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9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE DISTRICT OF NEVADA**

11	JED MARGOLIN,	)	Case No. 3:09-CV-00421-LRH-VPC
		)	
12	Plaintiff,	)	
		)	
13	v.	)	
		)	
14	NATIONAL AERONAUTICS AND	)	<b><u>ANSWER TO SECOND</u></b>
	SPACE ADMINISTRATION,	)	<b><u>AMENDED COMPLAINT</u></b>
15		)	
	Defendant.	)	
16	_____	)	

17  
18 COMES NOW Defendant NATIONAL AERONAUTICS AND SPACE  
19 ADMINISTRATION ("NASA"), by and through its undersigned counsel, and answers the  
20 Second Amended Complaint as follows:

21 1. This paragraph contains Plaintiff's characterization of this lawsuit — not  
22 allegations of fact — and thus no response is required. To the extent a response is required,  
23 Defendant admits that this matter purports to be an action for injunctive and other relief brought  
24 pursuant to the Freedom of Information Act ("FOIA"). Defendant denies the remaining  
25 allegations of this paragraph.

26

1 **Jurisdiction and Venue**

2 2. This paragraph contains Plaintiff's conclusions of law regarding the scope and  
3 extent of the Court's jurisdiction, to which no response is required. To the extent a response is  
4 required, Defendant admits that this Court has jurisdiction over this action.

5 3. This paragraph contains Plaintiff's conclusions of law regarding the appropriate  
6 venue for this action, to which no response is required. To the extent a response is required,  
7 Defendant admits that venue is proper in this Court.

8 **Parties**

9 4. Defendant admits that Plaintiff lives at 1981 Empire Rd., VC Highlands, Nevada.  
10 Defendant lacks sufficient knowledge and information to form a belief as to the truth of the  
11 remaining allegations contained in this paragraph and, on that basis, denies those allegations.

12 5. Defendant admits the allegations contained in this paragraph.

13 **Statement of Facts – Background**

14 6. Defendant admits the allegations contained in the first sentence of this paragraph.  
15 Defendant lacks sufficient knowledge and information to form a belief as to the truth of the  
16 allegations contained in the second and third sentences of this paragraph and, on that basis,  
17 denies those allegations. The allegations contained in the fourth and fifth sentences of this  
18 paragraph purport to characterize documents attached to Plaintiff's second amended complaint.  
19 Those documents speak for themselves and contain the best evidence of their contents and thus  
20 no response is required.

21 7. Defendant admits that Plaintiff contacted NASA Langley Research Center in May  
22 2003. Defendant lacks knowledge and information sufficient to form a belief as to the truth of  
23 the remaining allegations contained in this paragraph and, on that basis, denies those allegations.

24 8. Defendant admits that patent counsel at NASA Langley Research Center ordered  
25 the United States Patent and Trademark Office prosecution histories for U.S. Patent Nos.  
26 5,566,073 and 5,904,724. Defendant admits that the prosecution histories were ordered May 16,

1 2003. Defendant lacks knowledge and information sufficient to form a belief as to the truth of  
2 the remaining allegations contained in this paragraph and, on that basis, denies those allegations.

3 9. Defendant admits that Plaintiff was referred to the NASA Headquarters Office of  
4 General Counsel in June 2003 and spoke to Alan Kennedy. Defendant admits that Mr. Kennedy  
5 is no longer employed with NASA. Defendant lacks knowledge and information sufficient to  
6 form a belief as to the truth of the remaining allegations contained in this paragraph and, on that  
7 basis, denies those allegations.

8 10. Defendant admits that Plaintiff submitted information supporting an  
9 administrative claim for patent infringement to the NASA Headquarters Office of General  
10 Counsel in a letter dated June 17, 2003. The remaining allegations contained in the first sentence  
11 of this paragraph purport to characterize the contents of that letter. That letter speaks for itself  
12 and contains the best evidence of its contents and thus no response is required. Defendant lacks  
13 knowledge and information sufficient to form a belief as to the truth of the remaining allegations  
14 contained in this paragraph and, on that basis, denies those allegations.

15 11. Defendant admits that Plaintiff did not receive a determination on his  
16 administrative claim for patent infringement by December 2003. Defendant lacks knowledge  
17 and information sufficient to form a belief as to the truth of the allegations regarding Mr.  
18 Kennedy's purported comments to Plaintiff as set forth in sections a. through e. of this paragraph  
19 and, on that basis, denies those allegations. Defendant admits that Plaintiff sent a letter dated  
20 January 8, 2004 addressed to Mr. Kennedy. The allegations contained in this paragraph purport  
21 to characterize the contents of that letter. That letter speaks for itself and contains the best  
22 evidence of its contents and thus no response is required. Defendant admits that no response to  
23 Plaintiff's January, 8, 2004 letter was sent and thus Plaintiff received no response thereto.

