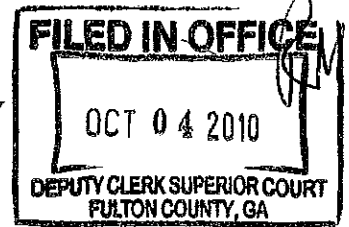


COPY

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA



LEANNE M. GILBERT,

Petitioner,

v.

BOARD OF REGENTS OF THE
UNIVERSITY SYSTEM OF GEORGIA,
and MARK G. ALLEN, in his official
capacity as the Custodian of Records of
Georgia Electronic Design Center of the
Georgia Institute of Technology,

Respondents.

Civil Action No.

2010CV191728

PETITION TO COMPEL COMPLIANCE
WITH THE GEORGIA OPEN RECORDS ACT

Petitioner LeAnne M. Gilbert ("Petitioner") files this Petition against Respondents, the Board of Regents of the University System of Georgia ("Board of Regents") and Mark G. Allen ("Allen") (collectively, "Respondents"), seeking an Order compelling Respondents to comply with their obligations under the Georgia Open Records Act, O.C.G.A. § 50-18-70 *et seq.* ("GORA"), and requiring Respondents to pay Petitioner's attorney's fees and costs, respectfully showing the Court the following:

Parties, Jurisdiction and Venue

1.

Petitioner LeAnne M. Gilbert is a resident of Fulton County, Georgia.

2.

Respondent Board of Regents exists under a constitutional mandate, Ga. Const. Art. 8, § 4, ¶ I, and is a state-chartered corporation, incorporated under O.C.G.A. § 20-3-20(a).

3.

The governance, control, and management of the University System of Georgia and each of its institutions are vested by the people of Georgia exclusively with the Board of Regents of the University System of Georgia.

4.

The Georgia Institute of Technology (“Georgia Tech”) is a research university of the University System of Georgia, but it is not an entity legally distinct from the Board of Regents, and it cannot sue or be sued in its own capacity.

5.

The offices of Respondent Board of Regents are located at 270 Washington Street, S.W., Atlanta, Fulton County, Georgia, 30334, and Respondent Board of Regents is subject to process by service effected on its Chancellor or Clerk at that location.

6.

Respondent Allen is Senior Vice Provost for Research and Innovation, Acting Director of the Georgia Electronic Design Center, and Joseph M. Pettit Professor and Regents Professor Microelectronics/Microsystems at Georgia Tech.

7.

Respondent Allen is a resident of Fulton County, and he may be served at his home located at 11 W. Wesley Road, Atlanta, GA 30327, or at his office located at Georgia Institute of Technology, MiRC 120, Carnegie Building 027, 777 Atlantic Drive NW, Atlanta, GA 30332.

8.

Jurisdiction is proper in this Court pursuant to Ga. Const. Art. 6, § 4, ¶ I, and venue lies in this Court pursuant to Ga. Const. Art. 6, § 2, ¶ VI and O.C.G.A.

9.

This action is brought pursuant to O.C.G.A. § 50-18-73(a), which provides: “The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against persons or agencies having custody of records open to the public under this article to enforce compliance with the provisions of this article.”

Facts Common to All Counts

The Georgia Open Records Act

10.

The Georgia Open Records Act (“GORA”) provides, in part: “All public records of an agency . . . , except those which by order of a court of this state or by law are prohibited or specifically exempted from being open to inspection by the general public, shall be open for a personal inspection by any citizen of this state at a reasonable time and place; and those in charge of such records shall not refuse this privilege to any citizen.” O.C.G.A. § 50-18-70(b).

11.

GORA further specifies that among the obligations of an agency that receives a request made by a citizen under O.C.G.A. § 50-18-70(b) (an “Open Records request”): “The individual in control of such public record or records [at the agency] shall have a reasonable amount of time to determine whether or not the record or records requested are subject to access under this article and to permit inspection and copying. In no event shall this time exceed three business days.” O.C.G.A. § 50-18-70(f).

12.

If the agency declines to make available records that are the subject of an Open Records request on the ground of a claimed exception from its obligations to produce them under GORA, as set forth in O.C.G.A. § 50-18-72, then it has a duty to notify the person making such request –

within three business days of the request and with specificity – of its position: “Within the three business days applicable to response to a request for access to records under this article, the public officer or agency having control of such record or records, if access to such record or records is denied in whole or in part, *shall specify in writing the specific legal authority exempting such record or records from disclosure, by Code section, subsection, and paragraph.*” O.C.G.A. § 50-18-72(h) (emphasis added).

13.

Furthermore, when an agency asserts an exception to disclosure of public records that are the subject of an Open Records request, any such exception, if otherwise valid, applies only to those portions of those records to which that exception applies. The agency must make available those portions of records that are not subject to the exception. See O.C.G.A. § 50-18-72(g) (“This Code section shall be interpreted narrowly so as to exclude from disclosure *only that portion of a public record to which an exclusion is directly applicable*. It shall be the duty of the agency having custody of a record to provide all other portions of a record for public inspection or copying.”) (emphasis added).

14.

The agency responding to a GORA Open Records request may charge the person making the request a “copying fee,” as well as “a reasonable charge . . . for search, retrieval, and other direct administrative costs for complying.” O.C.G.A. §§ 50-18-71(c) and (d). In addition, “[w]here information requested is maintained by computer, an agency may charge the public its actual cost of a computer disk or tape onto which the information is transferred and may charge for the administrative time involved.” O.C.G.A. § 50-18-71(f).

15.

Under GORA, “[a]n agency shall utilize the most economical means available for providing copies of public records.” O.C.G.A. § 50-18-71(e).

16.

An agency may not charge a requesting party for expenses incurred in inspecting and screening documents for information that is exempt from disclosure under GORA. See Trammell v. Martin, 200 Ga. App. 435, 436 (1991) (“Although plaintiff’s complaint alleged several instances of wrongful conduct or statutory violation against the defendant [under GORA], the evidence showed only that *defendant wrongly planned to charge plaintiff for attorney time required to review* the requested documents for information exempt from disclosure. The trial court corrected this violation by ruling plaintiff could not be charged for that service since it was not a charge authorized under OCGA § 50-18-71.”) (emphasis added).

Georgia Open Records Act Requests Dated July 19, 2010

17.

By letter dated July 19, 2010, Petitioner submitted to Respondent Allen an Open Records request seeking, among other things, “[f]or the time period 2003 through the present, all emails to or from Dr. Joy Laskar on any computer used by him at the GEDC (in electronic format).” (“the Laskar Emails”) (Request No. 5).

18.

A true and correct copy of the Open Records request dated July 19, 2010 is attached as Exhibit A and incorporated by reference.

19.

The Laskar Emails are “public records,” and the Board of Regents is a “public agency,” within the meaning of O.C.G.A. § 50-18-70(a).

20.

In response to the Open Records request for the Laskar Emails – and as part of a July 22, 2010 letter to undersigned counsel for Petitioner – counsel for Georgia Tech wrote: “Georgia Tech has no responsive documents. Dr. Laskar’s computers were seized by the Georgia Bureau of Investigation (‘GBI’), the contents of which Georgia Tech has been unable to review.”

