IN THE UNITED STATES COURT OF APPEALS

FOR THE FEDERAL CIRCUIT

No. 20-2309

NAGUI MANKARUSE,

Petitioner-Appellant

V.

RAYTHEON COMPANY, TRS LLC US, DAVID EARL STEPHENS, JOHN RYAN, JAMES LEROY COTTERMAN, JR., JAMES D. WEBER, MARK P. HONTZ, KIMBERLY R. KERRY (KIM KERRY,), COLIN J. SCHOTTLAENDER, WILLIAM H. SWANSON, THOMAS A. KENNEDY, MATTHEW BREWER, F. KINSEY HAFNER, KEITH PEDEN, RICHARD ROCKE and DOES 1 through 10, inclusive,

Defendants, Appellees

ON APPEAL FROM THE RULING OF THE CENTRAL DISTRICT COURT OF CALIFORNIA, SOUTERN DIVISION THE HONORABLE DAVID O. CARTER

PETITION COMBINED FOR PANEL REHEARING & REHEARING EN BANC

NAGUI MANKARUSE
Petitioner & Appellant In Pro Se
19081 Carp Circle
Huntington Beach, CA 92646
Telephone: (714)840-9673
Fax: : (714)846-5012
Email: mankaruse@aol.co

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UNITED STATES CONSTITUTION

1.The Bill of Rights

The United States Bill of Rights comprises the first ten amendments to the United States Constitution

2.The First Amendment

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

3.The Fifth Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. [*On March 19, 2001, the United States Supreme Court handed down a per curiam opinion in Ohio v. Reiner, holding that the Fifth Amendment right against self-incrimination protects the innocent as well as the guilty.]*

4.The Eight Amendment

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. *[The United States Constitution prohibits the federal government from imposing excessive bail, excessive fines,*

or cruel and unusual punishments. ***This amendment was adopted on December 15, 1791, along with the rest of the United States Bill of Rights.]***

5.The Fourteenth Amendment

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

FEDERAL CASE LAW

1.Anderson Nat'l Bank v. Luckett,
321 U.S. 233, 244 (1944)

2. Cf. Bankers Life & Casualty Co. v. Crenshaw
486 U.S. (1988)

3. Be & K Constr. Co. v. NLRB
(2002) 536 U.S. 516, 53

5. Bill Johnson's Restaurants, Inc. v. NLRB,
461 U.S. 731, 743 (1983)

6. Boddie v. Connectic
401 U.S. 371 (1971)

7. Brockett v. Spokane Arcades, Inc.,
472 U.S. 491, 105 S. Ct. 2794, 86 L. Ed. 2d 394 (1985)

8. California Motor Transport v. Trucking Unlimited,
404 U.S.508, 612 (1972).

9. Chicago, B. & Q. R.R. v. Chicago,
166 U.S. 226 (1897)

10. Coates v. City of Cincinnati,

402 U.S. 611, 616 (1971)

11. Cohen v. Beneficial Industrial Loan Corp.,
337 U.S. 541 [69 S. Ct. 1221, 93 L. Ed. 1528]

12. Crandall v. Nevada,
73 U.S. (6 Wall.) 35 (1867),

***13.* Eastern R. Conference u. Noerr Motors:**
365 us 127 (1961)

14. Jordan v. Massachusetts,
225 U.S. 167, 176(1912)

15. Mine Workers v. Illinois Bar Assn.,
389 u. s. 217, 222 (1967)

16. NAACP v. Button, 371 U.S.
415, 432-33 (1963);

***17.* Professional Real Estate Investors,**
508 U.S., at 58--61.

***18.* Snyder v. Massachusetts,**
291 U.S. 97, 105 (1934)

19. Twining v. New Jersey,
211 U.S. 78, 101 (1908)

20. West v. Louisiana,
194 U.S. 258, 263 (1904)

21. United States v. Cruikshank,
92 *U. s. 542, 552 (1876)*

22. United States v. Harris, 106 U.S. 629

FEDERAL STATUES

42 U.S.C. § 1983 (1994)
461 U.S. at 743
404 U.S. 508,612 (1972)

CALIFORNIA STATE CONSTITUTION

Article I
No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

CALIFORNIA CASE LAW

23.Nagui Mankaruse v. Raytheon Company
30-2017-00934796-CU-IP-CJC, Volume I, Pages I-1through 6

24. Auto Equity Sales, Inc. v. Superior Court
(1962) 57 Cal.2d 450

25. Beyerbach v. Juno Oil Co.,
[236 Cal. App. 2d 528]

26. Bilyeu v. State Employees' Retirement System,
58 Cal. 2d 618 /24 Cal. Rptr. 562, 375 P.2d 4421)

27. Camerado Ins. Agency, Inc. v. Superior Court (Stolz),
16 Cal. Rptr. 2d 42 (Ct. App.1993)

28. Gray v. Zurich Insurance Co. 31
(1966) 65 Cal. 2d 263, 276 [54 Cal.Rptr. 104, 419 P.2d168])

29. Los Angeles County Bar Ass'n v. Eu,
979 F.2d 697, 705-06 (9th Cir. 1992)

30. Muller v. Tanner,
82 Cal. Rptr. 738, 741 n.2 (Ct. App. 1970)

31. Parish v. Parish, 30
988 A.2d 1180, 412 N.J.2O10. Super. 39, 54

32. Professional Fire Fighters, Inc. v. City of Los Angeles,
60 Cal. 2d 276 [32 Cal. Rptr. 830, 384 P.2d 158}

33. Shalant v. Girardi
(2011) 51 Cal.4th 1164, 545, 554,1176
34. Shari Lynn Pollak F/K/A Sharon Lynn Pollak Kalen V. David Kalen, 30
App. Div., A 4185-09t3, July 5, 2012.

35. Taliaferro v. Hoogs
46 Cal. Rptr. 147 (Ct. App. 1965), at[5]

36. Wolfgram v. Wells Fargo Bank,
61 Cal. Rptr. 2d 694, 704 (Cal. App. 1997)

CALIFORNIA STATUTE & LOCAL RULES

California Code of Civil Procedure - CCP § [391–391.8]

391 (b)(2) After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined.

(3) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.

Government Code, § 68630, 686633

OTHER OPINIONS WORK

Robert G. Bone,
Modeling Frivolous Suits, 145 U. PA. L. REV.519,520 (1997)

Jacobs, Arnold S,
***Cornell Law Review,* supra note 96, at 293 n.52**
(1973)

Andrews, Carol Rice
A Right of Access to Court Under the Petition Clause of the First Amendment:* Defining the Right, *60 Ohio St. L. J. 557,656 (1999)

supra, note 38, at 1059. supra note 4, at 968
Waldman, *First Amendment Right of Access*

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NAGUI MANKARUSE
Petitioner & Appellant In Pro Se
19081 Carp Circle
Huntington Beach, CA 92646
Telephone: (714)840-9673
Fax: : (714)846-5012

Email: mankaruse@aol.com

The Honorable Federal Circuit Judges Panel: Taranto, Linn and Chen

STATEMENT: REASONS FOR EN BANC REVIEW

1.No other appeal in or from the same civil action or proceeding in the district court was previously before this or any other appellate court except current Intel & Raytheon cases which can be precedence to a beginning of endless series of damaging violations to the United States Constitution in many directions.

