No: 20-1508

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

LARRY GOLDEN,
Plaintiff-Appellant

v.

APPLE INC.,
Defendant-Appellee

AT&T INC., BIG O DODGE CHRYSLER JEEP RAM, FCA US LLC, FAIRWAY FORD LINCOLN OF GREENVILLE, FORD GLOBAL TECHNOLOGIES, LLC, GENERAL MOTORS COMPANY, KEVIN WHITAKER CHEVROLET, LG ELECTRONICS USA INC, MOTOROLA SOLUTIONS, INC., PANASONIC CORPORATION, QUALCOMM, INC., SAMSUNG ELECTRONICS USA, SPRINT CORPORATION, T-MOBILE USA, INC., VERIZON CORPORATE SERVICES GROUP,
Defendants

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA IN NO. 6:19-cv-02557-DCC
JUDGE DONALD C. COGGINS JR.

INFORMAL PETITION FOR REHEARING *EN BANC*

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Appearing ProSe

April 17, 2020

PROCEDURAL HISTORY

The S.C. district court adopted the Magistrate's report recommending dismissal of my case 6:19-cv-02557-DCC, as duplicative of a pending case 13-307C, at the Court of Federal Claims and issued an order on 01/27/2020 to "dismiss this action without prejudice and without issuance and service of process… '[i]t is further recommended that the plaintiff not be provided with additional opportunities to amend his complaint -- as any amendment would be futile in light of the pending duplicative litigation'".

The factual history is as follows: I filed a complaint of alleged patent infringement against sixteen private companies at the UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA – GREENVILLE on September 11, 2019. After review the Magistrate mandated an amended complaint be filed in 14 days because in his judgement, the original complaint was "frivolous and fail to state a claim upon which relief may be granted.

In preparation of my amended complaint, I was well aware that my allegations of direct infringement are subject to the pleading standards established by *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). I knew that under this standard, a court must dismiss a complaint if it fails to allege "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570, and that this "facial plausibility" standard requires "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Id.* at 555. Rather, it requires me to allege facts that add up to "more than a sheer possibility that a defendant has acted unlawfully." *Iqbal*, 556 U.S. at 678; see *Twombly*, 550 U.S. at 555 ("Factual allegations must be enough to raise a right to relief above the speculative level."). I understood that although courts do not require "heightened fact

pleading of specifics," *Twombly*, 550 U.S. at 570, I chose to prepare an amended complaint of "heightened fact pleading of specifics". I alleged in my amended complaint "enough fact[s] to raise a reasonable expectation that discovery will reveal…" that the defendant(s) are liable for the misconduct I alleged. *In re Bill of Lading Transmission & Processing Sys. Pat. Litig.*, 681 F.3d 1323, 1341 (Fed. Cir. 2012) (alteration in original) (quoting *Twombly*, 550 U.S. at 556).

After reviewing my amended complaint, the Magistrate chose not to continue with his recommendation of dismissal of my case on the grounds that the now amended complaint is "frivolous and fail to state a claim upon which relief may be granted", but recommended dismissal of my case "in light of pending duplicative litigation".

The district court Judge adopted the Magistrate's report recommending dismissal of my case 6:19-cv-02557-DCC, as duplicative of a pending litigation in case no. 13-307C, at the Court of Federal Claims and issued the order on 01/27/2020.

On appeal to the United States Court of Appeals for the Federal Circuit; I appealed the Magistrate's recommendation of dismissal of my case on the grounds of pending duplicative litigation, and the district court Judge adoption the Magistrate's report recommending dismissal of my case as duplicative of a pending litigation. The Magistrate and Judge for the lower court, ***NEVER*** recommended dismissal of my amended complaint on the grounds that the amended complaint was "frivolous and fail to state a claim upon which relief may be granted".

Did the United States Court of Appeals for the Federal Circuit in No. 2020-1508, before PROST, Chief Judge, LINN and TARANTO, Circuit Judges, err when they dismissed my case on the ground of frivolousness? "[f]or these reasons, we affirm the district court's dismissal without prejudice and without service of process, not on the basis of duplicity, but on the ground of frivolousness".

It should also be noted that the Attorneys' of record that made their appearance in this case (John Franklin Morrow, Jr. and Ana Friedman, Womble Bond Dickerson (US) LLP, Winston-Salem, NC, for the defendant-appellee) *NEVER*, after being given multiple opportunities, replied or responded to any of my appeal pleadings in this case.

