



The Institute for Complexity Management

*Making the complex simple*

May 12, 2016

Mr. Christian Cook  
Senior Policy Advisor  
U.S. Senate Select Committee on Intelligence  
211 Hart Senate Office Building  
Washington, D.C. 20510

Dear Mr. Cook:

The purpose of this letter is to serve as formal notification to you and the Senate Select Committee on Intelligence of a criminal scheme involving the U.S. Intelligence Community including but not limited to the Director of National Intelligence, the National Security Agency, the Department of Defense, the Department of Energy, the Federal Bureau of Investigation and other elements of the Department of Justice.

We request that all of the documents included herewith be protected from any disclosure to other than authorized members and staff of the Senate Select Committee on Intelligence

This report of criminal conduct by the U.S. Intelligence Community is independent of ongoing civil litigation in the Federal Courts regarding the matter of Demodulation and is being confidentially reported to you to protect the national security. It is possible that ongoing civil litigation relating to this matter has been tainted by the criminal actions of members of the Executive, Legislative and Judicial Branches of the U.S. Government.

Enclosed with this letter please find a copy of my CV which provides my background and experience in the investigation of matters such as those described below.

OVERVIEW

Demodulation is a small New Jersey based company that developed and patented a revolutionary technology called microwire. Microwire produces small bursts of energy whenever it is moved in the earth's magnetic field. These small bursts of energy can be detected at near or far distances even by satellite. The technology has highly classified national security and intelligence uses.

Demodulation contends that it has been the victim of a systemic scheme by the U.S. Government and their contracted agents to misappropriate the technology for use in classified programs. The scheme involves the Executive, Legislative and Judicial Branches of the U.S. Government.

The Executive Branch has engaged in the misappropriation of the Demodulation technology using clandestine intelligence means and by refusing to investigate criminal RICO activities involving

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various federal agencies. The Legislative Branch has used influence peddling to support the illicit activities of the Executive Branch. The Judicial Branch has excluded material evidence of the scheme in their consideration of the Demodulation matter.

The Constitutional implications of the case involve the patents and copyright clause of Article I, the treaty provisions of Article II, the unlawful search and seizure provisions of Amendment IV and the takings clause of Amendment V.

### CASE SUMMARY

The Institute for Complexity Management (ICM) was contacted by an employee at the U.S. Department of Commerce requesting that we provide assistance to a small company that was the victim of difficulties in commercializing their technology. ICM is a charitable non-profit organization that provides services to American citizens that are the victims of government fraud, waste and abuse. We then contacted the small New Jersey-based company, called Demodulation.

We have conducted an exhaustive investigation of the matter. Our investigation has uncovered irrefutable proof that Demodulation was the victim of an intentional scheme by the U.S. intelligence and defense community and their contracted agents, hereinafter referred to by the collective term “the U.S. Government,” to clandestinely misappropriate the company’s exclusively owned intellectual property. The Demodulation technology known as microwire is called “dual use” because it has both national security, as well as, commercial applications. Many of the defense and intelligence applications of the misappropriated technology are highly classified by the U.S. Government.

The scheme is implemented by an enterprise consisting of U.S. Government intelligence and defense agencies, their privately contracted agents and corporations operating in the State of New York. The enterprise leverages both Federal and State of New York grant funds intended to support small businesses to “bait” small companies with promises of lucrative financing to help commercialize their valuable technologies. Valuable technologies are then misappropriated from the small businesses and directed to large technology development centers across the State of New York where they are exploited by large corporations without proper remuneration to the small business owners of the technology. These activities are conducted in violation of Article I (patent and copyright clause), Amendment IV (search and seizure) and Amendment V (takings clause) of the U.S. Constitution.

We have received testimony that U.S. Government and State of New York claims that these technology centers generate thousands of new high-paying jobs each year are false. We have uncovered evidence of widespread conflicts of interest and received testimony of financial irregularities involving NYSTAR, the State University of New York (SUNY) Research Fund, (redacted) and the (redacted) members of the alleged enterprise.