2.The panel decision conflicts with the United States Constitution Bill of Rights "Bill of Rights comprises the first ten amendments to the United States Constitution."; First Amendment "...*or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances...*" Fifth Amendment "...*nor be deprived of life, liberty, or property, without due process of law; ...nor shall private property be taken for public use, without just compensation...*"; Eighth Amendment; *...nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb...*; ...nor be deprived of life, liberty, or property, without due process of law...; *...The United States Constitution prohibits the federal government from imposing excessive bail, excessive fines, or cruel and unusual punishments...;* and Fourteenth Amendment "...*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...; ...nor shall any State deprive any person of life, liberty, or property, without due process of law...; ...nor deny to any person within its jurisdiction the equal protection of the laws.*" Also, California State Constitution Article I. Court panel considerations

therefore is necessary *"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".*

3.Secure and maintain uniformity of exceptional importance if it involves an issue of significant national significant importance at stake in which there is systemic consequences for the development of the law and administration of justice *(Matson v. overriding Geren (2nd Cir. 2009) 587Frd 156,160.)* Need for national uniformity (CTA9-35-1) on which the panel decision conflicts with the authoritative United States Constitution in its valuable Amendments listed above and the United State Court of Appeals for The Federal Circuit and Supreme Court that have addressed that issue (FRAP 35(a)(1)&(2).).

4.Petitioner Nagui Mankaruse wish to include the Memorandum filed in this Court in lieu of Oral Argument on Appeal to this Petition (Raytheon Docket#38, Intel Docket#39).

FACTUAL STATEMENT OF THE CASE

5.The petitioner here in this Honorable Court seeking Review, Opinions, and answer to questions of the law in these two serious Patent Infringement (US 5,411,512 & CA 2,389,458) cases while this petitioner has lost the two cases just now by this Honorable Court Opinion. After filing legitimate first amended complaint, Raytheon in these two Actions chose as usually did in the past State Court litigations filling unrelating bundles of

motions against the filed complaints, overwhelming the Court and Mankaruse. "The devil is in the details."

6.Raytheon diverting the District Court attention to side issues became the successful strategy standard to consume the courts time, Mankaruse actions after the complaint is filed only reacting to Raytheon unrelating frivolous motions. Raytheon accepted the patented technologies and the applications used in THAAD Missile Defense Systems, Fire Finder RMI and Sentinel Improved Radars at the time and after successful, verification analysis and validation tests for several months on the application "the trade secrets" "Documents 368 pages Filed Under Seal 11/22/2019, Pacer #51".

7.However, the Superior Court of California have issued the 5 pages Ruling 8/1/2019 (Volume I, Appendix 1-6) DENIED Raytheon vexatious motion (in its entirety) relieving Mankaruse from priior Errored be Vexatious Litigant.

8.The District Court ERRED GRANTED Raytheon and Intel Motions Declaring Mankaruse vexatious Litigant again, required Mankaruse to post $25K Security Bond each, conflicts with California State Constitution, *Article I: "...nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.".*

9.Unfortunately, United States Courts are believing Raytheon achieving their strategic goals, first halting progress for 1 ½ years of the Cases and getting litigations dismissed without Due Process because Mankaruse lack of

money to post the two Bonds where Justice in our Society is the first loser, when the Courts put Price Tag in order any American to Get Justice. (*Against the Bill of Rights)*; *Bill of Rights comprises the first ten amendments to the United States Constitution."*

SUMMARY OF THE ARGUMENT & QUESTIONS PRESENTED

10.Court Order requiring Mankaruse to furnish security Bond must be supported by constitutional grounds if he declared a vexatious litigant "based on the 8/1/2019 Order by the Superior Court of California, Honorable James Crandall presiding "...there is reasonable probability of Prevailing "Volume I, #5, Item #D. In addition, the District Court did not get chance to examine Documents filed by Mankaruse under seal providing grounds of prevailing.

11.There are no grounds of the Rulings that made the District Court violates the several US Constitution provisions as originally written while the Federal Circuit concur.

12.Does Raytheon litigation history and strategies diverting the litigations in the two State Court "Table #I & Table #2" present any alarming signals to the Federal Circuit and repeated itself in this case. The history of litigation until today "more than two years" in the District Court entertaining several unrelated frivolous motions ignoring litigating the Complaints on the merits, refusing any Discoveries should have made the Federal Circuit conclude doubts of what is going on. The complaint has merits and Raytheon Strategies are to delay and harass Mankaruse to reach their ultimate Goal

"Dismiss the Case before its inception as in previous litigations with Councils and In Pro Se "more than seven years."

13.Does the Federal Circuit possible to count the number of cases wrong and base their conclusion on adding cases litigated by counsel to cases as Pro Se to reach the number of litigated cases to five? CCP391, CCP(391(b)(2)&(3).

14.Does the District Court concurred by Federals Circuit believe without any doubt that Mankaruse when going to Court to ask for his rights supported by 368 pages of documented evidence filed under seal in the District Court before getting Due Process conclude that Mankaruse is harassed by Raytheon and the case has merits? Raytheon is Harrassing Mankaruse to avoid litigation and dismiss the case? Raytheon refusing any Discovery for seven years to delay and Dismiss. "Documented."

15.Mankaruse <u>needs 6 hours Inspection of Property in good faith, he is willing to go to trial next day if finds Patent Infringement as expected or dismiss the case immediately</u> if there are no Infringements.

ARGUMENT

16.The legitimate qualified case count filed in the California State Court against Raytheon; were <u>not</u> patent infringements. State Court has no jurisdictions over patent infringement litigations.

17.All prior litigated cases were by councils except two cases "can be considered qualified but two different defendants, must not be added

together." filed in 2016 and 2017" "Table I" 391.(b)(2)."; the wrongful termination case# 20-2013-00625080-CU-WT-CJC was lost by Council Mr. Paul Gleason due to deliberate negligence in the trial.

18.Raytheon tactical gimmicks delaying and diverting attention to destroy, dismiss or at least mess-up all litigated cases is the norm. State Court trade secrets misappropriation which ended failing due to summary judgements were concluded before any discoveries on Raytheon because their refusals which is illegal, CCP437(h) & Section 3294. Aimed at serious litigation delays "seven years without getting to any merits issues never moved from the complaint phase". It can be obvious now that the infringement happened, but we need the proof, can be done as simple as Inspection of Properties in less than one day of work, Raytheon can be facing different issues of avoiding the law of the land and dishonesty.

19.Mankaruse failed posting Bonds in Raytheon and Intel Actions because had no cash or property to leverage Bonds. Exactly why Raytheon playing vexatious litigant card three times within two years, two times in the State Court third in the District Court "here". Against the Constitution Eighth Amendment "...nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb"

20.Subjected to Over Stress and Anxiety after start disclosing patented technologies (8/5/2008) developed deadly Heart Arrhythmia (8/25/2010). Mankaruse have settled the Workers Compensation Case #ADJ7486670 against Raytheon in the Workers Compensation Appeals Board (WCAB), October 2015.

