

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

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UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

**David W. R. Brown *et al.*,**

**Plaintiff,**

**v.**

**Case Number: 8:03-cv-2501-T-23EAJ**

**United States Department of Commerce,  
United States Department of Justice,  
United States Department of the Treasury,  
United States General Accounting Office,  
United States Office of Management and Budget,  
United States Patent and Trademark Office,  
Galaxy Scientific Corporation (A Sub-contractor of the USPTO),**

**Defendants.**

**Plaintiff demands oral arguments.**

**Plaintiff demands a court reporter at all  
proceedings, including in-chambers.**

**Plaintiff demands that the Court make findings  
of fact and conclusions of law.**

/

**AMENDED COMPLAINT**

1. The Plaintiff is:

David W. R. Brown, et al.

1805 Burlington Cir

Sun City Center FL 33573-5219

Phone: (813) 634-6048

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2. The Defendants are:

United States Department of Commerce (Commerce)

14th & Constitution Av NW

Washington DC 20230-0001

United States Department of Justice (Justice)

950 Pennsylvania Av NW

Washington DC 20530-0001

United States Department of the Treasury (Treasury)

1500 Pennsylvania Av NW

Washington, D.C. 20220-0001

United States General Accounting Office (GAO)

441 G St NW

Washington DC 20548-0001

United States Office of Management and Budget (OMB)

725 17th St NW

Washington DC 20503-0001

United States Patent and Trademark Office (USPTO)

PO Box 15667

Arlington VA 22215-0667

Galaxy Scientific Corporation (Galaxy)

[A Sub-contractor of the U.S. Patent and Trademark Office]

3120 Fire Rd

Egg Harbor Township NJ 08234-5886

## **JURISDICTION**

3. This Court has jurisdiction over this action under:

28 USC 1331 (federal question)

5 USC (a)(4)(b) (venue)

## **VENUE**

4. This is a multi-District lawsuit: DC, Florida, New Jersey and Virginia. Venue is based on 5 USC (a)(4)(b) of the Freedom of Information Act (FOIA) which permits filing in the District of the Plaintiff. A significant number of the Complaints are connected with FOIA related matters. A FOIA lawsuit must be brought against an Agency - not the United States or an individual. A FOIA lawsuit cannot be a jury trial.

5. All of the Complaints are connected in one way or another with USPTO Form PTO/SB/65. In the interests of judicial efficiency and the Plaintiff's *pro se* status, Plaintiff demands that all of the Complaints intertwined with the subject matter of this lawsuit be considered concurrently and in the Tampa Division venue. Litigation of these matters in any other venue would be so burdensome to Plaintiff, both financially and physically, as to deny him his rights to a fair trial. If the venue and concurrency conditions cannot be accommodated by the Court, then Plaintiff demands a jury trial whenever and wherever possible.

## **CLASS ACTION ALLEGATIONS**

Local Rule 4.04(a) and FRCP Rules 23(a) and (b)

6. The Named Plaintiff, David W. R. Brown, brings this action on his own behalf and on behalf of all other persons similarly situated as a class action pursuant to Rule 23(a) and (b) of the Federal rules of Civil Procedure.

7. The exact number of members of the Class is not known but it would be at least five-hundred individuals.

8. There is a well-defined community of interest in the questions of law and fact involved in this action and affecting the parties. The commonality of the class members are two-fold. The first is that they are inventors who used Patent Office Form PTO/SB/65, or a narrative substitute, and were denied their petition to pay an overdue fine and have their patents reinstated. The second commonality is that the Defendants have violated the same statutes, invaded privacy and delayed justice against them.

9. All Complaints are connected in some way to USPTO Form PTO/SB/65.

10. The claims of the named Plaintiff are typical of the claims of the Class, in that the claims of all members of the Class, including the named Plaintiff, depend on a showing of the acts and/or omissions of Defendants arising out of the content and processing of Form PTO/SB/65 and subsequent actions and inactions by the Defendants.