21.

A true and correct copy of said response letter is attached as Exhibit B and incorporated by reference.

22.

Subsequently, Georgia Tech acknowledged, in response to a letter from undersigned counsel on the subject, that it could access the Laskar Emails on its servers, and by email dated August 5, 2010, counsel for Georgia Tech offered to make the emails available to Petitioner on the condition that it receive payment in the total amount of \$512.90, including an estimated \$188.36 of attorney time needed “to review your client’s email to ensure that information excepted under the ORA, or which is otherwise privileged, is not being forwarded.”

23.

A true and correct copy of said email is attached as Exhibit C and incorporated by reference.

24.

In the August 5, 2010 email, counsel for Georgia Tech did not assert the applicability of any exception to GORA under O.C.G.A. § 50-18-72.

25.

At least as of counsel’s email of August 5, 2010, Georgia Tech was aware of any “error” it might have made -- and, in particular, its failure to assert the applicability of any GORA

exceptions – in its initial response to Open Records request of July 19, 2010, in which Petitioner sought disclosure of the Laskar Emails.

26.

On August 25, 2010, in a letter from counsel for Georgia Tech to counsel for Petitioner, Georgia Tech revised its cost estimate for its review of the Laskar Emails prior to their being made available under GORA: “After additional consultation with Georgia Tech’s Office of Information Technology, Georgia Tech must revise its initial estimate. Specifically, Georgia Tech estimates that it will take approximately 1333 people hours at a minimum hourly rate of \$36.06 *to review the email* for a grand total of forty-eight thousand seventy-nine dollars (\$48,079).”

27.

In the August 25, 2010 letter, counsel for Georgia Tech did not assert the applicability of any exception to GORA under O.C.G.A. § 50-18-72.

28.

A true and correct copy of said letter is attached as Exhibit D and incorporated by reference.

29.

As of the date of this Petition, Georgia Tech has neither made copies of, nor made available for inspection, the Laskar Emails (or any portions of them), which are the subject of the Open Records request dated July 19, 2010.

30.

As of the date of this Petition, Georgia Tech continues to maintain that Petitioner must pay Georgia Tech \$48,079 “to review the emails” sought in said Open Records request as a precondition to its making the Laskar Emails (or any portions of them) available to Petitioner.

Georgia Open Records Act Requests Dated September 20, 2010

31.

By letter dated September 20, 2010, Petitioner submitted to Respondent Allen an Open Records request seeking, among other things: (a) invoices, bills, checks, and other documents reflecting invoices to and payments by a list of GEDC-affiliated companies and persons for the use of GEDC facilities and research staff (“the Facilities Documents”) (Request Nos. 1-6); and (b) invoices, bills, checks, and other documents reflecting invoices to and payments by a list of GEDC-affiliated companies and persons for the production and manufacture of computer chips (“the Computer Chip Documents”) (Request Nos. 7-12).

32.

A true and correct copy of the Open Records request dated September 20, 2010 is attached as Exhibit E and incorporated by reference.

33.

In response to the Open Records request for the Facilities Documents and Computer Chip Documents – and as part of a September 23, 2010 letter to undersigned counsel for Petitioner – counsel for Georgia Tech wrote: “With respect to [these requests], to the extent responsive documents exist, Georgia Tech estimates a retrieval cost of approximately \$32,614. This estimate does not include the copying fees [of \$0.25 per page] associated with the approximately 3,500 to 7,000 pages of documents anticipated to be generated. In addition, Georgia Tech estimates it will take approximately ten (10) weeks to fulfill this request.”

34.

Counsel for Georgia Tech further wrote that it would not proceed with the production of the Facilities Documents and Computer Chip Documents, as well as other documents requested, until “receipt of payment.”

35.

A true and correct copy of said letter is attached as Exhibit F and incorporated by reference.

36.

By letter dated September 29, 2010, counsel for Petitioner responded to Georgia Tech’s counsel, stating among other things:

(a) “Given the cost estimated, and your failure to provide information sufficient to justify the estimated expense, we can only assume that Georgia Tech is again attempting to improperly charge us for time required to review the documents for exemptions from production which, as you are aware, is a violation of Ga. Code § 50-18-72. Unless we hear differently from you we will assume that Georgia Tech is purposefully acting in violation of that statute and will proceed accordingly.”

(b) “GORA does not permit you to require advance payment of estimated fees. Rather, Ga. Code § 50-18-71.2 requires you to provide an estimate of costs to be incurred in copying, search and retrieval, and other authorized administrative fees, and Ga. Code § 50-18-71 (g) provides the means by which those fees may be collected *after production*.”

37.

A true and correct copy of said letter is attached as Exhibit G and incorporated by reference.

38.

As of the date of this Petition, Georgia Tech has neither made copies of, nor made available for inspection, documents responsive to the Open Records request dated September 20, 2010.

39.

As of the date of this Petition, Georgia Tech continues to maintain that Petitioner must pay Georgia Tech the estimated costs in advance as a precondition to its making responsive documents available to Petitioner.

Causes of Action

COUNT I

(Injunctive Relief -- Open Records Request Dated July 19, 2010)

40.

Petitioner incorporates by reference into this Count the allegations set out in the foregoing Paragraphs 1-39 of this Petition.

41.

Respondents have waived their right to assert the applicability of any of the exceptions set forth in O.C.G.A. § 50-18-72 with respect to their disclosure obligations under O.C.G.A. § 50-18-70 because: (a) Respondents failed to “specify in writing” within three business days of receipt of the Open Records request “the specific legal authority exempting such record or records from disclosure, by Code section, subsection, and paragraph[,]” as required by O.C.G.A. § 50-18-72(h); and (b) Respondents failed to cure such failure to designate exemptions with specificity “within five business days of discovery” of the error on or before August 5, 2010, as required by O.C.G.A. § 50-18-72(h).

42.

Having failed to assert a timely exemption to disclosure, Respondents are required under GORA to disclose to Petitioner the entirety of the Laskar Emails that are the subject of the Open Records request dated July 19, 2010.

43.

Even if Respondents had not waived their right to assert exceptions to their GORA disclosure obligations, nevertheless, under O.C.G.A. § 50-18-72(g), Respondents have violated their disclosure obligation as to the Laskar Emails because an agency may withhold “only that portion of a public record to which an exclusion is directly applicable.” At a minimum, therefore, Respondents are required to make available to Petitioner those portions of the Laskar Emails that are not subject to a statutory exception.

44.

Respondents’ requirement that Petitioner pay to Georgia Tech \$48,079 on account of its “review [of] the emails” sought in the Open Records request dated July 19, 2010 is invalid as a matter of law because such review time is not a recoverable expense for an agency under O.C.G.A. § 50-18-71.

45.

Respondent’s requirement that Petitioner pay Georgia Tech the estimated costs of production as a precondition to production of documents responsive to the Open Records request dated July 19, 2010 violates O.C.G.A. §§ 50-18-71(g) and -71.2, which require the agency to provide an estimate of fees prior to production, but which does not authorize the collection of any actual fees until after production.

46.