The intelligence and defense agencies of the U.S. Government originally misappropriated the microwire technology from a scientist in (redacted) at the time of the fall of the former Soviet Union (FSU). During this same time period, Demodulation received a lawful license from the (redacted) scientist to exclusively use the microwire technology. As Demodulation moved forward to commercialize the technology they lawfully acquired, the U.S. Government engaged in their own secret microwire development programs using the (redacted) technology. These activities raise serious

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questions about the U.S. treaty provisions of Article II of the U.S. Constitution. The U.S. Government secretly infringed on Demodulation's exclusive license with the (redacted) scientist and the company's portfolio of 15 co-dependent microwire patents. The Article II implications arise from the fact that the U.S. Government violated treaties and international norms relating to the protection of intellectual property by unlawfully misappropriating, via classified intelligence means and methods, the microwire technology from another nation state ally.

After the U.S. intelligence and defense community misappropriated the microwire technology and began their classified development programs they realized that they did not possess essential trade secrets owned by Demodulation that are indispensable to optimize applications of the microwire technology for classified intelligence and defense uses. Thus began a multi-year clandestine effort by the U.S. intelligence and defense community to misappropriate Demodulation's trade secrets relating to microwire. The Constitutional implications of these activities are that the U.S. Government engaged in unlawful domestic intelligence collection activities against citizens of the United States in violation of the search and seizure provisions of Amendment IV to the Constitution.

By misappropriating Demodulation's trade secrets, secretly developing the company's microwire technology and infringing on their patents, the U.S. Government acted to intentionally evade Amendment V (the takings clause) of the Constitution. Demodulation received no remuneration from the U.S. Government for the use of their lawfully and exclusively-owned intellectual property. This intellectual property included an exclusive use license from the (redacted) scientist, their portfolio of 15 co-dependent microwire patents and the large body of trade secrets developed by Demodulation to reduce their patents to practice.

Demodulation reported these violations to law enforcement authorities throughout the State of New York and the Federal Government. In all cases, Demodulation requests for a criminal investigation were denied.

Demodulation filed numerous civil claims against the U.S. Government in the Federal District Court of Claims including breach of contract, misappropriation of trade secrets and patent infringement. Over the past two and one-half years, U.S. Government Counsel has intentionally limited discovery that confirm the plaintiff's allegations of clandestine U.S. intelligence activity to misappropriate his microwire technology and the classified uses of microwire by the U.S. Government and their contracted agents. The Court has chosen to disregard the government's failure to provide the discovery of material evidence that would provide irrefutable proof of clandestine U.S. intelligence operations to misappropriate microwire and the actual classified uses of microwire by the U.S. Government.

### CONCLUSIONS

The Demodulation case demonstrates a systemic breakdown in the U.S. intelligence apparatus where members of the intelligence community are operating in defiance of the Constitution of the United States. All three branches of government are involved.

The Executive Branch through the intelligence apparatus of U.S. Government is violating Article I of the Constitution by misappropriating Demodulation's patented ideas and trade secrets. By misappropriating the microwire technology of a nation state ally (redacted) the Executive Branch is

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violating the treaty provisions of Article II of the Constitution. The Executive Branch has violated the search and seizure provisions of Amendment IV of the Constitution by conducting unlawful surveillance of U.S. citizens. The Executive Branch is abusing the state secrets privilege to prevent the exposure of U.S. Government criminal RICO activity. The Executive Branch has denied due process to the plaintiff by excluding material evidence of criminal RICO predicate acts by federal agencies demonstrating that the plaintiff's allegations of U.S. Government misconduct are true and by refusing to investigate citizen complaints of criminal U.S. Government RICO activities.

The Legislative Branch has unduly used its influence to support the Executive Branch and their private contracted agents as they violate the Constitution. Former Senator (redacted) supported federal funding for (redacted) that operates in upstate New York. (Redacted) is a so-called "black" contractor for the United States intelligence community operating out of their classified facility in (redacted) entered into a partnership to develop of microwire with a foreign country in a possible violation of International Trade in Arms Regulations (ITAR). Former CEO of the corporation and then (redacted) interfered with Demodulation's attempts to commercialize their technology. The Legislative Branch turned a blind eye to the plaintiff's requests that congress conduct appropriate oversight of the Executive Branch and their contracted agents.