11. Some of the complaints are specific to the named Plaintiff. However, all of these violations occurred as he sought to collect evidence for the lawsuit on behalf of himself and the other members of the Plaintiff Class. And it should be noted that the other individual members of the Plaintiff Class have also been ill-treated in similar ways as they dealt with the Defendants following their own use of Form PTO/SB/65.

12. Relative to the matters of this suit, the Defendants have violated a number of laws including: Paperwork Reduction Act, Privacy Act, Code of Federal Regulations, U.S. Criminal Code, Freedom of Information Act, Internal Revenue Code, etc.

13. No conflict exists between the Named Plaintiff and the other members of the Class with respect to this action or the claims for relief.

14. The named Plaintiff will fairly protect the interests of the other Class members and has no interests antagonistic to those of other Class members.

15. The named Plaintiff is committed to the vigorous prosecution of this action. He is keenly interested in holding the Patent Office and the other Defendants accountable for their actions in order to rekindle the part that the lone inventor can play in the future of innovation in America!

16. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all members is impracticable. The prosecution of separate actions by individual class members would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for the Defendants.

17. Adjudication with respect to the individual Class members as a practical matter would be dispositive of the interests of the other members not parties to the adjudications or would substantially impair or impede their ability to protect their interests.

18. The Defendants, particularly Commerce, OMB, USPTO and Galaxy, have been given numerous opportunities to right their wrongs, but refused.

19. The Named Plaintiff envisions two difficulties in the management of this action as a class action. First is his *pro se* status. The Supreme Court (*Haines v. Kerner*, 404 U.S. 519 (1972)) and the lower courts have held that Courts are to show leniency towards *pro se* litigants. The Plaintiff will accept as much help as the Court will give.

20. The second concern is the demonstrated apathy of the Defendants for all matters of this lawsuit. For example, the failure to respond to over one-hundred phone calls. This apathy was primarily by government lawyers. Plaintiff has the feeling that these same

civil servants will continue to exhibit this same adversarial behavior.

## COMPLAINTS

21. The Supreme Court unanimously held in *Haines v. Kerner*, 404 U.S. 519 (1972) that a *pro se* complaint, "however inartfully pleaded," must be held to "less stringent standards than formal pleadings drafted by lawyers."

**Complaint 1:** Causes of Action include Fraud and Negligence.

22. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid the falsification of documents by federal employees. Section 18 USC 1341 of the U.S. Criminal Code forbids mail fraud. Section 5 USC 552(1)(6)(A)(i) of the FOIA requires a response within twenty days. Section 37 CFR 102.10(a) of USPTO regulations allow an individual 30 days from the date on a FOIA response to appeal.

23. Plaintiff's FOIA Request 01-105 was received by the USPTO on February 13, 2001. The USPTO response letter was stamped March 13, 2001, which was one day within the allowed response time.

24. The postage meter stamp on the envelope was March 19 - four business days later. The envelope had a non-standard address covered by a non-standard transparent tape with rounded corners. It was sent to Plaintiff via the U.S. Postal Service.

25. The USPTO's FOIA Officer forged the March 13 date on the letter.

26. The USPTO's FOIA Officer committed mail fraud.

27. USPTO was negligent for failing to respond to a FOIA request within 20 days.

28. Justice was negligent for failing to oversee the USPTO's FOIA activities.

29. The forged date on the letter denied Plaintiff adequate time to prepare an appeal.

30. These intentional and willful acts caused Plaintiff monetary damages, mental

distress, denial of justice and denial of due process.

**Complaint 2:** Causes of Action include Negligence and Conspiracy.

31. Plaintiff's FOIA Request 03-247 asked for "all documents concerning disciplinary and similar actions based on violations against [Plaintiff]...". USPTO denied the request citing FOIA Exemptions 6 and 7-C.

