No. 20-230

In the
Supreme Court of the United States

Donald L. Baker - Petitioner

v.

Iancu, et al.
Respondents

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Tenth Circuit
Case No. 19-5100

Donald L. Baker
4203 S 109th E Ave #237
Tulsa OK 74146-3912
918-504-4123 (answering machine)
business1@android-originals.com

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Note on In Forma Pauperis

This Petitioner believes that, while living in HUD retirement housing his income would normally justify filing a Motion to Proceed In Forma Pauperis, his modest inherited resources preclude it, and thus files no Motion. This modest inheritance is enough to file Pro Se for Non-Provisional Patent Applications, currently numbering nine. But it is not enough to hire Patent Attorneys or trial attorneys and still cover such things as unexpected medical expenses, considering an immediate family history of cancer, Parkinson's disease and Alzheimer's disease, as well as a family history of exposure to the pesticide Chlordane, extending from the 1950s up to about the year 2000, long after it was banned.

QUESTIONS PRESENTED

1. Whether U.S. Agencies, in particular the U.S. Patent and Trademark Office (USPTO), may under law render shoddy, arbitrary, capricious and dishonest service to citizens and customers, especially with deliberate intent to retaliate for customer/citizen complaints and deliberate intent to obstruct legitimate access to government services and protections, and especially when Federal Law and Regulation (cited herein) imposes felony penalties for similar actions committed by customer/citizens against the U.S. Government, including: falsifying documents; falsifying claims of missing parts of applications; falsifying material facts; falsifying the results of examinations; retaliating for past complaints; and rendering incompetent service, including the use of junk science and junk engineering in specious objections to customer/citizen applications.
2. Whether U.S. Agencies may use such fraudulent means to obstruct and delay applications, with the intent of forcing them into further appeals, as with the Patent Trial and Appeal Board (PTAB), including as a means to extract more fees from the citizen/customer so defrauded.
3. Whether a U.S. Agency may use such tactics to convince any applicant to "abandon" his or her application after non-refundable fees have been paid.

4. Whether the evidence shows that the USPTO has in fact committed one, some, or all of these acts, as charged in this Complaint.
5. Whether U.S. Federal Courts may allow U.S. Agencies to commit such felonious and fraudulent acts, merely because the complainant, who may not be able to afford or obtain a lawyer, does not fully know how file a complaint, either with the Agencies or with the Courts, including the Courts cherry-picking Patent Code procedures to dismiss complaints, when the worst offenses of U.S. Agencies are covered by Federal Law and Regulation outside the Patent Code.
6. Whether the long-accepted concept of "judicial notice" is deeply flawed, and has severely damaged the administration of equal justice, by preventing Courts and Judges from acknowledging the horrible consequences of bad decisions, or even being aware of them, such as in Buck v. Bell, which Hitler used to start the Holocaust, and which caused and allowed poor and colored people to be involuntarily sterilized into the 1970s, often without their knowledge or consent, thus fomenting a silent and hidden genocide of denied descendants.
7. Whether this Court will at long last tear from the bosom of its Stare Decisis the Hitler-approved stain of Buck v. Bell and its subsequent enabling Decisions.
8. Whether the long-accepted judicial practice nullifying Pro Se complaints on the basis of errors in procedure equates to denying medical aid to those with developmental disabilities on the basis that they cannot correctly describe their medical conditions or give a proper differential diagnosis upon which a medical Doctor may act.
9. Whether maintaining Buck v. Bell, directly descended in language and rationale from Scott v. Sanford, as stare decisis ensures that such evils of racism, bigotry, police brutality and the abuses of those with mental illness, can never die, so long as Buck v. Bell is upheld.
10. Whether the practice of denying equal justice to those who cannot find or afford lawyers, or who just don't trust them, has made lawyers into a super-privileged caste, not unlike those Medieval Priests who kept a jealous guard over access to God, and sold indulgences for the forgiveness of sins.

11. Whether either hypothetical arguments are proof, argument can substitute for truth and procedure can substitute for justice, or we all deserve equal, honest and reliable justice, just for the asking.
12. Whether Judges, like Doctors, should be made to swear, "First, do no harm."

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.
[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Donald L. Baker, Petitioner
2. Andrei Iancu, Director, USPTO, Respondent
3. Drew Hirshfeld, Commissioner for Patents, USPTO, Respondent
4. Robin O. Evans, Dir Tech Center 2800, USPTO, Respondent
5. Elvin G. Enad, SPE, Art Unit 2837, USPTO, Respondent
6. Marlon T. Fletcher, Primary Pat Examiner, Art Unit 2837, USPTO, Respondent
7. Daniel Swerdlow, Primary Pat Examiner, Art Unit 2837, USPTO, Respondent

RELATED CASES

Other than complaints lodged with the USPTO and its Patent Trial and Appeal Board, which is not part of the Federal Court system, and the immediately preceding cases in Federal Courts, listed below, I am not aware of any other related cases.