21.Mankaruse was excluded from doing any work in Fire Finder and Sentinel systems using his patented technologies of the prototype development, testing and consulted as needed, then after everything was successfully verified and validated, Mankaruse was pushed to retire or leave while the proposed technologies kept large number of engineers and management employed several years in Raytheon locations across the United States and Britain.

22.2012 litigation dismissed when Mankaruse admitted to hospitals again (28 days) serious deadly episodes, experimental surgery at UCLA as ginny pig, surgery became FDA approved in USA, Germany, Britain, & India (2018).

23.Raytheon motion declaring Mankaruse vexatious litigant for the third time within two years subject of this appeal is violation of final five pages ruling "8/1/2019" by the same State Court (Appellant "volume I, Appendix 1 - 6" DENIED in its entirety, and Declared case have Merits. "Eighth US Constitution Amendment"

24.Unfortunately, this Honorable Court did not Notice the detailed analysis of five pages each Memorandum Raytheon and Intel Denied Mankaruse being Vexatious litigant, by Superior Court Order 8/1/2019.

25."CCP [391-391.8] & 391.(b)(2)" consider case count only applicable to the same defendant(s), plaintiff is considered vexatious against defendant(s) must have the count against these particular defendant(s) to be counted "Qualified" against those defendant(s), otherwise cannot be added together "2016 and 2017 cases are against different defendants & causes of Actions" "

CCP391(b)(2) "*After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined.*" **cases against Raytheon were different Defendant(s) in both qualified State Cases "Table I" and Unqualified Cases "Table II" must not to be added together. The District Court Erred counting total qualified & unqualified cases, and total unqualified cases; true count is less than five.**

26.Mankaruse disclosed patented technologies, allowed testing in Missile Defense Systems prototypes "first document to Raytheon 8/5/2008" outlined proposed solution, first paragraph clearly stated the technologies are patented, was accepted by Raytheon seeking solution to the persisting issues preventing the systems under consideration from performing. Accepting the Patented technologies eliminate any need for routine patent infringement litigation or any litigation at all. Raytheon must respect their Oral contract and accept systems used the patented technologies and its applications. "licensed the protected technologies per Raytheon Local Rules "91-1001d-110"" take responsibilities instead of wasting time and money on attorney's fees, is not fair "is not American".

27.Based on documents and verbal discussions in daily meeting with Raytheon leaders, Program Director David Stephens "defendant",

communications with Raytheon Chairman/CEO Mr. William Swanson through his vice presidents Messer. Keith Peden & F. Kinsey Haffner (defendants), denied use of patented technologies in writing and to "abc 10 News investigative report 4 minutes Video: https://youtu.be/br2239gT2Q4 ."

28.The Court here must be fair to Mankaruse in these two high-profile cases against Raytheon & Intel which shouldn't be litigated from the start, if Raytheon & Intel honors all the agreements, honesty, ethics and actual facts and accepting the truth" what they accepted before" the Patented technologies that is now are working in Raytheon equipment "documented", drawings, colored images, test reports and correspondences available. It's believed life default that "when honest" businesspeople honor their agreements as true.

29.Mankaruse Notice of appeal "2/19/2020" was filed in Ninth Circuit, however Raytheon &Intel continued delaying strategies waited until 9/22/2020 then unilaterally transferred the case to this Honorable Federal Circuit, that we are more than 16 months after Mankaruse filed Notice of Appeal to get this Court's Opinion in issues that never should be here due to State Court Order 8/1/2019 & Eighth Amendment reliving Mankaruse from all issues of being vexatious litigant, security bonds and prefiling approval and confirming the case has merits. "State Court Order 8/1/2019 & US Constitution Eighth Amendment."

30.Court opinion "II p.6" chose to ignore the five pages State Court Order of 8/1/2019 and analysis concluded that Mankaruse is not vexation litigant. Ninth Circuit's test is not proper in Mankaruse situation because he

is NOT vexatious litigant CCP [391-391.8] & 391d.(b)(2), and actual cases count by the District Court are wrong. United States Constitution Eighth has precedence over CCP [391-391.8], Ultimate guide to everything and supersedes every statute and every law "State or Federal" the cases count cannot add Raytheon and Intel, Cases litigated by Council are completely wrong and deceiving.

31.We must Defend Our United States Constitution as originally written. Mankaruse didn't made any violation to the Constitution or any Statutes "State or Federal. Unfortunately, Mankaruse is under the unjust treatments of mega multi-national corporations and multi-national law firms, manipulating every Laws, Constitutions and any individual opposing their wrong actions. The truth must prevail.

32.In Opinion "II, A" Yes, the District Court abused the Constitution, the Federal & State Statutes and its discretion in basing it's ruling on counting wrong number of qualified cases when tested against CCP [391-391.8] & 391.(b)(2). This Statute by itself is definitely Un-constitutional however not even applicable in the circumstances of Raytheon & Intel cases with all its implicational details when considered, simply because Mankaruse is Not Vexatious Litigant, by Court Order (8/1/2019 and US Constitution Eighth Amendment).

33.Mankruse history of litigation against Raytheon was reaction not action, it's Raytheon litigation history is the problem. We are facing unusual, unprecedented circumstances. Yes, Mankaruse believe the truth must prevail. Not represented by councils at that time is never crimes punishable by law.

34.Raytheon pushed the Courts beyond the limits to get rid of the whole case which they did by all complaints filed to be dismissed before any Due Process in more than 7 years. It is not proud things by Raytheon & Intel or its Councils, to get these cases by deceiving all parties is unmotorable disastrous for defendants, Raytheon, Intel and its High Profile Law Firms getting Credits dismissing the cases illegally, getting plaintiffs Councils behave illegally in bad faith that happens in United States Court of law because we all are under Oath to defend the Constitution of the United States.

35.After complaint filed in 2019, Mankaruse was bombarded with frivolous eight motions simultaneously between Raytheon and Intel who coordinated their efforts, overwhelming Mankaruse and the District Court by frivolous unrelated motions rather moving into merits trials or settle.

36.Before the first District Court hearing we supposed starting the discoveries request for Raytheon and intel filed before first hearings were scheduled January 2020 to finalize Rule 26(f) and schedule of events throgh trial, Raytheon and Intel rejected getting Schedule of events stipulated as required by local Rules. Mankaruse had to prepare separate schedule of events through trials within nine months, while Raytheon and Intel wanted trials more than two years in the future, filing bundles of frivolous unrelated motions to unreachable trials. Using their favored strategies to delay and continue sidetracking the Courts "harassment by Raytheon and Intel", consume more than two years end up with unreachable trials in these Federal Courts so far. "Rule26(f) Report Pacer #61, 12/27/2019"

37.The Honorable Circuit Judges can see Raytheon is doing all the harassment, delays, clogging courts with nonsense frivolous motions. Mankaruse filed for inspection of properties of Raytheon Systems under investigation and production of documents by the District Court local Rules to start early if we can, it proved to be useless with Raytheon and Intel because they responded with bundles of unrelated frivolous motions instead.

38.Mankaruse directed the Court's attention to Raytheon & Intel bundles of frivolous motions in this first hearing in the two cases. Mankaruse is ready for the trial the next day after Inspection of Property if all parties are working in good faith, but it proves that Raytheon strategies are messing up any case, leads to destruction of the cases by procedural gimmicks "Illegal".

39.There were no demurrers filed in the District Court ever in Raytheon or Intel cases, and no cases were dismissed except in the first hearing the Court found himse40 facing eight frivolous unrelated Motions to decide.

40.While dismissing attorney on the Corporation case in the State Court, Mr. Valentine; Raytheon Lead Council came to Mankaruse in the hallway with friendly approach and soft discussion and gave him advice to dismiss the remaining Cause of Action in the case because Judge Banks will be angry if you keep this Cause of Action. My nature is trusting people but never stupid, Mankaruse dismissed that cause of Action to start the 2016 Pro Se case, he found out later that Mr. Valentine using it falsely in the count cases for vexatious motions.

41.Raytheon followed Mankaruse to prevent him getting any kind of work in any company after the wrongful termination by Raytheon on

4/17/2012 and after he returned to work from over a year disability leave with 3 working days, which is illegal again. EATON is multi-national company In Irvine, California for example interviewed Mankaruse twice before issuing an offer for Chief Engineer position, they cancelled the offer after contacting Raytheon. This happened several times to control Mankaruse income.

42.Mankaruse is very responsible individual in everything he does including these litigations he conducted with dignity, truth, and ethics. Mankaruse earned two academic degrees in engineering from top universities, licensed as Professional Engineer by the State of California and more than 55 years engineering experience in addition to 25 years as adjunct professor of engineering at California State University in Los Angeles and Fullerton campuses and long working hours throgh his long career. Mankaruse is in the best shape to handle any task within these assignments.

43.Raytheon manipulated everything from Mankaruse health, dragging him to the brink of death several times, while survived since 2010 under poverty line, deceiving the courts in every step of the way and present wrong confusing data in any case litigated including the jury in the Wrongful Termination case.

44.The Same State Court in his last ruling DENIED Raytheon second vexatious motion in its entirety declaring Mankaruse vexatious litigant which is the status on 8/1/2019. The California State vexatious litigant list was not updated to include the latest State Court Order. Mankaruse is a free American man in The United States of America, he has all his constitutional rights. Mankaruse doesn't file duplicative claims or harassing litigation to

Raytheon or Intel or anybody. However, Raytheon and Intel should not be allowed to deprive Mankaruse from his full and total Constitutional rights because Raytheon wants that. The District Court Erred in his Order declaring Mankaruse vexatious litigant again. (CCP[391-391.8], CCP391(b)(2).

45.The Bond amount is not warranted under Mankaruse current financial condition which violate the fifth and Eighth amendments. Raytheon is secure enough doesn't need any security Bond, spend money on attorney's fees like crazy ever since he started disclosing his patented technologies in 8/5/2008. Now its obvious that Raytheon using Mankaruse Intellectual Property and maneuverings to evade getting to the merits of any trial on the merits in the last seven years. Mankaruse is ready to go to trial next day after minimum inspection of Property in a day.

abc 10News 4 minutes investigative report Aired on November 6, 2013 clarify related parts of the issues with Raytheon company in this link below:

https://youtu.be/br2239gT2Q4

46.TABLE I:

***((Qualified)Pro Se* Actions Against Raytheon)**

1	**Qualified. Court Erred Granting Case to Defendants in Summary Judgement. Different(s) Case; CCP 391(b)(2)**	**Case Name and No.:** *Mankaruse v. Raytheon Company et al.* Case No. 30-2016-00878349-CU-IP-CJC **Date Filed:** September 30, 2016 **Disposition:** Summary judgment granted before any Discoveries. on Raytheon Started which is illegal, "CCP437(h) & Section 3294"

2	**UN-Qualified, Accepted by the same Court due to different case, different defendants. Different case; CCP 391(b)(2)**	**Case Name and No.:** ***Mankaruse v. Raytheon Company et al.*** **Case No. 30-2017-00934796-CU-IP-CJC** **Date Filed:** **September 30, 2016** **Disposition:** **Summary judgment granted before any Discoveries started. which is illegal, "CCP437(h) & Section 3294"**

47.TABLE II

***((UN-Qualified) Pro Se* Actions Against Raytheon)**

1.	**Litigated by Council Paul Gleason**	**Case Name and No.:** ***Mankaruse v. Raytheon Company et al.*** **Case No. 30-2013-00625080-CU-WT-CJC (The "Second Employment Case")** **Date Filed:** **January 17, 2013** **Disposition:** **Jury verdict in favor of Raytheon in December 2014. Court of Appeal affirmed. (RJN ¶ 3, Ex. 4).**
2.	**Litigated by Council Allen Perry; Plaintiff is Corporation**	**Case Name and No.:** ***American Innovation Corp. et al. v. Raytheon Company et al.*** **Case No. 30-2014-00732670-CU-BC-CJC (The "First IP Case** **Date Filed:** **July 7, 2014** **Disposition:** **Fraud and deceit claim dismissed on Nov. 9, 2016. (RJN ¶ 4, Ex. 5). Mr. Valentine in the Hallway told Mankaruse Judge Banks Angry if you don't Dismiss Claim. (RJN ¶ 5, Exs. 6–7).**
3.	**Manage the cases, consolidation.**	**Case Name and No.:** ***Mankaruse v. Raytheon Company et al.*** **Case No. 30-2016-00841632-CU-IP-CJC**

	This was not a Case by itself	**(The "Second IP Case")** **Date Filed:** **March 18, 2016** **Disposition:** **Plaintiff dismissed the lawsuit on May 16, 2016 (RJN ¶ 6, Ex. 8) within two months, Case dismissed before demurrer hearing.**
4	**Dismissed to Manage & Consolidate, after Council Allen Perry Dismissed Other issues.** **Filed The 2016 case Pro Se the next day.**	**Case Name and No.: to manage** ***American Innovation Corp. v. Raytheon Company et al.*** **Case No. 30-2016-00860092-CU-IP-CJC** **(The "Third IP Case")** **Date Filed:** **June 27, 2016** **Disposition** **Plaintiff dismissed the case on September 29, 2016. (RJN ¶ 7, Ex. 9). Within three Months**

CONCLUSION

48.It is unconstitutional to deprive any free American from his constitutional rights, legal rights or any rights because he doesn't have money, then he must accept abuse and cannot go to court to fight for his rights. We are all equal under God, under the United States Constitution.

49.Raytheon Case Pacer Docket speaks for itself, shows that after Mankaruse filed his Amended Compliant "11/22/2019" Raytheon filed zillion motions.

50.For all these factual reasons, Federal Circuit respectfully should Reverse its Opinion and be overwhelmed by defending nothing else but the United States Constitution as written.