Respondents have violated GORA by: (a) failing to produce to Petitioner the entirety of the Laskar Emails; or, in the alternative, (b) failing to produce to Petitioner at least those portions of the Laskar Emails not subject to a non-waived exception to the GORA disclosure requirements; and (c) seeking to impose on Petitioner an unauthorized and unreasonable charge to review the Laskar Emails before their production.

COUNT II

(Injunctive Relief -- Open Records Request Dated September 20, 2010)

47.

Petitioner incorporates by reference into this Count the allegations set out in the foregoing Paragraphs 1-39 of this Petition.

48.

Assuming for purposes of this Petition only that Respondents did not waive their right to assert exceptions to their GORA disclosure obligations, nevertheless, under O.C.G.A. § 50-18-72(g), Respondents violated their disclosure obligation as to the Facilities Documents and Computer Chip Documents because an agency may withhold “only that portion of a public record to which an exclusion is directly applicable.” At a minimum, therefore, Respondents are required to make available to Petitioner those portions of such that are not subject to a statutory exception.

49.

Respondents’ requirement that Petitioner pay to Georgia Tech \$32,614 to review the Facilities Documents and Computer Chip Documents sought in the Open Records request dated September 20, 2010 is invalid as a matter of law because such review time is not a recoverable expense for an agency under O.C.G.A. § 50-18-71.

50.

Respondents' requirement that Petitioner pay Georgia Tech the estimated costs of production as a precondition to production of documents responsive to the Open Records request dated September 20, 2010 violates O.C.G.A. §§ 50-18-71(g) and -71.2, which require the agency to provide an estimate of fees prior to production, but which does not authorize the collection of any actual fees until after production.

51.

Respondents have violated GORA by: (a) failing to produce to Petitioner the entirety of the documents requested in the Open Records request dated September 20, 2009; or, in the alternative, (b) failing to produce to Petitioner at least those portions of the Open Records request not subject to a non-waived exception to the GORA disclosure requirements; and (c) seeking to impose on Petitioner an unauthorized and unreasonable charge to review the documents requested in the Open Records request before their production.

COUNT III

(Attorney's Fees and Other Litigation Costs)

52.

Petitioner incorporates by reference into this Count the allegations set out in the foregoing Paragraphs 1-51 of this Petition.

53.

Respondents are unable to show the existence of special circumstances excusing their failure to meet their obligations under GORA.

54.

Under O.C.G.A. § 50-18-73(b), Petitioner is entitled to her attorney's fees and litigation costs incurred in bringing and maintaining this action.

CONCLUSION

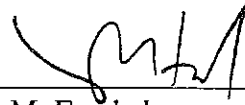
For all of the foregoing reasons, Petitioner respectfully requests the following relief:

- a. That process issue and be served upon Respondents to appear and answer this Petition, as provided by law;
- b. That, as to Count I and pursuant to O.C.G.A. § 50-18-73(a), the Court enter a final Order requiring Respondents to comply with their obligations under GORA, and more specifically, that:
 - i. Respondents immediately disclose to Petitioner the entirety of the Laskar Emails that are the subject of the Open Records request dated July 19, 2010; or
 - ii. In the alternative, in the event that Respondents have not waived their right to assert exceptions under GORA to their otherwise applicable obligation to disclose the Laskar Emails, Respondents immediately disclose at least those portions of the Laskar Emails not subject to a non-waived exception to the GORA disclosure requirements; and
 - iii. Respondents are precluded as a matter of law from imposing any charges on Petitioner on account of their review of documents subject to disclosure for exceptions and privilege, including, but not limited to, Respondents' effort to collect \$48,079 to review the Laskar Emails; and
 - iv. Respondents cannot require Petitioner to pre-pay estimated fees as a precondition to production, and can only charge actual fees upon the completion of production;

- c. That, as to Count II and pursuant to O.C.G.A. § 50-18-73(a), the Court enter a final Order requiring Respondents to comply with their obligations under GORA, and more specifically, that:
- i. Respondents immediately disclose to Petitioner the entirety of the documents that are responsive to the Open Records request dated September 20, 2010; or
 - ii. In the alternative, in the event that Respondents have not waived their right to assert exceptions under GORA to their otherwise applicable obligation to disclose the responsive documents, Respondents immediately disclose at least those portions of the responsive documents not subject to a non-waived exception to the GORA disclosure requirements; and
 - iii. Respondents are precluded as a matter of law from imposing any charges on Petitioner on account of their review of documents subject to disclosure for exceptions and privilege, including, but not limited to, Respondents' effort to collect \$32,614 to review the Facilities Documents and the Computer Chip Documents; and
 - iv. Respondents cannot require Petitioner to pre-pay estimated fees as a precondition to production, and can only charge actual fees upon the completion of production.
- d. That, pursuant to O.C.G.A. § 50-18-73(b), the Court order Respondents to reimburse Petitioner for her reasonable attorneys' fees and costs incurred as a result of Respondents' failure to act with substantial justification in violating GORA; and

- e. That the Court award Petitioner any further relief as is justified by the facts
and the law and as the Court deems just and proper.

Respectfully submitted this 4th day of October, 2010.



Craig M. Frankel
Georgia Bar No. 272880
Robert P. Marcovitch
Georgia Bar No. 469979

GASLOWITZ FRANKEL LLC
4500 SunTrust Plaza
303 Peachtree Street, N.E.
Atlanta, GA 30308
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Of Counsel

Kathy R. Bess
Robert P. Marcovitch

July 19, 2010

VIA HAND DELIVERY

Mark G. Allen, Acting Director
Georgia Electronic Design Center
Georgia Institute of Technology
Technology Square Research Building
85 Fifth Street, N.W.
Atlanta, Georgia 30308

Re: Georgia Open Records Act Request

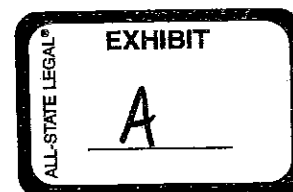
Dear Dr. Allen:

The following is a request by a citizen of this State directed to the Georgia Institute of Technology ("Georgia Tech") pursuant to the Georgia Open Records Act, Ga. Code § 50-18-70 et seq., for all responsive records in Georgia Tech's possession, custody or control.

Georgia Tech has three (3) business days to determine which requested records are subject to access and to make those records available for inspection and copying. Where responsive records exist but are not available within three business days, a written description of such records, together with a timetable for their inspection and copying, shall be provided within that period. See Ga. Code § 50-18-70(f);

As used in this request, the term "records" shall have the meaning set forth in Ga. Code § 50-18-70(a).

Pursuant to Ga. Code § 50-18-70(g), we request that any relevant records maintained by computer be made available by electronic means.



Mark G. Allen
July 19, 2010
Page 2

If access to any requested records is denied in whole or in part, please specify in writing the specific legal authority exempting such records from disclosure, by Code section, subsection, and paragraph. See Ga. Code § 50-18-72(h).

