IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
No. 20-2297

NAGUI MANKARUSE,

Petitioner-Appellant

V.

INTEL CORPORATION, a Delaware company, ACER AMERICA, CORPORATION, a Delaware company, DANIEL PATRIC DOCTER, an individual, ANDY D. BRYAN, an individual, and MATTHIEW ROBERT HULSE, an individual, 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
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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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The Honorable Federal Circuit Judges Panel: Taranto, Linn and Chen

STATEMENT: REASONS FOR ENBANC 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 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 importance 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 of Appeal to this Petition (Raytheon Docket#38, Intel Docket#39).

FACTUAL STATEMENT OF THE CASE

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

6.Intel diverting the District Court attention to side issues became the successful strategy standard to consume the courts time. Mankaruse which his actions, are reactions after the complaint is filed only reacting to Intel unrelating frivolous motions.

7.Intel accepted the patented technologies at the time of first disclosing of the technologies to Intel in 2004 and 2007 and after signed CNDA and HHL which were becoming obligatory to Intel now are violated. Successful analysis and verification tests for several months in the two encounters with Intel in 2004 & 2007 on the application "the trade secrets" "documented".

8.However, the Superior Court of California have issued the 5 pages Ruling 8/1/2019 "Volume II, Appendix 1-6" DENIED Raytheon motion in its entirety reliving Mankaruse from the Error Vexatious Litigant declaration.

9.The District Court ERRED GRANTED Intel and Raytheon Motions Declaring Mankaruse vexatious Litigant, required Mankaruse to post $25K Security Bond each. Which 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.".***

10.Unfortunately, United States Courts are believing Intel achieving their strategic goals, first halt the progress of the Cases and getting litigations dismissed without Due Process because Mankaruse lack of money to post the $25K 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

11.Court Order requiring Mankaruse to furnish security Bond must be supported by constitutional grounds he is 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 II, Appendix #5, Item #D".

12.The District Court did not get chance to examine Lodged Device with Intel Logo against the Patents Infringed Analysis in the Amended Complaint providing grounds & Analysis for prevailing.

13.There are no grounds that made the District Court violates the several US Constitution provisions as originally written while the Federal Circuit concur even with wrong case count by any means is one if considering Qualified Cases and three if considered all cases which is less than five (5).

14.Does Intel litigation history and strategies diverting the litigations in the State Court qualified case "Table #I" 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.

15.Does the Federal Circuit possible to count the number of cases wrong and base their conclusion on adding two filed cases and never litigated Unqualified "State Court Order 8/1/2019, Volume II, Appendix 1-6" to the single qualified case as Pro Se even never reached the number of cases to five? "CCP391, CCP(391(b)(2)&(3)."

16.Does the District Court Order concurred by Federals Circuit believe without any doubt that Mankaruse when going to Court to ask for his rights supported by detailed Amended Complaint and Lodged Infringed Device with Intel Logo "Pacer #23 12/23/2019" on it as first hand evidence filed in the District Court before getting Due Process conclude that Mankaruse case has Merits? Intel is Harrassing Mankaruse to avoid litigation & dismiss the case!

17.Mankaruse is willing to go to trial next day after this Court Opinion reverse the rulings of the District Court.

ARGUMENT

18.The legitimate case filed in the California State Court; 30-2016-00884058-CU-IP-CJC is not patent infringements. State Court has no jurisdictions over patent infringement litigation.

19.Petitioner Mankaruse In Pro Se in this Action against Intel Corporation is Patent Infringement and Application case 8:19-cv-0192-DOC-JDEx. The Federal District Claim was never litigated before because the State Court does not have Jurisdiction over Patent litigations!

20.Petitioner Nagui Mankaruse, In Pro Se have sued Intel only one Qualified time "CCP 391(b)(2) & Court Order 8/1/2019." Trade secrets misappropriation case# 30-2016-cv-00884059-CU-IP-CJC is the only qualified

case to be counted in measuring vexation litigant case numbers however Un-Constitutional.

21.Mankaruse has been injured by Intel when he found out that Intel, an American Multinational Corporation deceive he Courts and violate two of its own signed documents "Corporate Non-Disclosure Agreement "CNDA" & HHL " "Intel Volume II, Appendix 34-36" In 2004 before Mankaruse encounters with Intel in 2004 and 2007."