51. Honorable Federal Circuit reexamine its Opinion for the Best of Our Nation, defending our Constitution fiercely not for Mankaruse, Raytheon, Intel only, but defending the Constitution and our freedom in this Nation.

Respectfully submitted,

Dated June 1, 2021

NAGUI (NAGY) MANKARUSE
Petitioner-Appellant In Pro Se

STATEMENT OF COMPLIANCE

1. **The petition complies with the length limits permitted by the United States Court of Appeal for the Federal Circuit Rule (FRAP 32(a)(7)(A), and FCR 32 (b)(1). The brief contains 3,820 words, excluding Informal Petition and the parts of the Petition exempted by Fed. R. App. P. 32(F).**

2. **The petition complies with the typeface requirements of Fed. R. App. 32(a)(5), and type style requirements of Fed. App. R. P. 32(a)(6), it has been prepared in a proportionally spaced typeface using Microsoft @ 365 in 14-point Type New Roman type.**

Date: June 1, 2021

Nagui Mankaruse

NAGUI MANKARUSE

APPENDIX I:

PETITIONED JUDGEMENT

CASE NUMBER: 20-2309

NAGUI MANKARUSE v. RAYTHEON COMPANY

UNITED STATES COURT OF APPEALS FOR FEDERAL CIRCUIT

20-2309

Nagui Mankaruse
19081 Carp Circle
Huntington Beach, CA 92646

United States Court of Appeals for the Federal Circuit

NAGUI MANKARUSE,
Plaintiff-Appellant

v.

RAYTHEON COMPANY, TRS LLC US, DAVID EARL STEPHENS, JOHN RYAN, JAMES LEROY COTTERMAN, JR., JAMES D. WEBER, MARK P. HONTZ, KIMBERLY R. KERRY, COLIN J. SCHOTTLAENDER, WILLIAM H. SWANSON, THOMAS A. KENNEDY, MATTHEW BREWER, F. KINSEY HAFNER, KEITH PEDEN, BRIAN ARMSTRONG, RICHARD ROCKE,
Defendants-Appellees

2020-2309

Appeal from the United States District Court for the Central District of California in No. 8:19-cv-01904-DOC-ADS, Judge David O. Carter.

JUDGMENT

THIS CAUSE having been considered, it is

NOTE: This disposition is nonprecedential.

United States Court of Appeals for the Federal Circuit

NAGUI MANKARUSE,
Plaintiff-Appellant

v.

RAYTHEON COMPANY, TRS LLC US, DAVID EARL STEPHENS, JOHN RYAN, JAMES LEROY COTTERMAN, JR., JAMES D. WEBER, MARK P. HONTZ, KIMBERLY R. KERRY, COLIN J. SCHOTTLAENDER, WILLIAM H. SWANSON, THOMAS A. KENNEDY, MATTHEW BREWER, F. KINSEY HAFNER, KEITH PEDEN, BRIAN ARMSTRONG, RICHARD ROCKE,
Defendants-Appellees

2020-2309

Appeal from the United States District Court for the Central District of California in No. 8:19-cv-01904-DOC-ADS, Judge David O. Carter.

Decided: May 7, 2021

NAGUI MANKARUSE, Huntington Beach, CA, pro se.

ANDREW VALENTINE, DLA Piper LLP (US), East Palo

Alto, CA, for defendants-appellees. Also represented by STANLEY JOSEPH PANIKOWSKI, III, San Diego, CA; NANCY NGUYEN SIMS, Los Angeles, CA.

Before TARANTO, LINN, and CHEN, *Circuit Judges*.

TARANTO, *Circuit Judge*.

Nagui Mankaruse, proceeding *pro se*, brought this action in district court against Raytheon Company, Thales-Raytheon Systems (TRS) LLC, and a host of Raytheon employees in their personal capacity (collectively, Raytheon), alleging patent infringement and trade-secret misappropriation. Having fought similar, and in large part the same, claims by Mr. Mankaruse in California state courts during the previous six years, Raytheon asked the district court in this case for, and received, an order deeming Mr. Mankaruse a vexatious litigant, requiring him to seek court permission before filing further cases against it, and also requiring him to post a $25,000 security bond before proceeding with the present case. *See Mankaruse v. Raytheon Co.*, No. 8:19-cv-01904-DOC, 2020 WL 2405258, at *1 (C.D. Cal. Jan. 23, 2020) (*Pre-Filing Order*). Mr. Mankaruse failed to post the required bond, and the district court then dismissed this case. We affirm.

I

Mr. Mankaruse is one of two named inventors on U.S. Patent No. 6,411,512 and Canadian Patent No. 2,389,458, both of which are titled "High Performance Cold Plate," and both which he has claimed to own. On October 3, 2019, Mr. Mankaruse filed the present case in the Central District of California. He accused Raytheon of infringing claims of the '512 and '458 patents and of misappropriating his trade secrets. *See* Complaint, *Mankaruse v. Raytheon Co.*, No. 8:19-cv-01904 (C.D. Cal. Oct. 3, 2019), ECF No. 1.

This is not the first lawsuit between Mr. Mankaruse and Raytheon. Mr. Mankaruse, an engineer, worked for Raytheon from 2004, until he was laid off in April 2012, as part of a reduction in Raytheon's workforce. A few months before the layoff, Mr. Mankaruse sued Raytheon, along with several Raytheon employees, in California state court, asserting employment discrimination based on his age and nationality, and Raytheon removed the case to federal court. *See* Notice of Removal of Action Pursuant to 28 U.S.C. § 1441(a), *Mankaruse v. Raytheon Co.*, No. 8:12-cv-00261 (C.D. Cal. Feb. 16, 2012), ECF No. 1. Mr. Mankaruse moved to dismiss his claims without prejudice when the case was removed. Raytheon Appx. 152. The federal court granted that motion and dismissed Mr. Mankaruse's claims on August 8, 2012. Raytheon Appx. 155.

From 2013 through 2017, Mr. Mankaruse filed six additional unsuccessful state-court actions against Raytheon, alleging various combinations of trade-secret misappropriation and discrimination, as well as contract breaches and torts. *See Mankaruse v. Raytheon Co.*, Case No. 30-2013-00625080 (Orange Cnty. Super. Ct. filed Jan. 17, 2013); *American Innovation Corp. and Mankaruse v. Raytheon Co.*, Case No. 30-2014-00732670 (Orange Cnty. Super. Ct. filed July 7, 2014); *Mankaruse v. Raytheon Co.*, Case No. 30-2016-00841632 (Orange Cnty. Super. Ct. filed Mar. 18, 2016); *Mankaruse v. Raytheon Co.*, Case No. 30-2016-00860092 (Orange Cnty. Super. Ct. filed June 27, 2016); *Mankaruse v. Raytheon Co.*, Case No. 30-2016-00878349 (Orange Cnty. Super. Ct. filed Sept. 30, 2016); *Mankaruse v. Raytheon Co.*, Case No. 30-2017-00934796 (Orange Cnty. Super. Ct. filed July 31, 2017). One of those cases went to trial, ending in a jury verdict in favor of Raytheon in December 2014, which was affirmed on appeal. *See* Raytheon Appx. 157–72 (Case No. 30-2013-00625080).

