Appellant's Brief

C 1084

BRIEF OF APPELLANT

United States Court of Appeals

FOR THE FEDERAL CIRCUIT

Appeal No. 86-554

IN RE: STEPHEN WYDEN
Plaintiff-Appellant
vs.
Commissioner of Patents and Trademarks, et al
Defendant-Appellee

Appeal from the United States District Court
for the District of Columbia,
Decision denying a new trial.

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Appeal Docket 86-554

United States Court of Appeals
For the Federal Circuit

CERTIFICATE OF INTEREST

Stephen Wyden vs. Commissioner of
Patents and Trademarks, et al.

The undersigned pro se litigant, Plaintiff-Appellant,, furnishes the following list in compliance with Rule 8:

(a) Stephen Wyden is the party represented by himself, pro se.

(b) Stephen Wyden is the real party in interest, as stated in the caption.

(c) Stephen Wyden is a natural person and not a corporation.

(d) No law firms, partners, or associates will appear for the plaintiff-appellant except himself.

Mr. Milton Chasin of Chasin, Levine, and Ross, 157 West 57 Street, New York, New York, 10017 was of counsel to the plaintiff-appellant for a time during proceedings before the United States Patent and Trademark Office

(Stephen Wyden)

Stephen, Wyden, Plaintiff-Appellant,
pro se

(October 21, 1985)

Date

No other appeal is currently pending. The relevant prior action is C.A.80-2581.

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United States Court of Appeals

For the Federal Circuit

Stephen Wyden, Plaintiff - Appellant v Commissioner of Patents and Trademarks, et al, Defendant-Appellee	*	Appeal No. 86-554

Brief of Appellant

Abstract of the Argument

The United States Patent and Trademark Office (PTO) allowed a former Examiner, Patent Agent, and Patent Attorney to resign voluntarily approximately 30 (thirty) years ago, not Wyden. It is not known by Wyden that the PTO knew that the resignee was resigning to conduct a business that appeared to sell inventions but instead eventually competed with Wyden for his patent practice and retained and spent some of Wyden's patent prosecution fees, without Wyden's permission.

The PTO precipitated Wyden's giving up his patent practice and created an indeterminate suspension for him in 1978 which it authorized in 1985. The suspension was not rehabilitative discipline but a vehicle for punishing the resignee, which it does not.

Relief for this mis-directed punishment is sought.

Appellate Jurisdiction

Appeal from a district court decision is to an Appellate Court of the United States. The United States Court of Appeals for the Federal Circuit was established to receive appeals involving patent matters and antitrust issues and provide a federal forum for their review. Antitrust questions are raised in this appellant's brief relating to use and misuse of United States Patent Laws. If an appellate brief is needed regarding admission to practice before the United States Patent and Trademarks Office in Patent matters, that will also discuss standards of practice in patent matters.

For the above reasons, Appeal from the decision in the United States District Court for the District of Columbia in the present instance is being taken to the United States Court of Appeals for the Federal Circuit as being the quintessentially most proper forum for resolving the questions raised herein, with gratitude for the establishment of the forum - Court.

Background -
How this action came before this Court.

The immediate event which gave rise to this action and which is not in controversy is plaintiff-Appellant Wyden's (Wyden) taking the Examination to practice before the United States Patent and Trademark Office in regard to Patent matters (Patent Bar Exam) in October, 1983. That Exam was graded. Wyden requested a review of the grading and reconsideration of his score in the Examination. This led to a Petition to the Commissioner which resulted in a denial of the petition. This is not in controversy.

Wyden, then, renewed his petition to the Commissioner simultaneously with his commencement of the action in the United States District Court for the District of Columbia which led to this action before this Court.

At approximately the time Wyden filed his notice of Appeal to this Court, the defendant-appellee Commissioner of Patents and Trademarks (Commissioner) responded to the renewed petition with an order which provided for a request for reconsideration of the order. That request was timely filed and subsequently certified to the Commissioner as being the request for reconsideration of the order which the Commissioner was prepared to accept.

