FBI Exhibit No. 78: FDA infringes on FoodQuestTQ LLC copyrighted works.

Since facts are considered "ideas" or "discoveries", they are not copyrightable. However, compilations of facts are treated differently. The Copyright Act, § 103, allows copyright protection for "compilations", as long as there is some "creative" or "original" act involved in developing the compilation, such as in the selection (deciding which facts to include or exclude), and arrangement (how facts are displayed and in what order). Copyright protection in compilations is limited to the selection and arrangement of facts, not to the facts themselves.

The compilations of facts (not the facts themselves) resulting from the application of the FoodQuestTQ LLC researcher’s patented ideas, unpatented ideas and trade secrets to data are original and creative within the meaning of the Copyright Act, § 103. A detailed analysis of how the researcher’s copyrighted description for the selection and arrangement of facts (not the facts themselves) to produce unique and creative data compilations follows.

In his copyrighted research, the FoodQuestTQ researcher identifies numerous original, unique and creative methods for the selection and arrangement of facts for food safety and other critical infrastructure applications. The first method is called ***event sequence generation***. The copyrighted research identifies a specific structure for the gathering of data for inclusion or exclusion as it relates to past and projected food events. The data included in the compilation of facts must, by definition, be causal in nature, i.e., reflect discernible cause and effect relationships. For food events five unique categories are created: 1) accidental poisonings; 2) intentional poisonings; 3) equipment malfunction; 4) industrial accidents, and; 5) natural disasters.

Large volumes of data for different types of food events are searched and structured across selected areas of interest including: 1) date of an event; 2) location of an event; 3) description of an event; 4) toxic agents involved in the event; 5) associated symptomology for each agent involved in an event; 6) validity of an event, i.e., confirmed, highly likely, possible, unlikely and known hoax; 7) victims of an event; 8) food related category of an event, i.e., biological, chemical and intentional disruption; 9) type of poisoning, i.e., gas-biological, gas-chemical, gas burning; 10) poisoning method, i.e., biological, chemical, wounding, injection; animal bite; human to human transmission, animal to human transmission; animal to animal transmission; human to animal transmission, transmission by fomite; 11) event keywords; 12) URL event sources; 13) planning and response variables for an event; 14) feasibility of an event; 15) required resources for an event; 16) how an event is executed; 17) level of vulnerability for an event occurring; 18) consequences of an event, i.e., loss of life, human injury property damage, cost of food recall; 19) mitigating factors of an event; 20) an ***event path analysis*** consisting of the exact causal steps of an event in the order that they occur and; 21) the identification of the ***critical nodes*** of an event across the threat continuum of deterrence, detection, prevention, response and mitigation. This process is called ***threat continuum analysis***.

The FoodQuestTQ LLC researcher’s copyrighted research for the selection and arrangement of relevant data in original, unique and creative compilations is also accomplished through a process called ***stratification***. In this process some of the data, as structured above, is statistically weighted and compared and contrasted in and among different events and different categories and types of events to produce additional original, unique and creative compilations of data based on statistical frequency and scores that project the likelihood of different events occurring at food facilities.

In a process called ***food event analysis and simulation,*** relevant data, as structured above, is used to produce original, unique and creative compilations of data to drive simulated food events and statistically determine win or lose food protection scenarios. This process in combination with ***event sequence generation, event path analysis, the identification of critical nodes, threat continuum analysis*** and the ***stratification*** of like events allows for the identification and statistical rank ordering of the most valuable mitigation strategies, i.e., ***steps***, to prevent and mitigate the consequences of different categories and types of food events. By ***stratifying*** like events against the total population (ñ) of events gathered with the data structured as above, probability ***of occurrence, vulnerability*** and ***consequence*** for different categories and types of events are created and rank ordered.

By using the collective population (ñ) of data gathered and structured as above (as opposed to the individual facts themselves) plaintiff creates other unique compilations of data. These include something called ***decision path analysis*** where the ***sequence of best decisions*** using past and simulated events are compiled and rank ordered to create templates that can be used by emergency responders to help them make the best decisions during responses to real world food event emergencies. Plaintiff also creates unique compilations of data that rank order different categories and types of events in a way that expresses the ***probability of interdicting*** the events. In addition, unique compilations of data that express ***best investments*** to deter, detect, prevent, respond and mitigate the consequences of different categories and types of events are created.

The total population of data gathered and structured as above (as opposed to the individual facts themselves) creates a unique compilation of data that becomes statistically “smarter and smarter” as the population (ñ) of similarly structured event data is added. This unique compilation of metadata is called a ***learning knowledgebase***.

Specific violations of plaintiff’s unique and copyrighted expressions of their patented and unpatented ideas appear at [FBI Exhibit No. 78 a.](FBI%20Exhbit%20No.%2078%20a..pdf)