

1 Pro Se: XP Technology  
1001 Bridgeway, #166  
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4 IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
5 Negligence Protest

6 XP Technology ) Case No.:  
7 1001 Bridgeway, #166 )  
8 Sausalito, CA 94965 ) Collusion, Negligence, Tortious  
9 ) Interference  
Plaintiff, )  
10 vs. )  
11 THE UNITED STATES, )  
12 Defendant

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16  
17 Dated this November 16, 2012

18 Pro Se: XP Technology  
19 1001 Bridgeway, #166  
20 Sausalito, CA 94965

21 **COMPLAINT**

22 Plaintiffs XP Technology (XP) Pro Se, upon personal knowledge as to themselves,  
23 their own acts, and the contents of the documents referred to herein, and upon  
24 information and belief as to all matters, hereby bring this corruption and  
25 negligence protest action against Defendant, The United States of America, and  
26 for the Complaint allege as follows:

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28 **NATURE OF THE ACTION**

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31 1. This action protests the actions of the U.S. Department of Energy ("DOE") in  
32 the evaluation and awarding of funding for its loan programs in light of

1 criminal investigations underway against the agency by multiple investigation  
2 organizations including the FBI, The GAO, The Senate Ethics Committee, The U.S.  
3 Treasury, The I.R.S. major media organizations and multiple community  
4 organizations wherein the initial results of those investigations have found  
5 that criminal activities did take place by DOE staff and affiliates. Plaintiff  
6 seeks preliminary and permanent injunctions against DOE proceeding with all  
7 loan programs, or any related programs, without first complying with applicable  
8 statutory and regulatory requirements wherein said compliance is confirmed, in  
9 writing, by, the FBI, The GAO, The Senate Ethics Committee, The U.S. Treasury,  
10 and The I.R.S. and said compliance is conducted in accordance with all  
11 applicable laws and regulations. Further, as DOE officials and affiliates have  
12 been shown, by these investigations, to have engaged in intentional and  
13 malicious attempts to damage our business, and the business of others, in  
14 retaliation for reporting these crimes, and in intentional interference on  
15 behalf of competing ventures, damages in an amount commensurate with the  
16 actions by these parties is sought.

#### 17 18 JURISDICTION

19  
20 2. This Court has jurisdiction over the subject matter of this Complaint  
21 pursuant to the Tucker Act, as amended by the Administrative Dispute Resolution  
22 Act of 1996, Pub. L. No. 104-340, §12(a), (b), 110 Stat. 3870 (Jan. 3, 1996), codified at 28 U.S.C. §  
23 149 (b)(1).

#### 24 25 THE PARTY OR PARTIES

26  
27 1. Plaintiff is a small American business located in San Francisco, California  
28 doing business under the laws of the State of California. Plaintiffs  
29 backgrounds include extensive issued patents on seminal technologies in use  
30 world-wide, White House and Congressional commendations and an engineering team  
31 of highly experienced auto-makers. Plaintiff brought a vehicle design which was  
32 proposed as the longest range, safest, lowest cost electric vehicle, to be

1 built in America in order to deliver extensive American jobs nationwide. No  
2 other applicant, or award "winner", has succeeded in meeting, or intending to  
3 meet, that milestone. XP Technology developed a patented lightweight, low-cost,  
4 long-range, electric vehicle using air-expanded foam-skinned material for a  
5 portion of the polymer body and received numerous patents, acclaim and superior  
6 computer modeling metrics over any competing solution. XP presented a vast set  
7 of letters of support to DOE from pending customers. Major auto-industry  
8 facilities and engineers had joined forces to bring the vehicle to the defense,  
9 commercial and consumer market.

- 10 3. Plaintiff reserves the right to join this case with the cases of other  
11 applicants should those parties elect to further participate.
- 12 4. Defendant, the United States of America, for all purposes relevant hereto,  
13 acted by and through the Department of Energy ("DOE"), an agency of the federal  
14 government.

