

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

In the Matter of)	
)	
Peter J. Manghera,)	Proceeding No. D2009-43
)	
Respondent)	
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Final Order

Office of Enrollment and Discipline Director Harry I. Moatz (“OED Director”) and Peter J. Manghera (“Respondent”) have submitted a Proposed Settlement Agreement to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (“USPTO Director”) or his designate for approval.

The OED Director and Respondent’s Proposed Settlement Agreement sets forth certain stipulated facts, legal conclusions, and sanctions to which the OED Director and Respondent have agreed in order to resolve voluntarily a disciplinary complaint against Respondent. The Proposed Settlement Agreement, which satisfies the requirements of 37 C.F.R. § 11.26, resolves all disciplinary action by the United States Patent and Trademark Office (“USPTO” or “Office”) arising from the stipulated facts set forth below.

Pursuant to such Proposed Settlement Agreement, this Final Order sets forth the parties’ stipulated facts, legal conclusions, and agreed upon discipline.

Jurisdiction

At all times relevant hereto, Respondent of Dallas, Texas, has been an attorney registered to practice before the United States Patent and Trademark Office (“USPTO” or “Office”) and is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.*

The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.20, 11.26 and 11.59

Stipulated Facts

1. Respondent of Dallas, Texas, is an attorney registered to practice patent law before the Office (Registration Number 40,080) and is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.*

Neglect of Matters Entrusted to Respondent by Two Corporate Clients

2. From 1998 through February 2008, Respondent represented two closely related corporate clients and provided valuable patent law services for them.

3. Over time, Respondent's pending work load for those clients became quite large such that Respondent prepared and updated spreadsheets (i.e., status charts) that listed all of their patents and pending patent applications. Respondent knew that the clients relied on Respondent's updating of the spreadsheets to keep them apprised of the status of their patents and pending patent applications.

4. As Respondent's work load for the clients continued to increase, he was unable to handle all of their patent law work. Respondent, however, was embarrassed and ashamed to admit to the clients that he was falling behind on their work. Therefore, Respondent placed false information in the spreadsheets to conceal the truth from them.

5. Specifically, Respondent admits that his updates to the spreadsheets contained the following misrepresentations:

a. Respondent represented that a European Patent Office application was pending and awaiting an office action when he knew that the application had become abandoned in March 2007 for failure to respond to a September 2006 office action;

b. Respondent represented that a European Patent Office application was pending and awaiting an office action when he knew that the application had become abandoned in October 2006 for failure to respond to an April 2006 office action;

c. Respondent represented that a Canadian Patent Office application was pending and awaiting an office action when he knew that the application had become abandoned in February 2007 for failure to respond to an August 2005 office action;

d. Respondent represented that a Mexican Patent Office application was pending and awaiting an office action when he knew that the application had become abandoned in January 2007 for failure to respond to an October 2006 office action;

e. Respondent represented that six patent applications were pending in the USPTO when he knew that the applications had never been filed and that the serial numbers provided to the clients were fabricated; and

f. Respondent represented that he had made special a USPTO patent application when he knew he had not done so.

6. Respondent believes that the foreign patent applications mentioned in the preceding subparagraphs were unlikely to have patents issued due to "non-statutory subject matter" or similar non-final rejections, and he would have recommended not pursuing the applications had he consulted with the clients. Nevertheless, Respondent admits and recognizes that his misleading of the clients was wrong.

Respondent's Time Sheet Entries and Billing Sent to Two Corporate Clients

7. Respondent's work on patent applications for the two corporate clients would often take two or more months to complete.

8. From January 2005 through April 2007, Respondent submitted his timesheets to his firm's billing office that reflected time spent working for the two corporate clients on applications for which filing deadlines were eventually missed. In particular, thirty-three (33) entries on seventeen (17) invoices totaling sixty thousand, eight hundred and twenty-five dollars (\$60,825.00) were billed to the clients for work that Respondent represents he had performed but for which the clients ultimately did not receive full value due to Respondent's subsequent failure to file the applications.

9. On a number of occasions, Respondent submitted false timesheet entries to his firm's billing office indicating that he had performed tasks or done work that had not been performed. Respondent represents that he endeavored to eliminate any such false entries prior to final bills going to the clients so they would not be charged for work not performed.

10. Respondent represents he was not motivated by personal financial gain in connection with the false timesheet entries or billings to clients. Respondent also represents that he did not personally gain financially as the result of the false billings in so far as his base annual salary remained constant and he did not receive performance bonuses to which he might otherwise have been entitled had he reached a certain billing level.