Public Records Requested

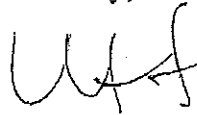
We hereby request *access* to the *originals* of the following public records in the *possession, custody or control* of Georgia Tech:

1. Copy of Georgia Electronic Design Center ("GEDC") form membership agreement;
2. Copy of each and every GEDC agreement with any member company since 2003;
3. Copy of GEDC bylaws;
4. For the time period 2001 through the present, copies of each and every employment contract with Dr. Joy Laskar;
5. For the time period 2003 through the present, all emails to or from Dr. Joy Laskar on any computer used by him at the GEDC (in electronic format);
6. For the time period 2003 through the present, copies of all contracts *signed by* Dr. Joy Laskar as chair of or on behalf of the GEDC;
7. All written contracts *with* Dr. Joy Laskar from 2001 through the present, including all documents incorporated therein;
8. All written contracts *with* Sayana Wireless, LLC from 2006 through the present, including all documents incorporated therein;
9. All conflict of interest forms, including drafts and amendments, submitted to or executed by Dr. Joy Laskar from 1998 to the present, including all documents referenced, incorporate or attached thereto;

Mark G. Allen
July 19, 2010
Page 3

Please let us know when and where the public records can be examined.

Sincerely,

A handwritten signature in black ink, appearing to read 'LMG', with a stylized flourish at the end.

LeAnne M. Gilbert

LMG/aac

cc: Mr. Craig M. Frankel



Georgia Institute of Technology

Office of Legal Affairs

Via E-mail (cfrankel@gadiscpustes.com) and U.S. Mail

July 22, 2010

Craig Frankel
Gaslowitz Frankel LLC
4500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 30308-3243

Re: Joy Laskar

Dear Mr. Frankel:

I am in receipt of your two letters dated July 19, 2010, requesting certain documents under the Open Records Act ("ORA"). I use the following nomenclature in responding to your ORA requests below: "GEDC Membership ORA" and "Sayana Wireless ORA."

GEDC Membership ORA

- 1) Georgia Tech has responsive documents, available electronically.
- 2) Georgia Tech has responsive documents, available electronically.
- 3) Georgia Tech has responsive documents, available electronically.
- 4) Georgia Tech has responsive records, available electronically. Costs associated with producing these documents are approximately \$5.28.
- 5) Georgia Tech has no responsive documents. Dr. Laskar's computers were seized by the Georgia Bureau of Investigation ("GBI"), the contents of which Georgia Tech has not been able to review.
- 6) To find responsive documents, if any, an employee of Georgia Tech's Department of Internal Auditing would need to review Dr. Laskar's hard drive(s). This employee's hourly rate is \$38.25 and he anticipates that the process would take at least five (5) to eight (8) hours.
- 7) Your request is unclear. Contracts between Georgia Tech and Dr. Laskar have been produced in response to your question number four (4) above.
- 8) Georgia Tech has some responsive documents, available electronically. Other materials were seized by GBI that Georgia Tech has not been able to review.
- 9) Georgia Tech has responsive documents, available electronically.

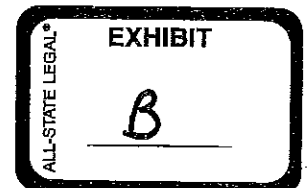
Sayana Wireless ORA

- 1) Georgia Tech's Library and Information Center ("LIC") is the record custodian of Georgia Tech students' theses and dissertations (collectively, "academic papers"). Students' academic papers are cataloged in an electronic database managed by LIC. An LIC research librarian can search the database on your behalf, however, any search is limited to the terms supplied in your request and only those results that include the specified search terms in the indexing or content of the academic paper will be captured. In addition, copyright law prohibits the copying of entire academic papers. With respect to dissertations, depending on the year in which the dissertation was produced, the dissertation may be available in electronic format. Otherwise, print editions are available in the LIC. Librarian research is \$75 per hour plus applicable copying fees.

Georgia Institute of Technology
Atlanta, Georgia 30332-0495 U.S.A.
PHONE 404.894.4812
FAX 404.894.3120

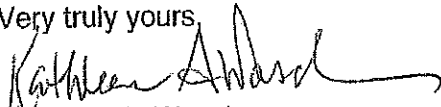
A Unit of the University System of Georgia

An Equal Education and Employment Opportunity Institution



- 2) This request is overbroad and unreasonable. Georgia Tech does not maintain these records.
- 3) This request is unclear. Georgia Tech has agreements pursuant to which companies became members of GEDC but Georgia Tech does not have any responsive documents regarding the benefits, resources or access to premises that these companies may have received pursuant to said agreements.
- 4) Your request is unclear.
- 5) Site visits
 - a. Dr. Allen is the record custodian of these documents (if any). Dr. Allen is out of the office and will not be available until August 9, 2010.
 - b. Mr. Beck has no responsive documents.
 - c. Mr. Fleming has responsive documents, available electronically.
 - d. Mr. Freet has responsive documents, available electronically.
 - e. Ms. Garton has no responsive documents.
 - f. Dr. May has no responsive documents.
 - g. Mr. McGregor has responsive documents, available electronically.
 - h. Mr. Nemeth has no responsive documents.
 - i. Ms. Pittman has no responsive documents.
 - j. Mr. Rust has responsive documents, available electronically.
 - k. Georgia Tech has been unable to reach Mr. Stewart.
 - l. Mr. Wozniak has no responsive documents.

Very truly yours,



Kathleen A. Wasch
Senior Attorney

From: jessica.senz@legal.gatech.edu
Date: August 5, 2010 1:40:48 PM EDT
To: LeAnne Gilbert <lgilbert@gadisputes.com>
Cc: christine <christine.lang@legal.gatech.edu>
Subject: Re: 7/19/10 Open Records Act Requests

Hi LeAnne:

I address your questions, in turn, below.

Posting of Documents

I believe Georgia Tech is waiting for payment before it posts the documents your law firm requested in its July 19, 2010 ORA request. (Generally, Georgia Tech does not process ORA requests until we are in receipt of payment; payment generally is made by check, payable to the "Georgia Institute of Technology.") Georgia Tech incurred costs in the amount of \$5.28 in responding to this ORA request. Please let me know if you have already mailed the check so I can see if it is with a sec'y or if you haven't, I will let them know to expect it.

Searching Laskar's email account

With respect to your prior ORA request, we originally estimated it would take five hours at a rate of \$38.25/hour. Let me refine that prior estimate as follows:

- 1) I spoke with Georgia Tech's Office of Information Technology (OIT) who told me that OIT can search for these records at a cost of \$36.06/hour. The search will take approximately 9 hours and cost approximately \$324.54.
- 2) After OIT delivers the search results to my office, Office of Legal Affairs will need to review your client's email to ensure that information excepted under the ORA, or which is otherwise privileged, is not being forwarded. We estimate that this review will require four hours of attorney time and will cost approximately \$188.36.

In total, we estimate that the retrieval and review of your client's email will cost approximately **\$512.90**. However, you will be charged the actual cost of the search, whether it is less or more than this estimate.

Assuming you want to proceed, after we receive payment in the amount of **\$512.90**, I will tell my OIT person to begin the search and Georgia Tech will begin compiling and reviewing the requested information. (If you want to combine the \$512.90 and \$5.28 in a single check, that is fine, too.) I wait to hear from you.

