

No. 12-10884

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In The  
**Supreme Court of the United States**

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DOROTHY M. HARTMAN,

*Petitioner,*

vs.

PATENT AND TRADEMARK OFFICE,

*Respondent.*

—◆—  
**On Petition For A Writ Of Certiorari  
To United States Court Of Appeals  
For The Federal Circuit**

—◆—  
**PETITION FOR WRIT OF CERTIORARI**

—◆—  
MS. DOROTHY M. HARTMAN  
Pro Se  
~~800 S. 5th Street~~  
~~Philadelphia, PA 19147~~  
~~(610) 497-8895~~

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## QUESTIONS PRESENTED

1. Should the United States Government have the right to take ideas or intellectual property submitted by individuals or agents seeking government funding to use as its own ideas – especially when it dismisses funding opportunities or rejects support for proposals submitted by the individual or agent seeking funding?
2. Should the Patent and Trademark Office, governed by the U.S. Constitution and prevailing Civil Rights Laws have the authority to withhold a patent application while it and the federal government seek means for destroying the validity of claims of the patent application which have already been proven true by affidavits and documents under Federal Rules of Evidence attesting to the veracity of the claims?
3. Does the Patent and Trademark Office have the constitutional authority to dispose of Evidence which is verified under Federal Rules of Evidence as supporting the claims of an Inventor – and then turn around and bar a patent based on its own rules – supported by violations in patent examining procedures and jurisprudence?
4. Are such actions justifiable and therefore constitutionally legal when these actions carried out, constitute a government takeover or taking of the intellectual property submitted by the individual seeking government support or funding?



**QUESTIONS PRESENTED** – Continued

5. Do such actions as ignoring hard evidence and affidavits or signatures of government employees that they read or reviewed the intellectual property of the Inventor or individual seeking funding for an innovative idea(s) be ignored in the consideration to award a patent to the applicant – when the applicant contends that the ideas were “stolen” by the federal government?
6. The shorter question would be “Should the government be allowed to ‘steal’ with impunity”?
7. Should there be a declaration of “Eminent Domain” if the federal government takes intellectual property from an individual – even one which presents the property to the government with the expectation of a contract or funding?
8. If there is no declaration of “Eminent Domain”, does this release the perpetrator which in this case is the Federal Government from liability to provide suitable compensation to the property owner?
9. Colloquial sayings such as “Possession is 9/10ths of the law” or “Copying is the greatest form of flattery” may be commonly used but when it comes to law, do federal government agencies such as the National Science Foundation, U.S. Small Business Administration, Dept. of Commerce, or others have the right to copy the intellectual property or ideas submitted by an individual and call it theirs without Declaration

**QUESTIONS PRESENTED** – Continued

of Eminent Domain so as to compensate the individual?

10. Are such acts legal? Do they violate the constitutional rights of the individual whose intellectual property was stolen?
11. Does the federal government through the Patent Office, Dept. of Commerce or any of its agencies have the right to simply ignore or disregard the intellectual property rights of an individual – denying that individual acknowledgment or compensation for his or her property?
12. When intellectual property or compensation for intellectual property is withheld from an individual by the federal government – does this constitute a violation of constitutional and civil rights of the individual (or agent) by the federal government?
13. If so, how should the government atone for this breach?
14. Should the Patent and Trademark Office be allowed to use tactics and malfeasance to extract what parades as “legal” means [though gained in illegal ways] to bar issuance of a patent to an inventor whom it knows or should know is the true inventor of a process just to justify the illegal **Taking** of valuable property from the individual or inventor?
15. Should such tactics as using malfeasance and the corruption of jurisprudence for patent laws and its violations of the U.S. Constitutional rights of

**QUESTIONS PRESENTED** – Continued

the Appellant/Inventor by the Patent and Trademark Office **be overlooked by a high court** – in this case the U.S. Court of Appeals for the Federal Circuit in its rulings?

16. Do these actions constitute basic violations of the constitutional rights of this Inventor?
17. How then should the Inventor be compensated for the Taking or Theft of her intellectual property?
18. Should the awarding of patents even for great inventions be awarded according to skin color, gender, or health?

**LIST OF PARTIES**

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Donald B. Verilli Jr.  
U.S. Solicitor  
Counsel for Respondent

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**IN THE SUPREME COURT  
OF THE UNITED STATES**

**PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.



**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.



**JURISDICTION**

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 8, 2013.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: May 14, 2013, and a copy of the order denying rehearing appears at Appendix B.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### Amendment V - . . . Eminent Domain

The power of the government to take private property and convert it into public use. The Fifth Amendment provides that the government may only

exercise this power if they provide just compensation to the property owners. See, e.g. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982). "The Fifth Amendment to the Constitution says 'nor shall private property be taken for public use, without just compensation.'"

#### Eminent Domain

The power of the government to take private property and convert it into public use. The Fifth Amendment provides that the government may only exercise this power if they provide just compensation to the property owners. See, e.g. *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982).

#### Due Process Clause, 5th Amendment

The due process clause has been successfully invoked to defeat retroactive invasion or destruction of property rights in a few cases. A revocation by the Secretary of the Interior of previous approval of plats and papers showing that a railroad was entitled to land under a grant was held void as an attempt to deprive the company of its property without due process of law. The exception of the period of federal control from the time limit set by law upon claims against carriers for damages caused by misrouting of goods, was read as prospective only because the limitation was an integral part of the liability, not



merely a matter of remedy, and would violate the Fifth Amendment if retroactive.

## RIGHTS OF PERSONS

### NATIONAL EMINENT DOMAIN POWER

#### Overview

“The Fifth Amendment to the Constitution says ‘nor shall private property be taken for public use, without just compensation.’ This is a tacit recognition of a preexisting power to take private property for public use, rather than a grant of new power.” Eminent domain “appertains to every independent government. It requires no constitutional recognition; it is an attribute of sovereignty.” In the early years of the nation the federal power of eminent domain lay dormant, and it was not until 1876 that its existence was recognized by the Supreme Court. In *Kohl v. United States* any doubts were laid to rest, as the Court affirmed that the power was as necessary to the existence of the National Government as it was to the existence of any State. The federal power of eminent domain is, of course, limited by the grants of power in the Constitution, so that property may only be taken for the effectuation of a granted power, but once this is conceded the ambit of national powers is so wide – ranging that vast numbers of objects – may be effected. This prerogative of the National Government can neither be enlarged nor diminished by a State. Whenever lands in a State are needed for a public purpose, Congress may authorize that they be

taken, either by proceedings in the courts of the State, with its consent, or by proceedings in the courts of the United States, with or without any consent or concurrent act of the State.

“Prior to the adoption of the Fourteenth Amendment,” the power of eminent domain of state governments “was unrestrained by any federal authority.”

It should be borne in mind that while the power of eminent domain, though it is inherent in organized governments, may only be exercised through legislation or through legislative delegation, usually to another governmental body, the power may be delegated as well to private corporations, such as public utilities, railroad and bridge companies, when they are promoting a valid public purpose. Such delegation has long been approved.

