

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

In the Matter of)
)
Edward P. Black,)
)
Respondent)
)
)
)
_____)

Proceeding No. D2009-41

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24(d), Edward P. Black (Respondent) is hereby suspended for thirty-six (36) months from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office (USPTO or Office) and granted the right to seek reinstatement after serving twelve (12) months of his suspension. The suspension is based on Respondent's violation of the Disciplinary Rule set forth in 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5).

A "Notice and Order Under 37 C.F.R. § 11.24" mailed January 7, 2010 (Notice and Order) informed Respondent that the Director of the Office of Enrollment and Discipline (OED Director) had filed a "Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24" (Complaint) requesting that the USPTO Director impose reciprocal discipline upon Respondent, namely: suspension from the practice of patent, trademark, and other non-patent law for a period of three years with all but the first year of the suspension stayed. The request for suspension of the Respondent in the Complaint was based upon the November 18, 2008, Judgment of Partially Probated Suspension by the Evidentiary Panel of the State Bar of Texas District No. 4F12 Grievance Committee in *Commission for Lawyer Discipline v. Edward P. Black*, (Case Nos. H0080725108 [HE] and H0020621956

[ARTINOS]), suspending Respondent from the practice of law in Texas for a three-year period comprised of one year of active suspension and two years of probated suspension. The Notice and Order directed that, if Respondent seeks to contest imposition of his suspension from practice pursuant to 37 C.F.R. § 11.24(d), Respondent shall file within forty (40) days a response containing all information Respondent believes is sufficient to establish a genuine issue of material fact that the imposition of discipline identical to that imposed by the Evidentiary Panel of the State Bar of Texas District No. 4F12 Grievance Committee would be unwarranted based upon any of the grounds permissible under 37 C.F.R. § 11.24(d)(1). The Notice and Order mailing was returned with the explanation that a Post Office Box, which was the most recent address provided by Respondent to the Office of Enrollment and Discipline pursuant to 37 C.F.R. § 11.11 and to which the mailing was addressed, had been closed and there was no forwarding address. A service by publication notice pursuant to 37 C.F.R. § 11.24(b) and 11.35(b) published in the *Official Gazette* on March 2, 2010, and March 9, 2010, notifying Respondent that he may obtain copies of, inter alia, the Notice and Order by sending a written request to the USPTO General Counsel.

Respondent has not filed a response to the Notice and Order. Accordingly, the USPTO Director hereby determines that there is no genuine issue of material fact and that the suspension of Respondent from the practice of patent, trademark, and other non-patent law before the USPTO as described below is appropriate.

ACCORDINGLY, it is hereby **ORDERED** that:

- (a) Respondent is suspended from the practice of patent, trademark, and other non-patent law before the Office for a period of thirty-six (36) months, beginning on the date of this Final Order indicated below;
- (b) Respondent shall comply fully with 37 C.F.R. § 11.58 while suspended;
- (c) Respondent is granted limited recognition to practice before the Office beginning on the date this Final Order is signed and expiring thirty (30) days after the date this 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 shall promptly dissociate Respondent's name from all USPTO customer numbers and public key infrastructure ("PKI") certificates;
- (e) Respondent shall not use any USPTO customer number or PKI certificate unless and until he is reinstated to practice before the USPTO;
- (f) Respondent shall not obtain a USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO;
- (g) Respondent shall 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) 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 shall be permitted to file a petition for reinstatement under 37 C.F.R. § 11.60 at any time after twelve (12) months from the date this Final Order is signed and prior to the expiration of the 36-month period of suspension set forth in paragraph (a), above;

(i) 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;

(j) (1) The term "remaining period of suspension" means Respondent's initial 36-month suspension minus the period of time from the date this Final Order is signed until Respondent is reinstated; and (2) In the event that the Respondent has not been reinstated prior to 36 months from the date this Final Order is signed, there is no "remaining period of suspension";

(k) (1) In the event the OED Director is of the opinion that Respondent, during the 36-month period commencing on the date this Final Order is signed, failed to comply with any provision of this 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 this Final Order such that Respondent is no longer eligible to file a request for reinstatement after 12 months from the date this Final Order is signed but must wait until 36 months from the date this Final Order is signed to file a request for

