

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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PAUL-FRANCESCO: VILLELLA,

Plaintiff,

v.

DALE A. HALL, RONALD PEDRYS,  
STEVEN C. DORRANCE, MOLLY  
E. GALEWYRICK, TIMOTHY MOORE,  
KAREN R. SMITH, MARK DREW BILLER,  
CINDY MOORE, ROBERT H. RASMUSSEN  
and JAMES R. ERICKSON,

Defendants.  
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ORDER

03-C-35-C

Plaintiff Paul-Francesco: Villella filed this action on January 21, 2002, and paid the filing fee. Pursuant to Fed. R. Civ. P. 12(h)(3), I have reviewed plaintiff's complaint to determine whether this court has subject matter jurisdiction. From the complaint, I understand plaintiff to be alleging the following facts.

ALLEGATIONS OF FACT

Plaintiff resides at 7507 Woodland Estates Road, Siren, Wisconsin. Defendants are

“public servants” in Balsam Lake and Amery, Wisconsin. Plaintiff is the heir to a patent for 34 acres of property granted to William J. Starr and his heirs and assigns. The defendants are infringing on plaintiff’s patent by trespassing. In addition they have interfered with plaintiff’s ability to exercise his patent rights by charging him with misdemeanor battery and “resisting/obstruction” in the Polk County Circuit Court.

## OPINION

Federal courts can hear only those cases that Congress empowers them to hear. Generally, federal courts have the power to hear two types of cases: (1) cases in which the plaintiff alleges a violation of his or her constitutional rights or rights established under federal law and (2) cases in which a citizen of one state alleges a violation of his or her rights established under state law by a citizen of another state and the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1331-32. Plaintiff’s “patent” claim does not fall into either category. 35 U.S.C. § 271(b) prohibits infringement of patented inventions, but plaintiff is not alleging that he has such a patent. His contention is that he has inherited a “land patent” that protects him against trespassers and prosecutions in a state circuit court. This assertion is “so insubstantial, implausible, foreclosed by prior decisions of [the United States Supreme Court], or otherwise completely devoid of merit as not to involve a federal controversy.” Steel Company v. Citizens for a Better Environment, 523 U.S. 83 (1998)

(quoting Oneida Indian Nation of New York v. County of Oneida, 414 U.S. 662, 666 (1974)). Because plaintiff's complaint contains no allegations of fact supporting his belief that defendants have violated his rights under federal or state law, petitioner has failed to show that there is a "case or controversy" between himself and the defendants within the meaning of Article III of the Constitution. Accordingly, this case will be dismissed on the court's own motion for lack of jurisdiction.

ORDER

IT IS ORDERED that plaintiff Paul-Francesco Vilella's action is DISMISSED on the court's own motion for lack of subject matter jurisdiction. The Clerk of Court is directed to enter judgment dismissing the case.

Entered this 7th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge