

**ORIGINAL**

**FILED**

**APR 24 2015**

**U.S. COURT OF  
FEDERAL CLAIMS**

**IN THE UNITED STATES  
COURT OF FEDERAL CLAIMS**

\_\_\_\_\_  
EVIDEO OWNERS and MAURO  
DIDOMENICO, individually  
and on behalf of a class of all  
those similarly situated,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.  
\_\_\_\_\_

**15 - 413 C**  
Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT**

PLAINTIFFS EVIDEO OWNERS and MAURO DIDOMENICO, individually and on behalf of all those similarly situated, bring this action pursuant to 28 U.S.C. §§ 1491(a)(1) and (2) against DEFENDANT UNITED STATES OF AMERICA, and alleges as follows:

**NATURE OF ACTION**

1. Plaintiffs eVideo Owners, are the current Assignee of the ownership rights in U.S. patent application serial nos. 09/840,868 and 13/333,840 (hereinafter, the “eVideo applications”) filed at the United States Patent and Trademark Office (hereinafter the “U.S. PTO”) for examination toward issue as a U.S. patent.

2. The sole inventor in both eVideo applications is Dr. Mauro DiDomenico, Jr., the Applicant and the original Assignor of ownership rights in both eVideo Applications. Dr.

DiDomenico has had a highly distinguished career in the telecommunications industry, including over twenty years at Bell Laboratories, AT&T and Bellcore (now Ericsson). He is an inventor in several U.S. patents and has published over 80 technical papers.

2. The earlier filed of the two eVideo applications (U.S. patent application serial no. 09/840,868) was filed on April 25, 2001. Currently, the average period of time a U.S. patent application is pending before the U.S. PTO in the patent examination process before final disposition (*i.e.*, either an allowance by the U.S. PTO toward issue as a patent, or abandonment of the application based on an applicant's decision that further prosecution is not advisable or desirable) is about 3 years and one month. Plaintiffs have been diligently pursuing a fair and final disposition to the eVideo applications for over 13 years, approximately 10 years longer than the average.

3. In or about early December 2014, news reports began to emerge in the media from unofficial sources that the U.S. PTO had a confidential program involving a secret examination process involving a purely internal review of some pending U.S. patent applications. The U.S. PTO program or policy was known as the "Sensitive Application Warning System" (hereinafter the "S.A.W.S." program). The S.A.W.S. program does not appear to have been based on any U.S. statute. Furthermore, it does not appear to have been reflected in any U.S. PTO published rules for its operation. Still further, there is no record, to Plaintiff's knowledge, that any patent applicant was ever officially notified by the U.S. PTO when or if their patent application(s) had been placed in the S.A.W.S. program or was ever given information or advised on how to overcome the S.A.W.S. program designation.

4. The news reports described the S.A.W.S. program as involving, at the least, a written notice which was circulated internally at the U.S. PTO regarding how an application

might meet one or more of the S.A.W.S. program eligibility criteria. The news reports also described that, after an application had been designated or associated with the S.A.W.S. program, it required a plurality of approvals by multiple U.S. PTO supervisors (by some accounts, several supervisors at different levels of U.S. PTO management) before a S.A.W.S.-designated patent application was permitted to reach a final disposition as an allowance.

5. The news reports suggested that a substantial number of U.S. patent applications had been significantly delayed from reaching a final disposition in the examination process due to being designated for review under the S.A.W.S. program. Since no U.S. patent applicant was ever officially notified whether their application had been designated as being in the S.A.W.S. program, and because the U.S. PTO has statutory time limitations requiring it to take some action in an application once the patent examination process has become active, it is not clear what action the U.S. PTO may have taken in those applications that had been flagged by a S.A.W.S. designation and were not allowed because of the S.A.W.S. designation, but were otherwise in condition for allowance to issue as a U.S. patent despite the S.A.W.S. designation.

6. On or about March 2, 2015, the U.S. PTO publicly announced that the S.A.W.S. program had been discontinued, recently and abruptly, but did not explain the circumstances for the unilateral action other than that the U.S. PTO no longer deemed the program to be necessary. The public announcement acknowledged the S.A.W.S program had been active since 1994, but provided no details as to the extent of the program or about any specific patent applications which had been designated as having been in the S.A.W.S. program.