#### Public Use

Explicit in the just compensation clause is the requirement that the taking of private property be for a public use; the Court has long accepted the principle that one is deprived of his property in violation of this guarantee if a State takes the property for any reason other than a public use. The question whether a particular intended use is a public use is clearly a judicial one, but the Court has always insisted on a high degree of judicial deference to the legislative determination. “The role of the judiciary in determining whether that power is being exercised for a public purpose is an extremely narrow one.” When it is state

action being challenged under the Fourteenth Amendment, there is the additional factor of the Court's willingness to defer to the highest court of the State in resolving such an issue. As early as 1908, the Court was obligated to admit that notwithstanding its retention of the power of judicial review, "no case is recalled where this Court has condemned as a violation of the Fourteenth Amendment a taking upheld by the State court as a taking for public uses. . . ." However, in a 1946 case involving federal eminent domain power, *United States v. Causby*, 328 U.S. 256 (1946), the Court cast considerable doubt upon the power of courts to review the issue of public use. "We think that it is the function of Congress to decide what type of taking is for a public use and that the agency authorized to do the taking may do so to the full extent of its statutory authority." There is some suggestion that "the scope of the judicial power to determine what is a 'public use'" may be different as between Fifth and Fourteenth Amendment cases, with greater power in the latter type of cases than in the former, but it may well be that the case simply stands for the necessity for great judicial restraint. Once it is admitted or determined that the taking is for a public use and is within the granted authority, the necessity or expediency of the particular taking is exclusively in the legislature or the body to which the legislature has delegated the decision, and is not subject to judicial review.

At an earlier time, the factor of judicial review would have been vastly more important than it is now, inasmuch as the prevailing judicial view was



that the term "public use" was synonymous with "use by the public" and that if there was no duty upon the taker to permit the public as of right to use or enjoy the property taken, the taking was invalid. But this view was rejected some time ago. The modern conception of public use equates it with the police power in the furtherance of the public interest. No definition of the reach or limits of the power is possible, the Court has said, because such "definition is essentially the product of legislative determinations addressed to the purposes of government, purposes neither abstractly nor historically capable of complete definition. . . . Public safety, public health, morality, peace and quiet, law and order – these are some of the . . . traditional application[s] of the police power. . . ." Effectuation of these matters being within the authority of the legislature, the power to achieve them through the exercise of eminent domain is established. "For the power of eminent domain is merely the means to the end." Traditionally, eminent domain has been utilized to facilitate transportation, the supplying of water, and the like, but the use of the power to establish public parks, to preserve places of historic interest, and to promote beautification has substantial precedent.

The Supreme Court has approved generally the widespread use of the power of eminent domain by federal and state governments in conjunction with private companies to facilitate urban renewal, destruction of slums, erection of low-cost housing in place of deteriorated housing, and the promotion of

aesthetic values as well as economic ones. In *Berman v. Parker*, a unanimous Court observed: "The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled." For "public use," then, it may well be that "public interest" or "public welfare" is the more correct phrase. *Berman* was applied in *Hawaii Housing Auth. v. Midkiff*, upholding the Hawaii Land Reform Act as a "rational" effort to "correct deficiencies in the market determined by the state legislature to be attributable to land oligopoly." Direct transfer of land from lessors to lessees was permissible, the Court held, there being no requirement "that government possess and use property at some point during a taking." "The 'public use' requirement is . . . coterminous with the scope of a sovereign's police powers," the Court concluded

### **Amendment XIII**

#### **SECTION 1.**

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.



## SECTION 2.

Congress shall have power to enforce this article by appropriate legislation.

**42 U.S.C. § 1981 – Equal rights under the law – guarantees equal treatment regarding contract law, also the expectation of being treated equally and not held to onerous standards that an unprotected class is not.** (a) Statement of equal rights All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens . . . (b) “Make and enforce contracts” defined For purposes of this section, the term “make and enforce contracts” includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

**Amendment XIV**

## SECTION 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive

any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The just compensation provision of the Fifth Amendment did not apply to the States, and at first the contention that the due process clause of the Fourteenth Amendment afforded property owners the same measure of protection against the States as the Fifth Amendment did against the Federal Government was rejected. However, within a decade the Court rejected the opposing argument that the amount of compensation to be awarded in a state eminent domain case is solely a matter of local law. *On the contrary, the Court ruled, although a state "legislature may prescribe a form of procedure to be observed in the taking of private property for public use, . . . it is not due process of law if provision be not made for compensation. . . . The mere form of the proceeding instituted against the owner . . . cannot convert the process used into due process of law, if the necessary result be to deprive him of his property without compensation."*

#### Public Use

*Explicit in the just compensation clause is the requirement that the taking of private property be for a public use: the Court has long accepted the principle that one is deprived of his property in violation of this guarantee if a State takes the property for any reason other than a public use.*

*“When . . . [the] power [of eminent domain] is exercised it can only be done by giving the party whose property is taken or whose use and enjoyment of such property is interfered with, full and adequate compensation, not excessive or exorbitant, but just compensation.” The Fifth Amendment’s guarantee “that private property shall not be taken for a public use without just compensation was designed to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole.”*

*The just compensation required by the Constitution is that which constitutes “a full and perfect equivalent for the property taken.”*

Where property of a citizen has been mistakenly seized by the Government and it is converted into money which is invested, the owner is entitled in recovering compensation to an allowance for the use of his property.

*Interests in intangible as well as tangible property are subject to protection under the Taking Clause. Thus compensation must be paid for the taking of contract rights, patent rights, and trade secrets. So too, the franchise of a private corporation is property which cannot be taken for public use without compensation.*

**Regulatory Takings.** – *While it is established that government may take private property, with compensation, to promote the public interest, . . . “The distinguishing characteristic between eminent domain and*

the police power is that the former involves the taking of property because of its need for the public use while the latter involves the regulation of such property to prevent the use thereof in a manner that is detrimental to the public interest." But regulation may deprive an owner of most or all beneficial use of his property and may destroy the values of the property for the purposes to which it is suited. . . . *but the Court in 1922 established as a general principle that "if regulation goes too far it will be recognized as a taking."*

Sovereignty is a political concept that refers to dominant power or supreme authority. In a monarchy, supreme power resides in the "sovereign", or king. In modern democracies, sovereign power rests with the people and is exercised through representative bodies such as Congress or Parliament.

In its examination of the sources and application of the rule of sovereign immunity, the Court concluded that the rule "if not absolutely limited to cases in which the United States are made defendants by name, is not permitted to interfere with the judicial enforcement of the rights of plaintiff when the United States is not a defendant or a necessary party to the suit." Except, nevertheless, for an occasional case like *Kansas v. United States*, which held that a State cannot sue the United States, most of the cases involving sovereign immunity from suit since 1883 have been cases against officers, agencies, or corporations of the United States where the United States has not been named as a party defendant.



Suits Against Government Corporations. — The multiplication of government corporations during periods of war and depression has provided one motivation for limiting the doctrine of sovereign immunity. In *Keifer & Keifer v. RFC*, the Court held that the Government does not become a conduit of its immunity in suits against its agents or instrumentalities merely because they do its work. Nor does the creation of a government corporation confer upon it legal immunity. Whether Congress endows a public corporation with governmental immunity in a specific instance is a matter of ascertaining the congressional will. Moreover, it has been held that waivers of governmental immunity in the case of federal instrumentalities and corporations should be construed liberally.