Best regards,
Jessica

----- Original Message -----





Georgia Institute of Technology

Office of Legal Affairs

Via Email (cfrankel@gadisputes.com)
And U.S. Mail

August 25, 2010

Craig Frankel
Gaslowitz Frankel LLC
4500 SunTrust Plaza
303 Peachtree St, NE
Atlanta, GA 30308-3243

RE: Copies of Dr. Laskar's Georgia Institute of Technology Email
Correspondence

Dear Mr. Frankel:

This letter follows your prior request made under the Open Records Act regarding the above-referenced matter.

Initially, the Georgia Institute of Technology ("Georgia Tech") estimated a cost of approximately five hundred eighteen dollars and eighteen cents (\$518.¹⁸) to produce and review the requested documents.

After additional consultation with Georgia Tech's Office of Information Technology, Georgia Tech must revise its initial estimate. Specifically, Georgia Tech estimates that it will take approximately 1333 people hours at a minimum hourly rate of \$36.⁰⁶ to review the email for a grand total of forty-eight thousand seventy-nine dollars (\$48,079). Note that you will be charged the actual cost, whether it is more or less than this estimate.

In light of the considerable cost involved with this request, I will wait for your written confirmation to proceed. Feel free to contact me if you have further questions.

Sincerely,

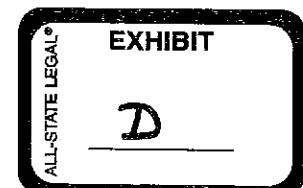
Jessica L. Sentz
Attorney

/mrt

Georgia Institute of Technology
Atlanta, Georgia 30332-0495 U.S.A.
PHONE 404.894.4812
FAX 404.894.3120

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Attorneys at Law

Adam R. Gaslowitz
Craig M. Frankel
Brian M. Deutsch
LeAnne M. Gilbert
Millie Baumbusch
Jennifer A. Ringsmuth

Of Counsel

Kathy R. Bess
Robert P. Marcovitch

September 20, 2010

VIA HAND DELIVERY

Mark G. Allen, Acting Director
Georgia Electronic Design Center
Georgia Institute of Technology
Technology Square Research Building
85 Fifth Street, N.W.
Atlanta, Georgia 30308

Re: Georgia Open Records Act Request

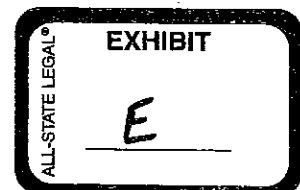
Dear Dr. Allen:

The following is a request by a citizen of this State directed to the Georgia Institute of Technology ("Georgia Tech") pursuant to the Georgia Open Records Act, Ga. Code § 50-18-70 et seq., for all responsive records in Georgia Tech's possession, custody or control.

Georgia Tech has three (3) business days to determine which requested records are subject to access and to make those records available for inspection and copying. Where responsive records exist but are not available within three business days, a written description of such records, together with a timetable for their inspection and copying, shall be provided within that period. See Ga. Code § 50-18-70(f);

As used in this request, the term "records" shall have the meaning set forth in Ga. Code § 50-18-70(a).

Pursuant to Ga. Code § 50-18-70(g), we request that any relevant records maintained by computer be made available by electronic means. We also request that these documents be produced for inspection in their original electronic format.



Mark G. Allen
September 20, 2010
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If access to any requested records is denied in whole or in part, please specify in writing the specific legal authority exempting such records from disclosure, by Code section, subsection, and paragraph. See Ga. Code § 50-18-72(h).

Pursuant to Ga. Code § 50-18-72, fees charged for complying with a request for information under the Open Records Act are limited. Specifically, "a reasonable charge may be collected for **search, retrieval, and other direct administrative costs** for complying with a request." See Ga. Code § 50-18-72(d) (emphasis added). This **does not include "time required to review the requested documents for information exempt from disclosure."** Trammel v. Martin, 200 Ga. App. 435, 436 (1991) (emphasis added).

Public Records Requested

We hereby request *access* to the *originals* of the following public records in the *possession, custody or control* of Georgia Tech:

1. All invoices, bills, and other documents evidencing or reflecting requests for payment sent to each the following companies or entities from GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to that company's (a) use of the facilities of GEDC, Yamacraw, GTRC, the ATDC, or Georgia Tech, or (b) use of research assistants, faculty or staff:
 - a. Axion Biosystems, LLC;
 - b. Adtran, Inc.;
 - c. ADVA Optical Networking;
 - d. Agilent Technologies, Inc.;
 - e. Anadigics, Inc.;
 - f. Analog Devices, Inc.;
 - g. Anritsu Company;
 - h. Anritsu Corporation;
 - i. Ardext Technologies;
 - j. Asahi Glass Co., Ltd.;
 - k. BarcoView, LLC;
 - l. Broadcom Corporation;
 - m. CardioMEMS, Inc.;
 - n. CIENA Corporation;
 - o. Cisco Systems, Inc.;
 - p. Echostar Communications Corporation;
 - q. Ecma International;
 - r. EG Technology, Inc.;
 - s. Engent, Inc.;

Mark G. Allen
September 20, 2010
Page 3

t.	Freescall Semiconductor, Inc.;
u.	GTronix;
v.	Hewlett Packard Development Company, L.P.;
w.	HP Labs;
x.	IBM;
y.	Infera;
z.	Integrated Device Technology;
aa.	Intel;
bb.	Intersil Corporation;
cc.	iVivity, Inc.;
dd.	Jacket Micro Devices;
ee.	Kipper Technologies, Inc.;
ff.	Manheim;
gg.	Motorola, Inc.;
hh.	Nanoventions;
ii.	National Semiconductor;
jj.	nGimat Co.;
kk.	Nortel Networks;
ll.	ON Semiconductor
mm.	Optical Fiber Solutions;
nn.	OFS;
oo.	Pirelli;
pp.	Quellan, Inc.
qq.	Raytheon Company;
rr.	Rhode & Schwarz;
ss.	RF Micro Devices, Inc.;
tt.	Samsung Electronics Co., Ltd.;
uu.	Schlumberger, Ltd.;
vv.	Siemens;
ww.	SoC Solutions;
xx.	SunMicrosystems, Inc.
yy.	Texas Instruments;
zz.	VeriSign Communications Services; and
aaa.	Vocalocity.

2. Except to the extent produced in response to request no. 1 above, all invoices, bills, and other documents evidencing or reflecting requests for payment sent to any company in which Dr. Mark Allen has an ownership or beneficial interest from GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to that company's (a) use of the facilities of

Mark G. Allen
September 20, 2010
Page 4

GEDC, Yamacraw, GTRC, the ATDC, or Georgia Tech, or (b) use of research assistants, faculty or staff.

