

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

In the Matter of:)
)
Donald W. Meeker,¹)
)
Respondent) Proceeding No. D2010-42
)
)
_____)

FINAL ORDER

Pursuant to 37 C.F.R. § 11.27, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the USPTO’s Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation pursuant to 37 C.F.R. § 11.27 executed by Donald W. Meeker (“Respondent”). Respondent is a registered patent agent. Respondent submitted the affidavit to the USPTO for the purpose of being excluded on consent pursuant to 37 C.F.R. § 11.27.

For the reasons set forth herein, Respondent’s Affidavit of Resignation dated March 17, 2011, shall be approved, and Respondent shall be excluded on consent from the practice of patent law before the Office effective on the date of this Final Order.²

Jurisdiction

Respondent is a registered patent practitioner (Registration No. 28,792). Respondent is subject to the USPTO Code of Professional Responsibility and

¹ Donald W. Meeker should not be confused with registered patent attorney Derek W. Meeker of Vancouver, Washington.

² Respondent is a patent agent, not a patent lawyer. Therefore, he is not entitled to practice trademark or other non-patent law before the Office. See 37 C.F.R. § 11.5(a). Nevertheless, this Final Order encompasses trademark and other non-patent law before the Office.

Disciplinary Rules. *See* 37 C.F.R. § 11.19(a). Accordingly, pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent's Affidavit of Resignation and to exclude Respondent on consent from the practice of patent, trademark, and other non-patent law before the Office.

Respondent's Affidavit of Resignation

Respondent acknowledges in his Resignation Affidavit that:

1. His consent is knowingly, freely and voluntarily rendered, he is not being subjected to coercion or duress, and he is fully aware of the implications of consenting to exclusion.
2. He is aware that there is a disciplinary complaint pending against him (USPTO Disciplinary Proceeding No. D2010-42) and that the complaint is comprised of allegations of misconduct in connection with (i) his representation of Joseph XXX of XXX, Inc., before the USPTO, (ii) his representation of Miguel XXX before the USPTO, (iii) his representation of Richard XXX before the USPTO, and (iv) a declaration presented as evidence in a patent infringement suit involving Mr. XXX. He is aware of the pending disciplinary complaint and the allegations set forth therein, but he does not admit to any of the allegations of misconduct levied against him.
3. He is aware that the OED Director is of the opinion that:
 - a. He violated 37 C.F.R. § 10.23(b)(4) in connection with his representation of Mr. XXX by: (i) failing to inform a XXX, Inc. employee in a March 19, 2008, e-mail of the complete and accurate status of certain patent applications and, instead, providing a misleading explanation that "[a]pparently there was some mixup with the correspondence"; (ii) misinforming a XXX, Inc., employee in a June 6, 2008,

e-mail that he was not able to find out what happened with certain original paperwork and so he re-filed the documents; (iii) failing to inform a XXX, Inc. employee in an August 25, 2008, e-mail of the complete and accurate status of certain applications and, instead, providing a misleading statement that “[e]verything is in the works at the Patent Office;” (iv) sending an \$810 invoice to Mr. XXX for responding to the December 22, 2008, non-final Office action and cashing the \$810 check received from Mr. XXX, knowing that he had not performed the work; and/or (v) falsely implying in a June 21, 2010, e-mail to Mr. XXX that documents had been filed in the USPTO regarding the application(s) while knowing that no such documents had been filed;

b. He violated 37 C.F.R. § 10.23(b)(4) in connection with Mr. XXX’s application (i) by signing papers filed in the Office containing certifications pursuant to 37 C.F.R. § 11.18 that were false; and (ii) by not returning \$83 in surplus funds to Mr. XXX;

c. He violated 37 C.F.R. § 10.23(b)(4) in connection with his representation of Mr. XXX by falsely representing in a petition to revive the application that “[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional;”

