

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.

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) ~~Jeffery 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~~'s Answer and his Claim Rejections of Claims #26-60 are as follows :

a) The Appellant addresses collectively the comments of *Examiner William* 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 J. [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]) 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 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 ~~Fred Gann~~ 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.

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