The U.S. District Court for the Northern District of Oklahoma, 4:19-cv-00289-CVE-FHM, Baker v. Iancu, et al., Decided 10/22/2019

The U.S. Court of Appeals for the Tenth Circuit decided my case, Baker v. Iancu, et al., No. 19-5100, Decided June 17, 2020

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https://www.researchgate.net/profile/Donald_Baker2/projects - including compilations of patent record materials involving this case

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at ; or, [ ] has been designated for publication but is not yet reported; or, [ ] is unpublished. *

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at ; or, [ ] has been designated for publication but is not yet reported; or, [ ] is unpublished. *

*Unknown. I cannot find any reference in Google.com to any Federal Reporter notation of any case involving Baker v. Iancu

JURISDICTION

[X] For cases from **federal courts**:

The U.S. District Court for the Northern District of Oklahoma decided my case, 4:19-cv-00289-CVE-FHM, Baker v. Iancu, et al., 10/22/2019
The date on which the U.S. Court of Appeals for the Tenth Circuit decided my case, Baker v. Iancu, et al., No. 19-5100, on June 17, 2020.

* I do not understand the following terms or conditions, and at the current age of 74, with multiple health issues, am not likely to figure them out any time soon.

*[ ] No petition for rehearing was timely filed in my case.
*[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: , and a copy of the order denying rehearing appears at Appendix .
*[ ] An extension of time to file the petition for a writ of certiorari was granted to and including (date) on (date) in Application No. A .

*The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

I cite the primary jurisdiction that U.S. Federal Courts have over all Agencies of the U.S. Government Executive Branch. As noted elsewhere in this petition, the lower courts have unjustly cherry-picked the fact that this case involves the U.S. Patent and Trademark Office, and used it to dismiss substantive fraud in government service, involving violations of other Federal Law and Regulation, including Civil Service Regulations on the integrity of Government Agents, and 18 USC 242 and 18 USC 1001, all of which exist outside the Patent Code and Procedure. Given that the lower Courts ignored violations of law and regulation outside the Patent Code with apparent deliberation, one can reasonably presume that it is not likely for any request for rehearing to be honored, and would cause only more expense and delay.

I cite this Court's inherent and long overdue authority to reconsider the evil that past Decisions have done, and to overturn them. History may not judge deliberate blindness as lightly as you might have thought. It may not find any Majesty in Law that works only for the one percent.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title 18 U.S.C. Section 242 – Deprivation of Rights Under Color of Law

https://www.justice.gov/crt/deprivation-rights-under-color-law

Summary:

Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.

For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within the their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim.

The offense is punishable by a range of imprisonment up to a life term, or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

TITLE 18, U.S.C., SECTION 242

Whoever *(emphasis added)*, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnaping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Title 18 U.S.C. Section 1001 – In Appendix M

5 C.F.R. Section 2635.101 - Basic obligation of public service.

(a) ***Public service is a public trust.*** Each employee has a responsibility to the United States Government and its citizens to place loyalty to the Constitution, laws and ethical principles above private gain. To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each employee shall respect and adhere to the principles of ethical conduct set forth in this section, as well as the implementing standards contained in this part and in supplemental agency regulations.
(b) ***General principles.*** The following general principles apply to every employee and may form the basis for the standards contained in this part. Where a situation is not covered by the standards set forth in this part, employees shall apply the principles set forth in this section in determining whether their conduct is proper.
(1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
(2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.
(3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to
further any private interest.
(4) An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
(5) Employees shall put forth honest effort in the performance of their duties.
(6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
(7) Employees shall not use public office for private gain.
(8) Employees shall act impartially and not give preferential treatment to any private organization or individual.
(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those - such as Federal, State, or local taxes - that are imposed by law.
(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Petitioner's Note: The Court will please take special note of sections b) 5, 8, 11, 13 and especially 14. They may be taken to mean that Employees shall not defraud citizens and customers in any manner, and that if one Employee does, then another who is informed of it has the obligation to detail and report it as such, not pass it off as business as usual, even if it is. This would also apply to a Director of a USPTO Technical Center who excuses the false representation of prior art by a patent examiner as "business as usual". I have not been able to find again the section which states that an Employee shall not bring disrepute upon his Agency, but believe that it exists. If it does, then it would also apply to the work of an Employee who is so technically incompetent that the quality of his stated reasoning could be used to prove the Earth is flat, and to the superiors and Directors who allow it to pass as "business as usual".

Executive Order 12674 – In Appendix N

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall

any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Petitioner's Note: The Founding Fathers obviously meant for "due process" to be a floor to assure justice, not a ceiling to deny it. Equal Procedure is not Equal Justice, especially for "rich and poor alike". To say otherwise violates your Oath, and holds the People whom you serve in contempt. You know very well that not everyone can either afford a lawyer or be adept at procedures in which they have never trained. Constructing procedure to deny justice to those who unfortunately cannot clearly "state a case" is one of the worst sins a Judge can commit. It equates to withholding medical care from people with sickness or disabilities, merely because they cannot name their diseases or difficulties, either in terms or a differential diagnosis that would tell a Doctor how to treat them. Any Doctor who behaves in that manner is a Mengele. So too a Judge.