That request is presently before the Commissioner to be responded to or be returned because he can not recognize the request as such even though it is so captioned.

That is the status of the request for reconsideration and therefore of Wyden's Patent Bar Exam grade and is not subject to controversy.

Therefore, no brief regarding the Patent Bar Exam of 1983 and Wyden's grade is provided herewith. A separate Brief shall be provided if needed. Wyden does not know what he could say now without complicating matters further.

During the 1985 proceedings before the United States District Court for the District of Columbia, the United States Attorney for the District of Columbia suggested that Wyden worked for the Raymond Lee Organization. As part of the Petition to the Commissioner response, the Commissioner indicated that I was never charged with improperly advertising my services as a Patent agent. Therefore, the Commissioner did not have to waive that prohibition for me. The Raymond Lee Organization never retained me as a patent agent to work for them. This is not in controversy since the Commissioner can verify that he never appointed me as agent for the Raymond Lee Organization in any Patent matter I, Wyden, prosecuted before the United States Patent and Trademark Office.

This can be verified and certified to by the Commissioner by reviewing his records: All inventors I, Wyden, represented and who had made or held an assignment to the Raymond Lee Organization (RLO) as assignee of a minority interest are coded. While Wyden was aware of such an assignment and until he was informed otherwise by the inventor or RLO, the Docket Number of the Office papers end in RL. This is because RLO referred the inventors to me and the RL designation uncomplicated my docket numbering system.

When an assignment was repurchased by the inventor, the RL number was removed and another series was used in subsequent papers.

Raymond Lee never had any claims on me. His obligations to my client-inventors made me his third party beneficiary. He obligated himself to my client-inventors to pay to me a portion of my client-inventors patent prosecution expenses.

Therefore, there is no basis for controversy that Wyden does not and did not work for the Raymond Lee Organization. Wyden will respond in his final papers to any allegation of controversy in this question.

The Controversy

Eight years and over 20 reams of paper have been spent on the foregoing matters.

The area of controversy is who is responsible for the Raymond Lee Organization and how or through whom should they act in discharging any such obligation.

Since Wyden does not work for RLO, he should not be obligated to work against RLO to his detriment nor punished for working for RLO. The Commissioner should not impose the obligation and should not impose the punishment. The present Commissioner has been responsive and cooperative, for which Wyden expresses his appreciation and gratitude. Therefore, the defendant appellee is referred to below as the Patent and Trademark Office (PTO) to be distinguished

from cooperative individuals, such as the current Commissioner.

To hold the United States Patent and Trademark Office (PTO) liable for the obligation and punishment, it must be shown they are responsible for Raymond Lee and the Raymond Lee Organization. And, it must be shown that the PTO is holding Wyden responsible and punishing him for RLO. Whether the PTO punishes RLO or not is not critical. It is important to prove that punishing Wyden is improper or unauthorized or both.

Responsibility for RLO

The PTO has said that they are not responsible for the RLO. They recently said at a Patent Conference that they are not responsible for non-practitioners. I must begin by first agreeing with the appearance of this position and proving the correctness of the appearance before showing its limitations. Otherwise, you will not believe me.

First, I begin by acknowledging that the PTO accepts responsibility for supervising the conduct of Patent practitioners. There is no controversy in this. In fact, in the current Code of Professional Responsibility, Disciplinary Rule 1, misconduct R, points out that the PTO opposes even the mere appearance of misconducts by a practitioner.