32. Plaintiff appealed, citing an abundance of case law, copied from the Attorney General's website, that the public's "need-to-know" about the criminal behavior of civil servants far outweighs any privacy rights which they may have.

33. The appeal was denied with a conclusory and unsupported single sentence.

34. Following March 19, 2001, the FOIA Officer was relieved of her FOIA duties and reassigned to other tasks. The disciplinary documents sought included hers, i.e., those of the FOIA staff's *ex-supervisor*.

35. USPTO's FOIA staff conspired to withhold releasable documents from Plaintiff.

36. USPTO added to the Court's burden by withholding releasable documents.

37. Justice was negligent for failing to oversee the USPTO's FOIA activities.

38. These intentional and willful acts caused Plaintiff monetary damages, mental distress, invasion of privacy, denial of justice and denial of due process.

**Complaint 3:** Causes of Action includes Negligence.

39. Section 5 CFR XVI 2635.101(b)(8) requires impartiality towards citizens. USPTO guidelines stress that employees are to be "responsive to the needs of our customers."

40. Between July 11 and October 8, 2003 Plaintiff placed over 100 telephone calls to the USPTO's FOIA Officer. Not a single call was ever returned.

41. USPTO's FOIA Officer was negligent for failing to act impartially.

42. USPTO's FOIA Officer disobeyed agency guidelines.

43. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 4:** Causes of Action include Conspiracy and Negligence.

44. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid the falsification of documents by federal employees. Section 5 CFR XVI 2635.101(b)(8) requires impartiality towards citizens. Section 5 USC 552(1)(6)(A)(ii) of the FOIA requires a response within twenty days.

45. On November 27, 2000 Plaintiff appealed Item 7 of USPTO FOIA response 00-207. Over three years have passed and the USPTO has yet to provide a formal response. During the three years, Plaintiff has reminded the FOIA staff over twenty times that they have not yet formally responded.

46. USPTO "cooked" their annual FOIA report to Congress citing 106 days as the "maximum FOIA response time" instead of the actual 400 days.

47. USPTO's FOIA Officer was negligent for failing to act impartially.

48. USPTO was negligent for failing to respond to a FOIA request within 20 days.

49. USPTO/Commerce conspired to file a false report for Congress.

50. Justice was negligent for failing to oversee the USPTO's FOIA activities.

51. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 5:** Causes of Action include Fraud and Negligence.

52. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid false and fraudulent statements by federal employees.



53. USPTO knowingly quoted false (out-of-date) legal citations in FOIA responses and appeals to Plaintiff, particularly in the area of FOIA fee waiving.

54. Justice was negligent for failing to oversee the USPTO's FOIA activities.

55. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 6:** Causes of Action include possible Negligence.

56. USPTO withheld documents requested (02-307) under the FOIA and the PA from Plaintiff by claiming 5 USC 552(b)(5) - privileged documents.

57. Court review of the withheld documents is demanded as a Remedy.

58. If the Court determines that any of the documents are releasable, then USPTO's withholding of them has caused Plaintiff monetary damages, mental distress, invasion of privacy, denial of justice and denial of due process.

**Complaint 7:** Causes of Action include Conspiracy, Conversion, Fraud and Negligence.

59. As part of the approval process spelled out in the Paperwork Reduction Act (PRA) and the Privacy Act (PA) for PTO/SB/65 to be used for another three years, USPTO published the Approval Request in the Federal Register (FR) and solicited comments from the general public. Twenty-eight individuals contributed over sixty comments.

60. Section 44 USC 3507(d)(2) of the PRA requires USPTO/Galaxy/OMB to consider FR comments. USPTO/Galaxy/OMB failed to consider a number of the FR comments.

61. USPTO/Galaxy sent an intentionally fraudulent Approval Request to OMB in violation of 44 USC 3507(d)(2).

62. OMB was aware that the concerns of a number of the FR commenters were not addressed in the Approval Request.

63. The OMB's approval of PTO/SB/65 which ignored a number of the FR comments was negligent and without merit and resulted in a flawed PTO/SB/65.