STATEMENT OF THE CASE

Mr. Baker has three engineering degrees and a Ph.D., starting with a BSEE from M.I.T. in 1968 (See www.aquarien.com/trnscpt/trnscpt.zip). Age and medications have reduced many of his abilities, but he is still able to make contributions to the state of the art in smaller areas. Springer-Nature has recently published his book (© 2020), Sensor Circuits and Switching for Stringed Instruments; Humbucking Pairs, Triples, Quads and Beyond, ISBN 978-3-030-23123-1, available from Amazon are U.S. Patents.com and Springer.com. The book is based upon U.S. Patents 10,217,450 and 10,380,986, and U.S. Non-Provisional Patent Applications (NPPAs) 15/917,389 and 16/156,509. This case disputes the examination rejections of both NPPAs and the involuntarily forced abandonment of NPPA 16/156,509.

It begins when Mr. Baker filed NPPA 15/616,396 with the U.S. Patent and Trademark Office (USPTO) on 2017-06-07, Electronic Filing System (EFS) ID 29425049, where it was assigned to Patent Examiner David S. Warren, Art Unit 2837. Mr. Warren is not a party to this suit, but apparent retaliation for complaints by Mr. Baker against him form part of the basis of this suit. During one phone conference in the examination process, Mr. Warren suggested that the "most patentable" part of a 20+ claim application was the invention's ability to "eliminate duplicates", referring to the propensity for prior art to throw switches at electric guitar pickup circuits and generate numerous duplicate tonal outputs without ever identifying them. When Baker responded by naively salting the term through a set of amended Claims, Mr. Warren then used the term to attack the application, citing even patents for the electronic duplication of documents as "prior art".

In another phone interview, Mr. Warren accused Mr. Baker of being "untruthful", about something with Mr. Baker does not now recall. When Mr. Baker strenuously objected, Mr. Warren backed down. But when Mr. Baker followed up his objection in an e-mail to Mr. Warren, Mr. Warren responded in an e-mail, claiming that it never

happened, effectively calling Mr. Baker a liar twice over. Infuriated by this turn of events, Mr. Baker lost all confidence in Mr. Warren when he wrote in an e-mail, dated 01/23/2018 (Appendix C) that "removing duplicates is pretty obvious, e.g., to optimize user experience, to reduce CPU load, minimize memory/storage, etc. I just did a quick search of "eliminate duplicates" and returned about 14,000 hits." Whereupon Mr. Baker put the term "flat earth" into Google and got millions of hits. The current total is hundreds of millions of hits, demonstrating the scientific paucity of this kind of argument for "obviousness".

This was the last straw – a prime illustration to Mr. Baker of the kind of junk engineering, incompetence and bunkum the USPTO allows in its examination process. Mr. Baker wrote to Mr. Elvin Enad, Mr. Warren's Supervisor, and refused to work any further with Mr. Warren, eventually filing a 37 CFR 1.181 Complaint that Mr. Warren should be removed from the application and replaced with another examiner. It turns out that the USPTO dismisses most if not all 181 complaints, on the basis that "disagreement" is acceptable and appealable, Mr. Robin O. Evans, Director of TC2800, stated in his June 29, 2018 dismissal of the 181 petition: "While the alleged unprofessional conduct by the examiner is disturbing, the evidence of record is not sufficient to warrant relieving the examiner from the examination of the instant application. The fact that petitioner disagrees with the examiner on the form and content of any proposed claim does not constitute sufficient reason and ground for re-assigning the application to a different examiner."

As this case will show, no matter what how egregious the behavior of a USPTO Patent Examiner, the USPTO will dismiss a 181 petition, or any other complaint, by reducing it to a mere "disagreement", and will insist on the extra time and expense of an appeal to the Patent Trial and Appeal Board (PTAB). The object of the exercise – convince as many Pro Se applicants as possible to abandon their applications after having paid non-

refundable fees. Which illustrates how far legal process stands from ethical professionalism and competence.

On March 9, 2018, Mr. Baker filed NPPA 15/917,389, EFS-ID 32013915, paying a filing fee of $430 as a micro-entity. Severe problems with the internet connection to the USPTO caused delay in the filing of several drawings. Because of this and the debilitating side effects of several of Mr. Baker's senior medications, Mr. Baker did not realize that he had not filed the Specification. Mr. Baker filed it on July 14, 2018, along with a petition to accept unintentionally delayed application parts and a petition filing fee of $500 on July 17, 2018. Then the fun began, as detailed in the original complaint, filed May 28, 2019 in Case No. 19 CV 289 CVE-FHM, in the U.S. District Court for the Northern District of Oklahoma (Appendix O).

At some point, Mr. Baker solved the internet connection problem by switching from a cell-phone basic mobile hotspot to a Cox Communications cable modem. It appears that new and undisclosed Federal internet security software would not accept the changing IP addresses which the mobile hotspot used, interpreting that as some kind of hacker attack. After this changeover, the connection to the USPTO Electronic Filing System became much more reliable. The USPTO accepted the petition and set the filing date of NPPA 15/917,389 at 07/14/2018.

Nevertheless, Mr. Baker can only conclude that the USPTO responded to NPPA 15/917,389 with a sustained and deliberate campaign of harassment, intended to induce him to abandon his application. The USPTO repeatedly made false assertions that he had not filed documents, despite EFS receipts to the contrary, justified with myriad confusing references to an alphabet soup of Patent Code, instead of plain English as the law requires. This included a falsely alleged "missing address" in the Application Data Sheet, and falsely alleged missing Figures, 6 & 7. Mr. Baker believes this violates both 18 USC 242 and 18 USC 1001, both outside the Patent Code, and in contravention of the

express language and implied intent of Civil Service Regulations under 5 CFR 2635.101 and Executive Order 12674.

