

Now that I no longer own the patents, that ship has sailed. (Or, maybe, that rocket has launched.)

September 19, 2010

NASA's [Exhibit I - Margolin FOIA Withheld Index \(doc044.pdf\)](#) is a fascinating document. Unfortunately, it is a scanned document (image only) so it is not text-searchable. To remedy this I have used OCR to convert it to text.

Then I made a MS Word document. From that I made an html file and a PDF file. This PDF file is different from the PDF that NASA filed because mine is text-searchable. There may be OCR errors that have escaped my proofreading, so refer to the original document before quoting. Why did I spend time on this? It shows how NASA treats Independent Inventors.

Errors in the original document have been left uncorrected. ("administrative" is sometimes spelled "admininstrative" and "forward" is sometimes spelled "foward")

Exhibit I - Margolin FOIA Withheld Index: [doc044_ocr.htm](#)

Exhibit I - Margolin FOIA Withheld Index: [doc044_ocr.pdf](#)

September 21, 2010

For the cases cited in NASA's **Opposition to Motion for Summary Judgment and Cross-Motion for Summary Judgment** [Click Here](#).

October 4, 2010

Today I filed my Reply to NASA's Opposition to my Motion for Summary Judgment and my Opposition to NASA's Cross-Motion for Summary Judgment.

[My Reply to NASA's Opposition to my Motion for Summary Judgment \(doc049.pdf\)](#)

[Appendix \(doc049-1.pdf\)](#)

[My Opposition to NASA's Cross-Motion for Summary Judgment \(doc050.pdf\)](#)

[Appendix \(doc050-1.pdf\)](#)

I think I'll take a nap now.

Wake me up for Thanksgiving.

November 9, 2010

Holly woke me up early.

On November 1, 2010 she filed the following:

[NASA] Motion to Strike

[doc051.pdf](#)

I converted it to html:

[doc051.htm](#)

GOVERNMENT'S REPLY

[doc052.pdf](#)

I converted it to html:

[doc052.htm](#)

Exhibits for doc052:

[doc052-1.pdf](#)

On November 8, 2010 I filed the following:

Motion Requesting Leave For Excess Pages

[doc053.pdf](#)

Opposition to Motion to Strike and Motion Requesting Leave to File Declaration

[doc054.pdf](#)

Motion to Strike Government's Reply

[doc055.pdf](#)

I expect I will have more to say about it sometime.

November 24, 2010

On November 9, 2010 my Motion Requesting Leave for Excess Pages (#53) was granted.

[doc056.pdf](#)

Holly filed her REPLY TO OPPOSITION TO MOTION TO STRIKE AND OPPOSITION TO MOTION REQUESTING LEAVE TO FILE DECLARATION ON November 16.

[doc057.pdf](#)

She said some very harsh things, so I have converted it to html using OCR to make it text searchable.

[doc057.htm](#)

November 26, 2010

Holly filed her OPPOSITION TO MOTION TO STRIKE (#55) today.

[doc059.pdf](#)

The document is already text-searchable because it was produced by Corel PDF Engine Version 1.14.0.755 .

Several of her previous filings were produced by scanning the documents using a Canon iR8070. See, for example, [Document 52](#).

To make that document text-searchable I had to use OCR and do considerable proof-reading.

December 3, 2010

On November 30, 2010 Holly filed a Notice of Errata to correct what she described as an error in Document 59 (Opposition to Motion to Strike).

[doc060.pdf](#)

I don't see anything in the Federal Rules of Civil Procedure or the Local Rules that permit such a thing.

It must be an Undocumented Privilege.

I wonder if there are more Undocumented Privileges.

In any event, today I filed my Reply to Holly's Opposition to my Motion to Strike.

[doc061.pdf](#)

April 21, 2011

It's been awhile since my last update and several things have happened.

Basicially, I lost.

From the Court's decision:

IV. Conclusion

For the foregoing reasons, the court concludes that NASA is entitled to judgment as a matter of law as to the withholding and redaction of information under Section 552(b) of the Freedom of Information Act, with the exception of the document identified at line #252 of the Index of withheld documents. As to that document, NASA has failed to carry its burden of establishing the applicability of a statutory exemption from disclosure, and Margolin is therefore entitled to its release.

IT IS THEREFORE ORDERED that Defendant's Motion to Strike (#51) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File Declaration (#54) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Strike (#55) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (#32) is GRANTED in part and DENIED in part as specified in this order.

NASA's Motion to Strike (#51) was denied.

My Motion to Strike (#55) was denied.

My Motion for leave to file the required Declaration (#55) was granted.