3. Except to the extent produced in response to request no. 1 above, all invoices, bills, and other documents evidencing or reflecting requests for payment sent to any company in which Dr. Gary Mays has an ownership or beneficial interest from GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to that company's (a) use of the facilities of GEDC, Yamacraw, GTRC, the ATDC, or Georgia Tech, or (b) use of research assistants, faculty or staff.
4. All cancelled checks, general ledgers, account statements, and other documents evidencing or reflecting payment(s) by each of the following companies or entities to GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to that company's (a) use of the facilities of GEDC, Yamacraw, GTRC, the ATDC, or Georgia Tech, or (b) use of research assistants, faculty or staff:

- a. Axion Biosystems, LLC;
- b. Adtran, Inc.;
- c. ADVA Optical Networking;
- d. Agilent Technologies, Inc.;
- e. Anadigics, Inc.;
- f. Analog Devices, Inc.;
- g. Anritsu Company;
- h. Anritsu Corporation;
- i. Ardext Technologies;
- j. Asahi Glass Co., Ltd.;
- k. BarcoView, LLC;
- l. Broadcom Corporation;
- m. CardioMEMS, Inc.;
- n. CIENA Corporation;
- o. Cisco Systems, Inc.;
- p. EchoStar Communications Corporation;
- q. Ecma International;
- r. EG Technology, Inc.;
- s. Engent, Inc.;
- t. Freescale Semiconductor, Inc.;
- u. GTronix;
- v. Hewlett Packard Development Company, L.P.;
- w. HP Labs;
- x. IBM;

Mark G. Allen
September 20, 2010
Page 5

y.	Infera;
z.	Integrated Device Technology;
aa.	Intel;
bb.	Intersil Corporation;
cc.	iVivity, Inc.;
dd.	Jacket Micro Devices;
ee.	Kipper Technologies, Inc.;
ff.	Manheim;
gg.	Motorola, Inc.;
hh.	Nanoventions;
ii.	National Semiconductor;
jj.	nGimat Co.;
kk.	Nortel Networks;
ll.	ON Semiconductor
mm.	Optical Fiber Solutions;
nn.	OFS;
oo.	Pirelli;
pp.	Quellan, Inc.
qq.	Raytheon Company;
rr.	Rhode & Schwarz;
ss.	RF Micro Devices, Inc.;
tt.	Samsung Electronics Co., Ltd.;
uu.	Schlumberger, Ltd.;
vv.	Siemens;
ww.	SoC Solutions;
xx.	SunMicrosystems, Inc.
yy.	Texas Instruments;
zz.	VeriSign Communications Services; and
aaa.	Vocalocity.

5. Except to the extent produced in response to request no. 4 above, all cancelled checks, general ledgers, account statements, and other documents evidencing or reflecting payment(s) by a company or entity in which Dr. Mark Allen has an ownership or beneficial interest to GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to that company's (a) use of the facilities of GEDC, Yamacraw, GTRC, the ATDC, or Georgia Tech, or (b) use of research assistants, faculty or staff.
6. Except to the extent produced in response to request no. 4 above, all cancelled checks, general ledgers, account statements, and other documents evidencing or reflecting payment(s) by a company or entity in which Dr. Gary May has an ownership or

Mark G. Allen
September 20, 2010
Page 6

beneficial interest to GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to that company's (a) use of the facilities of GEDC, Yamacraw, GTRC, the ATDC, or Georgia Tech, or (b) use of research assistants, faculty or staff.

7. All invoices, bills, and other documents evidencing or reflecting requests for payment sent to each the following companies or entities from GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to (a) the purchase or manufacture of computer chips, or (b) the purchase or manufacture of any other deliverable:

- a. Axion Biosystems, LLC;
- b. Adtran, Inc.;
- c. ADVA Optical Networking;
- d. Agilent Technologies, Inc.;
- e. Anadigics, Inc.;
- f. Analog Devices, Inc.;
- g. Anritsu Company;
- h. Anritsu Corporation;
- i. Ardext Technologies;
- j. Asahi Glass Co., Ltd.;
- k. BarcoView, LLC;
- l. Broadcom Corporation;
- m. CardioMEMS, Inc.;
- n. CIENA Corporation;
- o. Cisco Systems, Inc.;
- p. EchoStar Communications Corporation;
- q. Ecma International;
- r. EG Technology, Inc.;
- s. Engent, Inc.;
- t. Freescale Semiconductor, Inc.;
- u. GTronix;
- v. Hewlett Packard Development Company, L.P.;
- w. HP Labs;
- x. IBM;
- y. Infera;
- z. Integrated Device Technology;
- aa. Intel;
- bb. Intersil Corporation;
- cc. iVivity, Inc.;
- dd. Jacket Micro Devices;
- ee. Kipper Technologies, Inc.;

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Page 7

ff.	Manheim;
gg.	Motorola, Inc.;
hh.	Nanoventions;
ii.	National Semiconductor;
jj.	nGimat Co.;
kk.	Nortel Networks;
ll.	ON Semiconductor
mm.	Optical Fiber Solutions;
nn.	OFS;
oo.	Pirelli;
pp.	Quellan, Inc.
qq.	Raytheon Company;
rr.	Rhode & Schwarz;
ss.	RF Micro Devices, Inc.;
tt.	Samsung Electronics Co., Ltd.;
uu.	Schlumberger, Ltd.;
vv.	Siemens;
ww.	SoC Solutions;
xx.	SunMicrosystems, Inc.
yy.	Texas Instruments;
zz.	VeriSign Communications Services; and
aaa.	Vocalocity.

8. Except to the extent produced in response to request no. 7 above, all invoices, bills, and other documents evidencing or reflecting requests for payment sent to any company in which Dr. Mark Allen has an ownership or beneficial interest from GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to (a) the purchase or manufacture of computer chips, or (b) the purchase or manufacture of any other deliverable.
9. Except to the extent produced in response to request no. 7 above, all invoices, bills, and other documents evidencing or reflecting requests for payment sent to any company in which Dr. Gary Mays has an ownership or beneficial interest from GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to (a) the purchase or manufacture of computer chips, or (b) the purchase or manufacture of any other deliverable.
10. All cancelled checks, general ledgers, account statements, and other documents evidencing or reflecting payment(s) by each of the following companies or entities to GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to (a) the purchase or manufacture of computer chips, or (b) the purchase or manufacture of any other deliverable:

Mark G. Allen
September 20, 2010
Page 8

- a. Axion Biosystems, LLC;
- b. Adtran, Inc.;
- c. ADVA Optical Networking;
- d. Agilent Technologies, Inc.;
- e. Anadigics, Inc.;
- f. Analog Devices, Inc.;
- g. Anritsu Company;
- h. Anritsu Corporation;
- i. Ardext Technologies;
- j. Asahi Glass Co., Ltd.;
- k. BarcoView, LLC;
- l. Broadcom Corporation;
- m. CardioMEMS, Inc.;
- n. CIENA Corporation;
- o. Cisco Systems, Inc.;
- p. Echostar Communications Corporation;
- q. Ecma International;
- r. EG Technology, Inc.;
- s. Engent, Inc.;
- t. Freescale Semiconductor, Inc.;
- u. GTronix;
- v. Hewlett Packard Development Company, L.P.;
- w. HP Labs;
- x. IBM;
- y. Infera;
- z. Integrated Device Technology;
- aa. Intel;
- bb. Intersil Corporation;
- cc. iVivity, Inc.;
- dd. Jacket Micro Devices;
- ee. Kipper Technologies, Inc.;
- ff. Mannheim;
- gg. Motorola, Inc.;
- hh. Nanoventions;
- ii. National Semiconductor;
- jj. nGimat Co.;
- kk. Nortel Networks;
- ll. ON Semiconductor
- mm. Optical Fiber Solutions;

Mark G. Allen
September 20, 2010
Page 9

nn.	OFS;
oo.	Pirelli;
pp.	Quellan, Inc.
qq.	Raytheon Company;
rr.	Rhode & Schwarz;
ss.	RF Micro Devices, Inc.;
tt.	Samsung Electronics Co., Ltd.;
uu.	Schlumberger, Ltd.;
vv.	Siemens;
ww.	SoC Solutions;
xx.	SunMicrosystems, Inc.
yy.	Texas Instruments;
zz.	VeriSign Communications Services; and
aaa.	Vocalocity.