In the *Larson* case, the Court not only refused to follow *Goltra v. Weeks*, 271 U.S. 536 (1926), but in effect overruled it. The *Goltra* case involved an attempt of the Government to repossess barges which it had leased under a contract reserving the right to repossess in certain circumstances. A suit to enjoin repossession was held not to be a suit against the United States on the ground that the actions were personal and in the nature of a trespass.

*Rickert Rice Mills v. Fontenot*, 297 U.S. 110 (1936); *Tennessee Power Co. v. TVA*, 306 U.S. 118 (1939) (holding that one threatened with direct and special injury by the act of an agent of the Government under a statute may challenge the constitutionality of the statute in a suit against the agent).



*Polyblank*, 205 U.S. 349, 353 (1907), is because “there can be no legal right as against the authority that makes the law on which the right depends.” See also *The Western Maid*, 257 U.S. 419, 433 (1922). As the Housing Act does not purport to authorize suits against the United States as such, the question is whether the Authority – which is clearly an agency of the United States – partakes of this sovereign immunity. The answer must be sought in the intention of the Congress. *Sloan Shipyards v. United States Fleet Corp.*, 258 U.S. 549, 570 (1922). *Federal Land Bank v. Priddy*, 295 U.S. 229, 231 (1935). This involves a consideration of the extent to which other Government-owned corporations have been held liable for their wrongful acts. 39 Atty. Gen. 559, 562 (1938).

*Lonergan v. United States*, 303 U.S. 33 (1938). Waivers of immunity must be express. *Library of Congress v. Shaw*, 461 U.S. 273 (1983) (Civil Rights Act provision that “the United States shall be liable for costs the same as a private person” insufficient to waive immunity from awards of interest). The result in *Shaw* was overturned by a specific waiver. Civil Rights Act of 1991, P.L. 102-166, 106 Stat. 1079, Sec. 113, amending 42 U.S.C. Sec. 2000e-16. Immunity was waived, with limitations, for contracts and takings claims in the Tucker Act, 28 U.S.C. Sec. 1346 (a)(2). Immunity of the United States for the negligence of its employees was waived, again with limitations, in the Federal Tort Claims Act. 28 U.S.C. Sec.

*1346(b)*. For recent waivers of sovereign immunity, see P.L. 94-574, Sec. 1, 90 Stat. 2721 (1976), amending 5 U.S.C. Sec. 702 (waiver for nonstatutory review in all cases save for suits for money damages); P.L. 87-748, Sec. 1(a), 76 Stat. 744 (1962), 28 U.S.C. Sec. 1361 (*giving district courts jurisdiction of mandamus actions to compel an officer or employee of the United States to perform a duty owed to plaintiff*); *Westfall Act*, 102 Stat. 4563, 28 U.S.C. Sec. 2679(d) (*torts of federal employees acting officially*).

*Supplement: [P. 747, add to n.863:]*

### **18 U.S.C. – referencing Patent**

**Sec. 1832. Theft of trade secrets** (a) Whoever, with intent to convert a trade secret, that is related to or included in a product that is produced for or placed in interstate or foreign commerce, to the economic benefit of anyone other than the owner thereof, and intending or knowing that the offense will, injure any owner of that trade secret, knowingly – (1) steals, or without authorization appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains such information; be fined under this title or imprisoned not more than 10 years, or both. (b) Any organization that commits any offense described in subsection (a) shall be fined not more than \$5,000,000.

**Federal Rules of Evidence, including but not limited to the following: Rule 102 – Rule 102.**  
Purpose

These rules should be construed so as to administer every proceeding fairly, eliminate unjustifiable expense and delay, and promote the development of evidence law, to the end of ascertaining the truth and securing a just determination. ***Preserving a Claim of Error.*** A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:

(1) if the ruling admits evidence, a party, on the record:

(A) timely objects or moves to strike; and

(B) states the specific ground, unless it was apparent from the context; or

(2) if the ruling excludes evidence, a party informs the court of its substance by an offer of proof, unless the substance was apparent from the context.

**Rule 201. Judicial Notice of Adjudicative Facts.**

(b) **Kinds of Facts That May Be Judicially Noticed.** The court may judicially notice a fact that is not subject to reasonable dispute because it:

(2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

**Rule 402. General Admissibility of Relevant Evidence**

Relevant evidence is admissible unless any of the following provides otherwise: the United States Constitution; a federal statute; these rules; or other rules prescribed by the Supreme Court. Irrelevant evidence is not admissible.

**Rule 902. Evidence that is Self-Authenticating.**

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted:

- (1) *Domestic Public Documents That Are Sealed and Signed.* A document that bears: (A) a seal.
- (2) *Domestic Public Documents That Are Not Sealed but Are Signed and Certified.* A document that bears no seal if: (A) it bears the signature of an officer or employee of an entity named in *Rule 902(1)(A)*; and
- (4) *Certified Copies of Public Records.* A copy of an official record – or a copy of a document that was recorded or filed in a public office as authorized by law – if the copy is certified as correct by: (A) the custodian or another person authorized to make the certification; or (B) a certificate that complies with *Rule 902(1), (2), or (3)*, a federal statute, or a rule prescribed by the Supreme Court.
- (8) *Acknowledged Documents.* A document accompanied by a certificate of



acknowledgment that is lawfully executed by a notary public or another officer who is authorized to take acknowledgments. Fed.R.Evid. Rules 901(a) and 104(b) allow evidence to be admitted on a prima facie showing of relevancy and authenticity.

***Section 205, 18 U.S.C. – Regarding Conflict of Interest by government employees. – , See Law Memoranda, Appellant Appendix p. 1-11***

***37 CFR 1.56. Duty to disclose information material to patentability, – See Law Memoranda, Appellant Appendix, p. 1-11***

***35 U.S.C. § 112, second paragraph – Regarding Indefiniteness in Claims, – See Law Memoranda. Appellant Appendix, p. 1-11***

**Code of Federal Regulations – 37 CFR Ch1**

**10.23(a) A practitioner shall not engage in disreputable or gross misconduct**

**10.23(b) A practitioner shall not (1) violate a Disciplinary Rule**

**10.23(b) A practitioner shall not (3) engage in illegal conduct involving moral turpitude**

**10.23(b) A practitioner shall not (4) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation**

10.23(b) A practitioner shall not (5) engage in conduct that is prejudicial to the administration of justice.

10.23(b) A practitioner shall not (6) engage in any other conduct that adversely affects the practitioner's fitness to practice before the Office.

10.23(b) A practitioner shall not (2) knowingly give false or misleading information or knowingly participate in a material way in giving false misleading information (ii) to the office or any employee of the office.