24 12. Defendant lacks knowledge and information sufficient to form a belief as to the  
25 truth of the allegations contained in this paragraph and, on that basis, denies those allegations.  
26 Defendant admits that it has no record that Plaintiff contacted Defendant regarding the status of

1 his administrative claim for patent infringement after January 8, 2004. Defendant admits that it  
2 has no record of any contact by Plaintiff between January 8, 2004 and June 28, 2008 — the date  
3 Plaintiff filed his FOIA request.

4 13. Defendant lacks knowledge and information sufficient to form a belief as to the  
5 truth of the allegations contained in this paragraph and, on that basis, denies those allegations.  
6 Defendant admits that due to deficiencies in the United States Patent Office records relating to  
7 the alleged assignment of U.S. Patent Nos. 5,566,073 and 5,904,724, Defendant has been unable  
8 to definitively determine the current ownership of these patents. Defendant admits that it  
9 received notification from Optima Technology Group (“OTG”) dated July 14, 2008 alleging that  
10 the patents had been assigned to OTG. Defendant further admits that OTG claimed that the  
11 patents were assigned in July 2004 — four years before the date notice was received by NASA.

12 **Statement of Facts – Current Case**

13 14. Defendant admits that Plaintiff submitted a request for records under FOIA on  
14 June 28, 2008. Defendant lacks knowledge and information sufficient to form a belief as to the  
15 truth of the remaining allegations contained in the first sentence of this paragraph and, on that  
16 basis, denies those allegations. Defendant admits that the FOIA matter was assigned FOIA HQ  
17 08-270. Defendant admits that Jan McNutt, who worked in the NASA Headquarters Office of  
18 General Counsel, was assigned to conduct a search for records responsive to Plaintiff's FOIA  
19 request. Defendant admits that Mr. McNutt sent Plaintiff a letter dated August 5, 2008. The  
20 allegations in this paragraph purport to characterize the contents of that letter. That letter speaks  
21 for itself and contains the best evidence of its contents and thus no response is required.  
22 Defendant lacks sufficient knowledge and information to form a belief as to the truth of the  
23 allegations contained at lines 15-18 of this paragraph and, on that basis, denies those allegations.  
24 Defendant admits that Mr. McNutt is no longer employed with NASA. Defendant admits the  
25 allegation contained in the last sentence of this paragraph.

1           15.       Defendant admits the allegations contained in the first sentence of this  
2 paragraph. Defendant lacks sufficient knowledge and information to form a belief as to the truth  
3 of the remaining allegations contained this paragraph and, on that basis, denies those allegations.

4           16.       Defendant admits that it withheld documents, citing FOIA Exemption (b)(5), in  
5 its initial response to Plaintiff's request for records under the FOIA. Defendant admits that its  
6 first response to Defendant's request for records under the FOIA did not include the referenced  
7 March 19, 2009 letter from Gary Borda of the NASA Headquarters Office of General Counsel.  
8 Defendant admits that the March 19, 2009 letter from Mr. Borda is the final agency action on the  
9 administrative claim for patent infringement of U.S. Patent No. 5,904,724 originally filed by  
10 Plaintiff. Defendant lacks knowledge and information sufficient to form a belief as to the truth  
11 of the allegations contained in the sentence at page 6, line 10 of this paragraph regarding  
12 Plaintiff's allegation that he received the letter from OTG and, on that basis, denies the  
13 allegation. The allegations contained in the sentence at page 6, lines 10-12, and in the sentences  
14 at page 6, line 16, through page 7, line 2, purport to characterize the contents of the March 19,  
15 2009 letter. That letter speaks for itself and contains the best evidence of its contents and thus no  
16 response is required. Defendant denies the allegations contained at page 6, lines 12-14 of this  
17 paragraph. Defendant admits that the NASA Headquarters Office of General Counsel belatedly  
18 conducted the initial search of its files on Plaintiff's administrative claim in January 2009 and  
19 provided responsive documents to the NASA HQ FOIA office on January 22, 2009. Defendant  
20 admits that Plaintiff was advised on January 23, 2009 during a telephone call with Kellie  
21 Robinson, of the NASA Headquarters FOIA Office, that the FOIA Office had received the  
22 responsive documents resulting from the initial search for processing on January 22, 2009.  
23 Defendant admits that Mr. Borda's March 19, 2009 letter was created after the initial search was  
24 conducted and was therefore not within the scope of Plaintiff's FOIA request. Defendant denies  
25 the allegations contained at page 7, lines 4-5 of this paragraph and denies that any document that  
26 could constitute a "Borda Patent Report" was ever prepared, much less withheld. The