According to Mr. Baker's papers, the USPTO first noted the assignment of Patent Examiner Marlon T. Fletcher, Art Unit 2837, to NPPA 15/917,389 in documents dated 10/02/2018, granting a Petition "to restore the right of priority to prior-filed provisional Application No. 62/522,487, filed June 10, 2017." Mr. Fletcher's first Office Action, dated 10/12/2018, demanded a division of claims 1-17 from claims 18-20 as fundamentally different inventions. After several rounds of arguing the point, Mr. Baker acceded, since Claims 18-20 were not crucial to the invention.

Later, on NPPA 16/139,027, filed 09/22/2018, also assigned to Mr. Fletcher, Mr. Fletcher again tried to demand a division of claims, in an Office Action dated 03/06/2019. But Mr. Baker then checked 10 of Mr. Fletcher's allowed patents from 2019, and found that Mr. Fletcher often allowed 3 or 4 very different "modes of operation" for large companies with patent lawyers, including Yamaha and Casio. Mr. Baker also found Figs. 23 & 24 in US 10,199,022 (Greenlee, Feb 5, 2019), allowed by Mr. Fletcher, showing an electronic circuit with the input and output shorted together, rendering it inoperable, a rather glaring error to any Electronics Engineer. This raised the question of Mr. Fletcher's fitness to examine electronic circuit patents in electronics, and the fitness of the USPTO to provide knowledgeable officials to examine patents. Mr. Baker filed a complaint for NPPA 16/139,027 under 37 CFR 1.181, dated 2019-03-23, (Appendix P) noting these facts and Mr. Fletcher backed down. This NPPA was eventually allowed as US 10,380,986, issued 2/26/2019.

Eventually, Mr. Fletcher issued a non-final rejection of NPPA 15/917,389, dated 02/04/2019 (Appendix Q), falsifying prior art from two different prior patents, Beller (7,166,793, Jan 23, 2007) and Wallace (8,269,095, Sept 18, 2012). NPPA 15/917,389 discloses a simple modification to a standard single-coil electric guitar pickup, which normally consists of a coil of magnet wire wound on a form, with magnets either

embedded in the form as poles, or with merely ferro-magnetic metal poles in place of those magnets, with a magnet glued to the bottom of the pickup to provide the field. The magnetic field interacts with ferro-magnetic strings, wherein the vibrations of the strings produce a usable voltage in the coil.

Previous patents by Baker (US 9,401,134, 2016 and US 10,217,450, 2019) disclosed circuits whereby matched single-coil pickups could be combined in circuits that would reject external noise fields, known as "hum". If the pickups are connected together properly, the pole of the magnet(s) towards the strings (N for North or S for South) does not affect this property, called "humbucking". But reversing the pole reverses the phase of the vibration signal in the coil. In-phase and out-of-phase signals from different pickups in the circuit produce often markedly different tones. Baker had shown that for J number of matched single-coil pickups, there are 2^{J-1} number of overlapping sets of tonal circuits; 2, 4, 8 & 16 sets for 2, 3, 4 & 5 matched single-coil pickups. Therefore the ability to reverse magnets affords the musician access to a much wider array of tones. To Mr. Baker's knowledge, he is the first to point this out, and there is currently no such pickup either patented or on the market. In Mr. Baker's invention, the musician can simply pull the magnet out of an added housing structure on the bottom of the pickup coil form, reverse it and push it back in.

In his non-final rejection of 02/04/2019, Mr. Fletcher falsely stated that it had already been done, creating features for prior art which the prior inventors did not claim and that do not exist. Appendix D contains the arguments for this presented in a 37 CFR 1.181 complaint filed with the USPTO on 2019-03-25. Mr. Baker also believes that this falsification of a patent examination violates 18 USC 1001, which does not specify **who** commits the crime in creating false paperwork. It also falls under 18 USC 242, which prohibits using the color of law to deprive anyone of legitimate rights, such as filing for a patent. And given that it follows a bitter dispute with Patent Examiner David S. Warren, it also stands as prima facie evidence of retaliation. None this, including the dismissal of

the 181 petition on specious grounds, comports with Civil Service Regulations requiring honest and ethical service of the highest integrity.

The normal 3-coil Statocaster (TM Fender) electric guitar has a 5-way switch providing the tones B, (B+M)/2, M, (M+N)/2 and N for the pickups in the bridge (B), middle (M) and neck (N) positions. If the usual single and parallel circuits are used, reversible magnets can produce the tones for, B, M, N, (B±M)/2, (B±N)/2 and (M±N)/2, a total of 9 tones. If humbucking pair and triple circuits are used, this adds the humbucking tones B±M, B±N and M±N, which duplicate the last 6, plus B±(M±N)/2, M±(B±N)/2 and N±(B±M)/2, another 12 tones, for 3+6+12 = 21 different tones. Even considering that these tones will tend to bunch at the lower frequency "warm" end, this is somewhat bigger than 5, and can be made as a drop-in pickguard upgrade for the millions of existing Stratocasters and Strat-clones, potentially a very profitable market.