Second, three positions are proved:

a. PTO has no apparent supervision of Raymond Lee and through him of RLO.

b. In fact, the PTO has responsibility for Raymond Lee and through him for RLO.

c. The PTO has demonstrated and maintains an awareness of this responsibility. (See Code of Professional Responsibility, Disciplinary Rule 1, misconduct R, Appendix item 1.)

a. No apparent Supervision of RLO

It can be shown that the PTO does not apparently supervise Raymond Lee by looking at the Roster of Attorneys and Agents. His name does not appear on the register now. Looking back for up to approximately twenty to thirty years also does not show his name. Finally, looking forward into the foreseeable future will not produce the appearance of his name. Thus the PTO does not appear responsible to supervise Raymond Lee. The United States Court of Appeals for the District of Columbia Circuit decided that Raymond Lee was responsible for RLO when he appealled from the decision of the Federal Trade Commission (FTC) in the Raymond Lee Organization decision. With the Roster of Attorneys and Agents as the test, there remains no responsibility for RLO by the PTO, apparently.

No controversy.

b. Responsibility for Raymond Lee and RLO

b1. The Past and Present

The PTO has responsibility to suprevise Raymond Lee and RLO in certain matters.

Raymond Lee does not appear on the roster and has not appeared

on the roster because he resigned, according to the FTC decision.

The question of responsibility revolves around why he resigned.

Did he resign because of a problem with the PTO? Wyden is not aware of a problem.

Did he resign because he no longer wished to do patent prosecution work for others? You do not have to resign to retire: Just do not accept new work. This is the same question as do you need a license as Patent Agent to represent yourself in patent matters: No, except you may need the license to hire yourself for pay. Retirement-not working also means no pay.

Then why did he resign then? I have been given no idea by the PTO. And, I suspect the PTO had no idea then, either. However, the record indicates what he did after he resigned. And disciplinary Rule 1, misconduct R, indicates that the PTO considers that a patent agent or attorney who has dealings with a joint venture may appear to be acting improperly.

Therefore, resignation may have been necessary to prevent the appearance of impropriety. In that case, the resignation was a type of authorization for actions that otherwise would be improper. Therefore, the resignation provided an unintended license for the joint ventures: a "by-your-leave" license to act. If he leaves, the PTO will not bother him. A 'by-your-leave' license to compete with Wyden for his patent prosecution business, to avoid filing assignments in property-rights-by-recordation properties (property

rights in inventions and patents are enforceable after filing in the PTO) was not what Wyden believes the PTO intended. 35 U.S.C. 261,262.

b2. The Future Test

There is an improbable event in the future that can trigger awareness of the responsibility described: Raymond Lee requesting to be reinstated as a patent agent. What would the PTO do? The man appeared to be in good standing at the time of resignation, as best as Wyden knows. Why would the request be denied? Not filing assignments of patent rights, timely; competing with Wyden for his practice after resignation; retaining and spending some of Wyden's patent prosecution fees without his permission and after resigning as a patent agent.

How must that make the PTO feel? Wyden can not speak for the PTO. The resignation was necessary to start RLO.

C. The PTO has demonstrated and maintains awareness of the responsibility.

The PTO has demonstrated awareness of this repsonsibility by maintaining records on the RLO. There is no record of the PTO being clear as to what that responsibility actually is, however. This is demonstrated in discipline Rule 1, misconduct R of the appendix.

Therefore, when the PTO subpoenaed me, Wyden, to "prove I work for RLO", they did not know what that meant. That makes it difficult to discharge a responsibility effectively and easy to act improperly. The subpoena is the second document in the

appendix.

Since I do not work for RLO, the subpoena was improper.

In 1979, the PTO provided information to the American Patent Law Association that led to the publication of an article about a suspension of a patent agent for working for RLO in November, 1979. It is believed that article, Appendix item 3, refers to me. This indicates that the punishment I endure is for working for RLO which I do not while the PTO has responsibility for RLO and I do not. That the PTO will not act against RLO and Raymond Lee does not justify or authorize action against Wyden as a substitute.

Res Judicata

Not Naming RLO as a Party

The PTO has asserted Res Judicata and the need to name RLO and Raymond Lee as a party. The Court has heretofore agreed.