64. USPTO/Galaxy/OMB conspired to perpetuate a flawed PTO/SB/65.

65. Plaintiff lost "substantial property rights" by using a flawed PTO/SB/65.

66. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 8:** Causes of Action include Conspiracy, Conversion, Fraud and Negligence.

67. All USPTO forms which collect information must have *practical utility*:

44 USC 3506(c)(3)(A) & 44 USC 3502(11) of the Paperwork Reduction Act (PRA).

68. USPTO Form PTO/SB/65 does not have *practical utility*. Neither the GS-15, who processed PTO/SB/65 from 1996 to 1999, nor the GS-7, who has processed it since, had "the capability to process such information in a timely and useful fashion.", which is the PRA's definition of *practical utility*.

69. USPTO/Galaxy/OMB were aware that PTO/SB/65 lacked *practical utility*.

70. USPTO/Galaxy sent an intentionally fraudulent Approval Request to OMB.

71. OMB's approval of PTO/SB/65 was negligent and without merit.

72. USPTO/Galaxy/OMB conspired to perpetuate a flawed PTO/SB/65.

73. The USPTO's failure to reinstate Plaintiff's "substantial property rights" based on PTO/SB/65 which lacked *practical utility* was negligent and without merit.

74. Plaintiff lost "substantial property rights" because the required information was "processed" without *practical utility*.

75. These intentional and willful acts caused Plaintiff monetary damages, mental distress, invasion of privacy, denial of justice and denial of due process.

**Complaint 9:** Causes of Action include Conspiracy, Conversion, Fraud and Negligence.

76. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid false and fraudulent statements by federal employees.

77. All USPTO forms which collect information must have an accurate *time burden* to "gather, prepare and submit" the form.: 44 USC 3504(c)(5), 44 USC 3506(c)(1)(A)(iv) and 44 USC 3506(c)(1)(B)(iii)(III) of the PRA.

78. From inception to now, the *time burden* for PTO/SB/65 has been greatly understated which misled Plaintiff.

79. USPTO/Galaxy/OMB were aware that the *time burden* was greatly understated.

80. USPTO/Galaxy sent an intentionally fraudulent Approval Request to OMB.

81. OMB's approval of PTO/SB/65 was negligent and without merit.

82. USPTO/Galaxy/OMB conspired to perpetuate a flawed PTO/SB/65.

83. USPTO/Galaxy/OMB lied to users of PTO/SB/65 from inception to now.

84. USPTO's failure to reinstate Plaintiff's "substantial property rights" based on PTO/SB/65s which had a bad *time burden* estimate was negligent and without merit.

85. Plaintiff lost "substantial property rights" because of using a USPTO/Galaxy/OMB *time burden* estimate which, in reality, was a figment of someone's imagination.

86. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 10:** Causes of Action include Conspiracy, Conversion, Fraud and Negligence.

87. Section 44 USC 3506(c)(3)(D) of the PRA requires that PTO/SB/65 have a *showing statement* that is "written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond." PTO/SB/65 has just a two sentence

*showing statement* which has not changed since at least 1996.

88. PTO/SB/65's *showing statement* does not comply with the law.

89. USPTO/Galaxy/OMB knew PTO/SB/65 lacked a legitimate *showing statement*.

90. USPTO/Galaxy sent an intentionally fraudulent Approval Request to OMB.

91. OMB's approval of PTO/SB/65 was negligent and without merit.

92. USPTO/Galaxy/OMB conspired to perpetuate a flawed PTO/SB/65.

93. The USPTO's failure to reinstate Plaintiff's "substantial property rights" based on PTO/SB/65 which lacked a legitimate *showing statement* was negligent and without merit.

94. Plaintiff lost "substantial property rights" because of using a USPTO/Galaxy/OMB *showing statement* which, in reality, was totally inadequate.

95. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 11:** Causes of Action include Conversion, Fraud and Negligence.

96. Many of the Petitions using PTO/SB/65 are denied. The denial comes in the form of a Decision letter which then goes on to state *additional information requirements* which the inventor must submit in order for the petition to be reconsidered. A typical *additional information requirement* is "Petitioner must fully and completely discuss every dollar the business spent during 1997, 1998, and 1999...."

97. Section 44 USC 3506(c)(1)(B)(iii)(V) of the PRA requires that all collections of information must be pre-approved by the OMB.

98. USPTO is forbidden to collect unapproved information.

99. The *additional information requirements* stated in PTO/SB/65 Decisions have not been approved by the OMB.

100. "Substantial property rights" have been lost because members of the Plaintiff class either failed or refused to supply "adequate" *additional information requirements*.

101. The Decisions which state the *additional information requirements* also have an abundance of verbiage and citations of laws and regulations about why the information is "required". Section 44 USC 3518(a) of the PRA declares that the PRA has an overriding mandate over all "agency policies, rules, regulations, and procedures." In general, the PRA takes precedence over all other laws. If it were not so, the PRA would be ineffective. Only the Privacy Act takes precedence over the PRA.

102. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid false and fraudulent statements by federal employees.

103. USPTO employees stated laws and regulations in the PTO/SB/65 Decisions which they knew weren't applicable.

104. Plaintiff has lost "substantial property rights" because USPTO employees have made false and fraudulent statements in the PTO/SB/65 Decisions.

105. These intentional and willful acts caused Plaintiff monetary damages, mental distress, invasion of privacy, denial of justice and denial of due process.

**Complaint 12:** Causes of Action include Conspiracy, Conversion, Negligence and [Actions leading to] Invasion of Privacy.

106. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid false and fraudulent statements by federal employees.

107. Sections 5 USC (552a)(e)(3) and 5 USC 552a Section 7(b) (not codified) of the Privacy Act requires a specific Privacy Act Statement on all government forms that collect information. From its inception, PTO/SB/65 has never had the required Privacy

Act Statement. A number of inventors have commented that they were unaware that all of their personal information submitted in connection with PTO/SB/65 became public.

108. USPTO/Galaxy/OMB knew PTO/SB/65 lacked a Privacy Act Statement.

109. USPTO/Galaxy/OMB made false and fraudulent statements by the omission of a Privacy Act Statement on PTO/SB/65.

110. The OMB's approval of PTO/SB/65 which lacked a Privacy Act Statement was negligent and without merit.

111. The USPTO's failure to reinstate Plaintiff's "substantial property rights" based on an invalid PTO/SB/65 which lacked a Privacy Act Statement was negligent and without merit.

112. The use of PTO/SB/65, which lacked the required Privacy Act statement, resulted in the invasion of privacy of the Plaintiff.

113. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 13:** Causes of Action include Intentional Infliction of Emotional Distress, Invasion of Privacy and Negligence.

114. USPTO routinely retains and releases personal information including Income Tax Returns with Social Security Numbers, payroll and other documents with Social Security Numbers and associated names, bank statements (with account numbers), check books, medical and hospital records, hospital and doctors' bills, doctor's examination notes and narratives, documents concerning psychiatric and mental problems, personal narratives of misfortune (including job termination and suicide attempts), death certificates, etc.

115. These personal records are in a system which allows retrieval by name and

therefor are subject to the provisions of the Privacy Act (PA): 5 USC 552a(a)(5).

116. USPTO has a scanning project to put all this personal information on the Internet.

117. Section 26 USC 6103 of the IRS Code forbids the release of Income Tax Returns.

118. Section 5 USC (552a)(e)(5) of the PA forbids the USPTO's retention of records that do not "insure fairness".

119. Many of Plaintiff's personal records retained by USPTO do not "insure fairness".

120. Section 5 USC (552a)(e)(6) of the PA forbids the USPTO's retention of records that are not "timely or relevant".

121. Many of Plaintiff's records retained by USPTO are not "timely or relevant".

122. Section 5 USC (552a)(e)(10) of the PA requires the USPTO to have a system in place to protect the Plaintiff from the release of retained records that cause "harm, embarrassment, inconvenience, or unfairness".