Did the United States Court of Appeals for the Federal Circuit in No. 2020-1508, before PROST, Chief Judge, LINN and TARANTO, Circuit Judges, err when they introduced a defense for the defendants that was *NEVER* introduced in the lower courts (i.e. frivolousness of the ***amended*** complaint); adjudicated the defense on grounds (i.e. frivolousness of the ***amended*** complaint) that was *NEVER* plead by the defendants' attorneys; and, granted a dismissal of my case on the grounds of "frivolousness" that was *NEVER* asked for by the defendants or the defendants' attorneys?

The United States District Court for the District of South Carolina in No. 6:19-cv-02557-DCC, and the United States Court of Appeals for the Federal Circuit in No. 2020-1508, *NEVER* addressed my Seventh Amendment right to a trial by jury.

CANON 3

Upon information and belief, I believe the District Court Judges and the Circuit Court Judges has a personal bias or prejudice toward me because I am Black. I believe further, that the District Court Judges and the Circuit Court Judges lack the ability to be impartial, and is favoring the defendants' and the defendants' attorneys because they all are white. "Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently

(C) Disqualification. (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in

which: (a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding: (d)(ii) acting as a lawyer in the proceeding."

Did the United States Court of Appeals for the Federal Circuit in No. 2020-1508, before PROST, Chief Judge, LINN and TARANTO, Circuit Judges, err when they adjudicated my case on the grounds that: "Golden's amended complaint here, like his initial complaint, even if not duplicative of the earlier filed action against the government, "contains only conclusory formulaic recitations of the elements of patent infringement as to each defendant." Magistrate Judge Initial Order at 5, *Golden v. Apple Inc.*, No. 6:19-cv-02557 (D.S.C. Oct. 1, 2019), ECF No. 12."?

As a Pro Se, I researched patent infringement complaints submitted to the federal courts by "whites" from all over the country. The research reveals that the general format or standards for pleading patent infringement are basically the same. As a Pro Se, I followed the format for drafting patent infringement complaints that was submitted by "whites", accepted by the Judges, and not challenged by the defendants on jurisdiction or whether the plaintiff has stated a claim for which relief can be granted.

Following, are three cases filed as a cause of action "patent infringement": *MetroSpec Technology LLC v. Hubbell Lighting, Inc.; Corning Optical Communications LLC v. FiberSource Inc. Donald C Coggins, Jr, presiding; and, Golden v. Apple, Inc. Donald C Coggins, Jr, presiding.* Although all of the pleadings are basically the same, the only case that was challenged and denied under Rule 12(b)(6) at the District level, and again at the Appeals level for "frivolousness" and "conclusory formulaic recitations of the elements of patent infringement as to each defendant" is Golden, a Black man, in *Golden v. Apple, Inc.*

The United States District Court for the District of Minnesota in No. 0:17-cv-00369; *MetroSpec Technology LLC v. Hubbell Lighting, Inc.* Date filed: 02/03/2017

COUNT I:
(Infringement of the '631 Patent)

¶ 13. MetroSpec realleges and incorporates herein the allegations set forth in Paragraphs 1-12.

¶ 14. Hubbell has directly infringed at least claims 1 and 3-6 of the '631 Patent pursuant to 35 U.S.C. § 271(a), literally or under the doctrine of equivalents, by making, using, selling, and/or offering for sale in the United States and without authority products that infringe such claims, including the NorFlex product offered by Hubbell's Thomas Research Products division (hereinafter, the "Infringing Product"). ¶ 15. Hubbell has also and continues to indirectly infringe at least claims 1 and 3- 6 of the '631 Patent by inducing others to infringe and/or contributing to the infringement of others, including third party users of the Infringing Product in this judicial district and elsewhere in the United States. Specifically, Hubbell has actively induced and continues to induce the infringement of at least claims 1 and 3-6 of the '631 Patent by actively inducing the use of the Infringing Product by third party users in the United States. When Hubbell offered for sale or sold the Infringing Product, Hubbell knew or should have known that its conduct would induce others to infringe claims 1 and 3-6 of the '631 Patent by using it. MetroSpec alleges that third parties have infringed and will continue to infringe the '631 Patent in violation of 35 U.S.C. 271(a) by using the Infringing Product.