RLO and Raymond Lee should not be named as a party because the PTO is responsible for authorizing their conduct. Further, the PTO never raised any questions when the PTO could and was asked to. Finally, the PTO is aware of this responsibility at a gut level, although the PTO can not verbalize the nature of this responsibility (1985 Discipline Rules, Misconduct (R)).

The PTO has compelled Wyden, in these Courts, to provide the professional, technical, and, legal knowledge of the relationship which relates Raymond Lee and RLO to the PTO.

This is a supervening intervening force responsibility by the PTO for RLO to Wyden.

If the Statutes of Limitations have not expired, then the PTO can still recover any damages relief granted to Wyden from RLO.

Specifically, RLO should not be named because:

1. The PTO granted Raymond Lee a resignation approximately 30 years ago in order to go into business as RLO. This license-by-performance or By-Leave-of-the-PTO has been maintained to this date and is not known to have been reviewed by the PTO. That is, the PTO never reviewed the resignation or what RLO did using it while indicating in

1985 that impropriety may appear in connection with contacts with joint ventures (1985 Discipline Rules, Misconduct (R)). Supervening Intervening force-responsibility. Detrimental Reliance by Wyden.

2. One indication of this right of RLO is that the PTO accepts the suggestion of granting an interest in an invention by an inventor (to RLO) without verification of an enforceable assignment. (Patent assignment rights are part of the property-by-recordation class of property right, 35 USC 261, 262. No recordation, no assertable rights: This can permit "stealing" of the property rights by the inventor(s).) A Patent Attorney would be aware of this property right after reading the FTC-RLO decision.

3. The PTO has nothing to say when a resigned patent agent-patent attorney, former Examiner, retains patent prosecution fees and spends them as his own money. A resigned patent agent should know better, since he is still entitled to recognition for his work performance up to his resignation. His competency is not believed in dispute up to his resignation; Wyden's competency is damaged as a substitute. Supervening force, detrimental reliance.

4a. The resignation is not known to be for problems related to competency. Stopping work as a Patent Agent/Patent Attorney does not require a resignation nor does retirement as a patent agent/patent attorney. Therefore, the resignation was for another purpose. Therefore, reviewing

Raymond Lee's activities and RLO activities through Wyden by the PTO makes PTO liable to Wyden for RLO and Raymond Lee. The PTO can still recover directly from Raymond Lee and RLO, time permitting.

4b. In over 30 (thirty) years, had the PTO spoke, written, shaked, quivered, heaved, or bearly moved, breathing some life, it is questionable that RLO would have persisted: See 1985 Discipline Rules, misconduct (R). No one normally voluntarily fights the government.

5a. If the problem exists today and has not been corrected today, Res Judicata yesterday or 5 (five) years ago cannot make the problem corrected today.

5b. Stated in the reverse order is still true: If the problem was not perceived correctly yesterday and the decision was based on honestly believed perception then, then the wrong decision is not correct and binding when the Court reviews itself.

Put simply, honest mistakes do not become correct by being repeated. That is the position of this Court and Wyden supports it.

5c. Res Judicata is not a license to do a wrongful act. Raymond Lee spent patent prosecution fees as a resignee and the PTO is silent to RLO and very damaging to Wyden at the same time. Today. Again: 1985 Discipline Rules, misconduct (R): The PTO is associated with their resignee.

Wyden removed himself from contact through his inventor-clients, the PTO maintains the resignation and the damages to Wyden. The PTO told Wyden about the FTC decision but does not follow the FTC decision.

5d. There are not yet in place any rules for supervising and regulating voluntary resignations, as of 1985.

6. The help and cooperation of the current Commissioner and the help from the United States Attorneys from the District of Columbia in bringing separation between Wyden and RLO to this matter are acknowledged and appreciated by Wyden.

The Facts and Fact Patterns

Facts and fact patterns that may be relevant and material to the PTO may not be material or relevant to Wyden in the normal course of business. However, the lack of materiality or relevancy to Wyden is itself material and relevant to Wyden. Put simply, actions by the PTO without a relevant or material relation to Wyden but affecting Wyden directly is the basis for this action.