The Judicial Branch disregarded material evidence in the case of Demodulation demonstrating that U.S. Government counsel engaged in the exclusion of material evidence that proves the plaintiff's allegations of contract breach, the misappropriation of trade secrets and patent infringement by the U.S. Government. The actions by the Court were systematic and intentional. First, the Court disallowed the exclusivity of Demodulation's original license with the (redacted) scientist. The Court then disallowed plaintiff's contract breach and trade secrets causes of action by sanctioning the Demodulation plaintiff for the criminal RICO conduct of his former attorneys when these actions were completely outside of the control of the plaintiff himself. The court then disregarded U.S. Government "cover patents" that infringed on the plaintiff's large portfolio of pre-existing patents. The Court then disregarded irrefutable proof of the classified U.S. Government use of plaintiff's microwire as set forth in five classified reports that the U.S. Government was compelled to disclose to the plaintiff during discovery. The Court then disregarded irrefutable proof that the U.S. Government was engaged in unlawful intelligence operations against U.S. citizens in violation of Amendment IV to the Constitution. Finally, the Court shielded the U.S. Government from exposure by sealing material evidence and applying the state secrets privilege.

### REQUEST FOR CONGRESS TO APPOINT A SPECIAL PROSECUTOR

Based on the foregoing description and our exhaustive investigation of the Demodulation matter and several other cases like it, we are formally requesting the appointment of an independent special prosecutor to investigate the activities of federal agencies in the misappropriation and development of advanced technologies from U.S. citizens in violation of the Constitution and laws of the United States.

### CONTENTS OF THIS NOTEBOOK

1. The Institute for Complexity Management (ICM) completed an exhaustive investigation of the Demodulation matter. The investigation revealed massive corruption involving RICO criminal conduct by the U.S. intelligence community and their contractors including (redacted); New York State Government; public-private enterprise development agencies in New York; (redacted), and; the State

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University of New York. A complete copy of the investigative report including all exhibits is affixed at Tab 1.

2. As part of discovery in the civil case, U.S. Government counsel was compelled to release five classified (redacted to unclassified) reports. ICM asserts that these reports provided irrefutable proof that the Department of Energy misappropriated and used, in violation of the terms of their cooperative research and development agreement (CRADA) with Demodulation, the small business's microwire technology. This material evidence was disregarded by U.S. Government counsel and the Federal District Court of Claims as it gave summary judgement for dismissal to the U.S. Government in the Demodulation matter. Complete copies of the unclassified redacted reports were placed under seal and must be obtained from the court records of Judge Thomas C. Wheeler who presided over the case of Demodulation in the Federal District Court of Claims.
3. As part of discovery in the civil case, irrefutable evidence that the U.S. Navy misappropriated and was using Demodulation's microwire technology was provided to U.S. Government counsel and the Court. Judge Wheeler also placed under court seal a letter seen by me (Dr. John H. Hnatio) that provided irrefutable proof that the U.S. Navy had, in fact, contracted with a foreign company for over a decade to procure microwire. A copy of this letter placed under seal can be obtained from Judge Thomas C. Wheeler who presided over the case of Demodulation in the Federal District Court of Claims.
4. As part of discovery in the civil case we obtained the following e-mail string dated May 3, 2005, between (redacted), Vice President for University Relations and President (redacted) both of (name redacted). The e-mails refer to a "bogus proposal" written by (redacted) where (redacted) states, "I will visit you in Attica. Nice work." This e-mail string is indicative of possible widespread grant fraud by (redacted) involving co-mingled federal and New York State taxpayer funds by senior university administrators. In addition, a significant portion of the e-mail was redacted by (redacted) attorneys before it was provided under discovery. The e-mail string can be obtained from (redacted) counsel.
5. In his sworn deposition former General Counsel of (redacted), indicated that (redacted), in fact, has classified contracts with the U.S. Government. Constructed in (redacted) serves as (redacted) top secret military and intelligence facility where the U.S. Government and (redacted) do their most sensitive work together under "black" programs. A copy of (redacted) sworn deposition can be obtained from (redacted) counsel.
6. In spite of numerous denials by (redacted) officials that they were not working on microwire, a contract with the foreign firm was obtained during discovery. This document may be associated with the theft of munitions from Picatinny Arsenal to test Demodulation's microwire as part of a clandestine U.S. intelligence operation reportedly involving the U.S. Army and the National Security Agency. The facility where this testing was done was reported to be in direct contact with the Minister of Defense of a foreign country. Also see Tab 2 below for more information on the clandestine U.S. intelligence operation involving microwire.
7. (Redacted) was the company where the munitions and detonators stolen from Picatinny Arsenal were transported to test the effectiveness of Demodulation's microwire. Suspecting that (redacted) was a shell company established by the intelligence community as a cover operation, the plaintiff's former

counsels were tasked by their client to obtain certification from the New York Department of State as to the operating status of the company. New York State reported in a memorandum that the company was defunct by virtue of bankruptcy. Demodulation was later told by their attorneys that the document was stolen. Later, the law firm produced an obviously forged document on New York Department of State letterhead stating that (redacted) was operating in good standing. A poor quality copy of the original document mysteriously reappeared in the law firm's files after the client questioned them as to why the matter was not being reported to law enforcement for investigation. A subsequent letter to the New York Department of State by a third party also reported that (redacted) was operating in good standing. The Xerox copy of the original letter, the forgery and the subsequent response to a third party response is affixed at Tab 3.