My Motion For Summary Judgment (#32) was granted in part and denied in part. Actually it was totally denied except for one document, a document that appears to be irrelevant and NASA asserts was included by mistake..

The Court ruled that NASA was entitled to redact and withhold all the other documents.

Here is the Court's decision (March 31, 2011):

[doc062.pdf](#)

And the Judgment Sheet:

[doc063.pdf](#)

But, it's not over.

There is the matter of the 4,000 pages of documents that NASA sent me in November 2009.

They would not have sent me the documents if it hadn't been for this lawsuit.

I think I substantially prevailed.

So I filed a Motion For Costs (April 3, 2011). It's not for much, just things like the filing fee, postage, copying costs, PACER costs, and driving costs to go to the Nevada Supreme Court Law Library in Carson City to read the Franklin book **Guidebook to the Freedom of Information and Privacy Acts** 2d Ed; Justin D. Franklin and Robert F. Bouchard (Editors), Thomson Reuters. It's a great book but too expensive to buy from Thomson Reuters <http://west.thomson.com/productdetail/2525/13514269/productdetail.aspx> (\$366). There are some old editions available on the Web, such as the 1986 edition for \$20.90, but I don't advise using a 25 year old law book unless you are a Law Historian..

Another reason I needed to go to the Nevada Supreme Court Law Library so often was to look up all of the unpublished (and mostly old) cases that Holly is so fond of citing.

I don't get to charge for my time.

[doc064.pdf](#)

My main argument for asking for costs is that:

J. The approximately 4,000 pages of documents, as well as NASA's behavior during this lawsuit, give a valuable look into how Government (especially NASA) works. And that is the purpose of the Freedom of Information Act.

Holly doesn't agree, so she filed RESPONSE TO MOTION FOR COSTS (#64) (April 20, 2011)

[doc065.pdf](#)

I have converted it to html:

[doc065.htm](#)

Since Holly opposed my Motion For Costs I think it should have been called Opposition to Motion For Costs, but she called it a Response.

That means that my Response will have to be called "Response to NASA's Response to Motion For Costs" which is awkward phrasing.

And, we have another affidavit by Courtney Graham.

[doc065-1.pdf](#)

I will be filing my "Response to NASA's Response to Motion For Costs" soon.

BTW, on April 20, 2011 a Google search for **NASA FOIA lawsuit** puts this article/blog at #12 on the hit list. For Google hits on April 20 [click here](#). I must be doing something right.

Exhibit 4

Exhibit 4



NASA FOIA lawsuit

Search

Instant is on

About 133,000 results (0.14 seconds)

Advanced search

- Everything
- Images
- Videos
- News
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- More

Reno, NV

Change location

- All results
- Wonder wheel
- Related searches
- More search tools

NASA Moves to Quash FOIA Lawsuit, CEI Fights for Public Access

Nov 4, 2010 ... **NASA Moves to Quash FOIA Lawsuit**, CEI Fights for Public Access. New Court Filing Charges Agency with Concealing Evidence of Climate Data ...

cei.org/news.../nasa-moves-quash-foia-lawsuit-cei-fights-public-access - Cached

NASA FOIA Complaint | Competitive Enterprise Institute

May 27, 2010 ... **"NASA** is accountable to the taxpayers and to the public ...

cei.org/outreach-legal-briefs/nasa-foia-complaint - Cached

Show more results from cei.org

FOIA Suit Seeks NASA's Global Warming Data - The BLT: The Blog of ...

May 27, 2010 ... **NASA** has been slapped with a Freedom of Information Act lawsuit alleging that the agency has tried to cover up mistakes in data that have ...

legaltimes.typepad.com/.../foia-suit-seeks-nasas-global-warming-data.html - Cached - Similar

Global Warming FOIA Suit Against NASA Heats Up Again - The BLT ...

Nov 4, 2010 ... In court documents filed last night, the Competitive Enterprise Institute argues that **NASA** has gone out of its way to avoid turning over ...

legaltimes.typepad.com/.../global-warming-foia-suit-against-nasa-heats-up-again.html - Cached - Similar

[PDF] THE CONCLUSION OF THE NASA LAWSUIT Concerning the Kecksburg, PA ...

File Format: PDF/Adobe Acrobat - Quick View

next year, I ended up as the plaintiff in a federal, **FOIA lawsuit** filed against **NASA** in Washington, DC. After previously promising to conduct an expedited ...

www.freedomofinfo.org/foi/NASA_lawsuit_conclusion.pdf - Similar

Videos for NASA FOIA lawsuit - Report videos



Christopher Horner discusses his NASA FOIA ...