123. USPTO does not have a system in place to protect the Plaintiff from the release of retained records that cause "harm, embarrassment, inconvenience, or unfairness".

124. Section 5 USC (552a)(e)(1) of the PA forbids the USPTO's retention of records that consist of "illegally collected" data.

125. Many of the Plaintiff's personal records retained by the USPTO consist of "illegally collected" data.

126. Section 5 USC (552a)(e)(9) of the PA requires USPTO employees to be concerned about the privacy concerns of Plaintiff.

127. USPTO employees are not concerned about the privacy concerns of others.

128. GAO evaded its responsibilities by not recognizing the lack of privacy concerns.

129. The retention and release of Plaintiff's personal records resulted in the infliction

of emotional distress and the invasion of privacy of the Plaintiff.

130. These intentional and willful acts caused Plaintiff monetary damages, denial of justice and denial of due process.

**Complaint 14:** Causes of Action include Conspiracy, Fraud, Invasion of Privacy and Negligence.

131. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid false and fraudulent statements by federal employees.

132. The OMB's Desk Officer (OMB/DO) stated to Plaintiff "The [Approval Request for PTO/SB/65] that you were inquiring about [was] improved - [it was] not sent back."

133. The Approval Request for PTO/SB/65 was not improved to bring PTO/SB/65 into compliance with the various laws.

134. The OMB/DO lied to Plaintiff by implying that PTO/SB/65 complied with law.

135. The OMB/DO stated to Plaintiff "I had some discussions with the PTO and they, from my opinion as best I could tell ... responded very well to your concerns."

136. OMB is absolutely and statutorily responsible (44 USC 35 and 5 USC 552b) for the compliance of PTO/SB/65 with the law - not an "as best I could tell" opinion.

137. The OMB/DO stated to Plaintiff "I had some discussions with the PTO and they, ...based upon the fact that this is in the middle of ongoing litigation, responded very well to your concerns."

138. USPTO/Galaxy/OMB illegally factored Plaintiff's possible litigation into the approval process for compliance of PTO/SB/65 with the law.

139. Section 5 USC 552b(b) of the PA forbids the inter-agency disclosure of *non-Compatible* private information without prior consent of the Plaintiff.



140. The OMB/DO stated to Plaintiff "I had some discussions with the PTO...."

141. USPTO/OMB and perhaps Galaxy engaged in inter-agency discussions of the Plaintiff's *non-Compatible* private information without the prior consent of the Plaintiff.

142. USPTO/OMB and perhaps Galaxy invaded the privacy of the Plaintiff.

143. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 15:** Causes of Action include Conspiracy, Fraud, Negligence and possible Spoliation of Evidence.

144. Commerce's IG is responsible for investigating wrongdoing by USPTO employees. Plaintiff advised Commerce's IG of at least three instances of wrongdoing.

145. Commerce's IG failed to *follow through* with any inquiries or investigations.

146. Two employees at Commerce (Gordon Fields and Sophia Kil) contradicted each other and one of them lied to Plaintiff in order to coverup the Commerce's IG's total failure to *even initiate any paperwork* for an investigation of a colleague who had committed wrongdoing against the Plaintiff. Depending on which one lied, Commerce may be withholding documents due Plaintiff under the FOIA and PA.

147. Justice was negligent for failing to oversee Commerce's FOIA and PA activities.

148. Section 5 CFR XVI 2635.101(b)(11) of the Code of Federal Regulations requires Commerce's IG to "disclose ... corruption to appropriate authorities."

149. Even though he was aware of the forgery allegations, he failed to disclose them to any "higher-ups", like the Attorney General.