8. The munitions and detonators stolen from Picatinny Arsenal were later moved from the premises of (redacted) by the owner of the building, (redacted) for storage in his garage located in a residential community in Mamaroneck, New York. After the munitions were discovered by Demodulation the theft was reported to (redacted) of the Department of Commerce who, in turn, notified the Federal Bureau of Investigation (FBI). The munitions and detonators were subsequently picked up by the Westchester City bomb squad and two FBI agents. The FBI did not investigate the theft of the munitions and detonators even after they were informed that the theft was part of a clandestine intelligence operation possibly involving foreign intelligence activities. Photographs of the stolen munitions and detonators are affixed at Tab 4.

9. The Institute for Complexity Management completed a comprehensive analysis of the cooperative research and development agreement (CRADA) between the Department of Energy and Demodulation. It is the DOE contracting official who is responsible for all aspects of CRADA activities. Judge Wheeler of the Federal District Court of Claims and the presiding judge in the matter of Demodulation ruled that DOE contracting officers are not responsible for the contracting activities of their contractors. The analysis concludes that serious failures by the DOE contracting official to properly monitor the CRADA activity of their contractor resulted in egregious breaches of contract, the misappropriation of Demodulation's trade secrets by the U.S. Government and the implementation of DOE work around schemes to optimize the performance of the microwire technology they misappropriated from Demodulation outside the scope of the CRADA contract for which the U.S. Government, not their contractor were responsible. The complete CRADA analysis is affixed at Tab 5 for review.

10. (Redacted) provided documents and a sworn deposition to the U.S. Government, counsel in the Demodulation case. In his deposition, (redacted) described the activities of (redacted), former President of (redacted), and (redacted) an employee of the U.S. Army. He described interactions between (redacted) and the defense minister of a foreign country. (Redacted) also described an intelligence operation where a detonator and two 55mm inert Howitzer munitions were clandestinely removed from Picatinny Arsenal for the testing of Demodulation's microwire. (Redacted) deposition can be obtained from U.S. Government counsel.

11. On February 3, 2010, Senator Thomas Coburn wrote a letter to Secretary of Energy Steven Chu requesting information on all work being done by the Department of Energy on microwire. A copy of Senator Coburn's letter is affixed at Tab 6.

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12. On May 10, 2010, (redacted) responded on behalf of Secretary of Energy Chu. The letter described unauthorized work by the DOE outside of the scope of the Demodulation CRADA joint work statement (JWS) including developmental work on gas, pressure and position sensors and states, "No applications have evolved from the work performed under the CRADA." Under discovery, Demodulation compelled the production of five DOE classified (redacted to unclassified) reports that described various DOE uses of microwire. One specific DOE application involves the use of microwire for gas pressure monitoring in nuclear weapons. Research by the Institute for Complexity Management into the government uses of microwire disclosed that DOE was directing millions of dollars of Plant and Laboratory Directed Research and Development (PLDRD) funds to the development and use of microwire at the same time DOE was misappropriating Demodulation's trade secrets under their CRADA. A copy of (redacted) letter to Senator Coburn is affixed at Tab 7.

13. The NSA ANT catalog is a 50-page formerly classified document listing technology available to the United States National Security Agency (NSA) Tailored Access Operations (TAO) by the Advanced Network Technology (ANT) Division to aid in cyber surveillance. Published reports in the open literature reveal that microwire has been used in cyber surveillance and eavesdropping devices to upgrade the performance of the first and second generation devices described in the ANT catalogue. Copies of a published report indicating the use of microwire for eavesdropping devices by the U.S. Government and a sampling of ANT catalog devices are affixed at Tab 8.