7. Several requests under the Freedom of Information Act (hereinafter "FOIA") for information regarding the S.A.W.S. program have been submitted to the Defendant by different parties at different times, both before and after the March 2, 2015 public announcement. Under

the limited disclosures that have been obtained through the FOIA requests, it was revealed that the S.A.W.S. program included dozens of different types of SAWS-eligibility criteria, that the program had been widely implemented throughout the U.S. PTO and that it applied to almost every aspect of the patent examination process for utility patent applications, including patent reexaminations, patent reissues and appealed applications which had been sent forward for review to the appellate board at the U.S. PTO.

8. Plaintiffs have several reasons for believing the eVideo applications were designated or affected by the S.A.W.S. program. First, the subject matter of the eVideo applications matches several S.A.W.S. eligibility criteria recently made public through Defendant's responses to F.O.I.A. requests. Other bases include the contentious and extended nature of the examination process associated with the two eVideo applications.

9. Given the above reasons, Plaintiffs have a good faith belief that the eVideo applications were designated under the S.A.W.S. program at the U.S. PTO; that the eVideo applications have or had been delayed in reaching a final disposition in the examination process based on their being so designated; and that Plaintiffs have been harmed financially in terms of paying official fees under 37 C.F.R. § 1.17 and attorney fees for the prosecution of the eVideo applications as a result of the eVideo application having been designated or associated with the S.A.W.S. program.

#### **JURISDICTION AND VENUE**

10. Pursuant to 28 U.S.C. §§ 1491 (a) (1) and (2), this Court has jurisdiction and is the proper venue for Plaintiffs' claims for money damages and accompanying relief against the United States founded upon the Constitution, 35 U.S.C. § 132 (a), 37 C.F.R. § 1.104 (a) (2) and

37 C.F.R. § 1.17.

**PARTIES**

11. Plaintiffs eVideo Owners, are the members of an association of U.S. citizens who are the current owners of the ownership rights in the eVideo applications, forming an unincorporated entity doing business in the United States as “eVideo”. Plaintiffs eVideo Owners are the successors to eVideo Inc., a dissolved Delaware corporation, and an earlier Assignee of the eVideo applications. Subsequently, eVideo, Inc. transferred its ownership rights in the eVideo applications to Plaintiffs eVideo Owners.

12. Plaintiff Mauro DiDomenico, Jr. is a United States citizen, the Applicant and original Assignor of the eVideo applications, and one of the owners of Plaintiff eVideo.

13. Defendant, the United States of America, is the proper party to be sued under 28 U.S.C. § 1491(a)(1).

**CLASS ACTION ALLEGATIONS**

14. Plaintiffs bring this action on behalf of themselves and as a class action under the provisions of Rule 23(a) and (b) of the Rules of the United States Court of Federal Claims on behalf of all the members of the following class:

All Applicants and/or their Assignees of a United States utility patent application who, at any time, had one more of their patent application(s) designated under or associated with the S.A.W.S. program while the application(s) were pending before the U.S. PTO and, having been so designated, the Applicants and/or Assignees paid the U.S. PTO an official fee under 37 C.F.R. § 1.17 while not having been officially informed by the U.S. PTO of the S.A.W.S. designation and/or not being advised or given information by the U.S. PTO how to overcome the S.A.W.S. designation.

15. Plaintiffs do not know the exact number of Class members because such

information is in the exclusive control of the Defendant. Upon information and belief, based on limited public information available through responses to F.O.I.A. requests, Plaintiffs believe that there are more than one hundred Class members as described above, the exact number and their identities being known by the Defendant.

16. The Class is so numerous and geographically dispersed that joinder of all the members is impracticable.

17. There are questions of law and fact common to the Class including:

- i. Whether the Defendant implemented and administered, during the Class Period, a S.A.W.S. program or policy that, in an official examination of a S.A.W.S.-designated patent application, any claim for a patent was rejected, or an objection or requirement was made without notifying the applicant and/or their assignee of the S.A.W.S. designation, and providing the reasons for the S.A.W.S. designation together with such information about the S.A.W.S. designation as might have been useful in judging the propriety of continuing the prosecution of the application;
- ii. Whether the S.A.W.S. program or policy unconstitutionally burdens and penalized Plaintiffs' and the Class's fundamental rights and protected liberty interests, in violation of the Fifth Amendment's guarantee of substantive due process;
- iii. Whether the conduct of the Defendant, as alleged in this Complaint, caused injury to Plaintiff and the other members of the Class; and
- iv. The appropriate class-wide measure of damages.