d. He violated 37 C.F.R. § 10.23(b)(4) in connection with a patent infringement suit involving Mr. XXX by either signing a declaration under penalty of perjury or knowingly permitting Mr. XXX’s litigation counsel to sign his name to the declaration and represent it as his own statement, when the declaration contained many misrepresentations, including: (i) the USPTO mailed a February 2, 2004, non-

final Office Action to the wrong address; (ii) he never received the February 2, 2004, non-final Office Action; and (iii) the delay in filing the required reply to an application was unintentional;

e. He violated 37 C.F.R. § 10.23(b)(5) in connection with Mr. XXX's application by: (i) adding the first page of a three-page declaration and filing it as Mr. XXX's declaration while knowing that Mr. XXX had not made the required attestations; and (ii) signing papers filed in the Office containing certifications pursuant to 37 C.F.R. § 11.18 that were false;

f. He violated 37 C.F.R. § 10.23(b)(5) in connection with Mr. XXX's application by: (i) falsely representing in a petition to revive the application, "[t]he entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional;" and/or (ii) either signing a declaration under penalty of perjury, or knowingly permitting Mr. XXX's litigation counsel to sign his name to the declaration and represent it as his own statement, when the declaration contained many misrepresentations, including that (1) the USPTO mailed a February 2, 2004, non-final Office Action to the wrong address; (2) he never received the February 2, 2004, non-final Office Action; and (3) the delay in filing the required reply to an application was unintentional;

g. He violated 37 C.F.R. § 10.23(b)(6) by engaging in conduct described in subparagraphs a. through f., above, and subparagraphs h. through k., below;

h. He violated 37 C.F.R. § 10.77(b) by: (i) filing a petition to revive Mr. XXX's application that the USPTO subsequently dismissed; (ii) sending only the second two pages of a three-page USPTO form PTO/SB/01 to Mr. XXX to execute,

(iii) filing a petition to revive Mr. XXX's application without adequately investigating whether the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional, and/or (iv) either signing a declaration under penalty of perjury, or knowingly permitting Mr. XXX's litigation counsel to sign his name to the declaration and represent it as his own statement, without adequately investigating whether the representations set forth in the declaration were false;

i. He violated 37 C.F.R. § 10.77(c) by: (i) not responding in a timely manner to clients' requests for information about their patent applications; (ii) failing to communicate timely and/or adequately with clients, especially in light of two prior warnings about such misconduct, including not informing clients of Office communications in violation of 37 C.F.R. § 10.23(c)(8); (iii) not filing Mr. XXX's application in a timely manner after being paid in full; and/or (iv) allowing Mr. XXX's and Mr. XXX's respective applications to become abandoned without their respective consent;

j. He violated 37 C.F.R. § 10.84(a) by failing to seek the lawful objectives of Mr. XXX and/or Mr. XXX through reasonably available means permitted by law and the Disciplinary Rules by: (i) failing to carry out the contracts of employment for professional services entered into with Mr. XXX (*e.g.*, not competently prosecuting his patent applications), Mr. XXX (*e.g.*, not timely filing his patent application after being paid), and/or Mr. XXX (*e.g.*, not filing the petition to make special); (ii) and/or prejudicing or damaging the respective intellectual property rights of Mr. XXX, Mr.

XXX, and/or Mr. XXX during the course of their respective professional relationships; and

k. He violated 37 C.F.R. § 10.85(a)(6) by either signing a declaration under penalty of perjury, or knowingly permitting Mr. XXX's litigation counsel to sign his name to the declaration and represent it as his own statement, when the declaration contained many misrepresentations, including that: (i) the USPTO mailed a February 2, 2004, non-final Office Action to the wrong address; (ii) he never received the February 2, 2004, non-final Office Action; and (iii) the delay in filing the required reply to an application was unintentional.

4. Without admitting to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility as alleged in USPTO Disciplinary Proceeding No. D2010-42, he acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement that: (i) the allegations set forth in the disciplinary complaint pending against him are true; and (ii) he could not have successfully defended himself against such allegations.

