

## Court of Federal Claims Dismisses Pro Se Complaint in Patent Infringement Case

In *Gharb v. United States*, the U.S. Court of Federal Claims in ruling on a motion to dismiss under Rules 12(b)(1) and (6), dismissed the complaint for failing to sufficiently plead facts to support a plausible claim for relief, even under the relaxed pleading standards appropriate for a pro se plaintiff.

In *Gharb*, a pro se plaintiff, Sammy Gharb, held a patent for a “security system with a mobile telephone,” which involved the integration of a “programmable logic controller,” i.e., a certain type of digital computer, with second-generation mobile phones. Gharb alleged that Mitsubishi Electric, Inc. infringed his patent before it expired by using these controllers as part of a federal government contract it held. Because Mitsubishi allegedly infringed the patent as part of a government contract, Gharb claimed that the federal government was also liable for patent infringement under 28 U.S.C. § 1498(a). Section 1498(a) provides a cause of action in the U.S. Court of Federal Claims where a patented invention is “used or manufactured by or for the United States without . . . lawful right to use or manufacture the same.”

Applying the “facial plausibility” standard of the Supreme Court’s decisions in *Twombly* and *Iqbal*, the court concluded that the complaint did not state a plausible claim for relief because it did not “identify particular [government] contracts,” “allege that the federal government purchased [controllers] from Mitsubishi,” or “provide anything more than a conclusory statement that Mitsubishi . . . infringed his patent.” Even if the complaint had contained such details, the court noted that the Federal Circuit has held that using such a controller to communicate over a cell phone alone would not infringe Gharb’s patent. The Court granted the government’s motion to dismiss the case.

The opinion can be found [here](#).

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