22.Mankaruse here is being blamed twice once by the District Court and second by this Honorable Federal Circuit of filing this Action of Patent Infringement against Intel. Mankaruse is doing what any individual or entity must do if his/her Intellectual Property is Infringed. This is guaranteed by the Bill of Rights and the First Amendment in the United States Constitution. Seeking Court permission and requesting to furnish Security Bond of any order of magnitude to prevent him from demonstrating his Constitutional rights because is not represented by Council is clear violations of the Bill of Rights, First, Fifth, Eighth and Fourteenth Amendments of the United States Constitution & Article I of California Constitution which demonstrate clear transgression on our United States Constitution itself as originally written.

I

23.The District Court Order is simply violation to our United States Constitution as originally written and cannot stand which also are explained in the opposition to the District Court ruling declaring Mankaruse vexatious litigant and Order him to furnish Security Bond. In the Brief & Reply and Memorandum in this Federal Circuit. However Unconstitutional, CCP [391-391.8] & 391(b)(2). The Intel situation, the counted number of cases is less than five cases even counting the Quailed and Unqualified numbers of cases which is wrong even against any method of counting. The qualified cases to be counted in this situation of Intel is ONE case only and three if considered all cases "Qualified and Unqualified" which is less than five cases pursuant to The three cases all different Causes of Actions and CCP[391(b)(2).

24.The plaintiff is considered vexatious against defendant(s), it must have the count against that particular defendant(s) exactly, 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.*" **which is the case of Intel here, since the**

defendants litigated in the three presumed cases with one is only qualified case subject of the discussion here were different Defendant(s) and the claims are different in both the Qualified and Unqualified cases also can be counted as one case. The District Court and the Federal Circuit concurred Erred on Intel because it did not & *must not count as five (5) cases absolute* at the time of the Order, even with careful examination of all cases of Intel and Raytheon separately no two cases have exactly the same defendants and/or Causes of Actions (391(b)(2). We cannot add all cases as numbers without applying the Statute exactly and carefully as written. "CCP391(b)(2)".

25.This Honorable Federal Circuit is criticizing that the Intel and Raytheon actions of infringement of the '512 US Patent & '458 Canadian Patents and its applications the trade secrets are identical, which is not true at all. First in the amended complaint against Intel, the Infringing Device is the CPU Cooler, second, the Causes of Actions are: Indirect (Induced) Infringement 35 U.S.C. 271 & 27l(b) and Direct Infringement Cause of Action 35 U.S.C. 271, 27l (a). and the Applications of the Patents used to build the CPU Cooling (trade Secrets). In Raytheon situation the amended complaint causes of actions are Direct Infringement 35 U.S.C. 271 & 271(a) and the application on the Fire Finder RMI, The Sentinel Improved radars and THAAD Missile Defense System. The two Causes of Actions are using the

trade secrets of the Patented two-phase cooling technologies and its Applications Statutes.

26.The Infringing products are completely different animals, and the basic technologies are using the same patented two-phase cooling technologies with variations on the two distinct and appropriate applications (trade Secrets) which make the picture complete and unique for each product as being used and applied to both Intel and Raytheon. (please refer to the amended complaints of Intel & Raytheon.)

27.Mankaruse sued Intel in the State Court only one time case#30-2016-cv-00884059-CU-IP-CJC, which is qualified to be counted pursuant to CCP [391-391.8] & 391(b)(2) provisions, which is less than five which unqualify and invalidates the District Court Order under this Rehearing. As this honorable Federal Circuit prescribed in page #3 of the Opinion as various claims various defendants it cannot be counted multiple times in either Intel or Raytheon cases "CCP391(b)(2)."

28.The specific detailed analysis to the infringements of the two patents claims that were infringed are included in documents and illustrations of quick analysis in the Intel amended complaint and detailed in other discovery including 100 pages (about 50 pages for each encounter) of correspondences

with intel through and after the two encounters with Intel during 2004 and 2007 "made available to Intel".

29.From the start intel has signed two agreements in 2004 "Volume II, Appendix 34-36" Appendix before start disclosing the protected technologies and its applications in 2004 and in 2007 with physical prototype in the two hours meeting to more than 15 distinguished engineers, managers and directors in one of the Buildings of Intel Campus in Chandler, Arizona on 2007 with questions and answers part which it was praised by the audience at the end of the presentation.