1 allegations contained at page 7, line 7, through page 8, line 7, constitute legal conclusions to  
2 which no response is required. Defendant lacks knowledge and information sufficient to form a  
3 belief as to the truth of the allegations contained at page 8, lines 9-10 of this paragraph and, on  
4 that basis, denies those allegations. Defendant admits that it did not provide an estimate of  
5 volume of withheld documents in its initial response to Plaintiff's FOIA request, as alleged at  
6 page 8, lines 12-13 of this paragraph.

7 17. Defendant admits the allegations contained in this paragraph.

8 18. Defendant admits that Plaintiff spoke to Randolph Harris of the NASA  
9 Headquarters Office of General Counsel on July 21, 2009 and on July 22, 2009. Defendant  
10 admits that Mr. Harris lacked personal knowledge regarding the manner and timing of NASA's  
11 response to Plaintiff's FOIA appeal. Defendant admits that Mr. Harris declined to accept service  
12 on behalf of Defendant by USPS Express Mail. Defendant admits that Plaintiff e-mailed Mr.  
13 Harris a letter on July 21, 2009. The allegations contained in this paragraph purport to  
14 characterize the contents of that letter. That letter speaks for itself and contains the best evidence  
15 of its contents and thus no response is required. Defendant lacks sufficient knowledge and  
16 information to form a belief as to the truth of the remaining allegations contained in this  
17 paragraph and, on that basis, denies those allegations.

18 19. Defendant admits that Mr. Harris did not reply to Plaintiff's July 21, 2009 letter.  
19 Defendant admits that Mr. McNutt sent Plaintiff an e-mail asking for a 20-day extension of time  
20 in which to respond to Plaintiff's FOIA appeal. That e-mail speaks for itself and is the best  
21 evidence of its contents. Defendant admits that, in a July 24, 2009 e-mail to Mr. McNutt,  
22 Plaintiff declined to provide the requested extension of time. That e-mail speaks for itself and is  
23 the best evidence of its contents. Defendant denies that NASA acted in bad faith or took  
24 improper advantage of any courtesies Plaintiff may have extended. Defendant lacks knowledge  
25 and information sufficient to form a belief as to the truth of the remaining allegations contained  
26 in this paragraph and, on that basis, denies those allegations.

1           20.       Defendant admits the allegations contained in this paragraph.

2           21.       Defendant admits that it denied Plaintiff's FOIA appeal in a letter dated August  
3 5, 2009. The allegations contained in this paragraph purport to characterize the contents of the  
4 August 5, 2009 letter. That letter speaks for itself and contains the best evidence of its contents  
5 and thus no response is required. Defendant lacks knowledge and information sufficient to form  
6 a belief as to the remaining allegations contained in this paragraph and, on that basis, denies  
7 those allegations.

8           22.       Defendant admits that it sent documents comprising a supplemental response to  
9 Plaintiff's June 2008 FOIA request in two boxes in November 2009 with a cover letter from  
10 Stephen L. McConnell, NASA FOIA Officer. Defendant admits that, upon further review of  
11 Defendant's FOIA request as a result of the instant litigation, Defendant determined that it would  
12 not be unreasonable to expand its search to include documents and electronic records at NASA  
13 Field Centers even though Plaintiff submitted his June 2008 FOIA request only to NASA  
14 Headquarters. Defendant admits that Plaintiff did not submit a FOIA request to any NASA Field  
15 Office seeking documents relating to the review of his administrative claim for infringement.  
16 Defendant admits that the cover letter stated that the supplemental response included  
17 approximately 4,000 pages of documents. Defendant admits that 4,000 is a number greater than  
18 100. Defendant admits that it did not provide an index of the documents included in the  
19 supplemental response to Plaintiff's 2008 FOIA request and that it had no duty to do so.  
20 Defendant admits that there are duplicates of documents included in the supplemental response  
21 to Plaintiff's 2008 FOIA request. Defendant admits that certain documents were withheld from  
22 the supplemental response to Plaintiff's 2008 FOIA request under FOIA Exemptions (b)3, (b)(4),  
23 (b)(5) and (b)(6). Defendant lacks knowledge and information sufficient to form a belief as to  
24 the truth of the remaining allegations contained in this paragraph and, on that basis, denies those  
25 allegations.