Therefore, the facts and fact patterns are being described from the beginning of the story, as best as Wyden can reconstruct the story.

Raymond Lee: Examiner, Agent, Attorney

The Federal Trade Commission (FTC) in its decision in the Raymond Lee Organization matter indicated that Mr. Raymond Lee had been a patent examiner, a patent agent, and an attorney, I believe in Philadelphia. The Commissioner can confirm this in the PTO records. I do not believe this is a matter of controversy.

Mr. Lee did not hold himself out as an agent or attorney in regards to my inventor-clients during the time I had contact with those clients. I believe he resigned as a patent agent, patent examiner, and attorney as well as patent attorney. Again, the Commissioner can confirm this in the records of the PTO. Therefore, this is also not believed to be a matter of controversy.

The Court of Appeals for the District of Columbia circuit found that Mr. Lee was responsible for the RLO and could not separate himself from the organization as regards the FTC decision

regarding RLO. Copies of these papers and the notice of the FTC decision in the RLO matter are of record in the PTO. These papers were collected and maintained in the PTO office of the solicitor by one of the associate Solicitors. The PTO-Office of the Solicitor interest in this matter was brought to my attention from papers sent to several (256) of my inventor-clients by the associate Solicitor in December 1977. I obtained a copy of the FTC notice from one of my inventor-clients. The Commissioner can confirm the PTO records, this is not a matter of controversy. This is not material or relevant to Wyden, as such, but conducted in my name.

Another fact that is not material or relevant, as such, is the response of the PTO Solicitors office to the determination by a New York State Court that the Lawrence Peska Associates had practised law without a license. Lawrence Peska had worked with Raymond Lee. The attorney and agents who were involved with inventors connected with the Lawrence Peska Associates were directed to remove themselves from representing those clients. These requests are of record in the PTO and one such request was seen but not retained by Wyden. This is not material or relevant to Wyden.

The PTO's Solicitor's office requested, based on the Lawrence Peska Associates matter, that Wyden withdraw from his clients involved with RLO. Wyden notified the PTO that he did not work for RLO, in these cases. This is still not material or relevant

to Wyden. Normally because RLO is not material or relevant to Wyden. Finally, because any such concern was supposed to be merged into the Joint Motion final order for Wyden's suspension.

When the PTO subpoenaed Wyden to prove he worked for RLO after suspension, the re-emergence of RLO became relevant for Wyden. Further, the current disciplinary Rules, misconduct (R) continues this concern with no clarification of what the impropriety is or was to the PTO. Wyden's best guess is that Raymond Lee and RLO are more important than Lawrence Peska because he resigned.

Relevancy

All these facts, except the current disciplinary rules, misconduct (R), had they any relevance, were nevertheless merged into the joint motion-final order. Therefore, no matter what, they were not material or relevant to Wyden by the Joint motion-final order: No matter what. Then, why was Wyden subpoenaed, during his suspension, to prove <u>that he worked for RLO</u>?

There must be a fact about the RLO or Raymond Lee that is the basis of the PTO actions. That that basis of concern about the RLO/Raymond Lee has been expressed through Wyden and used to affect Wyden is the basis of this action.

Since the PTO is more concerned about RLO than about Lawrence Peska Associates there must be a fact that distinguishes RLO and raises this concern.

The Liability

Any possible illusion of authority over RLO and Raymond Lee through Wyden expired with the Joint Motion and Final Order. That is the protection Wyden sought in accepting the suspension, in view of the prior and current posistions of the PTO. Wyden and the Commissioner appear to agree that Wyden does not work for RLO.

It is the opinion of Wyden that the PTO accepted Wyden's suspension for a reason it was not intended and, therefore, the PTO must accept liabilitity for the resulting damages.