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 received from Respondent, if any, the OED Director continues to be of the opinion that Respondent, during the 36-month period commencing on the date this Final Order is signed, failed to comply with any provision of this 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 36 months from the date this Final Order is signed, failed to comply with any provision of this 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 this Final Order such that Respondent is no longer eligible to file a request for reinstatement at any time after 12 months from the date this Final Order is signed and prior to the expiration of the 36-month period of suspension set forth in paragraph (a), 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;

(l) If Respondent is suspended pursuant to the provisions of paragraph (k), 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;

(m) Nothing in this Final Order shall limit the number of times the OED Director or the USPTO Director may act pursuant to the provisions of paragraph (k), above, for acts and/or omissions occurring during the 36-month period commencing on the date this Final Order is signed;

(n) In the event that the USPTO Director or his designate enters an order (i) amending

this Final Order such that Respondent must wait until the expiration of up to the entire period of suspension to seek reinstatement or (ii) 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;

(o) If Respondent is not suspended pursuant to the provisions of paragraph (k), above, for acts and/or omissions occurring during the 36-month period commencing on the date this Final Order is signed, then Respondent is not required to serve the remaining period of suspension or any residual portion thereof;

(p) the OED Director shall publish this Final Order;

(q) The OED Director shall publish the following notice in the *Official Gazette*:

NOTICE OF SUSPENSION

Edward P. Black of Klein, Texas, registered patent attorney (Registration Number 42,332).¹ Mr. Black has been suspended from the practice of patent, trademark, and non-patent law before the United States Patent and Trademark Office for a period of thirty-six (36) months for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5) by having his license to practice law in the state of Texas suspended on ethical grounds by the Evidentiary Panel of the State Bar of Texas District No. 4F12 Grievance Committee, in *Commission For Lawyer Discipline v. Edward P. Black*, (Case Nos. H0080725108 [HE] and H0020621956 [ARTINOS]). Mr. Black is eligible to request reinstatement after serving twelve (12) months of the 36-month suspension subject to certain conditions and, if reinstated, Mr. Black will be permitted to practice before the Office unless the stay of any remaining portion of his suspension is subsequently lifted.

¹ Edward P. Black should not be confused with Edward W. Black of Midland, Michigan.

Mr. Black was suspended from the practice of law in Texas for a period of three years, with active suspension for one year and two years of probated suspension, for: (1) neglecting a legal matter entrusted to him; (2) failing to carry out completely the obligations that the lawyer owes to a client or clients; (3) failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information; (4) failing to explain a matter to the extent reasonably necessary to permit a client to make informed decisions regarding the representation; and (5) entering into a business transaction with a client wherein the transaction and terms on which the lawyer acquired the interest were unfair and unreasonable to the client and were not fully disclosed in a manner which could be reasonably understood by the client.

This action is taken pursuant to the provisions of 35 U.S.C. § 32, and 37 C.F.R. §§ 11.24 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

(r) The OED Director, in accordance with 37 C.F.R. § 11.59, shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted to practice, to courts where the practitioner is known to be admitted, and the public;

(s) In the event Respondent seeks a review of the USPTO Director's decision to suspend Respondent pursuant to this Final Order, any such review shall not operate to postpone or otherwise hold in abeyance the immediate suspension of Respondent;

(t) Nothing in this 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 paragraph (k) above, and;

(u) The record of this disciplinary proceeding, including this 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.

JUN 17 2010

Date



WILLIAM R. COVEY
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

David Kappos
Under Secretary of Commerce For Intellectual
Property and Director of the United States Patent
and Trademark Office

CERTIFICATE OF SERVICE

I certify that the foregoing Final Order Pursuant to 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:


Edward P. Black
P.O. Box 11690
Klein, TX 77391

and to the following address maintained for Respondent by the State Bar of Texas:

Edward P. Black
P.O. Box 11690
Spring, TX 77391

JUN 17 2010

Date


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

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[signature page follows]

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JUN 17 2010

Date

A handwritten signature in black ink, appearing to read "Will R. Covey", written over a horizontal line.

WILLIAM R. COVEY
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

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