11. Except to the extent produced in response to request no. 10 above, all cancelled checks, general ledgers, account statements, and other documents evidencing or reflecting payment(s) by a company or entity in which Dr. Mark Allen has an ownership or beneficial interest to GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to (a) the purchase or manufacture of computer chips, or (b) the purchase or manufacture of any other deliverable.
12. Except to the extent produced in response to request no. 10 above, all cancelled checks, general ledgers, account statements, and other documents evidencing or reflecting payment(s) by a company or entity in which Dr. Gary May has an ownership or beneficial interest to GEDC, Yamacraw, GTRC, ATDC, or Georgia Tech, relating to (a) the purchase or manufacture of computer chips, or (b) the purchase or manufacture of any other deliverable.
13. All emails, letters, correspondence, and other documents evidencing or reflecting any communication between Dr. Mark Allen and any other person relating to any request or suggestion that any current or former student of Georgia Tech decline an offer of employment from Samsung or any subsidiary of Samsung.
14. All emails, letters, correspondence, and other documents evidencing or reflecting any communication between Stephen E. Ralph and any other person relating to any request or suggestion that any current or former student of Georgia Tech decline an offer of employment from Samsung or any subsidiary of Samsung.

Mark G. Allen
September 20, 2010
Page 10

15. All emails, letters, correspondence, and other documents evidencing or reflecting any communication between Edward Gebara and any other person relating to any request or suggestion that any current or former student of Georgia Tech decline an offer of employment from Samsung or any subsidiary of Samsung.
16. All emails, letters, correspondence, and other documents evidencing or reflecting any communication between Edward Gebara and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of Dr. Joy Laskar from a scholarly paper that has been submitted or accepted for publication.
17. All emails, letters, correspondence, and other documents evidencing or reflecting any communication between Dr. Mark Allen and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of Dr. Joy Laskar from a scholarly paper that has been submitted or accepted for publication.
18. All emails, letters, correspondence, and other documents evidencing or reflecting any communication between Stephen E. Ralph and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of Dr. Joy Laskar from a scholarly paper that has been submitted or accepted for publication.
19. Except to the extent produced in response to request no. 16 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between Edward Gebara and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with Sayana Wireless, LLC from a scholarly paper that has been submitted or accepted for publication.
20. Except to the extent produced in response to request no. 17 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between Dr. Mark Allen and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with Sayana Wireless, LLC from a scholarly paper that has been submitted or accepted for publication.
21. Except to the extent produced in response to request no. 18 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between Stephen E. Ralph and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with Sayana Wireless, LLC from a scholarly paper that has been submitted or accepted for publication.

Mark G. Allen
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Page 11

22. Except to the extent produced in response to request nos. 16 and 19 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between Edward Gebara and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with GEDC from a scholarly paper that has been submitted or accepted for publication.
23. Except to the extent produced in response to request nos. 17 and 20 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between Dr. Mark Allen and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with GEDC from a scholarly paper that has been submitted or accepted for publication.
24. Except to the extent produced in response to request nos. 18 above and 21, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between Stephen E. Ralph and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with GEDC from a scholarly paper that has been submitted or accepted for publication.
25. Except to the extent produced in response to request nos. 16 through 24 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication between an employee of Georgia Tech and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with Georgia Tech from a scholarly paper that has been submitted or accepted for publication.
26. All emails, letters, memoranda, and other documents evidencing or reflecting a communication between Ken Stewart and Samsung relating to Dr. Laskar, GEDC, or Sayana Wireless, LLC.
27. All emails, letters, memoranda, and other documents evidencing or reflecting a communication between Dr. Mark Allen and a representative of the Georgia Bureau of Investigation regarding a potential investigation of Samsung.

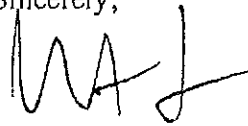
We request that Georgia Tech produce this information in its original electronic format, and not in the "Electronic Document Room" it has set up to respond to other Open Records Act requests relating to Dr. Laskar. Pursuant to O.C.G.A. § 50-18-71(f), we will be happy to pay for

GASLOWITZ
FRANKEL LLC

Mark G. Allen
September 20, 2010
Page 12

the actual cost of the computer disk or tape onto which the information is transferred. Please let us know when and where the public records can be examined.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. M. Gilbert', with a stylized flourish at the end.

LeAnne M. Gilbert

LMG/aac

cc: Jessica L. Sentz (via email)
Craig M. Frankel
Dr. Joy Laskar



Georgia Institute of Technology

Office of Legal Affairs

September 23, 2010

Gaslowitz Frankel, LLC
4500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 30308-3243

Attn: LeAnne M. Gilbert

Re: Open Records Act (the "Act" or "ORA") dated September 20, 2010

Dear Ms. Gilbert:

The Georgia Institute of Technology ("Georgia Tech") is in receipt of the above-referenced ORA request. Please see Georgia Tech's response below. Georgia Tech responds subject to any exemptions allowed under the Act, codified at O.C.G.A. Section 50-18-70 et seq., including, but not limited to, O.C.G.A. Sections 50-18-72(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (b)(1), (b)(2), (e)(1) and (e)(2). Please note, Georgia Tech already has incurred **\$153.75** in costs in responding to this ORA request. At your earliest convenience, please remit payment, by check, in the above-referenced amount, payable to the "Georgia Institute of Technology."

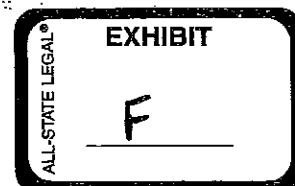
- 1) With respect to request nos. one (1) through twelve (12), to the extent responsive documents exist, Georgia Tech estimates a retrieval cost of approximately **\$32,624**. This estimate does not include the copying fees associated with the approximately 3,500 to 7,000 pages of documents anticipated to be generated.¹ In addition, Georgia Tech estimates it will take approximately ten (10) weeks to fulfill this request.
- 2) With respect to request nos. thirteen (13), seventeen (17), twenty (20), twenty-three (23) and twenty-seven (27), you request all correspondence between Dr. Mark Allen and "any other person." To the extent responsive documents, limited to Dr. Allen's records, exist, Dr. Allen estimates a retrieval cost of **\$669.90**
- 3) With respect to request nos. fourteen (14), eighteen (18), twenty-one (21) and twenty-four (24), you request all correspondence between Dr. Stephen Ralph and "any other person." To the extent responsive documents, limited to Dr. Ralph's records, exist, Dr. Ralph estimates a retrieval cost of **\$359.82**.
- 4) With respect to request nos. fifteen (15), sixteen (16), nineteen (19) and twenty-two (22), you request all correspondence between Dr. Edward Gebara and "any other person." Responsive documents, limited to Dr. Gebara's records, exist and can be released at no cost.