¶ 16. Hubbell has also contributorily infringed at least claims 1 and 3-6 of the '631 Patent by providing to third parties within the United States infringing devices that are not staple articles of commerce suitable for substantial non-infringing uses. MetroSpec believes that these third parties have infringed and will infringe the '631 Patent in violation of 35 U.S.C. 271(a).

¶ 17. MetroSpec has suffered damages as a result of Hubbell's infringement of the '631 Patent. In addition, MetroSpec will continue to suffer irreparable harm unless this Court enjoins Hubbell from infringing the '631 Patent.

The United States District Court for the District of South Carolina in No.6:19-cv-01322-DCC *Corning Optical Communications LLC v. FiberSource Inc.* Donald C Coggins, Jr, presiding; Date filed: 05/06/2019; Date of last filing: 08/19/2020

COUNT I:

Patent Infringement of U.S. Patent No. 7,090,406 B2

¶ 47. COC repeats and realleges all previous allegations as if set forth in full herein.

¶ 48. FiberSource has directly infringed at least independent claims 1, 21, 40, and 58 and dependent claims 4, 6-18, 24, 26-37, 43, and 45-55 of the '406 Patent by making, using, offering to sell, selling, and/or importing, within this district or elsewhere in the United States, preconnectorized fiber optic plug assemblies having features specifically described and claimed in the '406 Patent, including but not limited to preconnectorized fiber optic plug assemblies that are or have been described as part of FiberSource's pre-terminated OSP drop cable product line, including but not limited to the OPSSCA-SCAPC 3M 3.0mm Singlemode Simplex product with a hardened plug connector.

¶ 49. On information and belief, FiberSource has also directly infringed at least independent claims 1, 21, 40, and 58 and dependent claims 4, 6-18, 24, 26-37, 43, and 45-55 of the '406 Patent by making, using, offering to sell, selling, and/or importing, within this district or elsewhere in the United States, additional OptiTap® compatible products with similar assemblies incorporating a crimp assembly having a crimp band and a housing wherein the housing includes two shells, which have features specifically described and claimed in the '406 Patent.

¶ 50. FiberSource has made, used, imported, offered to sell, or sold and/or is making, using, importing, offering to sell, or selling products having features that are specifically described and claimed in the '406 Patent, including but not limited to preconnectorized fiber optic plug assemblies covered by the '406 Patent, including but not limited to preconnectorized fiber optic plug assemblies that are or have been described as part of FiberSource's pre-terminated OSP drop cable product line, including but not limited to the OPSSCA-SCAPC 3M 3.0mm Singlemode Simplex product with a hardened plug connector.

¶ 51. On information and belief, FiberSource has also made, used, imported, offered to sell, or sold and/or is making, using, importing, offering to sell, or selling

additional OptiTap® compatible products with similar assemblies with similar assemblies incorporating a crimp assembly having a crimp band and a housing wherein the housing includes two shells, having features that are specifically described and claimed in the '406 Patent.

¶ 52. The aforesaid acts by FiberSource are without right, license, or permission from COC.

¶ 53. On information and belief, FiberSource has willfully, deliberately, and intentionally infringed COC's '406 Patent.

¶ 54. FiberSource's willful, deliberate, and intentional infringement of the '406 Patent has caused COC irreparable harm and damages, including lost sales, lost profits, lost sales opportunities, and loss of good will, in an amount to be determined at trial.

¶ 55. FiberSource's willful, deliberate, and intentional infringement of the '406 Patent has also caused COC further irreparable harm and damages, and will entitle it to recover, among other things, treble damages, attorneys' fees, and costs.

¶ 56. On information and belief, FiberSource intends to continue the infringing activities described herein.

The United States District Court for the District of South Carolina in No. 6:19-cv-02557-DCC *Golden v. Apple, Inc.* Donald C Coggins, Jr, presiding

COUNT I:

(Infringement of the '287 Patent)

¶ 156 Plaintiff alleges that at least one of the Defendants named in this complaint has infringed at least independent claim 4 & 5 of the '287 patent that covers Plaintiff's communication, monitoring, detecting and controlling (CMDC) device. **Exhibit K: Claim Chart for the '287 Patent**

¶ 157 On information and belief, Apple is jointly, directly and/or indirectly infringing at least claim 5 of the '287 patent in this judicial district and elsewhere in South Carolina and the United States by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices (i.e. iPhone 7 series, iPhone 8 series, iPhone X series, iPhone XS series, iPhone XR series, iPhone 11 series, and Apple Watch series 3, 4, & 5) included without limitation Plaintiff's CMDC devices.