18. Upon information and belief, Plaintiffs are a member of the Class. The fact is

known to, and in the sole control of, the Defendant.

19. Plaintiffs' claims are typical of the claims of the Class members, and Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs' interests are coincident with, and not antagonistic to, those of the other members of the Class.

20. Plaintiff is represented by counsel that is competent and experienced in the prosecution of constitutional claims and class-action litigation.

21. Through its S.A.W.S. program or policy, as implemented by the U.S. PTO, Defendant has acted or refused to act on grounds generally applicable to the Class.

22. The questions of law and fact common to the members of the Class predominate over any questions affecting only individual members, including legal and factual issues relating to liability and damages.

23. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The Class is readily definable and is one for which records should exist. Prosecution as a class action will eliminate the possibility of repetitious litigation. Treatment as a class action will permit a large number of similarly situated persons and parties to adjudicate their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. This class action presents no difficulties in management that would preclude maintenance as a class action.

### **FACTUAL BACKGROUND**

#### **Facts related to Plaintiffs eVideo Owners and Mauro DiDomenico**

24. The eVideo applications include claims involving systems and methods for

providing video on demand. The systems and methods involve, *inter alia*, the Internet, computers operated by a user, a video decoding device of a user and a payment from a user for video content.

25. In the October 9, 2014, response to FOIA Request No. F-15-00004, it was revealed that the SAWS-eligibility criteria for Technology Center 2400 at the U.S. PTO included applications involving: business methods or E-commerce systems. As a specific example of such business methods or E-commerce systems, the SAWS-eligibility criteria for Technology Center 2400 names “video or music distribution over network or phone” as a model example of this specific SAWS-eligibility criterion. Other SAWS-eligibility criteria for Technology Center 2400 at the U.S. PTO listed in the response include “[d]igital, internet or wireless versions of prior art devices”, “applications dealing with automating a known manual process”, and “convergence inventions.” Thus the eVideo applications meet several of the SAWS-eligibility criteria for Technology Center 2400 at the U.S. PTO. Furthermore, in the portion of the response to the FOIA Request relating to Technology Center 2400, the Examiners were instructed to construe the SAWS-eligibility criteria broadly and states: “Examiners should use their judgement and are encouraged to be *liberal* in their identification as to whether or not an application contains potential SAWS material.”

26. The earlier-filed eVideo application (serial no. 09/840,868 filed on April 25, 2001) was delayed by a series of contentious rejections by the Examiner assigned to the case. This occurred despite the granting of a petition for expedited prosecution due to the age of the inventor. The contentious rejections include a premature final rejection issuing May 9, 2003 which was acknowledged as premature and later withdrawn, a non-final rejection issuing on June 30, 2003 which was acknowledged as improper and later withdrawn after an appeal brief



had been filed, a final rejection issuing on May 10, 2004 which was acknowledged as improper and later withdrawn after another appeal brief had been filed, and a final rejection issuing on June 3, 2009 based allegedly on Res Judicata. The June 3, 2009 final rejection was the basis for an appeal in which the Examiner was reversed by the appellate board in a decision dated October 21, 2011, for making an improper rejection based on Res Judicata.

27. The second eVideo application (serial no. 13/333,840 filed on December 21, 2011), had been filed, at least in part, as an alternate approach to overcoming the Examiner's improper Res Judicata rejection in the earlier-filed eVideo application. Despite the appellate board decision of October 21, 2011 in the earlier-filed eVideo application, in which the Examiner was reversed for making an improper Res Judicata rejection, in a first action Final rejection issuing January 2, 2013, the Examiner rejected the claims in the second eVideo application, allegedly based on the same Res Judicata issue. After further interactions, the Examiner issued a final rejection on November 6, 2014 which is now under appeal at the U.S. PTO.

28. Throughout the prosecution of the first and second eVideo applications, extending back to April 25, 2001, Plaintiffs have paid all fees due under 37 C.F.R. § 1.17, according to the U.S. PTO official fee schedule.