In another one of those cases, the California Superior Court, on July 12, 2018, declared Mr. Mankaruse a

vexatious litigant under California Code of Civil Procedure § 391(b)(1) and required that he obtain pre-filing approval from the court before initiating any future litigation and that he post a security bond of $10,000 before proceeding in the case. Raytheon Appx. 137–40 (order in Case No. 30-2016-00878349). After Mr. Mankaruse posted the required bond and the case proceeded, the court ultimately entered summary judgment against him on October 31, 2019 and awarded costs to Raytheon. Raytheon Appx. 192–204. The court thereafter rejected Mr. Mankaruse's motion to release the bond after final disposition of the case. Raytheon Appx. 149. Mr. Mankaruse was also placed on a list of vexatious litigants maintained by the California Judicial Council.[1]

In the present case, on December 12, 2019, citing Mr. Mankaruse's litigation history, Raytheon filed a motion asking the court to declare Mr. Mankaruse a vexatious litigant, impose a pre-filing-approval requirement, and order him to post a security bond of $50,000 before proceeding with this case. Raytheon Appx. 109–10, 271–93. Raytheon also asked that the court consider Mr. Mankaruse's history of filing cases against Intel Corporation and others (collectively, Intel)—including a co-pending patent-infringement action asserting the same patents as those at issue here, an action we address in *Mankaruse v. Intel Corp.*, No. 2020-2297, slip op. at 2–4 (Fed. Cir. May 7, 2021), issued today. *See* Raytheon Appx. 282–86.

After a hearing on the motion, the district court declared Mr. Mankaruse a vexatious litigant, entered the

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[1] We take judicial notice, under Federal Rule of Evidence 201, of the fact that Mr. Mankaruse remains on the California List of Vexatious Litigants at the time of this opinion. *See* Cal. Courts, Vexatious Litigant List 48, https://www.courts.ca.gov/documents/vexlit.pdf (last updated April 1, 2021).

requested pre-filing-approval order, and imposed a bond requirement on January 23, 2020. *See Pre-Filing Order*, 2020 WL 2405258, at *4. Proceeding through the factors set forth by the Ninth Circuit in *De Long v. Hennessey*, 912 F.2d 1144 (9th Cir. 1990), the court first determined that a pre-filing-approval order was appropriate because Mr. Mankaruse's previous lawsuits evidenced "an extensive history of frivolous and harassing litigation tactics" and compelled "an adverse inference regarding [his] motives in bringing the[] actions." *Pre-Filing Order*, 2020 WL 2405258, at *2–3. The court also found a pre-filing-approval order to be needed, deeming less stringent measures inadequate in light of his litigation history. *Id.* at *3.

Pursuant to the Ninth Circuit's requirement of narrow tailoring, the court ordered that Mr. Mankaruse

> seek prefiling approval . . . prior to filing cases in the Central District of California *pro se* against Raytheon, TRS, Intel, or any of their employees, officers or agents regarding Plaintiff's prior employment with these entities or regarding any alleged stolen trade secrets or patent infringement by these actors.

Id. (citing C.D. Cal. Local Rule 83–8.2). The court also granted Raytheon's request for a security bond in the present case, requiring that Mr. Mankaruse produce a bond of $25,000 "on or before February 29, 2020 or the action will be dismissed." *Id.* When Mr. Mankaruse failed to post a bond by the specified date, the district court dismissed his claims and entered a final judgment on June 9, 2020. Raytheon Appx. 7–8.

Mr. Mankaruse appealed the district court's January 23, 2020 order to the Ninth Circuit on February 19, 2020, and appealed again on June 15, 2020, after the judgment was made final. The appeal was transferred to our court on September 22, 2020, because it falls within our exclusive jurisdiction under 28 U.S.C. § 1295(a)(1).

II

Mr. Mankaruse challenges the district court's order as violative of his constitutional rights, including under the First and Fifth Amendments. *See* Mankaruse Opening Br. 21–22. We also understand Mr. Mankaruse to be challenging the court's security-bond requirement as violating the Eighth Amendment's prohibition on "excessive bail, excessive fines, or cruel and unusual punishments." *See id.* at 22–23. Mr. Mankaruse separately argues that the district court erred by finding him to be a vexatious litigant when, he asserts, the California state court terminated his designation as a vexatious litigant. *Id.* at 19.

The Ninth Circuit's test for determining whether a pre-filing-approval order is appropriate takes account of the constitutional guarantees invoked by Mr. Mankaruse, and we see no separate ground for finding a violation of those guarantees if the Ninth Circuit test is met. *See De Long*, 912 F.2d at 1147 ("[W]e also recognize that such pre-filing orders should rarely be filed."); *see also Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057, 1061–62 (9th Cir. 2014) (applying *De Long* after discussing First and Fifth Amendment concerns); *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1056–57 (9th Cir. 2007) (per curiam) (same). Applying that test, we conclude that Mr. Mankaruse has not shown reversible error in the district court's ruling in this case.

A

Applying the law of the regional circuit, we review a district court's entry of a pre-filing-approval order and declaration of a vexatious litigant for an abuse of discretion. *See Ringgold-Lockhart*, 761 F.3d at 1062; *Baden Sports, Inc. v. Molten USA, Inc.*, 556 F.3d 1300, 1304 (Fed. Cir. 2009). "A district court abuses its discretion when it bases its decision on an incorrect view of the law or a clearly erroneous finding of fact." *Molski*, 500 F.3d at 1056–57.

An order restricting future court filings should rarely be entered and must comply with "certain procedural and substantive requirements": (1) a plaintiff must be given an opportunity to oppose entry of the order; (2) the district court must indicate what court filings support issuance of the order; (3) the district court must find that the filings were frivolous or harassing; and (4) the order must be narrowly tailored. *Ringgold-Lockhart*, 761 F.3d at 1062 (citing *De Long*, 912 F.2d at 1147). To analyze the last two aspects of the test, the Ninth Circuit borrows from the Second Circuit's "helpful framework" of five substantive factors to determine "whether a party is a vexatious litigant and whether a pre-filing order will stop the vexatious litigation or if other sanctions are adequate." *Molski*, 500 F.3d at 1058; *see also Ringgold-Lockhart*, 761 F.3d at 1062. Those factors include:

> (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.

Molski, 500 F.3d at 1058 (quoting *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986)).

The district court in the present matter gave Mr. Mankaruse an adequate opportunity to oppose entry of the order before it was entered. The parties fully briefed the issue, Raytheon Appx. 271–93, 294–446, 447–56, and appeared before the court, which heard from Mr. Mankaruse and counsel for Raytheon, *see id.* at 9–41. The district court had "an adequate record" of the earlier litigation, *De Long*,

912 F.2d at 1147, reviewing a list of cases that Mr. Mankaruse had filed against Raytheon and Intel over the preceding seven years, *Pre-Filing Order*, 2020 WL 2405258, at *2. *See also* Raytheon Appx. 125–270 (Raytheon's Request for Judicial Notice listing cases and supporting documentation).

