



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

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OFFICE OF GENERAL COUNSEL

B-211986

June 21, 1984

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The Honorable Mark D. Siljander
Member, United States House
of Representatives
815 Main Street - Suite 3A
St. Joseph, Michigan 49085

Dear Mr. Siljander:

This is in response to a letter of May 13, 1983, from a member of your staff to the United States Court of Appeals for the Federal Circuit which referred it to this Office on May 24, 1983. The letter requests an opinion concerning a request by your constituent, Mr. Edward P. Roberts, that the United States Government pay his family for the use of a postage cancelling stamp patented by his ancestor. For the reasons stated below, it is our opinion that Mr. Roberts does not have a valid legal claim against the Government and that special legislation would not be appropriate.

According to the information provided by Mr. Roberts, his ancestor, F. G. Ransford (1815-87), along with others, purchased the rights to patent a postage cancelling stamp from the inventor, M. P. Norton, in 1859. Three patent letters were subsequently issued on the device, dated August 9, 1859, December 16, 1862, and April 14, 1863. Mr. Roberts asserts that the device has been in continuous use by the Government since 1863, but that the Government neither purchased the patents nor made any other payment to the owners of the patents for the use of the device.

My staff invested considerable time in studying this matter, which accounts for the delay in responding to the letter from your office. We found that over a 14-year period (from 1858 to 1892), the legal and equitable rights of the owners of the patents against the Government were constantly being litigated. (Copies of the relevant court decisions are enclosed for your information.) Without discussing the details of each judicial decision, I think it is fair to say that the merits of each contention by the complainants received a full and

thorough review in each forum, ranging from the Court of Claims to the Supreme Court itself. All the cases were decided against Mr. Roberts' predecessors.

We cannot recommend any further attempts to litigate these claims. The patents themselves expired in 1890, since patent letters are only valid for 17 years. See 35 U.S.C. § 154; Campbell v. Ward, 12 Fed. 150 (1882). Even the claims for compensation for use of the patented device arising before 1880 are now barred from suit by the statute of limitations in 28 U.S.C. § 1498(a).

The only remaining remedy to satisfy the claims of Mr. Roberts would be the enactment of special legislation. The letter to you appears to be a request for support in Mr. Roberts' renewed effort to obtain such legislation. We note that the predecessors of Mr. Roberts have already attempted, unsuccessfully, to seek special legislation. House and Senate bills were introduced in 1935, but they were never enacted. See S. 755, 74th Cong., 1st Sess. (1935); H.R. 847, 74th Cong., 1st Sess. (1935).

Although your staff member's inquiry did not specifically request our views on the enactment of special relief legislation for Mr. Roberts, we would be inclined to recommend against it. These claims do not appear to present any unusual elements of egregious inequity. They have been consistently rejected by the courts on legal and equitable grounds and have been stale for over 100 years. We therefore believe that enactment of special relief legislation would constitute unwarranted preferential treatment.

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel

Enclosures