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#### STATEMENT OF THE CASE

1) The tainted claims #26-60 on which the U.S. Court of Appeals for the Federal Circuit ruled on are based on malfeasance practiced in the Patent and Trademark Office and **do not represent the claims #1-25 that were initially filed by the Appellant/Applicant in Patent Application No. 11003123, the ACCESSING ACCESSIBILITY PROCESS.** The Claims filed by the Inventor/Applicant including **original claims # 1-4 were illegally removed from the prosecution by Examiner ~~Jason B. [REDACTED]~~ under the direction of his supervisor(s) ~~Jeffrey Smith~~ and ~~[REDACTED]~~.** The Inventor's Claims were illegally removed and not allowed entry or amendments as early as **June 2008.**

2) This may be confirmed by entries on the record of prosecution at 06.25.2008 and 06.11.2009. **The Office especially wanted to remove the original filing claims #1-4 because they make no mention of Cyberspace – just basically teach the use of computers for conducting transactions online and the benefits.** As the Court has reached its findings regarding the tainted claims #26-60, the Appellant's comments referencing the Examiner ~~William Allen~~'s Answer and his Claim Rejections of Claims #26-60 are as follows :

a) The Appellant addresses collectively the comments of *Examiner William Allen* regarding "indefiniteness" of the Appellant's claims as being founded on the illegal removal of the Applicant's original disclosure without her authorization including *original claims*, and the Patent Office forcing the Appellant to rewrite new claims under extreme duress eight years after the filing of her original claims.

b) This was an illegal ploy on the part of the Office to circumvent **Federal Rules of Evidence** as it already had evidence in the form of authentic documents and affidavits that the Applicant was the true inventor of this process. This altered the Applicant's original disclosure or application setting up an illegal premise on Examiner ~~Allen~~ based his Claim Rejections. Further it exploited an exhausted 65 year old applicant who after 8 years and 5 or 6 different examiners was confused as to just how she should write her

claims so as to satisfy all their different demands.

c) Now the Office seeks to make its rulings final resulting in a 'catch 22' situation based on the errors by an over burdened applicant and its own malfeasance. The Internet is not an indefinite invention but the Office uses the vagueness of this rule to illegally take the intellectual property of the inventor. This is a violation of U.S. Constitution: Amendments IV, Amendment V. Amendment XIII, Amendment XIV, 35 U.S.C. para. 261. See Appellant's Specification pages 5-8 for Law Memoranda.

d) The Record shows Appeal Briefs 03/23/2009, 09/14/2009, 02/06/2012 and *all submissions of claims* by the Applicant to Examiners to be complete. It also shows that she was never given the opportunity after 06.25.2008 to amend claims – to get them into acceptable condition for publish.

NOT ONE OF THE SUBMISSIONS BY APPELLANT SHOW A REQUEST FOR CANCELLATION OR WITHDRAWAL OF HER ORIGINAL CLAIMS #1-4 AS ALLEGED BY EXAMINER JAMES [REDACTED] WHO UNDER HIS OWN VOLITION [OR UNDER THE DIRECTION OF HIS SUPERVISORS] ILLEGALLY REMOVED OR DISMANTLED THE ORIGINAL DISCLOSURE OF THE APPELLANT/APPLICANT. THIS IS BLATANT FRAUD PRACTICED BY THE PATENT OFFICE TO NULLIFY THE INVENTOR'S



CLAIMS TO THE INTERNET AND TO SET UP THE FINAL CLAIM REJECTIONS BY [REDACTED] AFTER FORCING HER TO REWRITE NEW CLAIMS, #26-60.

e) The Patent Office deliberately removed the original disclosure of the Applicant from the record by having EXAMINER J. [REDACTED] B. [REDACTED] REMOVED THE FOUR ORIGINAL CLAIMS #1-4 FROM THE RECORD AND FROM THE PATENT APPLICATION FOR NO JUSTIFIABLE REASON (5) CLAIMS #1-4 WERE DENIED ENTRY TO THE PROCEEDINGS and other questionable changes in original disclosure WITH NO JUSTIFIABLE REASON(S) GIVEN. See pages 13,14,15 of Pet. for Rehearing.

f) Enter Examiner [REDACTED] who then bases his rejections of her claims, reciting that the matter(s) raised in her claims were *new* and not those in the "*original disclosure*" which it (the Patent Office by way of Examiner [REDACTED] [REDACTED] m) had already illegally removed. This is blatant fraud – almost analogous to a 'bait and switch' con. One examiner removes valid claims, then the other comes in rejects substitute claims because they are not the valid ones! If these acts were being carried out by someone other than government employees they would be considered felonious.

Of the Examiner [REDACTED]'s rejections of the Appellant's claims #26-60, the majority mention *new matter not of the "original*

*disclosure*" in addition to indefiniteness. The Patent Office itself had already knowingly and deliberately removed by its illegal and dismantling of the Applicant's Patent Application without her authorization "the original disclosure" and added to the vagueness of "indefiniteness" would insure their regulatory "taking" of the property.

**This constitutes a violation under Amendment XIII which abolishes slavery and Amendment XIV of the United States Constitution. Section 1, Taking property without Due Process**

g) At no time did the Inventor authorize removal of her original claims.

h) The illegal actions of the Patent Office in illegally dismantling the original disclosure while there was every effort by the Patent Office and even the U.S. Congress to come up with rewriting patent laws so as to exclude awarding a patent to this worthwhile inventor is indicative of how aggressive the tactics have been to so call "protect" the Internet from its true inventor.

i) These illegal acts accomplished several things: 1) They removed the application from appeal for 2 more years, giving the new patent law – First To File over First To Invent time to become active and 2) stalling the patent application to set up an "indefiniteness" vagueness catch 22 to justify denial of a patent based on the 3) Examiner ~~XXXX~~'s other rejections are just as illegal as he also based

Rejections of Claims citing prior art searches (*twice*) both at the beginning and ending of the prosecutorial process, using questionable reference documents. Another blatant departure from the Manual of Patent Examining Procedure and violations of the Code of Federal Regulations which equates to perjury and obstruction to justice because it demonstrates an obvious tampering with evidence and facts. Such acts are deceptive, constitute fraud and malfeasance. They are flagrantly discriminatory as they deliberately bar the issuance of the patent of a valuable invention to the Inventor who is a minority.

**It violates Constitutional Amendments: IV, V, VII, XIII, XIV. Taking her property rights away based on a technicality which the Patent Office set up and which was upheld by the Appeals Court while completely dismissing all evidence that the Inventor is the true owner of the intellectual property.**

**2. The Use of Excessively Burdensome Qualification Standards** was the standard rule and not the exception in the handling of this patent application by the Patent Office. This is **discriminatory** and **illegal** and violates **anti-discrimination laws** and **Civil Rights**. The use of excessively burdensome qualification standards to deny, or that have the effect of denying minority applicants is discriminatory and illegal and violates antidiscrimination laws and Civil Rights: Imposition of More-Onerous Conditions, or Requirements or other more-onerous



terms, disparate treatment on minority applicants is explicitly prohibited **Onerous burdens were and still are being imposed on Applicant**, along with fraud and malfeasance with impunity: a) **Holding application for 8 years** while office made ad hoc rules to change patenting procedure and Congress sought to change patent laws, b) **removing claims of original disclosure** from the prosecution proceedings **without the permission** of the inventor, c) taking almost an entire year before acting on Petition for Supervisory Review after delaying application for 8 years and illegally removing its disclosure content, d) using **5 different examiners for one applicant**, e) the use of **4 patent office attorneys on brief to bar patent against 1 applicant** proceeding pro se, f) **dismissal of evidence that government employees had received and reviewed the "invention"** prior to the building of the Internet which was built on the template of the invention, g) **dismissal of authentic documents** showing the written conception of the ideas of the inventor and her conveyance to the government. The resultant application of the ideas of the invention and the **transformation of the telecom industry into the INTERNET is patentable**, h) The **continued suppression of evidence of the origin, time, and inventor of the process** and the time line of actual change within the telecom industry after application of the invention – in order to continue to deny the Inventor what is truly hers by rights and law. Further the *Dismissal and suppression of evidence in all cases constitute the violations of Federal Rules of Evidence.*



## Case Summary

1. There were no other businesses "similar" to Talk Shoppe Inc. Mention of "similar" businesses in the inventor's proposals merely recited future businesses that would copy similar to hers as she knew the success potential of the idea(s). She also cited databases in existence at the time which used the prior art form of telecommunications see **page 15** for example of how one had to dial into two or three "nets" just to use one service. Also the SBA published her business idea(s) prematurely without permission. She is the inventor, the method began with her. Application of her method changed a failing industry to a successful one.