It is bitter enough that small inventors, either with or without patent lawyers, can be wantonly infringed by large companies with lawyers in their deep pockets, who dare a small inventor to spend years and thousands upon thousands of dollars in courts fighting for license rights. It is unforgivable corruption in Government for the Patent Office to short-circuit even this, by deliberately killing a small inventor's intellectual property at the root. For the 181 Complaint yielded just another whitewash (Appendix E) by Robin O. Evans, the Director of Technical Center 2800, who dismissed the bald falsification of prior art by Mr. Fletcher as "disagreements between the petitioner and the examiner about the merits of a prior art reference ... inherently not a violation of USPTO practice that rises to a conduct level of abuse of authority and discretion."

This reveals the USPTO complaint process as a dead-end and unjust snipe hunt, raising patent examiners to super-Papal infallibility. Mr. Evans' referral of Mr. Baker to the added time and expense of appealing this falsification of an examination to the Patent Trial and Appeal Board (PTAB) demonstrates that the object of this rigged game is to force Pro Se applicants and petitioners to abandon their applications by any means

necessary – after having paid non-refundable fees. It demonstrates a certain lack of the integrity allegedly required of Civil Servants by law and regulation.

The demonstrable corruption of inventing claim language in prior art out of whole cloth should have been a firing offense for Mr. Fletcher, AT THAT POINT, as conduct unbecoming and violations of law and regulation far outside the Patent Code and Procedure. The fact that the USPTO then proceeded to force the applicant to appeal to the PTAB demonstrates what happens when U.S. Agencies ape the Courts, in the time-honored manner of Jim Crow, to use the maze of process to deny justice and service to Pro Se appellants. The Agencies then push the abuse of process past the bounds of law and regulation. There is little doubt that the Agencies get away with treating Pro Se applicants with fraud and contempt, because they can count on the Courts to do the same, and to discount any Oath to give "equal Justice to rich and poor alike".

Equal Procedure is not Equal Justice. The Founding Fathers never meant "due process" as a maze to allow the Courts to "reserve the right to refuse" justice to anyone. They meant it as a floor to assure justice, not a ceiling to deny it. If only for White people. Their slavery corrupted that promise, as it does to this day. The Courts' refusal to extend their "judicial notice" to that fact may be the Courts' deepest sin.

Mr. Fletcher issued his Final Rejection to NPPA 15/917,389 on 12-05-2019 (Appendix F), doubling down on his invention of false prior art claim language. To the best of Mr. Baker's knowledge, Appendix G represents the last version of the NPPA upon which that rejection is based. Appendix H is Mr. Baker's appeal of that rejection to the PTAB, dated 02-02 and 03-27 of 2020.

Some background is necessary. Mr. Baker's US Patent 9,401,134 first developed the invention of matched single-coil guitar pickups in humbucking circuits. Currently, standard humbucking pickups use a single magnet with a coil and ferro-magnetic at each end to pass its magnetic field to the strings, which usually takes up twice the space of a single-coil pickup. Other humbucking pickups use either miniaturized dual coils or

stacked coils in the space of a single-coil pickup to achieve the same purpose. Having more parts, they are inherently more expensive than single-coil pickups. Using matched single-coil pickups in humbucking circuits reduces that cost.

To date, most pickup patents have thrown switches at the problem without bothering to determine how many circuits they produce are tonally different. Mr. Baker's US Patent 10,217,450 systematically generated series-parallel pickup circuits, enumerated the number of topologically different circuits, and enumerated the variations in tone possible by switching pickups to different positions in the circuits, or reversing either the leads or signal phases of the pickups. It also disclosed an efficient and practical system architecture for switching circuits using a micro-controller or micro-processor and digitally-controlled analog switches, maintaining an all-analog signal path. This represents the next generation of electric guitars.

Mr. Baker's U.S. Patent 10,380,986 developed a simplified switching system for matched single-coil pickups, which by following simple rules provides all-humbucking outputs, as well as an option for non-humbucking outputs. There are fewer choices in tonal circuits than for full series-parallel switching, but it is much easier to design using either electro-mechanical switches or a micro-controller switching system. Where the mechanical switching embodiment represents the next generation, the digital switching embodiment is the second generation after that.

Mr. Baker's NPPA 16/156,509, filed on 10/10/2018, represents the third next generation of electric guitar circuits. It discloses a simple analog circuit as a building block in a system to physically embody the combination of humbucking tones in linear vectors, replacing electro-mechanical switching with variable gains. This not only produces all the possible humbucking tones that mechanical switches can, it produces all the continuous variations in tones in between. For J number of matched single-coil pickups (or single coils of dual-coil humbuckers), combined according to the rules of the invention, there are J-1 number of humbucking pairs that can be controlled and combined

linearly with J-2 number of variable gain controls. Chapter 11 of Baker (2020) has a more extensive discussion.

The USPTO assigned this NPPA to Patent Examiner Daniel Swerdlow, Art Unit 3649, on a date Mr. Baker cannot determine. Mr. Baker recalls getting an introductory call from Mr. Swerdlow, who promised help in getting the application allowed, as required by the MPEP, but has no record of the date or time. Mr. Baker offered at that time to take as many non-final rejections as necessary to fix any errors, as he was having trouble formulating the Claims for such new and unprecedented material, but Mr. Swerdlow insisted there would be only one, which came dated 04/01/2019. Mr. Baker found it helpful in rethinking and rewriting the claims and responded with initial responses on 04/05 and 04/07/2019, with a full response on 04/25/2019 (Appendix J).