Evidence for the intentional liability are:

a. PTO subpoenaed Wyden to prove he worked for RLO during the suspension period. Misuse of Process.

b. PTO notified the profession in November, 1979 that someone (Wyden) was suspended for working for an invention developer (RLO). Libel for the writing in the JAPLA.

c1. PTO granted Raymond Lee a resignation, presumably, innocently. When the PTO realized that the resignation- "by the leave of the PTO" - was being used improperly, the PTO acted against Wyden instead of against RLO: Secondary Boycott. The resultant destruction of Wyden's practice is an intentional tort. Detrimental Reliance.

c2. Because the resignation was misused and RLO competed with Wyden for his practice and relied on the credentials of the PTO as former Examiner, Patent Agent, and Patent Attorney, RLO unfairly competed for Wyden's business inclu-

ding retaining Patent prosecution fees Raymond Lee and RLO knew they had no claim to:

1. Antitrust monopolization of a portion of Wyden's practice based on a resignation - by the leave of the PTO.
2. Antitrust third party (RLO) receipt of money for work done by second party (Wyden) without second party permission or acquiessence. See benefit of creditors correspondence in appendix. Relies on resignation - by the leave of PTO and silence of PTO as implied license to act of long duration (over 20 years).
3. Implied license to RLO to act against Wyden by resignation - by leave of the PTO and silence - "PTO has no authority over RLO" makes the PTO the quintessential causative agent of Wyden's damages by permitting Raymond Lee and RLO to act and harm Wyden instead. Supervening force and compelled detrimental reliance. The PTO gave RLO his resignation, did not ask for assignments (detrimental reliance by PTO on RLO and inventors associated with RLO) and accepted RLO retaining some of Wyden's patent prosecution fees silently.

d. Continuing reliance on deceptive practices to induce damages to Wyden by PTO;RICO.

d1. The PTO used a subpoena to try to induce Wyden to prove he worked for RLO which, anyway, he could not

because he did/does not.

d2A. This was considered "non-cooperation" and the suspension was breached by extension to an indeterminate length by letter by Parker.

d2B. This was asserted by the PTO to have been the intent of the PTO in C.A.80-2581, making the joing motion - Final Order/"contract" void and unenforceable as not being a reduction to writing of a meeting of minds (no contract formation, per se). That there was no prior existing authority for an extendable suspension is proven by the establishment of extendable suspensions in the 1985 Patent Rules (See Appendix).

d2C1. The extendable suspension of Wyden makes no sense as a rehabilitative discipline action against Wyden, but must relate to the 1985 Discipline Rules, Misconduct (R) and some appearance of impropriety with a joint venture by the PTO. Not Wyden in 1985.

d2C2. The appearance of impropriety is the continuing resignation - by the leave of the PTO, RLO - silence which allowed RLO to spend Patent Prosecution fees of Wyden in settling RLO's estate by assignment for Benefit of Creditors.

d3. Therefore, a continuing pattern of deceptive acts in writing (mail), in publications (JAPLA article) and otherwise have prevented Wyden from practising

as a Patent Agent and have benefitted the RLO and Raymond Lee and have contributed to the apparent, false, prestige of the PTO at the expense of Wyden. The Current Commissioner has been helping to set the record straight, for which Wyden expresses his gratitude to the current Commissioner.

d4. Extortion - since Wyden accepted his suspension but the suspension was not sought by the PTO as an ordinary discipline matter, the suspension was, in fact, extorted from Wyden. RICO.

e. Intentional Tort:

Since the PTO asserted in C.A.80-2581 that it was the intention of the PTO to extend the suspension by requiring an examination and such authority originated in 1985, then any harm befalling Wyden which resulted from the events that led to the suspension and which continue today are an intentional tort by the PTO on Wyden. The suspension was not ordinary discipline. Therefore, the PTO is liable for the resulting damages to Wyden.

f. Libel: the intentional misrepresentations have harmed Wyden and relief should be granted for the damage resulting from the damage to Wyden's reputation.

The Damages

1. Medical and emotional damages.

a. The actual medical expenses caused by the trauma of

this problem over eight (8) years is small.

b. The physical discomfort and medical damage was real. Some relief should be provided.