15  
16 **FACTUAL BACKGROUND**

17  
18 **Overview**

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20  
21 The DOE ATVM and Loan Guarantee were offered to XP by elected officials. As  
22 originally worded, the program was applicable only to four-wheeled passenger  
23 vehicles. In October 2009, a bill sponsored by California Representatives Brian  
24 Bilbray and Adam Schiff, on behalf of Aptera, was passed extending the  
25 program's coverage to include high mileage (75 mpg equivalent) two- and three-  
26 wheeled vehicles

27  
28 The U.S. Department of Energy (DOE) announced in December 2008 the selection of  
29 six cost-shared research projects for the development and demonstration of  
30 alternative vehicle technology projects totaling a DOE investment of up to  
31 \$14.55 million over three years, subject to annual appropriations. Private  
32 sector contributions will further increase the financial investment for a total

1 of up to \$29.3 million. The selections announced are part of DOE's continuing  
2 work to develop high efficiency vehicle technologies and are not part of the  
3 recently announced \$25 billion Advanced Technology Vehicles Manufacturing Loan  
4 Program. These projects were selected under three diverse topic areas: lithium-  
5 ion battery materials and manufacturing (3M Company for developing advanced  
6 anode; BASF Catalyst for domestic production of low cost cathode materials and  
7 FMC Corporation for scaling up production of stabilized lithium metal powder  
8 for high energy cathodes); thermoelectric heating, ventilation and air  
9 conditioning (TE HVAC system); and aerodynamic heavy-duty truck trailers  
10 (Navistar International Corporation).

11  
12 USDOE announced in 2009 \$8 billion in conditional loan agreements for Ford  
13 Motor Company; Nissan North America, Inc.; and Tesla Motors, Inc. to fund the  
14 development of advanced vehicle technologies. The loan commitments include a  
15 \$5.9 billion loan to Ford for upgrading factories in five states to produce 13  
16 more fuel-efficient models, a \$1.6 billion loan to Nissan to build advanced  
17 electric vehicles and advanced batteries, and a \$465 million loan to Tesla  
18 Motors to manufacture its new electric sedan. These are the first conditional  
19 loans released under DOE's Advanced Technology Vehicles Manufacturing (ATVM)  
20 Loan Program, which is using an open, competitive process to provide about \$25  
21 billion in loans to companies that produce cars or vehicle components in the  
22 United States. To qualify, companies must propose projects that increase fuel  
23 economy to at least 25% above 2005 fuel economy levels.

24  
25 Ford Motor Company will receive its loans through 2011, using the funds to  
26 upgrade its engine plants in Dearborn, Michigan; Cleveland, Ohio; and Lima,  
27 Ohio, and to upgrade its transmission plants in Livonia, Michigan; Sterling  
28 Heights, Michigan; and Sharonville, Ohio. Ford will also upgrade its assembly  
29 plants in Chicago, Illinois; Louisville, Kentucky; Dearborn, Michigan; Wayne,  
30 Michigan; and Kansas City, Missouri, converting two of the truck factories into  
31 assembly plants for cars. In addition, the Ford loans will finance advances in  
32

1 traditional combustion engines and electrified vehicles and help raise the fuel  
2 efficiency of more than two dozen popular models.

3  
4 Nissan aims to manufacture a cost-competitive electric vehicle with a lithium-  
5 ion battery pack in Smyrna, Tennessee, and plans to eventually reach a  
6 production capacity of 150,000 vehicles per year.

7  
8 Tesla Motors will use its funding to finance a California-based manufacturing  
9 facility for the Tesla Model S sedan, an all-electric sedan that can be  
10 recharged at a conventional 120-volt or 220-volt outlet. Production will begin  
11 in 2011 and ramp up to 20,000 vehicles per year by the end of 2013.

12  
13 The fourth conditional commitment the Department of Energy has entered into  
14 under the ATVM Loan program is a \$528.7 million loan for Fisker Automotive for  
15 the development of two lines of plug-in hybrids by 2016.