11. Respondent's former firm has made full restitution to the clients for all bills relating to Respondent not having filed the applications.

Two Additional Clients

12. Respondent made misrepresentations about the status of pending patent applications to two more clients.

13. In both cases, Respondent told the client that he had filed a patent application when he knew he had not done so.

14. In one case, Respondent failed to file a provisional application in the USPTO even though the application was substantially complete and needed only to be placed in final form and filed.

Additional Information

15. When Respondent was confronted by the principals of the firm where he was employed when his misrepresentations to the clients were uncovered, Respondent admitted his wrongdoing.

16. Respondent was discharged from employment by the firm where he was employed after he admitted making misrepresentations to the clients. Respondent was subsequently hired by another law firm.

17. The Wisconsin Office of Lawyer Regulation proposed, and Respondent agreed to, a public reprimand for Respondent's misconduct.

18. When Respondent notified the law firm where he was employed at the time that he had agreed to a public reprimand, he was discharged by that firm.

19. Respondent was unemployed for approximately four months following his second termination of employment. His income from the practice of law was less than one thousand dollars (\$1,000) during his four months of unemployment.

20. Respondent moved his family from Wisconsin to Texas in order to secure employment as a patent practitioner with a Texas firm.

21. Principals of the Texas firm employed Respondent with full knowledge of Respondent's misrepresentations and disciplinary history. As of the date of this proposed settlement agreement, Respondent is still employed by the Texas firm.

22. Principals of the Texas firm where Respondent is employed have provided favorable statements to the USPTO about Respondent's candor, contrition, work ethic, communication with firm clients, and his handling of projects without missing deadlines.

23. Respondent represents that his income is significantly less at the Texas firm compared to his salary while employed in Wisconsin.

24. Respondent provided evidence sufficient to satisfy the OED Director that there was a nexus between Respondent's misconduct and an existing medical condition, namely: at all relevant times, Respondent was suffering from a clinically diagnosed condition that made it difficult for him to do the volume of work expected of him.

25. Respondent represents that he is truly remorseful for his neglect of client matters, for having concealed his conduct from his clients and firm, and for clients having been billed for work performed but which was of limited value to the clients because filing deadlines were not met.

Legal Conclusions

26. Based on the stipulated facts, Respondent acknowledges that his conduct violated 37 C.F.R. § 10.23(b)(4) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation and 37 C.F.R. § 10.77(c) by neglecting matters entrusted to him.

Sanction

27. Respondent agreed, and it is ORDERED that:

- a. Respondent is suspended for a period of twenty-four (24) months from the practice of patent, trademark, and non-patent law before the USPTO commencing on the date the Final Order is signed and that Respondent may seek reinstatement pursuant to subparagraph h., below;
- b. Respondent comply with 37 C.F.R. § 11.58;
- c. Respondent is granted limited recognition to practice before the Office beginning on the date the Final Order is signed and expiring thirty (30) days after the date the Final Order is signed for the sole purpose of facilitating Respondent's compliance with the provisions of 37 C.F.R. § 11.58(b);
- d. the USPTO promptly dissociate Respondent's name from all USPTO customer numbers and public key infrastructure ("PKI") certificates;
- e. Respondent not use any USPTO customer number or PKI certificate unless and until he is reinstated to practice before the USPTO;
- f. Respondent may not obtain a USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO;
- g. Respondent remain suspended from the practice of patent, trademark, and non-patent law before the USPTO until the OED Director grants a petition requesting Respondent's reinstatement based upon Respondent showing proof to the satisfaction of the OED Director, as required under 37 C.F.R. § 11.60(c), that: (1) of Respondent has the good moral character and reputation, competency, and learning in law required under 37 C.F.R. § 11.7 for admission, (2) the resumption of Respondent's practice before the Office will not be detrimental to the administration of justice or subversive to the public interest; and (3) Respondent has complied with the provisions of 37 C.F.R. § 11.58 for the full period of suspension;
- h. Respondent may not file a petition for reinstatement under 37 C.F.R. § 11.60 during the first ninety (90) days from the date the Final Order is signed, but, at any time after ninety (90) days from the date the Final Order is signed, Respondent may file a petition for reinstatement under 37 C.F.R. § 11.60 requesting reinstatement effective prior to the expiration of the 24-month period of suspension set forth in subparagraph a., above;