4 min - Dec 6, 2009
Uploaded by daemonesk
youtube.com



Horner's lawsuit notice to NASA

47 sec - Dec 6, 2009
Uploaded by daemonesk
youtube.com

NASA HQ FOIA ELECTRONIC READING ROOM

Jan 16, 2007 ... (a) The request must be addressed to an appropriate **NASA** FOIA Office or (f) Notice of **FOIA lawsuit**. Whenever a requester brings suit ...

www.hq.nasa.gov/pao/FOIA/proced.html - Cached - Similar

Global Warming FOIA Suit Against NASA Heats Up Again | Climate ...

Nov 5, 2010 ... In court documents filed last night, the Competitive Enterprise Institute argues that **NASA** has gone out of its way to avoid turning over ...

climateréalists.com/index.php?id=6598 - Cached

NASA GISS being sued over FOIA failures | Watts Up With That?

Nov 4, 2010 ... Specifically, CEI's **FOIA suit** seeks documents and emails relating to **NASA's** temperature record, which **NASA** was forced to correct in response ...

wattsupwiththat.com/.../nasa-giss-being-sued-over-foia-failures/ - Cached - Similar

Northwest Disclosure Page

Mar 28, 2005 ... New Information Disclosed in EPIC's **FOIA Lawsuit** -- FBI Obtained Passenger Data; TSA Informed of **NASA** Screening Research ...

epic.org/privacy/airtravel/nasa/ - Cached - Similar



NASA FOIA lawsuit

X Search

Instant is on

Page 2 of about 133,000 results (0.09 seconds)

Advanced search

- Everything
- Images
- Videos
- News
- Shopping
- More

Reno, NV
Change location

- All results
- Wonder wheel
- Related searches
- More search tools

[Christopher Horner discusses his NASA FOIA requests and lawsuit](#)

Dec 6, 2009 ... CEI's Horner has sought information in the form of internal emails and notes of discussions from Gavid Schmidt and the authors of **NASA's ...**
www.youtube.com/watch?v=TGUGU9AV0fg - Cached

[nasa lawsuit](#)

Jump to [April 23, 2010 - I received NASA's denial of my second FOIA ...](#):
Click here for an html version of Second FOIA Request - **NASA ...**
www.jmargolin.com/nasa/nasa.htm - Cached

[NASA loses FOIA UFO Lawsuit - must release docs..., page 1](#)

4 posts - 2 authors - Last post: Oct 29, 2007
NASA loses FOIA UFO Lawsuit - must release docs..., page 1. Pages: ATS
Members have flagged this thread 1 times. Topic started on 29-10-2007 ...
www.abovetopsecret.com/forum/thread312009/pg1 - Cached

[CEI's NASA global warming lawsuit | David Freddoso | Beltway ...](#)

Apr 19, 2011 ... "**NASA** is accountable to the taxpayers and to the public" and "should not be free to treat its **FOIA** obligations with contempt." The **lawsuit** ...
washingtonexaminer.com/blogs/.../cei-s-nasa-global-warming-lawsuit - Cached

[CEI Files Brief, Seeking NASA Records - By Chris Horner - Planet](#)

Nov 4, 2010 ... Specifically, CEI's **FOIA suit** seeks documents and e-mails relating to **NASA's** temperature record, which **NASA** was forced to correct in ...
www.nationalreview.com/.../cei-files-brief-seeking-nasa-records-chris-horner - Cached - Similar

[Climategate: Lawsuit to Open NASA's Books » Secondhand Smoke | A ...](#)

Dec 3, 2009 ... Tweets that mention Climategate: **Lawsuit** to Open **NASA's** Books » Secondhand Smoke | A First Things Blog -- Topsy.com ...
www.firstthings.com/.../climategate-lawsuit-to-open-nasas-books/ - Cached - Similar

[Global Warming Update: NASA Accused of 'Climategate' Stalling](#)

May 27, 2010 ... In the case of **NASA's FOIA** situation, The Washington Times first ... CEI's **lawsuit**, which is expected to be filed in federal district court ...
www.conservativerefocus.com/.../global-warming-update-nasa-accused-of-climategate-stalling - Cached

[With NASA administrator James Hansen being a MGW True Believer and ...](#)

Dec 3, 2009 ... will **NASA** become a player in the Climategate uncov...
answers.yahoo.com > ... > Politics & Government > Politics - Cached

[Nasa giss foia lawsuit websites and posts on nasa giss foia lawsuit](#)

nasa giss foia lawsuit informe. ... **nasa giss foia lawsuit** in the urls. aboutlawsuits.com. Rating: 4. aboutlawsuits.com > AboutLawsuits.com - Recalls, Class ...
informe.com/nasa/nasa_giss_foia_lawsuit/ - Cached

[Insight | Landmark Court Settlement Requires NASA to Release ...](#)