Mr. Swerdlow's Final Rejection (Appendix I) came dated 05/22/2019, with an abrupt reversal in helpfulness, apparently making every arbitrary and capricious objection he could imagine as plausible, and no doubt retaliatory for Mr. Baker's past disagreements with Mr. Swerdlow's Office. These objections included: citing decimal points and mathematical ellipses in Claims as unallowable grammatical "periods"; objecting to scaling the invention down to the trivial case of just two matched single-coil pickups, to defeat possible patent trolls, as "new material" exclusive of the original claims, despite Figures to the contrary; objecting to the use of the phrase "comprised of" as improper, demanding that "comprising" be used instead; and making an arbitrarily self-contradictory statement that certain phrases "are exemplary language which makes unclear whether the claim is limited by the recitation." Further, Mr. Swerdlow insisted on amendments to the Claims that would leave them open to interference by patent trolls.

The decimal points falsely alleged to be "periods" come from specifications in Claim 9 on methods of calculation for sine and cosine functions of various levels of accuracy in an inexpensive micro-power micro-controller which possesses only the mathematical functions, "+", "-", "x", "/" and square-root. It would have allowed the calculation of

Fast Fourier Transforms to characterize the tones of pickup circuit outputs, using a micro-power micro-controller running for over 100 hours on AA batteries. The mathematical ellipses, falsely alleged to be "periods", come from Claims expressing how the invention physically embodies the efficient generation of variable gains for a scalable number of pickups, to efficiently navigate a mathematical space full of an infinite number of gain points that can produce the same tones. The math was not being Claimed, so much as the physical means to embody it. Mr. Swerdlow presents a deliberately specious argument, dismissing the Claims of those embodiments as having too many "periods".

Mr. Baker envisioned this invention in depth, presenting a necessarily wide range of physical solutions to embody the math, in such a way that it could be brought to manufacture cheaply and efficiently, using small batteries that could fit inside an electric guitar and provide a reasonable length of service. In that manner, it follows the breadth and depth of US Patent 9,401,134, which disclosed an entirely new approach to building electric guitars, in both body and electronics, well-developed in practice if not in appealing visual style. It does not deserve to be summarily swept under a patent examiner's rug on the patent examiner's malicious whim.

Mr. Swerdlow clearly and deliberately states in his Rejection that it intends to cut off prosecution and force Mr. Baker to appeal to the PTAB. Then he states, "The examiner will consider submissions filed during the response period for this Final Office action, but proposed amendments requiring further search and consideration may not be entered." To Mr. Baker, who takes medication for nightmares due to past traumas, this sounds like an invitation to be Mr. Swerdlow's prisoner, inappropriate and abusive, given the arbitrary and capricious nature of Mr. Swerdlow's objections.

Mr. Swerdlow sent an Advisory Action to Mr. Baker, dated 06/25/2019, claiming that Mr. Baker's amendments in response to the Final Rejection, dated 06/07/2019, did not conform to Mr. Swerdlow's dictates. Mr. Baker, not having any experience with filing appeals with the PTAB, and not being able to make sense of the Byzantine and confusing

MPEP and USPTO web site, was at a loss as to how to proceed. On 01/17/2020, Mr. Swerdlow files a Notice of Abandonment on NPPA 16/156,509. Mr. Baker did not see a way to proceed until Mr. Fletcher filed a similar Advisory Action to Mr. Swerdlow's, and Mr. Baker found a new page on the USPTO web site, "New to PTAB", https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/ptab-inventors. Previously, the USPTO web site information Mr. Baker could find on filing with the PTAB was so sparse that it was impossible even to determine which fees applied when and to what. Appendix K contains Mr. Baker's appeal to the PTAB regarding the deliberately false and constructive abandonment of NPPA 16/156,509. Appendix L contains the PTAB's response, which Mr. Baker will be considering after filing this petition.

Mr. Baker still believes that the USPTO process has been deliberately contrived to force Pro Se applicants to abandon patent applications after paying non-refundable fees, with fraudulent objections and examinations, and deliberate referrals to rigged, dead-end, snipe hunt complaints and appeals. That the patent process is deliberately contrived primarily to ensure the employment of lawyers, without regard to engineering or scientific standards. That it is modeled on the behavior of the Courts.

In this case, China is not our worst enemy. China can only steal our intellectual property; the Patent Office can kill it at the root. The behavior of the USPTO has been so abusive and egregious that one can only wonder when it may become better to patent new U.S. IP in China, where the largest manufacturing base lies, not in the U.S. where the largest consumer economy lies. Nor are the laws here favorable to new inventors. A patent doesn't protect anything other that an inventor's right to spend years and hundreds of thousands of dollars in legal fees to fight large companies with lawyers in their deep pockets, when those companies steal IP to profit on it without recompense to the rightful inventor. Here again, only the lawyers win – and those who can pay their vigorish.

