

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

**In the Matter of:** )

**Thomas Michael Fisher,** )

**Respondent** )

**Proceeding No. D09-01** )

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**Decision on Request  
for Reconsideration of  
Final Order Under  
37 C.F.R. § 11.24**

This Per Curiam Order responds to the Request for Reconsideration<sup>1</sup> of Thomas Michael Fisher (Respondent), dated April 28, 2009, requesting 1) a stay of the Final Order Under 37 C.F.R. § 11.24 dated April 23, 2009 (Final Order) and 2) modification of the penalty set forth in the Final Order downgrading Respondent's status before the United States Patent and Trademark Office (USPTO or Office) patent bar from patent attorney to patent agent instead of the imposition of a six-month suspension from the patent bar in view of errors made in the Final Order. The Request for Reconsideration also requests the correction of three occurrences of an error made on page 15 of the Final Order.

In his Request for Reconsideration, Respondent argues that the Office should take into account an order issued in Nevada in 2007 to seal his records. As explained herein, Respondent's argument does not provide sufficient basis for granting the relief he seeks.

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<sup>1</sup> Respondent requested reconsideration under 37 C.F.R. § 11.56(c). However, 37 C.F.R. § 11.56(c) is not applicable to reciprocal discipline hearings under 37 C.F.R. § 11.24. Instead, the request is being considered under the USPTO Director's plenary authority.

The 2007 order could not have affected the state of mind of the Respondent or the legal consequences of the pardon at the time he filled out his bar application in 2000, legal consequences that he as an attorney should have understood. Neither could the 2007 seal order affect the separate events that occurred in California. Therefore, Respondent's argument is irrelevant to the basis for the decision sought to be reconsidered. Accordingly, Respondent's request for relief is properly denied.

In his Request for Reconsideration, however, Respondent correctly points out that the middle paragraph on page 15 of the Final Order inappropriately indicates that Respondent was "disbarred" in Missouri when in fact he was only suspended. Accordingly, with regard to page 15 of the Final Order, the occurrence of the word "disbarred" in line 12 should instead read "suspended" and the occurrences of the word "disbarment" in lines 12 and 14 should instead read "suspension".

During a telephone conversation with an Office employee on May 4, 2009, it was agreed that if the decision to impose a 6-month suspension was maintained the effective date of the 6-month suspension period would be reset to commence as of the date of an order issued in response to his Request for Reconsideration.

#### **ORDER**

Respondent's requests for 1) a stay of the Final Order Under 37 C.F.R. § 11.24 dated April 23, 2009 (Final Order) and 2) modification of the penalty set forth in the Final Order downgrading Respondent's status before the United States Patent and Trademark Office (USPTO or Office) patent bar from patent attorney to patent agent instead of the imposition of a six-month suspension from the patent bar are **DENIED**.

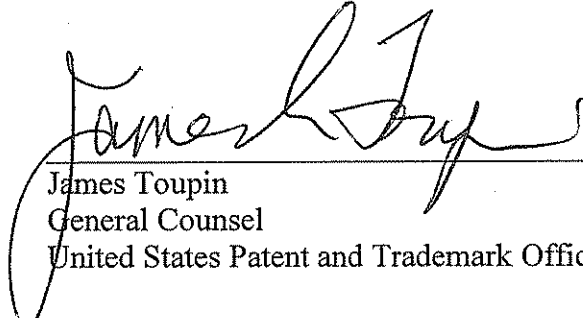
Per agreement, the effective commencement date for the six-month suspension period (as well as Respondent's responsibility to comply with his duties under 37 C.F.R. § 11.58 and 11.60 as set out in the Final Order of April 23, 2009) is hereby reset to the date of this Order indicated below.

Respondent's request that, on page 15 of the Final Order, 1) the occurrence of the word "disbarred" in line 12 be amended to instead read "suspended" and 2) the occurrences of the word "disbarment" in lines 12 and 14 be amended to instead read "suspension" is **GRANTED**. Errata making those amendments are attached hereto.

[signature page follows]

MAY 7 2009

Date

  
James Toupin  
General Counsel  
United States Patent and Trademark Office

on behalf of

John Doll  
Acting Under Secretary of Commerce for  
Intellectual Property and Acting Director of the  
United States Patent and Trademark Office


### CERTIFICATE OF SERVICE

I certify that the foregoing Decision on Request for Reconsideration of the Final Order Under 37 C.F.R. § 11.24 was mailed first class certified mail, return receipt requested, this day to the Respondent at the following address provided to OED pursuant to 37 C.F.R. § 11.11:

Thomas Michael Fisher  
700 6<sup>th</sup> St. N.W.  
Hickory, NC 28601

MAY 7 2009

Date

  
United States Patent and Trademark Office  
P.O. Box 15667  
Arlington, VA 22215

**Errata for**

**Final Order Under 37 C.F.R. § 11.24 of**

**The Acting Director of the United States Patent and Trademark Office**

The following are corrections to the Final Order Under 37 C.F.R. § 11.24 dated April 23, 2009, in the matter of Thomas Michael Fisher, Proceeding No. D09-01:

Page 15, line 12:

Change “disbarred” to “suspended”.

Change “disbarment” to “suspension”.

Page 15, line 14:

Change “disbarment” to “suspension”.