Oct 28, 2007 ... On the heels of the news of **NASA's** attempt to withhold survey data on ... CFI filed a Freedom of Information Act (**FOIA**) **lawsuit** in December ...
www.unknowncountry.com/.../landmark-court-settlement-requires-nasa-release-documents-mysterious-ufo-case - Cached

Exhibit 5

Exhibit 5

Jed Margolin
Phone: 775-847-7845

1981 Empire Rd.

Reno, NV 89521-7430
April 27, 2009

Mr. Christopher J. Scolese,
Acting Administrator, NASA
300 E Street, SW
Washington, DC 20546
(202) 358-2810 (Fax)

Dear Sir,

I sent you a letter by certified mail on April 6, 2009. According to USPS it has not been delivered. USPS has several theories:

1. They lost it;
2. NASA refused to accept delivery;
3. Something happened to it when it was sent to New Jersey to be irradiated.

I am appending the letter to this fax.

The letter asks you to confirm that I have exhausted all of the administrative remedies that NASA has to offer in my attempt to get NASA to comply with the Freedom of Information Act. Since it took me an hour this morning just to get a fax number for you -I was misdirected all around NASA- the answer is obviously, "Yes."

When I file suit against NASA in the U.S. District Court For the District of Nevada I had planned to mail the Complaint to you. Since it does not seem possible to mail anything to NASA with any hope of success, will you allow me to email or fax the Complaint to you and will you waive Service?

If you refuse, I will have to pay a process server to serve you. Then I will amend my Complaint to ask the Court to assess costs and punitive damages against NASA.

Sincerely yours,

Jed Margolin

Cc: Senator Harry Reid

Jed Margolin
Phone: 775-847-7845

1981 Empire Rd.

Reno, NV 89521-7430
April 6, 2009

Mr. Christopher J. Scolese,
Acting Administrator,
NASA
300 E. Street, SW
Washington, DC 20546

Dear Sir,

NASA has been acting in bad faith toward me for the past almost-6 years.

I am the named inventor on U.S. Patent 5,904,724 **Method and apparatus for remotely piloting an aircraft** issued May 18, 1999. This patent teaches the use of (what is now called) synthetic vision for controlling a UAV.

I contacted NASA in May 2003 after I became aware that NASA had used synthetic vision in the X-38 project. Because the use of synthetic vision for controlling a UAV can be used to the detriment of this country by unfriendly entities I wanted a friendly conversation because I thought NASA should buy the patent in order to control the technology

In June 2003 I was turned over to Mr. Alan Kennedy in the Office of the General Counsel. This is what I recorded in my Contact Log:

Summary: He basically said that what most independent inventors have is junk and that since I am an independent inventor what I have is probably junk. If NASA evaluates it as a license proffer it will give it a pro forma rejection and I will file a claim anyway, so the same people who rejected it as a proffer will reject it as a claim, but in the process will have had to do more work, so to save them some work they will ignore the proffer and handle it as a claim.

So, I filed a claim, completely answering all the questions on NASA's claim form. Then Mr. Kennedy informed me that NASA would conduct an investigation (expected to last 3-6 months) and that the purpose of the investigation would be to find prior art to invalidate the patent.

After six months I did not hear from NASA so I called Mr. Kennedy. He said:

1. The investigation had not been done.
2. NASA had a Research Exemption for using the patent. [Not true. See *Madey v. Duke* 307 F.3d 1351 (Fed. Cir. 2002)]
3. "The X-38 never flew." I informed him of the video on NASA's web site showing the X-38 flying.

4. The Statute of Limitations gives NASA 6 years to respond to my claim. (Wrong, it gives me 6 years to take NASA to Federal Claims Court.)
5. It would cost me more to sue NASA in Federal Claims Court than I could hope to recover from NASA.

After that, Mr. Kennedy refused to talk to me or respond to my letters. Then, various things came up and I was unable to pursue my claim against NASA.

Subsequently, I assigned the patent to Optima Technology Group, which has inherited the claim.

However, I still wanted to know what came up during the investigation so, on July 1, 2008 I filed a FOIA request. It was assigned FOIA HQ 08-270.

For some reason it was turned over to Mr. Jan McNut in the Office of the General Counsel.

His response is attached as *Reference 1*.

On August 5, 2008 Mr. McNut asked me to give NASA a 90-day extension to my FOIA request. I agreed.

In January, 2009 I received a letter from Mr. McNut who sent me back to the FOIA Office (*See Reference 2*), who wanted me to start over from scratch. Ms. Kelly Robinson then explained that she was currently working on FOIA requests filed two years before.

I told her that NASA did not get a do-over.

