UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of	)
	)
CHRISTOPHER H. LYNT	)
	) **Proceeding No.: D05-08**
Respondent.	)
	)

FINAL ORDER

The Director of Enrollment and Discipline (OED Director) of the United States Patent and Trademark Office (USPTO) and Christopher H. Lynt, Respondent, USPTO registration No. 33,619, have submitted a settlement agreement in the above proceeding. In order to avoid the necessity of an oral hearing, Respondent and the OED Director have agreed to certain stipulated facts, legal conclusions, and discipline.

JURISDICTION

At all times relevant hereto, Respondent has been a patent attorney registered to practice before the USPTO, Registration No. 33,619, and is subject to the USPTO Code of Professional Responsibility Disciplinary Rules (Disciplinary Rules, found in 37 C.F.R., Part 10. This Tribunal has jurisdiction over this proceeding under 35 U.S.C. ' 2(b)(2)(D) and 32, and 37 C.F.R. 10.132 and 10.139.

STIPULATED FACTS

1. Respondent has been registered as a patent attorney with the USPTO since on or about September 22, 1989 with Registration No. 33,619.

2. Respondent was admitted to the Bar of the Commonwealth of Virginia on or about April 22, 1990.

3. In 1995, Respondent represented Raymund Eisele who was also the chairman of the SmartDiskette GmbH Corporation. Respondent was retained by Mr. Eisele to prepare a patent application pertaining to a hand-held device which communicated with a “smart” diskette, which is a form of a floppy disk with built-in-electronics.

4. Respondent incorporated his own ideas into the patent application that he was preparing on behalf of his client. Respondent filed a patent application incorporating an electronic camera, Respondent's idea, into Mr. Eisele's hand-held device. No claims were directed to a camera. Respondent did not list himself as a co-inventor, or expressly discuss with Mr. Eisele prior to filing the application that the camera was added to the application. The application was assigned application No. 08/514,382 (>382 application).

5. Respondent subsequently prepared a second patent application which was related to the >382 application. No claims were directed to a camera. Respondent did not list himself as a co-inventor. The second application was assigned application No. 08/867,496 ('496 application).

6. In 1998, Respondent amended the >496 application to claim the camera.

7. In 1997, Mr. Eisele's firm was acquired by SmartDisk Corporation. As part of an effort to consolidate patent work, Mr. Eisele discharged Respondent as his patent attorney in May of 1999 and utilized the legal services new patent attorneys. Respondent transferred Mr. Eisele's files to the new patent attorneys who amended the '496 application to delete the camera feature from the claims.

8. On June 4, 1999, without authorization from Mr. Eisele, Respondent filed another patent application related to the subject matter in the '382 application. Claims in this application were directed to Respondent's camera idea. Respondent listed himself as a co-inventor along with Mr. Eisele. The application was accompanied by a transmittal letter stating that "A Declaration signed by the inventor(s) and the filing fee will be submitted in due course"; and requested that "all communications" be addressed to the Respondent at his home office. The application was assigned No. 09/325,392 ("392 application).

9. On June 4, 1999, Respondent was not Mr. Eisele's attorney, and had not been Mr. Eisele's attorney since earlier that year.

10. While reviewing the files provided to his new attorneys, Mr. Eisele learned of the '392 application. Mr. Eisele, requested that Respondent assign any rights that Respondent might have in the '392 application to the assignee of Mr. Eisele, SmartDisk Corporation.

11. Respondent, through counsel, demanded $2,600,000.00, plus royalties of 10% in exchange for the assignment. A civil suit was filed on August 4, 1999. A week before trial, the parties entered a settlement agreement whereby Respondent assigned his interests in pending applications containing the camera idea for dismissal of the suit with prejudice and payment of Respondent's attorney's fees,

expenses, and costs in the amount of $30,000.

12. On March 26, 2004, the Virginia State Bar Association charged Respondent with, among other things, violation of DR4-101.

DR4-101. Preservation of Confidences and Secrets of a Client.

(1) "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(2) Except as provided by DR4-101(C) and (D), a lawyer shall not knowingly:

(2) Use a confidence or secret of his client to the disadvantage of the client.

(3) Use a confidence or secret of his client for the advantage of himself or a third person, unless the client consents after full disclosure.