30.It was mentioned also at that time by Intel leaders after the scheduled meeting that the disclosed performances of the CPU Cooler device when used with Intel CPU "Is too Good to be True" based on the amazing results presented "it proved that it increase the CPU speeds more than 40 times what it was". At that time Intel suggested to Mankaruse to do outside tests and bring them to Intel to believe it, then Mankaruse told them face to face if this is the case, we can do the tests here in your testing lab. and you can watch it since it can cost around $100K if done in an outside lab. The answer immediately was we have no time. In 2015 Mankaruse discovered one infringed CPU Cooler is selling on Amazon website and he bought few of them

and has one of these units lodged in the District Court until today, its pictures are in color in the Memorandum (Intel Appendix page 43, item #23.)

31.Intel never disputed the facts mentioned above and they accepted the patented technologies back then until today and while filling demurrers to the complaint in the State Court never got beyond demurrers of false procedural errors within two years in the State Court against one of the mostly perfect complains that could be filed.

32.The State Court Judge have missed one of the Actions must be taken by him before rejecting the first amended complaint and later after the third demurer dismiss the case all together, is to make a conference with both parties to show where the dispute if any in the complaint which were never done and he chose to dismiss the complaint instead in violation of the State Court local procedures rules Documented. Immediately after signing the case dismissal, he was transferred to one of the County satellite Courts from the Central Justice Center.

33.In February 2, 2018 Mankaruse filed 30-2018-00971116 and 30-3018-00971179 was bifurcation of different claims in case #1 here one case was only Trade Secret misappropriation and the second was other civil claims related to breach of contract and the Non-disclosure agreement,... to meet the

requirement of CCP 2019.210 which require the trade secret cause of action separate case, of CCP [391-391.8] & 391(b)(2).

34.The cases count against Intel is being listed and analyzed in detail in table I & II and its status and comments.

35.In the present Federal District case filed January 3, 2019 within few weeks, Mankaruse filed an amended complaint in the Intel case to add information defined the issues and include different parties to make the First Amended Complaint more precise with more supported verified data which are absolutely allowed without motion to leave to amend, can't see what is wrong with that particularly the Federal Court has required detailed complaints lately.

36.Intel always followed Raytheon in filing bundles of frivolous motions to kill the cases before its inception as usual and suggested the prefiling approval and Bond issues, which are completely obscured and motivated, since the final and last Order of Honorable James Crandall of the State Court dated 8/1/2019 has DENIED Raytheon vexatious motion on its entirety. Intel only sued onetime which is less than five qualified cases to be declared Mankaruse vexatious litigant. Mankaruse was clear to file this case in the Federal Court on 10/3/2019 and to file the Raytheon Case in the Federal

Court in the same day. Mankaruse is not vexatious litigant pursuant to State Court Ruling of 8/1/2019, CCP [391-391.8] and CCP391(b)(2) and Against the Eighth Amendment "...nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb..." The current motion declaring Mankaruse vexa tious litigant is valid because it is unconstitutional.

II, A

37.Since 2016 Mankaruse have been in Courts against Intel and Raytheon In Pro Se, but never passed the complaints phase, refusing to start any form of discovery leading to trial on the merits.

38.Both Intel and Raytheon spending millions of dollars in Attorney's fees to keep the cases in status quo and kill the cases with procedurals false tactics in deceiving and providing false information to the courts in absence of any discoveries, filing bundles of frivuious unrelated motions avoiding going to trials on the Merits. (US Constitution Bill of Rights and Amendments 1, 5, 8, & 14 and CCP391(b)(2).

39.Mankaruse actual complaints of his stolen Intellectual Properties on the merits as the law of the land allows for fairness under the law and the Constitutional rights in California and in Untied States Constitutions, but all of that is ignored by both multi-national Companies, not only that but they spend all these resources and vast expenses on unneeded litigations since 2016

for no reasons other than evading the laws of the land and violating our constitution and killing the fairness in our great Nation.

40.It's not the Mankaruse history of litigation, however its of Intel and Raytheon history of litigation which are abusing the system in bad faith.

41.What are we doing here since Mankaruse filed his Notice of Appeals against Intel in the District Court on October 3, 2019? The Answer is: Mankaruse filed his Appeal in the ninth Circuit in January 2021 followed by Intel transferred the case to the Federal Circuit in September 2021. Counting how many cases Mankaruse filed against intel and Raytheon! What Mankaruse did since the filed the complaints against Intel and Raytheon. The Complaints were for Patents Infringements, but immediately Intel and Raytheon filed bundle of frivuious Motions immediately after.

42.Mankaruse has offered intel new patented technology and intellectual property based on signed agreements conditional not to be used by intel or any third party without his consent with legal licensing of the technologies. Why we are here now? The answer is because Intel violated the agreement intentionally and refused to affect the agreements but never did and never can Deny the illegal use of the infringing device that are installed in all computers with every Intel Central Processing Unit (CPU). The evidence

available physically at hand in one device called CPU Cooler and in every computer in the world uses Intel CPU.

43.Mankaruse is ready to go to trial anytime now even without any discoveries because the evidence are available in every commercial computer uses Intel in the world now to get the absolute truth out pursuant to the Complaint which is the Goal anyway. Intel has everything in their hands already and accepted the Patents and analysis of the applications to build working CPU as it is already done and completed in 2004 and 2007 encounters.

II, B

44.The Federal Circuit Here Erred again not only in violation of the United States Constitution Bill of Rights, First Amendment, Fifth Amendment, Eight Amendment and Fourteenth Amendment. Using discretion of the Ninth Circuit opinion which is not applicable here because there is only one qualified case against Intel pursuant to CCP [391. -391.8] & 391(b)(2) which is less than the five cases limit for any Pro Se litigant to be considered vexatious and State Court Order of 8/1/2019 (Volume II #I,1-6). What is the limit that controls the transgression on Our Constitution, it shouldn't be any Court in the land, who is the ones defending the constitution, if it came from any other entity or individual no mater why this can be it

should be stopped and corrected by any Court and certainly by the Federal Circuit?

45.The Mankaruse history of litigation or any kind of history of any American cannot justify denying any American entity or individual any word of his/her constitutional rights built by our ancestors after the Independence of our great Nation which fought to preserve this constitution to our great Nation, their freedom and every American freedom that comes after them to the end of days. The Raytheon litigation history are analyzed in detail in the Intel Panel Rehearing and Rehearing En Banc.

46.TABLE I

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

QUALIFIED **NOT TO BE COUNTED WITH RAYTHEN CASES RAYTHEON** **The State Court ERRED in his**	**Case Name and No.:** ***Mankaruse v. Intel Corporation, et al.*** **Case No. 30-2016-00884058** **Date Filed:** **October 31, 2016** **Disposition:** **Intel's demurrer was sustained without leave to amend. (RJN ¶ 12, Ex.**

47.TABLE II

***((Un-Qualified)Pro Se* Actions Against INTEL)**

NOT- QUALIFIED **NOT RELATED TO RAYTHEON** **Plaintiff Dismissed**	**Case Name and No.:** ***Mankaruse v. Intel Corporation, et al.*** **Case No. 30-2018-00971179-CU-IP-CJ** **Date Filed:** **February 2, 2018** **Disposition:** **Plaintiff dismissed the case on July 17, 2018. (RJN ¶ 10, Ex. 14).**

NOT- QUALIFIED **NOT RELATED TO RAYTHEON** **Plaintiff Dismissed**	**Case Name and No.:** ***Mankaruse v. Intel Corporation, et al.*** **Case No. 30-2018-00971116-CU-BC-CJC** **Date Filed:** **February 2, 2018** **Disposition:** **Court sustained Intel's demurrer on June 12, 2018.** **Amended**

III.

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. Intel Case Pacer Docket speaks for itself, shows that after Mankaruse filed his Amended Complaint ("11/22/2019" Intel 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.Mankaruse prays that this Honorable Federal Circuit reexamine its Opinion for the Best of Our Nation, defending our Constitution fiercely not for Mankaruse, Intel, Raytheon only, but for defending the Constitution.