In the interests of brevity:

1. I talked to Ms. Robinson on March 18, 2009. She said she was sending me the results of the FOIA search, but there was some material she would not send me before it was internal Agency communications.
2. That was almost three weeks ago I have not received anything from NASA.

Therefore, Mr. Scolese, please confirm that I Have Exhausted All the Administrative Remedies that NASA Has to Offer. I need you to do this so I can bring suit against NASA in Federal Circuit Court.

If you fail to respond to this letter within ten days I will assume the answer is "Yes."

And I will note your failure to respond in my upcoming article, "How NASA Defrauds Independent Inventors." (That was not the title when this process started.) I will be sending the article to the various House and Senate oversight committees.

Sincerely yours,

Jed Margolin

Exhibit 6

Exhibit 6

Server log entries for jmargin.com - Hits from nasa.gov - January 1, 2011 to April 20, 2011.
Compiled by Jed Margolin April 24, 2011

*SearchTerm: nasa.gov

01jan

GSOD200818985L.ndc.nasa.gov 128.154.22.46 - - [10/Jan/2011:11:04:48 -0600] "GET /nasa/nasa.htm HTTP/1.1" 200 120485 "http://search.yahoo.com/search;_ylt=AuKedAxVM3dvyMn0VQEN8auevZx4?p=%22NASA%22+AND+%22FOIA+Appeal%22&toggl=1&cop=mss&ei=UTF-8&fr=yfp-t-701" "Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13 (.NET CLR 3.5.30729)"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:05:00 -0600] "GET /nasa/refs/doc016-3.pdf HTTP/1.1" 200 4712866 "http://www.google.com/url?sa=t&source=web&cd=1&ved=0CBMQFjAA&url=http%3A%2F%2Fwww.jmargin.com%2Fnasa%2Frefs%2Fdoc016-3.pdf&rct=j&q=SBIR%20Trey%20Arthur%20NASA&ei=0aksTfP3HdPWnAeWnuHfCQ&usg=AFQjCNFDXeABj28uVKsEZSHi_77LeL9E9Q" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:06:39 -0600] "GET /svr/auvsi_response_index.htm HTTP/1.1" 200 1560 "http://www.jmargin.com/" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:06:55 -0600] "GET /nasa/nasa.htm HTTP/1.1" 200 120485 "http://www.jmargin.com/" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:08:22 -0600] "GET /vch/myhouse.htm HTTP/1.1" 200 7051 "http://www.jmargin.com/" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

lrc200817300.larc.nasa.gov 146.165.156.160 - - [11/Jan/2011:13:16:51 -0600] "GET / HTTP/1.1" 200 17995 "http://www.google.com/search?q=jed+margolin&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-US:official&client=firefox-a&safe=active" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13 (.NET CLR 3.5.30729; .NET4.0C)"

lrc200817300.larc.nasa.gov 146.165.156.160 - - [11/Jan/2011:13:17:09 -0600] "GET /nasa/nasa.htm HTTP/1.1" 200 120485 "http://www.jmargin.com/" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13 (.NET CLR 3.5.30729; .NET4.0C)"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:19:49 -0600] "GET / HTTP/1.1" 200 8281 "http://www.google.com/url?sa=t&source=web&cd=22&ved=0CB4QFjABOBQ&url=http%3A%2F%2Fwww.radiodreams.com%2F&rct=j&q=jed%20margolin&ei=Ga0sTY_rC4qkngeH6_zVDA&

usg=AFQjCNEIM4hkV4YOSWrQTH5DI-fcD8m_8w" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:19:18 -0600] "GET / HTTP/1.1" 200 35816

"http://www.google.com/url?sa=t&source=web&cd=29&ved=0CEcQFjAIOBQ&url=http%3A%2F%2Fsavestoreycounty.org%2F&rct=j&q=jed%20margolin&ei=Ga0sTY_rC4qkngH6_zVDA&usg=AFQjCNGRPUc3XTNU5AYCMTOPnEARD6K6Xw" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

lrc000963719.larc.nasa.gov 146.165.156.18 - - [11/Jan/2011:13:18:01 -0600] "GET / HTTP/1.1" 200 9649

"http://www.google.com/url?sa=t&source=web&cd=9&sqi=2&ved=0CE0QFjAI&url=http%3A%2F%2Fskyranchhoa.org%2F&rct=j&q=Jed%20Margolin&ei=1awsTb-AOYmInQeqsYi7DA&usg=AFQjCNGv0yYbF4Y_pvfTOZPQ_wYVgS7M-Q" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.6; en-US; rv:1.9.2.11) Gecko/20101012 Firefox/3.6.11"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [18/Jan/2011:12:48:08 -0600] "GET /nasa/actn/nasa_accounting.htm HTTP/1.1" 200 50546