2. Talk Shoppe was a singularly unique prototype that did not become a successful business and was phased out in 2001 because the inventor never received funding or support to launch it. The NSF shorted the company's intermediary services by engaging computer and phone companies directly to so as to increase personal computer use and consumption directly. The ideas were developed, written, and conveyed to the government by her not MCIMAIL, nor Merit Networks or IBM (the ANS Consortium formed by the NSF). The move by the NSF was good for those already in the field because the industry was failing.

3. Hartman had every right to expect that when she went to those 3 government agencies in **1990-1991** under both oral and written contracts with

them to expect that if they were not going to give her the funding that she requested (**a meager \$25,000-\$30,000**) to start her own telecommunications services company that the government employees would not give her intellectual property to others to profit from without awarding her or compensating her in any way. Ms. Hartman followed up with a letter to Frank Campo of the Small Business Administration – See **Appellant's Exhibits, p27, p27a, p28, p28b, p28C** submitted with Appellant Brief. Changes which resulted in the prior art and the telecom industry are demonstrated in the Appellant's **Exhibits 300 and 308**. These and other exhibits and documents presented in the **Appellant's Appendix, pages 1-199** as well as the **Appellant's Exhibits, pages 1-40**, support and validate she is indeed the inventor of the **INTERNET**. She essentially kept her part of the contract in that the ideas presented in her proposal were sound and did lead to highly evolving 'commercial engine'. **Facts** show that the government has not kept its end of the contract but continues to suppress and violate her rights. The government has not acknowledged her intellectual property nor has it compensated her for its loss. This is **unconstitutional** and constitutes an illegal "taking" of her intellectual property. **Violates Constitutional Amends. V, XIII, XIV**

### **Standard of Review**

**U.S. Constitution, Federal Rules of Evidence, Code of Federal Regulations United**

**States Code. See Statutes, and Additional Memoranda of Law available in Appellant Brief Appendix pages 1-11.**

Facts show government to be in possession of intellectual property of Inventor, but no facts show compensation to her by the government.

**The Patent Office has consistently violated the laws of the United States in barring the Inventor from her intellectual property rights and allowing others to prosper from proprietary and trade secrets that were stolen from her. This is an outrage and should not be allowed – not without compensation to the aggrieved party for her loss(es).**

Further the Patent and Trademark Office has and continues to ignore evidence and facts that Appellant's valid claims. National Science Foundation (NSF) "commercializes" or "privatizes" the preexisting telecom networks, Nov. 1990, **see pages 16-19 of Appellant Exhibits.** Its (NSF) announcements are made to the world via ANS **in May and June of 1991, see pages pages 1 and 6 of Appellant's Exhibits.** See proposals in Appellants Appendix pages 13-95 and Announcements by NSF via ANS. See Appellant's Exhibits pages **1, 6,9,18,19.** These announcements come on the heels of Hartman's correspondence with ~~Frank~~ ~~Sum-~~ of the SBA from September 1990 – **see pages 30-40 of Appellant Exhibits,** the same month the ANS was formed by the NSF



in anticipation of commissioning this consortium to do the research and development of ideas that had been submitted by Hartman through the innovation research programs – **See pages 13-96 of Appellant Appendix.** After Hartman wrote her certified letter Nov. 1990 to ████████ asking that her trade information not be shared **p.34-36, Appellant Exhibits** – then the NSF via ANS reportedly has some unnamed person make a public announcement regarding Privatization. This announcement is clearly marked as occurring in November 1990 in the minutes of the Science Committee Meeting, **pages 18 and 19 of the Appellant's Exhibits.** Also see **pages 20-29 of Appellant Exhibits** which show the complete change or Transformation into the present day Internet following **Commercialization.** A schematic drawing of today's Internet is more akin to Hartman's figure(s) see fig. 6 from her application on **page 20** which shows a unit or integrated structure to which more websites and computers via modems or phones can be added. This information is conveniently ignored in these patent application proceeding. **This is violation of Federal Rules of Evidence.**

The evidence supports that the previous telecom or internet structure of 1969-1989 was transformed after "Commercialization" in 1990. If the Internet stretched to the moon and back, Hartman would still be its inventor. Racism and politics should not be reasons to bar patents. The Patent Office is



using “indefiniteness” which really does not even fit this particular invention as the Appellant has already addressed before in her argument(s) before the Court(s) as this invention is limited by the need for hardware and software. However the Office uses “indefiniteness” as a code term for the largeness of the Internet and to bar a black female from riches – that is more money than they would like to see a Black disabled woman have. That is the reduction of this case in the vernacular. Up under the trillions of dollars and fancy excuses for denying a patent is the usual institutionalized racism, oppression, discrimination, and greed. Had her race been different, the probability is great that this scenario and injustice would not have occurred.

The Patent Office can encourage every form of technology that feeds on the internet in order to grow its billions as the former telecom structure would not enable these merchants to have billions of customers to whom to peddle their wares. Computers, phones, and the rest were there when Hartman invented the Internet, but now these merchants are able to make billions of dollars because of her contributions. Yet these companies do not want to pay royalties and therefore are lobbying congress, patent office and capitol hill in general to keep a “free internet”. A free Internet which is not really free as you still have to pay for their smartphones, tablets, computers, internet

provider services, etcetera to pay to access the internet.

The giant internet corporations cannot sell enough of their tech gadgets and there seems to be no objection to the trillions of dollars in ecommerce – just to paying the person who is probably the singularly most responsible person outside of ~~Vinton Cerf~~ and ~~Robert Kahn~~ who were instrumental in building the physical structure of the telecom network(s). This is not justice, it's discrimination and racism and abuse of an Inventor who helped the entire world and really does not deserve this turn-about of excessive greed, an abuse of power and the Patent Office judging whether or not she should be credited with her own invention. If for these or other reason(s), she should not receive a patent – then she is owed for the confiscation of her intellectual property.

Below is a list of the dates and changes to Patent Law, while the Patent and Trademark Office held the patent application #11003123 in abeyance for 8 years while the government including the patent office tried to find a way to legislate property rights away from this Inventor for her claims regarding the Internet – even though they knew her claims to be true:

Notable Dates for Patent Law Changes by Congress – 2008, 2009, and 2011.

Notable Dates for revisions within the Patent Office. Note 7 revisions within the period of

2004-2010 practically equaling in number the complete number of revisions since 1949.