Respectfully submitted,

Dated June 1, 2021

Nagui Mankaruse

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 3,780 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, New Roman type.**

Date: June 1, 2021

Nagui Mankaruse

NAGUI MANKARUSE

APPENDIX I:

PETITIONED JUDGEMENT
CASE NUMBER: 20-2297
NAGUI MANKARUSE v. INTEL CORPORATION

UNITED STATES COURT OF APPEALS FOR FEDERAL CIRCUIT

20-2297

Nagui Mankaruse
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Huntington Beach, CA 92646

United States Court of Appeals for the Federal Circuit

NAGUI MANKARUSE,
Plaintiff-Appellant

v.

INTEL CORPORATION, ACER AMERICA CORPORATION, DANIEL PATRICK DOCTER, MATTHEW ROBERT HULSE, ANDY D. BRYANT, DOES 1-10, INCLUSIVE,
Defendants-Appellees

2020-2297

Appeal from the United States District Court for the Central District of California in No. 8:19-cv-01902-DOC-JDE, Judge David O. Carter.

JUDGMENT

THIS CAUSE having been considered, it is

ORDERED AND ADJUDGED:

AFFIRMED

ENTERED BY ORDER OF THE COURT

May 7, 2021

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

NOTE: This disposition is nonprecedential.

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INTEL CORPORATION, ACER AMERICA CORPORATION, DANIEL PATRICK DOCTER, MATTHEW ROBERT HULSE, ANDY D. BRYANT, DOES 1-10, INCLUSIVE,
Defendants-Appellees

2020-2297

Appeal from the United States District Court for the Central District of California in No. 8:19-cv-01902-DOC-JDE, Judge David O. Carter.

Decided: May 7, 2021

NAGUI MANKARUSE, Huntington Beach, CA, pro se.

PETER GRATZINGER, Munger Tolles and Olson LLP, Los Angeles, CA, for defendants-appellees.

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

TARANTO, *Circuit Judge*.

Nagui Mankaruse, proceeding *pro se*, brought this action in district court against Intel Corporation, Acer America Corporation, and a host of Intel employees in their personal capacity (collectively, Intel), alleging patent infringement and trade-secret misappropriation. Having defended against similar, and in large part the same, claims by Mr. Mankaruse in California state courts three times before, Intel asked the district court 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* Order, *Mankaruse v. Intel Corp.*, No. 8:19-cv-01902-DOC (C.D. Cal. Jan. 27, 2020), ECF No. 34; Intel Appx. 1–2. Mr. Mankaruse failed to post the required bond, and the district court dismissed this case. We affirm.

I

The district court's order in this case expressly relied on its similar, more extensively explained order in *Mankaruse v. Raytheon Co.*, No. 8:19-cv-01904-DOC, 2020 WL 2405258, at *1 (C.D. Cal. Jan. 23, 2020) (*Raytheon Pre-Filing Order*). *See* Intel Appx. 1 ("The Court adopts the legal and factual findings in [the *Raytheon*] order to **GRANT** Defendant's Motion here."). In fact, the order in this case expressly covers the Raytheon defendants as well as the defendants in this case. Intel Appx. 1–2. Today we affirm the *Raytheon Pre-Filing Order*. *Mankaruse v. Raytheon Co.*, No. 2020-2309 (Fed. Cir. May 7, 2021). We rely here on our opinion in the *Raytheon* matter.

Mr. Mankaruse filed this action in the Central District of California in October 2019. *See* Complaint, *Mankaruse v. Intel Corp.*, No. 8:19-cv-01902 (C.D. Cal. Oct. 3, 2019), ECF No. 1. The action, for infringement of a U.S. patent and a Canadian patent and for trade-secret misappropriation, is nearly identical to the *Raytheon* action, which Mr.

Mankaruse filed the same day. Previously, Mr. Mankaruse had sued Intel three times in state court, asserting various claims for trade-secret misappropriation, breach of contract, and torts, based on purported disclosures of trade secrets and of the technology described in the two patents that he made to Intel as early as 2004. *See* Intel Appx. 45 ¶ 22, 49 ¶ 30; *see also Mankaruse v. Intel Corp.*, Case No. 30-2016-00884058 (Orange Cnty. Super. Ct. filed Oct. 31, 2016); *Mankaruse v. Intel Corp.*, Case No. 30-2018-00971116 (Orange Cnty. Super. Ct. filed Feb. 2, 2018); *Mankaruse v. Intel Corp.*, Case No. 30-2018-00971179 (Orange Cnty. Super. Ct. filed Feb. 2, 2018). The second and third cases were filed only three weeks after the state court dismissed Mr. Mankaruse's claims in the first case (but before that judgment was final) and consisted of separated claims that he had filed in his first case. *See* Intel Appx. 388 (final judgment in Case No. 30-2016-008848058); *id.* at 320, 395 (complaints in additional cases). Of importance here, Mr. Mankaruse also had filed numerous unsuccessful lawsuits on similar claims against Raytheon between 2013 and 2017. *See Mankaruse v. Raytheon Co.*, slip op. at 2–5. The history of suits against Raytheon alone, we hold today, supported a determination of vexatiousness, a pre-filing-approval order, and a bond requirement. *Id.* at 6–11.