"http://www.google.com/search?hl=en&q=property%2C+plant%2C+and+equipment%2C+net+NASA+International+space+station&btnG=Search&aq=f&aql=&oq=" "Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; FunWebProducts; GTB6; .NET CLR 1.1.4322; .NET CLR 2.0.50727; .NET CLR 3.0.04506.30; .NET CLR 3.0.4506.2152; .NET CLR 3.5.30729)"

pc07264131202.jpl.nasa.gov 137.78.80.66 - - [25/Jan/2011:10:34:01 -0600] "GET /nasa/refs/doc049-1.pdf HTTP/1.1" 200 2607632

"http://www.google.com/url?sa=t&source=web&cd=7&ved=0CEIQFjAG&url=http%3A%2F%2Fwww.jmargolin.com%2Fnasa%2Frefs%2Fdoc049-1.pdf&rct=j&q=Carla%20J%20Bagdasaryan&ei=V_s-TfW8HoKosQOBqo29BQ&usg=AFQjCNHiKZZPz31dqMmbPDgJOWeFEW3I7Q" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13"

pc07264131202.jpl.nasa.gov 137.78.80.66 - - [25/Jan/2011:10:34:02 -0600] "GET /nasa/refs/doc049-1.pdf HTTP/1.1" 206 4314 "-" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13"

LRC000959050.larc.nasa.gov 146.165.197.47 - - [25/Jan/2011:14:52:27 -0600] "GET /nasa/nasadocs/v22.pdf HTTP/1.1" 200 6407166

"http://www.google.com/url?sa=t&source=web&cd=2&ved=0CCAQFjAB&url=http%3A%2F%2Fjmargolin.com%2Fnasa%2Fnasadocs%2Fv22.pdf&rct=j&q=1980%20NASA%20Langley%20aircraft%20visual%20simulation%20facility&ei=_zc_TaStlsKclgfjz6CHAw&usg=AFQjCNHPk5rl8zFjCgFrXPxosxWqsZSXag&sig2=_Nf2g3E8kdVNxe6h5K4UXw" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.5; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13"

lrc200819179.ndc.nasa.gov 146.165.40.196 - - [27/Jan/2011:15:32:14 -0600] "GET /patents2/pilot.htm HTTP/1.1" 200 12382

"http://www.google.com/url?sa=t&source=web&cd=2&ved=0CBoQFjAB&url=http%3A%2F%2Fwww.jmargolin.com%2Fpatents2%2Fpilot.htm&rct=j&q=patent%205%2C566%2C073&ei=IORBTduLCIP58AbZ9pHLAQ&usg=AFQjCNHEkv92PQ6NI_9-

qVxHUxfG0iG28g&sig2=TIUCixggEFtTLWo0K_0m-w" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US; rv:1.9.2.13) Gecko/20101203 Firefox/3.6.13"

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your-e1c77f8d14.ndc.nasa.gov 143.232.128.85 - - [07/Feb/2011:12:51:03 -0600] "GET /sense/sense.htm HTTP/1.1" 200 35624 "-" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US) AppleWebKit/534.10 (KHTML, like Gecko) Chrome/8.0.552.237 Safari/534.10"

your-e1c77f8d14.ndc.nasa.gov 143.232.128.85 - - [07/Feb/2011:12:51:13 -0600] "GET /sense/jm_sense_pap.pdf HTTP/1.1" 200 240253 "http://www.jmargolin.com/sense/sense.htm" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US) AppleWebKit/534.10 (KHTML, like Gecko) Chrome/8.0.552.237 Safari/534.10"

your-e1c77f8d14.ndc.nasa.gov 143.232.128.85 - - [08/Feb/2011:12:30:10 -0600] "GET /sense/jm_sense_figures.pdf HTTP/1.1" 200 189843 "http://www.jmargolin.com/sense/sense.htm" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US) AppleWebKit/534.10 (KHTML, like Gecko) Chrome/8.0.552.237 Safari/534.10"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [17/Feb/2011:11:28:53 -0600] "GET /nasa/refs/doc016-3.pdf HTTP/1.1" 200 4712866 "http://www.google.com/search?q=%22kumar+krishen%22&hl=en&prmd=ivns0&ei=fFpdTankHML48Ab5II2tCw&start=90&sa=N" "Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; .NET CLR 2.0.50727; .NET CLR 3.0.04506.30; .NET CLR 3.0.4506.2152; .NET CLR 3.5.30729)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [17/Feb/2011:13:45:47 -0600] "GET /svr/refs/ref01_aupsi.htm HTTP/1.1" 200 25820 "http://www.google.com/search?hl=en&rls=com.microsoft%3A*&q=rapid+imaging+michael+abernathy+%22Director+of+Development+%22&aq=f&aqi=&aql=&oq=" "Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; .NET CLR 1.1.4322; .NET CLR 3.0.04506.30; .NET CLR 2.0.50727; .NET CLR 3.0.4506.2152; .NET CLR 3.5.30729)"

