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Discretion to Institute Trials Before the Patent Trial and Appeal Board

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Comment from Ray Perkins

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General Comment

Those of us who have chosen to comment are reliant on the USPTO following what our representatives in Congress, said would happen when the people's representatives chose to implement the AIA. The Director was to make rules for trial implementation ... and that has not happened.

Big Tech and Big Pharma use the PTAB process to disincentivize and disenfranchise American Inventors and Small business by using Shadow courts and branding phrases like "Patent Troll" for their own purposes. The fact is "Patent Trolls" is a much more appropriate term applied to those using the PTAB process to invalidate disruptive patents.

The "market" or Cultural adjustment is occurring right now in the form of patenting in other countries, less job creation, a lost generation of inventors, higher prices and more control by Big Tech.

The Unintended Consequences of the AIA are caused primarily by the lack of rules for implementation of trials that Congress said will be part of this process. Without rules, interpretation by a Shadow Court (PTAB) feeds a corrupt process.

While I acknowledge the incorrect venue for a specific review, I work closely with many inventors, and can without hesitation state the EWRD case is only one of thousands.

Specifically, EWRD invented a delivery system that makes Nitrogen (UREA) Fertilizer more efficient and less is lost to the environment.

The Eco World R&D case is a perfect “for instance”. In his August 18, 2020 memo the Director specifically stated (with emphasis added), an Inter Partes review may request can only be implemented “on the basis of prior art consisting of patents or printed publications.” Yet a mere cursory review of this specific case shows that the IRP was implemented based on prior art published more than 6 months AFTER the Eco World provisional was duly recorded.

But the real story is not in the numbers or the bonuses paid to lawyers in robes, Shadow Courts, or Shadow Court’s overturning Disruptive patents on behalf of Patent Trolls such as Apple and Google.

The real story is good people pursuing good inventions for a greater good that are never fully utilized because of the unintended consequences that this lack of rules and the AIA have caused. The real story is a complex system with unintended consequences that is killing the American dream and American Innovation.

The real Story is Gene Luoma an inventor from Minnesota who worked his entire life with Multiple Sclerosis to solve problems so he could hunt and help around the farm, it is Mike Kintner who hit the road with his family to make a business now facing certain hardship, it is Patrick Buckley, it is Steven LaBouf, it is thousands of inventors with horrific Shadow Court Experiences.

The real story is Thousands of Tons of Nitrogen causing Red Tides and Algae Blooms. As that happens these large corporations such as a Large Billion Dollar Belgian company make lots of money.....and they have ZERO interest in efficiency leading to a cleaner environment. The real Story is EWRD’s story.

The net results are that we small inventors are faced with expensive trials in front of a Shadow Court with no rules, Americans have more algae blooms and Red Tides, and our disruptive Patents are put on a shelf to never see the light of day. American Small jobs are lost (24 employees to 4 in EWRD case), new inventors are disincentivized, those with entrepreneurial and Inventorship experience don’t give two hoots any longer and stop inventing, Americans pay inflated prices for their Corn Flakes and ethanol enriched fuels....and Big Tech cashes a Billion-dollar checks while paying ad agencies millions to imprint “strong patent system” and “small guys are patent trolls”. Wash, rinse, repeat.....

This comment section was to be about the effect lack of rules has on Predictability, Multiple Petitions, Proceedings and other tribunals, Privy, and Economic Impact. You have 700 comments on that.....this comment is about the effect of a lack of rules on a common representative inventor.

I am somewhat representative of the typical American Inventor...and I just don’t care to invent anymore. I don’t care to support inventors in youth programs because I know that corruption,

Shadow Courts and an 84% invalidity “decision” rate is their future and not the excitement I had back in the day of solving big problems with creative solutions.

The only thing that can truly reignite a fire in American Small Inventors and reignite the flame of small business growth based on creative solutions is rules. Personally, I don't give a rat's posterior what those rules are, as long as we have a set of rules that we all have to play by.

Now it is up to people to set a path for a large part of the American Dream and the future of our country being either setting a path tilted towards 'we the people' or continue with the current situation tilted toward 'Large Corporations' or level the playing field and make rules based on fairness and innovation where American wins.