In the present case, on January 3, 2020—after Mr. Mankaruse had filed an amended complaint in this matter and Raytheon had sought the vexatiousness determination, pre-filing-approval, and bond relief in the case against it—Intel sought the same determination and relief here. Intel Appx. 170–80. In its motion, Intel referred the court to Raytheon's motion, electing "not [to] repeat the history of [Mr. Mankaruse's] unsuccessful state court actions against Raytheon and Intel" set forth in Raytheon's motion and "fully adopt[ing]" those facts, while supplementing them with Intel-specific background. *Id.* at 175.

On January 21, 2020, the district court held a "hearing" regarding both the Intel and Raytheon motions, Intel Appx.

760 (transcript first page showing captions for both cases) *see id.* at 761–63 (listing counsel for both bases), during which Mr. Mankaruse and counsel for both Intel and Raytheon were present, and the court invited Mr. Mankaruse to argue first, with counsel for both defendants to respond afterwards, *id.* at 769; *see also id.* at 761–93. Mr. Mankaruse argued first, and the court then invited Raytheon's counsel to present argument on the vexatious litigant motion, *id.* at 775–79, before providing Mr. Mankaruse an opportunity for rebuttal, *id.* at 779–82. At that time the court had to end the day's hearing, and Intel, not having presented its argument on the substance of its motion, stated that its motion had a separate hearing date set for February 3, 2020, but it "rel[ied] on the same arguments as the Raytheon defendants." *Id.* at 791. The court, seemingly concerned not to deny Intel a full opportunity to argue its case, indicated that it anticipated seeing Intel, and Mr. Mankaruse for rebuttal, on February 3. *Id.*

On January 23, 2020, evidently not seeing a need to hear more from Intel, the district court gave the same relief to Intel in this case that it gave, the same day, to Raytheon, relying on the explanation set out in the *Raytheon Pre-Filing Order*. *Id.* at 1–2. It found Mr. Mankaruse a vexatious litigant. It required pre-filing approval of pro se cases against Intel (and, even in this order, against Raytheon). And it required a bond of $25,000—over and above the bond in the same amount required in the *Raytheon* matter. When Mr. Mankaruse failed to post the bond in the time specified, the district court dismissed the claims and entered a final judgment on May 18, 2020. *Id.* at 3–4. We have jurisdiction over Mr. Mankaruse's appeal.

II

A

Mr. Mankaruse argues that the district court failed to provide him an adequate opportunity to be heard specifically on the Intel motions (a contention he has not made

regarding Raytheon's motions). Mankaruse Opening Br. 10–11. We reject this argument.

Mr. Mankaruse had notice of Intel's motion and received an opportunity to brief the issue to the district court. *See* Intel Appx. 473–711. At the "hearing" on January 21, 2020, both the Intel and Raytheon cases were called, and counsel for both Intel and Raytheon were introduced. *See id.* at 764–67. The district court began by giving Mr. Mankaruse the opportunity to present his arguments against the motions, and he did so. The transcript reveals that Mr. Mankaruse, in making his arguments, discussed both Raytheon and Intel. *See id.* at 779–82. He spoke of "three categories" of cases, relating to employment, breach of contract, and intellectual property, and stated that one of those "categories"—the trade-secret claims—related to both Intel and Raytheon. *Id.* at 773–74 ("The third category was two - - two trade secret cases, one against Intel and one against Raytheon."). He argued the similarity of Intel and Raytheon for purposes of the motions for security bond. *Id.* at 781. The same is true of his briefing on the issue—Mr. Mankaruse repeatedly addressed the issue as a unitary one, related to Raytheon and Intel collectively. *See, e.g.*, *id.* at 475 (referring to "defendants Intel, et al and Raytheon et al"); *id.* at 477 (discussing "these two groups of defendants in the two Cases"). And Intel, for its part, made clear that it was relying on the same arguments that Raytheon made, *id.* at 175, and Mr. Mankaruse does not complain about his opportunity to respond to Raytheon's arguments.