The district court also reasonably made "substantive findings as to the frivolous or harassing nature" of Mr. Mankaruse's claims. *De Long*, 912 F.2d at 1148 (internal quotation marks omitted). For example, the district court explained, Mr. Mankaruse had a history of dismissing claims after Raytheon had expended significant effort in defending them, only to refile the same claims in a new suit. *See Pre-Filing Order*, 2020 WL 2405258, at *3; *see also, e.g.*, Raytheon Appx. 119, ¶ 5 (sworn attorney declaration that Mr. Mankaruse dismissed claims and refiled them in new suit the following day); *id.* at 181 (dismissing appeal of dismissal in Case No. 30-2014-00732670 after briefing but before argument); *id.* at 185. The district court noted that in one case, in which Raytheon had filed a demurrer, Mr. Mankaruse dismissed his lawsuit on the day of, but just before, the hearing, at which Raytheon counsel, lacking notice of the dismissal, showed up to argue. *See* Raytheon Appx. 185; *see also id.* at 127 (attorney declaration explaining events). Mr. Mankaruse does not deny this version of the events, and we see no reason that the incident should "not qualif[y]" as part of the analysis. Mankaruse Opening Br. 18 (annotation regarding Case No. 30-2016-00841632). Mr. Mankaruse even continued this pattern in the present case, refusing to amend his complaint to delete claims for relief against Intel (which is not named as a party) after a meeting with Raytheon's counsel, only to amend his complaint after Raytheon filed a motion to dismiss those claims. *See* Raytheon Appx. 59; *id.* at 119, ¶¶ 2–3 (attorney declaration regarding meet and confer); *id.* at 123 (attorney letter to Mr. Mankaruse requesting meet and confer).

The district court relied on the "extensive history of frivolous and harassing litigation tactics" confirming that this was Mr. Mankaruse's *modus operandi*, and not simply on the number of suits or motions filed, as justifying the designation of Mr. Mankaruse as a vexatious litigant. *Pre-Filing Order*, 2020 WL 2405258, at *3; *see also De Long*, 912 F.2d at 1148 ("Flagrant abuse of the judicial process cannot be tolerated because it enables one person to preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants."); *Ringgold-Lockhart*, 761 F.3d at 1066 ("[A] pattern of frivolous or abusive litigation in different jurisdictions undeterred by adverse judgments may inform a court's decision that an injunction is necessary."); *cf. id.* at 1065 (commenting that imposing a pre-filing order based on "litigant's motion practice in two cases" "would at least be extremely unusual," but not deciding the issue). In addition to the suits against Raytheon, the district court was also aware of the similar claims Mr. Mankaruse asserted against Intel, and similar behavior regarding his motions practice. *See* Order, *Mankaruse v. Intel Corp.*, No. 8:19-cv-01902 (C.D. Cal. Jan. 27, 2020), ECF No. 34; *see also Mankaruse v. Intel Corp.*, No. 2020-2297, slip op. at 2–4. The reasonableness of the district court's decision is further supported by the fact that California courts have also declared Mr. Mankaruse a vexatious litigant under state law. *See* Raytheon Appx. 137–140. Given the character and frequency of Mr. Mankaruse's tactics, we cannot say the district court erred in its conclusion regarding the vexatiousness of Mr. Mankaruse as a litigant.

The district court also appropriately considered whether alternative sanctions would suffice to deter the actions Raytheon complained of, noting that Mr. Mankaruse previously forfeited a $10,000 bond by pressing an unsuccessful state-court claim against Raytheon. *Cf. Ringgold-Lockhart*, 761 F.3d at 1066 (explaining that district court "failed to consider whether other remedies were adequate

to curb what it viewed" as frivolous motions practice). The district court's "inference that other sanctions would be insufficient" is reasonable and not an abuse of its discretion. *Pre-Filing Order*, 2020 WL 2405258, at *3.

Mr. Mankaruse argues that the district court clearly erred by failing to recognize that a California state court "relieved" him of his vexatious litigant label. Mankaruse Opening Br. 19. This argument misunderstands the California court's order that he cites. In the order, the state court denied Raytheon's motion to declare Mr. Mankaruse a vexatious litigant under California law for a second time, but never addressed Mr. Mankaruse's status presented by his earlier case. *See* Raytheon Appx. 99–104. The court's order expressly states that it denied Raytheon's motion "for purposes of *this action*," referring only to that case, *id.* at 103, and to date Mr. Mankaruse is still listed on the state's list of vexatious litigants, *see supra* p.4 n.1.

Lastly, the court's Pre-Filing Order meets the requirement of being narrowly tailored. The court's order does not prevent Mr. Mankaruse from pursuing "all claims" against Raytheon or the other parties; rather, it is limited to claims "regarding [his] prior employment" or "regarding any alleged stolen trade secrets or patent infringement," *Pre-Filing Order*, 2020 WL 2405258, at *3, which are the types of claims that Mr. Mankaruse had been filing vexatiously, *see Molski*, 500 F.3d at 1061; *see also Baker v. Dykema Gossett, LLP*, 776 F. App'x 485, 487 (9th Cir. 2019) ("[T]he order was narrowly tailored because it was limited to one set of defendants and one court."). In addition, the requirement of pre-filing approval is limited to cases that Mr. Mankaruse files *pro se*; it does not apply to cases filed by counsel. And we understand that approval will actually be forthcoming if the claims filed are "not duplicative and not frivolous." *Ringgold-Lockhart*, 761 F.3d at 1066 (internal quotation marks omitted).

We conclude that the district court did not abuse its discretion by adopting the Pre-Filing Order in this matter.

B

We review a district court's requirement of a security bond from a declared vexatious litigant for abuse of discretion. *See Monsterrat Overseas Holdings, S.A. v. Larsen*, 709 F.2d 22, 24 (9th Cir. 1983). "Federal courts have inherent authority to require plaintiffs to post security for costs." *In re Merrill Lynch Relocation Mgmt., Inc.*, 812 F.2d 1116, 1121 (9th Cir. 1987). Under the Central District of California's Local Rule 83–8.2, the district court "may, at any time, order a party to give security in such amount as the Court determines to be appropriate to secure the payment of any costs, sanctions or other amounts which may be awarded against a vexatious litigant." C.D. Cal. R. 83–8.2. We cannot say that the district court abused its discretion under this rule by requiring Mr. Mankaruse to post a bond in this case.

As explained above, the court properly declared Mr. Mankaruse a vexatious litigant. And the bond amount of $25,000 was not excessive. The purpose of the bond is to provide a defendant security that, if it were to prevail in defending against a suit, would enable it to recoup its costs from a plaintiff, and the parties here do not meaningfully dispute that, at the time the bond was required, predicted costs of further litigation would have exceeded $25,000. *See* Fed. R. Civ. P. 54(d); *see also* Mankaruse Reply Br. 21 ("Both Intel and Raytheon spending millions of Dollars for years in frivolous litigations . . . ."); Raytheon Appx. 120, ¶ 10 (attorney declaration stating costs defending lawsuit exceed $50,000); *id.* at 116 (letter from Intel in similar case). Moreover, the district court set the amount at $25,000, representing half of what Raytheon requested in its motion and a reasonable amount of costs Raytheon might be entitled to if successful in defending against the suit. *See* Raytheon Appx. 288; *see also Walczak v. EPL*

Prolong, Inc., 198 F.3d 725, 734 (9th Cir. 1999) (affirming imposition of $100,000 bond when non-movant claimed damages could exceed $2 million); *Figure Eight Holdings, LLC v. Dr. Jays, Inc.*, 534 F. App'x 670, 670–71 (9th Cir. 2013) (affirming $50,000 bond after considering, among factors, the "risk that [plaintiff] would not pay the costs" if it lost and "an assessment of the likelihood that [plaintiff] will lose").