As set forth in Golden's preliminary infringement contentions that Apple is making, using, offering for sale, selling and/or importing of the CMDC device have at a minimum directly infringed the '287 patent and Apple is thereby liable for infringement of the '287 patent pursuant to 35 U.S.C. § 271. Apple have caused damage to Golden, which infringement and damage will continue unless and until Apple is enjoined. **Exhibit L: Claim Chart for Apple Inc.**

¶ 158 On information and belief, Apple is jointly, directly and/or indirectly infringing at least claim 5 of the '287 patent in this judicial district and elsewhere in South Carolina and the United States by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices (i.e. iPhone 7 series, iPhone 8 series, iPhone X series, iPhone XS series, iPhone XR series, iPhone 11 series, and Apple Watch series 3, 4, & 5) included without limitation the Plaintiff's CMDC's global positioning system (GPS) used with CMDC devices for locating and tracking; the CMDC's internet used with CMDC devices for mobile internet to fit the dimensions of a CMDC device; the CMDC's central processing unit used with CMDC devices for mobile application processing i.e. system-on-a-chip (SoC); the CMDC's chemical / biological monitoring used with CMDC devices for monitoring human heartrate; the CMDC's radio frequency near-field communication (NFC) used with CMDC devices for short-range reading of NFC tags; the CMDC's lock disabling mechanism used with CMDC devices for locking the CMDC device after several failed attempts to open the CMDC device; and, the CMDC's biometric identification (i.e. fingerprint, facial) used with CMDC devices for identifying an authorized user of the CMDC device. As set forth in Golden's preliminary infringement contentions that Apple is making, using, offering for sale, selling and/or importing of the CMDC device have at a minimum directly infringed the '287 patent and Apple is thereby liable for infringement of the '287 patent pursuant to 35 U.S.C. § 271. Apple have caused damage to Golden, which infringement and damage will continue unless and until Apple is enjoined.

¶ 159 The alleged infringement of Apple identified in this Count has caused irreparable injury to Golden for which remedies at law are inadequate. Considering the balance of the hardships between the parties, a remedy in equity, such as a permanent injunction is warranted and such a remedy would be in the public interest.

It is unclear to me why the Circuit Judges referenced ¶ 156, "Count I of Golden's Amended Complaint, for example, merely states that "at least one of the defendants named in this complaint has infringed at least independent claim 4 & 5 of the '287 patent," Complaint at ¶ 156, *Golden v. Apple Inc.*, No. 6:19-cv-02557 (D.S.C. Oct. 15, 2019), ECF No. 16-1". Para. ¶ 156 is specific to the '287 patent and what specific claims I am alleging each one of the defendants are infringing. (*See the chart below*). At the end of the ¶ 156, I referenced a claim chart for the '287 patent as *"Exhibit K"*. The claim chart illustrates how my claims has evolved from my first patent ("497), and can be used in determining if claim construction is needed.

5	APPLE INC. ¶¶ 157 -159
4 & 5	AT&T INC. ¶¶ 175 -177
1 & 5	BIG O DODGE CHRYSLER JEEP RAM ¶¶ 202 -204
1 & 5	FCA US LLC ¶¶ 199 -201
1 & 5	FAIRWAY FORD LINCOLN OF GREENVILLE ¶¶ 190 -192
1 & 5	FORD GLOBAL TECHNOLOGIES, LLC ¶¶ 187 -189
1 & 5	GENERAL MOTORS COMPANY ¶¶ 193 -195
1 & 5	KEVIN WHITAKER CHEVROLET ¶¶ 196 -198

5	LG ELECTRONICS USA INC. ¶¶ 163 -165
5	MOTOROLA SOLUTIONS, INC. ¶¶ 169 -171
5	PANASONIC CORPORATION ¶¶ 172 -174
4 & 5	QUALCOMM, INC. ¶¶ 166 -168
5	SAMSUNG ELECTRONICS USA ¶¶ 160 -162
4 & 5	SPRINT CORPORATION ¶¶ 181 -183
4 & 5	T-MOBILE USA, INC. ¶¶ 184 -186
4 & 5	VERIZON CORPORATE SERVICES GROUP ¶¶ 178 -180

Did the United States Court of Appeals for the Federal Circuit in No. 2020-1508, before PROST, Chief Judge, LINN and TARANTO, Circuit Judges, err when they adjudicated my case on the grounds that: "followed by generalized statements of infringement by each defendant, id. at ¶¶ 157– 204, and similar broad infringement allegations for each of Golden's other patents, id. at ¶¶ 205–384"?