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rlehmerpc.ndc.nasa.gov 128.102.182.94 - - [08/Mar/2011:17:20:34 -0600] "GET /patents2/pilotrefs/jeppesen.pdf HTTP/1.1" 200 431520 "http://www.google.com/search?hl=en&source=hp&q=vhf+navaid&aq=f&aqi=g-v1&aql=&oq=" "Opera/9.80 (Windows NT 5.1; U; en) Presto/2.7.62 Version/11.01"

c-65-96-168-110.hsd1.ma.comcast.net 65.96.168.110 - - [15/Mar/2011:22:41:48 -0500] "GET /nasa/refs/doc049-1.pdf HTTP/1.1" 200 2607632 "http://www.google.com/search?q=%22paul+curto%22+%22curto%40nasa.gov&btnG=Search&num=50&hl=en&safe=off&client=firefox-a&hs=ORi&rls=org.mozilla%3Aen-US%3Aofficial&sa=2" "Mozilla/5.0 (Windows; U; Windows NT 6.0; en-US; rv:1.9.2.15) Gecko/20110303 Firefox/3.6.15"

lrc200819261.ndc.nasa.gov 146.165.192.58 - - [18/Mar/2011:07:10:49 -0500] "GET /mtest/LJfigs.htm HTTP/1.1" 200 18237 "http://www.eeweb.com/discussions/how-to-generate-circle-in-oscilloscopecro" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US) AppleWebKit/534.16 (KHTML, like Gecko) Chrome/10.0.648.133 Safari/534.16"

wcne-128-154-174-30.gsfc.nasa.gov 128.154.174.30 - - [22/Mar/2011:13:26:32 -0500] "GET /sense/refs/ref14_golomb.pdf HTTP/1.1" 200 349564
 "http://www.google.com/url?sa=t&source=web&cd=4&ved=0CDYQFjAD&url=http%3A%2F%2Fwww.jmargolin.com%2Fsense%2Frefs%2Fref14_golomb.pdf&rct=j&q=structural%20properties%20of%20PN%20sequences&ei=yOmITbbZH7SQ0QGp_an6DQ&usg=AFQjCNEelok92F4C5DV7BgNQTiGZ1nicvA&sig2=nbvvTVROOc-7DYcUG4JFgQ" "Mozilla/5.0 (Macintosh; U; Intel Mac OS X 10.5; en-US; rv:1.9.2.15) Gecko/20110303 Firefox/3.6.15"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [30/Mar/2011:07:49:41 -0500] "GET /usaf/f3_email_c1.pdf HTTP/1.1" 200 1027986
 "http://www.google.com/url?sa=t&source=web&cd=3&ved=0CCYQFjAC&url=http%3A%2F%2Fwww.jmargolin.com%2Fusaf%2Ff3_email_c1.pdf&rct=j&q=jed%20margolin&ei=9yWTTaOCEOK70QH7-oTNBw&usg=AFQjCNFsb2YVQOKyivuhf-6czvtyGQoM-w" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0; .NET4.0C)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [30/Mar/2011:07:59:25 -0500] "GET /history/trans.htm HTTP/1.1" 200 27611
 "http://www.google.com/url?sa=t&source=web&cd=2&ved=0CB8QFjAB&url=http%3A%2F%2Fwww.jmargolin.com%2Fhistory%2Ftrans.htm&rct=j&q=jed%20margolin&ei=BCeTTfCeDauIQH4_unMBw&usg=AFQjCNHa3sY-czek2n0uQuxp9t5UehJmoA" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0; .NET4.0C)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [30/Mar/2011:08:03:10 -0500] "GET /nasa/nasa.htm HTTP/1.1" 200 118520 "-" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0; .NET4.0C)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [30/Mar/2011:10:18:53 -0500] "GET /nasa/refs/doc042.htm HTTP/1.1" 200 93423
 "http://www.google.com/search?q=Robert+Rotella+NASA&hl=en&prmd=ivnso&ei=hEeTTaTMGKH0gGy3_nMBw&start=10&sa=N" "Mozilla/4.0 (compatible; MSIE 7.0; Windows NT 5.1; .NET CLR 1.1.4322; .NET CLR 2.0.50727; .NET CLR 3.0.4506.2152; .NET CLR 3.5.30729)"