In these circumstances, we see no prejudicially inadequate opportunity for Mr. Mankaruse to present his case against the motions. In a related context, the Ninth Circuit has stated that "an opportunity to be heard does not require an oral or evidentiary hearing on the issue," but rather "[t]he opportunity to brief the issue fully satisfies due process requirements." *Pac. Harbor Capital, Inc. v.*

Carnival Air Lines, Inc., 210 F.3d 1112, 1118 (9th Cir. 2000).[1] In any event, Mr. Mankaruse had the opportunity to present oral arguments to the court, and he was not restricted to arguing about Raytheon's motion and he did not so restrict his argument. We cannot say that Mr. Mankaruse was not given "an opportunity to oppose the entry of the order." *De Long*, 912 F.2d at 1147.

B

On the merits of the vexatiousness determination and imposition of a pre-filing-approval requirement, we conclude that this case, though different from the Raytheon case, is not different in a way that changes the result. In the Raytheon case, the earlier litigation against Raytheon alone sufficed to support the district court's order. Here, we need not decide whether the earlier litigation against Intel alone—a lesser volume—would support the district court's order. We see nothing in Ninth Circuit law that limits the basis for such an order to litigation directly against the specific defendant, to the exclusion of closely related litigation against others, where the totality augurs further frivolous, harassing, burdensome litigation against the specific party now seeking a pre-filing-approval order.

Mr. Mankaruse mentions the Ninth's Circuit decision in *Ringgold-Lockhart v. County of Los Angeles*, 761 F.3d 1057 (9th Cir. 2014). That decision reflects the showing needed to justify an order of this sort. The Ninth Circuit vacated and remanded the district court's pre-filing order, after determining that the substantive findings of frivolousness and harassment were unsupported by the record of the plaintiff's filings, and that the district court had not

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[1] The Ninth Circuit relied on *Pacific Harbor* in its decision in *Molski v. Evergreen Dynasty Corp.*, 500 F.3d 1047, 1058 (9th Cir. 2007), about pre-filing-approval orders.

considered other remedies. *Ringgold-Lockhart*, 761 F.3d at 1064–66. The Ninth Circuit did not restrict the focus to previous filings against the specific defendant.

Here, Mr. Mankaruse's history of litigation against Raytheon provided a concrete basis for finding that there was a sufficiently high probability of harassing, frivolous litigation to justify a pre-filing-approval order (and bond requirement) in his new case against Raytheon. *See Mankaruse v. Raytheon Co.*, slip op. at 6–11. The present case against Intel is nearly identical in subject matter to that case against Raytheon. A similar determination is warranted in this case based on the Raytheon-related pattern, a smaller Intel-related pattern, and the strong overlap of the two cases. Moreover, unlike the district court in *Ringgold-Lockhart*, the district court in this matter (by adoption of the legal and factual findings in the *Raytheon* matter) considered whether other remedies were adequate, but determined, with a sound basis, that they were not, given Mr. Mankaruse's earlier behavior. *Compare Raytheon Pre-Filing Order*, 2020 WL 2405258, at *1, *with Ringgold-Lockhart*, 761 F.3d at 1065 (discussing use of Rule 11 sanctions before resorting to declaring vexatious litigant). Recognizing the importance of limiting pre-filing-approval orders to rare cases, we find no abuse of discretion in this case under Ninth Circuit standards.

C

We see no material difference between this case and the Raytheon case regarding the propriety of the bond or, therefore, the dismissal after Mr. Mankaruse failed to post the required bond in the specified time.

III

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

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
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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).

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT
717 MADISON PLACE, N.W.
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PETER R. MARKSTEINER
CLERK OF COURT

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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

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Name: MAGDA MANKARUSE

FORM 30. Certificate of Service

Form 30
July 2020

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

CERTIFICATE OF SERVICE

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