5. He has fully read and understands 37 C.F.R. §§ 11.27, 11.58, 11.59, and 11.60, and is fully aware of the implications of consenting to exclusion from practice before the USPTO in patent, trademark, and other non-patent matters.

6. He consents to being excluded from practice before the USPTO in patent, trademark, and other non-patent matters.

Exclusion on Consent

Based on the foregoing, the USPTO Director has determined that Respondent's

Affidavit of Resignation complies with the requirements of 37 C.F.R. § 11.27(a).

Hence,

it is ORDERED that:

1. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
2. Respondent shall be, and hereby is, excluded on consent from the practice of patent, trademark, and other non-patent law before the Office beginning on the date this Final Order is signed;
3. The OED Director shall publish this Final Order at the Office of Enrollment and Discipline's Reading Room found at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;
4. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Exclusion on Consent

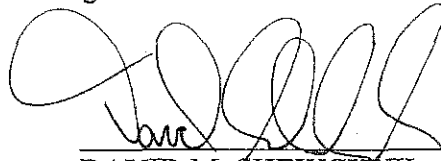
Donald W. Meeker, registered patent agent (Registration No. 28,792). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Meeker's affidavit of resignation and ordered his exclusion on consent from the practice of patent, trademark, and non-patent law before Office.

Mr. Meeker voluntarily submitted his affidavit at a time when a disciplinary complaint was pending against him. He acknowledged that the Director of the USPTO's Office of Enrollment and Discipline ("OED Director") was of the opinion that Mr. Meeker's conduct violated 37 C.F.R. §§ 10.23(b)(4), 10.23(b)(5), 10.23(b)(6), 10.77(b), 10.77(c), 10.84(a), and 10.85(a)(6) in connection with his representation of several clients. While Mr. Meeker did not admit to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility as alleged in a pending disciplinary complaint, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that: (i) the allegations set forth in the disciplinary complaint are true; and (ii) Mr. Meeker could not have successfully defended himself against such allegations.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

5. Respondent shall comply fully with 37 C.F.R. § 11.58;
6. 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;
7. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement;
8. The OED Director shall move to dismiss the pending disciplinary complaint within fourteen (14) days of the date of this Final Order; and
9. The OED Director and Respondent shall bear their own costs incurred to date and in carrying out the terms of this agreement.

APR 13 2011
Date



DAVID M. SHEWCHUK
Acting Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

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

cc:

Director of Enrollment and Discipline
U.S. Patent and Trademark Office

Donald W. Meeker
924 East Ocean Front, #E
Newport Beach, CA 92661

Donald W. Meeker
240 Cabrini Blvd., #4A
New York, NY 10033

Notice of Exclusion on Consent

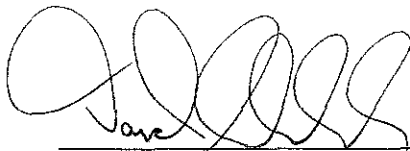
Donald W. Meeker, registered patent agent (Registration No. 28,792). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Meeker's affidavit of resignation and ordered his exclusion on consent from the practice of patent, trademark, and non-patent law before Office.

Mr. Meeker voluntarily submitted his affidavit at a time when a disciplinary complaint was pending against him. He acknowledged that the Director of the USPTO's Office of Enrollment and Discipline ("OED Director") was of the opinion that Mr. Meeker's conduct violated 37 C.F.R. §§ 10.23(b)(4), 10.23(b)(5), 10.23(b)(6), 10.77(b), 10.77(c), 10.84(a), and 10.85(a)(6) in connection with his representation of several clients. While Mr. Meeker did not admit to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility as alleged in a pending disciplinary complaint, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement that: (i) the allegations set forth in the disciplinary complaint are true; and (ii) Mr. Meeker could not have successfully defended himself against such allegations.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

APR 13 2011

Date



DAVID M. SHEWCHUK
Acting Deputy General Counsel for General Law
United States Patent and Trademark Office

On behalf of

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