1           23.       Defendant denies the allegations contained at page 11, lines 11-14 of this  
2 paragraph. Defendant admits that it has not provided any patent infringement analysis prepared  
3 by Mr. Frank Delgado to Plaintiff. Defendant admits that such pre-decisional information  
4 prepared at the request of Agency counsel was appropriately withheld under FOIA Exemption  
5 (b)(5). Defendant denies the allegations contained at page 11, lines 16-26, through page 12,  
6 lines 1-13, of this paragraph. Defendant denies the allegations in the first sentence of subsection  
7 b. of this paragraph and admits that a final agency determination was made on the administrative  
8 claim for infringement originally filed by Plaintiff on March 19, 2009 — the date that Mr. Borda,  
9 as the deciding official, issued his letter. The allegations contained in the second sentence of  
10 subsection b. of this paragraph constitute conclusions of law to which no response is required.  
11 To the extent a response is deemed required, the allegations contained in the second sentence of  
12 subsection b. of this paragraph are denied. Defendant denies the allegations contained in  
13 subsection c. of this paragraph. Defendant admits that it appropriately engaged in  
14 communications with Michael Abernathy, as Defendant's contractor, regarding the allegations of  
15 infringement initiated by Plaintiff. Defendant admits that certain communications between  
16 Defendant and Mr. Abernathy contained in the supplemental response to Plaintiff's 2008 FOIA  
17 request were redacted. Defendant admits that its employees conducted a telephone conference  
18 that included Mr. Abernathy. Defendant denies the remaining allegations contained in  
19 subsection d. of this paragraph. The allegations contained in subsection e. of this paragraph  
20 constitute conclusions of law to which no response is required. To the extent a response is  
21 deemed required, Defendant denies that Mr. Abernathy is Defendant's agent.

22           24.       Defendant lacks knowledge and information sufficient to form a belief as to the  
23 truth of the allegation that certain individuals are “major players,” and, on that basis, denies that  
24 allegation.

25           25.       Defendant lacks knowledge and information sufficient to form a belief as to the  
26 truth of the allegations contained at page 14, lines 12-18 of this paragraph and, on that basis,



1 denies those allegations. Defendant admits that it has appropriately redacted or withheld certain  
2 documents included in the supplemental response to Plaintiff's 2008 FOIA request under  
3 Exemptions (b)3, (b)(4), (b)(5) and (b)(6) of the FOIA. The allegations contained at page 15,  
4 line 3, through page 18, line 39, purport to characterize certain documents contained in  
5 Defendant's supplemental response to Plaintiff's 2008 FOIA. Those documents speak for  
6 themselves and contain the best evidence of their contents and thus no response is required.  
7 Defendant denies the remaining allegations contained at page 15, line 3, through page 18, line  
8 39. Defendant lacks knowledge and information sufficient to form a belief as to the truth of the  
9 allegations contained at page 19, line 1, through page 20, line 2, and, on that basis, denies those  
10 allegations. Defendant denies the allegations contained at page 20, lines 4-6. Defendant lacks  
11 sufficient knowledge and information to form a belief as to the truth of the allegations contained  
12 at page 20, lines 8-26, and, on that basis, denies those allegations. The allegations contained at  
13 page 21, line 1, through page 24, line 8, purport to characterize certain documents contained in  
14 Defendant's supplemental response to Plaintiff's 2008 FOIA request. Those documents speak for  
15 themselves and contain the best evidence of their contents and thus no response is required.  
16 Defendant denies that it made a determination with regard to Plaintiff's claim in July 2004. The  
17 remaining allegations contained at page 24, lines 11-22, constitute legal conclusions to which no  
18 response is required. Defendant lacks knowledge and information sufficient to form a belief as  
19 to the truth of the allegations contained at page 24, line 24, through page 25, line 3, and, on that  
20 basis, denies those allegations.

21       26.       Defendant lacks knowledge and information sufficient to form a belief as to the  
22 truth of the allegations contained in this paragraph and, on that basis, denies those allegations.