Unlike the other two examples above, *MetroSpec Technology LLC v. Hubbell Lighting, Inc.* and *Corning Optical Communications LLC v. FiberSource Inc.*, whose complaints were accepted without a challenge of 12(b)(6), my statements are not broad, but instead, they are narrowed to specifically identify the alleged infringement product(s) of the defendants, the products' function or purpose, and the specific patent claims I have alleged the defendants are infringing:

> "… (i.e. iPhone 7 series, iPhone 8 series, iPhone X series, iPhone XS series, iPhone XR series, iPhone 11 series, and Apple Watch series 3, 4, & 5) included without limitation the Plaintiff's CMDC's global positioning system (GPS) used with CMDC devices for locating and tracking; the CMDC's internet used with CMDC devices for mobile internet to fit the dimensions of a CMDC device; the CMDC's central processing unit used with CMDC devices for mobile application processing i.e. system-on-a-chip (SoC); the CMDC's chemical / biological monitoring used with CMDC devices for monitoring human heartrate; the CMDC's radio frequency near-field communication (NFC) used with CMDC devices for short-range reading of NFC tags; the CMDC's lock disabling mechanism used with CMDC devices for locking the CMDC device after several failed attempts to open the CMDC device; and, the CMDC's biometric identification (i.e. fingerprint, facial) used with CMDC devices for identifying an authorized user of the CMDC device."

To better understand what "broadness" means when referring to a patent, I have included a chart below that illustrates and breaks down the limitations (elements) of Steve Job's (Apple, Inc) first patent for the smartphone. Steve Jobs (Apple, Inc) should not have been issued the patent because my first disclosure and patent filing anticipates the Jobs' patent.

APPLE'S FIRST iPHONE DESIGN PATENT CHART
APPLE'S ELECTRONIC DEVICE v. GOLDEN'S CMDC DEVICE

Apple's 1st Patent for the Smartphone (i.e. electronic device) ornamental design: First application filing date is January 5, 2007 (App. # D/270,887)	**Golden's Patents for the Detector Case (i.e. CMDC) ornamental design: USPTO Disclosure Document filed Nov. 17, 2004; First application filing date is April 5, 2006 (App. # 11/397,118)**
Electronic Device: "The device (i.e. electronic device) which controls the flow of electrons is called electronic device. These devices are the main building blocks of electronic circuits. The various electronic devices are computers, mobile phones, etc." https://www.physics-and-radio-electronics.com/electronic-devices-and-circuits.html	CMDC Device: The detector case includes a power source (battery or electrical) … A cpu 40 is mounted within the detector case 12 and electrically interconnects, routes, and transmits signals among items hereinafter further described and also communicates
FIG. 1 is a front perspective view of an electronic device in accordance with the present design.	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
FIG. 2 is a rear perspective view for the electronic device.	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
FIG. 3 is a front view for the electronic device.	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
FIG. 4 is a rear view for the electronic device.	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
FIG. 5 is a top view for the electronic device.	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
FIG. 6 is a bottom view for the electronic device.	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30