29. Any date in which one or both of the eVideo applications were first designated under or associated with the S.A.W.S. program is known by the Defendant.

30. None of the official communications issuing from the U.S. PTO, throughout the prosecution of the first and second eVideo applications, have provided any notice when or if either the first or second eVideo applications were designated under or associated with the S.A.W.S. program.

31. Any of the official communications in the eVideo applications issuing from the U.S. PTO, after the date in which either eVideo application was first designated under the S.A.W.S. program, therefore, fail to comply with 35 U.S.C. § 132 (a) and 37 C.F.R. § 1.104 (a) (2) because they failed to provide any notice to Plaintiffs of the S.A.W.S. designation or information as to how to overcome the designation.

32. Official fees under 37 C.F.R. § 1.17 and the reasonable attorney fees for the prosecution of the eVideo applications paid by Plaintiffs after the date in which the eVideo applications were first designated under S.A.W.S. are damages to Plaintiffs because they were denied notice of the S.A.W.S. designation as the U.S. PTO is mandated to give notice, under 35 U.S.C. § 132 (a) and 37 C.F.R. § 1.104 (a) (2), prior to paying such fees.

**Facts Common to the Class**

33. In order to provide for an equitable return on services provided in the examination of U.S. patent applications, Congress has approved an annually-updated schedule of fees under 37 C.F.R. § 1.17 chargeable to U.S. patent applicants for various services during the patent examination process at the U.S. PTO.

34. 35 U.S.C. § 132 (a) mandates that whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify an applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging the propriety of continuing the prosecution of the application. Furthermore, 37 C.F.R. § 1.104 (a) (2) mandates that an applicant will be notified of the examiner's action and that the reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given to the applicant as may be useful in aiding the applicant to judge the

propriety of continuing the prosecution.

35. In the government's October 9, 2014 response to F.O.I.A. Request No. F-15-0004, it was revealed that there was a general list of S.A.W.S. eligibility criteria which applied across all the different Technology Center's at the U.S. PTO, of which there are nine at present. Furthermore, there are different lists of criteria which are specific to the Technology Centers. The criteria listed in the different lists are often vague, over-inclusive and often lacking any statutory basis. Some examples from the general list include: (1) applications dealing with inventions, which, if issued, would potentially generate unwanted media coverage, (2) applications with claims of broad or domineering scope, and (3) Applications with claims of pioneering scope. Some examples from the lists specific to respective U.S. PTO Technology Centers (TCs) include: TC 1600: "Personalized medicine" as well as "synthetic or wholly engineered bacterial or viral genomes"; TC 1700: "Nanotechnology without specific disclosure as to method of manufacture"; TC 2400: "Convergence inventions"; TC 2600: "Smartphones" and "Internet-enabled systems"; and TC 3600 "Processes and apparatuses involving education".

36. Under the S.A.W.S. program, the applicants having an application designated under S.A.W.S. were not notified of that designation. Nor were those applicants provided information or advised how to overcome the S.A.W.S. designation. Thus those applicants were not notified, in accordance with 35 U.S.C. § 132 (a), stating the reasons for a rejection, or objection or requirement associated with the S.A.W.S. designation, together with such information as may be useful in judging of the propriety of continuing the prosecution of the application based on the S.A.W.S.-designation. Further, the official communications to those applicants failed to include, as mandated by 37 C.F.R. § 1.104 (a) (2), such information as

might have been useful in aiding the applicant to judge the propriety of continuing the prosecution of the application.

37. Official fees under 37 C.F.R. § 1.17 and any reasonable attorney fees for the prosecution of an application paid, by any Plaintiff for examination, or continuance of examination, of a U.S. patent application, after a date in which the application was first designated under S.A.W.S. are damages as the Plaintiff was denied notice under 35 U.S.C. § 132 (a) and 37 C.F.R. § 1.104 (a) (2) prior to paying such fees.

**COUNT**  
**Substantive Due Process**

38. Plaintiffs incorporate by reference all preceding allegations as if fully set forth herein.

39. 35 U.S.C. § 132 (a) is a notice-mandating statute and 37 C.F.R. § 1.104 (a) (2) is a notice-mandating regulation entitling Plaintiffs and the Class to reasonable information as might be useful in responding to a rejection, or objection or requirement based on a S.A.W.S. designation or in aiding the applicant to judge the propriety of continuing the prosecution of such a patent application.