First Edition, November 1949  
Second Edition, November 1953  
Third Edition, November 1961  
Fourth Edition, June 1979  
Fifth Edition, August 1983  
Sixth Edition, January 1995  
Seventh Edition, July 1998  
Eighth Edition, August 2001  
Revision 1, February 2003  
Revision 2, May 2004  
Revision 3, August 2005  
Revision 4, October 2005  
Revision 5, August 2006  
Revision 6, September 2007  
Revision 7, July 2008  
Revision 8, July 2010

**The Patent Office finally found a way to bar this patent, but it used and continues to use illegal means to do so. This ought not to be allowed in a lawful society – one which has the United States Constitution as its governance. Therefore the Petitioner files this Writ of Certiorari and hopes that the Court will grant her Petition.**

**The U.S. Court of Appeals for the Federal Circuit has failed to review the Violations of the Constitutional Rights of the Inventor by the Patent Office by its Denial of her Petition for a Rehearing. The Court's Opinion issued May 14, 2013. With all due respect, the Petitioner prays**

**that the Supreme Court will review this Matter as there is a denial of justice here and a corruption of Jurisprudence.**

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### **REASONS FOR GRANTING THE PETITION**

The Patent and Trademark Office is basing its case for "indefiniteness" under CFR in order to bar a patent by violating the constitutional rights of this Inventor. The Appeals Court has failed to review issues regarding malfeasance by the Patent Office which involve the illegal removal of the Inventor's *original* claims and forcing her to rewrite claims under duress, 8 years after her original filings. These are the claims that the Patent Office used to base its case of "indefiniteness" to build an illegal case to bar the patent. This is a carefully orchestrated plan to accomplish a Regulatory **Taking** of the Inventor's Intellectual Property without the Federal Government declaring Eminent Domain. Thus no compensation has to be paid to the Inventor.

Facts and history show that the Inventor presented her proprietary information to the government in exchange for contracting opportunities. The contracting opportunities and funding to her was denied. However the innovative ideas which she presented for upgrading the prior telecom network(s) and improving the United States economy were kept and used by the federal government – acting primarily through the National Science Foundation. The National



Science Foundation commissioned various agencies of the telecom network(s) to restructure the what had previously been referred to as the Internet or Internetting Projects. This restructuring or **Commercialization transformed the network(s)**. From this emerged what the former Vice-President referred to as the **Information Superhighway** which morphed into today's INTERNET. This structure made its debut around 1994-1995, and was based on the template submitted by the inventor **Dorothy M. Hartman** to the Federal Government in 3 separate proposals between **1990-1991**.

The modern day Internet which debuted after **1990** and is a different form from the Internet that existed from 1969-1989 is the result of contributions of this inventor. The modern day Internet and the Industry that has grown up around it has brought trillions of dollars into the American economy. Thus the Patent and Trademark Office broke laws including the violations of the Constitutional rights of this woman who is African-American and disabled to prevent her owning the Patent to it. She either should have the patent which is legally hers by right as a legal patent application prosecution would have awarded her the patent or she should be compensated for her loss(es) of her property. Even intellectual property is sacrosanct under the United States Constitution – no matter how valuable the Invention. **The defining borders of her intellectual property are the borders of the country as she filed only for domestic application – not foreign.**

The Federal Government does not limit sales on **mobile phones, tablets, search engine searches, social networks,** and other **ecommerce ventures** which earn billions of dollars because of online business and the creative vision and ideas of this Inventor so why should it take away or limit the rights of the Inventor who helped make it all possible. Even the Federal Government, through agencies like the Patent and Trademark Office should not be above its own laws and the **United States Constitution.** Injustice of this magnitude should not be allowed to stand.

This is not a National Security issue but rather an illegal political maneuver designed to secure the Internet for those corporations who have already become very rich because of the contributions of this Inventor but who do not want to pay her royalties – for the powerful and the Greedy. The Government and the Military have always and will always be separate as their rules and regulations will apply no matter who participates in the private sector of the Internet. So this is about greed, domination, and a refusal to compensate the Inventor for her property rights. It sets a dangerous precedent for the government to break its own laws and have this corruption of jurisprudence upheld by the High Court. Therefore this matter should be reviewed by the Highest Court in the Land.

1. To review the disregard for the constitutional rights of a disadvantaged minority. The 13th Amendment plus others abolish slavery and

protect the property rights of African-Americans.

2. The Appeals Courts are charged with duties and obligations to protect the rights of individuals from abuses by powerful governmental authorities and agencies and therefore allegations of constitutional rights should not be ignored.
3. The Constitution and adherence to its laws is the only thing that prevents our Nation from descending into lawlessness, disorder, and anarchy – therefore its protections – *EQUAL PROTECTIONS* – as it states under the law should be sacrosanct and should be protected at all costs even from those in authority that would abuse it.
4. Administration of the law should be color blind, and applied equally regardless of skin – color, gender, creed, ethnicity, race, handicap, and religion.
5. This Inventor has given the nation her best and her best is very good. She is the inventor of one of the greatest inventions in the modern and civilized world and she should be credited and compensated – not abused and discriminated against.
6. The forefathers of this country were ordinary men of extraordinary valor and honor. They knew what they were doing when the Bill of Rights and later the Constitution was drafted. Later still they added the 13th and 14th Amendments – giving all slaves the same

rights as other free persons. These and other amendments lay the foundation to protect the smaller, more vulnerable person from the tyranny of government. These laws should not be disregarded in the business of the government.

7. The Constitution, an esteemed and lofty document drafted by ordinary men – serves as a foundation for our laws which have led to the building of a successful nation.
8. The tenets of the Constitution should be protected and not used as a “double standard” to be applied only if you are of a certain racial or gender type and not be applied if you are of another.
9. No where is constitutional law more important to be applied as in this case where the federal government has used its might to steal the intellectual property rights of a minority woman to one of the world’s greatest inventions.
10. The Inventor who does not deserve this and has contributed invention(s) that have lifted a nation – indeed changed the way the entire world does business, while she herself has suffered terribly because of prejudice and injustice should be protected from such abuse and this wrong righted immediately.
11. The government’s surveillance, monitoring, uses of the Internet for global trades and its other government business and military



operations have always been separate from the private sector of the Internet.

12. The rights of the Inventor apply only to the Private sector, and therefore her rights should be the same as any other inventor's with the rights to any other invention. Her invention referring to that part occurring after 1990 and *Commercialization* which transformed the former telecom networks into the Internet of today.
13. The rights of the Inventor should not be affected by the acts carried out by various government agencies regarding the use(s) of her intellectual property *as she is not responsible for what the federal government does*. It knew in 1990 that she was the owner of the property. It also was provided proof in the form of affidavits with the patent application filing in 2004.
14. The facts show that the Federal Government has been in possession of the Inventor's property for 23 years. It cannot and should not be able to prevent her compensation simply because the invention has grown and prospered as she disclosed to them and predicted in her writings when she presented her proposals back in 1990-1991. This is why the government adopted her ideas. It just skipped over her and took her ideas directly to phone and computer networks to set it up. The results have been a tremendous success in an Internet that now exists all over the world and is called the World Wide Web.