It is bitter enough facing decades of employment and other discrimination against disabilities, aided and abetted by business-friendly Supreme Court Decisions. But the last act of betrayal comes when, after years of effort, one finally develops enough IP to start or license a business, only to be denied and defrauded by the basic machinery of patent applications. Small wonder that so many of us despise lawyers and don't trust the Courts.

Now we know to what Justice is blind.

REASONS FOR GRANTING THE PETITION

Mr. Robin O. Evans, Director of USPTO Technical Center 2800, denied a 37 CFR 1.181 Complaint on NPPA 15/917,389, showing how Patent Examiner Marlon T. Fletcher falsified prior art in order to reject Claims. In doing so, Mr. Evans effectively admitted that USPTO standard operating procedure condones corrupt and incompetent patent examinations. The District Court, citing errors in procedure, which it could easily have directed Mr. Baker to correct, ignored egregious violations of Federal law and regulation outside the Patent Code, and effectively upheld USPTO corrupt practices, which might get anyone outside of government indicted under the RICO Act. The Lower Courts, following the precedents of the Supreme Court, upheld the time-honored principle, long employed in Jim Crow systems, that if undesirables who must ask for Justice on their own do not do so in the preferred and lawyerly manner, then they deserve to be denied both justice and civil liberties by the Government. From this one may understand the rise of violent, anti-government hate militias. The Courts effectively allow the U.S. Government to violate its own felony laws with impunity, defending itself with tax-paid lawyers from outraged citizens, who may not be able to afford lawyers themselves. This fundamentally corrodes civil society. **Equal procedure is not the equal justice of your Oaths.**

This goes far beyond the Patent Office deliberately defrauding an elderly inventor. Your profession is deeply flawed and has failed us terribly. You have left principles of Nazi and racist hate so deeply embedded in our jurisprudence that "equal justice" is a cruel myth. Societal and legal attitudes fostered by this Court and its predecessors have even given white Police a sense of righteous action then they kill unarmed African Americans.

A bigot is someone who makes up ugly stories about people he doesn't know and who never meant him any harm – like calling at least two good students part of "three

generations of imbeciles". The man who did that was a Justice on this Supreme Court. His 1927 words have damaged our society for nearly 100 years, including informing current law and government practice, and this Court has never seen fit to overturn him. This, despite the fact Hitler so loved words of this Justice, that good ole boy Adolph rewrote this Decision into German and used it to start the Holocaust.

Look around you. See what happens when a Court leaves evil embedded in its Stare Decisis. See the hateful, vindictive divisions in our politics and society.

For example, Nilmini Gunaratme Rubin wrote of her 1972 birth in a May 13, 2012 Mother's Day article in the Los Angeles Times, A Crime Against Motherhood. After her birth, the White Doctor sent her Sri Lankan immigrant father home and proceeded to sterilize her mother over her mother's exhausted objections. His reason? "There are too many colored babies already."

Why? Because in 1927, the predecessor of this Court opined in Buck v. Bell, directly descended from Scott v. Sanford, that "three generations of imbeciles are enough". Thereafter, the States proceeded to sterilize mostly poor and colored people, often without their knowledge or consent (Stern, 2005), up into the 1970s. The toll amounted to between 60,000 and 70,000 people sterilized, and by this time a genocide of denied progeny in the millions. Which this Court has never either acknowledged or corrected. Your silence condones it.

And the whole thing was a fraud. That Court did not deign to notice that the proponents of the Virginia Sterilization Act chose Ms. Buck's lawyer from among their own ranks. Which ringer proceeded to sabotage her case by failing to raise objections or call witnesses in her defense, allowing the backers of the Act to present hearsay as fact. (See the web site on Buck v. Bell at http://exhibits.hsl.virginia.edu/eugenics/)

It would all have fallen apart if anywhere along the line any Judge had asked and found the answer to just one simple question, "So, how well did she do in school?" Because

Ms. Carrie Buck, that alleged second "generations of imbeciles", made good grades, and her daughter, that alleged third "generations of imbeciles", later made the honor roll. And this Court, by the time it upheld Buck v. Bell yet again in Skinner v. Oklahoma, had never discovered this grievous error.

Thus we define "Judicial Notice", in all its glorious efficacy.

The consequences of Buck v. Bell didn't just perform involuntary abortions on sixty to seventy thousand U.S. citizens. The most effective kind of genocide is the one the public never sees, because you avoided all that bloodshed by killing them in the egg and sperm. If anyone owes Black Americans reparations, the Supreme Court of the United States should be first in line. By the same token, the most effective means of destroying intellectual property, especially for those too poor to afford lawyers, is to kill it in patent examination.

Hitler so appreciated Buck v. Bell that a few years later, he copied the Virginia Act into German law. Whereupon he started the Holocaust. This Court has upheld Buck v. Bell to this day as stare decisis – a foundation of the Holocaust embedded in our jurisprudence. Small wonder that White Police feel free to kill unarmed blacks on any perceived convenient threat, Judges feel free to strike down Pro Se complaints on any convenient failure to adhere to procedure, and the Patent Office feels free to spike the inventions and inventors it does not like. That can't be conflation when it all has a common root cause - you.