Mr. Mankaruse argues that the district court abused its discretion by requiring the $25,000 security bond because he is unable to secure that much money. Mankaruse Opening Br. 22–23. This argument fails to appreciate the proper legal standard by which we analyze the district court's decision. Federal district courts "have inherent power to require plaintiffs to post security for costs" and typically, although they are not required to, "follow the forum state's practice." *Simulnet E. Assocs. v. Ramada Hotel Operating Co.*, 37 F.3d 573, 574 (9th Cir.1994); *see also Kourtis v. Cameron*, 358 F. App'x 863, 866 (9th Cir. 2009). Although under California law, a court "may, in its discretion, waive a provision for a bond" based on a party's inability to pay, that standard does not make inability to pay a bar to requiring a bond, but leaves discretion with the court. Cal. Code Civ. Proc. § 995.240. In the circumstances of this case, we do not think that the district court abused its discretion in requiring Mr. Mankaruse to provide a security bond of $25,000. It follows that the district court properly dismissed Mr. Mankaruse's claims when he failed to pay the required bond.

III

For the foregoing reasons, we affirm the district court's dismissal of Mr. Mankaruse's suit against Raytheon.

The parties shall bear their own costs.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N.W.
WASHINGTON, D.C. 20439

PETER R. MARKSTEINER
CLERK OF COURT

CLERK'S OFFICE
202-275-8000

Information Sheet

Filing a Petition for a Writ of Certiorari

There is no automatic right of appeal to the Supreme Court of the United States from judgments of the Federal Circuit. Instead, a party must file a petition for a writ of certiorari which the Supreme Court will grant only when there are compelling reasons. *See* Supreme Court Rule 10.

Time. The petition must be filed in the Supreme Court of the United States within 90 days of the entry of judgment in this Court or within 90 days of the denial of a timely petition for rehearing. The judgment is entered on the day the Federal Circuit issues a final decision in your case. The time does not run from the issuance of the mandate. *See* Supreme Court Rule 13.

Fees. Either the $300 docketing fee or a motion for leave to proceed in forma pauperis with an affidavit in support thereof must accompany the petition. *See* Supreme Court Rules 38 and 39.

Authorized Filer. The petition must be filed by a member of the bar of the Supreme Court of the United States or by the petitioner as a self-represented individual.

Format of a Petition. The Supreme Court Rules are very specific about the content and formatting of petitions. *See* Supreme Court Rules 14, 33, 34. Additional information is available at https://www.supremecourt.gov/filingandrules/rules_guidance.aspx.

Number of Copies. Forty copies of a petition must be filed unless the petitioner is proceeding in forma pauperis, in which case an original and ten copies of both the petition for writ of certiorari and the motion for leave to proceed in forma pauperis must be filed. *See* Supreme Court Rule 12.

Filing. Petitions are filed in paper at *Clerk, Supreme Court of the United States, 1 First Street, NE, Washington, DC 20543.*

Effective November 13, 2017, electronic filing is also required for filings submitted by parties represented by counsel. *See* Supreme Court Rule 29.7. **Additional information about electronic filing at the Supreme Court is available at** https://www.supremecourt.gov/filingandrules/electronicfiling.aspx.

No documents are filed at the Federal Circuit and the Federal Circuit provides no information to the Supreme Court unless the Supreme Court asks for the information.

Revised August 21, 2018

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N.W.
WASHINGTON, D.C. 20439

PETER R. MARKSTEINER
CLERK OF COURT

CLERK'S OFFICE
202-275-8000

Information Sheet

Petitions for Rehearing and Petitions for Hearing and Rehearing En Banc

1. When is a petition for rehearing appropriate?

The Federal Circuit grants few petitions for rehearing each year. These petitions for rehearing are rarely successful because they typically fail to articulate sufficient grounds upon which to grant them. Of note, petitions for rehearing should not be used to reargue issues previously presented that were not accepted by the merits panel during initial consideration of the appeal. This is especially so when the court has entered a judgment of affirmance without opinion under Fed. Cir. R. 36. Such dispositions are entered if the court determines the judgment of the trial court is based on findings that are not clearly erroneous, the evidence supporting the jury verdict is sufficient, the record supports the trial court's ruling, the decision of the administrative agency warrants affirmance under the appropriate standard of review, or the judgment or decision is without an error of law.

2. When is a petition for hearing/rehearing en banc appropriate?

En banc consideration is rare. Each three-judge merits panel is charged with deciding individual appeals under existing Federal Circuit law as established in precedential opinions. Because each merits panel may enter precedential opinions, a party seeking en banc consideration must typically show that either the merits panel has (1) failed to follow existing decisions of the U.S. Supreme Court or Federal Circuit precedent or (2) followed Federal Circuit precedent that the petitioning party now seeks to have overruled by the court en banc. Federal Circuit Internal Operating Procedure #13 identifies several reasons when the Federal Circuit may opt to hear a matter en banc.

3. Is it necessary to file either of these petitions before filing a petition for a writ certiorari in the U.S. Supreme Court?

No. A petition for a writ of certiorari may be filed once the court has issued a final judgment in a case.

For additional information and filing requirements, please refer to Fed. Cir. R. 40 (Petitions for Rehearing) and Fed. Cir. R. 35 (Petitions for Hearing or Rehearing En Banc).

Revised August 21, 2018

ORDERED AND ADJUDGED:

AFFIRMED

ENTERED BY ORDER OF THE COURT

May 7, 2021

/s/ Peter R. Marksteiner
Peter R. Marksteiner
Clerk of Court

FORM 30. Certificate of Service

Form 30
July 2020

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

Case Number 20-2309

Short Case Caption Nagui Mankarluse v. Raytheon Company

NOTE: Proof of service is only required when the rules specify that service must be accomplished outside the court's electronic filing system. See Fed. R. App. P. 25(d); Fed. Cir. R. 25(e). Attach additional pages as needed.

I certify that I served a copy of the foregoing filing on 06/01/2021

by ☑ U.S. Mail ☐ Hand Delivery ☐ Email ☐ Facsimile
☐ Other: _____

on the below individuals at the following locations.

Person Served	Service Location (Address, Facsimile, Email)
ANDREW P. VALENTINE	2000 University Avenue, East Palo Alto, CA 94303-2214; Facsimile: (650)833-2001
N/A	
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Date: 06/01/2021

Signature: Magda Mankaruse

Name: MAGDA MANKARUSE

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