¹ Based on a \$.25/page copying fee, copying costs would result in an additional charge of \$875 to \$1,750. However, to the extent responsive documents exist and can be provided in electronic format, electronic transmission would be the preferred mode of transmission.

Georgia Institute of Technology
Atlanta, Georgia 30332-0495 U.S.A.
PHONE 404.894.4812
FAX 404.894.3120

A Unit of the University System of Georgia

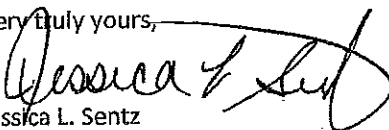
An Equal Education and Employment Opportunity Institution



- 5) With respect to request no. twenty-five (25), in which you request "all emails...evidencing or reflecting any communication between an employee of Georgia Tech and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with Georgia Tech from a scholarly paper that has been submitted or accepted for publication[,]" your request is vague and overly broad. Please re-submit your request with sufficient specificity so Georgia Tech can identify the records being sought.
- 6) With respect to request no. twenty-six (26), relating to Kenneth Stewart, responsive documents exist and can be released at no cost.

Georgia Tech estimates that it will cost approximately \$33,653.72² to retrieve copies of the requested documents. However, you will be charged the actual cost, whether it is more or less than the estimated amount. Should you wish to proceed with your request, please confirm that you approve of the estimate. We will finish processing your request upon receipt of payment.

Very truly yours,



Jessica L. Sentz

JS/jl

² This amount does not include the \$153.75 referenced on p. 1.



GASLOWITZ
FRANKEL LLC

4500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, Georgia 30308-3243

404.892.9797
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Attorneys at Law

Adam R. Gaslowitz
Craig M. Frankel
Brian M. Deutsch
LeAnne M. Gilbert
Millie Baumbusch
Jennifer A. Ringsmuth

Of Counsel

Kathy R. Bess
Robert P. Marcovitch

September 29, 2010

Via Email and U.S. Mail

Jessica L. Sentz
Georgia Institute of Technology
Office of Legal Affairs
760 Spring Street, Ste. 324
Atlanta, Georgia 30332-0495

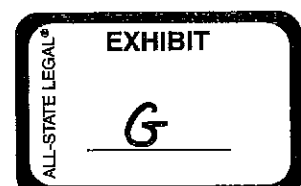
Re: Follow up regarding September 20, 2010 Georgia Open Records Act Request

Dear Jessica:

This letter is sent in response to your letter, dated September 23, 2010, but not received in this office in any form until September 27, 2010, responding to our September 20, 2010 Georgia Open Records Act Requests ("GORA") to Mark Allen. I have asked our IT assistant to check our email server to see if any communication was received from you on September 23, 2010 so that we can detect any problems on our end. In the meantime, if you have any return receipt for an email sent to us on that day, I would appreciate you forwarding same to me.

With regard to your request for payment of \$153.75 for costs incurred to date in responding to our September 20, 2010 GORA request, we will pay all amounts legally due upon receipt of a detailed invoice setting forth the basis for the charges incurred. As you are aware, we are unable to issue any checks without such an invoice, and GORA does not impose any such obligation.

With regard to the potential exemptions to our requests that you have asserted in paragraph 1 of your letter, we appreciate your attempt to comply with GORA's requirements for timely asserting objections. Please note, however, that it is not sufficient to list every objection that may potentially be relevant to a given set of GORA requests. Instead, Georgia Tech must identify the specific statutory exemption applicable to any document or category of documents



Jessica L. Sentz
September 29, 2010
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withheld from production on any grounds. We assume that you will correct this error within five days of your review of the individual documents to be produced, thereby ensuring compliance with the statute.

With regard to your statement, in numbered paragraph 1, that production of the records sought in requests 1 – 12 of our September 23, 2010 request will cost an estimated \$32,634, you have stated no basis whatsoever for your estimate. You will recall that in previous responses, you provided both the hourly rate of the employee who will compile the documents and the number of hours estimated to complete the task. Given the cost estimated, and your failure to provide information sufficient to justify the estimated expense, we can only assume that Georgia Tech is again attempting to improperly charge us for time required to review the documents for exemptions from production which, as you are aware, is a violation of Ga. Code § 50-18-72. Unless we hear differently from you we will assume that Georgia Tech is purposefully acting in violation of that statute and will proceed accordingly. (See Georgia Code § 24-4-23). (“In the ordinary course of business, when good faith requires an answer, it is the duty of the party receiving a letter from another to answer within a reasonable time. Otherwise he is presumed to admit the propriety of the acts mentioned in the letter of his correspondent and to adopt them.”)

Numbered paragraph 2 of your letter estimates that the cost for responding to request nos. 13, 17, 20, 23 and 27 will be \$669.90. We understand and accept this estimate. Please proceed with your collection of responsive documents and, upon receipt of those documents and a detailed invoice setting for the basis of the charges incurred, we will be happy to issue you a check for all amounts legally due.

Numbered paragraph 3 of your letter estimates that the cost for responding to request nos. 14, 18, 21, and 24 will be \$359.82. We understand and accept this estimate. Please proceed with your collection of responsive documents and, upon receipt of those documents and a detailed invoice setting for the basis of the charges incurred, we will be happy to issue you a check for all amounts legally due.

Numbered paragraph 4 of your letter states that documents responsive to request nos. 16, 19, and 22 will be produced without cost. Please let us know when and where we may retrieve those records.

Numbered paragraph 5 objects to our request no. 25 as being overly broad and vague. We hereby amend request no. 25 as follows:

Except to the extent produced in response to request nos. 16 through 24 above, all emails, letters, correspondence, and other documents evidencing or reflecting any communication from January 2009 to the current date, between any of Dr. Mark Allen,

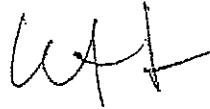
Jessica L. Sentz
September 29, 2010
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Ken Stewart, Stephen E. Ralpa, Edward Gebara, and/or Gary May and any other person relating to any request or suggestion that any current or former student of Georgia Tech remove the name of any person currently or formerly affiliated with Georgia Tech from a scholarly paper that has been submitted or accepted for publication.

Numbered paragraph 6 of your letter states that documents responsive to request no. 26 will be produced without cost. Please let us know when and where we may retrieve those records.

The final paragraph of your letter indicates that you will not continue processing our September 20, 2010 GORA request until you receive payment for all estimated fees. GORA does not permit you to require advance payment of estimated fees. Rather, Ga. Code § 50-18-71.2 requires you to provide an estimate of costs to be incurred in copying, search and retrieval, and other authorized administrative fees, and Ga. Code § 50-18-71 (g) provides the means by which those fees may be collected *after production*. We request that you continue processing our September 20, 2010 GORA request as specified above.

Sincerely,



LeAnne M. Gilbert

LMG/aac

cc: Craig M. Frankel, Esq.
Dr. Joy Laskar