16  
17 Unfairly processed applications, based on public statements in national media,  
18 include:

19 A loan request under this program was denied for Carbon Motors Corporation in  
20 March 2012 after the latter had spent 2 years prior addressing the DOE's  
21 concerns. Complaints by Carbon Motors have been widely published.

22  
23 Aptera Motors' initial application was denied because its product was a three-  
24 wheeled vehicle; the wording on the program was modified to allow high-mileage  
25 three-wheelers and Aptera reapplied, however the company went out of business  
26 before the DOE responded to their second application. Complaints by Aptera have  
27 been widely published.

28  
29 Bright Automotive, who filed their application in 2008, went out of business in  
30 March 2012 after waiting 4 years for the DOE to respond and being unable to  
31 sustain continued operations. Complaints by Bright have been widely published.

1 Currently, though, numerous respected agencies, offices and organizations have  
2 published investigations which charge DOE staff and associates with unethical,  
3 and/or criminal actions in the management of these funds.

4  
5 XP is seeking to have applicants who were "targeted" receive fair re-reviews,  
6 in a transparent manner, if they so desire. Investigations have shown that DOE  
7 officials intentionally stalled numerous applicants' reviews in order to force  
8 them out of business and protect favored players.

9  
10 XP has received information demonstrating that the unprecedented number of  
11 failures in the DOE program relative to what DOE officials have claimed to be  
12 "the most expensive and extensive due diligence in history" is explained by  
13 manipulated reviews, in the due diligence effort, on behalf of what the United  
14 States Government Accountability Office (GAO) investigations found to be  
15 "favoritism" in published investigation reports. A senate ethics investigation  
16 states, in published reports, that "negligence and mismanagement by DOE  
17 officials" was a regular occurrence.

18 After XP staff first reported the incidents, becoming "whistle-blowers", by  
19 reporting the evidence to GAO, Justice Department, The White House Press Office  
20 and The Senate Committee on Energy and Natural Resources, among others, they  
21 received threats and personal attacks. Over time, the volume of third party  
22 investigations, which have validated the charges of questionable acts by DOE  
23 staff have become voluminous. Within accordance, XP demands "Whistle-Blower"  
24 protections and offsets under applicable laws.

25  
26 Published and pending reports by federal agencies, congressional investigators  
27 and others were provided to XP. The data in those investigations was so  
28 compelling, that XP felt a moral obligation to proceed with the litigation as a  
29 matter of public interest.

30  
31 Evidence has now been provided by the parties listed in EXHIBIT A that  
32 plaintiffs applicant was manipulated in order to favor others.

1 Evidence has now been provided by the parties listed in EXHIBIT A that  
2 plaintiffs was intentionally delayed in the process in order to force the  
3 company, and other applicants, out of business.

4  
5 Evidence has now been provided by the parties listed in EXHIBIT A that  
6 plaintiffs were punished and had punitive measures taken for "whistle-blower"  
7 activities in reporting misdeeds by Defendant.

8  
9 Evidence has now been provided by the parties listed in EXHIBIT A that  
10 plaintiffs were interfered with because public money was used to give  
11 competitors an unfair advantage.

12  
13 Evidence has now been provided by the parties listed in EXHIBIT A that rules  
14 for public money were changed, by the administrators, associated with  
15 competitors, of the public money, in a manner which disadvantaged Plaintiff  
16 while assisting Plaintiffs competitors.

17  
18 Evidence has now been provided by the parties listed in EXHIBIT A with evidence  
19 that plaintiffs application may have won funding in a fair evaluation but  
20 reviewers were ordered to modify results in order to disfavor Plaintiff while  
21 favoring competitors and a side-by-side comparison of common metrics would  
22 prove this.

23  
24 Evidence has now been provided by the parties listed in EXHIBIT A that  
25 plaintiffs provided their tax money to an agency which then used their tax  
26 money for illegal purposes.

27  
28 Evidence has now been provided by the parties listed in EXHIBIT A that  
29 plaintiffs are part of a group of applicants who, combined, experienced the  
30 same kind of targeting and organized disadvantages.