23       27.       Defendant lacks knowledge and information sufficient to form a belief as to the  
24 truth of the allegations contained at page 25, lines 12-20, of this paragraph and, on that basis,  
25 denies those allegations. The allegations contained at page 25, line 21, through page 39, line 4,  
26 purport to characterize certain documents contained in Defendant's supplemental response to

1 Plaintiff's 2008 FOIA request. Those documents speak for themselves and contain the best  
2 evidence of their contents and thus no response is required. Defendant denies the remaining  
3 allegations contained at page 25, line 21, through page 39, line 4, of this paragraph.

4 28. Defendant admits that it did not file a Request for Reexamination on U.S. Patent  
5 Nos. 5,566,073 and 5,904,724. Defendant denies the allegations contained in page 39, lines  
6 9-21 of this paragraph. The allegations contained at page 39, line 23, through page 40, line 15,  
7 constitute conclusions of law to which no response is required. Defendant lacks knowledge and  
8 information sufficient to form a belief as to the allegations contained in the last sentence of this  
9 paragraph and, on that basis, denies those allegations.

10 29. Defendant lacks knowledge and information sufficient to form a belief as to the  
11 truth of the allegations contained at page 40, line 20, through page 43, line 12, of this paragraph  
12 and, on that basis, denies those allegations. The allegations contained at page 43, line 14,  
13 through page 67, line 17, purport to characterize certain documents contained in Defendant's  
14 supplemental response to Plaintiff's 2008 FOIA request. Those documents speak for themselves  
15 and contain the best evidence of their contents and thus no response is required. Defendant  
16 denies the remaining allegations contained in this paragraph.

17 30. Defendant admits the allegations contained at page 67, lines 21-29, except that  
18 Plaintiff filed his FOIA request on June 28, 2008 and Mr. McNutt requested a 90-day extension  
19 on August 5, 2008. The allegations contained at page 67, line 31, through page 70, line 8,  
20 purport to characterize certain documents contained in Defendant's supplemental response to  
21 Plaintiff's 2008 FOIA request. Those documents speak for themselves and contain the best  
22 evidence of their contents and thus no response is required. Defendant denies the remaining  
23 allegations contained at page 67, line 31, through page 70, line 8.

24 31. The allegations contained at page 70, lines 10-25, purport to characterize certain  
25 documents contained in Defendant's supplemental response to Plaintiff's 2008 FOIA request.  
26 Those documents speak for themselves and contain the best evidence of their contents and thus

1 no response is required. Defendant denies the remaining allegations contained at page 70, lines  
2 10-25. Defendant denies the allegations contained at page 70, line 26, through page 71, line 8, of  
3 this paragraph. The allegations contained at page 71, line 9, through page 74, line 6, purport to  
4 characterize certain documents contained in Defendant's supplemental response to Plaintiff's  
5 2008 FOIA request. Those documents speak for themselves and contain the best evidence of  
6 their contents and thus no response is required. Defendant denies the remaining allegations  
7 contained at page 71, line 9, through page 74, line 6.

8 32. The allegations contained at page 74, line 9, through page 76, line 3, purport to  
9 characterize certain documents in Defendant's supplemental response to Plaintiff's 2008 FOIA  
10 request. Those documents speak for themselves and contain the best evidence of their contents  
11 and thus no response is required. Defendant denies the remaining allegations contained at page  
12 74, line 9, through page 76, line 3, in this paragraph. Defendant lacks knowledge and  
13 information sufficient to form a belief as to the truth of the allegations contained at page 76, lines  
14 6-18 and, on that basis, denies the allegations. The allegations contained at page 76, lines  
15 20-30, purport to characterize a technical report. That document speaks for itself and contains  
16 the best evidence of its contents and thus no response is required. Defendant denies the  
17 remaining allegations contained at page 76, lines 20-30 of this paragraph. Defendant lacks  
18 knowledge and information sufficient to form a belief as to the truth of the allegations contained  
19 at page 77, lines 1-19 of this paragraph and, on that basis, denies those allegations. The  
20 allegations contained at page 77, line 20, through page 84, line 25, purport to characterize certain  
21 documents contained in Defendant's supplemental response to Plaintiff's 2008 FOIA request.  
22 Those documents speak for themselves and contain the best evidence of their contents and thus  
23 no response is required. Defendant denies the remaining allegations contained at page 77, line  
24 20, through page 84, line 25, of this paragraph.

25 33. Defendant admits that Jeffrey L. Fox, a NASA civil servant employee at Johnson  
26 Space Center, contributed to an article entitled Synthetic Vision Technology for Unmanned

1 Systems: Looking Back and Looking Forward. Defendant denies that NASA has withheld  
2 documents that are not exempt from production. Defendant lacks knowledge and information  
3 sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 33  
4 and, on that basis, denies those allegations.

