

certify that each and every statement or representation is true and correct.² In response to a question regarding whether petitioner was delinquent on any State or Federal debt, including delinquencies arising from Federal or State taxes, loans, overpayment of benefits, and other debts to the U.S. Government and defaults on Federally guaranteed or insured loans such as student loans and home mortgage loans, petitioner answered “no” on the first, second, third, fourth and fifth applications. For his sixth, seventh, eighth, ninth, and tenth applications, he responded “yes” to the question regarding delinquencies, but did not offer or provide any additional information.³

After several correspondences and inquiries from the OED, OED issued a June 24, 2009, Show Cause Requirement, requiring Applicant to show cause as to whether there are any impediments to concluding that Applicant is of good moral character and reputation. The Show Cause Requirement set forth, among other things, questions about Petitioner’s financial responsibility, his candor, and whether he had satisfactorily established that he presently possesses the good moral character and reputation required to represent applicants for patents. Petitioner timely responded to the Show Cause Requirement on August 24, 2009. The OED considered all of Petitioner’s application(s), statements, materials, and responses, and issued the Final Decision on October 20, 2009, finding that Petitioner has failed to meet his burden of establishing that he currently possesses the good moral character and reputation as required by 37 C.F.R.

§ 11.7(a)(2)(i). The Final Decision states that Petitioner “may seek review of this

² The application requires applicants to certify that “upon the basis of the foregoing information and any attached documents, I hereby apply for registration to practice before the U.S. Patent and Trademark Office. I certify that each and every statement or representation in this application is true and correct. (*A willfully false statement or certification is a criminal offense and is punishable by law [18 U.S.C. § 1001]*).”

³ In the eighth, ninth, and tenth applications, not only did Petitioner fail to provide additional information, but he also failed to disclose that at the time of his certification, he was delinquent on both his Federal and State taxes.

decision by filing a petition to the USPTO Director pursuant to 37 C.F.R. § 11.2(d) within sixty (60) days after the date of this decision”.⁴ Petitioner filed the present petition pursuant to 37 C.F.R. § 11.2(d) (Present Petition) on December 24, 2009.⁵ The Present Petition was accompanied by a check for the \$130 fee required pursuant to 37 C.F.R. §§ 11.2(d) and 1.21(a)(5)(ii) (petition fee). However, on January 11, 2010, the check was returned to the USPTO along with a notice that the bank could not locate the account upon which the check was drawn. As of the date of this decision, Petitioner has not paid the petition fee.

II. LEGAL STANDARDS

The Director of the USPTO requires agents, attorneys, or other persons being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation prior to registration. 35 U.S.C. § 2(b)(2)(D); 37 C.F.R. § 11.7(a)(2)(i).

The OED Director receives and acts on applications for registration, including investigations into moral character and reputation. 37 C.F.R. §§ 11.2(b)(2)-(b)(3).

An individual dissatisfied with the OED Director’s final decision may petition the USPTO Director for review. 37 C.F.R. § 11.2(d). The petition *must* be accompanied by payment of the requisite petition fee.

⁴ Final Decision at 16.

⁵ While the Present Petition was mailed via Priority Mail on December 21, 2009, the Present Petition was not received by the USPTO until December 24, 2009. As petitioner did not utilize either of the procedures set out in 37 C.F.R. §§ 1.8 or 1.10, the filing date of the Present Petition is the date of the receipt at the USPTO, that is: December 24, 2009.

III. ANALYSIS AND OPINION

A petition for review of a Final Decision of the OED Director is required to be accompanied by a petition fee.⁶ Further, 37 C.F.R. § 1.22 (a) states that fees are required to be paid in advance, i.e., at the time of requesting any action by the Office. On December 24, 2009, Petitioner filed his Present Petition and enclosed a check for the petition fee. However, on January 11, 2010, the USPTO received notice that the bank could not locate the account upon which the check was drawn, and returned the check to the USPTO. Since, as of the date of this decision, Petitioner has not paid the requisite petition fee,⁷ Petitioner has not satisfied the requirements for filing a petition for review under 37 C.F.R. §11.2(d). Accordingly, his Present Petition is incomplete and should appropriately be dismissed as such.⁸

IV. CONCLUSION

For the foregoing reasons, the Present Petition is **DISMISSED** as being incomplete for lack of payment of the requisite petition fee.⁹

⁶ 37 C.F.R. §§ 11.2(d) and 1.21(a)(5)(ii).

⁷ *Id.*

⁸ See Moral_14 (February 13, 2009) (OED Reading Room). Moral_14 is accessible at the following web address: http://des.uspto.gov/Foia/ReterivePdf?system=OED&flNm=0548_MOR_2009-02-13

⁹ 37 C.F.R. §§ 11.2(d) and 1.21(a)(5)(ii).

CERTIFICATE OF SERVICE

I hereby certify that forgoing MEMORANDUM AND ORDER was mailed first class certified mail, return receipt requested, this day to the Respondent at the following address:

Dated: MAR 26 2010


United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

ORDER

Upon consideration of the Petitioner's Present Petition for review of the OED Director's Final Decision pursuant to 37 CFR § 11.2(d), it is **ORDERED** that the Petition is **DISMISSED**.

On behalf of the Under Secretary of
Commerce for Intellectual Property and
Director of the United States Patent and
Trademark Office

MAR 26 2010

Date



Raymond T. Chen
Acting General Counsel
United States Patent and Trademark Office

cc:

Director
Office of Enrollment and Discipline
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