

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
No. 05-1215C

(Filed: March 7, 2006)

J. TROY MAZZION, <i>pro se</i> ,)
)
Plaintiff,)
)
v.)
)
UNITED STATES,)
)
Defendant.)

ORDER

Plaintiff, J. Troy Mazzion, filed suit on November 18, 2005. Approximately a month later, on December 14, 2005, Mr. Mazzion moved to correct and amend his complaint.¹ Based upon what the court has discerned from Mr. Mazzion's complaint and amended complaint, he seeks damages equal to \$1,000,000 for the failure of certain U.S. government agencies to acknowledge and respond to documentary materials submitted to them by him. *See* Am. Compl. at 4, Exs. A, A-1, C. The government has moved to dismiss the complaint and amended complaint pursuant to Rules 12(a) and (b) of the Rules of the Court of Federal Claims ("RCFC") on the ground that neither Mr. Mazzion's complaint nor his amended complaint state a cognizable claim upon which relief can be granted. Mr. Mazzion has responded by moving to strike the government's motion to dismiss.

Mr. Mazzion alleges that documentary materials constituting intellectual property were sent to specific government officials in July 2004. Am. Compl. Exs. A, A-1, C. He argues that these documents constituted a proposal whereby Mr. Mazzion, as the sole proprietor of his business, would work in conjunction with government officials to implement the decriminalization of certain narcotics. *Id.* Furthermore, Mr. Mazzion avers that he sought acknowledgment of the government's receipt of these documents and that the government's failure to acknowledge or address his submissions has resulted in the commission of a tort. *Id.* at 4.

¹Mr. Mazzion's motion to correct and amend his complaint, filed December 14, 2005, is GRANTED.

Mr. Mazzion names one governmental agency and eight individual governmental officials as defendants. Am. Compl. at 1-2. The individual persons are not proper defendants in this court. The complaint must be evaluated only insofar as it states, or fails to state, a claim against the United States. *See Brown v. United States*, 105 F.3d 621, 624 (Fed. Cir. 1997).

Mr. Mazzion bears the burden of proving that the court has jurisdiction to consider his claims. *See McNutt v. General Motors Acceptance Corp. of Ind.*, 298 U.S. 178, 189 (1936). In determining whether jurisdiction exists, federal courts must accept as true the facts alleged in the complaint and draw all reasonable inferences in favor of the plaintiff. *See Henke v. United States*, 60 F.3d 795, 797 (Fed. Cir. 1995).²

Mr. Mazzion contends that he has suffered tortious injuries because “specific U.S. governmental agency departments” failed to deliver “an applicable reply” to the documents he submitted to them. Am. Compl. at 4. He argues that defendants committed a tort when they did not “satisfy the area of ‘Acknowledgements’ (*sic*)” included on one of these documents. *Id.*; *see* Compl. Ex. B. This court does not have jurisdiction over such a claim. The Tucker Act explicitly states that this court “shall have jurisdiction to render judgment upon any claim against the United States . . . for liquidated or unliquidated damages in cases not sounding in tort.” 28 U.S.C. § 1491(a)(1); *see Brown*, 105 F.3d at 623.

The court has examined the other allegations and averments made by Mr. Mazzion and has determined that none of them state a claim within this court’s juridical power.³

Therefore, the government’s motion to dismiss is GRANTED, and this case shall be dismissed for lack of jurisdiction over the subject matter. Mr. Mazzion’s motion to strike is in turn DENIED. The clerk shall enter judgment accordingly. No costs.

It is so ORDERED.

Charles F. Lettow
Judge

²Plaintiff has appeared *pro se* in this action. Courts hold complaints by persons appearing *pro se* to less rigorous standards than those applied to formal pleadings prepared by counsel. *See Haines v. Kerner*, 404 U.S. 519, 520 (1972).

³Among other things, Mr. Mazzion’s Amended Complaint does not state a legally viable claim for infringement by the United States of the copyright laws. *See* 28 U.S.C. § 1498(b).