2. Time and energy lost to this problem: virtually all my time and energy has been devoted to this problem for the last eight years. What this means is that even when otherwise occupied, my mind usually worked on this. And I was always ready to stop other activities and work on this problem of necessity. Some relief should be provided.

3. Teaching:

The PTO has insisted on knowing how RLO operated and that Wyden teach the PTO. If Wyden has taught the PTO this, Wyden would appreciate consideration for this teaching assignment which is outside his responsibilities as a Patent Agent or former Patent Agent.

4. Loss of Business:

Since the PTO took no action regarding RLO, I had to withdraw from my clients associated with RLO upon reading the findings of facts of the FTC decision on RLO. Therefore, Wyden requests compensation for the value of the business lost, as valued by RLO. This is because RLO produced virtually no income (9 or 3 licenses in 30,000 cases) according to the FTC and not challenged by RLO in the decision. Further, RLO competed for my going out of business instead of protecting their rights when I withdrew from representing my clients who were associated

with RLO. And, finally, because they relied on the resignation - by leave of the PTO - silence of the PTO to support their "business". It is not clear that RLO could have survived without PTO acquiescence. Wyden handled 1,100 applications in this category.

5. Antitrust profit to RLO.

The RLO comingled patent prosecution fees from Wyden and competed with Wyden for his business when Wyden was withdrawing from his inventor-clients associated with RLO. This is a third party (RLO) receiving second party money and the second party (Wyden) does not acquiesce.

Comingling and spending Wyden's Patent prosecution fees means that RLO considers Wyden's money RLO's money. And the PTO holds Wyden responsible for RLO. Therefore, Wyden holds the PTO responsible for the profits which RLO received for which the PTO punished me instead of RLO.

6. RICO.

The PTO supported the RLO and Raymond Lee in a deceptive manner and punished me in a deceptive manner and these deceptions profited RLO and RLO spent patent prosecution money with the acquiescence (silence) of the PTO. Therefore, Wyden requests RICO damages for the profits RLO obtained with PTO acquiescence and for which the PTO punished Wyden.

7. RLO, according to contracts in the records of the PTO, valued his efforts at approximately $2,000 per invention plus an

assignment of a minority interest in the invention. The inventor could repurchase the assignment for approximately $1,000. Therefore, RLO valued his efforts, supported by PTO acquiescence, at approximately $3,000 per invention for approximately 30,000 inventions over 20 years, approximately.

The arithmetic is staggering. Calculations will be provided in my final brief with suggestions for mitigating the burden on my government.

8. If Wyden has taught the PTO how RLO operated as required by the PTO, then Wyden is entitled to compensation for representing himself, also. How to do that is a problem.

Summary

The United States Patent and Trademark Office acquired a responsibility approximately thirty years ago without being aware of the liability, to the best of Wyden's knowledge.

In the intervening years, it has been the position of the PTO that the responsibility does not exist, except that in 1985 a rule was established indicating awareness that something was wrong. (Disciplinary Rule1,Misconduct (R).) 37 CFR 10.23(17)

Raymond Lee was an Examiner and a Patent Agent and an attorney. He apparently resigned as a Patent Agent - Patent Attorney without indicating to the PTO that he was resigning in order to conduct a business which appeared to sell inventions but, in fact, in part competed with Wyden for his patent practice and retained and spent some of Wyden's patent prosecution fees.

The PTO precipitated harm to Wyden by pressing him to "stop working for RLO", meaning to withdraw from his clients associated with RLO, and saying nothing to Raymond Lee or RLO, that Wyden knows of. This led to Wyden giving up his practice.

The PTO further compounded this harm by creating a special suspension of indeterminate length in 1978 and then authorizing such suspensions in 1985. 37 CFR 10.160

Respectfully submitted ,

December 7, 1985
Dated

Stephen Wyden

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cc: As per prior
Court Correspondence