31  
32 Evidence has now been provided by the parties listed in EXHIBIT A that show  
33 that certain applicants were hand-walked through the process while Plaintiff  
34 and other applicants were intentionally stone-walled.

1 Evidence has now been provided by the parties listed in EXHIBIT A that can  
2 demonstrate that the best practices and generally accepted standards of the  
3 last 100 years of commercial bank loans were so extremely deviated from,  
4 purposefully delayed and layered into intentionally burdensome terms so as to  
5 be so far outside of commonly accepted practice that an intent-to-interfere is  
6 obvious by the means.

7 Evidence has now been provided by the parties listed in EXHIBIT A that can  
8 demonstrate that additional unethical and potentially illegal acts which DOE  
9 staff and associates may have engaged in, unfairly disfavored applicants  
10 ability to equitably participate in the process.

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13  
14 COUNT I

15 (VIOLATION OF 'THE COMPETITION IN CONTRACTING ACT' AND FAR)

16  
17 COUNT II

18 (AGENCY ACTION IN SELECTION OF APPLICANT IS ARBITRARY, FAVORED-PARTY BASED,  
19 CAPRICIOUS, AN ABUSE OF DISCRETION, AND CONTRARY TO LAW)

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21 COUNT III

22 (AGENCY STAFF AND OUTSIDE PERSONLL ILLEGALLY ENGAGED IN FAVORING APPLICANTS IN  
23 EXCHANGE FOR POLITICAL AND FINANCIAL BENEFITS TO THE DETRIMENT OF AMERICAN BUSINESS)

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25 COUNT IV

26 (AGENCY STAFF AND OUTSIDE PERSONLL ILLEGALLY VIOLATED SHERMAN ACT AND FTC REGULATIONS)

27  
28 PRAYER FOR RELIEF

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31 5. WHEREFORE, Plaintiffs request that this court enter judgment for Plaintiffs on  
32 this Complaint for injunctive and declaratory relief prohibiting DOE from



1 proceeding with all loan programs, or any related programs, without first  
2 complying with applicable statutory and regulatory requirements wherein said  
3 compliance is confirmed, in writing, by, the FBI, The GAO, The Senate Ethics  
4 Committee, The U.S. Treasury, and The I.R.S. and said compliance is conducted  
5 in accordance with all applicable laws and regulations. Further, as DOE  
6 officials and affiliates have been shown, by these investigations, to have  
7 engaged in intentional and malicious attempts to damage our business, and the  
8 business of others, in retaliation for reporting these crimes, and in  
9 intentional interference on behalf of competing ventures, damages in an amount  
10 commensurate with the actions by these parties is sought. In addition,  
11 Plaintiffs request that this Court afford Plaintiffs such other and further  
12 relief as this Court may deem just and proper.

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16 Respectfully submitted,

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25 Pro Se

26 Dated: Nov. 12, 2012  
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3 **EXHIBIT A**  
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5 The following entities hold repositories of evidence which validate the charges made  
6 in this case. Plaintiff has been advised by the entities below that additional  
7 evidence repositories exist which require subpoena support from federal offices in  
8 order to acquire:  
9

10 The Senate Ethics Committee

11 The website WIKI at: <http://atvmdoe.wordpress.com>

12 The website at: <http://corruptiondoe.weebly.com>

13 The Washington Post

14 ABC News

15 The General Accounting Office (GAO)

16 The Federal Bureau of Investigation (FBI)

17 The Internal Revenue Service (IRS)

18 The United States Treasury

19 CBS News

20 Heritage.org

21 NLPC.org

22 The Wall Street Journal

23 The New York Times

24 Americanspectator.org

25 Autonews.com

26 The Detroit News

27 The Hill

28 The Washington Times

29 Author Peter Schweizer

30 Huffington Post

31 Bright Automotive

32 Carbon Motors

1 Aptera Motors

2 Brammo

3 **The blog: [greencorruption.blogspot.com/](http://greencorruption.blogspot.com/)**

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