- i. nothing in the Proposed Settlement Agreement or Final Order shall be construed as prohibiting Respondent from requesting reinstatement pursuant 37 C.F.R. § 11.60 at any time after ninety (90) days from the date the Final Order is signed and, pursuant to such request, being reinstated prior to the expiration of the 24-month period of suspension set forth in subparagraph a., above;
- j. the OED Director shall stay any remaining period of suspension if the OED Director grants a petition requesting Respondent's immediate reinstatement and reinstates Respondent;
- k. (1) "remaining period of suspension" means Respondent's initial twenty-four (24) month suspension minus the period of time from the date the Final Order is signed until Respondent is reinstated;

and

(2) in the event that the Respondent is not reinstated after twenty-four (24) months from the date the Final Order is signed, there is no "remaining period of suspension";

- l. for the twenty-four (24) month period commencing on the date the Final Order is signed, Respondent, at his own expense: (a) remain under the care of a health care professional for the clinically diagnosed condition that made it difficult for him to do the volume of work expected of him and (b) obtain regular written reports from that health care professional indicating that Respondent is still under such care and is adhering to the health care regimen prescribed;
- m. the health care provider's written reports referenced in the preceding subparagraph be submitted to the OED Director every six (6) months with the submission of the first report due six (6) months from the date the Final Order is signed;
- n. (1) if the OED Director is of the opinion that Respondent, during the twenty-four (24) month period commencing on the date the Final Order is signed, failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(A) (i) if Respondent has not yet been reinstated: issue to Respondent an Order to Show Cause why the USPTO Director or his designate should not enter an order amending the Final Order such that Respondent is no longer eligible to file a request for reinstatement at any time after ninety (90) days from the date the Final Order is signed and, instead, must wait

an additional period of time up to twenty-four (24) months after the date the Final Order is signed to be eligible to request reinstatement, or

(ii) if Respondent has been reinstated and the OED Director has stayed the remaining period of suspension: issue to Respondent an Order to Show Cause why the USPTO Director or his designate should not enter an order lifting the stay of all or part of the remaining period of suspension and immediately suspend Respondent for all or part of the remaining period of suspension;

(B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11(a); and

(C) grant Respondent fifteen (15) days to respond to the Order to Show Cause;

and

(2) in the event after the 15-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during the twenty-four (24) month period commencing on the date the Final Order is signed, failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(A) deliver to the USPTO Director or his designate: (i) the Order to Show Cause, (ii) Respondent's response to the Order to Show Cause, if any, and (iii) evidence causing the OED Director to be of the opinion that Respondent, within twenty-four (24) months from the date the Final Order is signed, failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, and

(B) (i) if Respondent has not been reinstated: request that the USPTO Director or his designate enter an order amending the Final Order such that Respondent is no longer eligible to file a request for reinstatement at any time after ninety (90) days from the date the Final Order and, instead, must wait an additional period of time up to twenty-four (24) months after the date the Final Order is signed to be eligible to request reinstatement, or

(ii) if Respondent has been reinstated and the OED Director has stayed the remaining period of suspension: request that the USPTO Director or his designate enter an order lifting the stay of all or part of the

remaining period of suspension and immediately suspend Respondent for all or part of the remaining period of suspension;

- o. if Respondent is suspended pursuant to the provisions of subparagraph n., above:
 - (1) Respondent shall comply with 37 C.F.R. § 11.58;
 - (2) the OED Director shall disseminate information in accordance with 37 C.F.R. § 11.59;
 - (3) the USPTO shall promptly dissociate Respondent's name from all USPTO customer numbers and PKI certificates;
 - (4) Respondent shall not to use any USPTO customer number or PKI certificate unless and until he is reinstated to practice before the USPTO;
 - and
 - (5) Respondent may not obtain a USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO;
- p. nothing in the Proposed Settlement Agreement or the Final Order shall limit the number of times the OED Director or the USPTO Director may act pursuant to the provisions of subparagraph n., above, for acts and/or omissions occurring during the twenty-four (24) month period commencing on the date the Final Order is signed;
- q. in the event that the USPTO Director or his designate enters an order
 - (a) amending the Final Order such that Respondent must wait until the expiration of up to the entire period of suspension to seek reinstatement or
 - (b) lifting the stay of all or part of the remaining period of suspension and immediately suspending Respondent for all or part of the remaining period of suspension, and Respondent seeks a review of the USPTO Director's action, any such review shall not operate to postpone or otherwise hold in abeyance the Director's order;
- r. if Respondent is not suspended pursuant to the provisions of subparagraph n., above, for acts and/or omissions occurring during the twenty-four (24) month period commencing on the date the Final Order is signed, then Respondent is not required to serve the remaining period of suspension or any residual portion thereof;
- s. the OED Director publish the Final Order at the Office of Enrollment and Discipline's Reading Room electronically located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;