5 34. Defendant admits that Plaintiff sent an electronic copy of a document named  
6 "auvsi\_answer.pdf" to Mr. McNutt. Defendant lacks knowledge and information sufficient to  
7 form a belief as to the truth of the remaining allegations contained in Paragraph 34 and, on that  
8 basis, denies those allegations.

9 35. The allegations contained in this paragraph consist of Plaintiff's characterization  
10 of certain documents that are attached to the second amended complaint. Those documents  
11 speak for themselves and contain the best evidence of their contents and thus no response is  
12 required. Defendant denies that it is engaging in a war against Plaintiff and admits that doing so  
13 would be especially difficult during the four and a half year period between January 2004 and  
14 July 2008 when neither Plaintiff nor OTC communicated at all with Defendant regarding the  
15 patent claim. Defendant lacks knowledge and information sufficient to form a belief as to the  
16 truth of the remaining allegations contained in Paragraph 35 and, on that basis, denies those  
17 allegations.

18 36. Defendant lacks knowledge and information sufficient to form a belief as to the  
19 truth of the allegations contained in Paragraph 36 and, on that basis, denies those allegations.

20 37. Defendant denies that it has acted illegally or inappropriately, as Plaintiff suggests  
21 at pages 94-95. The allegations at page 95, lines 1-11 purport to characterize the contents of a  
22 letter from Mr. McNutt to Plaintiff. That letter speaks for itself and contains the best evidence of  
23 its contents and thus no response is required. Defendant lacks knowledge and information  
24 sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 37  
25 and, on that basis, denies those allegations.  
26

1 38. The Court is respectfully referred to Section 1207.103 of Title 14 of the Code of  
2 Federal Regulations for a full and accurate description of its contents. Defendant denies that  
3 unethical and/or criminal acts were committed by, at the behest of, or with knowledge of  
4 NASA's Office of the General Counsel. Defendant lacks knowledge and information sufficient  
5 to form a belief as to the truth of the remaining allegations contained in Paragraph 38 and, on  
6 that basis, denies those allegations.

7 **Cause of Action**

8 **(Breach of Duty to Disclose Responsive Documents)**

9 39. Defendant repeats and re-alleges the responses made in paragraphs 1-38.

10 40. The allegations contained in this paragraph constitute conclusions of law to which  
11 no response is required. To the extent a response is deemed required, Defendant denies the  
12 allegations.

13 41. Defendant admits that Plaintiff has exhausted his administrative remedies under  
14 the FOIA.

15 The remaining paragraphs of the complaint contain Plaintiff's requested relief, to which  
16 no response is required. To the extent a response is deemed necessary, Defendant denies the  
17 allegations. Defendant further denies all allegations of the complaint not previously expressly  
18 admitted.

19 **Affirmative Defenses**

20 AS A FIRST AFFIRMATIVE DEFENSE, defendant avers that the FOIA request that is  
21 the subject of this lawsuit implicates information that is protected from disclosure by one or  
22 more statutory exemptions, including, but not limited to, Exemptions (b)3, (b)(4), (b)(5) and  
23 (b)(6) of the FOIA. Disclosure of such information is not required or permitted.

24 Defendant reserves the right to amend its answer with additional defenses of which it  
25 may become aware and to raise any other matter constituting an avoidance or affirmative  
26 defense.

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WHEREFORE, Defendant prays for judgment as follows:

1. That judgement be entered in favor of Defendant and against Plaintiff;
2. That Plaintiff take nothing by way of his complaint;
3. For costs of suit; and
4. For such other relief as may be proper.

Respectfully submitted,

DANIEL G. BOGDEN  
United States Attorney

/s/ Holly A. Vance  
HOLLY A. VANCE  
Assistant United States Attorney

**CERTIFICATE OF SERVICE**

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JED MARGOLIN,	)	Case No. 3:09-CV-00421-LRH-VPC
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Plaintiff,	)	
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v.	)	
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NATIONAL AERONAUTICS AND	)	
SPACE ADMINISTRATION,	)	
	)	
Defendant.	)	
_____	)	

The undersigned hereby certifies that service of the foregoing **ANSWER TO SECOND AMENDED COMPLAINT** has been made by electronic notification through the Court's electronic filing system or, as appropriate, by sending a copy by first-class mail to the following addressee(s) on April 12, 2010:

JED MARGOLIN  
1981 Empire Road  
VC Highlands, NV 89521-7430

    /s/ Holly A. Vance