FIG. 7 is a left side view for the electronic device; and,	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
FIG. 8 is a right side view for the electronic device	The detector case 12 includes a top 22, a bottom 24, a pair of opposed sides 26 and a front side or panel 28 and an opposite rear or back side 30
The broken lines depicted in FIGS. 1, 2, and 6 of the inner rectangle, at the center bottom of the electronic device, represent the bounds of the claimed design, while the broken lines inside the rectangle, shown only in FIG. 6, are directed to environment and are for illustrative purposes only; the broken lines from no part of the claimed design.	Fig. 1 is an illustrative drawing of the rectangle design of the detector case; and, Fig. 17 are illustrative drawings of the rectangle design of the cell phone (i.e. smartphone) and the cell phone detector case
The article is not limited to the scale shown herein. As indicated in the title, the article of manufacture to which the ornamental design has been applied is an electronic device. Examples of an electronic device are a computer, a portable or hand-held device, a personal digital assistant, a communication device (e.g., cellular phone), a novelty item, toy, and/or the like.	FIG. 15 is a representative schematic view of… a monitoring PC or computer terminal. It is another objective of the present invention to provide… products grouped together by common features in several product groupings such as design similarity… product grouping strategy has been developed wherein products… having the same or similar design… [i]n addition to grouping products together by features, designs and materials… FIG. 17 is a perspective view... of the present invention illustrating the incorporation of the features and elements of the detector case to a cell phone and cell phone case
The first iPhone featured a two-tone back that was mostly made of aluminum — a design element that the company would return to this year with the release of the iPhone 5 with a predominantly metal back. Apple's interim devices opted for different materials: The iPhone 3G and 3GS had plastic backs, while the iPhone 4 and 4S backs were made of glass. Retrieved from: https://appleinsider.com/articles/12/12/18/apple-wins-patent-for-first-iphone-designed-by-jobs-ive	… [P]roduct grouping strategy has been developed wherein products made from the same or similar material, products having the same or similar design… [i]n addition to grouping products together by features, designs and materials… the products grouped into what may be referred to as Product grouping 3 (detector case; modified and adapted)… the products grouped into what may be referred to as Product grouping 4 (monitoring & communication devices) include… mobile communication devices… personal computers (PCs), laptops, cell phones, personal digital assistants (PDAs)… handhelds

What makes the Steve Jobs' (Apple, Inc) patent so broad; it is a "design" patent (what the smartphone should look like) used broadly as a "utility" patent (how the smartphone should work). Steve Jobs is recognized all over the World, to include this Court, as the first to invent the smartphone. I understand why this Court and the District Court is refusing to allow my case to go forward, and that is because all of my narrowed pleadings indicate, I, a Black man, am the inventor who should be recognized as inventing the smartphone (CMDC device).

To avoid the harsh reality of a "white" man having stolen the invention for the smartphone from a black man, the United States District Court for the District of South Carolina in No. 6:19-cv-02557-DCC, and the United States Court of Appeals for the Federal Circuit in No. 2020-1508, have devised tactics in opinions ("broad infringement allegations") to dismiss my case without a jury weighting in on the evidence. *Canon 3:(C)(1)(a)(d)(ii) violations.*

Did the United States Court of Appeals for the Federal Circuit in No. 2020-1508, before PROST, Chief Judge, LINN and TARANTO, Circuit Judges, err when they adjudicated my case on the grounds that: "the complaint itself offers only vague generalities… nowhere points us to any nonfrivolous allegations of infringement of any claim by any actual product made, used, or sold by any defendant"? Below, is an example of my pleadings for Apple Inc. but is illustrative of all the pleadings for all the defendant's:

> "in this judicial district and elsewhere in South Carolina and the United States by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices (i.e. iPhone 7 series, iPhone 8 series, iPhone X series, iPhone XS series, iPhone XR series, iPhone 11 series, and Apple Watch series 3, 4, & 5)" **¶ 157**; "[a]s set forth in Golden's preliminary infringement contentions that Apple is making, using, offering for sale, selling and/or importing of the CMDC device have at a minimum directly infringed the '287 patent and Apple is thereby liable for infringement of the '287 patent pursuant to 35 U.S.C. § 271" **¶ 157**; "in this judicial district and elsewhere in South Carolina and the United States by, among other things, making, using, offering for sale, selling and/or importing computerized communications devices (i.e. iPhone 7 series, iPhone 8 series, iPhone X series, iPhone XS series, iPhone XR series, iPhone 11 series, and Apple Watch series 3, 4, & 5)" **¶ 158**; and, "[a]s set forth in Golden's preliminary

> infringement contentions that Apple is making, using, offering for sale, selling and/or importing of the CMDC device have at a minimum directly infringed the '287 patent and Apple is thereby liable for infringement of the '287 patent pursuant to 35 U.S.C. § 271." **¶ 158**

Therefore, when the Circuit Court stated, "nowhere points us to any nonfrivolous allegations of infringement of any claim by any actual product made, used, or sold by any defendant", that is simply not true. As noted above, I alleged that each defendant, "among other things, making, using, offering for sale, selling and/or importing computerized communications devices"; "is making, using, offering for sale, selling and/or importing of the CMDC device have at a minimum directly infringed the '287 patent".

Did the United States Court of Appeals for the Federal Circuit in No. 2020-1508, before PROST, Chief Judge, LINN and TARANTO, Circuit Judges, err when they determined my factual allegations was not enough to raise a right to relief above the speculative level?