14. From June 13, 2013, to September 2015, I (Dr. John Hnatio) interacted with Demodulation's former attorneys (redacted). During this period, the former attorneys for Demodulation took actions to scuttle the case of Demodulation. These activities included but were not limited to: a) failure to compel discovery by the U.S. Government of material evidence critical to the case; b) failure to conduct critical depositions in the case; c) failure to abide by the Court's rules for discovery (later resulting in court sanctions) ; d) filing critical motions after court deadlines expired; and e) improperly distributing court protected information to unauthorized persons (later resulting in court sanctions). The sanctions resulting from the conduct of (redacted) resulted in the dismissal with prejudice of Demodulation's trade secrets cause of action. Our investigation concludes that there is reason to believe that the (redacted) was under some kind of external influence to intentionally scuttle the case of Demodulation. This is most evident in the extortion letters sent by (redacted) to their Demodulation client demanding that he deny the involvement of the National Security Agency in the misappropriation of his microwire technology under threat of abandonment. See Tab 9 below.

15. On May 18<sup>th</sup> and 28<sup>th</sup>, 2015, respectively, the (redacted) sent letters to Demodulation stating that unless Demodulation agreed to a certain set of facts as stated by (redacted), they would abandon their representation of Demodulation. The letters represent an attempt to extort their Demodulation client to remain silent about the loss of material evidence in the case, the possible role of the National Security Agency in misappropriating Demodulation's microwire technology and other matters. Copies of the two extortion letters and Demodulation rebuttals are affixed at Tab 10.

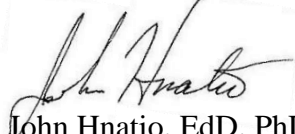
16. Between December 2014 and December 2015 I (Dr. John Hnatio) wrote four letters to Ms. Robin Ashton, Chief Counsel, Office of Professional Responsibility of the Department of Justice. The letters to Ms. Ashton came on the heels of tens and tens of requests to the Federal Bureau of Investigation (FBI) to mount a criminal investigation of the Demodulation matter. The FBI never acknowledged our repeated requests for an investigation. The letters informed Ms. Ashton of suspected RICO activities and

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the failure of the FBI to investigate the crimes being reported to them. The letters requested a separate investigation by her office. Ms. Ashton did not respond to any of the letters which are affixed at Tab 11.

17. On February 28, 2016, the Institute for Complexity Management filed a Freedom of Information Act request with the Department of Justice (DOJ) seeking specific documents that show the U.S. Government violated the Constitution of the United States and obstructed justice. On March 3, 2016, we received a letter from Mr. Lyn Hardy, Special Counsel for FOIA/PA of the DOJ Office of Professional Responsibility (OPR) stating that my (Dr. John Hnatio's) certification of identity previously provided to the DOJ under penalty of perjury pursuant to 28 U.S.C. §1746 was not sufficient to identify me as the true requestor of the information triggering a potentially months long appeal process to delay the release of the requested documents. On March 29, 2016, we filed an official appeal. We are awaiting a ruling from DOJ. The FOIA request asks for documents showing that the FBI disregarded numerous requests to investigate the matter of Demodulation and two other cases similar to it. A copy of the comprehensive FOIA request to DOJ is affixed at Tab 12.

Sincerely yours,



John Hnatio, EdD, PhD  
Executive Director

cc: Representative Devin Nunes  
Chair, House Permanent Select Committee on Intelligence

Post script: September 26, 2016.

Our request to appoint a special prosecutor was denied by the Senate Select Committee on Intelligence. Instead, we were re-directed back to the inspector general of the intelligence community to conduct an investigation of their own wrongdoing. The Department of Justice still has not released critical documents responsive to our request. Our appeal has been awaiting review for several weeks.

We have contacted the Department of Justice, the House and Senate Committees on Intelligence, the House and Senate Judiciary Committees and others with congressional jurisdiction asking for an investigation only to be repeatedly rebuffed. This is in spite of the Snowden affair and massive corruption investigations taking place in New York State by U.S. District Attorney, Preet Bhara, that are directly associated with the Demodulation matter.

At this time, there are no more options available to report the egregious violations of the U.S. Constitution that are being permitted to take place. We have completely exhausted our ability to report these matters to public officials with any further hope of a meaningful investigation by the U.S. Government.



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Since the date of this letter, Demodulation has been forced to drop its appeals before the Federal District Court of New Jersey and the Federal District Court of Claims based on the obstruction of justice by the U.S. Government that includes the Executive, Legislative and Judicial branches of our own government.

A handwritten signature in black ink, appearing to be 'J. H.', written over the date.

9-26-2016