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jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [06/Apr/2011:10:13:56 -0500] "GET /pima/patauction.htm HTTP/1.1" 200 85837 "http://www.jmargolin.com/" "Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.9.2.16) Gecko/20110319 Firefox/3.6.16 (.NET CLR 3.5.30729)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [06/Apr/2011:10:17:00 -0500] "GET /towers/tom_index.htm HTTP/1.1" 200 44099 "http://www.jmargolin.com/" "Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.9.2.16) Gecko/20110319 Firefox/3.6.16 (.NET CLR 3.5.30729)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [06/Apr/2011:10:20:20 -0500] "GET /vch/census.htm HTTP/1.1" 200 5745 "http://www.jmargolin.com/" "Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.9.2.16) Gecko/20110319 Firefox/3.6.16 (.NET CLR 3.5.30729)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [11/Apr/2011:13:56:32 -0500] "GET /towers/tom_index.htm HTTP/1.1" 200 44099
"http://www.google.com/url?sa=t&source=web&cd=1&sqi=2&ved=0CBcQFjAA&url=http%3A%2F%2Fwww.jmargolin.com%2Ftowers%2Ftom_index.htm&rct=j&q=Thomas%20S.%20Taormina&ei=0E6jTbSWE4bliALbhun9Ag&usg=AFQjCNFqC50q0h9bQrTndHKBolKNF5HxyA"
"Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [11/Apr/2011:14:02:46 -0500] "GET /towers/jm_antenna_comments_r2.htm HTTP/1.1" 200 43463
"http://www.jmargolin.com/towers/tom_index.htm" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [11/Apr/2011:14:03:36 -0500] "GET /towers/docs/080813CvrLtrwBPApps.pdf HTTP/1.1" 200 115381
"http://www.jmargolin.com/towers/jm_antenna_comments_r2.htm" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [11/Apr/2011:14:04:00 -0500] "GET /towers/docs/080813AntApp.pdf HTTP/1.1" 206 18032 "-" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0)"

jsc-id-wp46.jsc.nasa.gov 128.157.160.13 - - [11/Apr/2011:15:52:23 -0500] "GET /uvmath/euler.doc HTTP/1.1" 200 119808
"http://www.google.com/search?hl=en&q=euler+angles+from+vector&sourceid=navclient-ff&rlz=1B3GGLS_en__US410&ie=UTF-8" "Mozilla/5.0 (Windows; U; Windows NT 5.1; en-US; rv:1.9.2.16) Gecko/20110319 Firefox/3.6.16 GTB7.1 (.NET CLR 3.5.30729)"

cerf.grc.nasa.gov 128.156.10.80 - - [19/Apr/2011:10:05:24 -0500] "GET /nasa/actn/nasa_accounting.htm HTTP/1.0" 200 50546
"http://www.google.com/url?sa=t&source=web&cd=6&ved=0CDkQFjAF&url=http%3A%2F%2Fjmargolin.com%2Fnasa%2Factn%2Fnasa_accounting.htm&rct=j&q=NASA%20IG%20financial%20audit%20report%202002&ei=n6StTe2hJMX40gGH-_m3Cw&usg=AFQjCNFPK3THfuuwSbO0qVUqIfYuEtwRYw" "Mozilla/4.0 (compatible; MSIE 8.0; Windows NT 6.1; WOW64; Trident/4.0; SLCC2; .NET CLR 2.0.50727; .NET CLR 3.5.30729; .NET CLR 3.0.30729; Media Center PC 6.0)"

in-139-169.larc.nasa.gov 198.119.139.169 - - [20/Apr/2011:06:20:45 -0500] "GET /nasa/actn/nasa_accounting.htm HTTP/1.1" 200 50546
"http://www.google.com/url?sa=t&source=web&cd=10&sqi=2&ved=0CFQQFjAJ&url=http%3A%2F%2Fjmargolin.com%2Fnasa%2Factn%2Fnasa_accounting.htm&rct=j&q=nasa%20integrated%20asset%20management&ei=W8GuTbimG4Pt0gHY4-C6Cw&usg=AFQjCNFPK3THfuuwSbO0qVUqIfYuEtwRYw" "Mozilla/5.0 (Windows; U; Windows NT 6.1; en-US; rv:1.9.2.16) Gecko/20110319 Firefox/3.6.16 (.NET CLR 3.5.30729)"

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CERTIFICATE OF SERVICE

2 The undersigned hereby certifies that service of the foregoing Response to NASA's Response to
3 Motion For Costs (#65); Declaration has been made by electronic notification through the
4 Court's electronic filing system on April 25, 2011.

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6 /Jed Margolin/

7 Jed Margolin

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