40. The S.A.W.S. program has burdened and penalized patent applicants' fundamental rights and protected interests in receiving an equitable return on the fees they have paid under 37 C.F.R. § 1.17 by denying these applicants reasonable information as might be useful to them in the prosecution of their patent applications and to judge the propriety of continuing the prosecution of such patent applications designated under S.A.W.S.

41. The S.A.W.S. program did not further the government's interest in issuing valid U.S. patents, or any other legitimate state interest, as these interests were already served

through the proper application of the relevant statutes under Title 35 of the U.S. Code relating to patent examinations at the U.S. PTO.

42. The S.A.W.S. program, considering the expansive S.A.W.S. designation criteria, was not narrowly tailored to serve a compelling governmental interest and was not necessary to significantly further an important governmental interest; indeed, it was not rationally related to any legitimate governmental interest whatsoever.

43. The S.A.W.S. program unconstitutionally burdened and penalized the affected U.S. patent applicants' fundamental rights and protected interests, in violation of the Fifth Amendment's guarantee of substantive due process.

44. Once the unconstitutional portions of the S.A.W.S. program have been severed from the overall scheme, the implied contract under 35 U.S.C. § 132 (a), 37 C.F.R. § 1.104 (a) (2) and 37 C.F.R. § 1.17 entitle Plaintiffs and the Class to a monetary award of a return of their official fees and reasonable attorney fees paid after the applications had been designated under or associated with the S.A.W.S. program.

**REQUEST FOR CLASS CERTIFICATION WITH  
REQUEST TO HOLD IN ABEYANCE BRIEFING ON CLASS CERTIFICATION**

45. Plaintiffs hereby request class certification in accordance with Court of Federal Claims Rule 23 and respectfully request that the Court hold in abeyance briefing on class certification until after the parties have conducted discovery.

**Law on Class-Action Tolling**

46. 28 U.S.C. § 2501 provides that “[e]very claim of which the United States Court of Federal Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim first accrues.”

47. Plaintiff is not aware if or when any claims of any of the Class members might have, by any means, first accrued. However, in the event any claims of any Class members have already begun to accrue, Plaintiff seeks to preserve the rights of these Class members by seeking class-action tolling via this Complaint.

48. In *Bright v. United States*, 603 F. 3d 1273, (Fed. Cir. 2010), the Federal Circuit held that the six-year time limit in 28 U.S.C. § 2501 is subject to “class-action tolling” for potential class members. Under *Bright*, when “a class action complaint is filed within the six-year limitations period of 28 U.S.C. § 2501 as to one named plaintiff, putative class members are permitted to opt in under RCFC 23 after expiration of the limitations period, when class certification is sought prior to expiration of the period.” *Id.* at 1290. *Bright* did not address whether class-action tolling would apply for potential class members if a motion for class certification were filed after the class member’s statutes of limitations had expired. See *id.* at 1290, n.9.

49. In *Toscano v. United States*, 98 Fed. Cl. 152, (Fed. Cl. 2011), the Court of Federal Claims held that when a complaint requesting class certification is timely filed, but a motion for class certification is not filed until after the limitations period under 28 U.S.C. § 2501 has run, the complaint tolls the statute if the complaint: (1) specifically requests certification of the proposed class, (2) the complaint alerts the government of the type of claim brought, (3) the complaint identifies the specific act giving rise to the claim, (4) the complaint specifies the matter at issue with respect to each class member, and (5) the complaint requests certification of a class consisting of the class members. *Id.* at 154.

50. Plaintiffs contend that this Complaint meets all the requirements under *Toscano* and that class-action tolling should apply from the date this Complaint is filed to preserve the

claims of any potential class member whose claim may have first accrued prior to the filing of this Complaint.

Reasons Why the Request Should Be Granted

51. Plaintiffs respectfully request class certification at this time and request that briefing on the certification request be held in abeyance in order to ensure that potential class members are protected by class-action tolling in accordance with *Bright* and *Toscano*. The proposed class in this case satisfies the requirements for bringing a class action pursuant to RCFC 23. Before a class can be certified, however, Plaintiffs anticipate that the parties will have to engage in discovery concerning, *inter alia*, the identification of potential class members, the establishment and administration of the S.A.W.S. program, the impact of the S.A.W.S. program on potential class members, and the injury suffered by the potential class. Such information is exclusively within the custody and control of the government.