So just to drive the point home, consider the basic intellectual principles of Scott v. Sanford, stripped of racist bile. They can be stated as:

1. These people cannot be responsible for or control their actions, and are thus a danger to themselves and society;
2. Society has a right to defend itself against them by any legal procedure necessary;

3. Whatever society does to deprive them of civil rights and liberties is for their own benefit.

Buck v. Bell added an additional principle, expanded by later SCOTUS Decisions:

4. For their own benefit, these people may be deprived of civil rights, liberties and even body parts on the basis of medical opinion, which shall not be considered punishment, and in which neither lawyer nor judge is competent to dispute nor should interfere.

Perhaps the judicial idiots who wrote that about "punishment" never heard any woman burn victim being involuntarily debrided without anesthesia, nor a beloved Aunt dying of cancer without painkiller, because the medical Righteous found it sinful.

The Nazis took this a bit farther. Among other things, they consigned to death thousands of disabled, "useless eater" children warehoused in institutions (Mostert, 2002). I cannot find the reference, but I recall one stating that in some cases it only took the signature of a psychiatric Doctor who never needed even to see the patient to do it. Which follows the example of (Honorary, University of Heidelberg) Dr. of Eugenics Harry H. Laughlin's condemnation of Ms. Carrie Buck without seeing her.

What kind of Court allows this kind of poison to stand in our jurisprudence?

That would be you.

We come before the Courts asking for nothing more than honest and reliable justice. When Hammurabi wrote his Code, it numbered less than 300 rules, and nearly everyone in his society could know what to expect of it. Instead, we get a Byzantine maze which the Courts challenge us to either navigate ourselves, or pay vigorish, are rates up to thirty times our own incomes, to a legal priesthood which sells access to Justice like Medieval indulgences. And if we attempt to navigate it ourselves, we find it to be a game of legalistic hopscotch, where the Courts will exclude us from Justice for stepping upon a

single line, whether we see them or not. You have made taking justice into our own hands like grabbing hold of an empty promise.

Your profession has taken Constitutional "Due Process" and changed it from a floor, a minimum standard of law, into a ceiling, excusing you from performing any function beyond it. "Judicial notice" absolves you of ever finding out about the horrible consequences of god-awful Decisions like Buck v. Bell, and a host of others.

This is your legacy, and your problem to fix. You can, of course, dismiss the whole thing on some convenient pretext of procedural error, pretending that it just doesn't fit your business model. You can reduce us to merely coming before you to give witness, without the expectation of any kind of true justice, hoping that some day in the future some Court with say, "Damn, surely we can do better than that." But, perhaps, like my Ex used to say, "God's gonna get you for that."

We see you, more clearly that you might have thought. When lawyers say, as they are so fond of doing, that a man who represents himself has a food for a client, it sounds a bit like the First Principle of Scott v. Sanford, doesn't it? And when one replaces Society with the Greater Benefit of Lawyers, and medical opinion with Judicial Opinion, the Second, Third and Fourth Principles justify throwing out over 90% of all Pro Se complaints. My, don't those attitudes have some sturdy Plantation legs?

Obviously, the Patent Office has taken its cue from the Courts, and Jim Crow, doing all it can to discourage Pro Se participation, by any means necessary, including fabricating false prior art and examination procedure. It has made its procedures for Pro Se complaints about abuses, such as the 181 process, the PTAB and even the Office of the Ombudsman, into misleading, expensive and pre-doomed, pointless snipe hunts. If the Pope had the infallibility that the Patent Office gives its Examiners, he could elevate himself to the Trinity on his own authority, and make it The Holy Foursome.

For some of us, it has been bitter enough to lose employment opportunities to disabilities and discrimination again and again, over decades, not to mention under the travesty of Toyota v. Williams. It forces us to try to develop our own business opportunities, as best we can. And when we get too old and tired to actually start a business, and end up having to live in HUD retirement housing, one of the few things left is to develop and patent intellectual property for licensing, if we can.

When the Government and Courts allow the Patent Office to defraud Pro Se customers by any means necessary, it raises at least one question. Why, when we get the backs of their hands so often, are we filing for IP protection here? Even when one gets a Patent in this legal system, it doesn't protect anything. It still leaves us open to large companies with lawyers in their deep pockets just taking it, and then daring us to spend years and tens of thousands of dollars in litigation trying to get recompense. Why should we file patent applications with the Nation having the largest consumer economy, when we could be filing with the Nation having the largest share of manufacturing? Namely, China.

One hears that Einstein said, "Only the Universe and human stupidity are infinite; and I'm not sure about the Universe."

I have not endured every depravity, just enough to assure me that if any come knocking again, it would be wiser not to be taken alive. After one such episode, I used my doctoral research skills and a few years to look back through legal, medical, historical and sociological documents to find how and why that could legally be done to me. I found the Supreme Court of the United States (Baker, 2016), then as now, vainly oblivious to the harm that it does. None of you are my heroes.

You have had just one job, ensuring that We, The People, get honest and reliable justice. When future history writes your story, it will see justice, legitimacy and integrity squandered on the welfare of lawyers. It will see "judicial notice" for what it is, an excuse not only to avoid looking at your own horrible and unjust mistakes, but to justify

making them in the first place. The damage your Court has done to this Society stands beyond reckoning and reparation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Submitted with all due respect,

Donald L. Baker

Date: 2020-08-01

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