13. On September 10, 2004, in a Final Order of Suspension, the Circuit Court for the City of Alexandria found that Respondent violated Virginia code of Professional Responsibility DR4-101. As a result, Respondent was suspended from the practice of law in the Commonwealth of Virginia for a period of two years.

LEGAL CONCLUSIONS

14. Based upon the foregoing stipulated facts, Respondent agreed that his conduct violated 37 C.F.R. ' 10.23(c)(5) of the USPTO Disciplinary Rules of Professional Conduct, in that Respondent was suspended from practice as an attorney on ethical grounds by the Commonwealth of Virginia.

DISCIPLINE

15. Respondent agreed, and it is ordered that:

a. Respondent be suspended for two (2) years from practice of patent, trademark, and other non-patent law before the USPTO starting from September 10, 2004.

b. The OED Director will publish the following Notice in the Official Gazette:

Notice of Suspension

Christopher H. Lynt, of Alexandria, VA, a patent attorney, Registration No. 33,619. In settlement of a reciprocal matter from Virginia, the USPTO Director suspended Mr. Lynt for two years, starting from September 10, 2004, from practice before the USPTO in patent, trademark, and other non-patent law cases. This action by the USPTO Director is taken pursuant to the provisions of 35 U.S.C. ' 32, and 37 C.F.R. ' 10.133(g).

c. Within 30 days of the execution of a Final Order, Respondent shall, in accordance with 37 C.F.R. § 10.158(b)(2), surrender each client's active USPTO case file(s) to (1) each client or (2) another practitioner designated by each client, and shall file proof thereof with the OED Director within the same 30 day period.

d. During the period Respondent is suspended any communication relating to a client matter that is addressed to Respondent and/or received by him shall be immediately forwarded to the client or the practitioner designated by the client, and that Respondent will take no other legal action in the matter, enter any appearance, or provide any legal advice concerning the matter that is the subject of the communication, all in accordance with 37 C.F.R. §§ 10.158(a), (b)(2), (b)(6).

e. Within 30 days of the execution of a Final Order, Respondent shall, in accordance with 37 C.F.R. §§ 10.158(b)(8), 10.160(d), return to any client having immediate or prospective business before the Office any unearned legal funds, including any unearned retainer fee, and any securities and property of the client, and shall file a proof thereof with the OED Director no later than filing his petition for reinstatement.

f. Upon the execution of a Final Order, Respondent shall promptly take steps to comply with the provisions of 37 C.F.R. § 10.158(b)(3), (b)(4), (b)(5), (b)(6), and (b)(7), and further, within 30 days of taking steps to comply with § 10.158(b)(4) Respondent shall file with the OED Director an affidavit describing the precise nature of the steps taken, and still further directing that Respondent shall submit proof of compliance with §§ 10.158(b)(3), (b)(5), (b)(6), and (b)(7) with the OED Director upon filing a petition for reinstatement under 37 C.F.R. § 10.160.

g. Upon the execution of a Final Order, Respondent shall promptly take steps to fully comply with the provisions of 37 C.F.R. §§ 10.158(c) and (d).

RESPONDENT'S STIPULATION

16. Respondent agreed that hereinafter he will not be named as an inventor or co-inventor in any patent application based on a client=s invention unless the client gives informed consent, confirmed in writing by the client, and he otherwise fully complies with all applicable ethics rules.

REINSTATEMENT

17. Following the suspension for two (2) years in compliance with the foregoing provisions, Respondent may apply to be reinstated to practice effective upon filing a petition for reinstatement and accompanying affidavit showing compliance with the following conditions:

    a. Respondent demonstrates full compliance with 37 C.F.R. §§ 10.158 and 10.160, and

    b. Respondent acknowledges that, if and when he applied for reinstatement under 37 C.F.R. § 10.160, the OED Director will conclusively presume, for limited purpose of determining the application for reinstatement, that the stipulated facts are true, and that Respondent could not have successfully defended himself against the legal conclusions stemming from the stipulated facts.

_____ _____

Date

James A. Toupin
General Counsel
United States Patent and Trademark Office
on behalf of
Jon W. Dudas
Under Secretary of Commerce For
Intellectual Property and Director of the
United States Patent and Trademark Office

cc: Harry I. Moatz
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