15. The Federal Government has had ample opportunity over the past 23 years to “do right” by the inventor but has failed to do so – and for these and other reasons stated in this Petition – the Petitioner prays that the Supreme Court will grant her Petition.
  - a) It could have granted her the \$25,000-\$35,000 grant she requested to set up her online business in 1990-1991
  - b) It could have offered her acknowledgment and compensation in 2003 when she contacted the Department of Commerce regarding her intellectual property rights.
  - c) It could have issued a Patent in 2004 when the Internet had only begun to take off with users in the 10’s of thousands
  - d) At anytime over the past 23 years, it could have declared Eminent Domain and paid the Inventor suitable and appropriate compensation.
16. This will prevent a dangerous precedent from being set that government agencies with the backing of the High Courts can carry out abuses of power and illegal takings – in other words carry out tyranny against individuals or citizens by setting political agendas that may be expedient for the government but violate Constitutional Rights and rights to Due Process such as the no Declaration of Eminent Domain but taking

the patent rights of the individual through the corruption of Constitutional Laws and other jurisprudence. **This constitutes an act of tyranny by the government towards this individual.**

17. For this as well as the aforementioned reasons, this case should be heard by the Supreme Court and the Petitioner prays that the Court will grant her Petition.

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### CONCLUSION

This invention is a Business Method which teaches how to use technology more efficiently. The method consists of the use of a computer being used to create a market in cyberspace where goods, information, and data can be transacted – essentially taking business ‘online’. This was a *new* method when introduced to the federal government by this inventor in 1990 – the first proposal Sealed and Stamped by a Notary on March 12, 1990. See appendix. The Method essentially ‘marries’ commerce to technology in what has become one of the most successful inventions of the 20th century. The claims are not indefinite as they clearly describe the steps of the method, the equipment which is tied to the method, or a description of how, why, where, or by whom the method can be used.

The federal government failed to provide funding to support the small business startup for the inventor – but then proceeded to use the process or steps she

described to apply them to the telecom structure as a whole. The previously existing telecom structure was actually flailing – some parts already having failed and were being phased out when Hartman introduced her concepts in 1990 of how to upgrade and improve the existing telecom structure(s) and *improve the economy*.

Her ideas worked producing the now famous and infamous INTERNET. The government which stole the inventor's ideas is now failing to acknowledge or compensate her.

The Patent Office in an illegal taking of the Inventor's intellectual property by employing illegal means in which to bar her a patent to the Accessing Accessibility Process that when reduced to practice forms the Internet – is in violation of the constitutional rights of the Inventor.

The Patent Office illegally removed the Inventor's original claims (1-4) and later claims (5-25) without explanation or justification forcing her to rewrite claims 26-60 – 8 years after her filing. Her original claims shown in Appendix make no mention of cyberspace because cyberspace is latent in computers.

The Patent Office forced the a 65-year-old exhausted inventor after 8 years of patent prosecution to rewrite claims under highly distressful conditions. At the mention of "cyberspace", the patent office seized upon this to try to establish a bar of the patent as indefinite because cyberspace is virtual and therefore potentially infinite.



These are false presumptions and the indefiniteness ruled by the Patent Office and supported by the Court of Appeals as being affirmed is not a valid ruling. The claims produced were produced as a result of malfeasance by the patent office. Even without that it is invalid. If that were the case – none of the many video games such as Dungeons and Dragons and any other video game as they are played in Cyberspace should not be patentable because of the use of cyberspace or virtual space for the game so accordingly it would be indefinite.

The Patent and Trademark Office conducted an illegal Taking of the intellectual property and used breaking laws and malfeasance as a way of doing so. The Court of Appeals allowed this by refusing to look at whether or not the Office violated the Constitutional Rights of the Appellant/Petitioner – and by refusing to rehear the matter of violations in federal rules of evidence by the Patent Office.

The Inventor's ideas saved a dying industry. The ARPANET which is the structure that the Internet was based on phased out in 1989. The NSFNET (the National Science Foundation Net) was simply a holding place for what was left of the structure of the original telecom (started by ARPA). Hartman's ideas were exactly what were needed and came at a most critical time in 1990. Once her ideas of Commercialization and the method or technique(s) which she employed for using telecommunications – see Appendix and Exhibits) – the entire industry was transformed and revitalized.

Her ideas planted the seeds for Ecommerce, when businesses and consumers started going online and an entire industry was built on computers, computer chips, Internet service providers, phones, modems, etc. This was the boom of the 1990's and Hartman's ideas on commercializing an underutilized telecommunications industry was the creative force behind the success and the evolution of the new internet which debuted around 1995.

The problem is her ideas became the ideas of the government employees with whom she had shared her intellectual property as she was dismissed as evidenced by the denial letters and the correspondence between her and the various employees of the federal government especially the Small Business Administration which she alleges was the first to betray the contract and trust. She believes too that the SBA especially ~~Frank G. ...~~ and perhaps other agencies as they all reported directly to the National Science Foundation – were the first to leak her ideas to the NSF which then used her ideas as a Template to revamp the already existing industry without crediting her or compensating her.

The Template of her Business Model was used by the federal government to create the Information Superhighway which it was first called when it debuted. Eventually it just came to be called by one name, the INTERNET. Unlike the prior Internet which existed from about 1969-1989, which was commonly referred to as the Internetting projects as it consisted of multi "nets" adjunct to a common backbone – the ARPANET.

Hartman's ideas put telecommunications on the map with the formation of the Information Super Highway which evolved into today's Internet and is responsible for the now billions of people who are able to access the internet. You will see in the appendix that the Internet of 1987 (the ARPANET phased out in 1989) could not have accommodated the billions of users online today.

Hartman's model conceived on her ideas consists of a total unit (integrated structure) more similar to the diagram of her figure #7 drawing from her Patent Application #11003123. In this structure computers interact with each other through modems via telephone wires, cable, or wireless networks. The computers all share cyberspace in which the interactions (transactions). These were ideas and concepts shared by Hartman. Creativity and technology both drive the Internet – not technology alone. Phones, tablets, and other tech gadgets may give access to the Internet but the Internet itself was devised from the creativity of Hartman.

The Department of Commerce, the parent of the Patent Office and other government agencies which I name as interested parties to this case are now guilty of the theft of the intellectual property of the Inventor. She is legally due a patent – but if the highest court in the land finds that the Patent Office acted properly in barring a patent and therefore ownership of the Inventor's rights to Patent – then legal compensation is due as the acts by the Patent Office constitute an abuse of power and tyranny



directed towards a vulnerable financially disadvantaged minority.

The Inventor suffers from a functional nervous disorder since young adulthood. After suffering a near fatal bout of Hong Kong Flu which caused abscesses in her inner ear – her nervous system has been severely compromised. That and cardiovascular problems make it necessary for her to be under the care of a physician and her lifestyle is reclusive. However, she is of sound mind and she is well enough to administrate her own affairs. Not to mention any names – but a scientist comes to mind who is so impaired as only to be able to communicate with a voice synthesizer yet there is no way that he would have been treated in the manner in which this inventor finds herself treated.

This when her ideas are used all over the world for many different purposes and by many different people. This is an outrage and a fluke and could only be created by a 400 year history of slavery and treating African-Americans as second class citizens or something less. This is an injustice that should be corrected by any means possible and with the utmost swiftness as it has been allowed to occur for too long.

There have been blatant violations in rules of Evidence – The Office has suppressed and ignored Sealed (notarized documents), certified documents, signed and attested documents by government employees as well as other blatant violations in canons of law by this Patent and Trademark Office to rob



this inventor of her invention. Hundreds may have participated in the *commercialization* which led to a different internet over the old one, but it is still this inventor who conceived it and should be shown the same respect and rights as any other inventor. Hard evidence was ignored by the Patent Office while it fraudulently altered and dismantled the Appellant's patent application as it denied her application based on claims produced by malfeasance and abuse of the Manual for Patent Examination Procedures and The Code of Federal Regulations by Examiners J. B. [REDACTED] and [REDACTED] under Supervisors [REDACTED] by [REDACTED] Smith and [REDACTED] [REDACTED]. This is unlawful and unconstitutional. Examples of Hard Evidence deliberately overlooked:

I. Inventor's Proposal Submitted to Small Business Administration March 1990. Supported by Notary Seal, dated March 12, 1990 on page 25. Description of business in "telecommunications services" pages 3-5. Appendix, pages 13-38. II. Inventor's Proposal submitted to Pa. Dept. of Commerce 1990, Abstract on page 44 Apx., discusses "commercialization of telecommunications as a product". See appendix, pages 39-69. III. Inventor's Proposal submitted to the Benjamin Franklin Partnership Program, March 30, 1991, See appendix p.76 which discusses the process of upgrading already existing technologies – increasing interaction or access of businesses and consumers with each other. See appendix, pages 69-95. IV. The Appellee ignores evidence listed in its own Supplemental Appendix, p.85-86 of documents and

affidavits submitted by Applicant in her December 2004 filing. Names: ~~R. L. ...~~, ~~Frank ...~~ and ~~W. ...~~. These were filed on computer Disk with application in December 2004 – see Appellant Appendix p.99. Patent Office also has correspondence of other federal employees with inventor – ~~W. ...~~, ~~S. ...~~, and ~~A. ...~~.

In its Opinion, the APPEALS COURT alluded that the Internet that existed between 1967 and 1989 is the same “Internet” which came into being after 1990 and the introduction of COMMERCIALIZATION. The facts support that the Court may have erred in its interpretation. History illustrates that is not true. The Internet of today is the result of Hartman’s ideas of Commercialization being applied by the ANS to change the structure of the preexisting art. The INTERNET of today did not exist before 1990.

See pages in Appellant’s Exhibits, Exhibits p.14, p.15, of the core model “ARPANET” with smaller nets adjunct to it. See page 15 of Appellant’s Petition for Rehearing to view how more than one net would be dialed into for one database (Dow Jones 1987). The contents of the Appellant Appendix p. 1-199 and the Appellant Exhibits, p. 1-40 support these facts. This is a unique invention where one or many users can simultaneously be online at any one time and can interact with each other or interact independently with singular or multiple websites. This differs

distinctly from the prior internet or "internetting projects".

See the page(s) of APPELLANT APPENDIX example of internet use before 1990 and how the total integration into one Internet by Hartman's design, being accessible to all users simultaneously changed the telecom structure resulting in the new INTERNET which allows billions to be online simultaneously. Hartman's contributions were groundbreaking and made the difference between a telecom industry that was flailing in the 1980's to one that turned around and boomed in the 1990's. In the earlier prior art example the client has to dial into more than one net to accomplish the desired task. See TYMNET, DOWNET, and TELENET in the Dow Jones Example, page 15 of the Petition for Rehearing.

The Patent Office and the Federal Government would like to convey to the world that Hartman's contributions were nothing – when indeed they were everything. Technology and the Nasdaq are huge today because of the billions of people online. The success of mobile phones, tablets, computers, social networks, and ecommerce is due to the large amounts of people being online and that is due to Hartman's contributions.

The federal government has no problem with the Internet giants and corporations making billions of dollars. The more they sell or cater to, the better. However there are political problems and constitutional violations when it comes to the Inventor who



made the financial success of the telecom industry possible. The Inventor should be compensated and paid her millions or billions of dollars of compensation as it is no less than she deserves. There is something terribly wrong here when in 2013, 150 years after the Emancipation Proclamation – there is still a problem of double standards of the application of laws especially when it relates to an invention as valuable as the INTERNET.

There is no way that the Inventor or at the very least a co-inventor of one of the greatest inventions of the 20th and perhaps 21st Century which has changed forever the way we do business and changed the lives of people on the Earth should be left impoverished and her reputation tarnished and slandered. This is an injustice of terrible proportions and consequences which may not even be realized except by future generations. This injustice has done irreparable damages to the inventor whose life has been spent being victimized by racists, haters, and oppressors while those many of whom had little to nothing to do with the production of today's INTERNET have prospered enormously enjoying all of the benefits that entails. The Inventor is chronically ill which is something she has no control over – and has had to spend more time and effort trying to defend herself from the tyranny of the government's actions and others who would oppress her – rather than the enjoyment of the fruits of her creativity and labor.



These acts by the Patent and Trademark Office using illegal means to justify barring a patent which by legal means would be awarded constitute an illegal **Taking** and violation of the **Constitutional and Civil Rights of the Inventor** -. These acts also create **Theft** of the intellectual property by other governmental agencies who received the property from the Inventor, reviewed and reported the property to the National Science Foundation and others but broke contract(s) with the proposed contractor. They also shared her proprietary or trade secrets with others for their profit (the profit of others), but failed to compensate her. These are further violations of **42 U.S.C. § 1981 - equal rights under contract law** and **U.S. code 18 - referencing Patent Sec. 1832. Theft of trade secrets.**

This has resulted in terrible losse(s) to her, some of which she may be able to stem. Some, perhaps not. Her vulnerability as she is reclusive and her immediate family gone but nevertheless she contributed 24 years of a *science* teaching career, 6 years of other types of employment, development of the Internet, and inventions in child safety. There is no way that she should have to live the senior years of her life impoverished and fighting off hate. This is an abomination - an act of tyranny by her own government and a corruption of Justice. The Inventor should be made whole and by the quickest manner that the SUPREME COURT can expedite. All that she ever asked was acknowledgment and compensation. She

was essentially forced to file a patent application after the government continued to ignore her after 1990 – and though a patent is warranted, yet the Patent and Trademark Office fails to deliver even that or compensate her in anyway. This is a violation of the Inventor's Constitutional and Civil Rights and she should not be allowed even under the guise of the illegal bar of a patent application.

Inventions are invented only once. After that they are simply copied or replicated. History, documentation, and evidence has shown Ms. Hartman to be the innovator of these ideas which have led to what some regard as the greatest invention of the 20th century. Nothing and no one has come forth to dispute her claims. Ms. Hartman who is a patriot and has served her country in many ways – not the least of which is an invention that circulates trillions of dollars into the American economy – has suffered enormous damages. She invented this process when she was just 46 years old. She is now 69 years old. Justice demands that she be made whole with the swiftest of actions. Therefore she prays that the Nation's highest Court will consider her plight and Grant her petition in the hope that Justice will prevail.<sup>1</sup>

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<sup>1</sup> Supplementary Brief filed by Petitioner, July 8, 2013; Supplementary Brief filed by Petitioner, August 27, 2013.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

MS. DOROTHY M. HARTMAN

Pro Se

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