150. These intentional and willful acts caused Plaintiff monetary damages, mental distress, denial of justice and denial of due process.

**Complaint 16:** Causes of Action include Conspiracy, Fraud and Negligence.

151. Sections 18 USC 1001 and 18 USC 1018 of the U.S. Criminal Code forbid false and fraudulent statements by federal employees.

152. With regard to FOIA requests, the Attorney General has advised that (1) "agencies are expected to honor a requester's obvious intent", (2) a "broader interpretation [of FOIA requests] is more appropriate" and (3) that questions to agencies are to be considered as FOIA requests. Compelling case law and Directives of the Attorney General underscore the "dual retrieval" principle of the Privacy Act.

153. Commerce (particularly Gordon Fields) by ignoring compelling case law and Justice Directives conspired, lied and withheld documents incriminating a superior.

154. Justice was negligent for failing to oversee Commerce's FOIA and PA activities.

155. These intentional and willful acts caused Plaintiff monetary damages, mental distress, invasion of privacy, denial of justice and denial of due process.

**Complaint 17:** Causes of Action include Conspiracy, Fraud and Negligence.

156. Sections 5 USC 552(a)(6)(A)(i) and 5 USC 552(a)(6)(A)(ii) of the FOIA require a response to FOIA requests and appeals within 20 days. Commerce failed to respond to a number of Plaintiff's FOIA requests and appeals within 20 days.

157. Commerce conspired to "cook the books" in their annual FOIA report to Congress, to the detriment of the Plaintiff, by manipulating the Plaintiff's data in violation of 5 USC 552(e) and 5 CFR XVI 2635.101.

158. Justice was negligent for failing to oversee Commerce's FOIA & PA activities.

159. GAO evaded its responsibilities by not recognizing the "cooking of the books."

160. These intentional and willful acts caused Plaintiff monetary damages, mental

distress, denial of justice and denial of due process.

**Complaint 18:** Causes of Action include Accounting, Conspiracy, Fraud and Negligence.

161. Sections 18 USC 876 and 18 USC 1341 of the U.S. Criminal Code and the 3rd Amendment forbid extortion, particularly through the U.S. Postal System. Substantive Due Process is based on the 5th Amendment.

162. USPTO's Accounts Receivable Department managed to lose Plaintiff's check (\$46.71 to pay for some FOIA copying). USPTO requested that Plaintiff stop payment on the lost check and reissue and send them a new one in its place. They were willing that Plaintiff deduct the cost of the stop payment but adamantly refused to reimburse him for any of the other costs associated with reissuing and sending them another check - not even the 37-cents for the postage stamp!

163. Just days before this lawsuit was filed, Plaintiff received a letter from Tom Hellmer of the Patent Office, who lost the check in the first place, that if Plaintiff didn't pay up, he would be turning the matter over to the Treasury Offset Program and the Treasury Debt Management Service for collection.

164. USPTO/Treasury conspired to extort money from Plaintiff via the Postal Service.

165. GAO evaded its responsibilities by not monitoring, recognizing, investigating and recommending corrective actions for the incompetence of the USPTO A/R Department.

166. GAO's negligence led to the violation of Plaintiff's *substantive due process* rights.

167. USPTO/Treasury/GOA conspired to violate Plaintiff's *substantive due process* rights.

168. Justice was negligent for failing to monitor Executive Branch extortion activities.

169. These intentional and willful acts caused Plaintiff monetary damages, mental

distress, denial of justice and denial of due process.

**RELIEF**

WHEREFORE, Plaintiff prays that the Court will order the release of the documents noted in Complaints 2, 6, 15 and 16.

WHEREFORE, Plaintiff prays that the Court, based on Complaints 7, 8, 9, 10, 11, 12 and 14, will deem all negative Decisions resulting from using PTO/SB/65 invalid.