Unlike the other two examples above, *MetroSpec Technology LLC v. Hubbell Lighting, Inc.* and *Corning Optical Communications LLC v. FiberSource Inc.*, whose complaints were accepted without a challenge of 12(b)(6), and without having to submit claim charts, I submitted at least twenty (20) claim charts, two (2) CD's, and response letters from members of the executive and legislative branches of government as evidence of conception. *Summagraphics Corporation v. U.S.* "to help construct clear claim arguments, the court determined that "Partial Dismissal Order made clear this court's intention that patent claims not delineated in plaintiff's pretrial statement shall no longer be asserted in this case… [p]laintiff's pretrial statement failed to include claim charts relating to the Nadon patent; thus, plaintiff shall also be precluded from asserting the Nadon patent at trial… "[s]et as precedent, all litigation that occurs now includes detailed claim charts well before discovery has ended". I submitted claim charts to satisfy the requirement of "enough [factual allegations] to raise a right to relief above the speculative level".

"***AMENDED COMPLAINT*** against AT&T Inc, Apple Inc, Big O Dodge Chrysler Jeep Ram, FCA US LLC, Fairway Ford Lincoln of Greenville, Ford Global Technologies LLC, General Motors Company, Kevin Whitaker Chevrolet, LG Electronics USA Inc, Motorola Solutions Inc, Panasonic Corporation, Qualcomm Inc, Samsung Electronics USA, Sprint Corporation, T-Mobile USA Inc, Verizon Corporate Services Group, filed by Larry Golden. Service due by 1/13/2020 (Attachments: # 1 attachment to complaint "Amended complaint", # 2 List of companies, # 3 Exhibit A Patent No 10,163,287, # 4 Exhibit B Patent No 9,589,439, # 5 Exhibit C Patent No 9,096,189, # 6 Exhibit D Patent No RE43,990, # 7 Exhibit E Patent No RE43,891, # 8 Exhibit6 F Patent No 7,385,497, # 9 Exhibit G USPTO Disclosure Document, # 10 Filed separately as a Non Standard Item (CD), # 11 Exhibit I Filed Separately as a Non Standard Item (CD), # 12 Exhibit J Response Letters, # 13 Exhibit K Claim Chart for the 287 Patent, # 14 Exhibit L Claim chart for Apple Inc, # 15 Exhibit M Claim Chart for Samsung, # 16 Exhibit N Claim Chart for LG Electronics, # 17 Exhibit O Claim chart for Qualcomm, # 18 Exhibit P Claim chart for Motorola Solutions, # 19 Exhibit Q Claim Chart for Panasonic, # 20 Exhibit R Claim Chart for Ford, # 21 Exhibit S Claim Chart for Chevrolet, # 22 Exhibit T Claim chart for FCA, # 23 Exhibit U Claim Chart for 439 Patent, # 24 Exhibit V Claim Chart for the 189 Patent (appears to be multiple groups of page numbers), # 25 Exhibit W Claim Chart for 990 Patent, # 26 Exhibit X Claim Chart for 891 Patent, # 27 Exhibit Y Claim Chart for 497 Patent) See non-standard item entries 17 and 18 . (kric,) Modified on 10/15/2019 to add linkage. (kric,). (Entered: 10/15/2019)"

It is my belief, this Court dismissed my case for at least one of the following reasons: my race; to protect the defendants; to protect the government; and/or, to protect the Judges.

Respectfully submitted,

S/ Larry Golden

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CERTIFICATE OF COMPLIANCE

I hereby certify that an original version of the foregoing "INFORMAL PETITION FOR REHEARING *EN BANC*: CASE NUMBER 20-1508" was sent on September 12, 2020 via U.S. Postal service "priority express mail", to: CLERK'S OFFICE, UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT, 717 MADISON PLACE, N.W., WASHINGTON, D.C. 20439.

The petition complies with the 15 typewritten double-spaced pages requirement.

Respectfully submitted,

S/ Larry Golden
Larry Golden
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 12th day of September, 2020, a true and correct copy of the foregoing "INFORMAL PETITION FOR REHEARING *EN BANC*: CASE NUMBER 20-1508" was served upon the following defendant by Priority "Express" Mail:

John F. Morrow
Ana Friedman
WOMBLE BOND DICKINSON
One West Fourth Street
Winston-Salem, North Carolina 27101
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s/ Larry Golden

Larry Golden, Pro Se
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