- t. the OED Director publish the following Notice of Suspension in the *Official Gazette*:

Notice of Suspension

Peter J. Manghera of Dallas, Texas registered patent attorney (Registration No. 40,080). Mr. Manghera has been suspended for twenty-four (24) months by the United States Patent and Trademark Office ("USPTO" or "Office") for violating 37 C.F.R. § 10.23(b)(4) by engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation and 37 C.F.R. § 10.77(c) by neglecting matters entrusted to him. Under the terms of the settlement agreement, Mr. Manghera is eligible to request reinstatement after serving ninety (90) days of his twenty-four (24) month suspension subject to certain conditions and, if reinstated, Mr. Manghera will be permitted to practice before the Office unless the stay of any remaining portion of his suspension is subsequently lifted.

Mr. Manghera represented several clients for whom he rendered valuable patent legal services over a lengthy period of time. As Mr. Manghera's work load for certain clients increased, however, he found himself unable to handle all of their demands for his services. Therefore, he provided the clients with false information about the status of certain patent applications rather than seeking assistance in keeping up with his workload. He also caused his firm to bill in excess of sixty thousand dollars (\$60,000) to certain clients for work he performed on applications that were ultimately not filed by Mr. Manghera. Mr. Manghera represents he was not motivated by personal financial gain in connection with actions and, in fact, did not personally gain financially from it. He represents that he is truly remorseful for his neglect of files, for having concealed his conduct from his clients and firm, and for clients having been billed for work performed but which was of limited value to the clients because he eventually failed to meet filing deadlines. Mr. Manghera's former firm has made full restitution to the clients for all bills relating to his not having filed the applications.

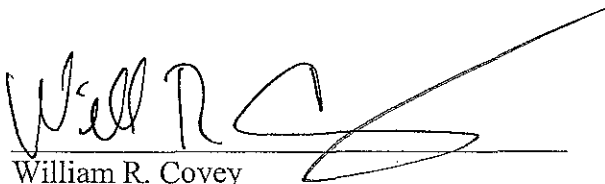
This action is taken pursuant to a settlement agreement between Mr. Manghera and the USPTO pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.26 and 11.59. Disciplinary decisions

regarding practitioners are posted at the Office of Enrollment and Discipline's Reading Room electronically located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

- u. pursuant to 37 C.F.R. § 11.59, the OED Director give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;
- v. nothing in the Proposed Settlement Agreement or the Final Order shall prevent the Office from seeking discipline against Respondent in accordance with the provisions of 37 C.F.R. §§ 11.34 through 11.57 for the misconduct upon which an Order to Show Cause is issued by the OED Director under subparagraph n., above;
- w. the record of this disciplinary proceeding, including the Final Order, be considered (1) when addressing any further complaint or evidence of the same or similar misconduct brought to the attention of the Office, and/or (2) in any future disciplinary proceeding (a) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (b) to rebut any statement or representation by or on Respondent's behalf; and
- x. the OED Director and Respondent bear their own costs incurred to date and in carrying out the terms of this agreement.

JUN 1 0 2010

Date



William R. Covey
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of United States Patent and Trademark Office

cc:

Harry I. Moatz
Director Office of Enrollment and Discipline
U.S. Patent and Trademark Office
Mail Stop OED
P.O. Box 1450
Alexandria, Virginia 22313-1450

Christopher T. Kolb
Halling & Cayo, S.C.
320 E. Buffalo St. #700
Milwaukee, WI 53202
Counsel for Respondent

Notice of Suspension

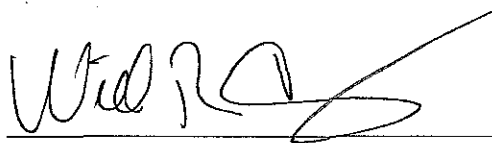
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This action is taken pursuant to a settlement agreement between Mr. Manghera and the USPTO pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.26 and 11.59. Disciplinary decisions regarding practitioners are posted at the Office of Enrollment and Discipline's Reading Room electronically located at:
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JUN 10 2010

Date



William R. Covey
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of United States Patent and Trademark Office