WHEREFORE, Plaintiff prays that the Court, based on all eighteen Complaints, awards each member of the Plaintiff Class an individual monetary judgement of not less than \$1,000,000 plus an individual punitive award of not less than \$3,000,000.

WHEREFORE, Plaintiff prays that the Court, based on Complaints 11, 12 and 13, orders the USPTO to cease and desist in the retention and/or release of Plaintiff's records which violate the privacy rights of any individual.

WHEREFORE, Plaintiff prays that with regards to the U.S. Patent and Trademark Office's scanning project to make all patent related documents available on the Internet, (1) the Court orders the immediate stop to the image scanning project, (2) the Court orders the destruction of all image files created thus far, (3) the Court orders that if the rescanning project is to begin anew, that before imaging, each page is to be reviewed for privacy considerations, in which case the information is to be redacted or not scanned.



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Sun City Center FL 33573-5219  
Phone: (813) 634-6048

## **CERTIFICATE OF SERVICE**

This is in accordance with Federal Rule of Civil Procedure 5.

I hereby certify that a true and correct copy of the foregoing "Amended Complaint" and a Cover Letter again noting that the "Meeting of the Parties" would be held at the Plaintiff's residence on January 20, 2004 (unless other arrangements could be made) were furnished by U.S. Certified Mail to the following defendants and parties on January 5, 2004.

Defendants:

General Counsel  
United States Department of Commerce  
14th & Constitution Av NW  
Washington DC 20230-0001

General Counsel  
United States Department of Justice  
950 Pennsylvania Av NW  
Washington DC 20530-0001

General Counsel  
United States Department of the Treasury  
1500 Pennsylvania Av NW  
Washington, D.C. 20220-0001

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United States General Accounting Office  
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725 17th St NW  
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United States Patent and Trademark Office  
PO Box 15667  
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Harry J. Wilson, Vice President  
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Other parties required by Federal Rules of Civil Procedures - Rule 4(i):

Attorney General of the United States  
United States Department of Justice  
950 Pennsylvania Av NW  
Washington DC 20530-0001

Civil Process Clerk  
United States Attorney  
400 N Tampa St Suite 3200  
Tampa FL 33602-4798

A handwritten signature in cursive script that reads "David W. R. Brown". The signature is written in black ink and has a long, sweeping tail that extends to the right.

David W. R. Brown, et al., *pro se*  
1805 Burlington Cir  
Sun City Center FL 33573-5219  
Phone: (813) 634-6048

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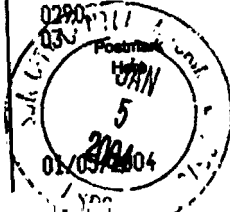
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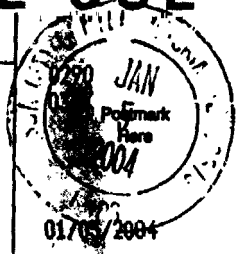
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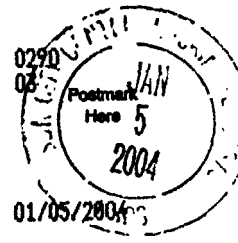
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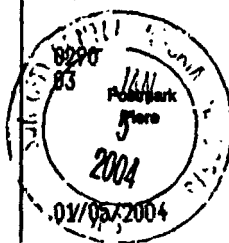
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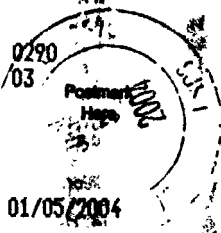
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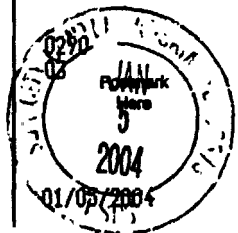
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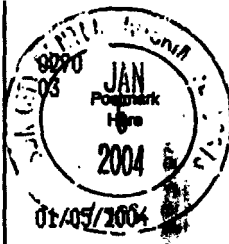
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