52. Although discovery has not yet taken place, Plaintiffs are concerned that any additional delay in filing a separate motion for class certification at a later time could prejudice the rights of the potential class members whose six-year statutes of limitations could expire before discovery is completed. Plaintiffs accordingly request class certification at this time and respectfully requests that the Court defer consideration of the certification request until class-action discovery has taken place. By granting Plaintiff's request to hold the certification request in abeyance, the Court would ensure that potential class members would, at a minimum, retain the ability to opt in to the class if their claims accrued on or after six years before the date of this filing, in accordance with *Bright* and *Toscano*. The Court will thus retain the ability to manage the case in the most efficient way possible while still protecting the rights of potential class members whose statutes of limitations might otherwise expire.

Conclusion

53. For these reasons, Plaintiffs hereby request class certification in accordance with RCFC 23 and respectfully request that the Court hold in abeyance briefing on class certification until after the parties have conducted discovery. In the alternative, Plaintiffs request a status conference in order to discuss alternative measures that could be taken to protect the claims of potential class members.

**PRAYER FOR RELIEF**

WHEREFORE: Plaintiffs and the Class respectfully pray for the following relief:

- A. A monetary award of a return to Plaintiffs and the Class of fees paid, under 37 C.F.R. § 1.17, and any reasonable attorney fees paid in the prosecution of their applications after the applications were designated under or associated with the S.A.W.S. program;
- B. That Plaintiffs and the Class be awarded pre-judgment and post-judgment interest at the highest legal rate from and after the date of service of this Complaint to the extent provided by law;
- C. Reasonable costs, expenses, and attorneys' fees pursuant to 28 U.S.C. § 2412 and;



D. Any further relief that the Court deems just and proper.

Dated: April 24, 2015

Respectfully submitted,

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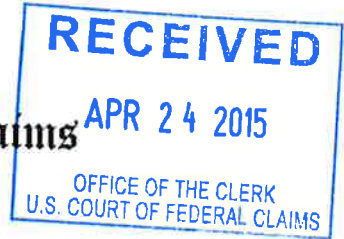
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Attorneys for Plaintiff

**ORIGINAL**  
FORM 2  
COVER SHEET



# In The United States Court of Federal Claims

## Cover Sheet

Plaintiff(s) or Petitioner(s)

See Attachment

If this is a multi-plaintiff case, pursuant to RCFC 20(a), please attach an alphabetized, numbered list of all plaintiffs.

Name of the attorney of record (See RCFC 83.1(c)): Joseph J. Zito

**15 - 413 C**

Firm Name: Ditthavong & Steiner, P.C.

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Telephone & Facsimile Numbers: (703) 519-9951

E-mail Address: pdelaney@dcpatent.com

Is the attorney of record admitted to the Court of Federal Claims Bar?  Yes  No

Does the attorney of record have a Court of Federal Claims ECF account?  Yes  No

If not admitted to the court or enrolled in the court's ECF system, please call (202) 357-6402 for admission papers and/or enrollment instructions.

Nature of Suit Code:  1  3  4

Select only one (three digit) nature-of-suit code from the attached sheet.

If number 213 is used, please identify partnership or partnership group. If numbers 118, 134, 226, 312, 356, or 528 are used, please explain.

" Implied Contract Under 35 U. S. C. Section 132 (a)

Agency Identification Code:  C  O  M

See attached sheet for three-digit codes.

Amount Claimed: \$ \$10 Billion U.S.D.

Use estimate if specific amount is not pleaded.

Disclosure Statement:

Is a RCFC 7.1 Disclosure Statement required?  Yes  No

If yes, please note that two copies are necessary.

Bid Protest:

Indicate approximate dollar amount of procurement at issue: \$ N/A

Is plaintiff a small business?  Yes  No

Vaccine Case:

Date of Vaccination: N/A

Related Cases:

Is this case directly related to any pending or previous case?  Yes  No

If yes, you are required to file a separate notice of directly related case(s). See RCFC 40.2.